



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels,  
COM(2009)

Proposal for a

**COUNCIL REGULATION**

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

**(Recast)**

## EXPLANATORY MEMORANDUM

### CONTEXT OF THE PROPOSAL

#### **Grounds for and objectives of the proposal**

Article 397 of Council Directive 2006/112/EC<sup>1</sup> (hereinafter “the VAT Directive”) provides that “*the Council, acting unanimously on a proposal from the Commission, shall adopt the measures necessary to implement this Directive*”. This Directive was a recast of Council Directive 77/388/EEC<sup>2</sup> (hereinafter “the Sixth VAT Directive”).

On the basis of Article 29a of the Sixth VAT Directive (which contained the same provision as Article 397), the Council adopted such measures in Council Regulation (EC) No 1777/2005<sup>3</sup> (hereinafter “Regulation 1777/2005”), which gave legal certainty to a number of non-binding guidelines agreed by the VAT Committee between 1977 and 2003.

Since the adoption of Regulation 1777/2005, the VAT Committee has agreed further guidelines, in particular a number of which relate to the adoption of Council Directive 2008/8/EC<sup>4</sup>. Therefore it is necessary to recast Regulation 1777/2005 to reflect the structure and numbering of the VAT Directive, and to incorporate the guidelines of the VAT Committee since the last exercise that are to be considered as measures necessary to implement the VAT Directive.

#### **General context**

On 12 February 2008, the Council adopted the VAT Package which includes, among other elements, Directive 2008/8/EC. This Directive introduces changes to the VAT Directive as regards the place of supply of services which are very important for business stake-holders. Its objective is to simplify the operation of the VAT system and to ensure that VAT on services accrues to the country of consumption. Most of the changes need to be implemented by Member States into their national legislation with effect from 1 January 2010.

The VAT Package brings changes which will reshape the main rules applicable to the place of supply of services.

On the one hand, it introduces a general rule that the supply of services to a taxable person acting as such is taxed in the country of the customer, whilst that of the supply of services to a non-taxable person is taxed in the country of the supplier. As such, for these rules to be applied correctly, it is important that the supplier can not only correctly establish where the customer is located, but also his status. Many of the proposed measures relate to this.

---

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

<sup>2</sup> Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment (OJ L 145, 13.6.1977, p. 1).

<sup>3</sup> 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 (OJ L 272, 3.10.2006, p. 15).

<sup>4</sup> Council Directive 2008/8/EC of 12 February 2008 amending Directive 2006/112/EC as regards the place of supply of services (OJ L 44, 20.2.2008, p. 11).

On the other hand, there are also a number of further provisions which provide exceptions to these general rules in order to ensure in the most efficient way taxation of services at the place where they are consumed. This is the case, for example, for the supply of restaurant services, the hiring of means of transport, services connected with immovable property, etc. These provisions also require clarification for the correct application of the rules.

For these reasons, in order to assure, on the Community level, the smooth and coordinated transition to the new system, the Commission has undertaken in-depth and close consultations with businesses and Member States. As a result of this, the Commission is now presenting a proposal for a Council Regulation laying down implementing measures concerning practical issues relating to the adoption of the VAT Package.

However, this proposal could not only contain implementing measures for the VAT Package. Indeed, the former Regulation 1777/2005 needs to be recast in order to adapt its structure to the new structure of the VAT Directive after its recast in 2006. Moreover, guidelines agreed by the VAT Committee since 2005 on other matters should also be integrated.

## **CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT**

### **Consultation of interested parties**

In order to identify the areas where implementing measures would be appropriate, Member States were extensively consulted during Working Party meetings, FISCALIS seminars and VAT Committee meetings. Exchanges of views with businesses also took place.

### **Collection and use of expertise**

There was no need for external expertise.

### **Impact assessment**

The Regulation aims at clarifying and giving legal certainty to existing practices. The measures concerned are of a purely technical nature and there is no need for an impact assessment.

## **LEGAL ELEMENTS OF THE PROPOSAL**

### **Subsidiarity principle**

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the Community. The objectives of the proposal cannot be sufficiently achieved by the Member States.

Even though the Member States have the competence for transposition of Community law, it is essential that the provisions and incoming changes are transposed in the national legislations in a coordinated manner in order to avoid that divergent application rules adopted by the Member States could lead to double taxation or non-taxation.

For the reasons outlined above, only Community action can ensure equal treatment of business and citizens in the European Union. The proposal therefore complies with the subsidiarity principle.

## **Proportionality principle**

The recast of Regulation 1777/2005 is necessary to adapt it to the VAT Directive, which has recast the Sixth VAT Directive on which the Regulation was based.

The new provisions are based on further guidelines agreed by the VAT Committee, in particular a number of which relate to Directive 2008/8/EC amending Directive 2006/112/EC as regards the place of supply of services. These measures are necessary to implement the VAT Directive.

The proposal therefore complies with the proportionality principle.

## **Recasting**

The proposal involves recasting

### **ADDITIONAL INFORMATION**

#### **Detailed explanation of the proposal**

Part of the exercise consists in codification of elements covered by Regulation 1777/2005, which was adopted under the Sixth VAT Directive. However, a simple codification was not sufficient in order to adapt its structure and align it to the VAT Directive (which itself recast the Sixth VAT Directive). An exercise of recast is necessary for that. These changes are self-explanatory and do not need detailed explanation. Any adaptation made appears as underlined or strikethrough in the text.

On the other hand, this proposal includes new measures based on guidelines agreed by the VAT Committee on different matters prior to and since 2005, when Regulation 1777/2005 was first adopted. These new measures are of 3 types:

- Type 1: several guidelines agreed prior to 2005 on different elements of the VAT Directive but not included as part of the first exercise
- Type 2: several guidelines agreed since 2005 on different elements of the VAT Directive yet to be transformed into implementing measures
- Type 3: guidelines agreed recently and linked to changes introduced by the VAT Package.

Only these new elements will be briefly commented on below.

#### Type 1 Guidelines

These are guidelines which were considered during the discussions during the previous exercise, but which for various reasons were not included in Regulation 1777/2005. Subsequent discussions in Working Party No 1 have led to the conclusion that these guidelines were worth including in any subsequent exercise.

Article 2 concerns the acquisition of a new means of transport when moving house, and the return of a new means of transport by a non-taxable person originally supplied under the exemption provided for in Article 138(2)(a) of the VAT Directive.

Article 46 confirms that holiday accommodation referred to in point (12) of Annex III of the VAT Directive includes the hiring of caravans, tents and mobile homes.

Article 49 clarifies that the exemption for the supply of services relating to the importation of goods, where the value of the service is included in the taxable amount, also applies to services connected with the importation of movable property when changing residence.

Article 54 clarifies that if the recipient is located outside the Member State in which the supply takes place, the common VAT and excise duty exemption certificate to be found in Annex II is to be used as proof that the recipient is entitled to the exemption under Article 151 of the VAT Directive. The certificate should be retained by the customer as part of his accounting records, or, if the exemption is granted by means of a refund, attached to the application for refund.

### Type 2 Guidelines

These are guidelines on which unanimous agreement has been reached in the VAT Committee since the previous exercise, and which merit inclusion in this exercise.

Articles 7 and 12 clarify the treatment of digital photography processing, and the printing of paper format publications, in particular the conditions under which these should be regarded as a supply of goods or a supply of services respectively.

Article 52 states that the exemption for diplomats, international bodies, NATO forces and the like, under Article 151 of the VAT Directive applies to electronic services even where these are provided by persons to whom the special scheme for electronically supplied services applies.

Article 53 defines the elements of a body to be set up as a European Research Infrastructure Consortium (ERIC) which would enable it to be regarded as an international body and therefore benefit from the exemption in point (g) of Article 143 and point (b) of the first subparagraph of Article 151(1) of the VAT Directive, providing it is recognised as such by its host Member State.

### Type 3 Guidelines

These are guidelines which result from changes to the VAT Package. They have reached unanimous or almost unanimous agreement in the VAT Committee.

Articles 3, 4 and 5 clarify elements of the scope of VAT, specifically supplies of services to persons established outside the Community; and supplies of services to persons who are entitled to non-taxation of their intra-Community acquisitions of goods.

Article 8 provides a definition of restaurant and catering services, whilst Article 9 makes clear that where the provision of food and/or beverages is made by one taxable person, and the provision of the support services allowing for its immediate consumption is made by another taxable person, then each supply should be assessed on its own merits.

A number of concepts need to be defined in order to facilitate the correct application of the place of supply rules introduced by the VAT Package. Those concepts, in particular, concern the determination of the place of establishment of a business (Article 14); the notion of a fixed establishment (Article 15); permanent address (Article 16); and usual residence (Article 17). It

is also established that a letter box or brass plate company must meet certain requirements in order to be considered as a place of establishment of a business.

Articles 19 and 38 clarify that it is the means of passenger transport which determines the section of a passenger transport operation effected within the Community, not the passengers travelling in the means of transport.

Article 21 clarifies that where the status of the customer is a determinant for the place of supply of a service, this status shall only be determined in accordance with the conditions in Title III of the VAT Directive. Therefore, any special scheme which the customer may be subject to, such as that for small enterprises, can not be taken into account in this respect. In addition, the supplier should verify the information provided by the customer concerning his taxable status.

Article 22 confirms that where a non-taxable legal person is already identified for VAT purposes because his intra-Community acquisitions are subject to VAT, then he is regarded as a taxable person.

Article 23 lays down that where a taxable person receives a supply of services for his own, or his staff's use, or more generally, for purposes other than those of his business, then that person shall not be regarded as a taxable person because he is not acting as such. When the supplier assesses the use to which the customer will put the service, the nature of the service shall be taken into account, and if there is any doubt, a self declaration may be required from the customer.

Article 24 clarifies that only the circumstances present at the time of the supply are relevant when assessing the purpose to which each service will be put, and any subsequent changes are irrelevant.

Article 25 states that where a single service is intended for mixed business and personal use of a taxable person, the entirety of that service shall be regarded as a supply to the taxable person acting as such.

Articles 26 to 30 deal with the clarification of the customer location, as this is particularly relevant in the new place of supply of services rules.

Article 35 clarifies that intermediary services, other than those of experts and estate agents in connection with immovable property, fall within Article 44 of the VAT Directive if supplied to a taxable person, and Article 46 if supplied to a non-taxable person.

The place of supply rules state that the 'section of a passenger transport operation effected within the Community' is the section of the operation between the points of departure and arrival within the Community, with the point of departure being the first point of passenger embarkation within the Community, and that of arrival being the first point of disembarkation within the Community. As these points of embarkation and disembarkation may lie some distance within the territory of a Member State, there may be a 'section of a passenger transport operation' which, whilst it is not 'effected within the Community', is nevertheless on the territory of a Member State. Articles 39 and 40 clarify the treatment of restaurant and catering services on ships, aircraft or trains in these situations.

Article 41 defines a means of transport as referred to in Articles 56 and 59 of the VAT Directive; Article 42 lays down the treatment of contracts for the hiring of a means of

transport, particularly when two contracts follow each other; and Article 43 clarifies the place where a means of transport is regarded as being actually put at the disposal of the customer.

Article 56 clarifies the notion of the intervention of a fixed establishment in a supply for the purposes of the application of point (b) of Article 192a of the VAT Directive, and Article 57 clarifies that where a taxable person has established his business in a Member State where the VAT is due, then Article 192a of the VAT Directive shall not apply, irrespective of whether that place of establishment actually intervened in that supply.

Article 58 states that where a supplier meets the conditions in Articles 21 and 23, the customer may be held jointly liable under Article 205 of the VAT Directive.

---

↓ 1777/2005

Proposal for a

## COUNCIL REGULATION

laying down implementing measures for Directive ~~77/388/EEC~~ 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 European Union and to the Treaty on the Functioning of the European Union,

Having regard to ~~the Sixth~~ Council Directive ~~77/388/EEC~~ 2006/112/EC of ~~17 May 1977~~ 28 November 2006 on the ~~harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax; uniform basis of assessment~~; ~~hereinafter referred to as ‘Directive 77/388/EEC’~~<sup>6</sup>, and in particular Article ~~29a~~ 397 thereof,

Having regard to the proposal from the Commission,

Whereas:

---

↓ new

(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>7</sup>. In the interests of clarity, that Regulation should be recast.

---

↓ 1777/2005 Recital 1 (adapted)

~~(1)~~ (2) Directive ~~77/388/EEC~~ 2006/112/EC contains rules on value added tax ~~(VAT)~~  (VAT)  which, in some cases, are subject to interpretation by the Member States. The adoption of common provisions implementing Directive ~~77/388/EEC~~ 2006/112/EC should ensure that application of the ~~value added tax~~  VAT  system complies more fully

---

<sup>5</sup> ~~OJ L 145, 13.6.1977, p. 1. Directive as last amended by Directive 2004/66/EC (OJ L 168, 1.5.2004, p. 35).~~

<sup>6</sup> OJ L 347, 11.12.2006, p. 1.

<sup>7</sup> OJ L 288, 29.10.2005, p. 1.



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 ~~the said~~ 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.

---

↓ new

- (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>8</sup> should be reflected in this regulation.

---

↓ 1777/2005 Recital 2 (adapted)

- ~~(3)~~(4) It is necessary for the achievement of the basic objective of ensuring a more uniform application of the current ~~value added tax~~ VAT system to lay down rules implementing Directive ~~77/388/EEC~~2006/112/EC, in particular in respect of taxable persons, the supply of goods and services, and the place of their supply. In accordance with the principle of proportionality as set out in ~~the third subparagraph of Article 5~~ Article 5(4) of the Treaty on European Union, this Regulation does not go beyond what is necessary in order to achieve the objective pursued. Since it is binding and directly applicable in all Member States, uniformity of application will be best ensured by a Regulation.

---

↓ 1777/2005 Recital 3 (adapted)

- ~~(3)~~(5) These implementing provisions contain specific rules in response to selective questions of application and are designed to bring uniform treatment throughout the Community to those specific circumstances only. They are ~~therefore~~ not conclusive for other cases and should therefore, in view of their formulation, ~~are to~~ be applied restrictively.

---

↓ new

- (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, it should be clarified that the acquisition of such a new means of transport is not a taxable transaction.

---

<sup>8</sup> OJ L 44, 20.2.2008, p. 11.

(7) It is necessary to clarify the circumstances under which the supply of services to an establishment outside the Community of a taxable person acting as such, or a non-taxable person, falls outside the scope of VAT.

(8) 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, should not affect the right of that taxable person to benefit from non-taxation of his intra-Community acquisitions of goods.

↓ 1777/2005 Recital 4 (adapted)  
⇒ new

~~(4)~~(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~~ of 25 July 1985 on the European Economic Interest Grouping (EEIG) ~~It should therefore be provided~~ ~~clarified~~ that such EEIGs are ~~also~~ taxable persons where they supply goods or services for consideration ~~to their members~~, even if such supply is made to their members.

↓ new

(10) The nature of certain transactions should be specified in order to create greater legal certainty. Specifically, the increased technical nature of digital photography processing and the printing of paper format publications makes it necessary to clarify the conditions under which these supplies should be regarded as a supply of goods or a supply of services. In addition it is necessary to clearly define restaurant and catering services, the distinction between the two, and the appropriate treatment of these services.

↓ 1777/2005 Recital 8 (adapted)

~~(8)~~(11) ~~Certain specific services such as the assignment of television broadcasting rights in respect of football matches, the translation of texts, services for claiming value added tax refunds, certain services as an agent, the hiring of means of transport and certain electronic services involve cross border scenarios or even the participation of economic operators established in third countries. The place of supply of these services needs to be clearly determined in order to create greater legal certainty. It should be noted that~~ In order to enhance clarity, the services identified as electronic services or otherwise ~~do not constitute~~ should be listed without this constituting a definitive, exhaustive list.

<sup>9</sup> OJ L 199, 31.7.1985, p. 1.

---

↓ 1777/2005 Recital 6

~~(6)~~(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.

---

↓ 1777/2005 Recital 5

~~(5)~~(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.

---

↓ new

(14) To ensure the effective application of rules relating to where taxable transactions take place, 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.

---

↓ 1777/2005 Recital 18

~~(18)~~(5) 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.

---

↓ new

(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.

---

↓ 1777/2005 Recital 17 (adapted)

(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 ~~value added tax~~  VAT  treatment of the transaction in other Member States.

---

↓ new

(18) As the correct application of the rules governing the place of supply of services relies heavily on the status of the customer, which should be based solely on the rules

governing what is a taxable person, and on the capacity in which the customer is acting, it is necessary to establish what the supplier should be required to obtain as evidence from his customer.

- (19) Determining the customer's capacity should be based on how the services supplied to that customer at the time of supply are going to be used. Services for his private use or for that of his staff, or more generally, for purposes other than those of his business should not be regarded as acquired in the customer's capacity as a taxable person.
- (20) It should be ensured that a single service acquired for the business but also used for private purposes is only taxed in one place.
- (21) Where services are supplied to a customer established in more than one place, the place where the services are received should be identified. It is in that case necessary to take account of the circumstances under which the supply takes place.

---

↓ 1777/2005 Recital 8 (adapted)

~~(8)~~(22) Certain specific services such as the assignment of television broadcasting rights in respect of football matches, the translation of texts, services for claiming value added tax  VAT  refunds, certain services as an agent,  intermediary and  the hiring of means of transport ~~and certain electronic services~~ involve cross-border scenarios or even the participation of economic operators established in third countries. The place of supply of these services needs to be clearly determined in order to create greater legal certainty. ~~It should be noted that the services identified as electronic services or otherwise do not constitute a definitive, exhaustive list.~~

---

↓ 1777/2005 Recital 7 (adapted)

~~(7)~~(23) Where various services supplied in the framework of organising a funeral form a part of a single service, the rule on the place of supply should also be determined.

---

↓ new

- (24) It is necessary to clarify the treatment of restaurant services and catering services supplied during a section of a passenger transport operation effected within the Community, and those supplied outside such a section but on the territory of a Member State.
- (25) 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.

---

↓ 1777/2005 Recital 9 (adapted)

~~(9)~~(26) 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 ~~the latter~~  that transaction .

---

↓ new

(27) It is necessary to clarify that holiday accommodation to which a reduced rate may be applied includes tents, caravans and mobile homes hired out by camping sites.

---

↓ 1777/2005 Recital 10

~~(10)~~(28) 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.

---

↓ 1777/2005 Recital 11

~~(11)~~(29) ‘Platinum nobles’ should be treated as being excluded from the exemptions for currency, bank notes and coins.

---

↓ new

(30) 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.

---

↓ 1777/2005 Recital 12

~~(12)~~(31) 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.

---

↓ 1777/2005 Recital 13

~~(13)~~(32) 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.

---

---

↓ new

(33) The exemption for certain transactions treated as exports should also apply to services covered by the special scheme for electronically supplied services.

(34) A body to be set up under Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC)<sup>10</sup> 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 be identified.

(35) 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 the exemption are met, a common certificate should be established.

---

↓ 1777/2005 Recital 14

~~(14)~~(36) Electronic import documents should also be admitted to exercise the right to deduct, where they fulfil the same requirements as paper-based documents.

---

↓ new

(37) Where a supplier of goods or services has established his business within the territory of the Member State where the tax is due, or where he has a fixed establishment therein and the human or technical resources of that fixed establishment are used for the fulfilment of the supply made within that Member States, that supplier should remain liable for payment of VAT.

(38) It should be clarified that, where a supplier of services satisfies certain conditions, Member States are able to require payment of VAT by the customer through existing measures.

---

↓ 1777/2005 Recital 15

~~(15)~~(39) 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.

---

<sup>10</sup> OJ L 206, 8.8.2009, p. 1.

---

↓ 1777/2005 Recital 16

~~(16)~~(40) The special scheme for taxable persons not established in the Community, supplying electronic services 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.

---

↓ new

(41) Since Member States are required to adopt the laws, regulations and administrative provisions necessary to comply with Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC<sup>11</sup> with effect from 1 April 2010, certain provisions of this Regulation should apply from the same date.

(42) Certain changes result from the adoption of Directive 2008/8/EC. Since these changes concern the taxation of the long-term hiring of means of transport from 1 January 2013, the corresponding provisions of this Regulation should apply from the same date.

---

↓ 1777/2005

⇒ new

HAS ADOPTED THIS REGULATION:

## CHAPTER I

### SUBJECT MATTER

#### *Article 1*

This Regulation lays down measures for the implementation of ~~Articles 4, 6, 9, 11, 13, 15, 18, 26b, 26c, 28a and 28b of Directive 77/388/EEC, and of Annex L thereto~~ ⇒ Titles I to V, and VII to XII of Directive 2006/112/EC ⇐ .

---

<sup>11</sup> OJ L 9, 14.1.2009, p. 12.

## 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 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 under the exemption provided for in point (a) of Article 138(2) of Directive 2006/112/EC.

##### *Article 3*

1. Where the place of supply of services referred to in Article 44 of Directive 2006/112/EC is outside the Community, the transaction shall not be subject to VAT.

2. In order to demonstrate that the supply is not subject to VAT, the supplier shall obtain sufficient evidence from his customer that that customer is a taxable person acting as such, and that one of the following conditions is met:

- (a) the customer's business is established outside the Community;
- (b) the fixed establishment receiving the services is located outside the Community;
- (c) in the absence of such establishment, that the customer's permanent address or usual residence is outside the Community.

3. The evidence referred to in paragraph 2 shall include a VAT number, or similar number used to identify the business, attributed by the country of establishment, or other sufficient evidence.

##### *Article 4*

1. Where the place of supply of services referred to in Article 59 of Directive 2006/112/EC is outside the Community, the transaction shall not be subject to VAT.



2. In order to demonstrate that the supply is not subject to VAT, the supplier shall obtain sufficient evidence from the customer that that customer is established, or has his permanent address or usual residence, outside the Community.

#### *Article 5*

Any taxable person who is entitled to non-taxation of his intra-Community acquisitions of goods, other than new means of transport or products subject to excise duty, in accordance with Article 3 of Directive 2006/112/EC, shall continue to remain so even if, 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.

---

↓ 1777/2005 (adapted)

### **CHAPTER ~~III~~**

## **TAXABLE PERSONS ~~AND TAXABLE TRANSACTIONS~~**

---

↓ 1777/2005

### **SECTION 1**

**(~~ARTICLE 4~~ TITLE III OF DIRECTIVE ~~77/388/EEC~~ 2006/112/EC)**

#### *Article ~~26~~*

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 ~~49~~(1) of Directive ~~77/388/EEC~~ 2006/112/EC.

---

↓ new

## CHAPTER IV

### TAXABLE TRANSACTIONS

#### SECTION 1

#### SUPPLY OF GOODS

(ARTICLES 14 TO 19 OF DIRECTIVE 2006/112/EC)

##### *Article 7*

1. The following shall be ‘a supply of goods’ within the meaning of Article 14 of Directive 2006/112/EC:

- (a) digital photography processing, where printed photographs are provided to the customer;
- (b) the printing of a paper format publication, where the supplier also provides the materials to the customer.

---

↓ 1777/2005 (adapted)

#### SECTION 2

#### ⊠ SUPPLY OF SERVICES ⊠

(~~ARTICLE 6~~ ARTICLES 24 TO 29 OF DIRECTIVE ~~77/388/EEC~~ 2006/112/EC)

---

↓ new

##### *Article 8*

1. Restaurant and catering services as referred to in Directive 2006/112/EC 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 largely 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, with or without transport included, accompanied by no other support services shall not be considered restaurant and catering services within the meaning of paragraph 1.

#### Article 9

Where the provision of food or beverages or both is made by one taxable person, and the support services allowing for the immediate consumption thereof are provided to the same customer by a different taxable person, each separate supply shall be assessed on its own merits, provided no evidence of abuse of law exists.

---

↓ 1777/2005 (adapted)

#### Article ~~10~~

1. ‘Electronically supplied services’ as referred to in ~~the 12th indent of Article 9(2)(e) of Directive 77/388/EEC and in Annex L to that~~ Directive 77/388/EEC2006/112/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 in the absence of information technology is impossible to ensure.

2. The following services, in particular, shall, ~~where delivered over the Internet or an electronic network,~~ be covered by paragraph 1:

---

↓ 1777/2005

- (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.

---

↓ 1777/2005 (adapted)

Article 12

3. The following  goods and services  , in particular, shall not be covered by ~~the 12th indent of Article 9(2)(c) of Directive 77/388/EEC~~ paragraph 1:

~~1.(a)~~ radio and television broadcasting services ~~as referred to in the 11th indent of Article 9(2)(c) of Directive 77/388/EEC;~~

~~2.(b)~~ telecommunications services, ~~within the meaning of the 10th indent of 9(2)(c) of Directive 77/388/EEC;~~

~~3. supplies of the following goods and services:~~

---

↓ 1777/2005

~~(a)(c)~~ goods, where the order and processing is done electronically;

~~(b)(d)~~ CD-ROMs, floppy disks and similar tangible media;

~~(e)(e)~~ printed matter, such as books, newsletters, newspapers or journals;

---

↓ 1777/2005 (adapted)

~~(d)(f)~~ CDs  and  audio cassettes;

~~(e)(g)~~ video cassettes  and  DVDs;

---

↓ 1777/2005

~~(f)(h)~~ games on a CD-ROM;

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

~~(h)(j)~~ teaching services, where the course content is delivered by a teacher over the Internet or an electronic network, (namely via a remote link);

- ~~(i)~~(k) offline physical repair services of computer equipment;
- ~~(i)~~(l) offline data warehousing services;
- ~~(k)~~(m) advertising services, in particular as in newspapers, on posters and on television;
- ~~(h)~~(n) telephone helpdesk services;
- ~~(m)~~(o) teaching services purely involving correspondence courses, such as postal courses;
- ~~(n)~~(p) conventional auctioneers' services reliant on direct human intervention, irrespective of how bids are made;
- ~~(o)~~(q) telephone services with a video component, otherwise known as videophone services;
- ~~(p)~~(r) access to the Internet and World Wide Web;
- ~~(q)~~(s) telephone services provided through the Internet.

#### Article 11

Where a taxable person only assembles the different 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.

---

↓ new

#### Article 12

Work on movable tangible property consisting of the printing of a paper format publication using the materials provided to the supplier by the customer shall be a supply of services within the meaning of Article 24(1) of Directive 2006/112/EC.

---

↓ 1777/2005 (adapted)

#### Article ~~3~~13

~~1~~ The sale of an option, where such a sale is a transaction  falling  within the scope of point ~~(5)~~(f) of Article ~~13(B)(d)~~135(1) of Directive ~~77/388/EEC~~2006/112/EC, shall be a supply of services within the meaning of Article ~~6~~24(1) of that Directive. That supply of services shall be distinct from the underlying ~~operations~~  transactions  to which the services relate.

~~2. Where a taxable person only assembles the different 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 6 (1) of Directive 77/388/EEC.~~

## CHAPTER III

### PLACE OF TAXABLE TRANSACTIONS

---

#### SECTION 1

#### CONCEPTS

##### *Article 14*

1. The place where the business of a taxable person is established within the meaning of Directive 2006/112/EC shall be the place where essential decisions concerning the general management of that business are adopted, and where the functions of its central administration are carried out. This may differ from the place from which the activities of the taxable person are carried out.

2. In determining the place of establishment of a business, the following factors shall be taken into account:

- (a) the registered office of the business;
- (b) the place of the business' central administration;
- (c) the place where the business' management meets;
- (d) the place where general policy is determined.

3. In determining the place of establishment of a business, the following factors may be considered:

- (a) the place of residence of the managers of the business;
- (b) the place where general meetings are held;
- (c) the place where administrative and accounting documents are held;
- (d) the place where the business has its main bank accounts;

(e) other factors, where relevant.

4. The mere presence of a postal address may not be taken to be the place of establishment of a business of a taxable person unless it meets the requirements of paragraphs 1, 2 and 3.

#### *Article 15*

1. 'Fixed establishment' as referred to in Articles 44 and 45 of Directive 2006/112/EC shall be any establishment of a minimum size with sufficient human and technical resources permanently present to enable it to:

(a) receive and make use of the services supplied to it in the case of services covered by Article 44 of Directive 2006/112/EC;

(b) provide the services it supplies in the case of services covered by Article 45 of Directive 2006/112/EC.

#### *Article 16*

'Permanent address' as referred to in Directive 2006/112/EC shall be the address of a natural person, whether or not a taxable person, entered into the population or similar register, or, in the absence of such a register, the address indicated by that person to the relevant tax authorities, unless there is evidence that the address indicated does not reflect reality.

#### *Article 17*

The place where a person 'usually resides' as referred to in Directive 2006/112/EC shall be the place where, at the time the service is supplied, a natural person, whether or not a taxable person, usually lives as a result of personal and occupational ties which show close links between that person and the place where he is living. Where these ties are not in a single country, or, where there are no occupational ties, personal ties shall determine the place of usual residence.

**SECTION 12**

**⊗ PLACE OF SUPPLY OF GOODS ⊗**

**(ARTICLE ~~9(1)~~ ARTICLES 31 TO 39 OF DIRECTIVE ~~77/388/EEC~~ 2006/112/EC)**

*Article ~~22~~18*

Where in the course of a calendar year the threshold applied by a Member State in accordance with Article ~~28b(B)(2)~~34 of Directive ~~77/388/EEC~~2006/112/EC is exceeded, Article ~~28b(B)~~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 ~~the supplier~~ ⊗ all of the following conditions are met ⊗ :

- (a) ⊗ the supplier ⊗ has not exercised the option ⊗ provided for ⊗ under Article ~~28b(B)(3)~~34(4) of that Directive ~~and~~;
- (b) ⊗ the value of his supplies of goods ⊗ did not exceed the threshold in the course of the preceding calendar year.

However, Article ~~28b(B)~~33 of Directive ~~77/388/EEC~~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 19*

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.



---

↓ 1777/2005 (adapted)

**CHAPTER VIII SECTION 3**

**~~TRANSITIONAL MEASURES~~ ☒ PLACE OF INTRA-COMMUNITY  
ACQUISITIONS OF GOODS ☒**

---

↓ 1777/2005

**(ARTICLES ~~28A AND 28B~~ 40, 41 AND 42 OF DIRECTIVE  
77/388/EEC 2006/112/EC)**

*Article ~~21~~ 20*

Where an intra-Community acquisition of goods within the meaning of Article ~~28a~~ 20 of Directive ~~77/388/EEC~~ 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.

---

↓ 1777/2005 (adapted)

Any request by a supplier of goods for a correction in the ~~tax~~ ☒ 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 24

### ⊗ PLACE OF SUPPLY OF SERVICES ⊗

~~(ARTICLE 9(2) ARTICLES 43 TO 59 OF DIRECTIVE 77/388/EEC 2006/112/EC)~~

---

↓ new

#### SUBSECTION 1

#### STATUS OF THE CUSTOMER

##### *Article 21*

1. Where the place of supply of services depends on whether or not the customer is a taxable person, the status of the customer shall be determined on the basis of Title III of Directive 2006/112/EC.

2. In determining the status of the customer established within the Community as a taxable person, the supplier shall be considered to have acted in good faith where he has complied with all of the following requirements:

- (a) he has established that the customer is a taxable person from the VAT identification number communicated to him by that customer, or from any other proof which demonstrates that the customer is a taxable person or a non-taxable legal person identified for VAT purposes;
- (b) he has obtained confirmation of the validity of that VAT identification number, or the other proof given by the customer;
- (c) he has carried out a reasonable level of verification of the accuracy of the information provided by the customer, by existing security measures.

3. In determining the status of the customer established outside the Community as a taxable person, the supplier shall be considered to have acted in good faith where he has obtained a certificate, if already available, 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<sup>12</sup>, or complied with a combination of some or all of the following requirements:

- (a) he has the VAT number, or a similar number attributed to the customer by the country of establishment and used to identify businesses;

---

<sup>12</sup> OJ L 326, 21.11.1986, p. 40

- (b) he has print outs of any relevant website of the customer's competent tax authorities confirming his taxable status;
- (c) he has the customer's order form containing his business address and trade registration number;
- (d) he has evidence from the customer's website confirming that he is conducting an economic activity.

#### *Article 22*

A non-taxable legal person who is identified for VAT purposes under point (b) of Article 214(1) of Directive 2006/112/EC because his intra-Community acquisitions are subject to VAT shall be a taxable person within the meaning of Article 43 of that Directive.

### **SUBSECTION 2**

#### **CAPACITY OF THE CUSTOMER**

#### *Article 23*

Where a taxable person, or a non-taxable legal person deemed to be a taxable person, receives services for his private use or for that of his staff, or more generally for purposes other than those of his business, he shall not, for the purposes of Article 44 of Directive 2006/112/EC, be regarded as acting in the capacity of a taxable person. That person shall be regarded as a non-taxable person for the purpose of applying the rules concerning the place of supply of services.

The nature of the services provided shall be taken into account when the supplier assesses whether his customer is acting as a taxable person. Where the nature of the services is such that it leads to doubt as to whether the services are for business use or not, the supplier may be required to obtain a self declaration from the customer on the intended use of the acquired service.

#### *Article 24*

The assessment of the purpose to which each service will be put, which is necessary to determine the place of supply of that service, shall only take into account the circumstances existing at the moment of supply. Any subsequent changes to the use of the service received shall not affect the determination of the place of supply, provided no evidence of abuse of law exists.

#### *Article 25*

Where a single service is intended for both business and private use of the customer, the supply of that service shall fall within the scope of Article 44 of Directive 2006/112/EC.

### **SUBSECTION 3**

#### **CUSTOMER LOCATION**

##### *Article 26*

Where, in accordance with Article 44 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 ascertain that place based on information from the customer, and verify that information.

The information may consist of the VAT identification number communicated by the customer.

##### *Article 27*

1. Where, in accordance with 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 ascertain that place based on factual information provided by the customer, and verify that information by existing security measures.

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 ascertain that place based on factual information provided by the customer, and verify that information by existing security measures.

##### *Article 28*

1. 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 that taxable person is established, or has his permanent address or usual residence in more than one country, those services shall be taxable at the place where the customer has established his business.

However, where services are provided to a fixed establishment of the taxable person located in a place other than that where the customer has established his business, those services shall be taxable at that place.

2. Unless there is evidence of abuse of law, the taxable person receiving the services shall be responsible for determining the place where the services referred to in paragraph 1 are supplied.

3. In assessing whether the services are actually provided to a fixed establishment, the taxable person shall pay particular attention to the following:

- (a) whether the contract or the order form identify the fixed establishment as the recipient of the services;
- (b) whether the fixed establishment is the entity paying for the services or the cost is actually borne by this entity;
- (c) the nature and application of the services where this allows for the identification of the particular fixed establishment(s) to which the service is provided.

4. Where the customer's VAT identification number mentioned on the invoice is the same as that attributed by the Member State of the fixed establishment, the services shall be considered as having been provided to that fixed establishment unless the contrary is proven.

#### *Article 29*

Where services covered by Article 44 of Directive 2006/112/EC are supplied to a taxable person under a contract covering a number of services used in several places, the supply of such services shall be taxable at the place where the customer has established his business.

However, where any of the services covered by such a contract are actually intended for the use of a fixed establishment, the supply of those services shall be taxable at the place where that fixed establishment is located.

#### *Article 30*

1. Where services covered by Article 56(2) Directive 2006/112/EC are supplied to a non-taxable person who is established or, in the absence of an establishment, has his permanent address or usually resides, in more than one place, 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 or, in the absence of an establishment, has his permanent address or usually resides, in more than one place, 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

### SUPPLY OF SERVICES GOVERNED BY THE GENERAL RULES

---

↓ 1777/2005

#### Article ~~7~~31

Where a body ~~established in a third country~~ assigns television broadcasting rights in respect of football matches to taxable persons ~~established in the Community~~, that transaction shall be covered by ~~the first indent of~~ Article ~~9(2)(c)44~~ of Directive ~~77/388/EEC~~2006/112/EC.

#### Article ~~8~~32

The supply of services which consist in applying for or receiving refunds under Council Directive 79/1072/EEC2008/9/EC<sup>13</sup> shall be covered by ~~the third indent of~~ Article ~~9(2)(c)44~~ of Directive ~~77/388/EEC~~2006/112/EC.

#### Article ~~4~~33

---

↓ 1777/2005 (adapted)  
⇒ new

Insofar as they constitute a single service,  the supply of  services ~~supplied~~  made  in the framework of organising a funeral shall fall within the scope of Article ~~9(1)44~~ of Directive ~~77/388/EEC~~2006/112/EC ⇒ if supplied to a taxable person acting as such, or a non-taxable legal person deemed to be a taxable person, and Article 45 of that Directive if supplied to a non-taxable person .

#### Article ~~6~~34

The ~~service~~  supply of services  of translation of texts shall be covered by Article ~~9(2)(c)44~~ of Directive ~~77/388/EEC~~2006/112/EC ⇒ if supplied to a taxable person acting as such, or a non-taxable legal person deemed to be a taxable person, and Article 45 of that Directive if supplied to a non-taxable person .

---

<sup>13</sup> ~~Eighth Council Directive 79/1072/EEC of 6 December 1979 on the harmonisation of the laws of the Member States relating to turnover taxes — Arrangements for the refund of value added tax to taxable persons not established in the territory of the country (OJ L 331, 27.12.1979, p. 11). Directive as last amended by the 2003 Act of Accession (OJ L 44, 20.2.2008, p. 23).~~

---

↓ new

## SUBSECTION 5

### SUPPLY OF SERVICES BY INTERMEDIARIES

#### Article 35

Where services other than services of experts and estate agents in connection with immovable property, are supplied by intermediaries acting in the name and on behalf of another person, that supply shall:

- (a) fall within the scope of Article 44 of Directive 2006/112/EC if supplied to a taxable person;
- (b) fall within the scope of Article 46 of that Directive, if supplied to a non-taxable person.

---

↓ 1777/2005 (adapted)

#### Article ~~36~~

The supply of services of ~~agents~~  intermediaries  as referred to in ~~the seventh indent of Article 9(2)(c)46~~ of Directive ~~77/388/EEC~~ 2006/112/EC shall cover the services of ~~agents~~  intermediaries  acting in the name and ~~for the account~~  on behalf  of the recipient of the service procured and  the  services performed by ~~the agents~~  intermediaries  acting in the name and for the account of the provider of the ~~service~~  services  procured.

## SUBSECTION 6

### SUPPLY OF CULTURAL, ARTISTIC, SPORTING, SCIENTIFIC, EDUCATIONAL, ENTERTAINMENT, AND SIMILAR SERVICES, ANCILLARY TRANSPORT SERVICES AND VALUATIONS OF AND WORK ON IMMOVEABLE PROPERTY

#### Article ~~37~~

Except where the goods being assembled become part of immovable property, the place of the supply of services ~~specified in Article 3(2) of this Regulation~~  to a non-taxable person consisting only of the assembly by a taxable person of the different parts of a machine, all of which were provided to him by his customer  shall be established in accordance with Article ~~9(2)(c) or Article 28b(F)54~~ of Directive ~~77/388/EEC~~ 2006/112/EC.

**SUBSECTION 7****SUPPLY OF RESTAURANT AND CATERING SERVICES, WHETHER OR NOT ON BOARD MEANS OF TRANSPORT***Article 38*

The section of a passenger transport operation effected within the Community referred to in Article 57 of Directive 2006/112/EC shall be determined by the journey of the means of transport.

*Article 39*

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, that supply shall be covered by Article 55 of that Directive.

*Article 40*

The place of supply of a single restaurant service or catering service carried out 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 at the beginning of the supply of the service.

**SUBSECTION 8****HIRING OF MEANS OF TRANSPORT***Article 41*

1. 'Means of transport' as referred to in Article 56 and point (g) 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 and actually capable to be used for transport.

2. Paragraph 1 shall apply, in particular, to the following:



- (a) land vehicles, such as cars, motor cycles, bicycles, tricycles and caravans unless fixed to the soil;
- (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) vehicles for military, surveillance or civil defence purposes other than for combat;
- (i) mechanically or electronically propelled invalid carriages.

3. Paragraph 1 shall not apply to containers.

#### *Article 42*

1. The duration of the continuous possession or use of a means of transport which is the subject of hiring referred to in Article 56 of Directive 2006/112/EC shall be determined on the basis of the contractual agreement between the parties involved, including any tacit agreement. The contract shall serve as a presumption which may however be rebutted by any means in fact or law in order to establish the actual duration of the continuous possession or use.

Where the period of hiring as set out in the contract is exceeded due to clearly established circumstances outside the control of the parties involved, it shall have no bearing on the established duration of the possession or use of the means of transport.

2. Where hiring of a means of transport is covered by two or more consecutive contracts between the same parties or where the interval between contracts is two days or less, the duration of the continuous possession or use of the means of transport under a contract shall take into account any possession or use of that means of transport provided for under previous contracts.

Provided no abuse of law exists, the duration of the continuous possession or use of a means of transport under a contract shall not take into account any possession or use of that means of transport provided for under subsequent contracts.

3. Where the means of transport covered by hiring contracts is not the same, the duration of the continuous possession or use of the means of transport under each contract shall be determined on its own merits, provided no evidence of abuse of law exists.

*Article 43*

Where the hiring of a means of transport falls within the scope of Article 56(1) of Directive 2006/112/EC, the place where the means of transport is actually put at the disposal of the customer shall be the place where the means of transport is located when the customer takes physical control over it.

↓ 1777/2005 (adapted)

**SUBSECTION 9**

**☒ SUPPLY OF SERVICES TO NON-TAXABLE PERSONS OUTSIDE THE  
COMMUNITY ☒**

*Article ~~64~~*

The ~~service~~ ☒ supply of services ☒ of translation of texts shall be covered by Article ~~9(2)(e)~~59(c) of Directive ~~77/388/EEC~~2006/112/EC.

*Article ~~10~~*

~~Trailers and semi-trailers, as well as railway wagons, shall be forms of transport for the purposes of the eighth indent of Article 9(2)(e) of Directive 77/388/EEC.~~

↓ 1777/2005

**CHAPTER ~~IV~~VI**

**TAXABLE AMOUNT**

**(~~ARTICLE 11~~TITLE VII OF DIRECTIVE ~~77/388/EEC~~2006/112/EC)**

*Article ~~13~~45*

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 ~~Article 11~~Articles 73 to 80 of Directive ~~77/388/EEC~~2006/112/EC.

---

↓ new

## CHAPTER VII

### RATES

#### Article 46

‘Provision of holiday accommodation’ as referred to in point (12) of Annex III of Directive 2006/112/EC shall include the hiring out of tents, caravans fixed to the soil, and mobile homes by camping sites.

---

↓ 1777/2005

## CHAPTER ~~VIII~~

### EXEMPTIONS

#### SECTION 1

---

↓ 1777/2005 (adapted)

### ⊗ EXEMPTIONS FOR CERTAIN ACTIVITIES IN THE PUBLIC INTEREST ⊗

---

↓ 1777/2005

### ~~(ARTICLE 13)~~ ARTICLES 132, 133 AND 134 OF DIRECTIVE ~~77/388/EEC~~ 2006/112/EC)

#### Article ~~14~~47

Vocational training or retraining services provided under the conditions set out in ~~Article 13(A)(1)(i)~~ point (i) of Article 132(1) of Directive ~~77/388/EEC~~ 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**

---

↓ 1777/2005 (adapted)

### **⊗ EXEMPTIONS FOR OTHER ACTIVITIES ⊗**

---

↓ 1777/2005

### **(ARTICLES 135, 136 AND 137 OF DIRECTIVE 2006/112/EC)**

#### *Article ~~1548~~*

The exemption referred to in point (e) of Article ~~13(B)(d)(4)~~135(1) of Directive ~~77/388/EEC~~2006/112/EC shall not apply to platinum nobles.

---

↓ new

## **SECTION 3**

### **EXEMPTIONS ON IMPORTATION**

### **(ARTICLES 143, 144 AND 145 OF DIRECTIVE 2006/112/EC)**

#### *Article 49*

The exemption referred to 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.

---

↓ 1777/2005

**SECTION 24**

---

↓ 1777/2005 (adapted)

**⊗ EXEMPTIONS ON EXPORTATION ⊗**

---

↓ 1777/2005

**(~~ARTICLE 15~~ ARTICLES 146 AND 147 OF DIRECTIVE ~~77/388/EEC~~2006/112/EC)**

*Article ~~16~~50*

‘Means of transport for private use’ as referred to in ~~the first subparagraph~~ point (b) of Article ~~15(2)~~146(1) of Directive ~~77/388/EEC~~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 ~~4(5)~~13 of that Directive and associations.

*Article ~~17~~51*

---

↓ 1777/2005 (adapted)

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 ~~the third indent~~ point (c) of ~~the second subparagraph of~~ Article ~~15(2)~~147(1) of Directive ~~77/388/EEC~~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 52*

The exemption provided for in Article 151 of Directive 2006/112/EC shall apply to electronic services even 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 53*

1. A body which is to be set up as a European Research Infrastructure Consortium (ERIC), shall qualify as an international body for the purposes of point (g) of Article 143 and point (b) of the first subparagraph of Article 151(1) of Directive 2006/112/EC where it fulfils all of the following conditions:

- (a) it has a distinct legal personality and full legal capacity;
- (b) it is set up under and is subject to Community law;
- (c) its membership includes Member States and, where appropriate, third countries and inter-governmental organisations, but excludes private bodies;
- (d) it has 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 and point (b) of the first subparagraph of Article 151(1) of Directive 2006/112/EC shall apply to the ERIC 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 or by a headquarters agreement. 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 54

1. Where the recipient of the supply of goods or services is established within the Community but not in the Member State in which the supply takes place, the common VAT and excise duty exemption certificate set out in Annex II to this Regulation, shall, subject to the explanatory notes set out in that Annex, be relied upon as evidence that the recipient is entitled to such exemption under Article 151 of Directive 2006/112/EC.

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 exempt the recipient from the requirement to have the certificate stamped under such conditions as they may lay down.

Member States shall inform the Commission of the service 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 only, pursuant to Article 151(2) of Directive 2006/112/EC, the certificate shall instead be attached to the request for refund submitted to the Member State concerned.

---

↓ 1777/2005

### CHAPTER VIIX

#### DEDUCTIONS

~~(ARTICLE 18~~ TITLE X OF DIRECTIVE 77/388/EEC ~~2006/112/EC)~~

#### Article ~~18~~55

---

↓ 1777/2005 (adapted)

Where the ~~importing~~ Member State  of importation  has introduced an electronic system for completing customs formalities, the expression ‘import document’ as referred to in point (e) of Article 18(1)(b)178 of Directive 77/388/EEC ~~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)***Article 56*

1. Where the technical or human resources of a fixed establishment that a taxable person has within the territory of the Member State where the VAT is due are used by him for the fulfilment of the taxable supply of goods or services made within that Member State, whether before or during this fulfilment, or where it is envisaged that these resources may be used subsequently by the supplier without constituting a separate supply of goods or services, whatever the extent of this use, the establishment shall be regarded as intervening in that supply within the meaning of point (b) of Article 192a of Directive 2006/112/EC.

2. Where the resources referred to in paragraph 1 are only used by the taxable person 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.

3. If the taxable person issues an invoice 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 57*

Where a taxable person has established his place of business within the territory of the Member State where the VAT is due, that taxable person shall not be covered by Article 192a of Directive 2006/112/EC even if that place of business does not intervene in the supply of goods or services he makes within that Member State.

*Article 58*

Where a supplier of services satisfies the conditions laid down in Articles 21 and 23 of this Regulation, the customer may, in accordance with Article 205 of Directive 2006/112/EC, be liable for the VAT due.



---

↓ 1777/2005

## CHAPTER ~~VII~~X

### SPECIAL SCHEMES

#### SECTION 1

---

↓ 1777/2005 (adapted)

#### ⊗ SPECIAL SCHEME FOR INVESTMENT GOLD ⊗

---

↓ 1777/2005

(ARTICLES ~~26B AND 26C~~344 TO 356 OF DIRECTIVE ~~77/388/EEC~~2006/112/EC)

#### *Article ~~49~~59*

~~1.~~ 'Weights accepted by the bullion markets' as referred to in point (l) of Article 26b(A)(i), first paragraph, 344(1) of Directive 77/388/EEC 2006/112/EC shall at least cover the units and the weights traded as set out in Annex ~~III~~ to this Regulation.

#### *Article 60*

---

↓ 1777/2005 (adapted)

~~2.~~ For the purposes of establishing the list ⊗ of gold coins ⊗ referred to in ~~the third subparagraph of Article 26b(A) 345 of Directive 77/388/EEC~~ 2006/112/EC, 'price' and 'open market value' as referred to in ~~the fourth indent of point (ii)(2) of the first subparagraph~~ Article 344(1) 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 ~~206~~1*

~~1~~ Where, in the course of a calendar quarter, a non-established taxable person using the special scheme ☒ for electronically supplied services ☒ provided for in ~~Article 26c(B)~~Articles 357 to 369 of Directive ~~77/388/EEC~~2006/112/EC meets at least one of the criteria for exclusion laid down in Article ~~26c(B)(4)~~363, 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 electronic services supplied 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 ~~26c(B)(5)~~364 of Directive ~~77/388/EEC~~2006/112/EC. The requirement to submit this return shall have no effect on the requirement, if any, to ~~register~~ ☒ be identified for VAT purposes ☒ under the normal rules in a Member State.

##### *Article 62*

~~2~~ Any return period ( ☒ calendar ☒ quarter) within the meaning of Article ~~26c(B)(5)~~364 of Directive ~~77/388/EEC~~2006/112/EC shall be a separate return period.

##### *Article 63*

Once a ☒ VAT ☒ return ~~under Article 26c(B)(5) of Directive 77/388/EEC~~ has been ~~rendered~~ ☒ 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 64*

~~4~~ Amounts on ~~value added tax~~ ☒ VAT ☒ returns made under the special scheme ☒ for electronically supplied services ☒ provided for in ~~Article 26c(B)~~Articles 357 to 369 of Directive ~~77/388/EEC~~2006/112/EC shall not be rounded up or down to the nearest whole monetary unit. The exact amount of ~~value added tax~~ ☒ VAT ☒ shall be reported and remitted.

### Article 65

~~2.~~ 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 ~~26c(B)(5)~~364 of Directive ~~77/388/EEC~~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 66

Amounts of ~~value added tax~~  VAT  paid under Article ~~26c(B)(7)~~367 of Directive ~~77/388/EEC~~2006/112/EC shall be specific to ~~that~~  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.

---

↓ 1777/2005

## **CHAPTER ~~IX~~XII**

### **FINAL PROVISIONS**

---

↓

### Article 67

Regulation (EC) No 1777/2005 is repealed.

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

---

↓ 1777/2005 (adapted)  
⇒ new

### Article ~~23~~68

This Regulation shall enter into force on ~~1 July 2006~~  1 January 2010  .

~~Article 13~~ ⇒ Article 54 and Annex II ⇐ shall ~~be applicable~~ ☒ apply ☒ from ~~1 January 2006~~ ⇒ 1 April 2010 ⇐ .

---

↓ new

Article 27(1) and Article 30(1) shall apply from 1 January 2013.

---

↓ 1777/2005

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

Done at Brussels,

*For the Council  
The President*

**ANNEX I**

**Article 110 of this Regulation**

1(1) Item 1 of Annex II to Directive 77/388/EEC 2006/112/EC:

- (a) Website hosting and webpage hosting;
- (b) ~~A~~automated, online and distance maintenance of programmes;
- (c) ~~R~~remote systems administration;
- (d) ~~O~~online data warehousing where specific data is stored and retrieved electronically;
- (e) ~~O~~online supply of on-demand disc space.

2(2) Item 2 of Annex II to Directive 77/388/EEC 2006/112/EC:

- (a) Accessing or downloading software (including procurement/accountancy programmes and anti-virus software) plus updates;
- (b) ~~S~~software to block banner adverts showing, otherwise known as Bannerblockers;
- (c) ~~D~~ownload drivers, such as software that interfaces computers with peripheral equipment (such as printers);
- (d) ~~O~~online automated installation of filters on websites;
- (e) ~~O~~online automated installation of firewalls.

3(3) Item 3 of Annex II to Directive 77/388/EEC 2006/112/EC:

- (a) Accessing or downloading desktop themes;
- (b) ~~A~~accessing or downloading photographic or pictorial images or screensavers;
- (c) ~~T~~he digitised content of books and other electronic publications;
- (d) ~~S~~ubscription to online newspapers and journals;
- (e) ~~W~~weblogs and website statistics;
- (f) ~~O~~online news, traffic information and weather reports;
- (g) ~~O~~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) ~~T~~he provision of advertising space including banner ads on a website/web page;
- (i) ~~U~~se of search engines and Internet directories.

~~4~~(4) Item 4 of Annex ~~LII~~ to Directive ~~77/388/EEC~~2006/112/EC:

- (a) Accessing or downloading of music on to computers and mobile phones;
- (b) ~~A~~ccessing or downloading of jingles, excerpts, ringtones, or other sounds;
- (c) ~~A~~ccessing or downloading of films;
- (d) ~~D~~ownloading of music on to computers and mobile phones;
- (e) ~~A~~ccessing automated online games which are dependent on the Internet, or other similar electronic networks, where players are geographically remote from one another.

~~5~~(5) Item 5 of Annex ~~LII~~ to Directive ~~77/388/EEC~~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) ~~W~~orkbooks completed by pupils online and marked automatically, without human intervention.

---

↓ new

**ANNEX II**

**Article 54 of this Regulation**

<b>Serial No (optional):</b>		
<b>1. ELIGIBLE INSTITUTION/INDIVIDUAL</b>		
Designation/name		
Street and No		
Postal code, place		
(Host) Member State		
<b>2. COMPETENT AUTHORITY FOR ISSUING THE STAMP (name, address and telephone number)</b>		
<b>3. DECLARATION BY THE ELIGIBLE INSTITUTION OR PERSON</b>		
The eligible institution or individual <sup>(1)</sup> hereby declares		
(a) that the goods 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"/> an international organisation</li> <li><input type="checkbox"/> an armed forces of a State being a party to the North Atlantic Treaty (NATO force)</li> <li><input type="checkbox"/> an 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 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 institution or individual hereby undertakes to pay to the Member State from which the goods were dispatched or from which the goods or services were supplied, the VAT or excise duty which would be due if the goods or services did not comply with the conditions of exemption, or if the goods or services were not used in the manner intended.		
Name and status of signatory		
Place, date	Signature	
<b>4. STAMP OF THE INSTITUTION (in case of exemption for personal use)</b>		
Place, date	Stamp	Name and status of signatory  Signature



**5. DESCRIPTION OF THE GOODS AND/OR SERVICES, FOR WHICH THE EXEMPTION FROM VAT OR EXCISE DUTY IS REQUESTED**

**A. Information concerning the supplier/authorised warehousekeeper**

(1) Name and address:

(2) Member State

(3) VAT/excise number

**B. Information concerning the goods or services:**

No	Detailed description of the goods 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	
<b>Total amount</b>					

**6. CERTIFICATION BY THE COMPETENT AUTHORITIES OF THE HOST MEMBER STATE**

The consignment/supply of goods or services described in box 5 meets:

totally  up to a quantity of (number)<sup>(4)</sup>

the conditions for exemption from VAT and 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:

Competent authority in host Member State:

Name and status of signatory

Place, date

Stamp

Signature

- (1) Delete as appropriate.
- (2) Place a cross in the appropriate box.
- (3) Delete space not used. This obligation also applies if order forms are attached.
- (4) Goods 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 institutions/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* No 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 administrative accompanying document.

(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 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 institution/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 institution/individual.

(f) A recognised language means one of the languages officially in use in the Member State or any other official language of the Community which the Member State declares can be used for this purpose.

3. By its declaration in box 3 of the certificate, the eligible institution/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 institution confirms the details in boxes 1 and 3(a) of the document and certifies that the eligible individual is a staff member of the institution.

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 No 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 No 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 institution/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 institution to ask for the stamp in the case of exemption for official use. The eligible institution should mention this dispensation at box 7 of the certificate.

(1) As an indication, some codes relating to currencies currently used: EUR (euro), BGN (leva), CZK (Czech koruny), DKK (Danish kroner), EEK (kroonid), GBP (Pound sterling), HUF (forint), LTL (litai), PLN (zloty), RON (Romanian lei), SEK (Swedish kronor), USD (United States dollar).

**ANNEX III**

**Article 1959 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>14</sup>	10/5/1
Tola (10 tolas = 3,75 oz.) <sup>15</sup>	10

<sup>14</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>15</sup> Tola = a traditional Indian unit of weight for gold. The most popular sized bar is 10 tola, 999 fineness.

## ANNEX IV

### **Correlation Table**

<b>Regulation (EC) No 1777/2005</b>	<b>This Regulation</b>
Chapter I	Chapter I
Article 1	Article 1
Chapter II	Chapter III
Section 1	-
Article 2	Article 6
Section 2	Section 2 of Chapter IV
Article 3(1)	Article 13
Article 3(2)	Article 11
Chapter III	Chapter V
Section 1	Section 2 of Chapter V
Article 4	Article 33
Section 2	Section 4 of Chapter V
Article 5	Article 37
Article 6	Articles 34 and 44
Article 7	Article 31
Article 8	Article 32
Article 9	Article 36
Article 10	Article 41(2)(b)-(c)
Article 11(1)-(2)	Article 10(1)-(2)
Article 12	Article 10(3)
Chapter IV	Chapter VI
Article 13	Article 45
Chapter V	Chapter VIII
Section 1	Section 1 of Chapter VIII

Article 14	Article 47
Article 15	Article 48
Section 2	Section 2 of Chapter VIII
Article 16	Article 50
Article 17	Article 51
Chapter VI	Chapter IX
Article 18	Article 55
Chapter VII	Chapter X
Article 19(1)	Article 59
Article 19(2)	Article 60
Article 20(1)	Article 61
Article 20(2)	Article 65
Article 20(3), first subparagraph	Article 62
Article 20(3), second subparagraph	Article 63
Article 20(3), third subparagraph	Article 66
Article 20(4)	Article 64
Chapter VIII	Section 3 of Chapter V
Article 21	Article 20
Article 22	Article 18
Chapter IX	Chapter XII
Article 23	Article 68
Annex I	Annex I
Annex II	Annex III