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EFSI's contribution to the public consultation on the reform of VAT rates

(proposal for a Council Directive amending Directive 2006/112/EC on the Common system of value added tax as regards the rules governing the application of VAT rates)

PUBLICATION OF RESPONSES

Contributions received are intended for publication "as submitted". Below, you have the possibility to indicate whether you agree to the publication of your individual responses under your name or anonymously. Furthermore, the European Commission will prepare a synopsis report summarizing all responses received (including responses anonymized upon request).

1. * Do you agree to your contribution being published ?

- Yes, I consent to all of my answers being published under my name/the name of my organisation.
- Yes, I consent to all of my answers/personal data being published anonymously.

2. * Do you confirm that the information you provide in your response to this consultation is not subject to copyright restrictions?

- The information provided is not subject to copyright restrictions.
- The information provided is subject to copyright restrictions.

QUESTIONS FOR THE IDENTIFICATION OF THE STAKEHOLDER

3. * Are you replying as a, or on behalf of:

- Business
- Tax expert, tax advisor or tax practitioner
- Trade/Business/Professional association
- Academic institution, think-tank
- Non-governmental organisation, consumer association

- National tax administration
- Other public authority, public institution, including national or regional parliaments
- Private citizen
- Other

4. *Please indicate your name, or the name of your company, organisation, or institutions for which you respond to this consultation.

The European Federation for Services to Individuals (EFSI).

5. If you agree to be contacted by us in case of questions or doubts over your replies to this questionnaire, please indicate your email-address:

aurelie.decker@efsi-europe.eu

6. What is your country of residence (seat for businesses)?

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovak Republic
- Slovenia
- Spain
- Sweden

- United Kingdom
- Non-EU country

7. If you organisation or entity is listed in the EU Transparency Register, please indicate its Register ID number here :

Register ID number: 57795906755-89

PART I. EXPERIENCE WITH THE CURRENT RATE REGIME

22. * Currently, the list of goods and services eligible for reduced VAT rates is contained in Annex III of the VAT Directive. This list is not regularly updated. Is the range of goods and services eligible for reduced rate treatment adequate ?

- Yes, the coverage of the list is adequate
- No, the list leaves out some goods or services which should be included
- Not sure/No opinion

23. Please indicate for which specific goods/services in respect of which there is a need for updating the list and why ?

Due to its high employment content and high labour costs, the personal and household services (PHS) sector cannot develop in the formal economy without supporting measures. Tax incentives and reduced VAT rates implemented by many Member States have all their importance in this context. This is all the more relevant that several studies conducted on behalf of the European Commission demonstrated that reduced VAT rates applied to PHS do not create distortive effect on the internal market. Quite the reverse, reduced VAT rates help offset the distortion created by taxation in general in a sector which can easily be substituted by do-it-yourself home production and undeclared work. However, at present not all services belonging to the PHS sector are listed in Annex III of the VAT Directive. This has led to infringement procedures and instability of the fiscal framework surrounding PHS activities which were highly detrimental to PHS providers. Thus, in order to adopt a comprehensive approach toward PHS, EFSI pleads that the following services should from now on be eligible to reduced rates : small gardening; home-based courses (not restricted to school help); home IT and Internet assistance; organisational activities and management of PHS provision (intermediation services, the organisation being or not PHS worker's employer); maintenance, upkeep and temporary home vigilance services.

Moreover, in addition of a reduced VAT rate, it is important that any type of PHS services benefit from the same VAT regime. As an example, in some EU countries, the VAT regime of childcare services depends on the way the service is performed. Thus, childcare services benefit from the VAT reduced rate when they are provided at home but they are VAT exempt when performed on-site. As such, VAT exemption is cause of important residual tax costs.

24. * In most cases, current rules limit the possible difference in VAT rates within one Member State or between Member States. Sometimes, however, the differences can be relatively large, for example when a Member State has received a specific derogation allowing it to apply superreduced rates of less than 5% or a zero rate, whereas other Member States apply a standard rate.

Are you aware of any distortion of competition resulting from the application of a reduced, superreduced or zero rate? One example of distortion would be a case where a

business obtained a significant advantage over a competitor mainly because it benefited from a lower rate on sales in the same market.

Note: Please limit your answer only to cases where the distortion stems from VAT; differences in other taxes, fees or social contributions are not relevant here.

- Yes, I know of such cases of distortion within the same Member State
- Yes, I know of such cases between two Member States
- Yes, I know of cases both within the same and between different Member States
- No, I am not aware of any such case

As mentioned previously, in some EU countries, the VAT regime of childcare services depends on the way the service is performed: childcare services benefit from the VAT reduced rate when they are provided at home but they are VAT exempt when performed on-site. Thus, important residual tax costs result from this VAT exemption which creates distortion of competition between childcare provisions and providers. This is why, EFSI stresses the need to ensure that all PHS services benefit from the same reduced VAT rate regime.

26. * On the basis of your experience, do you think granting additional flexibility to Member States would create new distortions of competition ?

- Yes, this is very likely
- Yes, this is somewhat likely
- No, this is unlikely
- No, this can be excluded
- Not sure/No opinion

PART II. VIEWS ON THE REFORM

28. *As already mentioned, the VAT directive establishes a minimum standard VAT rate of 15% and a list of goods and services which can be subject to a reduced rate of no less than 5%. This system offers harmonisation at EU level but in some cases may limit Member States choices in various ways, for example by ruling out a reduced VAT rate on certain goods or services or by setting a minimum level to the VAT rate.

A reform could grant Member States greater room for manoeuvre in this regard. However, this might result in an increase in complexity, creating additional costs for businesses and generating legal uncertainty; this is because, in a destination based system, businesses in each Member State must generally apply the VAT rate applicable in the Member States where they are selling. What should the reform prioritise ?

- Priority should be given to more flexibility for Member States even if it implies a complication of the VAT system or greater differences between VAT rates
- Priority should be given to maintain the simplicity of the VAT system and limit rate differences, even if this limits the room for manoeuvre of Member States
- Not sure/No opinion

29. ***The reform should propose a solution for the future of super-reduced rates. Many of these derogations were only granted on a temporary basis and are set to expire when the definitive regime is adopted.**

One option would be to extend the scope of super-reduced rates to all Member States. This would ensure equal treatment among them. However, this could add complication to the VAT system and introduce a risk of erosion of VAT revenues.

A second option would be to remove the super-reduced rates from the VAT system; this would simplify the VAT system. However, it would require Member States to abolish the superreduced rates already granted to specific sectors and revert to the normal regime. What is your view ?

- Super-reduced rates should be integrated in the VAT system and granted to all Member States even if the VAT system ends up being more complicated
- Super-reduced rates were only temporary and as such should disappear from the VAT system in order to simplify it
- The status quo should be maintained; the current temporary derogations should be extended indefinitely, even if this results in different treatment between Member States
- Not sure/No opinion

30. *** In the current system, Member States are only allowed to apply one standard rate to all transactions and two reduced rates to some transactions (with the exception of super-reduced rates which are specific derogations). A reform could increase the number of rates available to Member States. This would allow Member States greater flexibility, at the cost of introducing greater complication. Do you think Member States should also receive more flexibility regarding the number of rates they can apply (while remaining limited by the list for the application of reduced rates) ?**

- Priority should be given to more flexibility for Member States, so Member States should have no limits on the number of rates they can apply
- The current number of rates provides sufficient room for manoeuvre
- Not sure/No opinion

31. ***Should the 15% minimum for the standard rate be maintained ?**

- Yes
- No
- Not sure/No opinion

32. ***Should the 5% minimum for reduced rate be maintained ?**

- Yes, this limits risks of erosion of revenue and of unfair competition
- No, Member States should be free to set reduced rates at the level they like
- Not sure/No opinion

33. ***The Commission is now assessing two broad options for the reform of the VAT rate system. The first option aims to keep the standard VAT rate of 15% and update regularly the list of goods and services eligible for reduced rates, on the basis of Member States suggestions. The second option increases flexibility substantially by removing the minimum rate of 15% and abolishing the list, thus granting Member States large discretion**

to fix their VAT rate. Under both options all currently existing reduced rates, including derogations, legally applied in Member States would be maintained and made available to all Member States, ensuring equal treatment.

Which of these two solutions would you prefer?

- Regularly review the list of goods and services that can be taxed at a reduced rate. Allow Member States to submit their proposals for adjustment, and charge the European Commission with reporting whether such changes would pose any risk of distortion of competition. Keep the minimum standard VAT rate at 15%.
- Abolish the list and allow greater freedom on the number of reduced rates and their level. Develop and put in place safeguards to avoid unfair tax competition, guarantee legal certainty and reduce compliance costs.
- It is best to keep the current system
- Not sure/No opinion

34. *What kind of safeguards do you think the Commission should put in place to avoid such tax competition between Member States ?

More than one choice possible

- Basic rules framing the cases in which reduced rates may be applied
- Member States should inform the Commission and other Member States about any new measure they plan to adopt
- Prevent the application of reduced rates to high-value goods and services, in particular easily transportable items
- The total number of reduced rates allowed by Member States should be limited
- Super-reduced rates should only be applied to goods/services specified at EU level
- No safeguards are necessary
- Other
- Not sure/No opinion

35. * Please specify:

When it comes to the application of reduced rates to services, EFSI considers that conditions set out in the initial version of article 107 of the Directive 2006/112/CE should be reactivated as regards its spirit. Thus, services benefiting from reduced rates must : (1) be labour-intensive; (2) largely be provided directly or indirectly to final consumers; (3) be mainly local and not likely to cause distortion of competition. In addition, "there must also be a close link between the decrease in prices resulting from the rate reduction and the foreseeable increase in demand and employment. Application of a reduced rate must not prejudice the smooth functioning of the internal market". The respect of these conditions by Member States appears to be a sufficient safeguard to avoid tax competition between Member States.

38. * Do you think a specific list should be made for goods and services subject to super-reduced rates ?

- Yes
- No

Not sure/No opinion

39. * Do you think granting Member State greater flexibility could risk creating, because of more intense tax competition between Member States, an erosion of VAT revenues and/or pressures to narrow the tax base for VAT ?

- Yes, this is very likely
- Yes, this is somewhat likely
- No, this is somewhat unlikely
- No, this is very unlikely
- Not sure/No opinion

40. * The new regime will require national administrations to provide clear and simple information on their VAT rates. What do you think would be the best way to provide such information?

More than one choice possible

- Harmonised rules on product categories
- Better Member State information on national websites
- European database accessible to everyone
- Contact with administration
- Other
- Not sure/No opinion

DOCUMENT UPLOAD AND FINAL COMMENTS

42. Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) here.

Please note that the uploaded document will be published alongside your response to the questionnaire which is the essential input to this open public consultation. The document is an optional complement and serves as additional background reading to better understand your position.

43. If you wish to add further information - within the scope of this questionnaire - please feel free to do so here.

1000 character(s) maximum

n.a.
