

## Public Consultation on the Definitive VAT system for Business to Business (B2B) intra-EU transactions on goods.

Fields marked with \* are mandatory.

# Public Consultation on the Definitive VAT system for Business to Business (B2B) intra-EU transactions on goods.

### *Context and Objectives of this public consultation*

In 2017 the Commission plans, following its VAT Action Plan[1] and the 2017 Commission Work Programme[2], to adopt four VAT-related proposals: the proposal for a simpler and fraud-proof definitive VAT system, which is the focus of the current public consultation, as well as proposals to reform VAT rates, on the SME VAT package and on improved administrative cooperation.

At the time the common system of VAT was established, the commitment was made to establish a definitive VAT system operating within the European Union (EU) in the same way as it would within a single country. Since the political and technical conditions were not ripe for such a system when the physical borders between Member States were abolished by the end of 1992, transitional VAT arrangements were adopted.

Under the current transitional VAT arrangements, goods sold cross border between businesses ("B2B") established in different Member States give rise to a supply of goods exempt from VAT in the Member State of departure of the goods and to an intra-Community acquisition subject to VAT in the Member State of arrival of the goods (with the customer having to self-assess and pay the VAT due in the Member State of arrival). This situation (i) leads to a complex and fragmented VAT system; (ii) results into high compliance costs for businesses and significant administrative burden for companies and tax administrations[3]; and (iii) generates important risks of cross-border fraud.

The design of the future system for B2B intra-EU supplies of goods will focus on identifying which solution best assures taxation at the Member State of destination (i.e. where the consumption takes place) and who should be responsible for the payment of VAT[4]. In this regard the following elements must be mentioned:

- (i) From a technical point of view, the two transactions (an intra-EU supply and an intra-EU acquisition) of the transitional VAT arrangements will be replaced by one single supply.
- (ii) Concerning taxation at Member State of destination two approaches are considered: 1) taxation at the place where the goods arrive or 2) taxation at the place where the customer is located.
- (iii) In addition it has to be determined who should be obliged to account for VAT: 1) the supplier or rather 2) the customer.

Further, together with the introduction of the definitive system, some simplification measures are considered, such as the extension of the One Stop Shop (OSS) and the introduction of a "Certified Taxable Person" (CTP).

The OSS would lower burden for businesses by allowing them the use of an internet ready electronic platform for the payment of the VAT. As for the CTP, compliant businesses, certified by their tax administrations, including SMEs, could continue to be liable for the payment of the VAT on goods purchased from other Member States, which would grant additional simplifications to trustworthy economic operators.[5]

Finally, while awaiting the implementation of the definitive VAT system, developing some short term improvements could be envisaged to address the most pressing problems of the current VAT system such as the use of the VAT identification number for the purposes of intra-EU exempt supplies, obstacles related to call-off stock, chain transactions and the proof of intra-EU supplies[6].

### ***Who should participate in this public consultation?***

The open public consultation seeks the views of businesses, business associations, public authorities, academics, the public, and other stakeholders on:

- (i) The current VAT situation of B2B intra-EU supplies of goods,
- (ii) Possible short term improvements regarding the current transitional VAT system,
- (iii) Changes aiming at the introduction of the definitive VAT system based on the principle of taxation of the supply in the Member State of destination.

NB: Certain questions are for business only (BO)

[1] See Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on an [action plan on VAT](#)– Towards a single EU VAT area – Time to decide, COM(2016) 148 final.

[2] See Commission Work programme 2017: Delivering a Europe that protects, empowers and defends, [COM\(2016\) 710 final](#).

[3] Please, note the difference between compliance costs and administrative burdens. Compliance costs, are those costs which encompass those investments and expenses that are faced by businesses and citizens in order to comply with substantive obligations or requirements contained in a legal rule; while administrative burdens are those costs borne by businesses, citizens, civil society organizations and public authorities as a result of administrative activities performed to comply with information obligations included in legal rules.

[4] See the feasibility and economic evaluation study on ["Implementing the 'destination principle' to intra-EU B2B supplies of goods"](#).

[5] See [VEG working paper n°57 on "Definitive VAT regime for intra-EU trade First step Issues to be examined"](#)

[6] See [3495th Council meeting Economic and Financial Affairs Brussels, 14094/16, 8 November 2016](#), p. 14

## Section 1 – Important notice on the publication of responses

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*In order to ensure a fair and transparent consultation process, only responses received through this online questionnaire will be taken into account.*

*Contributions received are intended for publication "as submitted", that is, respondent by respondent and question by question, on the Commission's website. Below, you have the possibility to indicate whether you agree to the publication of your individual responses, and whether you prefer the responses to be published under your name or anonymously.*

*Furthermore, the Commission will prepare a synopsis report summarising all responses received (including those by respondents not agreeing to the publication of their answers).*

\*1. Do you agree to your contribution being published?

- Yes, I consent to my answers being published under my name (except the e-mail address and the annual turnover of my company, if applicable)
- Yes, I consent to all of my answers being published anonymously (without name and e-mail address);
- No, I do not want my answers to be published (but they may be used internally within the Commission)

\*2. I declare that none of the information I provide in this consultation is subject to copyright restrictions.

- Yes
- No

## Section 2 – General information about you

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\*3. Are you ...

- a Business
- a Business Association
- a Tax advisor
- a Public authority
- an Academic
- a Member of the public
- Other

\*4. Please enter your name or the name of your company/organisation:

Accountancy Europe

\*5. Please enter your e-mail address or the e-mail address of your company/organisation:

paul@accountancyeurope.eu

\* 6. Please indicate the country of your residence or headquarters:

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovak Republic
- Slovenia
- Spain
- Sweden
- United Kingdom
- Other

6.1 If other, please specify:

We are a Brussels based pan-European federation with members in all EU 28 countries

\*7. Is your business or organisation enlisted in the Transparency Register?

- Yes
- No

\* 7.1 If yes, please indicate your register ID number:

4713568401-18

## Section 3 – Information about your business

To be completed only if you are replying as a business (BO).

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8. Please indicate how many employees does your enterprise employ?

- self-employed
- 1- 9 employees
- 10- 49 employees
- 50- 249 employees
- More than 249 employees

9. Please indicate your annual turnover (EUR):

- 2 million or less
- Between 2 million and 10 million
- Between 10 million and 50 million
- More than 50 million

10. Please indicate whether you supply goods, services or both?

- Goods
- Services
- Both

11. What percentage of your annual sales comes from business to business (B2B) sales of goods?

- More than 75%
- Between 50% -and 75%
- Between 25% -and 50%
- Less than 25%

12. What percentage of your annual B2B sales of goods is intra-EU supply of goods (sales to other Member States)?
- More than 75%
  - Between 50% -and 75%
  - Between 25% -and 50%
  - Less than 25%
13. In how many Member States, other than your own, do you make B2B supplies of goods?
- 10 and more
  - Between 4 and 9
  - Between 1 and 3
  - None
14. In how many Member States, other than your own, is your business registered for VAT?
- 10 and more
  - Between 4 and 9
  - Between 1 and 3
  - None

## Section 4 – The current situation of B2B intra-EU supplies of goods

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*Under the current transitional VAT arrangements, goods sold cross border between businesses established in different Member States are exempt from VAT in the Member State of departure of the goods and the customer has to self-assess and pay the VAT due in the Member State of arrival. From the VAT technical point of view, there are two transactions: an exempt supply of goods on the side of the supplier in the Member State of departure and an intra-EU acquisition of goods in the Member State of arrival on which the customer has to account for VAT (and normally, he can deduct the input VAT at the same time).*

*The following questions aim to assess the main shortcomings of the current system.*

- \*15. Currently, domestic and intra-EU supplies of goods are treated differently for VAT purposes. Could this situation be discouraging/ encouraging for some businesses **to supply** goods cross-border?
- Very discouraging
  - Discouraging
  - Neutral
  - Encouraging
  - Very encouraging
  - No opinion

\*16. Currently, domestic and intra-EU supplies of goods are treated differently for VAT purposes. Could this situation be discouraging/ encouraging for some businesses *to acquire* goods cross-border?

- Very discouraging
- Discouraging
- Neutral
- Encouraging
- Very encouraging
- No opinion

\*17. Are there any additional compliance costs for business linked with the application of the VAT rules to intra-EU supplies of goods, as compared with domestic supplies of goods?

- Many
- Some
- Very few
- None
- No opinion

\*18. Please indicate the burdens that you have experienced, if any, in accounting for VAT in Member States where you are not established (multiple answers possible)?

- Obligation to register for VAT
- Completion of VAT returns
- Understanding the rules in other Member States (e.g. VAT rates, invoicing rules)
- Dealing with tax audits
- No burdens
- Other

18.1 If other, please specify:

Accountants have experienced all of the above issues when acting on behalf of their clients that engage in cross border trading. Businesses have issues dealing with tax authorities in general and this is exacerbated when dealing with different legal systems from the one with which the business is familiar.

Language is another issue for cross-border traders trying to ascertain their obligations in accounting for VAT in Member States where they are not established.

\*19. Are small companies deterred from doing business cross-border because of additional compliance costs, if any, linked with the application of the VAT rules?

- Yes, very much
- Yes, to a certain extent
- Not that much
- Not at all
- There are no additional costs
- No opinion

\*20. Do you agree that the current taxation system is not sufficiently resistant to VAT fraud within the EU?

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- No opinion

\*21. *Under the current system, VAT is normally charged by any taxable person making a taxable supply. There are, however, situations in certain sectors (or in relation to specific goods and services) where it is the customer who is obliged to account for and to pay the VAT (domestic reverse charge).* Has the application of a reverse charge in certain sectors increased or reduced compliance costs for businesses operating in those sectors?

- They are significantly reduced
- They are slightly reduced
- They are not affected
- They are slightly increased
- They are significantly increased
- No opinion

\*22. Is a reverse charge, as it has been used until now in certain sectors, an effective measure to combat tax fraud?

- Yes, very much
- Yes, to certain extent
- Not that much
- Not at all
- No opinion

## Section 5 –Possible short term improvements regarding the current transitional VAT system

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*While working on the definitive VAT system that will replace the current transitional VAT arrangements, improvements can be envisaged in selected areas in order to address the most pressing problems within the existing legislation.*

*The following questions seek your opinion on these possible short term improvements of the current VAT system.*

- \*23. Is a VAT identification number provided by the customer in the context of an intra-EU supply, a reliable proof of his status as a taxable person?
- Yes, it is a reliable proof
  - Only to certain extent
  - No, it is not
  - No opinion
- \*24. Do you agree that in the case of an intra-EU supply, a lack of a valid VAT identification number of the customer should imply that the intra-EU supply should not be exempt in the Member State of departure?
- Strongly agree
  - Agree
  - Disagree
  - Strongly disagree
  - No opinion
- \*25. *In general, the term "chain transactions" refers to the situation where the goods are supplied via intermediary suppliers and the goods are dispatched or transported directly from the first supplier to the final purchaser.*
- Should the legislative improvements to the current transitional rules address VAT issues linked with chain transactions?
- Yes, they should
  - No, they should not
  - No opinion
- \*26. Should the legislative improvements to the current transitional rules address issues linked with the proof required to demonstrate that the goods were moved from one Member State to another?
- Yes, they should
  - No, they should not
  - No opinion

\*27. In general, the term "call-off stock" refers to the situation where the supplier moves his own goods from one Member State to another Member State where they are kept in a warehouse from which the (already known) customer may take them when he needs them.

Should the legislative improvements to the current transitional rules address issues linked with call-off stock?

- Yes, they should
- No, they should not
- No opinion

\*28. Under the reverse charge mechanism it is the customer who is obliged to account for and to pay the VAT.

Do you think that an optional application by Member States of a generalised reverse charge on domestic transactions above a certain threshold per invoice would help in fighting tax fraud?

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- No opinion

\*29. Would the optional application by Member States of a generalised reverse charge on domestic transactions increase or reduce compliance costs to businesses?

- They will be significantly reduced
- They will be slightly reduced
- They will not be affected
- They will be slightly increased
- They will be significantly increased
- No opinion

\*30. Would the optional application by Member States of a generalised reverse charge on domestic transactions increase or reduce administrative/ procedural/budgetary costs (burdens) to Member States' tax administration?

- They will be significantly reduced
- They will be slightly reduced
- They will not be affected
- They will be slightly increased
- They will be significantly increased
- No opinion

## Section 6 – Changes aiming at the introduction of the definitive VAT system based on the principle of taxation of the supply in the Member State of destination

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*The design of the future system for B2B intra-EU supplies of goods will focus on identifying which solution best assures taxation at the Member State of destination (i.e. where the consumption takes place) and who should be responsible for the payment of VAT. In this regard the following elements must be mentioned:*

*(i) From the technical point of view the two transactions (an intra-EU supply and an intra-EU acquisition) of the transitional VAT arrangements will be replaced by one single supply.*

*(ii) Concerning taxation at the Member State of destination two approaches are considered: 1) taxation at the place where the goods arrive and 2) taxation at the place where the customer is located.*

*(iii) In addition it has to be determined who should be obliged to account for VAT: 1) the supplier or rather 2) the customer.*

*Further, together with the introduction of the definitive system, some simplification measures are considered, such as the extension of the One Stop Shop (OSS) and the introduction of a "Certified Taxable Person" (CTP).*

*The OSS would lower burden for businesses by allowing them the use of an internet ready electronic platform for the payment of the VAT. As for the CTP, compliant businesses certified by their tax administrations, including SMEs, could continue to be liable for payment of the VAT on goods purchased from other Member States, which would grant additional simplifications to trustworthy economic operators.*

\*31. *Currently, under the transitional VAT arrangements, intra-EU supplies of goods are, as a rule, exempt and intra-EU acquisitions are taxable.*

Do you agree that, under the definitive system, there should be only one taxed transaction i.e. a taxed intra-EU supply of goods as it is currently the case with the domestic supplies?

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- No opinion

\*32. Should the B2B intra-EU supplies of goods be taxed in the Member State where the goods arrive?

- Yes, they should
- No, they should not
- No opinion

\* 33. Should the B2B intra-EU supplies of goods be taxed in the Member State where the customer is located?

- Yes, they should
- No, they should not
- No opinion

\* 34. Who should be liable for the payment of the VAT due on B2B intra-EU supplies of goods?

- The supplier
- The customer
- Other
- No opinion

34.1 If other, please specify

Accountancy Europe believes that the supplier should be liable for the payment of VAT but have the possibility to use the Certified Taxable Person model when criteria are met.

\* 35. *Currently intra-EU supplies of goods are exempt in the Member State of departure and intra-EU acquisitions are taxable in the Member State of arrival.*

Will business compliance costs increase or be reduced as a result of the replacement of these two (separate from a legal point of view) transactions by only one taxable supply?

- They will be significantly reduced
- They will be slightly reduced
- They will not be affected
- They will be slightly increased
- They will be significantly increased
- No opinion

\* 36. *Currently intra-EU supplies of goods are exempt in the Member State of departure and intra-EU acquisitions are taxable in the Member State of arrival.*

Will administrative/ procedural/ budgetary costs (burdens) increase or be reduced for Member States' tax administration as a result of taxation of intra-EU supplies?

- They will be significantly reduced
- They will be slightly reduced
- They will not be affected
- They will be slightly increased
- They will be significantly increased
- No opinion

\* 37. Do you think that taxation of B2B intra-EU supplies (which are currently exempt in the Member State of departure of the goods) will help fighting VAT fraud?

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- No opinion

\* 38. Do you think that the supplier should not be obliged to register for VAT purposes in more than one Member State (as a rule in the Member State of his or her establishment)?

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- No opinion

\* 39. *The mini One Stop Shop (MOSS) allows taxable persons supplying telecommunications, television and radio broadcasting, and electronically supplied services to non-taxable persons in Member States in which they do not have an establishment to account for the VAT due on those supplies via a web-portal in the Member State in which they are identified. Currently, this scheme is optional and is a simplification measure.*

Do you think that under the definitive VAT system the MOSS should be extended to taxable intra-EU B2B supplies of goods (and in this way become a One Stop Shop (OSS), thus avoiding the need for the supplier to register in Member States where he is not established)?

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- No opinion

\* 40. Do you think that if the OSS is extended to taxable intra-EU B2B supplies of goods it should allow not only for the payment of output VAT but also for the deduction of input VAT?

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- No opinion

\* 41. In your opinion, would the declaration and payment of VAT on supplies of goods through the OSS reduce or increase compliance costs and administrative burdens?

- They will be significantly reduced
- They will be slightly reduced
- They will not be affected
- They will be slightly increased
- They will be significantly increased
- No opinion

\* 42. *Under the legislative changes that could be proposed in intra-EU B2B transactions, VAT on a supply of goods would in general be payable by the supplier. However, a simplification mechanism could be included allowing, if the customer is a Certified Taxable Person (CTP), the reverse charge to apply and the customer to report the VAT in his tax return.*

Do you think that the CTP should be introduced?

- Strongly agree
- Agree
- Disagree
- Strongly disagree
- No opinion

\* 43. Would the introduction of the concept of CTP reduce or increase the compliance costs of suppliers?

- They will be significantly reduced
- They will be slightly reduced
- They will not be affected
- They will be slightly increased
- They will be significantly increased
- No opinion

\* 44. Do you think that the criteria for obtaining the CTP status should be laid down by each Member State or harmonized at EU level?

- Laid down by each Member State
- Harmonised at EU level
- No opinion
- Other

44.1 If other please specify:

Defining the criteria for obtaining CTP status should be harmonized at EU level - indeed, Accountancy Europe would prefer that legislation is in the form of an EU regulation. We also believe that the European Commission should be the sole issuer of CTP certification.

45. Under the legislative changes to be proposed, the CTP status could be granted upon request of the taxable person if certain objective criteria are met.

Please evaluate the importance assigned to each of the following criteria (scale of 1-5 with 5 representing the most important, it is possible to assign the same evaluation to different criteria):

	1	2	3	4	5	No opinion
*The taxable person's compliance records for a certain period of time	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*The setting up of an internal control plan on VAT	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*The carrying out of risk self-assessments by the taxable person	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*A positive risk assessment audit of VAT procedures by independent external auditors	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Proven financial solvency or guarantees from banks, insurance companies etc. (this could apply to start-ups)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
*Standard Audit File for Tax	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

\* 46. Are there any other criteria (for granting the status of CTP) than those mentioned in question 45 above that you would like to suggest?

- Yes
- No

47. (BO) If CTP provisions were adopted, would you be interested in applying for CTP status?

- Yes, I would be interested in applying for CTP status, regardless of the difficulty of the criteria that would have to be met
- I would be interested in applying for CTP status if the criteria were not too burdensome
- No, I would not be interested in applying for CTP status, regardless of the difficulty of the criteria that would have to be met

## Section 7 – Further information

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48. If you wish to add further information within the scope of this questionnaire, please feel free to do so here.

Questions 21 & 22: Accountancy Europe does not believe that a general reverse charge is an effective tool to combat tax fraud, albeit there is some evidence that it may have cause a limited reduction in fraud when applied to some industries - such as in the construction industry. In respect of additional costs to business in applying the reverse charge, there could be a small reduction in data collection costs but these would be offset by the additional costs that would be incurred in checking whether the reverse charge provisions applied to a particular transaction or category of transactions.

Question 23: We have answered “only to certain extent” because we have past experience of the tax authorities of some Member States retrospectively deleting individual VAT identification. Member States should have full responsibility for ensuring that VAT identification numbers (VIN) are accurate and up to date.

Question 24: We disagree that the absence of a valid VIN should automatically remove exemption in the Member State of departure when another means of evidence exists. This has been supported in European Court of Justice cases.

Questions 29 & 30. As mentioned above in respect of Questions 21 & 22, we believe that some compliance costs could decrease on the use of a general reverse charge but other business costs would increase. To a large extent, the amount of additional burden on both business and tax authorities will very much depend on implementation. For example, if real-time reporting were required it would probably result in additional costs when first implemented but see a fall in subsequent reporting and auditing costs.

Questions 32 & 33: The advantage of following the contract is that this method promises lower compliance costs for business. However, compared to the approach of following the goods, it does increase the possibility of VAT fraud and also avoidance by routing the contract through low tax jurisdictions when the goods are delivered to high tax jurisdictions.

Question 35: The answer to this question is business specific. For businesses that sell a wide range of goods and/or sell to a wide range of Member States it is likely that compliance costs will increase through having to deal with a huge number of different VAT rates.

Question 40: As an additional comment, we contend that the transaction should be controlled/audited by the Member State in which the invoice is issued.

Question 43: Costs would only be slightly reduced because the supplier would still need to have evidence that the goods have crossed borders. If a supplier ONLY dealt with CTPs then costs could be reduced as the supplier would not have to deal with the multiplicity of VAT rates within Europe. As an additional point, Accountancy Europe believes that CTP status should be shown in VIES.

Question 45:

- Internal control plans & risk self-assessments - these seem to work well in respect of customs duties so may be useful for VAT.
- External assurance - this could help but the taxpayer would need to get some benefit from the tax authorities to make it worthwhile to them. This benefit could be something like a "light touch" regime for VAT audits.
- Standard audit file for tax - this could be very useful to business engaged in cross border trade as long as there was a standard EU format for the standard audit file.

49. If you want to upload a concise document, please do it below. The maximal file size is 1MB.

*Please note that the uploaded document will be published alongside your responses to the questionnaire, which is the essential input to this open consultation. The document is an optional complement and serves as additional background to better understand your position.*

## Contact

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