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COUNCIL DIRECTIVE

of 28 May 1969

on the harmonisation of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international travel

(69/169/EEC)

(OJ L 133, 4.6.1969, p. 6)

Amended by:

	Official Journal		
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► <u>M1</u> Second Council Directive 72/230/EEC of 12 June 1972	L 139	28	17.6.1972
► <u>M2</u> Third Council Directive 78/1032/EEC of 19 December 1978	L 366	28	28.12.1978
► <u>M3</u> Fourth Council Directive 78/1033/EEC of 19 December 1978	L 366	31	28.12.1978

▼B**COUNCIL DIRECTIVE****of 28 May 1969****on the harmonisation of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international travel**

(69/169/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;

Whereas, notwithstanding the achievement of the customs union, which involves the abolition of customs duties and the majority of the charges having equivalent effect in trade between Member States, it is necessary, until harmonisation of indirect taxes has reached an advanced stage, to retain the imposition of tax on importation and the remission of tax on exportation in such trade;

Whereas it is desirable that, even before such harmonisation, the populations of the Member States should become more strongly conscious of the reality of the common market and that to this end measures should be adopted for the greater liberalisation of the system of taxes on imports in travel between Member States; whereas the need for such measures has been emphasised repeatedly by members of the Assembly;

Whereas reductions of this kind in respect of travel constitute a further step in the direction of the reciprocal opening of the markets of the Member States and the creation of conditions similar to those of a domestic market;

Whereas such reductions must be limited to non-commercial importations of goods by travellers; whereas, as a general rule, such goods can only be obtained in the country from which they come (country of exit) already taxed, so that if the country of entry forgoes, within the prescribed limits, charging turnover tax and excise duty on imports, this avoids double taxation without leading to an absence of taxation;

Whereas a Community system of tax reductions on imports has proved necessary also in respect of travel between third countries and the Community;

HAS ADOPTED THIS DIRECTIVE:

Article 1▼M3

1. Goods contained in the personal luggage of travellers coming from third countries shall be exempt from the turnover tax and excise duty levied on imports if the imported goods have no commercial character and the total value of the goods does not exceed 40 European units of account per person.

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2. Member States may reduce this exemption to ►M3 20 European units of account ◀ for travellers under fifteen years old.

3. Where the total value per person of several items exceeds ►M3 40 European units of account ◀ or the amount fixed pursuant to paragraph 2, as the case may be, exemption up to these amounts shall be granted for such of the items as would, if imported separately, have been granted exemption, it being understood that the value of an individual item cannot be split up.

▼ B*Article 2*▼ M2

1. Exemption from turnover tax and excise duty on imports shall apply to goods contained in the personal luggage of travellers coming from Member States of the Community provided that they fulfil the conditions laid down in Articles 9 and 10 of the Treaty, have been acquired subject to the general rules governing taxation on the domestic market of one of the Member States and have no commercial character and that the total value of the goods does not exceed 180 European units of account per person.

▼ B

2. Member States may reduce this exemption to ► M2 50 European units of account ◀ for travellers under fifteen years old.

3. Where the total value per person of several items exceeds ► M2 180 European units of account ◀ or the amount fixed pursuant to paragraph 2, as the case may be, exemption up to these amounts shall be granted for such of the items as would, if imported separately, have been granted exemption, it being understood that the value of an individual item cannot be split up.

▼ M2

4. Where the travel referred to in paragraph 1:

- involves transit through the territory of a third country; overflying without landing shall not, however, be regarded as transit within the meaning of this Directive,
- begins in a part of the territory of another Member State in which turnover tax and/or excise duty is not chargeable on goods consumed within that territory,

the traveller must be able to establish that the goods transported in his luggage have been acquired subject to the general conditions governing taxation on the domestic market of a Member State and do not qualify for any refunding of turnover tax and/or excise duty, failing which Article 1 shall apply.

5. Under no circumstances may the total value of the goods exempted exceed the amount provided for in paragraph 1 or 2.

▼ B*Article 3*

For the purposes of this Directive:

1. The value of personal effects which are imported temporarily or are re-imported following their temporary export shall not be taken into consideration for determining the exemption referred to in Articles 1 and 2.
2. Importations shall be regarded as having no commercial character if they:
 - (a) take place occasionally, and
 - (b) consist exclusively of goods for the personal or family use of the travellers, or of goods intended as presents; the nature or quantity of such goods must not be such as might indicate that they are being imported for commercial reasons.

▼ M3

3. 'Personal luggage' shall mean the whole of the luggage which a traveller is in a position to submit to the customs authorities upon his arrival, as well as luggage which he submits later to the same authorities, subject to proof that such luggage was registered as accompanied luggage, at the time of his departure, with the company which has been responsible for conveying him.

The definition of 'personal luggage' shall not cover portable containers containing fuel. However, for each means of motor transport a quantity of fuel not exceeding 10 litres shall be admitted duty-free in such a container, without prejudice to national provisions governing the possession and transport of fuel.

▼B*Article 4*▼M1

1. Without prejudice to national provisions applicable to travellers whose residence is outside Europe, each Member State shall set the following quantitative limits for exemptions from turnover tax and excise duty of the goods listed below:

	I <i>Travel between third countries and the Community</i>	II <i>Travel between Member States</i>
(a) tobacco products:		
cigarettes	200	300
or		
cigarillos (cigars of a maximum weight of 3 grammes each)	100	150
or		
cigars	50	75
or		
smoking tobacco	250 g	400 g
(b) alcoholic beverages		
— distilled beverages and spirits of an alcoholic strength exceeding 22°	1 standard bottle (0.70 to 1 litre)	to a total of 1.5 litres
or		
distilled beverages and spirits, and aperitifs with a wine or alcohol base of an alcoholic strength not exceeding 22°; sparkling wines, fortified wines	to a total of 2 litres	to a total of 3 litres
and		
— still wines	to a total of 2 litres	► <u>M2</u> to a total of four litres ◀
(c) perfumes	50 g	75 g
and		
toilet waters	¼ litre	⅔ litre
(d) coffee	500 g	750 g
or		
coffee extracts and essences	200 g	300 g
(e) tea	100 g	150 g
or		
tea extracts and essences	40 g	60 g

▼M2

2. Exemption of the goods mentioned in paragraph 1 (a) and (b) shall not be granted to travellers under 17 years of age.

Exemption for the goods mentioned in paragraph 1 (d) shall not be granted to travellers under 15 years of age.

▼B

3. Within the quantitative limits set in paragraph 1 and taking account of the restrictions in paragraph 2, the value of the goods listed in paragraph 1 shall not be taken into consideration in determining the exemption referred to in Articles 1 and 2.

▼ M2

4. Where the travel referred to in Article 2 (1):
- involves transit through the territory of a third country; overflying without landing shall not, however, be regarded as transit within the meaning of this Directive,
 - begins in a part of the territory of another Member State in which turnover tax and/or excise duty is not chargeable on goods consumed within that territory,

the traveller must be able to establish that the goods transported in his luggage have been acquired subject to the general conditions governing taxation on the domestic market of a Member State and do not qualify for any refunding of turnover tax and/or duty, failing which the quantities set out in paragraph 1, column I, shall apply.

5. Under no circumstances may the total quantity of goods exempted exceed the quantities provided for in paragraph 1, column II.

▼ B*Article 5*▼ M1

1. Member States may reduce the value and/or quantity of the goods which may be admitted duty free, down to one-tenth of the values and/or quantities provided for in Articles 2 and 4 (1), column II, where such goods are imported from another Member State by persons resident in the frontier zone of the importing Member State or in that of the neighbouring Member State, by frontier zone workers, or by the crew of the means of transport used in international travel.

However, duty free entitlement in respect of the goods listed below may be as follows:

- (a) Tobacco products:

Cigarettes	40
or	
cigarillos (cigars of a maximum weight of 3 grammes each)	20
or	
cigars	10
or	
smoking tobacco	50 g

- (b) alcoholic beverages:

— distilled beverages and spirits, of an alcoholic strength exceeding 22°	0.25 litre
or	
— distilled beverages and spirits, and aperitifs with a wine or alcohol base of an alcoholic strength not exceeding 22°;	
sparkling wines, fortified wines	0.50 litre
and	
— still wines	0.50 litre

2. Member States may set lower limits as to value and/or quantity for the exemption of goods when they are imported from a third country by persons resident in the frontier zone, by frontier zone workers or by the crew of the means of transport used in travel between third countries and the Community.

▼ M1

3. Member States may set lower limits as to value and/or quantity for the exemption of goods when they are imported from another Member State by members of the armed forces of a Member State, including civilian personnel and spouses and dependent children, stationed in another Member State.

4. The restrictions in paragraphs 1 and 2 shall not apply where the persons referred to therein produce evidence to show that they are going beyond the frontier zone or that they are not returning from the frontier zone of the neighbouring Member State or third country.

These restrictions shall, however, still apply to frontier zone workers and to the crew of the means of transport used in international travel where they import goods when travelling in the course of their work.

5. For the purposes of paragraphs 1, 2 and 4:

- ‘frontier zone’ means a zone which, as the crow flies, does not extend more than 15 kilometres from the frontier of a Member State. Each Member State must however include within its frontier zone the local administrative districts part of the territory of which lies within the zone;
- ‘frontier zone worker’ means any person whose normal activities require that he should go to the other side of the frontier on working days.

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► **M1** 6. ◀ Member States may exclude from exemption goods falling within headings Nos 71.07 and 71.08 of the Common Customs Tariff.

► **M1** 7. ◀ Member States may reduce the quantities of the goods referred to in Article 4 (1) (a) and (d) for travellers coming from a third country who enter a Member State.

Article 6

► **M1** 1. ◀ Member States shall take appropriate measures to avoid remission of tax being granted for deliveries to travellers whose domicile, habitual residence or place of work is situated in a Member State and who benefit from the arrangements provided for in this Directive.

▼ M2

2. Without prejudice to rules relating to sales made at airport shops under customs control and on board aircraft, Member States shall take the necessary steps with regard to sales at the retail stage to permit in the cases and under the conditions provided for in paragraphs 3 and 4 the remission of turnover tax on deliveries of goods carried in the personal luggage of travellers leaving a Member State. No remission may be granted in respect of excise duty.

▼ M1

3. As regards travellers whose domicile or habitual residence is situated outside the Community, each Member State may set limits and lay down conditions of application in respect of tax remission.

As regards travellers whose domicile, habitual residence or place of work is situated in a Member State, there may be remission of tax only in respect of items the individual value of which, inclusive of tax, exceeds the amount specified in Article 2 (1).

▼ M2

Member States may exclude their residents from the benefit of this tax remission.

▼ M1

4. Remission of tax shall be subject:

- (a) in the cases referred to in the first subparagraph of paragraph 3, to production of a copy of the invoice or other document in lieu thereof, endorsed by the customs of the exporting Member States to certify exportation of the goods;

▼ M1

(b) in the cases referred to in the second subparagraph of paragraph 3, to production of a copy of the invoice or other document in lieu thereof, endorsed by the customs of the Member State where final importation takes place or by another authority of that Member State competent in matters of turnover tax.

5. For the purposes of this Article:

- ‘domicile or habitual residence’ means the place entered as such in a passport, identity card or, failing those, other identity documents which the exporting Member State recognizes as valid;
- ‘item’ means a thing or a group of things which normally constitute a whole.

▼ M2*Article 7*

1. For the purposes of this Directive, ‘European unit of account’ (EUA) shall be as defined in the Financial Regulation of 21 December 1977⁽¹⁾.

2. The EUA equivalent in national currency which shall apply for the implementation of this Directive shall be fixed once a year. The rates applicable shall be those obtaining on the first working day of October with effect from 1 January of the following year.

3. Member States may round off the amounts in national currency resulting from the conversion of the amounts in EUA provided for in Articles 1 and 2, provided such rounding-off does not exceed 2 EUA.

4. Member States may maintain the amounts of the exemptions in force at the time of the annual adjustment provided for in paragraph 2 if, prior to the rounding-off provided for in paragraph 3, conversion of the amounts of the exemptions expressed in EUA would result in a change of less than 5 % in the exemption expressed in national currency.

▼ M1*Article 7a*

Member States shall, within the framework of intra-Community travel, take the necessary steps to enable travellers to confirm tacitly or by a simple oral declaration that they are complying with the authorized limits and conditions for the duty-free entitlements.

▼ B*Article 8*

1. Member States shall bring into force not later than 1 January 1970 the measures necessary to comply with this Directive.

2. Each Member State shall inform the Commission of the measures which it adopts to implement this Directive.

The Commission shall communicate such information to the other Member States.

Article 9

This Directive is addressed to the Member States.

⁽¹⁾ OJ No L 356, 31. 12. 1977, p. 1.