

INTRA-COMMUNITY VAT FRAUD

In collaboration with the Dutch SAI (Algemeen Rekenkamer) and the German SAI (Bundesrechnungshof), the Belgian Court examined whether tax authorities are sufficiently resourced to combat VAT carousel fraud. The report to the federal Parliament with the findings for Belgium reveals that the department rightly prioritize fraud prevention and fraud detection. As a matter of fact it is very difficult to collect evaded VAT, VAT arrears and penalties when fraud carousels are involved. As far as prevention is concerned, the tax department performs an adequate review before assigning a VAT number. Tax authorities are insufficiently resourced to prevent malafide persons from infiltrating existing companies. The opportunities for international information exchanges are not used in an optimal way. The Eurocanet network created by Belgium allows for quick and targeted information exchanges between specialized tax authorities, but loses some of its impact because not all European Member States participate equally.

VAT fraud, and mostly organised, Intra-Community VAT fraud, distorts fair competition within the European Union and deprives EU Member States of considerable amounts of tax revenue as a result of fraud. Every year Intra-Community VAT fraud accounts for a shortfall of several hundreds of millions euros.

Together with the Dutch and the German SAIs, the Belgian Court of Audit examined whether the Dutch, German and Belgian tax authorities have enough resources to tackle this type of fraud. The results have been published by country in a national report and compiled in a joint international report.

Prevention is essential in combating Intra-Community VAT fraud within the EU. It implies that an objective and quick review has to be conducted before a VAT number is assigned and that VAT numbers in disuse need to be scrapped. It appears from the audit that the tax department is able to perform a prior objective review within a short period before assigning a VAT number. But on the other hand, it is not sufficiently resourced to prevent the infiltration of malafide persons into existing companies. Moreover it takes too long before action is taken when VAT numbers have remained long unused, what allows malafide persons to set up a fraud network while using a sleeping but valid VAT number. Finally, the tax department has not always the opportunity to scrap a VAT number of a VAT fraudster.

In the field of detection international information exchange is essential. Here again considerable efforts have been made, but opportunities can still be better exploited. The systematic registration of requests concerning the validity of VAT numbers gives rise to an exchange of *early warning signals* between EU Member States by way of the Eurocanet network initially designed by Belgium and constitutes therefore a useful detection method in the fight against fraud.

The validity of VAT numbers can be controlled through the “Central Liaison Office” (CLO) in each Member state or through a European website. The two systems do not, however, function the same way. The European website focuses exclusively on supplying a service while the CLO has additional objectives, such as checking, the production of proof and contribution to due diligence. Moreover, information provided on the European website varies from country to country. Both issues have to be tabled at the European level.

Too little use is made of the information exchange via specific European forms and query reply time is often overdue. In passing, this is not exclusively confined to Belgium.

The tax department has rightly chosen to entrust the fight against carousel fraud to separate and highly specialised divisions enjoying international repute in respect of detection method

development and cross border information exchanges. Examples are the datamining models and the Eurocanet-network developed by the Special Tax Inspectorate (ISI/BBI) and the VAT Fraud Task Force (OCS), that allows for a quick and targeted information exchange between specialised authorities. Eurocanet's action is still limited though because, for various reasons, not all Member states supply or use the network equally.

Once the tax department has noticed organized fraud it seems very difficult though to recover taxes through the tax channels. The amount of effective collection of evaded VAT amounts, arrears and penalties is exceptionally low with VAT carousels.

Judicial fraud prosecution offers more opportunities for recovering amounts due but this is the public prosecutor's exclusive remit. Except for the cases when tax officers are seconded to the public prosecutor's office, the role of the tax department is limited to a role of witness.