

FIT FOR FUTURE Platform Opinion

Topic title	VAT in the digital age Business-friendly VAT AWP 2022 Council Directive 2006/112/EC and Council Regulation (EU) No 904/2010 (targeted revision) <i>Legal reference</i>
Date of adoption	05 December 2022
Opinion reference	2022/SBGR1/02
Policy cycle reference	<input checked="" type="checkbox"/> Contribution to ongoing legislative process CWP 2022, Annex I , Revision of the VAT Directive and of the Council Regulation on VAT administrative cooperation <i>Commission work programme reference</i> This initiative aims to modernise the current VAT rules, taking into account the opportunities offered by digital technologies. The Commission's action plan for fair and simple taxation underlined the need to reflect on how technology can be used by tax authorities to fight tax fraud and benefit businesses, and whether the current VAT rules are adapted to doing business in the digital age. The proposal covers 1) VAT reporting obligations and e-invoicing 2) VAT treatment of the platform economy and 3) single EU VAT registration. The package is expected to harmonise and promote the provision of cross-border supplies in the single market, and to help improve tax collection and therefore ensure sustainable revenues during the COVID-19 recovery. Planned adoption date: Q4 2022 Public consultation: 21 January 2022 - 15 April 2022 <input type="checkbox"/> Contribution to the (ongoing) evaluation process - <i>Title of the (ongoing) evaluation</i> Whereas the evaluation of Regulation 904/2010 is foreseen, the present initiative does not concern it as it involves targeted

revision of this Regulation in function of the necessary adaptations due to revision of Directive 2006/112/EC

- Included in Annex VI of the Task force for subsidiarity and proportionality

Simplifying VAT rules for SMEs particularly for cross-border transactions (*Task Force members from the European Committee of the Regions*).

The proposal for a directive amending Directive 2006/112/EC as regards rates of value added tax ([COM\(2018\) 20](#)) could be looked again with a view to extending the flexibility for Member States to establish VAT rates , adopted on 5 April 2022: <https://eur-lex.europa.eu/eli/dir/2022/542/oj>

A simplification of EU VAT legislation and the rules for invoices (Council Directive 2006/112 EU) to reflect the concerns of SMEs (*The Board of Swedish Industry and Commerce for Better Regulation (NNR)*)

- Other

Based on submissions through the Have your say: Simplify! portal

Have your say: Simplify!

BusinessEurope (05/04/2019) BRP ref: S5477383

- [rules on processing in another Member State just before exporting](#)
- [rules on service exemptions dependent on inclusion in the taxable amount at import or not](#)
- [rules on intra-Community transfers of own goods](#)
- [rules regarding bad debt](#)

NNR Swedish Industry and Commerce for Better Regulation - Confederation of Swedish Enterprise (24/06/2021) BRP ref: S25972213

- [align VAT rules with the aim and purposes of Union insolvency law](#)

Commission follow up

REFIT Scoreboard: [VAT in the digital age](#)

Have your say portal: [VAT in the digital age](#)

Annual Burden Survey: [The EU's efforts to simplify legislation \(2022\)](#)

SUGGESTIONS SUMMARY

- Suggestion 1:** Avoid additional registration through change of VAT rules on processing in another Member State before exporting and extension of the VAT One-Stop-Shop to the transfer of own goods
- Suggestion 2:** Remove the need for explicit derogations regarding the introduction of mandatory e-invoicing and define common minimum standards and requirements for e-invoicing
- Suggestion 3:** Change rules on VAT exemptions for services related to the importation of goods
- Suggestion 4:** Coordinate rules on VAT bad debt relief
- Suggestion 5:** Align VAT rules with insolvency procedures
- Suggestion 6:** Coordinate VAT registration processes

SHORT DESCRIPTION OF THE LEGISLATION ANALYSED

The common system of value added tax (VAT) – a consumption tax assessed on the value added to goods and services - is governed by a set of mainly directives of which the [Council Directive 2006/112/EC](#) is the most important one. It applies to more or less all goods and services that are bought and sold for use or consumption in the EU. Thus, goods which are sold for export or services which are sold to customers abroad are normally not subject to VAT. Conversely, imports are taxed to keep the system fair for EU producers so that they can compete on equal terms on the European market with suppliers situated outside the Union.

A VAT system achieves the highest degree of simplicity and of neutrality when the tax is levied in as general a manner as possible and when its scope covers all stages of production and distribution, as well as the supply of services. The common system of VAT should, even if rates and exemptions are not fully harmonised, result in neutrality in competition, meaning that within the territory of each Member State similar goods and services bear the same tax burden, whatever the length of the production and distribution chain. Each Member State is responsible for the transposition of the VAT rules into national legislation and their correct application within its territory.

Further sources of evidence:

[Have your Say entry page](#)

[Legislation framework webpage](#)

[Commission's action plan for fair and simple taxation](#)

[VAT in the digital age – conference of 6 December 2019](#)

[Accompanying study](#)

PROBLEM DESCRIPTION

Existing Commission evidence and evidence submitted through the Have your say: Simplify! portal suggest the following issues:

The VAT system in each EU Member State has a significant influence on the daily lives of businesses that play a key role in facilitating the smooth handling of millions of transactions every day and sharing the required information with trading partners and tax authorities. It is also one of the main revenue raisers for EU member states, with VAT revenue accounting for roughly 1/5 of all tax revenue across the EU¹.

The VAT is the only tax that is harmonised at EU level, but businesses trading across the Single Market still face numerous administrative obligations related to VAT. Companies with cross-border trade activities are faced with 67 % higher tax compliance costs than companies which operate only domestically². Whilst there are some EU-wide minimum standards in place, differences exist between Member States in the amount, speed, nature and format of delivery of the required information related to VAT. Businesses face difficulties in coping with all the different interpretations, particularities in practice as well as changes in domestic and foreign VAT legislation. In a 2018 EU-wide survey VAT was named as ‘the most burdensome tax’³ by businesses. Studies suggest that a reduction in the dissimilarity of VAT obligations between Member States by 10 % could already increase intra-EU trade by 3.7 %⁴.

In its [action plan for fair and simple taxation](#), the Commission announced a legislative package – VAT in the digital age – for 2022. The action plan aims to modernise VAT reporting obligations and facilitate e-invoicing, update the VAT rules for the platform economy and move towards having a single VAT registration in the EU.

A growing number of Member States have progressively introduced different reporting mechanisms, taking full advantage of new technologies. However, this uncoordinated process has created administrative burdens to businesses operating cross-border, as they have to comply with different sets of reporting obligations and costly adaptations to their accounting systems, especially for SMEs.

Regarding the platform economy, current VAT rules are ill-equipped to deal with the challenges of the platform economy. They are thus unable to ensure, amongst others, that Member States take a uniform approach to the application of the VAT rules regarding the provider, nature of services, place of supply and reporting in the light of the divergent and evolving business models. The current VAT rules are subject to divergent interpretation in this new context, leading to potential unequal treatment and legal uncertainty for both business and tax administrations.

¹ European Commission, Directorate-General for Taxation and Customs Union, *Taxation trends in the European Union : data for the EU Member States, Iceland, Norway and United Kingdom : 2021 edition*, Publications Office, 2021, <https://data.europa.eu/doi/10.2778/843047>;

² European Commission, Executive Agency for Small and Medium-sized Enterprises, Verschueren, W., Meeusen, T., Kaszap, A., et al., *Study on tax compliance costs for SMEs : final report*, Publications Office, 2018, <https://data.europa.eu/doi/10.2826/02329>;

³ KPMG, *Study on Tax Compliance Costs for SMEs*, 2018;

⁴ Institute for Fiscal Studies, *A retrospective evaluation of elements of the EU VAT system*, 2011;

The newly introduced one-stop-shop (OSS) allows businesses to avoid multiple VAT registrations in the EU for cross-border transactions. The introduction of the Import One-Stop Shop (IOSS)⁵ – the electronic portal businesses can use since 1 July 2021 to comply with their VAT e-commerce obligations on distance sales of imported goods - was to facilitate the collection, declaration and payment of VAT for sellers that are making distance sales of imported goods to buyers in the EU. However, there appears to be scope to further simplify importation of low value consignments, and facilitate controls by tax and customs administrations and maximize VAT revenues.

Following up on the submissions on the **Have your say: Simplify!** several specific issues with application of the VAT were identified:

Whilst not exclusive, the main challenges concerning VAT can be very broadly described according to the following categories: registration and invoicing.

Registration

Businesses are obligated to have a VAT registration in each Member State in which they have a sales turnover above a certain overall threshold, which can vary from Member State to Member State. A VAT registration is itself a costly procedure, involving numerous documentation requirements in coordination with the local tax authority, sometimes in a language which the business owner does not necessarily speak. The European Commission has recommended tax authorities to assist taxpayers, especially foreign taxpayers, in fulfilling their VAT registration obligations as the registration process is not identical in each Member State⁶. As a consequence of the VAT registration, businesses may also be asked to designate a fiscal representative. Under a VAT registration, the business may face different national VAT laws (e.g. different penalty regimes) and are required to follow different accounting periods. They may also be subject to audit enquiries from multiple Member States. In addition, while the VAT registration itself is a one-off cost, the registration does give automatically rise to several new obligations in future (e.g. VAT return) which in turn increase the administrative burden.

According to a European Commission survey, foreign VAT registration was considered as one of the most burdensome VAT obligations for businesses⁷. Because of the difficulties businesses can face in registering in another Member State, the European Commission notes that ‘it is quite common for businesses in such situations to outsource these tasks and to use external advisors, especially for large enterprises’ adding that “these costs press relatively heavier on small enterprises (...) distort[ing] both the pattern of trade and the size structure of industry by favouring larger firms, for whom the fixed compliance costs and burdens are smaller in proportion of total costs and revenues”⁸.

⁵ The IOSS allows suppliers and electronic interfaces selling imported goods to buyers in the EU to collect, declare and pay the VAT to the tax authorities, instead of making the buyer pay the VAT at the moment the goods are imported into the EU as it was previously the case (for products over 22 EUR);

⁶ Report 2017: Report from the Commission to the Council and the European Parliament – Eight Teport under Article 12 of Regulation n 1553/89 on VAT collection and control procedures;

⁷ European Commission, Directorate-General for Taxation and Customs Union, impact assessment, amending Directive 2006/112/EC on the common system of value added tax as regards the special scheme for small enterprises;

⁸ European Commission, Directorate-General for Taxation and Customs Union, *impact assessment: modernising VAT for cross-border e-commerce*, 2016;

To simplify life for these companies and to make it much easier for them to sell into other Member States, the European Commission has taken numerous initiatives in the past few years to facilitate the collection, declaration and payment of VAT for sellers that are making distance sales to buyers in the EU through the installation and expansion of the so-called One-Stop-Shop (OSS), as explained in the previous section. A 2015 assessment⁹ showed that the OSS had saved businesses¹⁰ EUR 500 million versus the alternative of direct registration and payment – on average EUR 41 000 per business. This represented a 95% reduction in costs compared to the alternative of direct registration in the Member State of the consumer. As of today, there remain however multiple situations whereby a company would be obligated to register in another Member State: this includes, amongst others, the transfer of own stock or when processing a good in another Member State just before exporting. Moreover, there appears to be scope to further simplify importation of low value consignments, and facilitate controls by tax and customs administrations and maximize VAT revenues.

Invoicing

Taxable persons doing business in the EU are subject to a **single set of basic minimum EU-wide invoicing rules** (Articles 217-240 of the VAT Directive) and, in certain areas, national rules set by the individual EU countries. An invoice is required for VAT purposes under EU rules in most business-to-business (B2B) supplies and in certain business-to-consumer (B2C) transactions. The invoices will contain the supplier's and customer's details, and the information on the nature of the transaction, such as the taxable amount, the VAT rate, and the VAT due. At the end of each reporting period, each taxable person calculates its VAT liability by subtracting the cumulative amount of VAT stated on its purchase invoices from the cumulative amount of VAT stated on its sales invoices. Invoicing is therefore a central part of the VAT system as it enables tax authorities to follow the transactions of goods and services and fight VAT-fraud, and also enables businesses to prove their right of deduction, thus ensuring that VAT remains a tax on the final consumer.

Invoicing differs when considering an intra-acquisition of goods compared to an importation of goods. While the taxable amount on intra-acquisition of goods is the cost price at the time of sale, the taxable amount for importation of goods is the price for customs purposes, thus taxes, duties, levies and other charges, incidental expenses, commission, packing, transport and insurance costs. In fact, invoicing was listed as one of the most burdensome VAT obligations for businesses, with more than 60% of businesses asking for simplified invoices according to a Commission survey.¹¹ Due to the differences in invoice requirements between Member States and the sheer amount of invoices a business has to draft in one fiscal year, the invoice obligation can lead to a high administrative burden and requires the interpretation of complex national legislation. This complexity can also lead to mistakes being made by honest taxpayers, resulting in fines.

⁹ European Commission, Directorate-General for Taxation and Customs Union, *impact assessment: modernising VAT for cross-border e-commerce*, 2016;

¹⁰ At the time, the (Mini) One Stop Shop only covered B2C telecommunications, broadcasting and electronically supplied services;

¹¹ European Commission, Directorate-General for Taxation and Customs Union, *impact assessment, amending Directive 2006/112/EC on the common system of value added tax as regards the special scheme for small enterprises*;

Over the years, the European Commission has taken several measures to lower the cost of invoicing for EU businesses, e.g. Articles 220a and 238-240 of the VAT Directive allow Member States to permit the use of simplified invoicing under certain circumstances.

A major change in the issuance of invoices is the rise of electronic invoicing. E-invoicing can allow for a certain degree of automation and a lower paper (and thus environmental) cost for businesses. Electronic invoices are also easier for businesses to store. From the perspective of tax administrations, the main advantage of electronic invoicing is to combat tax fraud and evasion more effectively and encourage the voluntary compliance. This can lead to an increase in VAT revenues and a level playing field for open and fair competition. Electronic invoicing has been mandatory in the whole EU for all transactions with public administrations, according to Directive 2014/55/EU, since 2019. Some other Member States have also made e-invoicing mandatory in B2B and/or B2C transactions.

Several Member States have also used electronic-invoicing as a basis to implement so-called 'digital reporting requirements' (DRR) whereby VAT traders report transactional data (transaction-by-transaction) in real-time to the tax authorities. In some systems, invoices have to be sent for approval to the Member State's tax authority first before it can be sent to the customer.

While Article 226 lays down the details of what elements are required on invoices (e.g. invoice date, invoice number, etc.), there continue to exist differences between Member States' e-invoicing standards (and DRRs). Next to the content of the e-invoice, many Member States have different software standards to process these invoices. Complying with and correctly interpreting e-invoice legislation per EU Member State can thus still be challenging for some businesses, in particular those with complex cross-border supply chains.

(Source: [Call for evidence](#), [DG TAXUD website](#), **Have your say: Simplify!**)

The Fit for Future Platform has acknowledged the issues raised by the legislation concerned as follows:

Regarding: modernisation and future proofing of existing laws, including via digitalisation, the efficient labelling, authorisation and reporting obligations, the simplification of EU legislation:

– VAT rules on processing in another Member State just before exporting

According to Article 17 & 21 of the VAT directive, when a company sends goods for a last production step to another EU Member State before exporting them outside the EU, it will by default require additional VAT registration in the Member State of this last production step. Given the significant costs of an additional VAT registration, businesses may be incentivised to first return the finished products back to the Member State where the goods originated from, and then subsequently export them outside the EU.

Such detours could give rise to inefficiencies in EU value chains, resulting in additional costs, and multiple transportation costs which may in turn give rise to a higher burden on the environment. In a globalised economy, and a more integrated Single Market, the value chains

of EU businesses have become more complex and more international, and EU businesses are thus likely to face with more and more similar situations.

– **VAT rules on the supply of services relating to the importation of a good**

Under current VAT legislation (Article 144 of VAT directive), a taxpayer must exempt the supply of services relating to the importation of a good (e.g. commission, packaging, transport costs), if those services were included in the taxable amount at import. In reality, this requires the service provider (who may not be established in the same country as the supplier or consumer) to be provided with sufficient documentation to know whether this has been done. This can be very difficult for the service provider, who will need to request documentation with related parties, in order to know whether VAT can be exempted on the service provider's invoice (if this is not the case, a reverse charge needs to be applied).

In a globalised economy, and an integrated Single Market and further trade liberalisation, large enterprises depend more and more on inputs from non-domestic suppliers, including non-EU suppliers. This also creates new opportunities, in particular for transport services, to bring goods from the point of import to the point of destination (e.g. transporting goods from a port to a factory). As such, Article 144 is of particular relevance to these suppliers, and the uncertainty about whether the taxable amount is included or not, and the documentation required to find an answer to this question, puts these businesses at a particular risk of a fine (if a supply was exempted when a reverse charge should have been applied or vice-versa).

– **VAT rules on intra-Community transfers of own goods**

A taxable person that transfers a stock of their own goods in order to be stored in a Member State in which he is not established, will be liable for the payment of VAT according to Article 200 of the VAT Directive. Because of the liability for the payment of VAT, the taxable person would need to register in the Member State of storage, even though it is not certain that a sale will take place from that storage place (or that the total amount of sales in this will reach the registration threshold in that country). Given the significant costs of an additional VAT registration, businesses may be incentivised to avoid the registration by choosing not to store their goods in a warehouse in another EU Member State. Smaller businesses in particular may rather choose to transport each good individually from the Member State of establishment to the Member State of consumption, making deliveries less fast, less efficient and bringing higher transport/emissions cost.

– **Rules on the introduction of e-invoicing and their content**

With the uptake of digital tools in tax administration, there has been a greater uptake of electronic invoicing across the EU, with some Member States introducing mandatory e-invoicing in (both) B2B and B2C transactions. However, despite the wide rise of electronic invoicing, the current VAT-directive treats both paper and electronic invoices at the same level. Article 218 of the VAT Directive provides for an obligation for Member States to accept as invoices all documents or messages both in paper or electronic form. Similarly, Article 232 of the VAT Directive requires that the use of an electronic invoice shall be subject to acceptance by the recipient. When Member States want to introduce mandatory e-invoicing, in either B2B or B2C, they need to ask for an explicit (temporary) derogation from the VAT-directive on articles 218 & 232.

Aside from the varying levels of adoption of e-invoicing in the EU Member States, there also remain substantial differences between Member States' national invoice legislation (concerning the content and format of the e-invoice). This hinders the smooth transfer of an e-invoice from one place to another, in particular in B2B transactions, and prevents the realisation of the full benefits and cost savings of e-invoicing.

– VAT bad debt

A supplier can (in principle) under Article 90 of the VAT Directive, reduce the taxable amount if – among other situations – the customer fails to pay for the supply (often known as 'bad debt'). This is to ensure the neutrality of the VAT-system. The issue of 'bad debt' became particularly relevant during the Covid-19 pandemic, during which businesses were often faced with customers often not paying (in full) (e.g. lockdowns, cancellation of events, etc). While 'bad debt' relief is part of the EU VAT directive, rules regarding in what kind of situation the supplier can be refunded, and in what timeframe, differ heavily from Member State to Member State¹².

- VAT registration processes

The VAT-registration is an important procedure when setting up a business. The registration with a country's tax authority obliges businesses to collect VAT and comply with all the administrative requirements related to the collection of VAT. Such a cooperation between businesses and tax authorities on VAT requires strong support and coordination from both sides. To facilitate business growth, Member States aim to find a balance between a swift and simple registration process for the businesses and ensuring the VAT registration involves a proper background check of the business' activity and their owners to ensure the business is not used by criminals in order to commit VAT fraud. Despite the importance of the VAT registration process, the procedure is not harmonised between Member States, with different document requirements in each Member State. Some Member States also require a more paper-based process, whilst in other Member States the procedure can be completed online in full.

- VAT rules and Union insolvency law

Following from ECJ case law (primarily C-396/16¹³, and C-684/18¹⁴ it has been shown that, based on Article 185 of the VAT directive, a company undergoing restructuring or an arrangement with creditors/composition proceedings, etc. must adjust previously made VAT deductions when credit notes are issued by its creditors in order for the creditor to be able to reduce the taxable amount. This obligation for the debtor to adjust the deduction impedes the possibility to succeed with the restructuring and therefore the possibility for the company to avoid bankruptcy.

¹² See van Doesum, Ad, Non-Payments in EU VAT Law (December 1, 2021). CJEU: Recent Developments in Value Added Tax 2021 (Linde 2022) <https://ssrn.com/abstract=3975307>

¹³ https://eur-lex.europa.eu/legal-content/en/TXT/PDF/?uri=uriserv%3AOJ.C_.2018.134.01.0007.01.ENG

¹⁴ <https://curia.europa.eu/juris/document/document.jsf?text=&docid=229491&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=486711>

Suggestion 1: Avoid additional registration through change of VAT rules on processing in another Member State before exporting and extension of the VAT One-Stop-Shop to the transfer of own goods

Description: Firstly, according to Article 17 & 21 of the VAT Directive, when a company sends goods for a last production step to another EU Member State before exporting them outside the EU, it will by default require additional VAT registration in the Member State of this last production step. Respecting the fact that it will be necessary to strike the delicate balance between simplification in the interests of traders and ensuring the coherence of the VAT system and correct taxation and collection, one suggestion to be explored could be altering the wording of Article 17(2)(f) to remedy the need to return goods to the Member State of origin prior to export to avoid the additional VAT registration. As a quick fix, Article 17(2)(f) could include the following wording: “or the goods are shipped to a place outside the EU”.

Secondly, at the moment, the VAT One-Stop-Shop covers all B2C supplies of services and distance sales of goods (as defined in Article 14(4), point (1) of the VAT Directive). By extending the One-Stop-Shop to the transfer of own stock of goods, taxable persons will be able to record these type of transactions through the One-Stop-Shop, thereby eliminating the need for an additional VAT registration. Practical implications of such an extension need to be carefully looked into.

The Platform notes that making use of the One-Stop-Shop would also merit a general evaluation of the recently extended One-Stop-Shop in order to assess the functioning of the entire scheme.

Thirdly, more information in different languages on the procedures to follow with the individual administrations would be extremely helpful, especially for SME's, and should be enhanced.

Expected benefits: These changes would reduce the administrative burden for taxable persons, by lowering the number of additional VAT-registrations. It can also improve VAT compliance (by making it easier and less expensive) and to improve the functioning of the EU Single Market (by making it less likely that taxable persons will avoid carrying out certain transactions or markets due to VAT registration obligations). Easier access to information, making the businesses able to understand the rules, will also by itself increase voluntary compliance. There may be a need to look into monitoring and control measures necessary to make this work fully.

Suggestion 2: Remove the need for explicit derogations regarding the introduction of mandatory e-invoicing and define common minimum standards and requirements for e-invoicing

Description: The current Article 218 of the VAT Directive provides for an obligation for Member States to accept both paper and electronic invoices for VAT purposes, resulting in Member States having to ask for an explicit derogation of the VAT Directive when introducing mandatory e-invoicing. While Article 226 of the VAT Directive lays down the requirements

for e-invoice, substantial differences between the different Member States' national invoice requirements (concerning the content and format of the e-invoice) continue to exist.

Expected benefits: In order to make full use of the technological developments, e.g. within the field of digital reporting and e-invoicing, EU VAT legislation should aim to remove obstacles that hinder a transition towards digitisation and automatisisation. By removing the need for an explicit derogation from the VAT directive and replacing it with a set of common principles when introducing mandatory e-invoicing, it would allow for a greater and faster uptake of electronic invoicing across the EU. It would also guarantee Member States the stability of the rules and regulations for the introduction of e-invoicing.

Similarly, by coordinating the reporting from e-invoice requirements and ensuring interoperability between EU Member States, taxpayers would benefit from a simpler and streamlined filing process for transactions across the whole EU. A set of common principles should ensure convergence for the EU-trade – setting a clear direction - while respecting local initiatives. The uptake of e-invoicing itself can lead to a stronger fight against VAT-fraud and easier administrative compliance for businesses.

Suggestion 3: Change rules on VAT exemptions for services related to the importation of goods

Description: Article 144 of the VAT Directive states: “Member States shall exempt the supply of services relating to the importation of goods where the value of such services is included in the taxable amount in accordance with Article 86(1)(b).” In practice, it is often very difficult for service providers to know whether this is the case based on the invoice alone. It should be explored whether a change could be that insofar as the parties liable for the VAT on the service are not resident in the Member State of import, they should have the choice between applying the exemption or actually applying the reverse charge without risking any penalties.

Expected benefits: This will limit the number of mistakes made by taxpayers, and lower the risk of businesses receiving heavy penalties. By lowering the administrative burden, services related to the import of goods could be carried out faster and more efficient.

Suggestion 4: Coordinate rules on VAT bad debt relief

Description: Under Article 90 of the VAT Directive, a supplier can in principle reduce the taxable amount if – among other situations – the customer fails to pay for the supply (often known as ‘bad debt’). While ‘bad debt’ relief is part of the EU VAT Directive, rules regarding in what kind of situation the supplier can be refunded, and in what timeframe, differ heavily from Member State to Member State.

Expected benefits: A greater harmonised approach towards VAT debt can ensure a more level-playing field between businesses across the Single Market and provide more clarity to taxpayers. Sufficient anti-abuse provisions must be inserted to achieve the level-playing objective. More efficiency regarding VAT debt relief can also contribute to businesses' liquidity.

Suggestion 5: Align VAT rules with insolvency procedures

Description: Ask the EU VAT Expert group and the Group of Future VAT to look into whether it is possible to add a clarification regarding the wording of Article 185 of the VAT Directive that no adjustment of deductions should be made in the event of an arrangement with creditors.

Following from ECJ case law (primarily C-396/16, T-2, and C-684/18, World Comm Trading) it has become clear that a company undergoing restructuring or an arrangement with creditors/composition proceedings etc. must adjust previously made VAT deductions when credit notes are issued by its creditors in order for the creditor to be able to reduce the taxable amount. This obligation for the debtor heavily impedes the possibility to succeed with the restructuring and therefore the possibility for the company to avoid bankruptcy.

The VAT system contravenes and overlooks important principles of bankruptcy and insolvency law. The VAT Directive needs to be updated in order to support the objectives set out in the Directive (EU) 2019/1023 of the European Parliament and of the Council of 20 June 2019 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt.

Expected benefits: Such a reform would lead to fewer bankruptcies within the EU by removing unnecessary obstacles to viable businesses undergoing financial troubles.

Suggestion 6: Coordinate VAT registration processes

Description: The VAT registration process is done at national level, facilitated by a country's tax authority. The VAT registration process is however not the same across the EU, with different (administrative) obligations and requirements per Member State. Member States should be encouraged to compare and exchange best practices (e.g. foreign language options, information required, digital portals, etc.) on their national VAT registration processes, with the aim of harmonising the process across the EU where possible and making the process simpler for businesses, especially for foreign businesses when registering in another Member State.

Expected benefits: A more efficient VAT registration process can ensure both swifter business' growth (e.g. by reducing the number of days needed to obtain a VAT registration number), in particular for foreign businesses when registering abroad, and ensure a better fight against VAT-fraud. A single VAT registration, allowing businesses to only focus on the registration process in the country of establishment, could alleviate a number of these concerns.

ABSTENTIONS

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ANNEX 1 – HAVE YOUR SAY: SIMPLIFY! SUBMISSIONS

-  submission
BusinessEurope on
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BusinessEurope_VA
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NNR-align VAT rules