

COMMISSION OF THE EUROPEAN COMMUNITIES

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A M E N D M E N T S

to the proposal for a

Sixth Council Directive
on the harmonization of legislation of
Member States concerning turnover taxes

Common system of value added tax:
Uniform basis of assessment

(Presented by the Commission to the Council pursuant to the
second paragraph of Article 149 of the EEC Treaty)

I N T R O D U C T I O N

On 29 June 1973, the Commission submitted to the Council a proposal for a Sixth Council Directive on the harmonization of legislation of Member States concerning turnover taxes and the uniform basis of assessment of value added tax.

The Economic and Social Committee and the European Parliament were consulted on this proposal and gave their Opinions on 31 January 1974 and 14 March 1974 respectively.

It has become clear that a certain number of corrections and amendments could be made to the text of the proposal for a Sixth Directive, where these did not alter the basic premises and general guidelines already adopted by the Commission in its initial proposal.

EXPLANATORY MEMORANDUMAt Article 3

In accordance with the Opinion of the European Parliament, it seems appropriate to accelerate the consultation procedure provided for in paragraph 2 in cases where Member States wish to derogate from the general principle laid down in paragraph 1 regarding territorial scope of the tax. To this end, the Commission proposes that the time limits of three and six months referred to in paragraph 2 be reduced to two and four months respectively.

At Article 4Paragraph 3

Paragraph 3(c) defines building land, the general taxation of which has been particularly controversial. The European Parliament has adopted an amendment aimed at reducing the scope of this definition by deleting the last indent ("land other than as defined above on which the person acquiring it, at the time of such acquisition, undertakes to erect a building within four years").

Building land, then, would only include land prepared for construction or land on which there stands an incomplete building or a building for demolition (first indent of (c)).

Paragraph 4

The European Parliament is opposed to a time-limit being placed on Member States' option to treat as a single taxable person, persons who are legally independent but are bound to one another by financial, economic and organizational relationships ("Organschaft" and "entité fiscale").

The proposed new text of the second subparagraph of paragraph 4 takes account of the wishes of the European Parliament. However, in view of the importance of such groups of legal persons, it did not seem desirable that the option provided for in this paragraph be exercised by Member States without the Community authorities being able to give consideration to the consequences on the international level. It is proposed, therefore, that the exercise of this option be subject to the condition that the Value Added Tax Committee be consulted.

Paragraph 5

A more precise definition of the circumstances in which bodies governed by public law must be treated as taxable persons has been requested in various quarters.

The proposed new text, while referring back to transactions (production, trade, etc.) as defined in paragraph 1 of that Article, specifies that they must be transactions which could be carried out by persons governed by private law:

- (a) from the economic point of view, and
- (b) independently of national legislation.

The first condition is intended to exclude the treatment of the State etc., as a taxable person for economic activities which private firms could not exercise without usurping the basic functions and powers of the States and other bodies governed by public law (general administration, the administration of justice, or national security or defence).

The second condition is intended to include the State etc., within the scope of the tax in respect of economic activities which private firms could exercise without usurping the basic functions of the State, but which in fact they cannot exercise because of the existence in national legislation of a provision reserving such exercise to the State.

At Article 5

Paragraph 2

A new version of this paragraph is proposed, deleting the provision that leasing transactions be considered as supplies. This treatment, criticised by the European Parliament and by other bodies, does involve certain practical difficulties, for if, after the leasing had been taxed as a supply, the option were not taken up, an adjustment of the tax would have to be made. It therefore seems more practical to tax the leasing as a letting, under Article 7(1) of the proposal, and to treat it as a supply only if and when the option is taken up.

Paragraph 5

Certain Member States have requested that it be possible for some transactions which are not effected with the final consumers, to be carried out free of tax. This is the case for forward transactions on the commodity market or more generally sales by connected contract, where the application of the general rules (taxation at each stage, invoicing, etc.) could involve many complications.

This system, whose adoption would be left to Member States to apply, introduces an element of flexibility into the general principles, without the recovery of the tax at the final stage or the collection of own resources being affected thereby.

At Article 7

Paragraph 3

It seems necessary, for reasons of equality of taxation, to add to this Article, in the form of a new paragraph, the provision making it possible to apply to supplies of services the rule in Article 5(4) (the right of Member States to treat the recipient of certain transfers of goods as the successor to the business and the personality of the transferor). The

rights which the second subparagraph of Article 7(1) classify as supply of services could also be the subject of such transfers.

Paragraph 4

The European Parliament desires that it should continue to be possible to tax, in exceptional cases, services "rendered to oneself", as was provided for in the second subparagraph of Point 9 of Annex A to the Second Directive of 11 April 1967. It is proposed therefore to add a new paragraph to Article 7.

This new provision is aimed at introducing a greater competitive equality between suppliers of services in cases where the risk of provoking distortions of competition is serious.

In view of the use which Member States could make of this provision it seems desirable that cases where it is applied should be submitted to the VAT Committee.

At Article 10

Paragraph 3

The addition of this paragraph is proposed in order to clarify the rules applicable to international supplies of services as referred to in Article 2(3). Since the tax on such supplies is payable by the recipient, it appeared necessary to define the place in which the charge to tax arises in the same way as that for taxable supplies of services on which the tax is payable at the place of the suppliers.

At Article 11

Paragraph 2

The provisions of the third subparagraph constitute exceptions to those of the second subparagraph which provides that the tax is to become chargeable at the time of the chargeable event or when payments on account are received prior to the supply of goods or services.

With regard to payments on account, subparagraph (b) as at present drafted (the Member States may, in respect of supplies between taxable persons, provide that the tax shall not become chargeable until the time of issue of the invoice) is of no practical effect, since taxable persons are obliged by Article 23(3) to issue invoices for payments on account.

It is therefore proposed to specify that the option of providing that the tax shall not become chargeable until the invoice is issued may only be exercised in respect of transactions between taxable persons which do not involve the making of payments on account before the relevant supply takes place.

Paragraph 3

In the case of the importation of goods which are placed at the time of importation under transit, bonded warehouse or temporary importation arrangements; the fact that the goods have crossed the frontier does not of itself mean that the legal conditions for tax to become due have been fulfilled, nor is the date on which they cross the frontier the date referred to for determining the rate applicable to the chargeable transaction. This is why the crossing of the frontier cannot be taken as the chargeable event. Article 11(3), paragraphs 3 and 4, should therefore be modified by linking together the chargeable event and the time when the tax becomes due.

Moreover it is proposed to replace the words "free circulation" by the words "home use", since it must be remembered that:

- (1) "Free circulation" is synonymous with "libre pratique";
- (2) Goods in "free circulation" are by definition all products originating in Member States (Article 9 of the EEC Treaty) and products coming from third countries in respect of which import formalities have been complied with and any customs duties or charges having equivalent effect which are payable have been levied in a Member State (Article 10 of the Treaty).

This means that for Community products, or products which have become such by virtue of the payment of import duties (CCT etc.) there will not be any application for free circulation, as they are already in free circulation, but a declaration for home use. Accordingly, goods of Community origin which, upon importation, are placed under arrangements of one of the descriptions mentioned in the last subparagraph of Article 11(3) are released from such arrangements by means of a declaration for home use.

At Article 12

For various reasons, mainly of a practical nature, it was not thought expedient to establish a precise parallel between the concept of the taxable amount within the country on the one hand and that for importation on the other, though an attempt was made to reconcile these concepts with that of value for customs purposes where the goods involved are subject to customs duties.

A. Taxable amount within the territory of the country

The original version of paragraph 1(a) would have added nothing in the way of clarification to the text of Article 8(a) of the Second Directive. It would have made it very difficult besides to take into account in the taxable amount any subsidies paid, for example, by public or private funds to enable undertakings to transact certain business at reduced prices.

Moreover, it seemed necessary to restrict to genuinely exceptional cases the application of the "open market value" criterion, as defined by subparagraph (b) of the original version, which refers to a supply made "under conditions of fair competition" which is often difficult to appraise.

This is why the concept now defined in subparagraph (a), which deals with "normal" supplies of goods and services, is based on the actual consideration, a standard which was already used in the Second Directive. Therefore the taxable amount must include not only amounts of money received or receivable but also the value of any goods or services received or receivable, together with anything that may be granted to the supplier in respect of the supply in question by any person other than the recipient of the supply.

In respect of a supply by way of an exchange or similar transaction, the value of each supply constitutes a consideration for the other supply.

As regards consideration granted to the supplier in respect of the supply in question by a person other than the recipient of the supply, the case of subsidies paid by public authorities must be dealt with as follows:

a distinction must be made between subsidies paid in the interest of the taxable person himself (e.g. incentives connected with the restructuring of undertakings) and subsidies paid to the taxable person in the interests of purchasers (e.g. measures of support for farm prices). On the one hand, subsidies of the first kind, which are not made subject to the condition that a reciprocal supply is provided by the taxable person, do not form part of the taxable amount. On the other hand, subsidies of the second kind which are linked to supplies of goods or services, must be taken into account in the taxable amount.

In paragraph 1(b), which concerns taxable applications to own use and other transactions which are deemed to be supplies by Article 5(3) but for which obviously there is no consideration, the new text lays down the same criteria, which were included already in the Second Directive, stating that the prices must be calculated at the time of the supply. It is in fact more appropriate, as much for practical as for psychological reasons, that the taxable amount should be taken to be the purchase price or cost price, rather than the open market value.

The text of subparagraph (c) must be deleted since it is no longer intended to treat "leasing" operations as supplies of goods. In this way certain technical complications will be avoided and the revenue will in no way suffer from "leasing" operations being divided into letting and selling transactions. "Open market value" therefore does not apply to these cases nor to undeclared transactions. The taxable amount for the latter transactions should be determined by the same criteria as that for declared transactions.

In the new subparagraph (c) it is provided that for transactions which are deemed to be supplies of services by virtue of Article 7(2) and for those referred to in Article 7(4), the taxable amount is to be the "open market value", which is defined in subparagraph (c). This is an ancillary criterion since, in the case of these transactions there is neither a consideration, nor a purchase price nor a cost price.

The option under subparagraph (d) enables Member States in respect of supplies of buildings as defined therein, to adopt a taxable amount for which the criteria are well suited to the transactions in question and which are therefore easily applicable.

The reference to land in the original text was ineffective and therefore was deleted, since land other than building land is the subject of a general exemption under Article 14 B (m).

In paragraph 3, the text of subparagraph (e) has been amended by widening the notion of intermediary activities. Under the new text, amounts paid in the name or for the account of the purchaser etc., are not to be included in the taxable amount. This amendment will enable this provision to be applied more widely, particularly where an intermediary, for example a travel agency, cannot strictly be regarded in law as an agent. Thus the problem of the element of foreign taxation borne by such intermediaries when they receive invoices from suppliers established in other countries can be resolved by the application of this provision.

The new paragraph 5 was added to take account of the fact that the transfer of goods which have been used for business purposes by a non-exempt undertaking is a taxable supply to the extent that tax has been deducted in respect of such goods. The new provision, under which the taxable amount is to be reduced in proportion to the percentage deduction actually applied, accordingly covers the case where the goods transferred have been the object of a proportional deduction.

C. Miscellaneous provisions

The statement in the original text of paragraph 2 concerning the reference to the procedure of Article 31 lends itself to a misunderstanding, as according to Article 31(2) it is up to the Commission to prepare a draft of the measures to be taken. It is, therefore, the Commission who must be consulted for the purpose of applying the procedure laid down in Article 31.

At Article 13

Paragraph 1

The amendment to this paragraph is a consequential amendment following that to the last subparagraph of Article 11(3) paragraphs 3 and 4.

The second subparagraph was added to deal with difficulties which may arise should the rate be altered, for example, during the construction of a building. It is common commercial practice for interim payments to be made during the course of construction, and on each of such payments, the tax becomes payable in accordance with Article 11(2).

Paragraph 4

It is proposed that a new provision be added to this paragraph to ensure that, as in the case of imports of goods, the receipt of services from a foreign supplier, as defined by Article 2(3), is treated equally for tax purposes in each country.

At Article 14

A

Paragraph 1(a)

The exemption of telecommunications services is the subject of general criticism, since firms are thereby prevented from deducting any element of input tax included in the charges for telephone and telex services. The new text cancels the exemption for telecommunications.

Paragraph 1(k)

The amendment to the text of this subparagraph is designed to exclude from exemption without exception the activities of radio and television broadcasting organizations.

Paragraph 1(1)

The inclusion of this new head of exemption, as requested by the European Parliament, is aimed at enabling local government bodies to procure works of construction free from VAT, provided that the works involved are not of a speculative nature.

B

Subparagraphs (b) and (c)

The European Parliament desires that exemption should be extended to cover the undertaking of cremation and organizations which have the care of cemeteries and monuments to victims of acts of violence.

Subparagraphs (f) and (h)

The words "shares of interest" were added to subparagraph (f) in the interest of making the text more clear from the point of view of guaranteeing coherence between Community languages and to avoid divergences of interpretation.

It is also proposed, in accordance with the wishes of the European Parliament, that exemption under subparagraphs (f) and (h) should not extend to supplies of services relative to the transactions concerned. A definition of "gold to be used as coin" has been added to subparagraph (h), to the intent that exemption should be granted only for purchases of such metal by authorized financial institutions.

Subparagraph (i)

The object of the new text is to enable sales of tax marks and stamps in general to be exempted, and not merely the special case originally envisaged.

Subparagraph (l)

The wording of the original text could give rise to confusion as regards taxable persons who carry out supplies as described in Article 12 A (1)(d); this text could be interpreted literally to mean that such taxable persons would be exempt if Article 12 A (1)(d) did not in effect apply to them.

It is proposed to specify that the exemption will apply if the taxable vendor is not in a position to benefit from the arrangements provided for "dealers in buildings".

Subparagraph (n)

The absence of exemption for certain professional activities could give rise to problems of some delicacy. For this reason it is proposed that such activities should be the subject of a new exemption heading. Such

exemption is however subject to a condition ("where they are not themselves involved in the publishing or reproduction of their works") of such a kind as to avoid having an effect on final consumption.

Subparagraph (o)

This new head of exemption is designed to avoid rendering recourse to justice more expensive.

At Article 16

A

Point 7

To achieve consistency with Point 4 of the same Article, it is proposed that the words "in accordance with rules to be laid down by each Member State" be added here.

Point 10 (a) and (e)

The Economic and Social Committee has requested additions to the list of services in this paragraph. It is proposed therefore to add manufacturing processes and the supply of computer data.

Point 11

The replacement of the words "in the name and for the account of another person" by the words "in the name or for the account" is to achieve consistency with the new wording of Article 12 A (3) (e).

Furthermore, it appeared desirable to have a general solution, by means of an exemption with refund of input tax, of the problem of intermediaries (travel agencies, brokers, etc.) who take part in transactions which are concluded outside their countries.

B

As is proposed in the case of Article 5 (5) and for the same reasons, it appeared advisable to provide here, certain conditions for exemption to be extended to sales carried out at the stage preceding the exportation of the goods: this leads to the fiscal consequences of exportation (exemption and refund of input tax) arising at a stage at which it is virtually certain that the goods are destined for an overseas market (e.g. sales to customary exporters).

Article 17

In paragraph 2, under the new text of subparagraph (a), tax is deductible even where an invoice is issued by the supplier before the goods are actually delivered or the performance of services is actually completed.

In paragraph 3, under the new text of subparagraph (b), tax is deductible also by suppliers of services who take part in certain import transactions.

In Paragraph 4, the new text lays down a maximum amount of 50 units of account, since it must not be too high, particularly for small undertakings, but on the other hand a ceiling must be fixed to avoid applications being made in respect of trivial sums. The ceiling set takes account both of the financial interests of the taxable person and of the additional work imposed as much on the latter as on the tax authorities.

Article 18

Paragraph 2

In subparagraph 3, the words "should have" have been replaced by the words "could have" to avoid the purchaser having to bear the consequences of any negligence on the part of his supplier.

The proposed additional subparagraph (4) is by way of derogation from the time limit imposed on the taxable person for exercising his right to deduct in cases where the administration increases the taxable amount, and is designed to put the taxable person and the administration on an equal footing.

Paragraph 3

The proposed amendment is in accordance with the wishes of the European Parliament, which was opposed to Member States being left free, in the case of an excess of deductible tax, either to refund it or to have it carried forward to the next tax period. This option is retained in respect of small amounts, whereas larger amounts must be refunded to the person entitled as expeditiously as possible. This is a matter of some importance for exporters and those involved in seasonal work.

As a result of this amendment, the text of the second subparagraph becomes superfluous.

Article 19

Paragraph 2

The word "exempted" has been added to take account of the fact that subparagraphs (f) and (h) of Article 14 B apply also to taxable transactions (e.g. documents of title to goods).

Reference is made to subparagraph (h) in addition to subparagraph (f) to take account of the fact that, as with dealings in securities, transactions in money (for example, gains from exchange) cannot be taken as indicative of the true turnover of the undertaking.

The addition of the word "incidental" at the end of the paragraph is intended to make the reference to real estate or financial transactions more specific.

At Article 21

The original text of paragraph 1 (a) is too widely drafted since the agent of a taxable person established in another country is not necessarily in

a position to determine the amount of the tax due where the taxable person himself carries out operations in another country, of which his agent is not informed. Consequently, it seems appropriate to limit the scope of the text in order to avoid systematic recourse to a tax agent, by specifying that this provision only applies to the agent where the taxable transaction is carried out through him or with his assistance.

At Article 23

The addition of a second subparagraph to paragraph 3 (b) is designed to facilitate the issue of certain invoices in a strictly limited number of cases. This simplification seems appropriate, especially in view of the fact that invoices for reduced amounts are often issued for over-the-counter sales in shops to other taxable persons.

The new text of paragraph 4 is designed to avoid imposing on the Member States excessively rigid requirements as to tax periods. This offers considerable advantages from the administrative and control point of view for both the management of undertakings and the tax authorities, or allows these advantages to continue.

In line with this new flexibility in the general rules, paragraph 5 of the original proposal is deleted.

In paragraph 9, now paragraph 8, the addition of the obligation to consult the VAT Committee is intended to ensure a certain uniformity in the application of measures which the Member States adopt.

The new text of the last paragraph of Article 23 is aimed at permitting Member States to release also from certain obligations those taxable persons who make both taxable and exempt supplies.

At Article 24

The addition of the provision in the third subparagraph reflects the parallel treatment for the importation of goods and the obtaining in one country of a service supplied from another country.

At Article 25

Paragraph 2

A correction is made to the French text of the second subparagraph ("actif immobilisé" for "actif immobilier").

The word "exempt" has been inserted before "transactions" for the same reasons as those set out in this explanatory memorandum concerning the first subparagraph of Article 19.

Paragraph 3

The original version of this paragraph would exclude from exemption or relief small-scale craftsmen in the building trade (e.g. painters). For this reason, it is proposed that it be specified that, for activities connected with building, only supplies of buildings or of building land should be excluded from the special scheme for small undertakings.

Moreover, since the European Parliament has pointed out that the exemption could be maintained for taxable persons concerned only with the letting of buildings, a second subparagraph is proposed which takes account of this wish.

At Article 26

Paragraph 1

At the request of the European Parliament, the special scheme for second-hand goods is extended to original works of art and antiques and collectors' items.

At Article 27

The amendments of the dates appearing in this Article correspond to the revised text of Article 1.

At Article 28

The changes in the dates in this Article correspond to the revised text in Article 1.

At Article 30

These changes correspond to the new cases in which consultations are obligatory.

At Articles 32, 33 and 35

The new dates given in these Articles are to correspond with the revised text in Article 1.

The proposed additions to Articles 32 and 33 are to take account of the wishes of the European Parliament.

AMENDMENTS TO THE PROPOSAL FOR A SIXTH COUNCIL DIRECTIVE
ON THE HARMONIZATION OF MEMBER STATES CONCERNING TURNOVER TAXES

Title I : Introductory provisions

Article 1

The text of the second subparagraph of this Article is amended as follows :

"They shall adopt the necessary laws, regulations and administrative provisions so that the system as modified may enter into force without delay and not later than"

Title II : Field of Application

Article 2

(unchanged)

Title III : Territory

Article 3

The text of the first two subparagraphs of paragraph 2 of this Article is amended as follows :

"2. A Member State which, at the date of this Directive, does not apply in toto the principle laid down by paragraph 1 and proposes to continue thus shall so inform the Commission not later than two months after the date of this Directive.

The Commission may, within four months following receipt of such information, consult the Member States on the effects of this request, in particular on the fairness of competition and on the Community's own resources; it shall submit proposals to the Council which, acting by a qualified majority, shall decide thereon within four months."

Title IV : Taxable personsArticle 4

- The text of the second indent of paragraph 3(c) of this Article is deleted.

- The text of the second subparagraph of paragraph 4 of this Article is amended as follows :

"Subject to the consultations provided for in Article 30, each Member State may treat as a single taxable person, persons established in its national territory who are legally independent but are bound to one another by financial, economic and organizational relationships."

- The text of the second subparagraph of paragraph 5 of this Article is amended as follows :

"However, where they carry out transactions covered by paragraph 1 which, from the economic point of view, and independently of national legislation, would be likely to be carried out by persons governed by private law, they shall be considered to be taxable persons in respect of such transactions. This provision extends to the activities of broadcasting authorities, and of the agricultural intervention agencies in respect of dealings in agricultural products in pursuance of a Regulation on the common organization of the market in the relevant product."

Title V : Taxable transactionsArticle 5Supply of goods

- The text of paragraph 2(b) of this Article is deleted, and accordingly :

- (c) becomes (b);
- (d) becomes (c);
- (e) becomes (d);
- (f) becomes (e);
- (g) becomes (f).

Article 5 (cont.)

- The following paragraph 5 is added to this Article :

"5. Forward transactions may be treated by Member States as if there were a single supply from the first seller to the last buyer."

Article 6

Works of Construction

(unchanged)

Article 7

Supply of Services

- The following paragraphs 3 and 4 are added to this Article :

"3. The provisions of Article 5(4) shall apply in like manner with respect to the supply of services."

"4. In order to prevent serious distortion of competition, Member States may, subject to the consultations provided for in Article 30, treat as a supply of services the carrying out by a taxable person of a service within his own undertaking, where the value added tax on such a service, had it been carried out by another taxable person, would not be wholly deductible."

Article 8

Imports

(unchanged)

Title VI : Place of taxable transactions

Article 9

Supply of Goods

(unchanged)

Article 10

Supply of services

- The following paragraph 3 is added to this Article :

"3. For the purposes of charging tax on the supplies referred to in Article 2(3) the place where the service is received shall be deemed to be the place where the business of the person receiving the service is established or, in the absence of such a place, the place where he has his permanent address."

Title VII : Chargeable event and the charge to tax

Article 11

- The text of (b) in the third subparagraph of paragraph 2 of this Article is amended as follows :

"(b) in respect of supplies referred to in the first subparagraph of Article 23(3)(a), the time of issue of the invoice."

- The text of the third subparagraph of paragraph 3 of this Article is amended as follows :

"However, where goods are subject, on importation, to the Common Customs Tariff duties, to agricultural levies or to charges having equivalent effect, the chargeable event shall occur and the tax shall become chargeable at the same as such common duties, charges and levies."

- The text of the last subparagraph of paragraph 3 of this Article is amended as follows :

"Where on importation goods are placed under a transit, bonded warehouse or temporary importation arrangement under customs and/or fiscal supervision, with suspension of customs duties and/or taxes, Member States may provide that the chargeable event shall occur and the tax shall become chargeable only when the goods are declared for home use."

Title VIII : Taxable amount

Article 12

A. Within the territory of the country

- The text of paragraph 1 (a), (b), (c) and (d) of Section A of this Article is amended as follows :

- "(a) in respect of supplies of goods and services, other than those referred to in (b), (c) and (d) below, everything which constitutes the consideration which has been or is to be obtained by the supplier in respect of such supplies;
- (b) in respect of supplies under Article 5(3), the purchase price of the goods or of similar goods or, in the absence of a purchase price, the cost price, calculated at the time of supply;
- (c) in respect of supplies under Article 7(2) and (4), the "open market value" of the subject of the relevant supply.

"Open market value" of services means the amount which a customer at the marketing stage at which the supply takes place would have to pay to a supplier at arm's length within the territory of the country at the time of the supply, under conditions of fair competition, to obtain the services in question;

- (d) in respect of supplies of buildings, other than as referred to in Article 4(3)(b), purchased for the purpose of resale by a taxable person to a non-taxable person or to a taxable person for whom the value added tax on the building in question is not deductible, the taxable amount may be the difference between the selling price and the purchase price."

- The text of Section A, paragraph 3(e) of this Article is amended as follows :

- "(e) amounts paid in the name or for account of the customer and credited in the supplier's books to a suspense account."

Article 12 (cont.)

- The following paragraph 5 is added to Section A of this Article :

"5. Where the supply is of goods for which tax is only partially deductible in accordance with Article 17 (5), the taxable amount shall be reduced in proportion to the percentage deduction actually applied to the goods in question."

B. Importation of goods

- The text of Section B, paragraph 1(a) of this Article is amended as follows :

"(a) the price paid or to be paid by the importer, where this price is the sole consideration for importation;"

C. Miscellaneous provisions

- The text of paragraph 2 of these Miscellaneous Provisions is amended as follows :

"2. Where a Member State proposes to maintain or introduce standard or minimum rates for certain transactions in order to prevent fraud or to simplify the calculation and collection of the tax, it shall consult the Commission for the purpose of applying the procedure laid down in Article 31."

Title IX · RatesArticle 13

- The text of the first subparagraph of paragraph 1 of this Article is amended as follows :

"1. The rate applicable to taxable transactions shall be that in force at the time of the chargeable event. However, in the cases provided for in the last subparagraph of Article 11 (3), the rate applicable shall be that in force at the time when application is made for the goods to be released for home use."

- The following subparagraph is added to paragraph 1 of this Article :

Article 13 (cont.)

"Where the rate is changed, and subject to the consultations provided for in Article 30, Member States may take transitional measures particularly in respect of certain transactions still being carried out."

- The following subparagraph is added to paragraph 4 of this Article :

"The same provision shall apply in respect of the supply of the services referred to in Article 2(3) within the territory of the country."

Title X : Exemptions

Article 14

Exemptions within the territory of the country

A. Exemptions for certain activities in the public interest

- The text of paragraph 1 (a) of Section A of this Article is amended as follows :

"(a) the supply of services, other than passenger transport and telecommunications, and supplies of goods incidental thereto, by public postal services;"

- The text of paragraph 1(k) of Section A of this Article is amended as follows :

"(k) the supply of services by theatres, cinema-clubs, concert-halls, museums, libraries, public parks, botanical or zoological gardens, educational exhibitions, and operations other than those of radio or television organizations, within the framework of activities in the public interest of a social, cultural or educational nature, by:

- bodies governed by public law; or
- non-profit-making organizations; or
- private charitable organizations."

- The following subparagraph (1) is added to paragraph 1 of Section A of this Article :

"(1) works referred to in Article 6 where they are carried out by or on behalf of local government bodies and where they are not destined for resale, not included in the price of the land, and are not let

but are placed free of charge at the disposal of the users."

B. Other Exemptions

- The text of subparagraphs (b), (c), (f), (h), (i), (l) of Section B of this Article is amended as follows :

- "(b) the supply of services by undertakers and cremators and supplies of goods incidental thereto;
- (c) supplies of goods and services to organizations responsible for constructing, installing and maintaining cemeteries, graves and monuments commemorating war dead and victims of acts of violence;
- (f) dealings in debts, shares, shares of interest, debentures and other securities, excluding all documents establishing title to goods and all rights, interests and shares covered by Article 5(1) (a) and (b) This exemption shall not cover supplies of services relative to such transactions;
- (h) dealings in currency other than as collector's items, and in gold to be used as coin, and in credit transfers and deposits; gold to be used as coin means gold of a standard of at least 900/1000, for authorized financial institutions. This exemption shall not cover supplies of services relative to such transactions;
- (i) supplies by states and local government bodies of tax marks, discs, bands or stamps;
- (l) supplies of buildings or parts thereof and of the land pertaining thereto, after first occupation, by a taxable person for whom the value added tax on the building is not deductible and to whom Article 12A (1)(d) is not applicable. For the purposes of this exemption flat-rate farmers, as defined in Article 27, shall be deemed to be taxable persons subject to the normal scheme;

- The following subparagraphs (n) and (o) are added to Section B of this Article :

- "(n) supplies of services by authors, writers, composers, lecturers, journalists, actors, musicians, where they are not themselves involved in the publishing or reproduction of their works;

"(o) supplies of services by members of the legal and judicial professions, where these services are in connection with the administration of justice."

Article 15

Exemptions of imported goods

(unchanged)

Article 16

Exemptions of exports and like transactions and international transport

- The letter A is added before the phrase :
"The Member States, shall, subject to the conditions..."
- The text of point 3 of this Article is amended as follows :
"(3) Goods consigned or transported to a bonded warehouse under customs and (or) fiscal control, or deliveries within such warehouse;"
- The text of point 7 of this Article is amended as follows :
"(7) Goods for the fuelling and provisioning of aircraft as referred to in point 6, in accordance with rules to be laid down by each Member State;"
- The text of point 10(b) and (c) of this Article is amended as follows :
"(a) Assignments of patents, manufacturing processes, trade marks and like rights and the granting of licences;

(c) Services of consultants, engineers and planning offices and similar services and the supply of computer data;"
- The text of point 11 of this Article is amended as follows :
"Services supplied by brokers and other intermediaries, acting in the name or for account of another person, where they form part of transactions specified in this Article, or of transactions which are carried out outside their national territory and other usual services directly relating to exportation as defined in points 1, 2 and 3;"

- The text of point 13(b) of this Article is amended as follows :

"(b) The transport of goods which are being carried to a destination outside national territory or to a bonded warehouse under customs and/or fiscal control or in transit;"

- The following Section B is added to this Article :

"B. Member States may, subject to the consultations provided for in Article 30, exempt supplies of goods to a taxable person if such goods are to be exported, processed or unprocessed, provided that during the previous year the taxable person has exported at least 50% of his turnover."

Title XI : Deductions

Article 17

Existence and scope of the right to deduct

- The text of paragraph 2(a) of this Article is amended as follows :

"(a) Value added tax invoiced to him in accordance with Article 23(3) in respect of goods or of services supplied or to be supplied to him;"

- The text of paragraph 3(b) of this Article is amended as follows :

"(b) of occupations which are exempt under Articles 15(2), (3) and (11) and Article 16."

- The text of the second subparagraph of paragraph 4 of this Article is amended as follows :

"The refund shall be made upon application from the taxable person. No application shall be made in respect of an amount of tax lower than 50 units of account, but several invoices, provided they are issued during the same calendar year, may together form the subject of a single application."

Article 18

Rules for exercising the right to deduct

- The text of the third subparagraph of paragraph 2 of this Article is amended as follows :

"Where by error or omission the taxable person does not make the deduction at the right time, he may exercise his right to deduct at any time up to and including 31 December of the year following that in which the deduction could have been made in accordance with the first subparagraph. The deduction shall in such case be made in accordance with the provisions in force at the time when the deduction should have been made. It may be exercised when the return provided for in Article 23(7) is made."

- The following fourth subparagraph is added to paragraph 2 of this Article:

"Notwithstanding the provisions of the preceding subparagraph, the taxable person is entitled to have taken into account deductions which he was not able to make validly, where the taxable amount is subsequently increased."

- The text of the first subparagraph of paragraph 3 of this Article is amended as follows :

"Where for a given tax period, the amount of authorized deductions exceeds the amount of tax due the excess shall be refunded as soon as possible, but not later than one month after the periodic return is made. Where the amount concerned is less than 10 units of account Member States may, instead of making a refund, carry the excess forward to the following period."

- The text of the second subparagraph of paragraph 3 of this Article is deleted.

Article 19

Calculation of the deductible proportion

- The text of paragraph 2 of this Article is amended as follows :

"2. By way of derogation from paragraph 1, there shall be excluded from the calculation of the deductible proportion, amounts of turnover attributable to exempt transactions specified in Article 14B (f) and

Article 19 (cont.)

(h), to the sale of capital goods used by the taxable person for the purposes of his business, and to incidental real estate or financial transactions, except where these incidental operations form part of a regular business activity by the taxable person.

Article 20Adjustment of deductions

(unchanged)

Title XIII : Persons liable for payment of taxArticle 21Persons liable to pay tax to the tax authority

- The text of paragraph 1(a) of this Article is amended as follows :

"(a) taxable persons who carry out taxable transactions, and agents of taxable persons established in another country who carry out taxable transactions, provided that the taxable transactions are carried out through or with the collaboration of such agents."

Title XIII : Assessment of the amount of tax to be paid and liability for payment of the taxArticle 22

(unchanged)

Title XIV : Obligations of persons liable for paymentArticle 23Obligations under the internal system

- The text of paragraph 3(b) of this Article is amended as follows :

"(b) The invoice shall state clearly the price exclusive of tax and the corresponding tax at each rate as well as any exemptions. However, in respect of invoices for a total amount, including tax, no greater than 20 units of account, the taxable person may simply state the total amount, including the tax, the applicable rate or any exemptions."

Article 23 (cont)

- The text of paragraph 4 of this Article is amended as follows:

"Every taxable person shall submit a return within one month after the end of each tax period. This period shall be fixed by Member States as a month, two months or a quarter or, in exceptional cases, a half-year or a year. This return must set out all the information required to calculate the tax to be paid and the deductions to be made, including the total amount of the supplies relevant to such tax and the total amount of exempted supplies."

- The text of paragraph 5 of this Article is deleted, and accordingly :

paragraph 6 becomes paragraph 5;

paragraph 7 becomes paragraph 6;

paragraph 8 becomes paragraph 7;

paragraph 9 becomes paragraph 8 and the text thereof is amended as follows :

"8. Subject to the consultations provided for in Article 30, Member States may where necessary impose other obligations should this prove necessary for the collection of the tax or the prevention of fraud "

paragraph 10 becomes paragraph 9 and the text thereof is amended as follows :

"9. Member States may release taxable persons from certain obligations arising out of exempt supplies."

Article 24

Obligations in respect of imports

- The following third subparagraph is added to this Article :

"The provisions of this Article may also apply to the supply of services referred to in Article 2(3)."

Title XV : Special schemes

Article 25

Special schemes for small undertakings

- The text of the second subparagraph of paragraph 2 of this Article is amended as follows :

Article 25 (cont.)

"However, disposals of tangible or intangible investment property which formed part of the fixed assets of the undertaking, supplies of buildings and of building land, the exempt transactions specified in Article 14 B(d) and (f) and the letting of buildings shall be disregarded in calculating the turnover."

- The text of paragraph 3 of this Article is amended as follows :

"Paragraph 1(a) shall not apply to the transactions specified in Article 4(3) (b) and (c), nor to the transactions specified in the second subparagraph of paragraph 2 of this Article.

However, a taxable person who makes the appropriate application may enjoy the exemption provided for in paragraph 1(a), provided that he is liable for value added tax only in respect of the letting of buildings."

Article 26

Special scheme for second-hand goods

- The text of paragraph 1 of this Article is amended as follows :

"1. "Second-hand goods" means used moveable property which can be re-used as it is or after repair. However, the arrangements provided for in this Article shall apply also to original works of art created by the hand of the artist, antiques, collectors' items, and stamps and coins being collectors' items."

Article 27

Common flat-rate scheme for farmers

- The text of the third subparagraph of paragraph 3 of this Article is amended as follows :

"The levels of input charge so calculated, rounded down to the nearest tenth of one per cent, shall be so fixed in accordance with the procedure laid down in Article 31 that they may be adopted :

Article 27 (cont)

- (i) for the first time, not later than 30 September of the second year following that of the adoption of this Directive ;
- (ii) for each three-yearly updating: not later than 30 September of the third year;
- (iii) in the case of changes likely to affect the level of the charge, as soon as possible.

- The text of the fourth subparagraph of paragraph 3 of this Article is amended as follows :

"Member States shall supply the Commission with the macro-economic statistics and other data required for the common method of calculation :

- (i) for the first time, not later than 30 May of the second year following that of the adoption of this Directive ;
- (ii) for each three-yearly updating, not later than 30 June of the third year;
- (iii) in the case of changes likely to affect the level of the charge, as soon as possible.

Title XVI : Transitional provisionsArticle 28

- The text of paragraph 1 of this Article is amended as follows :

- "1. The exemption under article 16 A point 13 (c) is applicable until the expiration of the period of three years following the date of adoption of the present Directive. The Commission shall in due course present to the Council proposals concerning the tax scheme to be applied at the expiration of the above period to international passenger transport by sea or air. "

- The text of the first subparagraph of paragraph 2 of this Article is amended as follows :

"Any provisions brought into force by the Member States in exercise of the rights conferred on them by Article 17 of the Second Council Directive

Article 28 (cont)

No. 67/228/EEC of 11 April 1967 shall cease to apply, in each Member State, with effect from the date on which the provisions referred to in the second subparagraph of Article 1 of this Directive come into force."

- The text of paragraph 3 of this Article is amended as follows :

"3. Member States which avail themselves of the provisions of the second subparagraph of paragraph 2 shall supply to the Commission in every two years, and for the first time within six months after the date of adoption of this Directive, with such information as will enable it to determine whether the grounds on which the exemptions referred to in that subparagraph have been maintained in force still obtain. The Commission shall take such information into account in the reports provided for in Article 32 and will make proposals in such reports for the adaptation by stages of the abovementioned exemptions to the obligations resulting from the achievement of Economic and Monetary Union."

Title XVII : Value Added Tax Committee

Article 29

(unchanged)

Article 30

- The text of this Article is amended as follows :

"In addition to the consultations made compulsory by Articles 4, 7, 13, 16, 23, 25 and 27, the Committee may examine any question relating to the application of any Community act concerning the value added tax, raised by the Chairman either on his own initiative or at the request of the representative of a Member State."

Article 31

(unchanged)

Title XVIII : Miscellaneous provisions

Article 32

- The text of this Article is amended as follows :

"For the first time on 1 January of the fourth year following that in which this Directive is adopted and thereafter every two years, the Commission shall, after consulting the Member States, send the Council a report on the application of the common Value Added Tax system in the Member States. This report shall be transmitted by the Council to the European Parliament."

Article 33

- The text of this Article is amended as follows :

"At the appropriate time the Council acting on a proposal from the Commission, after receiving the Opinion of the European Parliament, and in accordance with the interests of the common market, shall adopt further Directives on the common value added tax system, in particular to restrict progressively or to repeal measures taken by the Member States by way of derogation from the system, in order to achieve complete parallelism of the national value added tax systems and thus permit the attainment of the objective stated in Article 4 of the First Directive."

Article 34

(unchanged)

Article 35

- The text of this Article is amended as follows :

"The Second Council Directive, No. 67/223/EEC of 11 April 1967 shall cease to have effect, in each Member State, from the date of entry into force of the provisions referred to in the second subparagraph of Article 1 of this Directive."

Article 36

(unchanged)

ANNEX A

(unchanged)

ANNEX B

(unchanged)

ANNEX C

(unchanged)