

P6_TA(2005)0226

Products subject to excise duty *

European Parliament legislative resolution on the proposal for a Council directive amending Directive 92/12/EEC on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products (COM(2004)0227 – C6-0039/2004 – 2004/0072(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2004)0227)¹,
 - having regard to Article 93 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0039/2004),
 - having regard to Article 27 of Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products²,
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs and the opinion of the Committee on the Internal Market and Consumer Protection (A6-0138/2005),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 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 amend the Commission proposal substantially;
 5. Instructs its President to forward its position to the Council and Commission.

¹ Not yet published in OJ.

² OJ L 76, 23.3.1992, p. 1. Directive as last amended by Directive 2004/106/EC (OJ L 359, 4.12.2004, p. 30).

Amendment 1
RECITAL - 1 (new)

(-1) Even though it is now thirteen years since the period referred to in Article 14 of the EC Treaty expired, the aim stated in that Article has still not been attained in the case of tobacco, alcoholic beverages and mineral oils. Further efforts should be made in order to facilitate the free movement of products subject to excise duty and to establish an internal market in those products.

Amendment 2
RECITAL 2

(2) Since then, however, although the figures for intra-Community movements of tax-paid products remain relatively low, more and more traders ***and private individuals are trying*** to interpret Articles 7 to 10 of Directive 92/12/EEC in such a way as to legitimise trade practices involving payment of excise duty in the Member State where the products are acquired. Also, the increase in the volume of commercial transactions conducted via the Internet and the abolition of duty-free sales to persons travelling within the Community have resulted in more use being made of these provisions. On the basis of the conclusions of a further survey of the national administrations and traders involved, launched in January 2002, the Commission drew up a report on the application of Articles 7 to 10 of Directive 92/12/EEC.

(2) Since then, however, although the figures for intra-Community movements of tax-paid products remain relatively low, more and more traders ***have tended*** to interpret Articles 7 to 10 of Directive 92/12/EEC in such a way as to legitimise trade practices involving payment of excise duty in the Member State where the products are acquired, ***and a growing number of private individuals are buying products in another Member State for their personal use and legitimately paying excise duty for them in the Member State of purchase.*** Also, the increase in the volume of commercial transactions conducted via the Internet and the abolition of duty-free sales to persons travelling within the Community have resulted in more use being made of these provisions. On the basis of the conclusions of a further survey of the national administrations and traders involved, launched in January 2002, the Commission drew up a report on the application of Articles 7 to 10 of Directive 92/12/EEC.

Amendment 3

RECITAL 6

(6) Article 7 distinguishes different situations in which excisable products already released for circulation in one Member State are held for commercial purposes in another, but does not clearly identify the person from whom excise duty is due in the Member State of destination in each of these situations. An unambiguous definition should therefore be given of the person from whom excise duty is due and the requirements to be met in the Member State of destination in each of the situations referred to.

(6) Article 7 distinguishes different situations in which excisable products already released for circulation in one Member State are held for commercial purposes in another, but does not clearly identify the person from whom excise duty is due in the Member State of destination in each of these situations. An unambiguous definition should therefore be given of the person from whom excise duty is due and the requirements to be met in the Member State of destination in each of the situations referred to, ***with a view to harmonising the relevant national laws in force in the Member States.***

Amendment 4 RECITAL 7

(7) In these situations the obligations of persons not established in the Member State of holding but liable for excise duty should be simplified and at the same time provision should be made for the Member States concerned to supervise the movements more effectively.

(7) In these situations the obligations of persons not established in the Member State of holding but liable for excise duty should be simplified and at the same time provision should be made for the Member States concerned to supervise the movements more effectively, ***with a view to creating an internal market in products subject to excise duty.***

Amendment 5 RECITAL 13

(13) The provision allowing Member States to lay down guide levels to establish whether products are held for commercial purposes or for the personal use of private individuals should be deleted. ***In any case an administration can never use these guide levels on their own as evidence that excisable products are being held for commercial purposes.*** They should therefore only be included in inspection instructions given by a national administration to its officers.

(13) The provision allowing Member States to lay down guide levels to establish whether products are held for commercial purposes or for the personal use of private individuals should be deleted. ***Those guide levels have too often been used as mandatory limits in some Member States and have led in practice to discrimination, which is contrary to internal market principles.*** They should therefore only be included in inspection instructions given by a national administration to its officers ***and should not be the only criterion used for classifying excisable goods as being held for the personal use of private individuals or commercial purposes.***

Amendment 6
RECITAL 14

(14) Article 9(3) should be deleted since it is not appropriate to retain a tax provision allowing Member States to derogate from the principle laid down in Article 8 in respect of the transport of mineral oils for safety reasons. **deleted**

Amendment 7
ARTICLE 1, POINT 3, POINT B

Article 9, paragraph 2, introductory wording (Directive 92/12/EEC)

2. *To determine whether* the products referred to in Article 8 are intended for commercial purposes, *Member States shall take* account of the following:

2. The products referred to in Article 8 *shall be deemed to have been purchased by private individuals for personal use unless it can be proven that they* are intended for commercial purposes, *taking* account of the following: