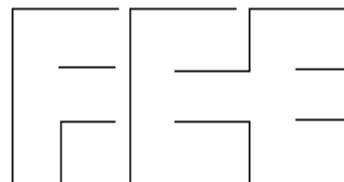


Date
4 April 2005

Le Président

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Mr. Ludwig De Winter
European Commission
Directorate General Taxation and Customs Union
VAT and other Turnover Taxes
Office MO 59 5/43
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Dear Mr. De Winter

Re: The EC Consultation paper “VAT – The place of supply of services to non-taxable persons”

FEE (the European Federation of Accountants), the representative organisation for the accountancy profession in Europe, welcomes Commission's Consultation paper “VAT – The place of supply of services to non-taxable persons”.

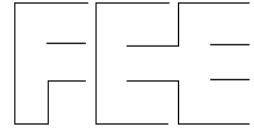
In our response we will first raise a number of general comments, followed by observations on certain specific rules. In the latter case we follow the numbering order of the proposal.

General comments:

FEE appreciates that the intent of the Consultation paper “VAT – The place of supply of services to non-taxable persons” is to bring the rules concerning the taxation of services supplied to taxable persons in line with the rules related to services supplied to non-taxable persons.

FEE already welcomed the proposals for the simplification of VAT compliance burdens for SMEs operating in a number of Member States. The proposals, if adopted, would enable businesses to deal with only one rather than several tax authorities to complete their tax filing obligations even where by virtue of the operations carried out the tax payer was liable to pay and account for VAT in a number of Member States.

However, FEE regrets that businesses applying the One Stop system will nonetheless be required to complete the different VAT returns in different languages - now 20, applying the different VAT rules of the Member State in which the relevant transactions are carried out, e.g. tax rates, tax point rules, for the payment and the deduction of tax, rules on deduction of input VAT, etc. As a consequence, the benefit of the simplifications will, in our view, be limited; although the measures proposed are a step in the right direction.



Specific rules:

4.2.1. Immovable property

FEE agrees with the Commission's approach here. However, FEE believes that the current rule is not expressed correctly in the text of the consultation document. The principle of taxation which currently applies, is that the place of taxation is where the real estate is located (art 9. 2 (a)), and not where the service is carried out – eg architects' services. Can we suggest that this point be clarified, or is it the view of the Commission that "immaterial" type services such as those of architects be taxed under the rule in article 9.1?

4.2.2. Passenger transport

In the case of multiple points of departure, we assume that the supply will be taxed at the rate of the first point of departure. For example a coach from France to the Netherlands which picks up passengers in Belgium would be subject to VAT only in France, at 5,5%, or would it be that there would in fact be multiple points of departure, with different VAT rates being applied depending upon where the journey started. If this were the case and to simplify the application of the tax FEE would suggest that the rule in art 9. 1 be applied.

In any event FEE does not share the Commission's view that different means of transport be treated differently, as far as the applicable VAT régime is concerned.

FEE believes that the Commission's proposals for a review of article 26 be integrated into any review of the place of supply rules for transport.

4.2.3. Intra-Community Transport of goods

FEE does not agree with the current rule and rather suggests applying art 9. 1, despite the risk identified by the Commission of a potential delocalisation of removal companies to "low tax" countries or even outside of the EU, to eliminate the burden on such businesses of having to register for VAT in each country of "departure".

4.2.4. Restaurant and catering services

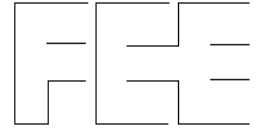
The Commission's proposal here is, if we understand correctly, to apply VAT where the service is physically carried out. For simplicity and to deal with the issues in the third paragraph FEE suggests applying art 9. 1 to all such services, as generally this will equate to where the service is actually carried out when supplied other than on board a means of transport.

4.2.5. Hiring of means of Transport

FEE disagrees with the proposal of aligning the B2C rules to the proposed B2B treatment. FEE suggests applying art 9. 1 instead, irrespective of the duration of the leasing contract. We do not share the Commission's views that private consumers do not enter into long-term leasing contracts – which are seen in ever increasing numbers.

4.2.6. Exhibitions, fairs, cultural events, valuation of work on movable tangible property

FEE agrees with the proposal to retain the current rules for all services but those covered by the first indent of Article (2) (c). The Commission may be aware that the French Supreme Administrative Court (Conseil d'Etat), has recently referred to the European Court of Justice a prejudicial question on the



correct treatment of exhibition services (art 9,2 e or art 9,1), which will be pertinent to determine the correct place of supply rules.

4.2.7. Services supplied at a distance.

FEE accepts that from a theoretical point of view the place of taxation should be changed from the place where the supplier is established to the place where the customer who receives the service is located.

However, FEE believes that such a suggestion is not business friendly for the reasons outlined above, ie that the current one-stop shop proposals only allow for electronic filing at one point and not a single declaration, with the same VAT rules for all taxes due in all the relevant countries.

4.2.8. Intermediary services

FEE agrees with the proposal to do away with the current rule of taxing services at the place where the principle transaction in which the intermediary intervenes is taxable. FEE agrees that services of intermediaries should be taxed by default where the intermediary is established.

4.2.9. Third country established suppliers

FEE agrees with the proposal of maintaining the current rules unchanged, event though there are clearly practical difficulties of registering non-EU suppliers involved in making supplies of services to non-taxable recipients. The Swiss legislation provides a threshold over which the recipient is required to account for the Swiss VAT on services received on his income tax return. This is perhaps a solution worth developing.

4.2.10. Art 9 (3) anti avoidance provisions

FEE agrees with leaving the current provision unchanged.

We trust that the above points will be of assistance to the Commission in its review of the place of supply rules and in formulating a directive on these issues. We will be pleased to discuss any of the above comments at any time.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'David Devlin', written in a cursive style.

David Devlin
FEE President