

Subject: VAT –NEW RULES APPLIED TO THE SUPPLY OF TELECOM, BROADCASTING OR TELEVISION AND ELECTRONICALLY SUPPLIED SERVICES TO NON- TAXABLE PERSONS - ARTICLE 6 OF VAT CODE

Decree-Law No. 158/2014 of 24 October transposed into the national law the provisions of Article 5 of Directive 2008/8 / EC of 12 February 2008 amending Directive 2006/112 / EC of 28 November 2006 (VAT Directive) on the common system of value added tax (VAT) as regards the place of supply of services.

The transposition of the provisions of the said Article 5 of Directive 2008/8 / EC implies a new wording to Article 6 of the VAT Code (CIVA), changing the rule applicable to the supply of telecommunications, broadcasting or television and electronically supplied services to non-taxable persons.

This guidance aims to clarify the scope of rules introduced in Article 6 of the VAT Code by Decree-Law No. 158/2012 of 24 October, in conjunction with the Implementing Regulation (EU) No .º 282/2011 of the Council of 15 March 2011.¹

Part I - Amendments to the VAT Code

I – Scope

1. As from 1 January 2015 the location of telecommunications, broadcasting or television and electronic services, supplied to non- taxable persons shall be based on the criterion of the place of establishment, permanent address or residence of the customer.

2. However, the national legislator decided to grant the option provided for in paragraph b) of Article 59A of the VAT Directive, according to which that rule may be waived in situations where, not being the recipient of the services established or domiciled in the Community, the effective use and enjoyment of the services takes place within this territory.

3. Several provisions of Article 6 of the VAT Code are amended, to ensure the following:

- Telecommunication services, broadcasting or television and electronic services supplied to non-taxable persons established or domiciled in the Community, are located in the Member State of establishment or residence of the purchaser, regardless of where the supplier is established;

- Those services, provided to non-taxable persons established or domiciled outside the Community, are not located within the Community territory;

¹ In the wording provided by Implementing Regulation (EU) No 1042/2013 of 7 October 2013, which is available on page:

http://info.portaldasfinncas.gov.pt/pt/informacao_fiscal/uniao_europeia/regulamentos/. The Implementing Regulations (EU) of the Commission and Council are binding in its entirety and directly applicable in all Member States.

- However, in compliance with the criterion of the effective use and enjoyment, telecommunications, broadcasting or television and electronic services supplied to purchasers established or domiciled outside the Community, are always taxed in the Portuguese territory when they are actually used here and the provider is established in this territory;

- The criterion for supplies of services to taxable persons with his place of establishment, fixed establishment or, failing that, domicile in the Community, for which the services are provided, remains unchanged (B2B general rule/ located in the Member State where the recipient is established or usually resides).²

II - Changes introduced

Article 6 of the VAT Code

4. The sub-paragraphs h) are added to paragraphs 9 and 10, and the sub-paragraph d) of paragraph 12 is emended as well as paragraphs 14 and 15 whose previous writing was revoked.

At the same time, subparagraphs i), j) and l) of paragraph 11 are repealed.

5. Note that the sub-paragraph h) of paragraphs 9 and 10 apply only to situations where the recipients of the services are non-taxable persons (B2C supplies).³

For its part, sub-paragraph d) of paragraph 12 applies to all customers who are established or domiciled outside the Community, regardless of their nature (B2B and B2C supplies).

6. The amended provisions of Article 6 of the VAT Code are replaced by the following:

6.1 Paragraphs 9 and 10, sub-paragraph h)

6.1.1 The paragraphs 9 and 10 of Article 6 waive the place of supply general rule, established in subparagraph b) of paragraph 6 of the same Article, considering located or not located in the national territory, respectively, certain transactions carried out to non-taxable persons, regardless of the place from which the services are provided.

Sub-paragraph h) of paragraph 9 reads as follows: "*h) Supply of telecommunications, broadcasting and electronic services, including those described in Annex D, when the recipient is a person established or domiciled outside the national territory.*"

These services are therefore not taxed in the national territory where the customer, a non-taxable person, is not established or resident on it, although the provider here is established, has a fixed establishment or, failing that, the domicile from which the services are provided.

6.1.2 The sub-paragraph h) of paragraph 10 reads as follows: "*h) Supply of telecommunications, broadcasting or television and electronic services, including those described in Annex D, when the recipient is a person established or domiciled in the national territory.*"

²Business to business

³Business to consumer

These services are taxed in the national territory where the customer is a non-taxable person, either established or domiciled here, regardless of the place of establishment, fixed establishment or, failing that, the domicile, from which the services are provided.

6.2 Paragraph 12 d)

This paragraph is replaced by the following: "d) Services supplies of *telecommunications, broadcasting or television and electronic services, including those described in Annex D, whose recipient is a person established or domiciled outside the Community, where the supplier of the service has established his activity, a permanent establishment or, failing that, the domicile, from which the services are provided, in the national territory, and the use and the effective use and enjoyment of such services takes place within the national territory.* "

This norm welcomes the option provided for in Article 59a of the VAT Directive (rule of the *the effective use and enjoyment*), according to which Member States can consider as located in their territories the services provided by a taxable person who is there established, has a permanent establishment or, failing that, the domicile from which he supplies them, when the consumption of these services actually occurs in its territory and the purchaser, being taxable person, or not, is established or domiciled outside the Community.

6.3 Paragraphs 14 and 15

It is added the following wording to the paragraphs 14 and 15

"14 - *For the purposes of sub-paragraph d) of paragraph 12, it is considered that the the effective use and enjoyment occur in the national territory in situations where physical presence in this territory of the direct recipient of services is necessary for the provision thereof, in particular, when they are rendered in local telephone booths or kiosks, shops open to the public, hotel lobbies, restaurants, cafes, areas of access to a wireless LAN and similar sites.*

15 - *Being the recipient of the services a person who is not a taxable person those referred to in paragraph 5 of Article 2, in addition to the situations covered by the preceding paragraph, it is considered that the effective use and enjoyment occur in the national territory when the local area where he has available a fixed line installed, the place to which belongs the indicative of the mobile network of a subscriber identity module (SIM), or the place where it is located a decoder or similar device or, being this an unknown location, to where has been submitted a display card, through which telecommunications services, broadcasting or television or electronic services are provided are located in this territory.* "

The paragraphs 14 and 15 aim to clarify the scope of sub-paragraph d) of paragraph 12, establishing the application criteria of the effective use and enjoyment rule, when the customer is established or domiciled outside the Community. They are adopted, in particular, the criteria applicable to the presumptions to determine the place where the purchaser is established or domiciled, set out in Article 24 A and sub-paragraphs a) to c) of Article 24-B, both of Regulation 282/2011 .

Note that paragraph 14 applies regardless of the quality of the buyer (B2B and B2C) as paragraph 15 applies only to purchasers that are non-taxable persons (B2C).

The implementation of these criteria for the VAT Code makes final the respective assumptions in transactions where the customer is not established or domiciled in the Community (that is, within the scope of Article 59a of the VAT Directive) ruling out the possibility of the service provider to be able to rebut. This note is relevant in insofar as it is still possible the rebuttal provided for in Article 24d of Regulation 282/2011, in operations where the customer is established or domiciled in the Community, by direct application of the referred Regulation. This matter is addressed below in Part II.

Annex I presents a framework for the amendments to Article 6 of the VAT Code.

7. Repealed Norms

Sub-paragraphs i), j) and l) of paragraph 11 of Article 6 of the VAT Code, are repealed with effect from 1 January 2015, failing to apply to telecommunications services, broadcasting or television and electronic services the location rules referred there, currently in force.

It is also revoked the special scheme for taxable persons not established in the Community who provide electronic services to non-taxable persons residing there, published in annex to Decree-Law No. 130/2003 of 28 June. This matter is clarified in the VAT Ruling No. 30164 of December 11, 2014.

8. Entry into force

The amendments to Article 6 of the VAT Code by Decree-Law No. 158/2014 of 24 October come into force on January 1, 2015.

III - Transitional measures. Application in time

9. In order to avoid double taxation or non-taxation of operations whose chargeable event or liability occurs in the transition period between the previous and the new rules of location, the Article 2 of the Implementing Regulation (EU) No 1042/2013 of the Council of 7 October 2013,⁴ provides for transitional measures, establishing that the decisive moment of the location of services supply is the one in which the chargeable event occurs.

Thus, the service is located in the supplier's Member State if the chargeable event occurs until 31.12.2014 inclusive. It will be located in the Member State of the customer when the chargeable event occurs on after 01.01.2015 inclusive.

⁴ It changes the Implementation Regulation (EU) in what concerns the provision of services location.

10. However, if advance payments or payments on account for which the chargeable event occurs after December 31, 2014, are made before January 1, 2015, VAT is due and payable in the Member State where the supplier is established, for the amount received.

This rule shall be applicable according to the usual commercial provider practice.

Annex II presents a set of illustrative examples of the various situations that may occur during the transition period.

PART II - The application of location rules (Article 6 of the CIVA- Regulation No 282/2011)

11. The supply of telecommunications services, broadcasting or television and electronic services, regarding both their qualification or the nature of its stakeholders, is regulated by the VAT Code and the Implementing Regulation (EU) No 282/2011 of the Council of 15 March 2011, with the wording that was amended by Regulation (EU) No 1042/2013 of the Council, of 7 October 2013.

12. Regulation No 282/2011 establishes a set of assumptions relating to those transactions in order to ensure the operability of the new rules on location.

13. In view of the clarification of the rules, the concepts of radio and television or broadcasting services are established, along with the telecommunications service definitions [sub-paragraph h) of paragraph 2 of Article 1 of the VAT Code] and electronic services (Annex D to CIVA).

Given the characteristics of the transactions concerned, and because it is not feasible to identify all the services, they will be listed in the Annex, without limitation or permanently, contextualized in the respective concepts.

I – Concepts

Telecommunications services

14. The expression 'telecommunications services' means services which have as their object the transmission, emission or reception of signals, writing, images and sounds or intelligence of any nature by wire, radio, optical means or other electromagnetic means, including the transfer or the assignment with them related of media usage rights for the transmission, emission or reception, including the access availability to global information networks.

Technical assistance services (helpdesk) are among the examples of services that are not considered electronic services. They are not also among the services that can be considered telecommunications services or among those which do not qualify as such.

What characterizes the technical assistance services is to provide assistance, and, when provided as "autonomous" services they don't include, in general, the concept of telecommunications services, radio or broadcasting and television or electronic services.

However, if the support rendered to the users just consist in assistance in case of problems related with the telecommunications network or of broadcasting and television, aiming to improve the main service, and if it is supplied by the provider of the net services, the technical assistance service may be considered ancillary to this last one, benefiting of the same treatment.

Annex III presents an exhaustive list of operations within the definition of "telecommunications services" as well as some excluded from it.

Radio and television broadcasting services

15. There is, for tax purposes, a pre-defined concept of radio and television broadcasting services, under Art 6 -B, nº1 of the Implementing Regulation (EU nº 282/2011, of the Council, of 15 March of 2011).

16. The typology of radio and television broadcasting services is addressed in Article6-Bof Regulation No282/2011, as well as some examples of services considered as such and those who are not.

This definition includes services consisting of audio and audio visual content, provided under the editorial responsibility of a provider of media services which holds effective control over the selection of programs and its organization and covers the distribution of radio and television programs through electronic networks such as the Internet, but only if transmitted for simultaneous viewing and listening for the transmission or retransmission of a broadcast network or television.

It must therefore be regarded as a "broadcasting service and television" the broadcast of sound and image for television networks or broadcasting.

17. Whenever the audio or audio-visual content is not emitted simultaneously with its transmission or retransmission of a broadcast network or television, it is not covered by the definition of radio and television services but by the electronic services concept. To this end, the simultaneous viewing and listening still cover situations where the recipient is susceptible to influence, within certain limits, the moment you hear or view a program without affecting the signal transmission itself (almost simultaneous viewing and listening), such as:

– Situations in which there is a mismatch between the transmission and reception of the broadcast due to technical reasons inherent in the transmission processor following the link;

- situations where the recipient can record for later viewing, or stop, fast forward or rewind the signal/program;
- Situations where the customer can pre-program the recording of a specific content at the time it is transmitted for simultaneous viewing and hearing and the program can be heard recorded or viewed later.

The almost simultaneous viewing and listening should not cover cases where the recipient has the option of requesting, from among a list of programs that you want to watch, as this is already a service whereby have to pay additionally what, in this case, configure services provided electronically.

Annex IV presents an exhaustive list of transactions covered by this concept, as well as some excluded from it.

Services provided electronically

18. It is considered as '*services provided by electronic means*' under the terms of Art. 7 of the Regulation nº 282/2011, the services that are provided through the Internet or an electronic network, whose nature makes their supply essentially automated and involving minimal human intervention and which are impossible to ensure without information technology.

The notion of '*services provided by electronic means*' does not include, for example, the entry in cultural, artistic, sporting, scientific, educational, entertainment happenings and likewise, as well as accommodation, car rental, catering, transportation of passengers or likewise, which have been reserved "*online*".

Annex V presents an exhaustive list of transactions covered by this concept, as well as some excluded from it.

II - Electronic services provided by a taxable person in his own name but on behalf of somebody else through a telecommunications network, an interface or a portal– Presumption

Scope

19. The Article 9-A of Regulation No 282/2011 assumes that a telecommunications network operator, an interface or a portal is acting in his own name but on behalf of the electronic service provider, unless the latter is expressly mentioned as the service provider by the operator as a result of agreements between the parties.

This presumption applies, in the same manner, to the telephone services and VoIP delivered over the Internet. It does not apply, however, to radio and television broadcasting services.

Thus, it is assumed that each player in the chain of transactions between the service provider by electronic means and the final consumer, is both buyer and supplier of their own services, in accordance, moreover, with paragraph 4 of Article 4.º of the VAT Code.

However, the presumption does not apply to taxable persons who only process payments for these services, not participating in them, such as companies that handle electronic payments or issuers of credit cards.

Presumption Rebuttal

20. This presumption rebuttal can only occur as a result of contracts concluded between the parties throughout the supply chain and provided that all of the following conditions are met:

- The invoice issued by each supplier in the chain of services provided identifies the electronic services and the respective originating provider;
- The document issued to the services consumer identifies the electronic services and the respective originating provider.

Once verified these conditions, it is considered that the operators intervening between the originating provider and the recipient or consumer of the services, provide intermediary services.

III - Place of supply of taxable transactions. Criteria

Place of the establishment, domicile or fixed residence of the purchaser of services, non-taxable person

21. The telecommunications services, broadcasting or television and electronic services are taxed at the place where the customer is established, in the case of legal person or, as an individual, where it has the domicile or habitual residence.

The concepts of domicile and fixed residence, for individuals, and the establishment, in relation to non-taxable legal persons, are those defined in Articles 12 to 13 of Regulation No 282/2011.

22. However, when the services are provided to a non-taxable person who is established in more than one country or is domiciled in a country and has fixed residence in another, which can lead to situations of double taxation or non-taxation, the Article 24 of the Regulation provides guidelines for determining the location of the buyer, favouring the place where the service is being used. In the absence of evidence of use of the service, this norm gives priority to the place where the functions of central administration are exercised, in the case of legal person other than the taxpayer or habitual residence in the case of an individual.

Assumptions regarding the location of the buyer

23. As usually provided at distance, there are situations where the provider of telecommunications services, broadcasting or television and the electronic services is hardly aware of where the customer is effectively established, is domiciled or habitually resides.

24. Articles 24-A and 24-B of Regulation lay down some rules, based on practical criteria according to which it is assumed the place where the customer is established, has his domicile or habitual residence.

24.1 The first, covering both B2B or B2C transactions, applies to telecommunications, broadcasting and television and electronic services assessed from certain specific locations where the physical presence of the provider in such locations is necessary in order to be supplied of such service, even though those locations are located on board of a ship, aircraft or train that make a passenger transportation within the territory of the Community.

24.2 The second, which applies exclusively to B2C transactions, covers the services provided through specific equipment (sub-paragraph a), b) and c)).

25. These practical criteria for determining the location of the buyer are specific presumptions, rebuttable under Article 24-D of the Regulation, by the supplier⁵ if it has three non-contradictory evidence, or by the Tax and Customs Authority if it has evidence of misuse or abuse by the provider.

If these assumptions do not have application, recourse should be had to the general presumption of sub-paragraph d) of Article 24-B, and the presumed location be demonstrated by two not contradictory evidence collected by the provider.

Evidence

26. Article 24-F of Regulation lists some evidence to rebuttal of the mentioned assumptions. Among these, the norm includes a reference to "*other relevant business information*", "taking into account the different business models and trade.

For this purpose, can be considered as relevant information that the company provides for its client, on the terms and payment locations, especially by use of the intersection of information on banking data with information relating to card issuance, history negotiation with the customer, billing address associated with payments by third parties and, in general, all documents, either alone or together, can lead to the identification of the purchaser location.

⁵ In accordance with the provision of Article 24- D the supplier can only rebut the presumptions established under Article 24- A or Article 24 –B, sub-paragraphs a),b) or c).

Determining the quality of the services purchaser

27. Application of the location rules of supply of services still depends on the quality of the purchaser.

Notwithstanding the taxation place of telecommunications services, broadcasting or television and the electronic services be the same whether it's B2B operations, whether B2C (location of the purchaser), remains to be relevant the acquiring of services quality to determine the person liable for the tax payment.

Thus, in accordance with Article 18 of the Regulation, the service provider must consider that the purchaser is a taxable person for the purposes of the operation location, if it has forwarded its individual VAT identification number and if this number, as well as the name and corresponding address, are valid.

28. Conversely, when a customer established in the Community failing to notify the individual VAT identification number, the provider may, in accordance with the 2nd paragraph of Article 18, paragraph 2, consider that he does not have the status of taxable person even if it has information to the contrary.

When the customer is established outside the Community, the provider can assume that he has the taxable person status when it obtains a certificate which meets the requirements of Directive 86/560/ EEC of the Council of 17 November 1986 on the VAT reimbursement to taxable persons not established within the Community.

Final note - Community legislation reference

29. The host into the national legal and tax system, of the location rules within the framework of the provision of telecommunications services, broadcasting services or television and electronic services, carried out to non-taxable persons, effective from January 1, 2015, results of Directive 2006/112 / EC of the Council, as amended by Directive 2008/8 / EC of 12 February, and the Implementing Regulation (EU) No 282/2011 of the Council, as amended by Council Implementing Regulation (EU) No 1042/2013 of the Council of 7 October 2013.

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ANNEX I
Amendments to Article 6 of the VAT Code

Legal Provision	norm	Explanation of the norm
No. 9, paragraph h)	"Telecommunications services supplies, broadcasting or television and electronic services, including those described in Annex D, when the recipient is an established or domiciled person outside the national territory."	It is not a tax item in the national territory the services supplies carried out by national taxpayers whose purchaser, who is a non-taxable person, either established or domiciled outside the national territory.
No. 10, paragraph h)	"Telecommunications services supplies, broadcasting or television and electronic services, including those described in Annex D, when the recipient is a person established or domiciled in the national territory."	They are object of taxation in the national territory supplies of services whose purchaser, who is a non-taxable person, either established or resident there, regardless of the head office location, permanent establishment or, failing that, of the domicile, from which the services are provided.
Nº 12, d)	"Telecommunications services supplies, broadcasting or television and electronic services, including those described in Annex D, whose recipient is a person established or domiciled outside the Community, when the provider has in national territory established his activity, a permanent establishment or, failing that, the domicile, from which the services are provided, and the use and effective operation of such services takes place in the national territory. "	Applying the rule of use or of effective operation the services provided by taxable persons headquarter are object of taxation, permanent establishment or, failing that, residence, from which the services are provided in national territory, whose purchaser, whether or not a taxable person is established or domiciled outside the Community and proven it appears that the consumption of these services occurred in the national territory.
Nº 14	"For the purposes of sub-paragraph d) of paragraph 12, it is considered that the use and effective exploitation occur in the national territory in situations where the physical presence in the territory of the direct recipient of services is necessary for the provision thereof, in particular, when they are rendered in local telephone booths or kiosks, shops open to the public, hotel lobbies, restaurants, cafes, areas of access to a wireless LAN and similar sites. "	Introduction in VAT Code of inherent practical criteria in 24A and 24.ºB sub-paragraphs, a) to c) of the Implementing Regulation (EU) No 282/2011 of the Council of 15 March 2011 related to the application of presumptions on the location of the purchaser, when this is established or domiciled outside the Community. Paragraph 14 applies generally, regardless of the purchaser' quality (B2B and B2C), paragraph 15 only has application in the case of non-taxable purchasers (B2C).
Nº 15	"Being the services recipient a non-taxable person of those referred to in paragraph 5 of Article 2, in addition to the situations covered by the preceding paragraph, it is considered that the use and effective exploitation occurring in the national territory when located in this territory in which that one has an available fixed line installed, the place to which belongs the indicative of the mobile network of a subscriber identity module (SIM) or the location in which is located a decoder or a similar device, or being this an unknown location, to where has been submitted a display card, through which telecommunications services, broadcasting or television or electronic services are provided."	

ANNEX II
Transitional measures. Application in time

Examples

Prepaid benefits

Example 1:

It is made an advance or a payment on account before 01.01.2015 and the supply is also made or completed before that date:

- VAT becomes chargeable before 01.01.2015, in the Member State of the provider.

Example 2:

It is made an advance or a payment on account before 1/1/2015, but the supply is only made or completed in 2015 or later:

- VAT becomes chargeable on the amount of the payment on account made in the Member State of the provider, at the moment the payment is made;
- Regarding the amount not covered by the payment on account, the tax becomes chargeable on the customer Member State, at the moment the chargeable event occurs.

Example 3:

Both the advance as the chargeable event occurs after 31/12/2014:

- The VAT becomes chargeable in 2015, on the customer Member State.

Example 4:

An advance is made corresponding to 20% of the price before 01/01/2015. It is made another payment on account of 40% after 31/12/2014. The service is finally supplied after this second payment on account:

- VAT becomes chargeable, in 2014, in the supplier Member State on the first payment on account (20% of price);
- VAT becomes chargeable, in 2015, in the customer Member State on the second payment on account (40% of the price) and on the missing amount after the supply is complete (40% of the price).

Continuous supplies

Example 5:

A continuous supply of services for which the deadline of a successive payment should be made takes place before 01/01/2015:

- VAT on the payment becomes payable in the Member State in which the supplier is established.

Example 6:

A continuous supply of services for which the deadline of a successive payment should be carried out takes place after 1/1/2015, although the supply was initiated in 2014:

There are three possible scenarios:

1) Payment is made at the end of the period:

- Since the chargeable event occurs after 01.01.2015 and there is no chargeable event for VAT enforceability before that date, VAT is payable to the customer Member State;

2) The advance payment of the total amount of the supply is made before 01/01/2015:

- VAT becomes chargeable in the Member State of the supplier;
- 3)** An advance payment on account is made before 01.01.2015. Once the deadline exceeds, the customer pays the missing amount related with the supply:
 - VAT becomes chargeable on the amount of the advance payment in the Member State of the supplier, at the moment the payment is made;
 - The VAT on the amount not covered by the advance payment is due in the customer Member State, at the moment the period expires.

Supplies for which an invoice is issued before the supply takes place

Example 7:

An invoice on a year of online access (beginning in 2014 and ending in 2015) to a newspaper is issued on 30.12.2014. The invoice is paid by the customer in 31/12/2014:

- VAT becomes chargeable before 01.01.2015 because the payment was made before that date, in the Member State in which the supplier is established.

Example 8: An invoice on a year of online access (beginning in 2014 and ending in 2015) to a newspaper is issued on 30.12.2014. The invoice is paid by the recipient on 02/01/2015:

- The chargeable event occurs after 01.01.2015 and the payment is made, also thereafter. The VAT is due in the acquirer Member State, regardless of the date the invoice is issued.

Supplies for which an invoice is issued after the supply takes place

Example 9:

The supply is completed before 01.01.2015, but the invoice is issued and the payment made only after that date. In this case the chargeable event occurred before 01/01/2015; hence VAT becomes due in the supplier Member State.

ANNEX III Telecommunications services

These services include:

- a) Fixed and mobile telephone services for the transmission and voice switching, data and video, including telephone services with an image component, also known as videophone services;
- b) Telephone services provided through the Internet, including Voice over Internet Protocol (VoIP);
- c) Voice messaging services, call waiting, call forwarding, calls ID, conference calls with three participants and other call management services;
- d) Radio message services;
- e) Audio text Services;
- f) Facsimile services, telegraph and telex;
- g) Internet access, including the *World Wide Web*;
- h) Links to private networks providing telecommunications connections to the exclusive use of the client.

Telecommunications services do not cover:

- a) Services provided by electronic means;

b) Radio and television broadcasting services.

ANNEX IV

Radio and television broadcasting services

These services include:

- a) Broadcasting programs or transmitted or retransmitted TV through a broadcast network or of television,
- b) Broadcasting or television programs distributed over the Internet or similar electronic networks (IP continuous streaming), if broadcast simultaneously with its transmission or retransmission through a broadcast network or television.

The broadcasting and television services do not cover:

- a) Telecommunications services;
- b) Services provided by electronic means;
- c) Providing information on specific programs on demand;
- d) Broadcasting rights transfer or transmission;
- e) Leasing of technical equipment or facilities to receive a broadcast;
- f) Broadcasting or television programs through the Internet or similar electronic networks (IP continuous streaming) unless if broadcast simultaneously through the broadcast networks or television.

ANNEX V

Services provided electronically

These services include:

- a) The supply of digitized products generally, including software and respective changes and updates;
- b) Services of establishing or support to the presence of companies or of individuals 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) Grant, for consideration, of the right to place a product or service for sale on a website that functions as online market, where potential buyers make their offerings through an automated process and where the parties are alerted of a sale via an e-mail generated automatically by computer;
- e) Package Internet service provision (ISP) in which the telecommunications component forms an ancillary and secondary part (i.e. packages going beyond mere Internet access and including other elements such as content pages giving access to news and weather or travel information, play games, housing sites, access to online debates etc.);
- f) The services listed in Annex I to Regulation 282/2013.
 - 1. Point 1 of Annex II to Directive 2006/112 / EC:
 - a) Website hosting and web pages;
 - b) Automated Maintenance programs online and at distance;
 - c) Remote systems administration;

d) Online data storage that allows the storage and extraction of specific data by electronic means;

e) Providing online-demand disc space.

2. Point 2 of Annex II to Directive 2006/112 / EC:

a) Accessing or downloading software, including programs for acquisitions / accountancy and antivirus software and respective updates;

b) Computer programs to block the display of banner ads (ad blockers);

c) Downloading management programs (*drivers*), such as software that interfaces between computers and peripheral equipment (such as printers);

d) Automated installation of filters on websites;

e) Online automated installation of firebreaks (*firewalls*).

3. Item 3 of Annex II of Directive 2006/112 / EC:

a) Accessing or downloading themes for the desktop (desktop);

b) Accessing or downloading photos, images or screen savers (*screensavers*);

c) Content scanned of books and other electronic publications;

d) Subscriptions to newspapers and magazines online;

e) Web diaries (weblogs) and websites consultation statistics;

f) News, traffic information and weather reports on line;

g) Online information generated automatically by software from specific data input by the customer or recipient, such as legal and financial data, including stock exchanges prices continuously updated;

h) Offer of advertising space including banner ads on a website / web page;

i) Use of search and Internet directories engines.

4. Item 4 of Annex II to Directive 2006/112 / EC:

a) Accessing or music downloading to computers and mobile phones;

b) Accessing or downloading themes (*jingles*) or musical excerpts, ringtones, or other sounds;

c) Accessing or downloading of films;

d) Downloading of games to computers and mobile phones;

e) Accessing automated online games which are dependent of the Internet line or other similar electronic networks, where players are geographically remote from one another.

5. Point 5 of Annex II of Directive 2006/112 / EC:

a) Automated e-learning at distance whose operation depends on the Internet or similar electronic network and which requires a limited human intervention, or no, including virtual classrooms, except where the Internet or similar electronic network is simply used as communication mean between the teacher and the student;

b) Workbooks completed by pupils online, and corrected and marked automatically, without any human intervention.

The services provided by electronic means do not cover:

a) Radio and television broadcasting services;

b) Telecommunications services;

c) Goods, where the respective order and processing is done electronically;

d) CD-ROM, floppy disks and similar material supports;

e) Printed material, such as books, newsletters, newspapers or magazines;

f) CD and audio cassettes;

g) Cassettes video and DVD;

h) CD-ROM games;

i) Services of professionals such as lawyers and financial consultants, who advise clients by e-mail;

j) Learning services, where the course content is presented by a teacher via the Internet or an electronic network (namely via a remote link);

- k) Physical repair services offline of computer equipment;
- l) Data storage services offline;
- m) Advertising services, namely, in newspapers, on posters and on television;
- n) Telephone helpdesk services;
- o) Learning services purely involving correspondence courses, such as postal services;
- p) Auction sales of traditional services, based on direct human intervention, irrespective of how bids are made;
- t) Tickets for cultural, artistic, sporting, scientific, educational, entertainment and similar reserved by the Internet;
- u) Accommodation, car rental, catering, transportation of passengers or similar reserved by the Internet.