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NOTE

From:	Presidency
To:	Council
Subject:	Proposal for a COUNCIL DIRECTIVE amending Directive 2006/112/EC as regards rates of value added tax - Presidency compromise text

Delegations will find attached the text of the draft Council Directive amending Directive 2006/112/EC as regards rates of value added tax submitted with a view to agreeing on a general approach at the meeting of the Council (Economic and Financial Affairs) of 7 December 2021.

[DRAFT] COUNCIL DIRECTIVE (EU) .../...

of ...

amending Directives 2006/112/EC and (EU) 2020/285 as regards rates of value added tax

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament¹,

Having regard to the opinion of the European Economic and Social Committee²,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) The rules on rates of value added tax (VAT) as currently set out in Council Directive 2006/112/EC³ aim to preserve the functioning of the internal market and avoid distortions of competition. The rules were designed over two decades ago based on the origin principle. In its communications of 7 April 2016 on an action plan on VAT – Towards a single EU VAT area – Time to decide and of 4 October 2017 on the follow-up to the Action Plan on VAT – Towards a single EU VAT area – Time to act, the Commission announced its intention to adjust those rules for a definitive VAT system for cross-border business-to-business (B2B) trade in goods between Member States that would be based on the taxation in the Member State of destination.
- (2) Under a system where the supply of goods and services would be taxed in the Member State of destination, suppliers derive no significant benefit from being established in a lower-rate Member State. Greater diversity in VAT rates would not, under such a system, disrupt the functioning of the single market nor create distortions of competition. In those circumstances, it would be appropriate to grant more flexibility to Member States in the setting of rates.

¹ OJ C , , p. .

² OJ C , , p. .

³ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

- (2a) The goods and services eligible for reduced rates should aim at the benefit of the final consumer and pursue objectives of general interest. To avoid unnecessary complexity and a subsequent rise in business costs, in particular for intra-Community trade, it should be clear that once goods and services are selected accordingly, reduced rates would normally be applicable along the entire commercial chain.
- (2b) The legal framework allowing the application of reduced rates should be overall coherent with other Union policies such as Regulation (EU) 2021/522 of the European Parliament and of the Council of 24 March 2021 establishing a Programme for the Union's action in the field of health ('EU4Health Programme') for the period 2021-2027, and repealing Regulation (EU) No 282/2014⁴ and the Communication from the Commission to the European Parliament, the European Council, The Council, The European Economic and Social Committee and the Committee of the Regions - The European Green Deal⁵. In order to enable Member States to apply reduced rates in the strengthening of the resilience of their health systems, it is appropriate to extend the scope of goods and services considered to be essential to support the provision of health care and to compensate and overcome disabilities. Furthermore, Member States should be given the possibility to contribute to a climate-neutral and green economy by means of applying reduced rates on environmentally-friendly supplies while, at the same time, preparing the phasing out of the existing preferential treatment of environmentally harmful supplies.
- (3) All Member States are to be treated equally and must therefore be given the same possibilities to apply reduced rates, which should however remain an exception to the standard rate. Such equal treatment can be achieved by enabling all Member States to apply to the eligible goods and services, within defined limits, a maximum of two reduced rates of a minimum of 5 %, a reduced rate lower than the minimum of 5 % and an exemption with the right to deduct input VAT.
- (4) Taking into account the need to avoid the proliferation of reduced rates for budgetary reasons and the principle of equal treatment, Member States should be allowed to apply reduced rates not lower than the minimum of 5 % to a maximum of twenty-four points of goods and services listed in Annex III to Directive 2006/112/EC. For the same reason, Member States are free to apply a reduced rate lower than the minimum of 5 % and an exemption with the right to deduct input VAT but only to a maximum of seven points listed in Annex III, chosen among the goods and services considered to cover basic needs, namely those related to the supply of foodstuffs, water, medicines, pharmaceutical products, health and hygiene products, transport of persons and some cultural items (books, newspapers and periodicals), or among other supplies of goods and services listed in Annex III to which other Member States apply reduced rates lower than the minimum of 5 % or exemptions with the right to deduct input VAT as long as the applicable deadlines are respected. It is appropriate to grant the Member States already applying such reduced rates or exemptions the time necessary to adapt to those limits.

⁴ OJ L 107, 26.3.2021, p. 1

⁵ COM(2019) 640 final of 11 December 2019

- (4a) It is appropriate for solar panels to be included amongst those seven points in line with Union environmental commitments on decarbonisation and with the Green Deal as well as to offer Member States the possibility to promote the use of renewable energy sources also by means of reduced VAT rates. To support the transition towards the use of renewable energy sources and to foster the Union's self-sufficiency with regard to energy, it is necessary to allow Member States to improve final consumers' access to green energy sources.
- (4b) The exercise of any of the above options by a Member State should be seen to constitute a measure, embedded in the logic of the system of VAT rates, and adopted for clearly defined social reasons for the benefit of the final consumer or in the general interest.
- (4c) Along with general rules on VAT rates, there are a number of existing derogations that allow certain Member States to apply lower rates. Those lower rates are justified by specific geographical features or by social reasons that are for the benefit of the final consumer or in the general interest. Such lower rates could be relevant for other Member States. In line with the principle of equal treatment, it is therefore appropriate to provide for an option, open to all Member States, to apply lower rates to the same goods and services as those to which lower rates are applicable in other Member States and under the same conditions. To comply with the above ceiling of seven points, Member States that were applying such lower rates to more than seven points of supplies of goods and services listed in Annex III on 1 January 2021 should limit the application of reduced rates which are lower than the minimum of 5 % and of exemptions with the right to deduct input VAT to seven points of Annex III by 1 January 2032 or by the time of adoption of the definitive arrangements, whichever is the earlier. The above amendments do not affect the arrangements for derogations concerning the application of the exemptions without the right to deduct VAT set out in Annex X to Directive 2006/112/EC.
- (4d) Furthermore, a number of other derogations currently allow certain Member States to apply reduced rates not lower than 12 % to goods and services not listed in Annex III. Given the proximity in terms of the level of those reduced rates to the standard rate and in line with the principle of equal treatment, it is appropriate to provide for an option, open to all Member States, to apply reduced rates not lower than 12 % to the same goods and services as those to which reduced rates not lower than 12 % are applied in other Member States and under the same conditions.

- (4e) Reduced rates not lower than 12% on supplies of goods and services not listed in Annex III, reduced rates lower than 5 % and exemptions with the right to deduct input VAT on any points of Annex III other than points (1) to (6) and (10c), may be applied by other Member States including Member States that currently apply reduced rates and exemptions and would like to apply reduced rates not lower than 12 % on supplies of goods and services not listed in Annex III, reduced rates lower than 5 % or exemptions with right to deduct input VAT other than the ones they currently apply, as long as they respect the VAT rates' structure provided for in this directive and the conditions applied by the Member States with reduced rates or exemptions in place on 1 January 2021.
- (4f) Member States that were applying reduced rates or were granting exemptions with the right to deduct input VAT based on derogations on 1 January 2021 should communicate to the VAT Committee the main provisions and conditions of derogations in their national law, applied on 1 January 2021 and to which access will be opened to other Member States. To ensure legal certainty and enable equal access to those derogations for all Member States and based on information provided until the set deadline by the Member States concerned, a report with a full list of the goods and services to which such reduced rates or exemptions are applied is to be prepared and distributed to all Member States by the Commission immediately after receiving the information. Compliance with the deadline for communicating such information is essential to ensure that all Member States have equal access to derogations.
- (4g) On the basis of the information distributed by the Commission, Member States should be able to apply reduced rates and exemptions with the right to deduct VAT on the supplies of goods and services on which other Member States apply such rates and exemptions provided that reduced rates and exemptions are applied under the same conditions as applicable in Member States already applying those rates and exemptions. For the exercise of those options, Member States should adopt detailed rules and communicate the text of adopted provisions to the VAT Committee. Based on that communication, the Commission should present to the Council a report with a comprehensive list indicating the goods and services to which Member States apply reduced rates and exemptions.

- (5) Considering the need to modernise and update the list of goods and services eligible for reduced rates, Directive 2006/112/EC should be amended to allow the application of reduced rates for specific social policy objectives, to ensure clarity, and to take into account the neutrality principle, namely, by ensuring the same treatment, in terms of VAT rates, for the renting or leasing and the supply of certain goods.
- (5a) To offer Member States the possibility to support the transition towards the use of environmentally friendly heating systems and in line with Union environmental commitments on decarbonisation, the possibility for Member States is furthermore included in Annex III to apply a reduced rate on the supply and installation of highly efficient low emissions heating systems which meet the criteria of environmental legislation.
- (5b) Digitalisation plays a key role in creating value and in fostering competitiveness. The Digital Economy and Society Index (DESI) measures and ranks the digital performance of the Member States based on predefined indicators showing significant discrepancies as to the digital development. To overcome poor coverage of internet access services and with a view to promote their development, Member States should be able to apply a reduced rate to such services. The application of a reduced rate to internet access services should be tailored to the objectives set out in the national digitalisation policy and accordingly limited in scope. According to Regulation (EU) 2015/2120⁶, internet access services provide for connectivity but do not extend to the content provided through internet.
- (5c) Furthermore, in view of the digital transformation of the economy, it should be possible for Member States to provide for the same treatment of live-streamed activities, including events, as those which, when attended in person, are eligible for reduced rates.
- (5d) To ensure taxation in the Member State of consumption, it is necessary for all services that can be supplied to a customer by electronic means to be taxable at the place where the customer is established, has his permanent address or usually resides. Therefore, it is necessary to modify the rules governing the place of supply of services relating to such activities.
- (6) To provide legal certainty it is necessary to clarify that in the case of organisations devoted to social well-being it is the general activity and objectives of the organisation as a whole, independent from the ultimate beneficiary of the supply of goods or services, that are to be considered when assessing the requirements for the application of a reduced rate.

⁶ Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and retail charges for regulated intra-EU communications and amending Directive 2002/22/EC and Regulation (EU) No 531/2012 (OJ L 310, 26.11.2015, p.1).

- (6a) Furthermore, Directive 2006/112/EC should be amended in order to allow for the application of reduced rates in a limited number of specific situations for social reasons, for the benefit of the final consumer and in pursuit of an objective of general interest. Therefore, the list of goods and services eligible for reduced rates is extended to contain a limited number of such existing derogations.
- (7) The COVID-19 pandemic proved that there is a need to adapt Directive 2006/112/EC to make the legal framework ready to address future crises and therefore to enable Member States to respond swiftly to exceptional circumstances, like pandemics, humanitarian crises or natural disasters. To this end, under the same conditions, Member States which were authorised by the Commission to apply an exemption from VAT on goods imported for the benefit of disaster victims, should have the possibility to apply an exemption with deductibility of VAT paid at the preceding stage in respect of the intra-EU and domestic supplies of those goods and of services related to such goods to the eligible bodies for them to be able to help victims of such disasters. If conditions for exemptions are no longer fulfilled, the supply of such goods and services should be subject to VAT.
- (8) Since the main objective of this Directive, namely updating of the list of goods and services eligible for reduced rates and the establishment of the grounds for ensuring that Member States have an equal access to applying reduced rates cannot be sufficiently achieved by the Member States but can rather, by reason of existing limitations, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. 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.
- (9) Directive 2006/112/EC has been amended by Directive (EU) 2020/285⁷. Due to the different structure of VAT rates provided in this amending Directive the references in Directive (EU) 2020/285 need to be amended.
- (10) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents⁸, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.
- (11) Directive 2006/112/EC should therefore be amended accordingly,

⁷ Council directive (EU) 2020/285 of 18 February 2020 amending Directive 2006/112/EC on the common system of value added tax as regards the special scheme for small enterprises and Regulation (EU) No 904/2010 as regards the administrative cooperation and exchange of information for the purpose of monitoring the correct application of the special scheme for small enterprises (OJ L 62, 2.3.2020, p. 13).

⁸ OJ C 369, 17.12.2011, p. 14.

HAS ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2006/112/EC

Directive 2006/112/EC is amended as follows:

(1) Article 94 is amended as follows:

a) paragraph 2 is replaced by the following:

‘2. 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.’;

b) the following paragraph is added:

‘3. By way of derogation from paragraph 2 of this Article, Member States applying a standard rate to the supply of works of art, collectors’ items and antiques listed in Annex IX, Parts A, B and C, may apply a reduced rate to the importation of those goods within the territory of the Member State.’;

(2) Article 98 is replaced by the following:

'Article 98

1. Member States may apply a maximum of two reduced rates.

The reduced rates shall be fixed as a percentage of the taxable amount, which shall not be less than 5 % and apply only to the supplies of goods and services listed in Annex III.

Member States may apply the reduced rates to a maximum of twenty-four points of supplies of goods and services listed in Annex III.

2. Member States may, in addition to the two reduced rates, apply a reduced rate lower than the minimum of 5 % and an exemption with deductibility of the VAT paid at the preceding stage to a maximum of seven points of supplies of goods and services listed in Annex III.

The reduced rate lower than the minimum of 5 % and the exemption with deductibility of the VAT paid at the preceding stage may only be applied to the following points of Annex III:

- a) points (1), (2), (3), (4), (5), (6) and (10c);
- b) any other point of Annex III falling under the options provided for in Article 105a(1).

For the purposes of point (b) of the second subparagraph of this paragraph, the transactions regarding housing referred to in the second subparagraph of Article 105a(1) shall be regarded as falling under point (10) of Annex III.

Member States applying, on 1 January 2021, reduced rates lower than the minimum of 5 % or granting exemptions with deductibility of the VAT paid at the preceding stage to more than seven points of goods or services listed in Annex III, shall limit their application to comply with the first subparagraph of this paragraph by 1 January 2032 or by the adoption of the definitive arrangements referred to in Article 402, whichever is the earlier. Member States shall be free to determine to which points or categories of supplies of goods or services they will continue to apply those reduced rates and/or grant those exemptions.

3. The reduced rates and the exemptions referred to in paragraphs 1 and 2 shall not apply to electronically supplied services, except to those listed under points (6), (7), (8) and (13) of Annex III.

4. When applying the reduced rates and exemptions provided for in this Directive, Member States may use the Combined Nomenclature and/or the Statistical Classification of Products by Activity to establish the precise coverage of the category concerned.’;

- (3) Article 99 is replaced by the following:

‘Article 99

The reduced rates and the exemptions referred to in Article 98(1) and (2) shall not apply to supplies of works of art, collectors’ items and antiques to which the special arrangements of Chapter 4 of Title XII are being applied.’;

- (4) Article 100 is replaced by the following:

‘Article 100

By 31 December 2028 and every five years thereafter, the Commission shall submit to the Council a report on the scope of Annex III, accompanied by any appropriate proposals, where necessary.’;

- (4a) In Chapter 2 of Title VIII, the following Section is inserted:

‘Section 2a
Exceptional situations

Article 101a

1. Where an authorisation has been granted to a Member State by the Commission according to Article 53, first paragraph, of Directive 2009/132/EC⁹ to apply an exemption on imported goods for the benefit of disaster victims, that Member State may grant an exemption with deductibility of VAT paid at the preceding stage under the same conditions, in respect of the intra-Community acquisitions and the supply of those goods and of services related to such goods, including rental services.
2. A Member State wishing to apply the measure referred to in paragraph 1 shall inform the VAT Committee.
3. When goods or services acquired by the organisations benefiting from the exemption laid down in paragraph 1 of this Article are used for purposes other than those provided for in Chapter 4 of Title VIII of Directive 2009/132/EC, the use of such goods or services shall be subject to VAT under the conditions applicable at the time when the conditions for the exemption cease to be fulfilled.

- (5) Articles 101, 102, 103, 104a and 105 are deleted;

⁹ Council Directive 2009/132/EC of 19 October 2009 determining the scope of Article 143(b) and (c) of Directive 2006/112/EC as regards exemption from value added tax on the final importation of certain goods (OJ L 292, 10.11.2009, p. 5).

(5a) Article 104 is replaced by the following:

‘Article 104

1. 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 %.
2. 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.
3. 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 applicable on the mainland.
4. Portugal may apply one of the two reduced rates provided for in Article 98(1) to the tolls on bridges in the Lisbon area.’;

(5b) The following article is inserted:

‘Article 105a

1. Member States which, in accordance with Union law, on 1 January 2021, were applying reduced rates lower than the minimum laid down in Article 98(1) or were granting exemptions with deductibility of the VAT paid at the preceding stage, to the supply of goods or services listed in points other than points (1) to (6) and (10c) of Annex III, may, in accordance with Article 98(2), continue to apply those reduced rates or grant those exemptions, without prejudice to paragraph 4 of this Article.

Member States, which in accordance with Union law, on 1 January 2021, were applying reduced rates lower than the minimum laid down in Article 98(1) to transactions regarding housing not being part of a social policy, may, in accordance with Article 98(2), continue to apply those reduced rates.

Member States shall communicate to the VAT Committee the text of the main provisions of national law and the conditions for the application of those reduced rates and exemptions relating to point (b) of the second subparagraph of Article 98(2) no later than ... [3 months after the date of entry into force of this amending Directive].

Without prejudice to paragraph 4 of this Article, reduced rates lower than the minimum laid down in Article 98(1), or exemptions with deductibility of the VAT paid at the preceding stage may be applied by other Member States, in accordance with the first subparagraph of Article 98(2), to the same supplies of goods and/or services referred to in the first and second subparagraph of this paragraph and under the same conditions as those applicable on 1 January 2021 in the Member States referred to in the first and second subparagraph of this paragraph.

2. Member States which, in accordance with Union law, on 1 January 2021, were applying reduced rates lower than 12 %, including reduced rates lower than the minimum laid down in Article 98(1) or were granting exemptions with deductibility of the VAT paid at the preceding stage, to the supply of goods and services other than those listed in Annex III, may in accordance with Article 98(1) and (2), continue to apply those reduced rates or grant those exemptions until 1 January 2032 or until the adoption of the definitive arrangements referred to in Article 402, whichever is the earlier, without prejudice to paragraph 4 of this Article.

3. Member States which, in accordance with Union law, on 1 January 2021, were applying reduced rates not lower than 12 % to the supply of goods or services other than those listed in Annex III, may, in accordance with the first subparagraph of Article 98(1), continue to apply those reduced rates, without prejudice to paragraph 4 of this Article.

Member States shall communicate to the VAT Committee the text of the main provisions of national law and conditions for the application of these reduced rates no later than ... [3 months after the date of entry into force of this amending Directive].

Without prejudice to paragraph 4 of this Article, reduced rates not lower than 12 % may be applied by other Member States, in accordance with the first subparagraph of Article 98(1), to the same goods and/or services under the same conditions as those applicable on 1 January 2021 in the Member States referred to in the first subparagraph of this paragraph.

4. By way of derogation from paragraphs 1, 2 and 3, the reduced rates or exemptions on fossil fuels, other goods with a similar impact on greenhouse gas emissions, such as peat, and wood used as firewood shall cease to be applied by 1 January 2030, and on chemical pesticides and chemical fertilisers, shall cease to be applied by 1 January 2032.

5. Member States which in accordance with the fourth subparagraph of paragraph 1 of this Article, the third subparagraph of paragraph 3 of this Article and Article 105b wish to apply the reduced rates not lower than 12 %, the reduced rates lower than the minimum laid down in Article 98(1), or the exemptions with deductibility of the VAT paid at the preceding stage, shall, by ... [18 months after the date of entry into force of this amending Directive], adopt the detailed rules governing the exercise of those options and communicate to the VAT Committee the text of the main provisions of national law they have adopted.

6. By 1 July 2025, on the basis of the information provided by Member States, the Commission shall present to the Council a report with a comprehensive list indicating the goods and services referred to in paragraphs 1 and 3 of this Article and in Article 105b to which the reduced rates, including the reduced rates lower than the minimum laid down in Article 98(1), or the exemptions with deductibility of the VAT paid at the preceding stage are applied in Member States.’;

(5c) The following article is inserted:

‘Article 105b

Member States which in accordance with Union law, on 1 January 2021, were applying reduced rates not lower than the minimum of 5 % to transactions regarding housing not being part of a social policy, may, in accordance with the first subparagraph of Article 98(1), continue to apply those reduced rates. In such a case, the reduced rate to be applied to such transactions shall as of 1 January [2042] not be lower than 12 %.

Member States shall communicate to the VAT Committee the text of the main provisions of national law and conditions for the application of these reduced rates no later than ... [3 months after the date of entry into force of this amending Directive].

A reduced rate not lower than 12 % may be applied by other Member States, in accordance with the first subparagraph of Article 98(1), to the transactions referred to in the first paragraph of this Article under the same conditions as those applicable on 1 January 2021 in the Member States referred to in the first paragraph of this Article.

For the purposes of the third subparagraph of Article 98(1), the transactions referred to in this Article shall be regarded as falling under point (10) of Annex III.’;

(6) in Title VIII, Chapter 4 is deleted;

(7) in Title VIII, Chapter 5, Articles 123, 125, 128 and 129 are deleted;

- (8) in Article 316, paragraph 1 is replaced by the following:
- ‘1. Subject to no reduced rate having been applied to the works of art, collectors' items and antiques concerned supplied to or imported by the taxable dealer, 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.’;
- (9) in Article 387, point (c) is deleted;
- (9a) the title of Annex III is replaced by the following:
- ‘List of supplies of goods and services to which the reduced rates and the exemption with the deductibility of VAT referred to in Article 98 may be applied’;
- (10) Annex III is amended in accordance with the Annex to this Directive;
- (10a) in Article 53, the following paragraph is added:
- ‘This Article shall not apply in respect of admission to the events referred to in the first paragraph where the attendance is virtual.’;
- (10b) in Article 54(1), the following subparagraph is added:
- ‘Where the services relate to activities which are streamed or otherwise made virtually available, the place of supply shall however be at the place where the non-taxable person is established, has his permanent address or usually resides.’;
- (10c) in Article 59a, the introductory words are replaced by the following:
- ‘In order to prevent double taxation, non-taxation or distortion of competition, Member States may, with regard to services the place of supply of which is governed by Articles 44, 45, 54 (1), second subparagraph, 56, 58 and 59:’;

(10d) in Article 81, the first paragraph is replaced by the following:

‘Member States which, as of 1 January 1993, were not availing themselves of the option under Article 98 of applying a reduced rate may, if they avail themselves of the option under Article 89, provide that in respect of the supply of works of art, as referred to in point (26) of Annex III, the taxable amount is to be equal to a fraction of the amount determined in accordance with Articles 73, 74, 76, 78 and 79.’;

(10e) in Article 221, paragraph 3 is replaced by the following:

‘3. Member States may release taxable persons from the obligation laid down in Article 220(1) or in Article 220a 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 Article 98(2), Article 105a, Article 132, points (h) to (l) of Article 135(1), Articles 136, 371, 375, 376 and 377, Article 378(2) and Article 379(2) and Articles 380 to 390c.’;

(10f) in Article 288, first paragraph, point (2) is replaced by the following:

‘(2) the value of transactions which are exempt, with deductibility of the VAT paid at the preceding stage, pursuant to Article 98(2) or Article 105a;’.

Article 2
Amendments to Directive (EU) 2020/285

In Article 1 of Directive (EU) 2020/285 point 15 is replaced by the following:

‘(15) Article 288 is replaced by the following:

‘Article 288

1. The annual turnover serving as a reference for applying the exemption provided for in Article 284 shall consist of the following amounts, exclusive of VAT:

- (a) the value of supplies of goods and services, in so far as they would be taxed were they supplied by a non- exempt taxable person;
- (b) the value of transactions which are exempt, with deductibility of the VAT paid at the preceding stage, pursuant to Article 98(2) or Article 105a;
- (c) the value of transactions which are exempt pursuant to Articles 146 to 149 and Articles 151, 152 and 153;
- (d) the value of transactions which are exempt pursuant to Article 138 where the exemption provided for in that Article applies;
- (e) the value of real estate transactions, financial transactions as referred to in points (b) to (g) of Article 135(1), and insurance and reinsurance services, unless those transactions are ancillary transactions.

2. Disposals of the tangible or intangible capital assets of a taxable person shall not be taken into account for the purposes of calculating the turnover referred to in paragraph 1.’.

Article 3

Transposition

1. Member States shall adopt and publish by 31 December 2024 the laws, regulations and administrative provisions necessary to comply with Article 1, points 1, 3, 5 as regards the deletion of Article 103 of Directive 2006/112/EC, 8, 10a, 10b and Article 2.

They shall apply those measures from 1 January 2025.

Member States may apply the laws, regulations and administrative provisions regarding Annex III, points (7) and (13) relating to access to live streaming of events or visits covered by those points, and point (26) from 1 January 2025.

2. Member States shall immediately communicate to the Commission the text of the laws, regulations, and administrative provisions which they adopt in the field covered by this Directive.

3. When Member States adopt the measures referred to in paragraphs 1 and 2, 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.

Article 3a

On the basis of an assessment of whether future proof solutions adapted to the digital age and aligned with the objective of a destination-based VAT system are possible, the Commission shall, where appropriate, submit a legislative proposal to amend the relevant provisions of this Directive as far as the margin scheme laid down in Chapter 4 of Title XII of Directive 2006/112/EC is concerned.

Article 4

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 5

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the Council
The President

ANNEX

Annex III to Directive 2006/112/EC is hereby amended as follows:

1. Points 3, 4, 5, 6, 7, 8, 10, 10a, 11, 13, 15, 18 and 19 are replaced by the following:

(3) Pharmaceutical products used for medical and veterinary purposes, including products used for contraception and female sanitary protection, and absorbent hygiene products;

(4) Medical equipment, appliances, devices, items, aids and protective gear, including health protection masks, normally intended for use in health care or for the use of the disabled, goods essential to compensate and overcome disability, as well as the adaptation, repair, rental and leasing of such goods;

(5) Transport of passengers and the transport of goods accompanying them, such as luggage, bicycles, including electric bicycles, motor or other vehicles, or the supply of services relating to the transport of passengers;

(6) Supply, including on loan by libraries, of books, newspapers and periodicals either on physical means of support or supplied electronically or both (including brochures, leaflets and similar printed matter, children's picture, drawing or colouring books, music printed or in manuscript form, maps and hydrographic or similar charts), other than publications wholly or predominantly devoted to advertising and other than publications wholly or predominantly consisting of video content or audible music; production of publications of non-profit-making organisations and services related to such production;

(7) Admission to shows, theatres, circuses, fairs, amusement parks, concerts, museums, zoos, cinemas, exhibitions and similar cultural events and facilities or access to the live streaming of these events or visits or both;

(8) Reception of radio and television broadcasting services and webcasting of the same programmes provided by a media service provider; internet access services provided as part of digitalisation policy, defined by Member States;

(10) Supply and construction of housing, as part of a social policy, as defined by the Member States; renovation and alteration, including demolition and reconstruction, and repairing of housing and private dwellings; letting of immovable property for residential use;

(10a) Construction and renovation of public and other buildings used for activities in the public interest;

(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; and, until 1 January 2032 supply of chemical pesticides and chemical fertilisers;

(13) Admission to sporting events or access to the live-streaming of these events or both; use of sporting facilities, and the supply of sport or physical exercise classes also when live-streamed;

(15) Supply of goods and services by organisations engaged in welfare or social security work as defined by Member States and recognised as being devoted to social wellbeing by Member States, in so far as those transactions are not exempt pursuant to Articles 132, 135 and 136;

(18) Supply of services provided in connection with sewage, street cleaning, refuse collection and waste treatment or waste recycling, other than the supply of such services by bodies referred to in Article 13;

(19) Supply of repairing services of household appliances, shoes and leather goods, clothing and household linen (including mending and alteration);

2. The following points are inserted:

(10c) Supply and installation of solar panels on and adjacent to private dwellings, housing and public and other buildings used for activities in the public interest;

(11a) Live equines and the supply of services related to live equines;

3. The following points are added:

(22) Supply of electricity, district heating and district cooling, and biogas produced by the feedstock listed in Part A of Annex IX to Directive 2018/2001; supply and installation of highly efficient low emissions heating systems meeting the emission (PM) benchmarks laid down in Annex V of Commission Regulation (EU) 2015/1189 and in Annex V of Commission Regulation (EU) 2015/1185 respectively and having been attributed an EU energy label to show that the criterion referred to in Article 7(2) of Regulation (EU) 2017/1369 is met; and, until 1 January 2030, natural gas and wood used as firewood;

(23) Live plants and other floricultural products, including bulbs, cotton, roots and the like, cut flowers and ornamental foliage;

(24) Children's clothing and footwear; supply of children's car seats;

(25) Supply of bicycles, including electric bicycles; rental and repairing services of such bicycles;

(26) Supply of works of art, collectors' items and antiques listed in Annex IX, Parts A, B and C;

(27) Legal services supplied to people under a work contract and unemployed people in labour court proceedings, and legal services supplied under the legal aid scheme, as defined by Member States;

(28) Tools and other equipment of a kind normally intended for use in rescue or first aid services when supplied to public bodies or non-profit-making organisations active in civil or community protection;

(29) Supply of services in connection with the operation of lightships, lighthouses or other navigational aids and life-saving services including the organisation and maintenance of the lifeboat service;

4. Point 14 is deleted.
