
Opinion Statement FC 3/2025 on the EU Commission Consultation on the VAT Rules Applicable to Travel & Tourism Sectors

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

1. Introduction

CFE Tax Advisers Europe welcomes the opportunity to respond to the European Commission's consultation on the VAT rules applicable to the travel and tourism sector, and in particular to the Tour Operators' Margin Scheme (TOMS).

CFE is of the view that TOMS, in its current form, no longer fulfils its original objectives of simplification and fair taxation. The scheme gives rise to significant legal uncertainty, undermines the principle of VAT neutrality, and creates serious challenges in its application, especially in relation to business-to-business (B2B) transactions.

The divergent application of the rules across Member States has further exacerbated competitive distortions and administrative burdens. These difficulties in part arise from the need to distinguish between inhouse and bought in supplies and the treatment of transactions involving non-EU suppliers.

CFE therefore considers that reform or possibly the abolition of TOMS given its questionable continued utility is desirable in order to ensure consistency, neutrality, and a level playing field for EU operators in the travel sector.

2. Issues with the Current Scheme

2.1 Legal Uncertainty and Divergent Application

CFE observes that TOMS is applied inconsistently across Member States. This divergence has given rise to widespread legal uncertainty, with different jurisdictions adopting different interpretations of the scheme.

The scope of TOMS has also been extended beyond its original purpose, with jurisprudence applying the scheme to businesses such as language schools and diving schools, creating scope creep and undermining clarity.

2.2 Lack of VAT Neutrality

CFE considers that the most serious defect of the current system is its lack of neutrality. Under TOMS, input VAT deduction is denied, which is particularly problematic in B2B transactions. This results in business customers bearing irrecoverable VAT costs, a situation which is fundamentally at odds with the basic principles of the EU VAT system.

2.3 Margin Calculation

The Directive requires travel agents to calculate their margin on a transaction-by-transaction basis. CFE notes that this rule is unworkable in practice, and that many Member States have developed alternative methods, such as global margin calculation. However, these national solutions are not harmonised, resulting in a patchwork of practices and further undermining legal certainty.

2.4 Prepayments

CFE also notes that VAT becomes chargeable at the time of advance payment, even though the margin cannot reasonably be determined at that point purely by reference to the costs on the particular package, although this is less of an issue if the margin is calculated by reference to all costs and sales.

2.5 Scope and Application Challenges

CFE observes that travel agents frequently cannot determine at the point of sale whether the final customer is a private individual or a business customer. This uncertainty makes it difficult to know whether TOMS applies, further complicating compliance and administration.

2.6 Exclusion of Own Services from the Margin Scheme

CFE notes that when a tour operator sells a package including its own in-house services, such services must be excluded from the margin scheme. This adds to the complexities of the scheme, since travel agent must apportion the total consideration between in-house and purchased services on a fair and reasonable basis, and in some cases must even apply a different VAT rate—for example, where passenger transport is involved.

2.7 B2B Transactions Involving Non-EU Suppliers

CFE further notes that B2B invoicing under the current system is particularly problematic where the travel organisation service is supplied by a taxable person established outside the EU to another taxable person within the EU. In such cases, the special scheme does not apply at all, requiring each underlying service to be treated and accounted for separately. This obligation to dissect the transaction into its individual components adds substantial compliance costs and creates uncertainty for both suppliers and tax administrations.

2.8 Application of the Scheme Where No Margin Arises

Although we appreciate that some guidance was provided by the CJEU in Case C-291/03 *My Travel v Customs & Excise* some more explicit guidance of the treatment of zero margin and loss making packages may also be helpful.

3. Options for Reform

3.1 Limitation to B2C Transactions

CFE strongly supports restricting the application of TOMS to business-to-consumer (B2C) transactions only. CFE is of the view that business-to-business supplies should instead be governed by the normal VAT rules, thereby ensuring that input VAT deduction is available. In CFE's view, restricting the scheme to B2C transactions would also help minimise problems in relation to B2B supplies.

3.2 Exclusions and Opt-Outs

CFE considers that certain categories of services, such as Meetings, Incentives, Conferences and Events (MICE), should be explicitly excluded from TOMS. In addition, CFE supports the introduction of an opt-out mechanism where travel services are only incidental to a business's primary activity. Indeed, it can see merit in making the system more generally optional.

3.3 Replacement with a One-Stop-Shop Mechanism

CFE is of the opinion that the long-term solution to the problems inherent in TOMS may be the replacement, or at least the complementing, of the scheme with a one-stop-shop (OSS) mechanism. Such a system would allow travel agents to declare VAT for supplies made in multiple Member States through a single return, thereby significantly reducing administrative burdens.

In order to be effective, CFE considers that an OSS system must:

- Provide for the right of input VAT recovery;
- Allow bundled services to be unbundled into separate supplies for VAT purposes; and
- Require only the indication of the countries involved, rather than imposing disproportionate reporting obligations.

CFE further notes that a one-stop-shop mechanism could provide an opportunity to harmonise treatment in cases where no margin arises or where a supply involves both in-house and purchased components, thereby ensuring consistent application across Member States.

3.4 Treatment of Non-EU Travel Agents

CFE notes that the current rules favour non-EU operators, who are able to supply EU travel services without taxation of their margins. This creates a serious distortion of competition. CFE is of the view that reform should ensure equal treatment, either by taxing such supplies in the country of destination or by extending access to the OSS system to non-EU operators.

3.5 Multi-Country Travel

CFE recognises that travel services spanning multiple Member States present particular compliance difficulties. CFE supports the introduction of a simplification measure allowing travel agents to designate a single Member State for VAT purposes in respect of such trips. This would significantly reduce the administrative burdens associated with the daily monitoring of staff and services across borders. Any simplification measure should also address the interaction of the special scheme with mixed supplies of in-house and purchased services.

4. CFE Recommendations

CFE recommends that the European Commission, in considering reform of the Tour Operators' Margin Scheme, should:

- Restrict the application of TOMS to B2C transactions only;
- Exclude MICE services from the scope of the scheme and introduce an opt-out for incidental providers of travel services. Indeed, we consider that the scheme should more generally be made optional;
- Replace or complement TOMS with a one-stop-shop system, ensuring input VAT recovery, proper treatment of bundled services, and simplified country reporting;
- Introduce clear and uniform definitions and calculation rules in the VAT Directive, including harmonisation of margin calculation methods including explicit rules governing the allocation of mixed supplies.
- Reform the treatment of prepayments by having clearer more harmonised rules;
- Ensure the equal treatment of non-EU travel agents in order to prevent competitive distortions; and
- Simplify VAT treatment of multi-country travel by allowing businesses to designate a single Member State for VAT purposes.
- Clarify the treatment of own services provided within a package, transactions between EU and non-EU taxable persons, and have more explicit rules for cases in which no margin arises, to ensure consistent and administrable application of the scheme.

5. Conclusion

CFE Tax Advisers Europe is firmly of the view that the Tour Operators' Margin Scheme is in urgent need of reform. The scheme in its present form no longer achieves its objectives of simplification and neutrality, but instead has become a source of legal uncertainty, competitive distortion, and disproportionate compliance burdens.

CFE therefore calls on the European Commission to modernise VAT rules for the travel and tourism sector, either by narrowing the scope of TOMS or by adopting a more coherent one-stop-shop solution. In doing so, the Commission should prioritise the principles of neutrality, consistency, and simplification, thereby ensuring fair and effective taxation within the Single Market.