



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 3 October 2005**

**12913/05**

**LIMITE**

**FISC 115**

**NOTE**

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from:	Presidency
to:	Working Party on Tax Questions – Indirect Taxation (VAT)
Subject:	Proposal for a Council Directive on the common system of value added tax = Presidency compromise

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1. The Working Party on Tax Questions-Indirect Taxation discussed the Proposal on the common system of value added tax, at meetings on 15 February, 1 and 10 March, 7,14 and 21 April and 9,13 and 23 June under the Luxembourg Presidency.

2. In light of the discussions of the Working Group, the UK Presidency has undertaken a thorough review and examination of the text. The attached compromise amends the previous Presidency document FISC 48. In particular, the compromise addresses comments made by Member States about the clarity and meaning of the text, notably by amending:

- Article 3 concerning excise goods subject to VAT;
- Articles 61, 275, 398b and 398d concerning the suspensive arrangements or situations under which goods may be placed; and,
- Article 400 concerning the obligation to transpose the directive.



3. The compromise also addresses comments made by Member States about the incorporation of substantial changes that have been made to Directive 77/388/EEC notably by amending:

- Article 45 concerning the supply of services by intermediaries;
- Article 132(1)(h) concerning the exemption for postage stamps; and
- Article 164a concerning the right to deduct VAT.

4. The Presidency has worked with the Council Translation Service to address linguistic comments on certain versions of the text. Outstanding linguistic concerns will be addressed by Jurist/ Linguists once the text has been agreed by the Working Group.

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Proposal for a

**COUNCIL DIRECTIVE**

**of [...]**

**on the common system of value added tax**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 93 thereof,

Having regard to the proposal from the Commission<sup>1</sup>,

Having regard to the opinion of the European Parliament<sup>2</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>3</sup>,

Whereas:

- (1) Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment<sup>4</sup> has undergone substantial amendment on several occasions. In the interests of clarity and rationality, that Directive should be recast, with the introduction only of the substantive amendments essential for that purpose.

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<sup>1</sup> OJ C

<sup>2</sup> OJ C

<sup>3</sup> OJ C

<sup>4</sup> OJ L 145, 13.6.1977, p. 1. Directive as last amended by Directive 2005/xx/EC (OJ L xx, xx.xx.200x, p. xx).



- (2) The recast text should incorporate all provisions still applicable of Council Directive 67/227/EEC of 11 April 1967 on the harmonisation of legislation of Member States concerning turnover taxes<sup>1</sup>. That Directive should therefore be repealed.
- (3) The attainment of the objective of establishing a common market whose characteristics are similar to those of a domestic market presupposes the application in Member States of legislation on turnover taxes that does not distort conditions of competition or hinder the free movement of goods and services.
- (4) It is therefore in the interests of the common market to achieve such harmonisation of legislation on turnover taxes by means of a system of value added tax (VAT), such as will eliminate, as far as possible, factors which may distort conditions of competition, whether at national or Community level.
- (5) A VAT system achieves the highest degree of simplicity and of neutrality when the tax is levied in as general a manner as possible and when its scope covers all stages of production and distribution, as well as the supply of services. It is therefore in the interests of the common market and of Member States to adopt a common system which also applies to the retail trade.
- (6) It is necessary to proceed by stages, since the harmonisation of turnover taxes leads in Member States to alterations in tax structure and appreciable consequences in the budgetary, economic and social fields.
- (7) The common system of VAT is bound, even if the rates and exemptions are not fully harmonised, to result in neutrality in competition, in that within each Member State similar goods and services bear the same tax burden, whatever the length of the production and distribution chain.

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<sup>1</sup> OJ P 71, 14.4.1967, p. 1301, as last amended by Directive 77/388/EEC (OJ L 145, 13.6.1977, p. 1).



- (8) Pursuant to Council Decision 2000/597/EC, Euratom, of 29 September 2000 on the system of the Communities' own resources<sup>1</sup>, the budget of the European Communities is to be financed, irrespective of other revenue, entirely from the Communities' own resources. Those resources are to include those accruing from VAT and obtained through the application of a common rate of tax to a basis of assessment determined in a uniform manner and in accordance with Community rules.
- (9) For a transitional period, intra-Community transactions carried out by taxable persons other than exempt taxable persons should be taxed in the Member State of destination, in accordance with the rates and conditions set by that Member State.
- (10) It is also appropriate that, during that transitional period, intra-Community acquisitions of a certain value, made by exempt persons or by non-taxable legal persons, certain intra-Community distance selling and the supply of new means of transport to individuals or to exempt or non-taxable bodies should also be taxed in the Member State of destination, in accordance with the rates and conditions set by that Member State, in so far as such transactions would, in the absence of special provisions, be likely to cause significant distortion of competition between Member States.
- (11) For reasons connected with their geographic, economic and social situation, certain territories should be excluded from the scope of this Directive.
- (12) In order to enhance the non-discriminatory nature of the tax, the term "taxable person" must be defined in such a way that the Member States are able to use it to cover persons who occasionally carry out certain transactions.
- (13) The term "taxable transaction" may lead to difficulties, in particular as regards transactions treated as taxable transactions. Those concepts must therefore be clarified.

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<sup>1</sup> OJ L 253, 7.10.2000, p. 42.



- (14) With a view to facilitating intra-Community trade in work on movable tangible property, it is appropriate to establish the tax arrangements applicable to such transactions when they are carried out for a customer who is identified for VAT purposes in a Member State other than that in which the transaction is physically carried out.
- (15) A transport operation within a Member State should be treated as the intra-Community transport of goods where it is directly linked to a transport operation carried out between Member States, in order to simplify not only the principles and arrangements for taxing those domestic transport services but also the rules applicable to ancillary services and to services supplied by intermediaries who take part in the supply of the various services.
- (16) Determination of the place where taxable transactions are carried out may engender conflicts concerning jurisdiction as between Member States, in particular as regards the supply of goods for assembly or the supply of services. Although the place where a supply of services is carried out should in principle be fixed as the place where the supplier has his principal place of business, it should be defined as being in the Member State of the customer, in particular in the case of certain services supplied between taxable persons where the cost of the services is included in the price of the goods.
- (17) It is necessary to clarify the definition of the place of taxation of certain transactions carried out on board ships, aircraft or trains in the course of passenger transport within the Community.
- (18) Increasing liberalisation of the gas and electricity sector, aimed at completing the internal market for electricity and natural gas, has revealed a need to review the current VAT rules governing the place of supply of those goods, in order to modernise and simplify the operation of the VAT system within the context of the internal market.



- (19) Electricity and gas are treated as goods for VAT purposes and, accordingly, the place of their supply in the case of cross-border transactions must be determined in accordance with this Directive. However, since electricity and gas are difficult to track physically, it is particularly difficult to determine the place of supply under the current rules.
- (20) In order to attain a genuine internal market for electricity and gas without VAT obstacles, the place of supply in respect of the supply of gas through the natural gas distribution system, or of electricity, before the goods reach the final stage of consumption, should be the place where the customer has established his business.
- (21) The supply of electricity and gas at the final stage, that is to say, from traders and distributors to the final consumer, should be taxed at the place where the customer actually uses and consumes the goods, in order to ensure that taxation takes place in the Member State of actual consumption. That is normally the place where the meter of the customer is located.
- (22) In the case of the hiring out of movable tangible property, application of the general rule that supplies of services are taxed in the Member State in which the supplier is established may lead to substantial distortion of competition if the lessor and the lessee are established in different Member States and the rates of taxation in those States differ. It is therefore necessary to establish that the place of supply of a service is the place where the customer has established his business or has a fixed establishment for which the service has been supplied or, in the absence thereof, the place where he has his permanent address or usually resides.
- (23) However, as regards the hiring out of means of transport, it is appropriate, for reasons of control, to apply strictly the general rule, and thus to regard the place where the supplier has established his business as the place of supply.



- (24) Electricity and gas are supplied through distribution networks, to which network operators provide access. In order to avoid double taxation or non-taxation, it is necessary to harmonise the rules governing the place of supply in respect of transmission and transportation services. Access to and use of the distribution systems and the provision of other services directly linked to those services should therefore be added to the list of exceptions in this Directive.
- (25) All telecommunications services consumed within the Community should be taxed to prevent distortion of competition in that field.
- (26) To that end, telecommunications services supplied to taxable persons established in the Community or to customers established in third countries should, in principle, be taxed at the place where the customer for the services is established.
- (27) In order to ensure uniform taxation of telecommunications services which are supplied by taxable persons established in third territories or third countries to non-taxable persons established in the Community and which are effectively used or enjoyed in the Community, Member States must change the place of supply within the Community except where telecommunications services are supplied to other customers in the Community.
- (28) In order to establish a special rule for determining the place of supply of telecommunications services, it is necessary to define those services, drawing on definitions already adopted at Community level, and covering international telephone call routing and termination services and access to global information networks.
- (29) Action must be taken to ensure that radio and television broadcasting services and electronically supplied services, where effected for consideration and consumed by customers established in the Community, are taxed in the Community and are not taxed if consumed outside the Community.



- (30) To that end, radio and television broadcasting services and electronically supplied services provided from third territories or third countries to persons established in the Community, or from the Community to customers established in third territories or third countries, must be taxed at the place of establishment of the customer.
- (31) In order to define electronically supplied services, a non-exhaustive list of such services should be set out in an annex.
- (32) The concepts of chargeable event and of the chargeability of VAT must be harmonised if the introduction of the common system of VAT and of any subsequent amendments thereto are to take effect at the same time in all Member States.
- (33) The taxable amount must be harmonised so that the application of VAT to taxable transactions leads to comparable results in all the Member States.
- (34) It is appropriate to include in the taxable amount on importation all ancillary costs arising from the transport of goods to any place of destination in the Community since that place is known at the time the importation is carried out.
- (35) If distortions are to be avoided, the abolition of fiscal controls at frontiers entails, not only a uniform basis of assessment, but also sufficient alignment as between Member States of a number of rates and rate levels.
- (36) The standard rate of VAT is fixed by each Member State, within the limits set at Community level, as a percentage of the taxable amount and is the same for the supply of goods and for the supply of services.
- (37) The rates applied by Member States must be such as to enable, as a general rule, deduction of the VAT applied at the preceding stage.
- (38) During the transitional period, certain derogations concerning the number and the level of rates should be possible.



- (39) In order to tackle the problem of unemployment, those Member States wishing to do so should be allowed to experiment with the operation and impact, in terms of job creation, of a reduction in the VAT rate applied to labour-intensive services.
- (40) That reduction is likely to reduce the incentive for the businesses concerned to join or remain in the black economy.
- (41) However, such a reduction in the VAT rate could have a negative impact on the smooth functioning of the internal market and on tax neutrality. Provision should therefore be made for an authorisation procedure to be introduced for a fixed period and for the scope of such a measure to be closely defined so that it remains verifiable and limited.
- (42) In view of the experimental nature of such a measure, a detailed assessment of its impact in terms of job creation and efficiency should be carried out by the Member States which implement it and by the Commission.
- (43) Experience has shown that the structural imbalance in the VAT rates applicable by Member States to agricultural products in the floricultural and horticultural sectors leads to cases of fraudulent activity. It is therefore appropriate to extend to all Member States, on a transitional basis, the option of applying a reduced rate to the supply of agricultural products in the floricultural and horticultural sectors and of wood used as firewood.
- (44) A common list of exemptions should be drawn up so that the Communities' own resources may be collected in a uniform manner in all the Member States.



- (45) Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products<sup>1</sup> lays down special procedures and obligations concerning a duty to declare in the case of shipments of such products to another Member State. As a result the methods of applying VAT to certain supplies and intra-Community acquisitions of products subject to excise duty can be simplified to the benefit both of the persons liable for payment of VAT and the competent administrative authorities.
- (46) It is necessary to state exactly how the exemptions relating to certain export operations or equivalent operations are to be implemented.
- (47) The importation of gas through the natural gas distribution system, or of electricity, should be exempted from VAT in order to avoid double taxation.
- (48) In respect of taxable operations in the domestic market linked to intra-Community trade in goods carried out during the transitional period by taxable persons not established in the Member State in which the intra-Community acquisition of goods takes place, it is necessary to provide for simplification measures ensuring equal treatment in all the Member States. To that end, the provisions concerning the taxation system and the person liable for payment of the VAT due in respect of such operations must be harmonised.
- (49) Member States should be allowed to adopt special rules for the taxation of chain transactions between taxable persons, in compliance both with the principle that the common system of VAT is non-discriminatory as regards the origin of goods and as regards the services related thereto and with the principles governing VAT and the way in which its application is monitored.

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<sup>1</sup> OJ L 76, 23.3.1992, p. 1. Directive as last amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).



- (50) In order to overcome the difficulties encountered by traders participating in transaction chains involving goods placed and kept under warehousing arrangements, it is necessary to ensure that the tax treatment applied to the supply of goods or of services relating to certain of the goods which may be placed under customs warehousing arrangements can also be applied to the same transactions when they involve goods placed under warehousing arrangements other than customs warehousing.
- (51) Those transactions concern principally raw materials and other goods negotiated on international forward markets. A list of such goods should therefore be drawn up.
- (52) Although the Member States are responsible for defining those warehousing arrangements other than customs warehousing, it is nevertheless necessary to exclude in principle from such arrangements goods that are intended to be supplied at the retail stage.
- (53) The rules governing deductions should be harmonised to the extent that they affect the actual amounts collected. The deductible proportion should be calculated in a similar manner in all the Member States.
- (54) In order to take account of the provisions relating to the person liable for payment of VAT and to avoid certain forms of tax evasion or avoidance, it is necessary to clarify the Community provisions concerning the repayment of VAT to taxable persons not established in the Member State in which the VAT is due.
- (55) It is appropriate that Member States should be able to extend by up to 20 years the period serving as a basis for calculating the adjustment of deductions in respect of immovable property acquired as capital goods, given the duration of the economic life of such goods.



- (56) It is appropriate to specify the persons liable for payment of VAT, particularly in the case of services supplied by a person who is not established in the Member State in which the VAT is due.
- (57) The changes in the rules governing the place of supply of gas through the natural gas distribution system, or of electricity, should be combined with a compulsory reverse charge if the customer is a person identified for VAT purposes.
- (58) In view of the mutual assistance between Member States as regards the correct establishment of VAT and its recovery as provided for by Community law, the appointment of a tax representative is not necessary for taxable persons established in a Member State other than that in which the VAT is due. However, those taxable persons must have the option of appointing such a representative.
- (59) Where taxable persons are established in countries with which no legal instrument exists relating to mutual assistance similar in scope to that provided for within the Community, it should be possible for the Member States to require such taxable persons to designate a tax representative as the person liable for payment of VAT in their stead or to designate an agent.
- (60) Member States should continue to be entirely free to designate the person liable for payment of the VAT on importation.
- (61) Member States should be able to provide that someone other than the person liable for payment of VAT is to be held jointly and severally liable for its payment.
- (62) The obligations of taxable persons must be harmonised as far as possible so as to ensure the necessary safeguards for the collection of VAT in a uniform manner in all the Member States. In particular, taxable persons should make a periodic aggregate return of their transactions, relating to both inputs and outputs, where this appears necessary for establishing and monitoring the basis of assessment of own resources.



- (63) The new rules for determining the place of supply of telecommunications services must not entail that taxable persons not established in the Community have to be identified for tax purposes in each Member State in which they carry out transactions. Accordingly, the recipient of the services must be held liable for payment of VAT, provided that he is a taxable person.
- (64) The use of electronic invoicing must be so designed that tax authorities are able to continue to carry out their monitoring activities.
- (65) It is therefore appropriate to draw up a list, harmonised at Community level, of the particulars that must appear on invoices and to establish a number of common arrangements governing the use of electronic invoicing and the electronic storage of invoices, as well as for self-billing and the outsourcing of invoicing operations.
- (66) The storage of invoices should comply with the conditions laid down in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>1</sup>.
- (67) Greece continues to use the prefix EL rather than the prefix GR laid down in the ISO International Standard No 3166 - alpha 2. Given the consequences of amending the prefix in all the Member States, it is important to lay down an exception providing that the ISO Standard does not apply in Greece.
- (68) Subject to conditions which they lay down, Member States must allow certain statements and returns to be made by electronic means, and may require that electronic means be used.

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<sup>1</sup> OJ L 281, 23.11.1995, p. 31.



- (69) The necessary pursuit of a reduction in the administrative and statistical formalities to be completed by businesses, particularly small and medium-sized enterprises, must be reconciled with the implementation of effective control measures and the need, on both economic and tax grounds, to maintain the quality of Community statistical instruments.
- (70) Certain territories forming part of the Community customs territory are regarded as third territories for the purposes of applying the common system of VAT. VAT is therefore applied to trade between the Member States and those territories in accordance with the same principles as apply to any transaction between the Community and third countries. It is necessary to ensure that such trade is subject to fiscal provisions equivalent to those which would be applied to transactions carried out, in accordance with the same conditions, with territories which are not part of the Community customs territory.
- (71) Member States should be allowed to continue to apply their special schemes for small enterprises, in accordance with common provisions, and with a view to closer harmonisation.
- (72) Member States should remain free to apply a special scheme involving flat rate rebates of input VAT to farmers not covered by the normal scheme. The basic principles of that special scheme should be established and a common method adopted, for the purposes of collecting own resources, for calculating the value added by such farmers.
- (73) It is appropriate to adopt a Community taxation system to be applied to second-hand goods, works of art, antiques and collectors' items, with a view to preventing double taxation and the distortion of competition as between taxable persons.
- (74) The application of the normal VAT rules to gold constitutes a major obstacle to its use for financial investment purposes and therefore justifies the application of a specific tax scheme, with a view also to enhancing the international competitiveness of the Community gold market.



- (75) The supply of gold for investments purposes is inherently similar to other financial investments which are exempt from VAT. Consequently, exemption appears to be the most appropriate tax treatment for supplies of investment gold.
- (76) The definition of investment gold should cover gold coins the value of which primarily reflects the price of the gold contained. For reasons of transparency and legal certainty, a yearly list of coins covered by the investment gold scheme should be drawn up, providing security for the operators trading in such coins. That list should be without prejudice to the exemption of coins which are not included in the list but which meet the criteria laid down in this Directive.
- (77) Although a tax exemption does not, in principle, allow for the deduction of input tax, it is appropriate, in view of the fact that tax on the value of the gold may be charged on previous transactions, to allow the deduction of such input tax in order to guarantee the advantages of the special scheme and to prevent the distortion of competition with regard to imported investment gold.
- (78) Since gold may be used for both industrial and investment purposes, operators should be able to opt for normal taxation.
- (79) In order to prevent tax evasion common it is desirable to lay down rules concerning the minimum obligations incumbent upon operators as regards accounting and the records to be kept.
- (80) In order to prevent tax evasion while at the same time alleviating the financing charge for the supply of gold of a degree of purity above a certain level, it is justifiable to allow Member States to designate the customer as the person liable for payment of VAT.



- (81) In view of the huge number of transactions carried out on a regulated bullion market and the speed with which they are effected, Member States must be allowed to disapply the special scheme, to suspend collection of VAT and to relieve operators of certain accounting requirements.
- (82) In order to facilitate compliance with fiscal obligations by operators providing electronically supplied services, who are neither established nor required to be identified for VAT purposes within the Community, a special scheme should be established. Under that scheme it should be possible for any operator supplying such services by electronic means to non-taxable persons within the Community, if he is not otherwise identified for VAT purposes within the Community, to opt for identification in a single Member State.
- (83) If a non-established operator wishes to be covered by the special scheme, he must comply with the requirements laid down therein, and with any relevant provision in force in the Member State where the services are consumed.
- (84) It should be possible, in certain circumstances, for the Member State of identification to exclude a non-established operator from the special scheme.
- (85) Where the non-established operator opts for the special scheme, any input VAT that he has paid with respect to goods or services used by him for the purposes of his taxed activities falling under the special scheme must be refunded by the Member State in which the input VAT was paid, in accordance with the arrangements laid down in Council Directive 86/560/EEC of 17 November 1986 on the harmonisation of the laws of the Member States relating to turnover taxes – arrangements for the refund of value added tax to taxable persons not established in Community territory<sup>1</sup>. The optional restrictions on refund provided for in that Directive must not be applied.

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<sup>1</sup> OJ L 326, 21.11.1986, p. 40.



- (86) Save in the case of provisions pertaining to the lodging of electronic tax returns and statements, it is desirable to adopt temporary provisions concerning radio and television broadcasting and certain electronically supplied services. Those temporary provisions should, in any event, be reviewed in the light of experience within three years of 1 July 2003.
- (87) It is necessary to promote the uniform application of the provisions of this Directive and to that end a VAT Committee should be set up to enable the Member States and the Commission to cooperate closely.
- (88) Member States should be able, within certain limits and subject to certain conditions, to introduce, or to continue to apply, special measures derogating from this Directive in order to simplify the levying of tax or to prevent certain forms of tax evasion or avoidance.
- (89) In the interests of transparency and legal certainty, it is appropriate to ensure that, in every case, authorisation of a derogation takes the form of an express decision adopted by the Council acting on a proposal from the Commission.
- (90) In order to ensure that a Member State which has submitted a request for derogation is not left in doubt as to what action the Commission plans to take in response, time-limits should be laid down within which the Commission must present to the Council either a proposal for authorisation or a communication setting out its objections.
- (91) In order to enable Member States to follow more closely the processing of their requests, the Commission should be required, once it has all the information it considers necessary for appraising a request, to notify the requesting Member State accordingly and transmit the request, in its original language, to the other Member States.
- (92) It is essential to ensure more uniform application of the current VAT system. The introduction of a procedure for the adoption of implementing measures represents a step forward in that respect.



- (93) Those measures should, in particular, address the problem of double taxation of cross-border transactions which can occur as the result of divergences between Member States in the application of the rules governing the place where taxable transactions are carried out.
- (94) However, the scope of each implementing measure must remain limited since, albeit designed to clarify a provision laid down in this Directive, it could never derogate from such a provision.
- (95) Although the scope of the implementing measures would be limited, those measures would have a budgetary impact which for one or more Member States could be significant. Accordingly, the Council is justified in reserving to itself the right to exercise implementing powers.
- (96) In view of their limited scope, the implementing measures should be adopted by the Council acting unanimously on a proposal from the Commission.
- (97) There may be occasions when it is desirable to allow Member States to conclude with third countries or with international bodies agreements containing derogations from this Directive.
- (98) It is vital to provide for a transitional period to allow national laws in specified fields to be gradually adapted.
- (99) Since, for those reasons, the objectives of this Directive cannot be sufficiently achieved by the Member States and can therefore be better achieved by at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.



- (100) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive change as compared with the earlier Directives. The obligation to transpose into national law the provisions which are unchanged arises under the earlier Directives.
- (101) This Directive should be without prejudice to the obligations of the Member States in relation to the time-limits for transposition into national law of the Directives listed in Annex X, Part B,



## TABLE OF CONTENTS

TITLE I SUBJECT MATTER AND SCOPE .....	42
Article 1 .....	42
Article 3 .....	42
Article 4 .....	45
Article 4a .....	46
TITLE II TERRITORIAL SCOPE .....	47
Article 7 .....	47
Article 6 .....	47
Article 8 .....	48
Article 9 .....	49
TITLE III TAXABLE PERSONS.....	49
Article 10 .....	49
Article 11 .....	50
Article 12 .....	50
Article 13 .....	50
Article 14 .....	51
TITLE IV TAXABLE TRANSACTIONS .....	52
Chapter 1 Supply of goods.....	52
Article 15 .....	52
Article 16 .....	53
Article 17 .....	53
Article 18 .....	53
Article 19 .....	55
Article 20 .....	56
Chapter 2 Intra-Community acquisition of goods .....	56



Article 21 .....	56
Article 22 .....	57
Article 23 .....	57
Article 24 .....	57
Chapter 3 Supply of services .....	58
Article 25 .....	58
Article 26 .....	58
Article 27 .....	59
Article 28 .....	60
Article 29 .....	60
Article 30 .....	60
Chapter 4 Importation of goods .....	60
Article 31 .....	60
TITLE V PLACE OF TAXABLE TRANSACTIONS .....	61
Chapter 1 Place of supply of goods .....	61
Section 1 Supply of goods without transport .....	61
Article 32 .....	61
Section 2 Supply of goods with transport .....	61
Article 33 .....	61
Article 34 .....	62
Article 35 .....	62
Article 36 .....	64
Article 37 .....	64
Section 3 Supply of goods on board ships, aircraft or trains .....	65
Article 38 .....	65
Section 4 Supply of goods through distribution systems .....	66
Article 39 .....	66
Article 40 .....	66



Chapter 2 Place of an intra-Community acquisition of goods .....	67
Article 41 .....	67
Article 42 .....	67
Article 43 .....	68
Chapter 3 Place of supply of services .....	68
Section 1 General rule.....	68
Article 44 .....	68
Section 2 Particular provisions .....	69
Subsection 1 Supply of services by intermediaries .....	69
Article 45 .....	69
Subsection 2 Supply of services connected with immovable property .....	70
Article 46 .....	70
Subsection 3 Supply of transport .....	70
Article 47 .....	70
Article 48 .....	71
Article 49 .....	71
Article 49a .....	71
Article 50 .....	72
Article 51 .....	72
Subsection 4 Supply of cultural and similar services, ancillary transport services or services relating to movable tangible property.....	73
Article 52 .....	73
Article 53 .....	73
Article 54 .....	74
Article 55 .....	74
Subsection 5 Supply of miscellaneous services.....	75
Article 56 .....	75
Article 57 .....	77



Subsection 6 Criterion of effective use and enjoyment .....	77
Article 58 .....	77
Article 59 .....	78
Chapter 4 Place of importation of goods .....	79
Article 60 .....	79
Article 61 .....	79
TITLE VI CHARGEABLE EVENT AND CHARGEABILITY OF VAT .....	80
Chapter 1 General provisions .....	80
Article 62 .....	80
Chapter 2 Supply of goods or services .....	81
Article 63 .....	81
Article 64 .....	81
Article 65 .....	82
Article 66 .....	82
Article 67 .....	82
Chapter 3 Intra-Community acquisition of goods .....	83
Article 68 .....	83
Article 69 .....	83
Chapter 4 Importation of goods .....	83
Article 70 .....	83
Article 71 .....	84
TITLE VII TAXABLE AMOUNT .....	85
Chapter 1 Supply of goods or services .....	85
Article 72 .....	85
Article 73 .....	85
Article 74 .....	85
Article 75 .....	86
Article 76 .....	86



Article 77 .....	86
Article 78 .....	87
Article 79 .....	87
Chapter 2 Intra-Community acquisition of goods .....	88
Article 80 .....	88
Article 81 .....	88
Chapter 3 Importation of goods .....	89
Article 82 .....	89
Article 83 .....	89
Article 84 .....	90
Article 85 .....	91
Article 86 .....	91
Chapter 4 Miscellaneous provisions .....	91
Article 87 .....	91
Article 88 .....	92
Article 89 .....	92
TITLE VIII RATES .....	93
Chapter 1 Application of rates .....	93
Article 90 .....	93
Article 91 .....	93
Article 92 .....	94
Chapter 2 Structure and level of rates .....	94
Section 1 Standard rate .....	94
Article 93 .....	94
Article 94 .....	94
Section 2 Reduced rates .....	95
Article 95 .....	95
Article 96 .....	95



Article 97 .....	96
Section 3 Particular provisions .....	96
Article 98 .....	96
Article 99 .....	96
Article 100 .....	97
Article 101 .....	97
Chapter 3 Temporary provisions for particular labour-intensive services .....	98
Article 102 .....	98
Article 103 .....	98
Article 104 .....	99
Chapter 4 Special provisions applying until the adoption of definitive arrangements .....	99
Article 105 .....	99
Article 106 .....	99
Article 107 .....	100
Article 108 .....	100
Article 109 .....	101
Article 110 .....	101
Article 111 .....	101
Article 112 .....	102
Article 113 .....	102
Article 114 .....	102
Article 115 .....	102
Article 116 .....	103
Article 117 .....	103
Article 118 .....	103
Chapter 5 Temporary provisions .....	104
Article 119 .....	104
Article 120 .....	104



Article 121 .....	104
Article 123 .....	105
Article 124 .....	105
Article 125 .....	105
Article 126 .....	106
Article 127 .....	106
TITLE IX EXEMPTIONS .....	107
Chapter 1 General provisions .....	107
Article 128 .....	107
Chapter 2 Exemptions for certain activities in the public interest .....	107
Article 129 .....	107
Article 130 .....	110
Article 131 .....	111
Chapter 3 Exemptions for other activities .....	112
Article 132 .....	112
Article 133 .....	114
Article 134 .....	115
Chapter 4 Exemptions for intra–Community transactions .....	116
Section 1 Exemptions related to the supply of goods .....	116
Article 135 .....	116
Article 136 .....	117
Section 2 Exemptions for intra–Community acquisitions of goods .....	118
Article 137 .....	118
Article 138 .....	118
Section 3 Exemptions for certain transport services .....	119
Article 139 .....	119
Chapter 5 Exemptions on importation .....	120
Article 140 .....	120



Article 141 .....	122
Chapter 6 Exemptions on exportation .....	123
Article 142 .....	123
Article 143 .....	124
Chapter 7 Exemptions related to international transport .....	125
Article 144 .....	125
Article 145 .....	126
Article 146 .....	126
Chapter 8 Exemptions relating to certain transactions treated as exports .....	127
Article 147 .....	127
Article 148 .....	128
Chapter 9 Exemptions for the supply of services by intermediaries .....	128
Article 149 .....	128
Chapter 10 Exemptions for transactions relating to international trade .....	129
Section 1 Customs warehouses, warehouses other than customs warehouses and similar arrangements .....	129
Article 150 .....	129
Article 151 .....	129
Article 152 .....	130
Article 153 .....	131
Article 154 .....	132
Article 155 .....	132
Article 156 .....	132
Article 157 .....	133
Article 158 .....	133
Section 2 Transactions exempted with a view to export and in the framework of trade between the Member States .....	133
Article 159 .....	133



Article 160 .....	134
Section 3 Provisions common to Sections 1 and 2 .....	134
Article 161 .....	134
TITLE X DEDUCTIONS .....	134
Chapter 1 Origin and scope of right of deduction .....	134
Article 162 .....	135
Article 163 .....	135
Article 164 .....	135
Article 164a .....	136
Article 165 .....	137
Article 166 .....	138
Chapter 2 Proportional deduction .....	139
Article 167 .....	139
Article 168 .....	140
Article 169 .....	141
Chapter 3 Restrictions on the right of deduction .....	142
Article 170 .....	142
Article 171 .....	142
Chapter 4 Rules governing exercise of the right of deduction .....	143
Article 172 .....	143
Article 173 .....	144
Article 174 .....	144
Article 175 .....	144
Article 176 .....	144
Article 177 .....	145
Chapter 5 Adjustment of deductions .....	145
Article 178 .....	145
Article 179 .....	145



Article 180 .....	146
Article 181 .....	146
Article 182 .....	147
Article 183 .....	147
Article 184 .....	148
Article 185 .....	148
<b>TITLE XI OBLIGATIONS OF TAXABLE PERSONS AND CERTAIN NON-TAXABLE PERSONS .....</b>	<b>149</b>
Chapter 1 Obligation to pay .....	149
Section 1 Persons liable for payment of VAT to the tax authorities .....	149
Article 186 .....	149
Article 187 .....	149
Article 188 .....	149
Article 189 .....	150
Article 190 .....	150
Article 191 .....	151
Article 192 .....	152
Article 193 .....	152
Article 194 .....	153
Article 195 .....	153
Article 196 .....	153
Article 197 .....	154
Section 2 Payment arrangements .....	155
Article 198 .....	155
Article 199 .....	155
Article 200 .....	155
Article 201 .....	156
Article 202 .....	156



Article 203 .....	156
Article 204 .....	157
Chapter 2 Identification .....	157
Article 205 .....	157
Article 206 .....	158
Article 207 .....	158
Article 208 .....	159
Chapter 3 Invoicing .....	159
Section 1 Definition .....	159
Article 208a .....	159
Section 2 Concept of invoice .....	160
Article 209 .....	160
Article 210 .....	160
Section 3 Issue of invoices .....	160
Article 211 .....	160
Article 212 .....	161
Article 213 .....	162
Article 214 .....	162
Article 215 .....	162
Article 216 .....	163
Section 4 Content of invoices .....	163
Article 217 .....	163
Article 218 .....	165
Article 219 .....	165
Article 220 .....	165
Article 221 .....	165
Article 222 .....	166
Section 5 Sending invoices by electronic means .....	166



Article 223 .....	166
Article 225 .....	166
Article 227 .....	168
Article 228 .....	168
Article 229 .....	168
Article 230 .....	169
Section 6 Simplification measures .....	169
Article 231 .....	169
Article 232 .....	170
Article 233 .....	170
Chapter 4 Accounting .....	172
Section 1 Definition .....	172
Article 233a .....	172
Section 2 General obligations .....	172
Article 234 .....	172
Article 235 .....	173
Section 3 Specific obligations relating to the storage of all invoices .....	173
Article 236 .....	173
Article 237 .....	173
Article 238 .....	174
Article 239 .....	174
Article 240 .....	175
Section 4 Right of access to invoices stored by electronic means in another Member State .....	175
Article 241 .....	175
Chapter 5 Returns .....	176
Article 242 .....	176
Article 243 .....	176



Article 244 .....	177
Article 245 .....	177
Article 246 .....	178
Article 247 .....	178
Article 248 .....	179
Article 249 .....	179
Article 250 .....	179
Article 251 .....	179
Article 252 .....	180
Article 253 .....	180
Article 254 .....	180
Chapter 6 Recapitulative statements .....	180
Article 255 .....	180
Article 256 .....	181
Article 257 .....	181
Article 258 .....	182
Article 259 .....	183
Article 260 .....	183
Article 261 .....	183
Article 262 .....	184
Article 263 .....	184
Article 264 .....	185
Chapter 7 Miscellaneous provisions .....	186
Article 265 .....	186
Article 266 .....	187
Chapter 8 Obligations relating to certain importations and exportations .....	188
Section 1 Importation .....	188
Article 267 .....	188



Article 268.....	188
Article 269.....	188
Article 270.....	189
Section 2 Exportation.....	189
Article 271.....	189
Article 272.....	189
Article 273.....	189
TITLE XII SPECIAL SCHEMES.....	190
Chapter 1 Special scheme for small enterprises .....	190
Section 1 Simplified procedures for charging and collection.....	190
Article 274.....	190
Section 2 Exemptions or graduated relief.....	190
Article 275.....	190
Article 276.....	191
Article 277.....	191
Article 278.....	192
Article 279.....	192
Article 280.....	192
Article 281.....	193
Article 282.....	194
Article 283.....	194
Article 284.....	195
Article 285.....	195
Section 3 Reporting and review.....	195
Article 286.....	195
Article 287.....	196
Chapter 2 Common flat-rate scheme for farmers.....	196
Article 288.....	196



Article 289 .....	198
Article 290 .....	198
Article 291 .....	198
Article 292 .....	199
Article 293 .....	199
Article 294 .....	199
Article 295 .....	200
Article 296 .....	200
Article 297 .....	201
Article 298 .....	201
Chapter 3 Special scheme for travel agents .....	202
Article 299 .....	202
Article 300 .....	203
Article 301 .....	203
Article 302 .....	204
Article 303 .....	204
Chapter 4 Special arrangements for second-hand goods, works of art, collectors' items and antiques .....	205
Section 1 Definitions .....	205
Article 304 .....	205
Section 2 Special arrangements for taxable dealers .....	206
Subsection 1 Margin scheme .....	206
Article 305 .....	206
Article 306 .....	207
Article 307 .....	208
Article 308 .....	208
Article 309 .....	209
Article 310 .....	209



Article 311 .....	210
Article 312 .....	210
Article 313 .....	211
Article 314 .....	212
Article 315 .....	212
Article 316 .....	212
Article 317 .....	212
Subsection 2 Transitional arrangements for second-hand means of transport.....	213
Article 318 .....	213
Article 319 .....	213
Article 320 .....	214
Article 321 .....	214
Article 322 .....	214
Article 323 .....	215
Article 324 .....	215
Section 3 Special arrangements for sales by public auction .....	215
Article 325 .....	215
Article 326 .....	216
Article 327 .....	216
Article 328 .....	216
Article 329 .....	217
Article 330 .....	217
Article 331 .....	218
Article 332 .....	218
Article 333 .....	219
Section 4 Measures to prevent distortion of competition and fraud .....	219
Article 334 .....	219
Article 335 .....	220



Chapter 5 Special scheme for investment gold.....	220
Section 1 General provisions .....	220
Article 336 .....	220
Article 337 .....	221
Section 2 Exemption from VAT .....	221
Article 338 .....	221
Article 339 .....	222
Section 3 Taxation option .....	222
Article 340 .....	222
Article 341 .....	223
Article 342 .....	223
Article 343 .....	223
Section 4 Transactions on a regulated gold bullion market.....	223
Article 344 .....	223
Article 345 .....	224
Section 5 Special rights and obligations for traders in investment gold.....	224
Article 347 .....	224
Article 348 .....	225
Article 349 .....	226
Chapter 6 Special scheme for non-established taxable persons supplying electronic services to non-taxable persons .....	226
Section 1 General provisions .....	226
Article 350 .....	226
Article 351 .....	227
Section 2 Special scheme for electronically supplied services .....	228
Article 352 .....	228
Article 353 .....	228
Article 354 .....	228



Article 355 .....	229
Article 356 .....	229
Article 357 .....	229
Article 358 .....	230
Article 359 .....	230
Article 360 .....	230
Article 361 .....	231
Article 362 .....	231
TITLE XIII DEROGATIONS .....	232
Chapter 1 Derogations applying until the adoption of definitive arrangements .....	232
Section 1 Derogations for States which were members of the Community on 1 January 1978 .....	232
Article 363 .....	232
Article 364 .....	232
Article 365 .....	233
Article 366 .....	233
Article 367 .....	233
Section 2 Derogations for States which acceded to the Community after 1 January 1978 ...	233
Article 368 .....	233
Article 369 .....	234
Article 370 .....	234
Article 371 .....	235
Article 372 .....	235
Article 373 .....	236
Article 374 .....	236
Article 375 .....	236
Article 376 .....	236
Article 377 .....	237



Article 378.....	237
Article 379.....	237
Article 380.....	238
Article 381.....	238
Article 382.....	238
Article 383.....	239
Section 3 Provisions common to Sections 1 and 2.....	239
Article 384.....	239
Article 385.....	239
Article 386.....	240
Chapter 2 Derogations subject to authorisation.....	240
Section 1 Simplification measures and measures to prevent tax evasion or avoidance .....	240
Article 387.....	240
Article 388.....	241
Section 2 International agreements.....	242
Article 389.....	242
TITLE XIV MISCELLANEOUS .....	243
Chapter 1 Implementing measures .....	243
Article 390.....	243
Chapter 2 VAT Committee.....	243
Article 391.....	243
Chapter 3 Conversion rates.....	244
Article 392.....	244
Article 393.....	244
Chapter 4 Other taxes, duties and charges.....	245
Article 394.....	245
TITLE XV FINAL PROVISIONS.....	245
Chapter 1 Transitional arrangements for the taxation of trade between Member States.....	245



Article 395 .....	245
Article 397 .....	246
Article 398 .....	246
Chapter 2 Temporary provisions .....	246
Article 396 .....	246
Chapter 3 Transitional measures applicable in the context of accession to the European Union .....	247
Article 398a .....	248
Article 398b .....	248
Article 398c .....	249
Article 398d .....	249
Article 398e .....	250
Article 398f .....	250
Chapter 4 Transposition and entry into force .....	251
Article 399 .....	251
Article 400 .....	252
Article 401 .....	252
Article 402 .....	253
ANNEX I LIST OF THE ACTIVITIES REFERRED TO IN ARTICLE 14 .....	254
ANNEX II INDICATIVE LIST OF THE ELECTRONICALLY SUPPLIED SERVICES REFERRED TO IN ARTICLE 56(1)(K) .....	256
ANNEX III LIST OF SUPPLIES OF GOODS AND SERVICES TO WHICH THE REDUCED RATES REFERRED TO IN ARTICLE 95 MAY BE APPLIED .....	257
ANNEX IV LIST OF THE SERVICES REFERRED TO IN ARTICLE 102.....	260
ANNEX V CATEGORIES OF GOODS COVERED BY WAREHOUSING ARRANGEMENTS OTHER THAN CUSTOMS WAREHOUSING AS PROVIDED FOR UNDER ARTICLE 155(2) .....	261
ANNEX VI LIST OF THE AGRICULTURAL PRODUCTION ACTIVITIES REFERRED TO IN ARTICLE 288 .....	264
ANNEX VII INDICATIVE LIST OF THE AGRICULTURAL SERVICES REFERRED TO IN ARTICLE 288 .....	265



ANNEX VIII WORKS OF ART, COLLECTORS' ITEMS AND ANTIQUES, AS REFERRED TO IN ARTICLE 304(1)(B), (C) AND (D) .....	266
Part A Works of art .....	266
Part B Collectors' items .....	267
Part C Antiques .....	267
ANNEX IX LIST OF TRANSACTIONS COVERED BY THE DEROGATIONS REFERRED TO IN ARTICLES 363 AND 364 AND ARTICLES 368 TO 383.....	268
Part A Transactions which Member States may continue to tax .....	268
Part B Transactions which Member States may continue to exempt .....	268
ANNEX X .....	271
Part A Repealed Directives with their successive amendments (referred to in Article 399).....	271
Part B Time limits for transposition into national law (referred to in Article 399).....	273
ANNEX XI CORRELATION TABLE.....	275



# TITLE I

## SUBJECT MATTER AND SCOPE

### *Article 1*

1. This Directive establishes the common system of value added tax (VAT).
2. The principle of the common system of VAT entails the application to goods and services of a general tax on consumption exactly proportional to the price of the goods and services, however many transactions take place in the production and distribution process before the stage at which the tax is charged.

On each transaction, VAT, calculated on the price of the goods or services at the rate applicable to such goods or services, shall be chargeable after deduction of the amount of VAT borne directly by the various cost components.

The common system of VAT shall be applied up to and including the retail trade stage.

### *Article 3*

1. The following transactions shall be subject to VAT:
  - (a) the supply of goods for consideration within the territory of a Member State by a taxable person acting as such;
  - (b) the intra-Community acquisition of goods for consideration within the territory of a Member State by:



- (i) a taxable person acting as such, or a non-taxable legal person, where the vendor is a taxable person acting as such who is not eligible for the exemption for small enterprises provided for in Articles 275 to 285 and who is not covered by Article 34 or the first paragraph of Article 37;
- (ii) in the case of new means of transport, a taxable person, or a non-taxable legal person, whose other acquisitions are not subject to VAT pursuant to Article 4(1), or any other non-taxable person;
- (iii) in the case of products subject to excise duty, where the excise duty on the intra-Community acquisition is chargeable, pursuant to Directive 92/12/EEC, within the territory of the Member State, a taxable person, or a non-taxable legal person, whose other acquisitions are not subject to VAT pursuant to Article 4(1);
- (c) the supply of services for consideration within the territory of a Member State by a taxable person acting as such;
- (d) the importation of goods.

2. For the purposes of point (ii) of paragraph 1(b), the following shall be regarded as "means of transport", where they are intended for the transport of persons or goods:

- (a) motorised land vehicles the capacity of which exceeds 48 cubic centimetres or the power of which exceeds 7.2 kilowatts;
- (b) 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;
- (c) 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.



These means of transport shall be regarded as "new" in the following cases:

- (a) with motorised land vehicles, where the supply takes place within six months of the date of first entry into service or where the vehicle has travelled for no more than 6 000 kilometres;
- (b) with vessels, where the supply takes place within three months of the date of first entry into service or where the vessel has sailed for no more than 100 hours;
- (c) with aircraft, where the supply takes place within three months of the date of first entry into service or where the aircraft has flown for no more than 40 hours.

Member States shall lay down the conditions under which the facts referred to in the second subparagraph may be regarded as established.

3. "Products subject to excise duty" shall mean mineral oils, alcohol and alcoholic beverages and manufactured tobacco, as defined by current Community legislation, **but not gas supplied through the natural gas distribution system or electricity.**

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**OBSERVATIONS:**

*Under Community legislation (DIR 2003/96) gas and electricity are treated as mineral oils, products that are subject to excise duty. Unless gas and electricity are excluded from being treated as excise products for the purposes of the EC VAT regime, a conflict will arise between the VAT place of supply rules applicable to goods generally including excise products (Articles 32 -34 and 41-43) and the special VAT place of supply rules that have been agreed for gas and electricity (Articles 39 and 40).*

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#### Article 4

1. By way of derogation from Article 3(1)(b)(i), the following transactions shall not be subject to VAT:
  - (a) the intra-Community acquisition of goods by a taxable person or a non-taxable legal person, where the supply of such goods within the territory of the Member State of acquisition would be exempt pursuant to Articles 144 and 147;
  - (b) the intra-Community acquisition of goods, other than those referred to in point (a) and Article 4a, and other than new means of transport or products subject to excise duty, by a taxable person for the purposes of his agricultural, forestry or fisheries business subject to the common flat-rate scheme for farmers, or by a taxable person who carries out only supplies of goods or services in respect of which VAT is not deductible, or by a non-taxable legal person.
2. Point (b) of paragraph 1 shall apply only if the following conditions are **met**:

---

#### OBSERVATIONS:

*The word **satisfied** has been replaced by **met** to align the EN text with that of other language versions.*

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- (a) during the current calendar year, the total value of intra-Community acquisitions of goods does not exceed a threshold which the Member States shall determine but which may not be less than EUR 10 000 or the equivalent in national currency;
- (b) during the previous calendar year, the total value of intra-Community acquisitions of goods did not exceed the threshold provided for in point (a).



The threshold which serves as the reference shall consist of the total value, exclusive of VAT due or paid in the Member State in which dispatch or transport of the goods began, of intra-Community acquisitions of goods.

3. Member States shall grant taxable persons and non-taxable legal persons eligible under point (b) of paragraph 1 the right to opt for the general scheme provided for in Article 3(1)(b)(i).

Member States shall lay down the detailed rules for the exercise of the option referred to in the first subparagraph, which shall in any event cover a period of two calendar years.

#### *Article 4a*

In addition to the transactions referred to in Article 4, the following transactions shall not be subject to VAT:

- (a) the intra-Community acquisition of second-hand goods, works of art, collectors' items or antiques, as defined in Article 304, where the vendor is a taxable dealer acting as such and VAT has been applied to the goods in the Member State in which their dispatch or transport began, in accordance with the margin scheme provided for in Articles 305 to 317;
- (b) the intra-Community acquisition of second-hand means of transport, as defined in Article 319, where the vendor is a taxable dealer acting as such and VAT has been applied to the means of transport in the Member State in which their dispatch or transport began, in accordance with the transitional arrangements for second-hand means of transport;
- (c) the intra-Community acquisition of second-hand goods, works of art, collectors' items or antiques, as defined in Article 304, where the vendor is an organiser of sales by public auction, acting as such, and VAT has been applied to the goods in the Member State in which their dispatch or transport began, in accordance with the special arrangements for sales by public auction.



## TITLE II

### TERRITORIAL SCOPE

#### *Article 7*

For the purposes of applying this Directive, the following definitions shall apply:

- (a) "Community" and "territory of the Community" mean the territories of the Member States as defined in point (b);
- (b) "Member State" and "territory of a Member State" mean the territory of each Member State of the Community to which the Treaty is applicable, in accordance with Article 299 of that Treaty, with the exception of any territory referred to in Article 6;
- (c) "third **territories**" means those territories referred to in Article 6;
- (d) "third country" means any State or territory to which the Treaty is not applicable.

#### *Article 6*

- 1. This Directive shall not apply to the following territories forming part of the customs territory of the Community:
  - (a) Mount Athos;
  - (b) the Canary Islands;
  - (c) the French overseas departments;
  - (d) the Åland Islands;
  - (e) the Channel Islands.



2. This Directive shall not apply to the following territories not forming part of the customs territory of the Community:
- (a) the Island of Heligoland;
  - (b) the territory of Büsingen;
  - (c) Ceuta;
  - (d) Melilla;
  - (e) Livigno;
  - (f) Campione d'Italia;
  - (g) the Italian waters of Lake Lugano;
  - (h) Gibraltar.

#### *Article 8*

1. In view of the conventions and treaties concluded with France, the United Kingdom and Cyprus respectively, the Principality of Monaco, the Isle of Man and the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia shall not be regarded, for the purposes of the application of this Directive, as third countries.
2. Member States shall take the measures necessary to ensure that transactions originating in or intended for the Principality of Monaco are treated as transactions originating in or intended for France, that transactions originating in or intended for the Isle of Man are treated as transactions originating in or intended for the United Kingdom, and that transactions originating in or intended for the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia are treated as transactions originating in or intended for Cyprus.



### *Article 9*

If the Commission considers that the provisions laid down in Articles 6 and 8 are no longer justified, particularly in terms of fair competition or own resources, it shall present appropriate proposals to the Council.

## **TITLE III**

### **TAXABLE PERSONS**

#### *Article 10*

1. "Taxable person" shall mean any person who, independently, carries out in any place any economic activity, whatever the purpose or results of that activity.

Any activity of producers, traders or persons supplying services, including mining and agricultural activities and activities of the professions, shall be regarded as an "economic activity". The exploitation of tangible or intangible property for the purposes of obtaining income therefrom on a continuing basis shall also be regarded as an economic activity.

2. In addition to the persons referred to in paragraph 1, any person who, on an occasional basis, supplies a new means of transport, which is dispatched or transported to the customer by the vendor or the customer, or on behalf of the vendor or the customer, to a destination outside the territory of a Member State but within the territory of the Community, shall be regarded as a taxable person.



### *Article 11*

The condition in Article 10(1) that the economic activity be conducted "independently" shall exclude employed and other persons from VAT in so far as they are bound to an employer by a contract of employment or by any other legal ties creating the relationship of employer and employee as regards working conditions, remuneration and the employer's liability.

### *Article 12*

After consulting the VAT Committee, each Member State may regard as a single taxable person any persons established in the territory of that Member State who, while legally independent, are closely bound to one another by financial, economic and organisational links.

### *Article 13*

1. Member States may regard as a taxable person anyone who carries out, on an occasional basis, a transaction relating to the activities referred to in the second subparagraph of Article 10(1) and in particular one of the following transactions:
  - (a) the supply, before first occupation, of a building or parts of a building and of the land on which the building stands;
  - (b) the supply of building land.
2. For the purposes of paragraph 1(a), a "building" shall mean any structure fixed to or in the ground.



Member States may lay down the detailed rules for applying the criterion referred to in paragraph 1(a) to conversions of buildings and may determine what is meant by "the land on which a building stands".

Member States may apply criteria other than that of first occupation, such as the period elapsing between the date of completion of the building and the date of first supply, or the period elapsing between the date of first occupation and the date of subsequent supply, provided that those periods do not exceed five years and two years respectively.

3. For the purposes of paragraph 1(b), "building land" shall mean any unimproved or improved land defined as such by the Member States.

#### *Article 14*

1. States, regional and local government authorities and other bodies governed by public law shall not be regarded as taxable persons in respect of the activities or transactions in which they engage as public authorities, even where they collect dues, fees, contributions or payments in connection with those activities or transactions.

However, when they engage in such activities or transactions, they shall be regarded as taxable persons in respect of those activities or transactions where their treatment as non-taxable persons would lead to significant distortions of competition.

In any event, bodies governed by public law shall be regarded as taxable persons in respect of the activities listed in Annex I, provided that those activities are not carried out on such a small scale as to be negligible.

2. Member States may regard activities, exempt under Articles 129, 132, 133, 364, 367, 368, 369 and 370, Article 371(2), Article 372(2), or Articles 373 to 383, engaged in by bodies governed by public law as activities in which those bodies engage as public authorities.



## **TITLE IV**

### **TAXABLE TRANSACTIONS**

#### **Chapter 1**

#### **Supply of goods**

##### *Article 15*

1. "Supply of goods" shall mean the transfer of the right to dispose of tangible property as owner.
2. In addition to the transaction referred to in paragraph 1, each of the following shall be regarded as a supply of goods:
  - (a) the transfer, by order made by or in the name of a public authority or in pursuance of the law, of the ownership of property against payment of compensation;
  - (b) the actual handing over of goods pursuant to a contract for the hire of goods for a certain period, or for the sale of goods on deferred terms, which provides that in the normal course of events ownership is to pass at the latest upon payment of the final instalment;
  - (c) the transfer of goods pursuant to a contract under which commission is payable on purchase or sale.
3. Member States may regard the handing over of certain works of construction as a supply of goods.



### Article 16

1. Electricity, gas, heat, refrigeration and the like shall be treated as tangible property.
2. Member States may regard the following as tangible property:
  - (a) certain interests in immovable property;
  - (b) rights *in rem* giving the holder thereof a right of use over immovable property;
  - (c) shares or interests equivalent to shares giving the holder thereof *de jure* or *de facto* rights of ownership or possession over immovable property or part thereof.

### Article 17

The application by a taxable person of goods forming part of his business assets for his private use or for that of his staff, or their disposal free of charge or, more generally, their application for purposes other than those of his business, shall be treated as a supply of goods for consideration, where the VAT on those goods or the component parts thereof was wholly or partly deductible.

However, the application of goods for business use as samples or as gifts of small value shall not be treated as a supply of goods for consideration.

### Article 18

1. The transfer by a taxable person of goods forming part of his business assets to another Member State shall be treated as a supply of goods for consideration.

"Transfer to another Member State" shall mean the dispatch or transport of movable **tangible** property by or on behalf of the taxable person, for the purposes of his business, to a destination outside the territory of the Member State in which the property is located, but within the Community.



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*OBSERVATIONS:*

*For clarity in the EN text the emphasis needs to be placed on the word 'moveable' rather than 'tangible'. So both here and in several other Articles the word order has been changed.*

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2. The dispatch or transport of goods for the purposes of any of the following transactions shall not be regarded as a transfer to another Member State:
- (a) the supply of the goods by the taxable person within the Member State in which the dispatch or transport ends, in accordance with the conditions laid down in Article 34;
  - (b) the supply of the goods, for installation or assembly by or on behalf of the supplier, by the taxable person within **the territory of** the Member State in which dispatch or transport of the goods ends, in accordance with the conditions laid down in the first paragraph of Article 37;
- 

*OBSERVATIONS:*

*To align the EN text with other language versions, the phrase 'the territory of' has been included before 'the Member State' both here and in several other Articles.*

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- (c) the supply of the goods by the taxable person on board a ship, an aircraft or a train in the course of a passenger transport operation, in accordance with the conditions laid down in Article 38;
- (d) the supply of gas through the natural gas distribution system, or of electricity, in accordance with the conditions laid down in Articles 39 or 40;



- (e) the supply of the goods by the taxable person within **the territory of** the Member State, in accordance with the conditions laid down in Articles 135, 142, 143, 144, 147 or 148;
  - (f) the supply of a service performed for the taxable person and consisting of work on the goods in question physically carried out in the Member State in which dispatch or transport of the goods ends, provided that the goods, after being worked upon, are returned to that taxable person in the Member State from which they were initially dispatched or transported;
  - (g) the temporary use of the goods within the territory of the Member State in which dispatch or transport of the goods ends, for the purposes of the supply of services by the taxable person established within the Member State in which dispatch or transport of the goods began;
  - (h) the temporary use of the goods, for a period not exceeding twenty-four months, within the territory of another Member State, in which the importation of the same goods from a third country with a view to their temporary use would be covered by the arrangements for temporary importation with full exemption from import duties.
3. If one of the conditions governing eligibility under paragraph 2 is no longer met, the goods shall be regarded as having been transferred to another Member State. In such cases, the transfer shall be deemed to take place at the time when that condition ceases to be met.

#### *Article 19*

Member States may treat each of the following transactions as a supply of goods for consideration:

- (a) the application by a taxable person for the purposes of his business of goods produced, constructed, extracted, processed, purchased or imported in the course of such business, where the VAT on such goods, had they been acquired from another taxable person, would not be wholly deductible;



- (b) the application of goods by a taxable person for the purposes of a non-taxable area of activity, where the VAT on such goods became wholly or partly deductible upon their acquisition or upon their application in accordance with point (a);
- (c) with the exception of the cases referred to in Article 20, the retention of goods by a taxable person, or by his successors, when he ceases to carry out a taxable economic activity, where the VAT on such goods became wholly or partly deductible upon their acquisition or upon their application in accordance with point (a).

### *Article 20*

In the event of a transfer, whether for consideration or not or as a contribution to a company, of a totality of assets or part thereof, Member States may consider that no supply of goods has taken place and that the person to whom the goods are transferred is to be treated as the successor to the transferor.

Where appropriate, Member States may take the necessary measures to prevent distortion of competition in cases where the person to whom the goods are transferred is not wholly liable for payment of VAT.

## **Chapter 2**

### **Intra-Community acquisition of goods**

### *Article 21*

"Intra-Community acquisition of goods" shall mean acquisition of the right to dispose as owner of movable **tangible property** dispatched or transported to the person acquiring the goods, by or on behalf of the vendor or the person acquiring the goods, in a Member State other than that in which dispatch or transport of the goods began.



Where goods acquired by a non-taxable legal person are dispatched or transported from a third territory or a third country and imported by that non-taxable legal person into a Member State other than the Member State in which dispatch or transport of the goods ends, the goods shall be regarded as having been dispatched or transported from the Member State of importation. That Member State shall grant the importer designated or recognised under Article 193 as liable for payment of VAT a refund of the VAT paid in respect of the importation of the goods, provided that the importer establishes that VAT has been applied to his acquisition in the Member State in which dispatch or transport of the goods ends.

#### *Article 22*

The application by a taxable person, for the purposes of his business, of goods dispatched or transported by or on behalf of that taxable person from another Member State, within which the goods were produced, extracted, processed, purchased or acquired within the meaning of Article 3(1)(b), or into which they were imported by that taxable person for the purposes of his business, shall be treated as an intra-Community acquisition of goods for consideration.

#### *Article 23*

The application by the armed forces of a State party to the North Atlantic Treaty, for their use or for the use of the civilian staff accompanying them, of goods which they have not purchased subject to the general rules governing taxation on the domestic market of a Member State shall be treated as an intra-Community acquisition of goods for consideration, where the importation of those goods would not be eligible for the exemption provided for in Article 140(h).

#### *Article 24*

Member States shall take the measures necessary to ensure that a transaction which would have been classed as a supply of goods if it had been carried out within their territory by a taxable person acting as such is classed as an intra-Community acquisition of goods.



## Chapter 3

### Supply of services

#### Article 25

1. "Supply of services" shall mean any transaction which **constitutes neither** a supply **nor an intra-Community acquisition nor an importation** of goods.

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#### OBSERVATIONS:

*Currently the term "supply of services" has a limited definition (i.e. a transaction which does not constitute a supply of goods). To improve clarity, the definition has been expanded.*

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2. "Telecommunications services" shall mean services relating to the transmission, emission or reception of signals, words, images and sounds or information of any nature by wire, radio, optical or other electromagnetic systems, including the related transfer or assignment of the right to use capacity for such transmission, emission or reception, with the inclusion of the provision of access to global information networks.

#### Article 26

A supply of services may consist, *inter alia*, in one of the following transactions:

- (a) the assignment of intangible property, whether or not the subject of a document establishing title;
- (b) the obligation to refrain from an act, or to tolerate an act or situation;
- (c) the performance of services in pursuance of an order made by or in the name of a public authority or in pursuance of the law.



## Article 27

1. Each of the following transactions shall be treated as a supply of services for consideration:
  - (a) the use of goods forming part of the assets of a business for the private use of a taxable person or of his staff or, more generally, for purposes other than those of his business, where the VAT on such goods was wholly or partly deductible;
  - (b) the supply of services **carried out** free of charge by a taxable person for his private use or for that of his staff or, more generally, for purposes other than those of his business.

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### OBSERVATIONS:

*To align the EN text with that in other language versions and to make it clear that this provision does not cover the supply of bought in services, the text has been amended to accord with that in the current Sixth Directive.*

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2. Member States may derogate from paragraph 1, provided that such derogation does not lead to **distortion** of competition.

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### OBSERVATIONS:

*This derogation may be used only in so far as it does not lead to any distortion of competition. That is the case even if there is only a single risk.*

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#### *Article 28*

In order to prevent distortion of competition and after consulting the VAT Committee, Member States may treat as a supply of services for consideration the supply by a taxable person of a service for the purposes of his business, where the VAT on such a service, were it supplied by another taxable person, would not be wholly deductible.

#### *Article 29*

Where a taxable person acting in his own name but on behalf of another **person** takes part in a supply of services, he shall be deemed to have received and supplied those services himself.

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#### *OBSERVATIONS:*

*To be consistent, reference should be made to a taxable person acting on behalf of another **person**.  
This change is relevant to the EN version only.*

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#### *Article 30*

Article 20 shall apply in like manner to the supply of services.

### **Chapter 4**

#### **Importation of goods**

#### *Article 31*

"Importation of goods" shall mean the entry into the Community of goods which are not in free circulation within the meaning of Article 24 of the Treaty.



In addition to the transaction referred to in the first paragraph, the entry into the Community of goods which are in free circulation, coming from a third territory forming part of the customs territory of the Community, shall be regarded as importation of goods.

## **TITLE V**

### **PLACE OF TAXABLE TRANSACTIONS**

#### **Chapter 1**

##### **Place of supply of goods**

###### **Section 1**

###### **Supply of goods without transport**

###### *Article 32*

Where goods are not dispatched or transported, the place of supply shall be deemed to be the place where the goods are located at the time when the supply takes place.

###### **Section 2**

###### **Supply of goods with transport**

###### *Article 33*

Where goods are dispatched or transported by the supplier, or by the customer, or by a third person, the place of supply shall be deemed to be the place where the goods are located at the time when dispatch or transport of the goods to the customer begins.



However, if dispatch or transport of the goods begins in a third territory or third country, both the place of supply by the importer designated or recognised under Article 193 as liable for payment of VAT and the place of any subsequent supply shall be deemed to be within the Member State of importation of the goods.

#### *Article 34*

1. By way of derogation from Article 33, the place of supply of goods dispatched or transported by or on behalf of the supplier from a Member State other than that in which dispatch or transport of the goods ends shall be deemed to be the place where the goods are located at the time when dispatch or transport of the goods to the customer ends, where the following conditions are met:
  - (a) the supply of goods is carried out for a taxable person, or a non-taxable legal person, whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 4(1) or for any other non-taxable person;
  - (b) the goods supplied are neither new means of transport nor goods supplied after assembly or installation, with or without a trial run, by or on behalf of the supplier.
2. Where the goods supplied are dispatched or transported from a third territory or a third country and imported by the supplier into a Member State other than that in which dispatch or transport of the goods to the customer ends, they shall be regarded as having been dispatched or transported from the Member State of importation.

#### *Article 35*

1. **Provided the following conditions are met,** Article 34 shall not apply to supplies of goods **all of which are** dispatched or transported to **the same** Member State, **where that Member State is the Member State** in which dispatch or transport of the goods ends:



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**OBSERVATIONS:**

*This provision applies only in so far as the supplies of goods counting towards the threshold are made to the same Member State. For clarity the EN text has been aligned with other language versions.*

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- (a) the goods supplied are not products subject to excise duty;
  - (b) the total value, exclusive of VAT, of such supplies effected under the conditions laid down in Article 34 within that Member State does not in any one calendar year exceed EUR 100 000 or the equivalent in national currency;
  - (c) the total value, exclusive of VAT, of the supplies of goods, other than products subject to excise duty, effected under the conditions laid down in Article 34 within that Member State did not in the previous calendar year exceed EUR 100 000 or the equivalent in national currency.
2. The Member State within the territory of which the goods are located at the time when their dispatch or transport to the customer ends may limit the threshold referred to in paragraph 1 to EUR 35 000 or the equivalent in national currency, where that Member State fears that the threshold of EUR 100 000 might cause serious distortion of competition.
- Member States which exercise the option under the first subparagraph shall take the measures necessary to inform accordingly the competent public authorities in the Member State in which dispatch or transport of the goods begins.
3. The Commission shall present to the Council at the earliest opportunity a report on the operation of the special EUR 35 000 threshold referred to in paragraph 2, accompanied, if necessary, by appropriate proposals.



4. The Member State within the territory of which the goods are located at the time when their dispatch or transport begins shall grant those taxable persons who carry out supplies of goods eligible under paragraph 1 the right to opt for the place of supply to be determined in accordance with Article 34.

The Member States concerned shall lay down the detailed rules governing the exercise of the option referred to in the first subparagraph, which shall in any event cover two calendar years.

#### *Article 36*

Articles 34 and 35 shall not apply to supplies of second-hand goods, works of art, collectors' items or antiques, as defined in Article 304, nor to supplies of second-hand means of transport, as defined in Article 319, subject to VAT in accordance with the relevant special arrangements.

#### *Article 37*

Where goods dispatched or transported by the supplier, by the customer or by a third person are installed or assembled, with or without a trial run, by or on behalf of the supplier, the place of supply shall be deemed to be the place where the goods are installed or assembled.

Where the installation or assembly is carried out in a Member State other than that of the supplier, the Member State within which the installation or assembly is carried out shall take the measures necessary to ensure that there is no double taxation **in that Member State**.

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#### *OBSERVATIONS:*

*This change clarifies that the Member State where any goods are installed or assembled is only responsible for ensuring that there is no double taxation within its own territory.*

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## **Section 3**

### **Supply of goods on board ships, aircraft or trains**

#### *Article 38*

1. Where goods are supplied on board ships, aircraft or trains during the section of a passenger transport operation effected within the Community, the place of supply shall be deemed to be at the point of departure of the passenger transport operation.
2. For the purposes of paragraph 1, "section of a passenger transport operation effected within the Community" shall mean the section of the operation effected, without a stopover outside the Community, between the point of departure and the point of arrival of the passenger transport operation.

"The point of departure of a passenger transport operation" shall mean the first scheduled point of passenger embarkation within the Community, where applicable after a stopover outside the Community.

"The point of arrival of a passenger transport operation" shall mean the last scheduled point of disembarkation within the Community of passengers who embarked in the Community, where applicable before a stopover outside the Community.

In the case of a return trip, the return leg shall be regarded as a separate transport operation.

3. The Commission shall, at the earliest opportunity, present to the Council a report, accompanied if necessary by appropriate proposals, on the place of taxation of the supply of goods for consumption on board and the supply of services, including restaurant services, for passengers on board ships, aircraft or trains.



Pending adoption of the proposals referred to in the first subparagraph, Member States may exempt or continue to exempt, with deductibility of the VAT paid at the preceding stage, the supply of goods for consumption on board in respect of which the place of taxation is determined in accordance with paragraph 1.

## **Section 4**

### **Supply of goods through distribution systems**

#### *Article 39*

1. In the case of the supply of gas through the natural gas distribution system, or of electricity, to a taxable dealer, the place of supply shall be deemed to be the place where that taxable dealer has established his business or has a fixed establishment for which the goods are supplied, or, in the absence of such a place of business or fixed establishment, the place where he has his permanent address or usually resides.
2. For the purposes of paragraph 1, "taxable dealer" shall mean a taxable person whose principal activity in respect of purchases of gas or electricity is reselling those products and whose own consumption of those products is negligible.

#### *Article 40*

In the case of the supply of gas through the natural gas distribution system, or of electricity, where such a supply is not covered by Article 39, the place of supply shall be deemed to be the place where the customer effectively uses and consumes the goods.



Where all or part of the gas or electricity is not effectively consumed by the customer, those non-consumed goods shall be deemed to have been used and consumed at the place where the customer has established his business or has a fixed establishment for which the goods are supplied. In the absence of such a place of business or fixed establishment, the customer shall be deemed to have used and consumed the goods at the place where he has his permanent address or usually resides.

## **Chapter 2**

### **Place of an intra-Community acquisition of goods**

#### *Article 41*

The place of an intra-Community acquisition of goods shall be deemed to be the place where dispatch or transport of the goods to the person acquiring them ends.

#### *Article 42*

Without prejudice to Article 41, the place of an intra-Community acquisition of goods as referred to in Article 3(1)(b)(i) shall be deemed to be within the territory of the Member State which issued the VAT identification number under which the person acquiring the goods made the acquisition, unless the person acquiring the goods establishes that VAT has been applied to that acquisition in accordance with Article 41.

If VAT is applied to the acquisition in accordance with the first paragraph and subsequently applied, pursuant to Article 41, to the acquisition in the Member State in which dispatch or transport of the goods ends, the taxable amount shall be reduced accordingly in the Member State which issued the VAT identification number under which the person acquiring the goods made the acquisition.



### *Article 43*

The first paragraph of Article 42 shall not apply and VAT shall be deemed to have been applied to the intra-Community acquisition of goods in accordance with Article 41 where the following conditions are met:

- (a) the person acquiring the goods establishes that he has made the intra-Community acquisition for the purposes of a subsequent supply, within **the territory of** the Member State identified in accordance with Article 41, for which the person to whom the supply is made has been designated in accordance with Article 190 as liable for payment of VAT;
- (b) the person acquiring the goods has satisfied the obligations laid down in Article 258 relating to submission of the recapitulative statement.

## **Chapter 3**

### **Place of supply of services**

#### **Section 1**

#### **General rule**

### *Article 44*

The place of supply of services shall be deemed to be the place where the supplier has established his business or has a fixed establishment from which the service is supplied, or, in the absence of such a place of business or fixed establishment, the place where he has his permanent address or usually resides.



## Section 2

### Particular provisions

#### Subsection 1

#### Supply of services by intermediaries

##### *Article 45*

The place of supply of services by an intermediary acting in the name of and on behalf of another person, other than those referred to in Articles 50 and 54 and in Article 56(1)(l), shall be the place where the **underlying** transaction in which the intermediary takes part is carried out.

---

##### *OBSERVATIONS:*

*At previous Council meetings some Member States indicated that the Re-cast text should be amended to take account of the decision of the European Court in the case of Lipjes (C68/03). However, it is evident that there are divergent Member State views as to the full implications of this Court ruling, particularly as the judgment did not address the distinction between supplies made inside and outside the territory of the EU. In the circumstances the Presidency has reverted to the current wording in the Sixth Directive.*

*The change in wording from **principal** to **underlying** has been made in order to align the text with that used in the B2C dossier.*

---

However, where the customer of the services supplied by the intermediary is identified for VAT purposes in a Member State other than that within **the territory of** which that transaction is carried out, the place of the supply of services by the intermediary shall be deemed to be within the territory of the Member State which issued the customer with the VAT identification number under which the service was rendered to him.



## Subsection 2

### Supply of services connected with immovable property

#### *Article 46*

The place of supply of services connected with immovable property, including the services of estate agents and experts, and services for the preparation and coordination of construction work, such as the services of architects and of firms providing on-site supervision, shall be the place where the property is located.

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#### *OBSERVATIONS:*

*To avoid inadvertently changing the scope of this provision, the text has been amended to accord with that in the current 6th VAT Directive. This change is relevant to the EN version only.*

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## Subsection 3

### Supply of transport

#### *Article 47*

The place of supply of transport other than the intra-Community transport of goods shall be the place where the transport takes place, proportionately in terms of distances covered.



#### *Article 48*

The place of supply of intra-Community transport of goods shall be the place of departure of the transport.

However, where intra-Community transport of goods is supplied to customers identified for VAT purposes in a Member State other than that of the departure of the transport, the place of supply shall be deemed to be within the territory of the Member State which issued the customer with the VAT identification number under which the service was rendered to him.

#### *Article 49*

"Intra-Community transport of goods" shall mean any transport of goods in respect of which the place of departure and the place of arrival are situated within the territories of two different Member States.

"The place of departure" shall mean the place where transport of the goods effectively begins, irrespective of distances covered in order to reach the place where the goods are located.

"The place of arrival" shall mean the place where transport of the goods effectively ends.

#### *Article 49a*

The transport of goods in respect of which the place of departure and the place of arrival are situated within **the territory of** the same Member State shall be treated as intra-Community transport of goods where such transport is directly linked to transport of goods in respect of which the place of departure and the place of arrival are situated within **the territory of** two different Member States.



### *Article 50*

The place of the supply of services by an intermediary, acting in the name and on behalf of another person, where the intermediary takes part in the intra-Community transport of goods, shall be the place of departure of the transport.

However, where the customer of the services supplied by the intermediary is identified for VAT purposes in a Member State other than that of the departure of the transport, the place of the supply of services by the intermediary shall be deemed to be within the territory of the Member State which issued the customer with the VAT identification number under which the service was rendered to him.

### *Article 51*

Member States need not apply VAT to **that part of** the intra-Community transport of **goods taking** place over waters which do not form part of the territory of the Community.

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#### *OBSERVATIONS:*

*To clarify that this provision applies only to that part of the intra-Community transport of goods which takes place outside the Community, the wording is slightly modified. This change is relevant to the EN version only.*

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## Subsection 4

### Supply of cultural and similar services, ancillary transport services or services relating to movable tangible property

#### Article 52

The place of supply of the following services shall be the place where the services are physically carried out:

- (a) cultural, artistic, sporting, scientific, educational, entertainment or similar activities, including the activities of the organisers of such activities and, where appropriate, ancillary services;
- (b) ancillary transport activities, such as loading, unloading, handling and similar activities;
- (c) valuations of movable tangible property or work on such property.

#### Article 53

By way of derogation from Article 52(b), the place of supply of services involving activities ancillary to the intra-Community transport of goods, supplied to customers identified for VAT purposes in a Member State other than that in the territory of which the activities are physically carried out, shall be deemed to be within the territory of the Member State which issued the customer with the VAT identification number under which the service was rendered to him.

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#### OBSERVATIONS:

*To avoid inadvertently changing the scope of this provision, the text has been amended to accord with that in the current Sixth Directive.*

*The word **activities** replaces the word **services** to align the text with Article 52.*

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#### Article 54

The place of the supply of services by an intermediary, acting in the name and on behalf of another person, where the intermediary takes part in the supply of services consisting in activities ancillary to the intra-Community transport of goods, shall be the place where the ancillary **activities** are physically carried out.

However, where the customer of the services supplied by the intermediary is identified for VAT purposes in a Member State other than that within **the territory of** which the ancillary **activities** **are** physically carried out, the place of supply of services by the intermediary shall be deemed to be within the territory of the Member State which issued the customer with the VAT identification number under which the service was rendered to him.

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#### OBSERVATIONS:

*The word **activities** replaces the word **services** to align the text with Article 52.*

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#### Article 55

By way of derogation from Article 52(c), the place of supply of services **involving** the valuation of movable **tangible** property or work on such property, supplied to customers identified for VAT purposes in a Member State other than that in **the territory of** which the services are physically carried out, shall be deemed to be within the territory of the Member State which issued the customer with the VAT identification number under which the service was rendered to him.



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**OBSERVATIONS:**

*To avoid inadvertently changing the scope of this provision it is made clear the provision only applies to services involving activities ancillary to the intra-community transport of goods. The text has been amended to accord with that in the current Sixth Directive. It is relevant to the EN version only.*

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The derogation referred to in the first paragraph shall apply only where the goods are dispatched or transported out of the Member State in which the services were physically carried out.

**Subsection 5**

**Supply of miscellaneous services**

*Article 56*

1. The place of supply of the following services to customers established outside the Community, or to taxable persons established in the Community but not in the same country as the supplier, shall be the place where the customer has established his business or has a fixed establishment for which the service is supplied, or, in the absence of such a place, the place where he has his permanent address or usually resides:
  - (a) transfers and assignments of copyrights, patents, licences, trade marks and similar rights;
  - (b) advertising services;



- (c) the services of consultants, engineers, consultancy bureaux, lawyers, accountants and other similar services, as well as data processing and the provision of information;
- (d) obligations to refrain from pursuing or exercising, in whole or in part, a business activity or a right referred to in this paragraph;
- (e) banking, financial and insurance transactions, including reinsurance, with the exception of the hire of safes;
- (f) the supply of staff;
- (g) the hiring out of movable **tangible** property, with the exception of all means of transport;
- (h) the provision of access to, and of transport or transmission through, natural gas and electricity distribution systems and the provision of other directly linked services;
- (i) telecommunications services;
- (j) radio and television broadcasting services;
- (k) electronically supplied services, such as those referred to in Annex II;
- (l) the supply of services by intermediaries, acting in the name and on behalf of other persons, where those intermediaries take part in the supply of the services referred to in this paragraph.

2. Where the supplier of a service and the customer communicate via electronic mail, that shall not of itself mean that the service supplied is an electronically supplied service for the purposes of point (k) of paragraph 1.
3. Points (j) and (k) of paragraph 1 and paragraph 2 shall apply for a period of three years, starting from 1 July 2003.



## *Article 57*

1. Where the services referred to in point (k) of Article 56(1) are supplied to non-taxable persons who are established in a Member State, or who have their permanent address or usually reside in a Member State, by a taxable person who has established his business outside the Community or has a fixed establishment there from which the service is supplied, or who, in the absence of such a place of business or fixed establishment, has his permanent address or usually resides outside the Community, the place of supply shall be the place where the non-taxable person is established, or where he has his permanent address or usually resides.
2. Paragraph 1 shall apply for a period of three years, starting from 1 July 2003.

## **Subsection 6**

### **Criterion of effective use and enjoyment**

## *Article 58*

In order to avoid double taxation, non-taxation or distortion of competition, Member States may, with regard to the supply of the services referred to in Article 56(1) and with regard to the hiring out of means of transport:

- (a) consider the place of supply of any or all of those services, if situated within their territory, as being situated outside the Community, if the effective use and enjoyment of the services takes place outside the Community;
- (b) consider the place of supply of any or all of those services, if situated outside the Community, as being situated within their territory, if the effective use and enjoyment of the services takes place within their territory.



However, this provision shall not apply to the services referred to in point (k) of Article 56(1), where those services are rendered to non-taxable persons.

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*OBSERVATIONS:*

*The word **or** has been changed to **and** to accord with the current Sixth Directive. This is important so as not to suggest that there has been a change to the eligibility criteria..*

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*Article 59*

1. Member States shall apply Article 58(b) to telecommunications services supplied to non-taxable persons who are established in a Member State, or who have their permanent address or usually reside in a Member State, by a taxable person who has established his business outside the Community or has a fixed establishment there from which the services are supplied, or who, in the absence of such a place of business or fixed establishment, has his permanent address or usually resides outside the Community.
2. For a period of three years **starting** from 1 July 2003, Member States shall apply Article 58(b) to radio and television broadcasting services, as referred to in point (j) of Article 56(1), supplied to non-taxable persons who are established in a Member State, or who have their permanent address or usually reside in a Member State, by a taxable person who has established his business outside the Community or who has a fixed establishment there from which the services are supplied, or who, in the absence of such a place of business or fixed establishment, has his permanent address or usually resides outside the Community.



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**OBSERVATIONS:**

*This provision requires Member States to apply the effective use and enjoyment rule when radio and television broadcasting services are supplied to non-taxable persons. To be consistent, it is necessary, in the EN version, to make clear that this provision applies for a period of three years **starting** from 1 July 2003.*

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## **Chapter 4**

### **Place of importation of goods**

#### *Article 60*

The place of importation of goods shall be the Member State within whose territory the goods are located when they enter the Community.

#### *Article 61*

By way of derogation from Article 60, where, on entry into the Community, goods which are not in free circulation are placed under one of the arrangements **or situations** referred to in Article 151, or under temporary importation arrangements with total exemption from import duty, or under external transit arrangements, the place of importation of such goods shall be the Member State within whose territory the goods cease to be covered by those arrangements.



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**OBSERVATIONS:**

*Under Community customs law not all the cases covered by Article 151 are considered to be 'arrangements'. Including 'or situations' addresses a concern about the scope of the provisions and also aligns the text with that used in Article 150.*

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Similarly, where, on entry into the Community, goods which are in free circulation are placed under one of the arrangements referred to in Articles 269 and 270, the place of importation shall be the Member State within whose territory the goods cease to be covered by those arrangements.

## **TITLE VI**

### **CHARGEABLE EVENT AND CHARGEABILITY OF VAT**

#### **Chapter 1**

##### **General provisions**

###### *Article 62*

For the purposes of this Directive:

- (1) "chargeable event" shall mean the occurrence by virtue of which the legal conditions necessary for VAT to become chargeable are fulfilled;



- (2) VAT shall become "chargeable" when the tax authority becomes entitled under the law, at a given moment, to claim the tax from the person liable to pay, even though the time of payment may be deferred.

## **Chapter 2**

### **Supply of goods or services**

#### *Article 63*

The chargeable event shall occur and VAT shall become chargeable when the goods or the services are supplied.

#### *Article 64*

1. Where it gives rise to successive statements of account or successive payments, the supply of goods, other than that consisting in the hire of goods for a certain period or the sale of goods on deferred terms, as referred to in Article 15(2)(b), or the supply of services shall be regarded as being completed on expiry of the periods to which such statements of account or payments relate.
2. Member States may provide that, in certain cases, the continuous supply of goods or services over a period of time is to be regarded as being completed at least at intervals of one year.



### *Article 65*

Where a payment is to be made on account before the goods or services are supplied, VAT shall become chargeable on receipt of the payment and on the amount received.

### *Article 66*

By way of derogation from Articles 63, 64 and 65, Member States may provide that VAT is to become chargeable, in respect of certain transactions or certain categories of taxable person at one of the following times:

- (a) no later than the time the invoice is issued;
- (b) no later than the time the payment is received;
- (c) where an invoice is not issued, or is issued late, within a specified period from the date of the chargeable event.

### *Article 67*

1. Where, in accordance with the conditions laid down in Article 135, goods dispatched or transported to a Member State other than that in which dispatch or transport of the goods begins are supplied VAT-exempt or where goods are transferred VAT-exempt to another Member State by a taxable person for the purposes of his business, VAT shall become chargeable on the 15th day of the month following that in which the chargeable event occurs.
2. By way of derogation from paragraph 1, VAT shall become chargeable on issue of the invoice provided for in Article 211, if that invoice is issued before the 15th day of the month following that in which the chargeable event occurs.



## **Chapter 3**

### **Intra-Community acquisition of goods**

#### *Article 68*

The chargeable event shall occur when the intra-Community acquisition of goods is made.

The intra-Community acquisition of goods shall be regarded as being made when the supply of similar goods is regarded as being effected within the territory of the relevant Member State.

#### *Article 69*

1. In the case of the intra-Community acquisition of goods, VAT shall become chargeable on the 15th day of the month following that in which the chargeable event occurs.
2. By way of derogation from paragraph 1, VAT shall become chargeable on issue of the invoice provided for in Article 211, if that invoice is issued before the 15th day of the month following that in which the chargeable event occurs.

## **Chapter 4**

### **Importation of goods**

#### *Article 70*

The chargeable event shall occur and VAT shall become chargeable when the goods are imported.



### *Article 71*

1. Where, on entry into the Community, goods are placed under one of the arrangements **or situations** referred to in Articles 151, 269 and 270, or under temporary importation arrangements with total exemption from import duty, or under external transit arrangements, the chargeable event shall occur and VAT shall become chargeable only when the goods cease to be covered by those arrangements.

However, where imported goods are subject to customs duties, to agricultural levies or to charges having equivalent effect established under a common policy, the chargeable event shall occur and VAT shall become chargeable when the chargeable event in respect of those duties occurs and those duties become chargeable.

2. Where imported goods are not subject to any of the duties referred to in the second subparagraph of paragraph 1, Member States shall, as regards the chargeable event and the moment when VAT becomes chargeable, apply the provisions in force governing customs duties.



## **TITLE VII**

### **TAXABLE AMOUNT**

#### **Chapter 1**

##### **Supply of goods or services**

###### *Article 72*

In respect of the supply of goods or services, other than as referred to in Articles 73 to 76, the taxable amount shall include everything which constitutes consideration obtained or to be obtained by the supplier, in return for the supply, from the customer or a third party, including subsidies directly linked to the price of the supply.

###### *Article 73*

Where a taxable person applies or disposes of goods forming part of his business assets, or where goods are retained by a taxable person, or by his successors, when his taxable economic activity ceases, as referred to in Articles 17 and 19, the taxable amount shall be the purchase price of the goods or of similar goods or, in the absence of a purchase price, the cost price, determined at the time when the application, disposal or retention takes place.

###### *Article 74*

In respect of the supply of services, as referred to in Article 27, where goods forming part of the assets of a business are used for private purposes or services are carried out free of charge, the taxable amount shall be the full cost to the taxable person of providing the services.



#### *Article 75*

In respect of the supply of goods consisting in transfer to another Member State, the taxable amount shall be the purchase price of the goods or of similar goods or, in the absence of a purchase price, the cost price, determined at the time the transfer takes place.

#### *Article 76*

In respect of the supply by a taxable person of a service for the purposes of his business, as referred to in Article 28, the taxable amount shall be the open market value of the service supplied.

The "open market value" of a service shall mean the full amount that a customer at the marketing stage at which the supply takes place would have to pay, at the time of the supply and under conditions of fair competition, to a supplier at arm's length within **the territory of** the Member State in which the supply of a service referred to in the first paragraph is taxable, in order to obtain the service in question.

#### *Article 77*

The taxable amount shall include the following factors:

- (a) taxes, duties, levies and charges, excluding the VAT itself;
- (b) incidental expenses, such as commission, packing, transport and insurance costs, charged by the supplier to the customer.

For the purposes of point (b) of the first paragraph, Member States may regard expenses covered by a separate agreement as incidental expenses.



### *Article 78*

The taxable amount shall not include the following factors:

- (a) price reductions by way of discount for early payment;
- (b) price discounts and rebates granted to the customer and obtained by him at the time of the supply;
- (c) 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 his books in a suspense account.

The taxable person must furnish proof of the actual amount of the expenditure referred to in point (c) of the first paragraph and may not deduct any VAT which may have been charged.

### *Article 79*

Member States which, at 1 January 1993, were not availing themselves of the option under Article 95 of applying a reduced rate may, if they avail themselves of the option under Article 86, provide that in respect of the supply of works of art, as referred to in Article 99(2), the taxable amount is to be equal to a fraction of the amount determined in accordance with Articles 72, 73, 75, 77 and 78.

The fraction referred to in the first paragraph shall be determined in such a way that the VAT thus due is equal to at least 5% of the amount determined in accordance with Articles 72, 73, 75, 77 and 78.



## Chapter 2

### Intra-Community acquisition of goods

#### *Article 80*

In the case of the intra-Community acquisition of goods, the taxable amount shall be established on the basis of the same factors as are used in accordance with Chapter 1 to determine the taxable amount for the supply of the same goods within **the territory of** the Member State concerned. In the case of the transactions, to be treated as intra-Community acquisitions of goods, referred to in Articles 22 and 23, the taxable amount shall be the purchase price of the goods or of similar goods or, in the absence of a purchase price, the cost price, determined at the time of the supply.

#### *Article 81*

1. Member States shall take the measures necessary to ensure that the excise duty due from or paid by the person making the intra-Community acquisition of a product subject to excise duty is included in the taxable amount in accordance with point (a) of the first paragraph of Article 77.



2. Where, after the intra-Community acquisition of goods has been made, the person acquiring the goods obtains a refund of the excise duty paid in the Member State in which dispatch or transport of the goods began, the taxable amount shall be reduced accordingly in the Member State in **the territory of** which the acquisition was made.

## Chapter 3

### Importation of goods

#### *Article 82*

In the case of the importation of goods, the taxable amount shall be the value for customs purposes, determined in accordance with the Community provisions in force.

#### *Article 83*

1. The taxable amount shall include the following factors, in so far as they are not already included:
  - (a) taxes, duties, levies and other charges due outside the Member State of importation, and those due by reason of importation, excluding the VAT to be levied;
  - (b) incidental expenses, such as commission, packing, transport and insurance costs, incurred up to the first place of destination within **the territory of** the Member State of importation **or those** resulting from transport to another place of destination within the Community, if that other place is known when the chargeable event occurs.



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**OBSERVATIONS:**

*The text has been amended to clarify that in respect of the onward transport of goods from the place of importation to another place in the Community, if that subsequent destination is known when the chargeable event occurs, all incidental expenses must be included in the taxable amount.*

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2. For the purposes of point (b) of paragraph 1, "first place of destination" shall mean the place mentioned on the consignment note or on any other document under which the goods are imported into the Member State of importation. If no such mention is made, the first place of destination shall be deemed to be the place of the **transfer of cargo** in the Member State of importation.
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**OBSERVATIONS:**

*To avoid inadvertently changing the scope of this provision, the text has been amended to accord with that in the current 6th VAT Directive. This change is relevant to the EN version only.*

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*Article 84*

The taxable amount shall not include the following factors:

- (a) price reductions by way of discount for early payment;
- (b) price discounts and rebates granted to the customer and obtained by him at the time of importation.



### *Article 85*

Where goods temporarily exported from the Community are re-imported after having undergone, outside the Community, repair, processing, adaptation, making up or re-working, Member States shall take steps to ensure that the tax treatment of the goods for VAT purposes is the same as that which would have been applied had the repair, processing, adaptation, making up or re-working been carried out within their territory.

### *Article 86*

Member States which, at 1 January 1993, were not availing themselves of the option under Article 95 of applying a reduced rate may provide that in respect of the importation of works of art, collectors' items and antiques, as defined in Article 304(1)(b), (c) and (d), the taxable amount is to be equal to a fraction of the amount determined in accordance with Articles 82, 83 and 84.

The fraction referred to in the first paragraph shall be determined in such a way that the VAT thus due on the importation is equal to at least 5% of the amount determined in accordance with Articles 82, 83 and 84.

## **Chapter 4**

### **Miscellaneous provisions**

### *Article 87*

1. In the case of cancellation, refusal or total or partial non-payment, or where the price is reduced after the supply takes place, the taxable amount shall be reduced accordingly under conditions which shall be determined by the Member States.
2. In the case of total or partial non-payment, Member States may derogate from paragraph 1.



### *Article 88*

1. Where the factors used to determine the taxable amount on importation are expressed in a currency other than that of the Member State in which assessment takes place, the exchange rate shall be determined in accordance with the Community provisions governing the calculation of the value for customs purposes.
2. Where the factors used to determine the taxable amount of a transaction other than the importation of goods are expressed in a currency other than that of the Member State in which assessment takes place, the exchange rate applicable shall be the latest selling rate recorded, at the time VAT becomes chargeable, on the most representative exchange market or markets of the Member State concerned, or a rate determined by reference to that or those markets, in accordance with the rules laid down by that Member State.

However, for some of the transactions referred to in the first subparagraph or for certain categories of taxable person, Member States may use the exchange rate determined in accordance with the Community provisions in force governing the calculation of the value for customs purposes.

### *Article 89*

As regards the costs of returnable packing material, Member States may take one of the following measures:

- (a) exclude them from the taxable amount and take the measures necessary to ensure that this amount is adjusted if the packing material is not returned;
- (b) include them in the taxable amount and take the measures necessary to ensure that this amount is adjusted if the packing material is in fact returned.



## TITLE VIII

### RATES

#### Chapter 1

##### Application of rates

###### *Article 90*

The rate applicable to taxable transactions shall be that in force at the time of the chargeable event.

However, in the following situations, the rate applicable shall be that in force when VAT becomes chargeable:

- (a) in the cases referred to in Articles 65 and 66;
- (b) in the case of an intra-Community acquisition of goods;
- (c) in the cases, concerning the importation of goods, referred to in the second subparagraph of Article 71(1) and in Article 71(2).

###### *Article 91*

1. The rate applicable to the intra-Community acquisition of goods shall be that applied to the supply of like goods within **the territory of** the Member State.
2. Subject to the option under Article 99(1) of applying a reduced rate to the importation of works of art, collectors' items or antiques, the rate applicable to the importation of goods shall be that applied to the supply of like goods within **the territory of** the Member State.



## *Article 92*

Where rates are changed, Member States may, in the cases referred to in Articles 65 and 66, effect adjustments in order to take account of the rate applying at the time when the goods or services were supplied.

Member States may also adopt all appropriate transitional measures.

## **Chapter 2**

### **Structure and level of rates**

#### **Section 1**

#### **Standard rate**

## *Article 93*

Member States shall apply a standard rate of VAT, which shall be fixed by each Member State as a percentage of the taxable amount and which shall be the same for the supply of goods and for the supply of services.

## *Article 94*

1. From **[1 January 2006]** until **[31 December 2010]**, the standard rate may not be less than 15%.
2. The Council shall decide, in accordance with Article 93 of the Treaty, on the level of the standard rate to be applied after **31 December 2010**.



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**OBSERVATIONS:**

*Subject to the opinion of the European Parliament and the European Economic and Social Committee, Council reached political agreement to the minimum standard rate at 7 June ECOFIN. Pending final adoption of the measure, the new wording has been included in the text.*

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**Section 2**

**Reduced rates**

*Article 95*

1. Member States may apply either one or two reduced rates.
2. The reduced rates shall apply only to supplies of goods or services in the categories set out in Annex III.

The reduced rates shall not apply to the services referred to in Article 56(1)(k).

3. When applying the reduced rates provided for in paragraph 1 to categories of goods, Member States may use the Combined Nomenclature to establish the precise coverage of the category concerned.

*Article 96*

1. The reduced rates shall be fixed as a percentage of the taxable amount, which may not be less than 5%.



2. Each reduced rate shall be so fixed that the amount of VAT resulting from its application is such that the VAT deductible under Articles 162 to 165 and Articles 167 to 171 can normally be deducted in full.

#### *Article 97*

On the basis of a report from the Commission, the Council shall, starting in 1994, review the scope of the reduced rates every two years.

The Council may, in accordance with Article 93 of the Treaty, decide to alter the list of goods and services set out in Annex III.

### **Section 3**

#### **Particular provisions**

#### *Article 98*

Member States may apply a reduced rate to the supply of natural gas and of electricity, provided that no risk of distortion of competition thereby arises.

Any Member State intending to apply a reduced rate under the first paragraph must, before doing so, inform the Commission accordingly. The Commission shall decide whether or not there is a risk of distortion of competition. If the Commission has not taken that decision within three months of receipt of the information, no risk of distortion of competition shall be deemed to exist.

#### *Article 99*

1. Member States may provide that the reduced rate, or one of the reduced rates, which they apply in accordance with Articles 95 and 96 is also to apply to the importation of works of art, collectors' items and antiques, as defined in points (b), (c) and (d) of Article 304(1).



2. If Member States avail themselves of the option under paragraph 1, they may also apply the reduced rate to the following **transactions**:
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*OBSERVATIONS:*

*To be consistent, the text is slightly adapted. This change is relevant to the EN version only.*

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- (a) the supply of works of art, by their creator or his successors in title;
- (b) the supply of works of art, on an occasional basis, by a taxable person other than a taxable dealer, where the works of art have been imported by the taxable person himself, or where they have been supplied to him by their creator or his successors in title, or where they have entitled him to full deduction of VAT.

*Article 100*

Austria may, in the communes of Jungholz and Mittelberg (Kleines Walsertal), apply a second standard rate which is lower than the corresponding rate applied in the rest of Austria but not less than 15%.

*Article 101*

Portugal may, in the case of transactions carried out in the autonomous regions of the Azores and Madeira and of direct importation into those regions, apply rates lower than those applying on the mainland.



## Chapter 3

### Temporary provisions for particular labour-intensive services

#### *Article 102*

The Council may, acting unanimously on a proposal from the Commission, allow Member States to apply the reduced rates provided for in Article 95 to services listed in Annex IV, for a maximum period of six years between 1 January 2000 and 31 December 2005.

The reduced rates may be applied to services from no more than two of the categories set out in Annex IV.

In exceptional cases a Member State may be allowed to apply the reduced rates to services from three of those categories.

#### *Article 103*

The services referred to in Article 102 must meet the following conditions:

- (a) they must be labour-intensive;
- (b) they must largely be provided direct to final consumers;
- (c) they must be mainly local and not likely to cause distortion of competition.

There must also be a close link between the decrease in prices resulting from the rate reduction and the foreseeable increase in demand and employment. Application of a reduced rate must not prejudice the smooth functioning of the internal market.



#### *Article 104*

Any Member State wishing to introduce the measure provided for in Article 102 shall inform the Commission accordingly before 1 November 1999 and shall provide it before that date with all relevant information, in particular the following:

- (a) scope of the measure and detailed description of the services concerned;
- (b) particulars showing that the conditions laid down in Article 103 have been met;
- (c) particulars showing the budgetary cost of the measure envisaged.

### **Chapter 4**

#### **Special provisions applying until the adoption of definitive arrangements**

#### *Article 105*

Pending introduction of the definitive arrangements referred to in Article 395, the provisions laid down in this Chapter shall apply.

#### *Article 106*

Member States which, at 1 January 1991, were granting exemptions with deductibility of the VAT paid at the preceding stage or applying reduced rates lower than the minimum laid down in Article 96 may continue to grant those exemptions or apply those reduced rates.

The exemptions and reduced rates referred to in the first paragraph must be in accordance with Community law and must have been adopted for clearly defined social reasons and for the benefit of the final consumer.



### *Article 107*

Subject to the conditions laid down in the second paragraph of Article 106, exemptions with deductibility of the VAT paid at the preceding stage may continue to be granted in the following cases:

- (a) by Finland in respect of the supply of newspapers and periodicals sold by subscription and the printing of publications distributed to the members of corporations for the public good;
- (b) by Sweden in respect of the supply of newspapers, including radio and cassette newspapers for the visually impaired, pharmaceutical products supplied to hospitals or on prescription, and the production of, or other related services concerning, periodicals of non-profit-making organisations.

### *Article 108*

If the provisions of Article 106 cause for Ireland distortion of competition in the supply of energy products for heating and lighting, Ireland may, on specific request, be authorised by the Commission to apply a reduced rate to such supplies, in accordance with Articles 95 and 96.

In the case referred to in the first paragraph, Ireland shall submit a request to the Commission, together with all necessary information. If the Commission has not taken a decision within three months of receiving the request, Ireland shall be deemed to be authorised to apply the reduced rates proposed.



### *Article 109*

Member States which, at 1 January 1991, in accordance with Community law, were granting exemptions with deductibility of the VAT paid at the preceding stage or applying reduced rates lower than the minimum laid down in Article 96, in respect of goods and services other than those specified in Annex III, may apply the reduced rate, or one of the two reduced rates, provided for in Article 95 to the supply of such goods or services.

### *Article 110*

1. Member States which, on 1 January 1993, were obliged to increase their standard rate in force at 1 January 1991 by more than 2% may apply a reduced rate lower than the minimum laid down in Article 96 to the supply of goods and services in the categories set out in Annex III.

The Member States referred to in the first subparagraph may also apply such a rate to restaurant services, children's clothing, children's footwear and housing.

2. Member States may not rely on paragraph 1 to introduce exemptions with deductibility of the VAT paid at the preceding stage.

### *Article 111*

Member States which, at 1 January 1991, were applying a reduced rate to restaurant services, children's clothing, children's footwear or housing may continue to apply such a rate to the supply of those goods or services.



### *Article 112*

Portugal may apply one of the two reduced rates provided for in Article 95 to restaurant services, provided that the rate is not lower than 12%.

### *Article 113*

1. For the purposes of applying Article 111, Austria may continue to apply a reduced rate to restaurant services.
2. Austria may apply one of the two reduced rates provided for in Article 95 to the letting of immovable property for residential use, provided that the rate is not lower than 10%.

### *Article 114*

Member States which, at 1 January 1991, were applying a reduced rate to the supply of goods or services other than those specified in Annex III may apply the reduced rate, or one of the two reduced rates, provided for in Article 95 to the supply of those goods or services, provided that the rate is not lower than 12%.

The first paragraph shall not apply to the supply of second-hand goods, works of art, collectors' items or antiques, as defined in points (a) to (d) of Article 304(1), subject to VAT in accordance with the margin scheme provided for in Articles 305 to 317 or the arrangements for sales by public auction.

### *Article 115*

For the purposes of applying Article 114, Austria may apply a reduced rate to wines produced on an agricultural holding by the producer-farmer, provided that the rate is not lower than 12%.



#### *Article 116*

Greece may apply rates up to 30% lower than the corresponding rates applied in mainland Greece in the departments of Lesbos, Chios, Samos, the Dodecanese and the Cyclades, and on the islands of Thassos, the Northern Sporades, Samothrace and Skiros.

#### *Article 117*

Member States which, at 1 January 1993, regarded work under contract as the supply of goods may apply to the delivery of work under contract the rate applicable to the goods obtained after execution of the work under contract.

For the purposes of applying the first paragraph, "the delivery of work under contract" shall mean the handing over by a contractor to his customer of movable property made or assembled by the contractor from materials or objects entrusted to him by the customer for that purpose, whether or not the contractor has provided any part of the materials used.

#### *Article 118*

Member States may apply a reduced rate to the supply of live plants and other floricultural products, including bulbs, roots and the like, cut flowers and ornamental foliage, and of wood for use as firewood.



## Chapter 5

### Temporary provisions

#### *Article 119*

The Czech Republic may, until 31 December 2007, continue to apply a reduced rate of not less than 5% to the following transactions:

- (a) the supply of heat energy used by households and small entrepreneurs who are not subject to VAT for heating and the production of hot water, excluding raw materials used to generate heat energy;
- (b) the supply of construction work for residential housing not provided as part of a social policy, excluding building materials.

#### *Article 120*

Estonia may, until 30 June 2007, continue to apply a reduced rate of not less than 5% to the supply of heating sold to natural persons, housing associations, apartment associations, churches, congregations, and institutions or bodies financed from the State, rural municipality or city budget, as well as to the supply of peat, fuel briquettes, coal and firewood to natural persons.

#### *Article 121*

1. Cyprus may, until 31 December 2007, continue to grant an exemption with deductibility of VAT paid at the preceding stage in respect of the supply of pharmaceuticals and foodstuffs for human consumption, with the exception of ice cream, ice lollies, frozen yoghurt, water ice and similar products and savoury food products (potato crisps/sticks, puffs and similar products packaged for human consumption without further preparation).



2. Cyprus may continue to apply a reduced rate of not less than 5% to the supply of restaurant services, until 31 December 2007 or until the introduction of definitive arrangements, as referred to in Article 395, whichever is the earlier.

#### *Article 123*

Hungary may continue to apply a reduced rate of not less than 12% to the following transactions:

- (a) the supply of coal, coal-brick and coke, firewood and charcoal, and the supply of district heating services, until 31 December 2007;
- (b) the supply of restaurant services and of foodstuffs sold on similar premises, until 31 December 2007 or until the introduction of definitive arrangements, as referred to in Article 395, whichever is the earlier.

#### *Article 124*

Malta may, until 1 January 2010, continue to grant an exemption with deductibility of VAT paid at the preceding stage in respect of the supply of foodstuffs for human consumption and pharmaceuticals.

#### *Article 125*

1. Poland may, until 31 December 2007 grant an exemption with deductibility of VAT paid at the preceding stage in respect of the supply of certain books and specialist periodicals.
2. Poland may, until 31 December 2007 or until the introduction of definitive arrangements, as referred to in Article 395, whichever is the earlier, continue to apply a reduced rate of not less than 7% to the supply of restaurant services.



3. Poland may, until 30 April 2008, continue to apply a reduced rate of not less than 3% to the supply of foodstuffs as referred to in point (1) of Annex III.
4. Poland may, until 30 April 2008, continue to apply a reduced rate of not less than 3% to the supply of goods and services of a kind normally intended for use in agricultural production, but excluding capital goods such as machinery or buildings, as referred to in point (11) of Annex III.
5. Poland may, until 31 December 2007, continue to apply a reduced rate of not less than 7% to the supply of services, not provided as part of a social policy, for construction, renovation and alteration of housing, excluding building materials, and to the supply before first occupation of residential buildings or parts of residential buildings, as referred to in Article 13(1)(a).

#### *Article 126*

1. Slovenia may, until 31 December 2007 or until the introduction of definitive arrangements, as referred to in Article 395, whichever is the earlier, continue to apply a reduced rate of not less than 8.5% to the preparation of meals.
2. Slovenia may, until 31 December 2007, continue to apply a reduced rate of not less than 5% to the supply of construction, renovation and maintenance work for residential housing not provided as part of a social policy, excluding building materials.

#### *Article 127*

Slovakia may continue to apply a reduced rate of not less than 5% to the following transactions:

- (a) the supply of heat energy used by private households and small entrepreneurs who are not subject to VAT for heating and the production of hot water, excluding raw materials used to generate heat energy, until 31 December 2008;
- (b) the supply of construction work for residential housing not provided as part of a social policy, excluding building materials, until 31 December 2007.



## **TITLE IX**

### **EXEMPTIONS**

#### **Chapter 1**

##### **General provisions**

###### *Article 128*

The exemptions provided for in Chapters 2 to 9 shall apply without prejudice to other Community provisions and in accordance with conditions which the Member States shall lay down for the purposes of ensuring the correct and straightforward application of those exemptions and of preventing any possible evasion, avoidance or abuse.

#### **Chapter 2**

##### **Exemptions for certain activities in the public interest**

###### *Article 129*

1. Member States shall exempt the following transactions:
  - (a) the supply by the public postal services of services other than passenger transport and telecommunications services, and the supply of goods incidental thereto;
  - (b) hospital and medical care and closely related activities undertaken by bodies governed by public law or, under social conditions comparable with those applicable to bodies governed by public law, by hospitals, centres for medical treatment or diagnosis and other duly recognised establishments of a similar nature;



- (c) the provision of **medical** care in the exercise of the medical and paramedical professions as defined by the Member State concerned;

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**OBSERVATIONS:**

*Although there has been an ECJ case concerning the medical care exemption (ECJ C-307/01, Dr D'Ambrumenil), it is arguable whether the overall scope of the exemption has been changed. To avoid creating difficulties over interpretation the text has been amended to accord with that in the current Sixth Directive. This is relevant only to certain language versions, notably the EN and IT versions.*

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- (d) the supply of human organs, blood and milk;
- (e) the supply of services by dental technicians in their professional capacity and the supply of dental prostheses by dentists and dental technicians;
- (f) the supply of services by independent groups of persons, who are carrying on an activity which is exempt from VAT or in relation to which they are not taxable persons, for the purpose of rendering their members the services directly necessary for the exercise of that activity, where those groups merely claim from their members exact reimbursement of their share of the joint expenses, provided that such exemption is not likely to cause distortion of competition;
- (g) the supply of services and of goods closely linked to welfare and social security work, including those supplied by old people's homes, by bodies governed by public law or by other bodies recognised by the Member State concerned as being devoted to social wellbeing;
- (h) the supply of services and of goods closely linked to the protection of children and young persons by bodies governed by public law or by other organisations recognised by the Member State concerned as being devoted to social wellbeing;



- (i) the provision of children's or young people's education, school or university education, vocational training or retraining, including the supply of services and of goods closely related thereto, by bodies governed by public law having such as their aim or by other organisations recognised by the Member State concerned as having similar objects;
- (j) tuition given privately by teachers and covering school or university education;
- (k) the supply of staff by religious or philosophical institutions for the purpose of the activities referred to in points (b), (g), (h) and (i) and with a view to spiritual welfare;
- (l) the supply of services, and the supply of goods closely linked thereto, to their members in their common interest in return for a subscription fixed in accordance with their rules by non-profit-making organisations with aims of a political, trade-union, religious, patriotic, philosophical, philanthropic or civic nature, provided that this exemption is not likely to cause distortion of competition;
- (m) the supply of certain services closely linked to sport or physical education by non-profit-making organisations to persons taking part in sport or physical education;
- (n) the supply of certain cultural services, and the supply of goods closely linked thereto, by bodies governed by public law or by other cultural bodies recognised by the Member State concerned;
- (o) the supply of services and goods, by organisations whose activities are exempt pursuant to points (b), (g), (h), (i), (l), (m) and (n), in connection with fund-raising events organised exclusively for their own benefit, provided that exemption is not likely to cause distortion of competition;
- (p) the supply of transport services for sick or injured persons in vehicles specially designed for the purpose, by duly authorised bodies;
- (q) the activities, **other than those** of **a commercial nature, carried out by** public radio and television bodies.



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**OBSERVATIONS:**

*The word order has been changed from that in the 6th VAT Directive to improve clarity. In the previous text, it was unclear whether the term "non-commercial" applied to the bodies covered by the provision, or to their activities. The amended wording makes it clear that the exemption applies to non-commercial **activities** by public radio and television bodies. The change is relevant to the EN version only.*

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2. For the purposes of point (o) of paragraph 1, Member States may introduce any restrictions necessary, in particular as regards the number of events or the amount of receipts which give entitlement to exemption.

*Article 130*

Member States may make the granting to bodies other than those governed by public law of each exemption provided for in points (b), (g), (h), (i), (l), (m) and (n) of Article 129(1) subject in each individual case to one or more of the following conditions:

- (a) the bodies in question must not systematically aim to make a profit, and any surpluses nevertheless arising must not be distributed, but must be assigned to the continuance or improvement of the services supplied;
- (b) those bodies must be managed and administered on an essentially voluntary basis by persons who have no direct or indirect interest, either themselves or through intermediaries, in the results of the activities concerned;
- (c) those bodies must charge prices which are approved by the public authorities or which do not exceed such approved prices or, in respect of those services not subject to approval, prices lower than those charged for similar services by commercial enterprises subject to VAT;



- (d) the exemptions must not be likely to cause distortion of competition to the disadvantage of commercial enterprises subject to VAT.

Member States which, pursuant to Annex E of Council Directive 77/388/EEC<sup>1</sup>, on 1 January 1989 applied VAT to the transactions referred to in Article 129(1) (m) and (n) may also apply the conditions provided for in point (d) of the first paragraph when the said supply of goods or services by bodies governed by public law is granted exemption.

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*OBSERVATIONS:*

*The text has been amended to make it clear that Member States who previously taxed services closely linked to sport and cultural activities provided by a public body, may make the granting of the exemption conditional upon there being no distortion of competition.*

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*Article 131*

The supply of goods or services shall not be granted exemption, as provided for in points (b), (g), (h), (i), (l), (m) and (n) of Article 129(1), in the following cases:

- (a) where the supply is not essential to the transactions exempted;
- (b) where the basic purpose of the supply is to obtain additional income for the body in question through transactions which are in direct competition with those of commercial enterprises subject to VAT.

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<sup>1</sup> OJ L 145, 13.6.1977, p. 1.



## Chapter 3

### Exemptions for other activities

#### *Article 132*

1. Member States shall exempt the following transactions:
  - (a) insurance and reinsurance transactions, including related services performed by insurance brokers and insurance agents;
  - (b) the granting and the negotiation of credit and the management of credit by the person granting it;
  - (c) the negotiation of or any dealings in credit guarantees or any other security for money and the management of credit guarantees by the person who is granting the credit;
  - (d) transactions, including negotiation, concerning deposit and current accounts, payments, transfers, debts, cheques and other negotiable instruments, but excluding debt collection;
  - (e) transactions, including negotiation, concerning currency, bank notes and coins used as legal tender, with the exception of collectors' items, that is to say, gold, silver or other metal coins or bank notes which are not normally used as legal tender or coins of numismatic interest;
  - (f) transactions, including negotiation but not management or safekeeping, in shares, interests in companies or associations, debentures and other securities, but excluding documents establishing title to goods, and the rights or securities referred to in Article 16(2);



- (g) the management of special investment funds as defined by Member States;
- (h) the supply at face value of postage stamps valid for **use for postal services** within the territory of **the** Member State, fiscal stamps and other similar stamps;

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*OBSERVATIONS:*

*At the previous meetings some Member States expressed concern about the possible economic and political consequences of making a change to this article. The text has therefore been amended to accord with that in the current Sixth Directive.*

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- (i) betting, lotteries and other forms of gambling, subject to the conditions and limitations laid down by each Member State;
- (j) the supply of a building or parts thereof, and of the land on which it stands, other than the supply referred to in Article 13(1)(a);
- (k) the supply of land which has not been built on other than the supply of building land as referred to in Article 13(1)(b);
- (l) the leasing or letting of immovable property.

2. The following shall be excluded from the exemption provided for in point (l) of paragraph 1:

- (a) the provision of accommodation, as defined in the laws of the Member States, in the hotel sector or in sectors with a similar function, including the provision of accommodation in holiday camps or on sites developed for use as camping sites;



- (b) the letting of premises and sites for the parking of vehicles;
- (c) the letting of permanently installed equipment and machinery;
- (d) the hire of safes.

Member States may apply further exclusions to the scope of the exemption referred to in point (l) of paragraph 1.

#### *Article 133*

Member States shall exempt the following transactions:

- (a) the supply of goods used solely for an activity exempted under Articles 129, 132, 364, 368, 369 **and** 370, **Article** 371 (2), **Article** 372(2) and Articles 373 to 383, if those goods have not given rise to deductibility;

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#### *OBSERVATIONS:*

*The list of cross-references has been amended so that they refer only to exempt provisions.*

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- (b) the supply of goods on the acquisition or application of which VAT was not deductible, pursuant to Article 170.



*Article 134*

1. Member States may allow taxable persons a right of option for taxation in respect of the following transactions:
  - (a) the financial transactions referred to in points (b) to (g) of Article 132(1);
  - (b) the supply of a building or of parts thereof, and of the land on which the building stands, other than the supply referred to in Article 13(1)(a);
  - (c) the supply of land which has not been built on other than the supply of building land referred to in Article 13(1)(b);
  - (d) the leasing or letting of immovable property.
2. Member States shall lay down the detailed rules governing exercise of the option under paragraph 1.

Member States may restrict the scope of that right of option.



## **Chapter 4**

### **Exemptions for intra-Community transactions**

#### **Section 1**

#### **Exemptions related to the supply of goods**

##### *Article 135*

1. Member States shall exempt the supply of goods dispatched or transported to a destination outside their respective territory but within the Community, by or on behalf of the vendor or the person acquiring the goods, for another taxable person, or for a non-taxable legal person acting as such in a Member State other than that in which dispatch or transport of the goods began.
2. In addition to the supply of goods referred to in paragraph 1, Member States shall exempt the following transactions:
  - (a) the supply of new means of transport, dispatched or transported to the customer at a destination outside their respective territory but within the Community, by or on behalf of the vendor or the customer, for taxable persons, or non-taxable legal persons, whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 4(1), or for any other non-taxable person;
  - (b) the supply of products subject to excise duty, dispatched or transported to a destination outside their respective territory but within the Community, to the customer, by or on behalf of the vendor or the customer, for taxable persons, or non-taxable legal persons, whose intra-Community acquisitions of goods other than products subject to excise duty are not subject to VAT pursuant to Article 4(1), where those products have been dispatched or transported in accordance with Article 7(4) and (5) or Article 16 of Directive 92/12/EEC;



- (c) the supply of goods, consisting in a transfer to another Member State, which would have been entitled to exemption under paragraph 1 and points (a) and (b) if it had been made on behalf of another taxable person.

#### *Article 136*

1. The exemption provided for in Article 135(1) shall not apply to the supply of goods carried out by taxable persons who are covered by the exemption for small enterprises provided for in Articles 275 to 285.

Nor shall that exemption apply to the supply of goods to taxable persons, or non-taxable legal persons, whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 4(1).

2. The exemption provided for in Article 135(2)(b) shall not apply to the supply of products subject to excise duty by taxable persons who are covered by the exemption for small enterprises provided for in Articles 275 to 285.
3. The exemption provided for in Article 135(1) and (2)(b) and (c) shall not apply to the supply of goods subject to VAT in accordance with the margin scheme provided for in Articles 305 to 317 or the special arrangements for sales by public auction.

The exemption provided for in Article 135(1) and (2)(c) shall not apply to the supply of second-hand means of transport as defined in Article 319 subject to VAT in accordance with the transitional arrangements for second-hand means of transport.



## Section 2

### Exemptions for intra-Community acquisitions of goods

#### *Article 137*

Member States shall exempt the following transactions:

- (a) the intra-Community acquisition of goods the supply of which by taxable persons would in all circumstances be exempt within their respective territory;
- (b) the intra-Community acquisition of goods the importation of which would in all circumstances be exempt under Article 140(a), (b) and (c) and (e) to (m);
- (c) the intra-Community acquisition of goods where, pursuant to Articles 164 and 165, the person acquiring the goods would in all circumstances be entitled to full reimbursement of the VAT due under Article 3(1)(b).

#### *Article 138*

Each Member State shall take specific measures to ensure that VAT is not charged on the intra-Community acquisition of goods within its territory, **made in accordance with the criteria laid down in Article 41**, where the following conditions are met:

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#### *OBSERVATIONS:*

*This Article concerns the acquisition of goods which are part of a triangular transaction. It allows intermediate acquirers to exempt the acquisition where the tax will be accounted for by the final acquirer. The reference to the basic acquisition place of supply rules in Art 41 has been moved to clarify that this phrase cross-refers to "acquisitions", rather than to the "specific measures" in the first line of the sentence. It is relevant to the EN version only.*

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- (a) the acquisition of goods is made by a taxable person who is not established in the Member State concerned but is identified for VAT purposes in another Member State;
- (b) the acquisition of goods is made for the purposes of the subsequent supply of those goods, in the Member State concerned, by the taxable person referred to in point (a);
- (c) the goods thus acquired by the taxable person referred to in point (a) are directly dispatched or transported, from a Member State other than that in which he is identified for VAT purposes, to the person for whom he is to carry out the subsequent supply;
- (d) the person to whom the subsequent supply is to be made is another taxable person, or a non-taxable legal person, who is identified for VAT purposes in the Member State concerned;
- (e) the person referred to in point (d) has been designated in accordance with Article 190 as liable for payment of the VAT due on the supply carried out by the taxable person who is not established in the Member State in which the tax is due.

### **Section 3**

#### **Exemptions for certain transport services**

##### *Article 139*

Member States shall exempt the supply of intra-Community transport of goods to and from the islands making up the autonomous regions of the Azores and Madeira, as well as the supply of transport **of goods** between those islands.



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*OBSERVATIONS:*

*Intra-Community transport of goods to and from the Azores and Madeira is exempt. This also applies to the transport of goods between those islands. To be consistent, the words **transport of goods** have been substituted for **goods transport services**. This change is relevant to the EN version only.*

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## Chapter 5

### Exemptions on importation

#### *Article 140*

Member States shall exempt the following transactions:

- (a) the final importation of goods of which the supply by a taxable person would in all circumstances be exempt within their respective territory;
- (b) the final importation of goods governed by Council Directives 69/169/EEC<sup>1</sup>, 78/1035/EEC<sup>2</sup> and 83/181/EEC<sup>3</sup>;
- (c) the final importation of goods, in free circulation from a third territory forming part of the Community customs territory, which would be entitled to exemption under point (b) **if they had been imported within the meaning of the first paragraph of Article 31;**

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<sup>1</sup> OJ L 133, 4.6.1969, p. 6.

<sup>2</sup> OJ L 366, 28.12.1978, p. 34.

<sup>3</sup> OJ 105, 23.4.1983, p. 38.



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**OBSERVATIONS:**

*When goods in free circulation in a third territory forming part of the Community customs territory are imported, they benefit from the same exemption as that granted to goods not in free circulation. This change clarifies this parity of treatment. This change also aligns the text with that in the current Sixth Directive.*

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- (d) the importation of goods dispatched or transported from a third territory or a third country into a Member State other than that in which the dispatch or transport of the goods ends, where the supply of such goods by the importer designated or recognised under Article 193 as liable for payment of VAT is exempt under Article 135;
- (e) the reimportation, by the person who exported them, of goods in the state in which they were exported, where those goods are exempt from customs duties;
- (f) the importation, under diplomatic and consular arrangements, of goods which are exempt from customs duties;
- (g) the importation of goods by international bodies recognised as such by the public authorities of the host Member State, or by members of such bodies, within the limits and under the conditions laid down by the international conventions establishing the bodies or by headquarters agreements;
- (h) the importation of goods, into Member States party to the North Atlantic Treaty, by the armed forces of other States party to that Treaty for the use of those forces or the civilian staff accompanying them or for supplying their messes or canteens where such forces take part in the common defence effort;



- (i) imports by the armed forces of the United Kingdom stationed in the island of Cyprus pursuant to the Treaty of Establishment concerning the Republic of Cyprus, dated 16 August 1960, which are for the use of those forces or the civilian staff accompanying them or for supplying their messes or canteens;
- (j) the importation into ports, by sea fishing undertakings, of their catches, unprocessed or after undergoing preservation for marketing but before being supplied;
- (k) the importation of gold by central banks;
- (l) the importation of gas through the natural gas distribution system, or of electricity;
- (m) the supply of services relating to the importation of goods where the value of such services is included in the taxable amount in accordance with Article 83(1)(b).

#### *Article 141*

1. The Commission shall, where appropriate, as soon as possible, present to the Council proposals designed to delimit the scope of the exemptions provided for in Article 140 and to lay down the detailed rules for their implementation.
2. Pending the entry into force of the rules referred to in paragraph 1, Member States may maintain their national provisions in force.

Member States may adapt their national provisions so as to minimise distortion of competition and, in particular, to prevent non-taxation or double taxation within the Community.

Member States may use whatever administrative procedures they consider most appropriate to achieve exemption.

3. Member States shall notify to the Commission, which shall inform the other Member States accordingly, the provisions of national law which are in force, in so far as these have not already been notified, and those which they adopt pursuant to paragraph 2.



## Chapter 6

### Exemptions on exportation

#### *Article 142*

1. Member States shall exempt the following transactions:
  - (a) the supply of goods dispatched or transported to a destination outside the Community by or on behalf of the vendor;
  - (b) the supply of goods dispatched or transported to a destination outside the Community by or on behalf of a customer not established within their respective territory, with the exception of goods transported by the customer himself for the equipping, fuelling and provisioning of pleasure boats and private aircraft or any other means of transport for private use;
  - (c) the supply of goods to approved bodies which export them out of the Community as part of their humanitarian, charitable or teaching activities outside the Community;
  - (d) the supply of services consisting in work on movable property acquired or imported for the purpose of undergoing such work within the Community, and dispatched or transported out of the Community by the supplier, by the customer if not established within their respective territory or on behalf of either of them;
  - (e) the supply of services, including transport and ancillary transactions, but excluding the supply of services exempted in accordance with Articles 129 and 132, where these are directly connected with the exportation or importation of goods covered by Article 61 and Article 152(1)(a).
2. The exemption provided for in point (c) of paragraph 1 may be granted by means of a refund of the VAT.



### Article 143

1. Where the supply of goods referred to in Article 142(1)(b) relates to goods to be carried in the personal luggage of travellers, the exemption shall apply only if the following conditions are met:
  - (a) the traveller is not established within the Community;
  - (b) the goods are transported out of the Community before the end of the third month following that in which the supply takes place;
  - (c) the total value of the supply, including VAT, is more than EUR 175 or the equivalent in national currency, fixed annually by applying the conversion rate obtaining on the first working day of October with effect from 1 January of the following year.

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#### OBSERVATIONS:

*Whenever reference is made to an amount in euro, the interinstitutional agreement requires that use is made of the ISO code (EUR).*

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However, Member States may exempt a supply with a total value of less than the amount specified in point (c) of the first subparagraph.

2. For the purposes of paragraph 1, "a traveller who is not established within the Community" shall mean a traveller whose permanent address or habitual residence is not located within the Community **in which case "permanent** address or habitual residence" **means** the place entered as such in a passport, identity card or other document recognised as an identity document by the Member State within whose territory the supply takes place.



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*OBSERVATIONS:*

*The text has been amended to improve clarity.*

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Proof of exportation shall be furnished by means of the invoice or other document in lieu thereof, endorsed by the customs office of exit from the Community.

Each Member State shall send to the Commission specimens of the stamps it uses for the endorsement referred to in the second subparagraph. The Commission shall forward that information to the tax authorities of the other Member States.

## **Chapter 7**

### **Exemptions related to international transport**

#### *Article 144*

Member States shall exempt the following transactions:

- (a) the supply of goods for the fuelling and provisioning of vessels used for navigation on the high seas and carrying passengers for reward or used for the purpose of commercial, industrial or fishing activities, or for rescue or assistance at sea, or for inshore fishing, with the exception, in the case of vessels used for inshore fishing, of ships' provisions;
- (b) the supply of goods for the fuelling and provisioning of fighting ships, falling within CN code 8906 10 00, leaving their territory and bound for ports or anchorages outside the Member State concerned;
- (c) the supply, modification, repair, maintenance, chartering and hiring of the vessels referred to in point (a), and the supply, hiring, repair and maintenance of equipment, including fishing equipment, incorporated or used therein;



- (d) the supply of services other than those referred to in point (c), to meet the direct needs of the vessels referred to in point (a) or of their cargoes;
- (e) the supply of goods for the fuelling and provisioning of aircraft used by airlines operating for reward chiefly on international routes;
- (f) the supply, modification, repair, maintenance, chartering and hiring of the aircraft referred to in point (e), and the supply, hiring, repair and maintenance of equipment incorporated or used therein;
- (g) the supply of services, other than those referred to in point (f), to meet the direct needs of the aircraft referred to in point (e) or of their cargoes.

#### *Article 145*

Portugal may treat sea and air transport between the islands making up the autonomous regions of the Azores and Madeira and between those regions and the mainland as international transport.

#### *Article 146*

1. The Commission shall, where appropriate, as soon as possible, present to the Council proposals designed to delimit the scope of the exemptions provided for in Article 144 and to lay down the detailed rules for their implementation.
2. Pending the entry into force of the provisions referred to in paragraph 1, Member States may limit the scope of the exemptions provided for in points (a) and (b) of Article 144.



## Chapter 8

### Exemptions relating to certain transactions treated as exports

#### *Article 147*

1. Member States shall exempt the following transactions:
  - (a) the supply of goods or services under diplomatic and consular arrangements;
  - (b) the supply of goods or services to international bodies recognised as such by the public authorities of the host Member State, and to members of such bodies, within the limits and under the conditions laid down by the international conventions establishing the bodies or by headquarters agreements;
  - (c) the supply of goods or services within a Member State which is a party to the North Atlantic Treaty, intended either for the armed forces of other States party to that Treaty for the use of those forces, or of the civilian staff accompanying them, or for supplying their messes or canteens when such forces take part in the common defence effort;
  - (d) the supply of goods or services to another Member State, intended for the armed forces of any State which is a party to the North Atlantic Treaty, other than the Member State of destination itself, for the use of those forces, or of the civilian staff accompanying them, or for supplying their messes or canteens when such forces take part in the common defence effort;
  - (e) the supply of goods or services to the armed forces of the United Kingdom stationed in the island of Cyprus pursuant to the Treaty of Establishment concerning the Republic of Cyprus, dated 16 August 1960, which are for the use of those forces, or of the civilian staff accompanying them, or for supplying their messes or canteens.



Pending the adoption of common tax rules, the exemptions provided for in the first subparagraph shall be subject to the limitations laid down by the host Member State.

2. In cases where the goods are not dispatched or transported out of the Member State in which the supply takes place, and in the case of services, the exemption may be granted by means of a refund of the VAT.

#### *Article 148*

Member States shall exempt the supply of gold to central banks.

### **Chapter 9**

#### **Exemptions for the supply of services by intermediaries**

#### *Article 149*

Member States shall exempt the supply of services by intermediaries, acting in the name and on behalf of another person, where they take part in the transactions referred to in Chapters 6, 7 and 8, or of transactions carried out outside the Community.

The exemption referred to in the first paragraph shall not apply to travel agents who, in the name and on behalf of travellers, supply services which are carried out in other Member States.



## Chapter 10

### Exemptions for transactions relating to international trade

#### Section 1

#### Customs warehouses, warehouses other than customs warehouses and similar arrangements

##### *Article 150*

Without prejudice to other Community tax provisions, Member States may, after consulting the VAT Committee, take special measures designed to exempt all or some of the transactions referred to in this Section, provided that those measures are not aimed at final use or consumption and that the amount of VAT due on cessation of the arrangements or situations referred to in this Section corresponds to the amount of tax which would have been due had each of those transactions been taxed within their territory.

##### *Article 151*

1. Member States may exempt the following transactions:
  - (a) the supply of goods which are intended to be presented to customs and, where applicable, placed in temporary storage;
  - (b) the supply of goods which are intended to be placed in a free zone or in a free warehouse;
  - (c) the supply of goods which are intended to be placed under customs warehousing arrangements or inward processing arrangements;



- (d) the supply of goods which are intended to be admitted into territorial waters in order to be incorporated into drilling or production platforms, for purposes of the construction, repair, maintenance, alteration or fitting-out of such platforms, or to link such drilling or production platforms to the mainland;
  - (e) the supply of goods which are intended to be admitted into territorial waters for the fuelling and provisioning of drilling or production platforms.
2. The places referred to in paragraph 1 shall be those defined as such by the Community customs provisions in force.

#### *Article 152*

1. Member States may exempt the following transactions:
- (a) the importation of goods which are intended to be placed under warehousing arrangements other than customs warehousing;
  - (b) the supply of goods which are intended to be placed, within their territory, under warehousing arrangements other than customs warehousing.
2. For the purposes of paragraph 1, “warehouses other than customs warehouses” shall, in the case of products subject to excise duty, mean the places defined as tax warehouses by Article 4(b) of Directive 92/12/EEC and, in the case of products not subject to excise duty, the places defined as such by the Member States.

Member States may not, however, provide for warehousing arrangements other than customs warehousing for goods which are not subject to excise duty where those goods are intended to be supplied at the retail stage.



### Article 153

1. By way of derogation from the second subparagraph of Article 152(2), Member States may provide for warehousing arrangements other than customs warehousing in the following cases:
  - (a) where the goods are intended for tax-free shops, for the purposes of the supply of goods to be carried in the personal luggage of travellers taking flights or sea crossings to third territories or third countries, where that supply is exempt pursuant to point (b) of Article 142(1);
  - (b) where the goods are intended for taxable persons, for the purposes of carrying out supplies to travellers on board an aircraft or a ship in the course of a flight or sea crossing where the place of arrival is situated outside the Community;
  - (c) where the goods are intended for taxable persons, for the purposes of carrying out supplies which are exempt from VAT pursuant to Article 147.
2. Where Member States exercise the option of exemption provided for in **point (a) of** paragraph 1, they shall take the measures necessary to ensure the correct and straightforward application of the exemptions provided for in this Article and to prevent any evasion, avoidance or abuse.

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#### *OBSERVATIONS:*

*For clarity, the reference is slightly amended. The change is relevant to the EN version only.*

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3. For the purposes of point (a) of paragraph 1, "tax-free shop" shall mean any establishment which is situated within an airport or port and which fulfils the conditions laid down by the competent public authorities.



#### *Article 154*

Member States may exempt the supply of services relating to the supply of goods referred to in Article 151, Article 152(1)(b) or Article 153.

#### *Article 155*

1. Member States may exempt the following transactions:
  - (a) the supply of goods or services carried out in the locations referred to in Article 151(1), where one of the situations specified therein still applies within their territory;
  - (b) the supply of goods or services carried out in the locations referred to in Article 152(1)(b) or Article 153, where one of the situations specified in Article 152(1)(b) or in Article 153(1) still applies within their territory.
2. Where Member States exercise the option under point (a) of paragraph 1 in respect of transactions effected in customs warehouses, they shall take the measures necessary to provide for warehousing arrangements other than customs warehousing under which point (b) of paragraph 1 may be applied to the same transactions when they concern goods listed in Annex V and are carried out in warehouses other than customs warehouses.

#### *Article 156*

Member States may exempt supply of the following goods and of services relating thereto:

- (a) the supply of goods referred to in the first paragraph of Article 31 while they remain covered by arrangements for temporary importation with total exemption from import duty or by external transit arrangements;
- (b) the supply of goods referred to in the second paragraph of Article 31 while they remain covered by the internal Community transit procedure referred to in Article 269.



### *Article 157*

Where Member States exercise the option provided for in this Section, they shall take the measures necessary to ensure that the intra-Community acquisition of goods intended to be placed under one of the arrangements or in one of the situations referred to in Article 151, Article 152(1)(b) or Article 153 is covered by the same provisions as the supply of goods carried out within their territory under the same conditions.

### *Article 158*

If the goods cease to be covered by the arrangements or situations referred to in this Section, thus giving rise to importation for the purposes of Article 61, the Member State of importation shall take the measures necessary to prevent double taxation.

## **Section 2**

### **Transactions exempted with a view to export and in the framework of trade between the Member States**

### *Article 159*

1. Member States may, after consulting the VAT Committee, exempt the following transactions carried out by, or intended for, a taxable person up to an amount equal to the value of the exports carried out by that person during the preceding 12 months:
  - (a) intra-Community acquisitions of goods made by the taxable person, and imports for and supplies of goods to the taxable person, with a view to their exportation from the Community as they are or after processing;
  - (b) supplies of services linked with the export business of the taxable person.



2. Where Member States exercise the option of exemption under paragraph 1, they shall, after consulting the VAT Committee, apply that exemption also to transactions relating to supplies carried out by the taxable person, in accordance with the conditions specified in Article 135, up to an amount equal to the value of the supplies carried out by that person, in accordance with the same conditions, during the preceding 12 months.

#### *Article 160*

Member States may set a common maximum amount for transactions which they exempt pursuant to Article 159.

### **Section 3**

#### **Provisions common to Sections 1 and 2**

#### *Article 161*

The Commission shall, where appropriate, as soon as possible, present to the Council proposals concerning common arrangements for applying VAT to the transactions referred to in Sections 1 and 2.

## **TITLE X**

### **DEDUCTIONS**

#### **Chapter 1**

#### **Origin and scope of right of deduction**



### *Article 162*

A right of deduction shall arise at the time the deductible tax becomes chargeable.

### *Article 163*

In so far as the goods and services are used for the purposes of the taxed transactions of a taxable person, the taxable person shall be entitled, in the Member State in which he carries out these transactions, to deduct the following from the VAT which he is liable to pay:

- (a) the VAT due or paid in that Member State in respect of supplies to him of goods or services, carried out or to be carried out by another taxable person;
- (b) the VAT due in respect of transactions treated as supplies of goods or services pursuant to Article 19(a) and Article 28;
- (c) the VAT due in respect of intra-Community acquisitions of goods pursuant to Article 3(1)(b)(i);
- (d) the VAT due on transactions treated as intra-Community acquisitions in accordance with Articles 22 and 23;
- (e) the VAT due or paid in respect of the importation of goods into that Member State.

### *Article 164*

In addition to the deduction referred to in Article 163, taxable persons shall be entitled to deduct the VAT referred to therein in so far as the goods and services are used for the purposes of the following:



- (a) transactions relating to the activities referred to in the second subparagraph of Article 10(1), carried out outside the Member State in which they are entitled to deduction as referred to in Article 163, in respect of which VAT would be deductible if they had been carried out within that Member State;
- (b) transactions which are exempt pursuant to Articles 135 or 139, Article 140(m), Articles 142 to 145, Articles 147, 148, 149 or 151, Article 152(1)(b), Articles 153 to 156 or Article 159;
- (c) transactions which are exempt pursuant to Article 132(1)(a) to (f), where the customer is established outside the Community or where those transactions relate directly to goods to be exported out of the Community.

*Article 164a*

All taxable persons who, within the meaning of Article 1 of Council Directive 79/1072/EEC<sup>1</sup>, Article 1 of Council Directive 86/560/EEC and Article 165 of this Directive, are not established in the Member State in which they purchase goods and services or import goods subject to VAT shall be entitled to obtain a refund of that VAT in so far as the goods and services are used for the purposes of transactions referred to in Article 2 of Directive 79/1072/EEC, Article 2 of Directive 86/560/EEC and Articles 187, 188 and 190 of this Directive.

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<sup>1</sup> OJ L 331, 27.12.1979, p. 11.



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**OBSERVATIONS:**

*This provision defines the right of deduction of VAT on expenditure in cases where the taxable person is not established in the Member State in which the VAT is incurred. Previously proposed wording was found to be problematic in that it extended the scope of the provisions currently contained in the 8<sup>th</sup> and 13<sup>th</sup> Directives, and in Article 17(4) of the Sixth Directive. In addition, at the last meeting, Member States expressed confusion at the structure and scope of the proposed Article. The wording has therefore been amended so that it simply reproduces the effect of the current Sixth Directive provisions, with the exception that the right to deduct VAT is extended to non-established suppliers of gas and electricity as provided for by DIR 2003/92. This change was agreed by the 75<sup>th</sup> VAT Committee.*

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*Article 165*

1. VAT shall be refunded to taxable persons who are not established in the Member State in which they purchase goods and services or import goods subject to VAT but who are established in another Member State, in accordance with the detailed implementing rules laid down in Directive 79/1072/EEC.

The taxable persons referred to in Article 1 of Directive 79/1072/EEC shall also, for the purposes of applying that Directive, be regarded as taxable persons who are not established in the Member State concerned where, in the Member State in which they purchase goods and services or import goods subject to VAT, they have **only** carried out the supply of goods or services to a person designated in accordance with Articles 187, 188 or 190 as liable for payment of VAT.



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*OBSERVATIONS:*

*For clarity the text has been aligned with that of the current Sixth Directive. This change is relevant to the EN version only.*

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2. VAT shall be refunded to taxable persons who are not established within the territory of the Community in accordance with the detailed implementing rules laid down in Directive 86/560/EEC.

The taxable persons referred to in Article 1 of Directive 86/560/EEC shall also, for the purposes of applying that Directive, be regarded as taxable persons who are not established in the Community where, in the Member State in which they purchase goods and services or import goods subject to VAT, they have **only** carried out the supply of goods or services to a person designated in accordance with Articles 187, 188 or 190 as liable for payment of VAT.

3. Directives 79/1072/EEC and 86/560/EEC shall not apply to the supply of goods which is, or may be, exempted pursuant to Article 135 where the goods thus supplied are dispatched or transported by or on behalf of the person acquiring the goods.

*Article 166*

1. Any person who is regarded as a taxable person by reason of the fact that he supplies, on an occasional basis, a new means of transport in accordance with the conditions specified in Article 135(1) and (2)(a) shall, in the Member State in which the supply takes place, be entitled to deduct the VAT included in the purchase price or paid in respect of the importation or the intra-Community acquisition of **this** means of transport, up to an amount not exceeding the amount of VAT for which he would be liable if the supply were not exempt.



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**OBSERVATIONS:**

*If a person becomes a taxable person as a result of having supplied a new means of transport, he will be entitled to deduct any VAT previously incurred. This only applies to VAT included in the purchase price, or otherwise paid in respect of this same means of transport. The amendments clarify this point. It is relevant to the EN version only.*

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A right of deduction shall arise and may be exercised only at the time of supply of the new means of transport.

2. Member States shall lay down detailed rules for the implementation of paragraph 1.

## **Chapter 2**

### **Proportional deduction**

#### *Article 167*

1. In the case of goods or services used by a taxable person both for transactions in respect of which VAT is deductible pursuant to Articles 163 and 164, and for transactions in respect of which VAT is not deductible, only such proportion of the VAT as is attributable to the former transactions shall be deductible.

The deductible proportion shall be determined, in accordance with Articles 168 and 169, for all the transactions carried out by the taxable person.



2. Member States may take the following measures:
- (a) authorise the taxable person to determine a proportion for each sector of his business, provided that separate accounts are kept for each sector;
  - (b) require the taxable person to determine a proportion for each sector of his business and to keep separate accounts for each sector;
  - (c) authorise or require the taxable person to make the deduction on the basis of the use made of all or part of the goods and services;
  - (d) authorise or require the taxable person to make the deduction in accordance with the rule laid down in the first subparagraph of paragraph 1, in respect of all goods and services used for all transactions referred to therein;
  - (e) provide that, where the VAT which is not deductible by the taxable person is insignificant, it is to be treated as nil.

*Article 168*

1. The deductible proportion shall be made up of a fraction comprising the following amounts:
- (a) as numerator, the total amount, exclusive of VAT, of turnover per year attributable to transactions in respect of which VAT is deductible pursuant to Articles 163 and 164;
  - (b) as denominator, the total amount, exclusive of VAT, of turnover per year attributable to transactions included in the numerator and to transactions in respect of which VAT is not deductible.

Member States may include in the denominator the amount of subsidies, other than those directly linked to the price of supplies of goods or services referred to in Article 72.



2. By way of derogation from paragraph 1, the following amounts shall be excluded from the calculation of the deductible proportion:
  - (a) the amount of turnover attributable to supplies of capital goods used by the taxable person for the purposes of his business;
  - (b) the amount of turnover attributable to incidental real estate and financial transactions;
  - (c) the amount of turnover attributable to the transactions specified in points (b) to (g) of Article 132(1) in so far as those transactions are incidental.
3. Where Member States exercise the option under Article 184 not to require adjustment in respect of capital goods, they may include disposals of capital goods in the calculation of the deductible proportion.

#### *Article 169*

1. The deductible proportion shall be determined on an annual basis, fixed as a percentage and rounded up to a figure not exceeding the next whole number.
2. The provisional proportion for a year shall be that calculated on the basis of the preceding year's transactions. In the absence of any such transactions to refer to, or where they were insignificant in amount, the deductible proportion shall be estimated provisionally, under the supervision of the tax authorities, by the taxable person on the basis of his own forecasts.

However, Member States may retain the rules in force at 1 January 1979 or, in the case of the Member States which acceded to the Community after that date, on the date of their accession.

3. Deductions made on the basis of such provisional proportions shall be adjusted when the final proportion is fixed during the following year.



## Chapter 3

### Restrictions on the right of deduction

#### *Article 170*

The Council, acting unanimously on a proposal from the Commission, shall determine the expenditure in respect of which VAT shall not be deductible. VAT shall in no circumstances be deductible in respect of expenditure which is not strictly business expenditure, such as that on luxuries, amusements or entertainment.

Pending the entry into force of the provisions referred to in the first paragraph, Member States may retain all the exclusions provided for under their national laws either at 1 January 1979 or, in the case of the Member States which acceded to the Community after that date, on the date of their accession.

#### *Article 171*

After consulting the VAT Committee, each Member State may, for cyclical economic reasons, totally or partly exclude all or some capital goods or other goods from the system of deductions.

In order to maintain identical conditions of competition, Member States may, instead of refusing deduction, tax goods manufactured by the taxable person himself or goods which he has purchased within the Community, or imported, in such a way that the tax does not exceed the amount of VAT which would be charged on the acquisition of similar goods.



## Chapter 4

### Rules governing exercise of the right of deduction

#### *Article 172*

In order to exercise the right of deduction, a taxable person must meet the following conditions:

- (a) for the purposes of deductions pursuant to Article 163(a), in respect of the supply of goods or services, he must hold an invoice drawn up in accordance with Articles 211 to 229 and Articles 231, 232 and 233;
- (b) for the purposes of deductions pursuant to Article 163(b), in respect of transactions treated as the supply of goods or service, he must comply with the formalities as laid down by each Member State;
- (c) for the purposes of deductions pursuant to Article 163(c), in respect of the intra-Community acquisition of goods, he must set out in the VAT return provided for in Article 242 all the information needed for the amount of the VAT due on his intra-Community acquisitions of goods to be calculated and he must hold an invoice drawn up in accordance with Articles 211 to 229;
- (d) for the purposes of deductions pursuant to Article 163(d), in respect of transactions treated as intra-Community acquisitions of goods, he must complete the formalities as laid down by each Member State;
- (e) for the purposes of deductions pursuant to Article 163(e), in respect of the importation of goods, he must hold an import document specifying him as consignee or importer, and stating the amount of VAT due or enabling that amount to be calculated;
- (f) when required to pay VAT as a customer where Articles 187 to 190 or Article 192 apply, he must comply with the formalities as laid down by each Member State.



### *Article 173*

The taxable person shall make the deduction by subtracting from the total amount of VAT due for a given tax period the total amount of VAT in respect of which, during the same period, the right of deduction has arisen and **can be** exercised in accordance with Article 172.

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#### *OBSERVATIONS:*

*The text has been amended to accord with that in the current Sixth Directive.*

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However, Member States may require that taxable persons who carry out occasional transactions, as defined in Article 13, exercise their right of deduction only at the time of supply.

### *Article 174*

Member States may authorise a taxable person to make a deduction which he has not made in accordance with Articles 172 and 173.

### *Article 175*

Member States may authorise a taxable person who does not hold an invoice drawn up in accordance with Articles 211 to 229 to make the deduction referred to in Article 163(c) in respect of his intra-Community acquisitions of goods.

### *Article 176*

Member States shall determine the conditions and detailed rules for applying Articles 174 and 175.



### *Article 177*

Where, for a given tax period, the amount of deductions exceeds the amount of VAT due, the Member States may, in accordance with conditions which they shall determine, either make a refund or carry the excess forward to the following period.

However, Member States may refuse to refund or carry forward if the amount of the excess is insignificant.

## **Chapter 5**

### **Adjustment of deductions**

### *Article 178*

The initial deduction shall be adjusted where it is higher or lower than that to which the taxable person was entitled.

### *Article 179*

1. Adjustment shall, in particular, be made where, after the return is made, some change occurs in the factors used to determine the amount to be deducted, for example where purchases are cancelled or price reductions are obtained.
2. By way of derogation from paragraph 1, no adjustment shall be made in the case of transactions remaining totally or partially unpaid or in the case of destruction, loss or theft of property duly proved or confirmed, or in the case of goods reserved for the purpose of making gifts of small value or of giving samples, as referred to in Article 17.

However, in the case of transactions remaining totally or partially unpaid or in the case of theft, Member States may require adjustment to be made.



### *Article 180*

Member States shall lay down the detailed rules for applying Articles 178 and 179.

### *Article 181*

1. In the case of capital goods, adjustment shall be spread over five years including that in which the goods were acquired or manufactured.

Member States may, however, base the adjustment on a period of five full years starting from the time at which the goods are first used.

In the case of immovable property acquired as capital goods, the adjustment period may be extended up to 20 years.

2. The annual adjustment shall be made only in respect of one-fifth of the VAT charged on the capital goods, or, if the adjustment period has been extended, in respect of the corresponding fraction thereof.

The adjustment referred to in the first subparagraph shall be made on the basis of the variations in the deduction entitlement in subsequent years in relation to that for the year in which the goods were acquired, manufactured or, where applicable, used for the first time.



### *Article 182*

1. If supplied during the adjustment period, capital goods shall be treated as if they had been applied to an economic activity of the taxable person up until expiry of the adjustment period.

The economic activity shall be presumed to be fully taxed in cases where the supply of the capital goods is taxed.

The economic activity shall be presumed to be fully exempt in cases where the supply of the capital goods is exempt.

2. The adjustment provided for in paragraph 1 shall be made only once in respect of all the time covered by the adjustment period that remains to run. However, where the supply of capital goods is exempt, Member States may waive the requirement for adjustment in so far as the purchaser is a taxable person using the capital goods in question solely for transactions in respect of which VAT is deductible.

### *Article 183*

For the purposes of applying Articles 181 and 182, Member States may take the following measures:

- (a) define the concept of capital goods;
- (b) specify the amount of the VAT which is to be taken into consideration for adjustment;
- (c) adopt any measures needed to ensure that adjustment does not give rise to any unjustified advantage;
- (d) permit administrative simplifications.



#### *Article 184*

If, in any Member State, the practical effect of applying Articles 181 and 182 is negligible, that Member State may, after consulting the VAT Committee, refrain from applying those provisions, having regard to the overall impact of VAT in the Member State concerned and the need for administrative simplification, and provided that no distortion of competition thereby arises.

#### *Article 185*

Where a taxable person transfers from being taxed in the normal way to a special scheme or *vice versa*, Member States may take all measures necessary to ensure that the taxable person does not enjoy unjustified advantage or sustain unjustified harm.



## **TITLE XI**

### **OBLIGATIONS OF TAXABLE PERSONS AND CERTAIN NON-TAXABLE PERSONS**

#### **Chapter 1**

#### **Obligation to pay**

#### **Section 1**

#### **Persons liable for payment of VAT to the tax authorities**

##### *Article 186*

VAT shall be payable by any taxable person carrying out a taxable supply of goods or services, except where it is payable by another person in the cases referred to in Articles 187 to 191 and Article 194.

##### *Article 187*

Where the taxable supply of goods or services is carried out by a taxable person who is not established in the Member State in which the VAT is due, Member States may provide that the person liable for payment of VAT is the person to whom the goods or services are supplied.

Member States shall lay down the conditions for implementation of the first paragraph.

##### *Article 188*

VAT shall be payable by any person who is identified for VAT purposes in the Member State in which the tax is due and to whom goods are supplied in the circumstances specified in Articles 39 or 40, if the supplies are carried out by a taxable person not established within that Member State.



### Article 189

VAT shall be payable by any taxable person to whom the services referred to in Article 56 are supplied or any person identified for VAT purposes in the Member State in which the tax is due to whom the services covered by Articles 45, 48, 50, 53, 54 and 55 are supplied, if the services are supplied by a taxable person not established in that Member State.

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#### OBSERVATIONS:

*This Article sets out the categories of "reverse charge" supplies of services, where the VAT registered customer is required to account for the output tax instead of the supplier. One of these categories is the supply of intra-Community transport of goods referred to in Article 48. It is unnecessary to include a further reference to Art 49a, as this merely refers to certain types of transport which are deemed to be intra-Community transport of goods and are therefore already covered by the reference to Art 48. The reference to Art 49a has accordingly been deleted.*

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### Article 190

1. VAT shall be payable by the person to whom the goods are supplied when the following conditions are met:
  - (a) the taxable transaction is a supply of goods carried out in accordance with the conditions laid down in Article 138;
  - (b) the person to whom the goods are supplied is another taxable person, or a non-taxable legal person, identified for VAT purposes in the Member State in which the supply is carried out



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*OBSERVATIONS:*

*It is clear that this provision only applies in the case where the supplier is not already registered for VAT. The text has been amended to accord with that in the current 6<sup>th</sup> VAT Dir.*

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- (c) the invoice issued by the taxable person not established in the Member State of the person to whom the goods are supplied is drawn up in accordance with Articles 211 to 229;
- 2. Where a tax representative is appointed as the person liable for payment of VAT pursuant to Article 196, Member States may provide for a derogation from paragraph 1.

*Article 191*

**1. Where specific** transactions **relating to investment gold** between a taxable person who is a member of a regulated gold bullion market and another taxable person who is not a member of that market **are taxed pursuant to Article 344, Member States** shall designate the customer as the person liable for payment of VAT.

**If the customer who is not a member of the regulated gold bullion market is a taxable person subject to VAT and is liable for registration for VAT in the Member State in which the tax is due solely in respect of the transactions referred to in Article 344, the vendor shall fulfil the tax obligations on behalf of the customer, in accordance with the law of that Member State.**



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**OBSERVATIONS:**

*When Member States tax specific transactions on a regulated gold bullion market, they shall designate the customer as liable for VAT. This provision was previously located in Title XII, Article 346, as part of the special gold scheme. As the provision concerns the person liable for payment of VAT, the Article is moved here in order to give a full picture of who is liable when it comes to transactions involving investment gold, gold material or semi-manufactured products. The first subparagraph sets out the general rule while the second subparagraph provides for an exception to this rule.*

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2. Where gold material or semi-manufactured products of a purity of 325 thousandths or greater, or investment gold as defined in Article 336(1) is supplied by a taxable person exercising one of the options under Articles 340, 341 and 342, Member States may designate the customer as the person liable for payment of VAT.

3. Member States shall lay down the procedures and conditions for implementation of **paragraphs 1 and 2.**

*Article 192*

VAT shall be payable by any person making a taxable intra-Community acquisition of goods.

*Article 193*

On importation, VAT shall be payable by the person or persons designated or recognised as liable by the Member State of importation.



#### *Article 194*

VAT shall be payable by the person who causes goods covered by arrangements or situations listed in Articles 151, 152, 153, 155 and 156 to cease to be so covered.

#### *Article 195*

VAT shall be payable by any person who enters the VAT on an invoice.

#### *Article 196*

1. Where, pursuant to Articles 186 to 190 and Article 192, the person liable for payment of VAT is a taxable person who is not established in the Member State in which the VAT is due, Member States may allow that person to appoint a tax representative as the person liable for payment of the VAT.

Furthermore, where the taxable transaction is carried out by a taxable person who is not established in the Member State in which the VAT is due and no legal instrument exists, with the country in which that taxable person is established or has his seat, relating to mutual assistance similar in scope to that provided for in Council Directive 76/308/EEC<sup>1</sup> and Council Regulation (EC) No 1798/2003<sup>2</sup>, Member States may take measures to provide that the person liable for payment of VAT is to be a tax representative appointed by the non-established taxable person.

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<sup>1</sup> OJ L 73, 19.3.1976, p. 18.

<sup>2</sup> OJ L 264, 15.10.2003, p. 1.



However, Member States may not apply the option referred to in the second subparagraph to a non-established taxable person, within the meaning of point (1) of Article 351, who has opted for the special scheme for electronically supplied services.

2. The option under the first subparagraph of paragraph 1 shall be subject to the conditions and procedures laid down by each Member State.

#### *Article 197*

In the situations referred to in Articles 186 to 192 and Articles 194, 195 **and 196**, Member States may provide that a person other than the person liable for payment of VAT is to be held jointly and severally liable for payment of VAT.

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#### *OBSERVATIONS:*

*Member States may decide to hold someone other than the person liable for payment of VAT jointly and severally liable for payment. This option is open for Member States to apply in all of the normal situations, including where a tax representative has been appointed. To ensure that this continues to be the case, it is necessary to amend the references.*

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## Section 2

### Payment arrangements

#### *Article 198*

Any taxable person liable for payment of VAT must pay the net amount of the VAT when submitting the VAT return provided for in Article 242. Member States may, however, set a different date for payment of that amount or may require interim payments to be made.

#### *Article 199*

Member States shall take the measures necessary to ensure that those persons who, in accordance with Articles 187 to 190 and Article 196, are regarded as liable for payment of VAT in the stead of a taxable person not established in their respective territory comply with the payment obligations set out in this Section.

Member States shall also take the measures necessary to ensure that those persons who, in accordance with Article 197, are held to be jointly and severally liable for payment of the VAT comply with these payment obligations.

#### *Article 200*

**Where Member States designate the customer of investment gold as the person liable for payment of VAT pursuant to Article 191(1) or if,** in the case of gold material, semi-manufactured products, or investment gold as defined in Article 336(1), **they** exercise the option provided for in Article 191**(2)** of designating the customer as the person liable for payment of VAT, they shall take the measures necessary to ensure that he complies with the payment obligations set out in this Section.



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**OBSERVATIONS:**

*Whenever the customer of investment gold, gold material or semi-manufactured products is designated as the person liable for payment of VAT, Member States shall take the measures necessary to ensure that he complies with the obligation to pay. The modification made to this provision reflects the changes introduced in Article 191.*

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*Article 201*

Member States shall take the measures necessary to ensure that non-taxable legal persons who are liable for payment of VAT due in respect of intra-Community acquisitions of goods, as referred to in Article 3(1)(b)(i), comply with the payment obligations set out in this Section.

*Article 202*

Member States shall adopt arrangements for payment of VAT on intra-Community acquisitions of new means of transport, as referred to in Article 3(1)(b)(ii), and on intra-Community acquisitions of products subject to excise duty, as referred to in Article 3(1)(b)(iii).

*Article 203*

Member States shall lay down the detailed rules for payment in respect of the importation of goods.

In particular, Member States may provide that, in the case of the importation of goods by taxable persons or certain categories thereof, or by persons liable for payment of VAT or certain categories thereof, the VAT due by reason of the importation need not be paid at the time of importation, on condition that it is entered as such in the VAT return to be submitted in accordance with Article 242.



### *Article 204*

Member States may release taxable persons from payment of the VAT due where the amount is insignificant.

## **Chapter 2**

### **Identification**

### *Article 205*

1. Every taxable person shall state when his activity as a taxable person commences, changes or ceases.

Member States shall allow, and may require, the statement to be made by electronic means, in accordance with conditions which they lay down.

2. Without prejudice to the first subparagraph of paragraph 1, every taxable person or non-taxable legal person who makes intra-Community acquisitions of goods which are not subject to VAT pursuant to Article 4(1) must state that he makes such acquisitions if the conditions, laid down in that provision, for not making such transactions subject to VAT cease to be fulfilled.



## *Article 206*

1. Member States shall take the measures necessary to ensure that the following persons are identified by means of an individual number:
  - (a) every taxable person, with the exception of those referred to in Article 10(2), who within their respective territory carries out supplies of goods or services on which VAT is deductible, other than supplies of goods or services in respect of which VAT is payable solely by the customer or the person for whom the goods or services are intended, in accordance with Articles 187 to 190;
  - (b) every taxable person, or non-taxable legal person, who makes intra-Community acquisitions of goods subject to VAT pursuant to Article 3(1)(b) and every taxable person or non-taxable legal person who exercises the option under Article 4(3) of making their intra-Community acquisitions subject to VAT;
  - (c) every taxable person who, within their respective territory, makes intra-Community acquisitions of goods for the purposes of transactions which relate to the activities referred to in the second subparagraph of Article 10(1) and which are carried out outside that territory.
2. Member States need not identify certain taxable persons who carry out transactions on an occasional basis, as referred to in Article 13.

## *Article 207*

Each individual identification number shall have a prefix in accordance with ISO code 3166 - alpha 2 - by which the Member State of issue may be identified.

Nevertheless, Greece may use the prefix "EL".



## *Article 208*

Member States shall take the measures necessary to ensure that their identification systems enable the taxable persons referred to in Article 206 to be identified and to ensure the correct application of the transitional arrangements for the taxation of intra-Community transactions, as referred to in Article 395.

## **Chapter 3**

### **Invoicing**

#### **Section 1**

#### **Definition**

## *Article 208a*

For the purposes of this Chapter, transmission "by electronic means" shall mean transmission or provision to the addressee of data using electronic equipment for processing (including digital compression) and storage, by wire, radio, by optical or other electromagnetic means.

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### ***OBSERVATIONS:***

*This provision gives a definition of transmission by electronic means. For clarity the text has been aligned with that of the current Sixth Directive.*

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## **Section 2**

### **Concept of invoice**

#### *Article 209*

For the purposes of this Directive, Member States shall accept documents or messages on paper or in electronic form as invoices if they meet the conditions laid down in this Chapter.

#### *Article 210*

Any document or message that amends and refers specifically and unambiguously to the initial invoice shall be treated as an invoice.

## **Section 3**

### **Issue of invoices**

#### *Article 211*

Every taxable person shall ensure that, in respect of the following, an invoice is issued, either by himself or by his customer or, in his name and on his behalf, by a third party:

- (1) supplies of goods or services which he has made to another taxable person or to a non-taxable legal person;
- (2) supplies of goods as referred to in Article 34;
- (3) supplies of goods carried out in accordance with the conditions specified in Article 135;
- (4) any payment on account made to him before one of the supplies of goods referred to in points (1), (2) and (3) was carried out;



- (5) any payment on account made to him by another taxable person or non-taxable legal person before the provision of services was completed.

#### *Article 212*

1. Member States may impose on taxable persons an obligation to issue an invoice in respect of supplies of goods or services made in their territory, other than those referred to in Article 211.

Member States may, in respect of the invoices referred to in the first subparagraph, impose fewer obligations than those laid down in Articles 217, 218, 225, 236 and 238.

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#### *OBSERVATIONS:*

*When Member States make use of the option to oblige taxable persons to issue an invoice beyond what is required under Article 211, they may, in respect of such invoices, impose fewer obligations. To ensure that this would also cover obligations relating to invoices sent or made available by electronic means, the reference now includes Article 225.*

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2. Member States may release taxable persons from the obligation laid down in Article 211 to issue an invoice in respect of supplies of goods or services which they have made in their territory and which are exempt, with or without deductibility of the VAT paid at the preceding stage, pursuant to Articles 106 and 107, Article 121(1), Article 124, Article 125(1), Articles 129, 132, 133, 364, 368, 369 and 370, Article 371(2), Article 372(2) and Articles 373 to 383.



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*OBSERVATIONS:*

*Taxable persons may be released from the obligation to issue an invoice for exempt supplies. This also includes those supplies of goods which are exempt as the VAT on these goods was not deductible. To ensure that this continues to be the case, a reference to Article 133 has been included.*

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*Article 213*

Member States may impose time limits for the issue of invoices on taxable persons supplying goods and services in their territory.

*Article 214*

In accordance with conditions to be laid down by the Member States in whose territory goods or services are supplied, a summary invoice may be drawn up for several separate supplies of goods or services.

*Article 215*

1. Invoices may be drawn up by the customer in respect of the supply to him, by a taxable person, of goods or services, if there is a prior agreement between the two parties and provided that a procedure exists for the acceptance of each invoice by the taxable person supplying the goods or services.
2. The Member States in whose territory the goods or services are supplied shall determine the terms and conditions of such prior agreements and of the acceptance procedures between the taxable person and the customer.



3. Member States may impose further conditions on taxable persons supplying goods or services in their territory concerning the issue of invoices by the customer. They may, in particular, require that such invoices be issued in the name and on behalf of the taxable person.

The conditions referred to in the first subparagraph must always be the same wherever the customer is established.

#### *Article 216*

Member States may impose specific conditions on taxable persons supplying goods or services in their territory in cases where the third party, or the customer, who issues invoices is established in a country with which no legal instrument exists relating to mutual assistance similar in scope to that provided for in Directive 76/308/EEC and Regulation (EC) No 1798/2003.

### **Section 4**

#### **Content of invoices**

#### *Article 217*

Without prejudice to the particular provisions laid down in this Directive, only the following details are required for VAT purposes on invoices issued pursuant to Articles 211 and 212:

- (1) the date of issue;
- (2) a sequential number, based on one or more series, which uniquely identifies the invoice;
- (3) the VAT identification number referred to in Article 206 under which the taxable person supplied the goods or services;



- (4) the customer's VAT identification number, as referred to in Article 206, under which the customer received a supply of goods or services in respect of which he is liable for payment of VAT, or received a supply of goods as referred to in Article 135;
- (5) the full name and address of the taxable person and of the customer;
- (6) the quantity and nature of the goods supplied or the extent and nature of the services rendered;
- (7) the date on which the supply of goods or services was made or completed or the date on which the payment on account referred to in points (4) and (5) of Article 211 was made, in so far as that date can be determined and differs from the date of issue of the invoice;
- (8) the taxable amount per rate or exemption, the unit price exclusive of VAT and any discounts or rebates if they are not included in the unit price;
- (9) the VAT rate applied;
- (10) the VAT amount payable, except where a special arrangement is applied under which, in accordance with this Directive, such a detail is excluded;
- (11) in the case of an exemption or where the customer is liable for payment of VAT, reference to the applicable provision of this Directive, or to the corresponding national provision, or any other reference indicating that the supply of goods or services is exempt or subject to the reverse charge procedure;
- (12) in the case of the supply of a new means of transport made in accordance with the conditions specified in Article 135, the characteristics as identified in the second subparagraph of Article 3(2);
- (13) where the margin scheme for travel agents is applied, reference to Article 299, or to the corresponding national provisions, or any other reference indicating that the margin scheme has been applied;



- (14) where one of the special arrangements applicable to second-hand goods, works of art, collectors' items or antiques is applied, reference to Articles 305, 318 or 325, or to the corresponding national provisions, or any other reference indicating that one of those arrangements has been applied;
- (15) where the person liable for payment of VAT is a tax representative for the purposes of Article 196, the VAT identification number, referred to in Article 206, of that tax representative, together with his full name and address.

#### *Article 218*

Member States may require taxable persons established in their territory and supplying goods or services there to indicate the VAT identification number, referred to in Article 206, of the customer in cases other than those referred to in point (4) of Article 217.

#### *Article 219*

Member States in whose territory goods or services are supplied may allow some of the compulsory details to be omitted from documents or messages treated as invoices pursuant to Article 210.

#### *Article 220*

Member States shall not require invoices to be signed.

#### *Article 221*

The amounts which appear on the invoice may be expressed in any currency, provided that the amount of VAT payable is expressed in the national currency of the Member State in which the supply of goods or services takes place, using the conversion mechanism laid down in Article 88.



## Article 222

For control purposes, Member States may require invoices in respect of supplies of goods or services in their territory and invoices received by taxable persons established in their territory to be translated into their national languages.

## Section 5

### Sending invoices by electronic means

## Article 223

Invoices issued pursuant to Section 2 may be sent on paper or, subject to acceptance by the recipient, they may be sent or made available by electronic means.

## Article 225

1. **Invoices sent or made available by electronic means shall be accepted by Member States provided that the** authenticity of the origin and the integrity of their content **are** guaranteed by one of the following methods:

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### OBSERVATIONS:

*Invoices which are sent or made available by electronic means shall be accepted by Member States, but only provided the authenticity of thier origin and integrity of their content are guaranteed using predetermined methods. The amended text clarifies this point and more is more closely aligned to the Sixth Directive.*

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- (a) by means of an advanced electronic signature within the meaning of point (2) of Article 2 of Directive 1999/93/EC of the European Parliament and of the Council<sup>1</sup>;
- (b) by means of electronic data interchange (EDI), as defined in Article 2 of Commission Recommendation 1994/820/EC<sup>2</sup>, if the agreement relating to the exchange provides for the use of procedures guaranteeing the authenticity of the origin and integrity of the data.

**Invoices may be sent or made available by other electronic means, subject to acceptance by the Member States concerned.**

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*OBSERVATIONS:*

*In order to make it clear that 'other than' refers to other than those invoices sent or made available in accordance with Article 225, Article 226 has been incorporated as part of Article 225(1).*

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- 2. For the purposes of **point (a) of the first subparagraph of** paragraph 1 Member States may also ask for the advanced electronic signature to be based on a qualified certificate and created by a secure–signature–creation device, within the meaning of points (6) and (10) of Article 2 of Directive 1999/93/EC.
- 3. For the purposes of **point (b) of the first subparagraph of** paragraph 1, Member States may also, subject to conditions which they lay down, require that an additional summary document on paper be sent.

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<sup>1</sup> OJ L 13, 19.1.2000, p. 12.

<sup>2</sup> OJ L 338, 28.12.1994, p. 98.



### *Article 227*

Member States may not impose on taxable persons supplying goods or services in their territory any other obligations or formalities relating to the sending or making available of invoices by electronic means.

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#### *OBSERVATIONS:*

*When invoices are sent or made available by electronic means, Member States may require prior notification. However, they may continue to do so only until 31 December 2005, after which no such notification can be required. [With the date up and coming, this provision is arguably obsolete].*

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### *Article 228*

Member States may lay down specific conditions for invoices issued by electronic means in respect of goods or services supplied in their territory from a country with which no legal instrument exists relating to mutual assistance similar in scope to that provided for in Directive 76/308/EEC and Regulation (EC) No 1798/2003.

### *Article 229*

Where batches containing several invoices are sent or made available to the same recipient by electronic means, the details common to the individual invoices may be mentioned only once if, for each invoice, all the information is accessible.



### *Article 230*

The Commission shall present, at the latest on 31 December 2008, a report and, if appropriate, a proposal amending the conditions applicable to electronic invoicing in order to take account of future technological developments in that field.

## **Section 6**

### **Simplification measures**

### *Article 231*

1. After consulting the VAT Committee, Member States may, in accordance with conditions which they may lay down, provide that in the following cases some of the information required under Article 217, **subject to options taken up by Member States under Articles 218 to 222,** need not be entered on invoices in respect of supplies of goods or services in their territory:

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### *OBSERVATIONS*

*Member States may impose optional provisions with regard to the content of invoices. It is necessary to include a reference to these optional provisions in this Article.*

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- (a) where the amount of the invoice is minor;
- (b) where commercial or administrative practice in the business sector concerned or the technical conditions under which the invoices are issued make it difficult to comply with all the obligations referred to in Section 3.



2. Invoices must, in any event, contain the following information:
  - (a) the date of issue;
  - (b) identification of the taxable person;
  - (c) identification of the type of goods or services supplied;
  - (d) the VAT **amount** payable or the information needed to calculate it.
3. The simplified arrangements provided for in paragraph 1 may not be applied to the transactions referred to in Articles 21, 22, 23, 34, 37, 135 and 138.

#### *Article 232*

In cases where Member States make use of the option under Article 265(1)(b) of not allocating a VAT identification number to taxable persons who do not carry out any of the transactions referred to in Articles 21, 22, 23, 34, 37, 135 and 138, and where the supplier or the customer has not been allocated an identification number of that type, another number called the tax reference number, as defined by the Member States concerned, shall be entered on the invoice instead.

#### *Article 233*

Where the taxable person has been allocated a VAT identification number, the Member States exercising the option under Article 265(1)(b) may also require the invoice to show the following:

- (1) in respect of the supply of services, as referred to in Articles 45, 48, 50, 51, 53, 54 and 55, and the supply of goods, as referred to in Articles 135 and 138, the VAT identification number and the tax reference number of the supplier;



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**OBSERVATIONS:**

*In certain circumstances and in respect of certain categories of supply, Member States may require the VAT identification number and the tax reference number of the supplier to be included on the invoice. One of these categories is the supply of intra-Community transport of goods referred to in Article 48. It is unnecessary to include a further reference to Art 49a, as this merely refers to certain types for transport which are deemed to be intra-Community transport of goods and are therefore already covered by the reference to Art 48. The reference to Art 49a has accordingly been deleted.*

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- (2) in respect of other supplies of goods or services, only the tax reference number of the supplier or only the VAT identification number.



## **Chapter 4**

### **Accounting**

#### **Section 1**

##### **Definition**

###### *Article 233a*

For the purposes of this Chapter, storage of an invoice "by electronic means" shall mean storage using electronic equipment for data processing (including digital compression) and storage, and employing wire, radio, optical or other electromagnetic means.

#### **Section 2**

##### **General obligations**

###### *Article 234*

Every taxable person shall keep accounts in sufficient detail for VAT to be applied and its application checked by the tax authorities.



### *Article 235*

1. Every taxable person shall keep a register of the goods dispatched or transported, by that person or on his behalf, to a destination outside the territory of the Member State of departure but within the Community for the purposes of transactions consisting in work on those goods or their temporary use as referred to in points (f), (g) and (h) of Article 18(2).
2. Every taxable person shall keep accounts in sufficient detail to enable the identification of goods dispatched to him from another Member State, by or on behalf of a taxable person identified for VAT purposes in that other Member State, and used for services consisting in valuations of those goods or work on those goods as referred to in point (c) of Article 52.

## **Section 3**

### **Specific obligations relating to the storage of all invoices**

### *Article 236*

Every taxable person shall ensure that copies of the invoices issued by himself, or by his customer or, in his name and on his behalf, by a third party, and all the invoices which he has received, are stored.

### *Article 237*

1. For the purposes of this Directive, the taxable person may decide the place of storage provided that he makes the invoices or information stored in accordance with Article 236 available to the competent authorities without undue delay whenever they so request.



2. Member States may require taxable persons established in their territory to notify them of the place of storage, if it is outside their territory.

Member States may also require taxable persons established in their territory to store within that territory invoices issued by themselves or by their customers or, in their name and on their behalf, by a third party, as well as all the invoices that they have received, when the storage is not by electronic means guaranteeing full on-line access to the data concerned.

#### *Article 238*

The authenticity of the origin and the integrity of the content of the invoices stored, as well as their legibility, must be guaranteed throughout the storage period.

In respect of the invoices referred to in **the second subparagraph of Article 225(1)**, the details they contain may not be altered and must remain legible throughout the storage period.

#### *Article 239*

1. Each Member State shall determine the period throughout which taxable persons must ensure the storage of invoices relating to the supply of goods or services in its territory and invoices received by taxable persons established in its territory.
2. In order to ensure that the conditions laid down in Article 238 are met, the Member State referred to in paragraph 1 may require that invoices be stored in the original form in which they were sent or made available, whether paper or electronic. Additionally, in the case of invoices stored by electronic means, the Member State may require that the data guaranteeing the authenticity of the origin of the invoices and the integrity of their content also be stored.



3. The Member State referred to in paragraph 1 may lay down specific conditions prohibiting or restricting the storage of invoices in a country with which no legal instrument exists relating to mutual assistance similar in scope to that provided for in Directive 76/308/EEC and Regulation (EC) No 1798/2003 or to the right referred to in Article 241 to access by electronic means, to download and to use.

#### *Article 240*

Member States may, subject to conditions which they lay down, require the storage of invoices received by non-taxable persons.

### **Section 4**

#### **Right of access to invoices stored by electronic means in another Member State**

#### *Article 241*

Where a taxable person stores invoices which he issues or receives by electronic means guaranteeing on-line access to the data and where the place of storage is in a Member State other than that in which he is established, the competent authorities in the Member State in which he is established shall, for the purposes of this Directive, have the right to access those invoices by electronic means, to download and to use them, within the limits set by the rules of the Member State in which the taxable person is established and in so far as those authorities require for control purposes.



## Chapter 5

### Returns

#### *Article 242*

Every taxable person shall submit a VAT return setting out all the information needed to calculate the tax that has become chargeable and the deductions to be made including, in so far as is necessary for the establishment of the basis of assessment, the total value of the transactions relating to such tax and deductions and the value of any exempt transactions.

#### *Article 243*

In addition to the information referred to in Article 242, the VAT return shall show the following:

- (a) the total value, exclusive of VAT, of the supplies of goods referred to in Article 135 in respect of which VAT has become chargeable during the period covered by the return;
- (b) the total value, exclusive of VAT, of the supplies of goods referred to in Article 34 and the first paragraph of Article 37 carried out within **the territory of** another Member State, in respect of which VAT has become chargeable during the period covered by the return, where the place where dispatch or transport of the goods began is situated in the Member State in which the return must be submitted;
- (c) the total value, exclusive of VAT, of the intra-Community acquisitions of goods, or transactions treated as such, pursuant to Articles 22 or 23, made in the Member State in which the return must be submitted and in respect of which VAT has become chargeable during the period covered by the return;



- (d) the total value, exclusive of VAT, of the supplies of goods referred to in Article 34 and the first paragraph of Article 37 carried out in the Member State in which the return must be submitted and in respect of which VAT has become chargeable during the period covered by the return, where the place where dispatch or transport of the goods began is situated within the territory of another Member State;
- (e) the total value, exclusive of VAT, of the supplies of goods carried out in the Member State in which the return must be submitted and in respect of which the taxable person has been designated, in accordance with Article 190, as liable for payment of VAT and in respect of which VAT has become chargeable during the return period.

#### *Article 244*

1. The VAT return shall be submitted by a deadline to be determined by Member States. That deadline may not be more than two months after the end of each tax period.
2. The tax period shall be set by each Member State at one month, two months or three months.

Member States may, however, set different tax periods provided that those periods do not exceed one year.

#### *Article 245*

Sweden may apply a simplified procedure for small and medium-sized enterprises, whereby taxable persons carrying out only transactions taxable at national level may submit VAT returns three months after the end of the annual direct tax period.



#### Article 246

In the case of supplies of new means of transport carried out in accordance with the conditions specified in Article 135(2)(a) by a taxable person identified for VAT purposes for a customer not identified for VAT purposes, or by a taxable person as defined in Article 10(2), Member States shall take the measures necessary to ensure that the vendor communicates all the information needed for VAT to be applied and its application checked by the tax authorities.

#### Article 247

**Where Member States designate the customer of investment gold as the person liable for payment of VAT pursuant to Article 191(1) or if,** in the case of gold material, semi-manufactured products or investment gold as defined in Article 336(1), **they** exercise the option provided for in Article 191 **(2)** of designating the customer as the person liable for payment of VAT, they shall take the measures necessary to ensure that he complies with the obligations relating to submission of a VAT return set out in this Chapter.

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#### OBSERVATIONS:

*Whenever the customer of investment gold, gold material or semi-manufactured products is designated as the person liable for payment of VAT, Member States shall take the measures necessary to ensure that he complies with the obligation to submit VAT returns. The modification made to this provision reflects the changes introduced in Article 191.*

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#### *Article 248*

Member States shall take the measures necessary to ensure that persons who, in accordance with Articles 187 to 190 and Article 196, are regarded as liable for payment of VAT in the stead of a taxable person not established within their territory comply with the obligations relating to submission of a VAT return, as laid down in this Chapter.

#### *Article 249*

Member States shall take the measures necessary to ensure that non-taxable legal persons who are liable for payment of VAT due in respect of intra-Community acquisitions of goods, as referred to in Article 3(1)(b)(i), comply with the obligations relating to submission of a VAT return, as laid down in this Chapter.

#### *Article 250*

Member States shall lay down detailed rules for the submission of VAT returns in respect of intra-Community acquisitions of new means of transport, as referred to in Article 3(1)(b)(ii), and intra-Community acquisitions of products subject to excise duty, as referred to in Article 3(1)(b)(iii).

#### *Article 251*

Member States may require persons who make intra-Community acquisitions of new means of transport as referred to in Article 3(1)(b)(ii), to provide, when submitting the VAT return, all the information needed for VAT to be applied and its application checked by the tax authorities.



#### *Article 252*

Member States shall lay down detailed rules for the submission of VAT returns in respect of the importation of goods.

#### *Article 253*

Member States may require the taxable person to submit a VAT return showing all the particulars specified in Articles 242 and 243 in respect of all transactions carried out in the preceding year. That return shall provide all the information necessary for any adjustments.

#### *Article 254*

Member States shall allow, and may require, the VAT returns referred to in Articles 242 and 253 to be submitted by electronic means, in accordance with conditions which they lay down.

### **Chapter 6**

#### **Recapitulative statements**

#### *Article 255*

Every taxable person identified for VAT purposes shall submit a recapitulative statement of the **acquirers** identified for VAT purposes to whom he has supplied goods in accordance with the conditions specified in Article 135(1) and (2)(c), and of the persons identified for VAT purposes **to whom he has supplied goods which were supplied to him by way of intra-Community acquisitions** referred to in Article 43.

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*OBSERVATIONS:*

*The additional wording has been added to align the wording with the current Sixth Directive.*

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### *Article 256*

1. The recapitulative statement shall be drawn up for each calendar quarter within a period and in accordance with procedures to be determined by the Member States.

Member States may, however, provide that recapitulative statements are to be submitted on a monthly basis.

2. Member States shall allow, and may require, the recapitulative statements referred to in paragraph 1 to be submitted by electronic means, in accordance with conditions which they lay down.

### *Article 257*

1. The recapitulative statement shall set out the following information:
  - (a) the number by means of which the taxable person is identified for VAT purposes in the Member State in which the recapitulative statement must be submitted and under which he has carried out the supply of goods in accordance with the conditions specified in Article 135(1);
  - (b) the number by means of which each person acquiring the goods is identified for VAT purposes in a Member State other than that in which the recapitulative statement must be submitted and under which the goods were supplied to him;
  - (c) the number by means of which the taxable person is identified for VAT purposes in the Member State in which the recapitulative statement must be submitted and under which he has carried out a transfer to another Member State, as referred to in Article 135(2)(c), and the number by means of which he is identified in the Member State in which the dispatch or transport ended;



- (d) for each person who acquired goods, the total value of the supplies of goods carried out by the taxable person;
- (e) in respect of supplies of goods consisting in transfers to another Member State, as referred to in Article 135(2)(c), the total value of the supplies, determined in accordance with Article 75;
- (f) the amounts of adjustments made pursuant to Article 87.

2. The value referred to in point (d) of paragraph 1 shall be declared for the calendar quarter during which VAT became chargeable.

The amounts referred to in point (f) of paragraph 1 shall be declared for the calendar quarter during which the person acquiring the goods was notified of the adjustment.

#### *Article 258*

1. In the case of intra-Community acquisitions of goods, as referred to in Article 43, the taxable person identified for VAT purposes in the Member State which issued him with the VAT identification number under which he made such acquisitions shall set the following information out clearly on the recapitulative statement:
  - (a) the number by means of which he is identified for VAT purposes in that Member State and under which he made the acquisition and subsequent supply of goods;
  - (b) the number by means of which the person to whom the subsequent supply was made by the taxable person is identified in the Member State in which dispatch or transport of the goods ended;
  - (c) for each person to whom the subsequent supply was made, the total value, exclusive of VAT, of the supplies made by the taxable person in the Member State in which dispatch or transport of the goods ended.
2. The value referred to in point (c) of paragraph 1 shall be declared for the calendar quarter during which VAT became chargeable.



### *Article 259*

By way of derogation from Articles 257 and 258, Member States may provide that additional information is to be given in recapitulative statements.

### *Article 260*

Member States shall take the measures necessary to ensure that those persons who, in accordance with Articles 187, 188 and 196, are regarded as liable for payment of VAT, in the stead of a taxable person who is not established in their territory, comply with the obligation to submit a recapitulative statement as provided for in this Chapter.

---

#### *OBSERVATIONS:*

*Member States may require someone other than the non-established supplier to be liable for payment of VAT. In those circumstances the Member State shall ensure that the other person submits a recapitulative statement. However, there is no such requirement when the customer is liable for payment of the VAT. That is why the cross reference to Article 189 has been deleted.*

---

### *Article 261*

Member States may require that taxable persons who, in their territory, make intra-Community acquisitions of goods, or transactions treated as such, pursuant to Articles 22 or 23, submit statements giving details of such acquisitions, provided, however, that such statements are not required in respect of a period of less than one month.



### Article 262

Acting unanimously on a proposal from the Commission, the Council may authorise any Member State to introduce the special measures provided for in Articles 263 and 264 to simplify the obligation, laid down in this Chapter, to submit a recapitulative statement. Such measures may not jeopardise the proper monitoring of intra-Community transactions.

### Article 263

By virtue of the authorisation referred to in Article 262, Member States may permit taxable persons to submit annual recapitulative statements indicating the numbers which serve to identify for VAT purposes, in another Member State, the persons to whom those taxable persons have supplied goods in accordance with the conditions specified in Article 135, where the taxable persons meet the following three conditions:

- (a) the total annual value, exclusive of VAT, of their supplies of goods **and** services does not exceed by more than **EUR** 35 000, or the equivalent in national currency, the amount of the annual turnover which is used as a reference for application of the exemption for small enterprises provided for in Articles 275 to 285;

---

#### *OBSERVATIONS:*

*A taxable person can submit an annual recapitulative statement only if the annual value of their supply of goods and services, exclusive of VAT, does not exceed a specified amount. However, as this excludes assimilated supplies, there is no need to include a reference to 'transactions treated as such'.*

---



- (b) the total annual value, exclusive of VAT, of supplies of goods carried out by them in accordance with the conditions specified in Article 135 does not exceed **EUR** 15 000 or the equivalent in national currency;
- (c) none of the supplies of goods carried out by them in accordance with the conditions specified in Article 135 is a supply of new means of transport.

#### *Article 264*

By virtue of the authorisation referred to in Article 262, Member States which set at over three months the tax period in respect of which taxable persons must submit the VAT return provided for in Article 242 may permit such persons to submit recapitulative statements in respect of the same period where those taxable persons meet the following three conditions:

- (a) the total annual value, exclusive of VAT, of their supplies of goods **and** their services does not exceed **EUR** 200 000 or the equivalent in national currency;

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#### *OBSERVATIONS:*

*To make it clear that the threshold for which the recapitulative statement can be aligned with the non standard VAT return period covers both supplies of goods and services, the text has been amended.*

- 
- (b) the total annual value, exclusive of VAT, of supplies of goods carried out by them in accordance with the conditions specified in Article 135 does not exceed **EUR** 15 000 or the equivalent in national currency;
  - (c) none of the supplies of goods carried out by them in accordance with the conditions specified in Article 135 is a supply of new means of transport.



## Chapter 7

### Miscellaneous provisions

#### Article 265

1. Member States may release the following taxable persons from certain or all obligations referred to in Chapters 2 to 6:
  - (a) taxable persons whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 4(1);
  - (b) taxable persons carrying out none of the transactions referred to in Articles 21, 22, 23, 34, 37, 135 and 138;
  - (c) taxable persons carrying out only supplies of goods or of services which are exempt pursuant to Articles 129, **132 or** 133, Articles 142 to 145 or Articles 147, 148 or 149;

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#### OBSERVATIONS:

*Member States may release taxable persons carrying out only exempt supplies from certain or all obligations. To be consistent, reference should only be made to those provisions which actually provide for such exemption. It is therefore not necessary to include Articles 130 and 131 in the reference.*

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- (d) taxable persons covered by the exemption for small enterprises provided for in Articles 275 to 285;
  - (e) taxable persons covered by the common flat-rate scheme for farmers.



Member States may not release the taxable persons referred to in point (b) **of the first subparagraph** from the invoicing obligations laid down in Articles 211 to 229 and Articles 231, 232 and 233.

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*OBSERVATIONS:*

*This provision consists of two separate subparagraphs. It needs to be reflected in the reference. The change is relevant to the EN version only.*

- 
2. If Member States exercise the option under point (e) of **the first subparagraph of** paragraph 1, they shall take the measures necessary to ensure the correct application of the transitional arrangements for the taxation of intra-Community transactions.

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*OBSERVATIONS:*

*Paragraph 1 consists of two separate subparagraphs which needs to be reflected in the reference.*

- 
3. Member States may release taxable persons other than those referred to in paragraph 1 from certain of the accounting obligations referred to in Article 234.

*Article 266*

Member States may impose other obligations which they deem necessary to ensure the correct collection of VAT and to prevent fraud, subject to the requirement of equal treatment as between domestic transactions and transactions carried out between Member States by taxable persons and provided that such obligations do not, in trade between Member States, give rise to formalities connected with the crossing of frontiers.

The option under the first paragraph may not be relied upon in order to impose additional invoicing obligations over and above those laid down in Chapter 3.



## **Chapter 8**

### **Obligations relating to certain importations and exportations**

#### **Section 1**

#### **Importation**

##### *Article 267*

Articles 268, 269 and 270 shall apply to the importation of goods in free circulation which enter the Community from a third territory forming part of the customs territory of the Community.

##### *Article 268*

The formalities relating to the importation of the goods referred to in Article 267 shall be the same as those laid down by the Community customs provisions in force for the importation of goods into the customs territory of the Community.

##### *Article 269*

Where dispatch or transport of the goods referred to in Article 267 ends at a place situated outside the Member State of their entry into the Community, they shall circulate in the Community under the internal Community transit procedure laid down by the Community customs provisions in force, in so far as they have been the subject of a declaration placing them under that procedure on their entry into the Community.



### *Article 270*

Where, on their entry into the Community, the goods referred to in Article 267 are in one of the situations which would entitle them, if they were imported within the meaning of the first paragraph of Article 31, to be covered by one of the arrangements **or situations** referred to in Article 151, or by a temporary importation arrangement with full exemption from import duties, Member States shall take the measures necessary to ensure that the goods may remain in the Community under the same conditions as those laid down for the application of those arrangements.

## **Section 2**

### **Exportation**

### *Article 271*

Articles 272 and 273 shall apply to the exportation of goods in free circulation which are dispatched or transported from a Member State to a third territory forming part of the customs territory of the Community.

### *Article 272*

The formalities relating to the exportation of the goods referred to in Article 271 from the territory of the Community shall be the same as those laid down by the Community customs provisions in force for the exportation of goods from the customs territory of the Community.

### *Article 273*

In the case of goods which are temporarily exported from the Community, in order to be reimported, Member States shall take the measures necessary to ensure that, on reimportation into the Community, such goods may be covered by the same provisions as would have applied if they had been temporarily exported from the customs territory of the Community.



## **TITLE XII**

### **SPECIAL SCHEMES**

#### **Chapter 1**

##### **Special scheme for small enterprises**

###### **Section 1**

###### **Simplified procedures for charging and collection**

###### *Article 274*

Member States which might encounter difficulties in applying the normal VAT arrangements to small enterprises, by reason of the activities or structure of such enterprises, may, subject to such conditions and limits as they may set, and after consulting the VAT Committee, apply simplified procedures, such as flat-rate schemes, for charging and collecting VAT provided that they do not lead to a reduction thereof.

###### **Section 2**

###### **Exemptions or graduated relief**

###### *Article 275*

The exemptions and graduated tax relief provided for in this Section shall apply to the supply of goods and services by small enterprises.



### *Article 276*

1. The arrangements provided for in this Section shall not apply to the following transactions:
  - (a) transactions carried out on an occasional basis, as referred to in Article 13;
  - (b) supplies of new means of transport carried out in accordance with the conditions specified in Article 135(1) and (2)(a);
  - (c) supplies of goods or services carried out by a taxable person who is not established in the Member State in which the VAT is due.
2. Member States may exclude transactions other than those referred to in paragraph 1 from the arrangements provided for in this Section.

### *Article 277*

1. Member States which have exercised the option under Article 14 of Council Directive 67/228/EEC<sup>1</sup> of introducing exemptions or graduated tax relief may retain them, and the arrangements for applying them, if they comply with the VAT rules.
2. Member States which, at 17 May 1977, exempted taxable persons whose annual turnover was less than the equivalent in national currency of 5 000 European units of account at the conversion rate on that date, may raise that ceiling up to **EUR** 5 000

Member States which applied graduated tax relief may neither raise the ceiling for graduated tax relief nor render the conditions for the granting of it more favourable.

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<sup>1</sup> English Special Edition, Series–I, Chapter 1967, p. 16.



### *Article 278*

Member States which have not exercised the option under Article 14 of Directive 67/228/EEC may exempt taxable persons whose annual turnover is no higher than **EUR** 5 000 or the equivalent in national currency.

The Member States referred to in the first paragraph may grant graduated tax relief to taxable persons whose annual turnover exceeds the ceiling fixed by them for its application.

### *Article 279*

Member States which, at 17 May 1977, exempted taxable persons whose annual turnover was equal to or higher than the equivalent in national currency of 5 000 European units of account at the conversion rate on that date, may raise that ceiling in order to maintain the value of the exemption in real terms.

### *Article 280*

Member States which acceded after 1 January 1978 may exempt taxable persons whose annual turnover is no higher than the equivalent in national currency of the following amounts at the conversion rate on the day of their accession:

- (1) Greece: 10 000 European units of account;
- (2) Spain: ECU 10 000;
- (3) Portugal: ECU 10 000;
- (4) Austria: ECU 35 000;
- (5) Finland: ECU 10 000;



- (6) Sweden: ECU 10 000;
- (7) Czech Republic: **EUR** 35 000;
- (8) Estonia: **EUR** 16 000;
- (9) Cyprus: **EUR** 15 600;
- (10) Latvia: **EUR** 17 200;
- (11) Lithuania: **EUR** 29 000;
- (12) Hungary: **EUR** 35 000;
- (13) Malta: **EUR** 37 000 if the economic activity consists principally in the supply of goods, **EUR** 24 300 if the economic activity consists principally in the supply of services with a low value added (high inputs), and **EUR** 14 600 in other cases, namely supplies of services with a high value added (low inputs);
- (14) Poland: **EUR** 10 000;
- (15) Slovenia: **EUR** 25 000;
- (16) Slovakia: **EUR** 35 000.

*Article 281*

The turnover serving as a reference for the purposes of applying the arrangements provided for in this Section shall consist of the following amounts, exclusive of VAT:

- (1) the value of supplies of goods and services, in so far as they are **taxed**, including transactions which are exempt, with deductibility of the VAT paid at the preceding stage, pursuant to Articles 106 or 107, Article 121(1), Article 124 or Article 125(1);



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*OBSERVATIONS:*

*Member States may grant exemption to taxable persons whose annual turnover is below a certain threshold. This turnover shall, inter-alia, consist of the value of supplies of goods and services, but only in so far as they are taxed. To clarify this point the text has been amended. This is relevant to the EN version only.*

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- (2) the value of transactions which are exempt pursuant to Articles 142 to 145 or Articles 147, 148 or 149;
- (3) the value of real estate transactions, financial transactions as referred to in points (b) to (g) of Article 132(1), and insurance services, unless those transactions are ancillary transactions.

However, disposals of the tangible or intangible capital assets of an enterprise shall not be taken into account for the purposes of calculating turnover.

*Article 282*

Taxable persons exempt from VAT shall not be entitled to deduct VAT in accordance with Articles 162 to 165 and Articles 167 to 171, and may not show the VAT on their invoices.

*Article 283*

Taxable persons who are entitled to exemption from VAT may opt either for the normal VAT arrangements or for the simplified procedures provided for in **Article 274**. In this case, they shall be entitled to any graduated tax relief provided for under national legislation.



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**OBSERVATIONS:**

*The EN text has been corrected to amend an erroneous cross-reference.*

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*Article 284*

Subject to the application of Article 274, taxable persons enjoying graduated relief shall be regarded as taxable persons subject to the normal VAT arrangements.

*Article 285*

The arrangements provided for in this Section shall apply until a date to be fixed by the Council in accordance with Article 93 of the Treaty, which may not be later than that on which the definitive arrangements referred to in Article 395 enter into force.

**Section 3**

**Reporting and review**

*Article 286*

Every four years starting from the adoption of this Directive, the Commission shall present to the Council, on the basis of information obtained from the Member States, a report on the application of this Chapter, together, where appropriate and taking into account the need to ensure the long-term convergence of national regulations, with proposals on the following subjects:



- (1) improvements to the special scheme for small enterprises;
- (2) the adaptation of national systems as regards exemptions from VAT and graduated VAT relief;
- (3) the adaptation of the ceilings provided for in Section 2.

#### *Article 287*

The Council shall decide, in accordance with Article 93 of the Treaty, whether a special scheme for small enterprises is necessary under the definitive arrangements and, if appropriate, shall lay down the common limits and conditions for the implementation of that scheme.

## **Chapter 2**

### **Common flat-rate scheme for farmers**

#### *Article 288*

1. For the purposes of this Chapter, the following definitions shall apply:
  - (1) "farmer" means any taxable person whose activity is carried out in an agricultural, forestry or fisheries undertaking;
  - (2) "agricultural, forestry or fisheries undertaking" means an undertaking regarded as such by each Member State within the framework of the production activities listed in Annex VI;
  - (3) "flat-rate farmer" means any farmer covered by the flat-rate scheme provided for in this Chapter;



- (4) "agricultural products" means goods produced by an agricultural, forestry or fisheries undertaking in each Member State as a result of the activities listed in Annex VI;
- (5) "agricultural service" means any service, and in particular those listed in Annex VII, supplied by a farmer using his labour force or the equipment normally employed in the agricultural, forestry or fisheries undertaking operated by him and normally playing a part in agricultural production;
- (6) "input VAT charged" means the amount of the total VAT attaching to the goods and services purchased by all agricultural, forestry and fisheries undertakings of each Member State subject to the flat-rate scheme where such tax would be deductible in accordance with Articles 162 to 165 and Articles 167 to 171 by a farmer subject to the normal VAT arrangements;
- (7) "flat-rate compensation percentages" means the percentages fixed by Member States in accordance with Articles 290, 291 and 292 and applied by them in the cases specified in Article 293 in order to enable flat-rate farmers to offset at a fixed rate the input VAT charged;
- (8) "flat-rate compensation" means the amount arrived at by applying the flat-rate compensation percentage to the turnover of the flat-rate farmer in the cases specified in Article 293.

- 2. Where a farmer processes, using means normally employed in an agricultural, forestry or fisheries undertaking, products deriving essentially from his agricultural production, such processing activities shall be treated as agricultural production activities, as listed in Annex VI.



### *Article 289*

1. Where the application to farmers of the normal VAT arrangements, or the special scheme provided for in Chapter 1, is likely to give rise to difficulties, Member States may apply to farmers, in accordance with this Chapter, a flat-rate scheme designed to offset the VAT charged on purchases of goods and services made by the flat-rate farmers.
2. Each Member State may exclude from the flat-rate scheme certain categories of farmer, as well as farmers for whom application of the normal VAT arrangements, or of the simplified procedures provided for in Article 274, is not likely to give rise to administrative difficulties.
3. Every flat-rate farmer may opt, subject to the rules and conditions to be laid down by each Member State, for application of the normal VAT arrangements or, as the case may be, the simplified procedures provided for in Article 274.

### *Article 290*

Member States shall, where necessary, fix the flat-rate compensation percentages. They may fix varying percentages for forestry, for the different sub-divisions of agriculture and for fisheries.

Member States shall notify the Commission of the flat-rate compensation percentages fixed in accordance with the first paragraph before applying them.

### *Article 291*

The flat-rate compensation percentages shall be calculated on the basis of macro-economic statistics for flat-rate farmers alone for the preceding three years.

The percentages may be rounded up or down to the nearest half-point. Member States may also reduce such percentages to a nil rate.



### *Article 292*

The flat-rate compensation percentages may not have the effect of obtaining for flat-rate farmers refunds greater than the input VAT charged.

### *Article 293*

The flat-rate compensation percentages shall be applied to the prices, exclusive of VAT, of the following goods and services:

- (1) agricultural products supplied by flat-rate farmers to taxable persons other than those covered, in the Member State in which these products were supplied, by this flat-rate scheme;
- (2) agricultural products supplied by flat-rate farmers, in accordance with the conditions specified in Article 135, to non-taxable legal persons whose intra-Community acquisitions of goods are subject to VAT, pursuant to Article 3(1)(b), in the Member State in which dispatch or transport of those agricultural products ends;
- (3) agricultural services supplied by flat-rate farmers to taxable persons other than those covered, in the Member State in which these services were supplied, by this flat-rate scheme.

### *Article 294*

1. In the case of the supply of agricultural products or agricultural services specified in Article 293, Member States shall provide that the flat-rate compensation is to be paid either by the customer or by the public authorities.
2. In respect of any supply of agricultural products or agricultural services other than those specified in Article 293, the flat-rate compensation shall be deemed to be paid by the customer.



### *Article 295*

If a flat-rate farmer is entitled to flat-rate compensation, he shall not be entitled to deduction of VAT in respect of activities covered by this flat-rate scheme.

### *Article 296*

1. Where the taxable customer pays flat-rate compensation pursuant to Article 294(1), he shall be entitled, in accordance with the conditions laid down in Articles 162, 163 and 164 and Articles 167 to 171 and the procedures laid down by the Member States, to deduct the compensation amount from the VAT for which he is liable in the Member State in which his taxed transactions are carried out.
2. Member States shall refund to the customer the amount of the flat-rate compensation he has paid in respect of any of the following transactions:
  - (a) the supply of agricultural products, carried out in accordance with the conditions specified in Article 135, to taxable persons, or to non-taxable legal persons, acting as such in another Member State within **the territory of** which their intra-Community acquisitions of goods are subject to VAT pursuant to Article 3(1)(b);
  - (b) the supply of agricultural products, carried out in accordance with the conditions specified in Articles 142, 143, 144 and 151, Article 152(1)(b) and Articles 153, 155 and 156, to a taxable customer established outside the Community, in so far as the products are used by that customer for the purposes of the transactions referred to in Article 164(a) and (b) or for the purposes of supplies of services which are deemed to take place **within the territory of** the Member State in which the customer is established and in respect of which VAT is payable solely by the customer pursuant to Article 189;



- (c) the supply of agricultural services to a taxable customer established within the Community but in another Member State or to a taxable customer established outside the Community, in so far as the services are used by the customer for the purposes of the transactions referred to in Article 164(a) and (b) or for the purposes of supplies of services which are deemed to take place within **the territory of** the Member State in which the customer is established and in respect of which VAT is payable solely by the customer pursuant to Article 189.

- 3. Member States shall determine the method by which the refunds provided for in paragraph 2 are to be made. In particular, they may apply the provisions of Directives 79/1072/EEC and 86/560/EEC.

#### *Article 297*

Member States shall take all measures necessary to verify payments of flat-rate compensation to flat-rate farmers.

#### *Article 298*

Whenever Member States apply this flat-rate scheme, they shall take all measures necessary to ensure that the supply of agricultural products between Member States, carried out in accordance with the conditions specified in Article 34, is always taxed in the same way, whether the supply is effected by a flat-rate farmer or by another taxable person.



## Chapter 3

### Special scheme for travel agents

#### *Article 299*

1. Member States shall apply a special VAT scheme, in accordance with this Chapter, to transactions carried out by travel agents who deal with **travellers** in their own name and use supplies of goods or services<sup>2</sup> by other taxable persons, in the provision of travel facilities.

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#### *OBSERVATIONS:*

*To avoid changing the scope of this provision, the text has been amended to accord with that in the current Sixth Directive. This change is relevant to the EN version only.*

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This special scheme shall not apply to travel agents **where they** act solely as intermediaries and to whom point (c) of the first paragraph of Article 78 applies for the purposes of calculating the taxable amount.

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#### *OBSERVATIONS:*

*The text has been amended to make it clear that the special scheme provisions do not apply where the person is acting solely as an intermediary. This change is relevant to the EN version only.*

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2. For the purposes of this Chapter, tour operators shall also be regarded as travel agents.



### *Article 300*

Transactions made, in accordance with the conditions laid down in Article 299, by the travel agent in respect of a journey shall be regarded as a single service supplied by the travel agent to the traveller.

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#### *OBSERVATIONS:*

*The text has been amended to accord with that of the current 6<sup>th</sup> VAT Dir.*

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The single service shall be taxable in the Member State in which the travel agent has established his business or has a fixed establishment from which the travel agent has carried out the supply of services.

### *Article 301*

The taxable amount and the price exclusive of VAT, within the meaning of point (8) of Article 217, in respect of the single service provided by the travel agent shall be the travel agent's margin, that is to say, the difference between the total amount, exclusive of VAT, to be paid by the traveller and the actual cost to the travel agent of supplies of goods or services **of** other taxable persons, where those transactions are for the direct benefit of the traveller.

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#### *OBSERVATIONS:*

*To avoid changing the scope of this provision, the text has been amended to accord with the text of the Sixth Directive.*

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### Article 302

If transactions entrusted by the travel agent to other taxable persons are **performed** by such persons outside the Community, the supply of services carried out by the travel agent shall be treated as an intermediary activity exempted pursuant to Article 149.

If the transactions are **performed** both inside and outside the Community, only that part of the travel agent's service relating to transactions outside the Community may be exempted.

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#### OBSERVATIONS:

*To avoid changing the scope of this provision, the text has been amended to accord with the text of the Sixth Directive. This change is relevant to the EN version only.*

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### Article 303

VAT charged to the travel agent by other taxable persons in respect of transactions which are referred to in **Article 300** and which are for the direct benefit of the traveller shall not be deductible or refundable in any Member State.

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#### OBSERVATIONS:

*When VAT is charged to a travel agent in respect of transactions making up a single service for the direct benefit of the traveller, and the travel agent makes use of the special scheme, the tax is not deductible or refundable by the agent. This is best reflected by referring to Article 300 which regulates this single transaction, rather than Art 301 which defines the taxable amount as the agent's margin. The cross reference is accordingly changed from 301 to 300.*

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## Chapter 4

### Special arrangements for second-hand goods, works of art, collectors' items and antiques

#### Section 1

#### Definitions

##### *Article 304*

1. For the purposes of this Chapter, and without prejudice to other Community provisions, the following definitions shall apply:
  - (a) "second-hand goods" means movable **tangible** property that is suitable for further use as it is or after repair, other than works of art, collectors' items or antiques and other than precious metals or precious stones as defined by the Member States;
  - (b) "works of art" means the objects listed in Annex VIII, Part A;
  - (c) "collectors' items" means the objects listed in Annex VIII, Part B;
  - (d) "antiques" means the objects listed in Annex VIII, Part C;
  - (e) "taxable dealer" means any taxable person who, in the course of his economic activity and with a view to resale, purchases, or applies for the purposes of his business, or imports second-hand goods, works of art, collectors' items or antiques, whether that taxable person is acting for himself or on behalf of another person pursuant to a contract under which commission is payable on purchase or sale;
  - (f) "organiser of a sale by public auction" means any taxable person who, in the course of his economic activity, offers goods for sale by public auction with a view to handing them over to the highest bidder;



(g) "principal of an organiser of a sale by public auction" means any person who transmits goods to an organiser of a sale by public auction pursuant to a contract under which commission is payable on a sale.

2. Member States need not regard as works of art objects listed in points (5), (6) or (7) of Annex VIII, Part A.
3. The contract under which commission is payable on a sale, referred to in point (g) of paragraph 1, must provide that the organiser of the sale is to put up the goods for public auction in his own name but on behalf of his principal and that he is to hand over the goods, in his own name but on behalf of his principal, to the highest bidder at the public auction.

## **Section 2**

### **Special arrangements for taxable dealers**

#### **Subsection 1**

#### **Margin scheme**

##### *Article 305*

1. In respect of the supply of second-hand goods, works of art, collectors' items or antiques carried out by taxable dealers, Member States shall apply a special scheme for taxing the profit margin made by the taxable dealer, in accordance with the provisions of this Subsection.



2. Pending introduction of the definitive arrangements referred to in Article 395, the scheme referred to in paragraph 1 shall not apply to the supply of new means of transport, carried out in accordance with the conditions specified in Article 135.

#### *Article 306*

The margin scheme shall apply to the supply by a taxable dealer of the goods referred to in Article 305(1) where those goods have been supplied to him within the Community by one of the following persons:

- (a) a non-taxable person;
- (b) another taxable person, in so far as the supply of goods by that other taxable person is exempt pursuant to Article 133;
- (c) another taxable person, in so far as the supply of goods by that other taxable person is covered by the exemption for small enterprises provided for in Articles 275 to 285 and involves capital goods;
- (d) another taxable dealer, in so far as VAT has been applied to the supply of goods by that other taxable dealer in accordance with this margin scheme.



### *Article 307*

1. The taxable amount in respect of the supply of goods as referred to in Article 306 shall be the profit margin made by the taxable dealer, less the amount of VAT relating to the profit margin.

The profit margin of the taxable dealer shall be equal to the difference between the selling price charged by the taxable dealer for the goods and the purchase price.

2. For the purposes of paragraph 1, the following definitions shall apply:
  - (a) "selling price" means everything which constitutes the consideration obtained or to be obtained by the taxable dealer from the customer or from a third party, including subsidies directly linked to the transaction, taxes, duties, levies and charges and incidental expenses such as commission, packaging, transport and insurance costs charged by the taxable dealer to the customer, but excluding the amounts referred to in Article 78;
  - (b) "purchase price" means everything which constitutes the consideration, for the purposes of point (a), obtained or to be obtained from the taxable dealer by his supplier.

### *Article 308*

1. Member States shall grant taxable dealers the right to opt for application of the margin scheme to the following transactions:
  - (a) the supply of works of art, collectors' items or antiques, which the taxable dealer has imported himself;
  - (b) the supply of works of art **supplied** to the taxable dealer by their creators or their successors in title;



- (c) the supply of works of art supplied to the taxable dealer by a taxable person other than a taxable dealer where the reduced rate has been applied to that supply pursuant to Article 99.

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*OBSERVATIONS:*

*The text has been amended to improve clarity. This change is relevant to the EN version only.*

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2. Member States shall lay down the detailed rules for exercise of the option provided for in paragraph 1, which shall in any event cover a period of at least two calendar years.

*Article 309*

If a taxable dealer exercises the option under Article 308, the taxable amount shall be determined in accordance with Article 307.

In respect of the supply of works of art, collectors' items or antiques which the taxable dealer has imported himself, the purchase price to be taken into account in calculating the profit margin shall be equal to the taxable amount on importation, determined in accordance with Articles 82 to 86, plus the VAT due or paid on importation.

*Article 310*

1. In order to simplify the procedure for collecting the tax and after consulting the VAT Committee, Member States may provide that, for certain transactions or for certain categories of taxable dealers, the taxable amount in respect of supplies of goods subject to the margin scheme is to be determined for each tax period during which the taxable dealer must submit the VAT return referred to in Article 242.



In the event that such provision is made in accordance with the first subparagraph, the taxable amount in respect of supplies of goods to which the same rate of VAT is applied shall be the total profit margin made by the taxable dealer less the amount of VAT relating to that margin.

2. The total profit margin shall be equal to the difference between the following two amounts:
  - (a) the total value of supplies of goods subject to the margin scheme and carried out by the taxable dealer during the period covered by the VAT return, that is to say, the total of the selling prices;
  - (b) the total value of purchases of goods, as referred to in Article 306, effected by the taxable dealer during the period covered by the VAT return, that is to say, the total of the purchase prices.
3. Member States shall take the measures necessary to ensure that the taxable dealers referred to in paragraph 1 do not enjoy unjustified advantage or sustain unjustified harm.

#### *Article 311*

The taxable dealer may apply the normal VAT arrangements to any supply covered by the margin scheme.

#### *Article 312*

1. Where the taxable dealer applies the normal VAT arrangements to the supply of a work of art, a collectors' item or an antique which he has imported himself, he shall be entitled to deduct from the VAT for which he is liable the VAT due or paid on the import.



Where the taxable dealer applies the normal VAT arrangements to the supply of a work of art **supplied to him** by its creator, or the creator's successors in title, or by a taxable person other than a taxable dealer, he shall be entitled to deduct from the VAT for which he is liable the VAT due or paid in respect of the work of art supplied to him.

2. A right of deduction shall arise at the time when the VAT due on the supply in respect of which the taxable dealer opts for application of the normal VAT arrangements becomes chargeable.

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*OBSERVATIONS:*

*EN wording has been modified to reflect that in the current Sixth Directive the situation described in the second sub-paragraph of Article 312(1) applies to works of art supplied to the taxable dealer by the creator or their successors. This change affects the EN text only. A similar change has been made to Article 308.*

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*Article 313*

If carried out in accordance with the conditions specified in Articles 142, 143, 144 or 147, the supply of second-hand goods, works of art, collectors' items or antiques subject to the margin scheme shall be exempt.



#### *Article 314*

In so far as goods are used for the purpose of supplies carried out by him and subject to the margin scheme, the taxable dealer may not deduct the following from the VAT for which he is liable:

- (a) the VAT due or paid in respect of works of art, collectors' items or antiques which he has imported himself;
- (b) the VAT due or paid in respect of works of art which have been, or are to be, supplied to him by their creator or by the creator's successors in title;
- (c) the VAT due or paid in respect of works of art which have been, or are to be, supplied to him by a taxable person other than a taxable dealer.

#### *Article 315*

Taxable persons may not deduct from the VAT for which they are liable the VAT due or paid in respect of goods which have been, or are to be, supplied to them by a taxable dealer, in so far as the supply of those goods by the taxable dealer is subject to the margin scheme.

#### *Article 316*

Where the taxable dealer applies both the normal VAT arrangements and the margin scheme, he must show separately in his accounts the transactions falling under each of those arrangements, in accordance with the rules laid down by the Member States.

#### *Article 317*

The taxable dealer may not enter separately on the invoices which he issues the VAT relating to supplies of goods to which he applies the margin scheme.



## Subsection 2

### Transitional arrangements for second-hand means of transport

#### *Article 318*

Member States which, at 31 December 1992, were applying special tax arrangements other than the margin scheme to the supply by taxable dealers of second-hand means of transport may, pending introduction of the definitive arrangements referred to in Article 395, continue to apply those arrangements in so far as they comply with, or are adjusted to comply with, the conditions laid down in this Subsection.

Denmark may introduce special tax arrangements as referred to in the first paragraph.

#### *Article 319*

1. These transitional arrangements shall apply to supplies of second-hand means of transport carried out by taxable dealers, and subject to the margin scheme.
2. These transitional arrangements shall not apply to the supply of new means of transport carried out in accordance with the conditions specified in Article 135.
3. For the purposes of paragraph 1, the land vehicles, vessels and aircraft referred to in the first subparagraph of Article 3(2) shall be regarded as "second-hand means of transport" where they are second-hand goods **which** do not meet the conditions necessary to be regarded as new means of transport.



### *Article 320*

The VAT due in respect of each supply referred to in Article 319 shall be equal to the amount of VAT that would have been due if that supply had been subject to the normal VAT arrangements, less the amount of VAT regarded as being incorporated by the taxable dealer in the purchase price of the means of transport.

### *Article 321*

The VAT regarded as being incorporated by the taxable dealer in the purchase price of the means of transport shall be calculated in accordance with the following method:

- (a) the purchase price to be taken into account shall be the purchase price within the meaning of Article 307(2)(b);
- (b) that purchase price paid by the taxable dealer shall be deemed to include the VAT that would have been due if the taxable dealer's supplier had applied the normal VAT arrangements to the supply;
- (c) the rate to be taken into account shall be the rate applicable, pursuant to Article 90, in the Member State in **the territory of** which the place of the supply to the taxable dealer, as determined in accordance with Articles 32 and 33, is deemed to be situated.

### *Article 322*

The VAT due in respect of each supply of means of transport as referred to in the first paragraph of Article 319, determined in accordance with Article 320, may not be less than the amount of VAT that would be due if that supply were subject to the margin scheme.

Member States may provide that, if the supply is subject to the margin scheme, the margin may not be less than 10% of the selling price within the meaning of Article 307(2)(a).



### *Article 323*

Taxable persons may not deduct from the VAT for which they are liable the VAT due or paid in respect of second-hand means of transport supplied to them by a taxable dealer, in so far as the supply of those goods by the taxable dealer is subject to VAT in accordance with these transitional arrangements.

### *Article 324*

The taxable dealer may not enter separately on the invoices he issues the VAT relating to supplies to which he applies these transitional arrangements.

## **Section 3**

### **Special arrangements for sales by public auction**

### *Article 325*

1. Member States may, in accordance with the provisions of this Section, apply special arrangements for taxation of the profit margin made by an organiser of a sale by public auction in respect of the supply of second-hand goods, works of art, collectors' items or antiques by that organiser, acting in his own name and on behalf of the persons referred to in Article 326, pursuant to a contract under which commission is payable on the sale of those goods by public auction.
2. The arrangements referred to in paragraph 1 shall not apply to the supply of new means of transport, carried out in accordance with the conditions specified in Article 135.



### *Article 326*

These special arrangements shall apply to supplies carried out by an organiser of a sale by public auction, acting in his own name, on behalf of one of the following persons:

- (a) a non-taxable person;
- (b) another taxable person, in so far as the supply of goods, carried out by that taxable person in accordance with a contract under which commission is payable on a sale, is exempt pursuant to Article 133;
- (c) another taxable person, in so far as the supply of goods, carried out by that taxable person in accordance with a contract under which commission is payable on a sale, is covered by the exemption for small enterprises provided for in Articles 275 to 285 and involves capital goods;
- (d) a taxable dealer, in so far as the supply of goods, carried out by that taxable dealer in accordance with a contract under which commission is payable on a sale, is subject to VAT in accordance with the margin scheme.

### *Article 327*

The supply of goods to a taxable person who is an organiser of sales by public auction shall be regarded as taking place when the sale of those goods by public auction takes place.

### *Article 328*

The taxable amount in respect of each supply of goods referred to in this Section shall be the total amount invoiced in accordance with Article 331 to the purchaser by the organiser of the sale by public auction, less the following:



- (a) the net amount paid or to be paid by the organiser of the sale by public auction to his principal, as determined in accordance with Article 329;
- (b) the amount of the VAT payable by the organiser of the sale by public auction in respect of his supply.

#### *Article 329*

The net amount paid or to be paid by the organiser of the sale by public auction to his principal shall be equal to the difference between the auction price of the goods and the amount of the commission obtained or to be obtained by the organiser of the sale by public auction from his principal pursuant to the contract under which commission is payable on the sale.

#### *Article 330*

Organisers of sales by public auction who supply goods in accordance with the conditions laid down in Articles 325 and 326 must indicate the following in their accounts, in suspense accounts:

- (a) the amounts obtained or to be obtained from the purchaser of the goods;
- (b) the amounts reimbursed or to be reimbursed to the vendor of the goods.

The amounts referred to in the first paragraph must be duly substantiated.



### *Article 331*

The organiser of the sale by public auction must issue to the purchaser an invoice itemising the following:

- (a) the auction price of the goods;
- (b) taxes, duties, levies and charges;
- (c) incidental expenses, such as commission, packing, transport and insurance costs, charged by the organiser to the purchaser of the goods.

The invoice issued by the organiser of the sale by public auction must not indicate any VAT separately.

### *Article 332*

1. The organiser of the sale by public auction to whom the goods have been transmitted pursuant to a contract under which commission is payable on a public auction sale must issue a statement to his principal.

The statement issued by the organiser of the sale by public auction must specify separately the amount of the transaction, that is to say, the auction price of the goods less the amount of the commission obtained or to be obtained from the principal.

2. The statement drawn up in accordance with paragraph 1 shall serve as the invoice which the principal, where he is a taxable person, must issue to the organiser of the sale by public auction in accordance with **Article 211**.



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**OBSERVATIONS:**

*When the organiser of a sale by public auction issues a statement to his principal, this statement shall serve as an invoice. For the organiser, this meets with the obligation under Article 211 to issue an invoice. Reference to that provision makes this clear.*

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*Article 333*

Member States which apply the arrangements provided for in this Section shall also apply these arrangements to supplies of second-hand means of transport carried out by an organiser of sales by public auction, acting in his own name, pursuant to a contract under which commission is payable on the sale of those goods by public auction, on behalf of a taxable dealer, in so far as those supplies by that taxable dealer would be subject to VAT in accordance with the transitional arrangements for second-hand means of transport.

**Section 4**

**Measures to prevent distortion of competition and fraud**

*Article 334*

Member States may take measures concerning the right of deduction in order to ensure that the taxable dealers covered by special arrangements as provided for in Section 2 do not enjoy unjustified advantage or sustain unjustified harm.



### *Article 335*

Acting unanimously on a proposal from the Commission, the Council may authorise any Member State to introduce special measures to combat fraud, pursuant to which the VAT due under the margin scheme may not be less than the amount of VAT which would be due if the profit margin were equal to a certain percentage of the selling price.

The percentage of the selling price shall be fixed in the light of the normal profit margins made by economic operators in the sector concerned.

## **Chapter 5**

### **Special scheme for investment gold**

#### **Section 1**

#### **General provisions**

### *Article 336*

1. For the purposes of this Directive, and without prejudice to other Community provisions, "investment gold" shall mean:
  - (1) gold, in the form of a bar or a wafer of weights accepted by the bullion markets, of a purity equal to or greater than 995 thousandths, whether or not represented by securities;
  - (2) gold coins of a purity equal to or greater than 900 thousandths and minted after 1800, which are or have been legal tender in the country of origin, and are normally sold at a price which does not exceed the open market value of the gold contained in the coins by more than 80%.



2. Member States may exclude from this special scheme small bars or wafers of a weight of 1 g or less.
3. For the purposes of this Directive, the coins referred to in point (2) of paragraph 1 shall not be regarded as sold for numismatic interest.

#### *Article 337*

Starting in 1999, each Member State shall inform the Commission by 1 July each year of the coins meeting the criteria laid down in point (2) of Article 336(1) which are traded in that Member State. The Commission shall, before 1 December each year, publish a comprehensive list of those coins in the "C" series of the *Official Journal of the European Union*. Coins included in the published list shall be deemed to fulfil those criteria throughout the year for which the list is published.

### **Section 2**

#### **Exemption from VAT**

#### *Article 338*

Member States shall exempt from VAT the supply, the intra-Community acquisition and the importation of investment gold, including investment gold represented by certificates for allocated or unallocated gold or traded on gold accounts and including, in particular, gold loans and swaps, involving a right of ownership or claim in respect of investment gold, as well as transactions concerning investment gold involving futures and forward contracts leading to a transfer of right of ownership or claim in respect of investment gold.



### *Article 339*

Member States shall exempt the services of agents who act in the name and on behalf of **another person**, when they take part in the supply of investment gold for their principal.

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#### *OBSERVATIONS:*

*The words **another person** have been substituted for **a third party** to align the EN version with the other language versions. This is consistent with the wording used elsewhere and reflects that used in the current Sixth Directive.*

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## **Section 3**

### **Taxation option**

### *Article 340*

Member States shall allow taxable persons who produce investment gold or transform gold into investment gold the right to opt for the taxation of supplies of investment gold to another taxable person which would otherwise be exempt pursuant to Article 338.



#### *Article 341*

1. Member States may allow taxable persons who, in the course of their economic activity, normally supply gold for industrial purposes, the right to opt for the taxation of supplies of gold bars or wafers, as referred to in point (1) of Article 336(1), to another taxable person, which would otherwise be exempt pursuant to Article 338.
2. Member States may restrict the scope of the option provided for in paragraph 1.

#### *Article 342*

Where the supplier has exercised the right under Articles 340 and 341 to opt for taxation, Member States shall allow the agent to opt for taxation of the services referred to in Article 339.

#### *Article 343*

Member States shall lay down detailed rules for the exercise of the options provided for in this Section, and shall inform the Commission accordingly.

### **Section 4**

#### **Transactions on a regulated gold bullion market**

#### *Article 344*

Each Member State may, after consulting the VAT Committee, apply VAT to specific transactions relating to investment gold which take place in that Member State between taxable persons who are members of a gold bullion market regulated by the Member State concerned or between such a taxable person and another taxable person who is not a member of that market. However, the Member State may not apply VAT to supplies carried out in accordance with the conditions specified in Article 135 or to exports of investment gold.



### Article 345

Member States which, pursuant to Article 344, tax transactions between taxable persons who are members of a regulated gold bullion market shall, for the purposes of simplification, authorise suspension of the tax to be collected and relieve taxable persons of the accounting requirements in respect of VAT.

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#### *OBSERVATIONS:*

*When Member States tax specific transactions on a regulated gold bullion market, they must designate the customer as liable for VAT. As the provisions contained in former Article 346 concern the person liable for VAT, they have been included in Title XI.*

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## Section 5

### Special rights and obligations for traders in investment gold

### Article 347

Where **his** subsequent supply of investment gold is exempt pursuant to this Chapter, the taxable person shall be entitled to deduct the following:

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#### *OBSERVATIONS:*

*The text has been amended to make it clear that the subsequent supply is made by the taxable person. This is relevant to the EN version only.*

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- (a) the VAT due or paid in respect of investment gold supplied to him by a person who has exercised the right of option under Articles 340 and 341 or supplied to him in accordance with Section 4;
- (b) the VAT due or paid in respect of a supply to him, or in respect of an intra-Community acquisition or importation carried out by him, of gold other than investment gold which is subsequently transformed by him or on his behalf into investment gold;
- (c) the VAT due or paid in respect of services supplied to him consisting in a change of form, weight or purity of gold including investment gold.

#### *Article 348*

Taxable persons who produce investment gold or transform gold into investment gold shall be entitled to deduct the VAT due or paid by them in respect of the supply, intra-Community acquisition or importation of goods or services linked to the production or transformation of that gold, as if the subsequent supply of the gold exempted pursuant to Article 338 were taxed.

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#### *OBSERVATIONS:*

*Taxable persons producing investment gold or transforming any gold into investment gold shall be entitled to deduction. It is not found necessary to specify that this provision covers transformation of gold of whatever origin. This is consistent with the approach taken in Article 340.*

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### *Article 349*

1. Member States shall ensure that traders in investment gold keep, as a minimum, accounts of all substantial transactions in investment gold and keep the documents which enable the customers in such transactions to be identified.

Traders shall keep the information referred to in the first subparagraph for a period of at least five years.

2. Member States may accept equivalent obligations under measures adopted pursuant to other Community legislation, such as Council Directive 91/308/EEC<sup>1</sup>, to comply with the requirements under paragraph 1.
3. Member States may lay down obligations which are more stringent, in particular as regards the keeping of special records or special accounting requirements.

## **Chapter 6**

### **Special scheme for non-established taxable persons supplying electronic services to non-taxable persons**

#### **Section 1**

#### **General provisions**

### *Article 350*

This Chapter shall apply for a period of three years starting from 1 July 2003.

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<sup>1</sup> OJ **L** 166, 28.6.1991, p. 77.



### *Article 351*

For the purposes of this Chapter, and without prejudice to other provisions, the following definitions shall apply:

- (1) "non-established taxable person" means a taxable person who has not established his business in the territory of the Community and who has no fixed establishment there and who is not otherwise required to be identified pursuant to Article 206;
- (2) "electronic services" and "electronically supplied services" means the services referred to in point (k) of Article 56(1);
- (3) "Member State of identification" means the Member State which the non-established taxable person chooses to contact to state when his activity as a taxable person within the territory of the Community commences in accordance with the provisions of this Chapter;
- (4) "Member State of consumption" means the Member State in which, pursuant to Article 57, the supply of the electronic services is deemed to take place;
- (5) "VAT return" shall mean the statement containing the information necessary to establish the amount of VAT due in each Member State.



## Section 2

### Special scheme for electronically supplied services

#### *Article 352*

Member States shall permit any non-established taxable person supplying electronic services to a non-taxable person who is established in a Member State or who has his permanent address or usually resides in a Member State, to use this special scheme. This scheme applies to all electronic services supplied in the Community.

#### *Article 353*

The non-established taxable person shall state to the Member State of identification when he commences or ceases his activity as a taxable person, or changes that activity in such a way that he no longer meets the conditions necessary for use of this special scheme. He shall communicate that information electronically.

#### *Article 354*

1. The information which the non-established taxable person must provide to the Member State of identification when he commences a taxable activity shall contain the following details:
  - (a) name;
  - (b) postal address;
  - (c) electronic addresses, including websites;



- (d) national tax number, if any;
- (e) a statement that the person is not identified for VAT purposes within the Community.

2. The non-established taxable person shall notify the Member State of identification of any changes in the information provided.

#### *Article 355*

The Member State of identification shall allocate to the non-established taxable person an individual identification number and shall notify him of that number by electronic means. On the basis of the information used for that identification, Member States of consumption may keep their own identification systems.

#### *Article 356*

The Member State of identification shall strike the non-established taxable person from the identification register in the following cases:

- (a) if he notifies that Member State that he no longer supplies electronic services;
- (b) if it may otherwise be assumed that his taxable activities have ceased;
- (c) if he no longer meets the conditions necessary for use of this special scheme;
- (d) if he persistently fails to comply with the rules relating to this special scheme.

#### *Article 357*

The non-established taxable person shall submit by electronic means to the Member State of identification a VAT return for each calendar quarter, whether or not electronic services have been supplied. The VAT return shall be submitted within 20 days following the end of the tax period covered by the return.



### *Article 358*

The VAT return shall show the identification number and, for each Member State of consumption in which VAT is due, the total value, exclusive of VAT, of supplies of electronic services carried out during the tax period and the total amount of the corresponding VAT. The applicable rates of VAT and the total VAT due must also be indicated on the return.

### *Article 359*

1. The VAT return shall be made out in euro.

Member States which have not adopted the euro may require the VAT return to be made out in their national currency. If the supplies have been made in other currencies, the non-established taxable person shall, for the purposes of completing the VAT return, use the exchange rate applying on the last day of the tax period.

2. The conversion shall be made by applying the exchange rates published by the European Central Bank for that day, or, if there is no publication on that day, on the next day of publication.

### *Article 360*

The non-established taxable person shall pay the VAT when submitting the VAT return.

Payment shall be made to a bank account denominated in euro, designated by the Member State of identification. Member States which have not adopted the euro may require payment to be made to a bank account denominated in their own currency.



### *Article 361*

The non-established taxable person making use of this special scheme may not deduct VAT pursuant to Article 163 of this Directive. Notwithstanding Article 1(1) of Directive 86/560/EEC, the taxable person in question shall be refunded in accordance with the said Directive. Articles 2(2) and (3) and Article 4(2) of Directive 86/560/EEC shall not apply to refunds relating to electronic services covered by this special scheme.

### *Article 362*

1. The non-established taxable person shall keep records of the transactions covered by this special scheme. Those records must be sufficiently detailed to enable the tax authorities of the Member State of consumption to verify that the VAT return is correct.
2. The records referred to in paragraph 1 must be made available electronically on request to the Member State of identification and to the Member State of consumption.

Those records must be kept for a period of ten years from the end of the year during which the transaction was carried out.



## TITLE XIII

### DEROGATIONS

#### Chapter 1

##### **Derogations applying until the adoption of definitive arrangements**

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##### *OBSERVATIONS:*

*Amendment to the text makes it clear that these derogations only apply until the adoption of definitive arrangements.*

---

##### **Section 1**

##### **Derogations for States which were members of the Community on 1 January 1978**

##### *Article 363*

Member States which, at 1 January 1978, taxed the transactions listed in Annex IX, Part A, may continue to tax those transactions.

##### *Article 364*

Member States which, at 1 January 1978, exempted the transactions listed in Annex IX, Part B, may continue to exempt those transactions, in accordance with the conditions applying in the Member State concerned on that date.



### *Article 365*

Member States which, at 1 January 1978, applied provisions derogating from the principle of immediate deduction laid down in the first paragraph of Article 173 may continue to apply those provisions.

### *Article 366*

Member States which, at 1 January 1978, applied provisions derogating from Article 29 or from point (c) of the first paragraph of Article 78 may continue to apply those provisions.

### *Article 367*

By way of derogation from Articles 164 and 302, Member States which, at 1 January 1978, exempted, without deductibility of the VAT paid at the preceding stage, the services of travel agents, as referred to in Article 302, may continue to exempt those services. That derogation shall apply also in respect of travel agents acting in the name and on behalf of the traveller.

## **Section 2**

### **Derogations for States which acceded to the Community after 1 January 1978**

### *Article 368*

Greece may continue to exempt the transactions listed in points (2), (8), (9), (11) and (12) of Annex IX, Part B, in accordance with the conditions applying in that Member State **on 1 January 1987**.



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*OBSERVATIONS:*

*In Greece, the common system of VAT was introduced after its EU Accession. The text has been amended to accurately reflect the provisions in Greece's EU Accession Treaty.*

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*Article 369*

Spain may continue to exempt the supply of services performed by authors, listed in point (2) of Annex IX, Part B, and the transactions listed in points (11) and (12) of Annex IX, Part B, in accordance with the conditions applying in that Member State on **1 January 1993**.

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*OBSERVATIONS:*

*The authorisation to exempt certain transactions was given to Spain after its EU Accession. The text now makes it clear that authorisation was given to exempt these transactions as of 1 January 1993.*

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*Article 370*

Portugal may continue to exempt the transactions listed in points (2), (4), (7), (9), (10) and (13) of Annex IX, Part B, in accordance with the conditions applying in that Member State on **1 January 1989**.

---

*OBSERVATIONS:*

*In Portugal, the common system of VAT was introduced after its EU Accession. The text has been amended to reflect the fact that the common VAT system was introduced on 1 January 1989.*

---



### *Article 371*

1. Austria may continue to tax the transactions listed in point (2) of Annex IX, Part A.
2. For as long as the same exemptions are applied in any of the Member States which were members of the Community on 31 December 1994, Austria may, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt the following transactions:
  - (a) the transactions listed in points (5) and (9) of Annex IX, Part B;
  - (b) with deductibility of the VAT paid at the preceding stage, all parts of international passenger transport operations, carried out by air, sea or inland waterway, from Austria to another Member State or to a third country or *vice versa*, other than passenger transport operations on Lake Constance.

### *Article 372*

1. Finland may continue to tax the transactions listed in point (2) of Annex IX, Part A, for as long as the same transactions are taxed in any of the Member States which were members of the Community on 31 December 1994.
2. Finland may, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt the supply of services by authors, artists and performers, listed in point (2) of Annex IX, Part B, and the transactions listed in points (5), (9) and (10) of Annex IX, Part B, for as long as the same exemptions are applied in any of the Member States which were members of the Community on 31 December 1994.



### *Article 373*

Sweden may, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt the supply of services by authors, artists and performers, listed in point (2) of Annex IX, Part B, and the transactions listed in points (1), (9) and (10) of Annex IX, Part B, for as long as the same exemptions are applied in any of the Member States which were members of the Community on 31 December 1994.

### *Article 374*

The Czech Republic may, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt the international transport of passengers, as referred to in point (10) of Annex IX, Part B, for as long as the same exemption is applied in any of the Member States which were members of the Community on 30 April 2004.

### *Article 375*

Estonia may, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt the international transport of passengers, as referred to in point (10) of Annex IX, Part B, for as long as the same exemption is applied in any of the Member States which were members of the Community on 30 April 2004.

### *Article 376*

Cyprus may, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt the supply of building land referred to in point (9) of Annex IX, Part B, until 31 December 2007.



Cyprus may, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt the international transport of passengers, as referred to in point (10) of Annex IX, Part B, for as long as the same exemption is applied in any of the Member States which were members of the Community on 30 April 2004.

#### *Article 377*

For as long as the same exemptions are applied in any of the Member States which were members of the Community on 30 April 2004, Latvia may, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt the following transactions:

- (a) the supply of services by authors, artists and performers, as referred to in point (2) of Annex IX, Part B;
- (b) the international transport of passengers, as referred to in point (10) of Annex IX, Part B.

#### *Article 378*

Lithuania may, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt the international transport of passengers, as referred to in point (10) of Annex IX, Part B, for as long as the same exemption is applied in any of the Member States which were members of the Community on 30 April 2004.

#### *Article 379*

Hungary may, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt the international transport of passengers, as referred to in point (10) of Annex IX, Part B, for as long as the same exemption is applied in any of the Member States which were members of the Community on 30 April 2004.



### *Article 380*

For as long the same exemptions are applied in any of the Member States which were members of the Community on 30 April 2004, Malta may, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt the following transactions:

- (a) without deductibility of the VAT paid at the preceding stage, the supply of water by a body governed by public law, as referred to in point (8) of Annex IX, Part B;
- (b) without deductibility of the VAT paid at the preceding state, the supply of buildings and building land, as referred to in point (9) of Annex IX, Part B;
- (c) with deductibility of the VAT paid at the preceding stage, inland passenger transport, international passenger transport and domestic inter-island sea passenger transport, as referred to in point (10) of Annex IX, Part B.

### *Article 381*

Poland may, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt the international transport of passengers, as referred to in point (10) of Annex IX, Part B, for as long as the same exemption is applied in any of the Member States which were members of the Community on 30 April 2004.

### *Article 382*

Slovenia may, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt the international transport of passengers, as referred to in point (10) of Annex IX, Part B, for as long as the same exemption is applied in any of the Member States which were members of the Community on 30 April 2004.



### *Article 383*

Slovakia may, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt the international transport of passengers, as referred to in point (10) of Annex IX, Part B, for as long as the same exemption is applied in any of the Member States which were members of the Community on 30 April 2004.

## **Section 3**

### **Provisions common to Sections 1 and 2**

### *Article 384*

Member States which exempt the transactions referred to in Articles 364, 368, 369 or 370, Article 371(2), Article 372(2) or Articles 373 to 383 may grant taxable persons the right to opt for taxation of those transactions.

### *Article 385*

Member States may provide that, in respect of the supply of buildings and building land purchased for the purpose of resale by a taxable person for whom the VAT on the purchase was not deductible, the taxable amount shall be the difference between the selling price and the purchase price.



### *Article 386*

1. With a view to facilitating the transition to the definitive arrangements referred to in Article 395, the Council shall, on the basis of a report from the Commission, review the situation with regard to the derogations provided for in Sections 1 and 2 and shall, acting in accordance with Article 93 of the Treaty decide whether any or all of those derogations is to be abolished.
2. By way of definitive arrangements, passenger transport shall be taxed in the Member State of departure for that part of the journey taking place within the Community, in accordance with the detailed rules to be laid down by the Council, acting in accordance with Article 93 of the Treaty.

## **Chapter 2**

### **Derogations subject to authorisation**

#### **Section 1**

#### **Simplification measures and measures to prevent tax evasion or avoidance**

### *Article 387*

Member States which, at 1 January 1977, applied special measures to simplify the procedure for collecting VAT or to prevent certain forms of tax evasion or avoidance may retain them provided that they have notified the Commission accordingly before 1 January 1978 and that such simplification measures comply with the criterion laid down in the second subparagraph of Article 388(1).



### *Article 388*

1. The Council, acting unanimously on a proposal from the Commission, may authorise any Member State to introduce special measures for derogation from the provisions of this Directive, in order to simplify the procedure for collecting VAT or to prevent certain forms of tax evasion or avoidance.

Measures intended to simplify the procedure for collecting VAT may not, except to a negligible extent, affect the overall amount of the tax revenue of the Member State collected at the stage of final consumption.

2. A Member State wishing to introduce the measure referred to in paragraph 1 shall send an application to the Commission and provide it with all the necessary information. If the Commission considers that it does not have all the necessary information, it shall contact the Member State concerned within two months of receipt of the application and specify what additional information is required.

Once the Commission has all the information it considers necessary for appraisal of the request it shall within one month notify the requesting Member State accordingly and it shall transmit the request, in its original language, to the other Member States.

3. Within three months of giving the notification referred to in the second subparagraph of paragraph 2, the Commission shall present to the Council either an appropriate proposal or, should it object to the derogation requested, a communication setting out its objections.
4. The procedure laid down in paragraphs 2 and 3 shall, in any event, be completed within eight months of receipt of the application by the Commission.



## **Section 2**

### **International agreements**

#### *Article 389*

1. The Council, acting unanimously on a proposal from the Commission, may authorise any Member State to conclude with a third country or an international body an agreement which may contain derogations from this Directive.
2. A Member State wishing to conclude such an agreement shall send an application to the Commission and provide it with all the necessary information. If the Commission considers that it does not have all the necessary information, it shall contact the Member State concerned within two months of receipt of the application and specify what additional information is required.

Once the Commission has all the information it considers necessary for appraisal of the request it shall within one month notify the requesting Member State accordingly and it shall transmit the request, in its original language, to the other Member States.

3. Within three months of giving the notification referred to in the second subparagraph of paragraph 2, the Commission shall present to the Council either an appropriate proposal or, should it object to the derogation requested, a communication setting out its objections.
4. The procedure laid down in paragraphs 2 and 3 shall, in any event, be completed within eight months of receipt of the application by the Commission.



## **TITLE XIV**

### **MISCELLANEOUS**

#### **Chapter 1**

##### **Implementing measures**

###### *Article 390*

The Council, acting unanimously on a proposal from the Commission, shall adopt the measures necessary to implement this Directive.

#### **Chapter 2**

##### **VAT Committee**

###### *Article 391*

1. An advisory committee on value added tax, called "the VAT Committee", is set up.
2. The VAT Committee shall consist of representatives of the Member States and of the Commission.

The chairman of the Committee shall be a representative of the Commission.

Secretarial services for the Committee shall be provided by the Commission.



3. The VAT Committee shall adopt its own rules of procedure.
4. In addition to the points forming the subject of consultation pursuant to this Directive, the VAT Committee shall examine questions raised by its chairman, on his own initiative or at the request of the representative of a Member State, which concern the application of Community provisions on VAT.

### **Chapter 3**

#### **Conversion rates**

##### *Article 392*

Without prejudice to any other particular provisions, the equivalents in national currency of the amounts in euro specified in this Directive shall be determined on the basis of the euro conversion rate applicable on 1 January 1999.

However, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia shall use the euro conversion rate applicable on the date of their accession.

##### *Article 393*

When converting the amounts referred to in Article 392 into national currencies, Member States may adjust the amounts resulting from that conversion either upwards or downwards by up to 10%.



## **Chapter 4**

### **Other taxes, duties and charges**

#### *Article 394*

Without prejudice to other provisions of Community law, this Directive shall not prevent a Member State from maintaining or introducing taxes on insurance contracts, taxes on betting and gambling, excise duties, stamp duties or, more generally, any taxes, duties or charges which cannot be characterised as turnover taxes, provided that the collecting of those taxes, duties or charges does not give rise, in trade between Member States, to formalities connected with the crossing of frontiers.

## **TITLE XV**

### **FINAL PROVISIONS**

#### **Chapter 1**

#### **Transitional arrangements for the taxation of trade between Member States**

#### *Article 395*

1. The arrangements provided for in this Directive for the taxation of trade between Member States are transitional and shall be replaced by definitive arrangements based in principle on the taxation in the Member State of origin of the supply of goods or services.
2. Having concluded, upon examination of the report referred to in Article 398, that the conditions for transition to the definitive arrangements are met, the Council shall, acting in accordance with Article 93 of the Treaty, adopt the provisions necessary for the entry into force and for the operation of the definitive arrangements.



#### *Article 397*

The Council shall, acting in accordance with Article 93 of the Treaty, adopt Directives appropriate for the purpose of supplementing the common system of VAT and, in particular, for the progressive restriction or the abolition of derogations from that system.

#### *Article 398*

Every four years starting from the adoption of this Directive, the Commission shall, on the basis of information obtained from the Member States, present a report to the European Parliament and to the Council on the operation of the common system of VAT in the Member States and, in particular, on the operation of the transitional arrangements for taxing trade between Member States. That report shall be accompanied, where appropriate, by proposals concerning the definitive arrangements.

### **Chapter 2**

#### **Temporary provisions**

#### *Article 396*

The rules relating to the place of taxation of radio and television broadcasting services **as referred to in point (j) of Article 56(1)** and the arrangements governing-electronically supplied services **as referred to in point (k) of Article 56(1)** shall apply for a period of three years starting from 1 July 2003.



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**OBSERVATIONS:**

*The text has been amended to include a cross reference to the specific Articles giving the place of supply rules for radio and television broadcasting and electronically supplied services, which apply only for three years from 1 July 2003. This clarifies exactly which services are covered by these temporary arrangements.*

---

On the basis of a report from the Commission, the Council shall, before 30 June 2006, review points (j) and (k) of Article 56(1), Articles 57 and 58, Article 59(2), the second sentence of Article 95(2), Articles 350 to 362 and Annex II and shall, acting in accordance with Article 93 of the Treaty, adopt measures, based on non-discrimination, concerning an appropriate electronic mechanism for calculating, declaring, collecting and allocating VAT on electronically supplied services taxed at the place of consumption, or, if the Council considers it necessary for practical reasons, it shall, acting unanimously on the basis of a proposal from the Commission, extend the period laid down in the first paragraph.

### **Chapter 3**

#### **Transitional measures applicable in the context of accession to the European Union**

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**OBSERVATIONS:**

*The provisions to be found in this Chapter are the transitional measures for the new Member States.*

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*Article 398a*

For the purposes of this Chapter, the following definitions shall apply:

- (a) "Community" means the territory of the Community as defined in Article 7(a) before **the** accession **of new Member States**;
- (b) "new Member States" means the territory of the Member States which acceded to the European Union on 1 May 2004, as defined for each of those Member States in Article 7(b);
- (c) "enlarged Community" means the territory of the Community as defined in Article 7(a) after **the** accession **of new Member States**.

*Article 398b*

The provisions in force at the time the goods were placed under temporary importation arrangements **or situations** with total exemption from import duty or under one of the arrangements referred to in Article 151, or under similar arrangements in one of the new Member States, shall continue to apply until the goods leave these arrangements **or situations** after the date of accession, where the following conditions are met:

- (a) the goods entered the Community or one of the new Member States before the date of accession;
- (b) the goods were placed, on entry into the Community or one of the new Member States, under these arrangements;
- (c) the goods have not left these arrangements before the date of accession.



*Article 398c*

The provisions in force at the time the goods were placed under customs transit arrangements shall continue to apply until the goods leave these arrangements after the date of accession, where the following conditions are met:

- (a) the goods were placed, before the date of accession, under customs transit arrangements;
- (b) the goods have not left these arrangements before the date of accession.

*Article 398d*

1. The following shall be treated as an importation of goods where it is shown that the goods were in free circulation in one of the new Member States or in the Community:
  - (a) the removal, including irregular removal, of goods from temporary importation arrangements under which they were placed before the date of accession under the conditions provided for in Article 398b;
  - (b) the removal, including irregular removal, of goods either from one of the arrangements **or situations** referred to in Article 151 or from similar arrangements under which they were placed before the date of accession under the conditions provided for in Article 398b;
  - (c) the termination of one of the arrangements referred to in Article 398c, started before the date of accession in **the territory of** one of the new Member States, for the purposes of a supply of goods for consideration effected before that date in **the territory of** a Member State by a taxable person acting as such;
  - (d) any irregularity or offence committed during customs transit arrangements started under the conditions referred to in point (c).



2. In addition to the case referred to in paragraph 1, the use after the date of accession within **the territory of** a Member State, by a taxable or non-taxable person, of goods supplied to him before the date of accession within **the territory of** the Community or one of the new Member States shall be treated as an importation of goods where the following conditions are met:
- (a) the supply of those goods has been exempted, or was likely to be exempted, either under points (a) and (b) of Article 142(1) or under a similar provision in the new Member States;
  - (b) the goods were not imported into one of the new Member States or into the Community before the date of accession.

*Article 398e*

In the cases referred to in Article 398d, the place of import within the meaning of Article 61 shall be the Member State within whose territory the goods cease to be covered by the arrangements under which they were placed before the date of accession.

*Article 398f*

1. By way of derogation from **Article 71**, the importation of goods within the meaning of Article 398d shall terminate without the occurrence of a chargeable event if one of the following conditions is **met**:

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*OBSERVATIONS:*

*In normal circumstances, such importation would result in the occurrence of a chargeable event. This provision however provides for importation of goods to take place without any tax being due. The text clarifies that this provision derogates from Article 71.*

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- (a) the imported goods are dispatched or transported outside the enlarged Community;
- (b) the imported goods within the meaning of Article 398d(1)(a) are other than means of transport and are redispached or transported to the Member State from which they were exported and to the person who exported them;
- (c) the imported goods within the meaning of Article 398d(1)(a) are means of transport which were acquired or imported before the date of accession in accordance with the general conditions of taxation in force on the domestic market of one of the new Member States or of one of the Member States of the Community or which have not been subject, by reason of their exportation, to any exemption from, or refund of, VAT.

2. The condition referred to in paragraph 1(c) shall be deemed to be fulfilled in the following cases:

- (a) when the date of first use of the means of transport was before 1 May 1996;
- (b) when the amount of tax due by reason of the importation is insignificant.

## **Chapter 4**

### **Transposition and entry into force**

#### *Article 399*

Directive 67/227/EEC, as amended by the Directive referred to in point (1) of Annex X, Part A, and Directive 77/388/EEC, as amended by the Directives listed in point (2) of Annex X, Part A, are repealed, without prejudice to the obligations of the Member States concerning the time-limits, listed in Annex X, Part B, for the transposition into national law and the implementation of those Directives.



References to the repealed Directives shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex XI.

#### *Article 400*

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with **[Article 3(3), Article 59(1), Article 164a, the second subparagraph of Article 165(1), the second subparagraph of Article 165(2)]** and Article 392~~l~~ by [...] at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

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#### *OBSERVATIONS*

*In accordance with the interinstitutional agreement of 28 November 2001 (OJ Ref 2002/c/77/01) Member States shall bring into force necessary legislation to transpose those elements of a recast Directive which are substantively changed, and notify them to the Commission. For clarity, the small number of substantive changes to which this provision applies are indicated.*

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#### *Article 401*

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.



*Article 402*

This Directive is addressed to the Member States.

Done at Brussels,

For the Council

The President



## ANNEX I

### LIST OF THE ACTIVITIES REFERRED TO IN ARTICLE 14

- (1) Telecommunications;
- 

*OBSERVATIONS:*

*To avoid inadvertently altering the scope of this article the text has reverted to the text of the Sixth Directive.*

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- (2) supply of water, gas, electricity and thermal energy;
- (3) transport of goods;
- (4) port and airport services;
- (5) passenger transport;
- (6) supply of new goods manufactured for sale;
- (7) transactions in respect of agricultural products, carried out by agricultural intervention agencies pursuant to Regulations on the common organisation of the market in those products;
- (8) organisation of trade fairs and exhibitions;
- (9) warehousing;
- (10) activities of commercial **publicity bodies**;



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**OBSERVATIONS:**

*When public bodies act as commercial publicity bodies, they shall be regarded as taxable persons. Acting as publicity bodies must be taken in its widest sense. To avoid changing the scope of this provision, it is proposed to return to the existing wording as it can be found in the Sixth Directive. This change is relevant to the EN version only.*

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- (11) activities of travel agents;
  - (12) running of staff shops, cooperatives and industrial canteens and similar institutions;
  - (13) activities carried out by radio and television bodies **in so far as these are not exempt pursuant to Article 129(1)(g).**
- 

**OBSERVATIONS:**

*Among the activities for which public bodies must be regarded as taxable persons are those carried out by radio and television bodies which are not exempt. To avoid any risk that the scope of this provision is changed, rather than refer to the commercial activities of such bodies, it is considered more appropriate to define the activities for which such bodies are treated as taxable persons.*

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## **ANNEX II**

### **INDICATIVE LIST OF THE ELECTRONICALLY SUPPLIED SERVICES REFERRED TO IN ARTICLE 56(1)(K)**

- (1) Website supply, web-hosting, distance maintenance of programmes and equipment;
- (2) supply of software and updating thereof;
- (3) supply of images, text and information and making available of databases;
- (4) supply of music, films and games, including games of chance and gambling games, and of political, cultural, artistic, sporting, scientific and entertainment broadcasts and events;
- (5) supply of distance teaching.



## **ANNEX III**

### **LIST OF SUPPLIES OF GOODS AND SERVICES TO WHICH THE REDUCED RATES REFERRED TO IN ARTICLE 95 MAY BE APPLIED**

- (1) Foodstuffs (including beverages but excluding alcoholic beverages) for human and animal consumption; live animals, seeds, plants and ingredients normally intended for use in the preparation of foodstuffs; products normally used to supplement foodstuffs or as a substitute for foodstuffs;
- (2) supply of water;
- (3) pharmaceutical products of a kind normally used for health care, prevention of illnesses and as treatment for medical and veterinary purposes, including products used for contraception and sanitary protection;
- (4) medical equipment, aids and other appliances normally intended to alleviate or treat disability, for the exclusive personal use of the disabled, including the repair of such goods, and supply of children's car seats;
- (5) transport of passengers and their accompanying luggage;
- (6) supply, including on loan by libraries, of books (including brochures, leaflets and similar printed matter, children's picture ~~books~~, drawing ~~books~~ or colouring books, music printed or in manuscript form, maps and hydrographic or similar charts), newspapers and periodicals, other than material wholly or predominantly devoted to advertising;



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**OBSERVATIONS:**

*Included in the list of items to which reduced rate may be applied are picture books, drawing books and colouring books but only if these are for children. To avoid changing the scope of this provision, it is proposed to return to the existing wording as it can be found in the Sixth Directive. This change is relevant to the EN version only.*

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- (7) admission to shows, theatres, circuses, fairs, amusement parks, concerts, museums, zoos, cinemas, exhibitions and similar cultural events and facilities;
- (8) reception of radio and television broadcasting services;
- (9) supply of services by writers, composers and performing artists, or of the royalties due to them;
- (10) provision, construction, renovation and alteration of housing, as part of a social policy;
- (11) supply of goods and services of a kind normally intended for use in agricultural production but excluding capital goods such as machinery or buildings;
- (12) accommodation provided in hotels and similar establishments, including the provision of holiday accommodation and the letting of places on camping or caravan sites;
- (13) admission to sporting events;
- (14) use of sporting facilities;
- (15) supply of goods and services by organisations recognised as being devoted to social wellbeing by Member States and engaged in welfare or social security work, in so far as those transactions are not exempt pursuant to Articles 129, 132 and 133;



- (16) supply of services by undertakers and cremation services, and the supply of goods related thereto;
- (17) provision of medical and dental care and thermal treatment in so far as those services are not exempt pursuant to Article 129(1)(b) to (e);
- (18) supply of services provided in connection with street cleaning, refuse collection and waste treatment, other than the supply of such services by bodies referred to in Article 14.



## **ANNEX IV**

### **LIST OF THE SERVICES REFERRED TO IN ARTICLE 102**

- (1) Minor repairing of:
  - (a) bicycles;
  - (b) shoes and leather goods;
  - (c) clothing and household linen (including mending and alteration);
- (2) renovation and repairing of private dwellings, excluding materials which account for a significant part of the value of the service supplied;
- (3) window-cleaning and cleaning in private households;
- (4) domestic care services such as home help and care of the young, elderly, sick or disabled;
- (5) hairdressing.



## ANNEX V

### CATEGORIES OF GOODS COVERED BY WAREHOUSING ARRANGEMENTS OTHER THAN CUSTOMS WAREHOUSING AS PROVIDED FOR UNDER ARTICLE 155(2)

CN-code	Description of goods
(1) 0701	Potatoes
(2) 0711 20	Olives
(3) 0801	Coconuts, Brazil nuts and cashew nuts
(4) 0802	Other nuts
(5) 0901 11 00	Coffee, not roasted
0901 12 00	
(6) 0902	Tea
(7) 1001 to 1005	Cereals
1007 to 1008	
(8) 1006	Husked rice
(9) 1201 to 1207	Grains and oil seeds (including soya beans) and oleaginous fruits
(10) 1507 to 1515	Vegetable oils and fats and their fractions, whether or not refined, but not chemically modified
(11) 1701 11	Raw sugar
1701 12	



(12)	1801	Cocoa beans, whole or broken, raw or roasted
(13)	2709	Mineral oils (including propane and butane; also including crude petroleum oils)
	2710	
	2711 12	
	2711 13	
(14)	Chapters 28 and 29	Chemicals in bulk
(15)	4001	Rubber, in primary forms or in plates, sheets or strip
	4002	
(16)	5101	Wool
(17)	7106	Silver
(18)	7110 11 00	Platinum (palladium, rhodium)
	7110 21 00	
	7110 31 00	
(19)	7402	Copper
	7403	
	7405	
	7408	
(20)	7502	Nickel
(21)	7601	Aluminium
(22)	7801	Lead



(23)	7901	Zinc
(24)	8001	Tin
(25)	ex 8112 92	Indium
	ex 8112 99	



## ANNEX VI

### LIST OF THE AGRICULTURAL PRODUCTION ACTIVITIES REFERRED TO IN ARTICLE 288

- (1) Crop production:
  - (a) general agriculture, including viticulture;
  - (b) growing of fruit (including olives) and of vegetables, flowers and ornamental plants, both in the open and under glass;
  - (c) production of mushrooms, spices, seeds and propagating materials;
  - (d) running of nurseries;
- (2) stock farming together with cultivation:
  - (a) general stock farming;
  - (b) poultry farming;
  - (c) rabbit farming;
  - (d) beekeeping;
  - (e) silkworm farming;
  - (f) snail farming;
- (3) forestry;
- (4) fisheries:
  - (a) freshwater fishing;
  - (b) fish farming;
  - (c) breeding of mussels, oysters and other molluscs and crustaceans;
  - (d) frog farming.



## **ANNEX VII**

### **INDICATIVE LIST OF THE AGRICULTURAL SERVICES REFERRED TO IN ARTICLE 288**

- (1) Field work, reaping and mowing, threshing, baling, collecting, harvesting, sowing and planting;
- (2) packing and preparation for market, such as drying, cleaning, grinding, disinfecting and ensilage of agricultural products;
- (3) storage of agricultural products;
- (4) stock minding, rearing and fattening;
- (5) hiring out, for agricultural purposes, of equipment normally used in agricultural, forestry or fisheries undertakings;
- (6) technical assistance;
- (7) destruction of weeds and pests, dusting and spraying of crops and land;
- (8) operation of irrigation and drainage equipment;
- (9) lopping, tree felling and other forestry services.



## **ANNEX VIII**

### **WORKS OF ART, COLLECTORS' ITEMS AND ANTIQUES, AS REFERRED TO IN ARTICLE 304(1)(B), (C) AND (D)**

#### **Part A**

##### **Works of art**

- (1) Pictures, collages and similar decorative plaques, paintings and drawings, executed entirely by hand by the artist, other than plans and drawings for architectural, engineering, industrial, commercial, topographical or similar purposes, hand-decorated manufactured articles, theatrical scenery, studio back cloths or the like of painted canvas (CN code 9701);
- (2) original engravings, prints and lithographs, being impressions produced in limited numbers directly in black and white or in colour of one or of several plates executed entirely by hand by the artist, irrespective of the process or of the material employed, but not including any mechanical or photomechanical process (CN code 9702 00 00);
- (3) original sculptures and statuary, in any material, provided that they are executed entirely by the artist; sculpture casts the production of which is limited to eight copies and supervised by the artist or his successors in title (CN code 9703 00 00); on an exceptional basis, in cases determined by the Member States, the limit of eight copies may be exceeded for statuary casts produced before 1 January 1989;
- (4) tapestries (CN code 5805 00 00) and wall textiles (CN code 6304 00 00) made by hand from original designs provided by artists, provided that there are not more than eight copies of each;
- (5) individual pieces of ceramics executed entirely by the artist and signed by him;



- (6) enamels on copper, executed entirely by hand, limited to eight numbered copies bearing the signature of the artist or the studio, excluding articles of jewellery and goldsmiths' and silversmiths' wares;
- (7) photographs taken by the artist, printed by him or under his supervision, signed and numbered and limited to 30 copies, all sizes and mounts included.

## **Part B**

### **Collectors' items**

- (1) Postage or revenue stamps, postmarks, first-day covers, pre-stamped stationery and the like, used, or if unused not current and not intended to be current (CN code 9704 00 00);

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#### *OBSERVATIONS:*

*The definition which is given of postage or revenue stamps reflects the description as it can be found in the Combined Nomenclature. It features the stamps falling under CN code 9704, excluding however those covered by CN code 4907. This change serves to ensure that the wording reflects that used in the Combined Nomenclature. It is relevant to the EN version only.*

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- (2) collections and collectors' pieces of zoological, botanical, mineralogical, anatomical, historical, archaeological, palaeontological, ethnographic or numismatic interest (CN code 9705 00 00).

## **Part C**

### **Antiques**

Goods, other than works of art or collectors' items, which are more than 100 years old (CN code 9706 00 00).



## **ANNEX IX**

### **LIST OF TRANSACTIONS COVERED BY THE DEROGATIONS REFERRED TO IN ARTICLES 363 AND 364 AND ARTICLES 368 TO 383**

#### **Part A**

##### **Transactions which Member States may continue to tax**

- (1) The supply of services by dental technicians in their professional capacity and the supply of dental prostheses by dentists and dental technicians;
- (2) the activities of public radio and television bodies other than those of a commercial nature;
- (3) the supply of a building, or parts thereof, or of the land on which it stands, other than as referred to in Article 13(1)(a), where carried out by taxable persons who were entitled to deduction of the VAT paid at the preceding stage in respect of the building concerned;
- (4) the supply of the services of travel agents, as referred to in Article 299, and those of travel agents acting in the name and on behalf of the traveller, in relation to journeys outside the Community.

#### **Part B**

##### **Transactions which Member States may continue to exempt**

- (1) Admission to sporting events;



- (2) the supply of services by authors, artists, performers, lawyers and other members of the liberal professions, other than the medical and paramedical professions, with the exception of the following:
- (a) assignments of patents, trade marks and other similar rights, and the granting of licences in respect of such rights;
  - (b) work, other than the supply of contract work, on movable **tangible** property, carried out for a taxable person;
  - (c) services to prepare or coordinate the carrying out of construction work, such as services provided by architects and by firms providing on-site supervision of works;
  - (d) commercial advertising services;
  - (e) transport and storage of goods, and ancillary services;
  - (f) hiring out of movable **tangible** property to a taxable person;
  - (g) provision of staff to a taxable person;
  - (h) provision of services by consultants, engineers, planning offices and similar services in scientific, economic or technical fields;
  - (i) compliance with an obligation to refrain from exercising, in whole or in part, a business activity or a right covered by points (a) to (h) or point (j);
  - (j) the services of forwarding agents, brokers, business agents and other independent intermediaries, in so far as they relate to the supply or importation of goods or the supply of services covered by points (a) to (i);
- (3) the supply of telecommunications services, and of goods related thereto, by public postal services;



- (4) the supply of services by undertakers and cremation services and the supply of goods related thereto;
- (5) transactions carried out by blind persons or by workshops for the blind, provided that those exemptions do not cause significant distortion of competition;
- (6) the supply of goods and services to official bodies responsible for the construction, setting out and maintenance of cemeteries, graves and monuments commemorating the war dead;
- (7) transactions carried out by hospitals not covered by Article 129(1)(b);
- (8) the supply of water by a body governed by public law;
- (9) the supply before first occupation of a building, or parts thereof, or of the land on which it stands and the supply of building land, as referred to in Article 13;
- (10) the transport of passengers and, in so far as the transport of the passengers is exempt, the transport of goods accompanying them, such as luggage or motor vehicles, or the supply of services relating to the transport of passengers;
- (11) the supply, modification, repair, maintenance, chartering and hiring of aircraft used by State institutions, including equipment incorporated or used in such aircraft;
- (12) the supply, modification, repair, maintenance, chartering and hiring of fighting ships;
- (13) the supply of the services of travel agents, as referred to in Article 299, and those of travel agents acting in the name and on behalf of the traveller, in relation to journeys within the Community.



## **ANNEX X**

### **Part A**

#### **Repealed Directives with their successive amendments (referred to in Article 399)**

- (1) Directive 67/227/EEC (OJ 71, 14.4.1967, p. 1301)

Directive 77/388/EEC

- (2) Directive 77/388/EEC (OJ L 145, 13.6.1977, p. 1)

Directive 78/583/EEC (OJ L 194, 19.7.1978, p. 16)

Directive 80/368/EEC (OJ L 90, 3.4.1980, p. 41)

Directive 84/386/EEC (OJ L 208, 3.8.1984, p. 58)

Directive 89/465/EEC (OJ L 226, 3.8.1989, p. 21)

Directive 91/680/EEC (OJ L 376, 31.12.1991, p. 1) – (except for Article 2)

Directive 92/77/EEC (OJ L 316, 31.10.1992, p. 1)

Directive 92/111/EEC (OJ L 384, 30.12.1992, p. 47)

Directive 94/4/EC (OJ L 60, 3.3.1994, p. 14) – (only Article 2)

Directive 94/5/EC (OJ L 60, 3.3.1994, p. 16)

Directive 94/76/EC (OJ L 365, 31.12.1994, p. 53)

Directive 95/7/EC (OJ L 102, 5.5.1995, p. 18)

Directive 96/42/EC (OJ L 170, 9.7.1996, p. 34)

Directive 96/95/EC (OJ L 338, 28.12.1996, p. 89)



Directive 98/80/EC (OJ L 281, 17.10.1998, p. 31)

Directive 1999/49/EC (OJ L 139, 2.6.1999, p. 27)

Directive 1999/59/EC (OJ L 162, 26.6.1999, p. 63)

Directive 1999/85/EC (OJ L 277, 28.10.1999, p. 34)

Directive 2000/17/EC (OJ L 84, 5.4.2000, p. 24)

Directive 2000/65/EC (OJ L 265, 21.10.2000, p. 44)

Directive 2001/4/EC (OJ L 22, 24.1.2001, p. 17)

Directive 2001/115/EC (OJ L 15, 17.1.2001, p. 24)

Directive 2002/38/EC (OJ L 128, 15.5.2002, p. 41)

Directive 2002/93/EC (OJ L 331, 7.12.2001, p. 27)

Directive 2003/92/EC (OJ L 260, 11.10.2003, p. 8)

Directive 2004/7/EC (OJ L 27, 30.1.2004, p. 44)

Directive 2004/15/EC (OJ L 52, 21.2.2004, p. 61)

Directive 2004/66/EC (OJ L 168, 1.5.2004, p. 35) – (only Point V of the Annex)

**Directive 2005/xx/EC (OJ L xx, xx.xx.200x, p. xx) [re minimum standard rates]**



## Part B

### Time limits for transposition into national law (referred to in Article 399)

<u>Directive</u>	<u>Deadline for transposition</u>
Directive 67/227/EEC	1 January 1970
Directive 77/388/EEC	1 January 1978
Directive 78/583/EEC	1 January 1979
Directive 80/368/EEC	1 January 1979
Directive 84/386/EEC	1 July 1985
Directive 89/465/EEC	1 January 1990
	1 January 1991
	1 January 1992
	1 January 1993
	1 January 1994 for Portugal
Directive 91/680/EEC	1 January 1993
Directive 92/77/EEC	31 December 1992
Directive 92/111/EEC	1 January 1993
	1 January 1994
	1 October 1993 for Germany
Directive 94/4/EC	1 April 1994
Directive 94/5/EC	1 January 1995



Directive 94/76/EC	1 January 1995
Directive 95/7/EC	1 January 1996
	1 January 1997 for Germany and Luxembourg
Directive 96/42/EC	1 January 1995
Directive 96/95/EC	1 January 1997
Directive 98/80/EC	1 January 2000
Directive 1999/49/EC	1 January 1999
Directive 1999/59/EC	1 January 2000
Directive 1999/85/EC	—
Directive 2000/17/EC	—
Directive 2000/65/EC	31 December 2001
Directive 2001/4/EC	1 January 2001
Directive 2001/115/EC	1 January 2004
Directive 2002/38/EC	1 July 2003
Directive 2002/93/EC	—
Directive 2003/92/EC	1 January 2005
Directive 2004/7/EC	30 January 2004
Directive 2004/15/EC	—
Directive 2004/66/EC	1 May 2004
<b><u>Directive 2005/xx/EC</u></b>	<b><u>1 January 2006</u></b>



## ANNEX XI

### CORRELATION TABLE

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#### *OBSERVATIONS:*

*For practical reasons, the renumbering of articles will only take place once the text is agreed. The correlation table is nevertheless updated to take into account the changes already introduced in the text. Once articles are renumbered, this table will of course need to be revised.*

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Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
Article 1, first paragraph				Article 1(1)
Article 1, second and third paragraphs				–
Article 2, first, second and third paragraphs				Article 1(2), first, second and third subparagraphs
Articles 3, 4 and 6				–
	Article 1			–
	Article 2(1)			Article 3(1)(a) and (c)
	Article 2(2)			Article 3(1)(d)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 3(1), first <u>indent</u>			Article 7(b)
	<b><u>Article 3(1), second indent</u></b>			<b><u>Article 7(a)</u></b>
	Article 3(1), third indent			Article 7(c) and (d)
	Article 3(2)			=
	Article 3(3), first subparagraph, first indent			Article 6(2)(a) and (b)
	Article 3(3), first subparagraph, second indent			Article 6(2)(c) and (d)
	Article 3(3), first subparagraph, third indent			Article 6(2)(f), (g) and (h)
	Article 3(3) second subpara- graph, first indent			Article 6(1)(b)
	Article 3(3) second subpara- graph, second indent			Article 6(1)(c)
	Article 3(3), second subpara- graph, third indent			Article 6(1)(a)
	Article 3(4), first subparagraph, first and second indents			Article 8(1)
	Article 3(4), second subpara- graph, first second and third indents			Article 8(2)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 3(5)			Article 9
	Article 4(1) and (2)			Article 10(1), first and second subparagraphs
	Article 4(3)(a), first subparagraph, first sentence			Article 13(1)(a)
	Article 4(3)(a), first subparagraph, second sentence			Article 13(2), second subparagraph
	Article 4(3)(a), second subparagraph			Article 13(2), third subparagraph
	Article 4(3)(a), third subparagraph			Article 13(2), first subparagraph
	Article 4(3)(b), first subparagraph			Article 13(1)(b)
	Article 4(3)(b), second subparagraph			Article 13(3)
	Article 4(4), first subparagraph			Article 11
	Article 4(4), second subparagraph			Article 12
	Article 4(5), first, second and third subparagraphs			Article 14(1), first, second and third subparagraphs
	Article 4(5), fourth subparagraph			Article 14(2)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 5(1)			Article 15(1)
	Article 5(2)			Article 16(1)
	Article 5(3)(a), (b) and (c)			Article 16(2)(a), (b) and (c)
	Article 5(4)(a), (b) and (c)			Article 15(2)(a), (b) and (c)
	Article 5(5)			Article 15(3)
	Article 5(6), first and second sentences			Article 17, first and second <b><u>para-</u></b> <b><u>graphs</u></b>
	Article 5(7)(a), (b) and (c)			Article 19(a), (b) and (c)
	Article 5(8), first and second sentences			Article 20, first and second <b><u>para-</u></b> <b><u>graphs</u></b>
	Article 6(1), first subparagraph			Article 25(1)
	Article 6(1), second subparagraph, first, second and third indents			Article 26(a), (b) and (c)
	Article 6(2), first subparagraph, points (a) and (b)			Article 27(1)(a) and (b)
	Article 6(2), second subparagraph			Article 27(2)
	Article 6(3)			Article 28



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 6(4)			Article 29
	Article 6(5)			Article 30
	Article 7(1)(a) and (b)			Article 31, first and second <u>para-</u> <u>graphs</u>
	Article 7(2)			Article 60
	Article 7(3), first and second sub- paragraphs			Article 61, first and second <u>para-</u> <u>graphs</u>
	Article 8(1)(a), first sentence			Article 33, first <u>paragraph</u>
	Article 8(1)(a), second and third sentences			Article 37, first and second <u>para-</u> <u>graphs</u>
	Article 8(1)(b)			Article 32
	Article 8(1)(c), first subparagraph			Article 38(1)
	Article 8(1)(c), second subpara- graph, first indent			Article 38(2), first subparagraph
	Article 8(1)(c), second subpara- graph, second and third indents			Article 38(2), second and third subparagraphs
	Article 8(1)(c), third subpara- graph			Article 38(2), fourth subpara- graph
	Article 8(1)(c), fourth subpara- graph			Article 38(3), first subparagraph



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 8(1)(c), fifth subparagraph			–
	Article 8(1)(c), sixth subparagraph			Article 38(3), second subparagraph
	Article 8(1)(d), first and second subparagraphs			Article 39(1) and (2)
	Article 8(1)(e), first sentence			Article 40, first <u>paragraph</u>
	Article 8(1)(e), second and third sentences			Article 40, second <u>paragraph</u>
	Article 8(2)			Article 33, second <u>paragraph</u>
	Article 9(1)			Article 44
	Article 9(2) introductory sentence			–
	Article 9(2)(a)			Article 46
	Article 9(2)(b)			Article 47
	Article 9(2)(c), first and second indents			Article 52(a) and (b)
	Article 9(2)(c), third and fourth indents			Article 52(c)
	Article 9(2)(c), third and fourth indents			Article 52(c)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 9(2)(e), first to sixth indents			Article 56(1)(a) to (f)
	Article 9(2)(e), seventh indent			Article 56(1)(l)
	Article 9(2)(e), eighth <u>indent</u>			Article 56(1)(g)
	Article 9(2)(e), ninth indent			Article 56(1)(h)
	Article 9(2)(e), tenth indent, first sentence			Article 56(1)(i)
	Article 9(2)(e), tenth indent, second sentence			Article 25(2)
	Article 9(2)(e), tenth indent, third sentence			Article 56(1)(i)
	Article 9(2)(e), eleventh and twelfth indents			Article 56(1)(j) and (k)
	Article 9(2)(f)			Article 57(1)
	<u>Article 9(3)</u>			<u>Article 58, first and second paragraphs</u>
	Article 9(3)(a) and (b)			Article 58, <u>first paragraph, points</u> (a) and (b)
	Article 9(4)			Article 59(1) and (2)
	Article 10(1)(a) and (b)			Article 62, <u>points</u> (1) and (2)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 10(2), first subparagraph, first sentence			Article 63
	Article 10(2), first subparagraph, second and third sentences			Article 64(1) and (2)
	Article 10(2), second subparagraph			Article 65
	Article 10(2), third subparagraph, first, second and third indents			Article 66(a), (b) and (c)
	Article 10(3), first subparagraph, first sentence			Article 70
	Article 10(3), first subparagraph, second sentence			Article 71(1), first subparagraph
	Article 10(3), second subparagraph			Article 71(1), second subparagraph
	Article 10(3), third subparagraph			Article 71(2)
	Article 11(A)(1)(a)			Article 72
	Article 11(A)(1)(b)			Article 73
	Article 11(A)(1)(c)			Article 74
	Article 11(A)(1)(d), first and second subparagraphs			Article 76, first and second <u>paragraphs</u>



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 11(A)(2)(a)			Article 77, first <u>paragraph</u> , point (a)
	Article 11(A)(2)(b), first sentence			Article 77, first <u>paragraph</u> , point (b)
	Article 11(A)(2)(b), second sentence			Article 77, second <u>paragraph</u>
	Article 11(A)(3)(a) and (b)			Article 78, first <u>paragraph</u> , points (a) and (b) Article 84(a) and (b)
	Article 11(A)(3)(c), first sentence			Article 78, first <u>paragraph</u> , point (c)
	Article 11(A)(3)(c), second sentence			Article 78, second <u>paragraph</u>
	Article 11(A)(4), first and second subparagraphs			Article 79, first and second <u>paragraphs</u>
	Article 11(B)(1)			Article 82
	Article 11(B)(3)(a)			Article 83(1)(a)
	Article 11(B)(3)(b), first subparagraph			Article 83(1)(b)
	Article 11(B)(3)(b), second subparagraph			Article 83(2)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 11(B)(3)(b), third subparagraph			Article 83(1)(b)
	Article 11(B)(4)			Article 84
	Article 11(B)(5)			Article 85
	Article 11(B)(6), first and second subparagraphs			Article 86, first and second <u>paragraphs</u>
	Article 11(C)(1), first and second subparagraphs			Article 87(1) and (2)
	Article 11(C)(2), first subparagraph			Article 88(1)
	Article 11(C)(2), second subparagraph, first and second sentences			Article 88(2), first and second subparagraphs
	Article 11(C)(3), first and second indents			Article 89(a) and (b)
	Article 12(1)			Article 90, first <u>paragraph</u>
	Article 12(1)(a)			Article 90, second <u>paragraph</u> , point (a)
	Article 12(1)(b)			Article 90, second <u>paragraph</u> , point (c)
	Article 12(2), first and second indents			Article 92, first and second <u>paragraphs</u>



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 12(3)(a), first subparagraph, first sentence			Article 93
	Article 12(3)(a), first subparagraph, second sentence			Article 94(1)
	Article 12(3)(a), second subparagraph			Article 94(2)
	Article 12(3)(a), third subparagraph, first sentence			Article 95(1)
	Article 12(3)(a), third subparagraph, second sentence			Article 95(2), first subparagraph Article 96(1)
	Article 12(3)(a), fourth subparagraph			Article 95(2), second subparagraph
	Article 12(3)(b), first sentence			Article 98, first <u>paragraph</u>
	Article 12(3)(b), second, third and fourth sentences			Article 98, second <u>paragraph</u>
	Article 12(3)(c), first subparagraph			Article 99(1)
	Article 12(3)(c), second subparagraph, first and second indents			Article 99(2)(a) and (b)
	Article 12(4), first subparagraph			Article 96(2)
	Article 12(4), second subparagraph, first and second sentences			Article 97, first and second <u>paragraphs</u>



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 12(5)			Article 91(2)
	Article 12(6)			Article 101
	Article 13(A)(1), introductory sentence			Article 128
	Article 13(A)(1)(a) to (n)			Article 129(1)(a) to (n)
	Article 13(A)(1)(o), first sentence			Article 129(1)(o)
	Article 13(A)(1)(o), second sentence			Article 129(2)
	Article 13(A)(1)(p) and (q)			Article 129(1)(p) and (q)
	Article 13(A)(2)(a), first to fourth indents			Article 130(a) to (d)
	Article 13(A)(2)(b), first and second indents			Article 131(a) and (b)
	Article 13(B), introductory sentence			Article 128
	Article 13(B)(a)			Article 132(1)(a)
	Article 13(B)(b), first subparagraph			Article 132(1)(l)
	Article 13(B)(b), first subparagraph, points (1) to (4)			Article 132(2), first subparagraph, points (a) to (d)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 13(B)(b), second subparagraph			Article 132(2), second subparagraph
	Article 13(B)(c)			Article 133(a) and (b)
	Article 13(B)(d)			–
	Article 13(B)(d), <u>points</u> (1) to (5)			Article 132(1)(b) to (f)
	Article 13(B)(d), <u>point</u> (5), first and second indents			Article 132(1)(f)
	Article 13(B)(d), <u>point</u> (6)			Article 132(1)(g)
	Article 13(B)(e) to (h)			Article 132(1)(h) to (k)
	Article 13(C), first subparagraph, point (a)			Article 134(1)(d)
	Article 13(C), first subparagraph, point (b)			Article 134(1)(a), (b) and (c)
	Article 13(C), second subparagraph			Article 134(2), first and second subparagraphs
	Article 14(1), introductory sentence			Article 128
	Article 14(1)(a)			Article 137(a)
	Article 14(1)(d), first and second subparagraphs			Article 140(b) and (c)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 14(1)(e)			Article 140(e)
	Article 14(1)(g), first to fourth indents			Article 140(f) to (i)
	Article 14(1)(h)			Article 140(j)
	Article 14(1)(i)			Article 140(m)
	Article 14(1)(j)			Article 140(k)
	Article 14(1)(k)			Article 140(l)
	Article 14(2), first subparagraph			Article 141(1)
	Article 14(2), second <u>subparagraph</u> , first, second and third indents			Article 141(2), first, second and third subparagraphs
	Article 14(2), third subparagraph			Article 141(3)
	Article 15, introductory sentence			Article 128
	Article 15, <u>point</u> (1)			Article 142(1)(a)
	Article 15, <u>point</u> (2), first subparagraph			Article 142(1)(b)
	Article 15, <u>point</u> (2), second subparagraph, first and second indents			Article 143(1), first subparagraph, points (a) and (b)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 15, <b>point</b> (2), second subparagraph, third indent, first part of the sentence			Article 143(1), first subparagraph, point (c)
	Article 15, <b>point</b> (2), second subparagraph, third indent, second part of the sentence			Article 143(1), second subparagraph
	Article 15, <b>point</b> (2), third subparagraph, first and second indents			Article 143(2), first and second subparagraphs
	Article 15, <b>point</b> (2), fourth subparagraph			Article 143(2), third subparagraph
	Article 15, <b>point</b> (3)			Article 142(1)(d)
	Article 15, <b>point</b> (4), first subparagraph, points (a) and (b)			Article 144(a)
	Article 15, <b>point</b> (4), first subparagraph, point (c)			Article 144(b)
	Article 15, <b>point</b> (4), second subparagraph, first and second sentences			Article 146(1) and (2)
	Article 15, <b>point</b> (5)			Article 144(c)
	Article 15, <b>point</b> (6)			Article 144(f)
	Article 15, <b>point</b> (7)			Article 144(e)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 15, <u>point</u> (8)			Article 144(d)
	Article 15, <u>point</u> (9)			Article 144(g)
	Article 15, <u>point</u> (10), first subparagraph, first to fourth indents			Article 147(1), first subparagraph, points (a) to (d)
	Article 15, <u>point</u> (10), second subparagraph			Article 147(1), second subparagraph
	Article 15, <u>point</u> (10), third subparagraph			Article 147(2)
	Article 15, <u>point</u> (11)			Article 148
	Article 15, <u>point</u> (12), first sentence			Article 142(1)(c)
	Article 15, <u>point</u> (12), second sentence			Article 142(2)
	Article 15, <u>point</u> (13)			Article 142(1)(e)
	Article 15, <u>point</u> (14), first and second subparagraphs			Article 149, first and second <u>paragraphs</u>
	Article 15, <u>point</u> (15)			Article 145
	Article 16(1)			–
	Article 16(2)			Article 159(1)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 16(3)			Article 161
	Article 17(1)			Article 162
	Article 17(2), (3) and (4)			–
	Article 17(5), first and second subparagraphs			Article 167(1), first and second subparagraphs
	Article 17(5), third subparagraph, points (a) to (e)			Article 167(2)(a) to (e)
	Article 17(6)			Article 170
	Article 17(7), first and second sentences			Article 171, first and second <u>paragraphs</u>
	Article 18(1)			–
	Article 18(2), first and second subparagraphs			Article 173, first and second <u>paragraphs</u>
	Article 18(3)			Article 174
	Article 18(4), first and second subparagraphs			Article 177, first and second <u>paragraphs</u>
	Article 19(1), first subparagraph, first indent			Article 168(1), first subparagraph, point (a)
	Article 19(1), first subparagraph, second indent, first sentence			Article 168(1), first subparagraph, point (b)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 19(1), first subparagraph, second indent, second sentence			Article 168(1), second subparagraph
	Article 19(1), second subparagraph			Article 169(1)
	Article 19(2), first sentence			Article 168(2)(a)
	Article 19(2), second sentence			Article 168(2)(a) and (b)
	Article 19(2), third sentence			Article 168(3)
	Article 19(3), first <u>subparagraph</u> , first and second sentences			Article 169(2), first subparagraph
	Article 19(3), first subparagraph, third sentence			Article 169(2), second subparagraph
	Article 19(3), second subparagraph			Article 169(3)
	Article 20(1), introductory sentence			Article 180
	Article 20(1)(a)			Article 178
	Article 20(1)(b), first part of the first sentence			Article 179(1)
	Article 20(1)(b), second part of the first sentence			Article 179(2), first subparagraph



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 20(1)(b), second sentence			Article 179(2), second subparagraph
	Article 20(2), first subparagraph, first sentence			Article 181(1), first subparagraph
	Article 20(2), first subparagraph, second and third sentences			Article 181(2), first and second subparagraphs
	Article 20(2), second and third subparagraphs			Article 181(1), second and third subparagraphs
	Article 20(3), first subparagraph, first sentence			Article 182(1), first subparagraph
	Article 20(3), first subparagraph, second sentence			Article 182(1), second and third subparagraphs
	Article 20(3), first subparagraph, third sentence			Article 182(2)
	Article 20(3), second subparagraph			Article 182(2)
	Article 20(4), first to fourth indents			Article 183(a) to (d)
	Article 20(5)			Article 184
	Article 20(6)			Article 185
	Article 21			—



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 22			–
	Article 22a			Article 241
	Article 23, first paragraph			Article 203, first <u>paragraph</u> Article 252
	Article 23, second paragraph			Article 203, second <u>paragraph</u>
	Article 24(1)			Article 274
	Article 24(2)			Article 285
	Article 24(2)(a), first subparagraph			Article 277(1)
	Article 24(2)(a), second and third subparagraphs			Article 277(2), first and second subparagraphs
	Article 24(2)(b), first and second sentences			Article 278, first and second <u>paragraphs</u>
	Article 24(2)(c)			Article 279
	Article 24(3), first subparagraph			Article 275
	Article 24(3), second subparagraph, first sentence			Article 276(2)
	Article 24(3), second subparagraph, second sentence			Article 276(1)(a)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 24(4), first subparagraph			Article 281, first <u>paragraph</u> , points (1), (2) and (3)
	Article 24(4), second subparagraph			Article 281, second <u>paragraph</u>
	Article 24(5)			Article 282
	Article 24(6)			Article 283
	Article 24(7)			Article 284
	Article 24(8)(a), (b) and (c)			Article 286, points (1), (2) and (3)
	Article 24(9)			Article 287
	Article 24a, first <u>paragraph</u> , first to tenth indents			Article 280, points (7) to (16)
	Article 25(1)			Article 289(1)
	Article 25(2), first to eighth indents			Article 288(1), points (1) to (8)
	Article 25(3), first subparagraph, first sentence			Article 290, first <u>paragraph</u> , first sentence and second <u>paragraph</u>
	Article 25(3), first subparagraph, second sentence			Article 291, first <u>paragraph</u>
	Article 25(3), first subparagraph, third sentence			Article 292



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 25(3), first subparagraph, fourth and fifth sentences			Article 291, second <u>paragraph</u>
	Article 25(3), second subparagraph			Article 290, first <u>paragraph</u> , second sentence
	Article 25(4), first subparagraph			Article 265(1), first subparagraph, point (e)
	Article 25(5) and (6)			–
	Article 25(7)			Article 297
	Article 25(8)			Article 294(2)
	Article 25(9)			Article 289(2)
	Article 25(10)			Article 289(3)
	Article 25(11) and (12)			–
	Article 26(1) first and second sentences			Article 299(1), first and second subparagraphs
	Article 26(1) third sentence			Article 299(2)
	Article 26(2), first and second sentences			Article 300, first and second <u>paragraphs</u>
	Article 26(2), third sentence			Article 301



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 26(3), first and second sentences			Article 302, first and second <b><u>paragraphs</u></b>
	Article 26(4)			Article 303
	Article 26a(A)(a), first subparagraph			Article 304(1)(b)
	Article 26a(A)(a), second subparagraph			Article 304(2)
	Article 26a(A)(b) and (c)			Article 304(1)(c) and (d)
	Article 26a(A)(d)			Article 304(1)(a)
	Article 26a(A)(e), (f) and (g)			Article 304(1)(e), (f) and (g)
	Article 26a(A)(g), first and second indents			Article 304(3)
	Article 26a(B)(1)			Article 305(1)
	Article 26a(B)(2)			Article 306
	Article 26a(B)(2), first and second indents			Article 306(a) to (d)
	Article 26a(B)(3), first subparagraph, first and second sentences			Article 307(1), first and second subparagraphs
	Article 26a(B)(3), second subparagraph			Article 307(2)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 26a(B)(3), second subparagraph, first and second indents			Article 307(2)(a) and (b)
	Article 26a(B)(4), first subparagraph			Article 308(1)
	Article 26a(B)(4), first subparagraph, points (a), (b) and (c)			Article 308(1)(a), (b) and (c)
	Article 26a(B)(4), second subparagraph			Article 308(2)
	Article 26a(B)(4), third subparagraph, first and second sentences			Article 309, first and second <b><u>paragraphs</u></b>
	Article 26a(B)(5)			Article 313
	Article 26a(B)(6)			Article 315
	Article 26a(B)(7)			Article 314
	Article 26a(B)(7)(a), (b) and (c)			Article 314(a), (b) and (c)
	Article 26a(B)(8)			Article 316
	Article 26a(B)(9)			Article 317
	Article 26a(B)(10) first and second subparagraphs			Article 310(1), first and second subparagraphs
	Article 26a(B)(10), third subparagraph, first and second indents			Article 310(2)(a) and (b)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 26a(B)(10), fourth subparagraph			Article 310(3)
	Article 26a(B)(11), first subparagraph			Article 311
	Article 26a(B)(11), second subparagraph, point (a)			Article 312(1), first subparagraph
	Article 26a(B)(11), second subparagraph, points (b) and (c)			Article 312(1), second subparagraph
	Article 26a(B)(11), third subparagraph			Article 312(2)
	Article 26a(C)(1), introductory sentence			Article 325(1) Article 326
	Article 26a(C)(1), first to fourth indents			Article 326(a) to (d)
	Article 26a(C)(2), first and second indents			Article 328(a) and (b)
	Article 26a(C)(3)			Article 329
	Article 26a(C)(4), first subparagraph, first, second and third indents			Article 331, first <u>paragraph</u> , points (a), (b) and (c)
	Article 26a(C)(4), second subparagraph			Article 331, second <u>paragraph</u>



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 26a(C)(5), first and second subparagraphs			Article 332(1), first and second subparagraphs
	Article 26a(C)(5), third subparagraph			Article 332(2)
	Article 26a(C)(6), first subparagraph, first and second indents			Article 330, first <u>paragraph</u> , points (a) and (b)
	Article 26a(C)(6), second subparagraph			Article 330, second <u>paragraph</u>
	Article 26a(C)(7)			Article 327
	Article 26a(D), introductory sentence			—
	Article 26a(D)(a)			Article 305(2) Article 325(2)
	Article 26a(D)(b)			<u>Article 4a(a) and (c)</u>
	Article 26a(D)(c)			Article 36 Article 136(3), first subparagraph
	Article 26b(A), first subparagraph, point (i), first sentence			Article 336(1)(1)
	Article 26b(A), first subparagraph, point (i), second sentence			Article 336(2)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 26b(A), first subparagraph, point (ii), first to fourth indents			Article 336(1)(2)
	Article 26b(A), second subparagraph			Article 336(3)
	Article 26b(A), third subparagraph			Article 337
	Article 26b(B), first subparagraph			Article 338
	Article 26b(B), second subparagraph			Article 339
	Article 26b(C), first subparagraph			Article 340
	Article 26b(C), second subparagraph, first and second sentences			Article 341(1) and (2)
	Article 26b(C), third subparagraph			Article 342
	Article 26b(C), fourth subparagraph			Article 343
	Article 26b(D)(1)(a), (b) and (c)			Article 347(a), (b) and (c)
	Article 26b(D)(2)			Article 348



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 26b(E), first and second subparagraphs			Article 349(1), first and second subparagraphs
	Article 26b(E), third and fourth subparagraphs			Article 349(2) and (3)
	Article 26b(F), first sentence			Article 191(2) and (3)
	Article 26b(F), second sentence			Articles 200 and 247
	Article 26b(G)(1), first subparagraph			Article 344
	Article 26b(G)(1), second subparagraph			—
	Article 26b(G)(2)(a)			Article 345
	Article 26b(G)(2)(b), first and second sentences			<u>Article 191(1) and (3)</u>
	Article 26c(A)(a) to (e)			Article 351(1) to (5)
	Article 26c(B)(1)			Article 352
	Article 26c(B)(2), first subparagraph			Article 353
	Article 26c(B)(2), second subparagraph, first part of the first sentence			Article 354(1)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 26c(B)(2), second subparagraph, second part of the first sentence			Article 354(1)(a) to (e)
	Article 26c(B)(2), second subparagraph, second sentence			Article 354(2)
	Article 26c(B)(3), first and second subparagraphs			Article 355
	Article 26c(B)(4)(a) to (d)			Article 356(a) to (d)
	Article 26c(B)(5), first subparagraph			Article 357
	Article 26c(B)(5), second subparagraph			Article 358
	Article 26c(B)(6), first sentence			Article 359(1), first subparagraph
	Article 26c(B)(6), second and third sentences			Article 359(1), second subparagraph
	Article 26c(B)(6), fourth sentence			Article 359(2)
	Article 26c(B)(7), first sentence			Article 360, first <u>paragraph</u>
	Article 26c(B)(7), second and third sentences			Article 360, second <u>paragraph</u>
	Article 26c(B)(8)			Article 361



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 26c(B)(9), first sentence			Article 362(1)
	Article 26c(B)(9), second and third sentences			Article 362(2), first and second subparagraphs
	Article 26c(B)(10)			Article 196(1), third subparagraph
	Article 27(1) first and second sentences			Article 388(1) first and second subparagraphs
	Article 27(2), first and second sentences			Article 388(2), first subparagraphs
	Article 27(2), third sentence			Article 388(2), second subparagraph
	Article 27(3) and (4)			Article 388(3) and (4)
	Article 27(5)			Article 387
	Article 28(1) and (1a)			—
	Article 28(2), introductory sentence			Article 105
	Article 28(2)(a), first subparagraph			Article 106, first and second <u>paragraphs</u>
	Article 28(2)(a), second subparagraph			—



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 28(2)(a), third subparagraph, first sentence			Article 108, first <u>paragraph</u>
	Article 28(2)(a), third subparagraph, second and third sentences			Article 108, second <u>paragraph</u>
	Article 28(2)(b)			Article 109
	Article 28(2)(c), first and second sentences			Article 110(1), first and second subparagraphs
	Article 28(2)(c), third sentence			Article 110(2)
	Article 28(2)(d)			Article 111
	Article 28(2)(e), first and second subparagraphs			Article 114, first and second <u>paragraphs</u>
	Article 28(2)(f)			Article 116
	Article 28(2)(g)			—
	Article 28(2)(h), first and second subparagraphs			Article 117, first and second <u>paragraphs</u>
	Article 28(2)(i)			Article 118
	Article 28(2)(j)			Article 113(2)
	Article 28(2)(k)			Article 112
	Article 28(3)(a)			Article 363



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 28(3)(b)			Article 364
	Article 28(3)(c)			Article 384
	Article 28(3)(d)			Article 365
	Article 28(3)(e)			Article 366
	Article 28(3)(f)			Article 385
	Article 28(3)(g)			Article 367
	Article 28(3a)			Article 369
	Article 28(4) and (5)			Article 386(1) and (2)
	Article 28(6), first subparagraph, first sentence			Article 102, first and second <u>paragraphs</u>
	Article 28(6), first subparagraph, second sentence			Article 102, third <u>paragraph</u>
	Article 28(6), second subparagraph, points (a), (b) and (c),			Article 103, first <u>paragraph</u> , points (a), (b) and (c)
	Article 28(6), second subparagraph, point (d)			Article 103, second <u>paragraph</u>
	Article 28(6), third subparagraph			Article 103, second <u>paragraph</u>
	Article 28(6), fourth subparagraph, points (a), (b) and (c)			Article 104(a), (b) and (c)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 28(6), fifth and sixth subparagraphs			–
	Article 28a(1), introductory sentence			Article 3(1)
	Article 28a(1)(a), first subparagraph			Article 3(1)(b)(i)
	Article 28a(1)(a), second subparagraph			Article 4(1)
	Article 28a(1)(a), third subparagraph			Article 4(3)
	Article 28a(1)(b)			Article 3(1)(b)(ii)
	Article 28a(1)(c)			Article 3(1)(b)(iii)
	Article 28a(1a)(a)			Article 4(1)(a)
	Article 28a(1a)(b), first subparagraph, first indent			Article 4(1)( <b><u>b</u></b> )
	Article 28a(1a)(b), first subparagraph, second and third indents			Article 4(2), <b><u>first subparagraph, points</u></b> (a) and (b)
	Article 28a(1a)(b), second subparagraph			Article 4(2), second subparagraph
	Article 28a(2), introductory sentence			–



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 28a(2)(a)			Article 3(2), first subparagraph, points (a), (b) and (c)
	<u>Article 28a(2)(b), first subparagraph</u>			<u>Article 3(2), second subparagraph</u>
	<u>Article 28a(2)(b), first subparagraph, first and second indents</u>			<u>Article 3(2), second subparagraph, points (a), (b) and (c)</u>
	Article 28a(2)(b), second subparagraph			Article 3(2), <u>third</u> subparagraph
	Article 28a(3), first and second subparagraphs			Article 21, first and second <u>paragraphs</u>
	Article 28a(4), first subparagraph			Article 10(2)
	Article 28a(4), second <u>subparagraph</u> , first indent			Article 166(1), second subparagraph
	Article 28a(4), second subparagraph, second indent			Article 166(1), first subparagraph
	Article 28a(4), third subparagraph			Article 166(2)
	Article 28a(5)(b), first subparagraph			Article 18(1), first subparagraph
	Article 28a(5)(b), second subparagraph,			Article 18(1), second subparagraph and (2), <sup>1</sup> introductory sentence



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 28a(5)(b), second subparagraph, first indent			Article 18(2)(a) and (b)
	Article 28a(5)(b), second subparagraph, second indent			Article 18(2)(c)
	Article 28a(5)(b), second subparagraph, third indent			Article 18(2)(e)
	Article 28a(5)(b), second subparagraph, fifth, sixth and seventh indents			Article 18(2)(f), (g) and (h)
	Article 28a(5)(b), second subparagraph, eighth indent			Article 18(2)(d)
	Article 28a(5)(b), third subparagraph			Article 18(3)
	Article 28a(6), first subparagraph			Article 22
	Article 28a(6), second subparagraph			Article 23
	Article 28a(7)			Article 24
	Article 28b(A)(1)			Article 41
	Article 28b(A)(2), first and second subparagraphs			Article 42, first and second <u>paragraphs</u>
	Article 28b(A)(2), third subparagraph, first and second indents			Article 43(a) and (b)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 28b(B)(1), first subparagraph, first and second indents			Article 34(1)(a) and (b)
	Article 28b(B)(1), second subparagraph			Article 34(2)
	Article 28b(B)(2), first subparagraph			Article 35(1)(a)
	Article 28b(B)(2), first subparagraph, first and second indents			Article 35(1)(b) and (c)
	Article 28b(B)(2), second subparagraph, first and second sentences			Article 35(2), first and second subparagraphs
	Article 28b(B)(2), third subparagraph, first sentence			Article 35(3), first subparagraph
	Article 28b(B)(2), third subparagraph, second and third sentences			–
	Article 28b(B)(3), first and second subparagraphs			Article 35(4), first and second subparagraphs
	Article 28b(C)(1), first indent, first <u>subparagraph</u>			Article 49, first <u>paragraph</u>
	<u>Article 28b(C)(1), first indent, second subparagraph</u>			<u>Article 49a</u>
	Article 28b(C)(1), second and third indents			Article 49, <u>second and third paragraphs</u>



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 28b(C)(2) and (3)			Article 48, first and second <u>para-</u> <u>graphs</u>
	Article 28b(C)(4)			Article 51
	Article 28b(D)			Article 53
	Article 28b(E)(1), first and second subparagraphs			Article 50, first and second <u>para-</u> <u>graphs</u>
	Article 28b(E)(2), first and second subparagraphs			Article 54, first and second <u>para-</u> <u>graphs</u>
	Article 28b(E)(3), first and second subparagraphs			Article 45, first and second <u>para-</u> <u>graphs</u>
	Article 28b(F), first and second paragraphs			Article 55, first and second <u>para-</u> <u>graphs</u>
	Article 28c(A), introductory sentence			Article 128
	Article 28c(A)(a), first subparagraph			Article 135(1)
	Article 28c(A)(a), second subparagraph			Article 136(1), first and second subparagraphs
	Article 28c(A)(b)			Article 135(2)(a)
	Article 28c(A)(c), first subparagraph			Article 135(2)(b)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 28c(A)(c), second subparagraph			Article 136(2)
	Article 28c(A)(d)			Article 135(2)(c)
	Article 28c(B), introductory sentence			Articles 128
	Article 28c(B)(a), (b) and (c)			Article 137(a), (b) and (c)
	Article 28c(C)			Article 139
	Article 28c(D), first subparagraph			Article 140(d)
	Article 28c(D), second subparagraph			Article 128
	Article 28c(E)(1), first indent, replacing Article 16(1)			
	– paragraph 1, first subparagraph			Article 150
	– paragraph 1, first subparagraph, point (A)			<u>Article 152</u> (1)(a)
	– paragraph 1, first subparagraph, point (B), first subparagraph, points (a), (b) and (c)			Article 151(1)(a), (b) and (c)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	– paragraph 1, first subparagraph, point (B), first subparagraph, point (d), first and second indents			Article 151(1)(d) and (e)
	– paragraph 1, first subparagraph, point (B), first subparagraph, point (e), first subparagraph			Article 152(1)(b)
	– paragraph 1, first subparagraph, point (B), first subparagraph, point (e), second subparagraph, first indent			Article 152(2), first subparagraph
	– paragraph 1, first subparagraph, point (B), first subparagraph, point (e), second subparagraph, second indent, first sentence			Article 152(2), first subparagraph
	– paragraph 1, first subparagraph, point (B), first subparagraph, point (e), second subparagraph, second indent, second sentence			Article 152(2), second subparagraph
	– paragraph 1, first subparagraph, point (B), first subparagraph, point (e), third subparagraph, first indent			–



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	– paragraph 1, first subparagraph, point (B), first subparagraph, point (e), third subparagraph, second, third and fourth indents			Article 153(1)(a), (b) and (c)
	– paragraph 1, first subparagraph, point (B), second subparagraph			Article 151(2)
	– paragraph 1, first subparagraph, point (C)			Article 154
	– paragraph 1, first subparagraph, point (D), first subparagraph, points (a) and (b)			Article 155(1)(a) and (b)
	– paragraph 1, first subparagraph, point (D), second subparagraph			Articles 155(2)
	– paragraph 1, first subparagraph, point (E), first and second indents			Article 156(a) and (b)
	– paragraph 1, second subparagraph			Article 194
	– paragraph 1, third subparagraph			Article 158



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 28c(E)(1), second indent, inserting paragraph 1a into Article 16			
	– paragraph 1a			Article 157
	Article 28c(E)(2), first indent, amending Article 16(2)			
	– paragraph 2, first subparagraph			Article 159(1)
	Article 28c(E)(2), second indent, inserting the second and third subparagraphs into Article 16(2)			
	– paragraph 2, second subparagraph			Article 159(2)
	– paragraph 2, third subparagraph			Article 160
	Article 28c(E)(3), first to fifth indents			Article 138(a) to (e)
	Article 28d(1), first and second sentences			Article 68, first and second <u>paragraphs</u>
	Article 28d(2) and (3)			Article 69(1) and (2)
	Article 28d(4), first and second subparagraphs			Article 67(1) and (2)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 28e(1), first subparagraph			Article 80
	Article 28e(1), second subparagraph, first and second sentences			Article 81(1) and (2)
	Article 28e(2)			Article 75
	Article 28e(3)			Article 90, second <u>paragraph</u> , point (b)
	Article 28e(4)			Article 91(1)
	Article 28f(1) replacing Article 17(2), (3) and (4)			
	– paragraph 2(a)			Article 163(a)
	– paragraph 2(b)			Article 163 <u>(e)</u>
	– paragraph 2(c)			Article 163(b) <u>and (d)</u>
	– paragraph 2(d)			Article 163(c)
	– paragraph 3(a), (b) and (c)			Article 164(a), (b) and (c) <u>Article 164a</u>
	– paragraph 4, first subparagraph, first indent			Article 165(1), first subparagraph
	– paragraph 4, first subparagraph, second indent			Article 165(2), first subparagraph



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	– paragraph 4, second subparagraph, point (a)			Article 165(1) <sub>2</sub> second subparagraph
	– paragraph 4, second subparagraph, point (b)			Article 165(2), second subparagraph
	– paragraph 4, second subparagraph, point (c)			Article 165(3)
	Article 28f(2) replacing Article 18(1)			
	– paragraph 1(a)			Article 172(a)
	– paragraph 1(b)			Article 172( <b><u>e</u></b> )
	– paragraph 1(c)			Article 172(b) <b><u>and (d)</u></b>
	– paragraph 1(d)			Article 172( <b><u>f</u></b> )
	– paragraph 1(e)			Article 172(c)
	Article 28f(3) inserting paragraph 3a into Article 18			
	– paragraph 3a, first part of the sentence			Article 175
	– paragraph 3a, second part of the sentence			Article 176
	Article 28g replacing Article 21			



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	– paragraph 1(a), first subparagraph			Article 186
	– paragraph 1(a), second subparagraph			Article 187, first and second <b><u>paragraphs</u></b>
	– paragraph 1(b)			Article 189
	– paragraph 1(c), first subparagraph, first, second and third indents			Article 190(1)(a), (b) and (c)
	– paragraph 1(c), second subparagraph			Article 190(2)
	– paragraph 1(d)			Article 195
	– paragraph 1(e)			Article 192
	– paragraph 1(f)			Article 188
	– paragraph 2			–
	– paragraph 2(a), first sentence			Article 196(1), first subparagraph
	– paragraph 2(a), second sentence			Article 196(2)
	– paragraph 2(b)			Article 196(1), second subparagraph
	– paragraph 3			Article 197



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	– paragraph 4			Article 193
	Article 28h replacing Article 22			
	– paragraph 1(a), first and second sentences			Article 205(1), first and second subparagraphs
	– paragraph 1(b)			Article 205(2)
	– paragraph 1(c), first indent, first sentence			Article 206(1)(a)
	– paragraph 1(c), first indent, second sentence			Article 206(2)
	– paragraph 1(c), second and third indents			Article 206(1)(b) and (c)
	– paragraph 1(d), first and second sentences			Article 207, first and second <b><u>paragraphs</u></b>
	– paragraph 1(e)			Article 208
	– paragraph 2(a)			Article 234
	– paragraph 2(b), first and second indents			Article 235(1) and (2)
	– paragraph 3(a), first subparagraph, first sentence			Article 211(1)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	– paragraph 3(a), first subparagraph, second sentence			Article 211(2) and (3)
	– paragraph 3(a), second subparagraph			Article 211(4) and (5)
	– paragraph 3(a), third subparagraph, first and second sentences			Article 212(1), first and second subparagraphs
	– paragraph 3(a), fourth subparagraph			Article 212(2)
	– paragraph 3(a), fifth subparagraph, first sentence			Article 210
	– paragraph 3(a), fifth subparagraph, second sentence			Article 219
	– paragraph 3(a), sixth subparagraph			Article 213
	– paragraph 3(a), seventh subparagraph			Article 214
	– paragraph 3(a), eighth subparagraph, first and second sentences			Article 215(1) and (2)
	– paragraph 3(a), ninth subparagraph, first and second sentences			Article 215(3), first subparagraph



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	– paragraph 3(a), ninth subparagraph, third sentence			Article 215(3), second subparagraph
	– paragraph 3(a), tenth subparagraph			Article 216
	– paragraph 3(b), first subparagraph, first to twelfth indents			Article 217, <u>points</u> (1) to (12)
	– paragraph 3(b), first subparagraph, thirteenth indent			Article 217, <u>points</u> (13) and (14)
	– paragraph 3(b), first subparagraph, fourteenth indent			Article 217, <u>point</u> (15)
	– paragraph 3(b), second subparagraph			Article 218
	– paragraph 3(b), third subparagraph			Article 220
	– paragraph 3(b), fourth subparagraph			Article 221
	– paragraph 3(b), fifth subparagraph			Article 222
	– paragraph 3(c), first subparagraph			Article 223
	– paragraph 3(c), second subparagraph, introductory sentence			<u>Article 225(1), first subparagraph</u>



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	– paragraph 3(c), second subparagraph, first indent, first <u>sentence</u>			Article 225(1), <u>first subparagraph, point (a)</u>
	– <u>paragraph 3(c), second subparagraph, first indent, second sentence</u>			<u>Article 225(2)</u>
	– paragraph 3(c), second subparagraph, second indent, first <u>sentence</u>			Article 225(1), <u>first subparagraph, point (b)</u>
	– <u>paragraph 3(c), second subparagraph, second indent, second sentence</u>			<u>Article 225(3)</u>
	– paragraph 3(c), third subparagraph, first sentence			<u>Article 225(1), second subparagraph</u>
	– paragraph 3(c), third subparagraph, second sentence			Article 230
	– paragraph 3(c), fourth subparagraph, first and second sentences			Article 227
	– paragraph 3(c), fifth subparagraph			Article 228
	– paragraph 3(c), sixth subparagraph			Article 229



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	– paragraph 3(d), first subparagraph			Article 236
	– paragraph 3(d), second subparagraph, first sentence			Article 237(1)
	– paragraph 3(d), second subparagraph, second and third sentences			Article 237(2), first and second subparagraphs
	– paragraph 3(d), third subparagraph, first and second sentences			Article 238, first and second <b><u>paragraphs</u></b>
	– paragraph 3(d), fourth, fifth and sixth subparagraphs			Article 239(1), (2) and (3)
	– paragraph 3(d), seventh subparagraph			Article 240
	– paragraph 3(e), first subparagraph			<b><u>Articles 208a and 233a</u></b>
	– paragraph 3(e), second subparagraph			Article 209
	– paragraph 4(a), first and second sentences			Article 244(1)
	– paragraph 4(a), third and fourth sentences			Article 244(2), first and second subparagraphs
	– paragraph 4(a), fifth sentence			Article 254



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	– paragraph 4(b)			Article 242
	– paragraph 4(c), first indent, first and second subparagraphs			Article 243(a) and (b)
	– paragraph 4(c), second indent, first subparagraph			Article 243(c)
	– paragraph 4(c), second indent, second subparagraph			Article 243(d) and (e)
	– paragraph 5			Article 198
	– paragraph 6(a), first and second sentences			Article 253
	– paragraph 6(a), third sentence			Article 254
	– paragraph 6(b), first subparagraph			Article 255
	– paragraph 6(b), second subparagraph, first sentence			Article 256(1), first subparagraph
	– paragraph 6(b), second subparagraph, second sentence			Article 256(2)
	– paragraph 6(b), third subparagraph, first and second indents			Article 257(1)(a) and (b)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	– paragraph 6(b), third subparagraph, third indent, first sentence			Article 257(1)(d)
	– paragraph 6(b), third subparagraph, third indent, second sentence			Article 257(2), first subparagraph
	– paragraph 6(b), fourth subparagraph, first indent			Article 257(1)(c) and (e)
	– paragraph 6(b), fourth subparagraph, second indent, first sentence			Article 257(1)(f)
	– paragraph 6(b), fourth subparagraph, second indent, second sentence			Article 257(2), second subparagraph
	– paragraph 6(b), fifth subparagraph, first and second indents			Article 258(1)(a) and (b)
	– paragraph 6(b), fifth subparagraph, third indent, first sentence			Article 258(1)(c)
	– paragraph 6(b), fifth subparagraph, third indent, second sentence			Article 258(2)
	– paragraph 6(c), first indent			Article 256(1), second subparagraph



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	– paragraph 6(c), second indent			Article 259
	– paragraph 6(d)			Article 246
	– paragraph 6(e), first subparagraph			Article 261
	– paragraph 6(e), second subparagraph			Article 251
	– paragraph 7, first part of the sentence			Article 199, first <u>paragraph</u> Article 248 Article 260
	– paragraph 7, second part of the sentence			Article 199, second <u>paragraph</u>
	– paragraph 8, first and second subparagraphs			Article 266, first and second <u>paragraphs</u>
	– paragraph 9(a), first subparagraph, first indent			Article 265(1), first subparagraph, point (c)
	– paragraph 9(a), first subparagraph, second indent			Article 265(1), first subparagraph, points (a) and (d)
	– paragraph 9(a), first subparagraph, third indent			Article 265(1), first subparagraph, point (b)
	– paragraph 9(a), second subparagraph			Article 265(1), second subparagraph



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	– paragraph 9(b)			Article 265(3)
	– paragraph 9(c)			Article 204
	– paragraph 9(d), first subparagraph, first and second indents			Article 231(1)(a) and (b)
	– paragraph 9(d), second subparagraph, first to fourth indents			Article 231(2)(a) to (d)
	– paragraph 9(d), third subparagraph			Article 231(3)
	– paragraph 9(e), first subparagraph			Article 232
	– paragraph 9(e), second subparagraph, first and second indents			Article 233(1) to (2)
	– paragraph 10			Articles 201 and 249
	– paragraph 11			Articles 202 and 250
	– paragraph 12, introductory sentence			Article 262
	– paragraph 12(a), first, second and third indents			Article 263(a), (b) and (c)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	– paragraph 12(b), first second and third indents			Article 264(a), (b) and (c)
	Article 28i inserting a third subparagraph into Article 24(3)			
	– paragraph 3, third subparagraph			Article 276(1)(b) and (c)
	Article 28j(1) inserting a second subparagraph into Article 25(4)			
	– paragraph 4, second subparagraph			Article 265(2)
	Article 28j(2) replacing Article 25(5) and (6)			
	– paragraph 5, first subparagraph, points (a), (b) and (c)			Article 293, <u>points</u> (1), (2) and (3)
	– paragraph 5, second subparagraph			Article 295
	– paragraph 6(a), first subparagraph, first sentence			Article 294(1)
	– paragraph 6(a), first subparagraph, second sentence			Article 296(1)
	– paragraph 6(a), second subparagraph, first, second and third indents			Article 296(2)(a), (b) and (c)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	– paragraph 6(a), third subparagraph			Article 296(3)
	– paragraph 6(b)			Article 294(1)
	Article 28j(3) inserting a second subparagraph into Article 25(9)			
	– paragraph 9, second subparagraph			Article 298
	Article 28k, <u>point</u> (1), first subparagraph			–
	Article 28k, <u>point</u> (1), second subparagraph, point (a)			Article 153 <u>(3)</u>
	Article 28k, <u>point</u> (1), second subparagraph, points (b) and (c)			–
	Article 28k, <u>points</u> (2), <u>(3)</u> and <u>(4)</u>			–
	<u>Article 28k, point (5)</u>			<u>Article 153(2)</u>
	Article 28l, first paragraph			–
	Article 28l, second and third paragraphs			Article 395(1) and (2)
	Article 28l, fourth paragraph			–



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 28m			Article 392, first <u>paragraph</u>
	Article 28n			–
	Article 28o(1), introductory sentence			Article 318, first <u>paragraph</u>
	Article 28o(1)(a), first <u>sentence</u>			Article 319(1) and <u>(3)</u>
	<u>Article 28o(1)(a), second sentence</u>			<u>Article 319(2)</u>
	Article 28o(1)(b)			Article 320
	Article 28o(1)(c), first second and third indents			Article 321(a), (b) and (c)
	Article 28o(1)(d), first and second subparagraphs			Article 322, first and second <u>paragraphs</u>
	Article 28o(1)(e)			Article 324
	Article 28o(1)(f)			Article 323
	Article 28o(1)(g)			<u>Article 4a(b)</u>
	Article 28o(1)(h)			Article 36 Article 135(3), second subparagraph
	Article 28o(2)			Article 318, second <u>paragraph</u>



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 28o(3)			Article 333
	Article 28o(4)			–
	<u>Article 28p(1), first, second and third indents</u>			<u>Article 398a(a), (b) and (c)</u>
	<u>Article 28p(2)</u>			<u>Article 398b</u>
	<u>Article 28p(3), first subparagraph, first and second indents</u>			<u>Article 398c(a) and (b)</u>
	<u>Article 28p(3), second subparagraph</u>			=
	<u>Article 28p(4)(a) to (d)</u>			<u>Article 398d(1)(a) to (d)</u>
	<u>Article 28p(5), first and second indents</u>			<u>Article 398d(2)(a) and (b)</u>
	<u>Article 28p(6)</u>			<u>Article 398e</u>
	<u>Article 28p(7), first subparagraph, points (a), (b) and (c)</u>			<u>Article 398f(1)(a), (b) and (c)</u>
	<u>Article 28p(7), second subparagraph, first indent</u>			=
	<u>Article 28p(7), second subparagraph, second and third indents</u>			<u>Article 398f(2)(a) and (b)</u>
	Article 29(1) to (4)			Article 391(1) to (4)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 29a			Article 390
	Article 30(1)			Article 389(1)
	Article 30(2), first and second sentences			Article 389(2), first subparagraph
	Article 30(2), third sentence			Article 389(2), second subparagraph
	Article 30(3) and (4)			Article 389(3) and (4)
	Article 31(1)			—
	Article 31(2)			Article 393
	Article 33(1)			Article 394
	Article 33(2)			<b><u>Article 3(3)</u></b>
	Article 33a(1), introductory sentence			Article 267
	Article 33a(1)(a)			Article 268
	Article 33a(1)(b)			Article 269
	Article 33a(1)(c)			Article 270
	Article 33a(2), introductory sentence			Article 271



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Article 33a(2)(a)			Article 272
	Article 33a(2)(b)			Article 273
	Article 34			Article 398
	Article 35			Article 397
	Articles 36 and 37			–
	Article 38			Article 402
	Annex A(I)			Annex VI, <u>point</u> (1)
	Annex A(I)(1), (2) and (3)			Annex VI, <u>points</u> (1)(a),(b) and (c)
	Annex A(II)			Annex VI, <u>point</u> (2)
	Annex A(II)(1) to (6)			Annex VI, <u>points</u> (2)(a) to (f)
	Annex A(III) and (IV)			Annex VI, <u>points</u> (3) and (4)
	Annex A(IV)(1) to (4)			Annex VI, <u>points</u> (4)(a) to (d)
	Annex A(V)			Article 288(2)
	Annex B, introductory sentence			Article 288(1), <u>point</u> (5)
	Annex B, first to ninth indents			Annex VII, <u>points</u> (1) to (9)
	Annex C			–



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Annex D(1) to (13)			Annex I, <u>points</u> (1) to (13)
	Annex E(2)			Annex IX, <u>Part A, point</u> (1)
	Annex E(7)			Annex IX, <u>Part A, point</u> (2)
	Annex E(11)			Annex IX, <u>Part A, point</u> (3)
	Annex E(15)			Annex IX, <u>Part A, point</u> (4)
	Annex F(1)			Annex IX, <u>Part B, point</u> (1)
	Annex F(2)			Annex IX, <u>Part B, points</u> (2)(a) to (j)
	Annex F(5) to (8)			Annex IX, <u>Part B, points</u> (3) to (6)
	Annex F(10)			Annex IX, <u>Part B, point</u> (7)
	Annex F(12)			Annex IX, <u>Part B, point</u> (8)
	Annex F(16)			Annex IX, <u>Part B, point</u> (9)
	Annex F(17), first and second subparagraphs			Annex IX, <u>Part B, point</u> (10)
	Annex F(23)			Annex IX, <u>Part B, point</u> (11)
	Annex F(25)			Annex IX, <u>Part B, point</u> (12)
	Annex F(27)			Annex IX, <u>Part B, point</u> (13)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Annex G(1) and (2)			Article 384
	Annex H, first paragraph			Article 95(3)
	Annex H, second paragraph, introductory sentence			—
	Annex H, second paragraph, points (1) to (6)			Annex III, <u>points</u> (1) to (6)
	Annex H, second paragraph, point (7), first and second sub-paragraphs			Annex III, <u>points</u> (7) and (8)
	Annex H, second paragraph, points (8) to (17)			Annex III, <u>points</u> (9) to (18)
	Annex I, introductory sentence			—
	Annex I(a), first to seventh indents			Annex VIII, <u>Part</u> A, points (1) to (7)
	Annex I(b)			Annex VIII, <u>Part</u> B
	Annex I(b), first and second indents			Annex VIII, <u>Part</u> B, points (1) and (2)
	Annex I(c)			Annex VIII, <u>Part</u> C
	Annex J, introductory sentence			Annex V, introductory sentence
	Annex J			Annex V, <u>points</u> (1) to (25)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
	Annex K( 1), first, second and third indents			Annex IV, <u>points</u> (1)(a), (b) and (c)
	Annex K(2) to (5)			Annex IV, <u>points</u> (2) to (5)
	Annex L, first paragraph, points (1) to (5)			Annex II, <u>points</u> (1) to (5)
	Annex L, second paragraph			Article 56(2)
		<u>Article 1, point (1), second sub-paragraph, of Directive 89/465/EEC</u>		<u>Article 130, second paragraph</u>
		Article 2 <u>of Directive 94/5/EC</u>		Article 334
		Article 3, first and second sentences, <u>of Directive 94/5/EC</u>		Article 335, first and second <u>paragraphs</u>
		Article 4 <u>of Directive 2002/38/EC</u>		Article 56(3) Article 57(2) Article 350 Article 396, first <u>paragraph</u>
		Article 5 <u>of Directive 2002/38/EC</u>		Article 396, second <u>paragraph</u>
			Article 28 of the Act of Accession of Denmark, Ireland and the United Kingdom concerning Gibraltar	Article 6(2)(h)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
			Annex VIII(II)(2)(a) of the Act of Accession of Greece	Article 280, <u>point</u> (1)
			Annex VIII(II)(2)(b) of the Act of Accession of Greece	Article 368
			Annex XXXII(IV)(3)(a), first indent and second indent, first sentence, of the Act of Accession of Spain and Portugal	Article 280, <u>points</u> (2) and (3)
			Annex XXXII(IV)(3)(b), first subparagraph, of the Act of Accession of Spain and Portugal	Article 370
			Annex XV(IX)(2)(b), first subparagraph, <u>of the</u> Act of Accession of Austria, Finland and Sweden	Article 100
			Annex XV(IX)(2)(c), first subparagraph, of the Act of Accession of Austria, Finland and Sweden	Article 280, <u>point</u> (4)
			Annex XV(IX)(2)(f), first subparagraph, of the Act of Accession of Austria, Finland and Sweden	Article 113(1)
			Annex XV(IX)(2)(g), first subparagraph, of the Act of Accession of Austria, Finland and Sweden	Article 115



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
			Annex XV(IX)(2)(h), first subparagraph, first and second indents, of the Act of Accession of Austria, Finland and Sweden	Article 371(1)
			Annex XV(IX)(2)(i), first subparagraph, first indent, of the Act of Accession of Austria, Finland and Sweden	—
			Annex XV(IX)(2)(i), first subparagraph, second and third indents, of the Act of Accession of Austria, Finland and Sweden	Article 371(2)(a) and (b)
			Annex XV(IX)(2)(j) of the Act of Accession of Austria, Finland and Sweden	Article 280, <b>point</b> (5)
			Annex XV(IX)(2)(l), first subparagraph, of the Act of Accession of Austria, Finland and Sweden	Article 107(a)
			Annex XV(IX)(2)(m), first subparagraph, of the Act of Accession of Austria, Finland and Sweden	Article 372(1)
			Annex XV(IX)(2)(n), first subparagraph, first and second indents, of the Act of Accession of Austria, Finland and Sweden	Article 372(2)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
			Annex XV(IX)(2)(x), first indent, of the Act of Accession of Austria, Finland and Sweden	Article 245
			Annex XV(IX)(2)(x), second indent, of the Act of Accession of Austria, Finland and Sweden	Article 280, <u>point</u> (6)
			Annex XV(IX)(2)(z), first subparagraph, of the Act of Accession of Austria, Finland and Sweden	Article 107(b)
			Annex XV(IX)(2)(aa), first subparagraph, first and second indents, of the Act of Accession of Austria, Finland and Sweden	Article 373
			Protocol No 2 of the Act of Accession of Austria, Finland and Sweden concerning the Åland Islands	Article 6(1)(d)
			Annex V(5)(1)(a) of the 2003 Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland Slovenia and Slovakia	Article 119
			Annex V(5)(1)(b) of the 2003 Act of Accession	Article 374



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
			Annex VI(7)(1)(a) of the 2003 Act of Accession	Article 120
			Annex VI(7)(1)(b) of the 2003 Act of Accession	Article 375
			Annex VII(7)(1), first and second subparagraphs, of the 2003 Act of Accession	Article 121(1) and (2)
			Annex VII(7)(1), third <b><u>subparagraph</u></b> , of the 2003 Act of Accession	–
			<b><u>Annex VII(7)(1), fourth subparagraph, of the 2003 Act of Accession</u></b>	<b><u>Article 376, first paragraph</u></b>
			<b><u>Annex VII(7)(1), fifth subparagraph, of the 2003 Act of Accession</u></b>	=
			Annex VII(7)(1), sixth subparagraph, of the 2003 Act of Accession	Article 376, <b><u>second paragraph</u></b>
			Annex VIII(7)(1)(a) of the 2003 Act of Accession	-
			Annex VIII(7)(1)(b), second subparagraph, of the 2003 Act of Accession	Article 377(a)



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
			Annex VIII(7)(1), third <del>sub-paragraph</del> , of the 2003 Act of Accession	Article 377(b)
			Annex IX(8)(1) of the 2003 Act of Accession	Article 378
			Annex X(7)(1)(a)(i) and (ii) of the 2003 Act of Accession	Article 123(a) and (b)
			Annex X(7)(1)(c) of the 2003 Act of Accession	Article 379
			Annex XI(7)(1) of the 2003 Act of Accession	Article 124
			Annex XI(7)(2)(a) of the 2003 Act of Accession	Article 380(c)
			Annex XI(7)(2)(b) of the 2003 Act of Accession	Article 380(a)
			Annex XI(7)(2)(c) of the 2003 Act of Accession	Article 380(b)
			Annex XII(9)(1)(a) of the 2003 Act of Accession	Article 125(1) and (2)
			Annex XII(9)(1)(b) of the 2003 Act of Accession	Article 125(3), (4) and (5)
			Annex XII(9)(2) of the 2003 Act of Accession	Article 381



Directive 67/227/EEC	Directive 77/388/EEC	<u>Amending Directives</u>	Other acts	This Directive
			Annex XIII(9)(1)(a) of the 2003 Act of Accession	Article 126(1) and (2)
			Annex XIII(9)(1)(b) of the 2003 Act of Accession	Article 382
			Annex XIV(7), first subparagraph, of the 2003 Act of Accession	Article 127
			Annex XIV(7), second subparagraph, of the 2003 Act of Accession	–
			Annex XIV(7), third subparagraph, of the 2003 Act of Accession	Article 383

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