

VAT fraud: Council agrees to allow generalised, temporary reversal of liability

On 2 October, the Council agreed a proposal that will allow temporary **derogations from normal VAT rules** in order to better prevent VAT fraud.

The proposed directive will allow member states that are most severely affected by VAT fraud to temporarily apply a generalised reversal of VAT liability.

This so-called generalised 'reverse charge' mechanism involves shifting liability for VAT payments from the supplier to the customer. The Commission issued the proposal in December 2016 at the request of member states **particularly affected by VAT fraud**.

"This directive will provide a solution for member states that face endemic carousel fraud", said Hartwig Löger, minister for finance of Austria, which currently holds the Council presidency. "It is an exceptional measure, limited in time, that could prove to be an efficient way to fight VAT fraud."

Member states will be able to use the generalised reverse charge mechanism (GRCM), only for domestic supplies of goods and services above a threshold of €17 500 per transaction, only up until 30 June 2022, and under very strict technical conditions. In particular, in a member state that wishes to apply such measure, 25% of the VAT gap has to be due to carousel fraud. Among other requirements, this member state will have to establish appropriate and effective electronic reporting obligations on all taxable persons, in particular those to which the mechanism would apply.

The generalised reverse charge mechanism may only be used by a member state once it meets the eligibility criteria and its request has been authorised by the Council. The application of this measure is also subject to strict EU safeguards.

Weaknesses in the VAT system leave member states vulnerable to fraud, sometimes with serious consequences for government treasuries. This is particularly the case with **cross-border transactions**.

A common fraud scheme is 'missing trader' or 'carousel' fraud, where supplies are purchased and resold without payment of VAT.

The reverse charge mechanism can already be applied on a temporary basis, but not in a generalised manner. Under the current rules, it is limited to a pre-determined list of sectors. It may only be used by a member state that has made a specific request and if authorised to do so by the Council.

The directive will offer a **short-term solution** for containing fraud by the most affected member states, **pending ongoing negotiations on a new and definitive VAT system** where supplies would be taxed in the country of destination. The Commission has recently tabled the proposals aimed at replacing the current 'transitional' VAT arrangements by a definitive system.

Process

Agreement was reached at a meeting of the Economic and Financial Affairs Council. The directive is expected to be adopted without further discussion once the European Parliament has delivered its opinion.

The Council needs unanimity to adopt the regulation, after consulting the Parliament. (Legal basis: article 113 of the Treaty on the Functioning of the European Union.)

- [Text of the agreement](#)



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