

**Opinion on the proposal for an Eighth Council Directive on the harmonization of the laws of the Member States relating to turnover taxes – arrangements for the refund of value added tax to taxable persons not established in the territory of the country**

The text referred to the Committee has been published in *Official Journal of the European Communities* No C 26 of 1 February 1978, page 5.

**A. LEGAL BASIS FOR THE OPINION**

On 18 January 1978, the Council referred the abovementioned proposal to the Economic and Social Committee in accordance with Article 99, 100, 198 of the Treaty establishing the European Economic Community.

**B. OPINION OF THE ECONOMIC AND SOCIAL COMMITTEE**

The Economic and Social Committee prepared its opinion on the above matter at its 159th plenary session, held in Brussels on 31 May and 1 June 1978.

The full text of the opinion is as follows:

THE ECONOMIC AND SOCIAL COMMITTEE,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 99, 100 and 198 thereof,

Having regard to the request made by the Council of the European Communities on 20 January 1978 for an opinion,

Having regard to the decision taken by the Bureau of the Economic and Social Committee on 31 January 1978, entrusting the preparation of an opinion on the matter to the Section for Economic and Financial Questions,

Having regard to the oral report made by Mr Peyromaure-Debord-Broca, the rapporteur, and the Section's discussions at its meeting on 16 May 1978,

Having regard to the discussions at its 159th plenary session held on 31 May and 1 June 1978 (meeting of 1 June 1978),

HAS ADOPTED THE FOLLOWING OPINION

by 38 votes to 0, with 19 abstentions:

**1. Introduction**

1.1. By virtue of Article 17 (4) of the Sixth Directive on the harmonization of the laws of the Member States relating to turnover taxes, common system of value added tax – uniform basis of assessment, the Commission has framed a proposal on arrangements for the refund of

value added tax to taxable persons not established in the territory of the country where the service has been provided or the goods delivered.

1.2. In the interests of equity, it is essential that taxable persons should qualify for VAT refunds in respect of services or goods which they purchase, in the course of their business, in Member States where they are not established.

1.3. To obtain a refund from a country where he is not established, the person concerned must:

- be considered, for taxation purposes, to be established outside the Member States where the transaction (in respect of which tax may be refundable) takes place,
- provide the invoice or the import documents for the goods or services in respect of which refund is claimed,
- produce official evidence that he is registered for VAT in the State where he carries on his business,
- certify that he has not engaged in any business activity in the Member States where he has received the goods and services in respect of which a VAT refund is claimed.

**2. General discussion**

2.1. The question arose as to whether there were enough instances to warrant a Directive.

2.2. It was established that the Directive would cover all business activities (congresses, trade fairs, travel, etc.) of taxable persons in Member States where they are not established. It would, for instance, cover carriage of persons or goods, hotel expenses, petrol bills, vehicle repair bills, etc.).

2.3. The issue of fictitious invoices was raised.

2.4. This issue is not, however, peculiar to the matter in hand; fictitious invoices also pose a problem at national level.

2.5. The scale cost of the formalities involved was raised. It was suggested that taxable persons should have the right to VAT deductions in the country where they were registered for VAT.

2.6. But, such a right could not be granted automatically. The country where the taxable person was registered for VAT would have to check with the country where the refundable VAT was paid. The parties and authorities in both countries would thus have to participate in the deduction procedure. In other words such deduction arrangements would entail real but apparently inevitable costs for the parties and Government departments concerned.

2.7. In any case does the Sixth Directive allow such arrangements?

2.8. Article 17 (4) of the Sixth Directive, in fact, only covers refunds, and the Commission's hands are therefore tied.

2.9. Even if the deduction arrangements were operated solely by the States concerned without the taxable person having to take any action, there is still the problem of the differences in VAT rates. To what extent and at what cost is clearing possible, in view of the fact that VAT rates differ?

2.10. In so far as VAT rates have not been standardized, care must be taken to avoid exacerbating the existing disparities.

2.11. The draft Directive is apparently designed to establish transitional arrangements in the interests of fiscal justice and pending implementation of the general principle of the abolition of tax frontiers within the Community.

2.12. The Committee endorses the draft Directive subject to the above general comments and the following specific comments.

### 3. Specific comments

#### 3.1. Article 7

The Committee wonders why the second paragraph of Article 7 specifies 25 and 50 units of account as the minimum sums for which refunds may be claimed. The Section notes the Commission statement that a higher threshold would not be in the interest of the taxable persons concerned but that a lower one would be conceivable, although the threshold of 50 units of account for one year was already generous.

Done at Brussels, 1 June 1978.

*The Chairman*  
*of the Economic and Social Committee*  
Basil de FERRANTI