

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(77) 735 final

Brussels, 6 January 1978

Proposal for a

Seventh Council Directive

on the harmonization of the laws of the Member States relating to turnover taxes - Common system of value added tax to be applied to works of art, collectors' items, antiques and used goods

(presented by the Commission to the Council)

COM(77) 735 final

EXPLANATORY MEMORANDUM

I. PURPOSE OF THE PROPOSAL FOR A DIRECTIVE

The proposal for a Sixth Council Directive on the harmonization of the laws of the Member States concerning turnover taxes, submitted to the Council by the Commission on 29 June 1973, provided for special VAT arrangements for used goods, works of art, antiques and collectors' items under which taxable persons purchasing, with ^aview to resale, goods which have already entered the final consumption stage, would be entitled to deduct a certain amount of tax deemed to correspond to the amount of input tax.

While the proposal was under discussion within the Council, a number of problems arose in connection with the taxation of goods of this kind, and none of the solutions put forward was felt to offer an adequate solution to all the problems. Article 32 of Directive 77/388/EEC reflects these difficulties, entrusting the Commission with the task of reviewing the problems and submitting a fresh proposal to be adopted before 31 December 1977.

II. ANALYSIS OF THE PROBLEM

Charging VAT on used goods raises a number of different problems, including :

- the definition of "used goods" ;
- the actual application of value added tax to used goods ;
- the status (taxable person or private person) of the seller.

Definition of "used goods"

"Used goods" are taken to mean goods which, after manufacture and marketing, have reached the final consumer, thereby completing a "commercial cycle" and which after a lapse of time, presumed to have entailed some use, re-enter a second "commercial cycle" when supply transactions in them are once more affected.

Normally, used goods are distinguishable from new goods in two particular respects :

- 1) they invariably have a long economic life ;
- 2) unlike new goods, they can change hands without the transfer involving a commercial enterprise.

Goods with these characteristics can be grouped into three categories:

- 1) used goods proper, that is to say consumer durables that lose their value during successive commercial cycles;
- 2) certain used goods, such as cars and boats, in respect of which changes of ownership are usually officially recorded;
- 3) works of art, antiques and collectors' items, whose value as a rule increases over time.

Problem of applying value added tax to used goods

Three solutions have been envisaged:

A - Exemption

Used goods on which value added tax has been finally paid and which have been re-introduced into the marketing channel by taxable persons who have purchased them from private persons would be taxed a second time, and tax paid previously would not be deductible given that, after a considerable lapse of time, such a deduction would prove virtually impracticable as it would afford undue scope for tax avoidance.

With a view to avoiding the cumulative effects, whether direct or indirect, that taxation of such goods could have, one proposal was that used goods could be excluded altogether from the scope of VAT. This solution would also be in line with the principle that VAT is a single tax and would take into account the fact that once such goods have reached the final consumer, they cannot re-enter in the tax cycle since the purpose of VAT is to tax goods chargeable to it once during the economic cycle from production (or importation), to the final stage of consumption.

Nevertheless, to exclude used goods from the scope of the tax only for the purpose of avoiding double taxation, while ignoring the commercial cycles through which the goods have previously passed and which must fall within its scope would be inconsistent with the VAT system.

Although the principle of exemption of used goods could be defended from a theoretical viewpoint, such an exemption would result, at the economic level, in:

- a substantial loss of tax revenue;
- distortion of competition due to the establishment of a privileged market.

B - Application of the normal tax scheme

The problem of used goods arises neither in connection with supplies effected between taxable persons liable for VAT nor in connection with transfers of ownership between private persons not liable for VAT. In the former case, used goods are covered by the normal tax scheme and do not reach the final consumer. In the latter case, such transactions are carried out between private persons and do not, therefore, fall within the scope of VAT.

A problem of double taxation does, however, arise when used goods that have already reached final consumers are purchased by taxable persons with a view to their resale. This arises because a residual amount of non-deductible tax must be deemed to be incorporated in the purchase price paid by the taxable person and because VAT chargeable on the total price and not just on the value added is also deemed to be incorporated in that taxable person's selling price.

C - Special scheme

In view of the need:

- on the one hand, to safeguard the principle of the application of VAT to used goods where trade in such goods involves the beginning of a new commercial cycle altogether different from the previous cycle during which VAT had already been paid and,
- on the other hand, to avoid double taxation or to mitigate its impact, a special scheme is proposed which, while differing from the normal system, has the advantage that is still within the VAT system.

The status of the seller

Since, as has been seen, the problem of the taxation of used goods stems, in essence, from the fact that private persons are involved in commercial transactions, the possibility has been examined of charging VAT on every transaction, regardless of the status of the seller.

In the special case of used goods, value can be added either where an enterprise participates as an intermediary in the marketing of used goods or where used goods are sold by one private person to another directly.

However, while it would be desirable that the scope of the tax should be extended to used goods traded between private persons (Article 4 (3) of Directive 77/388/EEC), the practical and technical difficulties of bringing all purchases and sales within the scope of VAT (making of returns, invoicing, deductions) are in fact insuperable.

III. CONCLUSIONS

It was concluded from the analysis carried out that the only way in which:

- to avoid double taxation or to mitigate its impact, and
- to ensure that taxable persons reselling are not eliminated from the market,

was to introduce a special scheme for transactions involving the resale of movable property in respect of which no right of deduction arose when they were acquired by a taxable person wishing to resell.

This scheme could be implemented in a number of ways:

- 1) a common reduced rate could be applied under the normal scheme;
- 2) the taxable amount could be the difference between the selling price and the purchase price;
- 3) the taxable person reselling could be authorized to deduct from the tax chargeable on his reselling price an amount of tax calculated on the basis of his purchase price;
- 4) the taxable amount could be a standard percentage of the selling price.

The first solution would have the advantage of:

- limiting the double taxation effect without, however, preventing it;
- removing the main need for a special scheme. This solution, however, falls outside the scope of harmonization of the basis of assessment and thus of Article 32 of Directive 77/388/EEC.

The advantage of the second solution is that it would permit taxation of the real value added by the taxable person wishing to resell, the drawback being, however, that it would reveal the taxable person's profit margin to the purchaser. To avoid this drawback, a proposal was made that value added tax should be charged on the gross profit margin of the taxable person, calculated on the difference between the amounts of taxable sales and purchases made during a period covered by the declaration. Such a system would be contrary to the very principles of value added tax which imply that a charge should fall on the consumer for each transaction, considered separately. This system, in excluding any passing on of the tax, would, in fact, lead to taxation of the profit margin on the turnover achieved by the taxable person, which would resemble an income tax and lose the characteristics of a turnover tax. This second solution could also facilitate evasion since the taxable person wishing to resell would have every incentive to declare for his purchases from non-taxable persons - the declaration not being verifiable - a higher price so as to understate his profit margin.

The third solution would present the same advantages as the previous solution since only real value added would be taxed. It would have the added advantage of not revealing the taxable person's profit margin. But the taxable person would need to keep very accurate accounts. None the less, while this solution is not practicable for all used goods (especially those originally purchased by a private person at a time when VAT was not applicable or purchased in bulk or as part of a total sold, for example, upon death), it could be applied in respect of registered used goods, with a special procedure for preventing evasion.

The fourth solution has the advantage of:

- being simple to apply;
- avoiding a substantial loss of tax revenue;
- not operating to the detriment of taxable persons wishing to resell;
- avoiding disclosure of the profit margins of such taxable persons, while at the same time taxing the margin.

However, the drawback of this solution is that the taxable amount (i.e. the taxable person's profit margin) is a standard percentage of the selling price which, like any standard amount, may appear arbitrary. This percentage could certainly be adjusted in line with the nature of the goods supplied, but this would mean losing the advantage of simplicity.

In view of the respective advantages and disadvantages of the four proposed ways of applying a special scheme to the goods referred to in Article 32 mentioned above, the Commission has chosen the last two methods, depending on the nature of the item in question.

IV. EXAMINATION OF THE ARTICLES

Concerning Article 1

This Article establishes clearly the principle that all the provisions of Directive 77/388/EEC are applicable except those in respect of which an express derogation has been allowed to enable the special scheme to function independently. These derogations concern the taxable amount for supplies and the right to deduct enjoyed by a taxable person wishing to resell. For the sake of clarity, however, it was felt that attention should be drawn to the application of certain provisions of the above Directive such as the exemptions on exportation and the special scheme for small undertakings. The Commission also took the view that a right to opt for the normal scheme should be made available to a taxable person wishing to resell who derives no benefit from participating in the special scheme either because, as a result of the accounts he keeps, he can be taxed in respect of real value added (a taxable person normally purchasing goods from other taxable persons) or because he is engaged primarily in importing goods for resale to taxable persons (here, since both the purchaser and the seller can claim deductions, no distortion of competition occurs).

The treatment of any intermediary as if he were a taxable person wishing to resell, as laid down in the second paragraph, is simply an extension of the scope of Article 5 (4) (c) of the Sixth Directive. This extension meets the need to prevent diversions of trade within the Community as well as distortions of competition inside national boundaries.

Concerning Article 2

Paragraph 1

In view of the complications involved in defining works of art, the Commission has simply proposed reference to the definitions in the Common Customs Tariff.

For collectors' items, however, the Commission has listed areas of interest since it is the collectors' interest which confers the status of collectors' item on any given article. This list is also more extensive than that given in the CCT.

As regards antiques, the 100-year rule is one also laid down in the CCT and in the laws of a number of member countries.

Paragraph 3

It was felt that the same taxable amount should be fixed for works of art, collectors' items and antiques not only for the sake of simplicity but also with a view to averting any dispute that might arise in connection with the classification of goods if differing standard percentages were fixed for taxable amounts: in practice, a given item can very often be at one and the same time a work of art, a collectors' item and an antique.

The standard percentage, fixed at 30 % of the selling price, would seem to be the figure closest to the average profit margin added by dealers. This is in fact more than 42 % of the purchasing price paid by the taxable person wishing to resell.

Paragraph 4

With a view to minimizing evasion, it is proposed that the arrangements laid down in Article 2 be applicable to supplies of precious items only if the commercial value of such items is twice the value of the precious materials incorporated therein. If there were no such rule, it would be in the interest of a taxable person wishing to resell to declare a work of art as some other item, say one made of gold, in order to qualify for taxation in respect of the selling price based on a lower taxable amount. To prevent any dispute arising in connection with the comparison between the selling price and the valuation of the precious materials incorporated in the item in question (such a comparison is compulsory under the provision in question), there has to be a relatively wide margin between the two values. It is proposed, therefore, that the figure of 50 % be adopted.

Paragraphs 2 and 5

Exclusion of the right to deduct as provided for in paragraph 5 is a necessary corollary of standard taxation. If a taxable person was entitled to deduct tax invoiced at the time of purchase of an item subsequently resold, that item would, in actual fact, be taxed on 30 % of its value. Taxation of the profit margin presupposes that the purchase price is understood as being inclusive of tax, as in the case of the seller who is not a taxable person. If goods purchased from a private person and goods purchased from a taxable person are to be treated on an equal footing, there can be no right of deduction.

Deduction of the tax paid on the purchase of goods and services used for the purposes of this activity must also be excluded since such goods and services are in addition to the purchase price of the item, and the tax paid on these

goods and services must be treated in the same way as the tax paid on the purchase price of an item covered by Article 2. Let us assume that an old piece of furniture is purchased from a private person for 100 u.a., is repaired at a cost of 75 u.a. and resold for 250 u.a. Upon resale, this item will be taxed on the basis of a figure of 75 u.a. If the taxable person were able to deduct the tax on services, the latter would in effect bear no tax at all.

Exclusion of the right to deduct does not result in a multi-stage tax system. This is because the taxable amount of the item is not its value but a percentage of its selling price, the resellers' notional added value. Exclusion means that VAT is applied in line with the "base-from-base" method, the result being calculated on a standard basis.

The exemption provided for in paragraph 2 satisfies the requirements of this method. There are other arguments strengthening the case for exemption of supplies of works of art effected by artists themselves.

Admittedly, for the system to be consistent, supplies effected by artists themselves would need to be subject to standard taxation. However, considering the practical differences inherent in reaching these taxable persons, it seemed advisable to provide for a limited exemption. Exemption of such supplies is, however, perfectly compatible with the planned "base-from-base" method. What is more, there is a substantial difference between creative artists in the plastic arts sector and those (such as composers, musicians and writers) who are not directly involved in the reproduction of their works. Whereas the latter are links in a tax chain (if they were exempted, the chain would be broken), the former themselves supply a large proportion of their works to private persons.

The definitions set out in paragraph 1 also make it possible to draw a clear-cut dividing line between the creative arts (which are exempt) and other adjacent sectors (which are not exempt) such as handicrafts. Consequently, exemption in respect of supplies effected by artists - the turnover in which is insignificant and also difficult to verify - does not involve much tax loss.

It should also be noted that exemption (or non-taxation) of artists, which is the rule in a number of Member States, is advocated in the Florence Agreement, signed under the aegis of UNESCO.

Lastly, the works produced by such artists are of significant cultural importance, and this is surely a reason why the public authorities should adopt a benevolent attitude in this matter. Such an attitude has, moreover, been urged by the Commission in its Communication to the Council concerning Community action in the cultural sector (COM(77)560 final).

Paragraph 6

This paragraph is designed to meet the need to restore equal conditions of competition between taxable persons wishing to resell who purchase goods on the home market and those who import the goods.

Let us assume that taxable person A purchases a painting from a private person for 140 u.a. This transaction is not subject to tax, but the price may be deemed to include residual tax. The taxable person in question resells this work for 200 u.a. to another taxable person B wishing to resell ; value added tax will be charged on 60 u.a. (30 % of the selling price). B then has the painting restored ; the cost of this service, which is subject to a non-deductible tax, is 10 u.a. He then resells the painting to a private person for 300 u.a., and tax is charged on 90 u.a. In all, the painting will reach the latter with tax having been paid on (60 u.a. + 10 u.a. + 90 u.a.), i.e. 160 u.a., to which has to be added the residual tax element in the initial purchasing transaction (at the price of 140 u.a.).

Let us now assume that the same picture is purchased for the same price of 140 u.a. by a taxable person C wishing to resell, who supplies this work at the same price of 200 u.a. to a second taxable person D, who, being established abroad, exports the painting. Under Article 15 of Directive 77/388/EEC, this supply will be exempt from tax. However, upon importation, the painting will be subject to VAT in respect of the 200 u.a. Having imported the painting, D has it restored at a cost of 10 u.a. ; tax is not deductible. He resells the painting to a private person for 300 u.a. Tax is charged on 90 u.a. In all, the painting will have borne tax on (200 u.a. + 10 u.a. + 90 u.a.), i.e. 300 u.a., to which must be added the tax element residual in the 140 u.a. paid in the country of exportation.

Tax on the imported painting is charged on 300 u.a. whereas, in the first example, it would be charged on 160 u.a. To avert such a distortion of competition, which is manifestly at variance with Article 95 of the Treaty of Rome, provision is made for taxable persons wishing to resell who purchase goods abroad to deduct 70 % of the tax paid upon importation in accordance with the above Directive in order to ensure that they are, ultimately, liable for tax in respect of only 30 % of the value of the goods upon importation.

In the above two examples, the painting will, ultimately, bear the same tax : in the first example, tax is payable on 160 u.a. while, in the second example, tax is payable on $(300 \text{ u.a.} - \frac{200 \text{ u.a.} \times 70}{100})$, or 160 u.a.

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In order to prevent any possibility of evasion, the right to deduct can be exercised only when the painting is re-sold.

The proposed system is not, of course, perfect. For instance, if the purchase abroad was effected by a private person, the transaction, ranking as an export, would be exempt, but the painting would, upon importation, be taxed on 100% of its value. To avoid this drawback, a clause could have been inserted stipulating that the taxable amount of an item imported by any person would, upon importation, be equal to 30 % of the price paid. The result of such an arrangement, however, would be to treat more favourably purchases effected in non-member countries where the goods covered by this Article were not subject to tax : upon importation, tax would be chargeable on these goods only in respect of 30 % of their price whereas, in the territory of the country of importation, these goods are deemed to have borne a higher tax burden, having been the subject of a number of consecutive supply transactions.

Paragraph 7

This paragraph is the necessary corollary of paragraph 6 as its purpose is to minimize residual tax, which, although acceptable under the proposed scheme in the territory of the country must, where possible, be eliminated in the field of international trade.

Concerning Article 3

This Article lays down the procedure applicable to used movable property - assumed to be non-consumable - supplied by a taxable person wishing to resell.

Normally, where an item has been used by a taxable person for a taxable transaction, the tax charged on the item has been deducted and does not, therefore, constitute a tax burden. The same is not true in the case of an item used by a private user.

As regards used movable property purchased by a taxable person wishing to resell and reintroduced by that person into the marketing channel, a distinction must, therefore, be drawn between two cases :

- 1) An item is purchased from a taxable person entitled to deduct input tax. Here, the taxable person concerned must invoice the tax to the taxable person wishing to resell, who, in turn, must charge tax on the item when supplying it to a taxable person or to a private person. In other words, the normal scheme must apply as the taxable transactions are the same, regardless of whether the item in question is a new or a used item.
- 2) An item is purchased from a private person or from a taxable person not entitled to deduct. Here the tax will not be invoiced to the taxable person wishing to resell but will, none the less, be included in the purchase price.

The special scheme provided for in Article 3 is designed to cover the latter set of circumstances by applying the same principles and the same technique as those which are laid down in Article 2 and under which the profit margin of the taxable person wishing to resell is taxed on a standard basis.

Nevertheless, a taxable person wishing to resell may purchase used movable property both from taxable persons and from private persons, depending on the circumstances. He would then have to apply two schemes to the supplies he effects, the normal scheme for transactions with taxable persons and the special scheme for transactions with private persons. With a view to avoiding accounting complications, paragraph 3 provides that any such taxable person wishing to resell may opt for the special scheme, irrespective of the source of his supply. In this case, he will not, of course, be able to deduct the tax invoiced to him by the taxable person effecting the supply transaction but will have to add it to the price as if the price paid to the supplier were a price inclusive of tax at the outset. Only one exception to this rule needs to be made : namely, in the event of exportation, deduction is permissible as in the case of the goods referred to in Article 2, and for the same reasons.

Used goods made of precious materials are excluded from this scheme. Normally, the same scheme as that applied to other movable property should be applied to these goods. However, there is too great a scope for evasion in this field. Moreover, the market in these goods is different from that in other movable property as the value of such goods can be ascertained by taking the weight of the precious material incorporated therein, and this value remains broadly constant irrespective of the use to which they are put. Lastly, goods purchased by a taxable person wishing to resell could be used as primary materials in the manufacture of new goods, and, if standard taxation were applied here, there would be a danger that the tax arrangements for goldsmiths' or silversmiths' wares would be disrupted.

Concerning Article 4

This Article concerns used goods in respect of which changes of ownership are, as often as not, officially registered, making it possible to keep track of these goods. Owing to the specific nature of the market in these goods and with a view to mitigating the cumulative impact of further taxation, which could deprive traders of business, it was felt that taxable persons having acquired such goods with a view to their resale should be entitled to deduct a certain amount of tax to correspond to the input tax.

Calculation of this deduction is to be based on the purchase price of the item at the rate in force at the time of acquisition.

This arrangement for deducting input tax was chosen for its advantage of not revealing the profit margin of the taxable person wishing to resell, while averting the need to introduce a standard tax.

Paragraph 3 provides for safeguard measures to prevent evasion which this scheme might give rise to.

Paragraph 4 permits exportation of such goods with tax paid being claimable in full, provided, however, safeguard measures are introduced similar to those provided for in paragraph 3, and with the same aim of preventing evasion. This scheme is much more accurate than that planned for other used goods and for works of art, antiques and collectors' items, since it enables tax charged on an item to be deducted even if that tax has not been invoiced to the taxable person exporting the item. This special scheme for exports is justified by the nature of these goods and by the fact that they account for the most important part of intra-Community trade in used goods.

Paragraph 5 entitles a taxable person who has imported goods with a view to their resale or re-exportation to deduct all the tax paid upon importation of the goods in question without the restrictions provided for in paragraphs 3 and 4 being applicable as this arrangement precludes evasion.

Concerning Articles 5 and 6

These provisions do not call for any special comments.

Proposal for a Seventh Council Directive
on the harmonization of the laws of the Member States
relating to turnover taxes - Common system of value
added tax to be applied to works of art, collectors'
items, antiques and used goods

The Council of the European Communities,

Having regard to the Treaty establishing the European Economic Community,
and in particular Articles 99 and 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, under Article 32 of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes - common system of value added tax: uniform basis of assessment⁽¹⁾, the Council must adopt a Community taxation system to be applied to works of art, antiques, collectors' items and used goods, whereas this system should avoid deflection of trade within the Community, and ensure that the application of the Community rate to such transactions produces equitable results in all Member States, for the purposes of the Community's own resources;

Whereas application of the normal tax scheme to works of art, antiques, collectors' items and used goods would give rise to difficulties; whereas, in the absence of special rules, a finished item reintroduced into the economic circuit would once again be fully subject to value added tax and the taxable person wishing to resell the item be unable to deduct the tax included in the item's purchase price;

Whereas, for practical reasons, if the items in question were supplied by a private person, value added tax could not be chargeable; whereas the resulting difference in the tax burden would be an inducement to bypass ordinary commercial channels;

Whereas, in order to remedy these drawbacks, special Community schemes are needed for works of art, antiques, collectors' items and used goods,

HAS ADOPTED THIS DIRECTIVE:

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

Article 1

Introductory provisions

By way of derogation from Articles 11(A), 17, 18 and 28 of Directive 77/388/EEC, Member States shall apply value added tax in accordance with the following Articles to supplies of works of art, antiques collectors' items and used goods, where they are effected by taxable persons, who acquire such items with a view to their resale and to transfers of such items where they are carried out by persons exercising an intermediate function of whatever kind.

For the purposes of this Directive, "a taxable person wishing to resell" shall mean any person who in the course of business carries out one of the activities referred to in the preceding paragraph.

Taxable persons covered by the special scheme provided for in this Directive may, in accordance with the procedures laid down by each Member State, opt for application of the normal scheme for value added tax.

This Directive shall not preclude the application of the other provisions of Directive 77/388/EEC, and in particular those of Article 15(1) and (2) and Article 24.

Article 2

Scheme for works of art, collectors'
items and antiques

1. For the purposes of this Directive
 - "works of art" shall mean works as defined in headings Nos 99.01, 99.02 and 99.03 of the Common Customs Tariff;
 - "collectors' items" shall mean items of archaeological, historical, ethnographic, palaeontological, zoological, botanical, mineralogical, numismatic and philatelic interest, intended for a collection;
 - "antiques" shall mean all items other than works of art and collectors' items of an age exceeding one hundred years.
2. Member States shall exempt supplies and imports of works of art effected by the artist himself.
3. The taxable amount in respect of supplies of works of art, collectors' items and antiques effected by a taxable person wishing to resell shall be 30% of the selling price.
4. This scheme shall also apply to supplies of the items referred to in paragraph 1 and made of gold or any other precious metal or containing precious stones, where the value of such materials incorporated therein does not exceed 50% of the selling price of those items.
5. The following shall not be deductible:
 - tax paid at the time of the acquisition of the items referred to in paragraph 1;
 - tax paid by a taxable person wishing to resell at the time of acquisition of goods and services used for the purposes of this activity.
6. Where the items referred to in paragraph 1 are imported by a taxable person wishing to resell, 70% of the amount of the value added tax paid at the time of importation shall be deductible. The right to deduct shall be exercised only when the tax in respect of the supply of the item effected by the taxable person wishing to resell becomes chargeable.

7. Where the items purchased or imported with a view to resale are dispatched or transported outside the territory referred to in Article 3 of Directive 77/388/EEC, the taxable person wishing to resell shall be entitled to deduct the value added tax due or paid at the time of acquisition or importation. The right to deduct shall be exercised only when the export formalities have been completed.

Article 3

Scheme for used goods

1. For the purposes of this Directive, "used goods" shall mean movable property other than that referred to in Article 2 that has been used and is suitable for re-use as it is or after repair.
2. The taxable amount in respect of supplies of used goods other than those referred to in Article 4 shall be 30% of the selling price where the supply is effected by a taxable person wishing to resell who acquired the item in question from a non-taxable person or from a taxable person not entitled to deduct value added tax at the time of acquisition of that item.
3. The scheme provided for in paragraph 2 may, at the option of the taxable person wishing to resell, apply, in accordance with the procedures laid down by each Member State, to supplies of used goods acquired from other taxable persons. The option shall cover all such transactions.
4. This scheme shall not apply to supplies of used goods made of gold or any other precious metal or containing precious stones.
5. Value added tax invoiced to the taxable person wishing to resell at the time of acquisition of the goods and services used for the purposes of his transactions taxed under this scheme shall not be deductible.

Where, however, goods acquired with a view to resale are dispatched or transported outside the territory referred to in Article 3 of Directive 77/388/EEC, the taxable person shall be entitled to deduct the value added tax due or paid at the time of acquisition of those goods. The right to deduct shall be exercised only when the export formalities have been completed.

Article 4

Scheme for certain used goods

1. For the purpose

- "private cars" shall to mean motor road vehicles used for the transport of persons, with a seating capacity of not more than eight in addition to the driver;
- "trailers" shall to mean any trailer hauled by a private car, including caravans but excluding mobile homes;
- "motor-cycles" shall to mean motor-cycles, with or without side-cars and cycles fitted with an auxiliary motor; side-cars for motor-cycles;
- "private aircraft" shall mean aircraft, whether or not fitted with an engine, not used for a taxable activity;
- "pleasure vessels" shall mean pleasure boats and other pleasure craft, whether or not fitted with a motor, not used for a taxable activity.

2. Supply of an item referred to in paragraph 1 by a taxable person wishing to resell entitles him to deduct an amount of value added tax calculated on the basis of the acquisition price of that item at the rate in force at the time of acquisition, where:

- the item was acquired from a non-taxable person;
- the item, acquired from a taxable person, is excluded from the right to deduct provided for in Article 17 of Directive 77/388/EEC.

3. The right to deduct provided for in paragraph 2 shall arise when the tax in respect of the supply of the item by the taxable person wishing to resell becomes chargeable. The amount deductible may not exceed four-fifths of the amount of tax due on resale.

4. Where the goods referred to in paragraph 1 are dispatched or transported outside the territory referred to in Article 3 of Directive 77/388/EEC, the amount of tax deductible may not exceed four-fifths of the amount of tax calculated on the basis of the value declared for the purposes of exportation. The right to deduct shall be exercised only when the export formalities have been completed.

5. Upon importation of the goods referred to in paragraph 1, the tax paid in respect of that event shall entitle the taxable person wishing to resell to carry out the deduction provided for in Article 17 of the Directive 77/388/EEC when the tax in respect of the supply of the item by that taxable person becomes chargeable or when the export formalities have been completed.

Article 5

Final provisions

1. Member States shall bring into force the provisions necessary in order to comply with this Directive within three months of its notification and shall forthwith inform the Commission thereof.
2. Member States shall transmit to the Commission the texts of any fundamental provisions of national law which they subsequently adopt in the field covered by this Directive.

Article 6

This Directive is addressed to the Member States.
