

## **Fight against VAT fraud in missing trader schemes**

### **dated 30 September 2009**

#### **Proposal for a EC Directive**

The European Commission ("EC") adopted a proposal for an optional and temporary application of the reverse charge mechanism to supplies of defined goods and service to business clients. This proposal tackles Missing Trader Intra-Community Fraud, commonly called carousel fraud. Broadly speaking, this type of fraud implies a supplier charging VAT to his customer but not paying it over to the tax authorities and "going missing", whereas his taxable customers benefit from a corresponding credit/refund. Under the reverse charge mechanism, the VAT is not charged by the supplier; it is payable by the customer, who can in principle deduct this self-invoiced VAT at the same time.

#### **Optional and temporary derogative mechanism**

The proposal offers interested Member States the option to introduce a targeted reverse charge mechanism in relation to a limited choice of goods and services which have been identified by Member States as sensitive to fraud. The option can be taken until 31 December 2014, for a minimum period of two years.

#### **Limited scope as concerns goods and services**

The proposal allows the application of the reverse charge only for transactions where the following goods/ service are supplied:

- Mobile phones;
- Integrated circuit devices such as microprocessors and central processing units in a state prior to integration into end user products;
- Perfume;
- Precious metals where they are not covered by special arrangements for secondhand goods, works of art, collector's items and antiques;
- Allowances to emit greenhouse gases.

In addition, Member States which will choose to implement this derogative mechanism will be restricted to a maximum of three of these categories of which two can be goods.

The reverse charge will only apply to transactions where goods are purchased or services rendered to a VAT-registered person. Transactions with non-business customers are unaffected by the proposal of reverse charge, and normal VAT rules and procedures will continue to apply.

This proposal is a quick reaction to a long-standing fraud involving small items of high value and more recently gas emission allowances, whose impact is estimated between EUR 200 and 250 billions at the EU level. It takes back an idea presented in 2006 by the EC Commission, but reduces the general system of reverse charge to an optional, derogative, temporary and limited mechanism. It is more alike measures that have been implemented by some Member States (e.g. UK) on the basis of a EU derogation.

Luxembourg has not yet communicated a position or the possibility to apply the reverse charge in the above-mentioned situation.

The proposal has not yet been adopted by the Council.

## Contact

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