

VAT - Commission asks the Czech Republic, Hungary, Malta, Poland and Portugal for information on the application of reduced VAT rates to children's diapers.

The European Commission has decided to send requests for information in the form of letters of formal notice to several Member States about their application of reduced VAT rates to children's diapers. The Commission believes that reduced rates on these goods do not comply with the Sixth VAT Directive (77/388/EEC), which was revised for the last time in February 2006. However, the Commission fully supports social and family friendly policies, as part of the EU's response to the pressing challenge of demographic ageing. For these reasons the Commission will in parallel take the necessary steps in order to create a legal basis for the application of reduced VAT rates to children's diapers. The Member States involved are asked to reply within two months to the letters of formal notice, which are the first step of the infringement procedure laid down in Article 226 of the EC Treaty. Their arguments will be taken into account in the report on the application of reduced VAT rates which the Commission will present to the ECOFIN Council in 2007. On the basis of this report, the Commission will draft a proposal in order to amend Annex H of the Sixth VAT directive as appropriate.

"The European Commission as guardian of the EC Treaties is obliged to ensure that all Member States obey EU rules concerning the goods and services to which they apply reduced VAT rates and which are designed to protect the functioning of the internal market and promote a level playing field for traders" said László Kovács, European Commissioner for taxation and customs. "However, social and family friendly policies undertaken by Member States are considered positively by the Commission, and their arguments will be taken into account in the report on the application of reduced VAT rates which will be presented to the ECOFIN Council before mid 2007. This exercise will lead to a concrete proposal of the Commission, which would result in the creation of a clear legal basis for the application of reduced VAT rates to children's diapers".

The Commission has decided to send requests for information to the Czech Republic, Hungary, Malta, Poland and Portugal, which apply a reduced VAT rate to children's diapers. This is not provided for in the rules of the Sixth VAT Directive relating to reduced VAT rates as recently revised and adopted by the Council on 14 February 2006: although Annex H of this directive allows Member States to apply a limited series of reduced rates to, among others, pharmaceutical products, children's diapers are not explicitly mentioned in Annex H. Furthermore, these countries have not been granted any derogation from the normal rules in this respect.

However, the Commission is conscious of the sensitivity of the issue at stake and supports social and family friendly policies as part of the EU's response to the pressing challenge of demographic ageing. Therefore, the Commission will in parallel take the necessary steps

in order to create a legal basis for the application of reduced VAT rates on children's diapers.

The Member States concerned will have two months to reply to these requests for information. Their arguments will be taken into account in the report on the application of reduced VAT rates which the Commission will present to the ECOFIN Council in 2007. As ECOFIN has explicitly agreed to use the findings of the report as a point of departure for new arrangements, the Commission will have the opportunity to propose amendments to Annex H of the Sixth VAT directive as appropriate.

Background

The current situation as regards VAT rates is far from satisfactory. The Commission has submitted in 2003 a proposal aiming at rationalising and simplifying the system of reduced VAT rates. The directive approved by the Council (Directive 2006/18/EC of 14 February 2006) is far more modest than the original Commission's proposal. The VAT rates applicable in the Community remain highly disparate and very complex. The general simple rules have been complicated by a multitude of derogations granted to certain Member States - in some instances a majority of Member States - during the negotiations preceding Directive 92/77/EEC or their Acts of Accession, derogations which are denied to the others. The rationale for these situations is far from clear. A decision needs to be taken to either abolish the derogations or open them to all Member States.

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