

Position Paper

UEAPME¹ comments on EU VAT rates (COM (2018) 20)

Executive Summary

- UEAPME is not in principle against more autonomy in setting VAT rates, but it has to be ensured that such an additional flexibility does not create distortions of competition, especially in border regions. Any discussion on changing VAT rates has to take its impact on the single market into account.
- UEAPME can only support the introduction of additional reduced VAT rates, if the European Union provides a fully functioning online portal in all 24 languages and if it is ensured that companies can rely on the information received from it.
- Upon request the web portal should inform companies automatically on changes of rates and rules in other countries.
- Furthermore, it has to be clarified that a single VAT rate – reduced or normal – should apply independently if the buyer is a private person or a company.
- UEAPME sees in a proposed negative list a contribution to avoid uncertainty and inconsistency in applying reduced VAT rates. However, the contents of the list need further clarification and harmful tax competition for specific goods and services due to cross-border shopping must be prevented.
- Finally, UEAPME sees in the proposed minimum weighted average VAT rate a useful contribution to avoid distortion of competition, but asks also for a careful monitoring of the effects of such a weighted average rate.

1. General comments

The European Commission has published on 18 January 2018 amendments for the VAT Directive as regards the rates of value added tax. The proposal includes the following elements:

- In addition to the current provision, which allows Member States to apply two reduced rates with a minimum of 5%, the proposal allows an additional rate below 5% and an exemption with the right to deduct input VAT (zero rate).
- Member States have to ensure that the weighted average VAT is above 12% (revenue safeguard).
- A new [Annex III](#) outlines a negative list of goods and services, where reduced or zero rates could lead to distortion of competition and are therefore not allowed.

Already in its [position paper](#) on the VAT Action Plan (2016), UEAPME said on more freedom for Member States on rates policies:

¹ UEAPME subscribes to the European Commission's Register of Interest Representatives and to the related code of conduct as requested by the European Transparency Initiative. Our ID number is [55820581197-35](#).

“UEAPME is not in principle against more autonomy in setting VAT rates, but it has to be ensured that such an additional flexibility does not create distortions of competition, especially in border regions and for e-commerce. Any discussion on changing VAT rates has to take its impact on the single market into account.”

Furthermore, any reform of the already very complex EU VAT regime should aim to increase transparency and to simplify the VAT regime. This is especially important for SMEs, which see the current VAT system with 28 different sets of tax rates and administrative procedures as one of the most relevant barrier for cross border trade.

2. Specific comments on more flexible rates

The European Commission argues that if the current VAT system will be replaced by the definitive arrangement as proposed by the Commission in its VAT Action Plan based on the principle of taxation in the Member State of destination, such a definitive system would allow granting Member States more flexibility in setting VAT rates. With goods and services being taxed in the Member State of destination, suppliers would not significantly benefit from being established in a lower-rate Member State.

However, there is a trade-off between allowing more flexibility on one side and threats for the internal market due to unjustified competition caused by VAT rates in boarder regions on the other side. Moreover, an increasing diversity of VAT rates is likely to cause administrative burdens and compliance costs for SMEs. Also, the difficulties of companies to apply the correct VAT rate in a foreign Member State may increase.

The planned web portal of applicable VAT rates in Member States would play an essential role in the functionality of the system from the perspective of SMEs. The web portal should contain accurate, reliable and easy useable information in all 24 languages to avoid administrative burdens. Upon request the web portal should inform companies automatically on changes of rates and rules in other countries to avoid that the current rate and rules have to be checked for each new invoice.

Furthermore, the proposal (Article 98(3)) states that reduced rates and exemptions shall only benefit the final consumer and shall be applied to pursue an objective of general interest. Here, UEAPME asks for more clarity on the requirements that a setting of reduced rates pursue an objective of general interest and a clarification that a certain VAT rate will apply independently if the buyer is a company or a private person. Finally, it has to be ensured that current possibilities for reduced rates, especially for locally provided services and social needs like food, are not affected by the new rules.

Therefore, UEAPME can only support the introduction of additional reduced VAT rates, if the European Union provides a fully functioning online portal in all 24 languages and if it is ensured that companies can rely on the information received from it. In addition, the system has to update companies about relevant changes of VAT rates in other countries. Furthermore, it has to be clarified that a single VAT rate – reduced or normal – should apply independently if the buyer is a private person or a company. Finally, an increased flexibility for reduced VAT rates has to be accompanied by safeguard measure to avoid unfair competition on consumer markets, especially in border regions.

3. Specific comments on safeguard measures

The proposal from the European Commission includes two measures, which shall ensure that the additional flexibility does not create distortion of the internal market:

- Member States have to ensure that the weighted average VAT is above 12%.
- A new negative list of goods and services, for which reduced or zero rates could lead to distortion of competition and will therefore not be allowed.

In general, UEAPME sees in such a negative list a contribution to avoid uncertainty and inconsistency in applying reduced VAT rates. However, the contents of the list need further clarification. Harmful tax competition for specific goods and services due to cross-border shopping must be prevented. Furthermore, UEAPME sees in the proposed minimum weighted average VAT rate a useful contribution to avoid distortion of competition, but asks also for a careful monitoring of the effects of such a weighted average rate.

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For further information on this position paper, please contact:

Gerhard Huemer
 Director Economic and Fiscal Policy
g.huemer@ueapme.com