



SEVEN PROPOSALS FOR IMPROVEMENT OF EU LEGISLATION

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NNR

BOARD OF SWEDISH
INDUSTRY AND COMMERCE
FOR BETTER REGULATION

– CUTTING RED TAPE FOR BUSINESS –

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CLEAR DEFINITION REGARDING INTERMEDIARIES

Legislation

EU VAT Directive Council 2006/112

Burden on business

Intermediaries play an important role both in traditional and in digital supplies. A simple, clear definition needs to be in place in order to decide whether a supplier acts in his own or in another supplier's name. Today, member states have different definitions and might rely on civil or other laws to decide this issue. Different views might also appear in different sectors. This lead to an unclear VAT situation and risks for double or non-taxation.

The approach that presumptions under which an intermediary is deemed to be the supplier for VAT compliance purposes is being implemented increasingly in the context of digital trade.

If this is the right approach and if it also should be a general rule must be clarified. A general, simple and clear definition is needed in order to decide what kind of facts that must be in place for an intermediary to be seen as acting in his own or in another supplier's name.

Simplification proposal

The Commission should present a simple and clear definition regarding intermediaries in order to decide whether a supplier acts in his own or in another supplier's name.

Effects of the simplification proposal

- Time-saving
- Reduce costs
- Reduce uncertainty

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SIMPLIFIED VAT INVOICES

Legislation

EU VAT Directive Council 2006/112

Burden on business

The limit of simplified invoices in Article 238 1a needs to be updated to at least EUR 1,000. The VAT requirements for receipts and invoices entail high regulatory burdens for both selling and buying companies.

An SME makes purchases of, for example, building, cleaning or office items in a shop where both individuals and companies can make their purchases. In cases where the purchase concerns goods that include VAT exceeds 400 euro, the business owner must request completion of the cash receipt. The receipt received at checkout is sufficient for a private individual but a company that purchases over 400 euro must have a full invoice to validate its right for VAT deduction. This implies that the purchasing company must ask the cashier, customer service or equivalent for a supplement of the cash receipt. The receipt is for VAT purposes a simplified invoice and several tasks must be completed so that the requirements for a complete invoice are reached. Such a procedure involves an administrative burden for both sellers and buyers. An amount of EUR 1 000 would mean that this kind of add-ons would be needed for significantly fewer cases.

Simplification proposal

The limit of simplified invoice in Article 238 1a needs to be updated to at least EUR 1,000.

Effects of the simplification proposal

Time-saving

Reduce costs

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ONE STOP SHOP FOR VAT ISSUES REGARDING CROSS BORDER BUS TRIPS

Legislation

VAT legislation in different EU member states

Burden on business

The VAT procedures for registration, calculations and levels are different in each country that has VAT on international bus trips. This creates an extreme administrative burden on bus companies' conducting cross border bus trips in the EU. Each country's VAT is after difficult calculation put in context with the whole trip, which makes the procedure even more complex.

There are now a dozen of countries requiring VAT registration and VAT for international bus passenger transports. Each country has different regulations and requirements while detailed information is often only available in the country's local language. In recent years, several new countries such as Poland, Croatia and Slovakia have introduced VAT rules and requirements for VAT registration.

When bus companies are planning cross border trips in Europe in terms of VAT, they have to know what different costs will arise and what expenses they may deduct. The sum of this equation is that bus companies now have to combine all the country specific rules with, the entire length of the trip combined with total sales.

Example VAT:

If a Swedish bus company makes a trip to Berlin it has to plan and calculate VAT based on each passing country's VAT legislation (Sweden, Denmark and Germany) and the whole trip:

- The Swedish part of the trip is not subject to VAT on the basis of the Swedish part of the trip but still plays a big overall role because of the whole length of the trip. If the trip starts in Malmö (in the south) or in Skellefteå (in the northern part of Sweden) will thus have a large effect on the overall VAT calculation.
- When you arrive in Denmark the VAT rate is 25 % and shall be calculated based on the entire length of the journey where the Danish distance will be taxed.
- When you arrive in Germany the VAT rate is 19 % and shall be calculated based on the entire length of the journey where the German distance will be taxed.

The total VAT cost for the trip is calculated based on how many km the bus travels in each country and the total sales for the bus company. A return trip between Växjö and Berlin with 40 people paying 3 000 SEK each for the trip will make the following numbers. Total sales 120 000. Number of km in each country would be: Sweden 2 x 200 km = 400 km. Denmark 2 x 200 km = 400 km. Germany 2 x 300 km = 600 km. Total length of the trip would be 1400 km. VAT in Sweden will be $400 / 1400 \times 120\,000 \times 0\% = 0$ SEK VAT. VAT in Denmark will be $400 / 1400 \times 120\,000 \times 25\% = 8571$ SEK. VAT in Germany will be $600 / 1400 \times 120\,000 \times 19\% = 9771$ SEK. In the example the currency factor have been left out.

If the trip instead would go to Croatia, then the VAT administration regarding the trip will be even more complex since bus companies have to register in Poland, Slovakia and Croatia, where information at best is available in English.

Simplification proposal

A One Stop Shop for all VAT issues regarding cross border bus trips. Services involving knowledge in VAT legislation, registration, calculation, deduction and other issues regarding local VAT regulations in different countries. These kind of services should be gathered to a single One Stop Shop providing VAT solutions for bus companies around Europe.

Effects of the simplification proposal

A One Stop Shop for VAT would dramatically reduce the administrative burdens on SMEs conducting cross border bus trips. It would also reduce the huge uncertainty that exists today. The fines in some countries are huge if you do not have all necessary papers in order.

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REALISTIC IMPLEMENTATION DEADLINES AND NO ACTION LETTER (OR GRACE PERIOD)

Legislation

EU Directives and regulations

Burden on business

In order to ensure satisfactory implementation processes, realistic implementation deadlines are key. The EU's legislative chambers must at all times ensure that there is sufficient time to prepare the level 2 and 3 texts, as well as sufficient time between the finalization of level 2 and 3 texts and their entry into force is needed for implementation. It should be considered whether dynamic implementation dates can be used that would be subject to the timing of finalizing level 2 and 3 measures and their implementation. Too short implementation deadlines lead to unsatisfactory implementation processes and entail heavy and expensive administrative burdens.

To illustrate the problem – if a directive sets out certain requirements to be determined in technical standards or by recommendations from the European Supervisory Authorities, alternatively the directive imposes the introduction of technical standards for the implementation of the directive, it is important that the directive allows sufficient time both for the authorities and the industry to comply with the requirements of new legislations. If sufficient time is not provided there is a high risk that the industry which has to apply certain requirements in connection with the entry into force, shortly thereafter must introduce changes in the business when the authorities publish technical standards and/or recommendation that are strongly related to the act. The Payment Services Directive 2 (PSD 2) is an example where the directive came into force on January 13 2018. PSD 2 contain 11 mandates for the European Banking Authority (EBA), of which 5 relate to technical standards and 6 recommendations. The industry is still waiting for some of the technical standards/recommendation to get into force where the Regulatory Technical Standards (RTS) on strong authentication and secure communication is of importance for the industry.

As an alternative, consideration could be given to the possibility for the ESAs (European Supervisory Authorities) to have a mechanism like the so-called No-Action letters used by certain non-EU financial authorities, for example the US authorities. Such a possibility could give financial markets in EU some needed flexibility when financial institutions are faced with implementation challenges and will not be able to comply with rules on the day of application. An example to support this argument is the EMIR variation margin exchange requirement where the ESAs had to publish a statement inviting the national authorities to show understanding in the enforcement of a rule while highlighting that they legally cannot allow for the postponement of the enforcement.

Simplification proposal

Implementation deadlines in directives and regulations should take into account regulations to be introduced at levels 2 and 3.

Effects of the simplification proposal

If proposed simplifications are introduced it will simplify the implementation for companies through significantly lower costs for eg. changes in computer systems, internal education, information to customer (correct information is given at one time) etc.

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COMPENSATION FOR LATE EU PAYMENTS

Legislation

Council Regulation (EU) No 1306/2013 Article 75 and Commission delegated regulation (EU) No 809/2014 Article 7

Burden on business

Entrepreneurs have to manage different risks in order to facilitate economic planning and investments. For example, the administration of the Common Agricultural Policy (CAP) can result in long processing times for approval of applications and late payments. This might jeopardize investments or increase costs if late payments have to be covered by credits and loans. These types of administrative risks have to be reduced. The EU regulation, that already covers compensation if a farmer has to pay back earlier received payments, should therefore comprehend compensation to the farmer if payments are delayed due to the administration of the CAP.

Simplification proposal

In order to improve the administration of the CAP and reduce risks for entrepreneurs the EU regulation should cover a penalty interest on overdue payments. The conditions for the compensation should connect to EU regulation on recovery on undue payments (art 7, 809/2014), payments to farmers (art 75, 1306/2013) and the calendar year of the application. A new sub paragraph under article 75, 1306/2013, would probably be a suitable solution.

Effects of the simplification proposal

Reduced risk for entrepreneurs.
Improved CAP administration.
Increased trust in EU policy.

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INVESTMENT AID – UNIT COSTS (SIMPLIFIED COST OPTIONS)

Legislation

Council Regulation (EU) No 1303/2013 article 67.1

Burden on business

A recent survey which included 300 Swedish dairy producers draw attention to difficulties when using the investment aid in the Rural Development Program. As far as we know the Swedish experience of the investment aid is also valid for other Member States. The investment aid has two options; 1) actual cost model and 2) simplified cost options.

Most farmers have to use the first model due to the nature of the common investments (improvements/expansions). This normally involves complex administration and long processing times for the approval of applications which, for the farmer, means red tape and uncertainty regarding the proportion of the aid/payment. The uncertainty and delay in administration jeopardize investments. Creditors hesitates when a complete budget cannot be presented with the loan application. Many investments that will contribute to competitiveness, animal welfare and environmental improvements will be on hold for a long time.

In order to improve the administration, the system needs to be more effective and easier. The possibility to use the simplified cost option should be improved.

Simplification proposal

Make it easier for Member States to use simplified cost options, for example standard scales of unit costs, when applying the investment aid in the Rural Development Program. It is necessary to improve and simplify the process where the European Commission confirm proposals from Member States on unit costs (simplified cost options) regarding investment aid or other aid measures. When increasing the opportunity to use the simplified cost option the investment aid will be more attractive to farmers. The proposal will reduce the administration burden both for farmers and the Paying Agencies. Improving the possibility to use simplified cost options will reduce uncertainty for farmers and the time required for Paying Agencies to handle applications.

Effects of the simplification proposal

- Time-saving
- Reduced costs
- Reduced uncertainty
- Improved CAP administration
- Increased investments

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ANIMAL RELATED SUPPORT – REDUCE OBSTACLES AND FINANCIAL RISKS FOR FARMERS BUYING LIVE ANIMALS

Legislation

Commission Delegated Regulation (EU) No 639/2014 Article 53 para. 2 and 4

Burden on business

Bovine animals and/or sheep and goats must be identified and registered in accordance with regulation (EC) No 1760/2000 and/or regulation (EC) No 21/2004 from a date set by the member state, in order to be eligible in animal related support schemes. When animals are purchased after this date, errors made by previous owner after this date will be transferred to the purchaser disqualifying the animal from support the present claim year. This may also affect other types of support where the level of support is based on the number of animal units.

The purchaser can mitigate the risk that the animal is disqualified by making inquiries before the purchase concerning each animal to the national animal register. However, regulations safeguarding data and privacy may prohibit the national register to share the information, ultimately leaving civil lawsuit for damages as the final possibility for the purchaser. Both inquiries and potential lawsuit obstructs efficient trade with live animals. The transfer of errors also introduces an unnecessary risk/uncertainty (cost) into the purchaser's business and a risk that the system in fact penalizes the wrong person.

Simplification proposal

Article 53 para. 2 or 4: in the Commissions delegated regulation (EU) No 639/2014 should be amended, for example as follows:

However, without prejudice to other eligibility conditions, an animal shall also be deemed eligible for support where the identification and registration requirements referred to in the first subparagraph are met by a date to be fixed by the Member State, or the date the animal arrives at the holding of a new holder in case the animal is transferred after the fixed date. The date fixed by the Member State shall not be later than:

Effects of the simplification proposal

Reduced costs

Reduced uncertainty

Increased trust on EU administration

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MEMBERS OF THE BOARD OF SWEDISH INDUSTRY AND COMMERCE FOR BETTER REGULATION, NNR

The Employers' Organisation for the Swedish Service Sector (Almega)
The Swedish Property Federation (Fastighetsägarna Sverige)
The Association of Swedish Finance Houses (Finansbolagens Förening)
The Swedish Investment Fund Association (Fondbolagens Förening)
The Swedish Federation of Business Owners (Företagarna)
The Federation of Swedish Farmers (Lantbrukarnas Riksförbund)
The Small Business Association (Småföretagarnas Riksförbund)
The Stockholm Chamber of Commerce (Stockholms Handelskammare)
Swedish Private Equity & Venture Capital Association, SVCA (SVCA)
Swedish Trade Federation (Svensk Handel)
The Swedish Industry Association (Svensk Industriförening)
The Swedish Bankers' Association (Svenska Bankföreningen)
The Swedish Securities Dealers Association (Svenska Fondhandlareföreningen)
The Swedish Petroleum & Biofuel Institute (Svenska Petroleum och Biodrivmedel Institutet)
The Confederation of Swedish Enterprise (Svenskt Näringsliv)
The Swedish Confederation of Transport Enterprises (Transportföretagen)
Visita – The Swedish Hospital Industry

The Board of Swedish Industry and Commerce for Better Regulation, NNR

The Board of Swedish Industry and Commerce for Better Regulation was formed in 1982 and is a politically independent non-profit organisation wholly financed by its members, which include 17 Swedish business organisations and trade associations together representing just over 300.000 companies. This means that NNR speaks for all active companies in Sweden with one or more employees; companies in every industry and of every size. NNR's task is to advocate and work to achieve more effective and less costly regulations and a reduction in the extent to which companies are required to report information in Sweden and the EU. NNR coordinates the business sector's review of impact assessments of proposals for new or amended regulations as well as the business sector's regulatory improvement work at national and EU level. This focused area of activity makes NNR unique among business organisations in Europe. More information on NNR is available at www.nnr.se.