

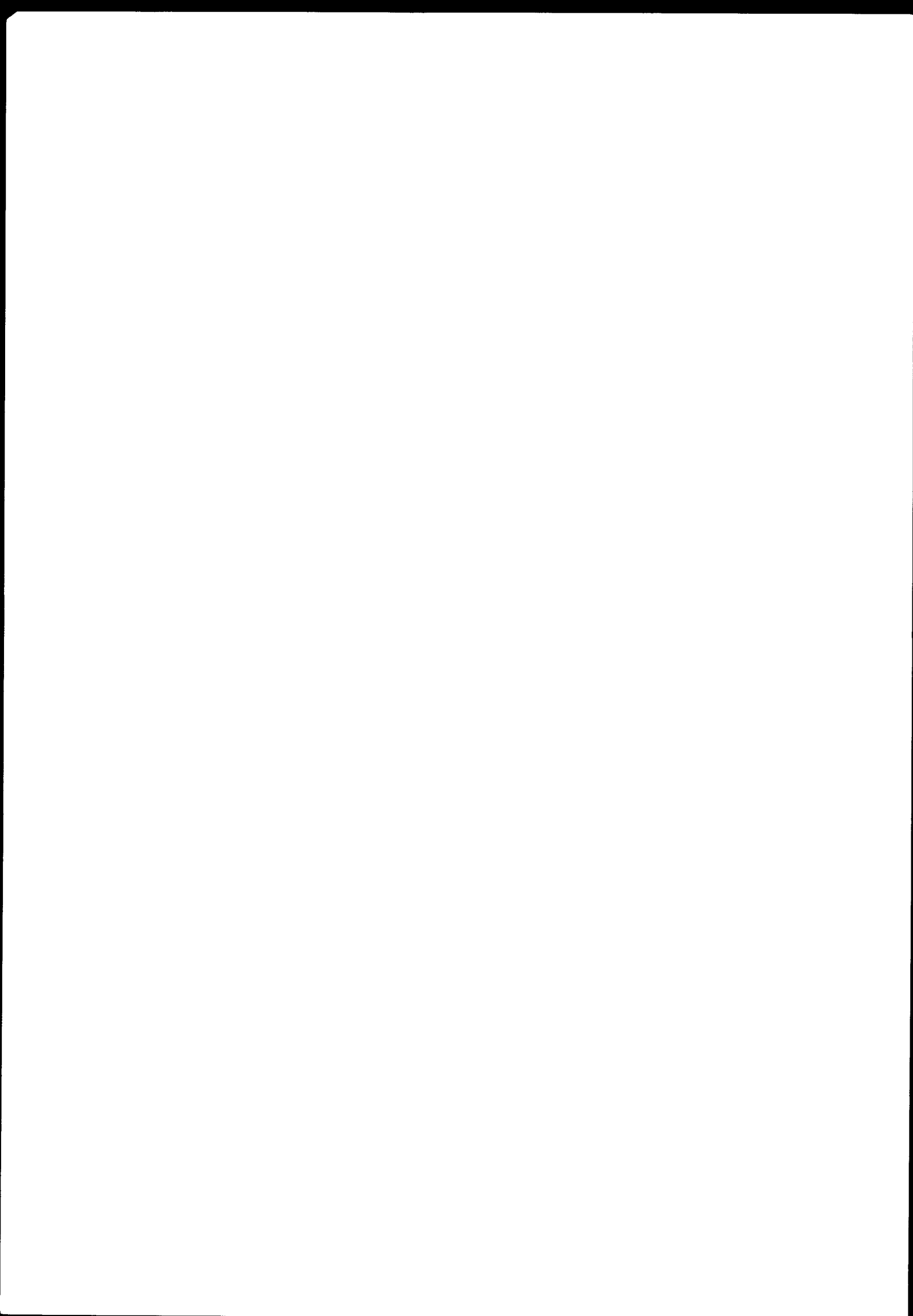
COMMISSION OF THE EUROPEAN COMMUNITIES

COM(94) 283 final

Brussels, 14.07.1994

Amended proposal for a
COUNCIL REGULATION (EC, Euratom)
amending Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989
on the definitive uniform arrangements for the collection of own resources
accruing from value added tax

(presented by the Commission pursuant to Article 189a(2) of the EC Treaty
and the second paragraph of Article 119 of the Euratom Treaty)



Explanatory memorandum

On 21 December 1992 the Commission presented to the Council a proposal for a Regulation¹ amending Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989 on the definitive uniform arrangements for the collection of own resources accruing from value added tax.²

The Council consulted the European Parliament and the Court of Auditors on this proposal. The Court of Auditors delivered its opinion on 8 July 1993³ and the European Parliament delivered its opinion on 16 November 1993.⁴

In response to these opinions and in accordance with Article 189a(2) of the EC Treaty and the second paragraph of Article 119 of the Euratom Treaty, the Commission has now amended its proposal as follows:

1. Parliament considers that the text of the amendment to Article 2(1) of the Regulation should be simplified by deleting the reference to the various directives which have already amended the VAT Directive (77/388/EEC) and adding the following phrase: "Articles 2 and 28a of Directive 77/388/EEC, as amended by subsequent VAT directives".

The Commission accepts this amendment and has amended its proposal accordingly.

2. Parliament also believes that the provisions laid down in Article 12 of Regulation No 1553/89 concerning the examination by the Commission, together with each Member State, of the procedures for determining, collecting and controlling VAT should be tightened up by providing for spot checks on the national authorities 'without warning' and stipulating that the report produced by the Commission every three years on possible improvements to these procedures be accompanied, where appropriate, by Commission recommendations with a view to increasing the effectiveness of the procedures in question.

The Commission accepts this amendment and has amended Article 12(2) and (3) of its proposal to take into account Parliament's opinion. However, the Commission sees no need to introduce spot checks 'without warning', which might even undermine its efforts to obtain information from national authorities. Furthermore, a new recital must be added to cover the amendment to Article 12.

3. Parliament wishes to be informed of the decisions and measures adopted in application of the Regulation, and in particular any decision under Article 6(3) to

¹ OJ No C 35, 9.2.1993, p. 9.

² OJ No L 155, 7.6.1989, p. 9.

³ OJ No C 227, 23.8.1993, p. 1.

⁴ OJ No C 329, 6.12.1993, p. 106

authorize a Member State not to take into account certain minor transactions in calculating the VAT base or to use approximate estimates. It therefore requests that the Commission report to it each year on the decisions and measures in question.

The Commission accepts this request and has amended its proposal to add a new paragraph 6 to Article 13 of Regulation No 1553/89, as proposed by Parliament.

4. Parliament proposes reintroducing the "returns method" alongside the "revenue method" as an option for the Member States for the purposes of calculating the VAT own resources base.

The Commission cannot accept this amendment for the following reasons:

- the "returns method" advocated by Parliament was applied in the past by only two Member States (Denmark and Ireland) which, because of the difficulties encountered, subsequently adopted the "revenue method" like all the others;
- for this reason and also to harmonize the calculation of the VAT own resources base, the Commission proposed - and the Member States agreed - when Regulation No 1553/89 was adopted, that the "revenue method" should be the sole method to be used henceforth;
- to introduce now the possibility of opting for what is an outdated method would be a retrograde step in terms of harmonizing the calculation of the VAT base.

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and the second paragraph of Article 119 of the Euratom Treaty)**

In response to the opinions delivered by Parliament and the Court of Auditors, the Commission has amended its proposal as follows:

Original proposal

2. Article 2(1) of Regulation No 1553/89

This paragraph is replaced by the following:

"1. The VAT resources base shall be determined from the taxable transactions referred to in Articles 2 and 28a of Council Directive 77/388/EEC, as last amended by Directive 91/680/EEC, with the exception of transactions exempted under Articles 13 to 16, 28c and 28k of that Directive or to which exemption from VAT applies under Directive 69/169/EEC as last amended by Article 2(3) of Directive 91/680/EEC."

Amended proposal

1. Recital

The following new recital is inserted after the first recital:

"Whereas Member States must provide the Commission with information concerning the procedures which they apply for registering taxable persons and determining and collecting VAT and on the modalities and results of their VAT control systems; whereas the Commission should consider, together with the Member State concerned, whether improvements to these procedures can be contemplated with a view to increasing their effectiveness and whereas the Commission should draw up recommendations to this end; whereas the Commission should produce a report every three years on the procedures applied in the Member States and on any improvements that are contemplated, accompanied, where appropriate, by recommendations from the Commission to the Member States concerned;"

2. Article 2(1) of Regulation No 1553/89

This paragraph is replaced by the following:

"1. The VAT resources base shall be determined from the taxable transactions referred to in Articles 2 and 28a of Council Directive 77/388/EEC, as amended by subsequent VAT Directives."

3. (The original proposal did not provide for any amendment to Article 12 of Regulation No 1553/89:

- (1) The Member States shall provide the Commission with information concerning the procedures which they apply for registering taxable persons and determining and collecting VAT and on the modalities and results of their VAT control systems.
- (2) The Commission shall consider, together with the Member State concerned, whether improvements to these procedures can be contemplated with a view to increasing their effectiveness.
- (3) The Commission shall produce a report every three years on the procedures applied in the Member States and on any improvements contemplated.

The Commission shall submit that report to Parliament and the Council for the first time by 31 December 1991.)

3. Article 12 of Regulation No 1553/89

Article 12(2) and (3) are amended as follows:

- "2. The Commission may carry out spot checks on the national authorities to verify the procedures, modalities and results referred to in paragraph 1.

The Commission shall consider, together with the Member State concerned, whether improvements to these procedures can be contemplated with a view to increasing their effectiveness. To this end, the Commission shall, where appropriate, submit recommendations to the Member States concerned.

- "3. The Commission shall produce a report every three years on the procedures applied in the Member States and on any improvements that are contemplated, accompanied, where appropriate, by recommendations from the Commission with a view to increasing their effectiveness."

4. Article 13 of Regulation No 1553/89

The following paragraph is added to Article 13 of Regulation No 1553/89:

- "6. The Commission shall submit to Parliament, at the latest by 31 March following the end of each financial year, a report on the measures and decisions taken under this Article."

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