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**Group on the Future of VAT
36th meeting – 6 December 2021**

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GROUP ON THE FUTURE OF VAT

GFV No 114

MINUTES

**36TH MEETING
– 6 DECEMBER 2021 –**

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1. APPROVAL OF THE AGENDA

The agenda (document taxud.c.1(2021)7997712) was not contested or discussed.

2. NATURE OF THE MEETING

The meeting took place in the form of videoconference and was not open to the public.

**3. GFV N° 108: REPORT ON THE OUTCOME OF WORK OF THE SUB-GROUP
“PLATFORM ECONOMY” - PRESENTATION BY THE CHAIR OF THE SUB-GROUP**

The sub-group’s chair and rapporteur introduced the report on the work of the sub-group on the platform economy, outlining the background to the formation of the group and its remit. They explained that the output of the sub-group fed into the work of the Commission and the Contractors carrying out the study on the platform economy as part of the broader VAT in the Digital Age, and that the work of the sub-group was also reflected in the papers presented to the Fiscalis seminar on VAT in the Digital Age in October.

In order to have a better understanding of the environment of the platform economy, the sub-group invited platform operators to one of their meetings to provide their input and explain what the issues were and how they would solve them. Platforms had said that they wanted clarity of the legislation, a uniform approach from Member States, and channel neutrality between traditional and platform economies. Following a question from a delegate, it was confirmed that both large and small platform operators were invited, with the smaller operators echoing the concerns of the larger.

Both chair and rapporteur praised the good work of the sub-group, and considered that this collaborative approach between the VEG and the GFV should be followed for future initiatives.

The sub-group’s chair stressed the need to take the time to properly analyse results where other models have relevance (for example for the deemed supplier model in the OSS/IOSS) and that the contractors should examine the question of proportionality.

One delegate asked about the Impact Assessment process and how this fed into the work of the sub-group and the GFV. The Commission explained that there were a number of policy options, all of which were still on the table, and that the work of the various streams (the Impact Assessment, the Open Public Consultation, any future work of the GFV or the sub group) would carry on in tandem. At the end of the process a decision will be taken on the policy option and the legislative proposal will be submitted.

The Commission thanked the members of the sub group for their work.

4. GFV N° 109: EXEMPTIONS FOR INTERNATIONAL ORGANISATIONS – FOLLOW-UP TO THE “BUY AND DONATE” DIRECTIVE

The Commission services presented the Working Paper and explained that the current dramatic worsening of the COVID-19 pandemic could be a reason to re-discuss those elements of its “buy and donate” proposal¹, which ultimately the Council had put aside at the time of adoption. Moreover, the Commission services stressed that comparable crises could occur at any time without warning and mentioned refugee crises, environmental disasters, earthquakes or volcanic eruptions as examples. It could be time to reflect on a permanent, flexible and future-proof solution, whereby a first step could be to broaden the exemption with a view to address serious health threats.

Further to this, the Commission services underlined that the COVID-19 crisis has once more revealed the weaknesses of the current paper version of the exemption certificate and that an electronic form and procedure would therefore be crucial to respond to the need for fast and non-bureaucratic procedures. The Commission services acknowledged the time and resources needed for respective IT developments and suggested further discussing aspects of implementation with Member States at technical level, which could involve SCIT. For this purpose, a presentation was given on how an electronic form and procedure could work in practice.

The following questions were then subject to discussion:

- 1) Do you find that the VAT exemption should be extended to cover health emergencies beyond COVID-19, making it permanent, and do you think that the scope should even be wider than health and if so, which scenarios it should cover?
- 2) Do you share the view that the exemption certificate should be transformed into an electronic form and procedure and, if so, do you agree that, as a first step, aspects of implementation such as feasibility and costs should be further looked into at technical level?

On the first question, almost all delegates who took the floor indicated that they were open for discussing an adjustment of the scope of the VAT exemption. Whilst some delegates suggested including other emergencies like natural disasters and refugee crises, others favoured a more restrictive approach that would not go beyond the area of health. Delegates also suggested reflecting on the potential recipients of exempted transactions, some of which favoured including operators at national level such as public bodies, whilst others preferred to keep the current limitation to EU bodies. Delegates also stressed the need for establishing clear and precise conditions and some asked for an indicative list of eligible goods and services. Some delegates preferred seeing what will be the experience with COVID-19 first and considered an impact assessment necessary before taking further steps. Some delegations asked about the interaction with own resources payments or thought a general debate on the treatment of public bodies was necessary.

As regards the second question, the vast majority of delegates who took the floor indicated a general support for an electronic transformation of the exemption certificate. Delegates

¹ Council Directive (EU) 2021/1159 of 13 July 2021 amending Directive 2006/112/EC as regards temporary exemptions on importations and on certain supplies, in response to the COVID-19 pandemic (OJ L 250, 15.7.2021, p. 1)

thanked the Commission services for the presentation made, which they found very helpful, and supported the idea to continue discussing implementing aspects at technical level, which also would look into potential costs for Member States.

The Commission services concluded that a majority of delegates would be open for re-discussing the scope of the exemption but noted very divergent views as regards the final approach. The purpose of this discussion was just to collect delegates' positions, with the outcome of this meeting feeding into reflections on any possible further steps. The Commission services stressed the political sensitivity of this issue and explained that, at this stage, the way forward is not decided yet.

As regards the exemption certificate, the Commission services noted that there is a clear support for transforming it into an electronic form but before reflecting on any steps in that direction, it would be necessary for SCIT first to study implementation aspects such as feasibility and costs.

5. GFV N° 110: VAT EXEMPTIONS TO NON-EU TRAVELLERS

The Commission services presented the Working Paper N° 110, explaining the context of the discussion and the current VAT rules in place for the VAT exemption to non-EU travellers.

The context of the initiative is linked to a follow-up to the evaluation of the travel agents scheme, that will be reflected in a new study to collect data on travel and tourism sector assessing the relevant VAT rules. The study should support the Commission in preparing a legislative VAT package on tourism foreseen for 2023. The study would cover three topics:

- The special scheme for travel agents,
- The VAT rules on passenger transport
- The exemption on supply of goods to non-EU travellers.

Regarding the latter topic, the focus is on the application of VAT exemptions to non-EU travellers. Currently the exemption provided by the VAT Directive can be granted through three different systems:

- 1) Refund following procedures laid down by Member States;
- 2) Refund managed by intermediaries/tax refund operators (private companies) that refund the VAT (after deducting their fee from this amount) directly to travellers before they leave the EU;
- 3) Application of a direct exemption at (air)ports for both VAT and excise duties (alcohol and tobacco) by tax-free shops.

The previous work carried out by the Commission with Member States has shown that the current paper-based process is outdated and prone to fraud. Given that new technologies emerging in the EU and digitalisation offer the opportunity to streamline the application of VAT refund for non-EU travellers, there may be a need to improve the general refund scheme for non-EU travellers by moving towards a digitalised and more secure trans-European system that is also able to be used to combat current fraud schemes.

Delegates were asked to share their national experience and pinpoint the major issues encountered fighting fraud. The feed-back was also requested in relation to the accessibility of the refund systems for non EU travellers and the efficiency of tax free shops regarding controls of travellers leaving the EU territory.

The majority of the delegations taking the floor confirmed that the procedure based on paper forms is more prone to fraud than the digitalised procedures in place in certain Member States. However, the list of paper forms currently used to check their validity is available as a main tool for carrying out controls. Digital compliance eases risk assessment and statistical analysis and, therefore, the development of a digital solution and interoperability of different systems that would also allow the quick exchange of information between Member States is welcome.

Most Member States intervening didn't see the need to reform the rules on tax free shops and didn't encounter problems in relation to refund accessibility for non EU travellers.

Delegates were asked if there was anything that should be brought to the Commission services' attention in addition to the issues identified in the Working Paper. Delegates were invited to provide their written contributions by 28 January 2022.

6. GFV N° 111: DIGITAL REPORTING REQUIREMENTS – FOCUS ON SPECIFIC ISSUES AS A FOLLOW-UP TO THE FISCALIS WORKSHOP ON VAT IN THE DIGITAL AGE

The Commission services presented the Working Paper summarising the main outcome of the joint GFV and VEG Fiscalis workshop on VAT in the Digital Age that took place from 27 to 29 October 2021², in relation to Digital Reporting Requirements (DRR). After the presentation, the Commission services asked the delegates several questions about their view on the outcome of the workshop and the way forward.

All delegates who intervened agreed that the status quo is not an option. Most of them favoured option 4, even though some considered that option 3 with the recording of transactions on a blockchain should be further explored. Several delegates expressed their concern about whether having that amount of data envisaged was necessary for tax administrations and wanted to know what use was given to all that data.

Among options 4a and 4b, the views of the delegates were split, with a slight preference for option 4a. Most of the delegates thought that it would be advisable to follow a gradual approach for the implementation of an EU DRR given the IT developments required and the effort that such an implementation would entail for taxpayers. Drawing up an implementation timetable in consultation of IT experts was recommended by some delegates.

A majority of delegates expressed their support for a CTC (Continuous Transaction Control) system. However, a group of delegates considered that a PTC (Periodic Transaction Control) system would imply less implementation costs without reducing the value of the information received for risk analysis purposes. The delegates advocating for

² The main purpose of the Fiscalis Workshop was to discuss the conclusions of the draft Final Report prepared by an external Contractor carrying out the study on the same subject. The options and concepts to which reference is made relate to those described in this study.

CTC argued that this system would facilitate the automation of processes, which would in turn lead to a reduction of administrative costs for taxpayers, and allow tax administrations to receive information quicker and make the risk analysis more efficient. Among PTCs, the preferred option was VAT listings, even though one delegate supported a SAF-T system. Among CTCs, the preference was for e-invoicing with some delegates supporting other real-time reporting systems.

Delegates favouring PTCs supported a monthly reporting while those supporting CTCs in general favoured real-time reporting, even though some of them considered that a short delay (up to 5 days) could also be a good solution. Most delegates agreed that the same system should be used for intra-Community and domestic transactions, while a minority took the view that a hybrid system could be implemented. Several delegates proposed to begin with an EU DRR for intra-Community transactions, to later extend it to domestic transactions.

Most delegates wanted to include all transactions under the scope of the DRR: business-to-business (B2B), business-to-government (B2G) and business-to-consumer (B2C), including exempt transactions. However, there was also significant support for the exclusion of B2C transactions. On the latter, several delegates stated that their reporting through online cash registers could be enough. In this regard, the system could begin with the reporting of B2B and B2G transactions and later be extended to B2C.

There was no clear line on the role of the customer, with a majority of delegations not seeing the need for reporting by the customer while others considered that cross-checking of the data was very important and there was therefore a need for reporting by the customer. Most of the delegates were against the need for clearance of the invoice if the option retained was e-invoicing. One delegate pointed out that clearance is not needed if the e-invoice is issued through certified platforms.

Most delegates favoured that some elements of the system should be left to the discretion of Member States. However, it is necessary to assure that a minimum set of data is harmonised, in particular the format and structure of the data.

The role of blockchain in DRR was strongly supported by one delegate. Others also considered that the possibility to use blockchain should be explored while other delegates were sceptical about its use. In particular, one delegate asked how the information could be used for risk analysis purposes if registered in a blockchain.

The inclusion of all taxpayers under the scope of DRR was the more supported option. Nevertheless, there was also support for the exclusion of SMEs. Some delegates advocated a gradual implementation which would include under the scope big taxpayers first, to later be extended to SMEs.

Finally, most delegations supported the suppression of recapitulative statements if a DRR system was implemented for intra-Community B2B transactions. Regarding other benefits and services for taxpayers, the most supported option was to leave it to the decision of Member States, even though some could be included in a non-binding recommendation from the Commission.

The Commission services thanked the delegates for their contributions to the debate and asked two delegates to make a presentation at a specific GFV meeting that will take place in late January/early February, respectively, on two topics that raised debate during the discussions:

- Advantages of the use of blockchain for the recording of transactions between taxpayers.
- Advantages of having the information available in real-time against having it on a monthly basis and the use of the data obtained.

7. GFV N° 112: THE PLATFORM ECONOMY – FOCUS ON SPECIFIC ISSUES AS A FOLLOW-UP TO THE FISCALIS WORKSHOP ON VAT IN THE DIGITAL AGE

The Commission services introduced working document GFV No 112, outlining that following the Fiscalis seminar in October, it was apparent that more analysis was needed on various aspects of this complex subject of VAT on the platform economy. In particular, further analysis was required on:

- How to accurately define the taxable status of the provider and the services provided;
- Whether a definition of a platform is required, and if so, how should it be worded;
- The deemed supplier model and its interaction with the special scheme for travel agents;
- The deemed supplier model and its interaction with the group of four, in particular the SME scheme;
- How to deal with the right of deduction of non-registered platform suppliers under the deemed supplier regime;
- How to deal with platforms where the underlying transactions are exempt;
- Reporting obligations of platforms.

Delegates agreed with the Commission's approach. One delegation thought it was also important to focus on the fraud issue; the issue of proportionality; the matter of giving time for the deemed supplier regime in the OSS/IOSS to be properly assessed before introducing such a scheme for the platform economy; and on the application of thresholds for the deemed supplier regime.

A second delegate suggested an examination of the issue of the right of deduction in a more general way, in particular looking at the use of Article 172a of the VAT Directive. Another delegate wanted a revision of the definitions of electronically supplied services with regard to the place of supply of services, particularly as the EU is moving to a more digitised economy with more and more services, such as educational services, supplied electronically.

The Commission informed delegates that an analysis paper will be prepared for a further meeting in late January/early February.

8. SINGLE VAT REGISTRATION –FOLLOW-UP TO THE FISCALIS WORKSHOP ON VAT IN THE DIGITAL AGE

The Commission services thanked the GFV members for their participation in the Fiscalis event which helped to confirm: i) the list of transactions that still triggers the registration in more than one Member State; ii) the positive impact of SVR (especially for SME), which will reduce costs linked to multiple registrations and lead to better business decision-making processes thanks to the voluntary character of the SVR.

The Commission services presented the favoured combination of the proposed options:

- An extended One Stop Shop (OSS) to cover all B2C transactions (domestic supplies such as sales on market, e-charging...);
- A reverse charge mechanism for B2B transactions, if the recipient is registered in that Member State;
- An extended OSS to cover the transfer of own goods with perhaps the need for a special reporting mechanism.

As for the IOSS, the Commission services informed that the first results confirm the success of this initiative and its smoothly implementation. However, some problems have been detected (double taxation or abuse of the IOSS numbers) and should be quickly tackled as they lead to reputational risks as well as dissatisfaction among the traders who are using this system. Regarding the 150 euros threshold, it was agreed that its abolishment was worth exploring it, but any decision must be aligned with customs' aspects. Concerning the mandatory use of the IOSS, no consensus was reached. Regarding the introduction or not of a threshold, it was highlighted that it might avoid a negative impact on the smaller stakeholders. As to possible sanctions, the Commission services are exploring its feasibility.

The next steps encompass a Public Consultation to be launched in the coming weeks (including an evaluation of the OSS/IOSS) and a comprehensive Evaluation of the VAT e-commerce package scheduled to be performed in the beginning of 2022.

VAT e-commerce state of play- update

The Commission services then presented an update on the state of play of the e-commerce packaged and took the opportunity to thank the group for the feedback received during the implementation of the e-commerce package as well as for their valuable inputs, which are essential to the assessment process.

The Commission reported on the meeting held on 15 November between tax and customs authorities to propose solutions for the detected problems that are hindering the proper functioning of the IOSS, focusing on: (i) the cases of double taxation; (ii) simplification of the VAT refund on certain situations; (iii) limitations to the misuse of the IOSS identification numbers; and (iv) rectification of some recent changes in the customs legislation. Concerning the double taxation, these discussions identified a practical solution whereby the corrections should be done in the IOSS VAT return. This pragmatic solution offers different advantages (e.g. the buyer is reimbursed by the seller/marketplace, the IOSS monthly report will match with the IOSS VAT return, etc).

It was noted by the Commission that double taxation issues have arose in a few Member States due to customs practices. As solving this issue is a priority, the Commission services will prepare a document explaining the abovementioned provisional solution that can be applied until those Member States are able to correctly apply the rules laid down in the Directive.

Regarding how to treat certain problems related to the IOSS identification number brought up by some participants, the Commission responded that the upcoming document would also address such issues. In this regard, written contributions have been received from some delegations and those remarks will be duly analysed by the Commission services.

The Commission informed the GFV delegates that there are several initiatives to improve e-commerce policy on the customs side too. These include considerations of the Wise Persons' Group, a forum of high-level experts reflecting on innovative ideas and concepts to address the main challenges of the customs union, including e-commerce. Moreover, the Commission has launched a comprehensive e-commerce study by an external contractor. It aims at identifying innovative approaches for the overhaul of the EU rules regarding e-commerce imports covering all import duties and taxes, the review of the duty relief system and the targeting and control of small consignments

9. GFV N° 113: VAT COMMITTEE PROPOSAL³ - FOLLOW-UP

The Commission services provided a brief update on the VAT Committee proposal, which was put forward on 18 December 2020 to transform the VAT Committee into a comitology Committee that would assist the Commission in adopting binding legislation (limited to non-sensitive areas and technical interpretative issues of certain terms of the VAT Directive) by qualified majority voting.

The proposal was discussed twice in Council this year (February and April) but no consensus was reached . In general, Member States could support the overall objective of the proposal, but many delegations took the view that the current system could also be improved through the presentation of more proposals for Council implementing acts based on Article 397 of the VAT Directive. The objective would be to transform these non-binding guidelines into binding rules implementing the provisions of the VAT directive, to be adopted by unanimity by the Council.

While the Commission still believes its proposal is the only way to offer a permanent solution to the problem of divergent interpretations in EU VAT Law, it is willing to explore short term solutions.

In this context, delegates were asked by the Commission services to identify the most relevant guidelines and specify the areas where implementing measures would be appropriate. Based on the inputs received, an inventory of the potential guidelines to be transformed would be drawn up by the Commission.

³ Proposal for a Council Directive amending Directive 2006/112/EC as regards conferral of implementing powers to the Commission to determine the meaning of the terms used in certain provisions of that Directive (COM(2020) 749 final - 2020/0331 (CNS)).

The group welcomed the Commission' initiative. On this point, one delegate highlighted the importance of immediate clarification of the provisions before any change in the VAT Directive is implemented by Member States. Another delegate noted that the impact of the guidelines is already not minor (their publication allows taxpayers to call upon them) and reflected on the reasons behind the non-endorsement of some guidelines by the Member States (e.g. lack of unanimity).

While several delegates still did not have a clear position on which kind of guidelines to focus on and asked the Commission more time to go over them to identify those of more relevance (some may be outdated), others mentioned some areas of interest (e.g. holding companies and deductibility, place of supply, intra-community transactions). Another delegate pointed at the guidelines which were adopted with unanimity of votes.

Delegates were invited to send their contributions in writing no later than 28 February 2022.

10. INFORMATION POINTS

The Commission services provided a brief outline of recent developments in the following areas:

10.1 VAT package on tourism

In February 2021, the Commission adopted an evaluation on the travel agents scheme⁴, on which the Council had an exchange during its meeting on 14 April 2021. The evaluation sets out the achievements and the shortcomings of the scheme in need of being addressed.

As a follow up to that evaluation, the Commission services informed the GFV of a call for a new study which has been opened to collect data on the travel and tourism sector and assess the relevant VAT rules. The study is to cover three topics: 1) the special scheme for travel agents, 2) the VAT rules on passenger transport and 3) the exemption on supply of goods to non-EU travellers. It should support the Commission in preparing a possible legislative VAT package on tourism in 2023.

10.2 Review of VAT rules for financial and insurance services

The Commission services reminded the review of the VAT rules for financial and insurance services which is ongoing. They noted that the summary report on the outcome of the public consultation, launched at the beginning of 2021 and closed on 3 May, was published in August 2021 and is available on the [Have Your Say Portal](#) featured on the Europa website⁵.

Due to the complexity of the rules under review and the scope of this project, the timing has been extended. It is therefore unlikely for a legislative proposal to be tabled before 2023.

⁴ Commission Staff Working Document – Evaluation – Special scheme for travel agents of the Council Directive 2006/112/EC on the common system of value added tax (SWD(2021) 32 final).

⁵ Contributions can be found in [this folder](#) of the Public Documents Repository – VAT.

11. AOB

The next meeting of the group is not yet confirmed but it would most likely take place in June 2022. A specific meeting to discuss some elements of the VAT in the Digital Age proposal would be organised in late January/early February.

12. LIST OF PARTICIPANTS

Commission officials from DG TAXUD Unit C1 and the members of the Group on the Future of VAT as published in the Register of Commission Expert Groups and other similar entities⁶. The rapporteur of the Sub-group “Platform Economy” and member of the VEG was also present for Point 2 of the Agenda.

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⁶<http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=2609&NewsSearch=1&NewSearch=1>