

Value added tax (VAT): combating tax evasion linked to imports

2008/0228(CNS) - 25/06/2009 - Final act

PURPOSE: to amend the VAT Directive (Council Directive 2006/112/EC) concerning measures linked to a certain exemption from VAT upon importation and joint and several liability.

LEGISLATIVE ACT: Council Directive 2009/69/EC amending Directive 2006/112/EC on the common system of value added tax as regards tax evasion linked to imports.

CONTENT: the Council, in the conclusions of its meeting on economic and financial affairs of 28 November 2006, agreed to establish an anti-tax fraud strategy implemented at Community level, especially for tax fraud in the field of indirect taxation, in order to complement national efforts. Certain measures which have been discussed in that context require an amendment of Directive 2006/112/EC.

The importation of goods is exempt from value added tax (VAT) if followed by a supply or transfer of those goods to a taxable person in another Member State . The conditions under which that exemption is granted are laid down by Member States. Experience, however, shows that divergences in application are exploited by traders to avoid payment of VAT on goods imported under those circumstances. In order to prevent that exploitation it is necessary to specify, for particular transactions, at Community level, a set of minimum conditions under which this exemption applies.

Since, for those reasons, the objective of this Directive, namely to address the problem of VAT evasion, cannot be sufficiently achieved by the Member States themselves and can therefore be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity. In accordance with the principle of proportionality, this Directive does not go beyond what is necessary in order to achieve that objective.

The exemption shall only apply if at the time of importation the importer has provided to the competent authorities of the Member State of importation at least the following information:

- his VAT identification number issued in the Member State of importation or the VAT identification number of his tax representative, liable for payment of the VAT, issued in the Member State of importation;
- the VAT identification number of the customer, to whom the goods are supplied, issued in another Member State, or his own VAT identification number issued in the Member State in which the dispatch or transport of the goods ends when the goods are subject to a transfer;
- the evidence that the imported goods are intended to be transported or dispatched from the Member State of importation to another Member State.

ENTRY INTO FORCE: 24/07/2009.

TRANSPOSITION: 01/01/2011.