



Position on the European Commission's Action plan on VAT – Policy on Reduced Rates

5 July 2016

Our organisations represent a vast proportion of European private building owners, investors and landlords, residential and commercial, urban, rural and historic, as well as the valuation profession. *Details in Annex III.*

EU reduced rate VAT policy for real estate suffers from a fundamental flaw dating back to the Sixth VAT Directive that has only been very partially corrected since that time: ***a tax discrimination favouring social housing*** dating from a time when social and private housing serviced separate and distinct tenants. This creates major distortions to the Internal Market in today's situation where social and private housing providers compete for the same middle-income tenants.

In the past, the European Commission recognised this flaw and proposed a solution to the Council of Ministers but Council was incapable of reaching unanimous agreement on following through. This has persuaded the European property sector that the only way to progress the matter is for member states to retrieve the power to set reduced VAT rates and for the Commission to investigate individual states whose differentiated tax policies toward private and social housing cause distortions of competition on the Internal Market. *See Annex I for a full analysis of the effects of a VAT reduced rate discrimination in favour of social housing companies competing with private-sector owner/ landlords for middle-income tenants.*

European property owners also believe that ***a reduced rate for the preservation of cultural heritage*** is the key missing component of the Union's existing policy to promote heritage tourism as a sustainable and cohesive economic activity for all European regions. But this does not require that the Union retain control over the list of reduced VAT rate activities. We prefer that member states willing to accord a reduced rate for cultural heritage be given the immediate freedom to do so via Option 2 and that the Commission recommend the reduced rate as part of its heritage tourism policy. This solution also has the advantage that each member state will have the flexibility to decide what precise activities are to fall under 'preservation of cultural heritage' for reduced rate VAT purposes.

The united European property sector therefore prefers the Commission's Option 2.

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Annex I

Ending the VAT discrimination in favour of social housing companies competing with private-sector owner/landlords for middle-income tenants

The member states have available a list of supplies and services in the housing sector for which they have the option to apply a reduced VAT rate as provided by Article 98 of the VAT Directive. Amongst these supplies and services are “the provision, construction, renovation and alteration of housing, as part of a social policy” (Annex III, item 10).

In the long period of time since this provision was first introduced into VAT legislation, the boundaries between social and private housing have been considerably blurred and transgressed, with social housing companies in many countries (inter alia Belgium, France, Netherlands, Sweden) now competing for middle-income tenants, a situation all the more problematic for the Internal Market that during this period, investment in residential and commercial real estate became a major cross-border business. This situation has caused the European Commission to intervene in a series of countries to secure changes to national rules and to establish general principles ensuring a level playing field, confirmed in Commission Communication 2012/C 8/02 on the application of the European Union State aid rules to compensation granted for the provision of services of general economic interest.

In the event of member states retrieving power over reduced VAT rates, their approach to this phenomenon should be coherent and holistic. **State aid policy and tax policy should not be in contradiction.**

In the tax field, semi-public sector organisations carrying out economic activities in competition with private undertakings must be covered by the same law: they must be liable to VAT and apply all the rules in the same way as private undertakings.

Just as member states are forbidden by EU law from subsidising social housing companies competing with private companies for medium income tenants, it is equally unacceptable for a party to enjoy a specific VAT rate while unfairly competing with private developers who are liable to a much higher VAT rate, although selling or renting identical accommodation to the same people at the same locations.

It is important to understand the cumulative effects of public service compensation (e.g. VAT reduced rates) to social housing activities. Indeed, although social housing activities mainly have a local character, the entrustment of an SGEI to social housing corporations is often part of a network of similar entrustments in the same geographic or product market. As such, the provision of public service compensation to such activities is likely to affect trade between member states and to lead to major distortions of competition on the Internal Market. This is especially the case in so-called closed systems where social housing can only be provided by a limited number of public or semi-public social housing undertakings.

In order to avoid such distortions and to safeguard the active role of private providers, it is necessary to support the creation of a genuine level playing field. Therefore, the possibility to benefit from reduced VAT rates for ‘social housing’ should be equally available to public, semi-public or private providers of ‘affordable’ housing.



Member States need to rationalise and improve the application of the reduced VAT rate by adopting the concept of ‘affordable’ housing and by defining the terms and conditions governing the supply of housing under affordable housing policy. Thus, defining the categories of beneficiaries to which the affordable housing policy is addressed (for instance in terms of a maximum percentage of national median income) as well as the dwellings in terms of surface, value, destination of use and other relevant aspects, will render national application of the VAT reduced rate in the housing sector consistent with EU Internal Market imperatives.

Annex II

Provision of a reduced rate of VAT for the preservation of cultural heritage as part of the EU policy promoting heritage tourism

This option should be actively promoted by the Union and its member states as part of an acknowledged and assumed EU policy objective. Political consensus on mobilising policy instruments to promote cultural heritage as a sustainable and cohesive economic activity has already been achieved as evidenced in the Council's Conclusions of 20 May 2014 on cultural heritage as a strategic resource for a sustainable Europe and Parliament's Resolution of 8 September 2015 in response to the Commission's Communication "Towards an integrated approach for cultural heritage in Europe" specifically envisaging fiscal and tax policies as part of the package.

Lower tax can stimulate many activities, but in this context it is a key part of a coherent, overarching European ambition to:

- give a clear incentive to preserve European heritage for future generations to enjoy, at the same time creating and enhancing social capital and social inclusion ;
- to create new jobs both direct and indirect;

The number of persons directly employed in cultural heritage sector in Europe amounts to 306.000 and indirectly created jobs to 7.8 million person-years. Cultural heritage sector is estimated to produce up to 26.7 indirect jobs for each direct job, much more than, for example, the car industry with a quotient of only 6.3. (Cultural Heritage Counts for Europe – CHCfE)

- preserve and enhance specialist skills;

High quality conservation works directly stimulate long-term quality employment in associated SME craft industries. Recent experience of reduced rates of VAT in France has demonstrated that a reduction in VAT both increases the amount of work undertaken and reduces the work undertaken in the black economy. Cultural heritage creates demand not only for specialised services but also for specific materials and goods.

- improve energy performance of existing buildings;
- stimulate competitiveness in the European tourism sector and promote the development of sustainable, responsible, and high-quality tourism.

Cultural heritage is of major economic importance for the tourism industry in Europe. Its estimated annual revenue is worth EUR 335 billion and many of the 9 million jobs in the tourism sector are directly or indirectly connected to it.

A key point being that this economic activity can be developed in many of Europe's poorest, most underpopulated regions.

The Commission must now follow up on the clear political steer given by Council and Parliament. In this context, member states understand and accept that they do not diminish their prerogatives over housing and taxation by adapting a single aspect of those policies to an overarching European ambition to turn a common heritage into an ambitious, sustainable and cohesive economic activity.



Annex III

About the Parties to this Position

Name followed by Commission Register of Interest Representatives identification number

European Historic Houses Association (EHHA) 594015610806-90

An umbrella organisation for national historic houses associations, promoting the interests of Europe's privately-owned historic houses, parks and gardens and their contents. The organisation promotes European cooperation in the conservation of historic houses which are most of the time SMEs. The Association brings together 22 national members and represents more than 50,000 historic houses in Europe and supports actively its members' interests on several European issues such as culture and education, VAT, energy and environment, tourism, and security. www.europeanhistorichouses.eu

European Landowners' Organization (ELO) 36063991244-88

Created in 1972, ELO promotes a prosperous and attractive European Countryside. ELO is a unique federation of national associations from the EU28 and beyond which represents the interests of landowners, land managers, rural entrepreneurs and family businesses. It targets its actions on land use and housing, via seven major areas of European importance: environment, renewable energy, agriculture and rural development, status of private property and companies, forest, enlargement and trade. www.elo.org

European Property Federation (EPF) 36120303854-92

EPF represents all aspects of property ownership and investment: residential landlords, housing companies, commercial property investment and development companies, shopping centres and the property interests of the institutional investors (banks, insurance companies, pension funds). Its members own property assets valued at € 1.5 trillion, providing and managing buildings for the residential or service and industry tenants that occupy them. www.epf-fepi.com

International Union of Property Owners (UIPI) 57946843667-42

UIPI is a pan-European not-for-profit association comprising 30 organisations from 28 countries. Jointly, they represent more than 5 million private property owners and some 20 to 25 million dwellings. Founded in 1923, the UIPI aims at protecting and promoting the interests, needs and concerns of private landlords and owner-occupiers at national, European and international levels. The UIPI is involved in many issues, including general housing; taxation and inheritance concerns; technical matters and new regulations such as energy saving in buildings; the private rented agenda; as well as universal consumer rights and social responsibilities. www.uipi.eu

The European Group of Valuers' Associations (TEGoVA) 070444714545-60

TEGoVA unites 63 national valuers' associations from 34 countries representing 70 000 qualified valuers either self-employed or employed by specialist consultancies, private sector companies, government departments or financial institutions both local and international. Its European Valuation Standards (EVS) were cited as reliable standards for the valuation of residential immovable property for mortgage lending purposes in the EU Mortgage Credit Directive and were given primacy over all other standards by the European Central Bank in its Asset Quality Review Manual for the updating of banks' real estate collateral values. It fosters and unifies a European valuation elite by awarding Recognised European Valuer (REV) and TEGoVA Residential Valuer (TRV) titles and ensures high pan-European levels of education and ethics with its Minimum Educational Requirements and European Valuers' Code of Ethics and Conduct. www.tegova.org