


Procedure file

Basic information		
CNS - Consultation procedure Directive	2007/0136(CNS)	Procedure completed
Value added tax (VAT): certain temporary provisions concerning VAT rates		
Amending Directive 2006/112/EC, VAT Directive 2004/0079(CNS)		
Subject 2.70.02 Indirect taxation, VAT, excise duties		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	ECON Economic and Monetary Affairs		10/07/2007
		PSE VAN DEN BURG Ieke	
	Committee for opinion	Rapporteur for opinion	Appointed
	IMCO Internal Market and Consumer Protection	The committee decided not to give an opinion.	
	JURI Legal Affairs	The committee decided not to give an opinion.	
Council of the European Union	Council configuration	Meeting	Date
	Environment	2842	20/12/2007
	Economic and Financial Affairs ECOFIN	2836	04/12/2007
	Economic and Financial Affairs ECOFIN	2828	13/11/2007
European Commission	Commission DG	Commissioner	
	Economic and Financial Affairs	KOVÁCS László	

Key events			
05/07/2007	Legislative proposal published	COM(2007)0381	Summary
03/09/2007	Committee referral announced in Parliament		
13/11/2007	Debate in Council	2828	
21/11/2007	Vote in committee		Summary
26/11/2007	Committee report tabled for plenary, 1st reading/single reading	A6-0469/2007	
04/12/2007	Debate in Council	2836	
11/12/2007	Results of vote in Parliament		
	Decision by Parliament		Summary

11/12/2007		T6-0587/2007	
20/12/2007	Act adopted by Council after consultation of Parliament		
20/12/2007	End of procedure in Parliament		
29/12/2007	Final act published in Official Journal		

Technical information

Procedure reference	2007/0136(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Directive
	Amending Directive 2006/112/EC, VAT Directive 2004/0079(CNS)
Legal basis	EC Treaty (after Amsterdam) EC 093
Stage reached in procedure	Procedure completed
Committee dossier	ECON/6/51464

Documentation gateway

Legislative proposal	COM(2007)0381	05/07/2007	EC	Summary
Document attached to the procedure	COM(2007)0380	05/07/2007	EC	Summary
Document attached to the procedure	SEC(2007)0910	05/07/2007	EC	
Committee draft report	PE396.433	10/10/2007	EP	
Economic and Social Committee: opinion, report	CES1467/2007	24/10/2007	ESC	
Amendments tabled in committee	PE396.657	29/10/2007	EP	
Committee report tabled for plenary, 1st reading/single reading	A6-0469/2007	26/11/2007	EP	
Text adopted by Parliament, 1st reading/single reading	T6-0587/2007	11/12/2007	EP	Summary
Commission response to text adopted in plenary	SP(2008)0411	23/01/2008	EC	

Additional information

National parliaments	IPEX
European Commission	EUR-Lex

Final act

[Directive 2007/75](#)
[OJ L 346 29.12.2007, p. 0013](#) Summary

Value added tax (VAT): certain temporary provisions concerning VAT rates

PURPOSE: to prolong certain VAT derogations until 31 December 2012 by amending Council Directive 2006/112/EC.

PROPOSED ACT: Council Directive.

CONTENT: to recall, Council Directive 2006/112/EC on the common system of value added tax, provides for certain derogations in the field of VAT rates, some of which are due to expire on 31 December 2007. Other derogations may last until the adoption of definitive arrangements.

Based on the findings of an evaluation report on European VAT rates, carried out for the Commission by ?Copenhagen Economics?, the Commission is proposing to prolong some of these derogations ? in so far that they do not conflict with the smooth functioning of the internal market. By contrast, certain derogations that are either covered by general provisions or else conflict with the smooth running of the internal market will not be prolonged.

Specifically speaking, the Commission is proposing that the following derogations should not be prolonged:

- derogations granted to the Czech Republic and Estonia for the supply of natural gas, electricity and district heating given that they are already covered by general provisions on reduced rates;
- the derogation granted to Estonia for the supply of coal, fuel and oil given that it conflicts with other Community policies
- the derogation allowing Poland to apply a super reduced rate to supply goods and services of a kind normally intended for use in agricultural production given that it conflicts with the smooth functioning of the internal market;
- the derogations granted to Hungary and Slovakia given that those Member States have not applied, or no longer apply, a reduced rate.

On the other hand, the Commission is proposing that the following derogations should be prolonged until the 31 December 2010:

- a derogation applying to the Czech Republic to apply a reduced rate, of not less than 5%, to the supply of construction work for residential housing, not provided as part of a social policy and excluding building materials;
- an exemption for Poland with deductibility of VAT paid at the preceding stage in respect of the supply of certain books and specialist periodicals;
- a reduced rate for Poland, of not less than 7%, to the supply of restaurant services;
- a reduced rate for Poland, of not less than 3%, to the supply of certain foodstuffs (see Annex III for details);
- a reduced rate for Poland, of not less than 7% to the supply of services that are not provided as part of a social policy, for construction, renovation and alteration of housing (excluding building material) and to the supply before first occupation of residential buildings or parts of residential buildings.

Provisions for Cyprus, Malta and Poland have been put in place for a zero rate, or super reduced rate, for food, books and pharmaceuticals.

Value added tax (VAT): certain temporary provisions concerning VAT rates

This Communication presents the main conclusions of a study on the impact of reduced rates of VAT, provides material for discussion and explores ways forward in the field of reduced VAT rates.

To recall, under the current system on VAT rate structure, Member States are required to apply a single standard rate of at least 15% and may have a maximum of two reduced rates set no lower than 5%, which Member States may apply at their discretion, to the categories of goods and services listed in Annex III to Council Directive 2006/112/EC (the VAT Directive). This basic structure, which applies to all Member States, is complicated by the plethora of different temporary derogations granted to individual Member States outside the general scheme.

Council Directive 2006/18/EC sees the third prolongation of the experiment on reduced rates for labour-intensive services till the end of 2010, and a possibility to apply a reduced rate on district heating under the same procedure as for natural gas and electricity. Council Directive 2006/18/EC included a request to the Commission to present an overall assessment report on the impact of reduced rates. The study examined the impact of reduced VAT rates and of derogations, not only for locally supplied services, but also more globally.

The Commission examines the results of the study in detail. The study stresses that a single VAT rate is by far the best policy choice from a purely economic point of view. A move towards more uniform rates has thus considerable advantages. First, a less complicated rate structure would generate substantial savings in compliance costs for business and tax administrations. Second, it could reduce distortions in the functioning of the internal market. Third, it is likely to slightly improve "consumer welfare" compared with the current situation. However, there may be specific benefits from operating a reduced VAT in carefully targeted sectors. Lower VAT rates can increase overall productivity and thus GDP, as well as tax revenue, in a Member State if they can induce consumers to spend less time on do-it-yourself (DIY) activities and more time on their ordinary jobs. This behaviour would result in a shift of activities from DIY to the formal economy. Locally supplied services (and restaurants) are industries where households have considerable scope for carrying out DIY and therefore the area where such a shift could thus take place. Lower VAT rates targeting sectors using many low skilled workers, such as locally supplied services, financed for example by higher VAT rates elsewhere can create permanent employment gains, but the overall gains are likely to be minor. The study recommends that Member States carefully examine all the options available when they want to promote the consumption of specific goods or services: often other tools than reduced VAT rates are more efficient and less costly for the State budget.

The Commission feels that there is some usefulness in applying reduced rates to locally supplied services but only where such measures are very well targeted and specific market conditions are fulfilled. It has to be stressed, nevertheless, that effects on employment remain limited. Regarding restaurant services, the study calls, on the one side, for caution as to the cross border effects of a reduced rate, as such services in some cases may form part of a more global tourism sector that is open to competition between Member States, but indicates, on the other side, a rather good potential for a reduced rate to be effective.

The Commission remains convinced that the application of a single VAT rate to all goods and services would be an ideal solution from an economic point of view but recognises that policy considerations will not allow for such a simple approach. Finding the right balance between political and economic imperatives is the main issue. The Commission sets out a discussion on how to apply the results of the study more concretely. It seeks the views of the Council, the European Parliament and other interested parties on a possible future legislative action in this field.

Taking into account the study results, it sees some merit in a new architecture for reduced VAT rates in the Community. Such an approach would

need to take account of the following objectives:

- the need to ensure equal treatment of all Member States, which means the ending of country specific derogations;
- recognition that in most Member States there is a strong political will to apply very low reduced rates including zero rates particularly for social purposes;
- recognition of the increased (economic and budgetary) difficulties for Member States to move products from one rate category to another because of the often very huge difference between the standard rate and a reduced rate (in most cases more than 10 sometimes more than 15 points);
- the need to establishing a clear logic of the purposes for which a reduced rate should be used;
- the need to balance increased flexibility with a reduction of compliance costs.

In a first step, the Commission would like to obtain the views from the European Parliament and the Council as to what extent they share these objectives. One of the ways to translate these objectives into more practical arrangements could be:

- to allow for a very low rate for goods and services of first necessity such as food. Obviously, the discussion on the scope for such a rate will be difficult (should medical treatment, social housing etc be included?) but it would offer the opportunity to limit the application of such a low rate (and its cost) to the real basic needs of citizens and thereby to exclusively social considerations;
- in addition, a second rate could be used for other purposes that are not basic needs but that are felt deserving of preferential treatment for other reasons (e.g. cultural and educational reasons, public transport, employment, energy and environment, etc). Such a scheme needs to remain optional to preserve Member States political choices;

?to limit the cost of a three rate structure both for tax administrations and for businesses, the categories of goods and services eligible for different reduced rates should be clearly defined in order to limit difficult border-line cases; also Member States should only be able to chose a whole category for the application of a reduced rate and not only parts of it; to allow, nevertheless, a high degree of flexibility there should be a greater number of categories than today but each of them harmonised as to its content.

Further reflection on the scope of the categories within such a structure would be necessary.

Another issue relates to the effectiveness of using VAT reduced rates for the promotion of certain goods/services. Typical examples of currently discussed ideas to use VAT as an incentive for a particular behaviour are: energy saving materials, energy efficient products, environmentally beneficial products, biomass, healthy food etc.

The Commission takes the view that derogations coming to an end soon should, with one or two exceptions, be temporarily prolonged until the end of 2010, i.e. the date of expiry of the experiment on the application of reduced VAT rates to certain labour-intensive services and the most likely date of entry into force of new arrangements for reduced rates. Derogations cannot, however, be prolonged where they conflict with the proper functioning of the internal market and/or with other Community policies (e.g. derogations regarding agricultural input, or, coal, coke, fuel, oil that are contrary to energy and environmental objectives) or where they are already covered by general provisions on rates (e.g. district heating). On the other hand, for the restaurant, food, pharmaceuticals?, books and housing sectors, derogations could be prolonged as a difference in treatment would provide unequal opportunities to Member States without any substantial justification and would create unacceptable tensions. The Commission, therefore, proposes to extend most of the derogations for Member States which joined the EU after 1 January 1995.

Conclusion: the Commission considers that a new framework for reduced VAT rates should rationalise the use of reduced rates, create more transparency, and allow for flexibility for the Member States whilst at the same time respecting the principle set out in Article 93 of the Treaty. In the political debate, the Commission insists on the need to keep in mind that any change of a VAT rate applicable to particular goods or services, either an increase or a decrease, will impact not only on the sector concerned but also on other parts of the economy as well as on government budgets.

Value added tax (VAT): certain temporary provisions concerning VAT rates

The Committee on Economic and Monetary Affairs adopted the report by Ieke van den BURG (PES, NL) amending, under the consultation procedure, the proposal for a Council directive amending Directive 2006/112/EEC with regard to certain temporary provisions concerning rates of value added tax.

The main amendments adopted by the committee are as follows:

- the committee reaffirmed the principle of locally supplied services, in so far as they do not involve cross-border activities, have, in principle, no effect on the functioning of the internal market. In accordance with the principle of subsidiarity, the Community should not impinge upon Member States' competence in the area of indirect taxation beyond that which is necessary to ensure the proper functioning of the internal market as regards the setting of VAT rates;
- the committee members also emphasised the need to ensure equal of treatment among Member States. They underline that the proposal not to extend some derogations is not based on a per se argument, but is based on different, specific arguments;
- in order to reduce uncertainties, the committee suggested that Member States should take a decision before 31 December 2010 on abandoning its target of introducing a definitive system for the taxation of intra-Community transactions, based on the principle of taxation in the country of origin and on an approach towards the approximation of VAT rates;
- the period until 31 December 2010 should also be sufficiently long to allow the Council to reach a conclusion on the final structure of VAT rates, which should include options allowing Member States to apply different VAT rates provided that the smooth functioning of the internal market and other Community policies are ensured. During that period, the current rules should be applied in a prudent way, taking due account of borderline cases, so that Member States are not precluded from pursuing legitimate policy objectives before or after the Council decides the final structure of value added tax;
- in accordance with the principle of subsidiarity, and after the Council has decided on a definitive system for the taxation of intra-Community

transactions, Member States should be able to apply reduced rates or, in exceptional circumstances, possibly even zero rates to basic goods and services, such as food and medication, for clearly defined social, economic and environmental reasons and for the benefit of the final consumer; and to the provision of locally supplied services, including services and provision of goods linked to education, welfare, social security work and culture;

- lastly, the report underlined that those Member States that have not applied or no longer apply temporary VAT derogations that expired in 2007 should be granted, until 31 December 2010, the opportunity to avail themselves of those temporary derogations.

Value added tax (VAT): certain temporary provisions concerning VAT rates

The European Parliament adopted a resolution drafted by Ieke van den Burg (PES, NL) making some amendments to the proposal for a Council directive amending Directive 2006/112/EEC with regard to certain temporary provisions concerning rates of value added tax. The report was adopted by 582 votes in favour to 9 against with 25 abstentions.

Parliament introduced a series of new recitals in order to supplement and clarify the provisions of the Directive:

- in accordance with the principle of subsidiarity, the Community should not impinge upon Member States' competence in the area of indirect taxation beyond what is necessary to ensure the proper functioning of the internal market as regards the setting of VAT rates. In particular, locally supplied services, in so far as they do not involve cross-border activities, have, in principle, no effect on the functioning of the internal market;

- the period until 31 December 2010 should be sufficiently long to allow the Council to reach a conclusion on abandoning its target of introducing a definitive system for the taxation of intra-Community transactions, based on the principle of taxation in the country of origin and on an approach towards the approximation of VAT rates.

- the period until 31 December 2010 should also be sufficiently long to allow the Council to reach a conclusion on the final structure of VAT rates, which should include options allowing Member States to apply different VAT rates, provided that the smooth functioning of the internal market and other Community policies are ensured. During that period, the current rules should be applied in a prudent way, taking due account of borderline cases, so that Member States are not precluded from pursuing legitimate policy objectives before or after the Council decides on the final structure of value added tax;

- in accordance with the principle of subsidiarity, and after the Council has decided on a definitive system for the taxation of intra-Community transactions, Member States should be able to apply reduced rates or, in exceptional circumstances, possibly even zero rates, to basic goods and services such as food and medication for clearly defined social, economic and environmental reasons and for the benefit of the final consumer;

- in accordance with the principle of subsidiarity and after the Council has decided on a definitive system for the taxation of intra-Community transactions, Member States should be able to apply reduced rates or, in exceptional circumstances, possibly even zero rates to the provision of locally supplied services, including services and provision of goods linked to education, welfare, social security work and culture;

- any future system for the taxation of intra-Community transactions should be transparent and based on administrative simplicity;

- it should be highlighted that those Member States that have not applied or no longer apply the temporary VAT derogations that expired in 2007 should be granted, until 31 December 2010, the opportunity to avail themselves of such temporary derogations.

Value added tax (VAT): certain temporary provisions concerning VAT rates

PURPOSE: to prolong until 31/12/2010, on selective basis, the derogations granted in the field of VAT rates to the Member States which joined the EU after the 1st January 1995.

LEGISLATIVE ACT: Council Directive 2007/75/EC amending Directive 2006/112/EC with regard to certain temporary provisions concerning rates of value added tax.

CONTENT: the Council adopted a Directive renewing temporary derogations that currently allow the Czech Republic, Cyprus, Malta, Poland and Slovenia to apply reduced VAT rates on certain services.

The Directive extends certain derogations that were introduced in their Acts of Accession when the Czech Republic, Cyprus, Malta, Poland and Slovenia joined the EU in 2004. The derogations would otherwise expire at the end of 2007.

The Directive will allow, for a further period until 31 December 2010:

- the Czech Republic to apply a reduced VAT rate of 5% to construction work for residential housing;
- Cyprus to apply a zero VAT rate to the supply of pharmaceuticals and most foodstuffs, and a reduced rate of 5% to restaurant services;
- Malta to apply a zero VAT rate to the supply of pharmaceuticals and foodstuffs;
- Poland to apply a zero VAT rate to the supply of certain books and specialist periodicals, a reduced rate of 7% to restaurant services, to the construction, renovation and alteration of housing, and to the supply of new residential buildings, as well as a "super" reduced rate of 3% to the supply of most foodstuffs;
- Slovenia to apply reduced VAT rates of 8.5% to the preparation of meals and of 5% to construction, renovation and maintenance work for residential housing.

ENTRY INTO FORCE: 29/12/2007