

DIRECTIVES

COUNCIL DIRECTIVE 2009/47/EC

of 5 May 2009

amending Directive 2006/112/EC as regards reduced rates of value added tax

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,

Having regard to the Opinion of the European Parliament ⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Whereas:

- (1) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽³⁾ authorises Member States to apply one or two reduced rates which may not be lower than 5 % and are applicable only to a restrictive list of supplies of goods and services.
- (2) The communication on VAT rates other than standard VAT rates which the Commission presented to the European Parliament and the Council in 2007 concluded that the application of reduced VAT rates to locally supplied services poses no real detriment to the smooth functioning of the internal market and may, under certain conditions, have positive effects in terms of job creation and of combating the informal economy. It is therefore appropriate to allow Member States the possibility of applying reduced VAT rates to the labour-intensive services covered by the temporary provisions applicable until the end of 2010 as well as to restaurant and catering services.
- (3) With respect to the supply of alcoholic and/or non-alcoholic beverages in the framework of restaurant and catering services, it may be justified to provide a different treatment of those beverages from the treatment provided for in the framework of the supply of food-stuffs; it is appropriate to provide explicitly that a Member State may include or exclude the supply of alcoholic and/or non-alcoholic beverages when applying a reduced rate to the supply of restaurant and catering

services referred to in Annex III of Directive 2006/112/EC.

- (4) Directive 2006/112/EC should furthermore be amended in order to allow for the application of reduced rates or an exemption respectively in a limited number of specific situations for social or health reasons and in order to clarify and update to technical progress the reference to books in its Annex III.
- (5) The content of certain provisions of Directive 2006/112/EC concerning existing derogations and the list of Annex IV thereto will be covered by the list of supplies of goods and services to which a reduced rate may be applied on the basis of this Directive. For reasons of clarity those provisions and Annex IV of Directive 2006/112/EC should be deleted.
- (6) In accordance with point 34 of the Interinstitutional Agreement on better law-making ⁽⁴⁾, Member States are encouraged to draw up, for themselves and in the interests of the Community, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public.
- (7) Directive 2006/112/EC should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 2006/112/EC is hereby amended as follows:

1. the following Article shall be inserted:

'Article 104a

Cyprus may apply one of the two reduced rates provided for in Article 98 to the supply of liquid petroleum gas (LPG in cylinders.);

⁽¹⁾ Opinion of 19 February 2009 (not yet published in the Official Journal).

⁽²⁾ Opinion of 25 February 2009 (not yet published in the Official Journal).

⁽³⁾ OJ L 347, 11.12.2006, p. 1.

⁽⁴⁾ OJ C 321, 31.12.2003, p. 1.

2. Article 105 shall be replaced by the following:

'Article 105

1. Portugal may apply one of the two reduced rates provided for in Article 98 to the tolls on bridges in the Lisbon area.

2. Portugal may, in the case of transactions carried out in the autonomous regions of the Azores and Madeira and of direct importation into those regions, apply rates lower than those applying on the mainland.;

3. Chapter 3 of Title VIII shall be deleted;

4. the following point shall be added to Article 111 with effect from 1 January 2011:

'(c) by Malta in respect of the supply of foodstuffs for human consumption and pharmaceuticals.;

5. in Article 114(1), the second subparagraph shall be replaced by the following:

'The Member States referred to in the first subparagraph may also apply such a rate to children's clothing and children's footwear and housing.;

6. Article 115 shall be replaced by the following:

'Article 115

Member States which, at 1 January 1991, were applying a reduced rate to children's clothing, children's footwear or housing may continue to apply such a rate to the supply of those goods or services.;

7. Article 116 shall be deleted;

8. in Article 117, paragraph 1 shall be deleted;

9. in Article 125, paragraph 2 shall be deleted;

10. Article 127 shall be deleted with effect from 1 January 2011;

11. in Article 128, paragraph 2 shall be deleted;

12. in Article 129, paragraph 1 shall be deleted;

13. Annex III shall be amended in accordance with the Annex to this Directive;

14. Annex IV shall be deleted.

Article 2

Member States shall forthwith communicate to the Commission the text of the laws, regulations and administrative provisions which they adopt in the field covered by this Directive.

When they are adopted by Member States, those measures shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

Article 3

This Directive shall enter into force on the first day of the first month following its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 5 May 2009.

For the Council

The President

M. KALOUSEK

ANNEX

Annex III to Directive 2006/112/EC is hereby amended as follows:

1. Point 6 is replaced by the following:

'(6) supply, including on loan by libraries, of books on all physical means of support (including brochures, leaflets and similar printed matter, children's picture, drawing or colouring books, music printed or in manuscript form, maps and hydrographic or similar charts), newspapers and periodicals, other than material wholly or predominantly devoted to advertising;'

2. the following points are inserted:

'(10a)
renovation and repairing of private dwellings, excluding materials which account for a significant part of the value of the service supplied;

(10b)
window-cleaning and cleaning in private households;'

3. the following point is inserted:

'(12a)
restaurant and catering services, it being possible to exclude the supply of (alcoholic and/or non-alcoholic) beverages;'

4. the following points are added:

'(19) minor repairing of bicycles, shoes and leather goods, clothing and household linen (including mending and alteration);

(20) domestic care services such as home help and care of young, elderly, sick or disabled;

(21) hairdressing.'
