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THE EUROPEAN UNION**

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a Council Directive amending Directive 2006/112/EC on the common system of value added tax as regards a standard VAT return - Progress report

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1. On 23 October 2013, the Commission presented its Proposal for a Council Directive amending Directive 2006/112/EC on the common system of value added tax as regards a standard VAT return.
2. The proposal envisages a uniform set of requirements for businesses when filing their VAT returns, regardless of the Member State in which they do that. The standard VAT return will replace national VAT returns and will ensure that businesses are asked for the same basic information.
3. The aim of the proposal is to reduce the administrative burden for businesses and especially for SMEs, ease tax compliance and make tax administrations across the Union more efficient.
4. During the Hellenic Presidency, the proposal was scrutinised at four meetings of the Working Party on Tax Questions (WPTQ). On the basis of the discussions at working group level, the Presidency prepared a compromise proposal which was also duly examined by the WPTQ.

5. Taking stock of the current state of play, the Presidency presented a Progress report which was discussed and agreed upon at technical level by the WPTQ on 22 May.
  6. Against this background, the Permanent Representatives Committee is invited to:
    - recommend to the Council (ECOFIN - 20 June) to take note of the Presidency progress report as set out in the Annex to this note.
    - recommend to the Council to endorse the conclusions as set out at the end of the Progress report (p.6).
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## **Presidency Progress Report**

### **Introduction and progress of work**

The Proposal for a Council Directive amending Directive 2006/112/EC on the common system of VAT as regards a Standard VAT return was submitted by the Commission on 23 October 2013 and was presented to Finance Ministers at November 2013 ECOFIN. Moreover, the Lithuanian Presidency held one Working Party meeting on this proposal, which included a presentation on the proposal by the Commission and an initial article by article examination of the text. The European Parliament adopted its positive opinion on 26 February 2014.

1. Four meetings were held under the Hellenic Presidency, the last one took place on 22 May 2014. The first reading of the Proposal has been completed. For the process of the article by article examination, the Presidency drafted a note analysing the principles and the legal provisions of the Proposal.
2. In detail, the Working Party discussed the proposed common rules as regards the: (a) deadline for the payment of the tax, (b) deadline for submission of the VAT return, (c) taxable period, (d) corrections for VAT Returns, (e) electronic submission of the VAT return, (f) returns for intra-community acquisitions/supplies of new means of transport and intra-community acquisitions of products subject to excise duties and (g) content in broad terms of the VAT declaration, in the form of obligatory and optional fields of information.
3. Moreover, provisions were examined regarding the: (a) flexibility of Member-States to require extra information for transactions originating in or intended for a specific region or territory; or which are covered by one of the special schemes; or which are carried by a VAT group, (b) deletion of the ability of the Member States to allow the procedures for the submission of the return as regards the importation of goods and (c) deletion of the ability of the Member States to require for an annual VAT return summarising all the information of the periodic VAT return and providing for the necessary adjustments.

4. Finally, there were discussions on the use of “comitology” to define (a) technical details for the transmission of information, (b) a common set of definitions and procedures for the submission of information, (c) common electronic methods offering a sufficient level of security for the submission of the Standard VAT return, as proposed by the Commission.
5. Following the discussions at the Working Party, the Presidency drafted a compromise proposal on the above elements of the Proposal, excluding the content of the Standard VAT return. As regards the content of the VAT return, the Presidency proposed that Member States would decide on the obligatory and optional information for the VAT return in the Council by unanimity, in an Annex to the VAT Directive, and not by use of the Comitology procedure as was originally provided for in the Commission proposal. The approach the Presidency has taken in producing its compromise proposal received broad support from most Member States.
6. Delegations commented on the specific issues set out in paragraphs 2, 3 and 4 above.
  - a. The majority of Member States favour an approach that gives them flexibility to define national rules, for example on: payment of tax, E-Filing of VAT returns, error corrections, flexibility to require additional information from certain taxable persons or sectors and listings of domestic sales/purchases;
  - b. Similarly most Member States can agree to the deadlines for submissions of a VAT Return and the length of the tax periods as set out in the Presidency compromise;
  - c. Most Member States do not agree to removing the flexibility to require an Annual VAT Return. And most do not agree to the proposed threshold for SMEs to submit quarterly VAT Returns. Some Member States wanted to have the possibility of requesting monthly returns in any case;
  - d. Most Member States opposed the extent of the proposed use of Comitology and prefer that the mandatory and optional boxes are to be defined in the Council by unanimity in an Annex to the VAT Directive.

7. Most Member States see value in the Commission's EU VAT Web portal, but have procedural concerns on costs, roles and responsibilities.
8. There are a number of Member States who still maintain reserves of different nature. One Member State specifically questioned the legal basis of the Proposal and its compliance with subsidiarity and proportionality. Some Member States raised the issue of striking the right balance between trying to meet the objectives of the Proposal, the cost/benefits of a possible Standardisation of the VAT Return and need to ensure there is no overall increase in business burdens in individual Member States. In response to the concerns expressed by the Member State on the legal basis and subsidiarity/proportionality, a written contribution by the Council Legal Service was delivered.

#### **Objectives to be reached through a Standard VAT return and a VAT WEB Portal**

9. After a broad public consultation on the EU VAT system launched with the Green Paper on the future of VAT in 2010, the Commission adopted a Communication on the future of VAT on 6 December 2011, in which it committed to put forward a proposal for a Standard VAT Declaration by the end of 2013.
10. The Commission adopted the Proposal in October 2013 to provide for common rules in all Member States as regards a Standard VAT declaration. The overarching objective of the Standard VAT return is the simplification for business by ensuring a simple structure and standardised information and deadlines for VAT declarations across the EU. The Impact assessment accompanying the proposal has estimated a burden reduction potential of up to €15bn per year for EU business.
11. The Proposal is expected to simplify the process for taxpayers and improve tax compliance. As such, it aims at increasing income to the national budgets and contributing to growth-friendly fiscal consolidation across the EU.

12. The proposal is intended to support other Commission initiatives. The Action Programme for Reducing Administrative Burdens in the EU is helped by a high-level group, in place until October 2014, which advises the Commission on reducing administrative burdens linked to EU legislation. It focuses on SMEs and micro enterprises, as well as how to make Member State public administrations more efficient and responsive to the needs of stakeholders when implementing EU legislation. The Proposal serves the purpose of burden reduction, since the VAT declaration is identified as an area where divergences constitute an obstacle to EU trade. The Standard VAT declaration aims at reducing burdens on all business, and particularly SMEs, and is highlighted in the Communication on Smart regulation (COM 2013 122 final). Moreover, the Single Market Act II is calling for the introduction of a Standard VAT return.
13. For business with operations throughout the EU, researching the VAT treatment of transactions for all Member States is a time-consuming and expensive process. The lack of standardised rules, consistently interpreted and applied, challenges the efforts of business to comply with their VAT obligations, particularly when it comes to meeting their foreign VAT obligations.
14. Business would welcome a tool to facilitate access to key VAT rules in each Member State, along with an outline of how to comply with these rules. The Commission has indicated that it will develop a Web Portal before the end of 2014 to support the use of the new 2015 VAT rules (the Mini One Stop Shop- MOSS). In this context, both Member States and business would benefit from an extension of the Web Portal, provided for the MOSS, to other areas and notably declarations. Such an extension would help safeguard VAT revenues of the Member States through more accurate reporting and, at the same time, reduce the administrative burden and cost for business.

**Possible way forward:**

As regards the Proposal for an EU Standard VAT Return, the **COUNCIL**:

- **Agrees that the Council Working Party on Tax Questions should continue its work on the Standard VAT Return proposal mindful of the desired objectives to reduce administrative burden for companies and national authorities, to facilitate compliance and promote growth across the EU by substantially reducing overall business burdens whilst ensuring that this will not lead to an increase in the overall burden for businesses in individual Member States.**
- **Recalls, in this context, the May 2012 ECOFIN Conclusions which stress the need to ensure that "initiatives designed to arrive at a simpler VAT system for businesses should not impose additional burdens on national authorities; the strategic objective of simplicity should be seen as a two-way concept that applies to businesses and national authorities alike."**
- **Agrees that a Standard VAT declaration should substantially reduce the overall burden for businesses, while leaving leeway for Member-States to maintain certain national rules.**
- **Notes that such flexibility could be usefully complemented and supported by an EU VAT web portal.**
- **Notes that the Commission is currently developing an EU web portal for the MOSS which will be operational by October 2014.**
- **Notes that such a web portal could be further extended in the future and that this should be particularly useful to disseminate the country specific information on their VAT obligations, in order to reduce administrative burden and enhance the voluntary compliance of business.**

- **Recalls the May 2012 ECOFIN conclusions, calling upon the Commission to further clarify the legal status of the information as well as content, form, roles and responsibilities in connection with the proposed EU VAT web portal, which should not impose disproportionate administrative burdens on national authorities nor duplicate work and calls on the Commission to explore a cost effective solution to provide such information as a priority and to report their progress on all of these issues back to the Council before the end of the forthcoming Italian Presidency."**
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