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Proposal for a

## **COUNCIL DIRECTIVE**

**amending Directive 2006/112/EC as regards VAT rules relating to taxable persons who facilitate distance sales of imported goods and the application of the special scheme for distance sales of goods imported from third territories or third countries and special arrangements for declaration and payment of import VAT**

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

#### **• Reasons for and objectives of the proposal**

The present initiative is, together with the proposal for a Regulation of the European Parliament and of the Council establishing the Union Customs Code, the European Union Customs Data Hub and the European Union Customs Authority, and repealing Regulation (EU) 952/2013 (“UCC revision”), and the proposal for a Council Regulation amending Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty and Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, part of a broad and comprehensive reform of the Customs Union.

Value added tax (VAT) is a major source of government revenue in all EU Member States.<sup>1</sup> In 2020, its contribution to total tax receipts ranged from 20% to 50% across Member States and accounted for approximately 26% of the total yearly tax receipts for general government in the EU27. It is also a key source of financing for the EU budget since 0.3% of VAT collected at national level is transferred to the EU as own resources, representing 12% of the total EU budget.

The revenue loss, known as the ‘VAT gap’, delineates the issues caused by sub-optimal VAT collection and control. Estimated at a total of EUR 93 billion for 2020, a significant part of this loss is due to missing trader intra-Community (MTIC) fraud. The VAT gap also includes revenues lost to domestic VAT fraud and evasion, VAT avoidance, bankruptcies and financial insolvencies, as well as miscalculations and administrative errors. The VAT system is not only prone to fraud, but has also become increasingly complex and burdensome for businesses.

In response to the explosive growth in e-commerce activity and a fragmented regulatory framework for the collection of VAT on e-commerce supplies, on 1 July 2021, the VAT e-commerce package introduced a number of VAT and customs related reforms to modernise and simplify the collection of tax on e-commerce transactions. The implementation of the e-commerce package has proven to be a great success as shown in the results of an evaluation that was conducted in relation to the first 6 months of application. This was confirmed by Member States in the Council Conclusions<sup>2</sup> of the March 2022 ECOFIN.

On the import side, one of the primary objectives of the VAT e-commerce package was to level the playing field for EU established suppliers by addressing distortive rules that led to competition issues in the e-commerce market. The VAT exemption for the importation of small value consignments not exceeding EUR 22 was abolished. As a result, VAT is now due on all commercial goods imported into Europe from a third country or third territory, irrespective of their value.

With the abolition of the EUR 22 threshold, the e-commerce package introduced a number of simplifications to help ease the compliance burden for traders making distance sales of imported goods into the EU. Albeit, the scope of these simplifications was limited to imports with an intrinsic value not exceeding EUR 150.

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<sup>1</sup> [Tax revenue statistics - Statistics Explained \(europa.eu\)](https://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&code=sdg_17_3_1&plugin=1), Eurostat.

<sup>2</sup> Council conclusions on the implementation of the VAT e-commerce package, ST 7104/22 of 15 March 2022.

One such simplification is the Import One-Stop Shop (IOSS) ), which is however only available for distance sales of imported goods with an intrinsic value not exceeding EUR 150 (as the VAT e-commerce package did not remove the EUR 150 customs duty exemption threshold). Traders who opt to use the IOSS do not need to register for VAT in each Member State in which their eligible supplies of imported goods to consumers take place. When the IOSS is used, the VAT due on those supplies is collected upfront at the time of the supply, meaning that VAT does not have to be collected at the time of importation. However, the regime is different for goods with a value above EUR 150, as such distance sales of imported goods are liable to import VAT at the time of importation (VAT is not collected upfront).

The proposal to reform the customs framework<sup>3</sup> creates a clear rationale to delete the EUR 150 threshold, which currently limits the application of the IOSS to distance sales of imported goods not exceeding EUR 150. That proposal introduces the concept of a ‘deemed importer’, who is any person involved in distance sales of goods to be imported from third territories or third countries and who is authorised to use the IOSS. Such persons will incur a customs debt when the payment for the distance sale is accepted and will be able to apply a ‘simplified tariff treatment for distance sales’ when determining the appropriate customs value.

Under the simplified tariff treatment, the deemed importer can apply one of the ‘bucket’ tariffs to the customs value. The deemed importer will therefore have all the information required, including the duties due by reason of importation, to properly calculate the taxable amount upon which VAT must be applied. Therefore, it is opportune to amend Council Directive 2006/112/EC by deleting the EUR 150 threshold that applies to the IOSS.

The removal of the EUR 150 IOSS threshold is warranted in its own right as it will help to support the objective of a single VAT registration in the Union by allowing IOSS registered traders to declare and remit the VAT due on all their eligible supplies of IOSS goods, irrespective of their value. While the removal of the IOSS threshold is not dependent on the implementation of the customs reforms, it will, nevertheless, support the reform of the customs framework as it will maximise the benefits that the customs oriented simplifications will create for the calculation of VAT on distance sales of imported goods. As the deemed importer, an IOSS registered trader will have all of the information needed to calculate the correct amount of VAT payable on all their eligible distance sales of imported goods. This measure will therefore also help to prevent undervaluation in relation to distance sales of imported goods as the correct amount of VAT will be collected at the time of supply, which is when the payment for the e-commerce transaction is accepted.

Moreover, this proposal aims to further reduce the compliance burden faced by traders making distance sales of imported goods by also extending the simplification known as the ‘special arrangements’.

When certain conditions are met, the special arrangements allow postal operators, express carriers, customs agents and other operators who fulfil the customs import declarations on behalf of the customer to declare and remit the collected VAT on those imports on a monthly basis. The special arrangements are an optional simplification and apply, subject to conditions, to the importation of goods with an intrinsic value not exceeding EUR 150, excluding excise goods. Under this proposal the EUR 150 threshold, which currently applies to the special arrangements, will also be removed. This initiative will further ease the compliance burden and costs associated with the importation of goods above EUR 150.

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<sup>3</sup> [Revision of the Union Customs Code \(europa.eu\)](#)

In addition to the IOSS simplification and the special arrangements, the e-commerce package also provided for the deemed liability of marketplaces and platforms, where they facilitate distance sales of goods imported into the EU with an intrinsic value not exceeding EUR 150. The ‘deemed supplier’ regime is a key reform that is designed to mitigate the risk of non-payment of VAT. Where this regime applies, individual sellers on marketplaces do not have to register for VAT in respect of supplies covered by the deemed supplier rule. This particular measure removes the compliance burden from sellers who operate via marketplaces. It also bolsters compliance as it streamlines the VAT obligations of thousands of underlying sellers by deeming the marketplace as the person liable to declare and pay the VAT due on those supplies. This initiative proposed the removal of the EUR 150 threshold to further expand the scope of the deemed supplier regime to cover all distance sales of imported goods into the EU, irrespective of their value. Consequently, this proposal also aims to reduce the compliance burden for taxable persons making distance sales of imported goods into the EU via marketplaces, which is in line with the key objectives of the VAT in the Digital Age (ViDA) proposal.

Building on the momentum of the VAT e-commerce reforms, the Commission adopted the VAT in the Digital Age (ViDA) proposal in December 2022, as announced in the 2020 Action Plan for fair and simple taxation supporting the recovery.<sup>4</sup>

This current proposal seeks to further adapt the EU VAT framework by expanding the range of supplies covered by the IOSS, Special Arrangements and deemed supplier regime. Under this proposal, the IOSS could be used to declare and remit the VAT due on all distance sales of imported goods into the EU, irrespective of their value, but not including products subject to excise duties, which remain excluded from the scheme. Likewise, both the special arrangements and the deemed supplier regime will be extended by removing the EUR 150 threshold, which currently limits their application and effectiveness. This initiative will further strengthen the concept of a single VAT registration in the EU. Therefore, this proposal is coherent with the ViDA proposal and its objective to reduce the compliance burden for taxable persons, as it will remove the multiple registration obligations that persons making distance sales of imported goods above EUR 150 may otherwise face.

- **Consistency with existing policy provisions in the policy area**

This initiative is consistent with the ViDA proposal<sup>5</sup>, which was adopted by the Commission on 8 December 2022 and is currently being discussed in Council. The ViDA proposal aims to modernise and reshape the EU system of VAT to the digital era. In fact, the ViDA proposal represents an extensive and multifaceted package of reforms with three key primary aims, one of which is to enhance the concept of a single VAT registration (SVR) in the EU.

One of the main objectives of the ViDA proposal is to limit the need for multiple VAT registrations in the EU. The ViDA proposal strives to achieve this aim by expanding the scope of the simplification tools used to declare and remit the VAT due on distance sales of goods<sup>6</sup>. The ViDA reforms will advance the concept of a Single VAT Registration (SVR) in the EU by expanding the range of supplies covered by Union One-Stop Shop (Union OSS) simplification, which forms part of the suite of One-Stop Shop (OSS) simplifications. This

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<sup>4</sup> [VAT in the digital age \(europa.eu\)](https://ec.europa.eu/taxation_customs/business/vat/vat-e-commerce_en).

<sup>5</sup> Proposal for a COUNCIL DIRECTIVE amending Directive 2006/112/EC as regards VAT rules for the digital age (COM/2022/701 final). Proposal for a COUNCIL REGULATION amending Regulation (EU) No 904/2010 as regards the VAT administrative cooperation arrangements needed for the digital age (COM/2022/703). Proposal for a COUNCIL IMPLEMENTING REGULATION amending Implementing Regulation (EU) No 282/2011 as regards information requirements for certain VAT schemes (COM/2022/704 final.)

<sup>6</sup> [https://ec.europa.eu/taxation\\_customs/business/vat/vat-e-commerce\\_en](https://ec.europa.eu/taxation_customs/business/vat/vat-e-commerce_en)

proposal aims to further reduce the instances in which a taxable person making distance sales of imported goods has to register for VAT in more than one Member State by expanding the deemed supplier rule and by expanding the IOSS and special arrangements to cover imported goods above EUR 150. Therefore, both this initiative and the ViDA proposal help to support the aim of a single VAT registration in the EU.

The ViDA proposal also imposed the mandatory use of the IOSS for platforms. Under the ViDA proposal, the IOSS will be mandatory for marketplaces acting as deemed supplier for certain distance sales of imported goods. Under this proposal, marketplaces that facilitate distance sales of imported goods above EUR 150 will now be the deemed supplier in respect of those supplies and will, as a consequence, be obliged to declare and remit the VAT due on those supplies via the IOSS. This reform further protects the EU VAT system and strengthens the fight against VAT fraud as the compliance effort will now be focused on an even smaller pool of marketplaces (taxable persons) who are well versed in the field of VAT compliance and who, from a customs perspective, will also be the deemed importer for all supplies of imported goods that they facilitate via their platform. Furthermore, this measure will reduce the risk of undervaluation in relation to distance sales of imported goods. As the deemed importer, the marketplace will have all of the component ingredients at its disposal, which are needed to calculate the correct amount of VAT payable on such supplies. Undervaluation will no longer be possible as the marketplace will charge VAT upfront on the listed sales price of the goods. When determining the taxable amount upon which VAT is levied, the IOSS-registered marketplace, acting as both deemed supplier and deemed importer, will include all factors such as the taxes, duties and levies due by reason of importation, along with other incidental expenses such as transport and insurance costs, that are required to properly calculate the taxable amount for VAT purposes. Consequently, the correct amount of VAT will be charged and remitted to the relevant tax authorities. As VAT is collected upfront at the time of sale of IOSS goods, the import process will also be eased as the subsequent import of IOSS goods is exempt from import VAT.

The initiative supports the EU's sustainable growth strategy<sup>7</sup> that refers to better tax collection, reduction of tax fraud, avoidance and evasion and to the reduction of compliance costs for business, individuals, and tax administrations. Improving taxation systems to favour more sustainable and fairer economic activity is also part of the EU's competitive sustainability agenda.

- **Consistency with other Union policies**

This initiative is consistent with the Customs Action Plan<sup>8</sup>. Management of e-commerce is one of the four key areas of action in the Customs Action Plan. This proposal to extend the IOSS scheme by removing the EUR 150 threshold is done in the framework of the customs reform.

In the final report of the Conference on the Future of Europe<sup>9</sup>, citizens call for 'Harmonizing and coordinating tax policies within the Member States of the EU in order to prevent tax

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<sup>7</sup> Member States' recovery and resilience plans envisage a wide set of reforms aimed at improving the business environment and favouring adoption of digital and green technologies. These reforms are complemented by important efforts to digitalise tax administrations as a strategic sector of the public administration. (Annual Sustainable Growth Survey 2022, COM(2021) 740 final.

<sup>8</sup> Communication from the Commission to the European parliament, the Council and the European Economic and Social Committee Taking the Customs Union to the Next Level: a Plan for Action, Brussels, COM/2020/581 final.

<sup>9</sup> Conference on the Future of Europe – Report on the Final Outcome, May 2022, Proposal 16 (1)-(3). The Conference on the Future of Europe was held between April 2021 and May 2022. It was a unique, citizen-led exercise of deliberative democracy at the pan-European level, involving thousands of European citizens as well as political actors, social partners, civil society representatives and key stakeholders.

evasion and avoidance’, ‘Promoting cooperation between EU Member States to ensure that all companies in the EU pay their fair share of taxes’. This proposal is consistent with these goals.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

This Directive amends the VAT Directive on the basis of Article 113 of the Treaty on the Functioning of the European Union. That Article provides that the Council, acting unanimously in accordance with a special legislative procedure and after consulting the European Parliament and the Economic and Social Committee, can adopt provisions to harmonise Member States' rules in the area of indirect taxation.

- **Subsidiarity (for non-exclusive competence)**

This initiative is consistent with the principle of subsidiarity. Given the need to modify the VAT Directive, the objectives of this initiative cannot be achieved by the Member States themselves. Therefore, the Commission, which has responsibility for ensuring the smooth functioning of the single market and for promoting the general interest of the EU, needs to propose actions to improve the situation.

In addition, this proposal aims to make improvements to the functioning of the IOSS, which is a simplification tool for the declaration and payment of VAT, which is common to all Member States. Therefore, uncoordinated and fragmented national actions would have the potential to distort trade. In the targeted consultation<sup>10</sup>, businesses stated their preference in this regard to have VAT rules applied uniformly at EU level, rather than having to comply with different reporting or registration obligations at national level. In terms of VAT collection and control, the size of the VAT gap and its persistence clearly demonstrates how national instruments are not sufficient to fight VAT fraud.

- **Proportionality**

The proposal is consistent with the principle of proportionality and does not go beyond what is necessary to meet the objectives of the Treaties, in particular the smooth functioning of the single market.

Proportionality is ensured by the fact that this initiative promotes a more effective and robust principle of a single VAT registration, which does not interfere with national VAT registration processes. Instead, it focusses on expanding the IOSS scheme and deemed supplier regime to further limit the instances in which a trader who is engaging in distance sales of imported goods via a marketplace, or in their own right, is required to register for VAT in other Member States where they are not established and make such supplies of imported goods.

An EU-wide framework for handling VAT registration is proportionate as it will make the functioning of the single market more sustainable. Removing the need for multiple registrations within the EU can, by its very nature, only be achieved with a proposal to amend the VAT Directive.

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<sup>10</sup> VAT in the Digital Age. Final Report (vol. IV Consultation Activities). Specific Contract No 07 implementing Framework Contract No TAXUD/2019/CC/150.

- **Choice of the instrument**

The proposal requires amending Directive 2006/112/EC on the common system of value added tax (the 'VAT Directive').

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Ex-post evaluations/fitness checks of existing legislation**

The VAT e-commerce package came into application on 1 July 2021 and introduced a number of amendments to the VAT rules governing the taxation of business-to-consumer (B2C) cross-border e-commerce activity in the EU.

The Commission conducted an *ex-post* evaluation of the first 6 months of application of the VAT e-commerce package. The initial results are very encouraging and are testament to the success of the new measures. On the import side, the first results highlight that in the first 6 months, approximately EUR 2 billion of VAT was collected specifically in relation to imports of low value consignments with an intrinsic value not exceeding EUR 150, which equates to around EUR 4 billion on an annual basis. Of the EUR 2 billion of VAT that was collected in relation to imports of low value goods in the first 6 months, almost EUR 1.1 billion was collected via the IOSS. These figures demonstrate how the IOSS has established itself as the key simplification tool for the declaration and payment of VAT on distance sales of imported goods.

The implementation of the package has also helped to counter VAT fraud. Analysis from customs data indicates that the top 8 IOSS registered traders accounted for approximately 91% of all transactions declared for import into the EU via the IOSS. This is a very encouraging statistic as it shows the impact the new 'deeming' provision for marketplaces has had on compliance, to the extent that the follow-up and auditing of this very limited number of taxable persons is sufficient to ensure the collection of VAT on this type of transaction.

This proposal builds on the success of the VAT e-commerce package and the ambition of the ViDA proposal, as it envisages the further extension of the deemed supplier regime to cover all distance sales of goods imported from third territories or third countries, irrespective of their value. As a result, the compliance effort will be even more focussed on a far smaller number of large players in the market, who will account for the majority of distance sales of imported goods into the EU.

This initiative also supports the principle of a single VAT registration in the EU as it will further limit the instances in which a taxable person will need to register for VAT. The extension of the IOSS simplification to cover all distance sales of imported goods, irrespective of their value, along with the extension of the special arrangements to cover certain importations of goods in consignments above EUR 150, will further reduce the need for taxable persons to register for VAT in more than one Member State. Also, as a consequence of the further extension of the deemed supplier regime, taxable persons making distance sales of imported goods into the EU via marketplaces will no longer have to register for VAT in respect of those supplies where the intrinsic value of the consignment is above EUR 150. Instead, the marketplace, acting as deemed supplier, will declare and remit the VAT due on those supplies via the expanded IOSS scheme, which will now be mandatory for marketplaces under the ViDA proposal.

- **Stakeholder consultations**

The Commission launched an open Public Consultation on 22 January 2022, which remained open until 5 May 2022. This public consultation was launched together with a Call for Evidence. The Public Consultation was structured using a dedicated questionnaire consisting of 71 questions. As part of the consultation process, the general public and all key stakeholders, including businesses, were invited to submit their views on the three core areas addressed by the ViDA initiative, namely, (i) Digital Reporting Requirements and e-invoicing; (ii) the VAT treatment of the platform economy; and (iii) the use of a single VAT registration. In total, 193 responses were received from 22 Member States and 5 non-EU countries. Respondents were also permitted to upload position papers.

A number of respondents to the public consultation expressed the view that the scope of the IOSS should also be broadened by removing the EUR 150 threshold to help simplify the process of declaring and remitting VAT on distance sales of imported goods above that amount. In turn, the removal of the EUR 150 threshold will decrease the need to register in different Member States, which will clearly help businesses, in particular, small and medium enterprises (SMEs) to cope more easily with their VAT obligations and to extend and grow their business throughout the EU.

Over 80% of respondents to the open public consultation considered that difficult compliance with VAT registration requirements contributes to high levels of fraud and non-compliance, and that taxpayers do not pursue certain markets or transactions as they prefer to avoid VAT registration in multiple Member States.

- **Collection and use of expertise**

The Commission built on the analysis carried out by an external contractor for the study ‘VAT in the Digital Age’<sup>11</sup>.

The study’s aim was first to evaluate the current situation with regard to digital reporting requirements, the VAT treatment of the platform economy, and a single VAT registration and IOSS. Secondly, to assess the impacts of a number of possible policy initiatives in these areas. That study specifically examined the option to remove the EUR 150 threshold that applies to the IOSS. The study noted that distance sales of imported goods above EUR 150 and distance sales of goods subject to excise duties are transactions that are prevalent in particular in e-commerce. Distance sales from third countries/territories of goods worth more than EUR 150 and goods subject to excise duties imported from third countries/territories make up around 10-20% of the total value of e-commerce distance sales into the EU, as suggested by the targeted consultation.

Moreover, the Commission used the analysis carried out by another external contractor in the framework of the study on “An integrated and innovative overhaul of EU rules governing e-commerce transactions from third countries from a customs and taxation perspective”<sup>12</sup>. The study follows up action 9 of the Customs Action Plan whereby the Commission endeavoured to examine the effects of e-commerce on customs duty collection and on the level playing field for EU operators, including possible arrangements for customs duty collection on the lines of the new VAT collection approach under the IOSS. The study assessed the possible implications of changing the EUR 150 duty relief threshold and concluded that the removal of such threshold would result in the largest revenue increase, and would level the playing field between foreign sellers and the domestic market to the greatest extent. It would also remove

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<sup>12</sup> The evaluation of the second version of the final report is still ongoing at the time of the proposal.



fraud or evasion of customs duty payment resulting from the splitting of consignments and reduce the incentive for undervaluation.

- **Impact assessment**

Examined by the Regulatory Scrutiny Board on 22 June 2022, the impact assessment for ViDA proposal obtained a positive opinion. The Board recommended more detail be added, to better describe the methodologies used for modelling and to further clarify the options. Accordingly, the impact assessment was amended to include Member State and sectoral perspectives on the platform economy, the econometric analysis/techniques used for modelling were comprehensively described and the structure of the DRRs linked to the options was detailed.

Several policy options were analysed in the impact assessment accompanying the ViDA proposal. For VAT registration, the impact assessment examined three particular policy options, including sub-options, specifically in relation to the use and scope of the IOSS. The three IOSS related policy options focussed on maintaining the status quo, making the IOSS mandatory for different suppliers (with/without a certain limit) and the removal of the EUR 150 threshold for the use of the IOSS. These three IOSS related options were grouped into broader policy approaches, along with other policy options centred on Digital Report Requirements (DRR), the platform economy and other initiatives to minimise VAT registrations under the umbrella objective of a single VAT registration in the EU. In total, there were five broader policy approaches included in the impact assessment, two of which included changes to the IOSS, namely, the ‘enhanced approach’ and the ‘maximal approach’. The former approach included the option to make the IOSS mandatory, while the latter approach included both the option to make the IOSS mandatory, along with the option to remove the EUR 150 threshold for the use of the IOSS.

The impact assessment highlighted the importance of addressing the VAT framework for the administration and collection of VAT on distance sales of imported goods. In fact, in 2020, across the EU-27, distance sales of imported goods were estimated to amount to EUR 29 billion. Furthermore, stakeholders indicated that a significant proportion of distance sales of imported goods – indicatively around 10-20% – exceeded EUR 150 and are, therefore, currently ineligible for the IOSS. The option to remove the EUR 150 threshold would allow the use of the IOSS for higher-value goods, making it potentially more useful for distance sellers of imported goods of which at least some of their distance sales of imported goods are valued at more than the current threshold. The impact assessment acknowledges that the removal of the EUR 150 threshold would result in a reduction of the administrative burden and costs associated with VAT registration for businesses as some businesses would no longer be required to register in the Member State of destination, thus reducing their burdens.

Both the maximal and enhanced approaches were seen to have a wide coverage, hence the greatest potential benefits. For example, in the VAT registration area where the focus is more on the issue of high administrative and compliance costs, the sub-options for OSS and IOSS mainly differ in terms of the scope of the situations currently triggering multiple VAT registrations that would be addressed.

Ultimately, the analysis included in the impact assessment revealed that best balance regarding the policy options in terms of effectiveness, proportionality and subsidiarity would be achieved by implementing the ‘enhanced approach’. The enhanced approach combines the introduction of DRRs at EU level, a ‘deemed supplier’ provision for the short-term accommodation rental and passenger transport sectors and a combination of broader OSS extension, reverse charge and a mandatory IOSS for platforms.

The ‘maximal approach’ proposed the removal of the 150 EUR threshold, however, due to its strong links to the calculation of the customs duty, it was not considered to be the most effective option in the context of the ViDA proposal. The impact assessment recognises that the expansion of the IOSS to include distance sales of imported goods exceeding EUR 150, represents an improvement that is supported by businesses. Therefore, the removal of the EUR 150 threshold is addressed in this proposal in conjunction with the comprehensive revision of the respective customs rules.

Between 2023 and 2032 it is expected that EUR 8.7 billion in savings will be achieved from removing VAT registration obligations. Environmental, social and business automation benefits, as well as benefits related to the functioning of the Internal Market (more level-playing field) and tax control efficiency are also expected.

The impact assessment and its annexes, the executive summary and the Board’s opinion on the impact assessment are available at the consultation’s page on “Have your say” portal: [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13186-VAT-in-the-digital-age\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13186-VAT-in-the-digital-age_en).

The impact assessment report on the Customs Union reform also identified undervaluation as an issue. When undervalued, goods are declared below their correct customs value and, consequently, the basis on which customs duties and VAT is applied is lower. Undervaluation is considered more relevant in the categories of goods where duties apply. However, a study conducted by Copenhagen Economics in 2016 estimated that about 65% of the e-commerce consignments are undervalued for VAT purposes, regardless of the duty exemption.<sup>13</sup> There have also been cases of systematic undervaluation of certain categories of goods, resulting in important revenue losses in customs duties.<sup>14</sup>

- **Regulatory fitness and simplification**

This proposal builds on the ViDA proposal, which is a REFIT initiative to modernise the current VAT rules and take account of the opportunities offered by digital technologies<sup>15</sup>. The proposal is expected to enhance the single market and help improve tax collection on distance sales of imported goods. This proposal will therefore ensure sustainable revenues during the recovery from the COVID-19 pandemic.

The expectation is that companies engaged in distance sales of imported goods will see a net benefit from the introduction of the proposal. Overall, this proposal will further enhance the concept of a single VAT registration (SVR), which will support the ‘one in, one out’ principle or even go further to ‘one in, multiple out’, taking account of the multiple registration obligations that can exist in respect of distance sales of imported goods above EUR 150.

This proposal builds on the principle of a single VAT registration in the EU and is expected to further reduce the need for multiple registrations in other Member States. It will therefore help to reduce the administrative burden and related costs for businesses involved in making distance sales of imported goods above EUR 150.

The Fit for Future Platform included the VAT in the Digital Age initiative in its annual work programme for 2022, recognising its potential for reducing the administrative burden in the

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<sup>13</sup> Copenhagen Economics (2016) E-commerce imports into Europe: VAT and Customs treatment.

<sup>14</sup> The largest of OLAF’s investigations concerned imports through the UK between 2013 and 2016. See European Court of Justice Case C-213/19 European Commission v United Kingdom of Great Britain and Northern Ireland.

<sup>15</sup> 2022 Commission Work Programme, Annex II: REFIT initiatives, sub-section “An economy that works for people” (No 20).

policy field<sup>16</sup>. This current proposal also builds on the ViDA's core objectives by further reducing the administrative burdens and costs associated with VAT compliance.

#### **4. BUDGETARY IMPLICATIONS**

This proposal is expected to increase VAT revenues for Member States as it will improve the collection of VAT by focussing the compliance effort on a smaller number of largely compliant taxable persons. The expansion of the IOSS scheme to cover all distance sales of imported goods, with the exception of products subject to excise duty, will help to reduce the administrative burden and costs associated with issuing and controlling VAT registrations. With the expansion of the deemed supplier rule, IOSS and special arrangements, tax administrations should experience a corresponding decrease in the number of registration requests made by non-established taxable persons. Therefore, for Member States, this proposal will reduce the administration costs associated with registering traders who make distance sales of goods imported into the EU above EUR 150 as such traders will now be able to declare and remit the VAT due on those supplies via the IOSS scheme, negating the need to register for VAT in respect of those supplies in multiple Member States.

#### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The VAT Committee, an advisory committee on VAT issues in which representatives of all Member States participate and which is chaired by Commission officials from the Directorate General Taxation and Customs Union (DG TAXUD), will discuss and clarify possible interpretation issues between Member States regarding the new legislation.

The Standing Committee on Administrative Cooperation (SCAC) will deal with possible issues regarding administrative co-operation between Member States resulting from the new provisions covered by this proposal.

In addition, the Commission will monitor and evaluate whether this initiative is functioning properly in terms of achieving its objectives.

- **Detailed explanation of the specific provisions of the proposal**

This proposal includes three main elements. First, it is proposed to extend the application of the deemed supplier rule, which is currently limited to distance sales of imported goods not exceeding EUR 150, to cover all distance sales of goods imported from a third territory or third country. This extension of the deemed supplier rule is achieved by removing the reference to the EUR 150 threshold in paragraph 1 of Article 14a of Council Directive 2006/112/EC. Under its expanded scope, the deemed supplier rule would therefore apply to all distance sales of imported goods into the EU that are facilitated by an electronic interface, irrespective of the intrinsic value of the consignment.

Second, it is proposed to extend the application of the IOSS, which is currently limited to distance sales of imported goods in consignments of an intrinsic value not exceeding EUR 150, to cover all distance sales of imported goods, irrespective of their value. However, products subject to excise duty would remain excluded from the scheme. The extension of the

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<sup>16</sup> [2022 annual work programme - fit for future platform en.pdf \(europa.eu\)](#)

IOSS would help to advance the concept of a single VAT registration in the EU by further limiting the instances in which a taxable person is required to register for VAT in another Member State. This extension of the application of the IOSS is achieved by removing the reference to the EUR 150 threshold in the first paragraph of Article 369l of Council Directive 2006/112/EC.

Third, the proposal would extend the application of the special arrangements set out in Chapter 7 of Title XII of Council Directive 2006/112/EC, which is currently limited to eligible imported goods of an intrinsic value not exceeding EUR 150, to cover all eligible goods. Products subject to excise duty would remain excluded from these arrangements. The extension of the special arrangements will help to advance the concept of a single VAT registration in the EU by further limiting the instances in which a taxable person is required to register for VAT in another Member State. Article 369y of Council Directive 2006/112/EC is therefore amended to remove the reference to the EUR 150 threshold.

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**amending Directive 2006/112/EC as regards VAT rules relating to taxable persons who facilitate distance sales of imported goods and the application of the special scheme for distance sales of goods imported from third territories or third countries and special arrangements for declaration and payment of import VAT**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament<sup>1</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>2</sup>,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) Article 14a(1) of Council Directive 2006/112/EC<sup>3</sup> provides for the ‘deemed supplier regime’. Pursuant to that Article, where a taxable person facilitates, through the use of an electronic interface, distance sales of imported goods from third territories or third countries, that taxable person is to be the deemed supplier of those goods.
- (2) The application of the ‘deemed supplier’ regime is currently limited to distance sales of goods imported from third territories or third countries in consignments of an intrinsic value not exceeding EUR 150. To reduce the compliance burden for traders selling via electronic interfaces, such as marketplaces, and to support a single value added tax (VAT) registration in the Union, the EUR 150 limit should be deleted. Consequently, the deemed supplier regime should cover all distance sales of goods imported from third territories or third countries into the Union, irrespective of their value.
- (3) Title XII, Chapter 6, Section 4, of Directive 2006/112/EC sets down a special scheme for distance sales of goods imported from third territories or third countries known as the Import One-Stop Shop (IOSS). Taxable persons who opt to register for the IOSS do not need to register for VAT in each Member State in which their eligible supplies of goods to consumers take place. Instead, the VAT due on those supplies can be declared and paid in a single Member State via the IOSS scheme. However, the IOSS special scheme is limited to distance sales of imported goods in consignments with an

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

<sup>3</sup> Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

intrinsic value not exceeding EUR 150. To support a single VAT registration in the Union, the threshold of EUR 150 should be deleted so that taxable persons who make distance sales of goods imported from third territories or third countries into the Union exceeding EUR 150 are not obliged to register for import VAT in each Member State of destination of the goods.

- (4) Title XII, Chapter 7, of Directive 2006/112/EC sets down the special arrangements for the declaration and payment of import VAT. When certain conditions are met, the special arrangements allow postal operators, express carriers, customs agents and other operators who fulfil the customs import declarations on behalf of the customer to declare and remit the VAT collected on certain imports on a monthly basis. The special arrangements are limited to imported goods in consignments of an intrinsic value not exceeding EUR 150, excluding products subject to excise duty. Therefore, to reduce the compliance burden and costs associated with imported goods in consignments of an intrinsic value above EUR 150, the threshold of EUR 150 should be deleted.
- (5) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents<sup>4</sup>, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.
- (6) Since the objective of this Directive, namely to advance the concept of a single VAT registration in the Union, can only be achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (7) Directive 2006/112/EC should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

### *Article 1*

#### **Amendments to Directive 2006/112/EC**

Directive 2006/112/EC is amended as follows:

- (1) in Article 14a, paragraph 1 is replaced by the following:

‘1. Where a taxable person facilitates, through the use of an electronic interface such as a marketplace, platform, portal or similar means, distance sales of goods imported from third territories or third countries, that taxable person shall be deemed to have received and supplied those goods himself.’;
- (2) in Article 369l, the first paragraph is replaced by the following:

‘For the purposes of this Section, distance sales of goods imported from third territories or third countries shall not include products subject to excise duty.’;

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<sup>4</sup> OJ C 369, 17.12.2011, p. 14.

- (3) Article 369y is replaced by the following:

*‘Article 369y*

Where, for the importation of goods, except products subject to excise duties, the special scheme in Section 4 of Chapter 6 is not used, the Member State of importation shall permit the person presenting the goods to customs on behalf of the person for whom the goods are destined within the territory of the Community to make use of special arrangements for declaration and payment of import VAT in respect of goods for which the dispatch or transport ends in that Member State.’.

*Article 2*

**Transposition**

1. Member States shall adopt and publish, by 31 December 2027 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 1 March 2028.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

*Article 3*

**Entry into force**

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

*Article 4*

**Addressees**

This Directive is addressed to the Member States.

Done at Brussels,

*For the Council*  
*The President*