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Volume I

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

(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/EC¹ amending Directive 77/388/EEC² (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, in terms of job creation and a reduction of the underground economy, of a targeted reduction of VAT on these services.

Member States wishing to introduce the measure had to inform the Commission before 1 November 1999.³

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 2002. 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.

Based on these reports the Commission is required to submit a global evaluation report to the Council and the European Parliament by 31 December 2002, accompanied if necessary by a proposal for a final decision on the VAT rate to be applied to labour-intensive services.

The evaluation must also take account of the Commission Communication on *A strategy to improve the operation of the VAT system within the context of the internal market*,⁴ which advocates revising and rationalising the rules and derogations to be applied to reduced VAT rates in the medium term, and considering how reduced rates of VAT can be used to further various Community policies, particularly job creation.

Since no assessment reports have yet been submitted to the Commission by the Member States, and in view of the time needed to evaluate such reports thoroughly in accordance with the guidelines of Directive 1999/85/EC, it is essential to alter the period set in Article 28(6) of the 6th VAT Directive.

Under these circumstances that Commission considers that the first subparagraph of Article 28(6) of Directive 77/388/EC and the first paragraph of Article 1 of Decision 2000/185/EC should be amended to extend the period of validity of the authorisation to 31 December 2003 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 year under the same conditions, without changing or extending the scope of the experiment.

¹ OJ L 277, 28.10.1999, p. 34.

² OJ L 145, 13.6.1977, p. 1. (Directive last amended by Directive 2002/38/EC: OJ L 128, 15.5.2002, p.41.

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

⁴ COM (2000) 348 final, 7.6.2000.

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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,¹

Having regard to the opinion of the European Parliament,²

Having regard to the opinion of the Economic and Social Committee,³

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,⁴ 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 three years from 1 January 2000 to 31 December 2002.
- (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/EEC⁵ 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 2002.
- (3) Based on the reports to be drawn up by 1 October 2002 by the Member States that have applied such reduced rates, the Commission is required to submit a global evaluation report to the Council and the European Parliament by 31 December 2002, accompanied if necessary by a proposal for a final decision on the VAT rate to be applied to labour-intensive services.

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

³ OJ C [...], [...], p. [...].

⁴ OJ L 145, 13.6.1977; Directive as last amended by Directive 2002/38/EC (OJ No L 128, 15.5.2002, p.41).

⁵ OJ L 59, 4.3.2000, p. 10.

(4) Since the Member States have not yet submitted any assessments to the Commission, it is necessary in view of the time needed to produce a thorough global evaluation of such reports to extend the maximum period of application set for this measure in Directive 77/388/EEC.

(5) Decision 77/388/EC should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

In the first paragraph of Article 28(6) of Directive 77/388/EEC the words “three years between 1 January 2000 and 31 December 2002” are replaced by the words “four years between 1 January 2000 and 31 December 2003”.

Article 2

The Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2002 at the latest. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or be accompanied by such 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 twentieth day following that of its publication in the *Official Journal of the European Communities*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, [...]

For the Council
The President