

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(75) 527 final/2

Brussels, 6 November 1975

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Proposal for a

COUNCIL DIRECTIVE

on tax exemptions for certain means of transport
temporarily imported into one Member State from
another

(Revised text)

(submitted to the Council by the Commission)

Proposal for a
COUNCIL DIRECTIVE
on tax exemptions for certain means of transport
temporarily imported into one Member State from
another

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,
and in particular Article 99 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

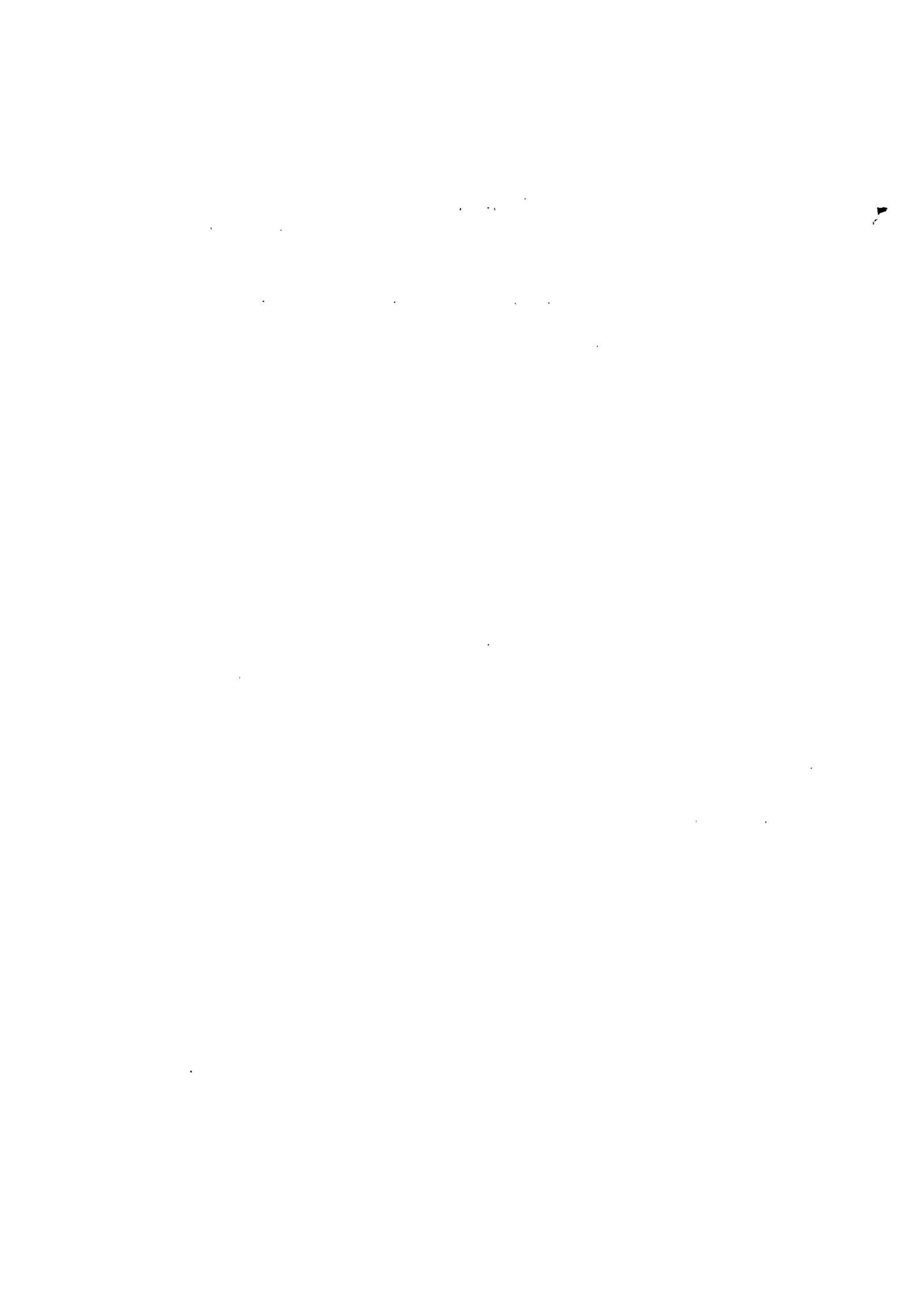
Having regard to the Opinion of the Economic and Social Committee;

Whereas the freedom of movement of Community residents within the Community
is hampered by the taxation arrangements applied to the temporary importation
of certain means of transport for private or business use,

Whereas the elimination of the obstacles resulting from these taxation
arrangements must be achieved if an economic market having features similar
to those of a domestic market is to be established,

Whereas it must be possible in certain cases, to establish definitely
whether or not a person is in fact resident in a given Member State,

HAS ADOPTED THIS DIRECTIVE:



Article 1

Field of application

Every Member State shall, in accordance with the provisions hereinafter set out, exempt certain means of transport temporarily imported from another Member State from turnover tax, excise duty, other consumption taxes, taxes on the use and/or for entry into use of vehicles and taxes levied on the possession or use of motor-driven road vehicles, including trailers but excluding commercial vehicles, of caravans, of pleasure boats, of private aircraft, of bicycles and of riding horses. The exemption shall not cover temporary residence taxes levied on tourists or charges made for services rendered.

Article 2

Definitions

In this Directive:

- (a) "private car" means any motor-driven vehicle used for the transport of persons which contains not more than eight seats in addition to the driver's seat;
- (b) "commercial vehicle" means any vehicle which, in design and equipment, is suitable for and intended for the transport of:
 - (aa) more than nine persons, including the driver;
 - (bb) goods;
- (c) "business use" of a means of transport means the use of that means of transport in the direct exercise of an activity carried on for consideration or with a view of profit;
- (d) "private use" means any use other than business use.

Article 3

Temporary importation of certain means of transport for private use

Where an individual imports temporarily a motor-driven road vehicle (including trailers but excluding commercial vehicles), caravan, pleasure boat, private aircraft or bicycle, the item imported shall be exempt, for a period of six months in any twelve months, from the taxes specified in Article 1, provided that:

- (a) the individual importing such goods
 - (aa) has his principal residence in a Member State of the Community other than that of temporary importation;
 - (bb) employs the means of transport in question for his private use;
- (b) the said means of transport is not disposed of or hired out in the Member State of temporary importation or lent to a resident of that State. However, private cars belonging to a car-hire firm having its head office in the Community may be re-hired to a non-resident of the State of temporary importation for the re-exportation of the vehicle, or returned by an employee of the car-hire firm to the Member State where it was originally hired, even if such employee is resident in the Member State of temporary importation.

Article 4

Temporary importation of private cars for business use

A private car imported temporarily for business use shall be exempt for six months in any twelve months from the taxes specified in Article 1, provided that:

- (a) the natural person importing the private car
 - (aa) has his principal residence in a Member State of the Community other than that of temporary importation;
 - (bb) does not use his car in the Member State of temporary importation in order to carry passengers for hire or material reward of any kind, or for the transport of goods, whether for reward or not;

- (b) the private car is not disposed of, hired out or lent in the Member State of temporary importation;
- (c) the private car has been acquired in accordance with the general conditions of taxation in force on the domestic market of the Member State of registration and has not been subject by reason of its exportation to any exemption or refund of turnover tax, excise duty or any other consumption tax.

This condition shall be presumed to be satisfied if the private car bears a registration plate from the normal series of the Member State of registration, all types of temporary plates being excluded.

However, in the case of private cars registered in a Member State where the issue of number plates from the normal series is not conditional upon compliance with the general conditions of taxation in force on the domestic market, users shall be required to prove, by the production of any appropriate evidence, payment of consumption taxes.

Article 5

Importation of tools, commercial literature and trade samples in vehicles imported duty-free

1. Portable tools temporarily imported in temporarily imported vehicles, and commercial literature and non-marketable samples imported in such vehicles, shall be exempt, without special authorization, from the taxes specified in Article 1.

2. The exemption referred to in paragraph 1 shall be subject to the condition that the overall value of the goods concerned does not exceed 125 units of account. However, those items subject to excise duty which are specified in Article 4 (1) of Council Directive 69/169/EEC of 28 May 1969, as amended by subsequent Directives, shall not qualify for this exemption.
3. If the values of the goods exceeds 125 units of account or if they are items subject to excise duty, their importation shall not affect the entitlement to tax exemption in respect of the vehicle concerned.

Article 6

Exemption for the temporary importation of horses on horse-riding excursions

Riding horses imported temporarily into a Member State shall be exempt for three months from the taxes specified in Article 1 provided that:

- (a) the said horses enter the territory of the Member State of temporary importation for the purpose of and/or in the course of horse-riding excursions by their riders;
- (b) exemption is requested at the time of entry into the territory of the Member State of temporary importation;
- (c) the said horses are neither hired out nor lent to any person other than the rider, nor disposed of to a third party residing in the Member State of temporary importation, nor used for purposes other than that of the excursion.

Article 7

General rules for proving residential status

For the purposes of this Directive, natural persons shall provide evidence of the place of their principal residence by producing their passport, their identity card, or, in the absence thereof, any other identity document recognized as valid by the Member State of importation.

Supplementary rules concerning proof of residence in the case of business use of a private car

1. Where the competent authorities of the Member State of temporary importation have serious doubts as to the correctness of a statement as to principal residence made on the basis of the documents referred to in Article 7, those authorities may request any appropriate additional information or evidence.
2. In exceptional cases, where, even after being provided with the additional information referred to in paragraph 1, the competent authorities of the Member State of importation still have doubts, those authorities shall authorize temporary importation on the condition that the importer provides, in respect of a period not exceeding six months, appropriate security.

However, where the user of the car produces a certificate that he is liable in respect of the totality of his earned income to the income tax of another Member State, the authorities of the Member State of temporary importation shall

- (a) not require the security if the certificate is produced at the time of importation;
 - (b) refund or release the security within two months from the date of subsequent production of the certificate.
3. The competent authorities of the State of temporary importation shall have powers to request additional information from the competent authorities of the Member State which has issued the certificate referred to in paragraph 2, particularly if there is reason to believe that the centre of commercial or professional activity of the importer is in respect of the current year no longer in that Member State.
 4. The competent authorities shall on request issue to any natural person a certificate as referred to in paragraph 2, for production by that person to the competent authorities of the Member State of temporary importation.

Article 9

Special arrangements

1. The Member States may introduce more liberal arrangements than those provided for in this Directive.
2. The Member States shall inform the Commission of these arrangements at the same time as they supply the information required under Article 10.

Article 10

Miscellaneous provisions

1. Member States shall bring into force the measures necessary to comply with this Directive within three months of its adoption and shall forthwith inform the Commission thereof.
2. Member States shall communicate to the Commission the text of the main provisions of internal law which they subsequently adopt in the field covered by this Directive.
3. Every two years, the Commission shall, after consulting the Member States, send the Council a report on the operation of the provisions of this Directive in the Member States.

Article 11

This Directive is addressed to the Member States.

Done at Brussels,