



Plenary sitting

A8-0279/2018

6.9.2018

REPORT

on the proposal for a Council directive amending Directive 2006/112/EC as regards rates of value added tax
(COM(2018)0020 – C8-0023/2018 – 2018/0005(CNS))

Committee on Economic and Monetary Affairs

Rapporteur: Tibor Szanyi

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ■ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council directive amending Directive 2006/112/EC as regards rates of value added tax

(COM(2018)0020 – C8-0023/2018 – 2018/0005(CNS))

(Special legislative procedure – consultation)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2018)0020),
 - having regard to Article 113 of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C8-0023/2018),
 - having regard to Rule 78c of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A8-0279/2018),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, in accordance with Article 293(2) of the Treaty on the Functioning of the European Union;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to substantially amend the Commission proposal;
 5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) Rules on rates of value added tax (VAT) as currently set out in Council Directive 2006/112/EC²⁷ aim to preserve the functioning of the internal market and avoid distortions of competition. The rules were designed over two decades ago based on the origin principle. In its VAT Action Plan²⁸ and in the follow-up to this²⁹, the

Amendment

(1) Rules on rates of value added tax (VAT) as currently set out in Council Directive 2006/112/EC²⁷ aim to preserve the functioning of the internal market and avoid distortions of competition. The rules were designed over two decades ago based on the origin principle ***and are no longer fit for purpose***. In its VAT Action Plan²⁸

Commission announced its intention to adjust those rules for a definitive VAT system for cross-border business-to-business (B2B) trade in goods between Member States that would be based on the taxation in the Member State of destination.

²⁷ OJ L 347, 11.12.2006, p. 1.

²⁸ Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on an action plan on VAT – Towards a single EU VAT area – Time to decide (COM(2016) 148 final of 7 April 2016)

²⁹ Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the follow-up to the Action Plan on VAT – Towards a single EU VAT area – Time to act (COM(2017) 566 final of 4 October 2017)

and in the follow-up to this²⁹, the Commission announced its intention to adjust those rules for a definitive VAT system for cross-border business-to-business (B2B) trade in goods between Member States that would be based on the taxation in the Member State of destination.

²⁷ OJ L 347, 11.12.2006, p. 1.

²⁸ Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on an action plan on VAT – Towards a single EU VAT area – Time to decide (COM(2016) 148 final of 7 April 2016)

²⁹ Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the follow-up to the Action Plan on VAT – Towards a single EU VAT area – Time to act (COM(2017) 566 final of 4 October 2017)

Amendment 2

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) Under a definitive system where the supply of goods and services would be taxed in the Member State of destination, suppliers derive ***no significant*** benefit from being established in a lower-rate Member State. Greater diversity in VAT rates ***would not***, under such a system, ***disrupt*** the functioning of the single market ***nor create distortions of*** competition. In those circumstances, ***it would be appropriate to grant more flexibility to Member States*** in the setting of rates.

Amendment

(2) Under a definitive system where the supply of goods and services would be taxed in the Member State of destination, suppliers derive ***less*** benefit from being established in a lower-rate Member State. Greater diversity in VAT rates ***should***, under such a system, ***be less of a disruption to*** the functioning of the single market ***and would not distort*** competition. In those circumstances, ***it should be possible to grant Member States a certain flexibility in the setting of rates. However, Member States should not ignore the objective of ensuring greater convergence***

in VAT rates.

Amendment 3

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) The removal of restrictions in *parallell* with the entry into force of the definitive arrangements for the taxation of trade between Member States should allow Member States to continue to apply reduced VAT rates *that are currently granted as* derogations under Chapter 4 of Title VIII of Directive 2006/112/EC and Annex X to Directive 2006/112/EC *and* which would otherwise expire with the entry into force of those arrangements.

Amendment

(3) The removal of restrictions in *parallel* with the entry into force of the definitive arrangements for the taxation of trade between Member States should allow Member States to continue to apply reduced VAT rates *in place of the* derogations *granted* under Chapter 4 of Title VIII of Directive 2006/112/EC and Annex X to Directive 2006/112/EC, which would otherwise expire with the entry into force of those arrangements.

Amendment 4

Proposal for a directive

Recital 4

Text proposed by the Commission

(4) In a definitive VAT system all Member States should be treated equally and should therefore have the same restrictions in applying reduced VAT rates, which should remain an exception to the standard rate. Such equal treatment *without restricting* Member States current flexibility in setting VAT can be achieved by enabling all of them to apply a reduced rate for which the minimum requirement does not apply, as well as an exemption with the right to deduct input VAT, in addition to a maximum of two reduced rates of a minimum of 5%.

Amendment

(4) In a definitive VAT system all Member States should be treated equally and should therefore have the same restrictions in applying reduced VAT rates, which should remain an exception to the standard rate, *in order to avoid disproportionate fragmentation of the VAT system within the internal market. Taking into account the general interest such as positive cultural, social or environmental effects of different services and goods and without restricting* Member States' current flexibility in setting VAT rates, such equal treatment can be achieved by enabling all of them to apply a reduced rate for which the minimum requirement does not apply, as well as an exemption with the right to deduct input VAT, in

addition to a maximum of two reduced rates of a minimum of 5%. ***Within the limits provided for by this Directive, it should be possible for Member States to maintain existing or introduce new reduced VAT rates. This directive will increase subsidiarity in the VAT system, making it possible for Member States to accommodate local conditions, preferences and traditions or choose a simple and uniform tax rate. However, Member States should avoid using reduced VAT rates for harmful or luxury products.***

Amendment 5

Proposal for a directive Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) In line with the Commission's Digital Single Market Strategy^{1a} and in order to keep abreast of technological progress in a digital economy, to stimulate innovation, creation, investment and the production of new content, and to facilitate digital learning, knowledge transfer and the access to, and promotion of, culture in the digital environment, it should be possible for Member States to align the VAT rates for electronically supplied publications with lower VAT rates for publications on a physical support.

^{1a} COM(2015) 0192 final

Amendment 6

Proposal for a directive Recital 4 b (new)

Text proposed by the Commission

Amendment

(4b) Allowing Member States to apply reduced rates, including reduced rates without a minimum threshold, to printed publications and electronic publications should ensure the transfer of economic benefits to consumers, thereby promoting reading, and to publishers, thereby encouraging investment in new content and, in the case of newspapers and magazines, should reduce reliance on advertising.

Amendment 7

Proposal for a directive Recital 4 c (new)

Text proposed by the Commission

Amendment

(4c) Taking into account the importance of facilitating access to books, newspapers and periodicals for persons who are blind, visually impaired or otherwise print-disabled, adapted and audio electronic books, newspapers and periodicals are to be understood as not wholly or predominantly consisting of music or video content. Therefore, it should be possible to apply reduced VAT rates to publications in those formats.

Amendment 8

Proposal for a directive Recital 5

Text proposed by the Commission

Amendment

(5) Distortions of competition could arise where the mechanism used for taxation would not be based on the destination principle. That is notably so with travel facilities supplied as a single service under the margin scheme for travel agents and goods supplied under the special arrangements for second-hand

(5) Distortions of competition could arise where the mechanism used for taxation would not be based on the destination principle. That is notably so with travel facilities supplied as a single service under the margin scheme for travel agents and goods supplied under the special arrangements for second-hand

goods, works of art, collectors' items and antiques but also in certain cases involving goods or services, such as financial services, that are exempted without right of deduction but for which a right of taxation may be granted. In order to mitigate any such distortions, a list of supplies of goods and services subject to the standard VAT rate ('negative list') should be established based on the statistical classification of products by activity. The list should be reviewed *every five years*.

goods, works of art, collectors' items and antiques but also in certain cases involving goods or services, such as financial services, that are exempted without right of deduction but for which a right of taxation may be granted. In order to mitigate any such distortions, a list of supplies of goods and services subject to the standard VAT rate ('negative list') should be established based on the statistical classification of products by activity. *Every two years*, the list should be reviewed *by means of an implementing act, based on evidence provided by the Commission*.

Amendment 9

Proposal for a directive Recital 6

Text proposed by the Commission

(6) To avoid unnecessary complexity and subsequent rise in business costs, in particular for intra-Community trade, goods and services that can be used only as intermediate input to an economic activity should not be eligible for reduced rates in a definitive VAT system. Such rates should be applied *only* for the benefit of final consumers and the setting of such rates should ensure equal treatment of similar goods or services supplied by different taxable persons. They should therefore be applied to pursue, in a consistent manner, an objective of general interest.

Amendment

(6) *The current fragmentation of the VAT system within the internal market places obstacles in the way of the development of small and medium-sized enterprises (SMEs)*. To avoid *further* unnecessary complexity and subsequent rise in business costs, in particular for intra-Community trade, goods and services that can be used only as intermediate input to an economic activity should not be eligible for reduced rates in a definitive VAT system. Such rates should be applied for the benefit of final consumers and the setting of such rates should ensure equal treatment of similar goods or services supplied by different taxable persons. They should therefore be applied to pursue, in a consistent manner, an objective of general interest.

Amendment 10

Proposal for a directive Recital 6 a (new)

(6a) With particular focus on the needs of SMEs engaging in intra-Community cross-border businesses and in order to facilitate trade and increase legal certainty in the single market, the Commission, in cooperation with Member States, should establish a comprehensive and publicly accessible Union VAT Web information portal for businesses. That multilingual portal should provide quick, up-to-date and accurate access to relevant information about the implementation of the VAT system in the different Member States and in particular about the correct VAT-rates for different goods and services in the different Member States, as well as the conditions for zero-rate. Such a portal might also help to address the current VAT-gap.

Amendment 11

Proposal for a directive Recital 6 b (new)

(6b) A number of economic activities within the Union have focused on sustainable development based on a greener economy on the one hand and inclusive growth on the other. Such domains are of key importance in the sustainable development of rural and outlying areas, contributing to the economic and social revitalisation of rural areas. Given their close attachment to social, health, environmental, nutritional, cultural and gender equality issues, their specific activities are fully in line with 'Strategy 2020' ambitions and Commission objectives. In this regard, Member States should therefore seize the opportunities offered by Article 98 (1) and (2) of this Directive, provided that they

respect its principles, taking particular account of the implications for their public finances and for the Union budget.

Amendment 12

Proposal for a directive Recital 7

Text proposed by the Commission

(7) For the public finances of Member States to remain sound and in order to prevent excessive macroeconomic imbalances, an appropriate level of revenue should be ensured. Given that VAT is an important source of revenue, it is therefore vital, as a safeguard for national budgets, to set a minimum for the weighted average rate to be respected at any time by the Member States.

Amendment

(7) For the public finances of Member States to remain sound and in order to prevent excessive macroeconomic imbalances, an appropriate level of revenue should be ensured. Given that VAT is an important source of revenue, it is therefore vital, as a safeguard for national budgets **and the Union budget**, to set a minimum for the weighted average rate to be respected at any time by the Member States.

Amendment 13

Proposal for a directive Recital 8

Text proposed by the Commission

(8) While the application of different rates in certain remote areas continue to be possible, it *it* necessary to ensure that the standard rate respects the minimum of 15%.

Amendment

(8) While the application of different rates in certain remote areas continues to be possible, it *is* necessary to ensure that the standard rate respects the minimum of 15% **and the maximum of 25 %**.

Amendment 14

Proposal for a directive Article 1 – paragraph 1 – point 1a (new) Directive 2006/112/EC Article 97 – paragraph 1

Present text

The standard rate shall ***not be lower than 15 %***.

Amendment

(1a) In Article 97, paragraph 1 is replaced by the following:

'The standard rate shall permanently remain at least 15 % and shall not exceed 25 %.'

Amendment 15

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2006/112/EC

Article 98 – paragraph 2

Text proposed by the Commission

2. By way of derogation from paragraph 1, Member States may in addition to the two reduced rates apply a ***reduced*** rate lower than the minimum of 5% and an exemption with deductibility of the VAT paid at the preceding stage.

Amendment

2. By way of derogation from paragraph 1, Member States may in addition to the two reduced rates apply a rate lower than the minimum of 5% and an exemption with deductibility of the VAT paid at the preceding stage.

Amendment 16

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2006/112/EC

Article 98 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Reduced rates and exemptions applied pursuant to paragraphs 1 and 2 shall ***only*** benefit the final consumer and shall be applied to pursue, in a consistent manner, an objective of general interest.

Amendment

Reduced rates and exemptions applied pursuant to paragraphs 1 and 2 shall benefit the final consumer and shall be applied to pursue, in a consistent manner, an objective of general interest. ***Priority shall be given to goods or services having a positive impact on the general interest, such as cultural, social or environmental benefits.***

Amendment 17

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2006/112/EC

Article 100 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1. *The Commission is empowered to amend the scope of Annex IIIa by means of an implementing act, when necessary and provided there is evidence related to distortion of competition justifying the update of the list of supplies of goods and services.*

Amendment 18

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2006/112/EC

Article 100 – paragraph 1

Text proposed by the Commission

Amendment

By 31 December **2026** and every **five** years thereafter, the Commission shall submit to the Council a report on the scope of Annex IIIa, accompanied by any proposals to amend that Annex, where necessary.

By 31 December **2021** and every **two** years thereafter, the Commission shall submit to the **European Parliament and the** Council a report on the scope of Annex IIIa, accompanied by any proposals to amend that Annex, where necessary.

Amendment 19

Proposal for a directive

Article 1 – paragraph 1 – point 5 a (new)

Directive 2006/112/EC

Article 100 a (new)

Text proposed by the Commission

Amendment

(5a) *The following Article is inserted:*

'Article 100a

The Commission, in cooperation with the

Member States, shall establish a comprehensive, multilingual and publicly accessible Union VAT Web Information Portal on which businesses and consumers can quickly and effectively obtain accurate information on VAT rates – including which goods or services benefit from reduced rates or exemptions - and all relevant information on the implementation of the definitive VAT system in the different Member States.'

Amendment 20

Proposal for a directive

Annex

Directive 2006/112/EC

Annex IIIa – row 5 – column B

<i>Text proposed by the Commission</i>	<i>Amendment</i>
11.01	11.01
11.02	11.02
11.03	11.03
	11.04
11.05	11.05
47.00.25	47.00.25

Amendment 21

Proposal for a directive

Annex

Directive 2006/112/EC

Annex IIIa – row 7 – columns C and D

Text proposed by the Commission

Supply, hire, maintenance and repair of bicycles, baby carriages and invalid carriages	30.92
	33.17.19
	47.00.65
	47.00.75
	77.21.10
	77.29.19

	95.29.12
<i>Supply of motor cars and other motor vehicles principally designed for the transport of <10 persons, incl. station wagons and racing cars, other than those vehicles with spark-ignition engine only or with compression-ignition internal combustion piston engine (diesel or semi-diesel) only</i>	29.10.24
	45.11.2
	45.11.3
<i>Amendment</i>	
Supply, hire, maintenance and repair of bicycles, baby carriages and invalid carriages	30.92
	33.17.19
	47.00.65
	47.00.75
	77.21.10
	77.29.19
	95.29.12

Amendment 22

Proposal for a directive

Annex

Directive 2006/112/EC

Annex IIIa – row 10 – columns C and D

Text proposed by the Commission

<i>None</i>	<i>None</i>
<i>Amendment</i>	
<i>Pacemakers; hearing aids</i>	26.60.14

EXPLANATORY STATEMENT

The fragmentation of the VAT system has created a great obstacle for the well functioning of the Single Market. That is why a EU level VAT regulation is needed to replace the current transitional arrangements and guarantee equal treatment to all Member States.

The definitive VAT system for the taxation of trade between Member States proposed by the Commission is based on the principle of taxation in the Member State of destination. This approach helps to create a robust single European VAT area by ensuring that Member States are treated equally – also when it comes to applying reduced VAT rates.

It is important to highlight that the current flexibility of the Member States in setting VAT is not restricted at all by the proposal. On the contrary, the harmonised and less restrictive rules would enable all Member States, in addition to the two reduced rates of a minimum of five percent and an exemption with deductibility of the VAT paid at the preceding stage currently allowed, to apply another reduced rate between five and zero percent. Furthermore, instead of extending the already extensive list of goods and services to which reduced rates can be applied, Annex III would be replaced by a negative list to which reduced rates cannot be applied.

The rapporteur believes it to be important to emphasize that reduced rates and exemptions shall benefit the final consumer and shall be applied to pursue, in a consistent manner, an objective of general interest, with priority addressed to goods or services having positive social and environmental effects.

The same consideration motivated the rapporteur when proposing the amendment calling on Member States to avoid the use of reduced rates for harmful or luxury products and the amendment specifying that while the standard rate may not be lower than 15 % but it also cannot be higher than 25 %. VAT has a bigger impact in proportion on low-tax income citizens, the rapporteur believes that a maximum rate of 25% is reasonable and that other sources of income such as corporate taxes should also be used. Moreover this limit would help to avoid cases such as the one that occurred in Hungary, where the government imposed the highest VAT rate (27%) on its citizens within the EU.

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Council directive amending Directive 2006/112/EC as regards rates of value added tax	
References	COM(2018)0020 – C8-0023/2018 – 2018/0005(CNS)	
Date of consulting Parliament	5.2.2018	
Committee responsible Date announced in plenary	ECON 8.2.2018	
Committees asked for opinions Date announced in plenary	JURI 8.2.2018	
Not delivering opinions Date of decision	JURI 24.1.2018	
Rapporteurs Date appointed	Tibor Szanyi 23.1.2018	
Discussed in committee	28.5.2018	2.7.2018
Date adopted	3.9.2018	
Result of final vote	+: 44 –: 4 0: 1	
Members present for the final vote	Gerolf Annemans, Pervenche Berès, Esther de Lange, Jonás Fernández, Giuseppe Ferrandino, Sven Giegold, Roberto Gualtieri, Brian Hayes, Danuta Maria Hübner, Wolf Klinz, Georgios Kyrtos, Philippe Lamberts, Bernd Lucke, Olle Ludvigsson, Ivana Maletić, Fulvio Martusciello, Gabriel Mato, Alex Mayer, Bernard Monot, Caroline Nagtegaal, Luděk Niedermayer, Dimitrios Papadimoulis, Anne Sander, Alfred Sant, Martin Schirdewan, Pedro Silva Pereira, Paul Tang, Ramon Tremosa i Balcells, Marco Valli, Jakob von Weizsäcker, Marco Zanni	
Substitutes present for the final vote	Mady Delvaux, Herbert Dorfmann, Bas Eickhout, Ashley Fox, Sophia in 't Veld, Paloma López Bermejo, Thomas Mann, Michel Reimon, Romana Tomc, Lieve Wierinck	
Substitutes under Rule 200(2) present for the final vote	Amjad Bashir, Christophe Hansen, Dietmar Köster, Juan Fernando López Aguilar, Helga Stevens, Csaba Sógor, Sabine Verheyen, Kristina Winberg	
Date tabled	6.9.2018	

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

44	+
ALDE	Wolf Klinz, Caroline Nagtegaal, Ramon Tremosa i Balcells, Lieve Wierinck, Sophia in 't Veld
ECR	Amjad Bashir, Ashley Fox, Bernd Lucke, Helga Stevens, Kristina Winberg
GUE/NGL	Paloma López Bermejo, Dimitrios Papadimoulis, Martin Schirdewan
PPE	Herbert Dorfmann, Christophe Hansen, Brian Hayes, Danuta Maria Hübner, Georgios Kyrtos, Ivana Maletić, Thomas Mann, Gabriel Mato, Luděk Niedermayer, Anne Sander, Csaba Sógor, Romana Tomc, Sabine Verheyen, Esther de Lange
S&D	Pervenche Berès, Mady Delvaux, Jonás Fernández, Giuseppe Ferrandino, Roberto Gualtieri, Dietmar Köster, Olle Ludvigsson, Juan Fernando López Aguilar, Alex Mayer, Alfred Sant, Pedro Silva Pereira, Paul Tang, Jakob von Weizsäcker
Verts/ALE	Bas Eickhout, Sven Giegold, Philippe Lamberts, Michel Reimon

4	-
EFDD	Bernard Monot
ENF	Gerolf Annemans, Marco Zanni
EPP	Fulvio Martusciello

1	0
EFDD	Marco Valli

Key to symbols:

+ : in favour

- : against

0 : abstention