

II

(Acts whose publication is not obligatory)

COUNCIL

THIRD COUNCIL DIRECTIVE

of 19 December 1978

on the harmonization of provisions laid down by law, regulation or administrative action relating to the rules governing turnover tax and excise duty applicable in international travel

(78/1032/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas the action in respect of tax exemptions granted to individuals in international travel should be continued so that people in the Member States become more aware of the reality of the common market ;

Whereas travel between Member States should be facilitated by an increase in exemptions from turnover tax and excise duty, the amounts of which, as fixed by Directive 69/169/EEC ⁽⁴⁾, as amended by Directive 72/230/EEC ⁽⁵⁾, have moreover been reduced, in real terms, by the rise in the cost of living in the Community as a whole ;

Whereas the introduction of the European unit of account in the legal acts adopted by the institutions of the European Communities in the field of tax exemp-

tions must not have the effect of reducing the amounts expressed in national currency at present eligible for exemption ;

Whereas the rules governing tax remission at the retail stage should be harmonized in order to prevent instances of double taxation such as those resulting from the current provisions ;

Whereas on account of the present economic situation a temporary derogation concerning both the unit value of goods to be imported into the Kingdom of Denmark and into Ireland and the quantitative restriction on still wines to be imported into the Kingdom of Denmark should be granted,

HAS ADOPTED THIS DIRECTIVE :

Article 1

Article 2 of Directive 69/169/EEC is hereby amended as follows :

(a) Paragraph 1 shall be replaced by the following :

'1. Exemption from turnover tax and excise duty on imports shall apply to goods contained in the personal luggage of travellers coming from Member States of the Community provided that they fulfil the conditions laid down in Articles 9 and 10 of the Treaty, have been acquired subject

⁽¹⁾ OJ No C 31, 8. 2. 1977, p. 5.

⁽²⁾ OJ No C 133, 6. 6. 1977, p. 44.

⁽³⁾ OJ No C 114, 11. 5. 1977, p. 33.

⁽⁴⁾ OJ No L 133, 4. 6. 1969, p. 6.

⁽⁵⁾ OJ No L 139, 17. 6. 1972, p. 28.

to the general rules governing taxation on the domestic market of one of the Member States and have no commercial character and that the total value of the goods does not exceed 180 European units of account per person.'

- (b) In paragraph 2, '30 units of account' shall be replaced by '50 European units of account'.
- (c) In paragraph 3, '125 units of account' shall be replaced by '180 European units of account'.
- (d) The following paragraphs shall be added :

'4. Where the travel referred to in paragraph 1 :

— involves transit through the territory of a third country ; overflying without landing shall not, however, be regarded as transit within the meaning of this Directive,

— begins in a part of the territory of another Member State in which turnover tax and/or excise duty is not chargeable on goods consumed within that territory,

the traveller must be able to establish that the goods transported in his luggage have been acquired subject to the general conditions governing taxation on the domestic market of a Member State and do not qualify for any refunding of turnover tax and/or excise duty, failing which Article 1 shall apply.

5. Under no circumstances may the total value of the goods exempted exceed the amount provided for in paragraph 1 or 2.'

Article 2

Article 4 of Directive 69/169/EEC is hereby amended as follows :

- (a) In paragraph 1 (b), second indent, column II 'to a total of three litres' shall be replaced by 'to a total of four litres'.

- (b) Paragraph 2 shall be replaced by the following :

'2. Exemption of the goods mentioned in paragraph 1 (a) and (b) shall not be granted to travellers under 17 years of age.

Exemption for the goods mentioned in paragraph 1 (d) shall not be granted to travellers under 15 years of age.'

- (c) The following paragraphs shall be added :

'4. Where the travel referred to in Article 2 (1) :

— involves transit through the territory of a third country ; overflying without landing shall not, however, be regarded as transit within the meaning of this Directive,

— begins in a part of the territory of another Member State in which turnover tax and/or excise duty is not chargeable on goods consumed within that territory,

the traveller must be able to establish that the goods transported in his luggage have been acquired subject to the general conditions governing taxation on the domestic market of a Member State and do not qualify for any refunding of turnover tax and/or duty, failing which the quantities set out in paragraph 1, column I, shall apply.

5. Under no circumstances may the total quantity of goods exempted exceed the quantities provided for in paragraph 1, column II.'

Article 3

Article 6 of Directive 69/169/EEC is hereby amended as follows :

- (a) Paragraph 2 shall be replaced by the following :

'2. Without prejudice to rules relating to sales made at airport shops under customs control and on board aircraft, Member States shall take the necessary steps with regard to sales at the retail stage to permit in the cases and under the conditions provided for in paragraphs 3 and 4 the remission of turnover tax on deliveries of goods carried in the personal luggage of travellers leaving a Member State. No remission may be granted in respect of excise duty.'

- (b) The third subparagraph of paragraph 3 shall be replaced by the following :

'Member States may exclude their residents from the benefit of this tax remission.'

Article 4

Article 7 of Directive 69/169/EEC shall be replaced by the following :

'Article 7

1. For the purposes of this Directive, 'European unit of account' (EUA) shall be as defined in the Financial Regulation of 21 December 1977 (1).

2. The EUA equivalent in national currency which shall apply for the implementation of this Directive shall be fixed once a year. The rates applicable shall be those obtaining on the first working day of October with effect from 1 January of the following year.

3. Member States may round off the amounts in national currency resulting from the conversion of the amounts in EUA provided for in Articles 1 and 2, provided such rounding-off does not exceed 2 EUA.

4. Member States may maintain the amounts of the exemptions in force at the time of the annual adjustment provided for in paragraph 2 if, prior to the rounding-off provided for in paragraph 3, conversion of the amounts of the exemptions expressed in EUA would result in a change of less than 5 % in the exemption expressed in national currency.

(¹) OJ No L 356, 31. 12. 1977, p. 1.

Article 5

1. By way of derogation from Article 2 (1) of Directive 69/169/EEC, as amended by Article 1 (a) of this Directive :

- the Kingdom of Denmark may, until 31 December 1981, exclude from tax exemption goods whose unit value is in excess of 135 EUA,
- Ireland may, until 31 December 1983, exclude from tax exemption goods whose unit value is in excess of 77 EUA.

2. During the period of implementation of the derogations referred to in paragraph 1, the other Member States shall take the necessary steps to permit the remission of tax, in accordance with the procedures

referred to in Article 6 (4) of Directive 69/169/EEC, on goods imported into the Kingdom of Denmark and into Ireland which are excluded from exemption in those countries.

3. By way of derogation from Article 4 (1) (b) of Directive 69/169/EEC, as amended by Article 2 (a) of this Directive, with regard to the import of still wines with exemption from turnover tax and excise duty, the Kingdom of Denmark may maintain, until 31 December 1983, the quantitative limit of three litres.

Article 6

1. Member States shall bring into force the measures necessary to comply with this Directive no later than 1 January 1979.

2. Member States shall inform the Commission of the provisions which they adopt to implement this Directive. The Commission shall inform the other Member States thereof.

Article 7

This Directive is addressed to the Member States.

Done at Brussels, 19 December 1978.

For the Council

The President

H.-D. GENSCHER