

II

(Preparatory Acts)

COMMISSION

Amended proposal for a Council Directive governing the tax treatment of private motor vehicles moved permanently to another Member State in connection with a transfer of residence or used temporarily in a Member State other than that in which they are registered ⁽¹⁾

(1999/C 145/06)

(Text with EEA relevance)

COM(1999) 165 final — 98/0025(CNS)

(Submitted by the Commission pursuant to Article 189a(2) of the EC Treaty on 16 April 1999)

⁽¹⁾ OJ C 108, 7.4.1998, p. 75.

ORIGINAL TEXT

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 99 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Recital 1

Whereas, in the single market, tax obstacles to the free movement of persons and their personal property, including motor vehicles, should be removed;

Recital 2

Whereas, at present, Community law regarding the tax treatment of private motor vehicles used temporarily in a Member State other than that in which they are registered is unnecessarily restrictive in the context of the principles of the single market;

Recital 3

Whereas, furthermore, present Community law covering the tax treatment of motor vehicles belonging to persons transferring residence from one Member State to another can place an unnecessary administrative burden on such persons to prove that a liability to pay tax does not exist;

AMENDED TEXT

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 99 thereof,

Unchanged

ORIGINAL TEXT

AMENDED TEXT

Recital 4

Whereas, accordingly, the terms of the exemptions provided by Council Directive 83/182/EEC on tax exemptions within the Community for certain means of transport temporarily imported into one Member State from another ⁽¹⁾ and Council Directive 83/183/EEC on tax exemptions applicable to permanent imports from a Member State of the personal property of individuals ⁽²⁾ do not reflect the present needs concerning free circulation of persons and of goods;

Recital 5

Whereas, in any event, Directives 83/182/EEC and 83/183/EEC no longer accurately cover the systems of taxation of motor vehicles applied by Member States since the introduction of the single market; whereas their application to exemption from VAT has already been repealed by Article 2 of Council Directive 91/680/EEC supplementing the common system of value added tax and amending Directive 77/388/EEC with a view to the abolition of fiscal frontiers ⁽³⁾; whereas, in practice, problems concerning taxation of property following a transfer of residence are confined to motor vehicles and it is thus no longer necessary to lay down rules for other goods, whereas permanent exemptions other than in connection with transfer of residence need no longer be provided for;

Recital 6

Whereas, however, abuses caused by the differing levels of taxation of motor vehicles between Member States should be prevented; whereas, therefore, it is still necessary to provide for certain restrictions on temporary use by residents of vehicles registered in other Member States;

Recital 7

Whereas, therefore, the provisions of Directives 83/182/EEC and 83/183/EEC require updating and these Directives should be repealed and replaced by a single, consolidated Directive;

Recital 8

Whereas Member States should not charge taxes on private motor vehicles moved to their territory from other Member States by individuals transferring residence from such Member States;

⁽¹⁾ OJ L 105, 23.4.1983, p. 59.

⁽²⁾ OJ L 105, 23.4.1983, p. 64.

⁽³⁾ OJ L 376, 31.12.1991, p. 1.

ORIGINAL TEXT

AMENDED TEXT

Recital 9

Whereas Member States should not charge taxes on private motor vehicles registered in other Member States where such vehicles are used temporarily on their territory, in certain defined circumstances;

Recital 10

Whereas for the purposes of determining liability to tax it is necessary to define the place of normal residence of the vehicle user;

Recital 11

Whereas in the case of transfer of residence, no tax should be payable in the new Member State, subject to certain conditions and provided the vehicle has been acquired in accordance with the tax rules of the first Member State;

Recital 12

Whereas temporary use in another Member State without payment of taxes should be permitted for a period of six months in any 12; whereas, in the case of a person whose professional ties are in another Member State, this should be increased to nine months;

Recital 13

Whereas it is necessary, in the interests of the internal market, to introduce some flexibility concerning the use of rental vehicles in Member States other than that of registration, subject to certain conditions; whereas, furthermore, it is necessary to expressly provide for use of vehicles by certain persons other than the owner, and whereas it is necessary, in certain circumstances, to allow use by a resident of a Member State a vehicle registered in another Member State;

Recital 14

Whereas it is necessary to provide rules governing the temporary use of a private vehicle in another Member State for business purposes;

Recital 15

Whereas vehicles which, during temporary use in another Member State, are irretrievably damaged should not incur liability to taxation as a result;

Recital 15

Whereas, in cases where vehicles, during temporary use in another Member State, are irretrievably damaged and are disposed of with a view to being scrapped or destroyed, their owners should not incur liability to taxation as a result;

ORIGINAL TEXT

AMENDED TEXT

Recital 16

Whereas persons who wish to use vehicles in a Member State other than that of their place of residence should be entitled to register vehicles in such Member States; whereas, in such cases, taxes shall be payable in the Member State of registration; whereas, furthermore, the Member State of residence of the owner may prohibit use of such vehicles on its territory;

Unchanged

Recital 17

Whereas, in cases where infringements of the rules are encountered, any sanctions imposed shall be proportionate to the offence;

Recital 17

Whereas, in cases where infringements of the rules are encountered, any sanctions imposed shall be proportionate to the offence; whereas the person shall have the choice of either paying the tax of the Member State or removing the vehicle from the Member State without payment of tax;

Recital 18

Whereas, in cases where Member States are entitled to impose registration or similar taxes on used vehicles arriving from other Member States, they shall ensure that the tax charged does not exceed the residual amount of tax contained in the value of similar vehicles on the domestic market, in accordance with article 95 of the Treaty;

Unchanged

Recital 19

Whereas, in cases of dispute, the competent authorities of the relevant Member States shall consult with each other; whereas, furthermore, in such cases tax should not be imposed pending the outcome of such consultations by the relevant competent authorities; whereas if no agreement is reached between the competent authorities, the Commission should decide on the matter;

HAS ADOPTED THIS DIRECTIVE

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TITLE I

General provisions

Article 1 to Article 15

TITLE I

General provisions

Unchanged