

European Taxation – the Austrian Presidency's point of view

1. Introduction

The completion and proper functioning of the Internal Market in the European Union is an important issue. The different tax regimes in the 25 EU Member States have always been seen as obstacles for enterprises to develop and strengthen their cross-border activities. Enterprises with international activities have to comply with the respective domestic tax legislation in each Member State where they carry out business activities. This increases the administrative burden and the compliance costs. This situation impedes the cross-border expansion especially of small and medium-sized enterprises which represent the majority of the businesses throughout Europe. The Austrian Presidency therefore supports all efforts at European level to remove these obstacles.

2. Indirect taxation – value added tax

As a remarkable success the Austrian Presidency managed to reach a compromise solution in the area of reduced VAT rates for labour intensive services (Annex K of the Sixth VAT Directive). The basic Directive (Sixth VAT Directive) that was issued in 1977 has been changed and amended several times. During the Austrian Presidency a great number of unresolved VAT dossiers are on the table and are discussed with the aim to lower the administrative burden for both sides - business and tax administrations. This refers to the recast of the Sixth VAT Directive, the rationalization directive and the one-stop-shop system. All these proposals aim to simplify the VAT obligations and VAT procedures. Although there are many technical questions which have to be solved, the Austrian Presidency is working hard to make as much progress as possible.

The proposal on the one stop shop intends to reduce current compliance obligations to help cross-border traders who supply goods and services to other EU Member States. The one stop shop system will make it possible for a trader to fulfil all his VAT obligations for EU activities in the Member State where he is established. The trader will make his VAT declarations to a single electronic portal set up by the Member State in which he is established.

A similar system shall replace the current Eighth Directive which deals with the refund of VAT to taxable persons not established in the territory of the

country. According to this proposal the non-established trader will make his requests for refund via an electronic portal managed by the Member State where he is established. The Member State of establishment verifies whether the applicant is a taxable person and transmits the request to the Member States in which the input tax were incurred. The Member State of refund (i.e. the Member State where the expenses were incurred) must take a decision on the application within a certain time period. If it fails to meet this obligation, interest will be due on the unpaid refunds.

Another important issue, not only for Austria but for all Member States, is efforts to combat VAT avoidance and VAT fraud. As a matter of fact the traditional system of VAT with its fractionated payment is susceptible to VAT fraud. All states worldwide applying this system complain of the increasing number of fraud cases and the consequential reduction in VAT revenues. In order to discuss this item in a frank and open way the Austrian Presidency hosted an Informal High Level Meeting at the beginning of February 2006. All Member States have agreed that measures to combat VAT fraud must be extended and improved.

Austria favours changes of the VAT system, namely an extension of the reverse charge system and has already applied for derogation pursuant to Art. 27 of the Sixth VAT Directive. Austria intends to introduce such a system as a pilot project in the EU because we are convinced that introducing such a system is the best way to combat VAT fraud.

The basics of the Austrian proposal are as follows. The extended reverse charge system provides for that in all cases where the invoice amount exceeds €10,000 business to business (B2B) a compulsory reverse charge mechanism shall apply. In such cases the supplier issues an adequate invoice indicating the VAT identification number of the recipient of the supply, showing no VAT amount and referring to the tax debtor status of the recipient of the supply. The recipient of the supply taxes the supply received and at the same time exercises his right to deduct such tax under the conditions set out in the domestic law. The tax debtor is the recipient of the supply.

Recently a Commission working group has been established in order to examine the key issues of the introduction of a general reverse charge system. The work of this group is determined by the following requirements:

- clear reduction of fraud opportunities;
- exclusion of major new fraud risks;
- no disproportionate administrative burden for business and tax administrations;
- non-discriminatory treatment of resident and other EU entrepreneurs.

3. Direct taxation

In the area of direct taxation there is one very promising project, namely the idea of a common consolidated corporate tax base (CCCTB). The Austrian Presidency sees a number of advantages in this project. As soon as the corporation tax base is determined according to common rules an enterprise which carries out business in more than one Member State has no longer the problem to deal with different domestic tax rules. This would significantly decrease compliance costs for the enterprises and could be an incentive to expand their activities across the border. The allocation of the commonly determined tax base on the grounds of a certain formula has the advantage that transfer pricing problems will no longer be of relevance. As transfer prices for intra-group activities have to be determined according to the arm's length principle a tax audit on this item often leads to disputes between taxpayers and tax administrations.

Although the CCCTB Working Group which has been established in November 2004 has already achieved remarkable progress many technical details of CCCTB remain to be solved. Some questions of a more political nature have not yet been answered. As a matter of fact not all EU Member States will adopt CCCTB. The Member States 'outside' CCCTB are flexible in altering their tax bases, whilst the Member States 'inside' are not. The Austrian Presidency considered it as useful to get some political commitment in order to give the Commission the necessary guidance for their further work. At the informal meeting of the ECOFIN in Vienna on 7 and 8 April 2006 the EU finance ministers took the opportunity to discuss these questions and also the Commission Communication on Home State Taxation.

4. Conclusion

The completion of the Internal Market is an ongoing process to which tax legislation can contribute essentially. As tax harmonization is determined by the principle of unanimity it sometimes needs long discussions among Member States to achieve a compromise. The Austrian Presidency has a vital interest in removing tax obstacles for enterprises with cross-border activities and strongly supports all efforts in this area.