

EUROPEAN PARLIAMENT

# Working Documents

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25 April 1983

DOCUMENT 1-88/83

REPORT

drawn up on behalf of the Committee on Economic  
and Monetary Affairs

on the proposal from the Commission of the European  
Communities to the Council (Doc. 1-558/82 -  
COM(82) 443 final) for a Thirteenth Council Directive  
on the harmonization of the laws of the Member States  
relating to turnover taxes - arrangements for the  
refund of VAT to taxable persons not established in  
Community territory

Rapporteur: Mr D. ROGALLA



By letter of 9 August 1982 the President of the Council requested the European Parliament to deliver an opinion on the proposal from the Commission for a Thirteenth Council Directive on the harmonization of the laws of the Member States relating to turnover taxes for the refund of value added tax to taxable persons not established in Community territory.

On 13 September 1982 the President of the European Parliament referred this proposal to the Committee on Economic and Monetary Affairs.

On 21/22 September 1982 the Committee on Economic and Monetary Affairs appointed Mr Rogalla rapporteur.

It considered the proposal and the draft report at its meetings of 23/24 February and 21/22 March 1983.

At this last meeting it decided by 14 votes to 0 with 1 abstention to recommend that the Commission's proposal be approved with the following amendments.

The motion for a resolution as a whole was adopted unanimously.

At the same meeting the committee decided to present its explanatory statement orally.

The following took part in the vote: Mr J. Moreau, chairman; Mr Rogalla, rapporteur (deputizing for Mr Walter); Mr Albers (deputizing for Mr Ruffolo), Mr Beumer (deputizing for Mr Van Rompuy), Mr Bonaccini, Mrs Desouches, Mr Giavazzi, Mr De Gucht, Mr Herman, Mr Leonardi, Mr Mihr, Mr Percheron (deputizing for Mr Schwartzberg), Mr Schinzel, Mr Welsh and Mr von Wogau.

The report was submitted on 23 March 1983.

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The Committee on Economic and Monetary Affairs hereby submits to the European Parliament the following amendments and motion for a resolution:

Proposal from the Commission for a  
THIRTEENTH COUNCIL DIRECTIVE

on the harmonization of the laws of the Member States relating to turnover taxes - arrangements for the refund of value added tax to taxable persons not established in Community territory.

Amendments tabled by the  
Committee on Economic and  
Monetary Affairs

Text proposed by the Commission  
of the European Communities

Preamble and recitals unchanged  
Articles 1 and 2 unchanged

Article 3

Unchanged

1. Refunds shall be granted upon application by the taxable person. Member States shall determine the arrangements for submitting applications, including the time limits for doing so, the period which application should cover, the authority competent to receive them and the minimum amounts in respect of which applications may be submitted. They shall also determine the arrangements for making refunds, including the time limits for doing so. They shall impose on the applicant such obligations as are necessary to determine whether the application is justified and to prevent fraud, in particular the obligation to provide proof that he is engaged in an economic activity in accordance with Article 4 (1) of Directive 77/388/EEC and that, during the period prescribed, he has not carried out any transaction which does not fulfil the conditions

Unchanged.

Refunds may not be granted under conditions more favourable than those applied to Community taxable persons. Member States may make refunds conditional upon observance of the principle of reciprocity.

The Member States shall notify the Commission of the third countries in respect of which this provision is applied. On the basis of this information the Commission may decide to request additional information from the Member States concerned and further to conduct an inquiry to ensure that this exceptive clause is not being abused.

laid down in Article I (1). The appointment of a tax representative may be required.

2. Where a taxable person referred to in Article 2 is established in a non-Community State which applies to taxable persons established in the Community provisions similar to those of Articles 3, 4, 6 and 7 of Directive 79/1072/EEC, Member States shall grant the refund to that taxable person under conditions equivalent to those of the said Directive.

They shall inform the Advisory Committee on Value Added Tax of the application of the preceding subparagraph.

3. Refunds may not be granted under conditions more favourable than those applied to Community taxable persons. Member States may make refunds conditional upon observance of the principle of reciprocity.

Articles 4 and 5 unchanged

## Article 6

Within three years of the date referred to Article 5, the Commission shall, after consulting the Member States, submit a report to the Council and the European Parliament on the application of this Directive, particularly as regards application of Articles 3(3).

Within three years of the date referred to in Article 5, the Commission shall, after consulting the Member States, submit a report to the Council on the application of this Directive.

Articles 7 and 8 unchanged

MOTION FOR A RESOLUTION

Closing the procedure for consultation of the European Parliament on the proposal from the Commission of the European Communities to the Council for a Thirteenth Council Directive on harmonization of the refund of value added tax to taxable persons not established in Community territory.

The European Parliament,

- having regard to the proposal from the Commission to the Council (COM(82) 443 final),<sup>1</sup>
  - having been consulted by the Council pursuant to Articles 99 and 100 of the EEC Treaty (Doc. 1-558/82),
  - having regard to the report of the Committee on Economic and Monetary Affairs (Doc. 1-88/83 ),
  - having regard to the result of the vote on the Commission's proposal,
1. Emphasizes that one of the essential aims of the VAT tax system is to prevent the cumulation of taxes and to safeguard the neutrality of the tax system; refusal to grant VAT refunds to taxable persons from third countries introduces a cumulative element into the levying of this tax which is at variance with the very concept of VAT; furthermore, this results in distortions of competition and diversions in trade and hinders the development of trade relations between the EEC and third countries;
  2. Welcomes therefore the proposal for a thirteenth directive regulating the refund of VAT to taxable persons from third countries;
  3. Emphasizes, however, that in view of the exceptions provided for in Article 3 (3) of the proposal for a directive, full harmonization has not been achieved; while sympathetic to the desire for reciprocity expressed by certain Member States, nonetheless believes that all things considered greater weight should be given to economic considerations with respect to the Community's competitive situation than to the short-term budgetary considerations on which the call for reciprocity is based;

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<sup>1</sup> OJ No. C 223 of 27.8.1982, p. 5



requests the Commission to report to Parliament on the present state of affairs with regard to reciprocity, giving details for each Member State as well as for third countries;

4. Points out the risk that certain Member States may abuse the exceptions provided for under Article 3 (3) and therefore considers that the Commission should be notified without delay when this provision is applied and that it should guard against its being abused;
5. Draws attention to the fact that the application of different systems for refunding the tax paid in third countries to taxable persons in the various Member States results in distortions of competition within the Community; therefore considers that, in accordance with Article 111 of the EEC Treaty, the Community should conduct negotiations with third countries to ensure reciprocity;
6. Underlines the urgent need to draw up a joint list of expenditure in respect of which there is no entitlement to deduction of tax; notes that the Commission has finally adopted the twelfth VAT directive on this matter and urges that it should be dealt with by the Council without delay;
7. Instructs its President to forward to the Council and Commission, as Parliament's opinion, the Commission's proposal as voted by Parliament and the corresponding resolution.

