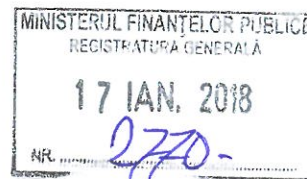




Nr. 320/17.01.2018



Către,

MINISTERUL FINANTELOR PUBLICE
Doamnei Secretar de stat Oana-Elena Iacob

Stimată doamnă secretar de stat, în continuarea buneii colaborări dintre Camera Consultantilor Fiscali și Ministerul Finanțelor Publice, dorim să vă comunicăm constatările noastre legate de o serie de necorelări care au fost generate ca urmare a modificărilor aduse prin Legea nr. 275/2017 care a aprobat OG 23/2017 privind mecanismul plății defalcate a TVA, în vederea clarificării acestora, astfel încât să nu genereze aplicare diferită de către operatorii economici. De asemenea, semnalăm și necesitatea modificării unora dintre prevederile acestui act normativ.

Întrucât necorelările pe care le vom relata în cele ce urmează ar putea conduce, așa cum am menționat, la interpretări diferite, vă solicităm pe această cale să ne oferiți punctul de vedere al instituției pe care o reprezentați, pentru a fi adus la cunoștința membrilor noștri, și, dacă considerați necesar, să elaborați clarificări care să fie afișate pe site-ul MFP, astfel încât să fie accesibile tuturor operatorilor economici.

1) Referitor la plata facturilor în contul de TVA

Constatăm la art. 2 alin.(5) că persoanele care aplică mecanismul plății defalcate a TVA, prevăzute la art. 2 alin. (1) și (2) din OG 23/2017, aplică acest mecanism din ziua următoare celei în care sunt înregistrate în Registrul persoanelor care aplică plata defalcată a TVA, pentru facturi/documente emise conform art. 319 din Codul fiscal și pentru avansuri încasate începând cu această data. De remarcat că această prevedere se adresează numai persoanei care aplică mecanismul plății defalcate și se referă numai la facturile emise de această persoană.

Coroborând această prevedere cu cea de la art. 3 alin. (1), care se adresează persoanei care face plata în contul de TVA al unui furnizor care aplică mecanismul plății defalcate a TVA, s-ar înțelege că se vor face plăți în contul de TVA al unui furnizor numai pentru facturile pe care acesta le emite după data la care va fi înregistrat în Registrul persoanelor care aplică plata defalcată a TVA.

Această înțelegere este întărită și de prevederile art. 15 alin. (3) din care rezultă că persoana care aplică plata defalcată a TVA are obligația să vireze în contul propriu de TVA, în termen de 30 de zile lucrătoare de la încasare, TVA aferentă facturilor emise



înainte de data la care aplică plata defalcată a TVA și achitate după această data, dacă acestea nu au fost încasate în contul de TVA.

Totuși, prevederile art. 22 alin. (1) sunt de natură să genereze confuzii, deoarece se menționează că prevederile art. 1-11 și 13-15 se aplică începând cu data de 1 ianuarie 2018, pentru facturile /documentele emise conform art. 319 din Codul fiscal și avansurile încasate începând cu data de 1 ianuarie 2018.

În opinia noastră această prevedere ar fi trebuit să producă efecte numai pentru furnizorii care au aplicat încă din anul 2017 mecanismul plăților defalcate, numai în acest caz clientul care nu era obligat în 2017 să achite TVA în contul de TVA al furnizorului, dacă nu aplica la rândul său plata defalcată a TVA, ar fi trebuit să fie informat că după 1 ianuarie 2018 va trebui să facă plata în contul de TVA al furnizorului care continuă aplicarea plății defalcate în 2018 și numai pentru facturile emise începând cu 1 ianuarie 2018.

Totuși, prevederea fiind una de ordin general, cu referire inclusiv la articolele sus menționate, ar putea fi interpretată diferit.

Astfel, de exemplu dacă un furnizor va fi înscris în registrul menționat pe data de 1 martie 2018 și a emis facturi în lunile noiembrie și decembrie 2017, precum și în ianuarie, februarie, martie și aprilie 2018, dar clientul face plata în luna aprilie 2018, ar putea exista următoarele abordări:

- într-o primă abordare, care în opinia noastră corespunde prevederilor art. 2 alin. (5), art. 3 alin. (1) și art. 15 alin. (3) din OG 23/2017, ar trebui ca plata de către client în contul de TVA să se facă obligatoriu de către beneficiarul prevăzut la art. 3 alin. (1) pentru facturile emise de furnizor după data la care acesta aplică plata defalcată a TVA, respectiv 2 martie 2018;
- într-o altă abordare, dacă s-ar da vocație și prevederilor art. 22 alin. (1), s-ar putea considera că facturile emise în 2017 nu vor fi achitate în contul de TVA al furnizorului, dar facturile emise în ianuarie, februarie, martie, achitate în aprilie 2018, ar trebui achitate în contul de TVA al furnizorului, chiar dacă sunt anterioare intrării sale în mecanismul plăților defalcate.

2) Transferuri interne în contul de TVA

Referitor la art. 15 din OG 23/2017, care prevede o serie de transferuri din contul curent/casierie în contul de TVA al unei persoane care aplică plata defalcată a TVA, întrucât art. 22 alin. (1) obligă la aplicarea acestor prevederi de la 1 ianuarie 2018 și pentru facturile/documente emise/avansurile încasate de la 1 ianuarie 2018, înțelegem că aceste transferuri pot avea ca obiect numai aceste facturi/documente.

De exemplu, în cazul facturilor care sunt emise înainte de data la care persoana aplică plata defalcată a TVA, se prevede la art. 15 alin. (3) că trebuie să facă transferul TVA în contul de TVA dacă factura este încasată după ce persoana aplică plata defalcată.



Astfel, dacă o societate va aplica de la 1 martie 2018 mecanismul plății defalcate a TVA, în mod normal va încasa în cont curent de la clienții prevăzuți la art. 3 alin. (1) facturile emise înainte de data de 1 martie 2018 și încasate după această dată. Dar, dacă încasările se referă și la facturi emise înainte de data de 1 ianuarie 2018, conform art. 15 alin. (3) coroborat cu art. 22 alin. (1), persoana în cauză nu ar avea obligația să facă transferul TVA din contul curent în contul de TVA, această obligație fiind limitată la facturile emise după data de 1 ianuarie 2018.

Aceeași problemă intervine și la persoanele care aplică plata defalcată din anul 2017, acestea aveau prevederi clare privind transferul în contul de TVA al TVA aferentă facturilor încasate în perioada 1 octombrie - 31 decembrie 2017 de la clienți care nu au optat pentru plata defalcată. Dar, dacă facturile sunt emise în perioada 1 octombrie 2017 - 31 decembrie 2017 și încasate după această dată, există aceeași dilemă, respectiv furnizorul nu ar mai avea obligația să le transfere în contul de TVA datorită prevederii de la art. 22 alin. (1).

3) Plata facturilor din contul de TVA

Deși nu există nicio prevedere în OG 23/2017 privind data de la care persoana care aplică plata defalcată a TVA ar trebui să facă plata TVA aferentă achizițiilor din contul propriu de TVA, conform art. 9 alin. (1) lit. a), se subînțelege că are această obligație de la data la care este înregistrat în registru. Întrucât mecanismul plății defalcate a TVA nu este clar definit în OG 23/2017, recomandăm ca la o viitoare modificare a prevederilor acestei ordonanțe, să fie avut în vedere și acest aspect.

De exemplu, un contribuabil care aplică mecanismul de la 1 martie 2018, va plăti TVA din contul de TVA:

- pentru toate facturile de achiziții achitate după 1 martie 2018?
- numai pentru facturile de achiziții emise de furnizorii săi după 1 ianuarie 2018 (în baza art. 22 alin. (1))?

4) Necorelări în ce privește sancțiunile contravențiile

Prevederile de la art. 18 lit. a) și b) din OG 23/2017 sunt necorelate cu cele de la art. 19 alin. (1) și cu cele de la art. 3 alin. (1). Întrucât prin Legea nr. 275/2017 instituțiile publice au fost eliminate din categoria persoanelor obligate să facă plata în contul de TVA, prevăzute la art. 3 alin. (1), este necesar să fie eliminate și de la art. 18 lit. a) și b). Acest aspect are mai mică importanță, fiindcă art. 18 lit. a) și b) rămâne neaplicabil pentru instituția publică. În schimb prevederea referitoare la cele 30 de zile lucrătoare de la data plății eronate, este de natură să producă confuzii, nici această



prevedere neavând aplicabilitate, așa cum rezultă din prevederile art. 19 alin. (1) lit. a). Sigurul termen care trebuie avut în vedere este cel de 7 zile lucrătoare, termen în care se poate face corectarea sumei care nu a fost plătită corect în contul de TVA. Până la o modificare a OG 23/2017, și pentru aceste prevederi neclare ar trebui date lămuriri pe site-ul MFP.

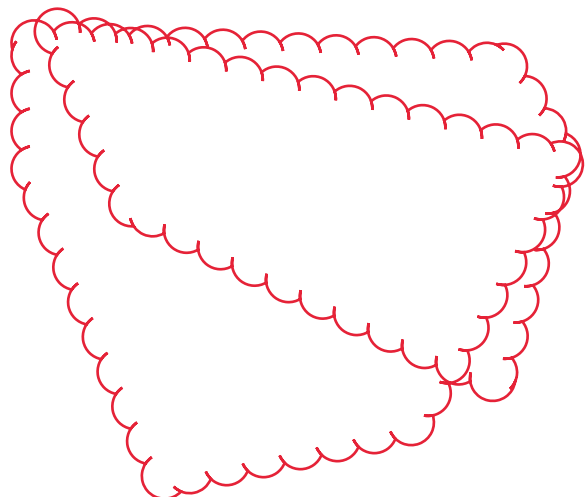
5) Persoane juridice înregistrate în scopuri de TVA în baza art. 317

La art. 3 alin. (1), pe lângă instituțiile publice, au fost excluse de la obligativitatea de a plăti în contul de TVA al unui furnizor toate persoanele care nu sunt înregistrate în scopuri de TVA, fără a se face o mențiune la art. 316 sau art. 317 din Codul fiscal. În consecință, orice persoană fie că este înregistrată conform art. 316, fie conform art. 317 din Codul fiscal, va avea obligația să facă plata TVA în contul de TVA al furnizorului care aplică plata defalcată a TVA.

În opinia noastră, deoarece înregistrarea în scopuri de TVA conform art. 317 este specifică numai pentru operațiuni intracomunitare, aceste persoane ar trebui exceptate de la prevederile art. 3 alin. (1) din OG 23/2017, la o viitoare modificare legislativă.

În final vă transmitem alăturat și Raportul Comisiei Europene realizat ca urmare a unui studiu efectuat pentru evaluarea efectelor mecanismului plăților defalcate a TVA, a cărui concluzie este că această metodă nu este de natură să aducă beneficii nici mediului de afaceri și nici bugetului de stat. Pe această cale reiterăm poziția Camerei Consultanților Fiscali în ce privește necesitatea abrogării OG 23/2017.

Cu stimă,





Analysis of the impact of the split payment mechanism as an alternative VAT collection method

Final Report
Executive Summary

Written by Deloitte

December 2017

Deloitte.



EUROPEAN COMMISSION

Directorate-General for Taxation and Customs Union
Directorate C — Indirect Taxation and Tax Administration
Unit C1 — Value Added Tax

Contact: TAXUD UNIT C1
Email: TAXUD-UNIT-C1@ec.europa.eu

European Commission
B-1049 Brussels

Analysis of the impact of the split payment mechanism as an alternative VAT collection method

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This study was carried out for the European Commission by:

Deloitte.

Authors

Johan Van Der Paal

Aili Nurk

Valentina Cilli

Benoît Vandresse

Ciara Walsh

Thomas Vanhee

Jake Consiglio

Sarah Venables

Sam Blackie

Megan Baddeley

Jelle Heyvaert

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Executive Summary

The EU Commission and the Member States are concerned about the levels of VAT fraud and avoidance in the EU. The 2016 study on the EU VAT gap (based on 2014 data) measures the total amount of VAT lost in the EU at 159.5 billion EUR, representing 14% of the total expected VAT revenue.^{1,2} A number of measures to tackle VAT fraud have been considered in recent years, focusing on the VAT collection methods that have hardly been changed since VAT was introduced in the EU³.

This report builds on earlier analysis⁴ and examines a range of options for applying split payment mechanism as an alternative VAT collection method. Taking into account other ongoing VAT policy developments, the options are analysed in both the current VAT system and in a definitive VAT regime for cross border B2B supplies⁵.

The findings of the analysis found no strong evidence that the benefits of split payment would outweigh its costs. The main identified effects were that a wider scope of split payment would potentially provide a larger decrease of the VAT gap, but would also significantly increase the related administrative costs. However, the analysis carried out is highly dependent on the specific design of the policy options as well as on the assumptions that had to be made in order to carry out the quantitative analysis, (especially on the volume of transactions). Therefore, a different design of the mechanism for split payment (e.g. different scope or technological choices) may come to considerably different results.

Background to the study

The **main objectives** of this study were to design and assess (both in qualitative and quantitative terms) legally and technically feasible scenarios for a split payment mechanism as a VAT collection tool. In the study, both the current EU VAT legislative framework and existing international and EU experiences with split payment, as well as the future definitive VAT regime based on the destination principle were taken into account.

The **design of the scenarios** (policy options) for the split payment encompasses different types of transactions (i.e. Business-to-Business (B2B)⁶, Business-to-Consumer (B2C)⁷ and Business-to-Government (B2G)⁸), as well as different methods of payment (e.g. electronic transfers,

¹ EU Commission, CASE (2016), Study and Reports on the VAT Gap in the EU-28 Member States: 2016 Final report', available at: https://ec.europa.eu/taxation_customs/sites/taxation/files/2016-09_vat-gap-report_final.pdf , p. 8

² The latest 2017 update study on the EU VAT gap was not yet published at the time of analysis, but can be seen from here: https://ec.europa.eu/taxation_customs/sites/taxation/files/study_and_reports_on_the_vat_gap_2017.pdf

³ EU Commission Communication on the Action plan on VAT (COM (2016) 148 final) and Communication on the Follow up to the Action Plan on VAT (COM (2017) 566 final)

⁴ EU Commission, PricewaterhouseCoopers, Study on the feasibility of alternative methods for improving and simplifying the collection of VAT through the means of modern technologies and/or financial intermediaries, 2010.

⁵ EU Commission communication on the Follow up to the Action Plan on VAT – Towards a single EU VAT area – Time to act COM/2017/566 final, Brussels, 4 October 2017, p. 6.

⁶ B2B transactions refer to transactions between businesses.

⁷ B2C transactions refer to transactions between a business and a final consumer.

⁸ B2G transactions refer to transactions between businesses and government entities.

transactions paid with payment cards, and in cash). It also includes a sub-option of split payment with blocked VAT bank accounts.

The analysis includes a **qualitative assessment** of the scenarios for split payment with regard to their compatibility with the current and future EU VAT regime (including possible future changes such as a national general reverse charge mechanism or the definitive VAT regime) and with the Single Euro Payments Area (SEPA) regulations. It also includes a **quantitative assessment** of the scenarios, including the impact on the administrative burden for businesses and the overall costs and benefits for the stakeholders affected. The Italian experience on split payment for supplies to public administration, as the only current example of an EU split payment regime, is analysed as a case study.

A number of **methodological tools** were applied in the process of the study. For data collection, the main tools used were: desk research, strategic interviews, survey to tax administrations of the Member States, in depth fieldwork in eight Member States and stakeholder workshops. Data on VAT revenues and VAT revenue losses in EU Member States came from Eurostat, while the EU studies on VAT gap⁹ were also taken into account. For the analysis of the collected data, the main tools applied were the standard cost model (for administrative burden analysis) and cost-benefit analysis (for overall costs and benefits).

VAT policy context and problem assessment

EU VAT policy and revenue context

The current 'transitional' EU VAT regime splits every cross-border transaction into an exempted cross-border supply (i.e. an intra-EU supply) and a taxed cross-border acquisition (i.e. an intra-EU acquisition). It has been argued that such regime is *"prone to fraud and is highly complicated for some cross-border businesses"*¹⁰. As a derogation, some Member States have therefore asked for a possibility to introduce at a national level a generalised reverse charge mechanism (GRCM) to tackle VAT fraud. At the same time, the Commission is focussing on a solution through a general move towards a definitive EU VAT system, where cross-border B2B transactions are taxed based on the destination principle and with collection of VAT by the vendor. Outside the VAT system, the EU Single Euro Payment Area (SEPA) regulations contain specific technical and business requirements for financial transfers that are a key element of any split payment option. **Any type of split payment mechanism considered should align with the existing EU VAT regime and wider legislative context, but also be future proof.**

Problem assessment

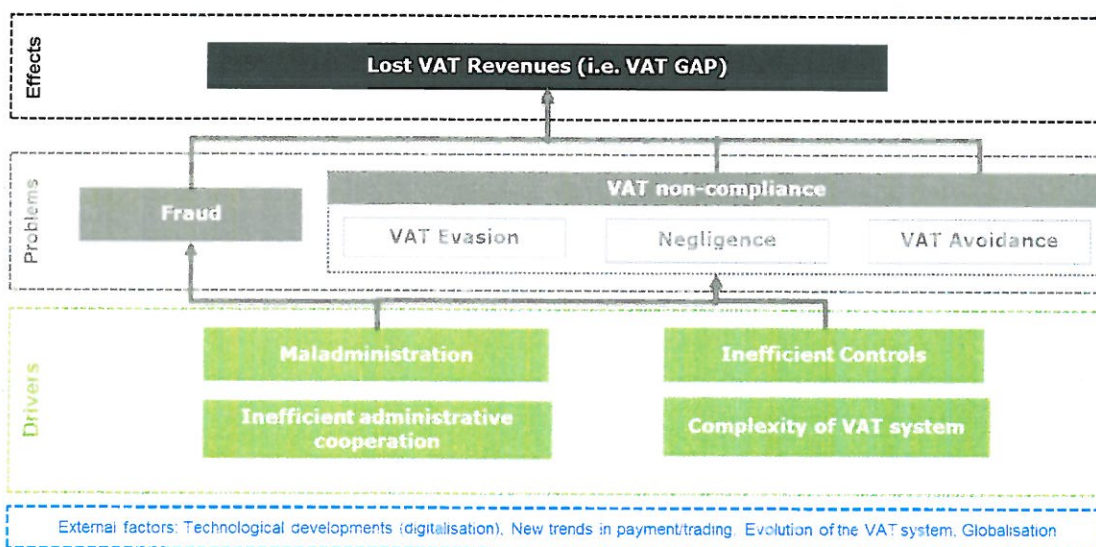
The concerns with regard to the high level of the VAT Gap in the EU (EU 159.5 billion EUR, or 14% of the total expected VAT revenue) has led to the discussion of a range of potential

⁹ EU Commission, CASE (2016), Study and Reports on the VAT Gap in the EU-28 Member States: 2016 Final report, available at: https://ec.europa.eu/taxation_customs/sites/taxation/files/2016-09_vat-gap-report_final.pdf.

¹⁰ Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on an action plan on VAT Towards a single EU VAT area - Time to decide, COM/2016/0148 final, Brussels, 7 April 2016.

solutions, including alternative VAT collection methods, such as the split payment mechanism. In order to give an illustrative view of the current environment, a **problem analysis** was carried out as part of the study. The effects, problems and drivers of the current environment are illustrated in a problem tree below:

Figure 1: Problem Tree



Source: Deloitte elaboration

Split payment mechanism as a tool to tackle the VAT gap

The introduction of a split payment mechanism could help to combat non-compliance, with the ultimate aim of improving VAT collection. The study has therefore assessed the design of a split payment mechanism based on available data with respect to VAT revenues and VAT revenue losses.

Split payment is regarded as **a measure that can combat VAT fraud and non-compliance** by removing the opportunity of suppliers to charge VAT and disappear without declaring or paying it to the tax authority ('missing trader fraud'). It deviates from the current EU VAT regime, which mainly relies on vendor-based collection of VAT and on periodical reporting and payment of VAT by registered traders.

Split-payment-like mechanisms are **currently in place in a number of countries, mainly outside the EU**. In the EU, **Italy** is currently the only country applying a limited split payment regime (to B2G transactions only). The Italian experience was specifically analysed in the study, especially as the first phase of the Italian regime has been considered by the government as successful and the regime was recently renewed and expanded.

Several other Member States, such as **Poland, Romania and the UK**, have started to consider a split payment regime. Romania has recently adopted the relevant national legislation and is already planning to bring changes into force in 2017, Poland potentially following from April 2018.

On a practical level, a split payment mechanism would change the regular VAT collection regime by **introducing on payments for taxable supplies a split between the VAT amount and the taxable base** (e.g. by two separate payments for every taxable transaction). Different designs of a split payment model are possible and a wide range of technical models were analysed as part of the study.

Split payment as alternative VAT collection method in the EU

Considerations regarding the design of policy options

The analysis of a wide range of technical split payment models resulted in a list of findings which was used as a basis for designing the policy options:

- The **supplier** is generally not a suitable splitting agent, although in certain cases it may be the only option, e.g. on B2C or cash payments;
- The **VAT payment liability** ought to be with the party to the transaction (other than the supplier) who has the necessary information on the transaction and control over the payment, i.e. the customer who is also the splitting agent (except in B2C supplies, as non-taxable persons have no VAT reporting capacity);
- **Blocked VAT bank accounts** would reduce the negative cash flow impact for businesses, but are likely not to be feasible due to added complexity and cost. However, an alternative policy option was added, to carry out limited benchmarking analysis on the features of a split payment with blocked VAT bank accounts;
- **Partial split payment** by either a transactional threshold or splitting just a percentage of VAT would also reduce negative cash flow impact. However considering the added complexity and reduction of effectiveness as an anti-fraud measure, it was not considered sufficiently feasible;
- Despite some potentially positive impact on cash flow and management of VAT payment liability, **cash based chargeability** or cash accounting was not considered necessary as a built in design element of split payment. The existing optional cash accounting schemes seem more appropriate for providing support to the businesses who require it;
- Efficient **VAT refund processes** would support the effectiveness of a split payment regime by helping to reduce the negative cash flow impact.

In addition, it was considered necessary to include **new reporting obligations** (transactional sales and purchase lists) concerning B2B and B2G supplies subject to split payment, to enable tax authorities to carry out compliance controls and match received VAT payments with taxable supplies.

Policy options

Based on the policy context, the problem assessment and the considerations presented above, a range of policy options were designed and analysed:

Table 1: List of policy options

Number	Option description
Option 0	Status quo (current VAT payment system and definitive VAT regime)
Options based on current VAT regime	
Option 1	Current VAT regime with split payment applying to electronic fund transfers (EFT) between taxable persons (B2B)
Option 1(b)	Option 1 with blocked VAT bank account
Option 2	Option 1 combined with a generalised reverse charge mechanism in certain Member States
Option 3	Option 2 with extension of split payment on EFT between taxable persons and final consumers (B2C) and taxable persons and public bodies (B2G)
Option 4	Option 3 with extension of split payment to credit card and cash payments
Options based on Definitive VAT Regime	
Option 5	Definitive VAT regime with split payment applying to EFT between taxable persons (B2B)
Option 6	Option 5 with extension of split payment on EFT to B2C and B2G
Option 7	Option 6 with extension of split payment to credit card and cash payments

Source: Deloitte elaboration

Conclusions of the analysis of policy options

Conclusions on the use of split payment in the current VAT regime

Legislative context

Regarding the required legislative changes to the **EU VAT Directive**, it seems most appropriate to introduce split payment as a new special scheme under Title XII Special Schemes, especially if a split payment mechanism would be introduced as optional for the Member States.

Introducing split payment under the current **SEPA** regulations would not seem to be a realistic option under the second Payment Service Directive (PSD2)¹¹. To put a legal obligation on banks or other payment service providers to carry out VAT split payment would require an explicit consent of the business to initiate any payments. In addition, the collection and linking of underlying information on the supply to the payments is considered technically highly challenging. In the EU countries currently applying or planning to apply split payment, this problem is tackled by either requesting customers to split the VAT or using blocked VAT bank

¹¹ Council and European Parliament Directive 2015(2366) on payment services in the internal market

accounts. An efficient and broad EU level application of split payment may however require it to be integrated into the standard payment flow.

GRCM and split payment were found to be mutually exclusive measures, if they would cover the same supplies. Indeed, under GRCM, the VAT amount would not be payable towards the tax authorities to the extent it is deductible.

Main advantages and disadvantages of policy options

The main advantages of split payment in the current VAT regime would be the **reduction of VAT fraud and avoidance**, which would increase by expansion of the scope of split payment.

Results of the cost-benefit analysis show that all options are expected to reduce the VAT Gap to some extent ranging from 27% to 56% reduction under the current regime. The most notable reductions under the current regime are found in the proportion of the VAT Gap made up by MTIC fraud¹², thereby confirming that split payment has the potential to significantly reduce this type of fraud. In addition, it was found that the split payment mechanism would also reduce considerably non-compliance due to new reporting requirements and increased transparency.

Table 2 shows the results of the quantitative analysis of the effect on the VAT Gap. Since it is the widest in scope, applying to B2B, B2C and B2G transactions via EFT, credit card and cash, Option 4 is regarded as the most effective option for reducing the VAT Gap overall. However a wider application of split payment is accompanied by higher costs for businesses and public bodies which increase substantially throughout the options (see below).

Table 2: Results of the quantitative analysis on VAT gap

Impacts	Option 1	Option 1(b)	Option 2	Option 3	Option 4
VAT Gap	(-)27-42%	(-)27-42%	(-)27-42%	(-)38-49%	(-)42-56%
	EUR 40.7 to 63.2 billion	EUR 40.7 to 63.2 billion	EUR 39.3 to 61 billion	EUR 54.7 to 70 billion	EUR 61 to 80.7 billion

Introduction of a split payment mechanism would also trigger **significant changes in the cash flow** from the perspective of both businesses and tax authorities. Tax authorities would have a positive cash flow impact as VAT payment would happen *in real time* per transaction rather than *ex post* on a periodical basis. However, the opposite would be the case for businesses, whose cash flow would be adversely affected by the mechanism in a very significant way, impacting directly their working capital.

Table 3 shows the results of the quantitative analysis of the effect on cash flow under the different options:

¹² Missing Trader Intra-Community Fraud (MTIC), occurs when a trader purchases goods from another Member State without VAT, charges VAT on onward domestic sale, but instead of paying the VAT to tax authority absconds with it himself, i.e. 'goes missing'.

Table 3: Results of the quantitative analysis on cash flow

Impacts	Option 1	Option 1(b)	Option 2	Option 3	Option 4
Business Cash Flow	EUR -16.9 billion	N/A	EUR -16.4 billion	EUR -23 billion	EUR -39 billion
Member State Cash Flow	EUR 10.8 billion	N/A	EUR 10.5 billion	EUR 14.9 billion	EUR 25.2 billion

The most striking impact of the split payment mechanism is the **rise of administrative costs to businesses and public bodies**. Because of the payment of VAT on a transactional basis for B2B and B2G EFTs and increased reporting requirements, business costs would increase by at least 70% and public bodies would be confronted with entirely new obligations if applied to them (Option 3).

The impact on costs for businesses is however highly dependent on the number of transactions conducted by the individual business and thus varies depending on business size and sector. Administrative costs could also be reduced with increased automation of the system (e.g. automated split payments, e-invoicing, pre-filled VAT returns), however these are likely to have very high initial implementation costs both for businesses and Member States.

While tax authorities would have improved compliance control from the detailed transactional information on B2B and B2G supplies that would accompany a split payment system, the operation of such system would lead to a significant increase of administrative burden also from their perspective.

Table 4 shows the total impact on the administrative costs of all EU businesses and public bodies, as well as administrative cost impact on one business and one public body. The last line represents the weighted average of implementation costs per business.

Table 4: Results of the quantitative analysis on administrative burden impact

Impacts	Option 1	Option 1(b)	Option 2	Option 3	Option 4
Administrative Costs (businesses & public bodies)	(+)33%	(+)35%	(+)27%	(+)52%	(+)58%
	EUR 98.4 billion	EUR 100.1 billion	EUR 94.5 billion	EUR 112.4 billion	EUR 117 billion
Administrative Costs (1 business)	(+)33%	(+)35%	(+)33%	(+)57%	(+)63%
	EUR 3 428	EUR 3 487	EUR 3 431	EUR 4 061	EUR 4 225
Administrative Costs (1 public body)	N/A	N/A	N/A	6 340	6 340
Implementation costs	EUR 2 500	EUR 2 500	EUR 2 500	EUR 2 500	EUR 2 500

Considering the different impacts assessed, the **overall evaluation shows that benefits of introducing a split payment mechanism under the current VAT regime would be highly uncertain**. In fact, the benefit in terms of reductions in the VAT Gap are not unequivocally

higher than the costs imposed on businesses and public bodies (both administrative costs and cash flow impacts), and are even outweighed when applied to the entire volume of transactions (such as under Option 4).

Conclusions on the use of split payment in the definitive VAT regime

The study also addressed the potential functioning of a split payment mechanism in the definitive VAT regime proposed by the European Commission¹³. In that respect, the application of split payment to domestic transactions and to cross-border supplies to non-certified taxable persons was assessed.

The application of the split payment mechanism in the definitive VAT regime would be possible for domestic transactions in the same way as in the current VAT regime. However, regarding the VAT treatment of intra-EU cross-border supplies, the changes currently proposed as key part of the definitive regime (VAT collected by the supplier) and split payment (VAT paid directly by the customer) would be conflicting, although having the same objective to tackle VAT fraud (especially MTIC fraud). A single regime throughout the supply chain (i.e. applying split payment) would seem simpler and less burdensome than a combination of the two.

Main advantages and disadvantages of policy options

The main advantages and disadvantages of split payment in definitive VAT regime would be generally the same as in the current VAT regime. We have highlighted hereafter those points where the assessment of the different split payment options deviates from the assessment under the current regime.

Under the definitive VAT Regime, MTIC fraud is expected to decrease substantially compared to the level in the current regime (by 83%), reducing overall VAT gap by 21%. This means that the potential benefit of reducing the VAT Gap and VAT fraud that can be achieved by introducing split payment in the definitive VAT regime would already be significantly reduced. Nevertheless, split payment in the definitive regime is expected to further reduce the remaining gap by at least 13% in a split payment applying to B2B EFT, up to 44% with increases in the scope of application.

Table 6 below shows the further reduction of VAT gap by different policy options.

Table 6: Results of the quantitative analysis on VAT gap

Impacts	Option 5	Option 6	Option 7
VAT Gap	(-)13-32%	(-)21-35%	(-)27-44%
	EUR 15.3 to 38.2 billion	EUR 24.9 to 41.1 billion	EUR 31.4 to 52.2 billion

¹³ The Commission's Single VAT Area proposals COM(2017)567; COM(2017)568 and COM(2017)569, 4 October 2017

The **cash flow** of both businesses and tax authorities would again, as under the current regime, be impacted in opposite ways. The amounts of cash flow involved do not appear to be significantly different from the current regime.

As under the current regime, with a wider scope of application, **administrative costs** for businesses increase. Under the definitive regime, administrative costs are higher than under the current regime due to the fact that more transactions are impacted by the split payment (i.e. cross-border transactions to non-certified taxable persons).

Considering the different impacts assessed, **it is clear that also in a definitive VAT regime, the costs of the split payment mechanism, even with a limited application would outweigh the benefits significantly.** The main reason for this is that the definitive regime without split payment would reduce the MTIC fraud already by 83%, consequently limiting significantly the further potential reduction of the VAT gap by split payment.

Final conclusions

The analysis carried out illustrated the potential benefits as well as significant challenges related to the use of split payment as an alternative VAT collection method. Although split payment has high potential to reduce the VAT gap (especially MTIC fraud and non-compliance), if applied broadly across the EU, the cost of it through increased complexity of the VAT system, high administrative burden and significant impact on business' cash flow may easily outweigh the benefits. Therefore, broad application of split payment is likely to be an unattractive policy tool, given significant rise in costs for business and authorities. However, it has characteristics that are very effective in reducing certain types of fraud and therefore may be suited as a targeted measure with limited scope.