

Position Paper – final draft

UEAPME's¹ comments on the VAT Action Plan

Executive Summary

- UEAPME welcomes the VAT Action Plan and supports its intention to simplify the system for businesses, to fight against fraud and to better use new ITC technologies.
- UEAPME welcomes the intention of the European Commission to present an SME VAT package including a review of the special scheme for small enterprises.
- UEAPME supports the extension of the MOSS to all cross border e-commerce, but insists on a provision of trustworthy and easy accessible information about VAT rates applicable in other Member States.
- UEAPME rejects a temporary reversed charge system, which would create unacceptable administrative burdens and uncertainty for SMEs.
- As regards VAT rates, UEAPME argues that additional autonomy for Member States may not distort competition within the single market.
- UEAPME asks the Commission to conduct a broad impact assessment on costs, benefits and efficiency on the different options for a definitive regime, to allow a responsible choice between them.

I. General comments

The present VAT system, which was established in 1993 with the intention of being transitional, is fragmented and complex for the growing number of businesses operating cross-border. Indeed, domestic and cross-border transactions are treated differently and goods or services can be bought free of VAT within the Single Market. These are the reasons why SMEs in Europe see the VAT system and its high compliance costs for trading within the single market as one of the most relevant barriers for doing cross border business and it ranks regularly under the top 5 most burdensome European regulations for small businesses.

Furthermore, the current VAT system is vulnerable to frauds with an estimated gap of about EUR 170 billion between expected and collected VAT revenue. This creates un-level playing fields for companies acting legally and increases their tax burden. Too often SMEs and their employees have to pay those taxes which are not paid by companies using loopholes or behaving illegal.

Therefore, UEAPME welcomes the intention of the European Commission to reform the current VAT system as laid down in the VAT Action Plan from April 2016 and SMEs fully support the intention of the VAT Action Plan:

¹ UEAPME subscribes to the European Commission's Register of Interest Representatives and to the related code of conduct as requested by the European Transparency Initiative. Our ID number is [55820581197-35](#).

- to make the VAT system simpler for businesses to use;
- to fight the growing risk of fraud;
- to increase the efficiency of the VAT system by exploiting the digital and technological opportunities to reduce the costs of revenue collections.

As regards simplification, UEAPME asks since a long time for an extension of the Mini-One-Stop-Shop (MOSS) in order to reduce the burdens for SMEs when doing cross border businesses within the Single Market. Furthermore, UEAPME is still demanding a Standard Form for VAT return, but such a change in VAT administration for businesses is only justified, if it leads really to a reduction of compliance costs by creating one real standard form and not again in the end possibly 28 different additional ones.

Furthermore, UEAPME welcomes the intention of the European Commission to present an SME VAT package including a review of the special scheme for small enterprises.

Finally, and as a more general remark, UEAPME expects that every proposal should be considered from the perspective that it will not result in further compliance difficulties and costs for SMEs and especially for micro businesses and self-employed. Therefore, UEAPME urges the European Commission to come forwards with an impact assessment which includes costs and burdens of its proposals for businesses and particularly for SMEs.

II. Comments on selected actions most relevant for SMEs

In this chapter UEAPME provides concerns, considerations and proposals on those actions, which we see as important for SME:

1) Removing VAT obstacles to e-commerce in the single Market

The Commission announced to present a legislative proposal by the end of 2016 to improve and simplify VAT for cross-border e-commerce, in particular for SMEs, by:

- *extending the current One Stop Shop (OSS) concept to all cross-border e-commerce, including distance sales;*
- *introducing common EU-wide simplifications measures to help small start-up e-commerce businesses;*
- *streamlining audits in this sector (home country audits), and*
- *removing the VAT exemption for the importation of small consignments from suppliers in third countries.*

UEAPME fully supports the intentions behind such actions, but wants to put forward the following considerations:

- The OSS concept will only be efficient, if SMEs have easy access to up-dated information about the VAT rates applicable in different Member States. In this regard it is important that SMEs have legal certainty about the rate they have to apply.
- Therefore, UEAPME will insist that all relevant information can be accessed via an electronic portal, which is easy to be used, which is free of costs and which provides up-dated information on rates. Finally, SMEs should not be made responsible, if they apply rates provided by such portals, even if they are not up-to-date or incorrect.
- If simplification measures include a VAT threshold under which no registration in other Member States or to the One Stop Shop is required for cross-border supplies, it has to apply to all companies and not only to start-ups, in order to ensure level playing field. Furthermore, the threshold has to relate to all cross border sales of a company and a company must have the possibility to opt-out of such a provision.
- Finally, UEAPME fully supports the idea to streamline audits by introducing home country audits and to remove VAT exemption for the import of small consignments from suppliers in third countries.

2) SME VAT Package

SMEs face proportionally higher VAT compliance costs than large businesses due to the complexity and fragmentation of the EU VAT system. As underlined in the new Single Market Strategy, the Commission is working on a comprehensive simplification package for SMEs with the aim of creating a favourable environment to their growth and to cross-border trade. In particular, the special scheme for small enterprises will be subject to review and the package will be presented in 2017.

UEAPME welcomes this recognition of the specific problems of SMEs in general and specifically of small enterprises with the current VAT regime. Any amendments to the scheme for small enterprises should build on the experiences with the current one and tackle the following issues:

- *The most important and used features of the current schemes are SME exemptions and graduated reliefs as well as cash accounting schemes. However, we see huge differences between national thresholds used for registration and compliance, creating problems for cross border businesses. In this area subsidiarity to set national thresholds seems to contradict with the needs of the Single Market. Therefore, national thresholds for SME exemptions should be designed with the aim not to create additional burdens for cross border businesses and to avoid unfair competition between SMEs within the Single Market.*
- *Flat rate schemes for SMEs are only used in 7 out of 28 Member States, which is not a surprise because they are extremely complicate to design and include the risk to promote “black markets”. Therefore, UEAPME is not pushing for any extension of such schemes.*

3) Reverse charge systems

In its VAT Action Plan the European Commission refers twice to a reverse charge system. First, to a temporary reversed charge system (Chapter 3.5), which some Member States want to implement as a temporary measure to fight VAT fraud. Secondly, in form of a general reversed charge system as an option to implement the country of destination principle (Chapter 4).

As such, reverse charge systems could contribute to reduce the administrative burden for SMEs and therefore, UEAPME is not against reverse charge systems in general. However, we see the risks of putting the whole VAT collection to the retail stage and would distort the current VAT System based on taxation of value added throughout the whole production chain. **Additionally there is also a high risk to replace existing cases of fraud by new ones, whose full extent cannot be estimated yet.**

As regards a temporary measure, one has to be aware that reverse charge systems, if they are only implemented temporarily and only by certain Member States, create additional costs and uncertainty for SMEs, who have to deal with different clients in different ways and have adaptation costs, at the beginning and the end of such temporary measures.

Furthermore, in case of a reverse charge system for B2B transactions, SMEs have to be put in a situation that they can clearly identify, if a client is a business and invoicing can be made without VAT. Otherwise, SMEs have to carry the risk and the costs, if it turns out that a transaction would have had to be classified as B2C.

Therefore, UEAPME is against a temporary reverse charge system applied by some Member States, because:

- **it creates additional administrative burdens for SMEs**
- **it will lead to legal uncertainty and SMEs would have to carry the risks and costs, if a transaction was wrongly qualified as B to B transaction;**
- **it will create new barriers within the Single Market and**
- **it will block the move to a definitive system.**

4) Definitive VAT regime for cross-border trade

As agreed by the European Parliament and the Council, a definitive VAT system would be based on the principle of taxation in the country of destination of the goods. As best solution, the Commission suggests to tax B2B suppliers of goods within the EU in the same way as domestic suppliers. This would assure consistent treatment of domestic and cross-border supplies along the entire chain of a production and distribution, and re-establish the basic features of the VAT. In this perspective, the Commission suggest as a first step an extension of the One Stop Shop model to cover cross-border B2B supplies of goods for companies not certified as compliant business. Then, the second step would be the implementation of the identical taxation that would indistinctly cover all supplies, either domestic or cross-border, in the single market and companies have only to register were they are established.

Both models will confront cross-border market operators with the difficulty to get liable information about the applicable tax rate and the legal nature of a client.

UEAPME has no principle objections against such an approach, but we have to assess carefully concrete proposal presented at a later stage. The most important issue for SMEs will be simple access to trustworthy information about clients and applicable VAT rates. This is also a precondition for an operational and efficient One-Stop-Shop for B2B transaction, which will be needed for such a definitive regime.

In order to allow a smoothly and efficient transition to a new VAT system, UEAPME supports the idea to maintain exemptions for SMEs certified as compliant business, because companies having pursued the procedures and cost to get certified should further profit from it.

When further exploring the different options for implementing the destination principle, the Commission has to conduct a broad impact assessment of costs, benefits and effectiveness of proposed measures, with a thorough analysis of the effects on SMEs and on the Single Market to allow a responsible choice for the best system.

5) More freedom for Member States on rates policies

The decision to implement a definitive VAT system based on the destination principle requires a reflection about the current rules governing VAT rates, which being based on the origin principle, limit Member States' freedom to set VAT rates making the internal market more rigid and lessening its functioning. In line with the subsidiarity principle, Member States could be granted greater autonomy on setting VAT rates, subject to appropriate safeguards to prevent excessive complexity and distortion of competition by Member States.

UEAPME is not in principle against more autonomy in setting VAT rates, but it has be ensured that such an additional flexibility does not create distortions of competition, especially in border regions and for e-commerce. Any discussion on changing VAT rates has to take its impact on the single market into account.

Furthermore, UEAPME recalls the agreement of 2009 on reduced VAT rates for labour intensive services, which are very important for certain economic sectors and should not be put into question.

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