



COMMISSION OF THE EUROPEAN COMMUNITIES

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2004/0079 (CNS)

Proposal for a

**COUNCIL DIRECTIVE**

**on the common system of value added tax**

**(Recast)**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

### 1. INTRODUCTION

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

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

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

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

However, when the Commission decided to codify the Sixth VAT Directive<sup>1</sup> it soon became clear that, in order to make such a highly specific text clear and comprehensible, a number of amendments would have to be introduced which, albeit not substantive, would go further than is acceptable for codification in the strict sense<sup>2</sup>.

At the same time, and always with a view to enhancing clarity, rationality, ease of comprehension and simplification, it is appropriate to seize this opportunity to bring the Directive as closely as possible into conformity with the principles endorsed by the European Parliament, the Council and the Commission for the production of high quality legislation<sup>3</sup>.

Accordingly, in order to enable those essentially cosmetic changes to be made, the Commission decided to present a proposal for a recast of the Sixth Directive. That approach is entirely in line with the recommendations made, particularly with regard to legal acts which have frequently been the subject of amendment, since the recasting technique offers a means by which a number of acts can be amended, codified and brought together within a single legislative text, in accordance with the 2001 Interinstitutional Agreement<sup>4</sup>.

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

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

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

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

## **2. BACKGROUND**

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

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

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

The shedding of provisions which are not currently applicable, even though they remain in force, does not undermine the principle of a definitive system of taxation, in the Member State of origin, of transactions that give rise to consumption in the Community. The definitive system still remains a long-term Community objective<sup>5</sup>. However, with the focus now on improving the operation of the internal market within the context of the current VAT arrangements, it is vital to devise an effective instrument which can facilitate much needed improvements to the existing system.

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

## **3. RECAST OF THE SIXTH DIRECTIVE**

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

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

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

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

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

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

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

#### **4. OUTLINE OF THE MOST IMPORTANT CHANGES**

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

##### **4.1. Insertion of various provisions**

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

##### *4.1.1. First VAT Directive*

The common VAT system was established by the First Directive<sup>6</sup>, which lays down the principle underlying the system and the characteristics of VAT. The detailed rules for applying the common system are laid down in the Sixth Directive, which replaced the Second Directive<sup>7</sup>.

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

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

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

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

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

#### 4.1.2. *Other VAT Directives*

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

Under Article 14(1)(d) of the Sixth Directive, Member States are to exempt the final importation of goods covered by an exemption from customs duties other than that provided for in the Common Customs Tariff. Article 14(1)(d) of the Sixth Directive can now be found in Article 140(b) of the recast text. The scope of the exemption is established by Directives 69/169/EEC<sup>8</sup>, 78/1035/EEC<sup>9</sup> and 83/181/EEC<sup>10</sup>. Those Directives have not been included in the recast text.

Non-established taxable persons are entitled to a VAT refund pursuant to Article 17(4) of the Sixth Directive. In the recast text, that provision has been moved to Article 165. The detailed rules governing the refund are laid down in Directives 79/1072/EEC<sup>11</sup> and 86/560/EEC<sup>12</sup> which have not been included in the recast text.

#### 4.1.3. *Acts of Accession*

When new Member States accede to the Community, they must comply with the entire Community *acquis*, including the Sixth Directive. However, in some cases, they have obtained derogations. Although some of those derogations already form part of the Sixth Directive, most can only be found in the respective Acts of Accession<sup>13</sup>. For the sake of clarity and ease of comprehension, it is important that those derogations be included in the recast text.

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

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

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

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

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

<sup>11</sup> Council Directive 79/1072/EEC of 6 December 1979 on the harmonization of the laws of the Member States relating to turnover taxes – Arrangements for the refund of value added tax to taxable persons not established in the territory of the country (OJ L 331, 27.12.1979, p. 11).

<sup>12</sup> Council Directive 86/560/EEC of 17 November 1986 on the harmonization of the laws of the Member States relating to turnover taxes – Arrangements for the refund of value added tax to taxable persons not established in Community territory (OJ L 326, 21.11.1986, p. 40).

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

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

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

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

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

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

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

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

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

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

The Czech Republic, Estonia, Cyprus, Hungary, Latvia, Lithuania, Malta, Poland, Slovenia and Slovakia, which are to accede to the Union on 1 May 2004, have obtained similar derogations provided for in the 2003 Act of Accession<sup>14</sup>. In so far as those derogations are not purely provisional, they must be included in the recast text. The text also takes into account the various amendments to the Sixth Directive introduced by way of technical adaptation.

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

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

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

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

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

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

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

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

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

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

## **4.2. Deletion of certain provisions**

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

### *4.2.1. Obsolete provisions*

Various provisions have exhausted their effects and are therefore obsolete.

[Article 1](#) of the First Directive mainly contains provisions which concern the implementation of that Directive. Those provisions are no longer relevant.

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

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

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

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

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

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

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

Article 28(2)(g) of the Sixth Directive requires the Commission to present, before 31 December 1994, a report on the reduced rates which Member States were allowed to apply during the transitional period. That report was duly presented by the Commission<sup>15</sup>. That provision is therefore obsolete.

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

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

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

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

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

#### 4.2.2. *Double provisions*

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

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

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

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

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



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

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

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

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

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

#### *4.2.3. Provisions not directly linked to VAT*

The Sixth Directive contains certain provisions which, although linked to the common system of VAT, essentially concern the system of own resources. If the new act is to be clear and internally consistent, it is essential that only provisions directly concerning the common system of VAT be included in the recast text. Since the provisions relating to VAT own resources are, on the whole, covered by the Own Resources Regulation<sup>16</sup>, those provisions have not been taken over in the text.

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

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

### **4.3. Re-structuring**

The current structure of the Sixth Directive is far from satisfactory. That is not just because of the provisions introduced for the duration of the transitional period, but also because the provisions of the Sixth Directive are very lengthy. Those are structural problems, and have been addressed as part of the recast exercise<sup>17</sup>.

#### *4.3.1. Transitional provisions*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 4.3.2. *General provisions*

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

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

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

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

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

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

#### 4.3.3. *Length and complexity of certain provisions*

Many of the provisions of the Sixth Directive are far too long, since they each govern an entire branch of the harmonised system of VAT. This often results in complex provisions. That is contrary to the guidelines for drafting Community legislation, in accordance with which overly long and convoluted articles are to be avoided<sup>18</sup>. It is neither necessary for interpretation, nor desirable in the interests of clarity, for a single article to cover an entire branch of the rules laid down in an act.

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

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

Harmonised rules on invoicing were introduced by Directive 2001/115/EC<sup>19</sup>, which replaced Article 22(3) in the version set out in Article 28h of the Sixth Directive. Currently, that provision is subdivided into points, but it was not possible, within the existing structure, to number the various subparagraphs. With up to ten unnumbered subparagraphs in Article 22(3)(a), it is difficult to identify the various component parts of the provision. The new structure, on the other hand, solves that problem by subdividing those component parts into different articles (see Articles 209 to 230 and 236 to 240 of the recast text).

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

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

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

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<sup>18</sup> See point 4 of the JPG.

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

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

#### 4.3.4. *Adaptation of the text*

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

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

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

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

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

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

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

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

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

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

#### 4.4. Compliance with the Community rules on legislative drafting

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

##### 4.4.1. Clarity

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

##### 4.4.1.1. Re-structuring

The structure, both of individual articles and of the act as a whole, should contribute to clarity. It must also take account of the multicultural and multilingual nature of Community legislation. It has been necessary to adapt the existing provisions of the Sixth Directive in the light of those requirements<sup>20</sup>.

Any provision which consists in introductory words followed by a list must be worded in such a way that the relationship between the introduction and the elements listed is quite clear and that sentences are not broken up in a way that is awkward and unnatural<sup>21</sup>.

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

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

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

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

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

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<sup>20</sup> See Guidelines Nos 5 and 7 of the 1998 Agreement and points 5 and 7 of the JPG.

<sup>21</sup> See point 15.3 of the JPG.

<sup>22</sup> See point 15.3. of the JPG.

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

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

Since indents are not instantly identifiable, they cause particular problems. The use of indents should therefore be avoided, and when elements are listed, they should be identified by a number or a letter<sup>23</sup>.

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

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

It is good practice to place technical rules or data in an annex. By contrast, in the interests of clarity, provisions which are not purely technical should be included in the enacting terms<sup>24</sup>.

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

#### 4.4.1.2. Limiting the use of references

References to other articles or to other acts should be kept to a minimum<sup>25</sup>. Efforts have therefore been made to reduce the number of such references. In some cases, references have been removed. Where that has not been possible, either the provision referred to has been reproduced and appears instead of the reference or the reference has been retained but clarified through the addition of further details.

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

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

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<sup>23</sup> See Guideline No 15 of the 1998 Agreement.

<sup>24</sup> See Guideline No 22 of the 1998 Agreement and point 22 of the JPG.

<sup>25</sup> See Guideline No 16 of the 1998 Agreement and point 16 of the JPG.

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

#### 4.4.1.3. Clearer and more consistent wording

Clarity of wording and consistency in the use of terminology are vital if a legislative act is to be easily understood and correctly interpreted. Consistency is achieved through the use of the same terms to express identical concepts<sup>26</sup>.

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

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

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

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<sup>26</sup> See Guideline No 6 of the 1998 Agreement and point 6 of the JPG.

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

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

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

#### 4.4.1.4. Alignment of the various language versions

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

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

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

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

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

#### 4.4.2. Simplification of the wording

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

#### 4.4.2.1. Structural improvements

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

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

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

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

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

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

#### 4.4.2.2. Concise content

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

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

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

#### 4.4.2.3. More straightforward language

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

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

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

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

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

#### 4.4.3. Greater precision

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

##### 4.4.3.1. Accuracy of references

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

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

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

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

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

Circular references (reference to an article which itself refers back to the initial provision) and serial references (reference to a provision which itself refers to another provision) should be avoided<sup>27</sup>.

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

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<sup>27</sup> See Guideline No 16 of the 1998 Agreement.

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

#### 4.4.3.2. Precise terminology

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

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

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

#### 4.4.4. *Updating the text*

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

##### 4.4.4.1. Updating of provisions

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

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

##### 4.4.4.2. Maintenance of the status quo

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

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

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

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

#### *4.4.5. Revision of the various language versions*

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

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

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

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

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

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

## **5. CHANGES AFFECTING THE SUBSTANCE**

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

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

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

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

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

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

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

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

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

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

2004/0079 (CNS)

Proposal for a  
**COUNCIL DIRECTIVE**  
**of [...]**

on the common system of value added tax

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 93 thereof,

Having regard to the proposal from the Commission<sup>28</sup>,

Having regard to the opinion of the European Parliament<sup>29</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>30</sup>,

Having regard to the opinion of the Committee of the Regions<sup>31</sup>,

Whereas:

- (1) Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment<sup>32</sup> has undergone substantial amendment on several occasions. In the interests of clarity and rationality, that Directive should be recast, with the introduction only of the substantive amendments essential for that purpose.
- (2) The recast text should incorporate all provisions still applicable of Council Directive 67/227/EEC of 11 April 1967 on the harmonisation of legislation of Member States concerning turnover taxes<sup>33</sup>. That Directive should therefore be repealed.

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<sup>28</sup> OJ C [...], [...], p. [...].

<sup>29</sup> OJ C [...], [...], p. [...].

<sup>30</sup> OJ C [...], [...], p. [...].

<sup>31</sup> OJ C [...], [...], p. [...].

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

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



~~Whereas the main objective of the Treaty is to establish, within the framework of an economic union, a common market within which there is healthy competition and whose characteristics are similar to those of a domestic market;~~

**First recital  
(67/227/EEC)**

*Obsolete*

(3) ~~Whereas the~~ The attainment of this the objective of establishing a common market whose characteristics are similar to those of a domestic market presupposes the ~~prior~~ application in Member States of legislation ~~concerning on~~ turnover taxes ~~such as will that does~~ not distort conditions of competition or hinder the free movement of goods and services ~~within the common market;~~

**Second recital  
(67/227/EEC)**

*Adapted*

(4) ~~Whereas the legislation at present in force does not meet these requirements; whereas it~~ It is therefore in the ~~interest~~ interests of the ~~common~~ common market to achieve such harmonisation of legislation ~~concerning on~~ turnover taxes by means of a system of value added tax (VAT), such as will eliminate, as far as possible, factors which may distort conditions of competition, whether at national or Community level, ~~and make it possible subsequently to achieve the aim of abolishing the imposition of tax on importation and the remission of tax on exportation in trade between Member States;~~

**Third recital  
(67/227/EEC)**

*Adapted*

~~Whereas, in the light of the studies made, it has become clear that such harmonisation must result in the abolition of cumulative multi-stage taxes and in the adoption by all Member States of a common system of value added tax;~~

**Fourth recital  
(67/227/EEC)**

*Obsolete*

(5) ~~Whereas a~~ A VAT system of value added tax achieves the highest degree of simplicity and of neutrality when the tax is levied in as general a manner as possible and when its scope covers all stages of production and distribution ~~and, as well as~~ the ~~provision~~ supply of services; ~~whereas it~~ It is therefore in the ~~interest~~ interests of the common market and of Member States to adopt a common system which ~~shall~~ also apply applies to the retail trade;

**Fifth and sixth  
recitals  
(67/227/EEC)**

*Adapted*

~~Whereas, however, the application of that tax to retail trade might in some Member States meet with practical and political difficulties; whereas, therefore, Member States should be permitted, subject to prior consultation, to apply the common system only up to and including the wholesale trade stage, and to apply, as appropriate, a separate complementary tax at the retail trade stage, or at the preceding stage;~~

(6) ~~Whereas it~~ It is necessary to proceed by stages, since the harmonisation of turnover taxes ~~will lead~~ leads in Member States to ~~substantial~~ alterations in tax structure and ~~will have~~ appreciable consequences in the budgetary, economic and social fields;

**Seventh recital  
(67/227/EEC)**

*Adapted*

(7) ~~Whereas the replacement of the cumulative multistage tax systems in force in the majority of Member States by the The common system of value added tax-VAT is bound, even if the rates and exemptions are not fully harmonised ~~at the same time~~, to result in neutrality in competition, in that within each ~~country~~ Member State similar goods and services bear the same tax burden, whatever the length of the production and distribution chain, ~~and that in international trade the amount of the tax burden borne by goods is known so that an exact equalisation of that amount may be ensured; whereas therefore, provision should be made, in the first stage, for adoption by all Member States of the common system of value added tax, without an accompanying harmonisation of rates and exemptions;~~~~

**Eighth recital  
(67/227/EEC)**

*Adapted*

~~Whereas it is not possible to foresee at present how and within what period the harmonisation of turnover taxes can achieve the aim of abolishing the imposition of tax on importation and the remission of tax on exportation in trade between Member States; whereas it is therefore preferable that the second stage and the measures to be taken in respect of that stage should be determined later on the basis of proposals made by the Commission to the Council;~~

**Ninth recital  
(67/227/EEC)**

*Obsolete*

~~Whereas all Member States have adopted a system of value added tax in accordance with the first and second Council Directives of 11 April 1967 on the harmonization of the laws of the Member States relating to turnover taxes;~~

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

*Obsolete*

~~Whereas Article 1 of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment lays down 1 January 1978 as the latest date for the implementation of its provisions in Member States;~~

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

*Obsolete*

~~Whereas Directive 77/388/EEC lays down common provisions for all fields covered by value added tax; whereas, in many cases, it is incumbent upon the Member States to determine the conditions under which these provisions shall apply; whereas, since the scope of Directive 77/388/EEC is so wide as to encompass a very large number of national regulations, several Member States have been unable to carry out the necessary adaptations in time to comply with Directive 77/388/EEC; whereas these Member States have thus been unable to complete the legislative procedure necessary to adapt their legislation on value added tax within the time limit laid down;~~

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

*Obsolete*

~~Whereas the Member States concerned have requested an extension of the time limit for the entry into force of Directive 77/388/EEC; whereas in this context an extension for a maximum of 12 months should be sufficient;~~

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

*Obsolete*

(8) ~~Whereas the Pursuant to Council Decision 2000/597/EC, Euratom, of 21 April 1970–29 September 2000 on the replacement of financial contributions from Member States by the system of the Communities' own resources provides that<sup>34</sup>, the budget of the European Communities shall is to be financed, irrespective of other revenue, be financed entirely from the Communities' own resources; whereas these Those resources are to include those accruing from value added tax VAT and obtained by applying through the application of a common rate of tax on to a basis of assessment determined in a uniform manner according to and in accordance with Community rules;~~

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

~~Whereas further progress should be made in the effective removal of restrictions on the movement of persons, goods, services and capital and the integration of national economies;~~

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

*Obsolete*

~~Whereas account should be taken of the objective of abolishing the imposition of tax on the importation and the remission of tax on exportation in trade between Member States; whereas it should be ensured that the common system of turnover taxes is non-discriminatory as regards the origin of goods and services, so that a common market permitting fair competition and resembling a real internal market may ultimately be achieved;~~

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

*Obsolete*

~~Whereas Article 8a of the Treaty defines the internal market as an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaty;~~

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

*Obsolete*

~~Whereas the completion of the internal market requires the elimination of fiscal frontiers between Member States and that to that end the imposition of tax on imports and the remission of tax on exports in trade between Member States be definitively abolished;~~

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

*Obsolete*

~~Whereas fiscal controls at internal frontiers will be definitively abolished as from 1 January 1993 for all transactions between Member States;~~

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

*Obsolete*

<sup>34</sup>

[OJ L 253, 7.10.2000, p. 42.](#)

~~Whereas the imposition of tax on imports and the remission of tax on exports must therefore apply only to transactions with territories excluded from the scope of the common system of value added tax;~~

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

*Obsolete*

(9) ~~Whereas during the~~ For a transitional period, intra-Community transactions carried out by taxable persons other than exempt taxable persons should be taxed in the Member ~~States~~ State of destination, ~~at those Member States' in accordance with the rates and under their conditions~~ and conditions set by that Member ~~State~~ State.

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

*Adapted*

(10) ~~Whereas intra-Community~~ It is also appropriate that, during that transitional period, intra-Community acquisitions of a certain value, made by exempt persons or by non-taxable legal persons ~~and~~ certain intra-Community distance selling and ~~supplies the supply~~ of new means of transport to individuals or ~~to~~ exempt or non-taxable bodies should also be taxed, ~~during the transitional period,~~ in the Member ~~States~~ State of destination, ~~at those Member States' in accordance with the rates and under their conditions~~ set by that Member State, in so far as such transactions would, in the absence of special provisions, be likely to cause significant ~~distortions~~ distortion of competition between Member States.

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

*Adapted*

~~Whereas the third subparagraph of Article 227(2) of the Treaty requires that the institutions of the Community should, within the framework of the procedures provided for in the Treaty, take care that the economic and social development of the French overseas departments is possible;~~

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

*Obsolete*

~~Whereas, in accordance with the judgment handed down by the Court of Justice on 10 October 1978 in Case 148/77, the Treaty and secondary legislation apply in the French overseas departments unless a decision is taken by the Community institutions adopting measures particularly suited to the economic and social conditions of those departments;~~

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

*Obsolete*

(11) ~~Whereas, for~~ For reasons connected with their geographic, economic and social situation, ~~the French overseas departments certain territories~~ should be excluded from the scope of ~~the common system of value added tax as established by Council this~~ Directive ~~77/388/EEC~~.

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

*Adapted*

~~Whereas implementation of this Directive does not involve any amendment of the laws of the Member States;~~

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

*Obsolete*

~~Whereas, however, in view of the conventions and treaties applicable to them, transactions originating in or intended for the Principality of Monaco and the Isle of Man must be treated as transactions originating in or intended for the French Republic and the United Kingdom of Great Britain and Northern Ireland respectively;~~

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

*Obsolete*

~~Whereas Article 3 of Council Directive 91/680/EEC of 16 December 1991 supplementing the common system of valued added tax and amending Directive 77/388/EEC with a view to the abolition of fiscal frontiers sets 1 January 1993 as the date for the entry into force of these provisions in all the Member States;~~

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

*Obsolete*

~~Whereas in order to facilitate the application of these provisions and to introduce the simplifications needed, it is necessary to supplement the common system of value added tax, as applicable on 1 January 1993, so as to clarify how the tax shall apply to certain operations carried out with third territories and certain operations carried out inside the Community, as well to define the transitional measures between the provisions in force on 31 December 1992 and those which will enter into force as from 1 January 1993;~~

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

*Obsolete*

~~Whereas in order to guarantee the neutrality of the common system of turnover tax in respect of the origin of goods, the concept of a third territory and the definition of an import must be supplemented;~~

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

*Obsolete*

(12) ~~Whereas, In order to enhance the non-discriminatory nature of the tax, the term 'taxable person' must be clarified to enable defined in such a way that the Member States are able to extend use it to cover persons who occasionally carry out certain transactions;~~

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

*Adapted*

~~Whereas the qualification of certain works on movable property as work carried out under a contract to make up work is a source of difficulty and should be eliminated;~~

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

*Obsolete*

(13) ~~Whereas the The term 'taxable transaction' has led may lead to difficulties, in particular as regards transactions treated as taxable transactions; whereas these. Those concepts must therefore be clarified;~~

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

*Adapted*

~~Whereas the abolition as from 1 January 1993 of tax on imports and tax relief on exports for trade between the Member States makes it necessary to have transitional measures in order to ensure the neutrality of the common system of valued added tax and to avoid situations of double-taxation or non-taxation;~~

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

*Obsolete*

~~Whereas it is therefore necessary to lay down special provisions for cases where a Community procedure, started before 1 January 1993 for the purposes of a supply effected before that date by a taxable person acting as such in respect of goods dispatched or transported to another Member State, is not completed until after 31 December 1992;~~

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

*Obsolete*

~~Whereas such provisions should also apply to taxable operations carried out before 1 January 1993 to which particular exemptions were applied which as a result delayed the taxable event;~~

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

*Obsolete*

~~Whereas it is also necessary to lay down special measures for means of transport which, not having been acquired or imported subject to the general domestic tax conditions of a Member State, have benefited, by the application of national measures, from an exemption from tax because of their temporary import from another Member State;~~

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

*Obsolete*

~~Whereas the application of these transitional measures, both in relation trade between the Member States and to operations with third territories, presupposes supplementing the definition of the operations to be made subject to taxation as from 1 January 1993 and the clarification for such cases of the concepts of the place of taxation, the taxable event and the chargeability of the tax;~~

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

*Obsolete*

~~Whereas, subject to the special provisions set out in Chapter IX of Annex XV to the Act of Accession, the common system of value added tax is to apply to the new Member States as from the date on which the Accession Treaty enters into force;~~

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

*Obsolete*

~~Whereas, as a result of the abolition on that date of the imposition of tax on importation and remission of tax on exportation in trade between the Community as constituted at present and the new Member States, and between the new Member States themselves, transitional measures are necessary to safeguard the neutrality of the common system of value added tax and prevent situations of double taxation or non-taxation;~~

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

*Obsolete*

~~Whereas such measures must, in this respect, meet concerns akin to those that led to the measures adopted on completion of the internal market on 1 January 1993, and in particular the provisions of Article 28n of Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turn-over taxes—Common system of value added tax: uniform basis of assessment;~~

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

*Obsolete*

~~Whereas, in the customs sphere, goods will be deemed to be in free circulation in the enlarged Community where it is shown that they were in free circulation in the current Community or in one of the new Member States at the time of accession; whereas conclusions should be drawn from this, particularly for Article 7(1) and (3) and Article 10(3) of Directive 77/388/EEC;~~

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

*Obsolete*

~~Whereas it is necessary in particular to cover situations in which goods have been placed, prior to accession, under one of the arrangements referred to in Article 16(1)(B)(a) to (d), under a temporary admission procedure with full exemption from import duties or under a similar procedure in the new Member States;~~

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

*Obsolete*

~~Whereas it is also necessary to lay down specific arrangements for cases where a special procedure (export or transit), initiated prior to the entry into force of the Accession Treaty in the framework of trade between the current Community and the new Member States and between those Member States for the purposes of a supply effected prior to that date by a taxable person acting as such, is not terminated until after the date of accession;~~

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

*Obsolete*

(14) ~~Whereas, with~~ With a view to facilitating intra-Community trade in ~~the field of~~ work on tangible movable ~~tangible~~ property, it is appropriate to establish the tax arrangements applicable ~~for these to such~~ transactions ~~should be modified~~ when they are carried out for a person-customer who is identified for ~~value added tax-VAT~~ purposes in a Member State other than that ~~of their physical execution in which the transaction is physically carried out~~;

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

*Adapted*

(15) ~~Whereas, by treating a~~ A transport operation within a Member State should be treated as ~~an the~~ intra-Community ~~goods~~ transport operation of goods where it is directly linked to a transport operation carried out between Member States, ~~it is possible in order~~ to simplify not only the principles and arrangements for taxing those domestic transport services but also the rules applicable to ancillary services and to services supplied by intermediaries ~~involved who take part~~ in the supply of ~~these the~~ various services;

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

*Adapted*

- |      |  |  |
|------|--|--|
| (16) | <p><del>Whereas the determination</del> <u>Determination</u> of the place where taxable transactions are <del>effected</del> <u>has been the subject of</u> <del>carried out</del> <u>may engender</u> conflicts concerning jurisdiction as between Member States, in particular as regards <del>supplies the supply</del> of goods for assembly <del>and</del> the supply of services; <del>whereas although</del> <u>Although</u> the place where a supply of services is <del>effected</del> <u>carried out</u> should in principle be <del>defined</del> <u>fixed</u> as the place where the <del>person supplying the services</del> <u>supplier</u> has his principal place of business, <del>that place it</del> should be defined as being in the <del>country</del> <u>Member State</u> of the <del>person to whom the services are supplied</del> <u>customer</u>, in particular in the case of certain services supplied between taxable persons where the cost of the services is included in the price of the goods;.</p> | <p><b>Seventh recital<br/>(77/388/EEC)</b></p> <p><i>Adapted</i></p> |
| (17) | <p><del>Whereas it</del> <u>It</u> is necessary to clarify the definition of the place of taxation of certain <del>operations</del> <u>transactions</u> carried out on board ships, aircraft or trains <del>transporting passengers inside in the course of passenger transport within</del> the Community;.</p>   | <p><b>Sixth recital<br/>(92/111/EEC)</b></p> <p><i>Adapted</i></p>   |
| (18) | <p>Increasing liberalisation of the gas and electricity sector, aimed at completing the internal market for electricity and natural gas, has revealed a need to review the current VAT rules <del>on governing</del> the place of supply of those goods, <del>set out in the Sixth 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</del>, in order to modernise and simplify the operation of the VAT system within the context of the internal market, <del>a strategy to which the Commission is committed</del>.</p>   | <p><b>First recital<br/>(2003/92/EC)</b></p> <p><i>Adapted</i></p>   |
| (19) | <p>Electricity and gas are treated as goods for VAT purposes, and, accordingly, the place of their supply <del>with respect to in the case of</del> cross-border transactions <del>has to</del> <u>must</u> be determined in accordance with <del>Article 8 of this</del> Directive <del>77/388/EEC</del>. However, since electricity and gas are difficult to track physically, it is particularly difficult to determine the place of supply under the current rules.</p>  | <p><b>Second recital<br/>(2003/92/EC)</b></p> <p><i>Adapted</i></p>  |
| (20) | <p>In order to attain a <u>real-genuine</u> internal market for electricity and gas without VAT obstacles, the place of supply <u>in respect of the supply</u> of gas through the natural gas distribution system <del>and, or</del> of electricity, before the goods reach the final stage of consumption, should be <del>determined to be</del> the place where the customer has established his business.</p>   | <p><b>Third recital<br/>(2003/92/EC)</b></p> <p><i>Adapted</i></p>   |



(21) The supply of electricity and gas ~~in at~~ the final stage, that is to say, from traders and distributors to the final consumer, should be taxed at the place where the customer ~~has effective use and consumption of actually uses and consumes~~ the goods, in order to ensure that taxation takes place in the ~~country where Member State of~~ actual consumption ~~takes place. This. That~~ is normally the place where the meter of the customer is located.

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

*Adapted*

~~Whereas, pursuant to Article 4(2) of the aforementioned Directive, the hiring out of movable tangible property may constitute an economic activity subject to value added tax;~~

**First recital  
(84/386/EEC)**

*Obsolete*

(22) ~~Whereas application of Article 9(1) of the aforementioned Directive to~~ In the case of the hiring out of tangible movable tangible property, application of the general rule that supplies of services are taxed in the Member State in which the supplier is established may lead to substantial ~~distortions distortion~~ of competition ~~where if~~ the lessor and the lessee are established in different Member States and the rates of taxation in those States differ; It is therefore necessary to establish that the place of supply of a service is the place where the customer has established his business or has a fixed establishment for which the service has been supplied or, in the absence thereof, the place where he has his permanent address or usually resides.

**Second and third  
recitals  
(84/386/EEC)**

*Adapted*

~~Whereas it is therefore necessary to establish that the place where a service is supplied is the place where the customer has established his business or has a fixed establishment for which the service has been supplied or, in the absence thereof, the place where he has his permanent address or usually resides;~~

(23) ~~Whereas, however, However,~~ as regards the hiring out of ~~forms~~ means of transport, ~~Article 9(1) should it is appropriate,~~ for reasons of control, be to apply strictly ~~applied, the general rule, and thus to regard~~ the place where the supplier has established his business ~~being treated~~ as the place of supply ~~of such services.~~

**Fourth recital  
(84/386/EEC)**

*Adapted*

~~Article 14 of the Treaty defines the internal market as comprising an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaty;~~

**First recital  
(1999/59/EC)**

*Obsolete*

(24) Electricity and gas are supplied through distribution networks, to which network operators provide access. In order to avoid double taxation or non-taxation, it is necessary to harmonise the rules governing the place of supply in respect of ~~the~~ transmission and transportation services. Access to and use of the distribution systems and the provision of other services directly linked to ~~these~~ those services should therefore be added to the list of ~~specific instances set out in Article 9, paragraph 2(e) of Directive 77/388/EEC~~ exceptions in this Directive.

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

*Adapted*

(25) ~~the rules currently applicable to VAT on telecommunications services under Article 9 of the Sixth 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 are inadequate for taxing all such~~ All telecommunications services consumed within the Community ~~and for preventing distortions~~ should be taxed to prevent distortion of competition in ~~this area that field~~.

**Second recital  
(1999/59/EC)**

*Adapted*

~~in the interests of the proper functioning of the internal market, such distortions should be eliminated and new harmonised rules introduced for this type of activity;~~

**Third recital  
(1999/59/EC)**

*Obsolete*

~~action should be taken to ensure, in particular, that telecommunications services used by customers established in the Community are taxed in the Community;~~

**Fourth recital  
(1999/59/EC)**

*Obsolete*

(26) ~~to this~~ To that end, telecommunications services supplied to taxable persons established in the Community or to ~~recipients~~ customers established in third countries should, in principle, be taxed at the place ~~of where the recipient of customer for~~ the services is established.

**Fifth recital  
(1999/59/EC)**

*Adapted*

(27) ~~in~~ In order to ensure uniform taxation of telecommunications services which are supplied by taxable persons established in third territories or third countries to non-taxable persons established in the Community and which are effectively used or enjoyed in the Community, Member States ~~should make use of the provisions of Article 9(3)(b) of Directive 77/388/EEC on changing~~ must change the place of supply; ~~whereas, however, Article 9(3) of that Directive may remain applicable within the Community except where corresponding~~ telecommunications services are supplied to other recipients customers in the Community.

**Sixth recital  
(1999/59/EC)**

*Adapted*

(28) ~~for the purpose of establishing~~ In order to establish a special rule for determining the place of supply of telecommunications services, ~~such it is necessary to define those services need to be defined; such definition should draw, drawing~~ on definitions already adopted at ~~international~~ Community level, ~~which include and covering~~ international telephone call routing and termination services and access to global information networks;.

**Seventh recital  
(1999/59/EC)**

*Adapted*

~~The rules currently applicable to VAT on radio and television broadcasting services and on electronically supplied services, under Article 9 of the sixth 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, are inadequate for taxing such services consumed within the Community and for preventing distortions of competition in this area.~~

**First recital  
(2002/38/EC)**

*Obsolete*

(29) ~~In the interests of the proper functioning of the internal market, such distortions should be eliminated and new harmonised rules introduced for this type of activity. Action should must~~ be taken to ensure, ~~in particular,~~ that ~~such radio and television broadcasting services and electronically supplied services,~~ where effected for consideration and consumed by customers established in the Community, are taxed in the Community and are not taxed if consumed outside the Community.

**Second recital  
(2002/38/EC)**

*Adapted*

(30) To ~~this that~~ end, radio and television broadcasting services and electronically supplied services provided from ~~third territories or~~ third countries to persons established in the Community, or from the Community to ~~recipients—customers~~ established in ~~third territories or~~ third countries, ~~should must~~ be taxed at the place of ~~establishment of the recipient of the services~~ customer.

**Third recital  
(2002/38/EC)**

*Adapted*

(31) ~~To~~ In order define electronically supplied services, ~~examples a non-exhaustive list~~ of such services should be ~~included set out~~ in an annex ~~to the Directive~~.

**Fourth recital  
(2002/38/EC)**

*Adapted*

(32) ~~Whereas the~~ The concepts of chargeable event and of the ~~charge to tax chargeability of VAT~~ must be ~~harmonized~~ harmonised if the introduction ~~and any subsequent alterations~~ of the ~~Community rate common system of VAT and of any subsequent amendments thereto~~ are to ~~become operative take effect~~ at the same time in all Member States;.

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

*Adapted*

~~Article 10 of Directive 77/388/EEC should also be clarified in order to prevent certain cases of tax avoidance in the case of continuous supplies.~~

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

*Obsolete*

(33) ~~Whereas the~~ The taxable base amount must be harmonized harmonised so that the application of ~~the Community rate VAT~~ to taxable transactions leads to comparable results in all the Member States;.

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

*Adapted*

~~Whereas the operation of the internal market can be improved by introducing common rules clarifying the scope of, and arrangements for, applying some of the exemptions provided for in Articles 14(1), 15, point 2, and 16(1) of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — common system of value added tax: uniform basis of assessment; whereas the introduction of such common rules is provided for by the aforesaid Directive, and in particular Articles 14(2) and 16(3) thereof;~~

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

*Obsolete*

(34) ~~Whereas it~~ It is appropriate to include in the taxable amount on importation all ancillary costs arising from the transport of goods to any place of destination in the Community since that place is known at the time the importation is carried out; ~~whereas, as a result, the supplies of services in question enjoy the exemptions provided for in Article 14(1)(i) of Directive 77/388/EEC;.~~

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

*Adapted*

~~Whereas completing the internal market, which is one of the fundamental objectives of the Community, requires as a first step that fiscal controls at the frontiers be abolished;~~

(35) ~~Whereas, if~~ If distortions are to be avoided, ~~such the~~ abolition implies in the case of value added tax of fiscal controls at frontiers entails, not only a uniform tax base basis of assessment, but also sufficient alignment as between Member States of a number of rates and rate levels ~~which are sufficiently close as between Member States; whereas it is therefore necessary to amend Directive 77/388/EEC;.~~

**First and second  
recitals  
(92/77/EEC)**

*Adapted*

(36) ~~Whereas Article 12(3)(a) of sixth 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, lays down that the Council shall decide on the level of the standard rate to be applied after 31 December 1998; whereas the~~ The standard rate of value added tax VAT is fixed by each Member State, within the limits set at Community level, as a percentage of the taxable amount and is the same for the supply of goods and for the supply of services; ~~whereas from 1 January 1993 until 31 December 1998, this percentage may not be less than 15%;.~~

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

*Adapted*

~~Whereas experience has shown that the standard rate of value added tax currently in force in the various Member States, combined with the mechanism of the transitional system, have ensured that this transitional system has functioned satisfactorily; whereas it seems therefore appropriate, with regard to the standard rate, to maintain the current level of the minimum rate for a further period of time;~~

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

*Obsolete*

~~Whereas, however, the Commission report on rates highlighted the fact that distortions of competition exist and are likely to be accentuated by the introduction of the single currency; whereas the period of application of the standard rate should be limited to two years in order to enable the Council at a later stage to decide on the levels of both the standard rate and reduced rate or rates;~~

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

*Obsolete*

(37) ~~Whereas the~~ The rates applied by Member States must be such as to ~~allow the normal~~ enable, as a general rule, deduction of the ~~tax~~ VAT applied at the preceding stage; ~~;~~

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

*Adapted*

(38) ~~Whereas, during~~ During the transitional period, certain derogations concerning ~~the~~ the number and ~~the~~ the level of rates should be possible; ~~;~~

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

*Adapted*

~~Whereas Article 122(3)(a) of Directive 77/388/EEC, lays down that, on the basis of the report on the operation of the transitional arrangements and proposals of the definitive arrangements to be submitted by the Commission pursuant to Article 28 thereof, the Council shall decide unanimously before 31 December 1995 on the level of the minimum rate of value added tax to be applied after 31 December 1996 with regard to the standard rate; whereas the standard rate shall be fixed by each Member State as a percentage of the taxable amount and shall be the same for the supply of goods and the supply of services; whereas from 1 January 1993 to 31 December 1996 this percentage may not be less than 15;~~

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

*Obsolete*

~~Whereas experience has shown that, under the current taxation system, the standard rates of value added tax at present in force in the various Member States, in combination with the safeguards built into that system, have ensured that the transitional system of value added tax has functioned satisfactorily; whereas it seems therefore appropriate with regard to the standard rate, to maintain the current level of the minimum rate for a further period of two years;~~

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

*Obsolete*

~~Whereas the transitional arrangements of the common system of value added tax should not jeopardize subsequent new arrangements; whereas the introduction of such new arrangements, which, according to Article 28(1) of Directive 77/388/EEC, are to be based in principle on the taxation in the Member State of origin, might require a certain level of approximation of the standard rates of value added tax in the Community; whereas, consequently, the level of the standard rate to be applied after the two year period should be decided upon unanimously by the Council, on a proposal from the Commission and after consulting the European Parliament and the Economic and Social Committee,~~

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

Obsolete

~~Article 12(3)(a) of the sixth 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, hereinafter referred to as the sixth VAT Directive, lays down that the Council is to decide on the level of the standard rate applicable after 31 December 2000.~~

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

Obsolete

~~While the standard rate of value added tax currently in force in the various Member States, combined with the mechanism of the transitional system, has ensured that this system has functioned to an acceptable degree, it is nonetheless important to prevent a growing divergence in the standard rates of VAT applied by the Member States from leading to structural imbalances in the Community and distortions of competition in some sectors of activity, at least in the period in which a new VAT strategy is being implemented to simplify and modernise current Community legislation on VAT, as set out in the Commission Communication of 7 June 2000.~~

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

Obsolete

~~It is therefore appropriate to maintain the current minimum standard rate at 15% for a further period long enough to allow the strategy for~~

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

Obsolete

~~Article 12(3)(a) of 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 provides that the Member States may apply either one or two reduced rates only to supplies of goods and services of the categories specified in Annex H to Directive 77/388/EEC;~~

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

Obsolete

(39) ~~however,~~ In order to tackle the problem of unemployment, ~~is so serious that~~ those Member States wishing to do so should be allowed to experiment with the operation and impact, in terms of job creation, of a reduction in the VAT rate on applied to labour-intensive services ~~which are not currently listed in Annex H;~~

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

Adapted

(40) ~~this reduced VAT rate~~ That reduction is likely to reduce the incentive for the businesses concerned to join or remain in the black economy;

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

*Adapted*

(41) ~~however, the introduction of~~ However, such a ~~targeted~~ reduction in the VAT rate could have a negative impact on the smooth functioning of the internal market and on tax neutrality; ~~provision.~~ Provision should therefore be made for an authorisation procedure to be introduced for a ~~full and clearly defined three year fixed~~ period and for the scope of ~~this such a~~ measure to ~~be made subject to strict conditions~~ closely defined so that it remains verifiable and limited;

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

*Adapted*

(42) ~~in~~ In view of the experimental nature of ~~the such a~~ measure, a detailed assessment of its impact in terms of job creation and efficiency should be carried out by the Member States which implement it and by the Commission;

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

*Adapted*

~~the measure should be strictly limited in time and should end by 31 December 2002 at the latest;~~

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

*Obsolete*

~~implementation of this Directive does not involve any amendment of the laws of the Member States;~~

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

*Obsolete*

~~Article 28(6) of Council Directive 77/388/EC 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, allows the reduced rates provided for in the third subparagraph of Article 12(3)(a) also to be applied to the labour intensive services listed in the categories set out in Annex K to that Directive for a maximum period of three years from 1 January 2000 to 31 December 2002.~~

**First recital  
(2002/93)**

*Obsolete*

~~Council Decision 2000/185/EC of 28 February 2000 authorising Member States to apply a reduced rate of VAT to certain labour intensive services in accordance with the procedure provided for in Article 28(6) of Directive 77/388/EEC authorised certain Member States to apply, up to 31 December 2002, a reduced rate of VAT to those labour intensive services for which they had submitted an application.~~

**Second recital  
(2002/93)**

*Obsolete*

~~Based on the reports to be drawn up by 1 October 2002 by the Member States that have applied such reduced rates, the Commission is required to submit a global evaluation report to the Council and the European Parliament by 31 December 2002, accompanied if necessary by a proposal for a final decision on the rate to be applied to labour-intensive services.~~

**Third recital  
(2002/93)**

Obsolete

~~In view of the time needed to produce a thorough global evaluation of such reports to extend the maximum period of application set for this measure in Directive 77/388/EEC.~~

**Fourth recital  
(2002/93)**

Obsolete

~~Directive 77/388/EEC should therefore be amended accordingly,~~

**Fifth recital  
(2002/93)**

Obsolete

~~Article 28(6) of Council Directive 77/388/EC 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 allows the reduced rates provided for in the third subparagraph of Article 12(3)(a) also to be applied to the labour-intensive services listed in the categories set out in Annex K to that Directive for a maximum period of four years from 1 January 2000 to 31 December 2003.~~

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

Obsolete

~~Council Decision 2000/185/EC of 28 February 2000 authorising Member States to apply a reduced rate of VAT to certain labour-intensive services in accordance with the procedure provided for in Article 28(6) of Directive 77/388/EEC, authorised certain Member States to apply a reduced rate of VAT to those labour-intensive services for which they had submitted an application up to 31 December 2003.~~

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

Obsolete

~~On the basis of the assessment reports submitted by the Member States that have applied the reduced rate, the Commission submitted its global evaluation report on 2 June 2003.~~

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

Obsolete

~~In line with its strategy to improve the operation of the VAT system within the context of the internal market, the Commission adopted a proposal for a general review of the reduced rates of VAT to simplify and rationalise them.~~

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

Obsolete

~~Since the Council has not reached an agreement on the content of the proposal, it should be given the necessary time to do so; in order to avoid legal uncertainty from 1 January 2004 the maximum period of application set for this measure in Directive 77/388/EEC should therefore be extended.~~

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

Obsolete



~~In order to ensure the continuous application of Article 28(6) of Directive 77/388/EEC, provision should be made for this Directive to apply retroactively.~~

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

*Obsolete*

~~Implementation of this Directive in no way implies change in the legislative provisions of Member States.~~

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

*Obsolete*

~~Decision 77/388/EC should be amended accordingly,~~

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

*Obsolete*

~~Point 2(e) of Part IX ‘Taxation’ of Annex XV to the 1994 Act of Accession authorised the Republic of Austria to derogate from Article 28(2) of sixth 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, (hereinafter referred to as the ‘sixth VAT Directive’) and to apply a reduced rate to the letting of immovable property for residential use until 31 December 1998, provided that the rate was not lower than 10%.~~

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

*Obsolete*

~~Under Article 13(B)(b) of the sixth VAT Directive, the letting of immovable property for residential use in Austria has been exempt from VAT since 1 January 1999 without the right to deduct input tax. However, under Article 13(C)(a) of that Directive, Austria may allow taxpayers the right to opt for taxation. In that case, the normal VAT rate and the normal rules for the right to deduction apply.~~

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

*Obsolete*

~~The Republic of Austria considers that the measure is still essential, mainly because the transitional VAT regime is still in force and the situation has not really changed since the negotiation of the 1994 Act of Accession.~~

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

*Obsolete*

~~The Republic of Austria also considers that dispensing with the reduced rate of 10% would inevitably lead to an increase in the price of immovable property rental for the final consumer.~~

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

*Obsolete*

~~The Portuguese Republic applied a reduced rate of 8% to restaurant services as at 1 January 1991. Under Article 28(2)(d) of the sixth VAT Directive, Portugal was permitted to continue applying that rate. However, after a comprehensive amendment of the rates and for political and budgetary reasons, restaurant services were made subject to the normal rate from 1992.~~

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

*Obsolete*

~~The Portuguese Republic wishes to reintroduce a reduced rate on these services on the basis that maintaining the normal rate had adverse consequences, in particular job losses and an increase in undeclared employment, and that application of the normal rate increased the price of restaurant services for the final consumer.~~

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

*Obsolete*

~~As the derogations in question concern supplies of services within a single Member State, the risk of distortion of competition can be considered non-existent.~~

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

*Obsolete*

~~In these circumstances, return to the previous situation may be considered for both the Republic of Austria and the Portuguese Republic, provided that application of the derogations is limited to the transitional period referred to in Article 281 of the sixth VAT Directive. However, the Republic of Austria must take the necessary steps to ensure that the reduced rate has no adverse effects on the European Communities' own resources accruing from VAT, the basis of assessment for which must be reconstituted in accordance with Regulation (EEC, Euratom) No 1553/89,~~

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

*Obsolete*

~~Whereas Member States should be enabled to maintain the rate applicable to goods after making up work which they carried out under a contract to make up work on 1 January 1993;~~

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

*Obsolete*

~~Whereas Article 12(3)(d) of Directive 77/388/EEC lays down that the rules concerning the taxation of agricultural outputs other than those falling within category 1 of Annex H are to be decided unanimously by the Council before 31 December 1994 on a proposal from the Commission; whereas, until that date, those Member States which had already been applying a reduced rate might continue to do so while those applying a standard rate could not apply a reduced rate; whereas that allowed a two-year postponement in the application of the standard rate;~~

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

*Obsolete*

(43) ~~Whereas experience~~ Experience has shown that the structural imbalance in the VAT rates applicable by Member States to agricultural ~~outputs of products in~~ the floricultural and horticultural sectors ~~has led leads~~ to ~~reported~~ cases of fraudulent ~~activities~~; ~~whereas that structural imbalance is a direct result of the application of Article 12(3)(d) and should be redressed accordingly;~~ activity. It is therefore appropriate to extend to all Member States, on a transitional basis, the option of applying a reduced rate to the supply of agricultural products in the floricultural and horticultural sectors and of wood used as firewood.

**Second and third  
recitals  
(96/42/EC)**

*Adapted*

~~Whereas the most appropriate solution would be to extend to all Member States, on a transitional basis, the option of applying a reduced rate to supplies of agricultural outputs of the floricultural and horticultural sectors and of wood used as firewood;~~

(44) ~~Whereas a~~ A common list of exemptions should be drawn up so that the Communities' own resources may be collected in a uniform manner in all the Member States;

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

~~Whereas the abolition of the principle of the imposition of tax on imports in relations between Member States will make provisions on tax exemptions and duty free allowances superfluous in relations between Member States; whereas, therefore, those provisions should be repealed and the relevant Directives adapted accordingly;~~

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

*Obsolete*

~~Whereas the rules governing territorial application and the tax arrangements applicable in the field of intra-Community goods transport services function in a simple and satisfactory manner for both traders and the authorities in the Member States;~~

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

*Obsolete*

(45) ~~Whereas~~ Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products<sup>35</sup> lays down particular special procedures and obligations in relation to declarations concerning a duty to declare in the case of shipments of such products to another Member State; ~~whereas as~~ As a result the methods of applying ~~tax~~ VAT to certain supplies and intra-Community ~~acquisitons~~ acquisitions of products liable subject to excise ~~duties~~ duty can be simplified to the benefit both of the persons liable to pay tax for payment of VAT and the competent ~~administrations~~ administrative authorities;

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

*Adapted*

~~Whereas it is necessary to define the scope of the exemptions referred to in Article 28c of Directive 77/388/EEC; whereas it is also necessary to supplement the provisions concerning the chargeability of the tax and the methods of determining the taxable amount of certain intra-Community operations;~~

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

*Obsolete*

~~Whereas Article 15(2) of that Directive provides that the Commission shall submit to the Council proposals to establish Community tax rules specifying the scope of, and practical arrangements for implementing, the export exemptions applicable to supplies of goods carried in the personal luggage of travellers;~~

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

*Obsolete*

<sup>35</sup> [OJ L 76, 23.3.1992, p. 1. Directive as last amended by Regulation \(EC\) No 807/2003 \(OJ L 122, 16.5.2003, p. 36\).](#)

(46) ~~Whereas it~~ It is necessary to state exactly how the exemptions relating to certain export operations or equivalent operations ~~will are to~~ be implemented; ~~whereas it is necessary to adapt the other Directives concerned accordingly;~~

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

*Adapted*

(47) The ~~import-importation~~ of gas through the natural gas distribution system, or of electricity, should be exempted ~~from VAT~~ in order to avoid double taxation.

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

*Adapted*

~~Whereas Article 1(1) of Council Directive 69/169/EEC of 28 May 1969 on the harmonization of provisions laid down by law, regulation or administrative action relating to exemption from turnover tax and excise duty on imports in international travel provides for allowances in respect of goods contained in the personal luggage of travellers coming from third countries on condition that such imports have no commercial character;~~

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

*Obsolete*

~~Whereas the total value of the goods eligible for this exemption may not exceed ECU 45 per person; whereas, in accordance with Article 1(2) of Directive 69/169/EEC, Member States may reduce the allowance to ECU 23 for travellers under 15 years of age;~~

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

*Obsolete*

~~Whereas account must be taken of measures in favour of travellers recommended by specialized international organizations, in particular the measures contained in Annex F.3 to the International Convention on the Simplification and Harmonization of Customs Procedures;~~

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

*Obsolete*

~~Whereas these objectives could be attained by increasing the allowances;~~

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

*Obsolete*

~~Whereas it is necessary to provide, for a limited period, a derogation for Germany, taking into account the economic difficulties likely to be caused by the amount of the allowances, particularly as regards travellers entering the territory of that Member State by land frontiers linking Germany to countries other than Member States and the EFTA members or by means of coastal navigation coming from the said countries;~~

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

*Obsolete*

~~Whereas there are special links between continental Spain and the Canary Islands, Ceuta and Melilla;~~

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

*Obsolete*

~~Whereas it is necessary to ensure, during the period when these sales are authorized pursuant to the provisions of Article 28k of Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment, that the real value of goods likely to be sold in tax-free shops to travellers on intra-Community flights or sea crossings is maintained,~~

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

*Obsolete*

(48) ~~Whereas, for~~ In respect of taxable operations in the domestic market linked to intra-Community trade in goods ~~which are~~ carried out during the transitional period laid down in Article 28l of Directive 77/388/EEC by taxable persons not established in the Member State ~~referred to in Article 28b(A)(1) of the said Directive, in which the intra-Community acquisition of goods takes place,~~ it is necessary to take provide for simplification measures guaranteeing equivalent ensuring equal treatment in all the Member States; ~~whereas to achieve this, To that end,~~ the provisions concerning the taxation system and the person liable ~~to tax for payment of the VAT due~~ in respect of such operations must be ~~harmonized~~ harmonised;

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

*Adapted*

(49) ~~Whereas Article 3 of Council Directive 92/111/EEC of 14 December 1992 amending Directive 77/388/EEC and introducing simplification measures with regard to value added tax provides for the adoption of Member States should be allowed to adopt special rules for the taxation of chain transactions between taxable persons; whereas such rules must ensure not only, in compliance both with the principle of neutrality of that the common system of value added tax VAT is non-discriminatory as regards the origin of goods and services but also compliance as regards the services related thereto and with the choices made as to the principles governing value added tax VAT and its monitoring arrangements during the transitional period the way in which its application is monitored;~~

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

*Adapted*

(50) ~~Whereas Article 16(1)(B) to (E) of the said Directive, taken together in particular with Article 22(9) concerning release from obligations, makes it possible In order to overcome the difficulties encountered by traders participating in transaction chains involving goods placed and kept under warehousing arrangements, it is necessary to ensure that the tax treatment applied to the supply of goods or of services relating to certain of the goods which may be placed under customs warehousing arrangements can also be applied to the same transactions when they involve goods placed under warehousing arrangements other than customs warehousing;~~

**Eleventh and  
twelfth recitals  
(95/7/EC)**

*Adapted*

~~Whereas it is necessary in this connection to ensure that the tax treatment applied to supplies of goods and the provision of services relating to certain of the goods which may be placed under customs warehousing arrangements can also be applied to the same transactions involving goods placed under warehousing arrangements other than customs warehousing;~~

(51) ~~Whereas these~~ Those transactions concern principally raw materials and other goods negotiated on international forward markets; ~~whereas a. A list of the such goods covered by these provisions should therefore be drawn up;~~

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

*Adapted*

(52) ~~Whereas, subject to consultation of the Committee on Value Added Tax, the~~ Although the Member States are responsible for defining those warehousing arrangements other than customs warehousing; ~~whereas,~~ it is nevertheless necessary ~~nevertheless~~ to exclude in principle from such arrangements goods that are intended to be supplied at the retail stage;

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

*Adapted*

~~Whereas it is necessary to clarify some of the rules for applying tax when goods cease to be covered by the arrangements provided for in Article 16(1)(B) to (E) of the said Directive, particularly as regards the person liable for payment of the tax due;~~

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

*Obsolete*

(53) ~~Whereas the~~ The rules governing deductions should be harmonized harmonised to the extent that they affect the actual amounts collected; ~~whereas the. The~~ deductible proportion should be calculated in a similar manner in all the Member States;

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

*Adapted*

~~Whereas it is necessary to clarify the scope of those provisions of Article 17(2)(a) of the said Directive that are applicable during the transitional period referred to in Article 28f;~~

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

*Obsolete*

~~Whereas it is accordingly necessary to amend Directive 77/388/EEC,~~

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

*Obsolete*

(54) ~~Whereas in~~ In order to take account of the provisions relating to the person liable ~~to pay tax in the domestic market for payment of VAT~~ and to avoid certain forms of tax evasion or avoidance, it is necessary to clarify the Community provisions concerning the repayment of VAT to taxable persons not established in the ~~country of the value added tax referred to in Article 17(3) of Directive 77/388/EEC as amended by Article 28f of the said Directive~~ Member State in which the VAT is due;

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

*Adapted*

~~Whereas, on account of the current economic situation, the Kingdom of Spain and the Italian Republic have requested that, as a transitional measure, provisions derogating from the principle of immediate deduction laid down in the first subparagraph of Article 18(2) of Directive 77/388/EEC be applied; whereas this request should be granted for a period of two years which may not be extended;~~

(55) ~~Whereas it~~ It is appropriate that Member States should be able to extend by up to 20 years the period serving as a basis for calculating the adjustments provided for by Article 20(2) of the said Directive should be extended up to 20 years by Member States for adjustment of deductions in respect of immovable property acquired as capital goods, bearing in mind given the duration of their the economic life of such goods;

(56) ~~Whereas it should be specified which~~ It is appropriate to specify the persons are liable to pay tax, in particular as regards for payment of VAT, particularly in the case of services supplied by a person who is not established in another country the Member State in which the VAT is due;

(57) ~~Those~~ The changes in the rules governing the place of supply of gas through the natural gas distribution system, or of electricity, should be combined with a compulsory reverse charge when if the customer is a person identified for VAT purposes.

Directive 77/388/EEC should therefore be amended accordingly,

~~The present rules laid down by Article 21 of sixth 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, as regards the determination of the person liable for payment of the tax, create serious problems for business and, in particular, for the smallest businesses.~~

~~Council Directive 76/308/EEC of 15 March 1976 on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund and of the agricultural levies and customs duties, Council Directive 77/799/EEC of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation and Council Regulation (EEC) No 218/92 of 27 January 1992 on administrative cooperation in the field of indirect taxation (VAT) organise mutual assistance between the Member States as regards the correct establishment of VAT and its recovery.~~

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

*Obsolete*

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

*Adapted*

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

*Adapted*

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

*Adapted*

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

*Obsolete*

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

*Obsolete*

~~The Commission report on the second phase of the SLIM (simpler legislation for the internal market) project recommends a study of the possibilities and different ways of reforming the tax representation system laid down by Article 21 of Directive 77/388/EEC.~~

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

*Obsolete*

~~The only change which can in fact substantially simplify the common system of VAT in general and the determination of the person liable for payment of the tax in particular is no longer to allow Member States the option of requiring the appointment of a tax representative.~~

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

*Obsolete*

(58) ~~Therefore, In view of the mutual assistance between Member States as regards the correct establishment of VAT and its recovery as provided for by Community law, the appointment of a tax representative should in future only be an option for non-established taxable persons is not necessary for taxable persons established in a Member State other than that in which the VAT is due. However, those taxable persons must have the option of appointing such a representative.~~

**Second and fifth  
recitals  
(2000/65/EC)**

*Adapted*

~~Under Article 22 of Directive 77/388/EEC, Member States may impose directly on non-established taxable persons the same obligations as those which apply to established taxable persons, including those which may be laid down under Article 22(8).~~

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

*Obsolete*

(59) Where ~~non-established~~ taxable persons are nationals of established in countries with which no legal instrument exists which organises relating to mutual assistance similar in scope to that laid down provided for within the Community, it will-should be possible for the Member States ~~to continue~~ to require such ~~non-established~~ taxable persons to designate a tax representative to be as the person liable for payment of the tax-VAT in their stead or to designate an agent.

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

*Adapted*

(60) Member States will-should continue to be entirely free to designate the person liable for payment of the tax-VAT on importation.

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

*Adapted*

(61) Member States ~~may continue~~ should be able to provide that someone other than the person liable for payment of ~~the tax shall VAT is to~~ be held jointly and severally liable for its payment ~~of the tax~~.

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

*Adapted*

~~Directive 77/388/EEC should therefore be amended accordingly,~~

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

*Obsolete*



(62) ~~Whereas the~~ The obligations of ~~taxpayers~~ taxable persons must be ~~harmonized~~ harmonised as far as possible so as to ensure the necessary safeguards for the collection of ~~taxes~~ VAT in a uniform manner in all the Member States; ~~whereas taxpayers should, in~~ In particular, taxable persons should make a periodic aggregate return of their transactions, relating to both inputs and outputs, where this appears necessary for establishing and monitoring the basis of assessment of own resources;

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

*Adapted*

(63) ~~Taxation at the place of the recipient of the services also means that taxable persons will not have to have recourse to the procedures under Directives 79/1072/EEC and 86/560/EEC; the~~ The new rules for determining the place of supply ~~should of telecommunications services must not mean entail~~ that ~~foreign~~ taxable persons not established in the Community have to be identified for tax purposes in ~~another each Member State; this will be achieved by making it compulsory for in which they carry out transactions. Accordingly,~~ the recipient of the services ~~to~~ must be held liable for ~~the tax payment of VAT,~~ provided that recipient he is a taxable person;

**Eighth recital  
(1999/59/EC)**

*Adapted*

~~Directive 77/388/EEC should be amended accordingly;~~

**Ninth recital  
(1999/59/EC)**

*Obsolete*

~~The current conditions laid down for invoicing and listed under Article 22(3), in the version given in Article 28h of the Sixth 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, are relatively few in number, thus leaving it to the Member States to define the most important such conditions. At the same time, the conditions are no longer appropriate given the development of new invoicing technologies and methods.~~

**First recital  
(2001/115/EC)**

*Obsolete*

~~The Commission report on the second phase of the SLIM exercise (Simpler Legislation for the Single Market) recommended that a study be carried out to determine what details should be required for VAT purposes when drawing up an invoice and what the legal and technical requirements are as regards electronic invoicing.~~

**Second recital  
(2001/115/EC)**

*Obsolete*

(64) ~~The conclusions of the Ecofin Council of June 1998 underlined the fact that the development of electronic commerce has made it necessary to establish a legal framework for the use of electronic invoicing to~~ enable must be so designed that tax administrations authorities are able to continue to perform their controls carry out their monitoring activities.

**Third recital  
(2001/115/EC)**

*Adapted*

(65) It is therefore ~~necessary, in order to ensure that the internal market functions properly, appropriate~~ to draw up a list, harmonised at Community level, of the particulars that must appear on invoices ~~for the purposes of value added tax~~ and to establish a number of common arrangements governing the use of electronic invoicing and the electronic storage of invoices, as well as for self-billing and the outsourcing of invoicing operations.

**Fourth recital  
(2001/115/EC)**

*Adapted*

(66) ~~Lastly, the~~ The storage of invoices should comply with the conditions laid down ~~by~~ in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>36</sup>.

**Fifth recital  
(2001/115/EC)**

*Adapted*

(67) ~~Since the introduction of the transitional VAT arrangements in 1993,~~ Greece ~~has adopted~~ continues to use the prefix EL rather than the prefix GR laid down in the ISO International Standard No 3166 – alpha 2 ~~referred to in Article 22(1)(d)~~. Given the consequences of amending the prefix in all the Member States, it is important to lay down an exception ~~for Greece~~ providing that the ISO Standard does not apply in Greece.

**Sixth recital  
(2001/115/EC)**

*Adapted*

~~Directive 77/388/EEC should therefore be amended accordingly,~~

**Seventh recital  
(2001/115/EC)**

*Obsolete*

(68) Subject to conditions which they lay down, Member States ~~should~~ must allow certain statements and returns to be made by electronic means, and may ~~also~~ require that electronic means ~~are~~ be used.

**Ninth recital  
(2002/38/EC)**

*Adapted*

(69) ~~Whereas the~~ The necessary pursuit of a reduction ~~of~~ in the administrative and statistical formalities ~~for undertakings to be completed by businesses,~~ particularly small and medium-sized ~~undertakings enterprises,~~ must be reconciled with the implementation of effective control measures and the need, on both economic and tax grounds, to maintain the quality of Community statistical instruments<sup>37</sup>.

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

*Adapted*

<sup>36</sup> [OJ 281, 23.11.1995, p. 31.](#)

- |   |  |
|---|--|
| <p>(70) <del>Whereas certain</del> <u>Certain</u> territories forming part of the Community customs territory are regarded as third territories for the purposes of applying the common system of <del>value added tax; whereas value added tax</del> <u>VAT</u>. <u>VAT</u> is therefore applied to trade between the Member States and those territories <del>according to</del> <u>in accordance with</u> the same principles as apply to any <del>operation</del> <u>transaction</u> between the Community and third countries; <del>whereas it</del>. <u>It</u> is necessary to ensure that such trade is subject to fiscal provisions equivalent to those which would be applied to <del>operations</del> <u>transactions</u> carried out <del>under</del> <u>in accordance with</u> the same conditions, with territories which are not part of the Community customs territory; <del>whereas as a result of these provisions the Seventeenth Council Directive 85/362/EEC of 16 July 1985 on the harmonization of the laws of the Member States relating to turnover taxes — Exemption from value added tax on the temporary importation of goods other than means of transport, becomes null and void;</del></p> | <p><b>Fourth recital<br/>(92/111/EEC)</b></p> <p><i>Adapted</i></p>            |
| <p>(71) <del>Whereas</del> Member States should <del>nevertheless</del> be <u>able allowed</u> to <del>retain</del> <u>continue to apply</u> their special schemes for small <del>undertakings</del> <u>enterprises</u>, in accordance with common provisions, and with a view to closer <del>harmonization</del>; <del>whereas Member States should remain free to apply a special scheme involving flat rate rebates of input value added tax to farmers not covered by normal schemes; whereas the basic principles of this scheme should be established and a common method adopted for calculating the value added of these farmers for the purposes of collecting own resources</del> <u>harmonisation</u>;</p>   | <p><b>Fifteenth recital<br/>(77/388/EEC)</b></p> <p><i>Adapted</i></p>         |
| <p>(72) <del>Whereas Member States should nevertheless be able to retain their special schemes for small undertakings, in accordance with common provisions, and with a view to closer harmonization; whereas</del> Member States should remain free to apply a special scheme involving flat rate rebates of input <del>value added tax</del> <u>VAT</u> to farmers not covered by <del>the normal schemes; whereas the scheme</del>. <u>The</u> basic principles of <del>this</del> <u>that special</u> scheme should be established and a common method adopted, <del>for the purposes of collecting own resources</del>, <u>for the purposes of collecting own resources</u>, for calculating the value added <del>of these</del> <u>by such</u> farmers <del>for the purposes of collecting own resources</del>;</p>   | <p><b>Fifteenth recital<br/>(77/388/EEC)</b></p> <p><i>Adapted</i></p>         |
| <p>(73) <del>Whereas, in accordance with Article 32 of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment, the Council is</del> <u>It is appropriate</u> to adopt a Community taxation system to be applied to <del>used</del> <u>second-hand</u> goods, works of art, antiques and collectors' items, <u>with a view to preventing double taxation and the distortion of competition as between taxable persons</u>;</p>   | <p><b>First and fifth<br/>recitals<br/>(94/5/EC)</b></p> <p><i>Adapted</i></p> |

~~Whereas the present situation, in the absence of Community legislation, continues to be marked by the application of very different systems which cause distortion of competition and deflection of trade both internally and between Member States; whereas these differences also include a lack of harmonization in the levying of the own resources of the Community; whereas consequently it is necessary to bring this situation to an end as soon as possible;~~

**Second recital  
(94/5/EC)**

*Obsolete*

~~Whereas the Court of Justice has, in a number of judgments, noted the need to attain a degree of harmonization which allows double taxation in intra-Community trade to be avoided;~~

**Third recital  
(94/5/EC)**

*Obsolete*

~~Whereas it is essential to provide, in specific areas, for transitional measures enabling legislation to be gradually adapted;~~

**Fourth recital  
(94/5/EC)**

*Obsolete*

~~Whereas, within the internal market, the satisfactory operation of the value added tax mechanisms means that Community rules with the purpose of avoiding double taxation and distortion of competition between taxable persons must be adopted;~~

~~Whereas it is accordingly necessary to amend Directive 77/388/EEC,~~

**Sixth recital  
(94/5/EC)**

*Obsolete*

~~Whereas, under the sixth 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 transactions concerning gold are in principle taxable although, on the basis of the transitional derogation provided for in Article 28(3) in conjunction with point 26 of Annex F to the said Directive, Member States may continue to exempt transactions concerning gold other than gold for industrial use; whereas the application by some Member States of that transitional derogation is the cause of a certain distortion of competition;~~

**First recital  
(98/80/EC)**

*Obsolete*

(74) ~~Whereas gold does not only serve as an input for production but is also acquired for investment purposes; whereas the The application of the normal tax-VAT rules to gold constitutes a major obstacle to its use for financial investment purposes and therefore justifies the application of a specific tax scheme for investment gold; whereas such a scheme should also enhance, with a view also to enhancing the international competitiveness of the Community gold market;~~

**Second recital  
(98/80/EC)**

*Adapted*

- |      |   |  |
|------|---|--|
| (75) | <del>Whereas supplies</del> <u>The supply</u> of gold for investments purposes <del>are</del> <u>is inherently</u> similar <del>in nature</del> to other financial investments <del>often exempted</del> <u>which are exempt</u> from <del>tax</del> <u>under the current rules of the sixth Directive, and therefore VAT.</u> <del>Consequently,</del> <u>exemption from tax</u> appears to be the most appropriate tax treatment for supplies of investment gold;.  | <b>Third recital<br/>(98/80/EC)</b><br><br><i>Adapted</i>  |
| (76) | <del>Whereas the definition of investment gold should only comprise forms and weights of gold of very high purity as traded in the bullion markets and</del> <u>The definition of investment gold should cover</u> gold coins the value of which primarily reflects <del>its</del> <u>the price of the gold price;</u> <del>whereas, in the case of gold coins, for</del> <u>contained.</u> <del>For</del> reasons of transparency <u>and legal certainty,</u> a yearly list of <del>qualifying</del> coins <u>covered by the investment gold scheme</u> should be drawn up, providing security for the operators trading in such coins; <del>whereas the legal security of traders demands that coins included in this list be deemed to fulfil the criteria for exemption of this Directive for the whole year for which the list is valid; whereas such</del> <u>That</u> list <del>will</del> <u>should</u> be without prejudice to the exemption, <del>on a case by case basis,</del> of coins, <del>including newly minted coins</del> which are not included in the list but which meet the criteria laid down in this Directive;. | <b>Fourth recital<br/>(98/80/EC)</b><br><br><i>Adapted</i> |
| (77) | <del>Whereas since</del> <u>Although</u> a tax exemption does, <del>in principle,</del> not, <u>in principle,</u> allow for the deduction of input tax <del>while, it is appropriate, in view of the fact that</del> tax on the value of the gold may be charged on previous <del>operations, transactions, to allow</del> the deduction of such input tax <del>should be allowed</del> in order to guarantee the advantages of the special scheme and to <del>avoid distortions prevent the distortion</del> of competition with regard to imported investment gold;.  | <b>Fifth recital<br/>(98/80/EC)</b><br><br><i>Adapted</i>  |
| (78) | <del>Whereas the possibility of using</del> <u>Since</u> gold <u>may be used</u> for both industrial and investment purposes <del>requires the possibility for,</del> operators <u>should be able</u> to opt for normal taxation <del>where their activity consists either in the producing of investment gold or transformation of any gold into investment gold, or in the wholesale of such gold when they supply in their normal trade gold for industrial purposes;</del>  | <b>Sixth recital<br/>(98/80/EC)</b><br><br><i>Adapted</i>  |

(79) ~~Whereas the dual use of gold may offer new opportunities for~~ In order to prevent tax fraud and tax evasion that will require effective control measures to be taken by Member States; whereas a common standard of it is desirable to lay down rules concerning the minimum obligations ~~in~~ incumbent upon operators as regards accounting and ~~documentation to be held by the operators is therefore desirable although, where this information does already exist pursuant to other Community legislation, a Member State may consider these requirements to be met~~ the records to be kept;

**Seventh recital  
(98/80/EC)**

*Adapted*

(80) ~~Whereas experience has shown that, with regard to most supplies of gold of more than a certain purity the application of a reverse charge mechanism can help to~~ In order to prevent tax fraud evasion while at the same time alleviating the financing charge for the operation; whereas supply of gold of a degree of purity above a certain level, it is justified justifiable to allow Member States to use such mechanism; whereas for importation of gold Article 23 of the Sixth Directive allows, in a similar way, that tax is not paid at the moment of importation provided it is mentioned in the declaration pursuant to Article 22(4) of that Directive designate the customer as the person liable for payment of VAT;

**Eighth recital  
(98/80/EC)**

*Adapted*

(81) ~~Whereas transactions carried out on a bullion market regulated by a Member State require further simplifications in their tax treatment because~~ In view of the huge number and the speed of such operations; whereas transactions carried out on a regulated bullion market and the speed with which they are effected, Member States are must be allowed to disapply the special scheme, to suspend tax collection of VAT and to dispense with recording relieve operators of certain accounting requirements;

**Ninth recital  
(98/80/EC)**

*Adapted*

~~Whereas since the new tax scheme will replace existing provisions under Article 12(3)(e) and point 26 of Annex F of the Sixth Directive, these provisions should be deleted,~~

**Tenth recital  
(98/80/EC)**

*Obsolete*

(82) ~~To~~ In order to facilitate compliance with fiscal obligations by operators providing electronically supplied services, who are neither established nor required to be identified for ~~tax~~ VAT purposes within the Community, a special scheme should be established. ~~In applying this~~ Under that scheme it should be possible for any operator supplying such services by electronic means to non-taxable persons within the Community, ~~may~~, if he is not otherwise identified for ~~tax~~ VAT purposes within the Community, to opt for identification in a single Member State.

**Fifth recital  
(2002/38/EC)**

*Adapted*

- |      |  |   |
|------|--|---|
| (83) | <del>The</del> If a non-established operator <del>wishing to benefit from</del> <u>wishes to be covered by</u> the special scheme <del>should, he must</del> comply with the requirements laid down therein, and with any relevant <del>existing</del> provision <u>in force</u> in the Member State where the services are consumed.  | <b>Sixth recital<br/>(2002/38/EC)</b><br><br><i>Adapted</i>     |
| (84) | <del>The</del> <u>It should be possible, in certain circumstances, for the</u> Member State of identification <del>must under certain conditions be able</del> to exclude a non-established operator from the special scheme.  | <b>Seventh recital<br/>(2002/38/EC)</b><br><br><i>Adapted</i>   |
| (85) | Where the non-established operator opts for the special scheme, any input <del>value added tax-VAT</del> that he has paid with respect to goods <del>and or</del> services used by him for the <del>purpose</del> <u>purposes</u> of his taxed activities falling under the special scheme, <del>should</del> <u>must</u> be refunded by the Member State <del>where in which</del> the input <del>value added tax-VAT</del> was paid, in accordance with the arrangements <del>of the thirteenth laid down in</del> Council Directive 86/560/EEC of 17 November 1986 on the harmonisation of the laws of the Member States relating to turnover taxes – arrangements for the refund of value added tax to taxable persons not established in Community territory <sup>37</sup> . The optional restrictions <del>for on refund in Article 2(2) and (3) and Article 4(2) of the same provided for in that</del> Directive <del>should</del> <u>must</u> not be applied. | <b>Eighth recital<br/>(2002/38/EC)</b><br><br><i>Adapted</i>    |
| (86) | <del>These</del> <u>Save in the case of</u> provisions pertaining to the <del>introduction lodging</del> of electronic tax returns and statements, <del>should be adopted on a permanent basis. It it</del> is desirable to adopt <del>all other temporary provisions for a temporary period of three years which may be extended for practical reasons but</del> <u>concerning radio and television broadcasting and certain electronically supplied services. Those temporary provisions</u> should, in any event, <del>based on be reviewed in the light of</del> experience, <del>be reviewed</del> within three years <del>from of</del> 1 July 2003.   | <b>Tenth recital<br/>(2002/38/EC)</b><br><br><i>Adapted</i>     |
|      | <u>Directive 77/388/EEC should therefore be amended accordingly,</u>   | <b>Eleventh recital<br/>(2002/38/EC)</b><br><br><i>Obsolete</i> |

<sup>37</sup> [OJ L 326, 21.11.1986, p. 40.](#)

~~Whereas Article 28(3) of the Sixth Council Directive, 77/388/EEC, of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment, as last amended by the Act of Accession of Spain and Portugal, allows Member States to apply measures derogating from the normal rules of the common system of value added tax during a transitional period; whereas that period was originally fixed at five years; whereas the Council undertook to act, on a proposal from the Commission, before the expiry of that period, on the abolition, where appropriate, of some or all of those derogations;~~

**First recital  
(89/465/EEC)**

*Obsolete*

~~Whereas many of those derogations give rise, under the Communities' own resources system, to difficulties in calculating the compensation provided for in Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989 on the definitive uniform arrangements for the collection of own resources accruing from value added tax; whereas, in order to ensure that that system operates more efficiently, there are grounds for abolishing those derogations;~~

**Second recital  
(89/465/EEC)**

*Obsolete*

~~Whereas the abolition of those derogations will also contribute to greater neutrality of the value added tax system at Community level;~~

**Third recital  
(89/465/EEC)**

*Obsolete*

~~Whereas some of the said derogations should be abolished respectively from 1 January 1990, 1 January 1991, 1 January 1992 and 1 January 1993;~~

**Fourth recital  
(89/465/EEC)**

*Obsolete*

~~Whereas, having regard to the provisions of the Act of Accession, the Portuguese Republic may, until 1 January 1994 at the latest, postpone the abolition of the exemption of the transactions referred to in points 3 and 9 in Annex F to Directive 77/338/EEC;~~

**Fifth recital  
(89/465/EEC)**

*Obsolete*

~~Whereas it is appropriate that, before 1 January 1991, the Council should, on the basis of a Commission report, review the situation with regard to the other derogations provided for in Article 28(3) of Directive 77/388/EEC, including the one referred to in the second subparagraph of point 1 of Article 1 of this Directive, and that it should take a decision, on a proposal from the Commission, on the abolition of these derogations, bearing in mind any distortion of competition which has resulted from their application or which may arise in connection with the future completion of the internal market;~~

**Sixth recital  
(89/465/EEC)**

*Obsolete*



- |   |  |
|---|--|
| <p>(87) <del>Whereas</del> <u>It is necessary to promote</u> the uniform application of the provisions of this Directive <del>should be ensured; whereas and to this that</del> end <del>a Community procedure for consultation should be laid down; whereas the setting up of a Value Added Tax VAT</del> Committee <del>would should be set up to</del> enable the Member States and the Commission to cooperate closely<del>;</del>.</p> | <p><b>Sixteenth recital</b><br/>(77/388/EEC)</p> <p><i>Adapted</i></p>   |
| <p>(88) <del>Whereas</del> Member States should be able, within certain limits and subject to certain conditions, to <u>take introduce,</u> or <u>retain to continue to apply,</u> special measures derogating from this Directive in order to simplify the levying of tax or to <del>avoid fraud or prevent certain forms of</del> tax <u>evasion or</u> avoidance<del>;</del>.</p>  | <p><b>Seventeenth recital</b><br/>(77/388/EEC)</p> <p><i>Adapted</i></p> |
| <p><del>Articles 27 and 30 of 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 lay down procedures that may result in the tacit approval of derogations by the Council.</del></p>   | <p><b>First recital</b><br/>(2004/7/EC)</p> <p><i>Obsolete</i></p>       |
| <p>(89) In the interests of transparency and legal certainty, it is <u>preferable appropriate</u> to ensure that, <u>in every case, authorisation of a</u> derogation <del>authorised under Article 27 or Article 30 of Directive 77/388/EEC</del> takes the form of an <u>explicit express</u> decision adopted by the Council acting on a proposal from the Commission.</p>   | <p><b>Second recital</b><br/>(2004/7/EC)</p> <p><i>Adapted</i></p>       |
| <p><del>The possibility of tacit approval by the Council on the expiry of a given period should therefore be removed.</del></p>   | <p><b>Third recital</b><br/>(2004/7/EC)</p> <p><i>Obsolete</i></p>       |
| <p>(90) In order to ensure that a Member State which has submitted a request for derogation is not left in doubt as to what action the Commission plans to take in response, time-limits should be laid down within which the Commission must present to the Council either a proposal for authorisation or a communication setting out its objections.</p>   | <p><b>Fourth recital</b><br/>(2004/7/EC)</p>                             |
| <p>(91) In order to enable Member States to follow more closely the processing of their requests, the Commission should be required, once it has all the information it considers necessary for appraising a request, to notify the requesting Member State accordingly and transmit the request, in its original language, to the other Member States.</p>   | <p><b>Fifth recital</b><br/>(2004/7/EC)</p>                              |

~~In the second sentence of paragraph 1 of article 27 it is emphasised that the assessment of the negligible extent of the effect of the simplification measure on the amount of tax due at the final consumption stage is made in a global manner by reference to macro-economic forecasts relating to the likely impact of the measure on the Community's own resources provided from VAT.~~

**Sixth recital  
(2004/7/EC)**

*Obsolete*

~~In the absence of any mechanism for the adoption of binding measures to govern the implementation of Directive 77/388/EEC, the application of rules laid down in that Directive varies from one Member State to another.~~

**Seventh recital  
(2004/7/EC)**

*Obsolete*

(92) ~~In order to improve the functioning of the internal market, it~~ It is essential to ensure more uniform application of the current VAT system. The introduction of a procedure for the adoption of implementing measures ~~to ensure the correct implementation of existing rules would represent~~ represents a ~~major~~ step forward in that respect.

**Eighth recital  
(2004/7/EC)**

*Adapted*

(93) Those measures should, in particular, address the problem of double taxation of cross-border transactions which can occur as the result of divergences between Member States in the application of the ~~provisions of Directive 77/388/EEC rules~~ governing the place ~~of supply where taxable transactions are carried out.~~

**Ninth recital  
(2004/7/EC)**

*Adapted*

(94) However, the scope of each implementing measure ~~would~~ must remain limited since, albeit designed to clarify a provision laid down in this Directive ~~77/388/EEC~~, it could never derogate from such a provision.

**Tenth recital  
(2004/7/EC)**

*Adapted*

(95) Although the scope of the implementing measures would be limited, those measures would have a budgetary impact which for one or more Member States could be significant. Accordingly, the Council is justified in reserving to itself the right to exercise implementing powers.

**Eleventh and  
twelfth recitals  
(2004/7/EC)**

*Adapted*

~~The impact of such measures on the budgets of Member States justifies the Council reserving the right to exercise powers for the implementation of Directive 77/388/EEC itself.~~

(96) ~~Given the restricted~~ In view of their limited scope, ~~of the implementing measures envisaged, measures implementing Directive 77/388/EEC~~ should be adopted by the Council acting unanimously on a proposal from the Commission.

**Thirteenth recital  
(2004/7/EC)**

*Adapted*

~~Since, for those reasons, the objectives of this Directive cannot be sufficiently achieved by the Member States acting alone and can therefore be better achieved by at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.~~

~~Directive 77/388/EEC should therefore be amended accordingly,~~

~~Whereas the achievement of the objective referred to in Article 4 of the First Council Directive of 11 April 1967, as last amended by the Sixth Directive 77/388/EEC, requires that the taxation of trade between Member States be based on the principle of the taxation in the Member State of origin of goods and services supplied without prejudice, as regards Community trade between taxable persons, to the principle that tax revenue from the imposition of tax at the final consumption stage should accrue to the benefit of the Member State in which that final consumption takes place;~~

~~Whereas, however, the determination of the definitive system that will bring about the objectives of the common system of value added tax on goods and services supplied between Member States requires conditions that cannot be completely brought about by 31 December 1992;~~

~~Whereas, therefore, provision should be made for a transitional phase, beginning on 1 January 1993 and lasting for a limited period, during which provisions intended to facilitate transition to the definitive system for the taxation of trade between Member States, which continues to be the medium-term objective, will be implemented;~~

~~Whereas advantage must be taken of the transitional period of taxation of intra-Community trade to take measures necessary to deal with both the social repercussions in the sectors affected and the regional difficulties, in frontier regions in particular, that might follow the abolition of the imposition of tax on imports and of the remission of tax on exports in trade between Member States; whereas Member States should therefore be authorized, for a period ending on 30 June 1999, to exempt supplies of goods carried out within specified limits by duty-free shops in the context of air and sea travel between Member States;~~

(97) ~~Whereas it might appear appropriate~~ There may be occasions when it is desirable to authorize allow Member States to conclude with non-member-third countries or with international ~~organizations~~ bodies agreements containing derogations from this Directive;.

**Fourteenth recital  
(2004/7/EC)**

*Obsolete*

**Fifteenth recital  
(2004/7/EC)**

*Obsolete*

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

*Obsolete*

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

*Obsolete*

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

*Obsolete*

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

*Obsolete*

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

*Adapted*

~~Whereas the transitional arrangements will enter into force for four years and will accordingly apply until 31 December 1996; whereas they will be replaced by a definitive system for the taxation of trade between Member States based on the principle of the taxation of goods and services supplied in the Member State of origin, so that the objective referred to in Article 4 of the First Council Directive of 11 April 1967 is achieved;~~

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

*Obsolete*

~~Whereas to that end the Commission will report to the Council before 31 December 1994 on the operation of the transitional arrangements and make proposals for the details of the definitive system for the taxation of trade between Member States; whereas the Council, considering that the conditions for transition to the definitive system have been fulfilled satisfactorily, will decide before 31 December 1995 on the arrangements necessary for the entry into force and the operation of the definitive system, the transitional arrangements being automatically continued until the entry into force of the definitive system and in any event until the Council has decided on the definitive system;~~

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

*Obsolete*

~~Whereas, accordingly, Directive 77/388/EEC, as last amended by Directive 89/465/EEC, should be amended;~~

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

*Obsolete*

~~Whereas the transitional arrangements for taxation of trade between the Member States must be supplemented to take account both of the Community provisions relating to excise duties and the need to clarify and simplify the detailed rules for the application of the tax of certain operations which will be carried out between the Member States as from 1 January 1993;~~

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

*Obsolete*

~~Whereas this Directive lays down common provisions for simplifying the treatment of certain intra-Community operations; whereas, in a number of cases, it is for the Member States to determine the conditions for implementing these provisions; whereas certain Member States will not be able to complete the legislative procedure necessary to adapt their legislation on valued added tax within the period laid down; whereas an additional period should therefore be allowed for the implementation of this Directive; whereas a maximum period of twelve months is sufficient for this purpose;~~

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

*Obsolete*

~~Whereas it is accordingly necessary to amend Directive 77/388/EEC;~~

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

*Obsolete*

(98) ~~Whereas it~~ It is vital to provide for a transitional period to allow national laws in specified fields to be gradually adapted;<sub>2</sub>

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

- (99) Since, for those reasons, the objectives of this Directive cannot be sufficiently achieved by the Member States and can therefore be better achieved by at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (100) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive change as compared with the earlier Directives. The obligation to transpose into national law the provisions which are unchanged arises under the earlier Directives.
- (101) This Directive should be without prejudice to the obligations of the Member States in relation to the time-limits for transposition into national law of the Directives listed in Annex X, Part B.

HAS ADOPTED THIS DIRECTIVE:

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## TITLE I

### INTRODUCTORY PROVISIONS SUBJECT-MATTER AND SCOPE

#### *Article 1*

~~1. Member States shall replace their present system of turnover taxes by This Directive establishes the common system of value added tax ~~defined in Article 2~~ (VAT).~~

~~— In each Member State the legislation to effect this replacement shall be enacted as rapidly as possible, so that it can enter into force on a date to be fixed by the Member State in the light of the conjunctural situation; this date shall not be later than 1 January 1970.~~

~~— From the entry into force of such legislation, the Member State shall not maintain or introduce any measure providing for flat rate equalisation of turnover taxes on importation or exportation in trade between Member States.~~

#### ~~*Article 2*~~

~~2. The principle of the common system of value added tax involves VAT entails the application to goods and services of a general tax on consumption exactly proportional to the price of the goods and services, ~~whatever the number of~~ however many transactions ~~which~~ take place in the production and distribution process before the stage at which the tax is charged.~~

On each transaction, ~~value added tax~~ VAT, calculated on the price of the goods or services at the rate applicable to such goods or services, shall be chargeable after deduction of the amount of ~~tax~~ VAT borne directly by the various cost components.

The ~~common common~~ system of ~~value added tax~~ VAT shall be applied up to and including the retail trade stage.

Title I  
(77/388/EEC)

Heading of Title I  
(77/388/EEC)

*Adapted*

Article 1  
(67/227/EEC)

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

*Adapted*

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

*Obsolete*

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

*Obsolete*

Article 2  
(67/227/EEC)

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

*Adapted*

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

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

~~Article 3~~

~~The Council shall issue, on a proposal from the Commission, a second Directive concerning the structure of, and the procedure for applying, the common system of value added tax.~~

~~Article 4~~

~~In order to enable the Council to discuss this, and if possible to take decisions before the end of the transitional period, the Commission shall submit to the Council, before the end of 1968, proposals as to how and within what period the harmonisation of turnover taxes can achieve the aim of abolishing the imposition of tax on importation and the remission of tax on exportation in trade between Member States, while ensuring the neutrality of those taxes as regards the origin of the goods or services.~~

~~In this connection, particular account shall be taken of the relationship between direct and indirect taxes, which differs in the various Member States; of the effects of an alteration in tax systems on the tax and budget policy of Member States; and of the influence which tax systems have on conditions of competition and on social conditions in the Community.~~

~~Article 6~~

~~This Directive is addressed to the Member States.~~

~~Article 1~~

~~Member States shall modify their present value added tax systems in accordance with the following Articles.~~

**Article 3  
(67/227/EEC)**

**Article 3  
(67/227/EEC)**

Obsolete

**Article 4  
(67/227/EEC)**

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

Obsolete

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

Obsolete

**Article 6  
(67/227/EEC)**

**Article 6  
(67/227/EEC)**

Obsolete

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

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

Obsolete

~~They shall adopt the necessary laws, regulations and administrative provisions so that the systems as modified enter into force at the earliest opportunity and by 1 January 1978 at the latest.~~

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

*Obsolete*

Article 2

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

*New*

~~2.(1) Any reference in this Directive to 'products subject to excise duty shall apply to the following' means products as defined by current which are subject to excise duties as harmonised by Community provisions legislation.:~~

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

*Modified*

~~— mineral oils,~~

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

~~— alcohol and alcoholic beverages,~~

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

~~— manufactured tobacco.~~

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

~~(e)(2) For the purposes of points (e) and (d), transmission and storage of invoices 'by electronic means' shall mean transmission or making available to the recipient and storage means using electronic equipment for processing (including digital compression) and storage of data, and employing wires, radio transmission, optical technologies or other electromagnetic means.~~

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

*Modified*

**TITLE II**

**SCOPE**

~~Article 2~~ Article 3

1. The following transactions shall be subject to ~~value added tax~~ VAT:

(a) the supply of goods ~~or services effected~~ for consideration within the territory of ~~the country a~~ Member State by a taxable person acting as such;

~~Article 28a~~

**Scope**

~~1.~~ ~~The following shall also be subject to value added tax:~~

(b) the intra-Community acquisition of goods for consideration within the territory of a Member State by:

(a)(i) ~~intra-Community acquisitions of goods for consideration within the territory of the country by~~ a taxable person acting as such, or ~~by~~ a non-taxable legal person, where the vendor is a taxable person acting as such who is not eligible for the exemption for small enterprises provided for in ~~Article 24~~ Articles 277 to 280 and who is not covered by ~~the arrangements laid down in the second sentence of Article 8(1)(a) or in Article 28b(B)(1) Article 34 or the first paragraph of Article 37;~~

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

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

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

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

**Article 2(1)  
(77/388/EEC)**

*Adapted*

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

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

**Article 28a(1)  
(inserted by  
91/680/EEC)**

*New*

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

*Adapted*

~~(b)(ii) the intra-Community acquisition in the case of new means of transport effected for consideration within the territory of the country by taxable persons, a taxable person, or a non-taxable legal persons who qualify for the derogation provided for in the second subparagraph of (a) or by any other non-taxable person, whose other acquisitions are not subject to VAT pursuant to Article 4(1), or any other non-taxable person;~~

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

*Adapted*

~~(e)(iii) the intra-Community acquisition of goods which are in the case of products subject to excise duties effected for consideration within the territory of the country by duty, where the excise duty on the intra-Community acquisition is chargeable, pursuant to Directive 92/12/EEC, within the territory of the Member State, a taxable person, or a non-taxable legal person who qualifies for the derogation referred to in the second subparagraph of point (a), and for which become, whose other acquisitions are not subject to VAT pursuant to Article 4(1);~~

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

*Adapted*

~~1.(c) the supply of goods or services effected for consideration within the territory of the country a Member State by a taxable person acting as such;~~

**Article 2(1)**  
**(77/388/EEC)**

*Adapted*

~~2.(d) the importation of goods.~~

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

~~2. For the purposes of this Title:~~

**Article 28a(2)**  
**(inserted by**  
**91/680/EEC)**

~~(a)2. The following shall be considered regarded as 'new means of transport': vessels exceeding 7.5 metres in length, aircraft the take-off weight of which exceeds 1 550 kilograms and motorized land vehicles the capacity of which exceeds 48 cubic centimetres or the power of which exceeds 7.2 kilowatts, where they are intended for the transport of persons or goods, except for the vessels and aircraft referred to in Article 15(5) and (6);~~

**Article 28a(2)(a)**  
**(inserted by**  
**91/680/EEC)**

*Adapted*

(a) ~~the following shall be considered as ‘means of transport’: vessels exceeding 7.5 metres in length, aircraft the take-off weight of which exceeds 1 550 kilograms and motorized motorised land vehicles the capacity of which exceeds 48 cubic centimetres or the power of which exceeds 7.2 kilowatts, intended for the transport of persons or goods, except for the vessels and aircraft referred to in Article 15(5) and (6) where the supply takes place within six months of the date of first entry into service or where the vehicle has travelled for no more than 6 000 kilometres;~~

**Article 28a(2)(a)**  
**(inserted by**  
**91/680/EEC)**

*Adapted*

~~(a)(b) the following shall be considered as ‘means of transport’: vessels exceeding 7.5 metres in length, aircraft the take-off weight of which exceeds 1 550 kilograms and motorized land vehicles the capacity of which exceeds 48 cubic centimetres or the power of which exceeds 7.2 kilowatts, intended for the transport of persons or goods, except for the vessels and aircraft referred to in Article 15(5) and (6) with the exception of vessels used for navigation on the high seas and carrying passengers for reward, and vessels used for the purposes of commercial, industrial or fishing activities, or for rescue or assistance at sea, or for inshore fishing, where the supply takes place within three months of the date of first entry into service or where the vessel has sailed for no more than 100 hours;~~

**Article 28a(2)(a)**  
**(inserted by**  
**91/680/EEC)**

*Adapted*

~~(a)(c) the following shall be considered as ‘means of transport’: vessels exceeding 7.5 metres in length, aircraft the take-off weight of which exceeds 1 550 kilograms and motorized land vehicles the capacity of which exceeds 48 cubic centimetres or the power of which exceeds 7.2 kilowatts, intended for the transport of persons or goods, except for the vessels and aircraft referred to in Article 15(5) and (6), with the exception of aircraft used by airlines operating for reward chiefly on international routes, where the supply takes place within three months of the date of first entry into service or where the aircraft has flown for no more than 40 hours;~~

**Article 28a(2)(a)**  
**(inserted by**  
**91/680/EEC)**

*Adapted*

~~(b) — the means of transport referred to in (a) shall not be considered to be ‘new’ where both of the following conditions are simultaneously fulfilled:~~

**Article 28a(2)(b),**  
**first subpara-**  
**graph**  
**(replaced by**  
**94/5/EC)**

<p><del>— they were supplied more than three months after the date of first entry into service. However, this period shall be increased to six months for the motorized land vehicles defined in (a),</del></p>	<p><b>Article 28a(2)(b), first subparagraph, first indent (replaced by 94/5/EC)</b></p>
<p><del>— they have travelled more than 6 000 kilometres in the case of land vehicles, sailed for more than 100 hours in the case of vessels, or flown for more than 40 hours in the case of aircraft.</del></p>	<p><b>Article 28a(2)(b), first subparagraph, second indent (replaced by 94/5/EC)</b></p>
<p>Member States shall lay down the conditions under which the <del>above</del> facts <del>can</del> <u>referred to in the first subparagraph may</u> be regarded as established.</p>	<p><b>Article 28a(2)(b), second subparagraph (replaced by 94/5/EC)</b></p>
<p><u>3. The land vehicles, vessels and aircraft referred to in paragraph 2 shall be regarded as 'second-hand means of transport' where they are second-hand goods, as defined in Article 304, supplied by one of the persons referred to in Article 306 and where they do not meet the conditions necessary to be regarded as new means of transport.</u></p>	<p><i>New</i> <i>Based on Article 28o(1)(a), first sentence</i></p>
<p><i><u>Article 4</u></i></p>	
<p><del>— By way of derogation from the first subparagraph, intra-Community acquisitions of goods made under the conditions set out in paragraph 1a by a taxable person or non-taxable legal person shall not be subject to value added tax.</del></p>	<p><b>Article 28a(1)(a), second subparagraph (replaced by 92/111/EEC)</b></p>
<p><del>1a.1. The</del> <u>By way of derogation from Article 3(1)(b)(i), the following transactions shall benefit from the derogation set out in the second subparagraph of paragraph 1(a) not be subject to VAT:</u></p>	<p><b>Article 28a(1a) (inserted by 92/111/EEC)</b> <i>Adapted</i></p>
<p>(a) <u>the</u> <del>the</del> <u>intra-Community acquisitions—acquisition</u> of goods <u>whose by a taxable person or a non-taxable legal person, where the supply of such goods</u> within the territory of the <del>country—</del> <u>Member State of acquisition</u> would be exempt pursuant to <del>Article 15(4) to (10) Articles 144 and 147;</del></p>	<p><b>Article 28a(1a)(a) (inserted by 92/111/EEC)</b> <i>Adapted</i></p>

- |  |  |
|--|--|
| <p>(b) <del>by way of derogation from Article 28a(1)(a), the</del> intra-Community <del>acquisitions acquisition</del> of second-hand goods, works of art, collectors' items or antiques <del>shall not be</del> subject to value added tax where the vendor is, as defined in <u>Article 304</u>, where the vendor is a taxable dealer acting as such and <u>VAT has been applied to</u> the goods <del>acquired have been subject to tax</del> in the Member State <del>of departure of the dispatch or transport in which their dispatch or transport began</del>, in accordance with the <del>special arrangements for taxing the margin scheme</del> provided for in <del>B</del>, or where the vendor is an organizer of sales by public auction acting as such and the goods acquired have been subject to tax in the Member State <del>of departure of the dispatch or transport</del>, in accordance with the special arrangements provided for in <del>C</del> <u>Articles 305 to 317</u>;</p>   | <p><b>Article 26a(D)(b)</b><br/>(inserted by 94/5/EC)<br/><i>Adapted</i></p> |
| <p><del>(g)(c)</del> <del>by way of derogation from Article 28a(1)(a), the</del> intra-Community <del>acquisitions acquisition</del> of <u>second-hand</u> means of transport <del>are not subject to value added tax</del>, where the vendor is a taxable dealer acting as such and <u>VAT has been applied to</u> the <u>second-hand</u> means of transport <del>acquired has been were subject to the tax</del>, in the Member State <del>of departure of the dispatch or transport in which their dispatch or transport began</del>, in accordance with <del>(a) the transitional arrangements for second-hand means of transport</del>;</p>   | <p><b>Article 28o(1)(g)</b><br/>(inserted by 94/5/EC)<br/><i>Adapted</i></p> |
| <p><del>(b)(d)</del> <del>by way of derogation from Article 28a(1)(a), the</del> intra-Community <del>acquisitions acquisition</del> of second-hand goods, works of art, collectors' items or antiques <del>shall not be</del> subject to value added tax where the vendor is a taxable dealer acting as such and the goods acquired have been subject to tax in the Member State <del>of departure of the dispatch or transport</del>, in accordance with the special arrangements for taxing the margin provided for in <del>B</del>, or where the vendor is as defined in <u>Article 304</u>, where the vendor is an <del>organizer</del> <u>organiser</u> of sales by public auction acting as such and <u>VAT has been applied to</u> the goods <del>acquired have been were subject to tax</del> in the Member State <del>of departure of the dispatch or transport in which their dispatch or transport of the goods began</del>, in accordance with the special arrangements <del>provided for in C for sales by public auction</del>;</p> | <p><b>Article 26a(D)(b)</b><br/>(inserted by 94/5/EC)<br/><i>Adapted</i></p> |



~~(b)(e) the intra-Community acquisitions acquisition of goods, other than those at (a), made the acquisition of referred to in points (a), (b), (c) and (d), and other than new means of transport or products subject to excise duty, by a taxable person for the purposes of his agricultural, forestry or fisheries undertaking subject to the flat-rate scheme for farmers, or by a taxable person who carries out only supplies of goods or services in respect of which VAT is not deductible, or by a non-taxable legal person;~~

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

*Adapted*

~~— by a taxable person for the purpose of his agricultural, forestry or fisheries undertaking, subject to the flat-rate scheme set out in Article 25, by a taxable person who carries out only supplies of goods or services in respect of which value added tax is not deductible, or by a non-taxable legal person;~~

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

2. The exemption provided for in point (e) of paragraph 1 shall apply only if the following conditions are satisfied:

*New*

~~(a) for a total amount not exceeding, during the current calendar year, the total value of intra-Community acquisitions of goods does not exceed a threshold which the Member States shall determine but which may not be less than 10 000 euro or the equivalent in national currency of ECU 10 000, and;~~

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

*Adapted*

~~(b) provided that the total amount of intra-Community acquisitions of goods did not, during the previous calendar year, the total value of intra-Community acquisitions of goods did not exceed the threshold referred to fixed in the second indent point (a);~~

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

*Adapted*

The threshold which serves as the reference ~~for the application of the above~~ shall consist of the total ~~amount value~~, exclusive of ~~value added tax-VAT~~ due or paid in the Member State ~~from in~~ which ~~dispatch or transport of~~ the goods ~~are dispatched or transported began~~, of intra-Community acquisitions of goods ~~other than new means of transport and other than goods subject to excise duty.~~

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

*Adapted*

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

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

Member States shall ~~determine lay down~~ the detailed rules for the exercise of ~~that the~~ option ~~referred to in the first subparagraph~~, which shall in any ~~case apply for event cover a period of~~ two calendar years.

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

*Adapted*

## ~~TITLE III~~ TITLE II

Title III  
(77/388/EEC)

### ~~TERRITORIAL APPLICATION~~ SCOPE

Heading of  
Title III  
(77/388/EEC)

*Adapted*

#### *Article 5*

~~2. — For the purposes of this~~ This Directive, ~~shall apply to~~ the ‘territory of the country’ ~~shall be the area of application of the Treaty establishing the European Economic Community as defined in respect of each Member State in Article 227 determined in accordance with Article 299 of the Treaty.~~

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

*Adapted*

#### *Article 6*

~~3.1.~~ ~~The~~ This Directive shall ~~apply to the~~ following territories ~~of individual Member States shall also be excluded from the territory of the country~~ forming part of the customs territory of the Community:

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

*Adapted*

**Hellenic Republic:**

- (a) Ἄγιο Όρος Mount Athos;

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

*Adapted*

**Kingdom of Spain:**

- (b) the Canary Islands;

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

*Adapted*

**French Republic:**

- (c) the French overseas departments;

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

*Adapted*

- (d) the Åland Islands;

**Protocol No 2  
(Act of Accession,  
AT, FI and SE)**

- (e) the Channel Islands.

**Article 299(6)(c)  
(EC Treaty)**

2. ~~The~~ This Directive shall not apply to the following territories ~~of individual Member States shall be excluded from the territory of the country not forming part of the customs territory of the Community:~~

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

*Adapted*

**Federal Republic of Germany:**

- (a) the Island of Heligoland;  
(b) the territory of Buesingen;

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

*Adapted*

~~Kingdom of Spain:~~

~~(c) Ceuta;~~

~~(d) Melilla;~~

~~Republic of Italy:~~

~~(e) Livigno;~~

~~(f) Campione d'Italia;~~

~~(g) the Italian waters of Lake Lugano;~~

~~(h) Gibraltar.~~

~~Article 3 Article 7~~

~~1. For the purposes of applying this Directive, the following definitions shall apply:~~

~~(a) 'Member State' and 'territory of a Member State' shall mean the territory of the country as defined in respect of each Member State in paragraphs 2 and 3, with the exception of any territory referred to in Article 6;~~

~~(b) 'Community' and 'territory of the Community' shall mean the territory of the Member States Community as defined in respect of each Member State in paragraphs 2 and 3 determined in accordance with Article 299 of the Treaty with the exception of any territory referred to in Article 6;~~

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

*Adapted*

**Article 3(3), first subparagraph, third indent (replaced by 91/680/EEC)**

*Adapted*

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

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

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

*Adapted*

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

*Adapted*

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

*Adapted*

(c) ~~‘third territory’ and ‘third country’ shall mean any territory other than those defined in paragraphs 2 and 3 as the territory of a Member State territories’~~ means the territories which form part of the territory of the Community and which are referred to in Article 6;

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

*Adapted*

(d) ~~‘third territory’ and ‘third country’ shall mean~~ means any State or territory other than those defined in paragraphs 2 and 3 as the territory of a Member State which does not form part of the territory of the Community as determined in accordance with Article 299 of the Treaty.

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

*Adapted*

#### Article 8

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

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

*Adapted*

~~the conventions and treaties which the Principality of Monaco and the Isle of Man have concluded respectively with the French Republic and the United Kingdom of Great Britain and Northern Ireland,~~

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

~~the Treaty concerning the Establishment of the Republic of Cyprus,~~

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

<p><del>the Principality of Monaco, the Isle of Man and the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia shall not be treated for the purpose of the application of this Directive as third territories.</del></p>	<p>Article 3(4), first subparagraph in fine (replaced by Protocol No 3 to the 2003 Act of Accession)</p>
<p>2. Member States shall take the measures necessary to ensure that transactions originating in or intended for <u>the Principality of Monaco are treated as transactions originating in or intended for France, that transactions originating in or intended for the Isle of Man are treated as transactions originating in or intended for the United Kingdom, and that transactions originating in or intended for the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia are treated as transactions originating in or intended for Cyprus</u>.</p>	<p>Article 3(4), second subparagraph (replaced by 92/111/EEC)</p>
<p><del>the Principality of Monaco are treated as transactions originating in or intended for the French Republic,</del></p>	<p>Article 3(4), second subparagraph, first indent (replaced by 92/111/EEC)</p>
	<p><i>Adapted</i></p>
<p><del>the Isle of Man are treated as transactions originating in or intended for the United Kingdom of Great Britain and Northern Ireland.</del></p>	<p>Article 3(4), second subparagraph, second indent (replaced by 92/111/EEC)</p>
	<p><i>Adapted</i></p>
<p><del>the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia are treated as transactions originating in or intended for the Republic of Cyprus.</del></p>	<p>Article 3(4), second subparagraph, third indent (inserted by Protocol No 3 to the 2003 Act of Accession)</p>

Article 9

~~5.~~—If the Commission considers that the provisions laid down in ~~paragraphs 3 and 4~~ Articles 6 and 8 are no longer justified, particularly in terms of fair competition or own resources, it shall ~~submit~~ present appropriate proposals to the Council.

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

*Adapted*

~~TITLE IV~~ TITLE III

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

**TAXABLE PERSONS**

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

~~Article 4~~ Article 10

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

1. 'Taxable person' shall mean any person who, independently, carries out in any place any economic activity ~~specified in paragraph 2~~, whatever the purpose or results of that activity.

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

*Adapted*

~~2.~~ ~~The economic activities referred to in paragraph 1 shall comprise all activities~~ Any activity of producers, traders ~~and or~~ persons supplying services, including mining and agricultural activities and activities of the professions, shall be regarded as an 'economic activity'. The exploitation of tangible or intangible property for the purposes of obtaining income therefrom on a continuing basis shall also be ~~considered~~ regarded as an economic activity.

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

*Adapted*

~~4.2.~~ ~~Any~~ In addition to the persons referred to in paragraph 1, any person who ~~from time to time, on an occasional basis,~~ supplies a new means of transport, ~~under the conditions laid down in Article 28e(A) which is dispatched or transported to the customer by the vendor or the customer, or on behalf of the vendor or the customer, to a destination outside the territory of a Member State but within the territory of the Community,~~ shall ~~also~~ be regarded as a taxable person.

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

*Adapted*

Article 11

~~4.~~—The ~~use of the word condition in paragraph 1 that the economic activity be conducted~~ ‘independently’ ~~in paragraph 1~~ shall exclude employed and other persons from ~~the tax-VAT~~ in so far as they are bound to an employer by a contract of employment or by any other legal ties creating the relationship of employer and employee as regards working conditions, remuneration and the employer’s liability.

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

*Adapted*

Article 12

~~Subject to the consultations provided for in Article 29, After consulting the VAT Committee,~~ each Member State may ~~treat regard~~ as a single taxable person persons established in the territory of ~~the country that Member State~~ who, while legally independent, are closely bound to one another by financial, economic and ~~organizational links~~ organisational links.

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

*Adapted*

Article 13

~~3.1.~~ Member States may ~~also regard~~ as a taxable person anyone who carries out, on an occasional basis, a transaction relating to the activities as referred to in ~~paragraph 2 the second subparagraph of Article 10(1)~~ and in particular one of the following transactions:

**Article 4(3) (77/388/EEC)**

*Adapted*

(a) the supply, before first occupation, of ~~buildings a building~~ or parts of a buildings and of the land on which ~~they stand~~ the building stands;

**Article 4(3)(a), first subparagraph, first sentence (77/388/EEC)**

*Adapted*

(b) the supply of building land.

**Article 4(3)(b), first subparagraph (77/388/EEC)**

~~2. A building shall be taken to~~ For the purposes of paragraph 1(a), a ‘building’ shall mean any structure fixed to or in the ground.

**Article 4(3)(a), third subparagraph (77/388/EEC)**



Member States may ~~determine~~ lay down the ~~conditions of application of this detailed rules for applying the~~ criterion referred to in paragraph 1(a) to ~~transformations conversions~~ of buildings and may determine what is meant by ‘the land on which ~~they stand a building stands~~’.

**Article 4(3)(a), first subparagraph, second sentence (77/388/EEC)**

*Adapted*

Member States may apply criteria other than that of first occupation, such as the period elapsing between the date of completion of the building and the date of first supply, or the period elapsing between the date of first occupation and the date of subsequent supply, provided that ~~these those~~ periods do not exceed five ~~years~~ years and two years respectively.

**Article 4(3)(a), second subparagraph (77/388/EEC)**

3. ~~‘Building~~ For the purposes of paragraph 1(b), ‘building land’ shall mean any unimproved or improved land defined as such by the Member States.

**Article 4(3)(b), second subparagraph (77/388/EEC)**

#### Article 14

5.1. States, regional and local government authorities and other bodies governed by public law shall not be ~~considered regarded as~~ taxable persons in respect of the activities or transactions in which they engage as public authorities, even where they collect dues, fees, contributions or payments in connection with ~~these those~~ activities or transactions.

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

*Adapted*

However, when they engage in such activities or transactions, they shall be ~~considered regarded as~~ taxable persons in respect of ~~these those~~ activities or transactions where their treatment as non-taxable persons would ~~lead to cause~~ significant ~~distortions~~ distortion of competition.

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

*Adapted*

In any ~~case, these event,~~ bodies governed by public law shall be ~~considered regarded as~~ taxable persons in relation to respect of the activities listed in ~~Annex D Annex I~~, provided ~~they that those~~ activities are not carried out on such a small scale as to be negligible.

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

*Adapted*

2. Member States may ~~consider regard~~ activities ~~of these bodies which are~~, exempt under ~~Article 13 or 28~~ Articles 129, 132, 133 or 364, or Articles 367 to 383, engaged in by bodies governed by public law as activities in which ~~they those bodies~~ engage ~~in~~ as public authorities.

Article 4(5),  
fourth subpara-  
graph  
(77/388/EEC)

*Adapted*

## ~~TITLE V~~ TITLE IV

Title V  
(77/388/EEC)

### TAXABLE TRANSACTIONS

Heading of Title V  
(77/388/EEC)

#### Chapter 1

#### Supply of goods

#### ~~Article 5~~ Article 15

Article 5  
(77/388/EEC)

#### ~~Supply of goods~~

Heading of  
Article 5  
(77/388/EEC)

1. 'Supply of goods' shall mean the transfer of the right to dispose of tangible property as owner.

Article 5(1)  
(77/388/EEC)

4.2. ~~The~~ In addition to the transaction referred to in paragraph 1, each of the following shall ~~also be considered supplies within the meaning of paragraph 1~~ regarded as a supply of goods:

Article 5(4)  
(77/388/EEC)

*Adapted*

(a) the transfer, by order made by or in the name of a public authority or in pursuance of the law, of the ownership of property against payment of compensation;

Article 5(4)(a)  
(77/388/EEC)

(b) the actual handing over of goods; pursuant to a contract for the hire of goods for a certain period, or for the sale of goods on deferred terms, which provides that in the normal course of events ownership ~~shall~~ is to pass at the latest upon payment of the final instalment;

Article 5(4)(b)  
(77/388/EEC)

*Adapted*

(c) the transfer of goods pursuant to a contract under which commission is payable on purchase or sale.

Article 5(4)(c)  
(77/388/EEC)

~~5.3.~~ Member States may ~~consider regard~~ the handing over of certain works of construction ~~to be supplies within the meaning of paragraph 1~~ as a supply of goods.

**Article 5(5)  
(replaced by  
95/7/EC)**

*Adapted*

*Article 16*

~~2.1.~~ Electric current, gas, heat, refrigeration and the like shall be ~~considered~~ treated as tangible property.

**Article 5(2)  
(77/388/EEC)**

*Adapted*

~~3.2.~~ Member States may ~~consider regard~~ the following rights as tangible property:

**Article 5(3)  
(77/388/EEC)**

*Adapted*

(a) certain ~~interest~~ interests in immovable property;

**Article 5(3)(a)  
(77/388/EEC)**

*Adapted*

(b) rights *in rem* giving the holder thereof a right of ~~user~~ use over immovable property;

**Article 5(3)(b)  
(77/388/EEC)**

*Adapted*

(c) shares or interests equivalent to shares giving the holder thereof *de jure* or *de facto* rights of ownership or possession over immovable property or part thereof.

**Article 5(3)(c)  
(77/388/EEC)**

*Article 17*

~~6.~~—The application by a taxable person of goods forming part of his business assets for his private use or that of his staff, or ~~their~~ disposal ~~thereof~~ free of charge or, more generally, their application for purposes other than those of his business shall be treated as a supply of goods for consideration, where the ~~value added tax VAT~~ on ~~the those~~ goods ~~in question~~ or the component parts thereof was wholly or partly deductible; ~~shall be treated as supplies made for consideration.~~

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

*Adapted*

However, ~~the~~ application ~~for the giving~~ of goods for business use as samples or ~~the making of as~~ gifts of small value ~~for the purposes of the taxable person's business~~ shall not be ~~so~~ treated as a supply of goods for consideration.

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

*Adapted*

Article 18

~~5. The following shall be treated as supplies of goods effected for consideration:~~

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

~~(b)1. The transfer by a taxable person of goods from forming part of his undertaking business assets to another Member State shall be treated as a supply of goods for consideration.~~

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

*Adapted*

~~The following shall be regarded as having been transferred to another Member State: any 'Transfer to another Member State' shall mean the dispatch or transport of tangible property dispatched or transported by or on behalf of the taxable person out of, for the purposes of his business, to a destination outside the territory defined in Article 3 of the Member State in which the property is located, but within the Community for the purposes of his undertaking, other than for the purposes of one of the following transactions:~~

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

*Adapted*

~~2. The following shall be regarded as having been transferred to another Member State: any tangible property dispatched or transported by or on behalf of the taxable person out of the territory defined in Article 3 but within the Community for the purposes of his undertaking, other than dispatch or transport of goods for the purposes of one of the following transactions shall not be regarded as a transfer to another Member State:~~

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

*Adapted*

~~-(a) the supply of the goods in question by the taxable person within the territory of the Member State of arrival of in which the dispatch or transport under ends, in accordance with the conditions laid down in the second sentence of Article 8(1)(a) and in Article 28b(B)(1) Article 34;~~

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

*Adapted*

~~-(b) the supply of the goods in question by the taxable person, for installation or assembly by or on behalf of the supplier, by the taxable person within the territory of the Member State of arrival of the in which dispatch or transport under of the goods ends, in accordance with the conditions laid down in the second sentence of Article 8(1)(a) and in Article 28b(B)(1) the first paragraph of Article 37;~~

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

*Adapted*

<p>-(c) the supply of the goods <del>in question</del> by the taxable person <u>under on board a ship, an aircraft or a train in the course of a passenger transport operation in accordance with</u> the conditions laid down in <del>Article 8(1)(e)</del> <u>Article 38</u>;</p>	<p><b>Article 28a(5)(b) second subparagraph, second indent (inserted by 91/680/EEC)</b></p>
<p>-(d) the supply of gas through the natural gas distribution system, or of electricity, <del>under in accordance with</del> the conditions <del>set out laid down</del> in <del>Article 8(1)(d) or (e)</del> <u>Articles 39 or 40</u>;</p>	<p><b>Article 28a(5)(b), second subparagraph, eighth indent (inserted by 2003/92/EC)</b></p>
<p>(e) the supply of the goods <del>in question</del> by the taxable person within the <del>territory of the country under</del> <u>Member State in which dispatch or transport of the goods ends, in accordance with</u> the conditions laid down in <del>Article 15 or in Article 28e(A)</del> <u>Articles 135, 142, 143, 144, 147 or 148</u>;</p>	<p><b>Article 28a(5)(b) second subparagraph, third indent (inserted by 91/680/EEC)</b></p>
<p>-(f) the supply of a service, performed for the taxable person <del>and involving, and consisting in</del> work on the goods in question physically carried out in the Member State in which <del>the</del> dispatch or transport of the goods ends, provided that the goods, after being worked upon, are <del>re-dispatched returned</del> to that taxable person in the Member State from which they <del>had were</del> initially <del>been</del> dispatched or transported;</p>	<p><b>Article 28a(5)(b) second subparagraph, fifth indent (replaced by 95/7/EC)</b></p>
<p>-(g) <del>the</del> temporary use of the goods <del>in question</del> within the territory of the Member State <del>of arrival of the dispatch or transport of the goods in which</del> <u>dispatch or transport of the goods ends</u>, for the purposes of the supply of services by the taxable person established within the <del>territory of the</del> Member State <del>of departure of the in which</del> <u>dispatch or transport of the goods began</u>;</p>	<p><b>Article 28a(5)(b) second subparagraph, sixth indent (inserted by 91/680/EEC)</b></p>

(h) ~~the~~ temporary use of the goods ~~in question~~, for a period not exceeding ~~24 months~~ twenty-four months, within the territory of another Member State in which ~~the import the importation~~ of the same goods from a third country with a view to their temporary use would be eligible for covered by the arrangements for temporary importation with full exemption from import duties.

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

*Adapted*

3. ~~However, when If~~ one of the conditions ~~to which the benefit of the above is subordinated governing eligibility under paragraph 2~~ is no longer met, the goods shall be considered regarded as having been transferred to ~~a destination in~~ another Member State. In ~~this ease such cases~~, the transfer ~~is carried out at the moment that the conditions is no longer shall be deemed to take place at the time when that condition ceases to be~~ met.

**Article 28a(5)(b)**  
**third subparagraph**  
**(inserted by 92/111/EEC)**

*Adapted*

#### Article 19

7.—Member States may treat each of the following transactions as ~~supplies made a supply of goods~~ for consideration:

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

*Adapted*

(a) the application by a taxable person for the purposes of his business of goods produced, constructed, extracted, processed, purchased or imported in the course of such business, where the ~~value added tax VAT~~ on such goods, had they been acquired from another taxable person, would not be wholly deductible;

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

(b) the application of goods by a taxable person for the purposes of a non-taxable transaction, where the ~~value added tax VAT~~ on such goods became wholly or partly deductible upon their acquisition or upon their application in accordance with ~~subparagraph (a) point (a)~~;

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

(c) ~~except in those with the exception of the cases mentioned in paragraph 8 referred to in Article 20~~, the retention of goods by a taxable person, or by his successors where he ceases to carry out a taxable economic activity, where the ~~value added tax VAT~~ on such goods became wholly or partly deductible upon their acquisition or upon their application in accordance with ~~subparagraph (a) point (a)~~.

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

*Adapted*

Article 20

8. — In the event of a transfer, whether for consideration or not or as a contribution to a company, of a totality of assets or part thereof, Member States may consider that no supply of goods has taken place and ~~in that event the recipient shall~~ person to whom the goods are transferred is to be treated as the successor to the transferor.

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

*Adapted*

Where appropriate, Member States may take the necessary measures to prevent distortion of competition in cases where the ~~recipient person to whom the goods are transferred~~ is not wholly liable ~~to tax~~ for payment of VAT.

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

*Adapted*

**Chapter 2**

**Intra-Community acquisition of goods**

Article 21

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

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

*Adapted*

Where goods acquired by a non-taxable legal person are dispatched or transported from a third territory or a third country and imported by that non-taxable legal person into a Member State other than the Member State ~~of arrival in which dispatch or transport~~ of the goods ~~dispatched or transported ends~~, the goods shall be deemed to have regarded as having been dispatched or transported from the Member State of ~~import~~ importation. That Member State shall grant the importer as defined in Article 21(2) designated or recognised under Article 193 as liable for payment of VAT a refund of the ~~value added tax VAT~~ paid in ~~connection with respect of~~ the importation of the goods, in so far as provided that the importer establishes that his acquisition was subject to value added tax VAT has been applied to his acquisition in the Member State ~~of arrival in which dispatch or transport~~ of the goods ~~dispatched or transported ends~~.

**Article 28a(3), second subparagraph (inserted by 91/680/EEC and amended by 2000/65/EC)**

*Adapted*

Article 22

~~6. The intra-Community acquisition of goods for consideration shall include the use of~~ The application by a taxable person, for the purposes of his ~~undertaking business~~, of goods dispatched or transported by or on behalf of that taxable person from another Member State, within ~~the territory of~~ which the goods were produced, extracted, processed, purchased, ~~or~~ acquired ~~as defined in paragraph 1 within the meaning of Article 3(1)(b),~~ or of goods imported by ~~the that~~ taxable person ~~within the framework of his undertaking for the purposes of his business~~ into that other Member State, shall be treated as an intra-Community acquisition of goods for consideration.

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

*Adapted*

Article 23

~~The following shall also be deemed to be an intra-Community acquisition of goods effected for consideration:~~ The ~~appropriation of goods~~ application by the armed forces of a State party to the North Atlantic Treaty, for their use or for the use of the civilian staff accompanying them, of goods which they have not ~~acquired-purchased~~ subject to the general rules governing taxation on the domestic market of ~~one of the Member States, when a Member State, shall be treated as an intra-Community acquisition of goods for consideration, where~~ the importation of ~~these those~~ goods ~~could would~~ not ~~benefit from be eligible for~~ the exemption ~~set out provided for in Article 14(1)(g) Article 140(h).~~

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

*Adapted*

Article 24

~~7. Member States shall take the measures necessary to ensure that transactions a transaction which would have been classed as 'supplies a supply of goods' as defined in paragraph 5 or Article 5 if they it had been carried out within the their territory of the country by a taxable person acting as such are is classed as 'intra-Community acquisitions an intra-Community acquisition of goods'.~~

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

*Adapted*

**Chapter 3**

**Supply of services**

~~Article 6~~ Article 25

**Supply of services**

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

**Heading of  
Article 6  
(77/388/EEC)**



<p>1. 'Supply of services' shall mean any transaction which does not constitute a supply of goods <del>within the meaning of Article 5.</del></p>	<p><b>Article 6(1), first subparagraph (77/388/EEC)</b></p>
<p><del>2.</del> 'Telecommunications services' shall <del>be deemed to be</del> <u>mean</u> services relating to the transmission, emission or reception of signals, <del>writing words</del>, images and sounds or information of any nature by wire, radio, optical or other electromagnetic systems, including the related transfer or assignment of the right to use capacity for such transmission, emission or reception.</p>	<p><i>Adapted</i></p> <p><b>Article 9(2)(e), ninth indent, second sentence (inserted by 1999/59/EC)</b></p> <p><i>Adapted</i></p>
<p><i>Article 26</i></p>	
<p><del>Such transactions</del> <u>A supply of services</u> may <del>include</del> <u>consist</u>, <i>inter alia</i>, <u>in one of the following transactions</u>:</p>	<p><b>Article 6(1), second subparagraph (77/388/EEC)</b></p> <p><i>Adapted</i></p>
<p><del>(a)</del> <u>assignments</u> <del>the assignment</del> of intangible property whether or not <del>it is</del> the subject of a document establishing title<sub>;</sub></p>	<p><b>Article 6(1), second subparagraph, first indent (77/388/EEC)</b></p>
<p><del>(b)</del> <u>obligations</u> <del>the obligation</del> to refrain from an act<sub>;</sub> or to tolerate an act or situation<sub>;</sub></p>	<p><b>Article 6(1), second subparagraph, second indent (77/388/EEC)</b></p>
<p><del>(c)</del> the <del>performances</del> <u>performance</u> of services in pursuance of an order made by or in the name of a public authority or in pursuance of the law.</p>	<p><b>Article 6(1), second subparagraph, third indent (77/388/EEC)</b></p>

Article 27

2.1. ~~The Each of the~~ following transactions shall be treated as ~~supplies~~ a supply of services for consideration:

**Article 6(2), first subparagraph (77/388/EEC)**

*Adapted*

- (a) the use of goods forming part of the assets of a business for the private use of ~~the a~~ taxable person or of his staff or, more generally, for purposes other than those of his business, where the ~~value added tax VAT~~ on such goods ~~is~~ was wholly or partly deductible;

**Article 6(2), first subparagraph, point (a) (77/388/EEC)**

*Adapted*

- (b) ~~supplies the supply~~ of services ~~carried out~~ free of charge by ~~the a~~ taxable person for his private use or that of his staff or, more generally, for purposes other than those of his business.

**Article 6(2), first subparagraph, point (b) (77/388/EEC)**

*Adapted*

2. Member States may derogate from ~~the provisions of this paragraph paragraph 1~~ provided that such derogation does not ~~lead to cause~~ lead to cause distortion of competition.

**Article 6(2), second subparagraph (77/388/EEC)**

*Adapted*

Article 28

3.—In order to prevent distortion of competition and ~~subject to the consultations provided for in Article 29 after consulting the VAT Committee~~, Member States may treat as a supply of services for consideration the supply by a taxable person of a service for the purposes of his ~~undertaking business~~ where the ~~value added tax VAT~~ on such a service, ~~had were~~ had been supplied by another taxable person, would not be wholly deductible.

**Article 6(3) (77/388/EEC)**

*Adapted*

Article 29

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

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

*Adapted*

Article 30

~~5. Article 5(8) Article 20~~ shall apply in like manner to the supply of services.

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

**Chapter 4**

**Importation of goods**

~~Article 7~~ Article 31

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

**Imports**

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

1. 'Importation of goods' shall mean:

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

(a) 'Importation of goods' shall mean the entry into the Community of goods which ~~do are~~ not fulfil the conditions laid down in ~~Articles 9 and 10 in free circulation within the meaning of Article 24 of the Treaty establishing the European Economic Community or, where the goods are covered by the Treaty establishing the European Coal and Steel Community, are not in free circulation;~~

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

Adapted

(b) ~~the~~ In addition to the transaction referred to in the first paragraph, the entry into the Community of goods which are in free circulation, coming from a third territory; ~~other than the goods covered by (a) forming part of the customs territory of the Community, shall be regarded as the importation of goods.~~

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

Adapted

~~Article 28n~~

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

**Transitional measures**

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

<p><del>1. When goods:</del></p>	<p><b>Article 28n(1)</b> <b>(inserted by</b> <b>92/111/EEC)</b></p>
	<p><i>Obsolete</i></p>
<p><del>— entered the territory of the country within the meaning of Article 3 before 1 January 1993, and</del></p>	<p><b>Article 28n(1),</b> <b>first indent</b> <b>(inserted by</b> <b>92/111/EEC)</b></p>
	<p><i>Obsolete</i></p>
<p><del>— were placed, on entry into the territory of that country, under one of the regimes referred to in Article 14(1)(b) or (c), or Article 16(1)(A), and</del></p>	<p><b>Article 28n(1),</b> <b>second indent</b> <b>(inserted by</b> <b>92/111/EEC)</b></p>
	<p><i>Obsolete</i></p>
<p><del>— have not left that regime before 1 January 1993,</del></p>	<p><b>Article 28n(1),</b> <b>third indent</b> <b>(inserted by</b> <b>92/111/EEC)</b></p>
	<p><i>Obsolete</i></p>
<p><del>— the provisions in force at the moment the goods were placed under that regime shall continue to apply for the period, as determined by those provisions, the goods remain under that regime.</del></p>	<p><b>Article 28n(1)</b> <b>in fine</b> <b>(inserted by</b> <b>92/111/EEC)</b></p>
	<p><i>Obsolete</i></p>
<p><del>2. The following shall be deemed to be an import of goods within the meaning of Article 7(1):</del></p>	<p><b>Article 28n(2),</b> <b>first subpara-</b> <b>graph</b> <b>(inserted by</b> <b>92/111/EEC)</b></p>
	<p><i>Obsolete</i></p>

<p><del>(a) the removal, including irregular removal, of goods from the regime referred to in Article 14(1)(c) under which the goods were placed before 1 January 1993 under the conditions set out in paragraph 1;</del></p>	<p><b>Article 28n(2), first subparagraph, point (a) (inserted by 92/111/EEC)</b></p>
<p><del>(b) the removal, including irregular removal, of goods from the regime referred to in Article 16(1)(A) under which the goods were placed before 1 January 1993 under the conditions set out in paragraph 1;</del></p>	<p><b>Article 28n(2), first subparagraph, point (b) (inserted by 92/111/EEC)</b></p>
<p><del>(c) the termination of a Community internal transit operation started before 1 January 1993 in the Community for the purpose of supply of goods for consideration made before 1 January 1993 in the Community by a taxable person acting as such;</del></p>	<p><b>Article 28n(2), first subparagraph, point (c) (inserted by 92/111/EEC)</b></p>
<p><del>(d) the termination of an external transit operation started before 1 January 1993;</del></p>	<p><b>Article 28n(2), first subparagraph, point (d) (inserted by 92/111/EEC)</b></p>
<p><del>(e) any irregularity or offence committed during an external transit operation started under the conditions set out in (c) or any Community external transit operation referred to in (d);</del></p>	<p><b>Article 28n(2), first subparagraph, point (e) (inserted by 92/111/EEC)</b></p>
<p><del>(f) the use within the country, by a taxable or non-taxable person, of goods which have been supplied to him, before 1 January 1993, within another Member State, where the following conditions are met:</del></p>	<p><b>Article 28n(2), first subparagraph, point (f) (inserted by 92/111/EEC)</b></p>

*Obsolete*

*Obsolete*

*Obsolete*

*Obsolete*

*Obsolete*

*Obsolete*

~~the supply of these goods has been exempted, or was likely to be exempted, pursuant to Article 15(1) and (2),~~

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

*Obsolete*

~~the goods were not imported within the country before 1 January 1993.~~

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

*Obsolete*

~~For the purpose of the application of (c), the expression 'Community internal transit operation' shall mean the dispatch or transport of goods under the cover of the internal Community transit arrangement or under the cover of a T2 L document or the intra-Community movement carnet, or the sending of goods by post.~~

**Article 28n(2), second subparagraph (inserted by 92/111/EEC)**

*Obsolete*

~~3. In the cases referred to in paragraph 2(a) to (c), the place of import, within the meaning of Article 7(2), shall be the Member State within whose territory the goods cease to be covered by the regime under which they were placed before 1 January 1993.~~

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

*Obsolete*

~~4. By way of derogation from Article 10(3), the import of the goods within the meaning of paragraph 2 of this Article shall terminate without the occurrence of a chargeable event when:~~

**Article 28n(4), first subparagraph (inserted by 92/111/EEC)**

*Obsolete*

~~(a) the imported goods are dispatched or transported outside the Community within the meaning of Article 3; or~~

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

*Obsolete*

~~(b) the imported goods, within the meaning of paragraph 2(a), are other than a means of transport and are dispatched or transported to the Member State from which they were exported and to the person who exported them; or~~

Article 28n(4), first subparagraph, point (b) (inserted by 92/111/EEC)

*Obsolete*

~~(c) the imported goods, within the meaning of paragraph 2(a), are means of transport which were acquired or imported before 1 January 1993, in accordance with the general conditions of taxation in force on the domestic market of a Member State, within the meaning of Article 3, and/or have not been subject by reason of their exportation to any exemption from or refund of value added tax.~~

Article 28n(4), first subparagraph, point (c) (inserted by 92/111/EEC)

*Obsolete*

~~— This condition shall be deemed to be fulfilled when the date of the first use of the means of transport was before 1 January 1985 or when the amount of tax due because of the importation is insignificant.~~

Article 28n(4), second subparagraph (inserted by 92/111/EEC)

*Obsolete*

## ~~TITLE XVI C~~

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

### ~~TRANSITIONAL MEASURES APPLICABLE IN THE CONTEXT OF THE ACCESSION TO THE EUROPEAN UNION OF AUSTRIA, FINLAND AND SWEDEN ON 1 JANUARY 1995 AND OF THE CZECH REPUBLIC, ESTONIA, CYPRUS, LATVIA, LITHUANIA, HUNGARY, MALTA, POLAND, SLOVENIA AND SLOVAKIA ON 1 MAY 2004~~

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

#### ~~Article 28p~~

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

~~1. For the purpose of applying this Article:~~

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

*Obsolete*

<del>‘Community’ shall mean the territory of the Community as defined in Article 3 before accession;</del>	<b>Article 28p(1), first indent (inserted by 94/76/EC)</b>
<i>Obsolete</i>	<i>Obsolete</i>
<del>‘new Member States’ shall mean the territory of the Member States acceding to the European Union on 1 January 1995 and on 1 May 2004, as defined for each of those Member States in Article 3 of this Directive;</del>	<b>Article 28p(1), second indent (replaced by the 2003 Act of Accession)</b>
<i>Obsolete</i>	<i>Obsolete</i>
<del>‘enlarged Community’ shall mean the territory of the Community as defined in Article 3, after accession.</del>	<b>Article 28p(1), third indent (inserted by 94/76/EC)</b>
<i>Obsolete</i>	<i>Obsolete</i>
<del>2. When goods:</del>	<b>Article 28p(2) (inserted by 94/76/EC)</b>
<i>Obsolete</i>	<i>Obsolete</i>
<del>entered the territory of the Community or of one of the new Member States before the date of accession, and</del>	<b>Article 28p(2), first indent (inserted by 94/76/EC)</b>
<i>Obsolete</i>	<i>Obsolete</i>
<del>were placed, on entry into the territory of the Community or of one of the new Member States, under a temporary admission procedure with full exemption from import duties, under one of the regimes referred to in Article 16(1)(B)(a) to (d) or under a similar regime in one of the new Member States, and</del>	<b>Article 28p(2), second indent (inserted by 94/76/EC)</b>
<i>Obsolete</i>	<i>Obsolete</i>
<del>have not left that regime before the date of accession,</del>	<b>Article 28p(2), third indent (inserted by 94/76/EC)</b>
<i>Obsolete</i>	<i>Obsolete</i>



<p><del>the provisions in force at the moment the goods were placed under that regime shall continue to apply until the goods leave this regime, after the date of accession.</del></p>	<p><b>Article 28p(2) in fine</b> (inserted by 94/76/EC)</p>
	<p><i>Obsolete</i></p>
<p><del>3. When goods:</del></p>	<p><b>Article 28p(3), first subparagraph</b> (inserted by 94/76/EC)</p>
	<p><i>Obsolete</i></p>
<p><del>were placed, before the date of accession, under the common transit procedure or under another customs transit procedure, and</del></p>	<p><b>Article 28p(3), first subparagraph, first indent</b> (inserted by 94/76/EC)</p>
	<p><i>Obsolete</i></p>
<p><del>have not left that procedure before the date of accession,</del></p>	<p><b>Article 28p(3), first subparagraph, second indent</b> (inserted by 94/76/EC)</p>
	<p><i>Obsolete</i></p>
<p><del>the provisions in force at the moment the goods were placed under that procedure shall continue to apply until the goods leave this procedure, after the date of accession.</del></p>	<p><b>Article 28p(3), end of first subparagraph</b> (inserted by 94/76/EC)</p>
	<p><i>Obsolete</i></p>
<p><del>For the purposes of the first indent, 'common transit procedure' shall mean the measures for the transport of goods in transit between the Community and the countries of the European Free Trade Association (EFTA) and between the EFTA countries themselves, as provided for in the Convention of 20 May 1987 on a common transit procedure.</del></p>	<p><b>Article 28p(3), second subparagraph</b> (inserted by 94/76/EC)</p> <p><i>Obsolete</i></p>

<p><del>4. The following shall be deemed to be an importation of goods within the meaning of Article 7(1) where it is shown that the goods were in free circulation in one of the new Member States or in the Community:</del></p>	<p><b>Article 28p(4)</b> <b>(inserted by</b> <b>94/76/EC)</b></p>
<p><del>(a) the removal, including irregular removal, of goods from a temporary admission procedure under which they were placed before the date of accession under the conditions set out in paragraph 2;</del></p>	<p><b>Article 28p(4)(a)</b> <b>(inserted by</b> <b>94/76/EC)</b></p>
<p><del>(b) the removal, including irregular removal, of goods either from one of the regimes referred to in Article 16(1)(B)(a) to (d) or from a similar regime under which they were placed before the date of accession under the conditions set out in paragraph 2;</del></p>	<p><b>Article 28p(4)(b)</b> <b>(inserted by</b> <b>94/76/EC)</b></p>
<p><del>(c) the termination of one of the procedures referred to in paragraph 3 which was started before the date of accession in one of new Member States for the purposes of a supply of goods for consideration effected before that date in that Member State by a taxable person acting as such;</del></p>	<p><b>Article 28p(4)(c)</b> <b>(inserted by</b> <b>94/76/EC)</b></p>
<p><del>(d) any irregularity or offence committed during one of the procedures referred to in paragraph 3 under the conditions set out at (e):</del></p>	<p><b>Article 28p(4)(d)</b> <b>(inserted by</b> <b>94/76/EC)</b></p>
<p><del>5. The use after the date of accession within a Member State, by a taxable or non-taxable person, of goods supplied to him before the date of accession within the Community or one of the new Member States shall also be deemed to be an importation of goods within the meaning of Article 7(1) where the following conditions are met:</del></p>	<p><b>Article 28p(5)</b> <b>(inserted by</b> <b>94/76/EC)</b></p>
<p><del>— the supply of those goods has been exempted, or was likely to be exempted, either under Article 15(1) and (2) or under a similar provision in the new Member States;</del></p>	<p><b>Article 28p(5),</b> <b>first indent</b> <b>(inserted by</b> <b>94/76/EC)</b></p>
	<p><i>Obsolete</i></p>

<p><del>the goods were not imported into one of the new Member States or into the Community before the date of accession.</del></p>	<p><b>Article 28p(5), second indent (inserted by 94/76/EC)</b></p>
<p><i>Obsolete</i></p>	<p><i>Obsolete</i></p>
<p><del>6. In the cases referred to in paragraph 4, the place of import within the meaning of Article 7(3) shall be the Member State within whose territory the goods cease to be covered by the regime under which they were placed before the date of accession.</del></p>	<p><b>Article 28p(6) (inserted by 94/76/EC)</b></p>
<p><i>Obsolete</i></p>	<p><i>Obsolete</i></p>
<p><del>7. By way of derogation from Article 10(3), the importation of goods within the meaning of paragraphs 4 and 5 of this Article shall terminate without the occurrence of a chargeable event when:</del></p>	<p><b>Article 28p(7), first subparagraph (inserted by 94/76/EC)</b></p>
<p><i>Obsolete</i></p>	<p><i>Obsolete</i></p>
<p><del>(a) the imported goods are dispatched or transported outside the enlarged Community; or</del></p>	<p><b>Article 28p(7), first subparagraph, point (a) (inserted by 94/76/EC)</b></p>
<p><i>Obsolete</i></p>	<p><i>Obsolete</i></p>
<p><del>(b) the imported goods within the meaning of paragraph 4(a) are other than means of transport and are redispached or transported to the Member State from which they were exported and to the person who exported them; or</del></p>	<p><b>Article 28p(7), first subparagraph, point (b) (inserted by 94/76/EC)</b></p>
<p><i>Obsolete</i></p>	<p><i>Obsolete</i></p>
<p><del>(c) the imported goods within the meaning of paragraph 4(a) are means of transport which were acquired or imported before the date of accession in accordance with the general conditions of taxation in force on the domestic market of one of the new Member States or of one of the Member States of the Community and/or have not been subject, by reason of their exportation, to any exemption from, or refund of, value added tax.</del></p>	<p><b>Article 28p(7), first subparagraph, point (c) (inserted by 94/76/EC)</b></p>
<p><i>Obsolete</i></p>	<p><i>Obsolete</i></p>

~~This condition shall be deemed to be fulfilled in the following cases:~~

Article 28p(7), second subparagraph (replaced by the 2003 Act of Accession)

*Obsolete*

~~when, in respect of Austria, Finland and Sweden, the date of the first use of the means of transport was before 1 January 1987;~~

Article 28p(7), second subparagraph, first indent (replaced by the 2003 Act of Accession)

*Obsolete*

~~when, in respect of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, the date of the first use of the means of transport was before 1 May 1996;~~

Article 28p(7), second subparagraph, second indent (replaced by the 2003 Act of Accession)

*Obsolete*

~~when the amount of tax due by reason of the importation is insignificant.~~

Article 28p(7), second subparagraph, third indent (replaced by the 2003 Act of Accession)

*Obsolete*

## ~~TITLE VI~~ TITLE V

Title VI (77/388/EEC)

### PLACE OF TAXABLE TRANSACTIONS

Heading of Title VI (77/388/EEC)

#### Chapter 1

#### Place of supply of goods

**Section 1**

**Supply of goods without transport**

~~Article 8~~ Article 32

**Supply of goods**

~~1. — The place of supply of goods shall be deemed to be:~~

~~(b) — In the case of~~ Where goods are not dispatched or transported the place of supply shall be deemed to be the place where the goods are located at the time when the supply takes place;

Article 8  
(77/388/EEC)

Heading of  
Article 8  
(77/388/EEC)

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

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

*Adapted*

**Section 2**

**Supply of goods with transport**

Article 33

~~(a) — in the case of~~ Where goods are dispatched or transported ~~either~~ by the supplier, or by the ~~person to whom they are supplied~~ customer, or by a third person; the place of supply shall be deemed to be the place where the goods are located at the time when dispatch or transport of the goods to the ~~person to whom they are supplied~~ customer begins.

~~2. — By way of derogation from paragraph 1(a), where the place of departure of the consignment or transport of goods is~~ However, if dispatch or transport of the goods begins in a third territory; ~~or third country, both~~ the place of supply by the importer ~~as defined in Article 21(4) designated or recognised under Article 193 as liable for payment of VAT~~ and the place of any subsequent ~~supplies~~ supply shall be deemed to be within the Member State of ~~import~~ importation of the goods.

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

*Adapted*

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

*Adapted*

Article 34

~~B. — Place of the supply of goods~~

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

<p>1. By way of derogation from <del>Article 8(1)(a) and (2) Article 33</del>, the place of <del>the</del> supply of goods dispatched or transported by or on behalf of the supplier from a Member State other than that <del>of arrival of the</del> <u>in which</u> dispatch or transport <u>of the goods ends</u> shall be deemed to be the place where the goods are <u>located at the time</u> when <del>dispatch or transport to the purchaser</del> <u>dispatch or transport of the goods to the customer</u> ends, where the following conditions are <u>fulfilled</u> <u>met</u>:</p> <p><del>-(a)</del> the supply of goods is <u>effected</u> <u>carried out</u> for a taxable person <del>eligible for the derogation provided for in the second subparagraph of Article 28a(1)(a)</del>, <u>for</u> <u>or</u> a non-taxable legal person <del>who is eligible for the same derogation, whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 4(1)</del> or for any other non-taxable person<del>;</del></p> <p><del>-(b)</del> the <u>supply is of</u> goods <u>other than</u> <u>supplied are neither</u> new means of transport <u>and other than</u> <u>nor</u> goods supplied after assembly or installation, with or without a trial run, by or on behalf of the supplier.</p>	<p><b>Article 28b(B)(1), first subparagraph</b> (inserted by 91/680/EEC)</p> <p><i>Adapted</i></p> <p><b>Article 28b(B)(1), first subparagraph, first indent</b> (inserted by 91/680/EEC)</p> <p><i>Adapted</i></p> <p><b>Article 28b(B)(1), first subparagraph, second indent</b> (inserted by 91/680/EEC)</p> <p><i>Adapted</i></p>
<p><u>2.</u> Where the goods <del>thus</del> supplied are dispatched or transported from a third territory <u>or a third country</u> and imported by the supplier into a Member State other than <del>the Member State of arrival of that in which dispatch or transport of</del> the goods <del>dispatched or transported to the purchaser</del> <u>customer ends</u>, they shall be regarded as having been dispatched or transported from the Member State of <u>import</u> <u>importation</u>.</p>	<p><b>Article 28b(B)(1), second subparagraph</b> (inserted by 91/680/EEC)</p> <p><i>Adapted</i></p>
<p style="text-align: center;"><u>Article 35</u></p> <p><u>2.1.</u> <del>However, where the supply is of goods other than products subject to excise duty, paragraph 1 shall not apply</del> <u>Article 34 shall not apply</u> to supplies of goods dispatched or transported to <del>the a</del> Member State <del>of arrival of the dispatch or transport where</del>, <u>other than that of the supplier, in which dispatch or transport of the goods ends</u>, <u>if the following conditions are met</u>:</p>	<p><b>Article 28b(B)(2), first subparagraph</b> (inserted by 91/680/EEC)</p> <p><i>Adapted</i></p>

~~2.(a) However, where the supply is of goods other than supplied are not products subject to excise duty, paragraph 1 shall not apply to supplies of goods dispatched or transported to the Member State of arrival of the dispatch or transport where:~~

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

*Adapted*

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

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

*Adapted*

~~-(c) the total value, less value added tax exclusive of VAT, of the supplies of goods within a Member State, other than products subject to excise duty effected under the conditions laid down in paragraph 1 did not, in the previous calendar year did not, exceed 100 000 euro or the equivalent in national currency of ECU 100 000.~~

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

*Adapted*

2. The Member State within the territory of which the goods are located at the time when their dispatch or transport to the  ~~purchaser customer~~ ends may limit the thresholds referred to ~~above in paragraph 1~~ to 35 000 euro or the equivalent in national currency ~~of ECU 35 000~~, where that Member State fears that the threshold of ~~ECU 100 000 referred to above would lead to euro might cause~~ serious ~~distortions distortion~~ of ~~the conditions of~~ competition.

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

*Adapted*

Member States which exercise ~~this the~~ option under the first subparagraph shall take the measures necessary to inform accordingly the ~~relevant competent~~ public authorities in the Member State ~~of in which~~ dispatch or transport of the goods begins.

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

*Adapted*

~~3. Before 31 December 1994, the The Commission shall report present to the Council at the earliest opportunity a report on the operation of the special ECU-35 000 euro thresholds provided for in the preceding subparagraph referred to in paragraph 2, accompanied, if necessary, by appropriate proposals. In that report the Commission may inform the Council that the abolition of the special thresholds will not lead to serious distortions of the conditions of competition.~~

Article 28b(B)(2),  
third subpara-  
graph, first and  
second sentences  
(inserted by  
91/680/EEC)

*Adapted*

~~Until the Council takes a unanimous decision on a Commission proposal, the preceding subparagraph shall remain in force.~~

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

*Obsolete*

~~3.4. The Member State within the territory of which the goods are located at the time of departure of the when their dispatch or transport begins shall grant those taxable persons who effect carry out supplies of goods eligible under paragraph 2 paragraph 1 the right to choose that opt for the place of such supplies shall supply to be determined in accordance with paragraph 4 Article 34.~~

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

*Adapted*

The Member States concerned shall determine lay down the detailed rules for governing the exercise of that the option referred to in the first subparagraph, which shall in any case apply for event cover two calendar years.

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

*Adapted*

#### Article 36

~~(e) — Articles 28b(B) and 28c(A)(a), (e) and (d) Articles 34 and 35 shall not apply to supplies of second-hand goods, works of art, collectors' items or antiques, as defined in Article 304, nor to supplies of second-hand means of transport, subject to value added tax-VAT in accordance with either of the relevant special arrangements laid down in B and C.~~

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

*Adapted*

~~(h) — Articles 28b(B) and 28c(A)(a) and (d) shall not apply to supplies of second-hand means of transport subject to tax in accordance with (a).~~

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



Article 37

Where ~~the~~ goods, dispatched or transported by the supplier or by the customer or by a third person, are installed or assembled, with or without a trial run, by or on behalf of the supplier, the place of supply shall be deemed to be the place where the goods are installed or assembled.

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

*Adapted*

~~In cases where~~ Where the installation or assembly is carried out in a Member State other than that of the supplier, the Member State within ~~the territory~~ of which the installation or assembly is carried out shall take ~~any~~ the measures necessary ~~steps to avoid~~ to ensure there is no double taxation ~~in that State;~~

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

*Adapted*

Section 3

Supply of goods on board ships, aircraft or trains

Article 38

~~(e)1.~~ in the case of Where goods are supplied on board ships, aircraft or trains during the ~~part~~ section of a ~~transport of passengers~~ passenger transport operation effected ~~in~~ within the Community; the place of supply shall be deemed to be at the point of ~~the~~ departure of the passenger ~~transport of passengers~~ operation.

**Article 8(1)(c),  
first subpara-  
graph  
(replaced by  
92/111/EEC)**

*Adapted*

~~2.~~ For the purposes of applying this provision:

**Article 8(1)(c),  
second subpara-  
graph  
(replaced by  
92/111/EEC)**

~~-2.~~ 'part For the purposes of paragraph 1, 'section of a ~~transport of passengers~~ passenger transport operation effected ~~in~~ within the Community' shall mean the ~~part of the transport~~ section of the operation effected, without a ~~stop in a third territory,~~ stopover outside the Community, between the point of departure and the point of arrival of the ~~transport of passengers~~ passenger transport operation.

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

*Adapted*

- ~~the~~ 'The point of departure of ~~the a passenger~~ transport ~~of passengers' operation~~' shall mean the first scheduled point of passenger embarkation ~~foreseen~~ within the Community, where ~~relevant after a leg applicable after a stopover~~ outside the Community.

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

*Adapted*

- ~~the~~ 'The point of arrival of ~~the transport of passengers' a passenger transport operation~~' shall mean the last scheduled point of disembarkation ~~of passengers foreseen~~ within the Community of passengers who embarked in the Community, where ~~relevant before a leg applicable before a stopover~~ outside the Community.

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

*Adapted*

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

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

*Adapted*

3. The Commission shall, ~~by 30 June 1993 at the latest, submit at the earliest opportunity, present~~ to the Council a report, accompanied, if necessary, by appropriate proposals, on the place of taxation of the supply of goods ~~supplied~~ for consumption on board and the supply of services, including restaurant services, ~~provided~~ for passengers on board ships, aircraft or trains.

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

*Modified*

~~By 31 December 1993, after consulting the European Parliament, the Council shall take a unanimous decision on the Commission proposal.~~

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

*Obsolete*

~~Until 31 December 1993, Pending adoption of the proposals referred to in the first subparagraph, Member States may exempt or continue to exempt, with deductibility of the VAT paid at the preceding stage, the supply of goods supplied for consumption on board whose in respect of which the place of taxation is determined in accordance with the above provisions, with the right to deduct the value added tax paid at an earlier stage paragraph 1.~~

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

*Modified*

#### **Section 4**

#### **Supply of goods through distribution systems**

#### *Article 39*

~~(d)1.~~ ~~in~~ In the case of the supply of gas through the natural gas distribution system, or of electricity, to a taxable dealer: the place of supply shall be deemed to be the place where that taxable dealer has established his business or has a fixed establishment for which the goods are supplied, or, in the absence of such a place of business or fixed establishment, the place where he has his permanent address or usually resides.

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

2. ~~Taxable~~ For the purposes of paragraph 1, 'taxable dealer' for the purposes of this provision means shall mean a taxable person whose principal activity in respect of purchases of gas ~~and or~~ electricity is reselling ~~such those~~ products and whose own consumption of ~~these those~~ products is negligible.

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

*Adapted*

#### *Article 40*

~~(e)~~ ~~in~~ In the case of the supply of gas through the natural gas distribution system, or of electricity, where such a supply is not covered by ~~point (d):~~ Article 39, the place of supply shall be deemed to be the place where the customer ~~has effective use and consumption of effectively uses and consumes~~ the goods.

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

*Adapted*

Where all or part of the ~~goods are gas or electricity is not in fact effectively~~ consumed by ~~this the~~ customer, ~~these non consumed those non consumed~~ goods ~~are shall be~~ deemed to have been used and consumed at the place where ~~he the customer~~ has established his business or has a fixed establishment for which the goods are supplied. In the absence of such a place of business or fixed establishment, ~~he is the customer shall be~~ deemed to have used and consumed the goods at the place where he has his permanent address or usually resides.

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

*Adapted*

## Chapter 2

### Place of an intra-Community acquisition of goods

~~Article 28b~~Article 41

#### **Place of transactions**

##### ~~A. — Place of the intra-Community acquisitions of goods~~

~~1. —~~ The place of ~~the an~~ intra-Community acquisition of goods shall be deemed to be the place where dispatch or transport of the goods ~~are at the time when dispatch or transport~~ to the person acquiring them ends.

Article 42

~~2. —~~ Without prejudice to ~~paragraph 1~~ Article 41, the place of ~~the an~~ intra-Community acquisition of goods as referred to in ~~Article 28a(1)(a)~~ Article 3(1)(b)(i) shall, ~~however,~~ be deemed to be within the territory of the Member State which issued the ~~value added tax VAT~~ identification number under which the person acquiring the goods made the acquisition, unless the person acquiring the goods establishes that VAT has been applied to that acquisition ~~has been subject to tax~~ in accordance with ~~paragraph 1~~ Article 41.

~~If, however,~~ VAT is applied to the acquisition in accordance with the first paragraph and subsequently applied, pursuant to Article 41, to the acquisition ~~is subject to tax in accordance with paragraph 1~~ in the Member State ~~of arrival of the in which~~ dispatch or transport of the goods after having been subject to tax in accordance with the first subparagraph, ends, the taxable amount shall be reduced accordingly in the Member State which issued the ~~value added tax VAT~~ identification number under which the person acquiring the goods made the acquisition.

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

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

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

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

*Adapted*

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

*Adapted*

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

*Adapted*

Article 43

~~For the purposes of applying the first subparagraph, The first paragraph of Article 42 shall not apply, and VAT shall be deemed to have been applied to the intra-Community acquisition of goods shall be deemed to have been subject to tax in accordance with paragraph 1 when Article 41 where the following conditions have been are met:~~

- ~~-(a) the acquirer person acquiring the goods establishes that he has effected this made the intra-Community acquisition for the needs purposes of a subsequent supply effected in within the Member State referred to identified in paragraph 1 and accordance with Article 41 for which the consignee person to whom the supply is made has been designated as the person in accordance with Article 190 as liable for the tax due in accordance with Article 28e(E)(3) payment of VAT;~~
- ~~-(b) the person acquiring the goods has satisfied the obligations for declaration set out in the last subparagraph of Article 22(6)(b) have been satisfied by the acquirer laid down in Article 258 relating to submission of the recapitulative statement.~~

Chapter 3

Place of supply of services

Section 1

General rules

~~Article 9~~ Article 44

Supply of services

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

*Adapted*

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

*Adapted*

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

*Adapted*

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

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

~~1. — The Subject to the particular provisions laid down in Section 2, the place where a service is supplied of supply of services, other than the supply of services by an intermediary, shall be deemed to be the place where the supplier has established his business or has a fixed establishment from which the service is supplied, or, in the absence of such a place of business or fixed establishment, the place where he has his permanent address or usually resides.~~

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

*Adapted*

#### Article 45

~~E. — Place of the supply of services rendered by intermediaries~~

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

~~3. — By way of derogation from Article 9(1), Subject to the particular provisions laid down in Section 2, the place of the supply of services rendered by intermediaries an intermediary, acting in the name and for the account on behalf of other persons, when such services form part of transactions other than those referred to in paragraph 1 or 2 or in Article 9(2)(e), shall be the place where those transactions are the principal transaction in which the intermediary takes part is carried out.~~

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

*Adapted*

However, where the customer of the services supplied by the intermediary is identified for VAT purposes of value added tax in a Member State other than that within the territory of which those transactions are that transaction is carried out, the place of the supply of the services rendered by the intermediary shall be deemed to be within the territory of the Member State which issued the customer with the value added tax VAT identification number under which the service was rendered to him by the intermediary.

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

*Adapted*

### Section 2

#### Particular provisions

##### Subsection 1

#### Supply of services relating to immovable property

#### Article 46

~~2. — However:~~

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

~~(a) — the~~ The place of ~~the~~ supply of services ~~connected with relating to~~ immovable property, including the services of estate agents and experts, and ~~of services for preparing and co-ordinating relating to the preparation and coordination of~~ construction ~~works work~~, such as the services of architects and of firms providing on-site supervision, shall be the place where the property is ~~situated~~ located;

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

*Adapted*

### **Subsection 2**

### **Supply of transport**

#### *Article 47*

~~(b) — the~~ The place ~~where of supply of~~ transport ~~services are supplied other than in relation to the~~ intra-Community transport of goods shall be the place where the transport takes place, ~~having regard to the proportionately in terms of~~ distances covered;

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

*Adapted*

#### *Article 48*

~~C. — Place of the supply of services in the intra-Community transport of goods~~

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

~~1. — By way of derogation from Article 9(2)(b), the place of the supply of services in the intra-Community transport of goods shall be determined in accordance with paragraphs 2, 3 and 4. For the purposes of this Title the following definitions shall apply:~~

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

*Obsolete*

~~2. — The place of the supply of ~~services in the~~ intra-Community goods transport ~~of goods~~ shall be the place of departure of the transport.~~

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

*Adapted*

~~3. — However, ~~by way of derogation from paragraph 2, the place of the supply of services in the~~ where intra-Community goods transport ~~of goods~~ rendered is supplied to customers identified for VAT purposes ~~of value added tax in a Member State other than that of the departure of the transport, the place of supply~~ shall be deemed to be within the territory of the Member State which issued the customer with the ~~value added tax~~ VAT identification number under which the service was rendered to him.~~

**Article 28b(C)(3)**  
**(inserted by**  
**91/680/EEC)**

*Adapted*

-Article 49

~~-1.~~ ~~'the intra-Community'~~ 'Intra-Community' transport of goods' shall mean any transport ~~where of goods in respect of which~~ the place of departure and the place of arrival are situated within ~~the territories of~~ two different Member States.

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

*Adapted*

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

**Article 28b(C)(1), first indent, second subparagraph (inserted by 95/7/EC)**

*Adapted*

~~-2.~~ ~~'the'~~ 'The place of departure' shall mean the place where ~~the~~ transport of the goods ~~actually starts, leaving aside distance actually travelled effectively begins, irrespective of distances covered in order to reach~~ the place where the goods are, located, ~~and 'the place of arrival' shall mean the place where transport of the goods effectively ends.~~

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

*Adapted*

~~— 'the place of arrival' shall mean the place where the transport of goods actually ends.~~

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

Article 50

~~1. —~~ ~~By way of derogation from Article 9(1), the~~ The place of the supply of services rendered by ~~intermediaries, an intermediary,~~ acting in the name and for the account on behalf of other persons, where ~~they~~ form part of the supply of services ~~in the~~ the intermediary takes part in the intra-Community transport of goods, shall be the place of departure of the transport.

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

*Adapted*



However, where the customer for whom ~~of~~ the services rendered ~~supplied~~ by the intermediary ~~are performed~~ is identified for VAT purposes ~~of value added tax~~ in a Member State other than that of the departure of the transport, the place of the supply of services ~~rendered by an~~ by the intermediary shall be deemed to be within the territory of the Member State which issued the customer with the ~~value added tax~~ VAT identification number under which the service was rendered to him.

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

*Adapted*

#### Article 51

~~4.~~ Member States need not apply ~~the tax~~ VAT to ~~that part of the~~ intra-Community transport ~~corresponding to journeys made of goods in so far as such transport takes place~~ over waters which do not form part of the territory of the Community ~~as defined in Article 3~~.

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

*Adapted*

#### Subsection 3

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

#### Article 52

~~(e)~~ ~~the~~ The place of ~~the~~ supply of the following services ~~relating to~~ shall be the place where the services are physically carried out:

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

*Adapted*

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

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

*Adapted*

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

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

~~-(c)~~ valuations of ~~movable~~ tangible movable property or work on such property;

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

*Adapted*

~~work on movable tangible property,~~

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

~~shall be the place where those services are physically carried out;~~

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

#### Article 53

~~D. Place of the supply of services ancillary to the intra-Community transport of goods~~

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

By way of derogation from ~~Article 9(2)(e)~~ Article 52(b), the place of supply of services ~~involving relating to~~ activities ancillary to the intra-Community transport of goods, ~~rendered~~ supplied to customers identified for VAT purposes ~~of value added tax~~ in a Member State other than that ~~within the territory of in~~ which the services are physically ~~performed,~~ carried out, shall be deemed to be within the territory of the Member State which issued the customer with the ~~value added tax~~ VAT identification number under which the service was rendered to him.

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

*Adapted*

#### Article 54

~~2. By way of derogation from Article 9(1), the~~ The place of the supply of services ~~rendered by intermediaries an intermediary,~~ acting in the name and ~~for the account on behalf of~~ other persons, where ~~they form he takes~~ part ~~of in~~ the supply of services ~~the purpose of which is~~ consisting in activities ancillary to the intra-Community transport of goods, shall be the place where the ancillary services are physically ~~performed~~ carried out.

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

*Adapted*

However, where the customer of the services ~~rendered~~ supplied by the intermediary is identified for VAT purposes ~~of value added tax~~ in a Member State other than that within ~~the territory of~~ which the ancillary service is physically ~~performed~~ carried out, the place of supply of ~~the~~ services ~~rendered by the intermediary~~ shall be deemed to be within the territory of the Member State which issued the customer with the ~~value added tax~~ VAT identification number under which the service was rendered to him ~~by the intermediary~~.

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

*Adapted*

#### Article 55

~~F. Place of the supply of services in the case of valuations of or work on movable tangible property~~

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

By way of derogation from ~~Article 9(2)(e)~~ Article 52(c), the place of ~~the~~ supply of services ~~involving valuations or work on consisting in the valuation of tangible~~ movable ~~tangible~~ property, ~~provided or in work on such property, supplied~~ to customers identified for ~~value added tax-VAT~~ purposes in a Member State other than ~~the one where those that in which the~~ services are physically carried out, shall be deemed to be ~~in~~ within the territory of the Member State which issued the customer with the ~~value added tax-VAT~~ identification number under which the service was ~~carried out for rendered to~~ him.

~~This~~ The derogation referred to in the first paragraph shall ~~not~~ apply only where the goods are ~~not~~ dispatched or transported out of the Member State where in which the services were physically carried out.

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

*Adapted*

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

*Adapted*

#### **Subsection 4**

#### **Miscellaneous services**

#### *Article 56*

~~(e)1.~~ the ~~The~~ place ~~where of supply of~~ the following services ~~are~~ supplied when performed for to customers established outside the Community, or ~~for to~~ taxable persons established in the Community but not in the same ~~country~~ Member State as the supplier, shall be the place where the customer has established his business or has a fixed establishment ~~to for~~ which the service is supplied, or, in the absence of such a place, the place where he has his permanent address or usually resides:

- ~~-(a)~~ transfers and assignments of copyrights, patents, licences, trade marks and similar rights;
- ~~-(b)~~ advertising services;
- ~~-(c)~~ the services of consultants, engineers, consultancy bureaux, lawyers, accountants and other similar services, as well as data processing and the supplying provision of information;

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

*Adapted*

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

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

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

*Adapted*

- |  |   |
|--|---|
| <p>–(d) obligations to refrain from pursuing or exercising, in whole or in part, a business activity or a right referred to in <del>this point (e) this paragraph</del>;</p>                               | <p><b>Article 9(2)(e), fourth indent (77/388/EEC)</b></p>                                       |
| <p>–(e) banking, financial and insurance transactions, including reinsurance, with the exception of the hire of safes;</p>   | <p><b>Article 9(2)(e), fifth indent (77/388/EEC)</b></p>  |
| <p>–(f) the supply of staff;</p>   | <p><b>Article 9(2)(e), sixth indent (77/388/EEC)</b></p>  |
| <p>–(g) the hiring out of <u>tangible</u> movable <del>tangible</del> property, with the exception of all <del>forms</del> <u>means</u> of transport;</p>  | <p><b>Article 9(2)(e), eighth indent (inserted by 84/386/EEC)</b></p>                           |
| <i>Adapted</i>   |   |
| <p>–(h) the provision of access to, and of transport or transmission through, natural gas and electricity distribution systems and the provision of other directly linked services;</p>                    | <p><b>Article 9(2)(e), ninth indent (inserted by 2003/92/EC)</b></p>                            |
| <p>–(i) telecommunications. <del>Telecommunications services within the meaning of this provision shall also include services, including the</del> provision of access to global information networks;</p> | <p><b>Article 9(2)(e), ninth indent, first and third sentences (inserted by 1999/59/EC)</b></p> |
| <i>Adapted</i>   |   |
| <p>–(j) radio and television broadcasting services;</p>  | <p><b>Article 9(2)(e), tenth indent (inserted by 2002/38/EC)</b></p>                            |
| <p>–(k) electronically supplied services, <del>inter alia</del> <u>such as</u> those <del>described</del> <u>referred to in Annex I, Annex II</u>;</p>   | <p><b>Article 9(2)(e), eleventh indent (inserted by 2002/38/EC)</b></p>                         |
| <i>Adapted</i>   |   |

~~(1)~~ the supply of services of agents who act by intermediaries, acting in the name and for the account of another, when they procure for their principal on behalf of other persons, where those intermediaries take part in the supply of the services referred to in ~~this point (e) this paragraph~~.

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

*Adapted*

2. Where the supplier of a service and ~~his~~ the customer ~~communicates~~ communicate via electronic mail, ~~this that~~ shall not of itself mean that the service ~~performed~~ supplied is an ~~electronic electronically supplied~~ service ~~within the meaning of the last indent of Article 9(2)(e) for the purposes of point (k) of paragraph 1.~~

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

*Adapted*

3. ~~Article 1~~ Points (j) and (k) of paragraph 1 shall apply for a period of three years starting from 1 July 2003.

Article 4 (2002/38/EC)

#### Article 57

~~(f)1.~~ ~~the place where~~ Where the services referred to in ~~the last indent of subparagraph (e) point (k) of Article 52(1)~~ are supplied; ~~when performed for to~~ non-taxable persons who are established; ~~in, or who~~ have their permanent address or usually reside in, a Member State; by a taxable person who has established his business outside the Community or has a fixed establishment there from which the service is supplied ~~outside the Community, or who~~, in the absence of such a place of business or fixed establishment, has his permanent address or usually resides outside the Community, the place of supply shall be the place where the non-taxable person is established, or where he has his permanent address or usually resides.

Article 9(2)(f) (inserted by 2002/38/EC)

*Adapted*

2. ~~Article 1~~ Paragraph 1 shall apply for a period of three years starting from 1 July 2003.

Article 4 (2002/38/EC)

#### Subsection 5

#### Criterion of effective use or enjoyment

#### Article 58

3. — In order to avoid double taxation, non-taxation or ~~the~~ distortion of competition ~~the~~, Member States may, with regard to the supply of the services referred to in ~~paragraph 2(e), except for the services referred to in the last indent when supplied~~ points (a) to (j) and point (l) of Article 56(1), where those services are rendered to non-taxable persons, and ~~also~~ with regard to the hiring out of forms ~~means~~ of transport ~~consider, exercise the following options:~~

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

*Adapted*

- |     |  |  |
|-----|--|--|
| (a) | <u>of regarding</u> the place of supply of <u>any or all of those</u> services, <del>which under this Article would be if</del> situated within <del>the their</del> territory <del>of the country</del> , as being situated outside the Community <del>where, if</del> the effective use <del>and or</del> enjoyment of the services <del>take</del> <u>takes</u> place outside the Community;  | <b>Article 9(3)(a)</b><br>(77/388/EEC)<br><br><i>Adapted</i> |
| (b) | <u>of regarding</u> the place of supply of <u>any or all of those</u> services, <del>which under this Article would be if</del> situated outside the Community, as being <u>situated</u> within <del>the their</del> territory <del>of the country</del> <del>where, if</del> the effective use <del>and or</del> enjoyment of the services <del>take</del> <u>takes</u> place within <del>the their</del> territory <del>of the country</del> . | <b>Article 9(3)(b)</b><br>(77/388/EEC)<br><br><i>Adapted</i> |

Article 59

- |      |   |   |
|------|---|---|
| 4.1. | <del>In the case of</del> <u>Member States shall apply Article 58(b) to telecommunications services, as referred to in paragraph 2(e) Article 56(1)(i), supplied to non-taxable persons who are established in a Member State, or who have their permanent address or usually reside in a Member State</u> by a taxable person <del>established who has established his business outside the Community or has a fixed establishment there from which the services are supplied, or who, in the absence of such a place of business or fixed establishment, has his permanent address or usually resides</del> outside the Community <del>to non-taxable persons established inside the Community, Member States shall make use of paragraph 3(b).</del>   | <b>Article 9(4)</b><br>(inserted by<br>2002/38/EC)<br><br><i>Modified</i> |
| 4.2. | <del>In the case of telecommunications services and</del> <u>For a period of three years from 1 July 2003, Member States shall apply Article 58(b) to radio and television broadcasting services,</u> referred to in <del>paragraph 2(e) when performed for point (j) of Article 56(1), supplied to</del> non-taxable persons who are established <del>in a Member State, or who</del> have their permanent address or usually reside in a Member State, by a taxable person who has established his business <u>outside the Community</u> or <u>who</u> has a fixed establishment <u>there</u> from which the <del>service is</del> <u>services</u> <u>are</u> supplied <del>outside the Community</del> , or <u>who</u> , in the absence of such a place of business or fixed establishment, has his permanent address or usually resides outside the Community, <del>Member States shall make use of paragraph 3(b).</del> | <b>Article 9(4)</b><br>(replaced by<br>2002/38/EC)<br><br><i>Modified</i> |

**Chapter 4**

**Place of importation of goods**

Article 60

~~2.~~—The place of ~~imports-importation~~ of goods shall be the Member State within ~~the-whose~~ territory ~~of-which~~ the goods are located when they enter the Community.

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

Adapted

Article 61

~~3.~~—~~Notwithstanding paragraph 2, where~~ By way of derogation from Article 60, where, on entry into the Community, goods referred to in paragraph 1(a) are, on entry into the Community, which are not in free circulation are placed under one of the arrangements referred to in ~~Article 16(1)(B)(a), (b), (c) and (d), Article 151, or~~ under arrangements for temporary importation arrangements with total exemption from import duty, or under external transit arrangements, the place of ~~import~~ importation of such goods shall be the Member State within ~~the-whose~~ territory ~~of-which they-the goods~~ cease to be covered by those arrangements.

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

Adapted

Similarly, ~~when where, on entry into the Community, goods referred to in paragraph 1(b) which are in free circulation~~ are placed, ~~on entry into the Community, under one of the arrangements referred to in Article 33a(1)(b) or (c) Articles 269 and 270,~~ the place of ~~import-importation~~ shall be the Member State within whose territory ~~this procedure ceases to apply the goods cease to be covered by those arrangements.~~

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

Adapted

~~TITLE VII~~ TITLE VI

Title VII  
(77/388/EEC)

~~CHARGEABLE EVENT AND CHARGEABILITY OF TAX~~  
VAT

Heading of  
Title VII  
(77/388/EEC)

Chapter 1

General provisions

~~Article 10~~ Article 62

Article 10  
(77/388/EEC)

~~1.~~—~~(a)~~—‘Chargeable event’ shall mean the occurrence by virtue of which the legal conditions necessary for ~~tax-VAT~~ VAT to become chargeable are fulfilled.

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

~~(b) — The tax becomes VAT shall become~~ ‘chargeable’ when the tax authority becomes entitled under the law at a given moment to claim the tax from the person liable to pay, ~~notwithstanding that even though~~ the time of payment may be deferred.

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

*Adapted*

## **Chapter 2**

### **Supply of goods or services**

#### **Article 63**

~~2. —~~ The chargeable event shall occur and ~~the tax VAT~~ shall become chargeable when the goods ~~are delivered~~ or the services are ~~performed~~ supplied.

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

*Adapted*

#### **Article 64**

~~1. Deliveries Where it gives rise to successive statements of account or successive payments, the supply of services or the supply of goods, other than those that consisting in the hire of goods for a certain period or the sale of goods on deferred terms, as referred to in Article 5(4)(b) and supplies of services which give rise to successive statements of account or payments Article 15(2)(b), shall be regarded as being completed at the time when on expiry of the periods to which such statements of account or payments pertain expire relate.~~

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

*Adapted*

~~2. Member States may in certain cases provide that, in certain cases, the continuous supplies supply of goods and or services which take place over a period of time shall is to be regarded as being completed at least at intervals of one year.~~

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

*Adapted*

#### **Article 65**

~~However, where Where~~ a payment is to be made on account before the goods ~~are delivered~~ or ~~the~~ services are ~~performed, the tax supplied, VAT~~ shall become chargeable on receipt of the payment and on the amount received.

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

*Adapted*



Article 66

By way of derogation from ~~the above provisions~~ Articles 63, 64 and 65, Member States may provide that ~~the tax shall~~ VAT is to become chargeable, ~~for~~ in respect of certain transactions or ~~for~~ certain categories of taxable person, ~~either~~ at one of the following times:

-(a) no later than the issue of time the invoice, ~~or~~ is issued;

-(b) no later than ~~receipt of the price, or~~ the time the payment is received;

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

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

*Adapted*

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

*Adapted*

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

*Adapted*

**Article 10(2),  
third subpara-  
graph, third  
indent  
(amended by  
2001/115/EC)**

*Adapted*

Article 67

4.1. ~~By way of derogation from Article 10(2) and (3), tax shall become chargeable for supplies of goods effected under the conditions laid down in Article 28e(A) Where, in accordance with the conditions laid down in Article 135, goods dispatched or transported to a Member State other than that in which dispatch or transport of the goods begins are supplied VAT-exempt or where goods are transferred VAT-exempt to another Member State by a taxable person for the purposes of his business, VAT shall become chargeable on the 15th day of the month following that~~ during in which the chargeable event occurs.

**Article 28d(4),  
first subpara-  
graph  
(inserted by  
91/680/EEC)**

*Adapted*

~~2.~~ ~~However, tax~~ By way of derogation from paragraph 1, VAT shall become chargeable on the issue of the invoice provided for in ~~the first subparagraph of Article 22(3)(a) where Article 211, if~~ that invoice is issued before the ~~fifteenth~~ 15th day of the month following that ~~during in~~ which the ~~taxable~~ chargeable event occurs.

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

*Adapted*

### Chapter 3

#### Intra-Community acquisition of goods

~~Article 28d~~ Article 68

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

#### ~~Chargeable event and chargeability of tax~~

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

~~1.~~—The chargeable event shall occur when the intra-Community acquisition of goods is ~~effected~~ made.

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

*Adapted*

The intra-Community acquisition of goods shall be regarded as being ~~effected~~ made when the supply of similar goods is regarded as being effected within the territory of the ~~country~~ relevant Member State.

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

*Adapted*

Article 69

~~2.1.~~ ~~For~~ In the case of the intra-Community acquisition of goods, ~~tax~~ VAT shall become chargeable on the 15th day of the month following that ~~during in~~ which the chargeable event occurs.

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

*Adapted*

~~3.2.~~ By way of derogation from ~~paragraph 2, tax paragraph 1, VAT~~ shall become chargeable on the issue of the invoice provided for in ~~the first subparagraph of Article 22(3)(a) where Article 211, if~~ that invoice is issued to the person acquiring the goods before the ~~fifteenth-15th~~ day of the month following that ~~during in~~ which the ~~taxable-chargeable~~ event occurs.

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

*Adapted*

#### Chapter 4

#### Importation of goods

#### Article 70

~~3.~~ The chargeable event shall occur and ~~the tax-VAT~~ shall become chargeable when the goods are imported.

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

#### Article 71

1. Where, on entry into the Community, goods are placed under one of the arrangements referred to in ~~Article 7(3) on entry into the Community, Articles 151, 269 and 270, or under temporary importation arrangements with total exemption from import duty, or under external transit arrangements,~~ the chargeable event shall occur and ~~the tax-VAT~~ shall become chargeable only when the goods cease to be covered by those arrangements.

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

*Adapted*

However, where imported goods are subject to customs duties, or to agricultural levies or to charges having equivalent effect established under a common policy, the chargeable event shall occur and ~~the tax-VAT~~ shall become chargeable when the chargeable event ~~for in respect of~~ those ~~Community~~ duties occurs and those duties become chargeable.

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

*Adapted*

2. Where imported goods are not subject to any of ~~those Community~~ the duties referred to in the second subparagraph of paragraph 1, Member States shall ~~apply the provisions in force governing customs duties,~~ as regards ~~the occurrence of~~ the chargeable event and the moment when ~~the tax-VAT~~ becomes chargeable, apply the provisions in force governing customs duties.

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

*Adapted*

~~TITLE VIII~~ TITLE VII

TAXABLE AMOUNT

Chapter 1

Supply of goods or services

~~Article 11~~ Article 72

~~A. Within the territory of the country~~

~~1. The taxable amount shall be:~~

~~(a) in respect of supplies~~ In respect of the supply of goods ~~and or~~ services, other than ~~those as~~ referred to in ~~(b), (c) and (d) below,~~ Articles 73 to 76, the taxable amount shall include everything which constitutes ~~the consideration which has been obtained~~ or ~~is~~ to be obtained by the supplier, in return for the supply, from ~~the purchaser,~~ the customer or a third party ~~for such supplies,~~ including subsidies directly linked to the price of ~~such supplies~~ the supply;

Article 73

~~(b) in respect of supplies~~ Where a taxable person applies or disposes of goods forming part of his business assets, or where goods are retained by a taxable person, or by his successors, when his taxable economic activity ceases, as referred to in ~~Article 5(6) and (7), Articles 17 and 19,~~ the taxable amount shall be the purchase price of the goods or of similar goods or, in the absence of a purchase price, the cost price, determined ~~as at~~ the time ~~of supply~~ when the application, disposal or retention takes place;

Article 74

~~(c) in respect of supplies referred to in Article 6(2),~~ In respect of the supply of services, referred to in Article 27, where goods forming part of the assets of a business are used for private purposes or services are carried out free of charge, the taxable amount shall be the full cost to the taxable person of providing the services;

Title VIII  
(77/388/EEC)

Heading of  
Title VIII  
(77/388/EEC)

Article 11  
(77/388/EEC)

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

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

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

Adapted

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

Adapted

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

Adapted

Article 75

~~2. For~~ In respect of the supply of goods ~~referred to in Article 28e(A)(d), the taxable amount shall be determined in accordance with Article 11(A)(1)(b) and paragraphs 2 and 3~~ consisting in the transfer of goods to another Member State, the taxable amount shall be the purchase price of the goods or of similar goods or, in the absence of a purchase price, the cost price, determined at the time the transfer takes place.

**Article 28e(2)  
(inserted by  
92/111/EEC)**

*Adapted*

Article 76

~~(d) in respect of supplies referred to in Article 6(3),~~ In respect of the supply by a taxable person of a service for the purposes of his business, as referred to in Article 28, the taxable amount shall be the open market value of the ~~services~~ service supplied.

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

*Adapted*

~~Open~~ The 'open market value' of ~~services~~ a service shall mean the full amount which that, in order to obtain the service in question, a customer at the marketing stage at which the supply takes place would have to pay, at the time of the supply and under conditions of fair competition, to a supplier at arm's length within the territory of the country at the time of the supply under conditions of fair competition to obtain the services in question Member State in which the supply of a service referred to in paragraph 1 is taxable.

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

*Adapted*

Article 77

~~2.~~ The taxable amount shall include the following factors:

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

- (a) taxes, duties, levies and charges, excluding the ~~value added tax~~ VAT itself;
- (b) incidental expenses such as commission, packing, transport and insurance costs charged by the supplier to the  ~~purchaser or~~ customer.

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

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

*Adapted*

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

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

*Adapted*

#### Article 78

~~3.~~ The taxable amount shall not include the following factors:

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

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

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

(b) price discounts and rebates ~~allowed granted~~ to the customer and ~~accounted for obtained by him~~ at the time of the supply;

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

*Adapted*

(c) ~~the~~ amounts received by a taxable person from ~~his purchaser or the customer~~, as repayment ~~for expenses paid out of expenditure incurred~~ in the name and ~~for the account on behalf~~ of the ~~latter customer~~, and ~~which are~~ entered in his books in a suspense account.

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

*Adapted*

The taxable person must furnish proof of the actual amount of ~~this the~~ expenditure referred to in point (c) of the first paragraph and may not deduct any ~~tax-VAT~~ which may have been charged ~~on these transactions~~.

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

*Adapted*

#### Article 79

~~4.~~ ~~By way of derogation from paragraphs 1, 2 and 3,~~ Member States which, ~~on at~~ 1 January 1993, ~~did were~~ not ~~avail availing~~ themselves of the option ~~provided for in the third subparagraph of Article 12(3)(a) under Article 95 of applying a reduced rate~~ may, ~~where if~~ they avail themselves of the option ~~provided for in Title B(6) under Article 86~~, provide that, ~~for in respect of~~ the ~~transactions supply of works of art, as~~ referred to in ~~the second subparagraph of Article 12(3)(e) Article 99(2)~~, the taxable amount ~~shall is to~~ be equal to a fraction of the amount determined in accordance with ~~paragraphs 1, 2 and 3~~ Articles 72, 73, 75, 77 and 78.

Article 11(A)(4),  
first subparagraph  
(inserted by  
94/5/EC)

*Adapted*

~~That~~The fraction referred to in the first paragraph shall be determined in such a way that the ~~value added tax~~ VAT thus due is, ~~in any event~~, equal to at least 5% of the amount determined in accordance with ~~paragraphs 1, 2 and 3~~ Articles 72, 73, 75, 77 and 78.

**Article 11(A)(4), second subparagraph (inserted by 94/5/EC)**

*Adapted*

## **Chapter 2**

### **Intra-Community acquisition of goods**

~~Article 28e~~Article 80

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

#### **Taxable amount and rate applicable**

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

~~1.~~1.—In the case of the intra-Community acquisition of goods, the taxable amount shall be established on the basis of the same elements factors as those used in accordance with ~~Article 11(A) Chapter 1~~ to determine the taxable amount for the supply of the same goods within the ~~territory of the country. In particular, in the case of the Member State concerned. In the case of the transactions, to be treated as~~ intra-Community ~~acquisition~~acquisitions of goods, referred to in ~~Article 28a(6), Articles 22 and 23~~, the taxable amount shall be ~~determined in accordance with Article 11(A)(1)(b) and paragraphs 2 and 3~~ the purchase price of the goods or of similar goods or, in the absence of a purchase price, the cost price, determined at the time of the supply.

**Article 28e(1), first subparagraph (inserted by 91/680/EEC and amended by 92/111/EEC)**

*Adapted*

Article 81

1. Member States shall take the measures necessary to ensure that the excise duty due or paid by the person ~~effecting~~making the intra-Community acquisition of a product subject to excise duty is included in the taxable amount in accordance with ~~Article 11(A)(2)(a) point (a) of the first paragraph of Article 77~~.

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

*Adapted*

~~2.~~ ~~When, Where,~~ after ~~the moment~~ the intra-Community acquisition of goods ~~was effected~~ has been made, the ~~acquirer-person acquiring the goods~~ obtains ~~the a~~ refund of ~~the~~ excise ~~duties-duty~~ paid in the Member State ~~from-in~~ which dispatch or transport of the goods ~~were dispatched or transported began~~, the taxable amount shall be reduced accordingly in the Member State ~~where~~ in which the ~~intra-Community~~ acquisition ~~took place~~ was made.

Article 28e(1), second subparagraph, second sentence (inserted by 91/680/EEC)

*Adapted*

### Chapter 3

#### Importation of goods

##### Article 82

#### ~~B.~~ Importation of goods

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

~~1.~~ ~~The~~ In the case of the importation of goods, the taxable amount shall be the value for customs purposes, determined in accordance with the Community provisions in force; ~~this shall also apply for the import of goods referred to in Article 7(1)(b).~~

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

*Adapted*

##### Article 83

~~3-1.~~ The taxable amount shall include the following factors, in so far as they are not already included:

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

(a) taxes, duties, levies and other charges due outside the ~~importing~~ Member State of importation, and those due by reason of importation, excluding the ~~value added tax-VAT~~ to be levied;

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

*Adapted*

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

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

*Adapted*



The ~~taxable amount shall also include the~~ incidental expenses ~~referred to above shall also be included in the taxable amount where they result resulting~~ from transport to another place of destination within ~~the territory of~~ the Community, if that place is known when the chargeable event occurs.

Article 11(B)(3)  
(b), third subparagraph  
(replaced by  
95/7/EC)

*Adapted*

2. ~~First~~ For the purposes of point (b) of the first subparagraph of paragraph 1, 'first place of destination' shall mean the place mentioned on the consignment note or on any other document ~~by means of~~ under which the goods are imported into the ~~importing~~ Member State. ~~In the absence of such an indication of importation.~~ If no such mention is made, the first place of destination shall be ~~taken deemed~~ to be the place of the first ~~transfer of cargo~~ intermediate reloading in the ~~importing~~ Member State of importation.

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

*Adapted*

#### *Article 84*

4. — The taxable amount shall not include ~~those~~ the following factors ~~referred to in A(3)(a) and (b):~~

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

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

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

(b) price discounts and rebates allowed to the customer and ~~accounted for~~ applying at the time of ~~the supply~~ importation;

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

*Adapted*

#### *Article 85*

5. — ~~When~~ Where goods ~~have been~~ temporarily exported from the Community ~~and~~ are re-imported after having undergone, outside the Community, repair, processing ~~or~~ adaptation, ~~or after having been made up or reworked abroad,~~ making up or re-working, Member States shall take steps to ensure that the tax treatment of the goods for ~~value added tax VAT~~ purposes is the same as that which would have been applied ~~to the goods in question had the~~ above operations repair, processing, adaptation, making up or re-working been carried out within ~~the their~~ territory ~~of the country~~.

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

*Adapted*

Article 86

~~6.~~ By way of derogation from paragraphs 1 to 4, Member States which, ~~on at~~ 1 January 1993, ~~did were~~ not ~~avail-availing~~ themselves of the option ~~provided for in the third subparagraph of Article 12(3)(a) under Article 95 of applying a reduced rate,~~ may provide that ~~for imports in respect of the importation of the~~ works of art, collectors' items and antiques, ~~as~~ defined in ~~Article 26a(A)(a), (b) and (c), Article 304(1)(b), (c) and (d),~~ the taxable amount ~~shall is to~~ be equal to a fraction of the amount determined in accordance with ~~paragraphs 1 to 4 Articles 82, 83 and 84.~~

~~That The~~ fraction ~~referred to in the first paragraph~~ shall be determined in such a way that the ~~value added tax-VAT~~ thus due on the ~~import importation~~ is, ~~in any event,~~ equal to at least 5% of the amount determined in accordance with ~~paragraphs 1 to 4 Articles 82, 83 and 84.~~

**Article 11(B)(6),  
first subpara-  
graph  
(inserted by  
94/5/EC)**

*Adapted*

**Article 11(B)(6),  
second subpara-  
graph  
(inserted by  
94/5/EC)**

*Adapted*

**Chapter 4**

**Miscellaneous provisions**

Article 87

~~C.~~ ~~Miscellaneous provisions~~

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

1. In the case of cancellation, refusal or total or partial non-payment, or where the price is reduced after the supply takes place, the taxable amount shall be reduced accordingly under conditions which shall be determined by the Member States.

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

2. ~~However, in In~~ the case of total or partial non-payment, Member States may derogate from ~~this rule paragraph 1.~~

**Article 11(C)(1),  
second subpara-  
graph  
(77/388/EEC)**

Article 88

~~2.1.~~ Where ~~information for determining the factors used to determine~~ the taxable amount on importation ~~is~~ are expressed in a currency other than that of the Member State ~~where in which~~ assessment takes place, the exchange rate shall be determined in accordance with the Community provisions governing the calculation of the value for customs purposes.

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

*Adapted*

~~2.~~ Where ~~information for the determination of the factors used to determine~~ the taxable amount of a transaction other than ~~an import transaction is the importation of goods are~~ expressed in a currency other than that of the Member State ~~where in which~~ assessment takes place, the exchange rate applicable shall be the latest selling rate recorded, at the time ~~the tax~~ VAT becomes chargeable, on the most representative exchange market or markets of the Member State concerned, or a rate determined by reference to that or those markets, in accordance with the rules laid down by that Member State.

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

*Adapted*

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

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

Article 89

~~3.~~ As regards the costs of returnable packing ~~costs~~ material, Member States may take one of the following measures:

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

*Adapted*

~~(a)~~ ~~either~~ exclude them from the taxable amount and take the ~~necessary~~ measures necessary to ~~see~~ ensure that this amount is adjusted if the packing material is not returned;<sup>5</sup>

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

*Adapted*

~~(b)~~ ~~or~~ include them in the taxable amount and take the ~~necessary~~ measures necessary to ~~see~~ ensure that this amount is adjusted ~~where if~~ the packing material is in fact returned.

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

*Adapted*

~~TITLE IX~~ **TITLE VIII**

**RATES**

**Chapter 1**

**Application of rates**

*Article 12* **Article 90**

~~1.~~ The rate applicable to taxable transactions shall be that in force at the time of the chargeable event.

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

(a) in the cases ~~provided for referred to in the second and third subparagraphs of Article 10(2), the rate to be used shall be that in force when the tax becomes chargeable~~ Articles 65 and 66;

(b) ~~The tax rate applicable to in the case of an intra-Community acquisition of goods shall be that in force when the tax becomes chargeable;~~

~~(b)~~(c) in the cases ~~provided for~~ concerning the importation of goods, referred to in the second and third subparagraphs of Article, the rate applicable shall be that in force at the time when the tax becomes chargeable second subparagraph of Article 71(1) and in Article 71(2).

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

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

**Article 12  
(77/388/EEC)**

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

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

**Article 12(1)(a)  
(77/388/EEC)**

**Article 28e(3)  
(inserted by  
91/680/EEC and  
renumbered by  
92/111/EEC)**

*Adapted*

**Article 12(1)(b)  
(replaced by  
92/111/EEC)**

*Adapted*

Article 91

~~4.1.~~ The ~~tax~~-rate applicable to the intra-Community acquisition of goods shall be that applied to the supply of like goods within the ~~territory of the country~~ Member State.

**Article 28e(4)**  
**(inserted by**  
**91/680/EEC and**  
**renumbered by**  
**92/111/EEC)**

*Adapted*

~~5.2.~~ Subject to ~~paragraph 3(e)~~ the option under Article 99(1) of applying a reduced rate to the importation of works of art, collectors' items or antiques, the rate applicable ~~on to~~ the importation of goods shall be that applied to the supply of like goods within the ~~territory of the country~~ Member State.

**Article 12(5)**  
**(replaced by**  
**94/5/EC)**

*Adapted*

Article 92

~~2.~~ ~~In the event of changes in the rates, Member States may:~~

**Article 12(2)**  
**(77/388/EEC)**

~~-Where rates are changed, Member States may, in the cases referred to in Articles 65 and 66, effect adjustments in the cases provided for in paragraph 1(a) in order to take account of the rate applicable applying at the time when the goods or services were supplied.~~

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

*Adapted*

~~-Member States may also adopt all appropriate transitional measures.~~

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

*Adapted*

Chapter 2

Structure and level of rates

Section 1

Standard rate

Article 93

~~3. (a) The Member States shall apply a~~ standard rate of ~~value added tax VAT,~~ which shall be fixed by each Member State as a percentage of the taxable amount and which shall be the same for the supply of goods and for the supply of services.

Article 12(3)(a),  
first subparagraph, first  
sentence  
(replaced by  
2001/4/EC)

*Adapted*

Article 94

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

Article 12(3)(a)  
first subparagraph, second  
sentence  
(replaced by  
2001/4/EC)

*Adapted*

2. ~~On a proposal from the Commission and after consulting the European Parliament and the Economic and Social Committee, the~~ The Council shall decide ~~unanimously, in accordance with Article 93 of the Treaty,~~ on the level of the standard rate to be applied after 31 December 2005.

Article 12(3)(a)  
second subparagraph  
(replaced by  
2001/4/EC)

Section 2

Reduced rates

Article 95

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

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

2. ~~These~~ The reduced rates shall be fixed as a percentage of the taxable amount, which may not be less than 5%, and shall apply only to supplies of goods or services in the categories of goods and services specified in Annex H set out in Annex III.

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

*Adapted*

~~The third subparagraph~~ The reduced rates shall not apply to the services referred to in ~~the last indent of Article 9(2)(e)~~ Article 56(1)(k).

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

*Adapted*

3. ~~In transposing the categories below which refer to goods into national legislation, When applying the reduced rates provided for in paragraph 1 to categories of goods,~~ Member States may use the ~~combined nomenclature~~ Combined Nomenclature to establish the precise coverage of the category concerned.

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

*Adapted*

Article 96

1. ~~These~~ The reduced rates shall be fixed as a percentage of the taxable amount, which may not be less than 5%, ~~and shall apply only to supplies of the categories of goods and services specified in Annex H.~~

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

4.2. Each reduced rate shall be so fixed that the amount of value added tax-VAT resulting from ~~the its~~ application ~~thereof~~ shall be such as in the normal way to permit the deduction therefrom of is such that the ~~whole of the value added tax-VAT~~ deductible under the provisions of ~~Article 17~~ Articles 162 to 171 can normally be deducted in full.

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

*Adapted*

Article 97

On the basis of a report from the Commission, the Council shall, starting in 1994, review the scope of the reduced rates every two years.

**Article 12(4),  
second subpara-  
graph, first  
sentence  
(inserted by  
92/77/EEC)**

The Council, ~~acting unanimously on a proposal from the Commission,~~ may, in accordance with Article 93 of the Treaty, decide to alter the list of goods and services set out in Annex H Annex III.

**Article 12(4),  
second subpara-  
graph, second  
sentence  
(inserted by  
92/77/EEC)**

Section 3

Particular provisions

Article 98

~~(b)~~—Member States may apply a reduced rate to ~~supplies the supply~~ of natural gas ~~and or of~~ electricity, provided that no risk of distortion of competition ~~exists thereby arises.~~

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

*Adapted*

~~A-Any~~ Member State intending to apply ~~such a~~ reduced rate under the first paragraph must, before doing so, inform the Commission accordingly. The Commission shall ~~give a decision on the existence of~~ decide whether or not there is a risk of distortion of competition. If the Commission has not taken that decision within three months of ~~the~~ receipt of the information ~~a, no~~ risk of distortion of competition is shall be deemed ~~not~~ to exist.

**Article 12(3)(b),  
second, third and  
fourth sentences  
(replaced by  
92/77/EEC)**

*Adapted*

Article 99

~~(e)1.~~ Member States may provide that the reduced rate, or one of the reduced rates, which they apply in accordance with ~~the third paragraph of (a) shall~~ Articles 95 and 96 is also to apply to imports the importation of works of art, collectors' items and antiques ~~as referred to in Article 26a(A)(a), (b) and (c), as defined in points (b), (c) and (d) of Article 304(1).~~

**Article 12(3)(c),  
first subpara-  
graph  
(replaced by  
94/5/EC)**

*Adapted*



2. ~~Where they~~ If Member States avail themselves of ~~this the~~ option, ~~Member States under paragraph 1, they~~ may also apply the reduced rate to ~~supplies of works of art, within the meaning of Article 26a(A)(a) the following:~~

~~-(a) effected the supply of works of art,~~ by their creator or his successors in title;~~;~~

~~-(b) effected the supply of works of art,~~ on an occasional basis, by a taxable person other than a taxable dealer, where ~~these the~~ works of art have been imported by the taxable person himself, or where they have been supplied to him by their creator or his successors in title, or where they have entitled him to full deduction of ~~value added tax VAT;~~

#### Article 100

~~(b) — For the purposes of applying Article 12(3)(a), the Republic of Austria may, in the communes of Jungholz and Mittelberg (Kleines Walsertal), apply a second standard rate in the communes of Jungholz and Mittelberg (Kleines Walsertal) which is lower than the corresponding rate applied in the rest of Austria but not less than 15%.~~

#### Article 101

~~6. — The Portuguese Republic Portugal may apply to, in the case of transactions carried out in the autonomous regions of the Azores and Madeira and to of direct imports importation to those regions, apply reduced rates in comparison to lower than those applying on the mainland;~~

### Chapter 3

#### Temporary provisions for particular labour-intensive services

Article 12(3)(c), second subparagraph (replaced by 94/5/EC)

*Adapted*

Article 12(3)(c), second subparagraph, first indent (replaced by 94/5/EC)

Article 12(3)(c), second subparagraph, second indent (replaced by 94/5/EC)

Annex IX(2)(b), first subparagraph (Act of Accession, AT, FI and SE)

*Adapted*

Article 12(6) (inserted by Act of Accession, ES and PT)

*Adapted*

Article 102

~~6. — The Council may, acting unanimously on a proposal from the Commission, ~~may authorise any Member State~~ allow Member States to apply ~~for a maximum period of six years between 1 January 2000 and 31 December 2005~~ the reduced rates provided for in ~~the third subparagraph of Article 12(3)(a)~~ Article 95 to services listed in ~~as maximum of two of the categories set out in Annex K~~ Annex IV for a maximum period of six years between 1 January 2000 and 31 December 2005.~~

**Article 28(6), first subparagraph, first sentence (inserted by 1999/85/EC and amended by 2004/15/EC)**

*Adapted*

~~6. — The Council, acting unanimously on a proposal from the Commission, may authorise any Member State to apply for a maximum period of six years between 1 January 2000 and 31 December 2005 the~~ The reduced rates ~~provided for in the third subparagraph of Article 12(3)(a)~~ may be applied to services ~~listed in as maximum of~~ from no more than two of the categories set out in ~~Annex K~~ Annex IV.

**Article 28(6), first subparagraph, first sentence (inserted by 1999/85/EC and amended by 2004/15/EC)**

*Adapted*

In exceptional cases a Member State may be ~~authorised~~ allowed to apply the reduced ~~rate rates~~ to services ~~in~~ from three of ~~the abovementioned those~~ categories.

**Article 28(6), first subparagraph, second sentence (inserted by 1999/85/EC)**

*Adapted*

Article 103

The services ~~concerned~~ referred to in Article 102 must satisfy the following ~~requirements~~ conditions:

**Article 28(6), second subparagraph (inserted by 1999/85/EC)**

*Adapted*

- (a) they must be labour-intensive;

**Article 28(6), second subparagraph, point (a) (inserted by 1999/85/EC)**

<p>(b) they must <del>be</del> largely <u>be</u> provided direct to final consumers;</p>	<p><b>Article 28(6), second subparagraph, point (b) (inserted by 1999/85/EC)</b></p>
<p>(c) they must be mainly local and not likely to <del>create distortions cause</del> <u>distortion</u> of competition;</p>	<p><b>Article 28(6), second subparagraph, point (c) (inserted by 1999/85/EC)</b></p>
<p><del>(d) — there</del> <u>There</u> must <u>also</u> be a close link between the <del>lower prices</del> <u>decrease in prices</u> resulting from the rate reduction and the foreseeable increase in demand and employment. <u>Application of a reduced rate must not prejudice the smooth functioning of the internal market.</u></p>	<p><i>Adapted</i> <b>Article 28(6), second subparagraph, point (d) (inserted by 1999/85/EC)</b></p>
<p><del>The application of a reduced rate must not prejudice the smooth functioning of the internal market.</del></p>	<p><i>Adapted</i> <b>Article 28(6), third subparagraph (inserted by 1999/85/EC)</b></p>
<p style="text-align: center;"><u>Article 104</u></p> <p>Any Member State wishing to introduce the measure provided for in <del>the first subparagraph</del> <u>Article 102</u> shall inform the Commission <u>accordingly</u> before 1 November 1999 and shall provide it before that date with all relevant <del>particulars</del> <u>information</u>, and in particular the following:</p>	<p><b>Article 28(6), fourth subparagraph (inserted by 1999/85/EC)</b></p>
<p>(a) scope of the measure and detailed description of the services concerned;</p>	<p><i>Adapted</i> <b>Article 28(6), fourth subparagraph, point (a) (inserted by 1999/85/EC)</b></p>

(b) particulars showing that the conditions laid down in ~~the second and third subparagraphs~~ Article 103 have been ~~met~~ satisfied;

**Article 28(6), fourth subparagraph, point (b) (inserted by 1999/85/EC)**

*Adapted*

(c) particulars showing the budgetary cost of the measure envisaged.

**Article 28(6), fourth subparagraph, point (c) (inserted by 1999/85/EC)**

~~Member States authorised to apply the reduced rate referred to in the first subparagraph shall, before 1 October 2002, draw up a detailed report containing an overall assessment of the measure's effectiveness in terms notably of job creation and efficiency.~~

**Article 28(6), fifth subparagraph (inserted by 1999/85/EC)**

*Obsolete*

~~Before 31 December 2002 the Commission shall forward a global evaluation report to the Council and Parliament accompanied, if necessary, by a proposal for appropriate measures for a final decision on the VAT rate applicable to labour-intensive services.~~

**Article 28(6), sixth subparagraph (inserted by 1999/85/EC)**

*Obsolete*

#### **Chapter 4**

#### **Special provisions applying until the adoption of definitive arrangements**

#### **Article 105**

~~2. Notwithstanding Article 12(3), the following Pending introduction of the definitive arrangements, referred to in Article 395, for taxation of trade between Member States, the provisions laid down in this Chapter shall apply during the transitional period referred to in Article 281.:~~

**Article 28(2) (replaced by 92/77/EEC)**

*Adapted*

Article 106

~~(a) — Exemptions — Member States which, at 1 January 1991, were granting exemptions, with refund of deductibility of the tax-VAT paid at the preceding stage and, or applying reduced rates lower than the minimum rate laid down in Article 12(3) in respect of the reduced rates, which were in force on 1 January 1991 and which are in accordance with Community law, and satisfy the conditions stated in the last indent of Article 17 of the second Council Directive of 11 April 1967, may be maintained Article 96, may continue to grant those exemptions or apply those reduced rates.~~

**Article 28(2)(a),  
first subpara-  
graph  
(replaced by  
92/77/EEC)**

*Adapted*

~~(a) — Exemptions with refund of the tax paid at the preceding stage — The exemptions and reduced rates lower than the minimum rate laid down in Article 12(3) in respect of the reduced rates, which were in force on 1 January 1991 and which are referred to in the first paragraph must be in accordance with Community law; and satisfy the conditions stated in the last indent of Article 17 of the second Council Directive of 11 April 1967, may be maintained must have been adopted for clearly defined social reasons and for the benefit of the final consumer.~~

**Article 28(2)(a),  
first subpara-  
graph  
(replaced by  
92/77/EEC)**

*Adapted*

~~Member States shall adopt the measures necessary to ensure the determination of own resources relating to these operations.~~

**Article 28(2)(a),  
second subpara-  
graph  
(replaced by  
92/77/EEC)**

*Modified*

Article 107

~~Subject to the conditions laid down in the second paragraph of Article 103, exemptions, with deductibility of the VAT paid at the preceding stage, may continue to be granted in the following cases:~~

*New*

~~(1)(a) For the purposes of applying Article 28(2)(a), the Republic of by Finland may, during the transitional period referred to in Article 281, apply exemptions, with refund of tax paid at the preceding stage, which are in accordance with Community law, and satisfy the conditions set out in the last indent of Article 17 of the second Council Directive of 11 April 1967, to supplies in respect of the supply of subscribed newspapers and periodicals sold by subscription and the printing of publications distributed to the members of corporations for the public good.~~

**Annex IX(2)(l)  
(Act of Accession,  
AT, FI and SE)**

*Adapted*

~~(e)(b) For the purposes of applying Article 28(2)(a), the Kingdom of by Sweden may, during the transitional period referred to in Article 281, apply exemptions with the refund of tax paid at the preceding stage, which are in accordance with Community law, and satisfy the conditions set out in the last indent of Article 17 of the second Council Directive of 11 April 1967, to supplies in respect of the supply of newspapers, including radio and cassette newspapers for the visually-impaired people, pharmaceuticals, pharmaceutical products supplied to hospitals or on prescription, and the production of, or other related services concerning, periodicals of non-profit-making organizations organisations.~~

*Article 108*

~~In the event that If the provisions of this paragraph create Article 106 cause for Ireland distortions-distortion of competition in the supply of energy products for heating and lighting, Ireland may, on specific request, be authorised by the Commission to apply a reduced rate to such supplies, in accordance with Article 12(3) Articles 95 and 96.~~

~~In that the case referred to in the first paragraph, Ireland shall submit its-a request to the Commission together with all necessary information. If the Commission has not taken a decision within three months of receiving the request, Ireland shall be deemed to be authorised to apply the proposed reduced rates proposed.~~

*Article 109*

~~(b) — Member States which, at 1 January 1991, in accordance with Community law, applied-were granting exemptions, with refund-of-tax deductibility of the VAT paid at the preceding stage, or applying reduced rates lower than the minimum laid down in Article 12(3) in respect of the reduced rates, to Article 96, in respect of goods and services other than those specified in Annex H, Annex III, may apply the reduced rate, or one of the two reduced rates, provided for in Article 12(3) Article 95 to-any such-supplies the supply of such goods or services.~~

**Annex IX(2)(c)  
(Act of Accession,  
AT, FI and SE)**

*Adapted*

**Article 28(2)(a),  
third subpara-  
graph, first  
sentence  
(replaced by  
92/77/EEC)**

*Adapted*

**Article 28(2)(a),  
third subpara-  
graph, second and  
third sentences  
(replaced by  
92/77/EEC)**

**Article 28(2)(b)  
(replaced by  
92/77/EEC)**

*Adapted*

Article 110

(e)1. Member States which ~~under the terms of Article 12(3) will be, on 1 January 1993, were~~ obliged to increase their standard rate ~~as applied in force~~ at 1 January 1991 by more than 2%; may apply a reduced rate lower than the minimum laid down in ~~Article 12(3) in respect of the reduced rate to supplies Article 96 to the supply of categories of~~ goods and services ~~specified in the categories set out in Annex H Annex III.~~

~~Furthermore, those~~ The Member States referred to in the first subparagraph may also apply such a rate to restaurant services, children's clothing, children's footwear and housing.

2. Member States may not rely on paragraph 1 to introduce exemptions with ~~refund of deductibility of the tax-VAT paid~~ at the preceding stage ~~on the basis of this paragraph.~~

Article 28(2)(c),  
first sentence  
(replaced by  
92/77/EEC)

Adapted

Article 28(2)(c),  
second sentence  
(replaced by  
92/77/EEC)

Article 28(2)(c),  
third sentence  
(replaced by  
92/77/EEC)

Adapted

Article 111

(d) — Member States which, at 1 January 1991 ~~applied, were applying~~ a reduced rate to restaurant services, children's clothing, children's footwear ~~and or~~ housing, may continue to apply such a rate to ~~such supplies the supply of those goods or services.~~

Article 28(2)(d)  
(replaced by  
92/77/EEC)

Adapted

Article 112

(k) — ~~The Portuguese Republic Portugal~~ may apply one of the two reduced rates provided for in ~~the third subparagraph of Article 12(3)(a) Article 95~~ to restaurant services, provided that the rate is not lower than 12%.

Article 28(2)(k)  
(inserted by  
2000/17/EC)

Article 113

~~(f)1.~~ For the purposes of applying ~~Article 28(2)(d), the Republic of Article 111,~~ Austria may continue to apply a reduced rate, in accordance with Articles 95 and 96, to restaurant services.

**Annex IX(2)(f),  
first subparagraph  
(Act of Accession  
AT, FI and SE)**

*Adapted*

~~(j)2.~~ ~~The Republic of~~ Austria may apply one of the two reduced rates provided for in ~~the third subparagraph of Article 12(3)(a) Article 95~~ to the letting of immovable property for ~~residential use,~~ residential use, provided that the rate is not lower than 10%.

**Article 28(2)(j)  
(inserted by  
2000/17/EC)**

Article 114

~~(e)~~—Member States which, at 1 January 1991 ~~applied, were applying~~ a reduced rate to ~~supplies the supply~~ of goods ~~and or~~ services other than those specified in ~~Annex H Annex III~~ may apply the reduced rate, or one of the two reduced rates, provided for in ~~Article 12(3) Article 95 to such supplies, the supply of those goods or services,~~ provided that the rate is not lower than 12%.

**Article 28(2)(e),  
first subparagraph  
(replaced by  
92/77/EEC)**

*Adapted*

~~This provision may~~ The first paragraph shall not apply to ~~supplies the supply~~ of second-hand goods, works of art, collectors' items or antiques, as defined in points (a) to (d) of Article 304(1), subject to ~~value added tax VAT~~ in accordance with ~~one of the special arrangements margin scheme~~ provided for ~~an Article 26a(B) and (C) in Articles 305 to 317 or the arrangements for sales by public auction.~~

**Article 28(2)(e),  
second subparagraph  
(inserted by  
94/5/EC)**

*Adapted*

Article 115

~~(g)~~—For the purposes of applying ~~Article 28(2)(e), the Republic of Article 114,~~ Austria may apply a reduced rate to ~~wine from farm production carried out by the producing farmer and supplies of electrically driven vehicles wines produced on an agricultural holding by the producer-farmer,~~ provided that ~~such the~~ rate is not lower than 12%.

**Annex IX(2)(g),  
first subparagraph  
(Act of Accession  
AT, FI and SE)**

*Adapted*



Article 116

~~(f) — The Hellenic Republic Greece may apply VAT rates up to 30% lower than the corresponding rates applied in mainland Greece in the departments of Lesbos, Chios, Samos, the Dodecanese and the Cyclades, and on the following islands in the Aegean: Thasos, of Thassos, the Northern Sporades, Samothrace and Skiros.~~

**Article 28(2)(f)  
(replaced by  
92/77/EEC)**

*Adapted*

Article 117

~~(h) — Member States which, on at 1 January 1993, were availing themselves of the option provided for in Article 5(5)(a) as in force on that date, may apply to supplies regarded work under a contract to make up work as the supply of goods may apply to the delivery of work under contract the rate applicable to the goods obtained after making up execution of the work under contract.~~

**Article 28(2)(h),  
first subpara-  
graph  
(inserted by  
95/7/EC)**

*Adapted*

For the purposes of applying ~~this provision, supplies under a contract to make up the first paragraph, the delivery of~~ work ~~under contract~~ shall ~~be deemed to be delivery mean the handing over~~ by a contractor to his customer of movable property made or assembled by the contractor from materials or objects entrusted to him by the customer for ~~this that~~ purpose, whether or not the contractor has provided any part of the materials used.

**Article 28(2)(h),  
second subpara-  
graph  
(inserted by  
95/7/EC)**

*Adapted*

Article 118

~~(i) — Member States may apply a reduced rate to supplies the supply of live plants (and other floricultural products, including bulbs, roots and the like, cut flowers and ornamental foliage), and of wood for use as firewood.~~

**Article 28(2)(i)  
(inserted by  
96/42/EC)**

*Adapted*

~~(g) — On the basis of a report from the Commission, the Council shall, before 31 December 1994, re-examine the provisions of subparagraphs (a) to (f) above in relation to the proper functioning of the internal market in particular. In the event of significant distortions of competition arising, the Council, acting unanimously on a proposal from the Commission, shall adopt appropriate measures.~~

**Article 28(2)(g)  
(replaced by  
92/77/EEC)**

*Obsolete*

**Chapter 5**

**Temporary provisions**

Article 119

~~(a) By way of derogation from Article 12(3)(a) of Directive 77/388/EEC, the The Czech Republic may maintain, until 31 December 2007, continue to apply a reduced rate of value added tax of not less than 5% until 31 December 2007 on a) the supply of heat energy used by households and small entrepreneurs who are not registered for VAT for heating and the production of hot water, excluding raw materials used to generate heat energy, and b) on the supply of construction work for residential housing not provided as part of a social policy, and excluding building materials to the following transactions:~~

**Annex V(5)(1)(a)  
(2003 Act of  
Accession)**

*Adapted*

~~(a) By way of derogation from Article 12(3)(a) of Directive 77/388/EEC, the Czech Republic may maintain a reduced rate of value added tax of not less than 5% until 31 December 2007 on a) the supply of heat energy used by households and small entrepreneurs who are not registered for subject to VAT for heating and the production of hot water, excluding raw materials used to generate heat energy, and b) on the supply of construction work for residential housing not provided as part of a social policy, and excluding building materials;~~

**Annex V(5)(1)(a)  
(2003 Act of  
Accession)**

*Adapted*

~~(a)(b) By way of derogation from Article 12(3)(a) of Directive 77/388/EEC, the Czech Republic may maintain a reduced rate of value added tax of not less than 5% until 31 December 2007 on a) the supply of heat energy used by households and small entrepreneurs who are not registered for VAT for heating and the production of hot water, excluding raw materials used to generate heat energy, and b) on the supply of construction work for residential housing not provided as part of a social policy, and excluding building materials.~~

**Annex V(5)(1)(a)  
(2003 Act of  
Accession)**

Article 120

~~(a) By way of derogation from Article 12(3)(a) of Directive 77/388/EEC, Estonia may maintain, until 30 June 2007, continue to apply a reduced rate of value added tax of not less than 5% on to the supply of heating sold to natural persons, housing associations, apartment associations, churches, congregations, and institutions or bodies financed from the state State, rural municipality or city budget, as well as on to the supply of peat, fuel briquettes, coal and firewood to natural persons, until 30 June 2007;~~

**Annex VI(7)(1)(a)  
(2003 Act of  
Accession)**

*Adapted*

Article 121

1. ~~By way of derogation from Article 12(3)(a) of Directive 77/388/EEC,~~ Cyprus may maintain, until 31 December 2007, continue to grant an exemption with refund deductibility of tax-VAT paid at the preceding stage ~~on in respect of~~ the supply of pharmaceuticals and foodstuffs for human consumption, with the exception of ice cream, ice lollies, frozen yoghurt, water ice and similar products and savoury food products (potato crisps/sticks, puffs and similar products packaged for human consumption without further preparation), ~~until 31 December 2007.~~

**Annex VII(7)(1),  
first subpara-  
graph  
(2003 Act of  
Accession)**

*Adapted*

2. ~~By way of derogation from Article 12(3)(a) of Directive 77/388/EEC,~~ Cyprus may maintain, until 31 December 2007, continue to apply a reduced rate ~~of value added tax~~ of not less than 5% ~~on to~~ the supply of restaurant services ~~until 31 December 2007 or until the end of the transitional period introduction of definitive arrangements, as referred to in Article 281 of the Directive~~ Article 395, whichever is the earlier.

**Annex VII(7)(1),  
second sub-  
paragraph  
(2003 Act of  
Accession)**

*Adapted*

Article 122

~~(a)~~ ~~By way of derogation from Article 12(3)(a) of Directive 77/388/EEC,~~ Latvia may maintain, until 31 December 2004, continue to grant an exemption ~~from value added tax on with deductibility of VAT paid at the preceding stage in respect of~~ the supply of heating sold to households ~~until 31 December 2004.~~

**Annex VIII(7)(1)  
(a)  
(2003 Act of  
Accession)**

*Adapted*

Article 123

~~(a)~~ ~~By way of derogation from Article 12(3)(a) of Directive 77/388/EEC,~~ Hungary may maintain continue to apply a reduced rate of not less than 12% to the following transactions:

**Annex X(7)(1)(a)  
(2003 Act of  
Accession)**

*Adapted*

~~(i)(a)~~ ~~a reduced rate of value added tax of no less than 12% on~~ the supply of coal, coal-brick and coke, firewood and charcoal, and ~~on~~ the supply of district heating services, ~~until 31 December 2007,~~ and;

**Annex X(7)(1)(a)  
(i)  
(2003 Act of  
Accession)**

~~(ii)(b) a reduced rate of value added tax of no less than 12% on the supply of restaurant services and of foodstuffs sold on similar premises until 31 December 2007 or until the end-introduction of the transitional period definitive arrangements as referred to in Article 281 of the Directive Article 395, whichever is the earlier.~~

**Annex X(7)(1)(a)  
(ii)  
(2003 Act of  
Accession)**

*Adapted*

*Article 124*

~~1. By way of derogation from Article 12(3)(a) of Directive 77/388/EEC, Malta may maintain, until 1 January 2010, continue to grant an exemption with refund deductibility of tax-VAT paid at the preceding stage ~~on~~ in respect of the supply of foodstuffs for human consumption and pharmaceuticals ~~until 1 January 2010~~.~~

**Annex XI(7)(1)  
(2003 Act of  
Accession)**

*Adapted*

*Article 125*

~~(a)1. By way of derogation from Article 12(3)(a) of Directive 77/388/EEC, Poland may (i) apply, until 31 December 2007, or until the introduction of definitive arrangements as referred to in Article 395, whichever is the earlier, grant an exemption with refund deductibility of tax-VAT paid at the preceding stage ~~on~~ in respect of the supply of certain books and specialist periodicals, until 31 December 2007, and (ii) maintain a reduced rate of value added tax of not less than 7% on the supply of restaurant services until 31 December 2007 or until the end of the transitional period referred to in Article 281 of the Directive, whichever is the earlier.~~

**Annex XII(9)(1)  
(a)  
(2003 Act of  
Accession)**

*Adapted*

~~(a)2. By way of derogation from Article 12(3)(a) of Directive 77/388/EEC, Poland may (i), until 31 December 2007 or until the introduction of definitive arrangements as referred to in Article 395, whichever is the earlier, continue to apply an exemption with refund of tax paid at the preceding stage on the supply of certain books and specialist periodicals, until 31 December 2007, and (ii) maintain a reduced rate of value added tax of not less than 7% on to the supply of restaurant services until 31 December 2007 or until the end of the transitional period referred to in Article 281 of the Directive, whichever is the earlier.~~

**Annex XII(9)(1)  
(a)  
(2003 Act of  
Accession)**

*Adapted*

~~(b)3.~~ By way of derogation from Article 12(3)(a) of Directive 77/388/EEC, Poland may maintain (i) until 30 April 2008, continue to apply a reduced rate of value added tax of no less than 3% ~~on to the supply of~~ foodstuffs (including beverages but excluding alcoholic beverages) for human and animal consumption; live animals, seeds, plants and ingredients normally intended for use in preparation of foodstuffs; products normally intended to be used to supplement or substitute foodstuffs; and on the supply of goods and services of a kind normally intended for use in agricultural production, but excluding capital goods such as machinery or buildings, referred to in points 1 and 10 point (1) of annex H to the Directive, ~~until 30 April 2008,~~ and (ii) a reduced rate of value added tax of no less than 7% on the supply of services, not provided as part of a social policy, for construction, renovation and alteration of housing, excluding building materials, and on the supply before first occupation of residential buildings or parts of residential buildings as referred to in Article 4(3)(a) of the Directive until 31 December 2007 Annex III.

**Annex XII(9)(1)**  
**(b)**  
**(2003 Act of Accession)**

*Adapted*

~~(b)4.~~ By way of derogation from Article 12(3)(a) of Directive 77/388/EEC, Poland may maintain (i) until 30 April 2008, continue to apply a reduced rate of value added tax of no less than 3% ~~on~~ foodstuffs (including beverages but excluding alcoholic beverages) for human and animal consumption; live animals, seeds, plants and ingredients normally intended for use in preparation of foodstuffs; products normally intended to be used to supplement or substitute foodstuffs; and ~~on to~~ the supply of goods and services of a kind normally intended for use in agricultural production, but excluding capital goods such as machinery or buildings, referred to in points 1 and 10 point (11) of annex H to the Directive, ~~until 30 April 2008,~~ and (ii) a reduced rate of value added tax of no less than 7% on the supply of services, not provided as part of a social policy, for construction, renovation and alteration of housing, excluding building materials, and on the supply before first occupation of residential buildings or parts of residential buildings as referred to in Article 4(3)(a) of the Directive until 31 December 2007 Annex III.

**Annex XII(9)(1)**  
**(b)**  
**(2003 Act of Accession)**

*Adapted*

~~(b)5.~~ By way of derogation from Article 12(3)(a) of Directive 77/388/EEC, Poland may maintain (i), until 31 December 2007, continue to apply a reduced rate of value added tax of no less than 3% on foodstuffs (including beverages but excluding alcoholic beverages) for human and animal consumption; live animals, seeds, plants and ingredients normally intended for use in preparation of foodstuffs; products normally intended to be used to supplement or substitute foodstuffs; and on the supply of goods and services of a kind normally intended for use in agricultural production, but excluding capital goods such as machinery or buildings, referred to in points 1 and 10 of annex H to the Directive, until 30 April 2008, and (ii) a reduced rate of value added tax of no less than 7% ~~on to~~ the supply of services, not provided as part of a social policy, for construction, renovation and alteration of housing, excluding building materials, and ~~on to~~ the supply before first occupation of residential buildings or parts of residential buildings as referred to in ~~Article 4(3)(a) of the Directive until 31 December 2007~~ Article 13(1)(a).

Annex XII(9)(1)  
(b)  
(2003 Act of Accession)

*Adapted*

*Article 126*

~~(a)1.~~ By way of derogation from Article 12(3)(a) of Directive 77/388/EEC, Slovenia may maintain (i), until 31 December 2007 or until the introduction of definitive arrangements as referred to in Article 395, whichever is the earlier, continue to apply a reduced rate of value added tax of not less than 8.5% ~~on to~~ the preparation of meals until 31 December 2007 or until the end of the transitional period referred to in Article 281 of the Directive, whichever is the earlier, and (ii) a reduced rate of value added tax of not less than 5% on the supply of construction, renovation and maintenance work for residential housing not provided as part of a social policy, and excluding building materials until 31 December 2007.

Annex XIII(6)(1)  
(a)  
(2003 Act of Accession)

*Adapted*

~~(a)2.~~ By way of derogation from Article 12(3)(a) of Directive 77/388/EEC, Slovenia may maintain (i) a reduced rate of value added tax of not less than 8.5% on the preparation of meals, until 31 December 2007 or until the end of the transitional period referred to in Article 281 of the Directive, whichever is the earlier, and (ii), continue to apply a reduced rate of value added tax of not less than 5% ~~on to~~ the supply of construction, renovation and maintenance work for residential housing not provided as part of a social policy, and excluding building materials until 31 December 2007.

Annex XIII(6)(1)  
(a)  
(2003 Act of Accession)

*Adapted*

### Article 127

~~By way of derogation from Article 12(3)(a) of Directive 77/388/EEC, Slovakia may maintain a) continue to apply a reduced rate of value added tax of not less than 5% on the supply of heat energy used by private households and small entrepreneurs who are not registered for VAT for heating and the production of hot water, excluding raw materials used to generate heat energy, until 31 December 2008, and b) a reduced rate of value added tax of not less than 5% on the supply of construction work for residential housing not provided as part of a social policy, and excluding building materials until 31 December 2007 to the following transactions:-~~

~~(a) By way of derogation from Article 12(3)(a) of Directive 77/388/EEC, Slovakia may maintain a) a reduced rate of value added tax of not less than 5% on the supply of heat energy used by private households and small entrepreneurs who are not registered for subject to VAT for heating and the production of hot water, excluding raw materials used to generate heat energy, until 31 December 2008, and b) a reduced rate of value added tax of not less than 5% on the supply of construction work for residential housing not provided as part of a social policy, and excluding building materials until 31 December 2007.;~~

~~(b) By way of derogation from Article 12(3)(a) of Directive 77/388/EEC, Slovakia may maintain a) a reduced rate of value added tax of not less than 5% on the supply of heat energy used by private households and small entrepreneurs who are not registered for VAT for heating and the production of hot water, excluding raw materials used to generate heat energy, until 31 December 2008, and b) a reduced rate of value added tax of not less than 5% on the supply of construction work for residential housing not provided as part of a social policy, and excluding building materials, until 31 December 2007.~~

## ~~TITLE X~~ TITLE IX

### EXEMPTIONS

#### Chapter 1

#### General provisions

**Annex XIV(7)(1),  
first subpara-  
graph  
(2003 Act of  
Accession)**

*Adapted*

**Annex XIV(7)(1),  
first subpara-  
graph  
(2003 Act of  
Accession)**

*Adapted*

**Annex XIV(7)(1),  
first subpara-  
graph  
(2003 Act of  
Accession)**

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

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

Article 128

~~1. Without prejudice to other Community provisions, Member States shall exempt the following under and in accordance with conditions which they the Member States shall lay down for the purpose purposes of ensuring the correct and straightforward application of such those exemptions and of preventing any possible evasion, avoidance or abuse:~~

**Article 13(A)(1)**  
**(77/388/EEC)**

*Adapted*

Chapter 2

Exemptions for certain activities in the public interest

~~Article 13~~ Article 129

**Article 13**  
**(77/388/EEC)**

**Exemptions within the territory of the country**

**Heading of**  
**Article 13**  
**(77/388/EEC)**

~~A. Exemptions for certain activities in the public interest~~

**Heading of**  
**Article 13(A)**  
**(77/388/EEC)**

1. ~~Without prejudice to other Community provisions, Member States shall exempt the following under conditions which they shall lay down for the purpose of ensuring the correct and straightforward application of such exemptions and of preventing any possible evasion, avoidance or abuse~~ transactions:

**Article 13(A)(1)**  
**(77/388/EEC)**

(a) the supply by the public postal services of services other than passenger transport and telecommunications services, and the supply of goods incidental thereto;

**Article 13(A)(1)(a)**  
**(77/388/EEC)**

(b) hospital and medical care and closely related activities undertaken by bodies governed by public law or, under social conditions comparable ~~to~~ with those applicable to bodies governed by public law, by hospitals, centres for medical treatment or diagnosis and other duly ~~recognized~~ recognised establishments of a similar nature;

**Article 13(A)(1)(b)**  
**(77/388/EEC)**

*Adapted*

(c) the provision of ~~medical-patient~~ care in the exercise of the medical and paramedical professions as defined by the Member State concerned;

**Article 13(A)(1)(c)**  
**(77/388/EEC)**

*Adapted*

(d) ~~supplies the supply~~ of human organs, blood and milk;

**Article 13(A)(1)(d)**  
**(77/388/EEC)**



- |   |   |
|---|---|
| <p>(e) <del>the supply of</del> services <del>supplied</del> by dental technicians in their professional capacity and <del>the supply of</del> dental prostheses <del>supplied</del> by dentists and dental technicians;</p>  | <p><b>Article 13(A)(1)(e)</b><br/><b>(77/388/EEC)</b></p>                       |
| <p>(f) <del>the supply of</del> services <del>supplied</del> by independent groups of persons <del>whose activities, who</del> are <del>carrying on an activity which is</del> exempt from <del>VAT</del> or <del>in relation to which they</del> are not <del>subject to value added tax taxable persons</del>, for the purpose of rendering their members the services directly necessary for the exercise of <del>their-that</del> activity, where <del>these those</del> groups merely claim from their members exact reimbursement of their share of the joint expenses, provided that such exemption is not likely to <del>produce-cause</del> distortion of competition;</p> | <p><b>Article 13(A)(1)(f)</b><br/><b>(77/388/EEC)</b></p> <p><i>Adapted</i></p> |
| <p>(g) the supply of services and of goods closely linked to welfare and social security work, including those supplied by old people's homes, by bodies governed by public law or by other <del>organizations recognized</del> <del>bodies recognised by the Member State concerned</del> as <del>charitable by the Member State concerned</del> <del>being devoted to social wellbeing</del>;</p>   | <p><b>Article 13(A)(1)(g)</b><br/><b>(77/388/EEC)</b></p> <p><i>Adapted</i></p> |
| <p>(h) the supply of services and of goods closely linked to the protection of children and young persons by bodies governed by public law or by other <del>organizations recognized as charitable</del> <del>organisations recognised</del> by the Member State concerned <del>as being devoted to social wellbeing</del>;</p>   | <p><b>Article 13(A)(1)(h)</b><br/><b>(77/388/EEC)</b></p> <p><i>Adapted</i></p> |
| <p>(i) <del>the provision of</del> children's or young people's education, school or university education, vocational training or retraining, including the supply of services and of goods closely related thereto, <del>provided</del> by bodies governed by public law having such as their aim or by other <del>organizations defined</del> <del>organisations recognised</del> by the Member State concerned as having similar objects;</p>  | <p><b>Article 13(A)(1)(i)</b><br/><b>(77/388/EEC)</b></p> <p><i>Adapted</i></p> |
| <p>(j) tuition given privately by teachers and covering school or university education;</p>   | <p><b>Article 13(A)(1)(j)</b><br/><b>(77/388/EEC)</b></p>                       |
| <p>(k) <del>certain supplies</del> <del>the supply</del> of staff by religious or philosophical institutions for the purpose of <del>subparagraphs (b), (g), (h) and (i) of this Article</del> <del>the activities referred to in points (b), (g), (h) and (i)</del> and with a view to spiritual welfare;</p>  | <p><b>Article 13(A)(1)(k)</b><br/><b>(77/388/EEC)</b></p> <p><i>Adapted</i></p> |

- |   |  |
|---|--|
| <p>(l) <u>the supply of services</u>, and <u>the supply of</u> goods closely linked thereto <del>for the benefit of, to</del> their members <u>in their common interest</u> in return for a subscription fixed in accordance with their rules by non-profit-making <del>organizations-organisations</del> with aims of a political, trade-union, religious, patriotic, philosophical, philanthropic or civic nature, provided that this exemption is not likely to cause distortion of competition;</p> | <p><b>Article 13(A)(1)(l)</b><br/>(77/388/EEC)</p> <p><i>Adapted</i></p> |
| <p>(m) <u>the supply of</u> certain services closely linked to sport or physical education <del>supplied</del> by non-profit-making <del>organizations-organisations</del> to persons taking part in sport or physical education;</p>   | <p><b>Article 13(A)(1)(m)</b><br/>(77/388/EEC)</p> <p><i>Adapted</i></p> |
| <p>(n) <u>the supply of</u> certain cultural services, and <u>the supply of</u> goods closely linked thereto <del>supplied</del>, by bodies governed by public law or by other cultural bodies <del>recognized</del> <u>recognised</u> by the Member State concerned;</p>   | <p><b>Article 13(A)(1)(n)</b><br/>(77/388/EEC)</p> <p><i>Adapted</i></p> |
| <p>(o) the supply of services and goods, by <del>organizations</del> <u>organisations</u> whose activities are exempt <del>under the provisions of subparagraphs (b), (g), (h), (i), (l), (m) and (n) above pursuant to points (b), (g), (h), (i), (l), (m) and (n),</del> in connection with fund-raising events <del>organized-organised</del> exclusively for their own benefit, provided that exemption is not likely to cause distortion of competition;</p>                                       | <p><b>Article 13(A)(1)(o), first sentence</b><br/>(77/388/EEC)</p>       |
| <p>(p) the supply of transport services for sick or injured persons in <del>vehicles</del> <u>means of transport</u> specially designed for the purpose, by duly authorised bodies;</p>   | <p><b>Article 13(A)(1)(p)</b><br/>(77/388/EEC)</p> <p><i>Adapted</i></p> |
| <p>(q) <u>the</u> activities of public radio and television bodies other than those of a commercial nature.</p>   | <p><b>Article 13(A)(1)(q)</b><br/>(77/388/EEC)</p>                       |
| <p><u>2.</u> <u>For the purposes of point (o) of paragraph 1,</u> Member States may introduce any <del>necessary</del> <u>necessary</u> restrictions in particular as regards the number of events or the amount of receipts which give entitlement to exemption;</p>   | <p><b>Article 13(A)(1)(o), second sentence</b><br/>(77/388/EEC)</p>      |

Article 130

~~2.~~ ~~(a)~~ Member States may make the granting to bodies other than those governed by public law of each exemption provided for in ~~(1)(b), (g), (h), (i), (l), (m) and (n) of this Article~~ points (b), (g), (h), (i), (l), (m) and (n) of Article 120(1) subject in each individual case to one or more of the following conditions:

~~-(a)~~ ~~they shall~~ the bodies in question must not systematically aim to make a profit, ~~but and~~ any ~~profits surpluses~~ nevertheless arising ~~shall must~~ not be distributed, but ~~shall must~~ be assigned to the continuance or improvement of the services supplied<sub>;</sub>

~~-(b)~~ ~~they shall~~ those bodies must be managed and administered on an essentially voluntary basis by persons who have no direct or indirect interest, either themselves or through intermediaries, in the results of the activities concerned<sub>;</sub>

~~-(c)~~ ~~they shall~~ those bodies must charge prices which are approved by the public authorities or which do not exceed such approved prices or, in respect of those services not subject to approval, prices lower than those charged for similar services by commercial enterprises subject to ~~value added tax VAT~~<sub>;</sub>

~~-(d)~~ ~~exemption of the services concerned shall~~ the exemptions must not be likely to ~~create distortions cause distortion~~ of competition ~~such as to place at a disadvantage to the disadvantage of~~ commercial enterprises liable subject to ~~value added tax VAT~~.

Article 131

~~(b)~~ The supply of goods or services ~~or goods~~ shall not be granted exemption<sub>;</sub> as provided for in ~~(1)(b), (g), (h), (i), (l), (m) and (n) above if~~ points (b), (g), (h), (i), (l), (m) and (n) of Article 120(1), in the following cases:

~~-(a)~~ ~~if~~ where the supply is not essential to the transactions exempted<sub>;</sub>

**Article 13(A)(2)(a)**  
(77/388/EEC)

**Article 13(A)(2)**  
**(a), first indent**  
(77/388/EEC)

*Adapted*

**Article 13(A)(2)**  
**(a), second indent**  
(77/388/EEC)

*Adapted*

**Article 13(A)(2)**  
**(a), third indent**  
(77/388/EEC)

*Adapted*

**Article 13(A)(2)**  
**(a), fourth indent**  
(77/388/EEC)

*Adapted*

**Article 13(A)(2)(b)**  
(77/388/EEC)

**Article 13(A)(2)**  
**(b), first indent**  
(77/388/EEC)

*Adapted*

~~(b)~~ ~~its where the~~ basic purpose ~~of the supply~~ is to obtain additional income for the ~~organization by carrying out body in question through~~ transactions which are in direct competition with those of commercial enterprises ~~liable for value added tax subject to VAT~~.

Article 13(A)(2)  
(b), second indent  
(77/388/EEC)

*Adapted*

### Chapter 3

#### Exemptions for other activities

##### Article 132

#### ~~B.~~ ~~Other exemptions~~

Heading of  
Article 13(B)  
(77/388/EEC)

~~1.~~ ~~Without prejudice to other Community provisions,~~ Member States shall exempt the following ~~under conditions which they shall lay down for the purpose of ensuring the correct and straightforward application of the exemptions and of preventing any possible evasion, avoidance or abuse~~ transactions:

Article 13(B)  
(77/388/EEC)

(a) insurance and reinsurance transactions, including related services performed by insurance brokers and insurance agents;

Article 13(B)(a)  
(77/388/EEC)

~~(d)~~ ~~the following transactions~~:

Article 13(B)(d)  
(77/388/EEC)

~~1.~~(b) the granting and the negotiation of credit and the management of credit by the person granting it;

Article 13(B)(d)(1)  
(77/388/EEC)

~~2.~~(c) the negotiation of or any dealings in credit guarantees or any other security for money and the management of credit guarantees by the person who is granting the credit;

Article 13(B)(d)(2)  
(77/388/EEC)

~~3.~~(d) transactions, including negotiation, concerning deposit and current accounts, payments, transfers, debts, cheques and other negotiable instruments, but excluding debt collection ~~and factoring~~;

Article 13(B)(d)(3)  
(77/388/EEC)

*Adapted*

~~4.~~(e) transactions, including negotiation, concerning currency, bank notes and coins used as legal tender, with the exception of collectors' items; ~~'collectors' items' shall be taken to mean, that is to say,~~ gold, silver or other metal coins or bank notes which are not normally used as legal tender or coins of numismatic interest;

Article 13(B)(d)(4)  
(77/388/EEC)

*Adapted*

<p><del>5(f)</del> transactions, including negotiation, <del>excluding but not management and safe keeping or safekeeping</del>, in shares, interests in companies or associations, debentures and other securities, <u>but excluding documents establishing title to goods, and the rights or securities referred to in Article 16(2);</u></p>	<p><b>Article 13(B)(d)(5)</b> (77/388/EEC)</p> <p><i>Adapted</i></p>
<p><del>— documents establishing title to goods;</del></p>	<p><b>Article 13(B)(d)</b> <b>(5), first indent</b> (77/388/EEC)</p>
<p><del>— the rights or securities referred to in Article 5(3);</del></p>	<p><b>Article 13(B)(d)</b> <b>(5), second indent</b> (77/388/EEC)</p>
<p><del>6(g)</del> <u>the</u> management of special investment funds as defined by Member States;</p>	<p><b>Article 13(B)(d)(6)</b> (77/388/EEC)</p>
<p><del>(e)(h)</del> the supply at face value of postage stamps <u>which are valid for use for postal services for postage</u> within the territory of <del>the country, a Member State,</del> fiscal stamps, and other similar stamps;</p>	<p><b>Article 13(B)(e)</b> (77/388/EEC)</p> <p><i>Modified</i></p>
<p><del>(f)(i)</del> betting, lotteries and other forms of gambling, subject to <u>the</u> conditions and limitations laid down by each Member State;</p>	<p><b>Article 13(B)(f)</b> (77/388/EEC)</p>
<p><del>(g)(j)</del> the supply of <u>buildings a building</u> or parts thereof, and of the land on which <del>they stand it stands</del>, other than <del>as described the supply referred to in Article 4(3)(a) Article 13(1)(a);</del></p>	<p><b>Article 13(B)(g)</b> (77/388/EEC)</p> <p><i>Adapted</i></p>
<p><del>(h)(k)</del> the supply of land which has not been built on other than <u>the supply of</u> building land as <del>described referred to in Article 4(3)(b) Article 11(1)(b);</del></p>	<p><b>Article 13(B)(h)</b> (77/388/EEC)</p> <p><i>Adapted</i></p>
<p><del>(b)(l)</del> the leasing or letting of immovable property <del>excluding;</del></p>	<p><b>Article 13(B)(b),</b> <b>first subpara-</b> <b>graph</b> (77/388/EEC)</p>
<p><del>(b)2.</del> <u>the leasing or letting of immovable property excluding</u></p>	<p><i>Adapted</i></p>
<p><u>The following shall be excluded from the exemption provided for in point (l) of paragraph 1:</u></p>	<p><b>Article 13(B)(b),</b> <b>first subpara-</b> <b>graph</b> (77/388/EEC)</p>

~~1.(a)~~ the provision of accommodation, as defined in the laws of the Member States, in the hotel sector or in sectors with a similar function, including the provision of accommodation in holiday camps or on sites developed for use as camping sites;

**Article 13(B)(b), first subparagraph, point 1 (77/388/EEC)**

~~2.(b)~~ the letting of premises and sites for the parking~~vehicles of means of transport~~;

**Article 13(B)(b), first subparagraph, point 2 (77/388/EEC)**

*Adapted*

~~3.(c)~~ ~~lettings~~the letting of permanently installed equipment and machinery;

**Article 13(B)(b), first subparagraph, point 3 (77/388/EEC)**

~~4.(d)~~ the hire of safes.

**Article 13(B)(b), first subparagraph, point 4 (77/388/EEC)**

Member States may apply further exclusions to the scope of ~~this~~ the exemption referred to in point (l) of paragraph 1;

**Article 13(B)(b), second subparagraph (77/388/EEC)**

### Article 133

~~Without prejudice to other Community provisions,~~ Member States shall exempt the following ~~under conditions which they shall lay down for the purpose of ensuring the correct and straightforward application of the exemptions and of preventing any possible evasion, avoidance or abuse transactions~~:

**Article 13(B) (77/388/EEC)**

~~(e)(a)~~ ~~supplies~~the supply of goods used ~~wholly~~solely for an activity exempted under ~~this Article or under Article 28(3)(b) when these Articles 129, 132 or 364, or under Articles 368 to 383, if those goods have not given rise to~~ the right to deduction, or of goods on the acquisition or production of which, by virtue of Article 17(6), value added tax did not become deductible deductibility of the VAT paid at the preceding stage;

**Article 13(B)(c) (77/388/EEC)**

*Adapted*

~~(e)(b) supplies of goods used wholly for an activity exempted under this Article or under Article 28(3)(b) when these goods have not given rise to the right to deduction, or the supply~~ of goods on the acquisition or production of which, by virtue of ~~Article 17(6), value added tax~~ did not become deductible application of which VAT was not deductible, pursuant to Article 170.

**Article 13(B)(c)  
(77/388/EEC)**

*Adapted*

Article 134

~~C.~~ **Options**

**Heading of  
Article 13(C)  
(77/388/EEC)**

1. Member States may allow ~~taxpayers~~ taxable persons a right of option for taxation in ~~eases~~ respect of the following transactions:

**Article 13(C), first  
paragraph  
(77/388/EEC)**

*Adapted*

~~(b)(a)~~ the financial transactions ~~covered in B(d), (g) and (h) above~~ referred to in points (b) to (g) of Article 120(1);

**Article 13(C), first  
paragraph,  
point (b)  
(77/388/EEC)**

*Adapted*

(b) the ~~transactions covered in B(d), (g) and (h) above~~ supply of a building or of parts thereof, and of the land on which the building stands, other than the supply referred to in Article 13(1)(a);

**Article 13(C), first  
paragraph,  
point (b)  
(77/388/EEC)**

*Adapted*

~~(b)(c)~~ the ~~transactions covered in B(d), (g) and (h) above~~ supply of land which has not been built on, other than the supply of building land as referred to in Article 13(1)(b);

**Article 13(C), first  
paragraph,  
point (b)  
(77/388/EEC)**

*Adapted*

~~(a)(d)~~ the leasing or letting ~~and leasing~~ of immovable property;

**Article 13(C), first  
paragraph,  
point (a)  
(77/388/EEC)**

*Adapted*

2. Member States ~~may restrict the scope of this right of option and shall fix the details of its use~~ lay down the detailed rules governing exercise of the option under paragraph 1.

Article 13(C),  
second paragraph  
(77/388/EEC)

*Adapted*

Member States may restrict the scope of ~~this~~ that right of option ~~and shall fix the details of its use.~~

Article 13(C),  
second paragraph  
(77/388/EEC)

*Adapted*

#### Chapter 4

### Exemptions for intra-Community transactions

#### Section 1

### Exemptions related to the supply of goods

~~Article 28e~~ Article 135

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

#### **Exemptions**

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

~~A. Exempt supplies of goods~~

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

(a)1. ~~supplies~~ Member States shall exempt the supply of goods, ~~as defined in Article 5,~~ dispatched or transported to a destination outside their territory but within the Community, by or on behalf of the vendor or the person acquiring the goods ~~out of the territory referred to in Article 3 but within the Community,~~ ~~effected,~~ for another taxable person, or for a non-taxable legal person acting as such in a Member State other than that ~~of the departure of the~~ in which dispatch or transport of the goods began.

Article 28c(A)(a),  
first subpara-  
graph  
(inserted by  
91/680/EEC and  
amended by  
95/7/EC)

*Adapted*



2. ~~Without prejudice to other Community provisions and subject to conditions which they shall lay down for the purpose of ensuring the correct and straightforward application of the exemptions provided for below and preventing any evasion, avoidance or abuse—In addition to the supply of goods referred to in paragraph 1,~~ Member States shall exempt the following transactions:

~~(b)(a) supplies the supply~~ of new means of transport, dispatched or transported to the  purchaser—customer at a destination outside their territory but within the Community, by or on behalf of the vendor or the  purchaser—out of the territory referred to in Article 3 but within the Community, ~~effected customer,~~ for taxable persons, or non-taxable legal persons ~~who qualify for the derogation provided for in the second subparagraph of Article 28a(1)(a),~~ whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 4(1), or for any other non-taxable person;

~~(e)(b)~~ the supply of ~~goods—products~~ subject to excise duty, dispatched or transported to a destination outside their territory but within the Community, to the  ~~purchaser customer,~~ by or on behalf of the vendor, ~~by or~~ the  ~~purchaser or on his behalf,~~ territory referred to in Article 3 but inside the Community, ~~effected customer,~~ for taxable persons, or non-taxable legal persons ~~who qualify for the derogation set out in the second subparagraph of Article 28a(1)(a),~~ when the dispatch or transport of the goods is carried out, whose intra-Community acquisitions of goods other than products subject to excise duty are not subject to VAT pursuant to Article 4(1), where those products have been dispatched or transported in accordance with Article 7(4) and (5), or Article 16 of Directive 92/12/EEC;

~~(d)(c)~~ ~~the a~~ supply, consisting in the transfer of goods, ~~within the meaning of Article 28a(5)(b),~~ which benefit from the exemptions set out above if they have to another Member State, which would have been entitled to exemption under paragraph 1 and points (a) and (b) if it had been made on behalf of another taxable person.

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

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

*Adapted*

**Article 28c(A)(c), first subparagraph (replaced by 92/111/EEC)**

*Adapted*

**Article 28c(A)(d) (inserted by 92/111/EEC)**

*Adapted*

Article 136

1. ~~This~~ ~~The~~ exemption provided for in Article 135(1) shall not apply to ~~supplies the supply~~ of goods carried out by taxable persons ~~exempt from tax pursuant to Article 24 or to supplies of goods effected for taxable persons or non-taxable legal persons who qualify for the derogation in the second subparagraph of Article 28a(1)(a) who are covered by the exemption for small enterprises provided for in Articles 277 to 280~~.

~~This~~ ~~Nor shall that~~ exemption ~~shall not~~ apply to ~~supplies of goods by taxable persons exempt from tax pursuant to Article 24 or to supplies the supply~~ of goods ~~effected for to~~ taxable persons, or non-taxable legal persons ~~who qualify for the derogation in the second subparagraph of Article 28a(1)(a), whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 4(1)~~.

2. ~~This~~ ~~The~~ exemption provided for in Article 135(2)(b) shall not apply to ~~supplies the supply~~ of ~~goods products~~ subject to excise duty ~~effected~~ by taxable persons who ~~benefit from~~ are covered by the exemption from tax set out for small enterprises provided for in Article 24 Articles 277 to 280.

~~(e)3.~~ ~~Articles 28b(B) and 28c(A)(a), (c) and (d)~~ The exemption provided for in Article 135(1) and (2)(b) and (c) shall not apply to ~~supplies the supply~~ of goods subject to ~~value added tax VAT~~ in accordance with ~~either of the special arrangements laid down in B and C the margin scheme provided for in Articles 305 to 317 or the special arrangements for sales by public auction.~~

~~(h)~~ ~~Articles 28b(B) and 28c(A)(a) and (d)~~ The exemption provided for in Article 135(1) and (2)(c) shall not apply to ~~supplies the supply~~ of second-hand means of transport subject to ~~tax VAT~~ in accordance with ~~(a) the transitional arrangements for second-hand means of transport.~~

Section 2

Exemptions for intra-Community acquisitions of goods

**Article 28c(A)(a), second subparagraph (inserted by 91/680/EEC)**

*Adapted*

**Article 28c(A)(a), second subparagraph (inserted by 91/680/EEC)**

*Adapted*

**Article 28c(A)(c), second subparagraph (replaced by 92/111/EEC)**

*Adapted*

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

*Adapted*

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

*Adapted*

Article 137

~~B. Exempt intra-Community acquisitions of goods~~

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

~~Without prejudice to other Community provisions and subject to conditions which they shall lay down for the purpose of ensuring the correct and straightforward application of the exemptions provided for below and preventing any evasion, avoidance or abuse,~~ Member States shall exempt the following transactions:

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

(a) the intra-Community acquisition of goods the supply of which by taxable persons would in all circumstances be exempt within the territory of the ~~country~~ Member State concerned;

**Article 28c(B)(a) (inserted by 91/680/EEC)**

*Adapted*

(b) the intra-Community acquisition of goods the importation of which would in all circumstances be exempt under ~~Article 14(1)~~ Article 140;

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

(c) the intra-Community acquisition of goods where, pursuant to ~~Article 17(3) and (4)~~ Articles 164 and 165, the person acquiring the goods would in all circumstances be entitled to full reimbursement of the ~~value added tax~~ VAT due under ~~Article 28a(1)~~ Article 3(1)(b).

**Article 28c(B)(c) (inserted by 91/680/EEC)**

Article 138

~~3) Each Member States-State~~ shall take specific measures to ensure that ~~value added tax~~, subject to the criteria laid down in Article 41, VAT is not charged on the intra-Community acquisition of goods ~~effected, within the meaning of Article 28b(A)(1),~~ within its territory ~~when, where~~ the following conditions are met:

**Article 28c(E)(3) (replaced by 92/111/EEC)**

*Adapted*

~~-(a)~~ the ~~intra-Community~~ acquisition of goods is ~~effected~~ made by a taxable person who is not established in ~~the territory of the country~~ the Member State concerned but ~~who~~ is identified for ~~value added tax~~ VAT purposes in another Member State~~;~~

**Article 28c(E)(3), first indent (replaced by 92/111/EEC)**

*Adapted*

–(b) the ~~intra-Community~~ acquisition of goods is ~~effected-made~~ for the ~~purpose-purposes~~ of ~~a-the~~ subsequent supply of ~~those~~ goods ~~made,~~ in the Member State concerned, by ~~a-the~~ taxable person ~~in the territory of the country referred to in point (a);~~

Article 28c(E)(3), second indent (replaced by 92/111/EEC)

*Adapted*

–(c) the goods ~~so thus~~ acquired by ~~this-the~~ taxable person referred to in point (a) are directly dispatched or transported, from a Member State other than that in which he is identified for ~~value-added tax VAT~~ purposes ~~for, to~~ the person for whom he ~~effects-is to carry out~~ the subsequent supply;

Article 28c(E)(3), third indent (replaced by 92/111/EEC)

*Adapted*

–(d) the person to whom the subsequent supply is to be made is a another taxable person, or a non-taxable legal person, who is identified for ~~value added tax VAT~~ purposes within-in the ~~territory of the country~~ Member State concerned;

Article 28c(E)(3), fourth indent (replaced by 92/111/EEC)

*Adapted*

–(e) the person ~~to whom the subsequent supply is made~~ referred to in point (d) has been designated in accordance with ~~Article 21(1)(e) Article 190~~ as ~~the person~~ liable for payment of the ~~tax-VAT~~ due on the ~~supplies-effected-supply carried out~~ by the taxable person who is not established ~~within the territory of the country in the Member State in which the tax is due.~~

Article 28c(E)(3), fifth indent (replaced by 92/111/EEC and amended by 2000/65/EC)

*Adapted*

### Section 3

#### Exemptions for certain transport services

~~C.~~ Exempt transport services

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

#### Article 139

Member States shall exempt the supply of intra-Community goods transport services ~~involved in the dispatch or transport of goods~~ to and from the islands making up the autonomous regions of the Azores and Madeira, as well as the ~~dispatch or transport of goods~~ supply of goods transport services between those islands.

Article 28c(C) (inserted by 91/680/EEC)

*Adapted*

## Chapter 5

### Exemptions on importation

~~Article 14~~Article 140

### Exemptions on importation

**Article 14**  
**(77/388/EEC)**

**Heading of**  
**Article 14**  
**(77/388/EEC)**

~~1. Without prejudice to other Community provisions, Member States shall exempt the following under conditions which they shall lay down for the purpose of ensuring the correct and straightforward application of such exemption and of preventing any possible evasion, avoidance or abuse transactions:~~

**Article 14(1)**  
**(77/388/EEC)**

(a) ~~the~~ final importation of goods of which the supply by a taxable person would in all circumstances be ~~exempted~~exempt within ~~the~~their territory;

**Article 14(1)(a)**  
**(77/388/EEC)**

*Adapted*

~~(d)(b) the~~ final importation of goods ~~qualifying for exemption from customs duties other than as provided for in the Common Customs Tariff. However, Member States shall have the option of not granting exemption where this would be liable to have a serious effect on conditions of competition governed by Council Directives 69/169/EEC<sup>38</sup>, 78/1035/EEC<sup>39</sup> and 83/181/EEC<sup>40</sup>;~~

**Article 14(1)(d),**  
**first subpara-**  
**graph**  
**(amended by**  
**91/680/EEC)**

*Modified*

(c) This exemption shall also apply to the import ~~the~~ final importation of goods, ~~within the meaning of Article 7(1)(b), in free circulation from a third territory forming part of the Community customs territory, which would be capable of benefiting from the~~ entitled to exemption ~~set out above if they had been imported within the meaning of Article 7(1)(a) under point (b):~~

**Article 14(1)(d),**  
**second subpara-**  
**graph**  
**(inserted by**  
**92/111/EEC)**

*Adapted*

~~D. Exempt importation of goods~~

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

<sup>38</sup> [OJ L 133, 4.6.1969, p. 6.](#)

<sup>39</sup> [OJ L 366, 28.12.1978, p. 34.](#)

<sup>40</sup> [OJ L 105, 23.4.1983, p. 38.](#)

<p>(d) <del>Where the importation of</del> goods dispatched or transported from a third territory <del>are or a third country and</del> imported into a Member State other than that <del>of arrival of in which</del> the dispatch or transport, <del>Member States shall exempt such imports of the goods ends,</del> where the supply of such goods by the importer <del>as defined in Article 21(4) designated or recognised under Article 193 as liable for payment of VAT</del> is exempt <del>in accordance with paragraph A under Article 135.;</del></p>	<p><b>Article 28c(D), first subparagraph</b> (inserted by 91/680/EEC and amended by 2000/65/EC)</p> <p><i>Adapted</i></p>
<p><del>Member States shall lay down the conditions governing this exemption with a view to ensuring its correct and straightforward application and preventing any evasion, avoidance or abuse.</del></p>	<p><b>Article 28c(D), second subparagraph</b> (inserted by 91/680/EEC)</p>
<p>(e)(e) <u>the</u> reimportation, by the person who exported them, of goods in the state in which they were exported, where <del>they qualify for exemption</del> <u>those goods are exempt</u> from customs duties;</p>	<p><b>Article 14(1)(e)</b> (amended by 91/680/EEC)</p> <p><i>Adapted</i></p>
<p>(g) <del>importations of goods:</del></p>	<p><b>Article 14(1)(g)</b> (77/388/EEC)</p>
<p>-(f) <u>the importation,</u> under diplomatic and consular arrangements, <u>of goods</u> which <del>qualify for exemption</del> <u>are exempt</u> from customs duties.;</p>	<p><b>Article 14(1)(g), first indent</b> (amended by 91/680/EEC)</p> <p><i>Adapted</i></p>
<p>-(g) <u>the importation of goods</u> by international <del>organizations recognized bodies recognised</del> as such by the public authorities of the host <del>country, and Member State, or</del> by members of such <del>organizations bodies,</del> within the limits and under the conditions laid down by the international conventions establishing the <del>organizations bodies</del> or by headquarters agreements.;</p>	<p><b>Article 14(1)(g), second indent</b> (77/388/EEC)</p> <p><i>Adapted</i></p>
<p>-(h) <u>the importation of goods,</u> into <del>the territory of</del> Member States <del>which are parties party</del> to the North Atlantic Treaty, by the armed forces of other States <del>which are parties party</del> to that Treaty for the use of <del>such those</del> forces or the civilian staff accompanying them or for supplying their messes or canteens where such forces take part in the common defence effort;</p>	<p><b>Article 14(1)(g), third indent</b> (77/388/EEC)</p> <p><i>Adapted</i></p>

<p><del>(i)</del> <del>the exemptions set out in the third indent shall extend to</del> imports by <del>and supplies of goods and services to</del> the <u>armed</u> forces of the United Kingdom stationed in the island of Cyprus pursuant to the Treaty of Establishment concerning the Republic of Cyprus, dated 16 August 1960, which are for the use of <del>the those</del> forces or the civilian staff accompanying them or for supplying their messes or canteens<del>;</del></p>	<p><b>Article 14(1)(g), fourth indent (inserted by Protocole No 3 to the 2003 Act of Accession)</b></p>
	<p><i>Adapted</i></p>
<p><del>(h)(j)</del> <u>the</u> importation into ports, by sea fishing undertakings, of their catches, unprocessed or after undergoing preservation for marketing but before being supplied;</p>	<p><b>Article 14(1)(h) (77/388/EEC)</b></p>
<p><del>(j)(k)</del> <u>the</u> importation of gold by <del>Central Banks</del> <u>central banks</u><del>;</del></p>	<p><b>Article 14(1)(j) (77/388/EEC)</b></p>
<p><del>(kl)</del> <del>import the importation</del> of gas through the natural gas distribution system, or of electricity<del>;</del></p>	<p><b>Article 14(1)(k) (inserted by 2003/92/EC)</b></p>
	<p><i>Adapted</i></p>
<p><del>(i)(m)</del> the supply of services, <del>in connection with</del> <u>relating to</u> the importation of goods where the value of such services is included in the taxable amount in accordance with <del>Article 11B(3)(b) point (b) of the first subparagraph of Article 83(1) and with Article 83(2)</del><del>;</del></p>	<p><b>Article 14(1)(i) (77/388/EEC)</b></p>
	<p><i>Adapted</i></p>
<p><i>Article 141</i></p>	
<p><del>2.1.</del> The Commission shall <del>submit, where appropriate, present</del> to the Council <del>at the earliest opportunity</del> proposals designed to <del>lay down Community tax rules clarifying delimit</del> the scope of the exemptions <del>referred to in paragraph 1 provided for in Article 140 and to lay down the</del> detailed rules for their implementation.</p>	<p><b>Article 14(2), first subparagraph (77/388/EEC)</b></p>
	<p><i>Adapted</i></p>
<p><del>— Until the entry into force of these rules, Member States may:</del></p>	<p><b>Article 14(2), second subparagraph (77/388/EEC)</b></p>
<p><del>2.</del> <u>Pending the entry into force of the rules referred to in paragraph 1, Member States may</u> maintain their national provisions in force <del>on matters related to the above provisions</del><del>;</del></p>	<p><b>Article 14(2), second subparagraph, first indent (77/388/EEC)</b></p>
	<p><i>Adapted</i></p>

- ~~Member States may~~ adapt their national provisions so as to minimize-minimise distortion of competition and, in particular ~~the non-imposition, to prevent non-taxation~~ or double ~~imposition of value-added tax taxation~~ within the Community.<sup>52</sup>

Article 14(2),  
second subparagraph,  
second indent  
(77/388/EEC)

*Adapted*

- ~~Member States may~~ use whatever administrative procedures they consider most appropriate to achieve exemption.

Article 14(2),  
second subparagraph,  
third indent  
(77/388/EEC)

3. Member States shall ~~inform-notify to~~ the Commission, which shall inform the other Member States, ~~of accordingly,~~ the ~~measures they have adopted and are adopting pursuant to the preceding provisions of national law which are in force and those which they adopt pursuant to paragraph 2.~~

Article 14(2),  
third subparagraph  
(77/388/EEC)

*Adapted*

## Chapter 6

### Exemptions on exportation

#### ~~Article 15~~Article 142

#### ~~Exemption of exports from the Community and like transactions and international transport~~

Article 15  
(77/388/EEC)

Heading of  
Article 15  
(replaced by  
91/680/EEC)

1. ~~Without prejudice to other Community provisions-~~ Member States shall exempt the following ~~under conditions which they shall lay down for the purpose of ensuring the correct and straightforward application of such exemptions and of preventing any evasion, avoidance or abuse~~ transactions:

Article 15,  
introductory  
sentence  
(77/388/EEC)

~~1.~~(a) the supply of goods dispatched or transported to a destination outside the Community by or on behalf of the vendor;

Article 15(1)  
(amended by  
91/680/EEC)



<p><del>2.(b)</del> the supply of goods dispatched or transported to a destination outside the Community by or on behalf of a <del>purchaser-customer</del> not established within <del>the-their</del> territory <del>of the country</del>, with the exception of goods transported by the <del>purchaser-customer</del> himself for the equipping, fuelling <del>and-or</del> provisioning of pleasure boats and private aircraft or any other means of transport for private use<del>;</del></p>	<p><b>Article 15(2), first subparagraph (amended by 91/680/EEC)</b>  <i>Adapted</i></p>
<p><del>12.(c)</del>the supply of goods <del>supplied</del>to approved bodies which export them <del>from-out of</del> the Community as part of their humanitarian, charitable or teaching activities outside the Community<del>;</del></p>	<p><b>Article 15(12), first sentence (amended by 91/680/EEC)</b>  <i>Adapted</i></p>
<p><del>3.(d)</del> the supply of services consisting <del>of-in</del> work on movable property acquired or imported for the purpose of undergoing such work within <del>the-territory-of</del> the Community, and dispatched or transported out of the Community by the <del>person-providing-the-services-or-supplier</del>, by the customer if not established within <del>the-their</del> territory <del>of-the-country</del> or on behalf of either of them;</p>	<p><b>Article 15(3) (replaced by 91/680/EEC and amended by 92/111/EEC)</b>  <i>Adapted</i></p>
<p><del>13.(e)</del>the supply of services, including transport and ancillary <del>operations-transactions</del>, but excluding the supply of services exempted in accordance with <del>Article 13</del> <del>Articles 129 and 132</del>, where these are directly connected with the <del>export-of goods-exportation</del> or <del>imports-importation</del> of goods covered by <del>the-provisions-of Article 7(3) or Article 16(1), Title A Article 61 and Article 152(1)(a)</del><del>;</del></p>	<p><b>Article 15(13) (replaced by 92/111/EEC)</b>  <i>Adapted</i></p>
<p><del>2.</del> <del>This-The</del> exemption <del>provided for in point (c) of paragraph 1</del> may be <del>implemented-granted</del> by means of a refund of the <del>tax VAT</del><del>;</del></p>	<p><b>Article 15(12), second sentence (77/388/EEC)</b>  <i>Adapted</i></p>
<p><i>Article 143</i></p>	
<p><del>1.</del> <del>In-the-case-of-Where</del> the supply of goods <del>referred to in Article 142(1)(b) relates to goods</del> to be carried in the personal luggage of travellers, <del>this-the</del> exemption shall apply <del>on-condition that only if the following conditions are met</del>:</p>	<p><b>Article 15(2), second subparagraph (replaced by 95/7/EC)</b>  <i>Adapted</i></p>

<p><del>-(a)</del> the traveller is not established within the Community;<sup>2</sup></p>	<p>Article 15(2), second subparagraph, first indent (replaced by 95/7/EC)</p>
<p><del>-(b)</del> the goods are transported <del>to a destination outside</del> <u>out of</u> the Community before the end of the third month following that in which the supply <del>is effected</del> <u>takes place</u>;<sup>2</sup></p>	<p>Article 15(2), second subparagraph, second indent (replaced by 95/7/EC)</p> <p><i>Adapted</i></p>
<p><del>-(c)</del> the total value of the supply, including <del>value added tax VAT</del>, is more than <u>175 euro or</u> the equivalent in national currency <del>of ECU 175</del>, fixed <del>in accordance with Article 7(2) of Directive 69/169/EEC</del>; <del>however, Member States may exempt a supply with a total value of less than that amount annually by applying the conversion rate obtaining on the first working day of October with effect from 1 January of the following year.</del></p> <p><del>however,</del> <u>However,</u> Member States may exempt a supply with a total value of less than <del>that the</del> amount <u>specified in point (c) of paragraph 1.</u></p>	<p>Article 15(2), second subparagraph, third indent, first sentence (replaced by 95/7/EC)</p> <p><i>Adapted</i></p> <p>Article 15(2), second subparagraph, third indent, second sentence (replaced by 95/7/EC)</p>
<p><del>———— For the purposes of applying the second subparagraph:</del></p>	<p>Article 15(2), third subparagraph (replaced by 95/7/EC)</p>
<p><del>-2.</del> <u>For the purposes of paragraph 1,</u> ‘a traveller <u>who is</u> not established within the Community’ shall <del>be taken to</del> mean a traveller whose <u>domicile permanent address</u> or habitual residence is not <u>situated located</u> within the Community. <del>For the purposes of this provision,</del> <u>‘domicile permanent address</u> or habitual residence’ shall mean the place entered as such in a passport, identity card or other <u>identity documents which document recognised as an identity document by</u> the Member State within whose territory the supply takes place <del>recognizes as valid</del>.<sup>2</sup></p>	<p>Article 15(2), third subparagraph, first indent (replaced by 95/7/EC)</p> <p><i>Adapted</i></p>

~~proof~~ **Proof** of exportation shall be furnished by means of the invoice or other document in lieu thereof, endorsed by the customs office ~~where the goods left of exit from~~ the Community.

**Article 15(2),  
third subparagraph,  
second indent  
(replaced by  
95/7/EC)**

*Adapted*

Each Member State shall ~~transmit~~ **send** to the Commission specimens of the stamps it uses for the endorsement referred to in the second ~~indent of the third~~ subparagraph. The Commission shall ~~transmit this forward that~~ information to the tax authorities ~~in of~~ the other Member States;.

**Article 15(2),  
fourth subparagraph  
(inserted by  
95/7/EC)**

*Adapted*

*Article 28k*

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

### **Miscellaneous provisions**

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

~~The following provisions shall apply until 30 June 1999:~~

**Article 28k,  
introductory  
sentence  
(inserted by  
91/680/EEC)**

*Obsolete*

~~1. Member States may exempt supplies by tax free shops of goods to be carried away in the personal luggage of travellers taking intra-Community flights or sea crossings to other Member States.~~

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

*Obsolete*

<p><del>For the purposes of this Article:</del></p>	<p><b>Article 28k(1), second subparagraph (inserted by 91/680/EEC)</b></p>
<p><del>(b) ‘traveller to another Member State’ shall mean any passenger holding a transport document for air or sea travel stating that the immediate destination is an airport or port situated in another Member State;</del></p>	<p><i>Obsolete</i></p> <p><b>Article 28k(1), second subparagraph, point (b) (inserted by 91/680/EEC)</b></p>
<p><del>(c) ‘intra Community flight or sea crossing’ shall mean any transport, by air or sea, starting within the territory of the country as defined in Article 3, where the actual place of arrival is situated within another Member State.</del></p>	<p><i>Obsolete</i></p> <p><b>Article 28k(1), second subparagraph, point (c) (inserted by 91/680/EEC)</b></p>
<p><del>Supplies of goods effected by tax free shops shall include supplies of goods effected on board aircraft or vessels during intra Community passenger transport.</del></p>	<p><i>Obsolete</i></p> <p><b>Article 28k(1), third subparagraph (inserted by 91/680/EEC)</b></p>
<p><del>This exemption shall also apply to supplies of goods effected by tax free shops in either of two Channel Tunnel terminals, for passengers holding valid tickets for the journey between those two terminals.</del></p>	<p><i>Obsolete</i></p> <p><b>Article 28k(1), fourth subparagraph (inserted by 91/680/EEC)</b></p>
<p><del>2. Eligibility for the exemption provided for in paragraph 1 shall apply only to supplies of goods:</del></p>	<p><i>Obsolete</i></p> <p><b>Article 28k(2) (inserted by 91/680/EEC)</b></p> <p><i>Obsolete</i></p>

<p><del>(a) the total value of which per person per journey does not exceed ECU 90.</del></p>	<p><b>Article 28k(2)(a), first subparagraph (replaced by 94/4/EC)</b></p>
	<p><i>Obsolete</i></p>
<p><del>By way of derogation from Article 28m, Member States shall determine the equivalent in national currency of the above amount in accordance with Article 7(2) of Directive 69/169/EEC.</del></p>	<p><b>Article 28k(2)(a), second subparagraph (inserted by 94/4/EC)</b></p>
	<p><i>Obsolete</i></p>
<p><del>Where the total value of several items or of several supplies of goods per person per journey exceeds those limits, the exemption shall be granted up to those amounts, on the understanding that the value of an item may not be split;</del></p>	<p><b>Article 28k(2)(a), third subparagraph (inserted by 91/680/EEC)</b></p>
	<p><i>Obsolete</i></p>
<p><del>(b) involving quantities per person per journey not exceeding the limits laid down by the Community provisions in force for the movement of travellers between third countries and the Community.</del></p>	<p><b>Article 28k(2)(b), first subparagraph (inserted by 91/680/EEC)</b></p>
	<p><i>Obsolete</i></p>
<p><del>The value of supplies of goods effected within the quantitative limits laid down in the previous subparagraph shall not be taken into account for the application of (a).</del></p>	<p><b>Article 28k(2)(b), second subparagraph (inserted by 91/680/EEC)</b></p>
	<p><i>Obsolete</i></p>
<p><del>3. Member States shall grant every taxable person the right to a deduction or refund of the value added tax referred to in Article 17(2) in so far as the goods and services are used for the purposes of his supplies of goods exempt under this Article.</del></p>	<p><b>Article 28k(3) (inserted by 91/680/EEC)</b></p> <p><i>Obsolete</i></p>

- ~~4. Member States which exercise the option provided for in Article 16(2) shall also grant eligibility under that provision to imports, intra-Community acquisitions and supplies of goods to a taxable person for the purposes of his supplies of goods exempt pursuant to this Article.~~
- ~~5. Member States shall take the measures necessary to ensure the correct and straightforward application of the exemptions provided for in this Article and to prevent any evasion, avoidance or abuse.~~

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

*Obsolete*

**Article 28k(5)  
(inserted by  
91/680/EEC)**

*Obsolete*

## **Chapter 7**

### **Exemptions related to international transport**

#### *Article 144*

1. ~~Without prejudice to other Community provisions~~ Member States shall exempt the following ~~under conditions which they shall lay down for the purpose of ensuring the correct and straightforward application of such exemptions and of preventing any evasion, avoidance or abuse~~ transactions:

**Article 15,  
introductory  
sentence  
(77/388/EEC)**

- ~~4. the supply of goods for the fuelling and provisioning of vessels:~~

**Article 15(4), first  
subparagraph  
(77/388/EEC)**

- (a) the supply of goods for the fuelling and provisioning of vessels used for navigation on the high seas and carrying passengers for reward or used for the purpose of commercial, industrial or fishing activities, or for rescue or assistance at sea, or for inshore fishing, with the exception, in the case of vessels used for inshore fishing, of ships' provisions;

**Article 15(4), first  
subparagraph,  
point (a)  
(77/388/EEC)**

*Adapted*

- ~~(b) used for rescue or assistance at sea, or for inshore fishing, with the exception, for the latter, of ships' provisions;~~

**Article 15(4), first  
subparagraph,  
point (b)  
(77/388/EEC)**

- ~~(c)~~ (b) of war, as defined in subheading 89.01 A of the Common Customs Tariff, leaving the country the supply of goods for the fuelling and provisioning of fighting ships, falling within CN code 8906 10 00, leaving their territory and bound for foreign ports or anchorages outside the Member State concerned;

**Article 15(4), first  
subparagraph,  
point (c)  
(77/388/EEC)**

*Adapted*

~~5.(c)~~ the supply, modification, repair, maintenance, chartering and hiring of the sea-going vessels referred to in ~~paragraph 4(a) and (b) point (a),~~ and the supply, hiring, repair and maintenance of equipment, including fishing equipment, incorporated or used therein;

**Article 15(5)**  
(77/388/EEC)

*Adapted*

~~8.(d)~~ the supply of services other than those referred to in ~~paragraph 5 point (c),~~ to meet the direct needs of the sea-going vessels referred to in ~~that paragraph point (a)~~ or of their cargoes;

**Article 15(8)**  
(77/388/EEC)

*Adapted*

~~7.(e)~~ the supply of goods for the fuelling and provisioning of aircraft ~~referred to in paragraph 1(g) used by airlines operating for reward chiefly on international routes;~~

**Article 15(7)**  
(77/388/EEC)

*Adapted*

~~6.(f)~~ the supply, modification, repair, maintenance, chartering and hiring of ~~the~~ aircraft ~~used by airlines operating for reward chiefly on international routes referred to in point (e),~~ and the supply, hiring, repair and maintenance of equipment incorporated or used therein;

**Article 15(6)**  
(77/388/EEC)

*Adapted*

~~9.(g)~~ the supply of services, other than those referred to in ~~paragraph 6 point (f),~~ to meet the direct needs of ~~the~~ aircraft referred to in ~~that paragraph point (e)~~ or of their cargoes;

**Article 15(9)**  
(77/388/EEC)

*Adapted*

#### *Article 145*

~~15. — the Portuguese Republic Portugal~~ may treat sea and air transport between the islands making up the autonomous regions of the Azores and Madeira and between those regions and the mainland ~~in the same way as~~ international transport.

**Article 15(15)**  
(inserted by Act of Accession, ES and PT)

*Adapted*

#### *Article 146*

1. The Commission shall ~~submit, where appropriate, present~~ to the Council ~~as soon as possible~~ proposals ~~to establish Community fiscal rules specifying designed to delimit~~ the scope of ~~and practical arrangements for implementing~~ the exemptions provided for in ~~(5) to (9) Article 144 and to lay down the detailed rules for their implementation.~~

**Article 15(4)**  
second subparagraph, first sentence  
(replaced by 92/111/EEC)

*Adapted*

2. ~~Until these rules come into force~~ Pending the entry into force of the provisions referred to in paragraph 1, Member States may limit the ~~extent of these~~ scope of the exemptions provided for in points (a) and (b) of Article 144.

Article 15(4)  
second subparagraph, second sentence  
(replaced by 92/111/EEC)

*Adapted*

## Chapter 8

### Exemptions relating to certain transactions treated as exports

#### Article 147

1. ~~Without prejudice to other Community provisions~~ Member States shall exempt ~~the following under conditions which they shall lay down for the purpose of ensuring the correct and straightforward application of such exemptions and of preventing any evasion, avoidance or abuse~~ the following transactions:

Article 15,  
introductory sentence  
(77/388/EEC)

10. ~~supplies of goods and services:~~

Article 15(10),  
first subparagraph  
(77/388/EEC)

(a) the supply of goods or services under diplomatic and consular arrangements;

Article 15(10),  
first subparagraph, first indent  
(77/388/EEC)

*Adapted*

~~(b) the supply of goods or services to international organizations recognized~~ bodies recognised as such by the public authorities of the host ~~country, Member State, and to~~ members of such ~~organizations~~ bodies, within the limits and under the conditions laid down by the international conventions establishing the ~~organizations~~ bodies or by headquarters agreements;

Article 15(10),  
first subparagraph, second indent  
(77/388/EEC)

*Adapted*

~~(c) effected the supply of goods or services~~ within a Member State which is a party to the North Atlantic Treaty ~~and~~, intended either for ~~the use of~~ the forces of other States ~~which are parties~~ party to that Treaty for the use of those forces, or of the civilian staff accompanying them, or for supplying their messes or canteens when such forces take part in the common defence effort;

Article 15(10),  
first subparagraph, third indent  
(77/388/EEC)

*Adapted*



~~-(d) the supply of goods or services~~ to another Member State ~~and~~, intended for the forces of any Member State which is a party to the North Atlantic Treaty, other than the Member State of destination itself, for the use of those forces, or of the civilian staff accompanying them, or for supplying their messes or canteens when such forces take part in the common ~~defense-defence~~ effort;

**Article 15(10), first subparagraph, fourth indent (inserted by 91/680/EEC)**

*Adapted*

(e) the ~~exemptions set out in the third indent shall extend to imports by and supplies supply~~ of goods ~~and-or~~ services to the ~~armed~~ forces of the United Kingdom stationed in the island of Cyprus pursuant to the Treaty of Establishment concerning the Republic of Cyprus, dated 16 August 1960, which are for the use of ~~the-those~~ forces, or ~~of~~ the civilian staff accompanying them, or for supplying their messes or canteens.

**Article 14(1)(g), fourth indent (inserted by Protocol No 3 to the 2003 Act of Accession)**

*Adapted*

~~This exemption~~ Pending the adoption of common tax rules, the ~~exemptions provided for in the first subparagraph~~ shall be subject to ~~the~~ limitations laid down by the host Member State ~~until Community tax rules are adopted~~.

**Article 15(10), second subparagraph (amended by 91/680/EEC and 92/111/EEC)**

*Adapted*

2. In cases where the goods are not dispatched or transported out of the ~~country~~ Member State in which the supply takes place, and in the case of services, ~~the benefit of~~ the exemption may be ~~given~~ granted by means of a refund of the ~~tax~~ VAT;

**Article 15(10), third subparagraph (replaced by 92/111/EEC)**

*Adapted*

Article 148

~~11.~~ ~~supplies~~ Member States shall exempt the supply of gold to ~~Central Banks~~ central banks;

**Article 15(11) (77/388/EEC)**

Chapter 9

Exemptions for the supply of services by intermediaries

Article 149

~~14.—Member States shall exempt the supply of services supplied by brokers and other intermediaries, acting in the name and for account on behalf of another person, where they form take part of in the transactions specified referred to in this Article Chapters 6, 7 and 8, or of transactions carried out outside the Community.~~

**Article 15(14),  
first subpara-  
graph  
(amended by  
91/680/EEC)**

Adapted

~~This The exemption does referred to in the first paragraph shall not apply to travel agents who supply, in the name and for account on behalf of the traveller-travellers, supply services which are supplied-carried out in other Member States;~~

**Article 15(14),  
second subpara-  
graph  
(77/388/EEC)**

Adapted

Chapter 10

Exemptions for transactions relating to international trade

Section 1

Customs or tax warehouses and similar arrangements

~~Article 16~~Article 150

**Article 16  
(77/388/EEC)**

~~Special exemptions linked to international goods traffic~~

**Heading of  
Article 16  
(77/388/EEC)**

~~1.—Without prejudice to other Community provisions, Member States may, subject to the consultations provided for in Article 29, take special measures designed to relieve from value added tax all or some of the following transactions, provided that they are not aimed at final use and/or consumption and that the amount of value added tax charged at entry for home use corresponds to the amount of the tax which should have been charged had each of these transactions been taxed on import or within the territory of the country:~~

**Article 16(1)  
(77/388/EEC)**

Obsolete

~~A.—imports of goods which are intended to be placed under warehousing arrangements other than customs;~~

**Article 16(1)(A)  
(replaced by  
91/680/EEC)**

Obsolete

~~B. —supplies of goods which are intended to be:~~

**Article 16(1)(B),  
first subpara-  
graph  
(replaced by  
91/680/EEC)**

*Obsolete*

~~(a) —produced to customs and, where applicable, placed in temporary storage;~~

**Article 16(1)(B),  
first subpara-  
graph, point (a)  
(replaced by  
91/680/EEC)**

*Obsolete*

~~(b) —placed in a free zone or in a free warehouse;~~

**Article 16(1)(B),  
first subpara-  
graph, point (b)  
(replaced by  
91/680/EEC)**

*Obsolete*

~~(c) —placed under customs warehousing arrangements or inward processing arrangements;~~

**Article 16(1)(B),  
first subpara-  
graph, point (c)  
(replaced by  
91/680/EEC)**

*Obsolete*

~~(d) —admitted into territorial waters:~~

**Article 16(1)(B),  
first subpara-  
graph, point (d)  
(replaced by  
91/680/EEC)**

*Obsolete*

~~— in order to be incorporated into drilling or production platforms, for purposes of the construction, repair, maintenance, alteration or fitting out of such platforms, or to link such drilling or production platforms to the mainland;~~

**Article 16(1)(B),  
first subpara-  
graph, point (d),  
first indent  
(replaced by  
91/680/EEC)**

*Obsolete*

~~— for the fuelling and provisioning of drilling or production platforms;~~

**Article 16(1)(B), first subparagraph, point (d), second indent (replaced by 91/680/EEC)**

*Obsolete*

~~(e) placed under warehousing arrangements other than customs.~~

**Article 16(1)(B), first subparagraph, point (e) (replaced by 91/680/EEC)**

*Obsolete*

~~— The places referred to in (a), (b), (c) and (d) shall be as defined by the Community customs provisions in force;~~

**Article 16(1)(B), second subparagraph (replaced by 91/680/EEC)**

*Obsolete*

~~C. supplies of services relating to the supplies of goods referred to in B;~~

**Article 16(1)(C) (replaced by 91/680/EEC)**

*Obsolete*

~~D. supplies of goods and of services carried out in the places listed in B and still subject to one of the arrangements specified therein;~~

**Article 16(1)(D) (replaced by 91/680/EEC)**

*Obsolete*

~~E. supplies:~~

**Article 16(1)(E) (inserted by 91/680/EEC)**

*Obsolete*

~~— of goods referred to in Article 7(1)(a) still subject to arrangements for temporary importation with total exemption from import duty or to external transit arrangements,~~

**Article 16(1)(E), first indent (inserted by 91/680/EEC)**

*Obsolete*

~~— of goods referred to in Article 7(1)(b) still subject to the internal Community transit procedure provided for in Article 33a,~~

**Article 16(1)(E), second indent (inserted by 91/680/EEC)**

*Obsolete*

~~— as well as supplies of services relating to such supplies.~~

**Article 16(1)(E) in fine (inserted by 91/680/EEC)**

*Obsolete*

~~1. — Without prejudice to other Community tax provisions, Member States may, subject to the consultations provided for in Article 29 after consulting the VAT Committee, take special measures designed to exempt all or some of the following transactions referred to in this Section, provided that they those measures are not aimed at final use and/or or consumption and that the amount of value added tax VAT due on cessation of the arrangements on or situations referred to at A to E in this Section corresponds to the amount of tax which would have been due had each of these those transactions been taxed within the their territory of the country.~~

**Article 16(1) first subparagraph contained in Article 28c(E)(1) (replaced by 95/7/EC)**

*Adapted*

*Article 151*

~~B.1. supplies of goods which are intended to be Member States may exempt the following transactions:~~

**Article 16(1)(B), first subparagraph, contained in Article 28c(E)(1) (replaced by 95/7/EC)**

(a) <del>produced</del> <u>the supply of goods which are intended to be presented</u> to customs and, where applicable, placed in temporary storage;	Article 16(1)(B), first subparagraph, point (a), contained in Article 28c(E)(1) (replaced by 95/7/EC)
<i>Adapted</i>	
(b) <u>the supply of goods which are intended to be</u> placed in a free zone or in a free warehouse;	Article 16(1)(B), first subparagraph, point (b), contained in Article 28c(E)(1) (replaced by 95/7/EC)
(c) <u>the supply of goods which are intended to be</u> placed under customs warehousing arrangements or inward processing arrangements;	Article 16(1)(B), first subparagraph, point (c), contained in Article 28c(E)(1) (replaced by 95/7/EC)
<del>(d) — admitted into territorial waters:</del>	Article 16(1)(B), first subparagraph, point (d), contained in Article 28c(E)(1) (replaced by 95/7/EC)
<del>(d)</del> <u>the supply of goods which are intended to be admitted into territorial waters</u> in order to be incorporated into drilling or production platforms, for purposes of the construction, repair, maintenance, alteration or fitting-out of such platforms, or to link such drilling or production platforms to the mainland <sup>52</sup> ;	Article 16(1)(B), first subparagraph, point (d), first indent, contained in Article 28c(E)(1) (replaced by 95/7/EC)

(e) the supply of goods which are intended to be admitted into territorial waters for the fuelling and provisioning of drilling or production platforms;

**Article 16(1)(B), first subparagraph, point (d), second indent, contained in Article 28c(E)(1) (replaced by 95/7/EC)**

2. The places referred to in ~~(a), (b), (c) and (d) shall be as paragraph 1 shall be those~~ defined as such by the Community customs provisions in force.

**Article 16(1)(B), second subparagraph, contained in Article 28c(E)(1) (replaced by 95/7/EC)**

*Adapted*

#### Article 152

1. Member States may exempt the following transactions:

~~A.(a) imports the importation~~ of goods which are intended to be placed under warehousing arrangements other than customs warehousing;

**Article 16(1)(A), contained in Article 28c(E)(1) (replaced by 95/7/EC)**

*Adapted*

~~(e)(b) the supply of goods which are intended to be~~ placed, within ~~the their~~ territory ~~of the country~~, under warehousing arrangements other than customs warehousing.

**Article 16(1)(B), first subparagraph, point (e), first subparagraph, contained in Article 28c(E)(1) (replaced by 95/7/EC)**

*Adapted*

2. For the purposes of ~~this Article paragraph 1~~, warehouses other than customs warehouses shall ~~be taken to be, in the case of products subject to excise duty, mean the places defined as tax warehouses by Article 4(b) of Directive 92/12/EEC and, in the case of products not subject to excise duty, the places defined as such by the Member States;~~

**Article 16(1)(B), first subparagraph, point (e), second subparagraph, contained in Article 28c(E)(1) (replaced by 95/7/EC)**

*Adapted*

~~for products subject to excise duty, the places defined as tax warehouses for the purposes of Article 4(b) of Directive 92/12/EEC,~~

**Article 16(1)(B), first subparagraph, point (e), second subparagraph, first indent, contained in Article 28c(E)(1) (replaced by 95/7/EC)**

~~for goods other than those subject to excise duty, the places defined as such by the Member States.~~

**Article 16(1)(B), first subparagraph, point (e), second subparagraph, second indent, first sentence, contained in Article 28c(E)(1) (replaced by 95/7/EC)**

~~However,~~ Member States may not, however, provide for warehousing arrangements other than customs warehousing where the goods in question are intended to be supplied at the retail stage.

**Article 16(1)(B), first subparagraph, point (e), second subparagraph, second indent, second sentence, contained in Article 28c(E)(1) (replaced by 95/7/EC)**



Article 153

1. ~~Nevertheless, —~~ By way of derogation from the second subparagraph of Article 152(2), Member States may provide for ~~such warehousing~~ arrangements ~~for goods intended for other than~~ customs warehousing in the following cases:

~~— taxable persons for the purposes of supplies effected under the conditions laid down in Article 28k,~~

~~—(a) where the goods are intended for tax-free shops within the meaning of Article 28k,~~ for the purposes of supplies to the supply of goods to be carried in the personal luggage of travellers taking flights or sea crossings to third territories or third countries, where ~~those supplies are that supply is~~ exempt pursuant to ~~Article 15~~ point (b) of Article 142(1);

Article 16(1)(B), first subparagraph, point (e), third subparagraph, contained in Article 28c(E)(1) (replaced by 95/7/EC)

Article 16(1)(B), first subparagraph, point (e), third subparagraph, first indent contained in Article 28c(E)(1) (replaced by 95/7/EC)

*Obsolete*

Article 16(1)(B) first subparagraph, point (e), third subparagraph, second indent, contained in Article 28c(E)(1) (replaced by 95/7/EC)

*Adapted*

~~-(b)~~ where the goods are intended for taxable persons, for the purposes of carrying out supplies to travellers on board an aircraft or ~~vessels during a ship in the course of~~ a flight or sea crossing where the place of arrival is situated outside the Community~~;~~

**Article 16(1)(B) first subparagraph, point (e), third subparagraph, third indent, contained in Article 28c(E)(1) (replaced by 95/7/EC)**

*Adapted*

~~-(c)~~ where the goods are intended for taxable persons, for the purposes of ~~supplies effected free of tax~~ carrying out supplies which are, exempt from VAT pursuant to ~~Article 15, point 10~~ Article 147.

**Article 16(1)(B) first subparagraph, point (e), third subparagraph, fourth indent, contained in Article 28c(E)(1) (replaced by 95/7/EC)**

*Adapted*

~~(a)2.~~ For the purposes of point (a) of paragraph 1, ‘tax-free shop’ shall mean any establishment which is situated within an airport or port and which fulfils the conditions laid down by the competent public authorities ~~pursuant, in particular, to paragraph 5;~~

**Article 28k(1), second subparagraph, point (a) (inserted by 91/680/EEC)**

*Adapted*

#### Article 154

~~C.~~ ~~supplies~~ Member States may exempt the supply of services relating to the ~~supplies~~ supply of goods referred to in ~~B~~ Article 151, Article 152(1)(b) or Article 153;

**Article 16(1)(C), contained in Article 28c(E)(1) (replaced by 95/7/EC)**

Article 155

~~D.1.~~ ~~supplies of goods and of services carried out~~ Member States may exempt the following transactions:

Article 16(1)(D), first subparagraph, contained in Article 28c(E)(1) (replaced by 95/7/EC)

(a) ~~in the places listed~~ supply of goods or services carried out in the circumstances referred to in ~~B(a), (b), (c) and (d) and still subject to Article 151(1), where~~ one of the situations specified therein still applies within their territory;

Article 16(1)(D), first subparagraph, point (a), contained in Article 28c(E)(1) (replaced by 95/7/EC)

Adapted

(b) ~~in the places listed~~ supply of goods or services carried out in the circumstances referred to in ~~B(e) and still subject, within the territory of the country, to Article 152(1)(b) or Article 153, where one of the situation-situations~~ specified therein in Article 152(1)(b) or in Article 153(1) still applies within their territory.

Article 16(1)(D), first subparagraph, point (b), contained in Article 28c(E)(1) (replaced by 95/7/EC)

Adapted

2. Where ~~they~~ Member States exercise the option ~~provided for in (a) for under point (a) of paragraph 1 in respect of~~ transactions effected in customs warehouses, ~~Member States they~~ shall take the measures necessary to ~~ensure that they have defined~~ provide for warehousing arrangements other than customs warehousing under which permit the provisions in (b) to point (b) of paragraph 1 may be applied to the same transactions ~~concerning when they concern~~ goods listed in ~~Annex J which Annex V and are effected in such~~ carried out in warehouses other than customs warehouses;

Article 16(1)(D), second subparagraph, contained in Article 28c(E)(1) (replaced by 95/7/EC)

Adapted

Article 156

~~E.~~ ~~supplies~~ Member States may exempt supply of the following goods and of services relating thereto:

Article 16(1)(E),  
contained in  
Article 28c(E)(1)  
(replaced by  
95/7/EC)

(a) the supply of goods referred to in ~~Article 7(1)(a)~~ ~~still subject to the first paragraph of Article 31 while they remain covered by~~ arrangements for temporary importation with total exemption from import duty or ~~to~~ by external transit arrangements;

Article 16(1)(E),  
first indent,  
contained in  
Article 28c(E)(1)  
(replaced by  
95/7/EC)

Adapted

(b) the supply of goods referred to in ~~Article 7(1)(b)~~ ~~still subject to the second paragraph of Article 31 while they remain covered by~~ the internal Community transit procedure ~~provided for~~ referred to in ~~Article 33a~~ Article 269;

Article 16(1)(E),  
second indent,  
contained in  
Article 28c(E)(1)  
(replaced by  
95/7/EC)

Adapted

~~services relating to supplies of goods referred to under points (a) and (b):~~

Article 16(1)(E),  
in fine,  
contained in  
Article 28c(E)(1)  
(replaced by  
95/7/EC)

Article 157

~~1a.~~ Where ~~they~~ Member States exercise the option provided for in ~~paragraph 1, Member States this Section, they~~ shall take the measures necessary to ensure that the intra-Community ~~acquisitions~~ acquisition of goods intended to be placed under one of the arrangements or in one of the situations referred to in ~~paragraph 1(B)~~ ~~benefit from~~ Article 151, Article 152(1)(b) or Article 153 is covered by the same provisions as ~~supplies~~ the supply of goods ~~effected~~ carried out within ~~the country their territory~~ under the same conditions.

Article 16(1a),  
contained in  
Article 28c(E)(1)  
(replaced by  
95/7/EC)

Adapted

Article 158

~~When~~ ~~If~~ the ~~removal of~~ goods ~~from~~ ~~cease to be covered by~~ the arrangements or situations referred to in this ~~paragraph gives~~ Section, thus giving rise to importation ~~within the meaning for the purposes of Article 7(3) Article 61~~, the Member State of ~~import~~ importation shall take the measures necessary to ~~avoid~~ prevent double taxation ~~within the country~~.

Article 16(1), third subparagraph, contained in Article 28c(E)(1) (replaced by 95/7/EC)

*Adapted*

Section 2

Transactions with a view to export

Article 159

2.1. ~~Subject to the consultation provided for in Article 29,~~ Member States may ~~opt to, after consulting the VAT Committee,~~ exempt ~~intra-Community acquisitions of goods made by a~~ the following transactions carried out by a taxable person ~~and imports for and supplies of goods to a taxable person intending to export them outside the Community as they are or after processing, as well as supplies of services linked with his export business,~~ up to a ~~maximum an amount~~ equal to the value of ~~his~~ the exports carried out by that person during the preceding 12 months.;

Article 16(2), first subparagraph (amended by Article 28c(E)(2) of 92/111/EEC)

*Adapted*

2.(a) ~~Subject to the consultation provided for in Article 29,~~ Member States may ~~opt to exempt~~ intra-Community acquisitions of goods made by ~~a~~ the taxable person, and imports for and supplies of goods to ~~a~~ the taxable person ~~intending to export them outside, with a view to their exportation from~~ the Community as they are or after processing, ~~as well as supplies of services linked with his export business,~~ up to a maximum equal to the value of his exports during the preceding 12 months.;

Article 16(2), first subparagraph (amended by Article 28c(E)(2) of 92/111/EEC)

*Adapted*

2.(b) ~~Subject to the consultation provided for in Article 29,~~ Member States may ~~opt to exempt~~ intra-Community acquisitions of goods made by a taxable person and imports for and supplies of goods to a taxable person intending to export them outside the Community as they are or after processing, ~~as well as~~ supplies of services linked with ~~his~~ the export business, ~~up to a maximum equal to the value of his exports during the preceding 12 months~~ of the taxable person.

Article 16(2), first subparagraph (amended by Article 28c(E)(2) of 92/111/EEC)

*Adapted*

~~2. When they take up this~~ Where Member States exercise the option ~~the Member States under paragraph 1, they shall, subject to the consultation provided for in Article 29, extend the benefit of this after consulting the VAT Committee, apply that~~ exemption also to ~~intra-Community acquisitions of goods by a transactions relating to supplies carried out by the~~ taxable person, ~~imports for and supplies of goods to a taxable person intending to supply them, as they are or after processing, under in accordance with the conditions laid down specified in Article 28e(A), as well as supplies of services relating to such supplies, Article 135,~~ up to a maximum ~~an amount~~ equal to the value of ~~his supplies of goods effected under the conditions laid down in Article 28e(A) the supplies carried out by that person, in accordance with the same conditions,~~ during the preceding ~~twelve~~ 12 months.

#### Article 160

Member States may set a common maximum amount for transactions which they exempt ~~under the first and second subparagraphs pursuant to Article 159.~~

### Section 3

#### Provisions common to Sections 1 and 2

#### Article 161

~~3. —~~ The Commission shall ~~submit, where appropriate, present~~ to the Council ~~at the earliest opportunity~~ proposals concerning common arrangements for applying ~~value added tax VAT~~ to the transactions referred to in ~~paragraphs 1 and 2~~ Sections 1 and 2.

## ~~TITLE XI~~ TITLE X

### DEDUCTIONS

#### Chapter 1

#### Origin and scope of right of deduction

Article 16(2),  
second subparagraph  
contained in  
Article 28c(E)(2)  
(inserted by  
92/111/EEC)

*Adapted*

Article 16(2),  
third subparagraph,  
contained in  
Article 28c(E)(2)  
(inserted by  
92/111/EEC)

*Adapted*

Article 16(3)  
(77/388/EEC)

*Adapted*

Title XI  
(77/388/EEC)

Heading of  
Title XI  
(77/388/EEC)

~~Article 17~~ Article 162

**Origin and scope of the right to deduct**

~~1. The~~ A right to deduct of deduction shall arise at the time ~~when~~ the deductible tax becomes chargeable.

**Article 17  
(77/388/EEC)**

**Heading of  
Article 17  
(77/388/EEC)**

**Article 17(1)  
(77/388/EEC)**

*Adapted*

~~2. In so far as the goods and services are used for the purposes of his taxable transactions, the taxable person shall be entitled to deduct from the tax which he is liable to pay:~~

**Article 17(2)  
(77/388/EEC)**

*Obsolete*

~~(a) value added tax due or paid in respect of goods or services supplied or to be supplied to him by another taxable person;~~

**Article 17(2)(a)  
(77/388/EEC)**

*Obsolete*

~~(b) value added tax due or paid in respect of imported goods;~~

**Article 17(2)(b)  
(77/388/EEC)**

*Obsolete*

~~(c) value added tax due under Articles 5(7)(a) and 6(3).~~

**Article 17(2)(c)  
(77/388/EEC)**

*Obsolete*

~~3. Member States shall also grant to every taxable person the right to a deduction or refund of the value added tax referred to in paragraph 2 in so far as the goods and services are used for the purposes of:~~

**Article 17(3)  
(77/388/EEC)**

*Obsolete*

~~(a) transactions relating to the economic activities as referred to in Article 4(2) carried out in another country, which would be eligible for deduction of tax if they had occurred in the territory of the country;~~

**Article 17(3)(a)  
(77/388/EEC)**

*Obsolete*

~~(b) transactions which are exempt under Article 14(1)(i) and under Articles 15 and 16(1)(B), (C) and (D), and paragraph 2;~~

**Article 17(3)(b)  
(77/388/EEC)**

*Obsolete*

~~(e) any of the transactions exempted under Article 13B(a) and (d), paragraphs 1 to 5, when the customer is established outside the Community or when these transactions are directly linked with goods intended to be exported to a country outside the Community.~~

**Article 17(3)(c)**  
**(77/388/EEC)**

*Obsolete*

~~4. The Council shall endeavour to adopt before 31 December 1977, on a proposal from the Commission and acting unanimously, Community rules laying down the arrangements under which refunds are to be made in accordance with paragraph 3 to taxable persons not established in the territory of the country.~~

**Article 17(4), first subparagraph**  
**(77/388/EEC)**

*Obsolete*

~~Until such Community arrangements enter into force, Member States shall themselves determine the method by which the refund concerned shall be made. Where the taxable person is not resident in the territory of the Community, Member States may refuse the refund or impose supplementary conditions.~~

**Article 17(4), second subparagraph**  
**(77/388/EEC)**

*Obsolete*

~~Article 28f~~ Article 163

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

### **Right of deduction**

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

~~2. In so far as the goods and services are used for the purposes of his taxable the taxed transactions of a taxable person, the taxable person shall be entitled to deduct the following from the tax VAT which he is liable to pay:~~

**Article 17(2), contained in**  
**Article 28f(1)**  
**(inserted by**  
**91/680/EEC)**

*Adapted*

(a) ~~value added tax the VAT due or paid within in the territory of the country Member State~~ in respect of supplies to him of goods or services supplied, carried out or to be supplied to him carried out by another taxable person;

**Article 17(2)(a), contained in**  
**Article 28f(1)**  
**(replaced by**  
**95/7/EC)**

*Adapted*



(e)(b) ~~value added tax~~ the VAT due in respect of transactions treated as supplies of goods or services pursuant to ~~Articles 5(7)(a), 6(3) and 28a(6)~~ Articles 19(a), 22, 23 or 28;

Article 17(2)(c),  
*contained in Article 28f(1)*  
(inserted by 91/680/EEC)

*Adapted*

(d)(c) ~~value added tax~~ the VAT due in respect of intra-Community acquisitions of goods pursuant to ~~Article 28a(1)(a)~~ Article 3(1)(b)(i);

Article 17(2)(d),  
*contained in Article 28f(1)*  
(inserted by 91/680/EEC)

*Adapted*

(b)(d) ~~value added tax~~ the VAT due or paid in respect of ~~imported~~ the importation of goods ~~within into the territory of the country~~ Member State;

Article 17(2)(b),  
*contained in Article 28f(1)*  
(inserted by 91/680/EEC)

*Adapted*

#### Article 164

~~3. Member States shall also grant every~~ All taxable ~~person~~ persons shall be entitled to deduct the VAT referred to in ~~paragraph 2~~ Article 163, ~~or to obtain a refund of that VAT~~, in so far as the goods and services are used for the purposes of the following:

Article 17(3),  
*contained in Article 28f(1)*  
(inserted by 91/680/EEC)

*Adapted*

(a) transactions relating to the ~~economic~~ activities referred to in ~~Article 4(2)~~ the second subparagraph of Article 10(1), carried out ~~in another country, which outside the Member State, in respect of which VAT~~ would be deductible if they had been ~~performed~~ carried out ~~within the territory of the country that Member State~~;

Article 17(3)(a),  
*contained in Article 28f(1)*  
(inserted by 91/680/EEC)

*Adapted*

(b) transactions which are exempt ~~under Article 14(1)(g) and (i) and under Articles 15, and 16(1)(B) and (C), and paragraph 2 pursuant to Articles 135 or 139, point (1) of Article 140, Articles 142 to 145, Articles 147, 148, 149 or 151, Article 152(1)(b), Articles 153 to 156 or Article 159;~~ **Article 17(3)(b), contained in Article 28f(1) (replaced by Protocol No 3 to the 2003 Act of Accession)**

(c) ~~any of the~~ transactions which are exempt pursuant to ~~Article 13(B)(a) and (d)(1) to (5), when Article 132(1)(a) to (f), where~~ the customer is established outside the Community or ~~when where~~ those transactions ~~are relate~~ directly ~~linked with to~~ goods to be exported ~~to a country outside out of~~ the Community. **Article 17(3)(c), contained in Article 28f(1) (inserted by 91/680/EEC)**

*Adapted*

Article 165

~~4. The refund of value added tax referred to in paragraph 3 shall be effected:~~ **Article 17(4), first subparagraph, contained in Article 28f(1) (inserted by 91/680/EEC)**

~~1.~~ VAT shall be refunded to taxable persons who are not established ~~within in~~ the ~~territory of the country Member State concerned,~~ but who are established in another Member State, in accordance with the detailed implementing rules laid down in Directive 79/1072/EEC<sup>41</sup>. **Article 17(4), first subparagraph, first indent, contained in Article 28f(1) (inserted by 91/680/EEC)**

*Adapted*

~~For the purpose of applying the above:~~ **Article 17(4) second subparagraph, contained in Article 28f(1) (inserted by 92/111/EEC)**

<sup>41</sup> [OJ L 331, 27.12.1979, p. 11.](#)

(a) ~~the—The~~ taxable persons referred to in Article 1 of Directive 79/1072/EEC shall also, for the purposes of applying that Directive, be considered for the purpose of applying the said Directive regarded as taxable persons who are not established in the ~~country when, inside the territory of the country, Member State concerned where, in that Member State,~~ they have only carried out supplies the supply of goods ~~and or~~ services only to a person ~~who has been~~ designated in accordance with Articles 187, 188 or 190 as ~~the person liable to pay the tax in accordance with Article 21(1)(a) and (c) for payment of VAT~~;

Article 17(4), second subparagraph, point (a), contained in Article 28f(1) (inserted by 92/111/EEC and amended by 2000/65/EC)

*Adapted*

~~2.~~ VAT shall be refunded to taxable persons who are not established within the territory of the Community; in accordance with the detailed implementing rules laid down in Directive 86/560/EEC.

Article 17(4), first subparagraph, second indent, contained in Article 28f(1) (inserted by 91/680/EEC)

(b) ~~the—The~~ taxable persons referred to in Article 1 of Directive 86/560/EEC shall also ~~be considered~~, for the purposes of applying ~~the said that~~ Directive, be regarded as taxable persons who are not established in the Community ~~when, inside the territory of the country, where, in the Member State concerned,~~ they have only carried out supplies the supply of goods ~~and or~~ services only to a person ~~who has been~~ designated in accordance with Articles 187, 188 or 190 as ~~the person liable to pay the tax in accordance with Article 21(1)(a) for payment of VAT~~;

Article 17(4), second subparagraph, point (b), contained in Article 28f(1) (inserted by 92/111/EEC)

*Adapted*

(e) ~~3.~~ Directives 79/1072/EEC and 86/560/EEC shall not apply to ~~supplies the supply~~ of goods which ~~are is~~, or may be, exempted ~~under Article 28e(A) when pursuant to Article 135 where~~ the goods thus supplied are dispatched or transported by or on behalf of the acquirer or for his account person acquiring the goods.

Article 17(4), second subparagraph, point (c), contained in Article 28f(1) (inserted by 92/111/EEC)

*Adapted*

#### Article 166

~~The Member State within the territory of which the supply is effected shall grant the taxable person the right of deduction on the basis of the following provisions:~~

Article 28a(4), second subparagraph (inserted by 91/680/EEC)

- |  |  |
|--|--|
| <p>-1. <del>the taxable person</del> Any person who is regarded as a taxable person by reason of the fact that he supplies, on an occasional basis, a new means of transport in accordance with the conditions specified in Article 135(2)(a) shall be authorised, in the Member State in which the supply takes place, be entitled to deduct the value added tax-VAT included in the purchase price or paid <del>on</del> in respect of the importation or the intra-Community acquisition of the means of transport, up to an amount not exceeding the tax-the amount of VAT for which he would be liable if the supply were not exempt.</p> | <p>Article 28a(4), second subparagraph, second indent<br/>(inserted by 91/680/EEC)</p> <p><i>Adapted</i></p> |
| <p>- <del>the right of deduction</del> A right of deduction shall arise and may be exercised only at the time of the supply of the new means of transport.</p>   | <p>Article 28a(4), second subparagraph, first indent<br/>(inserted by 91/680/EEC)</p> <p><i>Adapted</i></p>  |
| <p>2. Member States shall lay down detailed rules for the implementation of <del>these provisions</del> paragraph 1.</p>   | <p>Article 28a(4), third subparagraph<br/>(inserted by 91/680/EEC)</p>                                       |

## Chapter 2

### Proportional deduction

#### Article 167

- |   |  |
|---|--|
| <p>5.1. <del>As regards</del> In the case of goods and/or services to be used by a taxable person both for transactions covered by paragraphs 2 and 3, in respect of which value added tax-VAT is deductible pursuant to Articles 163 and 164, and for transactions in respect of which value added tax-VAT is not deductible, only such proportion of the value added tax shall be deductible-VAT as is attributable to the former transactions shall be deductible.</p> | <p>Article 17(5), first subparagraph<br/>(77/388/EEC)</p> <p><i>Adapted</i></p>  |
| <p><del>This</del> The deductible proportion shall be determined, in accordance with <del>Article 19</del> Articles 168 and 169, for all the taxable transactions carried out by the taxable person.</p>  | <p>Article 17(5), second subparagraph<br/>(77/388/EEC)</p> <p><i>Adapted</i></p> |

2. ~~However,~~ Member States may take the following measures:

**Article 17(5),  
third subpara-  
graph  
(77/388/EEC)**

(a) ~~authorize~~ authorise the taxable person to determine a proportion for each sector of his business, provided that separate accounts are kept for each sector;

**Article 17(5),  
third subpara-  
graph, point (a)  
(77/388/EEC)**

(b) ~~compel~~ require the taxable person to determine a proportion for each sector of his business and to keep separate accounts for each sector;

**Article 17(5),  
third subpara-  
graph, point (b)  
(77/388/EEC)**

*Adapted*

(c) ~~authorize or compel~~ authorise or require the taxable person to make the deduction on the basis of the use made of all or part of the goods and services;

**Article 17(5),  
third subpara-  
graph, point (c)  
(77/388/EEC)**

*Adapted*

(d) ~~authorize of compel~~ authorise or require the taxable person to make the deduction in accordance with the rule laid down in the first subparagraph of paragraph 1, in respect of all goods and services used for all transactions referred to therein;

**Article 17(5),  
third subpara-  
graph, point (d)  
(77/388/EEC)**

*Adapted*

(e) provide that, where the ~~value added tax~~ VAT which is not deductible by the taxable person is insignificant, it ~~shall is to~~ be treated as nil.

**Article 17(5),  
third subpara-  
graph, point (e)  
(77/388/EEC)**

*Adapted*

~~Article 19~~ Article 168

**Article 19  
(77/388/EEC)**

**Calculation of the deductible proportion**

**Heading of  
Article 19  
(77/388/EEC)**

1.	<p>The <u>deductible</u> proportion <del>deductible under the first subparagraph of Article 17(5)</del> shall be made up of a fraction <del>having comprising the following amounts</del>:</p>	<p>Article 19(1), first subparagraph (77/388/EEC)</p>
	<p><del>-(a)</del> as numerator, the total amount, exclusive of <del>value added tax VAT</del>, of turnover per year attributable to transactions in respect of which <del>value added tax VAT</del> is deductible <del>under Article 17(2) and (3) pursuant to Articles 163 and 164</del>;</p>	<p>Article 19(1), first subparagraph, first indent (77/388/EEC)</p>
	<p><del>-(b)</del> as denominator, the total amount, exclusive of <del>value added tax VAT</del>, of turnover per year attributable to transactions included in the numerator and to transactions in respect of which <del>value added tax VAT</del> is not deductible.</p>	<p>Article 19(1), first subparagraph, second indent, first sentence (77/388/EEC)</p>
	<p><del>The</del> <u>In addition to the amount referred to in point (b) of the first subparagraph</u>, Member States may <del>also</del> include in the denominator the amount of subsidies, other than those <del>specified in Article 11A(1)(a) directly linked to the price of supplies of goods or services</del>.</p>	<p>Article 19(1), first subparagraph, second indent, second sentence (77/388/EEC)</p>
		<p><i>Adapted</i></p>
2.	<p>By way of derogation from <del>the provisions of</del> paragraph 1, <del>there the following amounts</del> shall be excluded from the calculation of the deductible proportion, <del>amounts of turnover attributable to the supplies of capital goods used by the taxable person for the purposes of his business</del>;</p>	<p>Article 19(2), first sentence (77/388/EEC)</p>
	<p><del>2-(a)</del> <del>By way of derogation from the provisions of paragraph 1,</del> <del>there shall be excluded from the calculation of the deductible proportion,</del> <u>amounts</u> <del>the amount</del> of turnover attributable to <del>the</del> supplies of capital goods used by the taxable person for the purposes of his business;</p>	<p>Article 19(2), first sentence (77/388/EEC)</p>
	<p><del>(b)</del> <del>Amounts</del> <u>the amount</u> of turnover attributable to <del>transactions specified in Article 13B(d), in so far as these are incidental transactions, and to</del> incidental real estate and financial transactions <del>shall also be excluded</del>.</p>	<p>Article 19(2), second sentence (77/388/EEC)</p>
	<p><del>(c)</del> <del>Amounts</del> <u>the amount</u> of turnover attributable to <u>the</u> transactions specified in <del>Article 13B(d), points (b) to (g) of Article 132(1)</del> in so far as <del>these those transactions</del> are incidental <del>transactions, and to incidental real estate and financial transactions shall also be excluded</del>.</p>	<p>Article 19(2), second sentence (77/388/EEC)</p>

3. Where Member States exercise the option ~~provided under Article 20(5)~~ under Article 184 not to require adjustment in respect of capital goods, they may include disposals of capital goods in the calculation of the deductible proportion.

**Article 19(2),  
third sentence  
(77/388/EEC)**

Article 169

1. The deductible proportion shall be determined on an annual basis, fixed as a percentage and rounded up to a figure not exceeding the next ~~unit~~ whole number.

**Article 19(1),  
second subpara-  
graph  
(77/388/EEC)**

*Adapted*

3-2. The provisional proportion for a year shall be that calculated on the basis of the preceding year's transactions. In the absence of any such transactions to refer to, or where they were insignificant in amount, the deductible proportion shall be estimated provisionally, under the supervision of the tax authorities, by the taxable person ~~from~~ on the basis of his own forecasts.

**Article 19(3), first  
subparagraph,  
first and second  
sentences  
(77/388/EEC)**

*Adapted*

However, Member States may retain ~~their current~~ the rules in force at 1 January 1979 or, in the case of the Member States which acceded to the Community after that date, on the date of their accession.

**Article 19(3), first  
subparagraph,  
third sentence  
(77/388/EEC)**

*Adapted*

3. Deductions made on the basis of such provisional ~~proportion~~ proportions shall be adjusted when the final proportion is fixed during the next following year.

**Article 19(3),  
second subpara-  
graph  
(77/388/EEC)**

*Adapted*

**Chapter 3**

**Restrictions on the right of deduction**

Article 170

~~6. — Before a period of four years at the latest has elapsed from the date of entry into force of this Directive, the~~ The Council, acting unanimously on a proposal from the Commission, shall ~~decide what determine the expenditure in respect of which VAT shall not be eligible for a deduction of value added tax. Value added tax deductible. VAT shall in no circumstances be deductible on-in respect of expenditure which is not strictly business expenditure, such as that on luxuries, amusements or entertainment.~~

**Article 17(6), first subparagraph (77/388/EEC)**

*Adapted*

~~Until Pending the above rules come into force entry into force of the provisions referred to in the first paragraph, Member States may retain all the exclusions provided for under their national laws when this Directive comes into force either at 1 January 1979 or, in the case of the Member States which acceded to the Community after that date, on the date of their accession.~~

**Article 17(6), second subparagraph (77/388/EEC)**

*Adapted*

Article 171

~~7. — Subject to the consultation provided for in Article 29, After consulting the VAT Committee, each Member State may, for cyclical economic reasons, totally or partly exclude all or some capital goods or other goods from the system of deductions.~~

**Article 17(7), first sentence (77/388/EEC)**

*Adapted*

~~To In order to maintain identical conditions of competition, Member States may, instead of refusing deduction, tax the goods manufactured by the taxable person himself or goods which he has purchased in within the country Community, or imported, in such a way that the tax does not exceed the value added tax amount of VAT which would have been be charged on the acquisition of similar goods.~~

**Article 17(7), second sentence (77/388/EEC)**

*Adapted*

**Chapter 4**

**Rules governing exercise of the right of deduction**

~~Article 18~~ Article 172

**Article 18 (77/388/EEC)**

~~Rules governing the exercise of the right to deduct~~

**Heading of Article 18 (77/388/EEC)**



~~1. To exercise his right to deduct, the taxable person must:~~

**Article 18(1)  
(77/388/EEC)**

*Obsolete*

~~(a) in respect of deductions under Article 17(2)(a), hold an invoice, drawn up in accordance with Article 22(3);~~

**Article 18(1)(a)  
(77/388/EEC)**

*Obsolete*

~~(b) in respect of deductions under Article 17(2)(b), hold an import document, specifying him as consignee or importer, and stating or permitting calculation of the amount of tax due;~~

**Article 18(1)(b)  
(77/388/EEC)**

*Obsolete*

~~(c) in respect of deductions under Article 17(2)(c), comply with the formalities established by each Member State;~~

**Article 18(1)(c)  
(77/388/EEC)**

*Obsolete*

~~(d) when he is required to pay the tax as a customer or purchaser where Article 21(1) applies, comply with the formalities laid down by each Member State.~~

**Article 18(1)(d)  
(77/388/EEC)**

*Obsolete*

~~1. To~~ In order to exercise his ~~the~~ right of deduction, a taxable person must meet the following conditions:

**Article 18(1),  
contained in  
Article 28f(2)  
(inserted by  
91/680/EEC)**

*Adapted*

(a) in respect for the purposes of deductions pursuant to Article 17(2)(a), Article 163(a), in respect of the supply of goods or services, he must hold an invoice drawn up in accordance with Article 22(3) Articles 211 to 229 and Articles 231, 232 and 233;

**Article 18(1)(a),  
contained in  
Article 28f(2)  
(inserted by  
91/680/EEC)**

*Adapted*

~~(e)~~(b) in respect for the purposes of deductions pursuant to Article 17(2)(c), Article 163(b), in respect of transactions treated as the supply of goods or service, he must comply with the formalities established as laid down by each Member State;

**Article 18(1)(c),  
contained in  
Article 28f(2)  
(inserted by  
91/680/EEC)**

*Adapted*

~~(e)(c)~~ in respect for the purposes of deductions pursuant to ~~Article 17(2)(d), Article 163(c), in respect of the intra-Community acquisition of goods, he must~~ set out in the ~~declaration-VAT return~~ provided for in ~~Article 22(4) Article 242~~ all the information needed for the amount of the ~~tax-VAT~~ due on his intra-Community acquisitions of goods to be calculated and he must hold an invoice drawn up in accordance with ~~Article 22(3) Articles 211 to 229~~;

**Article 18(1)(e),  
contained in  
Article 28f(2)  
(inserted by  
91/680/EEC)**

*Adapted*

~~(b)(d)~~ in respect for the purposes of deductions pursuant to ~~Article 17(2)(b), Article 163(d), in respect of the importation of goods, he must~~ hold an import document specifying him as consignee or importer, and stating ~~or permitting the calculation of~~ the amount of ~~tax-VAT~~ due or enabling that amount to be calculated;

**Article 18(1)(b),  
contained in  
Article 28f(2)  
(inserted by  
91/680/EEC)**

*Adapted*

~~(d)(e)~~ when ~~he is~~ required to pay ~~the tax-VAT~~ as a customer ~~or purchaser~~ where ~~Article 21(1) applies, Articles 187 to 190 or Article 192 apply, he must~~ comply with the formalities as laid down by each Member State;

**Article 18(1)(d),  
contained in  
Article 28f(2)  
(inserted by  
91/680/EEC and  
amended by  
2000/65/EC)**

*Adapted*

### Article 173

~~2.~~—The taxable person shall ~~effect make~~ the deduction by subtracting from the total amount of ~~value added tax-VAT~~ due for a given tax period the total amount of ~~the tax-VAT~~ in respect of which, during the same period, ~~the right to deduct the right of deduction~~ has arisen and ~~can be has been~~ exercised ~~under the provisions of paragraph 1 in accordance with Article 172.~~

**Article 18(2), first  
subparagraph  
(77/388/EEC)**

*Adapted*

However, Member States may require that ~~as regards~~ taxable persons who carry out occasional transactions, as defined in ~~Article 4(3), the right to deduct shall be exercised Article 13,~~ exercise their right of deduction only at the time of ~~the~~ supply.

**Article 18(2),  
second subpara-  
graph  
(77/388/EEC)**

*Adapted*

Article 174

~~3.~~—Member States ~~shall determine the conditions and procedures whereby may authorise~~ a taxable person ~~may be authorised~~ to make a deduction which he has not made in accordance with ~~the provisions of paragraphs 1 and 2~~ Articles 172 and 173.

**Article 18(3)**  
**(77/388/EEC)**

*Adapted*

Article 175

~~3a.~~—Member States may ~~authorize~~ authorise a taxable person who does not hold an invoice drawn up in accordance with ~~Article 22(3)~~ Articles 211 to 222 and Articles 231, 232 and 233 to make the deduction referred to in ~~Article 17(2)(d)~~ Article 163(c) in respect of his intra-Community acquisitions of goods.

**Article 18(3a),**  
**first part of**  
**sentence,**  
**contained in**  
**Article 28f(3)**  
**(inserted by**  
**91/680/EEC)**

*Adapted*

Article 176

~~they~~ Member States shall determine the conditions and ~~arrangements~~ detailed rules for applying ~~this provision~~ Articles 174 and 175.

**Article 18(3a),**  
**second part of**  
**sentence,**  
**contained in**  
**Article 28f(3)**  
**(inserted by**  
**91/680/EEC)**

*Adapted*

Article 177

~~4.~~—Where, for a given tax period, the amount of ~~authorised~~ deductions exceeds the amount of ~~tax~~ VAT due, the Member States may, in accordance with conditions which they shall determine, either make a refund or carry the excess forward to the following period ~~according to conditions which they shall determine~~.

**Article 18(4), first**  
**subparagraph**  
**(77/388/EEC)**

*Adapted*

However, Member States may refuse to refund or carry forward if the amount of the excess is insignificant.

**Article 18(4),**  
**second subpara-**  
**graph**  
**(77/388/EEC)**

## Chapter 5

### Adjustment of deductions

~~Article 20~~Article 178

### Adjustments of deductions

~~(a) — The initial deduction shall be adjusted where that deduction was it is higher or lower than that to which the taxable person was entitled;~~

**Article 20**  
**(77/388/EEC)**

**Heading of**  
**Article 20**  
**(77/388/EEC)**

**Article 20(1)(a)**  
**(77/388/EEC)**

Adapted

Article 179

~~(b)1. Adjustment shall, in particular, be made where, after the return is made, some change occurs in the factors used to determine the amount to be deducted, in particular for example where purchases are cancelled or price reductions are obtained;~~

**Article 20(1)(b),**  
**first part of first**  
**sentence**  
**(77/388/EEC)**

Adapted

~~2. By way of derogation from paragraph 1, no adjustment shall not be made in cases the case of transactions remaining totally or partially unpaid and or in the case of destruction, loss or theft of property duly proved or confirmed, nor or in the case of applications goods reserved for the purpose of making gifts of small value and or of giving samples specified, as referred to in Article 5(6) Article 17.~~

**Article 20(1)(b),**  
**second part of**  
**first sentence**  
**(77/388/EEC)**

Adapted

~~However, Member States may require adjustment in cases in the case of transactions remaining totally or partially unpaid and or in the case of theft, Member States may require adjustment to be made.~~

**Article 20(1)(b),**  
**second sentence**  
**(77/388/EEC)**

Adapted

Article 180

~~1. — The initial deduction shall be adjusted according to the procedures laid down by the Member States, in particular shall lay down the detailed rules for applying Articles 178 and 179;~~

**Article 20(1)**  
**(77/388/EEC)**

Adapted

Article 181

2.1.

In the case of capital goods, adjustment shall be spread over five years including that in which the goods were acquired or manufactured.

**Article 20(2), first subparagraph, first sentence (77/388/EEC)**

~~By way of derogation from the preceding subparagraph,~~ Member States may, however, base the adjustment on a period of five full years starting from the time at which the goods are first used.

**Article 20(2), second subparagraph (77/388/EEC)**

*Adapted*

In the case of immovable property acquired as capital goods, the adjustment period may be extended up to 20 years.

**Article 20(2), third subparagraph (replaced by 95/7/EC)**

2.

The annual adjustment shall be made only in respect of one-fifth of the ~~tax imposed~~ VAT charged on the capital goods, ~~or, if the reference period has been extended, in respect of the corresponding fraction thereof.~~

**Article 20(2), first subparagraph, second sentence (77/388/EEC)**

*Adapted*

The adjustment referred to in the first subparagraph shall be made on the basis of the variations in the deduction entitlement in subsequent years in relation to that for the year in which the goods were acquired ~~or~~ manufactured or used.

**Article 20(2), first subparagraph, third sentence (77/388/EEC)**

*Adapted*

Article 182

3.1.

~~In the case of supply~~ If supplied during the ~~period of~~ adjustment ~~period,~~ capital goods shall be ~~regarded~~ treated as if they had ~~still~~ been applied ~~for business use by~~ to an economic activity of the taxable person up until expiry of the ~~period of~~ adjustment ~~period.~~

**Article 20(3), first subparagraph, first sentence (77/388/EEC)**

*Adapted*

~~Such business activities are~~ The economic activity shall be presumed to be fully taxed in cases where the ~~delivery supply~~ of the ~~said capital~~ goods is taxed; ~~they are presumed to be fully exempt where the delivery is exempt.~~

Article 20(3), first subparagraph, second sentence (77/388/EEC)

*Adapted*

~~Such business activities are presumed to be fully taxed in cases where the delivery of the said goods is taxed; they are~~ The economic activity shall be presumed to be fully exempt ~~in cases~~ where the ~~delivery supply of the capital goods~~ is exempt.

Article 20(3), first subparagraph, second sentence (77/388/EEC)

*Adapted*

2. The adjustment ~~provided for in paragraph 1~~ shall be made only once ~~for in respect of all the time covered by~~ the ~~whole period of~~ adjustment ~~still period that remains to be covered~~ ~~run~~. However, ~~in the latter case where the supply of capital goods is exempt~~, Member States may waive the requirement for adjustment in so far as the purchaser is a taxable person using the capital goods in question solely for transactions in respect of which ~~value added tax-VAT~~ is deductible.

Article 20(3), second subparagraph (77/388/EEC)

*Adapted*

### Article 183

4. — For the purposes of applying ~~the provisions of paragraphs 2 and 3~~ Articles 181 and 182, Member States may take the following measures:

Article 20(4) (77/388/EEC)

-(a) define the concept of capital goods;

Article 20(4), first indent (77/388/EEC)

-(b) ~~indicate specify~~ the amount of the ~~tax-VAT~~ which is to be taken into consideration for adjustment;

Article 20(4), second indent (77/388/EEC)

*Adapted*

-(c) adopt any ~~suitable~~ measures ~~with a view to ensuring needed to~~ ensure that adjustment does not ~~involve give rise to~~ any unjustified advantage;

Article 20(4), third indent (77/388/EEC)

*Adapted*

-(d) permit administrative simplifications.

Article 20(4), fourth indent (77/388/EEC)

Article 184

~~5.—If, in any Member State, the practical effect of applying paragraphs 2 and 3 would be insignificant, Articles 181 and 182 is negligible, that Member State may, subject to the consultation provided for in Article 29, forego application of these paragraphs having regard to the need to avoid distortion of competition, after consulting the VAT Committee, refrain from applying those provisions, having regard to the overall tax effect-impact of VAT in the Member State concerned and the need for due economy of administration, administrative simplification, and provided that no distortion of competition thereby arises.~~

**Article 20(5)**  
(77/388/EEC)

*Adapted*

Article 185

~~6.—Where the a taxable person transfers from being taxed in the normal way to a special scheme or vice versa, Member States may take all necessary measures necessary to ensure that the taxable person neither benefits nor is prejudiced unjustifiably, does not enjoy unjustified advantage or sustain unjustified harm.~~

**Article 20(6)**  
(77/388/EEC)

*EN amended*

~~TITLE XII~~ **TITLE XI**

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

**PERSONS LIABLE FOR PAYMENT FOR TAX OBLIGATIONS OF TAXABLE PERSONS AND CERTAIN NON-TAXABLE PERSONS**

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

*Adapted*

Chapter 1

Obligation to pay

Section 1

Persons liable for payment of VAT to the tax authorities

*Article 21*

**Article 21**  
(77/388/EEC)

~~Persons liable to pay tax to the authorities~~

**Heading of Article 21**  
(77/388/EEC)

~~The following shall be liable to pay value added tax:~~

**Article 21,  
introductory  
sentence**

*Obsolete*

~~1. under the internal system:~~

**Article 21(1)  
(77/388/EEC)**

*Obsolete*

~~(a) taxable persons who carry out taxable transactions other than those referred to in Article 9(2)(e) and carried out by a taxable person resident abroad. When the taxable transaction is effected by a taxable person resident abroad Member States may adopt arrangements whereby tax is payable by someone other than the taxable person residing abroad. Inter alia a tax representative or other person for whom the taxable transaction is carried out may be designated as such other person. The Member States may also provide that someone other than the taxable person shall be held jointly and severally liable for payment of the tax;~~

**Article 21(1)(a)  
(77/388/EEC)**

*Obsolete*

~~(b) taxable persons to whom services covered by Article 9(2)(e) are supplied or persons who are identified for value added tax purposes within the territory of the country to whom services covered by Article 28b(C), (D), (E) and (F) are supplied, if the services are carried out by a taxable person established abroad; however, Member States may require that the supplier of services shall be held jointly and severally liable for payment of the tax;~~

**Article 21(1)(b)  
(replaced by  
1999/59/EC)**

*Obsolete*

~~(c) any person who mentions the value added tax on an invoice or other document serving as invoice;~~

**Article 21(1)(c)  
(77/388/EEC)**

*Obsolete*

~~2. on importation: the person or persons designated or accepted as being liable by the Member States into which the goods are imported.~~

**Article 21(2)  
(77/388/EEC)**

*Obsolete*



~~Article 28g~~

**Persons liable for payment of the tax**

~~Article 21~~ Article 186

**Persons liable for payment for tax**

~~1. Under the internal system, the following shall be liable to pay value added tax:~~

~~(a) the VAT shall be payable by any taxable person carrying out the a taxable supply of goods or of services, except for in the cases referred to in (b), (e) and (f) Articles 187 to 191.~~

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

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

Article 21,  
*contained in*  
Article 28g  
(replaced by  
2000/65/EC)

Heading of  
Article 21,  
*contained in*  
Article 28g  
(replaced by  
2000/65/EC)

Article 21(1),  
*contained in*  
Article 28g  
(replaced by  
2000/65/EC)

Article 21(1)(a),  
first subpara-  
graph,  
*contained in*  
Article 28g  
(replaced by  
2003/92/EC)

*Adapted*

Article 187

Where the taxable supply of goods or ~~of~~ services is ~~effected~~ carried out by a taxable person who is not established ~~within~~ in the ~~territory of the country~~ Member State in which the VAT is due, Member States may; ~~under conditions determined by them, lay down~~ provide that the person liable ~~to pay tax for payment of VAT~~ is the person ~~for to~~ whom the ~~taxable supply of goods or of services is~~ carried out are supplied.

Article 21(1)(a), second subparagraph, contained in Article 28g (replaced by 2003/92/EC)

Adapted

~~Where the taxable supply of goods or of services is effected by a taxable person who is not established within the territory of the country, Member States may, under shall lay down the conditions determined by them, lay down that the person liable to pay tax is the person for whom the taxable supply of goods or of services is carried out~~ for implementation of the first paragraph.

Article 21(1)(a), second subparagraph, contained in Article 28g (replaced by 2003/92/EC)

Adapted

Article 188

(f) ~~persons~~ VAT shall be payable by any person who ~~are~~ is identified for ~~value added tax~~ VAT purposes within the ~~territory of the country~~ Member State and to whom goods are supplied ~~under in~~ the ~~conditions set out~~ circumstances specified in ~~Article 8(1)(d) or (e)~~ Articles 39 or 40, if the supplies are carried out by a taxable person not established within ~~the territory of the country~~ that Member State.

Article 21(1)(f), contained in Article 28g (inserted by 2003/92/EC)

Adapted

Article 189

(b) VAT shall be payable by any taxable ~~persons~~ person to whom the services ~~covered by Article 9(2)(e) referred to in Article 56~~ are supplied or ~~persons who are~~ any person identified for ~~value added tax~~ VAT purposes ~~within in~~ the ~~territory of the country~~ Member State to whom the services covered by ~~Article 28b(C), (D), (E) and (F)~~ Articles 41, 44, 46, 47, 50 and 51 are supplied, if the services are ~~carried out~~ supplied by a taxable person not established ~~within the territory of the country~~ in that Member State;

Article 21(1)(b), contained in Article 28g (replaced by 2000/65/EC)

Adapted

Article 190

<p>(e)1. <u>VAT shall be payable by</u> the person to whom the <del>supply of</del> goods <del>is made</del> <u>are supplied</u> when the following conditions are met:</p>	<p>Article 21(1)(c), first subparagraph, contained in Article 28g (replaced by 2000/65/EC)</p>
<p></p>	<p><i>Adapted</i></p>
<p>-(a) the taxable <del>operation-transaction</del> is a supply of goods <del>made under</del> <u>carried out in accordance with</u> the conditions laid down in <del>Article 28e(E)(3)</del> <u>Article 138</u>;</p>	<p>Article 21(1)(c), first subparagraph, first indent, contained in Article 28g (replaced by 2000/65/EC)</p>
<p></p>	<p><i>Adapted</i></p>
<p>-(b) the person to whom the <del>supply of</del> goods <del>is made</del> <u>are supplied</u> is another taxable person, or a non-taxable legal person, identified for <del>the purposes of value added tax within the territory of the country</del> <u>VAT purposes in the Member State in which the supply is carried out and in which the supplier is not identified for VAT purposes</u>;</p>	<p>Article 21(1)(c), first subparagraph, second indent, contained in Article 28g (replaced by 2000/65/EC)</p>
<p></p>	<p><i>Adapted</i></p>
<p>-(c) the invoice issued by the taxable person not established <del>within in</del> the <del>territory of the country conforms to</del> <u>Article 22(3)</u> Member State of the person to whom the goods are supplied is drawn up in accordance with <u>Articles 211 to 222</u>;</p>	<p>Article 21(1)(c), first subparagraph, third indent, contained in Article 28g (replaced by 2000/65/EC)</p>
<p></p>	<p><i>Adapted</i></p>

2. ~~However, Where a tax representative is appointed as the person liable for payment of VAT pursuant to Article 196, Member States may provide for a derogation from this obligation, where the taxable person who is not established within the territory of the country has appointed a tax representative in that country paragraph 1;~~

Article 21(1)(c), second subparagraph, contained in Article 28g (replaced by 2000/65/EC)

*Adapted*

### Article 191

F. ~~Reverse charge procedure~~

Heading of Article 26b(F) (inserted by 98/80/EC)

~~By way of derogation from Article 21(1)(a), as amended by Article 28g, in the case of supplies of Where gold material or semi-manufactured products of a purity of 325 thousandths or greater, or supplies of investment gold where an option referred to in C of this Article has been exercised is supplied by a taxable person exercising one of the options under Articles 340, 341 and 342, Member States may designate the purchaser customer as the person liable to pay the tax according to the procedures and conditions which they shall lay down for payment of VAT.~~

Article 26b(F), first sentence (inserted by 98/80/EC)

*Adapted*

~~By way of derogation from Article 21(1)(a), as amended by Article 28g, in the case of supplies of gold material or semi-manufactured products of a purity of 325 thousandths or greater, or supplies of investment gold where an option referred to in C of this Article has been exercised, Member States may designate the purchaser as the person liable to pay the tax according to the shall lay down the procedures and conditions which they shall lay down for implementation of the first paragraph.~~

Article 26b(F), first sentence (inserted by 98/80/EC)

*Adapted*

### Article 192

~~(e) VAT shall be payable by any person effecting making a taxable intra-Community acquisition of goods.~~

Article 21(1)(e), contained in Article 28g (replaced by 2000/65/EC)

*Adapted*

Article 193

4. — On importation, ~~value added tax~~ VAT shall be payable by the person or persons designated or ~~accepted~~ recognised as ~~being~~ liable by the Member State ~~into which the goods are imported~~ of importation.

**Article 21(4),  
contained in  
Article 28g  
(replaced by  
2000/65/EC)**

Adapted

Article 194

~~By way of derogation from the first subparagraph of Article 21(1)(a), VAT shall be payable by the person liable to pay the tax due in accordance with the first subparagraph shall be the person who causes the goods to cease to be covered by the arrangements or situations listed in this paragraph listed in Articles 151, 152, 153, 155 and 156 to cease to be so covered.~~

**Article 16(1),  
second subpara-  
graph,  
contained in  
Article 28c(E)(1)  
(replaced by  
95/7/EC)**

Adapted

Article 195

(d) — ~~VAT shall be payable by~~ any person who ~~mentions~~ enters the ~~value added tax~~ VAT on an invoice.

**Article 21(1)(d),  
contained in  
Article 28g  
(replaced by  
2000/65/EC and  
amended by  
2001/115/EC)**

Adapted

Article 196

2. — ~~By way of derogation from the provisions of paragraph 1:~~

**Article 21(2),  
contained in  
Article 28g  
(inserted by  
2000/65/EC)**

Obsolete

<p>(a)1. <del>where</del> <u>Where</u>, pursuant to Articles 186 to 189 and Article 191, the person liable <del>to pay tax in accordance with the provisions of paragraph 1 for payment of VAT</del> is a taxable person who is not established <del>within the territory of the country in the Member State in which the VAT is due</del>, Member States may allow <del>him to appoint that person to appoint</del> a tax representative as the person liable <del>to pay tax for payment of the VAT</del>.</p>	<p>Article 21(2)(a), first sentence, <i>contained in Article 28g (inserted by 2000/65/EC)</i></p> <p><i>Adapted</i></p>
<p>(b) <u>Furthermore</u>, where the taxable transaction is <del>effected</del> <u>carried out</u> by a taxable person who is not established <del>within the territory of the country in the Member State in which the VAT is due</del> and no legal instrument exists, with the country in which that taxable person is established or has his seat, relating to mutual assistance similar in scope to that <del>laid down by Directives provided for in Council Directive 76/308/EEC<sup>42</sup> and 77/799/EEC and by Council Regulation (EEC) No 218/92, of 27 January 1992 on administrative cooperation in the field of indirect taxation (VAT) (EC) No 1798/2003<sup>43</sup></del>, Member States may take <del>steps to provide that measures providing that</del> the person liable for payment of <del>the tax shall VAT is to</del> be a tax representative appointed by the non-established taxable person.</p>	<p>Article 21(2)(b), <i>contained in Article 28g (inserted by 2000/65/EEC)</i></p> <p><i>Adapted</i></p>
<p>10. <del>Article 21(2)(b) shall</del> <u>However</u>, Member States may not apply <u>the option referred to in the second subparagraph</u> to a non-established taxable person, <u>within the meaning of point (1) of Article 351</u>, who has opted for <del>this the</del> special <del>scheme</del> <u>for electronically supplied services</u>.</p>	<p>Article 26c(B)(10) <i>(inserted by 2002/38/EC)</i></p> <p><i>Adapted</i></p>
<p>2. <del>This</del> <u>The</u> option <u>under the first subparagraph of paragraph 1</u> shall be subject to <u>the</u> conditions and procedures laid down by <del>each the</del> Member <del>State States</del>;</p>	<p>Article 21(2)(a), second sentence, <i>contained in Article 28g (inserted by 2000/65/EC)</i></p> <p><i>Adapted</i></p>

<sup>42</sup> OJ L 73, 19.3.1976, p. 18.  
<sup>43</sup> OJ L 264, 15.10.2003, p. 1.

Article 197

~~3.~~—In the situations referred to in ~~paragraphs 1 and 2~~ Articles 186 to 189 and Articles 191, 194 and 195, Member States may provide that ~~someone a person~~ other than the person liable for payment of ~~the tax shall VAT is to~~ be held jointly and severally liable for payment of ~~the tax~~ VAT.

**Article 21(3),  
contained in  
Article 28g  
(replaced by  
2000/65/EC)**

*Adapted*

**Section 2**

**Payment arrangements**

Article 198

~~5.~~—~~Every~~ Any taxable person ~~shall liable for payment of VAT must~~ pay the net amount of the ~~value added tax VAT~~ when submitting the ~~regular VAT~~ return provided for in Article 242. Member States may, however, set a different date for ~~the~~ payment of that amount or may ~~demand an~~ require interim ~~payment~~ payments to be made.

**Article 22(5),  
contained in  
Article 28h  
(inserted by  
91/680/EEC)**

*Adapted*

Article 199

~~7.~~—Member States shall take the measures necessary to ensure that those persons who, in accordance with ~~Article 21(1) and (2)~~ Articles 187 to 190 and Article 196, are ~~considered to be regarded as~~ liable ~~to pay the tax instead for payment of VAT in the stead~~ of a taxable person not established ~~within the territory of the country in their territory~~ comply with the payment obligations ~~relating to declaration and payment~~ set out in this ~~Article~~ Section;

**Article 22(7), first  
part of sentence,  
contained in  
Article 28h  
(replaced by  
2000/65/EC)**

*Adapted*

~~they~~ Member States shall also take the measures necessary to ensure that those persons who, in accordance with ~~Article 21(3)~~ Article 197, are held to be jointly and severally liable for payment of the ~~tax~~ VAT comply with ~~the the payment~~ obligations ~~relating to payment set out in this Article~~.

**Article 22(7),  
second part of  
sentence,  
contained in  
Article 28h  
(replaced by  
2000/65/EC)**

*Adapted*

Article 200

~~When they~~ If, in the case of gold material, semi-manufactured products of a purity of 325 thousandths or greater, or investment gold, Member States exercise ~~this the~~ option, ~~Member States of designating the customer as the person liable for payment of VAT, they~~ shall take the measures necessary to ensure that ~~the person designated as liable for the tax due fulfils he complies with~~ the payment obligations ~~to submit a statement and to pay the tax in accordance with Article 22 set out in this Section.~~

Article 26b(F),  
second sentence  
(inserted by  
98/80/EC)

Adapted

Article 201

~~10.—~~ Member States shall take the measures necessary to ensure that non-taxable legal persons who are liable for ~~the tax payable payment of VAT due~~ in respect of intra-Community acquisitions of goods, ~~covered by the first subparagraph of Article 28a(1)(a) as referred to in Article 3(1)(b)(i),~~ comply with the above payment obligations ~~relating to declaration and payment and that they are identified by an individual number as defined in paragraph 1(e), (d) and (e) set out in this Section.~~

Article 22(10),  
contained in  
Article 28h  
(inserted by  
91/680/EEC)

Adapted

Article 202

~~11.—~~ In the case of intra-Community acquisitions of products subject to excise duty referred to in Article 28a(1)(c) as well as in the case of intra-Community acquisitions of new means of transport covered by Article 28a(1)(b), Member States shall adopt arrangements for declaration and subsequent payment of VAT on intra-Community acquisitions of new means of transport, as referred to in Article 3(1)(b)(ii), and on intra-Community acquisitions of products subject to excise duty, as referred to in Article 3(1)(b)(iii).

Article 22(11),  
contained in  
Article 28h  
(inserted by  
91/680/EEC and  
amended by  
92/111/EEC)

Adapted

Article 203

~~As regards imported goods,~~ Member States shall lay down the detailed rules for payment in respect of the making of the declarations and payments importation of goods.

Article 23, first  
paragraph  
(77/388/EEC)

Adapted



In particular, Member States may provide that, in the value added tax payable on case of the importation of goods by taxable persons or certain categories thereof, or by persons liable to tax for payment of VAT or certain categories of these two thereof, the VAT due by reason of the importation need not be paid at the time of importation, on condition that the tax it is mentioned entered as such in a the VAT return to be submitted under Article 22(4) in accordance with Articles 242 and 243.

**Article 23, second paragraph (77/388/EEC)**

*Adapted*

#### Article 204

~~(e)~~—Member States may release taxable persons from payment of the ~~tax-VAT~~ due where the amount ~~involved~~ is insignificant.

**Article 22(9)(c), contained in Article 28h (inserted by 91/680/EEC)**

*Adapted*

### **TITLE XIII**

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

### **OBLIGATIONS OF PERSONS LIABLE FOR PAYMENT**

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

#### Article 22

**Article 22 (77/388/EEC)**

#### **Obligations under the internal system**

**Heading of Article 22 (77/388/EEC)**

~~1.~~—~~Every taxable person shall state when his activity as a taxable person commences, changes or ceases.~~

**Article 22(1) (77/388/EEC)**

*Obsolete*

~~2.~~—~~Every taxable person shall keep accounts in sufficient detail to permit application of the value added tax and inspection by the tax authority.~~

**Article 22(2) (77/388/EEC)**

*Obsolete*

<p><del>3. (a) Every taxable person shall issue an invoice, or other document serving as invoice in respect of all goods and services supplied by him to another taxable person, and shall keep a copy thereof.</del></p>	<p><b>Article 22(3)(a), first subparagraph (77/388/EEC)</b></p> <p><i>Obsolete</i></p>
<p><del>Every taxable person shall likewise issue an invoice in respect of payments on account made to him by another taxable person before the supply of goods or services is effected or completed.</del></p>	<p><b>Article 22(3)(a), second subparagraph (77/388/EEC)</b></p> <p><i>Obsolete</i></p>
<p><del>(b) The invoice shall state clearly the price exclusive of tax and the corresponding tax at each rate as well as any exemptions.</del></p>	<p><b>Article 22(3)(b) (77/388/EEC)</b></p> <p><i>Obsolete</i></p>
<p><del>(c) The Member States shall determine the criteria for considering whether a document serves as an invoice.</del></p>	<p><b>Article 22(3)(c) (77/388/EEC)</b></p> <p><i>Obsolete</i></p>
<p><del>4. Every taxable person shall submit a return within an interval to be determined by each Member State. This interval may not exceed two months following the end of each tax period. The tax period may be fixed by Member States as a month, two months, or a quarter. However, Member States may fix different periods provided that these do not exceed a year.</del></p>	<p><b>Article 22(4), first subparagraph (77/388/EEC)</b></p> <p><i>Obsolete</i></p>
<p><del>The return must set out all the information needed to calculate the tax that has become chargeable and the deductions to be made, including, where appropriate, and in so far as it seems necessary for the establishment of the tax basis, the total amount of the transactions relative to such tax and deductions, and the total amount of the exempted supplies.</del></p>	<p><b>Article 22(4), second subparagraph (77/388/EEC)</b></p> <p><i>Obsolete</i></p>
<p><del>5. Every taxable person shall pay the net amount of the value added tax when submitting the return. The Member States may, however, fix a different date for the payment of the amount or may demand an interim payment.</del></p>	<p><b>Article 22(5) (77/388/EEC)</b></p> <p><i>Obsolete</i></p>
<p><del>6. Member States may require a taxable person to submit a statement, including the information specified in paragraph 4, and concerning all transactions carried out the preceding year. This statement must provide all the information necessary for any adjustments.</del></p>	<p><b>Article 22(6) (77/388/EEC)</b></p> <p><i>Obsolete</i></p>

~~7. Member States shall take the necessary measures to ensure that those persons who, in accordance with Article 21(1)(a) and (b), are considered to be liable to pay the tax instead of a taxable person established in another country or who are jointly, and severally liable for the payment, shall comply with the above obligations relating to declaration and payment.~~

**Article 22(7)**  
**(77/388/EEC)**

*Obsolete*

~~8. Without prejudice to the provisions to be adopted pursuant to Article 17(4), Member States may impose other obligations which they deem necessary for the correct levying and collection of the tax and for the prevention of fraud.~~

**Article 22(8)**  
**(77/388/EEC)**

*Obsolete*

~~9. Member States may release taxable persons:~~

**Article 22(9)**  
**(77/388/EEC)**

*Obsolete*

~~— from certain obligations,~~

**Article 22(9), first indent**  
**(77/388/EEC)**

*Obsolete*

~~— from all obligations where those taxable persons carry out only exempt transactions,~~

**Article 22(9), second indent**  
**(77/388/EEC)**

*Obsolete*

~~— from the payment of the tax due where the amount is insignificant.~~

**Article 22(9), third indent**  
**(77/388/EEC)**

*Obsolete*

## **Chapter 2**

### **Identification**

*Article 28h*

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

### **Obligations of persons liable for payment**

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

~~Article 22~~Article 205

**Obligations under the internal system**

1. ~~(a)~~—Every taxable person shall state when his activity as a taxable person commences, changes or ceases.

Member States shall, ~~subject to conditions which they lay down, allow the taxable person to make such statements by electronic means, allow, and may also require that, the statement to be made by electronic means are used, in accordance with conditions which they lay down.~~

- ~~(b)~~2. Without prejudice to ~~(a) the first subparagraph of paragraph 1,~~ every taxable person ~~referred to in Article 28a(1)(a), second subparagraph, shall or non-taxable legal person who makes intra-Community acquisitions of goods which are not subject to VAT pursuant to Article 4(1) must~~ state that he ~~is effecting intra-Community makes such~~ acquisitions of goods ~~when if~~ the conditions ~~for application of the derogation provided for, laid down~~ in that ~~Article are provision, for not making such transactions subject to VAT cease to be~~ fulfilled.

Article 206

1. ~~(e)~~—Member States shall take the measures necessary to ~~identify ensure that the following persons are identified~~ by means of an individual number:

Article 22,  
contained in  
Article 28h  
(inserted by  
91/680/EEC)

Heading of  
Article 22,  
contained in  
Article 28h  
(inserted by  
91/680/EEC)

Article 22(1)(a),  
first sentence,  
contained in  
Article 28h  
(replaced by  
2002/38/EC)

Article 22(1)(a),  
second sentence,  
contained in  
Article 28h  
(inserted by  
2002/38/EC)

Adapted

Article 22(1)(b),  
contained in  
Article 28h  
(inserted by  
91/680/EEC)

Adapted

Article 22(1)(c),  
contained in  
Article 28h  
(inserted by  
91/680/EEC)

(a) every taxable person, with the exception of those referred to in ~~Article 28a(4)~~ Article 10(2), who within ~~the~~their territory ~~of the country effects~~carries out supplies of goods or ~~of~~ services ~~giving him the right of deduction on which VAT is deductible~~, other than supplies of goods or ~~of~~ services ~~for in respect of~~ which ~~tax~~VAT is payable solely by the customer ~~or the recipient or the person for whom the goods or services are intended~~, in accordance with ~~Article 21(1)(a), (b), (c) or (f)~~ Articles 187 to 190;

**Article 22(1)(c), first indent, first sentence, contained in Article 28h (replaced by 2003/92/EC)**

*Adapted*

~~(b)~~ every taxable person ~~referred to in paragraph 1(b), or non-taxable legal person, who makes intra-Community acquisitions of goods subject to VAT pursuant to Article 3(1)(b)~~ and every taxable person or non-taxable legal person who exercises the option ~~provided for in the third subparagraph of Article 28a(1)(a)~~ under Article 4(3) of making their intra-Community acquisitions subject to VAT;

**Article 22(1)(c), second indent, contained in Article 28h (inserted by 91/680/EEC)**

*Adapted*

~~(c)~~ every taxable person who, within ~~the~~their territory ~~of the country, effects~~, makes intra-Community acquisitions of goods for the purposes of ~~his operations relating transactions which relate~~ to the ~~economic~~ activities referred to in ~~Article 4(2) the second subparagraph of Article 10(1) and which are~~ carried out ~~abroad~~ outside that territory.

**Article 22(1)(c), third indent, contained in Article 28h (inserted by 92/111/EEC)**

*Adapted*

2. ~~However~~, Member States need not identify certain taxable persons ~~referred to in Article 4(3) who carry out transactions on an occasional basis, as referred to in Article 13~~;

**Article 22(1)(c), first indent, second sentence, contained in Article 28h (replaced by 2003/92/EC)**

*Adapted*

Article 207

~~(d)~~—Each individual identification number shall have a prefix in accordance with ISO ~~International Standard N° code~~ 3166 – alpha 2 – by which the Member State of issue may be identified.

**Article 22(1)(d),  
first sentence,  
contained in  
Article 28h  
(inserted by  
91/680/EEC)**

*Adapted*

Nevertheless, ~~the Hellenic Republic shall be authorised to~~ Greece may use the prefix ‘EL’.

**Article 22(1)(d),  
second sentence,  
contained in  
Article 28h  
(inserted by  
2001/115/EC)**

*Adapted*

Article 208

~~(e)~~—Member States shall take the measures necessary to ensure that their identification systems ~~distinguish~~ enable the taxable persons referred to in ~~(e)–Article 206 to be identified~~ and thus to ensure the correct application of the transitional arrangements for the taxation of intra-Community transactions, ~~as laid down in this Title referred to in Article 395.~~

**Article 22(1)(e),  
contained in  
Article 28h  
(inserted by  
91/680/EEC)**

*Adapted*

**Chapter 3**

**Invoicing**

**Section 1**

**Concept of invoice**

Article 209

For the purposes of this Directive, Member States shall accept documents or messages ~~in~~ on paper or in electronic form as invoices if they meet the conditions laid down in this ~~paragraph~~ Chapter.

**Article 22(3)(e), second subparagraph, contained in Article 28h (inserted by 2001/115/EC)**

Adapted

Article 210

Any document or message that amends and refers specifically and unambiguously to the initial invoice ~~is to~~ shall be treated as an invoice.

**Article 22(3)(a), fifth subparagraph, first sentence, contained in Article 28h (inserted by 2001/115/EC)**

Adapted

**Section 2**

**Issue of invoices**

Article 211

~~3. — (a) —~~ Every taxable person shall ensure that, in respect of the following, an invoice is issued, either by himself or by his customer or, in his name and on his behalf, by a third party, ~~in respect of goods or services which he has supplied or rendered to another taxable person or to a non-taxable legal person.~~

**Article 22(3)(a), first subparagraph, first sentence, contained in Article 28h (replaced by 2001/115/EC)**

<p><del>3-(1)</del> (a) <del>Every taxable person shall ensure that an invoice is issued, either by himself or by his customer or, in his name and on his behalf, by a third party, in respect of</del> <u>supplies</u> of goods or services which he has <del>supplied or rendered</del> <u>made</u> to another taxable person or to a non-taxable legal person.;</p>	<p>Article 22(3)(a), first subparagraph, first sentence, contained in Article 28h (replaced by 2001/115/EC)</p> <p><i>Adapted</i></p>
<p><del>(2)</del> <del>Every taxable person shall also ensure that an invoice is issued, either by himself or by his customer or, in his name and on his behalf, by a third party, in respect of</del> <u>the</u> supplies of goods <u>as</u> referred to in <del>Article 28b(B)(1) and in respect of goods supplied under the conditions laid down in Article 28e(A)</del> <u>Article 34</u>.;</p>	<p>Article 22(3)(a), first subparagraph, second sentence, contained in Article 28h (replaced by 2001/115/EC)</p>
<p><del>(3)</del> <del>Every taxable person shall also ensure that an invoice is issued, either by himself or by his customer or, in his name and on his behalf, by a third party, in respect of</del> <u>the</u> supplies of goods referred to in <del>Article 28b(B)(1) and in respect of</del> <u>supplies</u> of goods <u>supplied under</u> <u>carried out in accordance with</u> the conditions <u>laid down</u> <u>specified</u> in <del>Article 28e(A)</del> <u>Article 135</u>.;</p>	<p>Article 22(3)(a), first subparagraph, second sentence, contained in Article 28h (replaced by 2001/115/EC)</p> <p><i>Adapted</i></p>
<p><del>(4)</del> <del>Every taxable person shall likewise ensure that an invoice is issued, either by himself or by his customer or, in his name and on his behalf, by a third party, in respect of</del> any payment on account made to him before <u>any one of the</u> supplies of goods referred to in <del>the first subparagraph points (1), (2) and in respect of</del> <u>any</u> payment on account made to him by another taxable person or non-taxable legal person before the provision of services is completed <u>(3) was carried out</u>.;</p>	<p>Article 22(3)(a), second subparagraph, contained in Article 28h (replaced by 2001/115/EC)</p> <p><i>Adapted</i></p>



(5) ~~Every taxable person shall likewise ensure that an invoice is issued, either by himself or by his customer or, in his name and on his behalf, by a third party, in respect of any payment on account made to him before any supplies of goods referred to in the first subparagraph and in respect of any payment on account made to him by another taxable person or non-taxable legal person before the provision of services is was completed.~~

Article 22(3)(a), second subparagraph, contained in Article 28h (replaced by 2001/115/EC)

*Adapted*

#### Article 212

1. Member States may impose on taxable persons an obligation to issue an invoice in respect of supplies of goods or services made in their territory, other than those referred to in ~~the preceding subparagraphs which they have supplied or rendered on their territory~~ Article 211.

Article 22(3)(a), third subparagraph, first sentence, contained in Article 28h (inserted by 2001/115/EC)

*Adapted*

~~When they do so, Member States may impose fewer obligations, in respect of these the invoices referred to in the first subparagraph, impose fewer obligations than those listed under points (b), (c) and (d) laid down in Articles 217, 218, 236 and 238.~~

Article 22(3)(a), third subparagraph, second sentence, contained in Article 28h (inserted by 2001/115/EC)

*Adapted*

2. ~~The~~ Member States may release taxable persons from the obligation laid down in Article 211 to issue an invoice in respect of supplies of goods or services which they have supplied or rendered made in their territory and which are exempt, with or without ~~refund deductibility~~ of the ~~tax-VAT~~ paid at the preceding stage, pursuant to ~~Article 13, Article 28(2)(a) and Article 28(3)(b)~~ Articles 106 and 107, Article 121(1), Articles 122 and 124, Article 125(1), Articles 129 to 133, Article 364 and Articles 368 to 383.

Article 22(3)(a), fourth subparagraph, first sentence, contained in Article 28h (inserted by 2001/115/EC)

*Adapted*

Article 213

Member States may impose time limits for the issue of invoices on taxable persons supplying goods and services in their territory.

**Article 22(3)(a), sixth subparagraph, contained in Article 28h (inserted by 2001/115/EC)**

Article 214

~~Under~~ In accordance with conditions to be laid down by the Member States in whose territory goods or services are supplied ~~or rendered~~, a summary invoice may be drawn up for several separate supplies of goods or services.

**Article 22(3)(a), seventh subparagraph, contained in Article 28h (inserted by 2001/115/EC)**

*EN amended*

Article 215

1. Invoices may be drawn up by the customer ~~of a taxable person~~ in respect of the supply to him, by a taxable person, of goods or services ~~supplied or rendered to him by that taxable person, on condition that, if~~ there is at the outset an a prior agreement between the two parties; and ~~on condition provided~~ that a procedure exists for the acceptance of each invoice by the taxable person supplying the goods or services.

**Article 22(3)(a), eighth subparagraph, first sentence, contained in Article 28h (inserted by 2001/115/EC)**

*Adapted*

2. The Member States in whose territory the goods or services are supplied ~~or rendered~~ shall determine the terms and conditions of ~~the agreement such prior agreements~~ and of the acceptance procedures between the taxable person and ~~his~~ the customer.

**Article 22(3)(a), eighth subparagraph, second sentence, contained in Article 28h (inserted by 2001/115/EC)**

*Adapted*

3. Member States may impose further conditions on taxable persons supplying goods or services in their territory concerning the issue of invoices by the ~~customers of taxable persons supplying goods or services on their territory. For example, they customer. They~~ may, in particular, require that such invoices be issued in the name and on behalf of the taxable person.

Article 22(3)(a), ninth subparagraph, first and second sentences, *contained in Article 28h* (inserted by 2001/115/EC)

*Adapted*

~~Such~~ The conditions referred to in the first subparagraph must always be the same wherever the customer is established.

Article 22(3)(a), ninth subparagraph, third sentence, *contained in Article 28h* (inserted by 2001/115/EC)

#### Article 216

Member States may ~~also lay down~~ impose specific conditions ~~for on~~ taxable persons supplying goods or services in their territory in cases where the third party, or the customer, who issues invoices is established in a country with which no legal instrument exists relating to mutual assistance similar in scope to that ~~laid down by Council provided for in Directive 76/308/EEC of 15 March 1976 on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures, Council Directive 77/799/EEC of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct and indirect taxation and by Council Regulation (EEC) No 218/92 of 27 January 1992 on administrative cooperation in the field of indirect taxation (VAT) (EC) No 1798/2003.~~

Article 22(3)(a), tenth subparagraph, *contained in Article 28h* (inserted by 2001/115/EC)

*Adapted*

#### Section 3

#### Content of invoices

Article 217

~~(b)~~ Without prejudice to the ~~specific arrangements particular provisions~~ laid down ~~by in~~ this Directive, only the following details are required for VAT purposes on invoices issued ~~under the first, second and third subparagraphs of point (a)~~ pursuant to Articles 211 and 212:

**Article 22(3)(b), first subparagraph, contained in Article 28h (replaced by 2001/115/EC)**

*Adapted*

(1) the date of issue;

**Article 22(3)(b), first subparagraph, first indent, contained in Article 28h (inserted by 2001/115/EC)**

(2) a sequential number, based on one or more series, which uniquely identifies the invoice;

**Article 22(3)(b), first subparagraph, second indent, contained in Article 28h (inserted by 2001/115/EC)**

(3) the VAT identification number referred to in ~~paragraph 1(e)~~ Article 206 under which the taxable person supplied the goods or services;

**Article 22(3)(b), first subparagraph, third indent, contained in Article 28h (inserted by 2001/115/EC)**

- |     |  |  |
|-----|--|--|
| (4) | <del>where the customer is liable to pay tax on goods supplied or services rendered or has been supplied with goods as referred to in <a href="#">Article 28c(A)</a>, the customer's VAT identification number, as referred to in <a href="#">paragraph 1(e)–Article 206</a>, under which the customer received a supply of goods <del>were supplied</del> or the services rendered to him in respect of which he is liable for payment of VAT, or received a supply of goods as referred to in <a href="#">Article 135</a>;</del> | <b>Article 22(3)(b), first subparagraph, fourth indent, contained in <i>Article 28h</i> (inserted by 2001/115/EC)</b>  |
|     |  | <i>Adapted</i>   |
| (5) | the full name and address of the taxable person and of <del>his</del> the customer;  | <b>Article 22(3)(b), first subparagraph, fifth indent, contained in <i>Article 28h</i> (inserted by 2001/115/EC)</b>   |
|     |  | <i>EN amended</i>  |
| (6) | the quantity and nature of the goods supplied or the extent and nature of the services rendered;   | <b>Article 22(3)(b), first subparagraph, sixth indent, contained in <i>Article 28h</i> (inserted by 2001/115/EC)</b>   |
| (7) | the date on which the supply of goods or <del>of</del> services was made or completed or the date on which the payment on account referred to in <del>the second subparagraph of point (a)–points (3) and (4) of <a href="#">Article 211</a></del> was made, <del>insofar in so far</del> as that <del>a</del> date can be determined and differs from the date of issue of the invoice;   | <b>Article 22(3)(b), first subparagraph, seventh indent, contained in <i>Article 28h</i> (inserted by 2001/115/EC)</b> |

(8)	the taxable amount per rate or exemption, the unit price exclusive of <del>tax</del> <u>VAT</u> and any discounts or rebates if they are not included in the unit price;	<b>Article 22(3)(b), first subparagraph, eighth indent, contained in Article 28h (inserted by 2001/115/EC)</b>
(9)	the VAT rate applied;	<b>Article 22(3)(b), first subparagraph, ninth indent, contained in Article 28h (inserted by 2001/115/EC)</b>
(10)	the VAT amount payable, except where a <del>specific</del> <u>special</u> arrangement is applied <del>for</del> <u>under</u> which, <u>in accordance with</u> this Directive <del>excludes</del> , such a detail <u>is excluded</u> ;	<b>Article 22(3)(b), first subparagraph, tenth indent, contained in Article 28h (inserted by 2001/115/EC)</b>
(11)	<u>where in the case of</u> an exemption <del>is involved</del> or where the customer is liable <del>to pay the tax for payment of VAT</del> , reference to the <u>appropriate applicable</u> provision of this <del>directive, Directive, or</del> to the corresponding national provision, or <del>to any indication other reference indicating</del> that the supply <u>of goods or services</u> is exempt or subject to the reverse charge procedure;	<i>Adapted</i> <b>Article 22(3)(b), first subparagraph, eleventh indent, contained in Article 28h (inserted by 2001/115/EC)</b> <i>Adapted</i>

<p>(12) <del>where in the case of the intra-Community supply of a new means of transport is involved made in accordance with the conditions specified in Article 135, the particulars specified characteristics as identified in Article 28a(2) Article 3(2);</del></p>	<p>Article 22(3)(b), first subparagraph, twelfth indent, contained in Article 28h (inserted by 2001/115/EC)</p> <p><i>Adapted</i></p>
<p>(13) where the margin scheme for travel agents is applied, reference to <del>Article 26 or 26a, Article 299, or</del> to the corresponding national provisions, or <del>to</del> any other <del>indication</del> reference indicating that the margin scheme has been applied;</p>	<p>Article 22(3)(b), first subparagraph, thirteenth indent, contained in Article 28h (inserted by 2001/115/EC)</p> <p><i>Adapted</i></p>
<p>(14) where <del>one of the margin scheme special arrangements applicable to second-hand goods, works of art, collectors' items or antiques</del> is applied, reference to <del>Article 26 or 26a, Articles 305, 318 or 325, or</del> to the corresponding national provisions, or <del>to</del> any other <del>indication</del> reference indicating that <del>the margin scheme one of those arrangements</del> has been applied;</p>	<p>Article 22(3)(b), first subparagraph, thirteenth indent, contained in Article 28h (inserted by 2001/115/EC)</p> <p><i>Adapted</i></p>
<p>(15) where the person liable <del>to pay the tax for payment of VAT</del> is a tax representative <del>within the meaning for the purposes of Article 21(2) Article 196,</del> the VAT identification number, referred to in <del>paragraph 1(e) Article 206,</del> of that tax representative, together with his full name and address.</p>	<p>Article 22(3)(b), first subparagraph, fourteenth indent, contained in Article 28h (inserted by 2001/115/EC)</p> <p><i>Adapted</i></p>

~~Article 218~~

Member States may require taxable persons established ~~on~~in their territory and supplying goods or services ~~on their territory there~~ to indicate the VAT identification number, referred to in ~~paragraph 1(e) Article 206~~, of ~~their~~the customer in cases other than those referred to in ~~the fourth indent of the first subparagraph~~ point (4) of Article 217.

**Article 22(3)(b), second subparagraph, contained in Article 28h (inserted by 2001/115/EC)**

*Adapted*

Article 219

Member States in whose territory goods or services are supplied ~~or rendered~~ may allow some of the ~~obligatory compulsory~~ details to be ~~left out of such~~ omitted from documents or messages treated as invoices pursuant to Article 210.

**Article 22(3)(a), fifth subparagraph, second sentence, contained in Article 28h (inserted by 2001/115/EC)**

*Adapted*

Article 220

Member States shall not require invoices to be signed.

**Article 22(3)(b), third subparagraph, contained in Article 28h (inserted by 2001/115/EC)**



Article 221

The amounts which appear on the invoice may be expressed in any currency, provided that the amount of ~~tax to be paid~~ VAT payable is expressed in the national currency of the Member State where in which the supply of goods or services takes place, using the conversion mechanism laid down in ~~Article 11 C(2)~~ Article 88.

**Article 22(3)(b), fourth subparagraph, contained in Article 28h (inserted by 2001/115/EC)**

*Adapted*

Article 222

~~Where necessary for control~~ For supervisory purposes, Member States may require invoices in respect of supplies of goods ~~supplied~~ or services ~~rendered~~ in their territory and invoices received by taxable persons established in their territory to be translated into their national languages.

**Article 22(3)(b), fifth subparagraph, contained in Article 28h (inserted by 2001/115/EC)**

*Adapted*

Section 4

Sending invoices and making them available

Article 223

~~(e)~~—Invoices issued pursuant to ~~point (a)~~ Section 2 may be sent ~~either~~ on paper or, subject to ~~an~~ acceptance by the ~~customer~~, recipient, they may be sent or made available by electronic means.

**Article 22(3)(c), first subparagraph, contained in Article 28h (replaced by 2001/115/EC)**

*Adapted*

Article 224

Invoices sent or made available by electronic means shall be accepted by Member States provided that the authenticity of the origin and integrity of the contents are guaranteed<sup>44</sup>.

**Article 22(3)(c), second subparagraph, contained in Article 28h (inserted by 2001/115/EC)**

*Adapted*

Article 225

1. The authenticity and integrity of the content of invoices sent or made available by electronic means may be guaranteed by means of an advanced electronic signature within the meaning of point (2) of Article 2(2) of Directive 1999/93/EC of the European Parliament and of the Council ~~of 13 December 1999 on a Community framework for electronic signatures~~<sup>44</sup>.

**Article 22(3)(c), second subparagraph, first indent, first sentence, contained in Article 28h (inserted by 2001/115/EC)**

*Adapted*

Member States may, however, ask for the advanced electronic signature to be based on a qualified certificate and created by a secure-signature-creation device, within the meaning of points (6) and (10) of Article 2(6) and (10) of the aforementioned Directive 1999/93/EC.

**Article 22(3)(c), second subparagraph, first indent, second sentence, contained in Article 28h (inserted by 2001/115/EC)**

<sup>44</sup> [OJ L 13, 19.1.2000, p. 12.](#)

2. ~~or~~ In addition to the possibility provided for in paragraph 1, the authenticity and integrity of invoices sent or made available by electronic means may be guaranteed by means of electronic data interchange (EDI), as defined in Article 2 of Commission Recommendation 1994/820/EC ~~of 19 October 1994 relating to the legal aspects of electronic data interchange when<sup>45</sup>~~, if the agreement relating to the exchange provides for the use of procedures guaranteeing the authenticity of the origin and integrity of the data~~;~~.

~~however~~ However Member States may, subject to conditions which they lay down, require that an additional summary document on paper ~~is necessary be sent~~.

#### Article 226

Invoices may ~~however~~ be sent or made available by ~~other~~ electronic means other than those provided for in Article 225, subject to acceptance by the Member State(s) ~~States~~ concerned.

Article 22(3)(c), second subparagraph, second indent, first sentence, contained in *Article 28h* (inserted by 2001/115/EC)

*Adapted*

Article 22(3)(c), second subparagraph, second indent, second sentence, contained in *Article 28h* (inserted by 2001/115/EC)

*Adapted*

Article 22(3)(c), third subparagraph, first sentence, contained in *Article 28h* (replaced by 2001/115/EC)

*Adapted*

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<sup>45</sup> [OJ L 338, 28.12.1994, p. 98.](#)

[Article 227](#)

Member States may not impose on taxable persons supplying goods or services in their territory any other obligations or formalities relating to the ~~transmission of sending or making available of~~ invoices by electronic means.

**Article 22(3)(c), fourth subparagraph, first sentence, contained in Article 28h (replaced by 2001/115/EC)**

Adapted

~~However, they~~ Member States may ~~provide, however~~, until 31 December 2005, provide that the use of such a system is to be subject to prior notification.

**Article 22(3)(c), fourth subparagraph, second sentence, contained in Article 28h (replaced by 2001/115/EC)**

[Article 228](#)

Member States may lay down specific conditions for invoices issued by electronic means ~~for in respect of~~ goods or services supplied in their territory from a country with which no legal instrument exists relating to mutual assistance similar in scope to that ~~laid down by Directives provided for in Directive 76/308/EEC and 77/799/EEC and by Regulation (EEC) No 218/92 (EC) No 1798/2003.~~

**Article 22(3)(c), fifth subparagraph, contained in Article 28h (replaced by 2001/115/EC)**

[Article 229](#)

~~When~~ Where batches containing several invoices are sent or made available to the same recipient by electronic means, the details ~~that are~~ common to the individual invoices may be mentioned only once if, for each invoice, all the information is accessible.

**Article 22(3)(c), sixth subparagraph, contained in Article 28h (inserted by 2001/115/EC)**

Adapted

Article 230

The Commission ~~will~~ shall present, at the latest on 31 December 2008, a report, ~~together with a proposal and~~, if appropriate, a proposal amending the conditions ~~on~~ applicable to electronic invoicing in order to take account of ~~possible~~ future technological developments in ~~this~~ that field.

**Article 22(3)(c),  
third subpara-  
graph, second  
sentence,  
contained in  
Article 28h  
(inserted by  
2001/115/EC)**

*Adapted*

Section 5

Simplification measures

Article 231

~~(d)1.~~ ~~Subject to consultation of~~ After consulting the VAT Committee ~~provided for in Article 29 and under the conditions which they may lay down~~, Member States may, in accordance with conditions which they may lay down, provide that in the following cases some of the information required under Article 217 need not be entered on invoices in respect of supplies of goods ~~supplied~~ or services ~~rendered in their territory do not have to fulfil some of the conditions laid down in paragraph 3(b) in the following cases in their territory:~~

**Article 22(9)(d),  
first subpara-  
graph,  
contained in  
Article 28h  
(inserted by  
2001/115/EEC)**

*Adapted*

(a) ~~when~~ where the amount of the invoice is minor, ~~or~~;

**Article 22(9)(d),  
first subpara-  
graph, first  
indent,  
contained in  
Article 28h  
(inserted by  
2001/115/EC)**

(b) ~~when~~ where commercial or administrative practice in the business sector concerned or the technical conditions under which the invoices are issued make it difficult to comply with all the ~~requirements~~ obligations referred to in ~~paragraph 3(b)~~ Section 3.

**Article 22(9)(d), first subparagraph, second indent, contained in Article 28h (inserted by 2001/115/EC)**

*Adapted*

2. ~~In any case, these invoices~~ Invoices must, in any event, contain the following information:

**Article 22(9)(d), second subparagraph, contained in Article 28h (inserted by 2001/115/EC)**

(a) the date of issue;<sub>2</sub>

**Article 22(9)(d), second subparagraph, first indent, contained in Article 28h (inserted by 2001/115/EC)**

(b) identification of the taxable person;<sub>2</sub>

**Article 22(9)(d), second subparagraph, second indent, contained in Article 28h (inserted by 2001/115/EC)**

(c) identification of the type of goods ~~supplied~~ or services ~~rendered~~ supplied;<sub>2</sub>

**Article 22(9)(d), second subparagraph, third indent, contained in Article 28h (inserted by 2001/115/EC)**

*EN amended*

(d) the ~~tax~~ VAT due or the information needed to calculate it.

Article 22(9)(d),  
second subpara-  
graph, fourth  
indent,  
*contained in  
Article 28h  
(inserted by  
2001/115/EC)*

3. The simplified arrangements provided for in ~~this point paragraph 1~~ may not be applied to the transactions referred to in ~~paragraph 4(e)~~ Articles 21, 22, 23, 34, 37, 135 and 138 in the cases specified in Article 243.

Article 22(9)(d),  
third subpara-  
graph,  
*contained in  
Article 28h  
(inserted by  
2001/115/EC)*

#### Article 232

~~(e)~~—In cases where Member States make use of the option ~~provided for in the third indent of point (a) to refrain from under Article 265(1)(b) of not~~ allocating a VAT identification number ~~as referred to in paragraph 1(e)~~ to taxable persons who do not carry out any of the transactions referred to in ~~paragraph 4(e)~~ Articles 21, 22, 23, 34, 37, 135 and 138 in the cases specified in Article 243, and where the supplier or the customer ~~have~~ has not been allocated an identification number of ~~this that~~ type, ~~the invoice should feature instead~~ another number called the tax reference number, as defined by the Member States concerned, shall be entered on the invoice instead.

Article 22(9)(e),  
first subpara-  
graph,  
*contained in  
Article 28h  
(inserted by  
2001/115/EC)*

*Adapted*

#### Article 233

~~When—Where~~ the taxable person has been allocated ~~an—a~~ VAT identification number ~~as referred to in paragraph 1(e)~~, the Member States ~~referred to in the first subparagraph exercising the option under Article 265(1)(b)~~ may also require the invoice to show the following:

Article 22(9)(e),  
second subpara-  
graph,  
*contained in  
Article 28h  
(inserted by  
2001/115/EC)*

*Adapted*

(1) ~~for in respect of the supply of services rendered, as referred to in Article 28b(C), (D), (E) and (F) Articles 45, 48, 50, 51, 53, 54 and 55, and for supplies the supply of goods, as referred to in Article 28c(A) and (E) point 3, Articles 135 and 138, the VAT identification number referred to in paragraph 1(e)~~ and the tax reference number of the supplier;

Article 22(9)(e), second subparagraph, first indent, contained in Article 28h (inserted by 2001/115/EC)

*Adapted*

(2) ~~for in respect of other supplies of goods and or services, only the tax reference number of the supplier or only the VAT identification number referred to in paragraph 1(e).~~

Article 22(9)(e), second subparagraph, second indent, contained in Article 28h (inserted by 2001/115/EC)

*Adapted*

#### Chapter 4

#### Accounting

#### Section 1

#### General obligations

#### Article 234

~~2. (a)~~ Every taxable person shall keep accounts in sufficient detail for ~~value added tax VAT~~ to be applied and ~~inspected its application checked~~ by the tax ~~authority authorities~~.

Article 22(2)(a), contained in Article 28h (inserted by 91/680/EEC)

*Adapted*



Article 235

~~(b)1.~~ Every taxable person shall keep a register of the goods ~~he has~~ dispatched or transported ~~or which have been dispatched or transported, by that person or~~ on his behalf ~~out of the territory defined in Article 3,~~ to a destination outside the territory of the Member State of departure but within the Community for the purposes of ~~the~~ transactions consisting in work on those goods or their temporary use as referred to in the fifth, sixth or seventh indents of Article 28a(5)(b) points (f), (g) and (h) of Article 18(2).

**Article 22(2)(b), first subparagraph, contained in Article 28h (replaced by 95/7/EC)**

*Adapted*

2. Every taxable person shall keep ~~sufficiently detailed~~ accounts in sufficient detail to ~~permit enable~~ the identification of goods dispatched to him from another Member State, by or on behalf of a taxable person identified for ~~purposes of value added tax-VAT purposes~~ in that other Member State, ~~in connection with which a service has been provided pursuant to the third or fourth indent of Article 9(2)(e)~~ and used for services consisting in valuations of those goods or work on those goods as referred to in point (c) of Article 52.

**Article 22(2)(b), second subparagraph, contained in Article 28h (replaced by 95/7/EC)**

*Adapted*

Section 2

Specific obligations relating to the storage of all invoices

Article 236

~~(d)~~ — Every taxable person shall ensure that copies of the invoices issued by himself, or by his customer or, in his name and on his behalf, by a third party, and all the invoices which he has received, are stored.

**Article 22(3)(d), first subparagraph, contained in Article 28h (inserted by 2001/115/EC)**

*Adapted*

Article 237

1. For the purposes of this Directive, the taxable person may decide the place of storage provided that he makes the invoices or information stored ~~there~~ in accordance with Article 236 available ~~without undue delay~~ to the competent authorities without undue delay whenever they so request.

**Article 22(3)(d), second subparagraph, first sentence, contained in Article 28h (inserted by 2001/115/EC)**

*Adapted*

2. Member States may, ~~however,~~ require taxable persons established in their territory to notify them of the place of storage, if it is outside their territory.

**Article 22(3)(d), second subparagraph, second sentence, contained in Article 28h (inserted by 2001/115/EC)**

Member States may, ~~in addition, also~~ require taxable persons established in their territory to store within ~~the country that~~ territory invoices issued by themselves or by their customers or, in their name and on their behalf, by a third party, as well as all the invoices ~~which that~~ they have received, when the storage is not by electronic means guaranteeing full on-line access to the data concerned.

**Article 22(3)(d), second subparagraph, third sentence, contained in Article 28h (inserted by 2001/115/EC)**

*Adapted*

Article 238

The authenticity of the origin and the integrity of the content of the invoices stored, as well as their ~~readability~~ legibility, must be guaranteed throughout the storage period.

**Article 22(3)(d), third subparagraph, first sentence, contained in Article 28h (inserted by 2001/115/EC)**

*Adapted*

~~As regards the invoices referred to in the third subparagraph of point (e), the information they contain. The details entered on the invoices referred to in Article 226~~ may not be altered; ~~it and~~ must remain legible throughout the ~~mentioned~~ storage period.

Article 22(3)(d),  
third subparagraph, second sentence,  
*contained in Article 28h*  
(inserted by 2001/115/EC)

*Adapted*

### Article 239

1. ~~The~~ Member States shall determine the period ~~for~~ throughout which taxable persons must ~~store~~ ensure the storage of invoices relating to ~~the supply of~~ goods or services ~~supplied~~ in their territory and invoices received by taxable persons established in their territory.

Article 22(3)(d),  
fourth subparagraph,  
*contained in Article 28h*  
(inserted by 2001/115/EC)

*EN amended*

2. In order to ensure that the conditions laid down in ~~the third subparagraph~~ Article 238 are met, Member States ~~referred to in the fourth subparagraph~~ may require that ~~the~~ invoices ~~referred to in paragraph 1~~ be stored in the original form in which they were sent ~~or made available~~, whether paper or electronic. ~~They may also require that when~~ Additionally, in the case of invoices ~~are~~ stored by electronic means, ~~Member States may require that~~ the data guaranteeing the authenticity of the origin ~~of the invoices~~ and ~~the~~ integrity of ~~the~~ their content also be stored.

Article 22(3)(d),  
fifth subparagraph,  
*contained in Article 28h*  
(inserted by 2001/115/EC)

*Adapted*

3. Member States ~~referred to in the fourth subparagraph~~ may ~~impose~~ lay down specific conditions prohibiting or restricting the storage of invoices ~~referred to in paragraph 1~~ in a country with which no legal instrument exists relating to mutual assistance similar in scope to that ~~laid down by Directives provided for in Directive 76/308/EEC, 77/799/EEC and by Regulation (EEC) No 218/92 and (EC) No 1798/2003~~ or to the right ~~of~~ referred to in Article 241 to access by electronic means, ~~to~~ download and ~~to~~ use ~~referred to in Article 22a~~.

Article 22(3)(d),  
sixth subparagraph,  
*contained in Article 28h*  
(inserted by 2001/115/EC)

*Adapted*

Article 240

Member States may, subject to conditions which they lay down, require the storage of invoices received by non-taxable persons.

**Article 22(3)(d), seventh subparagraph, contained in Article 28h (inserted by 2001/115/EC)**

Section 3

**Right of access to invoices stored by electronic means in another Member State**

~~Article 22a~~ Article 241

**Article 22a (inserted by 2001/115/EC)**

~~**Right of access to invoices stored by electronic means in another Member State**~~

**Heading of Article 22a (inserted by 2001/115/EC)**

~~When~~ Where a taxable person stores invoices which he issues or receives by ~~an~~ electronic means guaranteeing on-line access to the data and ~~when~~ where the place of storage is in a Member State other than that in which he is established, the competent authorities in the Member State in which he is established shall ~~have a right~~, for the ~~purpose~~ purposes of this ~~directive~~, Directive, ~~have the right~~ to access those invoices by electronic means, to download and to use ~~these invoices~~ them, within the limits set by the ~~regulations~~ rules of the Member State ~~where in which~~ the taxable person is established and ~~as in so~~ far as ~~that State requires those authorities require~~ for ~~control~~ supervisory purposes.

**Article 22a (inserted by 2001/115/EC)**

Adapted

Chapter 5

Returns

Article 242

~~(b) — The Every taxable person shall submit a VAT return shall set setting~~ out all the information needed to calculate the tax that has become chargeable and the deductions to be made including, ~~where appropriate,~~ ~~and~~ in so far as ~~it seems is~~ necessary for the establishment of the basis of assessment, the total value of the transactions ~~relative relating~~ to such tax and deductions and the value of any exempt transactions.

Article 22(4)(b),  
*contained in Article 28h*  
(inserted by  
91/680/EEC)

*Adapted*

Article 243

~~(e) — The In addition to the information referred to in Article 242, the VAT return shall also set out show the following:~~

Article 22(4)(c),  
*contained in Article 28h*  
(inserted by  
91/680/EEC)

*Adapted*

~~-(a) on the one hand,~~ the total value, ~~less value added tax exclusive of VAT,~~ of the supplies of goods referred to in ~~Article 28c(A) on Article 135 in respect of~~ which ~~tax-VAT~~ has become chargeable during the period covered by the return;

Article 22(4)(c),  
first indent, first  
subparagraph,  
*contained in Article 28h*  
(inserted by  
91/680/EEC)

*Adapted*

~~(b) The following shall also be added:~~ the total value, ~~less value added tax exclusive of VAT,~~ of the supplies of goods referred to in ~~the second sentence of Article 8(1)(a) and in Article 28b(B)(1) effected Article 34 and the first paragraph of Article 37 carried out~~ within ~~the territory of~~ another Member State ~~for,~~ in respect of which ~~tax-VAT~~ has become chargeable during the ~~return~~ period covered by the return, where the place ~~of departure of the where~~ dispatch or transport of the goods began is situated in the ~~territory of the country~~ Member State in which the return must be submitted;

Article 22(4)(c),  
first indent,  
second subpara-  
graph,  
*contained in Article 28h*  
(inserted by  
91/680/EEC)

*Adapted*

- |   |  |
|---|--|
| <p><del>(c)</del> <del>on the other hand,</del> the total <del>amount, less value added tax value,</del> <u>exclusive of VAT,</u> of the intra-Community acquisitions of goods and transactions treated as such, <u>as</u> referred to in <del>Article 28a(1) and (6) effected within the territory of the country on Articles 22 and 23,</del> <u>made in the Member State in which the return must be submitted and in respect of</u> which <del>tax-VAT</del> has become chargeable <u>during the period covered by the return;</u></p>  | <p>Article 22(4)(c), second indent, first subparagraph, contained in Article 28h (replaced by 92/111/EEC)</p> <p><i>Adapted</i></p>  |
| <p><del>(d)</del> <del>The following shall also be added:</del> the total value, <del>less value added tax</del> <u>exclusive of VAT,</u> of the supplies of goods referred to in <del>the second sentence of Article 8(1)(a) and in Article 28b(B)(1) effected Article 34 and the first paragraph of Article 37 carried out</del> in the <del>territory of the country on Member State in which the return must be submitted and in respect of</del> which <del>tax-VAT</del> has become chargeable during the <del>return</del> <u>period covered by the return,</u> where the place <del>of departure of the</del> <u>where</u> dispatch or transport of the goods <u>began</u> is situated within the territory of another Member State, <del>and the total amount, less value added tax, of the supplies of goods made within the territory of the country for which the taxable person has been designated as the person liable for the tax in accordance with Article 28c(E)(3) and under which the tax has become payable in the course of the period covered by the declaration;</del></p>                   | <p>Article 22(4)(c), second indent, second subparagraph, contained in Article 28h (replaced by 92/111/EEC)</p> <p><i>Adapted</i></p> |
| <p><del>(e)</del> <del>The following shall also be added:</del> the total value, <del>less value added tax,</del> of the supplies of goods referred to in <del>the second sentence of Article 8(1)(a) and in Article 28b(B)(1) effected in the territory of the country on which tax has become chargeable during the return period, where the place of departure of the dispatch or transport of the goods is situated within the territory of another Member State, and the total amount, less value added tax value, exclusive of VAT,</del> of the supplies of goods <del>made within the territory of the country for</del> <u>carried out in the Member State in which the return must be submitted and in respect of</u> which the taxable person has been designated, <u>in accordance with Article 190,</u> as <del>the person</del> liable for <del>the tax in accordance with Article 28c(E)(3) payment of VAT and under in respect of</del> which <del>the tax-VAT</del> has become <u>payable in the course of chargeable during</u> the <u>return</u> <del>period covered by the declaration.</del></p> | <p>Article 22(4)(c), second indent, second subparagraph, contained in Article 28h (replaced by 92/111/EEC)</p> <p><i>Adapted</i></p> |

Article 244

4.1. (a) ~~Every taxable person shall submit a~~ The VAT return shall be submitted by a deadline to be determined by Member States. That deadline may not be more than two months ~~later than~~ after the end of each tax period.

**Article 22(4)(a), first and second sentences, contained in Article 28h (replaced by 2002/38/EC)**

*Adapted*

2. The tax period shall be ~~fixed set~~ by each Member State at one month, two months or ~~a quarter~~ three months.

**Article 22(4)(a), third sentence, contained in Article 28h (replaced by 2002/38/EC)**

*Adapted*

Member States may, however, set different tax periods provided that ~~they~~ those periods do not exceed one year.

**Article 22(4)(a), fourth sentence, contained in Article 28h (replaced by 2002/38/EC)**

*Adapted*

Article 245

~~(x) — The Kingdom of Sweden may apply the following simplified procedure for small and medium sized enterprises, provided that the provisions are in conformity with the Treaty establishing the European Communities, and in particular Articles 95 and 96 thereof submission of value added returns three months after the end of the annual direct tax period by taxable persons carrying out domestic taxable transactions only.~~

**Annex IX(2)(x) (Act of Accession, AT, FI and SE)**

~~submission of value added tax returns three months after the end of the annual direct tax period by Sweden may apply a simplified procedure for small and medium-sized enterprises, whereby taxable persons carrying out domestic-only transactions taxable transactions only at national level may submit VAT returns three months after the end of the annual direct tax period.~~

**Annex IX(2)(x), first indent (Act of Accession, AT, FI and SE)**

*Adapted*

Article 246

~~(d)~~—In the case of supplies of new means of transport ~~effected under carried out in accordance with~~ the conditions ~~laid down specified~~ in ~~Article 28e(A)(b) Article 135(2)(a)~~ by a taxable person identified for VAT purposes ~~of value added tax to for~~ a ~~purchaser customer~~ not identified for VAT purposes ~~of value added tax~~, or by a taxable person as defined in ~~Article 28a(4) Article 10(2)~~, Member States shall take the measures necessary to ensure that the vendor communicates all the information ~~necessary needed~~ for ~~value added tax VAT~~ to be applied and ~~inspected its application checked~~ by the tax ~~authority authorities~~.

Article 22(6)(d),  
contained in  
Article 28h  
(inserted by  
91/680/EEC)

Adapted

Article 247

~~When they If~~, in the case of gold material, semi-manufactured products of a purity of 325 thousandths or greater, or investment gold, Member States exercise ~~this the~~ option, ~~Member States of designating the customer as liable for payment of VAT, they~~ shall take the measures necessary to ensure that ~~the person designated as liable for the tax due he~~ fulfils the obligations ~~to submit a statement and to pay the tax in accordance with Article 22~~ relating to submission of a VAT return, as laid down in this Chapter.

Article 26b(F),  
second sentence  
(inserted by  
98/80/EC)

Adapted

Article 248

7.—Member States shall take the measures necessary to ensure that ~~those~~ persons who, in accordance with ~~Article 21(1) and (2) Articles 187 to 190 and Article 196~~, are ~~considered to be regarded as~~ liable ~~to pay the tax instead for payment of VAT in the stead~~ of a taxable person not established within ~~the their~~ territory ~~of the country~~ comply with the obligations relating to ~~declaration and payment set out submission of a VAT return, as laid down~~ in this ~~Article Chapter~~.

Article 22(7), first  
part of sentence,  
contained in  
Article 28h  
(replaced by  
2000/65/EC)

Adapted

Article 249

10.—Member States shall take ~~the~~ measures ~~necessary~~ to ensure that non-taxable legal persons who are liable for ~~the tax payable payment of VAT due~~ in respect of intra-Community acquisitions of goods ~~covered by the first subparagraph of Article 28a(1)(a), as referred to in Article 3(1)(b)(i)~~, comply with the ~~above~~ obligations relating to ~~declaration and payment and that they are identified by an individual number as defined in paragraph 1(e), (d) and (e)~~ submission of a VAT return, as laid down in this Chapter.

Article 22(10),  
contained in  
Article 28h  
(inserted by  
91/680/EEC)

Adapted



Article 250

~~11. — In the case of intra-Community acquisitions of products subject to excise duty referred to in Article 28a(1)(c) as well as in the case of intra-Community acquisitions of new means of transport covered by Article 28a(1)(b), Member States shall adopt arrangements for declaration and subsequent payment lay down detailed rules for the submission of VAT returns in respect of intra-Community acquisitions of new means of transport, as referred to in Article 3(1)(b)(ii), and intra-Community acquisitions of products subject to excise duty, as referred to in Article 3(1)(b)(iii).~~

Article 22(11),  
contained in  
Article 28h  
(inserted by  
91/680/EEC and  
amended by  
92/111/EEC)

Adapted

Article 251

Member States may ~~also~~ require persons who ~~effect~~ make intra-Community acquisitions of new means of transport as ~~defined in Article 28a(1)(b) referred to in Article 3(1)(b)(ii),~~ to provide, when submitting the VAT return ~~referred to in paragraph 4,~~ all the information ~~necessary needed~~ for ~~value added tax~~ VAT to be applied and ~~inspected its application checked~~ by the tax ~~authority~~ authorities.

Article 22(6)(e),  
second subpara-  
graph,  
contained in  
Article 28h  
(inserted by  
91/680/EEC)

Adapted

Article 252

~~As regards imported goods,~~ Member States shall lay down ~~the~~ detailed rules for the ~~making of the declarations and payments~~ submission of VAT returns in respect of the importation of goods.

Article 23, first  
paragraph  
(77/388/EEC)

Adapted

Article 253

~~6. — (a) — Member States may require a the taxable person to submit a statement, including VAT return showing all the particulars specified in paragraph 4, concerning Articles 242 and 243 in respect of all transactions carried out in the preceding year. That statement return shall provide all the information necessary for any adjustments.~~

Article 22(6)(a),  
first and second  
sentences,  
contained in  
Article 28h  
(replaced by  
2003/38/EC)

Adapted

### Article 254

Member States shall, ~~subject to conditions which they lay down,~~ allow, ~~and may require,~~ the ~~taxable person to make such VAT~~ returns ~~referred to in Articles 242 and 253 to be submitted~~ by electronic means, ~~and may also require that electronic means are used in accordance with conditions which they lay down.~~

Article 22(4)(a), fifth sentence, contained in Article 28h (inserted by 2002/38/EC)

*Adapted*

~~Member States shall, subject to conditions which they lay down, allow the taxable person to make such statements by electronic means, and may also require that electronic means are used.~~

Article 22(6)(a), third sentence, contained in Article 28h (inserted by 2002/38/EC)

## Chapter 6

### Recapitulative statements

#### Article 255

(b) — Every taxable person identified for ~~value added tax VAT~~ purposes shall ~~also~~ submit a recapitulative statement of the ~~acquirers persons~~ identified for ~~value added tax VAT~~ purposes to whom he has supplied goods ~~under in accordance with~~ the conditions ~~provided for specified~~ in ~~Article 28e(A)(a) and (d), Article 135(1) and Article 135(2)(c),~~ and of ~~consignees the persons~~ identified for ~~value added tax VAT~~ purposes ~~in the transactions referred to in the fifth subparagraph to whom goods were supplied by way of intra-Community acquisitions as referred to in Article 43.~~

Article 22(6)(b), first subparagraph, contained in Article 28h (replaced by 95/7/EC)

*Adapted*

#### Article 256

1. The recapitulative statement shall be drawn up for each calendar quarter within a period and in accordance with procedures to be determined by the Member States, ~~which shall take the measures necessary to ensure that the provisions concerning administrative co-operation in the field of indirect taxation are in any event complied with.~~

Article 22(6)(b), second subparagraph, first sentence, contained in Article 28h (replaced by 2002/38/EC)

*Adapted*

(e) ~~By way of derogation from subparagraph (b),~~ Member States may, however, provide that recapitulative statements are to be submitted on a monthly basis;

Article 22(6)(c),  
*contained in  
Article 28h  
(inserted by  
91/680/EEC)*

*Adapted*

~~require recapitulative statements to be filed on a monthly basis;~~

Article 22(6)(c),  
first indent,  
*contained in  
Article 28h  
(inserted by  
91/680/EEC)*

2. Member States shall, ~~subject to conditions which they lay down~~ allow, and may require, the ~~taxable person to make such~~ recapitulative statements ~~referred to in paragraph 1 to be submitted~~ by electronic means, ~~and may also require that~~ electronic means are used in accordance with conditions which they lay down.

Article 22(6)(b),  
second subparagraph, second sentence,  
*contained in  
Article 28h  
(inserted by  
2002/38/EC)*

*Adapted*

Article 257

1. The recapitulative statement shall set out the following information:

Article 22(6)(b),  
third subparagraph,  
*contained in  
Article 28h  
(inserted by  
91/680/EEC)*

<p><del>-(a)</del> the number by <u>means of</u> which the taxable person is identified for <u>VAT</u> purposes <del>of value added tax in the territory of the country</del> <u>Member State in which the recapitulative statement must be submitted</u> and under which he <del>effected supplies</del> <u>has carried out the supply</u> of goods in <u>accordance with</u> the conditions <del>laid down specified in Article 28e(A)(a) Article 135(1);</del></p>	<p><b>Article 22(6)(b), third subparagraph, first indent, contained in Article 28h (inserted by 91/680/EEC and amended by 92/111/EEC)</b></p>
<p><del>-(b)</del> the number by <u>means of</u> which each person acquiring <u>the</u> goods is identified for <u>VAT</u> purposes <del>of value added tax in another a</del> <u>Member State other than that in which the recapitulative statement must be submitted</u> and under which the goods were supplied to him<del>;</del></p>	<p><b>Article 22(6)(b), third subparagraph, second indent, contained in Article 28h (replaced by 95/7/EC)</b></p>
<p><del>-(c)</del> <del>for the supplies of goods covered by Article 28e(A)(d),</del> the number by means of which the taxable person is identified for <u>VAT</u> purposes <del>of value added tax in the territory of the country</del> <u>Member State in which the recapitulative statement must be submitted and under which he has carried out a transfer of goods to another Member State, as referred to in Article 135(2)(c),</u> and the number by <u>means of</u> which he is identified in the Member State <del>of arrival of in which</del> the dispatch or transport <del>and the total amount of the supplies, determined in accordance with Article 28e(2) ended;</del></p>	<p><b>Article 22(6)(b), fourth subparagraph, first indent, contained in Article 28h (inserted by 91/680/EEC and amended by 92/111/EEC)</b></p>
<p><del>-(d)</del> for each person <u>acquiring who acquired</u> goods, the total value of the supplies of goods <del>effected</del> <u>carried out</u> by the taxable person<del>;</del></p>	<p><b>Article 22(6)(b), third subparagraph, third indent, first sentence, contained in Article 28h (inserted by 91/680/EEC)</b></p>
	<p><i>Adapted</i></p>

<p><del>— The recapitulative statement shall also set out:</del></p>	<p>Article 22(6)(b), fourth subparagraph, contained in Article 28h (inserted by 91/680/EEC)</p>
<p><del>-(e) for the supplies in respect of supplies consisting in the transfer of goods covered by Article 28c(A)(d), the number by means of which the taxable person is identified for purposes of value added tax in the territory of the country, the number by which he is identified in the Member State of arrival of the dispatch or transport and to another Member State, as referred to in Article 135(2)(c), the total amount value of the supplies, determined in accordance with Article 28e(2) Article 75;</del></p>	<p>Article 22(6)(b), fourth subparagraph, first indent, contained in Article 28h (inserted by 91/680/EEC)</p> <p><i>Adapted</i></p>
<p><del>-(f) the amounts of adjustments made pursuant to Article 11(C)(1) Article 87.</del></p>	<p>Article 22(6)(b), fourth subparagraph, second indent, first sentence, contained in Article 28h (inserted by 91/680/EEC)</p>
<p><u>2.</u> <del>Those amounts</del> The value referred to in point (d) of paragraph 1 shall be declared for the calendar quarter during which <del>the tax</del> VAT became chargeable.</p>	<p>Article 22(6)(b), third subparagraph, third indent, second sentence, contained in Article 28h (inserted by 91/680/EEC)</p>

~~Those~~The amounts referred to in point (f) of paragraph 1 shall be declared for the calendar quarter during which the person acquiring the goods ~~is~~was notified of the adjustment.

Article 22(6)(b),  
fourth subpara-  
graph, second  
indent, second  
sentence,  
*contained in  
Article 28h  
(inserted by  
91/680/EEC)*

Article 258

1. In the ~~cases set out in the third subparagraph of Article 28b(A)(2); case of intra-Community acquisitions of goods, as referred to in Article 43,~~ the taxable person identified for ~~value added tax-VAT~~ purposes ~~within the territory of the country in the Member State in which the tax is due~~ shall ~~mention in a clear way set the following information out clearly~~ on the recapitulative statement:

Article 22(6)(b),  
fifth subpara-  
graph,  
*contained in  
Article 28h  
(inserted by  
92/111/EEC)*

*Adapted*

~~-(a)~~ the number by means of which he is identified for ~~value added tax-VAT~~ purposes ~~within the territory of the country in that Member State~~ and under which he ~~carried out made~~ the ~~intra-Community~~ acquisition and ~~the~~ subsequent supply of goods~~;~~

Article 22(6)(b),  
fifth subpara-  
graph, first  
indent,  
*contained in  
Article 28h  
(inserted by  
92/111/EEC)*

*Adapted*

~~-(b)~~ the number by means of which, ~~within the territory of the Member State of arrival of the dispatch or transport of the goods, the consignee of the person to whom~~ the subsequent supply ~~was made~~ by the taxable person is identified ~~in the Member State in which dispatch or transport of the goods ended;~~

Article 22(6)(b),  
fifth subpara-  
graph, second  
indent,  
*contained in  
Article 28h  
(inserted by  
92/111/EEC)*

*Adapted*

~~-(c) and,~~ for each ~~consignee person to whom the subsequent supply was made,~~ the total ~~amount, less value added tax value, exclusive of VAT,~~ of the supplies made by the taxable person ~~within the territory of in~~ the Member State ~~of arrival of the in which~~ dispatch or transport ~~of the goods ended.~~

Article 22(6)(b), fifth subparagraph, third indent, first sentence, contained in Article 28h (inserted by 92/111/EEC)

*Adapted*

2. ~~These amount~~ The value referred to in point (c) of paragraph 1 shall be declared for the calendar quarter during which ~~the tax~~ VAT became chargeable.

Article 22(6)(b), fifth subparagraph, third indent, second sentence, contained in Article 28h (inserted by 92/111/EEC)

#### Article 259

~~(e)~~ By way of derogation from ~~(b)~~ Articles 257 and 258, Member States may provide that additional information is to be given in recapitulative statements.

Article 22(6)(c), contained in Article 28h (inserted by 91/680/EEC)

*Adapted*

~~require that recapitulative statements give additional particulars.~~

Article 22(6)(c), second indent, contained in Article 28h (inserted by 91/680/EEC)

Article 260

~~7.~~—Member States shall take the measures necessary to ensure that those persons who, in accordance with ~~Article 21(1) and (4), Articles 187 to 190 and Article 196~~, are ~~considered to be regarded as~~ liable ~~to pay the tax instead for payment of VAT, in the stead~~ of a taxable person ~~who is~~ not established ~~within the territory of the country in their territory~~, comply with the ~~obligations relating to declaration and payment set out obligation to submit a recapitulative statement as provided for in this Article Chapter~~.

**Article 22(7), first part of sentence, contained in Article 28h (replaced by 2000/65/EC)**

*Adapted*

Article 261

~~(e)~~—Member States may require ~~that~~ taxable persons who, in ~~the their~~ territory ~~of the country effect, make~~ intra-Community acquisitions of goods ~~as defined in Article 28a(1)(a) and (6) to or transactions treated as such, as referred to in Articles 22 and 23~~, submit statements giving details of such acquisitions provided, however, that such statements ~~may are~~ not ~~be~~ required ~~for in respect of~~ a period of less than one month.

**Article 22(6)(e), first subparagraph, contained in Article 28h (inserted by 91/680/EEC)**

*Adapted*

Article 262

~~12.~~—Acting unanimously on a proposal from the Commission, the Council may authorise any Member State to introduce ~~particular the special~~ measures ~~provided for in Articles 263 and 264~~ to simplify the ~~statement obligations obligation, laid down in paragraph 6(b) this Chapter, to submit a recapitulative statement~~. Such ~~simplification~~ measures, ~~which shall may~~ not jeopardise the proper monitoring of intra-Community transactions, ~~may take the following forms~~.

**Article 22(12), contained in Article 28h (inserted by 91/680/EEC)**

*Adapted*

Article 263

~~(a)~~—By virtue of the authorisation referred to in Article 262, Member States may ~~authorise permit~~ taxable persons ~~who meet the following three conditions to file one year to submit annual~~ recapitulative statements indicating the numbers ~~by which which serve to identify for VAT purposes, in another Member State~~, the persons to whom those taxable persons have supplied goods ~~under in accordance with~~ the conditions ~~laid down specified in Article 28e(A) are identified for purposes of value added tax in other Member States Article 135, where the taxable persons meet the following three conditions~~:

**Article 22(12)(a), contained in Article 28h (inserted by 91/680/EEC)**

*Adapted*



(a) the total annual value, ~~less value added tax~~ exclusive of VAT, of their supplies of goods or ~~provisions of services, as defined in Articles 5, 6 and 28a(5)~~, does not exceed by more than ECU 35 000 euro, or the equivalent in national currency, the amount of the annual turnover which is used as a reference for application of the exemption ~~from tax provided for in Article 24 for small enterprises provided for in Articles 277 to 280~~;

Article 22(12)(a), first indent, contained in Article 28h (inserted by 91/680/EEC)

*Adapted*

(b) the total annual value, ~~less value added tax~~ exclusive of VAT, of supplies of goods ~~effected—carried out~~ by them ~~under—in accordance with the conditions laid down—specified in Article 28e(A)—Article 135~~ does not exceed ~~the equivalent in national currency of ECU 15 000 euro or the equivalent in national currency~~;

Article 22(12)(a), second indent, contained in Article 28h (inserted by 91/680/EEC)

*Adapted*

(c) ~~none of the~~ supplies of goods ~~effected—carried out~~ by them ~~under—in accordance with the conditions laid down—specified in Article 135 Article 28e(A) are other than supplies~~ is a supply of new means of transport;

Article 22(12)(a), third indent, contained in Article 28h (inserted by 91/680/EEC)

*Adapted*

#### Article 264

(b) ~~By virtue of the authorisation referred to in Article 262,~~ Member States which set at over three months the tax period ~~for—in respect of~~ which taxable persons must submit the ~~returns—VAT return~~ provided for in ~~paragraph 4—Article 242~~ may ~~authorise—permit~~ such persons to submit recapitulative statements ~~for—in respect of~~ the same period where those taxable persons meet the following three conditions:

Article 22(12)(b), contained in Article 28h (inserted by 91/680/EEC)

*Adapted*

(a) the ~~overall—total~~ annual value, ~~less value added tax~~ exclusive of VAT, of ~~the—their supplies of goods and the—~~ or services ~~they supply, as defined in Articles 5, 6 and 28a(5)~~, does not exceed ~~the equivalent in national currency of ECU 200 000 euro or the equivalent in national currency~~;

Article 22(12)(b), first indent, contained in Article 28h (inserted by 91/680/EEC)

*Adapted*

(b) the total annual value, ~~less value added tax~~ exclusive of VAT, of supplies of goods ~~effected~~ carried out by them ~~under~~ in accordance with the conditions ~~laid down~~ specified in ~~Article 28e(A)~~ Article 135 does not exceed ~~the equivalent in national currency of ECU~~ 15 000 euro or the equivalent in national currency;

Article 22(12)(b), second indent, contained in Article 28h (inserted by 91/680/EEC)

*Adapted*

(c) ~~none of the~~ supplies of goods ~~effected~~ carried out by them ~~under~~ in accordance with the conditions ~~laid down~~ specified in ~~Article 28e(A)~~ are other than supplies Article 135 is a supply of new means of transport.

Article 22(12)(b), third indent, contained in Article 28h (inserted by 91/680/EEC)

*Adapted*

## Chapter 7

### Miscellaneous provisions

#### Article 265

~~9.1.~~ (a) — Member States may release the following taxable persons from certain or all obligations:

Article 22(9)(a), first subparagraph, contained in Article 28h (inserted by 91/680/EEC)

~~—(a)~~ taxable persons ~~eligible for the exemption from tax provided for in Article 24 and for the derogation provided for in Article 28a(1)(a), second subparagraph~~ whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 4(1);

Article 22(9)(a), first subparagraph, second indent, contained in Article 28h (inserted by 91/680/EEC)

*Adapted*

<p><del>(e)</del>(b) taxable persons carrying out none of the transactions referred to in <del>paragraph 4(e)</del> <a href="#">Articles 21, 22, 23, 34, 37, 135 and 138</a>;</p>	<p>Article 22(9)(a), first subparagraph, third indent, contained in Article 28h (inserted by 91/680/EEC)</p>
<p><del>(a)</del>(c) taxable persons carrying out only supplies of goods or of services which are exempt pursuant to <del>Articles 13 and 15</del> <a href="#">Articles 129 to 133, Articles 142 to 145 or Articles 147, 148 or 149</a>;</p>	<p>Article 22(9)(a), first subparagraph, first indent, contained in Article 28h (inserted by 91/680/EEC)</p>
<p><del>(d)</del> taxable persons <del>eligible for covered by</del> the exemption <del>from tax provided for in Article 24 and for the derogation provided for in Article 28a(1)(a), second subparagraph for small enterprises provided for in Articles 277 to 280</del>;</p>	<p>Article 22(9)(a), first subparagraph, second indent, contained in Article 28h (inserted by 91/680/EEC)</p>
<p><del>4.(e) Member States may release taxable persons covered by the common flat-rate scheme for farmers from the obligations imposed upon taxable persons by Article 22.</del></p>	<p><i>Adapted</i> Article 25(4), first subparagraph (77/388/EEC)</p>
<p><del>Without prejudice to the provisions laid down in point (d), Member States may not, however, release the taxable persons referred to in the third indent referred to in point (b) from the invoicing obligations referred to laid down in Article 22(3) Articles 211 to 222 and Articles 231, 232 and 233.</del></p>	<p>Article 22(9)(a), second subparagraph, contained in Article 28h (inserted by 2001/115/EC)</p>
	<p><i>Adapted</i></p>

~~2.~~ ~~When they~~ If Member States exercise ~~this the~~ option, Member States under point (e) of [paragraph 1](#), they shall take the measures necessary to ensure the correct application of the transitional arrangements for the taxation of intra-Community transactions ~~as laid down in Title XVIa.~~

Article 25(4), second subparagraph, contained in Article 28j(1) (inserted by 91/680/EEC)

*Adapted*

~~(b)3.~~ Member States may release taxable persons other than those referred to in ~~(a) paragraph 1~~ from certain of the [accounting](#) obligations referred to in ~~2(a)~~ [Article 234](#).

Article 22(9)(b), contained in Article 28h (inserted by 91/680/EEC)

*Adapted*

#### Article 266

~~8.~~ Member States may impose other obligations which they deem necessary for the ~~to ensure the~~ correct collection of ~~the tax and for the~~ prevention of evasion, [VAT and to prevent fraud](#), subject to the requirement of equal treatment ~~for as between~~ domestic transactions and transactions carried out between Member States by taxable persons and provided that such obligations do not, in trade between Member States, give rise to formalities connected with the crossing of frontiers.

Article 22(8), first subparagraph, contained in Article 28h (inserted by 91/680/EEC)

*EN amended*

The option ~~provided for in under under~~ the first ~~subparagraph cannot be used paragraph may not be relied upon in order~~ to impose additional [invoicing](#) obligations over and above those laid down in ~~paragraph 3~~ [Chapter 3](#).

Article 22(8), second subparagraph, contained in Article 28h (inserted by 2001/115/EC)

*Adapted*

### Chapter 8

#### Obligations relating to certain importations and exportations

*Article 23*

**Obligations in respect of imports**

**Section 1**

**Importation**

*Article 33a*Article 267

~~1. — Articles 268, 269 and 270 shall apply to the importation of goods referred to in Article 7(1)(b) entering in free circulation which enter the Community from a third territory which forms forming part of the customs territory of the Community but which is considered as a third territory for the purposes of applying this Directive shall be subject to the following provisions:.~~

*Article 268*

~~(a) — the The formalities relating to the entry of such importation of the goods into the Community referred to in Article 267 shall be the same as those laid down by the Community customs provisions in force for the import importation of goods into the customs territory of the Community:.~~

*Article 269*

~~(b) — when the place of arrival of the Where dispatch or transport of these the goods is referred to in Article 267 ends at a place situated outside the Member State where they enter of their entry into the Community, they shall circulate in the Community under the internal Community transit procedure laid down by the Community customs provisions in force, insofar in so far as they have been the subject of a declaration placing them under this regime when the goods entered that procedure on their entry into the Community:.~~

**Article 23  
(77/388/EEC)**

**Heading of  
Article 23  
(77/388/EEC)**

**Article 33a  
(inserted by  
91/680/EEC)**

**Article 33a(1)  
(replaced by  
92/111/EEC)**

*Adapted*

**Article 33a(1)(a)  
(replaced by  
92/111/EEC)**

*Adapted*

**Article 33a(1)(b)  
(replaced by  
92/111/EEC)**

*Adapted*

Article 270

~~(e) — when at the moment of their entry~~ Where, on their entry into the Community, the goods referred to in Article 267 are ~~found to be~~ in one of the situations which would ~~qualify~~ entitle them, if they were imported within the meaning of ~~Article 7(1)(a), to benefit from the first paragraph of Article 31, to be covered by~~ one of the arrangements referred to in ~~Article 16(1)(B)(a), (b), (c) and (d) Article 151, or under by~~ a temporary importation arrangement ~~in with~~ full exemption from import duties, ~~the~~ Member States shall take the measures ~~ensuring necessary to ensure~~ that the goods may remain in the Community under the same conditions as those laid down for the application of ~~such those~~ arrangements.

**Article 33a(1)(c)**  
**(replaced by**  
**92/111/EEC)**

*Adapted*

**Section 2**

**Exportation**

Article 271

~~2. — Goods not referred to in Article 7(1)(a) Articles 272 and 273 shall apply to the exportation of goods in free circulation which are~~ dispatched or transported from a Member State to ~~a destination in a~~ third territory ~~that forms parts forming part~~ of the customs territory of the Community ~~but which is considered as a third territory for the purposes of applying this Directive shall be subject to the following provisions:~~

**Article 33a(2)**  
**(replaced by**  
**92/111/EEC)**

*Adapted*

Article 272

~~(a) — the~~ The formalities relating to the ~~export~~ exportation of ~~those the~~ goods ~~outside~~ referred to in Article 271 from the territory of the Community shall be the same as those laid down by the Community customs provisions in force ~~in relation to export for the exportation~~ of goods ~~outside from~~ the customs territory of the Community;

**Article 33a(2)(a)**  
**(replaced by**  
**92/111/EEC)**

*Adapted*

Article 273

~~(b) — for~~ In the case of goods which are temporarily exported ~~outside from~~ the Community, in order to be reimported, ~~the~~ Member States shall take the measures necessary to ensure that, on reimportation into the Community, such goods may ~~benefit from~~ be covered by the same provisions as would have applied if they had been temporarily exported ~~outside from~~ the customs territory of the Community.

**Article 33a(2)(b)**  
**(replaced by**  
**92/111/EEC)**

*Adapted*

~~TITLE XIV~~ TITLE XII

SPECIAL SCHEMES

Chapter 1

Special scheme for small enterprises

Section 1

Simplified procedures for charging and collection

~~Article 24~~ Article 274

~~Special scheme for small undertakings~~

1. — Member States which might encounter difficulties in applying the normal ~~tax scheme VAT arrangements~~ to small ~~undertakings enterprises~~, by reason of ~~their the~~ activities or structure ~~shall have the option, under of such enterprises, may, subject to~~ such conditions and ~~within such~~ limits as they may set ~~but subject to the consultation provided for in Article 29, of applying, and after consulting the VAT Committee, apply~~ simplified procedures, such as flat-rate schemes, for charging and collecting ~~the tax VAT~~ provided ~~that~~ they do not lead to a reduction thereof.

Section 2

Exemptions or graduated relief

Article 275

3. — The ~~concepts of exemption exemptions~~ and graduated tax relief ~~provided for in this Section~~ shall apply to the supply of goods and services by small ~~undertakings enterprises~~.

Title XIV  
(77/388/EEC)

Heading of  
Title XIV  
(77/388/EEC)

Article 24  
(77/388/EEC)

Heading of  
Article 24  
(77/388/EEC)

Article 24(1)  
(77/388/EEC)

*Adapted*

Article 24(3), first  
subparagraph  
(77/388/EEC)

*Adapted*

Article 276

<p><u>1.</u> The <del>provisions of paragraph 2 arrangements provided for in this Section</del> shall not, <del>in any case,</del> apply to the <u>following</u> transactions referred to in <del>Article 4(3):</del></p>	<p>Article 24(3), second subparagraph, second sentence (77/388/EEC)</p>
<p>(a) <del>The provisions of paragraph 2 shall not, in any case, apply to the</del> transactions <u>carried out on an occasional basis, as</u> referred to in <del>Article 4(3) Article 13:</del></p>	<p><u>Adapted</u></p> <p>Article 24(3), second subparagraph, first sentence (77/388/EEC)</p>
<p>(b) <del>In all circumstances</del> supplies of new means of transport <u>effected under</u> <del>carried out in accordance with</del> the conditions <u>laid down specified</u> in <del>Article 28c(A) as well as supplies of goods and services effected by a taxable person who is not established in the territory of the country shall be excluded from the exemption from tax under paragraph 2 Article 135:</del></p>	<p><u>Adapted</u></p> <p>Article 24(3), third subparagraph, contained in Article 28i (replaced by 92/111/EEC)</p>
<p>(c) <del>In all circumstances</del> supplies of new means of transport <u>effected under the conditions laid down in Article 28c(A) as well as</u> supplies of goods <u>and or</u> services <u>effected</u> <del>carried out</del> by a taxable person who is not established in the <del>territory of the country shall be excluded from the exemption from tax under paragraph 2</del> <u>Member State in which the VAT is due.</u></p>	<p><u>Adapted</u></p> <p>Article 24(3), third subparagraph, contained in Article 28i (replaced by 92/111/EEC)</p>
<p><u>2.</u> Member States may exclude <del>certain</del> transactions <u>other than those referred to in paragraph 1</u> from the arrangements provided for in <del>paragraph 2</del> <u>this Section.</u></p>	<p><u>Adapted</u></p> <p>Article 24(3), second subparagraph, first sentence (77/388/EEC)</p>



Article 277

(a)1. Member States which have ~~made use of exercised~~ the option under Article 14 of ~~the second~~ Council Directive ~~of 11 April 1967 to introduce~~ 67/228/EEC<sup>46</sup> of introducing exemptions or graduated tax relief may retain them, and the arrangements for applying them, if they ~~conform comply~~ with the ~~value added tax system~~ VAT rules.

**Article 24(2)(a),  
first subpara-  
graph  
(77/388/EEC)**

*Adapted*

2. ~~Those~~ Member States which ~~apply an exemption from tax to, at 17 May 1977, exempted~~ taxable persons whose annual turnover ~~is was~~ less than the equivalent in national currency of 5 000 European units of account at the conversion rate ~~of the day on which this Directive is adopted on that date,~~ may ~~increase this exemption raise that ceiling~~ up to 5 000 ~~European units of account~~ euro.

**Article 24(2)(a),  
second subpara-  
graph  
(77/388/EEC)**

*Adapted*

Member States which ~~apply applied~~ graduated tax relief may neither ~~increase raise~~ the ceiling ~~of the for~~ graduated tax ~~reliefs relief~~ nor render the conditions for the granting of it more favourable.

**Article 24(2)(a),  
third subpara-  
graph  
(77/388/EEC)**

*Adapted*

Article 278

(b) — Member States which have not ~~made use of this exercised the~~ option ~~under Article 14 of Directive 67/228/EEC~~ may ~~grant an exemption from tax to exempt~~ taxable persons whose annual turnover is ~~at the maximum equal to the equivalent in national currency of no higher than~~ 5 000 ~~European units of account at the conversion rate of the day on which this Directive is adopted~~ euro or the equivalent in national currency;

**Article 24(2)(b),  
first sentence  
(77/388/EEC)**

*Adapted*

~~where appropriate, they~~ The Member States referred to in the first paragraph may grant graduated tax relief to taxable persons whose annual turnover exceeds the ceiling fixed by ~~the Member States them~~ for ~~the its~~ application ~~of exemption~~;

**Article 24(2)(b),  
second sentence  
(77/388/EEC)**

*Adapted*

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<sup>46</sup> [English Special Edition, Series-I, Chapter 1967, p. 16.](#)

Article 279

~~(e)~~—Member States which ~~apply an exemption from tax to,~~ at 17 May 1977, exempted taxable persons whose annual turnover ~~is was~~ equal to or higher than ~~the equivalent in national currency of~~ the equivalent in national currency of 5 000 European units of account at the conversion rate ~~of the day on which this Directive is adopted on that date,~~ may ~~increase it raise that ceiling~~ in order to maintain ~~its the~~ value of the exemption in real terms.

**Article 24(2)(c)**  
**(77/388/EEC)**

*Adapted*

~~Article 24a~~Article 280

~~In implementing Article 24(2) to (6), the following~~ Member States which acceded after 1 January 1978 may ~~grant an exemption from value added tax to exempt~~ taxable persons whose annual turnover is ~~less no higher~~ than the equivalent in national currency of the following amounts at the conversion rate on the day of their accession:

**Article 24a**  
**(inserted by the**  
**2003 Act of**  
**Accession)**

**Article 24a, first**  
**paragraph**  
**(inserted by the**  
**2003 Act of**  
**Accession)**

*Adapted*

~~(a)(1) For the implementation of Article 24(2) to (6), the Hellenic Republic may grant a tax exemption to taxable persons whose turnover is less than the equivalent in national currency of 10,000 european~~ Greece: 10 000 European units of account ~~at the conversion rate of the day of its accession.;~~

**Annex VIII,**  
**Part II(2)(a)**  
**(Act of Accession,**  
**EL)**

~~(a)~~—~~For the implementation of Article 24(2) to (6):~~

**Annex XXXII,**  
**Part IV(3)(a)**  
**(Act of Accession,**  
**ES and PT)**

~~(2) the Kingdom of Spain may grant tax exemption to taxable persons whose annual turnover does not exceed the equivalent in national currency of: ECU 10 000 at the conversion rate of the day of its accession;~~

**Annex XXXII,**  
**Part IV(3)(a), first**  
**indent**  
**(Act of Accession,**  
**ES and PT)**

~~(3) the Portuguese Republic may grant tax exemption to taxable persons whose annual turnover does not exceed the equivalent in national currency, respectively, of ECU 15 000 during the first three years following the coming into force for Portugal of the common system of value added tax, and of: ECU 10 000 thereafter, at the conversion rate of the day of its accession.;~~

**Annex XXXII,**  
**Part IV(3)(a),**  
**second indent,**  
**first sentence**  
**(Act of Accession,**  
**ES and PT)**

<p><del>(e)(4) the Republic of Austria may apply an exemption from value added tax to taxable persons whose annual turnover is less than the equivalent in national currency of: ECU 35 000;</del></p>	<p><b>Annex XV, Part IX(2)(c), first subparagraph (Act of Accession, AT, FI and SE)</b></p>
<p><del>(j)(5) In implementation of Article 24(2) to (6) and pending the adoption of Community provisions in this field, the Republic of Finland may apply an exemption from value added turnover is less than the equivalent in national currency of: ECU 10 000;</del></p>	<p><b>Annex XV, Part IX(2)(j) (Act of Accession, AT, FI and SE)</b></p>
<p><del>(x)(6) In implementation of Article 24(2) to (6), and pending the adoption of Community provisions in this field, the Kingdom of Sweden may apply the following simplified procedure for small and medium sized enterprises, provided that the provisions are in conformity with the Treaty establishing the European Communities, and in particular Articles 95 and 96 thereof: ECU 10 000;</del></p>	<p><b>Annex XV, Part IX(2)(x) (Act of Accession, AT, FI and SE)</b></p>
<p><del>— application of exemption from value added tax to taxable persons whose annual turnover is less than the equivalent in national currency of ECU 10 000.</del></p>	<p><b>Annex XV, Part IX(2)(x), second indent (Act of Accession, AT, FI and SE)</b></p>
<p><del>(7) in the Czech Republic: EUR 35 000 euro;</del></p>	<p><b>Article 24a, first paragraph, first indent (inserted by the 2003 Act of Accession)</b></p>
<p><del>(8) in Estonia: EUR 16 000 euro;</del></p>	<p><b>Article 24a, first paragraph, second indent (inserted by the 2003 Act of Accession)</b></p>
<p><del>(9) in Cyprus: EUR 15 600 euro;</del></p>	<p><b>Article 24a, first paragraph, third indent (inserted by the 2003 Act of Accession)</b></p>

(10) ~~in~~ Latvia: ~~EUR~~ 17 200 euro;

**Article 24a, first paragraph, fourth indent  
(inserted by the 2003 Act of Accession)**

(11) ~~in~~ Lithuania: ~~EUR~~ 29 000 euro;

**Article 24a, first paragraph, fifth indent  
(inserted by the 2003 Act of Accession)**

(12) ~~in~~ Hungary: ~~EUR~~ 35 000 euro;

**Article 24a, first paragraph, sixth indent  
(inserted by the 2003 Act of Accession)**

(13) ~~in~~ Malta: ~~EUR~~ 37 000 ~~when euro if~~ the economic activity consists principally in the supply of goods, ~~EUR~~ 24 300 ~~when euro if~~ the economic activity consists principally in the supply of services with a low value added (high inputs), and ~~EUR~~ 14 600 euro in other cases, namely ~~service providers supplies of services~~ with a high value added (low inputs);

**Article 24a, first paragraph, seventh indent  
(inserted by the 2003 Act of Accession)**

*Adapted*

(14) ~~in~~ Poland: ~~EUR~~ 10 000 euro;

**Article 24a, first paragraph, eighth indent  
(inserted by the 2003 Act of Accession)**

(15) ~~in~~ Slovenia: ~~EUR~~ 25 000 euro;

**Article 24a, first paragraph, ninth indent  
(inserted by the 2003 Act of Accession)**

(16) in Slovakia: ~~EUR~~ 35 000 euro.

Article 24a, first paragraph, tenth indent  
(inserted by the 2003 Act of Accession)

Article 281

~~4. — The turnover which shall serve serving as a reference for the purposes of applying the provisions of paragraph 2 arrangements provided for in this Section shall consist of the amount following amounts, exclusive of value added tax, of goods and services supplied as defined in Articles 5 and 6, to the extent that they are taxed, including transactions exempted with refund of tax previously paid in accordance with Article 28(2), and the amount of the transactions exempted pursuant to Article 15, the amount of real property transactions, the financial transactions referred to in Article 13B(d), and insurance services, unless these transactions are ancillary transactions VAT.;~~

Article 24(4), first subparagraph  
(77/388/EEC)

Adapted

~~4.(1) The turnover which shall serve as a reference for the purposes of applying the provisions of paragraph 2 shall consist of the amount, exclusive of value added tax, value of supplies of goods and services supplied as defined in Articles 5 and 6, to the extent that, in so far as they are taxed subject to tax, including transactions exempted which are exempt, with refund of tax previously deductibility of the VAT paid in accordance with Article 28(2), and the amount of the transactions exempted pursuant to Article 15, the amount of real property transactions, the financial transactions referred to in Article 13B(d), and insurance services, unless these transactions are ancillary transactions at the preceding stage, pursuant to Articles 106 or 107, Article 121(1), Articles 122 or 124, or Article 125(1).;~~

Article 24(4), first subparagraph  
(77/388/EEC)

Adapted

~~4.(2) The turnover which shall serve as a reference for the purposes of applying the provisions of paragraph 2 shall consist of the amount, exclusive of value added tax, of goods and services supplied as defined in Articles 5 and 6, to the extent that they are taxed, including transactions exempted with refund of tax previously paid in accordance with Article 28(2), and the amount value of the transactions exempted which are exempt pursuant to Article 15, the amount of real property transactions, the financial transactions referred to in Article 13B(d), and insurance services, unless these transactions are ancillary transactions Articles 142 to 145 or Articles 147, 148 or 149.;~~

Article 24(4), first subparagraph  
(77/388/EEC)

Adapted

~~4.(3)~~ The turnover which shall serve as a reference for the purposes of applying the provisions of paragraph 2 shall consist of the amount, exclusive of value added tax, of goods and services supplied as defined in Articles 5 and 6, to the extent that they are taxed, including transactions exempted with refund of tax previously paid in accordance with Article 28(2), and the amount of the transactions exempted pursuant to Article 15, the amount value of real ~~property-estate~~ transactions, ~~the~~ financial transactions as referred to in ~~Article 13B(d)~~ points (b) to (g) of Article 132(1), and insurance services, unless ~~these~~ those transactions are ancillary transactions.

Article 24(4), first subparagraph (77/388/EEC)

*Adapted*

However, disposals of the tangible or intangible capital assets of an undertaking-enterprise shall not be taken into account for the purposes of calculating turnover.

Article 24(4), second subparagraph (77/388/EEC)

*EN amended*

Article 282

~~5.~~ Taxable persons exempt from ~~tax-VAT~~ shall not be entitled to deduct ~~tax-VAT~~ in accordance with ~~the provisions of Article 17, nor to Articles 162 to 171, and may not~~ show the ~~tax-VAT~~ on their invoices.

Article 24(5) (amended by 2001/115/EC)

*Adapted*

Article 283

~~6.~~ Taxable persons eligible for who are entitled to exemption from ~~tax VAT~~ may opt either for the normal ~~value added tax scheme-VAT arrangements~~ or for the simplified procedures referred to provided for in paragraph 1. In this case Article 261. If they choose the latter option, they shall be entitled to any graduated tax relief ~~which may be laid down by provided for under~~ national legislation.

Article 24(6) (77/388/EEC)

*Adapted*

Article 284

~~7.~~ Subject to the application of ~~paragraph 1, Article 274,~~ taxable persons enjoying graduated relief shall be treated-regarded as taxable persons subject to the normal ~~value added tax scheme-VAT arrangements~~.

Article 24(7) (77/388/EEC)

*Adapted*

Article 285

~~2. — Until~~ The arrangements provided for in this Section shall apply until a date to be fixed by the Council ~~acting unanimously on a proposal from the Commission, but in accordance with Article 93 of the Treaty,~~ which ~~shall~~ may not be later than that on which ~~the charging of tax on imports and the remission of tax on exports in trade between the Member States are abolished~~ the definitive arrangements referred to in Article 395 enter into force.

**Article 24(2)**  
**(77/388/EEC)**

*Adapted*

**Section 3**

**Reporting and review**

Article 286

~~8. — At four-yearly intervals, and for the first time on 1 January 1982, and after consultation of the Member States,~~ the Commission shall ~~report~~ present to the Council, on the basis of information obtained from the Member States, a report on the application of ~~the provisions of this Article.~~ It shall as far as may be necessary, Chapter, together, where appropriate and taking into account the need to ensure the long-term convergence of national regulations, ~~attach to this report with proposals for~~ on the following subjects:

**Article 24(8)**  
**(77/388/EEC)**

*Adapted*

~~(a)(1)~~ improvements to be made to the special scheme for small ~~undertakings enterprises;~~

**Article 24(8)(a)**  
**(77/388/EEC)**

*EN amended*

~~(b)(2)~~ the adaptation of national systems as regards exemptions from VAT and graduated ~~value added tax VAT~~ relief;

**Article 24(8)(b)**  
**(77/388/EEC)**

~~(c)(3)~~ the adaptation of the ~~limit of 5 000 European units of account mentioned in paragraph 2~~ ceilings provided for in Section 2.

**Article 24(8)(c)**  
**(77/388/EEC)**

*Adapted*

Article 287

9. — The Council ~~will shall~~ decide ~~at the appropriate time whether the realisation of the objective referred to in Article 4 of the first Council Directive of 11 April 1967 requires the introduction of, in accordance with Article 93 of the Treaty,~~ whether a special scheme for small ~~undertakings enterprises~~ is necessary ~~under the definitive arrangements~~ and ~~will~~, if appropriate, ~~decide on shall~~ lay down the ~~common~~ limits and ~~common implementing~~ conditions ~~of this for the implementation of that~~ scheme. ~~Until the introduction of such a scheme, Member States may retain their own special schemes which they will apply in accordance with the provisions of this Article and of subsequent acts of the Council.~~

Article 24(9)  
(77/388/EEC)

*Adapted*

Chapter 2

Common flat-rate scheme for farmers

~~Article 25~~ Article 288

Article 25  
(77/388/EEC)

~~Common flat-rate scheme for farmer~~

Heading of  
Article 25  
(77/388/EEC)

~~2.1.~~ For the purposes of this ~~Article~~ Chapter, the following definitions shall apply:

Article 25(2)  
(77/388/EEC)

~~(1)~~ ‘farmer’ ~~:- a means any taxable person who carries on his whose economic activity is carried out in one of the undertakings defined below an agricultural, forestry or fisheries undertaking;~~

Article 25(2),  
first indent  
(77/388/EEC)

*Adapted*

~~(2)~~ ‘agricultural, forestry or fisheries ~~undertakings~~’ ~~undertaking~~ ~~means~~ an undertaking ~~considered to be regarded as~~ such by each Member State within the framework of the production activities listed in ~~Annex A Annex VI~~;

Article 25(2),  
second indent  
(77/388/EEC)

*Adapted*

~~(3)~~ ‘flat-rate farmer’ ~~:- a means any farmer subject to covered by the flat-rate scheme provided for in paragraphs 3 et seq. this Chapter;~~

Article 25(2),  
third indent  
(77/388/EEC)

*Adapted*



- |  |  |
|--|--|
| <p>–(4) ‘agricultural products’ <u>means</u> goods produced by an agricultural, forestry or fisheries undertaking in each Member State as a result of the activities listed in <del>Annex A</del> <u>Annex VI</u>;</p>   | <p><b>Article 25(2), fourth indent (77/388/EEC)</b></p>                        |
| <p>–(5) ‘agricultural service’ <u>means</u> any service <del>as set out, and in particular those listed</del> in <del>Annex B</del> <u>Annex VII</u>, supplied by a farmer using his labour force <del>and/or by means of or</del> the equipment normally <del>available on</del> <u>employed in</u> the agricultural, forestry or fisheries undertaking operated by him <u>and normally playing a part in agricultural production</u>;</p>  | <p><b>Article 25(2), fifth indent (77/388/EEC)</b></p> <p><i>Adapted</i></p>   |
| <p>–(6) <del>‘value added tax charge on inputs’</del> <u>‘input VAT charged’</u> <u>means</u> the amount of the total <del>value added tax</del> <u>VAT</u> attaching to the goods and services purchased by all agricultural, forestry and fisheries undertakings of each Member State subject to the flat-rate scheme where such tax would be deductible <del>under Article 17 in accordance with Articles 162 to 171</del> by a farmer subject to the normal <del>value added tax scheme</del> <u>VAT arrangements</u>;</p> | <p><b>Article 25(2), sixth indent (77/388/EEC)</b></p> <p><i>Adapted</i></p>   |
| <p>–(7) ‘flat-rate compensation percentages’ <u>means</u> the percentages fixed by Member States in accordance with <del>paragraph 3</del> <u>Articles 290, 291 and 292</u> and applied by them in the cases specified in <del>paragraph 5</del> <u>Article 293 in order</u> to enable flat-rate farmers to offset at a fixed rate the <del>value added tax charge on inputs</del> <u>input VAT charged</u>;</p>   | <p><b>Article 25(2), seventh indent (77/388/EEC)</b></p> <p><i>Adapted</i></p> |
| <p>–(8) ‘flat-rate compensation’ <u>means</u> the amount arrived at by applying the flat-rate compensation percentage <del>provided for in paragraph 3</del> to the turnover of the flat-rate farmer in the cases <del>referred to</del> <u>specified in paragraph 5</u> <u>Article 293</u>.</p>   | <p><b>Article 25(2), eighth indent (77/388/EEC)</b></p>                        |
| <p><u>V.2.</u> Where a farmer processes, using means normally employed in an agricultural, forestry or fisheries undertaking, products deriving essentially from his agricultural production, such processing <del>activities</del> shall <del>also be regarded</del> <u>be treated</u> as agricultural production <del>activities</del> <u>as listed in Annex VI</u>.</p>   | <p><b>Annex A(V) (77/388/EEC)</b></p> <p><i>Adapted</i></p>                    |

Article 289

1. Where the application to farmers of the normal ~~value added tax scheme~~ VAT arrangements, or the ~~simplified~~ special scheme provided for in ~~Article 24, would~~ Chapter 1, is likely to give rise to difficulties, Member States may apply to farmers, in accordance with this Chapter, a flat-rate scheme ~~tending~~ designed to offset the ~~value added tax~~ VAT charged on purchases of goods and services made by the flat-rate farmers ~~pursuant to this Article~~.

**Article 25(1)**  
(77/388/EEC)

*Adapted*

~~9.2.~~ Each Member State may exclude from the flat-rate scheme certain categories of ~~farmers and farmer, as well as~~ farmers for whom ~~the~~ application of the normal ~~value added tax scheme~~ VAT arrangements, or of the simplified ~~scheme~~ procedures provided for in ~~Article 24(1), would~~ Article 274, is not likely to give rise to administrative difficulties.

**Article 25(9), first subparagraph**  
(77/388/EEC)

*Adapted*

~~10.3.~~ Every flat-rate farmer may opt, subject to the rules and conditions to be laid down by each Member State, for application of the normal ~~value added tax scheme~~ VAT arrangements or, as the case may be, the simplified ~~scheme~~ procedures provided for in ~~Article 24(1)~~ Article 274.

**Article 25(10)**  
(77/388/EEC)

*Adapted*

Article 290

~~3.~~ Member States shall, where necessary, fix the flat-rate compensation percentages, ~~where necessary, and shall notify the Commission before applying them. Member States. They~~ may fix varying percentages for forestry, for the different sub-divisions of agriculture and for fisheries.

**Article 25(3), first subparagraph, first sentence, and second subparagraph**  
(77/388/EEC)

*Adapted*

~~3.~~ Member States shall ~~fix the flat rate compensation percentages, where necessary, and shall~~ notify the Commission of the flat-rate compensation percentages fixed in accordance with the first paragraph before applying them.

**Article 25(3), first subparagraph, first sentence**  
(77/388/EEC)

*Adapted*

Article 291

~~Such~~ The flat-rate compensation percentages shall be ~~based on~~ calculated on the basis of macro-economic statistics for flat-rate farmers alone for the preceding three years.

Article 25(3), first subparagraph, second sentence (77/388/EEC)

Adapted

The percentages may be rounded up or down to the nearest half-point. Member States ~~shall have the option of reducing~~ may also reduce such percentages to a nil rate. ~~The percentage may be rounded up or down to the nearest half-point.~~

Article 25(3), first subparagraph, fourth and fifth sentences (77/388/EEC)

Adapted

Article 292

~~They~~ The flat-rate compensation percentages may not ~~be used to obtain~~ have the effect of obtaining for flat-rate farmers refunds greater than the ~~value added tax charges on inputs~~ input VAT charged.

Article 25(3), first subparagraph, third sentence (77/388/EEC)

Adapted

Article 293

~~5. — The flat rate percentages provided for in paragraph 3 shall be applied to the price, exclusive of tax, of the agricultural products and agricultural services supplied by the flat rate farmers to taxable persons other than a flat rate farmer. This compensation shall exclude all other forms of deduction.~~

Article 25(5) (77/388/EEC)

Obsolete

~~5. —~~ The flat-rate compensation percentages ~~provided for in paragraph 3~~ shall be applied to the prices, exclusive of ~~tax~~ VAT, of the following goods and services:

Article 25(5), first subparagraph, contained in Article 28j(2) (inserted by 91/680/EEC)

~~(a)(1)~~ agricultural products supplied by flat-rate farmers to taxable persons other than those eligible within covered, in the territory of the country the for Member State concerned, by this flat-rate scheme ~~provided for in this Article~~;

**Article 25(5), first subparagraph, point (a), contained in Article 28j(2) (inserted by 91/680/EEC)**

*Adapted*

~~(b)(2)~~ agricultural products supplied by flat-rate farmers, under in accordance with the conditions laid down specified in Article 28e(A) Article 135, to non-taxable legal persons ~~not eligible, whose intra-Community acquisitions are subject to VAT, pursuant to Article 3(1)(b)~~, in the Member State ~~of arrival of the in which~~ dispatch or transport of ~~the those~~ agricultural products ~~thus supplied, for the derogation provided for in Article 28a(1)(a), second subparagraph ends~~;

**Article 25(5), first subparagraph, point (b), contained in Article 28j(2) (inserted by 91/680/EEC)**

*Adapted*

~~(e)(3)~~ agricultural services supplied by flat-rate farmers to taxable persons other than those eligible within the territory of the country for the covered, in the Member State concerned, by this flat-rate scheme ~~provided for in this Article~~.

**Article 25(5), first subparagraph, point (c), contained in Article 28j(2) (inserted by 91/680/EEC)**

*Adapted*

#### Article 294

~~6. Member States may provide for the flat rate compensation to be paid:~~

**Article 25(6) (77/388/EEC)**

*Obsolete*

~~(a) either by the taxable person to whom the goods or services are supplied. In this case, the taxable person to whom the goods or services are supplied shall be authorised, following the procedure laid down by the Member States, to deduct from the value added tax for which he is liable, the amount of the flat rate compensation has paid to the flat rate farmers;~~

**Article 25(6)(a) (77/388/EEC)**

*Obsolete*

~~(b) — or by the public authorities.~~

Article 25(6)(b)  
(77/388/EEC)

*Obsolete*

~~6.1.~~ In the case of the ~~supplies supply~~ of agricultural products ~~and of~~ or agricultural services ~~referred to specified in paragraph 5~~ Article 293, Member States shall provide ~~for that~~ the flat-rate compensation is to be paid either by the customer or by the public authorities.

Article 25(6),  
*contained in*  
*Article 28j(2)*  
(inserted by  
91/680/EEC)

*Adapted*

~~(a) — by the purchaser or customer.~~

Article 25(6)(a),  
first subpara-  
graph, first  
sentence,  
*contained in*  
*Article 28j(2)*  
(inserted by  
91/680/EEC)

~~(b) — by the public authorities.~~

Article 25(6)(b),  
*contained in*  
*Article 28j(2)*  
(inserted by  
91/680/EEC)

~~8.2.~~ ~~As regards all supplies~~ In respect of any supply of agricultural products ~~and or~~ agricultural services other than those ~~covered by paragraph 5~~ specified in Article 293, the flat-rate compensation is shall be deemed to be paid by the ~~purchaser or~~ customer.

Article 25(8)  
(77/388/EEC)

*Adapted*

Article 295

~~This compensation~~ If a flat-rate farmer is entitled to flat-rate compensation, he shall ~~exclude any other form of deduction not be entitled to deduction of VAT in respect of activities covered by this flat-rate scheme.~~

Article 25(5),  
second subpara-  
graph,  
*contained in*  
*Article 28j(2)*  
(inserted by  
91/680/EEC)

*Adapted*

Article 296

1. ~~In that event, the~~ Where the taxable ~~purchaser or~~ customer pays flat-rate compensation pursuant to Article 294(1), he shall be ~~authorised, as provided for~~ entitled, in accordance with the conditions laid down in Article 17–Articles 162 to 171 and in accordance with the procedures laid down by the Member States, to deduct the compensation amount from the ~~tax-VAT~~ for which he is liable ~~within in~~ the ~~territory of the country~~ the amount of the flat-rate compensation he has paid to flat-rate farmers Member State concerned.
2. Member States shall refund to the ~~purchaser or~~ customer the amount of the flat-rate compensation he has paid ~~to flat-rate farmers~~ in respect of any of the following transactions:
- ~~–(a) supplies the supply~~ of agricultural products ~~effected under,~~ carried out in accordance with the conditions ~~laid down specified in Article 28e(A)–Article 135,~~ to taxable persons, or to non-taxable legal persons, acting as such in another Member State within which ~~they are not eligible for the derogation provided for in the second subparagraph of Article 28a(1)(a)~~ their intra-Community acquisitions of goods are subject to VAT pursuant to Article 3(1)(b);

Article 25(6)(a), first subparagraph, second sentence, contained in Article 28j(2) (inserted by 91/680/EEC)

*Adapted*

Article 25(6)(a), second subparagraph, contained in Article 28j(2) (inserted by 91/680/EEC)

*Adapted*

Article 25(6)(a), second subparagraph, first indent, contained in Article 28j(2) (inserted by 91/680/EEC)

*Adapted*

~~-(b) supplies the supply~~ of agricultural products ~~effected under, carried out in accordance with~~ the conditions ~~laid down specified in Article 15 and in Article 16(1)(B), (D) and (E) Articles 142 to 145, Articles 147, 148, 149 and 151, Article 152(1)(b) and Articles 153, 155 and 156,~~ to a taxable ~~purchasers customer~~ established outside the Community, ~~provided that in so far as~~ the products are used by ~~those purehasers that customer~~ for the purposes of the transactions referred to in ~~Article 17(3)(a) and (b) Article 164(a) and (b)~~ or for the purposes of supplies of services which are deemed to ~~be supplied within the territory of take place in the country Member State in which the customer is established and on in respect of~~ which ~~tax-VAT~~ is payable solely by the ~~customers under Article 21(1)(b) customer pursuant to Article 189;~~

Article 25(6)(a), second subparagraph, second indent, contained in Article 28j(2) (inserted by 91/680/EEC)

*Adapted*

~~-(c) supplies the supply~~ of agricultural services to a taxable ~~customers customer~~ established within the Community but in ~~other another~~ Member ~~States State~~ or to a taxable ~~customers customer~~ established outside the Community, ~~provided that in so far as~~ the services are used by ~~those customers the customer~~ for the purposes of the transactions referred to in ~~Article 17(3)(a) and (b) and Article 164(a) and (b) or~~ for the purposes of supplies of services which are deemed to ~~be supplied take place~~ within the ~~territory of the country Member State in which the customer is established and on in respect of~~ which ~~tax-VAT~~ is payable solely by the ~~customers under Article 21(1)(b) customer pursuant to Article 189.~~

Article 25(6)(a), second subparagraph, third indent, contained in Article 28j(2) (inserted by 91/680/EEC)

*Adapted*

3. Member States shall determine the method by which the refunds provided for in paragraph 2 are to be made; ~~in.~~ In particular, they may apply Article 17(4); or the provisions of Directives 79/1072/EEC and 86/560/EEC.

Article 25(6)(a), third subparagraph, contained in Article 28j(2) (inserted by 91/680/EEC)

*Adapted*

#### Article 297

~~7.~~ Member States shall ~~make take~~ all measures necessary provisions to ~~check properly the payment verify payments~~ of ~~the~~ flat-rate compensation to ~~the~~ flat-rate farmers.

Article 25(7) (77/388/EEC)

*Adapted*

Article 298

Whenever ~~they exercise the option provided for in this Article,~~ Member States apply this flat-rate scheme, they shall take all measures necessary to ensure that the ~~same method of taxation is applied to supplies supply~~ of agricultural products ~~effected under between Member States, carried out in accordance with~~ the conditions ~~laid down specified~~ in ~~Article 28b(B)(1), Article 34, is always taxed in the same way,~~ whether the supply is effected by a flat-rate farmer or by ~~a another~~ taxable person ~~other than a flat rate farmer~~.

**Article 25(9), second subparagraph, contained in Article 28j(3) (inserted by 91/680/EEC)**

*Adapted*

~~11. The Commission shall, before the end of the fifth year following the entry into force of this Directive, present to the Council new proposals concerning the application of the value added tax to transactions in respect of agricultural products and services.~~

**Article 25(11) (77/388/EEC)**

*Obsolete*

~~12. When they take up the option provided for in this Article the Member States shall fix the uniform basis of assessment of the value added tax in order to apply the scheme of own resources using the common method of calculation in Annex C.~~

**Article 25(12) (77/388/EEC)**

*Obsolete*

**Chapter 3**

**Special scheme for travel agents**

~~Article 26~~ Article 299

**Special scheme for travel agents**

**Article 26 (77/388/EEC)**

**Heading of Article 26 (77/388/EEC)**

1. Member States shall apply ~~value added tax to the operations of travel agents a special VAT scheme,~~ in accordance with ~~the provisions of this Article, where the travel agents Chapter, to transactions carried out by travel agents who~~ deal with customers in their own name and use ~~the~~ supplies ~~and of goods or~~ services ~~of, carried out by~~ other taxable persons, in the provision of travel facilities.

**Article 26(1), first sentence (77/388/EEC)**

*Adapted*

This ~~Article special scheme~~ shall not apply to travel agents who ~~are acting only act solely~~ as intermediaries and ~~accounting for tax in accordance with Article 11A(3)(e) to whom point (c) of the first paragraph of Article 78 applies.~~

**Article 26(1), second sentence (77/388/EEC)**

*Adapted*



~~2. In this Article travel agents include~~ For the purposes of this Chapter, tour operators shall also be regarded as travel agents.

Article 26(1),  
third sentence  
(77/388/EEC)

*Adapted*

#### Article 300

~~2. All transactions performed~~ Transactions made, in accordance with the conditions laid down in Article 299, by the travel agent in respect of the travel facilities for a journey shall be ~~treated~~ regarded as a single service supplied by the travel agent to the traveller.

Article 26(2), first  
sentence  
(77/388/EEC)

*Adapted*

~~It~~ The single service shall be taxable in the Member State in which the travel agent has established his business or has a fixed establishment from which the travel agent has ~~provided the~~ carried out the supply of services.

Article 26(2),  
second sentence  
(77/388/EEC)

*Adapted*

#### Article 301

The taxable amount and the price exclusive of ~~tax~~ VAT, within the meaning of ~~Article 22(3)(b) point (8) of Article 217,~~ in respect of ~~this the~~ single service provided by the travel agent shall be the travel agent's margin, that is to say, the difference between the total amount ~~to be paid by the traveller,~~ exclusive of ~~value added tax, VAT, to be paid by the traveller~~ and the actual cost to the travel agent of supplies ~~and of goods or~~ services ~~provided~~ carried out by other taxable persons, where ~~these those~~ transactions are for the direct benefit of the traveller.

Article 26(2),  
third sentence  
(77/388/EEC)

*Adapted*

#### Article 302

~~3. If transactions entrusted by the travel agent to other taxable persons are performed~~ made by such persons outside the Community, the supply of services carried out by the travel ~~agent's service agent~~ shall be treated as an ~~exempted~~ intermediary activity ~~under Article 15(14) exempted pursuant to Article 149.~~

Article 26(3), first  
sentence  
(77/388/EEC)

*Adapted*

~~Where these~~ If the transactions are ~~performed~~ made both inside and outside the Community, only that part of the travel agent's service relating to transactions outside the Community may be exempted.

Article 26(3),  
second sentence  
(77/388/EEC)

*EN amended*

Article 303

~~4. Tax-VAT~~ charged to the travel agent by other taxable persons ~~on the in respect of~~ transactions ~~described which are referred to~~ in ~~paragraph 2~~ Articles 300 and 301 and which are for the direct benefit of the traveller; shall not be ~~eligible for deduction-deductible~~ or ~~refund-refundable~~ in any Member State.

**Article 26(4)**  
**(77/388/EEC)**

*Adapted*

**Chapter 4**

**Special arrangements for second-hand goods, works of art, collectors' items and antiques**

**Section 1**

**Definitions**

~~Article 26a~~Article 304

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

~~**Special arrangements applicable to second-hand goods, works of art, collectors items and antiques**~~

**Heading of**  
**Article 26a**  
**(inserted by**  
**94/5/EC)**

~~A. Definitions~~

**Heading of**  
**Article 26a(A)**  
**(inserted by**  
**94/5/EC)**

1. For the purposes of this ~~Article Chapter~~, and without prejudice to other Community provisions, the following definitions shall apply:

**Article 26a(A),**  
**introductory**  
**sentence**  
**(inserted by**  
**94/5/EC)**

~~(d)~~(a) 'second-hand goods' ~~shall mean~~ means tangible movable property that is suitable for further use as it is or after repair, other than works of art, collectors' items or antiques and other than precious metals or precious stones as defined by the Member States;

**Article 26a(A)(d)**  
**(inserted by**  
**94/5/EC)**

<p><del>(a)(b)</del> 'works of art' <del>shall mean</del> <u>means</u> the objects <del>referred to listed</del> in <del>(a) of Annex I Annex VIII, Part A</del>;</p>	<p>Article 26a(A)(a), first subpara- graph (inserted by 94/5/EC)</p>
<p><del>(b)(c)</del> 'collectors' items' <del>shall mean</del> <u>means</u> the objects <del>referred to listed</del> in <del>(b) of Annex I Annex VIII, Part B</del>;</p>	<p>Article 26a(A)(b) (inserted by 94/5/EC)</p>
<p><del>(e)(d)</del> 'antiques' <del>shall mean</del> <u>means</u> the objects <del>referred to listed</del> in <del>(e) of Annex I Annex VIII, Part C</del>;</p>	<p>Article 26a(A)(c) (inserted by 94/5/EC)</p>
<p>(e) 'taxable dealer' <del>shall mean a</del> <u>means any</u> taxable person who, in the course of his economic activity <u>and with a view to resale</u>, purchases, or <del>acquires</del> <u>applies</u> for the purposes of his <u>undertaking business</u>, or imports <del>with a view to resale</del>, second-hand goods <del>and/or</del>, works of art, collectors' items or antiques, whether that taxable person is acting for himself or on behalf of another person pursuant to a contract under which commission is payable on purchase or sale;</p>	<p>Article 26a(A)(e) (inserted by 94/5/EC)  <i>Adapted</i></p>
<p>(f) <del>organizer</del> '<del>organiser</del> of a sale by public auction <del>shall mean</del>' <u>means</u> any taxable person who, in the course of his economic activity, offers goods for sale by public auction with a view to handing them over to the highest bidder;</p>	<p>Article 26a(A)(f) (inserted by 94/5/EC)</p>
<p>(g) 'principal of an <del>organizer</del> <del>organiser</del> of a sale by public auction <del>shall mean</del>' <u>means</u> any person who transmits goods to an <del>organizer</del> <del>organiser</del> of a sale by public auction <u>under pursuant to</u> a contract under which commission is payable on a sale <del>subject to the following provisions</del>;</p>	<p>Article 26a(A)(g) (inserted by 94/5/EC)  <i>Adapted</i></p>
<p><u>2.</u> <del>However,</del> Member States <del>shall have the option of</del> <u>need</u> not <del>considering</del> <u>regard</u> as 'works of art' <del>the items mentioned</del> <u>objects listed</u> in <del>the final three indents in (a) in Annex I points (5), (6) or (7) of Annex VIII, Part A</del>;</p>	<p>Article 26a(A)(a), second subpara- graph (inserted by 94/5/EC)  <i>Adapted</i></p>

~~-3.~~ The contract under which commission is payable on a sale, referred to in point (g) of paragraph 1, must provide that the organizer-organiser of the sale by-is to put up the goods for public auction offers the goods for sale-in his own name but on behalf of his principal and that he is to hand over the goods, in his own name but on behalf of his principal, to the highest bidder at the public auction;

**Article 26a(A)(g), first indent (inserted by 94/5/EC)**

*Adapted*

~~the organizer of the sale by public auction hands over the goods, in his own name but on behalf of his principal, to the highest bidder at the public auction.~~

**Article 26a(A)(g), second indent (inserted by 94/5/EC)**

## **Section 2**

### **Special arrangements for taxable dealers**

~~B. Special arrangements for taxable dealers~~

**Heading of Article 26a(B) (inserted by 94/5/EC)**

### **Subsection 1**

#### **Margin scheme**

##### *Article 305*

1. In respect of ~~supplies~~ the supply of second-hand goods, works of art, collectors' items ~~and-or~~ antiques ~~effected-carried out~~ by taxable dealers, Member States shall apply a special arrangements scheme for taxing the profit margin made by the taxable dealer, in ~~aeording-accordance~~ with the ~~following-provisions of this Subsection~~.

**Article 26a(B)(1) (inserted by 94/5/EC)**

*Adapted*

~~(a)2. supplies-The scheme referred to in paragraph 1 shall not apply to the supply of new means of transport, within the meaning of Article 28a(2), effected within-carried out in accordance with the conditions laid-down-specified in Article 28c(A) shall be excluded from the special arrangements provided for in B and C Article 135;~~

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

*Adapted*

Article 306

~~2.~~ The supplies of goods referred to in paragraph 1 shall be supplies; The margin scheme shall apply to the supply by a taxable dealer, of second hand goods, works of art, collectors' items or antiques dealer of the goods referred to in Article 305(1) where those goods have been supplied to him within the Community by one of the following persons:

Article 26a(B)(2)  
(inserted by  
94/5/EC)

*Adapted*

~~-(a)~~ by a non-taxable person, or;

Article 26a(B)(2),  
first indent  
(inserted by  
94/5/EC)

~~-(b)~~ by another taxable person, in so far as the supply of goods by that other taxable person is exempt in accordance with Article 13(B)(e), or pursuant to Article 133;

Article 26a(B)(2),  
second indent  
(inserted by  
94/5/EC)

~~-(c)~~ by another taxable person, in so far as the supply of goods by that other taxable person qualifies for is covered by the exemption for small enterprises provided for in Article 24 Articles 277 to 280 and involves capital assets, or goods;

Article 26a(B)(2),  
third indent  
(inserted by  
94/5/EC)

*Adapted*

~~-(d)~~ by another taxable dealer, in so far as VAT has been applied to the supply of goods by that other taxable dealer was subject to value added tax in accordance with these special arrangements this margin scheme.

Article 26a(B)(2),  
fourth indent  
(inserted by  
94/5/EC)

*Adapted*

Article 307

~~3.1.~~ The taxable amount in respect of the supplies supply of goods as referred to in paragraph 2 Article 306 shall be the profit margin made by the taxable dealer, less the amount of value added tax VAT relating to the profit margin.

Article 26a(B)(3),  
first subpara-  
graph, first  
sentence  
(inserted by  
94/5/EC)

~~That~~ The profit margin of the taxable dealer shall be equal to the difference between the selling price charged by the taxable dealer for the goods and the purchase price.

**Article 26a(B)(3),  
first subpara-  
graph, second  
sentence  
(inserted by  
94/5/EC)**

2. For the purposes of ~~this paragraph~~ paragraph 1, the following definitions shall apply:

**Article 26a(B)(3),  
second subpara-  
graph  
(inserted by  
94/5/EC)**

~~-(a)~~ 'selling price—shall mean' means everything which constitutes the consideration, ~~which has been, or is to be,~~ obtained or to be obtained by the taxable dealer from the ~~purchaser—customer~~ or from a third party, including subsidies directly linked to ~~that—the~~ transaction, taxes, duties, levies and charges and incidental expenses such as commission, packaging, transport and insurance costs charged by the taxable dealer to the ~~purchaser—customer~~, but excluding the amounts referred to in ~~Article 11(A)(3)~~ Article 78;

**Article 26a(B)(3),  
second subpara-  
graph, first indent  
(inserted by  
94/5/EC)**

*Adapted*

~~-(b)~~ 'purchase price—shall mean' means everything which constitutes the consideration ~~defined in the first indent,~~ for the purposes of point (a), obtained; or to be obtained; from the taxable dealer by his supplier.

**Article 26a(B)(3),  
second subpara-  
graph, second  
indent  
(inserted by  
94/5/EC)**

*Adapted*

Article 308

4.1. Member States shall entitle—grant taxable dealers the right to opt for application of the ~~special—arrangements—margin scheme~~ to ~~supplies of the following transactions~~:

**Article 26a(B)(4),  
first subpara-  
graph  
(inserted by  
94/5/EC)**

*Adapted*

(a) the supply of works of art, collectors' items or antiques, which ~~they have the taxable dealer has~~ imported ~~themselves~~ himself;

**Article 26a(B)(4), first subparagraph, point (a) (inserted by 94/5/EC)**

*Adapted*

(b) the supply of works of art ~~supplied to them the taxable dealer~~ by their creators or their successors in title;

**Article 26a(B)(4), first subparagraph, point (b) (inserted by 94/5/EC)**

*Adapted*

(c) the supply of works of art ~~supplied to them~~ by a taxable person other than a taxable dealer where the reduced rate has been applied to that supply ~~by that other taxable person was subject to the reduced rate~~ pursuant to ~~Article 12(3)(e)~~ Article 99.

**Article 26a(B)(4), first subparagraph, point (c) (inserted by 94/5/EC)**

*Adapted*

2. Member States shall ~~determine lay down~~ the detailed rules for ~~exercising this exercise of the~~ option provided for in paragraph 1, which shall in any event cover a period of at least ~~equal to~~ two calendar years.

**Article 26a(B)(4), second subparagraph (inserted by 94/5/EC)**

*Adapted*

*Article 309*

If a taxable dealer exercises the option ~~is taken up under Article 308~~, the taxable amount shall be determined in accordance with ~~paragraph 3~~ Article 307.

**Article 26a(B)(4), third subparagraph, first sentence (inserted by 94/5/EC)**

*Adapted*

~~For~~ ~~In respect of the supplies of works of art, collectors' items or antiques which the taxable dealer has imported himself referred to in Article 308(1)(a)~~, the purchase price to be taken into account in calculating the profit margin shall be equal to the taxable amount on importation, determined in accordance with ~~Article 11(B)~~ Articles 82 to 86, plus the ~~value added tax-VAT~~ due or paid on importation.

Article 26a(B)(4),  
third subpara-  
graph, second  
sentence  
(inserted by  
94/5/EC)

Article 310

~~10.1.~~ In order to simplify the procedure for ~~charging~~ collecting the tax and ~~subject to consultation of~~ after consulting the VAT Committee ~~as provided for in Article 29~~, Member States may provide that, for certain transactions or for certain categories of taxable dealers, the taxable amount ~~of~~ in respect of supplies of goods subject to the ~~special arrangements for taxing the~~ margin ~~shall~~ scheme is to be determined for each tax period during which the taxable dealer must submit the VAT return referred to in ~~Article 22(4)~~ Article 242.

Article 26a(B)(10),  
first subpara-  
graph  
(inserted by  
94/5/EC)

Adapted

In ~~that the~~ event that such provision is made in accordance with the first subparagraph, the taxable amount ~~for~~ in respect of supplies of goods to which the same rate of ~~value added tax-VAT~~ is applied shall be the total profit margin made by the taxable dealer less the amount of ~~value added tax-VAT~~ relating to that margin.

Article 26a(B)(10),  
second subpara-  
graph  
(inserted by  
94/5/EC)

Adapted

2. The total profit margin shall be equal to the difference between the following two amounts:

Article 26a(B)(10),  
third subpara-  
graph  
(inserted by  
94/5/EC)

~~-(a)~~ the total ~~amount~~ value of supplies of goods subject to the ~~special arrangements for taxing the~~ margin ~~effected~~ scheme and carried out by the taxable dealer during the period; ~~that amount shall be equal to~~ covered by the VAT return, that is to say, the total of the selling prices ~~determined in accordance with paragraph 3, and;~~

Article 26a(B)(10),  
third subpara-  
graph, first indent  
(inserted by  
94/5/EC)

Adapted



~~-(b)~~ the total ~~amount value~~ of purchases of goods, as referred to in ~~paragraph 2 Article 306~~, effected ~~by the taxable dealer~~ during ~~that the~~ period, ~~by the taxable dealer~~, ~~that amount shall be equal to~~ covered by the VAT return, ~~that is to say~~, the total of the purchase prices ~~determined in accordance with paragraph 3~~.

Article 26a(B)(10), third subparagraph, second indent (inserted by 94/5/EC)

*Adapted*

3. Member States shall take the ~~necessary~~ measures necessary to ensure that the taxable ~~persons concerned dealers referred to in paragraph 1~~ do not enjoy unjustified ~~advantages advantage~~ or sustain unjustified ~~loss~~ harm.

Article 26a(B)(10), fourth subparagraph (inserted by 94/5/EC)

*Adapted*

Article 311

~~11.~~—The taxable dealer may apply the normal ~~value added tax VAT~~ arrangements to any supply covered by the ~~special arrangements pursuant to paragraph 2 or 4~~ margin scheme.

Article 26a(B)(11), first subparagraph (inserted by 94/5/EC)

*Adapted*

Article 312

~~Where the taxable dealer applies the normal value added tax arrangements to:~~

Article 26a(B)(11), second subparagraph (inserted by 94/5/EC)

(a)1. Where the taxable dealer applies the normal VAT arrangements to the supply of a work of art, a collectors' item or an antique which he has imported himself, he shall be entitled to deduct from his tax liability the VAT for which he is liable the value added tax VAT due or paid on the import of those goods;

Article 26a(B)(11), second subparagraph, point (a) (inserted by 94/5/EC)

*Adapted*

<p>(b) <del>Where the taxable dealer applies the normal VAT arrangements to the supply to him of a work of art supplied to him by its creator or his the creator's successors in title, or by a taxable person other than a taxable dealer, he shall be entitled to deduct from his tax liability the VAT for which he is liable the value added tax-VAT due or paid for in respect of the work of art supplied to him;</del></p>	<p>Article 26a(B)(11), second subparagraph, point (b) (inserted by 94/5/EC)</p> <p><i>Adapted</i></p>
<p>(c) <del>the supply of a work of art supplied to him by a taxable person other than a taxable dealer, he shall be entitled to deduct from his tax liability the value added tax due or paid for the work of art supplied to him.</del></p>	<p>Article 26a(B)(11), second subparagraph, point (c) (inserted by 94/5/EC)</p>
<p><u>2.</u> <del>The A right to deduct of deduction shall arise at the time when the tax-VAT due for on the supply in respect of which the taxable dealer opts for application of the normal value added tax-VAT arrangements become becomes chargeable.</del></p>	<p>Article 26a(B)(11), third subparagraph (inserted by 94/5/EC)</p> <p><i>Adapted</i></p>
<p><i>Article 313</i></p>	
<p><del>5. Where they are effected If carried out in accordance with the conditions laid down specified in Article 15, the supplies Articles 142 to 145 or Articles 147, 148 or 149, the supply of second-hand goods, works of art, collectors' item-items or antiques subject to the special arrangements for taxing the margin scheme shall be exempt.</del></p>	<p>Article 26a(B)(5) (inserted by 94/5/EC)</p> <p><i>Adapted</i></p>
<p><i>Article 314</i></p>	
<p><del>7. In so far as goods are used for the purpose of supplies carried out by him and subject to the special arrangements for taxing the margin scheme, the taxable dealer shall may not be entitled to deduct the following from the tax-VAT for which he is liable:</del></p>	<p>Article 26a(B)(7) (inserted by 94/5/EC)</p> <p><i>Adapted</i></p>
<p>(a) the <del>value added tax-VAT</del> due or paid in respect of works of art, collectors' items or antiques which he has imported himself;</p>	<p>Article 26a(B)(7) (a) (inserted by 94/5/EC)</p>

(b) the ~~value added tax-VAT~~ due or paid in respect of works of art which have been, or are to be, supplied to him by their ~~creators~~ creator or ~~their~~ by the creator's successors in title;

Article 26a(B)(7)  
(b)  
(inserted by  
94/5/EC)

*Adapted*

(c) the ~~value added tax-VAT~~ due or paid in respect of works of art which have been, or are to be, supplied to him by a taxable person other than a taxable dealer.

Article 26a(B)(7)  
(c)  
(inserted by  
94/5/EC)

#### Article 315

6.——Taxable persons ~~shall not be entitled to~~ may not deduct from the ~~tax~~ VAT for which they are liable the ~~value added tax-VAT~~ due or paid in respect of goods which have been, or are to be, supplied to them by a taxable dealer, in so far as the supply of those goods by the taxable dealer is subject to the ~~special arrangements for taxing the~~ margin scheme.

Article 26a(B)(6)  
(inserted by  
94/5/EC)

*Adapted*

#### Article 316

8.——Where ~~he is led to apply~~ the taxable dealer applies both the normal VAT arrangements ~~for value added tax and the special arrangements for taxing the margin, the taxable dealer and the margin scheme, he~~ must ~~follow~~ show separately in his accounts the transactions falling under each of ~~these~~ those arrangements, ~~according to~~ in accordance with the rules laid down by the Member States.

Article 26a(B)(8)  
(inserted by  
94/5/EC)

*Adapted*

#### Article 317

9.——The taxable dealer may not ~~indicate~~ enter separately on the invoices which he issues; ~~tax the VAT~~ relating to supplies of goods to which he ~~makes subject to the special arrangements for taxing~~ applies the margin scheme.

Article 26a(B)(9)  
(inserted by  
94/5/EC)

*Adapted*

#### Subsection 2

### Transitional arrangements for second-hand means of transport

## **TITLE XVI B**

### **TRANSITIONAL PROVISIONS APPLICABLE IN THE FIELD OF SECOND-HAND GOODS, WORKS OF ART, COLLECTORS' ITEMS AND ANTIQUES**

#### *Article 28o Article 318*

1. — Member States which, at 31 December 1992, were applying special tax arrangements other than ~~those provided for in Article 26a(B) to supplies the margin scheme to the supply by taxable dealers~~ of second-hand means of transport ~~effected by taxable dealers my may, pending introduction of the definitive arrangements referred to in Article 395,~~ continue to apply those arrangements ~~during the period referred to in Article 281~~ in so far as they comply with, or are adjusted to comply with, the ~~following~~ conditions ~~laid down in this Subsection~~:

2. — ~~By way of derogation from the first sentence of paragraph 1, the Kingdom of Denmark shall be entitled to apply the may introduce~~ special tax arrangements ~~laid down in subparagraphs 1(a) to (h) during the period as~~ referred to in ~~Article 281~~ ~~the first paragraph~~.

#### *Article 319*

(a) 1. ~~the special~~ These transitional arrangements shall apply ~~only~~ to supplies of ~~the second-hand~~ means of transport ~~referred to in Article 28a(2)(a) and regarded as second hand goods within the meaning of Article 26a(A)(d),~~ effected ~~carried out~~ by taxable dealers ~~within the meaning of Article 26a(A)(e),~~ and subject to the ~~special tax arrangements for taxing the margin pursuant to Article 26a(B)(1) and (2) scheme~~.

2. ~~Supplies~~ These transitional arrangements shall not apply to the supply of new means of transport ~~within the meaning of Article 28a(2)(b) that are~~ carried out ~~under in accordance with~~ the conditions ~~specified in Article 28e(A) shall be excluded from these special arrangements specified in Article 135~~:

**Title XVI B  
(inserted by  
94/5/EC)**

**Heading of  
Title XVI B  
(inserted by  
94/5/EC)**

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

*Adapted*

**Article 28o(2)  
(inserted by  
94/5/EC)**

*Adapted*

**Article 28o(1)(a),  
first sentence  
(inserted by  
94/5/EC)**

*Adapted*

**Article 28o(1)(a),  
second sentence  
(inserted by  
94/5/EC)**

*Adapted*

Article 320

~~(b) — the tax~~ The VAT due in respect of each supply referred to in ~~(a) is~~ Article 319 shall be equal to the amount of ~~tax~~ VAT that would ~~be~~ have been due if that supply had been subject to the normal VAT arrangements ~~for value added tax~~, less the amount of ~~value added tax~~ VAT regarded as being incorporated by the taxable dealer in the purchase price of the means of transport ~~by the taxable dealer~~;

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

*Adapted*

Article 321

~~(e) — the tax~~ The VAT regarded as being incorporated by the taxable dealer in the purchase price of the means of transport ~~by the taxable dealer~~ shall be calculated ~~according to~~ in accordance with the following method:

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

~~-(a)~~ the purchase price to be taken into account shall be the purchase price within the meaning of ~~Article 26a(B)(3)~~ Article 307(2)(b);

**Article 28o(1)(c),**  
**first indent**  
**(inserted by**  
**94/5/EC)**

~~-(b)~~ that purchase price paid by the taxable dealer shall be deemed to include the ~~tax~~ VAT that would have been due if the taxable dealer's supplier had ~~subjected the supply to~~ applied the normal ~~value added tax~~ VAT arrangements to the supply;

**Article 28o(1)(c),**  
**second indent**  
**(inserted by**  
**94/5/EC)**

*Adapted*

~~-(c)~~ the rate to be taken into account shall be the rate applicable, ~~within the meaning of Article 12(1)~~ pursuant to Article 90, in the Member State ~~within~~ in which the place of the supply to the taxable dealer, as determined in accordance with ~~Article 8~~ Articles 32 and 33, is deemed to be situated;

**Article 28o(1)(c),**  
**third indent**  
**(inserted by**  
**94/5/EC)**

Article 322

~~(d) — the tax~~ The VAT due in respect of each supply of means of transport as referred to in ~~(a) the first paragraph of Article 319~~, determined in accordance with ~~the provisions of (b) Article 320~~, may not be less than the amount of ~~tax~~ VAT that would be due if that supply ~~had been~~ were subject to the ~~special arrangements for taxing the margin in accordance with Article 26a(B)(3) scheme~~.

**Article 28o(1)(d),**  
**first subpara-**  
**graph**  
**(inserted by**  
**94/5/EC)**

*Adapted*

~~For the application of the above provisions, the Member States have the option of providing may provide that, if the supply ~~had been subject to the special arrangements for taxation of~~ is subject to the margin, ~~that scheme,~~ the margin ~~would~~ may not ~~have been~~ be less than 10% of the selling price, within the meaning of ~~B(3)~~ Article 307(2)(a);~~

**Article 28o(1)(d),  
second subparagraph  
(inserted by  
94/5/EC)**

*Adapted*

#### Article 323

~~(f) taxable Taxable persons shall may not ~~be entitled to~~ deduct from the ~~tax~~ VAT for which they are liable ~~tax~~ the VAT due or paid in respect of second-hand means of transport supplied to them by a taxable dealer, in so far as the supply of those goods by the taxable dealer is subject to ~~the tax arrangements~~ VAT in accordance with ~~(a)~~ these transitional arrangements;~~

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

*Adapted*

#### Article 324

~~(e) the The taxable dealer shall may not ~~be entitled to indicate~~ enter separately on the invoices he issues ~~tax~~ the VAT relating to supplies to which he ~~is~~ subjecting to the special applies these transitional arrangements;~~

**Article 28o(1)(e)  
(inserted by  
94/5/EC and  
amended by  
2001/115/EC)**

*Adapted*

~~4. For supplies by a taxable dealer of works of art, collectors' items or antiques that have been supplied to him under the conditions provided for in Article 26a(B)(2), the Federal Republic of Germany shall be entitled, until 30 June 1999, to provide for the possibility for taxable dealers to apply either the special arrangements for taxable dealers, or the normal VAT arrangements according to the following rules:~~

**Article 28o(4)  
(inserted by  
94/5/EC)**

*Obsolete*

~~(a) for the application of the special arrangements for taxable dealers to these supplies of goods, the taxable amount shall be determined in accordance with Article 11(A)(1), (2) and (3);~~

**Article 28o(4)(a)  
(inserted by  
94/5/EC)**

*Obsolete*

<p><del>(b) in so far as the goods are used for the needs of his operations which are taxed in accordance with (a), the taxable dealer shall be authorised to deduct from the tax for which he is liable:</del></p>	<p><b>Article 28o(4)(b), first subparagraph (inserted by 94/5/EC)</b></p>
	<p><i>Obsolete</i></p>
<p><del>— the value added tax due or paid for works of art, collectors' items or antiques which are or will be supplied to him by another taxable dealer, where the supply by that other taxable dealer has been taxed in accordance with (a);</del></p>	<p><b>Article 28o(4)(b), first subparagraph, first indent (inserted by 94/5/EC)</b></p>
	<p><i>Obsolete</i></p>
<p><del>— the value added tax deemed to be included in the purchase price of the works of art, collectors' items or antiques which are or will be supplied to him by another taxable dealer, where the supply by that other taxable dealer has been subject to value added tax in accordance with the special arrangements for the taxation of the margin provided for in Article 26a(B), in the Member State within whose territory the place of that supply, determined in accordance with Article 8, is deemed to be situated.</del></p>	<p><b>Article 28o(4)(b), first subparagraph, second indent (inserted by 94/5/EC)</b></p>
	<p><i>Obsolete</i></p>
<p><del>— This right to deduct shall arise at the time when the tax due for the supply taxed in accordance with (a) becomes chargeable;</del></p>	<p><b>Article 28o(4)(b), second subparagraph (inserted by 94/5/EC)</b></p>
	<p><i>Obsolete</i></p>
<p><del>(e) for the application of the provisions laid down in the second indent of (b), the purchase price of the works of art, collectors' items or antiques the supply of which by a taxable dealer is taxed in accordance with (a) shall be determined in accordance with Article 26a(B)(3) and the tax deemed to be included in this purchase price shall be calculated according to the following method:</del></p>	<p><b>Article 28o(4)(c) (inserted by 94/5/EC)</b></p>
	<p><i>Obsolete</i></p>

~~the purchase price shall be deemed to include the value added tax that would have been due if the taxable margin made by the supplier had been equal to 20% of the purchase price,~~

**Article 28o(4)(c),  
first indent  
(inserted by  
94/5/EC)**

*Obsolete*

~~the rate to be taken into account shall be the rate applicable, within the meaning of Article 12(1), in the Member State within whose territory the place of the supply that is subject to the special arrangements for taxation of the profit margin, determined in accordance with Article 8, is deemed to be situated;~~

**Article 28o(4)(c),  
second indent  
(inserted by  
94/5/EC)**

*Obsolete*

~~(d) where he applies the normal arrangements for value added tax to the supply of a work of art, collectors' item or antique which has been supplied to him by another taxable dealer and where the goods have been taxed in accordance with (a), the taxable dealer shall be authorised to deduct from his tax liability the value added tax referred to in (b);~~

**Article 28o(4)(d)  
(inserted by  
94/5/EC)**

*Obsolete*

~~(e) the category of rates applicable to these supplies of goods shall be that which was applicable on 1 January 1993;~~

**Article 28o(4)(e)  
(inserted by  
94/5/EC)**

*Obsolete*

~~(f) for the application of the fourth indent of Article 26a(B)(2), the fourth indent of Article 26a(C)(1) and Article 26a(D)(b) and (c), the supplies of works of art, collectors' items or antiques, taxed in accordance with (a), shall be deemed by Member States to be supplies subject to value added tax in accordance with the special arrangements for taxation of the profit margin provided for in Article 26a(B);~~

**Article 28o(4)(f)  
(inserted by  
94/5/EC)**

*Obsolete*

~~(g) where the supplies of works of art, collectors' items or antiques taxed in accordance with (a) are effected under the conditions provided for in Article 28c(A), the invoice issued in accordance with Article 22(3) shall contain an endorsement indicating that the special taxation arrangements for taxing the margin provided for in Article 28o(4) have been applied.~~

**Article 28o(4)(g)  
(inserted by  
94/5/EC)**

*Obsolete*

### Section 3

#### Special arrangements for sales by public auction



~~C. Special arrangements for sales by public auction~~

Heading of  
Article 26a(C)  
(inserted by  
94/5/EC)

Article 325

1. ~~By way of derogation from B,~~ Member States may ~~determine~~, in accordance with the ~~following~~ provisions, ~~the taxable amount of supplies of this Section, apply special arrangements for taxation of the profit margin made by an organiser of a sale by public auction in respect of the supply~~ of second-hand goods, works of art, collectors' items or antiques ~~effected by an organizer of sales by public auction that organiser,~~ acting in his own name, ~~pursuant to and on behalf of the persons referred to in Article 326, pursuant to~~ a contract under which commission is payable on the sale of those goods by public auction, ~~on behalf of:~~

Article 26a(C)(1)  
(inserted by  
94/5/EC)

*Adapted*

~~(a)2. supplies~~ The arrangements referred to in paragraph 1 shall not apply to the supply of new means of transport, ~~within the meaning of Article 28a(2), effected within,~~ carried out in accordance with the conditions ~~laid down specified in Article 28c(A) shall be excluded from the special arrangements provided for in B and C Article 135;~~

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

*Adapted*

Article 326

~~1. — By way of derogation from B, Member States may determine, in accordance with the following provisions, the taxable amount of These special arrangements shall apply to supplies of second-hand goods, works of art, collectors' items or antiques effected carried out by an organizer organiser of sales a sale by public auction, acting in his own name, pursuant to a contract under which commission is payable on the sale of those goods by public auction, on behalf of one of the following persons:~~

Article 26a(C)(1)  
(inserted by  
94/5/EC)

*Adapted*

~~-(a) a non-taxable person, or;~~

Article 26a(C)(1),  
first indent  
(inserted by  
94/5/EC)

~~-(b) another taxable person, in so far as the supply of goods, within the meaning of Article 5(4)(e), carried out by that other taxable person in accordance with a contract under which commission is payable on a sale, is exempt in accordance with Article 13(B)(e), or pursuant to Article 133;~~

Article 26a(C)(1),  
second indent  
(inserted by  
94/5/EC)

*Adapted*

-(c) another taxable person, in so far as the supply of goods, ~~within the meaning of Article 5(4)(e) carried out~~ by that ~~other~~ taxable person ~~qualifies for in accordance with a contract under which commission is payable on a sale, is covered by~~ the exemption ~~for small enterprises~~ provided for in ~~Article 24 Articles 277 to 280~~ and involves capital ~~assets, or goods~~;

Article 26a(C)(1),  
third indent  
(inserted by  
94/5/EC)

*Adapted*

-(d) a taxable dealer, in so far as the supply of goods, ~~within the meaning of Article 5(4)(e), carried out~~ by that ~~other~~ taxable dealer ~~in accordance with a contract under which commission is payable on a sale~~, is subject to ~~tax-VAT~~ in accordance with the ~~special arrangements for taxing the margin provided for in B scheme.~~

Article 26a(C)(1),  
fourth indent  
(inserted by  
94/5/EC)

*Adapted*

#### Article 327

7.—The supply of goods to a taxable person who is an ~~organizer~~ ~~organiser~~ of sales by public auction shall be regarded as ~~being effected taking place~~ when the sale of those goods by public auction ~~is itself effected takes place~~.

Article 26a(C)(7)  
(inserted by  
94/5/EC)

*Adapted*

#### Article 328

2.—The taxable amount ~~in respect~~ of each supply of goods referred to in ~~paragraph 1 this Section~~ shall be the total amount invoiced in accordance with ~~paragraph 4 Article 331~~ to the purchaser by the ~~organizer~~ ~~organiser~~ of the sale by public auction, less ~~the following~~:

Article 26a(C)(2)  
(inserted by  
94/5/EC)

-(a) the net amount paid or to be paid by the ~~organizer~~ ~~organiser~~ of the sale by public auction to his principal, ~~as~~ determined in accordance with ~~paragraph 3, and Article 329~~;

Article 26a(C)(2),  
first indent  
(inserted by  
94/5/EC)

-(b) the amount of the ~~tax due-VAT payable~~ by the ~~organizer~~ ~~organiser~~ of the sale by public auction in respect of his supply.

Article 26a(C)(2),  
second indent  
(inserted by  
94/5/EC)

*Adapted*

Article 329

~~3.~~—The net amount paid or to be paid by the ~~organizer~~ organiser of the sale by public auction to his principal shall be equal to the difference between the auction price of the goods and the amount of the commission obtained or to be obtained by the organiser of the sale by public auction from his principal pursuant to the contract under which commission is payable on the sale.

Article 26a(C)(3)  
(inserted by  
94/5/EC)

~~— the price of the goods at public auction, and~~

Article 26a(C)(3),  
first indent  
(inserted by  
94/5/EC)

~~— the amount of the commission obtained or to be obtained by the organizer of the sale by public auction from his principal, under the contract whereby commission is payable on the sale.~~

Article 26a(C)(3),  
second indent  
(inserted by  
94/5/EC)

Article 330

~~6.~~—Organisers of sales by public auction who supply goods ~~under in~~ accordance with the conditions laid down in ~~paragraph 1~~ Article 326 must indicate the following in their accounts, in suspense accounts:

Article 26a(C)(6),  
first subpara-  
graph  
(inserted by  
94/5/EC)

~~-(a)~~ the amounts obtained or to be obtained from the purchaser of the goods~~;~~

Article 26a(C)(6),  
first subpara-  
graph, first indent  
(inserted by  
94/5/EC)

~~-(b)~~ the ~~amount~~ amounts reimbursed or to be reimbursed to the vendor of the goods.

Article 26a(C)(6),  
first subpara-  
graph, second  
indent  
(inserted by  
94/5/EC)

~~These~~ The amounts referred to in the first paragraph must be duly substantiated.

Article 26a(C)(6),  
second subpara-  
graph  
(inserted by  
94/5/EC)

Article 331

4. — The ~~organizer~~ ~~organiser~~ of the sale by public auction must issue to the purchaser an invoice itemising the following:

**Article 26a(C)(4), first subparagraph (inserted by 94/5/EC and amended by 2001/115/EC)**

~~-(a)~~ the auction price of the goods;

**Article 26a(C)(4), first subparagraph, first indent (inserted by 94/5/EC)**

~~-(b)~~ taxes, dues, levies and charges;

**Article 26a(C)(4), first subparagraph, second indent (inserted by 94/5/EC)**

~~-(c)~~ incidental expenses, such as commission, packing, transport and insurance costs, charged by the ~~organizer~~ ~~organiser~~ to the purchaser of the goods.

**Article 26a(C)(4), first subparagraph, third indent (inserted by 94/5/EC)**

~~That~~ ~~The~~ invoice issued by the organiser of the sale by public auction must not indicate any ~~value added tax~~ VAT separately.

**Article 26a(C)(4), second subparagraph (inserted by 94/5/EC)**

Article 332

5.1. The ~~organizer~~ ~~organiser~~ of the sale by public auction to whom the goods ~~were~~ have been transmitted ~~under~~ pursuant to a contract ~~whereby~~ under which commission is payable on a public auction sale must issue a statement to his principal.

**Article 26a(C)(5), first subparagraph (inserted by 94/5/EC)**

*Adapted*

~~That~~ ~~The~~ statement issued by the organiser of the sale by public auction must ~~itemize~~ specify separately the amount of the transaction, ~~i.e. that is to say,~~ the auction price of the goods less the amount of the commission obtained or to be obtained from the principal.

Article 26a(C)(5),  
second subpara-  
graph  
(inserted by  
94/5/EC)

*Adapted*

2. ~~A~~ ~~The~~ statement ~~so~~ drawn up in accordance with paragraph 1 shall serve as the invoice which the principal, where he is a taxable person, must issue to the ~~organizer~~ organiser of the sale by public auction in accordance with ~~Article 22(3)~~ Articles 211 and 212.

Article 26a(C)(5),  
third subpara-  
graph  
(inserted by  
94/5/EC)

#### Article 333

~~3. — Where they apply the special arrangements for sales by public auction provided for in Article 26a(C),~~ Member States which apply the arrangements provided for in this Section shall also apply these ~~special~~ arrangements to supplies of second-hand means of transport ~~effected~~ carried out by an ~~organizer~~ organiser of sales by public auction, acting in his own name, pursuant to a contract under which commission is payable on the sale of those goods by public auction, on behalf of a taxable dealer, in so far as ~~the supply of the second-hand means of transport, within the meaning of Article 5(4)(c), those supplies~~ by that ~~other~~ taxable dealer, ~~is would be~~ subject to ~~tax~~ VAT in accordance with ~~paragraphs 1 and 2~~ the transitional arrangements for second-hand means of transport.

Article 28o(3)  
(inserted by  
94/5/EC)

*Adapted*

~~D. — Transitional arrangements for the taxation of trade between Member States~~

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

~~During the period referred to in Article 28l, Member States shall apply the following provisions:~~

Article 26a(D),  
introductory  
sentence  
(inserted by  
94/5/EC)

#### Section 4

### Measures to prevent distortion of competition and fraud

Article 334

Member States may take measures concerning the right ~~to deduct value added tax of deduction~~ in order to ~~avoid ensure that~~ the taxable dealers ~~concerned enjoying covered by special arrangements as provided for in Section 2 do not enjoy~~ unjustified ~~advantages advantage~~ or ~~sustaining sustain~~ unjustified ~~loss harm~~.

**Article 2  
(94/5/EC)**

*Adapted*

Article 335

Acting unanimously on a proposal from the Commission, the Council may ~~authorize allow~~ any Member State to introduce ~~particular special~~ measures ~~for the purpose of combating to combat~~ fraud, ~~by providing that pursuant to which~~ the ~~tax VAT~~ due ~~in application of under~~ the ~~arrangements for taxing the profit margin provided for in Article 26a(B) cannot scheme may not~~ be less than the amount of ~~tax VAT~~ which would be due if the profit margin were equal to a certain percentage of the selling price.

**Article 3, first sentence  
(94/5/EC)**

*Adapted*

~~This The~~ percentage of the selling price shall be fixed ~~taking into account in the light of~~ the normal profit margins ~~realized made~~ by economic operators in the sector concerned.

**Article 3, second sentence  
(94/5/EC)**

*Adapted*

Chapter 5

Special scheme for investment gold

Section 1

General provisions

~~Article 26b~~ Article 336

**Article 26b  
(inserted by  
98/80/EC)**

~~Special scheme for investment gold~~

**Heading of  
Article 26b  
(inserted by  
98/80/EC)**

~~A. Definition~~

**Heading of  
Article 26b(A)  
(inserted by  
98/80/EC)**

1. For the purposes of this Directive, and without prejudice to other Community provisions, ‘investment gold’ shall mean:

**Article 26b(A), first subparagraph (inserted by 98/80/EC)**

~~(i)(1)~~ gold, in the form of a bar or a wafer of weights accepted by the bullion markets, of a purity equal to or greater than 995 thousandths, whether or not represented by securities;

**Article 26b(A), first subparagraph, point (i), first sentence (inserted by 98/80/EC)**

~~(ii)(2)~~ gold coins which of a purity equal to or greater than 900 thousandths and minted after 1800, which are or have been legal tender in the country of origin, and are normally sold at a price which does not exceed the open market value of the gold contained in the coins by more than 80%.

**Article 26b(A), first subparagraph, point (ii) (inserted by 98/80/EC)**

*Adapted*

~~— are of a purity equal to or greater than 900 thousandths,~~

**Article 26b(A), first subparagraph, point (ii), first indent (inserted by 98/80/EC)**

~~— are minted after 1800,~~

**Article 26b(A), first subparagraph, point (ii), second indent (inserted by 98/80/EC)**

~~— are or have been legal tender in the country of origin, and~~

**Article 26b(A), first subparagraph, point (ii), third indent (inserted by 98/80/EC)**

~~— are normally sold at a price which does not exceed the open market value of the gold contained in the coins by more than 80%.~~

**Article 26b(A), first subparagraph, point (ii), fourth indent (inserted by 98/80/EC)**

2. Member States may exclude from ~~the~~this special scheme small bars or wafers of a weight of 1 g or less~~;~~.

**Article 26b(A),  
first subpara-  
graph, point (i),  
second sentence  
(inserted by  
98/80/EC)**

*Adapted*

3. ~~Such~~For the purposes of this Directive, the coins ~~are referred to in point (2) of paragraph 1 shall not, for the purpose of this Directive, considered to~~ be regarded as sold for numismatic interest.

**Article 26b(A),  
second subpara-  
graph  
(inserted by  
98/80/EC)**

*Adapted*

### Article 337

~~Each~~Starting in 1999, each Member State shall inform the Commission ~~before by~~ 1 July each year, ~~starting in 1999,~~ of the coins meeting ~~these the~~ criteria laid down in point (2) of Article 336(1) which are traded in that Member State. The Commission shall, before 1 December each year, publish a comprehensive list of ~~these those~~ coins in the 'C' series of the *Official Journal of the European* ~~Communities before 1 December each year~~ *Union*. Coins included in the published list shall be deemed to fulfil ~~these those~~ criteria for throughout the ~~whole~~ year for which the list is published.

**Article 26b(A),  
third subpara-  
graph  
(inserted by  
98/80/EC)**

*Adapted*

## Section 2

### Exemption from VAT

~~B. — Special arrangements applicable to investment gold transactions~~

**Heading of  
Article 26b(B)  
(inserted by  
98/80/EC)**



Article 338

Member States shall exempt from ~~value added tax-VAT~~ the supply, the intra-Community acquisition and the importation of investment gold, including investment gold represented by certificates for allocated or unallocated gold or traded on gold accounts and including, in particular, gold loans and swaps, involving a right of ownership or claim in respect of investment gold, as well as transactions concerning investment gold involving futures and forward contracts leading to a transfer of right of ownership or claim in respect of investment gold.

**Article 26b(B),  
first subpara-  
graph  
(inserted by  
98/80/EC)**

Article 339

Member States shall ~~also~~ exempt the services of agents who act in the name and ~~for the account on behalf of another a third party,~~ when they ~~intervene~~ take part in the supply of investment gold for their principal.

**Article 26b(B),  
second subpara-  
graph  
(inserted by  
98/80/EC)**

Adapted

Section 3

Taxation option

~~C. — Option to tax~~

**Heading of  
Article 26b(C)  
(inserted by  
98/80/EC)**

Article 340

Member States shall allow taxable persons who produce investment gold of whatever origin or transform any gold into investment gold ~~as defined in~~ A a the right ~~of option to opt~~ for the taxation of supplies of investment gold to another taxable person which would otherwise be exempt ~~under B~~ pursuant to Article 338.

**Article 26b(C),  
first subpara-  
graph  
(inserted by  
98/80/EC)**

Adapted

Article 341

1. Member States may allow taxable persons who, in ~~their trade the course of their economic activity,~~ normally supply gold for industrial purposes, ~~a the right of option to opt~~ for the taxation of supplies of ~~investment gold gold bars or wafers,~~ as ~~defined referred to~~ in ~~A(i) point (1) of Article 336(1),~~ to another taxable person, which would otherwise be exempt ~~under B pursuant to Article 338.~~

Article 26b(C), second subparagraph, first sentence (inserted by 98/80/EC)

*Adapted*

2. Member States may restrict the scope of ~~this the~~ option provided for in paragraph 1.

Article 26b(C), second subparagraph, second sentence (inserted by 98/80/EC)

Article 342

Where the supplier has exercised ~~a the right of option under Articles 340 and 341 to opt~~ for taxation ~~pursuant to the first or second paragraph,~~ Member States shall allow ~~a right of option the agent to opt~~ for taxation ~~for the agent in respect~~ of the services ~~mentioned referred to~~ in ~~the second paragraph of B Article 339.~~

Article 26b(C), third subparagraph (inserted by 98/80/EC)

*Adapted*

Article 343

Member States shall ~~specify the details of lay down detailed rules for~~ the ~~use exercise~~ of ~~these the~~ options provided for in this Section, and shall inform the Commission ~~of the rules of application for the exercise of these options in that Member State~~ accordingly.

Article 26b(C), fourth subparagraph (inserted by 98/80/EC)

*Adapted*

Section 4

Transactions on a regulated gold bullion market

~~G. Procedure for transactions on a regulated gold bullion market~~

Heading of Article 26b(G) (inserted by 98/80/EC)

Article 344

~~1. — A Each Member State may, subject to consultation provided for under Article 29, disapply the exemption for investment gold provided for by this special scheme in respect of specific transactions, other than intra-Community supplies or exports, concerning investment gold taking after consulting the VAT Committee, apply VAT to specific transactions which take place in that Member State between taxable persons who are members of a gold bullion market regulated by the Member State concerned or between such a taxable person and another taxable person who is not a member of that market. However, the Member State may not apply VAT to supplies carried out in accordance with the conditions specified in Article 135 or to exports of investment gold.~~

~~(a) — between taxable persons who are members of a bullion market regulated by the Member State concerned, and~~

~~(b) — where the transaction is between a member of a bullion market regulated by the Member State concerned and another taxable person who is not a member of that market.~~

~~— Under these circumstances, these transactions shall be taxable and the following shall apply.~~

**Article 26b(G)(1),  
first subpara-  
graph  
(inserted by  
98/80/EC)**

*Adapted*

**Article 26b(G)(1),  
first subpara-  
graph, point (a)  
(inserted by  
98/80/EC)**

**Article 26b(G)(1),  
first subpara-  
graph, point (b)  
(inserted by  
98/80/EC)**

**Article 26b(G)(1),  
second subpara-  
graph  
(inserted by  
98/80/EC)**

Article 345

~~2. — (a) For transactions under 1(a), for the purpose of simplification, the Member State States which, pursuant to Article 344, tax transactions between taxable persons who are members of a regulated gold bullion market shall, for the purposes of simplification, authorise suspension of the tax to be collected as well as dispense with the recording and relieve taxable persons of the accounting requirements of value added tax in respect of VAT.~~

**Article 26b(G)(2)  
(a)  
(inserted by  
98/80/EC)**

*Adapted*

Article 346

~~(b)1.~~ ~~For transactions under 1(b), the reverse charge procedure under F~~ Member States which, pursuant to Article 344, tax transactions between a taxable person who is a member of a regulated gold bullion market and another taxable person who is not a member of that market shall be applicable designate the customer as the person liable for payment of VAT in accordance with procedures and conditions laid down by Member States pursuant to Article 191.

**Article 26b(G)(2)  
(b), first sentence  
(inserted by  
98/80/EC)**

*Adapted*

~~2.~~ ~~Where a non-member of the bullion market would not, other than for these transactions, be liable for registration for VAT in the relevant Member State~~ the customer who is not a member of the regulated gold bullion market is a taxable person subject to VAT solely in respect of the transactions referred to in Article 344, the member-vendor shall fulfil the fiscal-tax obligations on behalf of the non-member, according to customer, in accordance with the provisions-law of that-the Member State in which taxation takes place.

**Article 26b(G)(2)  
(b), second  
sentence  
(inserted by  
98/80/EC)**

*Adapted*

**Section 5**

**Special rights and obligations for traders in investment gold**

~~D.~~ ~~Right of deduction~~

**Heading of  
Article 26b(D)  
(inserted by  
98/80/EC)**

Article 347

~~1.~~ ~~Taxable persons~~ Where a subsequent supply of investment gold is exempt pursuant to this Chapter, the taxable person shall be entitled to deduct the following:

**Article 26b(D)(1)  
(inserted by  
98/80/EC)**

*Adapted*

(a) ~~tax the VAT~~ due or paid in respect of investment gold supplied to them-him by a person who has exercised the right of option under C-Articles 340 and 341 or supplied to them-pursuant to the procedure laid down in G-him in accordance with Section 4;

**Article 26b(D)(1)  
(a)  
(inserted by  
98/80/EC)**

*Adapted*

(b) ~~tax the VAT~~ due or paid in respect of ~~a~~ supply to ~~them~~ him, or ~~in respect of an~~ intra-Community acquisition or importation carried out by ~~them~~ him, of gold other than investment gold which is subsequently transformed by ~~them~~ him or on ~~their~~ his behalf into investment gold;

Article 26b(D)(1)  
(b)  
(inserted by  
98/80/EC)

*Adapted*

(c) ~~tax the VAT~~ due or paid in respect of services supplied to ~~them~~ him consisting ~~of in a~~ change of form, weight or purity of gold including investment gold~~;~~

Article 26b(D)(1)  
(c)  
(inserted by  
98/80/EC)

*Adapted*

~~if their subsequent supply of this gold is exempt under this Article.~~

Article 26b(D)(1),  
end  
(inserted by  
98/80/EC)

#### Article 348

~~2.~~ Taxable persons who produce investment gold or transform any gold of whatever origin into investment gold~~;~~ shall be entitled to deduct ~~tax the VAT~~ due or paid by them in respect of ~~supplies, or the supply,~~ intra-Community acquisition or importation of goods or services linked to the production or transformation of that gold~~,~~ as if ~~their the~~ subsequent supply of the gold exempted ~~under this Article pursuant to Article 338~~ were taxable taxed.

Article 26b(D)(2)  
(inserted by  
98/80/EC)

*Adapted*

~~E.~~ Special obligations for traders in investment gold

Heading of  
Article 26b(E)  
(inserted by  
98/80/EC)

#### Article 349

~~1.~~ Member States shall, ~~as a minimum,~~ ensure that traders in investment gold who carry out transactions which are exempt pursuant to this Chapter keep ~~account,~~ as a minimum, accounts of all substantial transactions in investment gold and keep the ~~documentation to allow identification of documents which enable~~ the customer customers in such transactions to be identified.

Article 26b(E),  
first subpara-  
graph  
(inserted by  
98/80/EC)

*Adapted*

Traders shall keep ~~this the~~ information referred to in the first subparagraph for a period of at least five years.

Article 26b(E),  
second subparagraph  
(inserted by  
98/80/EC)

2. Member States may accept equivalent obligations under measures adopted pursuant to other Community legislation, such as Council Directive 91/308/EEC ~~of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering,~~<sup>47</sup> to meet-comply with the requirements ~~of the first paragraph under paragraph 1.~~

Article 26b(E),  
third subparagraph  
(inserted by  
98/80/EC)

*Adapted*

3. Member States may lay down ~~stricter~~ obligations which are more stringent, in particular ~~on-as regards the keeping of~~ special ~~record keeping records~~ or special accounting requirements.

Article 26b(E),  
fourth subparagraph  
(inserted by  
98/80/EC)

*Adapted*

## Chapter 6

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

#### Section 1

#### General provisions

##### Article 350

~~Article 1~~ This Chapter shall apply for a period of three years starting from 1 July 2003.

Article 4  
(2002/38/EC)

##### ~~Article 26e~~ Article 351

Article 26c  
(inserted by  
2002/38/EC)

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

Heading of  
Article 26c  
(inserted by  
2002/38/EC)

<sup>47</sup> OJ L 166, 28.6.1991, p. 77.

~~A. Definitions~~

**Heading of  
Article 26c(A)  
(inserted by  
2002/38/EC)**

For the purposes of this ~~Article Chapter~~, and without prejudice to other ~~Community~~ provisions, the following definitions shall apply:

**Article 26c(A)  
(inserted by  
2002/38/EC)**

~~-(a)(1)~~ ~~'Non'~~'non' established taxable person' means a taxable person who ~~neither~~ has not established his business ~~nor in the territory of the Community and who has a no~~ fixed establishment ~~within the territory of the Community there~~ and who is not otherwise required to be identified ~~accordance for tax purposes under Article 22 pursuant to Article 206~~;

**Article 26c(A)(a)  
(inserted by  
2002/38/EC)**

*Adapted*

~~-(b)(2)~~ ~~'Electronic'~~'electronic services' and ~~'services'~~'electronically supplied ~~electronically'~~services' means ~~those the~~ services referred to in ~~the last indent of Article 9(2)(e) point (k) of Article 56(1)~~;

**Article 26c(A)(b)  
(inserted by  
2002/38/EC)**

*Adapted*

~~-(e)(3)~~ 'Member State of identification' means the Member State which the non-established taxable person chooses to contact to state when his activity as a taxable person within the territory of the Community commences in accordance with the provisions of this ~~Article Chapter~~;

**Article 26c(A)(c)  
(inserted by  
2002/38/EC)**

~~-(d)(4)~~ 'Member State of consumption' means the Member State in which, pursuant to Article 57, the supply of the electronic services is deemed to take place ~~according to Article 9(2)(f)~~;

**Article 26c(A)(d)  
(inserted by  
2002/38/EC)**

~~-(e)(5)~~ ~~'Value added tax'~~'VAT return' ~~means shall mean~~ the statement containing the information necessary to establish the amount of ~~tax that has become chargeable VAT due~~ in each Member State.

**Article 26c(A)(e)  
(inserted by  
2002/38/EC)**

*Adapted*

**Section 2**

**Special scheme for electronically supplied services**

~~B. Special scheme for services supplied electronically~~

**Heading of  
Article 26c(B)  
(inserted by  
2002/38/EC)**

Article 352

~~1.~~—Member States shall permit ~~a~~any non-established taxable person supplying electronic services to a non-taxable person who is established in a Member State or who has his permanent address or usually resides in a Member State, to use ~~a~~this special scheme ~~in accordance with the following provisions~~. This scheme applies to all ~~those~~electronic services ~~supplies within~~supplied in the Community.

Article 26c(B)(1)  
(inserted by  
2002/38/EC)

*Adapted*

Article 353

~~2.~~—The non-established taxable person shall state to the Member State of identification when he commences or ceases his activity as a taxable person ~~commences, ceases,~~ or changes ~~to the extent that activity in such a way~~ that he no longer qualifies ~~meets the conditions necessary for the use of this~~ special scheme. ~~Such a statement shall be made~~ He shall communicate that information electronically.

Article 26c(B)(2),  
first subpara-  
graph  
(inserted by  
2002/38/EC)

*Adapted*

Article 354

~~1.~~ The information ~~from which~~ the non-established taxable person must provide to the Member State of identification when ~~his~~he commences a taxable ~~activities commences~~ activity shall contain the following details ~~for the identification~~:

Article 26c(B)(2),  
second subpara-  
graph, first  
sentence  
(inserted by  
2002/38/EC)

*Adapted*

~~(a) name, postal address, electronic addresses, including websites, national tax number, if any, and a statement that the person is not identified for value added tax purposes within the Community;~~

Article 26c(B)(2),  
second subpara-  
graph, part of  
first sentence  
(inserted by  
2002/38/EC)

~~(b) name, postal address, electronic addresses, including websites, national tax number, if any, and a statement that the person is not identified for value added tax purposes within the Community;~~

Article 26c(B)(2),  
second subpara-  
graph, part of  
first sentence  
(inserted by  
2002/38/EC)



~~(c) name, postal address, electronic addresses, including websites, national tax number, if any, and a statement that the person is not identified for value added tax purposes within the Community.;~~ Article 26c(B)(2), second subparagraph, part of first sentence (inserted by 2002/38/EC)

~~(d) name, postal address, electronic addresses, including websites, national tax number, if any, and a statement that the person is not identified for value added tax purposes within the Community.;~~ Article 26c(B)(2), second subparagraph, part of first sentence (inserted by 2002/38/EC)

~~(e) name, postal address, electronic addresses, including websites, national tax number, if any, and a statement that the person is not identified for value added tax VAT purposes within the Community.~~ Article 26c(B)(2), second subparagraph, part of first sentence (inserted by 2002/38/EC)

2. The non-established taxable person shall notify the Member State of identification of any changes in the ~~submitted~~ information provided. Article 26c(B)(2), second subparagraph, second sentence (inserted by 2002/38/EC)

*Adapted*

### Article 355

~~3.~~ The Member State of identification shall ~~identify~~ allocate to the non-established taxable person ~~by means of~~ an individual identification number. ~~Based on and shall notify him of that number by electronic means.~~ On the basis of the information used for ~~this that~~ identification, Member States of consumption may keep their own identification systems. Article 26c(B)(3), first subparagraph (inserted by 2002/38/EC)

*Adapted*

~~The Member State of identification shall notify the non-established taxable person by electronic means of the identification number allocated to him.~~ Article 26c(B)(3), second subparagraph (inserted by 2002/38/EC)

Article 356

4. — The Member State of identification shall ~~exclude~~ ~~strike~~ the non-established taxable person from the identification register ~~if in the following cases:~~

(a) ~~he if he~~ notifies ~~that Member State~~ that he no longer supplies electronic services, ~~or;~~

(b) ~~if it may~~ otherwise ~~can~~ be assumed that his taxable activities have ~~ended, or ceased;~~

(c) ~~he if he~~ no longer ~~fulfils~~ ~~meets~~ the ~~requirements~~ ~~conditions~~ necessary ~~to be allowed to for~~ use ~~the of this~~ special scheme, ~~or;~~

(d) ~~if~~ he persistently fails to comply with the rules ~~concerning the relating to this~~ special scheme.

Article 26c(B)(4)  
(inserted by  
2002/38/EC)

*Adapted*

Article 26c(B)(4)  
(a)  
(inserted by  
2002/38/EC)

*Adapted*

Article 26c(B)(4)  
(b)  
(inserted by  
2002/38/EC)

*Adapted*

Article 26c(B)(4)  
(c)  
(inserted by  
2002/38/EC)

*Adapted*

Article 26c(B)(4)  
(d)  
(inserted by  
2002/38/EC)

*Adapted*

Article 357

5. — The non-established taxable person shall submit by electronic means to the Member State of identification a ~~value added tax~~ ~~VAT~~ return for each calendar quarter, whether or not electronic services have been supplied. The ~~VAT~~ return shall be submitted within 20 days following the end of the ~~reporting tax~~ period ~~to which covered by~~ the return ~~refers~~.

Article 26c(B)(5),  
first subpara-  
graph  
(inserted by  
2002/38/EC)

*Adapted*

Article 358

The ~~value added tax-VAT~~ return shall ~~set out~~ show the identification number and, for each Member State of consumption ~~where tax has become due, in which VAT is due,~~ the total value, ~~less value added tax exclusive of VAT,~~ of supplies of electronic services ~~for carried out during the reporting tax period and the~~ total amount of the corresponding ~~tax-VAT~~. The applicable ~~tax~~-rates and the total ~~tax-VAT~~ due ~~shall~~ must also be indicated on the return.

Article 26c(B)(5),  
first subparagraph  
(inserted by  
2002/38/EC)

*Adapted*

Article 359

6.1. The ~~value added tax-VAT~~ return shall be made out in ~~Euro~~ euro.

Article 26c(B)(6),  
first sentence  
(inserted by  
2002/38/EC)

*Adapted*

Member States which have not adopted the ~~Euro, euro~~ may require the ~~tax-VAT~~ return to be made out in their national ~~currencies~~ currency. If the supplies have been made in other currencies, the non-established taxable person shall, for the purposes of completing the VAT return, use the exchange rate ~~valid for applying on~~ the last ~~date-day~~ of the ~~reporting tax period~~ ~~shall be used when completing the value added tax return~~.

Article 26c(B)(6),  
second and third  
sentences  
(inserted by  
2002/38/EC)

*Adapted*

2. The ~~exchange conversion~~ shall be ~~done following~~ made by applying the exchange rates published by the European Central Bank for that day, or, if there is no publication on that day, on the next day of publication.

Article 26c(B)(6),  
fourth sentence  
(inserted by  
2002/38/EC)

*Adapted*

Article 360

~~7.~~ The non-established taxable person shall pay the ~~value added tax~~ VAT when submitting the VAT return.

Article 26c(B)(7),  
first sentence  
(inserted by  
2002/38/EC)

*Adapted*

Payment shall be made to a bank account denominated in ~~Euro~~ euro, designated by the Member State of identification. Member States which have not adopted the ~~Euro-euro~~ may require ~~the~~ payment to be made to a bank account denominated in their own currency.

**Article 26c(B)(7),  
second and third  
sentences  
(inserted by  
2002/38/EC)**

Article 361

~~8. Notwithstanding Article 1(1) of Directive 86/560/EEC, the~~ The non-established taxable person making use of this special scheme shall, instead of ~~making deductions under Article 17(2), deducting VAT pursuant to Article 163,~~ be ~~granted a refund according to~~ refunded in accordance with Directive 86/560/EEC. Articles 2(2), ~~2(3) and (3)~~ and Article 4(2) of Directive 86/560/EEC ~~will shall~~ not apply to ~~the refund-related refunds relating~~ to electronic ~~supplies-services~~ covered by this special scheme.

**Article 26c(B)(8)  
(inserted by  
2002/38/EC)**

*Adapted*

Article 362

~~9.1.~~ The non-established taxable person shall keep records of the transactions covered by this special scheme ~~in sufficient detail.~~ Those records must be sufficiently detailed to enable the tax ~~administration authorities~~ of the Member State of consumption to ~~determine-verify~~ that the ~~value added tax-VAT~~ return ~~referred to in (5)~~ is correct.

**Article 26c(B)(9)  
(inserted by  
2002/38/EC)**

*Adapted*

~~2.~~ ~~These-The~~ records ~~should-referred to in paragraph 1 must~~ be made available electronically on request to the Member State of identification and to the Member State of consumption.

**Article 26c(B)(9),  
second sentence  
(inserted by  
2002/38/EC)**

*Adapted*

~~These records shall be maintained~~ Those records must be kept for a period of ten years from the end of the year ~~when~~ during which the transaction was carried out.

**Article 26c(B)(9),  
third sentence  
(inserted by  
2002/38/EC)**

*Adapted*

~~TITLE XVI~~ TITLE XIII

~~TRANSITIONAL PROVISIONS~~ DEROGATIONS

Chapter 1

General derogations

Section 1

Derogations for States which were members of the Community on  
1 January 1978

~~Article 28~~ [Article 363](#)

~~1. Any provisions brought into force by the Member States under the provisions of the first four indents of Article 17 of the second Council Directive of 11 April 1967 shall cease to apply, in each Member State, as from the respective dates on which the provisions referred to in the second paragraph of Article 1 of this Directive come into force.~~

~~1a. Until a date which may not be later than 30 June 1999, the United Kingdom of Great Britain and Northern Ireland may, for imports of works of art, collectors' items or antiques which qualified for an exemption on 1 January 1993, apply Article 11(B)(6) in such a way that the value added tax due on importation is, in any event, equal to 2.5% of the amount determined in accordance with Article 11(B)(1) to (4).~~

~~3. During the transitional period referred to in paragraph 4, Member States may:~~

~~(a) continue to subject to tax Member States which, at 1 January 1978, taxed the transactions exempt under Article 13 or 15 set out listed in Annex E to this Directive Annex IX, Part A, may continue to tax those transactions.~~

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

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

*Adapted*

**Article 28  
(77/388/EEC)**

**Article 28(1)  
(77/388/EEC)**

*Obsolete*

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

*Obsolete*

**Article 28(3)  
(77/388/EEC)**

*Obsolete*

**Article 28(3)(a)  
(77/388/EEC)**

*Adapted*

Article 364

~~(b) — continue to exempt the activities set out~~ Member States which, at 1 January 1978, exempted the transactions listed in ~~Annex F under Annex IX, Part B,~~ may continue to exempt those transactions, in accordance with the conditions ~~existing~~ applying in the Member State concerned on that date.

Article 28(3)(b)  
(77/388/EEC)

*Adapted*

Article 365

~~(d) — continue to apply~~ Member States which, at 1 January 1978, applied provisions derogating from the principle of immediate deduction laid down in the first paragraph of ~~Article 18(2)~~ Article 173 may continue to apply those provisions.

Article 28(3)(d)  
(77/388/EEC)

*Adapted*

Article 366

~~(e) — continue to apply measures~~ Member States which, at 1 January 1978, applied provisions derogating from ~~the provisions of Articles 6(4) and 11(A)(3)(e), Article 29 or from point (c) of the first paragraph of Article 78~~ may continue to apply those provisions.

Article 28(3)(e)  
(amended by  
94/5/EC)

*Adapted*

Article 367

~~(g) — by~~ By way of derogation from ~~Articles 17(3) and 26(3),~~ continue to exempt ~~Articles 164 and 302,~~ Member States which, at 1 January 1978, exempted, without repayment of input tax deductibility of the VAT paid at the preceding stage, the services of travel agents, as referred to in ~~Article 26(3). This Article 302,~~ may continue to exempt those services. That derogation shall ~~also~~ apply ~~to also~~ in respect of travel agents acting in the name and on ~~account~~ behalf of the traveller.

Article 28(3)(g)  
(77/388/EEC)

*Adapted*

Section 2

Derogations for States which acceded to the Community after  
1 January 1978

Article 368

~~(b) — For the purposes of implementing the provisions laid down in Article 28(3), the Hellenic Republic is authorized Greece may continue to exempt under the conditions laid down in Article 28(4) the following transactions listed in Annex F points (2), (8), (9), (11) and (12) of Annex IX, Part B, in accordance with the conditions applying in that Member State on the date of its accession:~~

**Annex VIII(II)(2)  
(b)  
(Act of Accession,  
EL)**

*Adapted*

~~2. — services supplied by authors, artist, performers, lawyers and other members of the liberal professions, other than the medical and paramedical professions, in so far as these are not services specified in Annex B to the second Council Directive of 11 April 1967;~~

**Annex VIII(II)(2)  
(b)  
(Act of Accession,  
EL)**

~~9. — treatment of animals by veterinary surgeons;~~

**Annex VIII(II)(2)  
(b)  
(Act of Accession,  
EL)**

~~12. — the supply of water by public authorities;~~

**Annex VIII(II)(2)  
(b)  
(Act of Accession,  
EL)**

~~16. — supplies of those buildings and land described in Article 4(3);~~

**Annex VIII(II)(2)  
(b)  
(Act of Accession,  
EL)**

~~18. — the supply, modification, repair, maintenance, chartering and hiring of commercial inland waterway vessels and the supply, hiring, repair and maintenance of equipment incorporated or used therein;~~

**Annex VIII(II)(2)  
(b)  
(Act of Accession,  
EL)**

~~23. — the supply, modification, repair, maintenance, chartering and hiring of aircraft, including equipment incorporated or used therein, used by State institutions;~~

**Annex VIII(II)(2)  
(b)  
(Act of Accession,  
EL)**

~~25. — the supply, modification, repair, maintenance chartering and hiring of warships.~~

**Annex VIII(II)(2)  
(b)  
(Act of Accession,  
EL)**

Article 369

~~Pending a decision by the Council, which, under Article 3 of Directive 89/465/EEC, is to act on the abolition of the transitional derogations provided for in paragraph 3, Spain shall be authorised may continue to exempt the ~~transactions referred to~~ supply of services performed by authors, listed in point 2 point (2) of Annex F in respect of services rendered by authors Annex IX, Part B, and the transactions referred to ~~listed in points 23 and 25 points (11) and (12) of Annex F Annex IX, Part B, in accordance with the conditions applying in that Member State on the date of its accession.~~~~

**Article 28(3a)**  
**(inserted by**  
**91/680/EEC)**

*Adapted*

Article 370

~~(b) — For the application of the provisions in Article 28(3)(b), the Portuguese Republic shall be authorized Portugal may continue to exempt the transactions listed in ~~points 2, 3, 6, 9, 10, 16, 17, 18, 26 and 27 points (2), (4), (7), (9), (10) and (13) of Annex F Annex IX, Part B, in accordance with the conditions applying in that Member State on the date of its accession.~~~~

**Annex IV(3)(b),**  
**first subpara-**  
**graph**  
**(Act of Accession,**  
**ES and PT)**

*Adapted*

Article 371

~~(h)1. For the purposes of Article 28(3)(a), the Republic of Austria may continue to tax the transactions listed in point (2) of Annex IX, Part A.~~

**Annex IX(2)(h),**  
**first subpara-**  
**graph**  
**(Act of Accession,**  
**AT, FI and SE)**

*Adapted*

~~—— the transactions listed in point 7 of Annex E.~~

**Annex IX(2)(h),**  
**first subpara-**  
**graph, second**  
**indent**  
**(Act of Accession,**  
**AT, FI and SE)**



~~(i)2. For the purposes of applying Article 28(3)(b), the Republic of For as long as the same exemptions are applied in any of the Member States which were members of the Community on 31 December 1994, Austria may, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt from value added tax the following transactions:~~

**Annex IX(2)(i), first subparagraph (Act of Accession, AT, FI and SE)**

*Adapted*

~~-(a) the transactions listed in points 7 and 16 points (5) and (9) of Annex F, so long as the same exemptions are applied to any of the present Member States Annex IX, Part B,;~~

**Annex IX(2)(i), first subparagraph, second indent (Act of Accession, AT, FI and SE)**

~~-(b) with refund of tax deductibility of the VAT paid at the preceding stage, all parts of international passenger transport operations, carried out by air, sea or inland waterways waterway, from Austria to a another Member State or to a third country or vice versa, other than passenger transport operations on Lake Constance, so long as the same exemption applies to any of the present Member States.~~

**Annex IX(2)(i), first subparagraph, third indent (Act of Accession, AT, FI and SE)**

*Adapted*

*Article 372*

~~(m)1. For the purposes of implementing Article 28(3)(a), and so long as such transactions are subject to tax by any of the present Member States, the Republic of Finland may continue to tax the transactions listed in point 7 point (2) of Annex E Annex IX, Part A, for as long as the same transactions are taxed in any of the Member States which were members of the Community on 31 December 1994.~~

**Annex IX(2)(m), first subparagraph (Act of Accession, AT, FI and SE)**

*Adapted*

~~(n)2. For the purposes of implementing Article 28(3)(b), and so long as the same exemption is applied by any of the present Member States, the Republic of Finland may, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt from value added tax the supply of services by authors, artists and performers, listed in point (2) of Annex IX, Part B, and the transactions listed in points (5), (9) and (10) of Annex IX, Part B, for as long as the same exemptions are applied in any of the Member States which were members of the Community on 31 December 1994.;~~

**Annex IX(2)(n), first subparagraph (Act of Accession, AT, FI and SE)**

*Adapted*

~~services supplied by authors, artists and performers referred to in point 2 of Annex F;~~

**Annex IX(2)(i),  
first subpara-  
graph, first indent  
(Act of Accession,  
AT, FI and SE)**

~~the transactions listed in points 7, 16 and 17 of Annex F.~~

**Annex IX(2)(i),  
first subpara-  
graph, second  
indent  
(Act of Accession,  
AT, FI and SE)**

Article 373

~~(aa) For the purposes of applying Article 28(3)(b), so long as the same exemptions are applied to any of the present Member States, the Kingdom of Sweden may, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt from value added tax the supply of services by authors, artists and performers, listed in point (2) of Annex IX, Part B, and the transactions listed in points (1), (9) and (10) of Annex IX, Part B, for as long as the same exemptions are applied in any of the Member States which were members of the Community on 31 December 1994.~~

**Annex IX(2)(aa),  
first subpara-  
graph  
(Act of Accession,  
AT, FI and SE)**

*Adapted*

~~services supplied by authors, artists and performers referred to in point 2 of Annex F;~~

**Annex IX(2)(aa),  
first subpara-  
graph, first indent  
(Act of Accession,  
AT, FI and SE)**

~~the transactions listed in points 1, 16 and 17 of Annex F.~~

**Annex IX(2)(aa),  
first subpara-  
graph, second  
indent  
(Act of Accession,  
AT, FI and SE)**

Article 374

~~(b) For the purposes of applying Article 28(3)(b) of Directive 77/388/EEC, the The Czech Republic may maintain an exemption from value added tax on, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt the international transport of passengers, as referred to in point 17 point (10) of Annex F to the Directive, until the condition set out in Article 28(4) of the Directive is fulfilled or Annex IX, Part B, for as long as the same exemption is applied by in any of the present Member States, whichever is the earlier which were members of the Community on 30 April 2004.~~

**Annex V(5)(1)(b)  
(2003 Act of  
Accession)**

*Adapted*

Article 375

~~(b) For the purposes of applying Article 28(3)(b) of Directive 77/388/EEC, Estonia may maintain an exemption from value added tax on, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt the international transport of passengers, as referred to in point 17 point (10) of Annex F to the Directive, until the condition set out in Article 28(4) of the Directive is fulfilled or Annex IX, Part B, for as long as the same exemption is applied by in any of the present Member States, whichever is the earlier which were members of the Community on 30 April 2004.~~

**Annex VI(7)(1)(b)  
(2003 Act of  
Accession)**

*Adapted*

Article 376

~~For the purposes of applying Article 28(3)(b) of Directive 77/388/EEC, Cyprus may maintain an exemption from value added tax on, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt the international transport of passengers, as referred to in point 17 point (10) of Annex F to the Directive, until the condition set out in Article 28(4) of the Directive is fulfilled or Annex IX, Part B, for as long as the same exemption is applied by in any of the present Member States, whichever is the earlier which were members of the Community on 30 April 2004.~~

**Annex VII(7)(1),  
sixth subpara-  
graph  
(2003 Act of  
Accession)**

*Adapted*

Article 377

~~For the purposes of applying Article 28(3)(b) of Directive 77/388/EEC, as long as the same exemptions are applied in any of the Member States which were members of the Community on 30 April 2004, Latvia may maintain an exemption from value added tax on services supplied by authors, artists and performers, referred to in point 2 of Annex F of the Directive, until the condition set out in Article 28(4) of the Directive is fulfilled or so long as the same exemptions are applied by any of the present Member States, whichever is the earlier, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt the following transactions:-:~~

~~(a) For the purposes of applying Article 28(3)(b) of Directive 77/388/EEC, Latvia may maintain an exemption from value added tax on the supply of services supplied by authors, artists and performers, as referred to in point 2 point (2) of Annex F of the Directive, until the condition set out in Article 28(4) of the Directive is fulfilled or so long as the same exemptions are applied by any of the present Member States, whichever is the earlier Annex IX, Part B:-:~~

~~(b) For the purposes of applying Article 28(3)(b) of Directive 77/388/EEC, Latvia may also maintain an exemption from value added tax on the international transport of passengers, as referred to in point 17 point (10) of Annex F of the Directive, until the condition set out in Article 28(4) of the Directive is fulfilled or so long as the same exemptions are applied by any of the present Member States, whichever is the earlier Annex IX, Part B.~~

Article 378

~~For the purposes of applying Article 28(3)(b) of Directive 77/388/EEC, Lithuania may maintain an exemption from value added tax on, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt the international transport of passengers, as referred to in point 17 point (10) of Annex F to the Directive, until the condition set out in Article 28(4) of the Directive is fulfilled or Annex IX, Part B, for as long as the same exemption is applied by in any of the present Member States, whichever is the earlier which were members of the Community on 30 April 2004.~~

**Annex VIII(7)(1)  
(b), second sub-  
paragraph  
(2003 Act of  
Accession)**

*Adapted*

**Annex VIII(7)(1)  
(b), second sub-  
paragraph  
(2003 Act of  
Accession)**

**Annex VIII(7)(1)  
(b), third sub-  
paragraph  
(2003 Act of  
Accession)**

**Annex IX(8)(1)  
(2003 Act of  
Accession)**

*Adapted*

Article 379

~~(c) For the purposes of applying Article 28(3)(b) of Directive 77/388/EEC, Hungary may maintain an exemption from value added tax on, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt the international transport of passengers, as referred to in point 17 point (10) of Annex F to the Directive, until the condition set out in Article 28(4) of the Directive is fulfilled or Annex IX, Part B, for as long as the same exemption is applied by in any of the present Member States, whichever is the earlier which were members of the Community on 30 April 2004.~~

**Annex X(7)(1)(c)  
(2003 Act of  
Accession)**

*Adapted*

Article 380

~~2. For the purposes of applying Article 28(3)(b) of Directive 77/388/EEC, For as long the same exemptions are applied in any of the Member States which were members of the Community on 30 April 2004, Malta may maintain, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt the following exemptions transactions:~~

**Annex XI(7)(2)  
(2003 Act of  
Accession)**

*Adapted*

~~(b)(a) from value added tax without credit for input deductibility of the VAT on paid at the preceding stage, the supply of water by a body governed by public authorities, law, as referred to in point 12 point (8) of Annex F to the Directive, until the condition set out in Article 28(4) of the Directive is fulfilled or for as long as the same exemption is applied by any of the present Member States, whichever is the earlier Annex IX, Part B;~~

**Annex XI(7)(2)(b)  
(2003 Act of  
Accession)**

*Adapted*

~~(e)(b) from value added tax without credit for input deductibility of the VAT on paid at the preceding state, the supply of buildings and building land, as referred to in point 16 point (9) of Annex F to the Directive, until the condition set out in Article 28(4) of the Directive is fulfilled or for as long as the same exemption is applied by any of the present Member States, whichever is the earlier Annex IX, Part B;~~

**Annex XI(7)(2)(c)  
(2003 Act of  
Accession)**

*Adapted*

~~(a)(c) from value added tax on with deductibility of the VAT paid at the preceding stage, inland passenger transport, international passenger transport and domestic inter-island sea passenger transport, as referred to in point 17 point (10) of Annex F to the Directive, until the condition set out in Article 28(4) of the Directive is fulfilled or for as long as the same exemption is applied by any of the present Member States, whichever is the earlier Annex IX, Part B;~~

**Annex XI(7)(2)(a)  
(2003 Act of  
Accession)**

*Adapted*

Article 381

~~(c) For the purposes of applying Article 28(3)(b) of Directive 77/388/EEC, Poland may maintain an exemption from value added tax on, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt the international transport of passengers, as referred to in point 17 point (10) of Annex F to the Directive, until the condition set out in Article 28(4) of the Directive is fulfilled or Annex IX, Part B, for as long as the same exemption is applied by in any of the present Member States, whichever is the earlier which were members of the Community on 30 April 2004.~~

**Annex XII(9)(2)  
(2003 Act of  
Accession)**

*Adapted*

Article 382

~~(b) For the purposes of applying Article 28(3)(b) of Directive 77/388/EEC, Slovenia may maintain an exemption from value added tax on, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt the international transport of passengers, as referred to in point 17 point (10) of Annex F to the Directive, until the condition set out in Article 28(4) of the Directive is fulfilled or Annex IX, Part B, for as long as the same exemption is applied by in any of the present Member States, whichever is the earlier which were members of the Community on 30 April 2004.~~

**Annex XIII(6)(1)  
(b)  
(2003 Act of  
Accession)**

*Adapted*

Article 383

~~For the purposes of applying Article 28(3)(b) of Directive 77/388/EEC, Slovakia may maintain an exemption from value added tax on, in accordance with the conditions applying in that Member State on the date of its accession, continue to exempt the international transport of passengers, as referred to in point 17 point (10) of Annex F to the Directive, until the condition set out in Article 28(4) of the Directive is fulfilled or Annex IX, Part B, for as long as the same exemption is applied by in any of the present Member States, whichever is the earlier which were members of the Community on 30 April 2004.~~

**Annex XIV(7),  
third subpara-  
graph  
(2003 Act of  
Accession)**

*Adapted*

**Section 3**

**Provisions common to Sections 1 and 2**

Article 384

~~(e) — Member States which exempt the transactions referred to in Article 364 or Articles 368 to 383 may grant to taxable persons the option right to opt for taxation of exempt those transactions under the conditions set out in Annex G;~~

**Article 28(3)(c)**  
**(77/388/EEC)**

*Adapted*

Article 385

~~(f) — Member States may provide that for supplies, in respect of the supply of buildings and building land purchased for the purpose of resale by a taxable person for whom tax the VAT on the purchase was not deductible, the taxable amount shall be the difference between the selling price and the purchase price;~~

**Article 28(3)(f)**  
**(77/388/EEC)**

Article 386

~~4.1. The transitional period shall last initially for five years as from 1 January 1978. At the latest six months before the end of this period, and subsequently as necessary, the The Council shall, on the basis of a report from the Commission, review the situation with regard to the derogations set out provided for in paragraph 2 on the basis of a report from the Commission Sections 1 and 2 and shall unanimously determine on a proposal from the Commission, acting in accordance with Article 93 of the Treaty decide whether any or all of these those derogations shall is to be abolished.~~

**Article 28(4)**  
**(77/388/EEC)**

*Adapted*

~~5.2. At the end of the transitional period By way of definitive arrangements, passenger transport shall be taxed in the country Member State of departure for that part of the journey taking place within the Community according to, in accordance with the detailed rules of procedure to be laid down by the Council, acting unanimously on a proposal from the Commission in accordance with Article 93 of the Treaty.~~

**Article 28(5)**  
**(77/388/EEC)**

*Adapted*

**Chapter 2**

**Derogations subject to authorisation**

**Section 1**

**Simplification measures and measures to prevent tax evasion or avoidance**

## TITLE XV

### SIMPLIFICATION PROCEDURES

#### Article 387

~~5. — Those Member States which apply on, at 1 January 1977, applied special measures of the type referred to in paragraph 1 above to simplify the procedure for collecting VAT or to prevent certain forms of tax evasion or avoidance may retain them providing provided that they notify have notified the Commission of them accordingly before 1 January 1978 and providing that where such derogations are designed to simplify the procedure for charging tax they conform simplification measures comply with the requirement criterion laid down in paragraph 1 above the second subparagraph of Article 388(1).~~

#### ~~Article 27~~ Article 388

1. The Council, acting unanimously on a proposal from the Commission, may authorise any Member State to introduce special measures for derogation from the provisions of this Directive, in order to simplify the procedure for ~~charging the tax collecting VAT~~ or to prevent certain ~~types forms~~ of tax evasion or avoidance.

Measures intended to simplify the procedure for ~~charging the tax collecting VAT may not~~, except to a negligible extent, ~~may not~~ affect the overall amount of the tax revenue of the Member State collected at the stage of final consumption.

2. A Member State wishing to introduce the measure referred to in paragraph 1 shall send an application to the Commission and provide it with all the necessary information. If the Commission considers that it does not have all the necessary information, it shall contact the Member State concerned within two months of receipt of the application and specify what additional information is required.

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

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

**Article 27(5)  
(77/388/EEC)**

*Adapted*

**Article 27  
(77/388/EEC)**

**Article 27(1), first  
sentence  
(replaced by  
2004/7/EC)**

*Adapted*

**Article 27(1),  
second sentence  
(replaced by  
2004/7/EC)**

*Adapted*

**Article 27(2), first  
and second  
sentences  
(replaced by  
2004/7/EC)**



<p>Once the Commission has all the information it considers necessary for appraisal of the request it shall within one month notify the requesting Member State accordingly and it shall transmit the request, in its original language, to the other Member States.</p>	<p><b>Article 27(2), third sentence (replaced by 2004/7/EC)</b></p>
<p>3. Within three months of giving the notification referred to in the <del>last sentence</del> <u>second subparagraph</u> of paragraph 2, the Commission shall present to the Council either an appropriate proposal or, should it object to the derogation requested, a communication setting out its objections.</p>	<p><b>Article 27(3) (replaced by 2004/7/EC)</b></p>
<p>4. <del>In any event, the</del> <u>The</u> procedure <del>set out laid down</del> in paragraphs 2 and 3 <del>above</del> shall, <u>in any event</u>, be completed within eight months of receipt of the application by the Commission.</p>	<p><b>Article 27(4) (replaced by 2004/7/EC)</b></p>
<p><b><u>Section 2</u></b></p>	
<p><b><u>International agreements</u></b></p>	
<p><i><del>Article 30</del> <u>Article 389</u></i></p>	
<p><b><u>International agreements</u></b></p>	
	<p><b>Article 30 (replaced by 2004/7/EC)</b></p> <p><b>Heading of Article 30 (replaced by 2004/7/EC)</b></p>
<p>1. The Council, acting unanimously on a proposal from the Commission, may authorise any Member State to conclude with a third country or an international <del>organisation</del> <u>body</u> an agreement which may contain derogations from this Directive.</p>	<p><b>Article 30(1) (replaced by 2004/7/EC)</b></p> <p><i>Adapted</i></p>
<p>2. A Member State wishing to conclude such an agreement shall send an application to the Commission and provide it with all the necessary information. If the Commission considers that it does not have all the necessary information, it shall contact the Member State concerned within two months of receipt of the application and specify what additional information is required.</p>	<p><b>Article 30(2), first and second sentences (replaced by 2004/7/EC)</b></p>
<p>Once the Commission has all the information it considers necessary for appraisal of the request it shall within one month notify the requesting Member State accordingly and it shall transmit the request, in its original language, to the other Member States.</p>	<p><b>Article 30(2), third sentence (replaced by 2004/7/EC)</b></p>

3. Within three months of giving the notification referred to in the ~~last sentence~~ second subparagraph of paragraph 2, the Commission shall present to the Council either an appropriate proposal or, should it object to the derogation requested, a communication setting out its objections.

**Article 30(3)  
(replaced by  
2004/7/EC)**

4. ~~In any event, the~~ The procedure ~~set out~~ laid down in paragraphs 2 and 3 ~~above~~ shall, in any event, be completed within eight months of receipt of the application by the Commission.

**Article 30(4)  
(replaced by  
2004/7/EC)**

## ~~TITLE XVIII~~ TITLE XIV

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

### MISCELLANEOUS

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

#### Chapter 1

#### Implementing measures

~~Article 29a~~ Article 390

**Article 29a  
(inserted by  
2004/7/EC)**

#### Implementing measures

**Heading of  
Article 29a  
(inserted by  
2004/7/EC)**

The Council, acting unanimously on a proposal from the Commission, shall adopt the measures necessary to implement this Directive.

**Article 29a  
(inserted by  
2004/7/EC)**

#### Chapter 2

#### VAT Committee

## **TITLE XVII**

### **VALUE ADDED TAX COMMITTEE**

#### *Article 29* Article 391

1. An ~~Advisory Committee~~ advisory committee on value added tax, ~~hereinafter~~ called 'the VAT Committee', is ~~hereby~~ set up.

2. The VAT Committee shall consist of representatives of the Member States and of the Commission.

The chairman of the Committee shall be a representative of the Commission.

Secretarial services for the Committee shall be provided by the Commission.

3. The VAT Committee shall adopt its own rules of procedure.

4. In addition to ~~the~~ points forming the subject ~~to the of~~ consultation ~~provided for under pursuant to~~ this Directive, the VAT Committee shall examine questions raised by its chairman, on his own initiative or at the request of the representative of a Member State, which concern the application of ~~the~~ Community provisions on ~~value-added tax~~ VAT.

#### **Chapter 3**

#### **Conversion rates**

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

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

**Article 29  
(77/388/EEC)**

**Article 29(1)  
(77/388/EEC)**

*Adapted*

**Article 29(2), first  
subparagraph  
(77/388/EEC)**

*Adapted*

**Article 29(2),  
second subpara-  
graph  
(77/388/EEC)**

**Article 29(2),  
third subpara-  
graph  
(77/388/EEC)**

**Article 29(3)  
(77/388/EEC)**

*Adapted*

**Article 29(4)  
(77/388/EEC)**

*Adapted*

<p style="text-align: center;"><del>Article 31</del></p>	<p><b>Article 31</b> (77/388/EEC)</p>
<p style="text-align: center;"><b>Unit of account</b></p>	<p><b>Heading of Article 31</b> (77/388/EEC)</p>
<p><del>1. The unit of account used in this Directive shall be the European unit of account (EUA) defined by Decision 75/250/EEC.</del></p>	<p><b>Article 31(1)</b> (77/388/EEC)</p> <p><i>Obsolete</i></p>
<p style="text-align: center;"><del>Article 28m</del><a href="#">Article 392</a></p>	<p><b>Article 28m</b> (inserted by 91/680/EEC)</p>
<p style="text-align: center;"><b>Rate of conversion</b></p>	<p><b>Heading of Article 28m</b> (inserted by 91/680/EEC)</p>
<p><del>To determine</del> Without prejudice to any other particular provisions, the equivalents in <del>their national currencies</del> currency of the amounts <del>expressed in ECU's in this Title Member States in euro</del> specified in this Directive shall <del>use</del> be determined on the basis of the <a href="#">euro conversion</a> rate of <del>exchange</del> applicable on <del>16 December 1991</del> <a href="#">1 January 1999</a>.</p>	<p><b>Article 28m first sentence</b> (replaced by the 2003 Act of Accession)</p> <p><i>Modified</i></p>
<p>However, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia shall use the rate of exchange applicable on the date of their accession.</p>	<p><b>Article 28m second sentence</b> (inserted by the 2003 Act of Accession)</p>
<p style="text-align: center;"><a href="#">Article 393</a></p>	
<p><del>2. When converting this unit of account</del> the amounts referred to in <a href="#">Article 392</a> into national currencies, Member States <del>shall have the option of rounding the</del> may <a href="#">adjust the</a> amounts resulting from <del>this</del> <a href="#">that</a> conversion either upwards or downwards by up to 10%.</p>	<p><b>Article 31(2)</b> (77/388/EEC)</p> <p><i>Adapted</i></p>
<p style="text-align: center;"><b><u>Chapter 4</u></b></p> <p style="text-align: center;"><b><u>Other taxes, duties and charges</u></b></p>	

~~Article 33~~Article 394

~~1. — Without prejudice to other Community provisions, in particular those laid down in the Community provisions in force relating to the general arrangements for the holding, movement and monitoring of products subject to excise duty, of Community law, this Directive shall not prevent a Member State from maintaining or introducing taxes on insurance contracts, taxes on betting and gambling, excise duties, stamp duties and or, more generally, any taxes, duties or charges which cannot be characterized characterised as turnover taxes, provided however that the collecting of those taxes, duties or charges do does not, in trade between Member States, give rise, in trade between Member States, to formalities connected with the crossing of frontiers.~~

~~TITLE XVI~~TITLE XV

**TRANSITIONAL ARRANGEMENTS FOR THE  
TAXATION OF TRADE BETWEEN MEMBER STATES  
AND FINAL PROVISIONS**

~~TITLE XIX~~

**~~FINAL PROVISIONS~~**

~~Article 281~~Article 395

**~~Period of application~~**

~~— The transitional arrangements provided for in this Title shall enter into force on 1 January 1993. Before 31 December 1994 the Commission shall report to the Council on the operation of the transitional arrangements and submit proposals for a definitive system.~~

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

**Article 33(1)  
(replaced by  
91/680/EEC)**

Adapted

**Title XVI A  
(inserted by  
91/680/EEC)**

**Heading of  
Title XVI A  
(inserted by  
91/680/EEC)**

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

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

**Article 281  
(inserted by  
91/680/EEC)**

**Heading of  
Article 281  
(inserted by  
91/680/EEC)**

**Article 281, first  
paragraph  
(inserted by  
91/680/EEC)**

Obsolete

1. The ~~transitional~~ arrangements provided for in this Directive for the taxation of trade between Member States are transitional and shall be replaced by a definitive system for the taxation of trade between Member States arrangements based in principle on the taxation in the Member State of origin of the supply of goods or services ~~supplied~~.

**Article 28l, second paragraph**  
(inserted by 91/680/EEC)

*Adapted*

2. ~~To that end, after having made a detailed~~ Having concluded, upon examination of that the report and considering referred to in Article 398, that the conditions for transition to the definitive system ~~have been fulfilled satisfactorily~~ arrangements are satisfied, the Council shall, acting ~~unanimously on a proposal from the Commission and after consulting the European Parliament,~~ shall decide before 31 December 1995 on the arrangements in accordance with Article 93 of the Treaty, adopt the provisions necessary for the entry into force and for the operation of the definitive ~~system~~ arrangements.

**Article 28l, third paragraph**  
(inserted by 91/680/EEC)

*Adapted*

~~The transitional arrangement shall enter into force for four years and shall accordingly apply until 31 December 1996. The period of application of the transitional arrangements shall be extended automatically until the date of entry into force of the definitive system and in any event until the Council has decided on the definitive system.~~

**Article 28l, fourth paragraph**  
(inserted by 91/680/EEC)

*Obsolete*

*Article 396*

~~Article 1~~ The arrangements governing radio broadcasting and television services and certain electronically supplied services shall apply for a period of three years starting from 1 July 2003.

**Article 4**  
(2002/38/EC)

*Adapted*

~~The~~ On the basis of a report from the Commission, the Council, on the basis of a report from the Commission, shall, before 30 June 2006, review ~~the provisions of Article 1 of this Directive before 30 June 2006~~ points (j) and (k) of Article 56(1), Articles 57, 58 and 59, the second sentence of Article 95(2), Articles 350 to 362 and Annex II and shall ~~either,~~ acting in accordance with Article 93 of the Treaty, adopt measures ~~on,~~ based on non-discrimination, concerning an appropriate electronic mechanism ~~on a non-discriminatory basis for charging calculating,~~ declaring, collecting and allocating tax-VAT revenue on electronically supplied services ~~with taxation in taxed at~~ the place of consumption, or, if ~~considered the Council~~ considers it necessary for practical reasons, it shall, acting unanimously on the basis of a proposal from the Commission, extend the period ~~mentioned in Article 4~~ laid down in the first paragraph.

**Article 5**  
(2002/38/EC)

*Adapted*

~~Article 35~~ Article 397

~~At the appropriate time the~~ The Council shall, acting ~~unanimously on a proposal from the Commission, after receiving the opinion of the European Parliament and of the Economic and Social Committee, and in accordance with the interests of the common market,~~ shall in accordance with Article 93 of the Treaty, adopt ~~further Directives on appropriate for the purpose of supplementing the common system of value added tax VAT and, in particular to restrict progressively, for the progressive restriction or to repeal measures taken by the Member States by way of derogation the abolition of derogations from the that system, in order to achieve complete parallelism of the national value added tax systems and thus permit the attainment of the objective stated in Article 4 of the first Council Directive of 11 April 1967.~~

**Article 35**  
(77/388/EEC)

**Article 35**  
(77/388/EEC)

Adapted

~~Article 34~~ Article 398

~~For the first time on 1 January 1982 and thereafter every two years, the~~ The Commission shall, after consulting the Member States, send the Council on the basis of information obtained from the Member States, present a report every four years to the European Parliament and to the Council on the application operation of the common system of value added tax VAT in the Member States. This and, in particular, on the operation of the transitional arrangements for taxing trade between Member States. That report shall be transmitted by the Council to the European Parliament accompanied, where appropriate, by proposals concerning the definitive arrangements.

**Article 34**  
(77/388/EEC)

**Article 34**  
(77/388/EEC)

Modified

~~Article 36~~

~~The fourth paragraph of Article 2 and Article 5 of the first Council Directive of 11 April 1967 are repealed.~~

**Article 36**  
(77/388/EEC)

**Article 36**  
(77/388/EEC)

Obsolete

~~Article 37~~

~~Second Council Directive 67/228/EEC of 11 April 1967 on value added tax shall cease to have effect in each Member State as from the respective dates on which the provisions of this Directive are brought into application.~~

**Article 37**  
(77/388/EEC)

**Article 37**  
(77/388/EEC)

Obsolete

Article 399

Directive 67/227/EEC, as amended by the Directive referred to in point (1) of Annex X, Part A, and Directive 77/388/EEC, as amended by the Directives listed in point (2) of Annex X, Part A, are repealed, without prejudice to the obligations of the Member States concerning the time-limits, listed in Annex X, Part B, for the transposition into national law and the implementation of those Directives.

References to the repealed Directives shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex XI.

Article 400

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles 2, 38(3), 59, 132(1)(h), 140(b), 392 and 398 by [...] at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 401

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

~~Article 38~~ Article 402

This Directive is addressed to the Member States.

Done at Brussels,

For the Council

**Article 38  
(77/388/EEC)**

**Article 38  
(77/388/EEC)**





**ANNEX DANNE X I**

**LIST OF THE ACTIVITIES REFERRED TO IN ~~THE~~  
THIRD PARAGRAPH OF ARTICLE 4(5) ARTICLE 14**

~~1.~~(1) Telecommunications services;

Annex D  
(77/388/EEC)

Heading of  
Annex D  
(77/388/EEC)

Annex D(1)  
(77/388/EEC)

*Adapted*

~~2.~~(2) ~~The~~ supply of water, gas, electricity and ~~steam~~ thermal energy;

Annex D(2)  
(77/388/EEC)

*Adapted*

~~3.~~(3) ~~The~~ transport of goods;

Annex D(3)  
(77/388/EEC)

~~4.~~(4) ~~Port-port~~ and airport services;

Annex D(4)  
(77/388/EEC)

~~5.~~(5) ~~Passenger-passenger~~ transport;

Annex D(5)  
(77/388/EEC)

~~6.~~(6) ~~Supply-supply~~ of new goods manufactured for sale;

Annex D(6)  
(77/388/EEC)

~~7.~~(7) ~~The~~ transactions ~~of agricultural intervention agencies~~ in respect of agricultural products, carried out by agricultural intervention agencies pursuant to Regulations on the common ~~organization~~ organisation of the market in ~~these~~ those products;

Annex D(7)  
(77/388/EEC)

*Adapted*

~~8.~~(8) ~~The running-organisation~~ of trade fairs and exhibitions;

Annex D(8)  
(77/388/EEC)

*Adapted*

~~9.~~(9) ~~Warehousing~~ warehousing;

Annex D(9)  
(77/388/EEC)

~~10.~~(10) ~~The~~ activities of commercial ~~publicity-bodies~~ advertising agencies;

Annex D(10)  
(77/388/EEC)

~~11.~~(11) ~~The~~ activities of travel ~~agencies~~ agents;

Annex D(11)  
(77/388/EEC)

*Adapted*

~~12.(12)~~ The running of staff shops, cooperatives and industrial canteens and similar institutions;

**Annex D(12)**  
**(77/388/EEC)**

~~13.(13)~~ ~~Transactions other than those specified in Article 13A(1)(q);~~ activities of a commercial nature, carried out by radio and television bodies.

**Annex D(13)**  
**(77/388/EEC)**

*Adapted*

~~ANNEX L~~ ANNEX II

~~ILLUSTRATIVE LIST OF THE ELECTRONICALLY  
SUPPLIED SERVICES REFERRED TO IN  
ARTICLE 9(2)(E) ARTICLE 56(1)(K)~~

Annex L  
(inserted by  
2002/38/EC)

Heading of  
Annex L  
(inserted by  
2002/38/EC)

*Adapted*

~~1.(1)~~ ~~Web-site-Website~~ supply, web-hosting, distance maintenance of programmes and equipment~~;~~

Annex L, first  
paragraph,  
point (1)  
(inserted by  
2002/38/EC)

~~2.(2)~~ ~~Supply-supply~~ of software and updating thereof~~;~~

Annex L, first  
paragraph,  
point (2)  
(inserted by  
2002/38/EC)

~~3.(3)~~ ~~Supply-supply~~ of images, text and information and making available of databases ~~available;~~

Annex L, first  
paragraph,  
point (3)  
(inserted by  
2002/38/EC)

~~4.(4)~~ ~~Supply-supply~~ of music, films and games, including games of chance and gambling games, and of political, cultural, artistic, sporting, scientific and entertainment broadcasts and events~~;~~

Annex L, first  
paragraph,  
point (4)  
(inserted by  
2002/38/EC)

~~5.(5)~~ ~~Supply-supply~~ of distance teaching.

Annex L, first  
paragraph,  
point (5)  
(inserted by  
2002/38/EC)

~~ANNEX H~~ ANNEX III

**LIST OF SUPPLIES OF GOODS AND SERVICES TO  
WHICH ~~MAY BE SUBJECT TO THE~~ REDUCED RATES  
OF VAT REFERRED TO IN ARTICLE 95 MAY BE  
APPLIED**

~~Category~~ — ~~Description~~

~~1(1)~~ Foodstuffs—Supply of foodstuffs (including beverages but excluding alcoholic beverages) for human and animal consumption; live animals, seeds, plants and ingredients normally intended for use in the preparation of foodstuffs; products normally ~~intended to be~~ used to supplement ~~or substitute~~ foodstuffs or as a substitute for foodstuffs;

~~2(2)~~ Water—supply of water;

~~3(3)~~ Pharmaceutical—supply of pharmaceutical products of a kind normally used for health care, prevention of ~~diseases-illnesses~~ and as treatment for medical and veterinary purposes, including products used for contraception and sanitary protection;

~~4(4)~~ Medical—supply, including the hiring out, of medical equipment, aids and other appliances normally intended to alleviate or treat disability, for the exclusive personal use of the disabled, including the repair of such goods, and supply of children's car seats;

~~5(5)~~ Transport—transport of passengers and their accompanying luggage;

Annex H  
(92/77/EEC)

Heading of  
Annex H  
(inserted by  
92/77/EEC)

*Adapted*

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

Annex H, second  
paragraph, point 1  
(inserted by  
92/77/EEC)

*Adapted*

Annex H, second  
paragraph, point 2  
(inserted by  
92/77/EEC)

Annex H, second  
paragraph, point 3  
(inserted by  
92/77/EEC)

*Adapted*

Annex H, second  
paragraph, point 4  
(inserted by  
92/77/EEC)

*Adapted*

Annex H, second  
paragraph, point 5  
(inserted by  
92/77/EEC)

6(6)	<del>Supply, supply</del> , including on loan by libraries, of books (including brochures, leaflets and similar printed matter, children's picture <u>books</u> , drawing <u>books</u> or colouring books, music printed or in manuscript <u>form</u> , maps and hydrographic or similar charts), newspapers and periodicals, other than material wholly or <u>substantially predominantly</u> devoted to advertising <del>matter</del> ;	<b>Annex H, second paragraph, point 6</b> (inserted by 92/77/EEC)
		<i>Adapted</i>
7(7)	<del>Admissions—admission</del> to shows, theatres, circuses, fairs, amusement parks, concerts, museums, zoos, cinemas, exhibitions and similar cultural events and facilities;	<b>Annex H, second paragraph, point 7, first subparagraph</b> (inserted by 92/77/EEC)
(8)	<del>Reception</del> <u>reception</u> of <u>radio and television</u> broadcasting services;	<b>Annex H, second paragraph, point 7, second subparagraph</b> (inserted by 92/77/EEC)
		<i>Adapted</i>
8(9)	<del>Services supplied supply of services</del> by <del>or royalties due to</del> writers, composers and performing artists, <u>or of the royalties due to them</u> ;	<b>Annex H, second paragraph, point 8</b> (inserted by 92/77/EEC)
		<i>Adapted</i>
9(10)	<del>Supply, provision</del> , construction, renovation and alteration of housing <del>provided</del> , as part of a social policy;	<b>Annex H, second paragraph, point 9</b> (inserted by 92/77/EEC)
		<i>Adapted</i>
10(11)	<del>Supplies supply</del> of goods and services of a kind normally intended for use in agricultural production but excluding capital goods such as machinery or buildings;	<b>Annex H, second paragraph, point 10</b> (inserted by 92/77/EEC)

~~11(12)~~ ~~Accommodation—accommodation~~ provided ~~by—in~~ hotels and similar establishments, including the provision of holiday ~~aeecomodation—accommodation~~ and the letting of places on camping or caravan sites ~~and caravan parks~~;

**Annex H, second paragraph, point 11 (inserted by 92/77/EEC)**

*Adapted*

~~12(13)~~ ~~Admission—admission~~ to sporting events;

**Annex H, second paragraph, point 12 (inserted by 92/77/EEC)**

~~13(14)~~ ~~Use—use~~ of sporting facilities;

**Annex H, second paragraph, point 13 (inserted by 92/77/EEC)**

~~14(15)~~ ~~Supply—supply~~ of goods and services by ~~organizations recognized organisations recognised~~ as ~~charities—being devoted to social wellbeing~~ by Member States and engaged in welfare or social security work, ~~insofar in so far~~ as ~~these supplies those transactions~~ are not exempt ~~under Article 13 pursuant to Articles 129, 132 and 133~~;

**Annex H, second paragraph, point 14 (inserted by 92/77/EEC)**

*Adapted*

~~15(16)~~ ~~Services—supplied—supply of services~~ by undertakers and cremation services, ~~together with—and~~ the supply of goods related thereto;

**Annex H, second paragraph, point 15 (inserted by 92/77/EEC)**

*Adapted*

~~16(17)~~ ~~Provision—provision~~ of medical and dental care ~~as well as—and~~ thermal treatment in so far as ~~these—those~~ services are not exempt ~~under Article 13 pursuant to Article 129(1)(b) to (e)~~;

**Annex H, second paragraph, point 16 (inserted by 92/77/EEC)**

*Adapted*

~~17(18)~~ ~~Services supplied~~ supply of services provided in connection with street cleaning, refuse collection and waste treatment, other than the supply of such services by bodies referred to in ~~Article 4(5)~~ Article 14.

**Annex H, second paragraph, point 17 (inserted by 92/77/EEC)**

*Adapted*



**ANNEX K ANNEX IV**

**LIST OF SUPPLIES OF THE SERVICES REFERRED TO  
IN ~~ARTICLE 28(6)~~ ARTICLE 102**

**Annex K  
(inserted by  
1999/85/EC)**

**Heading of  
Annex K  
(inserted by  
1999/85/EC)**

*Adapted*

~~1.(1)~~ ~~Small services~~ Minor repairing of ~~repairing~~:

**Annex K(1)  
(inserted by  
1999/85/EC)**

*Adapted*

~~-(a)~~ bicycles;

**Annex K(1), first  
indent  
(inserted by  
1999/85/EC)**

~~-(b)~~ shoes and leather goods;

**Annex K(1),  
second indent  
(inserted by  
1999/85/EC)**

~~-(c)~~ clothing and household linen (including mending and alteration);

**Annex K(1), third  
indent  
(inserted by  
1999/85/EC)**

~~2.(2)~~ ~~Renovation~~ renovation and repairing of private dwellings, excluding materials which ~~form account for~~ a significant part of the value of the ~~supply service supplied~~;

**Annex K(2)  
(inserted by  
1999/85/EC)**

*Adapted*

~~3.(3)~~ ~~Window window~~ cleaning and cleaning in private households;

**Annex K(3)  
(inserted by  
1999/85/EC)**

~~4.(4)~~ ~~Domestic domestic~~ care services (~~e.g. such as~~ home help and care of the young, elderly, sick or disabled);

**Annex K(4)  
(inserted by  
1999/85/EC)**

*Adapted*

5.(5) ~~Ha~~irdressinghairdressing.

**Annex K(5)**  
**(inserted by**  
**1999/85/EC)**

~~ANNEX J~~ ANNEX V

CATEGORIES OF GOODS, REFERRED TO IN  
ARTICLE 155, WHICH MAY BE COVERED BY  
WAREHOUSING ARRANGEMENTS OTHER THAN  
CUSTOMS WAREHOUSING

Annex J  
(inserted by  
95/7/EC)

*Adapted*

CN-code	Description of goods	Annex J, introductory sentence (inserted by 95/7/EC)
(1) 0701	Potatoes	
(2) 0711 20	Olives	
(3) 0801	Coconuts, Brazil nuts and cashew nuts	
(4) 0802	Other nuts	
(5) 0901 11 00	Coffee, not roasted	
0901 12 00		
(6) 0902	Tea	
(7) 1001 to 1005	Cereals	
1007 to 1008		
(8) 1006: <del>unprocessed rice only</del>	<u>Cereals-Husked rice</u>	<i>Adapted</i>
(9) 1201 to 1207	<del>Grains and Oil seeds (including soya beans) and oleaginous fruits</del>	<i>Adapted</i>
<del>1201 to 1207</del>	<del>Oil seeds and oleaginous fruit</del>	
(10) 1507 to 1515	Vegetable oils and fats and their fractions, whether or not refined, but not chemically modified	
(11) 1701 11	Raw sugar	

	1701 12	
(12)	1801	Cocoa beans, whole or broken, raw or roasted
(13)	2709	Mineral oils (including propane and butane; also including crude petroleum oils)
	2710	
	2711 12	
	2711 13	
(14)	Chapters 28 and 29	Chemicals in bulk
(15)	4001	Rubber, in primary forms or in plates, sheets or strip
	4002	
(16)	5101	Wool
(17)	7106	Silver
(18)	7110 11 00	Platinum (palladium, rhodium)
	7110 21 00	
	7110 31 00	
(19)	7402	Copper
	7403	
	7405	
	7408	
(20)	7502	Nickel
(21)	7601	Aluminium
(22)	7801	Lead
(23)	7901	Zinc
(24)	8001	Tin
(25)	ex 8112 <del>91</del> 92	Indium
	ex 8112 99	

*Adapted*

~~ANNEX A~~ ANNEX VI

LIST OF THE AGRICULTURAL PRODUCTION  
ACTIVITIES REFERRED TO IN ARTICLE 288

Annex A  
(77/388/EEC)

Heading of  
Annex A  
(77/388/EEC)

*Adapted*

~~I.1.(1) CROP PRODUCTION~~ Crop production:

Annex A(I)  
(77/388/EEC)

~~1.(a) General~~ general agriculture, including viticulture;

Annex A(I)(1)  
(77/388/EEC)

~~2.(b) Growing~~ growing of fruit (including olives) and of  
vegetables, flowers and ornamental plants, both in the open  
and under glass;

Annex A(I)(2)  
(77/388/EEC)

~~3.(c) Production~~ production of mushrooms, spices, seeds and  
propagating materials; ~~nurseries~~

Annex A(I)(3)  
(77/388/EEC)

~~3.(d) Production of mushrooms, spices, seeds and propagating  
materials;~~ running of nurseries;

Annex A(I)(3)  
(77/388/EEC)

*Adapted*

~~II.2.(2) STOCK FARMING TOGETHER WITH CULTIVATION~~ stock  
farming together with cultivation:

Annex A(II)  
(77/388/EEC)

~~1.(a) General~~ general stock farming;

Annex A(II)(1)  
(77/388/EEC)

~~2.(b) Poultry~~ poultry farming;

Annex A(II)(2)  
(77/388/EEC)

~~3.(c) Rabbit~~ rabbit farming;

Annex A(II)(3)  
(77/388/EEC)

~~4.(d) Beekeeping~~ beekeeping;

Annex A(II)(4)  
(77/388/EEC)

~~5.(e) Silkworm~~ silkworm farming;

Annex A(II)(5)  
(77/388/EEC)

~~6.(f) Snail~~ snail farming;

Annex A(II)(6)  
(77/388/EEC)

~~III.3.(3) FORESTRY~~forestry:

**Annex A(III)  
(77/388/EEC)**

~~IV.4.(4) FISHERIES~~fisheries:

**Annex A(IV)  
(77/388/EEC)**

~~1.(a) Fresh-water~~freshwater fishing:

**Annex A(IV)(1)  
(77/388/EEC)**

~~2.(b) Fish~~fish farming:

**Annex A(IV)(2)  
(77/388/EEC)**

~~3.(c) Breeding~~breeding of mussels, oysters and other molluscs and crustaceans:

**Annex A(IV)(3)  
(77/388/EEC)**

~~4.(d) Frog~~frog farming.

**Annex A(IV)(4)  
(77/388/EEC)**

~~ANNEX B~~ **ANNEX VII**

**LIST OF THE AGRICULTURAL SERVICES REFERRED  
TO IN ARTICLE 288**

**Annex B  
(77/388/EEC)**

**Heading of  
Annex B  
(77/388/EEC)**

*Adapted*

~~Supplies of agricultural services which normally play a part in agricultural production shall be considered the supply of agricultural services, and include the following in particular:~~

**Annex B  
(77/388/EEC)**

~~-(1) ~~field~~ Field work, reaping and mowing, threshing, baling, collecting, harvesting, sowing and planting;~~

**Annex B, first  
indent  
(77/388/EEC)**

~~-(2) packing and preparation for market, ~~for example such as~~ drying, cleaning, grinding, disinfecting and ensilage of agricultural products;~~

**Annex B, second  
indent  
(77/388/EEC)**

~~-(3) storage of agricultural products;~~

**Annex B, third  
indent  
(77/388/EEC)**

~~-(4) stock minding, rearing and fattening;~~

**Annex B, fourth  
indent  
(77/388/EEC)**

~~-(5) hiring out, for agricultural purposes, of equipment normally used in agricultural, forestry or fisheries undertakings;~~

**Annex B, fifth  
indent  
(77/388/EEC)**

~~-(6) technical assistance;~~

**Annex B, sixth  
indent  
(77/388/EEC)**

~~-(7) destruction of weeds and pests, dusting and spraying of crops and land;~~

**Annex B, seventh  
indent  
(77/388/EEC)**

~~-(8) operation of irrigation and drainage equipment;~~

**Annex B, eighth  
indent  
(77/388/EEC)**

~~-(9) lopping, tree felling and other forestry services.~~

**Annex B, ninth  
indent  
(77/388/EEC)**

## ANNEX C

### COMMON METHOD OF CALCULATION

~~I. For the purposes of calculating the value added for all agricultural, forestry and fisheries undertakings, the following shall be taken into account exclusive of value added tax:~~

~~1. the value of the total final production including farmers' own consumption of the classes 'agricultural products and game' and 'wood in the rough' as set out in points IV and V below, plus the output of the processing activities referred to in point V of Annex A;~~

~~2. the value of the total inputs required to achieve the production referred to in (1);~~

~~3. the value of the gross fixed asset formation in connection with the activities listed in Annexes A and B.~~

~~II. To determine the deductible taxable inputs and outputs of flat rate farmers, the inputs and outputs of farmers taxed under the normal value added tax scheme shall be deducted from the national accounts, taking into account the same factors as those in paragraph I.~~

~~III. The value added for flat rate farmers is equal to the difference between the value of total final production, exclusive of value added tax, as referred to in point I(1), and the total value of inputs as referred to in point I(2) together with gross fixed asset formation as referred to in point I(3). All these factors relate to flat rate farmers only.~~

~~IV. AGRICULTURAL PRODUCTS AND GAME~~

**Annex C  
(77/388/EEC)**

**Heading of  
Annex C  
(77/388/EEC)**

**Annex C(I)  
(77/388/EEC)**

*Obsolete*

**Annex C(I)(1)  
(77/388/EEC)**

*Obsolete*

**Annex C(I)(2)  
(77/388/EEC)**

*Obsolete*

**Annex C(I)(3)  
(77/388/EEC)**

*Obsolete*

**Annex C(II)  
(77/388/EEC)**

*Obsolete*

**Annex C(III)  
(77/388/EEC)**

*Obsolete*

**Annex C(IV)  
(77/388/EE)**

*Obsolete*



~~ANNEX I~~ **ANNEX VIII**

**WORKS OF ART, COLLECTORS' ITEMS AND  
ANTIQUES, AS REFERRED TO IN ARTICLE 304(1)(B),  
(C) AND (D)**

~~For the purposes of this Directive:~~

~~(a)A. 'works~~ Works of art' ~~shall mean:~~

~~-(1)~~ pictures, collages and similar decorative plaques, paintings and drawings, executed entirely by hand by the artist, other than plans and drawings for architectural, engineering, industrial, commercial, topographical or similar purposes, hand-decorated manufactured articles, theatrical scenery, studio back cloths or the like of painted canvas (CN code 9701);<sub>2</sub>

~~-(2)~~ original engravings, prints and lithographs, being impressions produced in limited numbers directly in black and white or in colour of one or of several plates executed entirely by hand by the artist, irrespective of the process or of the material employed ~~by him~~, but not including any mechanical or photomechanical process (CN code 9702 00 00);<sub>2</sub>

~~-(3)~~ original sculptures and statuary, in any material, provided that they are executed entirely by the artist; sculpture casts the production of which is limited to eight copies and supervised by the artist or his successors in title (CN code 9703 00 00); on an exceptional basis, in cases determined by the Member States, the limit of eight copies may be exceeded for statuary casts produced before 1 January 1989;<sub>2</sub>

**Annex I  
(inserted by  
94/5/EC)**

**Heading of  
Annex I  
(inserted by  
94/5/EC)**

*Adapted*

**Annex I  
(inserted by  
94/5/EC)**

*Obsolete*

**Annex I(a)  
(inserted by  
94/5/EC)**

*Adapted*

**Annex I(a), first  
indent  
(inserted by  
94/5/EC)**

**Annex I(a), second  
indent  
(inserted by  
94/5/EC)**

**Annex I(a), third  
indent  
(inserted by  
94/5/EC)**

<p><del>-(4)</del> tapestries (CN code 5805 00 00) and wall textiles (CN code 6304 00 00) made by hand from original designs provided by artists, provided that there are not more than eight copies of each<del>;</del></p>	<p><b>Annex I(a), fourth indent</b> <b>(inserted by 94/5/EC)</b></p>
<p><del>-(5)</del> individual pieces of ceramics executed entirely by the artist and signed by him<del>;</del></p>	<p><b>Annex I(a), fifth indent</b> <b>(inserted by 94/5/EC)</b></p>
<p><del>-(6)</del> enamels on copper, executed entirely by hand, limited to eight numbered copies bearing the signature of the artist or the studio, excluding articles of jewellery and goldsmiths' and silversmiths' wares<del>;</del></p>	<p><b>Annex I(a), sixth indent</b> <b>(inserted by 94/5/EC)</b></p>
<p><del>-(7)</del> photographs taken by the artist, printed by him or under his supervision, signed and numbered and limited to 30 copies, all sizes and mounts included<del>;</del></p>	<p><b>Annex I(a), seventh indent</b> <b>(inserted by 94/5/EC)</b></p>
<p><del>(b)B</del> <del>'collectors' Collectors' items' shall mean:</del></p>	<p><b>Annex I(b)</b> <b>(inserted by 94/5/EC)</b></p>
<p><i>Adapted</i></p>	
<p><del>-(1)</del> postage or revenue stamps, postmarks, first-day covers, pre-stamped stationery and the like, franked, or if unfranked not being of legal tender and not being intended for use as legal tender (CN code 9704 00 00)<del>;</del></p>	<p><b>Annex I(b), first indent</b> <b>(inserted by 94/5/EC)</b></p>
<p><del>-(2)</del> collections and collectors' pieces of zoological, botanical, mineralogical, anatomical, historical, archaeological, <del>palaetological</del> <u>palaeontological</u>, ethnographic or numismatic interest (CN code 9705 00 00);</p>	<p><b>Annex I(b), second indent</b> <b>(inserted by 94/5/EC)</b></p>
<p><del>(e)C.</del> <del>'antiques' shall mean objects other than works of art or collectors' items, which are more than 100 years old (CN code 9706 00 00)</del> <u>Antiques:</u></p>	<p><b>Annex I(c)</b> <b>(inserted by 94/5/EC)</b></p>
<p><i>Adapted</i></p>	
<p><del>(e)</del> <del>'antiques' shall mean objects</del> <u>goods</u>, other than works of art or collectors' items, which are more than 100 years old (CN code 9706 00 00).</p>	<p><b>Annex I(c)</b> <b>(inserted by 94/5/EC)</b></p>

~~ANNEX E~~ ANNEX IX

LIST OF TRANSACTIONS COVERED BY THE  
DEROGATIONS REFERRED TO IN ARTICLES 363 AND  
364 AND ARTICLES 368 TO 383

~~ANNEX F~~

Part A

~~TRANSACTIONS REFERRED TO IN  
ARTICLE 28(3)(A)~~ Transactions which Member States may continue  
to tax

~~2.1.(1)~~ Transactions referred to in Article 13A(1)(e) The supply of  
services by dental technicians in their professional capacity and  
the supply of dental prostheses by dentists and dental technicians;

~~7.2.(2)~~ Transactions referred to in Article 13A(1)(g) the activities of  
public radio and television bodies other than those of a  
commercial nature;

~~11.3.(3)~~ Supplies covered by Article 13B(g) in so far as they are made the  
supply of a building, or parts thereof, or of the land on which it  
stands, other than as referred to in Article 13(1)(a), where carried  
out by taxable persons who were entitled to deduction of input tax  
on the VAT paid at the preceding stage in respect of the building  
concerned;

~~15.(4)~~ The the supply of the services of travel agents, as referred to in  
Article 26, Article 299, and those of travel agents acting in the  
name and on account behalf of the traveller, for in relation to  
journeys outside the Community.

Part B

~~TRANSACTIONS REFERRED TO IN  
ARTICLE 28(3)(B)~~ Transactions which Member States may continue  
to exempt

Annex E  
(77/388/EEC)

*New*

Annex F  
(77/388/EEC)

Heading of  
Annex E  
(77/388/EEC)

*Adapted*

Annex E(2)  
(77/388/EEC)

*Adapted*

Annex E(7)  
(77/388/EEC)

*Adapted*

Annex E(11)  
(77/388/EEC)

*Adapted*

Annex E(15)  
(77/388/EEC)

*Adapted*

Heading of  
Annex F  
(77/388/EEC)

*Adapted*

<del>1</del> (1)	Admission to sporting events;	Annex F(1) (77/388/EEC)
<del>2</del> (2)	<del>Services supplied</del> <u>the supply of services</u> by authors, artists, performers, lawyers and other members of the liberal professions, other than the medical and paramedical professions, <del>in so far as these are not services specified in Annex B to the second Council Directive of 11 April 1967</del> <u>with the exception of the following:</u>	Annex F(2) (77/388/EEC) <i>Adapted</i>
<del>1</del> (a)	assignments of patents, trade marks and other similar rights, and the granting of licences in respect of such rights;	Annex F(2) (77/388/EEC)
<del>2</del> (b)	work, other than <del>that referred to in Article 5(2)(d)</del> , <u>the supply of contract work</u> , on tangible movable property, carried out for a taxable person;	Annex F(2) (77/388/EEC)
<del>3</del> (c)	<del>provision of</del> services to prepare or <del>co-ordinate</del> <u>coordinate</u> the carrying out of <del>works of construction work</del> , <u>such as</u> , <del>for example</del> , services provided by architects and by firms providing on-site supervision of works;	Annex F(2) (77/388/EEC)
<del>4</del> (d)	commercial advertising services;	Annex F(2) (77/388/EEC)
<del>5</del> (e)	transport and storage of goods, and ancillary services;	Annex F(2) (77/388/EEC)
<del>6</del> (f)	hiring <u>out</u> of tangible <del>moveable</del> <u>movable</u> property to a taxable person;	Annex F(2) (77/388/EEC)
<del>7</del> (g)	provision of staff to a taxable person;	Annex F(2) (77/388/EEC)
<del>8</del> (h)	<u>provision of</u> services <del>provided</del> by consultants, engineers, planning offices and similar services; in scientific, economic or technical fields;	Annex F(2) (77/388/EEC)
<del>9</del> (i)	<del>the carrying out of</del> <u>compliance with</u> an obligation to refrain from exercising, in whole or in part, a business activity or a right <del>included in this list covered by points (a) to (h) or point (j)</del> ;	Annex F(2) (77/388/EEC)
<del>10</del> (j)	the services of forwarding agents, brokers, business agents and other independent intermediaries, in so far as they relate to <u>the</u> supply or importation of goods or the <del>provision</del> <u>supply</u> of services <del>included in this list covered by points (a) to (i)</del> :-	Annex F(2) (77/388/EEC)

<p><del>5-(3)</del> <u>Telecommunications</u> <del>the supply of telecommunications</del> services <u>supplied, and of goods related thereto,</u> by public postal services <u>and supplies of goods incidental thereto;</u></p>	<p><b>Annex F(5)</b> <b>(77/388/EEC)</b></p>
<p><del>6-(4)</del> <u>Services</u> <del>supplied</del> <u>the supply of services</u> by undertakers and cremation services, <del>together with</del> <u>and the supply of</u> goods related thereto;</p>	<p><b>Annex F(6)</b> <b>(77/388/EEC)</b></p>
<p><del>7-(5)</del> <u>Transactions</u> <del>transactions</del> carried out by blind persons or <u>by</u> workshops for the blind, provided <del>these that those</del> exemptions do not <del>give rise to</del> <u>cause</u> significant distortion of competition;</p>	<p><b>Annex F(7)</b> <b>(77/388/EEC)</b></p>
<p><del>8-(6)</del> <del>The</del> <u>the</u> supply of goods and services to official bodies responsible for the construction, setting out and maintenance of cemeteries, graves and monuments commemorating <u>the</u> war dead;</p>	<p><b>Annex F(8)</b> <b>(77/388/EEC)</b></p>
<p><del>10-(7)</del> <del>Transactions of</del> <u>transactions carried out by</u> hospitals not covered by <del>Article 13A(1)(b)</del> <u>Article 129(1)(b);</u></p>	<p><b>Annex F(10)</b> <b>(77/388/EEC)</b></p>
<p><del>12-(8)</del> <del>The</del> <u>the</u> supply of water by <u>a body governed by</u> public <del>authorities</del> <u>law;</u></p>	<p><b>Annex F(12)</b> <b>(77/388/EEC)</b></p>
<p><del>16-(9)</del> <del>Supplies and</del> <u>the supply before first occupation</u> of <del>those buildings</del> <u>a building, or parts thereof, or of the land described on which it stands, as referred to in</u> <del>Article 4(3)</del> <u>Article 13;</u></p>	<p><b>Annex F(16)</b> <b>(77/388/EEC)</b></p>
<p><del>17-(10)</del> <del>Passenger</del> <u>the transport of passengers and, in so far as the transport of the passengers is exempt, the transport of goods accompanying them, such as luggage or motor vehicles, or the supply of services relating to the transport of passengers;</u></p>	<p><b>Annex F(17), first subparagraph</b> <b>(77/388/EEC)</b></p>
<p><del>The transport of goods such as luggage or motor vehicles accompanying passengers and the supply of services related to the transport of passengers, shall only be exempted in so far as the transport of the passengers themselves is exempt</del></p>	<p><b>Annex F(17), second subparagraph</b> <b>(77/388/EEC)</b></p>
<p><del>23-(11)</del> <del>The</del> <u>the</u> supply, modification, repair, maintenance, chartering and hiring of aircraft <u>used by State institutions,</u> including equipment incorporated or used <del>therein,</del> <u>used by State institutions in such aircraft;</u></p>	<p><b>Annex F(23)</b> <b>(77/388/EEC)</b></p>

~~25.(12)~~ ~~The~~ ~~the~~ supply, modification, repair, maintenance, chartering and hiring of ~~warships~~ fighting ships;

**Annex F(25)**  
**(77/388/EEC)**

*Adapted*

~~27.(13)~~ ~~The~~ ~~the~~ supply of the services of travel agents, as referred to in ~~Article 26~~ ~~Article~~ 299, and those of travel agents acting in the name and on ~~account~~ ~~behalf~~ of the traveller, ~~for~~ in relation to journeys within the Community.

**Annex F(27)**  
**(77/388/EEC)**

*Adapted*

~~ANNEX G~~

~~RIGHT OF OPTION~~

~~1. The right of option referred to in Article 28(3)(c) may be granted in the following circumstances:~~

~~(a) in the case of transactions specified in Annex E: Member States which already exempt these supplies but also give right of option for taxation, may maintain this right of option~~

~~(b) in the case of transactions specified in Annex F: Member States which provisionally maintain the right to exempt such supplies may grant taxable persons the right to opt for taxation~~

~~2. Member States already granting a right of option for taxation not covered by the provisions of paragraph 1 above may allow taxpayers exercising it to maintain it until at the latest the end of three years from the date the Directive comes into force.~~

**Annex G  
(77/388/EEC)**

**Heading of  
Annex G  
(77/388/EEC)**

**Annex G(1)  
(77/388/EEC)**

*Obsolete*

**Annex G(1)(a)  
(77/388/EEC)**

*Obsolete*

**Annex G(1)(b)  
(77/388/EEC)**

*Obsolete*

**Annex G(2)  
(77/388/EEC)**

*Obsolete*

## ANNEX X

### Part A

#### **Repealed Directives with their successive amendments (referred to in Article 399)**

- (1) Directive 67/227/EEC (OJ L 71, 14.4.1967, p. 1301)  
    Directive 77/388/EEC
- (2) Directive 77/388/EEC (OJ L 145, 13.6.1977, p. 1)  
    Directive 78/583/EEC (OJ L 194, 19.7.1978, p. 16)  
    Directive 80/368/EEC (OJ L 90, 3.4.1980, p. 41)  
    Directive 84/386/EEC (OJ L 208, 3.8.1984, p. 58)  
    Directive 89/465/EEC (OJ L 226, 3.8.1989, p. 21)  
    Directive 91/680/EEC (OJ L 376, 31.12.1991, p. 1) – (except for Article 2)  
    Directive 92/77/EEC (OJ L 316, 31.10.1992, p. 1)  
    Directive 92/111/EEC (OJ L 384, 30.12.1992, p. 47)  
    Directive 94/4/EC (OJ L 60, 3.3.1994, p. 14) – (only Article 2)  
    Directive 94/5/EC (OJ L 60, 3.3.1994, p. 16)  
    Directive 94/76/EC (OJ L 365, 31.12.1994, p. 53)  
    Directive 95/7/EC (OJ L 102, 5.5.1995, p. 18)  
    Directive 96/42/EC (OJ L 170, 9.7.1996, p. 34)  
    Directive 96/95/EC (OJ L 338, 28.12.1996, p. 89)  
    Directive 98/80/EC (OJ L 281, 17.10.1998, p. 31)  
    Directive 1999/49/EC (OJ L 139, 2.6.1999, p. 27)  
    Directive 1999/59/EC (OJ L 162, 26.6.1999, p. 63)  
    Directive 1999/85/EC (OJ L 277, 28.10.1999, p. 34)  
    Directive 2000/65/EC (OJ L 265, 21.10.2000, p. 44)



Directive 2001/4/EC (OJ L 22, 24.1.2001, p. 17)  
 Directive 2001/115/EC (OJ L 15, 17.1.2001, p. 24)  
 Directive 2002/38/EC (OJ L 128, 15.5.2002, p. 41)  
 Directive 2002/93/EC (OJ L 331, 7.12.2001, p. 27)  
 Directive 2003/92/EC (OJ L 260, 11.10.2003, p. 8)  
 Directive 2004/7/EC (OJ L 27, 30.1. 2004, p. 44)  
 Directive 2004/15/CE (JO L 52 du 21.2.2004, p. 61)

**Part B**

**Time limits for transposition into national law  
 (referred to in Article 399)**

<u>Directive</u>	<u>Deadline for transposition</u>
Directive 67/227/EEC	1 January 1970
Directive 77/388/EEC	1 January 1978
Directive 78/583/EEC	1 January 1979
Directive 80/368/EEC	1 January 1979
Directive 84/386/EEC	1 July 1985
Directive 89/465/EEC	1 January 1990
	1 January 1991
	1 January 1992
	1 January 1993
	1 January 1994 for Portugal
Directive 91/680/EEC	1 January 1993
Directive 92/77/EEC	31 December 1992
Directive 92/111/EEC	1 January 1993
	1 January 1994
	1 October 1993 for Germany

Directive 94/4/EC	1 April 1994
Directive 94/5/EC	1 January 1995
Directive 94/76/EC	1 January 1995
Directive 95/7/EC	1 January 1996
	1 January 1997 for Germany and Luxembourg
Directive 96/42/EC	1 January 1995
Directive 96/95/EC	1 January 1997
Directive 98/80/EC	1 January 2000
Directive 1999/49/EC	1 January 1999
Directive 1999/59/EC	1 January 2000
Directive 1999/85/EC	—
Directive 2000/65/EC	31 December 2001
Directive 2001/4/EC	1 January 2001
Directive 2001/115/EC	1 January 2004
Directive 2002/38/EC	1 July 2003
Directive 2002/93/EC	—
Directive 2003/92/EC	1 January 2005
Directive 2004/7/EC	30 January 2004
Directive 2004/15/EC	—

## ANNEX XI

### CORRELATION TABLE

Directive 67/227/EEC	Directive 77/388/EEC	Directive 94/5/EC	Directive 2002/38/EC	Other acts	This Directive
Article 1, first paragraph					Article 1(1)
Article 1, second and third paragraphs					–
Article 2, first, second and third paragraphs					Article 1(2), first, second and third subparagraphs
Articles 3, 4 and 6					–
	Article 1				–
	Article 2(1)				Article 3(1)(a) and (c)
	Article 2(2)				Article 3(1)(d)
	Article 3(1), first and second indents				Article 7(a) and (b)
	Article 3(1), third indent				Article 7(c) and (d)
	Article 3(2)				Article 5
	Article 3(3), first subparagraph, first indent				Article 6(2)(a) and (b)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 3(3), first subparagraph, second indent				Article 6(2)(c) and (d)
	Article 3(3), first subparagraph, third indent				Article 6(2)(f), (g) and (h)
	Article 3(3) second subparagraph, first indent				Article 6(1)(b)
	Article 3(3) second subparagraph, second indent				Article 6(1)(c)
	Article 3(3), second subparagraph, third indent				Article 6(1)(a)
	Article 3(4), first subparagraph, first and second indents				Article 8(1)
	Article 3(4), second subparagraph, first second and third indents				Article 8(2)
	Article 3(5)				Article 9
	Article 4(1) and (2)				Article 10(1), first and second subparagraphs
	Article 4(3)(a), first subparagraph, first sentence				Article 13(1)(a)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 4(3)(a), first subparagraph, second sentence				Article 13(2), second subparagraph
	Article 4(3)(a), second subparagraph				Article 13(2), third subparagraph
	Article 4(3)(a), third subparagraph				Article 13(2), first subparagraph
	Article 4(3)(b), first subparagraph				Article 13(1)(b)
	Article 4(3)(b), second subparagraph				Article 13(3)
	Article 4(4), first subparagraph				Article 11
	Article 4(4), second subparagraph				Article 12
	Article 4(5), first, second and third subparagraphs				Article 14(1), first, second and third subparagraphs
	Article 4(5), fourth subparagraph				Article 14(2)
	Article 5(1)				Article 15(1)
	Article 5(2)				Article 16(1)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 5(3)(a), (b) and (c)				Article 16(2)(a), (b) and (c)
	Article 5(4)(a), (b) and (c)				Article 15(2)(a), (b) and (c)
	Article 5(5)				Article 15(3)
	Article 5(6), first and second sentences				Article 17, first and second subparagraphs
	Article 5(7)(a), (b) and (c)				Article 19(a), (b) and (c)
	Article 5(8), first and second sentences				Article 20, first and second subparagraphs
	Article 6(1), first subparagraph				Article 25(1)
	Article 6(1), second subparagraph, first, second and third indents				Article 26(a), (b) and (c)
	Article 6(2), first subparagraph, points (a) and (b)				Article 27(1)(a) and (b)
	Article 6(2), second subparagraph				Article 27(2)
	Article 6(3)				Article 28

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 6(4)				Article 29
	Article 6(5)				Article 30
	Article 7(1)(a) and (b)				Article 31, first and second subparagraphs
	Article 7(2)				Article 60
	Article 7(3), first and second subparagraphs				Article 61, first and second subparagraphs
	Article 8(1)(a), first sentence				Article 33, first subparagraph
	Article 8(1)(a), second and third sentences				Article 37, first and second subparagraphs
	Article 8(1)(b)				Article 32
	Article 8(1)(c), first subparagraph				Article 38(1)
	Article 8(1)(c), second subparagraph, first indent				Article 38(2), first subparagraph
	Article 8(1)(c), second subparagraph, second and third indents				Article 38(2), second and third subparagraphs
	Article 8(1)(c), third subparagraph				Article 38(2), fourth subparagraph

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 8(1)(c), fourth subparagraph				Article 38(3), first subparagraph
	Article 8(1)(c), fifth subparagraph				–
	Article 8(1)(c), sixth subparagraph				Article 38(3), second subparagraph
	Article 8(1)(d), first and second subparagraphs				Article 39(1) and (2)
	Article 8(1)(e), first sentence				Article 40, first subparagraph
	Article 8(1)(e), second and third sentences				Article 40, second subparagraph
	Article 8(2)				Article 33, second subparagraph
	Article 9(1)				Article 44
	Article 9(2) introductory sentence				–
	Article 9(2)(a)				Article 46
	Article 9(2)(b)				Article 47
	Article 9(2)(c), first and second indents				Article 52(a) and (b)



<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 9(2)(c), third and fourth indents				Article 52(c)
	Article 9(2)(c), third and fourth indents				Article 52(c)
	Article 9(2)(e), first to sixth indents				Article 56(1)(a) to (f)
	Article 9(2)(e), seventh indent				Article 56(1)(l)
	Article 9(2)(e), eighth indent				Article 56(1)(g)
	Article 9(2)(e), ninth indent				Article 56(1)(h)
	Article 9(2)(e), tenth indent, first sentence				Article 56(1)(i)
	Article 9(2)(e), tenth indent, second sentence				Article 25(2)
	Article 9(2)(e), tenth indent, third sentence				Article 56(1)(i)
	Article 9(2)(e), eleventh and twelfth indents				Article 56(1)(j) and (k)
	Article 9(2)(f)				Article 57(1)
	Article 9(3)(a) and (b)				Article 58(a) and (b)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 9(4)				Article 59(1) and (2)
	Article 10(1)(a) and (b)				Article 62(1) and (2)
	Article 10(2), first sub-paragraph, first sentence				Article 63
	Article 10(2), first sub-paragraph, second and third sentences				Article 64(1) and (2)
	Article 10(2), second subparagraph				Article 65
	Article 10(2), third subparagraph, first, second and third indents				Article 66(a), (b) and (c)
	Article 10(3), first subparagraph, first sentence				Article 70
	Article 10(3), first subparagraph, second sentence				Article 71(1), first subparagraph
	Article 10(3), second subparagraph				Article 71(1), second subparagraph
	Article 10(3), third subparagraph				Article 71(2)
	Article 11(A)(1)(a)				Article 72

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 11(A)(1)(b)				Article 73
	Article 11(A)(1)(c)				Article 74
	Article 11(A)(1)(d), first and second subpara- graphs				Article 76, first and second subparagraphs
	Article 11(A)(2)(a)				Article 77, first subpara- graph, point (a)
	Article 11(A)(2)(b), first sentence				Article 77, first subpara- graph, point (b)
	Article 11(A)(2)(b), second sentence				Article 77, second sub- paragraph
	Article 11(A)(3)(a) and (b)				Article 78, first subpara- graph, points (a) and (b) Article 84(a) and (b)
	Article 11(A)(3)(c), first sentence				Article 78, first subpara- graph, point (c)
	Article 11(A)(3)(c), second sentence				Article 78, second sub- paragraph
	Article 11(A)(4), first and second subparagraphs				Article 79, first and second subparagraphs
	Article 11(B)(1)				Article 82

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 11(B)(3)(a)				Article 83,(1), first sub-paragraph, point (a)
	Article 11(B)(3)(b), first subparagraph				Article 83(1), first subparagraph, point (b)
	Article 11(B)(3)(b), second subparagraph				Article 83(2)
	Article 11(B)(3)(b), third subparagraph				Article 83(1), second subparagraph
	Article 11(B)(4)				Article 84
	Article 11(B)(5)				Article 85
	Article 11(B)(6), first and second subparagraphs				Article 86, first and second subparagraphs
	Article 11(C)(1), first and second subparagraphs				Article 87(1) and (2)
	Article 11(C)(2), first subparagraph				Article 88(1)
	Article 11(C)(2), second subparagraph, first and second sentences				Article 88(2), first and second subparagraphs
	Article 11(C)(3), first and second indents				Article 89(a) and (b)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 12(1)				Article 90, first subpara- graph
	Article 12(1)(a)				Article 90, second sub- paragraph, point (a)
	Article 12(1)(b)				Article 90, second sub- paragraph, point (c)
	Article 12(2), first and second indents				Article 92, first and second subparagraphs
	Article 12(3)(a), first subparagraph, first sentence				Article 93
	Article 12(3)(a), first subparagraph, second sentence				Article 94(1)
	Article 12(3)(a), second subparagraph				Article 94(2)
	Article 12(3)(a), third subparagraph, first sentence				Article 95(1)
	Article 12(3)(a), third subparagraph, second sentence				Article 95(2), first sub- paragraph Article 96(1)
	Article 12(3)(a), fourth subparagraph				Article 95(2), second sub- paragraph

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 12(3)(b), first sentence				Article 98, first subparagraph
	Article 12(3)(b), second, third and fourth sentences				Article 98, second subparagraph
	Article 12(3)(c), first subparagraph				Article 99(1)
	Article 12(3)(c), second subparagraph, first and second indents				Article 99(2)(a) and (b)
	Article 12(4), first subparagraph				Article 96(2)
	Article 12(4), second subparagraph, first and second sentences				Article 97, first and second subparagraphs
	Article 12(5)				Article 91(2)
	Article 12(6)				Article 101
	Article 13(A)(1), introductory sentence				Article 128
	Article 13(A)(1)(a) to (n)				Article 129(1)(a) to (n)
	Article 13(A)(1)(o), first sentence				Article 129(1)(o)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 13(A)(1)(o), second sentence				Article 129(2)
	Article 13(A)(1)(p) and (q)				Article 129(1)(p) and (q)
	Article 13(A)(2)(a), first to fourth indents				Article 130(a) to (d)
	Article 13(A)(2)(b), first and second indents				Article 131(a) and (b)
	Article 13(B), introductory sentence				Article 128
	Article 13(B)(a)				Article 132(1)(a)
	Article 13(B)(b), first subparagraph				Article 132(1)(l)
	Article 13(B)(b), first subparagraph, points (1) to (4)				Article 132(2), first sub- paragraph, points (a) to (d)
	Article 13(B)(b), second subparagraph				Article 132(2), second subparagraph
	Article 13(B)(c)				Article 133(a) and (b)
	Article 13(B)(d)				–
	Article 13(B)(d)(1) to (5)				Article 132(1)(b) to (f)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 13(B)(d)(5), first and second indents				Article 132(1)(f)
	Article 13(B)(d)(6)				Article 132(1)(g)
	Article 13(B)(e) to (h)				Article 132(1)(h) to (k)
	Article 13(C), first subparagraph, point (a)				Article 134(1)(d)
	Article 13(C), first subparagraph, point (b)				Article 134(1)(a), (b) and (c)
	Article 13(C), second subparagraph				Article 134(2), first and second subparagraphs
	Article 14(1), introductory sentence				Articles 128
	Article 14(1)(a)				Article 137(a)
	Article 14(1)(d), first and second subparagraphs				Article 140(b) and (c)
	Article 14(1)(e)				Article 140(e)
	Article 14(1)(g), first to fourth indents				Article 140(f) to (i)
	Article 14(1)(h)				Article 140(j)
	Article 14(1)(i)				Article 140(m)



<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 14(1)(j)				Article 140(k)
	Article 14(1)(k)				Article 140(l)
	Article 14(2), first sub-paragraph				Article 141(1)
	Article 14(2), second subparagraph, first, second and third indents				Article 141(2), first, second and third subparagraphs
	Article 14(2), third subparagraph				Article 141(3)
	Article 15, introductory sentence				Article 128
	Article 15(1)				Article 142(1)(a)
	Article 15(2), first subparagraph				Article 142(1)(b)
	Article 15(2), second subparagraph, first and second indents				Article 143(1), first subparagraph, points (a) and (b)
	Article 15(2), second subparagraph, third indent, first part of the sentence				Article 143(1), first subparagraph, point (c)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 15(2), second subparagraph, third indent, second part of the sentence				Article 143(1), second subparagraph
	Article 15(2), third subparagraph, first and second indents				Article 143(2), first and second subparagraphs
	Article 15(2), fourth subparagraph				Article 143(2), third subparagraph
	Article 15(3)				Article 142(1)(d)
	Article 15(4), first subparagraph, points (a) and (b)				Article 144(a)
	Article 15(4), first subparagraph, point (c)				Article 144(b)
	Article 15(4), second subparagraph, first and second sentences				Article 146(1) and (2)
	Article 15(5)				Article 144(c)
	Article 15(6)				Article 144(f)
	Article 15(7)				Article 144(e)
	Article 15(8)				Article 144(d)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 15(9)				Article 144(g)
	Article 15(10), first sub-paragraph, first to fourth indents				Article 147(1), first sub-paragraph, points (a) to (d)
	Article 15(10), second subparagraph				Article 147(1), second subparagraph
	Article 15(10), third subparagraph				Article 147(2)
	Article 15(11)				Article 148
	Article 15(12), first sentence				Article 142(1)(c)
	Article 15(12), second sentence				Article 142(2)
	Article 15(13)				Article 142(1)(e)
	Article 15(14), first and second subparagraphs				Article 149, first and second subparagraphs
	Article 15(15)				Article 145
	Article 16(1)				–
	Article 16(2)				Article 159(1)
	Article 16(3)				Article 161

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 17(1)				Article 162
	Article 17(2), (3) and (4)				–
	Article 17(5), first and second subparagraphs				Article 167(1), first and second subparagraphs
	Article 17(5), third subparagraph, points (a) to (e)				Article 167(2)(a) to (e)
	Article 17(6)				Article 170
	Article 17(7), first and second sentences				Article 171, first and second subparagraphs
	Article 18(1)				–
	Article 18(2), first and second subparagraphs				Article 173, first and second subparagraphs
	Article 18(3)				Article 174
	Article 18(4), first and second subparagraphs				Article 177, first and second subparagraphs
	Article 19(1), first subparagraph, first indent				Article 168(1), first subparagraph, point (a)
	Article 19(1), first subparagraph, second indent, first sentence				Article 168(1), first subparagraph, point (b)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 19(1), first subparagraph, second indent, second sentence				Article 168(1), second subparagraph
	Article 19(1), second subparagraph				Article 169(1)
	Article 19(2), first sentence				Article 168(2)(a)
	Article 19(2), second sentence				Article 168(2)(a) and (b)
	Article 19(2), third sentence				Article 168(3)
	Article 19(3), first subparagraph, first and second sentences				Article 169(2), first subparagraph
	Article 19(3), first subparagraph, third sentence				Article 169(2), second subparagraph
	Article 19(3), second subparagraph				Article 169(3)
	Article 20(1), introductory sentence				Article 180
	Article 20(1)(a)				Article 178
	Article 20(1)(b), first part of the first sentence				Article 179(1)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 20(1)(b), second part of the first sentence				Article 179(2), first subparagraph
	Article 20(1)(b), second sentence				Article 179(2), second subparagraph
	Article 20(2), first subparagraph, first sentence				Article 181(1), first subparagraph
	Article 20(2), first subparagraph, second and third sentences				Article 181(2), first and second subparagraphs
	Article 20(2), second and third subparagraphs				Article 181(1), second and third subparagraphs
	Article 20(3), first subparagraph, first sentence				Article 182(1), first subparagraph
	Article 20(3), first subparagraph, second sentence				Article 182(1), second and third subparagraphs
	Article 20(3), first subparagraph, third sentence				Article 182(2)
	Article 20(3), second subparagraph				Article 182(2)
	Article 20(4), first to fourth indents				Article 183(a) to (d)
	Article 20(5)				Article 184

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 20(6)				Article 185
	Article 21				–
	Article 22				–
	Article 22(a)				Article 241
	Article 23, first para- graph				Article 203, first subpara- graph Article 252
	Article 23, second para- graph				Article 203, second sub- paragraph
	Article 24(1)				Article 274
	Article 24(2)				Article 285
	Article 24(2)(a), first subparagraph				Article 277(1)
	Article 24(2)(a), second and third subparagraphs				Article 277(2), first and second subparagraphs
	Article 24(2)(b), first and second sentences				Article 278, first and second subparagraphs
	Article 24(2)(c)				Article 279
	Article 24(3), first sub- paragraph				Article 275

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 24(3), second subparagraph, first sentence				Article 276(2)
	Article 24(3), second subparagraph, second sentence				Article 276(1)(a)
	Article 24(4), first subparagraph				Article 281, first subparagraph, points (1), (2) and (3)
	Article 24(4), second subparagraph				Article 281, second subparagraph
	Article 24(5)				Article 282
	Article 24(6)				Article 283
	Article 24(7)				Article 284
	Article 24(8), points (a), (b) and (c)				Article 286, points (1), (2) and (3)
	Article 24(9)				Article 287
	Article 24(a), first subparagraph, first to tenth indents				Article 280, points (7) to (16)
	Article 25(1)				Article 289(1)



<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 25(2), first to eighth indents				Article 288(1), points (1) to (8)
	Article 25(3), first subparagraph, first sentence				Article 290, first subparagraph, first sentence and second subparagraph
	Article 25(3), first subparagraph, second sentence				Article 291, first subparagraph
	Article 25(3), first subparagraph, third sentence				Article 292
	Article 25(3), first subparagraph, fourth and fifth sentences				Article 291, second subparagraph
	Article 25(3), second subparagraph				Article 290, first subparagraph, second sentence
	Article 25(4), first subparagraph				Article 265(1), first subparagraph, point (e)
	Article 25(5) and (6)				–
	Article 25(7)				Article 297
	Article 25(8)				Article 294(2)
	Article 25(9)				Article 289(2)
	Article 25(10)				Article 289(3)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 25(11) and (12)				–
	Article 26(1) first and second sentences				Article 299(1), first and second subparagraphs
	Article 26(1) third sentence				Article 299(2)
	Article 26(2), first and second sentences				Article 300, first and second subparagraphs
	Article 26(2), third sentence				Article 301
	Article 26(3), first and second sentences				Article 302, first and second subparagraphs
	Article 26(4)				Article 303
	Article 26a(A)(a), first subparagraph				Article 304(1)(b)
	Article 26a(A)(a), second subparagraph				Article 304(2)
	Article 26a(A)(b) and (c)				Article 304(1)(c) and (d)
	Article 26a(A)(d)				Article 304(1)(a)
	Article 26a(A)(e), (f) and (g)				Article 304(1)(e), (f) and (g)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 26a(A)(g), first and second indents				Article 304(3)
	Article 26a(B)(1)				Article 305(1)
	Article 26a(B)(2)				Article 306
	Article 26a(B)(2), first and second indents				Article 306, points (a) to (d)
	Article 26a(B)(3), first subparagraph, first and second sentences				Article 307(1), first and second subparagraphs
	Article 26a(B)(3), second subparagraph				Article 307(2)
	Article 26a(B)(3), second subparagraph, first and second indents				Article 307(2), points (a) and (b)
	Article 26a(B)(4), first subparagraph				Article 308(1)
	Article 26a(B)(4), first subparagraph, points (a), (b) and (c)				Article 308(1), points (a), (b) and (c)
	Article 26a(B)(4), second subparagraph				Article 308(2)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 26a(B)(4), third subparagraph, first and second sentences				Article 309, first and second subparagraphs
	Article 26a(B)(5)				Article 313
	Article 26a(B)(6)				Article 315
	Article 26a(B)(7)				Article 314
	Article 26a(B)(7), points (a), (b) and (c)				Article 314(a), (b) and (c)
	Article 26a(B)(8)				Article 316
	Article 26a(B)(9)				Article 317
	Article 26a(B)(10) first and second subparagraphs				Article 310(1), first and second subparagraphs
	Article 26a(B)(10), third subparagraph, first and second indents				Article 310(2)(a) and (b)
	Article 26a(B)(10), fourth subparagraph				Article 310(3)
	Article 26a(B)(11), first subparagraph				Article 311

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 26a(B)(11), second subparagraph, point (a)				Article 312(1), first subparagraph
	Article 26a(B)(11), second subparagraph, points (b) and (c)				Article 312(1), second subparagraph
	Article 26a(B)(11), third subparagraph				Article 312(2)
	Article 26a(C)(1), introductory sentence				Article 325(1) Article 326
	Article 26a(C)(1), first to fourth indents				Article 326(a) to (d)
	Article 26a(C)(2), first and second indents				Article 328(a) and (b)
	Article 26a(C)(3)				Article 329
	Article 26a(C)(4), first subparagraph, first, second and third indents				Article 331, first subparagraph, points (a), (b) and (c)
	Article 26a(C)(4), second subparagraph				Article 331, second subparagraph
	Article 26a(C)(5), first and second subparagraphs				Article 332(1), first and second subparagraphs

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 26a(C)(5), third subparagraph				Article 332(2)
	Article 26a(C)(6), first subparagraph, first and second indents				Article 330, first subparagraph, points (a) and (b)
	Article 26a(C)(6), second subparagraph				Article 330, second subparagraph
	Article 26a(C)(7)				Article 327
	Article 26a(D), introductory sentence				–
	Article 26a(D)(a)				Article 305(2) Article 325(2)
	Article 26a(D)(b)				Article 4(1)(b) and (d)
	Article 26a(D)(c)				Article 36 Article 136(3), first subparagraph
	Article 26b(A), first subparagraph, point (i), first sentence				Article 336(1)(1)
	Article 26b(A), first subparagraph, point (i), second sentence				Article 336(2)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 26b(A), first subparagraph, point (ii), first to fourth indents				Article 336(1)(2)
	Article 26b(A), second subparagraph				Article 336(3)
	Article 26b(A), third subparagraph				Article 337
	Article 26b(B), first subparagraph				Article 338
	Article 26b(B), second subparagraph				Article 339
	Article 26b(C), first subparagraph				Article 340
	Article 26b(C), second subparagraph, first and second sentences				Article 341(1) and (2)
	Article 26b(C), third subparagraph				Article 342
	Article 26b(C), fourth subparagraph				Article 343
	Article 26b(D)(1)(a), (b) and (c)				Article 347(a), (b) and (c)
	Article 26b(D)(2)				Article 348

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 26b(E), first and second subparagraphs				Article 349(1), first and second subparagraphs
	Article 26b(E), third and fourth subparagraphs				Article 349(2) and (3)
	Article 26b(F), first sentence				Article 191, first and second subparagraphs
	Article 26b(F), second sentence				Articles 200 and 247
	Article 26b(G)(1), first subparagraph				Article 344
	Article 26b(G)(1), second subparagraph				–
	Article 26b(G)(2)(a)				Article 345
	Article 26b(G)(2)(b), first and second sentences				Article 346(1) and (2)
	Article 26c(A)(a) to (e)				Article 351(1) to (5)
	Article 26c(B)(1)				Article 352
	Article 26c(B)(2), first subparagraph				Article 353



<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 26c(B)(2), second subparagraph, first part of the first sentence				Article 354(1)
	Article 26c(B)(2), second subparagraph, second part of the first sentence				Article 354(1)(a) to (e)
	Article 26c(B)(2), second subparagraph, second sentence				Article 354(2)
	Article 26c(B)(3), first and second subparagraphs				Article 355
	Article 26c(B)(4)(a) to (d)				Article 356(a) to (d)
	Article 26c(B)(5), first subparagraph				Article 357
	Article 26c(B)(5), second subparagraph				Article 358
	Article 26c(B)(6), first sentence				Article 359(1), first subparagraph
	Article 26c(B)(6), second and third sentences				Article 359(1), second subparagraph
	Article 26c(B)(6), fourth sentence				Article 359(2)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 26c(B)(7), first sentence				Article 360, first subparagraph
	Article 26c(B)(7), second and third sentences				Article 360, second subparagraph
	Article 26c(B)(8)				Article 361
	Article 26c(B)(9), first sentence				Article 362(1)
	Article 26c(B)(9), second and third sentences				Article 362(2), first and second subparagraphs
	Article 26c(B)(10)				Article 196(1), third subparagraph
	Article 27(1) first and second sentences				Article 388(1) first and second subparagraphs
	Article 27(2), first and second sentences				Article 388(2), first subparagraphs
	Article 27(2), third sentence				Article 388(2), second subparagraph
	Article 27(3) and (4)				Article 388(3) and (4)
	Article 27(5)				Article 387
	Article 28(1) and (1)a,				–

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 28(2), introductory sentence				Article 105
	Article 28(2)(a), first subparagraph				Article 106, first and second subparagraphs
	Article 28(2)(a), second subparagraph				–
	Article 28(2)(a), third subparagraph, first sentence				Article 108, first subpara- graph
	Article 28(2)(a), third subparagraph, second and third sentences				Article 108, second sub- paragraph
	Article 28(2)(b)				Article 109
	Article 28(2)(c), first and second sentences				Article 110(1), first and second subparagraphs
	Article 28(2)(c), third sentence				Article 110(2)
	Article 28(2)(d)				Article 111
	Article 28(2)(e), first and second subparagraphs				Article 114, first and second subparagraphs
	Article 28(2)(f)				Article 116
	Article 28(2)(g)				–

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 28(2)(h), first and second subparagraphs				Article 117, first and second subparagraphs
	Article 28(2)(i)				Article 118
	Article 28(2)(j)				Article 113(2)
	Article 28(2)(k)				Article 112
	Article 28(3)(a)				Article 363
	Article 28(3)(b)				Article 364
	Article 28(3)(c)				Article 384
	Article 28(3)(d)				Article 365
	Article 28(3)(e)				Article 366
	Article 28(3)(f)				Article 385
	Article 28(3)(g)				Article 367
	Article 28(3a)				Article 369
	Article 28(4) and (5)				Article 386(1) and (2)
	Article 28(6), first subparagraph, first sentence				Article 102, first and second subparagraphs

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 28(6), first subparagraph, second sentence				Article 102, third subparagraph
	Article 28(6), second subparagraph, points (a), (b) and (c),				Article 103, first subparagraph, points (a), (b) and (c)
	Article 28(6), second subparagraph, point (d)				Article 103, second subparagraph
	Article 28(6), third subparagraph				Article 103, second subparagraph
	Article 28(6), fourth subparagraph, points (a), (b) and (c)				Article 104(a), (b) and (c)
	Article 28(6), fifth and sixth subparagraphs				–
	Article 28a(1), introductory sentence				Article 3(1)
	Article 28a(1)(a), first subparagraph				Article 3(1)(b)(i)
	Article 28a(1)(a), second subparagraph				Article 4(1)
	Article 28a(1)(a), third subparagraph				Article 4(3)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 28a(1)(b)				Article 3(1)(b)(ii)
	Article 28a(1)(c)				Article 3(1)(b)(iii)
	Article 28a(1a)(a)				Article 4(1)(a)
	Article 28a(1a)(b), first subparagraph, first indent				Article 4(1)(e)
	Article 28a(1a)(b), first subparagraph, second and third indents				Article 4(2)(a) and (b)
	Article 28a(1a)(b), second subparagraph				Article 4(2), second subparagraph
	Article 28a(2), introductory sentence				–
	Article 28a(2)(a) and (b), first subparagraph				Article 3(2), first subparagraph, points (a), (b) and (c)
	Article 28a(2)(b), second subparagraph				Article 3(2), second subparagraph
	Article 28a(3), first and second subparagraphs				Article 21, first and second subparagraphs
	Article 28a(4), first subparagraph				Article 10(2)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 28a(4), second subparagraph, first indent				Article 166(1), second subparagraph
	Article 28a(4), second subparagraph, second indent				Article 166(1), first subparagraph
	Article 28a(4), third subparagraph				Article 166(2)
	Article 28a(5)(b), first subparagraph				Article 18(1), first subparagraph
	Article 28a(5)(b), second subparagraph,				Article 18(1), second subparagraph and (2) introductory sentence
	Article 28a(5)(b), second subparagraph, first indent				Article 18(2)(a) and (b)
	Article 28a(5)(b), second subparagraph, second indent				Article 18(2)(c)
	Article 28a(5)(b), second subparagraph, third indent				Article 18(2)(e)
	Article 28a(5)(b), second subparagraph, fifth, sixth and seventh indents				Article 18(2)(f), (g) and (h)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 28a(5)(b), second subparagraph, eighth indent				Article 18(2)(d)
	Article 28a(5)(b), third subparagraph				Article 18(3)
	Article 28a(6), first subparagraph				Article 22
	Article 28a(6), second subparagraph				Article 23
	Article 28a(7)				Article 24
	Article 28b(A)(1)				Article 41
	Article 28b(A)(2), first and second subparagraphs				Article 42, first and second subparagraphs
	Article 28b(A)(2), third subparagraph, first and second indents				Article 43(a) and (b)
	Article 28b(B)(1), first subparagraph, first and second indents				Article 34(1)(a) and (b)
	Article 28b(B)(1), second subparagraph				Article 34(2)



<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 28b(B)(2), first subparagraph				Article 35(1)(a)
	Article 28b(B)(2), first subparagraph, first and second indents				Article 35(1)(b) and (c)
	Article 28b(B)(2), second subparagraph, first and second sentences				Article 35(2), first and second subparagraphs
	Article 28b(B)(2), third subparagraph, first sentence				Article 35(3), first subparagraph
	Article 28b(B)(2), third subparagraph, second and third sentences				–
	Article 28b(B)(3), first and second subparagraphs				Article 35(4), first and second subparagraphs
	Article 28b(C)(1), first indent, first and second subparagraphs				Article 49(1), first and second subparagraphs
	Article 28b(C)(1), second and third indents				Article 49(2)
	Article 28b(C)(2) and (3)				Article 48, first and second subparagraphs

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 28b(C)(4)				Article 51
	Article 28b(D)				Article 53
	Article 28b(E)(1), first and second subparagraphs				Article 50, first and second subparagraphs
	Article 28b(E)(2), first and second subparagraphs				Article 54, first and second subparagraphs
	Article 28b(E)(3), first and second subparagraphs				Article 45, first and second subparagraphs
	Article 28b(F), first and second paragraphs				Article 55, first and second subparagraphs
	Article 28c(A), introductory sentence				Article 128
	Article 28c(A)(a), first subparagraph				Article 135(1)
	Article 28c(A)(a), second subparagraph				Article 136(1), first and second subparagraphs
	Article 28c(A)(b)				Article 135(2)(a)
	Article 28c(A)(c), first subparagraph				Article 135(2)(b)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 28c(A)(c), second subparagraph				Article 136(2)
	Article 28c(A)(d)				Article 135(2)(c)
	Article 28c(B), introductory sentence				Articles 128
	Article 28c(B)(a), (b) and (c)				Article 137(a), (b) and (c)
	Article 28c(C)				Article 139
	Article 28c(D), first subparagraph				Article 140(d)
	Article 28c(D), second subparagraph				Article 128
	Article 28c(E)(1), first indent, replacing Article 16(1)				
	– paragraph 1, first subparagraph				Article 150
	– paragraph 1, first subparagraph, point (A)				Article 151(1)(a)
	– paragraph 1, first subparagraph, point (B), first subparagraph, points (a), (b) and (c)				Article 151(1)(a), (b) and (c)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	– paragraph 1, first subparagraph, point (B), first subparagraph, point (d), first and second indents				Article 151(1)(d) and (e)
	– paragraph 1, first subparagraph, point (B), first subparagraph, point (e), first subparagraph				Article 152(1)(b)
	– paragraph 1, first subparagraph, point (B), first subparagraph, point (e), second subparagraph, first indent				Article 152(2), first subparagraph
	– paragraph 1, first subparagraph, point (B), first subparagraph, point (e), second subparagraph, second indent, first sentence				Article 152(2), first subparagraph
	– paragraph 1, first subparagraph, point (B), first subparagraph, point (e), second subparagraph, second indent, second sentence				Article 152(2), second subparagraph

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	– paragraph 1, first subparagraph, point (B), first subparagraph, point (e), third subparagraph, first indent				–
	– paragraph 1, first subparagraph, point (B), first subparagraph, point (e), third subparagraph, second, third and fourth indents				Article 153(1)(a), (b) and (c)
	– paragraph 1, first subparagraph, point (B), second subparagraph				Article 151(2)
	– paragraph 1, first subparagraph, point (C)				Article 154
	– paragraph 1, first subparagraph, point (D), first subparagraph, points (a) and (b)				Article 155(1)(a) and (b)
	– paragraph 1, first subparagraph, point (D), second subparagraph				Articles 155(2)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	– paragraph 1, first subparagraph, point (E), first and second indents				Article 156(a) and (b)
	– paragraph 1, second subparagraph				Article 194
	– paragraph 1, third subparagraph				Article 158
	Article 28c(E)(1), second indent, inserting paragraph 1a into Article 16				
	– paragraph 1a				Article 157
	Article 28c(E)(2), first indent, amending Article 16(2)				
	– paragraph 2, first subparagraph				Article 159(1)
	Article 28c(E)(2), second indent, inserting the second and third subparagraphs into Article 16(2)				2
	– paragraph 2, second subparagraph				Article 159(2)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	– paragraph 2, third subparagraph				Article 160
	Article 28c(E)(3), first to fifth indents				Article 138(a) to (e)
	Article 28d(1), first and second sentences				Article 68, first and second subparagraphs
	Article 28d(2) and (3)				Article 69(1) and (2)
	Article 28d(4), first and second subparagraphs				Article 67(1) and (2)
	Article 28e(1), first subparagraph				Article 80
	Article 28e(1), second subparagraph, first and second sentences				Article 81(1) and (2)
	Article 28e(2)				Article 75
	Article 28e(3)				Article 90, second subparagraph, point (b)
	Article 28e(4)				Article 91(1)
	Article 28f(1) replacing Article 17(2), (3) and (4)				
	– paragraph 2, point (a)				Article 163(a)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	– paragraph 2, point (b)				Article 163(d)
	– paragraph 2, point (c)				Article 163(b)
	– paragraph 2, point (d)				Article 163(c)
	– paragraph 3, points (a), (b) and (c)				Article 164(a), (b) and (c)
	– paragraph 4, first sub- paragraph, first indent				Article 165(1), first sub- paragraph
	– paragraph 4, first sub- paragraph, second indent				Article 165(2) first sub- paragraph
	– paragraph 4, second subparagraph, point (a)				Article 165(1) second sub- paragraph
	– paragraph 4, second subparagraph, point (b)				Article 165(2), second subparagraph
	– paragraph 4, second subparagraph, point (c)				Article 165(3)
	Article 28f(2) replacing Article 18(1)				
	– paragraph 1, point (a)				Article 172(a)



<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	– paragraph 1, point (b)				Article 172(d)
	– paragraph 1, point (c)				Article 172(b)
	– paragraph 1, point (d)				Article 172(e)
	– paragraph 1, point (e)				Article 172(c)
	Article 28f(3) inserting paragraph 3a into Article 18				
	– paragraph 3a, first part of the sentence				Article 175
	– paragraph 3a, second part of the sentence				Article 176
	Article 28g replacing Article 21				
	– paragraph 1, point (a), first sub- paragraph				Article 186
	– paragraph 1, point (a), second sub- paragraph				Article 187, first and second subparagraphs
	– paragraph 1, point (b)				Article 189

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	– paragraph 1, point (c), first sub- paragraph, first, second and third indents				Article 190(1)(a), (b) and (c)
	– paragraph 1, point (c), second sub- paragraph				Article 190(2)
	– paragraph 1, point (d)				Article 195
	– paragraph 1, point (e)				Article 192
	– paragraph 1, point (f)				Article 188
	– paragraph 2				–
	– paragraph 2, point (a), first sentence				Article 196(1), first sub- paragraph
	– paragraph 2, point (a), second sentence				Article 196(2)
	– paragraph 2, point (b)				Article 196(1), second subparagraph
	– paragraph 3				Article 197
	– paragraph 4				Article 193

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 28h replacing Article 22				
	– paragraph 1, point (a), first and second sentences				Article 205(1), first and second subparagraphs
	– paragraph 1, point (b)				Article 205(2)
	– paragraph 1, point (c), first indent, first sentence				Article 206(1)(a)
	– paragraph 1, point (c), first indent, second sentence				Article 206(2)
	– paragraph 1, point (c), second and third indents				Article 206(1)(b) and (c)
	– paragraph 1, point (d), first and second sentences				Article 207, first and second subparagraphs
	– paragraph 1, point (e)				Article 208
	– paragraph 2, point (a)				Article 234
	– paragraph 2, point (b), first and second indents				Article 235(1) and (2)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	– paragraph 3, point (a), first sub- paragraph, first sentence				Article 211(1)
	– paragraph 3, point (a), first sub- paragraph, second sentence				Article 211(2) and (3)
	– paragraph 3, point (a), second subparagraph				Article 211(4) and (5)
	– paragraph 3, point (a), third sub- paragraph, first and second sentences				Article 212(1), first and second subparagraphs
	– paragraph 3, point (a), fourth sub- paragraph				Article 212(2)
	– paragraph 3, point (a), fifth sub- paragraph, first sentence				Article 210
	– paragraph 3, point (a), fifth sub- paragraph, second sentence				Article 219

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	– paragraph 3, point (a), sixth sub- paragraph				Article 213
	– paragraph 3, point (a), seventh subparagraph				Article 214
	– paragraph 3, point (a), eighth sub- paragraph, first and second sentences				Article 215(1) and (2)
	– paragraph 3, point (a), ninth sub- paragraph, first and second sentences				Article 215(3), first sub- paragraph
	– paragraph 3, point (a), ninth sub- paragraph, third sentence				Article 215(3), second subparagraph
	– paragraph 3, point (a), tenth sub- paragraph				Article 216
	– paragraph 3, point (b), first sub- paragraph, first to twelfth indents				Article 217(1) to (12)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	– paragraph 3, point (b), first sub- paragraph, thirteenth indent				Article 217(13) and (14)
	– paragraph 3, point (b), first sub- paragraph, fourteenth indent				Article 217(15)
	– paragraph 3, point (b), second sub- paragraph				Article 218
	– paragraph 3, point (b), third sub- paragraph				Article 220
	– paragraph 3, point (b), fourth sub- paragraph				Article 221
	– paragraph 3, point (b), fifth sub- paragraph				Article 222
	– paragraph 3, point (c), first sub- paragraph				Article 223
	– paragraph 3, point (c), second sub- paragraph, introductory sentence				Article 224

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	– paragraph 3, point (c), second sub- paragraph, first indent, first and second sentences				Article 225(1), first and second subparagraphs
	– paragraph 3, point (c), second sub- paragraph, second indent, first and second sentences				Article 225(2), first and second subparagraphs
	– paragraph 3, point (c), third sub- paragraph, first sentence				Article 226
	– paragraph 3, point (c), third sub- paragraph, second sentence				Article 230
	– paragraph 3, point (c), fourth sub- paragraph, first and second sentences				Article 227, first and second subparagraphs
	– paragraph 3, point (c), fifth sub- paragraph				Article 228
	– paragraph 3, point (c), sixth sub- paragraph				Article 229

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	– paragraph 3, point (d), first sub- paragraph				Article 236
	– paragraph 3, point (d), second sub- paragraph, first sentence				Article 237(1)
	– paragraph 3, point (d), second sub- paragraph, second and third sentences				Article 237(2), first and second subparagraphs
	– paragraph 3, point (d), third sub- paragraph, first and second sentences				Article 238, first and second subparagraphs
	– paragraph 3, point (d), fourth, fifth and sixth subpara- graphs				Article 239(1), (2) and (3)
	– paragraph 3, point (d), seventh subparagraph				Article 240
	– paragraph 3, point (e), first sub- paragraph				Article 2(2)



<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	– paragraph 3, point (e), second sub- paragraph				Article 209
	– paragraph 4, point (a), first and second sentences				Article 244(1)
	– paragraph 4, point (a), third and fourth sentences				Article 244(2), first and second subparagraphs
	– paragraph 4, point (a), fifth sentence				Article 254
	– paragraph 4, point (b)				Article 242
	– paragraph 4, point (c), first indent, first and second sub- paragraphs				Article 243(a) and (b)
	– paragraph 4, point (c), second indent, first subparagrah				Article 243(c)
	– paragraph 4, point (c), second indent, second sub- paragraph				Article 243(d) and (e)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	– paragraph 5				Article 198
	– paragraph 6, point (a), first and second sentences				Article 253
	– paragraph 6, point (a), third sentence				Article 254
	– paragraph 6, point (b), first sub- paragraph				Article 255
	– paragraph 6, point (b), second sub- paragraph, first sentence				Article 256(1), first sub- paragraph
	– paragraph 6, point (b), second sub- paragraph, second sentence				Article 256(2)
	– paragraph 6, point (b), third sub- paragraph, first and second indents				Article 257(1)(a) and (b)
	– paragraph 6, point (b), third sub- paragraph, third indent, first sentence				Article 257(1)(d)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	– paragraph 6, point (b), third sub- paragraph, third indent, second sentence				Article 257(2), first sub- paragraph
	– paragraph 6, point (b), fourth sub- paragraph, first indent				Article 257(1)(c) and (e)
	– paragraph 6, point (b), fourth sub- paragraph, second indent, first sentence				Article 257(1)(f)
	– paragraph 6, point (b), fourth sub- paragraph, second indent, second sentence				Article 257(2), second subparagraph
	– paragraph 6, point (b), fifth sub- paragraph, first and second indents				Article 258(1)(a) and (b)
	– paragraph 6, point (b), fifth sub- paragraph, third indent, first sentence				Article 258(1)(c)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	– paragraph 6, point (b), fifth sub- paragraph, third indent, second sentence				Article 258(2)
	– paragraph 6, point (c), first indent				Article 256(1), second subparagraph
	– paragraph 6, point (c), second indent				Article 259
	– paragraph 6, point (d)				Article 246
	– paragraph 6, point (e), first sub- paragraph				Article 261
	– paragraph 6, point (e), second sub- paragraph				Article 251
	– paragraph 7, first part of the sentence				Article 199, first subpara- graph Article 248 Article 260
	– paragraph 7, second part of the sentence				Article 199, second sub- paragraph
	– paragraph 8, first and second subparagraphs				Article 266, first and second subparagraphs

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	– paragraph 9, point (a), first sub- paragraph, first indent				Article 265(1), first sub- paragraph, point (c)
	– paragraph 9, point (a), first sub- paragraph, second indent				Article 265(1), first sub- paragraph, points (a) and (d)
	– paragraph 9, point (a), first sub- paragraph, third indent				Article 265(1), first sub- paragraph, point (b)
	– paragraph 9, point (a), second sub- paragraph				Article 265(1), second subparagraph
	– paragraph 9, point (b)				Article 265(3)
	– paragraph 9, point (c)				Article 204
	– paragraph 9, point (d), first sub- paragraph, first and second indents				Article 231(1)(a) and (b)
	– paragraph 9, point (d), second sub- paragraph, first to fourth indents				Article 231(2)(a) to (d)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	– paragraph 9, point (d), third sub- paragraph				Article 231(3)
	– paragraph 9, point (e), first sub- paragraph				Article 232
	– paragraph 9, point (e), second sub- paragraph, first and second indents				Article 233(1) to (2)
	– paragraph 10				Articles 201 and 249
	– paragraph 11				Articles 202 and 250
	– paragraph 12, introductory sentence				Article 262
	– paragraph 12, point (a), first, second and third indents				Article 263(a), (b) and (c)
	– paragraph 12, point (b), first second and third indents				Article 264(a), (b) and (c)
	Article 28i inserting a third subparagraph into Article 24(3)				

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	– paragraph 3, third subparagraph				Article 276(1)(b) and (c)
	Article 28j(1) inserting a second subparagraph into Article 25(4)				
	– paragraph 4, second subparagraph				Article 265(2)
	Article 28j(2) replacing Article 25(5) and (6)				
	– paragraph 5, first subparagraph, points (a), (b) and (c)				Article 293(1), (2) and (3)
	– paragraph 5, second subparagraph				Article 295
	– paragraph 6, point (a), first subparagraph, first sentence				Article 294(1)
	– paragraph 6, point (a), first subparagraph, second sentence				Article 296(1)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	– paragraph 6, point (a), second sub- paragraph, first, second and third indents				Article 296(2)(a), (b) and (c)
	– paragraph 6, point (a), third sub- paragraph				Article 296(3)
	– paragraph 6, point (b)				Article 294(1)
	Article 28j(3) inserting a second subparagraph into Article 25(9)				
	– paragraph 9, second subparagraph				Article 298
	Article 28k(1), first sub- paragraph				–
	Article 28k(1), second subparagraph, point (a)				Article 153(2)
	Article 28k(1), second subparagraph, points (b) and (c)				–
	Article 28k(2) to (5)				–
	Article 28l, first paragraph				–



<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 28l, second and third paragraphs				Article 395(1) and (2)
	Article 28l, fourth paragraph				–
	Article 28m				Article 392, first subparagraph
	Article 28n				–
	Article 28o(1), introductory sentence				Article 318, first subparagraph
	Article 28o(1)(a), first and second sentences				Article 319(1) and (2)
	Article 28o(1)(b)				Article 320
	Article 28o(1)(c), first second and third indents				Article 321(a), (b) and (c)
	Article 28o(1)(d), first and second subparagraphs				Article 322, first and second subparagraphs
	Article 28o(1)(e)				Article 324
	Article 28o(1)(f)				Article 323
	Article 28o(1)(g)				Article 4(1)(c)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 28o(1)(h)				Article 36 Article 135(3), second subparagraph
	Article 28o(2)				Article 318, second sub- paragraph
	Article 28o(3)				Article 333
	Article 28o(4)				–
	Article 28p				–
	Article 29(1) to (4)				Article 391(1) to (4)
	Article 29a				Article 390
	Article 30(1)				Article 389(1)
	Article 30(2), first and second sentences				Article 389(2), first sub- paragraph
	Article 30(2), third sentence				Article 389(2), second subparagraph
	Article 30(3) and (4)				Article 389(3) and (4)
	Article 31(1)				–
	Article 31(2)				Article 393
	Article 33(1)				Article 394

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Article 33(2)				Article 2(1)
	Article 33a(1), introductory sentence				Article 267
	Article 33a(1)(a)				Article 268
	Article 33a(1)(b)				Article 269
	Article 33a(1)(c)				Article 270
	Article 33a(2), introductory sentence				Article 271
	Article 33a(2)(a)				Article 272
	Article 33a(2)(b)				Article 273
	Article 34				Article 398
	Article 35				Article 397
	Articles 36 and 37				–
	Article 38				Article 402
	Annex A(I)				Annex VI(1)
	Annex A(I)(1), (2) and (3)				Annex VI(1), (a),(b) and (c)
	Annex A(II)				Annex VI(2)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Annex A(II)(1) to (6)				Annex VI(2)(a) to (f)
	Annex A(III) and (IV)				Annex VI(3) and (4)
	Annex A(IV)(1) to (4)				Annex VI(4)(a) to (d)
	Annex A(V)				Article 288(2)
	Annex B, introductory sentence				Article 288(1)(5)
	Annex B, first to ninth indents				Annex VII(1) to (9)
	Annex C				–
	Annex D(1) to (13)				Annex I(1) to (13)
	Annex E(2)				Annex IX(A)(1)
	Annex E(7)				Annex IX(A)(2)
	Annex E(11)				Annex IX(A)(3)
	Annex E(15)				Annex IX(A)(4)
	Annex F(1)				Annex IX(B)(1)
	Annex F(2)				Annex IX(B)(2)(a) to (j)
	Annex F(5) to (8)				Annex IX(B)(3) to (6)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Annex F(10)				Annex IX(B)(7)
	Annex F(12)				Annex IX(B)(8)
	Annex F(16)				Annex IX( B)(9)
	Annex F(17), first and second subparagraphs				Annex IX(B)(10)
	Annex F(23)				Annex IX(B)(11)
	Annex F(25)				Annex IX(B)(12)
	Annex F(27)				Annex IX(B)(13)
	Annex G(1) and (2)				Article 384
	Annex H, first paragraph				Article 95(3) 3
	Annex H, second paragraph, introductory sentence				–
	Annex H, second paragraph, points (1) to (6)				Annex III(1) to (6)
	Annex H,second paragraph, point (7), first and second subparagraphs				Annex III(7) and (8)
	Annex H, second paragraph, points (8) to (17)				Annex III(9) to (18)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
	Annex I, introductory sentence				–
	Annex I(a), first to seventh indents				Annex VIII(A), points (1) to (7)
	Annex I, point b)				Annex VIII, partie B
	Annex I(b), first and second indents				Annex VIII(B), points (1) and (2)
	Annex I(c)				Annex VIII(C)
	Annex J, introductory sentence				Annex V, introductory sentence
	Annex J				Annex V(1) to (25)
	Annex K( 1), first, second and third indents				Annex IV(1),(a), (b) and (c)
	Annex K(2) to (5)				Annex IV(2) to (5)
	Annex L, first paragraph, points (1) to (5)				Annex II(1) to (5)
	Annex L, second paragraph				Article 56(2)
		Article 2			Article 334
		Article 3, first and second sentences			Article 335, first and second subparagraphs

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
			Article 4		Article 56(3) Article 57(2) Article 350 Article 396, first subpara- graph
			Article 5		Article 396, second sub- paragraph
				Article 28 of the Act of Accession of Denmark, Ireland and the United Kingdom concerning Gibraltar	Article 6(2)(h)
				Annex VIII(II)(2)(a) of the Act of Accession of Greece	Article 280(1)(1)
				Annex VIII(II)(2), (b) of the Act of Accession of Greece	Article 368
				Annex XXXII(IV)(3)(a), first indent and second indent, first sentence, of the Act of Accession of Spain and Portugal	Article 280(2) and (3)
				Annex XXXII(IV)(3) (b), first subparagraph, of the Act of Accession of Spain and Portugal first subpara- graph	Article 370

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
				Annex XV(IX)(2) (b), first subparagraph, Act of Accession of Austria, Finland and Sweden	Article 100
				Annex XV(IX)(2)(c), first subparagraph, of the Act of Accession of Austria, Finland and Sweden	Article 280(4)
				Annex XV(IX)(2)(f), first subparagraph, of the Act of Accession of Austria, Finland and Sweden	Article 113(1)
				Annex XV(IX)(2)(g), first subparagraph, of the Act of Accession of Austria, Finland and Sweden	Article 115
				Annex XV(IX)(2)(h), first subparagraph, first and second indents, of the Act of Accession of Austria, Finland and Sweden	Article 371(1)
				Annex XV(IX)(2)(i), first subparagraph, first indent, of the Act of Accession of Austria, Finland and Sweden	–



<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
				Annex XV(IX)(2)(i), first subparagraph, second and third indents, of the Act of Accession of Austria, Finland and Sweden	Article 371(2)(a) and (b)
				Annex XV(IX)(2)(j) of the Act of Accession of Austria, Finland and Sweden	Article 280(5)
				Annex XV(IX)(2)(l), first subparagraph, of the Act of Accession of Austria, Finland and Sweden	Article 107(a)
				Annex XV(IX)(2)(m) first subparagraph, of the Act of Accession of Austria, Finland and Sweden	Article 372(1)
				Annex XV(IX)(2)(n), first subparagraph, first and second indents, of the Act of Accession of Austria, Finland and Sweden	Article 372(2)
				Annex XV(IX)(2)(x), first indent, of the Act of Accession of Austria, Finland and Sweden	Article 245

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
				Annex XV(IX)(2)(x), second indent, of the Act of Accession of Austria, Finland and Sweden	Article 280(6)
				Annex XV(IX)(2)(z), first subparagraph, of the Act of Accession of Austria, Finland and Sweden	Article 107(b)
				Annex XV(IX)(2) (aa), first subparagraph, first and second indents, of the Act of Accession of Austria, Finland and Sweden	Article 373
				Protocol No 2 of the Act of Accession of Austria, Finland and Sweden concerning the Åland Islands	Article 6(1)(d)
				Annex V(5)(1)(a) of the 2003 Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland Slovenia and Slovakia	Article 119

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
				Annex V(5)(1)(b) of the 2003 Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland Slovenia and Slovakia	Article 374
				Annex VI(7)(1)(a) of the 2003 Act of Accession	Article 120
				Annex VI(7)(1)(b) of the 2003 Act of Accession	Article 375
				Annex VII(7)(1), first and second subparagraphs of the 2003 Act of Accession	Article 121(1) and (2)
				Annex VII(7)(1), third, fourth and fifth subparagraphs of the 2003 Act of Accession	–
				Annex VII(7)(1), sixth subparagraph, of the 2003 Act of Accession	Article 376
				Annex VIII(7)(1)(a) of the 2003 Act of Accession	Article 122
				Annex VIII(7)(1)(b), second subparagraph, of the 2003 Act of Accession	Article 377(a)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
				Annex VIII(7)(1), third subparagraph, of the 2003 Act of Accession	Article 377(b)
				Annex IX(8)(1) of the 2003 Act of Accession	Article 378
				Annex X(7)(1)(a)(i) and (ii) of the 2003 Act of Accession	Article 123(a) and (b)
				Annex X(7)(1)(c) of the 2003 Act of Accession	Article 379
				Annex XI(7)(1) of the 2003 Act of Accession	Article 124
				Annex XI(7)(2)(a) of the 2003 Act of Accession	Article 380(c)
				Annex XI(7)(2)(b) of the 2003 Act of Accession	Article 380(a)
				Annex XI(7)(2)(c) of the 2003 Act of Accession	Article 380(b)
				Annex XII(9)(1)(a) of the 2003 Act of Accession	Article 125(1 and (2)
				Annex XII(9)(1)(b) of the 2003 Act of Accession	Article 125(3), (4) and (5)

<b>Directive 67/227/EEC</b>	<b>Directive 77/388/EEC</b>	<b>Directive 94/5/EC</b>	<b>Directive 2002/38/EC</b>	<b>Other acts</b>	<b>This Directive</b>
				Annex XII(9)(2) of the 2003 Act of Accession	Article 381
				Annex XIII(9)(1)(a) of the 2003 Act of Accession	Article 126(1) and (2)
				Annex XIII(9)(1)(b) of the 2003 Act of Accession	Article 382
				Annex XIV(7), first subparagraph, of the 2003 Act of Accession	Article 127
				Annex XIV(7), second subparagraph, of the 2003 Act of Accession	–
				Annex XIV(7), third subparagraph, of the 2003 Act of Accession	Article 383