



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL  
TAXATION AND CUSTOMS UNION  
Indirect Taxation and Tax administration  
**Value added tax**

**taxud.c.1(2022)1315769 – EN**

Brussels, 17 February 2022

**VALUE ADDED TAX COMMITTEE  
(ARTICLE 398 OF DIRECTIVE 2006/112/EC)  
WORKING PAPER NO 1032 - ADDENDUM**

**CONSULTATION  
PROVIDED FOR UNDER DIRECTIVE 2006/112/EC**

**ORIGIN:** Romania  
**REFERENCE:** Article 102  
**SUBJECT:** Reduced rate of VAT for supplies of district heating

## **1. INTRODUCTION**

On 29 December 2021, further to a consultation made in 2017<sup>1</sup>, the Romanian authorities submitted a request for consultation to the VAT Committee pursuant to Article 102 of the VAT Directive<sup>2</sup> as regards their intention to temporarily extend the scope of customers who can benefit from district heating supplied at the reduced VAT rate of 5%.

The Commission services launched the corresponding written procedure on 12 January 2022 with Working paper No 1032 in which they invited Romania to:

- put in place an appropriate mechanism to ensure that district heating, used for private consumption, can be taxed at a reduced rate in all cases, and equally that district heating used in the context of a professional activity is taxed at the standard rate;
- reflect on how it intends to distinguish between private and professional consumption in the case of mixed use of district heating;
- indicate the budgetary impact of the broadened scope of beneficiaries as done for the initial scope when the measure was introduced as from 1 January 2018.

Romania provided the Commission services with additional information regarding the above issues in a letter dated 9 February 2022. This additional information is made available in the annex.

\*  
\*   \*

---

<sup>1</sup> This consultation was first dealt with through a written procedure based on Working paper No 927, which was closed on 22 September 2017, and accomplished during the 109<sup>th</sup> meeting of the VAT Committee on 1 December 2017 (see Working paper No 937).

<sup>2</sup> Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

---

**Additional information provided by the Romanian authorities**

**Request from Romania to consult the VAT Committee with regard to extending the scope of the consumer category eligible for the reduced VAT rate of 5% for the supply of heat energy during the cold season (Working paper No 1032)**

Following the consultation request submitted by Romania on 29 December 2021, in Working paper No 1032 of 12 January 2022, the Commission departments agreed that the measure under consultation is in line with the toolbox recommended by the Commission in the Communication to the Member States on 13 October 2021, setting out action and support measures to attenuate the impact of growth in energy prices.

However, the Commission services held that there was no reason to consider that amending the scope of the category of beneficiaries would not meet the requirements of Article 102 of Directive 2006/112/EC on the common system of value added tax. Indeed, the application of the measure to a larger number of beneficiaries, and not only to private households, results in fewer cases of potential mixed use. A suitable allocation mechanism would therefore need to be identified.

In view of the above, the Commission has asked Romania to indicate:

1. how a distinction is made between private and professional consumption in the case of mixed heat energy consumption, bearing in mind that the scope of the measure will again be limited only to private domestic clients, after 31 March 2022;
2. the budgetary impact of extending the scope of the category of beneficiaries, as done initially when the measure was introduced starting on 1 January 2018.

Taking into account Working paper 1032, additional clarifications are first necessary:

In 2017, Romania consulted the VAT Committee concerning the application of the reduced VAT rate of 5% for the supply of heat energy to the general population, and to private domestic consumers, a measure which is subject to a parliamentary legislative initiative in this respect.

The parliamentary procedure was finalised in July 2021, and the measure for which the VAT Committee was consulted in 2017 had not been implemented by 1 January 2018, but was adopted by Article IV of Law No 196/2021, published in Official Gazette No 693 of 13 July 2021, with the deadline for entry into force of 13 January 2022.

However, due to the current energy crisis, which affects consumers, particularly in the cold season, the Government of Romania has decided to introduce a reduced VAT rate of 5% for the supply of heat energy in the cold season as well as the extension of the scope of beneficiaries to other categories of consumers, not only for the general population.

Government Emergency Order No 130/2021, published in Official Gazette No 1202 of 18 December 2021 thus adopted the reduced VAT rate of 5%, starting on 1 January 2022, for the supply of heat energy in the cold season, intended for the following categories of

consumers: general population, public and private hospitals, public and private educational establishments, non-governmental organisations, religious organisations, public and private accredited providers of social services.

*The cold season* is defined as being the five-month period between 1 November of the current year and 31 March of the following year.

Consequently, the reduced VAT rate of 5% for the supply of heat energy, intended for all the indicated consumer categories, both general population and other categories, has been applied starting on 1 January 2022 and constitutes a permanent measure, even though it is seasonal (1 November - 31 March of the following year). For the period between 1 April and 31 October of each year, the applicable VAT rate is the standard rate, for all consumer categories.

Please note that until 31 December 2021, the VAT rate for the supply of heat energy was the standard rate, irrespective of the type of beneficiary.

In this context, in a request sent in December 2021, Romania consulted the VAT Committee on extending the scope of the category of consumers eligible for the reduced VAT rate of 5% for the supply of heat energy in the cold season.

Secondly, with regard to the clarifications requested from the Commission concerning the distinction between private and professional consumption, as we also pointed out during the previous consultation, we appreciate that there will also be cases in which it will not be possible to make an absolute distinction between the categories of beneficiaries who are taxable persons/non-taxable legal persons and beneficiaries who are natural persons.

For example, we are thinking of those situations where the owner-occupied home of a natural person is used also as a registered office, and no economic activities are pursued.

The indication of budgetary impact giving rise to the application of the reduced rate of 5% for the supply of heat energy intended for the extended scope of categories of consumers is estimated to be approximately RON 346.3 million, an estimated impact for 4 months of collection in 2022 and for one month of collection in 2023.