

COMMISSION OF THE EUROPEAN COMMUNITIES

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94/0062(CNS)

Proposal for a
COUNCIL DIRECTIVE

amending Directive 77/388/EEC and introducing new simplification measures
with regard to value added tax - scope of certain exemptions and
practical arrangements for implementing them

(presented by the Commission)

EXPLANATORY MEMORANDUM

I. GENERAL OUTLINE OF THE PROPOSAL FOR A DIRECTIVE

The provisions adopted by the Council on 16 December 1991 (Directive 91/680/EEC⁽¹⁾) and on 14 December 1992 (Directive 92/111/EEC⁽²⁾) were designed to supplement the common system of value added tax⁽³⁾ with a view to completing the internal market.

In accordance with the undertaking it gave when each of those Directives was adopted, the Commission has closely monitored the functioning of the tax mechanisms that have applied since 1 January 1993 to trade between Member States or with third countries.

In order to ensure that monitoring has been carried out in close collaboration with all the parties concerned, regular meetings have been held with businesspeople and traders and with the authorities in the Member States: meetings of the Enterprise Consultation Committee and the Advisory Committee on Customs and Indirect Taxation, on the one hand, and meetings of Working Party No I (Harmonization of turnover taxes), on the other. The number and frequency of those meetings have made it possible to identify rapidly the problems encountered as regards the practical application of the transitional arrangements. Solutions have been found almost immediately to most of those difficulties, particularly in the form of administrative arrangements implemented by Member States.

The present proposal for a Directive continues this approach by introducing, for the benefit of traders and authorities in the Member States, common measures aimed at simplifying the operation of the common system of value added tax without putting in question the choices made by the Council as to the basic principles governing VAT and the arrangements for its control.

(1) OJ No L 376, 31.12.1991, p. 1.

(2) OJ No L 384, 30.12.1992, p. 1.

(3) Directive 77/388/EEC, OJ No L 145, 13.6.1977, p. 1.

The experience gained since 1 January 1993 has demonstrated the need for the tax treatment of the following transactions to be simplified:

- transactions, particularly chain transactions, carried out under warehousing arrangements other than customs (Article 1(4) and (7));
- supplies of goods-transport services and ancillary services where they are directly linked to the importation of goods or to the intra-Community transport of goods (Article 1(1) and (6) and Article 2);
- supplies of goods to be dispatched outside the Community in the personal luggage of travellers (Article 1(2));
- supplies of goods and services to bodies to which international conventions or treaties apply (Article 1(3) and (9)).

Where such transactions involve a number of Member States, the measures that each Member State may take individually are insufficient to ensure that the tax treatment of each of those transactions is fully simplified. Furthermore, Articles 14(2), 15(2) and (10), and 16(3) of Directive 77/388/EEC, Article 3 of Directive 92/111/EEC and Article 5 of the Council Decisions⁽⁴⁾ authorizing ten of the Member States to apply special measures derogating from Directive 77/388/EEC provide, particularly in respect of the transactions referred to in the previous paragraph, for Community rules to be laid down clarifying the scope of the provisions in question and the practical arrangements for implementing them.

On the basis of those provisions, the present proposal for a Directive provides for the Community measures necessary to ensure that the internal market functions more smoothly.

II. DETAILED DESCRIPTION OF THE PROPOSED PROVISIONS

Article 1(1)

The aim of this amendment to Article 11(B)(3)(b) is to simplify the arrangements for taxing services linked to the importation of goods (goods-transport services and ancillary services). In so far as they are not already included, such expenses are in future to be included, on importation, in the taxable amount for VAT purposes, irrespective of the Member State into which the goods are imported (Member State of entry into Community territory or other Member State) and of the place of destination of the transport following importation of the goods (transport to another part of the territory of the Member State of importation or to another Member State). In the case of transport costs, the taxable amount for VAT purposes is thus to include:

⁽⁴⁾ Council Decisions 93/555/EEC, 93/556/EEC, 93/557/EEC, 93/558/EEC, 93/559/EEC, 93/560/EEC, 93/561/EEC, 93/562/EEC and 93/563/EEC of 25 October 1993 (OJ No L 273, 5.11.1993, p. 33) and Council Decision 94/8/EEC of 22 December 1993 (OJ No L 7, 11.1.1994, p. 13).

- transport costs incurred up to the place of entry into Community territory: such costs are, in any case, included in the taxable amount on importation determined, in accordance with Article 11(B)(1), by reference to the value for customs purposes of the imported goods (Regulation (EEC) No 2913/92⁽⁵⁾, and in particular Article 32(1)(e));
- costs arising from transport between the place of entry of the goods into Community territory and the place where the import formalities are carried out (proposed new wording of the first subparagraph of Article 11(B)(3)(b));
- costs arising from transport between the place of importation and any other point in Community territory, irrespective of whether the place of destination of the transport is situated in the Member State of importation or in another Member State (proposed new wording of the third subparagraph of Article 11(B)(3)(b));

These provisions thus extend the scope of the exemptions provided for in Article 14(1)(i). The obligations incumbent on suppliers of those services are alleviated as a result.

Article 1(2)

The Commission has undertaken to present to the Council proposals for laying down Community tax rules specifying the scope of, and the practical arrangements for, the exemption contained in Article 15(2) for supplies of goods to be carried in the personal luggage of travellers leaving the Community.

Common rules are a necessary precondition for correctly applying this exemption in cases where a traveller leaves Community territory through a Member State other than that in which he purchased the goods. The measures proposed in this connection concern the documents showing that the goods are leaving the Community and the limits within which the exemption applies.

A specific Community document need not be created as a means of evidencing that goods are being exported. Endorsement by the customs office at the point of exit from Community territory of the commercial documents usually drawn up by traders - in this case, the invoice or other document in lieu of an invoice - is sufficient basis on which to exempt the transaction.

Completion of the internal market also requires that the value limits for applying the exemption and the deadlines by which goods must be exported should be common to all Member States. This harmonization prevents the travellers concerned from having to cope with arrangements that differ according to the Member State in which they purchase the goods. The value limit adopted is the same as that applied to travel between third countries and the Community; the deadline by which goods have to be exported has been set at three months, counting from the month following that in which the goods were supplied.

⁽⁵⁾ OJ No L 302, 19.10.1992, p. 1.

exported has been set at three months, counting from the month following that in which the goods were supplied.

Article 1(3), (5) and (9)

Article 15(10) requires Member States to exempt supplies of goods and services under diplomatic and consular arrangements to international organizations or to the forces of States that are party to the North Atlantic Treaty. The same exemption is laid down in Article 14(1)(g) as regards imports of goods.

For goods purchased up to 31 December 1992, these provisions meant that the exemption was granted by the host Member State itself, either in respect of a supply effected under its domestic arrangements or when the goods were imported into its territory, regardless of whether the imported goods came from third countries or had been purchased in another Member State. In the case of goods purchased in other Member States, the purchase itself did not attract value added tax. The supplier applied to his supply of goods the general exemption laid down for any export transaction, whether or not that transaction fulfilled the exemption conditions in force in the host Member State: those conditions were checked when the goods were imported into that Member State.

Since 1 January 1993, the exemption of supplies of goods effected by suppliers in other Member States has been directly applied by those suppliers: they must, therefore, have access to the information necessary to establish that their customer (international organization, embassy, consulate, etc.) satisfies the conditions laid down by the Member State to which it is accredited and is actually entitled to receive the goods free of value added tax. For this purpose, a provisional common procedure was introduced based on the use of a Community document, itself provisional.

In the light of the experience acquired in 1993, that procedure and the formalization of the exemption certificate can now be finalized so as to ensure common and straightforward application of the exemption laid down in Article 15(10). Such is the aim of the proposed amendments to Article 1(3) and (9) of this proposal for a Directive, which extends the benefit of this procedure to supplies of services.

Adoption of these common measures also makes it unnecessary to tax in the Member State of destination of the goods intra-Community supplies exempt under Article 15(10). It is therefore proposed to exclude them from the special distance-selling arrangements provided for in Article 28b(B) (Article 1(5)). That exclusion thus means that the suppliers concerned will not have to fulfil identification obligations in a Member State other than that in which the goods are sold; those obligations, which can now be imposed by the Member State of destination, are disproportionate in that the transactions in question are, in any case, exempt.

As the exemption laid down in Article 15(10) of Directive 77/388/EEC also applies to excise duties, the Commission will transmit to the Council a proposal for a Directive amending Directive 92/12/EEC⁽⁶⁾ in order to ensure that the exemption certificate used for value added tax purposes is also used for exemption from payment of excise duties.

Article 1(4) and (7)

The options provided for in Article 16(1) permit Member States to exempt some of the transactions effected on their territory and thus to alleviate the obligations on traders.

In order to apply these simplifications as widely as possible, this proposal provides for clarification of the cases in which warehousing arrangements other than customs may be used and for a better definition of the arrangements for applying tax when goods leave each of the situations referred to in Article 16(1).

These two sets of provisions meet the concerns expressed by traders and by Member States regarding the need to clarify the scope of these various arrangements and to improve the way in which they operate. In particular, they have the effect of simplifying the tax treatment of chain transactions. This proposal for a Directive is thus in response to the undertakings referred to in Article 3 of Directive 92/111/EEC.

1. Treatment applicable to transactions carried out under warehousing arrangements other than customs

Article 16(1)(D) gives Member States the option of exempting from the value added tax normally applicable to them supplies of goods and services carried out in the places listed in Article 16(1)(B).

This exemption may, for example, be applied to transactions effected under warehousing arrangements. By exercising this option, Member States are in a position to simplify the tax treatment applicable to chain purchases and resales involving goods placed under one or other of those warehousing arrangements.

Member States have generally restricted application of the option provided for in Article 16(1)(D) to customs warehouses alone. Until 31 December 1992, this situation resulted in tax treatment of external and intra-Community trade that was more favourable than that applied to trade within the same Member State. Since 1 January 1993, when the concepts of importation and exportation were abolished for any transaction within the Community, these provisions have benefited only transactions involving third-country goods or goods destined for third countries.

⁽⁶⁾ OJ No L 76, 23.3.1992, p. 1, as last amended by Directive 92/108/EEC (OJ No L 390, 31.12.1992, p. 124).

This situation stems from the fact that transactions carried out under equivalent conditions within the same Member State are not treated in an equivalent manner. The measures which would have ensured such equality of treatment have not been adopted. Chain transactions involving Community goods are thus penalized, whereas the conditions under which goods are warehoused may permit them to be exempted.

It is therefore proposed that those Member States which exercise the option provided for in Article 16(1)(D) in respect of transactions carried out under customs warehousing arrangements should introduce tax warehousing arrangements for goods that are not intended to be supplied at the retail stage.

The aim of this provision is simply to give the traders and markets concerned a better guarantee that the tax will be applied fairly. It should be pointed out that this provision in no way limits the choices that Member States may make, subject to their consulting the VAT Committee, within the general framework laid down by Article 16(1): the decision whether or not to exercise the options provided for in this Article and the arrangements by which those options can best be tailored to the particular characteristics of certain transactions continue to be a matter for each Member State. Similarly, the obligations from which taxable persons may be released in respect of transactions covered by one of the provisions of Article 16(1) continue to be determined by the Member State on whose territory those transactions are carried out (Article 22(9)).

2. General functioning of Article 16(1)

One of the general conditions for applying the special measures provided for in Article 16(1) concerns the amount of tax due when such measures can no longer be applied: it must correspond to the amount of tax which should have been charged if each of the transactions in question had actually been taxed. The proposed amendments are designed to specify the moment at which the tax due has to be determined and to indicate the person liable for payment of the tax:

- Article 16(1) still refers to "entry for home use", a term used in the pre-1 January 1993 version of Article 10(3) for the purpose of determining the chargeable event and chargeability of tax on the importation of goods. As that expression was replaced in Directive 91/680/EEC by a reference to the moment at which goods cease to be covered by the arrangements in question, Article 16(1) must be amended accordingly;
- in order to clarify the effect of the introductory provisions in Article 16(1) as to the determination of the amount of tax due, it is further proposed that the transactions should themselves be regarded as having been effected at the moment the goods cease to be covered by the arrangements in question. That same moment is also adopted for determining when the tax due becomes chargeable.
- finally, in order to take account of the special conditions under which the transactions referred to in Article 16(1) are effected, it is proposed that the person liable for the tax should be the person who causes the goods to cease to be covered by the arrangements under which they were placed.

These last two provisions are scheduled to apply only for the period in which the transitional arrangements for taxing trade between Member States are applied. The Commission's departments will examine their practical consequences so as to determine whether or not these measures are sufficient to ensure that the options provided for in Article 16(1) are applied in comparable fashion in all the Member States which exercise them. The information and clarifications necessary for that purpose will be sought from the Member States and traders concerned.

Articles 1(6) and 2

The principles of territorial application that apply, under Article 28b(C)(D) and (E), to supplies of intra-Community goods-transport services and ancillary transport services - whether these services are those referred to in the second indent of Article 9(2)(c) or those supplied by intermediaries involved in supplying such transport or ancillary services - function satisfactorily for traders and for the authorities in the Member States.

By treating transport services supplied within a Member State as an intra-Community transport of goods where they are directly linked to the intra-Community transport of goods, this proposal extends the principles of territorial application applied to the intra-Community transport of goods not only to such "domestic" transport and ancillary services but also to the services of intermediaries involved in supplying one or other of those services.

This proposal thus introduces a Community solution to the problems in respect of which ten of the Member States were authorized by Council decisions to adopt, until 31 December 1994 at the latest, special measures exempting certain services supplied to taxable customers who are identified for VAT purposes in another Member State and who could qualify for the refund of value added tax provided for in Directives 79/1072/EEC⁽⁷⁾ or 86/560/EEC.⁽⁸⁾ The special measures authorized by the abovementioned Council decisions in connection with transport and ancillary services will therefore no longer serve any useful purpose once the Directive that is the subject of the present proposal comes into force.

Article 1(8)

The proposed amendment clarifies the wording of the provisions concerning the extent of the right to deduct tax due or paid within the territory of the country in respect of goods and services supplied to a taxable person by another taxable person. It thus has the effect of including more clearly the cases which are referred to in Article 18(1)(d) and in which, in accordance with Article 21(1), the taxable person purchasing the goods or receiving the services is himself liable for the tax due.

⁽⁷⁾ OJ No L 331, 27.12.1979, p. 11.

⁽⁸⁾ OJ No L 326, 21.11.1986, p. 40.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European 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 the operation of the internal market can be improved by introducing common rules clarifying the scope of, and arrangements for applying, some of the exemptions provided for in Articles 14(1), 15(2) and (10), and 16(1) of Directive 77/388/EEC⁽¹⁾, as last amended by Directive 94/5/EC⁽²⁾; whereas the introduction of such common rules is provided for by the aforesaid Directive 77/388/EEC, and in particular Articles 14(2) and 16(3) thereof;

Whereas Article 3 of Directive 92/111/EEC⁽³⁾ provides for the adoption of special rules for the taxation of chain transactions between taxable persons; whereas such rules must ensure not only compliance with the principle of neutrality of the common system of value added tax as regards the origin of goods and services but also compliance with the choices made as to the principles governing value added tax and its monitoring arrangements during the transitional period;

Whereas it is necessary to include in the taxable amount on importation all ancillary costs arising from the transport of goods to any place of destination in the Community since that place is known at the time the importation is carried out; whereas, as a result, the supplies of services in question enjoy the exemptions provided for in Article 14(1)(i) of Directive 77/388/EEC;

Whereas Article 15(2) of that Directive provides that the Commission shall submit to the Council proposals to establish Community tax rules specifying the scope of, and practical arrangements for implementing, the export exemptions applicable to supplies of goods carried in the personal luggage of travellers;

⁽¹⁾ OJ No L 145, 13.6.1977, p. 1.

⁽²⁾ OJ No L 60, 3.3.1994, p. 16.

⁽³⁾ OJ No L 384, 30.12.1992, p. 47.

Whereas Article 15(10) provides for the adoption of uniform tax rules; whereas it is necessary in this connection to clarify the practical arrangements for implementing the exemptions provided for in that Article; whereas the use of a harmonized certificate for that purpose is likely to simplify the application and monitoring of the exemption for the supplies of goods and services concerned;

Whereas the adoption of a Community procedure for exempting the supplies of goods referred to in Article 15(10) also makes it possible to exclude such supplies from the special arrangements under Article 28b(B);

Whereas Article 16(1)(B) to (E), taken together with Article 22(9) concerning release from obligations, makes it possible to overcome the difficulties encountered by traders participating in transaction chains involving goods placed and kept under warehousing arrangements;

Whereas it is necessary in this connection to ensure that the tax treatment applied to supplies related to goods placed under customs warehousing arrangements can also be applied to transactions involving goods placed under warehousing arrangements other than customs warehousing;

Whereas, subject to consultation of the Committee on Value Added Tax, the Member States are responsible for defining those warehousing arrangements other than customs warehousing; whereas it is necessary nevertheless to exclude from such arrangements goods that are intended to be supplied at the retail stage;

Whereas it is necessary to clarify some of the rules for applying tax when goods cease to be covered by the arrangements provided for in Article 16(1)(B) to (E), particularly as regards determination of the amount of tax due and the person liable for payment of the tax due;

Whereas the rules governing territorial application and the tax arrangements applicable in the field of intra-Community goods-transport services function in a simple and satisfactory manner for both traders and the authorities in the Member States;

Whereas by treating a transport operation within a Member State as an intra-Community goods-transport operation where it is directly linked to a transport operation between Member States, it is possible to simplify not only the rules and arrangements for taxing those domestic transport services but also the rules applicable to ancillary services and to services supplied by intermediaries involved in the supply of these various services; whereas, as a result, the authorizations granted temporarily to ten Member States under Article 27 of Directive 77/388/EEC, will no longer serve any useful purpose as regards the exemption of the various supplies of services linked to an intra-Community goods-transport operation;

Whereas it is necessary to clarify the scope of those provisions of Article 17(2)(a) that are applicable during the transitional period referred to in Article 281;

Whereas it is accordingly necessary to amend Directive 77/388/EEC,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 77/388/EEC is hereby amended as follows:

1. In Article 11(B)(3)(b):

- the first subparagraph shall be replaced by the following:

"incidental expenses, such as commission, packing, transport and insurance costs, incurred after the entry of the goods into the territory of the Community up to the first place of destination within the territory of the importing Member State."

- the third subparagraph shall be replaced by the following:

"The incidental expenses referred to above shall also be included in the taxable amount where they result from transport to another place of destination within the territory of the Community if that place is known when the chargeable event occurs."

2. In Article 15(2), the second and third subparagraphs shall be replaced by the following:

"This exemption shall apply to supplies of goods to be carried in the personal luggage of travellers whose domicile or habitual residence is not situated within the territory of the country:

- as soon as the total value of each supply, including value added tax, is more than the equivalent in national currency of ECU 175, fixed in accordance with Article 7(2) of Directive 69/169/EEC^(*), as last amended by Directive 94/4/EC^(**)

and

- on condition that the goods are dispatched or transported out of the Community before the end of the third month following that in which the supply is effected.

For the purposes of applying the second subparagraph:

- "domicile or habitual residence" means the place entered as such in a passport, identity card or other identity documents which the Member State within whose territory the supply takes place recognizes as valid;

- proof of exportation shall be furnished by means of the invoice or other document in lieu thereof, endorsed by the customs office where the goods left the Community.

Each Member State shall transmit to the Commission specimens of the stamps it uses for the endorsement referred to above. The Commission shall transmit this information to the tax authorities in the other Member States.

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

(**) OJ No L 60, 3.3.1994, p. 14."

3. In Article 15(10), the second and third subparagraphs shall be replaced by the following:

"This exemption shall apply within the limits laid down by the host Member State. It shall be subject to possession by the supplier of the goods or services of an exemption certificate corresponding to the specimen shown in Annex J. That certificate, duly endorsed by the competent authorities designated by the host Member State, shall be given to him by the buyer of the goods or the recipient of the services. However, where the goods or services supplied are intended for official use, Member States may waive the endorsement requirement, subject to any conditions they may lay down.

Member States shall indicate by appropriate means the department responsible for issuing the exemption certificate provided for in the second subparagraph.

In cases where the goods are not dispatched or transported out of the country, and in the case of services supplied within the territory of the host Member State, the benefit of the exemption may be accorded by means of a refund of the tax.

The Commission shall present to the Council as soon as possible proposals for laying down Community tax rules specifying the scope of the exemption provided for above."

4. In Article 16:

- in paragraph 1, the introductory phrase shall be replaced by the following:

"1. Without prejudice to other Community provisions, Member States may, subject to the consultations provided for in Article 29, take special measures designed to exempt all or some of the following transactions, provided that they are not aimed at final use and/or consumption and that the amount of value added tax due on cessation of the arrangements on situations referred to at A to E below corresponds to the amount of tax which should have been due had each of these transactions been taxed within the territory of the country.";

- in paragraph 1(B), (e) shall be replaced by the following:

"(e) placed, within the territory of the country, under warehousing arrangements other than customs warehousing.

For the purposes of this Article, warehouses other than customs warehouses shall be taken to be:

- for products subject to excise duty, the places defined as tax warehouses by Article 4(b) of Directive 92/12/EEC^(*);
- for goods other than those subject to excise duty, the places defined as such by the Member States. However, Member States may not provide for warehousing arrangements other than customs warehousing where the goods in question are intended to be supplied, in their unaltered state or after processing, at the retail stage.

^(*) OJ No L 76, 23.3.1992, p. 1."

- in paragraph 1, D shall be replaced by the following:

"D. supplies of goods and of services carried out:

- (a) in the places listed in B(a), (b), (c) and (d) and still subject to one of the arrangements specified therein;
- (b) in the places listed in B(e) and still subject, within the territory of the country, to the arrangement specified therein.

Where they exercise the option provided for in (a) for transactions effected in a customs warehouse, Member States shall take the measures necessary to ensure that they have defined warehousing arrangements other than customs warehousing which permit the provisions in (b) to be applied;"

5. In the second indent of Article 28(B)(1), the full stop shall be replaced by a comma and the following indent shall be added:

"- the supply of goods is not exempted pursuant to Article 15(10)."

6. In the first indent of Article 28b(C)(1), the comma shall be replaced by a full stop and the following subparagraph shall be added:

"The transport of goods where the place of departure and the place of arrival are situated within the territory of the country shall be treated as intra-Community transport of goods where such transport is directly linked to transport of goods where the place of departure and the place of arrival are situated within the territories of two different Member States."

7. In Article 28c(E)(1):

- the introductory phrase shall be replaced by "The following paragraphs shall be added to Article 16:"

- the following paragraph shall be inserted:

"1b. For the purpose of determining the amount of tax due on cessation of the arrangements or situations listed in paragraphs 1(A) to (E), the transactions referred to in that paragraph shall be regarded as having been effected and the tax thus due as becoming chargeable when the goods cease to be covered by those arrangements or situations.

By way of derogation from the first subparagraph of Article 21(1)(a), the person liable to pay the value added tax due in accordance with paragraph 1 hereof shall be the person who causes the goods to cease to be covered by the arrangements or situations listed in that paragraph."

8. In Article 28(1), Article 17(2)(a) shall be replaced by the following:

"(a) value added tax due or paid within the territory of the country in respect of goods or services supplied or to be supplied to him by another taxable person;"

9. The Annex to this Directive shall be added as Annex J.

Article 2

The provisions relating to transport services and ancillary transport activities in the following Council Decisions shall cease to have effect on the date on which this Directive is implemented:

- Decisions 93/555/EEC, 93/556/EEC, 93/557/EEC, 93/558/EEC, 93/559/EEC, 93/560/EEC, 93/561/EEC, 93/562/EEC and 93/563/EEC⁽⁴⁾;

- Decision 94/8/EC⁽⁵⁾.

⁽⁴⁾ OJ No L 273, 5.11.1993, pp. 33 *et seq.*

⁽⁵⁾ OJ No L 7, 11.1.1994, p. 13.

Article 3

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 1 October 1994. They shall forthwith inform the Commission thereof.

When Member States adopt these provisions, these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 4

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Communities.

Article 5

This Directive is addressed to the Member States.

Done at Brussels,

For the Council
The President

EUROPEAN COMMUNITY

"Annex J

VAT AND EXCISE DUTY EXEMPTION
CERTIFICATE

(Dir.77/388/EEC Art. 15 (10) - Dir.92/12/EEC Art. 23(1))

Serial Number (optional):

1. ELIGIBLE INSTITUTION / INDIVIDUAL

Designation / name:

Street, house number

Postal code, place

(Host) Member State

2. COMPETENT AUTHORITY FOR ISSUING THE STAMP (name, address and telephone number)

3. DECLARATION FROM THE ELIGIBLE INSTITUTION OR INDIVIDUAL

The eligible institution or individual⁽¹⁾ hereby declares :a) that the goods and/or services supplied set out in point 5 are destined⁽²⁾ : for the official use of a foreign diplomatic mission a foreign consular representation an international organisation an armed force of a state being a party to the North Atlantic Treaty (NATO force) for the personal use of a staff member of the following institution :

.....(designation of the institution)(see point 4)

b) that the supply of the goods and/or services set out in point 5 complies with the conditions and limitations applicable to the exemption in the host Member State mentioned in point 1, and

c) that the information above is furnished in good faith. The purchaser hereby undertakes to pay to the Member State where the supplies of goods and/or services take place, the VAT and/or the excise duty which would be due if these supplies did not comply with the conditions of exemption, or when the goods and/or services were not put to the intended use.

Place, date

Name and status of signatory

Signature

4. STAMP OF THE INSTITUTION (in case of exemption for personal use)

Place, date

Stamp

Name and status of signatory

Signature

5. DESCRIPTION OF THE SUPPLY OF GOODS AND/OR SERVICES FOR WHICH THE EXEMPTION FROM VAT AND EXCISE DUTY IS REQUESTED

A. Information concerning the supplier of the goods and/or services

- 1) Name and address:.....
 2) Member State:.....
 3) VAT identification number :..... (optional)
 and/or tax warehouse number :..... (optional)

B. Information concerning the goods and/or services

N°	Detailed description of goods and/or services ⁽³⁾ (or refer to the attached order-form)	Quantity or number	Price without VAT and excise duty		Currency
			Unit price	Total price	
Total amount :					

6. DECLARATION (STAMP) FROM THE COMPETENT AUTHORITY OF THE HOST MEMBER STATE

The supply of goods and/or services set out in point 5⁽⁴⁾ meets⁽²⁾:

- totally
 up to the sum of(currency),

the conditions to be exempted from VAT and/or excise duty.

Place, date

Stamp

Name and status of signatory
Signature

7. DISPENSATION FROM STAMP (only in the case of exemption for official use)

By letter No (reference to file) of (date),
 (designation of eligible institution) has been dispensed by
 (designation of the competent authority in the host country) from the need
 to ask for the stamp under point 6.

Place, date

Stamp

Name and status of signatory
Signature

- (1) Delete as appropriate
 (2) Place a cross in the appropriate case
 (3) Delete space not-used. This obligation also applies to the order form.
 (4) The supplies of goods and services not eligible are cancelled"

**MINIMUM INFORMATION TO BE GIVEN
IN EXPLANATORY NOTES**

1. For the supplier, this certificate serves as a supporting document for the tax exemption of the supplies of goods and/or services to eligible institutions/individuals referred to in Article 15(10) of the sixth VAT Directive (77/388/EEC), as well as in Article 23(1) of Directive 92/12/EEC. Accordingly, one certificate shall be drawn up per supplier. Moreover, the supplier is required to keep this certificate as part of his records in accordance with the legal provisions applicable in his Member State.
2.
 - (a) The certificate shall be drawn up on a form printed in one of the official languages of the European Community. It shall be completed in a language recognised by the host Member State.
 - (b) If the list of the goods and services (point 5B of the certificate) refers to a purchase order form drawn up in a language other than a language recognised by the host Member State, a translation must be attached by the eligible institution/individual.
 - (c) On the other hand, if the certificate is drawn up in a language other than a language recognised by the Member State of the supplier, a translation of the information concerning the goods and/or services in point 5B must be attached by the eligible institution/individual.
 - (d) A recognised language means one of the languages officially in use in the Member State or any other official language of the Community which the Member State declares can be used for this purpose.
3. By its declaration in point 3 of the certificate, the eligible institution/individual indicates the elements necessary for the evaluation of the request for exemption in the host Member State.
4. By its declaration in point 4 of the certificate, the institution certifies that the eligible individual is a staff member of the institution.

5. (a) The reference to the purchase order form (point 5B of the certificate) must contain at least the date and order number. The order form should contain all the elements that figure at point 5 of the certificate. If the certificate has to be stamped by the competent authority of the host Member State, the order form shall also be stamped.
 - (b) The VAT identification number and/or the tax warehouse number as defined in Article 4(b) of Directive 92/12/EEC of the supplier shall be given, if it is known by the eligible institution/individual.
 - (c) The currencies are indicated by means of a three letters code in conformity with the dates of the international ISO/DIS 4217 standard established by the International Standard Organization (*).
6. The declaration mentioned above is authenticated at point 6 by the stamp of the competent authority of the host Member State. These authorities can delegate their approval with the prior agreement of another authority of their Member State, for example the Ministry for Foreign Affairs. It is up to the authority competent for tax matters to make such agreements.
 7. To simplify the procedure, the competent authority can dispense with the obligation of the eligible institution to ask for the stamp in the case of exemption for official use. The eligible institution should mention this dispensation at point 7 of the certificate.

(*) As an indication, some codes relating to currencies currently used:

BEF (Belgian franc), DEM (German mark), DKK (Danish krone), ESP (Spanish peseta), FRF (French franc), GBP (Pound sterling), GRD (Greek drachma), IEP (Irish pound), ITL (Italian lire), LUF (Luxembourg franc), NLG (Netherlands guilder), PTE (Portuguese escudo) and USD (United States dollar).

FINANCIAL STATEMENT

Application of this Directive shall not affect the Community's own resources.

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