



Brussels, 10 March 2017
(OR. en)

7104/17

LIMITE

FISC 60
ECOFIN 185

**Interinstitutional File:
2016/0374 (CNS)**

NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. Cion doc.:	14823/16 FISC 210 ECOFIN 1114 IA 129
Subject:	Proposal for a Council Directive amending Directive 2006/112/EC, as regards rates of value added tax applied to books, newspapers and periodicals – Orientation debate

I. BACKGROUND

1. On 1 December 2016, the Commission adopted a proposal for a Council Directive amending Directive 2006/112/EC, as regards rates of value added tax applied to books, newspapers and periodicals. The objective of the proposal is to grant all Member States the possibility to apply non-standard VAT rates to electronically supplied publications.
2. This Proposal was discussed under the Maltese Presidency at the meetings of the Working Party on Tax Questions (WPTQ) of 26 January 2017, 8 February 2017 and 8 March 2017.
3. During the discussions held at technical level, a large number of delegations expressed broad support towards the Commission proposal, that was seen as a targeted instrument to enhance the Digital Single Market. One Member State was opposed to the proposal, others still had reservations, some Member States requested to broaden the scope of the proposal, and several Member States presented technical comments and remarks.

4. On the basis of the discussions held in the Working Party, the Presidency has identified, among the technical questions and remarks, one essential issue which, in its view, requires a discussion in the ECOFIN Council before the remainder of the proposal can be agreed.

II. ISSUE FOR DISCUSSION

5. Directive 2006/112/EC provides for basic rules on VAT rates to be applied by Member States. In addition to the standard rate that shall be no less than 15% (Articles 96 and 97), Member States are allowed to apply one or two reduced rates, that shall be fixed at a percentage that shall be no less than 5% (Articles 98 and 99). For historical reasons, the Directive also contains a set of exceptions to those basic rules allowing, in certain conditions, some Member States to apply special rates, that can be less than 5% (super-reduced rate) or even zero rate for certain goods and services (Articles 102 to 129).
6. Currently, Directive 2006/112/EC provides that Member States may apply reduced VAT rates to publications on any means of physical support. In accordance with the special rates regimes, some Member States also benefit from an exception, allowing them to apply a super-reduced or even zero rate.
7. In line with its objective, which is to enable Member States to align VAT rates for electronically supplied publications with lower VAT rates for publications supplied on any means of physical support, the Commission proposal suggests an approach based on the following two cumulative principles:
- (i) the description of publications, contained in the list of goods and services that benefit from the reduced rates (Annex III, point 6), which is currently limited to physical means of support, will be extended in order to also cover electronic publications. In other words, all Member States will have the possibility to apply a reduced rate to electronic publications if they so wish and;

- (ii) the limit of 5% would no longer apply to the VAT rate applied to publications, be it physical or electronic, which would open up the possibility to all Member States to apply a super-reduced or even zero rate to publications if they so wish.
8. While several Member States welcome the above approach, some Member States have expressed concerns with the idea of opening the sector of publications to a super-reduced or zero rate for all situations, as this would go against the philosophy of the current VAT system.
9. In the light of the discussions, the Presidency proposes to follow the approach suggested by the Commission, and retain the possibility for Member States to apply super-reduced rates and zero rate to physical and electronic publications.
10. The related provision can be found in Article 1(2) of the last Presidency compromise (doc. 7103/17).

III. WAY FORWARD

11. Against this background, the Committee of Permanent Representatives is invited to suggest that the Council, on the basis of this note, at its forthcoming meeting on 21 March 2017:
- exchange views on the issue set out in part II of this note and give orientation on whether the approach suggested by the Presidency in doc. 7103/17 forms a good basis for further technical work and
 - invite the Working Party on Tax Questions to continue its technical work in the light of the discussion at the ECOFIN Council with a view to reaching political agreement at a future Council meeting.
-