

**APPENDIX 12: IDENTIFICATION OF THE RULES THAT WOULD NEED TO BE CHANGED**

**VAT Directive 2006/112/EC**

	To be repealed	To be amended	Options for consideration	Comments	Reference
<b>Title I</b>					
<b>Subject matter and scope</b>					
Article 2 (1) (b)	Yes			Delete as concept of intra-Community acquisition of goods is no longer relevant for B2B and B2C intra-EU cross border transactions.	
			Yes	If the concept of intra-Community acquisition is completely abolished (for B2B and B2C) and in case significant distortion of competition between Member States would still occur, the place of supply of new means of transport also needs to be reconsidered for B2C. The place where the new means of transport will be registered (e.g. license plate for cars, certificate of registry for ships and tail number for aircraft) could be used to define the place of supply.	
Article 2 (2) (a)		Yes		Amend as reference in the article to article 2 (1) (b), meaning that the definition of "new means of transport" remains (similar to definition for products subject to excise duty). The definition of "new means of transport" can also be integrated in other articles (like for instance in article 9 (2) with respect to the occasional taxable person selling new means of transport).	
Article 3	Yes			Delete as concept of intra-Community acquisition of goods is no longer relevant (including current thresholds for intra-Community acquisitions for non-taxable legal persons, small enterprises, taxable persons without right to deduct VAT and farmers subject to the flat-rate scheme).	
Article 4	Yes			Delete as concept of intra-Community acquisition of goods is no longer relevant.	
<b>Title III</b>					
<b>Taxable persons</b>					
Article 9			Yes	In view of the introduction of the new B2B localisation rule for the supplies of goods, one might consider to also regard non-taxable legal persons who, on an occasional basis, supply goods for consideration for which no right of deduction shall arise as taxable persons. At least for the intra-EU supplies of goods this option should be considered for a proper functioning of the new B2B rule for the place of supplies of goods.	Chapter 7 and appendix 9
Article 9 (2)		Yes		In case significant distortion of competition between Member States would occur, to amend the article to any person who, on an occasional basis, supplies new means of transport, for which the customer is liable for payment of VAT. One could consider for the same reason to expand the amended article to all means of transport in view a proper taxation of this category of goods.	
Article 13			Yes	For public bodies, the option to consider them as taxable persons for the reasons as outlined under article 9, might be integrated in this article instead of in article 9.	Chapter 7 and appendix 9
<b>Title IV</b>					
<b>Taxable transactions</b>					
<b>Chapter 1</b>					
<b>Supply of goods</b>					
Article 14 (3)		Yes		Amend to have consistent definition in all Member States i.e. delete option for Member States to consider work of construction as a supply of goods (from "may" to "shall").  Add more general concept that supply of goods also means movable tangible property that is installed or assembled, with or without a trial run, by or on behalf of the supplier.	
Article 15 (2)		Yes		Amend from optional to obligatory provision (from "may" to "shall").  Also qualification as immovable property required to be consistent between Member States in the place of supply rules of these interests and rights in rem .	
Article 16			Yes	In view of the introduction of the new B2B localisation rule for supplies of goods, one might consider to introduce a new concept of "deemed supply" (assimilation to supply of goods for consideration) in case of allocation of cost of goods (and services in view of alignment) from head office to fixed establishment or other place of business or the other way round or between fixed establishments (see also articles 26 for services).	Chapter 8
Article 17	Yes			Delete as concept of deemed intra-Community supply by a taxable person of goods forming part of his business assets is no longer relevant (including concept of "non-transfers" of goods).	
Article 18		Yes		Amend from optional to obligatory provision (from "may" to "shall").	
Article 19		Yes		Amend from optional to obligatory provision (from "may" to "shall").  The application by Member States should also be harmonised as much as possible so that the application of "no supply of goods" principle leads to comparable results in all the Member States.	

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	To be repealed	To be amended	Options for consideration	Comments	Reference
<b>Chapter 2</b>					
<b>Intra-Community acquisition of goods</b>					
Article 20	Yes			Delete as concept of intra-Community acquisition of goods is no longer relevant.	
Article 21	Yes			Delete as concept of intra-Community acquisition of goods is no longer relevant.	
Article 22	Yes			Delete as concept of intra-Community acquisition of goods is no longer relevant.	
Article 23	Yes			Delete as concept of intra-Community acquisition of goods is no longer relevant.	
<b>Chapter 3</b>					
<b>Supply of services</b>					
Article 25 (a)		Yes		If article 15 (2) would be amended from an optional to an obligatory provision (from "may" to "shall"), this article should be aligned with the new article 15 (2).	
Article 26			Yes	In view of aligning the new place of supply rules for goods and services, add a new concept of "deemed supply" (assimilation to supply of services for consideration) in case of allocation of cost of goods and services from head office to fixed establishment or other place of business or the other way round or between fixed establishments (see also article 16 for goods).  Add a new concept of "deemed supply" in order to ensure that the concept of "deemed supply" as defined in article 16 for goods is not circumvented when the fixed establishment is merely allowed to make use of goods forming part of the assets of the head office or the other way round or between fixed establishments.	Chapter 8
Article 26 (2)	Yes			Delete to be consistent with articles 16 and 18.	
<b>Title V</b>					
<b>Place of taxable transactions</b>					
<b>Chapter 1</b>					
<b>Place of supply of goods</b>					
New article			Yes	Add definition of B2B customer for the purpose of applying the new B2B localisation rule for supplies of goods (probably new article to be inserted before article 31 similar as for B2B services or include "general" definitions at the beginning of the Directive).	Chapter 3
New article			Yes	Add new B2B localisation rule for the supplies of goods, i.e. where the B2B customer, being the contracting party to the agreement, is established. This new rule is applicable for non-EU customers to the extent that the customer has a "presence" within the EU. "Presence" for non-EU customers can be defined as being represented by a third party established in the EU acting as their VAT representative.	Chapters 3 and 8
New article			Yes	Add specific B2B localisation rule for the supplies of EU goods, i.e. where the supplier is established or is deemed to be established via a "presence" in the EU, in case the B2B customer does not have a "presence" within the EU.	Chapter 6
New article			Yes	If the other localisation rules do not lead to EU taxation and the goods are located in the EU, the EU Member State where the goods are located at the time of supply should have the power to tax.	Chapter 6
New article			Yes	Add specific localisation rule for supply of immovable property and rights in rem with respect to immovable property as it is the case for services, i.e. where the immovable property is located (especially in combination with option to tax supply of "new building, the land on which the building stands and building land"). Attention should be paid to a limited or broad application of this rule in view of risk of distortion of competition and to ascertain a consistent tax treatment, for example for movable tangible property bought by the owner of the immovable property and incorporated by himself.	Chapter 3
New article			Yes	Add specific B2B localisation rule for supplies by small enterprises, i.e. where the small enterprise is established. Unless another option is chosen, being abolishing the special regime on the basis of the combined reading of articles 292 and 402 of the VAT Directive, or, in case a common small enterprise regime is maintained by the Member States pursuant to article 294 of the VAT Directive, by limiting the scope of application to cases where both the small enterprise and the customer are established in the same Member State.	Chapter 7 and appendix 6
New article			Yes	Add specific B2B localisation rule for supplies of second-hand goods, works of art, collectors' items or antiques falling under the margin scheme, i.e. where the supplier is established. Unless another option is chosen, being following the general B2B localisation rule with supplier who is always liable to pay VAT due on the margin, even if not established in the Member State of the customer. This is necessary due to the resistance of taxable dealers to disclose their profit margin.	Chapter 7 and appendix 8
New article			Yes	Add specific B2C localisation rule for supply of (new) means of transport, if the concept of intra-Community acquisition is completely abolished (for B2B and B2C) and in case significant distortion of competition between Member States would still occur, being the place where the (new) means of transport will be registered (e.g. license plate for cars, certificate of registry for ships and tail number for aircraft). One could consider for the same reason and to ascertain a consistent VAT treatment, to introduce this rule also for B2B supplies of these goods (except for taxable traders in these goods).	

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<b>Section 1</b>					
<b>Supply of goods without transport</b>					
Article 31		Yes		Amend as this article will only be applicable for B2C supplies of goods.	
<b>Section 2</b>					
<b>Supply of goods with transport</b>					
Article 32		Yes		Amend as this article will only be applicable for B2C supplies of goods.	
Article 33		Yes		Amend as this article will only be applicable for B2C supplies of goods.	
	Yes			Delete reference to article 3 (1) in paragraph (1) (a).	
Article 34		Yes		This article will only be applicable for B2C supplies of goods.	
Article 35		Yes		This article will only be applicable for B2C supplies of goods.	
Article 36		Yes		Amend as this article will only be applicable for B2C supplies of goods.	
<b>Section 3</b>					
<b>Supplies of goods on board ships, aircraft or trains</b>					
Article 37			Yes	This article can remain as is (same principle applicable for restaurant and catering services for consumption on board ships, aircraft or trains), as in most cases B2C supplies (see article 57).	Chapter 3
<b>Section 4</b>					
<b>Supplies of gas through a natural gas system, of electricity and of heat or cooling energy through heating and cooling networks</b>					
Article 38	Yes			Delete as new general rule for place of supplies of goods will be applicable for all B2B customers (i.e. notion of taxable dealer is no longer relevant).	Chapter 7 and appendix 5
Article 39		Yes		Amend as this article will only be applicable for B2C supplies of gas through a natural gas system, of electricity, and of heat or cooling energy through heating and cooling networks.	
<b>Chapter 2</b>					
<b>Place of an intra-Community acquisition of goods</b>					
Article 40	Yes			Delete as concept of intra-Community acquisition of goods is no longer relevant.	
Article 41	Yes			Delete as concept of intra-Community acquisition of goods is no longer relevant.	
Article 42	Yes			Delete as concept of intra-Community acquisition of goods is no longer relevant (triangulation).	
<b>Chapter 3</b>					
<b>Place of supply of services</b>					
<b>Section 1</b>					
<b>Definitions</b>					
Article 43 (2)			Yes	Amend in order to align definition of B2B customer used for the localisation of services and goods. It would be more logical to include "general" definitions at the beginning of the Directive.	Chapter 8

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<b>Title VI</b>					
<b>Chargeable event and chargeability of VAT</b>					
<b>Chapter 2</b>					
<b>Supply of goods or services</b>					
Article 64 (2)		Yes		Amend from optional to obligatory provision (from "may" to "shall") for goods and services plus delete "in certain cases", i.e. for instance continuous supplies of goods over a period of more than one month shall be regarded as being completed on expiry of each calendar month (in line with article 64 (2) as applicable from 1 January 2013 - Council Directive 2010/45/EU of 13 July 2010).  Furthermore, amend provision that Member States may provide that the continuous supply of goods over a period of time is to be regarded as being completed at least at intervals of one year to from "may" to "shall".  Also a need for full alignment between supplies of goods and services (e.g. in case of bundling).	
Article 66		Yes		Amend to have more consistency between Member States (option becomes an obligation, from "may" to "shall") or implementation of other rules but applied in the same way by all Member States. One can also opt to exclude application of this article in case the VAT is due by the customer as it is already foreseen for services.	
Article 67	Yes			Delete as concept of intra-Community supplies of goods is no longer relevant. The article is no longer needed when there is uniformity between Member States regarding the moment of invoicing (for instance no later than on the 15th day of the month following that in which the chargeable event occurs in line with article 222 as applicable from 1 January 2013 - Council Directive 2010/45/EU of 13 July 2010).	
<b>Chapter 3</b>					
<b>Intra-Community acquisition of goods</b>					
Article 68	Yes			Delete as concept of intra-Community acquisition of goods is no longer relevant.	
Article 69	Yes			Delete as concept of intra-Community acquisition of goods is no longer relevant.	
<b>Title VII</b>					
<b>Taxable amount</b>					
<b>Chapter 2</b>					
<b>Supply of goods or services</b>					
Article 74		Yes		Amend in view of the introduction of a new concept of "deemed supply" (assimilation to supply of goods for consideration) in case of allocation of cost of goods (and services in view of alignment) from head office to fixed establishment or other place of business or the other way round or between fixed establishments (see also article 16 for goods and article 26 for services).	Chapter 8
Article 76	Yes			Delete as the concept of deemed intra-Community supplies/acquisitions by a taxable person of goods forming part of his business assets to another EU Member State is no longer relevant.	
Article 78		Yes		Amend from optional to obligatory provision (from "may" to "shall") in respect of inclusion of expenses covered by separate agreement in taxable amount to enhance consistency between Member States.  Add "correction" principles of article 84 with respect to goods subject to excise duty, aligned with the new place of supply rules for goods and liability concept.	
<b>Chapter 3</b>					
<b>Intra-Community acquisition of goods</b>					
Article 83	Yes			Delete as concept of intra-Community acquisition of goods and deemed intra-Community acquisitions by a taxable person of goods forming part of his business assets to another EU Member State is no longer relevant.	
Article 84	Yes			Delete as concept of intra-Community acquisition of goods is no longer relevant. However, principles of paragraphs 1 and 2 should be moved to article 78.	
<b>Chapter 5</b>					
<b>Miscellaneous provisions</b>					
Article 90 (1)		Yes		Amend to have more consistency between EU Member States.	
Article 90 (2)	Yes			Delete possibility to derogate for EU Member States.	
Article 92		Yes		Amend towards one applicable option, preferred option is (b).	

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<b>Title VIII</b>					
<b>Rates</b>					
<b>Chapter 1</b>					
<b>Application of rates</b>					
Article 93 (b)	Yes			Delete as concept of intra-Community acquisition of goods is no longer relevant.	
Article 94 (1)	Yes			Delete as concept of intra-Community acquisition of goods is no longer relevant.	
<b>Chapter 4</b>					
<b>Special provisions applying until the adoption of definitive arrangements</b>					
Article 109		Yes		Amend as reference to article 402 referring to the origin principle.	
<b>Title IX</b>					
<b>Exemptions</b>					
<b>Chapter 2</b>					
<b>Exemptions for certain activities in the public interest</b>					
Article 132			Yes	If the EU customer becomes liable for paying VAT under the new B2B localisation and liability rules (as the exempt taxable person and the customer are not established in the same Member State), the customer will have the burden of proof regarding the "exemption" treatment. The "exemption" treatment depends on the status of the supplier or on the nature of the goods.	Chapter 7 and appendix 9
Article 133 (d)		Yes		Amend from optional to obligatory provision (from "may" to "shall") in case the exemption would be likely to cause distortion of competition to the disadvantage of commercial enterprises subject to VAT.	
<b>Chapter 3</b>					
<b>Exemptions for other activities</b>					
Article 136			Yes	If the EU customer becomes liable for paying VAT under the new B2B localisation and liability rules (as the exempt taxable person and the customer are not established in the same Member State), the customer will have the burden of proof regarding the "exemption" treatment. The "exemption" treatment depends on the status of the supplier or on the nature of the goods.	Chapter 7 and appendix 9
Article 137			Yes	The right of option for taxation can be maintained for the supply of building or of parts thereof and of land in case a specific localisation rule is introduced, i.e. where the immovable property is located (see Title V, Chapter 1, new articles).	Chapter 3
<b>Chapter 4</b>					
<b>Exemptions for intra-Community transactions</b>					
<b>Section 1</b>					
<b>Exemptions related to the supply of goods</b>					
Article 138	Yes			Delete as concept of intra-Community supply of goods and deemed intra-Community supply of goods is no longer relevant.	
Article 139	Yes			Delete as concept of intra-Community supply of goods is no longer relevant.	
<b>Section 2</b>					
<b>Exemptions for intra-Community acquisitions of goods</b>					
Article 140	Yes			Delete as concept of intra-Community acquisition of goods is no longer relevant.	
Article 141	Yes			Delete as concept of intra-Community acquisition of goods is no longer relevant (triangulation).	
<b>Chapter 5</b>					
<b>Exemptions on importation</b>					
Article 143			Yes	Add specific import exemption applicable if the new B2B localisation rule leads already to taxation within the EU to avoid double taxation (similar to exemption for the importation of gas, electricity or heat or cooling energy).	Chapter 6 and appendix 4
Article 143 (1) (d) and (2)	Yes			Delete as concept of intra-Community supply of goods is no longer relevant.	

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<b>Chapter 6</b>					
<b>Exemptions on exportation</b>					
Article 146 (1)			Yes	Amend article taking into account that, in case the supply of the goods takes place in the EU according to the new B2B rules, exemption on exportation should be available for goods leaving the EU (proof of exportation in the hands of the person claiming the exemption). The export exemption should be limited to that one transaction to which dispatch or transport of the goods outside the EU can be attributed. The export exemption should be applicable regardless of who is responsible for the dispatch or transport of the goods as long as the goods leave the EU (relevant if the supplier and the customer are established in the same Member State).  As EU taxation should occur for goods located in the EU and to limit the administrative burden of proof, it might be recommendable to leave it up to the supplier or customer to decide whether they will use the exemption or not (introduction of an optional exemption). Should the supplier or customer not make use of the exemption for goods located in the EU, the customer should have a right to deduct VAT.	Chapters 6 and 8  Appendix 4
<b>Chapter 7</b>					
<b>Exemptions related to international transport</b>					
Article 148			Yes	In case the customer will be liable for payment of VAT (as the supplier and the customer are not established in the same Member State), the customer will have the burden of proof regarding the exemption. The customer needs to provide the necessary proof with respect to the applied exemption.  As EU taxation should occur for goods located in the EU and to limit the administrative burden of proof, it might be recommendable to leave it up to the supplier or customer to decide whether they will use the exemption or not (introduction of an optional exemption). Should the supplier or customer not make use of the exemption for goods located in the EU, the customer should have a right to deduct VAT.	Chapter 8
Article 150 (2)			Yes	Amend depending on outcome discussion regarding article 148.	
Article 151			Yes	In case the customer will be liable for payment of VAT (as the supplier and the customer are not established in the same Member State), the customer will have the burden of proof regarding the exemption. The customer needs to provide the necessary proof with respect to the applied exemption.	
<b>Chapter 9</b>					
<b>Exemptions for the supply of services by intermediaries</b>					
Article 153		Yes		Amend article according to changes made in chapters 6, 7 and 8.	
<b>Chapter 10</b>					
<b>Exemptions for transactions relating to international trade</b>					
<b>Section 1</b>					
<b>Customs warehouses, warehouses other than customs warehouses and similar arrangements</b>					
Article 156			Yes	Amend from optional to obligatory provision (from "may" to "shall"). This is to provide for sufficient simplification measures when trading goods within the EU.  As EU taxation should occur for goods located in the EU and to limit the administrative burden of proof, it might be recommendable to leave it up to the supplier or customer to decide whether they will use the exemption or not (introduction of an optional exemption). Should the supplier or customer not make use of the exemption for goods located in the EU, the customer should have a right to deduct VAT.  The supply of goods having "special customs/VAT status" in the Member States where they are located, should also be exempt in the Member State where the customer is established, even in case this Member State has not adopted the exemption. In that case, certification of the status of the goods is required and should be provided to the customer.	Chapter 8
Article 157 (1) (b)			Yes	See article 156.	
Article 158			Yes	See article 156.	
Article 160			Yes	See article 156.	
Article 161			Yes	See article 156.	
Article 162	Yes			Delete as concept of intra-Community acquisition of goods is no longer relevant.	
<b>Section 2</b>					
<b>Transactions exempted with a view to export and in the framework of trade between Member States</b>					
Article 164 (1) (a)		Yes		Amend as concept of intra-Community acquisition of goods is no longer relevant.	
Article 164 (2)	Yes			Delete as concept of intra-Community supply of goods is no longer relevant.	

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<b>Title X</b>					
<b>Deductions</b>					
<b>Chapter 1</b>					
<b>Origin and scope of right of deduction</b>					
Article 168 (b)		Yes		Amend in view of introduction of a new concept of "deemed supply" (assimilation to supply of goods for consideration) in case of allocation of cost of goods (and services in view of alignment) from head office to fixed establishment or other place of business or the other way round or between fixed establishments (add reference to articles 16 and 26).	Chapter 8
Article 168 (c) and (d)	Yes			Delete as concept of intra-Community acquisition of goods is no longer relevant.	
Article 169 (b)		Yes	Yes	Amend as concept of intra-Community supply of goods is no longer relevant. Amend to the extent that the other exemptions mentioned in the article are amended (see our remarks with respect to articles 146,148 156 and 157 (1) (b)).	
Article 170		Yes		Amend to the extent that the liability rules of articles 194 to197 are changed (articles 195 and 197 will in any case be deleted).	
Article 171 (1)		Yes		Within the new B2B localisation rule for supplies of goods, the application of this article will for EU established taxable persons, in principle, be limited to certain services, immovable property and taxable importations (if an exemption would not be available) in EU Member States in which they are not established. To the extent that they no longer need a VAT registration in view of the new B2B localisation rule, the importance of VAT refund for these expenses might increase.	
Article 171 (2)			Yes	This article will probably for goods come into play in case of a non-EU taxable person not having a "VAT presence" in the EU purchasing goods from an EU supplier (meaning that the supplier will issue an invoice with EU VAT in view of the specific localisation rule) or taxable importations of goods (if an exemption would not be available).	Chapter 6
		Yes		Amend to the extent that the liability rules of articles 194 to197 are changed (articles 195 and 197 will in any case be deleted).	
Article 171 (3) (b)		Yes		Amend as concept of intra-Community supply of goods is no longer relevant.	
Article 171a		Yes		Amend to the extent that the liability rules of articles 194 to197 are changed (articles 195 and 197 will in any case be deleted).	
Article 172		Yes		Amend as concept of intra-Community supply/acquisition of goods is no longer relevant and change to any person who is regarded as a taxable person by reason of the fact that he supplies, on an occasional basis, a (new) means of transport for which the customer is liable for payment of VAT. The principle of the right to recover input VAT in hands of the incidental supplier of a (new) means of transport can be maintained.	
			Yes	In view of the introduction of the new B2B localisation rule for supplies of goods, one might consider to also regard non-taxable legal persons who, on an occasional basis, supply goods for which no right of deduction shall arise and for which the customer is liable for payment of VAT, as taxable persons with right to deduct VAT with respect to this supply. One might also consider the supplies of goods used solely for an exempt activity with no right to deduct VAT as taxable supplies. If opted for, the right to recover input VAT should also be foreseen in the hands of the non-taxable legal person/exempt taxable person in scope. Same mechanism as for new means of transport today. This could also be handled under article 180.	Chapter 7 and appendix 9
<b>Chapter 4</b>					
<b>Rules governing exercise of the right of deduction</b>					
Article 178 (c) and (d)	Yes			Delete as concept of intra-Community acquisition of goods is no longer relevant.	
Article 178 (f)		Yes		Amend to the extent that the liability rules of articles 194 to197 are changed (articles 195 and 197 will in any case be deleted).	
Article 180			Yes	See article 172, comments on options for considerations. This principle could also be introduced under this article.	
Article 181	Yes			Delete as concept of intra-Community acquisition of goods is no longer relevant.	
Article 182		Yes		Amend as reference to article 181 (which is to be deleted).	

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<b>Title XI</b>					
<b>Obligations of taxable persons and certain non-taxable persons</b>					
<b>Chapter 1</b>					
<b>Obligation to pay</b>					
<b>Section 1</b>					
<b>Persons liable for payment of VAT to the tax authorities</b>					
<b>New article</b>				Add B2C liability concept that VAT shall be payable by any non-taxable person to whom new means of transport are supplied where the (new) means of transport will be registered (e.g. license plate for cars, certificate of registry for ships and tail number for aircraft). This rule is applicable in case the Member State of registration differs from the Member State of establishment of the supplier.  In case this registration criterion is also foreseen for (new) means of transport supplied to taxable persons, the liability should also be shifted to the customer. This rule is applicable in case the Member State of registration differs from the Member State of establishment of the supplier.	
Article 192a			Yes	Delete as the person liable for payment of VAT will need to be the party to the agreement (regardless of the operations and structure of the supplier or customer). Need for alignment for services.	Chapter 8
Article 193		Yes		The principle that supplier remains liable to pay VAT should remain, but need to amend article (as from "except") as some subsequent articles in respect of liability of VAT will be deleted or amended.	
Article 194		Yes		Amend from optional to obligatory provision (from "may" to "shall").  The VAT shall thus be payable by any B2B customer, being party to the agreement, if the goods (equally for services) are supplied by a taxable person not established within the territory of the Member State (similar to current article 196 for services). For non-EU taxable persons, this rule is applicable for the supply of goods as from the moment that they have a "presence" via a third party EU VAT representative (see also article 204).  If definition of B2B customer is aligned for supplies of goods and services, this article should cover the liability both for goods subject to the new B2B localisation rules and services subject to article 44.  If supplies of second-hand goods, works of art, collectors' items and antiques also fall under the new B2B localisation rule (meaning that the option for a specific localisation rule is not followed), this article will not be applicable for these kinds of supplies.	Chapters 3 and 8
Article 195	Yes			Delete as no longer relevant (article 38 will be deleted and article 39 will only apply to B2C supplies of gas through a natural gas system, of electricity, and of heat or cooling energy through heating and cooling networks). This will be covered by other articles.	Chapter 7 and appendix 5
Article 196	Yes			Delete as no longer relevant if definition of B2B customer is aligned for supplies of goods and services. The current situation will be covered by the "new" article 194 that will be applicable for all supplies of goods and services carried out by a taxable person who is not established in the Member State in which the VAT is due.	
Article 197	Yes			Delete as concept of intra-Community acquisition of goods is no longer relevant (triangulation).	
Article 198 (1)	Yes			This article should be repealed in case article 352 would be repealed.	Chapter 7 and appendix 10
Article 198 (2)	Yes			This article should be deleted in view of the introduction of the new B2B localisation rule if the options for taxation pursuant to article 348 of the VAT Directive for supplies of investment gold by taxable persons who produce investment gold or transform any gold into investment gold and article 349 allowing Member States to grant an option to industrial traders for taxation of the supplies of investment gold, would be repealed.	Chapter 7 and appendix 10
Article 199 (2) and (3)			Yes	This article should be amended as it is only relevant for "domestic" transactions. See comments article 194.	
Article 200	Yes			Delete as concept of intra-Community acquisition of goods is no longer relevant.	
Article 202		Yes		Amend depending on the outcome of the consideration with respect to the application of the exemptions for transactions relating to international trade (articles 156,157,160 and 161).	
Article 204		Yes		Amend to the extent that the liability rules of articles 194 to 197 are changed (articles 195 and 197 will in any case be deleted).	
Article 205		Yes		Amend depending on whether references to other articles need to be changed and amend from "may" to "shall".  In the case the supplier and customer are not established in the EU (i.e. have no "presence" in the EU) and no EU VAT is levied, the article should say that a person other than the supplier or customer would be held jointly and severally liable for payment of VAT in the Member State where the goods are located, e.g. persons involved in the transport, warehousing, treatment and trade of the EU goods. The chain liability is already covered by the current provision and should remain applicable.	Chapter 6 and appendix 4

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<b>Section 2</b>					
<b>Payment arrangements</b>					
Article 207		Yes		Amend to the extent that the liability rules of articles 194 to 197 are changed (articles 195 and 197 will in any case be deleted).	
Article 208		Yes		Amend or delete in view of the introduction of the new B2B localisation rule (see article 198 and articles 348-353)	Chapter 7 and appendix 10
Article 209		Yes		Amend as concept of intra-Community acquisition of goods is no longer relevant. However, EU Member States need to take the measures necessary to ensure that non-taxable legal persons who are liable for payment further to the new B2B localisation rule comply with their obligations.  If definition of B2B customer is aligned for supplies of goods and services, this article can be applicable both for supplies of goods and services (subject to article 44).	
Article 210		Yes		Amend as concept of intra-Community acquisition of goods is no longer relevant. However, EU Member States need to adopt arrangements for payment of VAT with respect to new means of transport.	
<b>Chapter 2</b>					
<b>Identification</b>					
Article 213 (2)	Yes			Delete as concept of intra-Community acquisition of goods is no longer relevant.	
Article 214 (1) (a)	Yes			Amend to the extent that the liability rules of articles 194 to 197 are changed (articles 195 and 197 will in any case be deleted).	
Article 214 (1) (b) and (c)	Yes			Delete as concept of intra-Community acquisition of goods is no longer relevant.	
Article 214 (1) (d)		Yes		Add every taxable person receiving goods within the EU for which he is liable to pay VAT pursuant to the new B2B liability rule.	Chapters 3 and 8
Article 214 (1) (e)		Yes		Add every taxable person, established within their respective territory, who supplies goods for which VAT is payable solely by the recipient pursuant to the new liability rule for the B2B supplies of goods.	
Article 216		Yes		Amend as concept of intra-Community supply/acquisition of goods is no longer relevant and as reference to article 402 referring to the origin principle.	
<b>Chapter 3</b>					
<b>Invoicing</b>					
<b>Section 3</b>					
<b>Issue of invoices</b>					
Article 220 (3)	Yes			Delete as concept of intra-Community supply of goods is no longer relevant (reference to article 138).	
Article 221 (1)		Yes		In Council Directive 2010/45/EU of 13 July 2010, this article will be amended and a new article 221 (2) will be added per 1 January 2013. In view of the introduction of the new B2B rules for the supplies of goods, this article requires to be amended. The old article 221 (2) becomes new article 221 (3).	
Article 221 (2)	Yes			In Council Directive 2010/45/EU of 13 July 2010, these principles are moved to the new articles 220 (2) and 221 (3). Delete old article 221 (2) and new article 221 (3) as proper functioning of the new B2B localisation rule for supplies of goods depends on a correct, uniform and broad implementation of invoice obligations for taxable persons in the Member States.	
Article 222		Yes		Amend from optional to obligatory provision (from "may" to shall"). Full harmonisation of the time limits between Member States would be advisable for the proper functioning of the new B2B rule for the supplies of goods.	
<b>Section 4</b>					
<b>Content of invoices</b>					
Article 226 (4)		Yes		Amend as concept of intra-Community supply of goods is no longer relevant (reference to article 138).	
Article 226 (12)		Yes		Amend as concept of intra-Community supply of goods is no longer relevant (reference to article 138 with respect to supplies of new means of transport). However, the information should also under the new B2B rule for supplies of goods be on the invoice in the case of a supply of a new means of transport for which the customer is liable to pay VAT.	
Article 226a			Yes	The Council Directive 2010/45/EU of 13 July 2010 will also add a new article 226a. To be amended to delete intervention principle of article 192a.	Chapter 8
Article 228	Yes			In line with Council Directive 2010/45/EU of 13 July 2010.	

VAT Directive 2006/112/EC					
	To be repealed	To be amended	Options for consideration	Comments	Reference
<b>Section 6</b>					
<b>Simplification measures</b>					
Article 238 (3)		Yes		Amend as concept of intra-Community acquisition/supply of goods is no longer relevant (articles 20, 21, 22, 138 and 141 to be deleted) and as article 36 will only be applicable to B2C transactions. This means that only article 33 (distance sales for B2C but with invoicing requirement in accordance with article 220) remains. Under the new B2B rule for the supplies of goods one could consider to limit the application of this simplification in case the supplier is liable for local VAT.  The Council Directive 2010/45/EU of 13 July 2010 will change article 238 (3). To be amended to delete intervention principle of article 192a.	Chapter 8
Article 239		Yes		Amend as concept of intra-Community supply/acquisition of goods is no longer relevant (articles 20, 21, 22, 138 and 141 to be deleted) and as article 36 will only be applicable to B2C transactions. This means that only article 33 (distance sales for B2C but with invoicing requirement in accordance with article 220) remains.	
Article 240		Yes		Amend as concept of intra-Community supply/acquisition of goods is no longer relevant (articles 138 and 141 to be deleted).	
<b>Chapter 4</b>					
<b>Accounting</b>					
<b>Section 2</b>					
<b>General obligations</b>					
Article 243	Yes			Delete as concept of deemed intra-Community supplies/acquisitions by a taxable person of goods forming part of his business assets is no longer relevant (including concept of "non-transfers" of goods - reference to article 17 (2) (f), (g) and (h) to be deleted).	
<b>Chapter 5</b>					
<b>Returns</b>					
Article 251 (a), (c) and (e)	Yes			Delete as concept of intra-Community supply/acquisition of goods and of deemed intra-Community supply/acquisition of goods is no longer relevant (reference to articles 21, 22, 138 and 197 to be deleted).	
Article 254		Yes		Amend as concept of intra-Community supply of goods is no longer relevant (reference to article 138 (2) (a) to be deleted) but information obligation can be maintained.	
Article 255		Yes		Amend depending on whether references to other articles are changed (see articles 348-353).	Chapter 7 and appendix 10
Article 256		Yes		Amend to the extent that the liability rules of articles 194 to 197 are changed (articles 195 and 197 will in any case be deleted).	
Article 257		Yes		Amend as concept of intra-Community acquisition of goods is no longer relevant (reference to article 2 (1) (b) (i) to be deleted) but EU Member States should take measures ensuring that non-taxable legal persons liable for payment of VAT for purchases of goods within the new principle comply with this obligation.	Chapter 6
Article 258		Yes		Amend as concept of intra-Community acquisition of goods is no longer relevant (reference to articles 2 (1) (b) (ii) and 2 (1) (b) (iii) to be deleted) and change to EU Member State shall lay down detailed rules for the submission of VAT returns for non-taxable persons liable for payment of VAT with respect to purchases of new means of transport.	
Article 259		Yes		Amend as concept of intra-Community acquisition of goods is no longer relevant (reference to article 2 (1) (b) (ii) to be deleted) but information obligation can be maintained for non-taxable persons purchasing new means of transport for which they are liable for payment of VAT.	

VAT Directive 2006/112/EC					
	To be repealed	To be amended	Options for consideration	Comments	Reference
<b>Chapter 6</b>					
<b>Recapitulative statements</b>					
Article 262 (a) and (b)	Yes			Delete as concept of intra-Community supply of goods is no longer relevant (reference to article 138 (1) and (2) (c) to be deleted).	
Article 262		Yes		Add that every taxable person identified for VAT purposes shall submit a recapitulative statement for the following: the business customer to whom he has supplied the goods, where the transaction is taking place in another EU Member State, and for which the customer is liable to pay the VAT pursuant to the new liability rule for B2B supplies of goods (similar as for services).  Please note that the recapitulative statement will also include supplies of goods within one EU Member State but for which the customer established in another EU Member State than the supplier is liable for payment of VAT. For control purposes, it is recommended also including supplies of goods that are exempt in the Member State of the customer (such as exemptions listed in articles 146, 148 or 151 of the VAT Directive) and the new concept of "deemed supplies".  Amend (c), if definition of B2B customer is aligned for supplies of goods and services (delete "identified for VAT purposes").	
Article 263		Yes		Amend as changes made in articles 264 and 265.	
Article 264 (1) (a)		Yes		Amend as concept of intra-Community supply of goods is no longer relevant (reference to article 138 (1) to be deleted) and add that the recapitulative statement should set out the VAT identification number of the taxable person under which he effected taxable supplies of goods in accordance with the conditions laid down for the new B2B localisation principle.	
Article 264 (1) (c) and (e)	Yes			Delete as concept of deemed intra-Community supplies by a taxable person of goods forming part of his business assets is no longer relevant (reference to article 138 (2) (c) to be deleted).	
Article 265	Yes			Delete as concept of deemed intra-Community acquisitions by a taxable person of goods forming part of his business assets is no longer relevant (triangulation - reference to article 42 to be deleted).	
Article 266	Yes			Delete to ensure consistency between EU Member States.	
Article 268	Yes			Delete as concept of intra-Community acquisition of goods and deemed intra-Community acquisitions of goods is no longer relevant (reference to articles 21 and 22 to be deleted).	
Article 269		Yes		It should be clear that with respect to goods the concept "intra-Community transactions" means a supply of goods circulating within the EU (even possible that the goods stay within one EU Member State) between a supplier and a customer established in different EU Member States and for which the customer is liable to pay VAT pursuant to the new B2B liability rule for the supplies of goods.	
Article 270		Yes		Amend as concept of intra-Community supply of goods and of deemed intra-Community supplies by a taxable person of goods forming part of his business assets is no longer relevant (reference to article 138 (1) and (2) (c) to be deleted) and add that EU Member States may permit taxable persons to submit annual recapitulative statements indicating the VAT identification numbers, in another EU Member State, of the persons to whom those taxable persons have supplied goods in accordance with the conditions laid down for the new B2B localisation principle and for which the customer is liable for payment of VAT.	
Article 271		Yes		Amend as concept of intra-Community supply of goods and of deemed intra-Community supplies by a taxable person of goods forming part of his business assets is no longer relevant (reference to article 138 to be deleted).	
<b>Chapter 7</b>					
<b>Miscellaneous provisions</b>					
Article 272 (1) (a)	Yes			Delete as concept of intra-Community acquisition of goods is no longer relevant (reference to article 3 (1) to be deleted).	
Article 272 (1) (b)		Yes		Amend as concept of intra-Community supply/acquisition of goods is no longer relevant (articles 20, 21, 22, 138 and 141 to be deleted). This means that only articles 33 and 36 remain.	
Article 273			Yes	Not to be amended but monitored that individual obligations do not jeopardize the consistent application of the new rules.	
<b>Title XII</b>					
<b>Special schemes</b>					
<b>Chapter 1</b>					
<b>Special scheme for small enterprises</b>					
<b>Section 2</b>					
<b>Exemptions or graduated relief</b>					
Article 283 (b)		Yes		Amend as concept of intra-Community supply of goods is no longer relevant (reference to article 138 (1) and (2) (a) to be deleted) and change to supplies of new means of transport for which the customer is liable for payment of VAT.	Chapter 7 and appendix 6

**VAT Directive 2006/112/EC**

	To be repealed	To be amended	Options for consideration	Comments	Reference
Article 292		Yes		In view of the introduction of the new B2B localisation principle, it might be opted to abolish the special regime for small enterprises on the basis of a combined reading of articles 292 and 402, or, in the case that a common small enterprise regime is maintained by the Member States pursuant to article 294, by limiting the scope of application of the small enterprise regime to cases where both the small enterprise and the customer are established in the same EU Member State.	Chapter 7 and appendix 6

VAT Directive 2006/112/EC					
	To be repealed	To be amended	Options for consideration	Comments	Reference
<b>Chapter 2</b>					
<b>Common flat-rate scheme for farmers</b>					
<b>New article</b>			Yes	If the customer becomes liable for payment of VAT (because the flat-rate-scheme farmer and the customer are not established in the same EU Member State), the flat-rate compensation should be linked to the place of establishment of the EU farmer (as under the new B2B localisation and liability rules flat-rate-scheme farmers will suffer non-recoverable input VAT on their purchases in the Member State of establishment).  Alternatively one could consider to abolish the flat-rate compensation scheme or only apply the flat-rate compensation scheme where the place of supply is in the Member State of the flat-rate-scheme farmer and where the farmer is liable for payment of VAT.	Chapter 7 and appendix 7
Article 300 (2)	Yes			Delete as concept of intra-Community supply/acquisition of goods is no longer relevant (reference to article 138 to be deleted). The supplies of agricultural products to non-taxable legal persons should, in principle, fall under article 300 (1) within the new B2B localisation rule.	Chapter 7 and appendix 7
Article 303 (2)		Yes		Amend as concept of intra-Community supply/acquisition of goods is no longer relevant (reference to article 138 to be deleted) and amend refund of flat-rate compensation in view of the introduction of the new B2B localisation principle.	Chapter 7 and appendix 7
Article 303 (3)		Yes		Amend as reference to Directive 79/1072/EU which is repealed as from 1 January 2010. Reference should be made to Council Directive 2008/9/EU of 12 February 2008.	Chapter 7 and appendix 7
<b>Chapter 4</b>					
<b>Special arrangements for second-hand goods, works of art, collectors' items and antiques</b>					
<b>Section 2</b>					
<b>Special arrangements for taxable dealers</b>					
<b>Subsection 1</b>					
<b>Margin scheme</b>					
Article 313 (2)		Yes		Amend as concept of intra-Community supply of goods is no longer relevant (reference to article 138 (1) and (2) (a) to be deleted) and reference to 402 referring to the origin principle. Amend to the scheme shall not apply to the supplies of new means of transport for which the customer is liable for payment of VAT.	Chapter 7 and appendix 8
<b>Subsection 2</b>					
<b>Transitional arrangements for second-hand means of transport</b>					
Article 326			Yes	Delete as transitional arrangement for second-hand means of transport.	
Article 327			Yes	Delete as transitional arrangement for second-hand means of transport.	
Article 328			Yes	Delete as transitional arrangement for second-hand means of transport.	
Article 329			Yes	Delete as transitional arrangement for second-hand means of transport.	
Article 330			Yes	Delete as transitional arrangement for second-hand means of transport.	
Article 331			Yes	Delete as transitional arrangement for second-hand means of transport.	
Article 332			Yes	Delete as transitional arrangement for second-hand means of transport.	
<b>Section 3</b>					
<b>Special arrangements for sales by public auction</b>					
Article 333 (2)		Yes		Amend as concept of intra-Community supply of goods is no longer relevant (reference to article 138 (1) and (2) (a) to be deleted) and change to the scheme shall not apply to the supplies of new means of transport for which the customer is liable for payment of VAT.	
<b>Chapter 5</b>					
<b>Special scheme for investment gold</b>					
<b>Section 2</b>					
<b>Exemption from VAT</b>					
Article 344 (2)		Yes		As a prerequisite for a proper application of the special scheme for investment gold under the new B2B localisation principle, a uniform definition of the goods falling within the scope of the special scheme should be introduced in all Member States, resulting in the deletion of the option for Member States to exclude from the special scheme small bars or wafers having a weight of 1 g or less.	Chapter 7 and appendix 10
Article 345		Yes		An uniform definition of the goods falling within the scope of the special scheme should be introduced in all Member States, resulting in a fully harmonised comprehensive list of gold coins applicable in all Member States.	Chapter 7 and appendix 10
Article 346		Yes		Amend as concept of intra-Community acquisition of goods is no longer relevant.  In case the customer and the supplier are not established in the same EU Member State, it will be the customer's responsibility to interpret whether local VAT is due via reverse charge mechanism or not and the customer needs to provide the necessary proof with respect to the applied exemption.	Chapter 7 and appendix 10

VAT Directive 2006/112/EC					
	To be repealed	To be amended	Options for consideration	Comments	Reference
<b>Section 3</b>					
<b>Taxation option</b>					
Article 348	Yes			The option for taxation introduced by the Member States for supplies of investment gold by taxable persons who produce investment gold or transform any gold into investment gold should also be reconsidered and, preferably, also be deleted. The issue of possible insufficient input VAT deduction (if any) for the producer or transformer should be resolved by using another methodology than an option for taxation.	Chapter 7 and appendix 10
Article 349	Yes			Delete option allowing Member States to grant an option to industrial traders for taxation of the supplies of investment gold. This option does not cover gold coins defined as investment gold. The issue of possible insufficient input VAT deduction (if any) for the industrial gold trader should be resolved by amending article 354 if needed.	Chapter 7 and appendix 10
<b>Section 4</b>					
<b>Transactions on a regulated gold bullion market</b>					
Article 352	Yes			The option for taxation for specific transactions on the regulated bullion market should no longer be available to Member States in the "to be" situation and should be repealed. The objective of the option to tax specific transactions was to facilitate the functioning of the "local" regulated gold bullion market in hands of the members of such a market, which will no longer be guaranteed under the new B2B localisation and liability principle.	Chapter 7 and appendix 10
Article 353	Yes			To be repealed in case article 352 would be repealed	Chapter 7 and appendix 10
<b>Section 5</b>					
<b>Special rights and obligations for traders in investment gold</b>					
Article 354		Yes		Amend as concept of intra-Community acquisition of goods is no longer relevant. In case of deletion of option for taxation of article 349, amend to meet objective of eliminating any irrecoverable VAT in the hands of an industrial gold trader.	Chapter 7 and appendix 10
Article 355		Yes		Amend as concept of intra-Community acquisition of goods is no longer relevant. In case of deletion of option for taxation of articles 348, amend to meet objective of eliminating any irrecoverable VAT in the hands of the taxable person, being a producer or a transformer of investment gold.	Chapter 7 and appendix 10
<b>Title XIII</b>					
<b>Derogations</b>					
<b>Chapter 1</b>					
<b>Derogations applying under the adoption of definitive arrangements</b>					
<b>Section 3</b>					
<b>Provisions common to Sections 1 and 2</b>					
Article 393		Yes		Amend as reference to article 402 referring to the origin principle.	
<b>Title XV</b>					
<b>Final provisions</b>					
<b>Chapter 1</b>					
<b>Transitional arrangements for the taxation of trade between Member States</b>					
Article 402			Yes	In view of the introduction of the new B2B localisation principle for the supplies of goods and as the same principle already applies for the supplies of B2B services, one might consider whether this article is still relevant.	