Value added tax VAT: simplify the procedure, assist in countering tax evasion and avoidance, repealing decisions granting derogations (amend. Directive 77/388/EEC)

2005/0019(CNS) - 24/07/2006 - Final act

PURPOSE: to modify the EU's VAT regime in order to combat tax evasion.

LEGISLATIVE ACT: Council Directive 2006/69/EC amending Directive 77/388/EEC as regards certain measures to simplify the procedure for charging value added tax and to assist in countering tax evasion or avoidance, and repealing certain Decision granting derogations.

CONTENT: to combat tax evasion, and in a bid to simplify the procedures for charging VAT, EU legislation has, until now, allowed Member States to apply for derogations. These derogations have been granted, under varying terms, to individual Member States. The purpose of this Directive is to make those derogations available to all Member States – but to offer them in such a way that Member States may adopt them only as and when the need arises.

The 6th VAT Directive has accordingly been amended and includes the following provisions:

- It allows the Member States to take action relating to a taxable person as well as a business transfer so that they can not be exploited for the purpose of avoiding tax. Further, the Directive makes it possible for the Member States to intervene regarding the value of supplies and acquisitions in specific limited circumstances in order to ensure that there is no loss of tax.

- It allows the Member States to include the value of "exempt investment gold", in cases where this gold has been worked. It will be valued according to the "open market value" of the investment gold at the time of it being supplied.

- The term "open market value" has been redefined.

- It allows the inclusion of certain services with the nature of capital items in the scheme. This allows for the adjustment of deductions for capital items over the lifetime of the asset, according to its actual use.

- It allows the Member States, in certain specific cases, to designate the recipient of supplies as the person responsible for paying and accounting for value added tax. This allows for greater simplification and the countering of tax evasion as well as the identification of sectors depending on the types of transactions.

- Given that Member States will not longer be able to apply for individual derogations, this Directive has repealed 10 derogation Decisions, effective as from 1 January 2008. (A full list of the repealed Decisions can be found in Annex to the Directive). The Directive does not affect measures applied by the Member States pursuant to Article 27(5) of Directive 77/388/EEC, nor does it affect derogations granted according to Article 27 (1) of the Directive and which are not repealed by this Directive.

- The application of certain provisions is optional and allows the Member States a degree of discretion. Member States have the option of sharing information with other Member States through the Advisory Committee on VAT.

ENTRY INTO FORCE: 13/08/2006.

TRANSPOSITION: 01/01/2008.