

ECOO Response to Commission VAT Exemptions Consultation

Consultation Paper: 'On the review of existing legislation on public bodies and tax exemptions in the public interest'

Available here:

http://ec.europa.eu/taxation_customs/common/consultations/tax/2013_vat_public_bodies_en.htm

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About ECOO

The European Council of Optometry and Optics (ECOO) is the European organisation which represents the interests of optometrists and opticians from 26 countries. It aims to promote eye health to the public across borders and to harmonise clinical and educational standards of optometric and optical practice throughout Europe.

Our vision is to improve vision and eye health by providing high-quality, cost-effective optometric and optical services across Europe.

Our mission is to:

- to eliminate avoidable blindness and visual impairment in Europe
- to create a harmonised professional and educational system for optometry and optics based on the European Diploma in Optometry and Optics
- to develop the scope of practice for optometrists and opticians to the degree that the same high standards apply and are mutually recognised in all European countries.

Introduction

We agree that the overall system of VAT would benefit from further clarity over which exemptions are in fact in the public interest and which are not. We also welcome the goal of reducing certain distortions in the European economy, in particular where public authorities or bodies compete directly with the private sector.

We are however very concerned about the prospect that the Commission might suggest removing the exemption for healthcare services. We note that the Commission appears to have recognised that there would be negative consequences from doing so, however we would like to provide further information about the impact on eye health, society and the economy.

If the exemption for healthcare were removed, it would have a significant and lasting negative effect on our patients' wellbeing and eye health in Europe. The delivery of eye care in the community provides three key healthcare services to the general public:

- Screening for eye health conditions and referral as appropriate
- Correction of refractive error, allowing patients to see clearly at distance and near
- Provision of vision correction (spectacles and contact lenses).

These services are provided by or under the supervision of registered healthcare practitioners, namely optometrists and opticians. In general, eye care services across the EU are provided by or under the supervision of these registered healthcare professionals making them exempt healthcare services, which therefore means that patients do not pay VAT on the services provided. We strongly feel that this provides significant social, public health and economic benefit to our patients and society by reducing the cost of these eye care services and products.

Put simply, the exemption for healthcare serves two purposes for eye care patients by reducing:

- the cost of the provision of eye examinations or sight tests, and
- the cost of the service of dispensing spectacles and fitting contact lenses.

If the Commission were to remove the exemption for healthcare, we strongly believe that the resultant increased cost would deter or delay patients from having their eye health checked and vision corrected (where necessary).

Across Europe, problems with eye health are increasing markedly, mainly driven by the ageing population. At present, 20.4 million people suffer from visual impairment, with 2.3

million who are blind¹. An estimated two thirds of this could have been prevented their condition had been detected earlier, which underlines the argument that prompt access to affordable eye care is essential.

Failing to address eye health problems early has significant downstream effects on the economy and society. For the UK alone, the costs of partial sight and blindness have been estimated to be £22 billion annually (estimated figure for 2008), which is over €26 billion on current exchange rates².

Although removing the VAT exemption on eye care would raise some tax, it would increase the cost of eye care services, causing some patients to delay attending for care. This would have three negative social and economic consequences:

- There will be a delay in picking up eye conditions and access to treatment (causing an increase in avoidable vision impairment or blindness)
- Some individuals will have compromised distance vision (with resultant impact on road safety)
- Other individuals will have compromised near vision (with resultant impact on workers reading, using VDUs, tablets etc).

The resultant loss of productivity and economic activity would dwarf any benefits derived from the increased tax take.

We would welcome the opportunity to discuss our concerns further at a meeting with the Commission and will follow up with a request for one.

We have responded to the questions below which are relevant to the provision of eye care services.

¹ <http://www.iapb.org/news/time-end-eye-health-neglect-europe>

² Access Economics for RNIB (2009) *Future Sight Loss UK (2)*

European Council of Optometry and Optics

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Responses to Specific Questions

Question 1: General evaluation of the current rules (see point 3)

- What is your evaluation of the current VAT regime as regards the public sector (including special rules for public bodies, Article 13, and tax exemptions in the public interest, Article 132-134 of the VAT Directive)?

- A. As noted above, overall we feel that there are some areas where it would be beneficial to reduce distortions in the European economy, in particular where public authorities or bodies compete directly with the private sector. We would therefore welcome the inclusion within the VAT regime of all non-exempt supplies made by a public body so as to ensure that there were no distortions of competition.

We are however strongly opposed to the removal of the exemption for healthcare services, for the reasons outlined above in the case of eye care.

- What are in your opinion the main problems of the current rules?

- A. Not applicable to our sector.

- Are there any distortions of competition (output and input side)? If so, how and in which sector do they occur?

- A. There are no such distortions in our sector. As noted above, we feel that there should be no difference to the taxations of public authorities where they compete directly with the private sector. Similarly, any exemptions should apply in the same way to the public and private sectors.

- Is the complexity of the current rules and the lack of harmonisation causing problems? Please give specific examples.

- A. Although there are some accounting complexities relating to the application of the exemption for healthcare in our sector, these are minor and insignificant when compared to the benefit to our patients, specifically due to lower costs for their healthcare.

- What is their impact on compliance costs?

- A. The impact of the accounting complexities on our sector are minimal in particular since the overall model has been in place for many years, therefore 'taxable persons'

are accustomed to operating it. Any such costs are insignificant when compared to the benefits to our patients.

- Are the problems identified only of a national nature or do they constitute an obstacle to the smooth functioning of the Internal Market?

A. No. Several optical practice groups operate across borders and are unhindered by the accounting complexities noted above.

- If you are an entrepreneur how do the current rules affect your business?

A. Not applicable to our response.

Question 2: Distortion of competition clause

- Do you think the distortion of competition clause pursuant to the second subparagraph of Article 13 (1) of the VAT Directive and the existing case law from the Court of Justice of the European Union in this respect have been efficient enough in preventing distortions of competition between public and private providers on the output side?

A. Not applicable to our response.

- Does the national legislation of your country provide for a legal mechanism according to which a private entrepreneur who is experiencing unfair competition from a public sector body could formally raise this issue with the tax authorities or the courts?

A. Not applicable to our sector, however we would like to add that we believe it is only fair that where unfair competitor is experiences, there should be a mechanism in place for the affected parties to raise the issue formally (with the tax authorities or the courts).

Question 3: Reform measures (see point 5)

- What are your views on the different reform options or reform measures mentioned in this document (including a possible sectorial reform); do you have a preference for any particular option and any particular variant mentioned in relation to the different options and why?

A. Option 1: The Full Taxation Model

For the reasons outlined above, ECOO is strongly opposed to this option as it would increase the cost of eye care (as healthcare) for our patients, and would have significant and lasting effects on public health and the economy.

Variants of Option 1

Although we favour retention the exemption for healthcare services, if all supplies for a consideration became subject to VAT, we would prefer the imposition of a reduced rate of VAT in preference to the full rate of VAT. We would like to add that we would like to see safeguards introduced to prevent national governments seeking to move healthcare from reduced rate supply to the full rate regime.

Option 2: Refund System

As noted above, we strongly oppose the removal of the exemption for healthcare. If a refund system were to operate, or continue to operate, we would however welcome consistency in the application of refund systems for input VAT (that operate outside of the current VAT system) across Member States. Optical practices often supply vision correction to patients which is paid for by a public body and cannot recover the input VAT on these supplies.

Option 3: Deletion of Article 13 while keeping the tax exemptions in the public interest

As we have outlined above, the exemption for public authorities causes a distortion of competition between the public and private sector and should cease. We would therefore favour this model provided that the exemption for healthcare remains and there are safeguards to protect against the removal of that (and any other exemptions which remain). These safeguards should be incorporated in the revised Directive.

Option 4: Sectorial Reform

We do not support this model as we feel that there are unfair distortions caused by the unequal treatment of public and private bodies (resulting from Article 13).

- Is there any option which should be excluded and why?

- A. As we strongly believe that the exemption for healthcare is in the public interest, we would exclude Options 1 and 2 above.

- Do you have any additional ideas or proposals?

- A. No.

Question 4: Sectorial reform (see point 5.4.)

In case a sectorial reform would be the way forward, Copenhagen Economics has modelled the sectors postal services, broadcasting, waste management and sewage.

Other sectors such as air traffic control, access to roads and parking areas could be potential candidates as well.

- Do you agree with this list?

A. Not applicable to our response.

- Which other sectors should in your view be selected for such a review? Why?

A. Not applicable to our response.

Question 5: Option to tax (see point 5.5.)

- Do you think that an option to tax as regards tax exempt activities either by taxable persons or Member States should be considered?

A. No. We feel that an exemption should be applied consistently across Member States so as to facilitate smooth functioning of the Single Market.