Defence effort within the Union framework: common system of value added tax and general arrangements for excise duty

2019/0096(CNS) - 30/12/2019 - Final act

PURPOSE: to harmonise the VAT and excise duty rules applicable to defence efforts within the EU and NATO frameworks.

LEGISLATIVE ACT: Council Directive (EU) 2019/2235 amending Directive 2006/112/EC on the common system of value added tax and Directive 2008/118/EC concerning the general arrangements for excise duty as regards defence efforts within the Union framework.

CONTENT: this Directive amending the VAT and Excise Directives is intended to harmonise the VAT arrangements applicable to defence efforts in the EU and NATO frameworks. The arrangements for exemption from excise duty provided for in the Excise Directive are harmonised in a similar way.

The directive follows on from the joint communication of 28 March 2018 on the action plan on military mobility, which recognised the overall need for harmonisation of the VAT treatment of defence efforts within the Union and under the aegis of the North Atlantic Treaty Organisation (NATO).

Defence efforts

Within the meaning of the Directive, a defence effort carried out for the implementation of a Union activity under the CSDP covers military missions and operations, activities of battlegroups, mutual assistance, permanent structured cooperation (PESCO) projects and activities of the European Defence Agency (EDA). It does not cover activities falling under the solidarity clause set out in Article 222 of the Treaty on the Functioning of the European Union.

VAT exemptions

The Directive ensures that the use of goods by the armed forces of the Member States which are assigned to the defence effort carried out for the implementation of an activity of the Union in the framework of the Common Security and Defence Policy (CSDP) will be treated as an intra-EU acquisition for consideration where those goods, which have not been purchased under the local VAT conditions of the Member State in which the forces are stationed, are brought back and used by those forces for their own needs or those of the civilian component accompanying them in their own Member State.

In concrete terms, the Directive:

- introduces an exemption from VAT to cover the supply of goods or services intended either for the use of the armed forces of a Member State or of the civilian staff accompanying them or for supplying their messes or canteens when such forces take part in a defence effort carried out for the implementation of a Union activity under the CSDP outside their Member State. Supplies of goods or services for the armed forces of the Member State in which those goods or services are supplied should be excluded from the VAT exemption;

- provides for an exemption from VAT where goods imported by the armed forces of a Member State are intended either for the use of those forces or of the civilian staff accompanying them or for supplying their

messes or canteens when such forces take part in a defence effort carried out for the implementation of a Union activity under the CSDP outside their Member State;

- introduces an exemption from excise duty to cover excise goods supplied for the use of the armed forces of any Member State other than the Member State within which the excise duty is chargeable when such forces take part in a defence effort carried out for the implementation of a Union activity under the CSDP outside their Member State.

- introduces an excise-duty exemption for defence effort carried out for the implementation of a Union activity under the CSDP. The exemption will cover supplies of excise goods to the armed forces of any Member State other than that in which the excise duty is chargeable, for the use of those forces or accompanying civilian staff, or for supplying their messes or canteens where such forces are taking part in a defence effort carried out for the implementation of a Union activity under the CSDP.

The exemptions shall apply only to situations where the armed forces perform tasks directly related to a defence effort under the CSDP and shall not cover civilian missions under the CSDP. They shall not apply, under any circumstances, to goods or services which the armed forces acquire for use by the forces or by civilian personnel accompanying them within their own Member State.

ENTRY INTO FORCE: 19.1.2020.

TRANSPOSITION: no later than 30.6.2022.

APPLICATION: from 1.7.2022.