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Dear Mr Zuijndendorp,

**Re: European Commission's Consultation on an EU Tax Identification Number**

FEE (the Federation of European Accountants) is pleased to provide you with its comments on the European Commission's Consultation on an EU Tax Identification Number (TIN). FEE's ID number on the European Commission's Register of Interest Representatives is 4713568401-18<sup>1</sup>.

Although we are not in a position to complete the online questionnaire, we would like to contribute to the debate and share some overall thoughts with the European Commission.

As mentioned in the EC Consultation, taxpayers operate more and more cross-border. As a consequence of the taxpayers' cross-border activities, tax administrations need to cooperate more closely, which is on EU level mandatory<sup>2</sup> or at least recommended<sup>3</sup>.

FEE supports initiatives of the European Commission to enhance such cooperation as it would not only improve the mobility of citizens and companies in the Internal Market but would also assist in countering double (non-) taxation. We believe that an EU TIN, based on the characteristics set out below, could contribute in these objectives.

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<sup>1</sup> FEE is the Fédération des Experts comptables Européens (Federation of European Accountants). It represents 45 professional institutes of accountants and auditors from 33 European countries, including all of the 27 EU Member States. In representing the European accountancy profession, FEE recognises the public interest. It has a combined membership of more than 700.000 professional accountants, working in different capacities in public practice, small and big firms, government and education, who all contribute to a more efficient, transparent and sustainable European economy.

<sup>2</sup> See Directive on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:064:0001:0012:EN:PDF>

<sup>3</sup> See Recommendation regarding minimum standards of good governance in tax matters [http://ec.europa.eu/taxation\\_customs/resources/documents/taxation/tax\\_fraud\\_evasion/c\\_2012\\_8805\\_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/taxation/tax_fraud_evasion/c_2012_8805_en.pdf)

Although we recommend that the Commission should provide details of the legal framework as soon as possible, a reasonable timeframe for implementation should be allowed. Previous experience in Member States has shown that the implementation of TIN concepts requires much more time than envisaged, both with respect to agree upon the infrastructure and to actually build it. An additional amount of time will be required to gather and to cleanse the relevant data. In this context, we consider that an EU Regulation would be the best means to establish the legal framework for an EU TIN and to ensure uniform application<sup>4</sup> across all of the Member States.

Although the main scope of an EU-TIN is the identification in the context of certain cross-border transactions for specific taxes, there is no reason why such an EU-TIN could not be used for the purpose of domestic and international taxation of any kind (and eventually replace national TINs). However, the EU-TIN should not replace the VAT Identification Number, because this one is used to distinguish between acting as VAT taxable person and not acting “as such”. This applies equally to similar TINs the use of which indicates an action in a defined quality to somebody else.

We believe that it is necessary and reasonable to create both the initial legal framework and the infrastructure in a way that the concept is scalable and may be used for all taxes and all taxpayers. This does not mean that we consider it necessary to issue EU-TINs to all taxpayers right from the start.

Conceptually, the EU-TIN is a means of identification thus it should be available to everybody who needs to be identified. Every person or entity which may qualify as a taxpayer in any EU Member State should be eligible for the issuance of a single, unique and permanent EU-TIN. This applies to natural and non-natural persons regardless of their recognition as a legal person. On the other hand, it must be ensured that every single individual and entity gets only one EU-TIN. This does not exclude that taxpayers which are part of other taxpayers (e.g. branches) could obtain an EU-TIN which is equal to the “parents” EU-TIN with a sub-code added to identify the fact that it is a branch.

Although the EU-TIN should be EU-specific, the project should be developed in such a way that its extension beyond the EU’s borders is possible at the lowest possible cost. That means not only that non-EU taxpayers may obtain an EU-TIN, but also that other States could join the system.

The singularity of an EU-TIN means that every taxpayer gets only one EU-TIN, regardless of how many residencies, seats or nationalities he has. This requires a careful examination of the data to exclude related to multiple entries which refer to the same taxpayer.

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<sup>4</sup> In addition to the legal framework regarding the data collection and the infrastructure required for EU-TINs, there should be legislation establishing, allocating and clarifying the responsibilities of the tax authorities and the taxpayer who are required to check and/or to report another taxpayers’ identity. As long as an EU-TIN is neither deleted in the “Check database” nor marked as “inactive”, the responsibility for the accuracy and completeness of the data should be with the tax authorities “owning” the EU-TIN (please refer to the relevant comments in the letter).

Another important characteristic that needs to be considered in the design of an EU-TIN is its uniqueness which means that every EU-TIN ever issued identifies only one taxpayer, regardless of whether such taxpayer changes residency, seat or nationality.

The permanence of an EU-TIN means that it must be ensured that any taxpayer can be identified by the EU-TIN as long as he exists, even if his status as a taxpayer has ended. Therefore, for the EU-TIN of a natural person, it should be considered invalid and deleted upon declaration of death. Similarly, for non-natural persons the EU-TIN would be considered invalid and deleted upon their dissolution or disappearance, for example after a merger into another legal entity or the change of a domestic corporation into a part of a *Societas Europaea*. Simply moving to another country or renaming an entity should not have an impact on the EU-TIN as it is only the register that needs to be updated in these cases (please refer to our comments below regarding responsibility for data management and maintenance). However, an “inactive” flag can be considered if the registrant is no longer considered a taxpayer for domestic purposes (e.g. retired individuals who are no longer required to file tax returns if their incomes are below certain thresholds).

The EU-TIN should be kept in an EU-wide register, similar to the VAT Information Exchange System (VIES) database. Actually, for security reasons and to ensure data protection, there should be two registers. The “Full data” should be accessible only to tax authorities (perhaps even only to tax authorities identified for that purpose by the Member States), whereas the “Check database” should be accessible only to those who are required to check and/or to report other persons’ EU-TINs because of transactions they undertake. It should be considered to issue access passwords on a need-to-know base, i.e. whoever wants to access the “Check database” needs to apply for a password with the tax authorities in charge of the transaction(s) for which the check/reporting is required.

The “Full Data” register should contain information about:

- The taxpayer’s first and family name (for individuals) or corporation name or any other description under which the entity is registered for domestic tax purposes (e.g. “Estate Doe” or “Heirs of Durin”)
- The taxpayer’s different trading or artists’ or similar name under which the taxpayer appears to the public and under which he may carry out reportable transactions
- The taxpayer’s registration number in any official domestic register in which he is registered, e.g. company register, trade register, associations’ register, partnerships’ register and so on; it may also be considered to add – perhaps on a voluntary basis – identification entries in business information catalogues such as Dun & Bradstreet
- The taxpayer’s address – that could be the address of the legal seat, of the office under which the taxpayer is registered or a c/o contact address if the taxpayer does not have an address.

Although data protection rules vary among Member States, it is obvious that in some cases withholding the address of an individual is necessary for general protection against any kind of threat, e.g. for politicians, judges, or persons in other sensitive professions. Therefore, the “Check database” should contain only the name or trade name of the taxpayer and the EU-TIN issued to this taxpayer.

If a protected person undertakes a transaction for which the counterpart is required to check/report such person’s EU-TIN, that person is – in all likelihood – a taxpayer and can apply for its individual EU-TIN. Having obtained it, the taxpayer can inform the counterpart of the EU-TIN, and the counterpart can check whether the name and EU-TIN match. If there are individuals who are personally exempt from any taxation in spite of carrying out reportable transactions, Member States which grant such personal exemption should find a way to issue an EU-TIN anyway.

The input to the “Full Data” register should work as follows:

For all taxpayers who get registered for the first time (new registrants), the tax authorities in charge of that registration should file for the issuance of the EU-TIN automatically in addition to issuing national TINs as the additional work of issuing the EU-TIN should be moderate.

(Member) States which currently do not issue domestic TINs (numbers or other identifiers) need to establish a system to ensure an unequivocal identification of taxpayers. The EU can provide a Model Structure to do so, but it should be left to the (Member) States to establish the system of their choice (in particular, as Third Countries are not bound by EU law).

Other registered taxpayers should also be allowed to apply for an EU-TIN. In this respect, it is important to ensure that the initial search in the “Full Data” register ensures that a new registration is actually new, i.e. it needs to be excluded where the same taxpayer already has an EU-TIN. Within one Member State, multiple registrations of the same taxpayer could be avoided by keeping a database mirroring the EU-TINs applied for. With taxpayers acting or residing in different Member States, this may be more difficult but it remains necessary anyway.

A mechanism should be established on how to deal with taxpayers with dual or multiple residency – the easiest seems to be that the tax office which is first approached with respect to an EU-TIN is appointed and remains in charge of this taxpayer as long as this natural or non-natural person qualifies as taxpayer in that Member State.

For example, if X is a German resident (individual) who starts investing in Sweden, he should/must apply for the EU-TIN with the tax authorities in Germany, and he will get a “German” EU-TIN. Even if X subsequently discontinues residing in Germany, and starts for example residing in the UK and officially changes his name into Y, the German tax office would remain in charge of data management and maintenance as long as this Y is considered a taxpayer in Germany. Only when this qualification ends, the German tax administration can hand over the responsibility for data management and maintenance to the UK tax administration now in charge of the taxpayer Y. If by then said Y has also established a residency in Spain, criteria must be defined to which tax administration – UK or Spain – the “ownership” of Y’s EU-TIN is handed over.

If it is established that the applicant is a “new registrant” in this sense, the EU-TIN is flagged as “cleared” and is entered in the register. The taxpayer should receive a certificate about his TIN which should be both in a printed document and in digital form (i.e. providing the ability to include it in a digital signature). It may also be considered to include the TIN in passports or similar identification documents of individuals. Such inclusion, however, should in principle remain voluntary or be applied only if the document expires anyway as the issuance of an EU-TIN should not create the need to issue a new identification document.

As mentioned, the EU-TIN should be unique. There are several existing mechanisms which assign a unique number to items, for example the European Article Number (EAN) or the International Standard Book Number (ISBN). Some Member States include names or birth dates in domestic TINs, but we do not recommend prescribing this for the EU-TIN in order to ensure that the differing rules currently existing on protectable data are respected. Therefore, the EU-TIN should not contain any reference to the taxpayers’ individual characteristics.

Thank you very much for the opportunity to provide our comments in the form of a letter.

For further information on this letter, please contact Mrs Anastasia Chalkidou, FEE Project Manager by e-mail: [anastasia.chalkidou@fee.be](mailto:anastasia.chalkidou@fee.be) or at +32 2 285 40 82.

Yours sincerely,



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