



COMMISSION OF THE EUROPEAN COMMUNITIES

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2003/0317 (CNS)

Proposal for a

### **COUNCIL DIRECTIVE**

**amending Directive 77/388/EEC to extend the facility allowing Member States to apply reduced rates of VAT to certain labour-intensive services**

Proposal for a

### **COUNCIL DECISION**

**extending the period of application of Council Decision 2000/185/EC authorising Member States to apply a reduced rate of VAT to certain labour-intensive services in accordance with the procedure provided for in Article 28(6) of Directive 77/388/EEC**

(presented by the Commission)

## **EXPLANATORY MEMORANDUM**

On 22 October 1999, as part of its implementation of the recommendations of the European Council of 11 and 12 December 1998, and in particular the “Vienna Strategy for Europe”, the Council adopted Directive 1999/85/EC<sup>1</sup> amending Directive 77/388/EEC<sup>2</sup> (the 6th VAT Directive) as regards the possibility of applying on an experimental basis a reduced VAT rate on labour-intensive services. Its purpose is to allow Member States that so wish to test the impact of a targeted reduction of VAT on these services in terms of job creation and a reduction of the underground economy.

Member States wishing to introduce the measure had to inform the Commission before 1 November 1999.<sup>3</sup>

Article 28(6) of the 6th VAT Directive authorises the experimental application of a reduced rate of VAT on labour-intensive services up to 31 December 2003. It requires Member States that have applied such reduced rates to draw up a detailed report by 1 October 2002 assessing the measures’ effectiveness in terms of job-creation and efficiency.

On the basis of the assessment reports submitted by the Member States that have applied the reduced rate, the Commission submitted a global evaluation report on the experiment to the European Parliament and the Council.<sup>4</sup>

On 23 July 2003 the Commission adopted a proposal for a Directive<sup>5</sup> introducing a general review of reduced rates of VAT to simplify and rationalise them. The proposal takes account of the conclusions of the evaluation report and fits into the framework defined in the Commission's Communication on a strategy to improve the operation of the VAT system within the context of the internal market.<sup>6</sup>

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<sup>1</sup> OJ L 277, 28.10.1999, p. 34.

<sup>2</sup> OJ L 145, 13.6.1977, p. 1. (Directive last amended by Directive 2003/92/EC: OJ L 260, 11.10.2003, p.8).

<sup>3</sup> The applications submitted were the subject of Council Decision 2001/185/EC of 28 February 2000: OJ L 59, 4.3.2000, p.10.

<sup>4</sup> COM(2003) 309 final of 2.6.2003.

<sup>5</sup> COM(2003) 397 final of 23.7.2003.

<sup>6</sup> COM(2000) 348 final of 7.6.2000.

Since the Council has not yet been able to reach an unanimous decision to adopt the proposed Directive, in order to avoid legal uncertainty from 1 January 2004 and give the Council time to take a decision on the general proposal regarding reduced rates of VAT, the first subparagraph of Article 28(6) of Directive 77/388/EEC and the first paragraph of Article 1 of Decision 2000/185/EC should be amended to extend the validity of the authorisation for two years up to 31 December 2005 at the latest. This would allow the nine Member States currently applying a reduced rate of VAT to labour-intensive services to continue to do so for another two years under the same conditions, without changing or extending the scope of the experiment.

Proposal for a

## **COUNCIL DIRECTIVE**

**amending Directive 77/388/EEC to extend the facility allowing Member States to apply reduced rates of VAT to certain labour-intensive services**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 93 thereof,

Having regard to the proposal from the Commission,<sup>7</sup>

Having regard to the opinion of the European Parliament,<sup>8</sup>

Having regard to the opinion of the Economic and Social Committee,<sup>9</sup>

Whereas:

- (1) Article 28(6) of Council Directive 77/388/EC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes - common system of value added tax: uniform basis of assessment<sup>10</sup> allows the reduced rates provided for in the third subparagraph of Article 12(3)(a) also to be applied to the labour-intensive services listed in the categories set out in Annex K to that Directive for a maximum period of four years from 1 January 2000 to 31 December 2003.
- (2) Council Decision 2000/185/EC of 28 February 2000 authorising Member States to apply a reduced rate of VAT to certain labour-intensive services in accordance with the procedure provided for in Article 28(6) of Directive 77/388/EEC<sup>11</sup>, authorised certain Member States to apply a reduced rate of VAT to those labour-intensive services for which they had submitted an application up to 31 December 2003.
- (3) On the basis of the assessment reports submitted by the Member States that have applied the reduced rate, the Commission submitted its global evaluation report on 2 June 2003<sup>12</sup>.

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<sup>77</sup> OJ C [...], [...], p. [...].

<sup>8</sup> OJ C [...], [...], p. [...].

<sup>9</sup> OJ C [...], [...], p. [...].

<sup>10</sup> OJ L 145, 13.6.1977, p. 1. (Directive last amended by Directive 2003/92/EC: OJ No L 260, 10.11.2003, p.8).

<sup>11</sup> OJ L 59, 4.3.2000, p. 10. (Decision amended by Decision 2002/945/EC: OJ L 331, 7.12.2002, p. 28).

<sup>12</sup> COM(2003) 309 final of 2.6.2003.

- (4) In line with its strategy to improve the operation of the VAT system within the context of the internal market<sup>13</sup>, the Commission adopted a proposal for a general review of the reduced rates of VAT<sup>14</sup> to simplify and rationalise them.
- (5) Since the Council has not reached an agreement on the content of the proposal, it should be given the necessary time to do so; in order to avoid legal uncertainty from 1 January 2004 the maximum period of application set for this measure in Directive 77/388/EEC should therefore be extended.
- (6) Decision 77/388/EC should be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

#### *Article 1*

In the first paragraph of Article 28(6) of Directive 77/388/EEC the words “four years between 1 January 2000 and 31 December 2003” are replaced by the words “six years between 1 January 2000 and 31 December 2005”.

#### *Article 2*

The Member States concerned shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 February 2004 at the latest. They shall forthwith inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

#### *Article 3*

This Directive shall enter into force on the day of its adoption.

#### *Article 4*

This Directive is addressed to the Member States.

Done at Brussels, [...]

*For the Council*  
*The President*

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<sup>13</sup> COM(2000) 348 final of 7.6.2000.

<sup>14</sup> COM(2003) 397 final of 23.7.2003.

## **EXPLANATORY MEMORANDUM**

On 22 October 1999, as part of its implementation of the recommendations of the European Council of 11 and 12 December 1998, and in particular the “Vienna Strategy for Europe”, the Council adopted Directive 1999/85/EC<sup>15</sup> amending Directive 77/388/EEC<sup>16</sup> (the 6th VAT Directive) as regards the possibility of applying on an experimental basis a reduced VAT rate on labour-intensive services. Its purpose is to allow Member States that so wish to test the impact of a targeted reduction of VAT on these services in terms of job creation and a reduction of the underground economy.

Article 28(6) of the 6th VAT Directive, as last amended by Directive 2002/93/EC,<sup>17</sup> authorises the experimental application of a reduced rate of VAT on labour-intensive services up to 31 December 2003. Member States wishing to introduce the measure had to inform the Commission before 1 November 1999. Nine Member States submitted applications meeting the requirements of these provisions. Their applications were the subject of Council Decision 2000/185/EC of 28 February 2000.<sup>18</sup> This Decision was extended for the first time by Decision 2002/954/EC of 3 December 2002<sup>19</sup> for a period of one year to allow for an overall, in-depth evaluation of the national reports on the experiment. The Commission presented its evaluation report on 2 June 2003.<sup>20</sup>

On 23 July 2003 the Commission adopted a proposal for the general review of the reduced rates of VAT.<sup>21</sup> This proposal was adopted in line with the Communication on a strategy to improve the operation of the VAT system within the context of the internal market.<sup>22</sup>

The Council has not reached an agreement on the content of this proposal. In order to avoid legal uncertainty from 1 January 2004 and give the Council time to take a decision on the general proposal regarding reduced rates of VAT, the Commission is presenting a proposal for the amendment of the first subparagraph of Article 28(6) of the Sixth VAT Directive to extend the period of application of reduced rates of VAT to labour-intensive services for two years.

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<sup>15</sup> OJ L 277, 28.10.1999, p. 34.

<sup>16</sup> OJ L 145, 13.6.1977, p. 1. (Directive last amended by Directive 2003/92/EC: OJ L 260, 11.10.2003, p.8.)

<sup>17</sup> OJ L 331, 7.12.2002, p. 27.

<sup>18</sup> OJ L 59, 4.3.2000, p. 10.

<sup>19</sup> OJ L 331, 7.12.2002, p. 28.

<sup>20</sup> COM(2003) 309 final of 2.6.2003.

<sup>21</sup> COM(2003) 397 final of 23.7.2003.

<sup>22</sup> COM(2000) 348 final of 7.6.2000.

Council Decision 2000/185/EC of 28 February 2000 authorising the nine Member States to apply a reduced rate of VAT to certain labour-intensive services must, therefore, also be amended in the same way to allow those Member States to continue applying the reduced rates for another two years under the same conditions, without altering or extending the scope of the experiment.

Proposal for a

## COUNCIL DECISION

**extending the period of application of Council Decision 2000/185/EC authorising Member States to apply a reduced rate of VAT to certain labour-intensive services in accordance with the procedure provided for in Article 28(6) of Directive 77/388/EEC**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes - common system of value-added tax: uniform basis of assessment,<sup>23</sup> and in particular Article 28(6) thereof,

Having regard to the proposal from the Commission,<sup>24</sup>

Whereas:

- (1) Under Council Decision 2000/185/EC,<sup>25</sup> Belgium, Greece, Spain, France, Italy, Luxembourg, the Netherlands, Portugal and the United Kingdom are authorised to apply, up to 31 December 2003, a reduced rate of VAT on the labour-intensive services for which they submitted an application.
- (2) On 23 July 2003 the Commission adopted a proposal for a Directive for a general review of the reduced rates of VAT.<sup>26</sup> Since the Council did not reach an agreement before 31 December 2003, the present system of reduced rates of VAT for labour-intensive services should be extended for two years.
- (3) The maximum period of application set for this measure in Directive 77/388/EEC has been extended.
- (4) The period of application of Decision 2000/185/EC should also be extended,

HAS ADOPTED THIS DECISION:

### *Article 1*

Decision 2000/185/EC is hereby amended as follows:

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<sup>23</sup> OJ L 145, 13.6.1977, p. 1. (Directive last amended by Directive 2003/92/EC: OJ L 260, 11.10.2003, p.8).

<sup>24</sup> OJ C [...], [...], p. [...].

<sup>25</sup> OJ L 59, 4.3.2000, p. 10. (Decision amended by Decision 2002/945/EC: OJ L 331, 7.12.2002, p.28).

<sup>26</sup> COM(2003) 397 final of 23.7.2003.



- 1) In the first paragraph of Article 1, “four years running from 1 January 2000 to 31 December 2003” is replaced by “six years running from 1 January 2000 to 31 December 2005.”
- 2) In the second paragraph of Article 3, “31 December 2003” is replaced by “31 December 2005”.

## *Article 2*

This Decision is addressed to the Kingdom of Belgium, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Portuguese Republic and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, [...]

*For the Council*  
*The President*