

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(78) 177 final

Brussels, 28 April 1978

Proposal for a

COUNCIL DIRECTIVE

amending the Directive 77/799/EEC concerning mutual assistance  
by the competent authorities of the Member States  
in the field of direct taxation

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(submitted to the Council by the Commission)

COM(78) 177 final

EXPLANATORY MEMORANDUM

On 10 February 1975 (1), the Council adopted a resolution on the measures to be taken by the Community as regards taxes on income or profits in order to combat international tax evasion and avoidance.

On 19 December 1977, the Council took its first practical step in this direction by adopting a Directive concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation (2).

The case for adoption of this measure is also sound in respect of indirect taxes in general. However, a number of factors suggest that Community action with regard to VAT is a particularly urgent need.

For one thing, the information received by the Commission from the Member States shows that there is much illegal practice involving this tax in international trade, including fraudulent importation and the use of false export invoices.

Secondly, the implementation of certain provisions of the sixth VAT Directive (77/388/EEC), particularly those concerning the location of the supply of services (Articles 9 and 26) and tax deduction for transactions effected abroad (Article 17(4)), makes it highly desirable that there should be close cooperation between national tax administrations in order to ensure that VAT is properly charged and that all cases of non-taxation or double taxation are avoided.

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(1) OJ N° C 35 of 14.2.1975, p. 1

(2) OJ N° L 336 of 27.12.1977, p. 15

Because a part of the Community own resources is to accrue from VAT, fraud or the non-collection of this tax may entail losses not only for the budgets of Member States, but also for the Community budget, so that the drive to eliminate evasion and avoidance in this field will in future constitute a direct Community interest.

Thirdly, closer cooperation between national authorities with regard to VAT will make it easier, by means of the cross-checks it will allow, to assess taxes on income and profits accurately. Such cooperation will therefore be an extremely useful addition to the mutual assistance procedure already adopted by the Council with regard to direct taxes.

A scheme for mutual assistance between the tax administrations of the Member States in the VAT field is, for the above reasons, clearly needed without delay. For this purpose, certain technical changes to the arrangements of the Directive of 19 December 1977 on direct taxes, are all that is necessary.

Proposal for a Council Directive amending the Directive 77/799/EEC concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 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, as a rule, practices of tax evasion and tax avoidance lead to budget losses and violations of the principle of fair taxation, and jeopardize sound competition, thereby affecting the operation of the common market ;

Whereas, in order to combat these practices more effectively, cooperation between tax administrations within the Community should be strengthened in accordance with common principles and rules ;

Whereas, on 19 December 1977, the Council adopted Directive 77/799/EEC concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation<sup>1</sup>; whereas such mutual assistance arrangements should also cover indirect taxes, not only in order to ensure that these are correctly assessed and collected, but also in order to make the measures taken with regard to direct taxes more effective ;

Whereas, as a matter of particular urgency, mutual assistance must be extended to cover VAT, both because it is a general tax on consumption and because it plays an important part in the Community's own resources ;

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<sup>1</sup>OJ No L 336. 27.12.1977, p. 15

Whereas the provisions of Directive 77/799/EEC are also suitable for VAT, subject to certain amendments and additions; whereas it is therefore appropriate to extend the scope of this Directive,

HAS ADOPTED THIS DIRECTIVE :

Article 1

Directive 77/799/EEC is hereby amended as follows:

1. The title shall read : "Council Directive of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the fields of direct taxation and value added tax".

2. In Article 1,

(a) the following words are added at the end of paragraph 1 :

"... and of value added tax."

(b) as regards the United Kingdom, the following alteration is made in paragraph 5 :

"in the United Kingdom : The Commissioners of Inland Revenue and of Customs and Excise or an authorized representative."

3. The following subparagraph (f) is added to Article 4 (1) :

"(f) as regards value added tax, the competent authority of the one Member State has grounds for supposing that in the context of intra-Community transactions VAT due is being reduced or unjustifiably refunded or that fiscal provisions are not being applied in the other Member State."

Article 2

This Directive is addressed to the Member States.