

Council Directive 2004/106/EC of 16 November 2004 amending Directives 77/799/EEC concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation, certain excise duties and taxation of insurance premiums and 92/12/EEC on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products

COUNCIL DIRECTIVE 2004/106/EC

of 16 November 2004

amending Directives 77/799/EEC concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation, certain excise duties and taxation of insurance premiums and 92/12/EEC on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products

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 Commission,

Having regard to the opinion of the European Parliament⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee⁽²⁾,

Whereas:

- (1) Closer cooperation between Community tax authorities and between the latter and the Commission based on common principles is required to effectively combat excise duty fraud.
- (2) Regulation (EC) No 2073/2004 of the European Parliament and of the Council of 16 November 2004 on administrative cooperation in the field of excise duties⁽³⁾ incorporates all the provisions designed to facilitate administrative cooperation in the field of excise duties contained in Directives 77/799/EEC⁽⁴⁾ and 92/12/EEC⁽⁵⁾ with the exception of mutual assistance provided for by Council Directive 76/308/EEC of 15 March 1976 on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures⁽⁶⁾.
- (3) Council Directive 2004/56/EC⁽⁷⁾ amending Directive 77/799/EEC requires Member States to bring into force the laws, regulations and administrative provisions necessary to comply with it before 1 January 2005. These provisions apply in the field of direct taxation, certain excise duties and taxation of insurance premiums. Since the Directive 77/799/EEC will not apply to excise duties, pursuant to this Directive, as from 1 July 2005, it is not appropriate that Member States be required to adopt provisions which are bound to cease to apply within a short time. Therefore, it is necessary to allow Member States not to adopt the provisions necessary to comply with Directive 2004/56/EC

concerning excise duties, without prejudice to the obligation to adopt such provisions in respect of other taxes to which Directive 77/799/EC applies.

(4) Directives 77/799/EEC and 92/12/EEC should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

- (1) Opinion delivered on 1 April 2004 (not yet published in the Official Journal).
- (2) Opinion delivered on 31 March 2004 (not yet published in the Official Journal).
- (3) See page 1 of this Official Journal.
- (4) [OJ L 336, 27.12.1977, p. 15](#). Directive as last amended by Directive 2004/56/EC ([OJ L 127, 29.4.2004, p. 70](#)).
- (5) [OJ L 76, 23.3.1992, p. 1](#). Directive as last amended by Regulation (EC) No 807/2003 ([OJ L 122, 16.5.2003, p. 36](#)).
- (6) [OJ L 73, 19.3.1976, p. 18](#). Directive as last amended by the 2003 Act of Accession.
- (7) [OJ L 127, 29.4.2004, p. 70](#).