



Grant Thornton

An instinct for growth™

# Briefing paper: EU Commission announces major overhaul of VAT system

**The European Commission has published draft legislation in the form of a draft Directive aimed at implementing a number of short-term measures to combat VAT fraud and (from 2019) a major overhaul of the VAT system in relation to the intra-community supply of goods. Originally, the preferred VAT system for Europe was intended to be a system based on the concept of taxation in the supplier's country (the origin system). The proposed new measures will culminate in a system based on the concept of taxation in the country of consumption (the destination system).**

## What's the issue

The European Commission has announced that, as part of its 'future of VAT' programme, it has introduced draft new legislation that will, if adopted, see the European Union adopt a system of indirect taxation which is based on the destination principle. This is a complete reversal of the original intended system which was for one based on the origin principle. The original concept was to tax supplies of goods in the country where the supplier belongs. For example, where a supplier in the UK supplied goods to a customer in Germany, that supply would be subject to UK VAT at the prevailing UK VAT rate at the time of supply.

Unfortunately, for both political and economic reasons that original concept could not be implemented. In 1992, when the single market was adopted, interim (or transitional) measures were introduced until such time as the political and economic issues could be resolved. The transitional system has been in force ever since.

## Interim system

From January 1993, the VAT system in the European Union has operated under a transitional regime. The regime provides an exemption from VAT in the country of origin with the VAT registered customer in another Member State being required to account for VAT on the acquisition of the goods in his country through the payment of acquisition VAT. In most cases, such acquisition VAT then being reclaimed by the acquiring taxable person to the extent that the goods were used or to be used by him in making taxable supplies.

The system relies on the suppliers of goods to VAT registered businesses in other Member States completing a recapitulative statement (known in the UK as the EC

Sales list) and the customer making accurate acquisition VAT declarations on its own VAT returns.

## The proposed new system

From 2019, the Commission proposes to introduce the 'definitive' VAT system throughout the EU. The new system is the complete reverse of the original proposed system and will tax the supply of goods in the Member State of consumption. For example, where a UK business supplies goods to a German customer, the supply will be deemed to be a German supply of goods taxable in Germany.

The exact detailed technical rules for how the new system will be operated will be provided during 2018. The current proposal is merely to set the direction of travel and provide a framework. In addition, further changes will also be needed to the arrangements between Member States in relation to administrative cooperation and in relation to IT developments.

## Intra-Union Supplies

The new system will introduce a new concept of supply known as an intra-union supply. This will be a single event and will replace the existing two event procedure (ie the exempt supply in the Member State of departure followed by a taxed acquisition in the Member State of destination). Such supplies will be deemed to take place under the 'place of supply' rules in the Member State of arrival of the goods.

## Liability to pay VAT

Under the new system, the supplier will be required to pay any VAT due in the Member State of destination unless the customer acquiring the goods is a certified

taxable person. In such cases, the customer will be required to account for any VAT due on the intra-union supply.

In cases where a customer is not a certified taxable person and the supplier is not registered for VAT in the Member State of destination, he will be able to account for any VAT due in that Member State by making appropriate declarations using a so-called One-Stop Shop (similar to the MOSS system currently used by suppliers of electronic services to consumers in other Member States. The One-Stop Shop will also allow for input VAT incurred in other Member States to be reclaimed.

Although the detailed rules are, as yet, unknown, the EC Sales list should become a thing of the past when the new definitive destination system is introduced.

### Certified Taxable Person

As stated above, where goods are supplied to a certified taxable person, the supplier in a different Member State will be relieved from any obligation to account for or pay any VAT due in the customer's country. It is necessary, therefore, for the VAT law to stipulate exactly what is meant by that term. Accordingly, the Commission proposes to introduce new legislation to define what is meant by a certified taxable person. The concept will mean that such businesses will be recognised globally as reliable taxpayers.

To combat VAT fraud, this concept will be introduced in due course by implementing regulations. Such regulations will cover the procedures for granting and withdrawing certified status and for ensuring a uniform approach to the concept across the European Union.

### Other proposals

The Commission has also announced a number of other proposals aimed at dealing with a variety of other VAT issues. Under current VAT rules, a person transferring his own goods to another Member State as 'call-off stock' is, generally, required to register for VAT in the Member State where the goods are located. This allows for VAT to be accounted for on the arrival and subsequent supply of the goods in the other Member State. The Commission is proposing to treat these movements as a single supply in the Member State of departure and an intra-community acquisition in the country where the stock is

subsequently located. This new rule will only apply however where the supplier and the customer are certified taxable persons.

### Intra Community Acquisitions

In an attempt to reduce the incidence of carousel fraud, the Commission has also proposed an amendment to the existing rules on intra-community acquisitions. Existing VAT law not only requires the acquirer of goods to provide his VAT identification number but it also requires the supplier to complete and return a recapitulative statement (the EC Sales List). Both requirements are formal conditions. For a business to obtain goods from a supplier on a VAT free basis he must provide a valid VAT number. As a formal condition, the Court of Justice has ruled that non-compliance with the requirement to provide a VAT identification number cannot itself lead to a denial of the VAT exemption for the supply of goods. A Member State may impose a penalty for non-compliance but it cannot deny the exemption. It is only where substantive conditions are breached that the exemption can be denied so, at the request of the Member States, the Commission has proposed that the provision of a valid VAT identification number should become a substantive condition. It is also proposed to make the requirement to complete a sales list a substantive condition such that failure to file a Sales List can lead to denial of the exemption (zero-rating in the UK) for the supply of the goods. The VAT Directive is to be amended to reflect these changes.

### Chain Transactions

New rules will also be introduced to regularise and provide legal certainty throughout the EU as to exactly which supply (within a chain of transactions) is to be regarded as the transaction involving the transportation of the goods and thus treated as an exempt (zero-rated in the UK) supply.

### Grant Thornton

Grant Thornton has a national team of VAT and Customs specialists. If you wish to discuss any aspect of these proposals, please contact your usual Grant Thornton advisor.

<b>Name</b>	<b>Name</b>
Grade	Grade
T +44 (0)	T +44 (0)
E	E