Council of the
European Union

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REPORT

From:	Presidency
To:	Permanent Representatives Committee
No. prev. doc.:	9670/15 FISC 64 ECOFIN 452
No. Cion doc.:	9926/12 FISC 67 - COM(2012) 206 final
Subject:	Proposal for a Council Directive amending Directive 2006/112/EC on the common system of value added tax, as regards the treatment of vouchers - Political agreement

I. INTRODUCTION

1. On 10 May 2012, the Commission presented a proposal for a Council Directive amending Directive 2006/112/EC on the common system of value added tax, as regards the treatment of vouchers[1]. The main objective of the proposal is to harmonise national VAT rules on vouchers, which now create uncertainty for businesses, particularly those wishing to exploit single market opportunities. Where a voucher is issued in one Member State and used in another, the practical consequences of mismatches in taxation include double and non-taxation.

2. The European Economic and Social Committee and the European Parliament delivered their opinions respectively on 14 November 2012[2] and 17 April 2013[3].

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[1] doc. 9926/12 FISC 67.
[2] OJ C 11, 15.1.2013, p. 27.
[3] OJ C 242E , 23.8.2013, p. 144.; doc. P7_TA(2013)0175.

II. STATE OF PLAY

3. The proposal of the Commission and various Presidency compromise proposals have been discussed extensively from all angles at technical level for three years. More than 20 meetings of the Working Party on Tax Questions (WPTQ) took place, and a similar number of compromise texts have been tabled for examination by the Member States during the terms of the Cyprus, Irish, Lithuanian, Hellenic, Italian and Latvian Presidencies.

4. Building on the work done by the previous Presidencies, the Latvian Presidency has continued working on the following aspects:
   - a clear distinction between single-purpose vouchers ("SPVs") and multi-purpose vouchers ("MPVs");
   - special rules on VAT chargeability in cases of transactions involving SPVs and MPVs;
   - special rules on taxable amount in case of transactions involving MPVs.

   Noteworthy, a variety of solutions have been tried while attempting to solve also the key outstanding issues set out in Part III of this report.

5. Following the extensive discussions at WPTQ level, where a majority of delegations supported the Presidency approach, the Presidency has tabled an updated compromise text[4], which was examined at the Fiscal Attachés meeting of 3 June 2015. Following that meeting, where a large majority of delegations could already support the Presidency compromise, the Presidency made further improvements, aiming to address the remaining concerns of delegations. The latest Presidency compromise text is set out in doc. 9670/1/15 REV 1 FISC 64 ECOFIN 452.

6. Throughout the negotiations on this file, the Presidency attempted to solve all of the issues delegations continued to raise on this file. However, following the last meeting of Fiscal Attachés, there are two key outstanding issues, as set out in Part III of this report, which should be solved with a view to reaching a unanimous agreement.

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[4] doc. 9532/15 FISC 59.

III. KEY OUTSTANDING ISSUES

a) Definition of vouchers

7. While a large majority of delegations can fully support the definition of vouchers that is set out in Article 30a, two delegations still are of the view that there is no clear common understanding with regard to the scope of those definitions (for example, whether specific objects of trade, such as tickets, that certify the right to receive services (e.g. admission to various events or transportation services) but are "not accepted as consideration" should fall under the definition of vouchers).

8. The Presidency notes that the current compromise set out in Article 30a, *inter alia,* already states that a voucher is an instrument "where there is an obligation to accept it as consideration". Almost all delegations seem to accept the definition in the latest compromise text, which at this stage seems to be the best achievable compromise on how to define vouchers. A variety of compromise options to define vouchers for VAT purposes has been tried out during the negotiations on this file and the definition set out in the Presidency report seems to gather the largest support at this stage.

b) Deduction of input VAT in transactions involving transfer of MPVs

9. A number of Member States have raised concerns that, while the Presidency compromise in Article 30b provides that each transfer of a MPV shall be regarded as not subject to VAT, following this approach also requires a right of deduction of VAT on overhead costs to be granted. These delegations feel that without this there is a significant distortion, as some business models then would be favoured over others.

10. However, a number of delegations expressed concerns over the circumstances where input VAT would be deducted by these operators but no output VAT would be charged. They considered this to be contrary to the principles of the VAT system. Moreover, some Member States supported the views that deduction should be permitted in limited circumstances, on the condition that the vouchers in question were ultimately redeemed.

IV. WAY FORWARD

11. In view of the above, the Presidency deems worthy to note that, at this stage, any further attempts to amend the latest compromise with the aim of addressing the concerns raised by the delegations, including the key outstanding issues set out above, seemed only to reduce the existing support to the Presidency compromise, set out in doc. 9670/1/15 REV 1 FISC 64 ECOFIN 452, which is now submitted to the Permanent Representatives Committee.

12. Against this background, the Permanent Representatives Committee is invited to:

i) resolve the open issues, as set out in this report;

ii) suggest to the Council to reach a political agreement on the draft Directive, as set out in doc. 9670/1/15 REV 1 FISC 64 ECOFIN 452, with a view to adopting the Directive, subject to legal-linguistic revision, as an "A" item on the agenda of a forthcoming Council.