Value added tax VAT: measures for derogation, implementing powers (amend. Directive 77/388 /EEC)

2003/0120(CNS) - 20/01/2004 - Final act

PURPOSE : to establish procedures for the approval of derogations by the Council concerning the common system of value added tax. LEGISLATIVE ACT : Council Directive 2004/7/EC amending Directive 77/388/EEC concerning the common system of value added tax, as regards conferment of implementing powers and the procedure for adopting derogations. CONTENT : Articles 27 and 30 of Council Directive 77/388/EEC lay down procedures that may result in the tacit approval of derogations by the Council. In the interests of transparency and legal certainty, this Directive ensures that every derogation authorised under these Articles takes the form of an explicit decision adopted by the Council acting on a proposal from the Commission. The possibility of tacit approval by the Council on the expiry of a given period is therefore be removed. Furthermore: - In order to ensure that a Member State which has submitted a request for derogation is not left in doubt as to what action the Commission plans to take in response, time limits are laid down within which the Commission must present to the Council either a proposal for authorisation or a communication setting out its objections. - In order to enable Member States to follow more closely the processing of their requests, the Commission must, once it has all the information it considers necessary for appraising a request, notify the requesting Member State accordingly and transmit the request, in its original language, to the other Member States. - In the absence of any mechanism for the adoption of binding measures to govern the implementation of Directive 77/388 /EEC, the application of rules laid down in that Directive varies from one Member State to another. In order to improve the functioning of the internal market, it is essential to ensure more uniform application of the current VAT system. The Directive introduces a procedure for the adoption of measures to ensure the correct implementation of existing rules. - The measures in question address the problem of double taxation of cross-border transactions which can occur as the result of divergences between Member States in the application of the provisions of Directive 77/388/EEC governing the place of supply. - The scope of each implementing measure remains limited since, albeit designed to clarify a provision laid down in Directive 77/388/EEC, it could never derogate from such a provision. Measures implementing Directive 77 /388/EEC will be adopted by the Council acting unanimously on a proposal from the Commission. ENTRY INTO FORCE : 19/02/04.