

VAT Relief for Donations

In Summary

In many EU countries, companies are facing incremental VAT costs when donating surplus (food & non-food) products to charities and other good causes helping people in need. Notwithstanding that European VAT legislation gives EU Member States the possibility to define VAT relief conditions for donations to charitable organisations, only a handful of countries make use of this VAT neutralisation option to support sustainability and circular economy goals, whereas other EU countries continue to levy VAT on charitable donations or choose to introduce VAT relief in a very narrow scope with many additional conditions to fulfil. This is unreasonable and counterproductive, as it is making donations of surplus products more onerous than their destruction, since this avoids VAT costs.

The business community calls on the EU Commission to play a leading role in encouraging EU countries to leverage VAT neutralisation options provided by the EU VAT Directive in the short term. This would allow unsold food and non-food products to be supplied for free to recognised donation organisations, without triggering an incremental VAT cost for the retailer or donor. We call on the EU Commission to do this in the short term, as we cannot afford to wait, given the huge potential benefits for the EU's sustainability and circular economy objectives. As part of longer-term VAT reforms, the EU Commission should also consider clarifying the current VAT relief options.

What is the problem?

Product donations

In many EU countries, there is a VAT cost on charitable in-kind donations, either because VAT is due on the donation or the donor can no longer recover the input VAT incurred on the donated product. This VAT cost makes charitable donations an economically unviable option for businesses, including for SME's. Some EU countries have implemented a VAT relief for charitable donations, but this is often combined with stringent conditions that do not allow donations at scale. Most other EU countries offer no VAT relief at all.

Our sector has, for many years, been taking part in the green and sustainable transition. As part of our efforts to ensure the transition to a more environmental circular economy and to encourage companies to contribute to this agenda, we need to ensure that tax and environmental policies are aligned. One initiative towards sustainability is to avoid destruction of unsold consumer goods. This is set in article 20 of the Eco-design for Sustainable Products Regulation proposal, which intends to ban destruction of unsold goods. This holds great potential for ensuring that unsold products can be reused, recycled or donated as much as possible. Each season, and every year, there are a great number of products which could be donated to charities. Our sector would like to capture this potential to donate unsold or returned products to charity partners, who would distribute them to deserving communities. Such distribution would serve both a social and an environmental purpose.

Currently, VAT is an important reason for not donating excess inventory at scale. Current VAT legislation in many EU countries imposes that businesses pay VAT on donations, making charitable donations a less attractive option for businesses, including for SMEs.

Food donations

The current VAT legislation can have specific implications for food donations as well. Despite the VAT Committee¹ [guidelines](#) that facilitate Member States to grant VAT reductions and exemptions for food donations under certain circumstances, not all national governments have chosen to implement such exemptions, thus creating financial and administrative barriers to the transfer of surplus food, potentially leading to increased food waste. For example, the Austrian tax law differentiates between non-tradable food products, which do not involve VAT costs and tradable food products, which are not subject to this VAT exemption. Donatable food products are usually not sellable, but are tradable. An adaptation of these definitions could pave the way for VAT relief on food donations.

When it is not possible for retailers and wholesalers to prevent food waste within their own operations, food donation becomes the next best alternative. By donating food, retailers and wholesalers not only reduce the environmental impact of the EU food system in line with the Farm to Fork Strategy but also contribute to achieving the target outlined in Sustainable Development Goal 12.3, which aims to halve per capita global food waste at the retail and consumer levels. Considering that up to 20% of all food produced in the EU is wasted and an alarming 88 million tonnes of food waste is generated annually, it is crucial to have financial incentives, such as VAT exemptions, to further encourage food donation and simultaneously to make a positive impact on both the environment and the community.

How can it be fixed?

EU countries can avoid this waste by implementing VAT relief for donations of excess food and non-food inventory to charities and other registered entities, e.g. hospitals, hospices, orphanages, schools or zoos. Such a measure would not necessarily mean a VAT loss for Member States, as products are currently rarely donated. On the contrary, this would be an enabler for the EU's Green Deal and circular economy ambitions, such as the European Commission's proposed regulation for Eco-design for Sustainable Products sets in Article 20 ("*Destruction of unsold consumer products*") that requires most products need to be recycled, reused (etc.) as well as the Circular Economy Action Plan that aims to diminish waste in the EU. It would also be an important measure to combat food waste, as set out by the EU's Farm to Fork Strategy. In this context, encouraging Member States to remove the VAT cost for companies making charitable donations represents a great opportunity to help tax rules contribute to the EU's sustainability goals.

Although the EU VAT Directive does not include an explicit VAT relief for charitable donations, it allows EU countries to implement this at their discretion. This was confirmed some years ago by EU Commissioner Gentiloni in his answer to a parliamentary question by Mr. Zanni (E-003465/2019). [His answer](#) clearly states that Member States are allowed to define conditions for free-of-charge self-supplies (such as donations to charitable organisations) under which businesses are granted a VAT relief.

Due to the fact that (1) the current non-mandatory solutions are not applied in all EU Member States and (2) the conditions for a VAT relief on donations are heterogeneous across the EU, more precise legislation at EU level should be discussed in the future. Introducing more detailed EU legislation, with regards to VAT neutralisation for donations, would allow EU countries to have more unified solutions and a universal application of the scope and conditions of the measures (see below Box 1 on guidelines and supportive measures). Nevertheless, until such legislative changes are pursued, the EU Commission should play a leading role in encouraging EU countries to leverage VAT neutralisation options to allow excess products to be supplied for free to recognised charitable organisations,

¹ VAT Committee: https://taxation-customs.ec.europa.eu/vat-committee_en

without triggering an incremental VAT cost for the retailer or donor. This would contribute to the EU's sustainability and green/ circular economy agenda.

Box 1: VAT relief on donations – guidelines and supportive measures

- VAT relief should apply to a broad range of food and non-food products. Exclusions should be limited as much as possible, but if required, these should be explicitly defined by legislation.
- Eligible charity partners should be broadly defined, e.g. pre-defined charities (published in a publicly available register) and special entities such as hospitals, hospices, orphanages, schools, zoos. Clear criteria for eligible charity partners together with fraud safeguard measures would help preventing fraud. Alignment with other taxes is also advisable (e.g. same charities qualifying for VAT relief as for deduction for Direct Tax purposes).
- Administrative requirements should be limited, as not all businesses and especially charities have the bandwidth to comply with these. For example, an annual certification mechanism provides Tax Authorities with a simplified audit mechanism to verify donations to each charity by each donor, while minimising the administrative burden on both charities and donors.
- It should be possible for the charity and donor to issue/receive required documents electronically.
- Parties (donor and charity) should be allowed to outsource administrative requirements to a third party who drafts and issues the documents, following approval by the parties, on their behalf.

Moreover, the benefits of the EU Internal Market should be reaped: When donations are made to another Member State, it should not be mandatory for the business to register in the foreign national tax system for VAT and commercial purposes. However, if it is mandatory, the procedure should be simplified when this applies to donation purposes only. Some EU countries, notably Italy and France, have already implemented a VAT relief, combined with documentary guardrails to ensure the charitable end-use of the donated goods. In other countries however, there is no VAT relief or the VAT relief is subject to very stringent conditions which do not allow businesses to donate at scale. Substantial support from the EU-level is needed, in order to introduce VAT exemptions on food and non-food donations throughout all EU Member States.

The stakes are high. With sustainable waste management becoming more important for businesses and with the increasing demand of charities for donations, unlocking VAT on donations is important for the industry to complement the waste minimisation options already in place and to handle excess inventory in sustainable way.

The industry is already making efforts to build tools and programs that both prevent and minimise the need for unsold or returned products going to waste. This includes tools to improve demand forecasting, combined with a range of programs designed to resell returned items through discounted deals, recycling programs and selling excess inventory to resellers.

Moreover, the COVID-19 and Ukraine crisis have led some Member States to implement temporary VAT relief for donations of specific products to provide the necessary goods to respond to the crisis and mitigate its harm. A permanent VAT relief would allow for a faster response and better preparedness in times of crisis, while also providing businesses with the opportunity to support charities in non-crisis situations, contributing to a larger social cause.

Who would benefit from this?

Introducing VAT relief for charitable donations of surplus products is a win-win situation. It is good for the environment, good for businesses, good for customers and communities, and good for the state.

- Good for the environment – By reducing waste and destruction, unlocking VAT for donations would be an enabler for environmentally friendly policies, for the circular economy and for sustainable food consumption.
- Good for businesses – Businesses would be able to enhance their social and environmental responsibility by donating surplus goods and by reducing their waste footprint, with no incremental costs.
- Good for charitable and non-profit organisations – Charities and non-profit organisations would have greater access to donatable goods from retailers, with no incremental costs.
- Good for communities – By enhancing charities' resources, there would be better support of people and communities in need. VAT reliefs for donations also help to address future crisis as we have seen during the Covid-19 pandemic and the war in Ukraine where governments implemented temporary VAT reliefs to unlock donations.
- Good for customers – Customers would be able to make purchases from a wider selection of socially and environmentally conscious businesses. There is an expectation from customers that businesses operations become more sustainable.
- Good for the state – enhanced charities' resources can lead to savings for the national budget: during humanitarian crisis and result in savings for the national social system.