



Brussels, 26 November 2018
(OR. en)

13020/18

Interinstitutional Files:

2017/0251(CNS)
2017/0248(CNS)
2017/0249(NLE)

FISC 414
ECOFIN 898

'I/A' ITEM NOTE

From: General Secretariat of the Council

To: Permanent Representatives Committee/Council

No. Cion doc.: 12882/17 FISC 213 ECOFIN 788 IA 151 - COM(2017) 569 final
12880/17 FISC 211 ECOFIN 786 IA 149 - COM(2017) 567 final
12881/17 FISC 212 ECOFIN 787 IA 150 - COM(2017) 568 final

Subject: – Draft Council Directive amending Directive 2006/112/EC as regards the harmonisation and simplification of certain rules in the value added tax system for the taxation of trade between Member States

– Draft Council Regulation amending Regulation (EU) No 904/2010 as regards the exchange of information for the purpose of monitoring the correct application of call-off stock arrangements

– Draft Council Implementing Regulation amending Implementing Regulation (EU) No 282/2011 as regards certain exemptions for intra-Community transactions

= Adoption

1. On 4 October 2017, the Commission issued the following three legislative proposals:
 - i) a proposal for a Council Directive amending Directive 2006/112/EC as regards harmonising and simplifying certain rules in the value added tax system and introducing the definitive system for the taxation of trade between Member States¹;

¹ Doc. 12882/17.

- ii) a proposal for a Council Regulation amending Regulation (EU) No 904/2010 as regards the certified taxable person² and
 - iii) a proposal for a Council Implementing Regulation amending Implementing Regulation (EU) No 282/2011 as regards certain exemptions for intra-Community transactions.³
2. Besides the "cornerstones" of the definitive system of VAT and the concept of a certified taxable person (CTP), the proposals further set out, in reply to the Council conclusions of 8 November 2016, a number of short term improvements to the current system of VAT:
- i) simplification and harmonisation of rules regarding call-off stock arrangements,
 - ii) the VAT identification number of the customer becomes a substantive condition for exempting the intra-Community supply of goods,
 - iii) simplification and harmonisation of chain transactions in order to enhance legal certainty, and
 - iv) simplification and harmonisation of the rules for proving the intra-Community transport of goods for the purposes of applying the exemption.

² Doc. 12880/17 (which was later amended by a legislative proposal set out in doc. 14893/17, by incorporating the provisions on "certified taxable person" into that new proposal to amend Regulation No. 904/2010).

³ Doc. 12881/17.

3. When discussing this legislative package, the Council deemed appropriate and necessary to advance the work on the core of these Commission proposals, in order to allow for early progress and to solve important issues in the VAT area, while noting that the remaining parts of the proposals relating to the CTP and the text of amendments to Article 402 of Directive 2006/112/EC will require further discussion, in the context of other legislative proposals in the area of VAT (proposals on the technical details of the definitive system of VAT⁴ / VAT rates⁵).
4. On 2 October 2018, the ECOFIN Council reached a general approach on the "VAT quick-fix" legislative package.⁶ The Council and the Commission made the following joint statement to the minutes of that Council meeting:

"The Commission and the Council are aware of a certain divergence in the VAT treatment of independent groups of persons that pool their services and share costs between their members. The Council and the Commission recognize the need to clarify such VAT rules on independent groups of persons.

The Commission will analyse this matter in detail in a study to be launched shortly with a view, subject to its right of initiative, to a possible proposal. "

⁴ Doc. 9462/18 (Proposal for a Directive amending Directive 2006/112/EC as regards the introduction of the detailed technical measures for the operation of the definitive VAT system for the taxation of trade between Member States).

⁵ Doc. 5335/18 (Proposal for a Directive amending Directive 2006/112/EC as regards rates of value added tax).

⁶ Doc. 12564/18.

5. The opinions of the European Economic and Social Committee were issued on 14 March 2018⁷ and 3 May 2018⁸. The opinion of the European Parliament on the interinstitutional file 2017/0251(CNS) was issued on 3 October 2018⁹, and its opinion on the interinstitutional file 2017/0248(CNS) was issued on 3 July 2018¹⁰.
6. The Permanent Representatives Committee is therefore invited to suggest that the Council adopt, as an "A" item on the agenda of a forthcoming meeting, the following acts, as finalised by the legal/linguistic experts:
- i) Directive amending Directive 2006/112/EC as regards the harmonisation and simplification of certain rules in the value added tax system for the taxation of trade between Member States, set out in doc. 12848/1/18 REV 1;
 - ii) Regulation amending Regulation (EU) No 904/2010 as regards the exchange of information for the purpose of monitoring the correct application of call-off stock arrangements, set out in doc. 12850/18;
 - iii) Council Implementing Regulation amending Implementing Regulation (EU) No 282/2011 as regards certain exemptions for intra-Community transactions, set out in doc. 12849/18.
-

⁷ OJ C 237, 6.7.2018, p. 40.

⁸ OJ C 283, 10.8.2018, p. 35.

⁹ P8_TA(2018)0366.

¹⁰ P8_TA(2018)0278.