

PIERRE MOSCOVICI
MEMBRE DE LA COMMISSION EUROPEENNE

Brussels,

Dear Mr Hawthorne,

Thank you for your letter of 6 January 2016 to Commissioner Jourová concerning the application of VAT on female sanitary products. I reply on her behalf, in my capacity as Commissioner for Taxation and Customs Union.

The normal rule for VAT rates is the application of a standard rate to any transaction for consideration. The current EU VAT system allows as exceptions for the use of reduced rates as well as exemptions with deductibility of the VAT paid at the preceding stage (the so called 'zero VAT rates').

In particular, under the current VAT rules, Member States are obliged to apply a standard rate of at least 15% to any taxable operation and may also apply up to two reduced rates, set no lower than 5%. The reduced rates apply only to an exhaustive list of goods and services contained in Annex III (category 3 of which includes sanitary protection) to the VAT Directive. This reflects the underlying principle that the VAT tax base should be as broad as possible and exemptions kept to a minimum in order to avoid large differences in rates that could interfere with the functioning of the internal market.

Contrary to widespread belief, the VAT Directive does not make any reference to whether goods or services are essential. The list of reduced rates is the result of compromises in the Council between all the Ministers of Finance, as EU law in the field of taxation has to be adopted by unanimity. Therefore, it includes some essential items, such as food or pharmaceutical products, but also other items such as admission to shows or supply of services by writers.

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Further, it should be pointed out that zero rates constitute a particular exception to the general rules on VAT rates. They form part of temporary derogations granted to certain Member States on the basis that such rates were in force before 1 January 1991 and continue to be limited to the goods to which they were applied at the time. As sanitary products were not subject to the zero rate in the United Kingdom at that time, applying a zero rate to such products would not be in line with current EU VAT rules.

I trust that you will understand that neither I as a Commissioner, nor the United Kingdom can unilaterally modify VAT law agreed through unanimity by all Member States. Nevertheless, you will be pleased to note that the European Commission intends to present an Action Plan on VAT in March, setting out a range of policy options. One of the options being considered involves granting Member States greater freedom in setting VAT rates. Any Commission proposal in this regard would have to be approved by all Member States.

Yours sincerely,



Pierre Moscovici