COUNCIL DIRECTIVE

of 28 March 1983

on tax exemptions applicable to permanent imports from a Member State of the personal property of individuals

(83/183/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 proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas, in order that the people of the Member States become more aware of the existence of the European Community, further measures to benefit private individuals should be taken in order to create conditions in the Community similar to those in a domestic market;

Whereas, in particular, the tax obstacles to the importation by private individuals of personal property into one Member State from another Member State are such as to hinder the free movement of persons within the Community; whereas, therefore, these obstacles should be eliminated as far as possible by the introduction of tax exemptions;

Whereas these tax exemptions may apply only to imports of goods which are not of a commercial or speculative nature; whereas the application of the exemptions should therefore be made subject to limits and conditions,

HAS ADOPTED THIS DIRECTIVE:

TITLE I

GENERAL PROVISIONS

Article 1

Scope

1. Every Member State shall, subject to the conditions and in the cases hereinafter set out, exempt personal property imported permanently from another Member State by private individuals from turnover tax, excise duty and other consumption taxes which normally apply to such property.

2. Specific and/or periodical duties and taxes connected with the use of such property within the country, such as for instance motor vehicle registration fees, road taxes and television licences, are not covered by this Directive.

Article 2

Conditions relating to property

1. For the purposes of this Directive, 'personal property' means property for the personal use of the persons concerned or the needs of their household. Such property must not, by reason of its nature or quantity, reflect any commercial interest, nor be intended for an economic activity within the meaning of Article 4 of Directive 77/388/EEC (4). However, the tools or instruments necessary to the person concerned for the exercise of his trade or profession shall also be treated as personal property.

2. The exemption for which Article 1 makes provision shall be granted for personal property:

(a) which has been acquired under the general conditions of taxation in force in the domestic market of one of the Member States and which is not the subject, on the grounds of exportation, of any exemption or any refund of turnover tax, excise duty or any other consumption tax. For the purposes of this Directive, the goods acquired under the conditions referred to in Article 15 (10) of Directive 77/388/EEC shall be deemed to have met these conditions;

(b) of which the person concerned has had the use, in the Member States from which it is being exported, for a period of at least:

— six months before the change of residence in the case of motor-driven vehicles (including their

(1) OJ No C 267, 21. 11. 1975, p. 11.
(2) OJ No C 53, 8. 3. 1976, p. 39.
(3) OJ No C 131, 12. 6. 1976, p. 49.
(4) OJ No L 145, 13. 6. 1977, p. 1.

trailers), caravans, mobile homes, pleasure boats and private aircraft,

— three months before the change of residence or the setting up of a secondary residence in the case of other property.

However, for the goods referred to in the second sentence of (a), Member States may increase the above periods to 12 months.

3. The competent authorities shall demand proof that the conditions in paragraph 2 have been satisfied in the case of motor-driven vehicles (including their trailers), caravans, mobile homes, pleasure boats and private aircraft. In the case of other property, they shall demand such proof only where there are grave suspicions of fraud.

Article 3

Import conditions

The importation of the property may be carried out at one or more times within the periods laid down in Articles 7, 8, 9 and 10 respectively.

Article 4

Obligations subsequent to importation

The property imported shall not be disposed of, hired out or lent during the period of 12 months following its importation free of duty, except in circumstances duly justified to the satisfaction of the competent authorities of the Member State of importation.

Article 5

Specific conditions for certain types of property

1. Member States may provide that the goods listed in Article 4 (1) of Directive 69/169/EEC (1), as last amended by Directive 82/443/EEC (2), may be imported free of duty only up to the quantities laid down in that Article for travel between Member States.

2. The exemption on the importation of riding horses, motor-driven road vehicles (including trailers), caravans, mobile homes, pleasure boats and private aircraft shall be granted only if the private individual transfers his normal residence to the Member State of importation.

Article 6

General rules for determining residence

1. For the purposes of this Directive, 'normal residence' means the place where a person usually lives, that is for at least 185 days in each calendar year, because of personal and occupational ties or, in the case of a person with no occupational ties, because of personal ties which show close links between that person and the place where he is living.

However, the normal residence of a person whose occupational ties are in a different place from his personal ties and who consequently lives in turn in different places situated in two or more Member States shall be regarded as being the place of his personal ties, provided that such person returns there regularly. This last condition need not be met where the person is living in a Member State in order to carry out a task of a definite duration. Attendance at a university or school shall not imply transfer of normal residence.

2. Individuals shall give proof of their place of normal residence by any appropriate means, such as their identity card or any other valid document.

3. Where the competent authorities of the Member State of importation have doubts as to the validity of a statement as to normal residence made in accordance with paragraph 2, or for the purpose of certain specific controls, they may ask for any information they require or for additional proof.

TITLE II

IMPORTATION OF PERSONAL PROPERTY IN CONNECTION WITH A TRANSFER OF NORMAL RESIDENCE

Article 7

1. The exemption for which Article 1 makes provision shall be granted, subject to the conditions laid down in Articles 2 to 5, in respect of personal property imported by a private individual when transferring his normal residence.

2. The last of the property must be imported not later than 12 months after the transfer of the normal residence.

(1) OJ No L 133, 4. 6. 1969, p. 6.
(2) OJ No L 206, 14. 7. 1982, p. 35.

TITLE III

IMPORTATION OF PERSONAL PROPERTY IN CONNECTION WITH THE FURNISHING OR RELINQUISHMENT OF A SECONDARY RESIDENCE

Article 8

1. The exemption for which Article 1 makes provision shall be granted, subject to the conditions laid down in Articles 2 to 5, for personal property imported by a private individual to furnish a secondary residence.

This exemption shall be granted only where:

(i) the person concerned is the owner of the secondary residence or is renting it for a period of at least 12 months;

(ii) the property imported corresponds to the normal furniture of the secondary residence.

2. The exemption shall also be granted, subject to the conditions mentioned in paragraph 1, where, following the relinquishment of a secondary residence, property is imported to the normal residence or to another secondary residence, provided that the property in question has actually been in the possession of the person concerned, and that he has had the use of it, for a period of at least 12 months.

The last of the property must be imported not later than 12 months after the secondary residence has been relinquished.

Article 4 shall not apply where property is re-imported.

TITLE IV

IMPORTATION OF PROPERTY ON MARRIAGE

Article 9

1. By derogation from the second indent of Article 2 (2) (b), but without prejudice to the other provisions contained in Articles 2 to 5, any person shall on marrying be entitled to exemption from the taxes referred to in Article 1 when importing into the Member State to which he intends to transfer his normal residence personal property which he acquired or which came into his possession less than three months previously, provided that:

(a) such importation takes place within a period beginning two months before the marriage date envisaged and ending four months after the actual marriage date;

(b) the person concerned provides evidence that his marriage has taken place or that the necessary preliminary formalities for the marriage have been put in hand.

2. Exemption shall also be granted in respect of presents customarily given on the occasion of a marriage which are sent to a person fulfilling the conditions laid down in paragraph 1 by persons having their normal place of residence in a Member State other than that of importation. The exemption shall apply to presents of a unit value not exceeding 200 ECU. Member States may, however, grant exemption where 200 ECU is exceeded, provided that the value of each present exempted does not exceed 1 000 ECU.

3. Member States may make the granting of such exemption dependent on the provision of an adequate guarantee, where property is imported before the date of the marriage.

4. Where the individual fails to provide proof of his marriage within four months of the date given for such marriage, the taxes shall be due on the date of importation.

TITLE V

IMPORTATION OF THE PERSONAL PROPERTY OF A DECEASED PERSON, ACQUIRED BY INHERITANCE

Article 10

1. By way of derogation from Articles 2 (2) and (3) and 4 and 5 (2), but without prejudice to the other provisions contained in Articles 2, 3 and 5, any private individual who acquires by inheritance (*causa mortis*) the ownership or the beneficial ownership of personal property of a deceased person which is situated within a Member State shall be entitled to exemption from the taxes referred to in Article 1 when importing such property into another Member State in which he has a residence, provided that:

(a) such individual provides the competent authorities of the Member State with a declaration issued by a notary or other competent authority in the Member State of exportation that the property he is importing was acquired by inheritance;

(b) the property is imported not more than two years after the date on which such individual enters into possession of the property.

TITLE VI

FINAL PROVISIONS

Article 11

1. Until the entry into force of the Community tax rules adopted pursuant to Article 14 (2) of Directive 77/388/EEC, Member States shall endeavour to reduce as far as possible the formalities for imports by private individuals within the limits and subject to the conditions laid down in this Directive and shall endeavour to avoid importation formalities entailing controls which result in substantial unloading and reloading at the frontier.

2. Member States may retain and/or introduce more liberal conditions for granting tax exemptions than those laid down in this Directive, with the exception of those laid down in Article 2 (2).

3. Without prejudice to Article 2 (2), Member States may not, by virtue of this Directive, apply within the Community tax exemptions less favourable than those which they accord to imports by private individuals of personal property from third countries.

Article 12

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 January 1984 at the latest. They shall forthwith inform the Commission thereof. However, the Hellenic Republic may retain its taxation system currently in force, provided that double taxation is avoided, until the common VAT system is introduced.

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, and in particular any resulting from the application of the provisions of Article 11 (2) and (3). The Commission shall inform the other Member States of the latter provisions.

3. Every two years the Commission shall, after consulting the Member States, send the Council and the European Parliament a report on the implementation of this Directive in the Member States.

Article 13

This Directive is addressed to the Member States.

Done at Brussels, 28 March 1983.

For the Council

The President

J. ERTL