

# Procedure file

Basic information		
CNS - Consultation procedure Directive	<a href="#">2004/0072(CNS)</a>	Procedure lapsed or withdrawn
Products subject to excise duties: holding, movement and monitoring		
Subject 2.70.02 Indirect taxation, VAT, excise duties		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>ECON</b> Economic and Monetary Affairs		13/09/2004
		PSE <a href="#">ROSATI Dariusz</a>	
	Committee for opinion	Rapporteur for opinion	Appointed
	<b>IMCO</b> Internal Market and Consumer Protection		31/08/2004
		PPE-DE <a href="#">TOUBON Jacques</a>	
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Economic and Financial Affairs ECOFIN</a>	<a href="#">2617</a>	16/11/2004
European Commission	Commission DG	Commissioner	
	<a href="#">Taxation and Customs Union</a>	ŠEMETA Algirdas	

Key events			
02/04/2004	Legislative proposal published	<a href="#">COM(2004)0227</a>	Summary
15/09/2004	Committee referral announced in Parliament		
16/11/2004	Debate in Council	<a href="#">2617</a>	
26/04/2005	Vote in committee		Summary
04/05/2005	Committee report tabled for plenary, 1st reading/single reading	<a href="#">A6-0138/2005</a>	
07/06/2005	Debate in Parliament		
08/06/2005	Results of vote in Parliament		
08/06/2005	Decision by Parliament	<a href="#">T6-0226/2005</a>	Summary
18/09/2010	Proposal withdrawn by Commission		Summary

Technical information
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Procedure reference	2004/0072(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	Treaty on the Functioning of the EU TFEU 113
Stage reached in procedure	Procedure lapsed or withdrawn
Committee dossier	ECON/6/22054

### Documentation gateway

Legislative proposal		<a href="#">COM(2004)0227</a>	02/04/2004	EC	Summary
Economic and Social Committee: opinion, report		<a href="#">CES1441/2004</a> <a href="#">OJ C 120 20.05.2005, p. 0111-0113</a>	27/10/2004	ESC	
Committee opinion	<b>IMCO</b>	<a href="#">PE353.313</a>	22/03/2005	EP	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A6-0138/2005</a>	04/05/2005	EP	
Text adopted by Parliament, 1st reading/single reading		<a href="#">T6-0226/2005</a> <a href="#">OJ C 124 25.05.2006, p. 0264-0395 E</a>	08/06/2005	EP	Summary
Commission response to text adopted in plenary		<a href="#">SP(2005)2882</a>	13/07/2005	EC	

### Additional information

European Commission	<a href="#">EUR-Lex</a>
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## Products subject to excise duties: holding, movement and monitoring

**PURPOSE** : to simplify and liberalise the rules on intra-EU movements of products (mainly alcohol) on which excise duty has already been paid in a Member State.

**PROPOSED ACT** : Council Directive.

**CONTENT** : the Commission is proposing amending the provisions on excisable products already released for consumption in one Member State and then moved to a destination in another. This amendment is based on the same principles as those applied when Directive 1992/12/EEC was adopted, namely:

- that excise duty must be paid in the Member State of destination when excise products are moved for commercial purposes;
- the general principles governing the single market, i.e. that excise duty on products moved for non-commercial purposes by private individuals should always be paid in the Member State where the goods were acquired.

The aim of this proposal is to simplify and liberalise the rules on intra-EU movements of products (mainly alcohol) on which excise duty has already been paid in a Member State.

For private individuals, the proposal aims to clarify the existing rules on moving goods from one Member State to another, and to bring them more into line with the internal market principle that products acquired by private individuals for their own use should be taxed in the Member State in which they are bought.

For goods moved for commercial purposes, the Commission proposes to maintain the basic principle that excise duty is payable in the Member State of destination, but to harmonise and simplify the procedures to be followed in that Member State. The Commission has found that both traders and European citizens find it difficult to comply with the law on excise duty in the Member State of destination. Since this situation is unacceptable in an Internal Market, the Commission wants to change the rules.

The proposal covers products that have already been subject to excise duty in one Member State and are then transported to another Member State. The tax arrangements applying to such intra-EU movements depend on their purpose (see Articles 7 to 10 of Directive 92/12/EEC). If it is commercial, the goods are always taxed in the country of destination; if they are for private use, and the private individual personally transports the goods bought in another Member State, the goods are subject to excise duty in the Member State of purchase. The Commission presented its proposal following a report on the application of Articles 7 to 10 of the Directive. The report concluded that both traders and European citizens currently have difficulty complying with the law on excise duty in the Member State of destination.

As regards the issue of private movements, the Commission proposes, firstly, to liberalise the system applying to distance purchases by a private individual, i.e. purchases made by an individual for which transport or shipment to the Member State of destination is organised entirely by that individual. At present, if a private individual resident in a Member State buys products subject to excise duty in another Member State, the goods are subject to excise in the Member State of destination if they are not transported by that individual. Private buyers therefore have to fulfil cumbersome formalities to comply with the law in the Member State of destination.

Under the proposed directive, alcoholic beverages transported from one Member State to another on behalf of private individuals (but not by the seller), for their own use, would be taxed only in the Member State of acquisition, at the rate applicable there. This would also make the system more consistent with the VAT arrangements, under which distance purchases of products subject to excise duty are systematically subject to VAT in the Member State of departure. This change would not apply to tobacco products transported on behalf of a private individual. These would continue to be taxed in the Member State of destination on public health grounds.

Under the proposed directive, the general principle of taxation in the country of acquisition would also apply to sending gifts or moving house. In those cases, the restriction for tobacco products was considered unnecessary.

The proposal would abolish the "indicative" limits (800 cigarettes, 10 litres of spirits, 90 litres of wine, 110 litres of beer) currently provided for in EU law as possible evidence of whether products are intended for commercial purposes or for private use. In practice, these limits have been interpreted very narrowly by certain Member States. Moreover, the public often perceives the limits as real quantitative limits, when the quantity of goods transported is only one factor among others to be taken into account by the authorities in distinguishing products intended for commercial purposes from products intended for private use.

As regards commercial movements, the Commission proposes to simplify the procedures that apply when traders transport goods which have already been subject to excise duty in one Member State to another Member State for commercial purposes, while ensuring that excise duty is paid in the Member State of destination and repaid to the trader in the Member State of departure. Such movements mainly involve small traders (such as small-scale wine producers) who find it difficult to comply with the current administrative procedures that are cumbersome and often very costly when measured against the value of the transactions in question.

This proposal for a Directive harmonises the procedure, by providing for single identification in a central office in each Member State of destination, at which foreign vendors must periodically pay excise duties on the basis of an overall declaration. Member States would no longer have the option of requiring that a tax representative be appointed. These simplified procedures would apply, notably, to distance selling, i.e. sales to private individuals in which the goods are transported or dispatched to the Member State of destination by or on behalf of the seller. The new rules would be favourable to distance selling on the internet, for example.

Lastly, the Commission proposal is also aimed at other commercial movements, such as transfers of products to another Member State for presentation or sale to clients at trade fairs. The aim of the proposed changes is to see to it that the person best placed to complete the formalities in the Member State of destination becomes the person liable for excise duty. Where that person is not established in the Member State concerned, the simplified procedures applicable to distance selling could be applied and use of the simplified administrative accompanying document, an administrative document which must normally accompany such movements, would no longer be required.

## Products subject to excise duties: holding, movement and monitoring

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The committee adopted the report by Dariusz ROSATI (PES, PL) broadly approving the proposal under the consultation procedure, subject to a number of amendments:

- the burden of proof should be placed firmly on state authorities to show that goods were for commercial use in disputed cases, rather than the individual having to prove they were for personal use;
- the Commission should review and assess the guide levels previously in force used as guidelines by national competent authorities in their task of evaluating the commercial or non-commercial nature of products. MEPs pointed out that those guide levels have too often been used as mandatory limits in some Member States and have led in practice to discrimination, which is contrary to internal market principles.

## Products subject to excise duties: holding, movement and monitoring

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The European Parliament adopted a resolution drafted by Dariusz ROSATI (PES, PL) making some amendments to the proposal. (Please see the summary of 26/05/2005.)

## Products subject to excise duties: holding, movement and monitoring

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As announced in Official Journal C 252 of 18 September 2010, the Commission decided to withdraw this proposal, which had become obsolete.