

TAXREP 31/04

VAT ONE-STOP SHOP

Memorandum submitted in July 2004 by the Tax Faculty of the Institute of Chartered Accountants in England and Wales in response to an invitation to comment issued in April 2004 by the European Commission

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VAT ONE STOP SHOP

INTRODUCTION

1. We welcome the opportunity to comment on the proposals outlined in the consultation paper published on 19 April 2004 by the European Commission at http://europa.eu.int/comm/taxation_customs/taxation/consultations/one_stop_en.htm.

KEY POINT SUMMARY

2. The proposal whereby a trader can file one VAT return in the country in which he is established covering his supplies and inputs in all member states is a useful step towards simplifying VAT compliance obligations. It is better than having to register in and submit VAT returns in each member state. It also overcomes the language barrier which is a real obstacle for small and medium sized enterprises ('SMEs').
3. We support the current proposal but are disappointed that it is not possible to make bolder moves to simplify the VAT rules for intra-EU traders. The proposal does little to mitigate the daunting complications for UK traders who trade in the EU. Whilst the proposals are aimed at SMEs, even after 30 years membership of the EU we understand that very few UK SMEs trade outside the UK. There are a number of reasons for this but different VAT rules and systems in other EU member states mean that VAT remains a serious barrier to trade. Ideally the EU VAT regime should comply with our ten tenets for a better tax system promulgated by us in 1999 (see Annex).

WHO WE ARE

4. The Institute of Chartered Accountants in England and Wales ('ICAEW') is the largest accountancy body in Europe, with more than 128,000 members. Three thousand new members qualify each year. The prestigious qualifications offered by the Institute are recognised around the world and allow members to call themselves Chartered Accountants and to use the designatory letters ACA or FCA.
5. The Institute operates under a Royal Charter, working in the public interest. It is regulated by the Department of Trade and Industry through the Accountancy Foundation. Its primary objectives are to educate and train Chartered Accountants, to maintain high standards for professional conduct among members, to provide services to its members and students, and to advance the theory and practice of accountancy, including taxation.
6. The Tax Faculty is the focus for tax within the Institute. It is responsible for tax representations on behalf of the Institute as a whole and it also provides various tax services including the monthly newsletter 'TAXline' to more than 11,000 members of the ICAEW who pay an additional subscription.

GENERAL COMMENTS

7. The proposal whereby a trader can file one VAT return in the country in which he is established covering his supplies and inputs in all member states is a useful step towards

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simplifying VAT compliance obligations. It is much better than having to register in and submit VAT returns in each member state as the amount of administrative time and costs should be much lower. It also overcomes the language barrier which is a real obstacle for UK small and medium sized enterprises but we suspect is also a problem for SMEs in other countries.

8. Whilst we welcome this move and support the proposal, we note with considerable disappointment the daunting complications still facing a UK trader who would like to trade in the EU. The proposal is mainly relevant to SMEs and it is unfortunate that after more than 30 years of UK membership of the EU, very few UK SMEs trade outside the UK. This underlines the failure of member states to agree an effective harmonised VAT system for small traders operating across national boundaries. The consultation paper illustrates just how important the harmonisation of VAT rules is to the objectives of the EU Treaty. After more than 50 years of its existence the EU is still a long way from achieving those objectives. VAT remains a barrier but progress towards a harmonised VAT system has been slow.
9. We note the strategy of a gradualist approach to the making of proposals on VAT so that proposals are only put forward if they are likely to have unanimous support in the Council of Ministers. We understand fully the reasons for this strategy but the downside is that progress on this important issue is very slow. The result of the slow progress is that EU traders have to bear the cost. The fact that the current proposal does not obviate the need for traders to understand the VAT systems of all the member states in they operate will continue to deter most small traders from venturing outside the UK. This greatly undermines the usefulness of the exercise because we expect very few small traders to take advantage of it. Although the proposal is better than having to register for VAT purposes in up to 25 member states, in practice very few small traders would do that so the comparison is not likely to be one which can be made in practice.
10. It is possible that the proposal may assist some larger traders but most would either have fixed establishments in the member states in which they operate or are already registered in those countries.
11. At the heart of the proposal is a system for settling tax indebtedness between member states. This system is worth developing. It first appeared in the proposals for what in our view was the flawed and unfair special scheme for non-EU suppliers of electronic services. We would welcome clarification as to how that experiment is faring across the EU. The current proposal deals with input tax but it continues the discrimination against non-EU suppliers of electronic services which we believe is unfair and needs to be removed.
12. The failure by member states over many years to agree a common system of relief for VAT on purchases is the biggest threat to this proposal. Even if this does not render the proposal unworkable, it will add considerably to the administrative burdens and complications for the trader and the tax authorities alike. The compliance costs of the proposal greatly detract from its usefulness. The comparison for this purpose is not with the cost of registering in up to 25 member states: this will clearly be far greater. Only large traders would be prepared to do that. For the small trader, a better comparison is the compliance costs of the proposed system compared with not trading outside the UK. In other words it is the incremental cost of starting to trade across EU borders.

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13. Finally we would make the general comment that VAT is a tax borne by the final consumer. It is meant to be neutral insofar as traders are concerned and not a cost to business. The trader acts as an unpaid tax collector. It appears to us that the burdens of operating almost unworkable VAT systems fall on the trader. We feel that the tax authorities of the member states owe a duty to the traders to make their task as simple as possible. We are not convinced that this duty is being fulfilled.
14. We consider that there are ten tenets that should underlie a tax system. We published these in October 1999 in our discussion document TAXGUIDE 4/99; a summary is in the Annex. We consider that as part of their duty towards traders, the Commission and the tax authorities of member states should measure the impact of obligations that they impose against our ten tenets.
15. Whilst we support the current proposal, we are disappointed that it is not possible to make bolder moves on VAT. Traders and EU citizens stand to gain a great deal from the achievement of the objectives of the EU Treaty with the creation of an EU market similar in all respects to an internal market. If the Council of Ministers continues to fail to reach agreement on VAT reforms, we are concerned that many traders and citizens will become more sceptical of the benefits of continued membership of the EU. In this respect, the recent enlargement of the EU to 25 member states is likely to slow progress further on VAT reform.

SPECIFIC COMMENTS

Compulsion

16. Although we appreciate that the proposal will only work if the form is completed and submitted electronically, we trust that the new system will not debar the less sophisticated trader from conducting intra-member state business and that it will be possible for traders to make paper returns direct to the relevant tax authorities as at present.

The VAT return and the right of deduction

17. We think that the system should be as close as possible to the existing system. We understand that different rules for deduction will apply for different member states. Assistance on this could be provided to traders on the forms or in separate leaflets.
18. Assistance will also be required on currency conversion. We think that the returns submitted in the UK should continue to be in sterling unless the trader wishes to file his return in Euros.
19. It may be better to leave the existing format of the VAT returns unchanged and to have separate forms for the transactions in each country so that taken together the separate forms add up to the figures on the VAT return.
20. We would welcome clarification of what is meant by 'a system of carryover or repayment' in paragraph 5 of the consultation paper. If it means that the repayment of input tax could be delayed for six months, ie two quarterly accounting periods, we do not agree that this is

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necessary or fair. The new system should be no more onerous than the existing system so far as the right to repayment is concerned. In the UK, a repayment trader is repaid promptly after the return is submitted. That is how the new system should work. This does not rule out measures for the prevention of fraud. The country in which the trader is established will no doubt carry out checks at the time of VAT registration and later if an unusual transaction is identified by the tax authority. In those circumstances the repayment should be delayed no longer than is necessary to make reasonable enquiries.

21. Ideally the audit of VAT returns should be carried out in the country of VAT registration. Assistance could be provided in the country in which the transactions take place if the tax authority in the country of registration calls for it. If the member state of consumption is required to contact the trader in the country in which he is established language difficulties will inevitably arise. It would be better if the trader only has contact with the tax authorities in the country in which he is registered.
22. The consultation paper does not go into fine detail about how the system will operate and how the forms should be designed. No doubt too much detail would have detracted from an understanding of how the system would work in outline. However, we hope member states will provide enough support for this proposal to go to the next stage so that more of the practicalities can be explored.

Partially-exempt traders

23. The return will deal separately with the taxable outputs for each of the other member states and will make provision for any input tax incurred by the taxable person in those other member states to be recovered - according to the rules of the member state of purchase. This facility to deduct input tax will thus obviate the need to make 8th Directive claims.
24. It is not clear how taxable persons who make both taxable and exempt supplies and should thus suffer a restriction in input tax under partial exemption rules will be monitored to ensure that they do not recover more input tax than they should. Presumably, the amount of any such restriction will be something that has to be negotiated by such taxable persons with the tax authorities in the other member states, who may well take a view different from the UK tax authority on how this should be done. The use of the one-stop-shop arrangements would not, therefore, be as simple as would appear from the Commission's paper. If the taxable person does not of his own volition approach the tax authorities of the other member states, he might recover more VAT than he should, but the tax authority of the member state in which the trader is established and to whom the return is submitted in the first instance would have no real incentive to stop this.

14-69-13
PCB
16.7.04

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.co.uk/taxfac/index.cfm?AUB=TB2I_43160,MNXI_43160.