



COMMISSION OF THE EUROPEAN COMMUNITIES

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2005/0130 (CNS)

Proposal for a

COUNCIL DIRECTIVE

on passenger car related taxes

(presented by the Commission)

{SEC(2005) 809}

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

- Grounds for and objectives of the proposal

The operation of 25 different tax systems for passenger cars within the EU has resulted in tax obstacles such as double taxation, tax-induced cross-border transfer of cars, distortions and inefficiencies, which impede the proper functioning of the Internal Market. European citizens currently face double payment of Registration Tax (RT), considerable administrative procedures and extra costs, time losses and various obstacles to the free movement of their passenger cars within the Community. For the car industry, wide differences in passenger tax systems have a negative impact on their ability to achieve the expected benefits of operating within a single market. Current passenger car market fragmentation prevents industry from exploiting economies of scale, or in producing passenger cars with similar specifications for the entire Internal Market, resulting in significant differences in pre-tax and consumer tax-prices.

Additionally, passenger cars are a major source of CO₂ emissions and are, therefore, of particular relevance to the EU's environmental objective, namely to meet its environmental commitments under the Kyoto Protocol. Fiscal measures constitute one of the three pillars of the Community's strategy to reduce CO₂ emissions from passenger cars. The optimal use of fiscal measures, together with the commitments made by the car industry (ACEA, JAMA and KAMA) and consumer information, is a critical instrument in achieving the Community's target of 120 g CO₂ per Km by 2010 at the latest.

The purpose of the current proposal is therefore two-fold: to improve the functioning of the Internal Market and to implement the Community's strategy to reduce CO₂ emissions from passenger cars. The proposal does not intend to introduce any new passenger car related taxes, but only aims at restructuring such taxes if they are applied by Member States, without obliging them to introduce such taxes.

- General context

In the area of passenger cars the proper functioning of the Internal Market faces important problems. Disproportionate RT levels contribute considerably to pre-tax price differentials among Member State markets and keep car retail prices high and make, for low income citizens, the replacement of their old cars more difficult. Concerning RT the tax bases and tax levels currently applied are very diverse and tax levels range, in extreme cases, between zero and 180% of pre-tax car price and in absolute terms average RT ranged, in 1999, between 15 659 EUR and 267 EUR. Concerning the Annual Circulation Taxes (ACT) the tax bases used are equally very diversified and in absolute terms the average paid in 1999 ranged from 30 EUR/vehicle, to 463 EUR/vehicle. According to the information available to the Commission, RT are applied by the majority of Member States and ACT are applied by 21 Member States. Due to lack of Community legislation, the Jurisprudence of the Court of Justice remains the only refuge for resolving citizens' problems, mainly on the basis of the general principles of the EC Treaty.

Transport is responsible for about 28% of total CO₂ emissions. Road transport alone represents about 84% of all transport related CO₂ emissions of which more than half is accounted for by

passenger cars. The genuine use of fiscal measures to meet Community's target of 120 g CO₂ per Km is fundamental to the Community strategy. Fiscal measures provide a strong incentive value, for example, by encouraging the rapid renewal of the car fleet and influencing consumer's behaviour towards more fuel-efficient passenger cars.

In September 2002, the Commission presented for discussion in the Council and the European Parliament, by means of a Communication (COM(2002) 431), a number of policy options for future action on taxation of passenger cars in the European Union. The Commission announced that, based on the principles of this Communication and in the light of the results of the consultation, it would submit proposals for Community legislation in certain areas which could be better dealt with at Community level.

Consultations with the Council, European Parliament, the car industry, main stakeholders took place in years 2002 to 2004 with the aim of identifying the issues to be covered by this Directive.

- Existing provisions in the area of the proposal

Council Directives 83/182/EEC and 83/183/EEC established a limited number of Community provisions covering certain areas of taxation of passenger cars. In the absence of any further Community rules, Member States are free to lay down national provisions for passenger car taxation. These have, however, to be in line with the general principles of the EC Treaty and in particular not give rise to border-crossing formalities in trade between Member States and respect the non discrimination principle.

- Consistency with other policies

Passenger car is the means of transport used by many citizens willing to exercise their right of free movement within the Community. Tax obstacles pose problems to citizens who wish to exercise this right. Furthermore, fiscal provisions can be used as a tool to implement the Community's strategy to reduce CO₂ emissions from passenger cars and thus achieve Community's environmental objectives.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- Consultation of interested parties

Yes

Consultation methods, main sectors targeted and general profile of respondents

Consultation with Member States in Council Working Group in May and June 2003 and in the European Parliament (ECON and other Committees) from end 2002 until November 2003. Constant consultation with the car industry (ACEA) and the consumer association (AIT/FIA).

Public consultation via the website from July to September 2004.

Summary of responses and how they have been taken into account

A summary report of the outcome is published on TAXUD website: http://europa.eu.int/comm/taxation_customs/common/consultations/tax/article_969_en.htm.

Nearly 95% of respondents considered that the operation of 25 different tax systems has resulted in tax obstacles and has distorted the proper functioning of the internal market. Over 96% of respondents believe that there is a need for general rules at Community level for passenger car taxation and over 93% believe that these should include and address environmental concerns. There were 2 040 responses to the consultation, of which 46 from associations (thus representing a much larger number of citizens) and 8 from official bodies.

The gradual phasing out of registration tax, with a refund system to apply during a five to ten year long transitional period and the introduction of a new tax structure linked to CO₂ emissions received broad support.

Suggestions concerning the content of the new legislative initiative have been taken into account when drafting the fresh Proposal.

- Collection and use of expertise

Scientific/expertise domains concerned

- 1) In November 2001 a study on fiscal measures to reduce CO₂ emissions from new passenger cars has been published (the **COWI** Study), which included model based calculations to assess the extent to which vehicle related taxes (mainly registration taxes and annual circulation taxes) can be effective means to reduce these emissions from new cars to the agreed target of the Community Strategy of 120 g/km.
- 2) In January 2002 a study on vehicle taxation in certain Member States of the EU (the **TIS** Study), evaluated hindrances in the context of the internal market, and developed a clearer understanding of the current situation, modelled expected changes in response to possible changes of the taxation schemes and presented an interpretation of the results to achieve and a number of policy recommendations based on these results.

The experiences gained in some Member States not applying registration taxes or applying annual circulation taxes based on CO₂ emissions of passenger cars proved to be a useful base for drafting the fresh Proposal.

- 3) Advice was sought, where necessary, in contacts with experts from other Commission Departments, the car industry and car consumer associations, as well as from the Member States applying taxes similar to those envisaged in the proposal.

Methodology used

The opinions have been considered in the Draft Proposal

Main organisations/experts consulted

The car industry (mainly ACEA, JAMA), the main car consumer association (AIT/FIA) as well as fiscal experts from the Member States and experts from several Commission Departments.

Level of scientific certainty: broad consensus.

Advice received and used

Yes

Means used to make the expert advice publicly available

The specific studies and the 2002 Communication are published on TAXUD website: http://europa.eu.int/comm/taxation_customs/taxation/other_taxes/passenger_car/index_en.htm.

- Impact assessment

The policy options identified by the studies, the policy recommendations included in the 2002 Communication on taxation of passenger cars in the EU, as well as the outcome of the broad consultation which followed this Communication have been assessed and used for the drafting of the Impact Assessment.

Four possible options for taxing passenger cars have been examined; the result can be summarised as follows:

Option 1: A "do nothing" approach. This would leave all decisions to Member States and the European Court of Justice. If no action is taken the functioning of the Internal Market will not improve and the Community's target of 120g CO₂ emissions per Km will run the risk of not being achieved by 2010.

Option 2: This approach would rely on existing passenger car taxes, but only introduce a RT refund system, in order to avoid double taxation which is not justifiable within the context of the Internal Market. Although RT refund system would represent the minimum necessary to tackle the double taxation problem, it would certainly not address any of the other problems the citizens and the car industry and trade currently face.

The application of the refund system would have to be accompanied by a limited number of Community rules in order to establish objective and transparent methods for calculating the residual value of used cars to be exported or to be permanently transferred for registration to another Member State.

Although this option could have some positive economic effects for the citizen and the car industry and trade, but it does not address most of the existing obstacles in the Internal Market and it has no positive effects on the environment whatsoever.

Option 3: This approach aims at adopting a comprehensive EU passenger car taxation policy including the total abolition of RT over a ten year transitional period, the restructuring of both RT and ACT tax bases to include a CO₂ based element, and the establishment of a RT refund system.

The main benefits expected from option 3 would be a considerable improvement in the functioning of the Internal Market and an important contribution to achieving the Community's environmental objectives. Concerning the Internal Market, it is expected that there will be a reduction of bureaucracy, more transparency and legal certainty for all operators and consequently less obstacles to the free circulation of goods and persons. More impetus will be given to the passenger car industry to fully benefit from economies of scale, and increase competitiveness and to a certain degree employment. National taxation systems will be approximated particularly as far as the car tax bases are concerned. The

implementation in the area of passenger cars of the "polluter pays" principle, and of the fiscal measures foreseen by the Community's strategy to reduce CO₂ emissions from passenger cars, is expected to offer new possibilities for reducing polluting emissions.

Additionally the abolition of RT can take place in a revenue neutral framework as the revenue loss can be off-set by a gradual and parallel transfer of revenue from RT to ACT and, if necessary, from other fiscal measures in compliance with Council Directive 2003/96/EC and even to innovative road use charging provisions. These represent a more stable source of revenue for national budgets, as they produce revenue during the entire lifetime of a passenger car, unlike RT which produces revenue only upon purchase of that car. Those Member States applying a high RT will be able to adjust the shift to ACT according to their needs until 2016 at the latest. These countries will have, on the one hand, to face transition costs to adapt and administer their car tax system particularly during the first years of the transitional period, but on the other hand they will benefit from lower administrative costs for managing the car tax system after the end of the transitional period.

In particular, this option would not, in the long run, cause any additional administrative cost for the Member States. On the contrary, as almost all Member States already have an ACT, the integration of RT into that tax will reduce administrative burdens both on administrations and on citizens since they will have to deal with only one rather than two taxes. Transitional implementation costs would be relatively light since they principally involve modifications to an existing tax scheme and would be off-set in the longer term by the savings made by eliminating administration and compliance costs related to RT.

Option 4: This approach would aim at a comprehensive EU passenger car taxation policy similar to the one referred to under option 3, with the only difference that it would not aim to eliminate RT but only to gradually reduce them to a level not exceeding 10% of the car pre-tax price. Although this option could ensure almost similar environmental effects to those under option 3, it would not eliminate all the other obstacles that the citizens and the industry currently face. In particular, citizens would still be subject to administrative and social costs linked to the relevant bureaucratic procedures. Other Internal Market issues, such as the need to apply a RT refund system for as long as RT taxes are to be applied, the continuation of a considerable car market fragmentation and of controls aimed at reducing the risk of tax avoidance, would still need to be addressed.

Moreover, under this option Member State would still be faced with the administrative cost linked to the parallel maintenance of the RT and ACT systems and would nonetheless be confronted to a diminution of the revenue connected to RT. Finally, this option would lead to a partial harmonisation of rates, that would exceed the minimum necessary to implement the targeted objective.

The Commission carried out an impact assessment listed in the Work Programme. The report is accessible on the TAXUD Website.

3) LEGAL ELEMENTS OF THE PROPOSAL

- Summary of the proposed action

The Commission has based its proposal on those policy recommendations, included in the 2002 Communication, which have received the support of the European Parliament, the main stakeholders, and the public. Those policy recommendations which did not receive such a

support have not been included in the proposal.

There are three main measures introduced by the proposal:

1. Abolition of Registration tax

This action received a strong support from nearly all those involved in the consultation procedure, as Registration Taxes are viewed as representing a clear obstacle to the freedom of movement of cars in the internal market and negatively affects the competitiveness of the European car industry. Any solution based on the retention of RT would not eliminate these obstacles. The proposal provides for a gradual abolition of RT over a transitional period of five to ten years, in order to avoid an excessive tax burden on those car users who have bought a car and paid a high registration tax, and who are then faced with having to pay also a higher annual circulation tax and fuel taxes. Member States applying high Registration Taxes would need to provide for specific tax treatment of these cars for a period corresponding to their average lifetime. Additionally, the gradual application of this measure would provide sufficient protection to holders of used cars against any immediate loss of their commercial value.

Finally, sufficient time is given to those Member States applying high RT in order to fulfil the structural changes to their car tax systems and cover the transition costs, taking into account the specific conditions of their car market.

2. Establishment of a RT refund system

The provisions establishing this system are to be applied on those passenger cars which have been registered in a Member State and are subsequently exported or permanently transferred to another Member State. The objective of this measure is two-fold; first to avoid double payment of registration taxes, and second it seeks to charge registration taxes according to the use of the car in the Member State concerned. With the aim of ensuring legal certainty and transparency for the European citizens, the proposal replies to the need for transparent and objective criteria and rules to establish the real residual value of used cars and, therefore, ensure a fairer basis for calculating the residual RT for outgoing and incoming cars. The proposal incorporates the criteria established by the recent jurisprudence of the European Court of Justice, which should reduce considerably the large number of complaints raised by citizens.

The proposal aims at establishing a similar refund system for ACT, the calculation of the amount to refund or to charge should be made on a pro rata temporis basis.

3. Restructuring the tax base of RT and ACT to be totally or partially CO₂ based

During the consultation process, the vast majority of participants agreed that it is time to apply the third pillar measures (fiscal measures) foreseen by the Community's strategy to reduce CO₂ emissions from passenger cars, and take benefit of their strong incentive capacity, in order to influence consumer's behaviour towards more environmentally friendly passenger cars.

The Proposal incorporates this policy option which received strong support during the consultation procedure. Concerning ACT, which are the taxes applied by most Member States, the proposal provides for the restructuring of their tax base in order to apply ACT partially or totally based on the carbon dioxide emissions of each particular passenger car by 2010. With regard to RT, Member States applying such taxes should also insert a CO₂ based element into

their tax base by 2010 while at the same time they are proceeding with their gradual abolition. The period envisaged for carrying out the restructuring of the tax base of both the ACT and RT takes into account the commitment taken by the European Community to reduce carbon dioxide emissions from passenger cars to 120 g/km by 2010 at the latest.

To avoid further internal market fragmentation based on potential diversified application by Member States of the carbon dioxide element, the Commission proposes that by 1 December 2008 (the start of the Kyoto period) at least 25% of the total tax revenue from registration and annual circulation taxes respectively should originate in the CO₂ based element of each of these taxes. By 31 December 2010, at least 50% of the total tax revenue from both the annual circulation tax and the Registration tax (pending its abolition) should originate in the CO₂ based element of each of these taxes.

Recent studies¹ provided examples on how Member States can apply the CO₂ based element. In this case the total revenue from the CO₂ based element of the tax should be gradually increased over the period up to 2010 and at the same time the revenue from the old structure of the tax should be gradually reduced if the revenue neutrality is to be respected. Certainly it will belong to each Member State to fix the level of tax in terms of Euros per g CO₂ per km.

- Legal basis

Treaty establishing the European Community, and in particular Article 93 thereof.

- Subsidiarity principle

- A.** The proposal falls under shared Community and Member State competence. The subsidiarity principle therefore does apply. In the light of the objectives of the proposal for a Directive, which are to improve the functioning of the Internal Market and to promote sustainability, a Community approach is required. In this respect the proposal includes a balanced package of measures which represent the minimum necessary in order to achieve these objectives.

Indeed, diverging passenger car related taxes can result in serious obstacles for the free movement of persons and goods. In line with the content of the subsidiarity principle, the proposal aims at providing full transparency to taxation systems applied by Member States without unnecessary intervention at Community level. It does not make such issues as tax rates, which are often politically important at national and regional levels, a Community competence.

Moreover, the commitments taken under the Kyoto Protocol cannot be sufficiently achieved by the individual Member States and, therefore, by reason of the scale or effects of the action, can be better achieved at Community level, thereby needing a co-ordinated action among all the Member States. The proposal intends, for the first time, to put in place a legal framework which will allow the use of fiscal measures as provided for under the 3rd pillar of the Community's strategy to reduce CO₂ emissions from passenger cars.

- B.** The subsidiarity principle implies that the Community is to take action only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member

¹ New tax = Old tax + a * g CO₂ - b (COWI Study, paragraph 4.3.2, p. 87).

States and can therefore by reason of the scale or effects of the proposed action, be better achieved by the Community. Accordingly, as far as the improvement of the functioning of the Internal Market is concerned, non coordinated action by individual Member States alone implies high costs to administer their tax system. It does not ensure the transparency and legal certainty of their tax system, nor does it improve the competitiveness of the car industry which, therefore, means significant social costs for the citizens.

Such non co-ordinated action by individual Member States results in tax obstacles, such as double taxation, tax-induced cross-border transfer of cars, distortions and inefficiencies, which impede the proper functioning of the Internal Market.

Leaving this sector in its current state will continue to damage the image of the EU in the eyes of the European citizen and will not allow the car industry to achieve the expected benefits of operating within a single market.

Community action will reduce transaction costs, provide cheaper, cleaner and safer cars. As the competitiveness of the car industry improves more employment opportunities are expected. Member State revenues will not be affected if the proposed structural changes take place in a revenue neutral context which can be ensured if revenue losses from the gradual abolition of RT are accompanied by equal and parallel increase of revenue from the ACT and, if necessary, from other fiscal measures in compliance with Council Directive 2003/96/EC.

Quantitative indicators based on a number of scenarios have been carried-out under the TIS and the COWI studies. According to a scenario providing for a 50% reduction of RT car pre-tax prices are expected to increase slightly in the high RT Member States (between 2% and 5%), car retail prices would decrease significantly (between 11% and 26%). However, they would remain nearly unchanged in the other Member States.

- C. As far as the reduction of CO₂ emissions is concerned, the subsidiarity principle is again fully complied with, as a coordinated action at Community level is necessary, if the Community is to achieve its environmental objectives. Such an action will without doubt be more effective in achieving the Community's environmental objectives as reducing CO₂ emissions is a Community-wide issue. An important improvement of environmental conditions implying lower CO₂, and potentially polluting emission levels, will be the clear benefit from this proposal.

In this specific case the Internal Market and the environmental objective are closely linked and to dissociate them and address these issues separately would not produce sufficient result.

- D. Concerning the expected effects of fiscal measures to promote sustainability the following table contains model run data.

Table: CO₂ emission reduction potential using different fiscal measures (in %)

	B	D	DK	I	NL	P	S	SF	UK
CO₂ reduction, to achieve the 120g CO₂/km target, in %	10.8	10.5	9.9	11.4	10.2	10.8	10.2	10.7	10.3
Enhanced differentiation of existing taxes									
• registration tax	2.5	-	3.3	-	3.6	1.8	-	2.5	-
• circulation tax	2.4	4.4	5.4	2.7	3.6	1.9	2.4	0.1	4.8
Adding a CO₂ element to existing taxes									
• registration tax	3.3	-	4.6	3.0	3.4	2.1	-	2.8	-
• circulation tax	2.9	4.4	5.0	3.3	4.0	2.1	3.2	3.1	4.6
Purely CO₂ differentiated taxes									
• registration tax	3.5	-	8.4	1.8	5.5	3.2	-	4.3	-
• circulation tax	4.2	5.0	5.5	4.1	6.0	2.3	3.9	3.5	4.7
• combination	5.1	4.9	8.5	4.0	7.0	3.3	3.8	4.3	4.5

Source: COWI Study, Table 1.8: Summary of main results

The impact of the introduction of a fiscal element on the reduction of CO₂ emissions can be highly significant. As a matter of fact, an appropriate reading of the figures in the COWI Study shows that the introduction of a CO₂ element in the taxable base of existing taxes (the given current scenario throughout the EU, where RT and ACT still coexist) leads to a substantial diminution of CO₂. In some cases just the introduction of a CO₂ element on ACT alone was estimated to reach around 50% of the overall target.

It clearly appears that in order to provide for significant reductions in the average CO₂ emissions from new cars, it is essential to differentiate the taxes in such a way that taxes for the most energy effective cars be significantly lower than taxes for cars with poor energy efficiency. However, although a considerable part, of about 30,5% to 86%, of the Community target of 120g/km on average for new cars can be covered by the optimal use of the RT/ACT CO₂ based fiscal measures, these measures are not sufficient to reach the 120 g CO₂ km target. Other measures such as allowing the proportion of diesel cars to increase or favouring the use of smaller cars (downsizing) will be needed to reach that target. These measures should, on the one hand, aim to internalise externalities and apply the "polluter-pays" principle and, on the other hand, to be simple, transparent, non discriminatory against specific types, classes or segments of cars, and be technologically neutral.

- Proportionality principle

The proposal complies with the proportionality principle for the following reason(s).

The Directive sets out the minimum fiscal measures to be applied in the area of passenger cars in order to both improve the functioning of the internal market and promote the Community's environmental objectives. It does not touch the tax levels and tax differentiation rates and leaves Member States the flexibility to apply those levels which fit better to the particular conditions of their national car markets. Member States will remain free to decide the steps to take in abolishing RT, the part of the CO₂ based element to insert in the tax base of ACT and

RT and potentially the introduction of other emissions in these tax bases.

In particular, the first of the two objectives of the Directive is to improve the functioning of the Internal Market. The Internal Market is intended to benefit the free movement of persons as well as the free movement of goods for personal and for commercial purposes. RT create obstacles to these freedoms. Any solution based on the retention of RT would not eliminate these obstacles.

As regards the second objective, i.e. the promotion of sustainability of the environment, the Directive is intended to implement the third pillar of the Commission Strategy to reduce CO₂ emissions from passenger cars, which was the only pillar not yet implemented. The Strategy recognises the crucial importance of the third pillar in order to achieve the target reduction of CO₂ emissions and its indispensable completion is fully in accordance with the principle of proportionality, which justifies Community action only where it is 'necessary' or 'required' in order to reach a certain end.

In the light of the above, both the suitability of the Directive for the attainment of the desired objective and the necessity of its measures, in the sense that there is no other option at disposal which is less restrictive, cannot be disputed. As regards the third factor that must be evaluated, the proportionality of the measures to the restrictions which are thereby involved, it should be stressed that the Directive is revenue neutral for Member States, who will be able to adjust in terms of revenue cash-flow until 2016. Moreover, the Directive does not cause any additional administrative cost for the Member States in the long run.

Lastly, in order to make sure that proportionality is also respected in the application of the Directive, cases of Member States that differ substantially from the norm in regard to certain parameters could be taken into account.

See point 4

- Choice of instruments

Proposed instrument: Directive.

Other means would not be adequate for the following reason(s).

Experiences since 1983 with Directives 83/182/EEC and 83/183/EEC have shown that a Directive gives sufficient flexibility for the Member States to apply Community fiscal legislation in the frame of their systems of national legislation and administration.

4) BUDGETARY IMPLICATION

The adoption of the proposal will not lead to the budgetary implications.

5) ADDITIONAL INFORMATION

- Repeal of existing legislation

The adoption of the proposal will not lead to the repeal of existing legislation.

- Correlation table

The Member States are required to communicate to the Commission the text of national provisions transposing the Directive as well as a correlation table between those provisions and this Directive.

- European Economic Area

The proposed act concerns citizens moving between the EU and EEA Countries and would be preferable therefore extend to the European Economic Area.

Proposal for a

COUNCIL DIRECTIVE

on passenger car related taxes

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 93 thereof,

Having regard to the proposal from the Commission²,

Having regard to the opinion of the European Parliament³,

Having regard to the opinion of the European Economic and Social Committee⁴,

Whereas:

- (1) Passenger car taxation can be an important complementary tool to support environmental objectives, in particular in relation to the reduction of greenhouse gas emissions and it is appropriate, therefore, to introduce a carbon dioxide based element in the tax bases of both registration taxes and annual circulation taxes. However, in order to contribute to meeting the commitments made by the Community and its Member States under the Kyoto Protocol, the proposed elements directly relating to carbon dioxide emissions should be inserted in the tax bases of the passenger related taxes applied during the commitment period from 2008 to 2012. As the Community's strategic objective to reduce the carbon dioxide emissions from passenger cars needs to be achieved by 2010 at the latest, it is appropriate to apply fully the carbon dioxide based element by 31 December 2010.
- (2) The third pillar of the Community's strategy to reduce carbon dioxide emissions from passenger cars and improve fuel economy, endorsed by the Council in 1996⁵, consists of fiscal measures and is the only pillar which has yet to be implemented at Community level.

² OJ C , , p. .

³ OJ C , , p. .

⁴ OJ C , , p. .

⁵ Council conclusions of 25.6.1996 and Communication from the Commission to the Council and the European Parliament - COM(95) 689.

- (3) Member States should be encouraged to apply coordinated fiscal incentive for passenger cars that fulfil stricter emission limits than those which became mandatory under Directive 98/69/EC⁶ (Euro 4), relating to measures to be taken against air pollution by emissions from motor vehicles and amending Council Directive 70/220/EEC⁷, to expedite the placing on the market of passenger cars which satisfy future requirements to be adopted at Community level (Euro 5).
- (4) It should be possible for fiscal incentives to take the form of tax differentiation of passenger car related taxes, applied on the basis of the amount in grams of carbon dioxide emitted per kilometre by each particular car.
- (5) It is necessary, in order to avoid further internal market fragmentation, to provide that the carbon dioxide based element should account for at least 25% of the total revenue from registration and annual circulation taxes by 31 December 2008, and for at least 50% of the total revenue by 31 December 2010.
- (6) In the internal market, tax obstacles to the free movement of persons and of their personal property, including passenger cars, should be removed. The present Directive aims at removing such obstacles by means of restructuring passenger car related taxes applied by Member States, without obliging them to introducing any new taxes.
- (7) For the exercise of their right of free movement, many European citizens use their cars to move, temporarily or permanently, from one Member State to another. The great variety of passenger car taxation systems has a significant negative impact on the ability of the European citizen⁸ and of the car industry to reap the benefits of the internal market. Registration taxes in particular give rise to increased transactional costs for the consumer, to important differences in pre-tax car prices and to car market fragmentation, and negatively affect the cross-border trade.
- (8) Registration taxes are an obstacle to the objectives of the Lisbon Strategy and to making the European automotive industry more competitive and, therefore, they should be gradually abolished over a period of five to ten years. This period would allow Member States applying registration taxes to adapt their passenger car tax system and take into account the particular conditions of their national car market. Revenue losses from the abolition of registration taxes could be covered by parallel increases of revenue from annual circulation taxes and, if necessary, from other fiscal measures in compliance with Council Directive 2003/96/EC⁹, so that the overall tax burden remain unchanged.
- (9) However, it is appropriate that Member States applying registration taxes establish a system for refunding registration tax paid on passenger cars exported or moved permanently from their territories to the territory of another Member State. Under these circumstances it is also appropriate that Member States apply a similar refund system for annual circulation taxes. These systems would prevent double payment of

⁶ OL L 350, 28.12.1998, p.1.

⁷ OJ L 76, 6.4.1970, p. 1.

⁸ The European Court of Justice has recently ruled in its judgment of 16 June 2005, in case C-138/2004, that registration taxes can amount to an obstacle to free movement, in particular because of their rates and technicalities.

⁹ OJ L 283, 31.10.2003, p. 51.

taxes and place the car related taxes on a more equitable basis according to the use of the car which takes place in every Member State.

- (10) It is appropriate that, where applicable, the refund systems for both registration and annual circulation taxes be introduced without delay, in order to avoid distortions and different tax treatment of passenger cars.
- (11) The amount to be refunded or levied by way of registration taxes for a particular passenger car should be directly related to the residual value of that car. It is, therefore, necessary to establish Community rules, based on objective factors, to apply in order to determine the depreciation of a car, and consequently the amount of the residual registration taxes incorporated in its residual value.
- (12) In order to ensure a smooth adaptation to the new legislation, thus limiting any possible negative effect, it is necessary that the Commission be notified of the levels of registration and annual circulation taxes applied by Member States during the transitional period, as well as the level of annual circulation taxes applied after the end of that period.
- (13) The Commission should follow the development of measures adopted in Member States for the implementation of this Directive and inform the Council and the European Parliament thereof.
- (14) Since the objectives of improving the functioning of the internal market in the area of passenger cars, and of the successful use of fiscal measures in order to implement the Community's strategy to reduce carbon dioxide emissions from passenger cars cannot be sufficiently achieved by the individual Member States and can therefore, by reason of the scale or effects of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives,

HAS ADOPTED THIS DIRECTIVE:

Chapter I

SUBJECT-MATTER AND DEFINITIONS

Article 1

Subject-matter

This Directive lays down rules for the calculation of taxes on passenger cars, on the basis of their emissions of carbon dioxide.

It also provides for the elimination of registration taxes and for a system under which, in certain circumstances, registration taxes paid are to be refunded.

Additionally, it establishes a refund system for annual circulation taxes.

Article 2
Definitions

For the purposes of this Directive, "Passenger car" shall mean a vehicle of category M1, as defined in point A of Annex II to Council Directive 70/156/EEC¹⁰.

Chapter II
ANNUAL CIRCULATION TAXES

SECTION 1
TAX BASE AND TAX DIFFERENTIATION

Article 3
General provision

1. A Member State applying a specific and periodic tax which relates to the use within its territory of a passenger car and the characteristics of which are identical or similar to those of the taxes listed in Annex I, hereinafter "annual circulation taxes", shall calculate these taxes on the basis of the length of time in any given twelve month period for which the passenger car has been used on the territory of that Member State.
2. Annual circulation taxes may be levied in respect of a passenger car only by the Member State in which that car is registered.
3. In order to ensure the levying of annual circulation taxes, the Member State of registration is deemed to be the Member State where the car is permanently used either because of its owner's normal residence within the meaning of Article 6 of Council Directive 83/183/EEC¹¹, or because of its use in that Member State for more than 185 days in any twelve months.

Article 4
Differentiation by reference to carbon dioxide emissions

For the purposes of calculating annual circulation taxes, tax differentiation shall be applied, on the basis of the number of grams of carbon dioxide emitted per kilometre by each particular passenger car.

Article 5
Minimum tax revenue from tax differentiation

1. By 31 December 2008 the total tax revenue from the carbon dioxide-based element of the annual circulation taxes shall account for at least 25% of the total revenue from these taxes.

¹⁰ OJ L 42, 23.2.1970, p. 1.

¹¹ OJ L 105, 23.4.1983, p. 64.

2. By 31 December 2010 the total tax revenue from the carbon dioxide-based element of the annual circulation taxes shall account for at least 50% of the total revenue from these taxes.

SECTION 2

REFUND SYSTEM

Article 6

Refund of annual circulation taxes

Where annual circulation taxes have been paid in the Member State of registration in respect of a passenger car which is subsequently exported outside the territory of the Community or moved to be permanently used within the meaning of Article 3(3) to the territory of another Member State, the former shall refund the residual amount of the tax, on the basis of calculations carried out in accordance with Article 3(1).

Chapter III

ELIMINATION OF REGISTRATION TAXES

Prohibition on introduction

Article 7

From [...] Member States may not introduce any tax which relates to the registration of passenger cars, thereby allowing their use on public roads, and the characteristics of which are identical or similar to the taxes listed in Annex II, hereinafter “registration taxes”.

Article 8

Prohibition on maintenance

From 1 January 2016, Member States may not maintain in force any registration taxes.

Chapter IV

REFUND SYSTEM FOR REGISTRATION TAXES

Article 9

General provision

Where registration taxes have been paid in a Member State in respect of a passenger car which is subsequently exported outside the territory of the Community or moved to be permanently used within the meaning of Article 3(3) to the territory of another Member State, the former shall refund the residual amount of the tax, on the basis of calculations carried out in accordance with Article 10(1).

Article 10
Calculation of the residual registration taxes

1. The amount of registration taxes to be refunded for a passenger car pursuant to Article 9 shall be in direct relation with its residual value and shall be equivalent to the amount of the residual registration taxes incorporated in its residual value.
2. In order to determine the residual value of a passenger car for the purposes of paragraph 1, Member States may apply different methods, such as assessments, expert examinations or the use of fixed scales.
3. Member States may determine the fixed scales to be applied by law, regulation or administrative provision, provided that the following conditions are met:
 - (a) the scales are established on the basis of general and objective criteria, which shall be laid down;
 - (b) the scales are brought to the knowledge of the public;
 - (c) the car owner is given the opportunity to challenge before an independent authority the Member State's decision arising from the application of the scale.

Chapter V
TEMPORARY PROVISIONS

Article 11
General provision

Where a passenger car is permanently moved within the meaning of Article 3(3) to the territory of a Member State, which has maintained registration taxes, that Member State shall calculate registration taxes in accordance with Article 12.

Article 12
Calculation of registration taxes

1. Until 31 December 2015, the calculation of the amount of registration taxes to be charged shall be based on the current value of a similar new passenger car, and shall take into account the actual depreciation of the passenger car concerned.
2. For the purpose of paragraph 1, the characteristics of a similar new passenger car shall include the make, the model, the mileage, the propulsion method, and the mechanical state.
3. For the purpose of paragraph 1, a new passenger car means any passenger car, which has not previously been sold to anyone otherwise than for the purpose of selling or supplying it, and it has, therefore, never been registered for circulation.
4. For the purposes of calculating the registration taxes Article 10(2) and (3) shall apply *mutatis mutandis*.

Article 13
Registration taxes

Until 31 December 2015, where registration taxes have been maintained, tax differentiation shall be applied on the basis of the number of grams of carbon dioxide emitted per kilometre by each particular passenger car.

Article 14
Minimum tax revenue from tax differentiation

1. By 31 December 2008 the total tax revenue from the carbon dioxide-based element of registration taxes shall account for at least 25% of the total revenue from these taxes.
2. By 31 December 2010 the total tax revenue from the carbon dioxide-based element of registration taxes shall account for at least 50% of the total revenue from these taxes.

Chapter VI
FINAL PROVISIONS

Article 15
Communications

Member States shall communicate to the Commission the tax bases and the tax levels of registration and annual circulation taxes as applied on 1 January each year, and following each change in national law.

Article 16
Reports

No later than 1 January 2011, and every five years thereafter, the Commission shall, after consulting the Member States, present to the Council and to the European Parliament a report on the application of this Directive.

Article 17
Transposition

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2006 at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 18
Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 19
Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the Council
The President

ANNEX I

BELGIUM

- Taxe de circulation sur les véhicules automobiles / Verkeersbelasting op de autovoertuigen
- Taxe compensatoire des accises / Accijnscompenserende belasting
- Taxe de circulation complémentaire / Aanvullende verkeersbelasting

CZECH REPUBLIC

-

DENMARK

- Grøn ejerafgift

GERMANY

- Kraftfahrzeugsteuer (Kraftfahrzeugsteuergesetz - 1979)
- Kraftfahrzeugsteuer (Durchführungsverordnung - 1979)

ESTONIA

-

GREECE

- Τέλη κυκλοφορίας

SPAIN

- Impuesto sobre vehículos de tracción mecánica
- Tributos locales sobre circulación de vehículos automóviles

FRANCE

-

IRELAND

- Motor vehicle excise duties

ITALY

- Tassa automobilistica di proprietà

CYPRUS

- Τέλη κυκλοφορίας

LATVIA

- Transportlīdzekļu ikgadējā nodeva

LITHUANIA

-

LUXEMBOURG

- Taxe sur les véhicules automoteurs

HUNGARY

- Súlyadó

MALTA

-

NETHERLANDS

- Motorrijtuigenbelasting

AUSTRIA

- Kraftfahrzeugsteuer

POLAND

-

PORTUGAL

- Imposto municipal sobre veículos
- Imposto de circulação

SLOVENIA

- Letno povračilo za uporabo cest

SLOVAK REPUBLIC

-

FINLAND

- Ajoneuvovero/fordonskatt

SWEDEN

- Vägtrafikskatt

UNITED KINGDOM

- Vehicle excise duty

ANNEX II

BELGIUM

- Taxe de mise en circulation / Belasting op de inverkeerstelling

CZECH REPUBLIC

-

DENMARK

- Registreringsafgift af motorkøretøjer

GERMANY

-

ESTONIA

- Autoregistreerimislõiv

GREECE

- Τέλη ταξινόμησης

SPAIN

- Impuesto especial sobre determinados medios de transporte

FRANCE

-

IRELAND

- Vehicle registration tax

ITALY

- Imposta provinciale di trascrizione (IPT)

CYPRUS

- Φόρος κατανάλωσης

LATVIA

- Automobiļu un motociklu nodoklis

LITHUANIA

- Kelių transporto priemonių registravimo mokestis

LUXEMBOURG

-

HUNGARY

- Regisztrációs adó

- Átírási illeték

MALTA

- Taxxa ta' registrazzjoni ta' vetturi bill-mutur

NETHERLANDS

- Belasting Personenauto's en Motorrijwielen

AUSTRIA

- Normverbrauchsabgabe

POLAND

- Opłata rejestracyjna

PORTUGAL

- Imposto Automóvel

SLOVENIA

- Davek na motorna vozila

SLOVAK REPUBLIC

-

FINLAND

- Autovero/bilskatt

SWEDEN

-

UNITED KINGDOM

-