



European Tax Report Confédération Fiscale Européenne (CFE)

18 September 2007 / Issue 7

NEWS - INDIRECT TAX

EUROPEAN COMMISSION

Consultation Reverse Charge Mechanism

The European Commission has published a Consultation Paper published on 13 August 2007 (Deadline for the Consultation is 15 October 2007). Comments shall be sent to DG TAXUD (email: taxud-D4-atfs@ec.europa.eu) until 15 October 2007.

Fight against tax fraud

An effective functioning of the internal market is one of the cornerstones of the Growth and Job Strategy and tax policies can contribute to an effective market place notably through combating tax fraud which creates a significant distortion, prevents a fair competition and erodes States' revenues. The Communication of 31 May 2006 (COM(2006) 254) included several instruments to fight against the so-called carousel-fraud, ranging from the improvement of administrative procedures to substantial changes in the VAT system. The European Council invited the European Commission in its conclusions from 5 June 2007 to carry out further work in a very short timeframe. Already by the end of 2007 the findings shall be transmitted to the Council.

Impact for companies

These measures will have an impact on the businesses. Therefore the European Commission has launched a consultation so that business may give their opinion directly.

Focus of the Consultation

The consultation focuses on the introduction of a general reverse charge mechanism, where tax liability is shifted from the supplier to the customer for transactions with a certain threshold (5000 Euros). Comments are requested for the following key questions:

What is the impact on

- administrative costs
- cash flow
- cross border competitiveness
- any other costs/benefits?

For two scenarios:

- Member States in which your business is located introduces the Reverse-Charge-Mechanism whereas other Member States do not so
- other Member States introduce Reverse-Charge-Mechanism but your Member States does not.

Read more (click to open):

Consultation Paper: Possible introduction of an optional reverse charge mechanism for VAT - Impact on businesses

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

Survey carried out by PricewaterhouseCoopers (RCM) on impact for companies

[EN](#)

VAT on Financial Services: Working documents concerning draft legislative proposals

Within the European Commission the Taxation and Customs Union Directorate-General (VAT department) is currently preparing draft legislation on the exemption of insurance and financial services from Value Added Tax (VAT). It focuses on modernising the definitions of exempt insurance and financial services with inter alia the objective of creating more legal certainty for economic operators and Member States' fiscal authorities. The initiative also provides for cross-border instruments enabling economic operators of that industry sector to benefit more from the Single European Market.

In the preparatory phase of preparing legislation following the public consultation as well as during the

discussion of concrete options for legislation, the Taxation and Customs Union DG has published a last set of working papers covering all exempt services as well as possible provisions for the creation of VAT neutral cross-border vehicles.

Comments shall be sent to DG TAXUD (email: taxud-D1@ec.europa.eu).

Background

The provisions in the Sixth VAT Directive regarding VAT on Financial Services have never been reviewed since 1977. The Council took the decision to exempt financial services from VAT, mainly because any other solution would have led to unacceptable high administrative burden. Also an issue was the perceived political sensitivities associated with imposing VAT on consumers.

Until 1990 the focus of interest was not on Financial Services. In the 1990s the European Commission started to search for a technical methodology to allow full taxation and input credit on insurance and financial services.

Today field of financial and insurances services has grown and therefore the unintended VAT consequences have become important factors where an operator supplies these services. Nevertheless legislative measures have to take into consideration the three following objectives:

- reducing administrative costs for administrations and for economic operators
- creating budgetary security for Member States and economic operators
- addressing inconsistencies between 1977 VAT provisions and more recent regulatory (e.g. Financial Action Plan).

[Read more \(click to open\):](#)

Working Papers published by DG TAXUD

Financial and insurance services cross-border vehicles

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

Draft regulation Financial and Insurance Services

[EN](#)

Draft proposal for a directive

[EN](#)

Infringement proceedings against the United Kingdom, Germany and Sweden in Postal Services

The European Commission has requested Germany, the United Kingdom and Sweden to amend their legislation on the VAT exemption for postal services as they are not in line with the VAT Directive.

Exemption for postal services

In Germany and the United Kingdom, all or the most postal services provided by their former postal monopolies are exempted for VAT whereas other postal operators are required to charge VAT. The two states argue that this regulation is in line with Art. 132 of the VAT Directive which exempts supplies by „the public postal services“. In contrast the European Commission is of the opinion that different tax liabilities distort the competition in the postal sector.

Different situation in Sweden

The situation in Sweden is different as here all postal operators are charged VAT. In principal the government therefore ensured that there is no distortion of competition. Nevertheless the Community legislation on postal services requires an exemption which is not implied in the Swedish laws. As European regulations shall be implemented in a harmonised way within Member States, the European Commission requests Sweden to amend its legislation.

The request has been sent in the form of a reasoned opinion which is the second step of the infringement procedure provided for in Article 226, EC Treaty.

[Read more \(click to open\):](#)

Press release on infringement proceedings against the United Kingdom, Germany and Sweden

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

NEWS - DIRECT TAX

EUROPEAN COMMISSION

Restrictive rules on income tax applied to non-resident tax payers

Under Swedish legislation non-residents which are having all or almost all income from Sweden to deduct mortgage requests in the same way as a resident. The European Commission has sent a reasoned opinion as those regulations contradict the principle of free movement of persons (Art. 18, 39 and 43 of the EC Treaty).

Second step of infringement procedure

„The rules of the Internal Market forbid any restriction to the free movement of persons between Member States“, outlined Commissioner for Customs and Taxation Union Laszlo Kovacs. The Swedish government is requested to amend the legislation within two months, otherwise the European Commission may transfer the matter to the European Court of Justice.

Read more (click to open):

Press release on infringement proceedings against Sweden for its restrictive rules on income tax applied to non-resident tax payers

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

Second infringement procedure on capital gains tax relief on dwelling sales

Despite some modifications in the Swedish law and a recent European Case judgment on that issue, the capital tax legislation favours the practice for per-

sons who buy or sell an apartment in Sweden in comparison to acquisition / sale elsewhere in Europe. „The rules of the Internal Market forbid any restrictions of free movement of persons between Member States“, Commissioner for Customs and Taxation Union Laszlo Kovacs.

Penalty payment as last option

If the Swedish government does not comply with the letter of formal notice, the European Commission may address further a reasoned opinion. The third and final step of the infringement procedure would be to take the matter before the European Court of Justice, seeking the imposition of a penalty payment.

Read more (click to open):

Press release on infringement procedure on the Swedish rules on capital gains tax relief on dwelling sales („Bostadsrätt“)

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

EUROPEAN COURT OF JUSTICE

Tax relief for school fees: ECJ Case C-76/05 and C-318/05

School fees for Finish School non deductible according to German law

A married couple has two children who attend a private school in Scotland. The German tax law allows taxpayers to deduct from the taxable amount 30% of the net price paid as attendance fee. But the parents are not allowed to have the same tax reduction as their children go to school in another Member State. As the two were not successful in complaining to the tax authorities the couple took the action before Court and the Finanzgericht in Cologne asked for a preliminary decision. The European Court of Justice (ECJ) held that the children of Mr and Mrs Schwarz made use of their right to free movement while attending a

school in a different Member State. The refused tax deduction constitutes therefore a restriction of the freedom.

Principle of free movement

The Court concludes that by generally excluding tax relief granted on Income Tax for attending a school in another Member State is not compatible with European law.

„I very much welcome the positive attitude of the Italian Government, who decided to transform the ‘cuneo fiscale’ into a general measure to the benefit of the Italian economy as a whole”, stressed Commissioner for Competition, Neelie Kroes.

Read more (click to open):

Press release on Italian ‘cuneo fiscale’ tax reduction scheme

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

Read more (click to open):

Press release on the judgments of the European Court of Justice in Cases C-76/05 and C-318/05

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

Judgment C-318/05

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

Judgment C-76/05

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

Investigation into Polish tonnage tax scheme for international maritime transport

Polish authorities have introduced a certain measure which allows entities liable for taxes and engaged in the international maritime transportation to change the tax base for their operating profits. The European Commission started to investigate this new measure as it is not yet proven whether the measure complies with the European state aid rules or not.

NEWS - OTHER

EUROPEAN COMMISSION

State Aid granted in Italy

The Italian government has extended the deductions from the regional tax on all types of business activities (IRAP) to a general measure. It includes various deductions such as 5000 Euros per employee, social security contributions related to pensions or sickness insurances. The European Commission is of the opinion that it therefore does not constitute state aid.

Read more (click to open):

Press release on the Polish tonnage tax scheme for international maritime transport

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

COURT OF FIRST INSTANCE

Scheme of State Aid for International Financing Activities (T-348/03)

The Court of First Instance has annulled partly the decision of the European Commission regarding the Netherlands scheme on state aid for international financing activities.

Under Dutch corporate tax law companies who belong to a group (GFA scheme) may obtain tax benefits to cover the possible risks associated with financing activities.

GFA scheme incompatible with Common Market

Four years ago the European Commission decided that the measure is incompatible with the common market. It should be gradually terminated by 31 December 2010 in a way that the companies could still benefit from it until the end of the 10-year period granted to them by the Dutch tax authority.

In 2003 the Dutch company „Koninklijke Friesland Foods“ applied for the special status to receive the tax benefits but with regard to the decision taken by the European Commission, the Dutch tax authorities refused the request on the ground that the European Commission declared the scheme incompatible with the Common Market.

Equal treatment and protection of legitimate expectations

The European Court of Justice (First Instance) considered that the Dutch company had a legitimate expectation that a reasonable transitional period would be granted. Therefore the European Commission infringed the principle of protection of legitimate expectations. In addition the principle of equal treatment was not respected either as companies which lodged their requests before 11 July 2001 and whose requests had not been determined were treated differently than companies which lodged it on that date.

Read more (click to open):

Press release on Case T-348/03

[EN](#) [FR](#)

Judgment C-348/03

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

OECD

Study on tax policy

The OECD has carried out a study on tax policies in Denmark, Italy, Slovak Republic and Turkey. The survey focused on the following principles efficiency, equity, simplicity, tax compliance and tax revenue.

Tax freeze in Denmark

Denmark for example has a „tax freeze“ at the moment which means that both direct and indirect taxes cannot be increased. Several tax reforms in different areas have been implicated. The corporate tax rate for example is now 28% compared to 40% in 1991. Moreover the environmental tax burden has been increased rapidly in the 1990s. Other recent changes have been mainly in the field of harmonising indirect taxes driven by EU harmonisation rules (e.g. the excises taxes on cigarettes and alcohol).

Radical reform on corporate tax in Italy

The tax policy in Italy was focused on raising revenues to fulfil the international fiscal targets. The personal income tax (PIT), one of the most important revenues incomes, has been reduced since 2003. In addition a radical reform was put in place on the corporate tax. For example the corporate tax rate was lowered from 36% to 33% and a consolidated tax regime for groups was introduced. Recently a green tax reform has been introduced which plans to introduce a consumption tax on coal, petrol-coke and natural bitumen.

High social security contributions in Slovak Republic

In contrast to personal income tax does not play such an important role in the Slovak Republic. The most of the revenues is based on social security contributions. There has been also a significant reduction of the corporate tax rate to the flat rate of 19%.

Read more (click to open):

OECD Survey on Tax Policy in Denmark, Italy,
Slovak Republic and Turkey

EN

IMPRESSUM

Confédération Fiscale Européenne
188A, Av. de Tervuren
B-1150 Brussels

Editor: Stella Willborn

If you have any suggestions or questions, please feel free to contact the editor: brusselsoffice@cf-eutax.org

Layout: Stella Willborn

Disclaimer: The Confédération Fiscale Européenne (CFE) distributes this report to enhance public access to information about European policies in general. The CFE accepts no responsibility or liability whatsoever with regard to the material. The links will connect you to sites which are in no way controlled by the CFE, and CFE is not responsible for their content, or indeed for any further links which they may support. All rights reserved.