

SECOND COUNCIL DIRECTIVE

of 12 June 1972

on the harmonization of provisions laid down by law, regulation or administrative action relating to the rules governing turnover tax and excise duty applicable in international travel

(72/230/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 99 thereof;

Having regard to the Council Directive of 28 May 1969¹ on the harmonization of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international travel;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Having regard to the Opinion of the Economic and Social Committee;

Whereas the Resolution of the Council and of the Representatives of the Governments of the Member States of 22 March 1971² on the achievement by stages of economic and monetary union in the Community provides in particular for a gradual widening of tax exemption granted to individuals when crossing intra-Community frontiers;

Whereas it is appropriate to make passenger travel between Member States easier by means of an increase in the exemption from turnover tax and excise duty provided for in the Council Directive of 28 May 1969; whereas, to that end and in order to reduce controls, the declarations to be made by travellers crossing intra-Community frontiers should henceforth be simplified where the value or quantity

of goods in their possession does not exceed their duty-free entitlements;

Whereas persons residing near intra-Community frontiers and the crew of the means of transport used in international travel should henceforth be made eligible for certain exemptions;

Whereas, in view of the technical problems which have arisen from the application of Article 6 of the abovementioned Directive, certain problems relating to the remission of tax at the retail trade stage should be dealt with;

Whereas, having regard to the progressive establishment of an economic area whose characteristics are similar to those of a domestic market embracing the Community, Member States will have to abolish, in respect of intra-Community trade, the systems now in force involving the remission of tax on exportation and the imposition of tax on importation and also therefore the remission of turnover tax and excise duty at the retail trade stage.

Whereas, however, the complete abolition of such remission of tax can only be achieved gradually; whereas, as a first step, certain common rules applicable to persons residing in the Community should be laid down relating to standard cases of remission of tax at the retail trade stage;

HAS ADOPTED THIS DIRECTIVE:

Article 1

Article 2 of the Council Directive of 28 May 1969 shall be amended as follows:

¹ OJ No L 133, 4.6.1969, p. 6.

² OJ No C 28, 27.3.1971, p. 1.

- | | |
|---|---|
| (a) in paragraph 1, the words
'one hundred and twenty-five units of account'
shall be substituted for
'seventy-five units of account'; | shall be substituted for
'twenty units of account'; |
| (b) in paragraph 2, the words
'thirty units of account' | (c) in paragraph 3, the words
'one hundred and twenty-five units of account'
shall be substituted for
'seventy-five units of account'. |

Article 2

The following shall be substituted for Article 4 (1) of the Council Directive of 28 May 1969:

'1. Without prejudice to national provisions applicable to travellers whose residence is outside Europe, each Member State shall set the following quantitative limits for exemptions from turnover tax and excise duty of the goods listed below:

	I <i>Travel between third countries and the Community</i>	II <i>Travel between Member States</i>
(a) tobacco products:		
cigarettes	200	300
or		
cigarillos (cigars of a maximum weight of 3 grammes each)	100	150
or		
cigars	50	75
or		
smoking tobacco	250 g	400 g
(b) alcoholic beverages		
— distilled beverages and spirits of an alcoholic strength exceeding 22°	1 standard bottle (0.70 to 1 litre)	to a total of 1.5 litres
or		
distilled beverages and spirits, and aperitifs with a wine or alcohol base of an alcoholic strength not ex- ceeding 22°; sparkling wines, forti- fied wines	to a total of 2 litres	to a total of 3 litres
and		
— still wines	to a total of 2 litres	to a total of 3 litres
(c) perfumes and toilet waters	50 g 1/4 litre	75 g 3/8 litre
(d) coffee or coffee extracts and essences	500 g 200 g	750 g 300 g
(e) tea or tea extracts and essences	100 g 40 g	150 g 60 g

Article 3

The following paragraphs shall be substituted for Article 5 (1) of the Council Directive of 28 May 1969 and the former paragraphs 2 and 3 of that Article shall be renumbered paragraphs 6 and 7:

'1. Member States may reduce the value and/or quantity of the goods which may be admitted duty free, down to one-tenth of the values and/or quantities provided for in Articles 2 and 4 (1), column II, where such goods are imported from another Member State by persons resident in the frontier zone of the importing Member State or in that of the neighbouring Member State, by frontier zone workers, or by the crew of the means of transport used in international travel.

However, duty free entitlement in respect of the goods listed below may be as follows:

- | | |
|--|------------|
| (a) Tobacco products: | |
| Cigarettes | 40 |
| or | |
| cigarillos | |
| (cigars of a maximum weight of 3 grammes each) | 20 |
| or | |
| cigars | 10 |
| or | |
| smoking tobacco | 50 g |
| (b) alcoholic beverages: | |
| — distilled beverages and spirits, of an alcoholic strength exceeding 22° | 0.25 litre |
| or | |
| — distilled beverages and spirits, and aperitifs with a wine or alcohol base of an alcoholic strength not exceeding 22°; | |
| sparkling wines, fortified wines | 0.50 litre |
| and | |
| — still wines | 0.50 litre |

2. Member States may set lower limits as to value and/or quantity for the exemption of goods when they are imported from a third country by persons resident in the frontier zone, by frontier zone workers or by the crew of the means of transport used in travel between third countries and the Community.

3. Member States may set lower limits as to value and/or quantity for the exemption of goods when they are imported from another Member State by members of the armed forces of a Member State, including civilian personnel and spouses and dependent children, stationed in another Member State.

4. The restrictions in paragraphs 1 and 2 shall not apply where the persons referred to therein produce evidence to show that they are going beyond the frontier zone or that they are not returning from the frontier zone of the neighbouring Member State or third country.

These restrictions shall, however, still apply to frontier zone workers and to the crew of the means of transport used in international travel where they import goods when travelling in the course of their work.

5. For the purposes of paragraphs 1, 2 and 4:

- 'frontier zone' means a zone which, as the crow flies, does not extend more than 15 kilometres from the frontier of a Member State. Each Member State must however include within its frontier zone the local administrative districts part of the territory of which lies within the zone;
- 'frontier zone worker' means any person whose normal activities require that he should go to the other side of the frontier on working days.'

Article 4

Article 6 of the Council Directive of 28 May 1969 shall be amended as follows:

- (a) The text of that Article shall become paragraph 1 thereof;
- (b) The following paragraphs shall be added:

'2. Without prejudice to rules relating to sales made at airport shops under customs control and on board aircraft, Member States may, as regards sale at the retail trade stage, authorize in the cases and under the conditions provided for in paragraphs 3 and 4 the remission of turnover tax on goods carried in the personal luggage of travellers leaving a Member State. No remission may be granted in respect of excise duty.

3. As regards travellers whose domicile or habitual residence is situated outside the Community, each Member State may set limits and lay down conditions of application in respect of tax remission.

As regards travellers whose domicile, habitual residence or place of work is situated in a Member State, there may be remission of tax only in respect of items the individual value of which, inclusive of tax, exceeds the amount specified in Article 2 (1).

Member States may increase that amount. They may furthermore exclude their residents from the benefit of this tax remission.

4. Remission of tax shall be subject:

- (a) in the cases referred to in the first subparagraph of paragraph 3, to production of a copy of the invoice or other document in lieu thereof, endorsed by the customs of the exporting Member States to certify exportation of the goods;
- (b) in the cases referred to in the second subparagraph of paragraph 3, to production of a copy of the invoice or other document in lieu thereof, endorsed by the customs of the Member State where final importation takes place or by another authority of that Member State competent in matters of turnover tax.

5. For the purposes of this Article:

- 'domicile or habitual residence' means the place entered as such in a passport, identity card or, failing those, other identity documents which the exporting Member State recognizes as valid;
- 'item' means a thing or a group of things which normally constitute a whole.'

Article 5

The following Article shall be inserted after Article 7 of the Council Directive of 28 May 1969:

'Article 7a

Member States shall, within the framework of intra-Community travel, take the necessary steps to enable travellers to confirm tacitly or by a simple oral declaration that they are complying with the authorized limits and conditions for the duty-free entitlements.'

Article 6

1. Member States shall put into operation the measures required to comply:

- with Articles 1, 2, 3 and 5 of this Directive, not later than 1 July 1972;
- with Article 4 of this Directive, not later than 1 January 1973.

2. Each Member State shall inform the Commission of the measures which it adopts to implement this Directive.

The Commission shall communicate such information to the other Member States.

Article 7

This Directive is addressed to the Member States.

Done at Luxembourg, 12 June 1972.

For the Council

The President

J. DUPONG