

# VAT changes coming up in EU (1) (1/34/18)

The levels of VAT collected across the EU have been falling year on year because of VAT fraud and evasion as well as bankruptcy, insolvency or non-compliance. This article takes a look at some of the changes the European Commission is proposing to the current VAT treatment that could help close the VAT gap in the future.

## Minimising VAT fraud in domestic transactions

Reverse-charge in domestic transactions has been adopted under articles 199.a and 199.b of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax. This scheme aims to fight the widespread fraud in which the supplier, having received amounts of VAT from the customer, disappears without paying the VAT collected over to the tax authority. At the same time, the customer acting in good faith or fraudulently can deduct the VAT paid to the supplier through the VAT return.

Reverse-charge VAT means that the responsibility for paying VAT is shifted onto the taxable person that has received the supply. According to the implementation procedure laid down by the directive, reverse-charge VAT can be applied to certain listed supplies, and the time limit for applying this scheme in all member states is limited to 31 December 2018.

In a report presented to the Council and the European Parliament on 3 August 2018, which is based on a survey of member states, large companies, consultancies and academics, the Commission expresses the opinion that reverse-charge VAT is generally a useful tool for fighting fraud and suggests extending its application to 30 June 2022.

Overall the respondents recognise reverse-charge VAT as a very effective tool for fighting fraud in particular industries that has cut down the number of traders on the black market to restore fair competition across industries and helped businesses minimise their VAT risk assessment and tax dispute costs as well as improving their cash flows.

The downside to reverse-charge VAT is its temporary effect, and the fact that it cuts down fraud only in the particular industry, frequently causing the same fraud to shift away to ancillary sectors or other industries, or even to other member states. The respondents also say the compliance requirements that businesses in their industry have to meet are often quite complicated, which heightens the risk of misapplying (or failing to apply) reverse-charge VAT. Businesses operating in various member states also mention this scheme as an encumbrance because the rules for applying reverse-charge VAT may vary from country to country, with discrepant invoicing procedures causing an additional administrative burden. Such businesses tend to support the adoption of a single approach across the EU. Examples of recognised shortcomings also include extra costs arising from changes to accounting systems, cash systems, invoicing, staff training etc.

Since the same businesses are seen migrating from an industry in which reverse-charge VAT has been introduced to another industry, the Commission reiterates that member states should simultaneously adopt some other measures to help solve the VAT fraud problem.

At the ECOFIN meeting held on 13 July 2018, the member states were still unable to reach an agreement on applying a reduced rate of VAT to e-publications or on applying reverse-charge VAT in domestic

transactions.<sup>1</sup>

*(Next week we'll be writing about the Commission's proposals for minimising VAT fraud in intra-Community transactions.)*

<sup>1</sup> The European Commission's proposal of 21 December 2016 for applying reverse-charge VAT in any domestic transaction between two taxable persons that exceeds €10,000