



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 9 December 2013
(OR. en)**

17544/13

**Interinstitutional File:
2012/0102 (CNS)**

LIMITE

FISC 255

NOTE

From:	Presidency
To:	Working Party on Tax Questions - Indirect Taxation (VAT)
No. prev. doc.:	14565/13
No. Cion doc.:	9926/12 FISC 67
Subject:	Proposal for a Council directive amending Directive 2006/112/EC on the common system of value added tax, as regards the treatment of vouchers

Delegations will find attached a Presidency compromise text regarding the VAT treatment of vouchers.

Proposal for a
COUNCIL DIRECTIVE

**amending Directive 2006/112/EC on the common system of value added tax, as regards the
treatment of vouchers**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Parliament¹,

Having regard to the opinion of the European Economic and Social Committee²,

Acting in accordance with a special legislative procedure,

¹ OJ C , , p. .

² OJ C , , p. .

Whereas:

- (1) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax³ lays down rules on the time and place of supply of goods and services, the taxable amount, the chargeability of value added tax (VAT) and the entitlement to deduction. Those rules are, however, not sufficiently clear or comprehensive to ensure consistency in the tax treatment of transactions involving vouchers to an extent which has undesirable consequences for the proper functioning of the internal market.
- (2) To ensure certain and uniform treatment and to avoid inconsistencies, distortion of competition, double or non-taxation and to reduce the risk of tax avoidance, there is a need for specific rules applying to the VAT treatment of vouchers.
- (3) So as to identify clearly what is a voucher for the purposes of VAT and to distinguish vouchers from payment instruments, it is necessary to define vouchers, which can have physical or electronic forms, recognising their essential attributes, particularly the nature of the entitlement attached to a voucher and the obligations assumed by the issuer of the voucher.
- (4) The VAT treatment of the transactions associated with vouchers is dependent upon the specific characteristics of the voucher. It is therefore necessary to distinguish between various types of vouchers and the distinctions need to be set out in Union legislation.
- (5) A right to receive goods or services or to receive a discount is inherent in the nature of a voucher. This right may be assigned from one person to another before the voucher is eventually redeemed. To avoid the risk of double taxation, were the service represented by such a right to be taxed, it is necessary to establish that the assignment of this right and the redemption of goods or services should be regarded as one single transaction.

³ OJ L 347, 11.12.2006, p. 1.

- (6) The supply of goods or services may involve direct payment or be associated with a voucher. To ensure neutrality in the treatment of these transactions, the tax borne by the single transaction should be determined by the goods or services supplied in return for the voucher.
- (7) The margin scheme for travel agents provides for taxation in the Member State in which the travel agent is established. To avoid a shift in the place of taxation, it should be specified that goods or services supplied using vouchers remain covered by this scheme.
- (8) Vouchers are frequently distributed through an agent or pass through a distribution chain based on the purchase and the subsequent resale. In order to preserve neutrality, it is essential that the amount of VAT to be paid on the goods or services supplied in return for a voucher, remains intact. To assure this, the value of multi-purpose vouchers should be fixed upon issue.
- (9) If vouchers are distributed by a taxable person acting in his own name but on behalf of another person, the taxable person would be deemed to have received and supplied the vouchers himself. Should the distribution involve multi-purpose vouchers where taxation takes place only once the voucher is redeemed, that would result in adjustments to all stages of the distribution chain, generating little or no new tax revenue. In order to avoid excessive administrative burdens, a taxable person distributing such vouchers should not be seen as having received and supplied the voucher himself.
- (10) It is necessary to clarify the tax treatment of the transactions linked to the distribution of multi-purpose vouchers. Where such vouchers are purchased below value to be resold at a higher price, the service of distribution should be taxed based on the margin made by the taxable person.

- (11) Vouchers may involve the supply of goods or services across borders. Should the chargeability differ between Member States, this could result in double taxation or non taxation. To prevent such situation, no derogation from the rule by which VAT is chargeable when the goods or the services are supplied should be allowed.
- (12) Where payment is made on account before supply is made, VAT is however due on the amount received. It should be clarified that this also covers payments made for vouchers carrying a right to a supply of goods or services where the place and level of taxation of which are known (single-purpose vouchers). For other vouchers (multi-purpose vouchers), VAT should only become chargeable upon redemption of the voucher.
- (13) Some vouchers allow for discounts upon the supply of goods or services. Since the reduction in the price is mainly used to promote the goods and services of the issuer of the voucher, it is appropriate to provide for the redemption of the voucher by the supplier of the goods or services to constitute a service supplied by him to the issuer.
- (14) In order to comply with the neutrality principle, where a reduction in the price of the goods and services is granted in return for a voucher, the taxable amount of the promotional service provided by the redeemer to the issuer of the voucher should consist of the reimbursement obtained by the former.
- (15) In so far as the goods or services supplied upon redemption of a voucher are taxed, the taxable person is entitled to deduct the VAT incurred on expenditure in relation to the issue of the voucher. It should be clarified that this cost of VAT is deductible even if those goods or services are supplied by someone other than the issuer of the voucher.

- (16) Several taxable persons may play a role in the issue, distribution and redemption of a voucher but in the case of multi-purpose vouchers only the redeemer of the voucher knows what has been supplied, when and where. To ensure that the amount of VAT paid is correct, the redeemer should in all instances be the person liable for payment of VAT to the tax authorities on the goods or services eventually supplied.
- (17) Where the distribution or redemption of a voucher itself creates a separate supply of services distinct from the goods or services being acquired by the voucher, and that supply is cross border, it is important that VAT obligations are completed to ensure the correct application and collection of the VAT due.
- (18) Since the objectives of the action to be taken regarding the simplification, modernisation and harmonisation of the value added tax rules applying to vouchers cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (19) In accordance with the Joint Political Declaration of Member States and the Commission of 28 September 2011 on explanatory documents⁴, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.
- (20) Directive 2006/112/EC should therefore be amended accordingly,

⁴ OJ C 369, 17.12.2011, p. 14.

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 2006/112/EC is amended as follows:

(1) In Article 25, the following points (d) and (e) are added:

Presidency Note

The concepts of taxing the deemed supply of a distribution service under the Commission's proposal and the alternative cash received scheme were discussed during meeting on vouchers on 5 September 2013, however no agreement was reached.

The Presidency therefore puts forward for discussions adjustments of wording regarding the distribution chain under the Commission's proposal as well as the wording for the alternative option based on the suggested cash received scheme. Member States are invited to comment and indicate which option they prefer.

“(d) the distribution of a multi-purpose voucher by a taxable person, other than the issuer of the voucher, where the voucher is supplied to him at a price below the nominal value by the issuer of the voucher or from another taxable person acting in his own name;

[*Alternative for the cash received scheme:*

“(d) *the distribution of a multi-purpose voucher by a taxable person, other than the issuer of the voucher, where the voucher is supplied to ~~to~~ by him at a price ~~below the nominal value by the issuer of the voucher or from another taxable person acting in his own name~~ higher than the price charged by the issuer of the voucher or by another taxable person acting in his own name;*]

- (e) the redemption of a ~~free~~ discount voucher [**granting a discount**], where the taxable person supplying the goods or services to which the voucher relates receives consideration from the issuer.”

Presidency Note

Distribution of MPVs:

The Presidency has made an alternative wording for point (d) in order to accommodate the cash received scheme.

Redemption of discount vouchers:

Point (e) concerns the treatment of discount vouchers, which have not been featured to a great extent during discussions on this proposal. However the Presidency still wonders whether the inclusion only of free discount vouchers in point (e) is sufficiently grounded.

For example, there is company A which engages company B to organize promotional campaign for certain products produced and sold by company A. As part of the promotional activities discount vouchers granting a discount of €10 are issued and sold to customers for a fee (€2) by company B. During the promotional campaign customers are allowed to use the purchased discount vouchers in designated shops, operated by different companies. The designated shops are reimbursed by company A for the discounts provided. The same promotional campaign might be conducted and in a different way where the discount vouchers are given for free though everything else is conducted in the same manner. The Presidency considers that if there is a redemption service then it exists notwithstanding whether the discount voucher was given for free or was paid for.

The Presidency also would like to point out that if Art. 74c of the Proposal is not changed then having in mind the definition of the discount voucher it is necessary to limit the provision to a discount voucher which grants a discount but not a rebate. However the Presidency considers that both types of discount vouchers should be encompassed here.

- (2) In Article 28 the following paragraph is added:

[“However, the first paragraph shall not apply where the taxable person takes part in the supply of a multi-purpose voucher.”]

Presidency Note

The Presidency wonders whether the amendment to Article 28 is really necessary. Some Member States had concerns regarding it. The reasoning behind this provision could be a wish to clearly indicate that in situations where the person is acting in his own name but on behalf of another person and is involved in the distribution chain that person would not be considered as receiving and supplying the services to which MPV relates. That is because the taxable regime applicable to MPV is not known until its redemption. In essence such a person does not know what exactly is purchased with MPV and therefore can not resell that unknown something. Nevertheless such person could be considered as supplying distribution services.

In other words if the person involved in the transfer of MPV is also actually involved in the supply of the services then Article 28 is applied to those services. For example, MPV is issued by company A and then is transferred to company B (Distributor 1) who subsequently transfers it to company C (Distributor 2). The Customer buys MPV from the company C (Distributor 2). The MPV allows for the customer to choose what kind of service will be provided to him. The choice varies between restaurant services provided by company C (Distributor 2) who is acting in its own name but on behalf of company D and admission to the performance in the theater given by company E. In such case company C (Distributor 2) is not seen as the supplier of restaurant services when it is just selling MPV to the Customer but is seen as the supplier of restaurant services (i.e. Article 28 is applied) if the Customer chooses to redeem MPV for the restaurant services.

However the Presidency considers that such a problem is already taken care of with the amendments to Articles 25 and 30b and already existing VAT rules.

Member States are invited to comment on the necessity of the amendment to Article 28.

If Member States are in favor of retaining these amendments, in the Presidency's view, the word "supply" should be changed to "transfer" as passing of MPV in a distribution chain can not be treated as "supply" as MPV itself is neither a good or a service and therefore it is not taxable as such.

- (3) In Title IV “Taxable transactions”, the following Chapter 5 is inserted:

“Chapter 5

Provisions common to Chapters 1 and 3

Article 30a

“Voucher” shall mean **either of the following:**

- (1)an instrument ~~carrying a right to receive~~ where there is an obligation to accept it as consideration or part of consideration for a supply of goods or services and where the redeemers and/or goods or services to be supplied are either indicated on the instrument itself or in the terms and conditions of usage of such instrument, or;**
- (2)an instrument evidencing obligation to provide to its holder ~~to receive a price discount or rebate with regard to a supply of goods or services and where there is a corresponding~~ right to receive that discount or rebate obligation to fulfil this right.**

[A payment service, in particular any of those referred to in Annex Ia, shall not be regarded as a voucher.]

“Discount voucher” shall mean a voucher evidencing obligation to provide to its holder a price discount or rebate with regard to a supply of goods or services where there is a corresponding right to receive that discount or rebate.

“Single-purpose voucher” shall mean a voucher ~~carrying a right to receive a predefined supply of goods or services~~ other than a discount voucher where the place of supply and the applicable VAT rate or rates for these the goods or services to be supplied are known at the time of issue of the voucher.

“Multi-purpose voucher” shall mean any voucher, other than a discount voucher, which does not constitute a single-purpose voucher.

~~“Discount voucher” shall mean a voucher carrying a right to receive a price discount or rebate with regard to a supply of goods or services.~~

[“Issuer” of the voucher shall mean a person in whose name the voucher is issued though it might not correspond to the redeemer or to person who is physically producing the voucher.

“Redeemer”:

- (1) of a single-purpose voucher shall mean a person who has an obligation in exchange for a voucher to provide a holder of that voucher with a certain good or service;**
- (2) of a multi-purpose voucher shall mean a person who has an obligation to accept a voucher as consideration or part of it in an exchange for a certain good or service and who is making a supply of that good or service notwithstanding whether he is making an actual delivery of the good or service;**
- (3) of a discount voucher shall mean a person who has an obligation to provide a price discount or rebate notwithstanding who is making an actual delivery of the goods or services.]**

Presidency Note

The Presidency has considered the suggestions made by the Member States. In Presidency's view the definitions should solve the consequential problems arising in respect of the concept of voucher as a right and should not leave any ambiguity in the matters of distinction between the voucher and the means of payment. Furthermore the Presidency believes that deletion of general definition might leave unintended or unforeseen loopholes where some instruments which in essence should be treated as vouchers will be left outside the scope. In the Presidency's view the definitions suggested in the compromised text do solve the problems mentioned above.

In the Presidency's view the main difference between means of payment and vouchers lies in the nature of voucher itself: the obligation of the redeemer to accept a voucher as complete consideration or part of it in an exchange for a certain good or service, limited range of redeemers who will change the voucher into a certain good or service and/or limited goods or services which can be obtained under a certain voucher.

On the other hand means of payment are not restricted with the limited range of goods and services, i.e. mean of payment can be used to pay for anything not only for certain goods or services and there is no indication neither on the mean of payment nor in the terms and conditions of usage of that mean of payment for what goods or services it might be used to pay. Means of payment do not oblige the seller (redeemer) to accept that particular mean of payment (for example, to accept credit cards, PayPal etc.) for goods or services supplied, i.e. the redeemer has a right to refuse to sell the good or service to a holder of a mean of payment while refusal is not allowed in cases of vouchers.

*Means of payment also do not oblige the redeemer to supply certain goods or services while in case of voucher the redeemer assumes an **obligation to supply** goods or services (specific or available for purchase from the specific redeemer) that will be offered in connection with the voucher.*

The definition proposed also contains the reference to the indication and the terms and conditions of usage as in the Presidency's view it is the best way to express the limitation of vouchers, i.e. to indicate that vouchers can be used only for certain goods or services and/or only within designated redeemers. The Presidency also considers that every voucher has such terms and conditions – whether they are written on the voucher itself or somewhere else as without such conditions it would be unclear on how, where and for what the voucher can be used.

The general definition is divided in two points for simplicity reasons. It is also suggested to define discount vouchers through the same wording (i.e. obligation) as used in the (1) point.

In the Presidency's view there is no need to require the supplier's identity in the SPV definition regardless of how the supplier is understood - as a redeemer or as an issuer. If the supplier is understood as redeemer then its identity according to the general definition should be clear: it has to be indicated either on the voucher itself or in the terms and conditions of usage. If the supplier is understood as the issuer then he is the first supplier of the SPV and of the underlying goods and services and that makes him the first person who is liable for VAT. Therefore the argument that if there is no supplier indicated it is not possible to establish who is liable for VAT does not seem so relevant. In the latter stages of the SPV's distribution chain it is considered that each distributor supplies SPV together with the underlying goods or services therefore the VAT is paid in each distribution stage by every distributor. Contrarily including the requirement for the supplier's identity in the definition of SPV might unnecessarily restrict the scope of SPVs: as it is stated above in the distribution chain each link of the chain is acting as the supplier therefore the identity of the supplier changes each time the voucher passes from one link in the chain to the other. Therefore such a requirement for supplier's identity might be difficult to implement in practice.

The Presidency added also definitions of "issuer" and "redeemer" in this Article as some Member States wished to have them.

Member States are invited to comment on the deletion of text in brackets as regards the exclusion of a payment service from the definition of a voucher and on the need and construction of definitions concerning "issuer" and "redeemer".

Article 30b

~~The supply of a voucher carrying a right to receive a supply of goods or services and the subsequent supply of these goods or services shall be regarded as a single transaction.~~

~~This single transaction shall be treated in the same way as a supply of goods or services had the goods or services not been supplied through the use of a voucher.~~

Each supply of a single-purpose voucher shall be treated as a supply of the goods or services to which the voucher relates whereas the redemption of the single purpose voucher shall not be regarded as an independent transaction.

Redemption of a multi-purpose voucher, in full or partially, shall be treated as a supply of the goods or services to which the voucher relates whereas the transfer of a multi-purpose voucher shall not be regarded as an independent transaction except in so far as it involves the supply of a distribution service.

Where **the goods or services to which the single-purpose or multi-purpose a voucher relates are subject to** ~~carries a right to receive a supply of goods or services to which the~~ margin scheme for travel agents ~~applies~~, the supply of goods or services shall be treated for VAT in accordance with the rules of that scheme.”

Presidency Note

Article 30b seeks to ensure that the supplies of SPVs and MPVs and underlying supplies of goods or services (including the supplies via distribution chain) would be treated in the same manner in all Member States and reflect the close link between the voucher and underlying goods or services. Therefore in the Presidency’s opinion the deletion of the Article 30b would not bring the desirable effect – straightforward and unanimous application of the rules.

The Presidency considers that the wording suggested in the first paragraph is the best way to reach a common understanding that the supply of SPV should be taxed on the first point of sale and then at each stage of a distribution chain whereas the redemption of the SPV should not create a separate chargeable event. Furthermore it can be argued that payments for SPV (in money or in kind), made by one distributor acting in his own name and on its own behalf to another one could in essence fall into a scope of Article 65 as no actual supply of underlying goods or services is foreseen by that person and, thus, without changes in Article 30b could constitute consideration for the given supply of underlying goods or services. In other words the deletion of Article 30b might mean that in the distribution chain there is a supply of consideration instead of goods or services. Therefore in the Presidency’s view the provisions should expressly set that the supply of the SPV by the issuer as well as any subsequent sale of SPV carried out by the distributor is considered as the supply of the underlying good or service.

The second paragraph is written in the same manner as the first one and seeks to ensure that the supply of MPVs would be taxed only upon redemption and the passing of MPVs through a distribution chain would not be treated as a separate chargeable event relating to any supply of underlying goods or services (other than a distribution service).

The third paragraph was not discussed deeply during the meetings therefore the Presidency considers that it is prudent to leave it intact at this stage. However having in mind the changes made to article 30a the Presidency has slightly adjusted the wording as in the Presidency’s view the paragraph should not be applied to the discount vouchers.

- (4) Article 65 is replaced by the following:

“Article 65

Where a payment is to be made on account before the goods or services are supplied, including payment for a single-purpose voucher, VAT shall become chargeable on receipt of the payment and on the amount received.”

Presidency Note

As the Article 30b provides that the supply of the SPV by the issuer as well as any subsequent sale of SPV carried out by the distributor acting in its own name is considered as the supply of the underlying good or service, that means that the chargeable event occurs at the time set in Article 63 (when the goods or the services are supplied), i.e. at the time of supply of an SPV as well as at the time of any subsequent sale of an SPV. If payment for SPV is to be made before the supply of the SPV, it would be covered under Article 65.

- (5) In Article 66, the second paragraph is replaced by the following:

“The derogation provided for in the first paragraph shall not, however, apply where payments are made against a **single-purpose** voucher, or to supplies of services in respect of which VAT is payable by the customer pursuant to Article 196 **and to supplies or transfers of goods referred to in Article 67.**”

Presidency Note

The purpose of this amendment to Article 66 is to ensure that a Member State cannot derogate from Article 65, which could lead to instances of different Member States taxing SPVs differently, and thus leading to the possibility of double or non-taxation.

The Presidency suggests the following corrections:

- to set expressly that provision applies only to SPVs (provisions of Article 66 could not be applied to MPVs even theoretically as in case of MPVs it is not known where a place of supply of underlying goods or services is or what rate is applicable to them);*
- the second correction is technical error correction - the wording “and to supplies or transfers of goods referred to in Article 67” was added by Council Directive 2010/45/EU but is missing in the revised text.*

(6) The following Articles 74a, 74b and 74c are inserted:

“Article 74a

1. The taxable amount of the supply of goods or services redeemed against a multi-purpose voucher shall be equal to the nominal value of that voucher, or in the case of partial redemption, to that part of the nominal value which corresponds to the partial redemption of that voucher, less the amount of VAT related to the goods or services redeemed.
2. The nominal value of a multi-purpose voucher shall include everything which constitutes consideration, including **remuneration for the distribution service as well as** the VAT amount, obtained or to be obtained by the issuer of the voucher.

[Alternative option: for the cash received scheme:

*1.—The taxable amount of the supply of goods or services redeemed against a multi-purpose voucher shall be equal to the ~~nominal value of that voucher~~ **consideration obtained or to be obtained by the issuer of the multi-purpose voucher**, or in the case of partial redemption, to that part of the ~~nominal value~~ **consideration** which corresponds to the partial redemption of that voucher, less the amount of VAT related to the goods or services redeemed.*

2. ~~The nominal value of a multi-purpose voucher shall include everything which constitutes consideration, including the VAT amount, obtained or to be obtained by the issuer of the voucher.]~~

Presidency Note

The Presidency has made a slight adjustment to the wording of the Commission's proposal as to explicitly indicate that the distributions service is a part of the nominal value of MPV.

The alternative wording is made for the cash received scheme as the concept of nominal value is not part of that scheme.

Article 74b

In respect of the supply of the distribution services referred to in point (d) of Article 25, the taxable amount shall be equal to the difference between the nominal value of the voucher and the purchase price paid [**and, where the customer is not liable for the payment of the VAT in accordance with Articles 194 or 196**], less the amount of VAT related to the supplied distribution service. **Where there is a separate agreement among the parties foreseeing the remuneration for the distribution services granted, the taxable amount shall be increased by the amount due to the taxable person supplying the distribution service referred to in point (d) of Article 25 by the customer of that service.**

[Alternative option: for the cash received scheme:

*In respect of the supply of the distribution services referred to in point (d) of Article 25, the taxable amount shall be equal to the difference between the ~~nominal value~~ **selling price and the purchase price** of the voucher and ~~the purchase price paid~~ **[where the customer is not liable for the payment of the VAT in accordance with Articles 194 or 196]**, less the amount of VAT related to the supplied distribution service. **Where there is a separate agreement among the parties foreseeing the remuneration for the distribution services granted, the taxable amount shall be increased by the amount due to the taxable person supplying the distribution service referred to in point (d) of Article 25 by the customer of that service.]***

Presidency Note

The Presidency wonders whether a reference to Art. 194 and 196 is needed in order to address the issue where the VAT payable has to be calculated by applying reverse charge rule and in order to simplify matters for the supplier of the distribution service. It could be argued that with the reference suggested the supplier will have no need to know the VAT rate applicable (if VAT is applicable at all) in the customer's place of establishment. This could be even more important in cases where the customers are established outside the EU. However on the other hand it could be also argued that there is no need for the supplier to know the VAT rate applicable in the customer's place of establishment and without the explicit reference to Art. 194 and 196.

Member States are invited to comment on that issue.

The Presidency also considers that it is necessary to clarify what constitutes a taxable amount in cases where the purchase price of MPV is lower than the selling price but a separate agreement for the supply of distribution services establishing the remuneration for them also exists.

The alternative wording is suggested for the cash received scheme.

Article 74c

In respect of the supply of the redemption services referred to in point (e) of Article 25, the taxable amount shall be equal to the price reduction [**or rebate**] granted to the customer and reimbursed by the issuer, less the amount of VAT related to the supplied redemption service.”

Presidency Note

The Presidency wonders whether in cases where the redeemer accepts voucher for the rebate which is later reimbursed by the issuer to the redeemer the amount of the rebate should not constitute the taxable amount of the service as well. The Presidency considers that the services are granted notwithstanding whether the discount or the rebate by the redeemer was granted.

(7) In Article 169, the following point (d) is added:

“(d) transactions relating to the payment of consideration by the issuer of a voucher to the taxable person supplying the goods or services to which the voucher relates in so far as the supplied goods or services give rise to deduction.”

[(x) *The following Article 169a is inserted:*

“Article 169a

VAT charged by taxable persons in respect of distribution services which are referred to in point (d) of Article 25 shall not be deductible or refundable in any Member State.]

Presidency Note

If the cash received scheme is chosen, the question arises whether in order to collect through the distribution chain of MPVs the same amount of VAT as the amount of VAT which is collected from the customer that buys goods or services not through the use of a voucher no deduction or refund should be allowed for persons acquiring distribution services.

Member States are invited to comment on that.

(8) In Article 193, the following paragraph is added:

~~[“Where a single transactions as referred to in Article 30b consists in the supply of a multi purpose voucher and a subsequent supply of goods or services, the redeemer shall be regarded as having carried out the taxable supply.”]~~

Presidency Note

Having in mind changes made to Article 30b where it is suggested to set that the redemption of a MPV is treated as a supply of the goods or services to which the voucher relates and with the concept of the single supply gone from that Article the Presidency wonders if it is still necessary to retain the amendment to the Article 193.

Member States are invited to comment on that.

[(x) *The following Article 226c is inserted:*

“Article 226c

The taxable person may not enter separately on the invoices which he issues the VAT relating to supplies of distribution services which are referred to in point (d) of Article 25.]

Presidency Note

If the cash received scheme is chosen, the question arises if VAT charged on distribution services should be required to be entered on an invoice.

(9) Article 272 is amended as follows:

(a) point (b) of paragraph 1 is replaced by the following:

“(b) taxable persons carrying out none of the following transactions:

- (i) those referred to in Articles 20, 21, 22, 33, 36, 138 and 141;
- (ii) those referred to in Article 44 but only where VAT is payable by the customer pursuant to Article 196;”

(b) paragraph 2 is replaced by the following:

“2. If Member States exercise the option under points (d) or (e) of the first subparagraph of paragraph 1, they shall take the measures necessary to ensure the correct application of the transitional arrangements for the taxation of intra-Community transactions.”

Presidency Note

The Presidency invites to discuss the amendment of Article 272 and issues raised in Irish Presidency note in FISC 98 (see below):

The Commission in the accompanying notes to their proposal state that the aim of the changes to this Article is to ensure that the information on cross-border supplies of services, including those related to vouchers, is received by all Member States where the tax is due to ensure that VAT can be correctly assessed and collected in their territory. In particular, the obligations for taxable persons to be identified for VAT and to complete recapitulative statements should apply consistently in all Member States.

In earlier discussions on this proposal, concerns were expressed that this Article is not fundamental to the overall objective of the proposal and that the amendments to this Article may unnecessarily bring traders who are below the small business threshold into the realm of VAT. Member States are invited to comment.

(10) [The following Annex is inserted after Annex I:

“Annex Ia

Payment services excluded from the definition of a voucher in Article 30a

- (1) Services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account.
- (2) Services enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account.

- (3) Execution of payment transactions, including transfers of funds on a payment account with the user's payment service provider or with another payment service provider:
 - (a) execution of direct debits, including one-off direct debits,
 - (b) execution of payment transactions through a payment card or a similar device,
 - (c) execution of credit transfers, including standing orders.
- (4) Execution of payment transactions where the funds are covered by a credit line for a payment service user:
 - (a) execution of direct debits, including one-off direct debits,
 - (b) execution of payment transactions through a payment card or a similar device,
 - (c) execution of credit transfers, including standing orders.
- (5) Issuing and/or acquiring of payment instruments.
- (6) Money remittance.
- (7) Execution of payment transactions where the consent of the payer to execute a payment transaction is given by means of any telecommunication, digital or IT device and the payment is made to the telecommunication, IT system or network operator, acting only as an intermediary between the payment service user and the supplier of the goods and services.]

Article 2

1. Member States shall adopt and publish, by 1 January 2014 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 1 January 2015.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels,

For the Council

The President
