**SPECIAL LEGISLATIVE PROCEDURE – Consultation**

**Follow up to the European Parliament legislative resolution on the proposal for a Council Directive amending Directive 2006/112/EC as regards rates of value added tax**

**1. Rapporteur:** Tibor SZANYI (S&D / HU)

**2. Reference numbers:** 2018/0005 (CNS), A8-0279/2018, P8\_TA-PROV (2018)0371

**3. Date of adoption of the resolution:** 03 October 2018.

**4. Legal basis:** Article 113 of the Treaty on the Functioning of the European Union

**5. Competent Parliamentary Committee:** Committee on Economic and Monetary Affairs (ECON)

**6. Commission's position:**

In general, the Commission welcomes the Parliament support and contributions to the proposal for a Council Directive amending Directive 2006/112/EC as regards rates of value added tax (VAT).

However, the Commission cannot support the proposed amendments by the European Parliament.

**Amendments to the legal provisions (amendments 14 to 22)**

**Amendment 14** introduces a maximum of 25% for the standard VAT rate.

*The Commission cannot accept* setting a maximum to the standard VAT rate of 25%. Whereas a minimum is required to ensure the functioning of the internal market, a maximum would not have any additional EU-wide benefits. Furthermore, the intention of the reform is to grant Member States more flexibility in setting VAT rates and not restricting that flexibility.

**Amendment 15** deletes the term “reduced” and suggests simply referring to “rate”, when introducing a third category of reduced rates, for which no minimum requirement should exist.

*The Commission cannot accept the amendment*, because it would limit Member States’ flexibility in determining the level of this third reduced rate.

**Amendment 16** adds a sentence (“Priority shall be given to goods or services having a positive impact on the general interest, such as cultural, social or environmental benefits.”) to the principle that reduced rates must pursue an objective of general interest and that reduced rates shall only benefit the final consumer. In addition, the amendment deletes the word “only” with regard to the general principle that reduced rates must be for the benefit of the final consumer.

*The Commission cannot accept these amendments*, because they would weaken any possible enforcement of these two important general principles.

**Amendment 17** aims at empowering the Commission to amend the scope of the new negative list by means of an implementing act.

*The Commission cannot accept this amendment*, because the objective of restricting the setting of reduced rates in cases where there is a risk of potential distortion of competition can only be adequately ensured by proposing a comprehensive negative list in the Directive as it belongs to its essential elements. This list would be reviewed every five years after entering into force and could therefore be adapted to new developments.

**Amendment 18** proposes to review this negative list every two years (instead of 5) starting in 2021.

*The Commission cannot accept this amendment* because the Commission could always review the list at shorter intervals, if needed.

**Amendment 19** aims at introducing a web portal with information on VAT rates.

The Commission has committed to the introduction of such a web portal. However, the issue to be resolved for this to come to fruition is the timely publication of information As the Member States are the source for obtaining the underlying information of the web portal, the appropriate legal act to deal with the web portal is the Council Regulation (EU) No 904/2010 as regards measures to strengthen administrative cooperation in the field of value added tax. In its proposal (COM(2017) 706 final) the Commission has already proposed the required amendments (see Article 32, paragraph 1). Therefore, whilst it shares the objective of a web portal, *the Commission cannot accept this amendment to the VAT Directive.*

**Amendment 20** introduces alcohol as an additional item to the negative list.

As the detailed explanations of the specific provisions of the proposal in the explanatory memorandum state that the negative list should include the supply of excisable goods, *the Commission can generally support this amendment* and will be working towards having the product added to the negative list during negotiations in Council.

**Amendment 21** introduces electric and hybrid passenger cars to the negative list.

*The Commission cannot accept this amendment*, because the proposal aims at granting Member States the option of introducing VAT subsidies for low emission passenger cars, which in some Member States already benefit from direct subsidies Notwithstanding, the Commission will not oppose such an amendment if supported by the Council, because the ultimate decision to allow reduced rates for these supplies should be left to the Member States.

**Amendment 22** deletes pacemakers and hearing aids from the negative list.

*The Commission cannot accept this amendment*, because the proposal has a coherent approach towards high-value and easy-transportable goods, whose taxation at reduced rate may lead to distortions. Notwithstanding, the Commission will not oppose such an amendment if supported by the Council, because the Commission acknowledges the fact that hearing aids for the exclusive personal use of a disabled person are currently taxed at a reduced rate in some Member States.

**Amendments to the recitals (amendments 1 to 13)**

*The Commission cannot accept these amendments.*

**Amendment 12** is factually incorrect, because the setting of VAT rates by Member States has no influence on the VAT own resources. The VAT own resources are calculated as a percentage of a harmonised base that is derived by dividing VAT revenues by a weighted average VAT rate and this eliminates all VAT rates differentials.

**Amendments 5, 6, 7** and **11** make suggestions as how to use reduced rates (e-publications, greener economy). However, the Commission proposal does not promote the use of reduced rates; it only advocates granting Member States more flexibility and leaving them with more responsibility for setting reduced rates.

**Amendments 8, 9, 10** and **13** refer to amendments of the legal provisions (Articles 14, 16, 17 and 19), which the Commission cannot accept.

**Amendments 1, 2, 3** and **4** add little value by expanding existing explanations. Recitals must set out the purpose of each provision proposed, but in doing so, they should remain succinct.