5 May 2022

Attn Mr Patrice Pillet
Head of Unit
DG TAXUD - Unit C1
European Commission
1049 Bruxelles
Belgium

Subject: EU Commission VAT in the Digital Age public consultation

Dear Mr Pillet

PwC International Ltd on behalf of its network of member firms (PwC) welcomes the opportunity to respond to the public consultation '*VAT in the Digital Age*'.

Introduction

The Commission's VAT in the Digital Age initiative covers a number of issues that we believe are significant in the context of modernising and improving the smooth functioning of the EU VAT system, particularly with regard to the reduction of administrative burdens for businesses trading cross-border. In addition to completing the online survey, we have set out in the accompanying appendices a comprehensive response to the questions posed and the potential policy options already identified by the Commission. For ease of reference, we have also summarised our key comments and recommendations immediately below.

Digital Reporting Requirements ('DRRs')

In terms of modernising VAT reporting obligations and considering the possibility of further extending e-invoicing, we strongly support the Commission's initiative to promote a harmonised digital compliance reporting system in order to avoid excessive fragmentation and administrative barriers for businesses operating cross-border in the EU. In this respect, we would recommend the following:

- Introduce a fully harmonised EU DRR, covering both domestic and cross-border transactions. In principle, this would seem to be the best option to meet the required objectives of reducing the current regulatory fragmentation, improving reporting and making the VAT system more robust against fraud.
- Adopt a gradual approach with appropriate lead time, clear rules and guidance, as well as technical requirements that allow for the creation of flexible solutions from different software providers for different ERP and IT systems, thereby increasing business choice and reducing cost.

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- Member States do not only formally agree to a practical consensus model, but also commit to implementing the model in a uniform way by refraining from the adoption of additional national measures.
- Simplify the complex EU VAT system in order to enhance compliance - this cannot be achieved by digitalisation alone.

The VAT Treatment of the Platform Economy

Of the three components of the VAT in the Digital Age initiative, adapting the VAT treatment of the platform economy so that it fits the new developments in this area appears the most difficult to navigate given the complexity of the sector itself and the divergent views expressed across different stakeholders. In seeking to maximise the opportunities afforded by the platform economy, we believe it would be important to understand the economic impact of any change in VAT treatment on the different models in operation and, moreover, that any changes do not discourage activity and innovation - a pro-innovation approach is required to drive economic growth.

Clearly, the ultimate aim would be to ensure that the application of VAT is as neutral as possible across online and offline models. However, a key concern remains as to how many new and small-scale economic actors and activities should be pulled within the orbit of the VAT system. This calls for carefully balanced, coherent and logical tax policy choices, keeping additional tax requirements simple, predictable, easy to comply with, globally consistent and supported by access to appropriate information and guidance. It is also worth mentioning that the implementation of the DAC7 rules has created a heavy workload at this time for platforms to prepare their systems and processes for the new reporting environment, as well as engaging with suppliers to collect the additional data points that are required under the regime.

In particular, we would suggest considering the following approach:

- Clarify and harmonise the application of existing rules to the platform economy.
- Explore the range of potential roles for platforms in addressing the relevant VAT issues (including information sharing) and look to gain additional practical experience of deemed supplier regimes from those already in operation in the EU as well as in third countries.
- As far as possible, follow international best practice (eg, see the OECD's report 'The Impact of the Growth of the Sharing and Gig Economy on VAT/GST Policy and Administration') and globally consistent solutions for any reform of VAT rules and information reporting rules.
- Revisit and consolidate data obligations to limit reporting and record keeping requirements to what is strictly necessary to calculate the final VAT or tax liability, and implement more efficient and effective means of sharing information internally at a tax authority level.

Single VAT Registration in the EU and Import One Stop Shop ('IOSS')

The 2010 VAT Package moved away from the origin concept of taxation towards the destination principle. This change simplified, harmonised and modified the EU VAT system in many ways. However, there remains a wide variety of exceptions to the general rules, instances of which were further increased by the 2015 and 2021 e-commerce Packages. With regard to facilitating VAT registration and compliance to improve the efficiency of the Single Market, including a revision of the existing rules requiring the registration of non-established taxpayers, we strongly support the Commission's initiative to widen the

single EU VAT registration concept and in this respect we would recommend considering the following:

- Extend the OSS to cover all B2C and B2B supplies made by non-established suppliers, including the transfer of own goods cross-border and chain transactions. The position would be further enhanced by additional clarification, or broadening, of the specific circumstances when the OSS can be used and via the implementation of an OSS input VAT deduction mechanism.
- Make the Article 194 reverse charge available for all B2B supplies carried out by non-established suppliers.
- Remove the IOSS €150 threshold. However, given its relative novelty, it would seem difficult to recommend the mandatory application of the IOSS at this stage. We believe that a longer period of assessment is required, in addition to some refinement of the scheme given that a number of operational issues have already been identified.

For any clarification on this response, please do not hesitate to contact me or one of the persons listed below. We look forward to discussing any questions you may have and we welcome the opportunity to contribute further to the discussion.

Yours sincerely

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Appendix 1 - Digital Reporting Requirements

Introduction

The globalisation and digitalisation of the economy has produced a range of challenges for tax authorities and an urgent need to gain more visibility and control over new types of business activities and transactions that take place, often without any physical nexus to the local jurisdiction in which the supply of goods or services is consumed. This has created a growing need for tax authorities to access more business data.

However, due to the fact that EU VAT law sets few parameters for Member States to follow in arranging their administrative functions and infrastructure, there is a significant level of uncoordinated growth in the implementation of digital reporting requirements across the EU. Whilst advances in information technology have enabled Member States to develop modern solutions to allow them to control their VAT systems better and assist with the tax collection process, it has also created considerable cost and compliance burdens for businesses operating across multiple Member States. As such, businesses are now confronted with an overwhelming environment of diverse data reporting obligations that is creating an obstacle to the efficiency of the Single Market.

Problem statement

More specifically, we would note the following challenges that accompany the administrative opportunities of accessing more business data:

- Article 273 of the VAT Directive allows Member States to '*impose other obligations which they deem necessary to ensure the correct collection of VAT and prevent evasion*'. On the basis that the administration of national VAT systems is within the competence of the Member States, this provision affords a wide margin of discretion to tax authorities to implement different tax collection measures, including digital reporting requirements, on an uncoordinated basis. As previously seen in the Commission's single VAT return initiative, Member States often have very country-specific data requirements, and without any obligation or recommendation to align compliance mechanisms, this has translated into a fragmented reporting environment.
- On the other hand, Article 395 of the VAT Directive requires Member States to request a derogation to be able to adopt mandatory e-invoicing. On the basis that e-invoicing is increasingly becoming a standard part of business operations (as opposed to real time reporting procedures that are relevant for tax purposes only), it is unhelpful that the adoption of e-invoicing measures is more restricted for Member States when compared to other compliance and reporting instruments (eg, real time reporting, SAF-T, VAT listings etc).
- Many Member States have already invested in IT solutions and infrastructure to meet their own specific requirements. Therefore, agreeing common compliance standards at this stage may be difficult and requires a commitment to converging requirements over the medium and long term towards a harmonised framework that reduces administrative burden on businesses whilst satisfying individual Member State requirements. We note that whilst such an approach would be of benefit to businesses, there are also advantages for tax authorities in terms of the efficient exchange of information between administrations on the basis of similar data sets and reporting models.

Policy options and considerations

From a general perspective, we believe the following guiding principles will be important in considering suitable policy design features:

- Balance - structuring a DRR in a way that creates balance between the legitimate interests of tax collection and economic growth.
- Consistency and interoperability - a DRR that is consistent across Member States, remains stable over time, as well as interoperable from a business, legal, technical, and operational perspective, should reduce cost for all parties, increase compliance and allow for international cooperation and enforcement.
- Legal certainty and simplicity - structuring rules in a way that taxpayers, particularly micro businesses and SMEs, can easily implement the DRR, with technical requirements that allow for the creation of flexible solutions from different software providers for different ERP and IT systems, thereby increasing business choice and reducing cost.
- Appropriate lead time - communicating specifications and implementation timelines to the market to give the private sector (both businesses and service providers) sufficient lead time to design and implement requirements in such a way so as to maximise the savings potential of business process automation. In addition, it would be helpful to introduce the DRR together with technical, legal and process guidance that is comprehensive and meaningful from a practical perspective to allow for ease and certainty of implementation.
- Data confidentiality - given the sensitivity of information that is likely to be exchanged with Member States under a DRR system, it would be crucial to treat business data in accordance with international legal norms for data protection, data privacy and data security. Preferably, data sharing would be on a 'need to know' basis (ie, sharing no more data than is needed for tax authorities to perform their administrative responsibilities), and confidential commercial data would be safeguarded in a secure and reliable exchange network component.
- Partnership with the private sector - we believe that the Commission can play an important role in providing a framework for the efficient and controlled sharing and use of data by tax authorities across all applicable areas of VAT and other taxes. Due to the heightened interdependency when complex systems from different 'universes' need to continuously exchange large amounts of data with each other, tax authorities could collaborate more organically with private sector software developers, service and solution providers – not just within Member States but EU-wide and beyond. This would allow Europe to lead the way in creating a collaborative ecosystem of private and public sector developers to facilitate the introduction of a DRR system.

With reference to certain aspects of the Commission's VAT in the Digital Age survey, we have set out below more detailed comments on the different potential policy options:

Status quo

Given the overall aim of the Commission to reduce the current regulatory fragmentation, to increase legal certainty for businesses and other stakeholders, and the objective to contribute to an effective, simple, and fair VAT system, we feel that the 'status quo' option does not require further consideration in our response.

Non-binding recommendation and removal of the Article 395 derogation request

As previously mentioned, in order to reduce fragmentation of domestic digital reporting and improve the reporting of intra-EU transactions, we feel that the use of a non-binding recommendation to provide a common design for reporting obligations across the EU would not necessarily improve the target of standardisation/harmonisation. This is because a non-binding recommendation would still afford a wide margin of discretion to the Member States to implement different tax collection measures according to different legal requirements. We believe there is a need for a unique set of regulations and requirements around the DRR, as further detailed/commented on below.

Keep data with taxpayers

We understand that under this policy option, no DRR would be imposed, but taxpayers would be required to store transactional information in a predetermined format, to be accessed by tax authorities on request. In addition, Member States would still have the option to maintain or introduce new DRRs. Based on this, we are of the opinion that this policy option would not necessarily contribute to the overall aim to reduce the regulatory fragmentation and improve the effectiveness of the VAT system. In addition, this option would increase the burden on taxpayers to collect and store the required information in the requested format, without leading to any further efficiency gains from a business perspective - eg, in terms of supply chain automation. Further, under this policy option, even though the auditing process for governments might be enhanced, the detection time would not be improved. This does not necessarily fit with the longer-term intention to move away from a forms driven environment that is manual, slow and reliant on the retrospective risk analysis of aggregated historical data (cf. OECD: Tax Administration 3.0 - The Digital Transformation of Tax Administration).

Introduction of an EU DRR

The introduction of a fully harmonised EU DRR, covering both domestic and cross-border transactions would, in principle, seem to be the best option to meet the required objectives of simplifying the VAT system and making it more robust against VAT fraud. This policy option has been further subdivided into two variations: option 1 focusing on the introduction of an EU-DRR for intra-Community transactions with DRRs for domestic transactions remaining optional, and option 2 which focuses on a full harmonisation package for both domestic and intra-Community transactions.

Taken as a whole, option 2 would seem to represent the optimal approach in terms of attempting to rationalise the compliance landscape more fully. However, we feel that for both options, political reality needs to be taken into account in order to ensure that Member States are indeed willing to conform to such a harmonised EU DRR, acknowledging the fact that many of them have already made significant investment in establishing their national DRR architecture. Therefore, under this option, it would be of utmost importance that Member States are not only willing to agree formally to a practical consensus model, but are also committed to implementing such a model by refraining from the adoption of additional national measures or systems '*they deem necessary to ensure the correct collection of VAT and prevent evasion*', as they are currently permitted to do under the provisions of the EU VAT Directive. As mentioned above, experience from the single VAT return initiative would suggest that significant challenges may be anticipated in the process of agreeing common standards and processes.

Converging data collection and reporting requirements would allow for the removal or revision of some of the current VAT obligations thereby simplifying compliance processes and avoiding duplication of efforts - eg, recapitulative statements, Intrastat, and national obligations such as SAF-T and VAT listings. There may also be opportunities for automating the preparation of VAT returns with pre-populated data. However, given the complexity of the VAT system and the need for substantial manual intervention and adjustment in the return process, this is likely only to be relevant for smaller businesses. That said, the acceleration of making VAT refunds (both domestic and cross-border) may be possible with enhanced visibility at a transactional level, and that is something that would benefit businesses of all sizes.

We would expect that the process of agreeing and implementing a new DRR system would constitute a significant long-term project that would require gradual and cautious introduction in order to minimise tax authority and business disruption, and allow time to resolve technical and practical issues along the way. For example, this might require certain types of transactions or businesses of a certain size and scale to fall within the scope of the rules according to a staggered timeline. However, as alluded to above, there remains a significant issue that technology and digitalisation are unable to solve on their own - the current VAT system is overly complex insofar as trying to determine the applicable VAT treatment of a supply and ensuring uniform interpretation across the EU. Therefore, a parallel process of clarifying and simplifying VAT rules would be of considerable benefit.

Appendix 2 – The VAT Treatment of the Platform Economy

Introduction

Digitalisation continues to redefine our world in all its fundamental aspects driven by technological innovation and increased online connectivity - from the economy, to the way we work, and how we live. A key part of this post-industrial revolution includes the growth of the platform economy which presents significant opportunities for society, as well as raising a number of issues/questions. Often with limited investment, the platform economy empowers businesses and individuals to connect with consumers on a scale hitherto unimaginable. It stimulates enterprise and innovation by unlocking the value of assets, increases productivity and reduces waste by enabling the better use of existing resources, increases customer choice with more flexible on-demand access to assets and services, and it also provides greater flexibility in the labour market. Although the underlying supplies are not in themselves new, the rise of the platform economy, and the means through which supplies are carried out, has fundamentally transformed a wide variety of industries within just a few years and looks well set to continue as technology and business models evolve yet further into the future. As the economy becomes more digital in its design and international in its reach, tax policy also needs to adapt to meet the demands of the digital age.

Problem statement

In terms of the challenges arising as a result of the rapid growth in this sector, these are generally well documented at an international level, including:

- Lack of legal certainty due to unclear and unharmonised VAT rules.
- Complexity of the VAT system and difficulties in interpreting key concepts such as taxable status, as well as the nature of a supply and its corresponding VAT liability and place of taxation.
- In some cases, assuming that the activities engaged in are the same, potential lack of channel neutrality due to the shift in economic activity from the more traditional economy tax base to the platform economy tax base with a larger number of smaller, and often unregistered, service providers.
- The position is further complicated by the increasing scale of the platform economy, the multi-sided nature and diversity of business models, and the inherent difficulty in defining what the platform economy is and what it encompasses. It is also necessary to bear in mind the difficulties of drafting legislation that is sufficiently flexible to address innovation and trends not yet foreseen - as ever, ring-fencing digital activity remains impractical and given the complexities outlined above, there is no one size fits all solution.

Policy options and considerations

From a general perspective, we believe the following guiding principles will be important in considering suitable policy design features:

- Legal certainty and simplicity - structuring rules in a way that they are clear and easy to apply so that taxpayers, particularly micro businesses, SMEs and non-VAT experts, can anticipate with reasonable certainty the tax consequences of a transaction and apply the correct VAT treatment.

- Consistency - a stable and consistent tax environment, both in an EU and global context, should reduce cost for all parties, increase compliance and allow for international cooperation and enforcement.
- Proportionality - limiting rules to what is strictly necessary for the administration of the tax and in such a way so as not to deter participation and innovation in the sector.
- Fiscal and channel neutrality - providing a level playing field for businesses engaged in the same activities.
- Continued consultation with business - this is key to ensuring that policies are fit for purpose, capable of practical application and future proof as far as possible to create a sustainable framework of taxation that can adapt to the emergence of new business models.
- Appropriate lead time - assigning sufficient lead-time for the implementation of new rules in order that businesses can make adequate preparations, in particular from an IT perspective.
- Ability to automate - given the significant scale of transactions and the number of parties involved, the ability to automate rules efficiently and effectively is key to compliance.

With reference to certain aspects of the Commission's VAT in the Digital Age survey, we have set out below more specific comments on potential policy options, focusing on three areas:

- Clarifying the current rules
- More advanced policy options including the deemed supplier model
- Streamlining information sharing and recordkeeping requirements

Clarifying the current rules

On the basis that persisting with the status quo is not an appropriate option in the face of the rapidly developing digital environment, the current lack of legal certainty due to unclear and unharmonised VAT rules would seem an appropriate place to start policy reform considerations. In our view, ensuring the uniform application of existing rules and concepts for the same activities would seem more immediately preferable versus creating a different and specific VAT framework for the platform economy. This is based on our experience that specific measures that depart from normal rules and basic principles potentially bring a host of issues in terms of complexity and high compliance costs, boundary or scoping issues, and difficulties with anticipating future developments and innovation. As regards relevant areas for consideration, we suggest including the following:

- Determining the nature of the services provided by the platform and their corresponding place of supply would appear an obvious area that would benefit from clarification. Rather than creating a new and specific rule for the platform economy (which might add complexity and scoping issues), it would seem useful to clarify the classification and associated VAT treatment under existing rules - eg, considering whether the services should be deemed to be qualified as that of disclosed intermediation or the provision of electronically supplied services ('ESS'). Given the current uncertainty in this area and the fact that different Member States are beginning to take different approaches, the exact classification appears less important than the consistency with which the rule is applied. That said, the available options would still need to be tested with appropriate modelling and impact assessment. The One Stop Shop ('OSS') registration mechanism should also help to alleviate some of the burden associated with additional VAT registration requirements.

- Determining the taxable person status of the underlying supplier is also a key area for clarification in order to determine the VAT treatment of the underlying supplies themselves. For the most part, this relates to the interpretation of Article 9 of the VAT Directive and whether a party independently carries out an economic activity that consequently falls within the scope of the VAT system. However, this is an uncertain area which is constantly evolving in the context of CJEU case law, and not likely to be easy to resolve. To some extent, the essence of this issue concerns the concept and application of VAT registration thresholds - ie, balancing the desire to collect revenue against the practicalities of having to administer and enforce compliance over a larger number of taxpayers who might, due to their limited size and scale, have a limited capacity for tax compliance. In addition, it is worth noting the significant complexity those taxpayers would be required to deal with in terms of both output VAT and input VAT rules - eg, determining not only the VAT treatment of ongoing service fees and any income generated from the sale of a relevant asset, but also establishing the VAT recovery position in relation to assets subject to mixed (business and private) use. Whilst the implementation of thresholds may fall more within the competence of Member States, it may be worth considering an EU-wide registration threshold as currently exists for ESS and distance sales. In any case, putting this issue to one side, more immediately pertinent to the case at hand is the fact that a platform needs to know the taxable person status of the underlying supplier in order to determine the correct treatment of its services, its invoicing obligations and which party is responsible for VAT collection. In this regard, we would recommend simplicity - eg, a presumption that the provider is considered not to be a taxable person unless they communicate a valid VAT number to the platform. Requiring further declarations from providers or additional verification activities for platforms would seem impractical or would place undue burden on the parties involved, in particular on the platforms.
- It is also worth briefly mentioning the need to align closely the status of the underlying supplier for VAT purposes with regulation in other related areas, such as employment status. For example, where an underlying supplier is deemed to be an employee, they would not then be capable of carrying out economic activity in an independent manner for VAT purposes. Consequently, we believe it important to take a holistic approach, having regard for both tax and non-tax issues, including other Commission work streams in this area, so as to ensure a consistent and coherent approach.
- As a final point, we would note that legislative clarifications and amendments would be further enhanced by the adoption of accompanying Explanatory Notes which have over the years provided invaluable support to the understanding and uniform interpretation of new EU legislation.

More advanced policy options including the deemed supplier model

The EU's 2015 ESS and 2021 low value goods ('LVG') VAT regimes include full liability deemed supplier rules that are being reproduced in a growing number of e-commerce regimes implemented around the world. On the one hand, in an EU context, the deemed supplier model has increased VAT compliance and revenue, but on the other hand, particularly in the case of the LVG rules, it has introduced significant complexity. This is partly due to the size and scale of the EU market, the interaction with customs procedures, and the intricacy of the rules themselves that rely on determining value thresholds, customer status, nature and location of goods, and the selection of an appropriate registration and/or collection scheme out of a number of different possibilities.

Imposing a deemed supplier model on the platform economy would come with different questions and complexities compared to the ESS and LVG regimes. This is due to the nature of the parties involved (including uncertainty as to whether the platform would know the status of the underlying supplier or ultimate customer as a B or a C), effective removal of VAT registration thresholds to bring smaller service providers into the scope of the VAT system, the variety of VAT treatments that might apply to different types of supply, as well as the sheer diversity of business models in operation. We have also highlighted, in the previous section, the inherent complexity in establishing the VAT treatment associated with assets that are used for both business and private purposes, and this is not an area that a deemed supplier could oversee on behalf of an underlying provider. In addition, where the platform is located offshore, there are pros and cons of shifting the VAT liability from individual local providers onto a non-resident platform.

It is clear that traditional businesses and platform economy businesses have divergent views in terms of their recommended approach - eg, see the UK's 2020 VAT and the Sharing Economy call for evidence and summary of responses. On one hand, the report sets out calls by some respondents to make platforms liable for VAT collection on supplies made by underlying providers, whilst on the other hand there are equally strong views to the contrary. The complexity of the issues at stake, combined with the divergent views of those potentially impacted, makes this an intrinsically difficult area for policymakers to address.

Therefore, in our view, we believe that it would make sense to adopt policy changes on an incremental basis over time - eg:

- Clarifying and harmonising the application of existing rules to the platform economy.
- Continuing to gather information and developing a broader understanding on the size and nature of the platform economy prior to considering the need for, or mode of, more radical reform.
- Exploring the range of potential roles for platforms in addressing the relevant VAT issues. As set out in the OECD's report 'The Impact of the Growth of the Sharing and Gig Economy on VAT/GST Policy and Administration', there are a number of options available with varying degrees of administrative burden such as educational and communication roles, cooperation agreements, information sharing roles (which could, for example, include DAC7), through to joint and several liability, and full liability roles. It is also worth mentioning that the implementation of the DAC7 rules has created a heavy workload at this time for platforms to prepare their systems and processes for the new reporting environment, as well as engaging with suppliers to collect the additional data points that are required under the regime.
- Considering deemed supplier rules in the context of experience gained in the EU via the 2015 and 2021 changes - the 2021 changes in particular are not long implemented and require further bedding in and to some extent re-evaluation and refinement. In addition, other countries have also implemented deemed supplier models including in the context of the platform economy. For example, in 2020 Canada introduced a deemed supplier regime to all supplies of short-term accommodation made by private residential property owners that are facilitated through digital platforms. In addition, in 2022 India introduced full deemed supplier liability rules for restaurant services and expanded its existing rules for passenger transport services. There are undoubtedly important lessons to learn from the practical implementation of these regimes that would inform and enhance an EU approach, in addition to the EU's own experience, as well data collected through the DAC7 regime which would provide detailed information for further reflection.

- As far as possible, following international best practice and globally consistent solutions for any reform of VAT rules and information reporting rules, with particular reference made to the work of the OECD.
- Aiming to accommodate the diversity of business models and sectors within the platform economy. That might make the case for applying a narrower or gradual approach that is sector specific and able to target certain issues that may be different from one sector to another. However, equally, weighed against this would be the need for broad application to ensure consistency of treatment and a level playing field whilst limiting the risks of displacement.

Streamlining information sharing and recordkeeping obligations

The value of data has never been greater. In a rapidly evolving information landscape, policymakers are looking for ways to improve tax administration and collection via the accumulation of data both from individuals and from businesses. In an EU setting, a number of information sharing and recordkeeping obligations have recently been introduced or are awaiting implementation:

- Under the 2021 LVG rules, deemed suppliers are obliged to keep records as if they were the legal supplier - ie, in line with normal VAT accounting rules. Furthermore, according to Article 242a of the VAT Directive, platforms are required to keep records of B2C supplies of goods and services which they facilitate but in respect of which they are not the deemed supplier. For tax auditing purposes, such records are to be retained for a period of ten years and made available electronically on request. This administrative burden is further compounded by additional reporting obligations which have been introduced or proposed at national level.
- In addition to these VAT accounting rules, the DAC7 Directive (to be implemented at a Member State level by the end of 2022) introduces new record keeping obligations for platforms to collect, verify and report information on the underlying providers that use their platforms, including the income obtained from supplies facilitated by the platform.
- EU payment service provider ('PSP') rules come into effect at the beginning of 2024 under the so-called Central Electronic System of Payment information ('CESOP') Directive and Regulation. These rules require EU PSPs to share information with local tax authorities when the payer is located in a Member State and the supplier (wherever located) receives more than 25 payments per quarter. Once collected, each Member State must transfer the information to the Commission for data exchange and administrative cooperation with other Member States.

The impact of these obligations is to increase the administrative burden on platforms and other parties that facilitate e-commerce transactions such as PSPs. Whilst businesses understand the significance of data and information sharing with tax authorities for tax administration purposes, we believe it important for government and industry to work together in identifying effective and proportionate data reporting requirements, also ensuring that requirements are not duplicated across different regimes - ie, we would advocate a 'once and done' approach. This may require:

- Revisiting and consolidating data obligations to limit reporting and record keeping requirements to what is strictly necessary to calculate the final VAT or tax liability.
- Limiting obligations to issue VAT invoices in a B2C environment.
- Reducing the frequency of filing requirements.
- Reducing the storage period for keeping records.

- Implementing more efficient and effective means of sharing information internally at a tax authority level. In this respect, innovative and coordinated means of reporting and retaining data, such as at an overall EU level via an OSS portal or similar, would be helpful, as would the facilitation of accounting and tax reporting software solutions.
- An approach that is consistent with global standards and best practices. As identified in the Commission's digital reporting requirements review, the implementation across the world of different compliance and reporting rules according to different formats, technologies and requiring different data sets is currently overwhelming businesses.

Appendix 3 – Single VAT Registration in the EU and IOSS

Introduction

The 2010 VAT Package moved away from the origin concept of taxation towards the destination principle and as a consequence simplified, harmonised and modified the EU VAT system in many ways. However, there remain a wide variety of exceptions to the general rules, instances of which were further increased by the 2015 and 2021 E-commerce Packages. This results in situations where taxable persons are still obliged to register for VAT in other Member States where they are not established, creating an ongoing obstacle to the efficiency of the Single Market.

Problem statement

The introduction of the One Stop Shop schemes (MOSS, OSS and IOSS) has reduced the need for some businesses to manage multiple VAT registrations. Therefore, the OSS concept is widely supported. However, we would note that there are a number of ongoing challenges and the operation of the various OSS schemes could be improved:

- A foreign VAT registration continues to be one of the most costly and onerous compliance obligations for businesses operating cross-border, and particularly so for smaller businesses, as identified in the Commission's impact assessment on the EU VAT environment for small enterprises. This administrative burden can also lead to the distortion of business decisions (eg, a business could decide not to enter into a particular transaction or activity in order not to trigger a VAT obligation), which impacts the overall effectiveness of the Single Market and affects economic growth and productivity, as well as the tax base.
- There remain numerous situations that oblige businesses to obtain and hold more than one VAT registration, as set out in the Commission survey. Moreover, the E-commerce VAT Packages have increased the instances of VAT registration obligations in a Member State other than that of the business' establishment, and evolving technology and innovation is likely to lead to yet more cases in the future.
- The issue was partly addressed via the introduction of the various OSS schemes. However, despite these administrative enhancements, multiple VAT registrations continue to be an issue for many businesses because the OSS and IOSS are limited in their scope - they do not cover every transaction that a business might enter into, and the schemes can be complex in terms of determining what the different schemes are for as well as meeting their eligibility criteria.

Policy options and considerations

With reference to certain aspects of the Commission's VAT in the Digital Age survey, we have set out below more specific comments on potential policy options, focusing on two key areas:

- Considerations for the OSS scheme
- Considerations for the IOSS scheme

Considerations for the OSS scheme

On the basis that persisting with the status quo is not an appropriate option in the face of the ongoing administrative burden and cost, it would seem useful to consider the options for expanding and improving the OSS scheme. We would include the following areas for consideration:

- Extending the OSS to cover all B2C supplies made by non-established suppliers - although there are a limited number of B2C activities not yet covered by the OSS, this approach would maximise coverage, affording taxable persons the opportunity to report all B2C sales through a single OSS VAT return.
- Extending the OSS yet further to cover all B2B transactions including the transfer of own goods cross-border and chain transactions - this approach would maximise the opportunity for taxable persons to report all B2B transactions, including deemed supplies, through a single VAT return. Furthermore, given the continued difficulties associated with using the EU cross-border VAT refund scheme, the position would be further enhanced via the implementation of an OSS input VAT deduction mechanism. Allowing the deduction of input VAT in the OSS would reduce the need for businesses to register in other Member States in order to access recovery via the local VAT return process. That said, we appreciate that such a recovery mechanism could prove unfeasible both at a technical level and from a Member State perspective. Therefore, as an alternative, it would be helpful to convert Article 194 into a mandatory (ie, a 'shall') provision so that Member States would be obliged to make the reverse charge available for all B2B supplies carried out by non-established suppliers. We recognise that there are limitations in terms of the scope of the reverse charge and the rules would benefit from harmonisation across the EU. However, such a move would reduce the need for multiple VAT registrations and, provided that its application is optional for businesses, it would still be possible for companies to reclaim input VAT via a local registration should they wish to do so.
- As a more general point, despite the publication of the Commission's 'Guide to the VAT One Stop Shop', there are ongoing uncertainties around what the different OSS schemes are for (non-Union scheme, Union scheme, and import scheme) as well as their eligibility criteria. This is because, in practice, business models and supply chains are complex and do not necessarily sit on all fours with the examples set out in the Commission document. Accordingly, continuing to update the guidance with further practical examples would be a valuable exercise.
- In addition, it is worth noting that considerations may be different between EU and non-EU businesses. For example, where businesses (non-EU in particular) import goods with a value in excess of €150 into a Member State and the recipient of the goods has already been identified prior to importation, some Member States have indicated that the OSS cannot be used for accounting for VAT on the sale to the end customer. This is because, in their view, the items remain non-Community goods where there is no significant break in transport. Therefore, allowing greater flexibility in the use of the OSS would be beneficial to ensure administrative burden is kept to a minimum.

Considerations for the IOSS scheme

The position for the IOSS is less clear given that the concept is so new and user experience and related data remains scarce for the purpose of fully assessing its impact and effectiveness. That said, we would

note the following points:

- The IOSS concept is a welcome development in attempting to reduce administrative burden as well as to speed up the process of importing low value goods into the EU following the removal of the €22 low value consignment relief rule. However, the €150 threshold is difficult to operationalise since it requires additional IT systems and process development in order for businesses to apply the rule in respect of consignments that fall both above and below this amount. Therefore, we would recommend that consideration is given to removing the threshold. We note that consignments with a value in excess of €150 would still be subject to full customs declarations, which might limit the positive impact of such a measure, however, from a VAT perspective the position would be simplified.
- Businesses certainly welcome the choice of using the IOSS in cases where it affords administrative simplicity compared to the alternative import declaration options. However, given its relative novelty, it would seem difficult to recommend the mandatory application of the IOSS. We would recommend conducting a longer period of assessment in addition to some refinement of the scheme given that a number of operational issues have already been identified - eg, instances of double taxation, difficulties in processing VAT refunds for returned goods, the requirement for non-established businesses to appoint a fiscal representative (particularly onerous for micro-businesses and SMEs), misuse of IOSS ID numbers by some actors in the supply chain, as well as issues stemming from the interaction between VAT and customs rules.