

THE EUROPEAN COMMISSION'S NEW VAT STRATEGY: A PRAGMATIC APPROACH

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Since 1st January 1993, when the internal market was finally put in place, a so-called “transitional” common VAT system has been applicable in the Member States of the European Community. Initially the system was intended to remain in force for four years, but it is still with us and there is no sign of any changes in the pipeline.

Since 2000, therefore, the European Commission has elected to focus its efforts, not on replacing the existing system, but on improving the way it works.

1. Context

1.1. A system of taxing at the place of origin

Ever since it adopted its first and second VAT Directives in April 1967² (as part of the objective to create the most efficient common market possible), the Community has been committed to introducing laws and following policies aimed at establishing a common VAT system which eliminates import taxes and export

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² First Council Directive 67/227/EEC of 11th April 1967 on the harmonisation of legislation of Member States concerning turnover taxes (OJ English Special Edition, Series I, Chapter 1967, p.14).
Second Council Directive 67/228/EEC of April 1967 on the harmonisation of legislation of Member States concerning turnover taxes – Structure and procedures for application of the common system of value added tax (OJ English Special Edition, Series I, Chapter 1967, p.16).

tax exemptions in trade between the Member States. This commitment is in line with the objective of designing a VAT system geared to the internal market and working within the European Union as it would in a single country.

1.2. Establishing the Internal Market

The Commission put forward proposals for such a system in 1987³ under the programme to create an internal market by January 1993. In 1989, when it became clear that it would be impossible to adopt these proposals by 1st January 1993 (largely because of a lack of political will to accept the necessary approximation of tax rates), the ECOFIN Council decided to adopt instead a transitional system which would allow border controls to be eliminated in intra-Community trade⁴. This allowed Member States to retain flexibility in setting their rates, but meant that for goods supplied between taxable persons and on certain other precisely defined transactions (distance sales, new means of transport), VAT continued to be chargeable under the resulting system in the Member State of destination or consumption.

At the same time, however, both legally and politically, the Council reaffirmed its April 1967 commitment to introducing a “definitive system” of taxation by which goods and services would be taxed in “the Member State of origin”.

1.3. The Work Programme for 1996

Once again, therefore, it fell to the Commission to put forward new proposals. In 1996 it presented a programme⁵ whose object was to introduce a single place of taxation for transactions within the Community, i.e. a trader’s “tax domicile”, and a macro-economic mechanism for redistributing VAT receipts between the Member States.

The plan envisaged a gradual changeover towards a definitive system. The first stage was to be modernisation and more uniform application of the existing system, accompanied by changes whose outcome would be a definitive system. But it proved to be as difficult to implement this gradual approach as to effect what was known as the “big bang” of 1987. This was, *inter alia*, because

³ See COM(87)321 and 324 of 7th August 1987 (OJ C 250 pps. 2 and 3) and COM (87) 322 of 7th August 1987 (OJ C 252 p.2).

⁴ See Council Directive 91/680/EEC of 16th December 1991, supplementing the common system of value added tax and amending Directive 77/388/EEC with a view to the abolition of fiscal frontiers (OJ L 376, 31 December 1991).

⁵ COM(96)328 final 22.7.1996 (not published in the OJ).

gradual introduction raised problems of consistency as any new initiatives still had to be fitted into the existing system whilst already reflecting the principles of the definitive system. The proposal for a directive determining the person liable for payment of value added tax,⁶ presented by the Commission in November 1998, is a typical example of these difficulties.

It enunciated the general principle that a taxable person carrying out a taxable transaction should be liable for the tax that was due, whether or not that person was established in the country concerned, and therefore Member States should no longer require non-established persons to appoint a tax representative. In addition, however, the proposal provided for ending the related option of designating the recipient of goods or services as the person liable for the tax (the reverse charge mechanism).

This was consistent with the logic of gradual progress towards a definitive tax system but, under the transitional system, eliminating the reverse charge mechanism meant additional difficulties for traders engaged in cross-frontier activities. The arrangement relieved such traders in many cases from VAT obligations in the Member State in which the transaction concerned was taxed. As a result, the Council was unable to agree on this and other related proposals.

The Commission therefore had to accept that, given the positions of the Member States on the 1996 programme, it was as unrealisable as the 1987 proposals. On the other hand, if the transitional system was to continue to function properly, changes were becoming increasingly necessary.

1.4. The “new” VAT strategy presented in 2000

Against this background, in June 2000 the Commission presented a communication to the Council and the European Parliament in which it set out its strategic programme for improving the operation of the VAT system in the short term⁷. This was the launch of the “New Strategy for VAT”. The communication set out a pragmatic programme with four main objectives, namely the simplification, modernisation and more uniform application of the current rules and closer administrative cooperation. At the same time, however, the concept of a definitive system of taxation in the Member State of origin was retained as a long-term Community objective.

⁶ COM(98) 660 final of 27.11.1998.

⁷ COM (2000) 348 final of 7.6.2000.

The programme presented in 2000 differed from the “definitive system” of the 1996 programme, with its firm timetable and short deadlines, in that the 2000 programme was much more flexible. It provided for certain proposals already before the Council to be adopted in a modified fashion and presented others on which preparatory work was well advanced. But it made no mention of specific programmes for subsequent years. The Commission simply listed a number of topics it considered as meriting detailed examination during the lifetime of the strategy. This meant that action could be focused primarily on those areas which the Commission, the Member States and traders considered most problematic.

With this pragmatic approach the Commission’s intention was to give new momentum to work in the Council and encourage it to adopt as quickly as possible some of the specific, much needed improvements to the existing VAT system.

2. The New Strategy: A Preliminary Review

On 20th October 2003 the Commission presented a further communication entitled “Review and update of VAT strategy priorities”⁸ which contained an interim report on the progress made under the new strategy. This showed that between June 2000 (when the new strategy was launched) and October 2003 the Council had adopted nine proposals on VAT-related matters.

Since that Communication the Council has adopted two further directives, that on conferment of implementing powers and the procedure for adopting derogations⁹ and that to extend the facility allowing Member States to apply reduced rates of VAT to certain labour-intensive services¹⁰. Although not all the measures are equally important it has to be recognised that, in an area where a unanimous Council decision is still required, the new strategy has been relatively successful.

A list of the directives that have been adopted is to be found in **Annex I**, but the following are worth particular mention:

⁸ COM(2003) 614 final of 20.10.2003.

⁹ Council Directive 2004/7/EC of 10.2.2004 (OJ L 52 of 21.2.2004).

¹⁰ Council Directive 2004/15/EC of 10.2.2004 (OJ L 52 of 21.2.2004).

Elimination of the tax representative

As from 1st January 2003, the Directive on determining the person liable for tax¹¹ removed the option previously open to Member States by which they could require non-established traders to designate representatives to handle matters relating to tax on any transactions those traders carried out in Member States other than the one where they were established. This is based on the 1987 proposal determining the person liable (see above) but does not contain any restrictions on the use of the reverse charge mechanism. This explains why the Council was able to agree upon the proposal, whereas prior to 2000 it had been unable to do so.

Harmonisation of the content of invoices and acceptance of electronic invoicing

The Directive on invoicing¹² created a legal framework for the use of electronic invoicing and the electronic storage of invoices and established harmonised rules regarding the content of VAT invoices, the outsourcing of invoicing operations and self-billing. It was an important step forward since the invoice is the cornerstone of the VAT system and its adoption will create far greater legal certainty for traders.

E-commerce

In the area of both international and intra-European sales the Directive on certain electronically supplied services¹³ has re-established a level playing field between EU businesses and those not established in the EU. Prior to its adoption, traders in the Community were required to charge VAT on all their e-commerce supplies (even to clients outside the Community) whilst non-EU traders were not required to charge VAT on their sales to EU clients. By adopting this Directive, the European Union is the first tax jurisdiction in the world to have developed and introduced a simplified framework for the payment of consumer taxes on e-commerce transactions in accordance with the principles agreed in the OECD.

¹¹ Council Directive 2000/65/EC of 17.10.2000 (OJ L 269 of 21.10.2000).

¹² Council Directive 2001/115/EC of 20.12.2001, (OJ L 15 of 17.1.2002).

¹³ Council Directive 2002/38/EC of 7.5.2002 (OJ L 128 of 15.5.2002).

Place of supply of gas and electricity

The process of liberalising the gas and electricity markets highlighted the difficulties of applying the existing VAT rules to cross-border sales. The Directive¹⁴ ensures that it is possible to identify with certainty where the place of taxation should be and that it corresponds with the place where the energy is consumed.

Administrative cooperation between Member States

Here there has been major progress with the adoption of modifications designed to improve the functioning of the Directive on mutual assistance for the recovery of claims¹⁵ and the adoption of a new Regulation aimed at providing a single legal instrument covering all aspects of administrative cooperation in the field of value added tax.¹⁶

3. The New Strategy: Next Steps

In its communication "Review and update of VAT strategy priorities", the Commission also presents the new initiatives it envisages in the short term. These are, to a large extent, guided by two general objectives, i.e. the reaffirmation of the principle of taxation at the place of consumption and the simplification of traders' obligations.

Taxation at the place of consumption and consistency with the definitive system

The first guideline reaffirms the fundamental principle that VAT is a general tax on consumption, under which the revenue should go to the Member State where actual consumption takes place. One of the major objectives of the common VAT system is to assign the tax to the Member State where final consumption of goods or services occurs or is deemed to occur. In practice, this means that rules governing the place of taxable transactions are so devised as to ensure that the tax goes to the Member State of consumption.

However, the rules on the place of taxation for services, which were first drawn up in the 1970s, serve less and less well to ensure that the objective of assigning

¹⁴ Council Directive 2003/92/EC of 7.10.2003 (OJ L 260 of 11.10.2003, p.8).

¹⁵ Council Directive 2001/44/EC of 15.6.2001 (OJ L 175 of 28.6.2001).

¹⁶ Council Regulation (EC) No 1798/2003 of 7th October 2003 (OJ L 264 of 15.10.2003, p.1).

revenue is achieved. In practice, in the case of remotely provided services (such as telecommunication or digital supplies), firms providing such services are increasingly choosing their place of establishment mainly for tax-planning reasons. The rules on the place of taxation need to be reviewed therefore in order to ensure that, as far as possible, the place of taxation and the place of actual consumption are the same, subject to ensuring that the new rules do not impose excessive tax obligations on traders.

Simplifying tax obligations – The one-stop shop mechanism

For B2B (business to business) transactions between taxable persons, making the business customer the taxable person (i.e. the reverse charge mechanism) means taxation occurs at the place of consumption and tax obligations are not imposed on the supplier in the Member State of consumption. Thus both correct revenue allocation and simplification of obligations are achieved. A broader application of this mechanism, to cover all cases where the person carrying out the transaction is not established in the Member State of taxation, is therefore desirable.

For business to consumer (B2C) transactions, where the customer is generally a private individual, taxation at the place of consumption cannot be achieved by making the customer liable. (An attempt to do this is to be found in the “use” taxes imposed in many American States in parallel with their “sales” taxes. These do not in general succeed! – see below). Instead the supplier has to remain liable and thus be identified, and make tax returns and payments, in every Member State where he carries out taxable transactions.

In this context, it should be noted that the special mechanism which has been introduced for electronically provided services represents an important step in the operation of the common VAT system. For the first time, the Council has accepted the principle that the Member State where a transaction is taxed need not necessarily be the Member State in which the VAT obligations relating to the transaction have to be fulfilled. In the interests of simplifying those obligations, the Council has adopted the principle that a trader not established in the EU can be identified, lodge his tax returns and pay VAT on all services provided electronically to non-taxable persons established in the EU in one single place (the one-stop shop). There is no reason why Community traders in a comparable position (liable for tax in one or more Member States where they are not established) should not benefit from a similar simplification. The 2003 communication therefore identifies wider use of the one-stop shop mechanism as a key to simplifying the obligations of Community traders.

A future one-stop shop for intra-community transactions need not necessarily work in exactly the same way as the recently introduced mechanism for

electronically supplied services. Apart from anything else, in the Directive which covers electronically supplied services, the Council imposed the condition that any mechanism for e-commerce must be capable of calculating the amount of VAT, handling VAT returns and collecting and assigning VAT revenue. The Council has to review the mechanism by 30th June 2006.

The Commission has indicated its intention of not limiting this review to electronically supplied services alone, but of widening it to all operations for which a trader is liable for tax in a Member State where he is not established. This would greatly extend the area of application of the one-stop shop. In this connection it is interesting to note that a very similar system, the "Streamlined Sales Tax Project" (SSTP)¹⁷, is under way in the United States. Although the "sales and use taxes" charged in the United States are very different from the value added tax system of the European Union, it has been noted that similar problems arise in both in connection with cross-border sales and the proposed solutions are comparable.

For instance, in the United States – mainly thanks to the possibilities opened up by the Internet – there has been a big expansion in the distance selling of goods to private consumers. In the United States these transactions cause considerable tax collection problems since a vendor not established in a given State (i.e. without "physical nexus") cannot be designated as liable for the tax in that State. The party liable for the tax is therefore the end consumer, who cannot be relied upon to pay the tax.

In 1967 the Supreme Court decided that a State may not require tax to be collected from a mail order vendor not physically present in that State. The Court confirmed this position in 1992, indicating at the same time that it would not be possible to designate a non-established vendor as liable for the tax unless the States simplified and standardised their tax system. The SSTP is currently attempting to achieve this, the aim being to ensure that taxation takes place at the point of consumption and is collected from the taxable vendor. To fulfil the criteria laid down by the Court, consideration is being given to the possibility of setting up an electronic system that will enable a vendor to pay the taxes due in the various States where his customers are established. The features of this system are very similar to those of the one-stop shop (e.g. a single place for identification and for lodging tax returns).

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See <http://www.streamlinedsalestax.org>

4. The Guidelines applied in Practice

There are basically four different types of cross-frontier transactions which can be identified in the common VAT system and which can be tested against the two guidelines described above.

a) B2B supplies of goods

Exempting supplies between taxable persons in the Member State of departure and taxing the intra-Community acquisition thereof in the Member State of destination, where the tax is paid by means of the recipient's regular VAT return, gives the right result both in terms of revenue allocation and in the simplification of obligations. It does, however, give rise to a serious potential for fraud given that the self-policing aspect of the VAT system (the fractionated payment of VAT at various stages) is no longer present at the intra-Community stage. Thus the well-documented phenomenon of carousel or missing trader fraud has grown somewhat alarmingly.

To counter this, the Commission and the Member States have sought to enhance administrative cooperation and to develop a system of "Best Practice" in control methods. For further details see the Commission report on the use of administrative cooperation arrangements in the fight against VAT fraud¹⁸.

b) B2C supplies of goods

When the Single Market came into being on 1st January 1993, special arrangements were incorporated into the common VAT system to provide for taxing, at destination, intra-Community sales of new means of transport, intra-Community sales to exempt taxable persons or non-taxable legal persons and distance sales to private consumers.

Nothing has occurred to alter the main reason for introducing these special arrangements, i.e. the risk of insufficiently harmonised tax rates leading to distortion of competition and incorrect allocation of tax revenue on a significant scale. Dropping the special arrangements is therefore not a realistic option and they will need to be maintained for the foreseeable future in order to ensure correct revenue allocation. However, in order to simplify the tax obligations of suppliers of such goods, the introduction of the one-stop shop could bring substantial simplifications for traders established in the Community.

¹⁸ COM(2004) 260 final, 16.04.2004

c) The B2B supplies of services

On 23rd December 2003 the Commission presented a proposal for a directive on the place of supply of services¹⁹. The key element of this proposal, which covers B2B transactions only, is an amendment of the general rule for establishing the place of taxation, which is currently the place where the *supplier* is established, so that it would become the place where the *customer* is established or has a fixed establishment. However, to avoid placing a disproportionate administrative burden on some traders, there would be exceptions to this general rule for some services for which there are currently specific rules (e.g. services related to immovable property and transport services). This would reinforce (in cases where the customer does not have a full right of deduction) the principle of taxation in the Member State of consumption. On the other hand, the amendment does not impose any additional tax obligations since the customer would pay the VAT by means of the reverse charge mechanism.

d) B2C supplies of services

The current general rule for B2C transactions, i.e. that the service is taxed at the place where the supplier is established, is very simple for traders. However, when services can be provided remotely, this rule no longer guarantees that the tax receipts will go to the Member State in which the service is consumed and, increasingly, results in distortion of competition.

The rules on the place of taxation of services provided to end consumers therefore need to be re-examined. Any revision should guarantee that the principle of taxation at the place of consumption is applied more strictly. However this must not result in traders bearing a significantly increased administrative burden, and the solution therefore is to apply the one-stop shop mechanism to remotely provided B2C services.

In the amendment to the place of taxation of (B2C) services, the two guidelines on simplifying tax obligations (via the one-stop shop) and on taxation at the place of consumption are clearly and indissolubly linked. The Commission plans to present a proposal on the place of taxation of B2C services in 2005.

5. Other topics covered by the New Strategy

Revision of the rules on the place of taxation and the simplification of obligations are not the only topics tackled under the new strategy. With a view to

¹⁹ COM (2003)822 final of 23.12.2003.

modernisation, simplification and more uniform application of the system several proposals for directives have already been presented to the Council, and the presentation of more in 2004 is being considered. These are all included in the table in **Annex 2** but particular mention should be made of the following measures:

Proposals before the Council

VAT rates

The Commission presented its proposal²⁰ on the application of reduced VAT rates with a view to simplifying the rules governing rates of tax and guaranteeing a more uniform application of the tax. The proposal aims to give Member States equal opportunities to apply reduced VAT rates in certain areas where there is little or no danger of cross-border distortions (such as restaurants, housing, gas and electricity supplies and home care services). It also aims to rationalise the numerous derogations currently applicable to VAT rates in some Member States. What is proposed, therefore, is to make Annex H the only reference for any derogation from the standard rate of VAT, the aim being to make the internal market work more smoothly and to avoid potential distortion of competition.

However, as this is a politically sensitive matter, it proved impossible for the Council to reach agreement on it before the end of 2003. Hence, to avoid any legal uncertainty as from 1st January 2004, the Council requested the Commission to put forward proposals to allow nine Member States that already applied a reduced rate of VAT to highly labour-intensive services to continue doing so for a further two years. The subsequent Directive adopted by the Council allows the continued application of the reduced rate subject to the current conditions and without changing or widening the area to which these experimental rates applied²¹. This will give the Council the time it needs to legislate on the general proposal regarding reduced rates of VAT.

Special rules for travel agencies

The proposal for a directive aims to amend the VAT rules applicable to travel agencies that sell package tours to destinations in the European Union. The current special arrangement allows travel agents to apply VAT to their profit margins rather than to the full value of their sales. The proposal aims to change

²⁰ COM (2003)397 final of 23.7.2003.

²¹ Council Directive 2004/15/EC of 10.02.2004 (OJ L 52 of 21.02.2004).

the rules to eliminate problems of double taxation which currently arise when one travel agency deals with another. It will also put a stop to the benefits of unfair competition accruing to some travel agents because the current rules are not uniformly applied in all Member States and because non-EU operators do not charge VAT on the package tours they sell to EU residents.

Arrangement for the postal sector

The Commission has also presented a proposal to apply VAT to all services provided in the postal sector²² in order to take into account changes in the sector, notably the growth of liberalisation and privatisation. The situation has changed considerably since the 1970s when the Sixth Directive was adopted and when national postal services were in a monopoly position and provided a limited range of services for which there was no competition.

The aim of the proposal is to eliminate the distortions of competition currently causing difficulties for both the conventional national providers of postal services, who are currently exempt from VAT, and for their competitors, who are required to apply VAT. Market liberalisation is likely to increase these distortions. The proposed changes should not have a big impact on the cost of postal services to the general public since, for the first time, national operators will be able to deduct the VAT they themselves are required to pay on their costs which they currently recover from their customers in the form of a hidden VAT charge. Also, to prevent any rise in the prices charged to the general public, Member States will be able to apply a reduced VAT rate to ordinary postal services (addressed consignments not exceeding a maximum 2 kg). As far as business customers are concerned, the VAT applicable to postal services provided by national operators will bring the benefit that the business customer will be able to deduct the tax from his expenditure on postal services. This will reduce business costs marginally.

Recast of the Sixth VAT Directive

The Sixth Directive is the legal framework for the currently applicable common VAT system. The Directive has undergone twenty legislative amendments since it first entered into force and the result is a legal instrument that is complicated and difficult to consult. This is particularly the case since the “transitional” arrangements were introduced into the Directive in 1992.

The Commission undertook to prepare a reworked version of the Directive to turn it into an effective instrument which clearly sets out the legislation currently

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COM (2003)234 final of 5.5.2003.

in force. The public was consulted on the exercise via the Internet, thus giving those involved an insight into the structure of the directive due to replace the Sixth Directive. The proposal was presented to the Council in April 2004²³

Proposals planned for 2004

Simplifying VAT obligations

In 2004, the Commission envisages the introduction of a proposal for a directive simplifying traders' obligations. Here the one-stop shop will definitely be the most important component. However, the Commission is also considering including other simplifications for the application of the reverse-charge mechanism and the arrangement for distance sales. A public consultation on this matter is currently being held.

Sales promotions using vouchers and payment cards

The tax treatment of vouchers, mainly used as part of sales promotion campaigns, has been the subject of a number of Court of Justice rulings in recent years. A number of principles can be derived from these rulings relating to specific cases, but their application to the multiplicity of forms that promotion systems can take continues to pose considerable problems. In addition, changes in the way certain goods and services are paid for, such as payments by telephone cards, raises issues of interpretation regarding the point in time at which the tax becomes chargeable and the nature of the taxable amount for transactions conducted through intermediaries. The introduction of a proposal for a directive to ensure more uniform treatment of all these matters at Community level is envisaged in 2004.

Rationalising existing derogations

The Commission plans a certain degree of rationalisation of some of the many simplification and anti-avoidance derogations which Member States have been granted under Article 27 of the Sixth VAT Directive. In certain cases this could mean extending to all Member States the right to apply some of the derogations that have proved particularly effective. Many of the existing derogations have certain features in common. For instance, there are similarities between the derogations several Member States apply to their respective gold and waste sectors. On the other hand, it is clear that some measures are simply designed to

remedy a particular situation in a single Member State. The rationalisation exercise does not intend to generalise nor call this type of authorisation into question.

Mechanism for eliminating double taxation in individual cases

In its Communication of October 2003 the Commission announced its intention of introducing a Community-level mechanism to resolve the problem of individual cases of double taxation. It will not be a case of introducing a procedure to resolve questions of differing interpretation of the Sixth Directive, since this is a matter to be resolved either in the VAT Committee or ultimately by the courts. It is instead aimed at dealing with cases where different national administrations interpret the nature of a supply differently which then leads to different and sometimes conflicting tax treatment. Bilateral double taxation agreements drafted on the basis of an OECD standard text provide for a mutual agreement procedure to eliminate double taxation in the direct tax field. Experience has shown that simply getting the national authorities of the Member States concerned to discuss a case very often results in a settlement. Accordingly, the Commission would like to see similar, but multilateral arrangements introduced in the VAT field via the Sixth VAT Directive.

6. Conclusion

The pragmatic approach of the new strategy has achieved its main objective, namely to give a new impetus in the Council in the field of VAT legislation. The Commission therefore intends to continue down the route which it started in 2000. However, some of the proposals currently before the Council and some of the initiatives in the pipeline concern key parts of the VAT system which directly affect VAT receipts. Chief among these are the place of taxation and VAT rates and these will probably require long and difficult negotiations. Similarly, the fact that the principle of unanimity is likely to be retained in connection with taxation in the enlarged European Union will not facilitate the search for compromise. The challenge currently facing the Commission and the Council is therefore to maintain the current momentum.

ANNEX I**Proposals adopted since the new strategy was launched in June 2000**

Subject of the proposal	Stage reached in Council
Determination of the person liable for payment of value added tax [COM(1998) 660]	Adopted by Council Directive 2000/65/EC of 17.10.2000 (OJ L 269 of 21.10.2000)
Greater mutual assistance for the recovery of claims [COM(1998) 364]	Adopted by Council Directive 2001/44/EC of 15.6.2001 (OJ L 175 of 28.6.2001)
Fixing the minimum standard VAT rate [COM(2000) 537]	Adopted by Council Directive 2001/41/EC of 19.1.2001 (OJ L 22 of 24.1.2001)
Invoicing [COM(2000) 650]	Adopted by Council Directive 2001/115/EC of 20.12.2001 (OJ L 15 of 17.1.2002)
Extending the Fiscalis programme [COM(2002) 10]	Adopted by Decision No 2235/2002/EC of the European Parliament and of the Council of 3.12.2002 (OJ L 341 of 17.12.2002)
Electronically supplied services [COM(2000) 349]	Adopted by Council Directive 2002/38/EC and Council Regulation (EC) No 792/2002 of 7.5.2002 (OJ L 128 of 15.5.2002)
Administrative cooperation in the field of value added tax [COM(2001) 294]	Adopted by Council Regulation (EC) No 1798/2003 of 7.10.2003 (OJ L 264 of 15.10.2003)
Extending the facility allowing Member States to apply reduced rates of VAT to certain labour-intensive services [COM(2002) 525]	Adopted by Council Directive 2002/92/EC of 3.12.2002 (OJ L 331 of 7.12.2002), the corrigendum of 23.1.2003 (OJ L 18 of 23.1.2003) and Council Directive 2004/15/EC of 10.2.2004 (OJ L 52 of 21.2.2004)
Place of supply of gas and electricity [COM(2002) 688]	Adopted by Council Directive 2003/92/EC of 7.10.2003 (OJ L 260 of 11.10.2003)
Conferment of implementing powers and the procedure for adopting derogations [COM(2003) 335]	Adopted by Council Directive 2004/7/EC of 20.1.2004 (OJ L 27 of 30.1.2004)

ANNEX 2**Proposals still before the Council**

Rules of Procedure of the VAT Committee [COM(97)349]
Right to deduct [COM(1998) 377]
Special scheme for travel agents [COM(2002) 64]
Services provided in the postal sector [COM(2003) 234]
The scope of reduced rates [COM(2003) 397]
Place of taxation of (B2B) services [COM(2003)822 final of 23.12.2003]
Recast version of the Sixth Directive [COM(2004)246 of 15.04.2004]

Proposals for legislation that the Commission envisages presenting in 2004

Rationalisation of measures granting derogations
Promotion systems and payment cards
Simplification of obligations (including revision of the rules on place of taxation of goods)
Eliminating the double taxation of private individuals
Implementing measures for Article 29a of the Sixth VAT Directive