

Date
23 July 2003

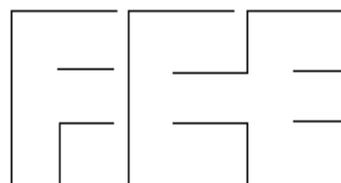
Secrétariat
Général

Fédération
des Experts
Comptables
Européens

Rue de la Loi 83
1040 Bruxelles
Tél. 32 (0) 2 285 40 85
Fax: 32 (0) 2 231 11 12
E-mail: secretariat@fee.be

Mr. John Bain
European Commission
DG Taxation and Customs Union
VAT and Other Turnover Taxes
Office MO 59 5/53
Rue de la Loi 200
B-1049 Brussels

E-mail: taxud-c3@cec.eu.int



Dear Mr. Bain,

Re: European Commission Consultation Paper 'VAT- The Place of Supply of Services'

FEE (Fédération des Experts Comptables Européens, European Federation of Accountants) is pleased to submit its comments to the Commission on the Consultation Paper 'VAT- The Place of Supply of services'. FEE welcomes the Paper as an important contribution to promoting VAT harmonization in the European Union.

Below we have set out a number of general comments, followed by responses to the specific questions raised in the Paper.

General

FEE recognizes the urgent need for a simplification, modernisation and harmonization of the VAT system at EU level, in line with the Commission Programme of March 2000 and the Communication ' A strategy to improve the operation of the VAT system within the context of the Internal Market'. More specifically, the place of supply of service rules need to be reviewed considering the changes brought forward by globalisation, the very significant advances and the developments in the use of Information Technology and the Internal Market.

We have examined the Consultation Paper in the Indirect tax Working Party meetings. The conclusion we have drawn is that we agree with the necessity of a shift from the "origin principle" to the "destination principle". However, we believe that an alternative to the system proposed might meet the Commission's stated objectives more effectively.

We agree that the place of supply should indeed be place where the customer is established, as proposed in the Consultation Paper, but we believe that the taxable person, i.e. the person liable to account for the tax should, as in purely domestic transactions, remain the supplier. Our proposed alternative is developed further in the answer to question 1.

Responses to the questions raised

1. Do you have any remarks on the idea of shifting the place of supply rule of services for taxable persons from the origin principle to the destination principle? Do you have any remarks on the outlined exclusions to the proposed general rule?

We welcome the Commission's proposal of shifting the place of supply of services from the origin to the destination principle, as already many services are taxed according to the latter principle.

However, we feel that the proposals would increase the risks of fraud. We have as a consequence envisaged a system according to which services are indeed taxed at the place where the customer is established, applying the VAT rate of the Member State of the customer's establishment. However, we believe that the taxable person, and the person liable to account for the tax should remain the supplier. We consider the reverse charge mechanism to be too prone to fraud, as has proven to be the case with goods.

In addition to that, our understanding of the Commission's proposals would lead to different rules for the determination of the place of supply where the services were supplied to taxable persons (i.e. B2B supplies) and services supplied to non- taxable persons (i.e. B2C supplies).

2. Do you feel the view expressed above with regard to the meaning of 'fixed establishment' is reasonable? Where a taxable person has more than one establishment, do you feel that criteria and a default rule should be introduced in Article 9 of the Sixth Directive to provide certainty in the place of supply rules?

FEE considers that a taxable person not established in the territory of a Member State shall mean a taxable person who (during the period referred to in Article 22(4)(a) of Directive 77/388/CEE) has had in that country neither the seat of his economic activity nor a fixed establishment from which the goods or services are supplied nor, if no such seat or fixed establishment exists, his domicile or normal place of residence, and who has supplied no goods or services deemed to have been supplied in that country.

We do not believe it necessary to introduce criteria nor a default rule in Article 9 of the Sixth Directive in the event that a taxable person has more than one establishment.

3. Do you wish to comment on the question of extending VIES to cover services?

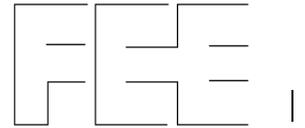
FEE believes VIES is an effective tool to control transactions accounted for under the reverse charge mechanism. However, as the system we propose does not accept the reverse charge mechanism, we therefore do not consider it necessary to extend VIES to cover services.

In any event if VIES were to be extended, open access, with proper password protection, by businesses to data held on the VIES related to their business is a priority requirement.

4. Do you have any other comments regarding the review of the place of supply of services that you wish to make?

FEE recognizes the need for a common definition of "services". We find it particularly important to arrive at a common definition for leasing, advertising and repair services.

The clear objective to be kept in mind in the proposals is to simplify and alleviate the burdens on business.



The above proposals together with the proposals made in the recent PricewaterhouseCoopers study on compliance to appoint a single point of registration where VAT in several Member States could be accounted for on one return, which would also help businesses recover input tax directly rather than by the proposed system to replace the 8th Directive, go in our view in the right direction, that is towards simplification.

We would be pleased to discuss any aspect of this letter you may wish to raise with us.

Yours sincerely,

David Devlin
President