



## European Tax Report Confédération Fiscale Européenne (CFE)

28 June 2007 / Issue 5

### NEWS - INDIRECT TAX

## COUNCIL OF THE EU

### Council Meeting on Economic and Financial Affairs

#### Tackling tax fraud

On 5 June 2007 the Council of the EU adopted conclusions on tax fraud and on a package of measures aimed at simplifying VAT arrangements for businesses.

#### Reverse Charge Mechanism

Germany and Austria are in favour of introducing the general reverse-charge-mechanism where the tax liability is shifted from supplier to the recipient with respect to domestic commercial transactions whose value exceeds a certain threshold. This measure would change the current VAT system fundamentally. The two states are convinced that this reform would be very effective against the carousel-fraud as the tax would have to be collected from the consumer only. Several Member States expressed their strong reservations that this measure would be introduced only in two States.

The Finance Ministers of the EU Member States agreed to have a pilot project running in Austria for testing the reverse charge mechanism. The European Commission will then analyse the costs for taxpayers and administrative authorities of implementing such a system, the migration of fraud cases to those Member States that do not apply a reverse-charge mechanism and possible new risks of fraud.

#### Closer cooperation between tax administrations

Concerning the fight against fiscal fraud, the Council decided to give as a first step high priority to introduce amendments in declaring intra-Community supplies with the aim of reducing timeframes. Furthermore the more rapid sharing of such information shall be ensured among tax administrations. Those two items are elements of the conventional anti-fraud measures put forward by the European Commission in its com-

munication of 31 May 2006 (COM (2006) 254 final). By the end of 2007 the European Commission shall come up with legislative proposals which the Council may adopt by the end of 2008.

#### VAT package

The VAT package made up another important issue on the agenda of the EU Council meeting. This package aims on simplifying value-added-tax arrangements for business. Once adopted it would lead to an important change in the Online-business as the VAT would be paid in the country of consumption instead of where the company is located. There are e.g. many online suppliers such as AOL or Amazon that established their seat in Luxembourg to save taxes. Under the current rulings they pay VAT in Luxembourg but with the VAT package they would pay VAT in the country of consumption. Luxembourg is against the proposal and as decisions require unanimity, a final agreement was not made.

The Portuguese Presidency was invited by the Council to prepare a final agreement on this issue. The VAT package shall be formally adopted before 31 December 2007 with the intention that the package would enter into force the latest on 1 January 2010.

#### Read more (click to open):

Press Release Council Meeting Economic and Social Affairs, p. 14-20

language: [EN](#)

## EUROPEAN COMMISSION

#### Reduced rates of VAT back on the agenda

The European Commission will present the results of an external study carried out by a Danish consultancy firm, on the impact of reduced VAT rates applied to certain highly labour-intensive services on the internal market in the near future. The Danish consultants conclude that the experiments with the reduced rates have not led to any real distortions of competition within the Single Market.

Since 1999 the European Finance Ministers have

always agreed to prolong the application of reduced VAT rates which indicates that the system established as temporarily became more and more permanent. The European Commission will launch a Communication to re-launch a political debate on the system in force to find out whether Member States would be willing to either continue the experiment or implement new rules.

### Criteria for application of reduced rates

Directive 2006/112/EC specifies the criteria for services which may benefit from the reduced rates until 31 December 2010. The services have to be highly labour-intensive, largely provided directly to the consumer, mainly local and unlikely to create competition distortions. Further there must be a link between a reduced rate and an increase of demand and employment. These criteria apply to e.g. small repair services, decoration or hairdressing. In addition the directive includes other categories which benefit from reduced rates such as foodstuff, supply of books or the transport of passengers.

#### Read more (click to open):

Annex K (List of the labour-intensive services) becomes Annex IV in the Directive 2006/112/EC

languages: [EN](#) [FR](#) [DE](#)

General Information by DG TAXUD on VAT on labour intensive services

languages: [EN](#) [FR](#) [DE](#)

### Italy applies reduced rate of VAT to the supply of electricity

The European Commission decided to grant a reduced rate (10%) to the supplies of electricity intended for the operation of facilities used for the irrigation, lifting and the drainage of waters. As no other similar actual or potential entities carry out similar activities in Italy, the reduction will not cause any distortion of competition. Moreover the measure is of a general nature as it covers all supplies intended for the operation of facilities used for the irrigation, lifting and the drainage of waters. Therefore the European Commission decided that the condition laid down in Article 102 of Directive 2006/112/EC is fulfilled and authorised Italy to apply the reduced rate.

#### Read more (click to open):

Decision by the European Commission (2007/313/EC) concerning a request from the Republic of Italy

languages: [EN](#) [FR](#) [DE](#)

## EUROPEAN COURT OF JUSTICE

### Distribution of licences subject to VAT?

In 2000 the Radiocommunications Agency (United Kingdom) and the Austrian Telekom-Control-Kommission (TCK) each issued licenses for the use of certain frequency blocks for the provision of mobile telephone services in accordance with UTMS/IMT-2000.

#### Question

The question occurred whether the allocation of the rights was a transaction subject to VAT and if the payments made for using the frequencies had therefore contained VAT or not. The national courts referred this question to the European Court of Justice by asking if Directive 2006/112/EC imposes a duty to tax the public auctioning of those licenses by the public authorities.

#### Decision

The European Court of Justice points out that only economic activity is subject to VAT. This includes all activities of producers, traders and persons supplying services. Here at issue is the activity of controlling and regulating the use of electro-magnetic spectrum which has been expressly delegated to the national authority. The Court holds the view that only the economic operators who are the holders of the rights granted, operate on the market. The judges concluded that the allocation by auction by the national authority does not constitute an "economic activity" within the meaning of Directive 2006/112/EC.

**Read more (click to open):**

Press Release by the European Court of Justice in Case C-284/04 and Case C-369/04

language: [EN](#)

**Read more (click to open):**

Press Release Council Meeting Economic and Social Affairs, p. 20

language: [EN](#)

## No turnover taxes for financial advisers in Germany

The European Court of Justice has ruled that a taxable person who is acting as an intermediary for providing a service of negotiation of credit is exempted from VAT according to Directive 2006/112/EC. Up to this ruling the German tax authorities were of the opinion that only the financial adviser who was directly authorised by the client was exempted from VAT. The ECJ (C-453/05) ruling revealed that such a distinction is contradictory to the 2006/112/EC.

**Read more (click to open):**

Judgement of the European Court of Justice / C-453/05

language: [EN](#) [FR](#) [DE](#)

## NEWS - DIRECT TAX

## COUNCIL OF THE EU

### State of work – CCCTB

During the Council Meeting on 5 June 2007 the Ministers took note of the progress report published by the European Commission. The Common Consolidated Tax Base would provide companies established in more than one Member State the possibility of computing their group taxable income according to a single set of rules. The European Commission is committed to presenting a legislative proposal next year and to working with Member States and outside experts to arrive at a balance text taking into account the concerns of some Member States.

## EUROPEAN COMMISSION

### State Aid

#### Formal investigation into Italy's tax incentive

The Italy's Finance Law allows former state-owned banks to release hidden capital gained during their corporate restructuring in the 1990s by paying a nominal tax of 9% instead of the ordinary company tax of 37.25%. The European Commission calculated that the difference between the tax ordinarily payable and the tax actually paid amounts over €586 million. This could have a detrimental effect on competition in the current context of financial services markets undergoing consolidation in Europe.

#### Formal investigation

The European Commission has opened a formal investigation to figure out the appropriate amount of tax advantage with regard to its contribution to common EU objectives. Should the investigation find that the scheme constitutes incompatible state aid, Italy would have to recover the aid illegally granted.

**Read more (click to open):**

Press Release by the European Commission on formal investigation into Italy's tax incentive to recognise hidden gains of privatised banks

languages: [EN](#) [FR](#) [DE](#)

**NEWS - OTHER****Taxation Trends in the EU**

Eurostat has published the recent developments of tax burden in the European Union and Norway in co-operation with DG TAXUD. For the first time Romania and Bulgaria are included in the analysis.

**Wide range between EU Member States**

The overall tax ratio (the total amount of taxes and social security contributions) slightly increased (39.6%) compared to 2004 (39.2%). However tax burden varies significantly between Member States, ranging from less than 30% in Romania (28%), Lithuania (28.9%), Slovakia (29.3%) up to over 50% in Sweden (51%) and Denmark (50.3%).

**Labour Tax remains stable**

Despite the efforts of some Member States to cut labour taxation, the figures remains stable. The tax charges differ between 22.1% in Malta; 25.5% in Cyprus and 25.5% in United Kingdom to 46.4% in Sweden, 43.1% in Italy and 42.8% in Belgium.

The widest range applies for tax on capital with under 10% in Estonia (8.1%) and Latvia (7.8%) and over 40% in Denmark (46.5%) and Ireland (41.4%).

**Decline of environmental taxes**

Another very interesting outcome is the decline of environmental tax revenues which have reached their lowest level in ten years. The drop (2.8% in 1995 to 2.6% in 2005) is due to lower energy taxation. This is an interesting aspect in relation with the Green Paper on the reform on environmental taxes launched by the European Commission on 28 March 2007.

**Read more (click to open):**

Press Release by EUROSTAT on taxation trends in the EU

languages: [EN](#) [FR](#) [DE](#)

Main results: language: [EN](#)

Full report : language: [EN](#)

**Fiscalis Programme 2013**

The European Parliament has adopted its opinion on the proposal Community programme "Fiscalis 2013" in its first reading. The aim is to facilitate the cooperation between national tax administrations over the period 2008-2013. In contrast to the proposal brought forward by the European Commission, the Members of the Parliament disagreed to include other States than the 27 Member States of the EU.

Moreover they rejected the proposal of rapporteur Hans-Peter Martin (Austria) who wanted to reduce the budget allocated to the Community programme to fight waste in the public coffers. The budget will thus be approximately 157 million Euros.

**Read more (click to open):**

Press Release by the European Parliament: Fiscalis Programme 2013

languages: [EN](#) [FR](#) [DE](#)

**IMPRESSUM**

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