

COMMISSION OF THE EUROPEAN COMMUNITIES

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GUIDELINES FOR A FINANCIAL REGULATION GOVERNING THE ESTABLISHMENT
AND MAKING AVAILABLE TO THE COMMUNITY OF OWN RESOURCES ACCRUING
FROM VAT

Working paper by Commission departments

COM(76) 610 final.

Guidelines for a Financial Regulation concerning the establishment and
making available by the Community of own resources accruing from VAT

Introduction

1. At its meeting of 21 October 1976, the Council assigned the Commission the task of preparing a memorandum setting out the basic features of the financial regulation on the levying of own resources accruing from VAT.

2. In executing this task the Commission would like to stress that the aim of harmonizing the VAT systems should continue to be the uniform basis of assessment, i.e., the rules common to all the Member States, and that derogations should be considered as very exceptional and transitory. As a result, the normal system should apply to the majority of operations and thus there should not be any special problems with regard to the collection of own resources.

From this standpoint, the Commission is of the opinion that the decisions already taken by the Council cover the basic features of derogations from the normal arrangements likely to pose any fundamental problems with regard to the financial regulation. If on any given point the Council were subsequently to contemplate other derogations, their effect on the financial regulation would have to be examined.

Here, the Commission would point out that the wider the scope of the common rules becomes, the less it will be necessary to have recourse to decisions which comprise assessments to ensure that own resources are collected in a satisfactory and fair manner.

3. This communication has been drawn up in the light of the contacts made by Commission Departments with the national tax authorities, covered by two reports submitted on 22 June 1976 and 20 September 1976 respectively to the Permanent Representatives Committee¹.

4. Concerning a specific point, namely that of knowing whether and under what circumstances a compensatory payment might be waived in certain cases of operations exempted at national level and which might be considered negligible from an own resources point of view, the information at the Commission's disposal at present precludes any assessment.

¹Doc. R/1551/76 (FIN 407) and R/2179/76 (FIN 567).

5. Lastly, the Commission considers that the financial regulation to be adopted in respect of own resources accruing from VAT must, as far as possible, comply with the arrangements in force regarding the own resources already at the Communities' disposal.

Furthermore, the proposals put forward by the Commission on the replacement of the financial regulation¹ and the relevant amendments to Council Regulation 2/71² are in accordance with the guidelines put forward in this document.

A. ESTABLISHMENT

1. Establishment of own resources under normal VAT application arrangements

6. Own resources accruing from VAT are calculated on the basis of the difference between the sale price and purchase price; the operation of this technique may be summarized as follows:

(a) any taxable person subject to normal VAT arrangements must show in his periodic statement the total amount - at prices net of VAT - of deductible goods and services (inputs) and the sales of taxed goods and services (outputs) which he has made during the period covered by the declaration;

(b) once this declaration has been submitted³, the own resources accruing from VAT are considered as established. For this purpose, the competent national administration, having collected all the data stemming from the declarations of taxable persons, calculates the difference between the overall outputs and overall inputs declared by the persons liable;

(c) this difference (which constitutes the value added achieved during the period considered by all the persons liable) forms the basis for applying the rate of own resources accruing from VAT⁴

¹OJ No C 171 of 26 July 1976.

²OJ No C 164 of 17 July 1976.

³Or, in the absence of a declaration from the taxable persons, after the establishment of the tax debt has been automatically carried out.

⁴An example with figures showing how this scheme applies is given in Annex 1 of the Commission working paper (SEC(76)1186 - incorporated by the Council Secretariat in Doc. R/828/76 (FIN 182))-, to which reference should be made, particularly pages 1 to 3, for a more detailed description of this method of calculating the basic taxable amount.

2. Calculation of compensatory payments and establishment of own resources under arrangements which derogate from the normal system of VAT application

7. Wherever possible the establishment of own resources is to be made, in accordance with the general principle, on the basis of the information contained in the declarations submitted by the persons liable.

If this is not possible, the Member States shall reconstruct the bases of the operations provisionally excluded from the national assessment using the most appropriate data.

(a) Lump-sum agricultural arrangements

8. The assessment of own resources relating to operations performed by farmers entitled to these arrangements shall be determined on the basis of overall economic data, applying the common method of calculation laid down in Annex C to the proposal for a Sixth Directive.

(b) Zero rate

9. Application of the technique based on the difference between sale price and purchase price is possible provided the Member States undertake to ask the taxable person for a declaration of information needed to calculate own resources under the same conditions as apply with the normal arrangements. If, in certain marginal cases, it proved necessary to forego such a declaration, the compensatory payments could be calculated by other means considered suitable.

(c) National transport of persons

10. Any Member States wishing to derogate from Community taxation arrangements will need to ensure that compensatory payments are properly calculated either on the basis of the declarations - which could be compulsory in a number of cases - or by using information obtained from the accounts departments of transport undertakings in all other cases. In certain marginal cases (e.g. small taxi firms), other methods of calculating the compensatory payments could be employed.

(d) Immovable property transactions

11. The principles of the Community Regulation on immovable property transactions adopted by the Council provide for deferred taxation on some transactions and deferred exemption on others; as a transitional measure, the Member States have the option of retaining their respective national systems. For the purposes of the financial regulation, these exceptions could be governed by the following rules:

- the exemptions would be provisionally retained: the Member States would collect the appropriate own resources on the basis of the difference between sale price and purchase price, where the requisite information is obtainable. If it is not, compensatory payments would be calculated by other approved means considered suitable;
- the taxation would be provisionally retained: the inputs and outputs for the transactions involved would be included in the assessment basis and the corresponding own resources would thus be assigned to the Community.

12. The rule to be applied in cases where taxation is retained provisionally would also apply to cases where a Member State which has a system of exemption allows taxable persons to opt in favour of taxation.

(e) System for small undertakings

13. Member States which apply: (a) a system of exemption with a ceiling other than the limit below which VAT own resources are not collected, hereinafter called the "own resources limit", or (b) a non-exemption system, must take steps:

- to exclude from the basis of assessment of own resources all information on inputs and outputs for undertakings with turnovers below the own resources limit and which are not entitled nationally to an exemption;
- to ensure that inputs and outputs for undertakings with turnovers above the own resources limit and which are entitled nationally to exemption are declared in the same way as under the normal system (using a simplified procedure if appropriate).

In some doubtful cases, compensatory payments could be determined on the basis of other approved information.

(f) Exemptions

14. Allowing for the decisions taken by the Council, the same situations are likely to occur here as those described under "Immovable property transactions". The breakdown given under (d) thus also applies to exemptions.

As the Council has not yet taken a decision on all these problems, a more detailed study is not possible at this stage.

(g) Exclusion of certain expenditure from the right to deduction

15. If the policy trends which emerged in Council discussions are confirmed, the Community rules on deductions will become binding only after a period of three years starting from the date on which the Sixth Directive came into force. Until then, the different national systems will continue to be applicable. The question may arise therefore as to whether those Member States which apply a more liberal deduction system than that adopted by the Community would have to pay positive compensation to the Community and whether those which apply a more restrictive system would similarly be entitled to an adjustment of own resources.

B. REPORTING ACCOUNTS TO BE AVAILABLE

16. Under the normal system, the Member States would gather information on taxable persons to enable VAT own resources to be established, and after centralizing this information, would make a lump-sum monthly payment by applying the Community VAT rate adopted in the budgetary procedure for that particular financial year to the value added by all taxable persons during that monthly period.

There are two exceptions:

- cases where own resources are determined according to declarations made by the taxable persons - here again the principles described above would be applicable;
- cases where compensatory payments are determined on the basis of other information: the settlements should be made as soon as the corresponding amounts are established and in any case before the end of the financial year.

17. The Member States keep accounts of the information referred to in point 16. They enter the amount of VAT own resources - the amount of the lump-sum payment - in the special account kept by the national Treasury so that VAT resources can be made available to the Communities by the 15th of the second month after the establishment at the latest.

18. Likewise, by the same deadline, each Member State sends the Commission a monthly statement of the total amount of own resources paid over in a given month. This statement must itemize resources resulting from the application of the rate to the basis of assessment determined under the normal system and those resulting from the different exemption systems.

A VAT heading should be added in the summary account which is drawn up yearly by each Member State regarding the establishment of own resources.

C. FREQUENCY OF PAYMENTS

19. The yield from total monthly settlements made in the Member States depends essentially on the frequency with which tax returns are submitted.

In view of the different solutions adopted at national level for each branch of the economy with regard to the submission of returns, the frequency may also differ from one branch to another (monthly, quarterly or even yearly).

Each Member State is required irrespective of the above to pay into the Commission's accounts each month the total amount of the resources which it has established as accruing to it from VAT.

This amount might well fluctuate appreciably from one month to another and from one Member State to another. If expenditure were not to move in line with such fluctuations in any given period, this might give rise to cash shortages.

To ensure that no such problem impairs the sound financial management of Community resources, Member States could effect payments on account which would be regularized in the ensuing months provided that they formed part of one and the same budgetary year.

20. In the first year, application of the Sixth Directive will produce a situation in which the financing of expenditure in the first few months, when no own resources accruing from VAT will be paid in, will prove difficult.

This problem will need to be resolved within the context of the principles governing the management of the Commission's cash position.

D. INSPECTION OF OWN RESOURCES

21. Member States will be responsible for monitoring the establishment and making available of VAT own resources. The Commission will, where it so requests, be invited to take part in this monitoring procedure.

These inspections will be designed primarily to check the conformity and regular nature of the operations for establishing and making available VAT own resources, and in particular operations relating to the centralization of the tax base.

During these inspections, the Commission will ensure that the exemption arrangements are properly applied so as to guarantee all Member States equality of treatment as regards establishment of the reconstituted bases in connection with compensatory payments.

22. All Member States will be notified of the reports drawn up by the Commission following joint inspections once the Member State concerned has made known its views on them.

E. COMMITTEE PROCEDURE

23. Since own resources accrue to the Community upon their establishment, the Commission is responsible for managing them within the context of the implementation of the Communities' budget.

As part of this responsibility, and in view of the complex technical nature of the problems to be resolved in accordance with the principles which will be laid down in the financial regulation on the establishment and making available by the Community of VAT own resources, the Commission considers it essential that a committee should be set up to assist it in monitoring the application of this regulation and, more particularly, in solving the problems arising as a result of the existence of exemption arrangements (e.g. definition of the right sort of data).

In view of their direct budgetary impact, the relevant decisions should be taken swiftly, but should also be prepared in conjunction with the Member States.

The Commission points out that the setting up of such a Committee would not, of course, affect the creation of the VAT Committee provided for in the Sixth Directive and which would deal solely with problems relating to application of the common VAT system.

24. The decision-making procedure would be based on the following principles:

- (a) in all cases it would be for the Commission to decide;
- (b) before taking a decision, and after having consulted the Member State concerned where necessary, the Commission would consult the committee, which contains representatives of all the Member States.

25. The main reasons for which the Commission has found it necessary to propose this formula are as follows:

- (a) the problems requiring solution arise only at administration level and not at regulation level;
- (b) it is essential to maintain the balance between the two institutions constituting the budgetary authority, namely the European Parliament and the Council, and to avoid introducing a formula which would put the latter in a privileged position;
- (c) as each Member State is made responsible for proposing appropriate methods for fixing the bases to be used in calculating the compensatory payments, and as the Commission is responsible to the joint budgetary authority for its administration of the budget, it is reasonable that the Commission should be the arbiter of what is a suitable method;
- (d) the procedure described in 24(a) above is not an innovation since it is already in use under the transitional solution for using the GDP scale.

