VAT on insurance and financial services *

P6_TA(2008)0457


(2010/C 8 E/49)

(Consultation procedure)
The European Parliament,

— having regard to the Commission proposal to the Council (COM(2007)0747),

— having regard to Article 93 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0473/2007),

— having regard to Rule 51 of its Rules of Procedure,

— having regard to the report of the Committee on Economic and Monetary Affairs (A6-0344/2008),

1. Approves the Commission proposal as amended;

2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;

3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;

4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;

5. Instructs its President to forward its position to the Council and the Commission.

Amendment 1

Proposal for a directive — amending act

Recital 1

(1) The financial service industry makes an important contribution to growth, competitiveness and job creation but can fulfil its role only under neutral conditions of competition in an internal market. It is necessary to provide a framework which provides legal certainty as to the value added tax (VAT) treatment of financial products and their marketing and management.

(1) The financial service industry makes an important contribution to growth, competitiveness and job creation but can fulfil its role only under neutral conditions of competition in an internal market. It is necessary to provide a framework which provides such neutral conditions in regard to the value added tax (VAT) treatment of financial products and their marketing and management.
**Amendment 2**
Proposal for a directive — amending act  
Recital 2

(2) The existing rules governing the exemptions from VAT for financial and insurance services laid down in Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax are out of date and have led to uneven interpretation and application. The complexity of the rules and the variation in administrative practices generates legal uncertainty for economic operators and tax authorities. This uncertainty has led to considerable litigation and has increased the administrative burden. It is therefore necessary to clarify which insurance and financial services are exempt and thereby create greater legal certainty and reduce the administrative burden for operators and authorities.

**Amendment 3**
Proposal for a directive — amending act  
Recital 5

(5) Insurance services and financial services require similar forms of intermediation. It is therefore appropriate for intermediation in insurance and intermediation in financial services to be treated in the same way.

**Amendment 4**
Proposal for a directive — amending act  
Recital5a (new)

(5a) It is appropriate for activities constituting management of investment funds to continue to fall within the exemption if carried out by third-party economic operators.

**Amendment 5**
Proposal for a directive — amending act  
Recital 7

(7) Suppliers of insurance and financial services are increasingly able to allocate input VAT on costs incurred by them precisely to the output to be taxed. Where the services they supply are fee-based, they can establish the taxable amount for these services easily. It is therefore appropriate to extend the possibility to opt for taxation for such operators.

(7) Suppliers of insurance and financial services are increasingly able to allocate input VAT on costs incurred by them precisely to the output to be taxed. Where the services they supply are fee-based, they can establish the taxable amount for these services easily. It is therefore appropriate to extend the possibility to opt for taxation for such operators, preventing any double taxation concerns that may arise by coordinating such taxation with national taxes on insurance and financial services.
Amendment 6
Proposal for a directive — amending act
Recital 8a (new)

(8a) In adopting measures under Directive 2006/112/EC governing the right of option for taxation, the Council should ensure the uniform application of such rules in the internal market. Pending the adoption of such rules by the Council, Member States should be able to lay down the detailed rules governing the exercise of the option. Member States should notify the Commission of draft measures in this regard six months before their adoption. During that period, the Commission should assess the draft measures and issue a recommendation.

Amendment 7
Proposal for a directive — amending act
Article 1 — point 1 — point a

(a) insurance and reinsurance;

(a) insurance, including reinsurance;

Amendment 8
Proposal for a directive — amending act
Article 1 — point 1 — point a

(d) exchange of currency and provision of cash;

(d) exchange of currency, provision of cash and cash claims transactions;

Amendment 9
Proposal for a directive — amending act
Article 1 — point 1 — point a

(e) supply of securities;

(e) transactions concerning trading in securities;

Amendment 10
Proposal for a directive — amending act
Article 1 — point 1 — point a

(ga) derivatives of all kinds;
Amendment 11
Proposal for a directive — amending act
Article 1 — point 1 — point b
Directive 2006/112/EC
Article 135 — paragraph 1a

1a. The exemption provided for in points (a) to (e) of paragraph 1 shall apply to the supply of any constituent element of an insurance or financial service, which constitutes a distinct whole and has the specific and essential character of the exempt service.

Amendment 12
Proposal for a directive — amending act
Article 1 — point 2
Directive 2006/112/EC
Article 135a — point 1

(1) ‘insurance and reinsurance’ means a commitment whereby a person is obliged, in return for a payment, to provide another person, in the event of materialisation of a risk, with an indemnity or a benefit as determined by the commitment;

(1) ‘insurance’ means a commitment whereby one or more persons is or are obliged, in return for a payment, to provide one or more other persons, in the event of materialisation of a risk, with an indemnity or a benefit as determined by the commitment;

Amendment 13
Proposal for a directive — amending act
Article 1 — point 2
Directive 2006/112/EC
Article 135a — point 8 — introductory part

(8) ‘supply of securities’ means the supply of tradable instruments other than an instrument establishing title to goods or to the rights referred to in Article 15(2), representing financial value and reflecting any one or more of the following:

(8) ‘transactions concerning trading in securities’ means the sale of tradable instruments other than an instrument establishing title to goods or to the rights referred to in Article 15(2), representing financial value and reflecting any one or more of the following:

Amendment 14
Proposal for a directive — amending act
Article 1 — point 2
Directive 2006/112/EC
Article 135a — point 8 — point c

(c) unit ownership in undertakings for collective investment in the securities referred to in points (a) or (b), in other exempted financial instruments referred to in points (a) to (d) of Article 135(1) or in other undertakings for collective investment;

(c) unit ownership in investment funds, as defined in point 10, or in undertakings for collective investment in other undertakings for collective investment;
Amendment 15

Proposal for a directive — amending act

Article 1 — point 2
Directive 2006/112/EC
Article 135a — point 8 — point c a (new)

(a) title to cash-settled financial, credit, and commodity derivatives and related options;

Amendment 16

Proposal for a directive — amending act

Article 1 — point 2
Directive 2006/112/EC
Article 135a — point 9

(9) ‘intermediation in insurance and financial transactions' means the supply of services rendered to, and remunerated by, a contractual party as a distinct act of mediation in relation to the insurance or financial transactions referred to in points (a) to (e) of Article 135(1), by a third party intermediary;

Amendment 17

Proposal for a directive — amending act

Article 1 — point 2
Directive 2006/112/EC
Article 135a — point 10

(10) ‘investment funds' means undertakings for collective investment in the exempted financial instruments referred to in points (a) to (e) of Article 135(1) and in real estate;

Amendment 18

Proposal for a directive — amending act

Article 1 — point 2
Directive 2006/112/EC
Article 135a — point 11

(11) ‘management of investment funds’ means activities aimed at realising the investment objectives of the investment fund concerned and shall include at least strategic and tactical asset management and asset allocation, including advisory services, as well as currency and risk management.

Amendment 19

Proposal for a directive — amending act

Article 1 — point 3
Directive 2006/112/EC
Article 137 — paragraph 1 — point a

(3) In Article 137(1), point (a) is deleted.
1. From 1 January 2012, Member States shall allow taxable persons a right of option for taxation in respect of the services referred to in points (a) to (g) of Article 135(1).

2. The Council shall adopt the measures necessary for the implementation of paragraph 1 pursuant to the procedure provided for in Article 397. So long as the Council has not adopted such measures, Member States may lay down the detailed rules governing exercise of the option under paragraph 1.

(1) the group itself and all its members are established or resident in the Community;
(3) members of the group are supplying services which are exempt under Article 135(1)(a) to (g) or other services in respect of which they are not taxable persons;

(3) members of the group are supplying services which are exempt under Article 135(1)(a) to (ga) or other services in respect of which they are not taxable persons;

(4) the services are supplied by the group only to its members and are necessary to allow members to supply services which are exempt pursuant to Article 135(1)(a) to (g);

(4) the services supplied by the group are necessary to allow members to supply services which are exempt pursuant to Article 135(1)(a) to (ga);

(5) the group claims from its members only the exact reimbursement of their share of the joint expenses, excluding any transfer-pricing adjustments made for the purposes of direct taxation.

(5) the group claims from its members only the exact reimbursement of their share of the joint expenses; transfer-pricing adjustments made for the purposes of direct taxation shall not affect the group’s exemption from turnover tax.

(4a) In Article 169, point (c) is replaced by the following:

(c) transactions which are exempt pursuant to points (a) to (ga) of Article 135(1), where the customer is established outside the Community or where those transactions relate directly to goods to be exported out of the Community.
Amendment 28
Proposal for a directive — amending act
Article 2 — paragraph 1 — subparagraph 1

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2009 at the latest. They shall forthwith communicate to the Commission the text of those provisions and correlation table between those provisions and Directive.