WRITTEN QUESTION E-1680/00

by Michel Hansenne (PPE-DE) to the Commission

(29 May 2000)

Subject: VAT on work done under contract

When an undertaking established in Member State A sends goods to Member State B for work to be done on them by an independent contractor, and then on completion of the work the goods are sent directly on behalf of the undertaking in Member State A to the buyer in Member State C:

- according to the sixth VAT directive, must the undertaking in Member State A identify itself to the VAT authorities in Member State B?
- If so, are there any simplifying measures to avoid the undertaking in Member State A having to identify itself in Member State B? Should a distinction be made depending on whether the contractor has invoiced the work to the undertaking in Member State A or to its final customer in Member State C?
- If there are any simplifying measures, where have they been published? Have all the Member States adopted them?
- If there are simplifying measures and the Commission has not published them, why not?

Answer given by Mr Bolkestein on behalf of the Commission

(18 July 2000)

The first thing to bear in mind is that the concept of job processing, as referred to in former Article 5(a) of the Sixth VAT Directive (77/388/EEC) (1), and the treatment of such operations as supplies of goods, was repealed on 1 January 1996 by Article 1(1) of Council Directive 95/7/EC of 10 April 1995 amending Directive 77/388/EEC and introducing new simplification measures with regard to value added tax — scope of certain exemptions and practical arrangements for implementing them (2). This means that job processing has, since 1 January 1996, been regarded as the supply of services in respect of movable tangible property.

In the example given by the Honourable Member, the place of supply of services by the job processor is determined in accordance with Article 28b(f) of the Sixth VAT Directive and depends on the person to whom the services are supplied. If the job processor supplies services to a firm registered for VAT in Member State A, the place of taxation will be Member State A. If, however, the services are invoiced to an end purchaser registered for VAT in Member State C, tax will be payable in Member State C. In either case, the person liable for the VAT is the person to whom the services are supplied, in accordance with Article 21(1)(b) of the Sixth Directive. Therefore, neither the firm registered for VAT in Member State A nor that registered in Member State C is under any obligation to make itself known to the VAT authorities in Member State B.

If, however, the goods are shipped to another Member State, the VAT implications depend on the contractual relationship between the parties concerned.

After the adoption of Directive 95/7/EC the VAT Committee reviewed the interpretation of the new provisions to check that the simplifications agreed for job processing in 1993 could still be applied, but the Member States failed to reach unanimous agreement.

(2) OJ L 102, 5.5.1995.