Summary Report

Public consultation on the VAT in the Digital Age initiative

A. Background

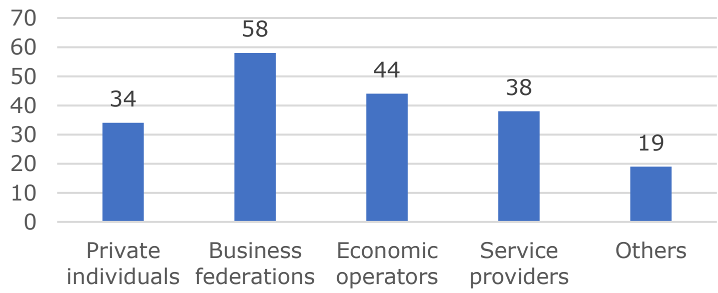
The Commission's Action Plan for fair and simple taxation[1] underlines the need to reflect on how tax authorities can use technology to fight tax fraud and benefit businesses, and on whether the current VAT rules are adapted to doing business in the digital age. The discrepancy between the 30-year-old rules and the new digital reality translates in EU VAT legislative framework not being fully adapted to deal with the new challenges and costs for tax administrations and businesses and being prone to fraud.

A Public Consultation (PC) was launched on 20 January 2022, and it remained open until 5 May 2022 (15 weeks). **A total of 193 responses were received, from 22 Member States and 5 non-EU countries.** The PC questionnaire consisted of 71 questions, divided into four sections, targeting stakeholders' views on the adaption of VAT rules to the digital age, the use of digital technology to fight fraud and to benefit businesses. Respondents were also allowed to upload position papers.

B. About the respondents

The Public Consultation (PC) resulted in a total of **193 valid responses. The vast majority – 159 – of respondents replied to the PC in their professional capacity or on behalf of their organisation** (Business Stakeholders - BS), while 34 private individuals (PI) answered in their personal capacity.

Figure 1 - Type of respondent



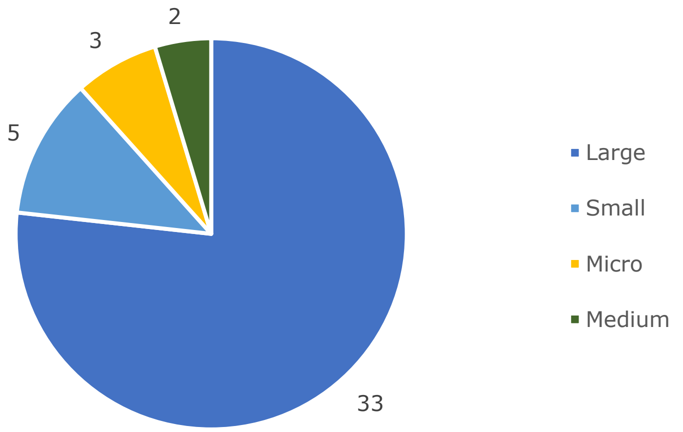
Among professional respondents, business organisation/federation was the largest category with 58 replies, followed by the categories of company and VAT practitioner/VAT expert/tax advisor with 34 and 30 responses respectively. A lower number of participants was recorded for the categories of company – platform operator (9), self-employed person (1), provider of IT or tax compliance services (8), academic institution/think tank (2), public authority (5). For the following analysis, professionals have been grouped into four categories: (i) Business Federations (BF), (ii) Economic Operators[2] (EO), Service Providers of Tax-Related Services[3] (SP), and Others[4] (O). In certain instances, the distinction will be limited to PIs and BS, the latter combining BFs, EOs, and SPs.

Across all respondents, **22 EU Member States are represented in the PC**. While private individuals answering come from 16 Member States, those replying in their professional capacity represent 17

[1] https://ec.europa.eu/taxation_customs/package-fair-and-simple-taxation_en
[2] Includes: (i) company, (ii) company – platform operators, and (iii) self-employed person.
[3] Combining the following sub-groups: (i) VAT practitioner / VAT expert / tax advisor, and (ii) provider of IT or tax compliance services.
[4] Sub-groups: (i) academic institution / think tank, (ii) public authority, and (iii) others.

different Member States. Overall, **the country with the highest number of replies is Germany with a total of 54**, followed by Belgium with 29 respondents (several pan-EU organisations have their seat there). A considerable number of replies have also been registered from Italy (18), France (12), and Ireland (11). 22 replies are coming from outside the EU, namely from Brazil (1), Panama (1), Switzerland (6), the United Kingdom (9), and the United States (7). Concerning the size of participating companies, **respondents represented predominantly large companies with 250 employees or more**. Among the remaining companies, 3 responses were from micro companies with less than 10 employees, 5 from small-sized companies with 10 to 49 employees, and 2 from medium-sized ones with 50 to 249 employees.

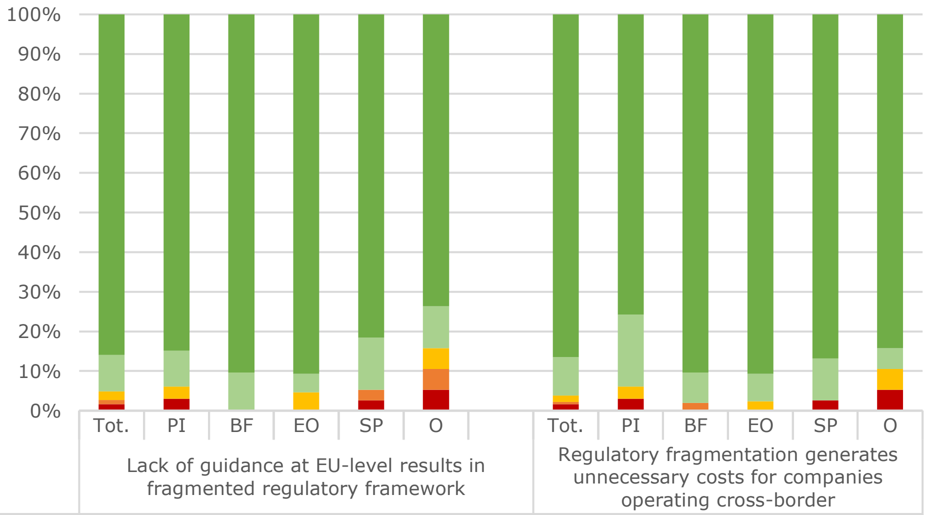
Figure 2 - Size of the companies



C. VAT reporting (digital reporting requirements - DRRs)

Concerning the current situation, **a majority of stakeholders states negative impacts stemming from the current situation with regards to DRRs**.

Figure 3 – Current situation

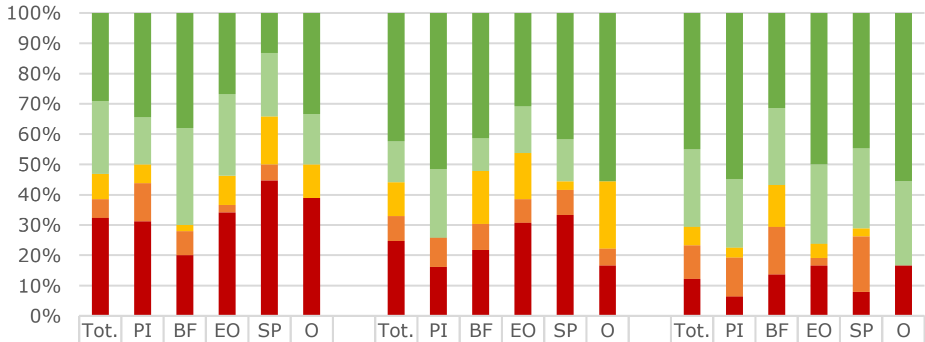


	Lack of guidance at EU-level results in fragmented regulatory framework						Regulatory fragmentation generates unnecessary costs for companies operating cross-border					
	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O
Agree	159	28	47	39	31	14	160	25	47	39	33	16
Partly Agree	17	3	5	2	5	2	18	6	4	3	4	1
Neither agree nor disagree	4	1	0	2	0	1	3	1	0	1	0	1
Partly disagree	2	0	0	0	1	1	1	0	1	0	0	0
Disagree	3	1	0	0	1	1	3	1	0	0	1	1

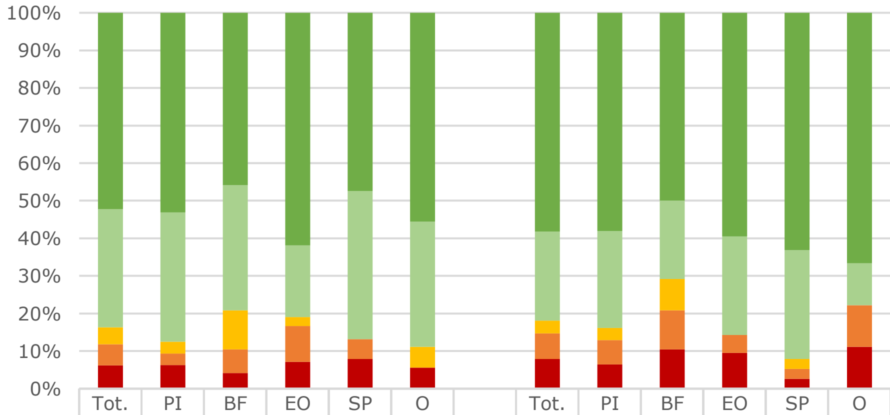
The role of the EU in fostering the adoption of digital reporting and e-invoicing requirements was considered crucial by stakeholders. **Over two-thirds of respondent perceived to a large extent that EU action is necessary in ensuring a more widespread adoption of digital reporting and e-invoicing requirements**.

Regarding the options, **a majority of stakeholders supports the introduction of an EU DRR for intra-EU transactions**, with or without the inclusion of the domestic transactions. Agreement was less pronounced for options referring to recording data on VAT transactions in a standard digital format, adopting non-binding Commission recommendations providing a common design for reporting obligations across the EU, and for no longer requiring Member States to have to ask for an explicit derogation for introducing mandatory e-invoicing for B2B transactions.

Figure 4 – Options for VAT registration (digital reporting requirements)



	Non-binding EC recommendation with common design for reporting obligations across EU						Remove derogation for MS to introduce mandatory e-invoicing for B2B transactions						Require taxpayers to record VAT data in standard digital format					
	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O
Agree	52	11	19	11	5	6	72	16	19	12	15	10	81	17	16	21	17	10
Partly Agree	43	5	16	11	8	3	23	7	5	6	5	0	46	7	13	11	10	5
Neither agree nor disagree	15	2	1	4	6	2	19	0	8	6	1	4	11	1	7	2	1	0
Partly disagree	11	4	4	1	2	0	14	3	4	3	3	1	20	4	8	1	7	0
Disagree	58	10	10	14	17	7	42	5	10	12	12	3	22	2	7	7	3	3



	EU DRR for intra-EU transactions and harmonisation of existing domestic systems						EU DRR for both intra-EU and domestic transactions					
	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O
Agree	93	17	22	26	18	10	103	18	24	25	24	12
Partly Agree	56	11	16	8	15	6	42	8	10	11	11	2
Neither agree nor disagree	8	1	5	1	0	1	6	1	4	0	1	0
Partly disagree	10	1	3	4	2	0	12	2	5	2	1	2
Disagree	11	2	2	3	3	1	14	2	5	4	1	2

Additional comments received can be grouped under the following main points:

- There is an urgent need for an EU-level standard, which should be limited – at least at first – to intra-EU transactions. At the same time, domestic systems should share an obligatory basis to avoid further fragmentation. Existing models at the EU-level should be maintained and further developed for this purpose.
- The granted derogations have led to a fragmented situation across the EU, which creates barriers for economic operators in entering markets in certain Member States. This creates particular problems for SMEs, who must be supported when it comes to DRRs and e-invoicing.
- The data to be submitted and stored should be kept to a minimum to reduce the risk linked to data confidentiality.

D. The VAT Treatment of the Platform economy

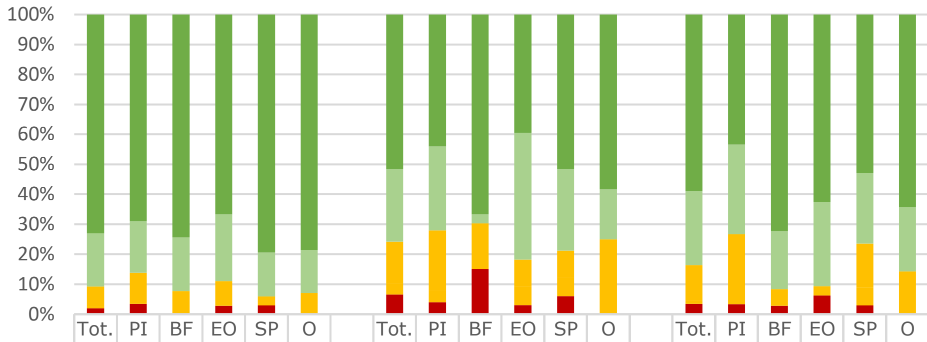
Under this section, questions were also open to all participants. However, certain questions were filtered according to the respondent's capacity or preceding questions. The specific problems reported by respondents can be summarised as following.

- difficulties with Member States applying different VAT treatments, ranging from different rates over different treatment of electronically supplied and intermediary services to different thresholds for the application of VAT to SMEs.
- problems with either double-taxation or no-taxation.
- problems concerning the definition of supplies, the status of the supplier and customer, and the place of supply.
- problems arise due to the platform providers, for example because of a lack of appropriate invoicing from their side or because the wrong VAT rate is being applied by them.
- problems when dealing with non-EU counterparts, such as uncertainty over whether VAT must be applied and what rate is correct to apply.

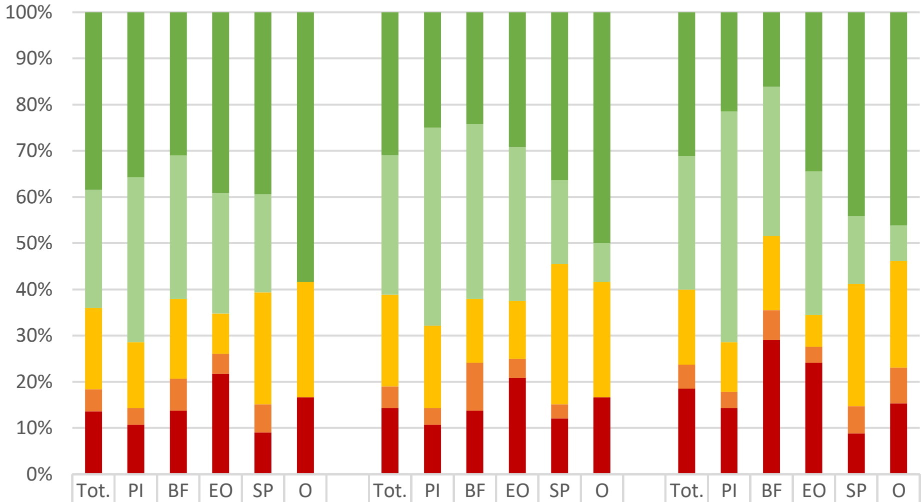
Regarding ensuring a level-playing field between traditional and platform economy (uniform treatment), a majority of 161 informed respondents (32 out of 193 answered "do not know") considers it very important (107) and important (47); for the minority it is either not important (4) or not so important (2).

The need for changes to the VAT rules to ensure proper VAT treatment of the platform economy was considered necessary by most of the stakeholders. On the policy options, stakeholders noted that (1) keeping a legal clarification up to date with the business ideas and offered services of platforms will be difficult or impossible and it was remarked that the nature of the service and distinction between an intermediary and electronic supply of service cannot always be clearly defined; (2) to presume the VAT status of the service provider is difficult and may add complexity for platforms, thus a simple and secure mechanism should be found; (3) the imposition of new record-keeping obligations could increase costs and put platforms at a disadvantage compared to non-platform businesses; and (4) a deemed supplier role for digital platforms may create difficulties for platforms, a burden which might be unreasonable for smaller or purely domestic platforms which may choose to shift the burden towards their users by imposing strict conditions and requirements.

Figure 5 – Options for VAT treatment of platform economy



	Clarification of nature of services provided by platform						Rebuttable presumption on status of platform providers						Streamlining of record-keeping obligations					
	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O
Agree	111	20	29	24	27	11	70	11	22	13	17	7	86	13	26	20	18	9
Partly agree	27	5	7	8	5	2	33	7	1	14	9	2	36	9	7	9	8	3
Neither agree nor disagree	10	3	3	3	0	1	19	5	5	3	3	3	17	7	2	1	5	2
Partly disagree	1	0	0	0	1	0	5	1	0	2	2	0	2	0	0	0	2	0
Disagree	3	1	0	1	1	0	9	1	5	1	2	0	5	1	1	2	1	0



	Deemed supplier regime for digital platforms for supply of certain accommodation & transport services*						Deemed supplier regime for digital platforms for supply of all accommodation & transport services						Deemed supplier regime for digital platforms for all services for monetary consideration					
	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O
Agree	48	10	9	9	13	7	39	7	7	7	12	6	42	6	5	10	15	6
Partly agree	32	10	9	6	7	0	38	12	11	8	6	1	39	14	10	9	5	1
Neither agree nor disagree	22	4	5	2	8	3	25	5	4	3	10	3	22	3	5	2	9	3
Partly disagree	6	1	2	1	2	0	6	1	3	1	1	0	7	1	2	1	2	1
Disagree	17	3	4	5	3	2	18	3	4	5	4	2	25	4	9	7	3	2

E. VAT reporting (Single VAT registration in the EU and IOSS)

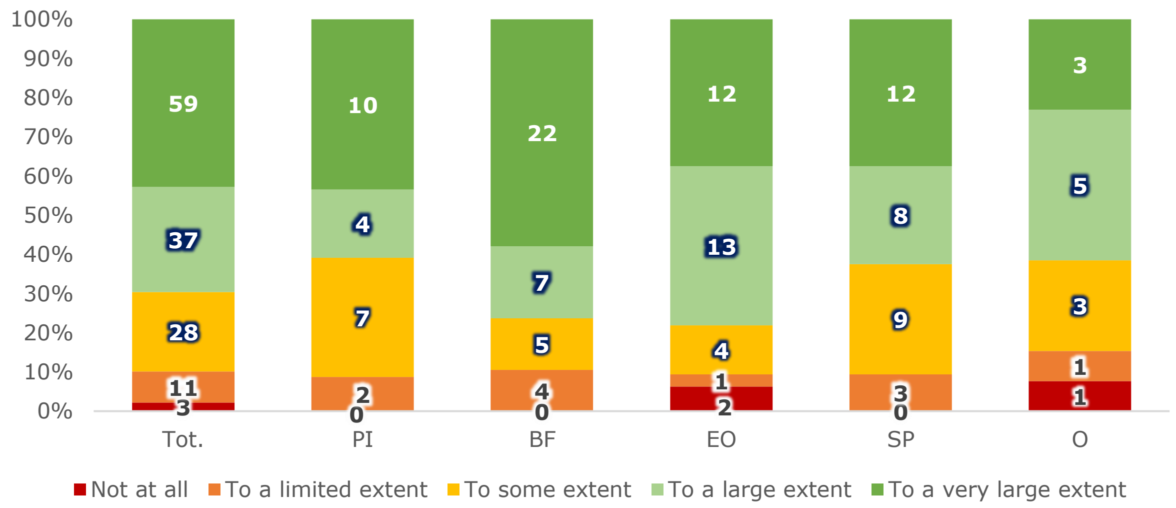
When asked whether the OSS and IOSS brought progress towards (1) minimising the need for taxable persons to hold multiple VAT registrations; (2) simplifying and facilitating VAT compliance; (3) reducing fraud and increasing VAT revenue; and (4) and modernising the VAT rules, stakeholders believed by **a majority that the OSS and IOSS has led to at least moderate progress towards all four objectives**. The most significant progress due to the OSS was towards the minimisation of the need for taxable persons to hold multiple VAT registrations. **Many businesses confirmed that, thanks to OSS, they no longer need to maintain previously held VAT registrations in other Member States, and that the OSS is particularly helpful for SMEs**. Over 70% of stakeholders held this view, and more often so among business federations. The **stakeholders considered that the IOSS is making it easier**

for businesses to engage in new transactions which would require them to register in other Member States.

Several respondents remarked that the OSS could be improved by including both B2C and B2B transactions. A number of problems were mentioned with the overall functioning of the IOSS and OSS, such as: certain operators being still inexperienced in managing imports through the IOSS; the IOSS/OSS being difficult to apply for deemed suppliers; occurrences of double-taxation when VAT is collected at customs and through the IOSS; Member States requiring businesses to include OSS/IOSS transactions in domestic VAT returns leading to additional complexity.

Despite the introduction of the OSS and the IOSS, **124 responding stakeholders (90% of those providing an opinion on the matter) thought that the requirement to obtain and maintain multiple VAT registrations continues to be a problem, at least to some extent**. Over two-thirds thought it is a problem to a large or even very large extent.

Figure 6 – Is the need to obtain and maintain multiple VAT registrations still an issue?

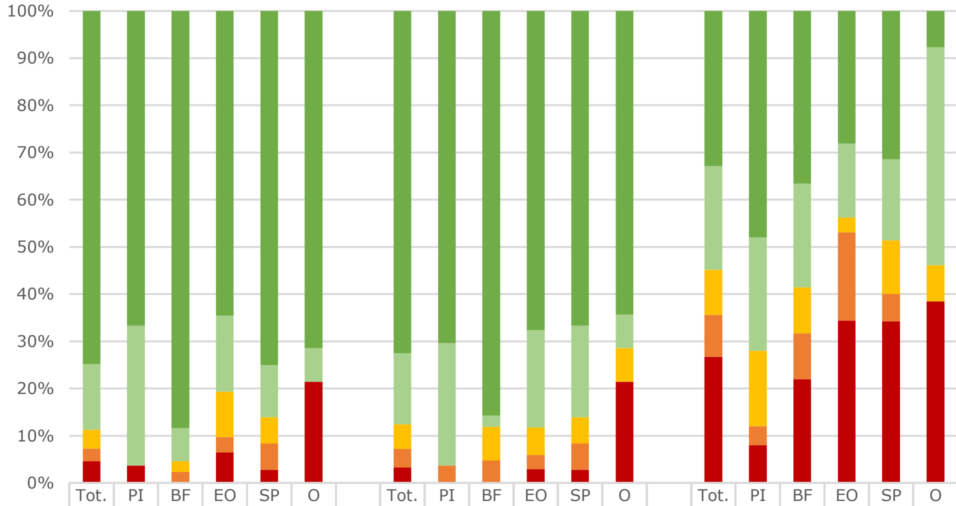


With a majority of stakeholders still seeing problems with multiple VAT registrations, **over two-thirds of respondents believed that it should be a high priority for the European Commission to take further action to reduce the need for taxpayers to hold multiple VAT registrations**.

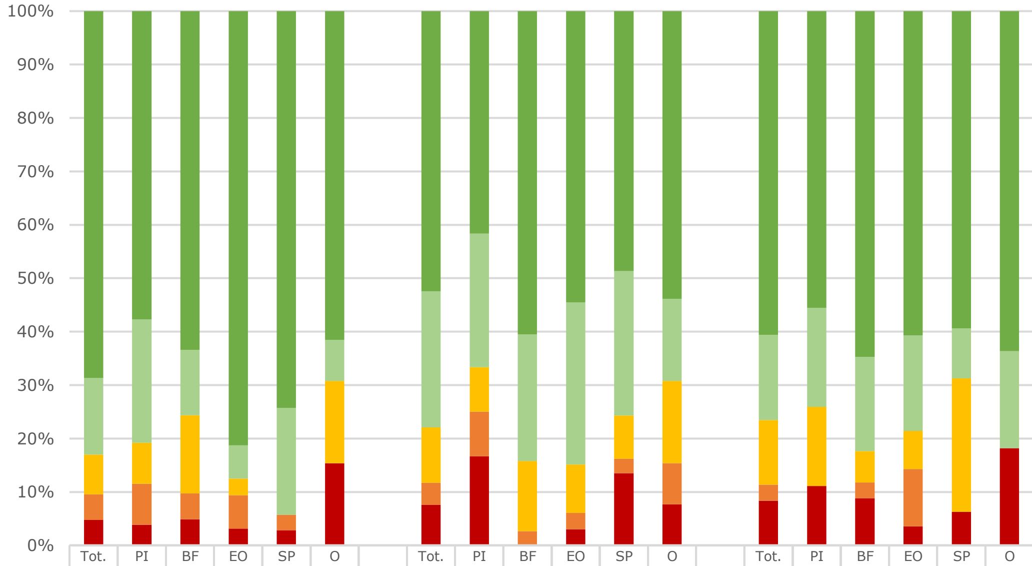
On the policy options, **the strongest agreement among stakeholders was for the option to extend the OSS to cover all B2C supplies of goods and services by non-established suppliers**. Only slightly less respondents agreed or at least partly agreed with extending the OSS to intra-Community supplies and acquisitions of goods, and to B2B supplies of goods and services, together with the introduction of a deduction mechanism into the OSS. The latter was in fact the most popular option among economic operators. More than half of answers indicated that they agree also with the options of making reverse charge available for all B2B supplies carried out by non-established suppliers, and with removing the EURO 150 threshold for IOSS. Two more options were at least partly agreed by a majority, namely to extend the OSS to B2B supplies of goods and services but leaving the current VAT refund mechanism in place, and making the IOSS mandatory for all distance sales of goods. The former, however, was not supported by economic operators.

The options of making the IOSS mandatory either for all distance sales of goods above a certain threshold or for marketplaces only did not find agreement among a majority of responding stakeholders.

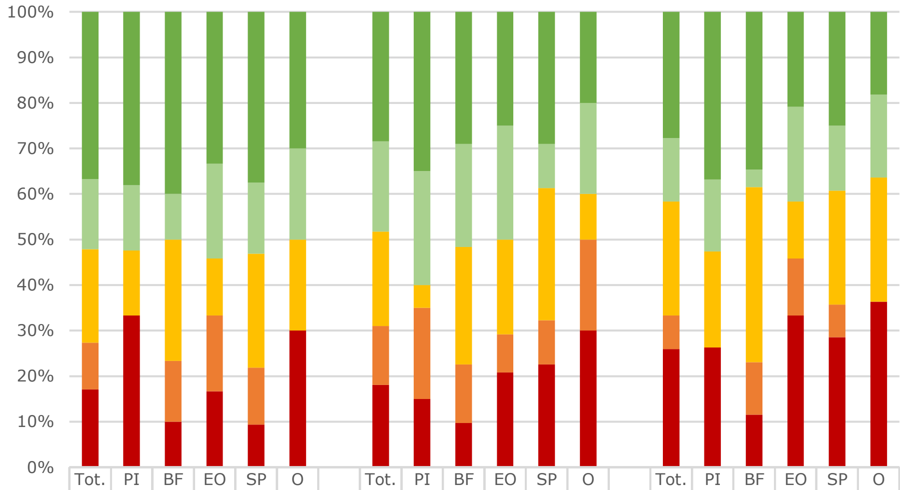
Figure 7 – Options for VAT registration (OSS and IOSS)



	Extension of OSS to cover all B2C supplies of goods & services by non-established suppliers						Extension of OSS to enable intra-Community supplies & acquisitions of goods						Extension of OSS to B2B supplies of goods & service but leaving in place current VAT refund mechanism					
	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O
Agree	113	18	38	20	27	10	111	19	36	23	24	9	48	12	15	9	11	1
Partly agree	21	8	3	5	4	1	23	7	1	7	7	1	32	6	9	5	6	6
Neither agree nor disagree	6	0	1	3	2	0	8	0	3	2	2	1	14	4	4	1	4	1
Partly disagree	4	0	1	1	2	0	6	1	2	1	2	0	13	1	4	6	2	0
Disagree	7	1	0	2	1	3	5	0	0	1	1	3	39	2	9	11	12	5



	Extension of OSS to B2B supplies of goods & services, while also introducing a deduction mechanism into the OSS						Reverse charge made available for all B2B supplies carried out by non-established suppliers						Removing the €150 threshold for IOSS					
	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O
Agree	101	15	26	26	26	8	76	10	23	18	18	7	80	15	22	17	19	7
Partly agree	21	6	5	2	7	1	37	6	9	10	10	2	21	5	6	5	3	2
Neither agree nor disagree	11	2	6	1	0	2	15	2	5	3	3	2	16	4	2	2	8	0
Partly disagree	7	2	2	2	1	0	6	2	1	1	1	1	4	0	1	3	0	0
Disagree	7	1	2	1	1	2	11	4	0	1	5	1	11	3	3	1	2	2

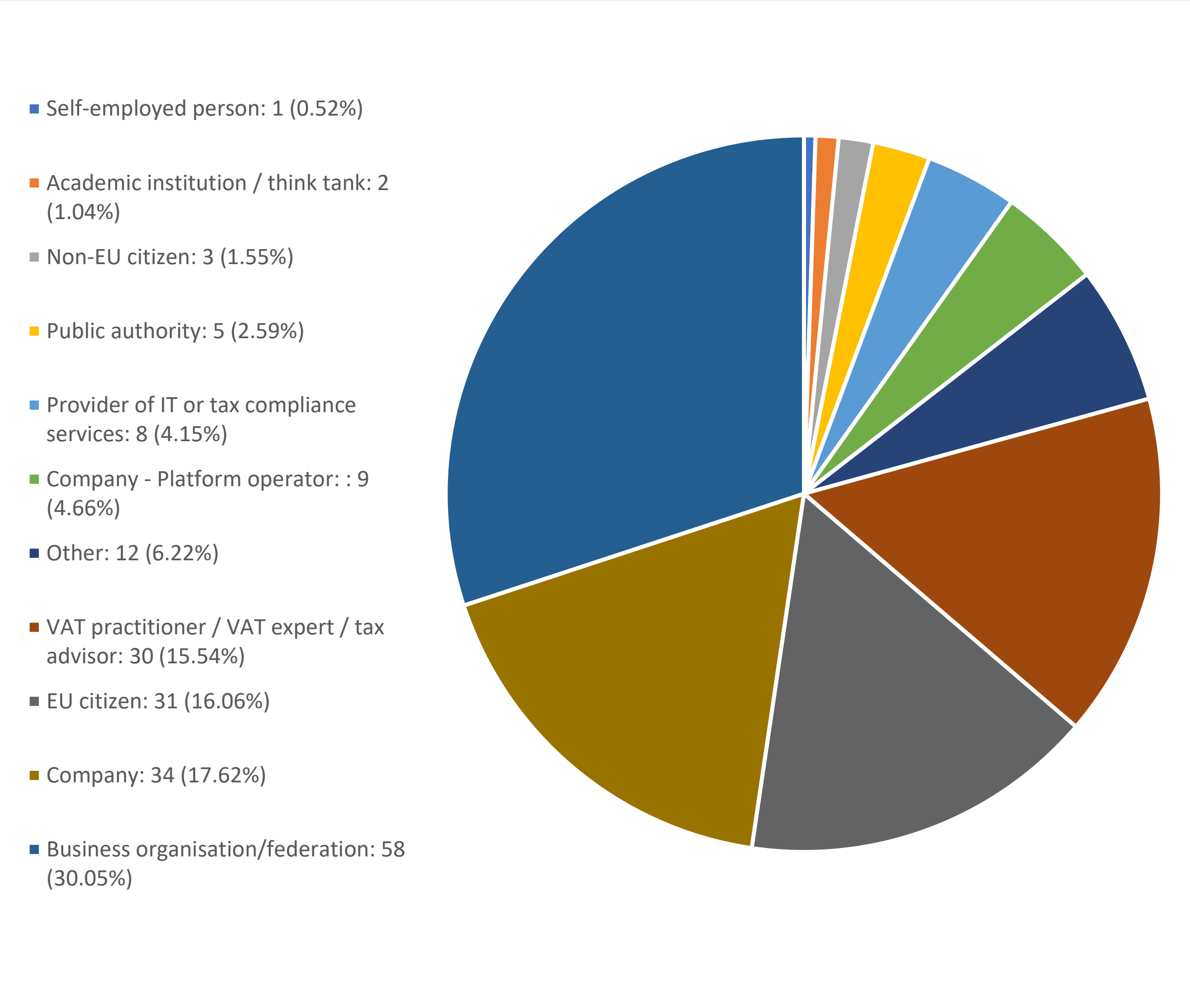


	Making IOSS mandatory for all distance sales of imported goods						Making IOSS mandatory for all distance sales of imported goods above an EU turnover threshold (e.g: €10,000)						Making IOSS mandatory for the marketplaces (deemed supplier) only					
	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O
Agree	43	8	12	8	12	3	33	7	9	6	9	2	30	7	9	5	7	2
Partly agree	18	3	3	5	5	2	23	5	7	6	3	2	15	3	1	5	4	2
Neither agree nor disagree	24	3	8	3	8	2	24	1	8	5	9	1	27	4	10	3	7	3
Partly disagree	12	0	4	4	4	0	15	4	4	2	3	2	8	0	3	3	2	0
Disagree	20	7	3	4	3	3	21	3	3	5	7	3	28	5	3	8	8	4

Statistics (for publication on the Consultation Portal)

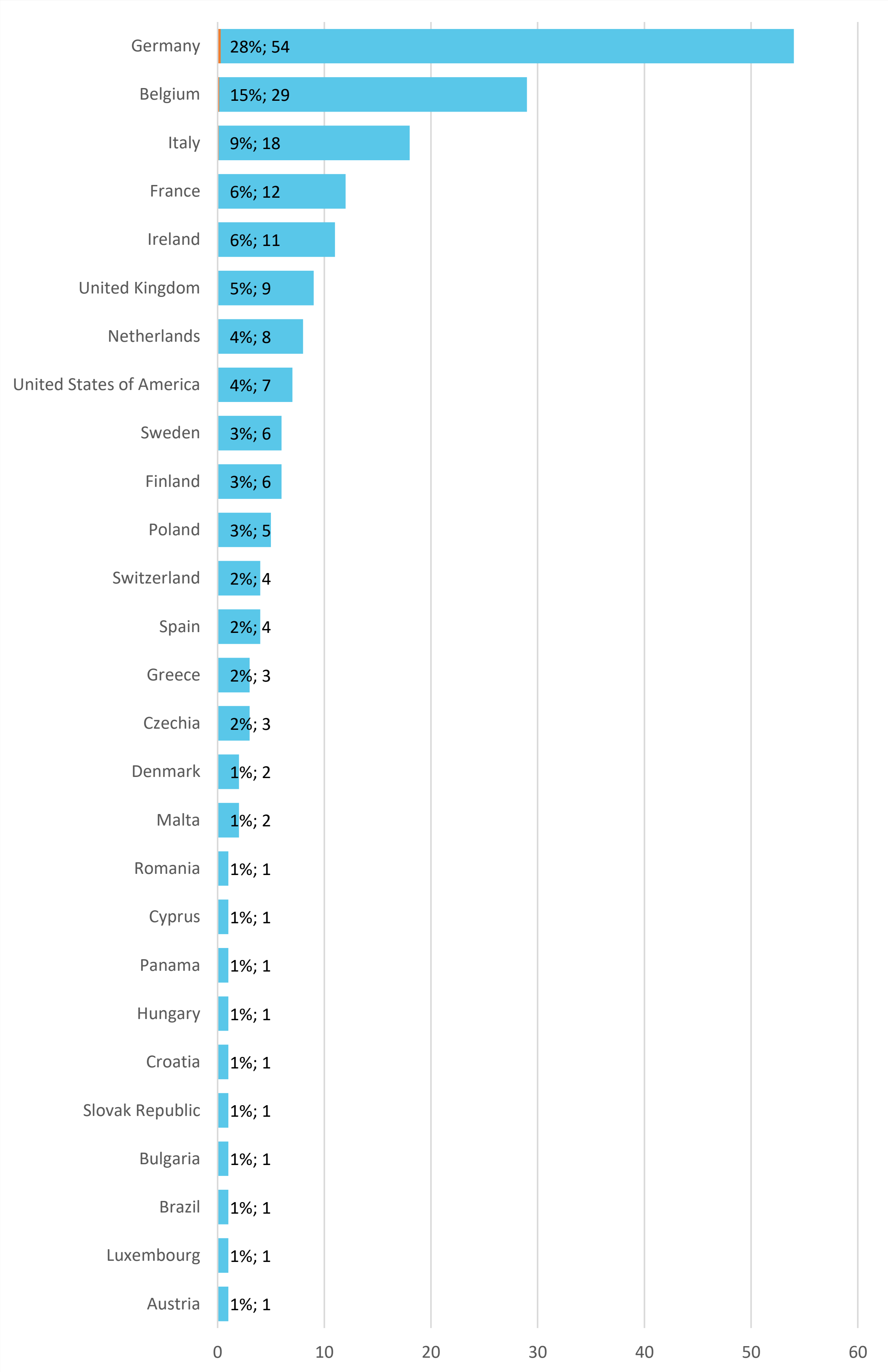
Total of valid feedback instances received: 193

By category of respondent



By category of respondent	No
Self-employed person	1
Academic institution / think tank	2
Non-EU citizen	3
Public authority	5
Provider of IT or tax compliance services	8
Company - Platform operator	9
Other	12
VAT practitioner / VAT expert / tax advisor	30
EU citizen	31
Company	34
Business organisation/federation	58
Total	193

By Country



Germany
28%; 54
Belgium
15%; 29
Italy
9%; 18
France
6%; 12
Ireland
6%; 11
United Kingdom
5%; 9
Netherlands
4%; 8
United States of America
4%; 7
Sweden
3%; 6
Finland
3%; 6
Poland
3%; 5
Switzerland
2%; 4
Spain
2%; 4
Greece
2%; 3
Czechia
2%; 3
Denmark
1%; 2
Malta
1%; 2
Romania
1%; 1
Cyprus
1%; 1
Panama
1%; 1
Hungary
1%; 1
Croatia
1%; 1
Slovak Republic
1%; 1
Bulgaria
1%; 1
Brazil
1%; 1
Luxembourg
1%; 1
Austria
1%; 1
0
10
20
30
40
50
60

By country	No
Austria	1
Luxembourg	1
Brazil	1
Bulgaria	1
Slovak Republic	1
Croatia	1
Hungary	1
Panama	1
Cyprus	1
Romania	1
Malta	2
Denmark	2
Czechia	3
Greece	3
Spain	4
Switzerland	4
Poland	5
Finland	6
Sweden	6
United States of America	7
Netherlands	8
United Kingdom	9
Ireland	11
France	12
Italy	18
Belgium	29
Germany	54
Total	193