



EC CONSULTATION ON THE FUTURE OF VAT

Comments submitted in June 2011 by ICAEW Tax Faculty, in response to the European Commission Green Paper on the future of VAT published in December 2010

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INTRODUCTION

1. ICAEW welcomes the opportunity to comment on the *Green Paper on the future of VAT* published by the European Commission on 1 December 2010. A copy of which is available from this [link](#).
2. We are pleased to have the opportunity to respond to this consultation. We would be happy to discuss any aspect of our comments and to take part in all further consultations on this area.
3. Information about the Tax Faculty and ICAEW is given below. We have also set out, in Appendix 1, the Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark proposals to change the tax system.

WHO WE ARE

4. ICAEW is a world-leading professional accountancy body. We operate under a Royal Charter which obliges us to work in the public interest. ICAEW's regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the UK Financial Reporting Council. We provide leadership and practical support to over 136,000 member chartered accountants in more than 160 countries, working with governments, regulators and industry in order to ensure that the highest standards are maintained.
5. ICAEW members operate across a wide range of areas in business, practice and the public sector. They provide financial expertise and guidance based on the highest professional, technical and ethical standards. They are trained to provide clarity and apply rigour, and so help create long-term sustainable economic value.
6. The Tax Faculty is the voice of tax within ICAEW and is a leading authority on taxation. Internationally recognised as a source of expertise, the faculty is responsible for submissions to tax authorities on behalf of ICAEW as a whole. It also provides a range of tax services, including TAXline, a monthly journal sent to more than 8,000 members, a weekly newswire and a referral scheme.
7. We are listed on the Register of Interest Representatives. Our registration number is 7719382720-34.

KEY POINT SUMMARY

8. Our key points are:
 - Adopt the origin principle for all supplies within the EU
 - There should be only two VAT systems – domestic and international
 - Allow full input tax recovery relating to business or charitable activities
 - Abolish the concept of exemption - all supplies either positive rated or outside the scope with recovery
 - Substantially reduce the range of supplies not subject to VAT
 - Eliminate all reporting requirements other than VAT returns
 - Abolish the concept of input tax for public authorities – use alternative government funding to substantially reduce administration and compliance costs
 - All public transport to be outside the scope with recovery

MAJOR POINTS

9. The three key considerations are:

Simplification of the VAT system

10. At present there are essentially three sets of rules for VAT compliance, depending upon the countries in which a supplier and customer are located:
 - domestic transactions;
 - transactions between EC Member States; and
 - transactions with the rest of the world.
11. For transactions between EC Member States, the rules are further complicated by having to determine and prove if the customer is in business and whether the specific supplies being made fall within the rules for goods or services.
12. We believe that significant benefits of simplification could and should be achieved by reducing this to two sets of rules – one for domestic supplies and the other for international supplies. This poses the fundamental question: Should transactions between EC Member States fall within the rules for domestic or international transactions?
13. The creation of the Single Market suggests that the answer to this question should be for transactions between EC Member States to fall within the rules for domestic transactions.
14. It is unrealistic to expect businesses, especially small businesses, to know the VAT rates applicable to all the supplies that they may make to customers located in all the other Member States in which they trade.
15. For smaller value supplies, say EUR 10,000 or less, any resulting profit is unlikely to exceed the compliance costs. For B2C supplies, the cost of registering in another Member State and maintaining a VAT registration is likely to be prohibitive, especially if a second currency is involved. That is why, as can be seen from many websites, a large number of SMEs will not supply to customers in other Member States.
16. This suggests that the origin principle should be adopted. Suppliers would not then need to establish where within the EU their customer belonged, or whether they were making a purchase in a business or private capacity.
17. We appreciate that most Member States are unlikely to agree to the adoption of the origin system. They did not agree it back in the early 1990s on a number of grounds – for example the costs of adapting their own tax administration systems and concerns over losing national control over tax collection. It is unlikely that Member States will have changed their minds in the ensuing years. However, the effect of the current ‘business-unfriendly’ VAT system is that it discourages businesses from trading cross-border and therefore holds back the economic growth of the EU. We consider that economic growth will continue to be held back whilst the current system remains in place and it is essential for EU development that it is replaced.
18. The answers we have provided to the 33 questions posed in the Green Paper are based on the guiding principle that only two sets of rules should exist, these being for transactions wholly between EU parties and those involving parties outside the EU.

Reduction in the burdens on businesses and tax administrations

19. The present reporting requirements are onerous, particularly for supplies of goods or services between EC Member States. The requirements for completing Intrastat returns and EC Sales Lists make sales to other EC Member States relatively unattractive and a barrier to intra-EU trade, particularly for smaller businesses that do not have the necessary resources or expertise to meet these requirements.
20. We are of the opinion that changes should be made to make the completion of these additional returns unnecessary. Again, this would probably be best achieved by adopting the origin

principle for international supplies, as originally proposed by the European Commission to take effect from 1 January 1997.

Protection of VAT revenue against fraud

21. It has long been thought that to charge VAT on supplies within the EU would be the most effective method of reducing fraud. In common with the interests of simplification and reduction in reporting requirements, this also suggests adoption of the origin principle.

RESPONSES TO SPECIFIC QUESTIONS/POINTS

22. We now consider the detailed questions set out in the Green Paper, using the references from that Paper.

VAT treatment of cross-border transactions in the single market

Q1 *Do you think that the current VAT arrangements for intra-EU trade are suitable enough for the single market or are they an obstacle to maximising its benefits?*

23. The current 'transitional' regime introduced on 1 January 1993 is not suitable for the Single Market. The present arrangements make trading between EC Member States relatively unattractive as against trading within a single country or with countries outside the EU. In addition, they leave the door open to missing trader intra-community or 'carousel' fraud. This clearly defeats the primary objective of the Single Market and should therefore be changed.
24. Difficulties are also created by differing VAT treatments between Member States. The rules for supplies of goods and services between Member States should be consistent to the extent that if a business knows how a transaction should be treated in its own Member State, it will know how it should be treated in any other Member State.
- Q2 *If the latter, what would you consider the most suitable VAT arrangements for intra-EU supplies? In particular, do you think that taxation in the Member State of origin is still a relevant and achievable objective?*
25. We consider that trade between EU Member States should be treated in the same way as trade within a single Member State, using the origin principle. Suppliers, who are responsible for determining the correct VAT treatment of their supplies, would then know that it was irrelevant for VAT purposes if their customer was a domestic customer or one from another EC Member State. The need to distinguish between B2B and B2C supplies would also be eliminated. In addition, suppliers would not need to carry out additional checks on their supply chain to ensure that they were not risking involvement in a carousel fraud. The VAT treatment would then only differ when supplying customers from outside the EU, for which appropriate evidence of export rules could be established.
26. We believe that if the origin principle was introduced, most of the perceived historic difficulties would be resolved within a relatively short period of time.
27. A standard format VAT return could be developed which identified the input tax incurred in each Member State. This could be submitted electronically to the tax authority of the home country and provide an even simpler solution to the recently developed electronic refund mechanism. For the majority of businesses that only trade in one country, the return would be no more difficult to complete than the existing VAT return, as it would only complete the input tax box for the home country. For businesses making purchases from several Member States, the total input tax for all purchases could be refunded by the revenue authority in the country of VAT registration. This authority could subsequently recover the amount refunded by means of a national claim.

28. If considered appropriate, any distribution of output tax should be made based on a formula to be agreed between the Member States. However, by redistributing input tax as outlined above, this should not be necessary, with the possible exception of an estimate relating to B2C supplies. Ideally, businesses should not be given the burden of having to complete returns identifying the value of sales to each Member State of the EU, as this would be an additional burden when compared with making a domestic supply.
29. We also see no particular logic in maintaining that the Member State of the customer should be entitled to the VAT revenue from a supply. The income will be retained by the supplier in his Member State and any profit will be taxed there. If the tax authorities of the Member State of the supplier retained the output tax charged in its country, there would be no need to distribute output tax relating to B2C supplies between the Member States.

How to ensure the neutrality of the VAT system

The scope of VAT

Q3 Do you think that the current VAT rules for public authorities and holding companies are acceptable, particularly in terms of tax neutrality, and if not, why not?

30. The funding of local authorities from local taxation, national governments and other grants should remain outside the scope of VAT.
31. A list of specific activities to remain outside the scope of VAT could be established, such as statutory charges and welfare and education services. Such supplies could become outside the scope of VAT for all suppliers in the public or private sector.
32. Any services supplied by a local authority that can also be supplied by businesses should attract the same rate of VAT as would be charged by the businesses. Such treatment should be seen as simple and fair and non-distortive in terms of tax neutrality. For example, all charges for car parking should be standard rated, regardless of who makes the supply or where the car is parked.
33. Holding companies generally exist for the benefit of their subsidiaries. As such, they should have the same VAT treatment as their subsidiaries.

Q4 What other problems have you encountered in relation to the scope of VAT?

34. Local authorities sometimes have difficulty in establishing the input tax that they can recover and can incur significant costs in doing so. Such costs are a waste of taxpayers' money, as they are incurred in establishing how much money one part of government can claim from another part of government. The administrative costs incurred in such operations are a similar waste.

Q5 What should be done to overcome these problems?

35. For simplification purposes, consideration should be given to making all input tax incurred by local authorities as non-recoverable, regardless as to what the VAT incurred related. As any input tax claimed by a local authority is effectively recovered from the government of the country that allocates much of its funding, the amount of such funding could be increased to compensate for the loss of input tax. This would significantly reduce the burden of accounting for input tax by local authorities and eliminate the need of such authorities to determine whether or not particular items of input tax incurred were recoverable. The administrative cost savings of such a move would be significant. This principle could be extended to all publicly funded bodies, such as government departments, armed forces and national health services.

36. Rules could be developed at national level to determine the level of compensation to each public authority for non-recovery of input tax, which should take into account items such as input tax incurred in relation to outsourcing. Any compensation mechanism would fall outside the system of accounting for VAT. The only VAT declaration that a public authority would then have to make would be its output tax.

Exemptions from VAT

Q6 *Which of the current VAT exemptions should no longer be kept? Please explain why you consider them problematic. Are there any exemptions which should be kept and, if so, why?*

37. We believe that the principle of exemption should be abolished, as this would greatly simplify the VAT system and reduce avoidance. Where considered appropriate, a reduced or zero rate of VAT could be applied to affected supplies as an alternative. Input tax should then be fully deductible in relation to all businesses or charitable activities, providing further simplification.
38. Exemptions were originally introduced for social reasons in the public interest, such as medical services and certain supplies to charities, or because they were too difficult to tax, such as financial and insurance services, betting, gaming and lotteries. We are aware of the separate exercises looking at the taxation, by VAT or otherwise, of financial services and do not propose to comment further as to how they may be subjected to VAT. However, we believe that any future taxation of financial services businesses, whether by means of VAT or otherwise, should take into account the cost of allowing those businesses to fully recover input tax incurred in relation to their business activities.
39. It is widely accepted that if exemptions were removed and replaced by a reduced rate of VAT, the cost to customers would not be significantly affected due to the increase in output VAT being offset by recoverable input VAT for the supplier.
40. The justification for the continued exemption of some services, such as postal services, is questionable. Many postal services are now standard rated as supplied by other than the historical national carriers. However, there could be an impact on businesses being forced to register for VAT for the first time if supplies made by businesses that currently only make supplies that are exempt became subject to a reduced rate of VAT. To reduce this effect, we suggest that certain services, such as those relating to health or education, should be treated as exempt with credit or zero rated. Business involved solely with these activities should not then be required to register for VAT, but retain the option of doing so for input tax recovery purposes.
41. There are currently several exemptions targeted at charities. It can be difficult for suppliers to prove that its supplies to charities qualify for these exemptions and this burden of proof creates unnecessary complications. If charities were given the ability to recover VAT incurred in relation to their charitable activities, the exemptions on supplies to charities could be withdrawn with minimal effect on the charities and simplification for the suppliers to the charities. In principle, we believe that the VAT liability of a supply should not be affected by the status of the customer, as this creates uncertainty for the supplier in obtaining satisfactory evidence of the status of the customer to substantiate the favourable VAT treatment.
42. Transactions involving land and property are often highly complex. This area is made more difficult by the option to tax rules. We believe that these complicated rules are prone to error and provide scope for fraud. We would therefore support, in principle, the abolition of the option to tax. It would seem appropriate to make all supplies relating to land and buildings subject to VAT at the standard rate with the sole exception of those relating to domestic property for social reasons.
43. Taken as an overall package, the cost of removing exemptions completely and replacing them with zero rating, reduced rating, standard rating or financial services taxes should not severely

impact government revenues, but provide a simplification to the VAT regime for businesses and tax authorities alike. Further work would need to be done on the economic implications and on how, from a practical point of view, the transition should be made.

Q7 Do you think that the current system of taxation of passenger transport creates problems either in terms of tax neutrality or for other reasons? Should VAT be applied to passenger transport irrespective of the means of transport used?

44. In the interests of fairness and simplicity, the VAT liability should be consistent for all forms of public transport. If passenger transport is to be taxed, it should be by taxation other than VAT.

Q8 What should be done to overcome these problems?

45. In view of the complexities involved in journeys that cross international boundaries, we believe that all public transport should be outside the scope of VAT, with the operators being allowed full recovery of associated input tax.

Deductions

Q9 What do you consider to be the main problems with the right of deduction?

46. The main problems with the right of deduction are probably obtaining the correct supporting evidence and demonstrating that the purchase is related to taxable supplies. This is not helped by the inconsistency of invoicing requirements between Member States.

47. The tax point rules, particularly in relation to intra EC supplies, can create difficulties in establishing the correct time to account for VAT on acquisitions for goods and reverse charges for services.

48. A general move to cash accounting for VAT would have its advantages and disadvantages:

49. There would be no need for complex bad debt relief procedures, as businesses would not have to fund VAT before receiving payment from their customers. However, additional evidence would be required to show that payments had been made before recovering input tax.

50. There would be one-off cost in adapting computerised accounting systems to cater for the change in timing of input tax deduction.

51. Businesses may be slightly encouraged to make payments to their suppliers before the end of a VAT period to enable them to recover the associated input tax, as the current benefit to poor payers would be removed.

52. The linking of purchases to taxable supplies is not a major problem for many businesses. However, it is difficult to see how changes can be made for those where it is a problem unless the concept of non-deductibility was removed. If the rules were changed such that input tax could always be deducted when supplies were purchased for business or charitable purposes, much of the difficulty and complexity would be removed.

Q10 What changes would you like to see to improve the neutrality and fairness of the rules on deduction of input VAT?

53. There seems no reason, in principle, why one type of businesses should be treated differently from another. It would seem fair to allow all input tax incurred for business or charitable purposes to be claimed in full by all businesses and charities. This applies equally to items such as entertaining expenditure that are currently treated as non-deductible, despite being legitimate business expenditure. The result would be a system that would be relatively simple to operate and remove many of the complexities and avoidance opportunities of partial

exemption from the VAT regime. The need for partial exemption methods and the capital goods scheme would be eliminated. The only type of adjustment required would then be for business/non-business use, which would affect a relatively small number of businesses.

54. If such a principle was adopted, it would be appropriate to remove exemption from many supplies that currently enjoy that treatment. As input tax would become recoverable in relation to affected supplies for the first time, the expected knock-on effect of pricing for supplies that are currently exempt should be considerably less than the addition of the standard rate of VAT to existing prices. Such a change would provide major simplification benefits for the future, with exemption and zero rating becoming effectively the same. The perceived risk of avoidance by tax authorities in relation to partial exemption would also be eliminated. We recognise that such a change would have considerable practical and political difficulties.

International services

Q11 What are the main problems with the current VAT rules for international services, in terms of competition and tax neutrality or other factors?

55. Difficulty can be encountered in establishing the location of the customer to determine whether or not VAT should be charged on a service. Within the EU, there is the added complication of proving that such supplies are being supplied to a business.
56. There are differences in the application of the place of supply rules between some Member States for certain types of services.
57. Suppliers from outside the EU are often unaware of the requirements to register and charge VAT on supplies of services to private individuals within the EU. This is of increasing significance with the growth of the internet.
58. The EC Sales List reporting requirements for intra-EU supplies of services represent a considerable administrative burden.

Q12 What should be done to overcome these problems? Do you think that more coordination is needed at international level?

59. As implied in our introduction, we strongly favour the adoption of the origin principle and believe that domestic VAT should be charged on all supplies of services where the customer is within the EU. This would have the added benefit of eliminating the requirement to determine whether or not the customer was in business. Any VAT charged could be recovered by a business in its own country using the EC VAT Return outlined in question 2. Where a customer is located outside the EU, VAT should not be charged on services.
60. Place of supply rules should be simplified and harmonized using the origin principle. This should eliminate both the differences between Member States and the requirement or potential usefulness of EC Sales Lists.

What degree of harmonisation does the single market require?

The legal process

Q13 Which, if any, provisions of EU VAT law should be laid down in a Council regulation instead of a directive?

61. We believe that all EU VAT law should ideally be laid down by Council regulation, as this would be directly binding law in all Member States. In theory, this should consequently reduce the differences in application of the law between the Member States. However, as we have seen with the recent Regulation dealing mainly with cross-border supplies of services, it can take a

long time to obtain agreement of all the Member States and there will always be points of disagreement and/or interpretation remaining.

Q14 *Do you consider that implementing rules should be laid down in a Commission decision?*

62. The Commission should not be given lawmaking powers. These should remain with the European and national parliaments. Any Commission powers should be restricted to administrative issues.

Q15 *If this is not achievable, might guidance on new EU VAT legislation be useful even if it is not legally binding on the Member States? Do you see any disadvantages to issuing such guidance?*

63. Guidance would be useful if it was well written and consistent for all EC Member States. It would need to be updated regularly to ensure it reflected the latest case law and could be helpful in the establishment of case law.

64. A possible disadvantage could arise if some Member States applied the law in a way that contradicted the published guidance. In such circumstances, the Member States concerned should be required to publicise their disagreement with the guidance.

Q16 *More broadly, what should be done to improve the legislative process, its transparency and the role of stakeholders in the process, from the initial phase (drafting the proposal) to the final phase (national implementation)?*

65. There should be widespread consultation early in the process to enable the views of affected parties to be taken into consideration before it is too late, particularly if a directive or regulation is being proposed. This has unfortunately not always been the case in recent years.

Derogations and the ability of the EU to react quickly

Q17. *Have you encountered difficulties as a result of derogations granted to Member States? Please describe these difficulties.*

66. We have no specific examples to quote, but consider that derogations introduce an unnecessary complication by creating different rules in some Member States. The granting of derogations should therefore be kept to an absolute minimum, usually only for the prevention of fraud. When a derogation is granted, it should be made available for use in all Member States.

Q18 *Do you think that the current procedure for granting individual derogations is satisfactory and, if not, how could it be improved?*

67. There is probably little wrong with procedure, although consultation with affected businesses would be welcome. The issue is whether there should be a procedure and opportunity to apply for a derogation in the first place.

VAT rates

Q19 *Do you think that the current rates structure creates major obstacles for the smooth functioning of the single market (distortion of competition), unequal treatment of comparable products, notably online services by comparison with products or services providing similar content or leads to major compliance costs for businesses? If yes, in what situations?*

68. The current rates structure creates a significant obstacle for the smooth functioning of the single market, as there is currently a 10% difference between the minimum and maximum levels of standard rates currently in use. This obstacle can only be removed or reduced by a closer harmonisation of rates across the EU.

Q20 Would you prefer to have no reduced rates (or a very short list), which might enable Member States to apply a lower standard VAT rate? Or would you support a compulsory and uniformly applied reduced VAT rates list in the EU notably in order to address specific policy objectives as laid out in particular in 'Europe 2020'?

69. This is ultimately a policy decision for national governments and the EU. There are very good policy reasons as to why supplies are subject to VAT at either the reduced or zero-rate. Viewed entirely from the perspective of how the VAT rules can be simplified, the removal of reduced rates would clearly simplify the VAT system. However, the removal of reduced rates would have considerable practical and political consequences and any decisions need to be balanced against wider policy objectives.

70. However, if our recommendation made above to remove exemptions is implemented practically it is likely that some reduced rates would be needed. However these should be kept to a minimum and applied consistently to an agreed EU wide list of supplies.

Reducing 'red tape'

The Commission Action Programme for Reducing Administrative Burdens and streamlining VAT obligations

Q21 What are the main problems you have experienced with the current rules on VAT obligations?

71. The requirement to submit quarterly VAT returns has become familiar to most business and presents relatively few problems in practice. However, the new additional information requirements for items such as EC Sales lists, Intrastat returns and reverse charge sales lists are unwelcome additional burdens on businesses for which they neither perceive nor obtain any benefit. In all these roles, businesses are simply required to act as unpaid collectors of information for the state tax authorities.

72. Most problems in this area are encountered in dealings, or attempted dealings, with the national tax authorities (HMRC in the UK). The following examples are common:

- Obtaining VAT registrations for new businesses
- Invoicing requirements and their variation between Member States
- Dispute resolution process
- Penalty regime
- Difficulty in accessing telephone helplines
- Shortage of suitably qualified and experienced staff to answer queries
- Difficulty in obtaining transaction rulings to provide certainty of correct VAT treatment
- Compliance with increasingly complex legislation

Q22 What should be done at EU level to overcome these problems?

73. If the origin principle were adopted for all supplies between EU Member States, many of the reporting requirements could be abolished.

74. The tax authorities could be required to provide binding rulings in cases where published legislation or guidance was inconclusive. Any such rulings should apply across the EU.

75. Penalty regimes could be simplified and harmonized at a realistic and proportionate level.

76. Tax authority member states should be obliged to comply with agreed service levels (for example registering a business for VAT) in a similar manner to the obligations placed on

taxpayers and in default thereof taxpayers should be entitled to statutory levels of compensation.

Q23 What are your views particularly on the feasibility and relevance of the suggested measures including those set out in the reduction plan for VAT (N° 6 to 15) and in the opinion of the High Level Group?

N° 6 - Abolishing annual summary VAT returns

77. Annual summary VAT returns are not a requirement in the UK and we would not want them to become so. We therefore support their abolition.

N° 7 - Reducing the frequency of the periodic VAT return

78. The normal frequency for VAT returns in the UK is quarterly, with an option for monthly returns available for businesses regularly claiming repayments. Annual returns are available for businesses with a turnover up to £1,350,000.

79. We see no reason to change these arrangements and would not wish to see the introduction of compulsory monthly returns for large businesses. The facility for a business to opt for shorter periods than legally required should be retained.

N° 8 - Simplifying the proof required for the VAT export exemption

80. We welcome any proposal to simplify the proof required to obtain VAT export exemption.

N° 9 - Abolishing the intra-EU acquisitions listing

81. Intra-EU acquisitions listings are not a requirement in the UK and we would not want them to become so. We therefore support their abolition.

N° 10 - Abolishing 'nil' intra-EU sales listings

82. The submission of 'nil' intra-EU sales listings is not a requirement in the UK and we would not want it to become so. We therefore support their abolition.

N° 11 - Introducing a real-time VAT collection system

83. It is unclear from the Commission Staff Working Document precisely what is intended by this recommendation. We have no significant issues with the current system.

N° 12 - Facilitating use of the power of attorney to submit VAT returns and listings

84. We interpret this measure as providing the ability for agents to sign and submit VAT returns on behalf of their clients. We welcome this proposal, subject to the condition that the businesses, not their agents, should always remain ultimately responsible for the declarations made and any tax payable.

N° 13 - Increasing the use of e-government solutions

85. The electronic submission of VAT returns is becoming compulsory for all UK VAT registered businesses by 2012. Facilitation of this measure is therefore irrelevant in the UK, but we welcome the option to submit VAT returns electronically in other Member States.

N° 14 - Incorporating VAT registration into general business registration

86. We support any measure that would make it easier to set up a new business.

N° 15 - Harmonising measures to combat VAT fraud in line with best practice

87. We welcome the harmonisation of measures to combat VAT fraud, subject to the proviso that such measures should not pose onerous obligations on businesses.

Additional recommendations suggested by the High Level Group

88. We agree with the recommendations suggested by the High Level Group. In particular, we would welcome any changes that could be made to reduce the reporting burden on businesses. We support the charging of VAT on intra-EU supplies under the origin principle that would eliminate the need for most, if not all, of the additional reporting requirements referred to by the High Level Group.

Small businesses

Q24 Should the current exemption scheme for small businesses be reviewed and what should be the main elements of that reassessment?

89. As the whole VAT system is potentially being reviewed, it makes sense to review the schemes available to small businesses at the same time.
90. Setting a minimum turnover threshold below which a business is not required to be registered for VAT appears a sensible way forward. This should be set at a level to take individual suppliers out of compulsory registration, say 50,000 euros. In the interests of harmonization, it may also be appropriate to set a maximum threshold for exemption from registration. An appropriate level for this may be twice the minimum threshold, say 100,000 euros.

Q25 Should additional simplifications be considered and what should be their main elements?

91. The normal method of accounting for VAT should be simplified for all businesses to the extent that simplifications, such as a flat rate scheme for small businesses, become unnecessary and inappropriate. By withdrawing these schemes, the complications that they introduce, such as in relation to intra-EU trade, would be eliminated.
92. Whereas flat rate schemes are intended to provide simplifications for small businesses, they tend to introduce complications when combined with other schemes, such as cash accounting. The need to identify particular supplies for time of supply purposes around the time of VAT rate changes can also be problematic. In many cases, flat rate schemes are not used for their simplification benefits, but because the calculations using the flat rates result in a lower amount of VAT payable to the tax authorities. There is an argument that this results in unfair competition with businesses trading slightly above the turnover limit for the flat rate scheme.

Q26 Do you think that small business schemes sufficiently cover the needs of small farmers?

93. We believe that the normal VAT system should be simplified to the extent that it covers the needs of small farmers, making a separate special scheme unnecessary and undesirable.

Other potential simplification initiatives

A one-stop-shop mechanism

Q27 Do you see the one stop shop concept as a relevant simplification measure? If so, what features should it have?

94. As previously stated, we are in favour of the origin system. If adopted, the need for a one stop shop concept as envisaged in this consultation would become irrelevant. Sales to any

customer, whether B2B or B2C, would then be treated the same for VAT purposes, regardless as to where within the EU the supply was being made.

95. If the origin system is not adopted, then there would be some relevance to the one stop shop as a simplification measure. This should enable all reporting, payments and claims to be made in a single Member State with as few reporting requirements as possible to enable it to function.

Adapting the VAT system to large and pan-European businesses

Q28 Do you think that the current VAT rules create difficulties for intra-company or intra-group cross-border transactions? How can these difficulties be solved?

96. It is a principle of the single market that there should be no difference in trading between two companies, regardless of where they are situated within the EU.
97. There is currently a difference in the VAT and reporting requirements for services, dependant upon whether an intra-EU transaction is undertaken between two separate legal entities or within a single legal entity. Extending the principle that the domestic treatment of such supplies would be different, unless the two separate legal entities were both members of the same VAT group registration, it seems fair and reasonable that similar intra-EU supplies should also be treated differently.
98. The way to make the intra-EU situation equivalent to the domestic situation would be to allow the two separate legal entities to join an EU wide VAT group registration. There would then be no supply for VAT purposes, whether made within a single legal entity or between two separate legal entities.
99. There have been proposals to change the rules such that supplies to a branch in another EU country would be treated the same as those to a subsidiary. EU VAT grouping would also remove this anomaly.

Synergies with other legislations

Q29 In which areas of VAT legislation do synergies with other tax or customs legislation need to be promoted?

100. Record keeping requirements should be consistent for all taxes.
101. The rules on business establishment should be harmonized with those for direct taxes.

A more robust VAT system

Reviewing the way VAT is collected

Q30 Which of these models looks most promising in your view and why, or would you suggest other alternatives?

102. Our preferred option of those being suggested would be the data warehouse model with access on demand to the tax authority. However, we see no reason to make any compulsory changes from the existing methods of VAT collection. If any changes are to be made, each Member State should be able to adopt its own preferred solution.
103. The certification of compliance processes and internal controls is acceptable and would therefore be our second choice of the proposed options. However, we are doubtful about how successful this would be in achieving the desired objectives.

104. The split payment method appears to have significant initial and ongoing compliance costs and burdens for businesses. It would be impractical to expect small businesses to adopt this method and the values involved would make it not cost effective. We are therefore against this option.
105. To send all invoice data in real time would involve enormous volumes of transaction details being electronically transmitted between businesses and the tax authorities, with associated security risks. The investment required in technology for all businesses would be significant and out of proportion to any benefits that may be obtained. We are therefore against this option.

Protecting bona fide traders against potential involvement in VAT fraud

Q31 *What are your views on the feasibility and relevance of an optional split payment?*

106. As previously stated, the split payment method appears to have significant initial and ongoing compliance costs and burdens for businesses and would impractical for small businesses. As such, making this method optional would be preferable to making it compulsory. However, anyone intent in becoming involved in fraudulent activity is unlikely to voluntarily participate in such a protection scheme, so optional participation may be pointless and likely to have very small, if any, take up.

An efficient and modern administrating of the VAT system

Q32 *Would you support these suggestions to improve the relationship between traders and tax authorities? Do you have other suggestions?*

107. We support any sensible initiatives to improve the relationship between traders and tax authorities, including all the suggestions being made in this consultation.
108. Difficulties are created in the relationship with tax authorities for a number of reasons, including the following:
- Unnecessary complexity
 - Onerous reporting requirements
 - Harsh and disproportionate penalties for errors
 - Different interest rates for tax unpaid and tax overpaid
 - Insufficient tax authority staff and long response times
 - Inadequate staff training for satisfactory resolution of queries
 - Lack of understanding of the requirements of businesses

Other issues

Q33 *Which issues, other than those already mentioned, should be addressed in considering the future of the EU VAT system? What solution would you recommend?*

109. We have no further comments.

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www.icaew/taxfac.com

THE TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see <http://www.icaew.com/~media/Files/Technical/Tax/Tax%20news/TaxGuides/taxguide-4-99-towards-a-better-tax-system.ashx>).