



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 17.12.1999
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Proposal for a

COUNCIL DECISION

authorising Member States to apply a reduced rate of VAT to certain labour-intensive services in accordance with the procedure provided for in Article 28(6) of Directive 77/388/EEC

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. Following up on the conclusions of the Vienna European Council of 11 and 12 December 1998 responding to the seriousness of the unemployment problem, the Council adopted Directive 1999/85/EC¹ of 22 October 1999, which allows Member States that so wish to test the operation and impact, in terms of job creation, of a reduction in the VAT rate on labour-intensive services not listed in Annex H to Directive 77/388/EEC². Directive 1999/85/EC amends Directive 77/388/EEC by adding a new paragraph 6 to Article 28 to provide for temporary derogations.
2. The new paragraph establishes a procedure allowing Member States to see what impact a reduction in the VAT rate has on labour-intensive services. It is entirely up to each Member State to decide whether to do so since it is best placed to judge whether such a measure is appropriate in the sector(s) which it selects.
3. The Commission is to evaluate the experiment, to be conducted over three years, in terms of job creation and efficiency as regards the VAT arrangements themselves, basing its evaluation on the reports to be drawn up by each Member State that applies the measure.

To benefit from this measure, a service must meet the conditions set by the Directive and Member States participating in the experiment must choose from the list of services eligible for the reduced rate set out in Annex K to Directive 77/388/EEC.

4. Any Member State wishing to introduce such a measure had to inform the Commission before 1 November 1999, complying with the procedure and conditions set out in Article 1 of Directive 1999/85/EC.
5. The Member States that submitted an application in accordance with the procedure and conditions, including all the relevant particulars, are:
 - 1) Belgium for two sectors, listed at points 1 and 2 of Annex K to Directive 77/388/EEC:
 - Small services of repairing:
 - a) bicycles,
 - b) shoes and leather goods,
 - c) clothing and household linen (including mending and alteration);
 - Renovation and repairing of private dwellings over five years old, excluding materials which form a significant part of the value of the supply.
 - 2) Greece for two sectors, listed at point 1, last indent, and point 4 of Annex K to Directive 77/388/EEC:
 - Repair and alteration of clothing and household linen;

¹ OJ L 277, 28.10.1999, p.34.

² OJ L 145, 13.06.1977, p. 1. Directive last amended by Directive 99/85/EC (OJ L 277, 28.10.1999, p. 34).

- Domestic care services.
- 3) Spain for two sectors, listed at points 2 and 5 of Annex K to Directive 77/388/EEC:
- Repairing of private dwellings, excluding materials which form a significant part of the value of the supply;
 - Hairdressing.
- 4) France for three sectors, listed at points 2, 3 and 4 of Annex K to Directive 77/388/EEC:
- Work other than construction on residential buildings completed more than two years ago;
- Local services to persons:
- Window cleaning and cleaning in private households,
 - Domestic care services (e.g. home help and care of the young, elderly, sick or disabled).
- 5) Italy for two sectors, listed at points 2 and 4 of Annex K to Directive 77/388/EEC:
- Renovation and repairing of private dwellings, excluding materials which form a significant part of the value of the supply;
 - Domestic care services (e.g. home help and care of the young, elderly, sick or disabled, as well as drug addicts, AIDS patients, maladjusted adolescents, etc.).
- 6) Luxembourg for three sectors, listed at points 1, 3 and 5 of Annex K to Directive 77/388/EEC:
- Small services of repairing:
 - a) bicycles,
 - b) shoes and leather goods,
 - c) clothing and household linen (including mending and alteration);
 - Window cleaning and cleaning in private households;
 - Hairdressing.
- 7) The Netherlands for three sectors, listed at points 1, 2 and 5 of Annex K to Directive 77/388/EEC:
- Small services of repairing:
 - a) bicycles,
 - b) shoes and leather goods,

- c) clothing and household linen (including mending and alteration);
 - Renovation and repairing, exclusively by painters and plasterers, of private dwellings more than fifteen years old, excluding materials which form a significant part of the value of the supply;
 - Hairdressing.
- 8) Portugal for two sectors, listed at points 2 and 4 of Annex K to Directive 77/388/EEC:
- Renovation and repairing of private dwellings, excluding materials which form a significant part of the value of the supply;
 - Domestic care services.
- 9) The United Kingdom for one sector, referred to in point 2 of Annex K to Directive 77/388/EEC, but for the Isle of Man only:
- Renovation and repairing of private dwellings, excluding materials which form a significant part of the value of the supply.

EVALUATION BY THE COMMISSION

In the Commission's view all the applications submitted follow the procedure and meet the conditions set out in Article 1 Directive 1999/85/EC.

Three of the applications submitted were for authorisation to apply, as exceptional cases, a reduced rate to services belonging to three of the categories in Annex K. In each case the Commission considers that the reduction in the rate for the third of the sectors selected can have only an insignificant economic impact. It therefore proposes that the three Member States that submitted these applications should be authorised to apply the reduced rate of VAT to the sectors they have specified.

The United Kingdom has asked to be able to apply a reduced rate to dwelling-related services in the Isle of Man only. Pursuant to Article 299(6)(c) (ex 227) of the Treaty, the latter covers the Isle of Man only to the extent necessary to ensure the implementation of the arrangements set out in the Treaty on the accession of the United Kingdom.

Where VAT is concerned, Article 3(4) of Directive 77/388/EEC accordingly does not consider the Isle of Man, in the light of the conventions and treaties that it has concluded with the United Kingdom, to be a third territory for the purposes of the application of that Directive.

The request relates to services connected with a building, to be provided on the site of that building. In this case, applying a reduced VAT rate to these services therefore carries no risk of distortion of competition. Considering the specific territorial rules governing the status of the Isle of Man, the Commission thus proposes to allow a reduced rate to be applied only in the Isle of Man, as an exceptional measure. In relation to other territories of Member States where the Treaty and Directive 77/388/EEC are fully applicable, such a step could not be taken without jeopardising the principle of applying uniform rates in a single Member State. This principle can be deduced from the Council Decision 81/890/EEC of 3 November 1981 (OJ. L 322 of 11.11.81, page 40: derogation based directly on the old article 99 of the Treaty authorising Italy to apply a zero-rate in the field of VAT for operations in favour of the earthquake victims in the Italian regions Campania and Basilicata) and confirmed by the Court in its judgement of 21 February 1989, case 203/87, Commission v Italy (ECR, page 371) in relation to the illegal prolongation of the derogation authorised by the above mentioned Decision of the Council.

COMMENTS ON THE ARTICLES

Article 1

In accordance with Article 28(6) of Directive 77/388/EEC, Article 1 authorises the Member States it lists to apply the reduced rates provided for in the third subparagraph of Article 12(3)(a) for a maximum of three years, from 1 January 2000 to 31 December 2002, to the services for which they have submitted an application in accordance with the required procedure, which are listed under their names.

Given the experimental nature of the measure, it should be limited for the Member States to a fixed period of three years from 1 January 2000 to 31 December 2002 so that it can be evaluated and the necessary measures can be taken.

Article 2

This Article requires Member States that implement such a measure to draw up a detailed report on its operation and its impact on employment. This will allow the experiment to be evaluated and conclusions drawn for future practice.

Articles 3 to 4

These Articles contain provisions on the entry into force of the Directive.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 77/388/EEC³, as last amended by Directive 1999/85/EC⁴, and in particular Article 28(6) thereof,

Having regard to the proposal from the Commission⁵,

Whereas:

- (1) Under Article 28(6) of Directive 77/388/EEC, the Council, acting unanimously on a proposal from the Commission, may authorise any Member State that has submitted an application in accordance with the procedure and conditions provided for in that Article, to apply a reduced rate of VAT to certain labour-intensive services.
- (2) The services concerned must meet the conditions provided for in the Directive and be included in the list in Annex K to the Directive.
- (3) This is an experiment limited to a maximum period of three years running from 1 January 2000 to 31 December 2002.
- (4) However, the introduction of such a targeted reduction in the VAT rate entails some risk to the proper operation of the single market and tax neutrality. Provision should therefore be made for an authorisation period for a full and clearly defined three-year period, for the measure to be on an optional basis for Member States, and for its scope to be made subject to strict conditions so that it remains verifiable and limited.
- (5) In view of the experimental nature of the measure, a detailed assessment of its impact in terms of job creation and efficiency should be carried out by the Member States which implement it and by the Commission.
- (6) The Member States that have submitted an application have complied with the procedure and conditions set out in the Directive.

³ OJ L 145, 13.06.1977, p. 1.

⁴ OJ L 277, 28.10.1999, p.34

⁵ OJ C , , p. .

- (7) Three Member States, France, Luxembourg and the Netherlands have applied for authorisation to apply a reduced rate of VAT exceptionally to a third category of the services listed in Annex K; in each case the reduction in rate in the third of the sectors selected can have only an insignificant economic impact.
- (8) The United Kingdom has applied for authorisation to apply a reduced rate of VAT to dwelling-related services only in the Isle of Man. In the light of the specific territorial rules governing the status of the Isle of Man, including Article 299(6)(c) (ex 227) of the Treaty, the Treaty on the accession of the United Kingdom and Article 3(4) of Directive 77/388/EEC, and in the light of the fact that the rules on the location of such services will ensure that they are taxed where the dwelling is located, applying a reduced rate of VAT carries no risk of distortion of competition. However, restricting the reduced rate to the Isle of Man is something which can be authorised only as an exceptional measure. In relation to other territories of Member States where the Treaty and Directive 77/388/EEC are fully applicable, such a step could not be taken without jeopardising the principle of applying uniform rates in a single Member State.
- (9) The other Member States have been informed about the applications for authorisation.
- (10) This Decision will have no impact on the Communities' own resources derived from VAT,

HAS ADOPTED THIS DECISION:

Article 1

In accordance with Article 28(6) of Directive 77/388/EEC, the following Member States are hereby authorised to apply the reduced rates provided for in the third subparagraph of Article 12(3)(a) for a maximum of three years running from 1 January 2000 to 31 December 2002 to the services for which they have submitted applications in accordance with the required procedure, and which are listed under their names below:

1. The Kingdom of Belgium for the sectors listed at points 1 and 2 of Annex K to Directive 77/388/EEC:
 - Small services of repairing:
 - a) bicycles,
 - b) shoes and leather goods,
 - c) clothing and household linen (including mending and alteration);
 - Renovation and repairing of private dwellings more than five years old, excluding materials which form a significant part of the value of the supply.
2. The Hellenic Republic for the sectors listed at point 1, last indent, and point 4 of Annex K to Directive 77/388/EEC:
 - Repairing of clothing and household linen (including mending and alteration);
 - Domestic care services.

3. The Kingdom of Spain for the sectors listed at points 2 and 5 of Annex K to Directive 77/388/EEC:
 - Repairing of private dwellings excluding materials which form a significant part of the value of the supply;
 - Hairdressing.
4. The French Republic for the sectors listed at points 2, 3 and 4 of Annex K to Directive 77/388/EEC:
 - Renovation and repairing of private dwellings completed more than two years ago, excluding materials which form a significant part of the value of the supply;
 - Domestic care services;
 - Window cleaning and cleaning in private households.
5. The Italian Republic for the sectors listed at points 2 and 4 of Annex K to Directive 77/388/EEC:
 - Renovation and repairing of private dwellings excluding materials which form a significant part of the value of the supply;
 - Domestic care services.
6. The Grand Duchy of Luxembourg for the sectors listed at points 1, 3 and 5 of Annex K to Directive 77/388/EEC:
 - Small services of repairing:
 - a) Bicycles,
 - b) Shoes and leather goods,
 - c) Clothing and household linen (including mending and alteration);
 - Hairdressing;
 - Window cleaning and cleaning in private households.
7. The Kingdom of the Netherlands for the sectors listed at points 1, 2 and 5 of Annex K to Directive 77/388/EEC:
 - Small services of repairing:
 - a) Bicycles,
 - b) Shoes and leather goods,
 - c) Clothing and household linen (including mending and alteration);
 - Hairdressing;

- Renovation and repairing of private dwellings more than fifteen years old, excluding materials which form a significant part of the value of the supply, but only where these services are supplied by painters or plasterers.
8. The Portuguese Republic for the sectors listed at points 2 and 4 of Annex K to Directive 77/388/EEC :
- Renovation and repairing of private dwellings, excluding materials which form a significant part of the value of the supply;
 - Domestic care services.
9. The United Kingdom for one sector, referred to in point 2 of Annex K to Directive 77/388/EEC, but for the Isle of Man only:
- Renovation and repairing of private dwellings, excluding materials which form a significant part of the value of the supply.

Article 2

Before 1 October 2002 each of the Member States listed in Article 1 shall draw up a detailed report containing an overall assessment of the measure's effectiveness in terms of job creation and efficiency and forward it to the Commission.

Article 3

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

It shall apply from 1 January 2000 to 31 December 2002.

Article 4

This Decision is addressed to the Member States listed in Article 1.

Done at Brussels, [...]

For the Council
The President