
Opinion Statement FC 4/2020 concerning double taxation in VAT

Prepared by the CFE Fiscal Committee
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This Opinion Statement discusses double taxation in VAT within the European Union.

CFE Tax Advisers Europe is a Brussels-based association representing European tax advisers. Founded in 1959, CFE brings together 33 national organisations from 26 European countries, representing more than 200,000 tax advisers. CFE is part of the European Union 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 Ms. Stella Raventós-Calvo, Chair of the CFE Fiscal Committee or Brodie McIntosh, Tax Technical Officer, at info@taxadviserseurope.org. For further information regarding CFE Tax Advisers Europe please visit our web page <http://www.taxadviserseurope.org/>

Double taxation in all its forms inhibits the single market. It is possibly surprising that VAT, which is largely, but not completely, a harmonised tax within the European Union, has no formal cross border mechanisms for avoiding double taxation. In the direct tax sphere, there are double tax treaties between countries. Within the Union, since 1 July 2019, it is also possible to rely on Council Directive (EU) 2017/1852 on tax dispute resolution mechanisms in the European Union. Surprisingly, there are no similar measures relating to VAT.

Although there is no formal machinery for avoiding double taxation, the Commission has sought to facilitate a system of cross-border rulings. Currently only some Member States have joined this project and we would seek to encourage other Member States to join. The approach of different Member States who have joined the project has also differed. Some Member States have been more willing to engage in the exercise in a constructive and flexible manner so as to avoid double taxation. Such a constructive approach is to be encouraged and is welcomed. We also welcome the Commission's publication of details of a number of the rulings, which can be found [here](#). Providing details of the rulings clearly assists transparency and increasing awareness of the ruling system. Possibly on account of ignorance of the project and the limited number of Member of States that have agreed to participate in the project, the numbers of rulings that have been sought has so far been limited.

Rulings are by their very nature prospective. The CFE also welcomes the fact that the European Commission has also established SOLVIT to provide assistance in resolving disputes in relation to European Union rights. Details of this scheme can be found [here](#). Under this scheme the Commission seeks to assist in resolving any dispute. This can, in appropriate cases, include issues relating to VAT.

The Commission's work on both these programs is welcomed. It is to be hoped that more Member States will agree to participate in the project on cross-border rulings and will seek to participate in a constructive manner as is possible. We can also see merit in seeking to introduce more formal post-transaction mediation procedures in cases where more than one Member State is seeking to tax a transaction. This may help to reduce the need for references to the Court of Justice of the European Union.

Consideration should also be given to having a more formal machinery for avoiding issues of VAT double taxation within the Union and also between members of the Union and third countries that also operate VAT systems. This could include having separate double tax treaties directed at VAT, as is the position for capital taxes. Within the Union, there could also be a directive or regulation directed at this issue. Indeed, there would almost certainly be merit in extending any arrangements by agreement to third countries that have similar systems. Obviously one other way of avoiding double taxation and for that matter double non-taxation would be to further harmonise the rules relating to VAT in the Union.