Basic information

2002/0286(CNS) CNS - Consultation procedure Directive	Procedure completed
Gas and electricity: VAT rules on the place of supply (amend. Directive 77/388/EEC) **Subject** 2.70.02 Indirect taxation, VAT, excise duties 3.60.03 Gas, electricity, natural gas, biogas	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs	RAPKAY Bernhard (PSE)	20/01/2003

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs and Internal Market	The committee decided not to give an opinion.	
ITRE Industry, External Trade, Research, Energy	VAN VELZEN W.G. (PPE-DE)	23/01/2003

Council of the European Union

Council configuration	Meetings	Date
Economic and Financial Affairs ECOFIN	2530	2003-10-07

European Commission

Commission DG	Commissioner
Taxation and Customs Union	

Key events

Date	Event	Reference	Summary
05/12/2002	Legislative proposal published	COM(2002)0688	Summary
19/12/2002	Committee referral announced in Parliament		
29/04/2003	Vote in committee		Summary
29/04/2003	Committee report tabled for plenary, 1st reading/single reading	A5-0139/2003	

13/05/2003	Decision by Parliament	T5-0198/2003	Summary
07/10/2003	Act adopted by Council after consultation of Parliament		
07/10/2003	End of procedure in Parliament		
11/10/2003	Final act published in Official Journal		

Technical information

Procedure reference	2002/0286(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	EC Treaty (after Amsterdam) EC 093
Stage reached in procedure	Procedure completed
Committee dossier	ECON/5/16982

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0139/2003	29/04/2003	
Text adopted by Parliament, 1st reading/single reading		T5-0198/2003 OJ C 067 17.03.2004, p. 0027-0069 E	13/05/2003	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2002)0688	05/12/2002	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0264/2003 OJ C 133 06.06.2003, p. 0058-0062	26/03/2003	
EESC	Economic and Social Committee: opinion, report	CES0409/2003	26/03/2003	

Additional information

Source	Document	Date

European Commission	EUR-Lex	

Final act

Directive 2003/0092
OJ L 260 11.10.2003, p. 0008-0009 Summary

Gas and electricity: VAT rules on the place of supply (amend. Directive 77/388/EEC)

2002/0286(CNS) - 13/05/2003 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted the resolution drafted by Bernhard RAPKAY (PES, Germany) and made some amendments to the Commission's proposal. (Please see the document dated 29/04/03.)

Gas and electricity: VAT rules on the place of supply (amend. Directive 77/388/EEC)

2002/0286(CNS) - 07/10/2003 - Final act

PURPOSE : to adopt the new rules for applying value added tax (VAT) to the supplies of gas and electricity so as to facilitate the Internal Market for energy. LEGISLATIVE ACT : Council Directive 2003/92/EC amending Directive 77/388/EEC as regards the rules on the place of supply of gas and electricity. CONTENT : in order to harmonise and simplify the taxation of the costs of access and use of distribution networks, the Directive also changes the place of supply of services directly connected to the supply of gas and electricity (such as use of the pipeline/cable network to transport the gas or electricity). The new rules provide, in the case of supplies of gas through the natural gas distribution system and of electricity, a departure from the basic principle governing the VAT treatment of goods which is that the place of taxation is the place where the goods are physically located. The rules distinguish between two categories of supplies for gas and electricity: supplies to traders buying with a view to resale and supplies to final consumers, whether or not they are traders. Supplies of gas and electricity to traders are taxable at the place where this person is established or has a fixed establishment for which the goods are supplied. Supplies to final consumers are taxable at the place of consumption of the gas and electricity. This is normally the place where the customer's meter is located. This will ensure that the VAT accrues to the Member State where the final consumption takes place. The changes in the rules governing the place of supply of gas through the natural gas distribution system, or of electricity, should be combined with a compulsory reverse charge when the customer is a person identified for VAT purposes. ENTRY INTO FORCE : 11/10/2003. IMPLEMENTATION : 01/01/2005.

Gas and electricity: VAT rules on the place of supply (amend. Directive 77/388/EEC)

2002/0286(CNS) - 05/12/2002 - Legislative proposal

PURPOSE : to present a proposal for a Council Directive amending Directive 77/388/EEC as regards the rules on the place of supply of electricity and gas. CONTENT : the aim of this proposal is to amend the rules on the place of taxation of natural gas and electricity for the purposes of Value Added Tax (VAT) so as to facilitate the functioning of the Single Market for energy. This proposal would eliminate current problems of double taxation and non-taxation and distortions of competition between traders by changing the place of taxation of natural gas in pipelines and of electricity from the place of supply to the place of consumption. Under the proposed rules, where the buyer was a trader reselling the supplies, the place of taxation would be the place where the buyer was established. Where the sale was to a final consumer, the place of taxation would be the place of consumption. For transmission services closely linked to the supply of gas and electricity, the proposal contains a corresponding clause providing that taxation would take place in the country where the customer was established. The current rules have worked adequately in a national context but are not appropriate now with market liberalisation and increasing cross-border supplies of gas and electricity. It is difficult to determine where the place of supply of gas and electricity is located and this leads to differences of interpretation of the rules by Member States and difficulties for traders supplying gas and electricity across borders. The proposal would, in the case of supplies of gas and electricity, provide for a departure from the basic principle governing the VAT treatment of goods which is that the place of taxation is the place where the goods are physically located. Under the proposal, the effective place of taxation would be the place of consumption. The proposal provides that: - supplies of gas and electricity made with a view to resale would be taxable in the country where the buyer was located. Where the supplier and the buyer were not established in the same territory, the buyer would be the person subjected to VAT under self-assessment arrangements. - supplies of gas and electricity to final consumers, whether or not they are traders, would be taxed at the place where the actual consumption took place. Taxation would thus accrue to the Member State of final consumption. In view of this change of the place of taxation to that of consumption, an EU trader selling gas or electricity to another trader or to a consumer in another Member State would now be exempted from VAT in his country on the sale. Similarly, in the case of imports from third country generators and traders, there

would be an exemption of such supplies at the importation stage in order to prevent double taxation. Lastky, this proposal applies to the supply of electricity by cable and natural gas, including liquefied natural gas (LNG), in pipelines. Gas traded in bottles would continue to be subject to the existing rules for taxation because in this case the problem of establishing where the place of supply is does not occur so there is no justification for departing from normal VAT rules.