

COUNCIL DIRECTIVE 92/84/EEC of 19 October 1992 on the approximation of the rates of excise duty on alcohol and alcoholic beverages

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty instituting 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 Directive 92/12/EEC (4) lays down provisions on the general arrangements for products subject to excise duties;

Whereas Directive 92/83/EEC (5) lays down provisions relating to the harmonization of the structures of excise duties on alcohol and alcoholic beverages;

Whereas Member States should apply minimum rates of excise duty on these products by 1 January 1993 if the internal market is to be achieved by that date;

Whereas the most appropriate basis for levying duty on ethyl alcohol is the volume of pure alcohol;

Whereas the most appropriate basis for levying duty on wine and intermediate products is the volume on the finished product;

Whereas the consumption pattern of sparkling wine differs from that of still wine; whereas, therefore, Member States may be allowed to charge differing rates of duty on the two products;

Whereas the methods of taxing beer within the Member States vary, and it is possible to permit this variation to continue, in particular by laying down a minimum rate expressed as a charge related both to the original gravity and to the alcoholic content of the product;

Whereas it is possible to permit certain Member States to apply reduced rates to products consumed within particular regions of their national territory;

Whereas it is necessary for the rates laid down in this Directive to be reviewed periodically on the basis of a Commission report taking account of all the appropriate factors;

Whereas a mechanism should be set up to enable specific amounts expressed in ecu to be converted into national currency,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Not later than 1 January 1993, Member States shall apply minimum rates of excise duty in accordance with the rules laid down in this Directive.

Article 2

The products covered by this Directive are:

- alcohol and alcoholic beverages,
- intermediate products,
- wine,
- beer,

as defined in Directive 92/83/EEC.

Article 3

1. As from 1 January 1993, the minimum rate of excise duty on alcohol and alcohol contained in beverages other than those referred to in Articles 4, 5 and 6 shall be fixed at ECU 550 per hectolitre of pure alcohol.

However, Member States which apply to alcohol and alcoholic beverages a rate of duty not exceeding ECU 1 000 per hectolitre of pure alcohol may not reduce their national rate. In addition Member States which apply to the said products a rate of duty exceeding ECU 1 000 per hectolitre of pure alcohol may not reduce their national rate below ECU 1 000.

2. The Kingdom of Denmark may, however, maintain its existing system of taxing alcohol and the alcohol contained in other products until 30 June 1996, provided that the application of that system never results in the application of a charge which falls below that which would arise from the application of paragraph 1 in accordance with the rules laid down in Directive 92/83/EEC.

3. The Italian Republic may, however, maintain its existing system of taxing alcohol and the alcohol contained in other products, which provides a reduced rate for some categories of alcohol, until 30 June 1996, provided that the application of that system never results in the application of a charge which falls below that which would arise from the application of paragraph 1 in accordance with the rules laid down in Council Directive 92/83/EEC.

Article 4

As from 1 January 1993, the minimum rate of excise duty on intermediate products shall be fixed at ECU 45 per hectolitre of product.

Article 5

As from 1 January 1993, the minimum rate of excise duty on wine shall be fixed:

- for still wine at ECU 0,

and

- for sparkling wine at ECU 0

per hectolitre of product.

Article 6

As from 1 January 1993, the minimum rate of excise duty on beer shall be fixed:

- ECU 0,748 per hectolitre/degree Plato,

or

- ECU 1,87 per hectolitre/degree of alcohol

of finished product.

Article 7

1. The Hellenic Republic may apply a reduced rate of excise duty to ethyl alcohol consumed in the departments of Lesbos, Chios, Samos, the Dodecanese and the Cyclades and on the following islands in the Aegean: Thasos, Northern Sporades, Samothrace and Skiros.

The reduced rate, which may fall below the minimum rate of duty, may not fall more than 50 % below the standard national rate of duty on ethyl alcohol.

2. The Italian Republic may continue to apply the exemptions and reduced rates of excise duty, which may fall below the minimum rates, which were applied on 1 January 1992 to alcohol and alcoholic drinks consumed in the regions of Gorizia and the Aosta valley.

3. The Portuguese Republic may continue to apply, in the autonomous regions of Madeira and the Azores, reduced rates of excise duty not falling more than 50 % below the national rates, on the following products:

(a) in Madeira

- wine obtained from the purely regional grape varieties specified in Article 15 of Regulation (EEC) No 4252/88,
- rum as defined in Article 1 (4) (a) of Regulation (EEC) No 1576/89 having the geographical characteristics set out in Article 5 (3) and Annex II, point 1, of that Regulation,
- liqueurs produced from sub-tropical fruit enriched with sugar cane eau-de-vie and having the characteristics and qualities defined in Article 5 (3) (b) of Regulation (EEC) No 1576/89; (b) in the Azores
- liqueurs as defined in Article 1 (4) (r) of Regulation (EEC) No 1576/89 produced from passion fruit and pineapple,
- eau-de-vie made from wine or from grape marc having the characteristics and qualities defined in Article 1 (4) (d) and (f) of Regulation (EEC) No 1576/89.

Article 8

Every two years, and for the first time not later than 31 December 1994, the Council, acting on the basis of a report and, where appropriate, a proposal from the Commission, shall examine the rates of duty laid down herein and, acting unanimously after consulting the European Parliament, shall adopt the necessary measures. The report by the Commission and the consideration by the Council shall take into account the proper functioning of the internal market, competition between the different categories of alcoholic drinks, the real value of the rates of duty and the wider objectives of the Treaty.

Article 9

1. The value of the ecu in national currencies to be applied to the value of specific excise duties shall be fixed once a year. The rates to be applied shall be those obtaining on the first working day of October and published in the Official Journal of the European Communities and shall have effect from 1 January of the following calendar year.
2. Member States may maintain the amounts of the excise duties in force at the time of the annual adjustment provided for in paragraph 1 if the conversion of the amounts of the excise duties expressed in ecu would result in an increase of less than 5 % or less than ECU 5, whichever is the lower amount, in the excise duty expressed in national currency.

Article 10

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 31 December 1992. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

2. Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field governed by this Directive.

Article 11

This Directive is addressed to the Member States. Done at Luxembourg, 19 October 1992.
For the Council

The President

J. COPE

(1) OJ No C 12, 18. 1. 1990, p. 12. (2) OJ No C 94, 13. 4. 1992, p. 46. (3) OJ No C 225, 10. 9. 1991, p. 54. (4) OJ No L 76, 23. 3. 1992, p. 1. (5) See page 21 of this Official Journal.