

20 November 1998

**UNICE REACTION TO THE PROPOSAL FOR A COUNCIL DIRECTIVE AMENDING
DIRECTIVE 77/388/EEC AS REGARDS THE RULES GOVERNING THE RIGHT TO DEDUCT
VALUE ADDED TAX AND THE PROPOSAL FOR A COUNCIL REGULATION ON
VERIFICATION MEASURES, THE REFUND SYSTEM AND ADMINISTRATIVE COOPERATION
(COM (1998) 377 FINAL)**

1. UNICE recalls that under the "SLIM II" exercise it called for modernisation of the method by which claims for recovery of VAT in a country in which a trader is not established were made. It notes that, in its draft proposal, the Commission has advanced an amendment to Directive 77/388/EEC which seeks to replace Directive 79/1072/EEC by a simple right to recover such VAT in the country in which the trader is established. Therefore UNICE strongly supports this proposal made by the Commission in so far as it offers improvement of the current mechanism for recovering VAT in a country in which a trader is not established. It also acknowledges that the proposal represents a significant move in the direction of the definitive system.
 - 1.1 The present system which discriminates against traders established outside a Member State as compared to those established within it in respect of the recovery of VAT arising on goods and services used for the purposes of their taxable transactions must be replaced as quickly as possible.
2. The draft directive also includes machinery which seeks to harmonise the right to deduction in respect of expenditure which the Commission claims is not eligible for full deduction. This part of the proposal seeks to establish common, but limited, rights of deduction in respect of VAT incurred on passenger cars, and accommodation, food and drink. It also retains the present exclusion from deduction of VAT on expenditure on luxuries, amusements and entertainment, in respect of which it will seek definition from the VAT Committee.
3. UNICE appreciates this initiative but it cannot accept the Commission's characterisation of certain elements of expenditure as not eligible for full deduction. That such characterisation is unnecessary is evidenced by those Member States which have been able to grant full deduction.
 - 3.1 Furthermore the Commission's proposals are not easy to understand and are not responsive to the preamble of Directive 77/388/EEC which establishes the fact that a system of value added tax achieves the highest degree of simplicity and of neutrality

when the tax is levied in as general a manner as possible. This part of the Commission's proposal far from being general is too specific and prescriptive and thus loses simplicity and neutrality.

4. From the point of view of European business, what is required is not so much a set of rules which will require extra unproductive compliance effort as an understanding by the Commission and the Member States that the vast majority of expenditure which it is proposed to catch is in fact genuine expenditure related to the production of taxable supplies and does not reflect an element of personal saving or consumption.
5. As stated above, UNICE strongly supports the proposal to recover foreign VAT in the country where a trader is established. UNICE wants to stress that a possible discussion regarding harmonisation should not become an obstacle for this significant proposal. Whilst in an ideal world it would be possible to harmonise the rules for deduction in these areas, recognising that what is being dealt with is essentially expenditure underpinning the production of taxable supplies, that may not be possible at present.
6. If harmonisation of the rules for deduction should become an obstacle, UNICE calls upon the Commission to revise its proposals in such a way that the foreign VAT is deductible, in the country where the trader is established, according to the VAT legislation applicable in the Member State in which the invoice was issued. As a result, business and industry will still be able to deduct foreign VAT in the country of establishment in a way that maintains the neutrality of the tax.

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