COUNCIL DIRECTIVE 1999/85/EC

of 22 October 1999

amending Directive 77/388/EEC as regards the possibility of applying on an experiment basis a reduced VAT rate on labour-intensive services

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 93 thereof,

Having regard to the proposal from the Commission [1],

Having regard to the opinion of the European Parliament [2],

Having regard to the opinion of the Economic and Social Committee [3],

Whereas:

(1) Article 12(3)(a) of Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — common system of value added tax: uniform basis of assessment [4] provides that the Member States may apply either one or two reduced rates only to supplies of goods and services of the categories specified in Annex H to Directive 77/388/EEC;

(2) however, the problem of unemployment is so serious that those Member States wishing to do so should be allowed to experiment with the operation and impact, in terms of job creation, of a reduction in the VAT rate on labour-intensive services which are not currently listed in Annex H;

(3) this reduced VAT rate is likely to reduce the incentive for the businesses concerned to join or remain in the black economy;

(4) however, the introduction of a targeted reduction in the VAT rate could have a negative impact on the smooth functioning of the internal market and on tax neutrality; provision should therefore be made for an authorisation procedure to be introduced for a full and clearly defined three-year period and for the scope of this measure to be made subject to strict conditions so that it remains verifiable and limited;

(5) in view of the experimental nature of the measure, a detailed assessment of its impact in terms of job creation and efficiency should be carried out by the Member States which implement it and by the Commission;

(6) the measure should be strictly limited in time and should end by 31 December 2002 at the latest;

(7) implementation of this Directive does not involve any amendment of the laws of the Member States,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 77/388/EEC is hereby amended as follows:

1. the following paragraph shall be added to Article 28:

'6. The Council, acting unanimously on a proposal from the Commission, may authorise any Member State to apply for a maximum period of three years between 1 January 2000 and 31 December 2002 the reduced rates provided for in the third subparagraph of Article 12(3)(a) to services listed in as maximum of two of the categories set out in Annex K. In exceptional cases a Member State may be authorised to apply the reduced rate to services in three of the abovementioned categories.

The services concerned must satisfy the following requirements:

(a) they must be labour-intensive;

(b) they must be largely provided direct to final consumers;

(c) they must be mainly local and not likely to create distortions of competition;

(d) there must be a close link between the lower prices resulting from the rate reduction and the foreseeable increase in demand and employment.

The application of a reduced rate must not prejudice the smooth functioning of the internal market.

Any Member State wishing to introduce the measure provided for in the first subparagraph shall inform the Commission before 1 November 1999 and shall provide it before that date with all relevant particulars, and in particular the following:

(a) scope of the measure and detailed description of the services concerned;

(b) particulars showing that the conditions laid down in the second and third subparagraphs have been met;

(c) particulars showing the budgetary cost of the measure envisaged.

Those Member States authorised to apply the reduced rate referred to in the first subparagraph shall, before 1 October 2002, draw up a detailed report containing an overall assessment of the measure's effectiveness in terms notably of job creation and efficiency.

[1] OJ C 102, 13.4.1999, p. 10.
[2] OJ C 279, 1.10.1999, p. 105.
[3] OJ C 209, 22.7.1999, p. 20.
[4] OJ L 145, 13.6.1977, p. 1. Directive as last amended by Directive 1999/59/EC (OJ L 162, 26.6.1999, p. 63).