



New rules on VAT rates

Directive (EU) 2022/542

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History

– Commission proposal of 18.1.2018, COM(2018)20final

Need for review: The EU's common rules on VAT rates did not treat Member States equally. More than 250 exemptions allowed several Member States much more flexibility in setting VAT rates than others. While these derogations were due to expire once the reformed VAT system comes into place, the rates proposal was aimed at ensuring that all Member States have the same flexibility and a uniform structure in which to set their own VAT rates.

History

– Commission proposal of 18.1.2018, COM(2018)20final

Negative list: The list of goods and services to which reduced rates could be applied would be abolished and replaced by a new list of products to which the standard rate of minimum 15% must **always** be applied. This list would include products such as weapons, alcoholic beverages, gambling and tobacco.

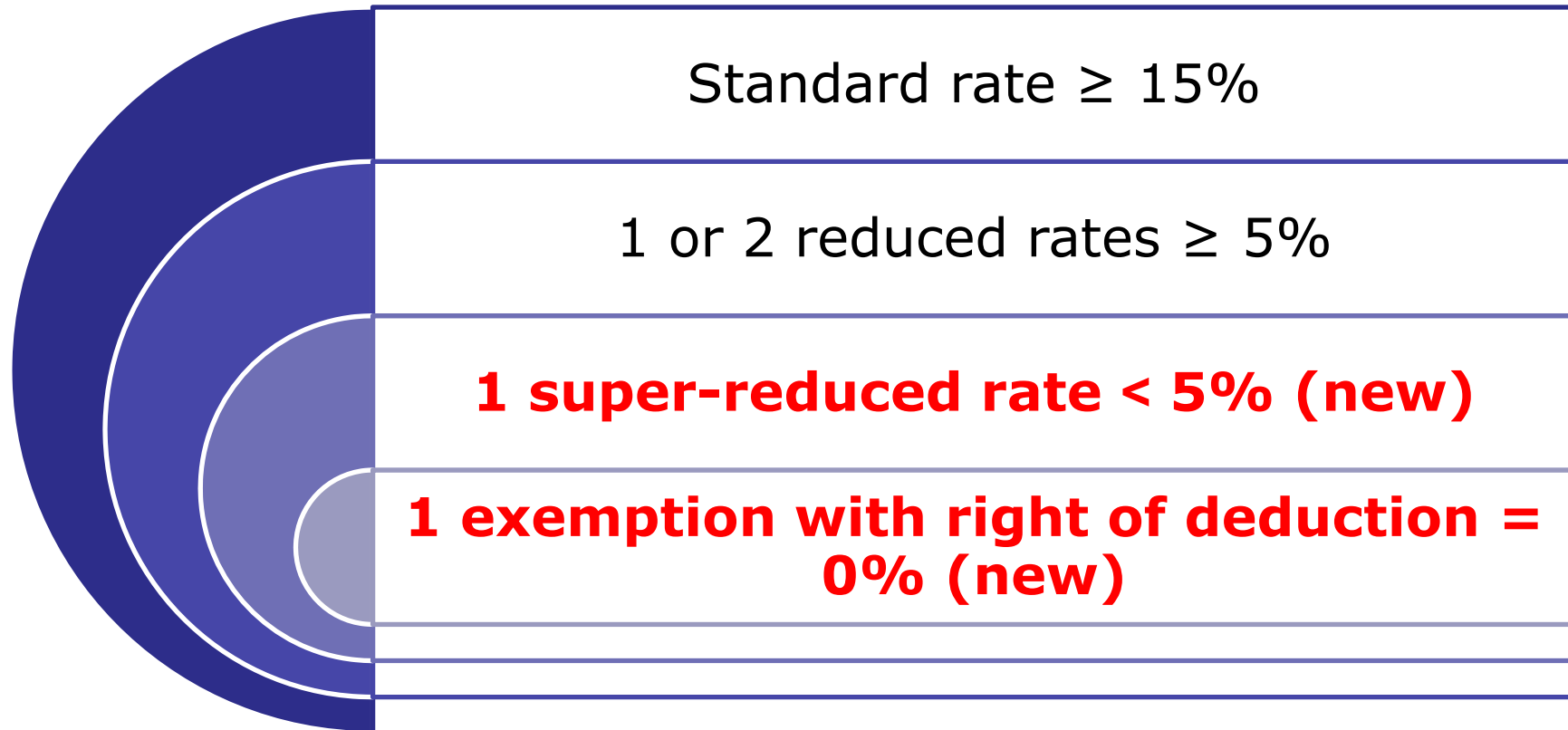
The safeguard: To safeguard public revenues, Member States would also need to ensure that the weighted average of all VAT rates applied is at least 12%.

Both elements rejected during Council negotiations

Council Directive (EU) 2022/542 of 5 April 2022 amending Directives 2006/112/EC and (EU) 2020/285 as regards rates of value added tax



Rates structure (1)



Rates structure (2)

Reduced rate(s) \geq 5%

Max. 24 points of Annex III

Reduced rate $<$ 5%/ exemption with right of deduction

Max. 7 points of Annex III

Points (1)-(6) and (10c)

Any other point by way of an option applied under Article 105a(1)

If more applied, to reduce to 7 points by 2032

Rates structure (3)

Excluded from reduced rates/exemption:

Electronically supplied services, **except those in points (6), (7), (8) and (13)**

Supplies of works of art, collectors' items and antiques to which the second-hand scheme applies

Rates structure (4)

Within the framework described, it remains up to Member States to decide whether and how to apply reduced rates

Combined Nomenclature?

When applying the reduced rates, Member States **may** use the Combined Nomenclature or the statistical classification of products by activity, or both, to establish the precise coverage of the category concerned



Exceptional situations

Goods imported for the benefit of disaster victims to be distributed or made available free of charge by recognised organisations

- **Customs relief:** Article 76 of Regulation 1186/2009
- **VAT exemption:** Article 53 of Directive 2009/132/EC

Based on Commission decision

Recent examples:

- Covid-19
- Ukraine refugees

Same goods and services related to those goods under the same conditions

- 0% VAT rate: Article 101a of the VAT Directive

Option for each Member State when a Commission Decision is taken



Derogations

Linked to Annex III, incl. housing not part of social policy (*Article 105a(1)*)

< 5%

Not linked to Annex III (*Article 105a(3)*)

≥ 12%

Not linked to Annex III (*Article 105a(2)*)

→ until 2032

< 12%

To all the above, 2030 (fossil fuel) and 2032 (chemical pesticides / fertilisers) (*Article 105a(4)*)

Housing not part of social policy (*Article 105b*) → as of 2042

> 5% → 12%

Equal treatment

Member State(s) wishing to **keep applying derogations applied in accordance with EU law on 1/1/2021** → communicate this to the VAT Committee

3 months = until 7 July 2022

Member State(s) wanting to avail of derogation(s) of another Member State → adopt detailed rules and communicate these to the VAT Committee

≥ 18 months = until 7 October 2023

EU Commission to report to Council by 1/07/2025

Entry into force

New rules enter into force and apply when published in the OJ = **6 April 2022**

Some changes may apply later = **1 January 2025**, namely those regarding:

- livestreaming of events or visits (reduced rate/place of supply)
- works of art, collectors' item and antiques (reduced rate/special scheme)



Rates structure

Current rules

- (1) *Foodstuffs (including beverages but excluding alcoholic beverages) for human and animal consumption; live animals, seeds, plants and ingredients normally intended for use in the preparation of foodstuffs; products normally used to supplement foodstuffs or as a substitute for foodstuffs;*
- (2) *supply of water;*
- (3) *pharmaceutical products of a kind normally used for health care, prevention of illnesses and as treatment for medical and veterinary purposes, including products used for contraception and sanitary protection;*

Changes

- (3) *pharmaceutical products used for medical and veterinary purposes, including products used for contraception and **female** sanitary protection, and **absorbent hygiene products**;*

Rates structure

Current rules

- (4) *medical equipment, aids and other appliances normally intended to alleviate or treat disability, for the exclusive personal use of the disabled, including the repair of such goods, and supply of children's car seats;*
- (5) *transport of passengers and their accompanying luggage;*

Changes

- (4) *medical equipment, appliances, **devices, items, aids and protective gear, including health protection masks,** normally intended **for use in health care or for the use of the disabled, goods essential to compensate and overcome disability, as well as the adaptation, repair, rental and leasing** of such goods;*
- (5) *transport of passengers and **the transport of goods** accompanying them, such as luggage, bicycles, including electric bicycles, motor or other vehicles, or the supply of services relating to the **transport of passengers;***

Rates structure

Current rules

- (6) *supply, including on loan by libraries, of books, newspapers and periodicals either on physical means of support or supplied electronically or both (including brochures, leaflets and similar printed matter, children's picture, drawing or colouring books, music printed or in manuscript form, maps and hydrographic or similar charts), other than publications wholly or predominantly devoted to advertising and other than publications wholly or predominantly consisting of video content or audible music;*

Changes

- (6) *supply, including on loan by libraries, of books, newspapers and periodicals either on physical means of support or supplied electronically, or both, (including brochures, leaflets and similar printed matter, children's picture, drawing or colouring books, music printed or in manuscript form, maps and hydrographic or similar charts), other than publications wholly or predominantly devoted to advertising and other than publications wholly or predominantly consisting of video content or audible music;*
production of publications of non-profit-making organisations and services related to such production;

Rates structure

Current rules

- (7) admission to shows, theatres, circuses, fairs, amusement parks, concerts, museums, zoos, cinemas, exhibitions and similar cultural events and facilities;
- (8) reception of radio and television broadcasting services;
- (9) supply of services by writers, composers and performing artists, or of the royalties due to them;

Changes

- (7) admission to shows, theatres, circuses, fairs, amusement parks, concerts, museums, zoos, cinemas, exhibitions and similar cultural events and facilities **or access to the live-streaming of those events or visits or both;**
- (8) reception of radio and television broadcasting services **and webcasting of such programmes provided by a media service provider; internet access services provided as part of digitalisation policy, defined by Member States;**

Rates structure

Current rules

- (10) *provision, construction, renovation and alteration of housing, as part of a social policy;*
- (10a) *renovation and repairing of private dwellings, excluding materials which account for a significant part of the value of the service supplied;*
- (10b) *window-cleaning and cleaning in private households;*

Changes

- (10) **supply and construction of housing, as part of a social policy, as defined by the Member States; renovation and alteration, including demolition and reconstruction, and repairing of housing and private dwellings; letting of immovable property for residential use;**
- (10a) **construction and renovation of public and other buildings used for activities in the public interest;**

Rates structure

Current rules

(11) *supply of goods and services of a kind normally intended for use in agricultural production but excluding capital goods such as machinery or buildings;*

Changes

(10c) *supply and installation of solar panels on and adjacent to private dwellings, housing and public and other buildings used for activities in the public interest;*

(11) *supply of goods and services of a kind normally intended for use in agricultural production but excluding capital goods such as machinery or buildings; **and, until 1 January 2032, supply of chemical pesticides and chemical fertilisers;***

(11a) *live equines and the supply of services related to live equines;*

Rates structure

Current rules

- (12) *accommodation provided in hotels and similar establishments, including the provision of holiday accommodation and the letting of places on camping or caravan sites;*
- (12a) *restaurant and catering services, it being possible to exclude the supply of (alcoholic and/or non-alcoholic) beverages;*
- (13) *admission to sporting events;*
- (14) *use of sporting facilities;*

Changes

- (13) *admission to sporting events **or access to the live-streaming of those events or both; use of sporting facilities, and the supply of sport or physical exercise classes also when live-streamed;***
- (14) *(deleted)*

Rates structure

Current rules

- (15) *supply of goods and services by organisations recognised as being devoted to social wellbeing by Member States and engaged in welfare or social security work, in so far as those transactions are not exempt pursuant to Articles 132, 135 and 136;*
- (16) *supply of services by undertakers and cremation services, and the supply of goods related thereto;*
- (17) *provision of medical and dental care and thermal treatment in so far as those services are not exempt pursuant to points (b) to (e) of Article 132(1);*

Changes

- (15) *supply of goods and services by organisations **engaged in welfare or social security work as defined** by Member States and recognised as being devoted to social wellbeing by Member States, in so far as those transactions are not exempt pursuant to Articles 132, 135 and 136;*

Rates structure

Current rules

- (18) *supply of services provided in connection with street cleaning, refuse collection and waste treatment, other than the supply of such services by bodies referred to in Article 13;*
- (19) *minor repairing of bicycles, shoes and leather goods, clothing and household linen (including mending and alteration);*
- (20) *domestic care services such as home help and care of young, elderly, sick or disabled;*

Changes

- (18) *supply of services provided in connection with **sewage**, street cleaning, refuse collection and waste treatment **or waste recycling**, other than the supply of such services by bodies referred to in Article 13;*
- (19) **supply of** *repairing services of **household appliances**, shoes and leather goods, clothing and household linen (including mending and alteration);*

Rates structure

Current rules

(21) *hairdressing*

Changes

(21) *hairdressing;*

(22) *supply of electricity, district heating and district cooling, and biogas produced by the feedstock listed in Annex IX, Part A, to Directive (EU) 2018/2001 of the European Parliament and of the Council* ; supply and installation of highly efficient low emissions heating systems meeting the emission (PM) benchmarks laid down in Annex V to Commission Regulation (EU) 2015/1189 and in Annex V to Commission Regulation (EU) 2015/1185*** and having been attributed an EU energy label to show that the criterion referred to in Article 7(2) of Regulation (EU) 2017/1369 of the European Parliament and of the Council**** is met; and, until 1 January 2030, natural gas and wood used as firewood;***

Rates structure

Current rules

Article 122

Member States may apply a reduced rate to the supply of live plants and other floricultural products, including bulbs, roots and the like, cut flowers and ornamental foliage, and of wood for use as firewood.

Changes

(23) live plants and other floricultural products, including bulbs, cotton, roots and the like, cut flowers and ornamental foliage;

(24) children's clothing and footwear; *supply of children's car seats;*

(25) supply of bicycles, including electric bicycles; rental and repairing services of such bicycles;

Rates structure

Current rules

Article 103

1. Member States may provide that the reduced rate, or one of the reduced rates, which they apply in accordance with Articles 98 and 99 is also to apply to the importation of works of art, collectors' items and antiques, as defined in points (2), (3) and (4) of Article 311(1).

2. If Member States avail themselves of the option under paragraph 1, they may also apply the reduced rate to the following transactions:

- (a) the supply of works of art, by their creator or his successors in title;
- (b) the supply of works of art, on an occasional basis, by a taxable person other than a taxable dealer, where the works of art have been imported by the taxable person himself, or where they have been supplied to him by their creator or his successors in title, or where they have entitled him to full deduction of VAT.

Changes

(26) supply of works of art, collectors' items and antiques listed in Annex IX, Parts A, B and C;

Rates structure

Current rules

Changes

- (27) legal services supplied to people under a work contract and unemployed people in labour court proceedings, and legal services supplied under the legal aid scheme, as defined by Member States;***
- (28) supply of bicycles, including electric bicycles; rental and repairing services of such bicycles;***
- (29) supply of services in connection with the operation of lightships, lighthouses or other navigational aids and life-saving services including the organisation and maintenance of the lifeboat service***

Thank You for
Your Attention

