



EUROPEAN COMMISSION

DIRECTORATE-GENERAL  
TAXATION AND CUSTOMS UNION

Brussels, 31 January 2014  
TAXUD D1/JT

**Digit/007/2014**

# **EXPERT GROUP ON TAXATION OF THE DIGITAL ECONOMY**

## ***Working Paper on VAT issues***

***Follow up to the 2nd meeting of the Commission Expert Group on  
Taxation of the digital economy***

**Meeting to be held on 13-14 March 2014**

Berlaymont Building  
rue de la Loi 200, 1049 Brussels

## **1. INTRODUCTION AND BACKGROUND**

During its second meeting held on 14-15 January 2014, the Expert Group requested that the Commission services prepare an additional paper outlining additional possible policy measures to the mini One Stop Shop which could be introduced in the field of VAT to enhance the taxation of the digital economy.

The Commission in the Communication on the Future of VAT has already envisaged a managed broadening of the One Stop Shop concept over time. While the Commission services advocate an ambitious strategy in the field of VAT to enhance the taxation of the digital economy, it is considered that an incremental approach is necessary to realise this ambition.

## **2. TOWARDS A SMOOTH IMPLEMENTATION OF THE 2015 RULES**

As indicated in the paper presented to the 2<sup>nd</sup> meeting of the Expert group, an important milestone in the digital agenda will be achieved on 1 January 2015 with the introduction of the new place of supply rules for electronically supplied services together with the mini One Stop Shop (MOSS). These new rules will ensure the taxation of economically significant B2C supplies of telecommunications, broadcasting and electronic services, at the place of consumption. The Commission services are ensuring that the necessary preparatory work for 1 January 2015 is completed in good time, which will give certainty to Member States and economic operators. Guidelines are being prepared for economic operators and communication activities will be carried out to make sure that all businesses are aware of the new rules.

One important issue which is not yet fully resolved is the audit of the businesses under the MOSS. EU legislation on the mini One Stop Shop still foresees that controls and audits are to be carried out by the Member State of consumption, although several tools are available to Member States to enhance coordination of audits. For both EU and non EU companies, this may involve up to 27 different foreign administrations auditing the same companies without any coordination and leading to information requests in multiple languages. Not only could this create disproportionate administrative burdens on the e-business industry but it could also put at stake the efficiency of the audits themselves as well as the level of voluntary compliance (which is particularly sensitive where non-EU companies are involved). Appropriate new tools, such as joint audits, to enhance the efficiency of audits in this sector may be useful, provided Member States can agree on the legal basis. Delivering a successful MOSS as a precursor to the broader One Stop Shop requires full trust by each Member State that taxes will be collected and that the necessary auditing (on the principle of risk) will take place. The Commission is still working on these aspects.

### **3. FUTURE OPTIONS**

#### **3.1. One Stop Shop for all B2C supplies (Intra-EU)**

The natural 'next step', and one that was envisaged in the Communication on the Future of VAT, is to introduce a broader One Stop Shop for all EU B2C supplies of goods and services. The current requirement for suppliers (above applicable thresholds) to register and account in each Member State to which it makes B2C supplies is a clear obstacle to cross border trade. Furthermore a broader One-Stop-Shop is a crucial instrument to facilitate access to the single market. In this respect, the Commission services intend to shortly commence the necessary preparatory work including the carrying out of a study which can also include an early analysis of the MOSS. This study can then assist with the necessary impact assessment before a formal proposal is made to Council. The Commission services believe that the successful introduction of the MOSS is crucial for delivering the necessary buy-in by Member States for the broader One Stop Shop.

The extension of the MOSS should, in the Commission's view, be the right opportunity to improve the weaknesses of the current legislation notably in the area of audit, where the principle of "home country control" could be introduced in the EU legislation. A balanced and effective auditing regime based on the principle of risk, which does not put an undue burden on business or indeed tax administrations, is essential for the delivery of a broader One Stop Shop.

The Commission services consider that the development of the broader One Stop Shop should proceed as a priority.

#### **3.2. Taxation of small consignments**

One of the key benefits of the 2015 Place of Supply rules and the MOSS is that the same tax treatment will apply to supplies of electronically supplied services made by 3<sup>rd</sup> country suppliers into the EU as will apply to intra-EU supplies of the same services. However, there is a distortion of competition generated by the different treatment of small consignments as there is currently a VAT exemption at importation. This exemption creates distortions of competition, as the same goods supplied within the EU are charged with VAT. To ensure a level-playing field for B2C supplies of goods, it will be necessary to examine means by which B2C supplies of goods can be treated the same, whether they come from suppliers from 3<sup>rd</sup> countries or within the EU. To achieve this, the exemption could be removed and replaced with a simplified VAT collection mechanism through a One Stop Shop and/or a simplified customs declaration. In practical terms, this could involve a 3<sup>rd</sup> country suppliers accounting for the VAT through an EU portal or a portal in a specific Member State (as is currently the case for certain services). Such supplies could then benefit from a specific fast track customs clearance. The One Stop Shop would not just apply to the currently exempted small consignments but to other small consignments for which no customs duties are due.

The Commission services consider that the taxation of small consignments from 3<sup>rd</sup> country suppliers should be pursued as a priority in tandem with the broader One Stop Shop, in order to create a level playing field between EU and non EU e-commerce suppliers.

### **3.3. One Stop Shop with 3<sup>rd</sup> Countries**

The possibility of a collection of B2C VAT directly by 3<sup>rd</sup> countries through a One Stop Shop mechanism was discussed at the 2<sup>nd</sup> meeting of the expert group. This would involve tax authorities in 3<sup>rd</sup> countries collecting VAT for Member States akin to the MOSS. The incentive for the 3<sup>rd</sup> country could be a transaction fee for processing the transaction, with benefits for the supplier in terms of administrative burden.

This concept could be promoted by the EU at the level of the OECD in view of completing the OECD Model Tax Convention with a strong consumption tax chapter. Such a chapter could refer either to administrative cooperation arrangements with third countries to assist countries of consumption with the collection of VAT / GST through their own One Stop Shop. But they could also envisage a more ambitious approach, where the country of establishment collects such VAT / GST on behalf of the country of consumption.

The EU should however maybe not wait for such global arrangements to be in place. There could also be bilateral agreements with our key trade partners, either as stand-alone tax agreement or as part of a trade and cooperation agreement. This could give win/win benefits to the Member States and the 3<sup>rd</sup> countries but would obviously require a high level of trust of EU tax administrations in the capacity of foreign administrations to collect taxes on their behalf.

If such an approach was to be pursued, it would require an incremental implementation:

1. Enter agreements with EEA countries and EU candidate countries e.g. Turkey, Norway, Iceland.
2. Negotiate bilateral agreements with key trade partners e.g. USA, China, Japan and Russia.
3. Bilateral agreement with other countries such as partners in the OECD.

It should be noted that to progress such an approach will require a negotiating mandate from Member States.

While the Commission services are favourably disposed to this development, it is considered that priority has to be given in the medium term to bringing forward proposals on the broader One Stop Shop and taxation of small consignments.

#### 4. CONCLUSION AND NEXT STEPS

In conclusion the Commission proposes that an incremental approach should be pursued in respect of developing the VAT digital economy agenda. The steps proposed are as follows:

1. Priority in the short term will be given to ensuring the proper implementation of the MOSS and 2015 place of supply changes for electronic services, including its audit aspects.
2. Work will be accelerated in 2014 on the broadening of the One Stop Shop to include all B2C supplies of goods and services. There will be a lead in time of approx. 18 months before a concrete proposal can be made.
3. The taxation of small consignments of goods from 3<sup>rd</sup> countries will be considered with a view to ensuring a level playing field for suppliers within the EU. Commission services have already commenced a study to assess the impact of the current legislation. There may be scope to combine this work with step 2.
4. A scoping paper can be prepared on the longer term project of a One Stop shop involving 3<sup>rd</sup> countries, and how this can be progressed.

-----