

## **The European Commission's Study on the review of the VAT Special Scheme for travel agents and options for reform**

### **A brief summary**

The purposes of the study were:

- To consider the current application of the VAT rules as they affect travel, with particular emphasis on areas in which the application of the rules by Member States varies; and
- To assess options for reform.

The study highlighted five main areas in which either the rules themselves or their varying application by Member States creates difficulties:

1. Loss of input tax on business travel;
2. Major differences in the treatment of wholesale travel supplies;
3. Differences in the scope of TOMS (i.e. what is "travel"?);
4. The need to calculate TOMS VAT payable separately for each sale (as established by the CJEU in 2013); and
5. Differences in the taxation of EU and third country suppliers.

Reform options had to be assessed against:

- The principle of taxation in the Member State of destination;
- Ease of revenue collection;
- The need to reduce the VAT gap; and
- The desire for equality of treatment.

Consideration was given to:

- Whether there should continue to be a TOMS-style simplification or whether the VAT due could be paid outside of TOMS in the Member State of destination; and
- An appropriate regime for the taxation of third country suppliers.

The study concluded that:

- TOMS should be retained but should be reformed;
- The sale by sale basis of TOMS calculation based on the CJEU judgement should not be compulsory;
- B2B supplies should be in TOMS but suppliers should have the ability to opt out of TOMS;
- The TOMS margin might become taxable in the Member State of the customer to give effect to the destination principle. (Currently the margin is taxable in the supplier's Member State of establishment.) Such a change would also assist in achieving the equal treatment of third country suppliers;
- Travel should be defined to help achieve consistency and greater certainty about the scope of TOMS; and
- The approach to be taken when TOMS does not apply should be agreed.

There is to be a meeting under the Fiscalis programme of the Member States' tax administrations and the Commission in October 2018 to discuss the findings.