

VAT: European Commission refers France to Court of Justice for not bringing its tax representative ("répondant fiscal") provision into line with the VAT Directive

The European Commission has decided to refer France to the Court of Justice because its tax representative ("répondant fiscal") provision, setting up an optional derogation for declaring and paying VAT for non-established vendors and their clients in France, is not in line with EU law. It considers that the provision, which involves designating a tax representative, is incompatible with the VAT Directive.

Under the reverse-charge system provided for in French law, the client is designated as liable to pay VAT if the supplier or vendor is not established in the country. By derogation from this system, an administrative concession allows the vendor's statement to declare the tax owed by his clients as reverse-charges and to offset this from the VAT owed by the vendor. Under this provision, the non-established vendor must register for VAT in France and designate a tax representative ("répondant fiscal") responsible for declaring and paying VAT on his behalf.

The Commission considers that this provision is incompatible with the VAT Directive on several counts. First, taxable persons established in the European Union and in certain third countries cannot be obliged to designate a tax representative ("répondant fiscal"), even in an optional system. Second, under the VAT Directive, in a reverse-charge system, a vendor not established in the country is not obliged to register for VAT. Lastly, the Directive does not provide for the offsetting of sums of VAT due and payable by individual taxable persons as in the tax representative ("répondant fiscal") provision.

In October 2009 the Commission sent France a reasoned opinion (IP/08/149). As national law has not been amended within the time limit laid down, the Commission has decided to refer the matter to the Court of Justice.

The Commission's case reference number is 2007/2401.

For the press releases issued on infringement procedures in the taxation or customs area see:

http://ec.europa.eu/taxation_customs/common/infringements/infringement_cases/index_en.htm

For the latest general information on infringement measures against Member States see:

http://ec.europa.eu/community_law/infringements/infringements_en.htm