

VAT News – A European Update

1. Withdrawal of the proposal of a Standard VAT Return

You will recall that the European Commission published a proposal in 2013 for the adoption of a Standard VAT Return in all Member States to simplify EU cross border trade for businesses by introducing a simple structure, standardised information and common deadlines for VAT returns.

While Member States were supportive of the concept of a standardised VAT return, they also wanted to secure the information they are currently gathering. As a result, discussions and negotiations led to so many flexibilities being built into the proposal that it soon became difficult to envisage how the proposal would actually lead to savings for business.

This led to a situation where Ireland, with the most compact VAT return, was being asked to introduce a return containing five obligatory boxes, thirty one optional standardised boxes (divided into subsections and split by rates) plus an unknown and potentially unlimited number of additional boxes that could be requested in relation to special schemes or for control purposes. It became increasingly obvious that the vast majority of businesses were going to be faced with a more complex return for the benefit of a very small minority.

We made the point consistently that it was in the competence of Member States to reduce the information requirements on their VAT returns without resorting to a Directive amendment. Ultimately, it was obvious that the cost savings for business was being totally eroded and we were advised that the proposal would be formally withdrawn by the Commission. This is expected to be announced shortly.

2. Vouchers

A solution to the VAT treatment of vouchers seems to be as far away as ever. We believed we were very close to getting agreement during the Irish Presidency, but it seems to be a case of one step forward and two steps back.

A broad overview of the new rules in the current proposal is as follows:

- A voucher will be an instrument where there is an obligation to accept it as consideration for goods or services and where the goods or services to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation.
- A single-purpose voucher (SPV) will be a voucher where the place of supply of the goods or services, and any VAT due are known at the time of issue.

- Any other voucher fitting within the main definition will be a multi-purpose voucher (MPV).
- The transfer of a SPV made by a business acting in its own name will be treated as a supply of the underlying good or service.
- If an SPV is transferred by a business acting as an agent, then the principal is seen as making the supply of the underlying good or service.
- If an issuer of an SPV is not the redeemer, the redeemer will be seen as supplying the issuer.
- The transfer of an MPV will not be subject to VAT. Instead VAT will be accounted for when the voucher is used.

We felt we were close to agreement during the Latvian Presidency but some Member States refused to accept that the file needed priority and as a result, it did not make the ECOFIN agenda.

Two outstanding issues still remain for discussion. The first issue is the definition of a voucher. Yes, after 10 years, some Member States have re-opened this! The second issue is whether distributors of multi-purpose vouchers (MPV) should be able to deduct VAT incurred on their overheads. The current proposal treats the MPV distribution service as being outside the scope of VAT and approximately half of the Member States feel that no input credit should therefore be allowed on their overheads and expenditure. It might be possible to overcome this by making the distribution service zero-rated and we will have to see how this plays in future meetings.

Worryingly, some Member States also reported that business had advised that they did not see a need for any change to the VAT Directive in this area. They are now asking that the proposal be withdrawn in spite of the obvious issues around non-taxation and double taxation. If businesses are experiencing problems in this area, please highlight your problems to us directly or through your representative body.

3. Dublin Fiscalis Conference on “Modernising VAT for cross-border e-Commerce”

On 7 – 9 September 2015, we hosted a Fiscalis Conference on “Modernising VAT for cross-border e-Commerce” in the Croke Park Conference Centre. We did this in conjunction with the Commission and Deloitte Belgium and Deloitte UK as part of an early review of the 2015 changes and MOSS implementation. The conference, attended by Member States delegates, the European Commission, industry bodies and over 60 representatives from the world’s biggest e-commerce businesses, also identified the areas that worked and those in need of improvement and considered how VAT in the Digital Economy might evolve in the future.

The conference was a resounding success and facilitated a collection of practical feedback for Deloitte's report on MOSS and the 2015 changes, due for issue in mid 2016. Feedback from the conference discussions and workshop has also laid the groundwork for the development of legislative proposals in 2016 for the extension of the Place of Supply rules and MOSS to all B2C supplies; simplification initiatives; home country controls where the Member State of Identification would be responsible for managing the compliance of the businesses registered there under MOSS and the abolition of 3rd country, small value consignment reliefs.

Before this can happen, Deloitte will finalise their report for the Commission and an impact assessment will be undertaken.

4. Public Consultation on cross border e-commerce

As part of its Digital Single Market strategy and on foot of the Fiscalis conference, the European Commission launched a public consultation seeking the opinion of business and other interested parties on the VAT rules for cross-border e-commerce supplies. The aim of the consultation is to receive a wide range of views from interested parties before the drafting of legislative proposals in 2016. The consultation paper is well worth reading and considers a number of areas of importance for business including;

- The current VAT rules for business-to-consumer cross-border supplies of goods and services.
- The implementation of the 2015 Place of Supply changes and the Mini One Stop Shop.
- The European Commission's commitment to extend the current Mini One Stop Shop structure to all B2C supplies, the introduction of a common EU-wide simplification measure to help small start-up e-commerce businesses and home country audit controls.

The consultation is an opportunity for business to feed into these proposals and we strongly encourage business to engage in the consultation in order to influence future EU VAT policy.

The public consultation will run for 12 weeks until 18 December 2015 and can be accessed at

<https://ec.europa.eu/eusurvey/runner/ModernisingVATcrossborderecommerce>.