Value added tax VAT: reduced rates, adaptations following the 2004 enlargement

2004/0810(CNS) - 21/04/2004 - Initial legislative proposal

PURPOSE : to amend Directive 77/388/EC (the sixth VAT Directive) with respect to a reduced rate of VAT on labour-intensive services for the ten new Member States.

PROPOSED ACT : Council Directive.

CONTENT : the Council adopted Directive 1999/85/ECamending Directive 77/388/EEC(the 6th VAT Directive) as regards the possibility of applying on an experimental basis a reduced VAT rate on labour-intensive services. Its purpose is to allow Member States that so wish to test the impact of a targeted reduction of VAT on these services in terms of job creation and a reduction of the underground economy.

Member States wishing to introduce the measure had to inform the Commission before 1 November 1999.

Article 28(6) of the 6th VAT Directive authorised the experimental application of a reduced rate of VAT on labour-intensive services up to 31 December 2002. The period was then extended to 31 December 2003 by Directive 2002/93/EC to allow for thorough evaluation of the results of the experiment.

On the basis of the assessment reports submitted by the Member States that have applied the reduced rate, the Commission submitted a global evaluation reporton the experiment to the European Parliament and the Council. The evaluation report concluded that it was impossible to identify with any certainty any beneficial impact on employment or a reduction in the black economy as a result of reducing VAT rates under this experiment. Compared with measures which directly target labour costs, the impact of a reduction in VAT rates on employment always has a higher budgetary cost for each job created. However, the measure did not appear to jeopardise the smooth functioning of the internal market.

On 23 July 2003 the Commission adopted a proposal for a Directive introducing a general review of reduced rates of VATwith a view to simplifying and rationalising them. Since the Council has not yet been able to reach an unanimous decision to adopt the proposed Directive, in order to avoid legal uncertainty from 1 January 2004 and give the Council time to take a decision on the general proposal regarding reduced rates of VAT, the first subparagraph of Article 28(6) of Directive 77/388/EEC and the first paragraph of Article 1 of Decision 2000/185/EC should be amended to extend the validity of the authorisation by two years up to 31 December 2005. This would allow the nine Member States currently applying a reduced rate of VAT on labour-intensive services to continue to do so for another two years under the same conditions, without changing or extending the scope of the experiment.

The Commission considers that the same possibility should be offered to the new Member States. Otherwise labour-intensive services currently subject to the reduced rate would have to go from the reduced rate to the normal rate, which would not be the case in the current Member States since they can benefit from the extension up to 31 December 2005, as provided for by the Directive of 10 February 2004.

Consequently the acceding countries who have expressed the wish may, as was the case for the current Member States, opt for the application of a reduced rate on labour-intensive services listed in Annex K. All the current Member States had the opportunity to take part in the experiment if they applied before 1 November 1999.

The Commission is therefore presenting a proposal for a directive, on the basis of Article 57 of the Accession Treaty, amending Directive 77/388/EEC with a view to authorising acceding countries who have so requested to apply a reduced rate to certain services listed in Annex K, provided they comply with the limits and conditions laid down in Directive 1999/85/EC.