



VAT - ADMINISTRATIVE COOPERATION AND THE FIGHT AGAINST FRAUD

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ICAEW welcomes the opportunity to comment on the call for evidence on 'VAT - administrative cooperation and the fight against fraud' published by European Commission on 27 June 2022, a copy of which is available from this [link](#).

ICAEW is listed in the EU Transparency Register (ID number: 7719382720-34).

For questions on this response, please contact our Tax Faculty at taxfac@icaew.com quoting REP 59/22.

This response of 21 July 2022 has been prepared by the ICAEW Tax Faculty. Internationally recognised as a source of expertise, the ICAEW Tax Faculty is a leading authority on taxation and is the voice of tax for ICAEW. It is responsible for making all submissions to the tax authorities on behalf of ICAEW, drawing upon the knowledge and experience of ICAEW's membership. The Tax Faculty's work is directly supported by over 130 active members, many of them well-known names in the tax world, who work across the complete spectrum of tax, both in practice and in business. ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark the tax system and changes to it, are summarised in Appendix 1.

ICAEW is a world-leading professional body established under a Royal Charter to serve the public interest. In pursuit of its vision of a world of strong economies, ICAEW works with governments, regulators and businesses and it leads, connects, supports and regulates more than 161,000 chartered accountant members in over 147 countries. ICAEW members work in all types of private and public organisations, including public practice firms, and are trained to provide clarity and rigour and apply the highest professional, technical and ethical standards.

REPRESENTATION

1. Thank you for this opportunity to provide views on how the framework for administrative cooperation on VAT and the fight against VAT fraud has been applied between 2014 and the present.
2. We note that the evaluation will focus predominantly on the provisions introduced by the 2018 amendment of the Regulation, notably:
 - a. enabling Eurofisc to exchange, process and analyse targeted information on cross-border fraud with information technology (IT) tools, to cooperate with EU law enforcement bodies, and to access vehicle-registration data; and
 - b. the new cooperation tools facilitating administrative enquiries between Member States and cooperation between tax and customs authorities.
3. However, the evaluation will also consider how the rules set out in the VAT-e-commerce package have been applied since they entered into force on 1 July 2021, and the VAT Information Exchange System (VIES) will be analysed.
4. As ICAEW represents chartered accountants based primarily (but not exclusively) in the UK, we have focused our response on the element of the evaluation that directly affects our members. That is to say, our response is focused on how the rules set out in the VAT e-commerce package have affected our members, including both those members providing advice to UK based businesses and those who work for such businesses.
5. The key points arising from those discussions are set out below:
 - a. The VAT e-commerce package is intended to reduce the need for multiple VAT registrations within the EU. However, a UK business may still need three separate registrations to trade effectively within the EU:
 - i. An OSS (Union scheme) registration for intra-EU distance supplies of goods;
 - ii. An OSS (non-Union scheme) registration for services; and
 - iii. An IOSS registration for the importation of low value goods from third countries/territories.
 - b. We consider that the IOSS is intended to save businesses from registering in all 27 member states of importation. The IOSS threshold (€150) is, from member feedback, too low for many UK businesses intending to ship goods to the EU. Many consignments will be over this threshold and as a result, many UK businesses are requiring the customer to pay for any import duties and VAT or having to register themselves to declare/pay import VAT. We appreciate that this threshold is established based on the obligation to file full customs declarations and pay any customs duty – however a threshold of €1 000 (intrinsic value) would potentially reduce the incentive to undervalue goods to avoid registration of the supplier in each member state of importation.
 - c. We understand many small to medium-size businesses (including those outside of the UK and EU) are no longer selling to the EU as the need for and cost of tax representation ('Intermediary' within the meaning of article 369I(2) of the VAT Directive) (where applicable) and, possibly, multiple registrations (refer to 5a) means it is not cost-effective for them to do so.
 - d. The Commission's explanatory notes on the OSS provide¹ an illustrative list of the services that could be declared via the non-Union OSS. It has been noted that some businesses consider this to be an exhaustive list. It could be considered whether the explanatory notes could be amended to make it clear that the OSS can be used for all types of services supplied to consumers.
6. We consider these observations (particularly those made at 5a and 5b) to be important in the fight against fraud (and reduce scope for errors) for the primary reason that cooperation

¹ Page 34 Explanatory Notes on VAT e-commerce rules

between tax authorities in the Member States would be more straightforward if the number of EU VAT registrations (both registrations in individual Member States and (I)OSS registrations) any one business was required to hold was reduced.

APPENDIX 1

ICAEW 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 <https://goo.gl/x6UjJ5>).