



Ivo Strejček,
Rapporteur
Committee on Economic and Monetary Affairs
(ECON)
European Parliament

Cc: ŠEMETA Algirdas, DG Taxation and
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Dear Mr Strejček,

Re: FEE comments on the proposed Council Directive amending EU Directive 2006/112/EC as regards a standard VAT return

- (1) FEE (the Federation of European Accountants, www.fee.be) is pleased to provide you below with our comments on the proposals published in 2013/0343 (CNS) regarding the proposal to introduce a standard VAT return.
- (2) FEE is fully supportive of the European Commission's stated objectives of reducing the administrative burden on all businesses, reducing obstacles to cross-border trade (particularly relating to e-commerce and the supply of goods in the internal market where the end customer is a private individual) and reducing fraud and improving compliance.
- (3) FEE believes that a truly standard VAT return could indeed assist with each of these objectives. In particular, a perceived reduction in the administrative burden and a harmonisation of rules across Member States would encourage more SME businesses to consider cross-border trading.
- (4) However, we do not believe that the current proposals will fully meet the Commission's objectives. In general terms, we are concerned that the number of Member State options will impair harmonisation across Member States. Consequently, the proposed standard VAT return may not provide the perceived simplification that would lead to more businesses extending their business model to include cross-border trade, particularly with private individuals.¹

¹ FEE is the Fédération des Experts comptables Européens (Federation of European Accountants). It represents 48 professional institutes of accountants and auditors from 36 European countries, including all of the 28 EU Member States. In representing the European accountancy profession, FEE recognises the public interest. It has a combined membership of more than 800.000 professional accountants, working in different capacities in public practice, small and big firms, government and education, who all contribute to a more efficient, transparent and sustainable European economy. FEE's ID number on the European Commission's Register of Interest Representatives is 4713568401-18

- (5) We have also identified some articles in the draft proposals where a lack of clarity in the drafting introduces the possibility of further divergence of implementation between Member States.
- (6) It is our considered opinion that the standard VAT return should be compulsory and should only contain the 5 key types of information boxes detailed in paragraph 1 of Article 250 of the proposed Directive.
- (7) If this level of simplification cannot be agreed upon, it is our opinion that the next most preferable option is to have a compulsory standard VAT return that requires the recording of the minimum amount of information that could be agreed on between Member States. We are strongly of the belief that the uncertainty introduced by having Member State options provides a greater barrier to cross-border trade than does the requirement to provide more information. However, to ensure that the administrative burden on business is not increased unnecessarily, every effort should be made to keep the additional informational requirements at the absolute minimum required to allow Member States properly manage their tax system.
- (8) We have included as an appendix a proposed format for a standard VAT return including more compulsory boxes than those contained in paragraph 1 of Article 250. It has been designed to emphasise that the majority of businesses completing the return need only complete the boxes in part one. The second part contains other boxes to allow Member States to manage their tax base and to guide taxpayers as to reporting requirements that arise from cross-border trade.
- (9) We have set out below FEE's views on specific articles arising from the proposed revision to EU Directive 2006/112/EC.

Article 206 – Payment of VAT

- (10) In our opinion it is questionable whether the proposed regulation of both the manner in which a payment is made and in its timing is in compliance with the EU principle of subsidiarity. Nevertheless, although tax collection is the responsibility of Member States, we agree with the proposed changes to this Article.
- (11) We believe that the proposed reduction in options for payment of the VAT liability and the proposed alignment of the payment date with the submission of the standard VAT return or the expiry of the standard VAT submission deadline represents a valuable simplification for businesses conducting cross-border trade. In our opinion, uncertainty about the regulations that apply in other Member States is a major deterrent for businesses undertaking cross-border trade. Consequently, harmonisation in the area of payments and payment deadlines should help reduce the administrative concerns that businesses have in considering new markets.

Article 250 paragraph 2 – Adjustments to be made through the standard VAT return

- (12) In our opinion the wording of this paragraph lacks clarity. It fails to clearly specify the manner in which any adjustments should be made and, consequently, introduces an additional risk that harmonisation will not be achieved as a result of differing interpretations and implementation by the Member States.
- (13) It is our belief that the current wording permits adjustments to be made by (a) requiring the re-submission of a corrected standard VAT return for the tax period in which the error was made; (b) making the adjustment for prior-period errors on the current standard VAT return without requiring specific disclosure of such adjustments and (c) a combination of (a) and (b).

- (14) We believe that the paragraph should be amended to specify that amendments shall be made by the re-submission of the adjusted VAT return for the tax period to which the adjustment relates.
- (15) We acknowledge that there are currently different approaches across Member States for adjusting VAT returns. Some Member States that currently utilise option (b) above may consider it to be an additional administrative burden for the preparer if, in future, the preparer had to submit an adjusted original return, as opposed to making adjustments on the current return.
- (16) We believe, however, that the additional burden perceived in some Member States in requiring option (a) above would be more than offset by the advantages of having a clear and homogenous treatment across all Member States. Additionally, resubmitting an adjusted VAT return will provide better control over public finances as it reduces the possibility of hiding large VAT adjustments and increases the comparability with other period-based returns, such as Intrastat. It could also assist in the fight against cross-border fraud by permitting intra-community supplies and acquisitions to be better matched.
- (17) In addition, we also believe that there should be a reference in this paragraph to a maximum time period that a Member State can impose for such corrections to be made. In our opinion, the lack of a maximum period raises the possibility of widely divergent time periods being chosen by Member States, thereby adding a further layer of complexity for businesses involved in cross-border trade.
- (18) We believe that this mandatory correction period should apply equally to both the taxpayer and to the taxing authority as we strongly disagree with correction periods biased in favour of the taxing authorities. For example, we are aware that in some Member States there is an inequality between the time limits that apply for reclaiming overpaid tax to those applying to the payment of underpaid tax. These time limits should be the same. As this principle should apply to all taxes, perhaps it is something that should be addressed as part of the Commission's European Taxpayers' Code ².
- (19) We note that amendment 11 proposed in the draft report by the Committee of Economic and Monetary Affairs of 17 December 2013 proposes that the following text be added to the end of Article 250 paragraph 2: "**Genuine errors may be corrected without penalty within three months**". There are several reasons why FEE does not support this proposed amendment.
- (20) Firstly, we do not believe that there is a legal basis for any EU institution to regulate the imposition of penalties raised by a Member State for a taxpayer's failure to comply with the Member State's taxation legislation. Secondly, the proposed amendment fails to specify what is covered by the word "penalty" and, specifically, whether interest charges would also be included. Thirdly, there is a failure to properly define the term "period", which could be interpreted as commencing from the date that the error is made, from the end of the taxable period in which the error is made or from the end of the deadline period for submitting the original return.
- (21) Finally, there is the whole consideration of what constitutes a "genuine error". This phrase is a tautology that suggests that there is a spectrum of errors, some of which are acceptable and some of which are not. An error is generally considered to have arisen from mistaken beliefs or a mistake – a deliberate or negligent deviation from the truth or from legislative requirements would not defined as an error in normal usage of the language.

² FEE provided comments on this matter on 15 May 2013

Article 251 paragraph 1 – Optional information boxes in respect of outputs and inputs

- (22) As mentioned above, we do not believe that the inclusion of Member State options regarding the information to be provided on the standard VAT return enhances harmonisation or reduces the administrative burden on businesses. There is a maximum of eight additional optional information boxes relating to outputs and a further 13 that relate to inputs. Additionally, where a Member State has several different rates of VAT and chooses to require details for the tax and total supplies under each rate, the number of boxes is likely to be considerably in excess of 21.
- (23) In our opinion, the standard VAT return should just include the five key information boxes described in the first paragraph of Article 250 of the proposed Directive. This would reduce the administrative burden on businesses currently engaged in cross border trade and would, in our opinion, provide the legal certainty necessary for all businesses, and especially SMEs, to commence cross-border trading.
- (24) We also believe that the standard VAT return should have a mandatory format with the information boxes having the same numbering scheme in all Member States. This would ensure that the information boxes appear in the same order in all jurisdictions. In our opinion, this would be of considerable assistance for businesses completing a standard VAT return in a language that they do not speak or cannot read.
- (25) If it is not possible to obtain agreement to reduce the standard VAT return to the five key informational requirements identified by the Commission, then the next best approach would be to have a longer standard VAT return with additional compulsory information but without any Member State options. In order to minimise the administrative burden on business, this additional information should be kept to the absolute minimum necessary for Member States to manage their tax collection. We believe that this is possible with a maximum of eleven boxes.
- (26) We accept that complete harmonisation of the standard VAT return will not be easy when the current Member State requirements differ to such a large degree. We do believe, however, that it should be possible to produce a fully harmonised standard VAT return.

Article 252 paragraph 1 – Standard VAT return submission deadline

- (27) FEE is extremely supportive of measures promoting harmonisation as we believe it reduces uncertainty and thereby increases the possibility that businesses will engage in cross-border trade. Consequently, we welcome the attempt to standardise the standard VAT submission deadline but would prefer a more restrictive approach rather than still permitting Member States the choice of any deadline between one and two months after the end of each tax period.

Article 252 paragraph 2 – Taxable period of the standard VAT return

- (28) As we have already stated, we greatly support the attempts by the Commission to increase harmonisation of VAT between Member States, a prerequisite of which is the reduction in the number of options available to Member States and a harmonisation in treatment between different businesses.
- (29) We agree with the provisions contained in this paragraph requiring that Member States permit a tax period of 3 calendar months for taxable persons with turnover not exceeding EUR 2 000 000 (or equivalent). We agree with this different treatment on the grounds that it could represent a significant reduction in the administrative burden for SMEs. However, we do believe that the ability of a Member State to reduce the tax period to one month to combat fraud or evasion in specific cases should be more clearly defined in order that this option is properly applied.

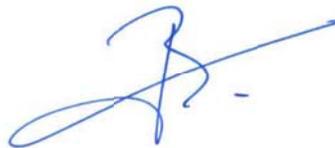
- (30) In our opinion, the turnover limit of EUR 2 000 000 is a good compromise between reducing the administrative burden on business and protecting the national tax base. We believe that this limit will exclude the vast majority of businesses with less sophisticated accounting systems from having to prepare monthly returns and those businesses that are required to submit monthly returns would have systems in place sufficient to permit their compliance with a monthly reporting requirement.
- (31) For those businesses with turnover in excess of this limit who struggle to meet the monthly reporting requirements, monthly reporting may require them to upgrade their information systems, which is likely to provide long-term benefits to the business arising from improved and timelier management information.
- (32) We also agree that Member States should be permitted to allow longer tax periods and that the tax period should not exceed one year in any circumstance.

For further information on this letter, please contact Paul Gisby, Project Manager from the FEE Team, on +32 2 285 40 70 or via e-mail at paul.gisby@fee.be.

Yours sincerely,



André Killesse
President



Olivier Boutellis-Taft
Chief Executive

Encl.

Appendix 1- Longer format standard VAT return

Standard VAT Return main part

	Net Value of output or inputs		Net tax payable or recoverable
Section 1: Main VAT Return			
Domestic supplies of goods and services (see Section 2 for special transactions)	1		2
Purchases of domestic goods and services (see Section 3 for special transactions)	3		4
Non-domestic supplies of goods and services (if any, see Section 4)	5		
Non-domestic purchases of goods and services (if any, see Section 5)	6		7
The net amount of VAT to pay or be refunded		8	

Appendix 1- Longer format standard VAT return

Optional part: to be completed where applicable

		Net Value of output or inputs		Net tax payable or recoverable
Section 2 Domestic supplies - special circumstances	9	<input type="text"/>	10	<input type="text"/>
<ul style="list-style-type: none"> Domestic supplies of goods and services to which a special VAT regime applies Domestic supplies of goods and services for which the customer is liable for VAT Domestic supplies which are zero rated Domestic supplies which are exempt 				
Section 3 Domestic purchases - special circumstances	11	<input type="text"/>	12	<input type="text"/>
<ul style="list-style-type: none"> Purchases of domestic goods and services not subject to VAT Purchases of domestic goods and services for which the customer is liable for VAT 				
Section 4 – Intra EU supplies of goods (to box 5)	13	<input type="text"/>		
<ul style="list-style-type: none"> Intra-EU supplies of goods for which the customer is liable to acquisition tax Intra-EU supplies of services for which the customer is liable to tax under the reverse charge mechanism Intra-EU supplies to non-taxable customers (distance sales) 				
Section 5 – Cross Border input transactions (to boxes 6 & 7 respectively)	14	<input type="text"/>	15	<input type="text"/>
<ul style="list-style-type: none"> Purchases of goods coming from another MS, subject to acquisition tax Purchases of goods coming from another MS, subject to acquisition tax at a zero rate Purchases of services from supplier established in another MS for which the customer is liable to account for VAT (reverse charge) Purchases of services from supplier established outside the EU for which the customer is liable to account for VAT (reverse charge) Imports of goods coming from outside the EU subject to tax (reverse charge) 				

Additional requirements may apply for both outputs and inputs where the Member State has different rates of VAT in force.