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NOTE

From: General Secretariat of the Council
To: Council

Subject: VAT in the Digital Age package:
a) Draft Council Directive amending Directive 2006/112/EC as regards VAT rules for the digital age
- General approach
b) Draft Council Regulation amending Regulation (EU) No 904/2010 as regards the VAT administrative cooperation arrangements needed for the digital age
- Political agreement
c) Draft Council Implementing Regulation amending Implementing Regulation (EU) No 282/2011 as regards information requirements for certain VAT schemes
- Political agreement

I. INTRODUCTION

1. On 8 December 2022, the Commission submitted a package entitled ‘VAT in the Digital Age’, containing three proposals:

- a proposal for a Council Directive amending Directive 2006/112/EC as regards VAT rules for the digital age (the amending Directive)¹;

¹ Doc. 15841/22.

- a proposal for a Council Regulation amending Regulation (EU) No 904/2010 as regards the VAT administrative cooperation arrangements needed for the digital age (the amending Regulation)²; and
- a proposal for a Council Implementing Regulation amending Implementing Regulation (EU) No 282/2011 as regards information requirements for certain VAT schemes (the amending Implementing Regulation)³.

2. The three proposals have the following objectives:

- (a) they set out to modernise the process of invoicing by moving to generalised e-invoicing, and updating the reporting obligations for VAT purposes by standardising the information that needs to be submitted by taxable persons on each transaction, which would contribute to the fight against tax fraud (the ‘digital reporting requirements’ or ‘DRR’ part);
- (b) they seek to address the challenges that the platform economy poses to traditional sectors in terms of level playing field by enhancing the role of platforms in the collection of VAT, when they facilitate the supply of short-term accommodation rental or passenger transport services (the ‘platform economy’ part); and
- (c) they support the aim of reducing the need to register for VAT purposes in multiple EU Member States, by improving the functioning of and expanding the existing one-stop shop systems and reverse charge mechanisms (the ‘single VAT registration’ or ‘SVR’ part).

² Doc. 15842/22.

³ Doc. 15843/22.

3. The European Data Protection Supervisor has issued its opinion on the package on 3 March 2023⁴. The European Economic and Social Committee has issued its opinion on the package on 27 April 2023⁵. The European Parliament adopted its opinion at its plenary session on 22 November 2023⁶. Should the Council reach a general approach on the draft amending Directive, a new opinion will have to be requested from the European Parliament.

4. Technical discussions were held on the various parts of the package under the Czech, the Swedish, the Spanish and the Belgian Presidency, which led to a broad agreement on the package with the exception of one key issue, namely the deemed supplier regime for short-term accommodation rental services and passenger transport services by road.

II. KEY ISSUE: PLATFORM ECONOMY

5. At the policy debate in the meeting of the Council (Ecofin) in June 2023, there was general consensus on the need for a larger role for platforms in the collection of VAT on short-term accommodation rental and passenger transport services. However, a number of Member States expressed concerns on the deemed supplier model and some ministers called for some leeway on the taxation regime of short-term accommodation rental.

6. In its compromise texts, the Spanish Presidency adjusted the definition of short-term accommodation rental to allow Member States sufficient flexibility to accommodate national specificities in the taxation of the accommodation sector through national law. A group of Member States was however still not in a position to support this solution and asked for more flexibility.

⁴ Doc. 7071/23.

⁵ Opinion of the European Economic and Social Committee, “VAT in the Digital Age”, doc. ECO/606, <https://webapi2016.eesc.europa.eu/v1/documents/EESC-2022-06315-00-00-AC-TRA-EN.docx/content>

⁶ European Parliament legislative resolution of 22 November 2023 on the proposal for a Council Directive amending Directive 2006/112/EC as regards VAT rules for the digital age, https://www.europarl.europa.eu/doceo/document/TA-9-2023-0421_EN.pdf; European Parliament legislative resolution of 22 November 2023 on the proposal for a Council regulation amending Regulation (EU) No 904/2010 as regards the VAT administrative cooperation arrangements needed for the digital age, https://www.europarl.europa.eu/doceo/document/TA-9-2023-0422_EN.pdf.

7. The Belgian Presidency accommodated these concerns by giving Member States the possibility to prevent the deemed supplier regime from being applied to small and medium-sized enterprises (SMEs). At the meeting of the Council (Ecofin) on 14 May 2024, this solution gathered the support of all but one Member State.

8. After the May Council meeting, the Belgian Presidency modified the text by alleviating the administrative burden for platforms and underlying suppliers in those Member States that use the possibility to exempt SMEs from the deemed supplier regime. At the June 2024 Ecofin Council, this solution was again supported by all delegations except for one.

9. In October 2024, after due reflections at technical level on the way forward on the abovementioned key issue, the Hungarian Presidency amended the text by further alleviating the administrative burden associated with the possible exclusion of SMEs from the scope of the deemed supplier regime, and by delaying the application date of the deemed supplier regime.

10. This text was broadly supported at technical level, and the Committee of Permanent Representatives, at its meeting on 30 October 2024, decided to forward the texts to the Council for a general approach on the amending Directive, a political agreement on the amending Regulation, and a political agreement on the amending Implementing Regulation. At the meeting, the Commission requested the inclusion of two statements, and the Spanish delegation the inclusion of one statement into both the Coreper and the Council minutes (see addendum 1 to this note).

III. CONCLUSION

11. Against this background, the Council is invited to:

- a) reach a general approach on the draft Council Directive amending Directive 2006/112/EC as regards VAT rules for the digital age on the basis of the text in doc. 14961/24;

- b) reach a political agreement on
- the draft Council Regulation amending Regulation (EU) No 904/2010 as regards the VAT administrative cooperation arrangements needed for the digital age on the basis of the text in doc. 14962/24; and
 - the Council Implementing Regulation amending Implementing Regulation (EU) No 282/2011 as regards information requirements for certain VAT schemes on the basis of the text in doc. 14963/24;
- c) agree on the Council and Commission statements and the Council statements in the addendum to this note and to invite the Secretariat to include these in the Council minutes;
- d) take note of the other statements in the addendum to this note and invite the Secretariat to include these in the Council minutes.

12. If the Council reaches a general approach on the draft amending Directive on this basis, a decision to reconsult the European Parliament on the text would have to be taken through a simplified written procedure to be launched after the Council meeting in view of the substantial differences between the Commission proposal and the latest Presidency compromise text.