

Second-hand goods on equal footing with tobacco and weapons? RREUSE comments on EU VAT rule proposals

Introduction and background

On 18 January 2018, the European Commission published [proposals to revise the current VAT directive](#), part of an effort to create a harmonised and simplified VAT system across the EU. The proposals are now under the scrutiny of the European Parliament which is set to formalise its opinion during a plenary sitting in October this year. Nevertheless, at a later stage the ultimate decision on the final rules rests in the hands of national governments.

Currently, several Member States allow for reduced VAT rates on goods and services including repair, the sale of second-hand goods by social enterprises and other similar activities contributing to social welfare, social inclusion and the move towards a circular economy. Such initiatives must be further encouraged across the EU in order to support longer lasting products, less waste and the creation of local green and inclusive jobs. To help achieve this, greater flexibility for Member States to set reduced VAT rates for both re-use activities and repair services must be promoted.

This paper provides feedback and suggestions to policy makers as to how the Commission's proposed rules could be adapted in order to better support the development of re-use centres and networks, especially those operated by social enterprises. These enterprises use the activity of re-use, including the collection, sorting and sales of used goods such as clothing, electrical and electronic equipment (EEE) and furniture, to provide job and training opportunities for workers most at risk of social-exclusion.

Summary of RREUSE's key points on the Commission's proposals

1. A 'negative list' of products and services to which reduced VAT rates cannot be applied has been proposed. However, clarity is needed to allow for used goods from certain product categories contained in the list to also benefit from lower VAT rates, in particular second-hand EEE and furniture. This would help support efforts to develop markets for used goods and a move towards a circular economy.
2. The proposed removal of a clause which currently allows Member States to set reduced or 0 % VAT for products and services contributing to social welfare should be reinstated in order to make it explicitly clear to Member States that this would remain possible for them to apply.
3. The proposals do not fully address the importance of differentiating VAT rates according to the EU waste hierarchy and guidance within the text is needed for Member States in this regard.

1. Allow for used furniture and electrical equipment to have reduced or 0 % VAT

In [previous positions on VAT](#), RREUSE presented examples of countries granting tax reductions to support socially and environmentally beneficial services such as repair. As such RREUSE welcomes



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the new proposals that would grant Member States more flexibility to set reduced VAT rates, including the opportunity to apply reduced or 0 % VAT on most repair services. However, following the proposal to introduce a ‘negative list’ of goods and services to which reduced VAT rates cannot be applied, RREUSE is highly concerned that certain household goods, if sold as second-hand, would not be able to benefit from reduced VAT rates.

Not only does the negative list include second-hand goods taxed according to the margin scheme¹, but also electronics, musical instruments and furniture are included without a differentiation as to whether they are new or second-hand.

Without making the differentiation between new and used goods in the negative list, second-hand musical instruments, electronics and furniture have been inadvertently placed on equal footing to VAT rules for alcoholic beverages, tobacco and weapons which can also be found in the same list and charged the applicable standard VAT rate. RREUSE believes that the lack of clarity between new and used goods in this context runs counter to the Commission’s efforts to promote a circular economy, including through the use of appropriate fiscal measures.

According to the [recently updated EU Waste Framework Directive](#), Member States are asked to ‘use [...] fiscal measures or other means to promote the uptake of products and materials that are prepared for re-use or recycled’². The revised VAT Directive should at least give Member States the opportunity to choose to support a circular economy rather than to discourage it.

2. Allow for the setting of 0 % VAT rates for activities contributing to social welfare beyond VAT exemptions

0 % VAT

Businesses do not charge VAT on the sale of goods and services, and can, at the same time, recover VAT on purchases made.

In its list of supplies of goods and services to which reduced VAT rates may be applied, the current directive includes the ‘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’³. As such, a number of Member States have granted the opportunity for social enterprises to offer reduced VAT rates for their services or the sale of their goods.

¹ The margin scheme allows second-hand dealers to charge VAT only on the profit margin.

² Directive (EU) 2018/850 of the European Parliament and of the Council of 30 May 2018 amending Directive 2008/98/EC on waste, Annex Iva, point 9, (available [here](#)).

³ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, Annex III (15) (Available [here](#)).

According to the new Commission proposal, reduced VAT rates and exemptions should benefit the final consumer and serve an objective of general interest. As such, most repair services could still benefit from reduced rates. However, the possibility to apply reduced or zero rates to activities contributing to social welfare, which is currently the case, is not explicitly mentioned in the new proposal. This may result in Member States leaving out this possibility when transposing the legislation into national law. It is important to ensure that all profit and not-for-profit VAT relevant enterprises contributing to social welfare can benefit from reduced rates, rather than solely exemptions.

VAT exemptions

Businesses do not charge VAT on the sale of goods and services, but cannot recover VAT on purchases made.

3. Guidance on differentiation of VAT rates according to the EU Waste Hierarchy

In 2013, as part of a public Commission consultation on the implementation of VAT rules, one of the questions was whether VAT rates should be differentiated in accordance to the EU Waste Hierarchy, to which RREUSE responded favourably. In particular, RREUSE believes that VAT rules should be differentiated in the following way:

- Repair: 0 % VAT should be applied on the cost of the labour of repair, maintenance, upgrade services on products such as furniture, electronic and electrical equipment, construction materials, bicycles, shoes and leather goods offer tax rebates to citizens after having had their goods repaired;
- Sales of second-hand goods: 0 % VAT should be applied on the sale of second-hand goods as VAT was already paid once during the purchase of a new product;
- Waste collection services: waste collection services provided by social enterprises that carry out their activities in a manner that preserves re-use potential of the collected products should have a 0 % VAT rate whilst those operators which carry out collection in a poor way should be charged a higher VAT rate;
- Recycling: the sale of recycled material or material to be recycled should be entitled to a reduced VAT rate, in order to promote a market for quality recycled materials.

Given that waste management related activities are not contained within the scope of the aforementioned 'negative list', the Commission's proposals indicate that all waste management activities could potentially benefit from reduced VAT rates in some way if a Member State decides to do so – this is already the case for certain countries. However, for implementation purposes, RREUSE would welcome guidance in the directive indicating that VAT rates should be differentiated in line with supporting the implementation of the waste hierarchy, a key pillar in the Commission's drive toward a circular economy.



Recommendations for EU Member States wanting to support the circular economy and social inclusion

1. Specify that point 10, 11, 12 and 13 of Annex IIIa (the 'negative list') of the Commission proposal concern only new goods;
2. Reinsert a clause stating that 0 % VAT should be applied on activities of general interest, contributing to social inclusion and social welfare, similar to Article 110 of the current VAT Directive;
3. Include wording in the directive, at the very least in the form of a recital, providing guidance to Member States to ensure that VAT rates applied in the waste management must favour and positively discriminate waste prevention and preparation for re-use as a priority.

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RREUSE is an independent non-profit organisation representing social enterprises active in the field of re-use, repair and recycling, with 26 members across 24 countries in Europe and the USA.

Our main vision is for Europe to support the role of social enterprise in a circular economy, providing meaningful work opportunities to thousands of vulnerable members of our community through innovative economic, social and environmentally beneficial activities.

RREUSE's primary mission is to help tackle poverty, social exclusion and a throwaway culture by promoting policies, best practices and partnerships that support the professionalism and development of social enterprises working in environmental services with high potential for local and inclusive job creation, notably re-use and repair.

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