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DOCUMENT 159/77

REPORT

drawn up on behalf of the Committee on Budgets

on the proposal from the Commission of the European Communities to the Council (Doc 100/77) for a regulation/implementing, in respect of the own resources from VAT, the decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources

Rapporteur: Mr H. NOTENBOOM

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By letter of 3 May 1977 the President of the Council of the European Communities requested the European Parliament to deliver an opinion on the proposal from the Commission of the European Communities to the Council for a regulation implementing, in respect of the own resources from VAT, the decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources.

On 11 May 1977 the President of the European Parliament referred this proposal to the Committee on Budgets as the committee responsible.

On 16 May 1977 the Committee on Budgets appointed Mr NOTENBOOM rapporteur.

It considered this proposal at its meeting of 7 June 1977.

At the same meeting the committee unanimously adopted the motion for a resolution.

Present: Mr LANGE, chairman; Mr AIGNER, vice-chairman;
Mr NOTENBOOM, rapporteur; Mr VAN AERSSEN, Mr ALBER,
LORD BRUCE OF DONINGTON, Mr CARO, Mr HAMILTON, Mr MEINTZ,
Mr E. MÜLLER (deputizing for Mr KOFOED), Mr SCHREIBER,
Mr SPINELLI and Mr WÜRTZ.

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The Committee on Budgets hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the proposal from the Commission of the European Communities to the Council for a regulation implementing, in respect of the own resources from VAT, the decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources

The European Parliament,

- having regard to the proposal from the Commission of the European Communities¹,
 - having been consulted by the Council (Doc. 100/77),
 - having regard to the decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources,
 - having regard to the sixth directive on the harmonization of the laws of the Member States relating to turnover taxes (VAT),
 - having regard to the report of the Committee on Budgets (Doc. 159/77),
1. Welcomes the Commission's proposal for a regulation;
 2. Reminds the Council of the need for early adoption of this regulation which is a precondition for the introduction of Community VAT on 1 January 1978;
 3. Reminds the Commission of the problems of the availability of funds which will arise as a result of the application of the 'financial year rule' and hopes that these problems will be discussed openly and settled rapidly;
 4. Requests the Commission to incorporate the following amendments pursuant to Article 149, second paragraph of the Treaty establishing the EEC;
 5. Calls on the Council to initiate the conciliation procedure should it intend to depart from this opinion.

¹ OJ No C110 of 6.5.1977, p. 2.

Proposal for a Council Regulation implementing, in respect of the own resources from VAT, the decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources

Introduction, recitals and Articles 1 to 3 unchanged

Article 4

1. With regard to taxable transactions effected by farmers taking advantage of the common flat-rate scheme provided for in Article 25 of the Sixth VAT Directive, the assessment base shall be the added value calculated by the Member States in accordance with the common method of calculation provided for in Annex C to that Directive.

2. The assessment base for:

(a) operations effected by taxable persons with an annual turnover, calculated in accordance with the provisions of Article 24(4) of the Sixth VAT Directive, of more than 10 000 EUA and with an exemption under Article 24(2);

(b) transactions as set out in Annex F to the Sixth VAT Directive which the Member States exempt in accordance with the option provided for in Article 28(3)(b) of that Directive;

shall be the added value as established from declarations to be made by the taxable persons or, failing these, from appropriate data.

Article 4

1. unchanged

(a) unchanged

(b) transactions as set out in Annex F to the Sixth VAT Directive which the Member States exempt in accordance with the option provided for in Article 28(3) of that Directive;

shall be the added value as established from declarations to be made by taxable persons or, failing these, from appropriate data, such as other tax declarations, professional accounts and complete statistical series.

The resources thus established shall be increased by 10%.

¹For complete text see OJ No C 110 of 6.5.1977, p. 2

3. The Member States shall inform the Commission, before the beginning of each financial year and prior to its presenting the preliminary draft budget, of the solutions they propose to adopt to determine the assessment base for each of the categories of transaction referred to in paragraph 2, indicating where applicable the nature of the data which they consider appropriate.

This information for the financial year 1978 shall be sent as soon as possible and not later than 1 October 1977.

4. Either on its own initiative or at the request of a Member State the Commission shall examine, on the spot if need be, problems arising from implementation of the provisions of paragraph 2.

3. unchanged

4. Either on its own initiative or at the request of a Member State the Commission shall examine, on the spot if need be, problems arising from implementation of the provisions of paragraph 2 and shall decide on the data to be used in the manner provided for in Article 12 of this Regulation.

Articles 5 to 9 unchanged

Article 10

1. The Member States shall conduct the verifications and inquiries concerning the determination and making available of VAT resources. They shall associate the Commission with these checks at its request. During these checks the Commission shall also ascertain that the appropriate data have been used and that the calculations made to determine the amount of own resources in the cases provided for in Article 4(1) and (2) comply with the provisions of this Regulation.

2. The Commission may request the Member States to conduct additional checks. It may be associated in them on request.

3. The provisions of Council Regulation (EEC, Euratom, ECSC) No 165/74 of 21 January 1974 shall apply to checks relating to VAT resources.

Article 11

1. A Committee on VAT own resources (hereinafter called the 'Committee') is hereby set up.

2. The Committee shall consist of representatives of the Member States and of the Commission. Each Member State shall be represented on the Committee by not more than five officials. The chairman of the Committee shall be a representative of the Commission. Secretariat services for the Committee shall be provided by the Commission.

3. The Committee shall adopt its own rules of procedure.

Article 10

1. The Member States shall conduct the verifications and inquiries concerning the determination and making available of VAT resources. The Commission may take part in them on request. During these checks the Commission shall ascertain in particular that the operations involved in the centralization of the assessment basis have been conducted in a proper manner, that the appropriate data have been used and that the calculations made to determine the amount of own resources in the cases provided for in Article 4(1) and (2) comply with the provisions of this Regulation.

The Commission may request the Member States to conduct additional checks. It may take part in them on request.

3. unchanged

Article 11

1. A Committee on VAT own resources (hereinafter called the 'Committee'), having advisory capacity, is hereby set up.

2. unchanged

3. unchanged

Articles 12 to 13 unchanged

EXPLANATORY STATEMENT

1. Pursuant to Article 4 (1) of the decision of 21 April 1970¹ on the replacement of financial contributions from Member States by the Communities' own resources, the Council adopted on _____ the sixth directive establishing a uniform basis of assessment for Community VAT.

2. That directive simply lays the foundations for a common basis of assessment for the application of VAT but does not specify the arrangements for its collection.

3. The present regulation, which implements Article 6 (2) of the decision of 21 April 1970², lays down the rules for collection of this tax: establishment, the entry in accounts, the making available and the inspection of own resources accruing from VAT.

ESTABLISHMENT OF VAT (Articles 1 to 6)

a) on the basis of declarations by taxable persons (Arts 2 and 3)

4. The first phase of the collection of a tax is its calculation or establishment. This is normally carried out on the basis of declarations by taxable persons:

- taxable persons declare to the appropriate administration the total amount of deductible purchases and sales of taxed goods and services which they have made,

¹ 'From 1 January 1975 the budget of the Communities shall, irrespective of other revenue, be financed entirely from the Communities' own resources. Such resources shall include those referred to in Article 2 and also those accruing from the value added tax and obtained by applying a rate not exceeding 1% to an assessment base which is determined in a uniform manner for Member States according to Community rules. The rate shall be fixed within the framework of the budgetary procedure. If at the beginning of a financial year the budget has not yet been adopted, the rate previously fixed shall be applicable until the entry into force of a new rate.'

² '.....the Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament, adopt provisions relating to the supervision of collection, the making available to the Commission and the payment of the revenue

- The national administration calculates the difference, which constitutes the value added on which the tax is charged¹
- VAT is considered established as soon as the taxable persons have declared the total amount of purchases and sales made by them.

5. The advantage of this system is that it bases Community VAT on declarations made by taxable persons themselves and not on estimates made by national administrations (without the part of the yield from VAT intended for the Community being specified as such in the declarations). It is indeed essential to maintain, as far as possible, a direct link between the taxable persons and the Community without thereby placing additional obligations on the taxable persons.

b) on bases other than declarations by taxable persons (Art.4)

6. Where transactions are involved for which the sixth directive provides for provisional, optional exemption, it is more difficult to base the assessment on the declarations made by taxable persons as the latter are in the majority of cases exempted from them by national laws. In such cases it is necessary to use other data, such as other tax declarations, accounts etc.

7. The regulation stipulates that Member States should establish these data with the assistance of the Commission and a Committee on VAT Own Resources; the Commission reserves for itself the final say on the validity and suitability of these data.

c) financial year rule (Art. 5 (3))

8. Finally, it is stipulated that resources should be determined in respect of the financial year in which they were established. This 'financial year' principle ensures the budgetary clarity of transactions even though it may give rise to certain difficulties (in particular, lack of resources at the beginning of a financial year²).

¹Owing to the multiplicity of national rates of VAT the yield from Community VAT has to be calculated from the basis, i.e. declarations by taxable persons. Where a single national rate exists, the yield from Community VAT can of course be directly calculated from the yield of national VAT (except in respect of the exemptions referred to below.)

²In its proposed amendment of the Financial Regulation, the Commission recommended the adoption of the 'management' rule, according to which revenue would not be earmarked for a specific financial year but would be used as and when collected. This amendment having been rejected by Parliament (Shaw Report OJ C6 of 10.1.77) the Commission has withdrawn it in its new proposal (see Article 5(2) and Article 27).

ENTRY INTO ACCOUNTS AND MAKING AVAILABLE

9. When the data on taxable persons have been collected and VAT resources established, the Member States centralize this information and calculate each month the yield from the tax by applying to the value added established the rate of Community VAT (less than 1%) adopted by the budgetary authority for the corresponding financial year.

10. After being thus calculated, VAT resources are entered in the Community's account with the national Treasuries where they can be made available to the Community: this 'making available' must take place at the latest two and a half months after the establishment of resources (this time-limit may be extended where the assessment basis is not determined by declarations by taxable persons but by other data).

11. When this period of two and a half months is added to the time needed to establish VAT resources, it is evident that the Commission will not actually start collecting these resources until the beginning of the second quarter of the financial year (mid-April). During the first three months therefore, it will be faced with problems of availability of funds which will probably oblige it to submit new proposals (see paragraph 8 above).

INSPECTION

12. Principal responsibility for monitoring the establishment and making available of VAT resources devolves upon the Member States which must, however, invite the Commission to take part in the procedure, where it so requests.

13. These inspections should not give rise to any major problems since Community VAT is, generally speaking, only a percentage of the national VAT paid into the coffers of the Member States and over which the latter therefore exercise tight control.

14. The only form of inspection which should concern the Commission is inspection in respect of the calculation of the Community rate, after the assessment basis has been centralized. However, Community inspection of establishment, at the level of taxable persons, is also necessary in respect of transactions which involve national exemptions, i.e. on which Community VAT is charged but not national VAT.

VAT OWN RESOURCES COMMITTEE

15. In the exercise of its management responsibilities - and in consequence of the complications arising from the system of exemptions - the Commission considers it essential that an advisory committee, composed of representatives of the Member States, should be set up to assist it.

16. In practice this committee will mainly be responsible for dealing with the problem of 'appropriate data' needed to replace the declarations by taxable persons in the event of exemptions.

17. It is interesting to note that by way of exception, the Commission does not propose to endow this committee with a suspensory right of veto which might lead to the Council intervening and having the final say. In this connection, attention should be drawn to the following passage from the Commission's explanatory memorandum:

'(17 a) It is essential to maintain the balance between the two institutions constituting the budgetary authority, namely the European Parliament and the Council, and to avoid introducing a formula which would put the latter in a privileged position.'

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CONCLUSIONS

18. On the whole the Committee on Budgets welcomes this proposal for a regulation, which the Commission has clearly prepared with the utmost care.

19. It points out that the adoption of the regulation is a precondition for the application of the sixth directive and consequently the introduction of the system of own resources on 1 January 1978. It hopes therefore that the Council will be able to take a decision rapidly, preferably before the summer¹.

¹As already requested by Parliament in point 1(iii) of its resolution of 10 May 1977 on 'the guidelines of the EP on the budgetary policy for 1978' (Doc. 83/77)

20. However, the Committee on Budgets draws attention to the fact that the lack of available resources at the beginning of financial years, which will result from the application of the financial year rule, raises problems which the Commission does not yet seem to have solved. It is urgent that a full debate be held on this matter between the Commission and the budgetary authority and that a suitable solution be found and adopted at long last.

21. On several minor points the Committee on Budgets proposes certain changes to the wording of the Commission's text; these changes and the reasons for them will be found in the Annex.

22. Since this is an extremely important regulation from the budgetary point of view - and might in fact be treated as a financial regulation - the Committee on Budgets feels that the European Parliament should reserve the right to have recourse to the conciliation procedure should the Council intend to depart markedly from its opinion.

