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Delegations will find attached a Commission proposal submitted under a covering letter from Ms Patricia BUGNOT, Director, to Mr Javier SOLANA, Secretary-General/High Representative.

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 15.4.2004
COM(2004) 246 final

2004/0079 (CNS)

Proposal for a

COUNCIL DIRECTIVE

on the common system of value added tax

(Recast)

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. INTRODUCTION

In the context of a people's Europe, Community law must be clear and accessible to ordinary citizens, thus giving them new opportunities and the chance to make use of their specific rights.

That aim cannot be achieved if, after being amended several times – often substantially – a great number of legal rules remain scattered. In order to identify the rules currently in force, it is necessary not only to consult the original act, but also to search through the provisions which have later amended it, and this entails a great deal of work, tracking down and comparing many different acts.

The Commission attaches great importance to simplifying and clarifying Community law. The codification of frequently amended acts is essential to that endeavour.

The Conclusions of the Presidency of the Edinburgh European Council (December 1992) confirmed that approach. They stressed the importance of official codification as a means of ensuring legal certainty as to the law applicable to a given matter at a given time.

However, when the Commission decided to codify the Sixth VAT Directive¹ it soon became clear that, in order to make such a highly specific text clear and comprehensible, a number of amendments would have to be introduced which, albeit not substantive, would go further than is acceptable for codification in the strict sense².

At the same time, and always with a view to enhancing clarity, rationality, ease of comprehension and simplification, it is appropriate to seize this opportunity to bring the Directive as closely as possible into conformity with the principles endorsed by the European Parliament, the Council and the Commission for the production of high quality legislation³.

Accordingly, in order to enable those essentially cosmetic changes to be made, the Commission decided to present a proposal for a recast of the Sixth Directive. That approach is entirely in line with the recommendations made, particularly with regard to legal acts which have frequently been the subject of amendment, since the recasting technique offers a means by which a number of acts can be amended, codified and brought together within a single legislative text, in accordance with the 2001 Interinstitutional Agreement⁴.

¹ Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment (OJ L 145, 13.6.1977, p. 1), as last amended by Directive 2004/15/EC (OJ L 52, 21.2.2004, p. 61).

² Interinstitutional Agreement of 20 December 1994 on an accelerated working method for official codification of legislative texts (OJ C 102, 4.4.1996, p. 2).

³ Interinstitutional Agreement of 22 December 1998 on common guidelines for the quality of drafting of Community legislation (OJ C 73, 17.3.1999, p. 1) (1998 Agreement). That Agreement has been implemented by means of the Joint Practical Guide for the drafting of Community legislation (JPG).

⁴ Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts (OJ C 77, 28.3.2002, p. 1).

2. BACKGROUND

The Sixth Directive, which sets out the detailed rules for the common VAT system, was adopted on 17 May 1977 and the deadline for its implementation was fixed as 1 January 1978. It has since undergone a number of amendments, most of which were brought about by the establishment of the internal market and the corresponding abolition of fiscal frontiers between Member States. Transitional arrangements for the taxation of trade between Member States were introduced in 1991, but the basic rules remained in place. It was expected that the transitional arrangements would shortly be replaced by a definitive system under which the supply of goods or services would be taxed in the Member State of origin. It was therefore decided to place those arrangements in a separate Title, so that they could be easily abolished once the definitive system was introduced.

Thus some of the provisions laid down by way of transitional arrangements are implemented in the stead of provisions laid down in the basic rules although, strictly speaking, the latter remain in force. If the codification approach had been followed, that double set of provisions would have had to be maintained. Little would have been gained in the way of simplification or rationalisation of the existing legislation.

In order to provide a clear overview of the legislation in this field, it is essential to rid the text of provisions which do not currently apply, and to adapt the structure accordingly. To make such changes, while leaving intact the great majority of the provisions of the Sixth Directive, the Commission decided to use the recasting technique, which enables various acts to be amended and codified within the framework of a single legislative text.

The shedding of provisions which are not currently applicable, even though they remain in force, does not undermine the principle of a definitive system of taxation, in the Member State of origin, of transactions that give rise to consumption in the Community. The definitive system still remains a long-term Community objective⁵. However, with the focus now on improving the operation of the internal market within the context of the current VAT arrangements, it is vital to devise an effective instrument which can facilitate much needed improvements to the existing system.

Although clarification and structural amendment of the Sixth Directive is necessary, it should not bring about material changes in the existing legislation. On the contrary, substantive amendment must be the subject of specific proposals. To avoid the inadvertent introduction of any such amendments, the recast text has been examined in detail by representatives of Member States. The text has also been open to public consultation, in the course of which all interested parties, including the business community and the legal profession, were invited to express their views.

3. RECAST OF THE SIXTH DIRECTIVE

The Commission proposes that the Sixth Directive be repealed and replaced with a new act modelled on the Directive in force. The new act proposed incorporates all the amendments made to the Sixth Directive by subsequent acts. It also contains any relevant provisions

⁵ Communication of the Commission to the European Parliament and to the Council: A strategy to improve the operation of the VAT system within the context of the internal market (COM(2000) 348 final, 7.6.2000).

currently to be found in separate legal acts, and excludes provisions which properly belong in other acts.

In order to improve the drafting quality, the existing text has undergone numerous changes. Although the proposed changes will not affect its substantive content, they do alter the format, with the existing 53 Articles divided into 402 new Articles.

A great many of the changes are the result only of the correction of mistakes in grammar, spelling or punctuation, or of the restructuring of the text (reshuffling and renumbering of articles, paragraphs and so on, entailing adjustment of the internal references) or of the consistent application of purely technical rules of legislative drafting technique. Provisions which have been adjusted in that way are therefore regarded as *unchanged*.

On the other hand, the term *adapted*, which may appear in the right-hand margin of the recast, indicates that another non-substantive type of adjustment has been made.

The proposal also includes a table of contents providing an overview of the restructured text and a detailed correlation table designed to facilitate the changeover to a new act.

4. OUTLINE OF THE MOST IMPORTANT CHANGES

The most important changes to the text are outlined below. Although the changes made are not substantive, they still go further than would be acceptable in the context of pure codification. That is why the recasting technique is being used to codify this text.

4.1. Insertion of various provisions

Community VAT legislation primarily consists in provisions to be found in the Sixth Directive. However, some provisions appear in other acts. If the recast text is to give a complete picture of the existing VAT legislation, it is important for it to contain those provisions, but only if they are not implementing measures. Implementing measures are better left in separate acts governing the implementation of the Sixth Directive.

4.1.1. First VAT Directive

The common VAT system was established by the First Directive⁶, which lays down the principle underlying the system and the characteristics of VAT. The detailed rules for applying the common system are laid down in the Sixth Directive, which replaced the Second Directive⁷.

Those two acts are so closely linked that it is appropriate to include the extant provisions of the First Directive in the recast text. The creation of a single instrument gives a better overview of the existing VAT legislation.

Articles 1 and 2 of the First Directive have been included in Article 1 of the recast text.

⁶ First Council Directive 67/227/EEC of 11 April 1967 on the harmonisation of legislation of Member States concerning turnover taxes (OJ English Special Edition, Series I, Chapter 1967, p. 14).

⁷ Second Council Directive 67/228/EEC of 11 April 1967 on the harmonisation of legislation of Member States concerning turnover taxes – Structure and procedures for application of the common system of value added tax (OJ English Special Edition, Series I, Chapter 1967, p. 16).

Articles 3, 4 and 6 of the First Directive are obsolete, and have not been included in the recast text.

4.1.2. *Other VAT Directives*

Other acts also form part of Community VAT legislation. However, these are Directives which mainly serve to implement various provisions of the Sixth Directive, and it is inappropriate to include them in the recast text.

Under Article 14(1)(d) of the Sixth Directive, Member States are to exempt the final importation of goods covered by an exemption from customs duties other than that provided for in the Common Customs Tariff. Article 14(1)(d) of the Sixth Directive can now be found in Article 140(b) of the recast text. The scope of the exemption is established by Directives 69/169/EEC⁸, 78/1035/EEC⁹ and 83/181/EEC¹⁰. Those Directives have not been included in the recast text.

Non-established taxable persons are entitled to a VAT refund pursuant to Article 17(4) of the Sixth Directive. In the recast text, that provision has been moved to Article 165. The detailed rules governing the refund are laid down in Directives 79/1072/EEC¹¹ and 86/560/EEC¹² which have not been included in the recast text.

4.1.3. *Acts of Accession*

When new Member States accede to the Community, they must comply with the entire Community *acquis*, including the Sixth Directive. However, in some cases, they have obtained derogations. Although some of those derogations already form part of the Sixth Directive, most can only be found in the respective Acts of Accession¹³. For the sake of clarity and ease of comprehension, it is important that those derogations be included in the recast text.

Portugal may apply to transactions carried out in the Azores and Madeira rates which are lower than those applied on the mainland. Upon accession, that derogation was included in Article 12(6) of the Sixth Directive. It can now be found in Article 101 of the recast text.

Austria may, in the *communes* of Jungholz and Mittelberg, apply a second standard rate, provided that it is not less than 15%. That derogation is included in Article 100 of the recast text.

⁸ Council Directive 69/169/EEC of 28 May 1969 on the harmonisation of provisions laid down by Law, Regulation or Administrative Action relating to exemption from turnover tax and excise duty on imports in international travel (OJ English Special Edition, Series I, Chapter 1969(I), p. 232).

⁹ Council Directive 78/1035/EEC of 19 December 1978 on the exemption from taxes of imports of small consignments of goods of a non-commercial character from third countries (OJ L 366, 28.12.1978, p. 34).

¹⁰ Council Directive 83/181/EEC of 28 March 1983 determining the scope of Article 14(1)(d) of Directive 77/388/EEC as regards exemption from value added tax on the final importation of certain goods (OJ L 105, 23.4.1983, p. 38).

¹¹ Council Directive 79/1072/EEC of 6 December 1979 on the harmonization 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 the territory of the country (OJ L 331, 27.12.1979, p. 11).

¹² Council Directive 86/560/EEC of 17 November 1986 on the harmonization 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 (OJ L 326, 21.11.1986, p. 40).

¹³ Act of Accession of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland (OJ L 73, 27.3.1972);

Act of Accession of Greece (OJ L 291, 19.11.1979);

Act of Accession of Spain and Portugal (OJ L 302, 15.11.1985);

Act of Accession of Austria, Finland and Sweden (OJ C 241, 29.8.1994);

Finland and Sweden may, in accordance with certain conditions, continue to apply certain exemptions with deductibility of the VAT paid at the preceding stage (zero rates). Those derogations appear in Article 107 of the recast text.

Austria is allowed to continue to apply a reduced rate to restaurant services. It may also apply a reduced rate to wine made on an agricultural holding, provided that the rate is not less than 12%. Those authorisations are included in Articles 113 and 115 of the recast text.

Sweden may allow VAT returns to be submitted three months after the end of the annual direct tax period. The legal basis for that simplification measure can now be found in Article 245 of the recast text.

Greece, Spain, Portugal, Austria, Finland and Sweden are all allowed to grant an exemption from VAT to small enterprises whose turnover threshold is higher than that specified in the Sixth Directive. The option open to those Member States now appears in Article 280 of the recast text.

Austria and Finland may continue to tax certain transactions which would normally be exempt under the Sixth Directive. Those derogations have been included in Articles 371(1) and 372(1) of the recast text.

Greece, Spain, Portugal, Austria, Finland and Sweden may continue to exempt certain transactions which would otherwise have to be taxed pursuant to the Sixth Directive. Those derogations now feature in Articles 368, 370, 371(2), 372(2) and 373 of the recast text.

The Czech Republic, Estonia, Cyprus, Hungary, Latvia, Lithuania, Malta, Poland, Slovenia and Slovakia, which are to accede to the Union on 1 May 2004, have obtained similar derogations provided for in the 2003 Act of Accession¹⁴. In so far as those derogations are not purely provisional, they must be included in the recast text. The text also takes into account the various amendments to the Sixth Directive introduced by way of technical adaptation.

In order to take into account the status, provided for in the Treaty concerning the Establishment of the Republic of Cyprus, of the United Kingdom Sovereign Base Areas in Cyprus, special provisions have been inserted regarding the tax treatment of the supply of goods or services, or the importation of goods, to the UK forces stationed in Cyprus. Those provisions can be found in Article 8, point (i) of Article 140 and point (e) of the first subparagraph of Article 147(1) of the recast text.

By way of a transitional measure, the Czech Republic, Estonia, Cyprus, Hungary, Poland, Slovenia and Slovakia may apply or continue to apply reduced rates to the supply of goods or services other than those listed in Annex H to the Sixth Directive. Those measures feature in Articles 119, 120, 121(2), 123, 125(2) and (5), 126 and 127 of the recast text.

By way of a transitional measure, Poland may apply lower reduced rates to certain supplies of goods or services listed in Annex H to the Sixth Directive. Those measures feature in Article 125(3) and (4) of the recast text.

Cyprus, Latvia, Malta and Poland may, in accordance with certain conditions, continue to apply certain exemptions with deductibility of the VAT paid at the preceding stage (zero rates). Those derogations appear in Articles 121(1), 122, 124 and 125(1) of the recast text.

The Czech Republic, Estonia, Cyprus, Hungary, Latvia, Lithuania, Malta, Poland, Slovenia and Slovakia are allowed to grant an exemption from VAT to small enterprises whose turnover threshold is higher than that specified in the Sixth Directive. Upon accession, that option will be included in Article 24a of the Sixth Directive. It can be found in Article 280 of the recast text.

The Czech Republic, Estonia, Cyprus, Hungary, Latvia, Lithuania, Malta, Poland, Slovenia and Slovakia may continue to exempt certain transactions which would otherwise have to be taxed

¹⁴ Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (OJ L 236, 23.9.2003).

pursuant to the Sixth Directive. Those derogations now feature in Articles 374 to 383 of the recast text.

Although Hungary and Slovakia may continue to apply a reduced rate to the supply of natural gas and electricity, that option is only by way of a transitional measure to allow them time to apply for an authorisation under Article 12(3)(b) of the Sixth Directive. That option is therefore due to expire a year after accession, and it would not be appropriate to include such derogations in the recast text.

By way of a transitional measure, Cyprus and Latvia may continue to apply existing simplified procedures for up to a year after the date of accession. That is to allow Cyprus and Latvia time to apply for a derogation under the procedure laid down in Article 27 of the Sixth Directive. To include such a measure in the recast text would not be appropriate.

4.2. Deletion of certain provisions

When legislative acts are codified, it is common practice to delete provisions which have become obsolete because they are no longer applied or because they have exhausted their effects. In view of the technique used in 1991 to introduce the transitional taxation arrangements, it is necessary in particular to delete provisions of the Sixth Directive which have been replaced even though they remain in force.

4.2.1. Obsolete provisions

Various provisions have exhausted their effects and are therefore obsolete.

Article 1 of the First Directive mainly contains provisions which concern the implementation of that Directive. Those provisions are no longer relevant.

Article 3 of the First Directive requires that the Council adopt, on a proposal from the Commission, the detailed rules for the common VAT system. That was done in the Second Directive, which has subsequently been replaced by the Sixth Directive. There is therefore no longer any need for that provision.

Article 4 of the First Directive concerns the measures to be taken to abolish imposition of tax on import and remission of tax on export. This resulted in the abolition of fiscal frontiers. It leaves this provision obsolete.

Article 6 of the First Directive is one of the final provisions and does not need to be taken over in the recast text.

Article 1 of the Sixth Directive requires Member States to implement that Directive. That obligation remains without it having to be included in the recast text.

Article 25(11) of the Sixth Directive concerns the common flat-rate scheme for farmers. It contains a review clause in accordance with which the Commission was to present, within five years, new proposals for adaptation of the scheme. Since there has been no need for changes, that provision is redundant.

Article 28(1) of the Sixth Directive provides for the transition from the Second Directive to the Sixth Directive. Since it is a transitional provision, it no longer serves any purpose.

Article 28(1a) of the Sixth Directive allows the United Kingdom to apply, until 30 June 1999, special rules for determining the taxable amount in respect of imports of works of art, collectors' items or antiques. Since that provision is no longer applicable, it has been left out of the recast text.

Article 28(2)(g) of the Sixth Directive requires the Commission to present, before 31 December 1994, a report on the reduced rates which Member States were allowed to apply during the transitional period. That report was duly presented by the Commission¹⁵. That provision is therefore obsolete.

Article 28k of the Sixth Directive permits Member States to continue, until 30 June 1999, to allow duty-free sales to intra-Community travellers and Article 16(1), first subparagraph, point (B), first subparagraph, point (e), first indent, in the version set out in Article 28c(E), point (1), leaves Member States free to provide for tax warehousing arrangements in the case of goods to be supplied to intra-Community travellers. Since those provisions are no longer applicable, they have not been included in the recast text.

Article 28n of the Sixth Directive contains certain transitional measures introduced for the purposes of the internal market and Article 28p introduced similar measures for the Accession of Austria, Finland and Sweden. The 2003 Act of Accession extends those measures to the Czech Republic, Estonia, Cyprus, Hungary, Latvia, Lithuania, Malta, Poland, Slovenia and Slovakia. Whereas Article 28n is already obsolete, Article 28p will be so by the adoption of this proposal.

Article 28o(4) of the Sixth Directive allows Germany to apply, until 30 June 1999, special arrangements in respect of the supply by taxable dealers of works of art, collectors' items or antiques. Since that provision is no longer applicable, it has not been included in the recast text.

Article 31(1) of the Sixth Directive provides that the European unit of account is to be the currency used throughout the Directive. Following the introduction of the euro, there is no longer any need for that provision.

Annex G to the Sixth Directive specifies when Member States may grant taxable persons the right to opt for the taxation of transactions which are exempt by virtue of a derogation. Provision has already been made for such cases in the body of the Directive, notably in Article 28(3)(c) of the Sixth Directive. Annex G is therefore superfluous.

4.2.2. *Double provisions*

Some provisions must be regarded as obsolete even though they have not exhausted their effects. That is the position in the case of the general provisions of the Sixth Directive, which have been replaced, for the duration of the transitional arrangements, by provisions which take over and add to their content.

Even though those general provisions are not currently applied, they nevertheless remain in force. In other words, at the moment, certain provisions appear twice. This makes it even more difficult for the public and economic operators to use the Sixth Directive. In order to draw up a workable instrument providing a clear overview of current legislation, provisions which are in force but not applicable must be excised from the recast text.

The elimination of that double set of provisions has no impact on the VAT legislation in force, nor does it in any way hinder the definitive system of taxation. The arrangements for the taxation of trade between Member States remain transitional and must ultimately be replaced by a definitive system based on the principle that the supply of goods or services is taxed in the Member State of origin.

Article 16(1) of the Sixth Directive provides for exemption in relation to warehousing arrangements. That provision is covered by the version of Article 16(1) set out in Article 28c(E)(1).

¹⁵ Report from the Commission to the Council in accordance with Articles 12(4) and 28(2)(g) of the Sixth Council Directive of 17 May 1977 (as amended) on the harmonization of the laws of the Member States relating to turn-over taxes – Common system of value added tax: uniform basis of assessment (COM(94) 584 final, 23.11.1994).

Paragraphs 2, 3 and 4 of Article 17 of the Sixth Directive lay down the rules delimiting the origin and scope of entitlement to deduction. Those provisions are covered by the version of Article 17(2), (3) and (4) set out in point (1) of Article 28f.

Article 18(1) of the Sixth Directive governs the exercise of entitlement to deduction. That provision is covered by the version of Article 18(1) set out in point (2) of Article 28f.

Article 21 of the Sixth Directive lists the persons who are liable for payment of VAT to the tax authorities. That provision is covered by the version of Article 21 set out in Article 28g.

The obligations placed on persons subject to VAT are laid down in Article 22 of the Sixth Directive. That provision is covered by the version of Article 22 set out in Article 28h.

Paragraphs 5 and 6 of Article 25 of the Sixth Directive concern the common flat-rate scheme for farmers. Those provisions are covered by the version of Article 25(5) and (6) set out in point (2) of Article 28j.

4.2.3. *Provisions not directly linked to VAT*

The Sixth Directive contains certain provisions which, although linked to the common system of VAT, essentially concern the system of own resources. If the new act is to be clear and internally consistent, it is essential that only provisions directly concerning the common system of VAT be included in the recast text. Since the provisions relating to VAT own resources are, on the whole, covered by the Own Resources Regulation¹⁶, those provisions have not been taken over in the text.

Article 25(12) of the Sixth Directive provides that Member States applying the common flat-rate scheme for farmers are to establish a uniform basis of assessment of VAT in order to apply the own resources arrangements, and Annex C thereto sets out the common method of calculation. Those provisions are covered by Article 5(2) of Council Regulation (EEC, Euratom) No 1553/89, which provides a legal basis for the flat-rate correction.

Article 28(2)(a), second subparagraph, of the Sixth Directive requires that Member States adopt the measures necessary to ensure the determination of own resources in respect of transactions which are exempt or to which reduced rates are applied. That provision is reproduced in Article 2(2) of Council Regulation (EEC, Euratom) No 1553/89.

4.3. **Re-structuring**

The current structure of the Sixth Directive is far from satisfactory. That is not just because of the provisions introduced for the duration of the transitional period, but also because the provisions of the Sixth Directive are very lengthy. Those are structural problems, and have been addressed as part of the recast exercise¹⁷.

4.3.1. *Transitional provisions*

Placing the provisions relating to the transitional arrangements almost at the end of the Sixth Directive resulted in a fragmented structure. If legislative acts are to be readily understandable by the public and by economic operators, it is important to have a clear and consistent structure in which provisions on a common theme are grouped together.

¹⁶ Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989 on the definitive uniform arrangements for the collection of own resources accruing from value added tax (OJ L 155, 7.6.1989, p. 9).

¹⁷ See, in particular, Guideline No 4 of the 1998 Agreement and point 4 of the JPG.

Although the basic structure of the Sixth Directive is sound, it has suffered as a result of the alterations necessitated by the transitional arrangements. If the general provisions not currently in use are deleted, the corresponding transitional provisions can hardly be left where they are at the moment. That would complicate the structure unnecessarily. Instead, they should be moved to the positions vacated by the provisions they replace.

Title IX of the recast text provides for various exemptions. The provisions of Article 16(1) in the version set out in point (1) of Article 28c(E) of the Sixth Directive, which replaces Article 16, are included. The exemption in respect of transactions relating to customs and tax warehousing and other similar arrangements can now be found in Articles 150 to 156 and Article 158.

Title X of the recast text concerns deductions. The origin and scope of entitlement to deduction is delimited in Article 17(2), (3) and (4) in the version set out in point (1) of Article 28f of the Sixth Directive, which replaces Article 17(2), (3) and (4). The provisions governing the exercise of that entitlement, laid down in Article 18(1) in the version set out in point (2) of Article 28f of the Sixth Directive, are also included. Those provisions replace those of Article 18(1). All of those provisions can now be found in Articles 163, 164, 165 and 172.

Title XI of the recast text fleshes out the various fiscal obligations. It includes the rules on who is liable for payment of VAT, which are laid down in Article 21 in the version set out in Article 28g of the Sixth Directive. Those rules replace Article 21. The other obligations which feature in Article 22 in the version set out in Article 28h of the Sixth Directive are also included. They replace the similar obligations laid down in Article 22. Those provisions are now to be found in Articles 186 to 190, 192, 193, 195 to 199, 201, 202, 204 to 240, 242 to 244, 246, 248 to 251, and 253 to 266.

Title XII of the recast text contains various special schemes, including the common flat-rate scheme for farmers. The part of that scheme which features in Article 25(5) and (6) of the Sixth Directive is replaced by Article 25(5) and (6) in the version set out in point (2) of Article 28j. Those provisions can be found in Articles 293 to 296.

It makes little sense, in terms of coherence, to keep what remains of the transitional provisions at the end of the recast text. Accordingly, they have all been incorporated in the basic structure.

Title I of the recast text delimits the objectives and the scope of VAT. It includes the provisions of Article 28a(1), (1a) and (2) and Article 28o(1)(g) of the Sixth Directive, which amended the scope of the tax. Those provisions have been included in Articles 3 and 4.

Title III of the recast text concerns taxable persons. The provisions of the first subparagraph of Article 28a(4) of the Sixth Directive, which add to the list of taxable persons, have been included in Article 10(2).

Title IV of the recast text lists the various taxable transactions. The provisions concerning the transfer of goods from one Member State to another, which were contained in Article 28a(5) of the Sixth Directive, have been incorporated. Those provisions can now be found in Article 18. The provisions concerning the intra-Community acquisition of goods, which were to be found in Article 28a(3), (6) and (7) of the Sixth Directive, have also been included. Those provisions now feature in Articles 21 to 24.

Title V of the recast text governs the place of taxable transactions. It takes over the provisions of Article 28b(B) and Article 28o(1)(h) of the Sixth Directive which amended the rules governing the place of supply of goods. Those provisions now feature in Articles 34 to 36. It also incorporates the provisions to be found in Article 28b(A) of the Sixth Directive, which define the place of the intra-Community acquisition of goods. Those provisions can now be found in Articles 41 to 43. Lastly, Title V takes over the provisions, contained in Article 28b(C) to (F) of the Sixth Directive, governing the place of supply of various services. Those provisions now appear in Articles 45, 48 to 51, 53 and 55.

Title VI of the recast text determines when the chargeable event occurs and when VAT becomes chargeable. The provisions concerning the supply of goods, which featured in [Article 28d\(4\)](#) of the Sixth Directive, have been included and can now be found in Article 67. Likewise, the provisions of [Article 28d\(1\), \(2\) and \(3\)](#) of the Sixth Directive have been included. Those provisions, which apply to the intra-Community acquisition of goods, now appear in Articles 68 and 69.

Title VII of the recast text concerns the taxable amount and takes over provisions, currently laid down in [Article 28e\(2\)](#) of the Sixth Directive, regarding the transfer of goods from one Member State to another. Those provisions can now be found in Article 75. It also incorporates the provisions determining the taxable amount in respect of the intra-Community acquisition of goods. Those provisions, which are currently in [Article 28e\(1\)](#) of the Sixth Directive, have been taken over in Articles 80 and 81.

Title VIII of the recast text contains rules on the application of rates, including the provisions of [Article 28e\(3\) and \(4\)](#) of the Sixth Directive covering aspects relating to the intra-Community acquisition of goods. Those provisions have been taken over in Articles 90 and 91.

Title IX of the recast text delimits various exemptions. It covers the exemptions provided for in [Article 28c\(A\), \(B\), \(C\), \(D\) and \(E\)\(3\)](#) and [Article 28o\(1\)\(h\)](#) of the Sixth Directive, such as the exemption of certain intra-Community transactions. Those provisions now feature in Articles 135 to 140. The exemptions in respect of transactions relating to customs and tax warehousing arrangements, to be found in [Article 16\(1a\) and \(2\)](#) as inserted by [Article 28c\(E\)\(1\) and \(2\)](#) of the Sixth Directive, have also been incorporated and now appear in Articles 157, 159 and 160.

Title X of the recast text concerns deductions. Article 166 includes the provisions laid down in the [second and third subparagraphs of Article 28a\(4\)](#) of the Sixth Directive, under which persons who are treated as taxable persons because they occasionally supply new means of transport are entitled, subject to certain limits, to deduct VAT on the means of transport.

Title XII of the recast text sets out various special schemes, including the arrangements for second-hand goods, works of art, collectors' items and antiques. During the transitional period, Member States may, in accordance with [Article 28o\(1\) and \(2\)](#) of the Sixth Directive, apply a special scheme for second-hand means of transport. That special scheme has been incorporated in the second-hand scheme itself, and the relevant provisions can be found in Articles 318 to 324.

4.3.2. *General provisions*

So far as the general provisions are concerned, the structure is on the whole suitable. There are, however, some exceptions. Where the structure is not consistent, it has been revised in the recast text.

The special arrangements for second-hand goods, works of art, collectors' items and antiques can be found in [Article 26a](#) of the Sixth Directive. However, some provisions by their nature do not form an integral part of those arrangements. They have therefore been included in the general provisions (see Articles 4, 36 and 136 of the recast text). This is in line with the approach adopted by the existing text in the case of similar provisions concerning the exemption for small enterprises and the common flat-rate scheme for farmers.

During the transitional period, Member States may continue to apply a special scheme for second-hand means of transport, provided that it complies with the conditions set out in [Article 28o\(1\)](#) of the Sixth Directive. As with the special arrangements for second-hand goods, works of art, collectors' items and antiques, some provisions of that scheme have been included in the general provisions (see Articles 4, 36 and 136 of the recast text). The definition of 'second-hand means of transport', currently to be found in [Article 28o\(1\)\(a\)](#), has also been moved (see Article 3(3) of the recast text).

The importation of goods constitutes a taxable transaction in the Member State in which the goods enter the Community. Those transactions are governed by [Article 7](#) of the Sixth Directive. In the recast text, that provision is grouped together with [Articles 5 and 6](#) of the Sixth Directive, which determine the nature of taxable transactions. However, by converting [Article 7](#) into several articles, it

is possible to incorporate the rules determining the place of importation into the title governing similar matters (see Articles 60 and 61 of Title V of the recast text).

Article 19 of the Sixth Directive governs the calculation of the deductible proportion. That provision is closely linked to Article 17(5), in accordance with which taxable persons carrying out both tax-deductible and non-tax deductible activities may deduct only a proportion of the VAT paid. It has therefore been placed next to that provision (see Articles 167 to 169 of the recast text).

4.3.3. *Length and complexity of certain provisions*

Many of the provisions of the Sixth Directive are far too long, since they each govern an entire branch of the harmonised system of VAT. This often results in complex provisions. That is contrary to the guidelines for drafting Community legislation, in accordance with which overly long and convoluted articles are to be avoided¹⁸. It is neither necessary for interpretation, nor desirable in the interests of clarity, for a single article to cover an entire branch of the rules laid down in an act.

It is better to have a large number of easily comprehensible articles, divided into titles, chapters, sections and subsections, than a few articles running to great length, which are correspondingly confused and difficult to use. In the recast text, approximately 50 lengthy articles have been converted into a little over 400 articles which are considerably shorter and much easier to read and understand.

Article 26a of the Sixth Directive lays down the special arrangements for second-hand goods, works of art, collectors' items and antiques. The transitional provisions laid down in Article 28o extend those arrangements. Those two provisions, both of which are quite lengthy, have been divided into 29 separate articles (see Articles 304 to 333 of the recast text).

Harmonised rules on invoicing were introduced by Directive 2001/115/EC¹⁹, which replaced Article 22(3) in the version set out in Article 28h of the Sixth Directive. Currently, that provision is subdivided into points, but it was not possible, within the existing structure, to number the various subparagraphs. With up to ten unnumbered subparagraphs in Article 22(3)(a), it is difficult to identify the various component parts of the provision. The new structure, on the other hand, solves that problem by subdividing those component parts into different articles (see Articles 209 to 230 and 236 to 240 of the recast text).

Where articles currently appear in separate titles, they are now presented in titles, chapters, sections and subsections. In that way it is possible to group together rules with a homogeneous content and make them easier to understand.

Article 22 in the version set out in Article 28h of the Sixth Directive lays down the various obligations incumbent upon persons liable for payment of VAT. Those include obligations relating to identification, invoicing, accounting, returns and statements. In the recast text, that article has been converted into over 60 articles (see Articles 198, 199, 201 and 202 and Articles 204 to 266 of the recast text). Those articles are arranged in chapters and sections. That structure should make it easier to navigate around the various rules.

The text of individual articles has been split into easily understandable paragraphs and subparagraphs, which are set out in a coherent sequence. In order to arrive at that structure, a number of provisions must be duplicated.

¹⁸ See point 4 of the JPG.

¹⁹ Council Directive 2001/115/EC of 20 December 2001 amending Directive 77/388/EEC with a view to simplifying, modernising and harmonising the conditions laid down for invoicing in respect of value added tax (OJ L 15, 17.1.2002, p. 24).

Article 22(7) in the version set out in Article 28h of the Sixth Directive requires Member States to take the necessary measures to ensure that persons deemed liable for payment of VAT in the stead of a non-established supplier comply with the obligations relating to declaration and payment. That provision now appears three times, under payment arrangements, returns and statements, and recapitulative statements (see Articles 199, 248 and 260 of the recast text).

4.3.4. *Adaptation of the text*

Adjusting the structure of the Sixth Directive may entail changes to the existing text.

The recast text includes certain provisions derived from amending acts. The integration of such provisions in the text requires a number of drafting adjustments.

The rules introduced for electronically supplied services are to apply, pursuant to Article 4 of Directive 2002/38/EC, for a period of three years starting from 1 July 2003. The temporary nature of those rules must be made quite clear, which means that for the inclusion of Article 4 in the text its wording must be adjusted (see Articles 56(3), 57(2), 59(2), 350 and 396 of the recast text).

If the provisions laying down the transitional arrangements were simply reproduced *verbatim* in the basic structure, the substance could well be affected. In order to prevent that, the wording may have to be amended.

Special rules have been introduced with respect to the supply of new means of transport between Member States. Article 28a(2) of the Sixth Directive defines a ‘means of transport’ and specifies the circumstances in which it must be regarded as “new”. That amounts to a definition of ‘new means of transport’. However, even though that definition now appears among the general provisions, it applies only to the provisions that form part of the transitional arrangements for the taxation of trade between Member States. In order to make that clear, the provisions of Article 28a(2) have been converted into a definition of new means of transport (see Article 3(2) of the recast text).

When existing provisions are converted into shorter articles, the wording often needs to be adapted accordingly, but in such a way that the substantive content remains intact.

Article 4 of the Sixth Directive determines who is to be regarded as a taxable person. That notion covers any person who independently carries out, in any place, any economic activity. Member States may also regard as a taxable person anyone who carries out, on an occasional basis, a transaction relating to economic activities. When those provisions are placed in separate articles, the wording must be adapted so that each Article can stand alone (see Articles 10 and 11 of the recast text).

Article 21 in the version set out in Article 28g of the Sixth Directive determines who is to be regarded as liable for payment of VAT. That provision covers a range of situations, each of which is now the subject of a separate Article (see Articles 186 to 190 and Articles 192, 193, 195, 196 and 197 of the recast text). In most of those articles, the wording is supplemented by elements taken from the introduction of Article 21(1).

Some articles include elements which have been taken from other provisions. When a number of different provisions are grouped together, consequential changes must be made to the wording of one or more of those provisions.

The special arrangements for second-hand goods, works of art, collectors’ items and antiques can be found in Article 26a of the Sixth Directive. When VAT has already been applied to goods in accordance with those arrangements, it means that, pursuant to Article 26a(D)(b), the intra-Community acquisition is not then subject to VAT. Instead of leaving that rule in the midst of the special arrangements proper, it has been moved to the relevant provision (see Article 4 of the recast text). The wording of that rule has been amended so that it could be smoothly inserted into that provision.

4.4. Compliance with the Community rules on legislative drafting

In order to ensure the quality of drafting, Community legislative acts must, by common agreement between the institutions, be drafted clearly, simply and precisely. The text must be easy to understand, concise and leave no uncertainty in the mind of the reader. Those guidelines have been adhered to in the preparation of the recast text.

4.4.1. Clarity

The existing text is not always sufficiently clear. In order for the recast text to be easily understandable and unambiguous, it is crucial that certain aspects of the text be clarified.

4.4.1.1. Re-structuring

The structure, both of individual articles and of the act as a whole, should contribute to clarity. It must also take account of the multicultural and multilingual nature of Community legislation. It has been necessary to adapt the existing provisions of the Sixth Directive in the light of those requirements²⁰.

Any provision which consists in introductory words followed by a list must be worded in such a way that the relationship between the introduction and the elements listed is quite clear and that sentences are not broken up in a way that is awkward and unnatural²¹.

Article 18(1) in the version set out in point (1) of Article 28f of the Sixth Directive lays down the preconditions to be met by a taxable person in order to exercise entitlement to deduction. The introduction has been amended so as to make it clear that, in each case, the taxable person must meet certain specific conditions in order to be able to deduct the VAT incurred (see Article 172 of the recast text).

If part of the provision is to apply to every element listed, but is positioned at the end, there may be some uncertainty as to whether the closing words do indeed apply to all the items or situations on the list. In order to avoid such ambiguity and to prevent difficulties arising for certain languages, the phrases integral to the preface should be kept together in the introduction.

Under Article 9(2)(c) of the Sixth Directive, certain services are regarded as having been supplied at the place where they are physically carried out. In order to ensure that this meaning is conveyed, the closing words have been included as part of the introduction (see Article 52 of the recast text).

A taxable person may, pursuant to Article 26b(D)(1) of the Sixth Directive, deduct the VAT due or paid in respect of investment gold purchased or acquired, or in respect of certain services relating to the gold. He is, however, entitled to deduct the VAT only if his subsequent supply of that gold is exempt under the gold scheme. That condition applies to all three cases listed. Its inclusion in the introductory part of the provision serves to clarify that point (see Article 347 of the recast text).

When a provision contains a list of elements, the list should not include autonomous provisions in the form of sentences or subparagraphs. Otherwise it is difficult to cite correctly the provision in question or to preserve the logical sequence of the main provision (list of elements, linked to an introduction, followed by details or specifications concerning one or more of the elements listed)²².

²⁰ See Guidelines Nos 5 and 7 of the 1998 Agreement and points 5 and 7 of the JPG.

²¹ See point 15.3 of the JPG.

²² See point 15.3. of the JPG.

Under Article 11(A)(2) of the Sixth Directive, taxes, duties, levies and charges, as well as incidental expenses, must be included in the taxable amount in respect of a supply of goods or services. Member States may regard expenses covered by a separate agreement as incidental expenses. That sentence, which forms an autonomous provision, has been moved down, so that it now features as a separate paragraph (see the second subparagraph of Article 77 of the recast text).

Point (o) of Article 13(A)(1) of the Sixth Directive provides for the exemption of various activities in the public interest, including the supply of goods or services by organisations whose activities in connection with fund-raising events are exempt. Member States may, for example, restrict the number of events or the amount of receipts giving entitlement to exemption. That sentence, which forms an autonomous provision, should not be included as part of an item on the list of exemptions. Instead, it has been placed in a separate paragraph (see Article 129(2) of the recast text).

Since indents are not instantly identifiable, they cause particular problems. The use of indents should therefore be avoided, and when elements are listed, they should be identified by a number or a letter²³.

The transfer of goods to another Member State must, pursuant to Article 28a(5) of the Sixth Directive, be treated as a supply of goods. That does not apply to all transfers of goods: certain situations are expressly excluded from the notion of a supply of goods. Those situations, which were previously listed as indents, are now identified by letters (see Article 18(2) of the recast text).

For VAT purposes, an invoice must show certain details. Those details are listed in the first subparagraph of Article 22(3)(b) in the version set out in Article 28h of the Sixth Directive. Those details are no longer listed as indents, but under numbers (see Article 217 of the recast text).

It is good practice to place technical rules or data in an annex. By contrast, in the interests of clarity, provisions which are not purely technical should be included in the enacting terms²⁴.

Member States may, pursuant to the third subparagraph of Article 12(3)(a) of the Sixth Directive, apply one or two reduced rates. In Annex H, it is provided that the Combined Nomenclature may be used to establish the precise coverage of categories of goods subject to such a rate. It is not appropriate for that provision to feature in an annex. It has therefore been incorporated in the enacting terms (see Article 95(3) of the recast text).

4.4.1.2. Limiting the use of references

References to other articles or to other acts should be kept to a minimum²⁵. Efforts have therefore been made to reduce the number of such references. In some cases, references have been removed. Where that has not been possible, either the provision referred to has been reproduced and appears instead of the reference or the reference has been retained but clarified through the addition of further details.

Although references to other legal acts are sometimes necessary (their removal would make acts even more lengthy and complex, and expose them to the risks attendant upon the reproduction of provisions from other acts), they must be restricted to a minimum, especially where reference is made to an act which has been repealed.

Member States may, pursuant to Article 28(2)(a) of the Sixth Directive, continue to apply exemptions, with deductibility of the VAT paid at the preceding stage. Those exemptions may be maintained only if they are in accordance with Community law and satisfy the conditions laid down in the last indent of Article 17 of the Second Directive. It was decided not to refer to an act which has long since been repealed but rather to incorporate the relevant conditions, namely that those exemptions must have

²³ See Guideline No 15 of the 1998 Agreement.

²⁴ See Guideline No 22 of the 1998 Agreement and point 22 of the JPG.

²⁵ See Guideline No 16 of the 1998 Agreement and point 16 of the JPG.

been adopted for clearly defined social reasons and for the benefit of the final consumer, in the text (see Article 106 of the recast text).

Article 15(2) of the Sixth Directive exempts the supply of goods dispatched or transported to a destination outside the Community by the customer or on his behalf. If such goods are carried in the personal luggage of travellers, the exemption applies only in accordance with certain conditions. One of those conditions is that the value of the supply must exceed a certain amount. That amount is fixed in accordance with Article 7(2) of Directive 69/169/EEC. Instead of that reference, the mechanism referred to is incorporated in the text (see Article 143 of the recast text).

The removal of references to other legislative acts is not always practicable or desirable. Where reference is made to a specific situation linked to another act, it may have to be maintained.

Under the first subparagraph of Article 24(2)(a) of the Sixth Directive, Member States may continue to exercise the options available under Article 14 of the Second Directive of introducing exemptions or graduated tax relief for small businesses. That reference serves to identify the Member States which, at the material time, made use of that specific provision. It cannot therefore be removed (see Article 277 of the recast text).

Definitions must be adhered to throughout the act. Defined terms must be used in a uniform manner and their content must remain consistent with the definitions given. Consequently, once a term has been defined, it is unnecessary continually to refer back to the provision laying down the definition. Such references have been removed from the recast text.

Under the first subparagraph of Article 6(1) of the Sixth Directive, a supply of services means any transaction which does not constitute a supply of goods within the meaning of Article 5. Since the concept of a supply of goods has already been defined, the reference to Article 5 is superfluous. It has therefore been removed from that provision (see Article 25(1) of the recast text).

Likewise, the reference to paragraph 5 or to Article 5 which appears in Article 28a(7) of the Sixth Directive has been removed. That provision thus refers to a supply of goods without making any reference (see Article 24 of the recast text).

The position is different in the case of definitions which are not of general application but apply only in the context of a special scheme. In such cases, it is necessary to include a reference whenever that term is used elsewhere in the text.

If Member States choose to apply reduced rates, they may, pursuant to the first subparagraph of Article 12(3)(c) of the Sixth Directive, apply a reduced rate to the importation of works of art, collectors' items and antiques. That provision is one of those governing VAT rates (see Article 99 of the recast text), in the context of which the definitions pertaining to the special arrangements for second-hand goods, works of art, collectors' items and antiques are not as such applicable. In order to make those definitions apply in that context, it is necessary to include a specific reference to them (see Article 304 of the recast text).

Where it has not been possible to eliminate references, an attempt has been made to replace them with text.

Pursuant to the second subparagraph of Article 4(4) of the Sixth Directive, Member States may choose to regard persons established in the territory of the country as a single taxable person. That option is subject to the consultations provided for in Article 29 of the Sixth Directive, which is the provision under which the VAT Committee is established. Accordingly, the option applies only after consultation of the VAT Committee. Since that wording is sufficiently clear, there is no reason to maintain the existing reference (see Article 11(2) of the recast text). This change has been carried through to other provisions in the recast text.

For goods to be regarded as transferred to another Member State, it is necessary, pursuant to Article 28a(5)(b) of the Sixth Directive, for them to be transported or dispatched to a destination

outside the territory as defined in [Article 3](#) but within the Community. The territory referred to is that of a Member State. Since that territory has already been defined, the reference has been removed (see Article 18 of the recast text). On the other hand, it is specified that the goods are transported to a destination outside the Member State in which they are located but within the Community.

Whilst it is not always possible to eliminate references, those remaining must be worded in such a way that the main thrust of the provision to which reference is made can be understood without consulting that provision. To achieve this, some of the existing references have to be made clearer.

The intra-Community acquisition of goods by taxable persons acting as such, or by non-taxable legal persons, is subject to VAT pursuant to the first subparagraph of [Article 28a\(1\)\(a\)](#) of the Sixth Directive. Those persons may, however, qualify for the derogation provided for in the second subparagraph of [Article 28a\(1\)\(a\)](#), in which case, pursuant to [Article 28a\(1\)\(b\) and \(c\)](#), only the acquisition of new means of transport or of excise products is subject to VAT. There, the key element is that in those situations the other acquisitions made by that taxable person or non-taxable legal person are not subject to VAT, and that is now expressly stated (see, for example, Article 3(2)(b)(ii) and (iii) of the recast text).

[Article 11\(A\)\(1\)](#) of the Sixth Directive determines the taxable amount in respect of certain transactions. Other transactions are covered by [Article 28e\(2\)](#). In neither case is the nature of those transactions specified. In order to make it possible to distinguish between those different situations, the key elements have been integrated. This helps to make the text easier to understand (see Articles 72 to 76 of the recast text).

One way of clarifying references is to include elements from the provision referred to. To make the wording clearer, it is sufficient to include the key element of the provision concerned. The scope of the reference is not affected by leaving out some details, provided that the key element is properly included.

[Article 10\(2\)](#) of the Sixth Directive determines when the chargeable event occurs and when VAT becomes chargeable. It includes a specific provision concerning the supply of goods giving rise to successive statements of account or payments. That provision does not apply to the supplies referred to in [Article 5\(4\)\(b\)](#), which concern the hire of goods for a certain period or the sale of goods on deferred terms. The fact that not all details of the provision referred to (see Article 15(2)(b) of the recast text) are included does not limit the scope of the reference.

4.4.1.3. Clearer and more consistent wording

Clarity of wording and consistency in the use of terminology are vital if a legislative act is to be easily understood and correctly interpreted. Consistency is achieved through the use of the same terms to express identical concepts²⁶.

The existing text is not always entirely consistent. To improve consistency, it is necessary in some cases to adapt the wording.

In the existing text, references to the supply of goods and the supply of services is not entirely consistent. Whilst the English version is consistent, the wording in the French version varies. For the sake of consistency, it has been decided to follow the approach adopted in the English version. In the French version (and other language versions), reference is now made to “*livraison de biens*” and “*prestation de services*” (see, for example, Articles 15 and 25 of the recast text). This mirrors the use of “supply of goods” and “supply of services” in the English version.

Special rules for determining the place of supply of various services provided by intermediaries are to be found in Article 28b(C), (D), (E) and (F) of the Sixth Directive. Although those rules are

²⁶ See Guideline No 6 of the 1998 Agreement and point 6 of the JPG.

essentially the same, the wording is not identical. The inconsistencies have now been eliminated (see Articles 48, 50, 54 and 55 of the recast text).

Inconsistency may arise as a result of changes introduced to the existing text. Some of the amendments made affected only part of the Sixth Directive and were viewed in isolation. That lack of a global overview sometimes led to inconsistency in the terminology used.

As part of the special scheme for investment gold, Member States may, pursuant to Article 26b(G)(1) of the Sixth Directive, decide not to apply the exemption for specific transactions in investment gold. That option is not open in the case of intra-Community supplies. However, that term is not defined, nor is it commonly used. To be consistent with the wording used elsewhere, it is more appropriate to refer to the supply of goods carried out in accordance with the conditions laid down in Article 28c(A) (see Article 344 of the recast text).

4.4.1.4. Alignment of the various language versions

It is essential that there be no discrepancies as between the eleven language versions, as any discrepancy between the various versions, all of which are authentic, can engender uncertainty.

Under Article 9(2)(e) of the Sixth Directive, the place of supply of certain services supplied to a taxable person established in another Member State is the place where the customer is established. That applies to the services of intermediaries taking part in the supply of services covered by that same provision. In that context, the English version refers to “agents who act in the name and for the account of another, when they procure for their principal the services”. That does not correspond to the wording used elsewhere. The other language versions are consistent. To ensure overall consistency, reference is now made to “intermediaries who act in the name and on behalf of other persons where they take part in the supply of services” (see Article 56(1)(l) of the recast text).

Article 13(A)(1)(a) of the Sixth Directive provides for the exemption of the supply, by public postal services, of services other than passenger transport and telecommunications services. In that context, the German version refers to “*Fernmeldewesen*”, whereas elsewhere it refers to such services as “*Telekommunikationsdienstleistungen*”. To be in line with other language versions, the same term should be used in both instances, the more appropriate being the latter (see Article 129(1)(a) of the recast text).

When aligning the various versions, account must be taken of the characteristics of each language. The approach adopted in one language version is not necessarily suitable for another language version.

In the French version, a distinction is made between “*livraison de biens*” and “*prestation de services*”. The French version also refers to the supplier of goods as the “*fournisseur*” and the supplier of services as the “*prestataire*”. The customer is referred to as the “*acheteur*” if the supply concerns goods and as the “*preneur*” if it concerns services. The English version does not make the same distinctions, nor are they necessary. It is entirely appropriate to refer to the “*supply of goods*” and the “*supply of services*”. The person who carries out the transaction is referred to as the “*supplier*” and the client is called the “*customer*”, rather than, respectively, the “*purchaser*” and the “*customer*” as was previously the practice (see, for example, Article 72 of the recast text).

4.4.2. Simplification of the wording

The text should not include unnecessary or repetitive elements. An effort has been made to simplify the drafting of the provisions, but bearing in mind that this must not result in substantive changes.

4.4.2.1. Structural improvements

The structure of the existing provisions is not always appropriate. That is all the more evident when those provisions are converted into shorter articles. It has been necessary, therefore, to adjust the structure of certain provisions.

Very complex provisions must be structured in such a way that they are easy to follow and the meaning is easy to grasp.

Member States may, pursuant to Article 16(2) of the Sixth Directive, exempt certain transactions made with a view to the export of goods. Since that provision comprises many different elements, it may be difficult to understand. Adjustment of the structure so that those transactions are listed separately contributes to a better understanding of what is meant (see Article 159 of the recast text).

One of the features of simple provisions is that they are not repetitive. The structure of some provisions has therefore been amended so as to avoid repetition.

Under Article 12(1) of the Sixth Directive, the rate applicable to taxable transactions is that in force at the time of the chargeable event. In some situations, the rate to be used is, however, that in force when the tax becomes chargeable. In order to simplify the structure, all the common features have been grouped together in the introduction, rather than repeated in each case listed (see the second paragraph of Article 90 of the recast text).

The exemptions provided for in Articles 13, 14 and 15 of the Sixth Directive all apply without prejudice to other provisions of Community law, and in accordance with conditions laid down by Member States with a view to ensuring the correct and straightforward application of such exemptions and to prevent any possible evasion, avoidance or abuse. That also applies in the case of exemptions under Article 28c(A) to (D). To avoid repetition, that introduction now features as a general provision (see Article 128 of the recast text).

4.4.2.2. Concise content

To be concise, unnecessary elements should be excised from provisions.

Under Article 11(B)(1) of the Sixth Directive, the taxable amount in respect of the importation of goods is their value for customs purposes. However, importation does not consist only in the entry into the Community of goods which are not in free circulation. It also consists in the entry of goods which are in free circulation if those goods come from third territories forming part of the customs territory. The definition of importation of goods covers both situations. It is not necessary, therefore, to refer separately to the importation of goods in free circulation (see Article 82 of the recast text).

Whenever a provision derogates from another, that fact is expressly stated. In many cases, the inclusion of such reference is not required. One example is Article 11(B)(6) of the Sixth Directive. Those Member States which, at 1 January 1993, did not apply a reduced rate may provide that, in respect of the importation of works of art, collectors' items or antiques, the taxable amount is equal to a fraction of the taxable amount established in accordance with the normal rules. Since it is clear that this provision governs a particular situation, it is not necessary to state that the rule applies by way of derogation (see Article 86 of the recast text).

4.4.2.3. More straightforward language

In order not to create uncertainty in the mind of the reader, the text needs to be specific and detailed, which inevitably means that the text is often complicated. Nevertheless, the fact remains that the main objective must be a text that is not too difficult to understand.

As regards simplicity, it is possible, in certain cases, to improve the existing text while maintaining the requisite degree of precision. Sometimes, all the language versions can be simplified, but sometimes only particular language versions are amenable to simplification.

When the existing text refers to the various Member States, it uses their full names. As a general rule, the short form of Member States' names should be used. The full official names should be used only when acts concern individual Member States, such as when derogations are granted under Article 27 of the Sixth Directive.

Throughout the existing text, reference is made to value added tax. It is simpler, and entirely consistent with the approach taken in recent years, to refer to VAT. In some language versions, however, such as the German version, reference should continue to be made to value added tax.

When an option is granted, the French version frequently refers to the fact that Member States “*ont la faculté*”. It is much simpler to say “*peuvent*”.

4.4.3. Greater precision

The existing text sometimes lacks precision. Where this is the case, the text has been adapted so as to leave no uncertainty in the mind of the reader.

4.4.3.1. Accuracy of references

The recast procedure often necessitates the renumbering of articles. That is so if new articles have been inserted by subsequent amending acts. Renumbering has an impact on the internal references, which must be amended accordingly.

In the course of restructuring the text, paragraphs or subparagraphs of existing articles have been converted into separate articles. All internal references have had to be replaced.

The existing references are not always accurate, and sometimes they may be inappropriate. In order to ensure that each new reference is sufficiently precise, some adjustment may be necessary.

In order to make certain references as precise as possible, they have been limited to cover only the relevant parts of the provision referred to.

In the case of bodies governed by public law which are exempt under Article 13 or 28 of the Sixth Directive, Member States may regard their activities as activities in which such bodies engage as public authorities. To be exact, those are the exempt activities covered by Article 13(A) and (B) and Article 28(3)(b). That is why the reference has been limited to Articles 129, 132, 133 and 364 and Article 367 to 383 (see Article 14 of the recast text).

Circular references (reference to an article which itself refers back to the initial provision) and serial references (reference to a provision which itself refers to another provision) should be avoided²⁷.

Article 11(A)(4) of the Sixth Directive allows Member States which, at 1 January 1993, did not apply reduced rates to opt for a reduction of the taxable amount in respect of the supply of works of art. That provision derogates from Article 11(A)(1), (2) and (3), while providing that the taxable amount is to be equal to a fraction of the amount determined in accordance with those same provisions. Since there is no doubt that the provision derogates from Article 11(A)(1), (2) and (3), it is not necessary to continue to refer to that fact (see Article 79 of the recast text).

²⁷ See Guideline No 16 of the 1998 Agreement.

Simplification measures have been introduced for triangular transactions. That has implications for the place of intra-Community acquisition of goods. This follows from the third subparagraph of Article 28b(A)(2) of the Sixth Directive. However, those measures apply only if the person to whom the goods are subsequently supplied is designated in accordance with Article 28c(E)(3) as liable for payment of VAT. Article 28c(E)(3) refers in turn to Article 21(1)(c), which is the provision which actually lays down the specific rules for payment of the tax by the recipient. Accordingly, the latter provision is the one now referred to, in order to avoid a serial reference (see Article 43 of the recast).

4.4.3.2. Precise terminology

Not all terms used in the Sixth Directive are sufficiently precise. They have been replaced by more accurate terms.

Pursuant to the first subparagraph of Article 28(1)(a) of the Sixth Directive, Member States which, at 1 January 1993, applied exemptions with refund of the tax paid at the preceding stage may maintain those exemptions. Those are exemptions with entitlement to deduction. To be accurate, the recast text now refers to exemptions with deductibility of the VAT paid at the preceding stage (see Article 106 of the recast text).

Under Article 3(2) of the Sixth Directive, the territory of the country is the area of application of the EC Treaty as defined in respect of each Member State in Article 227. When reference is made to the territory of the country, it is not always clear what that term covers. It mostly refers to a particular Member State. However, where several Member States are involved, that term is not sufficiently precise. The rules laid down in Article 21, in the version set out in Article 28g, regarding the person liable for payment of the tax, illustrates that point. For the sake of accuracy, that term has been replaced with more descriptive terms such as the Member State in which dispatch or transport of the goods ends (see Article 18(2)(e) of the recast text); the Member State in which the supply of [the service] is taxable (see Article 76 of the recast text); their territory (see Article 85 of the recast text); the Member State (see Article 91 of the recast text); the Member State in which the VAT is due (see Article 187 of the recast text); the Member State in which the return must be submitted (see Article 243(b)); and the Member State in which the customer is established (see Article 296(2)(b)).

4.4.4. *Updating the text*

The recast exercise means that the Sixth Directive will be replaced by a new instrument. Moreover, in some cases adaptation is necessary to avoid substantive changes.

4.4.4.1. Updating of provisions

Provisions may have been overtaken by events and the text should reflect the current legal situation. Such provisions must therefore be brought up to date.

Article 7(1)(a) defines importation of goods as the entry into the Community of goods which do not fulfil the conditions laid down in Articles 9 and 10 of the EEC Treaty or, if covered by the ECSC Treaty, that are not in free circulation. The reference to the ECSC Treaty has been deleted since it no longer exists (see Article 31 of the recast text).

4.4.4.2. Maintenance of the status quo

Leaving the text unchanged is not necessarily an option. Some changes are indispensable if the status quo is to be maintained and substantive changes avoided.

Pursuant to Article 17(6) of the Sixth Directive, common rules are to be agreed providing for restrictions on entitlement to deduction. No such rules have yet been adopted. Pending their adoption, Member States may retain all the exclusions that were provided for under their national laws when the Sixth Directive came into force, that is to say, on 1 January 1978. In order to make sure that that option is not widened, the existing reference must be replaced with the exact date of the entry into force. Since, for most Member States, the cut-off date was postponed by one year, the most rational solution has been to refer to 1 January 1979. Since that provision applies also to Member States

acceding to the Community after that date, it is specified that, in those cases, the cut-off date is the day of their accession (see Article 170 of the recast text).

In order to facilitate the changeover to the Sixth Directive, [Article 28\(3\)](#) allows the then Member States, as a transitional measure, to continue to avail themselves of certain derogations. The derogations listed in [Annexes E and F](#) are not open to Member States which acceded to the Community later. Those Member States need to have obtained similar derogations at the time of accession. Any such derogations are integrated in the recast text alongside the derogations allowed under the Sixth Directive. At the same time, the necessary distinction is made between options open only to Member States which belonged to the Community on 1 January 1978 (see Articles 363 to 367 of the recast text) and other provisions (see Articles 368 to 383 of the recast text).

4.4.5. Revision of the various language versions

In order to prevent substantive changes, it is necessary to exercise caution when revising the text.

In the case of certain language versions drafted for the accession of new Member States, the quality is not always satisfactory. The recast exercise offers an opportunity to perform a thorough check of the terminology used and to make any rectification necessary.

This mainly affects the Swedish and Finnish versions in which the terminology has been revised. Changes have also been made to the Portuguese and Spanish versions. Those changes serve to bring the quality of those versions into line with the other language versions, without affecting the meaning of the text.

Clearly, with a text dating back to 1977, the use of language may have changed in various ways. The recast text must take account of any such changes.

Recent reforms have introduced changes in the spelling of German. Those changes are reflected in the German version of the recast text.

Some of the terms used in the Danish version are out of date. In an attempt to modernise the text, more contemporary terms are used. This has meant, for example, that “goder” has been replaced by “varer” and “tjenesteydelser” by “ydelser”. Those are not changes which in any way affect the content of the text.

5. CHANGES AFFECTING THE SUBSTANCE

The majority of changes made to the text are not substantive. However, a handful of changes inherent to the recasting exercise slightly affect the substantive content of the text.

[Article 33\(2\)](#) of the Sixth Directive defines products subject to excise duty. That definition covers mineral oils, alcohol and alcoholic beverages, and manufactured tobacco. In order to make the definition dynamic, the wording has been changed so that it covers products subject to harmonised excise duties (see [Article 2\(1\)](#) of the recast text). Those are excise products which are subject to excise duty but governed by Community legislation, which means that any future amendment introduced in the field of excise duties will be reflected in the VAT legislation. That is important if the parallelism between the VAT rules and rules governing excise duty is to be maintained.

The invoicing rules cover various aspects concerning the transmission and storage of invoices by electronic means. In the [first subparagraph of Article 22\(3\)\(e\)](#) in the version set out in [Article 28h](#) of the Sixth Directive, a definition is given of what is meant by electronic means. That definition is based on those laid down in Directive 98/48/EC of the European Parliament and of the Council of 20 July 1998, which amended Directive 98/34/EC laying down a procedure for the provision of information in the field of technical standards and regulations. The positioning of that definition at the beginning of the new text, in view of the fact that it is a definition of general application which is going to apply throughout the Directive, is consistent with the way in which Community legislation ought to be

structured (see point (2) of [Article 2 of the recast text](#)). As a consequence, the definition applies also in the context of other provisions of the Directive, notably those concerning services supplied by electronic means. Even though this may be regarded as a substantive change, it is difficult to imagine that the term in question could be held to have a meaning other than that ascribed by Community legislation.

When the supply of goods is carried out on board a means of transport, the place of supply is, under [Article 8\(1\)\(c\)](#) of the Sixth Directive, the place of departure of the transport. There are no common rules on the place of taxation of goods supplied for consumption on board. The Commission was to present a report by 30 June 1993, but no such report has been made. Meanwhile, Member States may exempt or continue to exempt such supplies, but only until a certain date. Even though it is linked to the forthcoming adoption of common rules, that provision cannot, at the moment, be extended beyond the date given. In the absence of a Commission proposal, however, that provision is still being applied by Member States. In order to remedy that situation, it is proposed to leave that option open until the adoption of the new legislation (see [Article 38\(3\)](#) of the recast text).

In respect of the supply, by a taxable person established outside the Community, of telecommunications services to a non-taxable person established within the Community, Member States are to apply, pursuant to [Article 9\(4\)](#) of the Sixth Directive, the criterion of actual use or enjoyment. That provision has been temporarily replaced by a version covering both telecommunications services and radio and television broadcasting services. As a result of the new version, the notions of non-established supplier and established non-taxable person have been fleshed out in greater detail. A return to the original provision would see that degree of precision lost, even if, according to Member States, that is not the intention. To rectify the situation, the provision has been adapted accordingly (see [Article 59](#) of the recast text).

Under [Article 13\(B\)\(e\)](#) of the Sixth Directive, Member States are to exempt the supply at face value of postage stamps valid for postage within the territory of the country. To be in line with Community law, stamps valid for postage in another Member State should also be exempt. Accordingly, no specification is made as to the Member State in which the stamps are valid for postage (see [Article 132\(1\)\(h\)](#) of the recast text). While that is indeed a change, it would only entail substantive changes once stamps are sold across borders.

The final importation of goods qualifying for exemption from customs duties, other than as provided for in the Common Customs Tariff, is exempt pursuant to the [first subparagraph of Article 14\(1\)\(d\)](#) of the Sixth Directive. It is also laid down that Member States may decide not to grant that exemption if it is likely to have a serious effect on conditions of competition. However, implementing acts, such as Directive 83/181/EEC, have subsequently been adopted which delimit the scope of the exemption and in consequence that option may no longer be invoked by Member States. It has therefore been removed (see [Article 140\(b\)](#) of the recast text).

When converting the amounts of the transitional arrangements into national currency, Member States are to use, pursuant to [Article 28m](#) of the Sixth Directive, the rate of exchange as at 16 December 1991. That provision is relevant only for Member States outside the euro zone. In order to place all Member States on the same footing, the date of conversion has been adapted to reflect the date of changeover to the euro. That date does not apply in the case of the new Member States. For practical purposes, the date fixed by the Act of Accession should continue to apply (see [Article 392](#) of the recast text).

Pursuant to [Article 34](#) of the Sixth Directive, the Commission, after consulting the Member States, is to send a report to the Council every two years on the application of the common VAT system. That report is to be transmitted by the Council to the European Parliament. However, that obligation proved untenable because of the arduous timetable set. In the recast text, reports are to be made every four years, on the basis of information gathered from the Member States. Similar provisions are to be found in other Community acts (see [Article 398](#) of the recast text).

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 Commission²⁸,

Having regard to the opinion of the European Parliament²⁹,

Having regard to the opinion of the European Economic and Social Committee³⁰,

Having regard to the opinion of the Committee of the Regions³¹,

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 assessment³² 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.
- (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 taxes³³. That Directive should therefore be repealed.

²⁸ OJ C [...], [...], p. [...].

²⁹ OJ C [...], [...], p. [...].

³⁰ OJ C [...], [...], p. [...].

³¹ OJ C [...], [...], p. [...].

³² OJ L 145, 13.6.1977, p. 1. Directive as last amended by Directive 2004/15/EC (OJ L 52, 21.2.2004, p. 61).

³³ OJ P 71, 14.4.1967, p. 1301, as last amended by Directive 77/388/EEC (OJ L 145, 13.6.1977, p. 1).

	First recital (67/227/EEC) <i>Obsolete</i>
(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.	Second recital (67/227/EEC) <i>Adapted</i>
(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.	Third recital (67/227/EEC) <i>Adapted</i>
	Fourth recital (67/227/EEC) <i>Obsolete</i>
(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.	Fifth and sixth recitals (67/227/EEC) <i>Adapted</i>
(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.	Seventh recital (67/227/EEC) <i>Adapted</i>
(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.	Eighth recital (67/227/EEC) <i>Adapted</i>
	Ninth recital (67/227/EEC) <i>Obsolete</i>

**First recital
(77/388/EEC)**

Obsolete

**First recital
(78/583/EEC)**

Obsolete

**Second recital
(78/583/EEC)**

Obsolete

**Third recital
(78/583/EEC)**

Obsolete

- (8) Pursuant to Council Decision 2000/597/EC, Euratom, of 29 September 2000 on the system of the Communities' own resources³⁴, 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.

**Second recital
(77/388/EEC)**

**Third recital
(77/388/EEC)**

Obsolete

**Fourth recital
(77/388/EEC)**

Obsolete

**First recital
(91/680/EEC)**

Obsolete

³⁴ OJ L 253, 7.10.2000, p. 42.

- (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.

**Second recital
(91/680/EEC)**

Obsolete

**Third recital
(91/680/EEC)**

Obsolete

**Fourth recital
(91/680/EEC)**

Obsolete

**Tenth recital
(91/680/EEC)**

Adapted

**Eleventh recital
(91/680/EEC)**

Adapted

**First recital
(80/368/EEC)**

Obsolete

**Second recital
(80/368/EEC)**

Obsolete

**Third recital
(80/368/EEC)**

Adapted

**Fourth recital
(80/368/EEC)**

Obsolete

	Fifth recital (91/680/EEC)
	<i>Obsolete</i>
	First recital (92/111/EEC)
	<i>Obsolete</i>
	Second recital (92/111/EEC)
	<i>Obsolete</i>
	Third recital (92/111/EEC)
	<i>Obsolete</i>
(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.
	Fifth recital (77/388/EEC)
	<i>Adapted</i>
	Ninth recital (95/7/EC)
	<i>Obsolete</i>
(13)	The term 'taxable transaction' may lead to difficulties, in particular as regards transactions treated as taxable transactions. Those concepts must therefore be clarified.
	Sixth recital (77/388/EEC)
	<i>Adapted</i>
	Twelfth recital (92/111/EEC)
	<i>Obsolete</i>
	Thirteenth recital (92/111/EEC)
	<i>Obsolete</i>
	Fourteenth recital (92/111/EEC)
	<i>Obsolete</i>

**Fifteenth recital
(92/111/EEC)**

Obsolete

**Sixteenth recital
(92/111/EEC)**

Obsolete

**First recital
(94/76/EEC)**

Obsolete

**Second recital
(94/76/EEC)**

Obsolete

**Third recital
(94/76/EEC)**

Obsolete

**Fourth recital
(94/76/EEC)**

Obsolete

**Fifth recital
(94/76/EEC)**

Obsolete

**Sixth recital
(94/76/EEC)**

Obsolete

- (14) With a view to facilitating intra-Community trade in work on tangible movable 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.

**Tenth recital
(95/7/EC)**

Adapted

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|---|---|
| (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. | Eighth recital
(95/7/EC)

<i>Adapted</i> |
| (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. | Seventh recital
(77/388/EEC)

<i>Adapted</i> |
| (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. | Sixth recital
(92/111/EEC)

<i>Adapted</i> |
| (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. | First recital
(2003/92/EC)

<i>Adapted</i> |
| (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. | Second recital
(2003/92/EC)

<i>Adapted</i> |
| (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. | Third recital
(2003/92/EC)

<i>Adapted</i> |

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|------|--|--|
| (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. | <p>Fourth recital
(2003/92/EC)</p> <p><i>Adapted</i></p> |
| | | <p>First recital
(84/386/EEC)</p> <p><i>Obsolete</i></p> |
| (22) | In the case of the hiring out of tangible movable 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. | <p>Second and third
recitals
(84/386/EEC)</p> <p><i>Adapted</i></p> |
| (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. | <p>Fourth recital
(84/386/EEC)</p> <p><i>Adapted</i></p> |
| | | <p>First recital
(1999/59/EC)</p> <p><i>Obsolete</i></p> |
| (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. | <p>Fifth recital
(2003/92/EC)</p> <p><i>Adapted</i></p> |
| (25) | All telecommunications services consumed within the Community should be taxed to prevent distortion of competition in that field. | <p>Second recital
(1999/59/EC)</p> <p><i>Adapted</i></p> |

	Third recital (1999/59/EC)
	<i>Obsolete</i>
	Fourth recital (1999/59/EC)
	<i>Obsolete</i>
(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.	Fifth recital (1999/59/EC)
	<i>Adapted</i>
(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.	Sixth recital (1999/59/EC)
	<i>Adapted</i>
(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.	Seventh recital (1999/59/EC)
	<i>Adapted</i>
	First recital (2002/38/EC)
	<i>Obsolete</i>
(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.	Second recital (2002/38/EC)
	<i>Adapted</i>
(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.	Third recital (2002/38/EC)
	<i>Adapted</i>

(31) In order define electronically supplied services, a non-exhaustive list of such services should be set out in an annex.	Fourth recital (2002/38/EC)
	<u>Adapted</u>
(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.	Eighth recital (77/388/EEC)
	<u>Adapted</u>
	Tenth recital (2000/65/EC)
	<u>Obsolete</u>
(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.	Ninth recital (77/388/EEC)
	<u>Adapted</u>
	First recital (95/7/EC)
	<u>Obsolete</u>
(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.	Third recital (95/7/EC)
	<u>Adapted</u>
(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.	First and second recitals (92/77/EEC)
	<u>Adapted</u>
(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.	First recital (1999/49/EC)
	<u>Adapted</u>
	Second recital (1999/49/EC)
	<u>Obsolete</u>

(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.

**Third recital
(1999/49/EC)**

Obsolete

(38) During the transitional period, certain derogations concerning the number and the level of rates should be possible.

**Tenth recital
(77/388/EEC)**

Adapted

**Third recital
(92/77/EEC)**

Adapted

**First recital
(96/95/EC)**

Obsolete

**Second recital
(96/95/EC)**

Obsolete

**Third recital
(96/95/EC)**

Obsolete

**First recital
(2001/4/EC)**

Obsolete

**Second recital
(2001/4/EC)**

Obsolete

**Third recital
(2001/4/EC)**

Obsolete

**First recital
(1999/85/EC)**

Obsolete

(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.	Second recital (1999/85/EC) <i>Adapted</i>
(40) That reduction is likely to reduce the incentive for the businesses concerned to join or remain in the black economy.	Third recital (1999/85/EC) <i>Adapted</i>
(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.	Fourth recital (1999/85/EC) <i>Adapted</i>
(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.	Fifth recital (1999/85/EC) <i>Adapted</i>
	Sixth recital (1999/85/EC) <i>Obsolete</i>
	Seventh recital (1999/85/EC) <i>Obsolete</i>
	First recital (2002/93) <i>Obsolete</i>
	Second recital (2002/93) <i>Obsolete</i>
	Third recital (2002/93) <i>Obsolete</i>

**Fourth recital
(2002/93)**

Obsolete

**Fifth recital
(2002/93)**

Obsolete

**First recital
(2004/15/EC)**

Obsolete

**Second recital
(2004/15/EC)**

Obsolete

**Third recital
(2004/15/EC)**

Obsolete

**Fourth recital
(2004/15/EC)**

Obsolete

**Fifth recital
(2004/15/EC)**

Obsolete

**Sixth recital
(2004/15/EC)**

Obsolete

**Seventh recital
(2004/15/EC)**

Obsolete

**Eighth recital
(2004/15/EC)**

Obsolete

**First recital
(2000/17/EC)**

Obsolete

**Second recital
(2000/17/EC)**

Obsolete

**Third recital
(2000/17/EC)**

Obsolete

**Fourth recital
(2000/17/EC)**

Obsolete

**Fifth recital
(2000/17/EC)**

Obsolete

**Sixth recital
(2000/17/EC)**

Obsolete

**Seventh recital
(2000/17/EC)**

Obsolete

**Eighth recital
(2000/17/EC)**

Obsolete

**Sixth recital
(95/7/EC)**

Obsolete

**First recital
(96/42/EC)**

Obsolete

<p>(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.</p>	<p>Second and third recitals (96/42/EC)</p>
	<p><i>Adapted</i></p>
<p>(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.</p>	<p>Eleventh recital (77/388/EEC)</p>
	<p>Sixth recital (91/680/EEC)</p>
	<p><i>Obsolete</i></p>
	<p>Seventh recital (95/7/EC)</p>
	<p><i>Obsolete</i></p>
<p>(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 products³⁵ 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.</p>	<p>Eighth recital (92/111/EEC)</p>
	<p><i>Adapted</i></p>
	<p>Ninth recital (92/111/EEC)</p>
	<p><i>Obsolete</i></p>
	<p>Fourth recital (95/7/EC)</p>
	<p><i>Obsolete</i></p>

³⁵ 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).

(46) It is necessary to state exactly how the exemptions relating to certain export operations or equivalent operations are to be implemented.

**Fifth recital
(92/111/EEC)**

Adapted

(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.

**Sixth recital
(2003/92/EC)**

Adapted

**First recital
(94/4/EC)**

Obsolete

**Second recital
(94/4/EC)**

Obsolete

**Third recital
(94/4/EC)**

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**Fourth recital
(94/4/EC)**

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**Fifth recital
(94/4/EC)**

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**Sixth recital
(94/4/EC)**

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**Seventh recital
(94/4/EC)**

Obsolete

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| (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. | Tenth recital
(92/111/EEC)

<i>Adapted</i> |
| (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. | Second recital
(95/7/EC)

<i>Adapted</i> |
| (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. | Eleventh and
twelfth recitals
(95/7/EC)

<i>Adapted</i> |
| (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. | Thirteenth recital
(95/7/EC)

<i>Adapted</i> |
| (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. | Fourteenth recital
(95/7/EC)

<i>Adapted</i> |
| (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. | Fifteenth recital
(95/7/EC)

<i>Obsolete</i>

Twelfth recital
(77/388/EEC)

<i>Adapted</i> |

- (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.

**Sixteenth recital
(95/7/EC)**

Obsolete

**Seventeenth
recital
(95/7/EC)**

Obsolete

**Eleventh recital
(92/111/EEC)**

Adapted

**Seventeenth
recital
(92/111/EEC)**

Obsolete

**Fifth recital
(95/7/EC)**

Adapted

**Thirteenth recital
(77/388/EEC)**

Adapted

**Seventh recital
(2003/92/EC)**

Adapted

**Eighth recital
(2003/92/EC)**

Obsolete

**First recital
(2000/65/EC)**

Obsolete

	Third recital (2000/65/EC)
	<i>Obsolete</i>
	Fourth recital (2000/65/EC)
	<i>Obsolete</i>
(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.	Second and fifth recitals (2000/65/EC)
	<i>Adapted</i>
	Sixth recital (2000/65/EC)
	<i>Obsolete</i>
(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.	Seventh recital (2000/65/EC)
	<i>Adapted</i>
(60) Member States should continue to be entirely free to designate the person liable for payment of the VAT on importation.	Eighth recital (2000/65/EC)
	<i>Adapted</i>
(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.	Ninth recital (2000/65/EC)
	<i>Adapted</i>
	Eleventh recital (2000/65/EC)
	<i>Obsolete</i>

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| (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. | <p>Fourteenth recital
(77/388/EEC)</p> <p><i>Adapted</i></p> |
| (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. | <p>Eighth recital
(1999/59/EC)</p> <p><i>Adapted</i></p> <p>Ninth recital
(1999/59/EC)</p> <p><i>Obsolete</i></p> <p>First recital
(2001/115/EC)</p> <p><i>Obsolete</i></p> <p>Second recital
(2001/115/EC)</p> <p><i>Obsolete</i></p> |
| (64) | The use of electronic invoicing must be so designed that tax authorities are able to continue to carry out their monitoring activities. | <p>Third recital
(2001/115/EC)</p> <p><i>Adapted</i></p> |
| (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. | <p>Fourth recital
(2001/115/EC)</p> <p><i>Adapted</i></p> |

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| (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 ³⁶ . | Fifth recital
(2001/115/EC)

<i>Adapted</i> |
| (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. | Sixth recital
(2001/115/EC)

<i>Adapted</i> |
| | | Seventh recital
(2001/115/EC)

<i>Obsolete</i> |
| (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. | Ninth recital
(2002/38/EC)

<i>Adapted</i> |
| (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. | Twelfth recital
(91/680/EEC)

<i>Adapted</i> |
| (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. | Fourth recital
(92/111/EEC)

<i>Adapted</i> |
| (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. | Fifteenth recital
(77/388/EEC)

<i>Adapted</i> |

³⁶ OJ 281, 23.11.1995, p. 31.

<p>(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.</p>	<p>Fifteenth recital (77/388/EEC) <i>Adapted</i></p>
<p>(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.</p>	<p>First and fifth recitals (94/5/EC) <i>Adapted</i></p>
	<p>Second recital (94/5/EC) <i>Obsolete</i></p>
	<p>Third recital (94/5/EC) <i>Obsolete</i></p>
	<p>Fourth recital (94/5/EC) <i>Obsolete</i></p>
	<p>Sixth recital (94/5/EC) <i>Obsolete</i></p>
	<p>First recital (98/80/EC) <i>Obsolete</i></p>
<p>(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.</p>	<p>Second recital (98/80/EC) <i>Adapted</i></p>

<p>(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.</p>	<p>Third recital (98/80/EC) <i>Adapted</i></p>
<p>(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.</p>	<p>Fourth recital (98/80/EC) <i>Adapted</i></p>
<p>(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.</p>	<p>Fifth recital (98/80/EC) <i>Adapted</i></p>
<p>(78) Since gold may be used for both industrial and investment purposes, operators should be able to opt for normal taxation.</p>	<p>Sixth recital (98/80/EC) <i>Adapted</i></p>
<p>(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.</p>	<p>Seventh recital (98/80/EC) <i>Adapted</i></p>
<p>(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.</p>	<p>Eighth recital (98/80/EC) <i>Adapted</i></p>
<p>(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.</p>	<p>Ninth recital (98/80/EC) <i>Adapted</i></p>
	<p>Tenth recital (98/80/EC) <i>Obsolete</i></p>

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| (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. | Fifth recital
(2002/38/EC)

<i>Adapted</i> |
| (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. | Sixth recital
(2002/38/EC)

<i>Adapted</i> |
| (84) It should be possible, in certain circumstances, for the Member State of identification to exclude a non-established operator from the special scheme. | Seventh recital
(2002/38/EC)

<i>Adapted</i> |
| (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 ³⁷ . The optional restrictions on refund provided for in that Directive must not be applied. | Eighth recital
(2002/38/EC)

<i>Adapted</i> |
| (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. | Tenth recital
(2002/38/EC)

<i>Adapted</i> |
| | Eleventh recital
(2002/38/EC)

<i>Obsolete</i> |

³⁷ OJ L 326, 21.11.1986, p. 40.

	First recital (89/465/EEC)
	<i>Obsolete</i>
	Second recital (89/465/EEC)
	<i>Obsolete</i>
	Third recital (89/465/EEC)
	<i>Obsolete</i>
	Fourth recital (89/465/EEC)
	<i>Obsolete</i>
	Fifth recital (89/465/EEC)
	<i>Obsolete</i>
	Sixth recital (89/465/EEC)
	<i>Obsolete</i>
(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.
	Sixteenth recital (77/388/EEC)
	<i>Adapted</i>
(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.
	Seventeenth recital (77/388/EEC)
	<i>Adapted</i>
	First recital (2004/7/EC)
	<i>Obsolete</i>

(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.	Second recital (2004/7/EC)
	<i>Adapted</i>
	Third recital (2004/7/EC)
	<i>Obsolete</i>
(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.	Fourth recital (2004/7/EC)
(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.	Fifth recital (2004/7/EC)
	Sixth recital (2004/7/EC)
	<i>Obsolete</i>
	Seventh recital (2004/7/EC)
	<i>Obsolete</i>
(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.	Eighth recital (2004/7/EC)
	<i>Adapted</i>
(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.	Ninth recital (2004/7/EC)
	<i>Adapted</i>
(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.	Tenth recital (2004/7/EC)
	<i>Adapted</i>

<p>(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.</p>	<p>Eleventh and twelfth recitals (2004/7/EC) <i>Adapted</i></p>
<p>(96) In view of their limited scope, the implementing measures should be adopted by the Council acting unanimously on a proposal from the Commission.</p>	<p>Thirteenth recital (2004/7/EC) <i>Adapted</i></p>
	<p>Fourteenth recital (2004/7/EC) <i>Obsolete</i></p>
	<p>Fifteenth recital (2004/7/EC) <i>Obsolete</i></p>
	<p>Seventh recital (91/680/EEC) <i>Obsolete</i></p>
	<p>Eighth recital (91/680/EEC) <i>Obsolete</i></p>
	<p>Ninth recital (91/680/EEC) <i>Obsolete</i></p>
	<p>Thirteenth recital (91/680/EEC) <i>Obsolete</i></p>
<p>(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.</p>	<p>Eighteenth recital (77/388/EEC) <i>Adapted</i></p>

**Fourteenth recital
(91/680/EEC)**

Obsolete

**Fifteenth recital
(91/680/EEC)**

Obsolete

**Sixteenth recital
(91/680/EEC)**

Obsolete

**Seventh recital
(92/111/EEC)**

Obsolete

**Eighteenth recital
(92/111/EEC)**

Obsolete

**Nineteenth
(92/111/EEC)**

Obsolete

- (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.

**Nineteenth recital
(77/388/EEC)**

(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,

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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.

Title I
(77/388/EEC)

Heading of Title I
(77/388/EEC)

Adapted

Article 1
(67/227/EEC)

Article 1, first paragraph
(67/227/EEC)

Adapted

Article 1, second paragraph
(67/227/EEC)

Obsolete

Article 1, third paragraph
(67/227/EEC)

Obsolete

Article 2
(67/227/EEC)

Article 2, first paragraph
(67/227/EEC)

Adapted

Article 2, second paragraph
(67/227/EEC)

Article 2, third paragraph
(67/227/EEC)

Article 3
(67/227/EEC)

Article 3
(67/227/EEC)

Obsolete

Article 4
(67/227/EEC)

**Article 4, first
paragraph**
(67/227/EEC)

Obsolete

**Article 4, second
paragraph**
(67/227/EEC)

Obsolete

Article 6
(67/227/EEC)

Article 6
(67/227/EEC)

Obsolete

Article 1
(77/388/EEC)

**Article 1, first
paragraph**
(77/388/EEC)

Obsolete

**Article 1, second
paragraph**
(77/388/EEC)

Obsolete

Article 2

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

- (1) 'products subject to excise duty' means products which are subject to excise duties as harmonised by Community legislation;

New

**Article 33(2)
(replaced by
91/680/EEC)**

Modified

**Article 33(2), first
indent
(replaced by
91/680/EEC)**

**Article 33(2),
second indent
(replaced by
91/680/EEC)**

**Article 33(2),
third indent
(replaced by
91/680/EEC)**

- (2) 'by electronic means' means using electronic equipment for processing (including digital compression) and storage of data, and employing wires, radio transmission, optical technologies or other electromagnetic means.

**Article 22(3)(e),
first subpara-
graph
contained in
Article 28h
(inserted by
2001/115/EC)**

Modified

**Title II
(77/388/EEC)**

**Heading of Title II
(77/388/EEC)**

Article 3

1. The following transactions shall be subject to VAT:

**Article 2
(77/388/EEC)**

**Article 2
(77/388/EEC)**

(a) the supply of goods for consideration within the territory of a Member State by a taxable person acting as such;	Article 2(1) (77/388/EEC)
	<i>Adapted</i>
	Article 28a (inserted by 91/680/EEC)
	Heading of Article 28a (inserted by 91/680/EEC)
	Article 28a(1) (inserted by 91/680/EEC)
(b) the intra-Community acquisition of goods for consideration within the territory of a Member State by:	<i>New</i>
(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 277 to 280 and who is not covered by Article 34 or the first paragraph of Article 37;	Article 28a(1)(a) first subpara- graph (inserted by 91/680/EEC)
	<i>Adapted</i>
(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;	Article 28a(1)(b) (inserted by 91/680/EEC)
	<i>Adapted</i>
(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);	Article 28a(1)(c) (inserted by 92/111/EEC)
	<i>Adapted</i>
(c) the supply of services for consideration within the territory of a Member State by a taxable person acting as such;	Article 2(1) (77/388/EEC)
	<i>Adapted</i>

(d) the importation of goods.	<p>Article 2(2) (77/388/EEC)</p> <p>Article 28a(2) (inserted by 91/680/EEC)</p>
2. The following shall be regarded as ‘new means of transport’, where they are intended for the transport of persons or goods:	<p>Article 28a(2)(a) (inserted by 91/680/EEC)</p> <p><i>Adapted</i></p>
(a) motorised land vehicles the capacity of which exceeds 48 cubic centimetres or the power of which exceeds 7.2 kilowatts, 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;	<p>Article 28a(2)(a) (inserted by 91/680/EEC)</p> <p><i>Adapted</i></p>
(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 vessels used for the purposes of commercial, industrial or fishing activities, or for rescue or assistance at sea, or for inshore fishing, 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;	<p>Article 28a(2)(a) (inserted by 91/680/EEC)</p> <p><i>Adapted</i></p>
(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, 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.	<p>Article 28a(2)(a) (inserted by 91/680/EEC)</p> <p><i>Adapted</i></p>
	<p>Article 28a(2)(b), first subpara- graph (replaced by 94/5/EC)</p>
	<p>Article 28a(2)(b), first subpara- graph, first indent (replaced by 94/5/EC)</p>

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

3. The land vehicles, vessels and aircraft referred to in paragraph 2 shall be regarded as ‘second-hand means of transport’ where they are second-hand goods, as defined in Article 304, supplied by one of the persons referred to in Article 306 and where they do not meet the conditions necessary to be regarded as new means of transport.

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 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;

Article 28a(2)(b), first subparagraph, second indent (replaced by 94/5/EC)

Article 28a(2)(b), second subparagraph (replaced by 94/5/EC)

New

Based on Article 28o(1)(a), first sentence

Article 28a(1)(a), second subparagraph (replaced by 92/111/EEC)

Article 28a(1a) (inserted by 92/111/EEC)

Adapted

Article 28a(1a)(a) (inserted by 92/111/EEC)

Adapted

Article 26a(D)(b) (inserted by 94/5/EC)

Adapted

<p>(c) the intra-Community acquisition of second-hand means of transport, 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;</p>	<p>Article 28o(1)(g) (inserted by 94/5/EC) <i>Adapted</i></p>
<p>(d) 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 of the goods began, in accordance with the special arrangements for sales by public auction;</p>	<p>Article 26a(D)(b) (inserted by 94/5/EC) <i>Adapted</i></p>
<p>(e) the intra-Community acquisition of goods, other than those referred to in points (a), (b), (c) and (d), 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 undertaking subject to the 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.</p>	<p>Article 28a(1a)(b), first subparagraph (inserted by 92/111/EEC) <i>Adapted</i></p>
<p>2. The exemption provided for in point (e) of paragraph 1 shall apply only if the following conditions are satisfied:</p>	<p>Article 28a(1a)(b), first subparagraph, first indent (inserted by 92/111/EEC) <i>New</i></p>
<p>(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 10 000 euro or the equivalent in national currency;</p>	<p>Article 28a(1a)(b), first subparagraph, second indent (inserted by 92/111/EEC) <i>Adapted</i></p>

(b) during the previous calendar year, the total value of intra-Community acquisitions of goods did not exceed the threshold fixed in point (a);

**Article 28a(1a)(b),
first subparagraph,
third indent
(inserted by
92/111/EEC)**

Adapted

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.

**Article 28a(1a)(b),
second subparagraph
(inserted by
92/111/EEC)**

Adapted

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

**Article 28a(1)(a),
third subparagraph,
first sentence
(inserted by
91/680/EEC)**

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 28a(1)(a),
third subparagraph,
second sentence
(inserted by
91/680/EEC)**

Adapted

TITLE II
TERRITORIAL SCOPE

Article 5

This Directive shall apply to the territory of the Community as determined in accordance with Article 299 of the Treaty.

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;

Title III
(77/388/EEC)

Heading of
Title III
(77/388/EEC)

Adapted

Article 3(2)
(replaced by
91/680/EEC)

Adapted

Article 3(3),
second subpara-
graph
(replaced by
91/680/EEC)

Adapted

Article 3(3),
second subpara-
graph, third
indent
(replaced by
91/680/EEC)

Adapted

Article 3(3),
second subpara-
graph, first indent
(replaced by
91/680/EEC)

Adapted

(c) the French overseas departments;	Article 3(3), second subpara- graph, second indent (replaced by 91/680/EEC) <i>Adapted</i>
(d) the Åland Islands;	Protocol No 2 (Act of Accession, AT, FI and SE)
(e) the Channel Islands.	Article 299(6)(c) (EC Treaty)
2. This Directive shall not apply to the following territories not forming part of the customs territory of the Community:	Article 3(3), first subparagraph (replaced by 91/680/EEC) <i>Adapted</i>
(a) the Island of Heligoland;	Article 3(3), first subparagraph, first indent (replaced by 91/680/EEC) <i>Adapted</i>
(b) the territory of Buesingen;	Article 3(3), first subparagraph, second indent (replaced by 91/680/EEC) <i>Adapted</i>
(c) Ceuta;	Article 3(3), first subparagraph, second indent (replaced by 91/680/EEC) <i>Adapted</i>
(d) Melilla;	Article 3(3), first subparagraph, third indent (replaced by 91/680/EEC) <i>Adapted</i>
(e) Livigno;	Article 3(3), first subparagraph, third indent (replaced by 91/680/EEC) <i>Adapted</i>
(f) Campione d'Italia;	Article 3(3), first subparagraph, third indent (replaced by 91/680/EEC) <i>Adapted</i>
(g) the Italian waters of Lake Lugano;	Article 3(3), first subparagraph, third indent (replaced by 91/680/EEC) <i>Adapted</i>

(h) Gibraltar.

Article 28
(Act of Accession,
DK, IE and UK)

Article 7

Article 3
(replaced by
91/680/EEC)

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

Article 3(1)
(replaced by
91/680/EEC)

Adapted

(a) 'Member State' and 'territory of a Member State' mean the territory of each Member State, with the exception of any territory referred to in Article 6;

Article 3(1), first indent
(replaced by
91/680/EEC)

Adapted

(b) 'Community' and 'territory of the Community' mean the territory of the Community as determined in accordance with Article 299 of the Treaty with the exception of any territory referred to in Article 6;

Article 3(1), second indent
(replaced by
91/680/EEC)

Adapted

(c) 'third territories' means the territories which form part of the territory of the Community and which are referred to in Article 6;

Article 3(1), third indent
(replaced by
91/680/EEC)

Adapted

(d) 'third country' means any State or territory which does not form part of the territory of the Community as determined in accordance with Article 299 of the Treaty.

Article 3(1), third indent
(replaced by
91/680/EEC)

Adapted

Article 8

1. In view of the conventions and treaties which they have concluded respectively with France and the United Kingdom, the Principality of Monaco and the Isle of Man shall not be regarded, for the purposes of the application of this Directive, as third countries. Similarly, in view of the Treaty concerning the Establishment of the Republic of Cyprus, the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia shall not be regarded as third territories.

Article 3(4), first subparagraph (replaced by 92/111/EEC)

Adapted

Article 3(4), first subparagraph first indent (replaced by Protocol No 3 to the 2003 Act of Accession)

Article 3(4), first subparagraph, second indent (replaced by Protocol No 3 to the 2003 Act of Accession)

Article 3(4), first subparagraph in fine (replaced by Protocol No 3 to the 2003 Act of Accession)

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 3(4), second subparagraph (replaced by 92/111/EEC)

**Article 3(4),
second subpara-
graph, first indent
(replaced by
92/111/EEC)**

Adapted

**Article 3(4),
second subpara-
graph, second
indent
(replaced by
92/111/EEC)**

Adapted

**Article 3(4),
second subpara-
graph, third
indent
(inserted by
Protocol No 3 to
the 2003 Act of
Accession)**

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.

**Article 3(5)
(replaced by
91/680/EEC)**

Adapted

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 paragraph 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 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.

Title IV
(77/388/EEC)

Heading of
Title IV
(77/388/EEC)

Article 4
(77/388/EEC)

Article 4(1)
(77/388/EEC)

Adapted

Article 4(2)
(77/388/EEC)

Adapted

Article 28a(4)
first subpara-
graph
(inserted by
91/680/EEC)

Adapted

Article 4(4), first
subparagraph
(77/388/EEC)

Adapted

Article 4(4),
second subpara-
graph
(77/388/EEC)

Adapted

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 as referred to in the second subparagraph of Article 10(1) and in particular one of the following transactions: | Article 4(3)
(77/388/EEC)

<i>Adapted</i> |
| (a) the supply, before first occupation, of a building or parts of a building and of the land on which the building stands; | Article 4(3)(a),
first subpara-
graph, first
sentence
(77/388/EEC)

<i>Adapted</i> |
| (b) the supply of building land. | Article 4(3)(b),
first subpara-
graph
(77/388/EEC) |
| 2. For the purposes of paragraph 1(a), a ‘building’ shall mean any structure fixed to or in the ground. | Article 4(3)(a),
third subpara-
graph
(77/388/EEC) |
| 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’. | Article 4(3)(a),
first subpara-
graph, second
sentence
(77/388/EEC)

<i>Adapted</i> |
| 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. | Article 4(3)(a),
second subpara-
graph
(77/388/EEC) |
| 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 4(3)(b),
second subpara-
graph
(77/388/EEC) |

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.

Article 4(5), first subparagraph (77/388/EEC)

Adapted

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 cause significant distortion of competition.

Article 4(5), second subparagraph (77/388/EEC)

Adapted

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.

Article 4(5), third subparagraph (77/388/EEC)

Adapted

2. Member States may regard activities, exempt under Articles 129, 132, 133 or 364, or Articles 367 to 383, engaged in by bodies governed by public law as activities in which those bodies engage as public authorities.

Article 4(5), fourth subparagraph (77/388/EEC)

Adapted

TITLE IV

TAXABLE TRANSACTIONS

Chapter 1

Supply of goods

Article 15

Title V (77/388/EEC)

Heading of Title V (77/388/EEC)

Article 5 (77/388/EEC)

Heading of Article 5 (77/388/EEC)

- | | | |
|----|---|---|
| 1. | ‘Supply of goods’ shall mean the transfer of the right to dispose of tangible property as owner. | Article 5(1)
(77/388/EEC) |
| 2. | In addition to the transaction referred to in paragraph 1, each of the following shall be regarded as a supply of goods: | Article 5(4)
(77/388/EEC) |
| | | <i>Adapted</i> |
| | (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; | Article 5(4)(a)
(77/388/EEC) |
| | (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; | Article 5(4)(b)
(77/388/EEC) |
| | | <i>Adapted</i> |
| | (c) the transfer of goods pursuant to a contract under which commission is payable on purchase or sale. | Article 5(4)(c)
(77/388/EEC) |
| 3. | Member States may regard the handing over of certain works of construction as a supply of goods. | Article 5(5)
(replaced by
95/7/EC) |

Adapted

Article 16

- | | | |
|----|--|---|
| 1. | Electric current, gas, heat, refrigeration and the like shall be treated as tangible property. | Article 5(2)
(77/388/EEC) |
| | | <i>Adapted</i> |
| 2. | Member States may regard the following rights as tangible property: | Article 5(3)
(77/388/EEC) |
| | | <i>Adapted</i> |
| | (a) certain interests in immovable property; | Article 5(3)(a)
(77/388/EEC) |
| | | <i>Adapted</i> |
| | (b) rights <i>in rem</i> giving the holder thereof a right of use over immovable property; | Article 5(3)(b)
(77/388/EEC) |

Adapted

- (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 5(3)(c)
(77/388/EEC)

Article 17

The application by a taxable person of goods forming part of his business assets for his private use or 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.

Article 5(6), first sentence
(77/388/EEC)

Adapted

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 5(6), second sentence
(77/388/EEC)

Adapted

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.

Article 28a(5)
(replaced by
95/7/EC)

Article 28a(5)(b)
first subpara-
graph
(inserted by
91/680/EEC)

Adapted

‘Transfer to another Member State’ shall mean the dispatch or transport of 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.

Article 28a(5)(b)
second subpara-
graph
(inserted by
91/680/EEC)

Adapted

2. The dispatch or transport of goods for the purposes of one of the following transactions shall not be regarded as a transfer to another Member State:

**Article 28a(5)(b)
second subparagraph
(inserted by
91/680/EEC)**

Adapted

(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;

**Article 28a(5)(b)
second subparagraph, first indent
(inserted by
91/680/EEC)**

Adapted

(b) the supply of the goods, for installation or assembly by or on behalf of the supplier, by the taxable person within 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;

**Article 28a(5)(b)
second subparagraph, first indent
(inserted by
91/680/EEC)**

Adapted

(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;

**Article 28a(5)(b)
second subparagraph, second indent
(inserted by
91/680/EEC)**

Adapted

(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;

**Article 28a(5)(b),
second subparagraph, eighth indent
(inserted by
2003/92/EC)**

Adapted

- | | |
|--|--|
| <p>(e) the supply of the goods by the taxable person within the Member State in which dispatch or transport of the goods ends, in accordance with the conditions laid down in Articles 135, 142, 143, 144, 147 or 148;</p> | <p>Article 28a(5)(b) second subparagraph, third indent
 (inserted by 91/680/EEC)</p> <p><i>Adapted</i></p> |
| <p>(f) the supply of a service, performed for the taxable person, and consisting in 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;</p> | <p>Article 28a(5)(b) second subparagraph, fifth indent
 (replaced by 95/7/EC)</p> <p><i>Adapted</i></p> |
| <p>(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;</p> | <p>Article 28a(5)(b) second subparagraph, sixth indent
 (inserted by 91/680/EEC)</p> <p><i>Adapted</i></p> |
| <p>(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.</p> | <p>Article 28a(5)(b) second subparagraph, seventh indent
 (inserted by 91/680/EEC)</p> <p><i>Adapted</i></p> |
| <p>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.</p> | <p>Article 28a(5)(b) third subparagraph
 (inserted by 92/111/EEC)</p> <p><i>Adapted</i></p> |

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 transaction, 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 where 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 5(7)
(77/388/EEC)

Adapted

Article 5(7)(a)
(77/388/EEC)

Article 5(7)(b)
(77/388/EEC)

Article 5(7)(c)
(77/388/EEC)

Adapted

Article 5(8), first sentence
(77/388/EEC)

Adapted

Article 5(8), second sentence
(77/388/EEC)

Adapted

Article 21

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

**Article 28a(3),
first subpara-
graph
(inserted by
91/680/EEC)**

Adapted

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 28a(3),
second subpara-
graph
(inserted by
91/680/EEC and
amended by
2000/65/EC)**

Adapted

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 of goods imported by that taxable person for the purposes of his business into that other Member State, shall be treated as an intra–Community acquisition of goods for consideration.

**Article 28a(6)
first subpara-
graph
(inserted by
91/680/EEC)**

Adapted

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 28a(6)
second subpara-
graph
(inserted by
92/111/EEC)**

Adapted

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.

Article 28a(7)
(inserted by
91/680/EEC)

Adapted

Chapter 3

Supply of services

Article 25

1. 'Supply of services' shall mean any transaction which does not constitute a supply of goods.

Article 6
(77/388/EEC)

Heading of
Article 6
(77/388/EEC)

Article 6(1), first
subparagraph
(77/388/EEC)

Adapted

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.

Article 9(2)(e),
ninth indent,
second sentence
(inserted by
1999/59/EC)

Adapted

Article 26

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

Article 6(1),
second subpara-
graph
(77/388/EEC)

Adapted

(a) the assignment of intangible property whether or not the subject of a document establishing title;

Article 6(1),
second subpara-
graph, first indent
(77/388/EEC)

- | | | |
|-----|---|--|
| (b) | the obligation to refrain from an act, or to tolerate an act or situation; | Article 6(1), second subparagraph, second indent (77/388/EEC) |
| (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 6(1), second subparagraph, third indent (77/388/EEC) |

Article 27

- | | | |
|-----|---|---|
| 1. | Each of the following transactions shall be treated as a supply of services for consideration: | Article 6(2), first subparagraph (77/388/EEC) |
| | | <i>Adapted</i> |
| (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; | Article 6(2), first subparagraph, point (a) (77/388/EEC) |
| | | <i>Adapted</i> |
| (b) | the supply of services free of charge by a taxable person for his private use or that of his staff or, more generally, for purposes other than those of his business. | Article 6(2), first subparagraph, point (b) (77/388/EEC) |
| | | <i>Adapted</i> |
| 2. | Member States may derogate from paragraph 1 provided that such derogation does not cause distortion of competition. | Article 6(2), second subparagraph (77/388/EEC) |
| | | <i>Adapted</i> |

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 6(3)
(77/388/EEC)

Adapted

Article 29

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

Article 6(4)
(77/388/EEC)

Adapted

Article 30

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

Article 6(5)
(77/388/EEC)

Chapter 4

Importation of goods

Article 31

Article 7
(replaced by
91/680/EEC)

Heading of
Article 7
(replaced by
91/680/EEC)

Article 7(1)
(replaced by
91/680/EEC)

‘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.

Article 7(1)(a)
(replaced by
91/680/EEC)

Adapted

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 the importation of goods.

Article 7(1)(b)
(replaced by
92/111/EEC)

Adapted

Article 28n
(inserted by
92/111/EEC)

Heading of
Article 28n
(inserted by
92/111/EEC)

Article 28n(1)
(inserted by
92/111/EEC)

Obsolete

Article 28n(1),
first indent
(inserted by
92/111/EEC)

Obsolete

Article 28n(1),
second indent
(inserted by
92/111/EEC)

Obsolete

Article 28n(1),
third indent
(inserted by
92/111/EEC)

Obsolete

Article 28n(1)
in fine
(inserted by
92/111/EEC)

Obsolete

**Article 28n(2),
first subpara-
graph
(inserted by
92/111/EEC)**

Obsolete

**Article 28n(2),
first subpara-
graph, point (a)
(inserted by
92/111/EEC)**

Obsolete

**Article 28n(2),
first subpara-
graph, point (b)
(inserted by
92/111/EEC)**

Obsolete

**Article 28n(2),
first subpara-
graph, point (c)
(inserted by
92/111/EEC)**

Obsolete

**Article 28n(2),
first subpara-
graph, point (d)
(inserted by
92/111/EEC)**

Obsolete

**Article 28n(2),
first subpara-
graph, point (e)
(inserted by
92/111/EEC)**

Obsolete

**Article 28n(2),
first subpara-
graph, point (f)
(inserted by
92/111/EEC)**

Obsolete

**Article 28n(2),
first subpara-
graph, point (f),
first indent
(inserted by
92/111/EEC)**

Obsolete

**Article 28n(2),
first subpara-
graph, point (f),
second indent
(inserted by
92/111/EEC)**

Obsolete

**Article 28n(2),
second subpara-
graph
(inserted by
92/111/EEC)**

Obsolete

**Article 28n(3)
(inserted by
92/111/EEC)**

Obsolete

**Article 28n(4),
first subpara-
graph
(inserted by
92/111/EEC)**

Obsolete

**Article 28n(4),
first subpara-
graph, point (a)
(inserted by
92/111/EEC)**

Obsolete

**Article 28n(4),
first subpara-
graph, point (b)
(inserted by
92/111/EEC)**

Obsolete

**Article 28n(4),
first subpara-
graph, point (c)
(inserted by
92/111/EEC)**

Obsolete

**Article 28n(4),
second subpara-
graph
(inserted by
92/111/EEC)**

Obsolete

**Title XVI C
(inserted by
94/76/EC)**

**Heading of
Title XVI C
(replaced by the
2003 Act of
Accession)**

**Article 28p
(inserted by
94/76/EC)**

**Article 28p(1)
(inserted by
94/76/EC)**

Obsolete

**Article 28p(1),
first indent
(inserted by
94/76/EC)**

Obsolete

**Article 28p(1),
second indent
(replaced by the
2003 Act of
Accession)**

Obsolete

**Article 28p(1),
third indent
(inserted by
94/76/EC)**

Obsolete

**Article 28p(2)
(inserted by
94/76/EC)**

Obsolete

**Article 28p(2),
first indent
(inserted by
94/76/EC)**

Obsolete

**Article 28p(2),
second indent
(inserted by
94/76/EC)**

Obsolete

**Article 28p(2),
third indent
(inserted by
94/76/EC)**

Obsolete

**Article 28p(2)
in fine
(inserted by
94/76/EC)**

Obsolete

**Article 28p(3),
first subpara-
graph
(inserted by
94/76/EC)**

Obsolete

**Article 28p(3),
first subpara-
graph, first indent
(inserted by
94/76/EC)**

Obsolete

**Article 28p(3),
first subpara-
graph, second
indent
(inserted by
94/76/EC)**

Obsolete

**Article 28p(3), end
of first
subparagraph
(inserted by
94/76/EC)**

Obsolete

**Article 28p(3),
second subpara-
graph
(inserted by
94/76/EC)**

Obsolete

**Article 28p(4)
(inserted by
94/76/EC)**

Obsolete

**Article 28p(4)(a)
(inserted by
94/76/EC)**

Obsolete

**Article 28p(4)(b)
(inserted by
94/76/EC)**

Obsolete

**Article 28p(4)(c)
(inserted by
94/76/EC)**

Obsolete

Article 28p(4)(d)
(inserted by
94/76/EC)

Obsolete

Article 28p(5)
(inserted by
94/76/EC)

Obsolete

Article 28p(5),
first indent
(inserted by
94/76/EC)

Obsolete

Article 28p(5),
second indent
(inserted by
94/76/EC)

Obsolete

Article 28p(6)
(inserted by
94/76/EC)

Obsolete

Article 28p(7),
first subpara-
graph
(inserted by
94/76/EC)

Obsolete

Article 28p(7),
first subpara-
graph, point (a)
(inserted by
94/76/EC)

Obsolete

**Article 28p(7),
first subpara-
graph, point (b)
(inserted by
94/76/EC)**

Obsolete

**Article 28p(7),
first subpara-
graph, point (c)
(inserted by
94/76/EC)**

Obsolete

**Article 28p(7),
second subpara-
graph
(replaced by the
2003 Act of
Accession)**

Obsolete

**Article 28p(7),
second subpara-
graph, first indent
(replaced by the
2003 Act of
Accession)**

Obsolete

**Article 28p(7),
second subpara-
graph, second
indent
(replaced by the
2003 Act of
Accession)**

Obsolete

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 28p(7),
second subpara-
graph, third
indent
(replaced by the
2003 Act of
Accession)**

Obsolete

**Title VI
(77/388/EEC)**

**Heading of
Title VI
(77/388/EEC)**

**Article 8
(77/388/EEC)**

**Heading of
Article 8
(77/388/EEC)**

**Article 8(1)
(77/388/EEC)**

**Article 8(1)(b)
(77/388/EEC)**

Adapted

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 8(1)(a),
first sentence
(77/388/EEC)**

Adapted

**Article 8(2)
(replaced by
91/680/EEC and
amended by
2000/65/EC)**

Adapted

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;

**Heading of
Article 28b(B)
(inserted by
91/680/EEC)**

**Article 28b(B)(1),
first subpara-
graph
(inserted by
91/680/EEC)**

Adapted

**Article 28b(B)(1),
first subpara-
graph, first indent
(inserted by
91/680/EEC)**

Adapted

(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.

**Article 28b(B)(1),
first subpara-
graph, second
indent
(inserted by
91/680/EEC)**

Adapted

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 28b(B)(1),
second subpara-
graph
(inserted by
91/680/EEC)**

Adapted

Article 35

1. Article 34 shall not apply to supplies of goods dispatched or transported to a Member State, other than that of the supplier, in which dispatch or transport of the goods ends, if the following conditions are met:

**Article 28b(B)(2),
first subpara-
graph
(inserted by
91/680/EEC)**

Adapted

(a) the goods supplied are not products subject to excise duty;

**Article 28b(B)(2),
first subpara-
graph
(inserted by
91/680/EEC)**

Adapted

(b) the total value, exclusive of VAT, of such supplies within a Member State does not in any one calendar year exceed 100 000 euro or the equivalent in national currency;

**Article 28b(B)(2),
first subpara-
graph, first indent
(inserted by
91/680/EEC)**

Adapted

(c) the total value, exclusive of VAT, of the supplies of goods within a Member State, other than products subject to excise duty did not, in the previous calendar year, exceed 100 000 euro or the equivalent in national currency.

**Article 28b(B)(2),
first subparagraph, second
indent
(inserted by
91/680/EEC)**

Adapted

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 thresholds referred to in paragraph 1 to 35 000 euro or the equivalent in national currency, where that Member State fears that the threshold of 100 000 euro might cause serious distortion of competition.

**Article 28b(B)(2),
second subparagraph, first
sentence
(inserted by
91/680/EEC)**

Adapted

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.

**Article 28b(B)(2),
second subparagraph, second
sentence
(inserted by
91/680/EEC)**

Adapted

3. The Commission shall present to the Council at the earliest opportunity a report on the operation of the special 35 000 euro thresholds referred to in paragraph 2, accompanied, if necessary, by appropriate proposals.

**Article 28b(B)(2),
third subparagraph, first and
second sentences
(inserted by
91/680/EEC)**

Adapted

**Article 28b(B)(2),
third subparagraph, third
sentence
(inserted by
91/680/EEC)**

Obsolete

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.

**Article 28b(B)(3),
first subparagraph
(inserted by
91/680/EEC)**

Adapted

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 28b(B)(3),
second subparagraph
(inserted by
91/680/EEC)**

Adapted

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, subject to VAT in accordance with the relevant special arrangements.

**Article 26a(D)(c)
(inserted by
94/5/EC)**

Adapted

**Article 28o(1)(h)
(inserted by
94/5/EC)**

Article 37

Where goods, dispatched or transported by the supplier or 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.

**Article 8(1)(a),
second sentence
(77/388/EEC)**

Adapted

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 there is no double taxation.

**Article 8(1)(a),
third sentence
(amended by
91/680/EEC)**

Adapted

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.

**Article 8(1)(c),
first subparagraph
(replaced by
92/111/EEC)**

Adapted

**Article 8(1)(c),
second subparagraph
(replaced by
92/111/EEC)**

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.

**Article 8(1)(c),
second subparagraph,
first indent
(replaced by
92/111/EEC)**

Adapted

'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.

**Article 8(1)(c),
second subparagraph,
second indent
(replaced by
92/111/EEC)**

Adapted

'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.

**Article 8(1)(c),
second subparagraph,
third indent
(replaced by
92/111/EEC)**

Adapted

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

**Article 8(1)(c),
third subparagraph
(replaced by
92/111/EEC)**

Adapted

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.

**Article 8(1)(c),
fourth subparagraph
(replaced by
92/111/EEC)**

Modified

**Article 8(1)(c),
fifth subparagraph
(replaced by
92/111/EEC)**

Obsolete

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.

**Article 8(1)(c),
sixth subparagraph
(replaced by
92/111/EEC)**

Modified

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.

**Article 8(1)(d),
first subparagraph
(inserted by
2003/92/EC)**

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 8(1)(d),
second subparagraph
(inserted by
2003/92/EC)**

Adapted

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.

**Article 8(1)(e),
first sentence
(inserted by
2003/92/EC)**

Adapted

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.

**Article 8(1)(e),
second and third
sentences
(inserted by
2003/92/EC)**

Adapted

Chapter 2

Place of an intra-Community acquisition of goods

Article 41

**Article 28b
(inserted by
91/680/EEC)**

**Heading of
Article 28b
(inserted by
91/680/EEC)**

**Heading of
Article 28b(A)
(inserted by
91/680/EEC)**

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 28b(A)(1)
(inserted by
91/680/EEC)**

Adapted

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 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.

**Article 28b(A)(2),
first subparagraph
(inserted by
91/680/EEC)**

Adapted

**Article 28b(A)(2),
second subparagraph
(inserted by
91/680/EEC)**

Adapted

**Article 28b(A)(2),
third subparagraph
(inserted by
92/111/EEC)**

Adapted

**Article 28b(A)(2),
third subparagraph, first indent
(inserted by
92/111/EEC)**

Adapted

**Article 28b(A)(2),
third subparagraph, second
indent
(inserted by
92/111/EEC)**

Adapted

Chapter 3

Place of supply of services

Section 1

General rules

Article 44

Subject to the particular provisions laid down in Section 2, the place of supply of services, other than the supply of services by an intermediary, 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.

Article 45

Subject to the particular provisions laid down in Section 2, the place of the supply of services by an intermediary, acting in the name and on behalf of other persons, shall be the place where the principal transaction in which the intermediary takes part is 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 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.

Section 2

Particular provisions

**Article 9
(77/388/EEC)**

**Heading of
Article 9
(77/388/EEC)**

**Article 9(1)
(77/388/EEC)**

Adapted

**Heading of
Article 28b(E)
(inserted by
91/680/EEC)**

**Article 28b(E)(3),
first subpara-
graph
(inserted by
91/680/EEC)**

Adapted

**Article 28b(E)(3),
second subpara-
graph
(inserted by
91/680/EEC)**

Adapted

Subsection 1

Supply of services relating to immovable property

Article 46

The place of supply of services relating to immovable property, including the services of estate agents and experts, and services relating to 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.

Article 9(2)
(77/388/EEC)

Article 9(2)(a)
(77/388/EEC)

Adapted

Subsection 2

Supply of transport

Article 47

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

Article 9(2)(b)
(77/388/EEC)

Adapted

Article 48

Heading of
Article 28b(C)
(inserted by
91/680/EEC)

Article 28b(C)(1)
(inserted by
91/680/EEC)

Obsolete

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

Article 28b(C)(2)
(inserted by
91/680/EEC)

Adapted

However, where intra-Community goods transport 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 28b(C)(3)
(inserted by
91/680/EEC)

Adapted

Article 49

1. '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 two different Member States.

Article 28b(C)(1),
first indent, first
subparagraph
(inserted by
91/680/EEC)

Adapted

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

Article 28b(C)(1),
first indent,
second subpara-
graph
(inserted by
95/7/EC)

Adapted

2. '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, and 'the place of arrival' shall mean the place where transport of the goods effectively ends.

Article 28b(C)(1),
second indent
(inserted by
91/680/EEC)

Adapted

Article 28b(C)(1),
third indent
(inserted by
91/680/EEC)

Article 50

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

**Article 28b(E)(1),
first subparagraph
(inserted by
91/680/EEC)**

Adapted

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 28b(E)(1),
second subparagraph
(inserted by
91/680/EEC)**

Adapted

Article 51

Member States need not apply VAT to the intra-Community transport of goods in so far as such transport takes place over waters which do not form part of the territory of the Community.

**Article 28b(C)(4)
(inserted by
91/680/EEC)**

Adapted

Subsection 3

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

Article 52

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

**Article 9(2)(c)
(77/388/EEC)**

Adapted

(a) cultural, artistic, sporting, scientific, educational, entertainment or similar activities, including the activities of the organisers of such activities and, where appropriate, ancillary services;

**Article 9(2)(c),
first indent
(77/388/EEC)**

Adapted

(b) ancillary transport activities, such as loading, unloading, handling and similar activities;

**Article 9(2)(c),
second indent
(77/388/EEC)**

(c) valuations of tangible movable property or work on such property.

**Article 9(2)(c),
third indent
(77/388/EEC)**

Adapted

**Article 9(2)(c),
fourth indent
(77/388/EEC)**

**Article 9(2)(c)
in fine
(77/388/EEC)**

Article 53

By way of derogation from Article 52(b), the place of supply of services relating to activities ancillary to the intra-Community transport of goods, supplied to customers identified for VAT purposes in a Member State other than that in 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.

**Heading of
Article 28b(D)
(inserted by
91/680/EEC)**

**Article 28b(D)
(inserted by
91/680/EEC)**

Adapted

Article 54

The place of the supply of services by an intermediary, acting in the name and on behalf of other persons, where he 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 services are physically carried out.

**Article 28b(E)(2),
first subpara-
graph
(inserted by
91/680/EEC)**

Adapted

However, where the customer of the services supplied by the intermediary is identified for VAT purposes in a Member State other than that within which the ancillary service is 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.

**Article 28b(E)(2),
second subpara-
graph
(inserted by
91/680/EEC)**

Adapted

Article 55

By way of derogation from Article 52(c), the place of supply of services consisting in the valuation of tangible movable property or in work on such property, supplied to customers identified for VAT purposes in a Member State other than that in 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.

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 4

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 Member State 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;

Heading of Article 28b(F)
(inserted by 95/7/EC)

Article 28b(F), first paragraph
(inserted by 95/7/EC)

Adapted

Article 28b(F), second paragraph
(inserted by 95/7/EC)

Adapted

Article 9(2)(e)
(77/388/EEC)

Adapted

Article 9(2)(e), first indent
(77/388/EEC)

Article 9(2)(e), second indent
(77/388/EEC)

(c) the services of consultants, engineers, consultancy bureaux, lawyers, accountants and other similar services, as well as data processing and the provision of information;	Article 9(2)(e), third indent (77/388/EEC)
<i>Adapted</i>	
(d) obligations to refrain from pursuing or exercising, in whole or in part, a business activity or a right referred to in this paragraph;	Article 9(2)(e), fourth indent (77/388/EEC)
(e) banking, financial and insurance transactions, including reinsurance, with the exception of the hire of safes;	Article 9(2)(e), fifth indent (77/388/EEC)
(f) the supply of staff;	Article 9(2)(e), sixth indent (77/388/EEC)
(g) the hiring out of tangible movable property, with the exception of all means of transport;	Article 9(2)(e), eighth indent (inserted by 84/386/EEC)
<i>Adapted</i>	
(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;	Article 9(2)(e), ninth indent (inserted by 2003/92/EC)
(i) telecommunications services, including the provision of access to global information networks;	Article 9(2)(e), ninth indent, first and third sentences (inserted by 1999/59/EC)
<i>Adapted</i>	
(j) radio and television broadcasting services;	Article 9(2)(e), tenth indent (inserted by 2002/38/EC)

(k) electronically supplied services, such as those referred to in Annex II; **Article 9(2)(e), eleventh indent (inserted by 2002/38/EC)**

Adapted

(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. **Article 9(2)(e), seventh indent (77/388/EEC)**

Adapted

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. **Annex L, second paragraph (inserted by 2002/38/EC)**

Adapted

3. Points (j) and (k) of paragraph 1 shall apply for a period of three years starting from 1 July 2003. **Article 4 (2002/38/EC)**

Article 57

1. Where the services referred to in point (k) of Article 52(1) are supplied to non-taxable persons who are established in, 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. **Article 9(2)(f) (inserted by 2002/38/EC)**

Adapted

2. Paragraph 1 shall apply for a period of three years starting from 1 July 2003. **Article 4 (2002/38/EC)**

Subsection 5

Criterion of effective use or 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 points (a) to (j) and point (l) of Article 56(1), where those services are rendered to non-taxable persons, and with regard to the hiring out of means of transport, exercise the following options:

- (a) of regarding 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 or enjoyment of the services takes place outside the Community;
- (b) of regarding 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 or enjoyment of the services takes place within their territory.

Article 59

1. Member States shall apply Article 58(b) to telecommunications services, as referred to in Article 56(1)(i), 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 from 1 July 2003, Member States shall apply Article 58(b) to radio and television broadcasting services, 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.

Article 9(3)
(replaced by
2002/38/EC)

Adapted

Article 9(3)(a)
(77/388/EEC)

Adapted

Article 9(3)(b)
(77/388/EEC)

Adapted

Article 9(4)
(inserted by
2002/38/EC)

Modified

Article 9(4)
(replaced by
2002/38/EC)

Modified

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 7(2)
(replaced by
91/680/EEC)**

Adapted

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 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.

**Article 7(3), first
subparagraph
(replaced by
91/680/EEC and
amended by
92/111/EEC)**

Adapted

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.

**Article 7(3),
second subpara-
graph
(replaced by
92/111/EEC)**

Adapted

TITLE VI

**Title VII
(77/388/EEC)**

CHARGEABLE EVENT AND CHARGEABILITY OF VAT

**Heading of
Title VII
(77/388/EEC)**

Chapter 1

General provisions

Article 62

**Article 10
(77/388/EEC)**

‘Chargeable event’ shall mean the occurrence by virtue of which the legal conditions necessary for VAT to become chargeable are fulfilled.

**Article 10(1)(a)
(77/388/EEC)**

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.

Article 10(1)(b)
(77/388/EEC)

Adapted

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 10(2), first
subparagraph,
first sentence**
(77/388/EEC)

Adapted

Article 64

1. Where it gives rise to successive statements of account or successive payments, the supply of services or 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), shall be regarded as being completed on expiry of the periods to which such statements of account or payments relate.

**Article 10(2), first
subparagraph,
second sentence**
(77/388/EEC)

Adapted

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 10(2), first
subparagraph,
third sentence**
**(inserted by
2000/65/EC)**

Adapted

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 10(2),
second subpara-
graph**
(77/388/EEC)

Adapted

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;

**Article 10(2),
third subparagraph
(77/388/EEC)**

Adapted

**Article 10(2),
third subparagraph,
first indent
(amended by
2001/115/EC)**

Adapted

(b) no later than the time the payment is received;

**Article 10(2),
third subparagraph,
second indent
(77/388/EEC)**

Adapted

(c) where an invoice is not issued, or is issued late, within a specified period from the date of the chargeable event.

**Article 10(2),
third subparagraph,
third indent
(amended by
2001/115/EC)**

Adapted

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.

**Article 28d(4),
first subparagraph
(inserted by
91/680/EEC)**

Adapted

2. By way of derogation from paragraph 1, VAT shall become chargeable on the 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.

Article 28d(4), second subparagraph (replaced by 92/111/EEC and amended by 2001/115/EC)

Adapted

Chapter 3

Intra-Community acquisition of goods

Article 68

Article 28d (inserted by 91/680/EEC)

Heading of Article 28d (inserted by 91/680/EEC)

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

Article 28d(1), first sentence (inserted by 91/680/EEC)

Adapted

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 28d(1), second sentence (inserted by 91/680/EEC)

Adapted

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.

Article 28d(2) (inserted by 91/680/EEC)

Adapted

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

**Article 28d(3)
(replaced by
92/111/EEC and
amended by
2001/115/EC)**

Adapted

Chapter 4

Importation of goods

Article 70

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

**Article 10(3), first
subparagraph,
first sentence
(replaced by
91/680/EEC)**

Article 71

1. Where, on entry into the Community, goods are placed under one of the arrangements 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.

**Article 10(3), first
subparagraph,
second sentence
(replaced by
91/680/EEC)**

Adapted

However, where imported goods are subject to customs duties, or 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.

**Article 10(3),
second subpara-
graph
(replaced by
91/680/EEC)**

Adapted

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.

**Article 10(3),
third subpara-
graph
(replaced by
91/680/EEC)**

Adapted

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, 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.

Title VIII
(77/388/EEC)

Heading of
Title VIII
(77/388/EEC)

Article 11
(77/388/EEC)

Heading of
Article 11(A)
(77/388/EEC)

Article 11(A)(1)
(77/388/EEC)

Article 11(A)(1)(a)
(77/388/EEC)

Adapted

Article 11(A)(1)(b)
(77/388/EEC)

Adapted

Article 11(A)(1)(c)
(77/388/EEC)

Adapted

Article 75

In respect of the supply of goods consisting in the transfer of goods 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 28e(2)
(inserted by
92/111/EEC)**

Adapted

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.

**Article 11(A)(1)
(d), first subpara-
graph
(77/388/EEC)**

Adapted

The ‘open market value’ of a service shall mean the full amount that, in order to obtain the service in question, 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 Member State in which the supply of a service referred to in paragraph 1 is taxable.

**Article 11(A)(1)
(d), second sub-
paragraph
(77/388/EEC)**

Adapted

Article 77

The taxable amount shall include the following factors:

**Article 11(A)(2)
(77/388/EEC)**

- (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.

**Article 11(A)(2)(a)
(77/388/EEC)**

**Article 11(A)(2)
(b), first sentence
(77/388/EEC)**

Adapted

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

**Article 11(A)(2)
(b), second
sentence
(77/388/EEC)**

Adapted

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 11(A)(3)
(77/388/EEC)**

**Article 11(A)(3)(a)
(77/388/EEC)**

**Article 11(A)(3)(b)
(77/388/EEC)**

Adapted

**Article 11(A)(3)
(c), first sentence
(77/388/EEC)**

Adapted

**Article 11(A)(3)
(c), second
sentence
(77/388/EEC)**

Adapted

**Article 11(A)(4),
first subpara-
graph
(inserted by
94/5/EC)**

Adapted

**Article 11(A)(4),
second subpara-
graph
(inserted by
94/5/EC)**

Adapted

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 those used in accordance with Chapter 1 to determine the taxable amount for the supply of the same goods within 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 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 which the acquisition was made.

Chapter 3

Importation of goods

Article 28e
(inserted by
91/680/EEC)

Heading of
Article 28e
(inserted by
91/680/EEC)

Article 28e(1),
first subpara-
graph
(inserted by
91/680/EEC and
amended by
92/111/EEC)

Adapted

Article 28e(1),
second subpara-
graph, first
sentence
(inserted by
91/680/EEC)

Adapted

Article 28e(1),
second subpara-
graph, second
sentence
(inserted by
91/680/EEC)

Adapted

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.

**Heading of
Article 11(B)
(77/388/EEC)**

**Article 11(B)(1)
(replaced by
92/111/EEC)**

Adapted

Article 83

1. The taxable amount shall include the following factors, in so far as they are not already included:

**Article 11(B)(3)
(replaced by
91/680/EEC)**

(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;

**Article 11(B)(3)(a)
(replaced by
91/680/EEC)**

Adapted

(b) incidental expenses, such as commission, packing, transport and insurance costs, incurred up to the first place of destination within the Member State of importation.

**Article 11(B)(3)
(b), first subpara-
graph
(replaced by
91/680/EEC)**

Adapted

The taxable amount shall also include the incidental expenses resulting from transport to another place of destination within the Community, if that place is known when the chargeable event occurs.

**Article 11(B)(3)
(b), third subpara-
graph
(replaced by
95/7/EC)**

Adapted

2. For the purposes of point (b) of the first subparagraph 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 first intermediate reloading in the Member State of importation.

Article 11(B)(3)(b), second subparagraph (replaced by 91/680/EEC)

Adapted

Article 84

The taxable amount shall not include the following factors:

Article 11(B)(4) (77/388/EEC)

(a) price reductions by way of discount for early payment;

Article 11(A)(3)(a) (77/388/EEC)

(b) price discounts and rebates allowed to the customer and applying at the time of importation.

Article 11(A)(3)(b) (77/388/EEC)

Adapted

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 11(B)(5) (amended by 91/680/EEC)

Adapted

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.

Article 11(B)(6), first subparagraph (inserted by 94/5/EC)

Adapted

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.

**Article 11(B)(6),
second subparagraph
(inserted by
94/5/EC)**

Adapted

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.

**Heading of
Article 11(C)
(77/388/EEC)**

**Article 11(C)(1),
first subparagraph
(77/388/EEC)**

**Article 11(C)(1),
second subparagraph
(77/388/EEC)**

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.

**Article 11(C)(2),
first subparagraph
(replaced by
91/680/EEC)**

Adapted

**Article 11(C)(2),
second subparagraph,
first sentence
(replaced by
91/680/EEC)**

Adapted

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

Article 11(C)(2), second subparagraph, second sentence (replaced by 91/680/EEC)

Article 89

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

Article 11(C)(3) (77/388/EEC)

Adapted

(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;

Article 11(C)(3), first indent (77/388/EEC)

Adapted

(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.

Article 11(C)(3), second indent (77/388/EEC)

Adapted

TITLE VIII

Title IX (77/388/EEC)

RATES

Heading of Title IX (77/388/EEC)

Chapter 1

Application of rates

Article 90

Article 12 (77/388/EEC)

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

Article 12(1), first sentence (77/388/EEC)

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

Article 12(1), second sentence (77/388/EEC)

- | | | |
|----------------|--|---|
| (a) | in the cases referred to in Articles 65 and 66; | Article 12(1)(a)
(77/388/EEC) |
| (b) | in the case of an intra-Community acquisition of goods; | Article 28e(3)
(inserted by
91/680/EEC and
renumbered by
92/111/EEC) |
| <i>Adapted</i> | | |
| (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 12(1)(b)
(replaced by
92/111/EEC) |

Adapted

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 Member State. | Article 28e(4)
(inserted by
91/680/EEC and
renumbered by
92/111/EEC) |
| <i>Adapted</i> | | |
| 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 Member State. | Article 12(5)
(replaced by
94/5/EC) |

Adapted

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.	Article 12(2), first indent (77/388/EEC)
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Adapted

Member States may also adopt all appropriate transitional measures.

**Article 12(2),
second indent
(77/388/EEC)**

Adapted

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 12(3)(a),
first subpara-
graph, first
sentence
(replaced by
2001/4/EC)**

Adapted

Article 94

1. From 1 January 2001 until 31 December 2005, the standard rate may not be less than 15%.

**Article 12(3)(a)
first subpara-
graph, second
sentence
(replaced by
2001/4/EC)**

Adapted

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 2005.

**Article 12(3)(a)
second subpara-
graph
(replaced by
2001/4/EC)**

Section 2

Reduced rates

Article 95

1. Member States may apply either one or two reduced rates.

**Article 12(3)(a),
third subparagraph,
first sentence
(replaced by
1999/49/EC)**

2. The reduced rates shall apply only to supplies of goods or services in the categories set out in Annex III.

**Article 12(3)(a),
third subparagraph,
second sentence
(replaced by
1999/49/EC)**

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

Adapted

**Article 12(3)(a),
fourth subparagraph
(inserted by
2002/38/EC)**

Adapted

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.

**Annex H, first
paragraph
(inserted by
92/77/EEC)**

Adapted

Article 96

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

**Article 12(3)(a),
third subparagraph,
second sentence
(replaced by
1999/49/EC)**

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 171 can normally be deducted in full.

Article 12(4), first subparagraph (amended by 92/77/EEC)

Adapted

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.

Article 12(4), second subparagraph, first sentence (inserted by 92/77/EEC)

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.

Article 12(4), second subparagraph, second sentence (inserted by 92/77/EEC)

Section 3

Particular provisions

Article 98

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

Article 12(3)(b), first sentence (replaced by 92/77/EEC)

Adapted

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 12(3)(b), second, third and fourth sentences (replaced by 92/77/EEC)

Adapted

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).

**Article 12(3)(c),
first subpara-
graph
(replaced by
94/5/EC)**

Adapted

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

**Article 12(3)(c),
second subpara-
graph
(replaced by
94/5/EC)**

Adapted

(a) the supply of works of art, by their creator or his successors in title;

**Article 12(3)(c),
second subpara-
graph, first indent
(replaced by
94/5/EC)**

(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 12(3)(c),
second subpara-
graph, second
indent
(replaced by
94/5/EC)**

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%.

**Annex IX(2)(b),
first subpara-
graph
(Act of Accession,
AT, FI and SE)**

Adapted

Article 101

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

**Article 12(6)
(inserted by Act of
Accession, ES and
PT)**

Adapted

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 six 5the 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.

**Article 28(6), first
subparagraph,
first sentence
(inserted by
1999/85/EC and
amended by
2004/15/EC)**

Adapted

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

**Article 28(6), first
subparagraph,
first sentence
(inserted by
1999/85/EC and
amended by
2004/15/EC)**

Adapted

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

**Article 28(6), first
subparagraph,
second sentence
(inserted by
1999/85/EC)**

Adapted

Article 103

The services referred to in Article 102 must satisfy 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 28(6),
second subpara-
graph
(inserted by
1999/85/EC)**

Adapted

**Article 28(6),
second subpara-
graph, point (a)
(inserted by
1999/85/EC)**

**Article 28(6),
second subpara-
graph, point (b)
(inserted by
1999/85/EC)**

**Article 28(6),
second subpara-
graph, point (c)
(inserted by
1999/85/EC)**

Adapted

**Article 28(6),
second subpara-
graph, point (d)
(inserted by
1999/85/EC)**

Adapted

**Article 28(6),
third subpara-
graph
(inserted by
1999/85/EC)**

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, and 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 satisfied;
- (c) particulars showing the budgetary cost of the measure envisaged.

Article 28(6), fourth subparagraph
(inserted by 1999/85/EC)

Adapted

Article 28(6), fourth subparagraph, point (a)
(inserted by 1999/85/EC)

Article 28(6), fourth subparagraph, point (b)
(inserted by 1999/85/EC)

Adapted

Article 28(6), fourth subparagraph, point (c)
(inserted by 1999/85/EC)

Article 28(6), fifth subparagraph
(inserted by 1999/85/EC)

Obsolete

Article 28(6), sixth subparagraph
(inserted by 1999/85/EC)

Obsolete

Chapter 4

Special provisions applying until the adoption of definitive arrangements

Article 105

Pending introduction of the definitive arrangements, referred to in Article 395, for taxation of trade between Member States, the provisions laid down in this Chapter shall apply.

Article 28(2)
(replaced by
92/77/EEC)

Adapted

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.

Article 28(2)(a),
first subpara-
graph
(replaced by
92/77/EEC)

Adapted

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 28(2)(a),
first subpara-
graph
(replaced by
92/77/EEC)

Adapted

Article 28(2)(a),
second subpara-
graph
(replaced by
92/77/EEC)

Modified

Article 107

Subject to the conditions laid down in the second paragraph of Article 103, exemptions, with deductibility of the VAT paid at the preceding stage, may continue to be granted in the following cases:

New

- (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;

Annex IX(2)(I)
(Act of Accession,
AT, FI and SE)

Adapted

(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.

**Annex IX(2)(c)
(Act of Accession,
AT, FI and SE)**

Adapted

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.

**Article 28(2)(a),
third subpara-
graph, first
sentence
(replaced by
92/77/EEC)**

Adapted

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 28(2)(a),
third subpara-
graph, second and
third sentences
(replaced by
92/77/EEC)**

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 28(2)(b)
(replaced by
92/77/EEC)**

Adapted

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.

**Article 28(2)(c),
first sentence
(replaced by
92/77/EEC)**

Adapted

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.

**Article 28(2)(c),
second sentence
(replaced by
92/77/EEC)**

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

**Article 28(2)(c),
third sentence
(replaced by
92/77/EEC)**

Adapted

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 28(2)(d)
(replaced by
92/77/EEC)**

Adapted

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 28(2)(k)
(inserted by
2000/17/EC)**

Article 113

1. For the purposes of applying Article 111, Austria may continue to apply a reduced rate, in accordance with Articles 95 and 96, to restaurant services.

**Annex IX(2)(f),
first subpara-
graph
(Act of Accession
AT, FI and SE)**

Adapted

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 28(2)(j)
(inserted by
2000/17/EC)**

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%.

**Article 28(2)(e),
first subpara-
graph
(replaced by
92/77/EEC)**

Adapted

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 28(2)(e),
second subpara-
graph
(inserted by
94/5/EC)**

Adapted

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%.

**Annex IX(2)(g),
first subpara-
graph
(Act of Accession
AT, FI and SE)**

Adapted

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 28(2)(f)
(replaced by
92/77/EEC)**

Adapted

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.

**Article 28(2)(h),
first subpara-
graph
(inserted by
95/7/EC)**

Adapted

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 28(2)(h),
second subparagraph
(inserted by
95/7/EC)**

Adapted

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.

**Article 28(2)(i)
(inserted by
96/42/EC)**

Adapted

**Article 28(2)(g)
(replaced by
92/77/EEC)**

Obsolete

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:

**Annex V(5)(1)(a)
(2003 Act of
Accession)**

Adapted

(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;

**Annex V(5)(1)(a)
(2003 Act of
Accession)**

Adapted

(b) the supply of construction work for residential housing not provided as part of a social policy, and excluding building materials.

**Annex V(5)(1)(a)
(2003 Act of
Accession)**

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.

**Annex VI(7)(1)(a)
(2003 Act of
Accession)**

Adapted

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).

**Annex VII(7)(1),
first subpara-
graph
(2003 Act of
Accession)**

Adapted

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

**Annex VII(7)(1),
second sub-
paragraph
(2003 Act of
Accession)**

Adapted

Article 122

Latvia may, until 31 December 2004, continue to grant an exemption with deductibility of VAT paid at the preceding stage in respect of the supply of heating sold to households.

**Annex VIII(7)(1)
(a)
(2003 Act of
Accession)**

Adapted

Article 123

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

**Annex X(7)(1)(a)
(2003 Act of
Accession)**

Adapted

- | | | |
|-----|---|--|
| (a) | the supply of coal, coal-brick and coke, firewood and charcoal, and the supply of district heating services, until 31 December 2007; | Annex X(7)(1)(a)
(i)
(2003 Act of Accession) |
| (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. | Annex X(7)(1)(a)
(ii)
(2003 Act of Accession) |

Adapted

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.	Annex XI(7)(1) (2003 Act of Accession)
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Adapted

Article 125

- | | | |
|----|---|--|
| 1. | Poland may, until 31 December 2007, or until the introduction of definitive arrangements as referred to in Article 395, whichever is the earlier, grant an exemption with deductibility of VAT paid at the preceding stage in respect of the supply of certain books and specialist periodicals | Annex XII(9)(1)
(a)
(2003 Act of Accession) |
| 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. | Annex XII(9)(1)
(a)
(2003 Act of Accession) |
| 3. | Poland may, until 30 April 2008, continue to apply a reduced rate of no less than 3% to the supply of foodstuffs referred to in point (1) of Annex III. | Annex XII(9)(1)
(b)
(2003 Act of Accession) |

Adapted

Adapted

Adapted

4. Poland may, until 30 April 2008, continue to apply a reduced rate of no 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, referred to in point (11) of Annex III.

**Annex XII(9)(1)
(b)
(2003 Act of
Accession)**

Adapted

5. Poland may, until 31 December 2007, continue to apply a reduced rate of no 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).

**Annex XII(9)(1)
(b)
(2003 Act of
Accession)**

Adapted

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.

**Annex XIII(6)(1)
(a)
(2003 Act of
Accession)**

Adapted

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, and excluding building materials.

**Annex XIII(6)(1)
(a)
(2003 Act of
Accession)**

Adapted

Article 127

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

**Annex XIV(7)(1),
first subpara-
graph
(2003 Act of
Accession)**

Adapted

(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;

**Annex XIV(7)(1),
first subpara-
graph
(2003 Act of
Accession)**

Adapted

(b) the supply of construction work for residential housing not provided as part of a social policy, and excluding building materials, until 31 December 2007.

**Annex XIV(7)(1),
first subpara-
graph
(2003 Act of
Accession)**

TITLE IX

**Title X
(77/388/EEC)**

EXEMPTIONS

**Heading of Title X
(77/388/EEC)**

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.

**Article 13(A)(1)
(77/388/EEC)**

Adapted

Chapter 2

Exemptions for certain activities in the public interest

Article 129

**Article 13
(77/388/EEC)**

**Heading of
Article 13
(77/388/EEC)**

**Heading of
Article 13(A)
(77/388/EEC)**

1. Member States shall exempt the following transactions:

**Article 13(A)(1)
(77/388/EEC)**

- | | |
|---|---|
| (a) the supply by the public postal services of services other than passenger transport and telecommunications services, and the supply of goods incidental thereto; | Article 13(A)(1)(a)
(77/388/EEC) |
| (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; | Article 13(A)(1)(b)
(77/388/EEC)

<i>Adapted</i> |
| (c) the provision of patient care in the exercise of the medical and paramedical professions as defined by the Member State concerned; | Article 13(A)(1)(c)
(77/388/EEC)

<i>Adapted</i> |
| (d) the supply of human organs, blood and milk; | Article 13(A)(1)(d)
(77/388/EEC) |
| (e) the supply of services by dental technicians in their professional capacity and the supply of dental prostheses by dentists and dental technicians; | Article 13(A)(1)(e)
(77/388/EEC) |
| (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; | Article 13(A)(1)(f)
(77/388/EEC)

<i>Adapted</i> |
| (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; | Article 13(A)(1)(g)
(77/388/EEC)

<i>Adapted</i> |
| (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; | Article 13(A)(1)(h)
(77/388/EEC)

<i>Adapted</i> |

- | | |
|--|--|
| (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; | Article 13(A)(1)(i)
(77/388/EEC)

<i>Adapted</i> |
| (j) tuition given privately by teachers and covering school or university education; | Article 13(A)(1)(j)
(77/388/EEC) |
| (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; | Article 13(A)(1)(k)
(77/388/EEC)

<i>Adapted</i> |
| (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; | Article 13(A)(1)(l)
(77/388/EEC)

<i>Adapted</i> |
| (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; | Article 13(A)(1)
(m)
(77/388/EEC)

<i>Adapted</i> |
| (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; | Article 13(A)(1)(n)
(77/388/EEC)

<i>Adapted</i> |
| (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; | Article 13(A)(1)
(o), first sentence
(77/388/EEC) |
| (p) the supply of transport services for sick or injured persons in means of transport specially designed for the purpose, by duly authorised bodies; | Article 13(A)(1)(p)
(77/388/EEC)

<i>Adapted</i> |
| (q) the activities of public radio and television bodies other than those of a commercial nature. | Article 13(A)(1)(q)
(77/388/EEC) |

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 13(A)(1)
(o), second
sentence
(77/388/EEC)**

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 120(1) subject in each individual case to one or more of the following conditions:

**Article 13(A)(2)(a)
(77/388/EEC)**

- (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;

**Article 13(A)(2)
(a), first indent
(77/388/EEC)**

Adapted

- (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;

**Article 13(A)(2)
(a), second indent
(77/388/EEC)**

Adapted

- (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;

**Article 13(A)(2)
(a), third indent
(77/388/EEC)**

Adapted

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

**Article 13(A)(2)
(a), fourth indent
(77/388/EEC)**

Adapted

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 120(1), in the following cases:

**Article 13(A)(2)(b)
(77/388/EEC)**

- (a) where the supply is not essential to the transactions exempted;

**Article 13(A)(2)
(b), first indent
(77/388/EEC)**

Adapted

- (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.

**Article 13(A)(2)
(b), second indent
(77/388/EEC)**

Adapted

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;

**Heading of
Article 13(B)
(77/388/EEC)**

**Article 13(B)
(77/388/EEC)**

**Article 13(B)(a)
(77/388/EEC)**

**Article 13(B)(d)
(77/388/EEC)**

**Article 13(B)(d)(1)
(77/388/EEC)**

**Article 13(B)(d)(2)
(77/388/EEC)**

**Article 13(B)(d)(3)
(77/388/EEC)**

Adapted

**Article 13(B)(d)(4)
(77/388/EEC)**

Adapted

<p>(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);</p>	<p>Article 13(B)(d)(5) (77/388/EEC)</p>
	<p><i>Adapted</i></p>
	<p>Article 13(B)(d) (5), first indent (77/388/EEC)</p>
	<p>Article 13(B)(d) (5), second indent (77/388/EEC)</p>
<p>(g) the management of special investment funds as defined by Member States;</p>	<p>Article 13(B)(d)(6) (77/388/EEC)</p>
<p>(h) the supply at face value of postage stamps which are valid for postage within the territory of a Member State, fiscal stamps and other similar stamps;</p>	<p>Article 13(B)(e) (77/388/EEC)</p>
	<p><i>Modified</i></p>
<p>(i) betting, lotteries and other forms of gambling, subject to the conditions and limitations laid down by each Member State;</p>	<p>Article 13(B)(f) (77/388/EEC)</p>
<p>(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);</p>	<p>Article 13(B)(g) (77/388/EEC)</p>
	<p><i>Adapted</i></p>
<p>(k) the supply of land which has not been built on other than the supply of building land as referred to in Article 11(1)(b);</p>	<p>Article 13(B)(h) (77/388/EEC)</p>
	<p><i>Adapted</i></p>
<p>(l) the leasing or letting of immovable property.</p>	<p>Article 13(B)(b), first subpara- graph (77/388/EEC)</p>
	<p><i>Adapted</i></p>
<p>2. The following shall be excluded from the exemption provided for in point (l) of paragraph 1:</p>	<p>Article 13(B)(b), first subpara- graph (77/388/EEC)</p>

- | | |
|---|---|
| (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; | Article 13(B)(b), first subparagraph, point 1 (77/388/EEC) |
| (b) the letting of premises and sites for the parking of means of transport; | Article 13(B)(b), first subparagraph, point 2 (77/388/EEC) |
| | <i>Adapted</i> |
| (c) the letting of permanently installed equipment and machinery; | Article 13(B)(b), first subparagraph, point 3 (77/388/EEC) |
| (d) the hire of safes. | Article 13(B)(b), first subparagraph, point 4 (77/388/EEC) |

Member States may apply further exclusions to the scope of the exemption referred to in point (l) of paragraph 1.	Article 13(B)(b), second subparagraph (77/388/EEC)
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Article 133

Member States shall exempt the following transactions:

- | | |
|--|--------------------------------------|
| (a) the supply of goods used solely for an activity exempted under Articles 129, 132 or 364, or under Articles 368 to 383, if those goods have not given rise to deductibility of the VAT paid at the preceding stage; | Article 13(B)(c) (77/388/EEC) |
| | <i>Adapted</i> |
| (b) the supply of goods on the acquisition or application of which VAT was not deductible, pursuant to Article 170. | Article 13(B)(c) (77/388/EEC) |

Adapted

Article 134

1. Member States may allow taxable persons a right of option for taxation in respect of the following transactions:

**Heading of
Article 13(C)
(77/388/EEC)**

**Article 13(C), first
paragraph
(77/388/EEC)**

Adapted

(a) the financial transactions referred to in points (b) to (g) of Article 120(1);

**Article 13(C), first
paragraph,
point (b)
(77/388/EEC)**

Adapted

(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);

**Article 13(C), first
paragraph,
point (b)
(77/388/EEC)**

Adapted

(c) 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);

**Article 13(C), first
paragraph,
point (b)
(77/388/EEC)**

Adapted

(d) the leasing or letting of immovable property.

**Article 13(C), first
paragraph,
point (a)
(77/388/EEC)**

Adapted

2. Member States shall lay down the detailed rules governing exercise of the option under paragraph 1.

**Article 13(C),
second paragraph
(77/388/EEC)**

Adapted

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

**Article 13(C),
second paragraph
(77/388/EEC)**

Adapted

Chapter 4

Exemptions for intra-Community transactions

Section 1

Exemptions related to the supply of goods

Article 135

**Article 28c
(inserted by
91/680/EEC)**

**Heading of
Article 28c
(inserted by
91/680/EEC)**

**Heading of
Article 28c(A)
(inserted by
91/680/EEC)**

1. Member States shall exempt the supply of goods dispatched or transported to a destination outside their 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.

**Article 28c(A)(a),
first subpara-
graph
(inserted by
91/680/EEC and
amended by
95/7/EC)**

Adapted

2. In addition to the supply of goods referred to in paragraph 1, Member States shall exempt the following transactions:

**Article 28c(A),
first subpara-
graph
(inserted by
91/680/EEC)**

- | | |
|--|--|
| <p>(a) the supply of new means of transport, dispatched or transported to the customer at a destination outside their 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;</p> | <p>Article 28c(A)(b)
(inserted by
91/680/EEC)</p> <p><i>Adapted</i></p> |
| <p>(b) the supply of products subject to excise duty, dispatched or transported to a destination outside their 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;</p> | <p>Article 28c(A)(c),
first subpara-
graph
(replaced by
92/111/EEC)</p> <p><i>Adapted</i></p> |
| <p>(c) a supply, consisting in the transfer of goods 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.</p> | <p>Article 28c(A)(d)
(inserted by
92/111/EEC)</p> <p><i>Adapted</i></p> |

Article 136

- | | |
|--|---|
| <p>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 277 to 280.</p> | <p>Article 28c(A)(a),
second subpara-
graph
(inserted by
91/680/EEC)</p> |
|--|---|

<p>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).</p>	<p><i>Adapted</i></p> <p>Article 28c(A)(a), second subpara- graph (inserted by 91/680/EEC)</p>
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Adapted

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 277 to 280.

**Article 28c(A)(c),
second subparagraph
(replaced by
92/111/EEC)**

Adapted

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.

**Article 26a(D)(c)
(inserted by
94/5/EC)**

Adapted

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

**Article 28o(1)(h)
(inserted by
94/5/EC)**

Adapted

Section 2

Exemptions for intra-Community acquisitions of goods

Article 137

Member States shall exempt the following transactions:

**Heading of
Article 28c(B)
(inserted by
91/680/EEC)**

(a) the intra-Community acquisition of goods the supply of which by taxable persons would in all circumstances be exempt within the territory of the Member State concerned;

**Article 28c(B),
first subparagraph
(inserted by
91/680/EEC)**

(b) the intra-Community acquisition of goods the importation of which would in all circumstances be exempt under Article 140;

**Article 28c(B)(a)
(inserted by
91/680/EEC)**

Adapted

**Article 28c(B)(b)
(inserted by
91/680/EEC)**

- (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 28c(B)(c)
(inserted by
91/680/EEC)

Article 138

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

Article 28c(E)(3)
(replaced by
92/111/EEC)

Adapted

- (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;

Article 28c(E)(3),
first indent
(replaced by
92/111/EEC)

Adapted

- (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);

Article 28c(E)(3),
second indent
(replaced by
92/111/EEC)

Adapted

- (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;

Article 28c(E)(3),
third indent
(replaced by
92/111/EEC)

Adapted

- (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;

Article 28c(E)(3),
fourth indent
(replaced by
92/111/EEC)

Adapted

- (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.

**Article 28c(E)(3),
fifth indent
(replaced by
92/111/EEC and
amended by
2000/65/EC)**

Adapted

Section 3

Exemptions for certain transport services

Article 139

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

**Heading of
Article 28c(C)
(inserted by
91/680/EEC)**

**Article 28c(C)
(inserted by
91/680/EEC)**

Adapted

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 territory;

**Article 14
(77/388/EEC)**

**Heading of
Article 14
(77/388/EEC)**

**Article 14(1)
(77/388/EEC)**

**Article 14(1)(a)
(77/388/EEC)**

Adapted

- | | | |
|-----|---|--|
| (b) | the final importation of goods governed by Council Directives 69/169/EEC ³⁸ , 78/1035/EEC ³⁹ and 83/181/EEC ⁴⁰ ; | <p>Article 14(1)(d), first subparagraph (amended by 91/680/EEC)</p> <p><i>Modified</i></p> |
| (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); | <p>Article 14(1)(d), second subparagraph (inserted by 92/111/EEC)</p> <p><i>Adapted</i></p> <p>Heading of Article 28c(D) (inserted by 91/680/EEC)</p> |
| (d) | the importation of goods dispatched or transported from a third territory or a third country and imported 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; | <p>Article 28c(D), first subparagraph (inserted by 91/680/EEC and amended by 2000/65/EC)</p> <p><i>Adapted</i></p> <p>Article 28c(D), second subparagraph (inserted by 91/680/EEC)</p> |
| (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; | <p>Article 14(1)(e) (amended by 91/680/EEC)</p> <p><i>Adapted</i></p> |

³⁸ OJ L 133, 4.6.1969, p. 6.
³⁹ OJ L 366, 28.12.1978, p. 34.
⁴⁰ OJ L 105, 23.4.1983, p. 38.

	Article 14(1)(g) (77/388/EEC)
(f) the importation, under diplomatic and consular arrangements, of goods which are exempt from customs duties;	Article 14(1)(g), first indent (amended by 91/680/EEC) <i>Adapted</i>
(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;	Article 14(1)(g), second indent (77/388/EEC) <i>Adapted</i>
(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;	Article 14(1)(g), third indent (77/388/EEC) <i>Adapted</i>
(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;	Article 14(1)(g), fourth indent (inserted by Protocole No 3 to the 2003 Act of Accession) <i>Adapted</i>
(j) the importation into ports, by sea fishing undertakings, of their catches, unprocessed or after undergoing preservation for marketing but before being supplied;	Article 14(1)(h) (77/388/EEC)
(k) the importation of gold by central banks;	Article 14(1)(j) (77/388/EEC)
(l) the importation of gas through the natural gas distribution system, or of electricity;	Article 14(1)(k) (inserted by 2003/92/EC) <i>Adapted</i>
(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 point (b) of the first subparagraph of Article 83(1) and with Article 83(2).	Article 14(1)(i) (77/388/EEC) <i>Adapted</i>

Article 141

1. The Commission shall, where appropriate, 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.

Article 14(2), first subparagraph (77/388/EEC)

Adapted

Article 14(2), second subparagraph (77/388/EEC)

2. Pending the entry into force of the rules referred to in paragraph 1, Member States may maintain their national provisions in force.

Article 14(2), second subparagraph, first indent (77/388/EEC)

Adapted

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.

Article 14(2), second subparagraph, second indent (77/388/EEC)

Adapted

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

Article 14(2), second subparagraph, third indent (77/388/EEC)

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 and those which they adopt pursuant to paragraph 2.

Article 14(2), third subparagraph (77/388/EEC)

Adapted

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 territory, with the exception of goods transported by the customer himself for the equipping, fuelling or 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 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).

**Article 15
(77/388/EEC)**

**Heading of
Article 15
(replaced by
91/680/EEC)**

**Article 15,
introductory
sentence
(77/388/EEC)**

**Article 15(1)
(amended by
91/680/EEC)**

**Article 15(2), first
subparagraph
(amended by
91/680/EEC)**

Adapted

**Article 15(12),
first sentence
(amended by
91/680/EEC)**

Adapted

**Article 15(3)
(replaced by
91/680/EEC and
amended by
92/111/EEC)**

Adapted

**Article 15(13)
(replaced by
92/111/EEC)**

Adapted

2. The exemption provided for in point (c) of paragraph 1 may be granted by means of a refund of the VAT.

**Article 15(12),
second sentence
(77/388/EEC)**

Adapted

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:

**Article 15(2),
second subpara-
graph
(replaced by
95/7/EC)**

Adapted

(a) the traveller is not established within the Community;

**Article 15(2),
second subpara-
graph, first indent
(replaced by
95/7/EC)**

(b) the goods are transported out of the Community before the end of the third month following that in which the supply takes place;

**Article 15(2),
second subpara-
graph, second
indent
(replaced by
95/7/EC)**

Adapted

(c) the total value of the supply, including VAT, is more than 175 euro 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.

**Article 15(2),
second subpara-
graph, third
indent, first
sentence
(replaced by
95/7/EC)**

Adapted

However, Member States may exempt a supply with a total value of less than the amount specified in point (c) of paragraph 1.

**Article 15(2),
second subparagraph,
third indent, second
sentence
(replaced by
95/7/EC)**

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. ‘Permanent address or habitual residence’ shall mean 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.

**Article 15(2),
third subparagraph
(replaced by
95/7/EC)**

**Article 15(2),
third subparagraph,
first indent
(replaced by
95/7/EC)**

Adapted

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.

**Article 15(2),
third subparagraph,
second indent
(replaced by
95/7/EC)**

Adapted

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.

**Article 15(2),
fourth subparagraph
(inserted by
95/7/EC)**

Adapted

**Article 28k
(inserted by
91/680/EEC)**

**Heading of
Article 28k
(inserted by
91/680/EEC)**

**Article 28k,
introductory
sentence
(inserted by
91/680/EEC)**

Obsolete

**Article 28k(1),
first subpara-
graph
(inserted by
91/680/EEC)**

Obsolete

**Article 28k(1),
second subpara-
graph
(inserted by
91/680/EEC)**

Obsolete

**Article 28k(1),
second subpara-
graph, point (b)
(inserted by
91/680/EEC)**

Obsolete

**Article 28k(1),
second subpara-
graph, point (c)
(inserted by
91/680/EEC)**

Obsolete

**Article 28k(1),
third subpara-
graph
(inserted by
91/680/EEC)**

Obsolete

**Article 28k(1),
fourth subpara-
graph
(inserted by
91/680/EEC)**

Obsolete

**Article 28k(2)
(inserted by
91/680/EEC)**

Obsolete

**Article 28k(2)(a),
first subpara-
graph
(replaced by
94/4/EC)**

Obsolete

**Article 28k(2)(a),
second subpara-
graph
(inserted by
94/4/EC)**

Obsolete

**Article 28k(2)(a),
third subpara-
graph
(inserted by
91/680/EEC)**

Obsolete

**Article 28k(2)(b),
first subpara-
graph
(inserted by
91/680/EEC)**

Obsolete

**Article 28k(2)(b),
second subpara-
graph
(inserted by
91/680/EEC)**

Obsolete

**Article 28k(3)
(inserted by
91/680/EEC)**

Obsolete

**Article 28k(4)
(inserted by
91/680/EEC)**

Obsolete

**Article 28k(5)
(inserted by
91/680/EEC)**

Obsolete

Chapter 7

Exemptions related to international transport

Article 144

1. 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;

**Article 15,
introductory
sentence
(77/388/EEC)**

**Article 15(4), first
subparagraph
(77/388/EEC)**

**Article 15(4), first
subparagraph,
point (a)
(77/388/EEC)**

Adapted

- | | |
|---|---|
| | Article 15(4), first subparagraph, point (b)
(77/388/EEC) |
| (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; | Article 15(4), first subparagraph, point (c)
(77/388/EEC) |
| | <i>Adapted</i> |
| (c) the supply, modification, repair, maintenance, chartering and hiring of the sea-going vessels referred to in point (a), and the supply, hiring, repair and maintenance of equipment, including fishing equipment, incorporated or used therein; | Article 15(5)
(77/388/EEC) |
| | <i>Adapted</i> |
| (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; | Article 15(8)
(77/388/EEC) |
| | <i>Adapted</i> |
| (e) the supply of goods for the fuelling and provisioning of aircraft used by airlines operating for reward chiefly on international routes; | Article 15(7)
(77/388/EEC) |
| | <i>Adapted</i> |
| (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; | Article 15(6)
(77/388/EEC) |
| | <i>Adapted</i> |
| (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 15(9)
(77/388/EEC) |
| | <i>Adapted</i> |

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 15(15)
(inserted by Act of Accession, ES and PT)

Adapted

Article 146

1. The Commission shall, where appropriate, 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.

**Article 15(4)
second subparagraph, first
sentence
(replaced by
92/111/EEC)**

Adapted

**Article 15(4)
second subparagraph, second
sentence
(replaced by
92/111/EEC)**

Adapted

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;

**Article 15,
introductory
sentence
(77/388/EEC)**

**Article 15(10),
first subparagraph
(77/388/EEC)**

**Article 15(10),
first subparagraph, first indent
(77/388/EEC)**

Adapted

- | | |
|---|--|
| <p>(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;</p> | <p>Article 15(10), first subparagraph, second indent (77/388/EEC)</p> <p><i>Adapted</i></p> |
| <p>(c) the supply of goods or services within a Member State which is a party to the North Atlantic Treaty, intended either for the 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;</p> | <p>Article 15(10), first subparagraph, third indent (77/388/EEC)</p> <p><i>Adapted</i></p> |
| <p>(d) the supply of goods or services to another Member State, intended for the forces of any Member 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;</p> | <p>Article 15(10), first subparagraph, fourth indent (inserted by 91/680/EEC)</p> <p><i>Adapted</i></p> |
| <p>(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.</p> | <p>Article 14(1)(g), fourth indent (inserted by Protocol No 3 to the 2003 Act of Accession)</p> <p><i>Adapted</i></p> |
| <p>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.</p> | <p>Article 15(10), second subparagraph (amended by 91/680/EEC and 92/111/EEC)</p> <p><i>Adapted</i></p> |

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 15(10),
third subpara-
graph
(replaced by
92/111/EEC)**

Adapted

Article 148

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

**Article 15(11)
(77/388/EEC)**

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.

**Article 15(14),
first subpara-
graph
(amended by
91/680/EEC)**

Adapted

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.

**Article 15(14),
second subpara-
graph
(77/388/EEC)**

Adapted

Chapter 10

Exemptions for transactions relating to international trade

Section 1

Customs or tax warehouses and similar arrangements

Article 150

**Article 16
(77/388/EEC)**

**Heading of
Article 16
(77/388/EEC)**

**Article 16(1)
(77/388/EEC)**

Obsolete

**Article 16(1)(A)
(replaced by
91/680/EEC)**

Obsolete

**Article 16(1)(B),
first subpara-
graph
(replaced by
91/680/EEC)**

Obsolete

**Article 16(1)(B),
first subpara-
graph, point (a)
(replaced by
91/680/EEC)**

Obsolete

**Article 16(1)(B),
first subpara-
graph, point (b)
(replaced by
91/680/EEC)**

Obsolete

**Article 16(1)(B),
first subpara-
graph, point (c)
(replaced by
91/680/EEC)**

Obsolete

**Article 16(1)(B),
first subpara-
graph, point (d)
(replaced by
91/680/EEC)**

Obsolete

**Article 16(1)(B),
first subpara-
graph, point (d),
first indent
(replaced by
91/680/EEC)**

Obsolete

**Article 16(1)(B),
first subpara-
graph, point (d),
second indent
(replaced by
91/680/EEC)**

Obsolete

**Article 16(1)(B),
first subpara-
graph, point (e)
(replaced by
91/680/EEC)**

Obsolete

**Article 16(1)(B),
second subpara-
graph
(replaced by
91/680/EEC)**

Obsolete

**Article 16(1)(C)
(replaced by
91/680/EEC)**

Obsolete

Article 16(1)(D)
(replaced by
91/680/EEC)

Obsolete

Article 16(1)(E)
(inserted by
91/680/EEC)

Obsolete

Article 16(1)(E),
first indent
(inserted by
91/680/EEC)

Obsolete

Article 16(1)(E),
second indent
(inserted by
91/680/EEC)

Obsolete

Article 16(1)(E)
in fine
(inserted by
91/680/EEC)

Obsolete

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 16(1)
first subpara-
graph
contained in
Article 28c(E)(1)
(replaced by
95/7/EC)

Adapted

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;

Article 16(1)(B), first subparagraph, contained in Article 28c(E)(1) (replaced by 95/7/EC)

Article 16(1)(B), first subparagraph, point (a), contained in Article 28c(E)(1) (replaced by 95/7/EC)

Adapted

Article 16(1)(B), first subparagraph, point (b), contained in Article 28c(E)(1) (replaced by 95/7/EC)

Article 16(1)(B), first subparagraph, point (c), contained in Article 28c(E)(1) (replaced by 95/7/EC)

Article 16(1)(B), first subparagraph, point (d), contained in Article 28c(E)(1) (replaced by 95/7/EC)

- | | |
|---|--|
| <p>(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;</p> | <p>Article 16(1)(B), first subparagraph, point (d), first indent, contained in Article 28c(E)(1) (replaced by 95/7/EC)</p> |
| <p>(e) the supply of goods which are intended to be admitted into territorial waters for the fuelling and provisioning of drilling or production platforms.</p> | <p>Article 16(1)(B), first subparagraph, point (d), second indent, contained in Article 28c(E)(1) (replaced by 95/7/EC)</p> |
| <p>2. The places referred to in paragraph 1 shall be those defined as such by the Community customs provisions in force.</p> | <p>Article 16(1)(B), second subparagraph, contained in Article 28c(E)(1) (replaced by 95/7/EC)</p> |

Adapted

Article 152

- | | |
|--|--|
| <p>1. Member States may exempt the following transactions:</p> | |
| <p>(a) the importation of goods which are intended to be placed under warehousing arrangements other than customs warehousing;</p> | <p>Article 16(1)(A), contained in Article 28c(E)(1) (replaced by 95/7/EC)</p> |

Adapted

(b) the supply of goods which are intended to be placed, within their territory, under warehousing arrangements other than customs warehousing.

Article 16(1)(B), first subparagraph, point (e), first subparagraph, contained in Article 28c(E)(1) (replaced by 95/7/EC)

Adapted

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.

Article 16(1)(B), first subparagraph, point (e), second subparagraph, contained in Article 28c(E)(1) (replaced by 95/7/EC)

Adapted

Article 16(1)(B), first subparagraph, point (e), second subparagraph, first indent, contained in Article 28c(E)(1) (replaced by 95/7/EC)

Article 16(1)(B), first subparagraph, point (e), second subparagraph, second indent, first sentence, contained in Article 28c(E)(1) (replaced by 95/7/EC)

Member States may not, however, provide for warehousing arrangements other than customs warehousing where the goods in question are intended to be supplied at the retail stage.

Article 16(1)(B), first subparagraph, point (e), second subparagraph, second indent, second sentence, contained in Article 28c(E)(1) (replaced by 95/7/EC)

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:

Article 16(1)(B), first subparagraph, point (e), third subparagraph, contained in Article 28c(E)(1) (replaced by 95/7/EC)

Article 16(1)(B), first subparagraph, point (e), third subparagraph, first indent contained in Article 28c(E)(1) (replaced by 95/7/EC)

Obsolete

- | | |
|---|---|
| <p>(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);</p> | <p>Article 16(1)(B) first subparagraph, point (e), third subparagraph, second indent, contained in Article 28c(E)(1) (replaced by 95/7/EC)</p> <p><i>Adapted</i></p> |
| <p>(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;</p> | <p>Article 16(1)(B) first subparagraph, point (e), third subparagraph, third indent, contained in Article 28c(E)(1) (replaced by 95/7/EC)</p> <p><i>Adapted</i></p> |
| <p>(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.</p> | <p>Article 16(1)(B) first subparagraph, point (e), third subparagraph, fourth indent, contained in Article 28c(E)(1) (replaced by 95/7/EC)</p> <p><i>Adapted</i></p> |
| <p>2. 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.</p> | <p>Article 28k(1), second subparagraph, point (a) (inserted by 91/680/EEC)</p> <p><i>Adapted</i></p> |

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 16(1)(C),
contained in
Article 28c(E)(1)
(replaced by
95/7/EC)**

Article 155

1. Member States may exempt the following transactions:

**Article 16(1)(D),
first subpara-
graph,
contained in
Article 28c(E)(1)
(replaced by
95/7/EC)**

(a) the supply of goods or services carried out in the circumstances referred to in Article 151(1), where one of the situations specified therein still applies within their territory;

**Article 16(1)(D),
first subpara-
graph, point (a),
contained in
Article 28c(E)(1)
(replaced by
95/7/EC)**

Adapted

(b) the supply of goods or services carried out in the circumstances 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.

**Article 16(1)(D),
first subpara-
graph, point (b),
contained in
Article 28c(E)(1)
(replaced by
95/7/EC)**

Adapted

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 16(1)(D),
second subparagraph,
contained in
Article 28c(E)(1)
(replaced by
95/7/EC)**

Adapted

Article 156

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

**Article 16(1)(E),
contained in
Article 28c(E)(1)
(replaced by
95/7/EC)**

(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;

**Article 16(1)(E),
first indent,
contained in
Article 28c(E)(1)
(replaced by
95/7/EC)**

Adapted

(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 16(1)(E),
second indent,
contained in
Article 28c(E)(1)
(replaced by
95/7/EC)**

Adapted

**Article 16(1)(E),
in fine,
contained in
Article 28c(E)(1)
(replaced by
95/7/EC)**

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 16(1a),
contained in
Article 28c(E)(1)
(replaced by
95/7/EC)**

Adapted

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.

**Article 16(1),
third subpara-
graph,
contained in
Article 28c(E)(1)
(replaced by
95/7/EC)**

Adapted

Section 2

Transactions with a view to export

Article 159

1. Member States may, after consulting the VAT Committee, exempt the following transactions carried out by a taxable person up to an amount equal to the value of the exports carried out by that person during the preceding 12 months:

**Article 16(2), first
subparagraph
(amended by
Article 28c(E)(2)
of 92/111/EEC)**

Adapted

(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;

**Article 16(2), first
subparagraph
(amended by
Article 28c(E)(2)
of 92/111/EEC)**

Adapted

(b) supplies of services linked with the export business of the taxable person.

Article 16(2), first subparagraph (amended by Article 28c(E)(2) of 92/111/EEC)

Adapted

2. Where Member States exercise the option 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 16(2), second subparagraph contained in Article 28c(E)(2) (inserted by 92/111/EEC)

Adapted

Article 160

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

Article 16(2), third subparagraph, contained in Article 28c(E)(2) (inserted by 92/111/EEC)

Adapted

Section 3

Provisions common to Sections 1 and 2

Article 161

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

Article 16(3) (77/388/EEC)

Adapted

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.

Title XI
(77/388/EEC)

Heading of
Title XI
(77/388/EEC)

Article 17
(77/388/EEC)

Heading of
Article 17
(77/388/EEC)

Article 17(1)
(77/388/EEC)

Adapted

Article 17(2)
(77/388/EEC)

Obsolete

Article 17(2)(a)
(77/388/EEC)

Obsolete

Article 17(2)(b)
(77/388/EEC)

Obsolete

Article 17(2)(c)
(77/388/EEC)

Obsolete

Article 17(3)
(77/388/EEC)

Obsolete

Article 17(3)(a)
(77/388/EEC)

Obsolete

Article 17(3)(b)
(77/388/EEC)

Obsolete

Article 17(3)(c)
(77/388/EEC)

Obsolete

**Article 17(4), first
subparagraph**
(77/388/EEC)

Obsolete

**Article 17(4),
second subpara-
graph**
(77/388/EEC)

Obsolete

Article 163

Article 28f
(inserted by
91/680/EEC)

Heading of
Article 28f
(inserted by
91/680/EEC)

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 to deduct the following from the VAT which he is liable to pay:

Article 17(2),
contained in
Article 28f(1)
(inserted by
91/680/EEC)

Adapted

- | | | |
|-----|---|---|
| (a) | the VAT due or paid in the Member State in respect of supplies to him of goods or services, carried out or to be carried out by another taxable person; | Article 17(2)(a),
contained in
Article 28f(1)
(replaced by
95/7/EC)

<i>Adapted</i> |
| (b) | the VAT due in respect of transactions treated as supplies of goods or services pursuant to Articles 19(a), 22, 23 or 28; | Article 17(2)(c),
contained in
Article 28f(1)
(inserted by
91/680/EEC)

<i>Adapted</i> |
| (c) | the VAT due in respect of intra-Community acquisitions of goods pursuant to Article 3(1)(b)(i); | Article 17(2)(d),
contained in
Article 28f(1)
(inserted by
91/680/EEC)

<i>Adapted</i> |
| (d) | the VAT due or paid in respect of the importation of goods into the Member State. | Article 17(2)(b),
contained in
Article 28f(1)
(inserted by
91/680/EEC)

<i>Adapted</i> |

Article 164

All taxable persons shall be entitled to deduct the VAT referred to in Article 163, or to obtain a refund of that VAT, in so far as the goods and services are used for the purposes of the following:

**Article 17(3),
contained in
Article 28f(1)
(inserted by
91/680/EEC)**

Adapted

- | | | |
|----------------|---|---|
| (a) | transactions relating to the activities referred to in the second subparagraph of Article 10(1), carried out outside the Member State, in respect of which VAT would be deductible if they had been carried out within that Member State; | Article 17(3)(a),
contained in
Article 28f(1)
(inserted by
91/680/EEC) |
| <i>Adapted</i> | | |
| (b) | transactions which are exempt pursuant to Articles 135 or 139, point (1) of Article 140, Articles 142 to 145, Articles 147, 148, 149 or 151, Article 152(1)(b), Articles 153 to 156 or Article 159; | Article 17(3)(b),
contained in
Article 28f(1)
(replaced by
Protocol No 3 to
the 2003 Act of
Accession) |
| (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 17(3)(c),
contained in
Article 28f(1)
(inserted by
91/680/EEC) |

Adapted

Article 165

- | | | |
|----------------|--|--|
| 1. | VAT shall be refunded to taxable persons who are not established in the Member State concerned, but who are established in another Member State, in accordance with the detailed implementing rules laid down in Directive 79/1072/EEC ⁴¹ . | Article 17(4), first
subparagraph,
contained in
Article 28f(1)
(inserted by
91/680/EEC) |
| <i>Adapted</i> | | |

Adapted

⁴¹ OJ L 331, 27.12.1979, p. 11.

**Article 17(4)
second subpara-
graph,
*contained in
Article 28f(1)*
(inserted by
92/111/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 that Member State, they have carried out the supply of goods or services only to a person designated in accordance with Articles 187, 188 or 190 as liable for payment of VAT.

**Article 17(4),
second subpara-
graph, point (a),
*contained in
Article 28f(1)*
(inserted by
92/111/EEC and
amended by
2000/65/EC)**

Adapted

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.

**Article 17(4), first
subparagraph,
second indent,
*contained in
Article 28f(1)*
(inserted by
91/680/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 concerned, they have carried out the supply of goods or services only to a person designated in accordance with Articles 187, 188 or 190 as liable for payment of VAT.

**Article 17(4),
second subpara-
graph, point (b),
*contained in
Article 28f(1)*
(inserted by
92/111/EEC)**

Adapted

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 17(4),
second subpara-
graph, point (c),
*contained in
Article 28f(1)*
(inserted by
92/111/EEC)**

Adapted

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(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 the 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.

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.

**Article 28a(4),
second subpara-
graph
(inserted by
91/680/EEC)**

**Article 28a(4),
second subpara-
graph, second
indent
(inserted by
91/680/EEC)**

Adapted

**Article 28a(4),
second subpara-
graph, first indent
(inserted by
91/680/EEC)**

Adapted

**Article 28a(4),
third subpara-
graph
(inserted by
91/680/EEC)**

**Article 17(5), first
subparagraph
(77/388/EEC)**

Adapted

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

**Article 17(5),
second subparagraph
(77/388/EEC)**

Adapted

2. Member States may take the following measures:

**Article 17(5),
third subparagraph
(77/388/EEC)**

(a) authorise the taxable person to determine a proportion for each sector of his business, provided that separate accounts are kept for each sector;

**Article 17(5),
third subparagraph,
point (a)
(77/388/EEC)**

(b) require the taxable person to determine a proportion for each sector of his business and to keep separate accounts for each sector;

**Article 17(5),
third subparagraph,
point (b)
(77/388/EEC)**

Adapted

(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;

**Article 17(5),
third subparagraph,
point (c)
(77/388/EEC)**

Adapted

(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;

**Article 17(5),
third subparagraph,
point (d)
(77/388/EEC)**

Adapted

(e) provide that, where the VAT which is not deductible by the taxable person is insignificant, it is to be treated as nil.

**Article 17(5),
third subparagraph,
point (e)
(77/388/EEC)**

Adapted

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.

In addition to the amount referred to in point (b) of the first subparagraph, 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.

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.

**Article 19
(77/388/EEC)**

**Heading of
Article 19
(77/388/EEC)**

**Article 19(1), first
subparagraph
(77/388/EEC)**

Adapted

**Article 19(1), first
subparagraph,
first indent
(77/388/EEC)**

**Article 19(1), first
subparagraph,
second indent,
first sentence
(77/388/EEC)**

**Article 19(1), first
subparagraph,
second indent,
second sentence
(77/388/EEC)**

Adapted

**Article 19(2), first
sentence
(77/388/EEC)**

**Article 19(2), first
sentence
(77/388/EEC)**

**Article 19(2),
second sentence
(77/388/EEC)**

**Article 19(2),
second sentence
(77/388/EEC)**

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 19(2),
third sentence
(77/388/EEC)**

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.

**Article 19(1),
second subpara-
graph
(77/388/EEC)**

Adapted

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.

**Article 19(3), first
subparagraph,
first and second
sentences
(77/388/EEC)**

Adapted

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.

**Article 19(3), first
subparagraph,
third sentence
(77/388/EEC)**

Adapted

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

**Article 19(3),
second subpara-
graph
(77/388/EEC)**

Adapted

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.

**Article 17(6), first
subparagraph
(77/388/EEC)**

Adapted

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 17(6),
second subparagraph
(77/388/EEC)**

Adapted

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.

**Article 17(7), first
sentence
(77/388/EEC)**

Adapted

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.

**Article 17(7),
second sentence
(77/388/EEC)**

Adapted

Chapter 4

Rules governing exercise of to the right of deduction

Article 172

**Article 18
(77/388/EEC)**

**Heading of
Article 18
(77/388/EEC)**

**Article 18(1)
(77/388/EEC)**

Obsolete

**Article 18(1)(a)
(77/388/EEC)**

Obsolete

**Article 18(1)(b)
(77/388/EEC)**

Obsolete

Article 18(1)(c)
(77/388/EEC)

Obsolete

Article 18(1)(d)
(77/388/EEC)

Obsolete

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

**Article 18(1),
contained in
Article 28f(2)**
**(inserted by
91/680/EEC)**

Adapted

(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;

**Article 18(1)(a),
contained in
Article 28f(2)**
**(inserted by
91/680/EEC)**

Adapted

(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;

**Article 18(1)(c),
contained in
Article 28f(2)**
**(inserted by
91/680/EEC)**

Adapted

(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;

**Article 18(1)(e),
contained in
Article 28f(2)**
**(inserted by
91/680/EEC)**

Adapted

(d) for the purposes of deductions pursuant to Article 163(d), 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;

**Article 18(1)(b),
contained in
Article 28f(2)
(inserted by
91/680/EEC)**

Adapted

(e) 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 18(1)(d),
contained in
Article 28f(2)
(inserted by
91/680/EEC and
amended by
2000/65/EC)**

Adapted

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 has been exercised in accordance with Article 172.

**Article 18(2), first
subparagraph
(77/388/EEC)**

Adapted

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 18(2),
second subpara-
graph
(77/388/EEC)**

Adapted

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 18(3)
(77/388/EEC)**

Adapted

Article 175

Member States may authorise a taxable person who does not hold an invoice drawn up in accordance with Articles 211 to 222 and Articles 231, 232 and 233 to make the deduction referred to in Article 163(c) in respect of his intra-Community acquisitions of goods.

**Article 18(3a),
first part of
sentence,
contained in
Article 28f(3)
(inserted by
91/680/EEC)**

Adapted

Article 176

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

**Article 18(3a),
second part of
sentence,
contained in
Article 28f(3)
(inserted by
91/680/EEC)**

Adapted

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.

**Article 18(4), first
subparagraph
(77/388/EEC)**

Adapted

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

**Article 18(4),
second subpara-
graph
(77/388/EEC)**

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 20
(77/388/EEC)**

**Heading of
Article 20
(77/388/EEC)**

**Article 20(1)(a)
(77/388/EEC)**

Adapted

**Article 20(1)(b),
first part of first
sentence
(77/388/EEC)**

Adapted

**Article 20(1)(b),
second part of
first sentence
(77/388/EEC)**

Adapted

**Article 20(1)(b),
second sentence
(77/388/EEC)**

Adapted

**Article 20(1)
(77/388/EEC)**

Adapted

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.

Article 20(2), first subparagraph, first sentence (77/388/EEC)

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.

Article 20(2), second subparagraph (77/388/EEC)

Adapted

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

Article 20(2), third subparagraph (replaced by 95/7/EC)

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

Article 20(2), first subparagraph, second sentence (77/388/EEC)

Adapted

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 used.

Article 20(2), first subparagraph, third sentence (77/388/EEC)

Adapted

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.

Article 20(3), first subparagraph, first sentence (77/388/EEC)

Adapted

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

Article 20(3), first subparagraph, second sentence (77/388/EEC)

Adapted

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

Article 20(3), first subparagraph, second sentence (77/388/EEC)

Adapted

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 20(3), second subparagraph (77/388/EEC)

Adapted

Article 183

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

Article 20(4) (77/388/EEC)

- (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 20(4), first indent (77/388/EEC)

Article 20(4), second indent (77/388/EEC)

Adapted

Article 20(4), third indent (77/388/EEC)

Adapted

Article 20(4), fourth indent (77/388/EEC)

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 20(5)
(77/388/EEC)

Adapted

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.

Article 20(6)
(77/388/EEC)

EN amended

TITLE XI

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

Title XII
(77/388/EEC)

**Heading of
Title XII**
(77/388/EEC)

Adapted

Chapter 1

Obligation to pay

Section 1

Persons liable for payment of VAT to the tax authorities

Article 21
(77/388/EEC)

**Heading of
Article 21**
(77/388/EEC)

**Article 21,
introductory
sentence**

Obsolete

Article 21(1)
(77/388/EEC)

Obsolete

Article 21(1)(a)
(77/388/EEC)

Obsolete

Article 21(1)(b)
(replaced by
1999/59/EC)

Obsolete

Article 21(1)(c)
(77/388/EEC)

Obsolete

Article 21(2)
(77/388/EEC)

Obsolete

Article 28g
(inserted by
91/680/EEC)

Heading of
Article 28g
(inserted by
91/680/EEC)

Article 186

Article 21,
contained in
Article 28g
(replaced by
2000/65/EC)

Heading of
Article 21,
contained in
Article 28g
(replaced by
2000/65/EC)

VAT shall be payable by any taxable person carrying out a taxable supply of goods or services, except in the cases referred to in Articles 187 to 191.

**Article 21(1),
contained in
Article 28g
(replaced by
2000/65/EC)**

**Article 21(1)(a),
first subpara-
graph,
contained in
Article 28g
(replaced by
2003/92/EC)**

Adapted

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.

**Article 21(1)(a),
second subpara-
graph,
contained in
Article 28g
(replaced by
2003/92/EC)**

Adapted

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

**Article 21(1)(a),
second subpara-
graph,
contained in
Article 28g
(replaced by
2003/92/EC)**

Adapted

Article 188

VAT shall be payable by any person who is identified for VAT purposes within the Member State 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 21(1)(f),
contained in
Article 28g
(inserted by
2003/92/EC)**

Adapted

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 to whom the services covered by Articles 41, 44, 46, 47, 50 and 51 are supplied, if the services are supplied by a taxable person not established in that Member State.

**Article 21(1)(b),
contained in
Article 28g
(replaced by
2000/65/EC)**

Adapted

Article 190

1. VAT shall be payable by the person to whom the goods are supplied when the following conditions are met:

**Article 21(1)(c),
first subpara-
graph,
contained in
Article 28g
(replaced by
2000/65/EC)**

Adapted

(a) the taxable transaction is a supply of goods carried out in accordance with the conditions laid down in Article 138;

**Article 21(1)(c),
first subpara-
graph, first
indent,
contained in
Article 28g
(replaced by
2000/65/EC)**

Adapted

(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 and in which the supplier is not identified for VAT purposes;

Article 21(1)(c), first subparagraph, second indent, contained in Article 28g (replaced by 2000/65/EC)

Adapted

(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 222;

Article 21(1)(c), first subparagraph, third indent, contained in Article 28g (replaced by 2000/65/EC)

Adapted

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 21(1)(c), second subparagraph, contained in Article 28g (replaced by 2000/65/EC)

Adapted

Article 191

Heading of Article 26b(F) (inserted by 98/80/EC)

Where gold material or semi-manufactured products of a purity of 325 thousandths or greater, or investment gold 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.

Article 26b(F), first sentence (inserted by 98/80/EC)

Adapted

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

**Article 26b(F),
first sentence
(inserted by
98/80/EC)**

Adapted

Article 192

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

**Article 21(1)(e),
contained in
Article 28g
(replaced by
2000/65/EC)**

Adapted

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 21(4),
contained in
Article 28g
(replaced by
2000/65/EC)**

Adapted

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 16(1),
second subpara-
graph,
contained in
Article 28c(E)(1)
(replaced by
95/7/EC)**

Adapted

Article 195

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

**Article 21(1)(d),
contained in
Article 28g
(replaced by
2000/65/EC and
amended by
2001/115/EC)**

Adapted

Article 196

1. Where, pursuant to Articles 186 to 189 and Article 191, 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.

**Article 21(2),
contained in
Article 28g
(inserted by
2000/65/EC)**

Obsolete

**Article 21(2)(a),
first sentence,
contained in
Article 28g
(inserted by
2000/65/EC)**

Adapted

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/EEC⁴² and Council Regulation (EC) No 1798/2003⁴³, Member States may take measures providing that the person liable for payment of VAT is to be a tax representative appointed by the non-established taxable person.

**Article 21(2)(b),
contained in
Article 28g
(inserted by
2000/65/EEC)**

Adapted

⁴² OJ L 73, 19.3.1976, p. 18.

⁴³ 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.

Article 26c(B)(10)
(inserted by
2002/38/EC)

Adapted

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

Article 21(2)(a),
second sentence,
contained in
Article 28g
(inserted by
2000/65/EC)

Adapted

Article 197

In the situations referred to in Articles 186 to 189 and Articles 191, 194 and 195, 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.

Article 21(3),
contained in
Article 28g
(replaced by
2000/65/EC)

Adapted

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 22(5),
contained in
Article 28h
(inserted by
91/680/EEC)

Adapted

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 territory comply with the payment obligations set out in this Section.

Article 22(7), first part of sentence, contained in Article 28h (replaced by 2000/65/EC)

Adapted

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 the payment obligations.

Article 22(7), second part of sentence, contained in Article 28h (replaced by 2000/65/EC)

Adapted

Article 200

If, in the case of gold material, semi-manufactured products of a purity of 325 thousandths or greater, or investment gold, Member States exercise the option 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.

Article 26b(F), second sentence (inserted by 98/80/EC)

Adapted

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 22(10), contained in Article 28h (inserted by 91/680/EEC)

Adapted

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 22(11),
contained in
Article 28h
(inserted by
91/680/EEC and
amended by
92/111/EEC)**

Adapted

Article 203

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

**Article 23, first
paragraph
(77/388/EEC)**

Adapted

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 Articles 242 and 243.

**Article 23, second
paragraph
(77/388/EEC)**

Adapted

Article 204

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

**Article 22(9)(c),
contained in
Article 28h
(inserted by
91/680/EEC)**

Adapted

Title XIII
(77/388/EEC)

**Heading of
Title XIII**
(77/388/EEC)

Article 22
(77/388/EEC)

**Heading of
Article 22**
(77/388/EEC)

Article 22(1)
(77/388/EEC)

Obsolete

Article 22(2)
(77/388/EEC)

Obsolete

**Article 22(3)(a),
first subpara-
graph**
(77/388/EEC)

Obsolete

**Article 22(3)(a),
second subpara-
graph**
(77/388/EEC)

Obsolete

Article 22(3)(b)
(77/388/EEC)

Obsolete

Article 22(3)(c)
(77/388/EEC)

Obsolete

**Article 22(4), first
subparagraph
(77/388/EEC)**

Obsolete

**Article 22(4),
second subpara-
graph
(77/388/EEC)**

Obsolete

**Article 22(5)
(77/388/EEC)**

Obsolete

**Article 22(6)
(77/388/EEC)**

Obsolete

**Article 22(7)
(77/388/EEC)**

Obsolete

**Article 22(8)
(77/388/EEC)**

Obsolete

**Article 22(9)
(77/388/EEC)**

Obsolete

**Article 22(9), first
indent
(77/388/EEC)**

Obsolete

**Article 22(9),
second indent
(77/388/EEC)**

Obsolete

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.

**Article 22(9),
third indent
(77/388/EEC)**

Obsolete

**Article 28h
(inserted by
91/680/EEC)**

**Heading of
Article 28h
(inserted by
91/680/EEC)**

**Article 22,
*contained in
Article 28h*
(inserted by
91/680/EEC)**

**Heading of
Article 22,
*contained in
Article 28h*
(inserted by
91/680/EEC)**

**Article 22(1)(a),
first sentence,
*contained in
Article 28h*
(replaced by
2002/38/EC)**

**Article 22(1)(a),
second sentence,
*contained in
Article 28h*
(inserted by
2002/38/EC)**

Adapted

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 22(1)(b),
contained in
Article 28h
(inserted by
91/680/EEC)**

Adapted

Article 206

1. Member States shall take the measures necessary to ensure that the following persons are identified by means of an individual number:

**Article 22(1)(c),
contained in
Article 28h
(inserted by
91/680/EEC)**

- (a) every taxable person, with the exception of those referred to in Article 10(2), who within their 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;

**Article 22(1)(c),
first indent, first
sentence,
contained in
Article 28h
(replaced by
2003/92/EC)**

Adapted

- (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;

**Article 22(1)(c),
second indent,
contained in
Article 28h
(inserted by
91/680/EEC)**

Adapted

- (c) every taxable person who, within their 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.

**Article 22(1)(c),
third indent,
contained in
Article 28h
(inserted by
92/111/EEC)**

Adapted

2. Member States need not identify certain taxable persons who carry out transactions on an occasional basis, as referred to in Article 13.

Article 22(1)(c), first indent, second sentence, contained in Article 28h (replaced by 2003/92/EC)

Adapted

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.

Article 22(1)(d), first sentence, contained in Article 28h (inserted by 91/680/EEC)

Adapted

Nevertheless, Greece may use the prefix ‘EL’.

Article 22(1)(d), second sentence, contained in Article 28h (inserted by 2001/115/EC)

Adapted

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 thus to ensure the correct application of the transitional arrangements for the taxation of intra-Community transactions, as referred to in Article 395.

Article 22(1)(e), contained in Article 28h (inserted by 91/680/EEC)

Adapted

Chapter 3

Invoicing

Section 1

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 22(3)(e), second subparagraph, contained in Article 28h (inserted by 2001/115/EC)

Adapted

Article 210

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

Article 22(3)(a), fifth subparagraph, first sentence, contained in Article 28h (inserted by 2001/115/EC)

Adapted

Section 2

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:

Article 22(3)(a), first subparagraph, first sentence, contained in Article 28h (replaced by 2001/115/EC)

- | | | |
|-----|--|---|
| (1) | supplies of goods or services which he has made to another taxable person or to a non-taxable legal person; | <p>Article 22(3)(a), first subparagraph, first sentence, contained in Article 28h (replaced by 2001/115/EC)</p> <p><i>Adapted</i></p> |
| (2) | supplies of goods as referred to in Article 34; | <p>Article 22(3)(a), first subparagraph, second sentence, contained in Article 28h (replaced by 2001/115/EC)</p> |
| (3) | supplies of goods carried out in accordance with the conditions specified in Article 135; | <p>Article 22(3)(a), first subparagraph, second sentence, contained in Article 28h (replaced by 2001/115/EC)</p> <p><i>Adapted</i></p> |
| (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; | <p>Article 22(3)(a), second subparagraph, contained in Article 28h (replaced by 2001/115/EC)</p> <p><i>Adapted</i></p> |

- (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 22(3)(a), second subparagraph, contained in Article 28h (replaced by 2001/115/EC)

Adapted

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.

Article 22(3)(a), third subparagraph, first sentence, contained in Article 28h (inserted by 2001/115/EC)

Adapted

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, 236 and 238.

Article 22(3)(a), third subparagraph, second sentence, contained in Article 28h (inserted by 2001/115/EC)

Adapted

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), Articles 122 and 124, Article 125(1), Articles 129 to 133, Article 364 and Articles 368 to 383.

Article 22(3)(a), fourth subparagraph, first sentence, contained in Article 28h (inserted by 2001/115/EC)

Adapted

Article 213

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

Article 22(3)(a), sixth subparagraph, contained in Article 28h (inserted by 2001/115/EC)

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 22(3)(a), seventh subparagraph, contained in Article 28h (inserted by 2001/115/EC)

EN amended

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.

Article 22(3)(a), eighth subparagraph, first sentence, contained in Article 28h (inserted by 2001/115/EC)

Adapted

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.

Article 22(3)(a), eighth subparagraph, second sentence, contained in Article 28h (inserted by 2001/115/EC)

Adapted

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.

Article 22(3)(a), ninth subparagraph, first and second sentences, contained in Article 28h (inserted by 2001/115/EC)

Adapted

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

Article 22(3)(a), ninth subparagraph, third sentence, contained in Article 28h (inserted by 2001/115/EC)

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.

Article 22(3)(a), tenth subparagraph, contained in Article 28h (inserted by 2001/115/EC)

Adapted

Section 3

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:

Article 22(3)(b), first subparagraph, contained in Article 28h (replaced by 2001/115/EC)

Adapted

- | | |
|--|--|
| (1) the date of issue; | Article 22(3)(b), first subparagraph, first indent, contained in Article 28h (inserted by 2001/115/EC) |
| (2) a sequential number, based on one or more series, which uniquely identifies the invoice; | Article 22(3)(b), first subparagraph, second indent, contained in Article 28h (inserted by 2001/115/EC) |
| (3) the VAT identification number referred to in Article 206 under which the taxable person supplied the goods or services; | Article 22(3)(b), first subparagraph, third indent, contained in Article 28h (inserted by 2001/115/EC) |
| (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; | Article 22(3)(b), first subparagraph, fourth indent, contained in Article 28h (inserted by 2001/115/EC) |

Adapted

- | | | |
|-----|--|---|
| (5) | the full name and address of the taxable person and of the customer; | <p>Article 22(3)(b), first subparagraph, fifth indent, contained in Article 28h (inserted by 2001/115/EC)</p> <p><i>EN amended</i></p> |
| (6) | the quantity and nature of the goods supplied or the extent and nature of the services rendered; | <p>Article 22(3)(b), first subparagraph, sixth indent, contained in Article 28h (inserted by 2001/115/EC)</p> |
| (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 (3) and (4) of Article 211 was made, in so far as that date can be determined and differs from the date of issue of the invoice; | <p>Article 22(3)(b), first subparagraph, seventh indent, contained in Article 28h (inserted by 2001/115/EC)</p> |
| (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; | <p>Article 22(3)(b), first subparagraph, eighth indent, contained in Article 28h (inserted by 2001/115/EC)</p> |
| (9) | the VAT rate applied; | <p>Article 22(3)(b), first subparagraph, ninth indent, contained in Article 28h (inserted by 2001/115/EC)</p> |

- | | | |
|------|---|---|
| (10) | the VAT amount payable, except where a special arrangement is applied under which, in accordance with this Directive, such a detail is excluded; | <p>Article 22(3)(b), first subparagraph, tenth indent, contained in Article 28h (inserted by 2001/115/EC)</p> <p><i>Adapted</i></p> |
| (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; | <p>Article 22(3)(b), first subparagraph, eleventh indent, contained in Article 28h (inserted by 2001/115/EC)</p> <p><i>Adapted</i></p> |
| (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 Article 3(2); | <p>Article 22(3)(b), first subparagraph, twelfth indent, contained in Article 28h (inserted by 2001/115/EC)</p> <p><i>Adapted</i></p> |
| (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; | <p>Article 22(3)(b), first subparagraph, thirteenth indent, contained in Article 28h (inserted by 2001/115/EC)</p> <p><i>Adapted</i></p> |

(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;

Article 22(3)(b), first subparagraph, thirteenth indent, contained in Article 28h (inserted by 2001/115/EC)

Adapted

(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 22(3)(b), first subparagraph, fourteenth indent, contained in Article 28h (inserted by 2001/115/EC)

Adapted

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 22(3)(b), second subparagraph, contained in Article 28h (inserted by 2001/115/EC)

Adapted

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 22(3)(a), fifth subparagraph, second sentence, contained in Article 28h (inserted by 2001/115/EC)

Adapted

Article 220

Member States shall not require invoices to be signed.

**Article 22(3)(b),
third subpara-
graph,
contained in
Article 28h
(inserted by
2001/115/EC)**

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 22(3)(b),
fourth subpara-
graph,
contained in
Article 28h
(inserted by
2001/115/EC)**

Adapted

Article 222

For supervisory 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.

**Article 22(3)(b),
fifth subpara-
graph,
contained in
Article 28h
(inserted by
2001/115/EC)**

Adapted

Section 4

Sending invoices and making them available

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 22(3)(c), first subparagraph, contained in Article 28h (replaced by 2001/115/EC)

Adapted

Article 224

Invoices sent or made available by electronic means shall be accepted by Member States provided that the authenticity of the origin and integrity of the contents are guaranteed.

Article 22(3)(c), second subparagraph, contained in Article 28h (inserted by 2001/115/EC)

Adapted

Article 225

1. The authenticity and integrity of the content of invoices sent or made available by electronic means may be guaranteed 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 Council⁴⁴.

Article 22(3)(c), second subparagraph, first indent, first sentence, contained in Article 28h (inserted by 2001/115/EC)

Adapted

⁴⁴ OJ L 13, 19.1.2000, p. 12.

Member States may, however, 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.

Article 22(3)(c), second subparagraph, first indent, second sentence, contained in Article 28h (inserted by 2001/115/EC)

2. In addition to the possibility provided for in paragraph 1, the authenticity and integrity of invoices sent or made available by electronic means may be guaranteed by means of electronic data interchange (EDI), as defined in Article 2 of Commission Recommendation 1994/820/EC⁴⁵, if the agreement relating to the exchange provides for the use of procedures guaranteeing the authenticity of the origin and integrity of the data.

Article 22(3)(c), second subparagraph, second indent, first sentence, contained in Article 28h (inserted by 2001/115/EC)

Adapted

However Member States may, subject to conditions which they lay down, require that an additional summary document on paper be sent.

Article 22(3)(c), second subparagraph, second indent, second sentence, contained in Article 28h (inserted by 2001/115/EC)

Adapted

⁴⁵ OJ L 338, 28.12.1994, p. 98.

Article 226

Invoices may be sent or made available by electronic means other than those provided for in Article 225, subject to acceptance by the Member States concerned.

**Article 22(3)(c),
third subpara-
graph, first
sentence,
contained in
Article 28h
(replaced by
2001/115/EC)**

Adapted

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.

**Article 22(3)(c),
fourth subpara-
graph, first
sentence,
contained in
Article 28h
(replaced by
2001/115/EC)**

Adapted

Member States may, however, until 31 December 2005, provide that the use of such a system is to be subject to prior notification.

**Article 22(3)(c),
fourth subpara-
graph, second
sentence,
contained in
Article 28h
(replaced by
2001/115/EC)**

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 22(3)(c),
fifth subpara-
graph,
contained in
Article 28h
(replaced by
2001/115/EC)**

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 22(3)(c), sixth subparagraph, contained in Article 28h (inserted by 2001/115/EC)

Adapted

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.

Article 22(3)(c), third subparagraph, second sentence, contained in Article 28h (inserted by 2001/115/EC)

Adapted

Section 5

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 need not be entered on invoices in respect of supplies of goods or services in their territory:

Article 22(9)(d), first subparagraph, contained in Article 28h (inserted by 2001/115/EEC)

Adapted

(a) where the amount of the invoice is minor;	Article 22(9)(d), first subparagraph, first indent, contained in Article 28h (inserted by 2001/115/EC)
(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.	Article 22(9)(d), first subparagraph, second indent, contained in Article 28h (inserted by 2001/115/EC)
2. Invoices must, in any event, contain the following information:	<u>Adapted</u> Article 22(9)(d), second subparagraph, contained in Article 28h (inserted by 2001/115/EC)
(a) the date of issue;	Article 22(9)(d), second subparagraph, first indent, contained in Article 28h (inserted by 2001/115/EC)
(b) identification of the taxable person;	Article 22(9)(d), second subparagraph, second indent, contained in Article 28h (inserted by 2001/115/EC)

(c) identification of the type of goods or services supplied;

**Article 22(9)(d),
second subparagraph,
third indent,
contained in
Article 28h
(inserted by
2001/115/EC)**

EN amended

(d) the VAT due or the information needed to calculate it.

**Article 22(9)(d),
second subparagraph,
fourth indent,
contained in
Article 28h
(inserted by
2001/115/EC)**

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 in the cases specified in Article 243.

**Article 22(9)(d),
third subparagraph,
contained in
Article 28h
(inserted by
2001/115/EC)**

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 in the cases specified in Article 243, 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 22(9)(e),
first subparagraph,
contained in
Article 28h
(inserted by
2001/115/EC)**

Adapted

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;

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

Article 22(9)(e), second subparagraph, contained in Article 28h (inserted by 2001/115/EC)

Adapted

Article 22(9)(e), second subparagraph, first indent, contained in Article 28h (inserted by 2001/115/EC)

Adapted

Article 22(9)(e), second subparagraph, second indent, contained in Article 28h (inserted by 2001/115/EC)

Adapted

Chapter 4
Accounting
Section 1
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 22(2)(a),
contained in
Article 28h
(inserted by
91/680/EEC)**

Adapted

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).

**Article 22(2)(b),
first subpara-
graph,
contained in
Article 28h
(replaced by
95/7/EC)**

Adapted

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.

**Article 22(2)(b),
second subpara-
graph,
contained in
Article 28h
(replaced by
95/7/EC)**

Adapted

Section 2

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 22(3)(d),
first subpara-
graph,
contained in
Article 28h
(inserted by
2001/115/EC)**

Adapted

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.

Article 22(3)(d), second subparagraph, first sentence, contained in Article 28h (inserted by 2001/115/EC)

Adapted

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.

Article 22(3)(d), second subparagraph, second sentence, contained in Article 28h (inserted by 2001/115/EC)

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 22(3)(d), second subparagraph, third sentence, contained in Article 28h (inserted by 2001/115/EC)

Adapted

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.

Article 22(3)(d), third subparagraph, first sentence, contained in Article 28h (inserted by 2001/115/EC)

Adapted

The details entered on the invoices referred to in Article 226 may not be altered and must remain legible throughout the storage period.

**Article 22(3)(d),
third subparagraph,
second sentence,
contained in
Article 28h
(inserted by
2001/115/EC)**

Adapted

Article 239

1. Member States shall determine the period throughout which taxable persons must ensure the storage of invoices relating to the supply of goods or services in their territory and invoices received by taxable persons established in their territory.

**Article 22(3)(d),
fourth subparagraph,
contained in
Article 28h
(inserted by
2001/115/EC)**

EN amended

2. In order to ensure that the conditions laid down in Article 238 are met, Member States may require that the invoices referred to in paragraph 1 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, Member States may require that the data guaranteeing the authenticity of the origin of the invoices and the integrity of their content also be stored.

**Article 22(3)(d),
fifth subparagraph,
contained in
Article 28h
(inserted by
2001/115/EC)**

Adapted

3. Member States may lay down specific conditions prohibiting or restricting the storage of invoices referred to in paragraph 1 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 22(3)(d),
sixth subparagraph,
contained in
Article 28h
(inserted by
2001/115/EC)**

Adapted

Article 240

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

Article 22(3)(d), seventh subparagraph, contained in Article 28h (inserted by 2001/115/EC)

Section 3

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

Article 241

Article 22a (inserted by 2001/115/EC)

Heading of Article 22a (inserted by 2001/115/EC)

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 supervisory purposes.

Article 22a (inserted by 2001/115/EC)

Adapted

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 22(4)(b), contained in Article 28h (inserted by 91/680/EEC)

Adapted

Article 243

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

**Article 22(4)(c),
contained in
Article 28h
(inserted by
91/680/EEC)**

Adapted

(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;

**Article 22(4)(c),
first indent, first
subparagraph,
contained in
Article 28h
(inserted by
91/680/EEC)**

Adapted

(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 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;

**Article 22(4)(c),
first indent,
second subpara-
graph,
contained in
Article 28h
(inserted by
91/680/EEC)**

Adapted

(c) the total value, exclusive of VAT, of the intra-Community acquisitions of goods and transactions treated as such, as referred to in Articles 22 and 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;

**Article 22(4)(c),
second indent,
first subpara-
graph,
contained in
Article 28h
(replaced by
92/111/EEC)**

Adapted

(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;

Article 22(4)(c), second indent, second subparagraph, contained in Article 28h (replaced by 92/111/EEC)

Adapted

(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 22(4)(c), second indent, second subparagraph, contained in Article 28h (replaced by 92/111/EEC)

Adapted

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.

Article 22(4)(a), first and second sentences, contained in Article 28h (replaced by 2002/38/EC)

Adapted

2. The tax period shall be set by each Member State at one month, two months or three months.

Article 22(4)(a), third sentence, contained in Article 28h (replaced by 2002/38/EC)

Adapted

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

Article 22(4)(a), fourth sentence, contained in Article 28h (replaced by 2002/38/EC)

Adapted

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.

Annex IX(2)(x) (Act of Accession, AT, FI and SE)

Annex IX(2)(x), first indent (Act of Accession, AT, FI and SE)

Adapted

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 22(6)(d), contained in Article 28h (inserted by 91/680/EEC)

Adapted

Article 247

If, in the case of gold material, semi-manufactured products of a purity of 325 thousandths or greater, or investment gold, Member States exercise the option of designating the customer as liable for payment of VAT, they shall take the measures necessary to ensure that he fulfils the obligations relating to submission of a VAT return, as laid down in this Chapter.

Article 26b(F), second sentence (inserted by 98/80/EC)

Adapted

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 22(7), first part of sentence, contained in Article 28h (replaced by 2000/65/EC)

Adapted

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 22(10), contained in Article 28h (inserted by 91/680/EEC)

Adapted

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 22(11), contained in Article 28h (inserted by 91/680/EEC and amended by 92/111/EEC)

Adapted

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 22(6)(e), second subparagraph, contained in Article 28h (inserted by 91/680/EEC)

Adapted

Article 252

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

Article 23, first paragraph (77/388/EEC)

Adapted

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 22(6)(a), first and second sentences, contained in Article 28h (replaced by 2003/38/EC)

Adapted

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.

Article 22(4)(a), fifth sentence, contained in Article 28h (inserted by 2002/38/EC)

Adapted

Article 22(6)(a), third sentence, contained in Article 28h (inserted by 2002/38/EC)

Chapter 6

Recapitulative statements

Article 255

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

**Article 22(6)(b),
first subparagraph,
contained in
Article 28h
(replaced by
95/7/EC)**

Adapted

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.

**Article 22(6)(b),
second subparagraph,
first sentence,
contained in
Article 28h
(replaced by
2002/38/EC)**

Adapted

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

**Article 22(6)(c),
contained in
Article 28h
(inserted by
91/680/EEC)**

Adapted

**Article 22(6)(c),
first indent,
contained in
Article 28h
(inserted by
91/680/EEC)**

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 22(6)(b),
second subparagraph,
second sentence,
contained in
Article 28h
(inserted by
2002/38/EC)**

Adapted

Article 257

1. The recapitulative statement shall set out the following information:

**Article 22(6)(b),
third subparagraph,
contained in
Article 28h
(inserted by
91/680/EEC)**

- (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);

**Article 22(6)(b),
third subparagraph,
first indent,
contained in
Article 28h
(inserted by
91/680/EEC and
amended by
92/111/EEC)**

Adapted

- (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;

**Article 22(6)(b),
third subparagraph,
second indent,
contained in
Article 28h
(replaced by
95/7/EC)**

Adapted

- | | |
|--|--|
| <p>(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 of goods 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;</p> | <p>Article 22(6)(b), fourth subparagraph, first indent, contained in Article 28h (inserted by 91/680/EEC and amended by 92/111/EEC)</p> <p><i>Adapted</i></p> |
| <p>(d) for each person who acquired goods, the total value of the supplies of goods carried out by the taxable person;</p> | <p>Article 22(6)(b), third subparagraph, third indent, first sentence, contained in Article 28h (inserted by 91/680/EEC)</p> <p><i>Adapted</i></p> |
| <p>(e) in respect of supplies consisting in the transfer of goods to another Member State, as referred to in Article 135(2)(c), the total value of the supplies, determined in accordance with Article 75;</p> | <p>Article 22(6)(b), fourth subparagraph, first indent, contained in Article 28h (inserted by 91/680/EEC)</p> <p><i>Adapted</i></p> |

(f) the amounts of adjustments made pursuant to Article 87.

Article 22(6)(b), fourth subparagraph, second indent, first sentence, contained in Article 28h (inserted by 91/680/EEC)

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

Article 22(6)(b), third subparagraph, third indent, second sentence, contained in Article 28h (inserted by 91/680/EEC)

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 22(6)(b), fourth subparagraph, second indent, second sentence, contained in Article 28h (inserted by 91/680/EEC)

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 in which the tax is due shall set the following information out clearly on the recapitulative statement:

Article 22(6)(b), fifth subparagraph, contained in Article 28h (inserted by 92/111/EEC)

Adapted

- | | |
|---|---|
| <p>(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;</p> | <p>Article 22(6)(b), fifth subparagraph, first indent, contained in Article 28h (inserted by 92/111/EEC)</p> <p><i>Adapted</i></p> |
| <p>(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;</p> | <p>Article 22(6)(b), fifth subparagraph, second indent, contained in Article 28h (inserted by 92/111/EEC)</p> <p><i>Adapted</i></p> |
| <p>(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.</p> | <p>Article 22(6)(b), fifth subparagraph, third indent, first sentence, contained in Article 28h (inserted by 92/111/EEC)</p> <p><i>Adapted</i></p> |
| <p>2. The value referred to in point (c) of paragraph 1 shall be declared for the calendar quarter during which VAT became chargeable.</p> | <p>Article 22(6)(b), fifth subparagraph, third indent, second sentence, contained in Article 28h (inserted by 92/111/EEC)</p> |

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 22(6)(c),
contained in
Article 28h
(inserted by
91/680/EEC)**

Adapted

**Article 22(6)(c),
second indent,
contained in
Article 28h
(inserted by
91/680/EEC)**

Article 260

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 who is not established in their territory, comply with the obligation to submit a recapitulative statement as provided for in this Chapter.

**Article 22(7), first
part of sentence,
contained in
Article 28h
(replaced by
2000/65/EC)**

Adapted

Article 261

Member States may require that taxable persons who, in their territory, make intra-Community acquisitions of goods or transactions treated as such, as referred to in Articles 22 and 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 22(6)(e),
first subpara-
graph,
contained in
Article 28h
(inserted by
91/680/EEC)**

Adapted

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 22(12),
contained in
Article 28h
(inserted by
91/680/EEC)**

Adapted

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:

**Article 22(12)(a),
contained in
Article 28h
(inserted by
91/680/EEC)**

Adapted

(a) the total annual value, exclusive of VAT, of their supplies of goods or services does not exceed by more than 35 000 euro, 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 277 to 280;

**Article 22(12)(a),
first indent,
contained in
Article 28h
(inserted by
91/680/EEC)**

Adapted

(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 15 000 euro or the equivalent in national currency;

**Article 22(12)(a),
second indent,
contained in
Article 28h
(inserted by
91/680/EEC)**

Adapted

(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 22(12)(a),
third indent,
contained in
Article 28h
(inserted by
91/680/EEC)**

Adapted

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 or services does not exceed 200 000 euro or the equivalent in national currency;
- (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 15 000 euro 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 22(12)(b),
contained in
Article 28h
(inserted by
91/680/EEC)**

Adapted

**Article 22(12)(b),
first indent,
contained in
Article 28h
(inserted by
91/680/EEC)**

Adapted

**Article 22(12)(b),
second indent,
contained in
Article 28h
(inserted by
91/680/EEC)**

Adapted

**Article 22(12)(b),
third indent,
contained in
Article 28h
(inserted by
91/680/EEC)**

Adapted

Chapter 7

Miscellaneous provisions

Article 265

- | | |
|---|---|
| 1. Member States may release the following taxable persons from certain or all obligations: | Article 22(9)(a), first subparagraph, contained in Article 28h (inserted by 91/680/EEC) |
| (a) taxable persons whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 4(1); | Article 22(9)(a), first subparagraph, second indent, contained in Article 28h (inserted by 91/680/EEC) |
| <i>Adapted</i> | |
| (b) taxable persons carrying out none of the transactions referred to in Articles 21, 22, 23, 34, 37, 135 and 138; | Article 22(9)(a), first subparagraph, third indent, contained in Article 28h (inserted by 91/680/EEC) |
| (c) taxable persons carrying out only supplies of goods or of services which are exempt pursuant to Articles 129 to 133, Articles 142 to 145 or Articles 147, 148 or 149; | Article 22(9)(a), first subparagraph, first indent, contained in Article 28h (inserted by 91/680/EEC) |

(d) taxable persons covered by the exemption for small enterprises provided for in Articles 277 to 280;

Article 22(9)(a), first subparagraph, second indent, contained in Article 28h (inserted by 91/680/EEC)

Adapted

(e) taxable persons covered by the common flat-rate scheme for farmers.

Article 25(4), first subparagraph (77/388/EEC)

Adapted

Member States may not release the taxable persons referred to in point (b) from the invoicing obligations laid down in Articles 211 to 222 and Articles 231, 232 and 233.

Article 22(9)(a), second subparagraph, contained in Article 28h (inserted by 2001/115/EC)

Adapted

2. If Member States exercise the option under point (e) 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.

Article 25(4), second subparagraph, contained in Article 28j(1) (inserted by 91/680/EEC)

Adapted

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 22(9)(b), contained in Article 28h (inserted by 91/680/EEC)

Adapted

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.

Article 22(8), first subparagraph, contained in Article 28h (inserted by 91/680/EEC)

EN amended

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.

Article 22(8), second subparagraph, contained in Article 28h (inserted by 2001/115/EC)

Adapted

Chapter 8

Obligations relating to certain importations and exportations

Article 23 (77/388/EEC)

Heading of Article 23 (77/388/EEC)

Section 1

Importation

Article 267

Article 33a (inserted by 91/680/EEC)

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 33a(1) (replaced by 92/111/EEC)

Adapted

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 33a(1)(a)
(replaced by
92/111/EEC)

Adapted

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 33a(1)(b)
(replaced by
92/111/EEC)

Adapted

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 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.

Article 33a(1)(c)
(replaced by
92/111/EEC)

Adapted

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 33a(2)
(replaced by
92/111/EEC)

Adapted

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 33a(2)(a)
(replaced by
92/111/EEC)

Adapted

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.

Article 33a(2)(b)
(replaced by
92/111/EEC)

Adapted

TITLE XII

Title XIV
(77/388/EEC)

SPECIAL SCHEMES

Heading of
Title XIV
(77/388/EEC)

Chapter 1

Special scheme for small enterprises

Section 1

Simplified procedures for charging and collection

Article 24

Article 24
(77/388/EEC)

Heading of
Article 24
(77/388/EEC)

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.

Article 24(1)
(77/388/EEC)

Adapted

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 24(3), first subparagraph (77/388/EEC)

Adapted

Article 276

1. The arrangements provided for in this Section shall not apply to the following transactions:

Article 24(3), second subparagraph, second sentence (77/388/EEC)

Adapted

(a) transactions carried out on an occasional basis, as referred to in Article 13;

Article 24(3), second subparagraph, first sentence (77/388/EEC)

Adapted

(b) supplies of new means of transport carried out in accordance with the conditions specified in Article 135;

Article 24(3), third subparagraph, contained in Article 28i (replaced by 92/111/EEC)

Adapted

(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.

Article 24(3), third subparagraph, contained in Article 28i (replaced by 92/111/EEC)

Adapted

2. Member States may exclude transactions other than those referred to in paragraph 1 from the arrangements provided for in this Section.

**Article 24(3),
second subparagraph,
first sentence
(77/388/EEC)**

Adapted

Article 277

1. Member States which have exercised the option under Article 14 of Council Directive 67/228/EEC⁴⁶ of introducing exemptions or graduated tax relief may retain them, and the arrangements for applying them, if they comply with the VAT rules.

**Article 24(2)(a),
first subparagraph
(77/388/EEC)**

Adapted

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 5 000 euro.

**Article 24(2)(a),
second subparagraph
(77/388/EEC)**

Adapted

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.

**Article 24(2)(a),
third subparagraph
(77/388/EEC)**

Adapted

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 5 000 euro or the equivalent in national currency.

**Article 24(2)(b),
first sentence
(77/388/EEC)**

Adapted

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 24(2)(b),
second sentence
(77/388/EEC)**

Adapted

⁴⁶ English Special Edition, Series-I, Chapter 1967, p. 16.

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 24(2)(c)
(77/388/EEC)

Adapted

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:

Article 24a
(inserted by the
2003 Act of
Accession)

Article 24a, first
paragraph
(inserted by the
2003 Act of
Accession)

Adapted

(1) Greece: 10 000 European units of account;

Annex VIII,
Part II(2)(a)
(Act of Accession,
EL)

Annex XXXII,
Part IV(3)(a)
(Act of Accession,
ES and PT)

(2) Spain: ECU 10 000;

Annex XXXII,
Part IV(3)(a), first
indent
(Act of Accession,
ES and PT)

(3) Portugal: ECU 10 000;

Annex XXXII,
Part IV(3)(a),
second indent,
first sentence
(Act of Accession,
ES and PT)

- | | | |
|-----|------------------------------|--|
| (4) | Austria: ECU 35 000; | Annex XV,
Part IX(2)(c), first
subparagraph
(Act of Accession,
AT, FI and SE) |
| (5) | Finland: ECU 10 000; | Annex XV,
Part IX(2)(j)
(Act of Accession,
AT, FI and SE) |
| (6) | Sweden: ECU 10 000; | Annex XV,
Part IX(2)(x)
(Act of Accession,
AT, FI and SE) |
| | | Annex XV,
Part IX(2)(x),
second indent
(Act of Accession,
AT, FI and SE) |
| (7) | Czech Republic: 35 000 euro; | Article 24a, first
paragraph, first
indent
(inserted by the
2003 Act of
Accession) |
| (8) | Estonia: 16 000 euro; | Article 24a, first
paragraph, second
indent
(inserted by the
2003 Act of
Accession) |
| (9) | Cyprus: 15 600 euro; | Article 24a, first
paragraph, third
indent
(inserted by the
2003 Act of
Accession) |

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|------|--|---|
| (10) | Latvia: 17 200 euro; | Article 24a, first paragraph, fourth indent
(inserted by the 2003 Act of Accession) |
| (11) | Lithuania: 29 000 euro; | Article 24a, first paragraph, fifth indent
(inserted by the 2003 Act of Accession) |
| (12) | Hungary: 35 000 euro; | Article 24a, first paragraph, sixth indent
(inserted by the 2003 Act of Accession) |
| (13) | Malta: 37 000 euro if the economic activity consists principally in the supply of goods, 24 300 euro if the economic activity consists principally in the supply of services with a low value added (high inputs), and 14 600 euro in other cases, namely supplies of services with a high value added (low inputs); | Article 24a, first paragraph, seventh indent
(inserted by the 2003 Act of Accession) |
| | | <i>Adapted</i> |
| (14) | Poland: 10 000 euro; | Article 24a, first paragraph, eighth indent
(inserted by the 2003 Act of Accession) |
| (15) | Slovenia: 25 000 euro; | Article 24a, first paragraph, ninth indent
(inserted by the 2003 Act of Accession) |

(16) Slovakia: 35 000 euro.

Article 24a, first paragraph, tenth indent (inserted by the 2003 Act of Accession)

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:

Article 24(4), first subparagraph (77/388/EEC)

Adapted

(1) the value of supplies of goods and services, in so far as they are subject to tax, including transactions which are exempt, with deductibility of the VAT paid at the preceding stage, pursuant to Articles 106 or 107, Article 121(1), Articles 122 or 124, or Article 125(1);

Article 24(4), first subparagraph (77/388/EEC)

Adapted

(2) the value of transactions which are exempt pursuant to Articles 142 to 145 or Articles 147, 148 or 149;

Article 24(4), first subparagraph (77/388/EEC)

Adapted

(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.

Article 24(4), first subparagraph (77/388/EEC)

Adapted

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 24(4), second subparagraph (77/388/EEC)

EN amended

Article 282

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

Article 24(5) (amended by 2001/115/EC)

Adapted

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 261. If they choose the latter option, they shall be entitled to any graduated tax relief provided for under national legislation.

Article 24(6)
(77/388/EEC)

Adapted

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 24(7)
(77/388/EEC)

Adapted

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.

Article 24(2)
(77/388/EEC)

Adapted

Section 3

Reporting and review

Article 286

At four-yearly intervals 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:

Article 24(8)
(77/388/EEC)

Adapted

(1) improvements to the special scheme for small enterprises;

Article 24(8)(a)
(77/388/EEC)

EN amended

(2) the adaptation of national systems as regards exemptions from VAT and graduated VAT relief;

Article 24(8)(b)
(77/388/EEC)

(3) the adaptation of the ceilings provided for in Section 2.

Article 24(8)(c)
(77/388/EEC)

Adapted

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.

Article 24(9)
(77/388/EEC)

Adapted

Chapter 2

Common flat-rate scheme for farmers

Article 288

Article 25
(77/388/EEC)

Heading of
Article 25
(77/388/EEC)

1. For the purposes of this Chapter, the following definitions shall apply:

Article 25(2)
(77/388/EEC)

(1) 'farmer' means any taxable person whose economic activity is carried out in an agricultural, forestry or fisheries undertaking;

Article 25(2),
first indent
(77/388/EEC)

Adapted

(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;

Article 25(2),
second indent
(77/388/EEC)

Adapted

(3) 'flat-rate farmer' means any farmer covered by the flat-rate scheme provided for in this Chapter;

Article 25(2),
third indent
(77/388/EEC)

Adapted

(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;

Article 25(2),
fourth indent
(77/388/EEC)

(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;

Article 25(2), fifth
indent
(77/388/EEC)

Adapted

- | | |
|--|---|
| <p>(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 171 by a farmer subject to the normal VAT arrangements;</p> | <p>Article 25(2), sixth indent
(77/388/EEC)
<i>Adapted</i></p> |
| <p>(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;</p> | <p>Article 25(2), seventh indent
(77/388/EEC)
<i>Adapted</i></p> |
| <p>(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.</p> | <p>Article 25(2), eighth indent
(77/388/EEC)</p> |
| <p>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.</p> | <p>Annex A(V)
(77/388/EEC)
<i>Adapted</i></p> |
| <p><i>Article 289</i></p> | |
| <p>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.</p> | <p>Article 25(1)
(77/388/EEC)
<i>Adapted</i></p> |
| <p>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.</p> | <p>Article 25(9), first subparagraph
(77/388/EEC)
<i>Adapted</i></p> |
| <p>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.</p> | <p>Article 25(10)
(77/388/EEC)
<i>Adapted</i></p> |

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.

Article 25(3), first subparagraph, first sentence, and second subparagraph
(77/388/EEC)

Adapted

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

Article 25(3), first subparagraph, first sentence
(77/388/EEC)

Adapted

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.

Article 25(3), first subparagraph, second sentence
(77/388/EEC)

Adapted

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 25(3), first subparagraph, fourth and fifth sentences
(77/388/EEC)

Adapted

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 25(3), first subparagraph, third sentence
(77/388/EEC)

Adapted

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 concerned, 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 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 concerned, by this flat-rate scheme.

Article 25(5)
(77/388/EEC)

Obsolete

Article 25(5), first subparagraph, contained in Article 28j(2) (inserted by 91/680/EEC)

Article 25(5), first subparagraph, point (a), contained in Article 28j(2) (inserted by 91/680/EEC)

Adapted

Article 25(5), first subparagraph, point (b), contained in Article 28j(2) (inserted by 91/680/EEC)

Adapted

Article 25(5), first subparagraph, point (c), contained in Article 28j(2) (inserted by 91/680/EEC)

Adapted

Article 294

Article 25(6)
(77/388/EEC)

Obsolete

Article 25(6)(a)
(77/388/EEC)

Obsolete

Article 25(6)(b)
(77/388/EEC)

Obsolete

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.

Article 25(6),
contained in
Article 28j(2)
(inserted by
91/680/EEC)

Adapted

Article 25(6)(a),
first subpara-
graph, first
sentence,
contained in
Article 28j(2)
(inserted by
91/680/EEC)

Article 25(6)(b),
contained in
Article 28j(2)
(inserted by
91/680/EEC)

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 25(8)
(77/388/EEC)

Adapted

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 25(5),
second subparagraph,
contained in
Article 28j(2)
(inserted by
91/680/EEC)**

Adapted

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 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 concerned.

**Article 25(6)(a),
first subparagraph,
second sentence,
contained in
Article 28j(2)
(inserted by
91/680/EEC)**

Adapted

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:

**Article 25(6)(a),
second subparagraph,
contained in
Article 28j(2)
(inserted by
91/680/EEC)**

Adapted

(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 which their intra-Community acquisitions of goods are subject to VAT pursuant to Article 3(1)(b);

**Article 25(6)(a),
second subparagraph,
first indent,
contained in
Article 28j(2)
(inserted by
91/680/EEC)**

Adapted

(b) the supply of agricultural products, carried out in accordance with the conditions specified in Articles 142 to 145, Articles 147, 148, 149 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 in 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;

Article 25(6)(a), second subparagraph, second indent, contained in Article 28j(2) (inserted by 91/680/EEC)

Adapted

(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 Member State in which the customer is established and in respect of which VAT is payable solely by the customer pursuant to Article 189.

Article 25(6)(a), second subparagraph, third indent, contained in Article 28j(2) (inserted by 91/680/EEC)

Adapted

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 25(6)(a), third subparagraph, contained in Article 28j(2) (inserted by 91/680/EEC)

Adapted

Article 297

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

Article 25(7) (77/388/EEC)

Adapted

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.

**Article 25(9),
second subparagraph,
contained in
Article 28j(3)
(inserted by
91/680/EEC)**

Adapted

**Article 25(11)
(77/388/EEC)**

Obsolete

**Article 25(12)
(77/388/EEC)**

Obsolete

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 customers in their own name and use supplies of goods or services, carried out by other taxable persons, in the provision of travel facilities.

This special scheme shall not apply to travel agents who act solely as intermediaries and to whom point (c) of the first paragraph of Article 78 applies.

**Article 26
(77/388/EEC)**

**Heading of
Article 26
(77/388/EEC)**

**Article 26(1), first
sentence
(77/388/EEC)**

Adapted

**Article 26(1),
second sentence
(77/388/EEC)**

Adapted

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

**Article 26(1),
third sentence
(77/388/EEC)**

Adapted

Article 300

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

**Article 26(2), first
sentence
(77/388/EEC)**

Adapted

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 26(2),
second sentence
(77/388/EEC)**

Adapted

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 carried out by other taxable persons, where those transactions are for the direct benefit of the traveller.

**Article 26(2),
third sentence
(77/388/EEC)**

Adapted

Article 302

If transactions entrusted by the travel agent to other taxable persons are made 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.

**Article 26(3), first
sentence
(77/388/EEC)**

Adapted

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

**Article 26(3),
second sentence
(77/388/EEC)**

EN amended

Article 303

VAT charged to the travel agent by other taxable persons in respect of transactions which are referred to in Articles 300 and 301 and which are for the direct benefit of the traveller shall not be deductible or refundable in any Member State.

Article 26(4)
(77/388/EEC)

Adapted

Chapter 4

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

Section 1

Definitions

Article 304

Article 26a
(inserted by
94/5/EC)

Heading of
Article 26a
(inserted by
94/5/EC)

Heading of
Article 26a(A)
(inserted by
94/5/EC)

1. For the purposes of this Chapter, and without prejudice to other Community provisions, the following definitions shall apply:

Article 26a(A),
introductory
sentence
(inserted by
94/5/EC)

(a) 'second-hand goods' means tangible movable 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;

Article 26a(A)(d)
(inserted by
94/5/EC)

(b) 'works of art' means the objects listed in Annex VIII, Part A;

Article 26a(A)(a),
first subpara-
graph
(inserted by
94/5/EC)

(c) ‘collectors’ items’ means the objects listed in Annex VIII, Part B;	Article 26a(A)(b) (inserted by 94/5/EC)
(d) ‘antiques’ means the objects listed in Annex VIII, Part C.	Article 26a(A)(c) (inserted by 94/5/EC)
(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;	Article 26a(A)(e) (inserted by 94/5/EC) <i>Adapted</i>
(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;	Article 26a(A)(f) (inserted by 94/5/EC)
(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.	Article 26a(A)(g) (inserted by 94/5/EC) <i>Adapted</i>
2. Member States need not regard as works of art objects listed in points (5), (6) or (7) of Annex VIII, Part A.	Article 26a(A)(a), second subpara- graph (inserted by 94/5/EC) <i>Adapted</i>
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.	Article 26a(A)(g), first indent (inserted by 94/5/EC) <i>Adapted</i> Article 26a(A)(g), second indent (inserted by 94/5/EC)

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. 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;

**Heading of
Article 26a(B)
(inserted by
94/5/EC)**

**Article 26a(B)(1)
(inserted by
94/5/EC)**

Adapted

**Article 26a(D)(a)
(inserted by
94/5/EC)**

Adapted

**Article 26a(B)(2)
(inserted by
94/5/EC)**

Adapted

**Article 26a(B)(2),
first indent
(inserted by
94/5/EC)**

**Article 26a(B)(2),
second indent
(inserted by
94/5/EC)**

(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 277 to 280 and involves capital goods;

**Article 26a(B)(2),
third indent
(inserted by
94/5/EC)**

Adapted

(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 26a(B)(2),
fourth indent
(inserted by
94/5/EC)**

Adapted

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.

**Article 26a(B)(3),
first subpara-
graph, first
sentence
(inserted by
94/5/EC)**

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.

**Article 26a(B)(3),
first subpara-
graph, second
sentence
(inserted by
94/5/EC)**

2. For the purposes of paragraph 1, the following definitions shall apply:

**Article 26a(B)(3),
second subpara-
graph
(inserted by
94/5/EC)**

(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;

**Article 26a(B)(3),
second subpara-
graph, first indent
(inserted by
94/5/EC)**

Adapted

- (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 26a(B)(3),
second subparagraph,
second indent
(inserted by
94/5/EC)**

Adapted

Article 308

1. Member States shall grant taxable dealers the right to opt for application of the margin scheme to the following transactions:

**Article 26a(B)(4),
first subparagraph
(inserted by
94/5/EC)**

Adapted

- (a) the supply of works of art, collectors’ items or antiques, which the taxable dealer has imported himself;

**Article 26a(B)(4),
first subparagraph,
point (a)
(inserted by
94/5/EC)**

Adapted

- (b) the supply of works of art to the taxable dealer by their creators or their successors in title;

**Article 26a(B)(4),
first subparagraph,
point (b)
(inserted by
94/5/EC)**

Adapted

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

**Article 26a(B)(4),
first subparagraph,
point (c)
(inserted by
94/5/EC)**

Adapted

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 26a(B)(4),
second subparagraph
(inserted by
94/5/EC)**

Adapted

Article 309

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

**Article 26a(B)(4),
third subparagraph, first
sentence
(inserted by
94/5/EC)**

Adapted

In respect of the supplies referred to in Article 308(1)(a), 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 26a(B)(4),
third subparagraph, second
sentence
(inserted by
94/5/EC)**

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.

**Article 26a(B)(10),
first subparagraph
(inserted by
94/5/EC)**

Adapted

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.

**Article 26a(B)(10),
second subparagraph
(inserted by
94/5/EC)**

Adapted

2. The total profit margin shall be equal to the difference between the following two amounts:

**Article 26a(B)(10),
third subpara-
graph
(inserted by
94/5/EC)**

(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;

**Article 26a(B)(10),
third subpara-
graph, first indent
(inserted by
94/5/EC)**

Adapted

(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.

**Article 26a(B)(10),
third subpara-
graph, second
indent
(inserted by
94/5/EC)**

Adapted

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 26a(B)(10),
fourth subpara-
graph
(inserted by
94/5/EC)**

Adapted

Article 311

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

**Article 26a(B)(11),
first subpara-
graph
(inserted by
94/5/EC)**

Adapted

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 to him of a work of art 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.

Article 313

If carried out in accordance with the conditions specified in Articles 142 to 145 or Articles 147, 148 or 149, the supply of second-hand goods, works of art, collectors' items or antiques subject to the margin scheme shall be exempt.

**Article 26a(B)(11),
second subpara-
graph
(inserted by
94/5/EC)**

**Article 26a(B)(11),
second subpara-
graph, point (a)
(inserted by
94/5/EC)**

Adapted

**Article 26a(B)(11),
second subpara-
graph, point (b)
(inserted by
94/5/EC)**

Adapted

**Article 26a(B)(11),
second subpara-
graph, point (c)
(inserted by
94/5/EC)**

**Article 26a(B)(11),
third subpara-
graph
(inserted by
94/5/EC)**

Adapted

**Article 26a(B)(5)
(inserted by
94/5/EC)**

Adapted

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 26a(B)(7)
(inserted by
94/5/EC)

Adapted

Article 26a(B)(7)
(a)
(inserted by
94/5/EC)

Article 26a(B)(7)
(b)
(inserted by
94/5/EC)

Adapted

Article 26a(B)(7)
(c)
(inserted by
94/5/EC)

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 26a(B)(6)
(inserted by
94/5/EC)

Adapted

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 26a(B)(8)
(inserted by
94/5/EC)

Adapted

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.

Article 26a(B)(9)
(inserted by
94/5/EC)

Adapted

Subsection 2

Transitional arrangements for second-hand means of transport

Title XVI B
(inserted by
94/5/EC)

Heading of
Title XVI B
(inserted by
94/5/EC)

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.

Article 28o(1)
(inserted by
94/5/EC)

Adapted

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

Article 28o(2)
(inserted by
94/5/EC)

Adapted

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.

Article 28o(1)(a),
first sentence
(inserted by
94/5/EC)

Adapted

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.

**Article 280(1)(a),
second sentence
(inserted by
94/5/EC)**

Adapted

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 280(1)(b)
(inserted by
94/5/EC)**

Adapted

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:

**Article 280(1)(c)
(inserted by
94/5/EC)**

(a) the purchase price to be taken into account shall be the purchase price within the meaning of Article 307(2)(b);

**Article 280(1)(c),
first indent
(inserted by
94/5/EC)**

(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;

**Article 280(1)(c),
second indent
(inserted by
94/5/EC)**

Adapted

(c) the rate to be taken into account shall be the rate applicable, pursuant to Article 90, in the Member State in 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 280(1)(c),
third indent
(inserted by
94/5/EC)**

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.

**Article 280(1)(d),
first subpara-
graph
(inserted by
94/5/EC)**

Adapted

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

**Article 280(1)(d),
second subpara-
graph
(inserted by
94/5/EC)**

Adapted

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 280(1)(f)
(inserted by
94/5/EC)**

Adapted

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.

**Article 280(1)(e)
(inserted by
94/5/EC and
amended by
2001/115/EC)**

Adapted

**Article 280(4)
(inserted by
94/5/EC)**

Obsolete

Article 28o(4)(a)
(inserted by
94/5/EC)

Obsolete

Article 28o(4)(b),
first subpara-
graph
(inserted by
94/5/EC)

Obsolete

Article 28o(4)(b),
first subpara-
graph, first indent
(inserted by
94/5/EC)

Obsolete

Article 28o(4)(b),
first subpara-
graph, second
indent
(inserted by
94/5/EC)

Obsolete

Article 28o(4)(b),
second subpara-
graph
(inserted by
94/5/EC)

Obsolete

Article 28o(4)(c)
(inserted by
94/5/EC)

Obsolete

**Article 28o(4)(c),
first indent
(inserted by
94/5/EC)**

Obsolete

**Article 28o(4)(c),
second indent
(inserted by
94/5/EC)**

Obsolete

**Article 28o(4)(d)
(inserted by
94/5/EC)**

Obsolete

**Article 28o(4)(e)
(inserted by
94/5/EC)**

Obsolete

**Article 28o(4)(f)
(inserted by
94/5/EC)**

Obsolete

**Article 28o(4)(g)
(inserted by
94/5/EC)**

Obsolete

Section 3

Special arrangements for sales by public auction

**Heading of
Article 26a(C)
(inserted by
94/5/EC)**

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.

Article 26a(C)(1)
(inserted by
94/5/EC)

Adapted

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 26a(D)(a)
(inserted by
94/5/EC)

Adapted

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:

Article 26a(C)(1)
(inserted by
94/5/EC)

Adapted

(a) a non-taxable person;

Article 26a(C)(1),
first indent
(inserted by
94/5/EC)

(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;

Article 26a(C)(1),
second indent
(inserted by
94/5/EC)

Adapted

(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 277 to 280 and involves capital goods;

Article 26a(C)(1),
third indent
(inserted by
94/5/EC)

Adapted

(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 26a(C)(1),
fourth indent
(inserted by
94/5/EC)**

Adapted

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 26a(C)(7)
(inserted by
94/5/EC)**

Adapted

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:

**Article 26a(C)(2)
(inserted by
94/5/EC)**

(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;

**Article 26a(C)(2),
first indent
(inserted by
94/5/EC)**

(b) the amount of the VAT payable by the organiser of the sale by public auction in respect of his supply.

**Article 26a(C)(2),
second indent
(inserted by
94/5/EC)**

Adapted

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 26a(C)(3)
(inserted by
94/5/EC)**

**Article 26a(C)(3),
first indent
(inserted by
94/5/EC)**

**Article 26a(C)(3),
second indent
(inserted by
94/5/EC)**

Article 330

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

**Article 26a(C)(6),
first subpara-
graph
(inserted by
94/5/EC)**

(a) the amounts obtained or to be obtained from the purchaser of the goods;

**Article 26a(C)(6),
first subpara-
graph, first indent
(inserted by
94/5/EC)**

(b) the amounts reimbursed or to be reimbursed to the vendor of the goods.

**Article 26a(C)(6),
first subpara-
graph, second
indent
(inserted by
94/5/EC)**

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

**Article 26a(C)(6),
second subpara-
graph
(inserted by
94/5/EC)**

Article 331

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

**Article 26a(C)(4),
first subpara-
graph
(inserted by
94/5/EC and
amended by
2001/115/EC)**

(a) the auction price of the goods;

**Article 26a(C)(4),
first subpara-
graph, first indent
(inserted by
94/5/EC)**

(b) taxes, dues, levies and charges;

**Article 26a(C)(4),
first subpara-
graph, second
indent
(inserted by
94/5/EC)**

(c) incidental expenses, such as commission, packing, transport and insurance costs, charged by the organiser to the purchaser of the goods.

**Article 26a(C)(4),
first subpara-
graph, third
indent
(inserted by
94/5/EC)**

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

**Article 26a(C)(4),
second subpara-
graph
(inserted by
94/5/EC)**

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.

**Article 26a(C)(5),
first subpara-
graph
(inserted by
94/5/EC)**

Adapted

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.

**Article 26a(C)(5),
second subpara-
graph
(inserted by
94/5/EC)**

Adapted

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 Articles 211 and 212.

**Article 26a(C)(5),
third subparagraph
(inserted by
94/5/EC)**

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.

**Article 280(3)
(inserted by
94/5/EC)**

Adapted

**Heading of
Article 26a(D)
(inserted by
94/5/EC)**

**Article 26a(D),
introductory
sentence
(inserted by
94/5/EC)**

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 2
(94/5/EC)**

Adapted

Article 335

Acting unanimously on a proposal from the Commission, the Council may allow 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.

**Article 3, first
sentence
(94/5/EC)**

Adapted

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.

Article 3, second sentence
(94/5/EC)

Adapted

Chapter 5

Special scheme for investment gold

Section 1

General provisions

Article 336

Article 26b
(inserted by
98/80/EC)

Heading of
Article 26b
(inserted by
98/80/EC)

Heading of
Article 26b(A)
(inserted by
98/80/EC)

1. For the purposes of this Directive, and without prejudice to other Community provisions, 'investment gold' shall mean:

Article 26b(A),
first subpara-
graph
(inserted by
98/80/EC)

(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;

Article 26b(A),
first subpara-
graph, point (i),
first sentence
(inserted by
98/80/EC)

(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%.

Article 26b(A),
first subpara-
graph, point (ii)
(inserted by
98/80/EC)

Adapted

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 26b(A),
first subpara-
graph, point (ii),
first indent
(inserted by
98/80/EC)**

**Article 26b(A),
first subpara-
graph, point (ii),
second indent
(inserted by
98/80/EC)**

**Article 26b(A),
first subpara-
graph, point (ii),
third indent
(inserted by
98/80/EC)**

**Article 26b(A),
first subpara-
graph, point (ii),
fourth indent
(inserted by
98/80/EC)**

**Article 26b(A),
first subpara-
graph, point (i),
second sentence
(inserted by
98/80/EC)**

Adapted

**Article 26b(A),
second subpara-
graph
(inserted by
98/80/EC)**

Adapted

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 a third party, when they take part in the supply of investment gold for their principal.

Section 3

Taxation option

**Article 26b(A),
third subpara-
graph
(inserted by
98/80/EC)**

Adapted

**Heading of
Article 26b(B)
(inserted by
98/80/EC)**

**Article 26b(B),
first subpara-
graph
(inserted by
98/80/EC)**

**Article 26b(B),
second subpara-
graph
(inserted by
98/80/EC)**

Adapted

**Heading of
Article 26b(C)
(inserted by
98/80/EC)**

Article 340

Member States shall allow taxable persons who produce investment gold of whatever origin or transform any 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 26b(C),
first subpara-
graph
(inserted by
98/80/EC)**

Adapted

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.

**Article 26b(C),
second subpara-
graph, first
sentence
(inserted by
98/80/EC)**

Adapted

2. Member States may restrict the scope of the option provided for in paragraph 1.

**Article 26b(C),
second subpara-
graph, second
sentence
(inserted by
98/80/EC)**

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 26b(C),
third subpara-
graph
(inserted by
98/80/EC)**

Adapted

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.

**Article 26b(C),
fourth subpara-
graph
(inserted by
98/80/EC)**

Adapted

Section 4

Transactions on a regulated gold bullion market

**Heading of
Article 26b(G)
(inserted by
98/80/EC)**

Article 344

Each Member State may, after consulting the VAT Committee, apply VAT to specific transactions 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 26b(G)(1),
first subpara-
graph
(inserted by
98/80/EC)**

Adapted

**Article 26b(G)(1),
first subpara-
graph, point (a)
(inserted by
98/80/EC)**

**Article 26b(G)(1),
first subpara-
graph, point (b)
(inserted by
98/80/EC)**

**Article 26b(G)(1),
second subpara-
graph
(inserted by
98/80/EC)**

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.

**Article 26b(G)(2)
(a)
(inserted by
98/80/EC)**

Adapted

Article 346

1. Member States which, pursuant to Article 344, tax transactions 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 shall designate the customer as the person liable for payment of VAT in accordance with procedures and conditions laid down by Member States pursuant to Article 191.
2. Where the customer who is not a member of the regulated gold bullion market is a taxable person subject to VAT 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 the Member State in which taxation takes place.

**Article 26b(G)(2)
(b), first sentence
(inserted by
98/80/EC)**

Adapted

**Article 26b(G)(2)
(b), second
sentence
(inserted by
98/80/EC)**

Adapted

Section 5

Special rights and obligations for traders in investment gold

**Heading of
Article 26b(D)
(inserted by
98/80/EC)**

Article 347

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

**Article 26b(D)(1)
(inserted by
98/80/EC)**

Adapted

(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;

**Article 26b(D)(1)
(a)
(inserted by
98/80/EC)**

Adapted

(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;

**Article 26b(D)(1)
(b)
(inserted by
98/80/EC)**

Adapted

(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 26b(D)(1)
(c)
(inserted by
98/80/EC)**

Adapted

**Article 26b(D)(1),
end
(inserted by
98/80/EC)**

Article 348

Taxable persons who produce investment gold or transform any gold of whatever origin 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.

**Article 26b(D)(2)
(inserted by
98/80/EC)**

Adapted

**Heading of
Article 26b(E)
(inserted by
98/80/EC)**

Article 349

1. Member States shall ensure that traders in investment gold who carry out transactions which are exempt pursuant to this Chapter 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.

**Article 26b(E),
first subpara-
graph
(inserted by
98/80/EC)**

Adapted

Traders shall keep the information referred to in the first subparagraph for a period of at least five years.

**Article 26b(E),
second subpara-
graph
(inserted by
98/80/EC)**

2. Member States may accept equivalent obligations under measures adopted pursuant to other Community legislation, such as Council Directive 91/308/EEC⁴⁷, to comply with the requirements under paragraph 1.

**Article 26b(E),
third subpara-
graph
(inserted by
98/80/EC)**

Adapted

3. Member States may lay down obligations which are more stringent, in particular as regards the keeping of special records or special accounting requirements.

**Article 26b(E),
fourth subpara-
graph
(inserted by
98/80/EC)**

Adapted

Chapter 6

**Special scheme for non-established taxable persons supplying
electronic services to non-taxable persons**

Section 1

General provisions

⁴⁷ OJ L 166, 28.6.1991, p. 77.

Article 350

This Chapter shall apply for a period of three years starting from 1 July 2003.

**Article 4
(2002/38/EC)**

Article 351

**Article 26c
(inserted by
2002/38/EC)**

**Heading of
Article 26c
(inserted by
2002/38/EC)**

**Heading of
Article 26c(A)
(inserted by
2002/38/EC)**

For the purposes of this Chapter, and without prejudice to other provisions, the following definitions shall apply:

**Article 26c(A)
(inserted by
2002/38/EC)**

(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;

**Article 26c(A)(a)
(inserted by
2002/38/EC)**

Adapted

(2) ‘electronic services’ and ‘electronically supplied services’ means the services referred to in point (k) of Article 56(1);

**Article 26c(A)(b)
(inserted by
2002/38/EC)**

Adapted

(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;

**Article 26c(A)(c)
(inserted by
2002/38/EC)**

(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;

**Article 26c(A)(d)
(inserted by
2002/38/EC)**

- (5) 'VAT return' shall mean the statement containing the information necessary to establish the amount of VAT due in each Member State.

Article 26c(A)(e)
(inserted by
2002/38/EC)

Adapted

Section 2

Special scheme for electronically supplied services

Heading of
Article 26c(B)
(inserted by
2002/38/EC)

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 26c(B)(1)
(inserted by
2002/38/EC)

Adapted

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 26c(B)(2),
first subpara-
graph
(inserted by
2002/38/EC)

Adapted

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:

Article 26c(B)(2),
second subpara-
graph, first
sentence
(inserted by
2002/38/EC)

Adapted

- | | |
|---|--|
| (a) name; | Article 26c(B)(2),
second subparagraph,
part of first sentence
(inserted by
2002/38/EC) |
| (b) postal address; | Article 26c(B)(2),
second subparagraph,
part of first sentence
(inserted by
2002/38/EC) |
| (c) electronic addresses, including websites; | Article 26c(B)(2),
second subparagraph,
part of first sentence
(inserted by
2002/38/EC) |
| (d) national tax number, if any; | Article 26c(B)(2),
second subparagraph,
part of first sentence
(inserted by
2002/38/EC) |
| (e) a statement that the person is not identified for VAT purposes within the Community. | Article 26c(B)(2),
second subparagraph,
part of first sentence
(inserted by
2002/38/EC) |
| 2. The non-established taxable person shall notify the Member State of identification of any changes in the information provided. | Article 26c(B)(2),
second subparagraph,
second sentence
(inserted by
2002/38/EC) |

Adapted

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 26c(B)(3),
first subpara-
graph
(inserted by
2002/38/EC)**

Adapted

**Article 26c(B)(3),
second subpara-
graph
(inserted by
2002/38/EC)**

Article 356

The Member State of identification shall strike the non-established taxable person from the identification register in the following cases:

**Article 26c(B)(4)
(inserted by
2002/38/EC)**

Adapted

(a) if he notifies that Member State that he no longer supplies electronic services;

**Article 26c(B)(4)
(a)
(inserted by
2002/38/EC)**

Adapted

(b) if it may otherwise be assumed that his taxable activities have ceased;

**Article 26c(B)(4)
(b)
(inserted by
2002/38/EC)**

Adapted

(c) if he no longer meets the conditions necessary for use of this special scheme;

**Article 26c(B)(4)
(c)
(inserted by
2002/38/EC)**

Adapted

(d) if he persistently fails to comply with the rules relating to this special scheme.

**Article 26c(B)(4)
(d)
(inserted by
2002/38/EC)**

Adapted

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 26c(B)(5),
first subpara-
graph
(inserted by
2002/38/EC)**

Adapted

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 and the total VAT due must also be indicated on the return.

**Article 26c(B)(5),
first subpara-
graph
(inserted by
2002/38/EC)**

Adapted

Article 359

1. The VAT return shall be made out in euro.

**Article 26c(B)(6),
first sentence
(inserted by
2002/38/EC)**

Adapted

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.

**Article 26c(B)(6),
second and third
sentences
(inserted by
2002/38/EC)**

Adapted

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 26c(B)(6),
fourth sentence
(inserted by
2002/38/EC)**

Adapted

Article 360

The non-established taxable person shall pay the VAT when submitting the VAT return.

**Article 26c(B)(7),
first sentence
(inserted by
2002/38/EC)**

Adapted

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 26c(B)(7),
second and third
sentences
(inserted by
2002/38/EC)**

Article 361

The non-established taxable person making use of this special scheme shall, instead of deducting VAT pursuant to Article 163, be refunded in accordance with Directive 86/560/EEC. 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 26c(B)(8)
(inserted by
2002/38/EC)**

Adapted

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.

**Article 26c(B)(9)
(inserted by
2002/38/EC)**

Adapted

**Article 26c(B)(9),
second sentence
(inserted by
2002/38/EC)**

Adapted

Those records must be kept for a period of ten years from the end of the year during which the transaction was carried out.

**Article 26c(B)(9),
third sentence
(inserted by
2002/38/EC)**

Adapted

**TITLE XIII
DEROGATIONS**

**Title XVI
(77/388/EEC)**

**Heading of
Title XVI
(77/388/EEC)**

Adapted

Chapter 1

General derogations

Section 1

**Derogations for States which were members of the Community on
1 January 1978**

Article 363

**Article 28
(77/388/EEC)**

**Article 28(1)
(77/388/EEC)**

Obsolete

**Article 28(1a)
(inserted by
94/5/EC)**

Obsolete

**Article 28(3)
(77/388/EEC)**

Obsolete

Member States which, at 1 January 1978, taxed the transactions listed in Annex IX, Part A, may continue to tax those transactions.

**Article 28(3)(a)
(77/388/EEC)**

Adapted

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 28(3)(b)
(77/388/EEC)

Adapted

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 28(3)(d)
(77/388/EEC)

Adapted

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 28(3)(e)
(amended by
94/5/EC)

Adapted

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.

Article 28(3)(g)
(77/388/EEC)

Adapted

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 the date of its accession.

Annex VIII(II)(2)
(b)
(Act of Accession,
EL)

Adapted

**Annex VIII(II)(2)
(b)
(Act of Accession,
EL)**

**Annex VIII(II)(2)
(b)
(Act of Accession,
EL)**

**Annex VIII(II)(2)
(b)
(Act of Accession,
EL)**

**Annex VIII(II)(2)
(b)
(Act of Accession,
EL)**

**Annex VIII(II)(2)
(b)
(Act of Accession,
EL)**

**Annex VIII(II)(2)
(b)
(Act of Accession,
EL)**

**Annex VIII(II)(2)
(b)
(Act of Accession,
EL)**

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 the date of its accession.

**Article 28(3a)
(inserted by
91/680/EEC)**

Adapted

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 the date of its accession.

**Annex IV(3)(b),
first subpara-
graph
(Act of Accession,
ES and PT)**

Adapted

Article 371

1. Austria may continue to tax the transactions listed in point (2) of Annex IX, Part A.

**Annex IX(2)(h),
first subpara-
graph
(Act of Accession,
AT, FI and SE)**

Adapted

**Annex IX(2)(h),
first subpara-
graph, second
indent
(Act of Accession,
AT, FI and SE)**

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:

**Annex IX(2)(i),
first subpara-
graph
(Act of Accession,
AT, FI and SE)**

Adapted

(a) the transactions listed in points (5) and (9) of Annex IX, Part B;

**Annex IX(2)(i),
first subpara-
graph, second
indent
(Act of Accession,
AT, FI and SE)**

- (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.

**Annex IX(2)(i),
first subpara-
graph, third
indent
(Act of Accession,
AT, FI and SE)**

Adapted

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.

**Annex IX(2)(m),
first subpara-
graph
(Act of Accession,
AT, FI and SE)**

Adapted

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.

**Annex IX(2)(n),
first subpara-
graph
(Act of Accession,
AT, FI and SE)**

Adapted

**Annex IX(2)(i),
first subpara-
graph, first indent
(Act of Accession,
AT, FI and SE)**

**Annex IX(2)(i),
first subpara-
graph, second
indent
(Act of Accession,
AT, FI and SE)**

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.

**Annex IX(2)(aa),
first subpara-
graph
(Act of Accession,
AT, FI and SE)**

Adapted

**Annex IX(2)(aa),
first subpara-
graph, first indent
(Act of Accession,
AT, FI and SE)**

**Annex IX(2)(aa),
first subpara-
graph, second
indent
(Act of Accession,
AT, FI and SE)**

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.

**Annex V(5)(1)(b)
(2003 Act of
Accession)**

Adapted

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.

**Annex VI(7)(1)(b)
(2003 Act of
Accession)**

Adapted

Article 376

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.

**Annex VII(7)(1),
sixth subpara-
graph
(2003 Act of
Accession)**

Adapted

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:

**Annex VIII(7)(1)
(b), second sub-
paragraph
(2003 Act of
Accession)**

Adapted

- (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.

**Annex VIII(7)(1)
(b), second sub-
paragraph
(2003 Act of
Accession)**

**Annex VIII(7)(1)
(b), third sub-
paragraph
(2003 Act of
Accession)**

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.

**Annex IX(8)(1)
(2003 Act of
Accession)**

Adapted

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.

**Annex X(7)(1)(c)
(2003 Act of
Accession)**

Adapted

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:

**Annex XI(7)(2)
(2003 Act of
Accession)**

Adapted

(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;

**Annex XI(7)(2)(b)
(2003 Act of
Accession)**

Adapted

(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;

**Annex XI(7)(2)(c)
(2003 Act of
Accession)**

Adapted

(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.

**Annex XI(7)(2)(a)
(2003 Act of
Accession)**

Adapted

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.

**Annex XII(9)(2)
(2003 Act of
Accession)**

Adapted

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.

**Annex XIII(6)(1)
(b)
(2003 Act of
Accession)**

Adapted

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.

**Annex XIV(7),
third subpara-
graph
(2003 Act of
Accession)**

Adapted

Section 3

Provisions common to Sections 1 and 2

Article 384

Member States which exempt the transactions referred to in Article 364 or Articles 368 to 383 may grant taxable persons the right to opt for taxation of those transactions.

**Article 28(3)(c)
(77/388/EEC)**

Adapted

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 28(3)(f)
(77/388/EEC)**

Article 386

1. 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.

**Article 28(4)
(77/388/EEC)**

Adapted

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.

Article 28(5)
(77/388/EEC)

Adapted

Chapter 2

Derogations subject to authorisation

Section 1

Simplification measures and measures to prevent tax evasion or avoidance

Title XV
(77/388/EEC)

Heading of
Title XV
(77/388/EEC)

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 27(5)
(77/388/EEC)

Adapted

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.

Article 27
(77/388/EEC)

Article 27(1), first sentence
(replaced by
2004/7/EC)

Adapted

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.

Article 27(1), second sentence
(replaced by
2004/7/EC)

Adapted

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.

Article 27(2), first and second sentences (replaced by 2004/7/EC)

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.

Article 27(2), third sentence (replaced by 2004/7/EC)

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.

Article 27(3) (replaced by 2004/7/EC)

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.

Article 27(4) (replaced by 2004/7/EC)

Section 2

International agreements

Article 389

Article 30 (replaced by 2004/7/EC)

Heading of Article 30 (replaced by 2004/7/EC)

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.

Article 30(1) (replaced by 2004/7/EC)

Adapted

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.

Article 30(2), first and second sentences (replaced by 2004/7/EC)

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.

Article 30(2), third sentence (replaced by 2004/7/EC)

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.

Article 30(3) (replaced by 2004/7/EC)

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.

Article 30(4) (replaced by 2004/7/EC)

TITLE XIV

Title XVIII (77/388/EEC)

MISCELLANEOUS

Heading of Title XVIII (77/388/EEC)

Chapter 1

Implementing measures

Article 390

Article 29a (inserted by 2004/7/EC)

Heading of Article 29a (inserted by 2004/7/EC)

The Council, acting unanimously on a proposal from the Commission, shall adopt the measures necessary to implement this Directive.

Article 29a (inserted by 2004/7/EC)

Chapter 2 VAT Committee

**Title XVII
(77/388/EEC)**

**Heading of
Title XVII
(77/388/EEC)**

Article 391

**Article 29
(77/388/EEC)**

1. An advisory committee on value added tax, called ‘the VAT Committee, is set up.

**Article 29(1)
(77/388/EEC)**

Adapted

2. The VAT Committee shall consist of representatives of the Member States and of the Commission.

**Article 29(2), first
subparagraph
(77/388/EEC)**

Adapted

The chairman of the Committee shall be a representative of the Commission.

**Article 29(2),
second subpara-
graph
(77/388/EEC)**

Secretarial services for the Committee shall be provided by the Commission.

**Article 29(2),
third subpara-
graph
(77/388/EEC)**

3. The VAT Committee shall adopt its own rules of procedure.

**Article 29(3)
(77/388/EEC)**

Adapted

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.

**Article 29(4)
(77/388/EEC)**

Adapted

Chapter 3

Conversion rates

Article 31
(77/388/EEC)

Heading of
Article 31
(77/388/EEC)

Article 31(1)
(77/388/EEC)

Obsolete

Article 392

Article 28m
(inserted by
91/680/EEC)

Heading of
Article 28m
(inserted by
91/680/EEC)

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.

Article 28m
first sentence
(replaced by the
2003 Act of
Accession)

Modified

However, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia shall use the rate of exchange applicable on the date of their accession.

Article 28m
second sentence
(inserted by the
2003 Act of
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%.

Article 31(2)
(77/388/EEC)

Adapted

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

**TRANSITIONAL ARRANGEMENTS FOR THE
TAXATION OF TRADE BETWEEN MEMBER STATES
AND FINAL PROVISIONS**

Article 395

**Article 33
(replaced by
91/680/EEC)**

**Article 33(1)
(replaced by
91/680/EEC)**

Adapted

**Title XVI A
(inserted by
91/680/EEC)**

**Heading of
Title XVI A
(inserted by
91/680/EEC)**

**Title XIX
(77/388/EEC)**

**Heading of
Title XIX
(77/388/EEC)**

**Article 28l
(inserted by
91/680/EEC)**

**Heading of
Article 28l
(inserted by
91/680/EEC)**

**Article 28l, first
paragraph
(inserted by
91/680/EEC)**

Obsolete

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.

Article 28I, second paragraph (inserted by 91/680/EEC)

Adapted

2. Having concluded, upon examination of the report referred to in Article 398, that the conditions for transition to the definitive arrangements are satisfied, 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 28I, third paragraph (inserted by 91/680/EEC)

Adapted

Article 28I, fourth paragraph (inserted by 91/680/EEC)

Obsolete

Article 396

The arrangements governing radio broadcasting and television services and certain electronically supplied services shall apply for a period of three years starting from 1 July 2003.

Article 4 (2002/38/EC)

Adapted

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, 58 and 59, 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.

Article 5 (2002/38/EC)

Adapted

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 35 (77/388/EEC)

Article 35 (77/388/EEC)

Adapted

Article 398

The Commission shall, on the basis of information obtained from the Member States, present a report every four years 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.

Article 34
(77/388/EEC)

Article 34
(77/388/EEC)

Modified

Article 36
(77/388/EEC)

Article 36
(77/388/EEC)

Obsolete

Article 37
(77/388/EEC)

Article 37
(77/388/EEC)

Obsolete

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 Articles 2, 38(3), 59, 132(1)(h), 140(b), 392 and 398 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.

Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

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

**Article 38
(77/388/EEC)**

**Article 38
(77/388/EEC)**

ANNEX I

LIST OF THE ACTIVITIES REFERRED TO IN ARTICLE 14

(1)	Telecommunications services;	Annex D (77/388/EEC)
		Heading of Annex D (77/388/EEC)
		Annex D(1) (77/388/EEC)
		<i>Adapted</i>
(2)	supply of water, gas, electricity and thermal energy;	Annex D(2) (77/388/EEC)
		<i>Adapted</i>
(3)	transport of goods;	Annex D(3) (77/388/EEC)
(4)	port and airport services;	Annex D(4) (77/388/EEC)
(5)	passenger transport;	Annex D(5) (77/388/EEC)
(6)	supply of new goods manufactured for sale;	Annex D(6) (77/388/EEC)
(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;	Annex D(7) (77/388/EEC)
		<i>Adapted</i>
(8)	organisation of trade fairs and exhibitions;	Annex D(8) (77/388/EEC)
		<i>Adapted</i>
(9)	warehousing;	Annex D(9) (77/388/EEC)
(10)	activities of commercial advertising agencies;	Annex D(10) (77/388/EEC)
(11)	activities of travel agents;	Annex D(11) (77/388/EEC)
		<i>Adapted</i>

- | | | |
|------|--|---|
| (12) | running of staff shops, cooperatives and industrial canteens and similar institutions; | Annex D(12)
(77/388/EEC) |
| (13) | activities of a commercial nature, carried out by radio and television bodies. | Annex D(13)
(77/388/EEC) |

Adapted

ANNEX II

LIST OF THE ELECTRONICALLY SUPPLIED SERVICES REFERRED TO IN ARTICLE 56(1)(K)

- | | |
|---|---|
| | Annex L
(inserted by
2002/38/EC) |
| | Heading of
Annex L
(inserted by
2002/38/EC) |
| | <i>Adapted</i> |
| (1) Website supply, web-hosting, distance maintenance of programmes and equipment; | Annex L, first paragraph, point (1)
(inserted by
2002/38/EC) |
| (2) supply of software and updating thereof; | Annex L, first paragraph, point (2)
(inserted by
2002/38/EC) |
| (3) supply of images, text and information and making available of databases; | Annex L, first paragraph, point (3)
(inserted by
2002/38/EC) |
| (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; | Annex L, first paragraph, point (4)
(inserted by
2002/38/EC) |
| (5) supply of distance teaching. | Annex L, first paragraph, point (5)
(inserted by
2002/38/EC) |

ANNEX III

LIST OF SUPPLIES OF GOODS AND SERVICES TO WHICH THE REDUCED RATES REFERRED TO IN ARTICLE 95 MAY BE APPLIED

- | | |
|-----|---|
| | Annex H
(92/77/EEC) |
| | Heading of
Annex H
(inserted by
92/77/EEC) |
| | <i>Adapted</i> |
| | Annex H, second
paragraph
(inserted by
92/77/EEC) |
| (1) | Supply of 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; |
| | Annex H, second
paragraph, point 1
(inserted by
92/77/EEC) |
| | <i>Adapted</i> |
| (2) | supply of water; |
| | Annex H, second
paragraph, point 2
(inserted by
92/77/EEC) |
| (3) | supply of 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; |
| | Annex H, second
paragraph, point 3
(inserted by
92/77/EEC) |
| | <i>Adapted</i> |
| (4) | supply, including the hiring out, of 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; |
| | Annex H, second
paragraph, point 4
(inserted by
92/77/EEC) |
| | <i>Adapted</i> |
| (5) | transport of passengers and their accompanying luggage; |
| | Annex H, second
paragraph, point 5
(inserted by
92/77/EEC) |

- | | | |
|------|--|--|
| (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; | Annex H, second paragraph, point 6 (inserted by 92/77/EEC)
<i>Adapted</i> |
| (7) | admission to shows, theatres, circuses, fairs, amusement parks, concerts, museums, zoos, cinemas, exhibitions and similar cultural events and facilities; | Annex H, second paragraph, point 7, first subparagraph (inserted by 92/77/EEC) |
| (8) | reception of radio and television broadcasting services; | Annex H, second paragraph, point 7, second subparagraph (inserted by 92/77/EEC)
<i>Adapted</i> |
| (9) | supply of services by writers, composers and performing artists, or of the royalties due to them; | Annex H, second paragraph, point 8 (inserted by 92/77/EEC)
<i>Adapted</i> |
| (10) | provision, construction, renovation and alteration of housing, as part of a social policy; | Annex H, second paragraph, point 9 (inserted by 92/77/EEC)
<i>Adapted</i> |
| (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; | Annex H, second paragraph, point 10 (inserted by 92/77/EEC) |

(12) accommodation provided in hotels and similar establishments, including the provision of holiday accommodation and the letting of places on camping or caravan sites;	Annex H, second paragraph, point 11 (inserted by 92/77/EEC)
	<i>Adapted</i>
(13) admission to sporting events;	Annex H, second paragraph, point 12 (inserted by 92/77/EEC)
(14) use of sporting facilities;	Annex H, second paragraph, point 13 (inserted by 92/77/EEC)
(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;	Annex H, second paragraph, point 14 (inserted by 92/77/EEC)
	<i>Adapted</i>
(16) supply of services by undertakers and cremation services, and the supply of goods related thereto;	Annex H, second paragraph, point 15 (inserted by 92/77/EEC)
	<i>Adapted</i>
(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);	Annex H, second paragraph, point 16 (inserted by 92/77/EEC)
	<i>Adapted</i>

- (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 H, second
paragraph,
point 17
(inserted by
92/77/EEC)**

Adapted

ANNEX IV

LIST OF THE SERVICES REFERRED TO IN ARTICLE 102

	Annex K (inserted by 1999/85/EC)
	Heading of Annex K (inserted by 1999/85/EC)
	<i>Adapted</i>
(1) Minor repairing of:	Annex K(1) (inserted by 1999/85/EC)
	<i>Adapted</i>
(a) bicycles;	Annex K(1), first indent (inserted by 1999/85/EC)
(b) shoes and leather goods;	Annex K(1), second indent (inserted by 1999/85/EC)
(c) clothing and household linen (including mending and alteration);	Annex K(1), third indent (inserted by 1999/85/EC)
(2) renovation and repairing of private dwellings, excluding materials which account for a significant part of the value of the service supplied;	Annex K(2) (inserted by 1999/85/EC)
	<i>Adapted</i>
(3) window-cleaning and cleaning in private households;	Annex K(3) (inserted by 1999/85/EC)
(4) domestic care services such as home help and care of the young, elderly, sick or disabled;	Annex K(4) (inserted by 1999/85/EC)
	<i>Adapted</i>

(5) hairdressing.

Annex K(5)
(inserted by
1999/85/EC)

ANNEX V

CATEGORIES OF GOODS, REFERRED TO IN ARTICLE 155, WHICH MAY BE COVERED BY WAREHOUSING ARRANGEMENTS OTHER THAN CUSTOMS WAREHOUSING

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	Oil seeds 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	

Annex J
(inserted by
95/7/EC)

Adapted

Annex J,
introductory
sentence
(inserted by
95/7/EC)

Adapted

Adapted

(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	

Adapted

ANNEX VI

LIST OF THE AGRICULTURAL PRODUCTION ACTIVITIES REFERRED TO IN ARTICLE 288

	Annex A (77/388/EEC)
	Heading of Annex A (77/388/EEC)
	<i>Adapted</i>
(1) Crop production:	Annex A(I) (77/388/EEC)
(a) general agriculture, including viticulture;	Annex A(I)(1) (77/388/EEC)
(b) growing of fruit (including olives) and of vegetables, flowers and ornamental plants, both in the open and under glass;	Annex A(I)(2) (77/388/EEC)
(c) production of mushrooms, spices, seeds and propagating materials;	Annex A(I)(3) (77/388/EEC)
(d) running of nurseries;	Annex A(I)(3) (77/388/EEC)
	<i>Adapted</i>
(2) stock farming together with cultivation:	Annex A(II) (77/388/EEC)
(a) general stock farming;	Annex A(II)(1) (77/388/EEC)
(b) poultry farming;	Annex A(II)(2) (77/388/EEC)
(c) rabbit farming;	Annex A(II)(3) (77/388/EEC)
(d) beekeeping;	Annex A(II)(4) (77/388/EEC)
(e) silkworm farming;	Annex A(II)(5) (77/388/EEC)
(f) snail farming;	Annex A(II)(6) (77/388/EEC)

(3)	forestry;	Annex A(III) (77/388/EEC)
(4)	fisheries:	Annex A(IV) (77/388/EEC)
	(a) freshwater fishing;	Annex A(IV)(1) (77/388/EEC)
	(b) fish farming;	Annex A(IV)(2) (77/388/EEC)
	(c) breeding of mussels, oysters and other molluscs and crustaceans;	Annex A(IV)(3) (77/388/EEC)
	(d) frog farming.	Annex A(IV)(4) (77/388/EEC)

ANNEX VII

LIST OF THE AGRICULTURAL SERVICES REFERRED TO IN ARTICLE 288

	Annex B (77/388/EEC)
	Heading of Annex B (77/388/EEC)
	<i>Adapted</i>
	Annex B (77/388/EEC)
(1) Field work, reaping and mowing, threshing, baling, collecting, harvesting, sowing and planting;	Annex B, first indent (77/388/EEC)
(2) packing and preparation for market, such as drying, cleaning, grinding, disinfecting and ensilage of agricultural products;	Annex B, second indent (77/388/EEC)
(3) storage of agricultural products;	Annex B, third indent (77/388/EEC)
(4) stock minding, rearing and fattening;	Annex B, fourth indent (77/388/EEC)
(5) hiring out, for agricultural purposes, of equipment normally used in agricultural, forestry or fisheries undertakings;	Annex B, fifth indent (77/388/EEC)
(6) technical assistance;	Annex B, sixth indent (77/388/EEC)
(7) destruction of weeds and pests, dusting and spraying of crops and land;	Annex B, seventh indent (77/388/EEC)
(8) operation of irrigation and drainage equipment;	Annex B, eighth indent (77/388/EEC)
(9) lopping, tree felling and other forestry services.	Annex B, ninth indent (77/388/EEC)

Annex C
(77/388/EEC)

Heading of
Annex C
(77/388/EEC)

Annex C(I)
(77/388/EEC)

Obsolete

Annex C(I)(1)
(77/388/EEC)

Obsolete

Annex C(I)(2)
(77/388/EEC)

Obsolete

Annex C(I)(3)
(77/388/EEC)

Obsolete

Annex C(II)
(77/388/EEC)

Obsolete

Annex C(III)
(77/388/EEC)

Obsolete

Annex C(IV)
(77/388/EE)

Obsolete

ANNEX VIII

WORKS OF ART, COLLECTORS' ITEMS AND ANTIQUES, AS REFERRED TO IN ARTICLE 304(1)(B), (C) AND (D)

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;

Annex I
(inserted by
94/5/EC)

Heading of
Annex I
(inserted by
94/5/EC)

Adapted

Annex I
(inserted by
94/5/EC)

Obsolete

Annex I(a)
(inserted by
94/5/EC)

Adapted

Annex I(a), first
indent
(inserted by
94/5/EC)

Annex I(a), second
indent
(inserted by
94/5/EC)

Annex I(a), third
indent
(inserted by
94/5/EC)

(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;	Annex I(a), fourth indent (inserted by 94/5/EC)
(5) individual pieces of ceramics executed entirely by the artist and signed by him;	Annex I(a), fifth indent (inserted by 94/5/EC)
(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;	Annex I(a), sixth indent (inserted by 94/5/EC)
(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.	Annex I(a), seventh indent (inserted by 94/5/EC)
B Collectors' items:	Annex I(b) (inserted by 94/5/EC)
	<i>Adapted</i>
(1) postage or revenue stamps, postmarks, first-day covers, pre-stamped stationery and the like, franked, or if unfranked not being of legal tender and not being intended for use as legal tender (CN code 9704 00 00);	Annex I(b), first indent (inserted by 94/5/EC)
(2) collections and collectors' pieces of zoological, botanical, mineralogical, anatomical, historical, archaeological, palaeontological, ethnographic or numismatic interest (CN code 9705 00 00);	Annex I(b), second indent (inserted by 94/5/EC)
C. Antiques	Annex I(c) (inserted by 94/5/EC)
	<i>Adapted</i>
goods, other than works of art or collectors' items, which are more than 100 years old (CN code 9706 00 00).	Annex I(c) (inserted by 94/5/EC)

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;

Annex E
(77/388/EEC)

New

Annex F
(77/388/EEC)

Heading of
Annex E
(77/388/EEC)

Adapted

Annex E(2)
(77/388/EEC)

Adapted

Annex E(7)
(77/388/EEC)

Adapted

Annex E(11)
(77/388/EEC)

Adapted

Annex E(15)
(77/388/EEC)

Adapted

Heading of
Annex F
(77/388/EEC)

Adapted

Annex F(1)
(77/388/EEC)

(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:	Annex F(2) (77/388/EEC)
	<i>Adapted</i>
(a) assignments of patents, trade marks and other similar rights, and the granting of licences in respect of such rights;	Annex F(2) (77/388/EEC)
(b) work, other than the supply of contract work, on tangible movable property, carried out for a taxable person;	Annex F(2) (77/388/EEC)
(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;	Annex F(2) (77/388/EEC)
(d) commercial advertising services;	Annex F(2) (77/388/EEC)
(e) transport and storage of goods, and ancillary services;	Annex F(2) (77/388/EEC)
(f) hiring out of tangible movable property to a taxable person;	Annex F(2) (77/388/EEC)
(g) provision of staff to a taxable person;	Annex F(2) (77/388/EEC)
(h) provision of services by consultants, engineers, planning offices and similar services in scientific, economic or technical fields;	Annex F(2) (77/388/EEC)
(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);	Annex F(2) (77/388/EEC)
(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);	Annex F(2) (77/388/EEC)
(3) the supply of telecommunications services, and of goods related thereto, by public postal services;	Annex F(5) (77/388/EEC)
	<i>Adapted</i>
(4) the supply of services by undertakers and cremation services and the supply of goods related thereto;	Annex F(6) (77/388/EEC)
	<i>Adapted</i>

(5) transactions carried out by blind persons or by workshops for the blind, provided that those exemptions do not cause significant distortion of competition;	Annex F(7) (77/388/EEC)
	<i>Adapted</i>
(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;	Annex F(8) (77/388/EEC)
(7) transactions carried out by hospitals not covered by Article 129(1)(b);	Annex F(10) (77/388/EEC)
	<i>Adapted</i>
(8) the supply of water by a body governed by public law;	Annex F(12) (77/388/EEC)
	<i>Adapted</i>
(9) the supply before first occupation of a building, or parts thereof, or of the land on which it stands, as referred to in Article 13;	Annex F(16) (77/388/EEC)
	<i>Adapted</i>
(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;	Annex F(17), first subparagraph (77/388/EEC)
	<i>Adapted</i>
	Annex F(17), second subparagraph (77/388/EEC)
(11) the supply, modification, repair, maintenance, chartering and hiring of aircraft used by State institutions, including equipment incorporated or used in such aircraft;	Annex F(23) (77/388/EEC)
	<i>Adapted</i>
(12) the supply, modification, repair, maintenance, chartering and hiring of fighting ships;	Annex F(25) (77/388/EEC)
	<i>Adapted</i>
(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 F(27) (77/388/EEC)
	<i>Adapted</i>

Annex G
(77/388/EEC)

Heading of
Annex G
(77/388/EEC)

Annex G(1)
(77/388/EEC)

Obsolete

Annex G(1)(a)
(77/388/EEC)

Obsolete

Annex G(1)(b)
(77/388/EEC)

Obsolete

Annex G(2)
(77/388/EEC)

Obsolete

ANNEX X

Part A

Repealed Directives with their successive amendments (referred to in Article 399)

- (1) Directive 67/227/EEC (OJ L 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 2000/65/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/CE (JO L 52 du 21.2.2004, p. 61)

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 2000/65/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	—

ANNEX XI

CORRELATION TABLE

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	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)
	Article 3(1), first and second indents				Article 7(a) and (b)
	Article 3(1), third indent				Article 7(c) and (d)
	Article 3(2)				Article 5
	Article 3(3), first subparagraph, first indent				Article 6(2)(a) and (b)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 3(3), first sub-paragraph, second indent				Article 6(2)(c) and (d)
	Article 3(3), first sub-paragraph, third indent				Article 6(2)(f), (g) and (h)
	Article 3(3) second sub-paragraph, first indent				Article 6(1)(b)
	Article 3(3) second sub-paragraph, second indent				Article 6(1)(c)
	Article 3(3), second sub-paragraph, third indent				Article 6(1)(a)
	Article 3(4), first sub-paragraph, first and second indents				Article 8(1)
	Article 3(4), second sub-paragraph, first second and third indents				Article 8(2)
	Article 3(5)				Article 9
	Article 4(1) and (2)				Article 10(1), first and second subparagraphs
	Article 4(3)(a), first sub-paragraph, first sentence				Article 13(1)(a)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	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)
	Article 5(1)				Article 15(1)
	Article 5(2)				Article 16(1)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	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 subparagraphs
	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 subparagraphs
	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	Directive 94/5/EC	Directive 2002/38/EC	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 subparagraphs
	Article 7(2)				Article 60
	Article 7(3), first and second subparagraphs				Article 61, first and second subparagraphs
	Article 8(1)(a), first sentence				Article 33, first subparagraph
	Article 8(1)(a), second and third sentences				Article 37, first and second subparagraphs
	Article 8(1)(b)				Article 32
	Article 8(1)(c), first subparagraph				Article 38(1)
	Article 8(1)(c), second subparagraph, first indent				Article 38(2), first subparagraph
	Article 8(1)(c), second subparagraph, second and third indents				Article 38(2), second and third subparagraphs
	Article 8(1)(c), third subparagraph				Article 38(2), fourth subparagraph

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 8(1)(c), fourth subparagraph				Article 38(3), first subparagraph
	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 subparagraph
	Article 8(1)(e), second and third sentences				Article 40, second subparagraph
	Article 8(2)				Article 33, second subparagraph
	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)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 9(2)(c), third and fourth indents				Article 52(c)
	Article 9(2)(c), third and fourth indents				Article 52(c)
	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 indent				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)
	Article 9(3)(a) and (b)				Article 58(a) and (b)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 9(4)				Article 59(1) and (2)
	Article 10(1)(a) and (b)				Article 62(1) and (2)
	Article 10(2), first sub-paragraph, first sentence				Article 63
	Article 10(2), first sub-paragraph, 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

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 11(A)(1)(b)				Article 73
	Article 11(A)(1)(c)				Article 74
	Article 11(A)(1)(d), first and second subpara- graphs				Article 76, first and second subparagraphs
	Article 11(A)(2)(a)				Article 77, first subpara- graph, point (a)
	Article 11(A)(2)(b), first sentence				Article 77, first subpara- graph, point (b)
	Article 11(A)(2)(b), second sentence				Article 77, second sub- paragraph
	Article 11(A)(3)(a) and (b)				Article 78, first subpara- graph, points (a) and (b) Article 84(a) and (b)
	Article 11(A)(3)(c), first sentence				Article 78, first subpara- graph, point (c)
	Article 11(A)(3)(c), second sentence				Article 78, second sub- paragraph
	Article 11(A)(4), first and second subparagraphs				Article 79, first and second subparagraphs
	Article 11(B)(1)				Article 82

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 11(B)(3)(a)				Article 83,(1), first sub-paragraph, point (a)
	Article 11(B)(3)(b), first subparagraph				Article 83(1), first subparagraph, point (b)
	Article 11(B)(3)(b), second subparagraph				Article 83(2)
	Article 11(B)(3)(b), third subparagraph				Article 83(1), second subparagraph
	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 subparagraphs
	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)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 12(1)				Article 90, first subpara- graph
	Article 12(1)(a)				Article 90, second sub- paragraph, point (a)
	Article 12(1)(b)				Article 90, second sub- paragraph, point (c)
	Article 12(2), first and second indents				Article 92, first and second subparagraphs
	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 sub- paragraph Article 96(1)
	Article 12(3)(a), fourth subparagraph				Article 95(2), second sub- paragraph

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 12(3)(b), first sentence				Article 98, first subparagraph
	Article 12(3)(b), second, third and fourth sentences				Article 98, second subparagraph
	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 subparagraphs
	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)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	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 sub- paragraph, points (a) to (d)
	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)(1) to (5)				Article 132(1)(b) to (f)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 13(B)(d)(5), first and second indents				Article 132(1)(f)
	Article 13(B)(d)(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				Articles 128
	Article 14(1)(a)				Article 137(a)
	Article 14(1)(d), first and second subparagraphs				Article 140(b) and (c)
	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)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 14(1)(j)				Article 140(k)
	Article 14(1)(k)				Article 140(l)
	Article 14(2), first sub-paragraph				Article 141(1)
	Article 14(2), second subparagraph, 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(1)				Article 142(1)(a)
	Article 15(2), first subparagraph				Article 142(1)(b)
	Article 15(2), second subparagraph, first and second indents				Article 143(1), first subparagraph, points (a) and (b)
	Article 15(2), second subparagraph, third indent, first part of the sentence				Article 143(1), first subparagraph, point (c)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 15(2), second subparagraph, third indent, second part of the sentence				Article 143(1), second subparagraph
	Article 15(2), third subparagraph, first and second indents				Article 143(2), first and second subparagraphs
	Article 15(2), fourth subparagraph				Article 143(2), third subparagraph
	Article 15(3)				Article 142(1)(d)
	Article 15(4), first subparagraph, points (a) and (b)				Article 144(a)
	Article 15(4), first subparagraph, point (c)				Article 144(b)
	Article 15(4), second subparagraph, first and second sentences				Article 146(1) and (2)
	Article 15(5)				Article 144(c)
	Article 15(6)				Article 144(f)
	Article 15(7)				Article 144(e)
	Article 15(8)				Article 144(d)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 15(9)				Article 144(g)
	Article 15(10), first subparagraph, first to fourth indents				Article 147(1), first subparagraph, points (a) to (d)
	Article 15(10), second subparagraph				Article 147(1), second subparagraph
	Article 15(10), third subparagraph				Article 147(2)
	Article 15(11)				Article 148
	Article 15(12), first sentence				Article 142(1)(c)
	Article 15(12), second sentence				Article 142(2)
	Article 15(13)				Article 142(1)(e)
	Article 15(14), first and second subparagraphs				Article 149, first and second subparagraphs
	Article 15(15)				Article 145
	Article 16(1)				–
	Article 16(2)				Article 159(1)
	Article 16(3)				Article 161

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	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 subparagraphs
	Article 18(1)				–
	Article 18(2), first and second subparagraphs				Article 173, first and second subparagraphs
	Article 18(3)				Article 174
	Article 18(4), first and second subparagraphs				Article 177, first and second subparagraphs
	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	Directive 94/5/EC	Directive 2002/38/EC	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 subparagraph, 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)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 20(1)(b), second part of the first sentence				Article 179(2), first subparagraph
	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

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 20(6)				Article 185
	Article 21				–
	Article 22				–
	Article 22(a)				Article 241
	Article 23, first para- graph				Article 203, first subpara- graph Article 252
	Article 23, second para- graph				Article 203, second sub- paragraph
	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 subparagraphs
	Article 24(2)(c)				Article 279
	Article 24(3), first sub- paragraph				Article 275

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 24(3), second subparagraph, first sentence				Article 276(2)
	Article 24(3), second subparagraph, second sentence				Article 276(1)(a)
	Article 24(4), first subparagraph				Article 281, first subparagraph, points (1), (2) and (3)
	Article 24(4), second subparagraph				Article 281, second subparagraph
	Article 24(5)				Article 282
	Article 24(6)				Article 283
	Article 24(7)				Article 284
	Article 24(8), points (a), (b) and (c)				Article 286, points (1), (2) and (3)
	Article 24(9)				Article 287
	Article 24(a), first subparagraph, first to tenth indents				Article 280, points (7) to (16)
	Article 25(1)				Article 289(1)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 25(2), first to eighth indents				Article 288(1), points (1) to (8)
	Article 25(3), first subparagraph, first sentence				Article 290, first subparagraph, first sentence and second subparagraph
	Article 25(3), first subparagraph, second sentence				Article 291, first subparagraph
	Article 25(3), first subparagraph, third sentence				Article 292
	Article 25(3), first subparagraph, fourth and fifth sentences				Article 291, second subparagraph
	Article 25(3), second subparagraph				Article 290, first subparagraph, 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)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	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 subparagraphs
	Article 26(2), third sentence				Article 301
	Article 26(3), first and second sentences				Article 302, first and second subparagraphs
	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)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	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, points (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)
	Article 26a(B)(3), second subparagraph, first and second indents				Article 307(2), points (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), points (a), (b) and (c)
	Article 26a(B)(4), second subparagraph				Article 308(2)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 26a(B)(4), third subparagraph, first and second sentences				Article 309, first and second subparagraphs
	Article 26a(B)(5)				Article 313
	Article 26a(B)(6)				Article 315
	Article 26a(B)(7)				Article 314
	Article 26a(B)(7), points (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)
	Article 26a(B)(10), fourth subparagraph				Article 310(3)
	Article 26a(B)(11), first subparagraph				Article 311

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 26a(B)(11), second subparagraph, point (a)				Article 312(1), first sub- paragraph
	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 subpara- graph, points (a), (b) and (c)
	Article 26a(C)(4), second subparagraph				Article 331, second sub- paragraph
	Article 26a(C)(5), first and second subpara- graphs				Article 332(1), first and second subparagraphs

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 26a(C)(5), third subparagraph				Article 332(2)
	Article 26a(C)(6), first subparagraph, first and second indents				Article 330, first subparagraph, points (a) and (b)
	Article 26a(C)(6), second subparagraph				Article 330, second subparagraph
	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)				Article 4(1)(b) and (d)
	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	Directive 94/5/EC	Directive 2002/38/EC	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	Directive 94/5/EC	Directive 2002/38/EC	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, first and second subparagraphs
	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				Article 346(1) and (2)
	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

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 26c(B)(2), second subparagraph, first part of the first sentence				Article 354(1)
	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)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 26c(B)(7), first sentence				Article 360, first subparagraph
	Article 26c(B)(7), second and third sentences				Article 360, second subparagraph
	Article 26c(B)(8)				Article 361
	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 (1)a,				–

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 28(2), introductory sentence				Article 105
	Article 28(2)(a), first subparagraph				Article 106, first and second subparagraphs
	Article 28(2)(a), second subparagraph				–
	Article 28(2)(a), third subparagraph, first sentence				Article 108, first subpara- graph
	Article 28(2)(a), third subparagraph, second and third sentences				Article 108, second sub- paragraph
	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 subparagraphs
	Article 28(2)(f)				Article 116
	Article 28(2)(g)				–

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 28(2)(h), first and second subparagraphs				Article 117, first and second subparagraphs
	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
	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 subparagraphs

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 28(6), first subparagraph, second sentence				Article 102, third subparagraph
	Article 28(6), second subparagraph, points (a), (b) and (c),				Article 103, first subparagraph, points (a), (b) and (c)
	Article 28(6), second subparagraph, point (d)				Article 103, second subparagraph
	Article 28(6), third subparagraph				Article 103, second subparagraph
	Article 28(6), fourth subparagraph, points (a), (b) and (c)				Article 104(a), (b) and (c)
	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)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	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)(e)
	Article 28a(1a)(b), first subparagraph, second and third indents				Article 4(2)(a) and (b)
	Article 28a(1a)(b), second subparagraph				Article 4(2), second subparagraph
	Article 28a(2), introductory sentence				–
	Article 28a(2)(a) and (b), first subparagraph				Article 3(2), first subparagraph, points (a), (b) and (c)
	Article 28a(2)(b), second subparagraph				Article 3(2), second subparagraph
	Article 28a(3), first and second subparagraphs				Article 21, first and second subparagraphs
	Article 28a(4), first subparagraph				Article 10(2)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 28a(4), second subparagraph, 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) introductory sentence
	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)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	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 subparagraphs
	Article 28b(A)(2), third subparagraph, first and second indents				Article 43(a) and (b)
	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)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	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 and second subparagraphs				Article 49(1), first and second subparagraphs
	Article 28b(C)(1), second and third indents				Article 49(2)
	Article 28b(C)(2) and (3)				Article 48, first and second subparagraphs

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 28b(C)(4)				Article 51
	Article 28b(D)				Article 53
	Article 28b(E)(1), first and second subparagraphs				Article 50, first and second subparagraphs
	Article 28b(E)(2), first and second subparagraphs				Article 54, first and second subparagraphs
	Article 28b(E)(3), first and second subparagraphs				Article 45, first and second subparagraphs
	Article 28b(F), first and second paragraphs				Article 55, first and second subparagraphs
	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	Directive 94/5/EC	Directive 2002/38/EC	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)				Article 151(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	Directive 94/5/EC	Directive 2002/38/EC	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

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	– paragraph 1, first subparagraph, point (B), first subparagraph, point (e), third subparagraph, first indent				–
	– 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)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	– 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
	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)				2
	– paragraph 2, second subparagraph				Article 159(2)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	– 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 subparagraphs
	Article 28d(2) and (3)				Article 69(1) and (2)
	Article 28d(4), first and second subparagraphs				Article 67(1) and (2)
	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 subparagraph, point (b)
	Article 28e(4)				Article 91(1)
	Article 28f(1) replacing Article 17(2), (3) and (4)				
	– paragraph 2, point (a)				Article 163(a)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	– paragraph 2, point (b)				Article 163(d)
	– paragraph 2, point (c)				Article 163(b)
	– paragraph 2, point (d)				Article 163(c)
	– paragraph 3, points (a), (b) and (c)				Article 164(a), (b) and (c)
	– paragraph 4, first sub- paragraph, first indent				Article 165(1), first sub- paragraph
	– paragraph 4, first sub- paragraph, second indent				Article 165(2) first sub- paragraph
	– paragraph 4, second subparagraph, point (a)				Article 165(1) second sub- paragraph
	– 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, point (a)				Article 172(a)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	– paragraph 1, point (b)				Article 172(d)
	– paragraph 1, point (c)				Article 172(b)
	– paragraph 1, point (d)				Article 172(e)
	– paragraph 1, point (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				
	– paragraph 1, point (a), first sub- paragraph				Article 186
	– paragraph 1, point (a), second sub- paragraph				Article 187, first and second subparagraphs
	– paragraph 1, point (b)				Article 189

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	– paragraph 1, point (c), first sub- paragraph, first, second and third indents				Article 190(1)(a), (b) and (c)
	– paragraph 1, point (c), second sub- paragraph				Article 190(2)
	– paragraph 1, point (d)				Article 195
	– paragraph 1, point (e)				Article 192
	– paragraph 1, point (f)				Article 188
	– paragraph 2				–
	– paragraph 2, point (a), first sentence				Article 196(1), first sub- paragraph
	– paragraph 2, point (a), second sentence				Article 196(2)
	– paragraph 2, point (b)				Article 196(1), second subparagraph
	– paragraph 3				Article 197
	– paragraph 4				Article 193

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 28h replacing Article 22				
	– paragraph 1, point (a), first and second sentences				Article 205(1), first and second subparagraphs
	– paragraph 1, point (b)				Article 205(2)
	– paragraph 1, point (c), first indent, first sentence				Article 206(1)(a)
	– paragraph 1, point (c), first indent, second sentence				Article 206(2)
	– paragraph 1, point (c), second and third indents				Article 206(1)(b) and (c)
	– paragraph 1, point (d), first and second sentences				Article 207, first and second subparagraphs
	– paragraph 1, point (e)				Article 208
	– paragraph 2, point (a)				Article 234
	– paragraph 2, point (b), first and second indents				Article 235(1) and (2)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	– paragraph 3, point (a), first sub- paragraph, first sentence				Article 211(1)
	– paragraph 3, point (a), first sub- paragraph, second sentence				Article 211(2) and (3)
	– paragraph 3, point (a), second subparagraph				Article 211(4) and (5)
	– paragraph 3, point (a), third sub- paragraph, first and second sentences				Article 212(1), first and second subparagraphs
	– paragraph 3, point (a), fourth sub- paragraph				Article 212(2)
	– paragraph 3, point (a), fifth sub- paragraph, first sentence				Article 210
	– paragraph 3, point (a), fifth sub- paragraph, second sentence				Article 219

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	– paragraph 3, point (a), sixth sub- paragraph				Article 213
	– paragraph 3, point (a), seventh subparagraph				Article 214
	– paragraph 3, point (a), eighth sub- paragraph, first and second sentences				Article 215(1) and (2)
	– paragraph 3, point (a), ninth sub- paragraph, first and second sentences				Article 215(3), first sub- paragraph
	– paragraph 3, point (a), ninth sub- paragraph, third sentence				Article 215(3), second subparagraph
	– paragraph 3, point (a), tenth sub- paragraph				Article 216
	– paragraph 3, point (b), first sub- paragraph, first to twelfth indents				Article 217(1) to (12)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	– paragraph 3, point (b), first sub- paragraph, thirteenth indent				Article 217(13) and (14)
	– paragraph 3, point (b), first sub- paragraph, fourteenth indent				Article 217(15)
	– paragraph 3, point (b), second sub- paragraph				Article 218
	– paragraph 3, point (b), third sub- paragraph				Article 220
	– paragraph 3, point (b), fourth sub- paragraph				Article 221
	– paragraph 3, point (b), fifth sub- paragraph				Article 222
	– paragraph 3, point (c), first sub- paragraph				Article 223
	– paragraph 3, point (c), second sub- paragraph, introductory sentence				Article 224

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	– paragraph 3, point (c), second sub- paragraph, first indent, first and second sentences				Article 225(1), first and second subparagraphs
	– paragraph 3, point (c), second sub- paragraph, second indent, first and second sentences				Article 225(2), first and second subparagraphs
	– paragraph 3, point (c), third sub- paragraph, first sentence				Article 226
	– paragraph 3, point (c), third sub- paragraph, second sentence				Article 230
	– paragraph 3, point (c), fourth sub- paragraph, first and second sentences				Article 227, first and second subparagraphs
	– paragraph 3, point (c), fifth sub- paragraph				Article 228
	– paragraph 3, point (c), sixth sub- paragraph				Article 229

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	– paragraph 3, point (d), first sub- paragraph				Article 236
	– paragraph 3, point (d), second sub- paragraph, first sentence				Article 237(1)
	– paragraph 3, point (d), second sub- paragraph, second and third sentences				Article 237(2), first and second subparagraphs
	– paragraph 3, point (d), third sub- paragraph, first and second sentences				Article 238, first and second subparagraphs
	– paragraph 3, point (d), fourth, fifth and sixth subpara- graphs				Article 239(1), (2) and (3)
	– paragraph 3, point (d), seventh subparagraph				Article 240
	– paragraph 3, point (e), first sub- paragraph				Article 2(2)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	– paragraph 3, point (e), second sub- paragraph				Article 209
	– paragraph 4, point (a), first and second sentences				Article 244(1)
	– paragraph 4, point (a), third and fourth sentences				Article 244(2), first and second subparagraphs
	– paragraph 4, point (a), fifth sentence				Article 254
	– paragraph 4, point (b)				Article 242
	– paragraph 4, point (c), first indent, first and second sub- paragraphs				Article 243(a) and (b)
	– paragraph 4, point (c), second indent, first subparagrah				Article 243(c)
	– paragraph 4, point (c), second indent, second sub- paragraph				Article 243(d) and (e)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	– paragraph 5				Article 198
	– paragraph 6, point (a), first and second sentences				Article 253
	– paragraph 6, point (a), third sentence				Article 254
	– paragraph 6, point (b), first sub- paragraph				Article 255
	– paragraph 6, point (b), second sub- paragraph, first sentence				Article 256(1), first sub- paragraph
	– paragraph 6, point (b), second sub- paragraph, second sentence				Article 256(2)
	– paragraph 6, point (b), third sub- paragraph, first and second indents				Article 257(1)(a) and (b)
	– paragraph 6, point (b), third sub- paragraph, third indent, first sentence				Article 257(1)(d)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	– paragraph 6, point (b), third sub- paragraph, third indent, second sentence				Article 257(2), first sub- paragraph
	– paragraph 6, point (b), fourth sub- paragraph, first indent				Article 257(1)(c) and (e)
	– paragraph 6, point (b), fourth sub- paragraph, second indent, first sentence				Article 257(1)(f)
	– paragraph 6, point (b), fourth sub- paragraph, second indent, second sentence				Article 257(2), second subparagraph
	– paragraph 6, point (b), fifth sub- paragraph, first and second indents				Article 258(1)(a) and (b)
	– paragraph 6, point (b), fifth sub- paragraph, third indent, first sentence				Article 258(1)(c)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	– paragraph 6, point (b), fifth sub- paragraph, third indent, second sentence				Article 258(2)
	– paragraph 6, point (c), first indent				Article 256(1), second subparagraph
	– paragraph 6, point (c), second indent				Article 259
	– paragraph 6, point (d)				Article 246
	– paragraph 6, point (e), first sub- paragraph				Article 261
	– paragraph 6, point (e), second sub- paragraph				Article 251
	– paragraph 7, first part of the sentence				Article 199, first subpara- graph Article 248 Article 260
	– paragraph 7, second part of the sentence				Article 199, second sub- paragraph
	– paragraph 8, first and second subparagraphs				Article 266, first and second subparagraphs

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	– paragraph 9, point (a), first sub- paragraph, first indent				Article 265(1), first sub- paragraph, point (c)
	– paragraph 9, point (a), first sub- paragraph, second indent				Article 265(1), first sub- paragraph, points (a) and (d)
	– paragraph 9, point (a), first sub- paragraph, third indent				Article 265(1), first sub- paragraph, point (b)
	– paragraph 9, point (a), second sub- paragraph				Article 265(1), second subparagraph
	– paragraph 9, point (b)				Article 265(3)
	– paragraph 9, point (c)				Article 204
	– paragraph 9, point (d), first sub- paragraph, first and second indents				Article 231(1)(a) and (b)
	– paragraph 9, point (d), second sub- paragraph, first to fourth indents				Article 231(2)(a) to (d)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	– paragraph 9, point (d), third sub- paragraph				Article 231(3)
	– paragraph 9, point (e), first sub- paragraph				Article 232
	– paragraph 9, point (e), second sub- paragraph, 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, point (a), first, second and third indents				Article 263(a), (b) and (c)
	– paragraph 12, point (b), first second and third indents				Article 264(a), (b) and (c)
	Article 28i inserting a third subparagraph into Article 24(3)				

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	– 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(1), (2) and (3)
	– paragraph 5, second subparagraph				Article 295
	– paragraph 6, point (a), first subparagraph, first sentence				Article 294(1)
	– paragraph 6, point (a), first subparagraph, second sentence				Article 296(1)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	– paragraph 6, point (a), second sub- paragraph, first, second and third indents				Article 296(2)(a), (b) and (c)
	– paragraph 6, point (a), third sub- paragraph				Article 296(3)
	– paragraph 6, point (b)				Article 294(1)
	Article 28j(3) inserting a second subparagraph into Article 25(9)				
	– paragraph 9, second subparagraph				Article 298
	Article 28k(1), first sub- paragraph				–
	Article 28k(1), second subparagraph, point (a)				Article 153(2)
	Article 28k(1), second subparagraph, points (b) and (c)				–
	Article 28k(2) to (5)				–
	Article 28l, first paragraph				–

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 28l, second and third paragraphs				Article 395(1) and (2)
	Article 28l, fourth paragraph				–
	Article 28m				Article 392, first subparagraph
	Article 28n				–
	Article 28o(1), introductory sentence				Article 318, first subparagraph
	Article 28o(1)(a), first and second sentences				Article 319(1) and (2)
	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 subparagraphs
	Article 28o(1)(e)				Article 324
	Article 28o(1)(f)				Article 323
	Article 28o(1)(g)				Article 4(1)(c)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 28o(1)(h)				Article 36 Article 135(3), second subparagraph
	Article 28o(2)				Article 318, second sub- paragraph
	Article 28o(3)				Article 333
	Article 28o(4)				–
	Article 28p				–
	Article 29(1) to (4)				Article 391(1) to (4)
	Article 29a				Article 390
	Article 30(1)				Article 389(1)
	Article 30(2), first and second sentences				Article 389(2), first sub- paragraph
	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

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Article 33(2)				Article 2(1)
	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
	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(1)
	Annex A(I)(1), (2) and (3)				Annex VI(1), (a),(b) and (c)
	Annex A(II)				Annex VI(2)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Annex A(II)(1) to (6)				Annex VI(2)(a) to (f)
	Annex A(III) and (IV)				Annex VI(3) and (4)
	Annex A(IV)(1) to (4)				Annex VI(4)(a) to (d)
	Annex A(V)				Article 288(2)
	Annex B, introductory sentence				Article 288(1)(5)
	Annex B, first to ninth indents				Annex VII(1) to (9)
	Annex C				–
	Annex D(1) to (13)				Annex I(1) to (13)
	Annex E(2)				Annex IX(A)(1)
	Annex E(7)				Annex IX(A)(2)
	Annex E(11)				Annex IX(A)(3)
	Annex E(15)				Annex IX(A)(4)
	Annex F(1)				Annex IX(B)(1)
	Annex F(2)				Annex IX(B)(2)(a) to (j)
	Annex F(5) to (8)				Annex IX(B)(3) to (6)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Annex F(10)				Annex IX(B)(7)
	Annex F(12)				Annex IX(B)(8)
	Annex F(16)				Annex IX(B)(9)
	Annex F(17), first and second subparagraphs				Annex IX(B)(10)
	Annex F(23)				Annex IX(B)(11)
	Annex F(25)				Annex IX(B)(12)
	Annex F(27)				Annex IX(B)(13)
	Annex G(1) and (2)				Article 384
	Annex H, first paragraph				Article 95(3) 3
	Annex H, second paragraph, introductory sentence				–
	Annex H, second paragraph, points (1) to (6)				Annex III(1) to (6)
	Annex H,second paragraph, point (7), first and second subparagraphs				Annex III(7) and (8)
	Annex H, second paragraph, points (8) to (17)				Annex III(9) to (18)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
	Annex I, introductory sentence				–
	Annex I(a), first to seventh indents				Annex VIII(A), points (1) to (7)
	Annex I, point b)				Annex VIII, partie B
	Annex I(b), first and second indents				Annex VIII(B), points (1) and (2)
	Annex I(c)				Annex VIII(C)
	Annex J, introductory sentence				Annex V, introductory sentence
	Annex J				Annex V(1) to (25)
	Annex K(1), first, second and third indents				Annex IV(1),(a), (b) and (c)
	Annex K(2) to (5)				Annex IV(2) to (5)
	Annex L, first paragraph, points (1) to (5)				Annex II(1) to (5)
	Annex L, second paragraph				Article 56(2)
		Article 2			Article 334
		Article 3, first and second sentences			Article 335, first and second subparagraphs

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
			Article 4		Article 56(3) Article 57(2) Article 350 Article 396, first subpara- graph
			Article 5		Article 396, second sub- paragraph
				Article 28 of the Act of Accession of Denmark, Ireland and the United Kingdom concerning Gibraltar	Article 6(2)(h)
				Annex VIII(II)(2)(a) of the Act of Accession of Greece	Article 280(1)(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(2) and (3)
				Annex XXXII(IV)(3) (b), first subparagraph, of the Act of Accession of Spain and Portugal first subpara- graph	Article 370

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
				Annex XV(IX)(2) (b), first subparagraph, 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(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
				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	–

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
				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(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)
				Annex XV(IX)(2)(x), first indent, of the Act of Accession of Austria, Finland and Sweden	Article 245

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
				Annex XV(IX)(2)(x), second indent, of the Act of Accession of Austria, Finland and Sweden	Article 280(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

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
				Annex V(5)(1)(b) of the 2003 Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland Slovenia and Slovakia	Article 374
				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, fourth and fifth subparagraphs of the 2003 Act of Accession	–
				Annex VII(7)(1), sixth subparagraph, of the 2003 Act of Accession	Article 376
				Annex VIII(7)(1)(a) of the 2003 Act of Accession	Article 122
				Annex VIII(7)(1)(b), second subparagraph, of the 2003 Act of Accession	Article 377(a)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
				Annex VIII(7)(1), third subparagraph, 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)

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
				Annex XII(9)(2) of the 2003 Act of Accession	Article 381
				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