

SME proposals for Omnibus on Taxation

General comments

- **Simplification & Clarity**

Taxpayers who find communications easier to understand are four times more likely to trust authorities.

Therefore, mandate plain-language communication standards across EU tax administrations, ensuring clarity in guidance, forms, and digital interfaces.

- **Digitalisation & Accessibility**

Digitalisation and online services can simplify tax compliance significantly. However, SMEs will only benefit if the tools are well functioning, simple and easy accessible. The tools should be free of charge and optional.

Therefore, expand inclusive digital tax services, with multilingual support and accessibility features for small enterprises, ensuring equitable access to simplification benefits.

- **Taxpayers rights and transparency**

Data is of course important for governmental agencies, but they have a tendency to use it beyond what is legally permitted under administrative law. The rights of the taxpayer need to be respected – and strengthened. Furthermore, data that is reported must also be used appropriately.

Therefore, a legal evaluation of the use of the data should be carried out regularly and SMEs ask for an initiative to increase and clarify the taxpayer's rights towards the governmental tax agencies.

It appears that more and more data must be reported (sometimes the same data to the same authority but in different forms and arrangements). Reporting obligations should be limited to the necessary, reasonable extent, as limited company resources are used for this purpose and are no longer available for their actual purposes.

Therefore, a legal basis should be established to enable action against disproportionate requirements. Data protection and appropriate compensation in case of violations must become mandatory.

Tax administrations of the EU Member States should be more transparent about the use of artificial intelligence and data mining, particularly in the selection of who is subjected to an

audit. Due to the complete lack of transparency, many businesses are unaware of the far-reaching AI tools available to the tax authorities. This creates an atmosphere of secrecy and a risk of (unintentional) abuse and violations of citizens' rights.

Therefore, tax administrations should be fully transparent about the use of AI tools.

1. VAT Directive

- **OSS special scheme and quarterly “zero” return (Article 369 of the VAT Directive)**

Taxable persons who have opted into the One Stop Shop (OSS) special scheme must submit a quarterly VAT return even when no transactions have taken place. In Italy for example, failure to submit or late submission of the quarterly return triggers a penalty ranging from 120% to 240% of the VAT due, with a minimum of EUR 250. In the event of late submission, the administrative penalty varies from 25% to 45% of any tax due, depending on the time elapsed, with a minimum of EUR 100.

For this reason, and in order to remove unnecessary administrative burdens on businesses, it is considered appropriate to abolish the obligation to file the return where the operator has carried out no transactions during the relevant quarter.

2. VAT in digital age (ViDA) – implementation

Since the ViDA implementation is being prepared SMEunited wants to provide feedback on necessary steps to be taken for a successful implementation.

For a successful ViDA implementation, the following aspects will be essential:

- **Timely availability of information**

Information about the ViDA implementation and requirements from enterprises must be available as soon as possible at least one year before the start of ViDA in all EU languages. Furthermore, information on interfaces must be available as well in form of examples, check lists and guidelines. At least, the current standard for the EU standard 16931 as well as the revised version including syntaxes and the extensions, the syntaxes for the new digital reporting system and the Explanatory Notes should be made available for free. For the new digital reports, a testing possibility in the tool of the respective state should be provided for taxpayers as well.

- **Provision of a free tool**

The most effective solution to ensure compatibility is the provision of a free-of-charge tool for issuing, receiving, and converting the core elements of the electronic invoices according to the EU standard (CEN EN 16931) as well as for transmitting them in a safe

way. If the tool will not be provided, for small businesses ViDA will mean higher cost for many small businesses.

At the moment, ViDA has encouraged the development of many different solutions by IT providers. These solutions are not always compatible or not even fulfilling the EU standard's CEN EN 16931 requirements. SMEs cannot know if an IT solution is satisfactory. Furthermore, these solutions entail costs for SMEs. A free platform would resolve this uncertainty and lower the financial burden on SMEs. Nowadays, the transmission of in-invoices often happens via e-mail since more secure solutions are not affordable for SMEs. A free platform that can transmit the information as well would provide a secure reliable solution.

- **Ensure harmonisation**

ViDA can only fulfil its expectations of simplifying cross-border invoicing if the harmonisation of rules and procedures is ensured. Otherwise, there would be 27 different versions of ViDA. For example, CEN norm EN 16931 is not specific enough and allows too much freedom for interpretation. The field allocation of the mandatory billing information (Art. 226 directive on the common system of VAT) should be defined by the norm to ensure compatibility.¹ Furthermore, extensions of e-invoices have not been harmonised yet. Existing extensions that for example provide solutions for the hierarchical structure of the invoice items, as is indispensable in the construction sector should be published EU-wide in a database. This is essential since not all billing information that is required by enterprises is included in the core invoice.

Other aspects of e-invoicing require clarification as well. For example, regarding assembly deliveries and installations there is no EU wide definition yet, which makes the use of the OSS challenging.

- **Making ViDA a success**

Once harmonisation and the free tool enable enterprises to benefit from ViDA it will be essential to maintain this harmonisation. Therefore, it would be useful to have an EU body to solve occurring technical or VAT related issues. Without this, national problem solving would lead to new fragmentation. There must not be more than one version of ViDA otherwise one of the main goal cannot be achieved.

The main benefit of ViDA for businesses would be if the new ViDA requirements removed other reporting requirements to avoid double reporting. In Germany for

¹ In Germany, for example, the lack of specific field allocation guidelines has caused implementation problems by IT service providers. Thus, most e-invoices cannot be processed by the receiving enterprise. Therefore, ZDH, FeRD and KoSIT have made a joint proposal for the field allocation.

example, the Advance VAT Return report should become obsolete once ViDA reporting enters into force.

Regarding the preparation of ViDA implementation it would be helpful to have a harmonised technical standard, which can be used by different platforms like PEPPOL and ensures interoperability. Furthermore, platforms operated by private organisations have to ensure privacy.

3. Directive on Administrative Cooperation (DAC)

The development and implementation of the DACs was rapid (one amendment every 20 months on average between DAC1 and DAC8). Impact assessments were often brief in scope and character. This fact alone makes an oversight of the DACs necessary.

In its report [COM\(2025\) 695](#) evaluating DAC1-6, the Commission calculates the administrative costs of the DACs to 646 mn €, the vast majority of which is borne by businesses. The benefits are calculated to 6,8 bn €. However, no inquiry is made into what the benefits to businesses the DACs entail. Our assessment is that such benefits are near non-existing – the DACs only mean increased compliance costs. Accordingly, an Omnibus oversight of the DACs should include a possible reduction in compliance costs, especially for SMEs. In particular DAC6 and DAC7 include provisions that are more costly than the potential benefits motivate.

We generally support an oversight of how DAC data is used. Viewed together, the DACs entail a vast load of data being accrued – of which the importance is, at best, ambiguous. The tendency of the EU to wish to amass ever more data, seemingly for data collection's own sake, must be stemmed.

As regards the suggestions in the report, we would support consolidating the various DACs into a more unified act, especially for the purpose of reducing reporting requirements. (The EC report is based on a [Ramboll/London Economics/Syntesia](#) evaluation report from January 2024. One key finding is that DAC6 reporting requirements are difficult to apply and assess.) We however oppose infusing the Un-shell directive proposal into such a consolidated DAC. ATAD and DAC should be kept separated, to ensure legal certainty for taxpayers.

We are also sceptical towards the proposal to establish a centralized EU TIN, except as a voluntary opt-in system aimed at businesses operating in several MS.

The aforementioned Ramboll et al evaluation states that two objectives of the DACs are to contribute 'to the smooth functioning of the Internal Market' and, respectively, to increase 'the fairness of the EU tax system'. Contrary to the evaluation, we perceive these objectives to be counter functioning, with the DACs leading to a higher effective tax burden and higher reporting and administrative requirements for businesses.

In the evaluation, more details are given regarding the cost-effectiveness analysis. Annual costs are calculated to 650 mn €, while benefits are between 500 mn € and 6,1 bn € - depending on the 'various sensibility scenarios'. This more nuanced calculation of the benefits (to governments) is not reflected in the EC report.

It is not clear from Commissioner Hoekstra's statements whether the Omnibus will also include other tax directives, e.g. ATAD, excise duties, VAT, energy taxation, etc. In our view, a proposed Omnibus bill should not be too far-encompassing, since it would open up for too many amendments, lowering probability of a bill that would reduce administrative costs actually passing. The EC should be realistic rather than aiming for 'One Big Bill'.

Beyond the above stated points, we think there are many fruitful points presented in the EESC assessment from earlier this year (<https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/assessing-tax-reporting-obligations-eu>), in particular the points regarding proper impact assessments of individual proposals, robust competitiveness checks, and the introduction of a system for advance rulings at EU level.

- **Amendment of DAC 6**

DAC 6 is the most challenging part of the DAC to apply due to its complexity and the scope of differing interpretation by the Member States. DAC 6 provides for reporting obligations for certain tax arrangements with cross-border elements, provided that hallmarks are met which define these arrangements. In practice, the application is very complex, and due to the differing interpretation by Member States, this leads to over- or under-reporting, as the definition and interpretation of the hallmarks as well as the thresholds for the reporting obligation can vary.

Furthermore, in 2024 the European Court of Auditors published a special report in which it found that only a small portion of the reported data is actually used for audits.

Only data that is actually reviewed or used for audits should have to be reported.

4. Anti-Tax Avoidance Directive (ATAD)

EU Member States interpret and implement the ATAD rules differently. This is especially evident in areas such as the definitions of hybrid mismatches and the interest limitation rule. Additionally, ATAD provisions often overlap with other EU or OECD initiatives, such as minimum taxation or the Parent-Subsidiary Directive.

- **Interest limitation rule (Directive (EU) 2016/1164, Article 4)**

Broad and Unclear Definition of Interest Expenses: ATAD has significantly broadened the concept of interest. In addition to traditional debt interest, it also covers economically equivalent expenses and costs related to the raising of capital (e.g., arrangement fees, guarantee commissions, factoring costs). This leads to uncertainties in distinguishing

what qualifies as interest and increases the audit burden for both companies and tax authorities.

Divergent Implementation Among Member States: The design of the interest limitation rule varies greatly between EU countries. Differences exist, for example, in the applicable EBITDA percentage, the use of safe-harbour rules (such as the 3-million-euro threshold), group exemptions, and exceptions for infrastructure projects. These divergences result in legal uncertainty and make cross-border investments more difficult.

Therefore, SMEUnited asks that the rules on interest deduction must be clarified and harmonised as part of a “decluttering” process to avoid uncertainties arising from divergent national implementations and overlaps with other EU initiatives. In particular, the definition of interest expenses, the design of the interest limitation rule, and exceptions such as safe-harbour rules and group exemptions should be standardized and clearly regulated across the EU. This is essential to ensure legal certainty, prevent double taxation, and reduce unnecessary administrative burdens for companies.

- **Exit taxation (Directive (EU) 2016/1164, Article 5)**

The ATAD requires in article 5 EU Member States to implement exit taxation rules. This means that when a company or assets are transferred from one EU country to another (or to a third country), any unrealized capital gains that have accrued in the original country may be taxed at the time of exit. The purpose is to ensure that value created within a Member State is taxed there before assets or business activities are moved abroad.

The specific implementation can vary between Member States, as ATAD allows some flexibility. However, the core aim is to prevent companies from avoiding taxes by relocating assets or business functions to jurisdictions with lower tax rates, thereby securing the right of the original country to tax the economic value generated within its borders before it leaves the tax jurisdiction.

From an SME perspective, the most important aspect of exit taxation is the correspondence rule, namely that the other country allows a “step-up” in the event of relocation. This means that the asset taxed in a member state (e.g. shareholding) is included in the balance sheet in the other member state at the higher value (including the hidden reserves that were taxed). Otherwise, this would result in genuine double taxation. The introduction of a de-minimis limit would be conceivable in order to avoid causing disproportionate bureaucratic effort in relation to tax revenue.

- **General anti-abuse rule (Directive (EU) 2016/1164, Article 6)**

Article 6 of the ATAD contains a general anti-abuse rule (GAAR), which is intended to ensure that arrangements whose main purpose is to obtain a tax advantage are not recognized for tax purposes. This provision supplements specific anti-abuse measures and is designed to close loopholes that may arise through targeted tax planning. The Parent-Subsidiary Directive also contains its own general anti-abuse provision. The European Court of Justice has already issued initial interpretations on this matter and emphasized that combating abuse is a central element of EU tax law.

The Directive applicable to interest and royalty payments also provides its own anti-abuse provisions in Article 5 (Directive (EU) 2003/49).

However, the parallel application of these rules can lead to uncertainties, particularly regarding the hierarchy of provisions and their concrete application in individual cases. In practice, it is often unclear which rule takes precedence in individual cases – especially when both the ATAD GAAR and the anti-abuse provision of the Parent-Subsidiary Directive could apply. This can lead to uncertainty and increased documentation requirements. Different interpretations and the parallel application of the provisions can result in the same set of facts being classified as abusive multiple times, which in turn may lead to the risk of double taxation.

The precise design and application of the GAAR require further clarification to ensure legal certainty for taxpayers and tax authorities alike. In practice, this means that the criteria for identifying abusive arrangements must be clearly defined, and guidance should be provided on how to assess whether the main purpose of a transaction is to secure a tax advantage.

- **Controlled Foreign Company (CFC) rule (Directive (EU) 2016/1164, Article 7)**

Both the ATAD and the Minimum Tax Directive (Pillar 2/GloBE) contain regulations on controlled foreign company (CFC) taxation. The ATAD requires Member States to include passive income from low-taxed subsidiaries in the tax base of the parent company. The minimum taxation (Pillar 2) provides for a top-up tax if the effective tax rate of a multinational group falls below 15%. The problem is that both sets of rules can apply simultaneously, thereby creating a risk of economic double taxation. Austria, for example, has amended its CFC rule (§ 10a KStG) so that a Qualified Domestic Minimum Top-up Tax (QDMTT) levied abroad is credited against the CFC taxation in order to avoid double taxation.

There must be a decluttering and clear coordination between the CFC-Rule and the minimum taxation regime to avoid double taxation. This reflects the need for clarification and alignment between the CFC-Rule and minimum taxation (such as Pillar 2/GloBE) provisions, as overlapping or parallel application of these rules can lead to legal uncertainty and the risk of double taxation for companies.

- **Hybrid Mismatches (Directive (EU) 2016/1164, Article 9)**

If expenses are deductible in one member state, but the corresponding income is not recognized in another member state, or if the same expenses are deductible in multiple countries, this is referred to as hybrid arrangements. The consequence is the non-deductibility of the expenses or the taxation of the income.

Undefined legal terms should be clearly defined to enable reliable legal application. It should also be clarified that an adjustment at the recipient level under the Parent-Subsidiary Directive takes precedence over the entire anti-hybrid rule. Furthermore, it must be clarified to what extent a connection must exist between domestic expenses and foreign hybrid expenses.

An important factor is the potential risk of double taxation. This can arise due to differing interpretations regarding the hierarchy between the Parent-Subsidiary Directive and the anti-hybrid rule, as well as from the simultaneous application of regulations for imported tax incongruities in multiple countries involving sister companies.

Another major issue concerns the burden of proof. It is not acceptable that business expenses cannot be deducted solely because evidence cannot be provided. If obtaining the necessary information is not within the taxpayer's control, this should be taken into account. An interpretation of the disadvantage of the taxpayer is disproportionate in such cases.

It should be recognised that there are limits to the taxpayer's ability to establish the facts. Preventing certain arrangements should not result in double taxation, and the requirements for providing evidence must be practicable in practice.

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