

Pierre Moscovici  
Commissioner for Taxation  
European Commission  
Belgium

Sent via upload

Brussels, 25 April 2018

Subject Public Consultation - Exchange of data to combat VAT fraud in e-commerce

Dear Commissioner,

1. Accountancy Europe is pleased to **comment on the European Commission's public consultation 'Exchange of data to combat VAT fraud in the e-commerce'**. This letter provides additional context for our response to the public consultation, with which it should be read in conjunction.

---

**Executive summary:**

- **General comments** – VAT Fraud on online transactions is an issue of growing importance for the European VAT system and the Commission is right to propose measures to combat it
- **Exchange of data** – the automatic exchange of payment data **could** be a useful measure in the fight against online VAT fraud but we believe that, currently, the tax authorities of most Member States lack the resources to effectively utilise this information
- **Better co-operation** – we believe that Member States should better exchange best practice and data analytic tools developed nationally to more effectively fight online VAT Fraud

## General Comments

2. VAT Fraud on online transactions is one of the critical issues facing the European VAT system and is growing in importance. Failure to deal with this issue will lead to an increasing loss of tax revenue for national governments and will potentially price compliant businesses, particularly smaller entities, out of the market.
3. We believe that Member States have sufficient regulatory tools to fight online fraud. However, tax authorities often lack the funding and resources to fully exploit these regulatory tools. This applies both in respect of manpower and the development of data analytic tools, which are essential new weapons in the **tax authority's armoury against VAT fraud**.

4. We believe that the use of regulatory tools between Member States' tax authorities to promote the fight against fraud is currently inadequate and, therefore, not as effective as it could be. As the internet has made even the smallest businesses truly global, the effectiveness of national measures can only be enhanced by more effective cross-border co-operation. This has been addressed by recent amendments to Regulation 904/2010, which will in the future give Member States further regulatory tools to promote the fight against cross-border fraud. However, these provisions will not apply until 1 January 2021.
5. Although the regulatory framework has been updated, we still believe that significant deficiencies exist in the transfer of information, best practice and effective software tools between Member States. Many Member States are developing intelligence gathering and risk assessment systems and we call upon the Commission and the tax authorities of each Member State to more fully share these developments and better leverage existing software solutions.
6. Apart from the general observations made above, we also wish to expand upon some of our specific answers in the consultation.

## Question 37

7. In respect of point a., whilst we agree that the allocation of additional resources at a national level will benefit the fight against internet VAT fraud, we believe that allocating these resources to the development of anti-fraud tools at an EU level will produce better results in the long term.
8. In respect of point b., we believe guidelines may be of some assistance in the fight against fraud but they are not the best instrument and would need to be binding on Member States to be fully effective.
9. In respect of points e to f, we do not believe that any of these solutions are 'the best way' for Member States to exchange information. All three solutions could be of potential benefit to tax authorities but each in turn has their own issues.
10. The suggestion in point e, the automatic exchange of payment data, could overwhelm tax authorities with what could be billions of transactions annually. We do not believe that many European tax authorities currently have the necessary systems in place to be able to extract useful indicators of VAT fraud from such a deluge of information, albeit such tools may become available in time.
11. Reducing the volume of submitted data through some form of pre-sorting, either by the sending tax authority or by the payment intermediary, would reduce the burden on the recipient. However, this would come at the cost of increasing the burden on either the sending tax authority or on private sector payment intermediaries.
12. The suggestion in point f, access to other tax authorities' tax databases, has significant issues for data privacy in some countries. Moreover, there are also practical issues. For example, if tax inspectors from one country want to look for payments that may relate to their own jurisdiction, they have to mine huge amounts of data that is held in unfamiliar or incompatible formats with their own systems.
13. The suggestion in point g, a central EU database, has many of the issues mentioned in the preceding paragraph. There are also additional problems that could arise from the implementation of an EU IT project, such as delays in the project arising from following the EU procurement protocols and obtaining Member State agreement on the parameters of the system and how it will interface with national IT networks.

## Question 38

14. We have answered that the automatic exchange of payment data is justified in the context of fighting VAT fraud but believe that information exchanged should be kept to the required minimum. There will be a great deal of payment data that in no way relates to commercial transactions. This information should certainly not be exchanged – both due to concerns about data privacy and because it would reduce the effectiveness of the data received by the tax authorities.
15. The ECJ decision in joined cases C-206/15 and C-698/15 already sets a precedent that data collected for ‘preventative’ measures should be restricted **‘to what is strictly necessary’**. We believe that the same principles also apply to the preventative automatic exchange of payment information. Therefore, tax authorities must use their experience to target areas where there is an increased risk of fraud and give objective evidence that they are doing so.

## Question 39

16. We have chosen the **‘regulatory option’** for all choices under this question on the basis that it would provide more legal certainty than the baseline or non-regulatory options.

## Question 37 & 47 – Privacy and Data protection

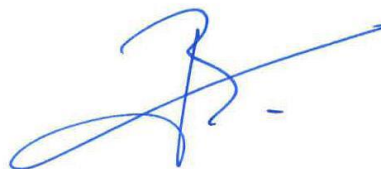
17. In respect of questions 37 and 47d, **we do not believe that the customer’s** identity should currently be revealed in the exchanged payment information. However, disclosure of this information may be necessary for practical reasons - to establish taxing rights, for example.
18. In respect of question 47c, whilst we do not believe that the data transferred **should be used** for any other purpose other than for VAT fraud detection, we fear that the information will be used for other purposes.

If you wish to discuss this response in more detail, please contact Paul Gisby at [paul@accountancy.europe.eu](mailto:paul@accountancy.europe.eu) or on +32 2 89 33 370.

Sincerely,



Edelfried Schneider  
President



Olivier Boutellis-Taft  
Chief Executive

### About Accountancy Europe

Accountancy Europe unites 51 professional organisations from 37 countries that represent **1 million** professional accountants, auditors, and advisors. They make numbers work for people. Accountancy Europe translates their daily experience to inform the public policy debate in Europe and beyond.

Accountancy Europe is in the EU Transparency Register (No 4713568401-1)