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**The impact of VAT on charities and foundations
ECCVAT's comments on the VAT rates proposal
November 2018**

On 18 January 2018, the European Commission proposed new rules amending the VAT Directive ([2006/112/EC](#)) to give Member States more flexibility when setting VAT rates. In addition to keeping a standard VAT rate of minimum 15% the European Commission has suggested that Member States be able to put in place:

- two separate reduced rates of between 5% and the standard rate chosen by the Member State
- one exemption from VAT (or 'zero rate')
- one reduced rate set at between 0% and the reduced rates

The current [list](#) (Annex III) of goods and services to which reduced rates can be applied would be abolished and replaced by a negative list (a new [Annex IIIa](#)) to which reduced rates cannot be applied (the standard rate of 15% or above would always be applied to the goods and services mentioned on the list).

Given the problems that charities encounter with the VAT system, ECCVAT has welcomed the Commission's proposal. It would not only allow the continuation of the existing reduced rates and zero-rates that exist in various Member States, on which many charities depend for their economic viability, but would also enable organisations in other Member States to benefit from such measures.

Following discussions with the Commission, the EESC and MEPs, ECCVAT suggested some changes to improve the Commission's proposal. The EESC adopted its Opinion on 23 May and the Parliament voted on its report on 3 October. Although ECCVAT welcomes the EESC and the Parliament's Opinions, which both clearly ask for reduced rates 'to be given in priority to goods or services having a positive impact on the general interest', our main concern which remains to be solved is the large amount of irrecoverable VAT that sticks with those organisations working at the forefront of social provision across the EU. The current system incurs high costs for charities and foundations because the services they provide are either exempt or outside the scope of VAT. As a result, they are unable to recover VAT on their purchases.

ECCVAT recommends the adoption of the Commission's proposal and strongly believes that further amendments are necessary to improve the VAT treatment of charities.

1) Recognising the specific position of charities to ensure they receive the benefit of reduced rates and zero rates

The current VAT system treats charities and foundations (referred below as 'charities') differently depending on the types of service they provide and whether or not they charge for their services. Those that do not charge are treated as the final consumer even when they are not. As a result, they are unable to recover VAT on the purchases (input VAT) made to support their activities. Most of the charities that charge for their services also suffer from irrecoverable VAT because their services are classified as exempt under Article 132 (1) a-q of the Principal VAT Directive (2006/112/EC).

One of our concerns is the question of the interpretation of the concept of ‘for the benefit of the final consumer’ and ‘in the general interest’. This is particularly critical given that it is stated in the proposed Article 98 that the reduced rates and the exemption with refund must be for the benefit of the final consumer and in the general interest. ECCVAT believes that this should not prevent charities from receiving the benefit of such reduced rates and zero rates on qualifying supplies that are made to and targeted at charities themselves for use specifically for the benefit of their members and beneficiaries.

In its Opinion, the EESC has:

- Stated that reduced rates and exemptions should be applied primarily for the purpose of achieving a general-interest objective and recognised that sometimes, intermediate bodies achieving this objective are not final consumers (Point 1.2)
- Recognised that the specific position of ‘organisations and associations providing assistance to disadvantaged people’ in the VAT system and the irrecoverable VAT costs they are facing. The EESC has asked for these organisations to be exempt from the VAT regime (Points 1.7,3.10 and 3.11).

The European Parliament has requested that reduced rates be given in priority to goods or services having a positive impact on the general interest (Amendment 16):

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2006/112/EC

Article 98 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Reduced rates and exemptions applied pursuant to paragraphs 1 and 2 shall **only** benefit the final consumer and shall be applied to pursue, in a consistent manner, an objective of general interest.

Amendment 16

Reduced rates and exemptions applied pursuant to paragraphs 1 and 2 shall benefit the final consumer and shall be applied to pursue, in a consistent manner, an objective of general interest.

Priority shall be given to goods or services having a positive impact on the general interest, such as cultural, social or environmental benefits.

2) Allowing the deduction of input VAT of non-taxable services and deliveries provided by charities

The issue of whether or not charities are to be regarded as being final consumers is key to resolving the problem of irrecoverable VAT described above within the VAT system as it seems to us that charities (those who provide charitable services as well as those that exist solely to make grants to support that service provision of other charities) are closer to the process of material and social reproduction of societies than to private consumption and therefore closer to markets and businesses. Therefore, it would surely not be a breach of VAT system principles to allow the deduction of input VAT also in cases of non-taxable services and deliveries provided by charities and other public benefit organisations to their needy target groups.

Article 98 of the proposal will allow Member States the option to allow an exemption with the right to deduct VAT which we strongly welcome and we also believe that this right should be extended to deduct input VAT to outside the scope of non-business activities of charities for the same reasons demonstrated above.

We strongly believe that the following text should be added to article 98 paragraph 3:

Proposal for a directive

Article 1 – paragraph 1 – point 2

Directive 2006/112/EC

Article 98 – paragraph 3

Text proposed by the Commission

Reduced rates and exemptions applied pursuant to paragraphs 1 and 2 shall **only** benefit the final consumer and shall be applied to pursue, in a consistent manner, an objective of general interest.

ECCVAT supports the Parliament’s proposal and strongly suggests the addition of the following text highlighted in yellow:

Reduced rates and exemptions applied pursuant to paragraphs 1 and 2 shall benefit the final consumer and shall be applied to pursue, in a consistent manner, an objective of general interest.

To that end:

- **Priority shall be given to goods or services having a positive impact on the general interest, such as cultural, social or environmental benefits.**
- **Deduction of input VAT of non-taxable services and deliveries provided by charities and other public benefit organisations shall be allowed.**

3) Protecting current derogations and reduced rates and making them available to charities and other public benefit organisations across Europe

ECCVAT welcomes the proposal which would not only allow the continuation of the existing reduced rates and zero-rates that exist in various Member States on which many charities depend for their economic viability but would also enable organisations in other Member States to benefit from such measures [pages 3 and 4 of the Commission’s proposal]. Nevertheless, ECCVAT’s members are concerned to ensure that the current derogations and reduced rates are protected.

Fundraising charities that do not charge for their services and grant-making charities have no ultimate consumer to whom the irrecoverable VAT that they currently pay can be passed on. The benefit that such organisations currently get from certain reduced or zero rates on their input side is vital to their ability to continue to provide services and we would argue that it is essential that all such reduced rates and derogations are maintained and are made available to charities across Europe.

We suggest that a new recital 8a be included as follows:

Proposal for a directive
Recital 8 a (new)

Text proposed by the Commission

Addition proposed by ECCVAT

(8a) Member States should try to ensure that all the current reduced rates and derogations be maintained and made available to charities and other public benefit organisations across Europe.

4) Introducing more regular reviews of the list of the excluded items in Annex IIIa

The move away from a definitive list of goods and services that may be taxed at a reduced rate to a negative list which stipulates which goods and services should not be taxed at a reduced rate is also welcome as it would reduce the current difficulty of ensuring that the list of reduced rates is regularly updated. However, ECCVAT is of the view that there should be more regular reviews of the list of the items in Annex IIIa than the five-yearly review currently envisaged.

ECCVAT asks you to include the Parliament's proposal requiring more regular reviews:

Proposal for a directive

Article 1 – paragraph 1 – point 5

Directive 2006/112/EC

Article 100 – paragraph 1

Text proposed by the Commission

Modification proposed by the Parliament and supported by ECCVAT (Amendment 18)

By 31 December **2026** and every **five** years thereafter, the Commission shall submit to the Council a report on the scope of Annex IIIa, accompanied by any proposals to amend that Annex, where necessary.

By 31 December **2021** and every **two** years thereafter, the Commission shall submit to the **European Parliament and the** Council a report on the scope of Annex IIIa, accompanied by any proposals to amend that Annex, where necessary

ECCVAT, November 2018

About ECCVAT

The European Charities' Committee on Value-Added Tax (ECCVAT) is a pan-European network of charities and foundations (referred in the document as 'charities') that was set up in 1992 to research the impact of VAT and other taxes on the work of charities. ECCVAT has been very active in the different stages of the Future of VAT initiative. ECCVAT has previously been an Observer on the Commission's VAT Expert Group and has regularly met DG TAXUD officials to discuss the impact of the VAT system on charities.

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