



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL  
TAXATION AND CUSTOMS UNION  
Indirect Taxation and Tax administration  
**Value added tax**

Brussels,  
taxud.r.1(2016)3738778

**Subject: Call for tenders TAXUD/2016/AO-05 – replies to questions**

Dear Madam, Dear Sir,

Enclosed you will find the replies to the questions received from 16/06/2016 up to 29/06/2016 (questions 1 to 5).

This letter is being posted on the website of the Directorate-General for Taxation and Customs Union, at the following URL (“Questions & Answers” section):

[http://ec.europa.eu/taxation\\_customs/common/tenders\\_grants/tenders/ao\\_2016\\_05\\_en.htm](http://ec.europa.eu/taxation_customs/common/tenders_grants/tenders/ao_2016_05_en.htm)

Questions received subsequently will be answered in further letters which will be placed regularly on the same website. Prospective tenderers are invited to monitor this site attentively.

As mentioned in the invitation letter (ref. Ares(2016)2801905 date 16/06/2016) published with the tender documents, requests for additional information received less than six working days before the closing date for submission of tenders, i.e. after 28/07/2016, will not be processed.

Yours sincerely,

*(e-signed)*  
Donato Raponi  
Head of Unit

## **Question no. 1**

Task 1. The title of the first task under point 4.1. refers to the analysis of the application of Articles 306-310, whereas the paragraph below refers to the application of provisions seen in light of the CJEU judgement in the case C-189/11 regarding B2B supplies and the margin calculation. Could the Commission clarify whether the analysis is limited to the application of the special VAT scheme to B2B supplies and the margin calculation, or should the analysis cover all provisions contained in articles 306-310?

### **Reply**

The analysis is limited to the application of the special VAT scheme to B2B supplies and the margin calculation.

## **Question no. 2**

Task 2. The task includes an analysis / estimate of:

- VAT treatment of business models;
- Non-deductible input VAT and VAT paid on the profit margin for services supplied under the special scheme;
- Deductible input VAT and VAT charged to the customers for services supplied under the normal VAT rules.

Could the Commission clarify whether this analysis / estimate should be given per Member State or globally for the EU?

### **Reply**

The analysis and estimates should be carried out globally for the EU.

## **Question no. 3**

Task3. Could the Commission clarify the following terms?

### (1) Itemise VAT

The contractor is required to describe how travel agents itemise VAT in each invoice when acting in their own name and how they itemise VAT when operating under normal VAT rules.

Could the Commission clarify whether this means how agents calculate the VAT payable or how the VAT is shown on an invoice? In most countries agents are not allowed to show VAT on the invoice for a supply falling under the special scheme.

### (2) Undisclosed agent

The contractor should analyse the CJEU judgements in terms of their impact on in-house services supplied by travel agents and on services supplied by them acting as an undisclosed agent (intermediary).

Did the Commission mean disclosed agent in the last part of the sentence?

### (3) Mixed supplies

The contractor should conclude about the competitive disadvantages with regard to mixed supplies and in-house supplies.

Could the Commission clarify what is meant by a “mixed supply”? Bought-in and in-house services in one package? Bought-in and intermediary supplies in one package? Both or other?

## **Reply**

- (1) The tender specifications ask the contractor to clarify:
  - how travel agents itemise VAT in each invoice when acting in own name;
  - how travel agents operating under the normal VAT rules are able to itemise VAT in each invoice.

This means the contractor should clarify:

- how travel agents calculate the VAT payable when acting in own name and if VAT can be disclosed on the invoice;
  - how travel agents operating under the normal VAT rules calculate the VAT payable and how the VAT is shown on an invoice.
- (2) Indeed, the sentence should read: "The contractor should analyse the CJEU judgements in terms of their impact on in-house services supplied by travel agents and on services supplied by them acting as a disclosed agent (intermediary)."
  - (3) The tender specifications ask the contractor to conclude about the competitive disadvantages with regard to mixed supplies and in-house supplies.

A “mixed supply” occurs where the travel agent charges a single inclusive price for a number of separate supplies of services that do not fall under the special scheme. This is different from a single supply that can consist of a single supply, but also a mixture of different services, to which a single rate of VAT applies and that should normally fall under the special scheme.

The contractor should clarify, if certain mixed supplies or certain single supplies do not fall under the special scheme in certain Member States. With regard to in-house supplies, the contractor should identify Member States, where travel agents can be taxed under the normal rules when supplying bought-in and in-house services in one package and if travel agents have replaced bought-in supplies by in-house supplies in order to be taxed under the normal VAT rules.

## **Question no. 4**

Task 4.

- (1) Assessment of distortions of competition

The contractor is asked to assess under the various options the impact of proposed changes (if any) in terms of alleviating distortions of competition identified under task 3 and the impact of each option should be compared to the current rules as applied or the current rules, if correctly applied (options 1 and 2).

Could the Commission clarify whether this is a qualitative or quantitative assessment?

(2) Options

The tender specifications say that the study should cover at least 8 options.

Could the Commission please clarify whether the contractor is limited to the 8 options indicated in the tender specifications plus the 2 sub-options required for options 4 and 8, or whether the contractor can propose other options as well?

**Reply**

- (1) The specific paragraph refers to a qualitative assessment.
- (2) The tender specifications indicate that a further fine-tuning of the options may be required after the interim report. This means, in particular, that there is the possibility to include other options or sub-options identified by the contractor in the final report.

**Question no. 5**

Geographical scope. Point 4.6. of the tender specifications (page 10) refers to 28 Member States.

With the UK referendum in favour of leaving the EU, could the Commission confirm that the UK will still be considered as an EU Member State for the purpose of the study?

**Reply**

We confirm that the UK should still be considered as an EU Member State for the purpose of this study.