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From:	Presidency
To:	Delegations
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Subject:	Presidency compromise text on SVR - Amending Regulation on VAT administrative cooperation arrangements for the digital age

Draft

COUNCIL REGULATION

amending Regulation (EU) No 904/2010 as regards the VAT administrative cooperation arrangements needed for the digital age

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,

Whereas:

(...)

Presidency note:

The Presidency does not plan to discuss recitals yet, but adjustments will be needed at a later stage to reflect the amendments in the operative part.

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) No 904/2010 applicable from 1 January 2025

Regulation (EU) No 904/2010 is amended as follows:

(1) in Article 1, paragraph 4 is replaced by the following:

‘4. This Regulation also lays down rules and procedures for the exchange by electronic means of VAT information on goods and services supplied or goods transferred in accordance with the special schemes provided for in Title XII, Chapter 6, of Directive 2006/112/EC and also for any subsequent exchange of information and, as far as goods and services covered by the special schemes are concerned, for the transfer of money between Member States' competent authorities.’;

¹ OJ C , , p. .

² OJ C , , p. .

- (2) in Article 2, paragraph 2 is replaced by the following:
‘2. The definitions contained in Articles 358, 358a, 369a, 369l and 369xa of Directive 2006/112/EC for the purposes of each special scheme shall also apply for the purposes of this Regulation.’;
- (3) in Article 17(1), points (d) and (e) are replaced by the following:
- ‘(d) information which it collects pursuant to Articles 360, 361, 364, 365, 369c, 369f, 369g, 369o, 369p, 369s, 369t, 369xc, 369xf and 369xg of Directive 2006/112/EC;
 - (e) data on the VAT identification numbers referred to in Article 369q of Directive 2006/112/EC it has issued and per VAT identification number issued by any Member State, the total value of the imports of goods exempted under Article 143(1), point (ca), during each month, per Member State of consumption as defined in Article 369l(4) of that Directive.’;
- (4) Article 47b is replaced by the following:

‘Article 47b

1. Member States shall provide that taxable persons making use of the special scheme laid down in Title XII, Chapter 6, Section 2 of Directive 2006/112/EC provide to the Member State of identification, by electronic means, the information laid down in Article 361 of that Directive. Taxable persons making use of the special schemes laid down in Title XII, Chapter 6, Sections 3 and 5, of Directive 2006/112/EC shall provide, to the Member State of identification, by electronic means, details for their identification when their activities commence pursuant to Articles 369c and 369xc of that Directive. Any changes in the information provided pursuant to Article 361(2), Article 369c and Article 369xc of Directive 2006/112/EC shall also be submitted by electronic means.
 2. The Member State of identification shall transmit the information referred to in paragraph 1 by electronic means to the competent authorities of the other Member States within 10 days from the end of the month in which the information was received from the taxable person using one of the special schemes laid down in Title XII, Chapter 6, Sections 2, 3 and 5, of Directive 2006/112/EC. The Member State of identification shall in the same manner inform the competent authorities of the other Member States of the VAT identification numbers referred to in those Sections 2, 3 and 5.
 3. Where a taxable person making use of one of the special schemes laid down in Title XII, Chapter 6, Sections 2, 3 and 5, of Directive 2006/112/EC is excluded from that special scheme, the Member State of identification shall inform the competent authorities of the other Member States thereof by electronic means and without delay.’;
- (5) Article 47d is replaced by the following:

‘Article 47d

1. Member States shall provide that the VAT return with the details set out in Articles 365, 369g, 369t and 369xg of Directive 2006/112/EC are submitted by electronic means.

2. The Member State of identification shall transmit the information referred to in paragraph 1 by electronic means to the competent authority of the Member State of consumption or the Member States from and to which the goods have been dispatched or transported **after the date on which the return was required to be submitted in accordance with Council Directive 2006/112/EC but not later than at the latest 20 days after the end of the month during which the return was required to be submitted.**

The Member State of identification shall also transmit the information provided for in paragraphs 2 of Article 369g of Directive 2006/112/EC to the competent authority of each other Member State from which goods are dispatched or transported and the information provided for in paragraph 3 of Article 369g of Directive 2006/112/EC to the competent authority of each Member State of establishment concerned.

Member States which have required the VAT return to be made in a national currency other than euro, shall convert the amounts into euro using the exchange rate valid for the last date of the tax period. The exchange shall be done following the exchange rates published by the European Central Bank for that day, or, if there is no publication on that day, on the next day of publication.’;

Presidency note:

See topic: Improvement to the correction mechanism

The first subparagraph of Article 47d(2) of Regulation 904/2010 has also been amended to clarify that the MSID should only submit the information referred to in Articles 365, 369g, 369t and 369xf after the date the return was required to be submitted but not later than 20 days following the end of the month when the return was required to be submitted.

The second and third subparagraphs of Article 47d(2) have been included after they were mistakenly omitted from the original proposal.

(6) in Article 47h, the following paragraph is added:

‘For the purposes of the first paragraph, Member States shall grant competent authorities access to the information referred to in Article 369p (1) and (3) of Directive 2006/112/EC.’;

(7) Article 47i is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. To obtain the records held by a taxable person or intermediary pursuant to Articles 369, 369k, 369x and 369xk of Directive 2006/112/EC, the Member State of consumption or the Member State from or to which the goods have been dispatched or transported shall first make a request to the Member State of identification by electronic means.’;

(b) paragraphs 4 and 5 are replaced by the following:

‘4. The Member State of identification shall transmit the records obtained by electronic means, without delay to the requesting Member State of consumption or Member State from or to which the goods have been dispatched or transported.

5. Where the requesting Member State of consumption or Member State from or to which the goods have been dispatched or transported does not receive the records within 30 days of the date of the making of the request, that Member State may take any action in accordance with its national legislation to obtain such records.’;

(8) in Article 47j, paragraph 2 is replaced by the following:

‘2. Without prejudice to Article 7(4), if the Member State of consumption or the Member State from or to which the goods have been dispatched or transported decides that an administrative enquiry is required, it shall first consult with the Member State of identification on the need for such an enquiry.’;

~~(9) in Article 47l, point (a) is replaced by the following:~~

~~‘(a) the technical details, including a common electronic message, for providing the information referred to in Articles 47b(1), 47c(1), and 47d(1), and the standard forms as referred to in Article 47i(3) and Article 47la(3)m;’;~~

Presidency note:

See topic: Use of the Standard Audit File (SAF) OSS for records related to Art 242a of the VAT Directive + process of requests parallel to request for OSS records

An erroneous reference to the empowerment for the technical details of the standard form has been removed from the Article 47l. As Article 47l is not amended anymore, it can be removed from the proposal. The empowerments for the technical details are indeed already included in the new Article 47lb

(10) the following Chapter XIa is inserted:

‘CHAPTER XIa

**PROVISIONS CONCERNING RECORD KEEPING OBLIGATIONS FOR
ELECTRONIC INTERFACES FACILITATING SUPPLIES OF GOODS OR
SERVICES IN ACCORDANCE WITH ARTICLE 242A OF DIRECTIVE 2006/112/EC**

Article 47la

1. To obtain the records held by a taxable person pursuant to Article 242a of Directive 2006/112/EC, the Member State in which those supplies are taxable shall first make a request to ~~a~~ the Member State in which a taxable person is identified for VAT purposes by electronic means.
2. Where ~~a~~ the Member State in which a taxable person is identified for VAT purposes receives a request referred to in paragraph 1, that Member State shall transmit the request by electronic means and without delay to the taxable person.
3. Member States shall provide that, upon request, a taxable person submits the requested records by electronic means to the Member State in which that taxable person is identified for VAT purposes **and which has transmitted the request**. Member States shall accept that the records may be submitted using a standard form.
4. The Member State **referred to in paragraph 3** ~~in which that taxable person is identified for VAT purposes~~ shall transmit the records obtained by electronic means and without delay to the requesting Member State in which those supplies are taxable.
5. Where the requesting Member State in which those supplies are taxable does not receive the records within 30 days of the date of the making of the request, that Member State may take any action in accordance with its national legislation to obtain such records.

Presidency note:

See topic: Use of the Standard Audit File (SAF) OSS for records related to Art 242a of the VAT Directive + process of requests parallel to request for OSS records

The text has been amended as to take into account that the taxable person can be identified in several Member States.

Article 47lb

The Commission shall by means of implementing acts specify the following:

- (a) the technical details for the standard form as referred to in Article 47la(3);
- (b) the technical details, including a common electronic message, for providing the information referred to in 47la(1), (2) and (4) as well as the technical means for the transmission of this information.;

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 58(2).’

Article 2

Amendments to Regulation (EU) No 904/2010 applicable from 1 January 2026

Regulation (EU) 904/2021 is amended as follows:

- (1) Article 21 is amended as follows:
 - (a) paragraph 2 is amended as follows:
 - (i) point (c) is replaced by the following:

‘(c) the VAT identification numbers of the persons who carried out the supplies of goods and services referred to in point (b);’;
 - (ii) in point (e), the introductory words are replaced by the following:

‘the total value of the supplies of goods and services referred to in point (b) from each person referred to in point (c) to each person holding a VAT identification number issued by another Member State under the following conditions:’;

(...)

Article 5

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

Article 1, shall apply from 1 January 2025.

Article 2 shall apply from 1 January 2026.

Article 3 shall apply from 1 January 2028.

Article 4 shall apply from 1 January 2030.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President