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42nd meeting – 8 September 2023

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GROUP ON THE FUTURE OF VAT

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MINUTES

42ND MEETING
– 8 SEPTEMBER 2023 –

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1. WELCOME AND INTRODUCTION

The Chair welcomed the delegates.

Introducing the agenda, he recalled the decision taken by DG TAXUD whereby all meetings with expert groups will, as a general rule, be held online, and physical and/or hybrid meetings will be able to be held once a year in cases duly justified. As mentioned in the note sent to the group on 12 May 2023, this decision is based on a general common policy of the Commission laid down in the Communication on Greening the Commission and its commitment to reduce greenhouse emissions linked to travel of staff and experts whose costs are borne by the Commission.

The Chair also took the opportunity to inform the group that a technical webinar on electronic invoicing organised by DG GROW would take place on 22 September 2023. The aim of the webinar is to share with EU government representatives the outcome of recent technical studies carried out by DG GROW in the area of e-invoicing and standardisation developments, and to provide an update on ViDA, in particular the impact of this initiative on e-invoicing. For further information about this webinar, delegates were invited to contact the relevant representatives in their tax administrations in contact with DG GROW.

2. APPROVAL OF THE AGENDA

The agenda (document taxud.c.1(2023)7692835) was not contested or discussed.

3. NATURE OF THE MEETING

The meeting was not open to the public.

4. VAT IN THE DIGITAL AGE (VIDA) LEGISLATIVE PROPOSAL - OVERVIEW OF EXISTING NATIONAL DIGITAL REPORTING REQUIREMENTS (DRR) SYSTEMS

4.1. Presentation by the ES delegation – Spanish DRR system

The ES delegation presented the main features of their DRR system:

- It is a system not based on e-invoicing. The taxpayer has to send data to the tax administration but not the invoice itself.
- The information is provided to the tax administration by both the supplier and the customer in real time (4 calendar days).
- The public portal of the tax administration performs an automated validation of the data received. If there are invalidating errors, the invoice data is rejected. If the errors are not invalidated, the invoice data is accepted but any errors must be corrected. However, the validation does not affect the effectiveness of the invoice, which has commercial value for the parties. Further, the VAT in the invoice received can be deducted if the material conditions are fulfilled, even if there are formal errors.

- The scope is limited to large taxpayers (turnover over EUR 6 million), VAT groups and taxable persons that have registered for the monthly refund of VAT.

The implementation of this system has allowed to improve the risk analysis systems of the Spanish tax administration, while offering services to taxpayers such as on-line draft VAT returns and the removal of other obligations.

Several delegations asked different questions about the Spanish DRR system:

- *What happens with non-established companies?* There is no difference when it comes to non-established companies. If they operate in Spain, they are subject to the same conditions as local companies.
- Even though the deadline is the same (4 days), this deadline is counted from a different moment for the supplier and the customer (issuance of invoice/registration of invoice). *Is that a problem for cross-matching?* It is not a problem given that the analysis of the information goes beyond cross-matching. It should be noted that it is not possible to cross-match all the information received given that either the supplier or the customer can be outside the scope of the measure.
- As reporting is not linked to e-invoicing, the information has to be included in the system invoice by invoice. *Is this too burdensome for taxpayers?* The data is included in the Webservice invoice by invoice only by small companies. Big ones use machine-to-machine methods.

4.2. Presentation by the FR delegation – French DRR system

The FR delegation presented the main features of their upcoming DRR system:

- The reporting of data is based on e-invoicing for B2B transactions between companies established in France. For the rest, including B2C transactions there is a system of e-reporting not based on e-invoicing.
- Only a subset of data in the invoice is reported. It is a real-time reporting.
- There is also an obligation to provide payment data but only for services, covering transactions both under the e-invoicing and e-reporting obligation.
- The transmission of e-invoices can be done through an authorised service provider or through a public platform.
- The e-invoice format is compliant with the EU standard.

Several delegations asked clarifications on the FR system:

- *Who is responsible in case data is not transmitted or it is incorrect*? If caused by an error or a technical problem, there are no consequences for the provider. This is why it is important to periodically audit the system of the service provider.
- *Do SMEs have to apply e-invoicing? Is there a threshold? Is there a difference between B2B and B2C?* There are no thresholds. SMEs will also have to report but there is a gradual approach for the entry into force depending on the size of companies. In this regard, the foreseen entry into force has been postponed. The reporting of B2B transactions is not the same as B2C reporting. For B2C transactions, the same data fields are not to be filled as only aggregated data is to be reported.

4.3. Presentation by the IT delegation – Italian DRR system

The IT delegation presented the main features of their DRR system:

- The reporting of data is based on e-invoicing; therefore, it is a real-time system.
- E-invoices need to be validated by a public portal, the SdI. However, this is only a formal validation. The data that goes to the tax administration for risk analysis is only a subset of the data.
- This system allows for issuance of the invoice and reporting to be done in one go. The aim of the system was to overcome the shortcomings detected in previous systems that were implemented in Italy dating back to 2006.
- The obligation to issue e-invoices covers B2G, B2B and B2C transactions.
- Invoices exchanged between taxable persons established in Italy which have not been transmitted through the SdI are not considered valid for tax purposes and cannot be used to deduct VAT.
- According to Italy, if the exchange of e-invoices through the SdI were not to be made mandatory, then there would be no assurance that the data reported is the same than that of the invoice and that would trigger an obligation on the customer to report, increasing the administrative burden for taxpayers and the tax administration.
- This procedure has allowed Italy to increase the tax collection and reduce the VAT gap, while providing benefits to taxpayers such as pre-filled VAT returns or faster VAT refunds.
- Italy believes that the harmonisation that is the aim of the VAT in the Digital Age initiative should take place at document level, by obliging all Member States to accept the EU standard for e-invoices. However, picking the transmission channels can be left to the choice of Member States and that would not jeopardise the objective of harmonisation.

4.4. Presentation by the HU delegation – Hungarian DRR system

The HU delegation presented the main features of their DRR system:

- The HU system is not based on e-invoices. Data on invoices issued needs to be reported in real time, while data on invoices received is reported periodically.
- What is reported is a subset of the data. Different from B2B to B2C.
- Communication of the data is done machine to machine.
- The taxpayer has the possibility to issue the invoice via the tax administration. In that case invoicing and reporting take place at the same time.
- The data submitted is validated in real time. There are error and warning messages. Error message means rejection of the data report, which has to be resubmitted. With a warning message the data report is accepted, but the mistakes identified need to be corrected.
- The data collected allows the improvement of the risk analysis, which takes place in real time, making a more targeted selection for audits possible. This has resulted in an improvement in VAT collection and a reduction of the VAT gap.

In reply to the question of one delegation, HU clarified that the percentage of mismatches from the dual reporting is around 10% and is getting reduced.

4.5. Presentation by the PL delegation – Polish DRR system

The PL delegation presented the main features of their upcoming DRR system:

- The reporting of data will be based on e-invoicing. E-invoices need to be validated by the public portal (KSeF) before reaching the customer. This is only a formal validation of the data.
- Therefore, the invoicing and reporting processes take place at the same time.
- To be registered in the system, it is necessary for the taxpayer to obtain an authorisation. The taxpayer can also authorise a third party to issue its invoices.
- The customer does not need to report, but has to validate the invoices received.
- E-invoices do not use the EU standard but a national standard.
- Therefore, Poland proposes to use a conversion protocol, that would allow to convert the EU standard into the national standard and vice versa, when necessary.

Several delegations asked clarifications on the PL system:

- *How does the interoperability and conversion of formats work*? The conversion is foreseen only for intra-Community transactions. When the transaction is a domestic one then the national standard needs to be used.
- *How does the buyer know if there are new invoices ready for validation?* Both the supplier and the customer have to be connected to the system. The software can verify if there are new invoices and the customer will then know that there are invoices waiting to be validated.
- *What if the customer does not agree?* In that case, the customer can inform the tax administration that there is an invalid invoice in his/her account.
- *What is the scope? Only established taxpayers? B2B and B2C? SMEs gradually implemented or not covered? Can the customer deduct the input VAT of incorrect invoices?* E-invoices are mandatory only for established taxpayers. B2C transactions are not included in the KSeF. Exempt SMEs will have to use KSeF from 2025 while the rest of taxpayers will use it from 2024. If there are incorrect invoices there will be penalties put on the issuer for not using KSeF but there will be no impact on the VAT deduction.
- *What happens if the information is incorrect or not reported by the supplier, given that there is no feedback from the customer? Who does the conversion of the standard?* Invoices have to be issued through the KSeF. If this is not done, the VAT return is compared with the records that are sent monthly (SAF-T), so it can be checked whether the invoice was reported. The conversion of the formats will be done by the KSeF.

5. INFORMATION POINTS

A) Travel and tourism package – update

The Commission services briefly outlined the state of play of this initiative which focuses on:

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.

The interim report of the study was presented on 14 October 2022 to the GFV, which had an occasion to discuss the options under consideration The study has now been finalised and the final report was delivered in June 2023. With the decision to pause work on this file, the launch of the public consultation and the call for evidence has been delayed.

In response to a delegate asking about the prospect of delivery on this initiative, the Chair noted that as legislative work is drawing to a close under the current mandate, it is likely to be carried over to the next Commission.

B) VAT e-commerce update

The Commission services presented statistics on the VAT amounts declared in 2022 in the three special schemes of the VAT e-commerce package. The source data for these statistics were the VAT returns of the Member States of Identification as reported by the tax authorities.

Almost EUR 20 billion of VAT was declared via the three schemes (EUR 15 billion in the Union scheme, EUR 2 billion in the non-Union scheme and EUR 2.5 billion in the Import scheme) in 2022. The overall VAT declared in 2022 has increased in comparison to the extrapolated figures for the first year of application of the e-commerce package. This represents approximately a 25% increase in the total value of VAT declared across all three OSS/IOSS schemes. This overall increase is a testament to the continuous success of the new measures as it highlights how the package enabled Member States to protect the VAT revenues and contributed to a fairer and simpler system of taxation.

On 1 February 2022 there were approximately 90 250 registered traders in the Union OSS scheme and approximately 8 650 traders registered in the Import OSS scheme. By the end of 2022, these figures had increased to approximately 113 800 and 10 200 respectively. The registration numbers for the non-Union scheme remain relatively static. As at 31 December 2022, there were over 4 300 traders registered to use the non-Union scheme, which is down slightly from the figures registered in early 2022, which stood at just over 4 600 traders on 1 February 2022.

These figures validate the popularity of the e-commerce simplifications among traders in the e-commerce market.

C) Implementation of the new SME scheme – update on the state of play

With the new rules on a new SME scheme due to apply from 1 January 2025, the Commission services briefly outlined the work being undertaken ahead of the scheme being put in place. With functional and technical specifications for systems to be put in place by Member States already agreed, conformance tests are set to run over the coming months. That is underpinned by visits to Member States. Work is currently ongoing to prepare a SME-on-Web solution (to verify exempt status of SMEs) and an SME Web Portal (similar to the OSS Web Portal). On the application of the new rules, the upcoming VAT Committee will present an occasion to pursue and settle any outstanding issues.

In response to a delegate, the Commission services confirmed that work on Explanatory Notes (for an outline of rules) is also ongoing.

D) Reporting on vouchers – update on the state of play

When the Council adopted the Voucher Directive (Council Directive (EU) 2016/1065), it included an obligation for the Commission to present an assessment report, based on information obtained from Member States, on the application of its provisions. In an update on the state of play, the Commission services let know that the input collected from Member States was currently being processed.

7. AOB

The next meeting of the group is not yet confirmed but it will most likely take place on 9 November 2023.

8. 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 entities[1].

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[1] Register of Commission expert groups and other similar entities (europa.eu)