

EUROPEAN PARLIAMENT

2004



2009

Session document

FINAL
A6-0097/2005

21.4.2005

REPORT

on the proposal for a Council directive on the common system of value added
tax (Recast)
(COM(2004)0246 – C6-0009/2004 – 2004/0079(CNS))

Committee on Economic and Monetary Affairs

Rapporteur: Ian Hudgton

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- *** Assent procedure
majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION	5
EXPLANATORY STATEMENT	8
PROCEDURE.....	10

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a Council directive on the common system of value added tax
(Recast)
(COM(2004)0246 – C6-0009/2004 – 2004/0079(CNS))**

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2004)0246)¹,
 - having regard to Article 93 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0009/2004),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A6-0097/2005),
1. Approves the Commission proposal;
 2. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 3. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 4. Instructs its President to forward its position to the Council and Commission.

¹ Not yet published in OJ.

EXPLANATORY STATEMENT

Background

The Sixth Directive, which sets out detailed rules for the common VAT system was adopted on 17 May 1977 with 1 January 1978 as deadline for its implementation. It has since gone through a number of amendments. Moreover, in 1991 transitional arrangements for taxation of trade between Member States introduced new provisions for the duration of the transition period, leading to incoherent legislative framework. Codification of this increasingly unwieldy text is long overdue, having been repeatedly put off until the day a final system of VAT would be introduced.

While the original intention was to merely codify Directive 77/388/EC and its multiple modifications, it soon appeared that a more thorough reworking of the text was required in this particular case, in order to restructure it and incorporate VAT provisions from other sources, in particular several Acts of Accession. The recasting procedure was therefore chosen as better suited for the purpose.¹ The Commission proposal hence provides for an urgently required recast of VAT rules

"Recasting"

The whole text has been thoroughly re-structured, in accordance with the Community rules on legislative drafting. The increase from 33 to 400 articles may appear staggering at first sight, but is actually an improvement as the new articles are much shorter, clearer and easier to reference. Obsolete or redundant passages have been deleted, wording clarified and divergent linguistic versions re-aligned where necessary.

Changes affecting the substance

The recasting format means that a handful of minor substantive alterations could also be included, and **to these the full legislative scrutiny of Parliament and Council applies**, while those provisions that were left unchanged, or merely shifted about, are of course not to be amended.

The alterations concern mainly adaptations bringing the text in line with rules on excise duties and the Common Customs Tariff, or clarifying definitions for electronic means, place of supply and the applicable rates of exchange.

Where the original Directive required the Commission to report to the Council every other year on the application of the VAT system, the proposal extends that period to a report every four years, allowing for a more meaningful period of reference.

Short summary of the Directive

The Directive is regulating VAT, **applicable** to the supply of goods or services effected for a consideration within the territory of the country by a taxable person acting as such and to the

¹ On the basis of the interinstitutional agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts (2002/C 77/01).

importation of goods.

Taxable person being a person who independently carries out in any place any economic activities. The **supply of goods** being the place where the goods are located at the time when dispatched or transport of the goods begins or in case of imported goods within the Member State of importation. The **supply of services** being the place where the supplier has established his business or has a fixed establishment from which a service is supplied. In order to avoid double taxation, non-taxation or the distortion of competition (place of supply vs. effective use of supply), Member States may reconsider place of supply of services if the effective use is not within the Community territory (and vice versa).

Translations are subject to tax rates prevailing in the Member State of destination, with the **standard VAT rate** being at least 15 % until 31 December 2005. The Council shall decide on the level of standard rate to be applied after that date. Member States may apply one or two reduced rates.

The Directive also governs exercise of the **right to deduct** as well as **special schemes** for small businesses, farmers (common flat rate system), second-hand goods, works of art and antiques, investment gold, labour intensive services and travel agents. It also includes special scheme for electronically supplied services.

PROCEDURE

Title	Proposal for a Council directive on the common system of value added tax (Recast)
References	(COM(2004)0246 – C6-0009/2004 – 2004/0079(CNS))
Legal basis	Article 93 EC
Basis in Rules of Procedure	Rule 51
Date of consulting Parliament	30.4.2004
Committee responsible Date announced in plenary	ECON 15.9.2004
Committee(s) asked for opinion(s) Date announced in plenary	JURI 15.9.2004
Not delivering opinion(s) Date of decision	JURI 19.1.2005
Enhanced cooperation Date announced in plenary	
Rapporteur(s) Date appointed	Ian Hudghton 21.9.2004
Previous rapporteur(s)	
Simplified procedure Date of decision	
Legal basis disputed Date of JURI opinion	
Financial endowment amended Date of BUDG opinion	
European Economic and Social Committee consulted Date of decision in plenary	
Committee of the Regions consulted Date of decision in plenary	
Discussed in committee	30.3.2005
Date adopted	19.4.2005
Result of final vote	unanimously
Members present for the final vote	Zsolt László Becsey, Pervenche Berès, Udo Bullmann, Paolo Cirino Pomicino, Jan Christian Ehler, Jonathan Evans, Elisa Ferreira, José Manuel García-Margallo y Marfil, Jean-Paul Gauzès, Robert Goebbels, Benoît Hamon, Gunnar Hökmark, Karsten Friedrich Hoppenstedt, Sophia in 't Veld, Wolf Klinz, Christoph Konrad, Cristobal Montoro Romero, Joseph Muscat, John Purvis, Alexander Radwan, Eoin Ryan, Antolín Sánchez Presedo, Peter Skinner, Margarita Starkevičiūtė, Ivo Strejček, Lars Wohlin
Substitutes present for the final vote	Harald Ettl, Satu Hassi, Ján Hudacký, Werner Langen, Thomas Mann, Charles Tannock
Substitutes under Rule 178(2) present for the final vote	
Date tabled – A6	21.4.2005 A6-0097/2005
Comments	...