

PostEurop Position Paper

EC Public Consultation on Modernising VAT for cross-border e-commerce

Brussels, 16 December 2015

PostEurop represents 52 Universal Postal Service Providers across Europe and is a restricted (i.e. regional) Union of the Universal Postal Union (UPU). The postal sector is a major contributor to, and facilitator of trade within the European Union and globally. The postal network is an open access channel and a vital facilitator of trade linking businesses and consumers as well as enabling small business enterprises and social customers to access efficient communications and e-commerce services on a global scale.

The postal sector is one of the largest employers with over 2.1 million employees across Europe, reaching over 800 million customers and representing 1% of the GDP of the region.

Efficient and effective postal services are essential to the social fabric and economic life of the European Union, and as a Service of General Economic Interest (SGEI), plays an important social function, postal operators are there to provide a quality, accessible and affordable universal postal service to all, as defined, not only in the European Postal Services Directive, but also as signatories to the Universal Postal Union Treaty to which all countries, including EU Member States, are members.

The members of PostEurop appreciate the opportunity to contribute to the thinking on, and the development of a modernized VAT mechanism which is designed to implement changes in the way customers and business pay import taxes within the European Union. We welcome the drive to make the application of VAT simpler, and at the same time reduce the administrative burden on businesses and suppliers. However, this should not be done at the expense of consumer and / or intermediaries. Therefore we support the Commission's consultation process and its approach for further engagement before the construction of legislation to modernize VAT for cross-border e-commerce in the first half of 2016.

PostEurop is prepared to play an active role in this reform, not only by replying to the public consultation, but also as an active contributor to the subsequent stages.

PostEurop has a number of concerns, especially that the removal of the VAT exemption (LVCR) for the importation of small consignments from suppliers in third countries will increase the costs of trade with the EU, slow down the operational processes and require significant investment by many stakeholders including economic operators, Customs agencies and intermediaries in order to collect smaller amounts of VAT on a larger proportion of items. Changing consumer behavior and the growth in global trade, e-commerce necessitates a global response, with all active players over a transition period recognizing the specificities of the individual sectors.

1. Key principles

One of the well-established basic principles of tax policy is that the cost of collection must be lower than the tax collected, easy to apply and enforceable.

Historically the LVCR was applied on a relatively small number of the total imported items of low value consignments. The exponential growth in global e-commerce has led to a drastic increase in volume of small B2C consignments over the last few years. This evolution has put the LVCR under increased pressure on the basis of the arguments that it favours non-EU traders over EU-traders and that Member States are increasingly not collecting VAT revenue. We understand that other countries and international organizations are also looking into improving the efficiency of the VAT collection on low value consignments (that could include lowering or abolishing the LVCR).

However, simply abolishing the low value threshold would not be a reasonable or realistic option and would certainly not lead to the expected additional VAT revenue whilst increasing the costs for all the stakeholders in the import process. A major change like this should be seen as part of a wider reform to make the VAT collection system on imports more efficient, simple and reliable for all stakeholders. For consumers and users of the postal network and PostEurop's members, the abolishment of the LVCR can be the consequence of this reform, but not the starting point.

Further we note that for cross-border e-commerce and the EU's Digital Single Market initiative there is an important overlap with customs procedures and changes in legislation, which will

become more stringent in the near future with the introduction of the Union Custom Code (UCC) and its Delegated, Implementing and Transitional Acts.

Therefore we would recommend that when DG TAXUD are designing these new VAT solutions they carefully examine and address the following issues.

2. Specificities of the postal sector

Some possible reforms that have been discussed at both EU and OECD level could lead to new and active roles for intermediaries of e-commerce in the area of VAT collection processes. Whilst these are predominately IT based solutions many also maintain the traditional customs clearance procedures as a fall-back rule. Changes of this magnitude, and with a removal of the LVCR would place a bigger burden and impact on the postal network, its customers and designated operators. Therefore we would like to highlight some of the specificities and impacts on the postal sector;

- The specificities of the postal sector are unique as designated postal operators normally do not handle end-to-end flows. In principle they process and deliver postal items that are transferred to them by the postal operator of the country of the sender. Designated postal operators have an obligation to process and deliver these postal items under the terms of the UPU Convention signed by their Governments, in contrast to other operators who do not have such an obligation.
- Designated postal operators do not have a contract or any other form of contact with the sender. As a consequence the destination designated postal operators have no or very limited information on the identity and status of the sender & the recipient (i.e. whether the shipments are B2B, B2C or C2C) and on the nature, content or value of the postal item. It is the sender's responsibility to complete Postal Customs Declaration which are paper based, often with limited or poor quality data.
- Although different initiatives have been launched to promote electronic exchange of data on different levels, e.g. UPU, WCO and EU level (for Safety & Security and customs purposes), time lines are not clear at this point in time and many customs agencies and designated postal operators are not able to collect, transfer or use such data as the systems are not in place and the volumes are prohibitive. It is also worth noting that in order to facilitate electronic identification of an item for customs purposes, the items need a global standard unique identifier (i.e. a globally readable barcode)., At present only 20% of postal items entering the EU have a barcode on them and few of these have customs level data that would facilitate the calculation, application or recognition of duties and/or taxes.

- The global postal network (through the UPU) enables easy and relatively inexpensive access to a trusted network of designated postal operators. The current customs processes for postal items enable customers easy access through standard WCO approved documents (the CN22 and CN23). Changing to an electronic lodgment and customs declaration system is a major change for customers, which will make the process more expensive, difficult to access and will require a new approach that will need considerable support to enable customers to make the change, especially in parts of the world where internet penetration is low. Most remuneration agreements do not include the cost of handling items through a customs clearance process. Service or operational delays in the processing of the postal items due to additional/new VAT collection rules could therefore have a direct negative impact on the cost of the service for both the supplier and the consumer. Moreover the delivery remuneration for this service is regulated, for quite all postal operators, at UPU level (terminal dues) and depends on the quality of the service (i.e. speed of delivery including time in customs).

- Last, but not least, we foresee that the removal of the LVCR will have a direct effect on mail volumes. It is clear from UPU and postal statistics that letter mail volumes are declining and the character of postal items are changing; meaning more and more items are subject to customs and security control. The volume of packets and parcels from e-commerce is increasing. This change has necessitated a major strategic change for designated postal operators in the context of the decline in mail volumes and e-substitution. The postal operators provide a critical link between businesses and consumers and are ideally situated to provide the national and international coverage to facilitate this key trading lane for e-commerce items. Therefore, any abrupt or major change in the LVCR could jeopardise the viability of this network, channel for both the consumers and the suppliers.

3. Guiding principles for the design of the new VAT regime for cross-border e-commerce

3.1. Reduce administrative burdens

Whatever the proposed end solution(s), these should be considered in line with the general EU objective to reduce administrative burden on EU companies arising from different VAT regimes (included for designated postal operators) and should not be limited to the VAT collection process, but also include spillover effects on customs procedures linked to e-commerce. Multiple procedures for customs clearance, e.g. depending on the value and/or the registration/compliance of the non-EU traders and/or materiality thresholds for small non-EU

traders, will increase the complexity for customers with possible negative impact on costs and speed of delivery.

3.2. Eliminate competitive distortions

We understand that the overall objective of the EC is to eliminate competitive distortions. But the possible abolishment of the LVCR should not create new competitive distortions between different economic operators.

For example:

- Introduction of a cross-border VAT turnover threshold for small companies that would only be applicable for EU e-tailers.
- The existing collection methodology, without LVCR, would be much more difficult to apply for postal operators than for other logistic service providers, thus *de facto* exclude them from or severely limiting their access to the international e-commerce market.

3.3. Global inclusive approach

As mentioned above, simply abolishing the low value threshold (LVCR) would not be a realistic option since it would have a huge operational impact on the global postal network, consumers and users of postal service and the designated postal operators.

On an operational basis it would be simply impossible to manage the huge volume of postal items needed to be processed and would require significant investment by all the stakeholders (customs agencies, postal operators,...) and would increase the cost for consumers. It could have a particularly negative impact on more vulnerable consumers, e.g. those in rural areas, where the national postal operators are the only ones to deliver.

Even when the VAT collection process for low value consignments is separated from the collection of import duties, the customs declaration processes remain applicable, if not for collection purposes, then for safety and security purposes.

Hence any assessment made should include the impact of the UCC on these small consignments.

Equally, any change will have a direct impact on consumers and 3rd party users in non EU destinations (many of whom are PostEurop members). Any changes should be considered in full recognition of the obligations and approaches at a global level through the UPU and WCO.

It can only be part of a wider reform to make the VAT collection system on imports more efficient, simple and reliable for all stakeholders. The abolishment of the LVCR can be the consequence of this reform, but not the starting point.

Therefore a political piecemeal approach whereby the LVCR would be immediately abolished but the simplifications only entered into force later, would create disruption and create additional difficulties and costs for all stakeholders.

3.4. Collection method should be simple and safe

The basic premise for the future collection method should be that the total cost of collection (for economic operators & tax authorities) should be lower than the tax collected, simple and enforceable.

As stated by the OECD in Annex C of the Final report BEPS Action 1 “Addressing the Tax Challenges of the Digital Economy”, the performance of the collection method should be measured against the following criteria:

- Neutrality (equal treatment)
- Efficiency of compliance & administration
- Certainty and simplicity
- Effectiveness
- Fairness
- Flexibility

We recognise that simply abolishing the LVCR does not meet any of these criteria:

- Neutrality (equal treatment). It would be impossible for postal operators to process and manage the impact, thus *de facto* excluding them from e-commerce.
- Efficiency of compliance & administration. Cost of compliance and administration would be enormous. Designated Postal Operators are in general not able to shift this cost to the sender or the customer. In some cases the cost increase could disbar or deter small medium enterprises from using the postal network.
- Certainty and simplicity. In practice it will be difficult to apply and will require investment by customs authorities and intermediary.
- Effectiveness. B2C items could be presented as C2C items to escape taxation.
- Fairness. The risk of undervaluation and mis-description remains the same.
- Flexibility. Very heavy procedures that would not be easy to change.

3.5. Importance of detailed impact assessment

A detailed impact assessment is crucial before determining the legislative way forward. This impact assessment should determine the socio-economic, financial, operational and commercial impact for MS, economic operators (e.g. postal operators), customs agencies and consumers for every possible solution, including the spillover effect on customs procedures. It should examine the feasibility and cost of each option for changing the VAT process.

3.6. Align and coordinate with initiatives taken by other major economies

We support the approach for consultation and engagement between the EU and the various stakeholders. We welcome the move toward a further coordinated approach with the other major economies in the world, especially whereas other jurisdictions seem to be looking at other approaches.

Customers everywhere want a single, global and easily accessible approach to customs. The current UPU/WCO system achieves this and any changes should avoid that consumers (big or small) be forced to comply with several different data requirements and collection mechanisms. This would not only be very complex and costly, but would also have a direct negative impact on voluntary compliance and ultimately on international e-commerce and trade. Voluntary compliance and global e-commerce will be greatly facilitated (improved) if the system used in the EU would be identical to or at least compatible with the ones that will be used in other major economies. This would also be beneficial for tax authorities because it would facilitate the exchange of information and the administrative co-operation.

The changing landscape of customs requirements (UCC etc.) has already necessitated major investments by customs agencies and designated postal operators over the last few years, these initiatives are in train and many are planned to come to fruition in 2020. The removal of the LVCR will require additional major changes to these initiatives and indeed further capital investment at a time of shrinking government budgets. Therefore, it will be essential that any changes are socialised and communicated well in advance.

The other important aspect of any transitional measure is that it will need a reasonable time frame for implementation.

PostEurop and its members appreciate the opportunity to discuss these issues and we would like to play a constructive role, along with the EC, in improving the efficiency of the VAT processes. We would welcome the opportunity to meet with DG TAXUD to discuss the issues and shape a way forward.

This position paper is supported by the following Public Postal Operators:

Country	Public Postal Operators
Austria	Österreichische Post AG
Belgium	bpost
Bulgaria	Bulgarian Posts plc
Croatia	Hrvatska pošta d.d.
Czech Republic	Česká Pošta
Cyprus	Cyprus Post
Denmark	Post Danmark A/S
Estonia	Omniva (Eesti Post)
Finland	Posti Ltd
Finland	Aland Post
France	Le Groupe La Poste
Germany	Deutsche Post AG
Greece	Hellenic Post - ELTA S.A.
Hungary	Magyar Posta
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PostEurop is the association which represents the interest of 52 European public postal operators. Committed to supporting and developing a sustainable and competitive European postal communication market accessible to all customers and ensuring a modern and affordable universal service, PostEurop promotes cooperation and innovation bringing added value to the European postal industry. Its members represent 2.1 million employees across Europe and serve to 800 million customers daily through over 175,000 counters. PostEurop is also an officially recognised Restricted Union of the Universal Postal Union (UPU).