

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(83) 117 final
Brussels, 6 April 1983.

Proposal for a
SIXTH COUNCIL DIRECTIVE

amending Directive 69/169/EEC on the harmonization of provisions
laid down by law, regulation or administrative action relating to
exemption from turnover tax and excise duty on imports in
international travel

(submitted to the Council by the Commission)

COM(83) 117 final

EXPLANATORY MEMORANDUM

I. General

1. Council Directive 82/443/EEC of 29 June 1982 concerning tax-free allowances granted to travellers (1) increased, from 1 January 1983, the value of the exemption from turnover tax and excise duty on imports from Member States to 210 ECU. This 16.66 % increase in relation to the level of 180 ECU which had been in force since 1 January 1979 compensates only slightly for the rise in the consumer price index in the Community from 1979 to the end of 1982 (2) and in no way contributes - except in Belgium and Luxembourg - to an increase in the real value of the allowance.

The present proposal for a Directive is designed to remedy this situation by providing for gradual increases in the value of the allowance and by introducing a semi-automatic procedure for increasing the allowance, which is designed to avoid it being reduced in national currency terms and to take account of any changes in exchange rates.

2. This proposal meets the wishes expressed by the European Parliament, particularly in its opinion on the proposal for a Directive adopted by the Council on 29 June 1982 (3) and in its resolution of 17 December 1982 on the Commission communication to the Council on the 1982 programme for the attainment of the customs union (4), in which it deplored the fact that the Council has not been able to agree on increases in the allowances for the years to come. As is also recommended by Parliament, the Commission is proposing the gradual abolition of quantitative limits for tea and coffee and an increase in the limit relating to wine.

(1) OJ No L 206, 14.7.1982, p. 35.

(2) See the annexed table headed "Real variation in tax-free allowances between 1979 and 1983".

(3) OJ No C 117, 12.5.1980, p. 83.

(4) OJ No C 13, 17.1.1983, p. 234.

3. The proposed increases in allowances are accompanied, as was announced in the report on tax-free allowances benefiting individuals (1) and in the simplification programme (2), by provisions designed to improve the tax relief system for travellers who import goods which they have purchased in another Member State.

II. Commentary by Article

Article 1, paragraph 1

4. For the reasons given in section I above, the Commission proposes the following multiannual programme of increases :

a) an increase designed to compensate for the fall in the real value of allowances :

as from 1 January 1984 : 280 ECU

b) increases designed to develop the system gradually :

as from 1 January 1985 : 320 ECU

as from 1 January 1986 : 360 ECU

as from 1 January 1987 : 400 ECU

The principle of this type of programme affords not inconsiderable advantages :

- it will ensure a steady increase in tax-free allowances while requiring less of Member States ;
- it will enable national authorities to prepare their implementing measures in good time ;
- it is likely to simplify the work of all the Community institutions concerned - Commission, Economic and Social Committee and Parliament - by making it unnecessary for them to express an opinion on each annual increase.

(1) Document COM(83)47 final

(2) Programme for the simplification of value added tax procedures and formalities in intra-Community trade (OJ No C 244, 24.9.1981).

A multiannual programme of increases is also proposed for the allowance granted to travellers under 15 years of age. By providing for a steady increase in this allowance, the programme will lead to the abolition, as from 1 January 1987, of Member States' right to reduce the value of the allowance granted to this category of traveller. It should be noted that four Member States already apply the same level of allowance to all travellers.

Article 1, paragraph 2

Subparagraph (a)

5. This addition is intended merely to clarify without altering in substance a condition which is already in force.

Subparagraph (b)

6. The wording of the first indent of this subparagraph has been extended to include tafia and saké, so as to make it clear that the products in question are covered by this article.

With the aim of promoting Community products, it is also proposed that the quantitative limit applied in travel between Member States to still wines be increased from 4 to 6 litres.

Subparagraphs (c) to (e)

7. The quantitative exemptions provided for in Article 4(1) of Directive 69/169/EEC are justified by the high level of excise duties on the goods covered by this Article. The Commission considers that since excise duties on tea and coffee are applied by only a minority of Member States, this restriction can gradually be abolished, at least in travel between Member States. This measure, which would have no real negative effect on the economies or tax revenue of the Member States concerned, would enable the application of national provisions relating to tax-free allowances to be simplified.

Subparagraph (h)

8. This sub-paragraph concerning pure alcohol has been added in order that the quantitative limits laid down for alcoholic drinks will also apply to this product.

Article 1, paragraph 3

9. This provision stems from a recent decision concerning the content of the proposed Directive currently before the Council on exemption from VAT on the final importation of certain goods (Article 14(1)(d) of the Sixth VAT Directive)(1) to the effect that exemptions from import taxes currently granted to merchant seamen should be allowed to continue.

Article 1, paragraph 4

10. This addition is merely intended to clarify without altering in substance a condition which is already in force.

New paragraph 5

11. The scheme for the remission of tax on goods which are carried by travellers and which have a unit value higher than the amount of the allowance is satisfactory in principle, since it is designed to eliminate certain cases of double taxation in the Community. However, taxable persons who apply the scheme in practice experience certain difficulties. Information available to the Commission shows that, whilst the scheme does not create any difficulties for those taxable persons who specialize in export sales or who understand the system, such as department stores, the same does not apply to other categories of retailers, who are either unaware of the existence of the scheme or who refuse to implement it on the grounds that it involves them in additional administrative work. In order to remedy this situation, it is proposed that, where the seller refuses to involve himself with the scheme, the traveller should be able to submit a request for refund to the tax authorities of the Member State of export. It is further proposed that, in order to reduce the often excessively long delays experienced, refunds should be made within a period of 3 months.

(1) OJ No C 171, 11.7.1980, p. 8.

Article 1, paragraph 5

12. When the Council adopted the 1978 Directives concerning travellers it gave the Commission instructions to carry out an annual examination of the operation of the tax-free allowance system and also to submit proposals designed to prevent Community allowances from being reduced in national currency terms. The Council undertook at that time to act promptly on such proposals. However, the Commission considers it essential to introduce a simplified decision-making procedure enabling Community allowances to be set at a sufficiently high level to compensate for any such reductions (1). This system would speed up the procedure and would thus avoid the situation whereby a Member State is compelled, pending a decision, to reduce the allowance expressed in national currency only to increase it again once the decision has been taken. The semi-automatic adjustment system which the Commission is proposing would nonetheless enable Member States to request that the issue be discussed by the Council and to enable the Council to abolish or amend the decision as the case may be.

13. The same semi-automatic adjustment system is proposed to take account of changes in exchange rates.

Article 1, paragraph 6

14. This new provision requires Member States to waive VAT on goods imported by travellers where the amount due is equal to or less than 5 ECU. For reasons of administrative simplicity, most Member States already waive tax due where small amounts are involved, although the thresholds adopted vary from one Member State to another.

(1) See point 34 of the Commission programme for the simplification of value added tax procedures and formalities in intra-Community trade (OJ No C 244, 24.9.1981, p. 4) and points 44 and 45 of the report on tax-free allowances benefiting individuals.

REAL VARIATIONS IN TAX-FREE ALLOWANCES BETWEEN 1979 AND 1983

1	2	3	4	5	6	7
Member State	Level of allowance at 1 January 1979 (1) 180 ECU	Level of allowance at 1 January 1983 (2) (exchange values at 1 October 1982) 210 ECU	Difference between columns 3 and 2	Variation in % between columns 3 and 2	Member States' inflation rates 1979-82 (3) September 1982	Real variation in allowance
BELGIUM	BF. 7,200	9,584	2,384	+ 33.11 %	31.13 %	+ 1.5 %
DENMARK	DKR 1,275	1,482 (4)	207	+ 16.23 %	50.81 %	- 29.75 %
FEDERAL REPUBLIC OF GERMANY	DM 460	494	34	+ 7.39 %	22.00 %	- 13.60 %
GREECE	DRA 11,000	14,010	3,010	+ 27.36 %	122.42 %	- 74.63 %
FRANCE	FF 1,030	1,397	367	+ 35.63 %	57.00 %	- 15.75 %
IRELAND	IRL 120	145	25	+ 20.33 %	88.48 %	- 56.63 %
ITALY	LIT 195,000	278,013	83,013	+ 42.57 %	94.70 %	- 36.56 %
LUXEMBOURG	LFR 7,200	9,584	2,384	+ 33.11 %	31.49 %	+ 1.23 %
NETHERLANDS	HFL 500	540	40	+ 8.00 %	25.38 %	- 16.09 %
UNITED KINGDOM	UKL 120	115	- 5	- 4.34 %	60.66 %	- 67.94 %

(1) At 1 January 1981 in the case of Greece.

(2) Without rounding off and on the basis of the value of the ECU at 1 October 1982.

(3) Calculations made on the basis of data provided by "European Economy", Series A, No 11 - November 1982.

(4) It should be remembered that Denmark was authorized to apply the limit of 180 ECU until 31 December 1983.

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 99 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas it is important to facilitate travel and tourism within the Community and, to this end, to relax the controls on persons at frontiers in order that citizens can appreciate more precisely the positive effects of the existence of the Community ;

Whereas, from this point of view, there should be an increase in the exemption from turnover tax and excise duty, the level of which as laid down by Council Directive 69/169/EEC¹, as last amended by Directive 82/443/EEC², remains lower than the real value of the original exemption as a result of the rise in the cost of living throughout the Community;

Whereas, in its programme for the simplification of value added tax procedures and formalities in intra-Community trade³, the Commission declared that it would pursue its efforts to guarantee harmonious development of tax-free allowances;

Whereas a multiannual programme for increasing tax-free allowances along the lines of that proposed by the European Parliament which would also cover young persons under 15 years of age would enable these objectives to be met;

Whereas the quantitative limits laid down by Articles 4(1)(d) and (e) of Directive 69/169/EEC in respect of coffee and tea are liable to give rise to additional formalities at frontiers; whereas any taxes levied can yield little tax revenue; whereas arrangements should therefore be made for gradually abolishing these quantitative limits in travel between Member States;

(1) OJ No L 133, 4.6.1969, p. 6

(2) OJ No L 206, 14.7.1982, p. 35

(3) OJ No C 244, 24.9.1981, p. 4

Whereas the marketing of wines produced in the Community should be promoted; whereas an increase in the quantities of wines which can be imported duty-free is likely to contribute to this objective;

Whereas tafia, saké and other similar beverages can be treated as beverages with an alcoholic strength not exceeding 22% vol for which there is currently a tax-free limit; whereas the list of beverages covered by this limit should therefore be extended;

Whereas it should be specifically mentioned that the limit on the quantity of alcoholic beverages which can be exempted applies a fortiori to pure alcohol;

Whereas the allowance granted as at 1 January 1983 by the Member States to the crew of international means of sea transport should be allowed to continue up to the limit of the Community allowance;

Whereas the operation of the tax remission system should be improved;

Whereas, a semi-automatic system for increasing the level of allowances should be introduced in order to prevent a reduction in tax-free allowances in national currency terms and to enable the amount of these allowances to be adjusted rapidly in the event of changes in exchange rates,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. In Article 2 , Directive 69/169/EEC is hereby amended as follows:

(a) in paragraph 1, "210 ECU" is replaced by the following:

- " - as from 1 January 1984, 280 ECU;
- as from 1 January 1985, 320 ECU;
- as from 1 January 1986, 360 ECU;
- as from 1 January 1987, 400 ECU,"

(b) in paragraph 2, "to 60 ECU" is replaced by the following:

- " - as from 1 January 1984, to 120 ECU;
- as from 1 January 1985, to 200 ECU;
- as from 1 January 1986, to 300 ECU,"

(c) paragraph 2 shall no longer apply as from 1 January 1987.

2. In Article 4:

(a) The following words are added at the end of the introductory sentence in paragraph 1 :

" , provided that the goods fulfil, as regards travel between Member States, the conditions laid down in Articles 9 and 10 of the Treaty and have been acquired subject to the general rules governing taxation in the domestic market of one of the Member States." ;

(b) in the first indent of paragraph 1(b), the words " , tafia, saké and similar beverages" are inserted between the words "aperitifs with a wine or alcohol base" and "of an alcoholic strength not exceeding 22 % vol;" ;

- (c) in the second indent of paragraph 1(b) - "still wines", column II "Travel between Member States" - the words "to a total of 4 litres" are replaced by the words "to a total of 6 litres" ;
- (d) in paragraph 1(d) - "coffee", column II "Travel between Member States" - the expression "750 g" is replaced by the words "as from 1 January 1984: 1 000 g; as from 1 January 1985: no quantitative restriction";
- (e) in the same subparagraph (d) - "coffee extracts and essences" - the expression "300 g" is replaced by the words "as from 1 January 1984: 400 g; as from 1 January 1985: no quantitative restriction";
- (f) in paragraph 1(e) - "tea" column II "Travel between Member States" - the expression "150 g" is replaced by the words "as from 1 January 1984: 200 g; as from 1 January 1985: no quantitative restriction";
- (g) in the same subparagraph (e) - "tea extracts and essences" - the expression "60 g" is replaced by the words "as from 1 January 1984: 80 g; as from 1 January 1985: no quantitative restriction".
- (h) the following subparagraph (f) is added to paragraph 1:
 - "(f) undenatured ethyl alcohol of an alcoholic strength of 80% vol or more",
 - in paragraph 1(f) - column I "Travel between third countries and the Community" - the expression "1 litre" is inserted;
 - in paragraph 1(f) - column II "Travel between Member States" - the words "to a total of 1.5 litres" are inserted;

3. The following paragraph is hereby added to Article 5:

"8. Member States may maintain, up to the amount referred to in Article 2(1), the tax-free allowances which they granted as at 1 January 1983 to the crew of international means of sea transport."

4. In Article 6:

(a) the following words are added to paragraph 4(b): "proving that the turnover tax has been levied";

(b) the following paragraph is inserted between paragraphs 4 and 5:

"5. Member States shall take the necessary steps to ensure that the tax is refunded within three months from the date of receipt of the invoice or other document in lieu thereof duly endorsed by the customs.

Where the seller refuses to participate in the procedure for remission of tax provided for in paragraph 2, the traveller may, after completing the formalities laid down in paragraph 4, submit a request for refund to the competent authority in the Member State of export."

(c) paragraph 5 becomes paragraph 6 and the words "For the purposes of this Article" are replaced by the words "For the purposes of the preceding paragraphs".

5. The following paragraphs 5 and 6 are hereby added to Article 7:

"5. Where the Commission finds, on carrying out the annual adjustment provided for in paragraph 2, that conversion into national currencies of the amounts in ECU laid down in Articles 1 and 2 would result in a reduction of 5% or more in the tax-free allowances granted in one or more of the Member States, it shall by decision increase the amounts in ECU by reference to the reduction which should be made in the Member State in question, or of the highest of the reductions which should be made in several Member States, if the increase did not take place.

The Commission shall adopt the decision referred to in the first subparagraph before 1 November of the current year and shall notify it to the Member States forthwith.

Member States may request that the matter be discussed by the Council within one month of the date of notification of the decision.

The Council, acting by a qualified majority, may repeal or amend the decision within two months of it being notified by the Commission. If the Council fails to act within this period, the Commission decision shall come into effect and shall be published in the Official Journal of the European Communities.

6. In the event of changes in exchange rates, the Commission shall take appropriate measures by way of decision.

The Commission shall adopt the decision referred to in the first subparagraph within one month of the date of changes in exchange rates and shall notify it to the Member States forthwith.

Member States may request that the matter be discussed by the Council within one month of the date of notification of the decision.

The Council, acting by a qualified majority, may repeal or amend the decision within two months of it being notified by the Commission. If the Council fails to act within this period, the Commission decision shall come into effect and shall be published in the Official Journal of the European Communities."

The following subparagraph is hereby added to Article 7a:

"Member States shall waive collection of the value added tax payable on goods imported by a traveller where the amount due does not exceed five ECU."

Article 2

1. Member States shall bring into force the measures necessary to comply with this Directive with effect from 1 January 1984.
2. Member States shall inform the Commission of the provisions which they adopt to implement this Directive.
3. The Commission shall present to the Council and send to the European Parliament, within two years of the date of implementation of this Directive, a report on the operation of the tax-free allowance system.

Article 8

This Directive is addressed to the Member States.

Done at Brussels,

For the Council
The President