

Initiative for Taxpayers' Rights – Proposal for a Recommendation to improve the Situation of EU Citizens as Taxpayers for Direct and Indirect Tax

1. Introduction

One of the six main objectives of the von der Leyen Commission is “An economy that works for people”. This means allowing our economies to grow while ensuring social fairness and welfare. In terms of Union tax policy, as the world is recovering from the COVID-19 pandemic, it is more important than ever for Member States and the EU to have secure tax revenues. This notably translates into fair, efficient and sustainable taxation.

On 15 July 2020, the European Commission adopted a new tax package, the Action Plan for Fair and Simple Taxation Supporting the Recovery Strategy¹ (the Action Plan), which reinforces the fight against tax abuse, helps tax administrations keep pace with a constantly evolving economy and eases administrative burden for citizens and companies.

In this Action Plan, the Commission announced for 2021 a **Communication taking stock of taxpayers' existing rights under EU law** together with a **Recommendation to Member States to improve the situation of taxpayers and to simplify tax obligations**. Both the Communication and Recommendation are scheduled to be adopted jointly in the 3rd quarter of 2021.

The Communication is intended as a catalogue of existing rights based on existing case law and practice. It is meant to raise awareness of taxpayers as well as of tax administrations of existing rights and obligations. The Recommendation could reflect on how Member States may adapt their tax administration and practices to better respect and make more effective taxpayers' rights. The document also intends to suggest how, if necessary, Member States can further coordinate their actions, in order to improve the relationship between taxpayers and tax administrations in an EU context and to provide more effective support to the tax recovery process.

2. The problem the Initiative on Taxpayers' Rights aims to tackle

Individuals undertaking cross-border activities within the EU are often confronted with different / additional tax issues compared to individuals who are active only within a single EU Member State. Unfortunately, the complexity of cross-border tax rules and procedures often leads to a situation where many EU taxpayers, in particular private individuals, self-employed and micro-enterprises, are not making full use of the possibilities offered by their national legal framework to protect their interests. Tax administrations should increase their efforts to reduce complexity and cooperate with each other to eliminate hurdles.

¹ COM(2020) 312 final.

a) The Communication on Taxpayers' Rights

The Communication could address the lack of knowledge and insufficient use of existing taxpayers' rights that can have a negative effect on business and workers' behaviour, investment decisions and ultimately on economic growth. When this has an impact on taxpayers with cross-border activities or interests, it hampers the good functioning and the benefits of the full potential of the single market. Increasing awareness of taxpayers' rights can help smoothen the relationship between taxpayers and tax administrations, which is particularly important in the recovery context. As a natural consequence, it can also improve tax compliance.

In practical terms, the Communication targets taxpayers who are exercising their rights to move and is meant to illustrate their existing taxpayers rights, enriched with examples. These taxpayers' rights are mainly based on landmark judgements of the Court of Justice of the European Union (CJEU) like Schumacker, Verkooijen, Biehl, Wächtler, Gerritse etc.

1. Do you believe that a Communication will contribute significantly to promoting the respect for existing taxpayers' rights, or could other/further initiatives be considered?

b) Recommendation to improve the situation of taxpayers in the field of Direct Tax

The Recommendation could address cross-border tax obstacles that are not contrary to EU law per se, but which nevertheless have a negative influence on the use of the treaty freedoms. Such obstacles deter citizens from taking full advantage of the opportunities the EU's internal market offers to them, as they make the life of EU citizens involved in cross-border activities more burdensome or more costly.

The Commission services have already identified potential issues to be addressed by the Recommendation. These potential issues were fed into the questionnaire for the public consultation. Vice versa, results from the public consultation will also feed into the recommendation.

At the present stage, awaiting the results of the public consultation, the recommendation could include for direct tax some or all of the following issues under the following two building blocks:

Mitigating Effective Double Taxation

- One stop shop for Pensioners / Sharing of Tax Revenue and not sharing of taxing rights as a tool to avoid the submission of tax declarations in two member States.
- Filling the gap of Treaty Network, in particular inheritance tax.
- Refund of excess withholding taxes.
- Addressing limitations of the imputation of tax credits.

Addressing Cross border Tax Obstacles

- The use of pre-filled declarations.
- Standardised, uniform and multilingual forms for certificates.

- A central database gathering all standard forms with EN translation.
- Specific cross-border contact point / country desks for tax administration.

These issues also align with the findings and the calls by previous initiatives for citizens encountering cross-border direct tax obstacles, for example by the 2010 Communication on [“Removing cross-border tax obstacles for EU citizens”](#), the [Commission Recommendation of 15 December 2011 regarding relief for double taxation of inheritances](#), and the reports of the expert groups on [“Ways to tackle cross-border tax obstacles facing individuals within the EU”](#) and [“Ways to tackle inheritance cross-border tax obstacles facing individuals within the EU”](#), published in 2016.

2. Which of issues / possible solutions listed above (or other suggestions you may have) seem most promising in your view to tackle cross-border direct tax obstacles of EU citizens?

c) Recommendation to Improve the situation of taxpayers in the field of Indirect Tax - VAT

Although EU rules on VAT are broadly harmonized, it seems that the situation of taxable persons, in particular of small and medium-sized enterprises (SMEs) could be further improved by means of a Recommendation. SMEs are the backbone of the European economy. In a period of crisis, like the current Coronavirus pandemic, many taxable persons, and in particular SMEs, face existential financial problems. Their cash-flow issues could be countered in the following areas:

1. **Accelerate VAT refund:** Delays of refunds are likely to generate adverse financial consequences, which tend to affect more SMEs. The Recommendation may aim to encourage Member States to speed up VAT refund procedures, both in domestic contexts as well as in cross-border situations. The access to VAT refund for taxable persons could be facilitated and Member States may be invited to refrain from applying too restrictive conditions and procedures.
2. **Easier VAT relief for bad debts:** As a principle, VAT should be paid when the goods or services are supplied. However, in case of cancellation, refusal or non-payment Member States can provide for a relief from VAT. The procedure to claim VAT relief on such supplies is in the hands of Member States and often appears excessively restrictive or costly. Taxable persons tend not to apply for a relief, to give up a claim, especially when there is only a small amount involved, or the tax administration denies the relief. During an economic crisis, the risk of unpaid supplies is higher and this affects proportionally more often SMEs. For those reasons, Member States could be invited to provide less restrictive conditions to obtain relief from VAT on bad debts, in particular for SMEs.
3. **More cash accounting:** Normally, VAT becomes chargeable when the goods or the services are supplied. However, Member States can provide that VAT becomes chargeable only at the time when the payment is received (cash accounting). This is an important tool for SMEs, since they would not be obliged to advance any VAT that they have not received. Against this background, Member States

could be encouraged to fine-tune their (optional) cash accounting schemes in order to encourage and promote its use by SMEs.

Furthermore, a good dialogue between the taxpayer and the tax administration could help both taxpayers, but also tax administrations. The tax administration could gather information without necessarily having to do an audit. Taxpayers could benefit from the tax administrations' assistance in case of doubts on procedures.

The Recommendation could therefore encourage the dialogue between taxpayers and the tax administrations and invite Member States to allow honest taxpayers to correct their mistakes before the intervention of the tax administration (voluntary disclosure). This could also be allowed in cases where VAT has been unduly paid in the wrong MS.

*3. Do you broadly agree with the issues/proposed solutions in the area of indirect taxation?
Would you have other suggestions for indirect taxation?*

3. Objectives

The Recommendation may aim at facilitating the implementation of taxpayers' rights and simplify their obligations by recommending Member States how to enhance the relationship between taxpayers and tax administrations. A good relationship between taxpayers and tax administrations is mutually beneficial, since it eases the collection of taxes for tax administrations and facilitates compliance with the applicable rules for taxpayers. For instance, better use of technological developments could result in a simpler, more effective and easier collection of taxes, also in cross-border situations, while achieving social fairness and avoiding mistakes due to human errors.

4. Do you agree with the objectives outlined for an initiative to improve the situation of taxpayers?

4. Public Consultation

The Commission services are about to launch a public consultation. The purpose of this public consultation is to collect information on current problems and identify best practices to remedy these problems by means of a Recommendation.

All stakeholders are encouraged to provide their views. This includes citizens, national tax administrations, intergovernmental, non-governmental and business organizations, tax practitioners and academics.

The public consultation gives the stakeholders the possibility to express in which of the above areas they encounter/are aware of problems, in order for the Commission to have a more accurate view. There will be also room to point out other issues that could potentially be addressed in the Recommendation. The completeness and the success of the initiative will to no small degree depend on the involvement and the contributions to this initiative via the public consultation and at meetings such as this Platform meeting.

5. Is your organisation planning to reply to the public consultation? Would you have some observations to share already today?
