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European Union tightens net on e-commerce VAT evasion



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Tackling e-commerce fraud is high on the European Union's political agenda, with significant effort being put into creating new rules to combat value added tax (VAT) fraud in particular. An important step in this regard has been the introduction of a significant number of changes to the existing rules on e-commerce taxation.

Anti-fraud measures

On 8 November 2019 the EU Economic and Financial Affairs Council (ECOFIN) convened for a summit which aimed to adopt measures to develop a strong anti-fraud culture and encourage the robust use of fraud prevention controls.

The in-depth discussions held at the summit covered measures to fight e-commerce VAT fraud and reduce financial loss. ECOFIN decided that in order to achieve the summit's objectives, the new rules will adopt amendments to:

- the EU VAT Directive (2006/112/EC) to include a requirement for payment service providers to keep records of cross-border payments relating to e-commerce; and
- the regulation on administrative cooperation regarding VAT, which will allow anti-fraud specialists employed by the relevant EU member states to access and analyse VAT data held by payment service providers.

'Experimental trials' have been conducted in a number of EU member states with similar guidelines. These exercises have already shown how such cooperation can help to tackle e-commerce fraud. The rule changes will need to be confirmed by the European Parliament before entering into force in January 2024.

ECOFIN also reached a political agreement on an update to existing special VAT rules for EU small and medium-sized enterprises (SMEs). The aim of the changes is to reduce compliance and administrative burdens for SMEs and create equal opportunities for cross-border activities and businesses regardless of where they are established in the European Union. The proposed changes will create a special category of qualified SMEs which will be able to benefit from simplifications regarding VAT obligations such as registration and

reporting. Qualified SMEs will include:

- companies that only do business domestically with an annual turnover below €85,000; and
- companies that carry out cross-border business with other EU member states whose total annual EU turnover does not exceed €100,000.

The new and improved VAT scheme for SMEs is expected to enter into force in January 2025.

Comment

Although the aforementioned amendments aim to minimise the risk of VAT fraud, no rules are completely infallible. Unfortunately, in a world of financial intermediation, e-commerce fraud is a lucrative business. Consequently, fraudsters will always seek new routes whereby they can overcome the above and any future EU anti-fraud measures. With this in mind, it is particularly important that all EU member states actively participate and cooperate with EU anti-fraud measures. Only if this aim is achieved will the quantity and quality of data reported and made available for analysis by EU member states be sufficient to tackle this issue.

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