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DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Indirect Taxation and Tax administration
Value Added Tax Policy

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**VALUE ADDED TAX COMMITTEE
(ARTICLE 398 OF DIRECTIVE 2006/112/EC)
WORKING PAPER NO 1120 FINAL**

**MINUTES
128TH MEETING
– 17 NOVEMBER 2025 –**

The Chair welcomed the delegations to the non-public 128th meeting of the VAT Committee.

Procedural, housekeeping and information points

Delegations were reminded that, whenever meetings are held in person, they need to take the necessary steps within the deadline set in the invitation for the meeting and indicate who will attend it, to avoid difficulties in accessing Commission premises.

Language regime: It was possible to speak and listen in FR-DE-EN-ES-IT-PL.

Next meeting: the 129th meeting is likely to take place in the second half of April 2026 and will be an online meeting.

Update on work by the Commission

The Chair informed delegations about the following:

- ViDA package Implementation:

- (i) *Implementation strategy for ViDA*: adopted in July 2025 and published on TAXUD's website on 24 September 2025. It has been developed by the Commission services in accordance with the Better Regulation agenda and serves both as an internal planning tool and an external communication framework to ensure transparency among stakeholders. Its aim is to anticipate the main challenges in implementation for all parties, to inform on the Commission's support actions to businesses and Member States as well as the measures necessary for implementation with the related deadlines for each measure.
- (ii) *Implementation dialogue with businesses*: a strategic dialogue on the ViDA package, hosted by Commissioner Hoekstra on 28 October 2025, which brought together 38 key stakeholders directly affected by ViDA, including e-commerce actors, short-term accommodation rental and passenger transport platforms, the delivery sector, financial technology, technical manufacturing, telecommunications and software development businesses and also representatives of the Danish Presidency of the Council. The dialogue served a pivotal role in gathering feedback, to ensure adaptable and responsive legislation implementation based on stakeholders' concerns. The summary conclusions are available on the dedicated [webpage](#).
- (iii) *Digital Reporting Requirements (DRR)*: work is ongoing on the preparation of draft Explanatory Notes. A first exchange within the Group on the Future of VAT (GFV) took place during the meeting of 20 October 2025 and with other stakeholders in the VAT Expert Group (VEG) during the meeting of 7 November 2025. A revised draft will be prepared to take account of the input received.
- (iv) *Platform Economy*: a Fiscalis workshop took place in Madrid on 17-18 September 2025 gathering Member States and business representatives, including platforms, to prepare the work on the Explanatory Notes and various technical aspects of the rules applicable from 1 July 2028. A first draft of these explanatory notes could be expected by the end of March 2026.

(v) Single VAT Registration (SVR) and securing of the Import One Stop Shop (IOSS):

- A draft revision of Commission Implementing Regulation No 194/2020 is discussed in SCAC, following the consultation of Member States and business at the Helsinki workshop in 2024. Adoption is planned for Q1 2026.
 - Work is ongoing on the revision of the Explanatory Notes on VAT E-commerce and the OSS Guides. A Fiscalis workshop is planned to be organised in Q2 2026.
 - Regarding the IT implementation, the functional and technical specifications for 1 January 2027 are published on CIRCABC. The IT impacts of this delivery are minor. The main SVR elements with major IT impacts are included in the release for 1 July 2028.
 - On the secure IOSS element of the ViDA package: a Fiscalis technical workshop with participation from business was held in Helsinki in July 2025 to progress the work. Two main solutions were explored in depth. Following feedback from participants, an online session held in October 2025 built on the July workshop and focused on moving from concept discussions to technical implementation. An in-person workshop is scheduled to take place in Paris on 19/20 November 2025. The aim is to refine the technical architecture and implementation plan. During the remainder of 2025, the focus is on the analysis and design of the pilot. 2026 will begin with a focus on the implementation of the pilot and associated IT development and, once ready, the pilot will run for the rest of 2026. A Commission Implementing Regulation is expected to be submitted to SCAC and be adopted by the end of Q1 2027. During Q2 2027 to Q2 2028, implementation, including functional and technical specifications, development and testing of the solution will take place before the solution's planned entry into application on 1 July 2028.
- Study on the challenges of VAT beyond ViDA: launched in December 2024, the *study* has three pillars: (i) simplification, (ii) digitalisation, and (iii) alignment of VAT rules with environmental policy. Its main aim is to identify critical weaknesses and inefficiencies in the current VAT system and propose targeted improvements towards effectiveness, and assess the feasibility and consequences of the solutions identified. It is not an Impact assessment and does not anticipate any proposals. Already announced initiatives, such as travel and tourism or financial services, as well as recent reforms, such as the one on VAT rates, are excluded from the scope of the study. During the GFV meeting of 20 October 2025, the contractor informed Member States' delegates of the preliminary results of the study. The draft final report was received at the end of October 2025.
- VAT e-Commerce OSS portal – Update of National VAT rules: work is ongoing to update the “National VAT rules” section of the VAT e-Commerce OSS portal, to enhance clarity, usability, and legal accuracy in view of recent legislative developments. Detailed guidance which includes (i) Instructions on the new structure and content of the “National VAT rules” section, and (ii) VAT OSS Editing guide explaining how to update this section in the OSS Portal was sent by email (dated 2 September 2025) to all Member States. As only a few Member States have completed their update, the Chair thanked those delegations for their prompt action and reminded the other delegations to review and, where necessary, update their national VAT rules page.

- Travel Package: work had restarted with the launch of a call for evidence and public consultation which ran until 16 October 2025. Work is ongoing to produce a summary of the outcome. During the GFV meeting on 20 October 2025, a preliminary list of elements under discussion for the review of the special VAT scheme for travel agents and the VAT rules on passenger transport services was presented and discussed with Member States. These consultations will feed into work on the impact assessment. A possible legislative proposal is expected by the end of 2026.
- Electronic VAT exemption certificate: following the adoption on 18 February 2025 of Council Directive (EU) 2025/425 amending Directive 2006/112/EC as regards the electronic VAT exemption certificate, and to ensure a smooth and timely technical implementation, a Fiscalis workshop on technical implementation of the VAT/Excise exemption certificate will take place on 21-22 January 2026. The outcome will feed into the work on the necessary implementing acts ahead of the IT work.
- SME scheme – Implementation: new rules regarding the SME scheme introduced by Council Directive (EU) 2020/285 apply as from 1 January 2025. Some Member States are late in notifying their legislation and/ or are still facing delays in their IT implementation. As regards the *SME Web Portal*, the Chair invited the delegations that had not yet completed the information on their national rules to do so as soon as possible. Regarding the *new SME module* that have been added to the *Taxes-in-Europe database (TEDB)*, work is ongoing on improving the reporting by Member States of SME-related data through the TEDB. Delivery of the improved SME module will only be for early 2026. Until then, the temporary solution remains in place (excel file compiled by the Commission services based on data reported by the Member States themselves either on the National VAT rules section of the SME web portal or in the TEDB itself). Regarding *SME statistics*, amendments to Implementing Regulation (EU) No 79/2012 will be discussed in SCAC in December 2025. Finally, work is ongoing on the development of an *e-Learning course on the new SME scheme* which will most likely be made publicly available on TAXUD EU Learning Portal in early 2026.
- Report on VAT rates derogations applied by Member States ([COM\(2025\) 585 final](#)): adopted by the Commission on 2 October 2025. The Commission presents this report in accordance with Article 105a(6) of the VAT Directive, detailing the supplies of goods and services covered by paragraphs 1 and 3 of Article 105a and by Article 105b. The report explains how Member States apply derogations entailing reduced rates, including rates lower than the minimum specified in Article 98(1) (super-reduced rates), and exemptions with deductibility of VAT paid at the preceding stage (zero rates).
- List of gold coins for the year 2026: the list of VAT exempt gold coins valid for the year 2026 was published on 14 November 2025 (C/2025/5923). Under Article 345 of the VAT Directive, the Commission is obliged to draw up a list of VAT exempt gold coins, based on the input of Member States, and publish that list by 1 December. For this, a procedure is put in place: first, a call for contributions is made (deadline 1 July) and second, comments on the draft list are requested (deadline mid-September). Immediately after that, the process leading to publication in the Official Journal is launched. Any late reply is susceptible to disrupt this procedure.

- Taxes in Europe Database (TEDB) – VAT form: in the context of the 2026 yearly update of the TEDB, Member States had been asked to update their VAT forms (request had been sent on 6 November 2025). Delegates were reminded of the importance to keep the information in the TEDB up to date. For the purpose of e-commerce, it continues to be extremely important that they report every change in the applicable rates in the VAT form without waiting until the regular updates (1 January and 1 July).

Topical issues in the Council

The Chair briefly mentioned the latest developments in Council:

- IOSS: VAT part in the customs reform (COM(2023) 262 final of 17.5.2023): Council Directive (EU) 2025/1539 on the incentivised use of the IOSS was adopted by Council on 18 July 2025. Under this new Directive, the supplier (or, in the first place, the deemed supplier insofar there is one) will be made systematically liable for VAT at import in relation to these distance sales of imported goods. If the IOSS would not be used, the supplier will be required to register in every Member State where the import and the subsequent supply will take place, namely in every Member State where that supplier has customers. The remaining e-commerce two topics that were referred to the Customs reform, namely the extension of the scope of the IOSS to imports above the EUR 150 threshold and to supplies from certain customs warehouses, continue to be discussed in Council.
- Proposal for a Council Regulation establishing the Security Action for Europe (SAFE) through the reinforcement of European defence industry instrument (COM(2025) 122 final): adopted by the Council on 27 May 2025 (Council Regulation (EU) 2025/1106 of 27 May 2025 establishing the Security Action for Europe (SAFE) through the Reinforcement of the European Defence Industry Instrument). SAFE is a temporary emergency instrument to allow for Union financial assistance to Member States in the form of loans to enable them to carry out the urgent and major public investments in defence. In Article 20, it includes a VAT exemption on importation and supply of defence products subject to common procurement under this instrument. That exemption should only apply at the final stage when the army procures defence products as there is no economic rationale to apply this exemption throughout the supply chain. Discussion on issues of application is taking place with Member States in a designated group under the helm of DG DEFIS. In reply to questions, the Chair clarified that payments made before SAFE's entry into force cannot benefit from a VAT exemption and that DG DEFIS will provide guidance to Member States on the scope of the VAT exemption.

1. ADOPTION OF THE AGENDA

(Document taxud.c.1(2025)11626734)

The agenda was adopted as proposed.

2. REPORT ON THE RESULTS OF THE WRITTEN PROCEDURES

2.1. Minutes from the previous meetings

The Chair mentioned that the minutes from the 127th meeting of 14 May 2025 had been uploaded on CIRCABC on 1 July 2025 (*Working Paper No 1112 FINAL*).

2.2. Guidelines from previous meetings

The Chair indicated that since the last ordinary meeting of 14 May 2025, the following guidelines had been agreed and made available on CIRCABC and on the Directorate-General's public [website](#).

Guidelines from the 125th meeting

- The unanimous/ almost unanimous guideline on the Changes in need of transposition (related to the place-of-supply and the second-hand scheme) and the interpretation of the New Articles 53, second paragraph, 54(1), second sub-paragraph, 94, 98a and 316 and the New Annex III, points (7), (13) and (26) had been published on CIRCABC on 2 July 2025 (*Document B, Working Paper No 1101 FINAL*).
- The unanimous guideline on the Treatment of Two-Way Contracts for Difference for electricity and the interpretation of Articles 2, 9, 13 and 135(1)(c) and (f) had been published on CIRCABC on 2 June 2025 (*Document C, Working Paper No 1105 FINAL*).
- The unanimous/ almost unanimous guideline on the Qualification as electronically supplied services of sales of skins in the secondary market for VAT purposes and the interpretation of Annex II of the VAT Directive and Article 7 and Annex I of the VAT Implementing Regulation had been published on CIRCABC on 30 June 2025 (*Document D, Working Paper No 1111 FINAL*).

Guidelines from the 126th meeting

- The unanimous/ almost unanimous guideline on the Changes in electronic invoicing rules applicable upon the entry into force of the VAT in the Digital Age Directive and the interpretation of the New Articles 218 and 232 had been published on CIRCABC on 15 July 2025 (*Document A, Working Paper No 1110 FINAL*).

Guidelines from the 127th meeting

- The unanimous/ almost unanimous guideline on the Calculation of the annual turnover serving as reference for the SME scheme and the interpretation of the New Articles 284a, 284b, 284c and 288 of the VAT Directive had been published on CIRCABC on 6 November 2025 (*Document A, Working Paper 1113 FINAL*).

3. QUESTIONS CONCERNING THE APPLICATION OF EU VAT PROVISIONS

- 3.1** Origin: Belgium
 References: Articles 2(1)(c) add 73
 Subject: Amounts payable upon termination in breach of contract
 (Document taxud.c.1(2025)11463936 – Working paper No 1116)

The Commission services presented the Working paper that had been drafted following a question submitted by Belgium on the VAT treatment of amounts payable by the customer to the supplier as a result of the unilateral termination by the former of a contract validly concluded for the continuous supply of goods. In particular, Belgium asks whether this amount qualifies as remuneration for the already supplied goods and therefore included in the taxable amount of those supplies and, in case the contract is terminated before any goods are supplied, whether the amount could qualify as the consideration for a supply of services.

In their analysis, the Commission services took the view the amount paid by the customer upon early termination of a contract for the continuous supply of goods constitutes consideration for the supply of goods within the meaning of Article 2(1)(a) of the VAT Directive. The economic reality of this situation is similar to the case of the early termination of a contract for the supply of services and hence the VAT treatment should be the same in both situations. Moreover, it is irrelevant whether or not goods have been yet supplied as a result of that contract. The fact that the supplier has put the customer in a position to benefit from the supply of goods is enough to consider the amount received as consideration for the supply of goods.

According to Belgium, given the similarities the contracts for the continuous supplies of goods present with those for the supply of services, their VAT treatment should be the same. Belgium has more doubts on how this amount should qualify when the termination of the contract takes place before any goods have been supplied. Belgium considers that this amount should qualify as a remuneration for a supply of services made for consideration and covered by Article 24(1) of the VAT Directive.

Before opening the floor to all delegations, the Chair thanked the Belgian delegation for their question and invited them to comment on the analysis in the Working paper.

The Belgian delegation thanked the Commission services for preparing the paper and the analysis and hoped that guidelines could be prepared in view of the cross-border dimension and impact.

Twelve delegations took the floor in the ensuing discussion. Only two delegations agreed fully with the Commission services' analysis and opinion. Almost all other delegations were of the view that where the termination of the contract takes place before any goods have been supplied, the amount is to qualify as consideration for a supply of services and not a supply of goods, and referred to potential problems to establish the place of supply and the applicable rate if the transactions are to be considered supply of goods. One delegation could not see the direct link between the amount payable upon termination and the right to benefit from a supply and was of the view that these amounts should not be subject to VAT. Another delegation took the view that the amounts retained are to be considered compensation for the costs in case goods are not supplied. One delegation had

no definitive position but raised the possibility to distinguish between domestic and cross-border supplies of goods. Finally, four delegations expressed doubts in relation to the link made with vouchers in the Commission services' analysis.

In conclusion, the Chair thanked the delegations for their input, acknowledged the differing view expressed by most delegations and the fact that the link with vouchers is not considered appropriate, and indicated that the Commission services would reflect and prepare draft guidelines in line with the position of the majority of delegations.

- 3.2** Origin: Commission
 References: Article 170 of Directive 2006/112/EC and Articles 16 and 17 of
 Directive 2008/9/EC
 Subject: VAT Refunds – Refund period thresholds
 (Document taxud.c.1(2025)11509313 – Working paper No 1117)

The Commission services presented the Working paper related to the application of Articles 16 and 17 of the VAT Refund Directive and any refund application relating to the last period of the calendar year. They stressed that the situation differs between Member States, in that some would apply the EUR 50 threshold for any claim for 'the remainder of the calendar year' regardless of the length of the application period (up to a maximum of twelve months), whereas others would apply the EUR 400 threshold for any claim with an application period of more than three months, even if this period covers 'the remainder of the calendar year'. Such differences in application of the rules not only cause difficulties and confusion amongst businesses applying for refunds in different Member States, but it could be that the right to have a refund corresponding to a refund application related to a period of more than three months but which covers 'the remainder of the calendar year' is denied because the amount claimed was lower than EUR 400.

In their analysis, the Commission services took the view that Article 17 of the VAT Refund Directive does not infer that 'the remainder of the year' can only be for application periods of less than three months, and so the threshold of EUR 50 should apply for all such refund applications, up to a maximum of twelve months. To do otherwise could be regarded as a restriction of the applicant's fundamental right of deduction and account taken of the importance assigned by the CJEU to the right to deduct, an amount of just less than EUR 400 cannot be considered "insignificant". Finally, the Commission services stressed the importance of a uniform approach in this regard in view of the essential character of the right of deduction.

Nine delegations took the floor in the ensuing discussion. Whilst six delegations agreed with the Commission services' analysis and conclusion, three delegations took the view that for a threshold of EUR 50 to apply, the remainder of the calendar year should be a period shorter than 3 months.

The Chair thanked delegations for their comments and concluded that the Commission services will prepare draft guidelines on the subject.

- 3.3** Origin: Cyprus
 References: Article 98(1), Annex III point 10
 Subject: VAT rate for the construction of housing, as part of a social
 policy
 (Document taxud.c.1(2025)11614747 – Working paper No 1119)

The Commission services presented the Working paper that had been drafted in response to a question submitted by Cyprus regarding the construction of housing as part of a social policy, under Article 98(1) and in connection with point (10) of Annex III of the VAT Directive, and in particular whether the supply of construction services related to housing units built under their ‘Build to Rent’ scheme would qualify for reduced VAT rates.

In their analysis, the Commission services identified some legal and practical issues regarding the ‘Build to Rent’ scheme and emphasised them in the presentation, in particular in relation to: (i) the need for a strict interpretation of the categories in Annex III; (ii) fiscal neutrality; (iii) the objective characteristics of the transaction; (iv) the appropriateness and targeting; (v) the identification of eligible supplies; (vi) the administrative burden; (vii) the clawback mechanisms; and (viii) the affordability benchmark.

Before opening the floor to all delegations, the Chair thanked the Cypriot delegation for their question and invited them to comment on the analysis in the Working paper.

The Cypriot delegation thanked the Commission services for dealing with their question and preparing the Working paper. They explained the context of the ‘Build to Rent’ scheme which is part of a larger strategy for affordable housing and provided further details, in particular that its beneficiaries are low-income households designated by a government authority which possesses a list of applicants meeting the income criteria as specified in the submission. There would be strict restrictions and controls, namely that the housing units must be rented at 30% below the market rate (which will be updated periodically) and remain under low rent for at least ten years, cannot be sold and in case of early sale the reduced VAT rate applied would have to be corrected.

One delegation intervened expressing their agreement with the analysis and the issues identified by the Commission services in the Working paper. In their view, the issue with the ‘Build to Rent’ scheme is that eligibility for a reduced VAT rate is linked to conditions which cannot be assessed immediately at the time of building the housing but rather in the long term, which creates opportunities for abuse as it cannot be controlled at the time of supply. This delegation stressed that every Member State has its own social policy which however should not result in distortions of competition.

As no other delegation asked for the floor, the Chair thanked that delegation for their comments and concluded the discussion.

- 3.4** Origin: Italy
 References: Article 2(1)(c)
 Subject: VAT treatment of IT services provided in exchange for the
 provision of users’ personal data
 (Document taxud.c.1(2025)11627393 – Working paper No 1118)

The Commission services presented the Working paper that had been drafted in response to a question submitted by Italy on whether the supply of IT services provided by a social

media platform to its users can be considered VAT relevant and taxable. In particular, whether there can be a direct link between the IT services supplied and the consideration in the form of personal data received from the customer.

In their presentation, the Commission services recalled that the issue had been discussed at the 111th VAT Committee meeting of October 2018¹, following a question submitted by Germany, resulting in unanimous guidelines² that were agreed subsequently. The question put by Italy concerns the second part of these Guidelines and looks at instances where such a direct link may be established between the provision of the IT service and the personal data provided by the user, in the light of developing business models. According to the Italian tax authorities, such supplies would appear to fall under Article 2(1)(c) of the VAT Directive and so are relevant for tax purposes.

In their analysis, the Commission services examined: (i) whether such a transaction is a taxable transaction for VAT purposes; and (ii) whether a direct link can be established between the provision of the personal data and the supply of IT services. They took the view that there are three distinct situations: **(1)** A situation in which there is no adjustment to the settings, and the IT service is provided for ‘free’, and the provider uses the data provided by the user; **(2)** A situation in which there is an adjustment to the settings, and the IT service which is provided is a reduced service; **(3)** A situation in which a user pays a monthly fee for the use of the IT service. In the Commission services’ opinion, it can be argued that for situation 1, there is no taxable supply if no direct link can be ascertained between the IT services supplied and the data provided by the user. For situation 3, it is clear - the user is paying for the use of the IT services, and so a taxable supply has been carried out by the IT provider. However, for situation 2 there may be situations in which a link can be more easily made between the IT service supplied and the data provided by the user. However, it would be difficult to quantify to any extent what the taxable amount would be. It may be possible to use the ‘monthly fee’ in situation 3 as a basis to arrive at a taxable amount of a supply in situation 2 (if both situations are covered by the same supplier); however, it would require consideration on a case-by-case basis and care would be needed to ensure that the result is fair and practicable.

Before opening the floor to all delegations, the Chair thanked the Italian delegation for their question and invited them to comment on the analysis in the Working paper.

The Italian delegation thanked the Commission services for preparing the paper and the analysis and outlined the context of their request.

Eleven delegations took the floor in the ensuing discussion, most of them thanking Italy for raising the question and the Commission services for preparing the Working paper. Some of these delegations regretted the late uploading of the Working paper in CIRCABC and shared thus only preliminary views without a definitive position. Almost half of the delegations that took the floor agreed with the Commission services’ analysis. Several delegations expressed doubts regarding the existence of a direct link between the provision of the personal data and the supply of IT services and were generally cautious regarding the taxation of the provision of personal data, questioning also whether the

¹ Working paper No 958 – Conditions for there being a taxable transaction when Internet services are provided in exchange for user data – taxud.c.1 (2018) 6248826.

² Guidelines resulting from the 111th meeting of 30 November 2018 Document B – taxud.c.1(2015)4128689 – 862 (p. 192).

provision of personal data on a daily basis is at all an economic activity. Moreover, some of these delegations took the view that the existing guidelines are still valid and should not be modified whilst some others stated that as the economic reality is changing the existing guidelines should be adapted. One delegation stated that the monthly fee paid may not be for the IT services themselves but a payment for an ads-free service. Another delegation considered that where a user chooses to pay a monthly fee, he/she pays the IT provider for not using their data for particular purposes and not passing it on to third parties. On the direct link, this delegation also stressed that the CJEU had ruled that it is for the national courts to decide on the existence of such a direct link, taking account of the individual situation and for this reason it might be preferable to leave it to them.

One delegation expressed doubts about the direct link between the services provided and the data provided by manipulating the settings. Changing the settings to reduce data sharing, resulting in connected limited service, seems like a negative approach to the direct link. The right to change the settings will generally be part of the general agreement. In that case, the *use* of that right does not lead to a new legal relationship in which the remuneration in data constitutes the actual value of the remuneration. The provision of certain personal services does not appear to be a condition for the use of additional services.

In the event that a direct link between the additional services and personal data provided can be established, VAT can only be levied on the fee for those additional services. For the services where the provision of personal data is not conditional, the situation will continue to apply as in situation 1 of the Conclusion.

It seems to this delegation that under the privacy regulations (GDPR), users must give permission for the use of their data, but companies are not allowed to refuse their services if this permission is not given. This aspect can be highlighted in the further discussion on this subject.

Finally, this delegation sees major obstacles to determining the taxable amount. The suggestion that a monthly fee can be used as a basis for this does not seem to be applicable. It is not clear whether such a fee relates to identical services. Moreover, this would be a break with the decisions by the Court of Justice of the EU (judgments in *Naturally Yours* and *Elida Gibbs*). These decisions show that not the subjective value from the consumer, but the subjective value from the supplier should be the starting point for determining the taxable amount.

Some other delegations indicated that changing the VAT Directive might be the right way forward. Finally, many delegations expressed an interest to continue further the discussion.

In reply to comments made, the Chair clarified that the question is not whether to change the existing guidelines but, in view of the question submitted by Italy, whether, in the cases where the user of the IT services has a choice to restrict the provision of personal data, there is a direct link between the IT services and the personal data provided, and if yes, how to determine the amount to be taxed and depending on what is to be achieved, this latter may require changing the VAT Directive. The Chair further indicated that in some cases it could be for the national courts to decide on the existence of a direct link but it may also happen that an issue is brought up to the CJEU.

the importance of agreeing a pragmatic solution given that amending the VAT Directive takes time and without agreement on a common pragmatic solution, it will be for each Member State to deal with the issue, with the consequence that VIES would be fed differently. Finally, the Chair stated that the Commission services would reflect on the appropriate way but indicated that guidelines would not be useful.

5. CASE LAW – ISSUES ARISING FROM RECENT JUDGMENTS OF THE COURT OF JUSTICE OF THE EUROPEAN UNION

- 5.1** Origin: Commission
 References: Articles 2(1)(c), 168 and 178
 Subject: Case C-726/23 Arcomet Towercranes – lessons learned
 (Document taxud.c.1(2025)11246602 – Working paper No 1114)

The Commission services presented the Working paper that had been drafted as a follow-up to the judgment of the CJEU in case C-726/23 *Arcomet Towercranes*, and in order to pursue the discussion on the issue of transfer pricing and the possible implications of this case centred around one of the most central issues in the interaction between direct and indirect taxation, namely whether transfer pricing may give rise to transactions which are subject to VAT and the consequences in terms of deduction.

By way of introduction, the Commission services recalled the conclusion of the CJEU that Article 2(1)(c) of the VAT Directive must be interpreted as meaning that the remuneration in respect of intra-group services, provided by a parent company to its subsidiary and contractually detailed, which is calculated in accordance with a method recommended by the Transfer Pricing Guidelines adopted by the Organisation for Economic Co-operation and Development (OECD) and corresponds to the part of the operating profit margin greater than 2.74% achieved by that subsidiary, constitutes the consideration for a supply of services for consideration falling within the scope of value added tax. Further to that, the CJEU made clear that Articles 168 and 178 of the VAT Directive must be interpreted as not precluding the tax authority from requiring a taxable person who seeks the deduction of input VAT paid to submit documents other than the invoice in order to prove the existence of the services referred to in that invoice and their use for the purposes of the taxed transactions of that taxable person, provided that the submission of that evidence is necessary and proportionate for that purpose.

In their analysis, the Commission services (i) looked at the facts of the *Arcomet Towercranes* case; (ii) provided transfer pricing analysis; and (iii) examined the VAT issues at stake, in particular the scope of the tax, deduction and miscellaneous (when the chargeable event occurs and when VAT becomes chargeable, for intra-group supplies). They took the view that a supply should in principle be seen as made for consideration and fall within the scope of VAT: (a) where a supply of goods or services is made between associated companies, for example from a parent company to its subsidiary, (b) where the remuneration in respect of that supply is calculated in accordance with a method recommended by the OECD Guidelines, and (c) where the calculation of that remuneration is detailed ahead of the supply in a contract by which the parties concerned enter into reciprocal commitments. However, before concluding, it is necessary to verify that the remuneration received by the company making the supply constitutes the actual consideration for an identifiable good or service made to the company receiving that

supply and for that reason, a decision will in each case require a case-by-case assessment as also emphasised by the Advocate General.

At the end of the presentation, the Commission services outlined the following more general conclusions that may be drawn from the judgment: (i) transfer pricing adjustments can be subject to VAT; (ii) there must be an actual service behind the payment; (iii) variable amounts can still be fine; and (iv) input VAT can be deducted, but evidence is required. In this regard, they indicated the possibility of preparing some general guidelines based on these more general conclusions, recognising what is also recognised by the CJEU throughout its judgment, namely that it is the concrete case that will be determinative and a case-by-case assessment will be required.

Two delegations took the floor in the ensuing discussion. One delegation was of the view that the case should be contained in its facts as it is difficult to see how it should be applied more broadly and indicated that if the transfer pricing is to be examined from a VAT perspective, the issues should be addressed in their totality rather than on a case-by-case basis. Another delegation expressed a concern regarding the need for guidelines at this stage, taking the view that guidelines should have a clear added value.

In reply, the Chair clarified that guidelines cannot be fact-based but should rather be of a general nature giving the general context which then allows to fit in the case-by-case issues in that general context. The Chair then closed the discussion stating that the Commission services would consider the appropriateness of preparing draft guidelines.

5.2 Origin: Commission
 Subject: Case-law – Recent Judgments of the Court of Justice of the
 European Union
 (Document taxud.c.1(2025)11627816 – Information paper)

The Chair drew delegations' attention to the Information paper with the overview of judgments handed down since the cut-off date for the previous meeting's overview paper (20 rulings covering the period from 14 April 2025 until 23 October 2025). He also reminded that requests for discussion of a case in a future meeting need to be accompanied by the interested delegation's own analysis of the matter on the basis of which the Commission services will establish a working paper.

No delegation asked for the floor and the Chair therefore concluded the discussion.

6. ANY OTHER BUSINESS

6.1 Origin: Commission
 References: Article 398
 Subject: Working of the VAT Committee – how to introduce requests
 for consultations and notifications (update)
 (Document taxud.c.1(2025)11243257 – Information paper)

The Commission services presented the paper, explaining the need to update the already existing guidance on how to introduce requests for consultations and notification in view of the recent introduction of a further option in Article 101a of the VAT Directive related to VAT rates. In particular, it was stressed that notifications in relation to Article 101a

must be done as soon as the exemption is actually implemented and not necessarily in respect of legislation which merely serves to provide a legal basis for taking a decision once the circumstances are there for an exemption to be put in place.

Delegations were thus asked to take note and follow the outlined recommendations on how to significantly improve the quality of the submissions of notifications, for the sake of transparency of the working of the VAT Committee and further efficiency gains.

No delegation asked for the floor and the Chair concluded the discussion.

- 6.2** Origin: Commission
 Subject: Informing the VAT Committee of options exercised under
 Articles 80, 101a, 199 and 199a of Directive 2006/112/EC
 (Document taxud.c.1(2025)11509863 – Information paper)

The Chair drew delegations' attention to the Information paper concerning notifications received from the Czech Republic regarding an option exercised under Article 80, Poland regarding an option exercised under Article 101a, Hungary regarding an option exercised under Article 199a(1)) and Slovenia regarding an option exercised under Article 199a(1). The Chair thanked the delegations concerned and reminded all delegations of their obligation to notify in due time whenever necessary.

No delegation asked for the floor and the Chair concluded the discussion.

- 6.3** Origin: Commission
 Subject: Documents of the VAT Committee already released under the
 rules on access to documents
 (Document taxud.c.1(2025)11628793 – Information paper)

The Commission services presented the paper the objective of which was to inform delegations that as of September 2022, where VAT Committee documents dating back prior to March 2013 have been partially or fully disclosed following a request for access pursuant to Regulation (EC) No 1049/2001 on public access to document, the disclosed documents are made available not only to the applicant who requested them, but also to the public in general via a dedicated [search form](#) on the Transparency website of the European Commission. For the sake of enhancing the transparency of the working of the VAT Committee, delegations were asked whether they agree that VAT Committee documents dating back prior to March 2013 which are partially or fully disclosed following a request for access and made publicly available via the above mentioned search platform, are also published on the [dedicated publicly accessible folder on CIRCABC](#).

No delegation raised any objection and the Chair concluded the discussion.

Other points raised during the meeting

‘Exceptional direct reimbursement of VAT for the acquisition of disinfection robots by the European Commission and donated to EU hospitals’: as the disinfection robots were purchased before the adoption of the [Buy and Donate Directive](#), VAT was paid on those robots upon acquisition which as a result of the retroactive effective is ultimately not due. The Commission services (DG BUDG) reminded delegations that the payment deadline of 28 November 2025 for the direct reimbursement by Member States is approaching, and

past this deadline and in case of late or non-payment, there will be financial consequences, such as late payment interest or even offsetting in case of no payment. In this regard, they thanked those Member States which had already made the payments and those who had contacted DG BUDG to ensure a successful payment process and emphasised that closing promptly the file is in everyone's best interest.

Conclusion

The Chair closed the meeting by thanking the delegations for their participation in the discussions.

LIST OF PARTICIPANTS

BELGIQUE/BELGIË/BELGIUM	Ministry of Finance
БЪЛГАРИЯ/BULGARIA	Ministry of Finance National Revenue Agency
ČESKO/CZECHIA	Ministry of Finance
DANMARK/DENMARK	Ministry of Taxation Tax Agency
DEUTSCHLAND/GERMANY	Federal Ministry of Finance
EESTI/ESTONIA	Ministry of Finance
ÉIRE/IRELAND	Revenue Commissioners
ΕΛΛΑΔΑ/GREECE	Independent Authority for Public Revenues
ESPAÑA/SPAIN	Ministry of Finance Permanent Representation
FRANCE	Ministry of Finance
HRVATSKA/CROATIA	Tax Administration Permanent Representation
ITALIA/ITALY	Ministry of Economy and Finance
ΚΥΠΡΟΣ/CYPRUS	Ministry of Finance
LATVIJA/LATVIA	Ministry of Finance State Revenue Service
LIETUVA/LITHUANIA	Ministry of Finance Tax Administration
LUXEMBOURG	Administration de l'enregistrement, des domaines et de la TVA
MAGYARORSZÁG/HUNGARY	Ministry of Finance
MALTA	Ministry of Finance and Employment
NEDERLAND/NETHERLANDS	Ministry of Finance

ÖSTERREICH/AUSTRIA	Federal Ministry of Finance
POLSKA/POLAND	Ministry of Finance
PORTUGAL	Ministry of Finance
ROMÂNIA/ROMANIA	Ministry of Finance
SLOVENIJA/SLOVENIA	Ministry of Finance
SLOVENSKO/SLOVAKIA	Ministry of Finance
SUOMI/FINLAND	Ministry of Finance Tax Administration
SVERIGE/SWEDEN	Ministry of Finance Tax Authority
EUROPEAN COMMISSION	