

# Questions and Answers on the VAT proposal for administrative cooperation

The Commission has repeatedly voiced concern at the level of VAT fraud currently taking place in the EU. Recent revelations of large-scale VAT evasion by wealthy individuals as part of the Paradise Papers and reports of how VAT fraud can result in tax revenues being spirited away to fund organised crime, including terrorist organisations, have also underlined the urgent need to tackle problems in this area.

Member States recently identified cross-border VAT fraud as [one of their top ten priorities](#) when it comes to the fight against organised and serious international crime. The most cautious estimates show that VAT fraud can lead to lost revenues of over €50 billion a year for Member States.

As part of the EU's efforts to tackle VAT fraud once and for all, the [Commission recently launched its plans for an EU-wide VAT area](#) which will be fraud-proof and better for business, while bringing in much needed revenues for Member States. Member States have also already made efforts to tackle VAT fraud. But to complete the picture, EU countries need to cooperate more to investigate and crack down on instances of VAT fraud. They also need access to the most relevant and up-to-date information so that they can react speedily and effectively. Improving the cooperation between Member States' tax authorities, other national law enforcement bodies and law enforcement authorities at EU level is the best way to reduce the damage made by criminals and to improve fairness of the taxation system in the short-term.

Today's proposals were first announced in April 2016 as part of the Commission's [VAT Action Plan](#) and formed part of the [20 measures to tackle the VAT gap](#). As part of the VAT Action Plan, the Commission committed to presenting a proposal to enhance VAT administrative cooperation and 'Eurofisc', the EU's network of Member State VAT fraud experts. The measures announced today also respond to [concerns raised by the European Court of Auditors](#) in this area.

## **What are you proposing with today's package of measures?**

Today's proposals will strengthen cooperation between Member States, enabling them to tackle VAT fraud more quickly and more efficiently. Taken together, the measures would give a major boost to our ability to track and clamp down on fraudsters and criminals who steal tax revenues for their own gain.

Key measures included in this legislation will lead to:

- **Strengthening cooperation between Member States:** VAT fraud can happen in a matter of minutes, meaning that Member States need to have the tools to act as quickly as possible. Today's proposal would put in place an

online system for information sharing within 'Eurofisc', the EU's existing network of anti-fraud experts. The system would enable Member States to process, analyse and audit data on cross-border activity to make sure that risk can be assessed as quickly and accurately as possible. To boost the capacity of Member States to check cross-border supplies, joint audits would allow officials from two or more national tax authorities to form a single audit team to combat fraud – especially important for cases of fraud in the e-commerce sector. New powers would also be given to Eurofisc to coordinate cross-border investigations.

- **Working with other law enforcement bodies:** The new measures would open new lines of communication and data exchange between tax authorities and European law enforcement bodies on cross-border activities suspected of leading to VAT fraud: OLAF, Europol and the newly created European Public Prosecutor Office (EPPO). Cooperation with European bodies would allow for the national information to be cross-checked with criminal records, databases and other information held by Europol and OLAF, in order to identify the real perpetrators of fraud and their networks.
- **Sharing of key information on imports from outside the EU and on vehicle registration:** Information sharing between tax and customs authorities would be further improved for certain customs procedures which are currently open to VAT fraud. A special system that means that goods arriving from outside the EU with a final destination of one Member State can arrive in the EU in another Member State and transit onwards VAT-free. VAT is only charged when the goods reach their final destination. This feature of the EU's VAT system aims to facilitate trade for honest companies, but can be abused to divert goods to the black market and circumvent the payment of VAT altogether. Under the new rules information on incoming goods would be shared and cooperation strengthened between tax and customs authorities in all Member States.
- **Access to car registration data:** Trading in cars is also sometimes subject to fraud due to the difference in how VAT is applied to new and used cars. Recent or new cars, for which the whole amount is taxable, can be sold as second-hand goods for which only the profit margin is subject to VAT. In order to tackle this type of fraud, Eurofisc officials would also be given access to car registration data from other Member States.

## What is Eurofisc?

[Eurofisc](#) is a network of national EU Member State analysts working in different areas of fraud risk. It was set up in 2010 to improve the capacity of Member States to combat organised VAT fraud, especially carousel fraud. Managed by EU Member States, Eurofisc allows them to exchange early warnings on businesses suspected of being involved in carousel fraud. The European Commission contributes with administrative and logistical support without having access to operational data.

However, Eurofisc could be greatly strengthened and improved in order to better fight carousel fraud in particular. The speed at which information is exchanged must be improved, while information exchange needs to be more targeted: swift responses are key to fighting carousel fraud which can happen

in the blink of an eye.

### **What information and data is currently shared between Member States and what needs to be improved?**

While the tax authorities of Member States do already exchange some information on business and cross-border sales, this cooperation relies heavily on the manual processing of information. At the same time, VAT information and intelligence on organised gangs involved in the most serious VAT fraud are not shared systematically with EU enforcement bodies. Finally, a lack of investigative coordination between tax administrations and law enforcement authorities at national and EU level mean that this fast-moving criminal activity is not currently tackled quickly enough.

To combat the most serious cross-border fraud cases, national tax authorities exchange targeted information multilaterally within Eurofisc, a network of tax officials. Tax authorities can also carry out simultaneous controls in other Member States and arrange for tax officials from other Member States to be present in administrative offices and during administrative enquiries.

However, those instruments for administrative cooperation are not fit for purpose and need to be improved:

- The main mechanism for exchanging information is inefficient as it relies on manual collation and circulation of information which could easily be made automatically available. These practices generate complexity and delays and therefore decrease the value of the information exchanged, consuming the resources of tax administrations resources that could be freed up for other tasks;
- VAT information and intelligence on organised crime structures involved in serious VAT fraud is not currently shared between, on the one hand, tax administrations and Eurofisc, and on the other hand, other law enforcement authorities at national and EU level. A multidisciplinary approach involving both is critical to identify, prosecute and have a real impact on stopping the real perpetrators of crime, putting an end to serious VAT fraud;
- The way Eurofisc tax officials identify and exchange information and intelligence about risky traders and fraudulent networks is complex and causes delays. In addition, while Eurofisc tax officials are the first to be warned about new fraudulent networks and have strong expertise in serious VAT fraud, they play no role in the coordination of the subsequent audits;
- At the moment, tax officials cannot be directly involved in on-the-spot audits carried out by other tax administrations. That can generate delays and put a strain on the resources of the tax administrations where the business being audited is based.

### **What are the different kinds of VAT-related frauds that this proposal aims to tackle?**

Today's measures would vastly improve the current problems the EU faces with VAT fraud. The main issues are:

## **1. Missing trader fraud and carousel fraud**

### **The problem:**

VAT fraud can occur when a company that has collected VAT from its buyer and should pay this amount to the tax authority does not do so but instead disappears. The business owner simply vanishes with the money. Most fraud takes place when the company buys goods from another Member State, because purchasing the goods is VAT-free on cross-border transactions. When selling the goods on domestically, the company receives the entire amount of VAT, which it pockets. Because the company disappears, this type of fraud is called missing trader fraud.

Carousel fraud goes even further. In this case the same goods are bought and resold by the fraudster several times via middlemen. Each time the amount of collected VAT increases and the company either disappears or becomes insolvent before the tax authority can collect the accumulated VAT. With carousel fraud, the same product goes around several times before the fraudsters disappear.

The most damaging VAT fraud is committed by organised crime groups through VAT carousel fraud. Organised crime groups benefit from their international criminal structures and connections to establish efficient cross-border VAT fraud schemes to extort money from national budgets.

The [European Court of Auditors](#) and Europol estimate that organised crime groups cause €40-60 billion of the annual EU-wide VAT revenue losses and that 2% of those groups are behind 80% of the carousel fraud. Proceeds of VAT carousel fraud are usually reinvested in new criminal activities or laundered.

### **The fix:**

The measures announced today would have a profound effect on how Member States exchange information around cross-border VAT fraud in the EU, allowing them to consolidate information on the businesses taking part in this activity in different countries and to investigate suspicious activity more easily. Once agreed, the rules would put in place a mechanism by which Member States would be able to jointly process and analyse data on VAT fraud via the Eurofisc network of Member State experts. At the same time, Member States would be able to jointly audit and assess companies operating cross-border where there is reason to believe that fraudulent activity is taking place. EU countries would also be able to send officials abroad to assess cases of VAT fraud in other Member States where their country has been losing out on tax revenues.

## **2. Clamping down on VAT fraud arising from imports from outside the EU**

### **The problem:**

Goods that arrive from outside the EU with a final destination of one Member State can arrive in the EU via another Member State and transit onwards VAT-free (under the so-called customs procedures 42 and 63). VAT is only charged

when the goods reach their final destination. This feature of the EU's VAT system aims to facilitate trade for honest companies, but can be used by criminals to divert goods to the black market and circumvent the payment of VAT altogether. In practice these procedures are often abused with a combination of tricks such as under-evaluation of the value of imported goods to evade customs duties.

Currently, tax authorities have difficulty detecting such fraud on time. This is further exacerbated by the fact that Member States of import and of destination have to wait for the importer's paperwork (or 'recapitulative statement') to arrive before carrying out checks. Often the importer fails to send this statement. The entire process can be cumbersome and lengthy, while fraud can occur very quickly.

#### **The fix:**

For the first time, tax authorities will share information on imported goods from outside the EU that make use of customs procedures 42 and 63 leading to VAT fraud. The relevant information about the imported goods (e.g. VAT numbers, value of the imported goods, type of commodities etc.) already submitted electronically with customs declarations, will be shared by the Member State of import with the tax authorities in the Member State of destination.

The tax authorities in both countries would therefore be able to cross-check this information with the information reported by the importer and by the recipient in his VAT return.

The measure proposed will allow:

- the Member State of destination to inform the Member State of import if the VAT number of the customer, albeit valid, had been used by the importer without their knowledge;
- the tax authorities to cross-check the customs information with the VAT recapitulative statements and to detect undervaluation at the moment of import, designed to avoid customs duties;
- automated access to the VAT Information Exchange System (VIES) by customs authorities responsible for checking the conditions for the VAT exemption in customs procedures 42 and 63.

### **3. VAT fraud in the sale of second-hand cars**

#### **The problem:**

Trading in cars is also sometimes subject to fraud due to the difference in how VAT is applied to new and used cars. Recent or new cars, for which the whole amount is taxable, can be sold as second-hand goods for which only the profit margin is subject to VAT. The cars can then be sold on without the VAT being paid on the whole price to the tax administrations in other Member States. This kind of fraud has been taking place for years and has now profoundly altered the level playing field between honest businesses and fraudsters in this sector.

## **The fix:**

Tax authorities will be given access to information held in car registration databases so that fraud in the second-hand car market can be identified and acted upon as quickly as possible. Currently, Member States face difficulties when they have suspicions about specific vehicles and they do not know which Member State should be made aware. This may delay action, hampering the ability of the Member State receiving the car to react quickly.

The Commission proposes to improve access to vehicle registration data by allowing Member States to have access to car registration data in other Member States through [EUCARIS](#), the existing the European vehicle and driving licence information system. This would increase administration capacities to react to fraud on cars and allow quick reaction when that fraud is flagged to enforcement agencies.

## **How will the proposal change the way EU agencies such as Europol and OLAF work together to crack down on fraud? What role will the EPP0 play?**

The proposal involves a much more integrated and intertwined anti-VAT fraud system in the EU with clearer and more direct links between tax authorities, law enforcement and intelligence agencies. Europol and OLAF are the two bodies that are at the forefront of the fight against fraud at EU level. A direct link between Eurofisc, Europol and OLAF as well as with the EPP0 for the most serious VAT fraud cases, would maximise the value of the information in the fight against criminal organisations.

The proposal will also develop the exchange of information and intelligence between Member States tax administrations in Eurofisc and law enforcement authorities at the EU level:

- **Member States** (via Eurofisc) would be able to exchange information and intelligence with **OLAF** and **Europol** to allow those agencies to cross-check the information with their own data. This would help to identify the criminals behind the schemes and their business partners in the EU. Europol would then be able to share the information with national law enforcement authorities leading to more action against VAT fraud suspects. OLAF would be able to coordinate investigations at national level.
- **Member States** would be obliged to spontaneously send information on VAT fraud cases involving at least two Member States connected to cross-border VAT fraud above €10 million to the **EPP0** for appropriate follow-up.

## **Will personal data of businesses and consumers be recorded and exchanged?**

Today's proposal would trigger new exchange and joint processing of existing VAT information, which could include personal data. However, data collection would be strictly targeted and circumscribed to operators supposedly involved in fraudulent transactions. The data would be kept only for the time necessary for analysis and investigation by national tax authorities empowered to enforce VAT obligations. They would be used solely to identify

potential fraudsters at an early stage and to put an end to fraudulent networks whose purpose is to abuse the VAT system by perpetrating VAT fraud. They would be accessed and used by authorised personnel alone.

Nevertheless, these measures would ultimately be subject to Article 8 of the [Charter of Fundamental Rights](#) and the existing [General Data Protection Regulation](#) will be respected.

### **Who did you consult for this proposal and what are the next steps?**

In 2016, the Commission announced its intention to propose a definitive VAT system in order to create a robust single European VAT area. Among the short-term measures, the Commission announced that it would seek to improve the exchange and analysis of information by tax administrations and with other law enforcement bodies, to strengthen Eurofisc and to introduce new tools such as joint audits.

In their [conclusions of May 2016](#) on fighting VAT fraud, Member States acknowledged that improving administrative cooperation between tax authorities was of significant importance. The Council also called on the Commission to propose ways of addressing legal obstacles and practical limitations in the EU and within the Member States that are holding back a qualitative leap in information exchange. In November 2016, the European Parliament welcomed the VAT Action Plan and supported its measures to reduce the VAT gap and tackle VAT fraud in its [resolution](#).

In spring 2017 the European Commission [consulted the general public](#) in drawing up the current proposal. The Commission also sought the opinion of the tax authorities in the Member States.

These legislative proposals will now be submitted to the European Parliament for consultation and to the Council for adoption.

### **When will the proposals enter into force?**

The measures will enter into force as soon as they are agreed by the Member States and the European Parliament has given its opinion. However, as the implementation of the automated access to the information collated by the customs authorities and to vehicle registration data will require new technological developments, their application will be deferred until 1 January 2020 to allow the Member States and the Commission to carry out those developments.

### **For More Information**

[Press release](#) on the proposed tools to combat VAT fraud

[Action Plan on VAT – Towards a single EU VAT](#) area

[Press release](#) on reform of EU VAT rules

[Q&A](#) on reform of EU VAT rules

[Factsheet](#) on reform of EU VAT rules

[Q&A](#) on VAT for e-commerce