Contribution ID: 6c3e084e-4537-4ef2-bd05-a0be20d274e0
Date: 02/06/2021 17:05:02

Improving the Situation of EU Citizens as Taxpayers for Direct and Indirect Tax

Fields marked with * are mandatory.

Introduction

1. What is the aim of this public consultation ?

In its Action Plan for Fair and Simple Taxation Supporting the Recovery Strategy the Commission announced for 2021 a Communication taking stock of taxpayers' existing rights under EU law together with a Recommendation to Member States to improve the situation of tax payers and to simplify tax obligations.

This public consultation is designed to collect information on direct tax (mainly Personal Income Tax) and certain indirect tax (VAT) related problems that citizens currently face when they exercise their freedoms for cross-border activities. This could be the case if, for example, they work or buy property in, or move to, EU Member States other than their country of residence.

Thank you for taking the time to complete this survey. We value the information you provide. The results will feed into the Recommendation which is scheduled for the 3rd quarter of 2021.

2. Who is being consulted ?

All stakeholders are invited to provide their views. This includes citizens, national tax administrations, intergovernmental, non-governmental and business organizations, tax practitioners and academics.

3. Background

The Recommendation is part of the Action Plan for Fair and Simple Taxation Supporting the Recovery Strategy. It will aim at facilitating the implementation of taxpayers' rights and simplify their obligations. Raising awareness for taxpayers' rights will improve legal certainty. The Recommendation will further aim at enhancing the relationship between taxpayers and tax administrations. A good relationship between taxpayers and tax administrations is mutually efficient, since it eases the collection of taxes for tax administrations and facilitates compliance with the applicable rules for taxpayers. For instance, better use of technological developments could result in a simpler, more effective and easier collection of taxes, also in cross-border situations, while achieving social fairness.

Individuals undertaking cross-border activities within the EU are often confronted with different / additional tax issues compared to individuals who are active only within a single EU Member State. The Commission already addressed the issue of taxation of citizens several times, for example by the Communication on "Removing cross-border tax obstacles for EU citizens", the Commission Recommendation of 15 December 2011 regarding relief for double taxation of inheritances, and the reports of the expert groups on "Ways to tackle inheritance cross-border tax obstacles facing individuals within the EU" and "Ways to tackle cross-border tax obstacles facing individuals within the EU", published in 2016. National courts, infringement procedures initiated by the European Commission and in particular the jurisprudence of the Court of Justice of the European Union have eliminated national rules that were not in conformity with the EU Treaties. The cooperation between the tax administrations is much closer than a decade ago, thanks to the adoption of the Directives for Administrative Cooperation (DAC). Still, citizens continue to inform the Commission on issues as, for example, complex administrative procedures, language barriers or Member States interpreting tax treaties differently.

Although EU rules on VAT are broadly harmonized, it seems that the financial situation of taxable persons, in particular of small and medium sized enterprises (SMEs) could be improved. Cash flow problems of SMEs could be alleviated by quicker and easier VAT refunds, both in domestic and cross-border contexts. Access to, and clear rules on, the possibility to claim VAT relief on bad debts, as well as a more frequent use of the cash accounting scheme could also help to alleviate cash-flow problems of taxable persons. Finally, a good dialogue between the taxpayer and the tax administration could help taxpayers, but also tax administrations. Tax administration could gather information without necessarily having to do an audit. Taxpayers could benefit from the assistance of tax administrations in case of doubts on procedures.

The purpose of this public consultation is to collect information on current problems and identify best practices to remedy these problems.

About you

* 1 Language of my contribution

- Bulgarian
- Croatian
- Czech

- Danish
- Dutch
- English (selected)
- Estonian
- Finnish
- French
- German
- Greek
- Hungarian
- Irish
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

*2 I am giving my contribution as

- Academic/research institution
- Business association (selected)
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

* 3 First name

Clare

* 4 Surname

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cmcguinness@taxinstitute.ie

* 7 Organisation name

255 character(s) maximum

Irish Tax Institute

* 8 Organisation size

- ○ Micro (1 to 9 employees)
- ● Small (10 to 49 employees)
- ○ Medium (50 to 249 employees)
- ○ Large (250 or more)

9 Transparency register number

255 character(s) maximum

Check if your organisation is on the transparency register. It's a voluntary database for organisations seeking to influence EU decision-making.

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* 10 Country of origin

Please add your country of origin, or that of your organisation.

- ○ Afghanistan
- ○ Åland Islands
- ○ Albania
- ○ Algeria
- ○ American Samoa
- ○ Djibouti
- ○ Dominica
- ○ Dominican Republic
- ○ Ecuador
- ○ Egypt
- ○ Libya
- ○ Liechtenstein
- ○ Lithuania
- ○ Luxembourg
- ○ Macau
- ○ Saint Martin
- ○ Saint Pierre and Miquelon
- ○ Saint Vincent and the Grenadines
- ○ Samoa
- ○ San Marino

- Andorra
- Angola
- Anguilla
- Antarctica
- Antigua and Barbuda
- Argentina
- Armenia
- Aruba
- Australia
- Austria
- Azerbaijan
- Bahamas
- Bahrain
- Bangladesh
- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba

- El Salvador
- Equatorial Guinea
- Eritrea
- Estonia
- Eswatini
- Ethiopia
- Falkland Islands
- Faroe Islands
- Fiji
- Finland
- France
- French Guiana
- French Polynesia
- French Southern and Antarctic Lands
- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Greenland
- Grenada
- Guadeloupe

- Madagascar
- Malawi
- Malaysia
- Maldives
- Mali
- Malta
- Marshall Islands
- Martinique
- Mauritania
- Mauritius
- Mayotte
- Mexico
- Micronesia
- Moldova
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar /Burma
- Namibia
- Nauru

- São Tomé and Príncipe
- Saudi Arabia
- Senegal
- Serbia
- Seychelles
- Sierra Leone
- Singapore
- Sint Maarten
- Slovakia
- Slovenia
- Solomon Islands
- Somalia
- South Africa
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland

- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- Cameroon
- Canada
- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Clipperton

- Guam
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Iceland
- India
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica

- Nepal
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
- Niger
- Nigeria
- Niue
- Norfolk Island
- Northern Mariana Islands
- North Korea
- North Macedonia
- Norway
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru

- Syria
- Taiwan
- Tajikistan
- Tanzania
- Thailand
- The Gambia
- Timor-Leste
- Togo
- Tokelau
- Tonga
- Trinidad and Tobago
- Tunisia
- Turkey
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States

- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d’Ivoire
- Croatia
- Cuba
- Curaçao
- Cyprus
- Czechia
- Democratic Republic of the Congo
- Denmark
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- Lebanon
- Lesotho
- Liberia
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia
- Rwanda
- Saint Barthélemy
- Saint Helena Ascension and Tristan da Cunha
- Saint Kitts and Nevis
- Saint Lucia
- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam
- Wallis and Futuna
- Western Sahara
- Yemen
- Zambia
- Zimbabwe

*11 Publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

- **Anonymous**
  Only your contribution, country of origin and the respondent type profile that you selected will be published. All other personal details (name, organisation name and size, transparency register number) will not be published.
- **Public**
  Your personal details (name, organisation name and size, transparency register number, country of origin) will be published with your contribution.

- [x] I agree with the personal data protection provisions

Direct tax

Eliminating double taxation in cross-border situations

12 Do you have cross-border activities or cross-border income in or from another Member State as:

- [ ] Frontier Worker - any person pursuing an activity as an employed or self-employed person in a Member State and who resides in another Member State to which he/she returns as a rule daily or at least once a week.
- [ ] Mobile Worker - someone who works in more than one place or travels as part of their job, i.e. drivers, managers or consultants with several employers in various Member States
- [ ] Posted Worker - A worker who, for a limited period, carries out his work in the territory of an EU Member State other than the State in which they normally work.
- [ ] Cross-border Worker - if none of the above apply
- [ ] Professional
- [ ] Self-employed owner with an establishment in another Member State
- [ ] Investor, e.g. in real estate or in securities
- [ ] Owner of a holiday house
- [ ] Inactive persons, including pensioners, residing in a Member State other than the one where the income/pension fully or partly is provided.
- [ ] No cross-border activities
- [ ] Any other

13 Have you ever been effectively taxed twice by two Member States on your cross-border activities within the Single Market ?

- (•) Yes
- ( ) No
- ( ) I don't know

14 Was there a Double Taxation Convention in force between the Member States involved ?

- (•) Yes

- [ ] No
- [ ] I don't know

15 If yes, please mention the Member States ?

60 character(s) maximum

Germany and Ireland; France and Ireland.

16 Please indicate which were the reasons for the double taxation:

- [x] Limitations of imputation of tax credit
- [ ] Withholding tax relief procedures
- [ ] State of residence did not accept certificates from source state
- [ ] Conflicts on tax residence
- [ ] Divergent taxation of pensions in more than one Member State
- [ ] The lack of cross-border loss relief
- [x] Double taxation in the area of Inheritance taxes
- [x] Any other issue ? please explain here after

17 Please give any other relevant details about the cross-border double taxation case and the way it arose.

2500 character(s) maximum

The availability of double tax relief by way of tax credit may be limited in circumstances where profits are distributed to a company resident in Ireland from a company resident in another Member State, even where those profits have been subject to tax in that other Member State. Such a scenario may arise where there is a distribution of profits which have been subject to tax in that other Member State, but where a participation exemption or other relief is available in that country with respect to those profits with the result that no cash tax liability arises. We understand that the view of the Irish tax authorities is that a tax credit determined by reference to the headline rate of tax in the other Member State is not available in such circumstances.

Double taxation may also arise on a gift made by an Irish resident person in circumstances where the gift gives rise to both Irish capital gains tax and capital gains tax in another Member State. For example, in the case of a gift by an Irish resident individual of immoveable property in another EU Member State. In such a scenario, the individual's Irish capital gains tax liability may be reduced by the foreign tax credit. Irish gift tax is payable by the beneficiary of the gift. In calculating their gift tax liability, the beneficiary is entitled to claim a credit for Irish capital gains tax arising on the same event. This means that the reduction in the disponer's Irish capital gains tax liability by virtue of double tax relief results in a reduction of the amount of the credit available to the beneficiary of the gift. Therefore, there is in effect double taxation on the disposal compared with a scenario where the disposal was only subject to Irish capital gains tax and gift tax.

Payroll withholding tax may be applied in the Member State of residence of the employer and income tax is typically applied in Member State of residence of employee. In such circumstances, an application for the refund of payroll withholding taxes must be sought by the employee. This process can be administratively burdensome. Delays in receiving a refund of payroll withholding tax can result in a cash flow burden for the employee (in particular in cases where the payroll withholding tax relates to share-based remuneration), with the result that there is a late payment of income tax which can lead to the employee suffering an interest charge.

18 Have you sought any remedies to eliminate the cross-border double taxation ?

- (x) Yes
- ( ) No
- ( ) I do not know

19 If yes, please specify what action you took to eliminate the double taxation:

- [x] An appeal to the tax authorities in the state of source
- [x] An appeal to the tax authorities in the state of residence
- [x] An appeal to a court in the state of source
- [x] An appeal to a court in the state of residence
- [ ] An initiation of a mutual agreement procedure under a Double Taxation Convention.
- [ ] Submitted case to SOLVIT
- [ ] Other, please explain

20 Please explain

2500 character(s) maximum

Where the relevant domestic legislation or bilateral agreements do not provide effective relief from double taxation, appeals to the tax authorities or courts in the Member State of source or the Member State of residence may be of limited benefit. For example, Member States use different approaches to the imposition of gift/ inheritance tax. These differing approaches, combined with the limited scope of the gift/ inheritance tax bilateral agreement network within the EU and the limited unilateral relief provisions in the domestic legislation of Member States, can result in double taxation. For example, Irish unilateral relief does not typically allow for relief where the foreign tax charge falls on the disponer (or their estate) rather than the beneficiary (unless an inheritance is taken from the residue of an estate).

21 Who assisted you with the remedy?

- [ ] Myself without any further help
- [x] A lawyer / tax consultant
- [ ] Other

22 What were the cost in EUR for the remedy, e.g. consultancy fees?

500 character(s) maximum

Tax adviser fees vary depending on the complexity of the matter, the length of time involved in seeking relief, and whether it is necessary to engage advisers in both Member States. Also, substantial legal fees may arise where an appeal is made to the courts to seek relief from double taxation. Frequently, taxpayers may believe they are entitled to relief but they choose not to pursue the relief due to insufficient resources, the time involved, or a lack of guarantee of a successful outcome.

24 Would one or several of the following issues have helped to solve your problem ?

- [ ] Standard and uniform certificates available in all official languages
- [x] A better cooperation between the tax administrations of Member States.
- [x] Only one Member State in charge of dealing with the tax ("one stop shop").
- [ ] A contact point of the respective Member States involved, e.g. a country desk at the Ministries ?
- [ ] A European Ombudsman in case tax administrations do not find a conclusive solution
- [ ] A common, standardised, EU-wide system for withholding tax relief at source?
- [x] Any other suggestion

25 Please explain any other suggestion

2500 character(s) maximum

We believe that a centralised system which supports the prompt, low-cost, issuance of certificates of tax residence across Member States could have substantial benefits for EU taxpayers. However, it would be important to ensure that any such system would, at a minimum, be as efficient and accessible as the existing systems in place across Member States.

There remains a wide disparity between Member States regarding the taxation of transfers of wealth. As previously mentioned, the network of bilateral agreements for the relief of double taxation on such transfers is limited. As a result, double taxation in the areas of gifts and inheritances remains a substantial issue for EU taxpayers. Policymakers could consider the merits of a common set of rules for all Member States with respect to the provision of relief from double taxation within the EU on the transfer of wealth.

Eliminating cross-border tax obstacles

27 Did you experience shortcomings - other than effective double taxation - such as:

- [x] The need to submit two tax declarations
- [x] The need to submit a certificate of residence
- [x] Problems related to language barriers, such as non-acceptance of certificates because they were not drafted in the official language or the necessary data was not reproduced in the standard domestic way.
- [x] Late withholding tax refunds
- [x] Paper-based withholding tax refund procedures
- [ ] Rejection of foreign certificates for deduction of insurance premiums, donations or the like
- [x] Any other administrative burden. Please explain:

28 Please give further explanations for administrative burdens:

2500 character(s) maximum

Payroll withholding taxes:
The application of foreign tax credits at source can be difficult for employees subject to payroll taxes in two EU Member States on their employment income. In Ireland, while there is a facility to have credit for these taxes included in real-time for payroll purposes, the application process can be difficult and administratively burdensome. As a foreign tax credit should ultimately be available for the employee, this difficulty in applying the credit at source should not result in double taxation. However, where an employer has simultaneous payroll withholding obligations in two Member States and an employee is required to bear the cash flow burden of the dual withholding obligations, this can be a substantial obstacle to cross-border remote working arrangements.

The application process for the refund of payroll taxes withheld in another Member State can be administratively burdensome. We understand that submissions may be required from the employee in both jurisdictions and the tax authorities may require evidence/correspondence from the other tax authority sourced through the employee rather than the tax authorities corresponding directly with each other. Formal translations of correspondence may also be required by the tax authorities.

Withholding tax on interest and dividends:
Interest and dividend payments to transparent entities can present challenges to cross-border lending and investment. For example, where there is a payment of interest by an Irish company to a foreign transparent entity, treaty relief may be available at source if all of the beneficial owners of the transparent entity are entitled to treaty relief and they each provide the required self-certification as set out in published guidance. However, if any member of the transparent entity is not entitled to treaty relief, treaty relief at source is not available to any of the beneficial owners. In such circumstances, each of the beneficial owners must seek a refund of tax withheld from the Irish tax authorities to the extent that they are entitled to such a refund.

29 Do you consider that your problems might have been solved by one of the following solutions:

- [ ] A better cooperation between the tax administrations involved
- [ ] The possibility to file only one single tax declaration, possibly with a compensation payment to be agreed by the 2 tax administrations?
- [ ] Pre-filled tax declarations
- [x] Uniform, standardised and multilingual certificates for tax residency, withholding taxes, donations, social security contributions, pension payments and tax deductible savings payments.
- [ ] Soften the conditions for being treated as a resident taxpayer, provided your State of residence cannot take into account your personal situation
- [x] Any other ?

30 Please explain any other:

2500 character(s) maximum

Payroll withholding taxes:
As noted in the response to Q28 above, there is a facility in place in Ireland which allows for the application of foreign tax credits at source for employees subject to simultaneous payroll obligations in two countries. However, the facility is cumbersome and administratively burdensome for employers. Improvements to the accessibility of this system would encourage employers to avail of the facility, which in turn would assist employers or employees who would otherwise be required to bear the cash flow burden of simultaneous payroll withholding obligations in two countries.

Withholding tax on interest and dividends:
We consider that an improved system of self-certification of entitlement to treaty relief for the recipients of Irish source interest and dividend payments, particularly in the context of interest payments to transparent entities, would facilitate the application of treaty relief at source.

Interest on tax overpaid:
Taxpayers' frustrations with difficulties in receiving prompt relief from double taxation are increased by the fact that interest payable to taxpayers on such overpaid tax is restricted. If the overpayment arises due to a mistaken assumption by the Irish tax authorities in the application of the law, interest is only payable from the end of the chargeable period in which the overpayment of tax is made. This means that the interest clock may start up to 12 months after the date of overpayment.
If the overpayment is not due to a mistaken assumption as to the application of the law by the Irish tax authority, interest only becomes payable on the tax overpaid 93 days after the date on which a valid claim for the repayment had been filed.
There is an imbalance in the interest payable on tax overpaid and interest charged on tax underpaid. Interest payable to taxpayers on overpaid tax is applied at a rate equal to 4% per annum in Ireland. In contrast, interest payable by taxpayers on underpaid tax is charged at a penal rate of 8% to 10% per annum. Where a taxpayer appeals an assessment issued by the Irish tax authority and discharges the disputed tax liability pending the outcome of the appeal, no interest is payable on the repayment of the disputed tax if the taxpayer subsequently wins the appeal. However, if a taxpayer does not pay the disputed tax upfront they are faced with an interest charge of 8% to 10% per annum, while the appeal is pending if they are ultimately unsuccessful.

31 Are you working in another country than you live and your employer offers the possibility to telework?

- (x) Yes
- ( ) No

32 If yes, in what circumstances do you telework?

- [ ] I am regularly teleworking from my home which is located in another country than my regular office.
- [x] During the Corona crisis I did not have any other alternative than teleworking from home.
- [ ] Any other ?

34 If yes, did teleworking have any repercussions on your tax situation as:

- [ ] I did not experience any difficulty.
- [x] The taxing right for my employment income changed from one Member State to another.
- [ ] Loss of the status as frontier worker as the threshold of presence at the company was not fulfilled.
- [ ] Loss of tax benefits, such as joint taxation with partner, or no possibility of deduction of certain items as social security contributions, contributions to a savings / pension plan, donations or the like.
- [x] Any other, please explain:

35 Would you like to mention any other burden or issue ? Please explain:

2500 character(s) maximum

As noted above, the imposition of simultaneous payroll withholding obligations in two or more Member States can arise in the context of teleworking. This creates an administrative burden for the employer and possible cash flow burdens for the employer or employee, depending on who is required to bear the cost of this dual withholding obligation. In addition, where payroll withholding tax is applied in the Member State of residence of the employer and income tax is applied in Member State of residence of employee, delays in processing a refund of payroll withholding taxes results in a cash flow burden for the employee.

These issues are becoming increasingly common with the general shift towards remote working following the imposition of the restrictions by governments during the COVID-19 pandemic. We consider there needs to be a more streamlined administrative process, perhaps through the use of a One Stop Shop, to alleviate the incidence of double taxation in such circumstances.

36 Are there any tax repercussions which make teleworking more difficult? Please explain:

2500 character(s) maximum

As noted in the response to Question 28 above, the requirement for an employer to simultaneously operate payroll in two EU Member States can result in significant cash flow issues for taxpayers who are teleworking.

Any other issue ?

38 Is there any other issue you would like to bring to the attention of the Commission services ?

2500 character(s) maximum

The Irish Tax Institute is a representative and educational body for Ireland's Chartered Tax Advisers (CTA). The answers provided in this questionnaire are based on feedback received from our members regarding their experiences in dealing with their client's tax affairs.

39 Please upload your file

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

VAT

VAT refund in a domestic context

40 In which Member State are you established?

Ireland

41 Do you regularly experience excess input VAT (the VAT on purchases exceeds the VAT on sales in a given period)?

- ( ) Yes.
- ( ) No.

42 What is your approach in case of excess input VAT?

- (x) I request the refund of VAT.
- ( ) I request the carry-forward of the VAT as credit.

43 The following criteria are decisive for claiming the refund:

- [ ] I cannot quickly offset the credit.
- [ ] Refund procedures are quick.
- [x] Other.

44 Please explain:

2500 character(s) maximum

In Ireland, the refund process is generally simple and straightforward. The option to receive a refund is usually welcomed by taxpayers as the refund procedures are more efficient than offsetting a credit. In our view, a mandatory carry-forward of the excess input VAT would not be welcomed as it would result in a cash flow burden for taxpayers.

45 How long do you usually wait for a VAT refund?

- ( ) 1 month or less
- ( ) 3 months
- ( ) 5 months
- ( ) 2 months
- ( ) 4 months
- ( ) 6 months or longer

49 What would be a reasonable timeframe for you for VAT refund in a domestic context?

- ○ Less than 3 months.
- ○ Between 3 and 6 months.
- ○ Between 6 and 12 months.
- ○ More than 12 months.
- ◉ Other.

50 Please explain.

2500 character(s) maximum

We believe less than one month would be a reasonable timeframe for the processing of refunds in most cases. Given the cash flow burden on taxpayers where there is a delay in processing a VAT refund, in our view if the refund takes over three months to process and all relevant information has been provided to the tax authority to enable it to process the refund, interest should apply to the refund.

Based on member feedback we have received, most standard refunds are received in less than one month. However, 'Aspect Queries' are being issued more frequently by the Irish tax authority where refunds are claimed, despite the fact that such queries are intended to be issued by the tax authority only where a particular risk that has been identified. Such Aspect Queries may include questions which are not relevant to the taxpayer. In our view, as Aspect Queries impose a cost on taxpayers they should only be issued where a particular risk has been identified, for example, where there is a significant change in VAT profile or, where there is a significant increase in the VAT claimed on purchases.

51 How did you cope while waiting for the VAT refund?

- ○ No problem.
- ○ I had to look for financial assistance.

52 Did you encounter any difficulty while applying for a domestic VAT refund?

- ○ Yes.
- ○ No.

VAT refund in a cross-border context

55 Did you encounter any problem while applying for VAT refund from another Member State?

- ◉ Yes.
- ○ No.

56 If yes:

- ☑ I was asked too much information.
- ☑ I did not understand the language.
- ☐ The tax administration did not accept my documents.

- [x] The tax administration refused my application without explanations.
- [x] I never received a reply to my application.
- [x] Other.

57 If "Other", please explain:

2500 character(s) maximum

Our members, who are based in Ireland and other Member States, have experienced difficulties applying for VAT refunds from other Member States.

58 How long did you have to wait for the VAT refund in a cross-border situation after you submitted the application for VAT refund?

- ( ) 1 month or less
- ( ) 2 months
- ( ) 3 months
- ( ) 4 months
- ( ) 5 months
- (x) 6 months or longer

59 How did you cope while waiting for the VAT refund?

- ( ) No problem.
- ( ) I had to look for financial assistance.

60 How quickly should VAT be refunded in a cross-border context?

- ( ) Less than 2 months.
- ( ) Between 2 and 4 months.
- (x) Other.

61 If other, please explain.

2500 character(s) maximum

In our view, VAT refunds in a cross-border situation should take less than 2 months to process. As the VAT will already have been remitted to the tax authorities by the supplier (often months previously), we believe that the taxpayer should be entitled to a prompt review and processing of their refund claimed.

62 Have you sought any remedies to tackle your problems in VAT refunds?

- [ ] Yes.
- [ ] No.
- [ ] I do not know.

Claiming VAT relief on bad debts

If a taxable person makes supplies to a customer but he is not paid, he may be able to claim relief from VAT on bad debts he has incurred.

65 How often do you claim VAT relief on bad debts per year?

0

66 What is the average amount of your bad debts?

Only values between 1 and 1000000 are allowed

EUR

67 Is the procedure for claiming VAT relief on bad debts in your Member State sufficiently clear?

- ○ Yes.
- ● No.

68 What are the constraints? Please explain

2500 character(s) maximum

In general in Ireland, bad debt relief is claimed through the periodic VAT returns with no special identification of the claim (output VAT/VAT on sales is reduced on the return by the amount of the bad debt relief claimed). The tax authority may query the VAT return and request evidence to support the claim made.

The legislation governing claims for bad debt relief states that “all reasonable steps” must be taken by the taxpayer to recover the debt. In our view, this test is very subjective and there is a lack of clarity regarding the type of documentation which will satisfy the requirement that “all reasonable steps” have been taken to recover the debt.

69 Please describe the conditions/requirements in your Member State in order to obtain VAT relief on bad debts.

1500 character(s) maximum

1. The accountable person must take all reasonable steps taken to recover the debt (they must provide evidence of action taken, including all correspondence, in attempting to recover the debt);

2. The debtor must not be connected to the supplier;

3. The bad debt is allowable as a deduction in arriving at the tax-adjusted profits for income tax or corporation tax; and,

4. Irish VAT regulations provide that the debt must be written off in the financial accounts. The guidance from the Irish tax authority explains that the bad debt must be written off in the day-to-day records of the business and transferred from the debtors account to a separate bad debts account. A trader is not required to wait until his/her financial year-end to write off a debt but may do so in the VAT return for the taxable period in which the debt is transferred to the bad debt account.

70 What kind of information do you need in order to claim VAT relief on bad debts? What can be improved?

1500 character(s) maximum

It would be helpful if there was a legislative entitlement to recover bad debt relief on the expiration of a set period of time, for example, debts unpaid after 6 months. This would reflect the position which exists in other jurisdictions. We believe that such a provision would bring clarity to the entitlement to bad debt relief. It would also be administratively straightforward and less subjective for both the taxpayer and the tax authority. In our view, where it can be shown that a customer is bankrupt this should be sufficient evidence that a debt is irrecoverable.

71 Do you always claim VAT relief on bad debt?

- [ ] Yes.
- [ ] Yes, if the amount of the bad debt is sufficiently high.
- [ ] No, the relief is not worth the effort.
- [ ] No, the procedure is too long.
- [x] No, for other reasons.

72 Please explain.

1500 character(s) maximum

The experience of our members suggests that many taxpayers do not claim bad debt relief either due to a lack of knowledge of the process or a fear of challenge by the tax authority.

73 In average, how long do you have to wait before getting VAT relief on bad debts?

- ( ) Less than 3 months.
- ( ) Between 3 and 6 months.
- ( ) Between 6 and 12 months.
- ( ) More than 12 months.
- (•) Other.

74 Please explain.

1500 character(s) maximum

Relief can be claimed in the periodic VAT return (by increasing the figure in the “T2” field which records VAT on purchases). No separate claim for bad debt relief is required. Therefore, it is usual for bad debt relief to be granted without delay unless the claim results in the accountable person being in a VAT repayable position. In those circumstances, it is more likely that the Irish tax authority would query or audit the VAT return filed which may in turn result in in a delay in receiving the bad debt relief.

Cash accounting scheme

As a general principle the VAT becomes chargeable when the supply of goods or services takes place. The VAT Directive provides for a number of derogations to this principle. One of the optional derogations consists in the 'cash accounting scheme', a regime for which the VAT becomes chargeable upon receiving the payment for the transaction, rather than upon the supply taking place or the invoice being issued.

75 Is cash accounting available in your Member State?

- (x) Yes.
- ( ) No.

76 If yes, do you use cash accounting?

- ( ) Yes.
- ( ) No.

78 What is your area of business?

1500 character(s) maximum

> In our view, the rules and application of the cash accounting scheme are straightforward. However, feedback from our members suggests that the majority do not use the cash receipts basis of accounting for VAT.

79 What is the annual turnover of your business?

- ( ) Less than EUR 500 000.
- ( ) Between EUR 500 000 and EUR 1 million.
- ( ) Between EUR 1 million and EUR 2 million.

80 What kind of customers do you have?

- [ ] Final consumers.
- [ ] Taxable persons.
- [ ] Public authorities.

81 Has the pandemic hit you?

- [ ] No.
- [ ] Yes, my business lost many customers.
- [ ] Yes, many of the customers went bankrupt.
- [ ] Yes, my business experiences financial difficulties because clients do not pay.
- [ ] Yes, because clients are deferring payments.

82 To what extent do you agree that the cash accounting is advantageous?

- (x) Agree.
- ( )

Not sure.
Disagree.

83 To what extent do you agree that the cash accounting is necessary in period of crisis?

- Agree.
- Not sure.
- Disagree.

Dialogue between the taxpayer and the tax administration

84 Do you have any online contact with your tax administration?

- Yes.
- No.

85 When you are uncertain about the correct application of tax law, do you refer to your tax administration?

- Yes.
- No.

86 Do you feel well informed by your tax administration?

- Yes.
- No.

87 Is there an established procedure to get in contact with the tax administration?

- Yes.
- No.

88 This procedure is:

- rather rigid/inflexible
- rather flexible.

89 Please explain what could be improved in relation to the dialogue between the tax payer and the tax administration.

1500 character(s) maximum

Additional guidance from the Irish tax authority on the application of VAT legislation would be welcomed by tax advisers. Where queries arise, the 'MyEnquiries' service, which is a secure online service that allows taxpayers to send, receive and track correspondence to and from the Irish tax authority, is a very useful facility for engaging with the tax authority. However, in certain circumstances it would be helpful if taxpayers or their advisers could engage directly with the subject matter experts within the tax authority. Such direct engagement could assist the tax authority in providing a meaningful and considered response to taxpayer queries in a timely manner.

90 What would you expect in exchange? Please explain:

91 Did you ever make a mistake while applying VAT in another Member State?

- (x) Yes.
- ( ) No.

92 If yes, were you able to easily correct that mistake?

- ( ) Yes.
- (x) No.

93 Please explain.

1500 character(s) maximum

In Ireland, a taxpayer can self-correct a VAT return within a specified period (before the due date for filing the taxpayer's income tax or corporation tax return (as appropriate) for the chargeable period within which the relevant VAT period ends). Alternatively, the taxpayer can make a disclosure regarding the tax default to the Irish tax authority.
If VAT issues arise outside the taxpayer's Member State of establishment it would usually be necessary to engage a tax adviser. This can be costly for the taxpayer.

Any other issue ?

95 Is there any issue you would like to bring to the attention of the Commission services ?

2500 character(s) maximum

'No loss of revenue':
From an Irish perspective, our members have voiced concern regarding the sanctions which apply where there are errors contained in filed VAT returns. Of particular concern are scenarios involving 'no loss of revenue', i.e. the error in the VAT return does not result in any underpayment of tax. Notwithstanding that there is a 'Code of Practice' which provides guidance regarding the sanctions applying when a disclosure involving "no loss of revenue' is made by a taxpayer, we have received feedback suggesting there can be inconsistencies in the treatment of such disclosures. We believe that direct engagement by taxpayers or their advisers with the subject matter experts within the tax authority may assist in ensuring consistency in the treatment of 'no loss of revenue' disclosures.

Expansion of the VIES portal:
We would suggest that consideration could be given to the possibility of expanding the VIES portal to include

domestic only EU VAT registrations. In our view, this would considerably simplify the process of validating VAT invoices in various Member States for the purpose of input VAT deductions.

Contact

Contact Form