



EUROPEAN COMMISSION

Brussels, 29.05.2018
C(2018) 3129 final

Dear President,

The Commission would like to thank the Bundesrat for its Opinion on the proposal for a Council Directive amending Directive 2006/112/EC on the common system of value added tax as regards rates of value added tax {COM(2018) 20 final}.

This proposal is part of a reform package, announced in the Action Plan on Value Added Tax {COM(2016) 148 final}, adopted by the Commission on 7 April 2016. Its aim is to create a robust single European value added tax area for which a simpler and fraud-proof definitive value added tax system for intra-Union trade will be set up. The main objectives of the proposal are to grant Member States more flexibility in setting value added tax rates and to establish equal treatment between Member States.

The Commission notes the Bundesrat's concerns with regard to the Commission's plan to increase the scope of application for super-reduced tax rates or zero tax rates beyond their application to electronically supplied books, newspapers and periodicals. The Commission points out in this context that the current Directive on the value added tax already allows for the application of such rates below 5% by granting Member States derogations from the general rules. Currently Germany applies a zero rate to international air passenger transport services and international maritime and inland waterway passenger transport services. In order to establish a definitive value added tax system, derogations should be replaced by general rules that treat all Member States equally. To this extent, the Commission has proposed not to restrict the freedom in setting value added tax rates that Member States currently have and to grant to all Member States the freedom that currently only some Member States dispose of.

The Commission takes seriously the concern expressed by the Bundesrat that any form of differentiation in tax rates complicates the application of law and that an increase in compliance costs for businesses operating across borders should be avoided at all cost. In response to this concern, the proposal sets out the framework of a value added tax classification and its use to structure information on reduced rates in a web-portal that can be used by businesses. Moreover, reduced rates under the proposed new rules must always benefit the final consumer. This would reduce in general the complexity with regard to business to business supplies.

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Furthermore, the Commission takes note of the conclusion by the Bundesrat that any form of differentiation in tax rates must therefore be generally avoided. While the Commission, as stated above, takes seriously the concern that any such differentiation complicates the application of law, it cannot fully agree to the conclusion that differentiation in tax rates must generally be avoided. As the Bundesrat rightly points out, reduced tax rates for books, newspapers and periodicals go a long way to ensuring that citizens are informed and have the scope to form their own opinions.

Finally, the Commission takes note that the Bundesrat deems it necessary to continue to increase the level of harmonisation of the system of value added tax in order to avoid any distortion of competition as a result of different applications of tax rates, particularly in border regions. The Commission recognises the need to restrict the application of reduced rates in order to avoid any potential distortion of competition, in particular in border regions. Therefore, the Commission proposed a list of supplies of goods and services annexed to the proposal, to which Member States will always have to apply the standard rate. This list includes in particular high value and easy-transportable goods that final consumers could buy abroad because of reduced rates.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Bundesrat and looks forward to continuing our political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Pierre Moscovici
Member of the Commission*