



EUROPEAN COMMISSION  
Regulatory Scrutiny Board

Brussels,  
Ares(2016)

## Opinion

### Title

**DG TAXUD – Generalised reverse charge mechanism**

(resubmitted version of 17 November 2016)\*

### **(A) Context**

VAT Directive 2006/112/EC governs value-added tax (VAT) in the EU. It ensures that the principles underlying the functioning of this tax apply consistently in all Member States. In its 2016 Action Plan on VAT, the Commission announced a legislative proposal for a definitive VAT system. This system would operate the same way in the EU as in any individual country. The Commission intends to base this system on the destination principle, meaning that tax rates are determined by where products are consumed.

This broader reform will take time to complete. In the meantime, several Member States are concerned about high levels of VAT fraud. This initiative aims to provide a short-term and temporary tool to tackle VAT fraud.

Member States are currently able to apply a reverse charge mechanism to specific sectors. This initiative would amend the VAT Directive to permit a generalised reverse charge mechanism. This means that authorities could decide to collect all VAT due on all transactions above a certain threshold at the final stage of the supply chain rates.

### **(B) Overall 2<sup>nd</sup> opinion: POSITIVE**

**The Board acknowledges that the quality of the report has improved significantly. The revised report clarifies the context of the proposal and the VAT action plan, and accounts better for stakeholder views. It also provides more data on how the VAT gap and cross-border fraud have evolved over time. The report gives more background information on the level of the threshold together with an explanation on expected effects on SMEs and micro business. Some clarifications have also been added regarding proportionality and the likely increase in costs and reporting requirement for businesses. The report now contains a worst-case scenario in addition to a best-case scenario, and this is integrated in the analysis of options.**

**However, the report has a few remaining weaknesses. The Board gives its positive opinion with some recommendations to further improve the report in the key aspects mentioned hereafter.**

**The lead DG shall ensure that these recommendations are duly taken into account in the report prior to launching the inter-service consultation.**

\* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted.

**(C) Further recommendations for improvements**

**(1) Better structure the comparison of options.** The report should clarify why worst-case scenarios were considered only for reducing VAT fraud and not for the other aspects, such as compliance cost increase or costs to tax administrations. Moreover, it should also make clear why short-term and long-term risks are only considered for VAT fraud reduction. The report should better explain the results of the comparison of options 2b and 3b, given that the assessment of the options appears to be the same even though the score is different.

**(2) Each option should be compared against a baseline.** The scores should reflect the positive or negative assessment of the options compared against the baseline. So the baseline should be scored at zero and the scores of the options adjusted accordingly.

**(3) It should identify risks related to potential additional elements** introduced by Member States that may increase administrative burden or may have negative cross-border effects.

**(4) Stakeholder views should be further referenced throughout the report,** including also the points raised in the consultation for a Green Paper on the possible introduction of an optional reverse charge mechanism.

*Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated into the final version of the impact assessment report.*

**(D) Procedure and presentation**

The summary should make clear that the baseline assumes implementation of the definitive VAT system. It should also present more clearly in box C the impacts on administrative costs to tax administrations. All the options should be presented in the summary, and the choice of the preferred option should reflect related uncertainties (as in the main report).

**(E) RSB scrutiny process**

Reference number	2016/TAXUD/027
External expertise used	No
Date of RSB meeting	26 October 2016