II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 13 June 1988

amending Directive 83/181/EEC determining the scope of Article 14 (1) (d) of Directive 77/388/EEC as regards exemption from value-added tax on the final importation of certain goods

(88/331/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,

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

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

Whereas the arrangements for exemption from the value-added tax of certain imports, as laid down by Directive 83/181/EEC (3), as last amended by Directive 85/346/EEC (4), refer to the greatest possible degree of uniformity between the system for customs duties and that for value-added tax; whereas the Council, by Regulation (EEC) No 1315/88 (5), has adopted amendments to the system for customs duties; whereas it is appropriate to incorporate some of these amendments into Directive 83/181/EEC, to the extent that they meet the objectives of tax harmonization;

Whereas Directive 83/181/EEC determines not only the scope of Article 14 (1) (d) of Directive 77/388/EEC (6), as last amended by Directive 84/386/EEC (7), but is aimed also at establishing Community tax rules for VAT exemption on the final import of goods, which go beyond the scope of the said Article; whereas these rules should be amended or supplemented in such a way as to bring about a more uniform application thereof at Community level;

Whereas, in the interests of legal clarity, the wording of Article 11 (2) of Directive 83/181/EEC should be accurately rendered,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 83/181/EEC is hereby amended as follows:

1. Article 11 (2) is replaced by the following:

'2. Exemption shall also be granted in respect of presents customarily given on the occasion of a marriage which are received by a person fulfilling the conditions laid down in paragraph 1 from persons having their normal place of residence in a country situated outside the Community. the exemption shall apply to presents of a unit value of not more than 200 ECU. Member States may, however, grant exemption for more than 200 ECU provided that the value of each exempt present does not exceed 1 000 ECU.'

2. Article 22 is replaced by the following:

'Article 22

Goods of a total value not exceeding 10 ECU shall be exempt on admission. Member States may grant exemption for imported goods of a total value of more than 10 ECU but not exceeding 22 ECU.

(1) OJ No C 318, 30. 11. 1987, p. 21.
(2) OJ No C 180, 8. 7. 1987, p. 14.
(3) OJ No L 105, 23. 4. 1983, p. 38.
(4) OJ No L 183, 16. 7. 1985, p. 21.
(5) OJ No L 123, 17. 5. 1988, p. 2.
(6) OJ No L 145, 13. 6. 1977, p. 1.
(7) OJ No L 208, 3. 8. 1984, p. 58.

However, Member States may exclude goods which have been imported on mail order from the exemption provided for in the first sentence of the first subparagraph.'

3. In the second indent of Article 35 (1) (b) the words 'Article 60 (1) (b)' are replaced by 'Article 60'.

4. The following Chapter is inserted after Article 38 :

'Chapter IIa

Reference substances for the quality control of medical products

Article 38 (a)

Consignments which contain samples of reference substances approved by the World Health Organization for the quality control of materials used in the manufacture of medicinal products and which are addressed to consignees authorized by the competent authorities of the Member States to receive such consignments free of tax shall be exempt on admission.'

5. The following is added to Article 56 :

'(d) Awards, trophies and souvenirs of a symbolic nature and of limited value intended for distribution free of charge to persons normally resident in a country other than that of import, at business conferences or similar international events ; their nature, unitary value or other features, must not be such as might indicate that they are intended for commercial purposes.'

6. Articles 62 and 63 are replaced by the following :

'Article 62

Subject to Article 63, printed advertising matter such as catalogues, price lists, directions for use or brochures shall be exempt on admission provided that they relate to :

(a) goods for sale or hire by a person established outside the Member State of import, or

(b) services offered by a person established in another Member State, or

(c) transport, commercial insurance or banking services offered by a person established in a third country.

Article 63

The exemption referred to in Article 62 shall be limited to printed advertisements which fulfil the following conditions :

(a) printed matter must clearly display the name of the undertaking which produces, sells or hires out the goods, or which offers the services to which it refers ;

(b) each consignment must contain no more than one document or a single copy of each document if it is made up of several documents. Consignments comprising several copies of the same document may nevertheless be granted exemption provided their total gross weight does not exceed one kilogram ;

(c) printed matter must not be the subject of grouped consignments from the same consignor to the same consignee.

However, the conditions under (b) and (c) shall not apply to printed matter relating to either goods for sale or hire or services offered by a person established in another Member State provided that the printed matter has been imported, and will be distributed, free of charge.'

7. The following is added to Article 79 :

'(s) importations of official publications issued under the authority of the country of export, international institutions, regional or local authorities and bodies under public law established in the country of export, and printed matter distributed on the occasion of elections to the European Parliament or on the occasion of national elections in the country in which the printed matter originates by foreign political organizations officially recognized as such in the Member States, insofar as such publications and printed matter have been subject to tax in the country of export and have not benefited from remission of tax on export.'

8. The title of Chapter VI is replaced by the following :

'Fuels and lubricants present in land motor vehicles and special containers'.

9. Article 82 is replaced by the following :

'Article 82

1. Subject to Articles 83, 84 and 85, the following shall be exempt on admission :

(a) fuel contained in the standard tanks of :

— private and commercial motor vehicles and motor cycles ;

— special containers ;

(b) fuel contained in portable tanks carried by private motor vehicles and motor cycles, up to a maximum of 10 litres per vehicle and without prejudice to national provisions on the holding and transport of fuel.

2. For the purpose of paragraph 1 :

(a) 'commercial motor vehicle' means any motorized road vehicle (including tractors with trailers) which, by its type of construction and equipment, is designed for, and capable of, transporting, whether for payment or not :

— more than nine persons including the driver,

— goods,

and any road vehicle for a special purpose other than transport as such ;

(b) 'private motor vehicle' means any motor vehicle not covered by the definition set out in (a) ;

(c) 'standard tanks' means :

— the tanks permanently fixed by the manufacturer to all motor vehicles of the same type as the vehicle in question and whose permanent fitting enables fuel to be used directly, both for the purpose of propulsion and, where appropriate, for the operation, during transport, of refrigeration systems and other systems.

Gas tanks fitted to motor vehicles designed for the direct use of gas as a fuel and tanks fitted to ancillary systems with which the vehicle may be equipped shall also be considered to be standard tanks,

— tanks permanently fixed by the manufacturer to all containers of the same type as the container in question and whose permanent fitting enables fuel to be used directly for the operation, during transport, of refrigeration systems and other systems with which special containers are equipped ;

(d) 'special container' means any container fitted with specially designed apparatus for refrigeration systems, oxygenation systems, thermal insulation systems, or other systems.

10. The first paragraph of Article 83 is amended as follows :

— in the introduction, the words 'and special containers' are inserted after the words 'commercial motor vehicles',

— after (b), the following is added :

'(c) to 200 litres per special container and per journey.'

11. The following is added at the end of Article 90 (3) :

'... or to a reduction in that exemption.'

12. The following is added to Article 91 :

'(c) exemptions in the context of agreements entered into on the basis of reciprocity with third countries that are Contracting Parties to the Convention on International Civil Aviation (Chicago 1944) for the purpose of implementing Recommended Practices 4.42 and 4.44 in Annex 9 to the Convention (eighth edition, July 1980).'

Article 2

Member States shall take the measures necessary to comply with this Directive not later than 1 January 1989. They shall forthwith inform the Commission thereof.

Article 3

This Directive is addressed to the Member States.

Done at Luxembourg, 13 June 1988.

For the Council

The President

G. STOLTENBERG