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COMMISSION STAFF WORKING DOCUMENT

**Principles of taxation of motor vehicles
according to EU law as interpreted by the Court of Justice**

Accompanying the document

Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee

**Strengthening the Single Market
by removing cross-border tax obstacles for passenger cars**

{COM(2012) 756 final}

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1. INTRODUCTION

The present Staff Working Document aims at giving an overview of the main legal issues that arise in the field of vehicle taxation and the level of protection available to EU citizens and economic operators that can be derived from EU law and the case law of the Court of Justice of the EU (hereinafter "the Court")[1].

2. VEHICLES AND VAT

Taxation of the supply[2] of vehicles is subject to a differentiated VAT regime depending on whether the vehicle is new or second-hand.

2.1. VAT on new vehicles

The supply of new vehicles within the same Member State is subject to VAT according to the standard rules (i.e. the supplier charges output VAT on the retail price of the vehicle). In a cross-border scenario according to Article 2(1)(b)(ii) of Directive 2006/112[3] (hereinafter the "VAT Directive") the sale of a new vehicle is treated for VAT purposes as an intra-Community acquisition of goods and, as such, taxable in the Member State of destination, regardless of whether the supplier and/or the customer is a taxable person or a non-taxable person (e.g. a private customer).

However, for this rule to apply, it is necessary that:

- The goods at stake are "means of transport"; and
- The means of transport are considered "new".

According to Article 2(2)(a) of the VAT Directive, "means of transport" are:

(i) motorised land vehicles the capacity of which exceeds 48 cubic centimetres or the power of which exceeds 7,2 kilowatts;

(ii) vessels exceeding 7,5 metres in length, with the exception of vessels used for navigation on the high seas and carrying passengers for reward, and of vessels used for the purposes of commercial, industrial or fishing activities, or for rescue or assistance at sea, or for inshore fishing;

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1 The principles developed by the jurisprudence of the Court and illustrated in this Staff Working Document are in principle applicable to any type of motor vehicle including motorcycles, small vans, boats although almost all the judgments delivered by the Court have dealt with registration taxes levied on passenger cars.

2 In a judgment of 16 February 2012, case C-118/11 *Eon Aset Menidjmunt OOD*, the Court has clarified that also the financial leasing of a vehicle may have to be treated as the supply of a good, rather than the supply of a service, if certain requirements are fulfilled, namely the transfer of the ownership to the lessee on expiry of the contract, the transfer of all rewards and risks incidental to the ownership of the vehicle to the lessee, and the equivalence of the value of the leasing payments with the market value of the vehicle.

3 Directive 2006/112/EC on the common system of value added tax, OJ L 347 of 11.12.2006, p. 1.

(iii) aircraft the take-off weight of which exceeds 1 550 kilograms, with the exception of aircraft used by airlines operating for reward chiefly on international routes.

Pursuant to Article 2(2)(b) of the VAT Directive, means of transport are "new" where:

(i) for motorised land vehicles, the supply takes place within six months of the date of first entry into service or the vehicle has travelled for no more than 6 000 kilometres;

(ii) for vessels, the supply takes place within three months of the date of first entry into service or the vessel has sailed for no more than 100 hours;

(iii) for aircraft, the supply takes place within three months of the date of first entry into service or the aircraft has flown for no more than 40 hours.

Where a private individual buys a new means of transport in one Member State and then transports it himself (or where it is transported by the vendor, or by a third party on behalf of the vendor or the acquirer) to another Member State, such private individual is performing an intra-Community acquisition of that means of transport in the Member State of arrival, and VAT has to be paid in the Member State of the customer's residence. This specific regime is aimed at avoiding that private customers buy new means of transport in the Member State with the lowest VAT rate and transport them to their country of residence, hence distorting competition among Member States[4].

According to the Court of Justice, in order to classify a transaction as an intra-Community acquisition, it is necessary to conduct an overall assessment of all the relevant objective evidence, such as the amount of time spent on transporting the good in question, the place of registration and usual use of the good, the place of residence of the purchaser and the presence or absence of links between the purchaser and the Member State of supply or another Member State. Account must also be taken, as far as possible, of the purchaser's intentions at the time of the acquisition, provided that they are supported by objective evidence. The Court eventually considers that the essential issue is, in fact, to determine the Member State in which the final, permanent use of the means of transport will take place[5].

However, there is no double taxation because the supply will be exempt from output VAT in the country of origin, and in addition deduction of previously paid input VAT will apply in that country. If output VAT is wrongly charged in the country of the supplier, a refund of this VAT will apply according to the rules in force in that country. If the supplier of the new means of transport is a non-taxable person, he may have to submit a special declaration in order to obtain a refund of the input VAT included in the original acquisition price of the vehicle. If the acquirer is a non-taxable person, he will have to declare the acquisition as an intra-Community acquisition in the Member State to which the vehicle is transported and pay the output VAT there, but he will not be entitled to deduct that payment as input VAT.

Often the services of the European Commission receive complaints addressing the issue of the refund of output VAT in the country of the seller. It is necessary to remind that normally the seller of the vehicle, and not the acquirer, will be the one who has to ask for the refund of any output VAT (wrongly) charged on the supply in the Member State of departure from the competent authorities there. The acquirer will normally have to rely on his contractual relation

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4 For a purchase of a new sailing boat and transport by the owner to his country of residence, see case C-84/09 *X* v *Skatteverket*.

5 See case *X v Skatteverket*, paragraphs 44, 45, 47 and 50.

with the seller in order to obtain from him the repayment of output VAT that was included in the acquisition price, but is ultimately not due to the exemption of the sale in the country of origin. In addition, some further aspects are worth mentioning:

- If the vehicle is sold by a dealer, often he might require his customer to pay also the output VAT on top of the net purchase price as a "guarantee" as long as he has not yet received the evidence that the vehicle has actually exited the country. Indeed, the seller needs that type of evidence for being entitled to an exemption of his supply from output VAT and to a deduction of his own original input VAT.

- If the vehicle is sold by a non-taxable person, often the price is fixed on the basis of the market price and without bearing in mind that output VAT will be imposed again on the acquirer in the Member State of destination (while the seller will even be entitled to obtain a refund of his own original input VAT). If this aspect is not tackled in the sales contract between the parties, there are no possible means to oblige the seller to pay to the acquirer the VAT which he might have been refunded.

In both cases the issues are of a contractual nature and fall in the realm of the national courts.

2.2. VAT on second-hand vehicles

Within the same Member State, as a rule every supply performed by a taxable person acting as such is subject to VAT, therefore if the supply of the second-hand vehicle (i.e., a means of transport not considered "new" in the sense of paragraph 2.1) is performed by a taxable person that person will charge VAT on the sale of a second-hand vehicle irrespective of the capacity of his customer. If the supplier is however a non-taxable person (e.g., a private individual) the supply of the second-hand vehicle will not be subject to VAT.

Between two Member States, if the second-hand vehicle is supplied, and in connection with that supply it is transported from one Member State to another, the supply will have a cross-border character and will give rise to taxation in the Member State of destination if both the supplier and the customer are taxable persons.

If the supplier is a taxable person for VAT purposes and the customer is a private individual, the supply will not be considered an intra-Community transaction and will be subject to VAT only in the country of the supplier. Therefore, in the situation e.g. of a private individual residing in France who decides to purchase a second-hand vehicle from a German supplier who is a taxable person, the supply will be charged with VAT at the rate applicable in Germany, regardless of whether the vehicle is transported to France by the supplier or the customer.

If the supplier and the customer are non-taxable persons (in particular, private individuals), there is no VAT[6][7].

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[6] Articles 311-325 of the VAT Directive foresee a special scheme for second hand goods supplied by a taxable dealer, the so-called "margin scheme". Several conditions must be fulfilled on the side of the taxable dealer for being subject to this special scheme (which, in any case, is an optional scheme for him). This special scheme applies to the supplies of second-hand goods performed by a taxable dealer where the goods have been supplied to that taxable dealer within the Community by a non-taxable person, by another taxable person who is not entitled to a deduction or by another taxable dealer. In practice the purchase of a vehicle from a taxable dealer who applies the special scheme will entail that no VAT is charged separately on the supply. The margin scheme does not apply where the means of transport is "new" in the terms defined by the VAT Directive (see paragraph 2.1) and the means of

3. VEHICLES AND REGISTRATION TAXES

3.1. General principles

Vehicle taxation is not harmonised at EU level[8]. This entails that Member States enjoy a wide level of freedom in determining whether to apply registration taxes on vehicles that are intended to be used on their territory and also in determining the level of taxation[9].

The Court has stated[10] that the Treaty does not offer any guarantee that a transfer of residence of a citizen or a worker would be tax neutral as regards taxation. The transfer would be to that person's advantage or disadvantage in terms of taxation, depending on the circumstances. Therefore, any disadvantage suffered as compared to the pre-transfer situation would not be contrary to EU law, provided the individual is not treated less favourably than residents of the respective Member State subject to the same tax.

There are nevertheless some limits to the Member States' freedom, which consist in the general principles enshrined in the Treaty on the Functioning of the European Union (hereinafter the "TFEU") as interpreted by the Court and limited secondary legislation, namely two Directives that will be analysed in paragraph 3.2[11].

3.2. Registration taxes and Article 110 TFEU

3.2.1. Principles

In a cross-border scenario, there is often the misconception that registration taxes are levied upon the crossing of borders, simply because they are applied after a vehicle, on which a tax might already have been paid in the Member State of origin[12], has been transferred into another Member State. In that sense, the taxable event seems to be linked with the crossing of borders. This however is usually not the case.

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transport is dispatched or transported from one Member State to another. Where the scheme applies, the taxable dealer will be subject to VAT only on his profit margin (i.e., the equal to the difference between the selling price charged by the taxable dealer and the purchase price paid by him).

7 Articles 326-332 of the VAT Directive allow Member States which, before 31 December 1992, had put in place a special tax arrangement other than the "margin scheme", to continue to apply those arrangements pending the adoption of the definitive arrangements concerning the VAT system.

8 Harmonisation in the field of indirect taxes has been difficult to achieve due to the unanimity requirement under Article 113 TFEU.

9 Annex IV provides an overview of the very different tax bases and levels applied by Member States.

10 Judgment of 15 July 2004, case C-365/02, *Marie Lindfors*, ECR [2004] Page I-7183, paragraph 34 and Judgment of 29 April 2004, case C-387/01, *Harald Weigel, Ingrid Weigel* v. *Finanzlandesdirektion für Vorarlberg,* ECR[2004] Page I-4981, paragraph 55.

11 The simplification of procedures related to the re-registration and de-registration is addressed in a proposal for a Regulation of the European Parliament and of the Council simplifying the transfer of motor vehicles registered in another Member State within the Single Market COM(2012)164. Although the proposed Regulation does not deal with taxation, the situations described in this Staff Working Document concerning the use of cars in a Member State other than the one of registration may have to be reconsidered at a later stage in the light of the outcome of discussions on the aforementioned proposal.

12 This depends on whether a Member State applies such tax. An overview of the practice of Member States, which can be found in Annex I to this Staff Working Document, shows that 18 of the 27 Member States apply a registration tax.

Registration taxes are applied also to vehicles bought on the domestic market as new and only once when the vehicle is put in circulation for the first time in the country. They therefore fall under the category of internal taxes that are as such subject to the principle of non-discrimination contained in Article 110 TFEU.

Article 110 of the TFEU states that:

"No Member State shall impose, directly or indirectly, on the products of other Member States any internal taxation of any kind in excess of that imposed directly or indirectly on similar domestic products.

Furthermore, no Member State shall impose on the products of other Member States any internal taxation of such a nature as to afford indirect protection to other products."

The purpose of Article 110 is to avoid that internal taxation burdens more heavily products from other Member States as to afford a competitive advantage to domestic similar ones.

A preliminary remark in this respect is that the principle of non-discrimination requires that a tax is not calculated according to different criteria[13] depending on whether the goods are domestic or imported. The Court[14] has declared that taxation, although based on environmental grounds, which differentiates between domestic and imported products or that leads, if only in certain cases, to a higher taxation being imposed on the imported products would not comply with Article 110 TFEU.

An important premise to the application of Article 110 TFEU is also the existence of a "*similar domestic product*". The Court[15] has explained that the fact that there is no national production of motor vehicles does not signify that a Member State does not have a market of second-hand vehicles. Imported used cars and used cars bought locally constitute similar or competing products for the purpose of Article 110 TFEU[16].

Moreover, with respect to Article 110 TFEU it is necessary to highlight that Member States might decide to impose taxes on vehicles as a matter of environmental policy or broader public policy by means of new legislation. In *Nádasdi*[17], the Court decided that Article 110 TFEU is not designed to prevent Member States from introducing new taxes or from changing

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13 Case C-387/01, *Weigel*, paragraph 67.

14 Judgment of 2 April 1998, case C-213/96 *Outokumpu Oy,* ECR [1998] Page I-01777, paragraph 34 and Judgment of 18 January 2007, case C-313/05 *Maciej Brzezinski* v. *Dyrektor Izby Celnej w Warszawie*, ECR [2007] Page I-00513, paragraph 29.

15 Judgment of 11 December 1990, case C-47/88, *Commission of the European Communities* v. *Kingdom of Denmark,* ECR [1990], Page I-04509, paragraph 17.

16 For limitations to the application of Article 110 TFEU in situations where no national production of vehicle exists in a Member State, see Judgment of 17 June 2003, C-383/01, *De Danske Bilimportører* v. *Skatteministeriet*, ECR [2003] Page I-06065, paragraphs 38-39. The Court held that a registration duty imposed on new imported motor vehicles is not covered by the prohibitions laid down in Article 110 TFEU where there is no similar or competing domestic production. In particular, that provision does not provide a basis for censuring the excessiveness of the level of taxation which the Member States might adopt for particular products, in the absence of any discriminatory or protective effect.

17 Judgment of 5 October 2006, joined cases C-290/05 and C-335/05 *Ákos Nádasdi* v *Vám- és Pénzügyőrség Észak-Alföldi Regionális Parancsnoksága (*C-290/05) *and Ilona Németh v Vám- és Pénzügyőrség Dél-Alföldi Regionális Parancsnoksága* (C-333/05), ECR [2006] Page I-10115.

the rate or basis of assessment of existing taxes[18]. However, in case *Tatu*[19], the Court clarified that although Member States have the power to make new tax arrangements, such powers are not unlimited. In this respect Article 110 TFEU would be deprived of meaning and purpose if Member States could introduce new taxes which had the purpose or the effect of discouraging the sale of imported products in favour of the sale of similar domestic products available on the domestic market which have been placed on the market before those taxes entered into force.

Finally, the Court[20] decided in the context of Article 110 TFEU that when a registration tax is imposed only once in the lifetime of a vehicle, the amount of that tax is incorporated in the value of the vehicle. A second-hand vehicle, which was first registered and on which registration tax was paid as new, incorporates in its value a "residual tax" that diminishes proportionally with the depreciation of the vehicle. The Court considered that a system of taxation should be capable of guaranteeing that the tax due on a second-hand vehicle transferred from another Member State **does not exceed, even if only in certain cases, the amount of the "residual tax" incorporated in the value of similar vehicles already registered in the national territory.**

To explain this principle it may be useful to take the following example:

Assuming that a new vehicle has a value of 10.000 EUR on which a tax of 2.500 EUR is applied then it will have an overall value of 12.500 EUR (registration tax included). In that circumstance the tax amounts to 20% of the total value of the new vehicle. Assuming that the same vehicle after 5 years has lost 30% of its value and that it will be worth 8.750 EUR on the second-hand market, the tax “incorporated” in the value of that vehicle will also have reduced its value by 30% (although being still 20% of the total second-hand value), i.e. it will be 1.750 EUR. The principle expressed by the Court implies that the registration tax on a similar second-hand vehicle in terms of age, type, make, model and other criteria cannot exceed 1.750 EUR.

When calculating the registration tax on second hand vehicles transferred from one Member State to another, the element to take into account is therefore not the value of the vehicle as indicated in the invoice between the acquirer and the seller, but the "residual tax" incorporated in the value of a similar vehicle in the Member State of destination.

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18 In particular, in *Nádasdi* the Court declared that notwithstanding the introduction of a new tax, the comparison that should be made for the assessment of a potential discrimination under Article 110 TFEU, is not between imported products which were subject to the "new" tax and domestic similar ones which did not bear the "new" tax, but between imported products and similar domestic ones both registered after the "new" tax has been introduced. In this case the final outcome was that the specific tax which was based on technical and environmental characteristics of the vehicle (as such legitimate and objective) did not comply with Article 110 TFEU because it did not take into account the actual depreciation of the vehicle.

19 Judgment of 7 April 2011, case C-402/09 *Ioan Tatu* v *Statul român prin Ministerul Finanţelor şi Economiei and Others,* paragraphs 52 and 53.

20 Case C-47/88 *Commission* v *Denmark,* paragraph 20, and Judgment of 9 March 1995, case C-345/93 *Fazenda Pública and Ministério Público* v *Américo João Nunes Tadeu,* paragraph 13.

3.2.2. Three principles defined by the Court

3.2.2.1. Fairness of the tax system

To ensure that the tax due on a second-hand vehicle transferred from another Member State does not exceed the amount of the residual tax incorporated in the value of similar vehicles already registered in the national territory, Member States, when levying a registration tax on second-hand vehicles, must take into account the loss of value due to the use that the vehicle has suffered over the years.

Some Member States perform an individual assessment or expert examination of each single vehicle (for example Denmark). However, the Court has accepted that a Member State may establish the value of a second-hand vehicle by means of fixed scales determined by regulation or administrative provisions and calculated on the basis of objective criteria. Such scales and criteria must ensure that the value of the second-hand vehicle is established at an amount very close to its actual value. In this respect, the Court has highlighted that a system of taxation of imported second-hand vehicles which takes into account the actual depreciation of the vehicles on the basis of general criteria should be structured in such a way, making allowance for the "reasonable approximations" inherent in any system of that type, as to exclude any discriminatory effect.

The case law of the Court has set out useful principles on the degree of precision that fixed scales and criteria should afford in order to reflect the actual loss of value of a second-hand vehicle that is transferred from another Member State.

For example, the Court[21] has decided that a system where the depreciation of either the value of the second-hand vehicle, or of the tax, stops at 10% of the initial value of the vehicle as new does not guarantee that the amount of tax does not exceed the "residual tax" incorporated in the value of a similar vehicle already registered in the national territory. In other words a depreciation that stops at 10% while typically the value of a vehicle depreciates further is not enough to reflect the real loss of value and ends up in over taxation of second-hand vehicles.

The Court[22] has also found that the annual depreciation in the value of cars is in general considerably more than 5%, that depreciation is not linear, especially in the first years when it is much more marked than subsequently, and that vehicles continue to depreciate more than four years after being put into circulation. A vehicle starts to depreciate as soon as it is bought or brought into use.

Moreover, the Court[23] has pronounced on a taxation scale for imported second-hand cars, which was based on a single criterion of depreciation, holding that it was not sufficient to ensure that the value of the second-hand vehicle is established at an amount close to the actual value of the second-hand vehicle. Other factors of depreciation have to be taken into account, such as the make, the model, the kilometres driven, the method of propulsion, the mechanical state or the state of maintenance of the vehicle.

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[21] Cases C-47/88 *Commission* v *Denmark* and C-345/93 *Nunes Tadeu.*

[22] Judgment of the Court of 23 October 1997, case C-375/95, *Commission of the European Communities* v. *Hellenic Republic* ECR [1997] Page I-05981, and Judgment of 19 September 2002, case C-101/00, *Tulliasiamies, Antti Siilin*, ECR [2002] Page I-07487.

[23] Judgment of 27 February 2001, case C-393/98, *Ministério Público* and *António Gomes Valente* v *Fazenda* Pública ECR [2001] Page I-01327, paragraph 28, and case C-74/06, *Commission* v *Greece*, paragraph 40.

A tax on a second-hand vehicle may be determined by means of a differentiated tax rate depending on e.g. the capacity, horse power, CO2 emission, applied to the value of a second-hand vehicle, or may consist in a specific amount per horse capacity, CO2 emissions etc. The fairness of the system is guaranteed not only by a correct determination of depreciation scales but also by a correct determination of the taxable value of second hand vehicles on which the tax is calculated[24].

3.2.2.2. Establishment of means of redress

Member States' judicial systems have to offer the possibility to challenge either the application of the statutory scales in their individual case or the individual assessments of the tax if their tax systems do not allow an adequate determination of the real value of the vehicle.

The Court[25] has however clarified that a Member State is not compelled by EU law to provide that the means of redress are made available for free, if the cost of the procedure is reasonable and represents only an insignificant amount compared to the amount of registration tax at stake.

3.2.2.3. Principle of transparency

The third principle stated by the Court[26] is a direct consequence of the requirement to predispose appropriate means of redress and consists in the transparency of the tax system. In order to be challenged, criteria of depreciation need to be brought to the knowledge of the public.

3.3. Registration taxes and the permanent and temporary transfer of a motor-driven vehicle in another Member State

Although "positive harmonisation" by means of EU legislative acts has been difficult to achieve due to the unanimity requirement, the EU legislator has sought to provide a solution for specific cross-border situations. In particular, the aim of the EU legislator has been to seek the elimination of certain tax obstacles that affect the movement of private individuals within the Internal Market by means of Directive 83/182/EEC[27] and Directive 2009/55/EC[28] (which codified the changes performed on the formerly applicable Directive 83/183/EEC[29]). These Directives have however a limited application as it will be explained hereinafter.

3.3.1. Directive 83/182/EEC: temporary introduction of a motor-driven road vehicle

When an individual moves temporarily to another Member State, this latter Member State is obliged to exempt from turnover tax, excise duties and any other consumption tax[30] a number

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24 See case C-47/88 *Commission* v *Denmark*, paragraph 18.

25 See case C-74/06 *Commission* v *Greece*, paragraph 56.

26 See case C-393/98 *Gomes Valente*, paragraph 34.

27 Council Directive 83/182/EEC of 28 March 1983 on tax exemptions within the Community for certain means of transport temporarily imported into one Member State from another, OJ L 105 of 23.04.1983, p. 59-63.

28 Council Directive 2009/55/EC of 25 May 2009 on tax exemptions applicable to the permanent introduction from a Member State of the personal property of individuals, OJ L 145 of 10.06.2009, p. 36-41.

29 Council Directive 83/183/EEC on tax exemptions applicable to permanent imports from a Member State of the personal property of individuals, OJ L 105 of 23.04.1983, p. 64-65.

30 Further to those taxes, Article 1 of Directive 83/182/EEC provides for an exemption from other taxes listed in the Annex to the Directive.

of items that an individual may bring along e.g. a motor-driven road vehicle (including trailers), caravans, pleasure boats and private craft[31]. However, the exemption does not apply if the vehicle has not been acquired or imported according to the general conditions of taxation in force on the domestic market of a Member State, or when it has been subject by reason of its exportation to any exemption from or refund of turnover tax, excise duty or any other consumption tax. Moreover, the exemption does not apply to commercial vehicles.

There are a number of conditions that must be fulfilled. First and foremost, the "importation" of the vehicle to another Member State needs to be temporary: this means a period, continuous or otherwise, of not more than six months in any 12 months, provided that the individual i) has his normal residence in a Member State other than the Member State of temporary importation, ii) employs the means of transport for his private use, iii) does not dispose or hires out in the Member State of temporary importation or lends the vehicle to a resident of that State.

The main function of Directive 83/182/EEC is that of designating one place of residence in order to ensure that the taxing rights in regard to vehicles temporarily imported is allocated to one Member State only, namely the Member State in which the individual concerned has his place of normal residence. The essential condition is thus that the individual *maintains his normal residence* in a Member State other than the one where he temporarily moves. The criteria for determining the concept of "normal residence" is the place where a person usually lives for at least 185 days in each calendar year because of personal and occupational ties which show close link between that person and the place where he is living. Where those ties are not concentrated in a single Member State, primacy is given to personal ties over occupational ones, provided that the person returns to the place of his personal ties regularly. However, the requirement to return to the place where the personal ties are located does not need to be met when the person is living in a Member State in order to carry out a task of a definite duration[32]. This provision had the purpose to treat in an equal way frontier workers who have the possibility to return regularly to the place where their personal ties are located and workers who, without changing their residence, do not have the possibility to return "regularly" in their home country due to distances between Member States.

Finally, special regimes are foreseen, where no specific time limit apply, to students who move to another Member State from the Member State of their normal residence for the purpose of pursuing their studies and for cross-border workers where a vehicle is registered in the country of normal residence of the user and where the vehicle is used regularly for the journey from the residence to the place of work in an undertaking in another Member State and vice versa.

In practice, it might not always be easy to determine where the normal residence of an individual is located.

The Court[33] has highlighted that all relevant facts must be taken into consideration in determining the "normal residence" as the centre of personal interest of the person concerned, namely the actual presence of the person concerned and of the members of his family, availability of accommodation, the place where the children actually attend school, the place

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31 In addition, also bicycles, tricycles and saddle-horses.

32 Case C-144/08 *Commission of the European Communities* v *Republic of Finland*, ECR [2009] Page I-00097.

33 Judgment of 12 July 2001, case C-262/99 *Paraskevas Louloudakis* and *Elliniko Dimosio*, ECR [2001] Page I-05547, paragraph 55.

where the business is conducted, where property interests are situated, where can be identified administrative links to public authorities and social services, in as much as those factors express the intention of that person to confer a certain stability on the place of connection, by reason of the continuity arising from a way of life and the development of normal social and occupational relationships. In a nutshell, in a situation where a person has arranged his professional *and* personal life equally split between two Member States, prevalence will be given to the State where a person has shown intention to give *stability* to the private and social sphere. The Court has also stated that it is for the national judge to make an overall assessment of the elements relating to the ties with place of residence and that Member States are not required to resort to a mutual agreement where the determination of normal residence raises difficulties[34].

Article 3 of the Directive provides that the exemption for the temporary importation is subject *inter alia* to the condition that the vehicle is not disposed of, hired out or lent to a resident of the Member State of importation. This provision reflects the aim of the Directive which is to facilitate the mobility of citizens without offering ways to circumvent the payment of the taxes on vehicles. This provision however represents an obstacle when the lending or hiring out is performed against consideration and is made in the framework of a car rental. In that respect the prohibition to re-hire out a vehicle to a resident of the State of importation would exclude a number of potential lessees. Vehicles belonging to a car-hire firm with a head office in the Union may be re-hired only to non-residents with a view to being re-exported, if they are in the country as a result of a hire contract which ended in that country. They may also be returned by an employee of the car-hire firm to the Member State where they were originally hired even if the employee is a resident of the Member State of importation.

3.3.2. Directive 2009/55/EC on permanent introduction of personal property of individuals

The Directive provides for an exemption for personal property introduced permanently from another Member State by private individuals from consumption taxes which normally apply to such property. The exemption does not apply to Value Added Tax, excise duty and specific and/or periodical duties and taxes connected with the use of the property such as for example motor vehicle registration fees, road taxes and television licences.

The Directive subjects the exemption to a number of conditions, in particular:

- the exemption shall be granted only if the private individual transfers his normal residence to the Member State of destination;
- "normal residence" is defined in the same terms as "residence" for the purpose of temporary importation[35];
- the vehicle must have been acquired under the general conditions of taxation in force in the domestic market of the Member State of origin without having been subject to any exemption or refund of consumption tax upon the exit;
- Member States may require that the person must have had the actual use of the vehicle for a period of at least sixth months before the change of residence;

[34] Paragraphs 57 and 59 of *Louloudakis*. See footnote 33.
[35] See paragraph 3.3.1. above.

- the competent authorities of the Member State of destination in the case of doubts as to the validity of a statement as to normal residence, or for the purpose of certain specific controls, may ask for any information they require or for additional proof;

- the vehicle must be introduced not later than 12 months after the transfer of normal residence;

- the motor-driven road vehicle shall not be disposed of, hired out or lent during the period of 12 months following the tax exempt introduction, except in circumstances duly justified to the satisfaction of the competent authorities of the Member State of destination.

The material scope of the Directive which explicitly excludes from the exemption duties connected with the *use of the vehicle* has represented the main obstacle for the application of the exemption contained therein to registration taxes on vehicles.

The Court[36] has taken the view that registration taxes are not connected with the act of importation but that their taxable event is the use of the vehicle on the national roads. As a consequence, Member States retain the right to impose them *also* when they are levied upon the permanent transfer of a residence.

However, some Member States grant an exemption on a pure unilateral basis[37] and require the respect of a number of conditions.

3.3.3. Special cases

In a number of particular situations, double taxation is unavoidable and cannot be mitigated by means of the two Directives referred to in points 3.3.1 and 3.3.2 or the case law of the Court.

An example is the taxation of a pleasure boat, which might be subject to a (registration) tax in Member State A because the boat bears the flag of that Member State. It is therefore registered in the naval registrars of Member State A, but the owner of the boat is also subject to a property tax on the pleasure boat in Member State B, which is his State of residence. In this case unrelieved double taxation arises since EU law does not prevent both Member States from levying charges or levies on the same pleasure boat.

Double taxation may also arise if an individual leaves his car permanently in the place where his holiday house is located. The car might have already been subject to registration tax when it was registered as new in the country of residence but the Member State where the holiday house is located would not be prevented from levying a second registration tax on that vehicle.

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36 The Court in Cases C-387/01 *Weigel*, C-365/02 *Marie Lindfors*, and judgment of 16 June 2005, case C-138/04 *Commission of European Communities* v. *Kingdom of Denmark*, did not endorse the Commission´s position that registration taxes fall under the scope of the exemption of Directive 83/183/EEC, now Directive 2009/55/EC.

37 For an overview of Member States that exempt from registration taxes where a permanent transfer of a residence occurs, see Section 4.1 of the Communication.

3.4. Cross-border leasing of motor-driven vehicles

Registration taxes represent an obstacle where the lessor is established in one Member State, being also the Member State of registration of the vehicle, and is leased to a lessee who is established in another Member State. In such a scenario the fleet of the leasing company would be registered and hence bear registration plates of Member State A. If the vehicle is leased to a lessee established in Member State B and Member State B levies a registration tax, the lessor (or the lessee) could be required to pay in full on the leased vehicle the registration tax in Member State B.

For such situations, the Court[38] has established the principle that where a vehicle is leased from a company established in one Member State and is actually used on the road network of another Member State, the latter may impose an obligation for that vehicle to be registered in its territory[39] and hence levy registration tax.

Having established that *as such* taxation of the Member State of the lessee is not prohibited by EU law, it remains to be determined to which extent and with which modalities that power of taxation can be exercised.

The Court[40] has found that the freedom to provide services does not preclude a Member State from imposing a car registration tax on leased motor vehicles. However, in order to respect the principle of proportionality**, the amount of tax has to be proportionate to the duration of the registration of the vehicle in the Member State where it is used[41].**

The Court has also found that the time period prescribed for completing the necessary formalities should not be so short as to constitute an unjustifiable obstacle to the freedom to provide services. In the material case the disproportionality of the time-limit, which was of three days, was quite evident. In some other circumstances, however, where the time limit is 10 or 15 days, such disproportion might be less evident[42].

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38 Judgment of 21 March 2002, case C-451/99 *Cura Anlagen*, paragraph 40.

39 According to the proposal for Regulation COM(2012)164, a Member State may only require the registration of a vehicle if the holder of the certificate of the leased car has his normal residence on its territory. However, the proposal deals only with the administrative authorisation required for the entry into service of a vehicle on the road traffic, without interfering with the taxing powers of Member States.

40 Case C-451/99, *Cura Anlagen*, paragraph 69.

41 Concerning the VAT treatment of leasing of vehicles, by virtue of the modifications introduced by Directive 2008/8/EC (OJ L 44 of 20.2.2008, p. 11), as from 1 January 2010 the long-term leasing of vehicles is taxable i) in the country where the customer is established in a business-to-business (B2B) relation (new Article 44 of the VAT Directive), ii) in the country where the supplier is established in a business-to-consumer (B2C) relation (new Article 45 of the VAT Directive). The "short-term" leasing (not more than 90 days for vessels or 30 days for any other means of transport) is taxable where the means of transport is put at the disposal of the customer in a B2B and B2C relation (new Article 56 of the VAT Directive). As from 1 January 2013, the long-term hiring of a means of transport to a non-taxable person is subject to VAT where the customer is established. Special rules apply for the long-term hiring of boats to a non-taxable person (new Article 56 of the VAT Directive). Certain detailed aspects on the application of the new rules on hiring of means of transport introduced with Directive 2008/8/EC have been further clarified by Articles 38-40 of Regulation EU 282/2011 of 15 March 2011 (OJ L 77 of 23.3.2011, p. 1).

42 On how the proposed Regulation COM(2012)164 may impact the obligation to re-register a leased vehicle, see footnote 11. The aforementioned proposal does not alter the taxing rights of Member States.

The Court has confirmed this line of reasoning in subsequent cases[43].

3.5. Company car used by an employee or an administrator

A vehicle is increasingly becoming part of the "salary package" or the financial treatment of cross-border workers or self-employed persons and situations where a person is employed or works for a company established in a Member State other than that of his residence are frequent. The Court has been called upon in a number of cases to scrutinise the effects and the compatibility with the free movement of workers and the freedom of establishment of registration taxes in situations where the worker or the self-employed use a vehicle made available to him by his employer[44].

The Court considered that the legislation and administrative practice of a Member State restricts the free movement for workers and breaches EU law in so far as they allow employees resident in that Member State and employed in another Member State to use a company vehicle registered in that other Member State only subject to the condition that a tax is paid for that purpose, where the vehicle is neither intended to be essentially used on a permanent basis in the Member State of residence of the employee, nor is actually so used[45].

A similar hindrance arose where the vehicles were put at the disposal of persons holding the function of administrators of companies established in another Member State[46].

The Court has also clarified that it is for the national judge to assess in which way the vehicle has been used and that when a company vehicle is not used permanently or intended to be used in that way in the Member State of residence of the user, the obligation to register is not justified if the self-employed worker may additionally use the company vehicle for private purposes[47].

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43 Order of 27 June 2006, case C-242/05 *G.M. van de Coevering* v. *Hoofd van het District Douane Roermond van de rijksbelastingdienst* ECR [2006] Page I-05843; Order of 22 May 2008, case C-42/08 *M. Ilhan* v. *Staatssecretaris van Financiën* ECR [2008] Page I-00083; Order of the Court of 29 September 2010, case C-91/10 *VAV-Autovermietung GmbH* v. *Inspecteur van de Belastingdienst/Douane Zuid, kantoor Rosendaal*.

44 The situations envisaged here are different from the situation envisaged in Article 5 of Directive 83/182/EEC on tax exemptions for certain means of transport temporarily imported into one Member State from another. Article 5 of Directive 83/182/EEC provides that the exemption from the tax that comes in the scope of that Directive applies without any time limit (i.e. without the constraint of 6 months in any twelve months) where the vehicle registered in the country of normal residence of the user is used regularly for journeys from the place of residence of the worker to the place of work in another Member State. Hence, Article 5 presupposes that the vehicle has been registered in the Member State where the user resides. The case law analysed in this section, on the contrary, envisages the opposite situation, i.e. where the vehicle is *not* registered in the country of residence of the user but in the country of residence of the employer. As a consequence, it would be the country of residence of the user that requires the payment of the registration tax under the principle that typically the vehicle is registered and has borne the tax of the State of residence of the user or the owner.

45 Judgment of 15 September 2005, case C-464/02 *Commission of the European Communities* v *Kingdom of Denmark,* ECR [2005] Page I-079279, paragraphs 76-79.

46 Judgment of 15 December 2005, joined cases C-151/04 and 152/04 *Criminal proceedings against Claude Nadin, Nadin-Lux SA* (C-151/04) *and Jean-Pascal Durré* (C-152/04), ECR [2005] Page I-11203, paragraph 55.

47 See case *Nadin*, paragraph 53.

3.6. Car registered in a Member State and borrowed by a resident of another Member State

Recently, the Court[48] was asked to examine situations where a foreign-registered vehicle was lent to private persons by family members or friends and on which the full registration tax was levied by a Member State upon the first use of its road network.

The Court considered that the loan of a vehicle falls under the free movement of capital[49].

The Court then held that if a vehicle, which is not registered in a Member State, is intended to be essentially used in this Member State on a permanent basis, or if in fact it is used in that way, the charging of vehicle tax on the first use on the road network in that Member State of foreign-registered vehicles is justified.

Conversely, if a vehicle is not intended to be used essentially in a Member State on a permanent basis, or is not, in fact, used in that way, the charging of a registration tax would not be justified and the use of that vehicle should be exempted from such tax[50].

3.7. Interaction of vehicle registration taxes with other taxes

The relationship between registration taxes on vehicles and other indirect taxes is of relevance because on the one hand it may determine an increase of the overall tax burden on the registration of a vehicle and on the other hand it may provide an answer to the incorrect conviction that registration taxes are a form of duty levied upon the crossing of frontiers.

3.7.1. Registration taxes and VAT

In relation to the supply of a "new" vehicle[51] more than one tax might be due. In particular, the supply as such of the new vehicle will be subject to VAT while the putting in circulation of the vehicle will be subject to a registration tax. The issue is whether or not the taxable amount for VAT purposes should include the registration tax, i.e. whether the registration tax becomes part of the taxable amount for VAT purposes, so that the output VAT of the supplier will be higher. The customer, however, will only be able to deduct the VAT charged on the registration tax - as input VAT - if he is a taxable person for VAT purposes.

According to the VAT Directive[52], the taxable amount for VAT purposes shall include i) taxes, duties, levies and charges and ii) incidental expenses, but shall not include amounts received by a taxable person from the customer as repayment of expenditure incurred in the name and on behalf of the customer and entered in the supplier´s books in a suspense account.

According to settled case-law[53], the Court has stated that if taxes, duties, levies and charges are to fall within the basis of assessment for the purposes of VAT, even though they do not

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48 Judgment of 26 April 2012, joined cases C-578/10, C-579/10, C-580/10 *L.A.C. van Putten, P. Mook, G. Frank*.

49 The Court has found that a loan free of charge for cross-border use falls under the free movement of capital and, in particular, falls under heading XI of Annex I to Directive 88/361, regardless of whether loans are for consideration or free of charge (paragraphs 31 and 32 of the judgment *van Putten*).

50 Paragraph 54 of the judgment *van Putten.*

51 The observations in this paragraph also apply where the object of the supply does not qualify as a "new" vehicle in the sense of the VAT Directive (paragraph 2.1); see paragraph 2.2.

52 Articles 78 and 79 of the VAT Directive.

53 Judgment of 28 July 2011, case C-106/10, *Lidl & Companhia* v *Fazenda Pública,* paragraph 33 and case-law cited.

represent any added value and do not constitute the financial consideration for the supply of the goods, they must be directly linked to that supply. In this regards, the Court[54] considered that, where there are **different events** that trigger liability for both taxes, registration tax should not be regarded as directly linked to the supply itself.

For example, the Court dealt with a case from Denmark[55] where a motor vehicle was purchased from an authorised dealer who also dealt with the registration of the vehicle in the purchaser's name and the provision of number plates before supplying the car. As a consequence, the registration duty was paid by the dealer on account of a contractual obligation to supply to the purchaser a vehicle which was registered in the purchaser's name. The Court ruled in general terms that this registration duty, for which the occurrence triggering liability was not the supply of the vehicle but rather its first registration within the Danish territory, was not one of the "taxes, duties, levies and charges" within the meaning of the VAT Directive and, therefore, not to be included in the taxable amount for VAT purposes.

Conversely, however, the Court[56] decided that where a registration duty is linked to the supply of a vehicle, rather than its actual registration, and where the relevant national legislation indicates the supplier as the taxpayer owing the duty, it must be included in the taxable amount for VAT purposes if it is passed on to the customer together with the sales price of the vehicle concerned.

3.7.2. Registration taxes and charges having an equivalent effect to customs duties

With respect to registration taxes on vehicles there is often the misconception that they are levies equivalent or similar to customs duties (prohibited between Member States by Article 30 TFEU). The misunderstanding originates from the fact that often citizens are required to pay registration taxes on their second-hand vehicle when they move to another Member State. Given the fact that a registration tax might already have been paid on the same vehicle when it was purchased as new, the conclusion that is often drawn is that the tax is levied in the Member State of "destination" *because* the vehicle has been moved from one Member State to another.

A tax such as a registration tax is not levied by reason of a vehicle crossing the frontier of the Member State, but normally upon the first registration of the vehicle in the territory of that State for the purpose of being placed in circulation there[57]. As the Court explained in several cases[58], such a tax forms part of the general system of internal taxation on goods and must therefore be examined in the light of Article 110 TFEU. In addition, a motor vehicle tax applied without distinction to vehicles assembled or manufactured in the Member State where it is levied and to both new and used imported vehicles, is not a customs duty or a charge having an effect equivalent thereto.

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54 Judgment of 1 June 2006, case C-98/05 *De Danske Bilimportører* v. *Skatteministeriet*, ECR [2006] Page I-04945 and Judgment of 22 December 2010, case C-433/09 *Commission* v. *Austria*.

55 Case C-98/05 *De Danske Bilimportører* v. *Skatteministeriet*.

56 Judgment of 20 May 2010, case C-228/09 *Commission* v *Republic of Poland* ECR [2010] Page I-00070 and case C-106/10 *Lidl & Companhia* v *Fazenda Pública*.

57 See *De Danske Bilimportører* v. *Skatteministeriet,* footnote 54.

58 Cases C-393/98 *Nunes Tadeu*; C-290/05 *Nádasdi* and C-333/05 *Németh;* C-134/07 *Piotr Kawala* v *Gmina Miasta Jaworzna* ECR [2007] Page I-10703*;* C-313/05 *Brzeziński* and *C-387/01 Weigel*.

4. OTHER ISSUES

An issue that often arises together with the liability to pay taxes levied on vehicles is the liability with respect to fines and sanctions. This is a sensitive field that traditionally remains in the realm of the powers of Member States. The case law of the Court has recognised that in the absence of Community legislation in the field of penalties for infringement of Community legislation, Member States are empowered to choose the penalties which seem appropriate to them.

However, the power of discretion is subject to the principle of proportionality. The Court[59] considered that criminal penalties are linked to the economic and social situation of the relevant Member State and that the application of criminal penalties to violations of vehicle registration rules cannot be considered *per se* an indication that penalties do not comply with the proportionality principle. The Court concluded that the question whether the penalties are disproportionate or proportionate was a matter to be assessed case-by-case and that the temporary immobilisation of a vehicle and release only upon payment of the fines might be disproportionate since it may deny the beneficiary the use of his vehicle. In that respect the Court has suggested that a solution more consistent with EU law could be to impose the provision of a security.

5. CONCLUSIONS

The case law of the Court has crystallised important principles that clarify the taxing power of Member States, thus also protecting the rights of EU citizens.

The Commission is continuously engaged in monitoring that Member States' legislation is in compliance with EU law and that they correctly implement the case law of the Court in relation to cross-border movement of workers, self-employed persons and EU citizens in general, the freedom to provide services and free movement of capital.

[59] Judgment of 7 June 2007, case C-154/06 *Commission of the European Communities* v *Hellenic Republic*, ECR [2006] Page I-00121.

Annex I
Overview of application by Member States of car registration and circulation taxes

MS	RT	Name of the registration tax	Name of any other tax applied upon registration	Circulation tax
BE	X	Taxe de mise en circulation	Eco-Malus (Région Wallonne)	X
BG				X
CZ				X
DK	X	Motor vehicle registration duty		X
DE				X
EE				
IE	X	Vehicle Registration Tax (VRT)		X
EL	X	Registration tax	Luxury tax	X
ES	X	Impuesto Especial sobre Determinados Medios de Transporte		
FR	X	Taxe sur les certificats d'immatriculation des véhicules	Taxe additionnelle à la taxe sur les certificats d'immatriculation Malus applicable aux voitures particulières polluantes	
IT	X	Imposta provinciale di trascrizione	Imposta di bollo e imposta sul valore aggiunto	X
CY	X	Registration tax	Excise duty	X
LV	X	Motor vehicle registration tax		X
LT				
LU				X
HU	X	Registration tax		X
MT	X	Motor Vehicle Registration Tax		X
NL	X	Belasting van personenauto's en motorrijwielen		X
AT			Normverbrauchsabgabe	X
PL			Excise duty levied on vehicles before first registration on territory of Poland.	
PT	X	Tax on Motor Vehicles – Imposto Sobre Veículos(ISV)		X
RO	X	Registration tax (Taxa de înmatriculare)	Car pollution tax (taxa pe poluare pentru autovehicule)	X
SI	X	Motor Vehicle Tax		X
SK				X
FI	X	Car Tax		
SE				X
UK				X

Annex II
Conditions for the application of a refund of registration tax for vehicles permanently moved to another Member State

BE	Full refund of registration tax for vehicles transferred to another Member State within six months of their registration provided the vehicle is permanently registered in that other Member State.
DK	Section 7 of the Registration Tax Act lays down the detailed rules on the refund of registration tax paid on export, i.e. where the vehicle is removed from the register in Denmark with a view to its export to *another Member State or to a non-EU country*. The amount of the refund is fixed at the amount of the registration tax payable if an identical vehicle were imported from abroad. 15% of the amount of tax calculated in this way is deducted, with a minimum of DKK 7 500 in the case of private cars. The amount of the registration tax that can be refunded is calculated on the basis of the vehicle's original price in Denmark compared with the current market price. This is the normal price of the vehicle including VAT and registration duty when sold to a person in Denmark. It corresponds to the price a Danish dealer can ask for an equivalent vehicle in a condition fit for registration, including VAT, the dealer mark-up and registration tax.
ES	The basis of refund is constituted by the market value of the vehicle at the moment of dispatch, without it being possible to exceed the value that results of the application of the valuation tables of used vehicles. The rate of the refund will be the one which was applied when the tax was charged. The amount of the refund cannot be superior, in any case, to the amount initially paid.
NL	A refund of the residual tax amount is granted, if the registration tax was due after 15 October 2006. Use of fixed scales.
AT	Calculation of the up-to-date value in relation to the initial (or original) value.
PL	Any entity which acquired the right to have the disposal of a car as its owner and carrying out an intra-Community delivery of that car (with paid excise duty) which is not registered in the territory of Poland, may apply for excise duty drawback. Such entity must apply for excise duty drawback to the head of custom office (within 1 year of the intra-Community delivery) along with bill of lading, duty documents, invoice, specification of delivery or any other documents related to this delivery. As a rule excise duty drawback takes place within 30 days from the day of filing the application to the head of customs office. Only in particular cases this date may be extended to 90 days.
PT	The refund is determined according to the length of time between the issuance of the Portuguese registration plate and the date at which the taxpayer submits the application to get the refund: • Refund of 75% in the first year, 50% in the second year and 25% in the third year. • In addition, the application should be submitted within one year of the date on which the vehicle was exported.
RO	The refund is granted at the removal from the national fleet. If a vehicle for which the registration

	tax has been paid in Romania is then removed from the national fleet, the taxpayer who paid the fee is refunded the residual value. Residual value is the tax that would have been paid for that car if the car had been registered at the time of removal from the national fleet.
SI	The amount of the tax refund is calculated according to actual paying tax data in the Republic of Slovenia and use of motor vehicle period data in the Republic of Slovenia in this manner that for every beginning year (the date of the first registration of the motor vehicle) of the use of motor vehicle in the Republic of Slovenia, the tax amount is reduced for 10%.
FI	The tax refund system came into force in Finland beginning 2010. The tax refund can be granted for a vehicle that has been taxed in Finland as of 1 April 2009. The amount of the refund is determined in the same way as the registration tax. The general price of a vehicle is determined by using the information concerning prices of vehicles on the market. The amount of refund is calculated on the basis of the vehicle's general price by using the effective tax rate, which is based on the CO2-emissions of a vehicle. Vehicles must be in a roadworthy condition when the use in Finland ends and shall be registered in a vehicle register abroad. As an administration fee, 300 euro is deducted from the refund. No refund is granted if, after this deduction, the amount to be refunded is less than 1 000 euro. A refund is not granted if a vehicle has been taken into use (= registered) for the first time more than ten years ago.

Annex III
Member State allowing that vehicles registered in another Member State which arrived in their country as a result of a hire contract, are hired to a resident without the obligation to re-register and pay registration tax (Option under Article 9(1) of Directive 83/182/EEC)

	Conditions
BE	Registration in Belgium of vehicles registered abroad and brought into circulation by a resident is not mandatory for a vehicle rented to a resident by a professional service provider for a non-renewable period of maximum 6 months. The rental contract put out in the name of the person who brings the vehicle into circulation must be signed and dated and be kept on board the vehicle.
DK	As a general rule, persons resident in Denmark may use only Danish registered vehicles. This also includes lease cars. There is one exception, cf. Registration Order, Section 17(2), according to which a person resident in Denmark may use a foreign vehicle in accordance with the Highway Code if the vehicle is leased abroad for a period of at most one week, if the driver is permitted to drive the vehicle under the lease agreement and provided the vehicle is driven, in accordance with the Highway Code, only from the border direct to the place in Denmark where the vehicle is to be returned according to the lease agreement.
ES	The Spanish legislation that regulates the Excise Duties on Certain Means of Transportation allows the use of vehicles registered in another Member State without it being mandatory to pay the tax in Spain, only during 30 days. Additionally, it is not mandatory to register a vehicle in Spain, if the Excise Duties on Certain Means of Transportation is paid, or if it is declared that the activity that the vehicle is going to be applied to meets the requirements to benefit from an exemption (there exists, for instance, an exemption for activities like 'rent a car'). In the latter cases, it is not mandatory (by application of the Spanish legislation regulating the Excise Duties on Certain Means of Transportation) to register the vehicle in Spain, nor to pay the Excise Duties on Certain Means of Transportation.
HU	According to the provisions of the Vehicle Traffic Act (1998/1), vehicles with drivers, who have their place of residence in Hungary, do not need to have Hungarian car documents or license plates in the following cases: • usage of the vehicle does not last longer, than 30 days; • the vehicle is used regularly for work purposes abroad.
NL	Exemption is granted for a maximum period of two weeks. The car should be reported electronically in advance, through the Internet. For longer periods up to three years, the registration tax is levied proportionally to the total duration of the agreed lease arrangement. An extension of this regulation to lease agreements with a maximum duration of four years has been proposed to Parliament.
PT	The Portuguese legislation allows that a vehicle that arrived in Portugal as a result of a hire contract is re-hired to a resident under the condition that it is re-exported within 4 days.
UK	The UK does allow a car registered in another Member State, which has arrived in the UK as a result of a hire contract, to be hired out to any rental customer (UK resident or otherwise) without the need for the car to take-up UK registration.

Annex IV
Overview of passenger car taxation in Member States

MS	Registration taxes based on:	Tax rate/Approximate amount of registration taxes[60]	Annual circulation taxes based on:	Approximate amount annually
BE	Engine power, expressed either in fiscal horsepower or in kilowatt (kW)	Tax due ranges from € 61,5 to € 4957	Engine power	Ranges from € 57 to € 1714 for fiscal horsepower of 20
BG	None		Engine power and the year of manufacture	Max. BGN 3,69 per kW above 110 kW x 2,8 for a car less than 5 years old
CZ	None		Cylinder capacity (cc) in cm^3	From CZK 1200 to CZK 4200
DK	Price inclusive of VAT and fuel efficiency	105% up to DKK 62700 and 180% of the remainder of the price Reduction of DKK 4000 for petrol/diesel cars for each additional km in excess of 16/16,5 km the vehicles runs per litre petrol/diesel. Increase of DKK 1000 for petrol/diesel cars for each km less than 16/18 km the car runs per litre petrol/diesel	Fuel efficiency and fuel type	Petrol cars: DKK 560 for cars running ≥ 20 km/litre to DKK 19320 for cars running < 4,5 km/litre Diesel cars: DKK 160 for cars running ≥ 32,1 km/litre to DKK 25920 for cars running < 5,1 km/litre
DE	None		Cc and CO_2-emissions	€ 2/ €9.50 per 100 cc for a petrol/diesel engine and € 2 for each g/km CO_2 emission above a certain limit (110 g/km for cars registered in 2012)
EE	None		None	
IE		14% (≤ 120 g/km CO_2) with a minimum of € 280 gradually increasing to 36% (> 225 g/km CO_2) with a minimum of € 720	CO_2-emissions	Ranging from € 160 for CO_2 emissions < 120 g/km and € 2 258 for CO_2-emissions > 225 g/km

[60] Approximate amount of taxes: a range of the tax due or the maximum tax.

MS	Registration taxes based on:	Tax rate/Approximate amount of registration taxes[60]	Annual circulation taxes based on:	Approximate amount annually
EL	Price inclusive of VAT	Rate varies depending on the cc and on the pollution norm of the vehicle. 5% is the lowest rate (< 900 cc and Euro-5), 346% is the highest rate (> 2000 cc and before Euro-1)	CO_2-emissions	Rate varies from 0 to € 3,40 per g/km CO_2 for a car with CO_2-emissions > 251 g/km
ES	Price exclusive of VAT Rate depending on the CO_2-emissions	Rate is 0 (< 120 g/km CO_2) to 14,75% (≥ 200 g/km CO_2) The autonomous regions can however set higher or lower tax rates	Engine power	Rates established by local government
FR	Horsepower. The formula: $CO_2/45 + (kW/40)^{1.6}$ Levied by the regions There is also a CO_2-based bonus-malus system. A malus (tax) is due above 140 g/km CO_2	The rate varies between € 27 and € 52 per horsepower	None	
IT	Rates depend on the type and the capacity of the vehicle	Provincial authorities may increase the tax rates by up to 30%	Power of the vehicle	Rates established by regional law, at 90 % to 110 % of the amount established for the previous year
CY	Cc and CO_2-emissions	€ 0,51 per cc (0 – 1650 cc) to € 7,69 per cc (> 3000 cc) Reduction of max 30% for CO_2-emissions below 200 g/km and an increase of max 20% for CO_2-emissions exceeding 200 g/km	Cc and CO_2 emissions	Rate varies between € 0,04 and € 0,20 per cc minus 15% if CO_2 < 150 g/km
LV	CO_2-emissions	LVL 0,3 to 5,0 per g/km CO_2 depending on the CO_2 emission range	Weight	LVL 24 for a car < 1500 kg LVL 150 for a car > 3500 kg
LT	None		None	
LU	None		CO_2 emissions and type of fuel	€ 306 for a diesel car with of 200 g/km CO_2

MS	Registration taxes based on:	Tax rate/Approximate amount of registration taxes[60]	Annual circulation taxes based on:	Approximate amount annually
HU	Cc. The tax rate is based on the type of fuel and environmental features	Petrol cars up to 1100 cc and diesel cars up to 1300 cc: HUF 250000 to 749000 depending on emission standards Petrol cars above 3000 cc and diesel cars above 3500 cc: HUF 3,2 to 9,6 mio per item depending on emission standards	kW and decreases for older cars.	Maximum HUF 345/kW/year
MT	Registration value	Rate depends on CO_2 emissions, fuel type and length of the car	CO_2 emissions, fuel type, particles emissions and age.	€ 600 for a new petrol or diesel car > 250 g/km CO_2
NL	11,1% of the net catalogue price and depending on fuel type and CO_2 emissions. From 2013 the registration tax will only be based on CO_2 emissions	As for the CO_2-emission part, three emission brackets and a progressive tax rate are fixed.	Weight and fuel type Regional surcharge	€ 800 for a petrol car ≤ 1400 kg
AT	Consumer price exclusive of VAT	Tax rate: - for petrol cars: fuel consumption per 3 litres x 2% - for diesel cars: fuel consumption per 2 litres x 2% If the CO_2-emission is above 160 g/km, the tax increases	Engine capacity	€ 6.6 per kW above 24 kW
PL	Price	The rate is: – 18.6 % of the price for a car > 2000 cc – 3.1% of the price for other cars	None	

MS	Registration taxes based on:	Tax rate/Approximate amount of registration taxes[60]	Annual circulation taxes based on:	Approximate amount annually
PT	Cc and CO_2 emissions	For all cars: - € 0,97 per cc (< 1250 cc) minus € 719 - € 4,56 per cc (> 1250 cc) minum € 5,212 For petrol/LPG/natural gas cars - € 4,03 per g/km CO_2 (< 115 g/km) - to € 143,39 g/km CO_2 (> 195 g/km) - minus amounts to deduct depending on CO_2 For diesel cars - € 19,39 to 187,97 per g/km CO_2 - minus amounts to deduct depending on CO_2	Cc and CO_2 emissions	Maximum € 637 for a car > 2500 cm^3 or > 250 g/km CO_2
RO	Cc, pollution norm of the vehicle and vehicle type		Cc	Rates vary from Lei 8 to 290 for each fraction of cc of 200 cm^3
SI	Selling price exclusive of VAT. The tax rate is determined according to environmental criteria (CO_2, Euro emission standards) and engine fuel. For diesel motor vehicles also Particulate Matter (PM) emissions	The rates vary between 0,5% to 28% for petrol cars and from 1% to 31% for diesel cars	Engine capacity	€ 193,96 for a car > 2500 cm^3
SK	None		Engine cylinder capacity	

MS	Registration taxes based on:	Tax rate/Approximate amount of registration taxes[60]	Annual circulation taxes based on:	Approximate amount annually
FI	Price inclusive of VAT and this tax	The tax rate is between 5 to 50% depending on the CO_2 emissions	CO_2 emissions	€ 43 when CO_2 emission is 0 g/km. € 606 for CO_2 emission ≥ 400 g/km For other than petrol cars, a reduction or increase applies (e.g. increase for diesel is maximum 5,5 times the tax for petrol)
SE	None		CO_2 emissions, fuel type	For a diesel car the tax is the highest: SEK 1168 + 51 per g/km CO_2 above 100 g/km
UK	None		CO_2 emissions	£ 475 for a car > 255 g/km CO_2