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Dear Readers,

I would like to present to you the 33rd edition of our magazine, the Tax Tribune. We continue to publish it online in order to make it available for a wider number of our colleagues in tax administrations. Tax Tribune aims to spotlight latest trends, provide new insights and ideas and analysis of implications of practical tax administration issues. This edition contains five very informative articles about current issues affecting the work of tax officers. One article is discussing transfer pricing, one the fraud affecting tax revenues and social spending, and three articles are centered around the topic of VAT.

The article of *David Gilles* highlights the connection between tax fraud and social security fraud. It underlines that the weight of frauds on public finances and their perception by the general public have forced many governments to adopt new regulations and new institutions. The article gives a general overview on the French experience in this subject.

Edgars Hercenbergs challenges the practical application of comparable uncontrolled price (CUP) method in the transfer pricing approaches by analysing several specific cases. The article raises considerations over flexibility of the CUP method against the strict requirements of performing economically relevant analysis and comparability adjustments in order to determine whether multinational businesses comply with transfer pricing rules following the OECD Transfer Pricing Guidelines.

The effective use of VAT returns data in early detection of VAT evasion and fraud cases is in the focus of *Irina Andrejeva's article*. It highlights the importance of VAT for state budgets and the protection of VAT systems from violations and presents Latvia's example in the subject.

Germán de Melo Ponce highlights how the Spanish Tax & Customs Administration (Agencia Tributaria) has been tackling the VAT fraud declared in customs procedure 42 (CPC 42), in close relationship with any VAT fraud concerning intra-EU transactions. The article describes also the procedure of the problem's identification and the applicable laws.

The harmonization process of the national VAT systems in the European Union is introduced by *Tamás Jármai*. The article highlights the most important milestones reached in the EU, presents the most important proposals and documents.

I would like to thank for the authors for their valuable contribution which made it possible to release the last edition of the year.

Dear Readers, I would like to express my hope that you will find this edition of the Tax Tribune interesting and useful. I also would like to encourage you and your colleagues to send us articles you think they would be interesting for our community. IOTA aims to provide forum for sharing views and experiences and our magazine is one of the best source of it.

Jan Christian Sandberg
Acting Executive Secretary
IOTA

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TAX FRAUD, SOCIAL SECURITY FRAUD: COMMON ISSUES

Introduction

For some people, the causes and effects of tax frauds and social frauds have to be examined separately. For other people it's not the social organizations' mandate to participate in the fight against fraud, because they have been established to provide benefits to people, and particularly to frail people. Due to the changes that have been taken place since the mid-20th century in our societies, in people's priorities and in their economic environment and even because the recent economic crisis, the weight of frauds on public finances and their perception by the general public have forced many governments to adopt new regulations and new institutions so as to be more efficient in front of fraudsters. This article tries to give a general overview on the French experience in this domain.

Background

Until the late 2000s, before the outbreak of the financial and economic crisis of 2008, tax and social security frauds were subject to distinct analyzes and separate treatment from the administrations and public bodies concerned. Tax evasion was still in the early 2000s considered a "national sport" in some countries. This positive image of the sport was totally inadequate with the gravity of the fraud. At the same time, social fraud was not really the subject of particular attention, mainly because of a rather inaccurate knowledge about the level of fraud, except concerning illegal employment.

During this time, France did not distinguish its European neighbours in the fight against tax fraud and social fraud. Each administrations concerned (DGFIP for taxes and VAT; DGDDI for custom taxes and excise duties; DSS for social contributions and benefits; Pôle Emploi for unemployment benefits) had been implementing its fraud risk prevention policy, and had organized control accordingly.

The 2008 financial crisis while hitting all countries obligated governments to question the relevance and effectiveness of various national and international mechanisms in the fight against fraud affecting public finances. In the context of the economic crisis that gave rise to both the tax revenues' reduction and the expenditure increase based on national solidarity, fraud and abuse issues became more pervasively present. France has not escaped this situation and had as its

neighbours to find a suitable device that allows her to fight more effectively against fraud affecting the public finances, while preserving its social solidarity system.

The National Delegation to the fight against fraud (DNLF) was created in this context on April 18, 2008 with the mission of coordinating the controls of public administrations and public bodies responsible, each in its field, of the fight against tax- and social frauds.

Seven years later, DNLF and its partners have contributed to the implementation of mechanisms for collaboration and cooperation between public authorities to fight against fraud phenomenon affecting tax revenues and social spending.

Income reduction: fiscal and social issues

One of the first areas in which social and fiscal frauds are closely linked is the provision of social benefits. In France, most of social benefits are paid by the CAF Network (Family Allowance Fund) for Family (€ 45Md), housing (€ 17Md) and solidarity (€ 19Md). All of these aids represent an annual amount of more than € 80 billion. These various benefits are paid means-tested. Depending on the recipients' income, social aids can be reduced.

To obtain their aids, recipients have to justify their income, just by providing their income tax assessment, and some other documents about their family or housing situation. This mechanism could be circumvented quite easily until recently by undervaluing taxable income. Insufficient income allowed on one hand to reduce the tax burden, and to acquire undue social benefits on the other hand. CNAF (National Family Allowance) estimated the amount of the fraud around € 1bn a year and the fraud discovered in 2014 amounted to almost € 210 million and spread over nearly 33,000 cases.

To fight against this kind of fraud, DNLF has favoured IT exchanges between the tax authorities and the social institutions so as to get direct access to tax authorities' data. In this way the social institutions might know the declared income at any time, and eventually the new assessment in case of a DGFIP audit. This direct access to tax information also helps to fight against the falsification of administrative documents by people who change the information on their tax assessment so as to get benefit from specific allocations.

This last point is more and more important for tax administration and social institutions that have to face with identity frauds by people who try to obtain fraudulent refunds or benefits. The cross checking between tax and social data

bases, complying data privacy regulation, helps also the two public bodies to ensure their process of providing benefits and tax refunds.

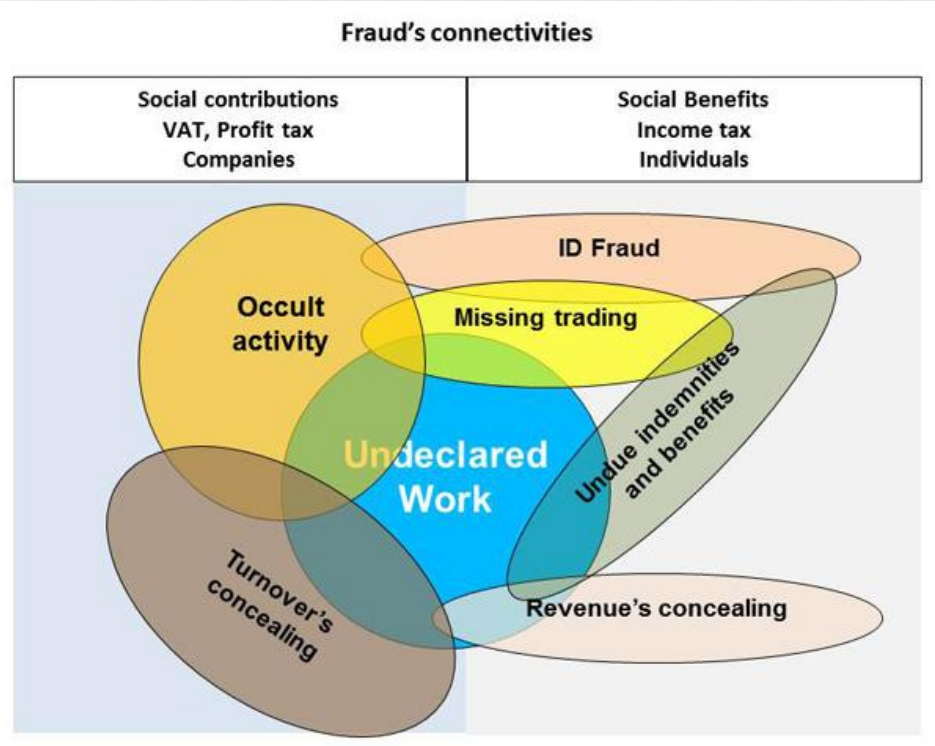
Undeclared employment: a loss of revenue in every domain

Concealed employment, commonly called as "black employment" constitutes a major issue for its consequences in France and unfortunately in most countries, industrialized or not. This type of fraud has been assessed in France by the Court of Auditors and the national body responsible for collecting social security contributions (ACOSS) between € 20 and 25 billion per year. Beyond the budgetary impact represented by this fraud, undeclared employment also leads to significant competition distortions between companies that comply with social and tax legislation, and those who choose not to declare a part of their activity, and to employ undeclared workers.

Besides the loss of contributions calculated on the amount of salaries paid to employees, this fraud also has an impact on the tax revenue. Indeed compensation paid mostly in cash is not subject to income tax and the turnover achieved by undeclared employees is mostly not subject to corporation tax and of course the VAT due for this activity is never paid. Finally, unregistered employment also allows beneficiaries to receive unemployment benefits and social benefits calculated on the amount of income subject to tax.

This could be called a "win-win" fraud. A win for the company that hides a part of his turnover and reduces his tax burden, and a win for the consumer who has the opportunity to pay a lower price for the goods or services, and a win for the worker who can cumulate salary (compensation), social benefit, and low income tax.

On the other hand this is a real "lose-lose" system. The losses of tax and social contributions are higher than the small financial advantage that the consumer can have by paying his goods or services to a fraudulent business. The evaluation made by ACOSS about the loss of social contributions on wages, can also help to understand the importance of the unregistered employment. Based on the rate of social contribution and the legal minimum of wage in France (SMIC), unregistered employment in France according the SMIC data is close to 1 million people. This does not exclusively mean that 1 million people are "black workers", but it does mean that this fraud could have been used to pay annually wages to 1 million employees.



Unregistered employment appears as a central fraud around which other related but equally important frauds will be grafted, thus amplifying its impact on public finances.

The tax authorities and the regional network of URSSAF (Union for collection of social security contributions and family allowances) identify each year during their relevant controls companies perform unregistered employment. These controls may be total and therefore might cover all of the remuneration of the employees concerned or more frequent when unregistered employment affects just a part of the activity of the employees.

This partial concealment gives to employers an economy due unpaid contributions to URSSAF, while enabling the employees to still receive health insurance coverage and subsequently claim compensation in case of unemployment. Correspondingly, employees concerned by unregistered employment (partial or total) declare a lower amount than what they have earned. This will reduce their tax burden and allow them to be eligible for social welfare allowances, which are available for low income employees.

An employer who conceals a portion of its payroll also needs to hide some of the revenue generated by his unregistered employees in order to dispose of cash amounts that do not appear in its accounts. These funds are then used to pay

salaries of the unregistered employees. The corresponding turnover will not be subject to corporation tax and VAT so that the activity ratios such as turnover/payroll or production/employee do not appear inconsistency compared to companies that comply with the social and fiscal legislation.

This led the government fight against unregistered employment as a major theme of the fight against fraud, by combining different state departments. So DGFIP's officials are competent for investigation and detection of offenses relating to illegal employment. The tax regulation also allows them to communicate and receive information relevant to the fight against illegal labour from other superintendent bodies' agents (labour inspection, police officers, customs and social security).

The existence of a solid legal basis allowing exchanges between DGFIP and ACOSS/URSSAF in the fight against unregistered employment has helped to establish a protocol between the two public bodies to develop joint projects in control and use of information collected by one of the two partners.

Beyond this legal framework allowing exchanges between officials responsible for the fight against illegal employment, DNLF leads a coordination mechanism in each department to fight against fraud of public finances. This County Committee of Fight Against Fraud (CODAF) has been tested after the DNLF was created and has been fully established in 2010. It combines all departmental players responsible for combating fraud against the social, fiscal, and customs frauds, furthermore unregistered employment under the joint authority of the Prefect and the Prosecutor of the Republic.

In this context, the two co-chairmen of CODAF meet 3 to 4 times a year with the representatives of all social organizations and public departments to plan joint operations, for example involving labour inspectors, with those of DGFIP and Police to identify unregistered employment situations in companies or on building sites. This operational coordination mechanism is also supplemented by exchanges of information and reports that allow public administration bodies to know what sort of fraud situations have been discovered by one of their CODAF's partners and draw the consequences for their own activity. Also the CODAF helps to provide a suitable response to criminal offenses discovered during coordinated operations. The presence of the public prosecutor in the CODAF makes it possible to initiate a criminal pursuit under better conditions when it's really justified.

Some other projects supported by the DNLF exist as well, in which teams of DGFIP and ACOSS are associates, such as in data mining. The goal of this project is to have

a detection tool for companies engaged in concealment of the total or part of their payroll. These joint activities combine professional teams of both organizations and illustrate the natural link between tax evasion and unregistered employment, and the need to have a joint response.

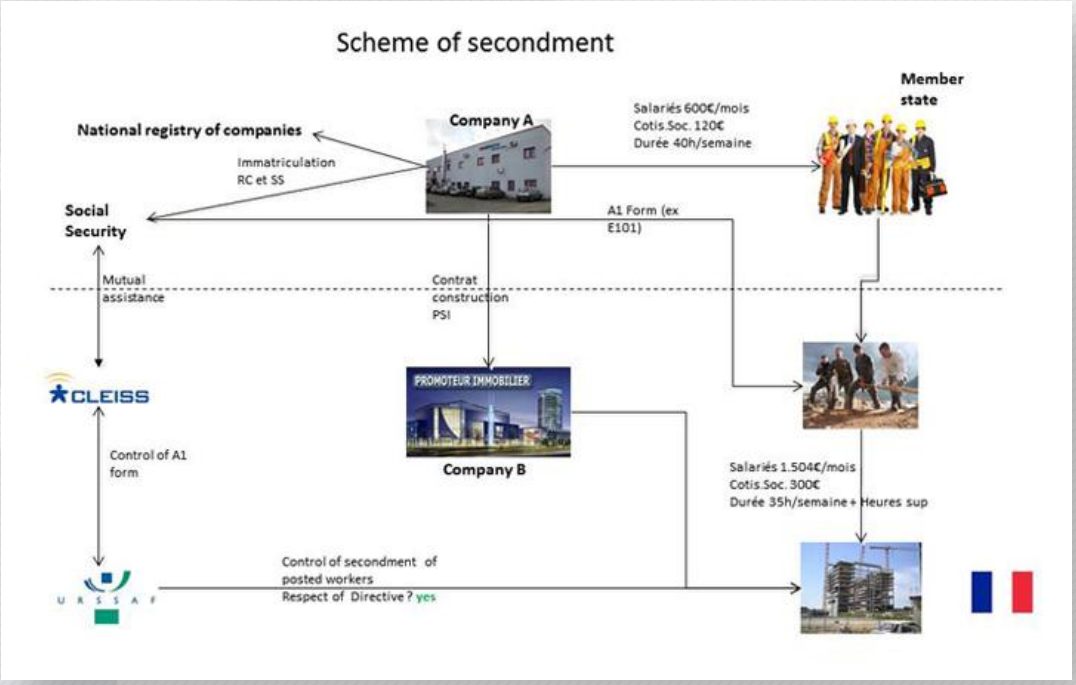
In 2014 CODAF has identified nearly € 340 million of fiscal fraud in all sectors that is more than 50% larger than in 2013.

Tax evasion and fraud to posting: same schemes

Year 2014 was particularly marked by the completion of the work of the European Commission for posting employees in Europe. Directive 2014/67/EU of 15 May 2014 concerning the implementation of Directive 96/71/EC on the posting of workers in the framework of the provision of services has strengthened the original device in the areas of administrative cooperation, control and sanctions.

According to these texts an employee of a Member State A which is sent for a period of less than 2 years in another member state by his employer in order to perform a service (construction work, agriculture, cleaning etc.) have to enjoy in his home country social security coverage, and to be paid in the member state he works temporarily for a fee which cannot be less than the legal minimum applied for the type of employment.

Schematically it looks like this.



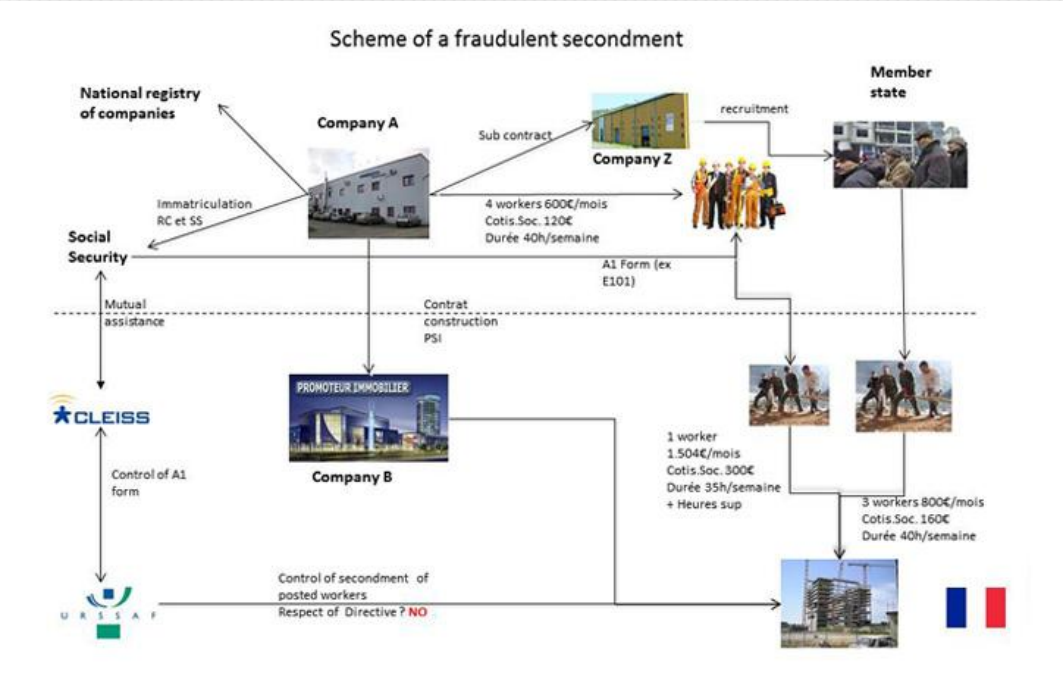
Company A is regularly registered in the register of national trade in his Member State and is already available to employees receiving social protection. In his Member State employees are paid € 4.5/hour and less social security contributions at the rate of 20%.

Company B located in France passes a service provision contract with Company A for the completion of construction work on a construction site in France. In France for construction workers, hourly pay is a minimum of € 12.85, less social security contributions at the rate of 20%

Prior to their arrival in France, Company A performs the procedure at the national social security agency issuing certificates to employees (A1) justifying their affiliation.

The employees of Company A come to work temporarily on site of B that pays the salary provided in France for their qualification, or € 1,500 per month. In this situation there is no illegal work and the conditions of posting workers are met. Similarly there is no distortion of competition with a French company that would work on the same site and which should pay its employees the same wage. For tax, Company B will conduct a reverse charge of VAT and Company A will not be taxable in France unless its construction exceeds the period provided for by the bilateral agreement signed between France and his country, in which case company A will have a permanent establishment, and his profits will be taxable in France. The employees of Company A in turn will be taxed in their home country, but only if their presence in France exceeds six months.

In the diagram below, to save on the cost of labour and offer more competitive price, Company A will send in France one of its employees as provided by the 1996 and 2014 Directives, and call Company Z as part of an outsourcing contract.



Company Z will show all the characteristics of a missing trader (business address, low social capital, lack of facilities and means of exploitation, strawman manager, etc.). Company Z will recruit local market employees who are not registered with the National Social Security Institute and will receive a salary in France much lower than normally expected.

A variant of this scheme is the creation by the French Company B of the Company Z to give the appearance of two completely independent companies. Of course, B is not a shareholder of company Z, and Z will have a strawman. The social purpose is the same like previously, but this scheme will also allow transferring part of the profit in the state of Company Z in the form of the cost of services billed by them. (see Court of Cassation, Criminal Division, September 8, 2015, 14-80665)

To fight against these acts that undermine both public finances, and the rights of employees present in France, and which causes harm to businesses that meet the regulations of the labour law, DNLF animates different working groups and contacts involving social organizations, tax authorities and specialized services of the National Gendarmerie in the fight against illegal work.

Analysis and tools to share

Tax fraud and social fraud are closely linked, with the common desire not to participate in the financing of the community, or to gain unfair advantage. The concealment of tax revenue by individual operators allows remunerating employees

with "black money" that will generate in turn non taxed revenues. The subtraction from taxable income allows enjoy undue benefits at the expense of taxpayers who comply with the law.

In France, since 2008, DNLF develops projects that associate the agencies involved in the fight against fraud of public finances. Whether through structural projects like the creation of a centralized national directory of social protection, which provides a comprehensive view of all the rights to individual benefits, or as data sharing like the one about the data base of national bank accounts (Ficoba) managed by the DGFIP and accessible to all social organizations. In both cases the goal is to share the tools available in one or other of the institutional partners to benefit others and thus improve the efficiency of the fight against fraud.

The DNLF leads the CODAF, ensuring national policies in the fight against the various forms of fraud (tax, social, illegal work) are properly declined at the departmental level. This is not synonymous of standardization because it is important that plans for the fight against fraud are tailored to the economic and social realities of the concerned special areas.

In an environment increasingly impacted by the regulation and the behaviour of international economic actors, it is essential that the strategic analyses on the fraud phenomena are shared between countries. It is in this context that the DNLF, like other national administrative bodies is expanding its participation in the work and reflections conducted internationally to promote the need to fight more unitedly against frauds and abuses on public resources.

Conclusion

The French organization does not have the goal to be the best model for fighting against frauds that have a serious impact on public finances. Each national organization has to be built with respect of the current national laws, regulations, constraints imposed by Parliaments, and by people themselves. It's difficult to balance between prevention like education, detection with computer tools, and repression with control and criminal prosecution, which need to be adjusted regularly according to the new results and risks.

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PRESSING TRANSFER PRICING TOPICS OF LATVIAN TAX ADMINISTRATION: STILL NOT AN EXACT SCIENCE?

Introduction

The purpose of this article is to argue that the transfer pricing approaches used by tax payers in following cases had not overcome arm's length principle, because the building bricks of such principle were perpetually strict or had no room for interpretation. An emphasis in this article will be on comparable uncontrolled price (CUP) method. Correspondingly, the said argument will be divided in three topics recovering the said method from three different angles which build the said method according to general sound theory of OECD's Transfer pricing guidelines (the Guidelines).[1] This article is intended for readers with knowledge of transfer pricing basics.

Price does not itself assume risks (see. Scheme Nr. 1 below)

In the following example company X in country X based it`s pricing on argument that LIBOR[2] per se assumed all economically relevant risks of such entities which merely had contributed money to the cash pool of the group, but had not acted as a member of such pool. The commercial rationale of such cash pool was to make money cheaper than external funding for the entities of the group which were the members of such pool. According to such pooling arrangement, the pooling manager (company Y in country Y) was in charge of managing available money resources of the group`s entities to be deposited on group`s account in the bank, while at the same time, company Y was in charge of financing (funding) other entities which were members of the pool (companies Z1, Z2, Z3, Z4 etc. in country Z). What is more, interests for such deposits or loans had not been actually paid, and, instead of paying, periodically such interests had been capitalised into the total amount of the debt (either to the deposit, in case the money was deposited to the pool, or to the loan, in case the money was lent to the member of the pool), thus, cash pool members and the manager had not got a fee for their contribution to the pool. Additionally, according to the legal form of the pooling arrangement the

[1] See., OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 22 July 2010.

[2] LIBOR - The London Interbank Offered Rate is the average interest rate estimated by leading banks in London that the average leading bank would be charged if borrowed from other banks (see. https://en.wikipedia.org/wiki/Libor).

amount of the interest rate was based on the assumption that money might be withdrawn by contributing entity on demand, therefore, the said rate was compared to that which was used in the open market in `over the night` deals, but, nevertheless, such risk on the part of the cash pool manager, in fact, had not materialised during the time the money was used in the cash pool.

In parallel to the cash pooling, company X, not acting as a member of the pool, contributed it`s available money resources to bank account of the cash pool, but, as similar to the members of the group, contribution of company X had not been paid due to the said capitalisation. Similarly, the `over the night` deal risk had not materialised as well, and, what is more, money had been held or used in the cash pool for a long term period, and what is even more, all entities had obligations, i.e., no discretion to contribute available money to the pool.

As to conclude on the transactions involved, the cash pooling was based on risk-free premium and on LIBOR-plus or LIBOR-minus points whether it was a loan or a deposit respectively, assuming that the costs of the money were the same as such costs would have been external costs of funding from external bank, as opposed to the arrangement with company X, to which LIBOR-minus was applied and which acted merely as contributor to cash pool`s positive balance without any pooling benefits of free access to the funding scheme.

In the light of the arm`s length building element for the CUP method, according to which such method compares the transactions and terms thereof (along with risks assumed) not a price itself,[3] the conclusion may be drawn that independent enterprises, were they in the same standing as company X, would not be willing to enter into such funding arrangement with the cash pool manager, because otherwise, firstly, they would not get a fee for the money funded, secondly, such `no-fee arrangement` would make them worse-off due to the long term costs in the form of interest payments (or fee) not acquired as a result of such `no-fee` arrangement, thirdly, independent enterprises obviously would had an alternative to deposit money into a bank, at least, to get a deposit interest income. Therefore, in this case LIBOR rate used as benchmarking rate could not per se assume the risks on the part of company X and, furthermore, should not had been used for the transfer pricing of the group, since, as such, arrangement was not commercially rational for such company X. In other words – it is not likely and commercially

[3] See. para. 2.13. and 2.14., 2.16. of the Guidelines.

rational to fund other person and not to get an adequate remuneration or benefit in return.

Quoted price in bond transactions: where to find a commercial rationality in intermediary transactions (See. Scheme Nr. 2 and comments)

In order to describe the most relevant aspects of controlled transaction which was priced under CUP method, it was a bond re-sale transaction where Company C as mother enterprise actually controlled the operations of it`s subsidiary Company B, which operated in low tax jurisdiction. The pressing issue to this: what were the profit drivers of bond re-sale operation due to low volatility of the price in the market if the benchmarking was based on Bloomberg data on genuine asks and bids of bonds then which put out of the stock exchange market?

Since every sequent transaction should involve mark-up, were it an arm`s length transaction, it is not likely that there was a sizable number of transactions in short period of time on re-sale on the same bond or number of bonds, unless there were any other commercial reasons (probably linked more with finance market regulatory issues applied in different countries) of such sequent transactions. Therefore, as you can see in the Scheme Nr.2, the profit element (mark-up) when using CUP method is very questionable, and, even if there were the same bonds re-sold in comparable uncontrolled transactions, it is still questionable whether down-adjustment based on internal comparable transaction (i.e., comparable transaction between one party to controlled transaction and an independent party)[4] reaches arm`s length result, as it is shown in second or third example, because in arm`s length transactions both independent parties would get the mark-up. Consequently, in this example CUP method does not bring any commercial rationality for transfer pricing purposes and further study is recommended on using other transfer pricing methods.

No to simplification or deliberate misinterpretation

In the last case it is worth to mention that multinational enterprise, when it applied CUP method, broadened the scope of comparable data to bids of offers available publicly at data bases on the grounds that there was lack of information on transaction which could be more close to controlled transaction (as to this, such was the interpretation of para. 2.16. of the Guidelines on the part of the taxpayer stating

[4] See. para. 3.24. of the Guidelines.

that such result is `more flexible approach` in terms of the said paragraph). Despite of that, the enterprise has not done any comparability adjustments due to such broadened approach.

So, you might ask: what is wrong with such an approach, since the Guidelines refer to genuine bids or offers to independent parties which may be taken into account, when considering application of CUP method[5]?

The answer is that first of all the lack of information as an argument lack legal base for broadening the scope of comparable data to the said offers or bids, because expresis verbis para. 2.16. of the Guidelines does not include such wording. Secondly, and completely different from the wording which was misread by the taxpayer – the sentence 4 to 5 of the para. 2.16. of the Guidelines apply to difficulties of comparability adjustments which require more flexible approach, and, here, the world practice shows that this is the point where the notion of `exact and constructed` CUP method appears;[6] in order to put it more simply the rationale of the said sentences of the Guidelines – you may perform more sophisticated comparability adjustments and still be in the line with CUP method. Thirdly, from economic context a bid or an offer represents the perspective of one party who makes an offer, and therefore, it is in the line with sentence 3. of the para. 6.23. that such one-sided issue may be taken into account, or used as a reference, but not used as enough evidence showing arm`s length conditions. In order to conclude, such simplified approach of interpreting the Guidelines which was mentioned at the beginning of this topic is a misinterpretation, and, instead of simplified way, the use of bids and offers is complicated, not a simplified approach, and therefore requires comparability adjustments which cannot be avoided under para. 2.16. of the Guidelines.

Conclusions

In the first topic, the lack of commercial rationality together with a misuse of LIBOR rate, in terms of the principle that price itself does not assume risks, may lead to non-recognition of the money (fund) contribution arrangement, in order to cope with arm`s length principle. Re-characterisation into a risk premium loan (at least to degree guarantying income in the form of the cost of the money contributed to the pool and the risk premium adjusted to the risk of exploitation of money, as to this,

[5] See. para. 6.23. of the Guidelines.

[6] See. Richard T. Ainsworth, Andrew B. Sacht Transfer Pricing: Case Studies of CUP Method, Tax Notes International, April 30, 2012

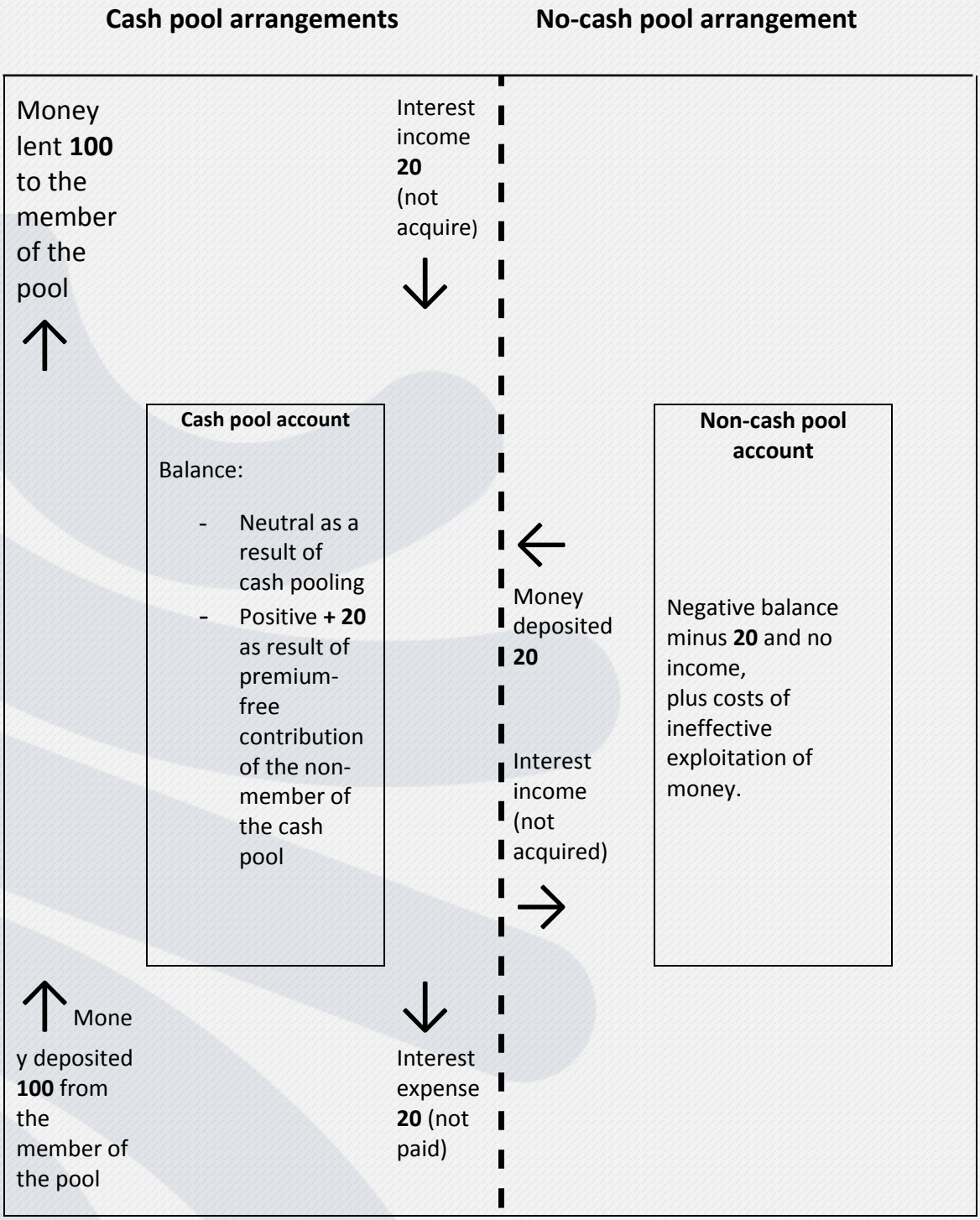
an arm`s length alternative of using available capital resources) could be the measures of tackling such transaction.

In the second topic, it was showed that it is not appropriate to use CUP method, even though it is possible to find comparable transactions, because the rational outcome of the benefits of party to a controlled transaction is disputable, therefore other methods shall be considered.

In the third topic, the misinterpretation of the Guidelines can bring to over-simplified approaches which are at odds with the Guidelines and therefore should be avoided, insisting on more sophisticated economic analysis and more complicated adjustment instead of the former, in other words – you may not apply CUP method in a more flexible way, broadening the scope, on the one hand, but not performing economically relevant analysis and comparability adjustments, on the another hand.

At last, but not least, all topics may argue that arm`s length principle does not provide any room that expands building bricks thereof, and the phrase 'transfer pricing is not an exact science, but more an art` may not be used to misuse the said principle.

Scheme Nr.1 (note: the numbers are for illustrative purpose only, a symbol ↑ shows flow of a particular transaction)



Scheme Nr. 2 (note: the numbers are for illustrative purpose only[7])

Assume that quoted price is 2,9 and the amounts sold are the same and reasonably at the same time (the latter factor is highly sensitive). Company B and Company C are associated enterprises, Company B is in low tax jurisdiction. Mark-up in range from 0,095 to 0,099 is assumed as recognisable in free market. Price volatility is very low.

Number of transactions	State / company A: **Step 1**	State / company B **Step 2**	State/company C **Step 3 (audited company)**	State/company D: **Step 4**
2	Sales price is **2,995** (mark-up of 0,095 to quoted price 2,9)	No sequence	No sequence	Resales price is **2,999** (mark-up 0,004)
3	Sales price is **2,995**	No sequence	Resales price is **2,999 (INTER-NAL COM-PARABLE)**	Resales price is out-side the recognisable range. Reasonable to **2,9999**.
4	Sales price is **2,9**	Resales price is **2,999 (down-adjustment to 2,995)**	Resales is price out-side the recognisable range. Reasonable to **2,9999**	Resales price is out-side the recognisable range

[7] Note: more sophisticated scheme you may ask from the author edgars.hercenbergs@vid.gov.lv

Additional comments:

As to the first chain of transactions, there is buy-sell transaction without intermediaries and there is recognisable mark-up due to low volatility thereof.

As to the second chain of transactions, recognisable mark-up is only until Step 3, but questionable in Step 4, because of the acceptability of the mark-up for company D due to additional mark-up deviating from the quoted price and due to low volatility. However, in Step 4 bargaining issues shall be considered and due to even low volatility, assuming mark-up could be reasonable 0,0009 at maximum, in which profitability in time may be possible, but still questionable.

As to the third chain of transactions, in order to make Company C profitable for 0,004 mark-up, at least, Company B sales price should be down-adjusted correspondingly resulting sale of Company B in a non-profit (no mark-up) transaction. Also, the resale of Company B, even assuming recognisable mark-up to 0,0009, is questionable (as in previous chain involving sequent 3 transactions).

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EFFECTIVE USE OF VAT RETURNS DATA IN EARLY DETECTION OF VAT EVASION AND FRAUD CASES

Introduction

In the modern world the saying “time is money” becomes relevant to an increasing extent. Globalization and automation of business processes enables making the contracts between parties located in different parts of the world without the need to meet each other face to face. The contracts for shipment of goods are formed using electronic means of communication. Money is transferred from one continent to another via bank transfer within minutes. The increasing speed of the modern business also requires tax administrations to effectively and efficiently use the available resources to ensure compliance with laws. Information, IT tools and human resources are the three most important requisites to ensure effective and efficient functioning of the tax administration and allow the optimal use of tax administration’s resources, allocating them according to set priorities.

VAT return as main source of information for effective VAT administration

Everybody is aware that VAT is providing state budget with one of the biggest parts of tax revenues. Therefore, tax authorities are so interested in protecting VAT system from various violations and setting right amount of the calculated VAT due to be paid to the state treasury. What makes VAT so attractive for the fraudsters and other non-compliant traders? This attractiveness of VAT has not disappeared and has even increased during the past four decades despite all efforts to minimize it taken by tax administrations in many countries around the world. The possibility to benefit from the right to deduct VAT input tax and thus get real money as VAT refund from state budget granted to the VAT liable persons by the general VAT rules. The VAT system allows using these rights even without the requirement to make payments for the goods or services. This is what attracts non-compliant persons to VAT like bees to the honeypot.

Tax authorities have these two main responsibilities while protecting VAT system from vulnerabilities:

- Not to allow non-compliant and potentially risky companies to join the VAT system, and to prevent illegitimate benefits from it;
- Timely identifying those traders who try to misuse advantages provided by the VAT system through being involved in artificial constructions aiming to avoid

paying VAT to the budget or to steal VAT from the budget and prevent their further activities causing losses to the state budget.

Both these actions need to be taken within a short period of time to minimize and prevent further losses to state budget that might be done by non-compliant activities within the VAT system. To ensure that the second aim is achieved tax administrations need as much information on parties involved in VAT related transactions as possible. Tax administrations usually are aware of persons and traders with bad tax history as there are plenty of indicators to spot such persons from the whole population of taxpayers. Nevertheless, this information is not enough to identify risky VAT supply chains taking place on the market. Therefore, knowledge on both parties involved in these supply chains (i.e. supplier and customer) is vital.

VAT return is the most important source of information for VAT administration purposes. It is the main source of information for tax administration bodies as well for control calculations of correct amounts of VAT due. The content of data required in the VAT return differs from country to country and it is even an EU matter despite the common VAT system used by all EU Member States under Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (VAT Directive). Although, the VAT Directive provides EU Member States' tax administrations the possibility to impose additional reporting obligations that they deem necessary to ensure a correct collection of VAT and to prevent evasion, not many EU Member States use this possibility. Nevertheless, Latvia is one of those EU Member States that has introduced annexes to the VAT return containing detailed information on sales and acquisitions performed in the taxation period.

In accordance with the Latvian VAT Law, a VAT return shall consist of the return for the taxation period and annexes to the return. A VAT return shall have the following annexes:

1) a report on the amounts of the input tax and those amounts of taxes, which have been included in the return for the taxation period;
2) a report on the supply of goods and the services supplied in the territory of the European Union (known as recapitulative statement);
3) a revision report on the supply of goods and the services supplied in the territory of the European Union (known as corrections to recapitulative statement).

The forms of the VAT return to be submitted for the taxation period and of annexes thereto, as well as the procedures for filling in and submission thereof are determined by Rulings of The Cabinet. Annexes are integral part of the VAT return.

These annexes are the main sources of information in VAT administration processes to detect non-compliance cases, especially VAT evasion and VAT fraud.

Latvia has a long experience in using detailed data on deliveries and supplies performed by taxpayers as obligation for taxpayers to submit annexes to VAT returns with detailed information on domestic acquisitions (domestic suppliers' listings) was introduced back in February 2001. Joining the EU in 2004 Latvia introduced a new source of information in its tax administration – the EU clients' listings (known as recapitulative statements) and EU suppliers' listings. Finally, in 2010 the last piece of the puzzle was put in place: the obligation to provide domestic clients' list was introduced. You might wonder why it was the last piece of the puzzle, pointing me at the missing information on import and export data. It was because in Latvia tax and customs administrations were merged when the State Revenue Service was established in November 1993, therefore, customs data are available to tax administration and vice versa.

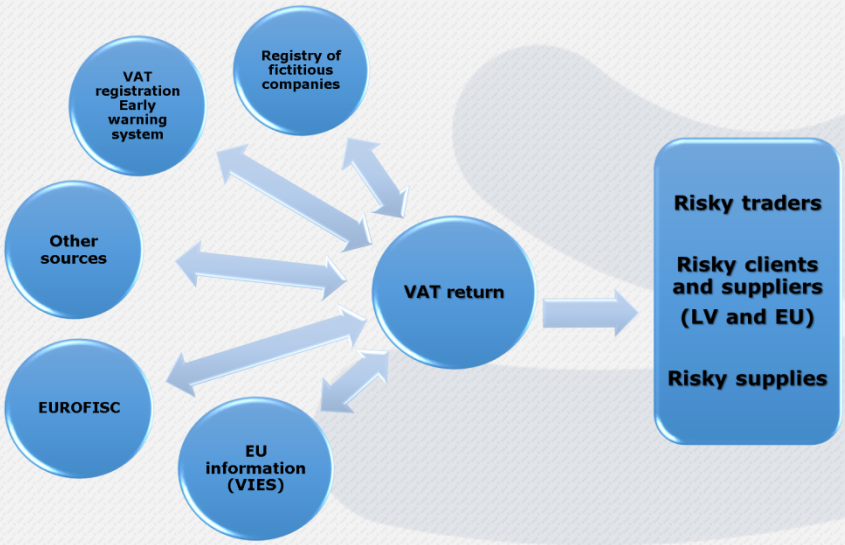
Customers' and suppliers' listings, that Latvian VAT liable traders are obliged to submit along with their VAT returns every taxation period, contain detailed information on names and VAT registration numbers of all customers and suppliers, invoice date and number, value and type of delivery (import, taxable delivery, delivery under reverse charge, etc.). All Latvian traders – VAT liable persons are obliged by law to provide information on **every delivery** made during the taxation period. Availability of this information gives Latvian tax administration huge possibilities to detect risky traders and risky deliveries at early stage.

Use of VAT returns annexes' data in risk analysis

Risk management principle is implemented in all tax administration procedures of the State Revenue Service since 2008 and to ensure effective and optimal use of tax administration resources automated risk evaluation is in place. This means that the selection of the taxpayers for preventive and control activities is based on the results of the automated risk analysis. Information collected from taxpayers' customers and suppliers' listings is the main source of information when analyzing VAT returns data.

Every tax administration has at its disposal a lot of information on every taxpayer himself, his associates and managers, including their tax behavior, tax administration and control activities performed, tax debts and enforcement activities, information from taxpayers' tax returns and information received from third parties (like other public institutions, VIES, EUROFISC, etc.) and many other sources. Combination and crosscheck of this information with data on deliveries and supplies declared in annexes to VAT returns helps to spot risky traders, risky clients and suppliers not only on domestic, but also on EU market, and so identify risky supplies between parties involved. Moreover, it is possible to follow the supply chain based on information submitted by taxpayers involved in it at the desk already after submission of the VAT returns. Combining this information with data on taxpayer that the tax administration has in its databases gives a picture of the supply chain's nature and the participants involved. Tax inspectors without leaving their desks know who are the clients and suppliers of the taxpayer and can go up or down the supply chain to its beginning or its end, having knowledge on every party involved. They might raise questions concerning each and every actor as follows:

- Does it have a valid VAT registration? When was it registered?
- Is it de-registered from the VAT registry? When and why?
- Does it have tax debts? Which taxes and what amounts?
- How many employees does it have?
- What is the registered type of activity of the trader?
- Is it a "fictitious" company?
- Who are its managers? What is the history of their tax behavior?
- Is/was criminal procedure initiated against the trader or its directors?
- Is it a "buffer" company?
- Is it under monitoring in any of the working fields in EUROFISC network? Is it a customer of the trader under monitoring in EUROFISC network? What feedback is provided on it?
- etc.



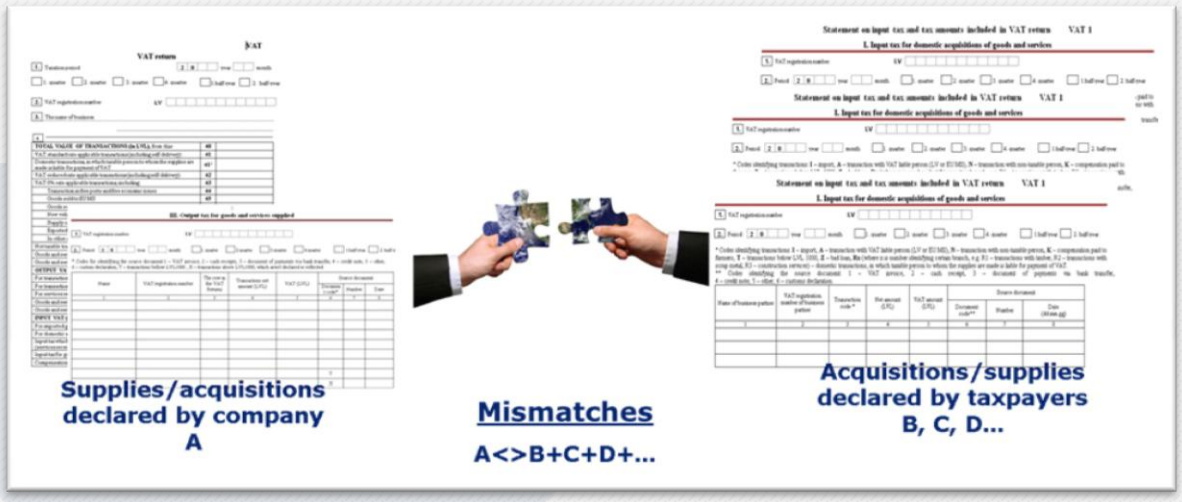
Without having information from the suppliers and customers listings this would take months of tax auditors' work on the field and in the office.

Collecting and analyzing this information each time manually from all data sources available would take too much time of tax officers. But, we still keep in mind the saying "time is money" and remember to another important requisite for effective and efficient tax administration that is the availability of IT tools. Therefore, to support tax officers' everyday work and ensure maximal access to all necessary information the State Revenue Service has been using data warehouse technology for risk analysis and analytical crosschecks already for 15 years. Data warehouse is the tax administration's database where data from different information sources including various State Revenue Service's databases are maintained and used by different departments (tax, customs, excise) and third party information received (e.g. other public institutions, VAT Information Exchange System VIES, EUROFISC network etc.) are available, all in one place. The use of this technology allows to combine and compare different data and this ensures the possibility for getting comprehensive view and analysis of the situation of interest.

Powerful functionality of the data warehouse technique provides the tax administration the possibility to identify different types of mismatches and inconsequence in taxpayer's VAT returns and listing data as well as with the data provided by the particular taxpayer's customers and suppliers. Such crosschecks are aiming to detect taxpayers:

- underreporting (hiding) partly or fully turnover;
- deducting VAT input tax for supplies that have not been taken place in reality, i.e. fake supplies (illegitimate deduction);
- failing to submit VAT returns.

Data analysis possibilities provided by the data warehouse functionalities allow crosschecking data from taxpayers' suppliers and customers listings as accumulated data as well as to do supply by supply comparisons. Thus the tax administration can not only easily discover cases of underreporting turnover, and to find suspicious supply chains.



Obligation for Latvian traders to provide detailed information also on intra-community acquisitions of goods and services allows crosschecks with VIES information on supplies declared by traders in other EU member states. This is a kind of international crosscheck. The results of such crosschecks will point Latvian tax administration in the direction of traders failing to declare acquisitions from other EU member states to avoid in the future declaring domestic sales and VAT due on it or will detect traders, on the contrary, declaring bigger amounts of acquisitions from other EU member states to legalize goods coming from the black market. At the same time, it will affect other EU Member States by helping them to identify wrongly applied VAT zero rate for the declared fake supplies to Latvian traders, usually leading to VAT refunds, and prevent losses to the budget.

Therefore, it is fair to say that data from customers and suppliers' listings (the VAT return annexes) is the main source of information for VAT risk analysis and early detection of tax evasion and tax fraud cases as well as a great help for tax administrations for more effective and efficient VAT administration. And not only for Latvian tax administration!

Overcoming bottlenecks

Next I would like to turn your attention to several aspects that are important for successful implementation and use of the information on customers and suppliers

listings the State Revenue Service has faced during the last 14 years the system has been in place in Latvia.

First, during all these years we have heard reproaches that the obligation to submit customers and suppliers listings attached to VAT return is a big administrative burden for taxpayers. I agree and disagree with this at the same time. According to the accounting legislation in force, taxpayers are obliged to maintain registries of customers and suppliers in their bookkeeping records, therefore the State Revenue Service actually does not ask for information that needs to be collected solely and specially for tax administration purposes. Moreover, availability of such information to tax administration saves taxpayer communication with the State Revenue Service and time to prepare and provide information and documents necessary to control accuracy of the assessment and payment of taxes. Having at its disposal information available in the clients and suppliers listings the State Revenue Service contacts taxpayers only in cases when serious suspicion of non-compliance risks was identified. It should be noted that the job done by the State Revenue Service using data from customers and suppliers listings for VAT administration purposes allows to identify errors and mistakes made by taxpayers at an early stage. Thus, the tax administration is actually helping taxpayers timely identify and correct mistakes without applying any fines. According to my point of view this has to be seen as a win-win relationship between taxpayers and tax administration.

As all Latvian taxpayers – legal persons since 2011 are obliged to submit their tax returns and reports electronically only; the Electronic Declaration System of the State Revenue Service provides possibility to import tax returns' data, including VAT returns annexes with customers and suppliers listings, in the format compatible with the accountancy software used in Latvia. The option for submitting tax returns and reports electronically first appeared in the Latvian Law On Taxes and Fees (which is the umbrella tax law in Latvia) in 2001. Therefore, taxpayers and developers of accountancy software had enough time (10 years) to adjust to the legal and technical requirements.

Taking into account the low fiscal effect of deliveries in small amounts and thinking about commensurability of the resources and time needed to control small amount deliveries and VAT amounts, these traders are allowed not to provide detailed information on supplies and acquisitions valued under EUR 1430. However, these supplies and acquisitions still need to be reported in customers and suppliers listings in one line.

As I have already mentioned above, in 2011 the obligation for electronic submission of all tax returns and reports came into force, therefore during the 10 years (from 2001 to 2011), processing of VAT returns and clients listings was manual work. With VAT taxation period of one calendar month, the State Revenue Service needed to deal with more than 1 million of VAT returns each year, meaning that these needed to be entered in the database manually. Manual processing of hard copy documents primarily is time-consuming and in addition, it means the ineffective use of tax administration's human resources. At that time also taxpayers were not very advanced in ensuring quality of their VAT returns' data as bookkeeping was done mainly on paper with rare use of special IT tools and software. Manual preparation and entering of VAT returns and its annexes' data in tax administration's database caused such data quality problems as typing errors, arithmetical mistakes, logical mismatches, etc. Time-consuming process and the need to deal with data quality issues was slowing down the VAT administration process, VAT refunds and tax control procedures.

To ensure good quality of data used further in the risk analysis and selection of tax control cases, procedure of data quality checks was introduced. Some basic checks were already incorporated in tax administration's database, where VAT returns data were stored, allowing detection of VAT returns with errors and mistakes. To make the process more advanced, criteria to identify logical mismatches, data mismatches and more sophisticated mistakes and mismatches were developed and selection was made using data warehouse technology. Yet, the tax administration can correct tax assessment only in the result of tax audit and simple correction of mistakes and mismatches in tax returns and reports need to be done by taxpayers themselves; therefore, availability of qualitative data was ensured with time shift for at least two months after submission of VAT returns.

The solution of this problem came with the gradual promotion of electronic submission of tax returns and reports. At the beginning, taxpayers submitting their tax returns and reports electronically were given 5 days extra to the submission deadline of the returns and reports (for VAT returns submission by the 20th date instead of 15th date of the month). The aim of this regulation was to attract taxpayers to the electronic submission of tax returns. Another advantage for taxpayers submitting tax returns and reports using the Electronic Declaration System of the State Revenue Service was system's build-in data quality controls. These enabled taxpayers to detect and correct arithmetical, typing and logical mistakes and mismatches in their tax returns and reports as well as in the accountancy

records on early stage while submitting of tax returns and reports. This benefits both the taxpayers and tax administration.

The overall obligation for electronic submission of the tax returns and reports came in force in January, 2011. Therefore, Latvian taxpayers had 10 years to get used to electronic submission and adjust their accountancy software to this need.

The 10-year long experience that the State Revenue Service has in collecting VAT returns in electronic form does not mean that all of the VAT returns submitted have perfect quality. We still face data quality problems because the tax legislation is dynamic and changes, introducing new regulations and requirements for filling-in the VAT returns. But the most important lesson we have learned from this long-year experience is that the VAT return and its annexes need to be treated as a single document, especially when submitting document on the electronic declaration system, to avoid further complications and non-compliance issues. There will be individuals who always seek possibilities to avoid this obligation simply by not complying with the legislation rules. Treating the VAT return and all its annexes as single document might save the tax administration a lot of resources to collect required information on customers and suppliers listings from taxpayers.

Another lesson learned during the time customers and suppliers listings have been existing in Latvia is that non-compliant traders adjust to the changes in the legislation and tax evasion and fraud schemes evolve using loopholes in legislation and weaknesses in the tax administration's procedures.

The example I would like to give in this article relates to the behavior of taxpayers willing to bypass the system and avoid submission of customers and suppliers listings to tax administration by adjusting their behavior to legal rules.

Before the taxpayers had the obligation to report detailed information on all their acquisitions in suppliers listings with the VAT return, the State Revenue Service had limited possibilities to find cases of fictitious deductions of VAT input tax because of the lack of information sources available. Introduction of suppliers' listings eliminated this shortage. Previously it was not necessary for all participants of the supply chain to match the data in their VAT returns, as there was no possibility to crosscheck it and to identify mismatches. Therefore, after introduction of suppliers' listings many taxpayers were contacted by the State Revenue Service due to underreporting of turnover identified, based on the data provided by their clients in annexes to their VAT returns with detailed information on acquisitions. Moreover, non-compliant traders did not like to have close attention from the tax

administration's side; they prefer to stay aside, "in the shadows" to ensure successful and undisturbed functioning of contrived supply chain as long as possible.

As it was mentioned previously traders having acquisitions below EUR 1430 in the taxation period are allowed not to provide detailed information on acquisitions reporting these in one line. Non-compliant traders found the way to (mis)use this derogation in their interests. They started to report huge unreal amounts of acquisitions performed during taxation period to avoid the obligation for provision of detailed information and to hide the fictitious nature of their deductible VAT input tax. This also caused problems for the State Revenue Service to identify the origin of goods and services on later stages of the supply chains during audits. Mostly, the traders behaving this way appeared to be missing traders and any efforts to get in contact with them to receive explanations and additional information on acquisitions were unsuccessful.

Reaction to such behavior was the State Revenue Service's initiated proposal for amendments of legislation to introduce reporting obligation to provide detailed information on every supplier (not every delivery) if value of the supplies made by this certain supplier exceeds EUR 1430 in total in the taxation period. Having this information at its disposal the State Revenue Service was able to crosscheck supplier and client's data from clients and suppliers listing to check credibility of the acquisitions declared, analyze in depth these deliveries and parties involved, as well as identify the origin of the goods and services during audits.

Amendments in the VAT law evoke response from non-compliant traders by changing their behavior again – no deduction of input VAT at all, i.e. missing traders "mutated" to defaulters now. The State Revenue Service is currently facing this new model of behavior. The problem behind this scheme is big VAT debts created that can never be paid as these traders have no assets and therefore afterwards go for insolvency and bankruptcy procedures. For now, there is no solution for effective reaction yet to counter this type of non-compliance as this includes also enforcement and tax debt collection aspects.

In real life it is hard to find a genuine business with perfect bookkeeping and paperwork because of the existing human factor. When analyzing discrepancies in data from customers and suppliers' listings provided by the taxpayer and his suppliers and customers besides huge mismatches it is possible to find regular perfect match of data. Even until the last cent! Over the time we have learned it is the evidence of contrived nature of the supplies. This way non-compliant traders involved in artificial constructions aim to bypass the risk analysis systems used by

the State Revenue Service, avoid attention from the tax administration's side and ensure functioning of these artificial constructions as long as possible.

Perfect match is just one of the possibilities to slime through tax administration's fingers pretending to be compliant. Another possibility is to use large genuine businesses names to declare acquisitions in big amounts, i.e. hijack the VAT registration numbers of the genuine businesses like companies providing gas and electricity services, petrol stations, supermarkets etc. The risk analysis system of the tax administration usually does not pay attention to supplies involving large compliant businesses; therefore, it is easy for non-compliant traders to stay outside the tax administration's scope.

These are just some examples that can encourage tax administrations to more creative use of available information, analyzing it in different aspects to identify suspicious supply chains and detect possible tax evasion and fraud cases at early stage.

Conclusion

Concluding this article, I would like to highlight the necessity and importance for tax administrations to have comprehensive and clear vision of how the collected information will be used, what is to be achieved with it and have a clear plan of action to be taken as a reaction to the findings that the collected information will allow to detect. Absence of clear strategic vision and action plan will bring non-compliant traders to evolve supply chains involving more and more intermediaries, thus, making it more complicated for tax administrations to detect and prove tax evasion and tax fraud. Tax administrations need to act in the same way as the non-compliant traders do – before entering a new area, detailed researches, strategies and action plans need to be developed for consecutive and structured approach to protect the VAT system and revenues, as well as successfully fight VAT fraud and evasion.

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THE USE OF INTELLIGENCE AND INVESTIGATION IN THE FIGHT AGAINST VAT FRAUD DECLARED IN CUSTOMS PROCEDURE 42

Introduction

The purpose of this article is to remark some principles that need to be taken into account while facing investigation on tax fraud. Once these principles have been established, the aim of this article is to highlight how the Spanish Tax & Customs Administration (Agencia Tributaria) has been tackling the VAT fraud declared in customs procedure 42 (CPC 42), in close relationship with any VAT fraud concerning intra-EU transactions.

The principles to be taken into account are the following ones:

1. Identification of the problem: there is a need to know the kind or fraud and the legal and judicial constraints or requirements that need to be taken into account in an investigation.
2. Quantification of the fraud: it is necessary to know whether it is a big problem or not and which are the countries that could be involved.
3. Taking the above mentioned principles into consideration, a plan is needed to face the investigation in the most effective and efficient way.

Identification of the problem: the CPC 42

CPC 42 refers to the import of goods which are immediately sent to another Member State (MS) of the EU as a 'supply of goods' in the sense of the EU VAT Directive. It is identified by the introduction of code 42 in the box 37 of the Single Administrative Document (SAD) submitted to the Customs Authority. Therefore, when the SAD receives the clearance, the goods are released for free circulation, but not for consumption as they are deemed to pay for VAT in the MS of destination.

The European VAT Directive states two sides of the same coin in every intra EU-transaction: the intra EU-supply and the intra EU-purchase. For the intra EU-supply the key articles of the VAT Directive are:

- Article 2(1)(a), which states that the supply of goods is subject to VAT.
- Article 14 gives the definition of 'supply of goods', stressing the requirement that there has to be a transfer of the right to dispose as an owner.

- Article 32 identifies the place of supply, which is the MS of origin.
- Article 138 stresses the exemption of VAT for intra-EU supplies.

As regards the intra EU-purchase the articles to be considered are:

- Article 2(1)(b), which states that the acquisition of goods is subject to VAT.
- Article 20 gives the definition of 'acquisition of goods', stressing the requirement that the purchaser has to get the right to dispose as an owner.
- Article 40 identifies the place of acquisition, which is the MS of destination.
- Article 94 states that the VAT rate for intra-EU acquisitions is the one of the place of acquisition.

Once the problem and the applicable law are identified, it is necessary to know whether the Courts of Justice have determined any other requirements to consider that an intra-EU transaction has been correctly done in terms of VAT. To that extent, the following decisions of the European Court of Justice (ECJ) need to be highlighted:

1. Case 409/04 (Teleos):

   This decision stresses that the intra-EU acquisition is effected and the exemption of the intra-EU supply is applicable only when:

   - The right to dispose of the goods as owner has been transferred to the purchaser.
   - The supplier establishes that those goods have been dispatched or transported to another MS.
   - As a result of that dispatch or transport, the goods have physically left the territory of the MS of supply.

   Nevertheless, the decision also states that the authorities of the MS of supply cannot deny application of exemption to a supplier, who acted in good faith and provided all evidence required by the authorities, even if it is proven to be false at a later stage, provided that the supplier took every measure in order to avoid being involved in the fraud. It also manifests that the declaration of the intra-EU acquisition by the purchaser is not a conclusive proof for the purposes of the VAT exemption of an intra-EU supply.
   Therefore, the investigation needs to prove not only that there is an effective intra-EU supply which allows the exemption to be granted, but also that the supplier neither acted in good faith nor took every measure in order to avoid being involved in the fraud.

2. Case 184/05 (Twoh International):
   The ECJ manifests in this case that it is not required to the tax authorities of the MS where the dispatch or transport of goods of an intra-EU supply of goods begins to request information from the authorities of the destination MS alleged by the supplier. Therefore, it is for the supplier of goods to furnish the proof that the conditions for the exemption of the intra-EU supply have been fulfilled.
   So even though the investigation usually entails Multilateral Controls (MLC), the burden of proving entitlement to a tax derogation or exemption rests upon the person seeking to benefit from such a right.

3. Case 430/09 (EuroTyre):
   In this case, the ECJ does not clarify whether the supplier's good faith is protected when the purchaser transfers again the ownership to another purchaser without the goods still being transported from the MS of origin.
   In my opinion, we are still subject to the obligation of proving that the supplier neither acted in good faith nor took every measure in order to avoid being involved in the fraud, which is declared in the Teleos case mentioned above.

4. Case 273/11 (Mecsek-Gabona):
   This is a very interesting case in which the ECJ declares that formal requirements such as the VAT number cannot undermine the right to exemption if the substantive conditions for intra-EU supply are satisfied.
   This argument is very useful because it can be used in both senses: to concede the right to exemption to a firm whose VAT number has been retroactively cancelled, and also to deny it.

Quantification of the 'CPC 42 fraud'

Once the problem has been duly identified it is possible to focus the investigation in an effective and efficient way. But it is also necessary to know whether the problem is big enough to stem an investigation and put all the efforts on it.

In the case of Spain, goods worth around 2.5 billion Euros are declared in CPC 42 every year. Not less than 65% of these goods are taxed with the normal VAT rate, which in Spain is 21%. This means that not less than 360 million Euros are declared in CPC 42 in Spain. These figures could be considered to be high enough to get to the conclusion that the CPC 42 is a problem which is big enough to stem an investigation.

But there is another fact that must be considered, and it is that the above mentioned requirements as regards the identification of the 'CPC 42 problem' can be also applied to any intra-EU transaction. Considering this, in Spain around 300 billion Euros are declared every year in intra-EU transactions, and more than 50% of these transactions are intra-EU supplies. The main countries concerned with these figures are France, Germany, Portugal and Italy, so there is a big probability that most of the MLC will need to be done with these countries in the case of Spain.

Therefore, in my opinion, the problem is big enough to make a plan in order to investigate any possible fraud concerning both CPC 42 and any possible fraudulent intra-EU transaction.

How is CPC 42 investigated in Spain

There has been a clear evolution in the way this kind of fraud is investigated in Spain. In fact, it can be said that the way this fraud is faced has improved, but there is still much more to be done.

Not too many years ago, around the last years of the last decade, the whole problem was dealt only by the Customs Authority in the following way:

- Every SAD with the code 42 in the box 37 was automatically blocked before clearance was given.
- Customs authorities blocked a warranty for the possible VAT debt and activated what it is called a 'pending alert'. The alert is not cancelled until the destination of the goods is duly justified or the VAT is finally paid (if the goods are finally consumed in Spain).
- The person who submitted the SAD, or its representative, had to come to the customs office for every submitted SAD to prove that the goods have arrived to their final destination (normally they showed a CMR).
- If everything is OK, the Customs authorities deactivate the 'pending alert' and the above mentioned warranty is released.
- If not, and investigation begins, sometimes with International Mutual Assistance (IMA).

Even though every single import subject to VAT was controlled, there were things to be improved in the procedure. In fact, this procedure entailed many inconveniences for the Customs authorities and the stakeholders, who needed to prove that the goods had arrived to their final destination every time, and just by means of a document, which in many cases could be false. In addition, IMA needed to be

enhanced because the answers often arrived very late, sometimes even later than the 4-year regulation deadline stated by the Spanish fiscal law.

Several things have improved since then:

- Today this procedure is controlled both by the Customs and the Tax authorities in Spain, which makes sense as soon as the Tax Authority is more used to deal with fraud related to intra-EU transactions. Despite both authorities stay together in the 'Agencia Tributaria', the CPC 42 was supposed to be only a problem to be faced by Customs not so much time ago.
- To that extent, the Customs Authority controls everything that has to do with the SAD, but the analysis of possible frauds concerning CPC 42 is also done by the Tax Authority, who alerts of any indicator of a possible fraud related to CPC 42 (vg. import done by a firm controlled by a person related to carousel fraud).
- The Spanish VAT law changed in order to avoid blocking warranties, unless any indicator detects a possible fraud. There is no need to be said that this is a big relief for many importers.
- When a possible fraud is detected, it is necessary to prove both transport and delivery. To achieve this goal, the 'Agencia Tributaria' requires any proof to the taxpayer and to any other related stakeholder, which could entail a MLC.
- Since a few years ago, every importer has to present what we call Model 349 (declaration of any intra-EU operation), which allows the 'Agencia Tributaria' to do any cross-checking in order to find possible mismatches.
- Today IMA works much more efficiently than before. Several countries answer within 1 or 2 years, which is a good delay if we consider that usually the information demanded implies further investigations in the country of destination.

But still several things could be improved.

The way forward

I would not like to finish this article without posing some questions which may provoke useful proposals coming from any professional who is reading it.

Trade is becoming more and more international, and so are VAT fraudsters. There are still further steps to be done in order to make it difficult for them to reach their goals. It is necessary that they feel than our control methods and cooperation are improving more and more.

That is why some steps forward should be implemented. To that extent, the following questions need to be posed:

1. Is there a way in which the IMA can be even faster than it is today?
2. Is the standardization of the VAT return a solution which could improve the control systems of the Tax Agencies around Europe?
3. Is it possible to have a common database of the data included in the VAT returns so that any officer in any European Tax Agency could automatically see any VAT return submitted in Europe (just like it happens with transit declarations submitted in any Customs Office in the EU)?
4. How could the Council Regulation (EU) 904/2010 on administrative cooperation and combating fraud in the field of VAT be improved?
5. How could the OECD Convention on Mutual Administrative Assistance in Tax Matters be improved?
6. Are there any other suggestions in order to increase our success in the fight against VAT fraud?

Useful links

EU VAT Directive (consolidated version)

http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02006L0112-20110101&from=EN

ECJ Teleos, Twoh International, EuroTyre and Mecsek-Gabona decisions

http://curia.europa.eu/juris/showPdf.jsf;jsessionid=9ea7d2dc30ddbc9c3fd81d0c40319aa8f7ee33c4b8e1.e34KaxiLc3qMb40Rch0SaxuRbNn0?text=&docid=63505&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=52749

http://curia.europa.eu/juris/showPdf.jsf?text=&docid=63499&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=53042

http://curia.europa.eu/juris/document/document.jsf?text=&docid=79388&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=53215

http://curia.europa.eu/juris/document/document.jsf?docid=126421&doclang=EN

Council Regulation (EU) 904/2010 on administrative cooperation and combating fraud in the field of VAT

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:268:0001:0018:en:PDF

OECD Convention on Mutual Administrative Assistance in Tax Matters

http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/the-multilateral-convention-on-mutual-administrative-assistance-in-tax-matters_9789264115606-en#page1

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EU PROPOSALS TO IMPROVE THE EFFICIENCY OF THE TAX AUTHORITIES BY HARMONIZING THE NATIONAL VAT SYSTEMS

Introduction

The aim of this paper is to introduce the harmonization of the national VAT systems in the European Union. The first important milestone was the Green Paper on the future of VAT, new ideas were published on the operation of the current VAT system, the determination of measures to improve the coherence of the internal market and to increase the effectiveness of the revenue collection. The European Commission measures the VAT gap in the Member States so as to improve the efficiency. In addition to the general guidelines the Commission issued two publications that summarized the Member States' reports on the procedures applied on the collection and audit of VAT. Another publication focused on the administrative cooperation and combating fraud in the field of VAT, in which the Commission assessed the current national situation and selected the promoted development trends. I shall finish this paper with a short conclusion.

The history of VAT in the European Union

The process started in the European Community in 1967, when the value added tax (VAT) in each Member State replaced the previously individually, free to use sales taxes that were progressed through the purpose of the proper functioning of the single market coordination and harmonization steps. The legislative bodies in each Member State of the European Economic Community – later the European Union – accepted and implemented the Directives that have become also mandatory in Hungary from the 1st of May 2004, the date of the Hungarian accession. Initially, the Sixth VAT Directive (1977) was the basic VAT rule, but year after year the economic environment demanded changes and these changes constantly had to be taken into account in addition to the legislation and application of the Directive.

The increasingly complex legislation has prompted the EU lawmakers to include the previous amendments into a consolidated codification, under which the Directive 2006/112/EC became one of the most important EU-wide VAT legislation.

From the year 2000 several directives were issued against VAT fraud schemes because it had been perceived that numerous abuses took place in several Member States on the field of VAT. The standardization of the taxpayer and the taxable event

was conceptualized in the Euratom Directive (2000/597/EC), and this Directive allowed various interventions so as to prevent tax loss, unify revenue collection and to improve the effectiveness of tax enforcement. The Directive devoted special attention to the fight against tax fraud and tax evasion. At least 15% standard VAT rate must be codified in each Member State and the key rules of VAT deduction should be harmonized to the extent that influences their actual collected size and which ensures that the deductible proportion will be calculated by each Member State in the same way. As temporary provisions for tax liability of destination remained in force in the EU Member States, it has opened an information gap between the declared taxable sales in other Member States in respect of abuses committed by malicious taxpayers who try to circumvent the rules. The EU at the very beginning detected the threat of VAT abuse, but it has become a much more significant issue ever since.

Steps have been made to prevent abuse, in the Directive 2006/69/EC that allowed to the Member States to adopt quick measures in targeted sectors so as to prevent tax evasion or avoidance.

The Commission Communication (COM (2007)758) included the creation of a Europe-wide 'anti-fraud' strategy. The Commission raised the issue of taxation of intra-Community transactions and the general reversed tax scheme, but it could not reach a political agreement in the ECOFIN Council, so it has been abandoned. It was found that the VAT fraud has absolute priority as an area to be treated.

The Directive 2008/117/EC acted against intra-Community fraud transactions once again, because the unjustified transfer of goods and the release of unreasonably low-priced products to the market distorts the internal market of the EU. The main reason of the fraud is the time delay in the information exchange system within the Community. The Council Directive 2009/69/EC took action against tax evasion linked to imports. The 2010/23/EU Directive proposed an optional and temporary application of the reverse charge mechanism for certain services susceptible to fraud.

In 2005 the EU created the basis of the unified application of standards (the current regulation is as follows: 282/2011/EU), since the differences in the practical application of the common rules have become a real obstacle. This regulation adopted several elements of the legislation on VAT, thereby ensuring transparency and legal certainty for both traders and the authorities. Each Member State has the opportunity to adopt the simplification of VAT regulations to the applying specific rules, as many have proved to be very effective. The administrative VAT system

requires close cooperation between the authorities, as the existing mechanisms allow a number of loopholes in tax evasion. The fight against fraud is therefore a primary objective of the Community and the VAT Directive and the case law of the European Court of Justice regulates its functioning. The Council Directive 37/2009/EC on administrative cooperation in the field of VAT has the objective of combating tax evasion connected with intra-Community transactions and will be continually discussed.

The Green Paper on the future of VAT

At the end of 2010 the Commission published the Green Paper on the future of VAT (COM (2010) 0695)[1], aimed to discuss the operation of the current VAT system, to determine the measures to improve the coherence of the internal market and increase the effectiveness of the revenue collection, while reducing the costs of compliance. During the consultation all special fields of the Member States agree with their position, and discuss the issues raised in the Green Paper on the feasibility of a proposal on VAT. For example:

- to introduce 'the country of origin' principle,
- to apply the ‘reverse charge’ mechanism in an extended way,
- to define the scope of VAT (should public bodies participate in it or not),
- to reduce or terminate the current system of exemptions,
- to change the terms of deduction,
- to strengthen the single market through regulatory harmonization,
- to create uniform VAT rates,
- to find possibilities to reduce bureaucracy,to alleviate the situation of Small and Medium Enterprises,
- to review the VAT collection methods:
    - **Split payment**: the customer’s bank splits the payment into the taxable amount paid to the supplier and the VAT amount transferred directly to the tax authority. The customer has a limited access to the VAT amount. The enterprise could arrange its VAT return or the tax authority could directly deduct it from the same account.
    - All invoice data are sent to a **central VAT monitoring database**. The tax authorities obtain information more quickly and reliably than ever

[1] http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1433318086120&uri=CELEX:52010DC0695 (visited on Nov. 18, 2015)

before. This database could strengthen the incidence of e-invoicing.

- The **secure VAT data warehouse** is maintained by the taxable person and the predefined transaction data will be uploaded in an agreed format.
- **Strengthening the interaction between the taxable person and the tax authorities**: the VAT compliance process and the internal controls are certified.

The proposals of the European Commission

In October 2013 the Commission set out a new proposal (IP/13/988) for a uniform VAT return, allowing businesses annually save up to € 15 billion euro from their administrative burdens in the EU. Based on the proposal all enterprises in the EU must comply the standardized administrative files independent from the Member State, the returns must be submitted until the same deadline with the same basic data[2]. The tax return will have only five mandatory fields, which must be completed by the taxable persons. The Member States may increase their number, but no more than 26 fields can be chosen from the various data fields. The unified VAT returns must be submitted on a monthly basis, while the micro-enterprises are administered only on a quarterly basis. Annual reporting obligations do not remain in any Member State.

The Committee proposed additional measures for quicker response against VAT fraud in the case of the so-called carousel fraud. It was found that the 395th article of the VAT Directive does not result quick enough respond to the urgent need of information of the Member States. The reverse charge mechanism proved to be an effective tool to fight VAT fraud in some sectors, but the extension of the Rapid Reaction Mechanism and the reverse charge mechanism is only a temporary and exceptional measure for the treatment of VAT fraud risks. The reverse taxation mechanism was implemented only in the approved areas with time limit in the Member States, according to Article 7, which the Council recommended to be reduced. The sharing of the Member States' administrative ‘best practice’ solutions should be boosted.

[2] The taxable persons submit annually nearly 150 million VAT returns and the tax return forms and the declaration deadlines are also considerably different in each Member State. For the enterprises - active in more than one Member State - the obligation to fulfill the tax duty is complicated, costly and arduous task, but with the uniformed VAT return the range of information is much more simplified that should be admitted to the tax authorities.

The VAT revenue losses and the difference between the amount of the theoretically collectible and the actually collected VAT can be labelled as fraud, tax evasion or tax avoidance, bankruptcy, insolvency, incorrect calculations and the loss of revenue caused by the low performance of the tax authorities.

In a recently carried out study the VAT gap in 2013 was estimated[3] in the 26 Member States[4] around € 168 billion, which is approximately 15,2% of the theoretically collectable VAT in the EU's 26 Member States. Based on the previous publications the VAT gap has hardly changed, it was € 164 billion in 2012.

In addition to the general guidelines the Commission issued a number of publications which evaluate the activities of tax authorities on the basis of reports from the Member States and with the final conclusion propose more effective solutions. The Commission summarizes the Member States' reports on the procedures applied in the collection and audit of VAT in the COM (2014)69[5] publication as follows:

- **The organization of the tax authorities**

The output indicators of the cost reduction of the tax administrations are confirmed by an OECD survey[6]. The figures of the collection ratio[7] (administrative costs/net revenue collection) have hardly changed in Hungary between 2006-2013: it reached 1,15% in 2013, a little bit more than in 2011 (1,12%) and in 2012 (1,13%). The major declining trend in most Member States even today is related to the investments in technology initiatives and other efficiency-enhancing measures[8]. The survey showed that the aggregated salary costs declined sharply by 6% both in 2010 and 2011 that were the results of the government reduction in staffing and/or the efficiency gains from automation and internal reorganization. The differences have remained among the Member States; there are different levels of autonomy, that remove the barriers of an effective and efficient management and maintains proper accountability and

[3] Source: On behalf of the European Commission published by the CASE and CPB: Study to quantify and analyse the VAT Gap int he EU Member States, 2015. Report; page 17. (visited on Nov. 18, 2015)

[4] Cyprus was not taken into account because there is a comprehensive revision in progress in the national accounts. Croatia was still not the Member State in the EU in 2013.

[5] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2014:0069:FIN:EN:PDF (visited on Nov. 18, 2015)

[6] OECD (2013), Tax Administration 2013: Comparative Information on OECD and Other Advanced and Emerging Economies, OECD Publishing

[7] OECD: Tax Administration 2015: Comparative information on OECD and other advanced and emerging economies
WEB: http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/tax-administration-2015_tax_admin-2015-en#page182 (visited on Nov. 18, 2015)

[8] Table 5.4: Cost of collection ratios (administrative costs/net revenue collections)
WEB: http://www.oecd.org/tax/forum-on-tax-administration/database/ (visied on Nov. 18, 2015)

transparency. A common characteristic is that the organizational structure of the tax authorities adapted more to the tax types instead of the types of the taxable persons.[9]

- **VAT identification, registration and deregistration**

During the registration process the tax administration collects information to detect and prevent fraud as early as possible. From the outset the tax authorities monitor the taxable person's registration, tax declarations and payment obligations, if the risk analysis reveals the taxpayer should not be trusted. The deregistration procedure of fraudulent traders is not quick and effective enough in most Member States. The complete process includes pre-registration checks and the post-registration monitoring program (increased tax official supervision) and if the conditions are not met immediate deletion from the register. Not all the Member States have established a complete registration process. Under the ex-ante controls the majority of the Member States will compare the data in the application of the registration, with other data sources (e.g. Trade register, internal databases), site inspection, however, only happens occasionally. Most member states rely on risk indicators, based on which applications are rarely rejected. The follow-up will be applied by half of the Member States, but the number of own-initiated deletions is low, and it takes too much time to prevent VAT fraud perpetrated by fraudulent traders.

- **Customs Procedure 42**

The importer applies the procedure to obtain VAT exemption if the imported goods are directly transported into another Member State. The VAT is due in the Member State of destination. During the process several Member States fail to check regularly the validity of the VAT identification numbers (in case of importers, purchasers or both - this is typical in BE, BG, FR, HU, IE, LU, NL, PT and the UK), furthermore there is no information exchange between customs and tax authorities (EL, IT, NL, PL and SK). As soon as the information becomes available for the customs authorities, it shall be forwarded to the tax authorities of the Member State of importation. By that time the tax authorities can check whether the importer (or tax representative) submitted the recapitulative statement and then continue to monitor the transaction. Despite the high loss of VAT incurred due to the abuse of the Customs Procedure 42, many Member States do not identify these transactions

[9] On this base there are Departments responsible for the priority taxpayers, the companies, individual entrepreneurs and individuals and risk management department have been issued in the National Tax- and Customs Administration Borsod-Abaúj-Zemplén County Tax Directorate.

as additional risks and transmit information through the system EUROFISC (EE, FI, LU and MT). To prevent the abuse several Member States apply specific licences and guarantees (including HU) but these administrative obstacles are a disproportionate burden on honest business and jeopardise the smooth functioning of the internal market. Therefore, the Commission suggests to target only the risky traders with these licences and guarantees.

- **VAT returns and payments; recovery and collection of VAT**

The electronic filing of VAT is high in the Member States, around 96%. The automatic follow-up procedures for late (or non-) filing and payment are lacking in many Member States, including the interest and penalty schemes vary significantly in the Member States. The deadline of VAT refunds has generally improved in the period 2009-2011. In most Member States[10] the VAT refund should be submitted within the deadline between 30-45 days, and only in case of a risky transaction can it hold more than the specified time limit. The timely refunds in some Member States are problematic and lack interest on late refunds (AT, CY, LU, NL, UK). In case of VAT collection and recovery the amount of arrears increased in each Member State up to 15%, but this is the consequence of the recession. Debts proven uncollectible at a reasonable cost should be subject to a flexible write-off procedure, otherwise it may lead to a loss of resources. The full process is managed from the time the debt is established until it is extinguished.

- **VAT audit and investigations**

The majority of Member States apply risk-based strategy, and increasingly carry out targeted audits. There is an obligation in a number of Member States to audit certain taxpayers each year. Although this obligation applies only to large taxpayers, it prevents Member States from the sufficient flexibility and cannot focus their audits on the high risk taxpayers. There are significant differences between the Member States in the percentage of the field audits, the unauthorized refunds and the additionally stated amount of VAT. A large staff is involved in performing the auditing tasks. The effectiveness of the auditing activity is to be assessed on an annual basis.

There is an advanced e-audit system in operation in the vast majority of the Member States, and the auditors have access to appropriate training and to the taxpayer’s analysing process of the tax authorities' electronic database. Most

[10] Except: EL, FR, IT és PT

Member States do not require the use of a Standard Audit File, which would further increase the efficiency and effectiveness of the audit work. In most Member States auditors have access to a wide range of third-party information sources (e.g., real estate registration, vehicle registration, information from the Social Security and financial institutions), but not in an automatic manner. The majority of Member States regularly requests information from another Member State, but the effectiveness of this tool is limited (legal regulatory divergences, the slowness of the exchange of information, the response quality, language barriers). Most Member States have specialized VAT anti-fraud units (except for AT, CZ, EE, EL, FI, HU, LV, RO, and SI), which is important because the investigation of potential fraud cases needs to be performed by trained investigators integrated in teams.[11]

- **Tax dispute resolution system, VAT compliance**

Most Member States have a compulsory administrative dispute resolution process, which includes deadlines for making the decision. This approach focuses on the effectiveness of an appeal procedure and contributes to decreasing the number and the length of the appeals. The first stage in the tax dispute resolution process is an obligatory administrative appeal within the tax administration in half of the Member States. The number of appeals and the percentage of decisions in favour of the taxpayer are very different in the Member States. Several Member States do not monitor the tax resolution procedure, but in order to minimize the unnecessary disputes the appeals should have feedback to the auditors.

Most Member States develop and implement compliance risk management system in the context of the compliance. This system segments taxpayers according their risk profile. Only a few Member States shall evaluate the results of these strategies and estimate the amount of VAT gap. (EE, IT, PL, SK and UK). The estimation of the VAT gap is required in order to assess the effectiveness of measures to fight against tax fraud. The monitoring and assessment performance should be improved according to the European Commission.

The Commission also published a Report – in order to realize the previously mentioned harmonized regulations – on the application of Council Regulation no. 904/2010/EU concerning the administrative cooperation and combating fraud in the field of VAT (COM (2014)71), in which the Commission assessed the current national situations and selected the promoted development trends. The quality of data

[11] It has changed in Hungary

stored in databases, the establishment of a bi- or multilateral, quick, targeted information exchange system (EUROFISC) against VAT fraud and the possibility of the automated access to databases of other Member States as part of the feedback mechanism was studied.

A number of problems were revealed in the functioning of the information exchange system, for example the identification of the CLO, the lack of timeliness of replies and the absence of a notification about delays in meeting the deadline for replying. Some Member States continue to fail to meet the deadlines and the requesting Member States are rarely informed. The aggregated number of late replies has reached an unacceptable level (about 43%). In order to assist Member States and to improve the information exchange, new e-forms have been introduced. Based on the expectations it will reduce the number of requests to handle requests faster. As a new opportunity the competent authorities of the Member States will automatically have access to certain data stored in the databases of the other Member States. Hopefully it might reduce the number of requests as well.

If a Member State's tax authorities sent a request (SCAC) to another, then audits were typically started, with only a few exceptions. In case of the suspicion of VAT fraud the Member State is obliged to transmit the information to the other authority as soon as possible. One of the main characteristics of the carousel fraud is the quickness of the transactions and after a few transactions the perpetrators disappear. This is why it is so important to obtain information on the fraud as fast as possible. The Commission considers that respecting deadlines imposed by the Regulation are essential for all the Member States. There is another possibility to consider the usefulness/necessity of the information so as to ensure proper collection and control of VAT. The automatic exchange of information is not an obligation, in case of the non-established taxable persons and new means of transport most Member States transmit the chosen information to the others. The feedback mechanism was introduced in 2012 by Member States' proposal, but the majority of them have not used it in its first year of implementation. In the Commission Recommendation the motivation of the staff is one of the most important tool.

In the VIES (Value Added Information Exchange System) database a large quantity of information is stored and can be exchanged. Some of the information will be available from 2015 on. The goal is to obtain more and better information and with the changes there will be a reduced number of retroactive corrections and inconsistencies, faster updates and more reliable turnover data.

From the point of view of the presence of officials in administrative offices and their participation in administrative enquiries in another Member State revealed a number of problems (knowledge, human resources, development of internal processes), which have not changed. It is rarely used because the Member State's legislations do not provide legal basis for that. In the FISCALIS 2020 there will be financial resources separated to it. The Commission encourages the implementation of multilateral controls, because it saves time and resources in the audit of IC transactions. The simultaneous audits, multilateral controls should encourage communication between coordinators and other departments, with less bureaucratic initiative. The information is the EUROFISC system can be the basis of a multilateral control as well.

The possible future approach is the joint audit, however, the necessary legislative framework is still unclear, which requires specific authorities. The majority of the Member States supports the idea in particular in the field of direct taxation.

From 1st January 2015 the Commission decided an optional mini-One-Stop-Shop simplification measure for certain traders. This will allow a supplier rather than registering for VAT in each Member State in which he has a customer, to register, declare and pay the VAT due on supplies of telecommunications, broadcasting and electronic services in other Member States via a single web portal in one single Member State – the Member State of identification. The MOSS will also have an effect on the administrative cooperation of the Member States in the area of taxpayer audit and control.

The Commission has also set up a Fiscal project group (FPG 86) to look at the audit and control issues in this context. There is a list of recommendations on how information can be requested from traders using a standard audit file for the MOSS scheme and on how these businesses can be best contacted. The Commission hopes that the growing number of Member States will accept these guidelines in the form of a gentleman's agreement.

Conclusion

The European Union as an economic co-operation meets always newer and newer challenges that are quite different from the previous ones, and always has to find an answer to these challenges. Such a new challenge was the economic crisis form 2008, which shocked the financial situation of the euro zone Member States. A newer challenge was the crisis in Ukraine and the following EU sanctions against Russia and its consequence: the Russian sanctions. The migration crisis is another challenge and this should be handled smarter and in a longer term than the previous challenges. As a result of the multiple economic crisis, some Member States are facing such difficulties that limits their economic opportunities on a higher level, so despite handling the near bankruptcy situation and the increase of economic growth are the primary intention of the EU level unification. Several Member States were forced to accept the IMF, World Bank and EU loans and the international organizations asked the partial abandonment of each country's economic independence as a guarantee to repay the loans.

In 2011 after the Commission’s proposal was set up a dedicated financial aid fund for the period between 2014 and 2020, which budget extends of € 2.5 billion and manages financial crisis. Under the current legislative context the EU endeavours to universalize the best method in the Member States, to flexibly identify the IC-fraud involving several Member States, to ensure the effectiveness of the action, but only the voluntary cooperation can be the basis of the individual Member States to move forward. The current legal framework is to build a wide interpretation of the European idea: the Member States should co-operate to improve their competitiveness, efficiency.

Intra-European Organisation
of Tax Administrations