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Our Reference

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Consultation

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Företagarna, the Swedish Federation of Business Owners, is Sweden's largest organization of small-business owners representing some 70, 000 entrepreneurs through over 260 active local associations. Our policy work include compiling information on SMEs, drafting papers from surveys, participating in legislative governmental committees, reviews of Members of Parliament's actions for SME's, participate in public consultations, debates and media etc. We have experts in core business areas and draft suggestions to ease the regulatory burdens and improve business climate, at EU-level as well as at national and regional levels. Our objective is to simplify doing and owning businesses. Företagarna is controlled by its members and has no strings to any political party.

Summary

The Swedish Federation of Business Owners considers the present VAT system to be an obstacle for the Single Market and hampering free competition between businesses. It needs a thorough review with the aim of redesigning, harmonising and simplifying the rules. This includes without limitation, public bodies, exemptions, derogations, national exceptions, options and special schemes, deductions for input-VAT, reporting obligations, invoicing etc.

Small-business exemption is no solution to their problem with VAT as they still must pay input-VAT and this becomes an extra cost when small businesses can't deduct it. Instead the VAT system needs to be designed to meet the needs of small businesses.

A VAT-forum is needed to solve problems that occur between Member States concerning differing interpretations and definitions that risk creating double

taxation for VAT. Such problems are due to inconsistencies in the system which should not affect business but be solved between Member States.

The alternative tax collecting methods should not be taken forward. Member States and Tax agencies should co-operate and make better use of information already available instead of increasing reporting obligations on business.

General comments

Since VAT was introduced in EU a fundamental change in the business structure at large has occurred. Today SME:s represent over 99 per cent of all businesses in EU and are not only acting in their local markets but increasingly view the world as their market to an extent that no one would have imagined some 40 years ago. The shift towards more supplies of services instead of goods along with IT-services in general and electronic solutions in particular make it evident that substantial changes are needed in the VAT system as well. While businesses have developed and changed dramatically, the VAT system has not kept pace and now requires a thorough review.

VAT is a tax on consumption but still entails huge costs and burdens for businesses that are required to act as unpaid tax collectors for governments. The obligations under the VAT rules include substantial financial risks for business along with increasing reporting obligations. As always, small businesses face a heavier burden to cope with complex rules, partly because they can't afford to hire tax specialists. They also run the risk of only realising the existence of a problem once they receive a decision from the tax agency with claims and deviations from their VAT return. Often the decision also includes claims for penalty fees and penalty interests.

Still exempting small business from VAT would not be a solution. As VAT is a tax on the added value of each transaction, exempting small business from VAT would mean they would not qualify for deducting the input-VAT on their purchases. This would increase their level of costs and reduce or wipe out their business margin. This problem has increased as the VAT-rates in general have increased.

The rules of the future VAT system need to be simple, clear and harmonised between Member States to avoid the problems of today's very complex rules. Member States and tax agencies need to co-operate to a much larger extent and to make use of the information already available instead of requiring further information from businesses. Technical development makes it possible and necessary to make better use of information already available. VAT is the single most burdensome area for business according to the measurements of admin burdens in EU from 2007 and the need for improvement and simplification is immense. All business regulations and directives and especially VAT ought to take the situation of small business as a starting point rather than exempting them from the application of the rules.

Q1. Do you think that the current VAT arrangements for intra-EU trade are suitable enough for the single market or are they an obstacle to maximising its benefits?

A 1. There are substantial problems incurred in the present VAT system and the present system for intra-EU trade is far from satisfactory in order to make full use of the single market. The rules are too complex and entail huge financial risks on business including exemptions, national derogations, differing interpretations and definitions between Member States. The Swedish Federation of Business Owners finds that the present system hampers the benefits of the single market and acts as obstacles for small business to engage in intra-EU trade.

As long as there are other and more reporting obligations for intra-EU supplies compared to domestic supplies it will be a hampering factor to assess for business that consider expanding into new markets.

Q2. If the latter, what would you consider the most suitable VAT arrangements for intra-EU supplies? In particular, do you think that taxation in the Member State of origin is still a relevant and achievable objective?

A 2. Preferably there should not be any extra reporting obligations on intra-EU supplies compared to domestic supplies. As a general remark the VAT rules on all types of supplies, international, intra-EU and domestic needs to be reviewed and simplified to suit small business.

Q3. Do you think that the current VAT rules for public authorities and holding companies are acceptable, particularly in terms of tax neutrality, and if not, why not?

A 3. Apparently there are huge differences between Member States when it comes to VAT rules for public bodies. The rules are not harmonised and neutral and hence run the risk of hampering free competition from business. It is important that this problem is highlighted at EU-level as well as domestic and regional as public bodies and public procurement is extensive and an important potential market which should be open to free competition.

Q4. What other problems have you encountered in relation to the scope of VAT?

A 4. Our members mainly run small businesses and are as such extra burdened by administrative obligations in connection with complex rules and reporting obligations. This applies to handling listings and reportings, invoicing, delimitations of exempt or low rate services and goods as well as the scope of the rules. The rules on VAT today are very complex and pose high demands on businesses although they in relation to VAT are merely acting as unpaid tax-collectors for governments. The need for clear and more simple rules is immense.

Q5. What should be done to overcome these problems?

A 5. Small businesses need rules that take their situation as a starting point and should not need to hire tax specialists. We think the future work concerning the Green Paper ought to include a study on a modern harmonised system of standard taxation for VAT for the very small businesses. They should not be requested to report on transaction basis but on a more general scale. We consider the rules should be adapted to the many small business rather than cutting them out of the system as this does not solve their problem.

Q6. Which of the current VAT exemptions should no longer be kept? Please explain why you consider them problematic. Are there any exemptions which should be kept and, if so, why?

Q7. Do you think that the current system of taxation of passenger transport creates problems either in terms of tax neutrality or for other reasons? Should VAT be applied to passenger transport irrespective of the means of transport used?

Q8. What should be done to overcome these problems?

A 6, 7 and 8 The Swedish Federation of Business Owners considers the review should include a general examination of all exemptions, derogations and special national exceptions with the aim to reduce and phase them out. This would improve neutrality and the Single Market as well as facilitate for business to apply the rules. For cases where the result is that the exemption is still needed, the delimitations of it should be clear and easy to apply.

This consideration in turn means that the VAT rules on passenger transport should also be neutral and not depending on the means of transport used. Under today's rules even small business are faced with substantial financial risk should they be mistaken as they try to apply the complex VAT rules. They then often risk penalty fees and interests and with no hope of turning to the customer for compensation for the missing VAT.

Q9. What do you consider to be the main problems with the right of deduction?

Q10. What changes would you like to see to improve the neutrality and fairness of the rules on deduction of input VAT?

A 9 and 10. It is very important to ensure businesses right to deduct input-VAT and thereby avoid trapped VAT costs. Especially small businesses don't have the margins to cover such costs.

Regarding the timing of deduction we welcome the increased possibility of cash reporting. This should though be allowed to a larger extent than at present. In particular we would like to see it applied straight through the fiscal year, including the annual report (straight cash method) whereby the business avoid having to shift method of reporting VAT in connection with the end (and beginning) of the fiscal year. The changes of method increase the risk of mistakes and should be abolished.

Tax agencies and courts should not be allowed to refuse deductions for input-VAT for innocent businesses when some else in the transaction-chain has acted fraudulently. It is not acceptable from a legal rights perspective that innocent businesses that neither participated nor were aware of a fraud should be left with the cost of a refused deduction for input-VAT. These businesses are not to blame for fraudulent behaviour by others taking advantage of gaps and inconsistencies in the system. This should be abolished.

Q11. What are the main problems with the current VAT rules for international services, in terms of competition and tax neutrality or other factors?

Q12. What should be done to overcome these problems? Do you think that more coordination is needed at international level?

A11 and 12. In terms of international services, new rules on intra-EU supplies were introduced as from 2010. The Swedish Federation of Business Owners is critical to the increased reporting obligations in this context as it increases the administrative burden for business. At least there should be a threshold for the reporting obligation so as to avoid reporting obligations starting from 1€ in the periodic statement of intra-EU supplies of services. There are of course problems of VAT- fraud but these problems are surely not solved by imposing detailed and frequent reporting obligations on petty amounts.

Q13. Which, if any, provisions of EU VAT law should be laid down in a Council regulation instead of a directive?

A13. As regards VAT legislation in general it requires unanimity among the Member States and presumably it would be even harder to obtain this regarding a regulation than a directive. As a result The Swedish Federation of Business Owners assumes the only possible way is via directives. If a regulation was proposed, there is risk of further delay of the necessary harmonization and reforms.

Should it on the other hand be achievable with a regulation it would be beneficial as it would of course mean a level playing field compared to the differing implementation of a directive.

Q14. Do you consider that implementing rules should be laid down in a Commission decision?

A14. Please see A 13.

Q15. If this is not achievable, might guidance on new EU VAT legislation be useful even if it is not legally binding on the Member States? Do you see any disadvantages to issuing such guidance?

A15. The Swedish Federation of Business Owners finds it highly unlikely that non-binding guidelines from the Commission would be accepted and therefore solves any problem. It can be expected that Member States and businesses would argue that the guideline is contrary to the basic principles of division of

responsibility between the Institutions and should be overruled in court as soon as they disagree with the guidance.

Q16. More broadly, what should be done to improve the legislative process, its transparency and the role of stakeholders in the process, from the initial phase (drafting the proposal) to the final phase (national implementation)?

A 16. It is very important to conduct impact assessments early in the legal process and to up-date these regularly considering the changes and compromises being introduced.

Commencement dates should be adjusted to the business activity calendar and preferably start 1st January and 1st July. It is further important to include check-points for the Member States implementation process to check up that all are making progress. This is important to avoid delays and missing implementation in some Member States which may otherwise lead to further problems and hamper intra-EU trade.

The Swedish Federation of Business Owners would also suggest a protective rule in the directives requiring a minimum timeframe between the national decision on implementation and the time business and tax agencies must start applying the new rules.

Neither businesses nor agencies can cope with new rules and changed routines instantly. The length of the period would of course differ depending on the magnitude of the change, but the issue should be raised early in the legal process in order to facilitate the implementation of new rules. As regards VAT rules they may often have impact on bookkeeping software which the software companies need some time to develop before updated versions can be ready for the market.

Q17. Have you encountered difficulties as a result of derogations granted to Member States? Please describe these difficulties.

A 17. Members have encountered difficulties in coping with differing rules in different Member States. As VAT is or should be a harmonised area and is present in more or less every transaction all over EU, it is essential that the individual derogations are phased out and the modernised rules are as harmonised as possible. Derogations must be subject to examination of whether it is necessary as the regulatory burden and complexity of the VAT-system must be reduced.

Q18. Do you think that the current procedure for granting individual derogations is satisfactory and, if not, how could it be improved?

A 18. Please see A 17. The Swedish Federation of Business Owners considers that every individual derogation and exemption should be examined with the aim to phase them out of the system. In other words the whole procedure should be abolished.

Q19. Do you think that the current rates structure creates major obstacles for the smooth functioning of the single market (distortion of competition), unequal treatment of comparable products, notably online services by comparison with products or services providing similar content or leads to major compliance costs for businesses? If yes, in what situations?

Q20. Would you prefer to have no reduced rates (or a very short list), which might enable Member States to apply a lower standard VAT rate? Or would you support a compulsory and uniformly applied reduced VAT rates list in the EU notably in order to address specific policy objectives as laid out in particular in 'Europe 2020'?

A 19 and 20. From the perspective of the small business it would mean a considerable simplification to only have to cope with one single (low) tax rate of VAT and no derogations or exemptions. The administration of several tax rates and delimitations between them or between taxable services and a derogation as well as handling of VAT in intra-EU supplies is difficult and cumbersome for small business. The burden is especially heavy on the small business that seldom can afford to hire experts and hence have limited possibilities to handle the rules. Many times they are not even aware of a problem before they are faced with a decision by the tax agency which states they should have reported differently.

In the present system with different tax rates we consider that the same tax rate should apply to comparable products, regardless of the technical solution or media used. This should include a review of the list of goods and services for which reduced rates can be applied.

The general idea should be a shorter list and more clear delimitations as this could include some ease of the regulatory burden on businesses related to VAT.

Q21. What are the main problems you have experienced with the current rules on VAT obligations?

A 21. The regulatory burden includes not only administrative burdens but also material and financial regulatory costs. The total regulatory burden is relatively heavier on small businesses, which is why their situation should be the starting point for any reform of business rules.

Q22. What should be done at EU level to overcome these problems?

A22. An application, in practice, of the principle "Think Small" in all designing of business rules should mean starting with the small business.

The Swedish Federation of Business Owners must again underline that more than 99 per cent of all business in EU are SMEs. This is of course no uniform group that can or should be treated in a uniform way. It is very important to highlight the necessity to analyse how rules and suggestions would work in different size groups. There is considerable difference between a sole tradesman, a company with 9 employees and a group of companies with 49 employees.

The suggestion to have a uniform EU-VAT return could well be a good idea and this also goes for encouraging the use of e-solutions as long as it is voluntary for small business to participate. At the same time it is important to realise that such measures don't solve the basic problems of complexity of the VAT system.

Q23. What are your views particularly on the feasibility and relevance of the suggested measures including those set out in the reduction plan for VAT (N° 6 to 15) and in the opinion of the High Level Group?

A 23. Here is the input from the Swedish Federation of Business Owners to the suggestions by the Commission and the Stoiber Group.

Annual summary VAT returns. We support to abolish these returns as unnecessary. Any changes and corrections are possible to make as a correction of the VAT-return that covers the period in question. This is done in member states that have no annual summary VAT return. Sweden does not apply the annual summary VAT-returns.

Reducing frequency of periodic VAT return. We support the idea but consider the thresholds for quarterly reporting should be higher and follow the recommendations by the Stoiber group (5 million €). It is important that businesses can voluntarily choose more frequent reporting in order to speed up repayment of input-VAT.

Simplifying the proof of VAT exempt export. We support this recommendation.

Abolishing the intra-EU acquisitions listing. The intra-EU acquisitions listing is an example of unnecessary double reporting obligation. Specified reportings by supplier and buyer seems unnecessary which many member states recognize and refrain from this obligation. Sweden does not apply intra-EU acquisitions listing and we support the idea of abolishing it.

Abolishing the "nil" intra EU sales listings. We support abolishing this nil listing. The information (nil intra-EU supplies) is evident from the normal VAT return. Sweden does not apply such nil listings.

Real-time VAT collection system. This suggestion is part of the special study on alternative tax collection. We do not support this or the other alternatives in the PWC study.

Facilitating use of power of attorney for VAT returns and listings. We welcome this suggestion that emanates from the Stoiber group and is aimed at simplifying for businesses to use powers of attorneys for filing tax returns etc. This is especially important to small businesses and the possibility to grant powers of attorneys to several persons alternatively is important when using help from bookkeeping companies. Sweden applies the use of power of attorneys.

Increased use of e-government. We support the suggestion even though the importance of e-solutions as a simplification measure is of greater value for

agencies than for business. Businesses still need to gather and sort the information to report. The main problem for businesses in connection to VAT is not which media they use for reporting!

Incorporating VAT registration into general business registration. We agree and this is already in place in Sweden and several other member states.

Harmonising measures to combat VAT fraud in line with best practice. We welcome increased cooperation between Member States and agencies in the combat against VAT frauds. The Swedish Federation of Business Owners considers the agencies and Member States need to improve co-operation and make better use the information already available to them before any further reporting requirements are placed on businesses.

In this context we come back to the increased reporting obligations from 2010 in the periodic sales listings of intra-EU supplies of services. This matter has also been raised by the Stoiber group in its opinion 22 October 2010.

Under the new rules all supplies of services B2B between Member States must be reported in the special sales listing, specified by buyer with VAT number and amount per quarter (or month). There ought to be a threshold for this reporting obligation.

All too easily are new and more frequent reporting obligations introduced with the argument to stop VAT- frauds. The Swedish Federation of Business Owners demands thorough impact assessments of the increased reporting obligations compared to an increase and improvement of the cooperation between tax agencies based on information that is already available to them. We are quite skeptical to detailed reporting obligations of petty amounts as an effective measure to stop advanced VAT frauds.

Q24. Should the current exemption scheme for small businesses be reviewed and what should be the main elements of that reassessment?

Q25. Should additional simplifications be considered and what should be their main elements?

Q26. Do you think that small business schemes sufficiently cover the needs of small farmers?

A 24, 25 and 26. The Swedish Federation of Business Owners considers the principle "Think Small" could actually solve many problems, provided it was put in adequate practice and not only mentioned as a good idea. A consistent use of this principle would remove the need for Small Business Exemptions. Rules should be designed from the perspective of the many small business and made to fit their working processes. Unfortunately this is far from reality today.

We advocate a simpler system for small business rather than an exemption, which would entail other problems. We prefer harmonised rules without national derogations.

In this context we also welcome a review of the special regime for small farmers with the aim to harmonise it with the VAT regime of other small business. In our view it is less likely that an objective review would find the need for special

regimes just for farmers. Simple rules should apply for all small business regardless of their line of business.

Q27. Do you see the one stop shop concept as a relevant simplification measure? If so, what features should it have?

A 27. The one stop shop is an interesting idea and would merit further study.

The essential features must be that it must be simple and easy to apply to avoid increasing the administrative burden on business. It should comprise input as well as output VAT and all taxable transactions in the Member State, though voluntary for business.

Q28. Do you think that the current VAT rules create difficulties for intra-company or intra-group cross-border transactions? How can these difficulties be solved?

Q29. In which areas of VAT legislation do synergies with other tax or customs legislation need to be promoted?

No answer.

Q30. Which of these models looks most promising in your view and why, or would you suggest other alternatives?

A 30 onwards. At large, The Swedish Federation of Business Owners considers the suggestions for alternative tax collection in the PWC study as complex, adding new burdens and in general not adapted to small business. We don't consider any of the alternatives as a viable alternative. Almost 90 % of all payments within EU below 20 € is made in cash and can't be handled by the suggested systems.

With the split payment model the question arises whether it would be mandatory for business to have a (frozen) bank account in every Member State where the VAT is to be paid. Other problems that we find to be left open are payments via sed-offs from claims, partial payments, late payments, fringe benefits and credit invoices.

One very serious objection to the alternatives in general is also that they seem to contradict the aim of the Better or Smart Regulation programme. Red tape as well as complexity seems more likely to increase. They will inflict new problems with handling of fixed (frozen) VAT accounts and they would also require large investments which are not necessary for business reasons, only for reporting/collecting of VAT.

The central VAT monitoring model would require a giant database as every invoice would have to be registered in the central system. This requires mandatory e-invoicing which we oppose as it is neither realistic nor wanted by small business at large. We foresee increased costs and obstacles for small business with this alternative.

Based on the difficulties for member states to agree on the invoicing directive we don't see them agreeing on such a central (unified) system.

The alternative also entails constant high security risks for business beyond their control as all of their economic activity would be registered in the central database.

The Data Warehouse model has been tried in some member states but is difficult to implement in business systems and the huge amount of data makes it very unlikely to be the solution.

It would also entail high security risks and requires investments in control systems. Keeping information regarding all transactions by a business available on-line at all times would include great risks.

All in all we don't see that these alternatives would solve any fraud problem, merely contribute to a constant surveillance by the tax agencies of transactions that are registered by the law-abiding business.

The certified taxable person model seems contradictory to Think Small as small business would not afford the certification process. The typical small business could neither afford to hire help nor in-house handle the process of applying to VAT rules in a way to achieve certified status.

The Swedish Federation of Business Owners also sees a danger that this alternative may enhance the biased view by tax agencies that business in some sectors are likely fraudsters already by their activity in that very sector. Further this model would be very time consuming and increase rather than reduce the administrative burdens of business.

The Swedish Federation of Business Owners question the figures regarding the VAT-gap in the consultation as the figures depend entirely on a number of assumptions. The theoretical VAT-gap consists of fraud but also of mistakes due to the very complex system of rules as well as bankruptcies and black market.

Some of the alternative collecting methodes we consider would risk increasing the black economy in terms of a parallel trading to avoid registration of invoices in a central database or a data warehouse model.

We fundamentally question the assumption that fraudsters would abide by the rules in any of the suggested alternative tax collecting models. It would hardly be the typical behaviour of a fraudster. Instead the burdens and costs of the suggested models would incur upon all serious business who are already struggling to follow the rules to the best of their ability. As always they carry the full weight of the administrative burdens while they also suffer from the unfair competition from fraudsters and other black market actors.

To reduce the VAT-gap The Swedish Federation of Business Owners would as an initial step advocate to find and analyze best practice among Member States with well-functioning collecting systems for VAT and reflect on how to adjust them to EU level. Further steps could be the harmonization of administrative routines, cutting of red tape for business and increased cooperation between tax agencies.

In the context of the consultation finally The Swedish Federation of Business Owners wishes to acknowledge the valuable work conducted by businesses all around EU to collect VAT on behalf of governments. They should not be burdened by extra reporting obligations but all good forces should be combined to ease their regulatory burdens.

Swedish Federation of Business Owners

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