

# COMMISSION OF THE EUROPEAN COMMUNITIES

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The general regime and structure of excises  
within the internal market

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COMMUNICATION FROM THE COMMISSION TO THE COUNCIL  
AND TO THE EUROPEAN PARLIAMENT

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1. These proposals for directives complete the package put forward by the Commission in 1989 on the approximation of excise duties<sup>(1)</sup>. They deal, not with the levels of rates but rather with the general regime and the structures of excise duties in the Internal Market.

Together with the corresponding 1989 proposals on the rates of taxation on tobacco, mineral oils and alcoholic beverages, which fix the fundamental principle according to which all Member States should place their rates above a minimum rate or within a narrow rate-band and which determine the principle of target rates by category of products, these proposals are compatible with the elimination of fiscal frontiers, whilst at the same time allowing Member States the maximum degree of flexibility.

They should therefore be seen as setting out the minimum level of harmonization required in the area of excises to provide for the abolition of existing fiscal barriers. The proposals represent the definitive regime for excises to operate from 1 January 1993.

They are perfectly compatible with the Commission's proposals for both the transitional and definitive VAT regimes.

#### The New Proposals

2. There are four proposals in all, dealing with the following areas:
  - the general regime for exciseable products,
  - the structure of excise duties on manufactured tobacco products,
  - the structure of excise duties on mineral oils,
  - the structure of excise duties on alcoholic beverages.

<sup>(1)</sup> COM(89)525 Approximation of the rates of taxes on Manufactured Tobacco.  
 COM(89)526 Approximation of the rates of taxes on Mineral Oils.  
 COM(89)527 Approximation of the rates of taxes on Alcoholic Beverages.

3. The Commission has limited the ambit of these proposals to the degree of harmonization needed for the elimination of fiscal frontiers. As a consequence, the coverage of the various structures proposals is more restricted than those which they replace: the latter will be withdrawn by the Commission. These proposals do not exclude the possibility of further harmonization of the structures of these excise duties on the basis of complementary proposals at a later date, and in the context of a deepening of the Internal Market after 1992.

#### The Community Excise Regime

4. The general regime proposal establishes the definitive excise duty regime for post-1992.

It defines the general rules for the movement of goods liable to excise duties. It also defines those aspects of the structure of excises which are common to all the major categories of exciseable products: territorial scope of the duties, chargeable event, conditions of payment and common exemptions.

Apart from excise duties and VAT, and on the basis of the current state of Community law, the products covered by the current proposals for directives should not be liable to any other tax.

For products liable to excise duties, other than alcoholic beverages, tobacco and mineral oils, the overriding aim is to ensure the free movement of goods between Member States. The Member States therefore, will retain the possibility of keeping or introducing excise duties on those products, notably for environmental reasons, strictly subject to the condition that they do not give rise to compensation or controls at intra-Community frontiers.

Accordingly, these excise duties should be abolished unless they do not give rise to compensations and border controls.

5. The basic principle, for sales and purchases by enterprises and individuals, is that of the abolition, in the context of the internal market, of all controls at intra-Community frontiers.

At the same time, the Commission and the Council have always recognized the necessity, notably for budgetary reasons, of ensuring that the payment of excise duties should be to the Member State of consumption.

For individuals, free circulation will be achieved by the ending of travellers allowances within the Community and also within the context of the mail order regime.

Commercial movements by traders will operate through a duty-suspension scheme by means of a procedure for interconnection of fiscal warehouses, as was anticipated in the Global Communication of the Commission in 1987, and in conformity with the ECOFIN Council conclusions of 13 November 1989. The excise duties will be paid in the Member State of final retail sale. Freedom of movement is further facilitated by providing for the re-introduction into suspension of duty-paid goods through a draw-back scheme.

6. The determination of the controls and monitoring arrangements needed to ensure compliance with these provisions in the Member States rests mainly on the principle of subsidiarity. These arrangements must not conflict with the working of the Community system for the movement of goods. The need to ensure that payment of the tax is made where the final retail sale takes place leaves to Member States the implementation of whatever measures are required for the identification and control of duty-paid goods within their territories.

The use of fiscal marking or similar controls is essentially left to the Member States. On the other hand such systems must be applied in a non-discriminatory fashion with equality of access for all traders and producers in the Community.

#### The structures of the different excise duties

7. The proposals on the structure of excise duties on mineral oils and alcoholic beverages are intended to replace those which have been before the Council for a long time and which can no longer be considered as meeting the requirements directly related to the establishment of the internal market, in their present form. Accordingly the Commission will be withdrawing these earlier proposals.
8. The subject of the proposed directive on the harmonization of the structure of excises on manufactured tobacco is the amendment of certain articles of Directives 72/464/EEC and 79/32/EEC. The most significant of these amendments relate to:
  - the curtailment of the programme of alignment, for cigarettes, of the relationship between the total tax charge and the specific element of the excise, as already foreseen in the 1987<sup>(2)</sup> and 1989 rates proposal.
  - updating of the particular concept of manufacturing and importation.

<sup>(2)</sup> COM(87) 325

- calculation of VAT based on the maximum retail selling price.
  - the laying down of tax-exempt uses for manufactured tobacco products.
9. For the structure of excises on mineral oils, the proposed directive replaces an earlier version<sup>(3)</sup> which has been before the Council since 1973. The principal features of the new proposal are:
- definition of the products covered by the excise duty.
  - those aspects of the production process, the chargeable event and payment of the duty which are particular to mineral oils.
  - end use exemptions or reductions in the rate of duty.
10. The proposal for a directive on the structures of excise duties on alcoholic beverages involves the replacement of certain earlier sectoral proposals<sup>(4)</sup>
- definition of the products covered by the excise duty.
  - the identification of exemptions from the duty.
  - special conditions for certain small scale producers.

### Conclusion

11. With these proposals on the regime for the movement and control of products liable to excise duties, as well as the structure of excise duties, the Commission has completed and amended the initial package of proposals of 1987 relating to the abolition of fiscal frontiers in the areas of VAT and excise duties.

The Council and the European Parliament are now therefore in possession of all the elements they need to take decisions in time to allow the strict respect of the deadline of the end of 1992.

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<sup>(3)</sup> COM(73)1234

<sup>(4)</sup> COM(72)225/02 Harmonization of excise duties on alcohol.  
 COM(72)225/03 Harmonization of excise duties on wine.  
 COM(72)225/04 Harmonization of excise duties on beer.  
 COM(85)151 Harmonization of excise duties on fortified wine and similar products.