



Position Paper

on the legislative package of the EU Commission "VAT in the Digital Age"

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DATEV eG is the software company and IT services provider for tax consultants, auditors, lawyers as well as their clients. With over 8,000 employees, the company is one of the largest IT service providers in Germany and Europe.

The cooperative's range of products and services encompasses the fields of accounting, personnel management, taxes, enterprise resource planning (ERP), IT services, IT security, training and consultancy.

Via our 40,000 members, the cooperative continuously improves the business processes of 2.5 million companies (most of them SMEs), municipalities and institutions.

DATEV has consistently developed into an internationally operating service provider, with branches in Italy, Austria, Czech Republic, Poland, Slovakia, Hungary, and Spain.

DATEV 's position papers are drafted exclusively from the company's perspective as a professional IT services provider and are submitted independently from positions established by professional organisations such as chambers and associations.

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DATEV welcomes the EU Commission's initiative to combat VAT fraud and to exploit the opportunities offered by digital technologies.

As an IT cooperative of tax advisors, auditors and lawyers with the specific knowledge of 2.5 million small and medium-sized enterprises in Germany and locations in several Member States, DATEV has extensive expertise in digitalisation. With our software solutions, we support tax declarations, among other things. Our experience and perspective of a European cooperative are the background to our following remarks.

1 Digital reporting obligations: EU plans in the context of national systems

In many Member States, digital reporting systems to combat VAT fraud have been introduced in recent years or their introduction is planned. These systems range from reporting to split-payment to clearance models in various forms. They focus on combating national cases of VAT fraud and are effective, as i.e. known from Italy.

In view of the different approaches in the Member States, we welcome a European initiative, in particular that it focuses on **combating fraud in cross-border cases** and the **interoperability** of the different existing approaches.

The proposal of the EU Commission provides for the convergence, in other words the complete alignment, of the national systems by 2028. While interoperability of the systems is to be welcomed, it seems too far-reaching to demand convergence for purely national cases and to generally deny the legitimacy of clearance systems as in Italy from 2028 onwards.

The aim must be to strike a **balance between the state's interest in securing state revenue on the one hand and the interest of business** in efficient, unbureaucratic processes on the other. Acceptance amongst businesses will largely depend on the efficiency of the workflows, compatibility with previous processes and whether investments already made are maintained.

We welcome the approach of decentralising the system. By **detaching the invoice transmission process from the reporting process**, the established e-invoice processes of the economy can be maintained, and investments can be persevered to a large extent. In addition, in a decentralised system, the danger of a "single point of failure" for business-relevant processes can be reduced.

For successful fraud prevention through EU reporting obligations of transactions subject to VAT, the key success factor will be the efficient matching of the relevant data and thus an agreement on a digital standard format.

Structured electronic invoice as a basis

We therefore welcome that the EU Commission's proposal is making the **structured electronic invoice** a cornerstone of the system and significantly strengthening it as the "default system".

The **general introduction of electronic invoicing** will not only contribute significantly to the fight against VAT fraud, it holds numerous efficiency advantages and can make an important contribution to the digitalisation of the economy.

The **definition of an invoice in a structured electronic format** contributes to legal certainty.

With the **CEN standard EN 16931**, a technical standard for electronic invoicing has already been created and implemented in large parts of the economy and administration in accordance with the requirements of EU Directive 2014/55. We are pleased to see that this European standard also forms the basis for the collection and reporting of data on VAT transactions.

In its proposal, the EU Commission provides that the Member States can allow other interoperable formats in addition to the EU formats. This is an important prerequisite so that national formats based on the European standard, such as ZUGFeRD and XRechnung, which are well established in Germany, can continue to be used.

Reporting obligations: Deadlines and scope

The EU Commission's approach of setting **binding EU requirements for reporting obligations** in the trade of goods and services to combat VAT fraud is an important and appropriate step.

In principle, however, the **scope of the reporting obligations** does not seem necessary for combating VAT fraud and is therefore not compatible with the principle of data minimisation.

To combat fraud, it is sufficient to report part of the information contained in an electronic invoice. The information needed is much more limited than envisaged in the EU Commission's proposal. Thus, for tax purposes in EU trade in goods B2B, the transmission of data on invoice number, contracting parties (VAT ID), reason for tax exemption and total amount is sufficient.

With mentioned data, invoices can be verified as tax-exempt intra-Community supplies of goods by means of the envisaged double reporting requirement of the supplier and the recipient of the transaction, thus counteracting the currently existing fraud practices, e.g. carousel transactions in the international trade of goods.

- In particular, the inclusion and reporting of an account to which the payment is credited raises concerns. In practice, account details are regularly stored in the systems of the invoice recipient and thus provide security against fraudulent invoices that could mislead the recipient to transfer to a falsely indicated account of a fraudulent invoice issuer. An obligation to use an account to be stated in the invoice would run counter to this security against fraud or error.

- Also, the reporting of the type and quantity of the delivered items or the scope and type of the service rendered seems to us not to be necessary. A prerequisite for comparability would be the standardisation of item descriptions. On the one hand, practice shows that the nomenclatures differ considerably and lack comparability. On the other hand, and this is decisive in the context of combating VAT fraud, the detection of invoice contents that may deviate from the actual delivery of goods is not to be expected, since the information on the outgoing and incoming invoice will be identical and - if there is an intention to defraud - mutually incorrect. Finally, in order to protect data security and trade secrets, a collection of all transaction contents at a central location would be inappropriate.

With the proposal, the EU Commission intends to introduce a two-day deadline for both issuing the invoice by the service provider and for transmitting (incoming and outgoing).

- The two-day deadlines for issuing and transmitting invoices appear to be inappropriately short. This applies in particular if no high-performance systems support the automatisisation. This will particularly impose additional bureaucracy on SMEs and micro-enterprises and will pose difficulties in dealing with holidays and special situations such as illness.

Concerns about the scope and the two-day deadline for reporting also exist as far as the obligation of the invoice recipient is concerned:

- According to the EU proposal, the reporting data set should also contain the VAT rate and amount. In tax-exempt intra-Community trade in goods, an invoice recipient only collects this data in the course of taxing the purchase. Consequently, it cannot be included in the invoice issuer's outgoing invoice, since from his point of view it is a tax-exempt outgoing transaction. As a result, the recipient of the invoice must assess the fiscal aspects and complement the provided information to be able to comply with the reporting requirements imposed on him. The deadline is too short for such a task.
- In addition, the same challenges as for the party also apply with regard to public holidays and in the event of illness.

Furthermore, the question of how to deal with contested invoices arises. Should the recipient also have to report invoices or parts of invoices that are under dispute? In such a case, to what extent and at what rate should the tax amount and tax rate be reported? What consequences would the reporting have for them from a tax declaration point of view? Can any legal claims by the issuer of the invoice or the receiving state of the VAT be derived from this?

The proposal rightly does not contain any provisions on the invoicing process, but this must not run against business requirements for efficient transaction processes.

The proposal does not contain any requirements for status reports from the state platforms to the economic operators. This should be amended. In addition, the unresolved question of the required storage of the transmission information should be clarified.

System of national reporting platforms and EU VIES system

For the system architecture with national reporting platforms and the EU VIES system, it will be important from a business perspective to ensure that in the case of national reporting obligations, the same national platform is in place as for intra-EU transactions. Attention should be drawn to the necessity of an appropriate technical design of the platforms being created in terms of availability and resilience due to the expected transaction-related data flows (number and volume).

2 Uniform VAT registration against the background of the OSS

The European Commission's proposal for the introduction of a Europe-wide uniform VAT registration is to be welcomed. It aims to reduce bureaucracy and optimise processes in the context of tax declarations.

1.1 Expansion of the OSS

We welcome the European initiative that focuses on the expansion of the OSS to include situations that have not been covered so far (e.g. B2B) in order to minimise VAT registration obligations, but also to reduce obstacles in using the One-Stop-Shop due to its current structure.

2.2 New regulation of intra-Community transfers

By abolishing the complex and very bureaucratic Consignation Stock Scheme, the proposal integrates the tax reporting obligations in the context of such business transactions into the OSS in a simplified way. The integration of the transfer transactions into the supply chain fiction represents a comprehensive simplification for companies in e-commerce and relieves the burden enormously by eliminating foreign declaration obligations.

2.3 Extension of the supply chain fiction

The initiative provides for an extension of the supply chain fiction to all deliveries of goods within the European Union that are processed via an electronic interface, regardless of where the underlying supplier is established and regardless of the status of the buyer. Previously, this rule was only provided for in the third country reference. This measure contributes to the reduction of compliance costs for EU sellers and is to be welcomed.

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