

European Commission
Directorate-General Taxation and Customs Union
VAT and other turnover taxes unit
B-1049 Brussels
Belgium

9 June 2006

Your ref
Our ref TAX/KJD/0609a

Dear Sirs

Consultation paper on modernising Value Added Tax obligations for financial services and insurances

Prudential plc welcomes the Consultation paper on modernising VAT obligations for financial services and insurances and is grateful for the opportunity to comment on this important topic.

Prudential sells insurance, investment and retail banking products, and so both exemptions (financial services and insurance) are extremely relevant to our business. Most of Prudential's sales are to retail customers, and most of Prudential's European activities are in the UK market.

We have had the opportunity of reading the representations made by the Association of British Insurers ("ABI") and we endorse the comments and suggestions made in the ABI's representations. Whilst the ABI's representations are focussed on the insurance industry and the insurance exemption, we view the comments and suggestions made as being of equal relevance to the financial services industry and the financial services exemption.

There are four specific comments we would wish to particularly emphasise.

1. Pursuing Lisbon strategy versus impact on tax revenues

The Consultation paper quite rightly states on page 4 that "The Lisbon strategy recognises the benefits of financial integration in contributing to Europe's future growth in prosperity and employment." We would strongly urge the Commission and the Member States not to lose sight of these potential significant benefits and not to allow any adverse impact on domestic VAT revenues to be an impediment to change.

2. Consistency and clarity

As insurance and financial services groups expand product ranges across both exemptions and expand their geographic spread across EC Member States, it is particularly important that the VAT legislation is consistent between both insurance and financial services and is also consistently applied across all Member States. Equally important is the need for clarity in the legislation so as to minimise uncertainty and the need for matters to be referred to the European Court of Justice ("ECJ"). We would recommend that definitions used in VAT legislation are consistent with definitions in other EC legislation eg. insurance mediation (Directive 2002/92/EC), and the 'management' of Special Investment Funds (UCITS III – Directive 2001/107/EC).

3. Possible solutions – extending scope of exemptions

Of the five possible technical solutions advanced in the Consultation, our strong preference is for the solution to extend the scope of the exemptions. With more or less all insurance and financial products there are three stages to the life cycle of the product being the initial sale, the ongoing administration/management of the product, and the “end” of the product through maturity, termination, redemption etc. All three stages are important to both the product provider and the customer, and we believe that all three stages should be included within the scope of the exemptions. The ABI’s representations has suggested that the insurance exemption should apply to those services “contributory to formation, maintenance, administration and discharge of obligations under a contract of insurance”. We endorse this well worded suggestion and recommend that an equivalent definition be used for the financial services exemption.

4. Possible solutions – creation of cross border VAT bodies

Where insurance and financial services group operate across the borders of EC Member States, we believe that there should be no difference in terms of VAT cost as between groups who are structured with overseas subsidiaries and groups who are structured with overseas branches. Equally we believe that a transaction between two members of the same corporate group who happen to be in different Member States should have the same VAT treatment as an equivalent transaction between two members of the same corporate group who are in the same Member State and are able to benefit from a domestic VAT group.

Yours sincerely

Kieran Devlin
Senior Tax Manager