Working Party No. 9 on Consumption Taxes

DRAFT SUMMARY RECORD OF THE FOURTH MEETING OF WORKING PARTY NO. 9 ON CONSUMPTION TAXES

Held on 30 November - 1 December 2000
Château de la Muette, Paris

Delegates will find attached the Draft Summary Record of the Fourth Meeting of Working Party No. 9 on Consumption Taxes, held at OECD Headquarters on 30 November - 1 December 2000.

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DRAFT SUMMARY RECORD
OF THE FOURTH MEETING OF WORKING PARTY NO. 9 ON CONSUMPTION TAXES

30 November – 1 December 2000, Château de la Muette, Paris

I. ADOPTION OF THE DRAFT AGENDA
OF THE FOURTH MEETING

1. The Draft Agenda was adopted as proposed.

II. DRAFT SUMMARY RECORD
OF THE THIRD MEETING

2. The Draft Summary Record of the third meeting was approved, without amendment.

III. ELECTRONIC COMMERCE:
OVERVIEW OF GENERAL ISSUES

A. Arrangements for reporting to the Committee on Fiscal Affairs on the e-commerce work programme as a whole

3. The Secretariat presented the 28 November 2000 letter from Gabs Makhlouf, Chair of the Committee on Fiscal Affairs (CFA), to the Working Party on the reporting to the January 2001 CFA and further process. It updated the Working Party on the arrangements for the discussion of e-commerce issues and related procedural points. The review of the CFA’s own work programme on e-commerce will be focused around two core documents. The first will be a summary progress report on all the tax policy and tax administration issues that the respective subsidiary bodies have addressed, summarising the principal conclusions and recommendations and setting out clearly the points for decision by the Committee. It will be supported by more detailed reports from Working Party No. 9 on consumption tax issues, and from the Forum on Strategic Management (FSM) on tax administration issues. The progress report will also, in part, draw on the reports of the Technical Advisory Groups (TAGs), which will also be available for the meeting. The second document will be a note on process. This will identify future work areas and priorities of the subsidiary bodies, which would form a revised and updated CFA work programme on e-commerce and proposals for taking forward the TAG process, with three TAGs: a Consumption Tax TAG, broadly based on the existing one; a TAG on Direct Taxation; and a TAG on Tax Administration. The Technology TAG would be removed and replaced by a panel of technical advisors.

4. The CFA would also give consideration to the publication of the various documents. The aim is to present to the a comprehensive and coherent picture of the OECD work on e-commerce. This would be in three parts: (1) the summary progress report, supported by the Reports of the subsidiary bodies (including the full Report from WP9 on Consumption Taxes and a summary version of the FSM Report on Tax Administration Issues); (2) the Reports from the Co-Chairs of the five TAGs (publication of which would be delayed until the full publication); and (3) a summary of how this work would be taken forward.
This package would be released early 2001 for a period of public comment. It will also be discussed at the Montreal Global Conference in June 2001. All of this material will be made available on the OECD website in February 2001.

5. The Working Party endorsed these arrangements and expressed its satisfaction on the importance given by the CFA on the WP9 Report, as a key part of the overall picture.

B. Update on developments in the European Union

6. The European Commission Delegate, Stephen Bill, gave an update of the status of the debate in the European Union on the Commission’s VAT Directive proposal on e-commerce. The European Parliament, expressed its agreement with this proposal, except on the single place of registration principle, stressing the need for a re-allocation mechanism of the tax yield among Member States. The French Presidency took the work forward, allowing for an agreement on a draft directive, except on the single place of registration for business-to-consumer (B2C) transactions. The aim for the next Swedish Presidency would be to come to an agreement in June 2001.

7. Turning to the administration issue, the European Commission Delegate spoke about the wider picture of reform of the VAT system, specifically mentioning the proposal to simplify, modernise and harmonise the rules for invoicing (including electronic invoicing). He pointed out that this proposal tied in well with the June 2001 Conference to be held in Montreal on “Tax Administrations in an Electronic World”.

C. Update on developments in the United States

8. The Delegate from the United States, Michael Mundaca, spoke about the Streamlined Sales Tax Project undertaken by a group of 27 states in the United States (with, in addition, 12 observer states). There is no federal sales tax system and hundreds of different local authorities (states, counties, cities) are managing local sales taxes, with various rates, exemptions and tax bases. This leads to high complexity. This is not a result of e-commerce although its growth has brought the question of taxing inter-state sales into higher perspective. This led to several US states developing the Streamlined Sales Tax System. The project includes common definitions of terms and items in the sales tax base, tax rate simplification and uniform sourcing rules. Moreover, technological solutions would make the management of interstate commerce taxation much easier by using automated tax collection systems. The larger vendors or trusted third parties would develop software able to manage such a system.

9. The Working Party considered the technology side of this work being of great interest for the OECD work on tax collection mechanisms. It agreed that a close relationship should be established with the Streamlined Sales Tax Project team, through, for example, a joint session with the Sub-group on e-commerce in 2001.

D. Forthcoming conferences: EMEF on Electronic Commerce (Dubai, January 2001); and 2001 Global Conference (Montreal, June 2001)

10. The Secretariat reported on preparation for the forthcoming EMEF (Emerging Market Economy Forum) on electronic commerce, to take place on 15–17 January 2001 in Dubai. This conference would be a good occasion to review the progress on the full span of e-commerce issues being explored across the OECD.
11. Turning to the June 2001 Global Conference to be held in Montreal “Tax Administrations in an Electronic World” [DAFFE/CFA/WP9(2000)9], the Secretariat stressed the importance of this event, with participation of heads of tax administrations and a very diverse range of partners from Member and non-member countries. In addition to the Draft Agenda, the Secretariat indicated that an additional theme dedicated to European Commission’s initiatives on tax administration could be added to the working session no. The Secretariat announced that the first meeting of the full Forum on Strategic Management (FSM) could follow the conference, if agreed by its Steering Group in December.

12. The Working Party endorsed the conclusion that the Montreal Conference merited an intensive effort to reinforce international consensus, especially in respect of its Report to the CFA.

IV. ELECTRONIC COMMERCE: SPECIFIC CONSUMPTION TAXES ISSUES

A. WP9 Report to the Committee on Fiscal Affairs on Consumption Tax Aspects of Electronic Commerce

13. Andrew Marsland (Canada), Chair of the Sub-group on Electronic Commerce, presented the Draft Report of Working Party 9 to the CFA, to which are annexed the Guidelines on the Definition of the Place of Consumption and Recommended Approaches to the Practical Application of the Guidelines on Place of Consumption [DAFFE/CFA/WP9(2000)8/REV4]. He stressed that, with this report, reflecting the Sub-group’s work and the Business members of the TAGs views, the Sub-group addressed a part of its mandate, but that some issues (i.e. technology-based tax collection mechanisms and simplification) needed some further work. He stressed that business input was critical, whatever the difficulties.

14. The Working Party approved the Draft Report, but discussed the issue of thresholds. Several Delegations argued that specific thresholds applicable to some local suppliers should not necessarily be seen as discriminatory at this stage as it appeared form the wording of the Report. After discussion, the Working Party endorsed the report, and its annexes, as adapted by the Secretariat. The final version would now be circulated among the Delegates before its submission to the CFA.


B. Taking forward the work on electronic commerce

16. Andrew Marsland, Chair of the Sub-group, stressed the necessity for prioritisation of the further work to be done in 2001 on a number of areas described in the Part IV of the Report.

17. The Delegate from the European Commission, Stephen Bill, pointed out that compliance/enforcement issues should not be examined as a separate issue, but should be incorporated in each discussion point. He added that registration techniques and sanctions in other domains than taxation (e.g. in the domain name system) should be taken into account and stressed the necessity for input to the standards-setting bodies as early as possible.
18. The Working Party agreed that input to standards-setting bodies should be brought to the attention of the CFA, which would act under a fast track procedure and use its weight to optimise this input.

19. After discussion, the Chair summarised the priorities for further work on e-commerce as follows:
   i) Indicia for verification of the status of the customer and, for B2C transactions, the jurisdiction of residence.
   ii) Technology-based and technology-facilitated tax collection mechanisms and compliance systems, with a link to the US Streamlined Sales Tax Project.
   iii) Simplification options and initiatives, including more specific work on the Simplified Interim Approach proposed by the business members of the Consumption Tax TAG. Simplification issues should cover trade in both goods and services.
   iv) International administrative co-operation, in the light of a broader CFA perspective, linked to the work on tax competition.

20. Turning to process, the Working Party agreed:
   i) To maintain the present size and composition of its Sub-group on Electronic Commerce.
   ii) To maintain a Consumption Tax TAG, with a revised membership with Member and non-member country representatives (including, if possible, Asian and South American ones), business representatives and academics.
   iii) To bring the administrative co-operation issue to the CFA, this work being managed by a specific project team.
   iv) To change the Technology TAG into an Advisory Panel, with the possible addition of an independent consultant.

The Working Party asked the Secretariat to confirm the detail of the work plan that will go to the CFA.

V. TAXATION AND THE ENVIRONMENT

21. The Secretariat reported on the work on Sustainable Development (with a report to the May 2001 Ministerial) and of the Joint Sessions on Taxation and Environment (WP 2 and WEEPI -Working Party on Economic and Environment Policy) on environmentally related taxes and tax reform. In May 2000 the CFA recognised that environmental issues are a central policy concern and that it should be actively involved through WEEPI/WP2 Joint Sessions, with participation of the WP 9 whenever appropriate.

22. The mandate of the Joint Sessions, included three areas of work: updating the *environmentally-related tax database* (available on the Internet at [www.oecd.org/env/policies/taxes/index.htm](http://www.oecd.org/env/policies/taxes/index.htm)); examining different options for the use of the revenue from environmentally related taxes (the “Double Dividend”) ; and the potential role of taxes in abating greenhouse gases. The Joint Sessions are now preparing a Report to feed into the 2001 Ministerial paper on Sustainable Development.

23. The Secretariat also reported on the discussions within the Joint Sessions, insisting on the agreement on the exchange of information using the OECD Database and on the usefulness of an
identification of green tax impact on competitiveness. He also pointed out the difficulty in reaching agreement on specific exemptions to green taxes.

24. The mandate of the Joint Sessions, which expires early 2001, could be extended by the January 2001 CFA, with an annual joint meeting and a biennial review.

25. The Delegates from Ireland, Gerry Kearnet, and Norway, Tor Lande, stressed the strong link between consumption taxes and the management of environmentally related taxes.

26. The Delegate from the European Commission, Steven Bill questioned the use of VAT as a tool for environmental policy.

27. The Chair concluded that the Working Party should be updated by the Secretariat on this work on a regular basis. In addition, the 2001 edition of the Consumption Tax Trends should include a chapter on environmentally related taxes highlighting their impact.

VI. EXCHANGE OF INFORMATION

28. The Secretariat updated the Working Party on the work of the Steering Group on International Co-operation and Information Exchange. It confirmed that the pilot study on exchange of information would be completed by the end of April 2001 and that the final Report would be provided to the Working Party at that time. It stressed that the work on international co-operation should be reorganised, recognising the wider activities, notably the FSMKE and WP8 TIES Sub-group. It recognised that the structure of the work should be streamlined, taking account of the creation of a specific Project Team at the CFA level.

29. For Category 1 information the migration to FSMKE has been agreed in principle, subject to compatibility of what can be placed on a public site. Migration to FSMKE of Category 2 information is still subject to security issues and costing, and is presently exchanged through OLISnet. The security problem will be discussed at the next meeting of the FSM Steering group in December 2000. On Category 3 information, it has been acknowledged that FSMKE is not a practical solution. The Netherlands is pulling together information to consider a short pilot for exchanging Category 3 data between those countries that have an appropriate legal gateway. The Secretariat concluded that it was necessary to look for solutions that are compatible with those being developed in the EU.

30. The Delegate from Belgium, Paul Neckebroeck stressed the importance of standard automated exchange of information as e-commerce develops.

VII. GAMBLING ON THE INTERNET

31. The UK Delegate, Frank Tucker, presented the work of the Informal Working Group, emphasising the growth of the global gambling market and the increasing use of the Internet by gamblers. The preliminary results of the survey showed a huge diversity both in national regulations and tax structures/rates. It also showed that gambling duties were not a significant source of revenue to Member countries. Finally, no country had been able to provide projections showing the impact of the Internet on gambling revenues.

32. The Working Party agreed to reconsider this issue at its next meeting in May 2001, when the survey would be completed. It also agreed to insert a chapter on gambling taxation in the 2003 edition of Consumption Tax Trends.
VIII. CROSS-BORDER FINANCIAL SERVICES

33. The Delegate from Canada, Andrew Marsland, commented on the combined impact of globalisation, deregulation and e-commerce on the international trade in financial services. The VAT/GST treatment of these transactions was leading to distortion of competition. He indicated that the first aim of the survey initiated by the Informal Working Group on Cross-border Financial Services was the measuring of the impact of these differences of treatment.

34. The UK Delegate, David Holmes, underlined that it would be useful to work with the private sector in order to identify accurately the relevant services and the distortion.

35. The Delegate from the European Commission, Steven Bill, stressed the importance of the development of cross-border financial services, which could have a greater fiscal impact than B2C transactions on the Internet.

36. The Chair concluded that the Informal Working Group should start its survey on the impact of the differences in the tax treatment of cross-border financial services, drawing on such OECD statistical information as may be available with a view to reporting back to the Working Party in May 2001.

IX. WP9 WORK PROGRAMME FOR 2001-2002

37. The Chair concluded from the discussions that took place during the meeting that the 2001-2002 work programme would be dominated again by e-commerce. He noted also that exchange of information and administrative co-operation had been identified as an important issue, which should be treated in a broader perspective, taking account of the creation of a specific Project Team at the CFA level.

38. The Chair also noted that cross-border financial services, environmentally related taxes and gambling over the Internet should be subject to reports at the next meeting to be held in May 2001. He emphasised that active participation of all Delegates would be necessary to manage this work programme.


40. The Working Party agreed that the Bureau should suggest such a conference to the CFA at its next meeting to be held in January 2001.

VII. OTHER BUSINESS

A. Update on Consumption Tax Trends

41. The Secretariat indicated that all Delegations had now provided the updated data for the next edition of the Consumption Tax Trends. Nevertheless, due to the delay in collecting this information, the timetable was amended so that the draft version would be circulated for review by Delegates in February 2001 with publication in March 2001.
B. Self-evaluation questionnaire

42. The Secretariat presented the self-evaluation questionnaire in relation to the meeting of the Working Party [DAFFE/CFA/WP9(2000)14], asking the Delegations to complete and pass it to the Secretariat at the end of the meeting or send it, by 8 December 2000 at the very latest.

C. Future meetings

− Committee on Fiscal Affairs: 30-31 January 2001
− Committee on Fiscal Affairs: 26-27 June 2001
− Working Party No. 9: 3-4 May 2001
− Working Party No. 9: 6-7 December 2001
− EMEF on Electronic Commerce (Dubai): 16-17 January 2001
− Tax Administrations in an Electronic World (Montreal): 4-6 June 2001
ANNEX I
FOURTH MEETING OF THE WORKING PARTY NO. 9 ON CONSUMPTION TAXES
30 November - 1 December 2000

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