

## ROADMAP

Roadmaps aim to inform citizens and stakeholders about the Commission's work in order to allow them to provide feedback and to participate effectively in future consultation activities. Citizens and stakeholders are in particular invited to provide views on the Commission's understanding of the problem and possible solutions and to make available any relevant information that they may have.

<b>TITLE OF THE INITIATIVE</b>	Conferring implementing powers on the Commission in the area of value added tax (VAT)
<b>LEAD DG – RESPONSIBLE UNIT</b>	DG Taxation and Customs Union, Unit C1 - Value added tax
<b>LIKELY TYPE OF INITIATIVE</b>	Proposal for a Council Directive to amend Council Directive 2006/112/EC
<b>INDICATIVE PLANNING</b>	Q4 2020
<b>ADDITIONAL INFORMATION</b>	-

This Roadmap is provided for information purposes only and its content might change. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described by the Roadmap, including its timing, are subject to change.

### A. Context, Problem definition and Subsidiarity Check

#### **Context**

As value added tax (VAT) rules are harmonised within the Union under the VAT Directive, it is important that such rules are implemented in a fully consistent way (e.g. by means of [implementing acts](#)). Currently, the Commission has no implementing powers in respect of the VAT Directive. The only existing tool for the Commission to promote a consistent implementation of VAT rules is an advisory Committee set up by the VAT Directive, the '[VAT Committee](#)', which agrees on non-binding guidance. The VAT Committee is made up of representatives of the Member States and of the Commission and has no competence in the procedure of adoption of the implementing measures.

A more appropriate setup under the Treaty on the Functioning of the European Union (TFEU) is to empower the Commission to adopt certain implementing acts according to the rules of the Comitology Regulation, [Regulation 182/2011](#). The Commission will therefore propose a change to the VAT Directive in order to provide for empowerments for the Commission to adopt, within a precise scope, [implementing acts](#). This could be done by turning the VAT Committee into a '[comitology committee](#)' that would oversee the adoption of implementing acts by the Commission. Outside the defined empowerment of the Commission, the Council would retain its competence to adopt implementing rules in the field of VAT.

Conferring certain implementing powers on the Commission, subject to the control of that Committee, should contribute to a more uniform application of the EU VAT legislation to the benefit of taxable persons having economic activities in several Member States. In the area of indirect taxation, comitology procedures are already used for administrative cooperation and excise duties.

This initiative is one of the actions envisaged by the Commission in its Communication "*An Action Plan for fair and simple taxation supporting the recovery strategy*" ([COM\(2020\) 312 final](#), 15.07.2020) to simplify EU tax rules for more competitiveness in the Single Market.

#### **Problem the initiative aims to tackle**

The [VAT Committee](#) is currently an advisory committee made up of representatives of the Member States and of the Commission without any competence in the procedure of adoption of implementing measures. It can only agree non-binding guidelines.

As the Member States are not legally obliged to implement the guidelines of the VAT Committee, the common interpretation of the EU VAT law, laid down in these guidelines, is often not put into practice. The diverging application of concepts of EU VAT law by Member States hinders the smooth functioning of the Single Market and can lead to double or non-taxation, in particular in cross-border situations.

This unsatisfactory state of affairs has been recently demonstrated by the failure of the VAT Committee to reach unanimous guidelines on a number of issues related to the practical application of the provisions of the "Quick

Fixes” Directive ([Council Directive \(EU\) 2018/1910 of 4 December 2018](#), OJ L 311 of 7.12.2018). The discrepancies are not only likely to result in instances of double taxation but in addition will entail legal uncertainty and additional costs for businesses.

**Basis for EU intervention (legal basis and subsidiarity check)**

Article 113 of the TFEU is the legal basis for EU law in the field of VAT.

The initiative is consistent with the principle of subsidiarity as the main problem identified is the non-harmonised application by the Member States of the concepts in the VAT Directive, which can lead to double or non-taxation. It is not possible for Member States alone to address these problems.

The fact that implementing powers are conferred to the Commission, assisted by the VAT Committee, will allow solving more quickly and efficiently problematic situations for businesses resulting from differences in interpretation. The VAT Committee consists of VAT experts from the Member States’ tax administrations and is therefore well placed to deal consistently and swiftly with the problems.

**B. What does the initiative aim to achieve and how**

By conferring implementing powers on the Commission and transforming the status of the VAT Committee from an advisory into a ‘[comitology committee](#)’, the initiative aims to contribute to a more uniform application of the EU VAT legislation. Two aspects are to be underlined:

- First, the use of comitology procedures would only be applied in connection with a limited set of rules implementing the provisions of the VAT Directive, for which a common interpretation is required. Any change to the VAT Directive shall require, as is the case today, unanimous agreement in Council.

-Second, it is in the interest of both tax administrations and businesses to facilitate the adoption of common interpretations of the provisions of the VAT Directive, since discrepancies in this area are likely to result in double taxation, distortions of competition and additional costs for businesses. Comitology is the long standing standard approach used in EU Law for facilitating the emergence of a common view and practice.

**C. Better regulation**

**Consultation of citizens and stakeholders**

Relevant stakeholders will be consulted in a targeted way via the [VAT Expert Group](#) (representing business, academics and tax professionals) and the [Group on the Future of VAT](#) (representing Member States).

**Evidence base and data collection**

Given the “institutional” character of this initiative, and given also that only implementing measures adopted on the basis of the new legal basis will ultimately have an impact that can be measured and assessed (since the initiative to a great extent deals with the decision-making procedure regarding implementing measures and not with the substance of those measures) no impact assessment is considered necessary for the initiative.