

## II

(Non-legislative acts)

## REGULATIONS

## COUNCIL IMPLEMENTING REGULATION (EU) No 282/2011

of 15 March 2011

laying down implementing measures for Directive 2006/112/EC on the common system of value added tax

(recast)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax <sup>(1)</sup>, and in particular Article 397 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) A number of substantial changes are to be made to Council Regulation (EC) No 1777/2005 of 17 October 2005 laying down implementing measures for Directive 77/388/EEC on the common system of value added tax <sup>(2)</sup>. It is desirable, for reasons of clarity and rationalisation, that the provisions in question should be recast.
- (2) Directive 2006/112/EC contains rules on value added tax (VAT) which, in some cases, are subject to interpretation by the Member States. The adoption of common provisions implementing Directive 2006/112/EC should ensure that application of the VAT system complies more fully with the objective of the internal market, in cases where divergences in application have arisen or may arise which are incompatible with the proper functioning of such internal market. These implementing measures are legally binding only from the date of the entry into force of this Regulation and are without prejudice to the validity of the legislation and interpretation previously adopted by the Member States.
- (3) Changes resulting from the adoption of Council Directive 2008/8/EC of 12 February 2008 amending Directive 2006/112/EC as regards the place of supply of services <sup>(3)</sup> should be reflected in this Regulation.
- (4) The objective of this Regulation is to ensure uniform application of the current VAT system by laying down rules implementing Directive 2006/112/EC, in particular in respect of taxable persons, the supply of goods and services, and the place of taxable transactions. In accordance with the principle of proportionality as set out in Article 5(4) of the Treaty on European Union, this Regulation does not go beyond what is necessary in order to achieve this objective. Since it is binding and directly applicable in all Member States, uniformity of application will be best ensured by a Regulation.
- (5) These implementing provisions contain specific rules in response to selective questions of application and are designed to bring uniform treatment throughout the Union to those specific circumstances only. They are therefore not conclusive for other cases and, in view of their formulation, are to be applied restrictively.
- (6) If a non-taxable person changes residence and transfers a new means of transport, or a new means of transport returns to the Member State from which it was originally supplied exempt of VAT to the non-taxable person returning it, it should be clarified that such a transfer does not constitute the intra-Community acquisition of a new means of transport.
- (7) For certain services, it is sufficient for the supplier to demonstrate that the customer for these services, whether or not a taxable person, is located outside the Community for the supply of those services to fall outside the scope of VAT.

<sup>(1)</sup> OJ L 347, 11.12.2006, p. 1.

<sup>(2)</sup> OJ L 288, 29.10.2005, p. 1.

<sup>(3)</sup> OJ L 44, 20.2.2008, p. 11.

- (8) It should be specified that the allocation of a VAT identification number to a taxable person who makes or receives a supply of services to or from another Member State, and for which the VAT is payable solely by the customer, does not affect the right of that taxable person to benefit from non-taxation of his intra-Community acquisitions of goods. However, if the taxable person communicates his VAT identification number to the supplier in respect of an intra-Community acquisition of goods, he is in any event deemed to have opted to make those transactions subject to VAT.
- (9) The further integration of the internal market has led to an increased need for cooperation by economic operators established in different Member States across internal borders and the development of European economic interest groupings (EEIGs), constituted in accordance with Council Regulation (EEC) No 2137/85 of 25 July 1985 on the European Economic Interest Grouping (EEIG) <sup>(1)</sup>. It should therefore be clarified that EEIGs are taxable persons where they supply goods or services for consideration.
- (10) It is necessary to clearly define restaurant and catering services, the distinction between the two, and the appropriate treatment of these services.
- (11) In order to enhance clarity, the transactions identified as electronically supplied services should be listed without the lists being definitive or exhaustive.
- (12) It is necessary, on the one hand, to establish that a transaction which consists solely of assembling the various parts of a machine provided by a customer must be considered as a supply of services, and, on the other hand, to establish the place of such supply when the service is supplied to a non-taxable person.
- (13) The sale of an option as a financial instrument should be treated as a supply of services separate from the underlying transactions to which the option relates.
- (14) To ensure the uniform application of rules relating to the place of taxable transactions, concepts such as the place where a taxable person has established his business, fixed establishment, permanent address and the place where a person usually resides should be clarified. While taking into account the case law of the Court of Justice, the use of criteria which are as clear and objective as possible should facilitate the practical application of these concepts.
- (15) Rules should be established to ensure the uniform treatment of supplies of goods once a supplier has exceeded the distance selling threshold for supplies to another Member State.
- (16) It should be clarified that the journey of the means of transport determines the section of a passenger transport operation effected within the Community, and not the journey of the passengers within it.
- (17) In the case of intra-Community acquisition of goods, the right of the Member State of acquisition to tax the acquisition should remain unaffected by the VAT treatment of the transaction in the Member States of departure.
- (18) The correct application of the rules governing the place of supply of services relies mainly on the status of the customer as a taxable or non-taxable person, and on the capacity in which he is acting. In order to determine the customer's status as a taxable person, it is necessary to establish what the supplier should be required to obtain as evidence from his customer.
- (19) It should be clarified that when services supplied to a taxable person are intended for private use, including use by the customer's staff, that taxable person cannot be deemed to be acting in his capacity as a taxable person. Communication by the customer of his VAT identification number to the supplier is sufficient to establish that the customer is acting in his capacity as a taxable person, unless the supplier has information to the contrary. It should also be ensured that a single service acquired for the business but also used for private purposes is only taxed in one place.
- (20) In order to determine the customer's place of establishment precisely, the supplier of the service is required to verify the information provided by the customer.
- (21) Without prejudice to the general rule on the place of supply of services to a taxable person, where services are supplied to a customer established in more than one place, there should be rules to help the supplier determine the customer's fixed establishment to which the service is provided, taking account of the circumstances. If the supplier of the services is not able to determine that place, there should be rules to clarify the supplier's obligations. Those rules should not interfere with or change the customer's obligations.
- (22) The time at which the supplier of the service must determine the status, the capacity and the location of the customer, whether a taxable person or not, should also be specified.
- (23) Without prejudice to the general application of the principle with respect to abusive practices to the provisions of this Regulation, it is appropriate to draw specific attention to its application to certain provisions of this Regulation.

<sup>(1)</sup> OJ L 199, 31.7.1985, p. 1.

- (24) Certain specific services such as the assignment of television broadcasting rights in respect of football matches, the translation of texts, services for claiming VAT refunds, and services as an intermediary to a non-taxable person involve cross-border scenarios or even the participation of economic operators established outside the Community. The place of supply of these services needs to be clearly determined in order to create greater legal certainty.
- (25) It should be specified that services supplied by an intermediary acting in the name and on behalf of another person who takes part in the provision of accommodation in the hotel sector are not governed by the specific rule for the supply of services connected with immovable property.
- (26) Where various services supplied in the framework of organising a funeral form part of a single service, the rule on the place of supply should also be determined.
- (27) In order to ensure uniform treatment of supplies of cultural, artistic, sporting, scientific, educational, entertainment and similar services, admission to such events and ancillary services which are related to admission need to be defined.
- (28) It is necessary to clarify the treatment of restaurant services and catering services supplied on board a means of transport when passenger transport is being carried out on the territory of several countries.
- (29) Given that particular rules for the hiring of a means of transport depend on the duration of its possession or use, it is necessary not only to establish which vehicles should be considered means of transport, but also to clarify the treatment of such a supply where one successive contract follows another. It is also necessary to determine the place where a means of transport is actually put at the disposal of the customer.
- (30) In certain specific circumstances a credit or debit card handling fee which is paid in connection with a transaction should not reduce the taxable amount for that transaction.
- (31) It is necessary to clarify that the reduced rate may be applied to the hiring out of tents, caravans and mobile homes installed on camping sites and used as accommodation.
- (32) Vocational training or retraining should include instruction relating directly to a trade or profession as well as any instruction aimed at acquiring or updating knowledge for vocational purposes, regardless of the duration of a course.
- (33) Platinum nobles should be treated as being excluded from the exemptions for currency, bank notes and coins.
- (34) It should be specified that the exemption of the supply of services relating to the importation of goods the value of which is included in the taxable amount of those goods should cover transport services carried out during a change of residence.
- (35) Goods transported outside the Community by the purchaser thereof and used for the equipping, fuelling or provisioning of means of transport used for non-business purposes by persons other than natural persons, such as bodies governed by public law and associations, should be excluded from the exemption for export transactions.
- (36) To guarantee uniform administrative practices for the calculation of the minimum value for exemption on exportation of goods carried in the personal luggage of travellers, the provisions on such calculations should be harmonised.
- (37) It should be specified that the exemption for certain transactions treated as exports should also apply to services covered by the special scheme for electronically supplied services.
- (38) A body to be set up under the legal framework for a European Research Infrastructure Consortium (ERIC) should only qualify as an international body for the purposes of exemption from VAT where it fulfils certain conditions. The features necessary for it to benefit from exemption should therefore be identified.
- (39) Supplies of goods and services under diplomatic and consular arrangements, or to recognised international bodies, or to certain armed forces are exempt from VAT subject to certain limits and conditions. In order that a taxable person making such a supply from another Member State can establish that the conditions and limits for this exemption are met, an exemption certificate should be established.
- (40) Electronic import documents should also be admitted to exercise the right to deduct, where they fulfil the same requirements as paper-based documents.
- (41) Where a supplier of goods or services has a fixed establishment within the territory of the Member State where the tax is due, the circumstances under which that establishment should be liable for payment of VAT should be specified.
- (42) It should be clarified that a taxable person who has established his business within the territory of the Member State where the tax is due must be deemed to be a taxable person established in that Member State for the purposes of liability for the tax, even when that place of business is not involved in the supply of goods or services.

- (43) It should be clarified that every taxable person is required to communicate his VAT identification number, as soon as he has one, for certain taxable transactions in order to ensure fairer collection of the tax.
- (44) Weights for investment gold which are definitely accepted by the bullion market should be named and a common date for establishing the value of gold coins be determined to ensure equal treatment of economic operators.
- (45) The special scheme for taxable persons not established in the Community, supplying services electronically to non-taxable persons established or resident within the Community, is subject to certain conditions. Where those conditions are no longer fulfilled, the consequences thereof should, in particular, be made clear.
- (46) Certain changes result from Directive 2008/8/EC. Since those changes concern, on the one hand, the taxation of the long-term hiring of means of transport as from 1 January 2013 and, on the other, the taxation of electronically supplied services as from 1 January 2015, it should be specified that the corresponding Articles of this Regulation apply only as from those dates,

HAS ADOPTED THIS REGULATION:

#### CHAPTER I

##### SUBJECT MATTER

###### Article 1

This Regulation lays down measures for the implementation of certain provisions of Titles I to V, and VII to XII of Directive 2006/112/EC.

#### CHAPTER II

##### SCOPE

###### (TITLE I OF DIRECTIVE 2006/112/EC)

###### Article 2

The following shall not result in intra-Community acquisitions within the meaning of point (b) of Article 2(1) of Directive 2006/112/EC:

- (a) the transfer of a new means of transport by a non-taxable person upon change of residence provided that the exemption provided for in point (a) of Article 138(2) of Directive 2006/112/EC could not apply at the time of supply;
- (b) the return of a new means of transport by a non-taxable person to the Member State from which it was initially supplied to him under the exemption provided for in point (a) of Article 138(2) of Directive 2006/112/EC.

###### Article 3

Without prejudice to point (b) of the first paragraph of Article 59a of Directive 2006/112/EC, the supply of the following services is not subject to VAT if the supplier demonstrates that the place of supply determined in accordance with Subsections 3 and 4 of Section 4 of Chapter V of this Regulation is outside the Community:

- (a) from 1 January 2013, the service referred to in the first subparagraph of Article 56(2) of Directive 2006/112/EC;
- (b) from 1 January 2015, the services listed in Article 58 of Directive 2006/112/EC;
- (c) the services listed in Article 59 of Directive 2006/112/EC.

###### Article 4

A taxable person who is entitled to non-taxation of his intra-Community acquisitions of goods, in accordance with Article 3 of Directive 2006/112/EC, shall remain so where, pursuant to Article 214(1)(d) or (e) of that Directive, a VAT identification number has been attributed to that taxable person for the services received for which he is liable to pay VAT or for the services supplied by him within the territory of another Member State for which VAT is payable solely by the recipient.

However, if that taxable person communicates this VAT identification number to a supplier in respect of an intra-Community acquisition of goods, he shall be deemed to have exercised the option provided for in Article 3(3) of that Directive.

#### CHAPTER III

##### TAXABLE PERSONS

###### (TITLE III OF DIRECTIVE 2006/112/EC)

###### Article 5

A European Economic Interest Grouping (EEIG) constituted in accordance with Regulation (EEC) No 2137/85 which supplies goods or services for consideration to its members or to third parties shall be a taxable person within the meaning of Article 9(1) of Directive 2006/112/EC.

#### CHAPTER IV

##### TAXABLE TRANSACTIONS

###### (ARTICLES 24 TO 29 OF DIRECTIVE 2006/112/EC)

###### Article 6

1. Restaurant and catering services mean services consisting of the supply of prepared or unprepared food or beverages or both, for human consumption, accompanied by sufficient support services allowing for the immediate consumption thereof. The provision of food or beverages or both is only one component of the whole in which services shall predominate. Restaurant services are the supply of such services on the premises of the supplier, and catering services are the supply of such services off the premises of the supplier.

2. The supply of prepared or unprepared food or beverages or both, whether or not including transport but without any other support services, shall not be considered restaurant or catering services within the meaning of paragraph 1.

#### Article 7

1. 'Electronically supplied services' as referred to in Directive 2006/112/EC shall include services which are delivered over the Internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention, and impossible to ensure in the absence of information technology.

2. Paragraph 1 shall cover, in particular, the following:

- (a) the supply of digitised products generally, including software and changes to or upgrades of software;
- (b) services providing or supporting a business or personal presence on an electronic network such as a website or a webpage;
- (c) services automatically generated from a computer via the Internet or an electronic network, in response to specific data input by the recipient;
- (d) the transfer for consideration of the right to put goods or services up for sale on an Internet site operating as an online market on which potential buyers make their bids by an automated procedure and on which the parties are notified of a sale by electronic mail automatically generated from a computer;
- (e) Internet Service Packages (ISP) of information in which the telecommunications component forms an ancillary and subordinate part (i.e. packages going beyond mere Internet access and including other elements such as content pages giving access to news, weather or travel reports; playgrounds; website hosting; access to online debates etc.);
- (f) the services listed in Annex I.

3. Paragraph 1 shall not, in particular, cover the following:

- (a) radio and television broadcasting services;
- (b) telecommunications services;
- (c) goods, where the order and processing is done electronically;
- (d) CD-ROMs, floppy disks and similar tangible media;

- (e) printed matter, such as books, newsletters, newspapers or journals;
- (f) CDs and audio cassettes;
- (g) video cassettes and DVDs;
- (h) games on a CD-ROM;
- (i) services of professionals such as lawyers and financial consultants, who advise clients by e-mail;
- (j) teaching services, where the course content is delivered by a teacher over the Internet or an electronic network (namely via a remote link);
- (k) offline physical repair services of computer equipment;
- (l) offline data warehousing services;
- (m) advertising services, in particular as in newspapers, on posters and on television;
- (n) telephone helpdesk services;
- (o) teaching services purely involving correspondence courses, such as postal courses;
- (p) conventional auctioneers' services reliant on direct human intervention, irrespective of how bids are made;
- (q) telephone services with a video component, otherwise known as videophone services;
- (r) access to the Internet and World Wide Web;
- (s) telephone services provided through the Internet.

#### Article 8

If a taxable person only assembles the various parts of a machine all of which were provided to him by his customer, that transaction shall be a supply of services within the meaning of Article 24(1) of Directive 2006/112/EC.

#### Article 9

The sale of an option, where such a sale is a transaction falling within the scope of point (f) of Article 135(1) of Directive 2006/112/EC, shall be a supply of services within the meaning of Article 24(1) of that Directive. That supply of services shall be distinct from the underlying transactions to which the services relate.

## CHAPTER V

## PLACE OF TAXABLE TRANSACTIONS

## SECTION 1

**Concepts***Article 10*

1. For the application of Articles 44 and 45 of Directive 2006/112/EC, the place where the business of a taxable person is established shall be the place where the functions of the business's central administration are carried out.

2. In order to determine the place referred to in paragraph 1, account shall be taken of the place where essential decisions concerning the general management of the business are taken, the place where the registered office of the business is located and the place where management meets.

Where these criteria do not allow the place of establishment of a business to be determined with certainty, the place where essential decisions concerning the general management of the business are taken shall take precedence.

3. The mere presence of a postal address may not be taken to be the place of establishment of a business of a taxable person.

*Article 11*

1. For the application of Article 44 of Directive 2006/112/EC, a 'fixed establishment' shall be any establishment, other than the place of establishment of a business referred to in Article 10 of this Regulation, characterised by a sufficient degree of permanence and a suitable structure in terms of human and technical resources to enable it to receive and use the services supplied to it for its own needs.

2. For the application of the following Articles, a 'fixed establishment' shall be any establishment, other than the place of establishment of a business referred to in Article 10 of this Regulation, characterised by a sufficient degree of permanence and a suitable structure in terms of human and technical resources to enable it to provide the services which it supplies:

- (a) Article 45 of Directive 2006/112/EC;
- (b) from 1 January 2013, the second subparagraph of Article 56(2) of Directive 2006/112/EC;
- (c) until 31 December 2014, Article 58 of Directive 2006/112/EC;
- (d) Article 192a of Directive 2006/112/EC.

3. The fact of having a VAT identification number shall not in itself be sufficient to consider that a taxable person has a fixed establishment.

*Article 12*

For the application of Directive 2006/112/EC, the 'permanent address' of a natural person, whether or not a taxable person, shall be the address entered in the population or similar register, or the address indicated by that person to the relevant tax authorities, unless there is evidence that this address does not reflect reality.

*Article 13*

The place where a natural person 'usually resides', whether or not a taxable person, as referred to in Directive 2006/112/EC shall be the place where that natural person usually lives as a result of personal and occupational ties.

Where the occupational ties are in a country different from that of the personal ties, or where no occupational ties exist, the place of usual residence shall be determined by personal ties which show close links between the natural person and a place where he is living.

## SECTION 2

**Place of supply of goods****(Articles 31 to 39 of Directive 2006/112/EC)***Article 14*

Where in the course of a calendar year the threshold applied by a Member State in accordance with Article 34 of Directive 2006/112/EC is exceeded, Article 33 of that Directive shall not modify the place of supplies of goods other than products subject to excise duty carried out in the course of the same calendar year which are made before the threshold applied by the Member State for the calendar year then current is exceeded provided that all of the following conditions are met:

- (a) the supplier has not exercised the option provided for under Article 34(4) of that Directive;
- (b) the value of his supplies of goods did not exceed the threshold in the course of the preceding calendar year.

However, Article 33 of Directive 2006/112/EC shall modify the place of the following supplies to the Member State in which the dispatch or transport ends:

- (a) the supply of goods by which the threshold applied by the Member State for the calendar year then current was exceeded in the course of the same calendar year;
- (b) any subsequent supplies of goods within that Member State in that calendar year;
- (c) supplies of goods within that Member State in the calendar year following the calendar year in which the event referred to in point (a) occurred.

*Article 15*

The section of a passenger transport operation effected within the Community referred to in Article 37 of Directive 2006/112/EC, shall be determined by the journey of the means of transport and not by the journey completed by each of the passengers.

## SECTION 3

**Place of intra-Community acquisitions of goods**

**(Articles 40, 41 and 42 of Directive 2006/112/EC)**

*Article 16*

Where an intra-Community acquisition of goods within the meaning of Article 20 of Directive 2006/112/EC has taken place, the Member State in which the dispatch or transport ends shall exercise its power of taxation irrespective of the VAT treatment applied to the transaction in the Member State in which the dispatch or transport began.

Any request by a supplier of goods for a correction in the VAT invoiced by him and reported by him to the Member State where the dispatch or transport of the goods began shall be treated by that Member State in accordance with its own domestic rules.

## SECTION 4

**Place of supply of services**

**(Articles 43 to 59 of Directive 2006/112/EC)**

## Subsection 1

**Status of the customer***Article 17*

1. If the place of supply of services depends on whether the customer is a taxable or non-taxable person, the status of the customer shall be determined on the basis of Articles 9 to 13 and Article 43 of Directive 2006/112/EC.

2. A non-taxable legal person who is identified or required to be identified for VAT purposes under point (b) of Article 214(1) of Directive 2006/112/EC because his intra-Community acquisitions of goods are subject to VAT or because he has exercised the option of making those operations subject to VAT shall be a taxable person within the meaning of Article 43 of that Directive.

*Article 18*

1. Unless he has information to the contrary, the supplier may regard a customer established within the Community as a taxable person:

(a) where the customer has communicated his individual VAT identification number to him, and the supplier obtains confirmation of the validity of that identification number

and of the associated name and address in accordance with Article 31 of Council Regulation (EC) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax <sup>(1)</sup>;

(b) where the customer has not yet received an individual VAT identification number, but informs the supplier that he has applied for it and the supplier obtains any other proof which demonstrates that the customer is a taxable person or a non-taxable legal person required to be identified for VAT purposes and carries out a reasonable level of verification of the accuracy of the information provided by the customer, by normal commercial security measures such as those relating to identity or payment checks.

2. Unless he has information to the contrary, the supplier may regard a customer established within the Community as a non-taxable person when he can demonstrate that the customer has not communicated his individual VAT identification number to him.

3. Unless he has information to the contrary, the supplier may regard a customer established outside the Community as a taxable person:

(a) if he obtains from the customer a certificate issued by the customer's competent tax authorities as confirmation that the customer is engaged in economic activities in order to enable him to obtain a refund of VAT under 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 <sup>(2)</sup>;

(b) where the customer does not possess that certificate, if the supplier has the VAT number, or a similar number attributed to the customer by the country of establishment and used to identify businesses or any other proof which demonstrates that the customer is a taxable person and if the supplier carries out a reasonable level of verification of the accuracy of the information provided by the customer, by normal commercial security measures such as those relating to identity or payment checks.

## Subsection 2

**Capacity of the customer***Article 19*

For the purpose of applying the rules concerning the place of supply of services laid down in Articles 44 and 45 of Directive 2006/112/EC, a taxable person, or a non-taxable legal person deemed to be a taxable person, who receives services exclusively for private use, including use by his staff, shall be regarded as a non-taxable person.

<sup>(1)</sup> OJ L 268, 12.10.2010, p. 1.

<sup>(2)</sup> OJ L 326, 21.11.1986, p. 40.

Unless he has information to the contrary, such as information on the nature of the services provided, the supplier may consider that the services are for the customer's business use if, for that transaction, the customer has communicated his individual VAT identification number.

Where one and the same service is intended for both private use, including use by the customer's staff, and business use, the supply of that service shall be covered exclusively by Article 44 of Directive 2006/112/EC, provided there is no abusive practice.

### Subsection 3

#### Location of the customer

##### Article 20

Where a supply of services carried out for a taxable person, or a non-taxable legal person deemed to be a taxable person, falls within the scope of Article 44 of Directive 2006/112/EC, and where that taxable person is established in a single country, or, in the absence of a place of establishment of a business or a fixed establishment, has his permanent address and usually resides in a single country, that supply of services shall be taxable in that country.

The supplier shall establish that place based on information from the customer, and verify that information by normal commercial security measures such as those relating to identity or payment checks.

The information may include the VAT identification number attributed by the Member State where the customer is established.

##### Article 21

Where a supply of services to a taxable person, or a non-taxable legal person deemed to be a taxable person, falls within the scope of Article 44 of Directive 2006/112/EC, and the taxable person is established in more than one country, that supply shall be taxable in the country where that taxable person has established his business.

However, where the service is provided to a fixed establishment of the taxable person located in a place other than that where the customer has established his business, that supply shall be taxable at the place of the fixed establishment receiving that service and using it for its own needs.

Where the taxable person does not have a place of establishment of a business or a fixed establishment, the supply shall be taxable at his permanent address or usual residence.

##### Article 22

1. In order to identify the customer's fixed establishment to which the service is provided, the supplier shall examine the nature and use of the service provided.

Where the nature and use of the service provided do not enable him to identify the fixed establishment to which the service is provided, the supplier, in identifying that fixed establishment, shall pay particular attention to whether the contract, the order form and the VAT identification number attributed by the Member State of the customer and communicated to him by the customer identify the fixed establishment as the customer of the service and whether the fixed establishment is the entity paying for the service.

Where the customer's fixed establishment to which the service is provided cannot be determined in accordance with the first and second subparagraphs of this paragraph or where services covered by Article 44 of Directive 2006/112/EC are supplied to a taxable person under a contract covering one or more services used in an unidentifiable and non-quantifiable manner, the supplier may legitimately consider that the services have been supplied at the place where the customer has established his business.

2. The application of this Article shall be without prejudice to the customer's obligations.

##### Article 23

1. From 1 January 2013, where, in accordance with the first subparagraph of Article 56(2) of Directive 2006/112/EC, a supply of services is taxable at the place where the customer is established, or, in the absence of an establishment, where he has his permanent address or usually resides, the supplier shall establish that place based on factual information provided by the customer, and verify that information by normal commercial security measures such as those relating to identity or payment checks.

2. Where, in accordance with Articles 58 and 59 of Directive 2006/112/EC, a supply of services is taxable at the place where the customer is established, or, in the absence of an establishment, where he has his permanent address or usually resides, the supplier shall establish that place based on factual information provided by the customer, and verify that information by normal commercial security measures such as those relating to identity or payment checks.

##### Article 24

1. From 1 January 2013, where services covered by the first subparagraph of Article 56(2) of Directive 2006/112/EC, are supplied to a non-taxable person who is established in more than one country or has his permanent address in one country and his usual residence in another, priority shall be given to the place that best ensures taxation at the place of actual consumption when determining the place of supply of those services.



2. Where services covered by Articles 58 and 59 of Directive 2006/112/EC are supplied to a non-taxable person who is established in more than one country or has his permanent address in one country and his usual residence in another, priority shall be given to the place that best ensures taxation at the place of actual consumption when determining the place of supply of those services.

#### Subsection 4

### **Common provision regarding determination of the status, the capacity and the location of the customer**

#### *Article 25*

For the application of the rules governing the place of supply of services, only the circumstances existing at the time of the chargeable event shall be taken into account. Any subsequent changes to the use of the service received shall not affect the determination of the place of supply, provided there is no abusive practice.

#### Subsection 5

### **Supply of services governed by the general rules**

#### *Article 26*

A transaction whereby a body assigns television broadcasting rights in respect of football matches to taxable persons, shall be covered by Article 44 of Directive 2006/112/EC.

#### *Article 27*

The supply of services which consist in applying for or receiving refunds of VAT under Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State<sup>(1)</sup> shall be covered by Article 44 of Directive 2006/112/EC.

#### *Article 28*

In so far as they constitute a single service, the supply of services made in the framework of organising a funeral shall fall within the scope of Articles 44 and 45 of Directive 2006/112/EC.

#### *Article 29*

Without prejudice to Article 41 of this Regulation, the supply of services of translation of texts shall fall within the scope of Articles 44 and 45 of Directive 2006/112/EC.

#### Subsection 6

### **Supply of services by intermediaries**

#### *Article 30*

The supply of services of intermediaries as referred to in Article 46 of Directive 2006/112/EC shall cover the services

of intermediaries acting in the name and on behalf of the recipient of the service procured and the services performed by intermediaries acting in the name and on behalf of the provider of the services procured.

#### *Article 31*

Services supplied by intermediaries acting in the name and on behalf of another person consisting of the intermediation in the provision of accommodation in the hotel sector or in sectors having a similar function shall fall within the scope of:

- (a) Article 44 of Directive 2006/112/EC if supplied to a taxable person acting as such, or a non-taxable legal person deemed to be a taxable person;
- (b) Article 46 of that Directive, if supplied to a non-taxable person.

#### Subsection 7

### **Supply of cultural, artistic, sporting, scientific, educational, entertainment, and similar services**

#### *Article 32*

1. Services in respect of admission to cultural, artistic, sporting, scientific, educational, entertainment or similar events as referred to in Article 53 of Directive 2006/112/EC shall include the supply of services of which the essential characteristics are the granting of the right of admission to an event in exchange for a ticket or payment, including payment in the form of a subscription, a season ticket or a periodic fee.

2. Paragraph 1 shall apply in particular to:

- (a) the right of admission to shows, theatrical performances, circus performances, fairs, amusement parks, concerts, exhibitions, and other similar cultural events;
- (b) the right of admission to sporting events such as matches or competitions;
- (c) the right of admission to educational and scientific events such as conferences and seminars.

3. Paragraph 1 shall not cover the use of facilities such as gymnastics halls and suchlike, in exchange for the payment of a fee.

#### *Article 33*

The ancillary services referred to in Article 53 of Directive 2006/112/EC shall include services which are directly related to admission to cultural, artistic, sporting, scientific, educational, entertainment or similar events and which are supplied separately for a consideration to a person attending an event.

Such ancillary services shall include in particular the use of cloakrooms or sanitary facilities but shall not include mere intermediary services relating to the sale of tickets.

<sup>(1)</sup> OJ L 44, 20.2.2008, p. 23.

## Subsection 8

**Supply of ancillary transport services and valuations of and work on movable property**

## Article 34

Except where the goods being assembled become part of immovable property, the place of the supply of services to a non-taxable person consisting only of the assembly by a taxable person of the various parts of a machine, all of which were provided to him by his customer, shall be established in accordance with Article 54 of Directive 2006/112/EC.

## Subsection 9

**Supply of restaurant and catering services on board means of transport**

## Article 35

The section of a passenger transport operation effected within the Community as referred to in Article 57 of Directive 2006/112/EC shall be determined by the journey of the means of transport and not by the journey completed by each of the passengers.

## Article 36

Where restaurant services and catering services are supplied during the section of a passenger transport operation effected within the Community, that supply shall be covered by Article 57 of Directive 2006/112/EC.

Where restaurant services and catering services are supplied outside such a section but on the territory of a Member State or a third country or third territory, that supply shall be covered by Article 55 of that Directive.

## Article 37

The place of supply of a restaurant service or catering service carried out within the Community partly during a section of a passenger transport operation effected within the Community, and partly outside such a section but on the territory of a Member State, shall be determined in its entirety according to the rules for determining the place of supply applicable at the beginning of the supply of the restaurant or catering service.

## Subsection 10

**Hiring of means of transport**

## Article 38

1. 'Means of transport' as referred to in Article 56 and point (g) of the first paragraph of Article 59 of Directive 2006/112/EC shall include vehicles, whether motorised or not, and other equipment and devices designed to transport persons or objects from one place to another, which might

be pulled, drawn or pushed by vehicles and which are normally designed to be used and actually capable of being used for transport.

2. The means of transport referred to in paragraph 1 shall include, in particular, the following vehicles:

- (a) land vehicles, such as cars, motor cycles, bicycles, tricycles and caravans;
- (b) trailers and semi-trailers;
- (c) railway wagons;
- (d) vessels;
- (e) aircraft;
- (f) vehicles specifically designed for the transport of sick or injured persons;
- (g) agricultural tractors and other agricultural vehicles;
- (h) mechanically or electronically propelled invalid carriages.

3. Vehicles which are permanently immobilised and containers shall not be considered to be means of transport as referred to in paragraph 1.

## Article 39

1. For the application of Article 56 of Directive 2006/112/EC, the duration of the continuous possession or use of a means of transport which is the subject of hiring shall be determined on the basis of the contract between the parties involved.

The contract shall serve as a presumption which may be rebutted by any means in fact or law in order to establish the actual duration of the continuous possession or use.

The fact that the contractual period of short-term hiring within the meaning of Article 56 of Directive 2006/112/EC is exceeded on grounds of force majeure shall have no bearing on the determination of the duration of the continuous possession or use of the means of transport.

2. Where hiring of one and the same means of transport is covered by consecutive contracts between the same parties, the duration shall be that of the continuous possession or use of the means of transport provided for under the contracts as a whole.

For the purposes of the first subparagraph a contract and its extensions shall be consecutive contracts.

However, the duration of the short-term hire contract or contracts preceding a contract which is regarded as long-term shall not be called into question provided there is no abusive practice.

3. Unless there is abusive practice, consecutive contracts between the same parties for different means of transport shall not be considered to be consecutive contracts for the purposes of paragraph 2.

#### Article 40

The place where the means of transport is actually put at the disposal of the customer as referred to in Article 56(1) of Directive 2006/112/EC, shall be the place where the customer or a third party acting on his behalf takes physical possession of it.

### Subsection 11

#### **Supply of services to non-taxable persons outside the Community**

#### Article 41

The supply of services of translation of texts to a non-taxable person established outside the Community shall be covered by point (c) of the first paragraph of Article 59 of Directive 2006/112/EC.

### CHAPTER VI

#### **TAXABLE AMOUNT**

##### **(TITLE VII OF DIRECTIVE 2006/112/EC)**

#### Article 42

Where a supplier of goods or services, as a condition of accepting payment by credit or debit card, requires the customer to pay an amount to himself or another undertaking, and where the total price payable by that customer is unaffected irrespective of how payment is accepted, that amount shall constitute an integral part of the taxable amount for the supply of the goods or services, under Articles 73 to 80 of Directive 2006/112/EC.

### CHAPTER VII

#### **RATES**

#### Article 43

'Provision of holiday accommodation' as referred to in point (12) of Annex III to Directive 2006/112/EC shall include the hiring out of tents, caravans or mobile homes installed on camping sites and used as accommodation.

### CHAPTER VIII

#### **EXEMPTIONS**

##### SECTION 1

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

##### **(Articles 132, 133 and 134 of Directive 2006/112/EC)**

#### Article 44

Vocational training or retraining services provided under the conditions set out in point (i) of Article 132(1) of Directive 2006/112/EC shall include instruction relating directly to a

trade or profession as well as any instruction aimed at acquiring or updating knowledge for vocational purposes. The duration of a vocational training or retraining course shall be irrelevant for this purpose.

##### SECTION 2

#### **Exemptions for other activities**

##### **(Articles 135, 136 and 137 of Directive 2006/112/EC)**

#### Article 45

The exemption provided for in point (e) of Article 135(1) of Directive 2006/112/EC shall not apply to platinum nobles.

##### SECTION 3

#### **Exemptions on importation**

##### **(Articles 143, 144 and 145 of Directive 2006/112/EC)**

#### Article 46

The exemption provided for in Article 144 of Directive 2006/112/EC shall apply to transport services connected with the importation of movable property carried out as part of a change of residence.

##### SECTION 4

#### **Exemptions on exportation**

##### **(Articles 146 and 147 of Directive 2006/112/EC)**

#### Article 47

'Means of transport for private use' as referred to in point (b) of Article 146(1) of Directive 2006/112/EC shall include means of transport used for non-business purposes by persons other than natural persons, such as bodies governed by public law within the meaning of Article 13 of that Directive and associations.

#### Article 48

In order to determine whether, as a condition for the exemption of the supply of goods carried in the personal luggage of travellers, the threshold set by a Member State in accordance with point (c) of the first subparagraph of Article 147(1) of Directive 2006/112/EC has been exceeded, the calculation shall be based on the invoice value. The aggregate value of several goods may be used only if all those goods are included on the same invoice issued by the same taxable person supplying goods to the same customer.

##### SECTION 5

#### **Exemptions relating to certain transactions treated as exports**

##### **(Articles 151 and 152 of Directive 2006/112/EC)**

#### Article 49

The exemption provided for in Article 151 of Directive 2006/112/EC shall also apply to electronic services where these are provided by a taxable person to whom the special scheme for electronically supplied services provided for in Articles 357 to 369 of that Directive applies.

#### Article 50

1. In order to qualify for recognition as an international body for the application of point (g) of Article 143(1) and point (b) of the first subparagraph of Article 151(1) of Directive 2006/112/EC a body which is to be set up as a European Research Infrastructure Consortium (ERIC), as referred to in Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC) <sup>(1)</sup> shall fulfil all of the following conditions:

- (a) it shall have a distinct legal personality and full legal capacity;
- (b) it shall be set up under and shall be subject to European Union law;
- (c) its membership shall include Member States and, where appropriate, third countries and inter-governmental organisations, but exclude private bodies;
- (d) it shall have specific and legitimate objectives that are jointly pursued and essentially non-economic in nature.

2. The exemption provided for in point (g) of Article 143(1) and point (b) of the first subparagraph of Article 151(1) of Directive 2006/112/EC shall apply to an ERIC referred to in paragraph 1 where it is recognised as an international body by the host Member State.

The limits and conditions of such an exemption shall be laid down by agreement between the members of the ERIC in accordance with point (d) of Article 5(1) of Regulation (EC) No 723/2009. 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 in accordance with Article 151(2) of Directive 2006/112/EC.

#### Article 51

1. Where the recipient of a supply of goods or services is established within the Community but not in the Member State in which the supply takes place, the VAT and/or excise duty exemption certificate set out in Annex II to this Regulation shall, subject to the explanatory notes set out in the Annex to that certificate, serve to confirm that the transaction qualifies for the exemption under Article 151 of Directive 2006/112/EC.

When making use of that certificate, the Member State in which the recipient of the supply of goods or services is established may decide to use either a common VAT and excise duty exemption certificate or two separate certificates.

2. The certificate referred to in paragraph 1 shall be stamped by the competent authorities of the host Member State. However, if the goods or services are intended for official use, Member States may dispense the recipient from the requirement to have the certificate stamped under such conditions as they may lay down. This dispensation may be withdrawn in the case of abuse.

Member States shall inform the Commission of the contact point designated to identify the services responsible for stamping the certificate and the extent to which they dispense with the requirement to have the certificate stamped. The Commission shall inform the other Member States of the information received from Member States.

3. Where direct exemption is applied in the Member State in which the supply takes place, the supplier shall obtain the certificate referred to in paragraph 1 of this Article from the recipient of the goods or services and retain it as part of his records. If the exemption is granted by means of a refund of the VAT, pursuant to Article 151(2) of Directive 2006/112/EC, the certificate shall be attached to the request for refund submitted to the Member State concerned.

#### CHAPTER IX

##### DEDUCTIONS

##### (TITLE X OF DIRECTIVE 2006/112/EC)

#### Article 52

Where the Member State of importation has introduced an electronic system for completing customs formalities, the term 'import document' in point (e) of Article 178 of Directive 2006/112/EC shall cover electronic versions of such documents, provided that they allow for the exercise of the right of deduction to be checked.

#### CHAPTER X

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

##### (TITLE XI OF DIRECTIVE 2006/112/EC)

#### SECTION 1

##### Persons liable to pay the VAT

##### (Articles 192a to 205 of Directive 2006/112/EC)

#### Article 53

1. For the application of Article 192a of Directive 2006/112/EC, a fixed establishment of the taxable person shall be taken into consideration only when it is characterised by a sufficient degree of permanence and a suitable structure in terms of human and technical resources to enable it to make the supply of goods or services in which it intervenes.

2. Where a taxable person has a fixed establishment within the territory of the Member State where the VAT is due, that establishment shall be considered as not intervening in the

<sup>(1)</sup> OJ L 206, 8.8.2009, p. 1.

supply of goods or services within the meaning of point (b) of Article 192a of Directive 2006/112/EC, unless the technical and human resources of that fixed establishment are used by him for transactions inherent in the fulfilment of the taxable supply of those goods or services made within that Member State, before or during this fulfilment.

Where the resources of the fixed establishment are only used for administrative support tasks such as accounting, invoicing and collection of debt-claims, they shall not be regarded as being used for the fulfilment of the supply of goods or services.

However, if an invoice is issued under the VAT identification number attributed by the Member State of the fixed establishment, that fixed establishment shall be regarded as having intervened in the supply of goods or services made in that Member State unless there is proof to the contrary.

#### Article 54

Where a taxable person has established his place of business within the territory of the Member State where the VAT is due, Article 192a of Directive 2006/112/EC shall not apply whether or not that place of business intervenes in the supply of goods or services he makes within that Member State.

#### SECTION 2

##### **Miscellaneous provisions**

#### **(Articles 272 and 273 of Directive 2006/112/EC)**

#### Article 55

For the transactions referred to in Article 262 of Directive 2006/112/EC, taxable persons to whom a VAT identification number has been attributed in accordance with Article 214 of that Directive and non-taxable legal persons identified for VAT purposes shall be required, when acting as such, to communicate their VAT identification number forthwith to those supplying goods and services to them.

The taxable persons referred to in point (b) of Article 3(1) of Directive 2006/112/EC, who are entitled to non-taxation of their intra-Community acquisitions of goods in accordance with the first paragraph of Article 4 of this Regulation, shall not be required to communicate their VAT identification number to those supplying goods to them when a VAT identification number has been attributed to them in accordance with Article 214(1)(d) or (e) of that Directive.

#### CHAPTER XI

#### **SPECIAL SCHEMES**

#### SECTION 1

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

#### **(Articles 344 to 356 of Directive 2006/112/EC)**

#### Article 56

'Weights accepted by the bullion markets' as referred to in point (l) of Article 344(1) of Directive 2006/112/EC shall at least cover the units and the weights traded as set out in Annex III to this Regulation.

#### Article 57

For the purposes of establishing the list of gold coins referred to in Article 345 of Directive 2006/112/EC, 'price' and 'open market value' as referred to in point (2) of Article 344(1) of that Directive shall be the price and open market value on 1 April of each year. If 1 April does not fall on a day on which those values are fixed, the values of the next day on which they are fixed shall be used.

#### SECTION 2

##### **Special scheme for non-established taxable persons supplying electronic services to non-taxable persons**

#### **(Articles 357 to 369 of Directive 2006/112/EC)**

#### Article 58

Where, in the course of a calendar quarter, a non-established taxable person using the special scheme for electronically supplied services provided for in Articles 357 to 369 of Directive 2006/112/EC meets at least one of the criteria for exclusion laid down in Article 363 of that Directive, the Member State of identification shall exclude that non-established taxable person from the special scheme. In such cases the non-established taxable person may subsequently be excluded from the special scheme at any time during that quarter.

In respect of services supplied electronically prior to exclusion but during the calendar quarter in which exclusion occurs, the non-established taxable person shall submit a VAT return for the entire quarter in accordance with Article 364 of Directive 2006/112/EC. The requirement to submit this return shall have no effect on the requirement, if any, to be identified for VAT purposes in a Member State under the normal rules.

#### Article 59

Any return period (calendar quarter) within the meaning of Article 364 of Directive 2006/112/EC shall be a separate return period.

#### Article 60

Once a VAT return has been submitted as provided for under Article 364 of Directive 2006/112/EC, any subsequent changes to the figures contained therein may be made only by means of an amendment to that return and not by an adjustment to a subsequent return.

#### Article 61

Amounts on VAT returns made under the special scheme for electronically supplied services provided for in Articles 357 to 369 of Directive 2006/112/EC shall not be rounded up or down to the nearest whole monetary unit. The exact amount of VAT shall be reported and remitted.

*Article 62*

A Member State of identification which receives a payment in excess of that resulting from the VAT return submitted for electronically supplied services under Article 364 of Directive 2006/112/EC shall reimburse the overpaid amount directly to the taxable person concerned.

Where the Member State of identification has received an amount pursuant to a VAT return subsequently found to be incorrect, and that Member State has already distributed that amount among the Member States of consumption, those Member States shall directly reimburse the overpayment to the non-established taxable person and inform the Member State of identification of the adjustment to be made.

*Article 63*

Amounts of VAT paid under Article 367 of Directive 2006/112/EC shall be specific to the VAT return submitted pursuant to Article 364 of that Directive. Any subsequent amendments to the amounts paid may be effected only by reference to that return and may not be allocated to another return, or adjusted on a subsequent return.

## CHAPTER XII

**FINAL PROVISIONS***Article 64*

Regulation (EC) No 1777/2005 is hereby repealed.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 15 March 2011.

References made to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in Annex IV.

*Article 65*

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 July 2011.

However:

- point (a) of Article 3, point (b) of Article 11(2), Article 23(1) and Article 24(1) shall apply from 1 January 2013,
- point (b) of Article 3 shall apply from 1 January 2015,
- point (c) of Article 11(2) shall apply until 31 December 2014.

*For the Council*  
*The President*  
MATOLCSY Gy.

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## ANNEX I

**Article 7 of this Regulation**

- (1) Point (1) of Annex II to Directive 2006/112/EC:
  - (a) Website hosting and webpage hosting;
  - (b) automated, online and distance maintenance of programmes;
  - (c) remote systems administration;
  - (d) online data warehousing where specific data is stored and retrieved electronically;
  - (e) online supply of on-demand disc space.
- (2) Point (2) of Annex II to Directive 2006/112/EC:
  - (a) Accessing or downloading software (including procurement/accountancy programmes and anti-virus software) plus updates;
  - (b) software to block banner adverts showing, otherwise known as Bannerblockers;
  - (c) download drivers, such as software that interfaces computers with peripheral equipment (such as printers);
  - (d) online automated installation of filters on websites;
  - (e) online automated installation of firewalls.
- (3) Point (3) of Annex II to Directive 2006/112/EC:
  - (a) Accessing or downloading desktop themes;
  - (b) accessing or downloading photographic or pictorial images or screensavers;
  - (c) the digitised content of books and other electronic publications;
  - (d) subscription to online newspapers and journals;
  - (e) weblogs and website statistics;
  - (f) online news, traffic information and weather reports;
  - (g) online information generated automatically by software from specific data input by the customer, such as legal and financial data, (in particular such data as continually updated stock market data, in real time);
  - (h) the provision of advertising space including banner ads on a website/web page;
  - (i) use of search engines and Internet directories.
- (4) Point (4) of Annex II to Directive 2006/112/EC:
  - (a) Accessing or downloading of music on to computers and mobile phones;
  - (b) accessing or downloading of jingles, excerpts, ringtones, or other sounds;
  - (c) accessing or downloading of films;
  - (d) downloading of games on to computers and mobile phones;
  - (e) accessing automated online games which are dependent on the Internet, or other similar electronic networks, where players are geographically remote from one another.

(5) Point (5) of Annex II to Directive 2006/112/EC:

- (a) Automated distance teaching dependent on the Internet or similar electronic network to function and the supply of which requires limited or no human intervention, including virtual classrooms, except where the Internet or similar electronic network is used as a tool simply for communication between the teacher and student;
  - (b) workbooks completed by pupils online and marked automatically, without human intervention.
-



## ANNEX II

## Article 51 of this Regulation

EUROPEAN UNION

VAT AND/OR EXCISE DUTY EXEMPTION CERTIFICATE (\*)  
(Directive 2006/112/EC – Article 151 – and Directive 2008/118/EC – Article 13)

<b>Serial No (optional):</b>		
<b>1. ELIGIBLE BODY/INDIVIDUAL</b>		
Designation/name		
Street and No		
Postcode, place		
(Host) Member State		
<b>2. COMPETENT AUTHORITY RESPONSIBLE FOR STAMPING (name, address and telephone number)</b>		
<b>3. DECLARATION BY THE ELIGIBLE BODY OR INDIVIDUAL</b>		
The eligible body or individual <sup>(1)</sup> hereby declares		
(a) that the goods and/or services set out in box 5 are intended <sup>(2)</sup>		
<input type="checkbox"/> For the official use of <ul style="list-style-type: none"> <li><input type="checkbox"/> foreign diplomatic mission</li> <li><input type="checkbox"/> foreign consular representation</li> <li><input type="checkbox"/> a European body to which the Protocol on the privileges and immunities of the European Union applies</li> <li><input type="checkbox"/> an international organisation</li> <li><input type="checkbox"/> the armed forces of a State being a party to the North Atlantic Treaty (NATO force)</li> <li><input type="checkbox"/> the armed forces of the United Kingdom stationed in the island of Cyprus</li> </ul>	<input type="checkbox"/> For the personal use of <ul style="list-style-type: none"> <li><input type="checkbox"/> a member of a foreign diplomatic mission</li> <li><input type="checkbox"/> a member of a foreign consular representation</li> <li><input type="checkbox"/> a staff member of an international organisation</li> </ul>	
(designation of the institution) (see box 4)		
(b) that the goods and/or services described at box 5 comply with the conditions and limitations applicable to the exemption in the host Member State mentioned in box 1, and		
(c) that the information above is furnished in good faith.		
The eligible body or individual hereby undertakes to pay to the Member State from which the goods were dispatched or from which the goods and/or services were supplied, the VAT and/or excise duty which would be due if the goods and/or services did not comply with the conditions of exemption, or if the goods and/or services were not used in the manner intended.		
	Name and status of signatory	
Place, date	Signature	
<b>4. STAMP OF THE BODY (in case of exemption for personal use)</b>		
Place, date		Name and status of signatory
	Stamp	Signature

5. DESCRIPTION OF THE GOODS AND/OR SERVICES, FOR WHICH THE EXEMPTION FROM VAT AND/OR EXCISE DUTY IS REQUESTED					
A. Information concerning the supplier/authorised warehousekeeper					
(1) Name and address:					
(2) Member State					
(3) VAT/excise number or tax reference number					
B. Information concerning the goods and/or services:					
No	Detailed description of the goods and/or services <sup>(3)</sup> (or reference to the attached order form)	Quantity or number	Value excluding VAT and excise duty		Currency
			Value per unit	Total value	
Total amount					
6. CERTIFICATION BY THE COMPETENT AUTHORITIES OF THE HOST MEMBER STATE					
The consignment/supply of goods and/or services described in box 5 meets:					
<input type="checkbox"/> totally <input type="checkbox"/> up to a quantity of (number) <sup>(4)</sup>					
the conditions for exemption from VAT and/or excise duty					
Name and status of signatory					
Place, date		Stamp		Signature	
7. PERMISSION TO DISPENSE WITH THE STAMP UNDER BOX 6 (only in case of exemption for official use)					
By letter No:					
Dated:					
Designation of eligible institution:					
Is by					
Competent authority in host Member State:					
Dispensed from the obligation under box 6 to obtain the stamp					
Name and status of signatory					
Place, date		Stamp		Signature	
<sup>(*)</sup> Delete as appropriate. <sup>(1)</sup> Delete as appropriate. <sup>(2)</sup> Place a cross in the appropriate box. <sup>(3)</sup> Delete space not used. This obligation also applies if order forms are attached. <sup>(4)</sup> Goods and/or services not eligible should be deleted in box 5 or on the attached order form.					

### Explanatory notes

1. For the supplier and/or the authorised warehousekeeper, this certificate serves as a supporting document for the tax exemption of the supplies of goods and services or the consignments of goods to the eligible bodies/individuals referred to in Article 151 of Directive 2006/112/EC and Article 13 of Directive 2008/118/EC. Accordingly, one certificate shall be drawn up for each supplier/warehousekeeper. Moreover, the supplier/warehousekeeper is required to keep this certificate as part of his records in accordance with the legal provisions applicable in his Member State.
2. (a) The general specification of the paper to be used is as laid down in the *Official Journal of the European Communities* C 164 of 1.7.1989, p. 3.

The paper is to be white for all copies and should be 210 millimetres by 297 millimetres with a maximum tolerance of 5 millimetres less or 8 millimetres more with regard to their length.

For an exemption from excise duty the exemption certificate shall be drawn up in duplicate:

  - one copy to be kept by the consignor,
  - one copy to accompany the movement of the products subject to excise duty.
- (b) Any unused space in box 5.B. is to be crossed out so that nothing can be added.
- (c) The document must be completed legibly and in a manner that makes entries indelible. No erasures or overwriting are permitted. It shall be completed in a language recognised by the host Member State.
- (d) If the description of the goods and/or services (box 5.B of the certificate) refers to a purchase order form drawn up in a language other than a language recognised by the host Member State, a translation must be attached by the eligible body/individual.
- (e) On the other hand, if the certificate is drawn up in a language other than a language recognised by the Member State of the supplier/warehousekeeper, a translation of the information concerning the goods and services in box 5.B must be attached by the eligible body/individual.
- (f) A recognised language means one of the languages officially in use in the Member State or any other official language of the Union which the Member State declares can be used for this purpose.
3. By its declaration in box 3 of the certificate, the eligible body/individual provides the information necessary for the evaluation of the request for exemption in the host Member State.
4. By its declaration in box 4 of the certificate, the body confirms the details in boxes 1 and 3(a) of the document and certifies that the eligible individual is a staff member of the body.
5. (a) The reference to the purchase order form (box 5.B of the certificate) must contain at least the date and order number. The order form should contain all the elements that figure at box 5 of the certificate. If the certificate has to be stamped by the competent authority of the host Member State, the order form shall also be stamped.
- (b) The indication of the excise identification number as defined in Article 22(2)(a) of Council Regulation (EC) No 2073/2004 of 16 November 2004 on administrative cooperation in the field of excise duties is optional; the VAT identification number or tax reference number must be indicated.
- (c) The currencies should be indicated by means of a three-letter code in conformity with the ISO code 4217 standard established by the International Standards Organisation <sup>(1)</sup>.
6. The abovementioned declaration by the eligible body/individual; shall be authenticated at box 6 by the stamp of the competent authority of the host Member State. That authority can make its approval dependent on the agreement of another authority in its Member State. It is up to the competent tax authority to obtain such an agreement.
7. To simplify the procedure, the competent authority can dispense with the obligation on the eligible body to ask for the stamp in the case of exemption for official use. The eligible body should mention this dispensation at box 7 of the certificate.

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<sup>(1)</sup> As an indication, some codes relating to currencies currently used: EUR (euro), BGN (lev), CZK (Czech koruna), DKK (Danish krone), GBP (pound sterling), HUF (forint), LTL (litas), PLN (zloty), RON (Romanian leu), SEK (Swedish krona), USD (United States dollar).

## ANNEX III

**Article 56 of this Regulation**

Unit	Weights traded
Kg	12,5/1
Gram	500/250/100/50/20/10/5/2,5/2
Ounce (1 oz = 31,1035 g)	100/10/5/1 <sup>1</sup> / <sub>2</sub> / <sup>1</sup> / <sub>4</sub>
Tael (1 tael = 1,193 oz) <sup>(1)</sup>	10/5/1
Tola (10 tolas = 3,75 oz) <sup>(2)</sup>	10

<sup>(1)</sup> Tael = a traditional Chinese unit of weight. The nominal fineness of a Hong Kong tael bar is 990 but in Taiwan 5 and 10 tael bars can be 999,9 fineness.

<sup>(2)</sup> Tola = a traditional Indian unit of weight for gold. The most popular sized bar is 10 tola, 999 fineness.

## ANNEX IV

## Correlation Table

Regulation (EC) No 1777/2005	This Regulation
Chapter I	Chapter I
Article 1	Article 1
Chapter II	Chapters III and IV
Section 1 of Chapter II	Chapter III
Article 2	Article 5
Section 2 of Chapter II	Chapter IV
Article 3(1)	Article 9
Article 3(2)	Article 8
Chapter III	Chapter V
Section 1 of Chapter III	Section 4 of Chapter V
Article 4	Article 28
Section 2 of Chapter III	Section 4 of Chapter V
Article 5	Article 34
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