II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 23 November 1989

amending Directive 83/183/EEC on tax exemptions applicable to permanent imports from a Member State of the personal property of individuals

(89/604/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, when it adopted Directive 83/183/EEC (4), the Council undertook to adopt unanimously, on a proposal from the Commission, provisions permitting a substantial relaxation and even the removal of the formalities relating to the grant of tax exemptions applicable to permanent imports from a Member State of the personal property of individuals; whereas the *ad hoc* Committee on a People's Europe, in its first report, endorsed by the Brussels European Council of 29 and 30 March 1985, invited the Commission to present such a proposal;

Whereas it is necessary to facilitate the free movement of persons within the Community as far as possible;

Whereas, pending the abolition of tax frontiers required to achieve a true internal market, it is necessary to harmonize and relax certain formalities necessary for the grant of the import exemption provided for in Directive 83/183/EEC, particularly as regards the drawing-up of an inventory of the property and proof of the existence of the normal residence; whereas it is necessary to ease the existing rules relating to the period of use of imported property and to the quantitative limits on certain items,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 83/183/EEC is hereby amended as follows:

1. Article 2 (2) (b) shall be replaced by the following:

'(b) of which the person concerned has had the actual use before the change of residence is effected or the secondary residence established. In the case of motor-driven vehicles (including their trailers), caravans, mobile homes, pleasure boats and private aircraft, Member States may require that the person concerned should have had the use of them for a period of at least six months before the change of residence.

For the goods referred to in the second sentence of (a), Member States may require:

— in the case of motor-driven vehicles (including their trailers), caravans, mobile homes, pleasure boats and private aircraft, that the person concerned should have had the use of them for a period of at least 12 months,

— in the case of other goods, that the person concerned should have had the use of them for a period of at least six months,

before the change of residence.'

(1) OJ No C 5, 9. 1. 1987, p. 2 and OJ No C 179, 8. 7. 1988, p. 8.
(2) OJ No C 318, 30. 11. 1987, p. 23.
(3) OJ No C 150, 9. 6. 1987, p. 6.
(4) OJ No L 105, 23. 4. 1983, p. 64.

2. Article 4 shall be reworded as follows:

'The motor-driven vehicles (including their trailers), caravans, mobile homes, pleasure boats and private aircraft imported shall not be disposed of, hired out or lent during the period of 12 months following their importation free of duty, except in circumstances duly justified to the satisfaction of the competent authorities of the Member State of importation.'

3. Article 5 (1) shall be replaced by the following:

'1. Member States may impose limits on the duty-free importation of goods listed in Article 4 (1) of Directive 69/220/EEC (1), as last amended by Directive 89/220/EEC (2). However, those limits may not be less than four times the quantities shown in column II of the said Article, except in the case of tobacco products, the duty-free importation of which may be limited to the quantities shown in the said column.

(1) OJ No L 133, 4. 6. 1969, p. 6
(2) OJ No L 92, 5. 4. 1989, p. 15.'

4. In Article 7:

(a) paragraph 1 shall become subparagraph 1 (a):

(b) in paragraph 1 the following subparagraph shall be added:

'(b) The grant of the exemption shall, without prejudice to any Community transit procedure which may apply, be subject to the drawing-up of an inventory of goods on plain paper accompanied, if the State so requires, by a declaration, the model for and content of which shall be defined in accordance with the procedure laid down in Article 17 (2) and (3) of Regulation (EEC) No 678/85 (1). No reference to value may be demanded on the inventory of goods.

(1) OJ No L 274, 15. 10. 1985, p. 1.'

(c) the following shall be added to paragraph 2:

'Where, in accordance with Article 3, the property is imported in a number of operations within the period referred to above, only on the occasion of their first importation may Member States require the submission of a full inventory to which reference may also be made in the event of subsequent removals by other customs offices. Such inventory may be supplemented subject to the agreement of the competent authorities of the Member State of importation.'

5. In Article 8 (2):

(a) the words 'for a period of at least 12 months' at the end of the first subparagraph shall be replaced by 'before establishment of the secondary residence';

(b) the third subparagraph shall be deleted.

6. In Article 9:

(a) the beginning of paragraph 1 shall be replaced by the following:

'1. Without prejudice to 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 of which he had the use, provided that:'

(b) paragraph 2 shall be 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 Member State other than the Member State of import. The exemption shall apply to presents of a unit value of not more than ECU 350 provided that the value of each exempt present does not exceed ECU 1 400.'

7. In Article 11:

(a) in paragraph 1, the words 'Until the entry into force of the Community tax rules adopted pursuant to Article 14 (2) of Directive 77/388/EEC' shall be deleted;

(b) in paragraph 2, the reference to 'Article 2 (2)' shall be replaced by 'Article 2 (2) (a)'.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 1 July 1990. They shall forthwith inform the Commission thereof.

2. Member States shall inform the Commission of the provisions which they adopt to implement this Directive.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 23 November 1989.

For the Council

The President

E. CRESSON