Travel agents: special scheme VAT and distortion of competition

2002/0041(CNS) - 08/02/2002 - Legislative proposal

PURPOSE : to amend Council Directive 77/388/EEC with a view to simplifying, modernising and harmonising the application of the special scheme for travel agents. CONTENT : in 1977, when the Sixth VAT Directive was adopted, a special scheme for travel agents and tour operators was introduced. This special scheme was created due to the specific nature of the profession. The application of the normal rules on place of taxation, taxable amount and deduction of input tax would, by reason of the complexity of services and the places in which they are provided, entail practical difficulties for those undertakings of such a nature as to obstruct their operations. In order to adapt the applicable rules to the specific nature of such operations, the Community legislature set up a special VAT scheme in Article 26 of the Sixth Directive. It applies to operators whose supplies consist of elements, such as hotel accommodation and transport, which they have purchased from third parties and then sell, in their own names, to travellers. All transactions performed by the travel agent in respect of a journey are treated as a single supply. The first objective of this special scheme was to simplify the application of the Community VAT rules for these supplies. When the travel agent purchases services from other suppliers, puts them together in a package and sells them to the traveller, in his own name and for his own account, the provisions of this special scheme ensure that the travel agent avoids multiple registration for VAT purposes in different Member States from where the services are supplied. A second objective of this special scheme is the distribution of VAT revenues between Member States. The special scheme was installed in order to assure that the VAT revenue is allocated to the Member State where the final consumption of each individual service takes place. Indeed, the functioning of the scheme provided by Article 26 of the Sixth VAT Directive ought to ensure that the VAT revenue on services enjoyed during the journey - e.g. hotel, restaurant, transport - is allocated to the Member State where the services are enjoyed, while the VAT on the travel agents margin is allocated to the Member state where the travel agent is established. As one of the basic principles of VAT is that it is a consumption tax, this whole special scheme was developed to best meet this objective. However, in practice there is no real uniform application of this special scheme by Member States. In the light of these problems, which arise partly from changes in business patterns and technology and partly from divergent practices by Member States, and keeping in mind the overall objectives of this special scheme, the Commission decided to include a modification of Article 26 as an element of its New VAT Strategy, while maintaining the logic of the Article. This aims at the simplification, modernisation and more uniform application of the Community VAT legislation. Modernisation is necessary in this particular area because of the current evolution of electronic commerce, and the growing use of this medium in the tourism sector. Similarly, more uniform application in the EU of the special scheme for travel agents is also necessary to address the main concerns of the sector, whose complaints have highlighted the distortion of competition which arises as a result of the divergent application of Article 26 byMember States. The object of this proposal, therefore, is to ensure more uniform application by extending the scope of the special scheme to cover the supplies of travel packages to all clients and to abolish the various derogations relating to such supplies. The proposal also aims at eliminating the distortion of competition to the detriment of EU established tour operators, which is increasingly arising as the result of the use of new technology in this sector.