

To: Taxation Working Group
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Subject: Review of VAT rules for financial services - stakeholder associations meeting update

Background

On 28 April, the secretariat held a call with the EC and other associations representing the financial services sector.

The goal of the call was to present the informal and preliminary paper (see [ECO-TAX-21-030](#)) which provides three possible solutions that the EC is considering for review and discuss it with the stakeholder associations.

The foreseen deadline for the EC to submit a proposal for the review of the VAT directive was by mid-2021. As the EC is taking a holistic approach, it seems that the deadline will be postponed to the end of 2021.

At the current stage, there are several ideas that are being considered, and therefore the preliminary paper cannot be considered a definitive list of proposals for the review. Among the several options that are being considered for the review of the VAT directive there are, for instance, the removal of the exemption, a reduction of VAT rates and taxation through other non-VAT taxes.

The proposals will be further discussed at a conference in Berlin on 6-8 October, and it's possible that other stakeholder meetings will be organised.

The representatives of the EC illustrated the three proposals of the paper:

- **Re-introduction of cost-sharing arrangements for the financial sector in order to limit the impact of non-deductible input VAT.**

While this idea had appeal during the discussions, it is considered the less ambitious proposal. It is considered a "quick fix", because it would be a targeted intervention which does not solve what are considered the structural issues of the VAT directive (lack of VAT neutrality, problem of competitiveness of the sector, etc). The issue of uncertainty of the rules on VAT Grouping was raised but it looks like there will be less of a focus on this.

- **Taxation of only fee-based financial services at a reduced VAT rate – with a minimum rate set at a revenue neutral level.**

This option would consider the principles of VAT treatment of financial and insurance services. It would limit the scope of exemptions and would tackle the issue of non-deductible VAT. To make a distinction between the B2B services, the Commission proposed to distinguish fee and non-fee based services. To establish the rate, the issue of revenue neutrality for member states should be looked at.

- **Taxation of only fee-based financial services at a reduced VAT rate – with a minimum rate set at a revenue neutral level and with additional measures to avoid financial exclusion of low income groups and relocation outside the EU.**

This option would build on the previous one, combining it with several measures designed to tune the proposal to address specific problems (e.g. looking at the impact on consumers, to avoid the risk of financial exclusion), proposing social packages guarantees. The impact on competitiveness would also



be evaluated. To avoid relocation, cost sharing arrangements could be reintroduced, and special arrangements would be designed for specific types of services (e.g. high frequency trading).

At this stage it would not be possible to discuss the details of the review, as they would depend on the choices made in terms of VAT treatment of financial services.

The first round of discussion focused on the options presented in the paper. In general, the financial associations seem to agree on the need to update the definitions and re-introduce CSAs. Many also indicated the need of clarity on the definition of fee-based services which would be taxed. The Commission specifically asked for feedback on this, to identify possible issues or unfair treatment.

The removal of the option to tax would probably not be supported by all member states, and therefore it should be carefully considered.

Insurance Europe reiterated the support for CSAs and asked for clarity on the rules for cost sharing groups, in light of the recent ECJ jurisprudence. Fee-based services concern mainly the fund and banking industry, so the clarification of the definition is crucial to interpret the rules.

The EC reported that there have been different interpretations of fee-based services: one which believes that insurance is fee-based and would therefore be taxed, and a second opposite interpretation which sees premiums not as fees but as compensations for the risk undertaken. According to this, insurance would not be affected. Rather than the definition of fee-based services, it appears that the issue is whether the EC wants to tax these models (insurance premium, margin-based transactions etc). The EC would also like to understand what transactions are equivalent to fee-based services and when it would make sense to tax them, where it's easier to identify the taxable base, etc. Depending on that, the drafting of the legislation will be different.

The discussions continued on the problem of neutrality of current rules in relation with new business models in FinTech and level playing field in that context. The EC is looking for more concrete data and examples to analyse the impact of VAT in this area, in which there are less data and the definition of tax base for these services is more complex.

As additional contributions are welcome to shape the discussions, Insurance Europe is looking to prepare a document with further explanations on the topic of insurance premium and fee-based transactions.

Next steps

- The secretariat will present the update on the meeting during the Taxation Working Group meeting on 12 May.
- The secretariat will liaise with members to draft the document which will be submitted to DG TAXUD.