



European Commission
Taxation and Customs Union

ACTIVITIES OF THE EUROPEAN UNION (EU) IN THE TAX FIELD IN 2007



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ACTIVITIES OF THE EUROPEAN UNION (EU) IN THE TAX FIELD IN 2007

1. PERSONAL AND CORPORATE TAXATION

1.1. Communication on further Progress during 2006 and next steps towards a proposal on the Common Consolidated Corporate Tax Base (CCCTB)

On 2 May 2007, the European Commission adopted a second Communication¹ on the progress towards a Common Consolidated Corporate Tax Base (CCCTB). This reported on progress in the Working Group with Member State experts, established and chaired by the Commission Services, to assist the Commission in its work on the CCCTB. It highlighted some of the technical issues discussed in the sub-groups and in particular identified some of the major points to be resolved. It also indicated the Commission's current views on some of the major general points concluding that:

- the CCCTB should be inspired by, rather than explicitly linked to International Financial Reporting Standards;
- the CCCTB should be broad, simple and uniform with as few exceptions as possible, and;
- The tax base should be consolidated and optional for companies.

This communication also highlighted the necessity to elaborate issues like:

- the extent to which, and manner in which, the financial sector should be incorporated into the CCCTB from its inception,
- the administrative framework of the CCCTB, in particular how cooperation and mutual assistance can be improved and how the necessary new working methods at Community level can be introduced.

The CCCTB would enable companies to follow the same rules for calculating the tax base for all their EU-wide activities, rather than in accordance with the existing 27 systems, thereby, simplifying procedures, improving efficiency and reducing compliance costs. The consolidated tax base would be distributed between Member States in accordance with an agreed fair sharing mechanism which will also form part of the proposal. Member States will retain full sovereignty over their tax revenues as they will continue to set their own national tax rates. The Commission confirmed that it will not make any proposal on harmonizing tax rates.

¹ 'Implementing the Community Programme for improved growth and employment and the enhanced competitiveness of EU business: Further Progress during 2006 and next steps towards a proposal on the Common Consolidated Corporate Tax Base (CCCTB)': (COM/2007/223



During 2007 the Working Group met three times and more detailed technical work was carried out in a number of sub-groups.

For the meeting on 27-28 September 2007 the Commission Services prepared a working paper on 'CCCTB: possible elements of a technical outline'² which sets out a possible outline of the principles of a Common Consolidated Corporate Tax Base by beginning to bring the various structural elements of the base together into a coherent set of rules. At the December 2007 meeting, which was extended to include representatives from business and academia, this paper was discussed further and two new papers on the possible administrative framework for the CCCTB, and on the mechanism for sharing the consolidated base between Member States were also presented for debate and comment.

During the year the dedicated CCCTB web-pages were maintained and these include all the working papers presented to the Working Group and summary records of the Working Group Meetings, including the extended meetings: http://ec.europa.eu/taxation_customs/taxation/company_tax/common_tax_base/index_en.htm

1.2. Communication on a coordination of Member States tax systems

Following the Communications adopted on December 19th 2006³, the Commission held further discussions with Member States in the Council on a series of initiatives to promote better co-ordination of national direct tax systems in the EU. The aim is to ensure that national tax systems comply with Community law and interact coherently with each other.

The main objectives of a coherent and coordinated tax approach are to:

- Remove discrimination and double taxation,
- Prevent unintended non-taxation and abuse, and
- Reduce the compliance costs associated with being subject to more than one tax system.

By coming forward with this initiative, the European Commission demonstrates its willingness to assist Member States in developing the principles for coordinated solutions and in improving the practical arrangements for administrative cooperation.

The ECOFIN Council adopted conclusions on 27th March 2007, supporting the Commission's approach. Technical discussions were held during 2007 on issues such as exit taxation⁴.

² CCCTB/WP/057. See: http://ec.europa.eu/taxation_customs/resources/documents/taxation/company_tax/common_tax_base/CCCTBWP057_en.pdf

³ COM(2006) 823 final

⁴ See Communication on exit taxation and the need for co-ordination of Member States' tax policy: COM(2006) 825 final



1.3. Communication on the application of anti-abuse measures in the area of direct taxation – within the EU and in relation to third countries

The Communication on the application of anti-abuse measures in the area of direct taxation was adopted on 10 December 2007⁵. It is one of the follow-up initiatives of the framework coordination Communication⁶ (see point 1.2.).

With regard to the application of anti-avoidance rules the Commission considers that there is an urgent need

- to strike a proper balance between the public interest of combating abuse and the need to avoid disproportionate restrictions on cross-border activity within the EU; and
- for better coordination of the application of anti-abuse measures in relation to third countries in order to protect Member States' tax bases.

Member States need to be able to operate effective tax systems and prevent their tax bases from being unduly eroded because of abuse and overtly aggressive tax planning. At the same time it is vital to ensure that there are no undue obstacles to the exercise of the rights conferred upon individuals and economic operators by Community law.

In the light of some recent ECJ decisions⁷, there is a need for a general review by Member States of their anti-avoidance rules. These must be accurately targeted at wholly artificial arrangements, i.e. at situations where there is no genuine establishment or where there is a lack of commercial underpinning to the taxpayers' arrangements.

The Communication analyses the principles flowing from the existing relevant ECJ case law with a view to prompting a more general debate on appropriate responses to the challenges faced by Member States. It is thus intended to provide a framework for further discussion with Member States and stakeholders with a view to exploring the scope for possible coordinated solutions in this area, including, for example:

- developing common definitions for abuse and wholly artificial arrangements (to provide guidance on the application of those concepts in the direct tax area);
- improving administrative co-operation so as to more effectively detect and contain abuse and fraudulent tax schemes;
- sharing best practices that are compatible with EC law, in particular with a view to ensuring proportionality of anti-abuse measures;
- reducing potential mismatches resulting in inadvertent non-taxation; and

⁵ COM/2007/785

⁶ "Co-ordinating Member States' direct tax systems in the Internal Market" COM(2006)823 final.

⁷ In particular the decisions in cases *Cadbury Schweppes plc* (C-196/04) and *Test Claimants in the Thin Capitalisation Group Litigation* (C-524/04).



- ensuring better coordination of anti-abuse measures in relation to third countries..

In addition, while the ECJ has laid down clear criteria which must be applied to individual facts, there also remains scope for exploring the practical application of those principles beyond the circumstances of the particular contexts in which they arose. The Communication therefore invites the Member States and other stakeholders to work with the Commission to promote a better understanding of the implications for Member States' tax systems.

1.4. Taxation of savings

As a follow-up to the conclusions adopted by the Council of Ministers of the European Union, at its meeting of 23 October 2006, the Commission, in close conjunction with the Presidency of the Council, prepared the launch of exploratory talks with Singapore, Hong Kong and Macao with a view to looking at the possibility of promoting the adoption by those jurisdictions of equivalent measures to those applied as from 1 July 2005 within the European Union in the field of savings taxation.

High-level discussions with these jurisdictions are scheduled for early 2008. The nature of the contacts will be purely exploratory and depending on the outcome of these discussions with the three Asian financial centres, the Commission could request the Council to provide it with negotiating directives with a view to concluding formal agreements on savings taxation.

Moreover, the Commission is due to report to the Council on the operation of the Directive every three years. With a view to preparing their first report on the subject, which is scheduled for the second half of 2008, the Commission services have launched an informal consultation process with the tax administrations and with market operators of the EU Member States in order to examine the operation of the Directive and to get advice on possible amendments to the legislation. Consultation of the Member States on the Directive has so far occurred within two separate working groups: Working Party IV on Direct Taxation and the Working Group on administrative co-operation in the field of direct taxation. As far as market operators are concerned, A group of business experts (Expert Group on Taxation of Savings "EUSD Group" - EUSD = "European Union Savings Directive") has been specifically set up in 2007 to assist the Commission's Services in their review of the functioning of the Savings Directive.

Detailed information on this process is available on Internet through the following link: http://ec.europa.eu/taxation_customs/taxation/personal_tax/savings_tax/savings_directive_review/index_en.htm



1.5. Good Governance in the Tax Area

In 2007 the Commission has further pursued its efforts towards the promotion of good governance in the tax area in its relations with third countries in the trade, external relations and development areas.

Notably, in the development policy, the Commission held discussions with third countries on possible Government commitments. On the basis of these commitments, countries may be granted an additional funding under the 10th European Development Fund, where a specific incentive allocation is available for good governance, including in the tax area. The Commission is also seeking to introduce in agreements with third countries a provision on the promotion of good tax governance in the tax area.

The Commission welcomes the commitments by Liberia and the Marshall Islands in July 2007 to implement a programme to improve transparency and establish effective exchange of information in tax matters. Following these commitments, both countries were removed by the OECD of its List of Unco-operative Tax Havens.

In addition, the European Council broadened the approach towards its Overseas Countries and Territories, by inviting them to pay particular attention to actions aimed at strengthening good governance and institutional capacity⁸.

1.6. Transfer pricing issues

On 26th February 2007, the Commission adopted a Communication on the work of the Joint Transfer Pricing Forum (hereafter: JTPF) in the field of dispute avoidance and resolution procedures including guidelines for Advance Pricing Agreements (hereafter APAs) within the EU.

APAs are agreements between the tax administrations of EU Member States concerned defining how and where future transactions between related taxpayers established in two or more Member States will be taxed. The Commission and the Forum consider that Advance Pricing Agreements (APAs) are an appropriate tool to increase legal certainty and to lessen transfer pricing burdens on taxpayers. An APA will provide advance certainty concerning the transfer pricing methodology and therefore simplify or prevent costly and time-consuming tax examinations of the transactions included in the APA. This should lead to savings for all parties involved in an APA and to a reduction of compliance costs and provide more consistency in transfer pricing within the EU.

Therefore the Commission has drafted guidelines for APAs which will make it easier for companies to avoid some of the problems caused by different transfer pricing rules in Member States. These guidelines lay down how an efficient APA process should work. They set out the framework for the overall procedure and also provide details of how some specific problems could be resolved. They also provide examples of the necessary time frame and the types of areas which would need to be covered by the APA.

⁸ Council Decision of 19 March 2007 (2007/249/EC) amending Decision 2001/822/EC on the association of the overseas countries and territories with the European Community



The Council on 5th June welcomed the guidelines and noted the commitment of Member States to implement them in their national administrative practices as far as legally possible.

Following the Commission's decision to extend the EU Joint Transfer Pricing Forum mandate for a further period of two years starting on 1st March 2007, on 17th April 2007, the Commission adopted the list of nominated candidates⁹ being representative of the private sector in the JTPF.

In October 2007, the JTPF adopted its new work programme including the following topics: monitoring of previously adopted Codes of Conduct or Guidelines; further improving the functioning of the Arbitration Convention; transfer price of group services (Management and Head Quarter expenses, central services, shareholder costs, stewardship expenses etc); Small and Medium sized Enterprises; Cost Contribution Arrangements.

1.7. Code of Conduct for business taxation¹⁰

The ECOFIN Council of 5 June 2007 held an exchange of views on the work of the code of conduct group, which deals with implementation of a 1997 code of conduct aimed at eliminating situations in the EU of harmful tax competition. The code of conduct group is responsible for assessing and reviewing member states' tax measures, with a view to the rolling back of tax measures deemed as harmful, and for monitoring a "standstill".

The Council requested the group to continue its work on "standstill" and "rollback" and to report back to the Council before the end of 2007 on discussions regarding its future work.

In the ECOFIN Council meeting of 4 December 2007, the Council reaffirmed the commitment of the Member States to tackling harmful tax competition through the Code, as expressed in the Council conclusions of 1 December 1997. The Council also recalled that Member States should be treated equally under the Code and confirmed that the assessment of measures should be fair and transparent, in accordance with the Code and its rules of procedure (as laid out in the Council conclusions of 9 March 1998).

Turning to the progress of work of the Code of Conduct Group, the Council welcomed the progress on standstill achieved by the Code of Conduct Group during the Portuguese Presidency and asked the Group to continue monitoring standstill and the implementation of rollback, and report to the Council before the end of the Slovenian Presidency; furthermore the Council asked the Code Group to find solutions to all outstanding issues concerning its future work, including the procedural aspects, and to report back to the Council before the end of the Slovenian Presidency.

⁹ See O.J. [L100 of 17/04/2007](#), p.25

¹⁰ Council Conclusions of the ECOFIN Council meeting of 1 December 1997; 98/C 2/01)



2. VALUE ADDED TAX (VAT)

2.1. Reduced VAT rates

The Commission adopted on 5 July 2007 a Communication on VAT rates other than standard VAT rates¹¹ which aims at launching a broad debate on the future of reduced VAT rates.

The European Commission considers that there is a real need for a simplification and rationalisation of the current VAT rates structure, in particular the reduced VAT rates. It believes that there is a place for more flexibility which would allow Member States to apply VAT reduced rates to local supplies. However, this flexibility needs to be balanced to ensure the proper functioning of the Internal Market and to avoid disproportionate compliance costs for business. To this extent, possible ways are put forward but no concrete proposal is made for new categories of products or services, given the need for prior political consideration by Member States.

The European Commission is expected to present a legislative proposal in 2008.

In order to allow a serene debate between Member States, the Commission also adopted on 5 July 2007 a proposal for a Council Directive¹² aiming at extending, until the end 2010, most of the derogations for reduced VAT rates coming to an end soon. Derogations granted to Member States which joined the EU before 1 January 1995 are valid until the adoption of the definitive VAT system. However, many reduced rate derogations granted to the other Member States expire at the end of 2007 or in 2008.

This proposal was adopted by the Council on 20 December 2007¹³. As a consequence, agreed on a general approach, pending the opinion of the European Parliament, on a draft

The directive allows, 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;

¹¹ COM (2007) 380 of 5 July 2007.

¹² COM (2007) 381 of 5 July 2007.

¹³ Directive 2007/75/EC of 20.12.2007. OJ L346, of 29.12.2007, p. 13.



- 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.

2.2. Commission proposal for a Council Directive amending several elements of the VAT Directive

On 7 November 2007 the Commission adopted a proposal to amend several elements of Council Directive 2006/112/EC¹⁴.

Comments from the business world and the Member States have demonstrated the need to amend several elements of Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (hereinafter the "VAT Directive"). None of the amendments calls into question the guiding principles set out in the VAT Directive or is sufficiently important to justify on its own a separate proposal for a directive.

It has therefore been considered expedient to incorporate into a single proposal the specific improvements that the VAT Directive seems to require. These amendments concern: the VAT scheme applicable to the supply of natural gas, electricity, heat and/or refrigeration; the tax treatment of joint undertakings set up pursuant to Article 171 of the EC Treaty; the taking into account of certain consequences of EU enlargement; and the conditions under which the right to deduct input VAT may be exercised in relation to certain immovable property.

2.3. VAT treatment of insurance and financial services

The Commission adopted on 28 November 2007 a proposal for a Directive¹⁵ aiming at modernising and simplifying the complex VAT rules for financial and insurance services and securing a level playing field in the pan-EU market for these services as far as VAT is concerned.

These services are generally exempt from VAT but the exemption dates from 1977 and the legislation has not kept abreast of developments since then. Today, the exemption is not applied uniformly by the Member States and thus frequently the European Court of Justice has been asked to fill the legislative gap and clarify the correct interpretation. The proposal will create more certainty and security for Member States and for financial and insurance institutions by setting clear modern definitions of exempt services. It will also allow these institutions to manage the costs of non deductible VAT by allowing them to opt for taxation and by clarifying and extending the tax exemption for cost sharing arrangements.

¹⁴ COM (2007) 677 of 7 November 2007.

¹⁵ COM (2007) 747 of 28 November 2007.



Three main measures are contained in the proposal for a Directive:

- Redefinition of the scope of the exempt services to ensure that the exemption better reflects the complexity and diversity of the modern industries. The proposal for a Directive is accompanied by a proposal for a Regulation¹⁶ which expands the definitions of exempt services and will apply directly in all Member States.
- Possibility for banking and insurance companies to opt to tax their services if they wish. Such an option to tax already exists in the VAT Directive but is currently at the discretion of Member States and not widely used. Its limited availability today is potentially distortive and should therefore be equally accessible across the Community. This will allow institutions to reduce their exposure to non-recoverable tax, in particular in business to business activities. VAT taxable persons clients of bank and insurance companies will also reduce their costs as they will be able to deduct the VAT paid on financial and insurance services.
- Introduction of an industry specific exemption from VAT on cost sharing arrangements, including those which are cross border. This will enable institutions to pool their operations and to share costs between the group members without creating additional non-recoverable VAT.

The proposal is accompanied by an impact assessment and its summary¹⁷.

2.4. VAT package: place of taxation for services- mini one stop shop for electronically supplied services and VAT refund to non-established businesses

On 4 December 2007, the Council reached political agreement on two draft directives and a draft regulation aimed at changing the rules on VAT so as to ensure that VAT on services accrues to the country where consumption occurs, and to prevent distortions of competition between member states operating different VAT rates.

The so-called VAT package will be adopted without further discussion at a forthcoming Council meeting in 2008, after finalisation of the texts.

The "VAT package" contains:

- a draft directive on the place of supply of services;
- a mini one stop shop for telecom, broadcasting and e-commerce services;
- a draft directive on procedures for VAT refunds to non-established businesses;
- a draft regulation on improved administrative cooperation as regards VAT and the exchange of information between member states

¹⁶ COM (2007) 746 of 28 November 2007.

¹⁷ SEC (2007) 1554 and SEC (2007) 1555.



2.4.1. Place of services

The new rules will require taxation for VAT on business-to-business supplies of services at the place where the customer is situated, and no longer at that where the supplier is located, as is currently the case.

For business-to-consumer supplies of services, the place of taxation will continue to be that where the supplier is established. However, in certain circumstances, the general rules for both businesses and consumers will not be applicable, and specified rules will apply to reflect the principle of taxation at the place of consumption. These exceptions concern in particular restaurant services, the hiring of means of transport, cultural, sporting, scientific and educational services, and business-to-consumer supplies of telecommunications, broadcasting and electronic services.

The measures will as a general rule enter into force on 1 January 2010.

2.4.2. Mini one-stop-shop for telecom, broadcasting and e-commerce services

To simplify VAT arrangements made necessary by the new rules for telecoms, broadcasting and electronic services, a "one-stop" system will be introduced to enable service providers to fulfil in their home member state a single set of obligations for registrations, declarations and payments, including for services provided in other member states where they are not established. VAT revenue will then be transferred from the country where the supplier is located to that where the customer is situated, whose VAT rates and controls will be applicable.

Application of the new rules and the one-stop scheme will be deferred to 1 January 2015. Furthermore, the member state of establishment will, until 1 January 2019, retain a proportion of VAT receipts collected through the one-stop scheme. This proportion will amount to 30% from 1 January 2015 until 31 December 2016, 15% from 1 January 2017 until 31 December 2018 and 0% from 1 January 2019 onwards.

2.4.3 VAT refunds to non-established businesses

The current procedure of reimbursement of VAT incurred by EU businesses in Member States where they are not established is slow, cumbersome, and costly. It needs a serious modernisation and improvement in order to facilitate life for businesses and improve the well functioning of the internal market.

The Council has therefore agreed to modernise the existing 8th Directive procedures by introducing fully electronic procedures, thereby ensuring a quicker refund to claimants.

2.4.4 Administrative cooperation

Given the changes due to the introduction of a one-stop-shop scheme, it was necessary to introduce proportionate control and exchange of information measures without at the same time unduly burdening businesses.



2.5. VAT derogations: Council decisions concerning individual Member States

On the basis of Article 395 of Council Directive 2006/112/EC, Member States may be authorised to derogate from the common VAT rules to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance. Such derogations have been authorised under the following different procedures:

- Council Decisions authorised by the Council under the procedure provided for in Article 395(2) and Article 395(3);
- Council Decisions tacitly approved under the former Article 395(4);
- Special measures that were applied by the Member States before 1st January 1977 and that were notified to the Commission before 1st January 1978, under Article 394.

The list reflecting the present state of play concerning the derogations applicable is available on the EUROPA website¹⁸.

2.6. List of all remaining decisions and proposals made in the VAT area in 2007

Not all decisions by the Council and proposals made by the Commission can be described in this report. In Appendix, you will find a list of all remaining decisions in the VAT area in 2007.

3. EXCISE DUTIES AND OTHER INDIRECT TAXES

3.1. Traveller's allowances

During 2006 the Commission had made a proposal for a Council Directive on the exemption from value added tax and excise duty of goods imported by persons travelling from third countries¹⁹.

The proposal aims at renewing the provisions on travellers' allowances. Traveller's allowances are the monetary thresholds or the quantitative limits which travellers entering the EU from third countries are allowed to import duty free. For the citizen, this proposal will not only provide benefits in terms of increased monetary thresholds but will also avoid inconvenience in declaring goods of relatively limited value. At the same time, it will reduce the administrative burdens for Member States in collecting relatively small amounts of duty.

¹⁸

http://ec.europa.eu/taxation_customs/resources/documents/vat_index_derogations_en.pdf

¹⁹ COM 2006/76



The Council has adopted the directive on 20 December 2007. The main changes are as follows:

- the value limit on duty-free allowances is increased from EUR 175 to EUR 430 for air and sea travellers, and from EUR 175 to EUR 300 for travellers by land (including by inland waterways);
- abolition of the current quantitative limits on perfume, coffee and tea;
- introduction of a new quantitative limit on beer, which is currently the only alcoholic beverage without such a limit;
- Member States may apply different quantitative limits for duty-free imports of tobacco products (cigarettes, cigarillos, cigars, smoking tobacco) depending on whether they enter the EU by air (higher limit) or by land or water crossing (lower limit).

The directive will enter into force on 1 December 2008

3.2. Alcohol

3.2.1. Minimum rates

In 2006 the Commission had made a proposal for a Council Directive amending Directive 92/84/EEC on the approximation of the rates of excise duty on alcohol and alcoholic beverages (COM (2006) 486).

The proposal suggested increasing the rates of excise duty on alcohol and alcoholic beverages to take account of inflation that had occurred since 1992 when the Directive was first adopted. This amounted to a 31 per cent increase but transition periods up to 2010 were suggested for those Member States that could be impacted. The Commission feared that without an adjustment for inflation the minimum rates could eventually become meaningless and would in the longer-term encourage greater disparity of rates amongst Member States. Such disparities might have the undesirable consequence of Member States pressing for tighter restrictions on the amount of alcohol that individuals can take from one Member State to another.

However, early discussions of the proposal in the Council indicated that some of the new Member States felt that to choose 1992 as the point for revalorisation did not take account that they had acceded more recently. The Commission had some understanding for these concerns, bearing in mind that many of the new Member States had only recently made significant increases in their rates to comply with the minimum levels current set.

Consequently, the Commission promoted a compromise proposal that limited the increase for inflation to the period that has elapsed since 2004. This amounted to a 4.5 per cent increase in the rates and fairly minimal impact on the current rates set by Member States. For example, the most serious impact on a particular Member State would have been a € 0,002 (0,2 eurocent) increase on a half litre of beer by the time the transition periods ended in 2010.



Nevertheless, the compromise proposal has still met some difficulties in obtaining universal support. Despite this the Commission still hopes that at some stage unanimity of Member States on the compromise proposal can be achieved.

3.2.2. Proposal for a derogation for beer produced in Madeira

On 6 December 2007 the Commission made a proposal (COM 2007/772) for a Council Decision that results from its agreement to a request made by Portugal seeking a derogation in order that it can apply reduced rates of excise duty to beer produced in Madeira in cases where the annual production of the brewery does not exceed 300,000 hectolitres.

Council Directive 92/84/EEC already provides for reduced rates of up to 50 per cent for breweries producing up to 200,000 hectolitres. However, mainly as a result of increased tourism one of the two breweries located on Madeira is closely approaching annual production of 200,000 hectolitres upon which its entitlement to reduced rates would completely cease.

Portugal had highlighted that the continued application of a reduced rate of duty to beer in such cases was essential if the local brewing industry was to be sustained. It was accepted that breweries located on Madeira faced particular competitive disadvantages as a result of their remoteness and the added costs this created in bringing beer to market. By way of illustration, the retail selling price of a Madeira beer is currently about 7.5 per cent higher than the retail selling price of beer brewed in mainland Portugal. If the beer produced in Madeira lost the benefit of the reduced rates, this would mean that the selling price would increase to 15 per cent more than beers produced on the mainland.

In view of this the Commission accepted the Portuguese request that is based on Article 299(2) of the Treaty (specific measures for applying Community rules to the outermost regions). The derogation would be subject to the condition that where annual production exceeds 200,000 hectolitres, the entitlement to a reduced rate for quantities in excess of this figure will only apply to beer which is to be consumed in Madeira. If ratified the Council Decision would grant the derogation for six years, and would be reviewed mid-term.

3.2.3. Approval of aid for rum in French overseas departments

On 27 June 2007, the Commission also approved under state aid rules €50 million of aid for rum in the overseas departments of France by authorising a reduction in excise duty on traditional rum produced in these areas and consumed in France (COM 2007/318). In consideration of a request from France, the Commission concluded that the overseas departments were economically dependent on rum and that the measure was proportional to the additional costs borne by the sugar-cane/rum sector in these locations as a result of their difficult situation in terms of remoteness, small market, topography and geographical size. The Commission had also noted that the scheme would contribute to regional development by possibly saving a large number of distilleries and jobs in the affected areas. The proposal allowed for a reduced rate on traditional rum in respect of a quota of 108,000 hectolitres of pure alcohol per annum and reduced rates of up to 50 per cent of the standard rate of duty.



This proposal was adopted by Council. The Decision (which replaces a previous Council Decision relating to this issue made in 2002) applies until 31 December 2012 and is subject to a mid-term review procedure.

3.3. Energy taxation

3.3.1 Expiry of derogations in the Energy Taxation Directive

In the course of 2007, following the June 2006 Communication²⁰ on the review of the derogations in the Energy Taxation Directive, the Commission took position on some requests for renewal of derogations.

In Appendix, you will find a list of all the communications adopted by the Commission explaining the reasons why it did not respond positively some requests (point 3). Besides, the Council granted a derogation to France authorising it to apply a reduced rate to unleaded petrol used as motor fuel and consumed in the Corsican departments (see point 4 of Appendix).

All the above mentioned requests for derogation were assessed by the Commission on the basis of the arguments presented and in line with the procedure laid down in the Directive, taking into account inter alia the proper functioning of the Internal Market, the need to ensure fair competition as well as Community environment, energy and transport policies.

3.3.2. Commercial diesel proposal

On 13 March, the Commission made a proposal for a Council Directive (COM/2007/52) amending Directive 2003/96/EC as regards the adjustment of special tax arrangements for gas oil used as motor fuel for commercial purposes²¹.

The proposal is based on the fact that existing tax differentials on diesel used by trucks ("commercial gas oil") create distortions of competition within the liberalised Internal Market of the haulage sector and produce also environmental damages as a consequence of unnecessary kilometres driven by truck drivers to benefit from low taxes on gas oil (so-called tank tourism).

The proposal aims therefore at reducing the existing excessive differentials in excise duties applied on fuel used for commercial purposes by the haulage sector, thereby at reducing the distortions of competition, fighting "tank tourism" and reducing environmental damage.

The proposal was accompanied by an in-depth impact assessment (SEC(2007)170).

²⁰ COM(2006) 342 of 30 June 2006

²¹ COM (2007) 52 final



3.3.3 Green Paper on market-based instruments

The European Commission adopted on 28 March 2007 a Green Paper on the use of market-based instruments (mainly taxes, tradable emission rights and direct subsidies) for environment and energy related policy purposes²².

Since market-based instruments have proven to be cost-effective means of achieving policy goals, the paper aims to stimulate a broad public debate on how taxes, tradable emissions rights and other market-based instruments can be used more widely and effectively for environmental and energy policy purposes at Community and national level.

The Green Paper covers a wide range of areas where market-based instruments including taxation can be further promoted, such as energy consumption, transport's impact on the environment and in other specific areas of environmental policy.

The green paper also addresses broader issues such as environmental tax reforms and role of taxation and fiscal instruments in general in the context of the integrated energy and climate change agenda of the EU. Among other things, the green paper launches the revision of the Energy Taxation Directive foreseen for 2008.

The Green Paper concludes that there should be an increased use of market-based instruments to achieve environmental and other policy objectives, both at Community and national levels.

3.4 Recast of the Capital Duty Directive

On December 4th 2006, the European Commission presented a proposal for a recast of the Capital Duty Directive²³ (Council Directive 69/335/EEC of 17 July 1969 concerning indirect taxes on the raising of capital). The purpose of the proposal was to simplify a complicated piece of Community legislation, to phase out capital duty and to reinforce the prohibition on creating or levying similar taxes.

During 2007, the Council Working Party on Tax Questions – Direct Taxation met four times to discuss the recast proposal. There appeared to be general support for a *codification* of the Directive. On the more controversial part of the proposal dealing with the *abolition of capital duty*, certain Member States expressed strong reservations.

On 19 November, the Portuguese Presidency tabled a compromise text, which left out completely the provisions on the abolition of capital duty, but which added a review clause in return. All other amendments of the recast were maintained in the compromise text.

On 4 December 2007, the ECOFIN Council agreed, pending the opinion of the European Parliament, on a general approach for the recast of the directive based on the Portuguese Presidency's compromise. Then, on 12 December 2007, the European Parliament adopted a supportive resolution on the recast proposal.

²² COM (2007) 140 and see also the Commission's working document SEC(2007)388

²³ COM (2006) 760 final



4. TAX ADMINISTRATION, TAX AVOIDANCE AND EVASION MEASURES

4.1. New Communication concerning some key elements contributing to the establishment of the VAT anti-fraud strategy within the EU

In its 2006 Communication for a European strategy to combat tax fraud²⁴, the Commission pointed out 3 possible ways to tackle VAT fraud:

- Improving the capacity of Member States to tackle tax fraud within the existing legal framework (the so-called "conventional measures" option);

More far reaching measures which consist in either:

- Modifying the current VAT system by providing Member States the option to extend the reverse charge mechanism to domestic transactions in a Member State;
- Modifying the current VAT system by introducing a system of taxation of Intra-Community supplies of goods.

As a follow-up of the 2006 Communication and of the Conclusions of the ECOFIN Council in June 2007, the European Commission adopted on 23 November a Communication²⁵ containing a number of key elements for improving Member States' capacity to tackle VAT fraud, in particular missing trader fraud.

In order to tackle VAT fraud more efficiently, it is absolutely necessary to provide the tax authorities with more modern and efficient tools. Therefore the Communication puts forward certain key elements in view of improving the current situation:

- There is a need for an in-depth analysis of the accuracy of the information currently collected from businesses and the use that tax administrations make of it. This review has to take place in the context of the renewed Lisbon's strategy objective of decreasing red tape for businesses by 25%. If new/ quicker reporting obligations from traders would be required; there is a need for compensating these new obligations with a reduction of administrative burdens in other areas.
- A real European approach should be fully integrated into the management of the VAT system by the tax authorities. Tax authorities taking responsibility not only for the protection of the national VAT receipts but also for the VAT receipts of other Member States should result in a higher level of protection of revenues for all Member States.
- Improving the information on the VAT status of traders which is made available to operators is essential for genuine businesses and for tax administrations in the fight against VAT fraud. There is a need for a common approach to the registration and de-registration process of taxable persons in the EU. In view of the Commission, a Member State should be

²⁴ COM(2006) 254

²⁵ COM/2007/758 and the working document SEC/2007/1584



liable for the VAT loss incurred by another Member State due to its negligence in updating the database of its taxable persons.

- The capacity of tax administrations to collect VAT receipts in fraud cases should be enhanced, through a targeted use of joint and several liability for traders involved in fraudulent activities. The legal certainty for genuine businesses and an improvement of the mutual assistance for the recovery of taxes has to be ensured.

On 4 December, following this Communication, the ECOFIN Council provided the following guidelines to the Commission:

- an in-depth analysis with a view of identifying the information needs of a modern administration for controlling in particular the EU intra-community VAT system should be carried out by the Commission. This analysis should take into account the objectives set in the Council's "Action Programme for reducing administrative burdens in the European Union" (reducing by 25% the existing administrative burden by 2012);
- further work on a common approach to registration and de-registration of traders should be carried out;
- the capacity of Member States to collect the VAT in fraud cases could be enhanced,

and it invited the Commission to consider legislative proposals on these aspects, where appropriate.

Moreover, the ECOFIN Council of 4 December 2007 urged the Commission to present early in 2008 its findings on the more far reaching measures and invited it to present early 2008 legislative proposals on the conventional measures on the basis of the work already done in order to allow a debate in the first quarter of 2008.

4.2. Fiscalis 2013 Programme

On 22 November 2007, the Council adopted the Fiscalis 2013 programme for the period 2008-2013 which will continue the works undertaken under the previous Fiscalis programme. It will continue to stimulate cooperation between tax authorities and assist them in developing an appropriate balance between efficiency of controls and burdens on taxable persons.

Main objectives of the Fiscalis 2013 programme are:

- Enhancing the fight against tax fraud, in particular against "VAT carousel fraud";
- Reducing the administrative burden on administrations and taxable persons;
- Ensuring a performing exchange of information between national tax administrations as well as with traders through e.g. trans-European tax IT systems.



At an operational level, the new programme would in particular:

- Boost the effectiveness of the tax administrations via the automation of audit tools;
- Enhance the existing trans-European tax IT systems (in particular VIES²⁶);
- Support the implementation of the Excise Movement Control System (e.g. allowing reduced time for discharge of excise movements of goods to traders);
- Support the development of training tools available to all tax administrations.

The new programme's impact ranges far beyond the direct stakeholders which are the national tax administrations of the Member States: the Fiscalis 2013 programme will contribute to more efficient and targeted tax controls by national tax administrations so that reliable traders will benefit from less compliance burden.

5. PUBLIC CONSULTATIONS

Open dialogue involving the European Commission, stakeholders and interested parties helps ensure that existing rules and proposals for new rules are designed to keep pace with the reality of rapid change. This dialogue helps to achieve the regulatory efficiency we need to foster best administrative and legislative practice tailored to meet the needs of business in the European Union in the third millenium. The Commission is responding to ever-wider use of the Internet by making greater use of [Interactive Policy Making \(IPM\)](#) and similar Internet-based tools as an additional means of evaluating existing EU policies and of conducting consultations on new initiatives. We hope that businesses, consumers and citizens will use these tools wherever possible, to help us to respond faster and more accurately to their needs.

Information on the following consultations as well as their results reports can be found at http://ec.europa.eu/taxation_customs/common/consultations/tax/index_en.htm

- VAT: Public consultation on the possible introduction of a mechanism for eliminating double taxation in individual cases
- VAT: Consultation of businesses on modernising the Value Added Tax treatment of vouchers and related issues
- Excise duty on tobacco products: Consultation to ascertain the views from interested parties on the review and possible changes to the structure and rates of excise duty applied on cigarettes and other manufactured tobacco.

²⁶ VIES : IT system enabling to receive on internet confirmation of the validity of the VAT identification number of a taxable person and enabling Member States to obtain VAT information on intra-Community transactions.



6. FISCAL STATE AID DECISIONS

The State aid provisions of the EC Treaty provisions apply when a tax measure is discriminatory and provides an advantage only to certain enterprises, or certain activities.

The Commission has been given the exclusive power under the Treaty to take decisions on whether or not aid granted by Member States is compatible with the Treaty.

The Commission may require that illegally granted aid be repaid by recipients to the public authorities which granted it. The Member State must recover the aid immediately in accordance with domestic procedures. Commission decisions can be challenged before the European Court of Justice. On application by a Member State, the Council may, acting unanimously, decide that aid which that State is granting or intends to grant shall be considered compatible with the common market, if such a decision is justified by exceptional circumstances.

DG TAXUD is consulted on all fiscal state aid cases.

For decisions on fiscal state aid cases see the state aid register on the website of the Directorate General for Competition of the European Commission at:

http://ec.europa.eu/comm/competition/state_aid/register/ii/#by_instrument

7. INFRINGEMENTS PROCEEDINGS LAUNCHED BY THE COMMISSION

The Commission is the 'guardian of the Community Treaties'. It monitors the Member States' application and implementation of primary and secondary Community legislation, institutes infringement proceedings in the event of any violation of Community law (Article 226 EC) and, if necessary, refers the matter to the Court of Justice. Over the last few years, efforts to prevent abuse of Community rules have become a major part of the Commission's work.

The XXIVth Annual Report on monitoring the application of Community law (2006) was published in 2007²⁷.

See also the press releases on infringements included in the "infringement" pages of the website of the Directorate General for Taxation and the Customs Union. They are presented by policy area²⁸ and by country²⁹.

²⁷

http://ec.europa.eu/community_law/infringements/infringements_annual_report_24_en.htm

²⁸

http://ec.europa.eu/taxation_customs/common/infringements/infringement_cases/bypolicy/index_en.htm

²⁹

http://ec.europa.eu/taxation_customs/common/infringements/infringement_cases/bycountry/index_en.htm



Where it detects a failure to comply with Community law, the Commission may initiate the procedure for failure to fulfil an obligation provided for in Article 226 of the EC Treaty.

In 2007, DG Taxud opened 151 new infringement cases, whereby 96 were related to indirect taxes (VAT: 91; Excise duties: 2; Car, energy and environmental taxation: 3) and 55 were related to direct taxes.

This implies that DG Taxud sent to the Member States concerned a letter of formal notice, the first stage of the infringement procedure, inviting them to submit their observations within two months.

At the date of 27 December 2007, 226 infringement cases, for which such a procedure was applied, were still ongoing (118 were related to indirect taxes (VAT: 85; Excise duties: 13; Car, energy and environmental taxation: 20) and 108 to direct taxes).

During the year 2007, 76 opened infringement cases were closed after Member States modified their national legislation and therefore complied with the Community Law.

These figures clearly reveal the Commission plays an important role in correct implementation of European legislation into national law and therefore ensures uniform application of EU legislation in all Member States.

8. EUROPEAN COURT OF JUSTICE JUDGEMENTS

For judgements of the European Court in 2007 in the tax field see the website of the ECJ at <http://curia.europa.eu/en/index.htm>

Ad hoc Press releases are published at
<http://curia.europa.eu/en/actu/communiqués/index.htm>

See also website of the Directorate General for Taxation and the Customs Union at http://ec.europa.eu/taxation_customs/common/legislation/case_law/index_en.htm

This section provides a catalogue of the case law in direct taxation, in indirect taxation (e.g. VAT, car taxation and excise duties) and the latest lists of Court cases in the area of customs.



9. ACTIVITIES OF THE EUROPEAN PARLIAMENT

Like all parliaments, the European Parliament has three fundamental powers: legislative power, budgetary power and supervisory power. The European Constitution confirms and reinforces this triple role. In the ordinary legislative procedure the European Parliament and the Council of Ministers together adopt legislation proposed by the Commission. Parliament therefore has to give its final agreement. In the tax field, however, the European Parliament provides its opinion on Commission proposals in the tax field but the proposal is not adopted unless there is unanimous agreement by the EU's Council of Ministers. Second, the European Parliament and the Council are the two arms of the budgetary authority. Parliament exercises democratic oversight of all Community activities. In this context, it can set up committees of enquiry, table questions on Commission proposals and it plays a central role in appointing the Commission.

The Opinions delivered in 2007 on tax issues by the Parliament's Committee for Economic and Monetary Affairs and by the Committee for Legal Affairs and the Internal Market, and parliamentary questions and answers on tax subjects, are to be found on the Parliament's website at http://www.europarl.europa.eu/news/public/default_en.htm

10. ACTIVITIES OF THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE (ECOSOC)

This Committee is also required to provide its opinion on Commission proposals in the tax field. It can also provide opinions in the taxation field at its own initiative. See website at: http://www.eesc.europa.eu/index_en.asp

11. ACTIVITIES OF THE COMMITTEE OF THE REGIONS

The Committee of the Regions adopts opinions on tax proposals that have regional implications. See website at <http://www.cor.europa.eu/>

12. TAX PUBLICATIONS OF THE EUROPEAN COMMISSION IN 2007

12.1 Report "Taxation Trends in the European Union"

This annual report contains statistics and an economic analysis of the tax systems of the European Union Member States. The tax systems of each of the 27 Member States (plus Norway) are compared within a unified statistical framework (the ESA95 harmonised system of national and regional accounts), at different levels of aggregation and classification of tax revenues. The framework utilised makes it possible to assess heterogeneous national taxation systems on a comparable basis. The standard classifications of tax revenues (by major type of tax or levels of government) presented in most international tax revenue statistics often do not cover the EU's new Member States; in addition, this publication is unique in supplying a classification of tax revenues according to economic functions (i.e. by labour, consumption and capital) as well as indicators on the average effective tax burden falling on labour, consumption and capital. The report covers the period 1995-2005. Alongside the main 460-page report, a summary containing the main results of the analysis is published separately in the form of a 30-page booklet. The 2007 edition is available at the following website:

http://ec.europa.eu/taxation_customs/taxation/gen_info/economic_analysis/tax_structures/index_en.htm



12.2 Taxes in Europe Database

On 11 May the Commission launched on the internet the "Taxes in Europe Database", a new tool providing citizens, business and researchers with information on about 600 most important taxes in the EU Member States. Using a methodology agreed with the Member States, this database includes information about the main aspects of each tax, as well as economic and statistical data such as the revenue generated. The database is equipped with a powerful search tool, allows for easy comparison among Member States and can be found at the following website:

http://ec.europa.eu/taxation_customs/taxation/gen_info/info_docs/tax_inventory/index_en.htm

12.3 Taxation papers series.

*Taxation Papers*³⁰ are written by the Staff of the European Commission's Directorate-General for Taxation and Customs Union, or by experts working in association with them. Taxation Papers are intended to increase awareness of the work being done by the staff and to seek comments and suggestions for further analyses. Responsibility for "Taxation papers" rests solely with the authors and, in this regard, they do not necessarily represent the position of the European Commission.

Taxation Paper published in 2007: Taxation Paper No 10 - A history of the "tax package": The principles and issues underlying the community approach. Written by Philippe Cattoir.

This paper³¹ presents an overview of the EU "Tax Package", comprising the Code of Conduct for business taxation, the Directive on taxation of savings income and the Directive on taxation of interest and royalty payments. Its main objective is to offer a comprehensive view of the negotiation process, and a broad overview of the content of the package, as well as pending policy issues. This then allows drawing a number of lessons concerning the approach followed and the outlook for future European initiatives on direct taxation.

An agreement on the Tax Package was obtained in June 2003 following several years of intense negotiation between the EU Member States.

The negotiations on the Tax Package highlighted the global dimension of tax issues. It could never have been concluded without the agreement of certain key third countries and dependent or associated territories of Member States. The tax debate thereby led to discussions on other aspects of the EU's relations with the countries or territories concerned. Looking beyond the Tax Package, the EU will have to make a number of strategic choices in tax matters. The Community's field of intervention in matters of harmful tax competition could for instance be expanded to encompass additional forms of competition to those covered by the Tax Package.

³⁰

http://ec.europa.eu/taxation_customs/taxation/gen_info/economic_analysis/tax_papers/index_en.htm

³¹http://ec.europa.eu/taxation_customs/resources/documents/taxation/gen_info/economic_analysis/tax_papers/taxation_paper_10_history_en.pdf



Decision-making processes and "institutions" are also an important issue. In particular, an issue is whether to foster the existence of a loose negotiating structure based on a body of high-level working groups or to try and integrate these working groups into a more stable and coherent framework such as a EU Tax Policy Committee.

The Tax Package has brought major advances in matters of tax policy at EU level. Besides stimulating thought and discussion on tax competition, it has raised awareness among the Member States of the interdependence of their tax policies and of the potential benefits of cooperation at EU level.

12.4 Other publications

EMCS news letter

The Excise Movement and Control System (EMCS) is an ambitious project which will introduce electronic processing for declaring, monitoring and discharging movements of excise products under suspension of excise duties within the EU. EMCS will thus replace the current paper-based procedures.

The Commission recognises that the success of this project requires an extensive effort of communication. It therefore provides up-to-date information (via news letters) on the state of this project on its website, see:

http://ec.europa.eu/taxation_customs/taxation/excise_duties/circulation_control/emcs_info_services/index_en.htm

VAT- gold coins

The list of gold coins³² whose supply will be exempt from VAT in 2008 was published in the EU Official Journal (OJ C 286, 28.11.2007, p. 47)

VAT rates in Member States

The list of VAT rates applied in the Member States is available at this web link:

http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf

Excise duty rates in Member States

The list of excise duty rates applied on alcohol beverages, tobacco or energy products, in the Member States is available at this web link:

http://ec.europa.eu/taxation_customs/taxation/excise_duties/alcoholic_beverages/rates/index_en.htm

³² <http://europa.eu.int/eur-lex/lex/JOhtml.do?uri=OJ:C:2006:291:SOM:en:HTML>



Consultations of the VAT Committee by Member States

Certain provisions of the VAT require Member States to consult the VAT Committee before they introduce national legislation.

The latest list reflecting the consultations made is available at this web link

http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/key_documents/vat_committee/Consultations_VAT_Committee_en.pdf

12.5 Speeches.

Speeches of the EU Commissioner responsible for taxation:

http://ec.europa.eu/commission_barroso/kovacs/speeches/index_en.htm

13. CONFERENCES AND SEMINARS ON TAX ISSUES ORGANISED BY THE EUROPEAN COMMISSION

- On 19 and 20 March 2007, the first Brussels Tax Forum took place in Brussels around the topic "Taxation for sustainable development". The conference focused on the contribution that taxation can make to sustainable development and how it can promote other policy objectives, such as environmental protection, while bearing in mind economic and social aspects. This conference launched a tradition of an annual tax forum organised by the EU Commissioner responsible for taxation which will bring together policy makers, experts and other stakeholders from all over the world in order to discuss tax issues of particular political and general interest.
- On 29 March 2007, the Commission organised a "VAT fraud conference" in order to provide European businesses and tax administrations the opportunity to express their views on how to better tackle VAT fraud. A general conclusion that resulted from the conference was the willingness from traders to assist the tax administration in their task to tackle VAT fraud. Improving the communication between these two parties is a major element in this context: today taxpayers are not convinced that the flow of information they have to provide to the tax authorities are used in an efficient way. There was also a clear statement about disproportionate costs for businesses emerging from divergent national reporting requirements. Businesses pleaded for a win-win situation whereby the tax authorities should be provided with the relevant information in a timely fashion on the one hand and compliance would be facilitated by a far reaching harmonisation of the reporting obligations.



- *Fiscalis Seminars. These seminars constitute a good framework for the exchange of ideas on particular topics between officials of the national administrations, Commission representatives and other experts, if necessary. Suggestions may emerge for improving the legal instruments in force or facilitating co-operation between administrations.*
 - "Good practices to handle taxation risks on Cash registers and POS systems", April, Austria
 - "EU pension taxation issues, including pan-European pension funds", September, Ireland
 - "Information and intelligence exchange on VAT Fraud", November, Czech Republic
 - "The impact of Excise Movement Control System (EMCS) on the organisation of Tax Administrations Audit Assurance in the electronic environment", November, Latvia
 - "Transfer Pricing: How to conduct a Transfer Pricing Audit?", November, Hungary
 - "Audit assurance in the electronic environment", November, Netherlands
 - "Mutual assistance by means of automatic data exchange", December, Netherlands
 - For further information on Fiscalis seminars see: http://ec.europa.eu/taxation_customs/taxation/tax_cooperation/fiscalis_programme/index_en.htm
- *European Academic Tax Thesis Award:*

The European Academic Tax Thesis Award is a joint initiative of the European Commission (Directorate General Taxation and Customs Union) and the European Association of Tax Law Professors (EATLP). It was launched for the first time in 2007 and is meant to be awarded on a yearly basis. Up to five authors of academic theses defended in 2006 on issues of comparative, European and/or international tax law have had a chance to present their work to interested European Commission officials.

For 2007, the five prize-winners have been: Mr. A. García Heredia, *The Definition of Royalties in International Tax Law: Copyright, Industrial Rights and Know-How* (presented 3 July 2007); Ms. C. Hjj Panayi, *Double Taxation, Tax Treaties, Treaty-Shopping and the European Community* (presented 13 July 2007); Mr. A. Rust, *Necessity of a reform of the German CFC legislation* (presented 14 September 2007); Mr. F. Bendotti, *New Perspectives of European Group Taxation on a Consolidated Basis* (presented 15 October 2007); Ms. K. Tetlak, *Tax Discrimination of Personally Performed Services - Chosen Comparative Aspects* (presented 29 November 2007).



APPENDIX

1. OTHER COUNCIL'S DECISIONS IN THE VAT AREA

- Council Decision 2007/133/EC of 30 January 2007 authorising **Estonia, Slovenia, Sweden and the United Kingdom** to apply a special measure derogating from Article 167 of Directive 2006/112/EC on the common system of value added tax (OJ L 57, 24.2.2007, p. 12–13): extension till 31 December 2009 of derogation authorising the concerned Member States to postpone right of deduction in particular circumstances (cash accounting schemes).
- Council Decision 2007/132/EC of 30 January 2007 extending the application of Decision 2000/91/EC authorising the Kingdom of **Denmark** and the Kingdom of **Sweden** to apply a measure derogating from Article 17 of the Sixth Council Directive (77/388/EEC) on the harmonisation of the laws of the Member States relating to turnover taxes (OJ L 57, 24.2.2007, p. 10–11): extension till 31 December 2013 of derogation on the recovery of VAT paid on tolls for the use of the Öresund fixed link between Denmark and Sweden.
- Council Decision 2007/50/EC of 30 January 2007 authorising **Romania** to apply a reduced rate of VAT till 31 December 2010 to certain labour-intensive services referred to in Article 106 of Directive 2006/112/EC (OJ L 22, 31.1.2007, p. 14–15). Services concerned: minor services of repairing clothing and household linen (including mending and alteration) and domestic care services.
- Council Decision 2007/250/EC of 16 April 2007 authorising the **United Kingdom** to introduce a special measure derogating from Article 193 of Directive 2006/112/EC on the common system of value added tax (OJ L 109, 26.4.2007, p. 42–43): introduction of the reverse-charge mechanism in the mobile phones and computer chips sectors till 30 April 2009.
- Council Decision 2007/441/EC of 18 June 2007 authorising the **Italian Republic** to apply measures derogating from Articles 26(1)(a) and 168 of Directive 2006/112/EC on the common system of value added tax (OJ L 165, 27.6.2007, p. 33–34): limitation to 40 % of the right to deduct the VAT charged on expenditure on motorised road vehicles not wholly used for business purposes.
- Council Decision 2007/485/EC of 10 July 2007 authorising **Austria** to conclude an agreement with Switzerland that includes provisions derogating from Article 2(1)(d) of Directive 2006/112/EC on the common system of value added tax (OJ L 182, 12.7.2007, p. 29–30): derogation for goods imported for the construction, maintenance, renewal and operation of the frontier power plant station across the river Inn between Prutz (Austria) and Tschlin (Switzerland).
- Council Decision 2007/740/EC of 13 November 2007 authorising the Kingdom of **the Netherlands** to apply a measure derogating from Article 193 of Directive 2006/112/EC on the common system of value added tax (OJ L 300, 17.11.2007, p. 71–72): Introduction of the reverse charge scheme until 31 December 2009 in the ready-to-wear clothing industry.
- Council Decision 2007/884/EC of 20 December 2007 authorising the **United Kingdom** to continue to apply a measure derogating from Articles 26(1)(a), 168 and 169 of Directive 2006/112/EC on the common system of value added tax (OJ L



346, 29.12.2007, p. 21-22): extension of VAT derogation applied by the United Kingdom on the hire or lease of some passenger cars (i.e. VAT deduction restricted to 50% in certain circumstances).

- Commission Decision 2007/68/EC of 18 December 2006 concerning a request from the Republic of **Latvia** to apply a reduced rate of VAT to the supply of district heating, natural gas and electricity to households (OJ L 32, 6.2.2007, p. 165–166)
- Commission Decision 2007/313/EC of 30 April 2007 concerning a request from the Republic of **Italy** to apply a reduced rate of VAT to the supply of electricity for the operation of facilities used for the irrigation, lifting and drainage of waters (OJ L 118, 8.5.2007, p. 18).

2. OTHER COMMISSION'S PROPOSALS IN THE VAT AREA

- On 5 December 2007 the Commission made a proposal for a Council Decision authorising the Federal Republic of **Germany** and the Republic of **Poland** to apply measures derogating from Article 5 of Council Directive 2006/112/EC on the common system of value added tax³³ : place of supply of services in relation to the construction and maintenance of cross-border bridges.

3. Commission's communications explaining the reasons why the Commission has not responded positively to some of the requests for derogations under Article 19 of the Energy Taxation Directive

- Communication from the Commission to the Council of 15 March 2007 (COM (2007) 107) in accordance with Article 19(1) of Council Directive 2003/96/EC (operation of private pleasure craft and private pleasure-flying)
- Communication from the Commission to the Council of 15 March 2007 (COM (2007) 106) in accordance with Article 19(1) of Council Directive 2003/96/EC (local public passenger transport, disabled people)
- Communication from the Commission to the Council of 7 June 2007 (COM (2007) 307) in accordance with Article 19(1) of Council Directive 2003/96/EC in accordance with Article 19(1) of Council Directive 2003/96/EC (differentiated rates of taxation for petrol distributed from specially equipped petrol stations)
- Communication from the Commission to the Council of 19 December 2007 (COM (2007) 826) in accordance with Article 19(1) of Council Directive 2003/96/EC in accordance with Article 19(1) of Council Directive 2003/96/EC (waste oils)

4. Derogation granted under Article 19 of the Energy Taxation Directive

- Council Decision (2007/880/EC) of 20 December 2007 authorising France to apply a reduced rate of taxation to unleaded petrol used as motor fuel and consumed in the Corsican departments in accordance with Article 19 of Directive 2003/96/EC, was published in OJ L 346, 29.12.2007, p. 15-16.

³³ COM (2007) 771 of 5 December 2007