

Value added tax (VAT): common system

2007/0238(CNS) - 24/11/2009 - Text adopted by Parliament after reconsultation

The European Parliament adopted by 576 votes to 61 with 24 abstentions, a legislative resolution amending, under the consultation procedure, the draft Council directive amending various provisions of the VAT Directive 2006/112/EC on the common system of value added tax (renewed consultation).

To recall, the present procedure is a re-consultation on a revised proposal from the Council, after the European Parliament adopted its opinion on the Commission's original proposal on 8 July 2008 ("Rosati Report") on the basis of a unanimous vote.

At its meeting of 9 June 2009, the ECOFIN reached political agreement on the basis of a text that significantly amends the original proposal notably as regards the introduction of more general and more far-reaching rules concerning the right of deduction. On 13 July 2009, the Council of Ministers, following a request from the Commission, informed the Parliament of its decision to obtain a new opinion on the revised proposal.

The main amendments are as follows:

Clarification of the right of deduction with respect to the supply of immovable property: Parliament clarified that since immovable property and related expenditure account for the most significant cases where clarification and strengthening of the rule is appropriate, given the value and economic lifetime of such property and the fact that mixed use of this type of property is a common practice, the initial right of deduction should be applied to immovable property supplied to the taxable person and important services relating thereto, which, by virtue of their economic value, can be assimilated to the acquisition of immovable property. Conversely, minor repairs or improvements of limited economic significance should be excluded from the scope of the rule.

Accordingly, the text now states that the initial exercise of the right of deduction arising when the tax becomes chargeable shall be limited to the proportion of the property's effective business use for transactions giving rise to a right of deduction. By way of derogation, the changes in the proportion of use of immovable property will be taken into account in accordance with the conditions provided for in Articles 187, 188, 190 and 192 for adjusting the initial exercise of the right of deduction.

Parliament deleted the clause permitting Member States to apply this provision in relation to VAT on expenditure related to other goods forming part of the business assets as they specify.

Evaluation: a new clause states that the Commission shall evaluate to which extent it would be appropriate to authorise Member States to apply Article 168a(1) of Directive 2006/112/EC, and the general adjustment rules under Articles 184 to 192 thereof, to movable goods that have a durable nature and that form part of the business assets. Any legislative proposal in that respect shall aim to harmonise the applicable rules in order to eliminate, to the greatest extent possible, factors that could distort competition, with a view to ensuring the proper functioning of the internal market. Such a legislative proposal shall be accompanied by an independent impact assessment, taking negative and positive aspects into account.