

Opinion of the Economic and Social Committee on the '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⁾

(98/C 235/07)

On 6 March 1998 the Council decided to consult the Economic and Social Committee, under Article 99 of the Treaty establishing the European Economic Community, on the above-mentioned proposal.

The Section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 6 May 1998. The rapporteur was Mr Kubenz.

At its 355th plenary session (meeting of 27 May 1998) the Economic and Social Committee adopted the following opinion by 111 votes for with two abstentions.

1. Introduction

1.1. The proposed directive is intended to replace Directive No 83/182/EEC on tax exemptions within the Community for certain means of transport imported into one Member State from another ⁽²⁾ and Directive No 83/183/EEC on tax exemptions applicable to permanent imports from a Member State of the personal property of individuals ⁽³⁾, as amended by Directive No 89/604/EEC ⁽⁴⁾.

1.2. Its aim is to consolidate and update the earlier directives, to address problems encountered in their application, and to take account of the public's expectations of the internal market and the associated freedom of movement.

1.3. The proposal lays down that the Member States will not levy registration duty or similar taxes on vehicles brought into their territory on transfer of residence. In the case of temporary moves, the proposal grants individuals the right to use a vehicle for six months in any 12-month period.

The proposal provides *inter alia* for:

- greater freedom to use a hire car in a Member State other than that in which it is registered. It is proposed to authorize a second rental where a rental contract

expires in a different Member State and the hire vehicle is left on the territory of that Member State;

- the right of the members of the owner's family to use the vehicle in a Member State other than that in which it is registered. The same right is granted to persons who are not members of the family provided that the owner is also in the vehicle;
- greater flexibility concerning the right of persons working in a Member State other than that in which they are resident; such persons would have the right to use their vehicle in the Member State where they work for nine months in any 12-month period;
- the Member State not to apply taxes where, during the authorized period of temporary use, a vehicle is damaged and the cost of repair is greater than the value of the vehicle;
- the repeal of the special tax arrangements for vehicles transferred from one Member State to another by right of marriage or inheritance;
- consultation between national authorities in the event of disputes concerning a person's presumed place of residence.

2. General comments

2.1. The proposed amendments take account of the fact that obstacles to the free movement between Member States of private vehicles are one of the most sensitive problem areas for individuals residing within the European Union. Such obstacles, whether of a tax or other nature, impede the free movement of persons, given the large number of cases where the motor car is the preferred means of transport.

⁽¹⁾ OJ C 108, 7.4.1998, p. 75.

⁽²⁾ OJ L 105, 23.4.1983, p. 59 (ESC opinion: OJ C 131 of 12.6.1976, p. 50).

⁽³⁾ OJ L 105, 23.4.1983, p. 64 (ESC opinion: OJ C 131 of 12.6.1976, p. 49).

⁽⁴⁾ OJ L 348, 29.11.1989, p. 28 (ESC opinion: OJ C 180 of 8.7.1987, p. 13).

2.2. The Committee welcomes the proposed directive.

2.3. The Committee is aware that those Member States which levy registration taxes may suffer a loss of revenue. However, in view of the small number of cases, these losses should not be too high. The Member States concerned could recoup the shortfall by, for example, raising mineral oil taxes (see appended table).

2.4. It hopes that the new directive will give clearer expression to the rights of European citizens and at the same time prevent the abuse of tax concessions.

3. Specific comments

3.1. Article 2 'Definitions'

3.1.1. Article 2(f) defines 'family'. The Committee would point out that some Member States have definitions which are more all-embracing and include other forms of life-long relationship⁽¹⁾.

3.2. Article 5 'General conditions under which tax is not payable when a vehicle is used temporarily in a Member State other than that of registration'

3.2.1. Article 4(1)(b) contains the term 'use of the vehicle'. This is not clear because it is hardly ever possible to prove on what date use began. The date of registration in the name of the person transferring residence would be more clear-cut.

3.2.2. A specific problem is vehicles previously registered in the name of a member of the family transferring residence who is not moving with them.

3.2.3. Article 4(1)(c) stipulates that the vehicle be brought into the Member State to which the person transfers their residence not later than 12 months after such transfer.

3.2.4. The Committee is of the view that this provision is irrelevant. Rather, what is required here are provisions limiting resale within a certain period and stipulating the maximum number of vehicles per family.

3.3. Article 5 'General condition under which tax is not payable when a vehicle is used temporarily in a Member State other than that of registration'

3.3.1. The Committee considers that the matter dealt with by Article 5(2) belongs in Article 7, in which case

a time-limit would not be necessary as it is not required in Article 7.

3.3.2. At all events the question arises as to how a period of nine (or however many) months can be proved or checked if there are no controls/proof at internal border crossings.

3.4. Article 6 'Specific cases of private use where taxation is not permitted'

3.4.1. The Committee proposes extending the time-limits laid down in Article 6(a) for car rental firms.

3.4.2. The Committee proposes the following wording for Article 6(d):

'a private vehicle used by a resident of the Member State of temporary use, provided that the person who brought the vehicle to the Member State of temporary use is also on board the vehicle.'

3.4.3. The Committee urges that a binding provision be laid down which covers the situation described in Article 6(f) and which is also recognized mutually by the Member States⁽²⁾.

3.5. Article 7 'Cases of business use where taxation is not permitted'

3.5.1. As in the case of Article 6(f), the Committee proposes that a binding provision be laid down.

3.6. Article 8 'Provisions concerning irreparable damage to vehicles'

3.6.1. The Committee would point out that the market value, especially of older used cars, is difficult to determine.

3.7. Article 9 'Permanent use in a Member State other than that of normal residence'

3.7.1. The Committee urges that the refusal of use in Article 9(3) be relaxed.

⁽¹⁾ Adopted and foster children could be a particular problem.

⁽²⁾ Some Member States require extensive questionnaires to be filled out, even for short vehicle swaps.

3.8. *Article 12 'Settlement of disputes'*

3.8.1. Article 12(3) gives the Commission the right to issue a decision in disputes between Member States. The Committee sees this rather as the responsibility of the European Court of Justice.

4. **Conclusions and summary**

4.1. Completion of the internal market requires freedom of movement of people and goods, in this case

private motor vehicles. At the same time some Member States levy registration taxes on private vehicles in order to pursue fiscal and political goals.

4.2. The Committee considers that this directive, along with the Committee's own comments on it, will strengthen the rights of citizens, especially when they move to another Member State; it will also safeguard the Member States' entitlement to levy taxes.

Brussels, 27 May 1998.

*The President
of the Economic and Social Committee*

Tom JENKINS

APPENDIX

to the opinion of the Economic and Social Committee

Revenue from vehicle-related taxes 1994

A. As a percentage of GDP

	Registra- tion tax	Circulation tax	Petrol tax	Diesel tax	Insurance tax	Road tolls	Total
Austria	0,07	0,20	1,03	0,43	0,34	0,45	2,52
Belgium	0,14	0,42	0,88	0,65	0,12	0,00	2,21
Denmark	1,43	0,46	0,66	0,31	0,10	0,02	2,99
Finland	0,40	0,29	1,24	0,47	0,13	0,00	2,54
France	0,10	0,22	1,04	0,73	0,33	0,00	2,42
Germany	0,00	0,43	1,18	0,55	0,17	0,00	2,33
Greece	0,52	0,14	1,74	0,77	0,00	0,00	3,17
Ireland	0,78	0,67	1,09	0,68	0,00	0,00	3,22
Italy	0,05	0,08	1,34	0,69	0,00	0,33	2,48
Luxembourg	0,00	0,07	2,12	1,50	0,00	0,00	3,70
Netherlands	0,60	0,82	0,95	0,58	0,00	0,00	2,95
Portugal	0,87	0,11	1,53	1,14	0,00	0,24	3,88
Spain	0,22	0,22	1,02	0,73	0,01	0,20	2,18
Sweden	0,11	0,27	1,44	0,31	0,00	0,00	2,13
UK	0,00	0,57	1,43	0,64	0,01	0,00	2,65

Source: Eurostat 1997 and GD XXI.

B. As a percentage of total taxation (incl. social security contributions) general government

	Registra- tion tax	Circulation tax	Petrol tax	Diesel tax	Insurance tax	Road tolls	Total
Belgium	0,30	0,91	1,88	1,39	0,26	0,00	4,72
Denmark	2,77	0,89	1,27	0,61	0,19	0,05	5,77
Germany	0,00	1,00	2,77	1,29	0,40	0,00	5,46
Finland	0,85	0,60	2,60	0,99	0,28	0,00	5,32
France	0,22	0,50	2,36	1,67	0,74	0,00	5,49
Greece	1,63	0,45	5,48	2,42	0,00	0,00	9,98
Ireland	2,12	1,83	2,97	1,85	0,00	0,00	8,77
Italy	0,12	0,20	3,29	1,69	0,00	0,81	6,10
Luxembourg	0,00	0,16	4,79	3,40	0,00	0,00	8,35
Netherlands	1,28	1,76	2,04	1,25	0,00	0,00	6,33
Austria	0,15	0,46	2,34	0,98	0,76	1,03	5,73
Portugal	2,45	0,32	4,31	3,22	0,00	0,67	10,96
Spain	0,59	0,61	2,79	2,02	0,02	0,54	5,98
Sweden	0,22	0,53	2,89	0,62	0,00	0,00	4,27
UK	0,00	1,69	4,26	1,90	0,02	0,00	7,88

Source: Eurostat 1997 and GD XXI.

Opinion of the Economic and Social Committee on the 'Eighth Annual Report on the Structural Funds 1996'

(98/C 235/08)

On 25 November 1997 the Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Community, on the 'Eighth Annual Report on the Structural Funds 1996'.

The Section for Regional Development and Town and Country Planning, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 21 April 1998. The rapporteur was Mr Little.

At its 355th plenary session (meeting of 27 May 1998), the Economic and Social Committee adopted the following opinion by 116 votes and 1 abstention.

1. Introduction

1.1. The European Commission's Report on the Structural Funds in 1996 is the eighth such annual report since the last major revision of the regulations governing the Structural Funds (the 1988 'reform' of the Funds).

1.2. The report is published in accordance with Council Regulations (EEC) Nos 2052/88 and 4253/88 both as amended in 1993 and, as required, details their operations during the year and the progress made towards achieving their objectives.

1.3. In November 1996, the Commission presented its first three-yearly report on Economic and Social Cohesion⁽¹⁾ as required by Article 130B of the Treaty of European Union and a précis of this closely-related report is incorporated in the report under review. This report on cohesion includes an assessment of the contribution made by the Funds to the progress being made towards economic and social cohesion. The Economic and Social Committee adopted an opinion⁽²⁾ on this report on 23 April 1997.

⁽¹⁾ COM(96) 542 final.

⁽²⁾ OJ C 206, 7.7.1997, pp. 78-87.