



UPGRADING THE EU VAT SYSTEM - A REFLECTION ON POSSIBLE WAYS FORWARD

VAT Expert Group (VEG) input to VEG N° 086 dated November 12th, 2019



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1 CONTENTS

- 2 Executive summary 3
 - 2.1 Introduction..... 3
 - 2.2 Where are we on VAT in the EU today and where will the future take us? – impacts, which technological developments might have on the design and operation of a future VAT system..... 3
 - 2.3 Focus on VEG document N° 086 and its building blocks including the questions raised there
4
 - A. Keeping pace with new business models 4
 - B. Opportunities offered by new technologies 5
 - C. Simplification of the VAT system and reduction of VAT related burdens for businesses..... 6
 - D. Other 7
 - E. Actions to be taken irrespective of any fundamental VAT system change..... 7
 - 2.4 Suggested workplan / deliverables for the Commission to consider..... 7
 - 2.5 Concluding remarks..... 8
- 3 Appendix – suggested workplan / deliverables for the EU Commission to consider..... 9
 - 3.1 Introduction..... 9
 - 3.2 Initiatives already started in 2020 related to the building blocks..... 9
 - A. Keeping pace with new business models 9
 - B. Opportunities offered by new technologies 9
 - 3.3 Broad initiative suggested to be started in 2020 9
 - 3.4 Initiatives suggested to be started in 2020 related to the building blocks 9
 - A. Keeping pace with new business models 9
 - C. Simplification of the VAT system and reduction of VAT related burdens for businesses..... 9
 - D. Other 10
 - 3.5 Initiatives suggested to be started in 2021 related to the building blocks 10
 - B. Opportunities offered by new technologies 10
 - C. Simplification of the VAT system and reduction of VAT related burdens for businesses..... 10

- D. Other 11
- 4 MAIN DOCUMENT 12
 - 4.1 Introduction – A reminder of the background to this initiative 12
 - 4.2 Where are we on VAT in the EU today and where will the future take us? – impacts, which technological developments might have on the design and operation of a future VAT system 13
 - 4.3 Focus on VEG document N° 086 and its building blocks including the questions raised there
14
 - A. Keeping pace with new business models 15
 - B. Opportunities offered by new technologies 18
 - C. Simplification of the VAT system and reduction of VAT related burdens for businesses 21
 - D. Other 23
 - E. Actions to be taken irrespective of any fundamental VAT system change 24
 - 4.4 Suggested workplan / deliverables for the EU-Commission to consider 25
 - 4.5 Concluding remarks 25

2 EXECUTIVE SUMMARY

2.1 INTRODUCTION

This paper is prepared by the VAT Expert Group (VEG), and aims at giving VEG input to the EU Commission's document "VEG No 086: Upgrading the EU VAT system - A reflection on possible ways forward" (VEG No 086).

Safeguarding VAT revenues for Member States, and ensuring a level playing field for business, while keeping administrative and compliance costs for tax authorities and businesses, as tax collector, to a minimum are key objectives, and require a simple, robust, efficient and future proof EU VAT system. This is of utmost importance to promote a proper functioning of the EU Single Market, and key for fostering future growth.

In its current status, the EU VAT system is known to be complex and fraud-sensitive. These are 2 key aspects which demand urgent but well thought through improvements. In addition, the EU VAT system needs to be further modernized, considering the new business and commercial realities as well as the opportunities that digitalization and automation offer for which further standardization (e.g. in the field of reporting but also in emerging areas such as data-sharing, etc.) plays a crucial role. All of this needs to be done based on a thorough analysis of the alternatives and by developing a long-term vision for the EU VAT system.

The VEG welcomes the EU Commission's VEG No 086 document and is very keen to provide its input.

Our paper not only captures the submissions and discussions of the VEG members in relation to the questions asked by the EU Commission in "VEG No 086", it also puts them into the long term vision for the EU VAT system that the VEG members envisage. It is imperative in our view to consider the bigger picture when looking at the future of the EU VAT system.

Additionally, this paper also aims to present a possible work plan to the Commission with suggested short, medium- and long-term deliverables, which we as the VEG are very keen to actively support on.

2.2 WHERE ARE WE ON VAT IN THE EU TODAY AND WHERE WILL THE FUTURE TAKE US? – IMPACTS, WHICH TECHNOLOGICAL DEVELOPMENTS MIGHT HAVE ON THE DESIGN AND OPERATION OF A FUTURE VAT SYSTEM

Looking back a lot has happened since the establishment of the EU Single Market in 1993 politically – with 16 Member States joining and 1 having left – and in terms of the evolution of the EU VAT system; below are a few highlights to share:

- 1997: implementation of the new VAT rules for place of supply of telecom services
- Supported by the OECD e-commerce Guidelines & the inherent Ottawa principles, the EU Commission found already, in the early 2000s a broader path when it comes to the place of supply of services, which it successfully continued to travel on further step by step:
 - it started in 2003 (first step) - Non-EU OSS for B2C electronic services – and
 - extended in 2010 (VAT Package including refund portal) and in 2015 (TBE services and MOSS) and now on to 2021 (E-commerce VAT Package and extension of the MOSS)
- Green Paper Initiative in 2010 on the future of VAT and the White Paper actions taken by the Commission in 2011 and 2012, including the establishment of the VEG and the EU VAT Forum
- EU VAT Action Plan in 2016 with its subsequent proposals.

Clearly as highlighted above, a lot has been done in the last almost 30 years under the lead of the Commission and supported by the EU Member States, which we as the VEG highly appreciate and which we all owe the EU Commission and Member States credit for. However, despite all these great efforts, the fundamental weaknesses and pain points of the EU VAT system – complexity and fraud – are still around.

At the same time, we see in recent years mainly anti-fraud driven national developments by EU MS with the implementation of a large and very diverse menu of national technological measures which seem to further disharmonize the EU VAT system and further increase already significant compliance burdens and costs for legitimate business, hindering a smooth and proper functioning of the EU Single Market.

Given the current status of the EU VAT system and the political environment we are currently in, and also considering that we are in the middle of a technological storm, with big commercial and technological developments around and ahead of us, we suggest to launch a broader debate on the future of the EU VAT system, involving all relevant stakeholders (including tax and technology stakeholders).

Clearly technology alone can and will not be sufficient to ensure a fully functioning EU VAT system in the future. We will always need a sound, simple, robust and consistently applied EU legal VAT framework, on which we can run modern technology in an efficient way, however, we already now need to urgently start brainstorming on a long term vision for the design and operation of a future EU VAT system taking the evolving technological and commercial developments into consideration.

Given that the last strategic debate on the future of VAT led by the Commission, including a broad public consultation, happened 10 years ago with the Green Paper, and considering the huge technological and commercial changes that happened in the last decade, we as the VEG think that there is an urgent need for a new EU Commission initiative launching a broader debate with the aim of developing a long term vision for VAT in the EU (systems design and operation) combining both technological developments with a sound, simple, robust and consistently applied EU legal VAT framework. This should result in short, medium- and long-term deliverables being defined that will undoubtedly help put the developed long-term vision into practice, step by step, over time.

Therefore, we as the VEG call on the Commission to launch a broader debate involving all relevant stakeholders to work together on an EU VAT system which is simple, fraud proof and fit for purpose for the future, and we commit ourselves to actively support the Commission on this important initiative.

2.3 FOCUS ON VEG DOCUMENT N° 086 AND ITS BUILDING BLOCKS INCLUDING THE QUESTIONS RAISED THERE

A. Keeping pace with new business models

The digitalization of the entire economy has had and will continue to have huge impacts on business models, go to market strategies, supply chains and products, services structures and tax revenues.

We are seeing an increased servitization of the economy (“XaaS” or “Everything as a service”) with business customers’ and final consumers’ demand shifting from products to solutions.

These developments also have impacts on the VAT system, both when it comes to the place of taxation but also on the collection of VAT, particularly in a cross-border context.

Historically, there have always been and there are still challenges in the area of VAT when it comes to the qualification of a supply, as a supply of goods or a supply of services, and also when it comes to complex and bundled supplies to determine their nature and also their type as a composite or a single supply. The technology driven commercial developments and product offerings have made and will make these aspects even more challenging in the years to come.

As outlined under point 2.2 above, when it comes to services, the Commission has in the last decade found a successful path to determine the place of supply of services - with the VAT package in 2010 (B2B) but also with the 2015 and 2021 B2C changes (the latter relating essentially to transactions in goods).

Given the future commercial developments based on the digitalization of the entire economy from a product into an outcome driven business offering, we as the VEG think that it would make sense to further explore whether the successful path found for services could also be followed regarding the place of supply of EU cross-border B2B supplies of goods, moving away from following the flow of goods as a proxy when it comes to determining the place of taxation for EU cross-border B2B supplies of goods and to follow the B2B cross-border services rules (taxation at the place of the customer's establishment) while ensuring that business is not burdened with any disproportionate compliance requirements.

In this context, it would also make sense to look in detail at all possible collection mechanisms (OSS, reverse charge system, general reverse charge system, split payment, etc.) – consider the pro's and con's for suppliers, customers and tax authorities - and to also explore, if and how the fast evolving technological developments could help (taking the experiences of Member States into consideration which have already put national technological measures in place or are in the process of doing so).

We as the VEG are very happy to actively support the Commission on this topic.

More examples of the changing commercial activities and new business landscapes are outlined in the main document.

B. Opportunities offered by new technologies

New technologies provide an indispensable support for any future VAT system, but they can also create new barriers as we have experienced in the last few years due to the variety of national technological measures that have been implemented by certain Member States.

There is, therefore, an urgent need to achieve a consensus at EU level of which technological measures can best serve as a basis for the envisioned long-term VAT system. To get there, a review of the national technological VAT measures at an EU level is a first important step: to look at everything out there in order to analyse impacts, costs, benefits – pro's and con's for all stakeholders, based on the experiences in a growing number of Member States.

The Commission should take urgent action on this in an open, neutral and constructive spirit with the aim of identifying best practices that can be built on to achieve greater consistency and a common standard across all EU Member States. In this context we also suggest that the EU Commission looks at aspects such as reporting obligations and takes a broader role in driving minimum standards, especially in emerging areas such as data-sharing e.g. minimum lead-times, standard data-fields etc.

We therefore, warmly welcome the Fiscalis seminar on transaction based VAT reporting, which the EU Commission has set up for the end of March 2020 in Estonia. It is a great starting point which we need to connect to the broader debate on a long term vision for the EU VAT system combining both new technological developments with a sound, simple, robust and consistently applied EU legal VAT

framework, to ensure that when it comes to systems design and operation of a future EU VAT system, the 2 key objectives – simplification for all stakeholders, and safeguarding VAT revenues – are achieved.

As Stephen Quest, Director General DG TAXUD, greatly pointed out in his opening statement at the Commission’s “VAT in the Digital Age” conference in December 2019 in Brussels, there is a need for greater interaction between tax and technology stakeholders throughout the policymaking process, and right from the start rather than merely at the end.

This underlines from our point of view the urgent need for a broader debate on the future of VAT in the EU under the lead of the Commission and with active involvement of all relevant stakeholders, including tax and technology stakeholders.

Looking into new technologies, the developments in Artificial Intelligence (AI) and Blockchain are very important to follow up on as well, and to further explore and monitor in terms of what they mean for VAT and how they can help the development of a future VAT system, that is simple for business and tax authorities, and safeguards VAT revenues.

More background on certain interesting opportunities offered by new technologies are outlined in the main document.

C. Simplification of the VAT system and reduction of VAT related burdens for businesses

Developing a long-term vision for the EU VAT system combining both new technological developments with a sound, simple, robust and consistently applied EU legal VAT framework takes time – well spent time – and is rather a medium to longer term deliverable.

As further outlined in the main document, the current VAT system implies a heavy administrative burden and considerable compliance costs for businesses when doing trade within the EU. This is experienced as a barrier to intra-EU trade especially for the millions of small and medium-sized enterprises (SMEs) that represent the backbone of the EU economy.

Therefore, and in parallel, we need to further simplify the current EU VAT system and to further reduce the VAT related burdens and cost for business and tax authorities.

The VEG acknowledges the actions already taken by the EU Commission in this field during the last few years with the implementation of the MOSS in 2015 and its further extension through the e-commerce VAT package to the EU One Stop Shop (OSS) scheme as from 2021. However, there are still scenarios missing, which are not covered by the OSS and therefore trigger foreign VAT registrations, such as own movement of goods, passenger transport or the e-mobility sector.

In this context the VEG document N° 086 refers to the concept of “a single VAT identification number”, which aims at reducing foreign VAT registrations and VAT reporting obligations outside of the Member State of Establishment for business, and at the same time minimising administrative burdens for tax authorities.

Based on our understanding this concept means the extension of the current One Stop Shop (pay only VAT regime) to supplies which are currently not in the scope of the One Stop Shop in order to avoid foreign VAT registrations and VAT reporting obligations abroad, which would effectively mean that all B2C and B2B supplies of services and goods that give rise to a foreign VAT registration of the supplier would be handled via a One Stop Shop regime, and thus businesses would only have one single VAT identification number in the Member State of Establishment.

Conceptually, and until a long-term vision for the EU VAT system is developed, “a single VAT identification number” limited to areas or transactions such as own movement of goods, passenger transport or the e-mobility sector, or where there is no or limited input VAT deduction for a business at stake, is seen as a helpful concept in practice, particularly when it comes to SMEs. The VEG proposes for the EU Commission to look at this aspect as a short to medium term action item.

However, applying the concept of “a single VAT identification number” as a broad concept (extending it to all B2B and B2C supplies that give rise to a foreign VAT registration), without having ensured that input VAT can be deducted through this concept, and without efforts to a full harmonization of the EU VAT rules, does not seem to result in a significant simplification for business, but may well create new challenges, such as cash flow costs, etc.

In the short to medium term, by working on better aligning or even combining the current One Stop Shop regime with the Foreign VAT Reclaim portal, particularly for SMEs, this would be an aspect that would lead to a major simplification for small businesses and is a topic which we as the VEG suggest the Commission takes a closer look at and takes further actions on.

D. Other

As requested under point “5. Other” in the VEG No 086 document, and in addition to the EU Commission’s work that has already started on VAT and Financial Services and the TOMS regime, we have in the main document listed other areas that the EU Commission could focus on from an EU VAT Law perspective, such as reducing the number of or removing exemptions and reduced rates to enhance business efficiency and effectiveness. Providing greater levels of transparency as to the tax policy objectives behind exemptions and reduced rates would in addition facilitate business understanding and improve compliance.

Given the magnitude and knowing that there will be capacity issues for all of us to deal with in all of the areas listed, we tried to only capture the key items in the main document, for example following up on topics that have already been discussed in the VEG over the last few years but also looking at potential quick wins such as bad debt relief.

E. Actions to be taken irrespective of any fundamental VAT system change

Whatever future EU VAT system we will move to and on the path to it, there are aspects which we all can already now do much better on (as our experience from the past shows) in order to reduce complexity and fraud inherent in the current system, and they do also play a vital role in order to make a future EU VAT system a success.

We have listed more detailed examples on this in the main document.

2.4 SUGGESTED WORKPLAN / DELIVERABLES FOR THE COMMISSION TO CONSIDER

Based on sections 4.2 and 4.3 of the main document, we have put a suggested workplan together in an appendix including potential short, medium and long term deliverables, which might be helpful for the Commission to further reflect on.

Clearly, one cannot expect the Commission to look at all these different aspects at the same time, so we did try our best to prioritize the items.

We as the VEG are very happy to actively support the Commission on all these topics.

2.5 CONCLUDING REMARKS

We would like to thank you the Commission for giving the VEG the opportunity to give input into the VEG document N° 086, which we find a very important initiative.

We as the VEG are very happy to actively support the Commission on the future work considering short, medium and long term deliverables for the benefit of the Commission, Member States, business and all other stakeholders, and would like to suggest to the Commission to set up a VEG meeting in the near future in which we can explain our document and the background thoughts to it in further detail.

In addition, we think, that our VEG document provides a great opportunity for the Commission to set up a joint meeting between the VEG and GFV under the active lead of the Commission, in which we can use our document as a starting point to further discuss and reflect in further detail on the future of the EU VAT system with the relevant stakeholders from the Member States and the Commission, including tax and technology stakeholders, in order to emphasize that we all together need to continue to actively, openly and constructively work together to improve the current EU VAT system while at the same time working on a long term vision for the EU VAT system combining both new technological developments with a sound, simple, robust and consistently applied EU legal VAT framework, to ensure that when it comes to the systems design and operation of a future EU VAT system, the 2 key objectives – simplification for business and tax authorities and safeguarding VAT revenues – are achieved.

3 APPENDIX – SUGGESTED WORKPLAN / DELIVERABLES FOR THE EU COMMISSION TO CONSIDER

3.1 INTRODUCTION

This appendix has been put together based on section 4.2. and 4.3. of the main document. The suggested initiatives are structured in terms of timing and refer back where possible to the building blocks mentioned in the VEG document N° 086.

3.2 INITIATIVES ALREADY STARTED IN 2020 RELATED TO THE BUILDING BLOCKS

A. Keeping pace with new business models

Action item: E-mobility, sharing / circular economy, financial services (fintech)

- Who: EU Commission
- How: Involving VEG & GFV in it
- When: 2020 – already work in progress, study report on VAT and financial services will be published in summer
- Deliverable: short to medium term

B. Opportunities offered by new technologies

Action item: Review of national technological VAT measures

- Who: EU Commission
- How: Involving VEG & GFV in it
- When: 2020 – already work in progress, see Fiscalis in Estonia
- Deliverable: short to medium to term

3.3 BROAD INITIATIVE SUGGESTED TO BE STARTED IN 2020

Action item: Launch a broader debate on the future of the EU VAT system with all relevant stakeholders

- Who: EU Commission
- How: Bringing together VEG & GFV and other contributors
- When: 2020
- Deliverable: Medium to long term

3.4 INITIATIVES SUGGESTED TO BE STARTED IN 2020 RELATED TO THE BUILDING BLOCKS

A. Keeping pace with new business models

Action item: Align EU cross-border B2B supply of goods rules with place of supply of services rules

- Who: EU Commission
- How: EU Commission project - Involving VEG & GFV in it
- When: 2020
- Deliverable: Medium to long term

C. Simplification of the VAT system and reduction of VAT related burdens for businesses

Action item: Examine further the extension of the OSS to certain transactions and sectors

- Who: EU Commission
- How: Involving VEG & GFV in it
- When: 2020
- Deliverable: short to medium term

D. Other

Action item: Quick wins – holding companies, bad debt relief

- Who: EU Commission
- How: Involving VEG & GFV in it
- When: 2020
- Deliverable: short to medium term

Action item: Follow up on issues that we have discussed in the VEG in previous years with a view to improving the current system, such as VAT Grouping, branch to head office transactions, transfer pricing adjustment fixed establishments

- Who: EU Commission
- How: Involving VEG & GFV in it
- When: 2020
- Deliverable: short to medium term

Action item: EUCJ cases - better monitoring of EUCJ cases that have a broader scope and broader impact on business and their commercial practices - better involvement of the VEG to give business practical input regarding EUCJ cases that have a broader impact on business and that the Commission is focusing on and plans to discuss in the VAT Committee – giving business practical input in advance to share the commercial reality might be helpful for later discussions in the VAT Committee.

- Who: EU Commission
- How: Involving VEG & GFV in it
- When: 2020
- Deliverable: short to medium term

3.5 INITIATIVES SUGGESTED TO BE STARTED IN 2021 RELATED TO THE BUILDING BLOCKS

B. Opportunities offered by new technologies

Action item: Explore AI and blockchain

- Who: EU Commission
- How: EU Commission to organise a fair/bootcamp style event where not only their own sandbox projects but also those of MS and business' projects can be demonstrated – like a hackathon - Involving VEG & GFV in it
- When: 2021
- Deliverable: long term

C. Simplification of the VAT system and reduction of VAT related burdens for businesses

Action item: Move OSS system and foreign VAT refund portal closer together

- Who: EU Commission
- How: Involving VEG & GFV in it
- When: 2021
- Deliverable: short to medium term

D. Other

Action item: Making the CBR pilot mandatory by the EU Commission proposing respective legislative measures (introducing mandatory dispute resolution)

- Who: EU Commission
- How: Involving VEG & GFV in it
- When: 2021
- Deliverable: short to medium term

Action item: Need to better align VAT legislation with other policies, e.g. environmental policies, such as the application of a VAT relief for donations to charities. In a recent Commission response to a question asked by MEP Marco Zanni (NI/Italy), the Commission confirms a donation given free of charge to a charitable organisation is outside the scope of VAT, and it is for the Member States to define conditions for certain free of charge self-supplies, including donations to charitable organisations, under which businesses are allowed to retain the amount of VAT already deducted. We ask the Commission to follow up on this aspect with the Member States.

- Who: EU Commission
- How: Involving VEG & GFV in it
- When: 2021
- Deliverable: short to medium term

Action item: Interface Customs/VAT: Helpful for business to reduce red tape - automatic link from the authorities' side of (new VAT ID.N°) with EORI number

- Who: EU Commission
- How: Involving VEG & GFV in it
- When: 2021
- Deliverable: medium to long term

4 MAIN DOCUMENT

4.1 INTRODUCTION – A REMINDER OF THE BACKGROUND TO THIS INITIATIVE

The VEG shares the Commission's desire to improve the current – still temporary – EU VAT system, which stands for complexity and is fraud-sensitive, and welcomes the Commission's VAT Action Plan including the definitive VAT Regime Proposals (Legal proposal 04.10.2017 & Technical details 25.05.2018), as being a good starting point for further in depth discussions.

However, any proposed measures, need to unambiguously improve (make simpler) the current EU VAT system for both business and tax administrations, and need to avoid replacing a current obstacle with a new one, and a shift from current fraud to new massive fraud. In addition, the current EU VAT system needs to be modernized, considering the new business and commercial realities as well as the opportunities that digitalization and automatization offer for which standardization (e.g. in the field of reporting but also in emerging areas such as data-sharing, etc.) plays a crucial role.

Safeguarding VAT revenues for Member States, and ensuring a level playing field for business, while keeping administrative and compliance costs for tax authorities and businesses, as tax collector, to a minimum are key objectives, and require a simple, robust, efficient and future proof EU VAT system. This is of utmost importance to promote a proper functioning of the EU Single Market, and key for fostering future growth.

Fundamental changes to the EU VAT system need to be carefully thought through and discussed in further detail, particularly considering the 2 key objectives - safeguarding VAT revenues and simplification for business and tax authorities - and keeping in mind that we are currently living in between 2 worlds – the physical and the virtual world – and are in the middle of a technological storm with changes big in scope and fast in pace, which we cannot foresee at this stage when and where this storm will end.

Given these circumstances, we all together need to find a way from where we are today to the future - this is a journey, in which all stakeholders need to be involved in from the conception phase to implementation. We all need to travel together in the same direction, with the same objectives and based on a jointly developed roadmap with short, medium and long-term deliverables.

We, therefore, welcome the Commission's VEG document N° 086 "Upgrading the EU VAT system - A reflection on possible ways forward" to which we as the VEG agreed in our last VEG meeting on November 27th to share written input with the Commission.

This paper captures the discussions which the VEG members had on the document by providing to the Commission not only input to the questions raised in the document itself but also by putting this input into the bigger picture (long term vision for the EU VAT system), which is important to consider when looking at the future of the EU VAT system. Additionally, this paper also aims to present a possible work plan to the Commission with suggested short, medium- and long-term deliverables, which we as the VEG are very keen to actively support on.

4.2 WHERE ARE WE ON VAT IN THE EU TODAY AND WHERE WILL THE FUTURE TAKE US? – IMPACTS, WHICH TECHNOLOGICAL DEVELOPMENTS MIGHT HAVE ON THE DESIGN AND OPERATION OF A FUTURE VAT SYSTEM

Before going into further detail on the VEG document N° 086, which we will do in section 3 of this paper, we as the VEG think, that it is important to recall and briefly highlight the pain points of the current EU VAT system for business and tax authorities alike,

- huge compliance burdens for business, and administrative and enforcement burdens for tax authorities, through foreign VAT registrations, diverse rules and increased reporting obligations, etc.
- huge compliance and cash flow costs/effects for business, which leads as well to huge administrative costs for tax authorities to monitor the system
- inefficiencies through exemptions, special regimes, discrepancies in the VAT treatment of transactions and the variety of rates
- losses through VAT fraud

but also to take a look into the future and outline what kind of impacts technological developments might have on the design and operation of a future VAT system, such as

- the use of data & data analytics
- real time submission of data
- prefilled VAT returns
- new and technology enabled VAT collection mechanisms based on money flow and possibly with a tax point based on cash accounting rules.

The staged collection process in the VAT system, which when the VAT system was designed more than 60 years ago, was and still is a key design feature and one of the major upsides of the VAT system, seems to have become its biggest weakness over the last 2 decades (big burden for business and enforcement issues for tax authorities when any part of the supply chain is not subject to VAT – eg cross border intra-EU supplies of goods and to a lesser extent services), particularly with globalization and the tremendous growth in global trade, fostered as well by the EU Single Market and by removing the physical borders, which as such was and is a great achievement. Having an EU Single Market, which - due to political reasons and national interests -is still far away from an EU Single VAT area despite all the great efforts and great achievements in the area of VAT driven by the Commission and adopted by Member States in the Council in the last almost 30 years, is one reason for the pain points mentioned above.

Doing nothing is not an option, we need to continue our journey and need to look into the future and need to further brainstorm on what the future for VAT might bring – to stimulate this brainstorming, we have put together the following questions.

We might not and can possibly also not have the answers to the below questions at this moment in time, given that we are still only in the middle of the technological storm - time will tell - however, it should not stop us from thinking and brainstorming about the below questions, since by doing so, this will help us to explore possible avenues to travel on and to consider possible short, medium and long term actions on how to improve the current EU VAT system, in the light of the currently still unknown but possibly very helpful future technological developments:

- Can and will the use of modern technology help us over time to get to an EU Single VAT area?

- Or can we go even further and say that at some point in time in the future a EU Single Market, which always needs to be based on a sound EU legal VAT framework that has to be constantly updated and uniformly applied by all Member States, might even not require an EU Single VAT area anymore when it comes to the collection and administration of VAT?

Clearly technology alone will not be sufficient to ensure a fully functioning VAT system in the future, we always need a sound, simple, robust and consistently applied EU legal VAT framework, on which we can run modern technology in an efficient way, however, when thinking about a future VAT system's design and operation, we should consider the following aspects:

- Can technology help us to overcome the issues we seem to have with the staged VAT collection process and the burden this seems to cause for both business and tax authorities, to make VAT not only a tax borne by the final consumer but also a tax collected from the final consumer?
- Will the technological and administrative developments that already started in some EU Member States such as the use of data & data analytics, real time submission of data, mandatory e-invoicing, prefilled VAT returns, split payment regimes etc. lead to a future where in the B2B area VAT is not collected in stages anymore but is dealt with through reporting and the use of data , and in the B2C area VAT collection will be based on the payment flow?

If this is the future, and time will tell - do we then not already now need to urgently start to brainstorm on a long term vision for the design and operation of a future EU VAT system by considering the technological developments and learning from what is out there now and what is already in the pipeline, and to start working on a technology driven sound, simple, robust and consistently applied EU legal VAT framework, and a consistent technological framework for the EU that allows for the efficient collection of VAT for business and the administration of VAT for tax administrations in an as consistent way as possible?

While working together – Commission, Member States and business - on a long term vision for a future EU VAT system, we need at the same time in parallel to also work together to improve the current EU VAT system based on short, medium and long term deliverables, keeping pace with new business models, facilitating and allowing automation to happen both on the business and tax authorities side through the use of modern technology for which a simple and consistently applied legal VAT framework and rules and procedures that allow automation are of utmost importance.

We think, that we should start with such an initiative under the lead and coordination of the Commission by launching a broader debate and actively involving both the VEG and the Group of the Future on VAT (GFV) in this thought and working process. We as the VEG are very happy and very keen to actively support in this process and call for close cooperation on this between the VEG and the GFV under the active lead of the Commission.

As mentioned in section 4.1 of this paper and outlined in the attached appendix, we have put together a possible work plan with suggested short, medium and long term deliverables, which we as the VEG are very keen to actively support the Commission on.

4.3 FOCUS ON VEG DOCUMENT N° 086 AND ITS BUILDING BLOCKS INCLUDING THE QUESTIONS RAISED THERE

The VEG document N° 086 provides an excellent opportunity to launch a broader debate and to bring the EU VAT world (current EU VAT system / future EU VAT system – national technological measures) together with the fast evolving commercial & technological world, by focusing on its 4 building blocks:

- (2) Simplification of the VAT system and reduction of VAT-related burdens for businesses

- (3) Keeping pace with new business models
- (4) Opportunities offered by new technologies
- (5) Other

We think, that it is best to start our thought process and our proposals with building blocks “3. KEEPING PACE WITH NEW BUSINESS MODELS” and “4. OPPORTUNITIES OFFERED BY NEW TECHNOLOGIES” since they are connected, before dealing with building block “2. SIMPLIFICATION OF THE VAT SYSTEM AND REDUCTION OF VAT-RELATED BURDENS FOR BUSINESSES” and “5. OTHER”, which are an outflow of building blocks 3 and 4 and are therefore highly dependent on the outcome of the discussions on blocks 3. and 4.

Additionally, we suggest to also add a new section “6. ACTIONS TO BE TAKEN IRRESPECTIVE OF ANY SYSTEM CHANGE” to the discussions, which we will elaborate on further in section E. of this document.

We, therefore, start with:

A. Keeping pace with new business models

The digitalization of the entire economy has had and will continue to have huge impacts on business models, go to market strategies, supply chains and products and services structures.

A.1 The servitization of the economy

Customers are requesting customized technology-based solutions and have moved away from merely wanting to buy a traditional product. Therefore, traditional product offerings have changed and will do even more so in the future. Instead of buying a copy machine or printer, customers pay a service fee per copy or print. This is just one example which illustrates the increased servitization of the economy (“XaaS” or “Everything as a service”), leading to much more complex supplies (goods and services) and bundled supplies (variety of different services bundled together).

These developments also have impacts on VAT both when it comes to the place of taxation but also on the collection of VAT, particularly in a cross-border context.

Historically, there have always been and there still are challenges in the area of VAT when it comes to the qualification of a supply, as a supply of goods or a supply of services, and also when it comes to complex and bundled supplies to determine their nature but also their type as a composite or a single supply. The technology driven commercial developments and product offerings have made and will make these aspects even more challenging in the years to come (as we can learn from the sharing economy developments, old/existing issues get multiplied in this technology driven world which changes the way commerce is done and brings new players into the VAT system).

We see subscription models developing linked to a supply of goods, where the consumer agrees to a subscription to buy a good over a longer period of time, (eg leasing a car rather than purchasing one). Does the subscription qualify as a supply of goods or services? In case the goods are exported/imported from/in the EU, when is the VAT due in the country of consumption? The consumer buys the goods and also the access to an app, e.g. the app gives the consumer additional information on his behaviour.

We are also experiencing that technology, through constantly evolving and improving software solutions is changing the nature of services – repair services which had to be carried out manually and by people visiting a site physically years ago are now carried out remotely at a distance via innovative software solutions.

For example a wind turbine in Romania can be remotely repaired from Germany, which poses the question whether the service is a repair service or an electronically supplied service and whether the

service supplied is to be seen as connected with immovable property or not – one might think, that this does not finally matter as the place of supply of services is, in this example, always in Romania, however, there might be various foreign or local parties involved in the services supply chain that will have to deal with foreign VAT registration requirements depending on how the nature of the service is going to be qualified. Similar VAT technical questions to solve are in the area of complex and bundled supplies. There can be different types of services bundled together, which can have impacts on the nature of the service, the place of supply, the taxpayer and time of payment of any VAT due.

Therefore, further consideration has to be given to aspects like the distinction between electronically supplied services and other types of services or even thinking about whether the concept of electronically provided services should be broadened?

A.2 Adopt the same VAT rules for services and goods?

Looking back, when it comes to services, in the last decade the Commission has found a successful path to determine the place of supply of services with the VAT package in 2010 (B2B) but also with the 2015 and 2021 B2C changes (the latter relating essentially to transactions in goods). Given future commercial developments based on the digitalization of the entire economy from a product into an outcome driven business offering, the question comes up whether it would not make sense to explore whether the successful path found for services could also be followed regarding the place of supply of EU cross-border B2B supplies of goods ensuring that business is not burdened with any disproportionate compliance requirements.

This would mean moving away from following the flow of goods as proxy when it comes to determining the place of taxation for EU cross-border B2B supplies of goods and to follow the B2B cross-border services rules (customer establishment). Clearly there are challenges with this approach, such as the exempt sector, non-EU businesses involved in the flow of goods within the EU, and many more, and there was a study carried out for the Commission in 2012 - TAXUD/2011/DE/304, Final Report 8 February 2012¹, which looked into this topic and highlighted some challenges but it could be further explored, since none of the challenges raised in the report seemed to be an ultimate show stopper.

In this context, it would also make sense to look in detail at all possible collection mechanisms (OSS, reverse charge system, general reverse charge system, etc.) – consider the pro's and con's for suppliers, customers and tax authorities - and also explore, if and how the fast evolving technological developments could help (taking the experiences of Member States into consideration which have already put national technological measures in place or are in the process of doing so).

Carrying out detailed research on this topic, which the VEG is very happy to actively support the Commission on, is from our perspective very important, as the option of following the place of supply of services rules for EU B2B cross-border supplies of goods in combination with a reverse charge collection regime was not researched in detail by the Commission in the EY study which was the basis for the Commission's definitive regime proposals.

Sustainability, environment and automation are important aspects to consider when reforming or shaping new tax policies; we think, that researching this topic in further detail might lead to gaining benefits for both businesses and tax authorities.

¹ Study entitled „*Study on applying the current principle for the place of supply of B2B services to B2B supplies of goods -Place of establishment of the customer*“ is accessible on https://ec.europa.eu/taxation_customs/business/vat/vat-reports-published_en

We, therefore, encourage the Commission to look into this specific topic by commissioning further research and identifying if there are bottlenecks and how they could be resolved. We as the VEG are very happy to support such an initiative.

A.3 E-mobility, 3D Printing, cloud services, sharing economy

E-mobility is a new and growing sector with interesting questions that need to be clarified from a VAT perspective. There are various parties involved in the supply chain from the energy producer to the electric vehicle user, and it is very important to understand the commercial and legal set up in order to determine the VAT consequences, particularly whether the supplies in the supply chain are supplies of goods or services, which is particularly important in an EU cross-border context in order to determine who is liable to collect the VAT, which if we speak about the supply of goods could end up in multiple foreign VAT registrations for various parties involved in the supply chain. As this shows, there is a link between the place of taxation and the liability to collect, which need to be always looked at together, since it is worth nothing to determine the place of taxation in a way that makes it difficult or even impossible to collect the tax for business and to enforce the tax for tax authorities. Also, in this case having the same place of supply rules for goods in EU B2B cross-border supplies as for the place of supply of services, would make life much easier for business and tax administrations.

We also encourage the Commission to consider the VAT treatment of 3D printing and cloud related services, as well as the sharing economy (which was already mentioned in the Commission document and on which the Commission has already started to work – there is also a link to the OECD work on this topic).

A.4 The circular economy & platform economy

Another topic to consider and work on is the circular economy and VAT related questions.

When it comes to the platform economy, aspects like channel neutrality and enforceability are key to ensuring a level playing field. For this to happen simple and consistently applied rules across the EU are very important, which will also foster an effective exchange of information and administrative cooperation between Member States tax authorities. Consultation with business and granting an appropriate lead time for implementation is also very important particularly as there is no one size fits all approach possible in this area given the variety of business models and operational set ups that exist.

Digital platforms which offer technology driven solutions to their underlying suppliers with the aim to helping them comply for VAT purposes and to support safeguarding VAT revenues for tax authorities are seeing themselves more and more being put under scrutiny by national professional regulatory requirements such as national tax advisory laws, which seem to interfere with the digital platforms willingness to support VAT compliance and safeguard VAT revenues. This is a great example, which shows, how technology driven VAT solutions that aim at supporting to safeguard VAT revenues are undermined by historical regulatory requirements that seem to be outdated in today's technology driven world and which cause big problems for those who would like to support tax administrations. At the same time some Member States have implemented strict joint and several liability rules for digital platforms to make them liable for underlying suppliers that do not comply with local VAT regulations. This is quite bizarre, as on the one hand they are made liable for non-compliance of their underlying suppliers and on the other hand they are not allowed to support their underlying supplier with technology driven solutions to help them with their VAT compliance.

In our view it should be kept in mind that the set-up of the sharing economy and circular economy is different from e-commerce. While within the field of e-commerce there is a small group of platforms with a dominant market role and supplies of goods and services will be subject to VAT mostly in the

EU Member State where the customer is located, within the sharing economy the platforms and services provided are more diverse. At the same time the supplier or service provider and the customer are in each other proximity and the platform does not have to be. For example, in case A (in the Netherlands) offers to lease its tools via a platform (based in the US), customers will most likely be located in the proximity of A. Applying a deeming provision here, where A is deemed to supply the goods to the platform and the platform to the customer of A, here has the adverse effect that the lease to the customer will be subject to VAT in the US (based on the main place of supply rule for B2C-services and assuming that the use & enjoyment rule has not been implemented). As regards the circular economy the rules for second hand goods and supply of waste materials should be considered.

A.5 Other aspects

Whether data collected by digital platforms has a value and should be seen as consideration for a supply (barter transaction) from a VAT perspective is still controversially debated around the world in academia and by governments and business VAT experts. Wherever the discussions will end, we need to ensure that we do not create a compliance nightmare from a VAT perspective for the parties involved in this area.

The betting/online gaming sector is also impacted by new business models and is also an area for the Commission to start further VAT work on.

Additionally, “chain-based” business models (including virtual intermediaries), fuel cards, car leasing and management, city cards are also aspects to look into from a VAT perspective.

The financial services sector, particularly through Fintechs and other players, is also undergoing big commercial change. Aspects like financial derivatives, cryptocurrencies and digital tokens will, we understand, be looked at from a VAT perspective, as part of the on-going study.

Clearly one cannot expect the Commission to look at all these different aspects at the same time, so it is very important that we give these aspects the relevant priority.

We as the VEG are very happy to actively support the Commission on all these topics and have tried in our appendix, as best as we can, to prioritize these aspects and to allocate them into a short, medium and long term category when it comes to deliverables.

B. Opportunities offered by new technologies

New technologies provide a great opportunity to support on the 2 key objectives, which all stakeholders - Commission, Member States and Business – need to continue to further work on together in the area of VAT:

- safeguarding VAT revenues for Member States, and ensuring a level playing field for business, and
- keeping administrative and compliance burdens and costs for tax authorities and businesses, as tax collector, to a minimum

Being rather a longer term deliverable, which we however need to start looking at now in parallel with the work on the short and medium term deliverables, are the impacts of technological developments on the design and operation of a future VAT system (long term vision) – see also the comments which we already outlined above in section 4.2 of our document.

Technology alone will not be able to help us in the design of a future VAT system as there is clearly the need for a sound, simple, robust and consistently applied EU VAT legal framework, on which we can run modern technology in an efficient way, however, when thinking about a future VAT system’s

design, and looking at sound policy options, technology needs to be incorporated in this effort and play a vital role in it.

As Stephen Quest, Director General DG TAXUD, greatly pointed out in his opening statement at the Commission's "VAT in the Digital Age" conference in December 2019 in Brussels, there is a need for greater interaction between tax and technology stakeholders throughout the policymaking process, and right from the start rather than merely at the end.

In this respect the "VAT in the Digital Age" conference marked a great first step, it is merely the beginning of the conversation, but which is a very important one and we as the VEG look forward to actively engaging in the debate in the coming years. As the conference also outlined an increased focus on and involvement of the users of technology, which is business as tax collector and tax authorities as administrator of the VAT system, is crucial and will also foster the better functioning of the EU Single Market and enhance future growth.

We, therefore, think that under the active lead and coordination of the Commission and with the support of the VEG and GFV, the journey which started with the conference in December 2019 has to be further continued and elaborated on. We as the VEG are very happy to actively support.

Businesses are highly concerned about the current technological developments in the area of VAT across the EU, which have led to highly diverse national technological measures being introduced on VAT in the last couple of years, put in place by certain Member States in isolation (only looking at their own country) to fight fraud, and all of them posing very high compliance burdens and costs for legitimate business, since these measures are not aligned and are often going in diametrically opposed directions.

Having put the physical borders away in 1993 when the Single Market was created, we now feel, that new technological borders have been put in place, which is clearly further disharmonizing the EU VAT system and has become an additional and very costly obstacle for a smooth functioning of the EU Single Market, which is key to fostering future growth.

We all agree that new technologies can provide useful, efficient and effective tools to administer VAT. However, a standardized approach is required for the various initiatives being taken today by the EU Member States on reporting/SAF-T, SII, split payment, payer lists, e- invoicing, etc.

The reality is that businesses work with multiple ERP's, have large numbers of transactions and have often complicated structures which require consolidation of data from different sources. This makes it very difficult to implement different requirements regarding content, format and timing of compliance.

Also whilst not being ideal, since we should always focus on the simplest solution and apply it consistently across the 27 EU Member States, businesses can cope with any complex set of requirements as long as there is only ONE set of requirements. The total lack of EU coordination on this has become a barrier for growth in the single market (for SMEs in particular).

There is, therefore, an urgent need to review national technological VAT measures at an EU level, based on the experiences in a growing number of Member States, and for the Commission to take urgent action on it in an open, neutral and constructive spirit with the aim to identify best practices that can be built on to achieve greater consistency and a common standard across all EU Member States.

We therefore warmly welcome the Fiscalis seminar on transaction based VAT reporting, which the EU Commission has set up for the end of March 2020 in Estonia. It is a great starting point which we need

to connect to the broader debate on a long term vision for the EU VAT system combining both the new technological developments with a sound, simple, robust and consistently applied EU legal VAT framework, to ensure that when it comes to the systems design and operation of a future EU VAT system, the 2 key objectives – simplification for business and tax authorities, and safeguarding VAT revenues – are achieved.

If helpful, and as a follow up to the Fiscalis seminar on transaction based VAT reporting in Estonia, we suggest - under the active lead and coordination of the EU Commission - the VEG and GFV to continue working together on this topic in a mixed sub-group including as well IT people from business, Member States and the Commission.

The developments in Artificial Intelligence (AI) and Blockchain are very important to follow up on, and to further explore and monitor in terms of what they mean for and how they can help the future of VAT. There will be new technologies, which we can't imagine today, popping up in the years to come, which we need to also keep an open mind for – it is therefore important to keep an open and flexible mind when it comes to looking at new technologies in order to ensure technology neutrality. The pros and cons of different technology options must be reviewed, as an example one aspect which seems to pop up constantly when we speak about new technology options is data privacy, data security and data storage, and the levels of investment required for the implementation of these different technology options.

Taking Blockchain as an example, and as also the conference on “VAT in the Digital Age” highlighted, Blockchain is a promising technology but it is still very much in its infancy and we are only at the start of the journey in terms of understanding how blockchain can be used in the area of taxation. Considerable uncertainty remains regarding its overall utility for VAT administration, as well as commercial and legal questions around ownership, scalability, governance and regulation, interoperability, interaction with ERP systems, maintenance and liability issues. Whilst blockchain needs further exploration as a solution, legislation also needs to be developed in a way that enables automation - the two must go hand in hand, as we already pointed out above. When shaping new VAT legislation, we always need to take automation (the possibility to automate the new rules) into consideration as an additional benchmark.

Regarding Blockchain, suggestions were made to explore Blockchain and how it can help when it comes to the urgently needed improvements to the VIES system, but also when it comes to transport documentation and the burden of proof. Member States will have to more efficiently exchange information and cooperate with each other. As we also learned in the conference “on VAT in the Digital Age”, the Netherlands has started a project to see how Blockchain can help fight VAT fraud in the future. Blockchain is mentioned all the time these days and there are a lot of experiments happening, and in the pipeline, however, there is nothing tangible out there which we can use short term in the area of VAT. This said, and as mentioned above, we need to continue to further explore the benefits and risks that new technologies such as Blockchain bring.

As always in life, everything has to be handled with due care and in a responsible fashion, this is also the case when it comes to technology. Taking AI as example, whereas the use of AI, in theory, makes life simpler for all of us, the experience also shows that AI can become a source of error because of an assumption that AI is always right. For example, invoice recognition apps don't easily pick up on reverse charges and cases have been seen where the standard rate has been applied (and VAT deducted) to for example zero-rated supplies because the first supply on the invoice was standard rated.

As this shows, technology is important and a great help, and it will become even more important and hopefully also more helpful in the years to come, but a sound legal framework and some type of human

intervention will always be required – technology alone is not and will not be the solution, at least not for now and not until we retire, unless we will all have to work to the age of 100. (*might be soon become true* 😊)

C. Simplification of the VAT system and reduction of VAT related burdens for businesses

Having looked at and elaborated on the building blocks “3. KEEPING PACE WITH NEW BUSINESS MODELS” and “4. OPPORTUNITIES OFFERED BY NEW TECHNOLOGIES” of the VEG document N° 086, which are connected to each other, we would now like to focus in this section C on building block “2. SIMPLIFICATION OF THE VAT SYSTEM AND REDUCTION OF VAT-RELATED BURDENS FOR BUSINESSES”, as this an outflow of building blocks 3 and 4, which outline the bigger picture both in terms of the commercial developments and technological developments, and which are key to consider when looking at the future of VAT and its design and operation (knowing that this takes time to develop and execute, which makes them more medium to longer term deliverables).

In parallel we need to look at the simplification of the current VAT system and reduction of the VAT related burdens for business and tax authorities too, which we would like to focus on now, and outline how the current system can be improved based on short, medium and long term deliverables, keeping pace with new business models and new technological developments, facilitating and allowing automation to happen both on the business and tax authorities side for which a simple and consistently applied legal VAT framework and rules and procedures that allow automation are of utmost importance.

In this context VEG document N° 086 refers to the concept of “a single VAT identification number”, which aims at reducing foreign VAT registrations and VAT reporting obligations outside of the Member State of Establishment for business, and at the same time as well administrative burdens for tax authorities.

Foreign VAT registrations and VAT reporting obligations caused by the current EU VAT system are seen as a major, if not the major compliance and cost burden not only for big business but also particularly for SMEs. It is often cheaper for traders to incur transport costs instead of costs for foreign VAT registrations, which is from an environmental perspective, and also considering the EU’s Green Deal initiative not the desired approach. It should be our ambition and objective when looking at the future of VAT in the EU to come up with a system that does not require a business to register in another Member State when trading with a business (or non-business) customer there, since by achieving this objective, it will make having to look for simplifications in this field obsolete.

This aspect also links back to our earlier call for the Commission to further research whether we could not follow the place of supply of services rules also for EU B2B cross-border supplies of goods when it comes to the place of taxation and combine this approach with an easy to apply liability to collect mechanism that avoids foreign VAT registrations and reporting obligations for business abroad.

When looking at the single VAT identification number concept in more detail, many VEG members asked for the concept to be further clarified (explained) by the Commission in order to ensure that everybody has the same understanding.

What most of us in the VEG think, that the concept might mean is, the extension of the current One Stop Shop (pay only VAT regime) to supplies which are currently not in the scope of the One Stop Shop in order to avoid foreign VAT registrations and VAT reporting obligations abroad, which would effectively mean that all B2C and B2B supplies of services and goods that give rise to a foreign VAT registration of the supplier would be handled via a One Stop Shop regime, and thus businesses would only have one single VAT identification number in the Member State of Establishment.

If this understanding is correct, even so it seems to be in principle helpful when it comes to avoiding foreign VAT registrations and reporting obligations abroad, implementing such a system in a broad and far reaching way (as a broad concept) extending it as well to all B2B supplies that give rise to a foreign VAT registration, raises a lot of practical questions, such as for example, would this number be a separate One Stop Shop VAT number, separate from the local domestic VAT number and it is also not clear how the single VAT identification number is intended to operate alongside the different national SME exemptions if these continue to be permitted (i.e. can you have the VAT identification number and still benefit from the exemptions when otherwise eligible). It is also assumed that it is an optional concept so business could still also have separate foreign VAT numbers, where it would like to be directly registered, and many more questions (as always with VAT, the devil is in the detail).

Additionally, not allowing businesses that have incurred input VAT outside of their Member State of Establishment to deduct it via the One Stop Shop in the Member State of Establishment (from where the One Stop Shop is operated), causes major concerns and a lot of questions from a business perspective in terms of cash flow and neutrality of the VAT system, and seems to undermine the fact that VAT is a tax on the final consumer and not on business.

Moreover, the precondition for a system of a single VAT identification number, with input tax deduction, would, in our view, require a full harmonization of the European VAT system and the national VAT rules of the 27 Member States, as this concept is in fact a collective system based on the principle of the collection of VAT in the Member State of Establishment, combined with a system of allocating the tax revenue collected to the Member State of Destination. This would not only have impacts on VAT technical/legal matters but also on administrative (such as VAT audits) and procedural matters (legal actions against any VAT assessment under this single VAT identification would be subject to the jurisdiction of the fiscal courts of the Member State of Establishment).

Being visionary/ambitious and realistic at the same time, given the past experience and the current political environment, it is difficult for us to imagine that this will happen soon. Nonetheless, we should never stop working towards the above objectives, having full harmonization as our end goal.

Referring back to the outcome of the 2011 Green Paper Conference in Milano, developing the future VAT system is “an evolution not a revolution”, and looking back over the last decade a lot has been achieved since then by taking things step by step, but still fundamental aspects of the future of the EU VAT system have to be further worked on, which both business and Member States should actively continue to do under the active lead and coordination of the Commission.

Continuing on this path and approaching things step by step, whereas applying the single VAT identification number in a far reaching way (broad concept implying a high degree of harmonisation) seems not to be seen as realistic and manageable at this moment in time (at least short to medium term), there are a lot of good reasons for keeping the One Stop Shop optional and extending it when it comes to certain transactions or sectors, particularly for SMEs, in order to reduce foreign VAT registrations and VAT reporting obligations outside of their Member State of Establishment.

Therefore, in our view there should be a short term focus on areas or transactions such as own movement of goods, passenger transport or the e-mobility sector, or where there is no or limited input VAT deduction for a business at stake, where an extension of the One Stop Shop would be helpful, particularly when it comes to SMEs.

Taking the movement of own goods as example, such an extension would for example reduce the VAT administration burden for businesses who store their e-commerce inventory across the EU, either in own warehouses or through 3rd party logistics providers. Under the current VAT rules as well as the e-

commerce VAT package that will enter into force in 2021, such businesses are still required to VAT register in every Member State where their inventory is stored.

Another important aspect to consider, particularly when it comes to making it easier for SMEs to operate cross-border in the EU VAT system is the suggestion to explore moving the currently existing (pay only) One Stop Shop closer together with the currently existing Foreign VAT Reclaim portal (Directive 2008/9/CE refers).

Extending the current One Stop Shop further and working on better aligning or even combining it with the Foreign VAT Reclaim portal, particularly for SMEs, would lead to a major simplification for small businesses and is a topic which we as VEG suggest the Commission to take further actions on.

So to sum it up to switch at this stage to a broad concept of a single VAT Identification number without having ensured that input VAT can be deducted and without efforts to a full harmonization of the EU VAT rules, does not seem to result in a significant simplification for business, but rather brings a number of new challenges. However, there are good reasons as mentioned above for extending the optional One Stop Shop when it comes to certain transactions or sectors, particularly also for SMEs, in order to reduce foreign VAT registrations and VAT reporting obligations abroad.

When it comes to the broader application of the concept of the single VAT identification number, we think that the Commission should research in further detail, as mentioned earlier in our document, whether there are ways to effectively combine the place of taxation rules for EU cross-border supplies of goods (following the place of supply of services rules) with an easy to apply liability to collect mechanism ensuring we also take the use of modern technology into consideration. All options out there, both when it comes to the place of taxation and collection of VAT should be analysed in detail considering as well how modern technology can help in all of this. This can be started now with rather medium to long term deliverables. As short to medium term deliverables we need to explore the extension of the One Stop Shop as an optional regime where it makes sense as a simplification measure.

D. Other

In this section we as the VEG are happy to give input to areas which in our view require a review of EU VAT Law.

As outlined in the VEG document N° 086 the Commission has already started a review in the area of certain special schemes (Tour Operators' Margin Scheme) and the area of exemptions (in particular the VAT treatment of financial services), which the VEG welcomes and is very happy to support on.

Given the magnitude and knowing that there will be capacity issues for all of us to deal with all the areas listed, we tried to only capture key items, for example:

- Quick wins
 - o Input VAT deduction / refunds managing cash flow and formalities
 - Holding companies
 - Goods given away free of charge for marketing purposes, (especially in cross border situations)
 - o Bad debt relief
- Follow up on issues that we have discussed in the VEG in previous years with a view to improving the current system, such as
 - o VAT Grouping

- Branch to head office transactions (Bank of China, Morgan Stanley and similar cases) also in connection with VAT grouping (Skandia and Skandia II cases) and the notion of 'dependent' and independent branches.
- Transfer pricing adjustment
- Work on Fixed Establishments (Welmory case)
- Making the CBR pilot mandatory by the EU Commission proposing respective legislative measures (introducing mandatory dispute resolution).
- EUCJ cases
 - Better monitoring of EUCJ cases that have a broader scope and broader impact on business and their commercial practices - better involvement of the VEG to give business practical input regarding EUCJ cases that have a broader impact on business and that the Commission is focusing on and plans to discuss in the VAT Committee – giving business practical input in advance to share the commercial reality might be helpful for later discussions in the VAT Committee.
- Need to better align VAT legislation with other policies, e.g. environmental policies.
 - Example: application of VAT to Donations
 - EU VAT Law is not aligned with environmental and circular economy policies as in most Member States VAT is due on excess inventory that is donated (i.e. free of charge) to charitable organizations. As a result, excess inventory that cannot be re-used or recycled is currently not donated at scale and is largely sent for destruction.
 - Destruction of unsold or returned products could be significantly reduced by introducing a broad VAT relief for donated goods, with limited documentary requirements for the parties involved.
- Interface Customs/VAT: Helpful for business to reduce red tape - automatic link from the authorities' side of (new) VAT ID.N° with EORI number

Looking at the above-mentioned aspects it becomes clear that one cannot expect the Commission to look at all these different aspects at the same time, so it is very important here as well that we as the VEG, in support of the Commission, attempt to further prioritise these aspects.

E. Actions to be taken irrespective of any fundamental VAT system change

Whatever future EU VAT system we will move to and on the path to it, there are aspects we can already now do much better on (as our experience from the past shows) in order to reduce complexity and fraud inherent in the current system, and they do also play a vital role in order to make a future EU VAT system a success. Examples are:

- Better EU regulations – involving policy stakeholders, including business, from conception of the idea to implementation – already good progress made but there is a need to better connect the different groups under the lead and coordination of the Commission to more effectively work together;
- More uniform implementation, interpretation and application of EU VAT regulations in all 27 Member States, ensuring better national consultation with business and appropriate implementation lead times;
- EU web portal – to share relevant information on the VAT systems of all 27 Member States is required for taxpayers to be compliant (such as rates, registration process, etc.). The TEDB project should be rapidly completed in this regard and must be legally binding.

- Faster and more efficient exchanges of information and improved administrative cooperation between Member States tax authorities, better use of already existing legal tools and institutions such as Eurofisc and Olaf;
- Better and more efficient VAT registration processes on the tax administration side in the 27 EU Member States – better exchange of information between Member State of Establishment and Member State of registration on basic company information regarding businesses that apply for a foreign VAT registration;
- Faster VAT refunds without increasing additional risk for taxpayers including mutual facilitation of 13th Directive VAT refund claims;
- Better risk management on the tax administration side in the 27 Member States through applying relevant risk criteria and screening but also through the use of cooperative compliance regimes that are mutually recognized by Member States;
- Better alignment of the national procedural administrative processes of the 27 Member States' tax administrations, which will allow more standardization on aspects like VAT returns, reporting, etc.;
- A need for a more dynamic EU soft law (Explanatory Notes, Guidelines not affecting the MS tax sovereignty) but still accepted as a sort of official explanation of the treatment of specific activities from the Directive' perspective, particularly important given that the overall VAT environment becomes more complicated, more risky, less friendly for business and that the business environment is so dynamic as probably never before.

These are the actions, we need to urgently focus on and come up with solutions for, which benefit tax administrations and business alike.

4.4 SUGGESTED WORKPLAN / DELIVERABLES FOR THE EU-COMMISSION TO CONSIDER

Based on sections 4.2 and 4.3 of this document, we have put a suggested workplan together in an appendix including short, medium and long term deliverables, which might be helpful to the Commission.

Clearly as already mentioned earlier in the document, one cannot expect the Commission to look at all these different aspects at the same time, so it is very important to further prioritize these aspects.

We as the VEG are very happy to actively support the Commission on all these topics and have tried in our appendix, as best as we can, to list and give the aspects some priority.

4.5 CONCLUDING REMARKS

We would like to thank you the Commission for giving the VEG the opportunity to give input into the VEG document N° 086, which we find a very important initiative.

Given that we only had about 2 months, as the holiday break was in between, to collect, discuss, coordinate the VEG input, and to put into this document and agree on it with all of the VEG's members - being visionary and realistic at the same time - nobody can and will expect from us as the VEG that we come up with fully-fledged solutions to all the VAT issues that are out there and need to be tackled. However, we as the VEG hope, that with our (hopefully helpful) input, we can support the Commission to focus on key VAT aspects that are relevant today and in the future and give guidance and support on aspects, which we as the VEG think should be looked at by the Commission when reflecting on possible ways forward.

We as VEG are very happy to actively support the Commission on the future work considering short, medium and long term deliverables for the benefit of the Commission, Member States, business and all other stakeholders, and would like to suggest to the Commission to set up a VEG meeting in the near future in which we can explain our document and our background thoughts to it in further detail.

In addition, we think, that our VEG document provides a great opportunity for the Commission to set up a joint meeting between the VEG and GFV under the active lead of the Commission, in which we can use our document as a starting point to further discuss and reflect in further detail on the future of the EU VAT system with the relevant stakeholders from the Member States and the Commission, including tax and technology stakeholders, in order to emphasize that we all together need to continue to actively, openly and constructively work together to improve the current EU VAT system while at the same time working on a long term vision for the EU VAT system combining both the new technological developments with a sound, simple, robust and consistently applied EU legal VAT framework, to ensure that when it comes to the systems design and operation of a future EU VAT system, the 2 key objectives – simplification for business and tax authorities and safeguarding VAT revenues – are achieved.

The current EU VAT system as it stands – being complex and fraud-sensitive – cannot be the long-term solution, so doing nothing is not an option. The VEG is very happy to actively support the Commission when it comes to reflecting on possible ways forward on the journey to a future EU VAT system built for growth in the EU, for the benefit of business, administrations and all other stakeholders.