Date

13 November 2008

Le Président

Fédération
des Experts
Comptables
Européens
AISBL

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Mr Donato Raponi
DG Taxation and Customs Union
Administrative cooperation and fight against fiscal fraud
European Commission
B-1049 Brussels

Email: Donato.Raponi@ec.europa.eu

Dear Mr Raponi,

Re: European Commission proposals dated 17 March 2008 to combat tax evasion connected with intra-Community transactions:
Proposal for a Council Directive amending Directive 2006/112/EC
Proposal for a Council Regulation amending Regulation (EC) No 1798/2003

FEE (Fédération des Experts Comptables Européens – Federation of European Accountants) has considered the European Commission proposals for a Council Directive amending Directive 2006/112/EC and for a Council regulation amending Regulation (EC) No 1798/2003, both aiming to combat tax evasion connected with intra-Community transactions, both dated 17 March 2008.

FEE represents 43 professional institutes of accountants and auditors from 32 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 500.000 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.

We have put together a few comments on the above proposals with a view to moving forward the debate on tackling the issues around VAT Fraud within the EU.

FEE fully supports the European Commission's initiatives and the clearly stated objective to combat tax evasion connected with intra-Community transactions.

However, we have concerns that the proposed amendments may imply considerable additional administrative costs for businesses, particularly for small businesses, without providing greater safeguards for Member States tax revenues. We, therefore, suggest that a review of the proposed regime be carefully undertaken with the aim to obtaining a balance between the objective of dealing effectively with VAT Fraud and the additional administrative costs for the affected businesses. This could perhaps be achieved by carrying out an extensive impact assessment.

Under the proposed regime, VAT returns would in principle have to be submitted on a monthly basis for all taxpayers.[1] Recapitulative statements would also have to be submitted on a monthly basis, whenever the taxable person carried out intra-community supplies of goods or intra-community supplies of services for which the recipient is liable to pay the tax (reverse charge services).[2]

This increase in the submission frequency of the VAT returns and the recapitulative statements would generally lead to additional administrative costs for business. One-time costs to comply with the new regime as well as recurring costs per year for the increased number of VAT returns and recapitulative statements would most certainly occur, impacting proportionately smaller businesses greater than larger ones.[3]

Businesses, whilst appreciating the need to adequately deal with VAT Fraud may feel that such an increase in the frequency of tax filings is incompatible with the clearly expressed need expressed elsewhere – in the course of the discussions around simplification – of providing for longer submission periods, as a lower frequency of filings could help to reduce administrative costs.

Furthermore, the question arises whether the capacity of the tax authorities would be sufficient to absorb the increased number of VAT returns and recapitulative statements and to deal with the relevant information for control purposes in a timely manner.

Above all, we have concerns that small businesses carrying out intra-community supplies would be particularly affected by the increased submission frequency for VAT returns and recapitulative statements as there is no clear and consistent system of exceptions or deminimis thresholds regarding both VAT returns and recapitulative statements:

> For VAT returns, Member States would be allowed to set a longer tax period for taxable persons whose total value of intra-Community acquisitions of goods and services during the previous calendar year did not exceed Euro 200 000.[4] The possible longer tax period is not defined. Insofar, Member States might opt for different tax periods, this would lead to a situation that keeps compliance cost for businesses with business activities in various Member States at a high level.
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> Regarding recapitulative statements it seems that by virtue of authorisation, Member States may – as hitherto – still permit certain business with low volumes of trade to submit annual recapitulative statements.[5] It is unclear whether Member States might further on permit taxable persons to submit recapitulative statements on a quarterly or longer basis, where they meet certain conditions in particular a total annual value of supplies of goods and services up to Euro 200 000.[6] Further clarification is required in this regard.

In total, the real level of impact on businesses of all sizes is perhaps unclear and therefore, in our view, a detailed impact assessment should be undertaken. The PwC study based its conclusions

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[1] Article 252 of the proposal for a Council Directive amending Directive 2006/112/EC to combat tax evasion connected with intra-Community transactions
[2] Article 2 of the Council Directive 2008/8/EC of 12 February 2008 amending Article 262 of the Directive 2006/112/EC
[3] See also the PwC Study in respect of introducing a change in the requirements to the recapitulative statements – increase of submission frequency, Final report to the European Commission dated 15 November 2007
[4] Article 252 of the proposal for a Council Directive amending Directive 2006/112/EC to combat tax evasion connected with intra-Community transactions
[5] See Article 270 of Directive 2006/112/EC which is not subject to changes
[6] See Article 271 of Directive 2006/112/EC

on a limited sample which comprised only fourteen companies established in four countries, and it seems inappropriate to draw conclusions on such a small sample.[7]

Whilst it is clear that urgent and concerted action is required to deal with VAT Fraud (which FEE fully endorses) by increasing the reporting and compliance burdens may not in our view deal adequately with the issue as many frauds are structured such that the reporting requirements are apparently fully complied with.

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We would be pleased to discuss any aspect of this letter you may wish to raise with us.

Yours sincerely,

Jacques Potdevin
President

[7] PwC Study in respect of introducing a change in the requirements to the recapitulative statements – increase of submission frequency, Final report to the European Commission dated 15 November 2007