

Position on the European Commission's proposal for VAT in the digital age



PostEurop[•]

ABOUT POSTEUROP

POSTEUROP is the association which represents 55 European public postal operators. It is committed to supporting and developing a sustainable and competitive European postal communication market accessible to all customers and ensuring a modern and affordable universal service. Our Members represent **2 million employees** across Europe and deliver to **800 million customers daily** through over 175,000 counters.

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CONTEXT

PostEurop represents 55 Universal Postal Service Providers across Europe and is a restricted (i.e. regional) Union of the Universal Postal Union (UPU). The postal sector is a major contributor to, and facilitator of trade within the European Union and globally. The postal network is an open access channel and a vital facilitator of trade linking public administrations, businesses and consumers as well as enabling small business enterprises and social customers to access efficient communications and e-commerce services on a global scale.

Efficient and effective postal services are essential to the social fabric and economic life of the European Union, and as a Service of General Economic Interest (SGEI), plays an important social function: postal operators are there to provide a quality, accessible and affordable universal postal service to all, as defined not only in the European Postal Services Directive, but also as signatories to the Universal Postal Union Treaty to which all countries, including EU Member States, are members.

1. INTRODUCTION

PostEurop and its Members welcome and support the objectives pursued by the VAT in the Digital Age package¹, that should lead to a more advanced level of standardisation and harmonisation of e-invoicing and digital reporting, combat fraud and reducing administrative burden on businesses and suppliers.

PostEurop thanks the European Commission for the opportunity granted to business operators to provide comments on the proposed measures and underlines that it is prepared to play an active role in this reform, as an active contributor during the subsequent stages.

The **proposal to amend the Directive 2006/112/EU**² is an important step to overcome the fragmentation of the VAT reporting requirements and of the e-invoicing requirements in the EU.

Nevertheless, the proposal also leads to a number of challenges and raises questions that PostEurop would like to address.

In our comments, we focus mainly on one element of the proposal, namely the introduction of an EU digital reporting requirement. A further comment is made in connection with a proposed change within the Import One Stop Shop (i.e. the introduction of the unique consignment number).

2. POSTEUROP'S GUIDING PRINCIPLES HIGHLIGHTED DURING CONSULTATION PERIOD

In its contribution³ submitted during the consultation period last year to the European Commission, PostEurop pointed out some guiding principles for the reform of the VAT rules in the digital age:

2.1. Extension of the IOSS system and abolishment of Euro 150 threshold

The first point PostEurop underlined was the necessity to make the IOSS system **mandatory** for all economic operators and electronic interfaces acting in the e-commerce sector as well as the abolishment of Euro 150 threshold for applying the IOSS system.

In the EU's package, there is the proposal to make the IOSS system mandatory – although only for electronic interfaces acting as deemed supplier – while no provision related to the abolishment of the Euro 150 threshold for the use of the IOSS system was included in the EU's proposal.

PostEurop welcomes the Commission's statement included in the proposal for a Council Directive amending the VAT Directive 2006/112/EC, in paragraph "Consistency with other Union policies" on page 10, where it is specified that *"Any other improvement or extension, such as the removal of EUR 150 threshold below which this simplification scheme can be used"*, will be done in the framework of this customs reform".

According to PostEurop's perspective, a mandatory use of the IOSS regime together with the abolishment of the current Euro 150 threshold for applying the system would remove some of the critical issues identified, including the phenomena of double taxation (once at the time of purchasing via IOSS and another one at time of importation, linked to the different meaning of "consignment" and "order") or possible discrepancies between VAT and Customs legislation (linked, for example, to the different exchange rate used for the assessment of Euro 150 threshold for shipments where the total amount is expressed in currencies other than Euro).

As underlined in PostEurop's contribution to the public consultation, **making the registration to the IOSS system mandatory for all economic operators acting in the e-commerce arena together with the abolishment of the current Euro 150 threshold** would accelerate and simplify the handling of consignments thus significantly contribute to a successful implementation of the new rules.

¹ [VAT in the Digital Age package](#)

² [Proposal for a COUNCIL DIRECTIVE amending Directive 2006/112/EC as regards VAT rules for the digital age - COM/2022/701 final](#)

³ [PostEurop's feedback to the call for evidence on the initiative "VAT in the Digital Age"](#)

⁴ Underlined added

2.2. Data quality for ITMATT flows

Another key point highlighted by PostEurop in the previous position paper were the challenges associated with data quality for ITMATT flows for postal operators

PostEurop would like to underline how, in order to have a system which works at its full speed and capacity, it's crucial that the data quality included in the ITMATT messages are complete and of high quality. The Universal Postal Union, PostEurop and individual postal operators are working hard and are investing a lot in the continuous improvement of the ITMATT data but it has to be reminded that this process will take time and the data quality within the postal stream is closely monitored by the UPU and key indicators regularly reported to DG TAXUD for ICS2 purposes. Moreover, postal operators from outside the EU base their efforts on the data required by the current ITMATT standard defined at UPU level. For this reason, we would like to bring the Commission's attention on the fact that **each additional new data required for flows entering the EU but non-aligned with the standards defined at UPU global level (see paragraph 3.10 on the unique consignment number) will be difficult to obtain from non-EU posts which, in return, may cause potential consequent operational issues.**

3. POSTEUROP COMMENTS ON THE PROPOSED LEGISLATIVE PACKAGE "VAT IN THE DIGITAL AGE"

3.1. Fight against fraud

The main reason for the proposed changes in the EU VAT Directive is the VAT gap and the fight against fraud. Although the fight against fraud is of course something that PostEurop supports, it's necessary to weigh whether the proposed changes – placing a substantial administrative burden on businesses – are proportional. We agree on the fact that Digital Reporting Requirements (DRRs) may help in the fight against fraudulent activities, but – as previously emphasised – it's important to better evaluate at what cost this will be achieved.

According to PostEurop's point of view, a clear statement is needed on how digital reporting of data will effectively contribute to fight fraud.

3.2. Electronic invoices in a structured format, obligation to issue electronic invoices and removal of the acceptance requirement by the recipient – Articles 217, 218 and 232

The proposal defines an electronic invoice as an invoice that is transmitted and received in a structured electronic format, provides that Member States may impose the obligation to issue electronic invoices and removes the requirement of acceptance by the recipient.

Accordingly, invoices issued in another electronic format (e.g. as email or as pdf) will no longer qualify as electronic invoices anymore. It would thus seem that invoices issued in an electronic form that do not have a structured format are not acceptable anymore from 1 January 2024 onwards in Member States which, starting from that date, will introduce the mandatory e-invoicing system⁵.

Notwithstanding that **electronic invoicing in a structured format** brings benefits compared to other forms of electronic invoices, it is very important to note that the remaining timeframe from now till the 1 January 2024 deadline is much too short for businesses to implement their electronic invoicing in a structured format. Businesses should be granted sufficient time to convert the invoice format. Otherwise, businesses that now issue invoices for example via email or as pdf (and that are not in a position to implement the issuing of electronic invoices in a structured format until 1 January 2024), would need to switch to paper invoices again. This in our view would be counterproductive.

It seems unclear to us whether a Member State that imposes the **obligation to issue electronic invoices** from 1 January 2024 (as per article 218 par. 2) can do so only for domestic transactions or whether this obligation can/should also cover intracommunity transactions. Considering that the e-invoicing system is not mandatory (but optional for Member States which decide to implement it) until 1 January 2028, if the new system from 2024 will not be limited to domestic transactions, there could be situations in which businesses in some Member States need to send e-invoices to business customers in other Member States which have not implemented such a system (and they were not obliged to do so).

It is important to provide businesses with sufficient time to adapt to the new obligation to issue structured e-invoices. Therefore, we suggest to include in Article 218 that Member States must provide for a sufficiently long transition period before the obligation to issue electronic invoices goes 'live', e.g. by laying down that Member States making use of this provision shall introduce the obligation with an effective date not earlier than two

⁵ Or even in any MS.

calendar years after the legislation has been adopted. Similar long implementation periods were used in Italy and France.

This point is also of importance in view of the **deletion** of article 232, so that the recipient of the invoice does no longer **need to accept the use of electronic invoices**. Many businesses are not yet able to receive structured electronic invoices and thus starting e-invoicing without the consent of the customer will lead to invoices not being received or processed. This will heavily damage the position of the supplier and will have adverse effects.

PostEurop believes that the limitation of electronic invoices to invoices in a structured format and the obligation to issue electronic invoices should be implemented only with a sufficient lead time, e.g. two years counting from the publication of the approved version of the proposal⁶. For transactions not subject to DRRs, an invoice in pdf format should still be accepted as a valid invoice format until January 2028.

The timing of the deletion of article 232 should be reconsidered. Any such deletion should not happen on such a short notice as 1 January 2024.

3.3. Deadline to issue an invoice – Article 222

The time to issue an invoice is reduced to the 15th day of the month following the month in which the chargeable event occurs (as from 1 January 2025) and (as from 1 January 2028) to the 2nd working day following the chargeable event.

Issuing an invoice until the second working day following the chargeable event is considered very difficult. Even in Italy, that has introduced mandatory electronic invoicing on a local level, the deadline for issuing an invoice is 12 days.

Therefore, we suggest to prolong the deadline to at least two weeks after the chargeable event. This should still be a sufficiently short deadline for tax authorities to swiftly obtain information on the supplies made.

The above mentioned longer deadline for issuing invoices is also to be seen in connection with the elimination of the possibility to issue summary invoices, which will lead to a massive increase of the number of invoices to be issued.

Additionally, the question arises whether a shorter

⁶ Further, the European Commission should publish the Standard on its website to avoid any confusion. Also, EN16931 has been implemented for B2G transactions, it needs to be ensured that the Standard does also work for other (B2B, B2C, ...) transactions, particularly also covering mass cross border transactions.

⁷ Based on article 262 par. 1 point (c) of the Dir 2006/112/EU exempt services do not need to be reported.

deadline for issuing invoices is required with respect of all supplies. The introduction of a shorter deadline to issue invoices is directly connected with the introduction of a near real-time reporting of transactions. Since services that are exempt from VAT do not need to be digitally reported⁷, it would not seem necessary that such VAT exempt services are invoiced within a particularly short deadline⁸.

Furthermore, a shorter deadline to issue invoices directly depends on the date of the chargeable event (i.e. the date of the chargeable event determines when the invoice needs to be issued). To achieve clarity on when the invoice needs to be issued (and needs to be reported) it is necessary to clearly define the date of the chargeable event⁹.

In order to align the date of issuance of an invoice and the reporting date it is necessary to implement clear rules on the time of the chargeable event. This cannot be left to the Member States as it would lead to different interpretations.

On this point, PostEurop suggest to take into consideration the following aspects:

- **The deadline to issue an invoice should be at least two weeks after the chargeable event.**
- **The shorter deadline should not apply to services exempt from VAT.**
- **The term “chargeable event” should be clarified.**

3.4. Summary invoices – Article 223

As from 1 January 2028 summary invoices cannot be issued anymore if the proposal is adopted.

A general elimination of the possibility to issue summary invoices seems to be disproportionate. The number of invoices that needs to be issued would increase massively.

As is the case for the proposed shorter deadline to issue invoices, also the elimination of the possibility to issue summary invoices is directly connected with the introduction of a near real-time reporting of transactions. Since services that are exempt from VAT do not need to be digitally reported, the issuing of summary invoices in respect of VAT exempt services should remain possible. There does not seem to be any ‘benefit’ in cancelling the possibility of issuing summary invoices for such VAT exempt services.

⁸ Furthermore, in case an invoice does not need to be issued (based on Article 221, par. 2 of the Dir. 2006/112/EU), the deadline does not play a role at all.

⁹ The ECJ recently stated: “Article 63 does not specify which event is to be regarded as the time of supply, so that it is for the competent national authorities and courts to ascertain the time at which it actually took place.” (Case C-324/20, paragraph 42).

More generally, many businesses currently make use of summary invoices that fit business processes. With respect to postal operators, it would seem highly inefficient to invoice the delivery of each single letter or parcel (either invoiced to the customer or to another postal operator). This would massively increase the number of invoices to be issued without any visible benefit. In practice, it may not even be possible to invoice in such a way and certainly there would not seem to be any added value in invoicing the transport of each letter or parcel separately.

Generally, such postal services are provided on the basis of agreements that cover the whole of the postal shipments for a customer or for a specific period, i.e. the agreements are not concluded per letter or per parcel. Accordingly, it could be argued that these type of (exempt) services are services within the meaning of article 64 par. 1 Dir 2006/112/EU, i.e. services giving rise to successive statements of account or successive payments. They are then regarded as being completed on expiry of the periods to which the statements of account or payments relate. If the possibility to issue summary invoices would be cancelled, we suggest to clarify the scope of article 64 par. 1 of Directive 2006/112/EU, so that for example agreements for an ongoing provision of logistics or transport services are recognized as services giving rise to successive statements of account or successive payments.

PostEurop would like to point out how summary invoices should still be possible for services exempt from VAT; at the same time, it should be clarified that transport or logistics services that are based on an agreement with the customer covering all the orders of a customer or all orders for a specific period, qualify as services within the meaning of article 64 par. 1 Dir 2006/112/EU, i.e. services giving rise to successive statements of account or successive payments.

3.5. New data elements to be included in invoices – Article 226

A first proposed **new invoice element** is the **IBAN number** of the supplier's bank account to which the payment will be made.

As supplies are not always paid for by the customer to a bank account of the supplier, the mentioning of an IBAN number is not always possible. Cases where the supply is not paid for by transfer to a bank account of the supplier can be:

- offsetting with claims of the customer against the supplier,
- assignment of the claim to a third party or
- intercompany settlements via an in-house bank system.

Therefore, the mention of the IBAN-number should be excluded from the proposal.

Also, practical issues can arise in connection with mentioning **the sequential number of an invoice that is corrected**. In case an annual bonus is paid, this impacts on the consideration for all supplies that have taken place in a year. It should be possible to pay out such annual bonus without having to refer to the sequential number of all invoices that are impacted by that bonus.

We believe that the mention of the IBAN number in the invoice should be excluded from the proposal, while in case of correcting invoices it should not in all cases be required to state the sequential number of the original invoice.

3.6. Reporting of data by the supplier – Articles 262-264

Certain supplies need to be reported within 2 working days after the issuance of the invoice (or after an invoice should have been issued).

The deadline for the reporting of the supplies is extremely short and will lead to practical problems particularly if the deadline for issuing an invoice is also very short. In case an invoice would not be issued in time, it will practically also not be possible to report the transaction in time. In order to avoid such issue, the deadline for issuing an invoice should be extended to at least two weeks (as stated above). That would make it easier for businesses to meet the reporting deadline as then at least an invoice should be available in the majority of cases.

Based on article 263 the data must be transmitted for **each individual transaction** carried out by a business. The question arises what is meant with "each individual transaction". This could refer to every single item or service that is sold, regardless how the ordering is done.

PostEurop would like to underline how it should be better clarified if – considering for example a postal operator which transports ten parcels on behalf of one customer – this then means that ten transactions need to be reported or only one transaction be reported if the ten transports were ordered in one single order.

Another point that – according to our view – should be better clarified is whether it makes a difference when the transports are actually carried out: in particular, we would emphasise if the reporting is different in case the transports are carried out at different dates or in case they are all done at the same date. This topic also has a relevance for the issuing of invoices (i.e. whether each transport need to be invoiced separately, or they can be invoiced with one invoice), since summary invoices will not be possible anymore.

Moreover, a very short reporting deadline will likely lead to a mass of corrections. This is caused by the fact that invoices may contain mistakes or are disputed. The recipient of the invoice should have sufficient time to check the invoice, before the supplier is obliged to report the transaction. Otherwise, any justified dispute of an invoice by the customer will again lead to the necessity for the supplier to amend the reporting and thus adding to the already massive flow of data towards the tax authorities. It cannot be in the interest of the proposal to even further increase the number of data to be reported due to avoidable corrections.

Similarly, the reporting requirement of the customer should be extended for the same reasons (see below).

On this point, **we suggest that the reporting deadline should be at least two weeks after the issuing of the invoice.**

3.7. Self billing

In the case of self-billing (which will still be possible in the future), the invoice is issued by the recipient of the supply.

In these cases, the short-proposed deadlines for issuing and reporting invoices will likely cause similar issues as mentioned above. The reason for that is that the supplier will not be able to check the self-billed invoices in practice within two days. Consequently, the supplier would have to report the self-billed invoices 'as-is', without being able to do a proper check. Consequently, corrections of the invoices and the reporting can be expected to be necessary which again would lead to an increase of reporting data.

Also, for this reason the invoicing and reporting deadline should be extended to at least two weeks after the chargeable event.

According to our point of view, **the reporting deadline should be at least two weeks after the issuing of the invoice.**

3.8. Data to be reported in the invoices

The data to be reported should be kept strictly limited to the information that is necessary.

The data to be reported by the supplier and the customer to the tax authorities contains sensitive business data (prices, prices per item, data on the business relation as such). If this data ends up in the wrong hands it can damage businesses. It is therefore of the utmost importance that any reporting is limited strictly to only what is necessary to fight fraud and that any data reported is in line with the rules on data protection. Furthermore, the data must be kept secure.

All these points need to be clearly demonstrated before the proposal is taken to the next stage.

Furthermore, if we understand the proposal correctly, the supplier is obliged to report the tax rate and the tax amount also in case the supply is exempt from VAT (intracommunity supply) or if the customer is liable for the VAT as per article 196 of Directive 2006/112/EU (reverse charge mechanism). This does not make sense as this would oblige the supplier to have knowledge on the VAT rates in the country of destination, something which first of all generally is not the case as the liability for the VAT does not lie with the supplier and secondly the qualification of a supply for VAT purposes requires detailed knowledge. Therefore, the reporting requirement for these types of transactions should not include the tax rate and the tax amount.

PostEurop recommendations on this point are the following:

- **The reportable data must be kept limited to what is strictly necessary.**
- **It must be demonstrated that data protection and data security requirements are met.**
- **The supplier should not be obliged to report the tax rate and the tax amount in case the supplier is not liable for VAT.**

3.9. Reporting of data by the customer – Article 268

In the case of intracommunity acquisitions and certain cases where the recipient of the supply is liable for the VAT, the customer is obliged to report the invoice data to the tax authorities.

It is our understanding that the reporting has to take place within two working days after issuing the invoice or after the date the invoice had to be issued.

In line with our comments on the reporting by the supplier (see above), we also consider the deadline for reporting in these cases to be too short.

Compared to the reporting requirement of the supplier, the customer has further challenges that make it impossible to meet the reporting deadline of two working days.

The checking and approval of an invoice take more than two working days. Therefore, a reporting requirement of only two working days will in practice lead to a situation where the customer would have to report the purchases 'as-is', without being able to do a proper check. Consequently, corrections of the reporting can be expected to be necessary which again would lead to an increase of reporting data.

Furthermore, for the customer to be able to report the transaction, he has to determine the VAT treatment of the transaction (tax rate, exemption). This can also not be done within two working days.

Based on the above, the reporting deadline needs to be extended until at least two weeks after the receipt of an invoice.

Moreover, a customer will not be able to report any data if an invoice is not received by him. Therefore, if an invoice is not received, the reporting obligation should be postponed until an invoice is received by the customer.

We believe that the reporting deadline should be at least two weeks after the issuing of the invoice and, in case an invoice is not received, there should be no reporting obligation on the customer.

3.10. Unique consignment number

In the preamble to the proposal for a change to Directive 2006/112/EU the following is mentioned in paragraph 36:

"In order to ensure uniform conditions for the implementation of Directive 2006/112/EC, powers should be conferred on the Commission to better secure the correct use and the verification process of IOSS VAT identification numbers for the purposes of the exemption provided for in that Directive. This empowerment should allow the Commission to adopt an implementing act to introduce special measures to prevent certain forms of tax evasion or avoidance. Such special measures involve, inter alia, linking the unique consignment number with the IOSS VAT identification number."

In addition, PostEurop would like to underline a number of concerns relating to the Unique Consignment Number (referred to as "Unique Consignment Reference" – UCR in the UCC.

The Unique Consignment Reference (UCR) has been defined by the World customs Organisation and by the European Commission as a unique commercial reference number assigned by the seller to the commercial transaction. This UCR data element, based on the WCO ISO 15459 standard, provides an access to underlying commercial data which could facilitate and speed up any potential control activities.

The UCC Annex B and the Low Value Consignments guidance recommend to provide this data element whenever possible for a couple of reasons:

- The UCR could be filled in only for IOSS shipments but is not identical with the IOSS VAT identifier

This data element is not identical with the transport document number (S10 identifier in the postal stream) which is a logistic number allocated to the parcel by the origin post.

In this context, PostEurop would like to stress out that any inclusion of the UCR concept in this VAT legislation shall be discussed first with the customs authorities in order to take into consideration regulatory impacts in the customs arena. In particular, PostEurop would like to emphasize two issues for which in-depth discussions could be beneficial to all stakeholders:

- The link between this commercial identifier and the different logistics identifiers; and
- The capacity for postal operators to use the current electronic messaging standards to convey this data element.

CONCLUSIONS

PostEurop and its members appreciate the opportunity to raise and discuss these issues and we would like to play a constructive role, together with the EC, in improving the efficiency of the VAT processes.

We would welcome the opportunity to meet with DG TAXUD to discuss the issues and to continue to shape a way forward.

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