Approval of the ViDA Legislative Package: What's Next?

Update created: 20 November 2024

Laura Alarcón Díaz | **IBFD VAT Group**

The author can be contacted at l.alarcon-diaz@ibfd.org

On 5 November 2024, the Economic and Financial Affairs Council (ECOFIN) reached an agreement on the VAT in the Digital Age (ViDA) legislative package. This approval was long overdue, as unanimity from the Member States was required, the reason why it was postponed more than once in the past. This note provides an overview of the conceptual background and changes in the EU VAT framework proposed by the ViDA legislative package.

1. ViDA Legislative Package: Background and Milestones Achieved

The ViDA legislative package was proposed by the European Commission on 8 December 2022 and had its origin in the Commission's action plan for fair and simple taxation issued in 2020. The ViDA legislative package is based on three pillars: (i) digital reporting requirements; (ii) the platform economy; and (iii) single VAT registration. It is intended to amend Directive 2006/112 (the VAT Directive); Regulation 904/2010 as regards VAT administrative cooperation arrangements and combating fraud needed in the digital age; and Implementing Regulation 282/2011 in respect of the information requirements for certain VAT schemes.

On 30 October 2024, the Committee of the Permanent Representatives of the Governments of the Member States to the European Union (Coreper) expressed support for the package and decided to forward the texts for adoption to the Council of the European Union. On 5 November 2024, ECOFIN finally agreed on a general approach on the draft to amend the VAT Directive, and reached a political agreement on the drafts to amend Regulation 904/2010 and to amend Implementing Regulation 282/2011.

The ViDA legislative package will now return to the European Parliament for consultation, due to the substantial differences between the European Commission's initial proposal and the latest compromise text agreed by ECOFIN. After this, the legislative package will be formally approved by the Council of the European Union and then published in the Official Journal of the European Union and enter into force.

2. Timelines

The three pillars on which the ViDA legislative package is based entail different timelines for implementation:

- Pillar I, on digital reporting requirements: by 1 July 2030 and by 1 January 2035 for those Member States that introduced e-invoicing and/or real-time reporting systems before 1 January 2024;
- Pillar II, on the platform economy: until 1 July 2028 and by no later than 1 January 2030, Member States can apply this system on a voluntary basis. After 1 January 2030, the system becomes mandatory; and
- Pillar III, on single VAT registration: by 1 July 2028.

3. What's Next? The Three Pillars of ViDA and Envisaged Changes

3.1. Pillar I: Digital reporting requirements

This pillar introduces EU real-time reporting based on electronic invoicing (e-invoicing), with full medium-term interoperability. One of the reasons for the introduction of this system is the European Commission's estimation of the VAT gap at EUR 61 billion for 2021, a significant part being due to fraud. To fight the VAT gap, several Member States have introduced various types of digital reporting requirements, requesting businesses to provide information to tax authorities on a transaction-by-transaction basis, this having proved to be successful in increasing VAT collection. However, the diverse regulatory framework across the European Union brings additional compliance costs for businesses that operate in different Member States, as they have to meet different local requirements.

The specific changes to this pillar with the adoption of ViDA legislative package translate into the following:

- digital reporting requirements will be obligatory for intra-Community transactions and transactions to which the reverse-charge mechanism applies because the supplier is not established in the Member State in question;
- Member States may also impose digital reporting requirements on domestic supplies of goods and services between taxable persons;
- the current reporting system of intra-Community transactions, called "recapitulative statements", will be abolished, and the data will be transmitted electronically on a transaction-by-transaction basis. Member States may allow the use of additional formats, as long as they are interoperable with the European standard;
- e-invoicing will be the default system, used initially only for intra-Community supplies of goods and services. Member States may still accept documents on paper or in other formats as invoices for transactions other than intra-Community supplies of goods and services. E-invoices should comply with the European standard on electronic invoicing. Acceptance of the e-invoice from the customer will not be needed;
- the definition of an e-invoice, as well as a new proposal for a definition of a structured invoice, is expected in July 2025;
- there will be a 10-day deadline to issue e-invoices and to report the transaction (initially it was 2 days); and
- no input VAT deduction will be allowed in cases in which the taxable person in question did not receive an e-invoice where this was compulsory.

3.2. Pillar II: Platform economy

This pillar targets online platforms that allow persons acting in their individual capacity or small businesses, both generally exempt from the obligation to register and charge VAT, to connect to a large number of consumers. This creates a distortion of competition, as they are in direct competition with traditional business operators that qualify as taxable persons for VAT purposes. According to the European Commission, this distortion was most acute in the two largest sectors of the platform economy, namely the short-term accommodation rental sector and the passenger transport by road sector, in which the underlying exempt service providers compete directly with traditional businesses like hotels and taxis. The legislative package intends to consider online platforms facilitating the supply of passenger transport or accommodation services as deemed suppliers.

The specific changes to this pillar with the adoption of the ViDA legislative package translate into the following:

- introducing a deemed supplier model in which platforms facilitating supplies in the passenger transport and short-term accommodation sectors will become responsible for collecting and remitting VAT to tax authorities when their users do not do so because they are a small business or individual providers; and
- including a definition of "facilitation" to refer to enabling taxable persons who, through the use of an electronic interface such as a marketplace, platform, portal or similar means, supply short-term accommodation rental services or passenger transport services by road.

3.3. Pillar III: Single VAT registration

This pillar aims to remove the need for businesses to register twice (or multiple times) for VAT purposes when they want to sell goods to consumers within a Member State other than their own. It was introduced after considering the VAT compliance burdens and associated costs for businesses operating in the European Union but is also due to the fact that several businesses are still affected by the need to register multiple times for VAT purposes across the European Union.

In respect of the e-commerce package rules implemented since 1 July 2021 across the European Union, when the one-stop shop (OSS) and the import one-stop shop (IOSS) schemes were extended and introduced, respectively, the European Commission considered them a great success. However, some business-to-consumer (B2C) transactions are still not covered by the OSS scheme, despite having a cross-border aspect, which is causing some operational challenges, as certain types of supplies of goods do not fall within the definition of intra-Community distance sales of goods.

This pillar aims at improving the current VAT e-commerce rules applicable in the European Union, to allow even more businesses to fulfil their VAT obligations via a single online portal and in one language.

The specific changes to this pillar with the adoption of the ViDA legislative package translate into the following:

- extending the application of the OSS scheme to B2C domestic supplies of goods, including supply with installation, goods sold on ships, trains and aircraft, and supply of energy through systems;
- making mandatory the reverse-charge mechanism (with an exception for the margin scheme), which was already possible in some situations and means shifting the liability for the payment of VAT in business-to-business transactions from the supplier of a good or service to the buyer if that supplier is not established in the Member State in which the VAT is due; and
- eliminating call-off stocks (one of the "quick fixes" introduced in the European Union in 2019), since suppliers will be able to use the OSS scheme. No new call-off stock arrangements may be used from 1 July 2028. There is a transitional period from 1 July 2028 to 30 June 2029, which means that no new transfers of goods under simplification should take place after 30 June 2028, and only goods transferred prior to 1 July 2028 can benefit from the transitional period (a limitation of 12 months)

4. Concluding Remarks and Looking Ahead

As pointed out by the Hungarian minister of finance, after almost 2 years of negotiations, an agreement on the ViDA legislative package has finally been reached under the 2024 Hungarian presidency of the Council of the European Union. This represents a cornerstone of the EU VAT system, as it is highly expected that the new measures will bring the European Union's VAT rules into the digital age (see the press release here).

The aims of this legislative package, as proposed by the European Commission in 2022, are to update the EU VAT system to reflect the digitalization of the economy, to help combat VAT fraud and to ease administrative obligations for small companies and individual service providers under, inter alia, new rules on electronic invoices, real-time data reporting and digital platforms.

The EU institutions are grateful for the hard work and negotiations and are glad for this approval. Nevertheless, there are still (formal) steps to be completed for the rules to enter into force.

Expectations from all stakeholders are split, as some are positive that the legislative package will still be processed during the remainder of 2024, while others are a bit sceptical and hesitant, looking for the new rules to come into place in 2025.

IBFD references

- For an overview of the ViDA legislative package from the moment it was proposed by the European Commission until its adoption by the Council of the European Union, and regarding further implementation by the Member States, see the VAT in the Digital Age (ViDA) Tax Dossier.
- ViDA legislative developments are reported in the daily IBFD Tax News Service.