

Common system of value added tax (VAT): exemptions on importations and on certain supplies, in respect of Union measures in the public interest

2021/0097(CNS) - 12/04/2021 - Legislative proposal

PURPOSE: to exempt from Value Added Tax (VAT) goods and services made available by the European Commission, EU bodies and agencies to Member States and citizens during times of crisis.

PROPOSED ACT: Council Directive.

ROLE OF THE EUROPEAN PARLIAMENT: the Council adopts the act after consulting the European Parliament but without being obliged to follow its opinion.

BACKGROUND: the current VAT Directive (Council Directive 2006/112/EC) prevents Member States from applying a general exemption from VAT to the importation of goods and the supply of goods and services to the Commission or to an EU agency or body intended to support and facilitate measures taken at EU level in the public interest, in particular where the purchases are to be made available free of charge to Member States or to third parties such as national authorities or institutions.

Experience gained during the course of the COVID-19 pandemic shows an urgent need for the adoption of measures in order to create readiness to act when dealing with comparable situations in the future. To enable such action, it is necessary to introduce a broad-based VAT exemption for the acquisition of goods and services. Such exemption is in particular a prerequisite for the ability to deliver solutions required to facilitate coordinated measures of crisis management at EU level. It would ensure that measures to be taken under the various Union initiatives are not hampered by amounts of VAT to be collected or related compliance burden imposed on suppliers of the goods or services needed.

CONTENT: the proposed decision amending Council Directive 2006/112/EC calls for new measures to allow the Commission and other EU agencies and bodies to import and purchase goods and services VAT-free when those purchases are being distributed during an emergency response in the EU. The recipients might be Member States or third parties, such as national authorities or institutions (for example, a hospital, a national health or disaster response authority).

The scope of this proposal is broad-based, covering all types of goods and services, such as:

- diagnostic tests and testing materials, and laboratory equipment;
- personal protective equipment (PPE) like gloves, respirators, masks, gowns, disinfection products and equipment;
- tents, camp beds, clothing and food;
- search and rescue equipment, sandbags, life jackets and inflatable boats;
- antimicrobials and antibiotics, chemical threat antidotes, treatments for radiation injury, antitoxins, iodine tablets;

- blood products or antibodies;
- radiation measuring devices;
- development, production and procurement of necessary products, research and innovation activities, strategic stockpiling of products; pharmaceutical licences, quarantine facilities, clinical trials, disinfection of premises, etc.

Exemption certificates

In order to help Member States to cope better with the challenges of the digital age and to reduce administrative burden, the proposal empowers the Commission to render exemption certificates, which serves to confirm that the transaction qualifies for the exemption of the VAT Directive, electronic. That electronic form should be put in place in order to enable Member States to cope better with the challenges of the digital age and to reduce administrative burden associated with the use of the paper version of the form particularly in situations of crises such as pandemics.

Budgetary implications

The proposal will remove VAT as a cost factor for EU programmes. With the same budget, this will allow the EU to purchase more goods and services that are, for instance, intended for free distribution to a Member State, a national health authority or a hospital.

By introducing a new VAT exemption, the proposal could reduce VAT revenue collected by Member States and therefore the VAT own resource. While there will be no negative implications for the EU budget, as the own resource based on gross national income (GNI) compensates for any expenditure not covered by traditional own resources and the VAT own resource, the non-collected VAT own resources from certain Member States would have to be compensated by all Member States through the GNI own resource. However, given that the current volume of goods and services purchased by EU institutions and subject to VAT is small (in comparison to the overall economy), this effect is likely to be extremely limited.

Transposition

In order to safeguard their maximum benefit, Member States should apply the VAT exemption introduced by the proposal to transactions carried out as from 1 January 2021 retroactively.