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**VAT Expert Group
31st meeting – 10 June 2022**

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VAT EXPERT GROUP¹

VEG No 109

SUMMARY MINUTES

**31ST MEETING
– 10 JUNE 2022 –**

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¹ Group of experts on value added tax to advise the Commission on the preparation of legislative acts and other policy initiatives in the field of VAT and to provide insight concerning the practical implementation of legislative acts and other EU policy initiatives in that field.

1. APPROVAL OF THE AGENDA

The agenda (*document taxud.c.1(2022)4146942*) was not contested or discussed.

2. NATURE OF THE MEETING

The meeting was held in a hybrid format (with both physical and virtual attendance) and was not open to the public.

3. VEG N° 105: SINGLE VAT REGISTRATION (SVR) – TRANSFER OF OWN GOODS

The Commission services introduced the topic via a PowerPoint presentation, which focussed on the current VAT treatment of ‘the transfer of own goods’, the remaining situations for which VAT registration would still be required (after inclusion in the SVR) and the different options: 1) inclusion in the Digital Reporting Obligations (DRR); 2) extension of the One-Stop-Shop (OSS) (whereby the transfer would remain a taxable event (first sub-option) or would no longer constitute a taxable event (or be exempt) (second sub-option); 3) extension of the ‘deemed supplier’ provision for transfers by platforms in combination with the OSS (and with the same two sub-options as above).

In the second part of the presentation, the Commission services informed the group about the preliminary discussions on the same subject held at the Group on the Future of VAT (GFV) meeting of 6 May 2022. Based on the results from the GFV’s discussions, a more elaborate model was presented which would be based on an extension of the deemed supplier provision for transfers of goods of underlying suppliers (both outside and inside the EU) and for subsequent supplies, in combination with a new module in the One-Stop-Shop (OSS) for transfers, including for transfers whereby no use would be made of a platform.

The discussion started with some examples of logistical problems that are created by the transfer of own goods (e.g. in case of destroyed goods) and the need to obtain a VAT number in different Member States.

Similar to the GFV opinion, some members expressed the view that the transfer of own goods should remain a taxable event and that, in case there would be no full right of deduction, payment via the OSS should be possible.

Certain questions were raised as regards the taxable amount for the transfer (and the fact that, possibly, the purchase/re-sale price would have to be revealed (sometimes different prices per Member State), the impact of the new system on the call-off stock simplification and the treatment of returned goods. A member also expressed the need for improvements of the practical operation of the OSS.

One member indicated that platforms would be willing to accept the increased liabilities of the extended deemed supplier provision insofar it would remove the obligation for underlying suppliers to be registered in different Member States. It was further explained

that decisions to move goods from underlying suppliers from one Member State to another are taken via algorithms although, theoretically, underlying suppliers could take such a decision themselves. It was further explained that no transfer of goods takes place before they have been listed for sale on the platform's website.

While the proposed solution was overall welcomed, it was also pointed out that the broadening of the deemed supplier provision constituted a big step, which calls for necessary caution.

The idea to exclude capital goods from the new transfer of own goods rules, was welcomed and it was in this context suggested to provide a positive definition of those supplies that were included (e.g. goods moved for the purpose of subsequent sales or of supplies of services); rather than a negative one.

Following several questions, the Commission services explained that the use of the (extended) OSS would be optional and that taxable persons could continue to be registered for VAT purposes in different Member States.

4. VEG N° 106: E-INVOICING AND THE NEED FOR EU STANDARDS AND INTEROPERABILITY

The document aimed at getting members' views on the different elements of the design of a digital reporting system.

Members expressed their opposition to the implementation of a clearance system where electronic invoices need to go through the tax administration to arrive to the recipient, mainly due to the need to protect data confidentiality. Nevertheless, one member considered that, even though he was opposed to clearance, it could be good to establish a validation system to verify that invoices comply with all formal requirements to avoid further checks from the tax administration.

There were divergent views on the need to impose mandatory e-invoicing. While some members considered that this was the better way to achieve harmonisation, to unify the way to comply with reporting obligations and to expand the benefits derived from automation to all businesses, other members considered that this could entail disproportionate burdens to some businesses, in particular SMEs. Therefore, these members considered that e-invoicing should be voluntary for businesses, who should be able to comply with the reporting obligations by other means. One member considered that electronic invoicing could be made mandatory only for intra-Community transactions.

In relation to the standards, several members pointed out that the proliferation of standards could lead to the establishment of 27 different reporting systems. Therefore, they agreed on the fact that there is a need for standards. CEN 16931 was pointed out as a viable option by several participants. At least, it is necessary that systems are interoperable.

Members were also opposed to the imposition of a single network to transmit the invoices. Further, this could be dangerous from a data confidentiality point of view. A combination of private and public networks was seen as a suitable compromise.

One member stated his opposition to the need for acceptance of the invoice by the recipient, especially if that could influence the payment deadlines.

Some members asked what will happen with the different systems implemented so far by Member States and the investments incurred for this purpose by businesses and tax administrations, and if that could be an obstacle to the adoption of the proposal. In this regard, several members pointed out that the option of partial harmonisation could be more feasible than the option of total harmonisation. The Commission services clarified that the implementation of a harmonised system will take into account these issues and will give enough time to carry out the adaptation. In relation to the negotiation process, the Commission services are aware of the difficulties, but also that Member States will be ready to adapt in order to achieve a solution that will improve the current situation.

The Commission services also clarified that the study carried out by the external contractor will be published together with the Impact Assessment.

Finally, one member asked if it was possible to eliminate the need to fill in the Intrastat declaration if a digital reporting system for intra-Community transactions was implemented.

5. VEG N° 107: VAT AND THE PLATFORM ECONOMY – FOCUS ON SPECIFIC ISSUES

The Commission services presented their working paper alongside a paper from EU travel tech on their views on a deemed supplier regime in the accommodation sector (which had been received the day before the VEG), and asked for members' views. The complexity of the topic was noted, with one member saying that time was needed to consider this issue and that businesses, Member States and the Commission should work together on this. The question of fiscal neutrality was raised, in particular that a supplier via the deemed supply would not be able to recover any input VAT. However, another member argued against this, saying that the supplier under the deemed supply would have no compliance costs, which would make up for the loss of input tax deduction.

The example of the IOSS was given, in that 90% of the revenues came from 8 platforms.

The Commission services clarified that this was also a compliance issue, with the burden shifting from the supplier to the platforms, who were better equipped to comply. On a question about streamlining the data reporting obligations of platforms, the Commission services indicated they will look into which information is to be transmitted to tax administrations and its frequency.

6. INFORMATION POINTS

The Commission services presented the latest developments related to their on-going work, in particular in relation to:

6.1. VAT e-commerce evaluation

The results of the evaluation of the first 6 months of the VAT e-commerce package confirm the success in its aim to reshape and modernise the system of taxation with a view to ensure its relevance given the new realities of the e-commerce market: fairer taxation, simplified VAT collection and increase in VAT revenue.

The successful implementation and very positive results were illustrated by the almost EUR 8 billion of VAT collected via the OSS and IOSS schemes:

- Approximately EUR 6.8 billion VAT collected in the Union One-Stop Shop and non-Union One-Stop Shop schemes, which equates to at least EUR 13.6 billion on an annual basis.
- Almost EUR 1.1 billion VAT collected via the Import One-Stop Shop in relation to imports of low value consignments with an intrinsic value not exceeding EUR 150.
- Further EUR 965 million of import VAT collected in relation to imports of non-IOSS low value consignments during the same period.
- EUR 692 million of new VAT directly generated as a result of the abolition of the EUR 22 exemption threshold on imported goods.

These figures validate the popularity of the e-commerce simplifications among traders in the e-commerce market. The evaluation is accompanying the impact assessment in view of the possible proposal on VAT in the Digital Age scheduled for Autumn 2022.

The need for improvements in the current schemes was raised in the presentation, which will also be addressed in the VAT in the Digital Age initiative.

Finally, some operational issues were briefly presented together with the current ongoing steps to overcome these issues:

- Cases of double taxation, for which a temporary solution was agreed by the Member States, while discussions with the Universal Postal Union are ongoing to ensure an electronic transmission of IOSS data to the postal operators of destination in the EU.
- Potential abuse of the IOSS number, against which common and innovative solutions to better secure the IOSS process are supported by the Commission services and will be addressed in the VAT in the Digital Age initiative.
- High postal fees, against which the Commission and Member States received several complaints. For better transparency, the Commission is planning to publish on its website relevant information on the level of service fees applied by national postal operators.

It was concluded that, by reshaping and modernising the VAT system, the VAT e-commerce package has achieved its main objectives of fair taxation, simplification and protection of VAT revenue.

This allows to suggest a further extension of the OSS and further improvements of the IOSS alongside implementing quick fixes that can address the need for improvements of the current rules and processes.

Some members requested clarification of the figures that had been provided. They also recognised the success of the reform and expressed their wish for a further extension/improvement of these schemes (e.g. mandatory IOSS, expansion of the OSS).

Finally, a discussion was held as regards the issue of potential abuse of IOSS numbers. The Commission services pointed to the customs and VAT joint expert group that will soon be set up and the need to be proactive and innovative to tackle any issue there may be.

6.2. 2020 Tax Action Plan – update on the state of play

i. Study “VAT in the Digital Age”

The Commission services provided a brief update on the state of play of the VAT in the Digital Age initiative and informed the group that the Public Consultation and Call for Evidence closed on 5 May 2022; 193 contributions were received for the Public Consultation and 322 for the Call for Evidence. A factual summary report of the Public Consultation is under preparation and will be published on the Commission’s website in the coming weeks.

The results of the Public Consultations, the Call for Evidence and the final report prepared by the contractor fed the draft Impact Assessment, which was submitted to the Regulatory Scrutiny Board (RSB) at the end of May. The results of the evaluation of the e-commerce package were also incorporated to the Impact Assessment.

A dedicated meeting of the GFV was held on 6 May to gather feedback from Member States on a number of issues relating to the three parts of the initiative.

Finally, the Commission services reminded that work is now being done on the legislative proposal, which is envisaged to be ready in Autumn.

ii. VAT on Travel and Tourism

The Commission services informed the group that the initiative focusing on travel and tourism will be looking at the special scheme for travel agents, the VAT rules on passenger transport and the exemption on supply of goods to non-EU travellers. A study has been launched with a view to collect the data necessary to feed into the impact assessment. Current work centres around data collection and stakeholder consultations.

6.3. CJEU Case C-235/18 Vega International: Fuel cards – state of play

The Commission services informed the group that following the VEG presentation delivered at 120th meeting of the VAT Committee held in March 2022, further paper is under preparation with the aim of being discussed at the next meeting of the VAT

Committee. The issues arising from the judgment have to be handled with care. Until final conclusions on the implications of that judgment are reached, Member States have been encouraged not to take steps to adapt their practice.

One member asked whether the paper will provide further guidance as regards the provision of mobility services. The Commission services clarified that the current works focus rather on the interpretation of *Vega International* judgment.

Another member emphasised that it is indeed important that Member States should not adapt their practice yet.

Yet another member noted that the VEG had spent a lot of time analysing business models of fuel card providers and offered to contribute further to the Commission services' work, if needed.

6.4. Presentation by VEG members – VEG Opinion on Fixed Establishments (VEG N° 108)

A member of the group presented the structure of the Working paper (VEG No 108) setting out the VEG opinion on Fixed Establishments, which focuses on the alleged increasing legal uncertainty on the notion of 'fixed establishment' in the area of business to business (B2B) transactions, due to the different treatment given to this concept in different Member States. The VEG members underlined that the intention of the paper was to flag this issue and raise the attention on the need to work on this issue.

The Commission services thanked the VEG for the production of the paper and indicated that they have taken duly note of its contents. However, the Commission services stressed that this is a divisive and problematic subject but reassured the group that they will reflect further on the issue and submit the paper to the Group on the Future of VAT for consultation.

6.5. Membership in the VEG – new Call for applications for the selection of members

The Commission services reminded the participants that the mandate of the VEG's members will expire at the end of September, and thanked them for their contribution and work over the last three years.

A new call for applications will be launched at the end of June. The application form will be published on the TAXUD webpage in due time.

The group was also reminded of the Commission's decision to discontinue the EU VAT Forum (the Forum), an expert group composed of representatives of Member States and businesses, academics and tax practitioners dealing with VAT administration, implementation and tax compliance issues. In order not to miss on the valuable input and feedback that Member States in conjunction with businesses representatives provide in these matters, the VEG and the GFV will take over the Forum's mission. This will be done in practice by convening the two groups together in a *Fiscalis* project

group/workshop or in a joint meeting on a need basis. In the latter case, both expert groups would however have to endorse separately the findings of a joint report.

The Commission services further indicated that the maximum number of members in the group will continue to be 40, as provided for by [Commission Decision 2012/C 188/02](#) setting up the VAT Expert Group.

The scope of the VEG is broad enough to deal with the tasks previously carried out by the Forum, so no changes are envisaged to take place on its Terms of Reference or Rules of Procedure, whereas the Terms of Reference of the GFV have been slightly amended in order to allow this group to deal with tax administration and VAT implementation issues.

7. AOB

The date of the next meeting is not yet confirmed.

8. LIST OF PARTICIPANTS

Commission services and the members of the VAT Expert Group as published in the Register of Commission Expert Groups².

² <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=2813&NewSearch=1&NewSearch=1>