

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(87) 321 final/2

REVISED VERSION

Brussels, 21 August 1987

· PROPOSAL FOR A COUNCIL DIRECTIVE
SUPPLEMENTING THE COMMON SYSTEM OF VALUE ADDED TAX
AND AMENDING DIRECTIVE 77/388/EEC
- APPROXIMATION OF VAT RATES -

(presented by the Commission)

COM(87) 321 final/2

Com 327/82

EXPLANATORY MEMORANDUM

The Commission's White Paper provides that, if frontiers and the controls associated with them are to be removed and the internal market integrated there will have to be a considerable measure of approximation of indirect taxes (1).

The overall approach towards completing the internal market as far as indirect taxation is concerned is described in the general communication to the Council (2). That Communication sets out the reasons underlying the proposals which we are making and deploys the arguments in their support. It is particularly important therefore that the present document should be read in conjunction with that global Communication.

Since value added tax and excise duties have different characteristics, they are the subject of separate proposals for Directives.

Approximation of VAT rates - a key stage in the tax harmonization necessary for achieving the internal market - poses three technical problems, that is, the number of rates to be applied, their level and allocation of products to the rates.

A dual rate VAT system has been chosen. This has the advantage of flexibility and ease of administration and limits difficulties of interpretation arising from the criteria for classifying products. It is true that, in theory, a single VAT rate system is the most simple. However, since all the Member States (with the exception of Denmark and the United Kingdom) apply at least two VAT rates, a reduced rate and a standard rate, it would seem desirable not to upset the tax structures of the majority of Member States.

In an attempt on the one hand to allow a margin for optimum fiscal manoeuvrability and on the other hand to minimize budgetary repercussions for the greatest number of Member States, two rate bands have been fixed, one for the standard rate and the other for the reduced rate, allowing some degree of flexibility in the choice of actual rates.

The standard rate in each Member State can thus vary between 14% and 20% and the reduced rate between 4% and 9%.

The reduced rate, in conformity with the principles of the 6th Council Directive on the harmonization of the laws of the

(1) Document COM(85)310 final, paragraph 184
(2) Document COM(87)320 final

Member States relating to turnover taxes, must be so fixed that the amount of value added tax resulting from the application of this rate shall be such as to permit in normal circumstances the deduction of the whole of the value added tax whose deduction has been authorized.

The list allocating goods and services to the rates has been drawn up in order to ensure that the same type of product or service is placed under the same category of rate in the various Member States, thus avoiding systematic deflections of trade, taking account as much as is possible of the division by products and services existing at the present time in the majority of Member States. The question of zero-rating is dealt with in detail in the global Communication.

Commentary on the Articles

Article 1

Paragraph 1

At the present time, the fixing of VAT rates and their number is determined by the Member States. The new provisions provide, in this regard, that all the Member States must henceforth apply two rates of VAT, to be known as a normal rate and a reduced rate.

In order to allow the greatest freedom possible for the Member States, two bands of tax rates have been proposed rather than two fixed rates. The rate bands have been determined so that the maximum number of Member States should suffer the minimum of budgetary repercussions.

Analysis of the current distribution of products by tax rate shows that most Member States which use a system of multiple rates tax similar categories of products at reduced rates. These categories have been reproduced at Community level so that each product or service can be taxed in the same tax category in each of the Member States.

Paragraph 2

The provisions of Article 28(2) of the Sixth Directive have been deleted.

PROPOSAL FOR A
COUNCIL DIRECTIVE SUPPLEMENTING
THE COMMON SYSTEM OF VALUE ADDED TAX AND
AMENDING DIRECTIVE 77/388/EEC

- APPROXIMATION OF VAT RATES -

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(1),

Having regard to the opinion of the Economic Social Committee (2),

Whereas completing the internal market, which is one of the fundamental objectives of the Community, requires that fiscal frontiers be abolished, that is to say that the system of remission of tax on exportation and the imposition of tax on importation and of frontier controls on taxable persons as well as on private persons be discontinued;

Whereas, if distortions are to be avoided, such abolition implies in the case of value added tax, not only a uniform tax base but also the same number of rates and rate levels which are sufficiently close as between Member States; whereas it is therefore necessary to amend Council Directive 77/388/EEC(3), as last amended by the Act of Accession of Spain and Portugal,

HAS ADOPTED THIS DIRECTIVE :

(1)

(2)

(3) OJ No L 145, 13.6.1977, p.1

Article 1

Directive 77/388/EEC is hereby amended as follows:

1. Article 12 (3) and (4) are replaced by the following:

"3. Member States shall apply two rates of value added tax, namely a standard rate and a reduced rate.

The reduced rate may not be less than 4% or more than 9 %.

The standard rate may not be less than 14% or more than 20 %.

4. (a) The reduced rate shall be applied to transactions relating to the following goods and services :

- foodstuffs, excluding alcoholic beverages,
- energy products for heating and lighting,
- water supplies,
- pharmaceutical products,
- books, newspapers and periodicals,
- passenger transport.

(b) The normal rate shall be applied to transactions relating to goods and services other than those set out in (a)."

2. Paragraph 2 of Article 28 is hereby deleted.

Article 2

1. Member States shall take the necessary measures to comply with this Directive not later than 31 December 1992. They shall forthwith inform the Commission thereof.

2. Member States shall communicate to the Commission the texts of all the provisions of national law which they adopt in the field governed by this Directive.

5

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 1960

For the Commission
The President

FICHE D'IMPACT

Propositions de directives concernant la suppression
des frontières fiscales en matière de TVA

- Proposition de directive du Conseil instituant un processus de convergence des taux de la taxe sur la valeur ajoutée et les accises
- Proposition de directive du Conseil complétant le système commun de la taxe sur la valeur ajoutée et modifiant la directive 77/388/CEE.
 - Rapprochement des taux de TVA
- Proposition de directive du Conseil complétant et modifiant la directive 77/388/CEE
 - Suppression des frontières fiscales
- Communication de la Commission :
 Achèvement du marché intérieur - Mise en place d'un mécanisme de compensation de la TVA pour les ventes intracommunautaires

1. CONTRAINTES ADMINISTRATIVES DECOULANT DE L'APPLICATION DE LA LEGISLATION POUR LES ENTREPRISES :

Directives : Néant

Clearing : Fournir quelques éléments supplémentaires sur la déclaration TVA périodique

2. ALLEGEMENTS POUR LES ENTREPRISES :

- La plupart des Etats membres, à l'exception du Danemark, utilisant un système de TVA à deux ou plusieurs taux, la proposition entraînera une simplification de la gestion administrative de la TVA. Tous les Etats membres utiliseront en effet un système de TVA à deux taux, ce qui simplifiera la ventilation entre les taux, la structure des taux sera donc identique.
- De plus, un même produit sera taxé au même type de taux dans tous les Etats membres, la classification des produits par taux sera simplifiée.
- Les formalités d'exportation et d'importation seront supprimées puisque le système actuel de la détaxation (taux zéro) à l'exportation et de la taxation à l'importation sera aboli. Toutes les opérations intra-communautaires seront traitées de la même façon que les opérations en régime intérieur à l'heure actuelle.
- Les petites entreprises ayant un chiffre d'affaires annuel inférieur à 35.000 ECUs sont libérées des obligations découlant du clearing et bénéficieront donc d'un traitement plus favorable dans ce domaine. Le chiffre de 35.000 ECUs correspond à la limite pour la franchise facultative prévue dans la proposition de directive en matière d'harmonisation du régime particulier TVA applicable aux PME (Doc. COM(86)444 final).

3. INCONVENIENTS POUR LES ENTREPRISES (coûts supplémentaires) :

Non

4. EFFETS SUR L'EMPLOI :

Ces directives n'ont pas d'effets directs sur l'emploi. Toutefois, vu les allègements procurés aux entreprises (cf. point 2) on peut raisonnablement espérer un effet positif sur l'emploi.

De plus, la création du marché intérieur contribuera à la relance de l'économie européenne entière et par conséquent entraînera vraisemblablement des effets positifs sur l'emploi.

5. Y A-T-IL EU CONCERTATION PREALABLE AVEC LES PARTENAIRES SOCIAUX ?

Non

6. Y A-T-IL UNE APPROCHE ALTERNATIVE MOINS CONTRAIGNANTE ?

Non