

ECA Indicates Tax Vulnerabilities of E-Commerce



Thomas Wahl

News

The EU's and Member States' efforts to collect the correct amount of VAT and customs duties in conjunction with the trade of goods and services via the Internet are not sufficient, as concluded by the [Special Report no. 12/2019](#) by the European Court of Auditors (ECA). The report, which was made public on 12 July 2019, pointed out that e-commerce is growing steadily; however, it is also prone to the evasion of VAT and customs duties. Incorrect levies affect not only the budget of the Member States but also that of the EU, because Member States need to compensate the proportion due to the EU budget.

The audit examined several items in relation to irregularities in the context of e-commerce:

- The system for taxation of VAT and customs duties on cross-border supplies of goods traded over the internet, as set out in the VAT and customs legislation;
- The new system for taxation of VAT on cross-border supplies of e-commerce services that entered into force at the beginning of 2015;
- The new e-commerce legislative reform that was adopted in 2017 and mainly takes effect as of 2021;
- Assessment of whether a sound regulatory and control framework on e-commerce with regard to the collection of VAT and customs duties was put in place by the European Commission;
- Assessment of Member States' control measures intended to help ensure the complete collection of VAT and customs duties in respect of e-commerce.

The ECA acknowledged recent positive developments; however, many challenges have not been satisfactorily addressed to date. Some of the weaknesses are as follows:

- Administrative cooperation instruments in place between EU Member States and with non-EU countries are not being fully exploited;
- The cross-border exchange of information is insufficient;
- Controls carried out by national tax authorities are weak, and the Commission's monitoring activities are insufficient;
- Current customs clearance systems do not function well, and there is a risk that the EU cannot prevent abuse by the intermediaries involved;
- The current system cannot prevent abuse in that goods are deliberately undervalued, so that they do not fall under exemption clauses;
- Enforcement of the collection of VAT and customs duties is ineffective.

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In order to address these shortcomings, the ECA's report makes a number of recommendations to the Commission and the Member States. Notably, they have been asked to do the following:

- Check traders' compliance thresholds for VAT/customs;
- Develop a method to produce estimates of the VAT gap, i.e., the difference between what should be collected in accordance with the current legislative framework and what is actually collected by Member States' tax authorities;
- Explore the use of suitable "technology-based" collection systems to tackle VAT fraud involving e-commerce.

Fortunately, the ECA found that some of the identified weaknesses can be solved by the new e-commerce reform, e.g., the liability of VAT intermediaries. However, some challenges remain, e.g., the problem of undervalued goods.

The ECA special report also includes the Commission's response to the findings. It is available in 23 EU languages.

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