



Council of the
European Union

Brussels, 7 December 2021
(OR. en)

14754/21

FISC 237
ECOFIN 1214

OUTCOME OF PROCEEDINGS

From:	General Secretariat of the Council
To:	Delegations
Subject:	Proposal for a COUNCIL DIRECTIVE amending Directive 2006/112/EC as regards rates of value added tax -General approach

Delegations will find attached the text of the general approach on the draft Council Directive amending Directive 2006/112/EC as regards rates of value added tax which was agreed at the meeting of the Council (Economic and Financial Affairs) of 7 December 2021.

[DRAFT] COUNCIL DIRECTIVE (EU) .../...

of ...

amending Directives 2006/112/EC and (EU) 2020/285 as regards rates of value added tax

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament¹,Having regard to the opinion of the European Economic and Social Committee²,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) The rules on rates of value added tax (VAT) as currently set out in Council Directive 2006/112/EC³ aim to preserve the functioning of the internal market and avoid distortions of competition. The rules were designed over two decades ago based on the origin principle. In its communications of 7 April 2016 on an action plan on VAT – Towards a single EU VAT area – Time to decide and of 4 October 2017 on the follow-up to the Action Plan on VAT – Towards a single EU VAT area – Time to act, the Commission announced its intention to adjust those rules for a definitive VAT system for cross-border business-to-business (B2B) trade in goods between Member States that would be based on the taxation in the Member State of destination.
- (2) Under a system where the supply of goods and services would be taxed in the Member State of destination, suppliers derive no significant benefit from being established in a lower-rate Member State. Greater diversity in VAT rates would not, under such a system, disrupt the functioning of the single market nor create distortions of competition. In those circumstances, it would be appropriate to grant more flexibility to Member States in the setting of rates.

¹ OJ C , , p. .

² OJ C , , p. .

³ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

(5a) Article 104 is replaced by the following:

‘Article 104

1. Austria may, in the communes of Jungholz and Mittelberg (Kleines Walsertal), apply a second standard rate which is lower than the corresponding rate applied in the rest of Austria but not less than 15 %.

2. Greece may apply rates up to 30 % lower than the corresponding rates applied in mainland Greece in the departments of Lesbos, Chios, Samos, the Dodecanese and the Cyclades, and on the islands of Thassos, the Northern Sporades, Samothrace and Skiros.

3. Portugal may, in the case of transactions carried out in the autonomous regions of the Azores and Madeira and of direct importation into those regions, apply rates lower than those applicable on the mainland.

4. Portugal may apply one of the two reduced rates provided for in Article 98(1) to the tolls on bridges in the Lisbon area.’;

(5b) The following article is inserted:

‘Article 105a

1. Member States which, in accordance with Union law, on 1 January 2021, were applying reduced rates lower than the minimum laid down in Article 98(1) or were granting exemptions with deductibility of the VAT paid at the preceding stage, to the supply of goods or services listed in points other than points (1) to (6) and (10c) of Annex III, may, in accordance with Article 98(2), continue to apply those reduced rates or grant those exemptions, without prejudice to paragraph 4 of this Article.

Member States, which in accordance with Union law, on 1 January 2021, were applying reduced rates lower than the minimum laid down in Article 98(1) to transactions regarding housing not being part of a social policy, may, in accordance with Article 98(2), continue to apply those reduced rates.

Member States shall communicate to the VAT Committee the text of the main provisions of national law and the conditions for the application of those reduced rates and exemptions relating to point (b) of the second subparagraph of Article 98(2) no later than ... [3 months after the date of entry into force of this amending Directive].

Without prejudice to paragraph 4 of this Article, reduced rates lower than the minimum laid down in Article 98(1), or exemptions with deductibility of the VAT paid at the preceding stage may be applied by other Member States, in accordance with the first subparagraph of Article 98(2), to the same supplies of goods and/or services referred to in the first and second subparagraph of this paragraph and under the same conditions as those applicable on 1 January 2021 in the Member States referred to in the first and second subparagraph of this paragraph.

2. Member States which, in accordance with Union law, on 1 January 2021, were applying reduced rates lower than 12 %, including reduced rates lower than the minimum laid down in Article 98(1) or were granting exemptions with deductibility of the VAT paid at the preceding stage, to the supply of goods and services other than those listed in Annex III, may in accordance with Article 98(1) and (2), continue to apply those reduced rates or grant those exemptions until 1 January 2032 or until the adoption of the definitive arrangements referred to in Article 402, whichever is the earlier, without prejudice to paragraph 4 of this Article.

3. Member States which, in accordance with Union law, on 1 January 2021, were applying reduced rates not lower than 12 % to the supply of goods or services other than those listed in Annex III, may, in accordance with the first subparagraph of Article 98(1), continue to apply those reduced rates, without prejudice to paragraph 4 of this Article.

Member States shall communicate to the VAT Committee the text of the main provisions of national law and conditions for the application of these reduced rates no later than ... [3 months after the date of entry into force of this amending Directive].

Without prejudice to paragraph 4 of this Article, reduced rates not lower than 12 % may be applied by other Member States, in accordance with the first subparagraph of Article 98(1), to the same goods and/or services under the same conditions as those applicable on 1 January 2021 in the Member States referred to in the first subparagraph of this paragraph.

4. By way of derogation from paragraphs 1, 2 and 3, the reduced rates or exemptions on fossil fuels, other goods with a similar impact on greenhouse gas emissions, such as peat, and wood used as firewood shall cease to be applied by 1 January 2030, and on chemical pesticides and chemical fertilisers, shall cease to be applied by 1 January 2032.

5. Member States which in accordance with the fourth subparagraph of paragraph 1 of this Article, the third subparagraph of paragraph 3 of this Article and Article 105b wish to apply the reduced rates not lower than 12 %, the reduced rates lower than the minimum laid down in Article 98(1), or the exemptions with deductibility of the VAT paid at the preceding stage, shall, by ... [18 months after the date of entry into force of this amending Directive], adopt the detailed rules governing the exercise of those options and communicate to the VAT Committee the text of the main provisions of national law they have adopted.