

AMENDMENTS

to T/120/76 (FIN)

Subject: Proposal for a sixth Council Directive on the harmonization of legislation of Member States concerning turnover taxes

[R/1746/73 (FIN 427) and R/2268/74 (FIN 517)]

- Articles 13 and 14

Following the meeting of the Working Party on Financial Questions on 22, 23 and 24 March 1976, T/120/76 (FIN) should be amended as follows.

1. On pages 2a and 7a, the following should be added to footnote (1):

"The Commission suggested that the introductory sentence in Article 14 A (1) and B be worded as follows:

Without prejudice to the other Community provisions, Member States shall take all measures necessary in order to exempt:".

2. Pages 3, 3a, 4, 4a, 11 and 11a should be replaced by the following.

Draft Directive

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- (b) hospital and medical care and closely related activities undertaken by public law bodies or, under social conditions comparable to those applicable to public law bodies, by hospitals, centres for medical treatment of diagnosis and other duly recognized establishments of a similar nature. <sup>(1)</sup>  
[ This exemption shall also cover the transport of patients by specially-equipped vehicles ]<sup>(2)</sup>;
- (c) [ the provision of medical care in the lawful exercise of the medical and paramedical professions; ]<sup>(3)</sup>
- (d) supplies of human organs, blood and milk;
- (e) [ services provided by dental technicians in their professional capacity and dental prostheses supplied by dentists and dental technicians; ]<sup>(4)</sup>
- (f) [ services of a medical or paramedical nature provided by doctors' groups for the direct requirements of the exempted activities of their members; ]<sup>(5)</sup>
- (g) the provision of services [ and the supply of goods ]<sup>(6)</sup> closely linked to welfare and social security work, including those provided or supplied by old people's homes, and to the protection of children and young persons, by public law bodies or by other organizations recognized as charitable by the State;

- (1) Reservation by the Belgian delegation which wanted the exemption to apply to all hospitals. Also, as the concept of "public law bodies" was not recognized by United Kingdom and Irish law, these States reserved the right to specify, in a statement in the Council minutes, the interpretation they proposed giving to this concept for the purposes of implementing the sixth Directive as a whole.
- (2) Addition requested by the German delegation, with the support of three other delegations (B, I, N). The French and United Kingdom delegations were against this addition, while the other delegations reserved their positions.
- (3) The Italian delegation was opposed to any exemption for the professions. Most delegations thought that the concept of "paramedical professions", which could give rise to difficulties of interpretation, should be clarified.

The Netherlands delegation requested that exemption be extended to services provided by veterinary surgeons. The other delegations did not express an opinion on this.

- (4) The Belgian, Irish and Italian delegations opposed this provision. The German delegation, however, drew the Working Party's attention to the need for standard treatment of these deliveries whether they were imported or were prostheses manufactured within the country. The other delegations could accept the Commission's proposal.

Furthermore, the Working Party noted that the problem of tax arrangements for prostheses other than dental prostheses and standard dental prostheses marketed wholesale should be examined.

- (5) Text envisaged by most delegations. The Italian delegation was against such an exemption / see footnote (3) above /. Whilst agreeing to this exemption, the Belgian and French delegations felt that the possibility should be examined of extending this exemption to all professional groups whose members carried out exempted activities (banks, insurance groups, lawyers). To this end, the following text could be considered:

"services rendered by professional groups for the direct requirements of their members' activities exempted pursuant to this Article;"

The other delegations were entirely opposed to such an extension of the provision.

- (6) Reservation by the Italian delegation, which would prefer the words "and the supply of goods" to be deleted, as it felt that, in order to avoid abuses only the provision of services should be exempted from VAT in this sector. Also it was envisaged that the following statement be included in the Council minutes: "The German delegation declares that the State may recognize as charitable any form of protection of children and young persons, whatever the nature of the organizations offering such protection."

Draft Directive

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(h) children's or young people's education, school or university education, vocational training or retraining, including services and the supply of goods closely related thereto <sup>(1)</sup>, provided by public law bodies having such as their aim or by other organizations recognized by the State as having similar objects; <sup>(2)</sup>

(i) (deleted)

(j) (sports organizations) <sup>(3)</sup>

(k) (cultural organizations) <sup>(3)</sup>

(l) [ / ] <sup>(4)</sup>

Comments

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- (<sup>1</sup>) The Working Party agreed to specify in Article 14 A (3) that the provision of services and the supply of goods closely related to these activities should be subject to VAT where they are supplied to third parties and not to their natural recipients.
- (<sup>2</sup>) This takes into account subparagraph (i) of the Commission proposal, which can therefore be deleted.
- (<sup>3</sup>) The Working Party envisaged including an optional provision for these organizations (see Article 14 A (2) below).
- (<sup>4</sup>) All delegations unanimously agreed to delete this provision.

Draft Directive

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- (k) [betting, lotteries and other forms of gambling with the exception of admission charges in any form and slot machine gambling;\_] (1)
- (l) the supply of buildings or parts thereof and of the land pertaining thereto, after first occupation, by a taxable person for whom the value added tax on the building is not deductible and to whom Article 12A (1) [(e)] does not apply. For the purposes of applying this exemption, flat-rate farmers, as defined in Article 27, shall be deemed to be taxable persons subject to the normal scheme; (2)
- (m) the supply of land, other than building land as defined in Article 4(3)(b); (2)
- (n) [work performed by authors, writers, composers, lecturers, journalists, actors or musicians, where they are not themselves involved in the publishing or reproduction of their works\_] (3) [and private tuition given by teachers at school or university level\_] (4);
- (o) services performed by members of the legal and judicial professions, where those services are in connection with the administration of justice. (5)

Comments

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- (<sup>1</sup>) Text considered at the meeting of the Working Party on 27 and 28 January 1976. It was suggested that in the case of slot machines the basis for assessing tax would be the coins inserted, but each Member State would be entitled to tax the takings in accordance with its own regulations.
- (<sup>2</sup>) The Commission representative said that he would submit a report to the Working Party on all the problems arising in this field following the Council Decision of 24 November 1975 on real estate transactions relating to new buildings and building land.
- (<sup>3</sup>) Several delegations pointed out that this provision was not in contradiction with the system of VAT as a general tax on consumption and raised considerable problems regarding the definition of those performing services. Other delegations did not consider it advisable to make it a condition of exemption that those performing the services should not be involved in the publishing or reproduction of their works. It was therefore suggested that either the Member States be given the right to make an exemption or the possibility be studied of solving these problems by recourse to other provisions of the Directive, particularly Article 5(6).
- (<sup>4</sup>) Addition requested by the Belgian delegation and opposed by two delegations (I, UK).
- (<sup>5</sup>) Five delegations (D, I, L, N and UK) were opposed to this exemption. Four delegations (B, DK, F and IRL) argued that it did not seem advisable to make it a condition of this exemption that the services be connected with the administration of justice.
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