Ingrid Sundin

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Europeiska kommissionen har lämnat förslag om mervärdesskatt i den digitala tidsåldern (COM(2022)701, 703 och 704). Förslaget innehåller tre delar: modernisering av mervärdesskatterapporteringen, uppdatering av mervärdesskattereglerna för plattformsekonomin och en enda registreringspunkt för mervärdesskatt. Kommissionen föreslår ändringar i mervärdesskattedirektivet (2006/112/EG), förordning 904/2010 och genomförandeförordning 282/2011.

Förslagen kommer att behandlas i rådsarbetsgruppen för skatter med start i januari 2023. Inför behandlingen i rådsarbetsgruppen vore det värdefullt att ta del av era synpunkter på förslaget. Förslagen finns i nuläget endast på engelska och de svenska språkversionerna förväntas inte bli färdigställda under remisstiden (se nedan).

Remissvaren ska ha kommit in till Finansdepartementet **senast den 27 januari 2023**. Svaren bör lämnas per e-post till fi.remissvar@regeringskansliet.se och med kopia till sofie.hilbrand@regeringskansliet.se. Ange diarienummer Fi2022/03365 och remissinstansens namn i ämnesraden på e-postmeddelandet.

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I remissen ligger att regeringen vill ha synpunkter på förslagen.

Myndigheter under regeringen är skyldiga att svara på remissen. En myndighet avgör dock på eget ansvar om den har några synpunkter att redovisa i ett svar. Om myndigheten inte har några synpunkter, räcker det att svaret ger besked om detta.

För **andra remissinstanser** innebär remissen en inbjudan att lämna synpunkter.

Råd om hur remissyttranden utformas finns i Statsrådsberedningens promemoria Svara på remiss (SB PM 2021:1). Den kan laddas ned från Regeringskansliets webbplats www.regeringen.se.

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Regeringskansliet

Remiss

2022-12-14
Fi2022/03365

Finansdepartementet
Skatte- och tullavdelningen

Kommissionens förslag om mervärdesskatt i den digitala tidsåldern (COM (2022) 701, 703, 704 final)

Remissinstanser

1 Almega

2 Bokföringsnämnden

3 Bolagsverket

4 Ekobrottsmyndigheten

5 Ekonomistyrningsverket

6 FAR

7 Företagarna

8 Förvaltningsrätten i Stockholm

9 Integritetsskyddsmyndigheten

10 Uppsala universitet (juridiska fakulteten)

11 Kammarrätten i Jönköping

12 Kommerskollegium

13 Konkurrensverket

14 Konsumentverket

15 Myndigheten för digital förvaltning

16 Näringslivets Regelnämnd

17 Näringslivets Skattedelegation

18 Regelrådet

19 Skatteverket

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21 Srf konsulterna

22 Statistiska Centralbyrån

23 Svensk Handel

24 Svenska Taxiförbundet

25 Svenskt Näringsliv

26 Sveriges advokatsamfund

27 Sveriges kommuner och regioner

28 Tillväxtverket

29 Transportföretagen

30 Tullverket

31 Visita

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Anna Sundblad Stahre
Kansliråd

Council of the
European Union

Brussels, 8 December 2022
(OR. en)

15841/22

Interinstitutional File:
2022/0407(CNS)

FISC 258
ECOFIN 1302
IA 217

PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	8 December 2022
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2022) 701 final
Subject:	Proposal for a COUNCIL DIRECTIVE amending Directive 2006/112/EC as regards VAT rules for the digital age

Delegations will find attached document COM(2022) 701 final.

Encl.: COM(2022) 701 final

EUROPEAN
COMMISSION

Brussels, 8.12.2022
COM(2022) 701 final

2022/0407 (CNS)

Proposal for a

COUNCIL DIRECTIVE

amending Directive 2006/112/EC as regards VAT rules for the digital age

{SEC(2022) 433 final} - {SWD(2022) 393 final} - {SWD(2022) 394 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Value added tax (VAT) is a major source of revenue in all EU Member States[1]. It is also a key source of financing for the EU budget since 0.3%of VAT collected at national level is transferred to the EU as own resources, representing 12% of the total EU budget. Despite the key importance of VAT in budgetary policymaking, the VAT system is hampered by sub-optimal VAT collection and control methods. It also imposes excessive burdens and compliance costs.

The revenue loss, known as the 'VAT gap[2]', delineates the issues caused by sub-optimal VAT collection and control. Estimated at EUR 93 billion in total for 2020, a significant part of this loss is due to missing trader intra-Community (MTIC) fraud[3]. The VAT gap also includes revenues lost to domestic VAT fraud and evasion, VAT avoidance, bankruptcies and financial insolvencies, as well as miscalculations and administrative errors. The VAT system is not only prone to fraud, but has also become increasingly complex and burdensome for businesses. In particular, the 30-year-old VAT rules for cross-border trade are not adapted to doing business in the digital age, thus calling for reflection on how technology can be used to reduce administrative burdens and related costs for businesses and at the same time fight tax fraud.

Therefore, in its 2020 Action Plan for fair and simple taxation supporting the recovery[4], the Commission announced the legislative package 'VAT rules for the digital age', which was also included in the 2022 Commission work programme[5]. This proposal is part of this package, together with a proposal for a Council Regulation amending the Regulation (EU) No 904/2010 as regards the VAT administrative cooperation arrangements needed for the digital age[6], and the proposal for a Council implementing Regulation amending Council Implementing Regulation (EU) No 282/2011 as regards information requirements for certain VAT schemes[7].

Following the announcement of the Commission's Tax Action Plan, the Council stated that it "*supports the Commission's suggestion to clarify, simplify and modernise the EU VAT rules*", "*welcomes the initiative announced by the Commission to modernise reporting obligations for cross-border transactions (...) and the Commission's intention to examine the need to adapt*

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1 Eurostat: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Tax_revenue_statistics

2 The VAT Gap is the overall difference between the expected VAT revenue based on VAT legislation and ancillary regulations and the amount actually collected: https://ec.europa.eu/taxation_customs/business/vat/vat-gap_en

3 Europol: https://www.europol.europa.eu/crime-areas-and-statistics/crime-areas/economic-crime/mtic-missing-trader-intra-community-fraud

4 COM(2020) 312 final.

5 COM(2021) 645 final (Annex II, Point 20).

6 Please include reference when available.

7 Please include reference when available.

the VAT framework to the platform economy"[8]. The European Parliament resolutions generally support initiatives to fight VAT fraud[9]. Further, the European Parliament mentioned its explicit support for the initiative saying it "*looks forward to the legislative proposal for modernising VAT reporting obligations*"[10]. More recently, the European Parliament adopted a resolution[11] noting the potential for data and digital tools to reduce red tape and simplify various taxpayer obligations, in particular in the area of VAT returns and recapitulative statements, (…) and welcoming the Commission's proposal to modernise, simplify and harmonise VAT requirements, using transaction-based real-time reporting and e-invoicing. The resolution also emphasises that variances in the Member States' tax regulations constitute a cumbersome challenge and, while endorsing the Union One Stop Shop (OSS), the resolution asks for its scope to be broadened to cover a wider range of services.

This package has three main objectives:

(1) Modernising **VAT reporting obligations[12],** by introducing Digital Reporting Requirements, which will standardise the information that needs to be submitted by taxable persons on each transaction to the tax authorities in an electronic format. At the same time it will impose the use of e-invoicing for cross-border transactions;

(2) Addressing the challenges of the **platform economy[13],** by updating the VAT rules applicable to the platform economy in order to address the issue of equal treatment, clarifying the place of supply rules applicable to these transactions and enhancing the role of the platforms in the collection of VAT when they facilitate the supply of short-term accommodation rental or passenger transport services; and

(3) Avoiding the need for multiple **VAT registrations** in the EU and improving the functioning of the tool implemented to declare and pay the VAT due on distance sales of goods[14], by introducing Single VAT Registration (SVR). That is, improving and expanding the existing systems of One-Stop Shop (OSS)/Import One-Stop Shop (IOSS) and reverse charge in order to minimise the instances for which a taxable person is required to register in another Member State.

(1) VAT reporting and digital reporting requirements (DRRs)

The VAT Directive dates from the 1970s and, as such, the default reporting requirements are not digital. This said, the global trend shows a move from

[8] Council conclusions on fair and effective taxation in times of recovery, on tax challenges linked to digitalisation and on tax good governance in the EU and beyond (FISC 226 ECOFIN 1097, doc. 13350/20).

[9] European Parliament resolution of 24 November 2016 on towards a definitive VAT system and fighting VAT fraud (2016/2033(INI)); European Parliament resolution of 4 October 2018 on fighting customs fraud and protecting EU own resources (2018/2747(RSP)).

[10] European Parliament resolution of 16 February 2022 on the implementation of the Sixth VAT Directive: what is the missing part to reduce the EU VAT gap? (2020/2263(INI)).

[11] European Parliament resolution of 10 March 2022 with recommendations to the Commission on fair and simple taxation supporting the recovery strategy (P9_TA(2022)0082).

[12] VAT reporting obligations refer to the obligation of VAT-registered businesses to make periodic declarations of their transactions to the tax authority to allow monitoring the collection of VAT.

[13] In this respect, the term 'platform economy' relates to supplies of services made via a platform.

[14] https://ec.europa.eu/taxation_customs/business/vat/vat-e-commerce_en

traditional VAT compliance towards real-time sharing of transaction-based data with tax administrations, often based on e-invoicing. The VAT Directive[15] represents a significant barrier towards digitalisation, as Member States need to obtain a derogation for them to be able to adopt DRRs based on obligatory e-invoicing requirements.

Even so, by means notably of such a derogation, several Member States have introduced various types of DRRs, providing information to tax authorities on a transaction-by-transaction basis. The measures have proven successful in increasing VAT collection, thanks to the improvements in tax control and the deterrent effect on non-compliance. The related increase in VAT revenue from 2014 to 2019 is estimated to be between EUR 19 billion and EUR 28 billion in those Member States which have introduced DRRs in this period, corresponding to an annual increase of VAT revenue of between 2.6% and 3.5%[16].

The VAT Directive grants Member States a wide discretion to introduce the obligations they deem necessary to ensure the correct collection of the tax and to prevent evasion. Therefore, DRRs vary substantially from one Member State to the other. They can consist of (i) the transmission of monthly reports of business transactions, (ii) the real-time submission of invoices, (iii) the real or quasi-real time transmission of invoice data, or (iv) the submission of tax and accounting data or VAT records. Other Member States have implemented non-digital tools for reporting transactions, such as listings which do not provide data at transactional level, but only provide the values of sales or purchases per customer or supplier (listings of suppliers and customers). All these requirements are in addition to the requirement to submit VAT returns.

The scale of the problems caused by the rapid introduction of divergent digital VAT reporting requirements and the need to act swiftly was confirmed by stakeholders during the consultation[17]. The resulting fragmentation in the regulatory framework brings additional compliance costs for businesses that operate in different Member States, and therefore have to comply with varying local requirements, and creates barriers within the single market. With an increasing number of Member States

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15 There is no explicit option available for Member States to introduce mandatory e-invoicing requirements as a means of ensuring the correct collection of VAT and preventing VAT fraud. The VAT Directive makes the use of e-invoices subject to their acceptance by the recipient, in Article 232; this provision cannot be derogated via Article 273, which allows Member States to introduce other obligations on taxpayers to ensure the correct collection of VAT and to prevent VAT fraud. Hence, if a Member State wishes to introduce mandatory e-invoicing requirements, it must do so by requesting a derogation from the Directive under Article 395, which is subject to the unanimous agreement of the Council based on a proposal from the Commission.

16 To estimate whether DRRs improved VAT compliance, thus reducing the VAT gap and increasing VAT revenues, an econometric analysis was carried out in the 'VAT in the Digital Age' study. The effects of DRRs are estimated on two dependent variables: the VAT gap and C-efficiency. Full details of the model specifications and the results are available in Annex 4 of the impact assessment report accompanying this proposal (Commission staff working document SWD (2022) 393).

17 Summary of the public consultation can be found here: VAT in the digital age (europa.eu).

implementing different models of digital reporting obligations[18], the costs of fragmentation for multinational companies (companies with presence in more than one Member State)[19] are significant. EU-wide they are estimated at about EUR 1.6 billion annually, of which EUR 1.2 billion are borne by small-scale multinational companies and EUR 0.4 billion by large-scale multinational companies[20].

In addition, the current reporting system of intra-Community transactions (referred to in the VAT Directive as 'recapitulative statements'[21]) does not allow Member States to effectively tackle VAT fraud linked to these transactions The current recapitulative statements date from 1993 and have not substantially changed since then. They are ill-prepared for the digital economy and can hardly be compared to the much more modern digital reporting systems implemented by some Member States for domestic transactions.

Among other shortcomings, recapitulative statements only provide aggregated data for each taxable person, and not transaction-by-transaction data. Moreover they do not allow data from supplies to be cross-matched with that of acquisitions, as the VAT Directive leaves the reporting of intra-Community acquisitions optional for Member States and fewer than half of the Member States have introduced this obligation. Further, theses data may not be available to tax authorities in other Member States at the right time, both because of filing frequency because of the time it takes for local tax authorities to upload data onto the system. These shortcomings were rightly highlighted by almost two thirds of informed stakeholders responding to the public consultation who totally or partly agreed that recapitulative statements would be more effective in fighting intra-EU fraud if data were collected on a transaction-by-transaction basis and closer to the moment of the transaction.

Any reform of the reporting of cross-border transactions inevitably entails changes to administrative cooperation and exchange of data between the competent authorities of the Member States and the VAT Information Exchange System (VIES)[22].

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18 Different types of digital reporting requirements are currently in place in several Member States: clearance e-invoicing (Italy), real-time reporting (Hungary, Spain), SAF-T reporting (Lithuania, Poland, Portugal), VAT listing (Bulgaria, Croatia, Czechia, Estonia, Latvia, Slovak Republic) and some Member States publicly announced upcoming reporting requirements (France, Greece, Romania).

19 Based on Eurostat estimates, there are about 210 000 multinational companies (MNCs) in the Union, 85% of which have a local headquarters and the rest being controlled by foreign entities.

20 These mainly result from significant setup costs, especially in countries with more complex DRRs. For compliance, a small-scale MNC can be expected to invest about EUR 10 000 for SAF-T requirements, EUR 25 000 for real-time requirements and more than EUR 50 000 in case of e-invoicing. For a large scale MNC, figures reach up to EUR 50 000 for SAF-T requirements, EUR 200 000 for real-time requirements and EUR 500 000 for e-invoicing.

21 When a business sells goods or services to a business in another Member State, it is obliged to submit a recapitulative statement to its Member State detailing the business to whom it has made the supply, and the total amount of supplies to that business. The information is shared between Member States, and is used to help ensure compliance.

22 In 1993, with the introduction of the Internal Market, the border controls were abolished and replaced by reporting obligations of intra-Community supplies in the form of periodical recapitulative statements for VAT purposes (a recapitulative statement is a simple form submitted on a monthly/quarterly basis

These issues will be solved, in relation to the fight against VAT resulting from intra-Community trade, by introducing a transaction-by-transaction reporting system that will provide information to Member States in almost real time, in line with the successful systems several Member States have implemented for domestic transactions. In relation to the lack of harmonisation of domestic reporting systems, the issues will be tackled by establishing a common template that those reporting will have to follow, allowing taxable persons to always report data from electronic invoices issued according to the European standard set up in Directive 2014/55/EU on electronic invoicing in public procurement[23].

(2) VAT treatment of the platform economy

The rise of the platform economy business model[24] has triggered new problems for the VAT system. One of these problems is VAT inequality.

Under VAT rules, a taxable person means any person (natural or legal) who, independently, carries out any economic activity[25]. Taxable persons are required to register for VAT and charge VAT on their sales. However, individuals acting in their private capacity are not considered as taxable persons. In addition, small enterprises are exempt from VAT due to a simplification measure relieving them of VAT administrative obligations.

Until recently, private individuals and exempted small enterprises were not considered to have any impact on market competition with VAT registered businesses. But the platform economy has introduced new business models that are changing this situation.

Private individuals and small businesses can provide their VAT-free services via a platform and with the economies of scale and network effect[26] be in direct

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by traders, in addition to their VAT return, to declare goods delivered and services provided to traders in other Member States, containing the VAT number of the customers and the aggregated value of supplies per customer during a given period). These recapitulative statements are stored in national VAT databases. These databases are then connected through an electronic interface called VIES (VAT Information Exchange System), with the Commission managing the communication links between the Member States while national VIES applications are developed by the Member States. Tax administrations access VIES information for control purposes, while economic operators use a module of VIES, called the 'VIES-on-the-web'(VoW) to check the validity of their client's VAT number registered in the European Union for cross-border transactions on goods or services.

23 Directive 2014/55/EU of the European Parliament and of the Council of 16 April 2014 on electronic invoicing in public procurement.

24 'Platform economy' is used to describe a multi-sided model of transactions, where there are three or more parties involved. In these transactions, **an online platform** facilitates the connection between two or more distinct but interdependent sets of users. In these interactions, one of the parties to the platform (providers or underlying suppliers) could offer services to the other party (consumer) in return for monetary consideration. A platform usually charges a fee for the facilitation of the transaction.

25 According to Article 9 of the VAT Directive and its settled case-law the concept of "economic activity" has a very broad meaning. The concept of "independently" however means that employees are not treated as taxable persons.

26 The capacity to build networks through which any additional user will enhance the experience of all existing users; an increased numbers of people or participants improve the value of a good or service.

competition with traditional VAT registered suppliers. This means that, for example, a hotel could be competing with accommodation listings which do not charge VAT on their services. In Europe the cost of accommodation via a platform can be, on average, some 8% to 17% cheaper than a regional hotel's average daily rate[27]. The information provided by the "VAT in the Digital Age"[28] study indicates that (although it varies depending on the type of platform) up to 70% of the total of underlying suppliers using a platform are not registered for VAT. More than two thirds of respondents with an opinion on the issue had experienced such distortions of competition.

The passenger transport and accommodation sectors have been explicitly identified by the study as sectors in which VAT inequality is at its most apparent (in that the accommodation platform model competes directly with the hotel sector, and the passenger transportation platform model competes directly with private taxi firms). These are also the two largest sectors of the platform economy[29], behind the sale of goods via platforms (also known as 'e-commerce'), which has its own rules regarding the supply of goods.

Another problem area is the lack of clarity on VAT rules that apply to the services rendered by these platforms and, in particular, to identifying the VAT status of the underlying supplier.

The taxable status of those providing services through the platform determines the VAT treatment of the platform facilitation services when the provider is established in a different Member State to that of the platform. In such a situation, regardless of whether the provider is a non-taxable person or a taxable person, the platform could use the One Stop Shop or apply the reverse charge. However, this determination is not straightforward, as the platforms often lack information they need to assess the status of the underlying supplier.

In addition, various rules in the VAT Directive applicable to the platform economy have been applied differently by Member States[30]. For example, the facilitation services charged by the platforms are regarded in some Member States as electronically supplied services, while in others they are regarded as intermediary services. Clarification of these rules is needed, as the current divergent application of EU VAT rules across the Member States can lead to different places of supply being applied[31], which can subsequently lead to double taxation or non-taxation.

One additional problem area relates to the obligations imposed on the platforms.

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27 https://ipropertymanagement.com/research/airbnb-statistics

28 VAT in the Digital Age. Final Report (vol. I – III). Specific Contract No 07 implementing Framework Contract No TAXUD/2019/CC/150.

29 Having an ecosystem value of EUR 38.2 billion and EUR 43.2 billion per annum

30 Table 25 of the VAT in the Digital Age Study (Part II) shows that 44% of respondents found the different application of the VAT rules by Member States to be a problem.

31 The place of supply of an electronically supplied service to a non-taxable person is the place where the customer is established, whereas the place of supply of intermediary services to a non-taxable person is where the underlying transaction is supplied, which, in the case of services relating to immoveable property for example, would be where the property is located.

Platforms are required to keep certain information[32] relating to supplies facilitated by them and to make this available on request to Member States. However, platforms are faced with a number of different requirements from Member States regarding the timeframe and format for this information. Therefore a regularisation is necessary. In addition, in order to combat fraud platforms need to keep this information and make it available not only for business to business (B2B) (as it is now) but also for business to consumer (B2C) supplies.

These issues will be solved by introducing a deemed supplier model, by which platforms will account for the VAT on the underlying supply where no VAT is charged by the supplier, thereby ensuring equal treatment between the digital and off-line sectors of short-term accommodation rental and passenger transport. In addition, clarifications will be given on the treatment of the facilitation service to allow for a uniform application of the place of supply rules, and steps will be taken to harmonise the transmission of information from the platform to the Member States.

(3) VAT registration requirements in the EU

Businesses carrying out transactions taxed in other Member States still face considerable VAT compliance burdens and costs, which constitute a barrier within the single market. These are estimated as follows:

- The minimum one-off cost of VAT registration in another Member State is EUR 1 200.
- The minimum ongoing cost, on a yearly basis, for VAT compliance in another Member State is EUR 8 000 for an average business and EUR 2 400 for an SME.

The VAT e-commerce package that entered into application on 1 July 2021 provided, for the first time, comprehensive VAT legislation dealing with the e-commerce economy (whereby consumers order, essentially via the internet, directly from suppliers in other Member States and in non-EU countries). The schemes developed (or extended) through the e-commerce package have alleviated the registration burden for businesses carrying out transactions in Member States in which they are not established, avoiding the need for the VAT registration of suppliers/deemed suppliers in each Member State of establishment of their customer.

These schemes are known as the One-Stop-Shop (OSS) for supplies to consumers within the EU and the Import One-Stop-Shop (IOSS) for the importation of small parcels of consumer goods (where the value does not exceed EUR 150). Specific VAT provisions and obligations were introduced for 'platforms' (introducing the notion of a 'deemed supplier') which have a predominant position in the e-commerce economy.

The implementation of the OSS and IOSS has proved to be a great success as shown by the evaluation[33] of the e-commerce package. The benefits of the OSS and IOSS

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[32] Article 242a of the VAT Directive.
[33] See point 3 hereafter.

for businesses and for the single market was confirmed by Member States in the Council Conclusions[34] of the March 2022 ECOFIN.

However, some supplies of goods and services are not covered by either of these simplification schemes and instead remain subject to burdensome VAT accounting requirements in other Member States. These include certain types of supplies of goods that, even though they may have a cross-border aspect, do not fall within the definition of intra-EU distance sales of goods. As the IOSS is currently optional, its capacity to alleviate the need for multiple VAT registrations is limited and the complexity of the import process is not reduced as far as possible.

An extension of the scope of the OSS and IOSS would ensure a further decrease in the need for multiple VAT registrations in the EU.

The VAT in the Digital Age proposal is a REFIT initiative that addresses the VAT rules in the context of rising use of digital technology[35], among both tax authorities and the business community. The VAT system has not yet fully taken advantage of the opportunities created by these technological advances. New digital tools and solutions will help tax authorities tackle the VAT Gap more efficiently while allowing for VAT compliance to be simplified and reducing associated costs. This initiative thus seeks to further adapt the EU VAT framework to the digital era.

- **Consistency with existing policy provisions in the policy area**

This initiative is consistent with the proposal[36] tabled in 2018 by the Commission for a definitive VAT system for the taxation of trade between Member States, which is still being discussed in Council. This proposal aims to replace the transitional system in force today[37] by treating intra-Community transactions in the same way as domestic ones. VAT would be due in the Member State of destination of the goods[38] at the rate of that Member State but would be charged and collected by the supplier in its own Member State. The VAT in the Digital Age initiative has the potential to strengthen both the current and the definitive VAT system.

The VAT e-commerce package was designed to reshape, update and modernise the VAT system to ensure its relevance and effective application to the new realities of the e-commerce market. At the same time, the reforms sought to make VAT compliance easier for legitimate businesses who carry out cross-border online commercial activity by taking a new approach to tax collection. The main aim was to create a fairer, simpler and more harmonised system of taxation. This proposal builds on the successful reform of the VAT e-commerce rules by further reducing the need for non-identified trades to register in the Member State of

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34 Council conclusions on the implementation of the VAT e-commerce package, ST 7104/22 of 15 March 2022.

35 2022 Commission Work Programme, Annex II: REFIT initiatives, sub-section "An economy that works for people" (No 20).

36 COM(2018) 329 final.

37 Under the existing system VAT is not charged on cross-border transactions, contrary to domestic ones, allowing taxable persons to buy goods free of VAT within the single market, breaking the chain of fractioned payment and creating an incentive for fraud

38 This system would be extended to services at a later stage.

consumption. This will *inter alia* include an update of the current e-commerce rules applicable to Small and Medium Enterprises (SMEs) allowing SMEs to benefit from the simplifications brought by both the new SME[39] and existing OSS schemes.

The initiative supports the EU's sustainable growth strategy[40] that refers to better tax collection, reduction of tax fraud, avoidance and evasion and to the reduction of compliance costs for business, individuals, and tax administrations. Improving taxation systems to favour more sustainable and fairer economic activity is also part of the EU's competitive sustainability agenda.

- **Consistency with other Union policies**

The VAT in the Digital Age initiative is linked to the treaty-based goal of establishing a functional internal market[41] and reflects the European Commission's priorities[42] to improve the business taxation environment in the single market, as well as to tackle differences in tax rules that can be an obstacle to the deeper integration of the single market. This initiative seeks to adapt the EU VAT framework to the digital era. Therefore, its objectives are also consistent with one of the six top priorities of the Commission, 'A Europe fit for the digital age', and its objective to empower businesses to seize the potential of the digital transformation.

The Commission has set the improvement of tax collection and the reduction of tax fraud, avoidance and evasion as priorities[43]. These two topics are the cornerstone of the initiative. The initiative also supports the EU's sustainable growth strategy[44] that refers to better tax collection, reduction of tax fraud, avoidance and evasion and to the reduction of compliance costs for business, individuals, as well as tax administrations. Improvement of taxation systems to favour more sustainable and fairer economic activity is also included in the EU's competitive sustainability agenda.

The VAT in the Digital Age initiative runs alongside other Commission initiatives relating to the Digital Economy, such as the recent proposal for a Directive to improve working

[39] Council Directive (EU) 2025/285 on the common system of VAT as regards the special scheme for small enterprises

[40] Member States' recovery and resilience plans envisage a wide set of reforms aimed at improving the business environment and favouring adoption of digital and green technologies. These reforms are complemented by important efforts to digitalise tax administrations as a strategic sector of the public administration. (Annual Sustainable Growth Survey 2022 (COM(2021) 740 final)).

[41] Article 3 of Treaty on European Union (TEU).

[42] https://ec.europa.eu/info/sites/default/files/political-guidelines-next-commission_en_0.pdf.

[43] Annual Growth Survey 2021 (see page 13) : https://ec.europa.eu/info/system/files/economy-finance/2022_european_semester_annual_sustainable_growth_survey.pdf.

[44] Member States' recovery and resilience plans envisage a wide set of reforms aimed at improving the business environment and favouring adoption of digital and green technologies. These reforms are complemented by important efforts to digitalise tax administrations as a strategic sector of the public administration. (Annual Sustainable Growth Survey 2022 (COM(2021) 740 final)).

conditions of people working through digital labour platforms[45], and the ongoing work relating to short-term rentals. Under these initiatives the general direction is to make platforms more accountable and play a greater role in the regulatory framework. This is in in line with the changes proposed in this Directive for the platform economy where, under certain circumstances, platforms will be responsible for paying the VAT due instead of small platform suppliers. This will improve the collection of VAT, as many of these suppliers are unaware of their potential VAT obligations and would in any case encounter difficulties in complying with these obligations.

The VAT in the Digital Age initiative also ensures consistency with existing legislation in the digital area such, as the EU Directive on electronic invoicing in public procurement (B2G)[46]. This Directive aims to facilitate the use of a common European standard on electronic invoicing across Member States to promote interoperability and convergence at EU level. This has the potential to reduce obstacles to cross-border trade that arise from the coexistence of different national legal requirements and technical standards in e-invoicing. The VAT in the Digital Age initiative provides for this European standard on electronic invoicing to be the default method for digital VAT reporting requirements purposes.

This initiative is also consistent with the Customs Action Plan[47]. Management of e-commerce is one of the four key areas of action in the Customs Action Plan. As a result, the improvement of the import one stop shop (IOSS) scheme in this proposal is limited to the mandatory provision of this scheme for platforms. Any other improvement or extension, such as the removal of EUR 150 threshold below which this simplification scheme can be used, will be done in the framework of this customs reform[48].

In the final report of the Conference on the Future of Europe[49] citizens call for ‘Harmonizing and coordinating tax policies within the Member States of the EU in order to prevent tax evasion and avoidance’, ‘Promoting cooperation between EU Member States to ensure that all companies in the EU pay their fair share of taxes’. The VAT in the Digital Age initiative is consistent with these goals.

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45 The proposed Directive is expected to bring legal certainty on the employment status of people working through digital labour platforms, improve their working conditions (including for self-employed people subject to algorithmic management) and enhance transparency and traceability in platform work, including in cross-border situations

46 Directive 2014/55/EU of the European Parliament and of the Council of 16 April 2014 on electronic invoicing in public procurement.

47 Communication from the Commission to the European parliament, the Council and the European Economic and Social Committee -Taking the Customs Union to the Next Level: a Plan for Action, Brussels, 28.9.2020 (customs-action-plan-2020_en.pdf (europa.eu)).

48 Commission seeks views on upcoming EU customs reform (europa.eu).

49 Conference on the Future of Europe – Report on the Final Outcome, May 2022, Proposal 16 (1)-(3). The Conference on the Future of Europe was held between April 2021 and May 2022. It was a unique, citizen-led exercise of deliberative democracy at the pan-European level, involving thousands of European citizens as well as political actors, social partners, civil society representatives and key stakeholders.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

This Directive amends the VAT Directive on the basis of Article 113 of the Treaty on the Functioning of the European Union. That Article provides that the Council, acting unanimously in accordance with a special legislative procedure and after consulting the European Parliament and the Economic and Social Committee, can adopt provisions to harmonise Member States' rules in the area of indirect taxation.

• Subsidiarity (for non-exclusive competence)

This initiative is consistent with the principle of subsidiarity. Given the need to modify the VAT Directive, the objectives of this initiative cannot be achieved by the Member States themselves. Therefore, the Commission, which has responsibility for ensuring the smooth functioning of the single market and for promoting the general interest of the EU, needs to propose actions to improve the situation.

In addition, as the main problems at stake - sub-optimal VAT collection and control, and excessive burdens and compliance costs - are common to all Member States, uncoordinated fragmented national actions would have the potential to distort intra-EU trade. In the targeted consultation[50], businesses stated their preference in this regard to have VAT rules applied uniformly at EU level, rather than having to comply with different reporting or registration obligations at national level. As with platforms, there are significant distortions of competition between the on-line and off-line markets in the short-term accommodation rental and passenger transport sectors, as well as a non-harmonised approach to the place of supply of the facilitation services. Therefore, the Commission needs to ensure that the VAT rules are harmonised. Regarding VAT collection and control, the size of the VAT gap and its persistence over time indicates that national instruments are not sufficient to fight cross-border fraud, as shown by the estimated levels of MTIC fraud, which can only be fought efficiently and effectively by coordinated action at EU level. The intra-EU aspect of VAT fraud therefore requires EU intervention regarding reporting obligations.

• Proportionality

The proposal is consistent with the principle of proportionality and does not go beyond what is necessary to meet the objectives of the Treaties, in particular the smooth functioning of the single market.

Proportionality is ensured by the fact that Member States will be able to decide whether or not to introduce domestic reporting requirements based notably on whether the level of domestic VAT fraud is an urgent issue for them. The requirement for interoperability or convergence of national systems with the intra-EU digital reporting is necessary to adopt an EU wide DRR framework.

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50 VAT in the Digital Age. Final Report (vol. IV Consultation Activities). Specific Contract No 07 implementing Framework Contract No TAXUD/2019/CC/150.

In the platform economy area, proportionality is ensured by focusing the measure on the accommodation and passenger transport sectors, where the issue of VAT inequality is most acute.

Proportionality is furthermore ensured by the fact that the 'single VAT registration' pillar of the initiative does not interfere with national VAT registration processes. Instead, it focusses on limiting the instances in which a trader who is established outside the Member State of consumption is required to register for VAT in that Member State.

An EU-wide framework for handling VAT registration is proportionate as it will make the functioning of the single market more sustainable. Removing the need for multiple registrations within the EU can, by its very nature, only be achieved with a proposal to amend the VAT Directive.

- **Choice of the instrument**

The proposal requires amending Directive 2006/112/EC on the common system of value added tax (the 'VAT Directive'), Council Implementing Regulation (EU) No 282/2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax and Council Regulation (EU) No 904/2010 on administrative cooperation and combating fraud in the field of value added tax.

3. RESULTS OF *EX-POST* EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- ***Ex-post* evaluations/fitness checks of existing legislation**

The e-commerce package came into application on 1 July 2021 and introduced a number of amendments to the VAT rules governing the taxation of business-to-consumer (B2C) cross-border e-commerce activity in the EU. The most noteworthy amendments include the extension of the scope of the Union and non-Union Mini One Stop Shop (MOSS) schemes; the abolition of the EUR 22 VAT exemption threshold for imported goods; and the introduction of the IOSS (Import One-Stop Shop) and special arrangements to support the collection of VAT on distance sales of imported goods not exceeding EUR 150.

The Commission conducted an *ex-post* evaluation of the first 6 months of application of the e-commerce package. The initial results are very encouraging and are testament to the success of the new measures. In total, in the first 6 months, almost EUR 8 billion of VAT was collected via the three schemes (Union and non-Union OSS and IOSS). The results of the evaluation show that approximately EUR 6.8 billion of VAT was collected in the Union One-Stop Shop and non-Union One-Stop Shop schemes, which equates to at least EUR 13.6 billion on an annual basis. Furthermore, in the first 6 months, approximately EUR 2 billion of VAT was collected specifically in relation to imports of low value consignments with an intrinsic value not exceeding EUR 150, which equates to around EUR 4 billion on an annual basis. Of the EUR 2 billion of VAT that was collected in relation to imports of low value goods in the first 6 months, almost EUR 1.1 billion was collected via the Import One-Stop Shop. The package has met the goal of achieving a fairer and simpler system of taxation, while protecting Member States' VAT revenue has been met.

The implementation of the package has also helped to counter VAT fraud. Analysis from customs data indicates that the top 8 IOSS registered traders accounted for approximately 91% of all transactions declared for import into the EU via the IOSS. This is a very encouraging statistic as it shows the impact the new 'deeming' provision for marketplaces has had on compliance. The proposal therefore envisages the introduction of a deemed supplier regime in the accommodation and passenger transport sectors in the platform economy.

- **Stakeholder consultations**

On 6 December 2019, the European Commission's Directorate-General for Taxation and Customs (DG TAXUD) organised an event on 'VAT in the Digital Age' in Brussels, Belgium. This event brought stakeholders working in the field of VAT together to reflect on the opportunities and challenges that new technologies bring in the area of VAT. In particular, the potential of using advanced technologies was discussed. The seminar also provided a chance to share recent experiences on how Member States use digital solutions for VAT reporting, collecting and fraud-detection.

The Commission worked with two expert groups for discussions at technical level: the Group on the Future of VAT (GFV) and the VAT Expert Group (VEG). Meetings of the GFV (9 February and 6 May 2022) and of the VEG (29 November 2021 and 10 June 2022) took place to discuss different issues related to the VAT in the Digital Age initiative. A sub-group 'VAT aspects of the platform economy' composed of members of the GFV and the VEG, was tasked with advising and assisting DG TAXUD by carrying out an in-depth analysis of the problems related to VAT encountered by the different actors in the platform economy. The outcome of its work can be found at: 2. GROUP ON THE FUTURE OF VAT (GFV) - Library (europa.eu).

Two Fiscalis workshops also took place (May and October 2021) to gather feedback from Member States and stakeholders on the interim report and the draft final report of the 'VAT in the Digital Age' study.

A public consultation was also organised, from 20 January to 5 May 2022, resulting in 193 responses. The consultation sought stakeholders' views on whether the current VAT rules are suited to the digital age, and on how digital technology can be used to help Member States fight VAT fraud and to benefit businesses. The consultation report is available on the initiative's public consultation page: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13186-VAT-in-the-digital-age/public-consultation_en.

Stakeholders agreed there was a disconnect between the old VAT rules and today's digital age.

On VAT reporting, the respondents agreed that a DRR could bring benefits and made clear their preference for an e-invoicing solution that can also be used for their internal processes. Member States called for more autonomy in deciding on domestic DRR.

On platform economy, stakeholders broadly recognised problems, with more nuanced views depending on the respondent's business model. Those that would be impacted (i.e. platforms) generally rejected the 'deemed supplier' provision and expressed their preference for the status quo.

On VAT registration, stakeholders unanimously agreed that the scope of the OSS/IOSS needs to be extended. Businesses also asked for the reverse charge to be made mandatory for B2B supplies by non-established persons. There was also support for making the IOSS mandatory.

- **Collection and use of expertise**

The Commission used the analysis carried out by Economisti Associati S.r.l., for the study 'VAT in the Digital Age' (running from October 2020 to March 2022)[51]. The final report was submitted on 1 April 2022.

The study's aim was first to evaluate the current situation with regard to the digital reporting requirements, to the VAT treatment of the platform economy; and to the single VAT registration and the Import One-Stop Shop and secondly, to assess the impacts of a number of possible policy initiatives in these areas.

- **Impact assessment**

Examined by the Regulatory Scrutiny Board on 22 June 2022, the impact assessment for the proposal obtained a positive opinion (Ares(2022)4634471). The Board recommended more detail be added, to describe better the methodologies used for modelling and to further clarify the options. The impact assessment was accordingly amended to include Member State and sectoral perspectives on the platform economy, the econometric analysis/techniques used for modelling were comprehensively described and the structure of the DRRs linked to the options was detailed.

Several policy options were analysed in the impact assessment.

- For **VAT reporting**, the options ranged from a simple recommendation to introduce an EU DRR and request for data in a specific format, to the introduction of DRR at both EU and domestic level.
- On the **VAT treatment of the platform economy** area, the options ranged from legal clarifications to the introduction of a wide 'deemed supplier' provision applicable to all sales of services via platforms.
- For **VAT registration** the options related to intra-EU trade (different ranges of OSS extension and the introduction of a reverse charge for B2B supplies by non-established persons) and importations of low value consignments (making the IOSS mandatory for different suppliers, with/without a certain limit and the removal of the EUR 150 threshold for use of the IOSS).

The analysis revealed that best balance regarding the policy options in terms of effectiveness, proportionality and subsidiarity would be achieved by combining the introduction of DRRs at EU level, a 'deemed supplier' provision for the short-term accommodation rental and passenger transport sectors and a combination of broader OSS extension, reverse charge and a mandatory IOSS for platforms.

Between 2023 and 2032 this approach is expected to bring between EUR 172 billion and EUR 214 billion net benefits, including EUR 51 billion in savings. These savings include:

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51 VAT in the Digital Age. Final report (vol. I – III). Specific Contract No 07 implementing Framework Contract No TAXUD/2019/CC/150.

- EUR 41.4 billion from VAT reporting (EUR 11 billion from the removal of old reporting obligations, EU 24.2 billion reduction of fragmentation costs, EUR 4.3 billion savings pre-filled VAT returns, and EUR 1.9 billion e-invoicing benefits);
- EUR 0.5 billion from streamlining and clarifications in platform economy area; and
- EUR 8.7 billion from removing VAT registration obligations. Environmental, social and business automation benefits, as well as benefits related to the functioning of the Internal Market (more level-playing field) and tax control efficiency are also expected.

In line with the sustainable development goals No 8 and 9[52], a more efficient and sustainable VAT system promotes economic growth, while digital reporting supports business automation and fosters innovation. In line with the 'digital by default' principle, the introduction of digital reporting saves paper invoices and benefits the environment.

The impact assessment and its annexes, the executive summary and the Board's opinion on the impact assessment are available at the consultation's page on "Have your say" portal: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13186-VAT-in-the-digital-age_en.

- **Regulatory fitness and simplification**

This proposal is a REFIT initiative to modernise the current VAT rules and take account of the opportunities offered by digital technologies[53]. The proposal is expected to harmonise VAT treatment and promote the provision of cross-border supplies in the single market, and help improve tax collection and therefore ensure sustainable revenues during the recovery from the COVID-19 pandemic.

The expectation is that companies engaged in cross-border transactions will see a net benefit from the introduction of the proposal. Overall, the introduction of digital reporting requirements (DRR) at EU level, the deemed supplier regime and the single VAT registration (SVR), will support the 'one in, one out' principle or even go further, to 'one in, multiple out' taking account of the multiple obligations created by national authorities. The overall saving over the 10-year period between 2023 and 2032 is estimated at EUR 51 billion and the total implementation cost (for businesses and national administrations) is EUR 13.5 billion in the same period.

The removal of recapitulative statements as a result of the DRR is expected to bring a net benefit to companies engaged in cross-border transactions. However, companies that are not active across borders, (the vast majority of micro and small entities) would incur costs related to the introduction of a DRR. Those costs could be partly mitigated by the introduction of additional services at national level, such as the pre-filling of VAT returns. As for the SVR, it is expected to further reduce the need for multiple registrations in other Member States and

52 https://sdgs.un.org/goals.

53 2022 Commission Work Programme, Annex II: REFIT initiatives, sub-section "An economy that works for people" (No 20).

help reduce administrative burdens and related costs for businesses involved in cross-border supplies in the single market.

The Fit for Future Platform included the VAT in the Digital Age in its annual work programme for 2022, recognising its potential for reducing the administrative burden in the policy field[54]. The evidence behind the opinion of this expert group of 5 December 2022 has been taken into account during the preparation of this proposal.

- **Fundamental rights**

N/A

4. BUDGETARY IMPLICATIONS

The proposal is expected to increase VAT revenues for Member States. The operational objectives are set at a VAT gap decrease of up to 4 percentage points compared with 2019 level, baseline included. The estimated overall benefit between 2023 and 2032 including additional VAT revenue ranges between EUR 172 billion and EUR 214 billion.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The VAT Committee, an advisory committee on VAT issues in which representatives of all Member States participate and which is chaired by Commission officials from the Directorate General Taxation and Customs Union (DG TAXUD), will monitor the implementation of the VAT in the Digital Age initiative, and discuss and clarify possible interpretation issues between Member States regarding the new legislation.

The Standing Committee on Administrative Cooperation (SCAC) will deal with all possible issues regarding administrative co-operation between Member States resulting from the new provisions covered in this legislative package. In case new legislative developments are required, the GFV and the VEG may be further consulted.

In addition, the Commission and the Member States will monitor and evaluate whether this initiative is functioning properly and the extent to which its objectives have been achieved based on the indicators set out in Section 4 of the impact assessment accompanying this proposal.

- **Explanatory documents (for directives)**

The proposal does require explanatory documents on the transposition.

- **Detailed explanation of the specific provisions of the proposal**

Platforms: Articles 28a, 46a, 135 (3), 136b, 172a, 242a, 306

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[54] 2022_annual_work_programme_-_fit_for_future_platform_en.pdf (europa.eu)

A deemed supplier regime will be introduced in the short-term accommodation rental, and passenger transport sectors of the platform economy (Article 28a). Under this measure, where the underlying supplier does not charge VAT because they are, for example, a natural person or they make use of the special scheme for small enterprises, the platform will charge and account for the VAT on the underlying supply. This will ensure a level playing field between platforms offering services and other traditional suppliers qualifying as taxable persons, while not imposing a burden on the underlying suppliers operating through the platform. The 'deemed supplier' model is a simplification measure intended to facilitate the collection of VAT in specific situations. This is typically the case when the intermediary in a transaction (i.e. the platform) is better placed than the underlying supplier to ensure the collection of the VAT due on this transaction. The reasons are either because it would be too burdensome for this underlying supplier to collect the VAT (e.g. when the underlying supplier is a natural person or a taxable person using special schemes for small enterprises), or because it is more secure to collect it from this intermediary (when the underlying supplier is not established in the EU). Further elements relating to the practical application of the measure are in the accompanying proposal to amend Implementing Regulation (EU) No 282/2011.

In order to prevent abuse, it has been clarified that a transaction for which a platform is the deemed supplier cannot be included in the special scheme for travel agents (Article 306).

Further, clarifications to the existing VAT legislation in this area have been introduced. Namely:

- That the facilitation service provided by a platform should be regarded as an intermediary service (Article 46a). This allows for a uniform application of the place of supply rules for the facilitation service.
- That the supply by the underlying supplier to the platform shall be VAT exempt without a deduction right (Article 136b).
- That the provision of short-term accommodation rental shall be regarded as a sector similar in nature to the hotel sector, and therefore not eligible to be exempt from VAT (Article 135). This ensures that the deemed supply from the platform to the final consumer has the same VAT treatment as the provision of services from traditional hotels to the final consumer.
- That the supply by the platform to the final customer should not impact on the deduction right of the platform for its activities (Article 172a).
- That, for supplies falling outside the deemed supplier model, the platform will be obliged to keep the records relating to both business to business (B2B) and business to consumer (B2C) supplies (Article 242a). Accompanying legislation (the proposal to amend Regulation (EU) No 904/2010) will standardise how this information is to be transmitted to the Member States. For supplies falling within the deemed supplier model, the normal VAT accounting rules will apply.

E-invoicing will be the general rule for the issuance of invoices: Articles 217, 218 and 232

The adaptation of the VAT Directive to the new digital reality requires a change in the treatment given to electronic invoices. Until now, the VAT Directive has put on an equal footing paper and electronic invoices. Article 232 required that the issuance of electronic invoices be subject to the acceptance of the recipient. This requirement impeded Member States from implementing mandatory electronic invoicing that could be used as a basis for an electronic reporting system. It also slowed down the development of electronic invoices, as taxable persons could not adapt their invoicing systems to implement full electronic invoicing because they had to issue paper invoices whenever the recipient did not accept electronic invoices.

The proposal changes this situation, providing in Article 218 that electronic invoicing will be the default system for the issuance of invoices. The use of paper invoices will only be possible in situations where Member States authorise them. This authorisation cannot cover those cases that are subject to the reporting obligations in Chapter 6 of Title XI, as that would prevent or create difficulties for the automatic reporting of the data. Taxable persons will always be allowed to issue electronic invoices according to the European standard. This standard is the one adopted by the Commission Implementing Decision (EU) 2017/1870[55] according to the request laid down in Directive 2014/55/EU. The issuance and transmission of electronic invoices cannot be conditional on a prior authorisation of validation by the tax authorities of the Member State in order to be sent to the recipient. Several Member States have been granted a special measure to apply mandatory e-invoicing, where such clearance systems have been implemented. These systems can only be applied by those Member States up to 1 January 2028, ensuring the convergence with the EU digital reporting system.

To ensure that taxable persons will not depend on the authorisation of the recipient to issue an electronic invoice, Article 232 is deleted from the VAT Directive.

Further, the definition of electronic invoice in the VAT Directive is changed to align the concept with the one in Directive 2014/55/EU on electronic invoicing in public procurement, which regulates electronic invoicing in B2G transactions. As a result, when referring to electronic invoices in the VAT Directive, reference will be made to structured electronic invoices.

Deadline for the issuance of invoices on intra-Community supplies of goods and supplies of services where the reverse charge applies: Article 222

In the case of exempted intra-Community supplies of goods and for services supplied by non-established taxable persons subject to the reverse charge, the VAT Directive provides for a deadline to issue an electronic invoice that could take up to forty-five days from the moment the chargeable event occurred.

The new reporting system is built under the philosophy of real-time information. Given that the reporting is based on the issuance of the invoice, such a deadline will delay excessively the arrival of the information on those supplies to the tax administration. For that reason,

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[55] Commission Implementing Decision (EU) 2017/1870 of 16 October 2017 on the publication of the reference of the European standard on electronic invoicing and the list of its syntaxes pursuant to Directive 2014/55/EU of the European Parliament and of the Council

Article 222 sets up a deadline of two days after the chargeable event takes place for the issuance of invoices in these cases.

Elimination of the possibility to issue summary invoices: Article 223

The aim of the new reporting system is to provide information on transactions in almost real-time to the tax administrations and foster the use of electronic invoices. The possibility to issue summary invoices for a calendar month goes against those goals. For that reason, Article 223 is deleted, so there will be no possibility to continue issuing summary invoices.

Content of the invoices: Article 226

The aim of the new reporting system is to provide the necessary information to tax administrations while minimising the administrative burden for taxable persons. In order to achieve the latter objective, the reporting system will take advantage of the issuance of an electronic invoice to automate the process of reporting. However, for this to be possible, it is necessary to include in the invoice all the information required by the tax administrations for the reporting obligation.

This is the reason why Article 226 has been changed to ensure the inclusion in the invoice of all the data that needs to be reported. The data elements added to the content of the invoice are the identifier of the bank account in which the payment for the invoice will be credited, the agreed dates and amount of each payment related to a concrete transaction, and, in the case of an invoice that amends the initial invoice, the identification of that initial invoice.

Elimination of outdated Articles: Article 237

Article 237 provides for an obligation on the Commission to present a report to the European Parliament and the Council on the impact of the invoicing rules. Given that this obligation has already been fulfilled[56], there is no reason to keep this Article in the VAT Directive.

Digital reporting system for intra-Community transactions: Articles 262 to 271

One of the objectives of the initiative is to replace the outdated recapitulative statements with a digital reporting requirements system for intra-Community transactions, which will provide faster information on a transaction-by-transaction basis and with higher quality. That information will feed into the risk analysis systems of the Member States to help them counter the VAT fraud linked with the intra-Community trade, in particular Missing Trader Intra-Community fraud. For that purpose, Chapter 6 of Title XI, which referred to the recapitulative statements, refers now to digital reporting requirements, and its new section 1, to digital reporting requirements for intra-Community transactions.

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[56] Report from the Commission to the European Parliament and the Council assessing the invoicing rules of Directive 2006/112/EC on the common system of value added tax (COM(2020)47).

The digital reporting requirements for intra-Community transactions will cover the same transactions that were covered by the recapitulative statements with the exception of the call-off stocks under the conditions set out in Article 17a, which will cease to exist. For this reason, the second paragraph of Article 262 is deleted. In addition, supplies of goods and services subject to the reverse charge mechanism in accordance with Article 194 will also be included in the recapitulative statements and consequently in the digital reporting requirements.

Article 263 provides for the main features of the new digital reporting system: the information has to be transmitted on a transaction-by-transaction basis, the deadline for the transmission of the data is two working days after the issuance of the invoice, or after the date the invoice should have been issued in case the taxable person has not complied with their obligation to issue an invoice, the transmission of the data has to be carried out electronically, and Member States will provide the means for that transmission. Finally, the information can be submitted directly by the taxable person or by a third party on their behalf.

The transmission of the data can be done according to the European Standard. Member States can provide for the transmission of the data from electronic invoices issued under a different format, as long as they also allow the use of the European Standard. In any case, the data formats allowed by Member States will have to guarantee the interoperability with the European standard.

This provision provides flexibility to Member States and taxable persons to use different data formats for the transmission of the data. However, it provides for at least one standard which will be accepted by all Member States and therefore allows companies to submit their data on intra-Community transactions according to the European Standard in any Member State, without needing to adapt to different reporting systems.

The first paragraph of Article 264 provides for the information that has to be submitted for each transaction. Basically, this information is the same that had to be submitted in the recapitulative statements, but detailed for each transaction instead of aggregated by customer. However, there are new fields that have been added to improve the detection of fraud. These new fields are the reference to the previous invoice in case of rectification of invoices, the identification of the bank account into which the payment for the invoice will be credited and the dates agreed for the payment of the amount of the transaction. With a view to a full standardization and interoperability, implementing rules shall be adopted by the Commission to define a common electronic message to this purpose.

Article 266 allowed Member States to request additional data on intra-Community transactions. This possibility runs counter to the desired harmonisation in this field. For that reason, this Article is deleted from the VAT Directive, so taxpayers will always submit the same information when they carry out an intra-Community transaction, irrespective of the Member State in which the transaction takes place.

Article 268 places an obligation on Member States to collect data from the taxpayers that, in their territory, make intra-Community acquisitions of goods or transactions treated as such. The collection of this data was optional for Member States under the recapitulative statements.

The replacement of the recapitulative statements with a new digital reporting system requires the modification of certain Articles of the VAT Directive which contained references to the recapitulative statements, to replace them with the reference to the new reporting system. This is the case with Articles 42, 138a, 262, 265 and 267. Other Articles that regulated aspects of the recapitulative statements and are no longer necessary with the new reporting system have been deleted. This is the case with Articles 266, 269, 270 and 271.

Digital reporting system for supplies of goods and services for consideration carried out within the territory of one Member State: Articles 271a to 273

Apart from replacing the recapitulative statements with a new digital reporting system for intra-Community transactions, the initiative aims to achieve the harmonization of the existing and future reporting systems for supplies of goods and services for consideration carried out within the territory of the Member State, in order to avoid the administrative burden which this fragmented framework entails for taxable persons operating cross-border. These systems will align with the digital reporting system designed for intra-Community transactions, simplifying compliance to taxpayers, which will be able to provide with a common format the data required for both domestic and intra-Community transactions, in any Member State.

This harmonisation is achieved by the rules included in the new Section 2 of Chapter 6 of Title XI.

The first paragraph of Article 271a allows Member States to put in place a reporting system for supplies of goods and services carried out between taxable persons within their territory. The second paragraph of Article 271a allows Member States to put in place reporting systems for any other type of transaction. This second paragraph covers for instance, the reporting of supplies of goods or services carried out by a taxable person to a private individual.

To be noted that Article 271a constitutes an option, but not an obligation for Member States. However, if they decide to put in place a reporting system according to the first paragraph of that Article, that is to say a reporting system for transactions between taxable persons within the territory of their Member State, such a system will have to comply with the features laid down in Article 271b.

The features of the reporting system in Article 271b are similar to the one designed for intra-Community transactions: reporting on a transaction-by-transaction basis, transmission of the data two working days after the issuance of the invoice, or after the date the invoice should have been issued where the taxable person has not complied with their obligation to issue an invoice, the possibility of transmitting the data directly by the taxable person or through a service provider, and the possibility to transmit the data according to the European Standard. Member States can put at the disposal of taxable persons additional tools to transmit the data. The objective is, once again, to provide enough flexibility to Member States and taxable persons to use different methods for the transmission of the data, while providing for at least one standard which will be accepted by all Member States and therefore allowing companies to submit their data according to the European Standard in any Member State, without needing to adapt to different reporting systems.

It will be necessary to verify if the reform of reporting system achieves its objectives of reducing the VAT gap and reducing the costs for taxable persons derived from the fragmentation of those systems. For that reason, Article 271c asks the Commission to submit by March 2033 a report evaluating the results achieved by this reform and, if necessary, a proposal to overcome the limitations and proposing a further harmonisation of domestic reporting. This deadline will allow to evaluate the reporting systems once they are fully implemented, account taken that the full adaptation to the harmonised requirements does not need to take place until 2028.

To achieve the harmonisation of reporting systems it is not enough that the future systems are implemented according to the features laid down in this initiative. Member States which already have reporting systems in place for these transactions will have to adapt them to the features of the harmonised reporting system. For that purpose, the initiative requires that this adaptation takes place by 2028 at the latest.

Article 273 continues to give Member States freedom to implement these obligations which they deem necessary to ensure the correct collection of VAT and to prevent evasion. However, this freedom is limited in relation to reporting obligations, which can only be implemented according to the provisions of Chapter 6 of Title XI, in relation to the transactions under their scope.

Single VAT Registration (SVR) and improvements to the existing e-commerce rules and the margin scheme

Modifications and clarifications to the existing VAT legislation have been introduced as set out below.

Moving towards the taxation at destination principle and in line with Article 4 of Council Directive (EU) 2022/542 amending Directives 2006/112/EC and (EU) 2020/285 as regards VAT rates[57], Article 14(4), point (1)(a), is modified to extend the definition of intra-Community distance sales of goods to cover second-hand goods, works of art, collectors' items and antiques. Furthermore, Article 35 is deleted and as such, these supplies are taxed at the place of destination in line with Article 33 point (a). As a consequence, it allows for the application of the OSS simplification scheme to declare these distance sales, thereby further minimising the need to register in the several Member States.

In order to reduce opportunities for VAT avoidance, the new Article 39a provides that the supplies of works of art and antiques without dispatch or transport (or supplies where the dispatch or transport of the goods begins and ends in the same Member State) are taxed at the place where the customer is established, has their permanent address or usually resides.

The application of the deemed supplier rule is extended by the modifications to Article 14a. In particular, in respect of supplies of goods made within the EU, paragraph 2 is modified to extend the application of the deemed supplier rule. Under its expanded scope, the deemed supplier rule will now include all supplies of goods within the EU facilitated by an electronic interface, irrespective of where the underlying supplier is established and the status of the purchaser. In addition, a new paragraph 3 is inserted to provide for the application of the

[57] Council Directive (EU) 2022/542 of 5 April 2022 amending Directives 2006/112/EC and (EU) 2020/285 as regards rates of value added tax.

deemed supplier rule to certain transfers of own goods that are facilitated via an electronic interface.

The provisions in the VAT Directive pertaining to call-off stock arrangements are amended to introduce a cut-off date, 31 December 2024, beyond which, no new transfers of stock under those arrangements can be effected. Article 17a, which governs call-off stock arrangements is further amended by the insertion of a new paragraph to clarify that the Article will cease to apply with effect from 31 December 2025. These amendments are introduced to reflect the fact that the current call-off stock arrangements will no longer be required as the new OSS simplification scheme for transfers of own goods is comprehensive and encompasses cross-border movements of goods that are currently covered by call-off stock arrangements.

Article 59c stipulates that there is a EUR 10.000 calendar-based threshold, below which cross-border supplies of telecommunications, broadcasting and electronic (TBE) services and intra-Community distance sales of goods, supplied by an EU established supplier who is established in only one Member State, may remain subject to VAT in the Member State where that taxable person supplying those TBE services is established, or where those goods are located at the time their dispatch or transport begins. In addition to cross-border supplies of TBE services, it is now clarified that only intra-Community distance sales of goods that are supplied from the Member State where the taxable person is established are included in that threshold.

The modification in Article 66 helps to clarify the timing of the chargeable event in respect of supplies under the non-Union OSS and Union OSS simplification schemes.

The new paragraph 1a of Article 143 foresees that an implementing act shall be adopted to introduce special measures to prevent certain forms of tax evasion or avoidance by better securing the correct use and verification process of the IOSS VAT identification number of the supplier or of the intermediary acting on their behalf that is required for the application of the exemption provided for in point (ca) of Article 143(1).

In order to further minimise the need to register in a Member State where the taxation of a domestic B2B supply occurs, the modification in Article 194 renders mandatory for the Member States to accept the application of the reverse charge mechanism where a supplier, who is not established for VAT purposes in the Member State in which VAT is due, makes supplies of goods to a person who is identified for VAT in that Member State. This reform will ensure that, in such circumstances, the supplier who is not identified there, does not have to register in that Member State. Further, the modification excludes supplies of margin scheme goods from the mandatory application of the reverse charge mechanism. To ensure adequate follow-up of the goods, this type of supplies is now to be mentioned in the recapitulative statement as referred to in Article 262.

As the new OSS simplification scheme for transfers of own goods covers cross-border movements of goods that are currently covered by call-off stock arrangements, the modifications in Articles 243(3) and 262(2) remove the provisions in the VAT Directive pertaining to call-off stock arrangements with effect from 1 January 2026 as they are no longer required. As already mentioned, a window of 12 months is foreseen so that call-off stocks arrangements effected on or before 31 December 2024 can be finalised.

The modification in Article 359 extends the scope of the non-union OSS to supplies of services from non-EU business to all non-taxable persons, even if they do not have their permanent address, nor do they usually reside, in a Member State.

The modification in Article 365 clarifies the time by which amendments can be made to the relevant VAT returns in the non-Union OSS scheme. Amendments can now be made in the same return insofar as these amendments take place before the time that the return was required to be submitted.

For the purpose of the Union OSS scheme, the new paragraphs in Article 369a broaden the definition of Member State of consumption to include supplies of goods according to Articles 36 (supply of goods with installation or assembly), 37 (supply of goods on board ships, aircrafts or trains) and 39 (supply of gas, electricity, heating and cooling), and domestic supplies of goods.

In Article 369b, it is stipulated that, for the above-mentioned types of supplies, the Union OSS scheme can also be used insofar as these goods are supplied to non-taxable persons (or to taxable persons or non-taxable legal persons whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 3(1) of Directive 2006/112/CE). In addition, the scheme can also be applied for domestic supplies of margin scheme goods to any other taxable person supplied under the margin scheme by taxable dealers.

The modification in Article 369g(1) and the new paragraphs amend the content of the Union OSS return to enable the inclusion of the above-mentioned supplies.

The modification in Article 369g(2) and the new paragraph (2a) clarify the information to be provided in the Union OSS return in relation to the above-mentioned supplies and indicate that zero rated and otherwise exempted supplies of goods are covered by the Union OSS and, therefore, shall also be reported.

The modification in Article 369g(3) indicates that the Union OSS return shall include zero rated and otherwise exempted supplies of services covered by the special scheme.

The modification in Article 369g(4) clarifies that amendments to VAT returns in the Union OSS scheme after the time that the return had to be submitted, need to be done in a subsequent return.

The modification in Article 369j stipulates that deduction is not possible in the VAT return of the Union OSS scheme but that VAT is to be refunded in accordance with the appropriate refund system.

The new paragraph in Article 369m makes the use of the IOSS mandatory for electronic interfaces facilitating as deemed supplier certain distance sales of imported goods.

Article 369p is amended to provide that, before commencing to use the special scheme for Imports (IOSS), a taxable person or an intermediary appointed on their behalf must indicate to the Member State of identification the taxable person's status as a deemed supplier in respect of distance sales of goods imported into the EU.

The modification in Article 369r and the new paragraphs provide that, if a taxable person fails to comply with the rules of the IOSS, they will be excluded from the scheme unless the said taxable person is obliged to use this scheme as deemed supplier. If such a deemed supplier persistently fails to comply with the rules relating to this special scheme, they will incur other sanctions rather than exclusion from the scheme.

The modification in paragraph 2 of Article 369t clarifies the time by which amendments can be made to the relevant VAT returns for the IOSS scheme. If amendments are to be made after the time that the return had to be submitted, these have to be done in a subsequent return.

The modification to Article 369w stipulates that, under the special scheme, VAT is not to be deducted but to be refunded in accordance with the appropriate refund system.

The new Articles 369xa to 369xk provide for the application of a new scheme specifically designed to simplify the VAT compliance obligations associated with certain transfers of own goods.

Article 369xa provides definitions that apply to the new scheme for transfers of own goods. Capital goods, or goods that do not allow for a full right of deduction in the Member State where the intra-Community acquisition takes place, are excluded from the special scheme.

Article 369xb defines the scope of the scheme. Any taxable person making transfers of own goods, as defined in Article 369xa, can register to use this special scheme, in which case all of their relevant transfers will be covered by the special scheme.

Article 369xc requires taxable persons making use of the scheme to inform their Member State of identification, by electronic means, in case of commencement, cessation or relevant changes to their taxable activities covered by this special scheme.

Article 369xd provides that a taxable person using this special scheme shall, for the purpose of transfers covered by that scheme, be registered in one Member State of identification only. For the purpose of identification in the special scheme for transfers of own goods, the Member State of identification shall use the individual VAT identification number already allocated to the taxable person in respect of their obligations under the internal system.

Article 369xe provides for the circumstances under which taxable persons making use of the scheme for transfers of own goods shall be excluded from that scheme, including, among other situations, where they persistently fail to comply with the rules of the scheme or cease their relevant activities.

Article 369xf stipulates that VAT returns shall be submitted every month by electronic means, even when no relevant activity has been carried out.

Article 369xg describes the information that the monthly VAT return shall contain and stipulates that amendments to these returns, after the time that the return had to be submitted, have to be done in a subsequent return.

Article 369xh sets out the requirements in relation to the currency to be used in the VAT return.

Article 369xi stipulates that, for transfers of own goods under the scheme, the intra-Community acquisitions are exempt in the Member State to which the goods are dispatched or transported.

Article 369xj stipulates that deduction is not possible in the above-mentioned VAT return but that VAT is to be refunded in accordance with the appropriate refund system or deducted as inputs in the national VAT return of a Member State in circumstances where the taxable person is already identified for VAT purposes in a Member State in respect of activities not covered by the special scheme.

Article 369xk sets out the record keeping obligations for taxable persons making use of the special scheme for transfers of own goods.

2022/0407 (CNS)

Proposal for a

COUNCIL DIRECTIVE

amending Directive 2006/112/EC as regards VAT rules for the digital age

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament[1],

Having regard to the opinion of the European Economic and Social Committee[2],

Acting in accordance with a special legislative procedure,

Whereas:

(1) The rise of the digital economy has significantly impacted on the operation of the Union VAT system, as it is unsuited to the new digital business models, and does not allow for the full use of the data generated by digitalisation. Council Directive 2006/112/EC[3] should be amended to take account of this evolution.

(2) The VAT reporting obligations should be adapted to address the challenges of the platform economy and to reduce the need for multiple VAT registrations in the Union.

(3) VAT revenue loss, known as the 'VAT Gap', was in 2020 estimated at EUR 93 billion[4] in the Union, a significant part of which consists of fraud, in particular missing trader intra-Community fraud[5], estimated in the range of EUR 40-60 billion[6]. In the final report of the Conference on the Future of Europe citizens call for 'Harmonizing and coordinating tax policies within the Member States of the EU in

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1 OJ C , , p. .

2 OJ C , , p. .

3 Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

4 The VAT Gap is the overall difference between the expected VAT revenue based on VAT legislation and ancillary regulations and the amount actually collected: https://ec.europa.eu/taxation_customs/business/vat/vat-gap_en

5 Europol: https://www.europol.europa.eu/crime-areas-and-statistics/crime-areas/economic-crime/mtic-missing-trader-intra-community-fraud

6 European Court of Auditors: https://www.eca.europa.eu/Lists/ECADocuments/SR15_24/SR_VAT_FRAUD_EN.pdf

order to prevent tax evasion and avoidance', 'Promoting cooperation between EU Member States to ensure that all companies in the EU pay their fair share of taxes'. The VAT in the Digital Age initiative is consistent with these goals.

(4) In order to increase tax collection on cross-border transactions and to end the existing fragmentation stemming from Member States' implementation of divergent reporting systems, rules should be laid down for Union digital reporting requirements. Such rules should provide information to tax administrations on a transaction-by-transaction basis, in order to allow cross matching of data, increase the control capabilities of tax administrations and create a deterrent effect on non-compliance, while reducing compliance costs for businesses operating in different Member States and eliminating barriers within the internal market.

(5) To facilitate the automation of the reporting process for both taxable persons and tax administrations, the transactions to be reported to tax administrations should be documented electronically. The use of electronic invoicing should become the default system for issuing invoices. Nevertheless, Member States should be allowed to authorise other means for domestic supplies. The issuance of electronic invoices by the supplier and its transmission to the customer should not be conditional on a prior authorisation or verification by the tax administration.

(6) The definition of an electronic invoice should be aligned with that used in Directive 2014/55/EU of the European Parliament and the Council[7], to achieve standardisation in the area of VAT reporting.

(7) For the VAT reporting system to be implemented in an efficient manner, it is necessary that the information reaches the tax administration without delay. Therefore, the deadline for the issuance of an invoice for cross-border transactions should be set at 2 working days after the chargeable event has taken place.

(8) The electronic invoice should facilitate the automated transmission to the tax administration of the data needed for control purposes. For this purpose, the electronic invoice should contain all the data that have to be later transmitted to the tax administration.

(9) The implementation of the electronic invoice as the default method for documenting transactions for VAT purposes would not be possible if the use of the electronic invoice remains subject to the acceptance by the recipient. Therefore, such an acceptance should no longer be required for the issuance of electronic invoices.

(10) The Commission has complied with its obligation to present a report to the European Parliament and the Council on the impact of the invoicing rules applicable from 1 January 2013 and notably on the extent to which they have effectively led to a decrease in administrative burdens for businesses, as required by Article 237 of Directive 2006/112/EC. As this obligation has already been fulfilled, it should be removed from that Directive.

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7 Directive 2014/55/EU of the European Parliament and of the Council of 16 April 2014 on electronic invoicing in public procurement (OJ L 133, 6.5.2014, p. 1).

(11) The obligation to submit recapitulative statements for the reporting of intra-Community transactions should be removed, as the digital reporting requirements for intra-Community transactions cover, under their scope, the same transactions, but with faster and more detailed information. The digital reporting requirements cover the same transactions that the recapitulative statements with the exception of transactions under call-off stocks arrangements, as referred to in Article 17a of Directive 2006/112/EC, which should be reported through the one-stop-shop (OSS) return.

(12) In order to facilitate for taxable persons the transmission of the invoice data, Member States should put at the disposal of the taxable persons the necessary means for such transmission, which should allow that the data is sent by the taxable person directly or by a third party on that taxable person's behalf.

(13) Whilst the information to be transmitted through the digital reporting requirements for intra-Community transactions should be similar to what was transmitted through the recapitulative statements, it is necessary to request taxable persons to provide additional data, including bank details and payment amounts, so that tax administrations can follow not only the goods but also the financial flows.

(14) Placing an unnecessary administrative burden on taxable persons operating in different Member States should be avoided. Therefore, such taxable persons should be able to provide the required information to their tax administrations using the European standard laid down in Commission Implementing Decision (EU) 2017/1870[8], which fulfils the request laid down in Article 3(1) of Directive 2014/55/EU to create an European standard for the semantic data model of the core elements of an electronic invoice. Member States should be allowed to provide for additional methods to report the data that could be easier for certain taxable persons to comply with.

(15) In order to achieve the necessary harmonisation in the reporting of data on intra-Community transactions, the information to be reported should be the same in all Member States, without the possibility for Member States to request additional data.

(16) An important element in the fight against VAT fraud related to intra-Community transactions is to compare the data declared by the supplier with the data declared by the customer. For that purpose, the person acquiring the goods and the recipient of the services should be required to report the data on their intra-Community transactions.

(17) Several Member States have put in place divergent reporting requirements for transactions within their territories, leading to significant administrative burdens for taxable persons which operate in different Member States, as they need to adapt their accounting systems to comply with those requirements. In order to avoid the costs derived from such divergence, the systems implemented in Member States to report supplies of goods and services for consideration between taxable persons within their territory should comply with the same features of the system implemented for intra-Community transactions. Member States should provide for the electronic means for the transmission of the information and, as is the case for intra-Community

[8] Commission Implementing Decision (EU) 2017/1870 of 16 October 2017 on the publication of the reference of the European standard on electronic invoicing and the list of its syntaxes pursuant to Directive 2014/55/EU of the European Parliament and of the Council (OJ L 266, 17.10.2017, p. 19).

transactions, it should be possible for the taxable person to submit the data in accordance with the European standard laid down in Implementing Decision (EU) 2017/1870, even though the relevant Member State could provide for additional means to transmit the data. The data should be allowed to be sent by the taxable person directly or by a third party on that person's behalf.

(18) Member States should not be obliged to implement a digital reporting requirement for supplies of goods and services for consideration between taxable persons within their territory. However, if they are to implement such a requirement in the future, they should align it with the digital reporting requirements for intra-Community transactions. Member States which already have a reporting system for these transactions in place should adapt such systems to ensure that the data are reported in accordance with the digital reporting requirements for intra-Community transactions.

(19) In order to evaluate the effectiveness of the digital reporting requirements, the Commission should prepare an assessment report evaluating the impact of digital reporting requirements on the reduction of the VAT gap and in the implementation and compliance costs for taxable persons and tax administrations, in order to verify whether the system has achieved its objectives or needs further adjustments.

(20) Member States should be able to continue to implement other measures to ensure the correct collection of VAT and to prevent evasion. However, they should not be able to impose additional reporting obligations on the transactions that are covered by the digital reporting requirements.

(21) The platform economy has raised certain difficulties for the application of the VAT rules -in particular the establishment of the taxable status of the provider of the service and the level playing field between small and medium-sized enterprises (SMEs) and other businesses.

(22) The platform economy has led to an unjustified distortion of competition between supplies performed through online platforms that escape VAT taxation, and supplies performed in the traditional economy that are subject to VAT. The distortion has been most acute in the two largest sectors of the platform economy behind e-commerce, namely the short-term accommodation rental sector and the passenger transport sector.

(23) It is therefore necessary to lay down rules to address the distortions of competition in the short-term accommodation rental and passenger transport sectors by changing the role that platforms play in the collection of VAT (becoming the 'deemed supplier'). Under this model, platforms should be required to charge VAT where VAT is due but the underlying supplier does not charge it because they are, for example, a natural person or a taxable person using the special scheme for small enterprises.

(24) Member States interpret the place of supply of the facilitation service provided by the platforms to non-taxable persons differently. Therefore it is necessary to clarify this rule.

(25) Some Member States rely upon Article 135(2) of Directive 2006/112/EC to apply a VAT exemption to short-term accommodation rental, while others do not. In order to ensure equal treatment and consistency, whilst continuing to address the distortion of competition in the accommodation sector, it should be clarified that this exemption does not apply to short-term accommodation rentals. The criteria used to identify short-term accommodation rentals, which shall be regarded as having a similar function to the hotel sector, are only to be applied for the purposes of this Directive and are without prejudice to the definitions used in other Union legislation. This

Directive therefore does not create an EU definition of short-term accommodation rentals.

(26) In order to avoid that platforms making deemed supplies are inadvertently included in the special scheme for travel agents, or vice versa, transactions for which the platform is the deemed supplier should be excluded from that special scheme.

(27) This proposal is without prejudice to the rules laid down by other Union legal acts, in particular, Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act)[9] regulating other aspects of the provision of services by online platforms, such as obligations applicable to providers of online platforms allowing consumers to conclude distance contracts with traders.

(28) Council Directives (EU) 2017/2455[10] and 2019/1995[11] amended Directive 2006/112/EC as regards the VAT rules governing the taxation of business-to-consumer cross-border e-commerce activity in the Union. Those amending Directives reduced distortions of competition, improved administrative cooperation and introduced a number of simplifications. Whilst the amendments introduced by those Directives that apply since 1 July 2021 have been largely successful, the need for certain improvements have nevertheless been identified.

(29) To this end, some existing rules should be clarified. This includes the rule on the calculation of the EUR 10 000 calendar-based threshold laid down in Article 59c of Directive 2006/112/EC, below which supplies of telecommunications, broadcasting and electronic (TBE) services and intra-Community distance sales of goods, supplied by a Union established supplier established in only one Member State, may remain subject to VAT in the Member State where that taxable person supplying those TBE services is established, or where those goods are located at the time their dispatch or transport begins. Article 59c of Directive 2006/112/EC should be amended to ensure that only intra-Community distance sales of goods that are supplied from the Member State where the taxable person is established are included in the calculation of the EUR 10 000 threshold, but not distance sales made from a stock of goods in another Member State.

(30) Directive 2006/112/EC should also be amended to clarify that all business-to-consumer supplies of services, supplied within the Union by taxable persons established outside the Union, fall within the scope of the special scheme for services supplied by taxable persons not established within the Community (the non-Union scheme), and not only supplies of services to Union established customers. Following

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9 Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) (OJ L 277, 27.10.2022, p. 1–102)

10 Council Directive (EU) 2017/2455 of 5 December 2017 amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods (OJ L 348, 29.12.2017, p. 7).

11 Council Directive (EU) 2019/1995 of 21 November 2019 amending Directive 2006/112/EC as regards provisions relating to distance sales of goods and certain domestic supplies of goods

the introduction of the new rules on VAT rates by Council Directive (EU) 2022/542[12] and the foreseen entry into force of the new SME rules[13] and in order to cover exemptions under Article 151 of Directive 2006/112/EC regarding supplies of goods and services *inter alia* under diplomatic, consular arrangements and to certain other international bodies, it is also necessary to broaden the Union OSS scheme under Title XII, Chapter 6, Section 3 of Directive 2006/112/EC by ensuring that zero-rated and VAT-exempt supplies fall within the scope of that scheme, such as supplies by small and medium-enterprises (SMEs). In addition, Directive 2006/112/EC should be amended to clarify the time by which amendments by the taxable person making use of the special schemes can be made to the relevant VAT returns across the three existing simplification schemes; the non-Union OSS, the Union OSS and the Import OSS ('IOSS'). This clarification will allow taxable persons registered for the schemes to make corrections to the relevant VAT returns up to the deadline of submission of those returns. Finally, the timing of the chargeable event in respect of supplies under the Union and non-Union OSS simplification schemes should be clearly settled in order to avoid differences in the application of the rules amongst the Member States.

(31) VAT identification is, in general, required in every Member State where taxable transactions take place. However, to reduce the instances in which multiple VAT registrations are required, Directive (EU) 2017/2455 introduced into Directive 2006/112/EC a number of measures to minimise the need for multiple VAT registrations. In order to further reduce the need for multiple VAT registrations, a number of extension measures have been identified to support the objective of a single VAT registration in the Union. Rules should therefore be laid down to provide for these extension measures.

(32) Amongst other measures, Directive (EU) 2017/2455 extended the scope of the Mini OSS to become a broader OSS, covering all cross-border supplies of services to non-taxable persons taking place in the Union and all intra-Community distance sales of goods. Exceptionally, electronic interfaces, such as marketplaces and platforms, which become deemed suppliers for certain supplies of goods within the Union can also declare certain domestic supplies of goods in the Union OSS scheme. To support the objective of a single VAT registration in the Union, the scope of the Union OSS scheme should be further expanded to cover other supplies of goods, including domestic business-to-consumer supplies of goods in the Union by taxable persons who are not identified for VAT purposes in the Member State of consumption, ensuring that businesses do not need to register for VAT in each Member State where such supplies of goods to consumers take place. In addition, the scope of the Union OSS scheme should be expanded to also include domestic supplies of margin scheme goods to any person, when those goods are supplied by a taxable person (taxable dealer) who

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12 Council Directive (EU) 2022/542 of 5 April 2022 amending Directives 2006/112/EC and (EU) 2020/285 as regards rates of value added tax (OJ L 107, 6.4.2022, p. 1).

13 Council Directive (EU) 2020/285 of 18 February 2020 amending Directive 2006/112/EC on the common system of value added tax as regards the special scheme for small enterprises and Regulation (EU) No 904/2010 as regards the administrative cooperation and exchange of information for the purpose of monitoring the correct application of the special scheme for small enterprises (OJ L 62, 2.3.2020, p. 13).

is not identified in the Member State were such supplies of goods take place. This amendment would allow taxable dealers to benefit from the OSS simplifications, and allow for the VAT due on those supplies to be declared and paid in one Member State of identification via the enlarged Union OSS scheme.

(33) VAT is normally charged and accounted for by the supplier of the goods or services. However, in certain circumstances Member States may provide that, under the reverse charge mechanism, the recipient of the supply, rather than the supplier, is obliged to account for the VAT due. To further support the objective of a single VAT registration in the Union, rules should be laid down for the mandatory application by Member States of the reverse charge mechanism in situations where a supplier is not established for VAT purposes in the Member State in which VAT is due. A supplier, making supplies of goods or services to a person who is identified for VAT in the Member State where the supply is taxable, should be entitled to apply the reverse charge. For control purposes, such supplies should be reported in the recapitulative statement.

(34) Directive (EU) 2017/2455 introduced into Directive 2006/112/EC the liability of electronic interfaces, such as marketplaces and platforms, when acting as deemed supplier, where they facilitate certain supplies of goods to consumers in the Union. In terms of supplies of goods made within the Union, the deemed supplier rule is currently limited to supplies of goods to non-taxable persons, where those goods are supplied in the Union by taxable persons not established in the Union. In order to level the playing field between Union and non-Union traders and minimise the costs of doing business cross-border within the Union, measures should be adopted to further reduce the compliance burden for Union sellers that operate via electronic interfaces. Under its expanded scope, the deemed supplier rule would include all supplies of goods within the Union facilitated by an electronic interface, irrespective of where the underlying supplier is established and irrespective of the status of the purchaser.

(35) Directive (EU) 2017/2455 introduced into Directive 2006/112/EC a specific simplification, the IOSS, which was designed to reduce the VAT compliance burden associated with the importation of certain low value goods to consumers in the Union. Accordingly, taxable persons who opt to register for the IOSS do not need to register for VAT in each Member State in which their eligible imports of goods to consumers take place. Instead, the VAT due on those supplies can be declared and paid in one Member State via the IOSS scheme. To further support and enhance VAT compliance in respect of certain imported goods measures should be adopted to make the use of the IOSS mandatory for electronic interfaces, such as marketplaces and platforms, when they facilitate certain imports of goods to consumers in the Union. However, taxable persons who operate electronic interfaces and who exclusively facilitate domestic supplies in their Member State of establishment should fall outside the scope of the measure.

(36) In order to ensure uniform conditions for the implementation of Directive 2006/112/EC, powers should be conferred on the Commission to better secure the correct use and the verification process of IOSS VAT identification numbers for the purposes of the exemption provided for in that Directive. This empowerment should allow the Commission to adopt an implementing act to introduce special measures to prevent certain forms of tax evasion or avoidance. Such special measures involve, inter alia, linking the unique consignment number with the IOSS VAT identification number. Those powers should be exercised in accordance with the examination procedure referred to in Article 5 of Regulation (EU) No 182/2011 of the European

Parliament and of the Council[14] and for this purpose the committee should be the one established by Article 58 of Regulation (EU) No 904/2010 of the European Parliament and of the Council[15].

(37) The VAT registration of a supplier is required when that supplier is not identified for VAT in the Member State where VAT is due. In particular, the transfer of a taxable person's own goods to another Member State for, inter alia, the purposes of that person's e-commerce related activity triggers a need to register in the Member States from and to where the goods are transferred. In congruence with the objective of a single VAT registration in the Union, the instances in which multiple VAT registrations are required should be further reduced by providing for the application of a new scheme in the framework of the OSS schemes, which is specifically designed to simplify the VAT compliance obligations associated with certain transfers of own goods.

(38) Directive 2006/112/EC provides for a simplified VAT treatment of goods transferred under call-off stock arrangements where certain prescribed conditions are met. As the OSS simplification scheme for transfers of own goods is comprehensive and encompasses cross-border movements of goods that are currently covered by call-off stock arrangements under article 17a of that Directive, it is necessary to phase out these arrangements by including an end date prior to the complete removal of the call-off stock provisions in Directive 2006/112/EC. Therefore, an end date of 31 December 2024 should be laid down, after which it will no longer be possible to effect any new call-off stock arrangements. For call-off stock arrangements commencing on or before 31 December 2024, the relevant conditions, including the 12 month time limit for transferring ownership of those goods to the intended purchaser, should continue to apply. In parallel with the inclusion of this new end date, a new paragraph should be inserted in the provisions pertaining to call-off stock arrangements to ensure that those arrangements will cease to apply on 31 December 2025, as they will no longer be required after that date.

(39) The margin scheme operates by allowing taxable dealers to pay VAT on the difference between the sale price and the purchase price of goods covered by the scheme namely second-hand goods, works of art, collectors' items and antiques. To ensure that the taxation of those specific supplies occurs in the Member State where the customer is established, has his or her permanent address or usually resides, Directive 2006/112/EC should be amended to introduce a new place of supply rule. In addition, Directive 2006/112/EC should be amended to specifically exclude supplies of margin scheme goods from the mandatory application of the reverse charge mechanism. However, to support the objective of a single VAT registration in the Union, and to minimise compliance burdens, taxable dealers that operate under the margin scheme can opt to register to use the Union OSS scheme to declare and pay the VAT due on

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[14] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

[15] Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax (OJ L 268, 12.10.2010, p. 1).

certain supplies of margin scheme goods via that scheme, without the need to register in multiple Member States.

(40) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents[16], Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

(41) Since the objectives of this Directive, namely bringing the VAT system into the digital era, cannot sufficiently be achieved by the Member States but can rather, by reason of the need to harmonise and encourage the use of Digital Reporting Requirements, improve the VAT treatment of platforms, and reduce the instances in which a business is required to register in other Member States, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

(42) Directive 2006/112/EC should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2006/112/EC with effect from 1 January 2024

Directive 2006/112/EC is amended as follows:

(1) Article 17a is amended as follows:

(a) in paragraph 2, point (a) is replaced by the following:

‘(a) goods are dispatched or transported by a taxable person, or by a third party on his or her behalf, on or before 31 December 2024, to another Member State with a view to those goods being supplied there, at a later stage and after arrival, to another taxable person who is entitled to take ownership of those goods in accordance with an existing agreement between both taxable persons;’;

(b) the following paragraph 8 is added:

‘8. This Article shall cease to apply on 31 December 2025.’;

(2) in Title V, Chapter 3a, the heading is replaced by the following:

‘CHAPTER 3a

16 OJ C 369, 17.12.2011, p. 14.

Threshold for taxable persons making certain supplies of goods covered by Article 33, point (a), and certain supplies of services covered by Article 58';

(3) Article 59c is amended as follows:

(a) in paragraph 1, point (b) is replaced by the following:

'(b) services are supplied to a non-taxable person who is established, has a permanent address or usually resides in any Member State other than the Member State referred to in point (a), or goods are dispatched or transported from the Member State referred to in point (a) to another Member State; and';

(b) paragraph 3 is replaced by the following:

'3. The Member State referred to in paragraph 1, point (a), shall grant taxable persons carrying out supplies eligible under that paragraph the right to opt for the place of supply to be determined in accordance with Article 33, point (a), and Article 58, which shall, in any event, cover two calendar years.';

(4) Article 66 is replaced by the following:

'Article 66

1. By way of derogation from Articles 63, 64 and 65, Member States may provide that VAT is to become chargeable in respect of certain transactions or certain categories of taxable person, at one of the following times:

(a) no later than the time the invoice is issued;

(b) no later than the time the payment is received;

(c) where an invoice is not issued, or is issued late, within a specified time no later than on expiry of the time-limit for issue of invoices imposed by Member States pursuant to the second paragraph of Article 222 or where no such time-limit has been imposed by the Member State, within a specified period from the date of the chargeable event.

2. The derogation provided for in paragraph 1 shall not apply to the following supplies:

(a) supplies of services covered by the special scheme as set out in Title XII, Chapter 6, Section 2 where those supplies are carried out by a taxable person who is permitted to use that scheme in accordance with Article 359;

(b) supplies covered by the special scheme as set out in Title XII, Chapter 6, Section 3, where those supplies are carried out by a taxable person who is permitted to use that scheme in accordance with Article 369b;

(c) supplies of services in respect of which VAT is payable by the customer pursuant to Article 196;

(d) supplies or transfers of goods referred to in Article 67.';

(5) in Article 167a, the first paragraph is replaced by the following:

'Member States may provide, within an optional scheme that the right of deduction of a taxable person whose VAT solely becomes chargeable in accordance with Article 66(1), point (b), be postponed until the VAT on the goods or services supplied to that person has been paid to the supplier.';

(6) Article 217 is replaced by the following:

'Article 217

For the purposes of this Directive, 'electronic invoice' shall mean an invoice that contains the information required by this Directive, and which has been issued, transmitted and received in a structured electronic format which allows for its automatic and electronic processing.';

(7) Article 218 is replaced by the following:

Article 218

1. For the purposes of this Directive, Member State shall accept documents or messages on paper or in electronic form as invoices if they meet the conditions laid down in this Chapter.

2. Member States may impose the obligation to issue electronic invoices. Member States imposing this obligation shall allow for the issuance of electronic invoices which comply with the European standard on electronic invoicing and the list of its syntaxes pursuant to Directive 2014/55/EU of the European Parliament and of the Council*. The issuance of electronic invoices by taxable persons and their transmission shall not be subject to a prior mandatory authorisation or verification by the tax authorities, without prejudice to the special measures authorised under Article 395 and already implemented at the time this Directive enters into force.

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*Directive 2014/55/EU of the European Parliament and of the Council of 16 April 2014 on electronic invoicing in public procurement (OJ L 133, 6.5.2014, p. 1).';

(8) in Article 226, point 7a is replaced by the following:

'(7a) where the VAT becomes chargeable at the time when the payment is received in accordance with Article 66(1), point (b), and the right of deduction arises at the time the deductible tax becomes chargeable, the mention 'Cash accounting';

(9) Article 232 is deleted;

(10) Article 237 is deleted;

(11) Article 359 is replaced by the following:

'Article 359

Member States shall permit any taxable person not established within the Community supplying services to a non-taxable person to use this special scheme. That scheme shall apply to all those services supplied within the Community.';

(12) in Article 369j, the first paragraph is replaced by the following:

'The taxable person making use of this special scheme may not, in respect of his or her taxable activities covered by this special scheme, deduct VAT incurred in the Member States of consumption pursuant to Article 168 of this Directive. Notwithstanding Article 1, point (1), of Directive 86/560/EEC, Article 2, point (1), Article 3, and Article 8(1), point (e), of Directive 2008/9/EC, the taxable person in question shall be refunded in accordance with those Directives. Article 2(2) and (3) and Article 4(2) of Directive 86/560/EEC shall not apply to refunds relating to goods covered by this special scheme.';

(13) in Article 369w, the first paragraph is replaced by the following:

'The taxable person making use of this special scheme may not, in respect of his or her taxable activities covered by this special scheme, deduct VAT incurred in the Member States of consumption pursuant to Article 168 of this Directive. Notwithstanding Article 1, point (1), of Directive 86/560/EEC and Article 2, point (1), Article 3, and Article 8(1), point (e), of Directive 2008/9/EC, the taxable person in question shall be refunded in accordance with those Directives. Article 2(2) and (3), and Article 4(2) of Directive 86/560/EEC shall not apply to refunds relating to goods covered by this special scheme.';

Article 2

Amendments to Directive 2006/112/EC with effect from 1 January 2025

Directive 2006/112/EC is amended as follows:

(1) in Article 14(4), point (1)(a), is replaced by the following:

'(a) the supply of goods is carried out for a taxable person, or a non-taxable legal person, whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 3(1) or for any other non-taxable person; or the supply is a supply of second-hand goods, works of art, collectors' items or antiques, supplied by a taxable dealer to any other taxable person, where the goods are subject to VAT in accordance with the special arrangements provided for in Title XII Chapter 4, Section 2, of this Directive.';

(2) Article 14a is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. Where a taxable person facilitates, through the use of an electronic interface such as a marketplace, platform, portal or similar means, the supply of goods within the Community by a taxable person, the taxable person who facilitates the supply shall be deemed to have received and supplied those goods.';

(b) the following paragraphs 3 and 4 are added:

'3. Where a taxable person facilitates, through the use of an electronic interface such as a marketplace, platform, portal or similar means, the transfer of goods to another Member State in accordance with Article 17(1) by a taxable person, other than capital goods as defined by the Member State to which the goods are dispatched or transported in accordance with Article 189, point (a), or goods in relation to which there is no full right of deduction in that Member State, the taxable person who facilitates the transfer shall be deemed to have received and supplied those goods.

4. Where a taxable person established only in one Member State facilitates through the use of an electronic interface such as a marketplace, platform, portal or similar means, supplies of goods only in that Member State without dispatch or transport, or with dispatch or transport which begins and ends in that Member State, that taxable person shall not be deemed to have received and supplied those goods.';

(3) the following Articles 28a is inserted:

'Article 28a

Notwithstanding Article 28, a taxable person who facilitates, through the use of an electronic interface such as a platform, portal, or similar means, the supply of short-term accommodation rental, as referred to in Article 135(3), or passenger transport, shall be deemed to have received and supplied those services themselves where the person providing those services is one of the following:

(a) a non-established person who is not identified for VAT purposes in a Member State;

(b) a non-taxable person;

(c) a taxable person carrying out only supplies of goods or services in respect of which VAT is not deductible;

(d) a non-taxable legal person;

(e) a taxable person subject to the common flat-rate scheme for farmers;

(f) a taxable person subject to the special scheme for small enterprises.';

(4) Article 35 is deleted;

(5) in Title V, Chapter 1, the following Section 5 is added:

'Section 5

Supply of works of art and antiques that are supplied under the special arrangements for taxable dealers

Article 39a

The place of supply of works of art and antiques that are supplied without dispatch or transport, or where the dispatch or transport of those goods begins and ends in the same Member State, and that are supplied in accordance with the special scheme provided for in Title XII, Chapter 4, Section 2, subsection 1, shall be the place where the customer is established, has his or her permanent address, or usually resides.';

(6) The following Article 46a is inserted:

'Article 46a

The place of supply of the facilitation service provided to a non-taxable person by a platform, portal or similar means shall be the place where the underlying transaction is supplied in accordance with this Directive.

(7) in Article 135, the following paragraph 3 is added:

‘3. The uninterrupted rental of accommodation for a maximum of 45 days with or without the provision of other ancillary services shall be regarded as having a similar function to the hotel sector.’;

(8) Article 136a is replaced by the following:

‘Article 136a

Where a taxable person is deemed to have received and supplied goods in accordance with Article 14a(2) or Article 14a(3), Member States shall exempt the supply of those goods to that taxable person.’;

(9) the following Article 136b is inserted:

‘Article 136b

Where a taxable person is deemed to have received and supplied services in accordance with Article 28a, Member States shall exempt the supply of those services to that taxable person.’;

(10) in Article 143, the following paragraph 1a is inserted:

‘1a. For the purposes of the exemption provided for in paragraph 1, point (ca), the Commission shall adopt an implementing act to introduce special measures to prevent certain forms of tax evasion or avoidance by, inter alia, linking the unique consignment number with the corresponding VAT identification number as referred to in Article 369q.

That implementing act shall be adopted in accordance with the examination procedure referred to in Article 5 of Regulation (EU) No 182/2011* and for that purpose the committee shall be the committee established by Article 58 of Regulation (EU) No 904/2010±.

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* Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

± Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax (OJ L 268 12.10.2010, p. 1).’;

(11) the following Article 172a is inserted:

‘Article 172a

Where a taxable person is deemed to have received and supplied services in accordance with Article 28a, those supplies shall not affect the right of deduction of that taxable person, regardless of whether the supply is one for which VAT is deductible or not.’;

(12) Article 194 is replaced by the following:

'Article 194

1. Without prejudice to Articles 195 and 196, where the taxable supply of goods or services is carried out by a taxable person who is not established in the Member State in which the VAT is due, Member States shall allow that the taxable person liable for payment of VAT is the person to whom the goods or services are supplied if that person is already identified in that Member State.

2. Paragraph 1 shall not apply to a supply of goods carried out by a taxable dealer as defined in Article 311(1), point (5), where the goods are subject to VAT in accordance with the special arrangements provided for in Section 2 of Chapter 4 of Title XII of this Directive.';

(13) in Article 222 the first paragraph is replaced by the following:

'For supplies of goods carried out in accordance with the conditions specified in Article 138 or for supplies of goods or services for which VAT is payable by the customer pursuant to Articles 194 and 196, an invoice shall be issued no later than on the fifteenth day of the month following that in which the chargeable event occurs.'

(14) Article 242a is amended as follows:

(a) the following paragraph 1a is inserted:

'1a. Where a taxable person facilitates, through the use of an electronic interface such as a platform, portal or similar means, the supply of short-term accommodation rental or passenger transport services, and that person is not considered to have received and supplied those services themselves under Article 28a, the taxable person who facilitates the supply shall be obliged to keep records of those supplies.';

(b) paragraph 2 is replaced by the following:

'2. The records referred to in paragraphs 1 and 1a must be made available electronically on request to the Member States concerned.

Those records must be kept for a period of 10 years from the end of the year during which the transaction was carried out.';

(15) in Article 262, paragraph 1, point (c) is replaced by the following:

'(c) the taxable persons, and the non-taxable legal persons identified for VAT purposes, to whom that taxable person identified for VAT purposes has supplied goods or services, other than goods or services that are exempted from VAT in the Member State where the transaction is taxable, for which the recipient is liable to pay the tax pursuant to Articles 194 and 196.';

(16) in Article 306, the following paragraph 3 is added:

'3. The special scheme referred to in paragraph 1 of this Article shall not apply to supplies made under Article 28a.';

(17) in Title XII, the heading of Chapter 6, is replaced by the following:

'CHAPTER 6

Special schemes for taxable persons supplying services to non-taxable persons or making distance sales of goods, or certain domestic supplies of goods or transfers of own goods';

(18) Article 365 is replaced by the following:

'*Article 365*

The VAT return shall show the individual VAT identification number for the application of this special scheme and, for each Member State of consumption in which VAT is due, the total value, exclusive of VAT, of supplies of services covered by this special scheme for which the chargeable event has occurred during the tax period and total amount per rate of the corresponding VAT. The applicable rates of VAT and the total VAT due must also be indicated on the return.

Where any amendments to the VAT return are required after the date on which the return was required to be submitted in accordance with Article 364, such amendments shall be included in a subsequent return within three years of the date on which the initial return was required to be submitted pursuant to Article 364. That subsequent VAT return shall identify the relevant Member State of consumption, the tax period and the amount of VAT for which any amendments are required.';

(19) in Title XII, Chapter 6, the heading of Section 3 is replaced by the following:

'Section 3

Special scheme for intra-Community distance sales of goods, for certain supplies of goods within a Member State made by a taxable person not identified for VAT purposes in that Member State or by electronic interfaces facilitating those supplies and for services supplied to a non-taxable person by taxable persons established within the Community but not in the Member State of consumption';

(20) in Article 369a, point (3) is amended as follows:

(a) point (c) is replaced by the following:

'(c) in the case of the supply of goods made by a taxable person facilitating those supplies in accordance with Article 14a(2) where the dispatch or transport of the goods supplied begins and ends in the same Member State, where those goods are supplied to a taxable person or a non-taxable legal person, whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 3(1), or to any other non-taxable person, that Member State;';

(b) the following points (d) and (e) are added:

'(d) in the case of the supply of goods in accordance with Articles 36, 37 and 39, where those goods are supplied to a taxable person or a non-taxable legal person, whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 3(1), or to any other non-taxable person, the Member State in which the supply is deemed to take place;

(e) in the case of the supply of goods without dispatch or transport of the goods, or where the dispatch of the goods supplied begins and ends in the same Member State where those goods are supplied to a taxable person or to a non-taxable legal person whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 3(1), or to any other non-taxable person, that Member State.';

(21) Article 369b is replaced by the following:

'Article 369b

Member States shall permit the following taxable persons to use this special scheme:

(a) a taxable person carrying out intra-Community distance sales of goods;

(b) without prejudice to Article 14a(2), for the purpose of this special scheme, a taxable person facilitating the supply of goods in accordance with Article 14a(2) without dispatch or transport or where the dispatch of transport begins and ends in the same Member State, where those goods are supplied to a taxable person or to a non-taxable legal person, whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 3(1), or to any other non-taxable person.

(c) a taxable person not established in the Member State of consumption supplying services to a non-taxable person;

(d) a taxable person not identified in the Member State in which the goods are subject to VAT, supplying goods in accordance with Articles 36, 37 and 39 to a taxable person or a non-taxable legal person, whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 3(1) or to any other non-taxable person;

(e) a taxable person not identified in the Member State in which the goods are subject to VAT, supplying goods without dispatch or transport or where the dispatch begins and ends in the same Member State to either of the following:

(a) a taxable person or a non-taxable legal person, whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 3(1) or to any other non-taxable person;

(b) any other taxable person where the supply is a supply of second-hand goods, works of art, collectors' items or antiques, where the goods are subject to VAT in accordance with the margin scheme provided for in Articles 312 to 325.

This special scheme applies to all those goods or services supplied in the Community by the taxable person concerned.'

(22) Article 369g is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. The VAT return shall show the VAT identification number referred to in Article 369d and, for each Member State of consumption, the total value exclusive of VAT, the applicable rates of VAT, where relevant, the total amount per rate of the corresponding VAT, where relevant, and the total VAT due in respect of the following supplies covered by this special scheme for which the chargeable event has occurred during the tax period:

(a) intra-Community distance sales of goods;

(b) without prejudice to Article 14a(2), for the purpose of this special scheme, supplies of goods in accordance with Article 14a(2) where the dispatch or transport of those goods begins and ends in the same Member State, where those goods are supplied to a taxable person or a non-taxable legal person, whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 3(1) or to any other non-taxable person;

(c) supplies of services;

(d) supplies of goods in accordance with Articles 36, 37 and 39, where those goods are supplied to a taxable person or a non-taxable legal person, whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 3(1) or to any other non-taxable person;

(e) supplies of goods without dispatch or transport, or where the dispatch begins and ends in the same Member State, where those goods are supplied to a taxable person or a non-taxable legal person, whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 3(1) or to any other non-taxable person.

The VAT return shall also include amendments relating to previous tax periods as provided for in paragraph 4 of this Article.';

(b) paragraph 2 is replaced by the following:

'2. Where goods are dispatched or transported in or from Member States other than the Member State of identification, the VAT return shall also include the total value exclusive of VAT, the applicable rates of VAT, where relevant, the total amount per rate of the corresponding VAT, where relevant, and the total VAT due in respect of the following supplies covered by this special scheme, for each Member State where such goods are dispatched or transported in or from:

(a) intra-Community distance sales of goods other than those made by a taxable person in accordance with Article 14a(2);

(b) intra-Community distance sales of goods and supplies of goods where the dispatch or transport of those goods begins and ends in the same Member State, made by a taxable person in accordance with Article 14a(2) where those goods are supplied to a taxable person or a non-taxable legal person, whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 3(1) or to any other non-taxable person;

(c) supplies of goods in accordance with Articles 36, 37 and 39, where those goods are supplied to a taxable person or a non-taxable legal person, whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 3(1) or to any other non-taxable person;

(d) supplies of goods to a taxable person or a non-taxable legal person, whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 3(1) or to any other non-taxable person, where the dispatch begins and ends in the same Member State.

In relation to the supplies referred to in point (a), the VAT return shall also include the individual VAT identification number or the tax reference number allocated by each Member State where such goods are dispatched or transported from, if available.

In relation to the supplies referred to in point (b), the VAT return shall also include the individual VAT identification number or the tax reference number allocated by each Member State where such goods are dispatched or transported from, if available.

The VAT return shall include the information referred to in this paragraph broken down by Member State of consumption.';

(c) the following paragraph 2a is inserted:

'2a. The requirement to provide the information set out in paragraph 2 shall also apply to supplies of goods without dispatch or transport taking place in a Member State other than the Member State of identification.';

(d) paragraph 3 is replaced by the following:

'3. Where the taxable person supplying services covered by this special scheme has one or more fixed establishments other than that in the Member State of identification, from which the services are supplied, the VAT return shall also include the total value exclusive of VAT, the applicable rates of VAT, where relevant, the total amount per rate of the corresponding VAT, where relevant, and the total VAT due of such supplies, for each Member State in which that person has an establishment, together with the individual VAT identification number or the tax reference number of that establishment, broken down by Member State of consumption.';

(e) paragraph 4 is replaced by the following:

'4. Where any amendments to the VAT return are required after the date on which the return was required to be submitted in accordance with Article 369f, such amendments shall be included in a subsequent return within 3 years of the date on which the initial return was required to be submitted pursuant to Article 369f. That subsequent VAT return shall identify the relevant Member State of consumption, the tax period and the amount of VAT for which any amendments are required.';

(23) in Article 369m, the following paragraph 4 is added:

'4. Notwithstanding paragraph 1, Member States shall require the taxable person acting as deemed supplier in accordance with Article 14a(1) to use this special scheme for all his or her distance sales of goods imported from third territories or third countries.

(24) Article 369p is amended as follows:

(a) in paragraph 1, the following point (e) is added:

'(e) status as taxable person deemed to have received and supplied goods in accordance with Article 14a(1).';

(b) in paragraph 3, the following point (f) is added:

'(f) status as taxable person deemed to have received and supplied goods in accordance with Article 14a(1).';

(25) Article 369r is amended as follows:

(a) in paragraph 1, point (d) is replaced by the following:

‘(d) if that taxable person persistently fails to comply with the rules relating to this special scheme and insofar the use of this scheme is not obligatory in accordance with Article 369m(4).’,

(b) in paragraph 3, point (d) is replaced by the following:

‘(d) if that taxable person persistently fails to comply with the rules relating to this special scheme and insofar as the use of this scheme is not obligatory in accordance with Article 369m(4);’,

(c) a new paragraph 4 is inserted:

‘4. Where the use of the special scheme is obligatory in accordance with Article 369m(4), Member States of identification shall adopt appropriate measures, other than deletion from the identification register, where the taxable person persistently fails to comply with the rules relating to this special scheme.’;

(26) in Article 369t, paragraph 2 is replaced by the following:

‘2. Where any amendments to the VAT return are required after the date on which the return was required to be submitted in accordance with Article 369s, such amendments shall be included in a subsequent return within three years of the date on which the initial return was required to be submitted pursuant to Article 369s. That subsequent VAT return shall identify the relevant Member State of consumption, the tax period and the amount of VAT for which any amendments are required.’;

(27) in Title XII, Chapter 6, the following Section 5 is added:

‘Section 5

Special scheme for transfers of own goods

Article 369xa

For the purposes of this Section, and without prejudice to other Community provisions, the following definitions shall apply:

(1) ‘transfer of own goods’ means the transfer of goods to another Member State in accordance with Article 17(1), including transfers pursuant to Article 14a(3), and shall not include transfers of capital goods as defined by the Member State to which the goods are dispatched or transported in accordance with Article 189(a) or goods in relation to which there is no full right of deduction in that Member State.

(2) ‘Member State of identification’ means the Member State in the territory of which the taxable person has established his or her business or, if that taxable person has not established his or her business in the Community, where that taxable person has a fixed establishment.

Where a taxable person has not established his or her business in the Community, but has more than one fixed establishment therein, the Member State of identification shall be the Member State with a fixed establishment where that taxable person indicates that he or she will make use of this special scheme. The taxable person shall be bound by that decision for the calendar year concerned and the two calendar years following.

Where a taxable person has not established his or her business in the Community and has no fixed establishment therein, the Member State of identification shall be the Member State in which the dispatch or transport of the goods begins. Where there is more than one Member State in which the dispatch or transport of the goods begins, the taxable person shall indicate which of those Member States shall be the Member State of identification. The taxable person shall be bound by that decision for the calendar year concerned and the two calendar years following.

Article 369xb

Member States shall permit any taxable persons making transfers of own goods to use this special scheme.

This special scheme shall apply to all transfers of own goods carried out by a taxable person registered for this scheme.

Article 369xc

A taxable person shall state to the Member State of identification when that taxable person commences and ceases his or her taxable activities covered by this special scheme, or changes those activities in such a way that that taxable person no longer meets the conditions necessary for use of this special scheme. That taxable person shall communicate that information electronically.

Article 369xd

A taxable person making use of this special scheme shall, for the taxable transactions carried out under this scheme, be identified for VAT purposes in the Member State of identification only. For that purpose the Member State shall use the individual VAT identification number already allocated to the taxable person in respect of his or her obligations under the internal system.

Article 369xe

The Member State of identification shall exclude a taxable person from the special scheme in any of the following cases:

(a) if that taxable person notifies that he or she no longer carries out transfers of own goods covered by this special scheme;

(b) if it may otherwise be assumed that that taxable person’s taxable activities covered by this special scheme have ceased;

(c) if that taxable person no longer meets the conditions necessary for use of this special scheme;

(d) if that taxable person persistently fails to comply with the rules relating to this special scheme.

Article 369xf

The taxable person making use of this special scheme shall submit by electronic means to the Member State of identification a VAT return for each month, whether or not transfers of goods covered by this special scheme have been carried out. The VAT return shall be submitted by the end of the month following the end of the tax period covered by the return.

Article 369xg

1. The VAT return shall show the VAT identification number referred to in Article 369xd and, for each Member State to which goods are dispatched or transferred, the total value exclusive of VAT of the transfers covered by this special scheme for which the chargeable event has occurred during the tax period.

The VAT return shall also include amendments relating to previous tax periods as provided in paragraph 3 of this Article.

2. Where goods are dispatched or transported from Member States other than the Member State of identification, the VAT return shall also include the total value exclusive of VAT of the transfers covered by this special scheme, for each Member State where such goods are dispatched or transported from.

The VAT return shall also include the individual VAT identification number or the tax reference number allocated by each Member State where such goods are dispatched or transported from, if available. The VAT return shall include the information referred to in this paragraph broken down by Member State where the goods are dispatched or transported to.

3. Where any amendments to the VAT return are required after the date on which the return was required to be submitted in accordance with Article 369xf, such amendments shall be included in a subsequent return within three years of the date on which the initial return was required to be submitted pursuant to Article 369xf. That subsequent VAT return shall identify the relevant Member State where the goods are dispatched or transported to, the tax period and the taxable amount for which any amendments are required.

Article 369xh

1. The VAT return shall be made out in euro.

Member States which have not adopted the euro may require the VAT return to be made out in their national currency.

If the supplies have been made in other currencies, the taxable person making use of this special scheme shall, for the purposes of completing the VAT return, use the exchange rate applying on the last date of the tax period.

2. The conversion shall be made by applying the exchange rates published by the European Central Bank for that day, or, if there is no publication on that day, on the next day of publication.

Article 369xi

For the purpose of this special scheme, the intra-Community acquisition of goods in the Member State where the goods are dispatched or transported to, is exempt.

Article 369xj

The taxable person making use of this special scheme may not, in respect of his or her taxable activities covered by this special scheme, declare in the VAT return of that scheme the VAT deductible pursuant to Article 168 of this Directive in the Member States to or from which the goods are dispatched or transported. Notwithstanding Article 1, point (1), of Directive 86/560/EEC, Article 2, point (1), Article 3 and Article 8(1), point (e), of Directive 2008/9/EC, the taxable person in question shall be refunded in accordance with those Directives. Article 2(2) and (3) and Article 4(2) of Directive 86/560/EEC shall not apply to refunds relating to goods covered by this special scheme.

If the taxable person making use of this special scheme is required to be registered in a Member State for activities not covered by this special scheme, he or she shall deduct VAT incurred in that Member State in respect of goods or services supplied to him or her in that Member State in the VAT return to be submitted pursuant to Article 250.

Article 369xk

1. The taxable person making use of this special scheme shall keep records of the transfers of own goods covered by this special scheme. Those records must be sufficiently detailed to enable the tax authorities of the Member States from and to which the good have been dispatched or transported to verify that the VAT return is correct.

2. The records referred to in paragraph 1 must be made available electronically on request to the Member State from and to which the goods have been dispatched or transported and to the Member State of identification.

Those records must be kept for a period of 5 years from 31 December of the year during which the transfer of own goods was carried out.’.

Article 3

Amendments to Directive 2006/112/EC with effect from 1 January 2026

Directive 2006/112/EC is amended as follows:

(1) in Article 243, paragraph 3 is deleted;

(2) in Article 262, paragraph 2 is deleted;

Article 4

Amendments to Directive 2006/112/EC with effect from 1 January 2028

Directive 2006/112/EC is amended as follows:

(1) in Article 42, point (b) is replaced by the following:

‘(b) the person acquiring the goods has complied with the obligations laid down in Article 265 relating to the transmission of data on the intra-Community acquisitions.’;

(2) in Article 138, paragraph 1a is replaced by the following:

‘1a. The exemption provided for in paragraph 1 of this Article shall not apply where the supplier has not complied with the obligation provided for in Articles 262 and 263 to communicate the data on intra-Community transactions, or that data transmitted does not contain the correct information concerning the supply as required under Article 264, unless the supplier can duly justify any shortcomings to the satisfaction of the competent authorities.’;

(3) Article 218 is replaced by the following:

For the purposes of this Directive, invoices shall be issued in a structured electronic format. However, Member States may accept documents on paper or other formats as invoices for transactions not subject to the reporting obligations laid down in Title XI Chapter 6. Member States shall allow for the issuance of electronic invoices which comply with the European standard on electronic invoicing and the list of its syntaxes pursuant to Directive 2014/55/EU of the European Parliament and of the Council. The issuance of electronic invoices by taxable persons and their transmission shall not be subject to a prior mandatory authorisation or verification by the tax authorities.’;

(4) in Article 222, the first paragraph is replaced by the following:

‘For supplies of goods carried out in accordance with the conditions specified in Article 138 or for supplies of goods or services for which VAT is payable by the customer pursuant to Articles 194 and 196, an invoice shall be issued no later than 2 working days following the chargeable event.’;

(5) Article 223 is deleted;

(6) In Article 226, the following points (16), (17) and (18) are added:

‘(16) in the case of a corrective invoice, the sequential number which identifies the corrected invoice, as referred to in point (2);

(17) the IBAN number of the supplier’s bank account to which the payment for the invoice will be credited. If the IBAN number is not available, any other identifier which unambiguously identifies the bank account to which the invoice will be credited;

(18) The date on which the payment of the supply of goods or services is due or, where partial payments are agreed, the date and amount of each payment.’;

(7) in Title XI, the heading of Chapter 6 is replaced by the following:

‘CHAPTER 6

Digital reporting requirements’;

(8) in Title XI, Chapter 6 the following heading of Section 1 is inserted:

‘Section 1

Digital reporting requirements for cross-border supplies of goods and services for consideration made between taxable persons’;

(9) Article 262 is amended as follows:

(a) in paragraph 1, the introductory wording is replaced by the following:

‘Every taxable person identified for VAT purposes shall submit to the Member State in which that person is established or identified for VAT purposes the following data on each supply and transfer of goods carried out in accordance with Article 138, on each intra-Community acquisition of goods in accordance with Article 20 and each supply of a service that is taxable in a Member State other than that in which the supplier is established:';

(10) Article 263 is replaced by the following:

'Article 263

1. The data referred to in Article 262(1) shall be transmitted for each individual transaction carried out by the taxable person no later than 2 working days after issuing the invoice, or after the date the invoice had to be issued where the taxable person does not comply with the obligation to issue an invoice. The data shall be transmitted by the taxable person or by a third party on that taxable person's behalf. Member States shall provide for the electronic means for submitting such data.

Member States shall allow for the transmission of data from electronic invoices which comply with the European standard on electronic invoicing and the list of its syntaxes pursuant to Directive 2014/55/EU of the European Parliament and of the Council.

Member States may allow for the transmission of the data from electronic invoices using other data formats which ensure interoperability with the European Standard on electronic invoicing.

2. The common electronic message for providing the data referred to in paragraph 1 shall be determined in accordance with the procedure provided for in Article 58(2) of Regulation (EU) No 904/2010.';

(11) Article 264 is replaced by the following:

'Article 264

The data transmitted in accordance with Article 263 shall contain all of the following:

(a) the information referred to in Article 226, points (1) to (4), (6), (8) to (11a), (16), (17) and (18);

(b) in respect of supplies of goods consisting in transfers to another Member State, as referred to in Article 138(2), point (c), the total value of the supply, determined in accordance with Article 76.

(12) Article 265 is replaced by the following:

'Article 265

In the case of intra-Community acquisitions of goods, as referred to in Article 42, the taxable person identified for VAT purposes in the Member State which issued him with the VAT identification number under which that person made such acquisitions shall set out the following information in the data to be transmitted:

(a) that person's VAT identification number in that Member State and under which the acquisition and subsequent supply of goods were made;

(b) the VAT identification number, in the Member State in which dispatch or transport of the goods ended, of the person to whom the subsequent supply was made by the taxable person;

(c) the value, exclusive of VAT, of each supply made by the taxable person in the Member State in which dispatch or transport of the goods ended.';

(13) Article 266 is deleted;

(14) Article 267 is replaced by the following:

'Article 267

Member States shall take the measures necessary to ensure that persons who, in accordance with Article 194 or 204, are regarded as liable for payment of VAT, instead of a taxable person who is not established in their territory, comply with the obligation, laid down in this Chapter, to submit the data.';

(15) Article 268 is replaced by the following:

'Article 268

Member States shall require that taxable persons who, in their territory, make intra-Community acquisitions of goods, or transactions treated as such pursuant to Article 21 or 22, submit data on those transactions as provided for in this Chapter.';

(16) Articles 269, 270 and 271 are deleted;

(17) in Title XI, Chapter 6, the following Section 2 is inserted:

'Section 2
Digital reporting requirements for supplies of goods and services for consideration made between taxable persons within the territory of a Member State

Article 271a

1. Member States may require that taxable persons identified for VAT purposes in their territory send electronically to their tax authorities data on the supplies of goods and services made for consideration to other taxable persons within their territory.

2. Member States may require that taxable persons identified for VAT purposes in their territory send electronically to their tax authorities data on taxable transactions other than those referred to in paragraph 1 of this Article and in Article 262.

Article 271b

Where a Member State requires to send the data pursuant to Article 271a, the taxable person, or a third party on behalf of the taxable person, shall transmit that data on a transaction-by-transaction basis by no later than 2 working days after the invoice is issued, or after the date the invoice had to be issued where the taxable person does not comply with the obligation to issue an invoice. Member States shall allow for the transmission of data from electronic invoices which comply with the European standard on electronic invoicing and the list of its syntaxes pursuant to Directive 2014/55/EU.

Member States may allow for the transmission of the data from electronic invoices using other data formats.

Article 271c

By 31 March 2033 at the latest the Commission shall, based on the information provided by Member States, present to the Council a report on the functioning of the domestic reporting requirements set out in this Section. In that report, the Commission shall assess the need for further harmonisation measures and shall if deemed necessary, make an appropriate proposal for such measures.’;

(18) Article 273 is replaced by the following:

‘Article 273

Member States may impose other obligations which they deem necessary to ensure the correct collection of VAT and to prevent evasion, subject to the requirement of equal treatment as between domestic transactions and transactions carried out between Member States by taxable persons and provided that such obligations do not, in trade between Member States, give rise to formalities connected with the crossing of borders.

The option under the first paragraph may not be relied upon in order to impose additional invoicing obligations over and above those laid down in Chapter 3, nor to implement additional reporting obligations -over and above those laid down in Title XI, Chapter 6.’;

Article 5

Transposition

1. Member States shall adopt and publish, by 31 December 2023, the laws, regulations and administrative provisions necessary to comply with Article 1 of this Directive. They shall immediately inform the Commission thereof.

They shall apply those provisions from 1 January 2024.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall adopt and publish, by 31 December 2024, the laws, regulations and administrative provisions necessary to comply with Article 2 of this Directive.

They shall apply those provisions from 1 January 2025.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

3. Member States shall adopt and publish, by 31 December 2025, the laws, regulations and administrative provisions necessary to comply with Article 3 of this Directive.

They shall apply those provisions from 1 January 2026.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

4. Member States shall adopt and publish, by 31 December 2027, the laws, regulations and administrative provisions necessary to comply with Article 4 of this Directive.

They shall apply these provisions from 1 January 2028.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

5. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 6

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 7

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the Council
The President

Council of the
European Union

Brussels, 8 December 2022
(OR. en)

15842/22

Interinstitutional File:
2022/0409(CNS)

FISC 259
ECOFIN 1303

PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	8 December 2022
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2022) 703 final
Subject:	Proposal for a COUNCIL REGULATION amending Regulation (EU) No 904/2010 as regards the VAT administrative cooperation arrangements needed for the digital age

Delegations will find attached document COM(2022) 703 final.

Encl.: COM(2022) 703 final

EUROPEAN
COMMISSION

Brussels, 8.12.2022
COM(2022) 703 final

2022/0409 (CNS)

Proposal for a

COUNCIL REGULATION

amending Regulation (EU) No 904/2010 as regards the VAT administrative cooperation arrangements needed for the digital age

{SEC(2022) 433 final} - {SWD(2022) 393 final} - {SWD(2022) 394 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

This proposal is part of the package of legislation on the VAT in the Digital Age initiative, together with a proposal for a Council Directive on amending Directive 2006/112/EC as regards VAT rules for the digital age[1], and the proposal for a Council implementing Regulation amending Council Implementing Regulation (EU) No 282/2011 as regards information requirements for certain VAT schemes[2]. The context of this initiative as a whole is set out comprehensively in the explanatory memorandum for the proposal for a Council Directive amending Directive 2006/112/EC[3].

This explanatory memorandum describes modifications required to Council Regulation (EU) No 904/2010 on administrative cooperation and the fight against fraud in the field of VAT stemming from changes to the VAT Directive.

The proposal to amend Council Regulation (EU) No 904/2010 is an important part of the package. The VAT in the Digital Age package modernises the way cross-border transactions within the single market are reported for VAT purposes to make use of well-established technology and address VAT fraud. The current way of collecting aggregated data through recapitulative statements[4] and exchanging data through the VAT Information Exchange System has been in use since the introduction of the single market in 1993. It is no longer fit for purpose in light of the scale of cross-border transactions and the level of VAT fraud. The amended VAT Directive replaces recapitulative statements with new, transaction-based reporting obligations. To complement these changes, the amended Regulation provides for the necessary practical rules on how these newly collected data will be exchanged between Member States, the IT infrastructure required, and the personal data protection rules that will govern the new exchanges. These details are necessary to ensure that the new rules are implemented smoothly and that the new measures can reduce VAT fraud.

Following the structure of the VAT in the Digital Age initiative the following parts of the package should be noted:

This package has three main objectives:

(1) Modernising **VAT reporting obligations[5]**, by introducing Digital Reporting Requirements, which will standardise the information that needs to be submitted by taxable persons on each transaction to the tax authorities in an electronic format. At the same time it will impose the use of e-invoicing for cross-border transactions;

(2) Addressing the challenges of the **platform economy[6]**, by updating the VAT rules applicable to the platform economy in order to address the issue of equal treatment,

[1] Please include reference when available.
[2] Please include reference when available.
[3] Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).
[4] A recapitulative statement is a simple form submitted on a monthly/quarterly basis by traders, in addition to their VAT return, to declare goods delivered and services provided to traders in other Member States, containing the VAT number of the customers and the aggregated value of supplies per customer during a given period.
[5] VAT reporting obligations refer to the obligation of VAT-registered businesses to make periodic declarations of their transactions to the tax authority to allow monitoring the collection of VAT.
[6] In this respect, the term ‘platform economy’ relates to supplies of services made via a platform.

clarifying the place of supply rules applicable to these transactions and enhancing the role of the platforms in the collection of VAT when they facilitate the supply of short-term accommodation rental or passenger transport services; and

(3) Avoiding the need for multiple **VAT registrations** in the EU and improving the functioning of the tool implemented to declare and pay the VAT due on distance sales of goods[7], by introducing Single VAT Registration (SVR). That is, improving and expanding the existing systems of One-Stop Shop (OSS)/Import One-Stop Shop (IOSS) and reverse charge in order to minimise the instances for which a taxable person is required to register in another Member State.

- **Consistency with existing policy provisions in the policy area**

This proposal is part of the package of legislation on the VAT in the digital age initiative. The consistency of the package as a whole is set out comprehensively in the explanatory memorandum of the proposal for a Council Directive amending Directive 2006/112/EC[8].

- **Consistency with other Union policies**

This proposal is part of the package of legislation on the VAT in the digital age initiative. The consistency of the package as a whole is set out comprehensively in the explanatory memorandum of the proposal for a Council Directive amending Directive 2006/112/EC.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

This Regulation amends Council Regulation (EU) No 904/2010 on the basis of Article 113 of the Treaty on the Functioning of the European Union. This Article provides for the Council, acting unanimously in accordance with a special legislative procedure and after consulting the European Parliament and the Economic and Social Committee, to adopt provisions for the harmonisation of Member States' rules in the area of indirect taxation.

- **Subsidiarity (for non-exclusive competence)**

Member States are primarily responsible for VAT management, collection and control. However, VAT fraud is often linked to cross-border transactions within the single market or involves traders established in Member States other than the one in which VAT is due. VAT fraud adversely affects how the single market functions and causes severe losses to the EU budget.

The EU cooperation instruments which allow the exchange of information between tax administrations are indispensable for the proper control of cross-border transactions and the fight against VAT fraud.

This initiative is consistent with the principle of subsidiarity, as the objectives sought by the present initiative cannot be achieved by the Member States themselves. Therefore, it is necessary for the Commission, which is responsible for ensuring the smooth functioning of the single market and for promoting the general interests of the European Union, to propose action to improve the situation.

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[7] https://ec.europa.eu/taxation_customs/business/vat/vat-e-commerce_en

[8] Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

This cannot be done solely at Member State level or using non-legislative instruments. Acting at EU level in relation to administrative cooperation instruments would offer value over and above what can be achieved nationally, requiring amendments to Council Regulation (EU) No 904/2010 on administrative cooperation and combating fraud in the field of value added tax.

- **Proportionality**

The proposal is largely based on the current legal framework for administrative cooperation in the field of VAT and adds elements to it only where the framework needs strengthening. All measures proposed have been designed to meet the new digital reporting requirements and Member States' needs. While they are expected to have positive effects on the fight against VAT fraud, the new provisions would not entail any significant additional costs for business and administrations, except for certain IT developments for tax administrations. Even in these instances, the associated development costs would remain limited.

A central electronic system for VAT information ('the central VIES') would be set up. It will allow Member States to transmit VAT information they store at national level, helping to fight VAT fraud effectively. The central VIES would be able to aggregate per taxable person information on cross-border business-to-business (B2B) transactions transmitted by the Member States. It will also allow the reported intra-Community supplies to be cross-checked with intra-Community acquisitions data that has been transmitted. It will also allow the information transmitted by the Member States to be processed with other VAT information exchanged under Regulation (EU) No 904/2010, such as customs or payment data, and retain this information only for the period necessary for tax authorities to carry out VAT controls.

Information will be retained in the central VIES for a period of 5 years, to provide Member States with a reasonable period of time to carry out VAT audits. After this period the data will be definitively erased.

The central VIES would only be accessible to authorised officials appointed by their Member States, and for the purposes of the control of the correct application of VAT legislation and combating VAT fraud. In terms of storage, the central VIES would guarantee an appropriate level of security, in line with the rules governing the processing of personal information by the EU's institutions.

The exchange of information between national tax authorities and the central VIES will take place through a secure common communication network. This currently supports exchanges of information between tax and customs authorities, and provides all the necessary security features (including encryption of information).

This proposal, therefore, will continue to apply the safeguards laid down under Regulation (EU) No 904/2010 and the European framework on data protection. The overall purpose for exchanging and analysing this VAT-relevant information remains ensuring the correct application of VAT legislation and combating VAT fraud. Fighting VAT fraud is an important objective of general public interest for the EU and its Member States, as referred to in Article 23(1)(e) of the General Data Protection Regulation and in Article 20(1)(b) of Regulation (EU) 2018/1725. In order to support that important objective and the effectiveness of the tax authorities in pursuing that objective, the restrictions laid down in Article 55(5) of Regulation (EU) No 904/2010 will apply to the central VIES.

The new provisions do not go beyond what is strictly necessary to make administrative cooperation instruments more effective in verifying cross-border transactions and enhancing the fight against VAT fraud in light of the proposed digital reporting requirements and other changes introduced in the VAT in the Digital Age package.

- **Choice of the instrument**

A Council Regulation is needed to amend current Regulation (EU) No 904/2010.

3. RESULTS OF *EX POST* EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- ***Ex post* evaluations/fitness checks of existing legislation**

An evaluation of the use of the existing EU framework for administrative cooperation and combating VAT fraud provided for in Regulation (EU) No 904/2010 was carried out in 2017[9]. Overall, the Member States take a positive view of the legal and practical framework implemented with Regulation (EU) No 904/2010.

Changes to the administrative cooperation legal framework are needed following the changes to reporting requirements for cross-border transactions in the VAT Directive. The introduction of new digital reporting requirements significantly increases the amount of data that will need to be exchanged between Member States and the frequency of exchanges. Therefore, a new part is being introduced to the Regulation under Chapter V: *Storage and exchange of specific information* which will allow these exchanges through a new electronic system called the central VIES.

- **Stakeholder consultations**

Extensive information on stakeholder consultations is provided in the explanatory memorandum of the proposal to amend the VAT Directive.

Two Fiscalis workshops were organised to gather feedback from Member States on the adaptation of the VAT administrative cooperation framework to support the new digital reporting requirements. The first workshop, which took place in November 2021, gathered the opinions of VAT anti-fraud experts and Eurofisc liaison officials. The second workshop in April 2022 focussed on the heads of the competent liaison offices of Member States. In both instances, Member State representatives underlined the importance of the new digital reporting requirements when accompanied by an appropriate system for exchanging VAT information. It was seen that there was a clear need for automatic cross-checking of DRR data, e.g. reported supplies with acquisitions. There was also a broad consensus that a central system to facilitate the joint processing and analysis of information would be the preferred approach guaranteeing a uniform implementation of cross-checks and interpretation of the results.

- **Collection and use of expertise**

This proposal is part of the package of legislation on the VAT in the digital age initiative. The collection and use of expertise for the package as a whole is set out comprehensively in the explanatory memorandum of the proposal for a Council Directive amending Directive 2006/112/EC.

- **Impact assessment**

This proposal is part of the package of legislation on the VAT in the digital age initiative. The impact assessment is provided for the package as a whole in the explanatory memorandum of the proposal for a Council Directive amending Directive 2006/112/EC.

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9 Commission Staff Working Document SWD(2017) 428 final.

- **Regulatory fitness and simplification**

This proposal is part of the package of legislation on the VAT in the digital age initiative. Extensive information on Regulatory fitness and simplification is provided in the explanatory memorandum of the proposal for a Council Directive amending Directive 2006/112/EC.

- **Fundamental rights**

This proposal is expected to trigger exchange and joint processing of VAT information, which could include personal data. However, the data collected under the new digital reporting requirements and subsequently exchanged via the central VIES system would be limited to intra-Community business-to-business transactions and will not cover business-to-consumer transactions. The principle of data minimisation has also been applied. Therefore the data collected and subsequently exchanged relate only to a subset of the information contained in an invoice. This minimum data set which is required for the purposes of monitoring the correct application of VAT and for combating VAT fraud is specified by the amendment to Article 264 in the accompanying proposal for a Council Directive amending Directive 2006/112/EC. However protecting personal data and complying with Regulations (EU) 2016/679[10] and (EU) 2018/1725 remain a priority, even where the information to be processed is limited. As a result, the following provisions are being proposed:

- The data in the central VIES will only be kept for 5 years which is the minimum time necessary for analysis and investigations by national tax authorities who are empowered to enforce VAT obligations (data retention).
- The data in the central VIES will be protected as set out in Article 55(1) of Regulation (EU) No 904/2010.
- The data in the central VIES will be used for clearly identified and limited purposes, notably to correctly assess VAT, to monitor the correct application of VAT, and to combat VAT fraud as laid down in Article 1 of Regulation (EU) No 904/2010. In particular the data will be used to carry out risk assessments to identify potential fraudsters at an early stage and to put an end to fraudulent networks whose purpose is to abuse the VAT system by carrying out VAT fraud.
- Users who can access the data in the central VIES will be limited to authorised personnel from Member States, in respect of the need-to-know principle.
- The central VIES will be hosted, maintained and technically managed by the Commission, which has the operational capacity and experience to ensure technical and organisational security measures are put in place to protect personal data. An implementing act will set out the tasks to be carried out by the Commission in relation to technically managing the central VIES .
- An implementing act will set out the roles and responsibilities of the Member States and the Commission when acting as controller and processor under Regulations (EU) 2016/679 and (EU) 2018/1725 .

In addition, these measures are subject to Article 8 of the Charter of Fundamental Rights.

[10] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC

4. BUDGETARY IMPLICATIONS

The budgetary implications are set out in detail in the explanatory memorandum of the proposal for a Council Directive amending Directive 2006/112/EC.

The proposal will lead to limited costs for national administrations and the EU budget for putting the enhanced VAT information exchange system (VIES) in place.

5. OTHER ELEMENTS

• Implementation plans and monitoring, evaluation and reporting arrangements

The Standing Committee on Administrative Cooperation (SCAC), established under Article 58(1) of the Council Regulation (EU) No 904/2010, will deal with all possible issues regarding administrative co-operation between Member States resulting from the new rules on the taxation of intra-EU trade. In particular, an implementation plan will be established together with the Member States in SCAC, for the necessary IT changes[11] once the modification is adopted by the Council.

Pursuant to Article 59 of Regulation (EU) No 904/2010, the Regulation's application is reviewed every five years. In addition, under Article 49, to evaluate how well administrative cooperation is combating tax evasion and avoidance, Member States must communicate to the Commission any available information relevant to the application of the Regulation and, *inter alia*, annual statistics about the use of the cooperation instruments.

• Explanatory documents (for directives)

N/A

• Detailed explanation of the specific provisions of the proposal

1. INTRODUCING A CENTRAL SYSTEM FOR THE EXCHANGE OF VAT INFORMATION

A first set of amendments in the proposal deals with the development of a new central system for the exchange of VAT information between Member States' tax administrations at EU level that is adapted to the specificities of Digital Reporting Requirements. Section 3 is added to Chapter V of Regulation (EU) 904/2010 to introduce the central VIES with Articles 24g to 24m as follows:

- Article 24g establishes the central VIES system by determining that the Commission shall develop, maintain, host and technically manage the central system, while each Member State shall develop, maintain, host and technically manage a national electronic system to automatically transmit different categories of information to the central VIES. The most essential part of information exchanged through central VIES will be the information collected through the DRR. The other information relates to the identification of the taxable persons. Finally it is explicitly mentioned that Member States may store the information they have to automatically transmit to the central VIES in the national electronic system which they use for transmitting the information for the purposes of reuse in national controls.

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[11] IT development and procurement strategy choices will be subject to pre-approval by the European Commission Information Technology and Cybersecurity Board.

- Article 24h relates to data quality and availability. Exchanging information will only be of value if the data is of sufficient quality. To this end, Member States shall make all necessary updates and adopt measures in order to ensure that the central VIES data is kept up-to-date, and is complete and accurate. For the information to be up-to-date, new or updated information should be entered into the system without delay. This immediate update of information is particularly important for identification information, which is intrinsically linked with VAT number validation. As for the *intra-Community transaction reports*, gathered through the DRR, the acceptable delay to be entered into the central VIES is within one day after the collection by the tax administration. The cross-checking of information reported by a supplier and their client can only take place after the information is reported by both parties and after each authority transmits it to the central VIES. This means that the acceptable delay for each step should remain at the level of a few days for an analysis to be possible on a sufficiently frequent basis. The information shall remain available in central VIES for five years from the end of the year in which the information was transmitted to the central VIES.
- Article 24i is about showing VAT identification information as invalid within the central VIES, once certain conditions are met. The provision comes into effect where persons identified for VAT purposes have ceased their economic activity, declared false data in order to obtain a VAT identification number or have failed to communicate changes to their data which, had the tax administration known, they would have either refused or withdrawn the VAT identification number. This provision is of huge importance with regard to the objective of fighting VAT fraud effectively. It should be underlined that this provision is only about *showing* the VAT identification number as invalid in a few situations. It doesn't mandate when Member States should withdraw the VAT identification number.
- Article 24j describes the capabilities that the central VIES shall have with regard to the information transmitted to it. The article provides that the central VIES shall be able to store, as well as cross-check, aggregate and process the information received. Furthermore, the central VIES shall be able to make the information (received, cross-checked, aggregated and processed) accessible to authorised users and systems. The central VIES should also be able to process information together with any information communicated or collected pursuant to Council Regulation (EU) No 904/2010 for control purposes and for combating VAT fraud. A prominent example is cleaning and enriching the data by processing it together with data from other systems, such as the Surveillance system which contains information on VAT exempt importations using Customs Procedures 42/63. This capability is necessary to build synergies between different information systems containing VAT relevant information and maximise the impact of investments in such systems.
- Article 24k describes which officials and systems are provided with automated access to the central VIES. These include the Member State officials who check the requirements for VAT exempt importation of goods, Eurofisc liaison officials as well as any other officials who are explicitly authorised by the competent authority of their Member State. Finally, access to the collected and processed information is foreseen for the national electronic systems which transmit the information to the central VIES. This provision allows for a secure machine-to-machine communication channel facilitating automation and relieving the need for human intervention.

- Article 24l deals with the costs for development and maintenance of the central VIES, as it determines that the costs for establishing, operating and maintaining the central VIES shall be borne by the general budget of the Union. These costs shall, amongst others, include those of the secure connection between central VIES and the national electronic systems referred to in Article 24g(2), and those of the services necessary to carry out the capabilities which are listed in Article 24j. On the other hand, each Member State shall bear the costs of and shall be responsible for all necessary developments to its national electronic systems to permit the exchange of information using the CCN network, or any other similar network.
- Finally, Article 24m relates to the security and compliance of the central VIES system. The first paragraph determines that the Member States shall take all measures necessary to ensure compliance with Article 55 of this Regulation. Article 55 provides obligations with regard to official secrecy, privacy and security of the information stored, processed or exchanged under the Regulation. The second paragraph empowers the Commission to adopt, by means of implementing acts: the tasks to be carried out by the Commission for technically managing the central VIES and the roles and responsibilities of the Member States and the Commission as regards the functions of controller and processor under Regulation (EU) 2016/679 of the European Parliament and of the Council and Regulation (EU) 2018/1725 of the European Parliament and of the Council.

2. PHASING OUT THE EXISTING LEGACY SYSTEM FOR THE EXCHANGE OF VAT INFORMATION

A second set of amendments in the proposal deals with the phase out of the legacy VIES. The existing VIES system, covered by Section 1 of Chapter V, needs to be retained for two years after establishing the central VIES system in order to facilitate the controls of transactions which were reported with recapitulative statements, prior to the introduction of the Digital Reporting Requirements. The legacy VIES will allow the automatic exchange of information provided via the old reporting requirements for this period. After phasing out the legacy VIES the information could still be exchanged between Member States spontaneously or upon request, using non-automated instruments of administrative cooperation. The phase out of the existing VIES is performed as follows:

- Articles 17, 20, 21, 22 and 23 are amended so that the references of the legacy VIES are removed.
- Article 31 which deals with the provision of information to taxable persons on the validity of the VAT identification numbers as well as the associated name and address of other persons involved in intra-Community transactions is amended. After the amendment the Article will refer to the information kept in the central VIES.

3. OTHER CHANGES

A third set of amendments in the proposal provides for the necessary adjustments concerning the exchange of information related to the new special transfers of own goods scheme as introduced in Directive 2006/112/EC.

Under Article 242a of Directive 2006/112/EC platform operators are required to keep the records of business to customer supplies made on their platforms. In order to facilitate the operation of the deemed supplier model being introduced in the short-term accommodation rental and passenger transport sectors, this shall be broadened to business to business supplies. It is necessary to introduce a standard format for the transfer of this information.

2022/0409 (CNS)

Proposal for a

COUNCIL REGULATION

amending Regulation (EU) No 904/2010 as regards the VAT administrative cooperation arrangements needed for the digital age

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament[1],

Having regard to the opinion of the European Economic and Social Committee[2],

Acting in accordance with a special legislative procedure,

Whereas:

(1) Council Regulation (EU) No 904/2010[3] lays down the conditions under which the competent authorities in the Member States responsible for the application of the laws on VAT are to cooperate with each other and with the Commission to ensure compliance with those laws. Those conditions entail, amongst others, rules on the storage and exchange, through electronic means, of information that may help to effect a correct assessment of VAT, monitor the correct application of VAT, particularly on intra-Community transactions, and combat VAT fraud.

(2) Council Directive (EU) XX/XXX[4] [OP please insert number and year of the Council Directive amending Directive 2006/112/EC as regards VAT rules for the digital age adopted the same day as this Regulation] introduced into Council Directive 2006/112/EC[5] digital reporting requirements ('DRR'). Those requirements oblige taxable persons identified for VAT purposes to submit to Member States information on each intra-Community supply of goods, on each intra-Community acquisition of goods and on each supply of a service that is taxable in a Member State other than the one in which the supplier is established. Member States need to exchange and process that information on intra-Community transactions to monitor the correct application of VAT and to detect fraud.

1 OJ C , , p. .
2 OJ C , , p. .
3 Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax (OJ L 268, 12.10.2010, p. 1).
4 Council Directive (EU) XXX/XXXX of .... (OJ L., dd/mm/yy, p. X). [OP Please insert full ref.]
5 Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

(3) The existing cooperation between Member States' tax authorities is based on exchanging aggregated information between national electronic systems. The introduction of DRR aims to increase tax collection by providing transaction-by-transaction data to tax administrations in a timely manner. To make those data available to other tax administrations in an efficient manner, and to facilitate a common implementation of analysis and crosschecks, as well as a common interpretation of those analyses and crosschecks, a central system where VAT information is shared is necessary.

(4) In order to enable Member States to fight VAT fraud more effectively, a central electronic VAT information exchange system ('central VIES') for sharing VAT information should be established. That system should receive, from national electronic systems of Member States information about intra-Community transactions as reported by the respective suppliers and acquirers in different Member States. That system should also receive from Member States the VAT identification information of taxable persons making intra-Community transactions. Furthermore, whenever data are changed, the metadata for tracking the modification time should be uploaded into the central VIES as well.

(5) The VAT identification information of taxable persons making intra-Community transactions should be automatically updated in the central VIES without delay whenever identification information changes, except where Member States agree that such update is not pertinent, essential or useful. Such updates are necessary because the validity of the VAT identification numbers of taxable persons is subject to verification as regards the condition for exempting intra-Community supplies provided for in Article 138 of Directive 2006/112/EC. To provide a reasonable level of assurance to tax administrations with regard to the quality and reliability of such information, information on intra-Community transactions should be automatically updated in the central VIES no later than 1 day after the Member State received the information from the taxable person.

(6) Furthermore, with regard to VAT identification information in the central VIES, Member States should adopt measures to ensure that the data provided by taxable persons for their identification for VAT purposes in accordance with Article 214 of Directive 2006/112/EC, are assessed by the respective Member State as complete and accurate. Moreover, Member States should ensure that the VAT identification number is shown as invalid in the central VIES where a taxable person fails to respect the obligations to communicate data or the economic activity is ceased.

(7) The information on intra-Community transactions reported by the suppliers and acquirers in different Member States should be entered by each Member State into the central VIES promptly after the Member State received it. It is necessary to process the information received quickly, for technical reasons related to the data volume as well as to detect suspicious transactions and possible cases of VAT fraud early.

(8) To assist Member States in their fight against VAT fraud and to detect fraudsters, VAT identification information and VAT information on intra-Community transactions should be retained for 5 years. That period constitutes the minimum period necessary for Member States to carry out controls effectively and investigate suspected VAT fraud or detect such fraud. It is also proportionate considering the massive volume of the intra-Community transaction information and the sensitivity of the information as commercial and personal data.

(9) To detect mismatches in a timely manner and thereby improve the capability to fight VAT fraud, the central VIES should be able to automatically cross-check the information collected from both the supplier and acquirer through the DRR introduced by Directive (EU) XX/XXX [OP please insert number and year of the Council Directive amending Directive 2006/112/EC as regards VAT rules for the digital age adopted the same day as this Regulation[6]]. The results of such cross-checking should be made available to Member States for the appropriate follow-up.

(10) Furthermore, to allow the central VIES to maintain the capabilities of the existing VAT information exchange system provided for in Article 17(1), point (a), of Regulation (EU) No 904/2010, it should also be able to aggregate information to provide an overview of supplies and acquisitions reported by taxable persons located in Member States. To ensure that the central VIES permits Member States to continue accessing each other's information as currently structured within the existing VAT information exchange system, the central VIES should support data aggregation.

(11) To support the competent authorities of Member States to effect a correct assessment of VAT, monitor the correct application of VAT, combat VAT fraud, and exploit the synergies between different information systems containing VAT relevant information, the central VIES should process information received from Member States together with any information communicated or collected pursuant to Regulation (EU) No 904/2010.

(12) Access to the information in the central VIES should be provided on a need-to-know basis. That information should not be used for other purposes than to monitor the correct application of VAT and combat VAT fraud. All users should be bound by the confidentiality rules laid down in this Regulation.

(13) To fight VAT fraud, Member States' Eurofisc liaison officials as referred to in Article 36 of Regulation (EU) No 904/2010 should be able to access and analyse VAT information on intra-Community transactions. To monitor the correct application of VAT laws, Member States' officials who check whether the exemption of VAT for certain imported goods, which is laid down in Article 143(1), point (d), of Directive 2006/112/EC, applies, should also be able to access VAT identification information that is stored in the central VIES. Moreover, for the same reasons, Member States' competent authorities should select other officials who need to have direct access to the central VIES and grant them such access where needed. Finally, duly accredited persons of the Commission should be able to access the information contained in the central VIES, but only to the extent that such access is necessary for the development and maintenance of that system.

(14) To investigate suspected VAT fraud and to detect such fraud, the information systems supporting the Eurofisc network in the fight against VAT fraud, including the Transaction Network Analysis system and the central electronic system of payment information ("CESOP"), should have direct access to the central VIES.

(15) The data volume and the frequency of data transmissions to the central VIES render the automation of the information flows from the central VIES to national systems necessary. Such automation should also provide for an efficient and secure machine-to-machine communication channel, and should ensure that there is no longer a need for human intervention when accessing shared data. National electronic systems that

[6] Council Directive (EU) XXX/XXXX of .... (OJ L., dd/mm/yy, p. X).

transmit information to the central VIES should therefore also have access to the information stored in that system, including the processed and aggregated information for VAT control purposes and for the fight against VAT fraud.

(16) In order to ensure uniform conditions for the implementation of Regulation (EU) No 904/2010, implementing powers should be conferred on the Commission in respect of the tasks to be carried out by the Commission for technically managing the central VIES, the technical details concerning the identification and access of officials and electronic systems to the central VIES, the technical details and format of the information transmitted to the central VIES and the roles and responsibilities of Member States and the Commission when acting as controller and processor under Regulations (EU) 2016/679[7] and (EU) 2018/1725[8] of the European Parliament and of the Council. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[9].

(17) VAT fraud is a common problem for all Member States. Member States alone do not have the information necessary to ensure that the VAT rules are correctly applied and to tackle VAT fraud. Since the objective of Regulation (EU) No 904/2010, the fight against VAT fraud, cannot be sufficiently achieved by the Member States because of the cross-border nature of the internal market, but can be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(18) Taxable persons facilitating supplies of goods or services through the use of an electronic interface may be subject to requests for records from the Member State where those supplies are taxable as referred to in Article 242a of Directive 2006/112/EC. To reduce the administrative burden and compliance costs for those taxable persons and to avoid duplication of work, the Member State of identification should coordinate such requests as much as possible. For that purpose, it is necessary to lay down a standard form for the electronic transmission of this information to Member States.

(19) A new One-Stop-Shop ('OSS') simplification scheme is to be introduced into Directive 2006/112/EC for taxable persons who are transferring certain own goods cross-border. It is therefore necessary to integrate that new scheme in the overall framework of the VAT OSS special schemes set out in Chapter XI, Section 3, of Regulation No 904/2010. It should notably include the provision of information between the Member State from and to which the goods are transferred.

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7 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

8 Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

9 Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

(20) As the new OSS scheme is comprehensive and encompasses cross-border movements of goods that are currently covered by call-off stock arrangements in accordance with Article 17a of Directive 2006/112/EC, those arrangements have been deleted from Directive 2006/112/EC. It is necessary that that amendment of Directive 2006/112/EC is reflected in Article 21 of Regulation (EU) No 904/2010.

(21) The abuse of Import One-Stop-Shop ('IOSS') VAT identification numbers has been identified by stakeholders as a potential risk. To better secure the correct use and the verification process of IOSS VAT identification numbers, it is necessary to extend Article 47h of Regulation (EU) No 904/2010 granting customs authorities access to information about the IOSS registered trader, which will improve the risk management and control capabilities of those customs authorities.

(22) To enhance controls in relation to the IOSS scheme, it is necessary to add the total value of the goods imported under the IOSS scheme per IOSS identification number per Member State of consumption to Article 17(1), point (e), of Regulation (EU) No 904/2010.

(23) The technical details, including common electronic messages, for the submission of records by the taxable persons facilitating supplies through the use of an electronic interface as referred to in Article 242a of Directive 2006/112/EC should be adopted in accordance with the comitology procedure provided for in this Regulation.

(24) This Regulation respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union. In particular, this Regulation seeks to ensure full respect for the right of protection of personal data laid down in Article 8 of the Charter. In that regard, this Regulation strictly limits the amount of personal data that will be made available to the tax authorities. The processing of intra-Community transaction information pursuant to this Regulation should only occur for the purposes of this Regulation.

(25) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion on […]

(26) As the implementation of the central VIES system will require new technological developments, it is necessary to defer the application of the provisions related to the central VIES to allow Member States and the Commission to develop these technologies.

(27) Automated access to information on intra-Community transactions which have been reported via recapitulative statements is directly affecting the efficiency of VAT controls. Therefore the current VAT information exchange system provided for in Article 17(1), point (a), of Regulation (EU) No 904/2010 should be maintained for a period of time after the abolition of those recapitulative statements. Beyond that period, the relevant provisions of the current VAT information exchange system should be deleted and the information reported via recapitulative statements should still be accessible on request.

(28) Regulation (EU) No 904/2010 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) No 904/2010 applicable from 1 January 2025

Regulation (EU) No 904/2010 is amended as follows:

(1) in Article 1, paragraph 4 is replaced by the following:

‘4. This Regulation also lays down rules and procedures for the exchange by electronic means of VAT information on goods and services supplied or goods transferred in accordance with the special schemes provided for in Title XII, Chapter 6, of Directive 2006/112/EC and also for any subsequent exchange of information and, as far as goods and services covered by the special schemes are concerned, for the transfer of money between Member States' competent authorities.’;

(2) in Article 2, paragraph 2 is replaced by the following:

‘2. The definitions contained in Articles 358, 358a, 369a, 369l and 369xa of Directive 2006/112/EC for the purposes of each special scheme shall also apply for the purposes of this Regulation.’;

(3) in Article 17(1), points (d) and (e) are replaced by the following:

‘(d) information which it collects pursuant to Articles 360, 361, 364, 365, 369c, 369f, 369g, 369o, 369p, 369s, 369t, 369xc, 369xf and 369xg of Directive 2006/112/EC;

(e) data on the VAT identification numbers referred to in Article 369q of Directive 2006/112/EC it has issued and per VAT identification number issued by any Member State, the total value of the imports of goods exempted under Article 143(1), point (ca), during each month, per Member State of consumption as defined in Article 369l(4) of that Directive;’;

(4) Article 47b is replaced by the following:

‘Article 47b

1. Member States shall provide that taxable persons making use of the special scheme laid down in Title XII, Chapter 6, Section 2 of Directive 2006/112/EC provide to the Member State of identification, by electronic means, the information laid down in Article 361 of that Directive. Taxable persons making use of the special schemes laid down in Title XII, Chapter 6, Sections 3 and 5, of Directive 2006/112/EC shall provide, to the Member State of identification, by electronic means, details for their identification when their activities commence pursuant to Articles 369c and 369xc of that Directive. Any changes in the information provided pursuant to Article 361(2), Article 369c and Article 369xc of Directive 2006/112/EC shall also be submitted by electronic means.

2. The Member State of identification shall transmit the information referred to in paragraph 1 by electronic means to the competent authorities of the other Member States within 10 days from the end of the month in which the information was received from the taxable person using one of the special schemes laid down in Title XII, Chapter 6, Sections 2, 3 and 5, of Directive 2006/112/EC. The Member State of identification shall in the same manner inform the competent authorities of the other Member States of the VAT identification numbers referred to in those Sections 2, 3 and 5.

3. Where a taxable person making use of one of the special schemes laid down in Title XII, Chapter 6, Sections 2, 3 and 5, of Directive 2006/112/EC is excluded from

that special scheme, the Member State of identification shall inform the competent authorities of the other Member States thereof by electronic means and without delay.';

(5) Article 47d is replaced by the following:

'Article 47d

1. Member States shall provide that the VAT return with the details set out in Articles 365, 369g, 369t and 369xg of Directive 2006/112/EC are submitted by electronic means.

2. The Member State of identification shall transmit the information referred to in paragraph 1 by electronic means to the competent authority of the Member State of consumption or the Member States from and to which the goods have been dispatched or transported at the latest 20 days after the end of the month during which the return was required to be submitted.';

(6) in Article 47h, the following paragraph is added:

'For the purposes of the first paragraph, Member States shall grant competent authorities access to the information referred to in Article 369p (1) and (3) of Directive 2006/112/EC.';

(7) Article 47i is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. To obtain the records held by a taxable person or intermediary pursuant to Articles 369, 369k, 369x and 369xk of Directive 2006/112/EC, the Member State of consumption or the Member State from or to which the goods have been dispatched or transported shall first make a request to the Member State of identification by electronic means.';

(b) paragraphs 4 and 5 are replaced by the following:

'4. The Member State of identification shall transmit the records obtained by electronic means, without delay to the requesting Member State of consumption or Member State from or to which the goods have been dispatched or transported.

5. Where the requesting Member State of consumption or Member State from or to which the goods have been dispatched or transported does not receive the records within 30 days of the date of the making of the request, that Member State may take any action in accordance with its national legislation to obtain such records.';

(8) in Article 47j, paragraph 2 is replaced by the following:

'2. Without prejudice to Article 7(4), if the Member State of consumption or the Member State from or to which the goods have been dispatched or transported decides that an administrative enquiry is required, it shall first consult with the Member State of identification on the need for such an enquiry.';

(9) in Article 47l, point (a) is replaced by the following:

'(a) the technical details, including a common electronic message, for providing the information referred to in Articles 47b(1), 47c(1), and 47d(1), and the standard form as referred to in Article 47i(3) and Article 47m;';

(10) the following Chapter XIa is inserted:

‘CHAPTER XIa

PROVISIONS CONCERNING RECORD KEEPING OBLIGATIONS FOR ELECTRONIC INTERFACES FACILITATING SUPPLIES OF GOODS OR SERVICES IN ACCORDANCE WITH ARTICLE 242A OF DIRECTIVE 2006/112/EC

Article 47la

1. To obtain the records held by a taxable person pursuant to Article 242a of Directive 2006/112/EC, the Member State in which those supplies are taxable shall first make a request to the Member State in which a taxable person is identified for VAT purposes by electronic means.

2. Where the Member State in which a taxable person is identified for VAT purposes receives a request referred to in paragraph 1, that Member State shall transmit the request by electronic means and without delay to the taxable person.

3. Member States shall provide that, upon request, a taxable person submits the requested records by electronic means to the Member State in which that taxable person is identified for VAT purposes. Member States shall accept that the records may be submitted using a standard form.

4. The Member State in which that taxable person is identified for VAT purposes shall transmit the records obtained by electronic means and without delay to the requesting Member State in which those supplies are taxable.

5. Where the requesting Member State in which those supplies are taxable does not receive the records within 30 days of the date of the making of the request, that Member State may take any action in accordance with its national legislation to obtain such records.

Article 47lb

The Commission shall by means of implementing acts specify the following:

(a) the technical details for the standard form as referred to in Article 47la(3);

(b) the technical details, including a common electronic message, for providing the information referred to in 47la(1), (2) and (4) as well as the technical means for the transmission of this information.';

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 58(2).’.

Article 2

Amendments to Regulation (EU) No 904/2010 applicable from 1 January 2026

Regulation (EU) 904/2021 is amended as follows:

(1) Article 21 is amended as follows:

(a) paragraph 2 is amended as follows:

(i) point (c) is replaced by the following:

‘(c) the VAT identification numbers of the persons who carried out the supplies of goods and services referred to in point (b);’;

(ii) in point (e), the introductory words are replaced by the following:

'the total value of the supplies of goods and services referred to in point (b) from each person referred to in point (c) to each person holding a VAT identification number issued by another Member State under the following conditions:';

Article 3

Amendments to Regulation (EU) No 904/2010 applicable from 1 January 2028

Regulation (EU) 904/2021 is amended as follows:

(1) in Article 2(1), points (g) and (h) are replaced by the following:

'(g) 'intra-Community supply of goods' means any supply of goods the data of which must be submitted in accordance with Article 262 of Directive 2006/112/EC;

(h) 'intra-Community supply of services' means any supply of services the data of which must be submitted in accordance with Article 262 of Directive 2006/112/EC;';

(2) in Article 17(1), point (a) is replaced by the following:

'(a) information which it collects pursuant to Title XI, Chapter 6, of Directive 2006/112/EC as amended by Council Directive (EU) 2022/890*;

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* Council Directive (EU) 2022/890 of 3 June 2022 amending Directive 2006/112/EC as regards the extension of the application period of the optional reverse charge mechanism in relation to supplies of certain goods and services susceptible to fraud and of the Quick Reaction Mechanism against VAT fraud (OJ L 155, 8.6.2022, p. 1).';

(3) in Chapter V, the following Section 3 is inserted after Article 24f:

'SECTION 3
Central electronic system for the exchange of VAT information';

Article 24g

1. The Commission shall develop, maintain, host and technically manage an electronic, central VAT information exchange system ("central VIES") for the purposes referred to in Article 1.

2. Each Member State shall develop, maintain, host and technically manage a national electronic system to automatically transmit the following information to the central VIES:

(a) information which it collects pursuant to Title XI, Chapter 6, Section 1, of Directive 2006/112/EC;

(b) information on the identity, activity, legal form and address of persons to whom it has issued a VAT identification number, collected pursuant to Article

213 of Directive 2006/112/EC, as well as the date on which that number was issued;

(c) the VAT identification numbers the Member State has issued which have become invalid, and the dates on which those numbers became invalid;

(d) the date and time on which the data referred to in points (a), (b) and (c) were modified;

The information referred to in point (a) shall be in conformity with the European standard on electronic invoicing and the list of its syntaxes as set out in Directive 2014/55/EU of the European Parliament and of the Council.*

The Commission shall specify by means of an implementing act the details and the format of the information listed in this paragraph. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 58(2).

3. Each Member State may store the information referred to in paragraph 2 of this Article and the information referred to in Article 24j, points (b), (c) and (d) in the national electronic system referred to in paragraph 2 of this Article.

Article 24h

1. Member States shall ensure that the information available in the central VIES is kept up-to-date, complete and accurate.

The Commission shall by means of an implementing act establish the criteria determining which changes are not pertinent, essential or useful enough to be transmitted in the central VIES. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 58(2).

2. Member States shall adopt the measures necessary to ensure that the data provided by taxable persons and non-taxable legal persons for their identification for VAT purposes in accordance with Article 214 of Directive 2006/112/EC, are, in their assessment, complete and accurate before they are transmitted to the central VIES.

Member States shall implement procedures for checking these data as determined by the results of their risk assessment. The checks shall be carried out, in principle, prior to identification for VAT purposes or, where only preliminary checks are conducted before such identification, no later than 6 months after such identification.

3. Member States shall inform the Commission and other Member States of the measures implemented at national level to ensure the quality and reliability of the information in accordance with paragraph 2.

4. Member States shall enter the information referred to in Article 24g(2) into the central VIES without delay.

The details on the acceptable technical delays shall be defined in an implementing act. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 58(2).

5. By way of derogation from paragraph 4 of the Article, the information referred to in Article 24g(2), point (a), shall be entered into the central VIES no later than one day after the collection of the information submitted by the taxable person to the competent authorities.

6. The information referred to in Article 24g(2) shall be available in central VIES for 5 years from the end of the year in which the information was transmitted to it.

Article 24i

1. Member States shall automatically update the central VIES to ensure that the VAT identification number, as referred to in Article 214 of Directive 2006/112/EC, is shown as invalid in the central VIES in the following situations:

(a) where persons identified for VAT purposes have stated that their economic activity, as referred to in Article 9 of Directive 2006/112/EC, has ceased or where the competent authority considers that they have ceased such activity;

(b) where persons have declared false data in order to obtain VAT identification and, had the tax administration known, the latter would have refused identification for VAT purposes or withdrawn the VAT identification number;

(c) where persons have failed to communicate changes to their data and, had the tax administration known, the latter would have refused identification for VAT purposes or withdrawn the VAT identification number.

The situations listed in this paragraph are provided without prejudice to any national rules providing for additional situations.

2. For the purposes of paragraph 1, point (a), an economic activity shall be considered by the competent authority to be ceased in at least the following situations:

(a) despite being required to do so, the person identified for VAT purposes has failed to submit VAT returns for 1 year after the expiry of the time limit for submitting the first return that was missed;

(b) despite being required to do so, the person identified for VAT purposes has failed to submit the data on the intra-Community supply of goods or services for 6 months after expiry of the time limit for submitting those data.

The situations listed in this paragraph are provided without prejudice to any national rules providing for additional situations.

Article 24j

The central VIES shall have the following functions with regard to information received in accordance with Article 24g(2) of this Regulation:

(a) to store the information referred to in points (b), (c) and (d) of this Article and Article 24g(2) of this Regulation ;

(b) to cross-check the information on intra-Community supplies and acquisitions collected pursuant to Title XI, Chapter 6, Section 1, of Directive 2006/112/EC;

(c) to aggregate information in respect of persons to whom a VAT identification number was issued and collected pursuant to Article 213 of Directive 2006/112/EC and make the following details accessible to the officials or electronic systems referred to in Article 24k:

(i) the total value of all intra-Community supplies of goods and the total value of all intra-Community supplies of services to persons holding a

VAT identification number issued by a Member State by all operators identified for the purposes of VAT in each other Member State;

(ii) the VAT identification numbers of the persons who carried out the supplies of goods and services referred to in point (i);

(iii) the total value of the supplies of goods and services referred to in point (i) from each person referred to in point (ii) to each person holding a VAT identification number issued by a Member State;

(iv) the total value of the supplies of goods and services referred to in point (i) from each person referred to in point (ii) to each person holding a VAT identification number issued by another Member State;

(d) to process information, together with any information communicated or collected pursuant to this Regulation;

(e) to make the information referred to in Article 24g(2) and in points (b), (c) and (d) of this Article accessible to the officials or electronic systems referred to in Article 24k.

Article 24k

1. Each Member State shall grant automated access to the central VIES to:

(a) officials who are authorised by the competent authority of that Member State to directly access information in the central VIES;

(b) Eurofisc liaison officials, as referred to in Article 36(1), who hold a personal user identification for the central VIES and where that access is in connection with an investigation into suspected VAT fraud or is to detect VAT fraud;

(c) officials of that Member State that check the requirements provided for in Article 143(2) of Directive 2006/112/EC.

2. Each Member State shall grant automated access to the central VIES to:

(a) national electronic systems of that Member State that check the requirements provided for in Article 143(2) of Directive 2006/112/EC;

(b) national electronic systems, as referred to in Article 24g(2), for the purposes referred to in Article 1(1), second paragraph, of this Regulation;

(c) the central electronic system of payment information referred to in Article 24a (‘CESOP’);

(d) the electronic systems carrying out swift exchange, processing and analysis of targeted information on cross-border fraud by Eurofisc.

3. The Commission shall specify by means of an implementing act the following:

(a) the practical arrangements for the identification of the officials and electronic systems referred to in paragraphs 1 and 2;

(b) the technical details concerning the access of the officials and electronic systems referred to in paragraphs 1 and 2 to the information referred to in Article 24j, points (a) to (d).

That implementing act shall be adopted in accordance with the examination procedure referred to in Article 58(2).

Article 24l

1. The costs of establishing, operating and maintaining the central VIES shall be borne by the general budget of the Union. These costs shall include those of the secure connection between the central VIES and the national electronic systems referred to in Article 24g(2), and those of the services necessary to carry out the capabilities which are listed in Article 24j.

2. Each Member State shall bear the costs of and shall be responsible for all necessary developments to its national electronic system referred to in Article 24g(2) to permit the exchange of information using the CCN network or any other similar secure network.

Article 24m

The Commission shall specify by means of implementing acts the following:

(a) the tasks to be carried out by the Commission for the technical management of the central VIES;

(b) the roles and responsibilities of Member States as controllers and the Commission as processor under Regulation (EU) 2016/679 and Regulation (EU) 2018/1725 of the European Parliament and of the Council.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 58(2).

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* Directive 2014/55/EU of the European Parliament and of the Council of 16 April 2014 on electronic invoicing in public procurement (OJ L 133, 6.5.2014, p. 1).

± Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).';

Article 4

Amendments to Regulation (EU) 904/2010 applicable from 1 January 2030

Regulation (EU) 904/2010 is amended as follows:

(1) in Article 17(1), points (a), (b) and (c) are deleted;

(2) Article 20 is amended as follows:

(a) paragraph 2 is deleted;

(b) paragraph 3 is replaced by the following:

'3. By way of derogation from paragraph 1, of this Article, where information is to be corrected in, or added to, the electronic system pursuant to Article 19, the information must be entered no later than 1 month after the period in which it was collected.';

(3) Article 21 is amended as follows:

(a) paragraph 3 is replaced by the following:

‘3. The Commission shall determine by means of implementing acts the practical arrangements as regards the conditions provided for in paragraph 2a, point (d), of this Article in order to enable the Member State providing the information to identify the Eurofisc liaison official accessing the information. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 58(2).’;

(c) paragraphs 1a and 2 are deleted;

(4) Articles 22 and 23 are deleted;

(5) in Article 31, paragraph 1 is replaced by the following:

'1. The competent authorities of each Member State shall ensure that persons involved in the intra-Community supply of goods or of services and non-established taxable persons supplying services, are allowed to obtain, for the purposes of such transactions, confirmation by electronic means of the validity of the VAT identification number of any specified person as well as the associated name and address. That information shall correspond to the data referred to in Article 24g(2).';

Article 5

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Article 1, shall apply from 1 January 2025.

Article 2 shall apply from 1 January 2026.

Article 3 shall apply from 1 January 2028.

Article 4 shall apply from 1 January 2030.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President

Council of the
European Union

Brussels, 8 December 2022
(OR. en)

15843/22

Interinstitutional File:
2022/0410(NLE)

FISC 260
ECOFIN 1304

PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	8 December 2022
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2022) 704 final
Subject:	Proposal for a COUNCIL IMPLEMENTING REGULATION amending Implementing Regulation (EU) No 282/2011 as regards information requirements for certain VAT schemes

Delegations will find attached document COM(2022) 704 final.

Encl.: COM(2022) 704 final

EUROPEAN
COMMISSION

Brussels, 8.12.2022
COM(2022) 704 final

2022/0410 (NLE)

Proposal for a

COUNCIL IMPLEMENTING REGULATION

amending Implementing Regulation (EU) No 282/2011 as regards information requirements for certain VAT schemes

{SEC(2022) 433 final} - {SWD(2022) 393 final} - {SWD(2022) 394 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

This proposal is part of the package of legislation on the VAT in the Digital Age initiative, together with a proposal for a Council Directive on amending Directive 2006/112/EC as regards VAT rules for the digital age[1], and a proposal for a Council Regulation amending the Regulation (EU) No 904/2010 as regards the VAT administrative cooperation arrangements needed for the digital age[2]. The context of this initiative is set out comprehensively in the explanatory memorandum to the proposal for a Council Directive amending Directive 2006/112/EC[3].

This explanatory memorandum describes the necessary modifications to Council implementing Regulation amending Council Implementing Regulation (EU) No 282/2011 as regards information requirements for certain VAT schemes.

This package has three main objectives:

(1) Modernising **VAT reporting obligations[4],** by introducing Digital Reporting Requirements, which will standardise the information that needs to be submitted by taxable persons on each transaction to the tax authorities in an electronic format. At the same time it will impose the use of e-invoicing for cross-border transactions;

(2) Addressing the challenges of the **platform economy[5],** by updating the VAT rules applicable to the platform economy in order to address the issue of equal treatment, clarifying the place of supply rules applicable to these transactions and enhancing the role of the platforms in the collection of VAT when they facilitate the supply of short-term accommodation rental or passenger transport services; and

(3) Avoiding the need for multiple **VAT registrations** in the EU and improving the functioning of the tool implemented to declare and pay the VAT due on distance sales of goods[6], by introducing Single VAT Registration (SVR). That is, improving and expanding the existing systems of One-Stop Shop (OSS)/Import One-Stop Shop (IOSS) and reverse charge in order to minimise the instances for which a taxable person is required to register in another Member State.

Elements of the package require implementing measures, in particular those relating to the VAT treatment of the platform economy and the single VAT registration. These will ensure that key elements are applied equally across the Member States, giving legal certainty for businesses and tax administrations.

1 Please include reference when available.
2 Please include reference when available
3 Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).
4 VAT reporting obligations refer to the obligation of VAT-registered businesses to make periodic declarations of their transactions to the tax authority to allow monitoring the collection of VAT.
5 In this respect, the term ‘platform economy’ relates to supplies of services made via a platform.
6 https://ec.europa.eu/taxation_customs/business/vat/vat-e-commerce_en

- **Consistency with existing policy provisions in the policy area**

This proposal is part of the package of legislation on the VAT in the digital age initiative. The consistency of the package as a whole is set out comprehensively in the explanatory memorandum of the proposal for a Council Directive amending Directive 2006/112/EC.

- **Consistency with other Union policies**

The VAT in the Digital Age initiative runs alongside other Commission initiatives relating to the Digital Economy, such as the Digital Services Act[7], the recent proposal for a Directive to improve working conditions in platform work[8], and the ongoing work relating to short-term accommodation rentals[9]. The general approach taken in these initiatives is to require platforms to be more transparent, including by providing relevant information, in relation to their users (e.g. short-term accommodation rental providers; or platform workers) and facilitate compliance by the users of their service with the relevant regulatory requirements.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The proposal is based on Article 397 of the VAT Directive. This Article provides that the Council, acting unanimously on a proposal from the Commission, shall adopt the measures necessary to implement the Directive.

- **Subsidiarity (for non-exclusive competence)**

This proposal is part of the package of legislation on the VAT in the digital age initiative. The subsidiarity of the package as a whole is set out comprehensively in the explanatory memorandum of the proposal for a Council Directive amending Directive 2006/112/EC.

This proposal accompanies that in that it provides for measures which ensure the VAT Directive is implemented effectively.

- **Proportionality**

This proposal is part of the package of legislation on the VAT in the digital age initiative. The proportionality of the package is set out comprehensively in the explanatory memorandum of the proposal for a Council Directive amending Directive 2006/112/EC.

This proposal accompanies that in that it provides for measures which ensure the VAT Directive is implemented effectively.

- **Choice of the instrument**

A Council Regulation is required to amend Council Regulation (EU) No 282/2011

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7 Regulation (EU) … /… of the European Parliament and of the Council on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC (Text with EEA relevance)

8 The proposed Directive is expected to bring legal certainty on the employment status of people working through digital labour platforms, improve their working conditions (including for self-employed people subject to algorithmic management) and increase transparency and traceability in platform work, including in cross-border situations

9 See annex for descriptions of relevant current and ongoing initiatives.

3. RESULTS OF *EX-POST* EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- ***Ex-post* evaluations/fitness checks of existing legislation**

A summary of *ex-post* evaluations and fitness checks of existing legislation is provided in the explanatory memorandum of the accompanying proposal to amend the VAT Directive.

- **Stakeholder consultations**

Extensive information on stakeholder consultations is provided in the explanatory memorandum of the proposal to amend the VAT Directive.

- **Collection and use of expertise**

The Commission used the analysis carried out by Economisti Associati S.r.l., for the "VAT in the Digital Age" study (running from October 2020 to January 2022)[10]. The final report was submitted on 1 April 2022 and the study has been published on the Commission's website.

The study's aims were to:

(1) evaluate the current situation with regard to the digital reporting requirements, the VAT treatment of the platform economy, the cases still triggering VAT registration in a Member State in which a trader is not established, and the Import One Stop Shop;

(2) assess the impacts of a number of possible policy initiatives in these areas.

- **Impact assessment**

The impact assessment for the proposal was considered by the Regulatory Scrutiny Board on 22 June 2022. The Board gave a positive opinion to the proposal with some recommendations that have been taken on board. The Board's opinion and recommendations are included in Annex 1 to the staff working document for the impact assessment accompanying this proposal. The executive summary sheet is available at the following page: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13186-VAT-in-the-digital-age_en.

- **Regulatory fitness and simplification**

A detailed analysis of the regulatory fitness and simplification is provided in the explanatory memorandum of the accompanying proposal to amend the VAT Directive.

- **Fundamental rights**

N/A

4. BUDGETARY IMPLICATIONS

The budgetary impacts are presented in the explanatory memorandum of the accompanying proposal to amend the VAT Directive.

[10] VAT in the Digital Age. Final report (vol. I – III). Specific Contract No 07 implementing Framework Contract No TAXUD/2019/CC/150.

5. OTHER ELEMENTS

• Implementation plans and monitoring, evaluation and reporting arrangements

These elements are presented in the explanatory memorandum of the accompanying proposal to amend the VAT Directive.

• Explanatory documents (for directives)

N/A

• Detailed explanation of the specific provisions of the proposal

A definition of the term ‘facilitates’ is provided in order to provide for a degree of legal certainty concerning the scope of the deemed supplier regime.

For the effective operation of the deemed supplier regime for passenger transport and short-term accommodation rental, it is necessary to clarify how the platform can identify whether the deemed supplier regime applies, this being where the underlying supplier does not provide the platform with a VAT number.

In addition, it is stipulated that, in circumstances in which the underlying supplier is in possession of a VAT identification number but does not charge VAT (for example because they are using the special scheme for small enterprises in a Member State which provides a VAT identification number for such businesses), then that supplier should not provide the platform with this VAT identification number.

Further, it is clarified that the platform should not be held liable where the information provided by the underlying supplier is incomplete or erroneous, and that the platform can consider the customer receiving the underlying supply as a non-taxable person where they do not provide a VAT number.

On 1 July 2021 the VAT e-commerce package entered into application. As of that date, taxable persons carrying out distance sales of goods within the EU or making distance sales of imported goods into the EU can opt to make use of the One-Stop Shop system (OSS) or Import One-Stop Shop system (IOSS). Alternatively, they can still identify for VAT in the Member State of arrival of the goods or import goods using the standard importation rules and pay VAT at the border.

Following the first year of application, some issues were identified that needed further clarification and are reflected in the proposal to modify the VAT Directive. Further details thereof are included in this proposal.

In the framework of Eurofisc, the antifraud experts mentioned they are facing serious challenges to detect risk on non-payment of VAT and to control the compliance of businesses in a timely manner. This is because of the lack of granular data when the information is kept and transmitted by the platform acting as deemed supplier, since the information transmitted contains aggregated information on all underlying sellers using their platform.

In addition, when making reconciliations of the information on the supply and the payment related thereto based on data available in CESOP (payment data refers to individual payees=sellers), tax authorities need to know the taxable persons that will actually receive the payment. This is especially challenging when the deemed supplier rules apply.

For both reasons mentioned above, transmission of the underlying supplier's identification information from the platforms to the tax authority of the Member State of identification is necessary.

At the same time a new simplification scheme in the One-Stop Shop will be set up to allow for the reporting of transfers of own goods to another Member State. Again, the detailed provisions are laid down in this proposal.

Finally, the proposal to modify the VAT Directive will make the use of the IOSS obligatory for marketplaces. Therefore, the current rules, laid down in the Council Implementing Regulation in relation to the consequences of a taxable person no longer qualifying to use the scheme, are adapted.

The modifications and additions to Article 57a complete the definitions that apply to the existing OSS schemes (Union and non-Union scheme) by including the new simplification scheme for transfers of own goods;

The new paragraph 3 in Article 57d inserts the provision regarding the VAT identification for the special scheme for transfers of own goods and as of when the taxable person will be allowed to start applying the scheme;

The modification in Article 57e specifies the VAT number that the Member State of identification shall use to identify the taxable person using the transfers of own goods scheme;

The additions to Article 57f identify the actions that the Member State of identification should take in case the taxable person will be excluded from the transfers of own goods scheme;

The additions to Article 57g provide details regarding the obligations of a taxable person voluntarily wanting to stop using the scheme. When it concerns the use of the transfers of own goods scheme, these rules are the same as for the Union and Non-Union schemes. However, when it concerns a deemed supplier using the IOSS scheme, the Article removes the possibility for this deemed supplier to voluntarily de-register, since the use of the IOSS is made obligatory for those traders;

The new paragraph 2a in Article 58 provides new details regarding the conditions for exclusion in the context of the transfers of own goods scheme;

The new Article 58aa specifies that the deemed suppliers cannot be excluded from the IOSS scheme since this scheme is obligatory for them;

The additions to Article 58a add references to the new transfers of own goods special scheme for the purpose of the relevant situations of cessation of taxable activities;

The additions to Article 58b cover the consequences where a mandatory IOSS user persistently fails to comply with the rules relating to that scheme;

The additions to Article 58c concern the new transfers of own goods special scheme so that in case of exclusion from this scheme, a taxable person shall fulfil its related VAT obligations directly to the Member State where the goods have been dispatched or transported to;

The additions to Articles 59 and 59a(2) detail specific rules pertaining to VAT return (periodicity and content) for the transfers of own goods scheme;

The additions to Article 60a which deal with electronic reminders, to Article 61 which deal with changes to the figures of the VAT return and to Article 61a which relate to the submission of the final VAT return and final VAT payment concern a reference to the Member State to which the goods have been dispatched or transported, which is required because in the transfers of own goods scheme there will not be a Member State of consumption, but instead there will be a Member State where the goods arrive;

The additions to the Article 63c(3) make the reporting of the VAT rate and the VAT amount subject to relevance, as under the new rule, zero rated and exempt supplies also need to be reported. The further additional data that needs to be kept by the deemed supplier in respect of the Union and non-Union schemes, concern detailed information of the suppliers that use its platform to supply goods and services, both information they have to keep and other information they need to keep only if available. Finally, record keeping obligations are introduced for taxable persons using the transfers of own goods scheme.

2022/0410 (NLE)

Proposal for a

COUNCIL IMPLEMENTING REGULATION

amending Implementing Regulation (EU) No 282/2011 as regards information requirements for certain VAT schemes

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax[1], and in particular Article 397 thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) For the proper functioning of the deemed supplier model, for platforms, portals, or similar means facilitating the supply of short-term accommodation rental or passenger transport services, as referred to in Article 28a of Directive 2006/112/EC it is necessary to specify certain elements of the measure.

(2) It is necessary to define the term 'facilitates' to provide taxable persons who facilitate, through the use of an electronic interface such as a platform, portal, or similar means, the supply of short-term accommodation rental or passenger transport, legal certainty as to whether the deemed supplier measure applies to those taxable persons. Certain providers, including those that provide listings, should be explicitly excluded from the measure because they do not enter into direct competition with the traditional, non-digital sectors.

(3) It is necessary to specify how taxable persons who facilitate, through the use of an electronic interface such as a platform, portal, or similar means, the supply of short-term accommodation rental or passenger transport, should identify the status of the underlying supplier of the service. Where a VAT identification number is not provided, those taxable persons should be deemed to have received and supplied the services themselves. The taxable person facilitating the supply is not required to carry out extensive validation of the VAT identification number supplied by the underlying supplier of the service.

(4) Certain Member States allocate a VAT identification number to taxable persons who do not charge VAT on their supplies, including taxable persons who use the special scheme for small enterprises as set out in Title XII, Chapter 1, of Directive 2006/112/EC. In order that the taxable person facilitating the supply can identify whether the deemed supplier model applies or not, it is necessary to set out that, in those cases, the underlying supplier should not provide that VAT identification number to the taxable persons who facilitate, through the use of an electronic interface

[1] OJ L 347, 11.12.2006, p. 1.

such as a platform, portal, or similar means, the supply of short-term accommodation rental or passenger transport.

(5) Taxable persons who facilitate, through the use of an electronic interface such as a platform, portal, or similar means, the supply of short-term accommodation rental or passenger transport, should not be held responsible for payment of any VAT due when acting on information provided by the underlying supplier, if those taxable persons can demonstrate that they could not reasonably have known that that information was incorrect.

(6) Taxable persons who facilitate, through the use of an electronic interface such as a platform, portal, or similar means, the supply of short-term accommodation rental or passenger transport and who are the deemed supplier should be able to easily identify the status of the customer, that is to say the receiver of the underlying services. In order to facilitate such identification and to reduce the administrative burden on those taxable persons, those taxable persons should assume that the customer is a taxable person where a VAT identification number is provided, and a non-taxable person where no VAT identification number is provided.

(7) A new One Stop Shop (OSS) simplification scheme for taxable persons who are transferring certain own goods cross-border is to be introduced in Directive 2006/112/EC. In order to implement that specific scheme in the overall framework of the VAT special schemes provided for in Title XII, Chapter 6 of Directive 2006/112/EC, specific rules pertaining to VAT identification, conditions for exclusion from the scheme, VAT returns and record keeping obligations should be provided in Council Implementing Regulation (EU) No 282/2011[2].

(8) As the new OSS simplification scheme will be comprehensive and encompasses cross-border movements of goods that are currently covered by call-off stock arrangements, those arrangements are to be removed from Directive 2006/112/EC. The implementing provisions pertaining to those specific arrangements are no longer required and therefore should be deleted from Implementing Regulation (EU) No 282/2011.

(9) The use of the Import One-Stop-Shop special scheme is to be made mandatory for electronic interfaces facilitating as deemed supplier certain distance sales of imported goods by changes introduced into Directive 2006/112/EC. The mandatory nature of that scheme affects the conditions for identification and exclusions for those taxable persons. Therefore these conditions should be amended in Implementing Regulation (EU) No 282/2011.

(10) Under Article 242a of Directive 2006/112/EC, taxable persons who facilitate, through the use of an electronic interface such as a marketplace, platform, portal or similar means, the supply of goods or services to a non-taxable person within the Community in accordance with the provisions of Title V of that Directive are obliged to keep records of those supplies. However, information is only required in respect of supplies of goods or services that are facilitated by the electronic interface and is not required in cases where the deemed supplier rule applies. In order to support the fight against VAT fraud, such information relating to underlying suppliers should also be included in the mandatory set of information to be kept by deemed suppliers who are registered

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[2] Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax (OJ L 77, 23.3.2011, p. 1).

to use the special One Stop Shop simplification schemes. Those additional data elements should allow a comparison of information reported by platforms with payment data on cross-border transactions available in the central electronic system of payment information as established by, Chapter V, Section 2, of Council Regulation (EU) No 904/2010[3] and entering into force on 1 January 2024.

(11) The elements of Directive 2006/112/EC which require amendments to Implementing Regulation (EU) No 282/2011 are to be transposed by Member States into national legislation by 31 December 2024. Therefore it is necessary that the amendments to that Regulation are applicable from 1 January 2025.

(12) Implementing Regulation (EU) No 282/2011 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) No 282/2011 is amended as follows:

(1) In Chapter IV, Section 2 the following Articles 9b to 9e are inserted:

'Article 9b

1. For the application of Article 28a of Directive 2006/112/EC, the term 'facilitates' shall mean the use of an electronic interface to allow a customer and a supplier offering supplies of short-term accommodation rental or passenger transport through the electronic interface to enter into contact, which results in a supply of those services through that electronic interface.

However, a taxable person shall not be considered to facilitate a supply of short-term accommodation rental or passenger transport where all of the following conditions are met:

(a) that taxable person does not set, either directly or indirectly, any of the terms and conditions under which the supply is made;

(b) that taxable person is not, either directly or indirectly, involved in authorising the charge to the customer in respect of the payments made;

(c) that taxable person is not, either directly or indirectly, involved in the provision of those services.

2. Article 28a of Directive 2006/112/EC shall not apply to a taxable person who only provides any of the following:

(a) the processing of payments in relation to the supply of short-term accommodation rental or passenger transport;

(b) the listing or advertising of short-term accommodation rental or passenger transport;

[3] Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax (OJ L 268, 12.10.2010, p. 1).

(c) the redirecting or transferring of customers to other electronic interfaces where short-term accommodation rental or passenger transport services are offered for sale, without any further intervention in the supply.

Article 9c

Article 28a of Directive 2006/112/EC shall apply where the person providing the short-term accommodation rental or passenger transport service does not provide the taxable person facilitating the service through the use of an electronic interface such as a platform, portal, or similar means, with a valid VAT identification number.

Where the person providing the underlying service has a VAT identification number and falls under any of the categories listed in Article 28a, points (c) to (f), of Directive 2006/112/EC, that VAT identification number shall not be communicated to the taxable person facilitating the service.

Article 9d

For the application of Article 28a of Directive 2006/112/EC, where, on the basis of information supplied by the person providing the underlying service, a taxable person does not act as the deemed supplier, that taxable person shall not be held liable for the payment of the VAT due should it be subsequently found that that taxable person should have been deemed to be the supplier, where all of the following conditions are met:

(a) the taxable person is solely dependent on information provided by the supplier of the services;

(b) the information so provided is erroneous;

(c) the taxable person can prove that he or she did not and could not reasonably have known that that information was erroneous.

Article 9e

Unless the taxable person has information to the contrary, the taxable person deemed to have received and supplied services under Article 28a of Directive 2006/112/EC shall regard the person to whom those services were supplied as a non-taxable person where that person to whom those services were supplied does not provide a VAT identification number.';

(2) in Article 54a, the following paragraph is added:

'3. Section 1A of Chapter X shall cease to apply on 31 December 2025.';

(3) in Chapter XI, the heading of Section 2 is replaced by the following:

'SECTION 2

Special schemes for taxable persons supplying services to non-taxable persons or making distance sales of goods, certain domestic supplies of goods or certain transfers of own goods

(Articles 358 to 369xj of Directive 2006/112/EC)';

(4) Article 57a is amended as follows:

(a) the following point (3a) is inserted:

'(3a) 'transfers of own goods scheme' means the special scheme for the transfers of own goods as set out in Title XII, Chapter 6, Section 5, of Directive 2006/112/EC;';

(b) points (4) and (5) are replaced by the following:

'(4) 'special scheme' means the 'non-Union scheme', the 'Union scheme', the 'import scheme' or the 'transfers of own goods scheme' as the context requires;';

(5) 'taxable person' means any of the following:

(i) a taxable person as referred to in Article 359 of Directive 2006/112/EC who is permitted to use the non-Union scheme;

(ii) a taxable person as referred to in Article 369b of Directive 2006/112/EC who is permitted to use the Union scheme;

(iii) a taxable person as referred to in Article 369m of Directive 2006/112/EC who is permitted to use the import scheme;

(iv) a taxable person as referred to in Article 369xb of Directive 2006/112/EC who is permitted to use the transfers of own goods scheme;';

(5) in Article 57d, the following paragraph 3 is added:

'3. Where a taxable person informs the Member State of identification that he or she intends to make use of the transfers of own goods scheme, that special scheme shall apply as from the first day of the following calendar month.

However, where the first transfer of goods to be covered by the transfers of own goods scheme takes place before that date, the special scheme shall apply from the date of that first transfer, provided the taxable person informs the Member State of identification of the commencement of his or her activities to be covered by the scheme no later than the tenth day of the month following that first supply.';

(6) in Article 57e, the following paragraph is added:

'The Member State of identification shall identify the taxable person using the transfers of own goods scheme by means of his or her VAT identification number referred to in Articles 214 and 215 of Directive 2006/112/EC.';

(7) Article 57f is amended as follows:

(a) in paragraph 2, the third subparagraph is replaced by the following:

'Notwithstanding the second subparagraph of this paragraph, where that taxable person is deemed to have received and supplied in accordance with Article 14a(1) of Directive 2006/112/EC, that taxable person shall indicate as the new Member State of identification the Member State in which that taxable person has established his or her business or, if that taxable person has not established his or her business in the Community, a Member State where that taxable person has a fixed establishment.

Where the Member State of identification changes in accordance with the second or third subparagraph, that change shall apply from the date on which the taxable person or his or her intermediary ceases to have a place of business or a fixed establishment in the Member State previously indicated as the Member State of identification.':

(b) the following paragraph 3 is added:

'3. Where a taxable person using the transfers of own goods scheme ceases to meet the conditions of the definition laid down in Article 369xa, point (2) of Directive 2006/112/EC, the Member State in which that taxable person has been identified shall cease to be the Member State of identification.

However, where that taxable person still fulfils the conditions for using that special scheme, that taxable person shall, in order to continue using that scheme, indicate as the new Member State of identification the Member State in which that taxable person has established his or her business or, if that taxable person has not established his or her business in the Community, a Member State where that taxable person has a fixed establishment. Where the taxable person using the transfers of own goods scheme is not established in the Community, that taxable person shall indicate as the new Member State of identification a Member State from which he or she dispatches or transports goods.

Where the Member State of identification changes in accordance with the second subparagraph, that change shall apply from the date on which the taxable person ceases to have a place of business or a fixed establishment in the Member State previously indicated as the Member State of identification or from the date on which that taxable person ceases to dispatch or transport goods from that Member State.';

(8) in Article 57g, the following paragraphs 3 and 4 are added:

'3. A taxable person using the import scheme who is deemed to have received and supplied goods in accordance with Article 14a(1) of Directive 2006/112/EC may only cease to use that scheme if that taxable person no longer carries out distance sales of goods imported from third territories or third countries. The taxable person or the intermediary acting on his or her behalf shall inform the Member State of identification at least 15 days before the end of the month prior to that in which that taxable person intends to cease to use the scheme. Cessation shall be effective from the first day of the next month and the taxable person shall no longer be allowed to use the scheme for supplies carried out from that day.

4. A taxable person using the transfers of own goods scheme may cease to use that special scheme regardless of whether that taxable person continues to transfer goods which can be eligible for that special scheme. The taxable person shall inform the Member State of identification at least 15 days before the end of the calendar month prior to that in which that taxable person intends to cease to use the scheme. Cessation shall be effective as of the first day of the next calendar month. VAT obligations relating to transfers of own goods arising after the date on which the cessation became effective shall be discharged directly with the tax authorities of the Member States which goods have been dispatched or transported from and to.';

(9) Article 58 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Where a taxable person using one of the special schemes meets one or more of the criteria for exclusion laid down in Articles 369e or 369xe of Directive 2006/112/EC, or for deletion from the identification register laid down in Article 363 or in Article 369r(1) and (3) of that Directive , the Member State of identification shall exclude the taxable person from that scheme.

Only the Member State of identification can exclude a taxable person from one of the special schemes.

The Member State of identification shall base its decision on exclusion or deletion on any information available, including information provided by any other Member State.’;

(b) the following paragraph 2a is inserted:

‘2a. The exclusion of a taxable person from the transfers of own goods scheme shall be effective from the first day of the calendar month following the day on which the decision on exclusion is sent by electronic means to the taxable person. However, where the exclusion is due to a change of place of business or fixed establishment, or of the place from which dispatch or transport of goods begins, the exclusion shall be effective from the date of that change.’;

(10) Article 58a is replaced by the following:

‘Article 58a

A taxable person using a special scheme who has, for a period of two years, made no supplies of goods or services or no transfers of own goods covered by that scheme shall be assumed to have ceased his or her taxable activities within the meaning of Article 363, point (b), Article 369e, point (b), Article 369r(1), point (b), Article 369r(3), Article 369xe, point (b) of Directive 2006/112/EC. That cessation shall not preclude the use of a special scheme if that taxable person recommences his or her activities covered by any scheme provided for in Chapter 6 of Title XII of that Directive.’;

(11) the following Article 58aa is inserted:

‘Article 58aa

For the purposes of the special scheme covered by Title XII, Chapter 6, Section 4, of Directive 2006/112/EC, Article 58 of this Regulation, with the exception of paragraph 3, point (a), thereof, shall not apply to a taxable person who is deemed to have received and supplied goods in accordance with Article 14a(1) of that Directive.’;

(12) Article 58b is amended as follows:

(a) in paragraph 1, the following subparagraphs are added:

‘For the purposes of the special scheme covered by Title XII, Chapter 6, Section 4, of Directive 2006/112/EC, the first subparagraph shall not apply where the taxable person is deemed to have received and supplied goods in accordance with Article 14a(1) of that Directive. However, where that taxable person is excluded from one of the other special schemes by reason of persistent failure to comply with the rules of those special schemes, that taxable person shall remain excluded from using those other special schemes in any Member State for two years following the return period during which that taxable person was excluded.

Where that taxable person persistently fails to comply with the rules of the special scheme covered by Title XII, Chapter 6, Section 4, of Directive 2006/112/EC, that taxable person shall not be excluded from that scheme but shall be excluded from all other special schemes for the two years following the return period during which he or she was found to be persistently failing to meet his or her obligations under that scheme.';

(b) paragraph 2 is replaced by the following:

'2. A taxable person or an intermediary shall be regarded as having persistently failed to comply with the rules relating to one of the special schemes, within the meaning of Article 363, point (d), Article 369e, point (d), Article 369r(1), point (d), Article 369r(2), point (c) Article 369r(3), point (d), or Article 369xe, point (d) of Directive 2006/112/EC, in the following cases:

(a) where reminders pursuant to Article 60a of this Regulation have been issued to the taxable person, or the intermediary acting on his or her behalf by the Member State of identification for three immediately preceding return periods and the VAT return has not been submitted for each and every one of these return periods within 10 days after the reminder has been sent;

(b) where reminders pursuant to Article 63a of this Regulation have been issued to the taxable person or the intermediary acting on his or her behalf by the Member State of identification for three immediately preceding return periods and the full amount of VAT declared has not been paid by that taxable person, or the intermediary acting on his or her behalf for each and every one of these return periods within 10 days after the reminder has been sent, except where the remaining unpaid amount is less than EUR 100 for each return period;

(c) where, following a request from the Member State of identification and one month after a subsequent reminder by the Member State of identification, the taxable person, or the intermediary acting on his or her behalf has failed to make electronically available the records referred to in Articles 369, 369k, 369x and 369xk of Directive 2006/112/EC.';

(13) Article 58c is replaced by the following:

'Article 58c

A taxable person who has been excluded from the non-Union scheme, the Union scheme or the transfers of own goods scheme shall discharge all VAT obligations relating to supplies of goods or services, or transfers of own goods, arising after the date on which the exclusion became effective directly with the tax authorities of the Member State of consumption concerned or the Member State to which the goods have been dispatched or transported .';

(14) Article 59 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. Any return period within the meaning of Articles 364, 369f, 369s or 369xf of Directive 2006/112/EC shall be a separate return period.';

(b) the following paragraph 2a is inserted:

'2a. Where, in accordance with Article 57d(3), second subparagraph, the transfers of goods scheme applies from the date of the first transfer, the taxable person shall submit a separate VAT return for the calendar month during which the first transfer took place.';

(c) the following paragraph 3a is inserted:

'3a. Where a taxable person has been registered under the transfers of own goods scheme during a return period, the taxable person shall submit VAT returns to the Member State of identification in respect of the transfers made and the periods covered by that scheme.',

(d) paragraph 4 is replaced by the following:

'4. Where the Member State of identification changes in accordance with Article 57f after the first day of the return period in question, the taxable person or the intermediary acting on his or her behalf shall submit VAT returns and, where applicable, make corresponding payments to both the former and the new Member State of identification covering the supplies made during the respective periods in which those Member States have been the Member State of identification.';

(15) Article 59a is replaced by the following:

'Article 59a

Where a taxable person using a special scheme has supplied no goods or services in any Member State of consumption or made no transfers of own goods under the transfer of own goods scheme during a return period and has no corrections to make in respect of previous returns, the taxable person, or the intermediary acting on his or her behalf shall submit a VAT return indicating that no supplies or transfers have been made during that period (a nil-VAT return).';

(16) Article 60a is replaced by the following:

'Article 60a

The Member State of identification shall remind, by electronic means, taxable persons, or intermediaries acting on their behalf, who have failed to submit a VAT return under Articles 364, 369f, 369s or 369xf of Directive 2006/112/EC of their obligation to submit such a return. The Member State of identification shall issue the reminder on the tenth day following that on which the return should have been submitted, and shall inform the other Member States by electronic means that a reminder has been issued.

Any subsequent reminders and steps taken to assess and collect the VAT shall be the responsibility of the Member State of consumption concerned or the Member State to which the goods have been dispatched or transported.

Notwithstanding any reminders issued and any steps taken by a Member State of consumption or a Member State to which the goods have been dispatched or transported, the taxable person or the intermediary acting on his or her behalf shall submit the VAT return to the Member State of identification.';

(17) Article 61 is replaced by the following:

'Article 61

'1. Changes to the figures contained in a VAT return relating to periods up to and including the second return period in 2021 shall, after the submission of that VAT return, be made only by means of amendments to that return and not by adjustments in a subsequent return.

Changes to the figures contained in a VAT return relating to periods from the third return period in 2021 shall, after the date on which the return was required to be submitted in accordance with Directive 2006/112/EC, be made only by adjustments in a subsequent return.

2. The amendments referred to in paragraph 1 shall be submitted electronically to the Member State of identification within three years of the date on which the initial return was required to be submitted.

However, the rules of the Member State of consumption or of the Member State to which the goods were dispatched or transported, on assessments and amendments shall remain unaffected.';

(18) Article 61a is replaced by the following:

'Article 61a

1. A taxable person or an intermediary acting on his or her behalf shall submit the final VAT return and any late submissions of previous returns, and the corresponding payments, where relevant, to the Member State which was the Member State of identification at the time of the cessation, exclusion or change where that taxable person:

(a) ceases to use one of the special schemes;

(b) is excluded from one of the special schemes;

(c) changes the Member State of identification in accordance with Article 57f.

Any corrections to the final return and previous returns arising after the submission of the final return shall be discharged directly with the tax authorities of the Member State of consumption concerned or the Member State to which the goods were dispatched or transported.

2. In respect of all taxable persons on whose behalf an intermediary is acting, that intermediary shall submit the final VAT returns and any late submissions of previous returns, and the corresponding payments, where relevant, to the Member State which was the Member State of identification at the time of deletion or change where that intermediary:

(a) is deleted from the identification register;

(b) changes the Member State of identification in accordance with Article 57f(2).

Any corrections to the final return and previous returns arising after the submission of the final return shall be discharged directly with the tax authorities of the Member State of consumption concerned or the Member State to which the goods were dispatched or transported.';

(19) Article 63c is amended as follows:

(a) paragraph 1 is amended as follows:

(i) points (f) and (g) are replaced by the following:

'(f) the VAT rate applied, where relevant;

(g) the amount of VAT payable indicating the currency used, where relevant;';

(ii) points (k) and (l) are replaced by the following:

'(k) in respect of services, the information used to determine the place of supply of the service and, in respect of goods, the information used to determine the place where the dispatch or the transport of the goods to the customer begins and ends;

(l) any proof of possible returns of goods, including the taxable amount and the VAT rate applied;';

(iii) the following point (m) is added:

'(m) in respect of supplies where the taxable person is deemed to have received and supplied goods in accordance with Article 14a of Directive 2006/112/EC, the name, postal address and electronic address or website of the supplier whose supplies are facilitated through the use of the electronic interface, and, if available:

i) the VAT identification number or national tax number of the supplier;

ii) the bank account number or number of virtual account of the supplier.';

(b) paragraph 2 is amended as follows:

(i) point (m) is replaced by the following:

'(m) the unique consignment number where that taxable person is directly involved in the delivery;';

(ii) the following point (n) is added:

'(n) in respect of supplies where the taxable person is deemed to have received and supplied goods in accordance with Article 14a of Directive 2006/112/EC, the name, postal address and electronic address or website of the supplier whose supplies are facilitated through the use of the electronic interface, and, if available:

(i) the VAT identification number or national tax number of the supplier;

(ii) the bank account number or number of virtual account of the supplier.';

(c) the following paragraph 2a is inserted:

'2a. In order to be regarded as sufficiently detailed within the meaning of Articles 369xk of Directive 2006/112/EC, the records kept by the taxable person shall contain all of the following information:

(a) as regards the Member State from which the goods have been dispatched or transported:

(i) the taxable person's VAT identification number or tax identification number in that Member State, if any;

(ii) the address from which the goods were dispatched or transported;

(b) as regards the Member State to which the goods have been dispatched or transported:

(i) the taxable person's VAT identification number or tax identification number in that Member State, if any;

(ii) the address to which the goods were dispatched or transported;

(c) the description and quantity of the goods dispatched or transported to another Member State;

(d) the date of the transfer of the goods referred to in point (c);

(e) the taxable amount indicating the currency used;

(f) any subsequent increase or reduction of the taxable amount;

(g) where a self-invoice is issued, the information contained on the invoice;

(h) in respect of transfers where the taxable person is deemed to have received and supplied goods in accordance with Article 14a of Directive 2006/112/EC, the name, postal address and electronic address or website of the supplier whose transfer of goods are facilitated through the use of the electronic interface, and, if available:

(i) the VAT identification number or national tax number of the supplier

(ii) the bank account number or number of virtual account of the supplier.';

(d) paragraph 3 is replaced by the following:

'3. The information referred to in paragraphs 1, 2 and 2a of this Article shall be recorded by the taxable person or the intermediary acting on his or her behalf in such a way that it can be made available by electronic means without delay and in respect of each individual good or service supplied, or transferred. Where that taxable person or the intermediary acting on his or her behalf has been requested to submit, by electronic means, the records referred to in Articles 369, 369k, 369x and 369xk of Directive 2006/112/EC and they have failed to submit them within 20 days of the date of the request, the Member State of identification shall remind the taxable person or the intermediary acting on their behalf to submit those records. The

Member State of identification shall by electronic means inform the Member States of consumption or the Member State to which the goods have been dispatched or transported that the reminder has been sent.'.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2025.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President

Council of the
European Union

Brussels, 8 December 2022
(OR. en)

15841/22
ADD 2

Interinstitutional File:
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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	8 December 2022
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	SWD(2022) 393 final
Subject:	COMMISSION STAFF WORKING DOCUMENT IMPACT ASSESSMENT REPORT Accompanying the documents Proposal for a COUNCIL DIRECTIVE amending Directive 2006/112/EC as regards VAT rules for the digital age Proposal for a COUNCIL REGULATION amending Regulation (EU) No 904/2010 as regards the VAT administrative cooperation arrangements needed for the digital age Proposal for a COUNCIL IMPLEMENTING REGULATION amending Implementing Regulation (EU) No 282/2011 as regards information requirements for certain VAT schemes

Delegations will find attached document SWD(2022) 393 final.

Encl.: SWD(2022) 393 final

EUROPEAN
COMMISSION

Brussels, 8.12.2022
SWD(2022) 393 final

COMMISSION STAFF WORKING DOCUMENT

IMPACT ASSESSMENT REPORT

Accompanying the documents

Proposal for a COUNCIL DIRECTIVE amending Directive 2006/112/EC as regards VAT rules for the digital age

Proposal for a COUNCIL REGULATION amending Regulation (EU) No 904/2010 as regards the VAT administrative cooperation arrangements needed for the digital age

Proposal for a COUNCIL IMPLEMENTING REGULATION amending Implementing Regulation (EU) No 282/2011 as regards information requirements for certain VAT schemes

{COM(2022) 701 final} - {COM(2022) 703 final} - {COM(2022) 704 final} -
{SEC(2022) 433 final} - {SWD(2022) 394 final}

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Glossary of acronyms

Term or acronym	Meaning or definition
B2B	Business-to-Business
B2C	Business-to-Consumer
B2G	Business-to-Government
B&B	Bed and Breakfast
CBA	Cost-benefit analysis
CTC	Continuous Transaction Control
DAC7	Council Directive 2011/16/EU
DRR	Digital Reporting Requirement
EU	European Union
EU27	European Union without the United Kingdom
ESS	Electronically Supplied Service
GDP	Gross domestic product
IOSS	Import-One-Stop Shop
IT	Information technology
MNCs	Multinational Companies
MS	Member States
MTIC fraud	Missing Trader Intra-Community fraud
OSS	One Stop Shop
PTC	Periodic Transaction Control
SAF-T	Standard Audit File for Tax
SME	Small and Medium-sized Enterprise(s)
STR	Short-term accommodation rental services
TA	Tax Authorities
TBE	Telecommunications, Broadcasting and Electronic
VAT	Value-Added Tax

VIES	VAT Information Exchange System

Glossary of Terms

Chain transactions

This is the situation in which **successive supplies** of the same goods are made between different businesses, with the goods being transported from the first supplier to the final customer.

Deemed supplier

Whereas in most transactions it is the supplier of the goods or services who accounts for the VAT due on the transaction, in certain cases another person can be deemed to have received and supplied those goods or services themselves, and they would therefore be liable to account for the VAT on the sales. Under the deemed supplier regime option proposed in the 'VAT Treatment of the Platform Economy' element of the initiative, where the underlying supplier using a platform does not charge VAT (because they are a natural person, for example, or a taxable person using the SME scheme) the platform would account for the VAT in their place. This means that the underlying supplier would not be required to register and account for the VAT themselves.

Digital platform

For the purposes of this exercise, the definition of a digital platform is taken from the 'VAT in the Digital Age' supporting study[1] and is as follows:

*'**Platform economy'** is the term used to describe a multi-sided model of transactions, where there are three or more parties involved. In these transactions, the role of the **'online/digital platform'** is to facilitate the connection between two or more distinct but interdependent sets of users (whether firms or individuals, whether carrying out an economic activity or not) who interact via electronic means. In these interactions, one of the parties to the platform offers access to or transfers assets, resources, time and/or skills, goods and/or services to the other party, in return for monetary consideration or, in certain cases, by barter/non-monetary exchanges. In most of these cases, these users could be named as **'providers'** and **'consumers'**, respectively. A platform usually charges a fee for the facilitation of the transaction.'*[2]

It should be noted that the 'VAT treatment of the platform economy' element of this package only relates to the **supply of services** via a platform. Supplies of goods via platforms have their own set of e-commerce rules.

[1] VAT in the Digital Age. Final Report (vol. I – IV). Specific Contract No 07 implementing Framework Contract No TAXUD/2019/CC/150 (hereafter 'supporting study').
[2] Supporting study, vol. II, Box 1, p. 21.

E-invoicing

'Electronic invoice' means an **invoice** that has been **issued, transmitted and received in a structured electronic format** which allows for its automatic and electronic processing.

Union One-Stop-Shop (Union OSS) and Import-One-Stop-Shop (IOSS)

The **Union One Stop-Shop (OSS)** is an optional **simplification measure** that traders established in the EU can use to declare and pay the VAT due on all their cross-border supplies of services to non-taxable persons taking place in the EU, as well as all their intra-Community distance sales of goods[3]. Exceptionally, Electronic Interfaces (EIs) who become the 'deemed' supplier for certain supplies of goods within the EU can also declare certain domestic supplies of goods in the Union OSS. Traders that opt to use this simplification do not need to register for VAT in each Member State in which their eligible supplies of goods and services to consumers take place. Instead, the VAT due on those supplies is declared via a single quarterly electronic VAT OSS return, followed by a single quarterly payment, which are submitted to their Member State of identification.

The **Import One Stop-Shop (IOSS)** is an **optional simplification** used for the declaration and payment of VAT due on distance sales of low value goods imported into the EU with an intrinsic value not exceeding EUR 150, excluding excisable goods. Where a trader registers to use IOSS, their supplies of eligible goods are effectively taxed at the time of purchase. Consequently, these low value goods are exempt from import VAT upon importation into the EU. The VAT due on eligible supplies of low value imported goods can be declared via a single monthly electronic IOSS VAT return, accompanied by a single payment to the Member State of identification. Suppliers and electronic interfaces who are not established in the EU need to appoint an intermediary to be able to use the import scheme, unless they are established in a third country with which the EU has concluded a VAT mutual assistance agreement which is similar in scope to EU legal acts in that area.

Place of supply

The **place of supply is the Member State in which the VAT is due**. Under that general rules, the place of supply of goods is where those goods are located at the time of the supply, or if they are transported, where the goods are located when the transport begins. For services, the place of supply is the Member State of the customer for B2B supplies, and the supplier for B2C supplies. However, there are a number of exceptions to these rules, for example relating to services connected to immoveable property (where the place of supply is where the property is located), and electronically supplied services (where the recipient is established in both B2B and B2C cases).

Recapitulative statement

When a **business sells goods or services to a business in another Member State**, it is obliged to **submit a recapitulative statement** to its Member State detailing the business to whom it has made

[3] An intra-Community distance sale of goods occurs when goods are dispatched or transported by or on behalf of a supplier in one Member State to certain customers in another Member State.

the supply, and the total amount of supplies to that business. This information is submitted monthly, although Member States may allow for quarterly submission where the value of supplies does not exceed EUR 50,000 per quarter. The information is shared between Member States, and is used to help ensure compliance (for example, Member States can check whether the business acquiring the goods or services has made a domestic supply in their own Member State).

<u>Reverse charge</u>

When a business makes certain supplies of services or goods to a business in another Member State and the place of supply is the Member State of the customer, that business would be required to register in the Member State of the customer in order the account for the VAT. In order to avoid this, the business can use the reverse charge. This is a system by which **the supplier does not account for the VAT on its invoice, and instead the customer accounts for the VAT** in its VAT return. The supplier should clearly indicate on its invoice that the reverse charge applies.

<u>SAF-T</u>

A SAF-T is a **file containing reliable accounting data exportable** from an original accounting system, for a specific time period and easily readable by virtue of its standardisation of layout and format that can be used by revenue authority staff for compliance checking purposes. One of its possible uses is the reporting of transaction data.

<u>SME scheme</u>

VAT is, in essence, applied to every taxable transaction by a taxable person. This means that small and micro enterprises should account for VAT on every transaction. However, due to the historical difficulties of a) ensuring compliance on these small businesses, and b) the relatively high administrative burdens VAT registration would impose on these businesses, the VAT Directive[4] contains an optional SME scheme, where Member States allow for small businesses to eschew some or all of the burdens imposed on a business. In practice, this means that, where the SME scheme applies, businesses are not required to account for VAT on their sales, but neither can they deduct VAT on their purchases. The eligibility of a business to use a SME scheme is based on their annual turnover, with thresholds differing across Member States, ranging from EUR 5,000 to EUR 88,500[5].

<u>Value Added Tax (VAT) and VAT system</u>

The Value Added Tax (VAT) is a **general tax on consumption**. The term 'general' refers to the fact that the tax is paid on most goods and services, with relatively few exceptions (e.g. medical treatment, teaching). Purchasers pay a percentage-based tax on what they buy, based on the value and the nature of the product. VAT is collected fractionally by businesses who pay it on to the government. The term 'fractional' refers to the fact that each business only pays for the added value

[4] Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1), as amended.

[5] Currently the average SME exemption threshold is approximately EUR 35.000. The levels of thresholds vary across Member States from EUR 0 (i.e. no exemption scheme currently available) in Spain, to EUR 88.500 in Romania.

on its turnover, i.e. the difference between its sales (output) and purchases (inputs). In practice this is done by charging VAT fully on each sale but granting businesses the right to recover (deduct) the VAT they themselves paid on their purchases. An exception to that rule is that businesses whose sales are lower than a certain threshold are allowed to stay out the system and not pay VAT; however, if they do so they are not entitled to any reimbursement of the VAT (SME scheme). This exemption system has the advantage of sparing micro-enterprises from red tape but can create some distortions.

The VAT Directive is the main piece of EU VAT legislation. Recitals 4 and 5 of this Directive provide:

"*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. (...) It is therefore necessary to achieve such harmonisation of legislation on turnover taxes by means of a system of value added tax (VAT), such as will eliminate, as far as possible, factors which may distort conditions of competition, whether at national or Community level*".

In brief: **in order to work as intended, the VAT rules need to be harmonised and applied uniformly** by the Member States.

1. INTRODUCTION: POLITICAL AND LEGAL CONTEXT

VAT is a major source of revenue[6] for Member States' budgets, representing approximately 7% of gross domestic product (GDP). In 2019, the VAT revenue for the 27 Member States (EU-27) amounted to over one trillion euro. Moreover, VAT revenues contribute to the EU budget, since 0.3 percent of VAT collected at domestic level is transferred to the EU as own resources, representing 12% of the total EU budget.

However, the VAT system has not kept pace with the digitalisation of the economy, which poses new challenges to tax authorities and the VAT system due to, for example, the emergence of new business models and the increasing amount of data with which tax authorities need to deal. Nevertheless, digitalisation also creates opportunities, providing new digital tools and solutions to help tax authorities cope with their tasks while allowing for the simplification of tax compliance and reducing its costs. This initiative thus seeks to adapt the EU VAT framework to the digital era, in line with one of the six top priorities of the Commission[7], "A Europe fit for the digital age".

The Commission announced this initiative as part of its Action Plan for fair and simple taxation supporting the recovery (hereafter "Tax Action Plan")[8] and is included in the 2022 Commission work programme[9]. The objectives of this initiative, as indicated in several actions of the Tax Action Plan, are as follows:

- Modernising **VAT reporting obligations**[10] (Action A4),
- Addressing the challenges of the **platform economy**[11] (Action A23), and
- Avoiding the need for multiple **VAT registrations** in the EU and improving the functioning of the tool implemented to declare and pay the VAT due for distance sales of goods imported from outside the EU[12] (Actions A1 and A5).

Following the announcement of the Commission's Tax Action Plan, the Council stated that it "*supports the Commission's suggestion to clarify, simplify and modernise the EU VAT rules*", "*welcomes the initiative announced by the Commission to modernise reporting obligations for cross-border transactions (...) and the Commission's intention to examine the need to adapt the VAT framework to the platform economy*"[13]. The European Parliament resolutions generally support

6 Eurostat: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Tax_revenue_statistics

7 https://european-union.europa.eu/priorities-and-actions/eu-priorities_en

8 https://ec.europa.eu/taxation_customs/package-fair-and-simple-taxation_en

9 COM(2021) 645 final (Annex II, Point 20).

10 VAT reporting obligations refer to the obligation of VAT-registered businesses to make periodic declarations of their transactions to the tax authority to allow monitoring the collection of VAT.

11 In this respect, the term 'platform economy' relates to supplies of services made via a platform, i.e. Airbnb, Uber etc.

12 https://ec.europa.eu/taxation_customs/business/vat/vat-e-commerce_en

13 Council conclusions on fair and effective taxation in times of recovery, on tax challenges linked to digitalisation and on tax good governance in the EU and beyond (FISC 226 ECOFIN 1097, doc. 13350/20).

initiatives to fight VAT fraud[14]. Further, the Parliament mentioned its explicit support for the initiative in that it "*looks forward to the legislative proposal for modernising VAT reporting obligations*"[15]. More recently, the European Parliament adopted a resolution[16] noting the potential of data and digital tools to reduce red tape and simplify various taxpayer obligations, in particular in the area of VAT returns and recapitulative statements, (…) and welcoming the Commission's proposal to modernise, simplify and harmonise VAT requirements, using transaction-based real-time reporting and e-invoicing. Moreover, the resolution underlines that the diversity of the Member States' tax regulations constitutes a cumbersome challenge and, while endorsing the Union One Stop Shop (OSS), asks to broaden its scope to encompass a wider range of services.

By exploiting digital technologies, the current initiative offers a huge potential in the fight against VAT fraud, in particular missing trader intra-Community (MTIC) fraud[17], estimated in the range of EUR 40-60 billion[18], which is a significant part of the 'VAT Gap', which itself was recently estimated at EUR 134 billion in the VAT Gap Study.[19] In the same study, the underlying reasons for the VAT Gap were grouped into four broad categories that include (i) VAT fraud and VAT evasion, (ii) VAT avoidance practices and optimisation, (iii) bankruptcies and financial insolvencies and (iv) administrative errors. Since VAT fraud is part of the VAT gap, even if the exact size of the VAT fraud is difficult to measure, the VAT gap still offers a useful and unique EU-wide indicator of the fraud. MTIC fraud is linked to the way cross-border EU transactions are taxed under the current VAT regime[20], which dates from 1993 and was intended to be a transitional system. While several Member States have made significant technological investments to improve risk assessment and tax control processes, the possibilities offered by new technologies have not yet been reflected in the VAT Directive, whose mechanism to report intra-Community transactions, the recapitulative statements[21], is outdated compared to the digital reporting systems implemented by Member States.

The Commission tabled in 2018 a proposal[22] for a definitive VAT system for the taxation of trade between Member States, which is still under discussion in Council. This proposal aimed to replace the transitional system referred above by treating intra-Community transactions in the same way as

[14] European Parliament resolution of 24 November 2016 on towards a definitive VAT system and fighting VAT fraud (2016/2033(INI)); European Parliament resolution of 4 October 2018 on fighting customs fraud and protecting EU own resources (2018/2747(RSP)).

[15] European Parliament resolution of 16 February 2022 on the implementation of the Sixth VAT Directive: what is the missing part to reduce the EU VAT gap? (2020/2263(INI)).

[16] European Parliament resolution of 10 March 2022 with recommendations to the Commission on fair and simple taxation supporting the recovery strategy (P9_TA(2022)0082).

[17] Europol: https://www.europol.europa.eu/crime-areas-and-statistics/crime-areas/economic-crime/mtic-missing-trader-intra-community-fraud

[18] European Court of Auditors: https://www.eca.europa.eu/Lists/ECADocuments/SR15_24/SR_VAT_FRAUD_EN.pdf

[19] The VAT Gap is the overall difference between the expected VAT revenue based on VAT legislation and ancillary regulations and the amount actually collected: https://ec.europa.eu/taxation_customs/business/vat/vat-gap_en

[20] VAT is not charged on cross-border transactions, contrary to domestic ones, allowing taxable persons to buy goods free of VAT within the Single Market, breaking the chain of fractioned payment and creating an incentive for fraud.

[21] See Glossary of Terms.

[22] COM(2018) 329 final.

domestic ones. VAT would be due in the Member State of destination of the goods[23] at the rate of that Member State but would be charged and collected by the supplier in its own Member State[24]. The VAT in the Digital Age initiative has the potential to strengthen both the current and the definitive VAT system.

In addition, over recent years, issues relating to the taxation of the digital economy have become the subject of discussions regarding possible changes to fiscal policies[25]. The growing importance of the platform economy in the collection of VAT was recognised, notably the potential for digital platforms to significantly enhance the effectiveness of VAT collection given their role in generating or facilitating online sales[26]. This is particularly relevant considering the large number of natural persons and small businesses who operate on these platforms, many of whom are unaware of their potential VAT obligations.

The VAT in the Digital Age initiative runs alongside further Commission initiatives relating to the Digital Economy[27], such as the recently adopted Digital Services Act[28], the recent proposal for a Directive to improve working conditions in platform work[29], or the ongoing work relating to Short Term Rental[30]. Under these initiatives the general direction of travel is to make platforms more responsible and play a greater role in the regulatory framework.

Furthermore, from 1 July 2021, the VAT rules on cross-border business-to-consumer (B2C) e-commerce activities changed to address challenges arising from the VAT regimes for distance sales of goods and for the importation of low value consignments. Online sellers, including online marketplaces/platforms can register in a single Member State using the One Stop Shop (OSS) for the declaration and payment of VAT on their distance sales of goods and cross-border supplies of services to customers within the EU and the Import One Stop Shop (IOSS) for goods coming from outside of EU[31]. An evaluation of the first six months since the entry into application of these new rules can be found in Annex 6. Improvements to the current schemes will be considered in this

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[23] This system would be extended to services at a later stage.

[24] Whereas the current VAT system divides each EU Business-to-Business cross border supply of goods in an exempt intra-Community supply in the Member State of departure and a taxable intra-Community acquisition in the Member State of arrival of the goods, the definitive regime foresees the introduction of a single taxable supply in the Member State of destination of the goods, called intra-Union supply.

[25] European Parliament (2016), “Tax challenges in the Digital Economy”, Study for TAXE 2 Committee, IP/A/TAXE2/2016-04; Report of the Commission Expert Group on Taxation of the Digital Economy., https://ec.europa.eu/taxation_customs/system/files/2016-09/report_digital_economy.pdf

[26] OECD (2019), “The Role of Digital Platforms in the Collection of VAT/GST on Online Sales”, OECD, Paris. www.oecd.org/tax/consumption/the-role-of-digital-platforms-in-the-collection-of-vat-gst-on-online-sales.pdf

[27] A detailed list of these initiatives is presented in Annex 5

[28] Regulation (EU) … /… of the European Parliament and of the Council on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC

[29] The proposed Directive is expected to bring legal certainty on the employment status of people working through digital labour platforms, increase transparency in the use of algorithms by digital labour platforms (for workers and genuine self-employed), and enhance transparency and traceability in platform work, including in cross-border situations (https://ec.europa.eu/commission/presscorner/detail/en/ip_21_6605).

[30] See Annex for descriptions of relevant current and ongoing initiatives.

[31] https://ec.europa.eu/taxation_customs/business/vat/vat-e-commerce_en

initiative. Moreover, an e-commerce study[32] focussing on the import process as well as an evaluation of the Union Customs Code is currently being carried out and could impact on the IOSS extension.

The initiative supports the EU's sustainable growth strategy[33] that refers to better tax collection, the reduction of tax fraud, avoidance and evasion and the reduction of administrative burdens and compliance costs for business, individuals, and tax administrations. Improvement of the taxation systems to favour more sustainable and fairer economic activity is also included in the EU's competitive sustainability's agenda.

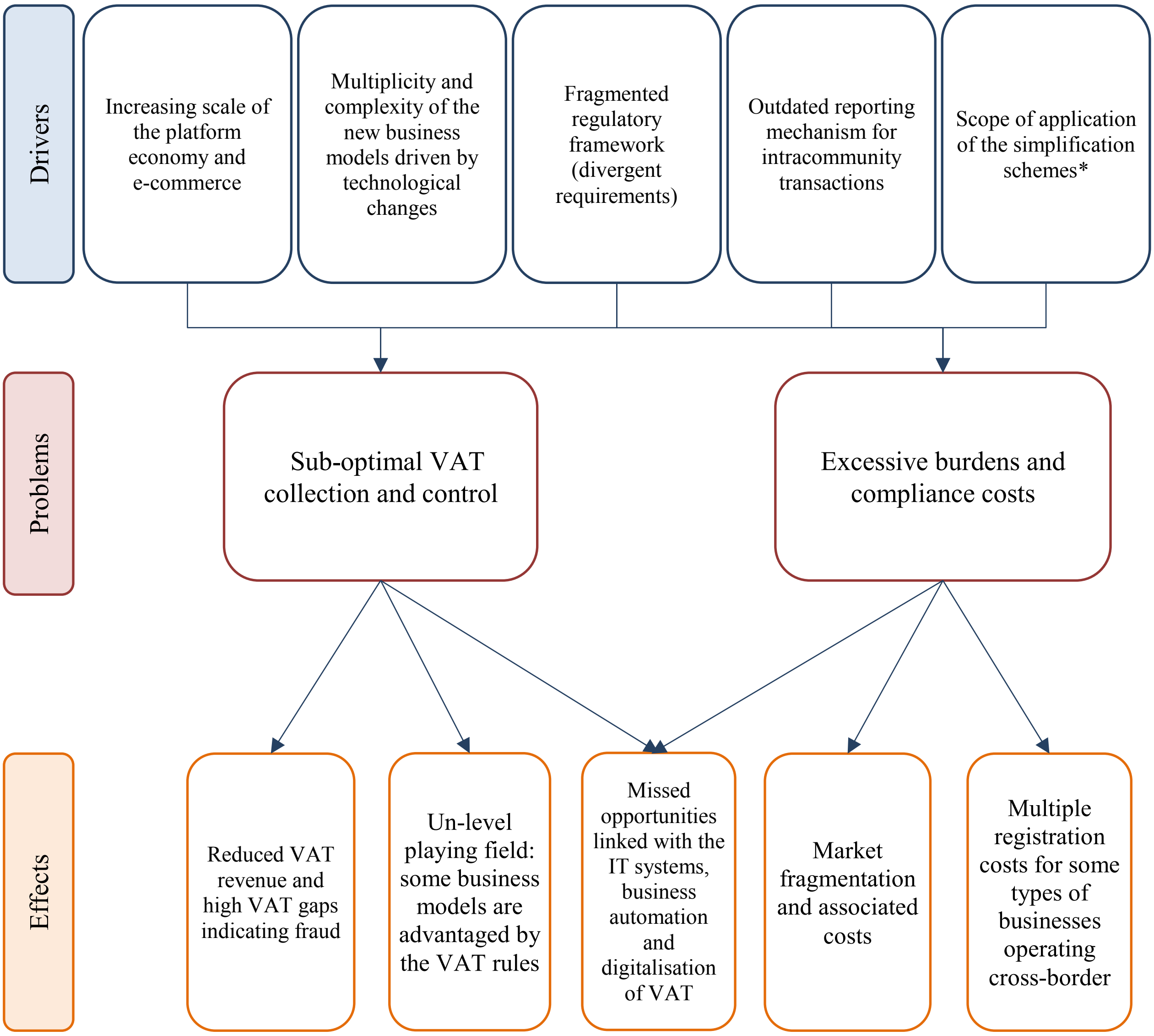
[32] Study on an integrated and innovative overhaul of EU rules governing e-commerce transactions from third countries from a customs and taxation perspective, TAXUD/2017/CC/141

[33] Member States' recovery and resilience plans envisage a wide set of reforms aimed at improving the business environment and favouring adoption of digital and green technologies. These reforms are complemented by important efforts to digitalise tax administrations as a strategic sector of the public administration (COM(2021) 740 final: Annual Sustainable Growth Survey 2022).

2. PROBLEM DEFINITION

The causes and consequences of the problems to be tackled by the Commission initiative are summarised in the Problem Tree.

Figure 1 – Problem tree



** i) Some transactions are not covered by the OSS and IOSS schemes and ii) the SME simplification scheme reduces VAT equality and neutrality in the platform economy*

2.1. What are the problems?

Two main problems were identified in the supporting study[34]:

1. **Sub-optimal VAT collection and control** – the EU VAT legislative framework is not fully adapted to deal with the new digital reality and is prone to fraud.

2. **Excessive burdens and compliance costs** – the digital economy and the development of new business models create new challenges and costs for tax administrations and businesses.

The challenges and potential benefits of digitalisation in terms of control/fight against fraud (related to problem 1) and burden reduction (related to problem 2) are not fully seized. The problems are especially visible in three areas:

- VAT reporting (including digital reporting),
- VAT administration (treatment) of the platform economy, and
- VAT registration.

VAT reporting and digital reporting requirements (DRR)

The VAT Directive (Directive 2006/112/EC)[35], which is the main piece of EU legislation in the field of VAT, dates from the 1970s and, as such, the default reporting requirements are not digital. However, the Directive grants Member States a wide discretion to introduce the obligations they deem necessary to ensure the correct collection of the tax and to prevent evasion.

Taking advantage of this possibility, several Member States have introduced various types of digital reporting requirements (DRR)[36] which have proven successful in increasing tax collection, thanks to both the improvements to tax control and the deterrent effect on non-compliance[37]. Different types of DRRs are currently in place in several Member States: clearance e-invoicing (Italy), real-time reporting (Hungary, Spain), SAF-T reporting (Lithuania, Poland, Portugal), VAT listing (Bulgaria, Croatia, Czechia, Estonia, Latvia, Slovak Republic) – see Box 1 and Annex 4: Analytical methods. In addition, some Member States have requested a derogation to introduce obligatory e-invoicing (France, Romania, Poland) or announced upcoming reporting requirements (Greece), while mentioning in the targeted consultation that they prefer to wait for an EU solution before introducing a unilateral solution. Other Member States (Belgium and Denmark) have announced their intention to apply mandatory e-invoicing, even though they are not linked to a reporting obligation yet. Germany has also confirmed its intention to implement mandatory e-invoicing for B2B transactions. This shows the high degree of complexity generated by the lack of EU regulation

[34] Supporting study, vol. I (p. 76 ff.), vol. II (p. 87 ff.), vol III (p.31 ff.).
[35] In particular Article 273.
[36] See Annex 4 for the mapping of digital reporting requirements.
[37] Country factsheets for digital reporting requirements are available in the supporting study (vol. I, Annex A, p. 149 to 162).

in the field, and how the situation, far from being settled, continues to evolve, and requires increasing administrative and adaptation costs for businesses.

An econometric model[38] based on a panel regression method with fixed effects was used to estimate the impact on VAT revenue associated with the introduction of DRR solutions. The model looked at the development of VAT revenue in Member States which had introduced DRRs as opposed to a control group which had not. The assessment of the changes to VAT revenues has been done by means of an econometric analysis based on panel-data, to determine whether and to what extent the existing DRRs have resulted in an increase in VAT compliance in the Member States concerned. The increase in VAT revenue during the 2014-2019 period is estimated to be between EUR 19 and EUR 28 billion in the Member States which have introduced DRRs in this period, corresponding to an annual increase of VAT revenue of between 2.6% and 3.5%.[39]

Several Member States (Belgium, Denmark, Germany, Ireland, Cyprus, Luxembourg, Malta, Netherlands, Austria, Slovenia, Finland, and Sweden) have not yet introduced DRRs. The decision appears to be mainly driven by their relative lower level of VAT fraud (the 2016-2019 average VAT Gap of the Member States currently having or announcing to adopt DRRs is 15.2% compared with an average of 8.6% for the ones who do not yet have DRRs in place). There are other aspects that may influence the decision on whether to introduce or not DRRs, such as the IT-related ones (e.g. the particularities of the national IT systems), the adoption of similar requirements in other Member States (e.g. a neighbouring/important trade partner Member State takes the decision to introduce DRR), or other local particularities (e.g. the general readiness of the business population for such measures or the administrative organisation). None of the Member States that have implemented DRRs had recorded a VAT Gap lower than 10% prior to their introduction, except for Spain (where the VAT Gap was 6.5% in 2016)[40] and the top Member States constantly registering the highest VAT gaps (Romania, Greece, Lithuania, and Italy) are among those that have introduced or announced the introduction of DRRs.

As can be seen, the DRRs adopted, which provide information to tax authorities on a transaction-by-transaction basis, vary substantially from one Member State to the other. They can consist in the transmission of monthly reports of business transactions, submissions of invoices in real-time, the transmission of invoice data in real or quasi-real time, or the submission of tax and accounting data or VAT records. Further, other Member States have implemented non-digital tools for reporting of transactions, such as listings which do not provide data at transactional level, but only the values of sales or purchases per customer or supplier (listings of suppliers and customers). All these requirements are additional to the submission of VAT returns. The global trend shows a move from traditional VAT compliance (i.e. filing forms with periodic aggregate data) towards real-time sharing of transaction-based data with the tax administration (generally based on e-invoicing).

[38] Full details of the model specifications and the results are available in Annex 4 and in the supporting study (Vol I., Annex C, p. 166 to 181).
[39] Supporting study, vol. I, p. 40.
[40] Supporting study, vol. I, page 83.

However, the VAT Directive[41] represents a significant barrier towards the adoption of e-invoicing requirements, due to the need for Member States to obtain an explicit derogation to adopt digital reporting requirements based on e-invoicing requirements. This has also influenced both the adoption and the design of national digital reporting requirements.

The importance of this problem and the need to act has been confirmed by stakeholders during the public consultation: "*the rapid introduction of divergent digital VAT requirements (...) since the adoption of modifications to Article 273 of the VAT Directive via Directive 2010/45 have shown that it is important not only that Member States formally go along with a consensus, but are actually committed to harmonization*".[42]

The resulting fragmented regulatory framework brings additional compliance costs for businesses operating in different Member States that have to comply with diverse local requirements and creates barriers within the Single Market. With an increasing number of Member States implementing different models of digital reporting obligations, the costs of fragmentation for multinational companies (MNCs)[43] are significant, estimated at about EUR 1.6 billion per year EU-wide, of which 1.2 billion are borne by small-scale and 0.4 billion by large-scale MNCs[44].

Further, the current reporting system of intra-Community transactions (referred to in the VAT Directive as "recapitulative statements") does not allow Member States to effectively tackle VAT fraud linked to these transactions[45]. It should be noted that the current recapitulative statements date from 1993 and have not substantially changed since then. They are ill-prepared for the digital economy and can hardly be compared to the much more modern digital reporting systems implemented by the Member States for domestic transactions.

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[41] There is no explicit option available for Member States to introduce mandatory e-invoicing requirements as a means to ensure the correct collection of VAT and to prevent VAT fraud. The VAT Directive makes the use of e-invoices subject to their acceptance by the recipient, in Article 232; this provision cannot be derogated via Article 273, which allows Member States to introduce other obligations on taxpayers to ensure the correct collection of VAT and to prevent VAT fraud. Hence, if a Member State wishes to introduce mandatory e-invoicing requirements, it must do so by requesting a derogation from the Directive under Article 395, which is subject to the unanimous agreement of the Council based on a proposal from the Commission.

[42] The text in quotation marks reproduces one of the opinions received during the public consultation. Generally, the respondents to the public consultation agreed the most with the statements that the wide discretion left to Member States together with the lack of EU guidance result in a fragmented regulatory framework for DRRs, and that this fragmented regulatory framework is generating unnecessary costs for EU companies operating cross-border. Across all stakeholder groups, more than 80% of respondents agreed or partly agreed with those statements. Among business federations and economic operators, the rate is even higher with over 90% stating they agree or at least partly agree.

[43] Based on Eurostat estimates, there are about 210,000 multinational companies (MNCs) in the EU, 85% of which have a local headquarters and the rest being controlled by foreign entities.

[44] These mainly result from significant setup costs, especially in countries with more complex DRRs. For compliance, a small-scale MNC can be expected to invest about EUR 10 000 for SAF-T requirements, EUR 25.000 for real-time requirements and more than EUR 50 000 in case of e-invoicing. For a large scale MNC, figures reach up to EUR 50 000 for SAF-T requirements, EUR 200 000 for real-time requirements and EUR 500 000 for e-invoicing.

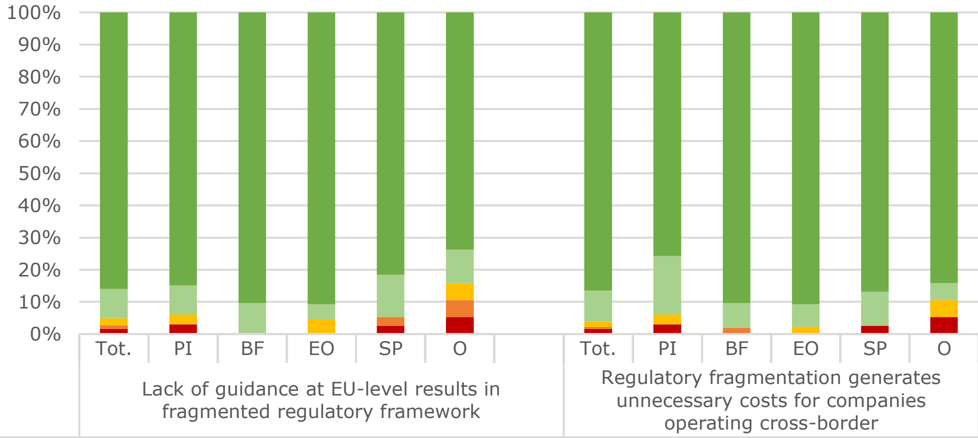
[45] A comprehensive retrospective evaluation of the EU VAT system was conducted in 2011 and its findings have been used as a starting point for the examination of the current transitional VAT system (IFS et al., 2011, A retrospective evaluation of elements of the EU VAT system); European Commission (2015). Implementing the 'destination principle' to intra-EU B2B supplies of goods, Feasibility and economic evaluation study, Final Report.

Among other shortcomings, recapitulative statements provide aggregated data for each taxable person, and not transaction-by-transaction data. They do not allow cross-matching of the data from supplies with that of acquisitions, as the VAT Directive leaves optional for Member States the reporting of intra-Community acquisitions and less than half Member States have introduced this obligation. Further, due to time-reporting differences across Member States, the data may be available to tax authorities in other Member States too late, not only because of the filing frequency, but also because of the time it takes for local tax authorities to upload data on the system. Such shortcomings were rightfully noticed by almost two-thirds of informed stakeholders publicly consulted (also see Figure 4 specific to tax administrations) who totally or partly agree that recapitulative statements would be more effective in fighting intra-EU fraud if data is collected on a transaction-by-basis and closer to the moment of the transaction.

It is worth noting that the reform of the reporting of cross-border transactions inevitably entails changes to administrative cooperation and exchange of data between the competent authorities of the Member States and the VAT Information Exchange System (VIES)[46]. The Tax Action Plan also mentions the "reinforcement of verifications of cross-border transactions", and a 2023 proposal for VIES 2.0 is expected to complement the current initiative.

[46] In 1993, with the introduction of the Internal Market, the border controls were abolished and replaced by reporting obligations of intra-Community supplies in form of periodical recapitulative statements for VAT purposes (a recapitulative statement is a simple form submitted on a monthly/quarterly basis by traders, in addition to their VAT return, to declare goods delivered and services provided to traders in other Member States. It contains the VAT number of the customers and the aggregated value of supplies per customer during a given period). These recapitulative statements are stored in national VAT databases. These databases are then connected through an electronic interface called VIES (VAT Information Exchange System), the Commission manages the communication links between the Member States while there are national VIES applications developed by the Member States. Tax administrations access VIES information for control purposes, while economic operators use a module of VIES, called the 'VIES-on-the-web'(VoW) to check the validity of their client's VAT numbers registered in the European Union for cross border transactions on goods or services.

Figure 2 – VAT reporting: stakeholders' views on current situation



	Lack of guidance at EU-level results in fragmented regulatory framework						Regulatory fragmentation generates unnecessary costs for companies operating cross-border					
	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O
Agree	159	28	47	39	31	14	160	25	47	39	33	16
Partly Agree	17	3	5	2	5	2	18	6	4	3	4	1
Neither agree nor disagree	4	1	0	2	0	1	3	1	0	1	0	1
Partly disagree	2	0	0	0	1	1	1	0	1	0	0	0
Disagree	3	1	0	0	1	1	3	1	0	0	1	1

Concerning the identified problem, stakeholders in different groups (private individuals – 'PI'; business organisation/federation – 'BF'; economic operators – 'EO'; service providers – 'SP'; and others, non-specific – 'O') agree on the negative impacts stemming from the current situation with regards to DRRs. During targeted interviews, Member States also validated the problem.

In conclusion, while the EU legislation leaves substantial freedom to Member States to implement reporting systems, without providing guidance or a common framework, it still remains difficult for Member States to apply mandatory e-invoicing. Consequently, businesses operating cross-border are confronted with completely divergent systems which in addition cannot be used to exchange information between tax authorities of different Member States. Therefore, Member States cannot address cross border fraud effectively, and in particular MTIC fraud, which is a fraud specifically deriving from the way the VAT rules deal with intra-Community trade. That is why it is necessary to reform the VAT framework right now both to avoid the proliferation of divergent digital reporting systems, preventing unnecessary costs for businesses and to have a common digital transaction-based reporting of intra-Community transactions to tackle cross-border VAT fraud.

VAT treatment of the platform economy

Under the VAT rules a taxable person means any person (natural or legal) who, independently, carries out any economic activity[47]. Such a taxable person is normally required to register for VAT and charge VAT on its sales. Individuals, acting in their private capacity, i.e. not involved in an independent economic activity, are not therefore considered as taxable persons. In addition, the VAT Directive allows for various simplification measures, in particular the special scheme for

[47] According to Article 9 of the VAT Directive and its settled case-law the concept of "economic activity" has a very broad meaning. The concept of "independently" however means that employees are not treated as taxable persons.

small enterprises (see glossary) which was introduced in order to a) remove the need to tax administrations to ensure the compliance of a large number of small businesses, and b) reduce the administrative burdens on these businesses. In the past, these businesses were not considered to have any impact on market competition with VAT registered businesses.

The platform economy has, however, introduced new business models in which an indefinite number of private individuals and small businesses can provide their services via a platform. Here the economies of scale and network effect[48] means that these providers are now in direct competition with traditional VAT registered suppliers. For the accommodation sector, for example, over 50% of users of a particular accommodation platform specifically access the offer of the platform over a traditional hotel, and, in Europe, the cost of accommodation offered via the accommodation platform can be, on average, some 8% to 17% cheaper than a regional hotel's average daily rate[49]. The traditional hotel can be competing with a large number of short-term accommodation providers (for example, in Barcelona, one platform alone provides over 15,000 listings (rooms/apartments/houses etc. for rent), which represents around 50% of the total hotel rooms in the city)[50].

The information provided by the supporting study indicates that the number of underlying suppliers who are not registered for VAT, whilst varying depending on the type of platform, can be up to 70%[51]. This means that, for example, a hotel in Barcelona could be competing with over 10,000 accommodation listings which do not charge VAT on their services. During the public consultation, more than 70% of respondents having an opinion on the issue said they experience distortions of competition with other domestic firms offering the same services via platforms due to very uneven or uneven treatment of similar services and providers in their Member States[52]. This experience was reported most strongly by business federations. On another hand, the platforms themselves did not see distortions due to uneven treatment at all.

The transport and accommodation sectors have been explicitly identified by the supporting study[53] as sectors in which a) the VAT inequality is at its most apparent (in that the accommodation platform model is competing directly with the hotel sector direct distribution model, and the transportation platform model is competing directly with private taxi firms); and b) these are the two largest sectors of the platform economy[54], behind e-commerce, which has its own rules regarding the supply of goods.[55] The transport and accommodation sectors together are accounting for more than half of the total value of the platform economy and, by contrast, financial services

[48] The capacity to build networks through which any additional user will enhance the experience of all existing users; an increased numbers of people or participants improve the value of a good or service.
[49] https://ipropertymanagement.com/research/airbnb-statistics
[50] http://insideairbnb.com/barcelona and https://www.statista.com/statistics/743014/annual-hotel-room-numbers-in-barcelona-spain/
[51] Supporting study, Vol. II, p. 37.
[52] "*Do you experience distortions of competition with other domestic firms offering the same services via 'non-platform' means due to the uneven treatment of similar services/providers in your Member State?*" (Yes, it creates very uneven treatment (42%); Yes, it creates uneven treatment (29%); No, it does not (30%))
[53] Supporting study, Vol. II, p. 39.
[54] Having an ecosystem value of EUR 38.2 billion and EUR 43.2 billion per annum (Table 4)
[55] New rules regarding e-commerce came into force in July 2021 and which have been subject to evaluation (see Annex 6: e-commerce evaluation).

represent a far smaller sector whose supplies are mostly VAT exempt (See Table 4). Other sectors include a variety of areas which suffer less from distortions of competition (e.g. hairdressers, swimming instructors), thus the issue of VAT inequality is not that manifest.

In addressing the distortions of competition in the transport and accommodation sectors, attention should be paid not to impose new obligations on SMEs and natural persons. A system should be found to resolve the existing distortions by looking at the role platforms could play in the collection of VAT, while not imposing disproportionate burden on them.

Furthermore, there are various rules in the VAT Directive which have been applied differently by Member States[56]. For example, the treatment of the facilitation service charged by the platform – in some Member States this is regarded as an electronically supplied service, whilst in others it is regarded as an intermediary service. This is relevant because it can lead to different places of supply[57], which can subsequently lead to double or non-taxation. Therefore, clarification of these rules is necessary.

Platforms also face difficulties relating to the establishment of the taxable status of the provider of the service. This is because whether the provider is a taxable person or not influences how the platform accounts for the VAT on its facilitation service (for example, if the provider is established in a different Member State to the platform, the platform could use the One Stop Shop for a non-taxable person, or the reverse charge for a taxable person[58]). Often the platform does not have sufficient information to establish this tax status.

Finally, under Article 242a of the VAT Directive, platforms are required to keep certain information[59] relating to supplies made via the platform and to make it available on request to Member States. Platforms can sometimes find it difficult to obtain that information from the underlying supplier[60]. In addition, they find that they are supplying information which they have already supplied to the tax authorities (for example, under DAC 7 regulations relating to direct taxes). Therefore, it is necessary to look at the information obligations required by platforms to find synergies with other legislation where possible, and consider other means of facilitating record keeping obligations, such as standardising the format in which the records should be made available to Member States, and the frequency with which the records are made available. Such an approach was strongly suggested and supported by the stakeholders during consultations.

During the public consultation, a majority of 161 informed respondents (excluding "do not know" answers) considers ensuring a level-playing field between traditional and platform economy (equal

[56] Supporting study, Vol II, Table 25, p. 95 shows that 44% of respondents found the different application of the VAT rules by Member States to be a problem.
[57] The place of supply of an electronically supplied service to a non-taxable person is the place where the customer is established, whereas the place of supply of intermediary services to a non-taxable person is where the underlying transaction is supplied, which, in the case of services relating to immoveable property for example, would be where the property is located.
[58] See glossary for explanations of the One Stop Shop and Reverse Charge.
[59] For example, the type of supply, date of supply, taxable amount etc.
[60] As noted in the final report of the Group on the Future of VAT (GFV) / VAT Expert Group (VEG)sub-group on the VAT Treatment of Platforms, and discussed during the Fiscalis workshops.

treatment) as very important (107) and important (47) For a minority it is either not important (4) or not so important (2).

In conclusion, the main issue with the platform economy is the inadequacy of the current VAT legal framework to ensure a level playing field with traditional businesses, specifically in the transport and accommodation sectors. Supplies made by small underlying suppliers via a platform are not taxed and the facilitation services made by platforms are taxed differently in different Member States. This leads to difficulties for the platforms, suppliers, and Member States. The business models of the platform economy in particular expose the legislative weaknesses of the VAT Directive with some Member States applying challenging joint and several liability rules on platforms, for example, or treating the supply of short-term accommodation differently depending on arbitrary elements such as the supply of towels etc. Uniform rules are therefore not only required, but also demanded by traditional businesses which are suffering from distorted competition.

VAT registration requirements in the EU

Where businesses perform cross-border transactions which are taxed in other Member States, they face considerable compliance burdens and costs, as presented in the table below.

Table 1 – Minimum VAT-related costs[61] of cross-border trade for businesses (EUR)

Business type	Per MS
Minimum costs of VAT registration (one-off)	
Average business	1,200
SME	1,200
Minimum annual VAT compliance costs of doing cross-border trade - implying VAT registration (ongoing)[62]	
Average business	8,000
SME	2,400

Source: elaboration based on the targeted consultation and Deloitte "VAT Aspects of cross-border e-commerce report" (2015)

From this table, it is to be concluded that the minimum one-off cost of obtaining a VAT registration in another Member State is EUR 1,200. The minimum ongoing cost, on a yearly basis, for VAT compliance in another Member State is EUR 8,000 for an average business and EUR 2,400 for a SME. In fact, being registered in another Member State entails ongoing reporting and other obligations in that Member State (such as the obligation to complete and submit VAT returns or

[61] The VAT registration bears one off costs (at the time of registration) and ongoing costs (being registered entails ongoing reporting requirements in the Member State which need to be complied with, (such as the obligation to complete and file/submit VAT returns and pay VAT due, recovery of credits etc.).
[62] The costs of VAT registration are not only incurred as a one-off, at the time of registration, but also on an ongoing basis, as being registered (VAT presence) entails ongoing reporting requirements in the Member State which need to be complied with (such as the obligation to complete and file/submit VAT returns and pay VAT due, recovery of credits etc.).

listings, to pay the VAT due, or to request VAT refunds) which are included in the annual VAT compliance costs.

The VAT e-commerce package introduced a number of simplification schemes including the One Stop Shop (OSS) and the Import One Stop Shop (IOSS), which have alleviated the registration burden for non-established business carrying out transactions in other Member States. These optional schemes simplify compliance by avoiding the potential VAT registration obligations of the supplier/deemed supplier in each Member State of establishment of the customer. They cover cross-border supplies of services and intra-EU distance sales of goods (OSS) and the distance sales of imported goods to the EU from a third country/territory in consignments not exceeding EUR 150 (IOSS). As expected, minimising the need for taxable persons to hold multiple VAT registrations was considered as important/very important by stakeholders participating in the public consultation, only less than 2% (3 out 197 answers) seeing it as "not important".

The implementation of the OSS and IOSS has proven to be a great success as shown by the evaluation of the e-commerce package (see Annex 6). Almost EUR 8 billion in VAT in the first 6 months of application of the new rules was collected via the OSS and the IOSS. The removal of the EUR 22 VAT exemption on imported goods allowed for the collection of a significant amount (EUR 0.7 billion) of VAT on previously exempted transactions. At the same time, the costs of implementation represent only 0.01% of that EUR 8 billion. In addition, the common EU-wide threshold that replaced the previously disparate VAT rules reduced the risk of non-compliance while new record keeping obligations for traders, including for platforms, support tax audits carried out by tax administrations. The success of the VAT e-commerce package was also confirmed by Member States at the Council Working Party on Taxation in January 2022 and further endorsed by the March ECOFIN[63]. A large majority of respondents to the public consultation (75%) acknowledged the progress made by the OSS in minimising the need for taxable persons to hold multiple VAT registrations, with only 2% (4 out of 193 answers) seeing "no progress" and 23% not expressing their opinion.

While this success has been recognised, a number of operational improvements (see Annex 6) have nevertheless been identified as a result of the evaluation. These improvements will be addressed in this initiative.

There are some remaining B2C transactions which are not covered by these simplification schemes. These include certain types of supplies of goods that, even though they may have a cross-border aspect, do not fall within the definition of intra-EU distance sales of goods and are not covered by the OSS. This is also the case, for instance, in the distance sale of goods imported with an intrinsic value exceeding EUR 150, or the supply of goods subject to excise duties (i.e. alcohol, tobacco and energy), which are not under the current scope of the IOSS. Certain B2B transactions that are also triggering registration in another Member States are also assessed. The type and prevalence of these transactions are depicted in the table below.

[63] Council conclusions on the implementation of the VAT e-commerce package (FISC 68 ECOFIN 215, doc. 7104/22).

Table 2 – Transactions requiring non-established businesses to VAT register (1 July 2021)

			Type of transaction	Prevalence
B2C	GOODS	Domestic supply	• **Domestic B2C supplies of goods** made by suppliers not established in the Member State of taxation, including: supplies with installation and assembly; supplies of goods made on board means of transport; supplies of gas, electricity, heat or cooling energy; supplies of goods on a weekly market by a vendor; supplies of goods made by vendor when participating in an exhibition, trade fair or similar event.	Specific market segments
B2C	GOODS	Second-hand goods[64] (Margin scheme supplies)	• **Second-hand movable goods** sold by a supplier not established in the Member State of the customer, including: certain works of art, collectors' items and antiques.	Specific market segments
B2C	GOODS	Distance sales of imported goods by the supplier from a third country/ territory	• **B2C Distance sales of imported goods by the supplier from a third country/territory with an intrinsic value exceeding €150**, or products subject to **excise duties.**	Specific market segments
B2B	GOODS	Domestic supplies B2B where the reverse charge does not apply	• **Domestic B2B supplies where the reverse charge does not apply**, including: local supplies of goods after import; supplies of fuel; supplies of goods with installation or assembly; supplies of goods previously rented or leased in the Member State of taxation.	Specific market segments
B2B	GOODS	Transfer of own goods cross-border	• **Transfer of own goods cross-border:** Transfer of own stock to be stored and sold in a Member State closer to the customer, or the transfer made by an electronic interface on behalf of the owner where the goods are being sold using the electronic interface .	Widespread (representing significant parts of business turnover)
B2B	SERVICES	Domestic supplies of services where the reverse charge does not apply	• **B2B supplies of services under Articles 47-48, 53, 55-57 if Article 194 does not apply** (Member State and/or transaction specific), including: services connected with immovable property; passenger transport services; services in respect of admission to cultural, artistic, sporting, scientific, educational, entertainment or similar events, such as fairs and exhibitions, and of ancillary services related to the admission; restaurant and catering services; short-term hiring of means of transport.	Specific market segments

Source: own elaboration

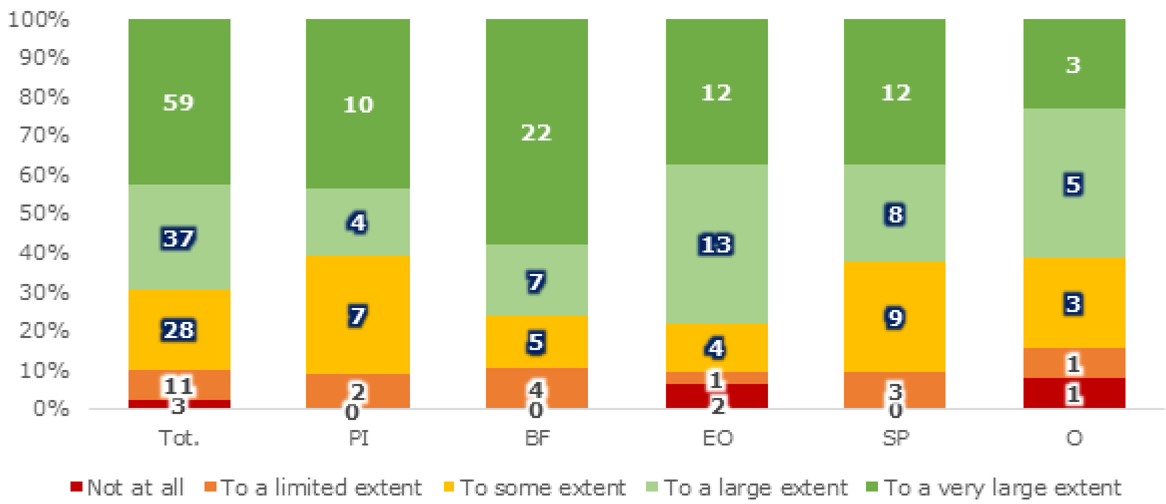
[64] In view of the alignment with the objective of a destination-based VAT system, meeting with the commitment of the recently adopted VAT rates legislation (Article 4 of Council Directive (EU) 2022/542 of 5 April 2022 amending Directives 2006/112/EC and (EU) 2020/285 as regards rates of value added tax, OJ L 107, 6.4.2022, p. 1-12).

With the IOSS being currently optional, its impact on the need for multiple VAT registrations is limited and the complexity of import process is not reduced to the optimum level possible. The risk of undervaluation of the economic value of goods declared for importation is mitigated where the IOSS is used because the VAT is paid upfront at the time of purchase. Potential undervaluation remains a significant risk if the IOSS remains optional as VAT is only collected at the time of import, not at the time of purchase.

At present, imports of goods in the EU below the threshold of EUR 150 are not subject to customs duties. However, there is no similar VAT exemption[65]. As a result, the declared value of B2C shipments is frequently inaccurate, often intentionally falling under EUR 150 in order to fraudulently benefit from the Customs duties exemption. These misdeclarations of value affect not only the assessment of customs duties but also the VAT to be collected on those goods[66].

Despite the introduction of the OSS and the IOSS, 124 respondents to the public consultation (90% of those providing an opinion on the matter) thought that the requirement to obtain and maintain multiple VAT registrations continues to be a problem, at least to some extent. Over two-thirds thought it is a problem to a large or even very large extent.

Figure 3 – Current situation: the need of multiple VAT registrations is still an issue



In general, regarding VAT registration, the problem resides in the scope of the existing EU One Stop Shop mechanism that was recently expanded but is still not covering specific transactions. Driven by the recognised success of the latest improvements, businesses and Member States have strongly advocated for an immediate expansion of the simplification measures to include the missing transactions. Moreover, in order to establish equal treatment, stakeholders suggested making the IOSS mandatory for all deemed suppliers.

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65 "Putting More Union in the European Customs", Report by the Wise Persons Group on the Reform of the EU Customs Union – Brussels March 2022

66 The conservative estimate of duties not collected on imports of a declared value below EUR 150 is close to EUR 1.5 billion. Roughly 1/5 of not collected duties corresponds to lost VAT

2.2. What are the problem drivers?

Some of the drivers generating problems are exogenous to the VAT framework (i.e. the evolving technology and business models, value chains and trading practices), whilst others are about the VAT framework itself (i.e. the complex and fragmented regulatory environment). Businesses operating in multiple Member States are especially impacted. The drivers in both categories combine exposing the discrepancy between the 30 year-old rules and the current digital reality to create the two-faceted problem regarding the sub-optimal VAT collection and control and administrative burden.

Table 3 – Overview of the drivers

	EXOGENOUS DRIVERS (outside of the VAT framework)		**INTRINSIC DRIVERS** (related to the VAT rules and their application)		
	Increasing scale of the platform economy and e-commerce	Multiplicity and complexity of the new business models driven by technological changes	Fragmented regulatory framework	Outdated reporting mechanism for intracommunity transactions	Scope of the application of the simplification schemes
a) VAT reporting	☒	☒	☒	☒	☐
b) VAT treatment of the platform economy	☒	☒	☒	☐	☒
c) VAT registration	☒	☒	☒	☐	☒

i. Increasing scale of the platform economy and e-commerce

This driver generally affects all three VAT areas. Over 1,500 digital platforms[67] have a significant presence in the EU27 (about 1,800 including the UK). Overall, in 2019 the revenue of the digital platforms in the EU27 market reached EUR 66.9 billion. The revenue of their providers[68] is estimated at about three times the platform revenue, at EUR 191.1 billion. The value of VAT revenue from the digital platform ecosystem[69] is estimated at about EUR 25.7 billion per year for the EU27, i.e. 2.6 percent of total VAT revenue[70].

[67] Digital platforms should clearly be distinguished from the other online business models that are not multi-sided and do not require one of the transaction sides to play the role of digital facilitation. The number of digital platforms includes both e-commerce (goods) and platform economy (services)

[68] Excluding the facilitation fees and excluding the advertising sector

[69] This figure includes both the VAT paid on the facilitation service, and on the underlying supply.

[70] Excluding advertising. The description on the VAT liability simulation model is available on Annex 4

Table 4 – Scale of platform economy operation, by sectors (EU27, EUR billion, 2019)

Sector	Revenue of digital platforms (EU27)	Revenue of platforms' providers (EU27)[71]	Ecosystem value (EU27)
Accommodation	6.3	36.9	43.2
Advertising*	32.8	n.a.	32.8
E-Commerce	16.6	93.8	110.4
Finance	0.6	6.7	7.3
Household and Professional Services	1.4	7.1	8.5
Real Estate	0.7	3.8	4.5
Transportation	7.2	31.0	38.2
Other	1.3	11.8	13.1
TOTAL	**66.9**	**191.1**	**258.0**

*Source: Targeted consultation. *Revenue of digital platforms only. The numbers may not add up perfectly due to rounding.*

Additionally, and importantly, the scale of the platform economy has increased rapidly over the last years. Considering the aggregate growth rate of the seven sectors[72] involved, platforms' revenue grew three times, or 32 percent per year between 2015 and 2019[73]. The increasing scale and prevalence of the platform economy and e-commerce naturally magnifies the consequences of any VAT problem but in particular those identified in the three areas under examination. More transactions under the platform economy and in e-commerce means an incremental increase in the problems linked to the VAT registration and the administration of the rules and puts also additional pressure on the outdated VAT reporting system.

ii. Multiplicity[74] and complexity of the new business models driven by technological changes

This driver generally affects all three VAT areas. The multi-sided nature (where there are three or more parties involved) and complexity of the business models have become a 'difficult fit' for the VAT rules which were developed when these business models were unknown. For example, the distinction between a consumer and a supplier is becoming blurred, as one party can be both whilst operating via a platform. Also, the explosion in e-commerce has led to exponential increases in

[71] Exclusive of the facilitation fee (Value of transaction underlying platforms' facilitation service).
[72] E-Commerce, Transport Services, Accommodation, Real Estate, Finance, Professional and Household Services, and Advertising
[73] 2020 data are severely affected by the COVID-19 pandemic, which led to accelerate the growth for e.g. the e-commerce and finance sector, while significantly depressing the accommodation sector (for which 2020 revenue were lower than in 2015
[74] The platform business models differ from each other in several important aspects for tax purposes. The varying elements include: (i) the number of transaction parties/sides, (ii) the roles of each side in value creation, (iii) which side bears responsibility and risk, (iv) the organisational and the regulatory autonomy of the transaction sides, (v) the employment relationships, (vi) the direction of information exchange, and (vii) the remuneration mechanism and roles in payment facilitation. These differences in business models are determinant for defining appropriate tax rules. Moreover, the difficulty in assigning proper tax rules is not only related to the multiplicity of criteria differentiating the models. In addition, companies often used mixed (or multiple) models, which hinders classification and application of proper tax rules.

cross-border trade and an increased complexity of business models of the marketplaces (for example goods being sold from fulfilment centres rather than directly from the underlying supplier) for which the VAT system is ill-suited. Again this intensifies the problems linked to the VAT registration, the administration of the rules and the VAT reporting system.

iii. Fragmented regulatory framework (divergent requirements)

The wide discretion afforded to Member States by the VAT Directive in imposing reporting obligations and the need to apply the existing VAT rules to new business models has led to a divergence of the rules applicable within the EU as well as to differing interpretations of the existing rules. This affects differently the VAT areas as follows:

a) VAT reporting

There are 12 Member States which have in place digital reporting requirements, while three more are considering or have taken the first steps for their introduction[75]. These reporting requirements differ over several dimensions, including:

- Frequency. The main distinction is between periodic and real-time reporting. This can be further differentiated according to the exact frequency (either jointly with the VAT return or monthly), and "how real-time" real-time requirements are (within four days in Spain, daily in Hungary and before the invoice is issued in Italy).
- Scope – Taxpayers. National rules can include a turnover threshold below which VAT-registered taxable persons are not subject to the reporting obligations, and can exclude certain sectors or specific VAT regimes from these obligations. Furthermore, requirements can apply to resident entities only or to all registered taxable persons.
- Scope – Transactions. In a number of countries, only transactions above a certain value threshold are to be reported in detail. Besides, the reporting systems can differ in whether they cover (i) purchase and/or sale transactions; (ii) domestic, intra-EU or extra-EU transactions; and (iii) B2B, B2G or B2C transactions.
- Data content and format. The various systems differ in terms of the type and amount of data extracted from taxpayers, the format of submission as well as the communication architecture.

This lack of harmonisation of digital reporting requirements across the EU results in legal uncertainty and additional administrative burdens and compliance costs for companies with fixed establishments or VAT registrations in different Member States.

b) VAT treatment of the platform economy

Member States have different views on the treatment of the facilitation service of a platform - whether to regard this as an electronically supplied service or an intermediary service which in turn leads to a different place of supply.

[75] IDEM 37.

c) VAT Registration

The VAT Directive provides the rules for determining in which Member State the VAT on a transaction is due, and the person liable to pay and report it. These rules are complex and depend on numerous factors, which differ according to the type of transaction, where suppliers and customers are based, and the Member States involved. The complexity increases when the taxable person carrying out a supply is not established in the Member State where the tax is due. Thus, the fragmentation in VAT registration area should actually read as the need to register in multiple Member States.

iv. Outdated system for the reporting of intracommunity transactions

VAT reporting

This driver specifically affects the area of VAT reporting. The current VAT rules for the taxation of cross-border trade between Member States date back to 1993, just after the creation of the Single Market and the abolition of "fiscal frontiers". At the time, they were meant to be transitional, but they are still in place. The rules do not take account of the last 30 years of technological developments, changes in business models or the globalisation of the economy. These rules divide each EU Business-to-Business cross-border supply of goods into two transactions - a) an exempt intra-Community supply in the Member State of departure and b) a taxable intra-Community acquisition in the Member State of arrival of the goods. As a result, taxable persons acquire goods cross-border without having to pay VAT[76].

The fact that goods can be acquired free of VAT creates a big incentive for fraud. Fraudsters acquire goods from other Member States, without paying VAT, and sell them on the domestic market charging VAT without remitting it to the treasury (basic fraud scheme) or pass them through a chain of transactions possibly involving several Member States (more sophisticated and typically referred to as MTIC fraud) where in the end no VAT is paid to the treasury. The result is that the acquirers of these goods can deduct the VAT charged while the fraudsters disappear without paying that VAT to the treasury.

In order to help detect and react to this fraud, a mechanism for reporting intra-Community trade flows (the recapitulative statements[77]) is in place. However, while business and also fraud models evolved and became more complex and technologically driven, the recapitulative statements have remained basically unchanged since the pre-digital age. They are outdated and not adapted to the

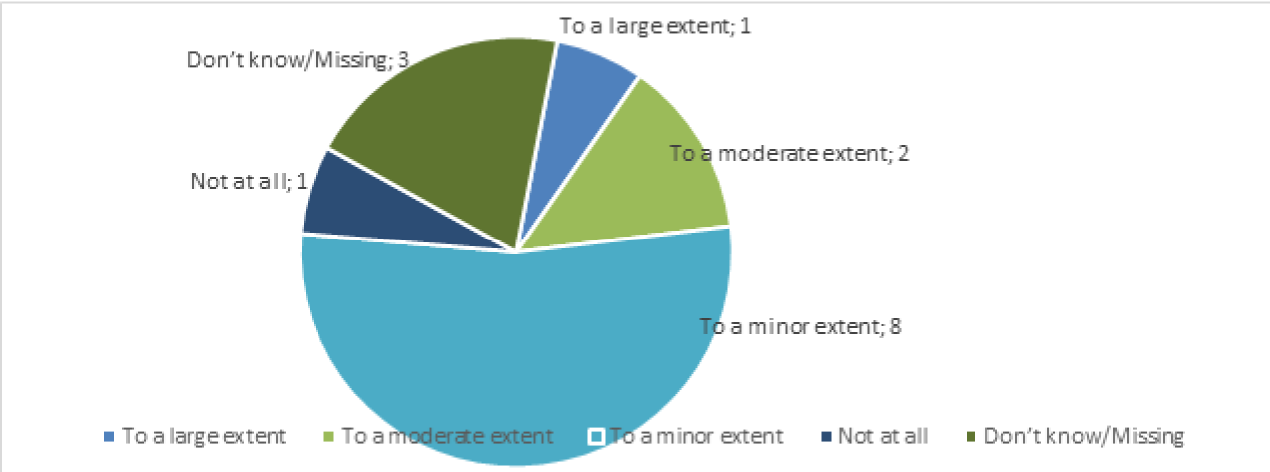
[76] Unless they do not have the right to fully deduct VAT.

[77] Chapter 6 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax – as amended (OJ L 347, 11.12.2006, p. 1).

current reality, with the relevant data reaching the tax administration between two to four months after the transaction date, thus often too late to prevent VAT loss and fraud[78].

Recapitulative statements provide aggregated information to national tax administrations about the supplies of goods and services made to their territory from other Member States. They allow tax administrations to follow the flow of goods and services in order to help fight intra-EU fraud. However, they are regarded as rather ineffective by the majority of Member States interviewed on this subject. During the interview carried out as part of the supporting study[79], out of 12 tax authorities that replied, eleven provided a negative assessment of this reporting mechanism to tackle intra-EU VAT fraud (see Figure 4).

Figure 4 – Effectiveness of recapitulative statements against MTIC fraud (Member States)



Source: elaboration based on the targeted consultation; views from tax authorities questioned whether the recapitulative statements are effective to tackle intra-EU Fraud

The reasons for such a widely held negative assessment are largely coherent across Member States, who unanimously criticize:

- The lack of data granularity, since data are not available at transaction level but aggregated;
- The inadequate timeframe of data exchange, further amplified by time reporting differences across Member States, as data can be filed monthly or quarterly and also because of the time it takes for local tax authorities to upload the data that will be later exchanged with other Member States;

[78] Every taxable person must submit recapitulative statements for the exempt intra-Community supplies of goods and services ("European Sales List"). Taxable persons who make intra-EU acquisitions of goods are also required to submit statements giving details of such acquisitions ("European Purchases List"). Member States may even impose other obligations which they deem necessary to ensure the correct collection of VAT and prevent evasion, such as annual listings reporting all purchases and sales with local VAT registered companies (Annual Sales & Purchases Lists). The recapitulative statements must be drawn up for each calendar month within a period not exceeding one month or for each calendar quarter within a time limit not exceeding one month from the end of the quarter. Therefore, in practice the information is actually available in up to four months after the transaction.

[79] Supporting study, Vol. I, p. 85-86

- The partial scope of the tool, which mandatorily covers only intra-Community supplies (data on acquisitions are not automatically exchanged between Member States). In this regard, reporting of intra-Community acquisitions is not required by the VAT Directive and less than half Member States have introduced this obligation; and
- The poor quality of the data reported.

The shortcomings of the current system to address intra-Community VAT fraud have also been stressed by the European Court of Auditors[80].

As a result, crosschecks of intra-Community trade data and VAT anti-fraud controls are not as comprehensive, effective and as real-time as they should be to tackle fraud linked to intra-Community transactions.

v. The scope of the application of the simplification schemes

This mainly affects the VAT areas as follows:

a) VAT treatment of platform economy
SMEs using the SME simplification scheme do not charge VAT whilst enjoying the economies of scale and network effects offered by platforms. As outlined in the study[81], this gives them a competitive advantage over traditional VAT registered businesses making similar or identical supplies. In the past this competitive advantage was minimal because of the limited outreach and resources of SMEs, but platforms have allowed SMEs access to global markets, therefore allowing them to directly compete with traditional businesses without charging VAT or facing the regulatory or compliance burden of being a VAT registered business.

b) VAT registration
Some transactions are not covered by OSS and IOSS schemes - The complex and fragmented regulatory environment[82] creates costs and hassle for businesses operating in multiple Member States. The newly introduced One Stop Shop (OSS) helps businesses by reducing the instances in which registration in another Member State is required. However, the implementation of the OSS[83] and IOSS[84] schemes has not totally addressed the problem. A number of cross-border transactions still trigger the need for registration in another Member State forcing the businesses to face costs and burden associated with the VAT obligations in different Member States. Table 2 is providing the typology of these transactions constituting the framework for assessing the magnitude of the problem.

[80] On the limits of the current system, cf. European Court of Auditors (2015), Special Report No 24/2015, "Tackling intra-Community VAT fraud: More action needed"
[81] Supporting study, Vol. II, p. 144
[82] Complying with the VAT can be complex due to different provisions such as registration, payment, reporting and invoice disclosure obligations etc.
[83] https://ec.europa.eu/taxation_customs/business/vat/vat-e-commerce/oss_en
[84] https://ec.europa.eu/taxation_customs/ioss_en

2.3.How likely is the problem to persist?

VAT Reporting

Member States will continue to adopt national Digital Reporting Requirements (DDR) over the next decade, worsening the fragmentation and the administrative burden. The main trend is represented by the Member States considering the introduction of mandatory e-invoicing. The problem of intra-EU fraud is not addressed at all, therefore it will persist.

VAT treatment of the platform economy

Member States are expected to introduce additional rules and guidelines concerning the status of the provider and the nature of supplies facilitated by platforms, but to do so in an uncoordinated fashion, as with reporting obligations. These additional rules and guidelines are expected to increase the administrative burdens and will not solve the level-playing field issue.

VAT Registration

Some key sectors, such as the fuel cards sector, and the supply of gas and electricity, construction works in another Member State etc. will continue to face the burden of multiple VAT registrations when supplying goods and/or services in other Member States.

3. WHY SHOULD THE EU ACT?

3.1. Legal basis

According to the principle of subsidiarity[85], action at EU level may only be taken if the envisaged aims cannot be achieved sufficiently by the Member States alone and can be better achieved by the EU. The VAT rules for cross-border EU trade involve more than one Member State by nature and VAT is a tax harmonised at EU level. The problems identified in Section 2 are embedded in the rules of the VAT Directive. Therefore, any initiative to change the VAT system as regards intra-EU trade requires amending the VAT Directive.

The Treaty on the Functioning of the European Union, Article 113, gives the EU the right to act and adopt provisions to harmonise legislation in the area of indirect taxation, including value added tax. In addition, since net VAT revenue collected by each Member State is used to determine the harmonised base, the loss of VAT impacts both Member States' revenue and the EU's VAT own resource amounts[86].

3.2. Subsidiarity: Necessity of EU action

The legislative proposal must be adopted at Union level, as it amends the existing common system of value added tax governed by the VAT Directive (Directive 2006/112/EC). Given the need to modify the VAT Directive, the objectives sought by the present initiative cannot be achieved by the Member States themselves. Therefore, it is necessary for the Commission, which has responsibility for ensuring the smooth functioning of the internal market and for promoting the general interest of the European Union, to propose action to improve the situation. Moreover, the VAT rules have the potential for distorting intra-EU trade if introduced in an uncoordinated way.

3.3. Subsidiarity: Added value of EU action

The Commission is responsible for ensuring the correct application of the harmonised VAT assessment base. Each Member State is responsible for the transposition of the VAT provisions into national legislation and their correct application within its territory. Member States implement common rules set out in the VAT Directive into their national legislation, thus the practical application and the administrative practices of each Member State vary. However, the intra-EU dimension of VAT fraud requires EU intervention regarding reporting obligations. In addition, for several Member States the size of the VAT gap (and its persistence over time) indicates that national instruments are not sufficient to fight cross-border and e-commerce fraud, as shown by the estimated levels of MTIC fraud, which can only be fought efficiently and effectively by coordinated action at EU level.

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[85] Article 5(3) of the Treaty on European Union (TEU)

[86] C-617/10, *Åkerberg Fransson*, EU:C:2013:105, paragraph 26: "*revenue from application of a uniform rate to the harmonised VAT assessment bases determined according to EU rules, there is thus a direct link between the collection of VAT revenue in compliance with the EU law applicable and the availability to the EU budget of the corresponding VAT resources, since any lacuna in the collection of the first potentially causes a reduction in the second*".

The harmonised VAT rules are needed to help businesses benefit from the potential of the internal market. In the targeted consultation, businesses doing cross-border trading repeatedly stated their preference to have VAT rules applied uniformly at EU level than to comply with different reporting or registration obligations at national level. This can only be ensured by EU action.

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4. OBJECTIVES: WHAT IS TO BE ACHIEVED?

4.1. General objectives

The general objectives of the VAT in the Digital Age initiative are related to the modernisation of the VAT system. The general objectives address each of the two main identified problems:

General objective		Problem
Better VAT collection and control	⇐	Sub-optimal VAT collection and control
Simplified, modern and legally certain VAT system	⇐	Excessive burdens and compliance costs

General objectives are directly linked to the treaty-based goal of establishing a functional internal market and reflect the Commission priorities and EU strategic agenda for 2019-2024[87]. In this respect, the VAT in the Digital Age initiative aims to render the VAT rules more proportionate, effective and efficient by updating the 30-year old VAT system to the current realities of the digital age.

4.2. Specific objectives

The two general policy objectives will be achieved by pursuing five specific objectives in VAT reporting, VAT treatment of platform economy and VAT registration:

1. Improve reporting requirements to unlock the opportunities provided by digitalisation

The VAT reporting specific objective intends to improve reporting requirements by optimising the use of digital technologies, notably by utilising digital reporting to fight VAT fraud, and in particular MTIC fraud.

This specific objective is linked with and supports an effective and fair VAT system (3rd specific objective), helping the fight against VAT fraud and reducing the taxpayers' administrative burden and compliance costs (4th specific objective) by allowing tax authorities the provision of additional services to taxpayers and the removal of other compliance obligations.

2. Promote convergence and interoperability of IT systems

Besides the complications the digital evolution brings, it also provides opportunities linked to IT systems, business automation and digitalisation. Businesses, Member States and the Commission

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[87] Article 3 of Treaty on European Union (TEU) and Commission priorities for 2019-24.

have up and running IT systems that must be enhanced and at the same time be made compatible with each other. Thus, this specific objective, common to both VAT registration and VAT reporting, aims to promote the convergence and interoperability of existing IT systems and support the necessary developments. It covers both adapting the Commission's IT environment (e.g. for exchanges of information between Member States on cross-borders transactions, for IOSS/OSS registration) and providing guidelines to Member States and businesses for preparing their IT systems in the short to medium term[88].

3. Create a level-playing field for businesses, regardless of the business model

The specific objective aims to provide a level-playing field for EU businesses by imposing similar VAT liabilities regardless of the traditional or digital business model, their location or their engagement in domestic or cross-border transactions.

4. Reduce burdens, regulatory fragmentation and associated costs

The specific objective is expected to contribute to the simplification and modernisation of the VAT rules by reducing regulatory fragmentation, and to increase legal certainty, by reducing the multiplicity of the existing national frameworks.

5. Minimise the need for multiple VAT registrations in the EU

Minimising the need for multiple VAT registrations will not only reduce the costs for businesses but also allow authorities to better focus their control activities.

[88] Even if the detailed technical specifications are not yet available, the general definition of the 'intervention model' and corresponding IT architecture type must take place at the moment of selecting the policy options, because each policy choice requires specific IT solutions, hence the need for appropriate guidelines. Moreover, some of the VAT registration options are IT-intensive, notably those related to customs.

5. WHAT ARE THE AVAILABLE POLICY OPTIONS?

5.1. What is the baseline from which options are assessed?

VAT Reporting

Based on the supporting study, the available information regarding the existing and planned introductions of DRRs[89] can be summarised as following:

- as of September 2021, DRRs had been introduced in 12 Member States (Bulgaria, Croatia, Czechia, Estonia, Hungary, Italy, Latvia, Lithuania, Poland, Portugal, Slovak Republic and Spain);
- between 2021 and 2023, Greece and France will also introduce DRRs;
- public acts were adopted or official announcements were made in Romania towards the introduction of SAF-T and in Bulgaria, Croatia, Hungary, Poland, Spain and the Slovak Republic towards the introduction of mandatory e-invoicing;
- a study has been launched in Finland on the possible adoption of DRRs, but no public act has been adopted by the government;
- given the amount of time necessary to deploy the national systems after the decision to introduce them, countries that have not taken steps in that direction so far are unlikely to be able to adopt their own DRRs within the next five years.

If the above information provides a sufficient degree of certainty for the short-term, i.e. the next five years, in terms of the countries which are likely to adopt or update domestic DRRs, as well as of those which are not going to do so, reasoned probabilistic incremental scenarios need to be built for the medium term. In the dynamic baseline scenario underpinning this Impact Assessment, Member States will continue to adopt national digital reporting requirements over the next decade.

Table 5 – Medium-term adoption scenarios[90]

Scenario	Description	New adopters	Likelihood
No adoption	The adoption of national DRRs has reached its peak and the remaining countries do not adopt any national reporting mechanism, except for Finland where preparatory work has already started. Czechia opts for e-invoicing, in line with its	Finland	10%

[89] Supporting study, Vol I, p. 210 -211; the Study supporting the Impact Assessment was mainly carried on in 2021 and the above information reflects the reality at that moment. Meanwhile, the situation in the Member States evolved and such dynamic is described in the problem sections. Nevertheless, the calculations are still based on the initial assumptions made in the supporting study.

[90] Supporting Study, Vol. I, Annex H, Table H1, p. 211. For full scenarios and assumptions about the future adoption of DRRs see Annex H – of the supporting study, vol. I, p. 210 to 216.

	neighbouring countries.		
Central-Eastern	Slovenia, the only Central-Eastern Member State without a DRR, adopts one.	Finland, Slovenia	20%
Evolution of existing obligations	Belgium, Austria, and Luxembourg, which already have annual listing or SAF-T on demand systems, adopt a DRR.	Austria, Belgium, Finland, Luxembourg, Slovenia	40%
Southern	Malta and Cyprus, the only Southern Member States without a DRR, adopt one.	Austria, Belgium, Cyprus, Finland, Luxembourg, Malta, Slovenia	20%
All	National DRRs are adopted in all Member States	Austria, Belgium, Cyprus, Denmark, Finland, Germany, Ireland, Luxembourg, Malta, the Netherlands, Slovenia, Sweden	10%

Based on the available information and the above scenarios, the dynamic baseline regarding the adoption of DRRs is presented in the table below.

Table 6 – Dynamic baseline: adoption of Digital Reporting Requirements (2023 – 2028)[91]

Year	Time for the analysis	Number of Member States with DRR	Type of DRR	Adopters
2023	T_0	14 (Domestic)	VAT listing	BG, CZ, EE, HR, LV, SK
			SAF-T	LT, PL, PT
			Real-time	ES, EL, HU
			E-invoicing	IT, FR
2025	T_2	15	VAT listing	CZ, EE, LV
			SAF-T	LT, PT, RO
			Real-time	EL
			E-invoicing	BG, ES, HR, HU, IT, FR, PL, SK
2028	T_5	20.1*	VAT listing	BE, CY, DE, DK, EE, FI, IE, LV, MT, NL, SE, SI
			SAF-T	AT, LT, LU, PT, RO
			Real-time	EL
			E-invoicing	BG, CZ, ES, HR, HU, IT, FR, PL, SK

* weighted average across scenarios.

Tax control efficiency and effectiveness is also expected to increase with the introduction of various DRRs, and whilst this will help fight fraud at national level, it will not solve the problem of intra-EU fraud. Furthermore, since no harmonisation measure is introduced, fragmentation costs would grow as more numerous and divergent DRRs are introduced. Confidentiality risks will increase as a result of more transactional data being exchanged. The current trend of Member States considering the introduction of mandatory e-invoicing would further spur business process automation.

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[91] Supporting Study, Vol. I, Annex H, Table H1, p. 212.

VAT revenue and burdens	Environment	Tax control	Business automation	Data confidentiality
More MS adopt national DRRs. This will result in overall positive net impacts, due to the higher base for VAT revenues	No impact	Tax control efficiency and effectiveness is expected to increase with the diffusion of DRRs.	The current trend of MS considering the introduction of e-invoicing would spur further business automation	The diffusion of DRRs would mean that more data are exchanged; this increases confidentiality risks

The sections assessing the current situation regarding Member States and taxpayers (domestic and multinational companies) in the supporting study[92] are based on both information from the targeted consultation of public authorities and data collected during targeted consultation activities with economic operators, VAT practitioners and service providers, as well as information from secondary sources, VAT revenue statistics, and studies at national levels. As mentioned in the problem section, the quantification of the DRRs' outcomes on tax control activities and fraud detection is based on the comparison of data before and after the introduction of these requirements.

Since the VAT Gap represents the difference between the theoretical VAT liability and the VAT revenues accrued, more revenues are a clear sign of improved compliance where the liability does not change. The assessment of changes to VAT revenues has been done by means of an econometric analysis based on panel-data (See Annex 4: Analytical methods), to determine whether and to what extent the existing DRRs have resulted in increased revenues, thus a decrease in VAT non-compliance in the adopting Member States.

Both costs and benefits are expected to grow over the 2023-2032 period; however, benefits will remain higher than costs (EUR 371 billion vs. EUR 121 billion) and will grow faster, resulting EUR 250.7 billion in positive net impacts:

	Costs			Benefits					
	Administrative burden for businesses	Implementation cost tax authorities	Fragmentation costs	Environmental benefits	Savings pre-filled VAT returns	Removal of recapitulative statements benefits	E-invoicing benefits	VAT collection/ C-efficiency	Max. VAT Gap reduction
Dynamic baseline (cost and benefits)	EUR 79.1 billion	EUR 1.7 billion	EUR 40.4 billion	EUR 0.03 billion	EUR 30.7 billion	0	EUR 5.6 billion	EUR 335.6 billion	-3 p.p.[93]
EUR 250.7 billion net benefits	EUR 121.2 billion total costs			EUR 371.9 billion total benefits					

<u>The VAT collection is measured using the C-efficiency model as the base model.</u> The impacts of DRRs are estimated on two dependent variables: the **VAT Gap** and **C-efficiency**.[94] **C-efficiency** is

[92] Supporting Study, Vol. I, p. 31 to 70.
[93] Corresponding to a VAT Gap reduction from 10.5% to 7.5% over a 10-year period (2023-2032). Calculations were made by updating the VAT Gap figure to exclude the UK. The additional revenue obtained under C-efficiency model was used as reference and the 2021 VAT Gap Study (VAT revenue) figures were amended accordingly.
[94] Supporting Study, Vol I, p. 37 Box 5.

the ratio of the actual VAT revenue to the theoretical revenue derived from the product of the VAT standard rate and the aggregate final consumption. Thus, it measures the departure of a country's actual VAT system from a perfectly enforced tax levied at a single rate on all consumption. This ratio takes a value lower than one for various reasons: the application of VAT reduced rates and exemptions, as well as less-than-perfect compliance. In other words, the C-efficiency is an intensive measure, i.e. expressed in relation to the tax base, of both the level of VAT compliance as well as VAT policy choices, such as the adoption of differentiated rates and exemptions. The **VAT Gap** is defined as the difference between the expected VAT revenue (i.e. the VAT Total Tax Liability, VTTL) and the amount of VAT actually collected over the same period. It includes aspects that are directly influenced by the introduction of reporting obligations, such as VAT fraud and evasion, as well as other elements which are not impacted (e.g. insolvencies, bankruptcies, legal tax optimisation). The VAT Gap directly links with the level of VAT compliance in a country.

Since the VAT Gap model relies on annual data, while the C-efficiency model relies on quarterly data, thus providing larger number of observations and degrees of freedom, the latter was retained as the base model and is being used to fundament this impact assessment. Nevertheless, for reasons of transparency, both the base model based on C-efficiency and the alternative model based on VAT Gap data are presented in the Annex 4: Analytical methods.

In terms of other ongoing initiatives reflected in the baseline, the EU Directive on electronic invoicing in public procurement (B2G)[95] currently in place has the goal of facilitating the use of a common European Standard on electronic invoicing across Member States to promote interoperability and convergence at EU level (See Annex 5: other initiatives). In the baseline scenario, the IT platform used to handle B2G transactions is often leveraged by the tax authorities for handling and reporting B2B transactions.[96]

In addition, the work on the proposal for a definitive regime[97] that is still to be adopted was used as a starting point to identify the problems of cross-border VAT fraud. It already reflected the magnitude of the fraud derived from the way intra-Community transactions were taxed, and how the existing tools, including the recapitulative statements, were not sufficient to tackle it. The definitive regime was seen as a solution to address the risk of VAT fraud (MTIC fraud) that is linked to the current VAT rules build common ground for possible digital solutions such as the DRRs.

VAT treatment of the Platform economy

Under the dynamic baseline scenario, the growth of the platform economy will increase VAT revenue in both absolute and relative terms. However, Member States are expected to introduce additional rules and guidelines concerning the status of the provider and the nature of supplies facilitated by platforms, but will do so in an uncoordinated fashion, as with reporting obligations. These additional rules and guidelines are expected to increase the administrative burdens for

[95] Directive 2014/55/EU of the European Parliament and of the Council of 16 April 2014 on electronic invoicing in public procurement.
[96] Supporting Study, Vol I, p. 13.
[97] SWD (2017) 325 final.

businesses by EUR 1.9 billion[98]. The distortion of competition will not be solved and will evolve in line with the development of the platform economy.

VAT revenue	Legal certainty and administrative burdens	Competition / Internal Market
EUR 410 billion	EUR 1.9 billion	No change to the tax treatment means no effect on market conditions (current distortion of competition persists)

The scale of the platform economy was estimated by using financial data from Crunchbase and Dun & Bradstreet databases, web application download statistics from SEMrush, questionnaires for platform operators and tax administrations, previous reports, and Eurostat's sectoral statistics.[99] A VAT liability simulation model with two blocks (for platforms' facilitation services and for the underlying services) was used in the sectoral analysis. The model is presented in Annex 4: Analytical methods and in the supporting study.[100]

The share of the VAT revenue from the platform economy is expected to increase between 0.19 and 0.35 percentage points per year reaching 3.7 percent in 2032. As the pace of growth of the platform economy will decline in the medium-term, the VAT revenue as a share of overall revenue will start stabilising in ca. 10 years' time. In nominal terms, VAT revenue in the platform economy[101] will grow to about EUR 57 billion in 2032. In addition to revenue growth resulting from the increase in tax base, the availability of information on transactions and providers in the platform economy resulting from reporting and record-keeping obligations is expected to increase the effectiveness of control activities and, as a result, VAT compliance. Though it is not possible to assess the magnitude of this enhancement[102], the improvements in compliance are expected to have a lower contribution to the VAT increase than the increase in tax base.

In an increasingly digitalised world in which online platforms play a fundamental role, the P2B Regulation[103] aims to protect, in this specific case, the business users of such services (See Annex

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[98] Expected burdens for digital platforms for complying with reporting and record-keeping obligation amount to ca. EUR 1.35 billion (2023-2032). The burdens related to recognising the taxable status of providers sum up to ca. EUR 0.52 billion.
[99] For more information on data sources and the exact steps taken for estimating the scale of the platform economy see the Supporting Study, vol. II, Annexes A and B, p. 161 to 169.
[100] Supporting Study, vol. II, Annex C, p. 170-171.
[101] Projections of VAT revenue growth in the platform economy (excluding advertising, real estate and e-commerce). For the sources and assumptions of the potential development of the platform economy, see supporting study, Vol. II, Annex D, p. 172-173.
[102] Very few data could be collected on the scale of VAT non-compliance in the platform economy, due to both the recent evolution of this phenomenon and the typical time lag in audit activities. Detailed audit information on the platform economy could be provided by two Member States during targeted consultation. The value of irregularities assessed for digital platforms and providers in Country A stood for ca. 0.2 percent and in Country B – for ca. 2 percent of the estimated VAT liability; the available data points are thus too few to assess quantitatively the level of non-compliance.
[103] Regulation (EU) 2019/1150 on promoting fairness and transparency for business users of online intermediation services.

5: other initiatives). It contains transparency rules and protection for business users' accounts. The 'DAC7'[104] extends the automatic exchange of information in the field of taxation. It creates an obligation for platforms to report annually the income earned by sellers and for the Member State where reporting takes place, to exchange this information automatically, thus being fully coherent - but complementary as an ex-post control tool - with the current initiative.

In addition, the Digital Services Act (DSA)[105] enhances the responsibility and transparency obligations for providers of online intermediary services, including online platforms. For instance, online platforms allowing the conclusion of contracts between traders and consumers will have to gather information on the identity of traders. The Digital Markets Act (DMA)[106] will ensure fair markets in the digital sectors across the Union by addressing the unfair practices of certain undertakings. The DSA and the DMA covers services such as online intermediary services, including online marketplaces, online search engines, social networking, video sharing, operating systems, and cloud services, thus having an impact on the VAT in the Digital Age initiative, especially in the accommodation and transport sectors.

The proposed Platform Workers Directive[107] aims to ensure the legal employment status for the workers. This proposal may have an impact on the VAT in the Digital Age initiative, in that, if adopted, a number of platform workers may become employees, and therefore taken out of the scope of the measure concerning the VAT rules for platforms (because employees are not required to charge VAT on their services, instead this responsibility would fall on the platforms).

VAT Registration

Some key sectors, such as the fuel cards sector, and the supply of gas and electricity, construction works in another Member State etc. will continue to face the burden of multiple VAT registrations when supplying goods and/or services in other Member States.

Some transactions requiring non-established businesses to VAT register (see Table 2), such as the transfer of own goods cross-border[108] are mostly relevant within the context of distance sales made in the e-commerce sector. An estimate of 20,000 'average businesses' and 280,000 SMEs are experiencing registration costs (see Table 1) associated with VAT registration in the EU in a Member State other than that of establishment[109]. At the EU level, this translates in up to EUR 0.36

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[104] Council Directive (EU) 2021/514 of 22 March 2021 amending Directive 2011/16/EU on administrative cooperation in the field of taxation.
[105] Digital Services Act Proposal.
[106] Digital Markets Act Proposal.
[107] Proposal for a Directive on improving the working conditions in platform work - COM(2021) 762 final.
[108] In practice, the transfer of own goods cross-border arises in two situations: (i) companies move their own stocks to another Member State (e.g. for storage in a warehouse), which they may then use or sell to local customers or (ii) the goods are moved on behalf of the owner by an intermediary (typically an e-commerce interface) for the purpose of storage and onward sale.
[109] Supporting Study, Vol III, p. 61-62. Estimates are based on 2015 data obtained from the report on VAT Aspects of cross-border e-commerce, updated to remove the UK, to exclude services from calculations and account for the observed growth of e-commerce over the period 2015-2020. For logistical reasons it was not possible to include Northern Ireland in the analysis, even though it is still de facto part of the Customs Union and the VAT territory.

billion (one-off) and EUR 0.83 billion yearly VAT compliance costs of doing cross-border trade implying VAT registration.

Administrative burdens	VAT collection (revenue) and fraud	Level playing field
Burdens related to VAT registration in another Member State: EUR 0.36 billion (one-off) and EUR 0.83 billion (recurring annual costs)	No sizable impact	No change

Distance sales of goods cross-border were estimated to amount to about EUR 72 billion across the EU-27 in 2020 (EUR 43 billion within the EU and EUR 29 billion from outside the EU – distance sales of imported goods).[110] Moreover, in terms of the number of parcels, although it is difficult to estimate their volumes precisely, the order of magnitude is likely to be in the billions of units transferred cross-border across the EU every year. In addition to the significance of the scale of these transactions, the continued growth of e-commerce means they will become more so, exacerbating the problems if the status quo is left to continue.

The existing burdens (and additional costs) in these specific sectors will persist if the status quo remains in place.

5.2. Description of the policy options

An overview of the policy[111] sub-options in the three areas can be found in the table below.

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[110] Supporting Study, Vol. III, p. 66.

[111] Supporting study includes a more detailed description of the policy options for VAT reporting, VAT treatment of Platform economy and VAT registration (Vol. I p. 89-95; vol II p. 99-117; vol III, p.46-54)

Table 7 – Description of the policy sub-options by VAT area

Sub-option	VAT reporting area
Sub-option 1 (Baseline)	▪ No measure to harmonise the DRRs is introduced at EU level. ▪ The introduction of mandatory e-invoicing remains subject to a derogation. ▪ Recapitulative statements are not modified.
Sub-option 2 (Recommendation & Removal)	▪ The introduction of DRRs remains optional for Member States. ▪ The core elements of the EU design are described in a non-binding Recommendation and their introduction is encouraged for those Member States with a significant VAT Gap. ▪ The derogation currently needed to introduce mandatory B2B e-invoicing is removed. ▪ Recapitulative statements are not modified.
Sub-option 3 (Keep data with the taxpayers)	▪ Taxpayers will be required to record transactional data according to a pre-determined format. The tax authority could access such records upon request. ▪ Member States remain free to maintain (or introduce) national DRRs. ▪ For the Member States which introduce a DRR, compliance with the reporting mechanism would also ensure compliance with the new obligation (hence, no duplication).
Sub-option 4a (Partial harmonisation)[112]	▪ An EU DRR is introduced for intra-EU transactions and the recapitulative statements are abolished. ▪ The derogation currently needed to introduce mandatory B2B e-invoicing is removed. ▪ DRRs for domestic transactions remain optional for Member States. Member States wishing to introduce such mechanisms shall conform to the system used for intra-EU transactions. ▪ Where DRRs for domestic transactions are already in place, ensure interoperability[113] with EU system already in the short-term; national DRRs to converge to the EU DRR system in the medium-term (i.e. five to ten years).

[112] Under both options 4a and 4b, Member States shall implement an EU DRR for intra-EU transactions. The difference is that the implementation of a DRR system for domestic transactions is voluntary in option 4a while it is mandatory under option 4b. More details in the **Box 3**.

Sub-option 4b (Full harmonisation)	▪ An EU DRR is introduced for intra-EU and domestic transactions alike. ▪ The recapitulative statements are abolished. ▪ The derogation currently needed to introduce mandatory B2B e-invoicing is removed. ▪ For Member States where DRRs for domestic transactions are already in place, the interoperability clause applies in the short-term; then, national DRRs are required to converge to the EU DRR system in the medium-term (i.e. in five to ten years).
VAT treatment of platform economy	
Sub-option A (Baseline)	▪ Under this option, the Commission would produce no legislative initiatives in this area, with the possible result of increase fragmentation as Member States adopt unilateral legislative measures to deal with the platform economy. ▪ In order to reduce this risk of fragmentation, the Commission could publish guidelines or recommendations.
Sub-option B1 (Clarification of the nature of the service facilitated by the platform)	▪ Currently Member States treat the facilitation service made by the platform as either an electronically supplied service or an intermediary service, with the corresponding impact on the place of supply. ▪ A legislative amendment clarifying the nature of the services provided by the platform (intermediary or electronically-supplied services), and hence their place of supply will be introduced.
Sub-option B2 (Clarification of the tax status of the provider)	▪ One of the major difficulties for platforms is establishing the status of the supplier, that is whether they are a taxable person or not. This is important for platforms, as it allows them to know whether to apply the reverse charge or not on their facilitation services. ▪ A rebuttable presumption whereby the platform could regard anyone who does not provide a VAT number as not being a taxable person is outlined[114].

[113] For e-invoicing systems, this consists in making sure that the taxpayers can either use the domestic format and transmission protocol, or an EU-wide format and protocol. For other DRRs, the interoperability requires that tax authorities can exchange a pre-agreed dataset in a pre-agreed format. It is theoretically possible to have an EU DRR for intra-EU transactions without requiring convergence. The EU system would co-exist with different domestic systems, with no harmonisation of the current legal framework as a result.

[114] In short, if the supplier does not provide a VAT number they are presumed to be a non-taxable person.

Sub-option B3 (Streamlining of record keeping obligations)	▪ Amending the Administrative Cooperation Regulation[115], which would aim to harmonise the technical means by which platforms supply information required by Member States, and the frequency of requests.
Sub-option C (The narrow deemed supplier)	▪ Where the underlying supplier does not charge VAT[116], the platform will be deemed as the supplier (the functioning of the deemed supplier model is explained in the Box 2 below). ▪ The platform will charge VAT on the supply. ▪ Option C applies to certain[117] accommodation and transport services (ride on demand and short term residential accommodation), which were identified by the study as having the largest negative impact on VAT equality and neutrality.
Sub-option D (The sectoral deemed supplier)	▪ As Option C, but applying to all accommodation and transport services[118].
Sub-option E (The full/inclusive deemed supplier)	▪ As Option C, but applying to all services supplied via platforms.
VAT registration area – OSS (intra EU)	
Sub-option 1 (Baseline)	Leave in place the VAT system as of 1 July 2021, with only minor refinements (e.g. additional guidance, quick fixes) to improve the implementation and use of the OSS.
Sub-option 2 (Minimal OSS extension)	▪ Extension of the OSS so that it covers all B2C supplies of goods by non-established suppliers. ▪ Additional transactions covered (compared with status quo): o domestic supplies of B2C goods
Sub-option 3 (Moderate OSS extension)	▪ Includes sub-option 2. ▪ Remove the obligation to register in case of transfer of (own) goods. ▪ Additional transactions covered (compared with status quo): o domestic supplies of B2C goods, transfers of (own) goods cross-border[119]

[115] Regulation (EU) No 904/2010.
[116] Because they are, for example, using the special scheme for small enterprises.
[117] Under sub-option C, the deemed supplier role would cover approx. 25 percent of accommodation services and nearly 95 percent of transportation.
[118] These sectors represent a large percentage of the platform economy ecosystem (around 30% between them) but have relatively few platforms operating in the EU (around 300).

Sub-option 4 (Reverse charge)	▪ Introduce a mandatory[120] reverse charge for B2B supplies by non-established persons. ▪ Can accompany any other sub-options[121].
VAT registration – IOSS (importation)	
Sub-option 1 (Baseline)	▪ Leave in place the VAT system as of 1 July 2021, no changes regarding the IOSS.
Sub-option 2[122] (removal of the current threshold)	▪ Removal of the EUR 150 threshold for use of the IOSS and / or extension to excise goods. ▪ Additional transactions covered: o B2C distance sales of goods imported by the supplier from a third country/territory with an intrinsic value exceeding EUR 150 and / or excise goods
Sub-option 3a (IOSS mandatory for deemed suppliers)	▪ Removal of the optional character of the IOSS for deemed suppliers.
Sub-option 3b (IOSS mandatory above a threshold)	▪ Removal of the optional character of the IOSS for taxable persons distance selling into the EU over a certain threshold.
Sub-option 3c (IOSS mandatory - no threshold)	▪ Removal of the optional character of the IOSS for all taxable persons making eligible distance sales into the EU.

[119] A transfer to a warehouse before sending it to the consumer.

[120] The concept of "mandatory" should be applied in relation to Member States that should obligatory provide the possibility to non-established suppliers to use the reverse charge mechanism.

[121] The option of extending the OSS to B2B transactions, without or with deduction mechanism, has been analysed in the supporting study (Vol. 3, section 5.3.3) and had to be disregarded taking into account the reluctance of the businesses to register for the OSS without any deduction mechanism and the difficulties for the Member States to allow the deduction via the OSS as the deduction rules vary amongst Member States. The reverse charge is therefore the retained sub-option for B2B transactions as it allows the immediate compensation of the VAT due (concomitant declaration of the VAT due and its deduction in the VAT return).

[122] The numbering of sub-options was maintained to preserve the consistency with the Vol. III of the supporting study. However, Sub-option 2 should rank above Sub-options 3a, 3b and 3c in terms of the intensity of the intervention.

Box 1

Types of DRR (also see the Annex 4: Analytical methods - Mapping of digital reporting requirements)

Two types of DRR can be distinguished based on the **time** at which information is to be submitted:

- **Periodic Transaction Controls (PTCs)**, in which transactional data are reported to tax authorities at regular intervals.

- **Continuous Transaction Controls (CTCs)**, in which transactional data are submitted electronically to tax authorities just before, during or shortly after the actual exchange of such data between the parties.

Among **PTCs**, the most common models are **VAT listing** and **SAF-T** requirements. The former requires the periodic transmission of transactional data to be compiled and transmitted according to a nationally defined format, while the latter relies on the national specification of an OECD standard, i.e. the Standard Audit File for Tax.

Among **CTCs**, the two possibilities are **real-time** and **e-invoicing** systems. Under a real-time system, the taxpayer should submit certain data shortly after carrying out a transaction but does not need to mandatorily use and share e-invoices with the tax administration. Under an e-invoicing system, the taxable person is mandated to use for his transactions a structured e-invoice according to a pre-determined and machine-readable format, allowing them to automatically share the whole invoice or a subset of the data with the tax administration.

What type of DRR is optimal for VAT reporting? Interoperability, complexity, costs and benefits

From a taxation point of view, interoperability would be ensured by accepting invoices issued according to the European e-invoicing standard that is already in place, and the best solution is to combine flexibility with standardisation. Businesses could have the freedom to use the electronic invoice system they prefer, while the standardisation will refer to the data file to be submitted to the tax administration. That transmission of the data will be done directly by the taxpayer or by a service provider on its behalf. Given that the data in the invoice will be machine-readable, this system will avoid interference with the way invoices are exchanged between businesses while facilitating the reporting through the automation of the process, avoiding mistakes and manipulation of the data. This approach strongly points out the e-invoicing to be the most suitable option for digital reporting. A standardised reporting based on the e-invoice, without a central clearance that is perceived by most MSs and business representatives as unnecessary and intrusive, is the solution preferred by vast majority of the Group on the Future of VAT and the VAT Expert Group. In addition, after conducting a feasibility study in consultation with the Member States, a Central System with data fed by Member States also appears to be the most future-proved solution. [123] The main features of such system are:

- the freedom for the taxpayers to adopt the e-invoicing solution that they prefer
- reporting of a subset of the data and not of the whole invoice,
- harmonised subset of data to be reported for intra-Community transactions,
- reporting in real-time and on a transaction-by-transaction basis,
- reporting by the taxpayer or by a third party on his behalf,
- the possibility for the taxpayer to always use the European standard, while Member States can put at the disposal of the taxpayer additional possibilities for reporting.

However, no final decision has been taken yet and technical specifications for the exchange of data between tax administrations will be further analysed and developed.
The administrative burdens for businesses and implementation costs for tax administrations closely reflect the complexity of the DRRs: costs are higher for real-time requirements, and lower for VAT listing, with SAF-T systems in between.[124] Since the quantitative analysis did not provide solid findings on the impact of the choice of the type of

[123] The IT services of the European Commission conducted a feasibility study in consultation with the Member States to determine the best option to implement such exchange. More details in the impact analysis section.
[124] An assessment of the costs to comply with DRRs is presented in the supporting study, Vol I, p. 41 to 70.

DRR, a qualitative analysis (See Table 31)[125] was performed to indicate e-invoice as a possible choice for an EU DRR. Moreover, since real-time reporting requirements and e-invoicing are the most costly and complex types of digital reporting requirements, the e-invoicing was further considered in this impact assessment, especially to fundament the cost-effectiveness analysis. In addition, during the public and targeted consultation, businesses expressed a clear preference in favour of an e-invoicing solution because it can easily be used for their internal automation and not limited to tax-related reporting, as it is the case with VAT listings or SAF-T. Moreover, e-invoicing appears to be the most future-proof digital reporting requirement, and Member States have also expressed a preference for e-invoicing during the targeted consultation. This further supports the conservative approach that was taken to consider the costs derived from the most complex option, e-invoicing when analysing the impacts of different options in Sections 6 and 7.

Box 2

The deemed supplier model

The "deemed supplier" model is a simplification measure intended to facilitate the collection of VAT in specific situations. This is typically the case when the intermediary in a transaction (in the envisaged initiative, a platform) is for some reasons better placed than the "real" supplier (i.e. the underlying supplier) to ensure the collection of the VAT due on this transaction. The reasons are either because it would be too burdensome for this underlying supplier to collect the VAT (e.g. when the underlying supplier is a natural person or a taxable person using special schemes for small enterprises), or because it is more secure to collect it from this intermediary (when the underlying supplier is not established /VAT registered in the EU).

In a practical sense, when a supplier (the underlying supplier) uses a platform and does not provide the platform with a VAT number, the platform will adopt the role of the deemed supplier, and add the VAT to the price of the supply. If the customer pays the amount directly to the platform, the platform will pass the VAT amount due on the transaction of the supplier onto the tax authority (via their existing VAT return), and the rest (minus their facilitation fee) will be passed to the supplier. Where the customer makes the payment directly to the supplier, that supplier will be required to pass the VAT to the platform.

Where the supplier does provide a VAT number to the platform, the deemed supplier regime will, ordinarily not apply, and the supplier will charge and account for the VAT via their VAT returns. However, there are certain situations where the underlying supplier will have a VAT number, but will not charge the VAT (for example, some Member States allocate VAT numbers to businesses using the special scheme for small enterprises). In such cases, the supplier will be required to identify themselves as such to the platform, and the deemed supplier model will apply.

5.3. Options discarded at an early stage

Certain options have been discarded at an early stage as inconsistent with the EU legal framework or the objectives of this initiative. Other options were discarded because of their technical unfeasibility or considering their clearly inferior impacts.

[125] Supporting Study, vol. I, p. 128 - 131.

1. **VAT reporting**

    a. Adopting different designs for EU and domestic transactions.
    It would be inappropriate to design a different DRR for domestic and intra-EU transactions. From the analysis, no evidence emerged suggesting that domestic and intra-EU transactions require a different reporting mechanism, and this choice would duplicate costs without any significant benefit for tax authorities and taxpayers. However, the possibility of introducing a DRR only for intra-EU transactions is considered among the policy options. This could, for example, allow substituting the ineffective recapitulative statements and thus reducing intra-Community VAT fraud, while limiting compliance costs for taxpayers that only operate domestically.

    b. Harmonising existing DRRs in the short-term.
    Any policy proposal on an EU DRR does not work on a tabula rasa, given that national mechanisms have been introduced or adopted in a majority of Member States. Therefore, any proposal needs to incorporate a strategy for dealing with the existing requirements. Expecting to immediately retrofit all these systems into a new EU system would be politically very complex, and, most importantly, would generate duplicated burdens, since the investment in IT solutions and know-how borne by tax authorities and taxpayers in these Member States would become sunk costs.

2. **VAT treatment of platform economy**

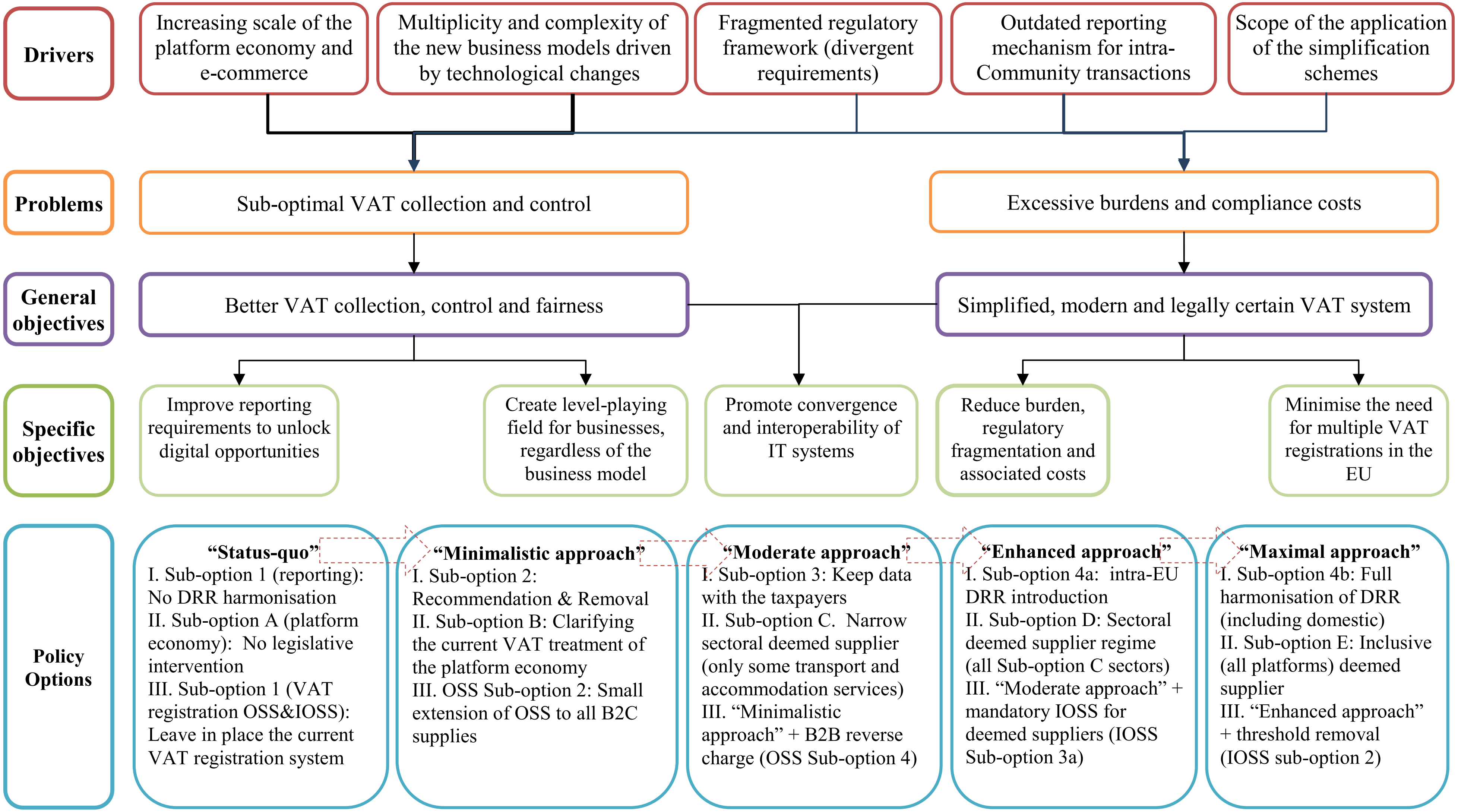
    a. Adding a common simplified VAT scheme for persons providing their services via platforms by applying a flat VAT rate without input tax deduction. Under this option, a new special scheme would be introduced for providers supplying services using a platform, subjecting them to a flat VAT rate without input tax deduction. The additional complexity in the VAT system and the limited impact on VAT equality and neutrality are the main factors for discarding the option. Also, it would be difficult to apply, considering that a number of underlying supplies may be exempt (e.g. provision of real estate services). Accordingly, the option received little support from both platform operators and tax authorities consulted.

    b. A system whereby the provider becomes a taxable person upon exceeding a set turnover threshold. The enforcement of such an option presents significant feasibility problems. In particular, it would not be possible for platforms to monitor the revenue obtained over other platforms and sub-platforms. Also, it would lead to certain problematic characterisations of the provider. E.g. an individual may provide occasional supplies in different sectors (for example, short term rental and ride-on-demand transport services), which, once combined, would bring them over the threshold. Finally, the threshold could hardly be applied to platforms which operate in markets with high-value transactions (e.g. sales of properties or second-hand cars), since individuals may risk being considered as a taxable person from the very first, occasional, transaction.

3. **VAT registration**

a. One possibility could be to include also B2B transactions in the OSS. In practice, this means that any cross-border sales made by a business supplier to another business would fall within the scope of the OSS, hence not require multiple VAT registrations. Such transactions are very prevalent in the Single Market. However, without including a deduction mechanism in the OSS, the lifting of the VAT registration requirement alone may not solve the problem if the burden of claiming back input VAT through the VAT refund mechanism (Directive 2008/9/EC) is deemed higher than the burden of VAT registering and filing local VAT returns. Due to the impossibility to deduct input VAT through the OSS mechanism, the uptake of this possibility will be very limited.
b. Introducing the input VAT deduction mechanism within the OSS is expected to make the OSS more attractive for businesses carrying out applicable B2B transactions, as the impossibility to deduct VAT through the OSS was perceived as a major stumbling block. However, the feasibility of this option is questionable for different reasons. Because it would entail the Member State of establishment deciding on the quantum of deductible VAT incurred in another Member State it is technically challenging, as VAT deduction rules vary by country. Tax authorities also discarded this solution both because they would be obliged to make financial outlays based on decisions made outside their country, and because of the practical barriers to conducting audits and controls on companies based in other Member States. In addition, there are obvious similarities between this option and the proposal on a definitive VAT system (see Section 1 and Annex 5: other initiatives), whose adoption at the Council is presently stalled due to comparable issues.

Figure 5 – Intervention logic



6. WHAT ARE THE IMPACTS OF THE POLICY OPTIONS?

6.1. Description of impacts

The impacts of the VAT in the digital age initiative are described by type and by area (see Table 8): VAT reporting, VAT treatment of platform economy, VAT registration. The section will also focus on the impact on small and medium enterprises.

Table 8 – Overview of impact types by VAT area (reporting, platform economy, registration)

Impact type	VAT area		
	Reporting	Platform economy	Registration
Administrative burdens and implementation costs	☒	☒	☒
Fragmentation and legal certainty	☒	☒	☐
VAT collection (revenue) and fraud	☒	☒	☒
Environment	☒	☐	☐
Social	☐	☒	☐
Business automation	☒	☐	☐
Level-playing field (Internal Market)	☐	☒	☒
Tax control efficiency	☒	☐	☐
Data confidentiality	☒	☐	☐

Administrative burdens and implementation costs

Administrative burdens represent the largest impact for businesses, spanning all VAT areas. Measures under analysis may have a negative impact in terms of administrative burden (for example the introduction of DRRs generates burdens for businesses due to the need to invest in new IT solutions and because of the routine costs of compliance) but also a positive one (the very same DRR could reduce burdens by introducing an EU wide harmonised system of reporting allowing for pre-filled VAT returns, removing the recapitulative statements and other domestic obligations and encouraging business automation. The use of e-invoicing could also provide benefits linked to the dematerialisation of paper invoices (savings in printing and postage costs, quicker issuance, invoice integrity and security, etc.).

Both the administrative burdens and their reduction are assessed using the Standard Cost model (SCM)[126] based on the findings from the current situation.

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[126] See Annex 4.

Fragmentation and legal certainty

Fragmentation is reduced, and legal certainty enhanced for reporting obligations and the rules regarding the platform economy. For example, the introduction of a standard EU DRR will reduce the current fragmentation in the unilateral application of DRRs, and clarifications of the VAT rules for platforms (i.e. in establishing the status of the underlying supplier) will improve the legal certainty. Fragmentation costs due to the diversity of the DRRs in place increase the more (and more diverse) DRRs are introduced at national level and decrease by harmonising policy interventions; these are quantified via the SCM based on the findings from the current situation.

VAT collection (revenue) and fraud

Impacts on VAT collection (which are expressed by the evolution of VAT revenue) and VAT control/fraud (which are measured by the evolution of VAT Gap) would be the largest impact generated by the introduction of DRRs and are measured via the econometric model (See Annex 4: Analytical methods).

Environment

The introduction of mandatory e-invoicing implies the dematerialisation of paper invoices, thus reducing consumption of paper and transport services (for postage) while increasing the costs for IT infrastructure and energy consumption. These net savings are converted into CO_2 savings per invoice and monetised by considering the price of EU emission allowances.

A second-order environmental impact derives from the savings associated with the reduction of administrative burden and digitalisation, where taxpayers will interact less with the authorities and distance audits will require less resources.

Social

The social impacts derive from the increase of tax fairness and as a second-order effect of the impacts on competition (VAT neutrality and equality), and the corresponding impact on those working in the relevant sectors (for example those working in the platform economy). The platform economy can boost employment not only by creating work opportunities both for unskilled, part-time and high-skilled individuals, but also by fostering employment opportunities in smaller cities and disadvantaged zones. The burden reduction also generates some favourable social impacts, as administrative barriers have the greatest negative effect on micro and individual businesses, which typically create the most job opportunities for disadvantaged workers.

Business Automation

The VAT in the Digital Age initiative contributes to the digital transformation[127] by pushing for more business automation and the use of digital. The initiative supports digital transformation as

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[127] On 9 March 2021, the European Commission presented a vision and avenues for Europe's digital transformation by 2030. The Commission proposes a Digital Compass for the EU's digital decade that evolves around four cardinal points: skills, infrastructures, digital transformation of businesses, and digitalisation of public services.

VAT digital reporting further incentivises the natural trend of business automation. In this respect, the introduction of specific reporting obligations (listings, SAF-T etc.) for tax purposes only are rather seen as an additional burden by the stakeholders consulted. However, stakeholders unanimously agree that when the reporting obligations are combined with standardized e-invoicing, economic benefits are also expected. The introduction of mandatory electronic invoicing is the cornerstone in this context and could create benefits such as the use of structured data to analyse and optimize value chains, quicker invoicing processes, faster VAT reimbursement and strong business automation gains.

Level playing field (internal market)

Impacts on the functioning of the Internal Market and competition (level-playing field), are linked to the equality and neutrality of VAT for different business models (digital vs. traditional) in the platform economy area and the possibility of benefiting from the OSS and IOSS for VAT registration (domestic vs. cross-border).

Tax control and efficiency

Tax control efficiency for tax authorities is expressed by there being better/fewer audits and requests for information and quicker VAT reimbursement[128].

Data Confidentiality

Data confidentiality is defined as the protection against the disclosure of information – in this case the taxpayers' transactional data – by ensuring that access to the data is limited only to those who are authorised. Confidentiality can be ensured in various ways (e.g. by limiting data collection or transmission) and is assessed based on risk variation (increase, decrease), since no IT system is completely 'confidential' (or secure) in absolute terms.

6.2. Impacts by VAT area

The policy sub-options in each of the VAT areas were individually assessed by the supporting study. Table 9 (VAT reporting), *Table 13* (platform economy) and *Table 14* (VAT registration) present an overview of this assessment.

[128] In both cases, however, no quantitative evidence exists on whether DRRs have been conducive to better/less audits (also due to the intervening COVID-19 pandemic) or quicker VAT reimbursement, since positive impacts were identified only in a few Member States or by a too limited number of interviewees.

Table 9 – Impacts in VAT reporting area by policy sub-option (net impacts, 2023-2032)

	Impacts / Sub-option	VAT revenue, and burdens (net impacts)	Environment	Tax control	Business automation	Data confidentiality
VAT reporting	*1 – Baseline*	*N/A*	*N/A*	*N/A*	*N/A*	*N/A*
	2 – Recommendation and Removal	- Higher VAT revenue and burden, due to more widespread diffusion of DRRs + EUR 16.5 billion	No impact	- More widespread adoption of DRRs leads to better risk analysis, and improves audit	- Adoption of mandatory e-invoicing spurs more companies to automate	- More widespread adoption of DRRs increases the risks of attacks on companies' data
	3 – Keep the data with the taxpayers	- Some savings in administrative burdens; limited effect on VAT revenue + EUR 27.5 billion	No impact	- Audits would become better; no improvements to risk analysis possible	- Electronic data may increase automation; benefits from e-invoicing fail to materialise	- No data transferred reduces the surface attack; risk at the company's premises (SMEs especially) remains
	4a – Partial harmonisation (intra EU)	- Increased burdens and higher VAT revenue - Domestic DRRs adoption increases + EUR 138.9 billion	Estimated environmental benefits up to EUR 0.05 billion	- Better risk analysis, and improves audit effectiveness and efficiency	- Electronic handling of transactional data may increase automation	- Risks to data confidentiality increase significantly the more fiscal data are stored and exchanged
	4b – Full harmonisation (intra EU and domestic)	- Highest burdens and highest VAT revenue + EUR 231.1 billion	Estimated environmental benefits up to EUR 0.06 billion	- Maximum improvements of risk analysis and audits due to the highest coverage	- Electronic handling of transactional data may significantly increase automation	- Highest risks to data confidentiality

The net impacts on VAT revenue and burdens are composed of the elements detailed below.

Table 10 – VAT reporting: net impacts on VAT revenue and burdens (2023-2032)

	Costs		Benefits						
	Administrative burden for businesses	Implementation cost tax authorities	Fragmentation costs (elimination)[129]	Environmental benefits	Savings pre-filled VAT returns	Removal of recapitulative statements	E-invoicing benefits	VAT collection/ C-efficiency**	Max. impact on VAT Gap***
Recommendation and removal (Sub-option 2)	EUR 2.8 billion	EUR 0.1 billion	EUR 4.4 billion	No impacts	EUR 0.7 billion	No impacts	EUR 0.3billion	EUR 14.1 billion	- 0.13 p.p.
Keep the data with the taxpayers (Sub-option 3)	EUR 6.5 billion	EUR 0.05 billion cost reduction	EUR 1.1 billion	No impacts	No impacts	No impacts	No impacts	EUR 32.8 billion	- 0.29 p.p.
Partial Harmonisation (Sub-option 4a)	EUR 11.3 billion*	EUR 2.2 billion	EUR 24.2 billion	EUR 0.01-0.05 billion	EUR 4.3 billion	EUR 11 billion	EUR 1.9 billion	EUR 111 billion	- 0.99 p.p.
Full Harmonisation (Sub-option 4b)	EUR 43.5 billion*	EUR 3.4 billion	EUR 24.2 billion	EUR 0.01-0.06 billion	EUR 7 billion	EUR 11 billion	EUR 14.5 billion	EUR 221.4 billion	- 1.98 p.p.

* To fundament the cost-effectiveness analysis, the most costly and complex type of digital reporting requirement (e-invoicing) was considered.
** The impact of the introduction of DRRs on VAT revenue is estimated based on the results of the econometric model (see Annex 4: Analytical methods).The introduction of DRRs is estimated to increase C-efficiency by **1.9 percentage points**, based on the C-efficiency (quarterly data) model. The alternative methodology using the VAT gap projects a reduction in the VAT Gap by 2.6 percentage points. The VAT Gap reduction refers to the models used, not accounting for the dynamic baseline. However, Member States will, if nothing is done on an EU level, introduce domestic reporting requirements to deal with their specific problems. Thus, the figures in Table 10 reflect this situation.[130]

*** The impact on the VAT Gap mainly comes from the introduction of digital reporting, which is an antifraud measure. Calculations are made by notionally increasing the 2021 VAT revenue (VAT Gap Study), amended to exclude the UK with the additional VAT revenue obtained under C-efficiency model

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[129] To maintain the comparability with the presentation in the baseline section, the structure of the tables was kept. However, <u>there is a reduction of fragmentation costs compared with the baseline</u>, thus the change is reflected corresponding column was moved from costs to benefits

[130] The quantification of the net benefits is done against the baseline scenario which assumes that a certain number of MS will adopt DRRs in the coming years; thus, only additional benefits (and costs) are accounted for. Annex 4: Analytical methods includes relevant assumptions about future adoption of DRRs. Annex H of the supporting study includes a full description of the scenarios on which Member States will do so and on which date.

DRRs: Cost-benefit comparison against baseline

	Costs (EUR billion)	Benefits (EUR billion)	Net impacts (EUR billion)
Sub-option 2	2.9	19.4	16.5
Sub-option 3	6.4	33.9	27.5
Sub-option 4a	13.5	152.4	138.9
Sub-option 4b	46.9	278.1	231.1

Tax control and efficiency

The benefits to tax control would increase with the volume, quality, timeliness and granularity of data. Therefore, options which entail the provision of data on both domestic and cross-border transactions provide the highest benefits for tax control.

Measures which only cover domestic supplies, would provide benefits in this regard (for example, through better targeted audits, or allowing faster processing of reimbursements). However, these benefits would be limited on fight against cross-border fraud, and in particular MTIC fraud, as the current system of information on intra-EU supplies would remain in place (the recapitulative statements).

Measures which apply to cross-border transactions would significantly improve the current control capabilities for these transactions which are currently based on the recapitulative statements, allowing a more efficient and effective fight against cross-border fraud.

Therefore, the optimal option for tax control purposes would be one which applies both to domestic and cross border transactions. However, this option would need to be fully interoperable with the systems already in place in Member States.

In any case, any option increasing the volume, quality, timeliness and/or granularity of the data would improve the abilities of Member States to control their taxpayers, leading to increased efficiency in tax collection, and the ability to better target fraudulent traders and problematic supplies.

Business Automation

The introduction of digital reporting requirements, in particular through the implementation of mandatory electronic invoicing, allows a more efficient management of the business' invoicing process, significantly reducing the cost for receiving and recording invoices. Further, the dematerialisation of invoices reduces the costs related to their archiving.

The benefits derived from the business automation could be significant. However, they unevenly distribute among taxpayers. These benefits seem to be more important for large companies, which keep accounting and invoicing activities in-house, while they will be reduced for small companies, which frequently outsource these activities to external tax advisors.

The more extended the implementation of digital reporting requirements, especially if they take the form of electronic invoicing, the bigger the benefits for taxable persons derived from the automation of their processes.

Data Confidentiality

The more data are exchanged, the greater the risk to data confidentiality. In that sense, an option which keeps the data with the taxpayers gives the lowest risk to data confidentiality, and that which has the most data travelling from taxpayers to tax administrations, and between tax administrations, has the highest risk.

Box 3

Implementation of an EU DRR: difference between options 4a and 4b (Part I)

Under both options 4a and 4b, Member States shall implement an EU DRR for intra-EU transactions and the recapitulative statements are abolished.

The difference between both options is that the implementation of a DRR system for domestic transactions is voluntary in option 4a while it is mandatory under option 4b. The impacts on Member States can summarised as follows:

- All Member States will be obliged to implement the EU DRR for intra-EU transactions under both options.
- Member States having in place a DRR for domestic transactions shall ensure interoperability with the EU DRR in the short term and shall converge to the EU DRR in the medium term. This will happen under both options.
- Member States that do not have in place a DRR for domestic transactions, when implementing such DRR shall adopt the EU DRR. The implementation of such a DRR for domestic transactions is obligatory under option 4b and voluntary under option 4a.

The difference between both options is that under option 4a there will be less Member States having in place a DRR for domestic transactions in the medium term that under option 4b. The study made the following assumptions:[131]

Table 11 – Option 4a: Adoption of Digital Reporting Requirements (2023-2032)

Year	Time for the analysis	Number of Member States with DRR	Type of DRR	Adopters
2023	T_0	14 (Domestic) 27 (intra-EU)	VAT listing	BG, CZ, EE, HR, LV, SK
			SAF-T	LT, PL, PT
			Real-time	ES, EL, HU
			E-invoicing	IT, FR
2025	T_2	20.1* (Domestic) 27 (intra-EU)	VAT listing	BG, CZ, EE, HR, LV, SK
			SAF-T	LT, PL, PT
			Real-time	ES, EL, HU
			E-invoicing	IT, FR
			EU DRR	AT, BE, CY, DE, DK, FI, IE, LU, MT, NL, RO, SE, SI
2028	T_5	20.1* (Domestic) 27(intra-EU)	EU DRR	All Member States

Therefore, even if there is no obligation for Member States to implement a DRR for domestic transactions, it is more than likely that all of them will implement such systems in the medium-long term. This assessment is backed by the following recent developments:

- Some Member States without DRR systems in place have recently announced their intention to adopt mandatory e-invoicing as a basis for digital reporting. This is the case for Romania and Belgium.
- Other Member States are studying the implementation of a reporting system based on e-invoicing, even though they have not yet announced if they will adopt it. This is the case of some Nordic Countries, which are carrying out the "Real-time economy" project.

[131] For full details about scenarios and assumptions used to fundament the VAT reporting options (including 4a and 4b) see Vol. I, Annex H – of the supporting study.

6.2.1. *Impacts on SMEs of the digital reporting (SME test)*

The introduction of DRRs will impact all taxable persons. However, this impact will be different for each type of business. In this regard, it is worthwhile providing an additional analysis on the impacts on SMEs of the introduction of digital reporting at an EU level. Such SME analysis (SME test) aim to identify the possible effects of introduction of DRRs on SMEs.

The table below provides the range of net impacts. The analysis assumes that additional services, and in particular pre-filled VAT returns, will be provided by the tax authorities under the new digital reporting requirements that are to be introduced.

Table 12 – Administrative burdens by category and type; net impacts, EUR per year; ranges

	Active only domestically		Active cross-border	
	Micro/Small[132]	Medium/Large	Micro/Small	Medium/Large
	Per company (EUR/year)		Per company (EUR/year)	
Administrative Burdens	100 / 500	600 / 4,400	100 / 500	600 / 4,400
Administrative burdens savings*	0 / 300	0 / 16,700	500 / 700	4,900 / 21,600
Net impacts for businesses	- 200 / 100	- 1,400 / 12,300	300 / 600	3,600 / 17,200

** the analysis does not account for the benefits from business automation*

The results show that companies engaged in cross-border transactions get a net benefit from the introduction of an EU DRR. These are smaller for micro and small entities, but still positive. This is due to the removal of the recapitulative statements, which come on top of the other benefits generated by the DRR, and in particular the pre-filled VAT returns. On the contrary, the analysis shows mixed findings for companies that are not active cross-border, which represent the vast majority of micro and small entities. For purely domestic micro and small enterprises, net benefits may be negative; this is because they do not gain benefit from the facilitation of cross-border transactions. About the ranges, in line with the overall cost analysis, the costs are higher if more complex types of DRRs are selected, such as e-invoicing. The taxpayers made it clear in the public consultation that "*the VAT reporting should not be planned only to fulfil the information requests of tax administrations but also to make real-time data available for companies, so that they can benefit from detailed financial data in their own business*". Therefore, appropriate support measures, for instance for the investment in e-invoicing services or the provision of free software could be considered, to make sure that the net costs for taxpayers are lowered or compensated. In any case, the minimisation of net impacts also depends on the provision of pre-filled VAT returns

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[132] Estimates based on the compliance costs and savings experienced by companies in the current situation, according to the Standard Cost Model methodology. Burdens include the implementation costs and ongoing compliance costs related to the DRRs. Savings include those due to the pre-filling of VAT returns, e-invoicing benefits (quicker issuance, and printing and postage cost savings) and the removal of the recapitulative statements (See Annex 4).

by the tax authorities. Such support was also requested by stakeholders during the public consultation, precisely pointing at possible compensation measures.

However, it should be underlined that the costs for businesses of the implementation of DRR systems would materialise even in the case that no action is taken at EU level. This is because under the current status quo, Member States will continue to implement DRR systems to improve tax collection. According to the technical study[133] carried out to assess the different policy sub-options, in the medium term the same number of Member States will have in place DRR systems for domestic transactions if no action is taken at EU level, regardless of whether systems for the reporting of domestic transactions are harmonised at EU level or left at the discretion of Member States. Therefore, the main difference of the EU action would be that the process will speed up. Therefore, the negative impact for certain businesses which are only engaged in domestic transactions are not a consequence of the EU action.

Table 13 summarises the main impacts in VAT treatment of platform economy area that are visible on VAT revenue, legal certainty, administrative burdens, and internal market – level playing field.

[133] Supporting study, Vol. I, Table 33, p. 104.

Table 13 – Main impacts in VAT treatment of platform economy area

	Impacts / Sub-option	VAT revenue	Legal certainty and administrative burdens	Competition / Internal Market
VAT treatment of platform economy	*A – Baseline*	*N/A*	*N/A*	*N/A*
	B – Clarification of VAT rules (nature of service, provider status, records)	+ EUR 2.5-2.6 billion (due to increased compliance compared to the baseline)	+ EUR 0.5 billion savings in administrative costs resulting from streamlining and clarifications	- More harmonised level-playing field across MS
	C – Deemed supplier: certain accommodation and transport services	+ EUR 19-45 billion due to increased compliance and broader tax base compared to the baseline	+ EUR 0.5 billion savings from inclusion of clarifications - Burdens due the administration of the deemed supplier regime (low) - New legal uncertainties linked to the boundaries of the system (high)	- Reduction of distortions between same services offered via different channels, minor negative impact on competition among exempt suppliers
	D – Deemed supplier: all accommodation and transport services	+ EUR 24-66 billion due to increased compliance and broader tax base compared to the baseline	+ EUR 0.5 billion savings from inclusion of clarifications - Burdens due the administration of the deemed supplier regime (low to moderate) - New legal uncertainties linked to the boundaries of the system (low to moderate)	- Reduction of distortions between same services offered via different channels, minor negative impact on competition among exempt suppliers
	E – Deemed supplier: all services for monetary consideration	+ EUR 63-146 billion due to increased compliance and broader tax base compared to the baseline	+ EUR 0.5 billion savings from inclusion of clarifications - Burdens due the administration of the deemed supplier regime (high) - New legal uncertainties linked to the boundaries of the system (low)	- Reduction of distortions between same services offered via different channels, significant negative impact on competition among exempt suppliers

VAT Revenue

Whilst VAT revenue will grow in absolute and relative terms if nothing is done, this is due to the growth of the platform economy and not to any increase in compliance efficiencies. The inconsistencies in the application of the rules will remain, along with the lost revenue collection opportunities.

Clarifying the existing rules to any extent will increase revenue as suppliers become more aware of the rules, however the difficulties would remain in how a tax authority would ensure the compliance of a large number of small suppliers. The clarification of the rules regarding the treatment of the platforms' facilitation services (whether they are regarded as an electronically supplied service or an intermediary service) will lead to a shift in revenue between Member States.

With the introduction of the deemed supplier regime, VAT revenue increases substantially, because it introduces an extension of the tax base, and because it shifts the compliance burden from the small supplier to the platform, which would be also easier for the Member States to control. The wider the scope of the measure, the higher the additional VAT revenue.

Legal Certainty and Administrative Burdens

Currently compliance issues surrounding the determination of the status of the supplier and various record keeping obligations generate burdens of around EUR 1.9 billion. Any clarification of the current rules will reduce this burden and increase the legal certainty.

In judging the impact of any measure, it is difficult to assess the numbers of individuals providing services via platforms. For example, the study 'VAT in the Digital Age' assesses 410,000 full time employees deriving income from the transportation sector, and 458,000 in the accommodation sector. The Impact Assessment Report on the proposal for a Directive on improving working conditions in platform work estimates that 28.3 million people have at least occasionally worked through digital labour platforms.

It should be noted, however, that the impact due to the administration of the deemed supplier measure will fall not on the underlying suppliers, but on the platforms themselves, who will account for the VAT on the underlying transactions via their existing VAT accounting procedures.

In addition, the legal uncertainties due to the boundaries of the system will decrease with the scope of the measure. There is less legal uncertainty regarding the scope of a measure which applies to all accommodation and transport services rather than certain accommodation and transport services, and indeed if the measure is applied to all services the legal uncertainties would be minimal.

Level playing field (internal market)

Whilst clarification of the existing rules will help with legal certainty, it will not address the problem of competition, which, of the options listed, can only be addressed by a deemed supplier measure. This will eliminate the VAT advantage of occasional and very small suppliers when operating via a platform and benefiting from the network effect and follows a model adopted in other countries when faced with similar competitive imbalances (most recently the Canadian deemed supplier model for residential letting[134]).

However, the introduction of the deemed supplier rule would create a new impact on competition, between very small and occasional suppliers within or outside a platform. Such impact is in direct proportion with the scope: minor for more restricted or sectoral deemed supplier options and more significant for the inclusive ones.

6.2.2. Impacts on SMEs of the platform economy

The stakeholder consulted asked for a global and reasonable solution, this being valid especially for the SMEs.

Under the deemed supplier regime options, the platform would account for the VAT in the place of small underlying suppliers. This means that the underlying supplier would not be required to register and account for the VAT itself, thus bearing no additional burden.

Table 14 summarises the main impacts in VAT registration area that are visible on administrative burdens, VAT collection and fraud and internal market – level playing field.

[134] The Canadian government proposed a new approach to the application of Goods and Services Tax (GST) – the equivalent of VAT – to the growing digital and sharing economy (effective July 1, 2021). In particular, it aimed at introducing a deemed supplier regime for platform-based short-term accommodation. The policy aims to address the same issues with which the EU is currently faced, and in particular the fact that the local VAT/GST regime is not applied consistently in this sector, putting traditional business models at a comparative disadvantage.

Table 14 – Main impacts in VAT registration area

	Sub-option \ Impacts	Administrative burdens	VAT collection (revenue) and fraud	Level playing field
VAT registration (OSS)	*1 – Baseline*	*N/A*	*N/A*	*N/A*
	2 – Minimal OSS extension	Addresses the problem of multiple VAT registrations, but only in a limited number of market segments, such as electric vehicle charging, and supplies of goods on a weekly market.	Likely impacts on non-compliance and fraud are assessed as marginal	Minor benefits are expected in terms of functioning of the Single Market, that are limited to the market segments involved
	3 – Moderate OSS extension	Eliminate the need to VAT register for distance sellers, and for many businesses outside the e-commerce sector.	By making compliance easier for SMEs, it would also reduce non-compliance.	Reducing distortions to the functioning of the Single Market in line with the wider scope
	4 – Reverse charge	Positive impacts for businesses operating where there is currently no access OSS simplification schemes.	Adoption of DRRs (4a/4b VAT registration) facilitates the implementation and reduce the risk of abuse by making it easier for the tax authorities to verify the transactions	Relying pragmatically on the reverse charge for wider B2B transactions improves the functioning of the Single Market
VAT registration (IOSS)	*1 – Baseline*	*N/A*	*N/A*	*N/A*
	2 – Removal of the current threshold	Can be combined with any other sub-option. Minor benefits expected for businesses that would be able to use the IOSS to avoid VAT registration. Preparing the IT systems of Commission and Member States takes time and is costly.	Some reduction in fraud risks could materialise	Levelling of the playing field in the Single Market could be expected by allowing, via the IOSS, suppliers to import in any Member State.
	3a – IOSS mandatory for deemed suppliers 3b – IOSS mandatory above a threshold 3c – IOSS mandatory, no threshold	Minor benefits expected for certain actors, such as postal operators and express carriers. Any introduction of thresholds complicates the schemes and adds complexity. While in practice the variations work differently, similar impacts are expected for 3a, 3b and 3c.	The IOSS is also likely to help the authorities identify fraud and increase compliance. However, it is difficult to enforce.	As a knock-on effect of increase compliance, the level playing field will improve.

Administrative burdens

OSS

The e-commerce sector will continue to grow, and as such, if nothing is done, an increasing number of businesses, and in particular SMEs, will face the burden of having to register for VAT in (an)other Member State(s) and comply with the specific VAT obligations of these Member States in respect of transactions not yet covered by the OSS.

Any measure which increases the scope of the OSS will decrease the necessity of businesses making B2C supplies (and other specific transactions such as own movements of goods) to register in other Member States – this could be targeted to specific sectors/problem areas (such as electric vehicle charging) where the sectoral burden reduction could be significant, or have a broader scope, enabling a wider use of the OSS.

Similarly, broadening the scope of the reverse charge will reduce the necessity of businesses being required to register in other Member States when they have made B2B supplies.

IOSS

Removing the current threshold of EUR 150 will mean that some businesses will no longer be required to register in the Member State of destination, thus reducing their burdens. However, it can be seen that any of the proposed changes to make the IOSS mandatory will have minimal impact on administrative burdens (because the majority of businesses who see a benefit from using the IOSS are already doing so).

VAT collection (revenue) and fraud

OSS

The wider use of the OSS is likely to improve compliance as businesses find the OSS easier to administer, and the wider use of the reverse charge may help detect and reduce certain types of MTIC fraud.

IOSS

Increasing the scope of the IOSS will reduce the levels of fraud, particularly from non-EU third party suppliers, however, it will not eliminate it completely (i.e. there remain the opportunities for the undervaluation of parcels or the misuse of IOSS numbers).

Level playing field

OSS

The disparity which currently exists between SMEs and large businesses will continue to exist (because a large business is more likely to be either a) already established in another Member State or b) if not, will face proportionately lower registration costs) and will rise as the value and volume of distance sales increases. To increase the scope of the OSS will go some way to redress this imbalance, reducing the necessity for SMEs to register in other Member States.

IOSS

There are ongoing opportunities for fraud, in particular from non-EU based suppliers, which impact on the competitiveness of EU businesses. Improvements to the scope and functioning of the IOSS will reduce this unfairness by improving the compliance of non-EU based suppliers.

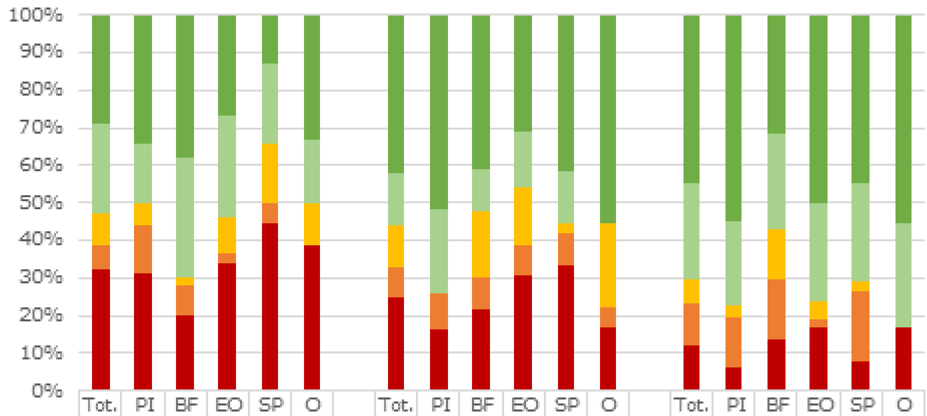
6.2.3. Impacts on SMEs of the VAT registration

Approx. 280,000 SMEs will benefit from the extension of the scope of the OSS/IOSS. The number of SMEs was extrapolated from the 2015 study (Deloitte's VAT Aspects of cross-border e-commerce report), which estimates 248,581 companies engaged in B2C cross-border e-commerce, among which 232,118 SMEs. These figures were extrapolated by the supporting study to 300,000 companies in total (and the same proportion of SMEs), resting on the assumption that the growth of e-commerce since 2015 not only reflects growth in the number of active e-commerce businesses but also in the growth of volumes and values of sales of already existing businesses; hence the growth of the number of businesses should be significantly smaller than the growth of e-commerce sales over the same period (see Table 1)[135]. Conservatively, for SMEs only this translates in a cost saving up to EUR 0.34 (one-off) and up to EUR 0.67 (recurrent), thus a total of EUR 7 billion for the period 2023- 2032. Since the total savings are EUR 8.7 billion, SMEs will benefit the most from the measures.

6.3.Stakeholders' views on the options

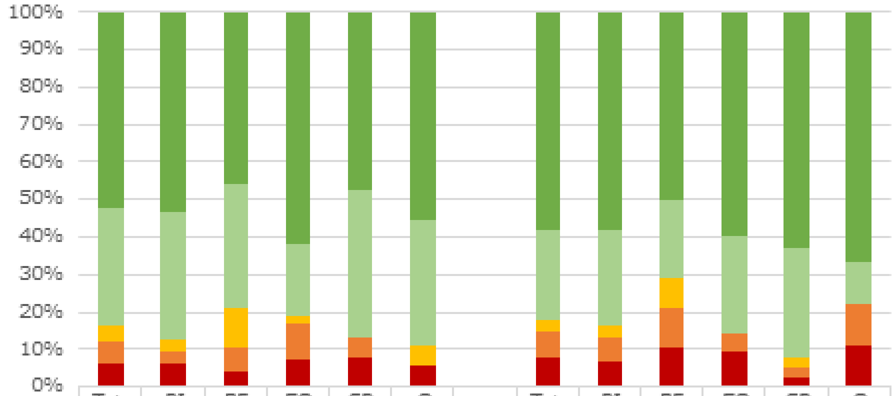
Regarding the VAT reporting options stakeholders generally support the introduction of an EU DRR for intra-EU transactions, with or without the inclusion of the domestic transactions. Agreement was less pronounced for options referring to recording data on VAT transactions in a standard digital format, adopting non-binding Commission recommendations providing a common design for reporting obligations across the EU, and for no longer requiring Member States to have to ask for an explicit derogation for introducing mandatory e-invoicing for B2B transactions.

Figure 6 – Options for VAT registration (DRRs): stakeholders' views



	Non-binding EC recommendation with common design for reporting obligations across EU						Remove derogation for MS to introduce mandatory e-invoicing for B2B transactions						Require taxpayers to record VAT data in standard digital format					
	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O
Agree	52	11	19	11	5	6	72	16	19	12	15	10	81	17	16	21	17	10
Partly Agree	43	5	16	11	8	3	23	7	5	6	5	0	46	7	13	11	10	5
Neither agree nor disagree	15	2	1	4	6	2	19	0	8	6	1	4	11	1	7	2	1	0
Partly disagree	11	4	4	1	2	0	14	3	4	3	3	1	20	4	8	1	7	0
Disagree	58	10	10	14	17	7	42	5	10	12	12	3	22	2	7	7	3	3

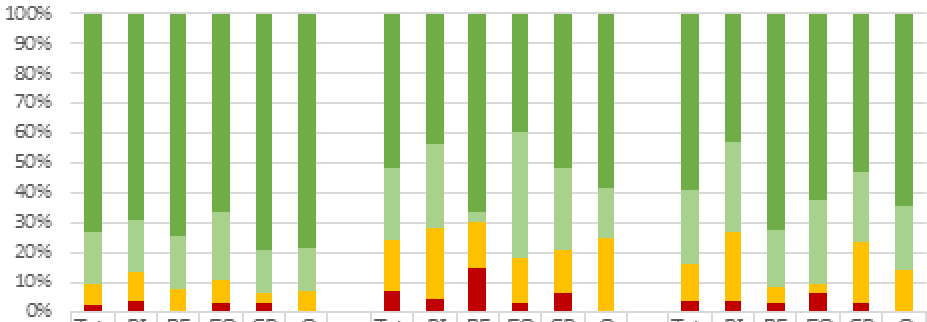
[135] Supporting Study, Vol III, p. 61-62.



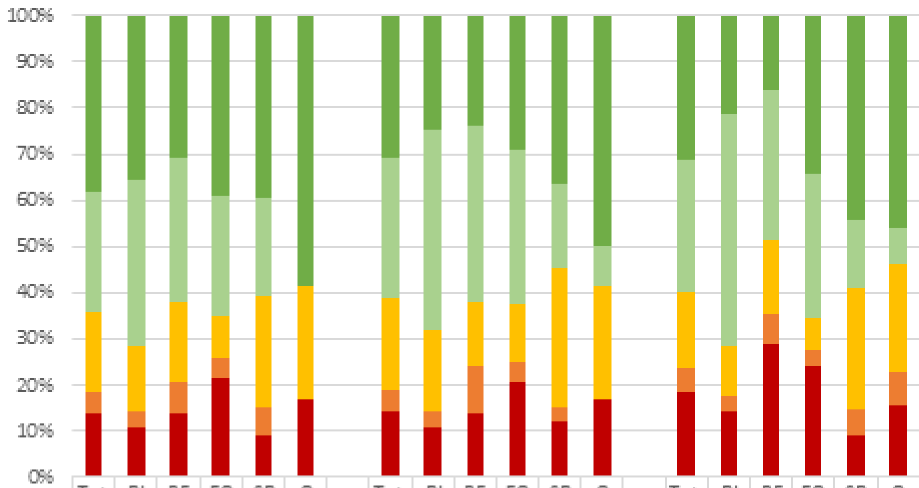
	EU DRR for intra-EU transactions and harmonisation of existing domestic systems						EU DRR for both intra-EU and domestic transactions					
	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O
Agree	93	17	22	26	18	10	103	18	24	25	24	12
Partly Agree	56	11	16	8	15	6	42	8	10	11	11	2
Neither agree nor disagree	8	1	5	1	0	1	6	1	4	0	1	0
Partly disagree	10	1	3	4	2	0	12	2	5	2	1	2
Disagree	11	2	2	3	3	1	14	2	5	4	1	2

The need for changes to the VAT rules to ensure proper VAT treatment of the platform economy was considered necessary by most stakeholders. On the policy options, stakeholders noted that (1) keeping a legal clarification up to date with the business developments and with the exact nature of services offered by platforms will be difficult or impossible and it was remarked that the nature of the service and distinction between an intermediary and electronic supply of service cannot always be clearly defined; (2) to presume the VAT status of the service provider is difficult and may add complexity for platforms, thus a simple and secure mechanism should be found; (3) the imposition of new record-keeping obligations could increase costs and put platforms at a disadvantage compared to non-platform businesses; and (4) while being seen as a solution by the majority of respondents, a deemed supplier role for digital platforms may create difficulties for platforms, a burden which might be unreasonable for smaller or purely domestic platforms which may choose to shift the burden towards their users by imposing strict conditions and requirements.

Figure 7 – Options for VAT treatment of platform economy: stakeholders' views



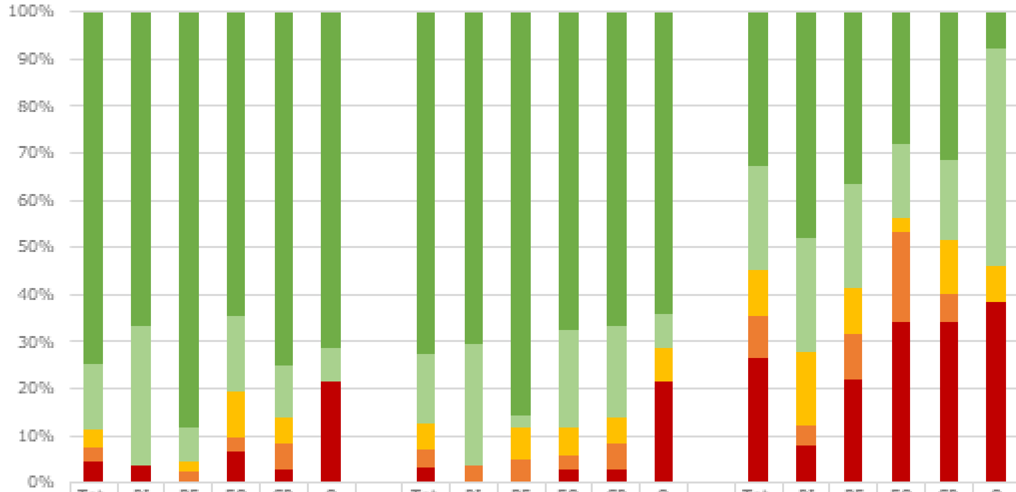
	Clarification of nature of services provided by platform						Rebuttable presumption on status of platform providers						Streamlining of record-keeping obligations					
	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O
Agree	111	20	29	24	27	11	70	11	22	13	17	7	86	13	26	20	18	9
Partly agree	27	5	7	8	5	2	33	7	1	14	9	2	36	9	7	9	8	3
Neither agree nor disagree	10	3	3	3	0	1	19	5	5	3	3	3	17	7	2	1	5	2
Partly disagree	1	0	0	0	1	0	5	1	0	2	2	0	2	0	0	0	2	0
Disagree	3	1	0	1	1	0	9	1	5	1	2	0	5	1	1	2	1	0



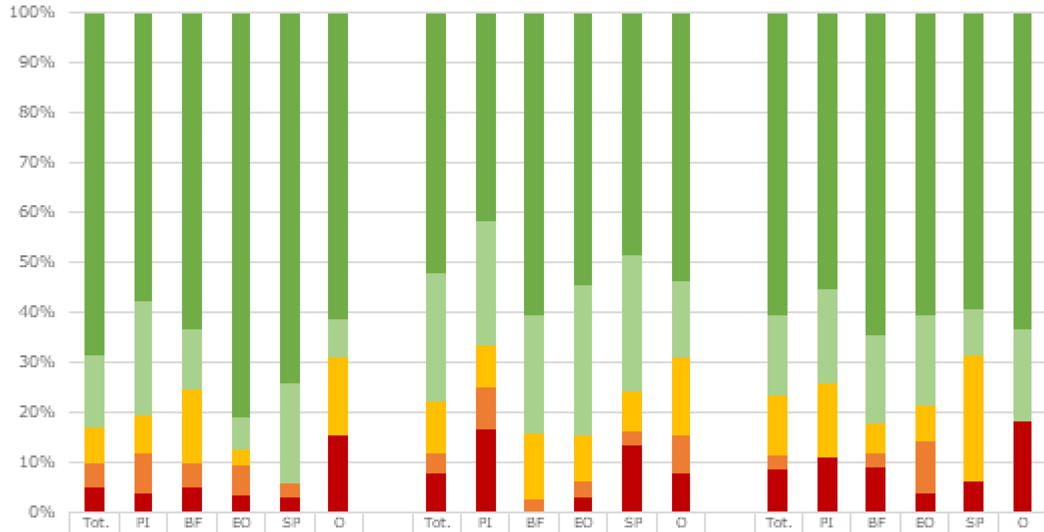
	Deemed supplier regime for digital platforms for supply of certain accommodation & transport services*						Deemed supplier regime for digital platforms for supply of all accommodation & transport services						Deemed supplier regime for digital platforms for all services for monetary consideration					
	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O
Agree	48	10	9	9	13	7	39	7	7	7	12	6	42	6	5	10	15	6
Partly agree	32	10	9	6	7	0	38	12	11	8	6	1	39	14	10	9	5	1
Neither agree nor disagree	22	4	5	2	8	3	25	5	4	3	10	3	22	3	5	2	9	3
Partly disagree	6	1	2	1	2	0	6	1	3	1	1	0	7	1	2	1	2	1
Disagree	17	3	4	5	3	2	18	3	4	5	4	2	25	4	9	7	3	2

On the VAT registration proposed options, the strongest agreement among stakeholders was to extend the OSS to cover all B2C supplies of goods and services by non-established suppliers. Only slightly less respondents agreed or at least partly agreed with extending the OSS to intra-Community supplies and acquisitions of goods, and to B2B supplies of goods and services, together with the introduction of a deduction mechanism into the OSS. The latter was in fact the most popular option among economic operators. More than half of the answers indicated that they agree with the options of making reverse charge available for all B2B supplies carried out by non-established suppliers, and with removing the EURO 150 threshold for the IOSS. Two more options were at least partly agreed by a majority: to extend the OSS to B2B supplies of goods and services but leaving the current VAT refund mechanism in place and making the IOSS mandatory for all distance sales of imported goods. The former, however, was not supported by economic operators. The options of making the IOSS mandatory either for all distance sales of imported goods above a certain threshold or for marketplaces only did not find agreement among a majority of the responding stakeholders.

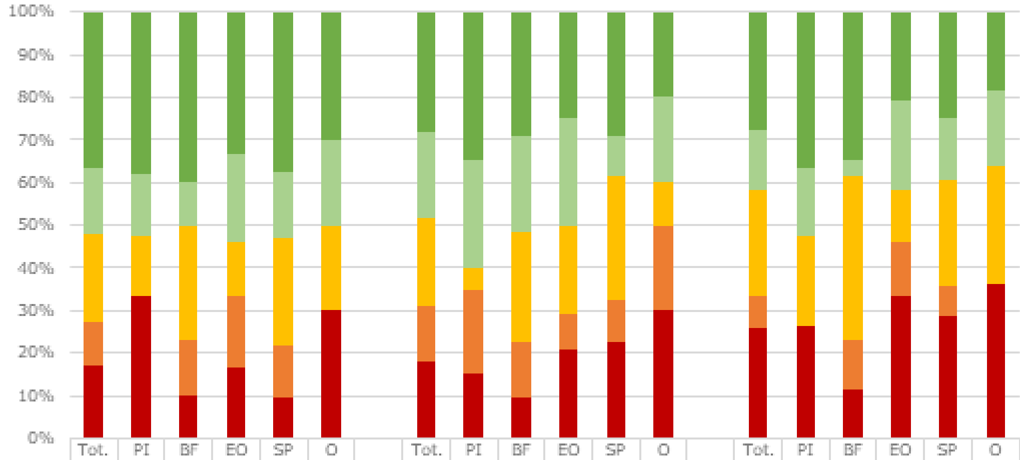
Figure 8 – Options for VAT registration (OSS and IOSS): stakeholders' views



	Extension of OSS to cover all B2C supplies of goods & services by non-established suppliers						Extension of OSS to enable intra-Community supplies & acquisitions of goods						Extension of OSS to B2B supplies of goods & service but leaving in place current VAT refund mechanism					
	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O
Agree	113	18	38	20	27	10	111	19	36	23	24	9	48	12	15	9	11	1
Partly agree	21	8	3	5	4	1	23	7	1	7	7	1	32	6	9	5	6	6
Neither agree nor disagree	6	0	1	3	2	0	8	0	3	2	2	1	14	4	4	1	4	1
Partly disagree	4	0	1	1	2	0	6	1	2	1	2	0	13	1	4	6	2	0
Disagree	7	1	0	2	1	3	5	0	0	1	1	3	39	2	9	11	12	5



	Extension of OSS to B2B supplies of goods & services, while also introducing a deduction mechanism into the OSS						Reverse charge made available for all B2B supplies carried out by non-established suppliers						Removing the €150 threshold for IOSS					
	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O
Agree	101	15	26	26	26	8	76	10	23	18	18	7	80	15	22	17	19	7
Partly agree	21	6	5	2	7	1	37	6	9	10	10	2	21	5	6	5	3	2
Neither agree nor disagree	11	2	6	1	0	2	15	2	5	3	3	2	16	4	2	2	8	0
Partly disagree	7	2	2	2	1	0	6	2	1	1	1	1	4	0	1	3	0	0
Disagree	7	1	2	1	1	2	11	4	0	1	5	1	11	3	3	1	2	2



	Making IOSS mandatory for all distance sales of imported goods						Making IOSS mandatory for all distance sales of imported goods above an EU turnover threshold (e.g: €10,000)						Making IOSS mandatory for the marketplaces (deemed supplier) only					
	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O	Tot.	PI	BF	EO	SP	O
Agree	43	8	12	8	12	3	33	7	9	6	9	2	30	7	9	5	7	2
Partly agree	18	3	3	5	5	2	23	5	7	6	3	2	15	3	1	5	4	2
Neither agree nor disagree	24	3	8	3	8	2	24	1	8	5	9	1	27	4	10	3	7	3
Partly disagree	12	0	4	4	4	0	15	4	4	2	3	2	8	0	3	3	2	0
Disagree	20	7	3	4	3	3	21	3	3	5	7	3	28	5	3	8	8	4

6.4. Policy intervention – gradual approach

Even if some options were discarded, the total number of remaining valid options in the three areas still allows for hundreds of possible combinations.

Therefore, the sub-policy options in each areas are combined in five successive approaches for further analysis of their combined impacts. These approaches are: status-quo, minimalistic, moderate, enhanced and maximal. With the exception of the status-quo which represents the baseline, each approach is progressively increasing the intensity of the intervention, thus also helping to strike the right balance in terms of proportionality and subsidiarity. The logic behind the grouping was to gradually raise the intensity of the intervention in each of the VAT policy areas: reporting, treatment of platform economy and registration compared with the preceding choice. Since the VAT registration area has two components, OSS (intra-EU) and IOSS (outside EU/ importation), the intervention started with the intra-EU component (OSS), and was then extended to the IOSS.

In addition, combining the various sub-options can produce synergies. For example, the OSS VAT registration sub-option 4 requires the use of a reverse charge mechanism. Such a system, where the customer accounts for the VAT on its VAT return instead of the supplier, can be enhanced by the provision of operational data to tax administrations to reassure them of its good functioning. The same data that will be made available by the introduction of digital reporting requirements (VAT reporting options 4a and 4b) can also be used for that purpose. Therefore, the combination of such sub-options in VAT registration and VAT reporting areas generates greater impacts than the sum of their separate effects.

“Status-quo”

VAT reporting Sub-option 1:
No measure to harmonise the DRRs is introduced at EU level. The introduction of mandatory e-invoicing remains subject to a derogation, and recapitulative statements are not modified.

VAT treatment of platform economy Sub-option A:
No legislative intervention to revise the VAT Directive and Implementing Regulation will be proposed to address the problems identified regarding the platform economy.

VAT registration Sub-option 1 (OSS) and Sub-option 1 (IOSS):
This would leave in place the VAT system as of 1 July 2021, with only minor refinements (e.g. additional guidance, quick fixes) to improve the implementation of the OSS and IOSS.

“Minimalistic approach”

VAT reporting Sub-option 2:
Under this sub-option, the introduction of DRRs remain optional for Member States whilst being encouraged for those Member States with a significant VAT Gap or evidence of VAT frauds[136], provided that the new system conforms to the EU design. The core elements of the EU design which Member States are invited to consider are described in a non-binding recommendation. In parallel, the requirement for a derogation to introduce mandatory e-invoicing is removed. Member States can thus choose any reporting mechanism they deem fit. Recapitulative statements are not modified.

VAT treatment of platform economy Sub-option B:
Clarifying the current VAT treatment of the platform economy. The nature of the services provided by the platform and their place of supply will be clarified and a rebuttable presumption on the status of providers of services using a platform will be introduced.

VAT registration Sub-option 2 (OSS):
An extension of the OSS so that it covers all B2C supplies of goods and services by non-established suppliers. This option would address the problem of multiple VAT registration, but only in a limited number of market sectors, particularly electric vehicle charging, supplies of goods made on board means of transport and certain companies operating in border regions. This would entail a minor increase in the scope of the OSS. The IOSS will remain unchanged.

“Moderate approach”

VAT reporting Sub-option 3:
Under this option, no EU DRR is imposed; rather, a new provision would be included in the VAT Directive requiring taxpayers to record transactional data according to a pre-determined format.

VAT treatment of platform economy Sub-option C:
Under the deemed supplier options, the platform would be deemed to be the supplier, and liable to collect and charge the VAT in cases where the provider does not charge VAT. A narrow deemed supplier regime would apply to the supply of certain accommodation and transport services (i.e. short term residence renting, ride-on-demand) for monetary consideration.

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[136] Possibly via the European Semester, and supported by the Commission (e.g. via DG REFORM programmes)

Certain elements from the Sub-option B regarding clarification of the existent VAT treatment should also be included or adapted, for example, new rules for the place of supply of the platform's facilitation services and a presumption determining the status of the provider using the platform.

VAT registration the "Minimalistic approach" + Sub-option 4 (OSS):
It will add that Member States shall provide for the possibility of reverse charge for B2B supplies by non-established persons. The IOSS will remain unchanged.

"Enhanced approach"

VAT reporting Sub-option 4a:
A DRR is introduced for intra-EU transactions and the recapitulative statements are abolished[137]. The introduction of a DRR for domestic transactions remains optional for Member States. Member States wishing to introduce such a mechanism shall ensure that it conforms to the system used for intra-EU transactions. For Member States where a DRR for domestic transactions is already in place, interoperability[138] with the intra-EU digital reporting is required in the short-term, and national DRRs are required to converge to the EU system in the medium-term.

VAT treatment of platform economy Sub-option D:
A sectoral deemed supplier regime would apply to the supply of all accommodation and transport services for monetary consideration. This also includes those elements from sub-option B described in the moderate approach.

VAT registration "Moderate approach" + Sub-option 3 (OSS) + Sub-option 3a (IOSS):
Extension of the OSS so that it covers all B2C supplies of goods and services by non-established suppliers and the transfer of own goods cross-border combined with the introduction of a reverse charge for B2B supplies by non-established persons. The optional character of the IOSS will be removed for the deemed suppliers combined with additional data exchange prior the importation.

"Maximal approach"

VAT reporting Sub-option 4b:
A DRR is introduced for intra-EU and domestic transactions alike, and the recapitulative statements are abolished. For Member States where DRR for domestic transactions are already in place, interoperability with the intra-EU digital reporting is required in the short-term, and national DRRs are required to converge to the EU system in the medium-term.

VAT treatment of platform economy Sub-option E:
Under this option, the deemed supplier regime would apply to all services for monetary consideration. This also includes those elements from sub-option B described in the moderate approach

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[137] The change in the data reported on intra-EU transactions will consequently change the way these data are exchanged between Member States. The IT services of the European Commission conducted a feasibility study in consultation with the Member States to determine the best option to implement such exchange. Three main options were assessed (i) a Central System with data fed by economic operators (ii) a Central System with data fed by Member States and (iii) a Distributed System (an enhanced VIES system). The Central System with data fed by Member States appears to be the most future-proved solution. The implementation would require minimum 18 months but on average 25 months.

[138] Interoperability is the capacity to extract and exchange among Member States a pre-defined set of basic transactional data in a common format.

VAT registration "Enhanced approach" + Sub-option 2 (IOSS):
Extension of the OSS so that it covers all B2C supplies of goods and services by non-established suppliers and the transfer of own goods cross-border combined with the introduction of a reverse charge for B2B supplies by non-established persons. Both, the EUR 150 threshold for use of the IOSS and its optional character will be removed combined with additional data exchange prior the importation.

7. HOW DO THE OPTIONS COMPARE?

7.1. Evaluation criteria and the gradual approach

The options are assessed and compared with regard to their **effectiveness**, **efficiency** and **coherence**. Because the approaches include a mix of policy options in three areas of VAT (reporting, platform economy and registration), the synergies are also mentioned, where applicable. In addition, the **proportionality and subsidiary** are also taken into account for the full evaluation (see Table 17):

Effectiveness

The specific objectives against which the effectiveness is evaluated are (1) to improve reporting requirements to unlock the opportunities provided by digitalisation; (2) to promote convergence and interoperability of IT systems; (3) to create a level-playing field for businesses, regardless of the business model; (4) to reduce burdens, regulatory fragmentation and associated costs; and (5) to minimise the need for multiple VAT registrations in the EU.

Table 15 – Effectiveness table

	Effectiveness (specific objectives)				
	Improve reporting requirements	Convergence and interoperability of IT systems	Create a level-playing field	Reduce burdens and fragmentation costs	Minimise multiple VAT registrations
Minimalistic approach	+	0/+	0/+	+	0/+
Moderate approach	0/+	0	+	+	+
Enhanced approach	++	+++	++	++	++
Maximal approach	+++	++	++	++	++

Efficiency

To measure the efficiency (cost-effectiveness) of policy sub-options in each area, a combination of net benefits and scoring system was used to denote the nature and scale of impacts in comparison to the continuation of the status quo for all policy sub-options in the areas of VAT reporting, VAT treatment of platform economy and VAT registration. A score of 0 indicates no or only marginal change. The scale ranges from 'much worse' (---) to 'much better' (+++).

Table 16 – Efficiency table (against baseline)

	Impacts / Sub-option	VAT revenue, and burdens (net impacts compared to the baseline)	Environment	Tax control	Business automation	Data confidentiality
VAT reporting	Sub-option 2	0/+ (EUR 16.5 billion)	0	+	0/+	–
	Sub-option 3	+ (EUR 27.5 billion)	0	0/+	+	+

	Sub-option 4a	++ (EUR 139 billion)	+	++	+	– –
	Sub-option 4b	+++ (EUR 231.1 billion)	+	+++	++	– – –

	Impacts / Sub-option	VAT revenue[139]	Legal certainty and administrative burdens	Competition / Internal Market
VAT treatment of platform economy	Sub-option B	0/+ (EUR 2.5 - 2.6 billion)	++	+
	Sub-option C	+ (EUR 19 - 45 billion)	+	+
	Sub-option D	++ (EUR 24 - 66 billion)	+	+
	Sub-option E	+++ (EUR 63 - 146 billion)	0/+	0

	Impacts / Sub-option	Administrative burdens	VAT fraud and compliance levels	Functioning of the Single Market
VAT Registration (OSS)	Sub-option 2	+	0/+	+
	Sub-option 3a	++	+	++
	Sub-option 3b	0/+	0	0/+
	Sub-option 3c	++	+	++
(IOSS)	Sub-option 2	+	0/+	0/+
	Sub-option 3	0/+	+	+

Coherence

Other Commission initiatives (see Annex 5) either do not impact the coherence or translate into a minimal impact on the VAT in the Digital Age initiative. Therefore, the coherence with EU policy objectives is assessed against the provisions of the Tax Action Plan, more specifically against Actions A1, A4, A5, and A23 (see the Introduction).

The comparison of the options is made using the aforementioned five gradual approaches in policy intervention: status-quo as a baseline, minimalistic, moderate, enhanced and maximal. The gradual approach is used to ensure the intervention does not go beyond what is necessary to achieve the objective.

7.2. Policy comparison

"Status-quo"

The "status-quo" approach is analogous to no intervention. This approach fails to meet all specific objectives. It also fails the coherence objectives, since it is not aligned with the Tax Action Plan.

"Minimalistic approach"

Effectiveness in meeting the specific objectives

The minimalistic approach does not improve reporting requirements in a systematic way. The recapitulative statements that are the main source of the ineffective reporting system are not modified. Some positive impacts are possible due the non-binding recommendations addressed to Member States with significant VAT Gap levels. The IT systems are already running and do not

[139] An alternative approach of calculating net present value for the costs related to the VAT treatment of Platform economy would require additional assumptions regarding the time of bearing the costs, as well as assuming the pace of their depreciation. In the light of many uncertainties regarding the development of the platform economy, to limit the number of assumptions, a simpler approach has been retained.

need further preparation, since also the scope of OSS changes is limited and can be easily absorbed by the current system. Clarifications in the platform economy add some certainty and reduce burden but fail in addressing the distortion of competition. An extension of the OSS so that it covers all B2C supplies of goods and services by non-established suppliers would address the problem of multiple VAT registration, but only in a limited number of market sectors. No synergies and/or multiplication factors manifest.

Coherence and efficiency

The approach is only partly coherent with the Tax Action Plan, since it falls short in four action areas of the Plan: A1, A4, A5, and A23. The cumulative impact in efficiency (see Table 17) is minimal, however marginally positive in all areas, bringing EUR 16.5 billion net benefits from VAT reporting, approx. EUR 2.5 billion in platform economy area

"Moderate approach"

Effectiveness in meeting the specific objectives

The moderate approach still limits the ambition levels in all areas. However, the approach has the merit of allowing convergence and interoperability of IT systems and it is the first one to score more consistently across all specific objectives. Thus, some savings in administrative burdens are expected, however they will be combined with a more limited effect on VAT revenue as the DRRs are still optional for the Member States. The approach reduces the distortions between the same services offered via different channels in platform economy area, thus creating a more level-playing field, but adds new legal uncertainties linked to the limits of its application, since only part of the accommodation and transport sectors are in the scope. The combination of VAT registration minimalistic approach with the reverse charge (including the chain transactions into the scope) helps generating positive impacts for more business that will not have to register in multiple Member States.

Synergy factor

Because the moderate approach combines clarification elements from platform economy sub-option B with the deemed supplier regime and also combines multiple sub-options in area of VAT registration, it punches above the added impacts by integrating some synergies. However, because the digital reporting obligations are not introduced which would complement the reverse charge, the synergies are more limited.

Coherence and efficiency

The moderate approach achieves the minimum operational efficiency in all areas of the Tax Action Plan, except A4[140]. It streamlines the mechanisms that can be applied for domestic transaction using a pre-determined format, but does not provide a quicker, possibly real-time, and more detailed exchange of information on VAT intra-EU transactions. However, the cumulative impact in efficiency is largely positive compared with the previous approach and it is mainly driven by the introduction of a limited deemed supplier role in platform economy area that increases the VAT

[140] "(…) *it should ensure a quicker, possibly real-time, and more detailed exchange of information on VAT intra-EU transactions and at the same time streamline the mechanisms that can be applied for domestic transactions*. (…)".

revenue several times (EUR 19-45 billion). The net benefits almost double compared with the previous approach in the VAT reporting area and amounts to EUR 27.5 billion.

"Enhanced approach"

Effectiveness in meeting the specific objectives

The enhanced approach further increases the ambition level and the intensity of intervention in all areas. With the introduction of intra-EU digital reporting (VAT reporting Sub-option 4a), over 2 billion intra-EU transactions per year[141] are to be considered.

The convergence and interoperability of IT systems specific objective is met by introducing the short-term interoperability and medium-term convergence of the domestic reporting obligations with the EU DRR system. The interoperability and convergence combine with the non-inclusion of the removal of EUR 150 threshold for the use of IOSS that would further complicate the IT environment and lead to a maximum score regarding the IT-specific objective. The IT specific objective also has an inherent time-related component: this enhanced approach will reach the fastest the full convergence and interoperability for the Member States who have domestic DRRs in place or planned. Because of the introduction of an intra-EU digital reporting obligation, the enhanced approach is the first one to fulfil the improvement of reporting requirements using the opportunities provided by digitalisation specific objective. The benefits are driven mostly by higher VAT revenue, but the savings for businesses due to reduced burdens and improved business automation also contribute to the positive impacts. The introduction of an EU DRR and the wider and more targeted use of DRR for domestic transactions (being optional, it is expected that Member States with high VAT Gap or with specific fraud issues will be the first ones to use it) will also positively impact tax controls and business automation, especially if an e-invoicing solution is adopted, while the increased storage and exchange of fiscal data increases risks to data confidentiality.

In the platform economy field, the enhanced approach addresses the distortion of competition in the accommodation and transport sectors where the problems where identified. In addition, it achieves a good balance in dealing with burdens related to (1) the administration of the deemed supplier regime (2) legal uncertainties linked to the boundaries of the new system and (3) limiting the possible new distortion between very small and occasional suppliers within or outside a platform to these two sectors.

In the VAT registration area, combining the OSS sub-option 4 with 3a would maximise the likely positive impacts, by extending the OSS to transfers of own goods cross-border, and relying pragmatically on the reverse charge for wider B2B transactions. In addition, the removal of the optional character of IOSS for deemed suppliers will remove administrative burdens for certain actors, such as postal operators and express carriers, helping the authorities identify fraud, increase compliance and, as a consequence, improve the level playing field.

Synergy factor

The enhanced approach helps create greater synergies not only inside the VAT areas (mixing parts of and sub-options in reporting, platform economy and registration), but the multiplication effect is

[141] Estimate based on figures from the study on evaluation of invoicing: https://ec.europa.eu/taxation_customs/system/files/2019-07/report_evaluation_invoicing_rules_vol1_en.pdf

visible across the areas, by combining the reverse charge with the reporting obligations that are now in the scope. Thus, the synergy score is significantly improved.

Coherence and efficiency

The enhanced approached is better balanced to achieve the coherence in all areas of the Tax Action Plan, without exception. It provides a quicker and more detailed exchange of information on VAT intra-EU transactions and offers a very important and targeted incentive for Member States to introduce domestic reporting.

Additional EUR 139 billion net benefits in VAT reporting area are expected, and VAT revenue will increase by EUR 24-66 billion due to increased compliance and a broader tax base in the platform economy. Driven mainly by the introduction of digital reporting obligations, the cumulative impact in efficiency increases several times compared with the previous approach.

“Maximal approach”

Effectiveness in meeting the specific objectives

The maximal approach increases the intervention to the maximum extent possible. The majority of the specific objectives are fully met, with the exception of the IT-related one. The extension of the digital reporting requirements to include domestic transactions dramatically increases the number of transactions and the IT-related burdens for tax authorities and businesses. In principle, IT demand regarding the introduction of a DRR for intra-EU transactions should be lower than those necessary to apply the requirements to both intra-EU and domestic transactions. This may be especially true for operating costs, which are more closely linked to the number of transactions processed, but less so for investment costs.

Moreover, the maximal approach includes the elimination of the EUR 150 threshold for the use of the IOSS (VAT registration IOSS sub-option 2) wich also has a significant impact on customs, even more prominent when linked with the abolition of the threshold also for the customs duties. The inclusion has an additional negative impact on the IT-related specific objective that adds to a similar negative impact on the same specific objective linked with the possible adoption of the domestic digital reporting obligations

The benefits are driven mostly by higher VAT revenue, but the savings for businesses due to reduced burdens and improved business automation also contribute to the positive impacts. The introduction of an EU DRR and the wider use of DRR for domestic transactions will also positively impact tax controls and business automation, especially if an e-invoicing solution is adopted, while the increased storage and exchange of fiscal data increases risks to data confidentiality.

In the platform economy field, the maximal approach solves the identified distortion of competition. It deals better with the burdens related to the legal uncertainties linked to the boundaries of the new system but worsens the burdens related to the administration of the deemed supplier regime. It is increasing the possible distortion among very small and occasional suppliers within or outside a platform.

In the VAT registration area, the maximal approach further expands the scope by including the removal of the EUR 150 threshold, thus adding marginal benefits.

The synergy score is similar with the enhanced option.

Coherence and efficiency

The maximal approach has the highest cost and also displays superior net benefits. In VAT reporting area the benefits amount to EUR 231 billion. VAT revenue will also increase by EUR 63-146 billion due to the extension of the scope of deemed supplier broadening the base in platform economy. Driven by the introduction of domestic digital reporting obligations and the extension of the scope in platform economy, the cumulative impact in efficiency takes a step further compared with the previous approach.

Proportionality and subsidiarity

Under the minimalistic approach the action taken are subpar and they do not meet the minimum needs to achieve the goals. The moderate approach observes better the proportionality and subsidiarity, however it still falls short. The enhanced approach is the better balanced one, while the maximal approach is pushing the limits of proportionality and subsidiarity. The stakeholder consultation pointed to the fact that the maximal approach is more uncertain from a political feasibility point of view, having in mind the general rule in the European treaties that EU Member States must agree tax proposals unanimously before they can be adopted. The stakeholder consultation indicates that at least in the area of VAT reporting, where some Member States strongly expressed their preference for optional domestic DRRs, and in the platform economy, where the possible distortion and network effects manifest in specific areas, reaching the level of ambition required by the maximal approach could be challenging.

To summarise, the minimal and moderate approaches are the lowest hanging fruits, the enhanced approach is balanced, although cautious, and the maximal approach is very ambitious.

Table 17 – Comparison of gradual policy intervention

	Effectiveness	Efficiency	Coherence	Synergy factor	Proportionality and subsidiarity
Minimalistic approach	0/+	0/+	–	0	0/+
Moderate approach	0/+	+	0/–	0/+	+
Enhanced approach	++	++	++	++	+++
Maximal approach	++	+++	++	++	++

Table 18 – Comparison of policy intervention: total net benefits (2023-2032)

	Costs (EUR billion)	Benefits (EUR billion)	Net benefits (EUR billion)	Average benefit/cost ratio	Average benefit/cost (proportionality factor included) *
Minimalistic approach	2.9	31.1 – 31.2	28.2 – 28.3	10,6	10.6
Moderate approach	6.4	62.1 – 88.1	55.7 – 81.7	11,7	11.7
Enhanced approach	13.5	185.6 – 227.6	172.1 – 214.1	15,4	46.1

Maximal approach	46.9	350.3 – 433.3	303.3 – 386.3	8,3	16.7

** A multiplication factor of 1, 2, and 3 (see corresponding column in* **Table 17***) was used to amend the benefit/cost ratios to better account for proportionality and subsidiarity*

8. PREFERRED OPTION(S)

From the comparison, it can be concluded that the best policy choice results from the introduction of digital reporting requirements (EU DRR), combined with a deemed supplier provision and an extension of the scope in VAT registration. This points to the maximal and enhanced approaches.

The enhanced approach introduces an EU DRR for intra-EU transactions with an option for Member States to introduce this system for domestic transactions and a deemed supplier regime in the accommodation and transport sectors in the platform economy. It also entails the modification of VAT registration by extending the coverage of OSS to all B2C supplies, extending the reverse charge to B2B supplies and making the IOSS mandatory. The maximal approach goes one step further by including mandatory domestic DRR, a deemed supplier regime in all sectors of the platform economy and also removes the EUR 150 threshold for the use of IOSS.

The **maximal and the enhanced approaches are effectively addressing all specific objectives** of improving reporting requirements to include digital opportunities; providing a level playing field for businesses; ensuring convergence and interoperability of IT systems; reducing burdens, regulatory fragmentation and associated costs; and minimising the need for multiple VAT registrations.

The most significant expected benefits are from the options that cover the greatest proportion of these situations. Both the maximal and enhanced approaches **have a wide coverage, hence the greatest potential benefits**. For example, in the VAT registration area where the focus is more on the issue of '*high administrative and compliance costs'*, the sub-options for OSS and IOSS mainly differ in terms of the scope of the situations currently triggering multiple VAT registrations that would be addressed. However, for a business to benefit from any change, it would need to avoid all situations that still require additional VAT registrations. In other words: even if 99% of the transactions of a business currently requiring VAT registration could be dealt with using the OSS or via the reverse charge, it would still need to register for VAT for the remaining 1%, meaning that the availability of the OSS would hardly affect its administrative burdens. Having this in mind, the greatest coverage of the enhanced and maximal approaches address the issue.

There is no clear single preferred option for the following reasons:

1. **The maximal approach scores highest in efficiency**: between 2023 and 2032 it will bring between EUR 303 billion and EUR 386 billion[142] (net impacts against baseline), compared to

[142] EUR 231 billion (VAT reporting), EUR 63 to 146 (VAT treatment of platform economy) and EUR 9 billion (VAT registration)

between EUR 172 billion and EUR 214 billion[143] for the enhanced approach. The difference will certainly be lower due the fastest adoption of domestic DRRs by the Member States.[144] From the cost-benefit analysis without including any potential risks, the maximal approach should be the obvious choice.

2. If in terms of efficiency the maximal approach is a clear winner, adding the effectiveness and especially proportionality and subsidiarity criteria tips the balance towards the enhanced approach. More precisely, the enhanced approach respects to a greater degree **the principles of subsidiarity and proportionality**. For example, Member States will have the possibility to **decide at a national level whether to introduce domestic reporting requirements**, (whilst ensuring the interoperability with the EU solutions).

Box 3 (cont.)

Implementation of an EU DRR: difference between options 4a and 4b (Part II)

In the VAT reporting, the enhanced approach is restricted to the introduction of a mandatory EU DRR for intra-EU transactions, leaving the domestic DRR optional, while the maximal approach foresees the introduction of mandatory DRRs for both intra-EU and domestic transactions (Table 11). It should be noted that the mandatory implementation of the EU DRR for intra-EU transactions (this affects both option 4a and 4b) would make much easier the future adoption of a DRR system for domestic transactions, given that all Member States will have already in place the IT developments necessary to receive and process the data from the taxpayers. Therefore, the extension of the EU DRR to domestic transactions would be a logical following step.

Another factor is that certain Member States drew the attention to the possibility that the adoption of DRRs by a majority of Member States could create an incentive for fraudsters to target those Member States which have not adopted such systems. That would push for a generalised adoption of a DRR system for domestic transactions.

Therefore, it can be concluded that the difference between options 4a and 4b relies more in the pace of adoption of DRRs for domestic transactions than on the number of Member States that will adopt such systems. The trend points to a scenario where, in the medium-long term, all Member States will have an EU DRR for domestic and intra-EU transactions, irrespective of the choice made between options 4a and 4b.

3. The enhanced approach **follows the targeted consultation more closely**, therefore making any gains **politically feasible.** Member States strongly indicated during targeted consultations and in various forums that they value a higher degree of freedom regarding the introduction of domestic digital reporting obligations and manifested the strong support for a more moderate intervention. Moreover, they were equally concerned about the impacts of a wide deemed supplier regime on the sector as a whole, and indicated that it should begin with a more targeted approach, approving the Commission's suggestion of introducing it into the transport and accommodation sectors.

[143] EUR 139 billion (VAT reporting), EUR 24 to 66 (VAT treatment of platform economy) and EUR 9 billion (VAT registration)

[144] Between the moment of the VAT in the Digital Age supporting study and the publication of the Impact Assessment, the conservative assumptions made regarding the Member States having in place a DRR for domestic transactions in the medium term under VAT reporting option 4a compared with option 4b (Table 11) are changing as Member States are either publicly announcing their intention to introduce domestic DRRs or asking for the derogation currently needed to introduce digital reporting requirements.

A final word should be said on the **compatibility of the enhanced and maximal approaches**. If the maximal approach is a best case scenario, the enhanced approach is a self-standing viable set of measures that **can be extended in scope in the future** depending on aspects such as (1) the further evolution of the drivers, e.g. platforms that may become dominant and impose their specific business model, and (2) the evolution of IT solutions, thus being ready for the VAT in the digital age now and fit-for-future. For instance, Member States that do not adopt a DRR for domestic transactions immediately, could implement it once the DRR for intra-Community transactions is consolidated and businesses progress towards automation, fully achieving in the long term the benefits on VAT fraud reduction estimated for the maximal approach.

8.1.REFIT (simplification and improved efficiency)

VAT in the Digital initiative will fully compensate the costs of its implementation; however, the different parts of the initiative act differently in this regard: VAT reporting comes with additional costs and possible cost reductions, platform economy and VAT registration are mainly reducing costs. The Fit for Future Platform included VAT in the Digital Age in its annual work programme for 2022, recognising its potential for reducing the administrative burden in the policy field. The evidence produced by the Platform informed the impact assessment, as explained below.

The Platform's evidence pointed out to the need of avoiding 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. The need to minimise the number of instances where a business has to register in other Member States than its Member State of establishment is accounted for in the preferred options under the VAT registration. Also, the aspect of e-invoicing features in the preferred options on VAT reporting. From a taxation point of view, interoperability would be ensured by accepting invoices issued according to the European e-invoicing standard that is already in place, and the best solution is to combine flexibility with standardisation.

While the registration process is under national responsibility, the preferred option on VAT registration (OSS, IOSS) addresses as well the Platform's call for a more efficient registration process by proposing solutions for VAT registration in a way that will limit the number of instances where businesses have to register and deal with tax administrations of other Member States.

By removing the optional character of the IOSS for deemed suppliers, one of the measures proposed will indirectly limit the number of mistakes made by businesses. This is done by transferring certain responsibilities towards the platforms and hence lowering the risk of businesses receiving heavy penalties. This is also an aspect brought up by the Fit for Future Platform evidence pointing out to changing rules on VAT exemptions for services related to the importation of goods.

The introduction of a DRR could generate net costs for businesses, especially for those operating purely domestically, these could be partly compensated by the introduction of additional services, such as the pre-filling of VAT return, as well as by the removal of recapitulative statements.

The removal of recapitulative statements alone does not compensate for the higher costs associated with the introduction of digital reporting in the maximal approach. Therefore, to fully compensate the remaining costs, possible solutions would be:

- Introducing or promoting the introduction of support measures for investments in IT systems, such as support to the purchase of e-services for complying with the new requirement[145], and/or
- Introducing other simplification measures. For instance, once the tax authority receives all transactional data from the digital reporting, it may consider that VAT returns are no longer necessary, thus, in the medium-to-long-term, VAT returns could become an optional obligation, at least for Member States which have implemented a DRR for all transactions.

In the platform economy area, the disparate reporting obligations introduced by several Member States at national level will certainly be removed, because a deemed supplier regime makes them obsolete and transforms them in a redundant burden for businesses and tax administration alike.

In the VAT registration area, the costs generated by the need to VAT register for distance sellers will be eliminated almost completely.

Under the one-in-one-out (OIOO) principle, the Commission committed to offset new burdens from legislative proposals by reducing existing burdens in the same policy area, so that negative impacts for businesses are limited. The offset concerns administrative burdens and not necessarily adjustment costs (e.g. the investment needed to upgrading production lines, reducing damage to the environment, improving public health or raising the level of consumer or worker protection), and the one-in-one-out table below includes adjustment costs (which do not need to be off-set and administrative costs (that will have to be off-set) and are more of recurrent nature.

Table 19 – One-in-one-out comparison table (enhanced/maximal approach)

	ADMINISTRATIVE COSTS – IN (2023-2032, EUR billion)			**ADMINISTRATIVE COSTS – OUT** (2023-2032, EUR billion)		
		One-off	Recurrent		One-off	Recurrent
VAT reporting (DRRs)	Costs related to the introduction of DRRs		3.77 / 14.5	Reduction of costs generated by fragmentation		24.2
				Environmental benefits from the introduction of DRRs		0.01 / 0.02
				Savings from pre-filled VAT returns		4.3 / 7
				Removal of recapitulative statements		11
				E-invoicing benefits		1.9 / 14.5
Platform economy				Compliance and the status of providers determination		0.5
VAT registration				VAT registration in another Member State	0.4	8.3

Reflecting the high and growing level of automation, most of the costs of digital reporting requirements fall in the one-off (set-up) category. Unlike other DRRs such as the listings or SAF-T,

[145] This could for instance be done as a support to business digitalisation within the National Plans for Resilience and Recovery, as already anticipated by Spain to support the switch to mandatory e-invoicing.

the e-invoice does do not serve exclusively for the purpose of reporting obligations i.e. the e-invoicing is largely used today without any obligation as a measure of automation/efficiency gain; thus, they are generally adjustment costs. The one-off costs represent approx. two-thirds of the total costs. The costs are higher for larger companies than for smaller ones due to the complexity of their internal systems and the number of transactions and their diversity. There is also an inverse relation between one-off and recurring implementation costs, so that companies that invest more upfront have lower recurring expenses, and vice versa.[146]

Finally, since the digital reporting obligations and the deemed supplier regime introduced at the EU level are harmonised, it will reduce the administrative burden derived from multiple divergent domestic obligations created by national authorities. However, the Commission cannot control the removal of national obligations, but is contra intuitive to think such obligations will be maintained. Moreover, in the targeted consultation the Member States having in place similar obligations declared they are in favour of an EU already indicated that on one hand, they are thinking to remove similar national obligations.

9. HOW WILL ACTUAL IMPACTS BE MONITORED AND EVALUATED?

In line with the Tax Action Plan and following, inter alia, the views of stakeholders, the measures grouped under VAT in the digital age initiative are to be introduced progressively via legislative steps by amending the VAT Directive 2006/112/EC, supplementing the Council Implementing Regulation (EU) No 282/2011 and Council Regulation (EU) No 904/2010 on administrative cooperation. The measures are expected to contribute to better VAT collection and control, to improve fairness and reduce burdens.

Table 20 – Monitoring and evaluation framework

Objectives	Indicator	Measurement tool	Operational objectives
Better VAT collection, control and fairness	- VAT revenue (VAT collection) - VAT gap - MTIC fraud	- VAT revenue data (Eurostat) - VAT gap study and other specific studies (e.g. 'MTIC/e-commerce fraud VAT gap' studies currently under consideration) - Data provided by the Member States	- Improved efficiency in VAT compliance: min. EUR 134 billion / EUR 284 billion (enhanced approach/maximal approach) net positive impact on EU VAT revenues (2023-2032) - Positive trend in VAT Gap – up to 4 percentage points decrease, (to approx. 6.5% including the baseline) until 2032 - Substantial decrease of MTIC fraud (approx. 80% decrease at EU level)
Excessive burdens and	- Compliance costs	- Study to estimate the	- Min. 20% reduction of compliance

[146] Supporting study, Vol. I, p. 43-44, p. 54

compliance costs	for businesses	compliance costs - Data and feedback provided by the business via VEG[147]	costs in cross-border trade for businesses subject to the measures

Implementation	Indicator	Measurement tool	Operational objectives
DRR	- DRR health check	- Number, frequency and completeness	- Reducing the reporting time from up to 2-4 months to less than 5 days
Platform Economy	- Platform Economy	- Data from platform providers (provided by VEG and Member States)	- Platforms managing VAT obligations for their users
VAT registration	- OSS/IOSS statistics (flow of revenue)	- Real time reports in OSS and IOSS	- Better re-distribution of VAT revenues between Member States

9.1.Monitoring structures

The VAT Committee, an advisory committee on VAT issues in which representatives of all Member States participate and which is chaired by Commission officials from Directorate General Taxation and Customs Union (DG TAXUD), will monitor the implementation of the VAT in the Digital Age initiative, discuss and clarify possible interpretation issues between Member States regarding the new legislation. It is also envisaged that the Standing Committee on Administrative Cooperation (SCAC) will deal with all possible issues regarding administrative co-operation between Member States resulting from the new rules on the taxation of intra-EU trade. In case new legislative developments are required, the Group on the Future of VAT (GFV) and the VAT Expert Group (VEG)[148] might be further consulted.

9.2.Evaluation

Member States and the Commission shall examine and evaluate the functioning of the VAT rules provided for in the new legislation. To that purpose, Member States shall communicate to the Commission any relevant information as regards the level and the evolution of the administrative costs, MTIC fraud and the OSS and IOSS data necessary for the evaluation of the effectiveness, efficiency, coherence with other interventions with similar objectives, and continued relevance of the new legislation. The evaluation should also seek to collect input from all relevant business stakeholders as regards the level and the evolution of their compliance costs. The Commission will prepare a retrospective evaluation of the functioning of the new legislation five years after its entry into force.

[147] VAT Expert Group – see explanation in Annex 1.
[148] For more explanation on GFV and VEG see Annex 1: Procedural information.

10. FIGURES AND TABLES OVERVIEW

11. Annex 1: Procedural information

11.1. Lead DG, Decide Planning/CWP references

Lead Directorate-General: Taxation and Customs Union (TAXUD)

Decide Planning Reference: PLAN/2021/11943

CWP references: The initiative is included in the Commission Work Programme 2022 (listed under No 20 in CWP Annex)[149]

11.1.1. Organisation and timing

Organisation and timing of Inter Service Steering Group's meetings: the Inter Service Steering Group included representatives of the Directorates General BUDG, COMP, CNECT, DIGIT, ECFIN, EMPL, ESTAT, FISMA, GROW, JRC, JUST, MOVE, OLAF, REFORM, TAXUD, TRADE, the Legal Service (SJ) and the Secretariat General (SG and SG-RECOVER).

- 1st Meeting on 3 December 2021: to discuss the Consultation strategy, the Call for evidence and Questionnaire for the Public Consultation
- 2nd Meeting on 31 March 2022: to discuss the first draft impact assessment related to the problem and objectives
- 3rd Meeting on 5 May 2022: to discuss the impact assessment including the impacts and the chosen solution.

11.1.2. Consultation of the RSB

The draft Impact Assessment was submitted to the Regulatory Scrutiny Board on 25 May 2022, for consideration at a meeting on 22 June 2022. The Regulatory Scrutiny Board issued a positive opinion with reservations on 24 June 2022 (ARES(2022) 4634471).

The board gave a positive opinion with reservations because it expects the following rectifications to be made:

(1) To provide sufficient evidence and detail of the identified problems, in particular in terms of Member State and sectoral perspectives.

(2) To better set out the evidence base behind the expected impacts. To provide a clear description of the modelling behind the VAT revenue estimates and of the methodology used for estimation of costs and benefits in the scope of the One In, One Out approach.

(3) To sufficiently explain the future configuration of the options, in particular the expected structure of the EU digital reporting requirements and the degree of flexibility envisaged for Member States.

[149] https://eur-lex.europa.eu/resource.html?uri=cellar%3A9fb5131e-30e9-11ec-bd8e-01aa75ed71a1.0001.02/DOC_2&format=PDF

What to improve (RSB suggestions)	What was improved
(1) The problem section should more clearly outline the reasoning behind the problem scope as well as the urgency to act. It should set out clearly why Member States with digital reporting requirements (DRR) apply different methods and better explain why some Member States have not yet introduced DRR. When discussing the VAT treatment of the platform economy, the report should explain to what extent the identified problems are significant for sectors beyond accommodation and transport (such as finance, and professional services). It should also clarify what drives the VAT Gap and how the quantitative level provided was calculated.	The reasoning was better outlined and the urgency to act was added in the reasoning. Additional evidence from the supporting study was added, the link with the VAT Gap Study clarified. More evidence from previous impact assessments such as the one on definitive regime was included. A section explaining which Member States introduced DRRs was added, different types of DRRs explained and a figure illustrating the distribution of DRRs in the EU was added in the in the Annex 4: Analytical methods. An explanation of why some Member States have not yet introduced DRR was also provided. It was underlined that in the area of platform economy the problem is not pregnant for some sectors, especially for specific sectors such as finance and professional services. It was explained how the VAT Gap and VAT fraud are linked and why the VAT Gap was used as a proxy for fraud. The econometric model based on panel regression method with fixed effects was described, as it was used for the estimation of VAT revenues. It was made clearer the distinction between the theoretical models used to estimate VAT revenues (C-efficiency and VAT Gap). The dynamic baseline (attempting to anticipate the domestic actions and business patterns going into the future) was also accounted for.
(2) The report should explain better how the baseline reflects the other ongoing and existing related initiatives. It should be clear to what extent Member States can be expected to introduce DRR (and similar solutions) domestically in the absence of further EU measures.	Apart from the Annex 5: other initiatives, a specific part related to other ongoing and existing initiatives was included in the main report. The link with the VAT in the Digital age was made clearer. A specific table referring to the adoption of Digital Reporting Requirements was introduced for baseline (status quo), together with the adoption scenarios used.

(3) The report should provide more information on the methodology, underlying assumptions and sources used in the impact analysis. It should summarise in the main report the key methodological aspects,	More information on methodology from the Supporting Study and Annex 4: Analytical methods was added in the main report. The assumptions and sources are explicitly mentioned, or a reference to the supporting study was added. It was made clear that the C-efficiency is the used model (base model).

assumptions, and limitations. It should provide a stronger connection between the impacts presented and the underlying methodology. It should be clear how the two econometric models (C-efficiency and VAT Gap) are applied across the analysis. The same metrics should be used to enable better comparison of impacts. The report should better explain how different options will reduce the estimated VAT Gap.	A presentation of the VAT Gap and C-efficiency concepts (Box 5, Volume I, p. 37 of the supporting study) was added, clarifying that the C-efficiency model was used and explaining why. An explanation of what is the VAT Gap and how it works was added. The influence of the introduction of DRRs on the VAT Gap was determined by imputing the additional VAT revenue in the corresponding figures from latest VAT Gap Study: an increase of revenues implies a reduction of the VAT gap if the VAT liability does not change. An indicative calculation of the VAT gap reduction was added in the baseline as well as in Table 10.

(4) Given the scale of the presented estimates in scope of the One In, One Out approach, the report should provide a more detailed description of the method behind the estimates and clearly outline the metrics (in particular one-off versus recurrent costs).	The methods behind the estimates were detailed for quantitative impacts under the description of impacts area. The figures for One In, One Out and especially the one-off vs. recurrent were reviewed in the Section 8.1, a table was added in the same section. In addition, the Annex 3 was aligned and clarified.
(5) The report should present a more final outline of the options and the sub-option elements. It should clarify to what extent a future harmonised EU DRR system is tied to a specific type of digital reporting requirement, such as SAF-T or e-invoicing. It should also be clear about the future degree of flexibility for the Member States. It should clarify what political choices exist and present their differences in terms of costs and benefits.	It was clarified in Box 1 why we chose the e-invoicing for the IA and what are the benefits of such approach. Moreover, the Box 1 also offers more details on what type of reporting will be implemented and an overview of the features of such system.

(6) The report should strengthen the comparison of options. It should present the net benefits and benefit cost ratios and compare them across the option packages, including in terms of proportionality.	A table presenting net benefits and cost ratios was added to strengthen the comparison of options. Moreover, the table also accounts for proportionality, amending the ratios by using a proportionality factor between, 1 and 3 on the basis of a proportionality score determined before.

(7) The report should better present the views of different stakeholder groups in the main report, for example, stakeholder views on VAT treatment of the platform economy. It should more systematically present the divergent views of different stakeholder groups on the problems, options and their impacts.	Stakeholders' views were included in the report, especially on the problem and options and their impacts. Explanations and visuals (graphs and figures) were added in the main report using more data from the stakeholders' consultation (public and targeted). On the options, a specific section (5.3) named 'Stakeholders' views on the options' was added. In addition, in the report (including in the new section added), the views of different stakeholder are presented in five main groups, as suggested: individuals, business federations, economic operators, service providers and others (non-specific, such as academia).

11.1.3. Evidence, sources and quality

Evidence used in the impact assessment came from a variety of sources, including:

- Targeted consultation with stakeholders and Member States.
- Public consultation and Call for Evidence[150]. Feedback period: 20 January to 5 May 2022.
- Meetings of the Group on the Future of VAT (GFV)[151] on 6 December 2021, 9 February 2022 and 6 May 2022.
- Meetings of the VAT Expert Group (VEG)[152] on 29 November 2021 and 10 June 2022.
- Nine meetings (between January and July 2021) of the GFV and VEG subgroups on the "VAT aspects of the platform economy".
- Technical Study "VAT in the Digital Age" by '*Economisti Associati*'. Final Report submitted on 1 April 2022.
- VAT Gap Study (2021)[153]
- Impact assessment for the VAT definitive regime[154]
- Implementing the 'destination principle' to intra-EU B2B supplies of goods[155]
- Fiscalis events in May and October 2021 with Member States, businesses and stakeholders to discuss the Interim Report and the draft Final Report prepared by the external consultant.
- Eurofisc meeting with Member States on 18 and 19 November 2021 to discuss the objectives and findings of the VAT in the Digital Age package, with special focus on DRR.

[150] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13186-VAT-in-the-digital-age_en

[151] Taxud expert group composed of representatives from Member States https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?lang=en&groupId=2609&fromMeetings=true&meetingId=24314

[152] Taxud expert group composed of businesses and tax practitioners https://ec.europa.eu/taxation_customs/news/vat-expert-group-2016-05-23_en

[153] European Commission, Directorate-General for Taxation and Customs Union, Poniatowski, G., Bonch-Osmolovskiy, M., Śmietanka, A., VAT gap in the EU: report 2021, Publications Office, 2021, https://data.europa.eu/doi/10.2778/447556

[154] SWD(2017) 325 final

[155] European Commission, Directorate-General for Taxation and Customs Union, Jaras, T., Whittle, E., Patel, K., et al., Implementing the 'destination principle' to intra-EU B2B supplies of goods feasibility and economic evaluation study : final report, Publications Office, 2015, https://data.europa.eu/doi/10.2778/216975

- Heads of CLO (Central Liaison Office) meeting with Member States on 28 April 2022 to discuss and deepen the reflection of the Commission on the DRR part of the VAT in the Digital Age package and its impact on exchange of information between the member States.
- Evaluation of the e-commerce package.

12. Annex 2: Stakeholder consultation (Synopsis report)

12.1. Targeted consultation

In total about 272 stakeholders participated to consultation activities, including 25 during the familiarisation interviews and 247 during the targeted consultation. The Targeted Consultation spanned over 15 Member States. More in detail, for Part 1 and Part 2, the sample consists of 12 Member States each, resulting in nine core Member States, relevant to both Parts, as well as three Part-specific-countries. For Part 3, the sample is smaller, as it consists of ten Member States. The sample is shown in the table below.

Table 21 – Sample for the targeted consultation

		Region	Size	VAT reporting	Platform economy	VAT registration
1	Czechia	CE	M			
2	Estonia[156]	CE	S			
3	France	NW	L			
4	Germany	NW	L			
5	Hungary	CE	S			
6	Italy	S	L			
7	The Netherlands	NW	M			
8	Poland	CE	L			
9	Spain	S	L			
10	Portugal	S	M			
11	Greece	S	M			
12	Finland	NW	S			
13	Austria	NW	S			
14	Denmark	NW	S			
15	Sweden	NW	M			

Notes. NW: North-Western; CE: Central-Eastern; S: Southern. S: Small; M: Medium; L: Large. In green: Member States included in the part-specific samples; in dark blue: Member States not included in the part-specific samples.

Given the multi-faceted nature of the Study, the consultation strategy (shown in Table 22) had to identify which category of stakeholders was relevant for each part of the Study. This was done, first, to ensure that the necessary primary information could be collected; secondly, to limit the burden on interviewees, by focusing the exchange on the themes that were most relevant to them.

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[156] Despite contacting a very large number of local business federations and VAT practitioners, and activating additional contacts within the Study team, it was not possible to enrol in the targeted consultation for Part 1 – Reporting requirements Estonian businesses. The businesses contacted provided several reasons, in particular the lack of sufficient resources and expertise. Also, differently from other Member States, local business federations could provide no support in reaching out to businesses, mostly due to their limited available resources and lack of specific expertise on the subject matter. As a consequence, no data could be obtained on the costs and benefits of the local VAT listing system. To address this data gap, the Study team collected primary information from other countries (in particular Czechia), multinational companies and services providers. As other sources pointed out that the costs and benefits of transactional VAT listing systems are quite similar across countries, this data gap did not affect the quality of the estimates.

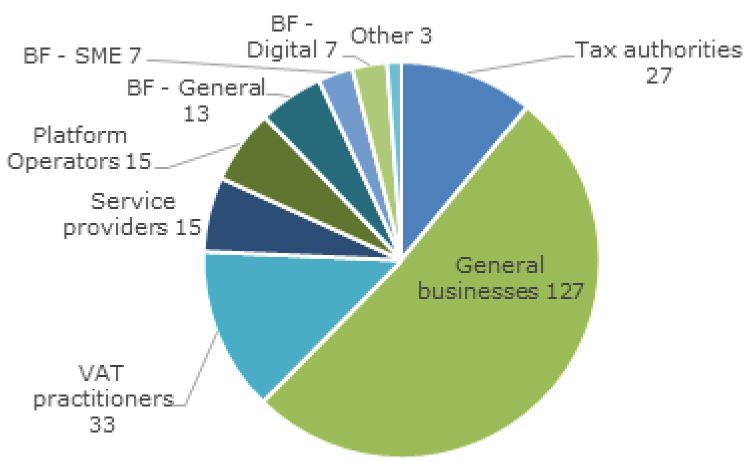
Table 22 – Consultation strategy

VAT reporting	VAT treatment of Platform economy	VAT registration
Business Federations	**Business Federations**	**Business Federations**
• General BFs • SME BFs	• Digital BFs	• General BFs • SME BFs (including local associations)
Companies (only in Member States with digital reporting requirements)	**Platform operators**	**Companies**
• Large • SMEs • MNCs	• E-commerce • Other industries	• MNCs • Cross-border operators (including SMEs)
VAT experts	**VAT experts**	**VAT experts**
• Practitioners • Tax advisors	• Practitioners (lighter involvement, given legal mapping)	• Practitioners • Tax advisors
Service providers		**Others**
• Pan-European • National (in Member States with reporting requirements)		• Customs authorities, brokers
Tax Authorities	**Tax Authorities**	**Tax Authorities**
• Via interviews in all EU-27 (including non-sampled Member States)	• Via interviews in all EU-27 (including non-sampled Member States)	• Via interviews in all EU-27 (including non-sampled Member States)

In total, 247 stakeholders participated in the targeted consultation.

The Figure 9 provides an overview of the distribution per stakeholder groups. Businesses represent the most important category with 157 stakeholders, of which 15 platform operators and 15 service providers. Company interviews were complemented with those with business federations (27, including 7 SME associations and 7 digital industry federations) and VAT practitioners (33 interviews). Among tax authorities, 15 interviews were carried out in the fieldwork Member States, and 12 written replies were received, therefore covering all Member States.

Figure 9 – Targeted consultation – stakeholder coverage



In terms of geographical distribution (shown in Table 23), the bulk of stakeholders obviously originate from fieldwork Member States (185). This figure includes 71 stakeholders from Italy, where a business survey on the costs and benefits of the only e-invoicing system currently in place in the EU was carried out with the support of the local business federation, Confindustria. In addition, 14 stakeholders came from non-sample Member States (mostly the local tax authorities) and another interview was carried out with the Commission services; finally, 47 interviews involved multinational operators, including a number of non-EU based entities.

Table 23 – Targeted consultation – geographical coverage

MS	# Stakeholders	MS	# Stakeholders	MS	# Stakeholders
AT	5	ES	13	PL	15
CZ	15	FI	6	PT	10
DE	12	FR	7	SE	5
DK	4	HU	9	MNC	47
EE	4	IT	71	Other	15
EL	5	NL	4		

Familiarisation interviews. An initial round of interviews was conducted between October and December 2020 to identify the most important issues for subsequent examination and collecting broad insights on the topics covered by the three Parts of the Study, as well as to gather opinions on the likely impacts of possible policy interventions. Moreover, these interviews were functional for the collection of suggestions on available data sources, as well as for securing support by EU umbrella organisations representing national-level stakeholders, which have been contacted during the targeted consultation.

A total of 25 interviews were organised with public institutions and private stakeholders, following a tailored semi-structured list of themes and questions to allow sufficient flexibility during the discussion. The Study Team also took part in two focus group discussions, namely: (i) one organised within the framework of Business Europe's VAT Group meeting; and (ii) one with certain members from the European E-invoicing Service Providers Association. The interviews conducted involved different categories of stakeholders, namely 10 EU-level business federations; six institutional stakeholders (including five Commission services and the OECD), three VAT Practitioners or federations thereof; four providers of eVAT services or federation thereof, and two Economic Operators.

12.2. Call for Evidence

A Call for Evidence was launched on 20.01.2022, together with the Public Consultation and it remained open until 05.05 2022, for a total of 15 weeks. A total of 322 responses were received, from 22 Member States and 7 non-EU countries.

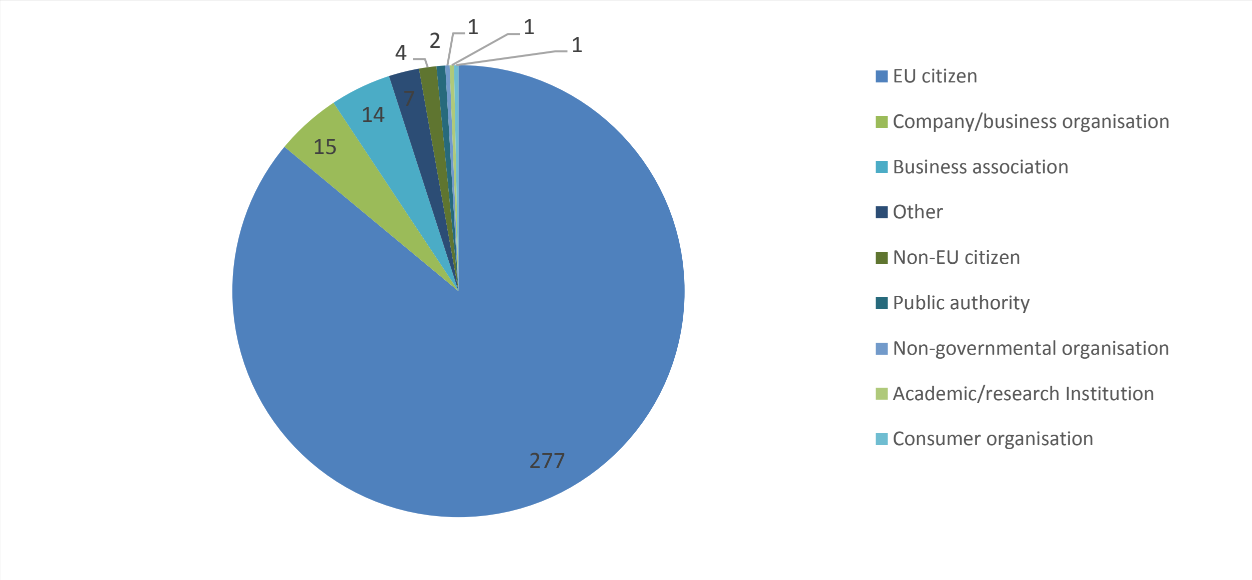
Table 24 – Country of residence or main headquarter (Call for Evidence)

Geographical origin of respondent	Number of respondents	Geographical origin of respondent	Number of respondents
Germany	113	Switzerland	2
Slovakia	62	Croatia	2
Austria	25	United States	2
Italy	22	Canada	2
Slovenia	13	Luxembourg	1

Netherlands	13	Bulgaria	1
Czechia	10	Denmark	1
France	10	Portugal	1
Lithuania	10	Norway	1
Poland	8	Romania	1
Belgium	7	United Kingdom	1
Hungary	3	Russia	1
Greece	3	Finland	1
Latvia	3	Philippines	1
Sweden	2	**Total**	**322**

The vast majority (86%) of responses came from citizens, as businesses and tax administration preferred to answer via more structured channels: targeted and public consultation.

Figure 10 – Type of Respondent (Call for Evidence)



In their answers, the 277 citizens responding to the Call for Evidence were almost unanimously against the initiative. The reasons for rejection are (one or a combination of) the following:

- Respondents were rejecting any intervention because they are generally against European Union;
- Respondents are against any form of digitalisation; notably and out of the scope of the consultation many declared themselves against the digital vaccination certificate
- Citizens are against taxation in general and VAT in particular, as they would prefer fewer or no taxes and especially consumption taxes such as VAT which they have to pay rather than being taken at source

The businesses are generally welcoming the initiative. As mentioned, they generally preferred the more structured public consultation questionnaire for their feedback.

12.3. Public consultation

12.3.1. Overview

The Public Consultation was launched together with the Call for Evidence. The Public Consultation was structured using a dedicated questionnaire consisting of 71 questions[157], divided into four sections: one introductory section about the respondent's profile, and three thematic ones dedicated to VAT reporting, VAT treatment of Platform economy and VAT registration. **A total of 193 responses were received, from 22 Member States and 5 non-EU countries.** Questions targeted stakeholders' views on the adaption of VAT rules to the digital age, the use of digital technology to fight fraud and to benefit businesses.

The stakeholders could upload additional documents at the end of the PC, and 55 respondents did so. A total of 62 documents were uploaded, of which 24 addressed VAT reporting, 9 added to their responses on the VAT treatment of the platform economy, and 14 delved further into the VAT registration. 18 stakeholders noted further comments on all three parts of the public consultation. Belgian and German stakeholders were the most active in uploading further documents, with 18 and 11 respondents from the countries doing so, respectively. An additional 10 documents were added by stakeholders to the Call for Evidence.

12.3.2. About the respondents

The public consultation resulted in a total of **193 valid responses**. **The vast majority – 159 – of respondents replied to the public consultation in their professional capacity or on behalf of their organisation**, while 34 private individuals (PI) answered in their personal capacity. Among professional respondents, business organisation/federation was the largest category with 58 replies, followed by the categories of company and VAT practitioner / VAT expert / tax advisor with 34 and 30 responses respectively. A lower number of participants was recorded for the categories of company – platform operator (9), self-employed person (1), provider of IT or tax compliance services (8), academic institution / think tank (2), public authority (5).

For the most part of the following analysis, professionals have been grouped into four categories: (i) Business Federations (BF), (ii) Economic Operators[158] (EO), Service Providers of Tax-Related Services[159] (SP), and Others[160] (O). In certain instances, the distinction will be limited to PIs and Business Stakeholders (BS), the latter combining BFs, EOs, and SPs.

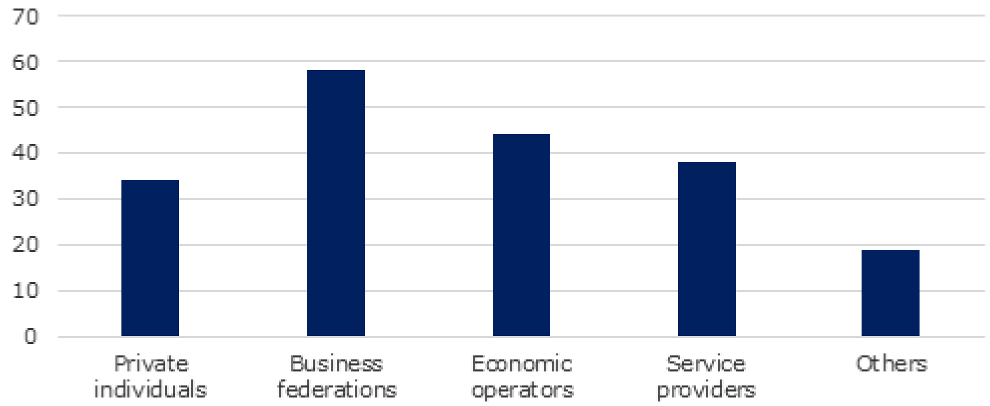
[157] This is not the number of questions posed to each respondent, as it includes duplications and filtered questions for respondents replying in different capacities.

[158] Combining the following sub-groups: (i) company, (ii) company – platform operators, and (iii) self-employed person.

[159] Combining the following sub-groups: (i) VAT practitioner / VAT expert / tax advisor, and (ii) provider of IT or tax compliance services.

[160] Combining the following sub-groups: (i) academic institution / think tank, (ii) public authority, and (iii) others.

Figure 11 – Type of Respondent (public consultation)



Across all respondents, **22 Member States are represented in the PC**. While private individuals answering come from 16 Member States, those replying in their professional capacity present 17 different Member States. Overall, **the country with the highest number of replies is Germany with a total of 54**, followed by Belgium with 29 respondents (due to the fact that a number of pan-EU organisation have their seat there). A considerable number of replies have also been registered from Italy (18), France (12), and Ireland (11). Non-EU countries are also prominently represented with 22 replies coming from outside the EU, namely from Brazil, Panama, Switzerland, the United Kingdom, and the United States. Among those, the United Kingdom shows the highest number of participants with 9.

Table 25 – Country of residence or main headquarter (public consultation)

Geographical origin of respondent	Number of respondents	Geographical origin of respondent	Number of respondents
Germany	54	Malta	2
Belgium	29	Austria	1
Italy	18	Bulgaria	1
France	12	Croatia	1
Ireland	11	Cyprus	1
Netherlands	8	Hungary	1
Finland	6	Luxembourg	1
Sweden	6	Romania	1
Poland	5	Slovak Republic	1
Spain	4	Non-EU countries	22
Czechia	3	**Total**	**193**
Greece	3		
Denmark	2		

Concerning the size of participating companies, **respondents represented predominantly large companies with 250 employees or more** (33 replies, i.e. more than three quarters of company respondents). Among the remaining companies, 3 responses were from micro companies with less than 10 employees, 5 from small-sized companies with 10 to 49 employees, and 2 from medium-sized ones with 50 to 249 employees.

12.3.3. VAT reporting (Digital Reporting Requirements)

The first thematic part of the questionnaire deals with Digital Reporting Requirements (DRRs). It was open to all respondents, although certain questions were filtered according to the status of the respondent or preceding questions. The section deals with the various types of reporting and e-invoicing requirements.

Concerning the current situation, **a majority of all stakeholders view negative impacts stemming from the current situation with regards to DRRs**. Respondents agreed the most with the statements that the wide discretion left to Member States together with the lack of EU guidance result in a fragmented regulatory framework for DRRs, and that this fragmented regulatory framework is generating unnecessary costs for EU companies operating cross-border. Across all stakeholder groups, more than 80% of respondents agreed or partly agreed with those statements. Among business federations and economic operators, the rate is even higher with over 90% stating they agree or at least partly agree. At a lower rate (65-70% agree or partly agree), respondents also agreed to the statements that the optional nature of DRRs for Member States have a negative impact on the fight against VAT fraud intra-EU and domestically, respectively. Here, the agreement is strongest among private individuals, economic operators, and other stakeholders, while business federations and service providers had 'neither agree nor disagree' as the most common single reply.

As for recapitulative statements for intra-EU transactions, **around half of the respondents considered them at least partially effective in fighting intra-EU fraud, but also think their effectiveness could be improved**. Business federations found them less effective. Respondents did not consider recapitulative statements as effective in fighting VAT fraud as domestic DRRs. A clear majority of stakeholders agreed or partly agreed that recapitulative statements would be more effective in fighting intra-EU fraud if data is collected on a transaction-by-transaction (rather than per customer) basis and closer to the moment of the transaction. This statement generated marginally more disagreement from business federations and economic operators than from other groups.

The role of the EU in fostering the adoption of reporting and e-invoicing requirements was considered crucial by stakeholders. **Over two-thirds of respondent perceived to a large extent that EU action is necessary in ensuring a more widespread adoption of reporting and e-invoicing requirements**. This opinion was shared by a majority of respondents across all groups of stakeholders (only service providers perceived this to a more limited extent).

When asked whether the EU should promote uniform DRRs for domestic transactions or rather leave Member States free to adapt requirements to their local needs, **stakeholders expressed a strong preference for the EU to promote uniform DRRs for domestic transactions**. Across both private individuals and business stakeholders, the distribution was leaning towards DRRs being promoted at the EU-level, but private individuals showed a less pronounced preference in this direction compared to business stakeholders.

In the case of an EU initiative in the field of DRRs, a majority of stakeholders agreed on the importance of its possible objectives. Across all groups, **almost all respondents viewed it as very important or important that possible EU initiatives both foster the adoption of digitally-savvy DRRs, and reduce the fragmentation of DRRs**.

Of the suggested possible revisions, a majority of the stakeholders agreed, at least partly, to all of them. **The revisions with the most support include:**

- **introduce an EU DRR for intra-EU transactions and harmonise existing systems for domestic transactions (Sub-option 4a), and**
- **introduce an EU DRR for both intra-EU and domestic transactions (Sub-option 4b)**.

Agreement was less pronounced for recording data on VAT transactions in a standard digital format, adopting non-binding Commission recommendations providing a common design for reporting obligations across the EU, and for no longer requiring Member States to have to ask for an explicit derogation for introducing mandatory e-invoicing for B2B transactions. For the publishing of a non-binding recommendation, the disagreement among service providers and private individuals was higher than for other groups. Over one-third of responding economic operators disagreed at least partly with removing the need for an explicit derogation for Member States to introduce mandatory B2B e-invoicing.

When it comes to exchanging information on intra-EU transactions between Member States, **stakeholders were fairly split between preferring a decentralised or a centralised model**[161]. Overall, a centralised model showed the highest support, but, if added together, the decentralised option and the option of a decentralised model with additional features gained more consensus. Economic operators and service providers indicated a stronger support for a centralised model than others, while business federations preferred a decentralised one, ideally with additional features.

In assessing the risks in terms of data protection, **respondents viewed the centralised model as the one with the highest data confidentiality risk**. A decentralised model, possibly with additional features, gathered more confidence among stakeholders, with around two-thirds of replies assessing the risk to be average or lower. In these cases, less than or around one third of respondents viewed the risk as high or very high.

Rating the models with regards to their interoperability with national systems, **stakeholders assessed the interoperability of a decentralised system as more difficult**. For the centralised model, stakeholders were fairly evenly split across their assessments, but more participants thought it would be easy or very easy to ensure interoperability.

Concerning existing reporting and e-invoicing requirements, **about one-third of replies come from countries with reporting or e-invoicing requirements in place**. Slightly less respondents live or operate in countries that have such requirements planned. Among **replies coming from countries with reporting or e-invoicing requirements in place,** the effects for which a majority of respondents perceive a strong or moderate intensity were (i) significant compliance costs for companies operating cross-border, (ii) a lack of support from tax authorities, and (iii) limited time to handle error and warning messages. In particular business stakeholders were concerned with compliance costs for cross-border operators.

Significant compliance costs for the overall business population were reported by more than two-thirds of respondents, but most answers assessed the intensity of this effect as minor. More than half of the stakeholders considered that national DRR systems do not allow for sufficient time to implement changes in IT systems, or feature too frequent changes to requirements, and generate

[161] In this regard it should however be noted that, based on the evidence from targeted questionnaires of consultation events listed under 11.1.3, there is a broad preference amongst the Member States tax authorities for combining the DRR with a centralised model for the exchange of information between them since this will lower the IT costs for Member States, comes with common implementation of analysis and crosschecks, as well as common interpretation of results, all through automation.

risks to the confidentiality of transaction and invoice data. Concerning those effects, more than one-third of stakeholders thought it was too early to experience them, or they did not observe them at all.

The compliance with existing reporting and e-invoicing requirements did not appear to be a significant difficulty for a majority of responding stakeholders. Around one-third of the respondents said that complying with the requirements is either very difficult or difficult. Another third viewed the compliance as neither difficult nor easy. Business stakeholders assessed compliance to be more difficult in comparison to other respondents.

Confronted with outcomes after the introduction of reporting and e-invoicing requirements, **a majority of stakeholders replied that significant benefits have manifested**. A majority of responding stakeholders saw major or moderate benefits because of the promotion of structured e-invoices, quicker invoicing processes, and business automation. Business stakeholders in particular viewed a quicker invoicing process as a beneficial outcome. Around one-third also assessed major or moderate benefits to come from quicker audits, but most participating stakeholders qualified it as being too early to tell. At least minor benefits were mentioned by one-third of respondents to come from fewer audits, fewer information requests, the pre-filling of VAT returns, and the removal of other VAT obligations, but the single answer provided most often for those four outcomes was that these benefits have not materialised. Quicker VAT reimbursements were not perceived as a significant benefit.

For those stakeholders not established or resident in countries with reporting or e-invoicing requirements, all seven suggested possible outcomes were deemed likely after the introduction of reporting and e-invoicing requirements. Around two-thirds of respondents viewed a major or moderate risk of the following outcomes materialising: significant compliance costs; significant compliance costs for companies operating cross-border; insufficient time allowed to implement changes to IT systems; lack of support from tax authority; frequent changes to requirements; limited time to handle error and warning messages; and risks to the confidentiality of data. Business stakeholders were most concerned about the risks of insufficient time to implement IT system changes and a lack of support from tax authorities materialising.

With regards to the expected difficulty of compliance, **a majority thought that compliance with digital reporting and e-invoicing requirements is going to be very difficult or difficult**. None of the respondents expected compliance to be very easy and only a marginal number of answers was assuming it is going to be easy.

Concerning possible effects of the introduction of DRRs, **major or moderate benefits were expected to materialise for all nine suggested outcomes by a majority of participating stakeholders**. The most positive expectations were expressed for the promotion of structured e-invoices, for quicker invoicing processes, for quicker audits, for fewer information requests, removal of other VAT obligations, and for quicker VAT reimbursements, for which more than two-thirds of replies expected major or moderate benefits. Around two-thirds of respondents also expected major or moderate benefits to manifest from business automation gains, fewer audits, and pre-filling of VAT returns.

The additional comments provided to this section can be grouped under the following main themes:

- There is an urgent need for an EU-level standard, which should be limited – at least at first – to intra-EU transactions. At the same time, domestic systems should share an obligatory basis to avoid further fragmentation. Existing models at the EU-level should be maintained and further developed for this purpose, namely the CEN Norm 16931.

- The granted derogations have led to a fragmented situation across the EU, which creates barriers for economic operators in entering markets in certain Member States. This creates particular problems for SMEs. Mandatory e-invoicing might be favourable for economic operators, as DRRs potentially require further administrative work.
- SMEs must be supported when it comes to DRRs and e-invoicing, for example through cost-free software or by allowing hybrid file formats.
- The data to be submitted and stored should be kept to a minimum in order to reduce the risk to data confidentiality.

12.3.4. VAT treatment of the Platform economy

In the initial questions of this section, stakeholders answered about their usage of platforms in order to buy and sell goods. **A majority of respondents use platforms to buy goods or services at least once or twice a month**. Slightly less than half of the participating stakeholders replied that they buy goods or services via platforms several times per month. Around two-fifths also stated that they do not buy via platforms at all. **Over two-thirds of participants purchase goods via platforms, while around half uses platforms to buy accommodation services and other services, and over one-third to buy transport services**. Moving from buying to selling via platforms, **the vast majority of respondents do not offer goods or services via platforms**. More than a quarter of respondents offer goods or services via platforms at least once or twice per year. Of those supplying goods or services via platforms over half do so several times per week. **Around two-thirds of the stakeholders state that they are supplying goods via platforms, while the supply of services is more fragmented**. The most regular answer concerning the supply of services via platforms was 'other services', which are supplied by about half of the respondents using platforms. One-fifth replied that they offer transportation services via platforms. At a lower rate, participants indicated that they supply financial services, professional and household services, accommodation services, and advertising / exchange of information services.

When supplying goods or services via platforms, **a vast majority of business stakeholders declared to be charging VAT on those supplies made via a platform**. Among private individuals and other stakeholders selling goods or services via platforms the rate is significantly lower, as less than half replied that they charge VAT on such supplies.

Concerning the absence of specific provisions in the VAT Directive dealing with the treatment of services supplied via platforms, **two-thirds of responding stakeholders thought that this is creating major or moderate problems for platforms and their users**. Business federations and service providers viewed the situation as more problematic.

More than two-thirds of respondents reported that they have not experienced specific problems concerning the VAT treatment of services supplied via platforms. Among those stakeholders that have stated that they offer goods or services via platforms, the share was slightly higher. The remaining ones mentioned specific issues that can be summarised into five general problems:

1) Stakeholders reported difficulties with Member States applying different VAT treatments, ranging from different rates over different treatment of electronically supplied and intermediary services to different thresholds for the application of VAT to SMEs.

2) Some respondents noted having experienced problems with either double-taxation or no-taxation.

3) Problems were mentioned concerning the definition of supplies, the status of the supplier and customer, and the place of supply.

4) Problems arise due to the platform providers, for example because of a lack of appropriate invoicing from their side or because the wrong VAT rate is being applied by them.

5) Some respondents have experienced problems when dealing with non-EU counterparts, such as uncertainty over whether VAT must be applied and what rate is correct to apply or that foreign entities must register in Member States.

With regards to specific problems, **the definition of when providers and consumers would qualify as VAT taxable persons is the most difficult issue**. This result is particularly driven by the accommodation sector, where the issue was mentioned the most often. Across the five sectors, the question of determining the status of the service as to whether it is taxable or exempt (and taxed at what rate) was noted as the least pronounced. This was viewed differently by stakeholders for the financial services sector, where it was in fact the most frequently mentioned issue. For transport services, the assessment of the consumer's VAT status, which could define the place of supply in cross-border transactions, was the most indicated issue. Also often indicated across all sectors was the issue of defining whether a platform's services should be classified as intermediation or electronically supplied services.

The **majority of stakeholders shared the view that the differences in VAT treatment across Member States has led to them experiencing at least moderate distortions to cross-border competition** with other firms offering the same services. Responding business federations, economic operators, and service providers viewed those distortions as minor at a higher rate than private individuals and other stakeholders.

Asked about competition with non-platform-supplied services, **over two-thirds of total respondents said they experience distortions of competition with other domestic firms offering the same services** due to very uneven or uneven treatment of similar services and providers in their Member States. This experience was reported most strongly by business federations. Almost half of the responding economic operators did not see distortions due to uneven treatment at all.

There does not emerge a clear consensus among the different stakeholders as to whether the current VAT treatment represents an important driver of or an obstacle to the digital platform business model. **Economic operators said at a majority that the current VAT treatment is a strong or moderate driver of the digital platform business model, while business federations were pretty evenly split**. Across all stakeholders, slightly more participants said that the current VAT treatment is a driver rather than an obstacle to the digital platform business model.

Concerning VAT evasion in the platform economy, **about three quarters of respondents considered it a specific problem for the platform economy, for trade in either or both goods and services**. Responses coming from business federations show a different assessment of the situation than the other stakeholder groups, as half of this group did not think that VAT evasion and avoidance represents a specific problem for the platform economy all together.

The need for changes to the VAT Directive and its Implementing Regulation in order to ensure proper VAT treatment of the platform economy was considered necessary by a majority of all stakeholders. The different groups of stakeholders largely agreed on this question, and only among business federations those believing changes are necessary to a large or very large extent were in a slight minority.

When provided with six different objectives for potential EU initiatives, **a majority of respondents considered all six objectives as at least important**. The objective with the highest importance is the simplicity of application, which was considered very important by more than three quarters of participants, and in particular by business federations. Around two-thirds of respondents considered it very important that potential EU initiatives aim at reducing costs for economic operators, ensuring a level-playing field between the traditional and platform economy, and ensuring harmonised treatment of the platform economy across Member States. Slightly less highly rated, but still significant, was the importance of ensuring a broad tax base and tax compliance.

Clarifying the nature of services provided by the platform was the most supported intervention across different stakeholders. Over two-thirds also at least partly agreed with initiatives concerning the introduction of a rebuttable presumption on the status of platform providers and the streamlining of record-keeping obligations. The latter found high agreement among business federations and economic operators. A lower support, but still majoritarian, concerned the remaining interventions, namely a deemed supplier regime for digital platforms, especially among business federations and economic operators.

Stakeholders were asked about possible practical difficulties (for businesses or the public budget) due to the suggested legislative interventions at the EU level. For each of the interventions, the responses can be summarised as follows:

- Clarification of the nature of the services provided by the platform: Stakeholders noted that keeping a legal clarification up to date with the business ideas and offered services of platforms will be difficult or impossible; it was remarked that the nature of the service and distinction between an intermediary and electronic supply of service cannot always be clearly defined

- Rebuttable presumption on the status of the service provider using a platform: Respondents stated that presuming the VAT status of the service provider is difficult as even a taxpayer with a VAT ID might not be VAT taxable on certain transactions; other replies warned that this adds complexity for platforms and a simple and secure mechanism should be found.

- Streamlining of record-keeping obligations: Some stakeholders were worried this would in fact increase costs and put platforms at a disadvantage compared to non-platform businesses; additional difficulty could be caused by difficulties for platforms to verify whether the underlying service provider is resident or non-resident; some responses also indicated that problems with data protection regulations could occur.

- Deemed supplier role for digital platforms: Respondents said that this creates difficulties for platforms as they become liable to charge and collect VAT in certain cases, a burden which might be unreasonable for purely domestic platforms; there is also a worry that the platforms would shift burdens to users of platforms by imposing strict conditions and requirements, a problem related to the often existing power imbalance in favour of platforms; some stakeholders also thought it could be difficult to correctly calculate the VAT rate in some cases

A majority of respondents said that the deemed supplier model would have at least moderate positive impacts on the equal treatment of the traditional and platform economy. Concerning the supply of certain accommodation and transport services (i.e. residence renting, ride on demand and home delivery services), around three-quarters of stakeholders thought it would have a moderate or major positive impact. Still over two-thirds had this view on a deemed supplier model for the supply of all accommodation and transport services. Among business federations, the responses were slightly less positive. The fear of at least moderate negative impacts was even higher among business federations for a deemed supplier model for all services for monetary considerations.

The additional comments provided to the VAT treatment of the Platform economy can be grouped into three main themes, which are the following:

- Any intervention should foster a level-playing field not only between traditional and platform economies, but also between platforms operating in different sectors and platforms of different sizes. Requirements targeted at cross-border supplies could cause unnecessary burdens on platforms with a domestic scope. Certain changes, such as using the 'group of 4' as a requirement for deemed supplier rules, might be impossible to apply in some sectors.

- The platform economy has been addressed by other initiatives and any action should be aligned with those. Stakeholders recall that the platform economy is part of the focus of CESOP, DAC7, the eCommerce Directive, and 'improving working conditions for platform workers'.

- The platform economy is one dimension of an overall economy, and it should not be subject to a specific VAT regime. Furthermore, specific digital taxes targeted at platforms might undermine the Digital Single Market.

12.3.5. VAT registration

At first, participants to the public consultation were asked about their view on the importance of some objectives to them or their organisation. Overall, **all four suggested objectives were seen as very important by a majority of the responding stakeholders**. The objective with the highest importance was the simplification and facilitation of VAT compliance, particularly among business federations and economic operators. Business federations also rated the importance of minimising the need for taxable persons to hold multiple VAT registrations across the EU as more importantly than other respondents. Still over two-thirds of replies viewed it as important to reduce fraud and maximise VAT revenue, and to modernise VAT rules linked to VAT registration as important objectives.

When asked whether the launch of the OSS brought progress towards those objectives, **stakeholders believed by a majority that the OSS has led to at least moderate progress towards all four objectives**. The most significant progress due to the OSS was towards the minimisation of the need for taxable persons to hold multiple VAT registrations. The progress on the other objectives – the simplification and facilitation of VAT compliance, and the reduction of fraud and maximisation of VAT revenue – was seen less positively by economic operators than by others. More than half of the responding economic operators saw minor or no progress towards these objectives due to the launch of the OSS.

The same question posed about the progress towards the objectives caused by the IOSS shows very similar results. **More than half of the responding stakeholders thought that the launch of the IOSS has led to significant or moderate progress towards all four objectives**. A slightly different outcome was visible concerning the objective to modernise VAT rules linked to VAT registration obligations for distance sales of goods, for which around one-fifth of answers assessed no or minor progress due to the IOSS launch.

Stakeholders predominantly expressed their view that the OSS is at least mostly, if not very, consistent with other EU policies, requirements, and regulations in the four suggested fields (the SME strategy for a sustainable Europe, the European digital single market, and the EU administrative cooperation in the field of indirect taxation). In particular, replies from business federations assessed the consistency positively. The consistency was viewed slightly less high by respondents when it comes the Union Customs Code.

The consistency of the IOSS with EU policies, requirements, and regulations in the listed fields was still assessed positively, but at a slightly lower level than for the OSS. The consistency with the SME strategy for a sustainable Europe and the European digital single market was still appreciated by over two-thirds of responses. For the Union Customs Code, around half of responding stakeholders thought the IOSS is very or mostly consistent with policies, requirements, and regulations in this area. The answers coming from economic operators valued the consistency less than other participants across all four fields, in particular for the Union Customs Code.

Around half of the participating stakeholders have direct experience with either IOSS, OSS, or both. About one-fifth stated that they only have experience with the OSS, about one-fourth with both mechanisms, and only a very small amount has experience only with the IOSS. The most experience with the IOSS and OSS can be found among service providers.

Many businesses confirmed that, thanks to OSS, they no longer need to maintain previously held VAT registrations in other Member States, and that the OSS is particularly helpful for SMEs. Over 70% of stakeholders held this view, and more often so among business federations. The perception is less positive when it comes to whether the OSS has been implemented smoothly, a view which was shared, at least partly, by less than 50% of stakeholders. Among economic operators, more than half of respondents did not consider that OSS is allowing businesses to pursue new customers and/or markets, and that it is easy to use the OSS. Private individuals, on the other hand, did not agree by a majority that the OSS helps to reduce discrepancies in the application of VAT rules in the EU.

Among the factors determining whether businesses use the OSS or not, the types of transactions the business is engaged in and the Member States in which they would otherwise face VAT registrations obligations were noted as the most important. The importance of these two factors is especially underlined by the responding business federations. The size of the business, the sector/market where the business operates, and whether the business is a deemed supplier were still seen as a very important or important factor by over 70% of those stakeholders providing a response. Slightly less importance was assigned to the Member States in which the business is established, but a majority of replies still qualifies this at least as important.

The **stakeholders considered that the IOSS is making it easier for businesses to engage in new transactions which would require them to register in other Member States**. Around one-third of respondents agreed with this statement and another third partly agreed. Agreement was especially high among replies from business federations, but considerably lower from economic operators. Over two-thirds of participating stakeholders agreed or partly agreed that the IOSS improves VAT compliance. Still a majority agreed at least partly that the IOSS is simplifying the process of importation for low-value consignments, that it is particularly helpful for SMEs, that it helps reducing discrepancies in the application of VAT rules in the EU, and that it reduces administrative burdens for businesses. The latter was, however, not perceived by a majority of economic operators. Less than half of respondents considered that the IOSS has been implemented smoothly, that it is easy to use, and that it helps to reduce discrepancies in the application of Customs and VAT rules in the EU.

Out of four possible impacts from the changes of the VAT exemption for low-value goods, **stakeholders mentioned the level playing field between EU and non-EU businesses as the most significant impact**. This impact was agreed to by almost two-thirds of respondents, with only private individuals and economic operators showing a slightly lower rate of agreement. A majority also mentioned the minimisation of the risk of undervaluation and the increase of VAT revenue. A stop to businesses relocating outside the EU to benefit from VAT savings was an impact that around 50% of responding stakeholders agreed or partly agreed to.

The most important factor in determining whether a business uses the IOSS or not is the types of transactions in which a business is engaged. Around 90% of replies viewed this factor as very important or important. Around 80% of respondents thought it is at least important what the size of the business is, the sector/market where the business operates, whether the business is a deemed supplier, the desire of a business to be compliant, and the customer experience. The latter was viewed as less important by private individuals. A lower percentage of stakeholders said that whether the business has an EU place of establishment is an important factor, but still around two-thirds noted it as important or very important.

Other observations in relation to OSS/IOSS experience can be summarised in four categories:

- There appear to be certain dangers of fraud and/or misuse of the IOSS number. One stakeholder noted that the IOSS is in practice used for VAT fraud, in particular with relation to drop shipping. Other stakeholders described a separate issue with the IOSS number and a misuse of the number, for example that there is a conflict with the number being considered semi-secret by sellers but the buyer needing it to declare the parcel to customs or the IOSS number being used fraudulently.

- The lowering of the distance selling limit to EUR 10.000 is creating problems for some stakeholders. In particular SMEs run into the obligation to register in other EU countries or use the OSS due to the change. This requires them to obtain the necessary information about the respective national VAT law, which can be time-consuming and costly.

- Several respondents remarked that the OSS could be improved by including both B2C and B2B transactions.

- A number of problems were being mentioned with the overall functioning of the IOSS and OSS, such as: certain operators being still inexperienced in managing imports through the IOSS; the IOSS/OSS being difficult to apply for deemed suppliers; occurrences of double-taxation when VAT is collected at customs and through the IOSS; Member States requiring businesses to include OSS/IOSS transactions in domestic VAT returns leading to additional complexity

Despite the introduction of the OSS and the IOSS, there are still transactions that require taxpayers to obtain and maintain multiple VAT registrations across the EU. Stakeholders were asked to assess the importance of these transactions by assessing whether they are widespread among businesses or in specific segments, and the affected share of turnover. Among the listed transactions, **stakeholders assessed the transfer of own goods cross-border as the most widespread transaction, representing a significant share of their turnover**. Close to 60% of respondents expressed this view. Export from a Member State in which the exporter is not established was considered to be either relevant only in specific market segments or affecting a limited proportion of turnover. The domestic supply of B2B services where the reverse charge does not apply was considered a more marginal transaction in terms of both prevalence and turnover significance.

Overall, however, none of the proposed transactions was seen as marginal by a majority of replies, meaning a majority thinks each of them has at least sectoral prevalence, or is widespread among businesses, albeit with a low turnover significance.

Despite the introduction of the OSS and the IOSS, **124 responding stakeholders (90% of those providing an opinion) thought that the requirement to obtain and maintain multiple VAT registrations continues to be a problem, at least to some extent**. Over two-thirds thought it is a problem to a large or even very large extent.

With a majority of stakeholders still seeing problems with multiple VAT registrations, **over two-thirds of respondents believed that it should be a high priority for the European Commission to take further action to reduce the need for taxpayers to hold multiple VAT registrations**. An additional fifth of replying stakeholders said that it should be a medium priority, and less than 10% thought it being a low priority is appropriate.

According to more than 90% of stakeholders, **VAT registration requirements lead to high administrative and compliance costs for businesses**. Especially business federations supported this view. Over 80% of respondents considered that difficult compliance with VAT registration requirements contributes to high levels of fraud and non-compliance, and that taxpayers do not pursue certain markets or transactions due to them wanting to avoid VAT registration in multiple Member States.

In addition to their opinion on the proposed policy options, stakeholders were asked to put forward suggestions to make the IOSS more fraud-proof. A suggestion brought forward by a range of stakeholders was the introduction of a robust system to avoid the misuse of the IOSS number, for example by introducing a two-factor-authentication or by making it easier for intermediaries to spot fraudulent uses of IOSS numbers by allowing them access to EU databases logging all imports using the relevant IOSS number. It was also suggested by some respondents to improve communication with Customs authorities, such as providing additional data to the authorities or sharing information collected by Customs with businesses to reconcile their IOSS VAT returns. Finally, a stakeholder suggested to introduce a solution for the calculation and collection of VAT immediately on all IOSS sales at the time of sales, eliminating the intermediary role

For VAT registration, additional comments provided by stakeholders can be classified under five main topics:

- Extend the OSS – several respondents called for the OSS to be extended. In particular the transfer of own goods and the subsequent domestic sale of that inventory was mentioned repeatedly as an area that should be included in the OSS. In addition, it is suggested by some to include the remaining areas of B2C transactions, in order to fully develop the already achieved simplification brought by the OSS.

- Remove €150 threshold for IOSS – the scope of the IOSS should also be broadened according to a number of stakeholders, who argued for a removal of the €150 threshold in order to do so. Yet, one respondent warned that this removal would need to be accompanied with a review of how customs duty is paid/collected.

- Making IOSS mandatory and its risks – while there were replies wishing for the IOSS to become mandatory, others did not wish to see this change. Certain stakeholders warned that this would make small overseas companies much less likely to sell to EU customers, if they only occasionally have sales into the EU market.

- General complexity – it was underlined by a range of answers that, while they do simplify things, the IOSS and OSS do not manage to solve the general complexity of the VAT system and also bring their own complexities. One respondent believed that the simplifications should be less targeted on how to declare VAT but rather on how to apply VAT, as the main problems of determining the right VAT rate or finding the proper place of supply rule remain. Other stakeholders outlined that certain complexities arise due to administrative issues with the OSS and IOSS, such as determining residency, trying to understand how to correct invoices, and the lack of information about transactions within a VAT group. Furthermore, the mechanisms are still perceived as complex by smaller entities. Finally, it was mentioned that the interaction between the OSS and the margin regimes for second-hand goods needs to be examined, as they cannot be used together at the moment.

- Importance of reverse charge – a couple of respondents underlined the importance of the reverse charge mechanism and that it has proven simpler than the OSS system. Therefore, they insisted that the OSS should not override the reverse charge model.

13. ANNEX 3: WHO IS AFFECTED AND HOW?

13.1. Practical implications of the initiative

The initiative will impact businesses and Member States directly and citizens indirectly, trough possible price changes.

13.1.1. Businesses (taxpayers)

Businesses will be impacted in the way they comply with their VAT obligations.

13.1.2. Member States

On one hand, Member States will be impacted by the need to implement the new VAT rules and on another hand by how they audit the application by businesses.

13.1.3. Citizens

Citizens should not be affected by the changes as they will continue to purchase goods and services with payment of VAT. However, citizens only theoretically described as such, but who in the economic reality act like a business will be impacted by the initiative because they will need to pay VAT as businesses do. In this situation, the impact is transferred to the platforms who will bear the burden of complying with the VAT obligations. Finally, citizens may be indirectly impacted by a price variation as the playfield levels and the undetected businesses surface, although the price change will not be substantial. In normal market conditions, a better competition, fraud detection and burden reduction as result of simplification are expected to lead to a reduction of the final price paid by citizens.

13.2. Summary of costs and benefits

I.a. Overview of Benefits (total for all provisions) – Enhanced approach, 2023-2032		
Description	***Amount***	***Comments***
Direct benefits		
Compliance cost reductions	Pre-filling of VAT returns: EUR 4.3 billion savings	Businesses will benefit from the savings
	The more widespread use of e-invoicing (due to quicker issuance and the reduction in postage and printing costs) will save EUR 1.9 billion	Businesses will benefit from the savings
	EUR 11 billion savings from removal of recapitulative statements	Businesses will benefit from the savings
	EUR 0.5 billion savings in administrative costs resulting from streamlining and clarifications for the from the platform economy	Platforms to benefit from the savings
	VAT registration: almost completely eliminating the need to VAT register for distance sellers will save up to EUR 8.7 billion registration costs (EUR 0.4 billion one-off and EUR 8.3 billion recurrent)	Businesses doing cross-border trade who otherwise have to register will benefit
Reduction of	EUR 24.2 billion (after the 5th year when the full interoperability and	Businesses will benefit

fragmentation costs (costs of non-harmonisation)	convergence is reached)[162].	
Additional VAT revenue	Between EUR 135 billion and EUR 177 billion: EUR 111 billion (digital reporting) and EUR 24 billion to EUR 66 billion (platform economy)[163] Being a simplification measure, the VAT registration will only bring minor additional VAT revenue.	Member States will benefit
Tax control	The introduction of DRRs is expected to bring positive impacts on the efficiency and effectiveness of tax control activities	This would mainly result from the improvement of the risk analysis systems, which is the main positive impact acknowledged by tax authorities that will benefit Taxpayers will also benefit because of more targeted audits and sometimes less audits
Levelling the playfield	VAT reporting: reduction of MTIC and intra-Community VAT fraud Platform economy: competition made fairer between actors performing in the same economic reality VAT registration: Benefits on levelling the playing field derived from the extension of the scope	VAT reporting: In particular, it will be more difficult for fraudsters to operate, since the good faith trading partner in the chain will disclose (possibly in real-time) the transactions to the authorities. Platform economy: Part of the increase in VAT collection will come from participants in economic life that are not VAT taxable while enjoying the network effects will make the competition fairer VAT registration may not be responsible for substantial amounts of fraud, regulatory costs and complexity can increase non-compliance, especially among SMEs. Thus, reducing the scope of situations requiring VAT registration for non-established businesses would make compliance simpler and cheaper, and likely to improve it.
	Indirect benefits	
Quicker introduction of a DRR for domestic transactions across Member States, due to the model-role played by the EU DRR	Some specific benefits under option 4b (introduction of domestic digital reporting requirement) will also materialise because the voluntarily adoption of domestic DRRs.	Member States will benefit
Interoperability and reduction of fragmentation	Under selected option, any new introduction of domestic reporting obligation must ensure the compatibility and interoperability with existing intra-EU solution	Member States and businesses will benefit
Indirect compliance benefits are very likely under the	First, the reduction of the number of taxpayers in charge of paying VAT from millions of providers to hundreds of (sometimes very large) platforms will markedly increase the ability of tax administrations to	Businesses and member States to benefit

[162] Fragmentation cost savings arise when a country introduce (or is so required to introduce) a uniform EU DRR. Fragmentation costs are eliminated in the medium-term (after fifth year of the 10-year period).

[163] The initiative does not create additional VAT liabilities = does not introduce any new tax. The additional VAT revenue is due to fraud reduction, increased compliance and broader tax base.

deemed supplier regime.	monitor VAT liability in the platform economy. Secondly, the understatement of turnover to remain below the VAT Scheme threshold, which is one of the main sources of non-compliance in the platform economy pointed out by tax authorities, will no longer lead to the evasion of the VAT due on their supplies.	
Benefits from business automation	An important benefit is the automation of business processes driven by the introduction of digital reporting requirements, due to the electronic handling of transactional data	Larger, more structured, business entities are likely to obtain more savings due to larger scale of their invoicing and accounting processes and because they have more means and know-how to invest in business automation
Environmental benefits, i.e. the monetary value of the CO2 saved	Between EUR 0.01 billion and EUR 0.5 billion	

Administrative cost savings related to the 'one in, one out' approach*		
Direct cost	Pre-filling of VAT returns	EUR 4.3 billion
Direct cost	E-invoicing related savings	EUR 1.9 billion
Direct cost	Removal of recapitulative statements	EUR 11 billion
Direct cost	Costs of compliance and to determine the status of providers	EUR 0.5 billion
Direct cost	VAT registration costs	EUR 8.7 billion
Direct cost	Fragmentation costs for MNCs	EUR 24.2 billion

I.b. Overview of Benefits (total for all provisions) – Maximal approach, 2023-2032		
Description	***Amount***	***Comments***
Direct benefits		
Compliance cost reductions	Pre-filling of VAT returns: EUR 7 billion savings	Businesses will benefit from the savings
	The more widespread use of e-invoicing (due to quicker issuance and the reduction in postage and printing costs) will save EUR 14.5 billion	Businesses will benefit from the savings
	EUR 11 billion savings from removal of recapitulative statements	Businesses will benefit from the savings
	EUR 0.5 billion savings in administrative costs resulting from streamlining and clarifications for the from the platform economy	Platforms to benefit from the savings
	VAT registration: almost completely eliminating the need to VAT register for distance sellers will save up to EUR 8.7 billion registration costs	Businesses doing cross-border trade who otherwise have to register will benefit
Reduction of fragmentation costs (costs of non-harmonisation)	EUR 24.2 billion (after the 5^{th} year when the full interoperability and convergence is reached)[164].	Businesses will benefit
Additional VAT	Between EUR 284.4 billion and EUR 367.4 billion: EUR 221.4 billion	Member States will benefit

[164] Fragmentation cost savings arise when a country introduce (or is so required to introduce) a uniform EU DRR. Fragmentation costs are eliminated in the medium-term (after fifth year of the 10-year period).

revenue	(digital reporting) and EUR 63 billion to EUR 146 billion (platform economy)[165] Being a simplification measure, the VAT registration will only bring minor additional VAT revenue.	
Tax control	The introduction of intra EU and domestic DRRs is expected to bring maximum positive impacts on the efficiency and effectiveness of tax control activities	This would mainly result from the improvement of the risk analysis systems, which is the main positive impact acknowledged by tax authorities that will benefit Taxpayers will also benefit because of more targeted audits and sometimes less audits
Levelling the playfield	VAT reporting: reduction of MTIC and intra-Community VAT fraud Platform economy: competition made fairer between actors performing in the same economic reality VAT registration: Benefits on levelling the playing field derived from the extension of the scope	VAT reporting: In particular, it will be more difficult for fraudsters to operate, since the good faith trading partner in the chain will disclose (possibly in real-time) the transactions to the authorities. By inclusion of domestic DRRs the chain of transaction will be complete. Platform economy: Part of the increase in VAT collection will come from participants in economic life that are not VAT taxable while enjoying the network effects will make the competition fairer VAT registration may not be responsible for substantial amounts of fraud, regulatory costs and complexity can increase non-compliance, especially among SMEs. Thus, reducing the scope of situations requiring VAT registration for non-established businesses would make compliance simpler and cheaper, and likely to improve it. The removal of EUR 150 threshold will help the competition by putting on equal footing the businesses inside and outside EU for certain transactions under the scope
Indirect benefits		
Interoperability and reduction of fragmentation	Under selected option, the domestic reporting obligation must ensure the compatibility and interoperability with existing intra-EU solution	Member States and businesses will benefit
Indirect compliance benefits are very likely under the deemed supplier regime.	First, the reduction of the number of taxpayers in charge of paying VAT from millions of providers to thousands of platforms will markedly increase the ability of tax administrations to monitor VAT liability in the platform economy. Secondly, the understatement of turnover to remain below the VAT Scheme threshold, which is one of the main sources of non-compliance in the platform economy pointed out by tax authorities, will no longer lead to the evasion of the VAT due on their supplies.	Businesses and member States to benefit
Benefits from business automation	An important benefit is the automation of business processes driven by the introduction of digital reporting requirements, due to the electronic	Larger, more structured, business entities are likely to obtain more

[165] The initiative does not create additional VAT liabilities = does not introduce any new tax. The additional VAT revenue is due to fraud reduction, increased compliance and broader tax base.

	handling of transactional data. This is maximised by the inclusion of domestic DRRs	savings due to larger scale of their invoicing and accounting processes and because they have more means and know-how to invest in business automation
Environmental benefits, i.e. the monetary value of the CO2 saved	Between EUR 0.01 billion and EUR 0.6 billion	

Administrative cost savings related to the 'one in, one out' approach*		
Direct cost	Pre-filling of VAT returns	EUR 7 billion
Direct cost	E-invoicing related savings	EUR 14.5 billion
Direct cost	Removal of recapitulative statements	EUR 11 billion
Direct cost	Costs of compliance and to determine the status of providers	EUR 0.5 billion
Direct cost	VAT registration costs	EUR 8.7 billion
Direct cost	Fragmentation costs for MNCs	EUR 24.2 billion
Indirect cost	Environmental benefits	EUR 0.02 billion

*(1) Estimates are gross values relative to the baseline for the preferred option as a whole (i.e. the impact of individual actions/obligations of the preferred option are aggregated together); (2) Please indicate which stakeholder group is the main recipient of the benefit in the comment section;(3) For reductions in regulatory costs, please describe details as to how the saving arises (e.g. reductions in adjustment costs, administrative costs, regulatory charges, enforcement costs, etc.;); (4) Cost savings related to the 'one in, one out' approach are detailed in Tool #58 and #59 of the 'better regulation' toolbox. * if relevant*

II.a. Overview of costs – Enhanced approach (total costs 2023-2032)								
		Citizens/Consumers		**Businesses**		**Administrations**	
		One-off	**Recurrent**	**One-off**	**Recurrent**	**One-off**	**Recurrent**
Introduction of intra-EU digital reporting obligation	Direct costs	No cost impact	No cost impact	EUR 7.53 billion adjustment costs for businesses[166]	EUR 3.77 billion compliance costs for businesses	EUR 0.43 billion implementation costs for tax authorities[167]	EUR 1.7 billion implementation costs for tax authorities
	Indirect costs	No cost impact	No cost impact	No cost impact	Data confidentiality: more data will be collected, stored, and exchanged	Familiarisation and training costs; awareness campaigns.	Data confidentiality
Deemed supplier for accommod	Direct costs	No cost impact	No cost impact	Initial higher costs related to the clarification	New burdens for platforms linked to the	No cost impact	No cost impact

[166]See Section 8.1

[167] The one-off costs of tax administration represent approx. 20% of total costs. The value varies across Members States, depending on the IT development approach adopted (in-house or outsourced), the range of functions and services included, and the possibility of exploiting platforms already set up to support existing digital reporting requirements for public procurement.

ation and transport services				of taxable status of the existing users	administration of the deemed supplier regime		
	Indirect costs	No cost impact	Price variation (VAT/part of VAT currently not paid may be passed on the consumer)	No cost impact	No cost impact	No cost impact	No cost impact
Extension of the OSS, reverse charge	Direct costs	No cost impact	No cost impact	No cost impact	No cost impact	Minimal costs related to updates of the existing OSS schemes	No cost impact
	Indirect costs	No cost impact	No cost impact	No cost impact	No cost impact	No cost impact	No cost impact
Removal of the optional character of the IOSS	Direct costs	No cost impact	No cost impact	No cost impact	No cost impact	Marginal costs related to small increase in capacity of current systems in place	No cost impact
	Indirect costs	No cost impact	No cost impact	No cost impact	No cost impact	No cost impact	No cost impact
Costs related to the 'one in, one out' approach							
Total	Direct adjustment costs	No cost impact	No cost impact	EUR 7.53 billion related to the introduction of DRRs	No cost impact		
	Indirect adjustment costs	No cost impact	No cost impact	No cost impact	No cost impact		
	Administrative costs (for offsetting)	No cost impact	No cost impact	No cost impact	EUR 3.77 billion		

II.b. Overview of costs – Maximal approach (total costs 2023-2032)							
		Citizens/Consumers		**Businesses**		**Administrations**	
		One-off	**Recurrent**	**One-off**	**Recurrent**	**One-off**	**Recurrent**
Introduction of intra-EU digital reporting obligation	Direct costs	No cost impact	No cost impact	EUR 29 billion adjustment costs for businesses	EUR 14.5 billion compliance costs for businesses	EUR 0.7 billion implementation costs for tax authorities	EUR 2.7 billion implementation costs for tax authorities
	Indirect costs	No cost impact	No cost impact	No cost impact	Data confidentiality: much more data will be collected, stored, and exchanged	Familiarisation and training costs; awareness campaigns.	Data confidentiality

Deemed supplier for accommodation and transport services	Direct costs	No cost impact	No cost impact	Initial higher costs related to the clarification of taxable status of the existing users	New burdens for platforms linked to the administration of the deemed supplier regime	No cost impact	No cost impact
	Indirect costs	No cost impact	Price variation (VAT/part of VAT currently not paid may be passed on the consumer)	No cost impact	No cost impact	No cost impact	No cost impact
Extension of the OSS, reverse charge	Direct costs	No cost impact	No cost impact	No cost impact	No cost impact	Minimal costs related to updates of the existing OSS schemes	No cost impact
	Indirect costs	No cost impact	No cost impact	No cost impact	No cost impact	No cost impact	No cost impact
Removal of the optional character of the IOSS	Direct costs	No cost impact	No cost impact	No cost impact	No cost impact	Costs related to small increase in capacity of current systems in place and the IT systems for	No cost impact
	Indirect costs	No cost impact	No cost impact	No cost impact	No cost impact	No cost impact	No cost impact
Costs related to the 'one in, one out' approach							
Total	Direct adjustment costs	No cost impact	No cost impact	EUR 29 billion related to the introduction of DRRs	No cost impact		
	Indirect adjustment costs	No cost impact	No cost impact	No cost impact	No cost impact		
	Administrative costs (for offsetting)	No cost impact	No cost impact	No cost impact	EUR 14.5 billion		

(1) Estimates (gross values) to be provided with respect to the baseline; (2) costs are provided for each identifiable action/obligation of the <u>*preferred*</u> *option otherwise for all retained options when no preferred option is specified; (3) If relevant and available, please present information on costs according to the standard typology of costs (adjustment costs, administrative costs, regulatory charges, enforcement costs, indirect costs;). (4) Administrative costs for offsetting as explained in Tool #58 and #59 of the 'better regulation' toolbox. The total adjustment costs should equal the sum of the adjustment costs presented in the upper part of the table (whenever they are quantifiable and/or can be monetised). Measures taken with a view to compensate adjustment costs to the greatest extent possible are presented in the section of the impact assessment report presenting the preferred option.*

13.3. Relevant sustainable development goals[168]

III. Overview of relevant Sustainable Development Goals – Preferred Option(s)		
Relevant SDG	**Expected progress towards the Goal**	**Comments**
e.g. SDG no. 8 – Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all	A more efficient and sustainable VAT system will promote economic growth	The net impacts are reflecting an annual average increase of the EU GDP worth between EUR 17 billion and EUR 38 billion between 2023 and 2032. While significant as value, these amounts remain very limited when compared to the EU GDP are (between. 0.1% and 0.2% of EU GDP). Therefore, in line with the supporting study[169], the effects on GDP are estimated by applying the appropriate multiplier to changes in VAT revenue and not via a full-fledged macroeconomic modelling.
e.g. SDG no. 9 - Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation	Although not possible to quantify, automation allows the integration of multiple services, apps, and technologies, translating in companies providing an overarching and highly customised service.	Technology and market needs dictate an increased level of security, data protection, integration, and trust. Digital reporting contributes to business automation and foster innovation.

[168] https://sdgs.un.org/goals
[169] Supporting Study, Volume I, Box 18, p. 122

14. ANNEX 4: ANALYTICAL METHODS

14.1. Econometric Model (estimate the DRR impact on VAT compliance)

As different types of DRRs are already in place in some Member States, their effectiveness could be verified by looking at actual figures on VAT non-compliance and using appropriate econometric methods. Using such methods means assessing how an independent variable, in this case the presence of DRRs and their features, impact on VAT non-compliance[170] while controlling other factors which may also explain changes in non-compliance (i.e. a country's tax policy or economic structure) across analysed time horizon.

This note discusses initial choices that were made with respect to the data and methods used. Section 2.1 presents a general formula that formalizes the link between VAT efficiency, compliance, and revenue. Section 2.2 explains the choice of the dependent variables – the VAT Gap measure. Section 2.3 presents two alternative econometric approaches and econometric tests that are performed and discusses exogenous variables and methods for their imputation. Section 2.4 presents the results.

Section 2.1: General formula for measuring impacts on VAT revenue

The value of actual tax revenue for all *ad valorem* taxes can be decomposed into three basic components, which are helpful to understand its underlying sources of their evolution. Since revenue is a product of the theoretical liability and the compliance ratio, tax collection could be expressed as:

Actual Revenue = Theoretical Liability × Compliance Ratio ,

where Compliance Ratio is: 1 – *Tax Gap* (%).

As for all ad valorem taxes the Theoretical Liability is a product of the base and the average rate (WAR, Weighted Average Rate), the actual revenue could be further decomposed and expressed as:

Actual Revenue = Net Base × WAR × Compliance Ratio ,

where the WAR is the ratio of the Theoretical Liability to the Net Base.

Expressed as relative changes, the equation could be rewritten as:

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[170] VAT non-compliance is a broad term that stands for VAT foregone not only due to fraud and evasion but also due to insolvencies, bankruptcies, administrative errors, and legal tax optimisation.

$$\left(1+\frac{\Delta Actual\ Revenue}{Actual\ Revenue}\right) = \left(1+\frac{\Delta Compliance\ Ratio}{Compliance\ Ratio}\right)\times\left(1+\frac{\Delta Net\ Base}{Net\ Base}\right)\times\left(1+\frac{\Delta WAR}{WAR}\right)$$

As the impacts of additional reporting obligations are expected to come predominantly via change in VAT compliance the overarching formula for measuring impacts on tax compliance takes the form:[171]

$$\Delta Actual\ Revenue \cong \frac{\Delta Compliance\ Ratio}{Compliance\ Ratio}\times Actual\ Revenue$$

Section 2.2: Non-compliance measure

Due to unavailability of figures for certain components of the VAT Gap, the most precise indication of the evolution of non-compliance across countries with a sufficiently long time period is the overall VAT Gap measure[172]. The VAT Gap accounts for the difference between the expected and actual VAT revenues; still, it represents more than just fraud and evasion. The VAT Gap also covers VAT lost due to, for example, insolvencies, bankruptcies, administrative errors, and legal tax optimization, whose scale could only to a limited extent be affected by the reporting obligations. Despite this fact, the use of VAT Gap as the endogenous variable for assessing the impact of reporting obligations has an advantage as it directly links with the compliance ratio (as presented overleaf). The use of the VAT Gap figures also has a clear advantage over using VAT revenue as an explanatory variable because VAT revenue is also affected by other components, e.g. changes in policy structure and tax base. For this reason, the use of VAT revenue as the endogenous variable would not allow to disentangling the direct effect of reporting obligations on VAT compliance.

The VAT Gap measure which is used in the analysis comes from the most up-to-date Study published by the European Commission. The Study contains 532 panel observations from all past vintages of the Study transformed using so called backcasting method. The backcasting method allows the Study Team to minimise the problem of structural breaks between vintages of the Study. After running the procedure, the figures rely on the magnitude of values for a period of 5 years covered by the most recent estimates (2019 Study). At the same time, the dynamics, i.e. year-over-year changes in percentage points, for the years not covered by the full estimates, are based on older Studies, as more recent editions did not cover the relevant period of time. Overall, the VAT Gap observations (of country i in year t) cover 27 EU Member States and the UK for the 2000-2018 period initially derived for seven European Commission’s VAT Gap Studies (i.e. the 2013, 2014, 2015, 2016, 2017, 2018, and 2019 Studies).

The VAT Gap, which is the most accurate measure that could be used for the modelling of the impacts of reporting obligations on VAT compliance, is available only as yearly series. Unavailability of a more granular series poses two important limitations. Firstly, compared to

[171] In other words, it is assumed that $\Delta Net\ Base = 0$ and $\Delta WAR = 0$.

[172] Proxies of certain components of the VAT Gap, i.e. fraud in intra-Community transactions, are available. However, as they likely contain a measurement error they can only serve as right-hand side variables in the model.

quarterly data, yearly series reduce markedly the degrees of freedom of the model. As a result, the model lacks data points and their variability may prevent the inclusion of additional explanatory variables. Secondly, yearly series limit the possibility of observing dynamic effects of introducing additional reporting obligations. This is an important drawback as some countries introduced their measures in phases and often in the course of the year. Moreover, it may be expected that some of the measures may have some pre-emptive and/or delayed impact.

An alternative measure that could be used as a proxy of VAT-compliance in the situation when tax rules remain stable is C-efficiency[173] and its changes over time. C-efficiency is expressed as:

$$CE = \frac{VR}{tC}$$

where, VR stands for VAT revenue, t for statutory standard rate and C for final consumption.

C-efficiency could be regarded as an indicator of the departure of the VAT from a perfectly enforced tax levied at a uniform rate on all consumption.[174] In other words, it is an intensive measure, i.e. expressed in relation to the tax base proxy, of both Compliance and Policy Gap.[175] C-efficiency can be computed on a quarterly basis, based on revenue and national accounts data from Eurostat. Thus, it allows addressing limitations of VAT Gap indicated above.

Section 2.3: Econometric methods

The approach to the econometric modelling implements two methods: (1) the base approach that uses quarterly C-efficiency data, and (2) the alternative approach that uses annual VAT Gap data. Two different methods were implemented to ensure the robustness of econometric estimates and to verify that the results do not depend on the choice of the dependent variable or data frequency.

The **base approach** uses the econometric setup of fixed-effects estimation for modelling determinants of quarterly C-efficiency. Such an approach could be regarded as a specific form of the difference-in-difference estimator in a panel data setting. The main advantage of the fixed effects estimator is that it can isolate the impact of reporting requirements from non-observed time and country-specific factors.

The model of the quarterly C-efficiency includes variables expected to determine the level of non-compliance but also controlling for factors behind *C-efficiency*. The base model could be expressed as:

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[173] Also known as VAT revenue ratio, see: Ebrill, L. Et al. (2001), *The Modern VAT*, International Monetary Fund, ISBN:9781589060265.

[174] See: Keen, M. (2013), *The Anatomy of the VAT*, IMF Working Paper, WP/13/111.

[175] Policy Gap is an indicator of tax preferences. It grasps the additional VAT revenue that could theoretically (i.e. under the assumption of perfect tax compliance) be generated if a uniform VAT rate is applied to the final domestic use of all goods and services.

$$CE_{it} = \alpha_1 TAV_{it} + \alpha_2 MV_{it} + \alpha_3 ESV_{it} + \alpha_4 RO_{it} + \alpha_5 FR_{it} + \alpha_6 SEC_{it} + a_t + a_i + u_{it}$$
(1)

where the endogenous variable is C-efficiency for country i in year t, CE_{it}, which might be explained by the variables related directly to the actions taken by tax administrations (TAV_{it}), control variables describing the current macroeconomic situation (MV_{it}), control variables describing the characteristics of specific Member States (economic structure variables - ESV_{it}). Those control variables are: . RO_{it} stands for the vector of variables describing reporting obligations. FR_{it} stands for fraud proxies (e.g. shadow economy) and the SEC_{it} for the sectoral shares in the economy (e.g. share of agriculture in the total value added). Apart from these variables, country fixed effects (a_i) and time fixed effects (a_t) are included to control for the non-observed time and country-specific factors. Finally, u_{it} is the error term with the classical statistical properties.

The dependent variable (CE_{it}) and some of the explanatory variables (e.g. RO_{it}, MV_{it}, SEC_{it}) are available at quarterly frequency whereas the remaining explanatory variables (e.g. TAV_{it}, FR_{it}) are available only at annual frequency. Since all the variables should be aligned in terms of frequency, an interpolation technique to break the annual data into quarterly series was necessary. We employed linear interpolation to construct new data points within the range of a discrete set of known data points. The linear interpolation is a data imputation method that assumes a linear relationship between missing and non-missing values[176]. The gains of such approach are threefold; (i) the number of observations and degrees of freedom is substantially higher; (ii) addressing possible problem of omitted variable bias; and (iii) more granular series that enable us to estimate the dynamic effect of introducing reporting obligations in the base approach.

The **alternative approach** uses the econometric setup of fixed-effects estimation for modelling yearly VAT Gap series. This approach limits degrees of freedom and hinders the introduction of lead and lags but may prove better if the effective rate, which is one of the revenue components, cannot be accurately controlled for.

The structure of the model takes the form:

$$VG_{it} = \alpha_1 TAV_{it} + \alpha_2 MV_{it} + \alpha_3 ESV_{it} + \alpha_4 RO_{it} + \alpha_5 FR_{it} + \alpha_6 SEC_{it} + a_t + a_i + u_{it} \qquad (2)$$

As mentioned above, the endogenous variable is the VAT Gap for country i in year t, VG_{it}. Other variables are related directly to the actions taken by tax administrations (TAV_{it}), control variables describing the current macroeconomic situation (MV_{it}), control variables describing the characteristics of specific Member States (economic structure variables - ESV_{it}).

As shown in Table 26, the explanatory variables are often available for only a subset of observations even at annual frequency. The nature of the missing data varies across variables. Some data sources cover only specific Member States (e.g. OECD), other are available for most recent

[176] The linear interpolation technique is used also to impute the values of the missing variables.

years only (Surveillance database) or were discontinued (e.g. Verification actions). However, there is one important similarity: data is not missing at random in most of the instances.

The problem of unavailability of observations decreases markedly the number of degrees of freedom in the models with numerous right-hand side variables. This creates a trade-off between two econometric problems – i.e. omitted variables and insufficient degrees of freedom.

To reduce the scale of the problem the values of the missing variables were imputed for the alternative approach as well. The Study Team decided to use a simple and intuitive method that partially controls the bias created by the non-random character of missing data.[177] The procedure for missing predictors in regression analysis that has been used is called dummy variable adjustment or missing indicator method. In this approach if X is an incompletely observed predictor in a regression model, then a binary response indicator for X is created (RX = 1, if the value in X is missing; RX = 0, if the corresponding value in X is present) and included in the regression model together with Missing values in X are set to the same value, i.e., any constant value c.

Reporting obligation proxies and control variables. The treatment dummies, i.e. indicator variables that capture the timing and location of the existing reporting requirements, are introduced in the model as independent variables. Proxies include dummy variables standing for countries in which were introduced (grouped by type, i.e. VAT listing, SAF-T, Real-time, e-invoicing).

In addition to reporting obligation proxies, the model specification includes variables from multiple sources, i.e. Eurostat, World Bank, the VAT Gap Study. The full list of variables, their sources along with coverage periods and frequencies, and number of observations are included in Table 26.

[177] See: Allison, P.D. (2001), *Missing Data*, Sage, Thousand Oaks.

Table 26 – Variables and Descriptive Statistics (econometric model)

	Source	Coverage	Frequency	Number of Observations
Dependent (Endogenous) Variables				
C-Efficiency	Own elaboration	2007-2021	Quarterly	1 334
VAT Gap	VAT Gap reports, EC	2007-2019	Annual	273
Macroeconomic Variables				
Real GDP growth	EUROSTAT	2007-2021	Quarterly	1 334
Deficit to GDP Ratio	EUROSTAT	2007-2021	Quarterly	1 334
Debt to GDP Ratio	EUROSTAT	2007-2021	Quarterly	1 334
Unemployment	EUROSTAT	2007-2021	Quarterly	1 334
Tax administration variables				
Standardized fiscal rules index	EC	2007-2019	Annual	273
Number of staff	OECD	2011, 2013-2017	Annual	123
Verification actions	OECD	2007-2015	Annual	162
VAT electronic filing rate %	OECD	2009, 2011, 2013-2015	Annual	92
IT expenditure as a share of total costs	OECD	2007-2017	Annual	168
Shadow Economy				
Size of the shadow economy	IMF	2007-2019	Annual	273
Fraud Proxies				
Intra-EU Import at risk	Own calculation	2007-2019	Annual	273
Trade-at-risk	Own calculation	2007-2017	Annual	231
Economic Structure and Institutional Variables				
Population at risk of poverty	EUROSTAT	2007-2019	Annual	273
Share of companies with no employees	EUROSTAT	2007-2018	Annual	195
Share of companies with over 10 employees	EUROSTAT	2007-2018	Annual	195
Gini Index	World Bank	2007-2018	Annual	236
Economic Risk Rating	ICRG	2007-2015	Annual	189
Political Risk Rating	ICRG	2007-2015	Annual	189
The Worldwide Governance Indicators: Rule of Law	World Bank	2007-2014, 2018-2019	Annual	189
The Worldwide Governance Indicators: Control of Corruption	World Bank	2007-2014, 2018-2019	Annual	189
Sector Shares				
Agriculture, forestry and fishing	EUROSTAT	2007-2021	Quarterly	1 334
Industry	EUROSTAT	2007-2021	Quarterly	1 334
Wholesale and retail trade, transport, accommodation and food service activities	EUROSTAT	2007-2021	Quarterly	1 334
Information and communication	EUROSTAT	2007-2021	Quarterly	1 334
Financial and insurance activities	EUROSTAT	2007-2021	Quarterly	1 334
Real estate activities	EUROSTAT	2007-2021	Quarterly	1 334
Professional, scientific and technical activities; administrative and support service activities	EUROSTAT	2007-2021	Quarterly	1 334

Based on 'VAT Gap Study, 2020'.

Section 2.4: Results measure

Baseline model

Base approach (C-efficiency quarterly data). The baseline econometric estimates using quarterly data and C-efficiency, where RO_{it} stand for a dummy variable that takes value 1 for country i if any type of DRRs is being implemented in country i at time t and zero otherwise. The simplest model, the baseline specification, is described in column (1) and the sample covers periods from 2007q1 to 2021q2. The econometric estimates include all EU-27 states except Bulgaria, Latvia, Luxembourg, and Malta[178].

As can be seen in Table 27, the estimated coefficients of the reporting obligations are statistically significant at 1 percent level. The other explanatory variables are statistically significant as well with GDP growth at 5 percent and general government surplus (deficit), and unemployment rate at 1 percent levels. According to the estimation results of the baseline specification, introducing reporting obligations lifts VAT revenue by 1.9 percent of the theoretical liability (liability that would be obtained if all consumption was taxed at standard rate).

The alternative specifications (columns (2) to (6)) show that the estimated coefficient of reporting obligations is statistically significant regardless of additional exogenous variables introduced[179]. The value of the parameter itself is relatively stable as it varies between 1.5 and 2.6 basis points. In summary, **the results from the base model show that the countries that introduced DRRs have experienced an increase in their VAT revenue and this positive impact is found to be robust under different specifications.**

Alternative approach (VAT Gap yearly data). The results of the regressions from the alternative set of models using annual data are shown in Table 28. Similar to the base model, RO_{it} in Equation 2 is a dummy variable that takes value 1 for country i if any type of reporting obligation is being implemented in country i at time t and zero otherwise. The dependent variable is VG_{it}, VAT Gap for country i in year t. The simplest model, the baseline specification, is described in column (1) and contains the same explanatory variables of the baseline specification of the base approach except unemployment rate. The estimated coefficients of the reporting obligations and GDP growth are statistically significant at 1 and 10 percent levels, respectively, whereas general government surplus are not statistically significant at the p=0.1 level. According to the estimation results of the baseline specification, introducing reporting obligations decreases VAT Gap by 2.6 percentage point and thus the revenue increase by 2.6 percent of VAT Total Tax Liability (VTTL).

The alternative specifications (columns (2) to (5)) show that the estimated coefficient of the reporting obligations is statistically significant in all specifications at the 1 percent level and the estimated values vary between 2.4 to 2.6 basis points.

The results from the base model estimated on annual data confirm that the countries that introduced DRRs have experienced decrease in their VAT Gap and this positive impact of reporting obligations on VAT Gap is found to be robust under different specifications.

Moreover, and importantly, **the magnitude of the reporting obligation coefficient estimated through annual data is similar to the coefficient estimated through quarterly data** given in column (1) of Table 27, as discussed in the following paragraph.

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[178] Bulgaria and Latvia are excluded because VAT listing obligation was introduced long ago (back in 2001), while only digital compliance balance mandatory in 2011. Luxembourg and Malta are excluded due to their small size compared to the other EU-27 Member States which may pose a risk of heteroscedasticity in the residuals.

[179] The R-sq coefficients for some alternative specifications, notably (3) are biased downwards owing to the need to impute interpolated quarterly estimates for annual variables. This issue however does not affect the chosen specification (baseline). The table provides alongside the basic R-sq, also within-country R-sq which are more informative for a panel regression with country fixed effects.

In order to compare the results from both modelling approaches, the relation between C-efficiency and the VAT Gap needs to be established. Using the equation presented in Section 2.2, the result is:

$$dVAT_{revenue} \approx -dVG \times \frac{VTTL}{VR} \approx dCE \times \frac{tC}{VR}$$

As $VTTL \approx (1 - Policy\ Gap) \times tC$:

$$\frac{dCE}{dVG} = Policy\ Gap - 1$$

The average Policy Gap in the EU was estimated at 44 percent in 2018[180]. Hence, one can expect that when the coefficient of reporting obligation is equal to -2.6 basis points when the dependent variable is VAT GAP, the same coefficient should be equal to 1.5 basis points when the dependent variable is C-efficiency based on the above formula. However, even though close, this does not hold perfectly in our regressions and the coefficient is equal to 1.9 basis points in the model with C-efficiency. The difference could be explained by considering that the quarterly data may better capture the timing of the impact since data are more granular, thus leading to a larger estimated impact of reporting obligations on VAT revenue and by different periods between quarterly and yearly data.

Econometric tests. All model specifications were thoroughly tested. Among others, the Study Team conducted a collinearity test for the exogenous variables to minimize the risk of multicollinearity. As this test proved, there was no case of Variance Inflation Factor with value above 10 in the specifications presented.[181] Since the model contains time series, the Study Team verified that the model does not suffer from the issue of spurious regression. For this purpose, unit root tests were performed – Levin-Lin-Chu (2002), Harris-Tzavalis (1999), and Im-Pesaran-Shin (2003). All tests indicated that the C-efficiency and explanatory variables included in the specifications are stationary. The tests showed that debt-to-GDP is non-stationary and cannot be included in levels in the base model equation.

Table 27 – Baseline approach model estimates: C-efficiency quarterly data (econometric model)

	(1) Baseline	(2) Fraud	(3) Shadow Economy	(4) Economic Structure	(5) Tax Administration	(6) Sectors
Reporting Obligations	0.019***	0.015***	0.017***	0.016***	0.026***	0.020***
	(5.47)	(4.36)	(5.07)	(4.30)	(7.25)	(5.71)
GDP growth	0.122**	0.129**	0.095*	0.121**	0.120**	0.145***
	(2.15)	(2.33)	(1.70)	(2.11)	(2.17)	(2.63)
Government surplus(deficit)	0.136***	0.119***	0.107***	0.138***	0.150***	0.131***
	(6.26)	(5.63)	(4.90)	(6.30)	(7.07)	(6.21)
Unemployment rate	-0.465***	-0.493***	-0.533***	-0.537***	-0.427***	-0.248***
	(-9.22)	(-9.93)	(-10.45)	(-10.35)	(-8.42)	(-3.80)
Intra-EU import at risk		-0.190				
		(-0.87)				

[180] European Commission (2020), Study and Reports on the VAT Gap in the EU-28 Member States: 2019 Final Report, TAXUD/2015/CC/131.

[181] Variance Inflation Factor measure the correlation among independent variables. In general, factor above 10 indicates high correlation and is cause for concern (Dodge, Y., 2008).

Trade at risk		-0.287***				
		(-8.57)				
Shadow economy size			-0.011***			
			(-6.06)			
Poverty Index				0.505***		
				(5.44)		
Small size companies				0.006		
				(0.35)		
Large size companies				0.225**		
				(2.23)		
Standardised fiscal rules					-0.013***	
					(-7.37)	
Number of staff					-0.738**	
					(-2.42)	
Number of verifications					-0.006***	
					(-3.90)	
Electronic filling					22.208	
					(0.62)	
IT expenditure					0.003	
					(0.30)	
Agriculture share						-0.207
						(-0.85)
Industry share						-0.102
						(-1.07)
Retailers share						-0.137
						(-1.09)
Communication share						-0.568***
						(-3.83)
Finance share						-0.756***
						(-4.14)
Real estate share						0.125
						(0.78)
Scientific share						-0.572***
						(-2.80)
Constant	0.558***	0.574***	0.823***	0.499***	0.573***	0.647***
	(81.60)	(78.89)	(18.64)	(26.23)	(59.87)	(7.99)
Observations	1334	1334	1334	1276	1334	1334
R-sq overall	0.1850	0.0477	0.0000	0.1236	0.3132	0.0307
R-sq – within	0.3892	0.4235	0.4067	0.3968	0.4240	0.4631
R-sq – between	0.1569	0.0010	0.0072	0.0495	0.2938	0.0033
Number of countries	23	23	23	22	23	23

Table 28 – Alternative approach model estimates: VAT Gap annual data (econometric model)

	(1) Baseline	(2) Fraud	(3) Shadow Economy	(4) Economic structure	(5) Tax Administration
Reporting Obligations	-0.026***	-0.025***	-0.026***	-0.024***	-0.026***
	(-3.66)	(-3.38)	(-3.61)	(-3.17)	(-3.66)
GDP growth	-0.138*	-0.156**	-0.137*	-0.146*	-0.142*
	(-1.84)	(-2.08)	(-1.82)	(-1.94)	(-1.91)
Government surplus(deficit)	0.019	0.050	0.022	0.003	0.004
	(0.25)	(0.65)	(0.28)	(0.04)	(0.05)
Trade at risk		0.261**			
		(2.00)			
Intra-EU import at risk		-0.315			
		(-0.74)			
Shadow Economy			0.001		
			(0.12)		
Gini (Unequality) Index				-0.000	
				(-0.18)	
Poverty Index				-0.253	
				(-1.11)	
Small size companies				-0.039	
				(-1.02)	
Large size companies				-0.295	

				(-1.49)	
Standardised fiscal rules					0.000
					(0.02)
Verification Actions					0.000**
					(2.21)
Constant	0.142***	0.136***	0.131	0.215***	0.136***
	(19.72)	(13.95)	(1.36)	(3.63)	(18.24)
Observations	273	273	273	273	273
R-sq within	0.4439	0.4543	0.4440	0.4559	0.4600
Number of countries	21	21	21	21	21

Lagged and forward-looking effects

In the baseline estimations, the reporting obligations were allowed to have only contemporaneous impact on the VAT revenue (through C-efficiency). However, the impact of reporting obligations on VAT revenue may be 'dynamic'. It could be expected that it may take some time to reach full impact, and some of the impact might also be seen already before the introduction (e.g. if taxpayers adjust their behaviours by anticipating the forthcoming obligations). For this purpose, the Study Team rerun the baseline estimation six different times and at each time RO_{it} was replaced with one or four quarter of the lagged or lead values of RO_{it}.

Base approach (C-efficiency quarterly data). The results of the base estimations are shown in the columns (2)-(5) of Table 29. In the very last two columns, the Study Team rerun the baseline estimation with $\mathrm{RO}_{\mathrm{it}}$ and it's one quarter lagged and lead value, separately.[182]

As can be seen in column (2) of Table 29, the estimated coefficient of one quarter lagged reporting obligations (L.RO) is statistically significant at 1 significance percent level and its magnitude is similar to the coefficient of current reporting obligations (RO) given in column (1). The same holds for one and four quarter lagged reported as (L.RO) in column (2) and as (L4.RO) in column (4), respectively, and one lead reporting obligations reported as (F.RO) in column (3). When current and one quarter lagged values of reporting obligations are included in the explanatory variable vector, only current value coefficient becomes significant in column (6). Even though the coefficient of current is larger relative to the baseline estimation, its sum with the coefficient of the lagged reporting obligations gives the same magnitude as given in column (1). Finally, the coefficients of the current and lead values become insignificant in column (7) when both of them are used as explanatory variable. Even though both coefficients are statistically not different than zero, the magnitudes of reporting obligations given in column (1) and the sum of lead and current ROs are equal.

All in all, the regressions with lead and lag values for introducing reporting obligations show that the impacts of introducing reporting obligations do not vary significantly over time. The forward-looking impact, if any, appeared to be not larger relative to the lagged or contemporaneous impact. This proves that there is no reversed causality in the model.[183]

Table 29 – Baseline approach model estimates with lags and leads: C-efficiency quarterly data

	(1)	(2)	(3)	(4)	(5)	(6)	(7)
	Current	One Quarter Lag	One Quarter Lead	Four Quarter Lag	Four Quarter Lead	One Quarter Lag and	One Quarter Lead and

[182] The analysis could not be replicated with the alternative approach due to the different time granularity of the dependent variable.

[183] Reversed causality would mean that the change in the VAT Gap is a major reason for implementing reporting obligations rather than on the contrary.

						Current	Current
Reporting Obligations	0.019***					0.022**	0.006
	(5.47)					(2.25)	(0.60)
L.Reporting Obligations		0.018***				-0.003	
		(5.22)				(-0.30)	
L4.Reporting Obligations				0.018***			
				(5.18)			
F.Reporting Obligations			0.019***				0.013
			(5.52)				(1.34)
F4.Reporting Obligations					0.015***		
					(4.32)		
GDP growth	0.122**	0.112**	0.125**	0.118**	0.189***	0.113**	0.125**
	(2.15)	(1.98)	(2.19)	(2.11)	(2.94)	(1.98)	(2.19)
Government surplus(deficit)	0.136***	0.132***	0.134***	0.135***	0.123***	0.133***	0.134***
	(6.26)	(6.08)	(6.13)	(6.27)	(5.60)	(6.11)	(6.13)
Unemployment rate	-0.465***	-0.442***	-0.469***	-0.380***	-0.503***	-0.436***	-0.468***
	(-9.22)	(-8.60)	(-9.24)	(-7.18)	(-10.02)	(-8.48)	(-9.21)
Constant	0.558***	0.533***	0.558***	0.530***	0.559***	0.532***	0.558***
	(81.60)	(72.37)	(81.36)	(73.45)	(82.95)	(72.28)	(81.31)
Observations	1334	1311	1311	1242	1242	1311	1311
R-sq overall	0.1850	0.1792	0.1838	0.1689	0.1847	0.1787	0.1837
Number of countries	23	23	23	23	23	23	23

The analysis with lagged and lead values is also carried out for the distinguished types of reporting obligations; periodic and CTCs. Results are not different from the general analysis: for PTCs, coefficients of lagged and led variables are of the same order of magnitude and their significance disappears when controlling for current variables. For CTCs, results are more spurious, likely because of the data limitations discussed above. When controlling for both lagged and current variables, both coefficients are statistically significant (at least at 5 percent level), and the analysis would point out that only the lagged variable has a positive effect on VAT revenue. However, caution is needed in that respect, since, in the EU, the implementation of CTCs took place in countries where already obligations were already in place. Therefore, it is not possible to argue whether the lagged effect is due to the introduction of CTCs or to the pre-existing PTC system.

Table 30 – Baseline approach model estimates with lags and leads of distinguished types of reporting obligations: C-efficiency quarterly data

	(1) Current	(2) One Quarter Lag	(3) One Quarter Lead	(4) Four Quarter Lag	(5) Four Quarter Lead	(6) One Quarter Lag and Current	(7) One Quarter Lead and Current
Periodic	0.019***					0.012	0.010
	(5.04)					(0.97)	(0.84)
L.Periodic		0.019***				0.009	
		(5.06)				(0.74)	
L4.Periodic				0.018***			
				(4.78)			
F.Periodic			0.019***				0.010
			(4.99)				(0.80)
F4.Periodic					0.015***		
					(3.90)		
CTCs	0.018***					0.048***	-0.004
	(2.93)					(2.68)	(-0.19)
L.CTCs		0.014**				-0.032*	
		(2.28)				(-1.74)	
L4.CTCs				0.019***			
				(2.73)			
F.CTCs			0.019***				0.023
			(3.14)				(1.25)
F4.CTCs					0.015**		
					(2.43)		
GDP growth	0.122**	0.112**	0.125**	0.118**	0.189***	0.113**	0.125**
	(2.15)	(1.98)	(2.18)	(2.11)	(2.93)	(1.99)	(2.18)

Government surplus(deficit)	0.136***	0.132***	0.134***	0.135***	0.123***	0.133***	0.134***
	(6.25)	(6.06)	(6.13)	(6.26)	(5.60)	(6.12)	(6.12)
Unemployment rate	-0.465***	-0.439***	-0.469***	-0.380***	-0.503***	-0.435***	-0.468***
	(-9.17)	(-8.53)	(-9.21)	(-7.17)	(-9.95)	(-8.46)	(-9.17)
Constant	0.558***	0.533***	0.558***	0.530***	0.559***	0.533***	0.558***
	(81.52)	(72.36)	(81.28)	(73.37)	(82.86)	(72.34)	(81.22)
Observations	1334	1311	1311	1242	1242	1311	1311
R-sq overall	0.1857	0.1818	0.1837	0.1688	0.1849	0.1796	0.1834
Number of countries	23	23	23	23	23	23	23

Conclusions for the econometric analysis (VAT liability simulation model):

- the impact of introducing reporting obligations on VAT compliance and overall efficiency, and thus on VAT revenue, is positive with a central estimate of +1.9 basis points for C-efficiency (range: 1.5-2.6 basis points) and -2.6 basis points for VAT Gap (range: 2.4-2.6 basis points), meaning a reduction of the VAT Gap
- Such results are highly significant and robust across two approaches and various model specifications. The magnitude of the impact is similar, albeit slightly larger for VAT Gap.
- The results on any differential impact of PTCs and CTCs are conflicting and non-conclusive, and this likely depends on the very short period and limited number of Member States which implemented the latter. In a nutshell, as far as the impact of CTCs in the EU Member States, it is yet too early to tell.
- When considering lagged or forward-looking effects, the impacts of DRRs do not vary significantly across times and, consequently, the non-dynamic variables well capture the impacts on VAT revenue.

Although both methods used in this analysis have pros and cons, the analysis looking at C-efficiency and using quarterly data appears to be better-suited for the purpose. The quarterly data provide larger number of observations and degrees of freedom that increase the statistical power of the estimations. Moreover, quarterly data allows to inspect the dynamic effects of the reporting requirements.

14.2. Net impacts on businesses' administrative burdens by category and type of firm (Table 12)

On company size, data are taken from a recent Commission study on the VAT schemes (Deloitte (2017), Special scheme for small enterprises under the VAT Directive 2006/112/EC - Options for review, Final Report, Annex D). Based on data from national tax authorities, the number of VAT taxable persons in the EU is estimated at about 37.5 million, 36.5 million of which are micro entities with a turnover lower than EUR 2 million. Of the about 900,000 companies with a turnover higher than EUR 2 million, the distribution in small, medium and large companies is extrapolated based on Eurostat's data. Data on VAT taxable persons are not directly compatible with Eurostat's data on enterprises for at least two reasons. First, not all taxable persons are enterprises (they could include, for instance, self-employed individuals or VAT registrations of non-established companies). Secondly, data on taxable persons are segmented on a turnover basis, while data on companies are segmented based on the number of employees. For instance, it is possible that an entity with a turnover of less than 2 million is not a micro company if it has more than 10 employees; or that an entity with 9 employees is not a micro company if it has a turnover higher than EUR 2 million. Therefore, the following procedure is applied: first, the relative weight of small, medium and large enterprises are calculated based on Eurostat's data; then, these weights are applied to the number of VAT taxable persons with a turnover higher than EUR 2 million.

14.3. VAT liability simulation model

A VAT liability simulation model for each Member State was used to estimate VAT revenue from the platform economy for the sectoral analysis. The model was calibrated to reflect changes in tax rules under projected policy scenarios and adapted to forecasted increase in the tax base.

The model consists of equations parametrised for each Member State and each sector, calibrating the shares of transactions provided by exempt and non-taxable providers separately for providers' and platforms' services.

The VAT liability simulation model used for in the sectoral analysis and for the impact assessment composes of two blocks: (1) the set of equations modelling effective liability on platforms' facilitation services, and (2) the set of equations calculating liability for the underlying services. The equations in each of the block were calibrated and adapted to tax base in every Member State and sector.

The model for facilitation services (for country i and sector s) is a sum of products of net tax bases subject to different rules and applicable rates. The factors of this equation are.

1) VAT collected in country i as a permanent location of the provider (on respective tax base - $TB_{1,i.s}$) with the effective rate applicable as on the underlying service (t_s);
2) VAT collected in country i as the place of establishment or permanent location of the provider (on respective tax base - $TB_{2,i.s}$) with the effective rate applicable as on average rate for final goods in the transaction chain (t_{fi})
3) VAT collected in country i as the place of establishment or permanent location of the provider (on respective tax base - $TB_{3,i.s}$) with the effective rate applicable as on facilitation services (t_{fa})
4) VAT collected in country i as the place where the underlying transaction was supplied (on respective tax base - $TB_{4,i.s}$) with the effective rate applicable as on facilitation services (t_{fa})
5) VAT paid in country i as the place of establishment or permanent location of the user (on respective tax base - $TB_{5,i.s}$) with the effective VAT rate as on facilitation services (t_{fa})

For every sector s and country i, we have: $VL_{i,s} = TB_{1,i.s} \times t_s + TB_{2,i.s} \times t_{fi} + TB_{3,i.s} \times t_{fa} + TB_{4,i.s} \times t_{fa} + TB_{5,i.s} \times t_{fa}$

The estimates of respective tax bases for each of the country was based on estimated revenue and cross border flows of services. The parameters necessary to decompose the overall value of revenue to components of tax base were based primarily on statistics of transaction characteristics provide by platform operators. The list of estimated coefficients that allowed to decompose tax base includes: (1) percent of services classified and ESS and intermediary services, (2) percent of providers who are taxable person, non-taxable persons and belonging to group of four, (3) percent of consumers who are taxable person, non-taxable persons and belonging to group of four, and (4) percent of transactions in which provider and/or consumers pay the facilitation fee.

The equation describing the VAT liability on underlying services excluding liability attributed to the facilitation fee takes simpler form as it is assumed that the place of supply is always the physical location of consumption. On the contrary to the liability on the facilitation services, non-deductible input VAT of exempt and non-taxable providers had to be modelled. For this purpose, the parameter of average value of input tax to output in sectors covered by this analysis was calculated using fiscal figures provided by Member States Authorities. Three situations were possible:

1) VAT collected in the place of consumption with the rate applicable as on the service (t_s);
2) VAT collected in the place of consumption with the rate applicable as on final goods in the transaction chain (t_{fi});
3) There is no output VAT but there is non-deductible intermediate VAT on inputs (of non-taxable or exempt providers).

The sum of liabilities could be expressed as:

$$VL_{i,s} = TB_{i.s}\varphi\big(\gamma t_s + (1-\gamma)t_{fi}\big) + TB_{i.s}(1-\varphi)\alpha_s t_{fa}$$

where:
$TB_{i.s}$ – value of service s consumed in MS i;
φ – share of transactions provided by taxable non-exempt persons;
γ – share of transactions with good provided to taxable persons (C2B and B2B in all transactions);
α – proportion of intermediate input in output.

14.4. Standard Cost Model (SCM)

The Model estimates administrative burdens of regulatory interventions based on personnel's time (in FTE) and IT investment associated with the provision of information, as reported by businesses.

14.5. Comparative analysis

A comparative analysis is used to assess the VAT burden on the platform economy and competing businesses in the traditional economy

14.6. Qualitative assessment of legal certainty and other regulatory costs

Qualitative assessment of legal certainty and other regulatory costs (that could not be quantified using the SCM) based on the legal analysis, sectoral analysis and legal analysis, as well as the results of the targeted consultation.

14.7. Methodology to assess the revenue shift in platform economy

The type of service that would be most impacted by the revenue shift are is intra-Community cross-border trade in accommodation services in situations when the consumer is a non-taxable person and is responsible for the payment of the facilitation fee. The second type of services with a sizable impact on revenue shifts between Member States is cross-border trade in accommodation services when the property owner is a non-taxable person and resides in a Member State other than that of the location of real estate he/she rents. If the facilitation service is recognised as an electronically supplied service (ESS), VAT on the facilitation services shall be collected in the place of residence of the consumer. If the facilitation service is recognised as an intermediary service (IS), VAT shall be collected in the Member State where the property is located.

Three parameters are crucial for the assessment of VAT revenue shifts for the above-mentioned services in the scenarios of alternative rules on the place of supply applicable. These are: (i) percentage of transactions in the accommodation sector in which consumers pay the fee (estimated at 18.8 percent), (ii) share of facilitation services that are classified as ESS and intermediary services (estimated at 80.7 and 19.3 percent respectively), and (iii) cross-border ownership of rented apartments and vacation houses. Out of the three parameters, (i) and (ii) were estimated using detailed statistics provided by platform operators.

Unfortunately, the evidence on cross border ownership and of rented real estate is rather scarce and outdated, and required extrapolating the information from various unconnected sources. Available information on the cross-border ownership of rented apartments and vacation houses According to the information from real estate registers, between 2010 and 2012, the fraction of the stock of homes purchased by foreigners in Spain was about 6 percent. In 2003, the share of foreign owners of real estate in Mediterranean region in France was estimated at ca. 12.8 percent. Despite growing popularity of apartments and vacation homes rented via platforms, they account for a moderate share of short-term rentals even in most popular tourist destinations. Overall, the count of person-nights spent in other locations than hotels, campsites, caravan or trailer parks (considered to be taxable persons at all times) in all rented locations was ca. 34.1 percent in 2019. Apartments and vacation homes rented by individuals contributed to a fraction of these stays and their value, and even more so if only non-resident owners were to be singled out. Therefore, in monetary terms, transactions in accommodations services in which the provider is non-taxable person and the location for the real estate in different than the residence of the owner are estimated at a very small share of the accommodation service market, tentatively set at one percent of transactions[184].

When matching the available data on foreign ownership of real estate in touristic regions and the number of nights spent by tourists in non-traditional accommodation service providers, the available information points out that this represents a small share of transactions, Based on the available information, it is estimated that, in monetary terms, transactions in accommodations services in which the provider is a non-taxable person and the location for the real estate is different than the residence of the owner account for ca. 1 percent of transactions (across all accommodation services).

14.8. Parameters, assumptions and calculations

To ease the readability of the Section on Impact Assessment, a number of parameters and methods for calculation are described in this Annex, and referred to, when necessary, in the main text.

[184] The estimate of one percent of transactions results from multiplying the expected ownership of rented real estate by foreigners in the EU (ca. 5 percent) and the share of apartments and vacation houses rental in the accommodation sector (ca. 20-25 percent).

Currency Conversion

All monetary values in this Report are expressed in EUR. Values in other currencies were converted into EUR based on ECB annual average exchange rate, retrievable at: https://sdw.ecb.europa.eu/browse.do?node=9691296.

Type of Digital Reporting Requirements

The quantitative analysis does not provide solid findings on the impact of the choice of the type of DRR. This result is also due to the fact that the econometric analysis provides no conclusive evidence on a differential impact on VAT revenue between PTCs and CTCs.[185] Therefore, the analysis of the choice among different DRRs has been performed by means of a qualitative analysis (multi-criteria analysis).

Table 31 – Type of DRRs: multi-criteria analysis

	VAT Listing	SAF-T	Real-time	e-Invoicing
Compliance Costs	-	-	--	---
Fragmentation costs	++	++	++	++
VAT revenue	++	++	++	++
Tax control	++	++	++	++
Additional services	+	+	++	++
Administrative burden savings	0	0	0	++
Environmental benefits	0	0	0	+
Business automation	0	0	+	+++
Data confidentiality	-	-	-	--
Fit-for-the-future	0	0	0	+++

The multi-criteria analysis identified e-invoicing as the preferred type of DRR and more importantly, the only one that is fit for the future. The main two disadvantages are related to the higher compliance costs (specific to all real-time solutions) and data confidentiality (manageable with appropriate measures).

Annual administrative burdens per company

The monetary equivalent of personnel time was calculated based on Eurostat statistics on earning by occupation: Mean annual earnings by sex, age, and occupation - NACE Rev. 2, B-S excluding O.

In line with the SCM standard, 25% overheads were added to the annual earning. For IT personnel, the earning of 'technicians and associate professionals' was used; for familiarization costs, 'professionals'; and for training and ongoing costs, 'clerical support workers'.

[185] See Supporting Study, Vol. I, p. 128, p. 141

Annual administrative burdens per company

The annual administrative burdens per company are estimated based on the assessment of the current situation and result from the average of the values estimated for the Member States with existing DRRs. They are estimated per company size and type of DRR.

Table 32 – VAT digital reporting obligations: annual administrative burdens per company (EUR/year)

	Micro	Small	Medium	Large
VAT listing	150	450	760	1 950
SAF-T	230	870	1 350	2 470
Real-time	170	760	1 350 (HU) / 4 710 (ES)	4 870 (HU) / 20 980 (ES)
E-invoicing	500	600	3 400	16 300

Implementation costs for tax authorities

The annual implementation costs for tax authorities result from the annualised investment costs and the annual operating costs. They are estimated based on the assessment of the current situation and result from the average of the values estimated for the Member States with existing DRRs. The estimation is provided per type of DRR.

For most types of DRRs, the existing costs are predominantly one-off (investment). They are therefore not expected to vary whether the investment is done for both EU and domestic transactions or only for the former (i.e. under Option 4a). Only for e-invoicing, the operational costs are significant. In that case, the operational implementation costs for the tax authority are assumed to be 60% lower (in line with the estimate of VAT revenues from intra-EU transactions).

Table 33 – VAT digital reporting obligations: implementation costs for tax authorities

	EUR million / year
VAT listing	0.85
SAF-T	0.85
Real-time	10.5
E-invoicing	25
E-invoicing (intra-EU transactions only)	10.60

Source. Assessment of the current situation.

Share of intra-EU VAT

Due to unavailability of detailed revenue figures, the share of VAT revenue from intra-EU transactions on the overall net VAT revenue was estimated on the basis of estimated VAT liabilities. The VAT liability on the intra-Community acquisition of goods and services was estimated by multiplying intra-EU importation figures (in basic prices, broken by two-digit Classification of Products by Activity codes) multiplied by their respective weighted average rates.[186] As the Supply and Use Tables were unavailable for most of Member States for 2018 onwards, the calculations are based on a sample of 23 EU Member States in 2017.[187] Then, the import VAT liability in intra-Community acquisition for all countries in the sample was divided by their overall VTTL for 2017 reported in the 2020 VAT Gap Study.

The calculation does not account for 're-export'. As a result, the figures could be slightly overestimated to the fact that import figures partially involve the importation in transit procedures, in which the VAT payments are suspended. To account for the risk of over estimation, the EU estimate is set at 40%, slightly lower than the results of the calculation. Smaller Member States (more exposed to intra-EU trade) tend to have a higher share, while larger Member States a lower one.

Companies active in intra-EU trade, administrative burdens from recapitulative statements

The administrative costs and burdens due to the submission of recapitulative statements are not due to DRR; accordingly, they do not enter the CBA carried out in sections 6 and 7 of the supporting study.[188] Nevertheless, they are assessed to provide a reference point that can be used to measure the impact of possible changes to these rules in the IA. Because of such different analytical need, the underlying data were not retrieved directly from companies during the targeted consultation, but are based on two representative secondary sources, and namely two studies carried out for the European Commission:[189]

1) Capgemini's measurement of administrative burdens in the area of Tax Law;[190]

2) PWC's study on recapitulative statements.[191]

The findings from these studies are helpful in defining a cost per occurrence. Capgemini's study estimates that the costs per occurrence are as follows

- For companies complying with this IO in-house, annual administrative costs are estimated at EUR 240 for companies submitting the statements every three months, and EUR 960 for those submitting them every month;

[186] Source: intra-EU Acquisition - Eurostat SUT, weighted average rates - VAT Gap Study 2020.
[187] The 2017 SUT was not available for BG, CY, LU, and MT. The UK was excluded from the calculation.
[188] Supporting Study, Annex B, p. 163.
[189] As a consequence, the supporting study cannot account for local differences in the implementation of recapitulative statements, such as different frequencies and scope of transactions. However, the data for the two studies originate from companies located in 14 different Member States, thus ensuring that the costs reported are representative of the various local conditions.
[190] Capgemini (2009),"EU Project on Baseline Measurement and Reduction of Administrative Costs, Final Report, Measurement data and analysis as specified in the specific contract 5&6 on Modules 3&4", Report on the Tax Law (VAT) Priority Area.
[191] PwC (2011), "Expert study on the issues arising from a reduced time frame and the options allowed for submitting recapitulative statements - Application of Article 263(1) of Directive 2006/112/EC (amended by Directive 2008/117/EC)", Final Report.

- For companies outsourcing compliance, annual administrative costs are estimated at EUR 400 for companies submitting the statements every three months, and EUR 1 200 for those submitting them every month.

This assessment does not include any familiarisation and software cost associated with recapitulative statements;[192] no segmentation based on company size is provided.

PWC's study provide a separate estimate of setup and recurring costs for different company segments:

- For SMEs, median setup costs are estimated at around EUR 180 and recurring costs at around EUR 1 200;[193]

- For large companies, median setup costs amount to about EUR 180 and recurring costs at about EUR 8 000.

No information is available on difference between insourcing and outsourcing population segments.

Based on the above, the following costs per occurrence are estimated:

- Setup costs are very low or negligible: once properly annualised over three or five years, depending on whether they relate to physical or intangible investments, they would result in few tens of euros per year. This was confirmed by the discussions with VAT practitioners, suggesting that in most cases no additional investment compared to the 'normal' VAT setup are required for the provision of the recapitulative statements. Therefore, setup costs are assumed to be nil.

- In terms of annual recurring costs, the studies provide rather consistent data for SMEs. In particular, Capgemini estimates for the insourcing companies[194] with monthly submission almost coincide with PWC data for SMEs. Therefore, in this case, the annual costs are assumed to be EUR 400 or 1 200, depending on whether they are required to submit the statements quarterly or monthly.

- For large companies, PWC estimates can be used, with annual costs of EUR 8 000.

In terms of business population, two dimensions are to be considered: company size, and the likelihood that companies engage in cross-border trade (since this IO only applies to companies engaged in certain intra-EU transactions). The size of the company also impacts on the likely amount of cross-border trade, which in turn affects the frequency of submission:

- On company size, data are taken from a recent Commission study on the VAT schemes[195]. Based on data from national tax authorities, the number of VAT taxable persons in the EU is

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[192] Which are separately recorded under the generic IOs "VAT training" and "Software cost".
[193] Results presented in the Study are significantly higher, due to the presence of an outlier which has a significant impact on the sample, consisting of 5 SMEs. In this study, it has been preferred to remove the outlier, since data were not compatible with the information retrieved during the targeted consultation.
[194] A majority of SMEs, and a large majority of small and micro in particular, is likely to delegate this IO to an external provider.
[195] Deloitte (2017), Special scheme for small enterprises under the VAT Directive 2006/112/EC - Options for review, Final Report, Annex D.

estimated at about 37.5 million, 36.5 million of which are micro entities with a turnover lower than EUR 2 million. Of the about 900 000 companies with a turnover higher than EUR 2 million, the distribution in small, medium and large companies is extrapolated based on Eurostat's data.[196]

- As for the likelihood of engaging in cross-border trade, the same study estimates that 15% of SMEs trade cross-border. While this estimate seems appropriate for small and medium companies, the Study also suggested that micro-entities may have a lower propensity, in the area of 5%[197]. For large companies, no estimate could be retrieved it is therefore assumed that the share of large companies in transactions that need to be reported the recapitulative statements is treble than the SME segment, in line with the ratio between SMEs and micro companies.

- Based on the different turnover, medium and large companies are associated with monthly frequency, while small and micro companies with quarterly submission.

Finally, costs per occurrence reported in the previous studies need to be updated to account for changes in the average earnings.[198] The BAU factor is assumed to be 0% (i.e. all administrative costs are burdens) in line with the previous analyses.

Table 34 summarises the main assumptions about the business population, the frequency, and the annual costs per company, and provides the estimates for total burdens across the EU. In total, administrative burdens from recapitulative statements amount to about EUR 1,100 million. About 80% of the burdens are borne by microenterprise, given that they represent 98% of the overall business population on the EU and 93% of the companies subject to this IO.[199]

Table 34 – Administrative burdens from recapitulative statements

	Share of taxable person active in cross-border trade	Business population subject to IO	Frequency	Annual burden per company	Total burdens (EUR mn)
Micro	5%	1,827,800	Quarterly	470	859
Small	15%	106,882	Quarterly	470	50

196 Eurostat Structural Business Statistics. Data on VAT taxable persons are not directly compatible with Eurostat's data on enterprises for at least two reasons. First, not all taxable persons are enterprises (they could include, for instance, self-employed individuals or VAT registrations of non-established companies). Secondly, data on taxable persons are segmented on a turnover basis, while data on companies are segmented based on the number of employees. For instance, it is possible that an entity with a turnover of less than 2 million is not a micro company if it has more than 10 employees; or that an entity with 9 employees is not a micro company if it has a turnover higher than EUR 2 million. Therefore, the following procedure is applied: first, the relative weight of small, medium and large enterprises are calculated based on Eurostat's data; then, these weights are applied to the number of VAT taxable persons with a turnover higher than EUR 2 million.

197 Deloitte (2017), Special scheme for small enterprises under the VAT Directive 2006/112/EC - Options for review, Final Report, Annex I.

198 Eurostat, Mean annual earnings by sex, age and occupation - NACE Rev. 2, B-S excluding O.

199 The results are higher than those provided by the previous Capgemini study (2009) for three reasons: (i) the Study included no specific segmentation for large companies, that have higher costs; (ii) the Study assumed, for VAT obligations in general, that 50% of micro, small and medium companies would insource compliance; this is however not realistic for this specific IO, which most companies would need to outsource; and (iii) the mean earning of clerical workers increased by 17%.

Medium	15%	21,228	Monthly	1,410	30
Large	45%	16,754	Monthly	9,400	157
Total	9%	*1,972,664*	-	-	*1,096*

Table 35 – Share of companies active in intra-EU trade and annual burden from recapitulative statements

	Companies active in cross-border trade	Annual burden per company (EUR/year)
Micro	5%	470
Small	15%	470
Medium	15%	1,410
Large	45%	9,400

Burden savings from pre-filled VAT return

The administrative burdens saved per company due to the availability of pre-filled VAT return are estimated based on the number of person/days saved on this obligation, per company size. This is retrieved from the assessment of the current situations in countries where this simplification is already operational (Spain, Portugal).

Table 36 – Burden savings from pre-filled VAT return

	Person/days per year
Micro	1.5
Small	1.5
Medium	6
Large	12

Number of invoices issued in the EU

The number of invoices – in total, paper, and electronic – issued in the EU is estimated based on 'EA 2019', per company size. Electronic invoices include both structured and unstructured (e.g. PDF) format. It is then apportioned across Member States proportionally to the number of taxable persons.

Table 37 – Number of invoices issued in the EU (million per year)

	Total	Electronic	Paper
	Million per year	%	%
Micro	1,953	50%	50%
Small	1,451	50%	50%
Medium	1,310	50%	50%

Large	4,553	58%	42%
Total	9,266	54%	46%

Source: EA 2019.

Burden savings from e-invoicing

The calculation of burden savings from switching to paper to e-invoicing are based on the parameters estimated for 'EA 2019'.

Table 38 – Parameters to estimate the benefits from e-invoicing (per e-invoice issued)

	Share of paper invoices sent via post	Number of invoices sent per postage	Postage costs	Printing costs (EUR per invoice)	E-invoice issuance saving (minute per invoice)
Micro	15%	1	1.1	0.02	0
Small	50%	1	0.28	0.02	0
Medium	80%	3	0.28	0.02	0.22
Large	80%	5	0.28	0.02	0.22

Sources. EA 2019; Deutsche Post 2021 for postage costs; Assessment of current situation for invoice issuance savings.

Environmental benefits

When an invoice is issued electronically rather than on paper, it is estimated that 27 grams of CO2 are saved.[200] To monetise the amount of CO2 saved, a price of 30 EUR/tonne of CO2 is used, based on 2020 market trends for EU Emission Allowances.

Exchange rates

Yearly average 2020 exchange rates for non-Euro countries are retrieved from the European Central Banks.

VAT revenue and compliance

VAT receipts (in national currency and EUR), VTTL, the VAT Gap are taken from the latest EU VAT Gap Study (2021). C-efficiency and total liability are authors' own calculation, based on Eurostat's national account data. Latest available data are used.

[200] Endresen, L. – Pagero, "Sustainable business: E-invoicing, your company and the environment", January 2021, available at: https://www.pagero.de/blog/sustainable-business/ (last accessed in September 2021);
Moberg, A., Borggren, C., Finnveden, G., Tyskeng, S. (2021), *Effects of a total change from paper invoicing to electronic invoicing in Sweden*, Report from the KTH Centre for Sustainable Communications (Royal Institute of Technology, Stockholm).

Number of taxable persons

The number of taxable persons per country is retrieved from Deloitte (2017), which provide data on VAT taxable persons below EUR 2 million revenue (micro-enterprises) and above. The latter are then segment into small, medium, and large enterprises based on Eurostat Structural Business Statistics.

Share of taxable persons covered by DRRs

In EU Member States with a domestic DRR, the number of taxable persons within its scope is invariably lower than the number of taxable persons. This is due for various reasons, including (i) the existence of a threshold within the DRR; (ii) the application of the VAT SME scheme which may foresee such a simplification for micro taxable persons; (iii) inactive VAT persons; or (iv) persons carrying out only VAT exempt transactions. Currently, in all Member States with a DRR, excluding Spain with a very high threshold in place, the share of taxable persons covered by the DRR is **67%**.

Administrative burdens are calculated on the number of **taxable persons covered by the DRR.** It is assumed that 100% of small, medium and large companies are covered by the DRR, while the non-covered taxable persons are assumed to be micro entities.

The estimated amount of taxable persons potentially covered by the EU DRR at EU level, in the case of its application to intra-EU transactions and domestic transactions is about 12 times higher than for the application to intra-EU transactions only.

Table 39 – Estimated amount of taxable persons potentially covered by the EU DRR (domestic and intra-EU transactions)

	Domestic + intra-EU transactions	**Intra-EU transactions only**
Micro	24,230,297	1,829,787
Small	639,713	95,957
Medium	319,149	47,872
Large	27,051	12,173
Total	**25,216,210**	**1,985,789**

Deflator

A cost deflator per each Member States is calculated based on Eurostat national accounts data.

Number of subsidiaries of multinational companies

The number of subsidiaries of MNCs established in another Member State or in a third country is estimated based on Eurostat, Structure of multinational enterprise groups in the EU. Missing data are extrapolated proportionally to nominal GDP (from Eurostat national accounts).

Annual administrative burdens for multinational companies

The annual administrative burdens per each subsidiary of a MNC company are estimated based on the assessment of the current situation and result from the average of the values estimated for the Member States with existing DRRs. They are estimated per small- and large-scale MNC, and per type of DRR.

Table 40 – Annual administrative burdens per multinational subsidiary (EUR/year)

	Small-scale	Large-scale
VAT listing	13,000	17,000
SAF-T	17,000	25,000
Real-time	28,000	97,000
E-invoicing	32,000	133,000

Salaries

Salaries for the various typologies of workers across the EU Member States are taken from Eurostat's national mean annual earning by occupation (2018). In line with the SCM standard, 25% overheads were added to the earning.

Mapping of digital reporting requirements (Box 1)

Since reporting requirements can be introduced and defined at national level, DRRs existing in the EU are heterogeneous and differ over several dimensions, such as the **frequency (time) and modality of reporting**.

Two types of systems can be distinguished based on the **time** at which information is to be submitted:

- Periodic Transaction Controls (PTCs), in which transactional data are reported to tax authorities at regular intervals.
- Continuous Transaction Controls (CTCs), in which transactional data are submitted electronically to tax authorities just before, during or shortly after the actual exchange of such data between the parties, also including e-invoicing requirements.

Regarding the **modality** of compliance with the reporting obligations, such distinction captures better the various types of requirements that exist across the EU Member States:

- within PTCs, one could distinguish between **VAT listing** and **SAF-T** requirements. The former requires the periodic transmission of transactional data according to a nationally-defined format, while the latter relies on the national specification of an OECD standard, i.e. the Standard Audit File for Tax;
- within CTCs, the main difference is between **real-time** and **e-invoicing** systems. Under a real-time system, the taxpayer should submit certain data shortly after carrying out a transaction but does not need to mandatorily use and share e-invoices with the tax administration. Under an e-invoicing system, the taxable person is mandated to use a structured e-invoice according to a pre-determined format, which is then shared with the tax administration.

Scope of data. Considering the systems currently in place in the EU, relevant differences also appear as regards the scope of the data required. Member States may require businesses to provide:

- only certain or all VAT data among those which can be retrieved from an invoice, such as the VAT taxable amount, the VAT payable and the applicable rate, including the e-invoice (or a subset of data from it); or

- both VAT and other data on other taxes or accounting information, such as stock data on inventories or depreciation, or payments.

Groups of requirements. Based on the reporting frequency, the modality of compliance and the data required, the DRRs existing in the EU can be classified into one of the following four groups

Frequency of the obligation	Periodic Transaction Controls (PTCs)		Continuous Transaction Controls (CTCs)	
Group	VAT listing	SAF-T	Real-time	E-invoicing

Their distinctive features can be summarised as follows:

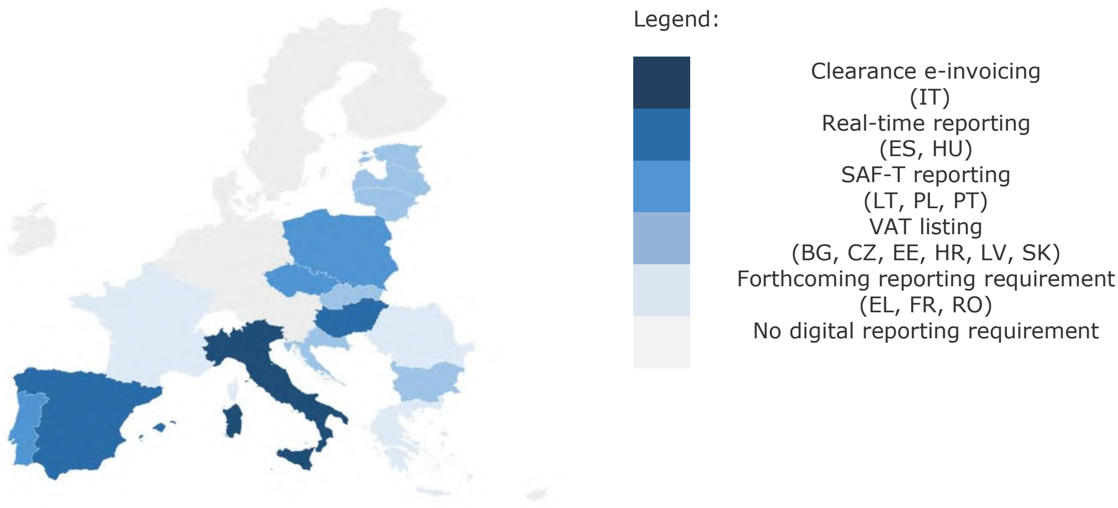
- **VAT listing** is the obligation imposed on taxpayers to submit VAT transactional data according to a national format. Transactional data usually consist of a list of transactions (hence the term 'listing') with information on their values and counterparts, as well as other VAT relevant data among those which are to be included in the invoice. The data are submitted on a periodic basis (typically monthly or quarterly), often jointly with the VAT return.

- **SAF-T reporting** is a specific form of DRRs based on the OECD's standard. The standard was developed for tax audit purposes and can encompass information on direct and indirect taxes as well as accounting data; it can be tailored to single countries via national specifications. Several Member States adapted and then mandated a SAF-T standard as the format through which tax and audit information, including on VAT transactions, is to be submitted to tax authorities on a periodic basis.

- **Real-time reporting** is the obligation on taxpayers to transmit transactional data shortly after issuance of the invoice. The data required can be extracted from the invoice, but the invoice itself does not need be transmitted to the tax authority. The taxpayers must comply with the requirement within a short time-limit (the same day, or within a few days).

e-Invoicing is a compliance system requiring taxpayers to issue a structured e-invoice for VAT purposes. ‘Structured’ means that the e-invoice must conform to a machine-readable standard, so that it can be automatically processed. The e-invoice as a whole, or a set of data therefrom, must then be transmitted to the tax authority, prior to its issuance, as it takes place, or shortly thereafter. The taxpayer may be able to send the e-invoice directly to its customers while sharing it with the tax authority (**no-clearance e-invoicing**). Alternatively, the taxpayer may be required to go through the tax authority first, either to obtain a preliminary authorisation, or by using a central IT platform, which, in turn, delivers the e-invoice to the customer (**clearance e-invoicing**)

Figure 12 – Digital Reporting Requirements in the EU



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15. Annex 5: other initiatives

Directive 2014/55/EU of the European Parliament and of the Council of 16 April 2014 on electronic invoicing in public procurement.

The Directive 2014/55/EU on electronic invoicing in public procurement has the goal of facilitating the use of a European Standard on electronic invoicing across Member States and to reduce the obstacles in cross-border trade that arise from the coexistence of different national legal requirements and technical standards in e-invoicing. A common European Standard on e-invoicing (EN 16931)[201] is used to achieve interoperability, ensuring that public entities are able to receive and process electronic invoices. A previous assessment of the EU invoicing legal framework[202] proved that this requirement was instrumental in fostering the use of structured e-invoices among economic operators in several Member States.

VAT in the Digital Age and the definitive regime[203]

[201] C/2017/6835 (OJ L 266, 17.10.2017, p. 19–21)
[202] SWD(2020) 29 final
[203] COM/2017/0569 final - 2017/0251 (CNS)

VAT in the digital age is about adapting the VAT system to new technologies from different angles: real-time reporting to the tax administrations to fight fraud more efficiently, an increased use of the One Stop Shop to enable businesses to enjoy a single place of registration in the EU and increased responsibilities for platforms to collect VAT. The definitive regime of VAT is a proposal whose aim is to replace an exemption on intra-EU trade (with taxation at destination by the customer) by a collection of the VAT by the supplier at the rate of destination. Together with a One Stop Shop to facilitate compliance, the aim of definitive regime, like the digital reporting, is to fight VAT fraud.

Therefore, the two proposals have a common goal (fighting fraud), through different means which can be seen as complementary. The definitive regime of VAT is still needed to address intrinsic weaknesses of the EU VAT system and remains a medium to long term goal. VAT in the digital age can work with both VAT systems (the current one and a definitive regime). Moreover, the DRRs (real time reporting) can help increasing the level of trust between Member States, which constitutes one of the main obstacles in agreeing on a VAT definitive regime that requires Member States to collect VAT on behalf of each other.

Regulation (EU) 2019/1150 on promoting fairness and transparency for business users of online intermediation services (the 'P2B Regulation')

The P2B Regulation contains a set of rules to ensure a fair, predictable, sustainable and trusted online business environment, granting business users of online intermediation services appropriate transparency, as well as effective redress possibilities. These rules create an obligation for online platforms, inter alia, to update their terms and conditions to provide information to business users about whether they are granted access to the data generated through their use of the online platform and whether data is shared with third parties. Depending on the outcome of this STR initiative, online platforms shall need to update their terms and conditions to refer to the data that could be shared with public authorities and give business users prior notice of this change, before it becomes effective.

In addition, the Regulation imposes a reporting obligation on larger online platforms, which requires them to make easily available public information on the functioning and effectiveness of their internal complaint-handling system on an annual basis, which could be more frequent if significant changes are needed. Therefore, any reporting obligations imposed by the STR initiative would be in addition to those already required by the P2B Regulation. Article 4 of the P2B Regulation requires notice to be provided prior to the restriction, suspension or termination of a business users' account. Any notice and takedown obligation would need to respect the time periods, notice periods and requirements to provide a reason and be listed as a possible grounds for removal of an offer in the terms and conditions in respect of providers of STR who are business users (Article 3(1)(c)). Such business users would have the possibility to lodge a complaint in accordance with the procedures for complaint handling set out in Article 11 and also, potentially the subject of mediation under Article 12. Member States have taken steps to implement Article 15 that requires them to ensure adequate and effective enforcement of the Regulation and have appointed authorities to be responsible for the enforcement in the following Member States. It is possible that such authorities could take on the limited additional responsibility for the enforcement of the obligations on online platforms to share data.

Council Directive (EU) 2021/514 of 22 March 2021 amending Directive 2011/16/EU on administrative cooperation in the field of taxation ('DAC7')

Council Directive (EU) 2021/514 has amended Directive 2011/16/EU on administrative cooperation in the field of taxation extending the EU framework on the automatic exchange of information in the field of taxation. Member States have to transpose this Directive by 31 January 2022 and apply the new provisions from 1 January 2023.

The purpose of this amendment was to (i) address the potential loss of tax revenue caused by unreported income earned through the sale of goods and services via online intermediating platforms and (ii) ensure a level playing field between operators active on platforms and traditional businesses.

To this end, the new rules create an obligation for platforms to report the income earned by sellers and for the Member State where reporting takes place, to exchange this information automatically. They introduce due diligence procedures and an annual reporting obligation on platforms located both inside and outside the EU concerning information on sellers that use the platforms to earn income. This includes, among other activities, the rental of immovable property, including on a short-term basis. Platforms must collect the following information and assess its reliability using all information and documents available in their records, including their electronically searchable records:

- the first and last name of the host who is an individual, or its legal name if the host is an entity;
- the primary address;
- the tax identification number (TIN) of the host, including each Member State of issuance, or, in the absence of a TIN, the place of birth of the host who is an individual;
- the business registration number of the host that is an entity;
- the VAT identification number of the host, where available;
- the date of birth of the host who is an individual;
- the address of each property listing and, where issued, respective land registration number or its equivalent under the national law of the Member State where it is located, where available.

Platforms must report the following information to the relevant Member State:

- details of the platform (name, registered office address, TIN, as well as the business name(s) of the platform(s) in respect of which the Reporting Platform Operator is reporting);
- the information collected and listed above;
- the Financial Account Identifier (where the financial account to which the consideration is paid is different from the name of the seller, the name of the account holder is required along with any other financial information available to the Reporting Platform Operator with regard to this account holder);
- Member State(s) of residence of the host;
- the revenue received during each quarter and the number of relevant activities provided with respect to each property listing;
- any fees, commissions or taxes withheld or charged by the platform during each quarter;
- where available, the number of days each property listing was rented and the type of each property listing.

The Member State where reporting takes place will then share the relevant information with the competent tax authorities of the other relevant Member State(s). DAC7 requires Platform Operators to report certain information with the competent authorities of Member States. DAC7 includes a legal base to share such information for VAT purposes.

The Digital Services Act (DSA)[204]

The DSA establishes EU-wide due diligence obligations that will apply to all digital services that connect consumers to goods, services, or content, including new procedures for faster removal of illegal content as well as comprehensive protection for users' fundamental rights online. The DSA includes enhanced due diligence rules for very large online platforms (i.e. online platforms with more than 45 million users in the EU), that will be supervised by the Commission. The Regulation maintains the key principles of the e-Commerce Directive, in particular the provisions concerning the liability of intermediaries and the prohibition of general monitoring obligation. It has impact on the VAT in the Digital Age initiative.

The Digital Markets Act (DMA)[205]

The DMA proposal, adopted in 2022 together with the DSA, aims to ensure contestable and fair markets in the digital sectors across the Union by addressing the unfair practices of certain undertakings (designated as “gatekeepers”). Gatekeepers are companies that play a particularly important role in the internal market because of their size and their importance as gateways for business users to reach their customers. Providers of core platform services should be designated as gatekeepers either based on the quantitative criteria or following a case-by-case assessment during a market investigation.

The DMA will apply to ‘core platform services’, a concept which includes online intermediation services provided or offered by gatekeepers companies to business users established in the EU or end users established or located in the Union, irrespective of the place of establishment or residence of the gatekeepers and irrespective of the law otherwise applicable to the provision of service. These core platform services include, among others, online intermediation services, online search engines, social networking, video sharing platform services, operating systems and cloud services. It has minimal impact on the VAT in the Digital Age initiative.

Upcoming proposal for a Regulation concerning short-term accommodation rentals (STRs)[206]

The main objective of the initiative is to improve and harmonise the framework for data generation and data sharing on short-term rentals across the Union. The initiative seeks to tackle two main problems: first, the market fragmentation and burdens for online platforms caused by numerous and divergent transparency and data sharing requirements across the EU and, second, the insufficient access to data on STRS by public authorities in the EU. However, when let on a temporary short-term basis the accommodations are subject to VAT, unlike the leasing of residential property, which is usually exempt, thus the STR initiative has minimal impact on the VAT in the Digital Age initiative.

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[204] https://eur-lex.europa.eu/legal-content/en/TXT/?qid=1608117147218&uri=COM%3A2020%3A825%3AFIN)
[205] https://eur-lex.europa.eu/legal-content/en/TXT/?qid=1608116887159&uri=COM%3A2020%3A842%3AFIN
[206] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13108-Tourist-services-short-term-rental-initiative_en

Proposal for a Directive on improving the working conditions in platform work - COM(2021) 762 final

The proposed Directive seeks to ensure that people working through digital labour platforms are granted the legal employment status that corresponds to their actual work arrangements. It provides a list of five control criteria to determine whether the platform is an “employer”. If the platform meets at least two of those criteria, it is legally presumed to be an employer. This means the digital labour platforms in question will be considered as employers by relevant national authorities, and will have to fulfil their obligations as employers, for instance with regard to working time and annual and family-related leaves. Platforms will have the right to contest or “rebut” this classification, with the burden of proving that there is no employment relationship resting on them. The clear criteria the Commission proposes will bring the platforms increased legal certainty, reduced litigation costs and it will facilitate business planning.

The Directive increases transparency in the use of algorithms by digital labour platforms, ensures human monitoring on their respect of working conditions and gives the right to contest automated decisions. These new rights will be granted to both workers and genuine self-employed.

In addition, national authorities often struggle to access data on platforms and the people working through them. This is even more difficult when platforms operate in several Member States, making it unclear where platform work is performed and by whom.

The Commission's proposal will bring more transparency around platforms by clarifying existing obligations to declare work to national authorities and asking platforms to make key information about their activities and the people who work through them available to national authorities.

16. ANNEX 6: E-COMMERCE EVALUATION

16.1. Introduction

Value added tax (VAT) has become an increasingly important source of revenue for Member States and is also an important EU own resource. However, recent developments, such as the increase of online sales via internet, created new challenges for the smooth functioning of the EU VAT system.

On 1 July 2021 the **VAT e-commerce package**[207] introduced a number of simplifications in order to reduce the administrative burdens for businesses in complying with their VAT obligations. With the **introduction of two new mechanisms, namely the One-Stop Shop (OSS) and the Import One-Stop Shop (IOSS),** businesses can now declare and pay VAT incurred on certain types of B2C transactions taking place in Member States where they are not established in their own Member State and, consequently, the scope of situations requiring VAT registration was reduced. A new rule, known as the 'deemed supplier rule', has also been introduced to reduce VAT avoidance among businesses whose supplies are facilitated by electronic platforms[208]. In addition, the new e-commerce rules reduced the intra-EU distance selling thresholds for the application of the destination principle to an EU wide EUR 10,000 threshold, minimising the VAT compliance burden for micro-businesses. This new annual threshold applies to intra-Community distance sales of goods and supplies of telecommunications, broadcasting and electronic (TBE) services. Since 1 July 2021, as part of the e-commerce package, the import VAT exemption for goods valued at up to EUR 22 was also abolished.

Nonetheless, there remain numerous circumstances – adding up to a significant volume of transactions and affecting many stakeholders – that oblige businesses to obtain and hold more than one VAT registration. Further reducing the range of situations that require non-established persons to obtain multiple VAT registrations is **one of the objectives of the VAT in the Digital Age initiative**[209]. This particular objective can be achieved by further extending the scope of the above mentioned two mechanisms (OSS and IOSS), the feasibility of which is examined in the VAT registration pillar of the VAT in the Digital Age initiative. In this context, it is necessary to reflect on the effectiveness of the current rules, hence the need to evaluate the functioning of the e-commerce package, its robustness and the potential need for improvements. This evaluation is based on the replies (i) to a public consultation and (ii) to a specific questionnaire addressed to the

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207 Council Directive (EU) 2017/2455 of 5 December 2017 amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods and Council Regulation (EU) 2017/2454 of 5 December 2017 amending Regulation (EU) No 904/2010 on administrative cooperation and combating fraud in the field of value added tax.

208 When an electronic interface facilitates (i) the distance sales of goods B2C imported from a third country (not exceeding a value of EUR 150) to a customer in the EU or (ii) the B2C supply of goods within the EU if the underlying supplier is not established in the EU, the electronic interface is 'deemed' to purchase the goods from the underlying supplier and to sell them to the final customer, thus being liable to report on and pay the VAT.

209 Communication from the Commission to the European Parliament and the Council COM(2020)312 https://ec.europa.eu/taxation_customs/system/files/2020-07/2020_tax_package_tax_action_plan_en.pdf

27 Member States (tax and customs authorities). The evaluation covers the first 6 months of implementation of the e-commerce package, from 1 July 2021 until 31 December 2021.

In the first instance, the *effectiveness criterion of the evaluation report* is assessed by measuring how the objectives of these new rules are met: **fairer taxation**, **facilitation of VAT compliance**, **reduction of the administrative burden** and **protection of Member States' VAT revenue**. The evaluation of the implementation of the VAT e-commerce package from each Member State's perspective, including relevant figures in relation to the functioning of the OSS/IOSS schemes (the number of registered traders and the total VAT revenue declared and paid), along with an assessment of business satisfaction, enables to gauge the *efficiency* of these new rules. Furthermore, the *relevance* criterion of this VAT e-commerce reform is assessed against the need to reform the VAT system to address the exponential increase in e-commerce activity in recent years, together with the associated need to level the playing field between EU and non-EU traders and to simplify the collection of VAT. Finally, the *coherence* of the reform is assessed by the consistency of these new rules with other EU policies, requirements and regulations such as the SME strategy for a sustainable Europe[210], the European digital market[211], the EU VAT administrative cooperation[212] and the Union Custom Code[213]. Ultimately, the *EU added value* criterion is covered by further strengthening the internal market and simplifying the VAT obligations.

16.2. What was the expected outcome of the intervention?

16.2.1. Description of the intervention and its objectives

The VAT e-commerce package was one of the priorities under the Digital Single Market Strategy[214]. This strategy was adopted on 6 May 2015 in response to the problem of barriers to the use of online tools faced by the EU citizens and businesses and was intended to adapt the European market to the digital age. In recent years, advancements in technology have had a profound, lasting effect on commercial activity. Affordable access to technology has been one of the key drivers in initiating a global e-revolution, affecting how consumers transact, breaking down market barriers and creating new opportunities for traders to gain access to a globalised market.

To help overcome the challenges presented by the globalised economy and to modernise and simplify the collection of tax on e-commerce transactions, the European Commission proposed a

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[210] Communication from the Commission to the European Parliament, the Council, the European Economic and Social committee and the Committee of the Regions "An SME strategy for a sustainable and digital Europe", COM(2020) 103 final,
https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0103

[211] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "A Digital Single Market Strategy for Europe" COM(2015) 192 final, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52015DC0192

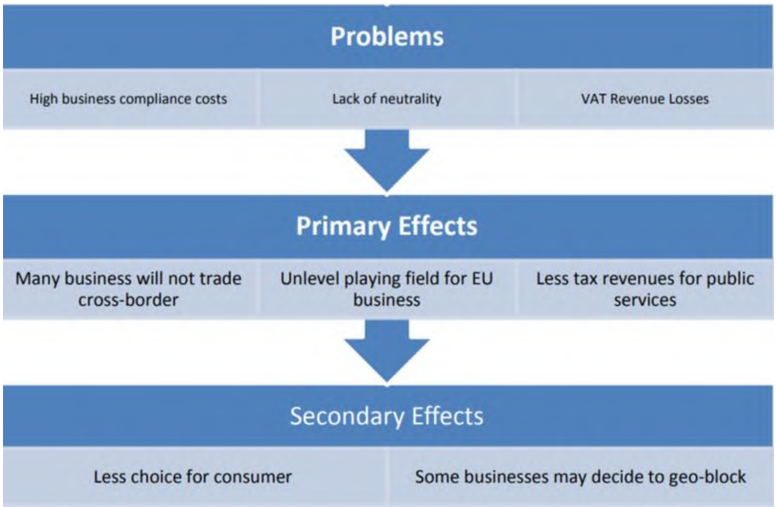
[212] Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax.

[213] Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code.

[214] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "A Digital Single Market Strategy for Europe" COM(2015) 192 final, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52015DC0192

package of VAT reforms[215]. These proposals were designed to reshape, update and modernise the VAT system to ensure its relevance and effective application to the new realities of the e-commerce market. The main aim was to create a fairer, simpler and more harmonised system of taxation by removing legislation that created distortions of competition and achieving better administrative co-operation. At the same time, the reforms sought to make VAT compliance easier for legitimate businesses who carry out cross-border online commercial activity by taking a new approach to tax collection.

Figure 13 – Problem tree (VAT registration)



[215] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee on an "Action plan on VAT", COM(2016) 148 final, https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52016DC0148&from=EN

Figure 14 – Linking the objectives to the problem

Specific Objectives	Link to the problem
Minimising burdens attached to cross-border e-Commerce arising from different VAT regimes which act as a barrier to intra-EU trade and unduly limit consumer choices.	Addresses the problem of business compliance costs Addresses the problem of a level playing field as non-domestic business can compete without prohibitive costs.
Providing a level playing field for EU businesses whether involved in the traditional economy, engaged in domestic e-commerce or cross-border e-commerce.	Addresses the problem of the lack of neutrality for business.
Facilitating the monitoring of compliance and the fight against fraud for Member States' authorities.	Addresses the problem of the losses of VAT revenues for Member States and the lack of neutrality for business who are at a disadvantage to suppliers who do not charge VAT.
Ensuring that VAT revenues accrue to the Member State of consumption.	Addresses the problem of the losses of VAT revenues for Member States and the lack of neutrality for business.

As part of the 2016 VAT Action Plan[216], the Council adopted the VAT e-commerce package on 5 December 2017, which focussed on reforming the taxation of e-commerce activity. On 21 November 2019, the Council also adopted the implementing measures for this package. The reform entered into force on 1 July 2021 (with the exception of some new simplification measures related to the Mini One-Stop Shop[217] (MOSS) that took effect on 1 January 2019).

The new rules included:

1) improvements to the MOSS special scheme and introduction of a new harmonised EU-wide annual threshold for intra-Community distance sales of goods and cross-border supplies of TBE services,
2) extension of the scope of the MOSS, turning it into a One-Stop Shop (OSS) for all B2C supplies of services,
3) provisions relating to the supply of goods (e-commerce), such as:

[216] https://ec.europa.eu/taxation_customs/action-plan-vat_en.

[217] The Mini One-Stop Shop came into force on 1 January 2015 and allows taxable persons supplying telecommunication services, television and radio broadcasting services and electronically supplied services to non-taxable persons in Member States in which they are not established to account for the VAT due on those supplies via a web-portal in the Member State in which they are identified. This scheme was optional, and constituted a simplification measure following the change to the place of supply VAT rules, in that the supply takes place in the Member State of the customer, and not the Member State of the supplier. This scheme allows these taxable persons to avoid registering in each Member State of consumption (Member State where the customer is located).

- special schemes for intra-Community distance sales of goods (OSS) and distance sales of goods imported from third countries and third territories in consignments of an intrinsic value of not exceeding EUR 150 (IOSS);
- special rules applicable to supplies of goods facilitated by electronic interfaces (deemed supplier regime[218]);
- removing the VAT exemption for imports of goods in small consignments not exceeding EUR 22;
- introducing the special arrangements for declaration and payment of import VAT.

These measures were designed to strike a balance between the need to take action against e-commerce related VAT fraud and the ultimate objective of facilitating e-commerce trade. On the one hand, the purpose of introducing the changes was to ensure effective collection of VAT and avoid distortion of competition between suppliers inside and outside the EU. On the other hand, equally important, was to simplify VAT obligations for taxable persons and reduce administrative burdens on e-commerce businesses, tax administrations and consumers.

16.2.2. Point(s) of comparison

Improvements to the MOSS and introduction of new harmonised EU-wide threshold

In January 2015, the Commission introduced a simplified system (MOSS special scheme) to declare and pay VAT on B2C supplies of telecommunications, broadcasting and electronic (TBE) services in the EU. The MOSS allowed suppliers of TBE services to declare and pay VAT due in all Member States where they have customers via a MOSS registration in one single Member State. As assessed in the Impact Assessment of the VAT e-commerce package[219], this special scheme offered an attractive solution to many traders who wished to simplify their VAT obligations arising from their supplies of TBE services to customers in the EU. The experience of the MOSS system clearly demonstrated the EU added-value for Member States in terms of securing VAT revenues and in terms of reducing the costs for businesses trading cross-border. However, the assessment of MOSS has also identified a number of areas for improvement. For this reason, new simplification measures, which took effect on 1 January 2019, were introduced.
In order to reduce the burdens and complexity associated with VAT compliance for micro businesses, a new harmonised EU-wide annual threshold of EUR 10 000 for intra-Community distance sales of goods and cross-border supplies of TBE services was introduced. As a result, supplies of TBE services below this threshold remained subject to VAT in the Member State where the taxable person supplying those TBE services was established, thus preventing the micro businesses from having to register in the Member State of consumption or to register for the MOSS to declare their TBE supplies of services. Moreover, non-EU suppliers were permitted to access the non-Union scheme as improvements were introduced to allow foreign suppliers to register for the MOSS even if they were already VAT registered in some Member States without a fixed establishment. Finally, the proofs required to determine the place of supply were simplified. In

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When an electronic interface facilitates (i) the distance sales of goods B2C imported from a third country (not exceeding a value of EUR 150) to a customer in the EU or (ii) the B2C supply of goods within the EU if the underlying supplier is not established in the EU, the electronic interface is 'deemed' to purchase the goods from the underlying supplier and to sell them to the final customer, thus being liable to declare and pay the VAT due on those supplies.

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Impact assessment accompanying the document Proposals for a Council Directive, a Council Implementing Regulation and a Council regulation on modernising VAT for cross-border B2C e-commerce, COM(2016) 757 final.

addition the invoicing rules were amended to ensure the application of the rules in accordance with the Member State of identification. As a result of these measures, the administrative burden for taxable persons using the special scheme was reduced and the efficiency for Member State tax administrations increased.

Extension of the scope of MOSS special scheme to all B2C supplies of services

Prior to the implementation of the VAT e-commerce package, taxable persons supplying services other than TBE services to non-taxable persons had to register for VAT purposes in each and every Member State where those services were subject to VAT. These rules were burdensome and expensive for business to monitor and comply with. In 2015[220], ongoing cost of maintaining a VAT registration in a Member State was estimated, on average, to EUR 8 000 per annum. Taking into account the success of the MOSS simplification, the 1 July 2021 amendments extended the scope of the MOSS to become a broader OSS, which now covers all services[221] supplied to non-taxable persons established in the EU. These rules were introduced to further simplify VAT obligations and reduce the administrative burden for taxable persons supplying cross-border services.

New rules relating to the supply of goods (e-commerce)

On 1 July 2021 the VAT e-commerce package entered into application and introduced a number of amendments to the VAT rules governing the taxation of B2C cross-border e-commerce activity in Europe aiming to protect Member States' tax revenue and to create a level playing field for the e-commerce businesses while, at the same time, minimizing the burden for complying with the VAT obligations.

Removal of the VAT exemption for imports of goods in small consignments

The VAT provisions previously applicable to the taxation of low value imports of goods were prone to fraud and created favourable conditions for businesses selling low value imported goods to consumers in the EU. Those complex and non-harmonised rules granted a VAT exemption to supplies of low value goods imported into the EU with a value not exceeding EUR10 to EUR 22, varying from one Member State to another. The application of this exemption was detrimental to EU established businesses that were selling the same goods within the EU as their low value supplies did not enjoy such a relief and, therefore, led to a distortion of competition within the e-commerce market. This situation was further compounded by the misuse of this EUR 22 threshold. A study carried out by Copenhagen Economics, which was based on a sample of 400 real purchases, has found that 65% of consignments from non-EU suppliers through the public postal channels were non-compliant resulting in a lack of payment of VAT and import duties to the national authorities[222]. The VAT e-commerce package levelled the playing field for EU established

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[220] Deloitte Study for the Commission on '*Modernising VAT for cross-border e-commerce*' – Lot 1, Pg. 44

[221] This concerns all B2C supplies of services that do not follow the general rules of place of supply of services in the Member State of establishment of the supplier as stated in Article 45 of Council Directive 2006/112/EC.

[222] E-COMMERCE IMPORTS INTO EUROPE: VAT AND CUSTOMS TREATMENT (2016) Authors: Dr Bruno Basalisco, Julia Wahl, Dr Henrik Okholm E-commerce imports into Europe: VAT and customs treatment - Copenhagen Economics carried out this study on behalf of UPS by making approximately 400 real purchase brought to delivery via e-commerce platforms located in US, Canada, Japan, India and China. Delivery was made to 7 destination Member States. 50% of purchases were via express operators with 50% via public postal operators. VAT was due on all the consignments, customs duties were due on 45% of the consignments. This experimental study found that shipments

suppliers making sales of goods within the EU, as the VAT exemption for the importation of small consignments not exceeding EUR 22 was abolished. As a result, VAT is now due on all commercial goods imported into Europe from a third country or third territory, irrespective of their value.

Special schemes OSS and IOSS

In recognition of the success of earlier initiatives, many of the measures included in the VAT e-commerce package leveraged and built on the success of the MOSS simplifications. In fact, the MOSS infrastructure has been used as the blueprint for the design of a number of new simplifications such as: (i) the One-Stop Shop (OSS), which has extended the range of supplies within the scope of the Union scheme of the MOSS to include intra-Community distance sales of goods and certain domestic supplies of goods facilitated by electronic interfaces, (ii) for non-EU established traders the non-Union scheme of the MOSS is extended to cover all B2C supplies of services within the EU, and also (iii) the introduction of the Import One-Stop Shop (IOSS) scheme, which is a special scheme for declaring and remitting VAT on distance sales of goods imported from third territories or third countries in consignments of an intrinsic value not exceeding EUR 150. Traders who opt to register in these schemes can deal with their VAT compliance obligations in one language via the tax administration of the Member State in which they are registered, even though their sales are EU-wide.

Moreover, the IOSS supports the import side of e-commerce activity and reduces the VAT compliance burden associated with the importation of low value goods. Customers who purchase from IOSS registered suppliers pay the VAT inclusive price at the time of their online purchase. The customer, therefore, has certainty and transparency about the total price of the transaction and is not confronted with unexpected VAT costs when goods are imported into the EU and delivered to their home address. IOSS goods are, therefore, exempt from VAT upon importation into the EU as the VAT has already been paid at the time of the purchase. The use of the IOSS further simplifies logistics and introduces more flexibility as the goods can enter the EU and be released for free circulation in any Member State, regardless of where the transport of those goods to the customer ends.

Deemed supplier regime

Prior to the implementation of the VAT e-commerce package, the rule according to which Member States may provide that a person other than the person liable for the payment of VAT is to be held jointly and severally liable for payment of VAT was insufficient to ensure effective and efficient collection of VAT in cases when distance sales of goods were facilitated through the use of an electronic interface, such as platforms. Therefore, it was decided to involve electronic interfaces in the collection of VAT on those sales. This new ‘deeming’ provision for VAT purposes is significant as it mitigates the risk of non-payment of VAT. Where the deeming provision applies, individual sellers on electronic interfaces do not have to register for VAT as the platforms will be responsible for paying the VAT due on sales from its platform. This particular reform bolsters compliance as it streamlines the VAT obligations of thousands of underlying sellers by deeming the platform as the person liable to declare and pay the VAT due on those supplies. This is accompanied by new record keeping obligations for these deemed suppliers and also for platforms who merely facilitate the supply without being a deemed supplier.

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sent via national postal operators , resulted in a lack of payment of VAT and import duties to the national authorities for more than 60% of items purchased online.

Special Arrangements for declaration and payment of import VAT

The VAT e-commerce package also introduced a new simplification measure known as the special arrangement. This provides an alternative solution for the collection of import VAT in cases where neither the IOSS nor the standard VAT collection mechanism on importation are used. The special arrangement measure applies to distances sales of good imported into the EU with an intrinsic value not exceeding EUR 150, excluding excisable goods. It allows postal operators, express carriers, customs agents and other operators who fulfill the customs import declarations on behalf of the customer to declare and remit the collected VAT on these imports on a monthly basis. It only applies where the goods are released for free circulation in the Member State where the dispatch or transport ends.

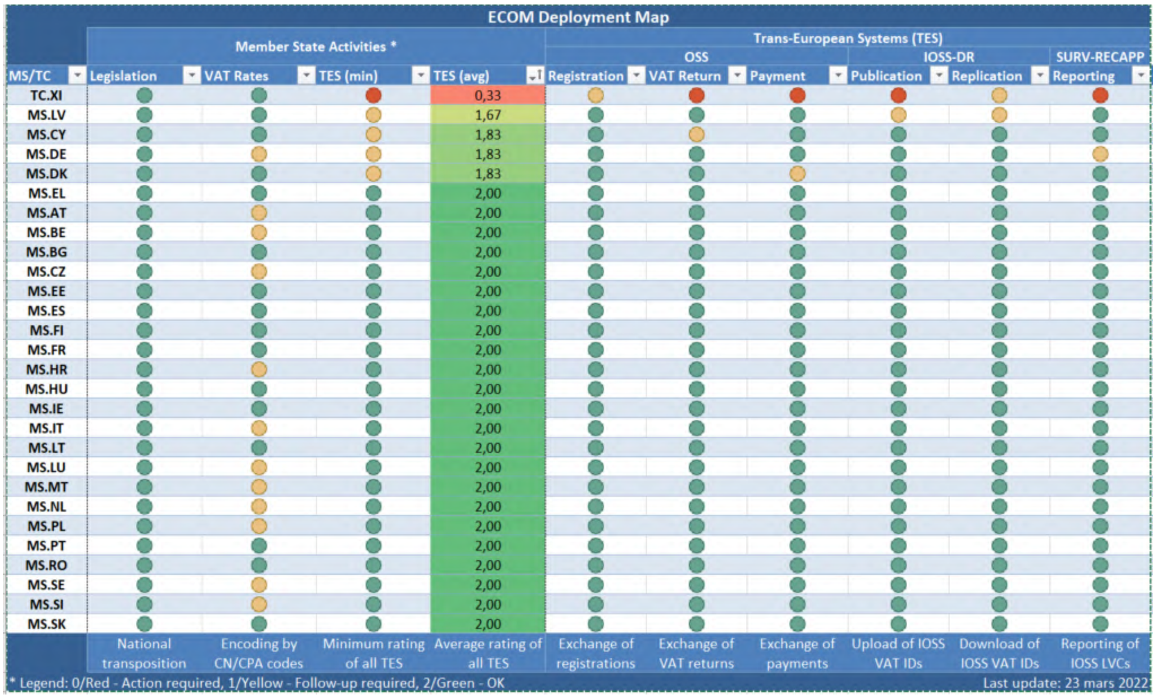
16.3. How has the situation evolved over the evaluation period?

16.3.1. Implementation

Originally, the VAT e-commerce package was supposed to enter into force on 1 January 2021 (with the exception of some new simplification measures related to the MOSS that took effect on 1 January 2019). However, taking into consideration the challenges that Member States faced in tackling the COVID-19 crisis and the fact that the new provisions were based on the principle that all Member States had to update their IT systems, which also impacted e-commerce stakeholders, it was necessary to postpone the date of transposition and entry into application of the package. To minimize the additional budgetary losses for Member States, the delay was as short as possible and limited to only 6 months. Thus, the e-commerce rules are applied as of 1 July 2021 instead of 1 January 2021, which gave Member States and businesses some additional time to prepare.

Overall, the entry into application of the package went smoothly, without major operational problems. The Commission services ensured a close follow-up of the implementation in the Member States prior to 1 July 2021 and provided support during the deployment phase as well as during the first months of operation. The OSS and IOSS are based on interoperability between different Member States' tax authorities as well as between the tax and customs authorities within each Member State. To ensure the correct functioning of the systems, it was essential that all the Member States met the critical deployment deadlines, therefore regular deployment and operational calls were organised with the Member States throughout 2021. In the spirit of providing support, these calls continue to take place on a regular basis, even after the new rules entered into force on 1 July 2021. A risk dashboard and a deployment map providing an overall state of play of the deployments were regularly updated and shared with Member States. All national webportals (OSS and IOSS) were accessible before 1 July 2021, allowing traders to register for these new schemes. However, a couple of Member States needed to set up workaround solutions with the help of the Commission services in order to assure interoperability between tax and customs authorities. Only the UK, in relation to Northern Ireland, was not able to implement all the mandatory requirements on time. This affected the Northern Irish businesses willing to register for the IOSS in Northern Ireland, forcing them to register for this special scheme via an intermediary in another Member State

Figure 15 – E-commerce deployment map of 23 March 2022



16.3.2. Growth and evolution of e-commerce

Although the evaluation period only covers the first six months of application of the e-commerce package, it is, nevertheless, important to understand the recent and profound changes in the economic landscape that drove this reform.

To help set the scene, in 2017, at the time when the need for reform of VAT e-commerce rules was ratified, worldwide revenues from e-commerce sales were in the region of EUR 2,1 trillion[223]. At that time, projections indicated that this figure would more than double over the next 4 years. The predictions suggested that global e-commerce retail sales would reach EUR 4,3 trillion by 2021[224].

From a European perspective, at that time, the total value of the e-commerce economy was estimated to be in the region of EUR 530 billion[225]. By 2019, studies showed that the e-commerce sector in Europe had grown to EUR 636 billion, up 14,2% on the previous year[226]. The value of the e-commerce economy in Europe was expected to be in the region of EUR 717 billion by 2020.

At the same time, the VAT compliance losses (which include compliances losses from non-EU and intra-EU transactions) for Member States were estimated to EUR 5 billion[227]. This estimate included the VAT foregone (EUR 1 billion) from the VAT exemption for the importation of small consignments.

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[223] The 2017 average US dollar to Euro exchange rate of 0.8865 was used for 2017 figures and for projections.
[224] Worldwide retail e-commerce sales 2014 -2024 – statista.com.
[225] Ecommercenews.eu – The total value of e-commerce in Europe was EUR 530 billion in 2016.
[226] Euroecommerce.eu – e-commerce activity in Europe was estimated was up 14.2% in 2019 from 2018's figures.
[227] SWD(2016) 379 final p20.

The pre-1 July VAT rules governing the taxation of low value imports of goods were prone to fraud and created favourable conditions for non-EU businesses selling low value imported goods to consumers in the EU. Those rules granted a VAT exemption to supplies of low value goods imported into the EU with a value not exceeding EUR 22. In fact, of the EUR 5 billion VAT that was estimated to be lost across Member States on cross-border supplies of goods each year, it is estimated that EUR 1 billion of it was a direct result of the application of the VAT exemption itself, whereas the remaining EUR 4 billion related to compliance losses (non-compliance) from non-EU and intra-EU transactions. The significance of the EUR 5 billion loss that the EU suffered each year (estimated to have reached EUR 7 billion by 2020) could not be ignored and, therefore, it focussed the Commission's priorities on the need to take action to combat e-commerce rated VAT fraud.

Analysis from PricewaterhouseCoopers (PwC)[228] suggests that in 2020, over two billion people purchased goods or services online worldwide[229]. In Europe, e-commerce is expected to grow by 42 percent in five years from 2021[230]. The recent pandemic, as well as the UK's withdrawal from the EU, seem to have contributed to this growing trend. Within the EU, e-commerce accounts for 10-15% of total retail sales[231]. In terms of turnover, e-commerce in Europe grew 14% in 2019, while in 2020 the growth rate was at 10%[232]. Despite the slight dip, the forecast suggests an upward trend for the coming years.[233]

The number of e-commerce consumers in the EU almost doubles between from 2014-2029. The number of consumers participating in e-commerce increased in 2020, at the height of the COVID-19 pandemic. Across the period, there is an upward trend in consumers making cross-border purchases, increasing from 30 million in 2014 to a projected 160 million in 2029. This is driven partially by the growth in the total number of e-commerce shoppers over the period.

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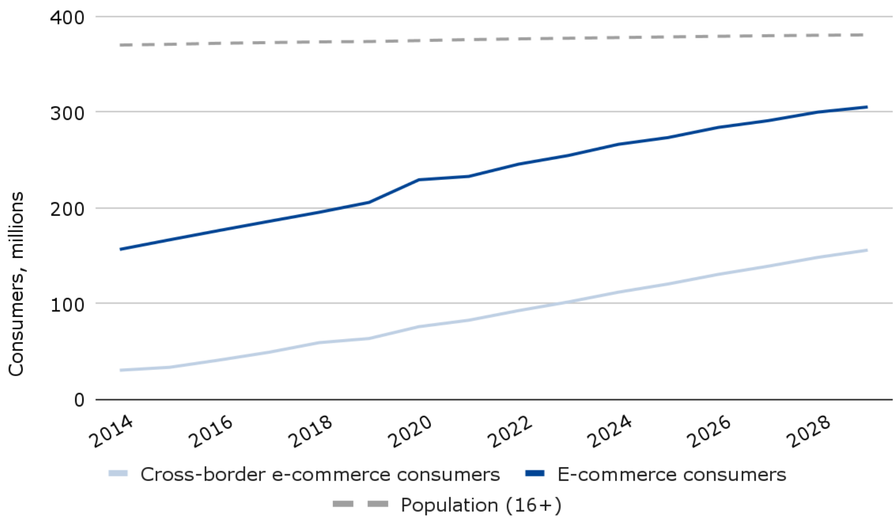
[228] On-going study carried out by PwC on 'an integrated and innovative overhaul of the collection of import duties and taxes (VAT and excise duties) on B2C e-commerce transactions from third countries'.
[229] Statista, 2021a.
[230] Statista, 2021a, projection to 2025.
[231] E-commerce Europe, 2021
[232] E-commerce Europe, 2021
[233] E-commerce Europe, 2021

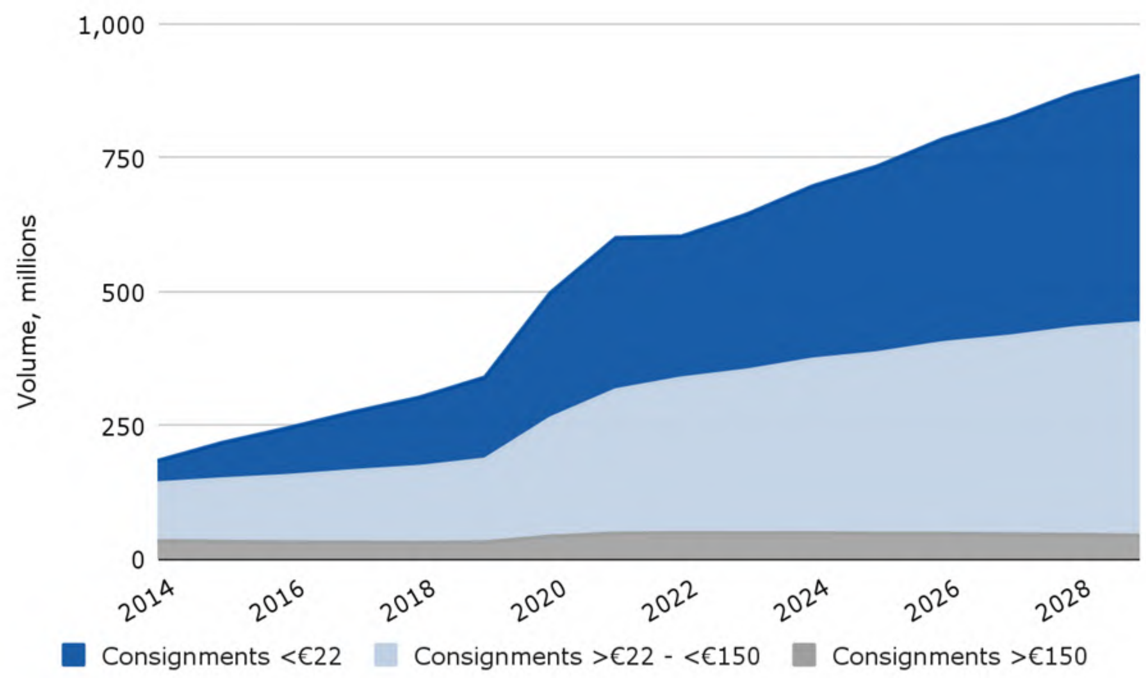
Figure 16 – Estimated number of (cross-border) e-commerce consumers in the EU, 2014-2029



Source: PwC analysis; (Eurostat, 2021a) (Eurostat, 2021b) (Eurostat, 2021c) (Statista, 2021a) (Eurostat, 2021d); (Forrester Research, 2021). *See text for the key assumptions underlying these estimates.*

In terms of import, the total volume of e-commerce consignments from third countries is estimated to increase significantly by 2029. This is driven by a combination of growth in the number of EU consumers purchasing goods online and growth in the average annual volume of consignments purchased per consumer. The largest growth in the number of cross-border e-commerce imports is for consignments worth less than EUR 22, which is estimated to increase from 40 million consignments in 2014 to around 460 million consignments by 2029.

Figure 17 – Estimated volume of cross-border e-commerce in the EU, 2014-2029



Volume of cross-border e-commerce in the EU by consignment price in EUR.
Source: PwC Analysis; (European Commission, 2015a) (International Postal Corporation, 2021) (International Postal Corporation, 2022) (Juniper Research, 2021) (Fusacchia et al., 2020) (Ghodsi et al., 2016) (Eurostat, 2022a) (Eurostat, 2022b).
Note: The graph above includes the impact of COVID-19, the UK's departure from the EU, business model change and the e-commerce VAT package.

The total value of cross-border e-commerce consignments from third countries is projected to increase from EUR 14 billion in 2014 to EUR 37 billion in 2029. The largest growth in the value of cross-border e-commerce imports is in consignments valued between EUR 22 and EUR 150. These imports are expected to grow by EUR 18 billion over the period.

16.3.3. Actions taken

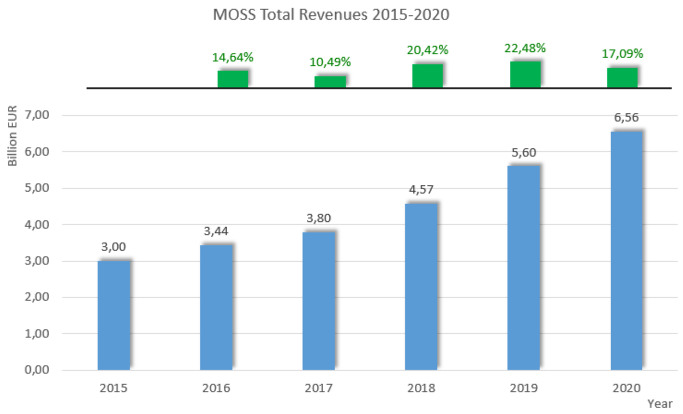
Although the period of the evaluation only covers the first six months of application of the e-commerce package, it is, nevertheless, important to consider the development of European policies that were introduced to reshape the VAT system to these new e-commerce realities.

Taxation of TBE supplies and MOSS

Generally, the pre-MOSS VAT rules were burdensome and expensive for business to monitor and comply with. At that time, the Commission estimated that the costs associated with registration in other Member States is somewhere in the region of EUR 8,000 per Member State per annum. The implementation of the 2015 new place of supply rules was the first step towards increasing the fairness and efficiency of the VAT collection system. The MOSS offered an attractive solution to many traders who wished to simplify their VAT obligations arising from their supplies of TBE services to customers in the EU. Prior to the introduction of the VAT e-commerce package, there were over 11.500 traders registered to use the MOSS.

In 2020, EUR 6.56 billon in VAT revenue was collected via the MOSS, which was more than double 2015's figure of EUR 3 billion. These figures highlight the success of this initial action which formed the foundations for the development of the VAT e-commerce package.

Figure 18 – MOSS Total Revenues 2015-2020[234]



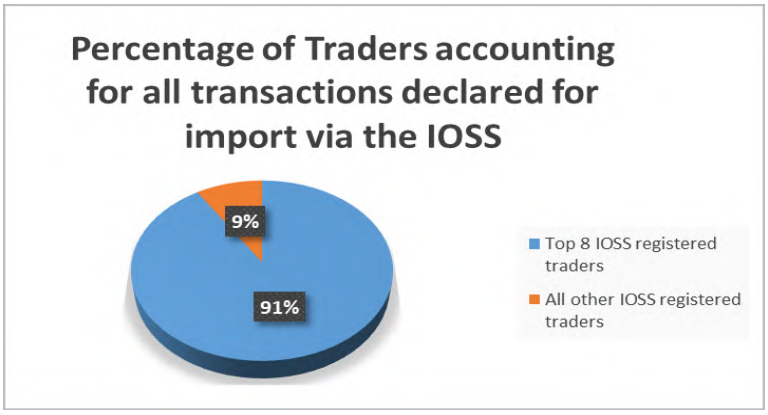
VAT e-commerce package

Building on the success of the MOSS, the e-commerce package introduces a number of reforms to help modernise the VAT system in response to the increase in e-commerce activity.

Since the new rules came into application, preliminary analysis of import data from the EU Customs Surveillance system suggests that approximately EUR 1,9 billion VAT was collected in respect of imports of low value consignments not exceeding EUR 150 in the first 6 months of implementation of the new rules, which equates to approximately EUR 3,8 billion on an annual basis.

In terms of registration numbers, the data provided by Member States show that there were 8654 traders registered to use the Import One-Stop Shop at the end of the first 6 months of application of the scheme. Early analysis also shows that the top 8 IOSS registered traders accounted for approximately 91% of all transactions declared for import into the EU via the IOSS. This is a very encouraging statistic as it highlights the impact that the new 'deeming' provision for marketplaces has had on compliance. As a result of the deeming provision, the critical compliance effort is now focused on a much smaller number of large players in the market, who account for the majority of low value goods imported into the EU.

[234] The blue chart bars represent the total MOSS revenue each year whereas the green bars represent the year on year percentage increase in revenue.



16.3.4. Identified issues

Although the implementation went smoothly, some teething problems emerged which required further intervention in order to ensure a proper functioning of the VAT e-commerce rules. Therefore, the Commission services and Member States have been looking into possible solutions to tackle the following issues:

- Cases of double taxation when the IOSS VAT identification number could not be validated due to technical issues
- Further limiting the possibilities to misuse Import One-Stop Shop (IOSS) VAT identification numbers
- High postal fees

Double taxation

Cases of double taxation, which may arise in certain circumstances, were identified as a major issue[235] that requires the urgent application of a pragmatic and workable solution to address the problem in the short-term. Such circumstances are considered temporary, because postal operators are gradually adapting their IT systems that enables the electronic transmission of the VAT IOSS identification number across the postal network and Member States are gradually updating their national import customs systems by end 2022 so that these can process declarations relating to IOSS goods.

In order to mitigate the financial effect on the customers facing double taxation, common guidelines[236] to handle these cases of double taxation have recently been agreed by Member States.

Misuse of the IOSS VAT identification numbers

Upon importation, IOSS consignments are exempt from import VAT when the valid IOSS VAT identification number of the (deemed) supplier is provided to the competent customs office in the Member State of importation at the latest upon lodging of the import declaration.

[235] There are two main root causes for such systematic double taxation cases: (i) the non-communication of the supplier's IOSS number due to the fact that the postal operator of the country of dispatch is unable to transmit the IOSS number and (ii) some Member States' national import customs system currently cannot validate the IOSS number correctly communicated in a full customs declaration, because they have not been updated in accordance with the Union Customs Code. Such update has to take place until 31 December 2022.

[236] VAT Committee Guidelines on the proposed solution to regularise double taxation in the IOSS VAT return. Working paper No 1036, Document A, taxud.c.1(2022)1657365.

The Commission is conscious that there may be a risk that IOSS VAT identification numbers could potentially be misused and, therefore, understands the associated need to secure IOSS import transactions. The risk of IOSS abuse manifests itself in cases where the trader is not IOSS registered, yet fraudulently uses the IOSS number of a legitimate IOSS registered trader in order to falsely benefit from the VAT exemption upon importation. Currently, IOSS monthly reports can help somewhat in the detection of this abuse as they provide the total value of the imported goods VAT exempted under the IOSS, during each month, per IOSS VAT identification number, per Member State of identification and can be compared with the amount of VAT declared in the IOSS VAT return.

To date, the Commission has facilitated a number of discussions with different stakeholders across various fora with the view to establishing the magnitude of the issue and identifying potential solutions. Although the magnitude of the problem could not be established in these discussions, the participants, nevertheless, recognised the potential risk of abuse and the importance of further securing the IOSS VAT identification number against possible fraud. Despite the difficulties in assessing the scale of the fraud, the Commission is aware that Member States have already taken steps to examine the extent of potential IOSS VAT identification number abuse. The Commission will support common and innovative solutions to better secure the IOSS process which will be addressed in the VAT in the Digital Age initiative.

High postal fees

When postal operators act as representatives of consignees receiving parcels in the EU, they need to follow the required formalities necessary to release goods for free circulation. Postal operators may require a fee for this service. The Commission and Member States received several complaints regarding high postal fees. Consequently, the Commission and the national consumer protection authorities in some Member States, are interested in verifying that the fees charged are proportional to the services rendered to the consignee of the goods. Following this action, the relevant information on the level of service fees applicable by national postal operators will be published on the website of the Commission.

List of improvements

In addition to the three above mentioned operational issues, the Member States and the Commission have identified a certain number of technical improvements that should be addressed in relation to the current schemes in order to further improve their functioning. These are implementing/technical improvements of the current policy that may require a legislative update and will be included in the VAT in the Digital Age initiative.

EUR 10 000 threshold - Article 59c of the VAT Directive	Exclude from the calculation of this threshold the distance sales from other Member States than the Member State of establishment
Services provided to non-established customers	Include in the scope of Article 359 of the VAT Directive services provided to non-established customers (non-Union scheme)
Allow the declaration of zero rated supplies and exempt distance sales in the Union OSS following the introduction of the new SME rules	(i) Allow the declaration of zero rates supplies (exempted supplies with right for deduction) (ii) Cohabitation of new SME and OSS schemes: Amend the OSS VAT return to allow taxable persons to declare exempted distance sales (in the Member States where the business benefit from the SME scheme)

Disparate rules on tax representation for access to the OSS/IOSS schemes	(i) Harmonise the rules for the appointment of a tax representative/intermediary for the registration of non-EU traders in the different OSS/IOSS schemes (ii) Align the joint and several liability rules of intermediaries
TEDB database with CN and CPA codes	Make the use of CN and CPA codes mandatory in the TEDB database
Use of the Standard Audit File (SAF) OSS for records related to Article 242a of the VAT Directive	Enable the use of the standard audit file to the records requested to platforms when they are facilitating a supply (although not deemed supplier)
Include the timing of the chargeable event for intra-EU distance sales under the Union scheme	Modify Article 369g of VAT Directive to include the timing of the chargeable event for intra-EU distance sales under the Union scheme
Treatment of the registration of a VAT group	Amend the registration form of the IOSS in order to specify that the taxable person is a VAT group and clarify the scope of the transactions that can be declared by a VAT group having stock of goods in another Member States
Upgrade the IOSS monthly reports	Include the Member State of final destination in the IOSS monthly reports
Miscellaneous IT suggestions for improvements	Update of registration, declaration and payment processes and interoperability between Member States in order to further improve the functioning of the schemes

16.4. Evaluation findings (analytical part)

16.4.1. To what extent was the intervention successful and why?

Effectiveness

Effectiveness is measured in terms of the extent to which the objectives of the VAT e-commerce package were achieved:

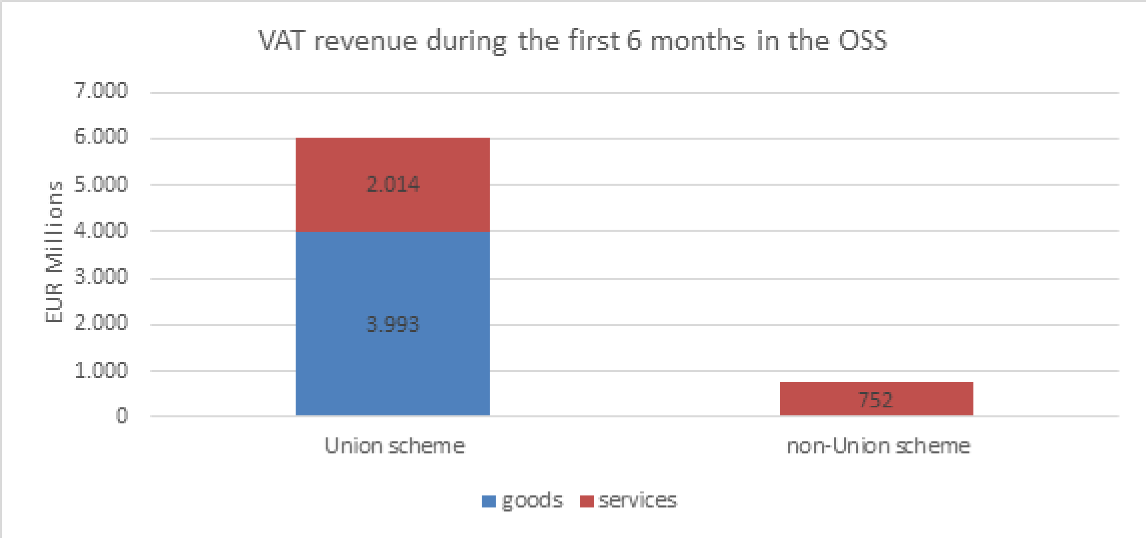
Fairer taxation

The implementation of the e-commerce package has resulted in a system of *fairer taxation, which has been achieved* by the removal of the EUR 22 VAT exemption on imported goods. The abolition of this exemption was one of the key amendments introduced by the e-commerce package, the aim of which was to level the playing field between EU and non-EU established traders. More than 80% of the respondents to the public consultation who had an opinion agreed that the e-commerce packaged achieved a system of fairer taxation as a result of the removal of the VAT exemption threshold.

Moreover, in addition to the removal of the EUR 22 threshold, the taxation of cross-border supplies and distance sales of goods in the Member State of consumption has also led to fair competition among EU businesses. On the basis of the figures provided by the tax authorities more than

EUR 6 billion VAT revenue was collected in the (extended) Union scheme, distributed among Member States in accordance with the principle of taxation in the Member State of consumption.

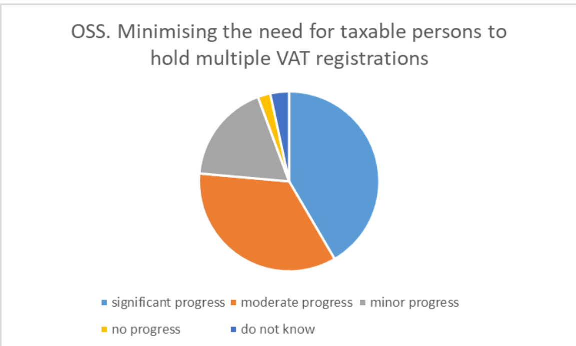
Figure 19 – VAT revenue collected in the OSS between 1 July 2021 and 31 December 2021

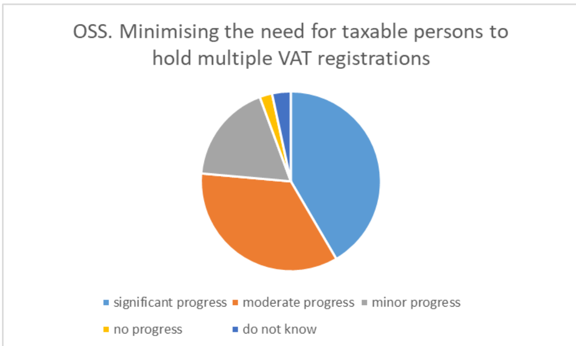


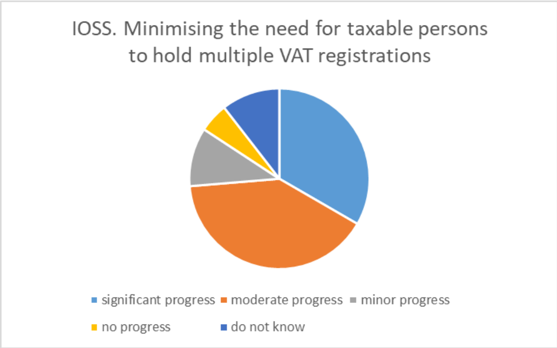
Facilitate VAT compliance

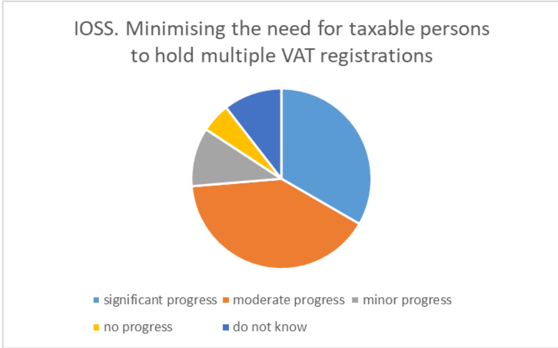
Without the simplification mechanisms brought by the OSS and IOSS schemes, businesses would have to register in all Member States in which they are supplying goods and services to consumers. These schemes have therefore **minimised the need for taxable persons to hold multiple VAT registrations**. Moreover, they **simplified and facilitated the VAT compliance** by allowing businesses to declare and pay the VAT due on all of their distance sales of goods and cross-border supplies of services in a single VAT return, from their Member State of establishment.

As shown in the pie charts below, the e-commerce package's goal to facilitate VAT compliance is recognised by the respondents to the public consultation as an important achievement of this intervention.

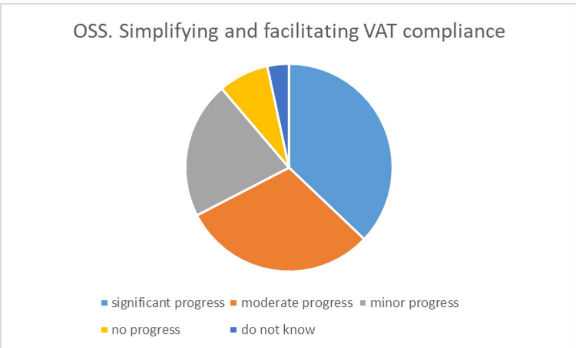


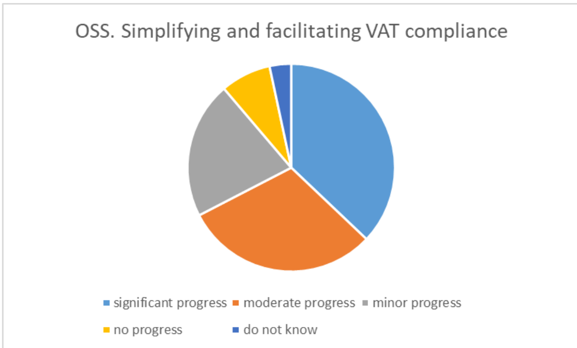


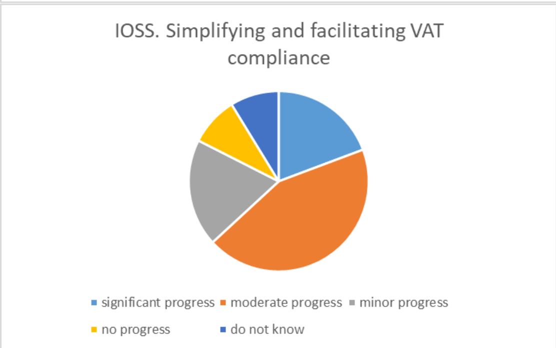


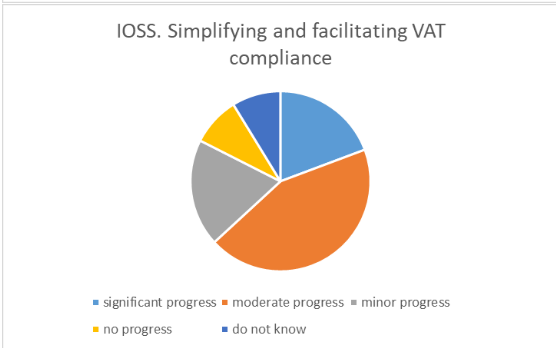


When replying to the specific questions on VAT compliance, 75% (OSS) and 75% (IOSS) of the respondents confirmed the improvements. In terms of registration numbers, the figures as at 31 December 2021 also demonstrate how the e-commerce package reforms have been widely welcomed by traders. These figures are a further indication of the success of the e-commerce package as many traders have opted to reduce the administrative burdens associated with VAT compliance by streamlining their VAT compliance obligations via the e-commerce simplification schemes.





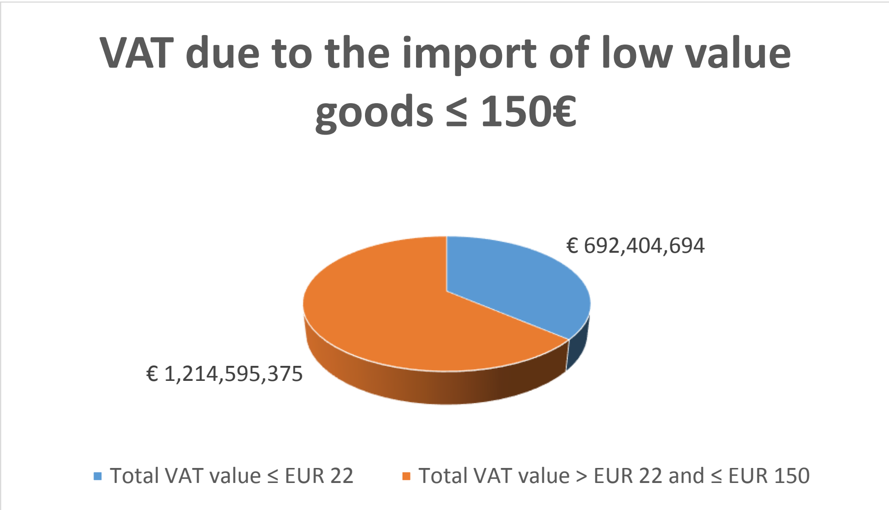




The e-commerce package also introduced new rules governing the taxation of supplies of goods that are facilitated by electronic interfaces/platforms and, under certain conditions, those platforms become the ‘deemed supplier’ in respect of certain supplies they facilitate. Where the electronic interfaces are the deemed supplier, they are liable to report on and pay the VAT on those supplies. Therefore, the introduction of the deemed supplier provision has further contributed to the goal of improving VAT compliance. IOSS registration data shows that all of the major platforms have registered to use the import scheme. Early analysis of import data indicates that the top 8 IOSS registered traders accounted for approximately 90% of all transactions declared for import into the EU via the IOSS. In terms of volume, an analysis of the import data from Q3 of 2021 suggests that this equates to approximately 200 million transactions in the import scheme during the initial quarter.[237]. The results of this analysis clearly evidence the fundamental impact that the new 'deeming' provision for marketplaces has had on compliance by shifting the compliance burden from underling suppliers to platforms. As a result of the deeming provision, the compliance effort is now directed at a much smaller number of large players in the market, who account for the majority of low value goods imported into the EU.

Protection of Member State VAT revenue

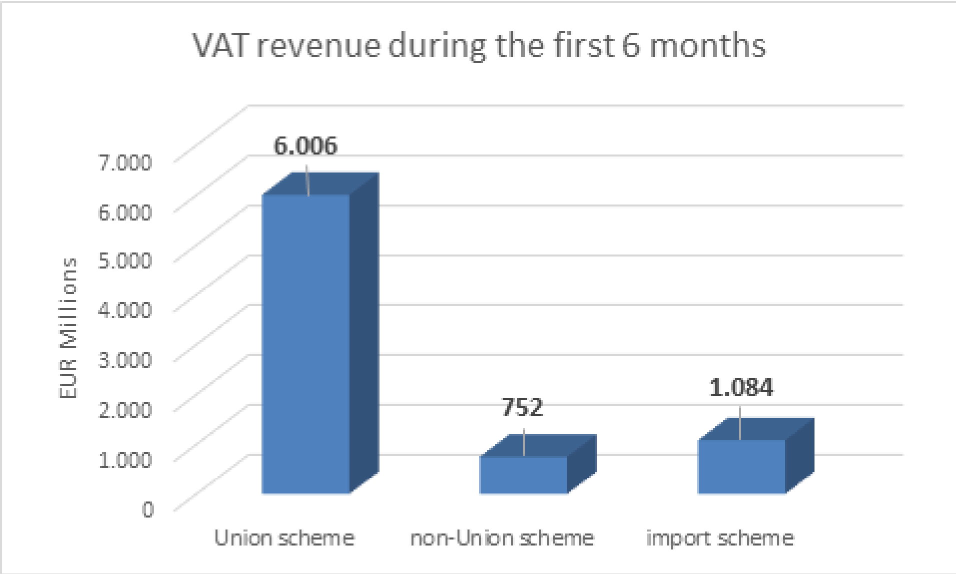
In these times of recovery following the pandemic, the fight against loss of VAT revenue has become a high priority. The e-commerce package helps to generate additional VAT revenue for Member States as a result of the removal the EUR 22 VAT exemption on goods imported into the EU. In the first 6 months (July to December 2021), the total amount of VAT collected on low value consignments is estimated at around EUR 1,9 billion. As an estimate, the VAT collected to-date equates to at least EUR 3,8 billion on a yearly basis. Almost one third of the EUR 1.9 billion (EUR 692 million during the first six months of application) is generated from imported goods with a value not exceeding EUR 22, which can be considered as additional VAT revenue due to the abolition of the VAT exemption. The other portion is generated from imported goods with a value between EUR 22 and EUR 150, on which studies showed the level of fraud was very high (65%) before the reform.



By simplifying the declaration and the collection of VAT, the OSS and IOSS have clearly contributed to the protection of VAT revenue. The statistics provided by the Member States for the first 6 months of entry into application indicate that a VAT revenue of almost 8 billion was collected in these schemes:

[237] Statistics of Q3/2021 provided by the Surveillance system gathering data from the import declarations

Figure 20 – Total of VAT amounts declared via OSS/IOSS (1/07/2021 to 31/12/2021)



Cost-benefits analysis

To measure the real added value and the extra revenue generated for Member States as a direct result of the implementation of the e-commerce package reforms, it is necessary to undertake a cost benefits analysis.

In their replies to the questionnaire, the Member States provided details in relation to the costs of implementing these new rules and schemes. These costs encompass the IT implementation of the OSS and IOSS schemes, together with the costs associated with the development of the IOSS distributive registry which enables customs to validate the IOSS VAT identification number. It also includes the costs of updating the Surveillance system with additional data from the import declaration that are used to set up the IOSS monthly reports and the costs of the implementation of the new import declaration with super reduced data set, as well as any other costs Member States may have faced (e.g. communication, human resources…). The amounts provided by the majority of tax and customs administrations indicate that the total implementation costs are estimated to be in the region of EUR 72 million across all the Member States. These costs therefore represent approximately only 10% of the new VAT collected on goods imported with a value not exceeding EUR 22 for the first 6 months of application of these new rules and 0.01% of the total amount of VAT collected via the OSS and IOSS schemes.

Facilitate the monitoring of compliance and the fight against fraud for Member States' authorities

From 1 July 2021, the **country-based thresholds on distance sales disappeared**[238], and VAT became due in the country of the consumer, subject to an **EU-wide turnover threshold of just EUR 10 000.** This EU-wide threshold applies to intra-Community distance sales of goods and cross-border supplies of TBE services. The threshold only applies to EU established businesses that are established in one Member State only. If distance sales of goods and supplies of TBE services are under the threshold, sellers who are only established in one Member State can continue to charge and pay the VAT in the Member State where the goods are located at the time of dispatch. Once the threshold is exceeded, for intra-Community distance sales of goods, VAT has to be paid in the Member State of destination of the goods, and for supplies of TBE services VAT has to be paid in the Member State of establishment of the consumer, possibly by means of the OSS.

The replacement of the different Member State's distance sales thresholds by a uniform and lower EU-wide threshold has significantly reduced the risk of non-compliance with disparate VAT rules and has helped to improve overall compliance levels. Moreover, the record keeping obligations for businesses and marketplaces registered for these special schemes facilitate the audit and control of the VAT declared via the OSS and IOSS.

As regard imports, the compliance is reinforced by the IOSS monthly reports, which is drawn up by the Commission's Surveillance system and is based on the data collected from the import customs declarations. They provide the total value of the imported goods VAT exempted under the IOSS, during each month, per IOSS VAT identification number, per Member State of identification and is shared with the tax authority of the Member State where the given IOSS VAT identification number was registered.

The replies to the EU survey as regards the audit process show the limit of such reports which do not correspond entirely with the taxable amounts declared in the IOSS VAT returns[239]. The respondents also expressed the need to upgrade these reports to include the Member State of final destination. The access to additional data, in conjunction with the records that are already held by traders, should provide improvements to the audit and control processes.

<u>Efficiency</u>

The efficiency of the VAT e-commerce package is measured by how well Member States implemented the special schemes, by the evaluation of the functioning of the OSS and IOSS and by the level of business satisfaction.

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[238] Until 1 July 2021, according to Article 34 of the VAT Directive, a supplier selling goods to consumers (B2C) in other EU Member States charged VAT in his own country if the total value of his sales to the consumer's country within the respective calendar year fell below the threshold set by that country and had not exceeded that threshold in the previous calendar year. Each Member State was able to define the threshold for supplies made to customers in their country (destination country) by choosing between the maximum EUR 100 000 threshold set by the Directive and a lower threshold of EUR 35 000. If the sales of the supplier were above the national threshold, the supplier needed to register and pay VAT in the Member State of destination.

[239] The time of the import differs from the time of declaring the transactions in the IOSS VAT return.

Implementation of the OSS and IOSS

Built on the experience and functioning of the MOSS, the implementation of the OSS and IOSS went smoothly, without major operational issues. The vast majority of Member States were able to meet the deadlines while the Commission services helped a few Member States to put in place some workarounds.

In their evaluation, Member States are however insisting on the need to stabilise the current functionality of the systems. In this regard, as a first step, Member States have indicated the need to solve issues relating to the exchange of information between Member States so that all messages (registration, VAT return and payment messages) can be treated in a fully automated way. The issues of interoperability between Member States must be seen as mere teething problems, especially given the fact that the new rules only entered into force 6 months ago. Furthermore, this particular issue rarely impacts businesses.

Moreover, Member States have also listed a number of improvements/simplifications to the current functioning of these schemes. These improvements/simplifications will be taken in account in the framework of the VAT registration part of the VAT in the Digital Age initiative, which examines options to further extend the schemes.

As showed above, the schemes are regarded as real simplification mechanisms avoiding the VAT registration in multiple Member States. A majority of OSS registered traders provided a positive reaction to the statement that it is easy to use the OSS. The equivalent replies in terms of the IOSS are more evenly spread.

Functioning of the OSS and IOSS

The evaluation of the functioning of the OSS and IOSS is based on the figures provided by the Member States' administrations in relation to the number of registrations in the different schemes and the amount of VAT declared/collected via those schemes.

It must be underlined that although the use of the schemes is voluntary, the number of registrations in the schemes is increasing on a daily basis and, thus, the appetite for registration further demonstrates the attractiveness of the schemes.

Table 41 – Number of registrations in OSS/IOSS on 1 February 2022

	OSS-Union scheme	OSS- Non-Union scheme	IOSS –Import scheme	Number of intermediaries
Total number	90250	4638	8654	876

of registrations				

These figures can be compared with the number of registrations in the MOSS Union and non-Union schemes in 2020. The extension of the scope of the Union scheme to cover intra-Community distances sales of goods has had a major impact on the number of registrations. Although the extension of the scope of the non-Union scheme was limited, the number of registrations in the non-Union scheme almost tripled. This high number of registrations confirms the attractiveness of the schemes and helps to verify the success of the accompanying communication campaign.

Table 42 – OSS/MOSS – Comparison of the number of registrations

Number of registrations in:	OSS (01/02/2022)	MOSS (2020)
Union scheme	90250	9892
Non-Union scheme	4638	1696

Moreover, the amount of VAT declared through the schemes confirms the good functioning of these schemes. As the scope of the MOSS was extended to become the broader OSS, which now includes Intra-EU distance sales of goods, it is therefore not possible to compare the VAT amounts collected under the MOSS with the VAT amount collected under the OSS. Nevertheless, these figures proof the proper functioning of the OSS as a VAT collection mechanism. Although the increase in the amount of VAT collected in the OSS is not proportionally as high as the increase in OSS VAT registrations, this may be due to the fact that the amount of VAT collected in respect of new registrations in the first quarter of 2022 will only be reflected in April 2022 (outside of the scope of this evaluation).

Table 43 – OSS/MOSS – Comparison of the VAT declared on an annual basis

VAT declared on an annual basis	OSS (2021[240])	MOSS (2020)
Union scheme	EUR 12 billion	EUR 5,92 billion
Non-Union scheme	EUR 1,5 billion	EUR 0,64 billion

Coherence

The evaluation of the coherence criterion is possible by assessing the consistency of the VAT e-commerce package with EU policies, requirements and regulations. A focus has been placed on the coherence of these new schemes with the SME strategy for a sustainable Europe[241], the European

[240] The amount of VAT declared in OSS in Q3 and Q4 in 2021 is multiplied by 2 in order to have an estimate for the annual amount.

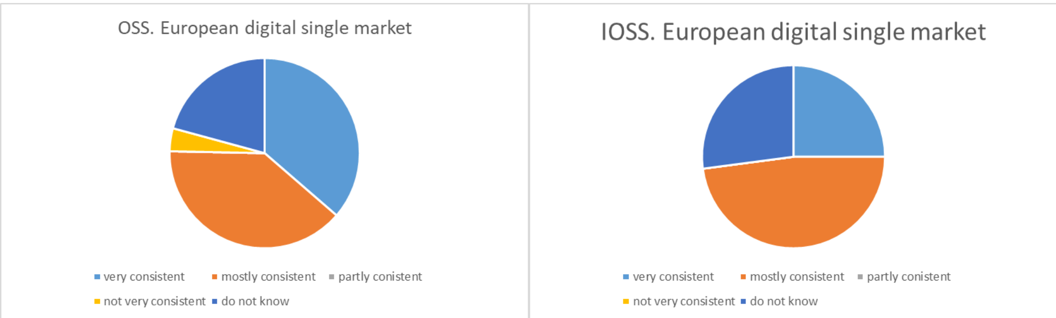
[241] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "An SME strategy for a sustainable and digital Europe", COM(2020) 103 final, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0103

digital single market[242], the EU administrative cooperation in the field of indirect taxation[243] and the Union Customs Code[244].

The respondents to the public consultation underlined the coherence of this intervention with the SME strategy for a sustainable Europe. As the VAT e-commerce package simplifies the process of distance sales of goods and services into the EU by decreasing the need to register in different Member States, it clearly helps SMEs to cope more easily with their VAT obligations and to extend and grow their business throughout the EU.

Public consultation – Assessment of the consistency of the OSS/IOSS with the SME strategy for a sustainable Europe

The coherence with the European digital single market policy is fully recognised by the respondents to the public consultation. Indeed, the OSS and IOSS schemes are completely digitalised solutions allowing the businesses to declare and remit the VAT on all cross-border B2C supplies of services and distance sales of goods through the national webportal of their Member State of establishment.



Public consultation – Assessment of the consistency of the OSS/IOSS with the European Digital single market policy

The functioning of the VAT e-commerce package is based on exchanges of information between Member States. After the MOSS, the cases whereby Member States are collecting VAT on behalf of each other are further increased. These processes are supported by some control tools[245] such as the IOSS monthly reports, the requests for the records of a business and the coordination of administrative enquiries. These control tools are also based on administrative cooperation. The e-

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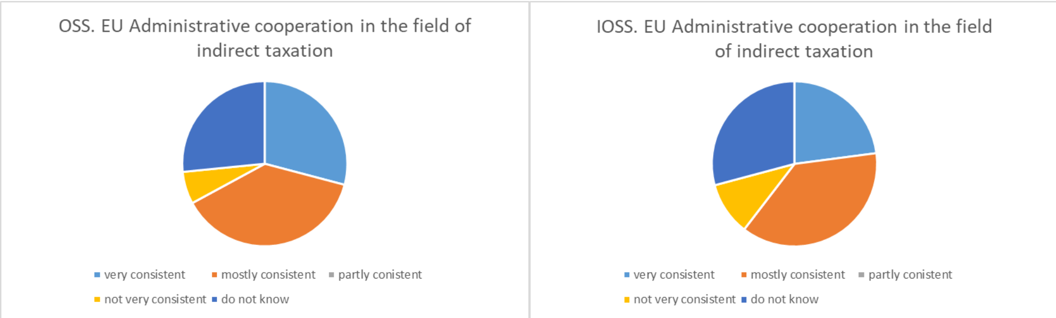
[242] Communication from the Commission to the European parliament, the Council, the European Economic and Social Committee and the Committee of the Regions a Digital Single Market strategy for Europe, COM/2015/0192 final, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52015DC0192

[243] Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax.

[244] Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code.

[245] Council Regulation (EU) 2017/2454 of 5 December 2017 amending Regulation (EU) n°904/2010 on administrative cooperation and combating fraud in the field of value added tax.

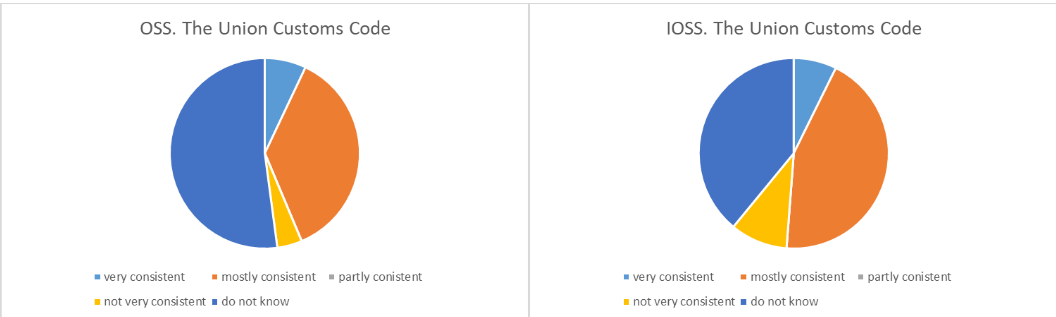
commerce package introduces a consistent approach with the existing administrative cooperation practices. This consistency has been confirmed by the respondents to the public consultation as well as by the Member States in their replies to the evaluation. As listed in section 3, Member States have suggested further improvements concerning exchange of information, for both the OSS/IOSS processes and for the control tools (e.g. upgrade of the IOSS monthly reports).



Public consultation – Assessment of the consistency of the OSS/IOSS with the EU administrative cooperation in the field of indirect taxation

Finally, the consistency of these new rules with the Union Customs Code (UCC) must be assessed. The removal of the EUR 22 VAT exemption on importation of goods accompanied by simplified procedures to collect the VAT on distance sales of imported goods, such as the Import One-Stop Shop (IOSS), has undoubtedly impacted the customs processes (e.g. mandatory check of the IOSS VAT identification number validity by customs offices upon importation to grant VAT exemption, collection of VAT on all goods imported when the IOSS is not used). An import declaration with super reduced dataset was introduced for the release for free circulation of low value goods below the dutiable threshold to facilitate their customs clearance and to collect the import VAT (when IOSS is not used).

The changes introduced by the VAT e-commerce package amplified the need to adapt the customs processes as well to the digital age. At the end of 2021, the Commission launched a comprehensive study[246] to explore new approaches in relation to e-commerce goods imported into the EU with a view of increasing the synergy between customs and taxation rules. In parallel, the Commission evaluated the implementation of the Union Customs Code and confirmed the need to adjust the customs legislation for e-commerce transactions. Moreover, the recommendations of the Wise Persons Group[247] point to radical changes in relation to the customs treatment of e-commerce imports. The outcome of these processes could impact the rules as defined in the VAT e-commerce package.



246 On-going Study carried out by PwC on an integrated and innovative overhaul of EU rules governing e-commerce transactions from third countries from a customs and taxation perspective.
247 Wise Persons Group on Challenges Facing the Customs Union (WPG) (europa.eu)

16.4.2. How did the EU intervention make a difference?

The assessment of the EU added value criterion in relation to the VAT e-commerce package will focus on the strengthening of the internal market, on ensuring fairer taxation and on simplifying the VAT obligations.

Further strengthening the internal market and ensuring fairer taxation

By replacing the Member State thresholds on intra-EU distance sales of goods by a uniform, lower, EU-wide threshold of EUR 10.000, the e-commerce package has further enforced the principle of taxation at the place of consumption. Subject to this threshold, all EU businesses must apply VAT, at the relevant rate, to their supplies of services in the Member State where the customer is established or to their intra-Community distance sales of goods in the Member State where the goods are dispatched to. This reform prevents any distortion of competition and also contributes to a fairer system of taxation. Consequently, the principle of taxation in the Member State of consumption strengthens the functioning of the internal market and creates a fairer system of taxation, which is a necessary and fundamental reform to ensure that the VAT system is adapted to new realities of the e-commerce market.

The EUR 6 billion of VAT collected over the first 6 months in the OSS confirms its success.

The removal of the EUR 22 VAT exemption on imported goods has also contributed to a fairer taxation by levelling the playing field between EU and non-EU traders. Now, all goods imported into the EU are taxed regardless of their value. The supplies of goods from outside or inside the EU are therefore equally taxed thereby further strengthening the internal market.

Simplified VAT obligations

To complement and support taxation at the place of consumption, the e-commerce package introduced a number of simplifications to help avoid the need for businesses to register in multiple Member States in which they are supplying services and/or goods. The OSS and IOSS allow traders to report and pay the VAT due on these supplies to the relevant Member States of consumption via a single OSS/IOSS registration in their Member State of establishment. As shown above, the number of registrations in the special schemes is testament to their overall attractiveness.

To help businesses fulfil their VAT obligations, these simplification measures are supported by different EU tools:

- The Taxes in Europe Data Base[248] (TEDB) is a webportal, which provides the VAT rates applicable in all Member States by CN code for goods and CPA codes for services.
- The OSS portal[249] provides information on the functioning of the schemes, including guidelines, explanatory notes and relevant legislation. The specific national VAT rules, as well as contact points in the Member States' administration are available in this portal.

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[248] Taxes in Europe Database v3: https://ec.europa.eu/taxation_customs/tedb/taxSearch.html

[249] One-Stop Shop: https://vat-one-stop-shop.ec.europa.eu/index_en

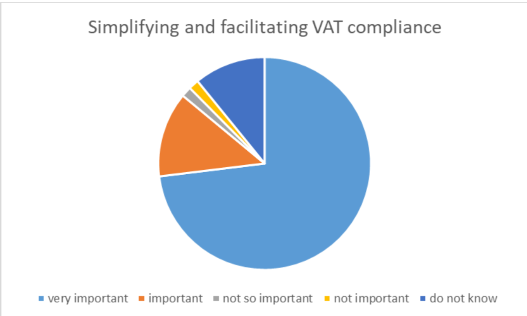
The Commission has also designed a Standard Audit File (SAF-OSS) allowing businesses to fulfil more easily their record keeping obligations by providing them with a standard format for reporting that is acceptable in all Member States.

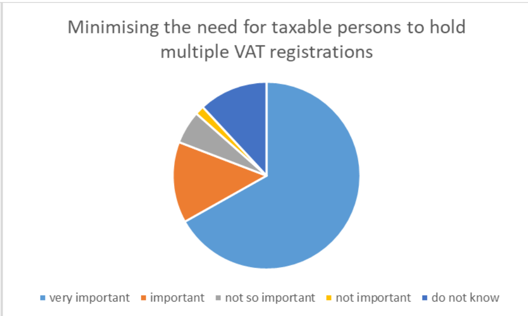
16.4.3. Is the intervention still relevant?

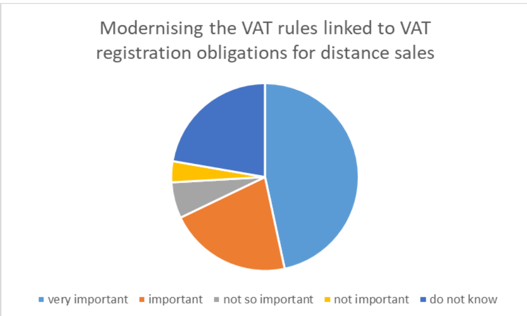
The exponential increase of e-commerce was one of the major drivers for the need for better regulation in this market segment. The estimated growth of the e-commerce market by 42% in the next five years[250] reinforces the relevance and importance of this intervention. This trend has been further exacerbated by the recent pandemic, as well as the UK's withdrawal from the EU.

As outlined in the replies of the respondents to the public consultation, the main objectives of the VAT e-commerce package remain very relevant for businesses.

The objectives of modernisation/digitalisation and of simplification of the VAT collection on the cross-border supplies of goods and services, as achieved by the implementation of the OSS and IOSS, are still of high importance. The aim to minimise the need for businesses to hold multiple VAT registrations is a fundamental part of this simplification and it is clearly recognised as a very important feature by the respondents to the public consultation.

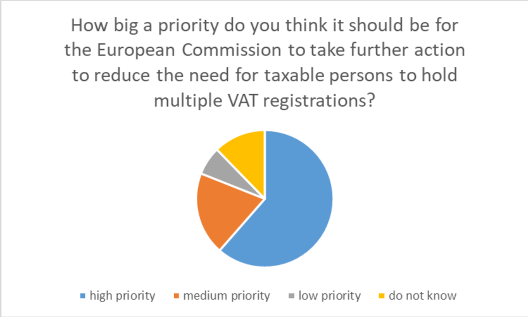


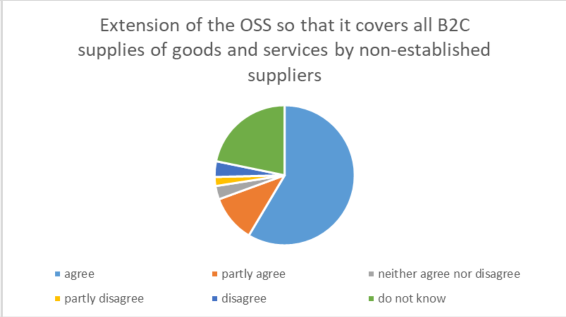




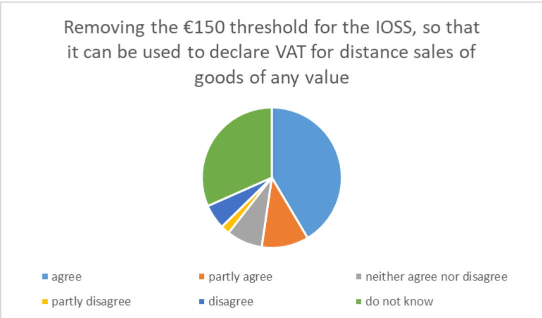
Following the implementation of the e-commerce package, there are still some transactions that continue to trigger VAT registration in a Member State in which a taxable person is not established. Taking in account the importance of the above-mentioned objectives of modernisation and simplification, business stakeholders expressed a keen interest in extending the OSS to cover all remaining B2C transactions within the scope of the schemes. The VAT Registration pillar of the VAT in the Digital Age initiative will propose measures in this direction.

250 Statista, 2021a, projection to 2025.

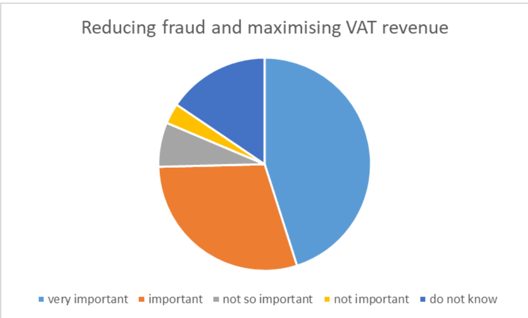




In terms of distance sales of imported goods, the IOSS simplification could also be extended by removing the EUR 150 threshold, as currently the IOSS scheme is restricted and cannot be used for imported goods above this value. It could also be made mandatory in order to further prevent the under-evaluation and secure the VAT revenue. These improvements are also supported by businesses and will be addressed in conjunction with the comprehensive revision of the respective customs rules as mentioned above.



As depicted above, the objectives to accrue the VAT revenue in the Member State of consumption as well as to set up a fairer taxation by levelling the playing field for EU businesses are covered with the application of the destination principle and the removal of EUR 22 VAT exemption on importation of goods. These objectives remain however relevant in times of post-pandemic recovery.



16.5. What are the conclusions?

The exponential growth of e-commerce impacted EU VAT policies, which were upgraded subsequently to take into account the specificities of this new market segment. In 2015, the Commission implemented its initial response to help adapt and modernise the VAT rules to the new realities of the e-commerce market by introducing new rules to ensure the application of the destination principle to the taxation of the cross-border supplies of telecommunication, broadcasting and electronic (TBE) services. A fairer system of taxation was achieved under the destination principle, which was complemented and supported by the introduction of simplification mechanism for reporting and collecting VAT: the Mini One Stop Shop (MOSS). The MOSS was a ground breaking concept as it allowed businesses to report and remit the VAT on all their cross-border supplies of TBE services in a single VAT return of their Member State of establishment, avoiding the costly and burdensome registration and reporting obligations in the different Member States. The application of the MOSS proved to be an innovative approach to the declaration and collection of VAT as it pioneered the collection of VAT by Member States on each other's behalf, which is a fundamental feature of the broader simplifications that followed in 2021.

With the focus on the objective of a fair taxation, it was decided to extend the destination principle to all B2C cross-border supplies of services and intra-Community distance sales of goods. In parallel the MOSS was extended to simplify the compliance burden associated with these supplies. The VAT e-commerce package entered into application on 1 July 2021 and provided for a number of amendments to the VAT legislation, which were introduced to address and overcome the barriers to cross-border online sales, including the challenges arising from the unharmonised VAT regimes for distance sales of goods. The amendments further modernised the VAT legislation governing the taxation of business-to-consumer supplies of services and the importation of low value consignments and created a fairer, more harmonised and simpler system of taxation.

All the different distance sales thresholds were replaced by one unique EU-wide threshold of EUR 10.000 above which intra-Community distance sales and supplies of TBE services are taxed in the Member State of consumption. To minimise the VAT compliance burden for businesses, the MOSS was extended to become a bigger One-Stop Shop (OSS). The broader OSS was designed and introduced to allow taxable persons to declare and pay VAT due on all their cross-border supplies of services and intra-Community distance sales of goods. At the same time, the EUR 22 VAT exemption, which applied to imported goods, was removed. A new Import One-Stop Shop (IOSS) was created to ease the collection of VAT and improve the import process of these low value consignments not exceeding EUR 150.

Due to the Covid-19 pandemic, the entry into application of the e-commerce package was delayed by 6 months, but nevertheless, the final implementation of the new rules went smoothly with only few workarounds required for certain Member States, which did, however, not impact the business side of the system. The necessary IT systems at both EU and national level for the implementation of these EU VAT rules are now broadly up-and-running, with Member States finalising their implementation and solving the few remaining issues.

However, some teething problems emerged which require further intervention in order to ensure a proper functioning of these new rules and schemes. A practical solution has been agreed between the Commission and the Member States to solve the temporary technical problem triggering possible double taxation which may arise in certain circumstances in the framework of the IOSS. The potential risk of abuse of the IOSS number has also been recognised. In this regard, the

Commission is cognisant of the importance of further securing the IOSS VAT identification number and is currently taking a proactive approach to further secure the IOSS process against possible fraud. This issue will be addressed as part of the VAT in the Digital Age initiative.

Teething issues aside, the VAT e-commerce package has proved to be a success by achieving its main goals: fairer taxation, VAT compliance simplification and increase of the VAT revenue. The package clearly contributes to the digital transition, the economic recovery and also helps to generate sustainable public finances across the EU.

The removal of the EUR 22 of VAT exemption on imported goods, as well as the application of the principle of taxation at destination on all distance sales of goods and cross-border supplies of services have contributed to a fairer system of taxation. The removal of the exemption threshold generated additional EUR 692 million of new VAT revenue during the first six months.

By simplifying the declaration and payment of VAT, the OSS and IOSS are helping businesses to comply with their VAT obligations on e-commerce sales. The e-commerce package's goal to facilitate VAT compliance is recognised by the respondents to the public consultation as an important achievement of this intervention. This recognition is reinforced by the high number of traders that registered for these schemes. The e-commerce package has simplified and clarified the VAT rules for businesses which has, in turn, strengthened the European Single Market and contributed to a level playing field, thereby helping European businesses to compete in domestic and global markets.

In these times of recovery following the pandemic, the VAT e-commerce package has also contributed to the protection of Member State VAT revenues, which is evidenced by the fact that the OSS and IOSS have been used for the collection of almost EUR 8 billion of VAT in the first 6 months of application of the new rules. The cost-benefits analysis of the implementation shows the real added-value of this intervention as the estimated costs represent only 0,01 % of the EUR 8 billion of VAT that has been collected during the period covered by this evaluation.

Moreover, the replacement of the different Member State's distance sales thresholds by a uniform and lower EU-wide threshold has better ensured taxation at the place of consumption and has significantly reduced the risk of non-compliance with the previous disparate and complicated VAT rules and has, thus, helped to improve overall compliance levels. The ability to monitor compliance has been supported by new record keeping obligations that have been introduced for the traders/deemed suppliers registered in the schemes, including for platforms that facilitate supplies. Together, these new measures will help to support and bolster the audit and control processes used by tax administrations and businesses who engage in e-commerce activity.

The functioning of the OSS and IOSS has proved to be efficient taking into account the high number of registered traders and the amount of VAT collected. Although there are no major operational issues, Member States have expressed the need to stabilise the system. They have also listed a number of improvements to the functioning of these schemes that will be taken forward in the proposal to further extend the schemes in the framework of the VAT registration part of the VAT in the digital age initiative.

The VAT e-commerce package is also fully in line with the SME strategy towards a sustainable Europe, as it simplifies the process of distance sales into the EU by decreasing the need to register in different Member States. The VAT e-commerce package's coherence with the European digital single market policy is also well recognised in light of the fully digitalised solution that the OSS and IOSS provide. Moreover, the enforcement of the new administrative co-operation rules for e-commerce are relatively straightforward as they are consistent with the practices that were already developed and provided for in the EU Administrative cooperation regulation in the field of indirect taxation. In fact, the functional processes of the OSS/IOSS are, in essence, based on interoperability between the Member States.

Finally, the changes introduced by the VAT e-commerce package underscore the need to also adapt the customs rules and processes so that they, too, are fit for purpose and able to meet the new challenges that have emerged as a result of the digital age. This process is ongoing and its outcome could impact the rules as defined in the VAT e-commerce package.

The objectives of modernisation/digitalisation and of simplification of the VAT collection on the cross-border supplies of goods and services, as achieved by the implementation of the OSS and IOSS, continue to be of high importance to all relevant stakeholders. In this regard, Member States[251] and businesses continue to support the Commission's intentions to propose further simplifications to improve the efficiency of taxation of EU cross-border trade, which is expected to lead to a further reduction of administrative burdens for businesses as well as tax authorities. The VAT in the Digital Age initiative seeks to build on the success of the actions already taken to-date. In particular, as part of the VAT Registration pillar of the proposal, the Commission aims to develop new policy options to enhance the fight against VAT fraud and further simplify the VAT obligations of non-established traders who engage in e-commerce activity by further reducing the number of situations in which those traders need to register for VAT in different Member States.

[251] 6534/22 FISC 52 ECOFIN 164 Council conclusions on the implementation of the VAT e-commerce package.