

VAT in the EU: one-stop (but no shop)

René N.G. van der Paardt

The entrepreneur who is rendering services and/or is supplying goods in more than one EU Member State is confronted with VAT obligations in all the Member States where he is doing business. The compliance costs of the VAT system together with legislation regarding personnel, product conformity and environmental issues, is seen as one of the most important hurdles for the development of the Internal Market.

Therefore the European Commission launched a proposal for a change in legislation regarding the place of supply of services in business to business (B2B) transactions, in order to broaden the system of the reverse charge mechanism. For business to customer (B2C) transactions that system cannot be applied and therefore the one-stop VAT system is proposed by the Commission in working paper TAXUD/2731/03 of 24 November 2003 and is discussed in TAXUD/1608/04 in the March 2004 meeting.

Although in the Ecofin meetings in the second semester of 2004 not all Member States could agree with the proposal, it seems to be that the objections against the tax proposals have been dropped and the way is free now to change the Sixth and other VAT directives to introduce the one-stop VAT.

The impact of one-stop VAT

The system is introduced for B2C transactions where the trader is liable for VAT in the country of the consumer where the trader is not established, such as distance sales, supply and installation or assembly of goods, work on immovable property and sales at fairs and exhibitions. Instead of a VAT registration in all Member States where such transactions are taxable the one-stop VAT-system makes it possible for a trader to register for VAT purposes in the Member State where he is established in respect of taxable transactions carried out in that Member State and taxable transactions carried out in other Member States. The registration process (the request for acceptance) and the changes of data in relation to the identification would be fully computerized. Already existing VAT registration numbers of the requesting company in Member States other than where it is established will become obsolete. A trader ceasing trading in one of the other Member States should file an electronic request to be removed from the system. Each Member State should have continuous access to the up-to-date database of all taxable persons in the system.

The trader files a multi-country VAT return in his

one-stop Member State. For each Member State in which the trader has made taxable transactions, he should complete a separate 'national page', including the VAT payable (output VAT), the VAT deductible (input VAT) and the balance (VAT to be paid or refunded). The Commission suggests applying a standard VAT period of three months and a filing date no later than one month after the end of that period. However, each Member State would decide whether or not to include a 'national page' for the taxable person identified in that Member State and therefore whether or not to use different (domestic) obligations (e.g. as regards filing periods, forms, dates of payment, etc.) for traders identified in the one-stop Member State. VAT returns for domestic purposes need not be harmonized, as taxable persons under the one-stop system would be subject to separate rules.

An important issue is still the payment of VAT in the one-stop VAT system. A trader should pay VAT to each local tax authority in the different Member States where he is trading. A consolidated payment is still a bridge too far, so the one-stop-shop is still not applicable.

Relation to the Eighth Directive refund of VAT

As regards the deduction of input VAT, a trader in the one-stop system who performs taxable transactions in another Member State will declare such transactions on the national page of that Member State and deduct input VAT under the current rules of that Member State. This would not differ from the present situation where the trader is registered in the Member State of the taxable transaction and fulfils his VAT obligations accordingly. It may be that a trader in the one-stop system is no longer performing taxable transactions in a particular Member State, but VAT is charged to him in that Member State. In that case, he can deduct input VAT on the national page of that Member State and request for a refund. As long as the trader is not removed from the one-stop VAT system he can continue filing the national pages of the VAT return. But the trader who is not included in the one-stop system (because he does not perform taxable transactions in Member States other than where he is established) should reclaim local input VAT from that Member State through the Eighth Directive procedure. The introduction of the one-stop VAT system will not improve the VAT refund system for these traders.

Remarks

The one-stop VAT system will be an improvement for traders performing taxable activities in a B2C relation in different EU Member States. It will certainly diminish the administrative burden and costs. The system can be implemented without a further harmonization of the VAT legislations in the different Member States. This can be seen as both a disappointment and a blessing for the governments of the Member States, who want to stick to their own rules concerning the time limits for VAT payment and the rules for the refund of VAT. Further harmonization is not really necessary in the one-stop VAT system.

Another issue that has to be decided upon is whether or not non-EU traders are allowed to enter

into the one-stop VAT system. And if they are allowed will it be necessary to appoint a (local) tax representative in the one-stop Member State where the non-EU trader will be registered. A comparison with the E-commerce Directive seems to be obvious, but the practical experience with that system has not yet been evaluated. In my view the non-EU traders should be allowed to use the one-stop VAT system and be treated in the same way as EU-traders.

Hopefully, the EU governments will agree upon the system as soon as possible so that the system can be implemented in order to reduce the administrative costs for EU (and non-EU) traders and to stimulate the performance of the Internal Market not only for B2B but also for B2C transactions.