
Opinion Statement CFE 2/2021 on the EU Public Consultation on EU VAT Rules for Insurance & Financial Services

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CFE Tax Advisers Europe is the European umbrella association of tax advisers. Founded in 1959, CFE brings together 33 national tax institutes, associations and tax advisers' chambers from 24 European countries. CFE was the initiator of the Global Tax Advisers Platform through which it is associated with more than 600,000 tax advisers worldwide. CFE is part of the EU Transparency Register no. 3543183647-05.

We would be pleased to answer any questions you may have concerning our Opinion Statement. For further information, please contact Bruno Gouthière, Chair of the CFE Fiscal Committee or Aleksandar Ivanovski, Director of Tax Policy at info@taxadviserseurope.org. For further information regarding CFE Tax Advisers Europe please visit our web page <http://www.taxadviserseurope.org/>

1. Introduction

CFE takes note of the public consultation published by the European Commission on the EU VAT rules for financial and insurance services. CFE welcomes the opportunity to contribute its views to the consultation on the issue.

2. Comments on the Current EU VAT Exemption on Financial & Insurance Services

CFE are of the view that current exemption works well in general in the sector. However it is unfortunate the CJEU case law precludes the application of the cost sharing exemption and, particularly on transactions between Member States, there are problems with VAT-grouping. The exemptions have the benefit of avoiding problems which will otherwise arise when determining how to charge VAT on financial transactions. We are also concerned that the restrictive interpretation and ambit of the exemptions causes problems with outsourcing. This is in particular an issue with insurance, and is a possible reason for extending the scope of the exemptions. If the exemptions are retained, ideally the entire supply chain would be exempted, and definitions would be provided of what falls under the scope of insurance, i.e. whether it extends to back-office outsourcing and the like. The CFE are of the view that the lack of cross-border grouping/cost-sharing exemption also hinders the development of cross-border supplies of insurance/financial services. Implementing any changes in a regulation will have the benefit of increasing harmonisation, which in turn should assist in simplifying the analysis of transactions between member states.

The CFE does not view the issues experienced with the exemptions as being caused by developments in technology. Once it is known what is exempt or not, this can be calculated, by whatever means. The lack of clear definitions, and conceptual issues in working out consideration on supplies are the underlying issues. Technology developments may assist in some contexts, but are unlikely to assist in determining the taxable amount on say foreign exchange transactions. In this and similar contexts the main problem is determining what should be regarded as the relevant turnover. Technology does not in and of itself help or hinder the process.

When dealing with cross-border transactions, there are problems with communicating with the tax authorities of other Member States, but this is not necessarily specific to financial/insurance services. However, the complexity of the services rendered and the issues raised in the financial sector does magnify the problems.

Determining to what extent current structural provisions are effective in increasing the deduction of input tax and reducing the impact of hidden VAT is nuanced and can depend on the Member States. In relation to VAT grouping, this prevents liability to account for output tax and can assist the outsourcing of back office functions.

Whether the current VAT rules for financial and insurance services result in prices lower than those that would apply if these services were taxed is also a difficult question to answer, as the drivers for prices in the sector lie in business versus taxes.

CFE is of the view that if only fee-based financial services were to be taxed, it should not be difficult to determine the taxable amount. However, if fee income of the business is limited, imposing a VAT charge on such income is unlikely to significantly simplify the process of determining the business's VAT liabilities or the consequences for the business of not being able to fully recover its input tax. When turnover is not of a fee nature, the rationale for retaining the exemptions remain strong, given the difficulty in determining turnover. Consideration therefore needs to be given to the scope of the exemptions to achieve neutrality in the sector.

If the exemptions were abolished, this may be of benefit to some sectors, but could result in unintended complexity in others, particularly in determining consideration for a supply and how to get relief in circumstances where a loss is made.

3. Concluding Remarks

The CFE hopes that these comments will be helpful. CFE supports maintaining the current exemptions, and are of the view consideration should be given to extending the scope of the exemptions so that they more clearly extend to the entire supply chain. CFE are of the view that the lack of cross-border grouping/cost-sharing possibilities under the exemptions also hinders the development of cross-border supplies of insurance/financial services, and consideration should be given to extending the current exemptions to these aspects.

Monitoring and informing our members on the progress of any EU proposals relating to this issue, will remain a priority for the CFE Tax Advisers Europe organisation.