

EU VAT Compass 2024/2025

Including:

- EU VAT Directives
- ECJ Case Law on VAT
- VAT Options Exercised
by the Member States

IBFD

EU VAT Compass 2024/2025

Why this book?

Encompassing the most important features of the European Union's VAT system, the EU VAT Compass 2024/2025 is an essential source of reference for all those actively working or interested in EU VAT. The book consists of three parts, each comprising a vital element of the EU VAT system.

Part One presents the consolidated text of the current EU VAT Directive (No. 2006/112), as most recently amended by Directive 2022/890; it also contains the texts of several other Directives in the field of VAT. The text of Implementing Regulation 282/2011, as most recently amended by Implementing Regulation 2022/432, is included.

For the interpretation of the EU VAT legislation, the case law of the Court of Justice of the European Union (ECJ) is an indispensable element. Part Two provides an overview of both the operative parts of the more than 1,100 ECJ judgments in VAT cases and the pending cases that are expected to lead to judgments in the course of 2024 and 2025.

The book concludes with an overview of the options laid down by the VAT Directive that have been taken up by the individual Member States. This comprehensive analysis covers all EU Member States and Northern Ireland (United Kingdom).

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EU VAT Compass 2024/2025

Fabiola Annacondia
Irene Herrero Moreno
Editors



IBFD

Visitors' address:

Rietlandpark 301
1019 DW Amsterdam
The Netherlands

Postal address:

P.O. Box 20237
1000 HE Amsterdam
The Netherlands

Telephone: 31-20-554 0100

Fax: 31-20-622 8658

www.ibfd.org

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Preface

The *EU VAT Compass 2024/2025* aims to provide an essential source of reference for all those actively working or interested in the VAT system of the European Union. The book consists of three Parts, each encompassing a vital element of the European VAT system. All Parts reflect the situation prevailing on 1 January 2024.

Part One contains the text of the provisions of the European Union's basic VAT Directive (Directive 2006/112). The consolidated text of the VAT Directive contains all amendments, as most recently amended by Directive 2022/890. It also includes the most recent amendments by Directive 2020/284, which Member States must apply from 1 January 2024; and Directive 2020/285, which Member States must apply from 1 January 2025, and Directive 2022/542, which Member States must apply from 1 January 2025.

Part One also contains the text of several other Directives on VAT, and the provisions of the Implementing Regulation (Regulation No. 282/2011, as most recently amended by Regulation No. 2022/432) are added as notes to the respective provisions of the VAT Directive.

For the interpretation of the European Union's VAT legislation, the case law of the Court of Justice of the European Union (ECJ) is an indispensable element. Part Two provides an overview of the operative parts of the more than 1150 ECJ judgments in VAT cases. It also contains an overview of the cases pending before the ECJ on 31 December 2023, which can reasonably be expected to lead to judgments of the ECJ in the course of 2024 and 2025.

The book concludes with an overview of the options laid down by the VAT Directive that have been taken up by the individual Member States. The comprehensive analysis in Part Three covers all EU Member States and Northern Ireland (United Kingdom). In principle, the overview is based on information available on 1 January 2024. The footnotes contain information, if available, on amendments that are envisaged to come into force after that date. Part Three also includes an overview of the scope of the reduced rates applicable in each Member State as most recently amended by Directive 2022/542 (*see* section 6.). On 8 December 2022, the European Commission proposed a series of measures to modernize the VAT system by embracing and promoting digitalization, the VAT in the Digital Age (ViDA) proposals¹. Concretely, the proposals aim to introduce, among others, a new real-time digital reporting system based on e-invoicing for businesses that operate cross-border within the European Union. Therefore, the editors found it useful to include an overview of the current electronic invoicing

1. These proposed measures are still under discussion and require unanimity in the Council of the European Union for their adoption, following consultation of the European Parliament and the European Economic and Social Committee.

Preface

and digital reporting requirements applicable in each Member State as of 1 January 2024 (*see* section 11.5.).

In producing this book, it is inevitable that some “minor details” were missed and the presentation of the information may occasionally be less than optimal. In an effort to improve future editions, the editors gratefully receive any suggestions that may make future editions more accessible and useful. Comments and suggestions can be sent to VATCompass@ibfd.org.

The editors

Table of Contents

Preface	iii
Part One	
Directive 2006/112, including the provisions of Implementing Regulation 282/2011	1
Rates of conversion	267
Directive 2008/9 on VAT refunds to taxable persons established in another Member State	269
Thirteenth Directive 86/560 on VAT refunds to taxable persons established outside the European Union	280
Directive 2007/74 (excerpt) on the exemption from VAT for goods imported by travellers from third countries	283
Directive 2009/132 (summary) on the exemption from VAT on the final importation of certain goods	286
Directive 2006/79 on the exemption from VAT on the importation of non-commercial consignments	290
Part Two	
ECJ Case Law on VAT 1970-2023	293
Transposition Table (from the provisions of the former Sixth Directive to the corresponding provisions of Directive 2006/112)	803
Part Three	
VAT Options Exercised by the Member States	811

Part One

Directive 2006/112 and several other VAT Directives

Table of Contents

Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax

Subject	Articles	Page
Title I	Subject matter and scope	1-4 21
Title II	Territorial scope	5-8 25
Title III	Taxable persons	9-13 27
Title IV	Taxable transactions	14-30b 29
Title V	Place of taxable transactions	31-61 42
Title VI	Chargeable event and chargeability of VAT	62-71 67
Title VII	Taxable amount	72-92 71
Title VIII	Rates	93-130 78
Title IX	Exemptions	131-166 87
Title X	Deductions	167-192 111
Title XI	Administrative obligations:	
	– Payment of VAT	192a-212 122
	– Identification	213-216 131
	– Invoicing	217-240 133
	– Accounting	241-249 143
	– Returns	250-261 151
	– Recapitulative statements	262-271 154
	– Miscellaneous	272-273 159
	– Imports and exports	274-280 161
Title XII	Special schemes:	
	– Small enterprises	280a-294 162
	– Farmers	295-305 178
	– Travel agents	306-310 182
	– Margin scheme	311-343 183
	– Investment gold	344-356 194
	– TBE services	357-369 197
	– Services and distance sales of goods	369a-369x 209
	– Import VAT	369y-369zb 231
	– Exchange values	369zc 233
Title XIII	Derogations	370-396 233
Title XIV	Miscellaneous	397-401 241
Title XV	Final provisions	402-414 242
Annex I	Activities of public bodies	247
Annex II	Electronic services	248
Annex III	Reduced rates	250
Annex IV	[Deleted]	254
Annex V	VAT warehousing	255
Annex VI	Reverse charge mechanism	257
Annex VII	Agricultural activities	258

Annex VIII	Agricultural services	259
Annex IX	Works of art, collectors' items, antiques	260
Annex X	Transitional arrangements	262
Annex XI	Repealed Directives	264
Annex XII	Correlation table <i>[not reproduced]</i>	266

Rates of conversion	267
---------------------	-----

Other VAT Directives

Council Directive 2008/9/EC of 12 February 2008	269
---	-----

laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State

Thirteenth Council Directive 86/560/EEC of 17 November 1986	280
---	-----

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

Council Directive 2007/74/EC of 20 December 2007	283
--	-----

on the exemption from value added tax and excise duty of goods imported by persons travelling from third countries

Council Directive 2009/132/EC of 19 October 2009	286
--	-----

determining the scope of Article 143(b) and (c) of Directive 2006/112/EC as regards exemption from value added tax on the final importation of certain goods

Council Directive 2006/79/EC of 5 October 2006	290
--	-----

on the exemption from taxes of imports of small consignments of goods of a non-commercial character from third countries

Council Implementing Regulation (EU) No. 282/2011

of 15 March 2011

laying down implementing measures for Directive 2006/112/EC on the common system of value added tax
(OJ L 77 of 23 March 2011)

as amended by:

Council Regulation (EU) No. 967/2012

of 9 October 2012

amending Implementing Regulation (EU) No. 282/2011 as regards the special schemes for non-established taxable persons supplying telecommunications services, broadcasting services or electronic services to non-taxable persons
OJ L 290 of 20 October 2012

This Regulation has entered into force on the 20th day following its publication in the Official Journal of the European Union, i.e. on 9 November 2012 and applies from 1 January 2015. However, Member States must allow non-established taxable persons to submit the information required under Article 360 or Article 369c of Directive 2006/112 for registration under the special schemes for non-established taxable persons supplying telecommunications services, broadcasting services or electronic services to non-taxable persons as from 1 October 2014.

Council Implementing Regulation (EU) No. 1042/2013

of 7 October 2013

amending Implementing Regulation (EU) No. 282/2011 as regards the place of supply of services
OJ L 284 of 26 October 2013

This Regulation has entered into force on the 20th day following its publication in the Official Journal of the European Union, i.e. on 15 November 2013 and applies from 1 January 2015, with the exception of Articles 13b, 31a and 31b, which apply from 1 January 2017.

Council Implementing Regulation (EU) 2017/2459

of 5 December 2017

amending Implementing Regulation (EU) No 282/2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax
OJ L 348 of 29 December 2017

This Regulation has entered into force on the 20th day following its publication in the Official Journal of the European Union, i.e. on 18 January 2018 and applies from 1 January 2019.

Council Implementing Regulation (EU) 2018/1912

of 4 December 2018

amending Implementing Regulation (EU) No 282/2011 as regards certain exemptions for intra-Community transactions
OJ L 311 of 7 December 2018

This Regulation has entered into force on the 20th day following its publication in the Official Journal of the European Union, i.e. on 27 December 2018 and applies from 1 January 2020.

Council Implementing Regulation (EU) 2019/2026

of 21 November 2019

amending Implementing Regulation (EU) No 282/2011 as regards supplies of goods or services facilitated by electronic interfaces and the special schemes for taxable persons supplying services to non-taxable persons, making distance sales of goods and certain domestic supplies of goods

OJ L 313 of 4 December 2019

This Regulation has entered into force on the 20th day following its publication in the Official Journal of the European Union, i.e. on 24 December 2019, and applies from 1 January 2021 (see amendment Council Implementing Regulation (EU) 2020/1112 that postponed the date of application from 1 January 2021 to 1 July 2021). However, Member States shall allow taxable persons and intermediaries acting on their behalf to submit the information required under Articles 360, 369c or 369o of Directive 2006/112/EC for registration under the special schemes as from 1 October 2020 (see amendment Council Implementing Regulation (EU) 2020/1112 that postponed the date of application from 1 October 2020 to 1 April 2021).

Council Implementing Regulation (EU) 2020/1112

of 20 July 2020

amending Implementing Regulation (EU) 2019/2026 as regards the dates of application in response to the COVID-19 pandemic

OJ L 244 of 29 July 2020

This Regulation has entered into force on the 20th day following its publication in the Official Journal of the European Union, i.e. on 18 August 2020 and applies from 1 July 2021. However, Member States shall allow taxable persons and intermediaries acting on their behalf to submit the information required under Articles 360, 369c or 369o of Directive 2006/112/EC for registration under the special schemes as from 1 April 2021.

Council Implementing Regulation (EU) 2022/432

of 15 March 2022

amending Implementing Regulation (EU) No 282/2011 as regards the VAT and/or excise duty exemption certificate

OJ L 88 of 16 March 2022

This Regulation has entered into force on the day of its publication in the Official Journal of the European Union, i.e. on 16 March 2022. Article 1(1) applies until 30 June 2022 and Article 1(2) applies from 1 July 2022. This Regulation amends Annex II of Implementing Regulation (EU) No 282/2011, which is not reproduced in this book.

Implementing Regulation 282/2011 entered into force on 12 April 2011 and generally applies from 1 July 2011. Provisions of the Implementing Regulation that were already included in the previous Regulation 1777/2005 are marked by making reference to that former Regulation between square brackets at the end of the provisions of the current Implementing Regulation.

The provisions of Implementing Regulation 282/2011 have been added as notes to the provisions of the VAT Directive to which they relate. Unless indicated otherwise, references made in the provisions of the Implementing Regulation included in this publication must be construed as references to the provisions of the VAT Directive; the phrase "... of Directive 2006/112/EC" has therefore been removed. The phrase "TBE services" refers to telecommunications, radio and television broadcasting, and electronically supplied services.

Directive 2006/112

Article	Subject	Page
2	No intra-Community acquisition	22
3	Services outside European Union	57, 60, 63
4	Acquisitions below threshold	23
5	European Economic Interest Groupings	27
5a	Goods dispatched or transported by or on behalf of the supplier	30
5b	Electronic interface – Facilitates	31
5c	Electronic interface – Payment of VAT	31
5d	Electronic interface – Information to the contrary	31
6	Restaurant and catering services	45, 56
6a	Telecommunications services	38
6b	Broadcasting services	38, 62
7	Electronically supplied services	38, 62
8	Assembly of machines – Parts provided by customer	38
9	Sale of options	38
9a	Taxable persons taking part in the supply of electronic services	39
10	Place of business establishment	45, 50
11	Fixed establishments	45, 50, 51
12	Permanent address	45
13	Place of usual residence	45
13a	Place of establishment of non-taxable persons	58, 61, 63
13b	Immovable property	31, 52
14	[Deleted]	
15	Intra-Community passenger transport	44
16	Acquisitions in excess of threshold	36
17	Status of the customer identified for intra-Community acquisitions	47, 49, 51, 55
18	Customers established within and outside European Union	49, 51
19	Private use of services	49, 51
20	Customers with single place of establishment	49
21	Customers with multiple places of establishment	49
22	Fixed establishments as recipients of services	50
23(1)	Evidence of customer's place of establishment	58
23(2)	Evidence of customer's place of establishment	64
24	Customer with multiple places of establishment	58, 61, 64
24a	Presumption for TBE services supplied at place of customer's presence	48, 60, 65
24b	Presumption for TBE services supplied to non-taxable persons	60
24c	Presumption for long-term hiring	57
24d	Rebuttal of presumption for TBE services	61
24e	Rebuttal of presumption for long-term hiring	57
24f	Method of rebuttal of presumption for TBE services	61

Directive 2006/112

Article	Subject	Page
25	Change of use of services	47
26	Television broadcasting rights	48
27	Filing VAT refund applications	48
28	Organization of funerals	48, 50
29	Translation of texts	48, 51
30	Intermediary services	51
31	Intermediary services relating to hotel accommodation	48, 51, 53
31a	Services connected with immovable property	52
31b	Provision of equipment in connection with work on immovable property	54
31c	TBE services in hotels	53
32	Admission to events	55
33	Services ancillary to admission to events	55
33a	Tickets for events sold by intermediaries	55
34	Assembly of movable machines – Parts provided by customer	56
35	Intra-Community passenger transport	59
36	Restaurant services during intra-Community passenger transport and outside EU	56, 59
37	Restaurant services during passenger transport within EU	59
38	Means of transport	57, 64
39	Short-term rental of vehicles – Continuous possession or use	58
40	Short-term rental of vehicles – Putting vehicles at the disposal of the customer	57
41	Translation of texts	64
41a	Time when the payment has been accepted – Electronic interface	69
42	Payment by means of credit or debit card	71
43	Provision of holiday accommodation	251
44	Vocational training	88
45	Platinum nobles	90
45a	Exemptions for intra-Community transactions – Goods dispatched or transported	93
46	Transport of goods in framework of change of residence	99
47	Means of transport for private use	100
48	Zero-rated exports by travellers	101
49	Zero-rated electronic services	105
50	European Research Infrastructure Consortium	98, 104
51	Exemption certificate for VAT immunity	105
52	Electronic import documents	118
53	Intervention by supplier's fixed establishment	122
54	Supplier's place of business in Member State of taxation	122
54a	Call-off stock – Register's information	145

Directive 2006/112

Article	Subject	Page
54b	Electronic interface – Facilitates	144
54c	Electronic interface – Records	144
55	Communication of VAT identification numbers	154
56	Investment gold – Weights accepted by bullion markets	194
57	Gold coins – Price and open-market value	194
	<i>One-stop shop scheme</i>	
57a	Definitions	198, 209
57b	[Deleted]	
57c	Services supplied in Member State of (fixed) establishment	211
57d	Commencement of the special scheme	199, 211
57e	Identification number – Registration	212
57f	Cessation – Change of Member State of registration	209
57g	Cancellation of registration	199, 212
57h	Notification of changes	201, 213
58	Exclusion from the special scheme	201, 213
58a	Interruption of activities	201, 213
58b	Reasons for, and consequences of, exclusion from the scheme	202, 214
58c	Obligations following exclusion from the scheme	201, 213
59	VAT returns – Change of registration	203, 215, 227
59a	Nil-returns	204, 216, 228
60	Rounding of VAT due	205, 215, 227
60a	Reminder of expiry of filing deadline	203, 215, 227
61	Amendment to VAT returns	203, 215, 227
61a	Final return	205, 217, 228
61b	Import scheme – Chargeable event	223
61c	Currency	206, 218
62	Payment of VAT	204, 206, 216, 219, 227, 229
63	Incorrect payments	204, 206, 216, 219, 227, 230
63a	Reminder of expiry of payment deadline	204, 206, 216, 219, 228, 230
63b	Interest, penalties and other charges	204, 207, 216, 220, 228, 230
63c	Details of business records	207, 220
63d	Declaration and payment of import VAT	232
Annex I	Electronically supplied services	248, 249
Annex II	VAT and excise duty exemption certificate [<i>not reproduced</i>]	
Annex III	Weights accepted by bullion markets	194
Annex IV	Correlation table [<i>not reproduced</i>]	

Introduction to Directive 2006/112 and several other VAT Directives

This Part sets out the current text of Directive 2006/112, as amended by the documents listed on the following page, and several other Directives in the field of VAT. Under the assumption that Directive 2006/112 can also be amended by Acts of Accession, the provisions of the Act of Accession of Croatia have also been included. The provisions of Implementing Regulation 282/2011 have been added as footnotes to the Articles of Directive 2006/112 to which they relate.

The text of the legal provisions included in this Part is identical to the texts as they were published in the Official Journal of the European Union, with the following exceptions:

- the layout of the Articles, i.e. the different levels of the elements of the provisions of the Directives have been indicated by means of “indents”;
- headings of Titles, Chapters, Sections and Subsections of Directive 2006/112 have consistently been printed in the same font type and size;
- brackets around numbers preceding the Subparagraphs of the Articles of the Directives have been replaced by periods following those numbers;
- inverted commas are consistently shown as “ ”;
- recent additions and amendments to original/existing provisions, in particular those which the Member States do not yet have to, or are not allowed to, transpose into national law, are highlighted by means of a vertical line in the left margin and rendered in italics;
- the source of newly introduced or amended provisions is indicated in small print between square brackets [] at the end of the paragraph;
- Annex XI to Directive 2006/112 has been reproduced in a more practical format; and
- “non-payment” and “non-taxable” are consistently hyphenated, and “time limit” is consistently spelled as two separate words.

Curiously, in Articles 284, 286 and 287, various amounts have been expressed in the historic “European Unit of Account” and “European Currency Unit/ECU”. That dubious procedure has not been corrected. The rates of conversion are presented at the end of Part One.

However, the text of Article 284 will be replaced and Articles 286 and 287 will be deleted as from 1 January 2025 according to Council Directive (EU) 2020/285.

Council Directive 2006/112/EC
of 28 November 2006
on the common system of value added tax
OJ L 347 of 11 December 2006
(Corrigendum OJ L 335 of 20 December 2007)

as amended by:

Council Directive 2006/138/EC
of 19 December 2006
amending Directive 2006/112/EC on the common system of value added tax as regards the period of application of the value added tax arrangements applicable to radio and television broadcasting services and certain electronically supplied services
OJ L 384 of 29 December 2006

This Directive entered into force on the day of its publication, i.e. on 29 December 2006, and applies from 1 January 2007.

Council Directive 2007/75/EC
of 20 December 2007
amending Directive 2006/112/EC with regard to certain temporary provisions concerning rates of value added tax
OJ L 346 of 29 December 2007

This Directive entered into force on the day of its publication, i.e. on 29 December 2007.

Council Directive 2008/8/EC
of 12 February 2008
amending Directive 2006/112/EC as regards the place of supply of services
OJ L 44 of 20 February 2008

This Directive entered into force on the day of its publication, i.e. on 20 February 2008, and applies from 1 January 2009 (Article 1), 1 January 2010 (Article 2), 1 January 2011 (Article 3), 1 January 2013 (Article 4) and 1 January 2015 (Article 5).

Council Directive 2008/117/EC
of 16 December 2008
amending Directive 2006/112/EC on the common system of value added tax to combat tax evasion connected with intra-Community transactions
OJ L 14 of 20 January 2009

This Directive entered into force on the day following its publication, i.e. on 21 January 2009. Member States must comply with this Directive with effect from 1 January 2010.

Council Directive 2009/47/EC

of 5 May 2009

amending Directive 2006/112/EC as regards reduced rates of value added tax

OJ L 116 of 9 May 2009

This Directive has entered into force on the first day of the first month following its publication in the Official Journal of the European Union, i.e. on 1 June 2009.

Council Directive 2009/69/EC

of 25 June 2009

amending Directive 2006/112/EC on the common system of value added tax as regards tax evasion linked to imports

OJ L 175/12 of 4 July 2009

This Directive has entered into force on the 20th day following its publication in the Official Journal of the European Union, i.e. on 24 July 2009. Member States must comply with this Directive with effect from 1 January 2011.

Council Directive 2009/162/EU

of 22 December 2009

amending various provisions of Directive 2006/112/EC on the common system of value added tax

OJ L 10 of 15 January 2010

This Directive has entered into force on the day of its publication in the Official Journal of the European Union, i.e. on 15 January 2010. Member States must comply with it with effect from 1 January 2011.

Council Directive 2010/23/EU

of 16 March 2010

amending Directive 2006/112/EC on the common system of value added tax, as regards an optional and temporary application of the reverse charge mechanism in relation to supplies of certain services susceptible to fraud

OJ L 72 of 20 March 2010

This Directive has entered into force on the 20th day following its publication in the Official Journal of the European Union, i.e. on 9 April 2010. The Directive applies until 30 June 2015.

Council Directive 2010/45/EU

of 13 July 2010

amending Directive 2006/112/EC on the common system of value added tax as regards the rules on invoicing

OJ L 189/8 of 22 July 2010

This Directive has entered into force on the 20th day following its publication in the Official Journal of the European Union, i.e. on 11 August 2010. Member States must apply its provisions from 1 January 2013.

Council Directive 2010/88/EU

of 7 December 2010

amending Directive 2006/112/EC on the common system of value added tax, with regard to the duration of the obligation to respect a minimum standard rate
OJ L 326 of 10 December 2010

This Directive has entered into force on the day following its publication in the Official Journal of the European Union, i.e. on 11 December 2010. Member States must comply with it by 1 January 2011 at the latest.

Act [of Accession of Croatia]

of 9 December 2011

concerning the conditions of accession of the Republic of Croatia [to the European Union]

OJ L 112 of 24 April 2012

The Act of Accession has entered into force on 1 July 2013.

Council Directive 2013/42/EU

of 22 July 2013

amending Directive 2006/112/EC on the common system of value added tax, as regards a Quick Reaction Mechanism against VAT fraud
OJ L 201 of 26 July 2013

This Directive has entered into force on the 20th day following its publication in the Official Journal of the European Union, i.e. on 15 August 2013, and applies until 31 December 2018.

Council Directive 2013/43/EU

of 22 July 2013

amending Directive 2006/112/EC on the common system of value added tax, as regards an optional and temporary application of the reverse charge mechanism in relation to supplies of certain goods and services susceptible to fraud
OJ L 201 of 26 July 2013

This Directive has entered into force on the 20th day following its publication in the Official Journal of the European Union, i.e. on 15 August 2013, and applies until 31 December 2018.

Council Directive 2013/61/EU

of 17 December 2013

amending Directives 2006/112/EC and 2008/118/EC as regards the French outermost regions and Mayotte in particular

OJ L 353 of 28 December 2013

This Directive has entered into force on 1 January 2014.

Council Directive (EU) 2016/856

of 25 May 2016

amending Directive 2006/112/EC on the common system of value added tax, as regards the duration of the obligation to respect a minimum standard rate
OJ L 142 of 31 May 2016

The Directive has entered into force on 1 June 2016. Member States must comply with it by 1 August 2016.

Council Directive (EU) 2016/1065

of 27 June 2016

amending Directive 2006/112/EC as regards the treatment of vouchers
OJ L 177 of 1 July 2016

The Directive has entered into force on 2 July 2016. Member States must comply with it by 31 December 2018 at the latest.

Council Directive (EU) 2017/2455

of 5 December 2017

amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods
OJ L 348 of 29 December 2017

This Directive has entered into force on the 20th day following its publication in the Official Journal of the European Union, i.e. on 18 January 2018; and applies from 1 January 2019 (Article 1) and from 1 July 2021 (Article 2 and 3).

Council Directive (EU) 2018/912

of 22 June 2018

amending Directive 2006/112/EC on the common system of value added tax as regards the obligation to respect a minimum standard rate
OJ L 162 of 27 June 2018

This Directive has entered into force on the 20th day following its publication in the Official Journal of the European Union, i.e. on 17 July 2018. Member States must comply with it by 1 September 2018 at the latest.

Council Directive (EU) 2018/1695

of 6 November 2018

amending Directive 2006/112/EC on the common system of value added tax as regards the period of application of the optional reverse charge mechanism in relation to supplies of certain goods and services susceptible to fraud and of the Quick Reaction Mechanism against VAT fraud
OJ L 282 of 12 November 2018

This Directive has entered into force on the 20th day following its publication in the Official Journal of the European Union, i.e. on 2 December 2018; and applies until the envisaged entry into force of the definitive VAT regime.

Council Directive (EU) 2018/1713

of 6 November 2018

amending Directive 2006/112/EC as regards rates of value added tax applied to books, newspapers and periodicals

OJ L 286 of 14 November 2018

This Directive has entered into force on the 20th day following its publication in the Official Journal of the European Union, i.e. on 4 December 2018.

Council Directive (EU) 2018/1910

of 4 December 2018

amending Directive 2006/112/EC as regards the harmonisation and simplification of certain rules in the value added tax system for the taxation of trade between Member States

OJ L 311 of 7 December 2018

This Directive has entered into force on the 20th day following its publication in the Official Journal of the European Union, i.e. on 27 December 2018; and applies from 1 January 2020 until 30 June 2022.

Council Directive (EU) 2018/2057

of 20 December 2018

amending Directive 2006/112/EC on the common system of value added tax as regards the temporary application of a generalised reverse charge mechanism in relation to supplies of goods and services above a certain threshold

OJ L 329 of 27 December 2018

This Directive has entered into force on the 20th day following its publication in the Official Journal of the European Union, i.e. on 16 January 2019; and applies until 30 June 2022.

Council Directive (EU) 2019/475

of 18 February 2019

amending Directives 2006/112/EC and 2008/118/EC as regards the inclusion of the Italian municipality of Campione d'Italia and the Italian waters of Lake Lugano in the customs territory of the Union and in the territorial application of Directive 2008/118/EC

OJ L 83 of 25 March 2019

This Directive has entered into force on the 20th day following its publication in the Official Journal of the European Union, i.e. on 14 April 2019.

Council Directive (EU) 2019/1995

of 21 November 2019

amending Directive 2006/112/EC as regards provisions relating to distance sales of goods and certain domestic supplies of goods

OJ L 310 of 2 December 2019

This Directive has entered into force on the 20th day following its publication in the Official Journal of the European Union, i.e. on 22 December 2019; and applies from 1 July 2021.

Council Directive (EU) 2019/2235

of 16 December 2019

amending Directive 2006/112/EC on the common system of value added tax and Directive 2008/118/EC concerning the general arrangements for excise duty as regards defence efforts within the Union framework

OJ L 336 of 30 December 2019

This Directive has entered into force on the 20th day following its publication in the Official Journal of the European Union, i.e. on 19 January 2020; and applies from 1 July 2022.

Council Directive (EU) 2020/284

of 18 February 2020

amending Directive 2006/112/EC as regards introducing certain requirements for payment service providers

OJ L 62 of 2 March 2020

This Directive has entered into force on the 20th day following its publication in the Official Journal of the European Union, i.e. on 22 March 2020; and applies from 1 January 2024.

Council Directive (EU) 2020/285

of 18 February 2020

amending Directive 2006/112/EC on the common system of value added tax as regards the special scheme for small enterprises and Regulation (EU) No 904/2010 as regards the administrative cooperation and exchange of information for the purpose of monitoring the correct application of the special scheme for small enterprises

OJ L 62 of 2 March 2020

This Directive has entered into force on the 20th day following its publication in the Official Journal of the European Union, i.e. on 22 March 2020; and applies from 1 January 2025.

Council Decision (EU) 2020/1109

of 20 July 2020

amending Directives (EU) 2017/2455 and (EU) 2019/1995 as regards the dates of transposition and application in response to the COVID-19 pandemic

OJ L 244 of 29 July 2020

This Directive has entered into force on the 20th day following its publication in the Official Journal of the European Union, i.e. on 18 August 2020; and applies from 1 July 2021.

Council Directive (EU) 2020/1756

of 20 November 2020

amending Directive 2006/112/EC on the common system of value added tax as regards the identification of taxable persons in Northern Ireland

OJ L 396 of 25 November 2020

This Directive has entered into force on the day following its publication in the Official Journal of the European Union, i.e. on 26 November 2020; and applies from 1 January 2021.

Council Directive (EU) 2020/2020

of 7 December 2020

amending Directive 2006/112/EC as regards temporary measures in relation to VAT applicable to COVID-19 vaccines and *in vitro* diagnostic medical devices in response to the COVID-19 pandemic

OJ L 419 of 11 December 2020

This Directive has entered into force on the day following its publication in the Official Journal of the European Union, i.e. on 12 December 2020; and applies until 31 December 2022.

Council Directive (EU) 2021/1159

of 13 July 2021

amending Directive 2006/112/EC as regards temporary exemptions on importations and on certain supplies, in response to the COVID-19 pandemic

OJ L 250 of 15 July 2021

This Directive has entered into force on the day of its publication in the Official Journal of the European Union, i.e. on 15 July 2021; and applies from 1 January 2021.

Council Directive (EU) 2022/542

of 5 April 2022

amending Directives 2006/112/EC and (EU) 2020/285 as regards rates of value added tax

OJ L 107 of 6 April 2022

This Directive has entered into force on the date of its publication in the Official Journal of the European Union, i.e. on 6 April 2022.

Member States shall adopt and publish, by 31 December 2024, the laws, regulations and administrative provisions necessary to comply with Article 1, points (1), (2), (5), (7), (12), as regards the deletion of Article 103 of Directive 2006/112/EC, and point (20) and Article 2. They shall apply those measures from 1 January 2025. Member States may apply the laws, regulations and administrative provisions regarding Annex III, points (7) and (13), relating to access to the live-streaming of events or visits covered by those points, and point (26), of Directive 2006/112/EC, listed in the Annex to this Directive, from 1 January 2025.

Council Directive (EU) 2022/890

of 3 June 2022

amending Directive 2006/112/EC as regards the extension of the application period of the optional reverse charge mechanism in relation to supplies of certain goods and services susceptible to fraud and of the Quick Reaction Mechanism against VAT fraud

OJ L 155 of 8 June 2022

This Directive has entered into force on the third day following that of its publication in the Official Journal of the European Union., i.e. on 11 June 2022.

**Council Directive 2006/112/EC
of 28 November 2006
on the common system of value added tax
OJ L 347 of 11 December 2006**

**TITLE I
SUBJECT MATTER AND SCOPE**

Article 1

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

On each transaction, 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 VAT borne directly by the various cost components.

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

Article 2

1. The following transactions shall be subject to VAT:
 - a. the supply of goods for consideration within the territory of a Member State by a taxable person acting as such;
 - b. the intra-Community acquisition of goods for consideration within the territory of a Member State by:

[Text until 31 December 2024]

- i. a taxable person acting as such, or 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 Articles 282 to 292 and who is not covered by Articles 33 or 36;

[Text from 1 January 2025]

- i. a taxable person acting as such, or 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 284 and who is not covered by Article 33 or 36;

[Directive 2020/285]

- ii. in the case of new means of transport¹, a taxable person, or a non-taxable legal person, whose other acquisitions are not subject to VAT pursuant to Article 3(1), or any other non-taxable person;
 - 1. Under Article 2 of Implementing Regulation 282/2011, the following shall not result in intra-Community acquisitions within the meaning of point (b) of Article 2(1):
 - a. the transfer of a new means of transport by a non-taxable person upon change of residence provided that the exemption [zero rate] provided for in point (a) of Article 138(2) could not apply at the time of supply;
 - b. the return of a new means of transport by a non-taxable person to the Member State from which it was initially supplied to him under the exemption [zero rate] provided for in point (a) of Article 138(2).
 - iii. in the case of products subject to excise duty, where the excise duty on the intra-Community acquisition is chargeable, pursuant to Directive 92/12/EEC², within the territory of the Member State, a taxable person, or a non-taxable legal person, whose other acquisitions are not subject to VAT pursuant to Article 3(1);
 - 2. Directive 92/12 has been replaced by Directive 2008/118, and Directive 2008/118 has been replaced by Directive 2020/262 with effect from 13 February 2023.
 - c. the supply of services for consideration within the territory of a Member State by a taxable person acting as such;
 - d. the importation of goods.
2. a. For the purposes of point (ii) of paragraph 1(b), the following shall be regarded as “means of transport”, where they are intended for the transport of persons or goods:
- i. motorised land vehicles the capacity of which exceeds 48 cubic centimetres or the power of which exceeds 7,2 kilowatts;
 - ii. vessels exceeding 7,5 metres in length, with the exception of vessels used for navigation on the high seas and carrying passengers for reward, and of vessels used for the purposes of commercial, industrial or fishing activities, or for rescue or assistance at sea, or for inshore fishing;
 - iii. aircraft the take-off weight of which exceeds 1,550 kilograms, with the exception of aircraft used by airlines operating for reward chiefly on international routes.
- b. These means of transport shall be regarded as “new” in the cases:
- i. of motorised land vehicles, 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;

- ii. of vessels, 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;
 - iii. of aircraft, 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.
- c. Member States shall lay down the conditions under which the facts referred to in point (b) may be regarded as established.
3. “Products subject to excise duty” shall mean energy products, alcohol and alcoholic beverages and manufactured tobacco, as defined by current Community legislation, but not gas supplied through a natural gas system situated within the territory of the Community or any network connected to such a system.
[Directive 2009/162]

Article 3

1. By way of derogation from Article 2(1)(b)(i), the following transactions shall not be subject to VAT:
- a. the intra-Community acquisition of goods by a taxable person or a non-taxable legal person, where the supply of such goods within the territory of the Member State of acquisition would be exempt pursuant to Articles 148 and 151;
 - b. the intra-Community acquisition of goods, other than those referred to in point (a) and Article 4, 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 business subject to the common 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 person³.

3. Under Article 4 of Implementing Regulation 282/2011, a taxable person who is entitled to non-taxation of his intra-Community acquisitions of goods, in accordance with Article 3, shall remain so where, pursuant to Article 214(1)(d) or (e), a VAT identification number has been attributed to that taxable person for the services received for which he is liable to pay VAT or for the services supplied by him within the territory of another Member State for which VAT is payable solely by the recipient.

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

2. Point (b) of paragraph 1 shall apply only if the following conditions are met:
 - a. 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 EUR 10,000 or the equivalent in national currency;
 - b. during the previous calendar year, the total value of intra-Community acquisitions of goods did not exceed the threshold provided for in point (a).

The threshold which serves as the reference shall consist of the total value, exclusive of VAT due or paid in the Member State in which dispatch or transport of the goods began, of the intra-Community acquisitions of goods as referred to under point (b) of paragraph 1.

3. Member States shall grant taxable persons and non-taxable legal persons eligible under point (b) of paragraph 1 the right to opt for the general scheme provided for in Article 2(1)(b)(i).

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

Article 4

In addition to the transactions referred to in Article 3, the following transactions shall not be subject to VAT:

- a. the intra-Community acquisition of second-hand goods, works of art, collectors' items or antiques, as defined in points (1) to (4) of Article 311(1), where the vendor is a taxable dealer acting as such and VAT has been applied to the goods in the Member State in which their dispatch or transport began, in accordance with the margin scheme provided for in Articles 312 to 325;
- b. the intra-Community acquisition of second-hand means of transport, as defined in Article 327(3), where the vendor is a taxable dealer acting as such and VAT has been applied to the means of transport in the Member State in which their dispatch or transport began, in accordance with the transitional arrangements for second-hand means of transport;
- c. the intra-Community acquisition of second-hand goods, works of art, collectors' items or antiques, as defined in points (1) to (4) of Article 311(1), where the vendor is an organiser of sales by public auction, acting as such, and VAT has been applied to the goods in the Member State in which their dispatch or transport began, in accordance with the special arrangements for sales by public auction.



The Home of International Taxation

Contact

IBFD Head Office

Tel.: +31-20-554 0100 (GMT+2)

Email: info@ibfd.org

Visitors' Address:

Rietlandpark 301
1019 DW, Amsterdam
The Netherlands

Postal Address:

P.O. Box 20237
1000 HE Amsterdam
The Netherlands

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