Response to EC consultation on the adopted text for VAT in the digital age Directive

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General comments

Insurance Europe supports the EC's efforts to update the existing rules in order to adapt value-added tax (VAT) rules to reflect developments in the digital economy. Measures to combat tax fraud, tax evasion, and other initiatives to address non-compliance with tax rules are also supported. Any measure designed to reduce VAT fraud, such as digital reporting requirements (DRRs), must, however, be designed in a way that causes minimal business disruption.

Hence, any proposal in the field of VAT, should:

- Be supported by an impact assessment focused on evaluating the effectiveness of the rules.
- Foresee a realistic timeline for its implementation to reduce unnecessary administrative burdens and compliance costs.
- Respect the general principle of not reducing the competitiveness of the European industry with respect to international competitors.

Moreover, Insurance Europe suggests that the text of the ViDA Directive explicitly confirms the exclusion from the new reporting requirements of transactions of goods and services that are:

- Exempted from VAT and from invoicing requirements.
- Exempted from VAT, but are subject to invoicing rules that require:
  - A reference to the appropriate (EU or national) legislation exempting the transaction from invoicing requirements.
  - Any other reference required to prove the exemption from invoicing requirements.

In general, while Insurance Europe appreciates the need for harmonising rules on the issuance of invoices and reporting, the EC's current proposals are too far-reaching and the proposed time frame is not realistic.

E-invoices

(Article 1 repealing Article 232 of the VAT Directive)

For Insurance Europe, the date foreseen in the ViDA proposal of 1 January 2024 is too early to introduce digital invoicing in the VAT Directive.

Insurance Europe suggests postponing the deletion of Article 232 of the existent VAT Directive, which foresees the necessity of the recipient's approval before the issuance of an electronic invoice, for at least one full year (eg until 1 January 2025). The postponement would give member states and businesses enough time to adapt to the transposition of the Directive into national law.

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(Article 4 amending Article 222 of the VAT Directive)
The two-day timeline, foreseen by the amendments to Article 222 of the existing VAT Directive included in the proposed ViDA Directive, is too short. This is because two days are not enough for:

- The issuance of electronic invoices after that the chargeable event took place, especially in large corporations.
- Checking possible mismatches and, if needed, to notify tax authorities.

Moreover, several other possible issues and/or questions could arise from the introduction of a two-day deadline:

- The new deadline would require the introduction of new EU-wide rules regulating the timing for the supply of services, in order to ensure consistency across member states. For instance, in the case of continuous services, how would the timing of the supply of those services be determined?
- The EC should specify if there would be any penalty for not meeting the two-day requirement.

Therefore, Insurance Europe suggests that the text of ViDA Directive is modified to maintain the deadline of 45 days from the moment when the chargeable event occurred, as provided for in the existing VAT Directive.

Summary invoices

(Article 4 deleting Article 223 of the VAT Directive)
The elimination of the possibility to issue summary invoices, stemming from the deletion of Article 223 foreseen in the proposal for a ViDA Directive, is opposed. In fact, summary invoices are commonly used, and the proposed deletion would cause major business disruption and might be practically impossible to adhere to.

Therefore, Insurance Europe asks for the maintenance of the existing Article 223, allowing the use of summary invoices.

New data elements requirements

(Article 4 amending Article 226 of the VAT Directive)
All national invoicing regulations already have their fair share of mandatory data points required on invoices for VAT compliance purposes. Therefore, Insurance Europe invites the EC to clarify the following aspects:

- The rationale behind adding new data requirements to the content of invoices, such as the IBAN of the supplier, the agreed dates, and the amounts of payments received.
- The rationale behind not considering the readily available data to be fit for monitoring or transparency.

Digital Reporting Requirement

(Articles 262 to 271 of the VAT Directive)

- The text of the ViDA Directive should explicitly confirm that VAT-exempt transactions, which are not subject to an invoicing requirement, are not in the scope of the new DRRs.
- Under Article 263, the time limit for the DRR is set to two days as of January 2028, if the ViDA package is adopted. The timeframe is considered too short and should be extended.
- The part of the text of the ViDA Directive concerning DRRs, which is proposed to be implemented as of 1 January 2028, should be placed into a separate legislative proposal. In that case, it might be subject to further discussions and impact assessments without delaying the other parts of the ViDA Directive.
- Insurance Europe suggests maintaining the existing Article 268, for the following reasons:
  - The new version of Article 268, foreseen in the ViDA Directive, would place an obligation on member states to require data from the taxable persons that, in their territory, perform intra-Community acquisitions of goods or services (or transactions treated as such under Article 21 or 22).
  - In the existing VAT Directive, the collection of this data was made an optional choice of member states, which could be requested through recapitulative statements.
  - After the introduction of the new version of Article 268, the acquirer would also have to fulfil digital reporting obligations within the unrealistic deadline of two days.

Products and services exempted from VAT

Insurance Europe suggests that:

- The ViDA Directive should explicitly confirm that those products and services that are exempted from the scope of VAT under Directive 2006/112/EC are also exempted from the scope of the new reporting requirements.
- The ViDA Directive should also include an exemption for outsourced services that are instrumental in carrying out those activities that are already VAT-exempted, like insurance and other financial services. The rationale behind this request is the following:
  - During recent decades, insurance companies have increasingly relied on outsourcing to obtain a wide range of services that are necessary for the execution of their business, leading to increased efficiency.
  - Some categories of outsourced activities might be provided via platforms in the next future.
  - Services that are often provided by external suppliers (such as underwriting of risk, risk management, policy administration, product development, investment management, telehealth, and claims handling) are to be considered specific and essential to the purpose of carrying out insurance business and, therefore, should benefit from a VAT exemption in all member states, to achieve a true level playing field.

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