

Council Directive 2010/88/EU of 7 December 2010 amending Directive 2006/112/EC on the common system of value added tax, with regard to the duration of the obligation to respect a minimum standard rate

COUNCIL DIRECTIVE 2010/88/EU
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amending Directive 2006/112/EC on the common system of value added tax,
with regard to the duration of the obligation to respect a minimum standard rate

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 Parliament,

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

Acting in accordance with a special legislative procedure,

Whereas:

- (1) Article 97(1) of Council Directive 2006/112/EC⁽¹⁾ provides that from 1 January 2006 until 31 December 2010, the standard rate may not be less than 15 %.
- (2) The standard rate of value added tax (VAT) currently in force in various Member States, combined with the mechanism of the transitional system has ensured that this system has functioned to an acceptable degree. With new rules on the place of supply of services which favour taxation at the place of consumption, the possibilities for exploiting differences in VAT rates through relocation have been limited further and potential distortions of competition reduced.
- (3) To prevent a growing divergence in the standard rates of VAT applied by the Member States from leading to structural imbalances in the European Union and distortions of competition in some sectors of activity, it is common practice in the field of indirect taxes to set minimum rates. It is still necessary to do so for VAT.
- (4) Pending the outcome of consultations on a new VAT strategy which is expected to address future arrangements and corresponding levels of harmonisation, it would be premature to set a permanent standard rate level or to consider changing the minimum rate level.
- (5) It is therefore appropriate to maintain the current minimum standard rate at 15 % for a further period long enough to ensure legal certainty, while allowing further review.

- (6) This does not preclude a further revision of VAT legislation before 31 December 2015 to address the outcome of the new VAT strategy.
- (7) In accordance with point 34 of the Interinstitutional Agreement on better law-making⁽²⁾, Member States are encouraged to draw up, for themselves and in the interests of the Union, their own tables which will, as far as possible, illustrate the correlation between this Directive and the transposition measures, and to make them public.
- (8) Directive 2006/112/EC should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Article 97 of Directive 2006/112/EC is replaced by the following:

Article 97

From 1 January 2011 until 31 December 2015, the standard rate may not be lower than 15 %..

Article 2

1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 January 2011 at the latest. 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. Member States shall determine how such reference is to be made.

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 following its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 7 December 2010.

For the Council

The President

D. REYNDEERS

Status: This is the original version (as it was originally adopted).

- (1) OJ L 347, 11.12.2006, p. 1.
- (2) OJ C 321, 31.12.2003, p. 1.