



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL  
TAXATION AND CUSTOMS UNION  
Indirect Taxation and Tax administration  
**Value added tax**

**VAT Expert Group  
32<sup>nd</sup> meeting – 6 December 2022**

**taxud.c.1(2023)1085168**

Brussels, 31 January 2023

## **VAT EXPERT GROUP<sup>1</sup>**

**VEG No 110**

### **SUMMARY MINUTES**

**32<sup>ND</sup> MEETING  
– 6 DECEMBER 2022 –**

**DISCLAIMER:** This document has been prepared by the Commission services and cannot be understood as representing the European Commission's position and does not bind the Commission in any way. Neither the European Commission nor any person acting on its behalf may be held responsible for the use, which may be made of the information contained therein.

---

<sup>1</sup> 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)8739483*) was not contested or discussed.

**2. NATURE OF THE MEETING**

The meeting was held in Brussels and was not open to the public.

**3. WELCOME AND INTRODUCTION BY THE DIRECTOR GENERAL FOR TAXATION AND CUSTOMS UNION – DG TAXUD**

This was the first meeting of the VAT Expert group (VEG) following the appointment on 12 September 2022 of its 40 members by the Director-General for Taxation and Customs Union (DG TAXUD). Both the Director General for DG TAXUD and the Director of Indirect Taxation and Tax Administration of DG TAXUD were present in the meeting to welcome the newly appointed members.

After the Chair opened the meeting, he gave the floor to Mr Gerassimos Thomas, Director General for DG TAXUD, who welcomed members and thanked them for their support and commitment to contribute to the work of the VAT Expert Group. Mr Thomas underlined in his speech the important role that expert groups play on the Commission's policy-making work and how crucial it is to maintain this kind of dialogues with stakeholders. Lastly, he recalled some of the areas in the field of VAT in which the group had been involved in the past and highlighted some of the ongoing VAT reforms where the expertise of the VEG will be needed in the near future.

The VEG praised the work and efforts of the Commission services as regards the VAT Expert Group and expressed gratitude and appreciation for the opportunity to be heard.

**4. VEG N° 002: RULES OF PROCEDURE OF THE VEG**

Since this was the first meeting of the group in its new composition and several new members were welcomed, the Commission services provided a general overview of the rules of procedure as regards, *inter alia*, the role of the Commission services, the organisation of meetings, the adoption of opinions and recommendations, and the declaration of conflict of interests.

In addition, members were reminded that they could still send their consent for the disclosure of their email address with other members for issues related to the work of the VEG. Deadline to send the consent was extended until 9 December 2022.

The document gave rise to no comments and, therefore, the rules of procedure were adopted and will continue to apply to the new group.

## **5. VEG N° 035 REV 2: PURPOSE AND REMIT OF THE VEG**

The Commission services provided a general outline of the purpose of the VEG and explained the tasks falling under the remit of the group, as laid down in Working paper VEG No 035 REV2.

In connection with the recent decision to dismantle the EU VAT Forum, it was recalled that the VEG will also deal with practical VAT tax administration issues and good practices, tasks which were previously covered by the Forum. This will be done in practice via joint meetings of the Group on the Future of VAT (GFV) and the VEG that can be organised on a need basis. Where useful, Fiscalis activities can also be organised for related subject matters and target audience depending on the objective to be pursued.

Finally, the group was informed of the areas that do not fall within the scope of the VEG, such as the application of national VAT legislation in individual Member States and the discussion on specific tax disputes between tax administrations and taxable persons.

The Chair opened the floor for comments.

The VEG expressed their endorsement to the paper presented. One member raised a question on the possible need to review the VAT Quick Fixes and the Quick Fixes Explanatory Notes and suggested to include this issue for discussion at an upcoming meeting. The Commission services welcomed this suggestion and recalled that the forthcoming VAT in the Digital Age package, in particular, the Single VAT Registration part of the proposal, will include the treatment of transfers, which will substantially have an impact on the Quick Fixes area.

As to the new tasks to be taken over by the VEG, one member enquired on the procedure for the group to be followed to collect views on EU VAT practical implementation issues. The Commission services responded that whenever a member wants to bring something to the attention of the VEG on this or any other matters, they should contact the Commission services and prepare a working paper to be submitted for discussion at a future meeting of the group.

Another member wanted to know to what extent the VEG deals with customs matters, in view of the upcoming customs reform. The Commission services emphasised that the group deals mainly with EU VAT law, which has many connections with customs issues and customs EU law, especially in the case of the VAT e-commerce package.

## **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 – update**

The e-commerce communication campaign was relaunched to highlight some of the key findings from the ex-post evaluation of the e-commerce package. The campaign was successful and the Commission services thanked the members involved in the campaign for their participation.

The Commission services gathered information on the fees charged by national Universal Service Providers for postal services, which was collated in a table and published on the TAXUD Europa website in the autumn. The fees should be charged for the rendering of services in the framework of the fulfilment of customs formalities, not VAT formalities. The Commission services are currently assessing the fees in full transparency with all the Member States, however, it is too early for the Commission services to consider that the fees charged are disproportionate to the services rendered by the postal operators.

The Commission services informed that the “buying online” webpage would be updated in the run up to the Christmas period.

Furthermore, the Commission services reported that they were working on the issue of price transparency for consumers who buy online. The increase of e-commerce poses continuous challenges for maintaining fair online markets for consumers. It was highlighted that the provision of correct and fully transparent information to consumers is crucial in this context. Consumer legislation requires that the information on the price and any additional charges/fees must be provided by traders to consumers upfront and in a transparent manner so that the consumer can make a fully informed purchasing decision. Traders are obliged to provide to the consumer information on the total price inclusive of taxes, as well as, where appropriate, customs duties and all additional freight, delivery or postal charges and any other costs. Where those charges cannot reasonably be calculated in advance there must be at least a clear reference to the fact that such additional charges may be applicable. The information that additional charges might be payable by consumers needs to be clearly presented to consumers upfront, this means at the first time when the consumer sees a product together with a price and other information that allows him to make his decision on whether to buy the product or not. This information should be displayed in close proximity to the advertised price. Lastly, it was recalled that traders from third countries carrying out their activities targeting consumers in the EU must comply with the EU Law including the EU consumer law.

Following the e-commerce update, the floor was opened to members for questions and comments.

One member mentioned that price transparency is important not only as regards postal fees, but also as regards courier fees.

Another member thanked the Commission for the communication campaign and mentioned that they are trying to inform third country traders on their side as well. The campaign was highly appreciated by businesses, who indicated their willingness to assist with future campaigns.

A third member thanked the Commission services for the handling of the issue of double taxation and for publishing unanimous VAT Committee guidelines on the matter.

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

### ***i. “VAT in the Digital Age”***

The Commission services informed that the adoption of the legislative proposal on VAT in the Digital Age had been postponed until 8 December 2023 and provided a brief

description of its contents. The initiative is composed of three pillars: Digital Reporting Requirements (DRR), VAT treatment of the platform economy and Single VAT Registration (SVR). For DRR, the proposal envisages real time reporting, based on electronic invoicing, of intracommunity transactions, of which an extract of the data will be exchanged between Member States through a central database. In addition, Member States will have the possibility to implement domestic reporting schemes based on electronic invoicing. On the platform economy pillar, the proposal introduces a single treatment of the provision of services through the use of a digital platform and the implementation of the ‘deemed supplier’ model. On the SVR part, the proposal envisages the extension of the One-Stop Shop (OSS) and the reverse charge to B2B transactions. Finally, the Import One-Stop Shop (IOSS) will also be adapted to make it compulsory in certain cases.

A meeting in Council is expected to be organised by the Czech Republic Presidency to present the proposal. Discussions would then resume under the Swedish Presidency.

The group was very appreciative of the update provided. One member enquired about the role the VEG could play in the near future as regards the legislative proposal and how the group could best support the Commission to help the proposal move forward. The Commission services pointed out that the negotiations of the proposal will be carried out throughout the year 2023, and added that the VEG will be kept informed regularly and be consulted whenever advice is needed on a particular issue. Furthermore, the VEG will also play a key role during the implementation phase of the legislative proposal.

A member asked about the relationship between the VAT in the Digital Age proposal and the “definitive regime” proposal, to which the Commission services replied that the VAT in the Digital proposal is not an alternative or a replacement for the definitive regime, which in the Commission’s view, continues to be the best solution in the fight against intracommunity VAT fraud. However, the definitive regime proposal is no longer being discussed by the Council as the conditions for its adoption are not being met. In this regard, another member suggested that in order to tackle VAT fraud until a more definitive VAT system is adopted, the reverse charge mechanism should be put back on the table. The Commission services agreed that that the reverse charge solution was indeed something to be reflected upon once the VAT in the Digital Age proposal is finally adopted by the Council.

Lastly, the Commission services recalled that the VAT in the Digital Age initiative is a package that should, in principle, be adopted as such. Members were recalled that the proposal needs unanimity in Council to be adopted. The ultimate aim is to find a standardised solution to the problems at stake. However, Member States often have different interpretations and views and even different levels of VAT gap and, as a result, need to find common positions in the negotiations that lead to the adoption of a compromised solution.

## ***ii. Travel and Tourism package***

The Commission services explained that this initiative is foreseen in the 2020 Tax Action plan given the need to review the rules applicable to the travel and tourism sector as they have never been updated and do not reflect certain changes in the sector such as

digitalisation, the growth in international and intra-EU transport and, the increase in international competition.

This initiative is linked to other EU reform initiatives such as VAT in the Digital Age, the European Green Deal and the Transitional pathway for Tourism.

The initiative has three parts:

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

For each of these parts, the Commission services presented the main problems, the objectives of the reform and the different policy options considered together with their main impacts.

Regarding the state of play of the package, it was reported that a study is under preparation, which will provide data and evidence for the preparation of an impact assessment to accompany any potential future legislative proposal. The final report of the study is expected to be ready in January 2023 and will focus on the setting out and comparison of the different policy options and the impacts that can be expected from each of them.

A number of consultative activities are being prepared between December and February 2023 such as the call for evidence and the public consultation. A joint meeting with Member States and businesses is expected to be organised early February. In response to a question raised by one member, it was clarified that this meeting would target the stakeholders concerned and not the members of VEG. Separate meetings also likely to be held with VEG members, other stakeholders and Member States. The proposal is planned for the end of next year but may be delayed to 2024.

These consultative activities will feed into the impact assessment and the legislative proposal. Insofar as the option on the model using intervention of VAT refund operators (VROs) to obtain VAT refund, the fees applied in the pure B2C model<sup>2</sup>.

Then, members were invited to present their comments and questions on the package.

One member noted that in 2010, when the place of supply rules for transport services were last revised, opting for a rule based on the place of departure or arrival had been found problematic if the transport would arrived in or depart from a jurisdiction outside the EU and asked whether this issue would be. The Commission services confirmed that this aspect had indeed been studied before and at the time, concerns were expressed which saw it not included in the proposed revision. It is an aspect that will be studied again but it is too early to know the outcome. In that regard, the Commission services stressed the need for reviewing the rules on passenger transport because of the low effective contribution of the sector to total VAT revenue.

---

<sup>2</sup> In the presentation given in October (slide 23, line 6), the charges applied in the B2C model were indicated as being around 7-9%, but the updated results show that the commissions are of 10-25%.

Another member thought that due to the different geographical circumstances of Member States, some would find it easy to adopt a green approach while for others this is not a viable option and wondered whether this factor was being taken into account as it may lead to discriminatory treatment between EU citizens. The Commission services acknowledge this is an important and highly sensitive issue for many Member States and that linking the tax rate to the environmental performance of the means of transport used is the most ambitious policy option.

The Commission services pointed out that the main objective of the package is to support the tourism sector which has been hit hard by COVID 19 but there are also other objectives such as the Green Transition. On the point of passenger transport, it was clarified that in the case of air transport, the impact of the increase in energy prices for operators who would be affected by the change of the place of supply rules will have to be taken into account as it could affect the price of the service.

As to the place of supply of services by travel agents, one member found that rather than taxing at the traveller's residence, which is one of the policy options studied, it is more consistent to tax where the journey takes place, as this is where the place of consumption takes place. The Commission services emphasised that for certain services where consumption is not immediate, the place of consumption is not easy to determine. As the place of destination is not necessarily always considered the fairest rule, the traveller's residence rule is sometimes used as a proxy. Furthermore, there is a tendency for the consumer to reside in the same place as that where the travel agent is established, which would lead to an outcome similar to the current one. In that regard, it was recalled that one of the advantages of the current place of supply rule is revenue sharing between Member States.

With regard to the special scheme for travel agents, another member commented that the intention is to make EU travels supplied by non-EU-travel agents taxable, but pointed out that in case the traveller's residence rule is adopted, if the traveller resides outside the EU, the service becomes non-taxable again and the problem is not solved. The Commission services confirmed that this would be so but pointed out that this problem would be offset by the positive effect of encouraging travel to the EU by non-EU travellers because prices would become more competitive.

One member asked about the use of the place of supply rules to achieve revenue sharing between Member States. The Commission services noted that revenue sharing is achieved through the special scheme for travel agents as the margin obtained by travel agents is taxed in the Member State where the travel agent is established. If the special scheme did not exist, all the revenue would go to the Member State where the trip takes place without regard to the activity of the travel agent, who is not necessarily established in that Member State. Therefore, the special scheme for travel agents has two main objectives: simplification for businesses and revenue sharing between Member States.

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

The Commission services updated on the work undertaken in respect of the *Vega International* case first identified by the VEG as part of selected CJEU case-law giving cause for concern. They stressed the impact of this case and the need to find a solution which does not have a negative impact on the sector. They stressed at the same time that

the VAT Committee has to take into account the case law of the Court of Justice of the European Union (CJEU). The implications of that case had first been discussed by the VAT Committee at the end of 2021, with a subgroup of the VEG being called upon to provide more information on the business models in use before the VAT Committee came back on the matter at its meeting in October 2022. To address lingering concerns in particular around buy and sell models, consultations are currently ongoing with a view to identifying input on possible criteria that could serve as basis for treating them as falling under the commissionaire rule. It would then be brought back to the VAT Committee with a view to settle the matter, with Member States being encouraged to await the outcome of that work.

## **7. AOB**

One member raised a question as regards two recent cases rendered by the CJEU (C-141/20 *Norddeutsche Gesellschaft für Diakonie* and C-269/20 *Finanzamt T*), which concern the conditions to form a VAT group and the rights and obligations of a VAT group. Some doubts were expressed as to whether in light of those judgments the transactions carried out between the members of a VAT group were taxable or not. In response to the question, the Commission services indicated that in their view internal supplies made by the members of a VAT group should not, in principle, be considered taxable transactions.

Another member requested information on the latest state of play in regard to case C-461/21 *Cartrans Preda*. Given the time constraints, it was not possible to have an in-depth discussion on this topic and the Chair invited the VEG to send a request in writing to have this issue included in the agenda of next meeting.

The Chair thanked members for their participation and co-operation and announced that the next meeting was not yet confirmed but will probably take place in March 2023.

## **8. LIST OF PARTICIPANTS**

Commission services and the members of the VAT Expert Group as published in the Register of Commission Expert Groups<sup>3</sup>.

---

<sup>3</sup> <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=2813&NewSearch=1&NewSearch=1>