

COUNCIL DIRECTIVE 2006/58/EC

of 27 June 2006

amending Council Directive 2002/38/EC as regards the period of application of the value added tax arrangements applicable to radio and television broadcasting services and certain electronically supplied services

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2002/38/EC of 7 May 2002 amending and amending temporarily Directive 77/388/EEC as regards the value added tax arrangements applicable to radio and television broadcasting services and certain electronically supplied services ⁽¹⁾, and in particular Article 5 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The review provided for in Article 5 of Council Directive 2002/38/EC has been carried out.

(2) It appears from that review that the provisions of Article 1 of Directive 2002/38/EC have operated in a satisfactory manner and have achieved their objective.

(3) On 29 December 2003 the Commission presented a proposal for a Directive on the place of supply between taxable persons, which was amended by its proposal of 22 July 2005 in order to include supplies by taxable persons to non-taxable customers. Under the amended proposal all broadcasting and electronically supplied services will be taxed at the place of consumption.

(4) On 4 November 2004 the Commission presented a proposal for a Directive on the simplification of VAT obligations which will provide for a more general electronic mechanism than that provided for in Council Directive 2002/38/EC in order to facilitate compliance with fiscal obligations with respect to cross-border services.

(5) Although significant progress has been made with a view to the adoption, on the basis of the said legislative

proposals, of the necessary broader measures which will replace the measures contained in Article 1 of Directive 2002/38/EC, it has not been possible to adopt the former before the expiry of the latter on 30 June 2006.

(6) In the light of the adoption of such broadened measures in the short or medium term, and of the findings of the abovementioned review procedure, it is appropriate that, in the interests of the proper functioning of the internal market and in order to ensure the continued elimination of distortion, the provisions applicable to radio and television broadcasting services and certain electronically supplied services as provided for in Article 1 of Directive 2002/38/EC should continue to apply until 31 December 2006.

(7) Article 5 of Directive 2002/38/EC provides for such extension for practical reasons by the Council, acting unanimously on the basis of a proposal from the Commission.

(8) Directive 2002/38/EC should therefore be amended accordingly.

(9) Given the urgency of the matter, in order to avoid a legal gap, it is imperative to grant an exception to the six-week period mentioned in point I(3) of the Protocol on the role of national Parliaments in the European Union, annexed to the Treaty on European Union and to the Treaties establishing the European Communities,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Article 4 of Directive 2002/38/EC shall be replaced by the following:

‘Article 4

Article 1 shall apply until 31 December 2006’.

⁽¹⁾ OJ L 128, 15.5.2002, p. 41.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive with effect from 1 July 2006. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Luxembourg, 27 June 2006.

For the Council
The President
J. PRÖLL
