

Making VAT and Excise Duties Greener, Fairer, Simpler

Executive Summary

Dealing with different national rules on VAT and excise duties are major obstacles for retailers and wholesalers trading cross-border. VAT rules must also help operators in sustainable use of resources, and ensure a level playing field between EU-based operators and market players from third countries. We need a more coordinated approach towards indirect tax and customs policy across Europe. EuroCommerce urges the Commission to focus renewed effort on further improving EU VAT and excise duty systems to ensure they are proportionate and fairly applied.

We have identified a need for urgent action in the following areas:

VAT

- **Greener:** Better alignment of VAT and environmental policies through harmonised rules on VAT reliefs on product donations to e.g. food banks.
- **Fairer:** Specific action to safeguard a level playing field: an automated fast-track import process for certified operators and mandatory VAT Import One-Stop Shop system for third country imports.
- **Simpler:** Extending EU VAT One Stop Shop to all transactions by remote sellers, including pan-EU inventory storage and further harmonisation of classification of products eligible for reduced VAT rates.

Excise Duties

- Simplified excise duty registration and compliance regulation similar to VAT One-Stop-Shop for distance selling and B2B cross-border trade in excisable goods.

Customs

- More effective coordination within and between European institutions to avoid clashes between customs facilitation initiatives and VAT/excise duty rules.

Retailers and wholesalers are facing major challenges as a consequence of the COVID-19 crisis. Given the expected sharp economic downturn after the worst of the crisis has past, our sector will continue to face problems of reduced private consumption and thus turnover. Without some help, we can expect a wave of bankruptcy which will steepen the downward economic curve. EuroCommerce appreciates the swift response by Member States to help affected companies through relaxed tax obligations. The Commission can play an important role by coordinating an effective response in the field of taxation both during the crisis and in its aftermath. This could include, in the short term, temporarily limiting the tax burden for companies and consumers, for example on the purchase of essential protective equipment. Furthermore, administrative requirements such as the DAC 6 reporting obligations on cross-border tax arrangements should be postponed. This would help companies overcome the present crisis while losing no information in the medium term. In the longer term, taxation policies should form part of the proactive measures required at national and EU level to get the economy started again.

Background

Cross border retailers and wholesalers have to cope with widely differing national rules for VAT and excise duties. The administrative burdens involved unnecessarily increase costs for companies, especially for SMEs, and act as a barrier for growing the single digital market.

A free, competitive internal market needs a level of improved harmonisation and simplification, as well as equal enforcement of fiscal rules. The VAT rules on e-commerce which come into force as from 2021 are already an important step towards reducing the burden for companies of VAT compliance outside their home country. The removal of the distance selling thresholds and extension of the VAT mini-one-stop shop scheme to distance selling are good examples of how to simplify compliance and making it easier for businesses to access other markets. The removal of the VAT relief for imported low value consignments is important to ensure EU businesses are on an equal VAT footing with non-EU competitors. The role of marketplaces to collect and remit VAT on certain sales facilitated on their platforms should help to drive the efficiency of VAT collection in an omni-channel environment. The European Commission has also started to work on simplification measures for excise duty rules for cross-border B2B and B2C trade, which we welcome.

Simplifying VAT and excise rules, providing the same protection of revenues while reducing compliance costs, is an important step towards the completion of the single market. At the same time, EU business is looking for simpler, more effective enforcement of existing VAT rules to ensure a fair coexistence between EU-based and non-EU-based players. We strongly encourage the EU to also work on a resource-friendly approach by ensuring VAT relief for food or other donations to reduce waste in all Member States.

EuroCommerce urges the new Commission to continue the efforts to further improve EU VAT and excise duty systems to ensure they are fairly applied and proportionate. EuroCommerce has identified the following priority areas for further action:

EuroCommerce key action points

VAT

Better alignment of VAT and environment policies

Retailers and wholesalers want, wherever possible, to avoid destroying returned goods or unsold/unmarketable products, both in food and other product areas. These products should rather be recycled, donated to charity or disposed in an eco-friendly way. Our sector is already very active in a number of areas, in particular in giving wholesome but unsold food to food banks to distribute to needy families. But a major obstacle to donations for unsold retail inventory is the VAT treatment of donations. Current VAT rules mean that it is cheaper to destroy goods, rather than to donate them. That cannot be right morally or consistent with the welcome initiatives under the Green Deal to promote circularity and reduce resources being wasted. Most countries do not allow VAT to be recovered for donations, and even those who do have other bureaucratic hurdles to donation. Against this background, EuroCommerce calls on the Commission to work on harmonised rules on VAT relief on product donations which allows VAT to be recovered, and the related documentary requirements to be simplified. Equally importantly, many tax systems do not allow deduction of donations under corporate income tax. These create unnecessary barriers to donation of products as part of the fight against waste.

VAT enforcement measures

EuroCommerce advocates a level playing field within the EU for both EU and non-EU merchants: not only in law, but also in practice. As the European Commission impact assessment has shown, non-EU merchants and marketplaces often do not follow EU rules. E-commerce VAT fraud and under-collection of VAT is a problem at national and EU level, but all too often concentrated in non-EU

entities/funds flowing to non-EU destinations. Therefore, specific action will be needed to safeguard and promote a level playing field¹.

Tackling VAT fraud will also require the tax authorities to be able to check that VAT is correctly applied and paid. New legal tools and technologies are needed to be able to follow the flow of money as well as the flow of goods. One way to enhance such control and ensure some degree of equality and level playing field for compliant merchants and marketplaces, would be to reserve an automated fast-track process for certified operators in the customs and international hub.

Import One Stop Shop (IOSS) on a mandatory basis

From 1 January 2021, new VAT rules will apply for sales of goods imported from outside the EU with a value below 150 EUR (low value imports) to consumers within the EU. These new rules include the liability for online merchants and for marketplaces acting as ‘Deemed Supplier’ to collect and remit VAT through the IOSS VAT collection mechanism.

However, the IOSS VAT collection model being optional significantly reduce the scope and effectiveness of the new VAT rules for low value imports, creating unpredictability in terms of VAT revenue collection and uncertainty for businesses and consumers.

EuroCommerce therefore calls for a mandatory IOSS registration requirement, in particular for marketplaces acting as Deemed Supplier, given that they facilitate up to 70% of all low value imports into the EU. For a successful implementation of the new Ecommerce VAT rules, such corrective action is needed without delay and preferably before the rules become effective. This needs to be aligned with customs guidance that fiscal valuation checks will no longer be required for shipments covered by a valid IOSS registration. A mandatory VAT IOSS would improve VAT compliance and help to tackle e-commerce VAT fraud. This would help tackle the VAT gap on low value imports, expected to rise to 7 billion euro by 2022.

VAT registration and compliance

Businesses that want to store inventory in another member state to facilitate online cross-border delivery are required to register for VAT in every country where goods are stored. This is also the case when merchants sell goods within a country from a domestic storage facility (owned by the merchant or via a third-party warehouse provider) outside their home country. One key simplification, especially important for SMEs, could be achieved through further extending the EU One Stop Shop system to all transactions by remote sellers, including pan-EU inventory storage before the point of sale. We believe that this can be easily combined with safeguards against any potential abuse of the system.

VAT simplification

The classification of products eligible for reduced VAT rates should be further harmonised. We therefore suggest withdrawing the current Commission proposal on VAT rates. The current proposal will serve to increase the differences in taxation of goods and services among Member States. Instead, Annex III of VAT Directive 2006/112/EC should be updated and gradually harmonise rates and abolish existing derogations. While businesses welcome the simplification introduced by the extension of the VAT OSS, this could be partially negated by increased complexity in complying with tax rules and different VAT rates applicable in Member States.

Excise Duties

Excise duty registration and compliance obligations regarding distance selling

EuroCommerce fully endorses the work of the Commission on simplifying excise duty rules for distance selling and the proposed solution of a One Stop Shop for merchants selling (mainly) wines across EU fiscal borders to private consumers. Until now, these merchants are still required to register for excise duty in every single country they sell to and, in most cases, even have to appoint a fiscal representative.

¹ In this respect we also refer to the EuroCommerce position paper [“Creating a level playing field for retail in Europe”](#)

EuroCommerce requests that the Commission implement this simplification measure under the Excise Duty Directive as soon as possible, in order to allow Member States sufficient time for implementation.

Excise duty registration and compliance obligations regarding B2B cross-border trade

EuroCommerce also welcomes the work of the Commission to simplify the excise duty rules regarding cross-border wholesale sales to retailers, in instances where the buyer in the other Member State does not have an authorisation under duty suspension arrangements. The present duty-paid arrangement imposes significant burdens on merchants and acts as a powerful deterrent to them considering cross-border trade. One possible solution, allowing both parties to use the Excise Movement and Control System (EMCS), would further simplify the EU excise duty system and reduce the administrative burden for both businesses and tax authorities, without in any way risking revenues.

Customs

Both VAT and excise taxation obligations overlap with the application of customs measures. Often customs simplification and facilitation initiatives end up being blocked by conflicts with VAT or excise systems, such as in Centralised Clearance. EuroCommerce asks for more effective coordination in forums that include European officials, Member State experts and EU traders to ensure problems are addressed and practical solution found at an early stage.

EuroCommerce believes that these proposed simplification measures would contribute to establishing a greener, fairer and simpler indirect tax system in the EU, and help support a wide range of Commission objectives for 2019-24.