



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Economic and Monetary Affairs

2007/0238(CNS)

15.10.2009

AMENDMENTS

7 - 17

Draft report
Udo Bullmann
(PE428.223v01-00)

on the draft Council directive amending various provisions of the VAT
Directive 2006/112/EC of 28 November 2006 on the common system of value
added tax

(10893/2009 – C7-0002/2009 – 2007/0238(CNS))

(Renewed consultation)

AM_Com_LegReport

Amendment 7
Hans-Peter Martin

Draft Directive – amending act
Recital 8

Text proposed by the Council

(8) In the context of their accession, Bulgaria and Romania were authorised to grant a tax exemption to small enterprises and to continue applying a VAT exemption to the international transport of passengers. For purposes of clarity and consistency, these exemptions should be incorporated into the Directive itself.

Amendment

(8) In the context of their accession, Bulgaria and Romania were authorised to grant a tax exemption to small enterprises and to continue applying a VAT exemption to the international transport of passengers. For *the* purposes of clarity and consistency, these exemptions should be incorporated into the Directive itself, ***and their legality and necessity reviewed at least every two years.***

Or. de

Amendment 8
Olle Schmidt

Draft Directive – amending act
Recital 9

Text proposed by the Council

(9) Regarding the right of deduction, the basic rule is that this right arises only in so far as the goods and services are used by a taxable person for the purposes of ***his business activity***. This rule should be clarified and strengthened with respect to the supply of immovable property and expenditure relating thereto in order to ensure that taxable persons are dealt with in an identical manner whenever immovable goods that they use for their business activity are not used exclusively for purposes related to that activity.

Amendment

(9) Regarding the right of deduction, the basic rule is that this right arises only in so far as the goods and services are used by a taxable person for the purposes of ***that person's transactions that give rise to a right of deduction***. This rule should be clarified and strengthened with respect to the supply of immovable property and expenditure relating thereto in order to ensure that taxable persons are dealt with in an identical manner whenever immovable goods that they use for their business activity are not used exclusively for purposes related to that activity.

Consequently, the initial exercise of the

right of deduction should be limited to that use which results in transactions giving rise to a right of deduction when the tax becomes chargeable.

Or. en

Justification

The purpose of the proposal is to clarify and strengthen the right of deduction with respect to the supply of immovable property. The amendments will enhance this purpose in order to make sure that the degree of harmonisation will be consistent.

Amendment 9 Olle Schmidt

Draft Directive – amending act Recital 10

Text proposed by the Council

(10) ***Whilst*** immovable property and related expenditure account for the most significant cases where clarification and strengthening of the rule is appropriate, given the value and economic lifetime of such property and the fact that mixed use of this type of property is a common practice, ***it is nevertheless appropriate***, in accordance with the principle of subsidiarity, ***to authorise*** Member States to apply the same rule to movable goods with a durable nature and forming part of the business assets.

Amendment

(10) ***Since*** immovable property and related expenditure account for the most significant cases where clarification and strengthening of the rule is appropriate, given the value and economic lifetime of such property and the fact that mixed use of this type of property is a common practice, ***the initial right of deduction should be applied to immovable property that is supplied to the taxable person and important services relating to the property supplied, which, by virtue of their economic value, can be assimilated to the acquisition of immovable property. Conversely, minor repairs or improvements that are of limited economic significance should be excluded from the scope of this rule.*** In accordance with the principle of subsidiarity, Member States ***should be authorised*** to apply the same rule to movable goods with a durable nature and forming part of the business assets.

Justification

Within the movable goods category, cars seem to be the most significant expenditure. Including expenditure relating thereto would therefore not have an impact on the harmonisation of VAT.

Amendment 10
Hans-Peter Martin

Draft Directive – amending act
Recital 10

Text proposed by the Council

(10) Whilst immovable property and related expenditure account for the most significant cases where clarification and strengthening of the rule is appropriate, given the value and economic lifetime of such property and the fact that mixed use of this type of property is a common practice, it is nevertheless appropriate, in accordance with the principle of subsidiarity, to authorise Member States to apply the same rule to movable goods with a durable nature and forming part of the business assets.

Amendment

(10) Whilst immovable property and related expenditure account for the most significant cases where clarification and strengthening of the rule is appropriate, given the value and economic lifetime of such property and the fact that mixed use of this type of property is a common practice, it is nevertheless appropriate, in accordance with the principle of subsidiarity, to authorise Member States to apply the same rule to movable goods with a durable nature and forming part of the business assets. ***Economically significant repairs should likewise be covered by this provision.***

Amendment 11
Markus Ferber

Draft Directive – amending act
Recital 10 a (new)

Text proposed by the Council

Amendment

(10a) The Commission should consider how far Member States should be

authorised to apply the same rule to movable goods with a durable nature forming part of the business assets. Any legislative proposal for that purpose should be accompanied by an appropriate independent impact assessment.

Or. de

Justification

Whenever the scope of the directive is to be extended to include movable goods, an independent impact assessment should first be carried out in order to ensure that the internal market can continue to run smoothly.

Amendment 12 **Olle Schmidt**

Draft Directive – amending act

Article 1 – point 12

Directive 2006/112/EC

Article 168 a – paragraph 1

Text proposed by the Council

1. In the case of immovable property forming part of the business assets of a taxable person and used both for purposes of the taxable person's business and for his private use or that of his staff, or, more generally, for purposes other than those of his business, *VAT on expenditure related to this property shall be deductible in accordance with the principles set out in Articles 167, 168, 169 and 173 only up to the proportion of the property's use for purposes of the taxable person's business.*

By way of derogation from Article 26, the changes in the proportion of use of immovable property referred to in the first subparagraph shall be taken into account *in accordance with the principles provided for in Articles 184 to 192 as applied in the respective Member State.*

Amendment

1. In the case of immovable property forming part of the business assets of a taxable person and used both for purposes of the taxable person's business and for his private use or that of his staff, or, more generally, for purposes other than those of his business, *the initial exercise of the right of deduction arising when the tax becomes chargeable shall be limited to the proportion of the property's effective business use for transactions giving rise to a right of deduction.*

By way of derogation from Article 26, the changes in the proportion of use of immovable property referred to in the first subparagraph shall be taken into account *under the conditions provided for in Articles 184 to 192 for adjusting the initial exercise of the right of deduction.*

The changes referred to in the second subparagraph shall be taken into account during the period defined by the Member States under Article 187(1) for immovable property acquired as capital goods.

Or. en

Justification

Articles 184-186 describe the general principles of adjustment and should therefore be referred to for an understanding of adjustment of immovable property.

Amendment 13

Udo Bullmann

Draft directive – amending act

Article 1 – point 12

Directive 2006/112/EC

Article 168 a – paragraph 2

Text proposed by the Council

Amendment

2. Member States may also apply paragraph 1 in relation to VAT on expenditure related to other goods forming part of the business assets as they specify.

deleted

Or. en

(See Amendment 17.)

Justification

The revised proposal from the Council gives an option for Member States to bring any expenditure of any business asset, as defined by the Member States, under the scope of the directive. This would widen the scope considerably and lead to less harmonisation. The Council has not evaluated the impact of this provision for the good functioning of the common market. Any extension of the rule to movable goods should be preceded by an analysis from the Commission.

Amendment 14
Hans-Peter Martin

Draft Directive – amending act
Article 1 – point 12
Directive 2006/112/EC
Article 168 a – paragraph 2

Text proposed by the Council

2. Member States may also apply paragraph 1 in relation to VAT on expenditure related to other goods forming part of the business assets as they specify.

Amendment

2. The Commission shall determine whether Member States can be authorised also to apply paragraph 1 to movable goods permanently forming part of the business assets. Any legislative proposal for that purpose shall be accompanied by a detailed impact assessment encompassing both the advantages and the disadvantages.

Or. de

Amendment 15
Pascal Canfin, Sven Giegold

Draft Directive – amending act
Article 1 – point 12
Directive 2006/112/EC
Article 168 a – paragraph 2

Text proposed by the Council

2. Member States may also apply paragraph 1 in relation to VAT on expenditure related to other goods forming part of the business assets as they specify.

Amendment

2. The Commission shall evaluate to what extent it would be appropriate to authorise Member States to apply paragraph 1 to movable goods with a durable nature and forming part of the business assets. Any legislative proposal in that respect shall aim to harmonise the applicable rules in order to eliminate, to the greatest extent possible, factors that could distort competition, with a view to ensuring the proper functioning of the internal market. Such a legislative proposal shall be accompanied by an impact assessment.

Amendment 16
Markus Ferber

Draft Directive – amending act
Article 1 – point 12
Directive 2006/112/EC
Article 168 a – paragraph 2

Text proposed by the Council

2. Member States may also apply paragraph 1 in relation to VAT on expenditure related to other goods forming part of the business assets as they specify.

Amendment

2. The Commission may determine how far Member States should be authorised also to apply paragraph 1 to movable goods with a durable nature forming part of the business assets. Any legislative proposal for that purpose shall be accompanied by an appropriate independent impact assessment.

Or. de

Justification

To ensure that the internal market continues to run smoothly, movable goods should not be brought within the scope of the directive without prior Commission analysis.

Amendment 17
Udo Bullmann

Draft Directive – amending act
Article 1 a (new)

Text proposed by the Council

Amendment

Article 1a

Evaluation

The Commission shall evaluate to what extent it would be appropriate to authorise Member States to apply Article 168a(1) of Directive 2006/112/EC to movable goods

with a durable nature and forming part of the business assets. Any legislative proposal in this respect shall be accompanied by an impact assessment.

Or. en

(See Amendment 13.)

Justification

The revised proposal from the Council gives an option for Member States to bring any expenditure of any business asset, as defined by the Member States, under the scope of the directive. This would widen the scope considerably and lead to less harmonisation. The Council has not evaluated the impact of this provision for the good functioning of the common market. Any extension of the rule to movable goods should be preceded by an analysis from the Commission.