

**GUIDELINES RESULTING FROM THE MEETINGS OF THE VAT COMMITTEE ON THE SPECIAL
SCHEME FOR SMALL ENTERPRISES (SME SCHEME) UPDATED AS OF 1 JANUARY 2025**

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**5. NEW LEGISLATION – MATTERS CONCERNING THE IMPLEMENTATION OF RECENTLY
ADOPTED EU VAT PROVISIONS**

5.1. Origin: Netherlands

**References: New Articles 284, 284b, 284e and 288a of the VAT Directive
Article 37b of Council Regulation (EU) 904/2010
Articles 41 and 47 of the Charter of Fundamental Rights of the
European Union**

**Subject: The new special scheme for small enterprises: legal protection
(Document taxud.c.1(2022)7047962 – Working paper No 1049)**

1. The VAT Committee **unanimously** confirms that for the application of the special scheme for small enterprises, taxpayers can rely on the Charter of Fundamental Rights of the European Union to enforce their rights flowing therefrom, notably the right to an effective remedy and to a fair trial under Article 47(1) of the Charter and the right of anyone to have their affairs handled impartially, fairly and within a reasonable time under Article 41(1) of the Charter read in conjunction with Article 51.
2. When seeking legal redress, the VAT Committee **unanimously** agrees that any taxpayer having been refused access to or excluded from exemption under that special scheme shall address its complaint to the legal entity which issued the administrative decision. Where such a refusal or exclusion is because the taxpayer has exceeded the Union turnover threshold, the VAT Committee **unanimously** agrees that any legal redress by the taxpayer must be sought with its Member State of establishment. Where, on the other hand, refusal or exclusion is because the taxpayer has exceeded the domestic threshold or not met the conditions for exemption, the VAT Committee **unanimously** agrees that legal redress must be sought with the Member State of exemption.
3. With a view to enable taxpayers to know where to seek legal redress, the VAT Committee **almost unanimously** agrees that the Member State of establishment shall take all steps necessary to ensure that upon refusal of access to or exclusion from exemption, the taxpayer concerned is informed about the reason leading to that decision and of the Member State where legal redress in respect of that refusal or exclusion could be sought in accordance with the national procedures of that Member State. Where applicable, the VAT Committee **almost unanimously** agrees that the Member State of exemption shall provide all the necessary information to enable the Member State of establishment to provide the taxpayer with such information.

6. NEW LEGISLATION – MATTERS CONCERNING THE IMPLEMENTATION OF RECENTLY ADOPTED EU VAT PROVISIONS

- 6.2 Origin: Commission
References: New Articles 284, 284a-284e, 288, 288a, 292a-292d of the VAT Directive
Articles 17(1)(a) and (2), 21(2b), 31(2a), 32(1) and 37a-37b of the VAT Administrative Cooperation Regulation
Subject: The SME scheme updated as of 1 January 2025
(Document taxud.c.1(2023)11242551 – Working paper No 1073)

with account also taken of discussions during the 121st meeting:

5. NEW LEGISLATION – MATTERS CONCERNING THE IMPLEMENTATION OF RECENTLY ADOPTED EU VAT PROVISIONS

- 5.2 Origin: Netherlands
References: New Article 284(1)
Subject: The new special scheme for small enterprises and fixed establishments
(Document taxud.c.1(2022)7157727 – Working paper No 1051)

1. Solely for the purposes of applying the special scheme for small enterprises provided for in Title XII, Chapter 1, of the VAT Directive, the VAT Committee **almost unanimously** agrees that for a taxable person to be regarded as established within the territory of a Member State as provided for under Article 284(1) of the VAT Directive in its wording as of 1 January 2025 and granted possible exemption, the place where the functions of that taxable person's central administration are carried out must be in that particular Member State, as determined based on criteria equivalent to those laid down in Article 10(2) and (3) of the VAT Implementing Regulation. Consequently, the VAT Committee agrees by **almost unanimity** that where a taxable person only has a fixed establishment in a particular Member State, that taxable person cannot for the application of this special scheme be regarded as established in that Member State. Similarly, where a taxable person whose functions of central administration are carried out outside the EU has a fixed establishment in a particular Member State, the VAT Committee **almost unanimously** agrees that the taxable person cannot be regarded as established in that Member State under Article 284(1) of the VAT Directive in its wording as of 1 January 2025.

2. Where the exemption under the said special scheme has been put in place by a Member State in which a taxable person established in another Member State has a fixed establishment, the VAT Committee **almost unanimously** agrees that the taxable person may benefit from the exemption in that Member State pursuant to Article 284(2) of the VAT Directive in its wording as of 1 January 2025. Where a taxable person is not established in any Member State as the taxable person's functions of central administration are carried out outside the EU, the VAT Committee **almost unanimously** agrees that such a non-established taxable person cannot benefit from the exemption in that Member State provided for under Article 284(2) of the VAT Directive in its wording as of 1 January 2025. The VAT Committee **almost unanimously** agrees that this shall apply whether or not the non-established taxable person has a fixed establishment in the Member State concerned or any other Member State.

These guidelines replace those agreed on the issue of the new special scheme for small enterprises and fixed establishments following the discussion at the 121st meeting (Document B – taxud.c.1(2023)5257065 – Working paper No 1056).

6. NEW LEGISLATION – MATTERS CONCERNING THE IMPLEMENTATION OF RECENTLY ADOPTED EU VAT PROVISIONS

- 6.2** **Origin:** **Commission**
References: **New Articles 284, 284a-284e, 288, 288a, 292a-292d of the VAT Directive**
 Articles 17(1)(a) and (2), 21(2b), 31(2a), 32(1) and 37a-37b of the VAT Administrative Cooperation Regulation
Subject: **The SME scheme updated as of 1 January 2025**
 (Document taxud.c.1(2023)11242551 – Working paper No 1073)

with account also taken of discussions during the 121st meeting:

5. NEW LEGISLATION – MATTERS CONCERNING THE IMPLEMENTATION OF RECENTLY ADOPTED EU VAT PROVISIONS

- 5.3** **Origin:** **Belgium**
References: **New Article 284(3)(b)**
Subject: **The new special scheme for small enterprises: interaction with rules on intra-Community acquisitions**
 (Document taxud.c.1(2022)7158574 – Working paper No 1052)

The VAT Committee **unanimously** notes that to be able to benefit from exemption in a Member State other than that in which a taxable person is established as provided for under Article 284(1) of the VAT Directive in its wording as of 1 January 2025, the taxable person must, as set out in Article 284(3)(b) of the VAT Directive in its wording as of 1 January 2025, be identified for the application of this exemption in the Member State of establishment only.

As this requirement serves only for the application of the exemption laid down in Article 284(2) of the VAT Directive in its wording as of 1 January 2025, the VAT Committee **unanimously** agrees that where a taxable person is obliged under Article 214(1)(b) of the VAT Directive to be identified for intra-Community acquisitions of goods made in a Member State other than that of establishment, that taxable person shall not on that account be deprived of entitlement to exemption under the special scheme for small enterprises provided for in Title XII, Chapter 1, of the VAT Directive. The VAT Committee **unanimously** agrees that the same shall apply where a taxable person receiving services in a Member State other than that of establishment for which the taxable person is liable to pay VAT pursuant to Article 196 of the VAT Directive, is obliged to be identified under Article 214(1)(d) of the VAT Directive.

These guidelines replace those agreed on the issue of the new special scheme for small enterprises: interaction with rules on intra-Community acquisitions following the discussion at the 121st meeting (Document C – taxud.c.1(2023)5499576 –Working paper No 1063).

**6. NEW LEGISLATION – MATTERS CONCERNING THE IMPLEMENTATION OF RECENTLY
ADOPTED EU VAT PROVISIONS**

- 6.1. Origin:** Slovakia
References: Title XII, Chapters 1 and 6 of the VAT Directive
Subject: The special scheme for small enterprises: interaction with the One-
Stop-Shop Union scheme and the Import One-Stop-Shop Non-Union
scheme
(Document taxud.c.1(2023)10130237 – Working paper No 1069)

**Interaction between the special scheme for small enterprises (SME scheme) and the One-
Stop-Shop (OSS) Union scheme**

1. The VAT Committee **unanimously** agrees that the cohabitation between the existing SME scheme and the OSS Union scheme is currently possible and therefore, a taxable person who meets the requirements shall be able to apply exemption under the SME scheme in the Member State in which it is established and at the same time be registered for the OSS Union scheme and declare the supplies set out in Article 369b of the VAT Directive.
2. The VAT Committee **unanimously** agrees that as from 1 January 2025, the cohabitation between the SME scheme and the OSS Union scheme remains possible and therefore, a taxable person who meets the requirements shall be able to VAT exempt its supplies under the SME scheme made in its Member State of establishment¹ and/or in other Member States and at the same time be registered for the OSS Union scheme and declare the supplies set out in Article 369b of the VAT Directive insofar as those supplies are carried out in other Member States where the taxable person does not apply the SME scheme.
3. The VAT Committee **unanimously** recognises that while supplies covered by the SME scheme are not to be included in the OSS declaration, the supplies that are included in the OSS declaration shall be included in the small enterprise's annual turnover to be reported in the prior notification and in the quarterly reports under the SME scheme.

¹ The Member State of establishment is the Member State where the functions of the taxable person's central administration are carried out.

4. The VAT Committee **almost unanimously** confirms that to accurately determine the annual turnover of a taxable person in a given Member State, the value of intra-Community distance sales of goods and supplies of telecommunications, broadcasting and electronically supplied services to non-taxable persons who are established or have their permanent address or usually reside in any Member State other than the Member State where the supplier is established, shall be included in the annual turnover of the taxable person in:
- the Member State where the taxable person is established if the conditions of Article 59c of the VAT Directive are met:
 - o the taxable person has no fixed establishment in other Member States than the Member State of establishment;
 - o the total value – exclusive of VAT – of these supplies does not exceed EUR 10 000² in the current calendar year nor did it do so in the previous calendar year; and
 - o the taxable person has not opted for taxation at destination;
 - the Member State where the place of supply of the goods or services concerned is located according to Article 33(a) or 58 of the VAT Directive when Article 59c of the VAT Directive is not applicable.

The VAT Committee **almost unanimously** confirms that the option referred to in paragraph 3 of Article 59c is deemed to have been exercised by taxable persons registered in the special scheme provided for in Title XII, Chapter 6, Section 3 of the VAT Directive (OSS Union scheme).

Interaction between the SME scheme and the Import One-Stop Shop (IOSS)

The VAT Committee **almost unanimously** confirms that the SME scheme and the IOSS shall be mutually exclusive and remain so as from 1 January 2025³. To avoid the risk of double nontaxation⁴, a taxable person availing of exemption under the SME scheme must opt out of the SME scheme to be able to use the IOSS.

2 'Or the equivalent in national currency'.

3 Only taxable person with a seat of economic activity located in an EU Member State can have access to the SME scheme.

4 See page 21 of the OSS Guide

6. NEW LEGISLATION – MATTERS CONCERNING THE IMPLEMENTATION OF RECENTLY ADOPTED EU VAT PROVISIONS

6.2 Origin: Commission

References: New Articles 284, 284a-284e, 288, 288a 292a-292d of the VAT Directive Articles 17(1)(a) and (2), 21(2b), 31(2a), 32(1) and 37a-37b of the VAT Administrative Cooperation Regulation

**Subject: The SME scheme updated as of 1 January 2025
(Document taxud.c.1(2023)11242551 – Working paper No 1073)**

Definitions

1. For the purposes of the present guidelines,
 - a) “SME scheme” shall mean the special scheme for small enterprises laid down in Title XII, Chapter 1, of the VAT Directive⁵;
 - b) “Windsor Framework arrangements” shall mean the arrangements adopted by the Joint Committee established by the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community as enshrined in its Decision No 1/2023 of 24 March 2023 laying down arrangements relating to the Windsor Framework [2023/819];
 - c) “Member State of establishment” shall mean the Member State in which a taxable person eligible for exemption on its supplies of goods and services under the SME scheme is established⁶;
 - d) “Member State of exemption” shall mean any Member State other than that of establishment in which a taxable person is eligible for exemption under the SME scheme on its supplies of goods and services;
 - e) “domestic exemption” shall mean the exemption granted to a taxable person established in the Member State in which VAT is due as provided for under Article 284(1) of the VAT Directive;

⁵ Any reference made to provisions governing the SME scheme referred to throughout these guidelines shall be taken to be to the provisions in their wording as of 1 January 2025.

⁶ To determine what it takes to be seen as established in a Member State, see also guidelines resulting from the 123rd meeting of 20 November 2023 – Document A – taxud.c.1(2024)794997 –Working paper No 1075 (p. 295).

- f) “cross-border exemption” shall mean the exemption granted to a taxable person established in a Member State other than that in which VAT is due as provided for under Article 284(2) of the VAT Directive;
- g) “domestic threshold” or “domestic thresholds” shall mean the annual turnover threshold or thresholds fixed by the Member State in line with Article 284(1) of the VAT Directive as the upper limit for the application of exemption under the SME scheme;
- h) “Union threshold” shall mean the Union annual turnover threshold laid down in Article 284(2)(a) of the VAT Directive the purpose of which is to ensure that taxable persons benefiting from the cross-border exemption are small enterprises;
- i) “EX number” shall mean the individual identification number with the suffix 'EX' by which, as provided for under Article 284(3) of the VAT Directive, the Member State of establishment identifies a taxable person wanting to benefit from the cross-border exemption.

Territorial scope

- 2. In line with the arrangements put in place by the Windsor Framework, the VAT Committee **unanimously** confirms that the SME scheme shall not apply to the following transactions:
 - a) supply of goods made by a taxable person established in a Member State where the place of that supply is located in Northern Ireland;
 - b) the supply of goods made by a taxable person established in Northern Ireland where the place of that supply is located in a Member State.

General features of the SME scheme

- 3. The VAT Committee **unanimously** agrees that with the SME scheme not being mandatory, it is for each Member State to decide whether or not to apply the domestic exemption. Where a Member State has put in place the domestic exemption, the VAT Committee however **unanimously** agrees that the Member State shall be required also to apply the cross-border exemption.

4. The VAT Committee **unanimously** agrees that the exemption under the SME scheme shall, in line with Article 290 of the VAT Directive, be optional for taxable persons to apply. To be able to avail of the cross-border exemption, the VAT Committee **unanimously** agrees that the taxable person shall not be required also to apply the domestic exemption.
5. Where, in a particular Member State, a taxable person avails of exemption under the SME scheme be it domestic or cross-border, the VAT Committee **unanimously** agrees that the exemption shall apply to all the supplies of goods and services made by the taxable person within that Member State except only for those excluded from the SME scheme under Article 283 of the VAT Directive. The VAT Committee **unanimously** agrees that exemption under the SME scheme shall not apply to supplies of goods and services made to or importation of goods made by the taxable person.
6. Should use be made of exemption in a Member State under the SME scheme, the VAT Committee agrees by **unanimity** that the taxable person may not apply the normal VAT arrangements for any of its supplies in that Member State except for those excluded by the Member State granting the exemption by way of Article 283 of the VAT Directive. The VAT Committee agrees **unanimously** that when Member States decide to exclude supplies from the SME scheme, any such exclusion shall be based on objective criteria.

Domestic exemption

- conditions to meet for exemption to apply

7. The VAT Committee agrees by **unanimity** that the domestic exemption shall only apply insofar as the total value of goods and services supplied by the taxable person established in the Member State granting the exemption does not exceed the domestic threshold applied by that Member State. In fixing that threshold, the VAT Committee agrees by **unanimity** that as is the case when calculating the total value, the amount making up that threshold shall not include VAT.

- varying thresholds

8. Where, for the application of the domestic exemption, a Member State applies more than one threshold as authorised, the VAT Committee **unanimously** agrees that no matter how its domestic thresholds are composed these thresholds must all be seen as sectoral. Thus, the VAT Committee **unanimously** agrees that a Member State applying more than one domestic threshold shall be required to take all steps necessary to ensure that a taxable person can only benefit from one of those thresholds.
9. Where a Member State applies more than one domestic threshold, the VAT Committee **unanimously** agrees that to enable determining which threshold is applicable, the Member State concerned shall introduce clear and precise criteria for the scope and application of these thresholds. The VAT Committee **unanimously** agrees that this must be done based on objective criteria such as the supplies made, with recourse made, for instance, to the common nomenclature (CN) or the statistical classification of products by activity (CPA), or the sector of activity, based on the statistical classification of economic activities (NACE), and may not see a threshold reserved for a particular category of taxable persons.
10. The VAT Committee **almost unanimously** agrees that with thresholds based on objective criteria, it cannot be left to the taxable person to decide which of the domestic thresholds to apply. Having determined based on the facts available which domestic threshold is applicable, the VAT Committee **almost unanimously** agrees that to avoid legal uncertainty for a taxable person whose activities may fluctuate over the year, Member States shall only require the shift from one threshold to another once a year at the beginning of each calendar year based on activities reported during the preceding calendar year.

- calculation of turnover

11. Where, in accordance with Article 17 of the VAT Directive, the transfer of goods forming part of the business assets of a taxable person to another Member State is to be treated as a supply of goods for consideration, the VAT Committee **unanimously** agrees that the amount attributable to that supply, made up by the purchase price, or in the absence of a purchase price, the cost price of those goods pursuant to Article 76 of the VAT Directive, shall be included in the calculation of the taxable person's turnover in the Member State of dispatch of the goods under Article 288 of the VAT Directive.

Cross-border exemption

- access to exemption

12. The VAT Committee **unanimously** agrees that the cross-border exemption shall apply only if the Union annual turnover of the taxable person does not exceed the Union threshold of EUR 100 000 and the total value of goods and services supplied in the Member State of exemption does not exceed the domestic threshold applied by that Member State of exemption. Given that these conditions are cumulative, the VAT Committee **unanimously** agrees that even though the domestic threshold of a Member State of exemption may not be exceeded, a taxable person whose Union annual turnover exceeds the Union threshold of EUR 100 000 shall be excluded from the cross-border exemption in all of the Member States of exemption. The VAT Committee **unanimously** however agrees that where the Union threshold is exceeded, this shall not deprive the taxable person of access to exemption in the Member State of establishment.
13. The VAT Committee **unanimously** agrees that in order to benefit from the cross-border exemption the taxable person shall submit a prior notification to its Member State of establishment and be identified by an EX number. Not to delay access to the cross-border exemption, the VAT Committee **unanimously** agrees that the Member State of establishment shall issue the EX number or update it as soon as it receives confirmation from any of the Member States of exemption, with updates to follow, and inform the taxable person of access to exemption in that Member State rather than waiting for confirmation to be received from all the Member States of exemption. The VAT Committee **unanimously** agrees that if it is informed by a Member State of exemption that the conditions of exemption are not met, the Member State of establishment shall adopt the same approach.

14. Where, in specific cases, a Member State of exemption needs additional time to carry out the necessary checks to prevent tax evasion or avoidance, the VAT Committee **unanimously** agrees that the Member State in question shall, further to Article 284(5) of the VAT Directive, inform the Member State of establishment to enable it to keep the taxable person concerned aware of the delay. If, pursuant to Article 37b(2) of the VAT Administrative Cooperation Regulation, the Member State of establishment receives no information that the taxable person does not meet the conditions for the cross-border exemption to apply and it is not informed by the Member State of exemption that additional time for checks is needed, the VAT Committee **almost unanimously** agrees that the Member State of establishment may, in view of its obligation under Article 284(5) of the VAT Directive, assume that the taxable person is eligible for exemption but only at such time as to be able to meet the set deadline of 35 working days following receipt of the prior notification.
15. Where a taxable person wants to avail itself only of the domestic exemption, the VAT Committee **almost unanimously** agrees that the taxable person shall not be required to submit a prior notification pursuant to Article 284(3) of the VAT Directive unless obliged to do so by the Member State of establishment. Where the taxable person wants to avail itself both of the domestic and of the cross-border exemption, the VAT Committee **almost unanimously** however agrees that a prior notification shall be required. Where a taxable person making use of the cross-border exemption wants to extend its use to other Member States of exemption or where the taxable person wants to cease applying the cross-border exemption in one or more Member States of exemption, the VAT Committee **almost unanimously** agrees that the taxable person shall be required to make an update to the prior notification in line with Article 284(4) of the VAT Directive. - prior notification
16. In addition to information already foreseen by Article 284a(1) of the VAT Directive, the VAT Committee **almost unanimously** agrees that Member States shall ensure that taxable persons in their prior notification and any update made to the prior notification also include information about any number by which they may be identified for VAT purposes in the Member State(s) of exemption. The VAT Committee **almost unanimously** agrees that, as soon as access is granted to the SME scheme, the Member State of exemption shall take all the steps necessary to ensure that the taxable person ceases, in respect of supplies of goods and services made in that Member State falling under the SME scheme, to be identified there.

17. The VAT Committee **almost unanimously** agrees that should a Member State, as authorised under Article 288a(1) of the VAT Directive, opt to extend the period of exclusion to two calendar years when a taxable person exceeds the domestic threshold, the prior notification must in regard to that Member State contain the total value of supplies of goods and services made not only in the current and the preceding calendar year but also in the calendar year prior to that.
18. The VAT Committee **almost unanimously** agrees that should a Member State, as authorised under Article 284(1), second subparagraph, of the VAT Directive, have opted to apply more than one domestic threshold, the taxable person must in the prior notification for that Member State report separately the total value of supplies of goods and services in respect of each of the thresholds applied by that Member State.
19. Where, for example being a start-up, a taxable person has made no supplies in the preceding calendar year, the VAT Committee **unanimously** agrees that this shall not prevent the taxable person from benefiting from the cross-border exemption. The VAT Committee **unanimously** agrees that in any such case, the taxable person shall, as is the case with quarterly reports submitted under Article 284b of the VAT Directive, indicate in the prior notification the absence of supplies made by '0'.

- correction to the prior notification

20. With a view to ensure that information contained in the prior notification is accurate and complete, the VAT Committee **unanimously** agrees that a taxable person who prior to admission to the SME scheme detects material errors in the information submitted shall be required to correct the prior notification. The VAT Committee **unanimously** agrees that where such correction is made, this shall see the original prior notification replaced by a new prior notification. For any such new prior notification, the VAT Committee **unanimously** agrees that calculation of the 35 working days laid down in Article 284(5), second subparagraph, of the VAT Directive shall start anew from the date of submission of that new prior notification.

21. Where a taxable person detects material errors in the prior notification after being admitted to the SME scheme and given an EX number, the VAT Committee **unanimously** agrees that correction shall be made by way of an update to the prior notification. The VAT Committee **unanimously** agrees that for omissions such as missing out on listing a Member State in which the taxable person wants to avail of exemption, an update to the prior notification shall be required pursuant to Article 284(4) of the VAT Directive. If an update to a prior notification is submitted before the prior notification is fully processed, the VAT Committee **unanimously** agrees that the update shall be seen as received only once the prior notification has been processed in respect of all the Member States of exemption concerned and the taxable person has been informed of the outcome.

- reporting

22. To avoid duplication of information already available, the VAT Committee **almost unanimously** agrees that the total value of supplies of goods and/or services to be reported by the taxable person for the calendar quarter following admission to the SME scheme shall not include the value of supplies contained in the prior notification submitted during that same calendar quarter. To avoid a gap in reporting, the VAT Committee **almost unanimously** agrees that the total value of supplies of goods and/or services to be reported by the taxable person for the calendar quarter after being admitted to the SME scheme must, where the prior notification is submitted prior to that calendar quarter, also separately indicate the value of supplies made during the preceding calendar quarter if not contained in the prior notification to capture supplies made after submission of that prior notification but before admission to the SME scheme.

- correction to the quarterly report

23. Where a taxable person detects errors in a quarterly report, the VAT Committee **unanimously** agrees that correction shall be done by resubmission of the original quarterly report. The VAT Committee agrees **unanimously** that the same shall apply if as a result of cancellation of transactions carried out in a calendar quarter, the value reported for that calendar quarter is no longer accurate.

- other obligations

24. While invoices may be required, the VAT Committee unanimously agrees that if this is the case the taxable person shall, as envisaged under Article 220a(1)(c) of the VAT Directive, be allowed to issue simplified invoices in line with Article 226b of the VAT Directive. The VAT Committee confirms by almost unanimity that as to gain access to exemption under the SME scheme the taxable person must for that purpose be identified in the Member State of establishment only. The VAT Committee therefore agrees unanimously that a taxable person required to issue invoices for supplies falling under the SME scheme in a Member State of exemption may not on that account be obliged to register in that Member State.

- non-compliance with reporting obligations

25. The VAT Committee almost unanimously agrees that the option provided for under Article 284d(3) of the VAT Directive by which a Member State of exemption may impose VAT obligations on a taxable person who fails to comply with the obligation of reporting, shall be exercised with all due consideration to the principle of proportionality. To ensure that such imposition of VAT obligations is proportionate, the VAT Committee almost unanimously agrees that in case submission is not timely the Member State of exemption shall only take such a measure if the taxable person is late in the submission of the quarterly report by more than 30 days or where consecutively two or more quarterly reports are submitted late.

- deduction

26. The VAT Committee unanimously agrees that, as stipulated in Article 289 of the VAT Directive, taxable persons whose supplies are exempt under the SME scheme shall not be entitled to deduct VAT in accordance with Articles 167 to 171 and Articles 173 to 177 of the VAT Directive. Where a taxable person making supplies exempt under the SME scheme in a Member State (MS1) procures input in MS1 to be used for taxed supplies made in another Member State (MS2) in which the taxable person does not avail of the exemption, the VAT Committee thus agrees unanimously, as also confirmed by the Court of Justice of the European Union in its ruling in case C-507/16 Entertainment Bulgaria System, that the taxable person shall not, pursuant to Article 169(a) of the VAT Directive, be eligible to deduct VAT.

27. Where the taxable person procures input in MS2 in which it does not avail itself of the exemption, the VAT Committee **unanimously** agrees that the taxable person shall be entitled to deduct VAT but only if the input procured is used for taxed supplies made in MS2. If input is procured in MS2 to be used for making exempt supplies in MS1, the VAT Committee agrees **unanimously** that the taxable person shall not be entitled to deduct VAT in respect of that input.

- cessation

28. The VAT Committee **unanimously** agrees that in the case of bankruptcy putting an immediate end to taxable activities being carried out by the taxable person, the cross-border exemption shall, as is the case when the Union threshold is exceeded, cease to apply when bankruptcy is declared. Where for the duration of the bankruptcy procedure the taxable person continues to carry out taxable activities, the VAT Committee however agrees **unanimously** that the cross-border exemption shall only cease to apply upon submission of an update to the prior notification in accordance with Article 284(4) of the VAT Directive.
29. When, during a calendar year, the turnover of a taxable person exceeds the domestic threshold of a particular Member State, the VAT Committee **unanimously** agrees that the taxable person shall, in line with Article 288a(1) of the VAT Directive, be excluded from the exemption in that Member State in the following calendar year or, if so decided, the following two calendar years. Where a taxable person ceases voluntarily to apply the exemption in a particular Member State, the VAT Committee **almost unanimously** agrees that Member States shall when laying down detailed rules and conditions for this voluntary cessation pursuant to Article 290 of the VAT Directive pay due regard to the period of exclusion applied in cases where the domestic threshold is exceeded.

- (de)activation of the EX number

30. When a taxable person in line with Article 284b(3) of the VAT Directive informs the Member State of establishment that the Union threshold has been exceeded, the VAT Committee **unanimously** agrees the taxable person's EX number must be deactivated to reflect when the Union threshold was exceeded.

31. The VAT Committee **unanimously** agrees that a taxable person availing of the SME scheme may not be taken to have ceased its activities merely because no quarterly report is submitted. Should no reports be submitted, the VAT Committee **almost unanimously** agrees that to be able to assume that activities are ceased, the Member State of establishment must first take steps to verify the state of affairs with the taxable person or through other means.
32. The VAT Committee **almost unanimously** agrees that a taxable person availing of the SME scheme but reporting to have made no supplies during a calendar quarter shall not be taken to have ceased its activities. If, however, during a period of 8 consecutive calendar quarters no supplies of goods or services are reported, the VAT Committee **almost unanimously** agrees that the taxable person shall, absent information to the contrary, be presumed to have ceased its activities. The VAT Committee **almost unanimously** agrees that as a result, the EX number allocated to the taxable person shall be deactivated in line with point (d) of Article 284e of the VAT Directive if no supplies have been reported for any of the Member States of exemption or adapted should no supplies have been reported for some but not all Member States of exemption.
33. Should a taxable person established in a Member State be granted access to the cross-border exemption, the VAT Committee **almost unanimously** agrees that in the case of prior use in that Member State, the Member State of establishment shall for the identification of that taxable person reactivate the EX number previously allocated.