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Fédération des Experts comptables Européens

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Ref.: ITA/PRJ/PWE/MBR*

Dear Sir or Madam,

Re: FEE Response to the "Green Paper on the future of VAT – Towards a simpler, more robust and efficient VAT system"

FEE (the Federation of European Accountants) is pleased to provide you with its comments on the European Commission's Consultation on the Green Paper on the Future of VAT. FEE's ID number on the European Commission's Register of Interest Representatives is 4713568401-18[1].

FEE welcomes the opportunity to contribute to the current debate on the EU VAT system. FEE commends the objectives of the European Commission's Green Paper: evaluation of the functioning of the current EU VAT system and identification of possible ways forward.

Since the adoption of the first two VAT Directives on 11 April 1967, international trade in goods and services has been expanding steadily as part of globalisation, encouraged by deregulation, privatisation and the communications technology revolution. As a result there has been a more intense interaction of the EU VAT systems of individual EU Member States. This has created more complexity and has highlighted issues such as double taxation or unintentional non taxation.

[1] 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 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.

Today, public finances are facing severe challenges. The VAT system is a critical revenue raiser for public finances. However, the current EU VAT system suffers from shortcomings which are not compatible with the requirements of a Single Market.

The current debate on EU VAT system is timely and highly needed. The EU VAT system is often seen as harmonised, however, in practice differences and inconsistencies in implementation and interpretation undermine the neutrality, transparency and efficiency of the EU VAT system.

A broad based and simpler EU VAT system, where rules are clear, precise and applied consistently in all the 27 EU Member States will be easier to manage for tax administrations and tax payers, alleviate the compliance burdens for business, reduce tax fraud and evasion, and benefit the economy as a whole. Complexity, uncertainty and administrative burdens have a particularly severe impact on SMEs.

FEE encourages the European Commission to take all the necessary steps towards a modern and simple EU VAT system, as announced in the Commission Work Programme for 2011.

For further information on this letter, please contact Petra Weymüller, FEE Project Manager, at +32 2 285 40 75 or via email at petra.weymuller@fee.be.

Yours sincerely,

Philip Johnson
FEE President

Introduction

The approach adopted in our response is to suggest firstly a potential proposal for a technically "ideal" VAT system. The objective has been to make it simple, fair, efficient and harmonised from a technical point of view wherever possible. Where this ideal solution would potentially be difficult to achieve and put into practice, we also propose alternative pragmatic solutions.

Our comments are made based on the practical experience and technical expertise of accountants providing VAT advice to and working in businesses of all sizes.

Our focus and contribution is, therefore, on the technical aspects of the VAT system and we have avoided considerations related to fiscal policy choices or other policy elements, e.g. socio-political motives for reduced VAT rates in certain areas.

For any amendments to the VAT system the impact assessments as foreseen in the legislative process will be instrumental in securing the best possible solutions. It is important that the work in this context is objective and that an in depth analysis of the costs and benefits for all stakeholders, i.e. businesses, final consumers, tax administrations etc. will take place.

Where not otherwise specified, references to articles are to those in the Council Directive 2006/112/EC.

Intra-EU supplies

Q1. Do you think that the current VAT arrangements for intra-EU trade are suitable enough for the Single Market or are they an obstacle to maximising its benefits?

We are of the view that the current VAT arrangements for intra-EU trade are not conducive to the development of the Single Market due to the different manner in which the common rules are interpreted and implemented in the 27 Member States by legislators, tax administrations and courts.

Businesses to a very large extent are looking for certainty in their affairs – whether VAT is or is not charged on intra-EU trade between taxable persons, is not the main issue to address.

The issue is to ensure that the rules are clear, precise and are applied in an equal fashion in all 27 Member States, with each Member State requiring the same degree of detailed information to support the movements of goods and services between Member States, and the same reporting through portals having the same functionality, to alleviate compliance burdens.

Legitimate business must not be over burdened with compliance obligations, nor with the risk that they will end up having to account for all of the VAT which a fraudulent party either above or below in the chain of supplies may not have accounted for.

Q2. If the latter, what would you consider the most suitable VAT arrangements for intra-EU supplies? In particular, do you think that taxation in the Member State of origin is still a relevant and achievable objective?

If the charging of VAT on an "Origin" basis did not lead to a reduction in the compliance burden then businesses would see no benefit in applying VAT according to the "Origin" principle.

As outlined in the response to question 1, businesses to a very large extent are looking for certainty in their affairs – and as far as possible, simplicity. The idea of charging VAT on all supplies, by a supplier based in Belgium whether his customer is in Liège or Aachen must at first view be far simpler for a business to apply – provided that all of the other administrative burdens were at the same time reduced or eliminated, such that there was the same level of compliance required for the supply to Aachen as that to Liège.

Scope of VAT

Q3. Do you think that the current VAT rules for public authorities and holding companies are acceptable, particularly in terms of tax neutrality, and if not, why not?

Public authorities

The current VAT rules for public authorities are not neutral in the sense that VAT should only be borne by final consumers and not by these entities. When public authorities that partly qualify as taxable persons acquire goods or services for their non-economic activities, the non-deductible input VAT becomes a cost factor. This cost is passed further down in the transaction chain and forms part of the tax base of subsequent supplies. The effect is comparable to the insertion of an exempt taxpayer into a business structure (see also our response to question 6). Whereas, exemptions could simply be abolished, the elimination of the VAT cost for public authorities requires probably a more fundamental change to ensure that such entities are also fully relieved from incurred VAT if (and not only to the extent that) they are part of a business structure.

Holding companies

Also for holding companies the current VAT rules lack neutrality and those applied by many Member States' tax authorities do not fully reflect the judgments of the Court of Justice of the European Union (CJEU) in that respect.

Q4. What other problems have you encountered in relation to the scope of VAT?

A major problem is as regards the deduction of input VAT connected to activities which, according to the CJEU, do not fall within the scope of VAT (Kretztechnik[2] on the one hand: a new share issue does not constitute a transaction falling within the scope of VAT; Investrand[3] on the other hand: the costs for advisory services relating to a sale of shares prior to a taxable person becoming liable for VAT do not give rise to a right to deduct the VAT).

Another major problem is the distortion in market competition due to the differences in the VAT treatment of similar activities carried out by the private and public sectors as a result of the privatisation and deregulation of the public sector.

Q5. What should be done to overcome these problems?

Public authorities

As outlined in the response to question 3, the non-deductable input VAT becomes a cost factor for public authorities when they acquire goods or services for their non-economic activities.

Supplies to public authorities should therefore be relieved from the VAT, e.g. via a refund mechanism, as a public authority is not a final consumer within the scope of VAT as a consumption tax. The same treatment should apply to non profit entities.

With respect to the treatment of public authorities as taxable persons, the wording of Article 13 should be streamlined in order to remove the vagueness and ambiguity of the terms “significant distortions of competition” and “such a small scale as to be negligible” and to fully implement the relevant judgements of the CJEU:

1. States, regional and local government authorities and other bodies governed by public law shall not be regarded as taxable persons in respect of the activities or transactions in which they engage as public authorities, even where they collect dues, fees, contributions or payments in connection with those activities or transactions.

   This does not apply, when they engage in activities or transactions, which, within the area of their local competence, legally and actually can be carried out by third parties.

2. Member States may regard activities, *which would be exempt if carried out within an economic activity*, engaged in by bodies governed by public law as activities in which those bodies engage as public authorities.

[2] Kretztechnik, C-465/03, Judgment 2005-05-26
[3] Investrand, C-435/05, Judgement 2007-02-08

Holding companies

For the purposes of input VAT deduction, holding companies should be treated as fully taxable entities, because they are not final consumers within the scope of VAT as a consumption tax.

Even if this cannot be achieved, Articles 9, 168 and 173 should be clarified and amended to fully reflect the relevant judgements of the CJEU:

In Article 9 para. 1, the following sentence could be added: *"Neither the mere acquisition, holding and sale of shares nor the investment of money constitute economic activities unless such activities are carried out in connection with another economic activity"*.

In article 168, the following sentence could be added: *"This applies also to transactions and activities, which do not fall within the scope of Value Added Tax, to the extent their financial results benefit the activities giving rise to the right to deduct".*

Article 173 para. 1 could be amended as follows: "In the case of goods or services used by a taxable person both for transactions in respect of which VAT is deductible pursuant to Articles 168, 169 and 170, and for transactions in respect of which VAT is not deductible *as incurred in relation to non-economic activities,* only such proportion of the VAT as is attributable to the former transactions shall be deductible. The deductible proportion shall be determined, in accordance with Articles *173a*, 174 and 175, for all the transactions carried out by the taxable person".

These suggested amendments would better reflect the judgments "Polysar", "Régie Dauphinoise", "Kretztechnik", "Securenta" and "AB SKF"[4] and their follow-ups.

A new Article 173a could be inserted: *"In the case of goods or services used by a taxable person for economic and non-economic activities, the deductible proportion shall be determined by the ratio of use in relation to each of these activities; Other attribution keys may be applied which objectively reflect the part of the input expenditure actually to be attributed, respectively, to those two types of activity."*

[4] Polysar Investments Netherlands BV, C-60/90, Judgment 1991-06-20
Régie Dauphinoise, C-306/94, Judgment 1996-07-11
Kretztechnik, C-465/03, Judgment 2005-05-26
Securenta, C-437/06, Judgment 2008-03-13
AB SKF, C-29/08, Judgment 2009-10-29

Exemptions from VAT

Q6. Which of the current VAT exemptions should no longer be kept? Please explain why you consider them problematic. Are there any exemptions which should be kept and, if so, why?

From a technical perspective, exemptions per se disrupt the proper functioning of the VAT system as they are exceptions to the general rule and have a negative impact on input VAT deduction rights. The existence of exemptions can in practice lead to the introduction of complex business structures designed to avoid this negative impact. Where (re)structuring is not possible or cost-efficient, the costs are in many cases passed on to the final consumer.

Therefore, as a principle we believe that all exemptions should be abolished.

We acknowledge, however, that there are certain areas where it might be worth considering whether the supply of certain goods and services to final consumers should be without VAT, in particular with the aim of making these supplies affordable for all consumers. However, those areas should not be covered by exemptions (i.e. no tax on the output supply and no input VAT deduction) which can lead to the above mentioned negative effects. They should instead be covered by zero-rating (i.e. no tax on the output supply, but the input VAT deduction remains).

Zero-rating can create distortions of competition and undue complexity in the application of the tax. It should therefore be used with caution, giving due consideration to the areas where it would be required. In particular options and the potential for diverging interpretations should be very limited.

Q7. Do you think that the current system of taxation of passenger transport creates problems either in terms of tax neutrality or for other reasons? Should VAT be applied to passenger transport irrespective of the means of transport used?

The current system of taxation of passenger transport creates problems of potential double taxation if the transport is partly carried out outside the EU. The principle of neutrality is violated if e.g. cross-border transport by coach is taxed, but cross-border transport by train or airplane is not. It is equally violated where, according to the rules, there should be taxation, but actually in many cases no tax is levied due to a lack of control or because the tax is effectively waived.

As long as the place of supply of transport is defined as the place where the transport takes place, compliance is difficult for both the transporter and, if applicable, an agent.

It could be considered whether VAT should, in principle, be applied to passenger transport irrespective of the means of transport used to encourage its use.

Q8. What should be done to overcome these problems?

A simple solution would be to tax passenger transport where the supplier is established and to apply the e-Commerce rules by analogy to suppliers established outside the EU. A VAT-like tax paid in third countries could be set-off against the VAT due in the EU, otherwise this approach may create double taxation: If, for example, a Germany-based carrier transports passengers from Munich to Moscow, this would trigger German and Russian VAT which in total would be prohibitive.

Alternatively, passenger transport could be taxed either at the beginning or the end of the transport for the entire route taken within the EU starting at the first stop where passengers may board or leave the means of transport, ending at the last such point. As there is normally a return flight, train or trip for any outbound one, at the end of the day the revenue from this taxation should be equal in the Member State of departure and of arrival. If there are not two such points within the Union, for example in the case of direct flights to and from third country destinations, taxation should be waived. This waiver should equally occur when – under the current system – it is difficult to control whether and to what extent a transport falls within the scope of EU VAT (for example, air carrier transport from one third country to another just flying over the EU, perhaps by chance).

To keep travelling and ticketing practical, the distinction between business customers (B2B supplies) and non-business customers (B2C supplies) should not apply to passenger transport, and the rules on invoicing and input VAT deductions should be simplified.

In any case: to eliminate the compliance problems caused by multiple places of supply, the introduction of the “one stop shop” concept (see question 27) would help significantly.

Input VAT deduction

Q9. What do you consider to be the main problems with the right of deduction?

Based on the experience of accountants providing VAT advice to and working within business, the main problems are as follows:

- Formal requirements regarding invoices: In several Member States, input VAT deduction is denied if the invoice does not meet the legal requirements, even if evidence can be provided that the supply was received and the consideration was paid. This obliges businesses to carefully review all invoices which can be an obstacle for the automated (IT-based) processing of invoices.

- The lack of harmonisation of invoice data results in uncertainty, mistakes, administrative burdens etc. and the EU’s attempts at harmonisation have resulted in more complex rules.

- Based on CJEU case law (Kittel[5] et al) a VAT deduction is denied if the taxable person knew or should have known that the supplier will not pay the VAT due. If the taxable person has doubts there is no option to pay the VAT directly to the tax authorities to ensure VAT deduction. However, unless there is a clear shift to a system where the recipient of the supply has to pay the VAT (like the Reverse Charge mechanism), the payment should follow the contractual agreement.

- VAT incorrectly charged (e.g. supplies taxed at the standard rate although zero-rated) cannot be deducted, even if evidence can be provided that the supply was received and the consideration was paid.

- If the input VAT deduction results in an overall VAT credit balance, in many Member States extensive reviews are carried out by the tax authorities and credit balances are not repaid to business for a long time. This is particularly relevant for start-ups before they carry out taxable transactions. This creates a significant cash flow disadvantage for business, in particular in Member States where no interest is paid on VAT credit balances.

- Based on CJEU case law (Terra Baubedarf-Handel GmbH[6]) input VAT is deductible in the month when both the supply was carried out and a proper VAT invoice was received. Even if the VAT invoice is booked in the later month VAT deduction is in some countries only allowed in the month of receipt (in Austria e.g. in the month the invoice is issued). This results in additional administrative burdens. In particular, as in some cases the time when the supply is deemed to be carried out is unclear (e.g. services over a longer period of time). In France an amended invoice containing all of the required details allowing an input tax credit will not re-open the time limits to reclaim such VAT contained in the invoice if the claim is not made within the normal time limits (even if a valid invoice was not held at that time).

- Based on CJEU case law (Pannon Gép Centrum Kft, C-368/09[7]), national legislation should not prevent the legal right to deduct input VAT on the basis of minor invoicing errors relating to the date of invoices or sequential number of invoices.

- In some Member States, input VAT deduction is not granted for periods prior to that in which the business was registered for VAT purposes.

- Multiple use of supplies (taxed activities/exempt activities/non-business purposes): Clear and harmonised rules (e.g. allocation keys) are missing and result in uncertainty for businesses (e.g. the general allocation key for doctors who also supply medicine - 10% rate - is the turnover; for VAT related to the building of the consulting rooms it is the related floor space).

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5 Kittel, C-439/04, Judgment 2006-07-06
6 Terra Baubedarf-Handel GmbH, C-152/02, Judgment 2004-04-29
7 Pannon Gép Centrum Kft, C-368/09, Judgment 2010-07-15

- Exemptions: Rules on exemptions are not fully harmonised. If a taxable person's supplies are exempt in the Member State of establishment but are taxable in the other Member State, he will not be granted a VAT refund in the other Member State as the recovery ratios of the Member State of establishment have to be applied – see the case of Monte dei Paschi[8]. Hidden VAT costs thereby arise.

- The rules regarding evidence for import VAT deduction vary across Member States.

- The Reverse Charge mechanism is not always correctly applied which leads to deductibility issues.

Q10. What changes would you like to see to improve the neutrality and fairness of the rules on deduction of input VAT?

As outlined in the consultation paper, the right to deduct input VAT is fundamental to ensuring that the tax is neutral for businesses. To be neutral, input VAT on goods and services that are used for taxed economic activities must be fully deductible. There should be few if any types of expenditure for which input VAT is not deductible. A substance over form approach across all Member States is essential in this regard. Correcting mistakes in original invoices must for example be possible.

Credit balances need to be repaid when they arise. Reviews by tax authorities in such cases (where necessary) should be carried out in an efficient and time-saving manner to avoid cash-flow disadvantages for business, in particular for start-ups.

Liquidation or insolvency of a business can lead to significant VAT issues. This complex area needs to be looked at separately to find appropriate, simple and fair solutions.

Clear and harmonised rules for cases where goods or services are used for multiple purposes (taxed activities, exempt activities or non-business purposes) are required. A simple, general allocation key which should be applicable to all types of supplies and across all Member States would be helpful (see also response to question 5).

As outlined in the response to question 6, a VAT system without any tax exemptions and with few areas of zero-rating is preferable. However, in the case where those exemptions should remain, an option to tax should always be possible for business to give them the opportunity to increase the VAT deduction pro-rata.

The rules regarding evidence for import VAT deduction should be harmonised and simplified across all EU Member States.

The VAT liability for the supplier where a subsequent supplier or purchaser fails to fully account for any VAT due should be abolished.

[8] Monte dei Paschi, C-136/99, Judgment 2000-07-13

International services

Q11. What are the main problems with the current VAT rules for international services, in terms of competition and tax neutrality or other factors?

Since issues regarding intra-EU supplies are covered in the first section of the Green Paper, we assume that this question relates to EU suppliers compared to non-EU suppliers and their supplies to individuals including all non-taxable persons not subject to VAT. Based on the experience of accountants providing VAT advice to business, the main problems are as follows:

- Differences in tax rates are an obstacle to cross-border activities and create competitive disadvantages.
- Different interpretations of place of supply rules across Member States can lead to double taxation.
- Smaller businesses refrain from going "international" as the administration costs related to the VAT obligations abroad often exceed their margins.
- Non-EU companies are not always aware that they need to register for VAT purposes in the EU when supplying services to individuals resident in EU. This creates a competitive disadvantage for EU based companies. However, it has nothing to do with the EU VAT system in itself. Instead it is due to non-EU companies not knowing of their obligation to register for VAT purposes in the EU or, potentially, refraining from registration. Checking that VAT is correctly applied is very cumbersome for this type of services which often leaves literally no trace.
- Reference is made to question 28 for a reflection on VAT grouping.

Q12. What should be done to overcome these problems? Do you think that more coordination is needed at international level?

We support a country of destination principle for all supplies of services to individuals. However, it requires a fully developed and reliable system for deciding in which country the customer is resident and where the place of supply is.

Furthermore, the tax authorities should cooperate more closely than today. Agreements are required as regards mutual assistance and enforcement of EU VAT decisions. The tax authorities appear to have no or minor means to actually collect the VAT should a non-established supplier not cooperate.

It also appears to be difficult to find ways of collecting VAT from private consumers, for example by checking online payments. There are lots of fully legitimate payments to non EU Member States which are not the consideration for a service supplied. To determine whether the payment should be subject to VAT will as a consequence require a thorough investigation by the authorities. Further, the numbers of consumers will probably always exceed the number of suppliers which makes this kind of taxation less cost-effective compared to having the VAT paid by the non-established supplier.

Anti-abuse rules should be strictly limited to combating fraud and should be harmonised across all of the Member States.

A mandatory conflict resolution mechanism where two (or possibly more) Member States consider that the transaction has taken place in their Member State should be in place.

This mechanism could be based on that adopted in the OECD Transfer Pricing Guidelines as either in the form of an "Advanced ruling" or in the form of a "Simultaneous Examination Procedure"[9].

Overall, we refer to the relevant OECD work regarding international services[10].

Legal process

Q13. Which, if any, provisions of EU VAT law should be laid down in a Council regulation instead of a Directive?

We think that all provisions of EU VAT law should be laid down in a Council Regulation instead of a Directive.

We recognise that the concept of a Directive with an explanatory Regulation, as planned for VAT regarding financial services, helps to keep the text of the Directive more readable by putting the necessary definitions into a separate legal act.

However, such a concept seems to be a contradiction in itself: the Regulation, which is directly binding law in all Member States, reduces by its nature the choice of form and methods which Article 288 of the Treaty on the Functioning of the European Union grants to Member States in case of a Directive. It is impractical, (if not in certain cases impossible) having to determine the full scope of a legal rule from various legal texts, as divergences may occur between these texts.

Q14. Do you consider that implementing rules should be laid down in a Commission decision?

As outlined above in the response to question 13, all provisions of EU VAT law should be laid down in a Regulation; implementing rules would in that case be superfluous.

Q15. If this is not achievable, might guidance on new EU VAT legislation be useful even if it is not legally binding on the Member States? Do you see any disadvantages to issuing such guidance?

The examples of the International Chamber of Commerce with their Incoterms or the OECD with the Model Tax Convention and more recently the VAT/GST Guidelines show that "soft law" is indeed quite useful. Even if it is not legally binding, it puts those players who do not adhere to such guidelines under some peer pressure to justify why they do not.

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[9] OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations

[10] International VAT/GST Guidelines, February 2006,available at http://www.oecd.org/dataoecd/16/36/36177871.pdf

Furthermore, thoroughly analysed and justified EU guidance may help Member States, the national courts and the CJEU to find a more coherent interpretation of new legislation. Therefore, we think that guidance on new EU VAT legislation would be useful even if it is not legally binding on the Member States, and we do not see any disadvantages in issuing such guidance. The VAT Committee's decisions which were adopted by a majority of votes could also be included into such guidance. The OECD International VAT/GST Guidelines may help to develop EU guidance.

Q16. More broadly, what should be done to improve the legislative process, its transparency and the role of stakeholders in the process, from the initial phase (drafting the proposal) to the final phase (national implementation)?

We support more extensive consultation and more transparency in the legislative process. The VAT Committee, Council Working Groups, SCAC and SCIT meetings should be open to the public, summaries of their meetings should be published and external experts and businesses should be invited to the discussions. In the interim, the role of the Business Expert Group on a smooth functioning of the VAT in the EU should be reinforced.

Though we are generally in favour of a holistic approach, it might be helpful to speed up the legislative process for undisputed rules by issuing separate acts of legislation instead of "omnibus act". Directive 2009/162/EU[11] is an example for an omnibus act: The discussion about capital items deferred the implementation of the rather urgently needed extension of the rules on gas and electricity.

The technical impact on stakeholders should be taken into account when deciding the timeframe granted to Member States to implement a Directive, e.g. on software requirements, adaptation of contracts and other legal agreements. If the legislative act is a Regulation, its entry into force should also take into account these aspects.

Furthermore, the Commission should be authorised to create at its own initiative consolidated versions (recasts) of currently valid VAT legislation at any time, i.e. where the content of the legislation is not altered.

Derogations

Q17. Have you encountered difficulties as a result of derogations granted to Member States? Please describe these difficulties.

The EU VAT system is complicated by the fact that all of the exceptions to the basic "rules" in the Directive need to be known (e.g. the application of the Reverse Charge mechanism for building services under special conditions).

[11] Council Directive 2009/162/EU of 22 December 2009 amending various provisions of Directive 2006/112/EC on the common system of value added tax: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:010:0014:0018:EN:PDF

Businesses to a very large extent are looking for certainty in their affairs. The existence of derogations only complicates businesses' affairs as effectively it means that a business has to be aware of the derogations and then take them into account in any IT system set-up.

The issue for business is to ensure that the VAT rules are clear, precise and are applied in an equal fashion in all 27 Member States. By allowing Member States to apply for and obtain derogations – assuming that these are valid – see Ampafrance and Sanofi cases (joined cases C-177/99 and C - 181/99[12]), only adds to compliance burdens and creates additional business costs.

On the Commission's website there are 24 pages of derogations granted to Member States under article 395 of the VAT Directive – and this list does not include those granted to Member States at accession to the EU. This makes the legislation of the EU difficult to apply – complicates business processes and in many cases the derogations could be applied across all 27 Member States – by a change to the Directive (or Regulation) – rather than just be limited to one or two.

In addition, the number of options in the Directive should be eliminated or significantly reduced – e.g. the application of Article 194 of Directive 2006/112/EC – whose application in different manners across the Member States complicates business compliance and increases businesses' costs.

Q18. Do you think that the current procedure for granting individual derogations is satisfactory and, if not, how could it be improved?

This question is directly related to the one immediately preceding and should be read together.

Experience shows that derogations can lead to legal uncertainty, distortions and administrative burden on businesses. FEE is in favour of a system without derogations, except for those limited situations related to solution of double taxation issues, for example the derogation given to France and Germany on the VAT rules applicable to cross-border bridges over the Rhine – see 2002/888/EC[13]. Derogations only affecting domestic supplies should be abolished.

Changes to the VAT system should be made via the Directive (or Regulation, see response to question 13) in all 27 Member States at a time and not just in one (or a limited number of) Member State.

[12] Ampafrance SA and Sanofi Synthelabo, Joined Cases C-177/99 and C-181/99, Judgment 2000-09-19

[13] 2002/888/EC: Council Decision of 5 November 2002 authorising Germany and France to apply a measure derogating from Article 3 of Directive 77/388/EEC on the harmonisation of the laws of the Member States relating to turnover taxes: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:311:0013:0014:EN:PDF

VAT rates

Q19. Do you think that the current rates structure creates major obstacles for the smooth functioning of the single market (distortion of competition), unequal treatment of comparable products, notably online services by comparison with products or services providing similar content or leads to major compliance costs for businesses? If yes, in what situations?

The current number of different standard rates in the EU (11 different rates between 15 and 25 per cent in 27 Member States) and the number of different reduced rates applied by most Member States (13 different rates between 5 and 18 per cent in 26 Member States) and the additional super reduced rates applied by some Member States (4 different rates between 2,1 and 4,8 per cent in 5 Member States), create undue complexity and are not conducive to the proper functioning of an internal market.

The correction mechanisms (special schemes for distance sales of goods or services and new vehicles) give rise to a very complex system with some uncertainty as to how to tax different transactions (for instance supplies of new means of transportation).

It is also very difficult to check that VAT is correctly applied in the Member State where consumption takes place in the case of distance sales.

The current system with reduced VAT rates for physical books for instance but not for e-books is not up to date and should be changed. In a system with standard and reduced rates (see also our response to question 20), the reduced rate should apply to all supplies of the same nature, whether they are physically or electronically supplied.

Q20. Would you prefer to have no reduced rates (or a very short list), which might enable Member States to apply a lower standard VAT rate? Or would you support a compulsory and uniformly applied reduced VAT rates list in the EU notably in order to address specific policy objectives as laid out in particular in 'Europe 2020'?

The number of standard and reduced rates should be limited.

From a purely technical point of view a single standard VAT rate would be easier to handle and more efficient than the current 28 different standard and reduced rates that apply in the EU. Taxable persons dealing with multiple goods and services cross borders would have fewer problems when determining at what rate to tax a particular transaction.

However, whether and to what extent this is desirable from a public policy perspective is subject to debate and whether it is achievable from a political perspective to agree on one common VAT rate within the EU is even more debatable.

Nevertheless, it would be helpful to reduce the current number of rates applicable as well as the variations in applications of these rates.

One option would be to agree on a limited number of categories of goods/services to which a reduced rate could apply and that each Member State would then only have an option to use a reduced rate on all goods/services within that category, if applicable. In that way the area of reduced rates would be more harmonised and clearer.

A binding online database of the use of reduced rates and the categories to which each Member State applies them would further reduce legal uncertainty and costs for businesses.

A "one stop shop" solution would also reduce costs for suppliers obliged to register for VAT in the Member State where the consumption takes place in the case of distance sales.

Reducing administrative burden

Q21. What are the main problems you have experienced with the current rules on VAT obligations?

FEE supports initiatives for the reduction of administrative burden and is in favour of the simplification of the VAT system.

Based on the experience of accountants providing VAT advice to and working within business, the main problems with the current rules on VAT obligations result from the following issues:

- Different VAT registration obligations for established and non-established taxpayers.
- Different registration procedures for VAT and other taxes.
- Difficulties in determining the existence and the nature of a supply.
- Difficulties in determining clearly whether a supply has to be considered as a supply of goods or a supply of services.
- Issues with the application of exemptions from VAT arise in particular transactions, e.g. in Chain Transactions (A-B-C-transactions) or intra-EU supplies of goods.
- Problems with deduction of input VAT (see also response to questions 9 and 10), in particular regarding:
    - Content of invoices
    - Transfer of invoices from supplier to customer
    - Correction of invoiced VAT
    - Extension of the storage period for invoices by national tax laws other than VAT
- Issues related to VAT returns and other forms that create administrative burdens, e.g.
    - Annual returns in addition to periodic returns are requested in certain Member States.
    - Summary statements – local and for intra-EU trade and other national obligations imposed under article 273 of the Directive.
    - Non-harmonised formats of VAT returns across Member States and different languages.
    - Data requested is excessive and not utilised by tax authorities, e.g. intra-EU acquisition listings.
- Electronic Filing is not always functioning properly across Member States.
- Difficulties with the VAT treatment of intra-group cross-border transactions where VAT grouping is or is not applied in the involved Member States (see response to question 28).

Q22. What should be done at EU level to overcome these problems?

This question is directly related to the one immediately preceding and should be read together.

The Commission has through the Business Expert Group on a smooth functioning of the VAT in the EU, commenced dealing with a number of the issues identified in the response to question 21. This initiative is to be encouraged.

However, the process is very long and requires Member States' full and active participation. Whilst the Commission would like to be able to use "Comitology" as a way forward[14] – a number of Member States have, however, reserves on the use of such a procedure.

It appears in our view to be a potential way forward on the basis that without such a power being given to the Commission the urgent work on simplification will still be work in progress in 20 years – see for example the implementing Regulation[15] concerning the Directive 2008/8/EC[16] – which took over 2 years to agree although it was clearly urgent as it impacted legislation (amongst other issues) which took effect on 1 January 2010.

Q23. What are your views particularly on the feasibility and relevance of the suggested measures including those set out in the reduction plan for VAT (N° 6 to 15) and in the opinion of the High Level Group?

This question is directly related to the one immediately preceding and should be read together.

All of the issues raised in the High Level Group's interim report of 2009 are very relevant to any review of the existing VAT regime within the EU. The issues identified whilst having been "costed" in the sense of identifying the compliance burden attached to each, should nonetheless be fully prioritised and dealt with effectively to rapidly reduce compliance burdens on business.

One of the suggestions by the High Level Group around the "one stop shop" (see response to question 27) would facilitate business operations in more than one territory and with the use of technology does not appear to FEE to be insurmountable – the system already exists for non-EU established providers of electronically supplied services and will need, in any event, to be fully operational for the changes in the place of supply rules for B2C services on 1 January 2015.

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[14] see Proposal for a Council Directive amending Directive 2008/9/EC: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:044:0023:0028:EN:PDF, laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:347:0001:0118:EN:PDF, to taxable persons not established in the Member State of refund but established in another Member State – Doc 5889/11 – January 2011

[15] Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax (recast) : http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:077:0001:0022:EN:PDF

[16] Council Directive 2008/8/EC of 12 February 2008 amending Directive 2006/112/EC as regards the place of supply of services: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:044:0011:0022:EN:PDF

Small businesses

Q24. Should the current exemption scheme for small businesses be reviewed and what should be the main elements of that reassessment?

The current small business scheme is only relevant to taxable persons who are only engaged in local business (i.e. within its Member State of establishment) and who do not carry out cross-border transactions. As soon as they sell or purchase cross-border services they have (in most cases) to obtain a VAT number and file tax returns.

As a consequence, a small business carrying out operations in another Member State may be in a more disadvantageous position vis-à-vis a competitor established in that second Member State. For example, in the case of a service provided by an exempt small business established in Portugal to a Bank established in Austria, the Bank would have to pay VAT on the service (under the reverse charge mechanism). On the contrary, if the service is provided by an exempt small business established in Austria, the Bank would not suffer VAT on the fee paid to the exempt Austrian consultant. To the extent that the VAT incurred on that service will not be (fully or partially) recovered by the Bank, the Austrian consultant would be in a more advantageous position than his Portuguese competitor.

In other cases, an exempt small enterprise may have to register in different Member States despite the fact that its total turnover does not exceed the exempt threshold limit of its "own" Member State. For example, an architect established in Austria obtaining from his independent activity an annual turnover below the exempt threshold limit from services rendered to final consumers (B2C transactions) connected with immovable property located in Austria and supplying similar services in Germany would have to register in Germany and to charge VAT on the services rendered there.

As it was recognised, in the CJEU case Schmelz[17], "the non-application of the exemption to non-resident services providers constitutes unequal treatment which is linked to the place of establishment and thus indirectly to nationality, because the vast majority of the country's own nationals satisfy the establishment criterion. Alongside this, there is a restriction of the freedom to provide services. The non-availability of the tax exemption (registration threshold) renders the provision of services in another Member State less attractive, since small undertakings established at the place of performance can offer a comparable service free of tax, and thus either at a lower price or with a higher profit margin than non-resident undertakings".

The current system fails small business because it has been designed the wrong way round. The aim to "think small first"[18], namely having a simple system and then adding special requirements for large business, is fundamental to creating systems which operate effectively for small business. Unfortunately the current approach is different. In addition, the freedoms conferred on Member States to design their domestic derogation systems contributes to the complexity of the system and to the fact that VAT compliance costs for small business are relatively higher than for big companies, particularly when they conduct business across the EU.

[17] Ingrid Schmelz, C-97/09, Judgment, 2010-10-26
[18] "Think Small First" A "Small Business Act" for Europe, Communication from the Commission dated 25 June 2008

The fact that many of the schemes set up for small traders are voluntary imposes a further layer of complexity which big business need not contend with. Small businesses are faced with a range of options. They can opt in to the "simplified" scheme, and operate entirely within that, or they can remain within the normal rules for VAT, as designed for larger enterprises. The economic burden on the company will differ according to which option is chosen. However, in order to establish whether the optional regime is actually beneficial, the business will need to calculate its position under both schemes. The practical effect of offering the choice to businesses is that in order to operate under the most economically efficient regime, they are forced to impose on themselves an extra channel of administration which in itself reduces economic efficiency.

A principal aim of the reassessment of the review of exemptions for small business should be to identify the means to reverse the burden of the system, so that it operates fairly and simply for small business without the need for any decision making process. Where more complex rules are justified, these should be offered or imposed only in respect of those traders with the resources, both financial and technical, to make a properly informed decision. It can of course be assumed that businesses operating above certain turnover levels will by reason of their size have the necessary resources.

As a practical solution, an EU-wide scheme providing for an exemption from VAT below a fixed threshold limit irrespective of the place where the service is rendered and imposing uniformity of registration requirements across all Member States would eliminate that difference. Compliant SMEs in one Member State would at least be able to know whether they are required to register for VAT if undertaking cross-border intra EU supplies, albeit that the precise application of local rules to registered businesses might be different.

In order to assist with this transparency, the registration thresholds should be set at an absolute value in Euros. Although there are significant fairness arguments in favour of setting thresholds as a percentage of average business turnover by jurisdiction, having different Euro threshold values across the EU, however logically derived, defeats the objective of simplification.

The adoption of such a scheme would reinforce the need for the adoption of a common exempt threshold, in order to prevent distortion of competition.

Q25. Should additional simplifications be considered and what should be their main elements?

In addition to the burden of the VAT system for SMEs considered in our response to question 24, we draw here attention to the issue of the operation of the VAT system itself.

In terms of operation of the VAT system, for many very small businesses, the current state of technology is such that it would still be quicker for them to complete their VAT returns on paper rather than electronically.

The spread of electronic communications and transactions undoubtedly offers scope for improved efficiency in the reporting of taxable transactions to the authorities, and if this can be made automatic then businesses' administration is simplified. In particular, if every transaction and its taxable status could be captured as enacted, then commerce and payment systems could take over the reporting role entirely. However, further technology based simplifications are not going to be practicable for the foreseeable future.

Whilst electronic communication with tax authorities is becoming more common in jurisdictions around Europe, and electronic filing of periodic returns a reality, the proportion of physical, i.e. other than electronic, transactions is far higher in the small business environment, and will remain that way for some time to come.

Real time tracking and reporting of transactions would require every business to communicate every transaction to the tax authorities as it occurs. While this may be feasible for e.g. on-line transactions where electronic means of payment are employed, it is simply not feasible for real world transactions settled in cash by businesses with no fixed communications infrastructure, such as market traders.

The current levels of electronic reporting can be relied upon to produce benefits overall, but for many small and micro enterprises which are subject to VAT reporting obligations the limit of practicable operation has probably already been reached.

Enterprises which do not themselves have the capacity to engage with automated electronic communications are forced to engage the services of an agent or to arrange access themselves, e.g. through use of facilities in public libraries or internet cafes. The overall economic burden this imposes is justifiable at its current level, where reporting is carried out intermittently, but any revision to the system requiring more regular interaction with electronic communication systems would for the time being impose too great a burden on those least able to bear it to be acceptable.

There are of course pockets of SME activity where electronic communications are the norm and technological solutions will be embraced warmly, but for a simplification to work it will need to remove elements of the existing system, by necessarily replacing them with simpler alternatives. Introducing further parallel “simplified” regimes is counter-productive as it leads to the complications of choice described in the response to question 24 above. Until such time as all reportable transactions can be captured automatically, the system itself should not rely upon technology as a route to further simplification or administrative efficiencies.

Q26. Do you think that small business schemes sufficiently cover the needs of small farmers?

Small business schemes do not necessarily cover the needs of small farmers.

The exemption for small business schemes is granted on the basis of a determined annual turnover. In the case of small farmers there are situations where a person may have no turnover for a consecutive number of years and have a high turnover when the production is concluded. In this case it is possible that the annual average turnover is below the threshold limit; however in the year of production the limit can be exceeded and therefore the exemption would not apply.

For example, in the cork sector the owner of a plantation of cork oaks only sells the cork bark once every 9 years. Likewise, the owner of a plantation of eucalyptus may only obtain income from such a plantation once every 10 years.

Other potential simplification initiatives

Q27. Do you see the one stop shop concept as a relevant simplification measure? If so, what features should it have?

Yes, a one stop shop would in many situations simplify the process of reporting VAT in another Member State. It would reduce the administrative burden on businesses and require businesses to have less correspondence with authorities in other Member States which often creates obstacles for businesses.

A one stop shop should enable businesses to

- register for VAT only in their Member State of establishment even where they are liable for VAT in several Member States;
- report all supplies taxable in another Member State, (e.g. distance sales, unless the customer is liable for tax via the reverse charge system) via one electronic portal in the same form ("multi-country" return form with harmonised content);
- carry out reporting and payment in one Member State.

Q28. Do you think that the current VAT rules create difficulties for intra-company or intra-group cross-border transactions? How can these difficulties be solved?

VAT grouping is allowed under the current VAT Directive for the purpose of administrative simplification, which gives Member States the option to treat those who are legally independent but closely bound to one another by financial, economic and organisational links as one single taxable person.

The VAT grouping option has not been used by all Member States, therefore in many cases a VAT group established in one Member State is not considered as a VAT group in another Member State. This results in problems in applying place of supply rules (e.g. if not only one group member is involved in a chain transaction), obtaining a VAT registration (e.g. as no Certificate of Status of Taxable Person can be provided) or applying for a VAT refund.

There are a number of issues behind this question of which the following are examples:

- Transactions between branches and head-offices and between branches.
- Transactions between companies or legal entities within the same "group" – established within the same territory and/or in other EU states.
- Reorganisations of corporate groups.
- Acquisitions and disposals of shares in corporate groups.
- VAT groupings.
- Cost sharing groups within Article 132 (1) (f) of Directive 2006/112/EC.[19]

[19] Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:347:0001:0118:EN:PDF

For all of the above issues a detailed note could be produced – however, underlying each of the points is a concern that the VAT system is not tax neutral for businesses as there is, depending upon the issue, likely to be a residual amount of VAT that remains as a cost to business.

In particular with the current attention of a number of Member States' authorities on the recovery of VAT on costs to do with the acquisition of shares or on their disposal, putting EU established businesses at a competitive disadvantage compared to non-EU businesses, the issue is urgent and requires immediate attention.

In terms of solutions – technology could be used to ensure that only businesses who are able to comply with the "rules" would be allowed to use for example cross-border VAT groupings, national VAT groupings and cost sharing arrangements – by requiring e.g. data warehousing facilities (if appropriately functioning, see response to question 30) as proposed in the "Study on the feasibility of alternative methods for improving and simplifying the collection of VAT through the means of modern technologies and/or financial intermediaries".

Q29. In which areas of VAT legislation do synergies with other tax or customs legislation need to be promoted?

There could be a clearer parallelism between VAT and Customs rules, in several areas and not just in terms of valuation, but also in terms of payment processes and simplifications around customs economic regimes to ensure that business only has one set of rules to apply and not two.

Similarly there could be a closer harmonisation between VAT and Excise duty rules for goods supplied on-board ships/trains etc.

VAT collection

Q30. Which of these models looks most promising in your view and why, or would you suggest other alternatives?

We welcome the European Commission's initiative to explore new models to improve and simplify the collection of VAT by means of modern technologies.

However, from our perspective none of the proposed four models (split payment model, VAT monitoring database, VAT data warehouse, certification process) outlined in the consultation paper seems very promising. Several Member States experience very few problems in this area and there are no convincing arguments for these countries to agree to a system which will enable the Member States with significant problems in reducing their VAT Gap. Thus, we suggest that the system for collecting VAT is solved at country level.

Each of the proposed models has the potential to create major compliance costs for taxable persons. Taxable persons should however not be obliged to pay for some Member State's problems of collecting VAT. The situation is similar to the one of legitimate businesses experiencing greater administrative burdens (periodical statements etc.) in order for the authorities to combat fraud. Countries that experience fewer problems with the VAT Gap risk are forced into a system with major costs and administration burdens.

Our concerns regarding the four proposed models are the following:

- Split payment model: The split payment system will create problems for supplies and payments within groups of companies where no payments in practice are effected. Nor will cash payments be covered (89 % of all payments under Euro 20 in value are today cash payments). Other issues are how to treat part payments and late payments. The model will negatively affect the supplier's cash-flow since the business will not be able to dispose of any output VAT before it is reported and paid to the tax authorities. This will most likely have effects on payment conditions between taxable persons. Overall, it will also involve more administration than today. The method would appear to involve an obligation for each taxable person to have a bank account in each MS where they are obliged to report and pay VAT.

- VAT monitoring database: Invoice data being sent to a VAT monitoring database would be very expensive for businesses and also raises some questions regarding business confidentiality, database security etc. The model presupposes e-invoicing, which will involve major costs for many taxable persons. Since all Member States look differently on e-invoicing and content of invoice and security, we will most likely need to face 27 different e-invoicing models that all should work with the VAT monitoring database. This seems very difficult to achieve, and as mentioned above, it will create major administration costs for businesses.

- VAT data warehouse: This model could be promising if the appropriate open and seamless technology would be in place and if it could operate on the basis of a one stop shop system and under once and for all principles. However, as long as the appropriate technology is not available, the upload of transaction data would create a massive administrative burden on businesses. Even more so if additional information (beyond the information that needs to be filed in the VAT return) must be submitted. This would not be in line with the goal of reducing the administrative burden within EU. Each business would need to commit to large investments in adjustments of e.g. ERP systems, control functions and security of data. Also this model will raise issues of business confidentiality, database security etc.

- Certification process: A certification process could naturally be a good idea but since the companies involved in VAT fraud today are not very likely to certify themselves this system will probably only create a major cost for the tax authorities and the businesses who would like to certify their VAT compliance process. Companies that deliberately use the system to enrich themselves are not easier to spot just because they are not certified. The method will involve significant efforts on behalf of both tax authorities and businesses.

Q31. What are your views on the feasibility and relevance of an optional split payment?

Under current Civil law and accounting rules, an optional split payment would not be feasible. The following problems would arise:

If a supplier carries out a supply with a tax base of 100 plus VAT 20, he has to account for a receivable amounting to 120, and a VAT liability amounting to 20. If his customer would have the right to opt unilaterally for a split payment, granted by VAT legislation, if the customer would exercise this option, the customer would pay only 100 to the supplier. Under Civil law, however, he would still owe 20. The supplier would have no reason to write off his remaining receivable. Under this concept, the supplier would be released from his liability towards the tax authorities.

How and when would he know that his liability has been paid by a third party (his customer)? How would this work if the customer would pay less than the billed 120? Would this lead to a decrease of the tax base, the tax payable or both? What if the supplier would not want that his VAT liability is paid by someone else, perhaps because he is in a situation to set off his liability against a tax receivable?

Even if the option could not be exercised unilaterally, but would require an agreement between supplier and customer, how would the risk be distributed between them, if the tax did not arrive at the tax authorities, for whatever reason? For example, if a fraudulent customer informs the supplier that he had paid the VAT (which he had not), would the supplier in that case still be liable? Under accounting rules, the supplier would probably not be allowed to rely solely upon the customer's information with respect to treat his liability as being paid, but would require a statement of the tax authorities that and to what amount his VAT has been paid by the customer. A correct allocation of such statement to both accounts receivable and accounts payable would require a transaction-by-transaction information how much and when has been paid by whom.

VAT administration

Q32. Would you support these suggestions to improve the relationship between Traders and tax authorities? Do you have other suggestions?

We are generally in favour of initiatives to improve the relationship between traders and tax authorities.

Enhancing the dialogue between taxpayers, tax intermediaries and tax authorities would contribute to an exchange of views and could contribute to more adequate rulings and to achieve best practices in the Member States.

As far as developing the idea of creating "partnerships" between tax administrations and taxpayers is concerned, it seems to be a measure more difficult to achieve and the scope of this cooperation would have to be carefully analysed.

Overall, the following further measures are of major importance:

- Taxpayers need to obtain binding prior rulings and obtaining clarification on the tax treatment of certain transactions in due time, namely when taxpayers of two different Member States involved in a determined operation have different views on the applicable tax treatment.

- Efficient IT systems facilitating automated information transfer between taxpayers and the tax authorities through better interoperability are of capital importance.

Other issues

Q33. Which issues, other than those already mentioned, should be addressed in considering the future of the EU VAT system? What solution would you recommend?

Alternative VAT model

FEE suggests examining the VAT model proposed by Professor Kirchhof from the University of Heidelberg as a new VAT model.

Briefly the model works as follows:

Supplies to businesses are not taxed unless they are paid for in cash, the payment via a specific VAT bank account is key to controlling the collection of the VAT. Supplies to public entities are not taxed, because they are not consumers in the sense of the scope of VAT as a consumption tax. Supplies made by public entities are treated like supplies by businesses if competition with respect to that supply is possible. All exemptions are removed. Zero-rating would apply to exports, imports, some insurance coverage, charitable supplies, medical supplies on humans and health insurance, lettings for residential purposes, granting loans, supplies related to bank accounts and related to the sale, issue or transfer of shares.

Tax Representatives

The fact that, in certain countries, a VAT representative is fully liable for the payment of the VAT due by the non-EU established represented entity creates an excessive burden for the representative. As a consequence, a taxpayer who is not established in the EU may have difficulty in finding a registered taxpayer willing to act as his VAT representative. Likewise, due to the risk associated with this kind of engagement, the level of fees and/or bank guarantees requested from the represented entity can be disproportionate when compared with the business activities to be carried out in the EU by the represented entity. As a consequence, a non-EU enterprise may opt for not entering into a transaction where the appointment of a VAT representative is required.

This issue should be addressed in considering the future of the EU VAT system. A possible solution would be to set up agreements between the EU and other States, facilitating the collection of VAT due from the represented entity in the other contracting States.

Further issues

Closer cooperation between Member States is a key fundamental to any reform of the EU VAT system.

A review of the more complex systems of applying VAT such as the travel agents' regime – articles 306-310 of the Directive – or the second hand schemes, flat rate schemes etc is also required.

Registration thresholds should be harmonised across the EU and thought given to substantially increasing them – e.g. as in Singapore, to reduce burdens on small business.

Lately, there has been much focus on requiring more and more information from businesses (recapitulative statements for services being an example) in order to combat fraud. On a general note, it is not fair to make the VAT system further complex and at the same time introduce additional administrative burden on businesses. Double taxation should be avoided.

From our perspective the most important change to implement is that the different tax authorities should be obliged to cooperate with each other in an extent they are not doing today. We have numerous examples of clients suffering from double taxation where the tax authorities do not speak to each other and the client is forced to enter into litigation in two different jurisdictions despite the fact that double taxation within the EU, in theory, should not be possible. It should be mandatory for the tax authorities to solve the double taxation issue internally before the business is required to pay VAT. If the tax authorities are not able to solve the issue within a certain period of time, the issue should be brought before a tribunal, which will decide which country, under the VAT Directive, has the right to tax. The tribunal's decision should not be appealable.