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TAX POLICY
VAT and other turnover taxes

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Consultation Paper

Recast of the Sixth VAT Directive

A provisional draft text for the codification of existing legislation

Note

This draft text is intended for consultation of all parties interested in Community VAT legislation.

The sole purpose of consulting the public on this issue is to provide input to rectify any inaccuracies or to clarify the wording of the draft text established by the Commission services.

This document does not necessarily reflect the final views of the Commission of the European Communities, nor does it signify that the Commission is committed to any official initiative in this area.

Comments are invited on the document by 26 September 2003.

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Proposal for a

COUNCIL DIRECTIVE

on [...]

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article [...] thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Having regard to the opinion of the European Economic and Social Committee³,

Having regard to the opinion of the Committee of the Regions⁴,

Whereas:

...

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

³ OJ C [...], [...], p. [...].

⁴ OJ C [...], [...], p. [...].

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HAS ADOPTED THIS DIRECTIVE:

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TITLE I

~~INTRODUCTORY PROVISIONS~~ OBJECTIVES 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.~~

~~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 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 transactions which take place in the production and distribution process before the stage at which the tax is charged.

Title I
(77/388/EEC)

Heading of Title I
(77/388/EEC)

Adapted

Article 1
(67/227/EEC)

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

Adapted

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

Obsolete

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

Obsolete

Article 2
(67/227/EEC)

Obsolete

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

Unchanged

EN amended

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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 the tax 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.

Article 3 ~~Obsolete provision~~

~~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 ~~Obsolete provision~~

~~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 2, second subparagraph (67/227/EEC)

Adapted

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

Adapted

Article 3 (67/227/EEC)

Obsolete

Article 3 (67/227/EEC)

Obsolete

Article 4 (67/227/EEC)

Obsolete

Article 4, first subparagraph (67/227/EEC)

Obsolete

Article 4, second subparagraph (67/227/EEC)

Obsolete

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~~Article 6~~ Obsolete provision

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

~~Article 1~~ Obsolete provision

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

~~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 2

For the purposes of this Directive:

~~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 duty under Community provisions legislation;~~

~~— mineral oils,~~

Article 6
(67/227/EEC)

Obsolete

Article 6
(67/227/EEC)

Obsolete

Article 1
(77/388/EEC)

Obsolete

Article 1, first
subparagraph
(77/388/EEC)

Obsolete

Article 1, second
subparagraph
(77/388/EEC)

Obsolete

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

Adapted

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

Obsolete

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~~alcohol and alcoholic beverages;~~

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

Obsolete

~~manufactured tobacco.~~

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

Obsolete

~~(e)(2) For the purposes of points (c) 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 subpara-
graph
(inserted by
Article 28h of
2001/115/EC)**

Adapted

TITLE II

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

SCOPE

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

Obsolete

~~Article 2~~ Article 3

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

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

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

Adapted

~~1.(1)~~ 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

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Article 28a

Scope

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

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

- (a) ~~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 tax exemption for small enterprises provided for in Article 24 Articles 264 to 267 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) provisions of Article 32 or the first paragraph of Article 35;~~
- (b) ~~the intra-Community acquisition 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 person whose other acquisitions are not subject to VAT pursuant to Article 4(1), or any other non-taxable person, in the case of new means of transport;~~

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

Obsolete

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

Obsolete

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

Obsolete

*Based on
Article 28a(1)(a),
first subparagraph,
(b) and (c)*

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

Adapted

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

Adapted

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<p>(c) the intra-Community acquisition of goods which are subject to excise duties effected for consideration within the territory of the country by 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) in the case of products subject to excise duty;</p>	<p>Article 28a(1)(c) (inserted by 92/111/EEC) <i>Adapted</i></p>
<p>1.(3) the supply of goods or services effected for consideration within the territory of the country <u>a Member State</u> by a taxable person acting as such;</p>	<p>Article 2(1) (77/388/EEC) <i>Adapted</i></p>
<p>2.(4) the importation of goods.</p>	<p>Article 2(2) (77/388/EEC) <i>Unchanged</i></p>
<p>2. <u>For the purposes of this Title:</u></p>	<p>Article 28a(2) (inserted by 91/680/EEC) <i>Obsolete</i></p>
<p>(a)2. the <u>The</u> following shall be considered as to be '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);</p>	<p>Article 28a(2)(a) (inserted by 91/680/EEC) <i>Adapted</i></p>
<p>(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 <u>motorised</u> 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);</p>	<p>Article 28a(2)(a) (inserted by 91/680/EEC) <i>Adapted</i></p>

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<p>(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 purpose of commercial, industrial or fishing activities, rescue or assistance at sea or inshore fishing;</p>	<p>Article 28a(2)(a) (inserted by 91/680/EEC)</p> <p><i>Adapted</i></p> <p><i>Incorporates parts</i> <i>of Article 15(4)</i></p>
<p>(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;</p>	<p>Article 28a(2)(a) (inserted by 91/680/EEC)</p> <p><i>Adapted</i></p> <p><i>Incorporates parts</i> <i>of Article 15(6)</i></p>
<p>(b)3. The means of transport referred to in (a) paragraph 2 shall not be considered to be ‘new’ ‘new means of transport’ where both of the following conditions are <u>simultaneously fulfilled met</u>:</p>	<p>Article 28a(2)(b), first subpara- graph (replaced by 94/5/EC)</p> <p><i>Adapted</i></p>
<p>(a) they were supplied more than <u>three-six</u> months after the date of first entry into service. <u>However, this period shall be increased to six months for the motorized land vehicles defined in (a) in the case of motorised land vehicles, or three months in the case of vessels and aircraft;</u></p>	<p>Article 28a(2)(b), first subpara- graph, first indent (replaced by 94/5/EC)</p> <p><i>Adapted</i></p>

Provisional draft text

(b) 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.

**Article 28a(2)(b),
first subparagraph, second
indent
(replaced by
94/5/EC)**

Unchanged

Member States shall lay down the conditions under which the ~~above~~ facts set out in the first subparagraph can be regarded as established.

**Article 28a(2)(b),
second subparagraph
(replaced by
94/5/EC)**

Adapted

Article 4

~~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.~~

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

Obsolete

~~1a.1. The~~ By way of derogation from Article 3(1)(2)(a), the following shall ~~benefit from the derogation set out in the second subparagraph of paragraph 1(a)~~ not be subject to VAT:

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

Adapted

(a) the intra-Community ~~acquisitions~~ acquisition of goods ~~whose by a taxable person or a non-taxable legal person, where the supply of such goods would be exempt~~ within the territory of ~~the country would be exempt a single Member State~~ pursuant to ~~Article 15(4) to (10) Articles 132 and 135;~~

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

Adapted

Provisional draft text

<p>(b) <u>the intra-Community acquisitions-acquisition</u> of goods other than those at (a), made referred to in points (a), (c), (d) and (e) and the acquisition of means of transport and products subject to excise duty by a taxable person for the purpose of his agricultural, forestry or fisheries undertaking subject to the flat-rate scheme for farmers, by a taxable person who effects only supplies of goods or services for which VAT is not deductible, or by a non-taxable legal person where:</p>	<p>Article 28a(1a)(b), first subparagraph (inserted by 92/111/EEC)</p>
<p>— 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,</p>	<p><i>Adapted</i></p> <p><i>Incorporates parts of Article 28a(1a), first subparagraph, first indent</i></p> <p>Article 28a(1a)(b), first subparagraph, first indent (inserted by 92/111/EEC)</p>
<p>-(i) for a total amount not exceeding, during the current calendar year, the total amount of acquisitions 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 of ECU 10 000, and;</p>	<p><i>Obsolete</i></p> <p>Article 28a(1a)(b), first subparagraph, second indent (inserted by 92/111/EEC)</p>
<p>-(ii) provided that the total amount of intra-Community acquisitions of goods did not, during the previous calendar year, the total amount of acquisitions of goods did not exceed the threshold referred to in the second indent point (i);</p>	<p><i>Adapted</i></p> <p>Article 28a(1a)(b), first subparagraph, third indent (inserted by 92/111/EEC)</p> <p><i>Adapted</i></p>

Provisional draft text

<p>(b)(c) by way of derogation from Article 28a(1)(a), the intra-Community acquisitions-acquisition of second-hand goods, works of art, collectors' items or antiques shall not be subject to value added tax where the vendor is, as defined in Article 291, by a taxable dealer acting as such and, where the goods acquired have been were subject to tax VAT in the Member State of departure of the dispatch or transport where dispatch or transport of goods began, in accordance with the special arrangements for taxing the margin scheme provided for in B, 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 of departure of the dispatch or transport, in accordance with the special arrangements provided for in C <u>Articles 292 to 304</u>;</p>	<p>Article 26a(D)(b) (inserted by 94/5/EC)</p>
<p>(g)(d) by way of derogation from Article 28a(1)(a), the intra-Community acquisitions-acquisition of means of transport are not subject to value added tax, where the vendor is a taxable dealer acting as such and the second-hand means of transport acquired has been were subject to the tax, VAT in the Member State of departure of the dispatch or transport where dispatch or transport of the goods began, in accordance with (a) the transitional scheme for means of transport;</p>	<p>Article 28o(1)(g) (inserted by 94/5/EC)</p>
<p>(b)(c) by way of derogation from Article 28a(1)(a), the intra-Community acquisitions-acquisition of second-hand goods, works of art, collectors' items or antiques shall not be 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 of departure of the dispatch or transport, in accordance with the special arrangements for taxing the margin provided for in B, or where the vendor is as defined in Article 291, where the vendor is an organizer-organiser of sales by public auction acting as such and the goods acquired have been were subject to tax VAT in the Member State of departure of the dispatch or transport where dispatch or transport of the goods began, in accordance with the special arrangements provided for in C <u>for sales by public auctions</u>;</p>	<p>Article 26a(D)(b) (inserted by 94/5/EC)</p>

Adapted

Adapted

Adapted

Provisional draft text

2. The threshold which serves as the reference for the application of ~~the above paragraph 1(b)~~ shall consist of the total amount, exclusive of ~~value added tax VAT~~ due or paid in the Member State ~~from which where 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 paragraph 1~~ the right to opt for the general scheme laid down in ~~the first subparagraph Article 3(1)(2)(a)~~. Member States shall ~~determine lay down~~ the detailed rules for the exercise of that option, which ~~shall in any case apply for, in all circumstances, shall cover a period of at least~~ two calendar years.

**Article 28a(1)(a),
third subparagraph
(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 Article 299 of the Treaty.~~

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

Adapted

Article 6

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

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

Adapted

Provisional draft text

~~Hellenic Republic:~~

~~(a) Ἄγιο Όρος Mount Athos (Greece);~~

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

Adapted

~~Kingdom of Spain:~~

~~(b) the Canary Islands (Spain);~~

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

Adapted

~~French Republic:~~

~~(c) the overseas departments (France);~~

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

Adapted

~~(d) the Åland islands (Finland);~~

Protocol
(Act of Accession,
A, FIN and S)

Incorporated

~~(e) the Channel Islands (United Kingdom).~~

Incorporated

2. ~~The~~ In addition to the territories referred to in paragraph 1, the following territories ~~of individual Member States~~ not forming part of the customs territory of the Community shall be excluded from the territory scope of ~~the country~~ this Directive:

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

Adapted

Provisional draft text

Federal Republic of Germany:

- (a) the Island of Heligoland [\(Germany\)](#);
- (b) the territory of Buesingen [\(Germany\)](#);

Kingdom of Spain:

- (c) Ceuta [\(Spain\)](#);
- (d) Melilla [\(Spain\)](#);

Republic of Italy:

- (e) Livigno [\(Italy\)](#);
- (f) Campione d'Italia [\(Italy\)](#);
- (g) the Italian waters of Lake Lugano [\(Italy\)](#);
- (h) [Gibraltar \(United Kingdom\)](#).

~~Article 3~~ [Article 7](#)

4. — For the purposes of [applying](#) this Directive:

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

Adapted

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

Protocol (Act of Accession, DK, IRL and UK)

Incorporated

Article 3 (replaced by 91/680/EEC)

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

Adapted

Provisional draft text

<p>-(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 the territories listed in Article 6;</p>	<p>Article 3(1), first indent (replaced by 91/680/EEC)</p>
<p>-(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 in Articles 5 and 6;</p>	<p>Article 3(1), second indent (replaced by 91/680/EEC)</p>
<p>-(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 listed in Article 6.</p>	<p>Article 3(1), third indent (replaced by 91/680/EEC)</p>
<p><i>Article 8</i></p>	
<p>4.1. By way of derogation from paragraph 1, in In view of the conventions and treaties which they have concluded respectively with the French Republic France and the United Kingdom of Great Britain and Northern Ireland, the Principality of Monaco and the Isle of Man shall not be treated for the purposes of the application of applying this Directive as third territories part of the territory of the Community.</p>	<p>Article 3(4), first subparagraph (replaced by 92/111/EEC)</p>
<p><u>2.</u> Member States shall take the measures necessary to ensure that transactions originating in or intended for:</p>	<p>Article 3(4), second subparagraph (replaced by 92/111/EEC)</p>
	<p><i>Unchanged</i></p>

Provisional draft text

~~-(a)~~ the Principality of Monaco are treated as transactions originating in or intended for ~~the French Republic France;~~

**Article 3(4),
second subpara-
graph, first indent
(replaced by
92/111/EEC)**

Adapted

~~-(b)~~ the Isle of Man are treated as transactions originating in or intended for the United Kingdom ~~of Great Britain and Northern Ireland.~~

**Article 3(4),
second subpara-
graph, second
indent
(replaced by
92/111/EEC)**

Adapted

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 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)**

Unchanged

~~Article 4~~ Article 10

**Article 4
(77/388/EEC)**

1. ~~'Taxable person' shall mean any~~ Any person who independently carries out in any place any economic activity ~~specified in paragraph 2~~, whatever the purpose or results of that activity, shall be regarded as a 'taxable person'.

**Article 4(1)
(77/388/EEC)**

Adapted

Provisional draft text

<p>2. The economic activities referred to in paragraph 1 shall comprise all <u>All</u> activities of producers, traders and persons supplying services including mining and agricultural activities and activities of the professions, <u>shall be regarded as an ‘economic activity’</u>. The exploitation of tangible or intangible property for the purpose of obtaining income therefrom on a continuing basis shall also be considered an economic activity.</p>	<p>Article 4(2) (77/388/EEC)</p>
<p>4.2. 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 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.</p>	<p>Article 4(4), first subparagraph (77/388/EEC)</p>
<p>Subject to the consultations provided for in Article 29, After consulting the VAT Committee, each Member State may treat as a single taxable person persons established in the territory of the country <u>the Member State</u> who, while legally independent, are closely bound to one another by financial, economic and organizational links <u>organisational ties</u>.</p>	<p>Article 4(4), second subparagraph (77/388/EEC)</p>
<p>4.3. Any <u>In addition to the persons referred to in paragraph 1, any</u> 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) dispatched or transported to the customer by the vendor or the customer or on their behalf from the territory of a Member State but within the Community, shall also be regarded as a taxable person.</p>	<p>Article 28a(4) first subparagraph (inserted by 91/680/EEC)</p>
<p><u>Article 11</u></p>	
<p>3.1. Member States may also treat as a taxable person anyone who carries out, on an occasional basis, a transaction relating to the <u>economic activities referred to defined in paragraph 2 the second subparagraph of Article 10(1)</u> and in particular <u>any</u> one of the following:</p>	<p>Article 4(3) (77/388/EEC)</p>

Provisional draft text

(a) the supply, before first occupation, of ~~buildings~~ a building or parts ~~of buildings thereof~~ and the land on which ~~they stand~~ it stands;

**Article 4(3)(a),
first subparagraph,
first sentence
(77/388/EEC)**

Unchanged

EN amended

(b) the supply of building land.

**Article 4(3)(b),
first subparagraph
(77/388/EEC)**

Unchanged

2. ~~A building shall be taken to mean~~ For the purposes of paragraph 1(a), a 'building' means any structure fixed to or in the ground.

**Article 4(3)(a),
third subparagraph
(77/388/EEC)**

Adapted

Member States may ~~determine~~ fix the ~~conditions of application of this~~ detailed rules for applying the criterion referred to in paragraph 1(a) is applied to ~~transformations~~ conversions of ~~buildings~~ the building and ~~the concept of~~ the land on which ~~they stand~~ it 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 periods do not exceed five ~~years~~ and two years respectively.

**Article 4(3)(a),
second subparagraph
(77/388/EEC)**

Unchanged

EN amended

Provisional draft text

3.	‘Building For the purposes of paragraph 1(b), ‘building land’ shall mean <u>means</u> any unimproved or improved land defined as such by the Member States.	Article 4(3)(b), second subparagraph (77/388/EEC)
		<i>Adapted</i>
<i>Article 12</i>		
5.1.	States, regional and local government authorities and other bodies governed by public law shall not be considered <u>to be</u> 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 activities or transactions.	Article 4(5), first subparagraph (77/388/EEC)
		<i>Unchanged</i>
		<i>EN amended</i>
	However, when they engage in such activities or transactions, they shall be considered <u>to be</u> taxable persons in respect of these activities or transactions where <u>their</u> treatment as non-taxable persons would lead to significant distortions <u>distortion</u> of competition.	Article 4(5), second subparagraph (77/388/EEC)
		<i>Unchanged</i>
		<i>EN amended</i>
	In any case, these bodies <u>Bodies governed by public law</u> shall <u>always</u> be considered <u>to be</u> taxable persons in relation to the activities listed in Annex D <u>Annex I</u> , provided they are not carried out on such a small scale as to be negligible.	Article 4(5), third subparagraph (77/388/EEC)
		<i>Adapted</i>
2.	Member States may consider activities of these <u>bodies governed by public law</u> which are exempt under Article 13 or 28 as Articles 117, 120, 121 and 351 and Articles 354 to 360 <u>to be</u> activities which they engage in as public authorities.	Article 4(5), fourth subparagraph (77/388/EEC)
		<i>Adapted</i>

Provisional draft text

~~TITLE V~~ TITLE IV

TAXABLE TRANSACTIONS

Chapter 1

Supply of goods

~~Article 5~~ Article 13

Supply of goods

1. 'Supply of goods' ~~shall mean~~ means the transfer of the right to dispose of tangible property as owner.

4.2. ~~The~~ In addition to the case referred to in paragraph 1 the following shall ~~also be considered~~ supplies within the meaning of paragraph 1 to be a supply of goods:

(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;

(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 pass be transferred at the latest upon on payment of the final instalment;

Title V
(77/388/EEC)

Heading of Title V
(77/388/EEC)

Unchanged

Based on the heading of Article 5

Article 5
(77/388/EEC)

Heading of Article 5
(77/388/EEC)

Obsolete

Article 5(1)
(77/388/EEC)

Adapted

Article 5(4)
(77/388/EEC)

Adapted

Article 5(4)(a)
(77/388/EEC)

Unchanged

Article 5(4)(b)
(77/388/EEC)

Unchanged

EN amended

Provisional draft text

(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)
	<i>Unchanged</i>
5.3. Member States may consider the handing over of certain works of construction to be supplies within the meaning of paragraph 1 <u>a supply of goods</u> .	Article 5(5) (replaced by 95/7/EC)
	<i>Adapted</i>
<i>Article 14</i>	
2.1. Electric current, gas, heat, refrigeration and the like shall be considered <u>to be</u> tangible property.	Article 5(2) (77/388/EEC)
	<i>Unchanged</i>
	<i>EN amended</i>
3.2. Member States may consider the following to be tangible property:	Article 5(3) (77/388/EEC)
	<i>Unchanged</i>
(a) certain interest in immovable property;	Article 5(3)(a) (77/388/EEC)
	<i>Unchanged</i>
(b) rights <i>in rem</i> giving the holder thereof a right of user over immovable property;	Article 5(3)(b) (77/388/EEC)
	<i>Unchanged</i>
(c) shares or interests equivalent to shares giving the holder thereof <i>de jure</i> or <i>de facto</i> rights of ownership or possession over immovable property or part thereof.	Article 5(3)(c) (77/388/EEC)
	<i>Unchanged</i>

Provisional draft text

Article 15

~~6. The application by~~ Where a taxable person ~~of reserves~~ goods forming part of his business assets for his private use or that of his staff, or ~~the disposal thereof~~ disposes of them free of charge, or more generally ~~their application~~ allocates them for purposes other than those of his business, where the ~~value added tax VAT~~ on the goods in question or the component parts thereof was wholly or partly deductible, this shall be treated as ~~supplies made~~ a supply of goods for consideration.

However, ~~applications for the giving of~~ where goods are reserved for business use as samples or ~~the making of~~ gifts of small value ~~for the purposes of the taxable person's business~~ this shall not be ~~so~~ treated as a supply of goods.

Article 16

~~5. The following shall be treated as supplies of goods effected for consideration:~~

~~(b)1. the~~ The transfer by a taxable person of goods from his ~~undertaking~~ business to another Member State shall be treated as a supply of goods for consideration.

~~The following shall be regarded as having been transferred to another Member State: any~~ A transfer to another Member State shall be deemed to take place when tangible property is dispatched or transported by or on behalf of the taxable person ~~out of from~~ the territory ~~defined in Article 3 of the Member State where 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~~ business.

Article 5(6), first sentence
(77/388/EEC)

Adapted

Article 5(6), second sentence
(77/388/EEC)

Adapted

Article 28a(5)
(replaced by
95/7/EC)

Obsolete

Article 28a(5)(b) first subparagraph
(inserted by
91/680/EEC)

Adapted

Article 28a(5)(b) second subparagraph
(inserted by
91/680/EEC)

Adapted

Provisional draft text

<p><u>2.</u> 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:</p>	<p>Article 28a(5)(b) second subparagraph (inserted by 91/680/EEC)</p>
<p>-(a) the supply of the goods in question by the taxable person within the territory of the Member State of arrival of where the dispatch or transport ends, under the conditions laid down in the second sentence of Article 8(1)(a) and in Article 28b(B)(1) Article 32;</p>	<p><i>Adapted</i></p> <p>Article 28a(5)(b) second subparagraph, first indent (inserted by 91/680/EEC)</p>
<p>-(b) the supply the supply of the goods in question by the taxable person for the purpose of installation or assembly by or on behalf of the supplier, within the territory of the Member State of arrival of the where dispatch or transport of the goods ends, under the conditions laid down in the second sentence of Article 8(1)(a) and in Article 28b(B)(1) the first paragraph of Article 35;</p>	<p><i>Adapted</i></p> <p>Article 28a(5)(b) second subparagraph, first indent (inserted by 91/680/EEC)</p>
<p>-(c) the supply of the goods in question by the taxable person on board ships, aircraft or trains during a passenger transport operation under the conditions laid down in Article 8(1)(e) Article 36;</p>	<p><i>Adapted</i></p> <p>Article 28a(5)(b) second subparagraph, second indent (inserted by 91/680/EEC)</p>
<p>-(d) the supply of the goods in question by the taxable person within the territory of the country another Member State, under the conditions laid down in Article 15 or in Article 28e(A) Article 123, Articles 130 to 133 and Articles 135, 136 and 137;</p>	<p><i>Adapted</i></p> <p>Article 28a(5)(b) second subparagraph, third indent (inserted by 91/680/EEC)</p>
	<p><i>Adapted</i></p>

Provisional draft text

<p>–(e) the supply of a service performed for the taxable person and involving work on the goods in question physically carried out in the Member State in which the <u>where</u> dispatch or transport of the goods ends, provided that the goods, after being worked upon, are re-dispatched <u>redispatched</u> to that taxable person in the Member State from which they had were initially been dispatched or transported.;</p>	<p>Article 28a(5)(b) second subparagraph, fifth indent (replaced by 95/7/EC)</p>
<p>–(f) <u>the</u> temporary use of the goods in question within the territory of the Member State of arrival of the dispatch or transport of the goods where <u>dispatch or transport of the goods ends</u>, for the purposes of the supply of services by the taxable person established within in the territory of the Member State of departure of the dispatch or transport of the goods <u>from which the goods were initially dispatched or transported</u>.;</p>	<p>Article 28a(5)(b) second subparagraph, sixth indent (inserted by 91/680/EEC)</p>
<p>(g) <u>the</u> temporary use of the goods in question, for a period not exceeding 24 months, within the territory of another Member State in which the import <u>where the importation</u> of the same goods from a third country with a view to for temporary use would be eligible for the arrangements for temporary importation with full exemption from import duties.</p>	<p>Article 28a(5)(b) second subparagraph, seventh indent (inserted by 91/680/EEC)</p>
<p><u>3.</u> However, when <u>When</u> one of the conditions to which the benefit of governing eligibility for the above is subordinated provisions of paragraph 2 is no longer met, the goods shall be considered as having to have been transferred to a destination in another Member State. In this case, the transfer is carried out at the moment that the conditions is no longer <u>deemed to have taken place when this condition ceases to be</u> met.</p>	<p>Article 28a(5)(b) third subparagraph (inserted by 92/111/EEC)</p>
<p><i>Article 17</i></p>	
<p><u>7.</u>—Member States may treat <u>the following</u> as supplies made <u>a supply of goods</u> for consideration:</p>	<p>Article 5(7) (77/388/EEC)</p>

Adapted

Adapted

Unchanged

EN amended

Adapted

Adapted

Provisional draft text

- | | |
|---|---|
| (a) the application-allocation 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)

<i>Adapted</i> |
| (b) the application-allocation 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-allocation in accordance with subparagraph (a) point (a) ; | Article 5(7)(b)
(77/388/EEC)

<i>Adapted</i> |
| (c) except in those cases mentioned in paragraph 8 referred to in Article 18 , the retention of goods by a taxable person or his successors when 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-allocation in accordance with subparagraph (a) point (a) . | Article 5(7)(c)
(77/388/EEC)

<i>Adapted</i> |

Article 18

8.—In the event of a transfer <u>of ownership</u> , 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 <u>recipient beneficiary</u> shall be treated as the successor to the transferor.	Article 5(8), first sentence (77/388/EEC) <i>Unchanged</i>
--	--

EN amended

Where appropriate, Member States may take the necessary measures to prevent distortion of competition in cases where the <u>recipient beneficiary</u> is not wholly-fully liable to tax <u>VAT</u> .	Article 5(8), second sentence (77/388/EEC) <i>Unchanged</i>
--	---

Unchanged

EN amended

Chapter 2

Intra-Community acquisition of goods and similar transactions

Provisional draft text

Article 19

3.— ‘Intra-Community acquisition of goods’ ~~shall mean means~~ 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 which where dispatch or transport of~~ the goods ~~are dispatched or transported~~ began.

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 where dispatch or transport~~ of the goods ~~dispatched or transported ends~~, the goods shall be deemed to have 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 a being liable pursuant to Article 180~~ a refund of the ~~value added tax-VAT~~ paid in ~~connection respect of~~ with the importation of the goods ~~in so far as provided that~~ the importer establishes that his acquisition was subject to ~~value added tax-VAT~~ in the Member State ~~of arrival where dispatch or transport~~ of the goods ~~dispatched or transported ends~~.

Article 20

6.— ~~The intra-Community~~ Intra-Community acquisition of goods for consideration shall include the ~~use by a~~ allocation 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)(2)~~, or imported by ~~the that~~ taxable person ~~within the framework of his undertaking~~ for the purposes of his business into that other Member State.

**Article 28a(3),
first subpara-
graph
(inserted by
91/680/EEC)**

Adapted

**Article 28a(3),
second subpara-
graph
(inserted by
91/680/EEC and
amended by
2000/65/EC)**

Adapted

**Article 28a(6)
first subpara-
graph
(inserted by
91/680/EEC)**

Adapted

Provisional draft text

Article 21

~~The following shall also be deemed to be an intra-Community acquisition of goods effected for consideration: The appropriation~~ Appropriation of goods by the forces of a State party to the North Atlantic Treaty, for their use or for the use of the civilian staff accompanying them, which they have not acquired subject to the general taxation rules ~~governing taxation~~ on the domestic market of ~~one of the Member States, when a Member State, shall be deemed to be an intra-Community acquisition of goods for consideration, where~~ the importation of these goods ~~could~~ would not ~~benefit from~~ be eligible for the exemption ~~set out provided for in Article 14(1)(g) Article 128(h).~~

**Article 28a(6)
second subpara-
graph
(inserted by
92/111/EEC)**

Adapted

Article 22

7.—Member States shall take the measures necessary to ensure that transactions which would have been ~~classed treated~~ as ~~'supplies a supply of goods' as defined in paragraph 5 or Article 5~~ if they had been carried out within ~~the their~~ territory ~~of the country~~ by a taxable person acting as such, are ~~classed treated~~ as ~~'intra-Community acquisitions an intra-Community acquisition~~ of goods².

**Article 28a(7)
(inserted by
91/680/EEC)**

Adapted

Chapter 3

Supply of services

*Based on the
heading of
Article 6*

~~Article 6~~Article 23

**Article 6
(77/388/EEC)**

Supply of services

**Heading of
Article 6
(77/388/EEC)**

Obsolete

1. 'Supply of services' ~~shall mean means~~ any transaction which does not constitute a supply of goods ~~within the meaning of Article 5.~~

**Article 6(1), first
subparagraph
(77/388/EEC)**

Adapted

Provisional draft text

~~-2. Telecommunications services shall be deemed to be~~
'Telecommunications services' means services relating to the transmission, emission or reception of signals, ~~writing words,~~ 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.

**Article 9(2)(e),
ninth indent,
second sentence
(inserted by
1999/59/EC)**

Unchanged

EN amended

Article 24

~~Such transactions~~ A supply of services may ~~include~~ consist of *inter alia*:

**Article 6(1),
second subpara-
graph
(77/388/EEC)**

Adapted

~~-(a) assignments~~ the assignment of intangible property whether or not ~~it is~~ the subject of a document establishing title;

**Article 6(1),
second subpara-
graph, first indent
(77/388/EEC)**

Adapted

~~-(b) obligations~~ the obligation to refrain from an act, or to tolerate an act or situation;

**Article 6(1),
second subpara-
graph, second
indent
(77/388/EEC)**

Adapted

~~-(c) the performances~~ performance of services in pursuance of an order made by or in the name of a public authority or in pursuance of the law.

**Article 6(1),
second subpara-
graph, third
indent
(77/388/EEC)**

Adapted

Provisional draft text

Article 25

2.1. The following 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 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 distortion of competition.

Article 6(2), second subparagraph (77/388/EEC)

Adapted

Article 26

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 it been supplied by another taxable person, would not be wholly deductible.

Article 6(3) (77/388/EEC)

Adapted

Provisional draft text

Article 27

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 to have received and supplied those services himself.

Article 6(4)
(77/388/EEC)

Unchanged

Article 28

5.—~~Article 5(8)~~ Article 18 shall apply in like manner to the supply of services.

Article 6(5)
(77/388/EEC)

Adapted

Chapter 4

Importation of goods

*Based on the
heading of
Article 7*

~~Article 7~~ Article 29

Article 7
(replaced by
91/680/EEC)

Imports

Heading of
Article 7
(replaced by
91/680/EEC)

Obsolete

1.—‘~~Importation of goods~~’ shall mean:

Article 7(1)
(replaced by
91/680/EEC)

Obsolete

(a)—‘Importation of goods’ means 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

Provisional draft text

~~(b) — the~~ In addition to the case referred to in the first paragraph the entry into the Community of goods coming from a third territory, ~~other than the goods covered by (a)~~ which are in free circulation shall be treated as the importation of goods.

Article 7(1)(b)
(replaced by
92/111/EEC)

Adapted

~~Article 28n~~ *Obsolete provision*

Article 28n
(inserted by
92/111/EEC)

Transitional measures

**Heading of
Article 28n**
(inserted by
92/111/EEC)

Obsolete

~~1. —~~ When goods:

Article 28n(1)
(inserted by
92/111/EEC)

Obsolete

~~— entered the territory of the country within the meaning of Article 3 before 1 January 1993, and~~

**Article 28n(1),
first indent**
(inserted by
92/111/EEC)

Obsolete

~~— 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~~

**Article 28n(1),
second indent**
(inserted by
92/111/EEC)

Obsolete

~~— have not left that regime before 1 January 1993,~~

**Article 28n(1),
third indent**
(inserted by
92/111/EEC)

Obsolete

Provisional draft text

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.	Article 28n(1) in fine (inserted by 92/111/EEC)
	<i>Obsolete</i>
2. The following shall be deemed to be an import of goods within the meaning of Article 7(1):	Article 28n(2), first subpara- graph (inserted by 92/111/EEC)
	<i>Obsolete</i>
(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;	Article 28n(2), first subpara- graph, point (a) (inserted by 92/111/EEC)
	<i>Obsolete</i>
(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;	Article 28n(2), first subpara- graph, point (b) (inserted by 92/111/EEC)
	<i>Obsolete</i>
(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;	Article 28n(2), first subpara- graph, point (c) (inserted by 92/111/EEC)
	<i>Obsolete</i>
(d) the termination of an external transit operation started before 1 January 1993;	Article 28n(2), first subpara- graph, point (d) (inserted by 92/111/EEC)
	<i>Obsolete</i>

Provisional draft text

(e) any irregularity or offence committed during an external transit operation started under the conditions set out in (e) or any Community external transit operation referred to in (d);	Article 28n(2), first subparagraph, point (e) (inserted by 92/111/EEC) <i>Obsolete</i>
(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:	Article 28n(2), first subparagraph, point (f) (inserted by 92/111/EEC) <i>Obsolete</i>
— 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) <i>Obsolete</i>
— 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) <i>Obsolete</i>
For the purpose of the application of (e), 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) <i>Obsolete</i>

Provisional draft text

3. In the cases referred to in paragraph 2(a) to (e), 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) <i>Obsolete</i>
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 subpara- graph (inserted by 92/111/EEC) <i>Obsolete</i>
(a) the imported goods are dispatched or transported outside the Community within the meaning of Article 3; or	Article 28n(4), first subpara- graph, point (a) (inserted by 92/111/EEC) <i>Obsolete</i>
(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 subpara- graph, point (b) (inserted by 92/111/EEC) <i>Obsolete</i>
(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 subpara- graph, point (c) (inserted by 92/111/EEC) <i>Obsolete</i>
— 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 subpara- graph (inserted by 92/111/EEC) <i>Obsolete</i>

TITLE XVI C

**~~TRANSITIONAL MEASURES APPLICABLE IN THE
CONTEXT OF THE ACCESSION TO THE EUROPEAN
UNION OF AUSTRIA, FINLAND AND SWEDEN~~**

~~Article 28p~~ Obsolete provision

~~1. For the purpose of applying this Article:~~

~~— ‘Community’ shall mean the territory of the Community as defined in Article 3 before accession,~~

~~— ‘new Member States’ shall mean the territory of the Member States acceding to the European Union by the Treaty signed on 24 June 1994, as defined for each of those Member States in Article 3 of this Directive,~~

~~— ‘enlarged Community’ shall mean the territory of the Community as defined in Article 3, after accession.~~

**Title XVI C
(inserted by
94/76/EC)**

**Heading of
Title XVI C
(inserted by
94/76/EC)**

Obsolete

**Article 28p
(inserted by
94/76/EC)**

**Article 28p(1)
(inserted by
94/76/EC)**

Obsolete

**Article 28p(1),
first indent
(inserted by
94/76/EC)**

Obsolete

**Article 28p(1),
second indent
(inserted by
94/76/EC)**

Obsolete

**Article 28p(1),
third indent
(inserted by
94/76/EC)**

Obsolete

Provisional draft text

2. ~~When goods:~~

~~— entered the territory of the Community or of one of the new Member States before the date of accession, and~~

~~— 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~~

~~— have not left that regime before the date of accession,~~

~~— 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.~~

3. ~~When goods:~~

Article 28p(2)
(inserted by
94/76/EC)

Obsolete

**Article 28p(2),
first indent**
(inserted by
94/76/EC)

Obsolete

**Article 28p(2),
second indent**
(inserted by
94/76/EC)

Obsolete

**Article 28p(2),
third indent**
(inserted by
94/76/EC)

Obsolete

**Article 28p(2)
in fine**
(inserted by
94/76/EC)

Obsolete

**Article 28p(3),
first subpara-
graph**
(inserted by
94/76/EC)

Obsolete

Provisional draft text

— were placed, before the date of accession, under the common transit procedure or under another customs transit procedure, and	Article 28p(3), first subparagraph, first indent (inserted by 94/76/EC) <i>Obsolete</i>
— have not left that procedure before the date of accession,	Article 28p(3), first subparagraph, second indent (inserted by 94/76/EC) <i>Obsolete</i>
— 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.	Article 28p(3), end of first subparagraph (inserted by 94/76/EC) <i>Obsolete</i>
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.	Article 28p(3), second subparagraph (inserted by 94/76/EC) <i>Obsolete</i>
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:	Article 28p(4) (inserted by 94/76/EC) <i>Obsolete</i>
(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;	Article 28p(4)(a) (inserted by 94/76/EC) <i>Obsolete</i>

Provisional draft text

<p>(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;</p>	<p>Article 28p(4)(b) (inserted by 94/76/EC)</p> <p><i>Obsolete</i></p>
<p>(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;</p>	<p>Article 28p(4)(c) (inserted by 94/76/EC)</p> <p><i>Obsolete</i></p>
<p>(d) any irregularity or offence committed during one of the procedures referred to in paragraph 3 under the conditions set out at (c).</p>	<p>Article 28p(4)(d) (inserted by 94/76/EC)</p> <p><i>Obsolete</i></p>
<p>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:</p>	<p>Article 28p(5) (inserted by 94/76/EC)</p> <p><i>Obsolete</i></p>
<p>— 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;</p>	<p>Article 28p(5), first indent (inserted by 94/76/EC)</p> <p><i>Obsolete</i></p>
<p>— the goods were not imported into one of the new Member States or into the Community before the date of accession.</p>	<p>Article 28p(5), second indent (inserted by 94/76/EC)</p> <p><i>Obsolete</i></p>
<p>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.</p>	<p>Article 28p(6) (inserted by 94/76/EC)</p> <p><i>Obsolete</i></p>

Provisional draft text

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:	Article 28p(7), first subparagraph (inserted by 94/76/EC) <i>Obsolete</i>
(a) the imported goods are dispatched or transported outside the enlarged Community; or	Article 28p(7), first subparagraph, point (a) (inserted by 94/76/EC) <i>Obsolete</i>
(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	Article 28p(7), first subparagraph, point (b) (inserted by 94/76/EC) <i>Obsolete</i>
(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.	Article 28p(7), first subparagraph, point (c) (inserted by 94/76/EC) <i>Obsolete</i>
— This condition shall be deemed to be fulfilled when the date of the first use of the means of transport was before 1 January 1987 or when the amount of tax due by reason of the importation is insignificant.	Article 28p(7), second subparagraph (inserted by 94/76/EC) <i>Obsolete</i>

~~TITLE VI~~TITLE V

PLACE OF TAXABLE TRANSACTIONS

Chapter 1

Place of supply of goods

Section 1

Supply of goods without transport

~~Article 8~~Article 30

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 where the goods are located when the supply takes place;

Section 2

Supply of goods with transport

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

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

Unchanged

*Based on the
heading of
Article 8*

**Article 8
(77/388/EEC)**

**Heading of
Article 8
(77/388/EEC)**

Obsolete

**Article 8(1)
(77/388/EEC)**

Obsolete

**Article 8(1)(b)
(77/388/EEC)**

Adapted

Provisional draft text

Article 31

~~(a) — in the case of —~~ Where goods are dispatched or transported either by the supplier ~~or,~~ by the person ~~to whom they are supplied acquiring them~~ or by a third person~~;~~, the place of supply shall be deemed to be where the goods are located at the time when dispatch or transport of the goods to the person ~~to whom they are supplied acquiring the goods~~ begins.

~~2. — By way of derogation from paragraph 1(a), where —~~ However, if the place ~~of departure of the consignment or transport of goods from which the goods are dispatched or transported~~ is in a third territory ~~or third country~~, the place of supply by the importer ~~as defined in Article 21(4) designated or recognised as being liable for the tax pursuant to Article 180~~ and the place of any subsequent ~~supplies supply~~ shall be deemed to be ~~within in~~ the Member State of ~~import importation~~ of the goods.

Article 32

B. — Place of the supply of goods

1. By way of derogation from ~~Article 8(1)(a) and (2) Article 31~~, the place of ~~the~~ supply of goods dispatched or transported by or on behalf of the supplier from a Member State other than that ~~of arrival of the where~~ dispatch or transport ends shall be deemed to be the place where the goods are located when ~~dispatch or transport to the purchaser dispatch or transport of the goods to the customer~~ ends, where the following conditions ~~are fulfilled~~ have been met:

- ~~—(a)~~ the supply of goods is effected for a taxable person eligible for the derogation provided for in the second subparagraph of Article 28a(1)(a), for or a non-taxable legal person ~~who is eligible for the same derogation whose intra-Community acquisitions are not subject to VAT pursuant to Article 4(1)~~ or for any other non-taxable person~~;~~

**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

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

Obsolete

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

Adapted

**Article 28b(B)(1),
first subpara-
graph, first indent
(inserted by
91/680/EEC)**

Adapted

Provisional draft text

~~-(b) the supply is of goods other than supplied are not~~ new means of transport ~~and other than or~~ goods supplied after assembly or installation, with or without a trial run, by or on behalf of the supplier.

Article 28b(B)(1),
first subparagraph, second indent
(inserted by
91/680/EEC)

Adapted

2. Where the goods ~~thus~~ supplied are dispatched or transported from a third territory or a third country and imported by the supplier into a Member State other than ~~the Member State of arrival of that where~~ dispatch or transport of the goods ~~dispatched or transported~~ to the ~~purchaser~~ customer ends, they shall be ~~regarded as having~~ deemed to have been dispatched or transported from the Member State of ~~import~~ importation.

Article 28b(B)(1),
second subparagraph
(inserted by
91/680/EEC)

Adapted

Article 33

2.1. ~~However, where the supply is of goods other than products subject to excise duty, paragraph 1 shall not apply~~ Article 32 shall not apply to supplies of goods dispatched or transported to ~~the a~~ Member State ~~of arrival of the dispatch or transport where~~ where dispatch or transport of the goods ends other than that of the supplier when the following conditions are met:

Article 28b(B)(2),
first subparagraph
(inserted by
91/680/EEC)

Adapted

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 of such supplies, less value added tax, exclusive of VAT, does not in one calendar year exceed EUR 100 000 or the equivalent in national currency of ECU 100 000, and in one calendar year;~~

Article 28b(B)(2),
first subparagraph, first indent
(inserted by
91/680/EEC)

Adapted

Provisional draft text

<p>-(c) the total value, <u>less value-added tax exclusive of VAT</u>, of the supplies of goods other than products subject to excise duty <u>effected under the conditions laid down in paragraph 1</u>, in the previous calendar year, did not exceed <u>EUR 100 000 or</u> the equivalent in national currency <u>of ECU 100 000</u>.</p>	<p>Article 28b(B)(2), first subparagraph, second indent (inserted by 91/680/EEC)</p>
<p><i>Adapted</i></p>	<p><i>Adapted</i></p>
<p><u>2.</u> The Member State within <u>the whose</u> territory <u>of which dispatch or transport of</u> the goods <u>are when dispatch or transport</u> to the <u>purchaser customer</u> ends may limit the thresholds referred to <u>above in paragraph 1</u> to <u>EUR 35 000 or</u> the equivalent in national currency <u>of ECU 35 000</u> where that Member State fears that the threshold of <u>ECU EUR 100 000</u> <u>referred to above would might</u> lead to serious <u>distortions distortion</u> of <u>the conditions of</u> competition.</p>	<p>Article 28b(B)(2), second subparagraph, first sentence (inserted by 91/680/EEC)</p>
<p><i>Adapted</i></p>	<p><i>Adapted</i></p>
<p>Member States which exercise <u>this the</u> option <u>referred to in the first subparagraph</u> shall take the measures necessary to inform the relevant public authorities in the Member State <u>of dispatch or transport of the goods from which the goods were dispatched or transported</u>.</p>	<p>Article 28b(B)(2), second subparagraph, second sentence (inserted by 91/680/EEC)</p>
<p><i>Adapted</i></p>	<p><i>Adapted</i></p>
<p><u>3.</u> Before 31 December 1994, the <u>The</u> Commission shall <u>report submit</u> to the Council <u>at the earliest opportunity a report</u> on the operation of the special <u>ECU EUR 35 000</u> thresholds <u>provided for in the preceding subparagraph referred to in paragraph 2</u> 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.</p>	<p>Article 28b(B)(2), third subparagraph, first and second sentences (inserted by 91/680/EEC)</p>
<p><i>Adapted</i></p>	<p><i>Adapted</i></p>
<p>Until the Council takes a unanimous decision on a Commission proposal, the preceding subparagraph shall remain in force.</p>	<p>Article 28b(B)(2), third subparagraph, third sentence (inserted by 91/680/EEC)</p>
<p><i>Obsolete</i></p>	<p><i>Obsolete</i></p>

Provisional draft text

3.4. The Member State ~~within the~~ on whose territory ~~of which the goods are at the time of departure of the dispatch or transport~~ the goods are located when they are dispatched or transported shall grant those taxable persons who effect 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 32.

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, in all circumstances, shall ~~in any case~~ apply for two calendar years.

Article 34

~~(e)~~ Articles 28b(B) and 28c(A)(a), (e) and (d) Articles 32 and 33 shall not apply to supplies of second-hand goods, works of art, collectors' items or antiques, as defined in Article 291, 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 292 to 304 or the arrangements for sales by public auction.

~~(h)~~ Articles 28b(B) and 28c(A)(a) and (d) Articles 32 and 33 shall not apply either to supplies of second-hand means of transport subject to ~~tax~~ VAT in accordance with ~~(a) the transitional scheme for means of transport~~.

Article 35

Where ~~the~~ goods, dispatched or transported either by the supplier or by the person acquiring the goods 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 28b(B)(3),
first subparagraph
(inserted by
91/680/EEC)**

Adapted

**Article 28b(B)(3),
second subparagraph
(inserted by
91/680/EEC)**

Adapted

**Article 26a(D)(c)
(inserted by
94/5/EC)**

Adapted

**Article 28o(1)(h)
(inserted by
94/5/EC)**

Adapted

**Article 8(1)(a),
second sentence
(77/388/EEC)**

Adapted

Provisional draft text

~~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 36

(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~~ paragraph 1:

**Article 8(1)(c),
second subpara-
graph
(replaced by
92/111/EEC)**

Adapted

~~-(a)~~ ~~'part section~~ of a ~~transport of passengers~~ ~~passenger~~ transport operation effected ~~in within~~ the Community' ~~shall mean means~~ 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)**

Unchanged

EN amended

Provisional draft text

<p>-(b) ‘the point of departure of the a passenger transport of passengers’ shall mean operation’ means the first <u>scheduled</u> point of passenger embarkation foreseen within the Community, where relevant after a leg <u>applicable after a stopover</u> outside the Community;</p>	<p>Article 8(1)(c), second subparagraph, second indent (replaced by 92/111/EEC)</p>
	<p><i>Unchanged</i> <i>EN amended</i></p>
<p>-(c) ‘the point of arrival of the transport of passengers’ shall mean a passenger transport operation’ means the last <u>scheduled</u> point of disembarkation of passengers foreseen within the Community of passengers who embarked in the Community, where relevant before a leg <u>applicable before a stopover</u> outside the Community.</p>	<p>Article 8(1)(c), second subparagraph, third indent (replaced by 92/111/EEC)</p>
	<p><i>Unchanged</i> <i>EN amended</i></p>
<p>In the case of a return trip, the return leg shall be considered to be a separate transport <u>operation</u>.</p>	<p>Article 8(1)(c), third subparagraph (replaced by 92/111/EEC)</p>
	<p><i>Unchanged</i> <i>EN amended</i></p>
<p><u>3.</u> The Commission shall, by 30 June 1993 at the latest, at the earliest opportunity, submit to the Council a report accompanied, if necessary, by appropriate proposals on the place of taxation of <u>the supply of</u> goods supplied for consumption <u>on board</u> and <u>the supply of</u> services, including restaurant services, provided for passengers on board ships, aircraft or trains.</p>	<p>Article 8(1)(c), fourth subparagraph (replaced by 92/111/EEC)</p>
	<p><i>Adapted</i></p>

Provisional draft text

~~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 subpara-
graph
(replaced by
92/111/EEC)**

Obsolete

~~Until 31 December 1993, Until the proposals referred to in the first subparagraph are adopted, Member States may exempt or continue to exempt, with the right to deduct the VAT paid at the preceding stage, the supply of goods supplied for consumption on board whose 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 subpara-
graph
(replaced by
92/111/EEC)**

Adapted

Chapter 2

Place of an intra-Community acquisition of goods

*Based on the
heading of
Article 28b*

~~Article 28b~~ Article 37

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

Place of transactions

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

Obsolete

~~A. Place of the intra-Community acquisitions of goods~~

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

Obsolete

Provisional draft text

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 28b(A)(1)
(inserted by
91/680/EEC)

Unchanged

EN amended

Article 38

2.—Without prejudice to ~~paragraph 1~~ Article 37, the place of ~~the an~~ intra-Community acquisition of goods referred to in ~~Article 28a(1)(a)~~ Article 3(1)(2)(a) 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 that acquisition ~~has been was~~ subject to tax VAT in accordance with ~~paragraph 1~~ Article 37.

Article 28b(A)(2),
first subpara-
graph
(inserted by
91/680/EEC)

Adapted

~~If, however, the acquisition is subject to tax~~ If VAT is applied to the acquisition in accordance with ~~paragraph 1~~ Article 37 in the Member State ~~of arrival of the where~~ dispatch or transport of goods ~~after having been subject to tax ends, after the tax has been applied~~ in accordance with the first subparagraph, 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(A)(2),
second subpara-
graph
(inserted by
91/680/EEC)

Adapted

Article 39

~~For the purposes of applying the first subparagraph, The first paragraph of Article 38 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 37 where the following conditions ~~have been are~~ met:

Article 28b(A)(2),
third subpara-
graph
(inserted by
92/111/EEC)

Adapted

~~-(a)~~ the ~~acquirer~~ person acquiring the goods establishes that he has effected this intra-Community acquisition for the ~~needs purpose~~ of a subsequent supply ~~effected in within~~ the Member State ~~referred to defined~~ in ~~paragraph 1 and~~ accordance with Article 37 for which the ~~consignee~~ person to whom the supply is made has been designated ~~as~~ the person liable for the tax due in accordance with ~~Article 28c(E)(3)~~ Article 177;

Article 28b(A)(2),
third subpara-
graph, first indent
(inserted by
92/111/EEC)

Adapted

Provisional draft text

~~(b)~~ the obligations ~~for declaration concerning submission of the recapitulative statement~~ set out in ~~the last subparagraph of Article 22(6)(b) Article 245~~ have been satisfied by the ~~acquirer~~ person acquiring the goods.

**Article 28b(A)(2),
third subparagraph, second
indent
(inserted by
92/111/EEC)**

Adapted

Chapter 3

Place of supply of services

*Based on the
heading of
Article 9*

Section 1

General rules

~~Article 9~~Article 40

**Article 9
(77/388/EEC)**

Supply of services

**Heading of
Article 9
(77/388/EEC)**

Obsolete

~~1.~~—The place ~~where a service is supplied~~ of supply of services shall be deemed to be the place where the supplier has established his business or has a ~~fixed permanent~~ establishment from which the service is supplied or, ~~in the absence of such a~~ if he has no place of business or ~~fixed permanent~~ establishment, the place where he has his ~~permanent address or usually resides~~ domicile or habitual residence.

**Article 9(1)
(77/388/EEC)**

Unchanged

EN amended

Article 41

~~E.~~—Place of the supply of services rendered by intermediaries

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

Obsolete

Provisional draft text

3. — ~~By way of derogation from Article 9(1), the~~ The place of ~~the~~ supply of services ~~rendered~~ provided 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~~ that transaction is carried out.

However, where the customer of the services provided 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 supply of the services ~~rendered~~ provided 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~~ carried out for him ~~by the intermediary~~.

Section 2

Particular provisions

Subsection 1

Services relating to immovable property

Article 42

2. — ~~However:~~

~~(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;

Subsection 2

Transport services

**Article 28b(E)(3),
first subpara-
graph
(inserted by
91/680/EEC)**

Adapted

**Article 28b(E)(3),
second subpara-
graph
(inserted by
91/680/EEC)**

Adapted

**Article 9(2)
(77/388/EEC)**

Obsolete

**Article 9(2)(a)
(77/388/EEC)**

Unchanged

EN amended

Provisional draft text

Article 43

~~(b) — The place where of supply of transport services are supplied other than intra-Community transport of goods shall be the place where transport takes place, having regard to the the transport service is effected, [taking account of / proportionate to] the distances covered;~~

~~[based on that part of the total distances covered?]~~

Article 44

~~C. — Place of the supply of services in the intra-Community transport of goods~~

~~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:~~

~~2. — The place of the supply of services in the intra-Community goods transport of goods services shall be the place of departure of the transport operation.~~

~~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 services are supplied to customers identified for VAT purposes of value added tax in a Member State other than that of the departure of the transport, operation, 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 carried out for him.~~

**Article 9(2)(b)
(77/388/EEC)**

Adapted

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

Obsolete

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

Obsolete

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

Adapted

**Article 28b(C)(3)
(inserted by
91/680/EEC)**

Adapted

Provisional draft text

-Article 45

-1. ~~'the intra-Community'~~ 'Intra-Community' transport of goods' ~~shall mean means any~~ transport of goods where 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 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 intra-Community transport of goods where such transport is directly linked to the transport of goods where 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 means~~ the place where the transport of goods actually ~~starts, leaving aside distance actually travelled begins, irrespective of the distances covered to~~ the place where the goods are, located and 'the place of arrival' means the place where the transport of goods actually 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)

Obsolete

Article 46

1. ~~By way of derogation from Article 9(1), the~~ The place of ~~the~~ supply of services ~~rendered provided~~ 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~~ he takes part in the intra-Community transport of goods, shall be the place of departure of the transport operation.

Article 28b(E)(1), first subparagraph (inserted by 91/680/EEC)

Adapted

Provisional draft text

However, where the customer ~~for whom of~~ the services ~~rendered provided~~ 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 operation, the place of the supply of services ~~rendered by an provided 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 carried out for~~ him.

Article 47

2. ~~By way of derogation from Article 9(1), the~~ The place of ~~the~~ supply of services ~~rendered provided~~ by ~~intermediaries an intermediary~~ acting in the name and ~~for the account on behalf~~ of other persons, where ~~they these~~ form part of the ~~supply of services the purpose of which is~~ activities ancillary to the intra-Community transport of goods, shall be the place where the ancillary services are physically ~~performed~~ carried out.

However, where the customer of the services ~~rendered provided~~ 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 provided~~ 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~~ carried out for him ~~by the intermediary~~.

Article 48

4. Member States need not apply ~~the tax VAT~~ to that ~~part section~~ of the intra-Community goods transport ~~corresponding to journeys made operation~~ over waters which do not form part of the territory of the Community ~~as defined in Article 3~~.

Subsection 3

Cultural and similar services, ancillary transport services and services relating to movable tangible property

Article 28b(E)(1),
second subpara-
graph
(inserted by
91/680/EEC)

Adapted

Article 28b(E)(2),
first subpara-
graph
(inserted by
91/680/EEC)

Adapted

Article 28b(E)(2),
second subpara-
graph
(inserted by
91/680/EEC)

Adapted

Article 28b(C)(4)
(inserted by
91/680/EEC)

Adapted

Provisional draft text

Article 49

~~(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)

Unchanged

EN amended

~~-(b)~~ ancillary transport activities such as loading, unloading, handling and similar activities.;

Article 9(2)(c),
second indent
(77/388/EEC)

Unchanged

~~-(c)~~ valuations of and work on movable tangible 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)

Obsolete

~~shall be the place where those services are physically carried out;~~

Article 9(2)(c)
in fine
(77/388/EEC)

Obsolete

Provisional draft text

Article 50

~~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)

Obsolete

By way of derogation from ~~Article 9(2)(e)~~ Article 49(b), the place of supply of services ~~involving relating to~~ activities ancillary to the intra-Community transport of goods, ~~rendered~~ provided to customers identified for VAT purposes ~~of value added tax~~ in a Member State other than that ~~within the territory of which~~ where 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~~ carried out for him.

Article 28b(D)
(inserted by 91/680/EEC)

Adapted

Article 51

~~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)

Obsolete

By way of derogation from ~~Article 9(2)(e)~~ Article 49(c), the place of ~~the~~ supply of services ~~involving valuations relating to the valuation of~~ or work on movable tangible property, ~~provided~~ supplied to customers identified for ~~value added tax~~ VAT purposes in a Member State other than ~~the one where those that~~ where 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 him.

Article 28b(F), first subparagraph
(inserted by 95/7/EC)

Adapted

~~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 the services were physically carried out.

Article 28b(F), second subparagraph
(inserted by 95/7/EC)

Adapted

Provisional draft text

Subsection 4

Miscellaneous services

Article 52

(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~~permanent establishment to which the
service is supplied or, in the absence of such a place, the place
where he has his ~~permanent address or usually resides~~ domicile
or habitual residence:

-(a) transfers and assignments of copyrights, patents, licences,
trade marks and similar rights;

-(b) advertising services;

-(c) the services of consultants, engineers, ~~consultancy bureaux~~
consultancies, lawyers, accountants and other similar
services, as well as data processing and the ~~supplying~~
provision of information;

-(d) obligations to refrain from pursuing or exercising, in whole
or in part, a business activity or a right referred to in ~~this~~
point (e) this paragraph;

Article 9(2)(e)
(77/388/EEC)

Adapted

Article 9(2)(e),
first indent
(77/388/EEC)

Unchanged

Article 9(2)(e),
second indent
(77/388/EEC)

Unchanged

Article 9(2)(e),
third indent
(77/388/EEC)

Unchanged

EN amended

Article 9(2)(e),
fourth indent
(77/388/EEC)

Adapted

Provisional draft text

<p>–(e) banking, financial and insurance transactions including reinsurance, with the exception of the hire of safes;</p>	<p>Article 9(2)(e), fifth indent (77/388/EEC)</p> <p><i>Unchanged</i></p>
<p>–(f) the supply of staff;</p>	<p>Article 9(2)(e), sixth indent (77/388/EEC)</p> <p><i>Unchanged</i></p>
<p>–(g) the hiring out of movable tangible property, with the exception of <u>all forms means of transport and all other vehicles</u>;</p>	<p>Article 9(2)(e), eighth indent (inserted by 84/386/EEC)</p> <p><i>Adapted</i></p>
<p>–(h) telecommunications. Telecommunications services within the meaning of this provision shall also include services, <u>including the</u> provision of access to global information networks;</p>	<p>Article 9(2)(e), ninth indent, first and third sentences (inserted by 1999/59/EC)</p> <p><i>Adapted</i></p>
<p>–(i) radio and television broadcasting services;</p>	<p>Article 9(2)(e), tenth indent (inserted by 2002/38/EC)</p> <p><i>Unchanged</i></p>
<p>–(j) electronically supplied services <u>and, in all circumstances, <i>inter alia</i></u> those described in Annex L Annex II;</p>	<p>Article 9(2)(e), eleventh indent (inserted by 2002/38/EC)</p> <p><i>Adapted</i></p>

Provisional draft text

<p>-(k) the services of agents-intermediaries who act in the name and for the account of another, when they procure for their principal-on behalf of other persons, where they take part in the supply of the services referred to in this point-(e) this paragraph,</p>	<p>Article 9(2)(e), seventh indent (77/388/EEC) <i>Adapted</i></p>
<p><u>2.</u> Where the supplier of a service and his customer communicates communicate via electronic mail, this shall not of itself mean that the service performed-provided is an electronic service within the meaning of the last indent of Article 9(2)(e) paragraph 1(j).</p>	<p>Annex L, second subparagraph (inserted by 2002/38/EC) <i>Adapted</i></p>
<p><u>3.</u> Article 1 <u>The provisions of paragraph 1(i) and (j)</u> shall apply for a period of three years starting from 1 July 2003.</p>	<p>Article 4 (2002/38/EC) <i>Adapted</i></p>
<p><i>Article 53</i></p>	
<p>(f)1. the place where <u>Where the</u> services referred to in the last indent of subparagraph (e) Article 52(1)(j) are supplied; when performed-for to non-taxable persons who are established; or have their permanent address or usually reside domicile or habitual residence in a Member State; by a taxable person who has established his business or has a fixed-permanent establishment from which the service is supplied outside the Community or, in the absence of such a place of business or fixed-permanent establishment, has his permanent address or usually resides domicile or habitual residence outside the Community, the place of supply shall be the place where the non-taxable person is established; or has his permanent address or usually resides domicile or habitual residence.</p>	<p>Article 9(2)(f) (inserted by 2002/38/EC) <i>Adapted</i></p>
<p><u>2.</u> Article 1 <u>The provisions of paragraph 1</u> shall apply for a period of three years starting from 1 July 2003.</p>	<p>Article 4 (2002/38/EC) <i>Adapted</i></p>
<p>Subsection 5</p>	
<p><u>Criterion of actual use or operation</u></p>	

Provisional draft text

Article 54

3.— In order to avoid double taxation, non-taxation or ~~the~~ distortion of competition ~~the~~ Member States may, with regard to the supply of services referred to in ~~paragraph 2(e), except for the services referred to in the last indent—~~ Article 52(1)(a) to (i) and (k) when supplied to non-taxable persons, and also with regard to the hiring out of ~~forms—means~~ of transport ~~consider~~ and all other vehicles, treat:

(a) the place of supply of these services, ~~which under this Article would be if~~ situated within ~~the—their~~ territory ~~of the country~~, as being situated outside the Community where ~~the effective use and enjoyment of~~ the services take place— are actually used or operated outside the Community;

(b) the place of supply of these services, ~~which under this Article would be if~~ situated outside the Community, as being situated within ~~the—their~~ territory ~~of the country~~ where the ~~effective use and enjoyment of the services take place~~ services are actually used or operated within ~~the—their~~ territory ~~of the country~~.

Article 55

4.1. In the case of telecommunications services referred to in ~~paragraph 2(e)—~~ Article 52(1)(h) supplied by a taxable person established outside the Community to non-taxable persons established ~~inside—in~~ the Community, Member States shall ~~make use of paragraph 3(b)~~ apply Article 54(b).

4.2. ~~In the case of—~~ For a period of three years from 1 July 2003, Member States shall apply Article 54(b) to telecommunications services and radio and television broadcasting services referred to in ~~paragraph 2(e) when performed for—~~ Article 52(1)(h) to (j) supplied to non-taxable persons who are established, ~~or~~ have their ~~permanent address or usually reside—~~ domicile or habitual residence in a Member State, by a taxable person who has established his business or has a ~~fixed—~~ permanent establishment from which the service is supplied outside the Community, or in the absence of such a place of business or ~~fixed—~~ permanent establishment, has his ~~permanent address or usually resides~~ domicile or habitual residence outside the Community, ~~Member States shall make use of paragraph 3(b).~~

Article 9(3)
(replaced by
2002/38/EC)

Adapted

Article 9(3)(a)
(77/388/EEC)

Adapted

Article 9(3)(b)
(77/388/EEC)

Adapted

Article 9(4)
(inserted by
2002/38/EC)

Adapted

Article 9(4)
(replaced by
2002/38/EC)

Adapted

Provisional draft text

Chapter 4

Place of importation of goods

Article 56

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 57

3.—~~Notwithstanding paragraph 2, where~~ By way of derogation from Article 56, 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 139, 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 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 256 and 257, 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

**CHARGEABLE EVENT AND CHARGEABILITY OF
TAX**

Title VII
(77/388/EEC)

Heading of
Title VII
(77/388/EEC)

Unchanged

Chapter 1

General provisions

Provisional draft text

~~Article 10~~ Article 58

1. ~~(a)~~—‘Chargeable event’ ~~shall mean~~ means the occurrence by virtue of which the legal conditions necessary for the tax to become chargeable are fulfilled.

2. ~~(b)~~—The tax becomes ‘chargeable’ when the ~~tax authority~~ Treasury becomes entitled under the law at a given moment to claim the tax from the person liable to pay, ~~notwithstanding that even if~~ the time of payment may be deferred.

Chapter 2

Supply of goods and services

Article 59

- 2.—The chargeable event shall occur and the tax shall become chargeable when the goods ~~are delivered~~ or the services are ~~performed~~ supplied.

Article 60

1. ~~Deliveries—Where they give rise to successive statements of account or payments, the supply of services and~~ of goods other than ~~those that pertaining to the hire of goods for a certain period or the sale of goods on deferred terms~~ referred to in ~~Article 5(4)(b) and supplies of services which give rise to successive statements of account or payments—Article 13(2)(b)~~ shall be regarded as being completed at the time ~~when~~ the periods to which such statements of account or payments ~~pertain~~ relate expire.

Article 10
(77/388/EEC)

Article 10(1)
(77/388/EEC)

Obsolete

Article 10(1)(a)
(77/388/EEC)

Adapted

Article 10(1)(b)
(77/388/EEC)

Adapted

**Article 10(2), first
subparagraph,
first sentence**
(77/388/EEC)

Adapted

**Article 10(2), first
subparagraph,
second sentence**
(77/388/EEC)

Adapted

Provisional draft text

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 be regarded as being completed at least ~~at intervals of~~ after an interval of one year.

Article 10(2), first subparagraph, third sentence (inserted by 2000/65/EC)

Unchanged

EN amended

Article 61

~~However, where~~ Where a payment is to be made on account before the goods ~~are delivered~~ or the services are ~~performed~~ supplied, the tax shall become chargeable on receipt of ~~the~~ payment ~~and,~~ on the amount received.

Article 10(2), second subparagraph (77/388/EEC)

Adapted

Article 62

By way of derogation from ~~the above provisions~~ Articles 59, 60 and 61, Member States may provide that the tax shall become chargeable, for certain transactions or for certain categories of taxable ~~person, either~~ persons at one of the following times:

Article 10(2), third subparagraph (77/388/EEC)

Adapted

~~-(a)~~ no later than the time of issue of the invoice, ~~or:~~

Article 10(2), third subparagraph, first indent (amended by 2001/115/EC)

Adapted

~~-(b)~~ no later than the time of receipt of ~~the price, or~~ payment;

Article 10(2), third subparagraph, second indent (77/388/EEC)

Adapted

Provisional draft text

- ~~-(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 subparagraph,
third indent
(amended by
2001/115/EC)**

Adapted

Article 63

- ~~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, under the conditions laid down in Article 123, goods dispatched or transported to a Member State other than that where dispatch or transport of the goods begins are supplied exempt from VAT to a taxable person or a non-taxable legal person or any other non-taxable person, or are transferred VAT-exempt to another Member State by a taxable person for the purposes of his business, the tax shall become chargeable~~ on the 15th day of the month following that ~~during-in~~ which the chargeable event occurs.

**Article 28d(4),
first subparagraph
(inserted by
91/680/EEC)**

Adapted

- ~~2.~~ ~~However,~~ By way of derogation from paragraph 1, the tax shall become chargeable on at the time of issue of the invoice provided for in ~~the first subparagraph of Article 22(3)(a) Article 198~~ where 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

Provisional draft text

~~Article 28d~~ Article 64

~~Chargeable event and chargeability of tax~~

~~1.~~—The chargeable event shall occur when ~~the~~ an intra-Community acquisition of goods is effected. ~~The~~ An intra-Community acquisition of goods shall be ~~regarded as being~~ deemed to be effected when the supply of similar goods ~~is regarded as being~~ is deemed to be effected within the territory of the ~~country~~ relevant Member State.

Article 65

~~2.1.~~ ~~For the intra-Community acquisition of goods,~~ The tax shall become chargeable on intra-Community acquisitions of goods on the 15th day of the month following that ~~during in~~ in which the chargeable event occurs.

~~3.2.~~ By way of derogation from ~~paragraph 2,~~ paragraph 1, ~~the~~ tax shall become chargeable ~~on~~ at the time of issue of the invoice provided for in ~~the first subparagraph of Article 22(3)(a)~~ Article 198 where that invoice is issued to the person acquiring the goods before the ~~fifteenth~~ 15th day of the month following that ~~during in~~ in which the ~~taxable~~ chargeable event occurs.

Chapter 4

Importation of goods

Article 28d
(inserted by
91/680/EEC)

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

Obsolete

Article 28d(1)
(inserted by
91/680/EEC)

Adapted

Article 28d(2)
(inserted by
91/680/EEC)

Unchanged

EN amended

Article 28d(3)
(replaced by
92/111/EEC and
amended by
2001/115/EC)

Adapted

Provisional draft text

Article 66

~~3.~~—The chargeable event shall occur and the tax shall become chargeable when the goods are imported.

Article 10(3), first subparagraph, first sentence (replaced by 91/680/EEC)

Adapted

Article 67

1. Where goods are placed under one of the arrangements referred to in ~~Article 7(3)~~ Articles 139, 256 and 257 on entry into the Community, the chargeable event shall occur and the tax 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, to agricultural levies or to charges having equivalent effect established under a common policy, the chargeable event shall occur and the tax shall become chargeable when the chargeable event for those ~~Community~~ duties occurs and those duties become chargeable.

Article 10(3), second subparagraph (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 in respect~~ of the chargeable event and the moment when the tax becomes chargeable.

Article 10(3), third subparagraph (replaced by 91/680/EEC)

Adapted

Provisional draft text

~~TITLE VIII~~TITLE VII

TAXABLE AMOUNT

Chapter 1

Supply of goods and services

~~Article 11~~Article 68

~~A. Within the territory of the country~~

~~1. The taxable amount shall be:~~

~~(a) in respect of supplies~~ For the supply of goods and services other than those referred to in ~~(b), (c) and (d) below, Articles 69 to 72, the taxable amount shall include~~ everything which constitutes the consideration which has been or is to be obtained by the supplier from the ~~purchaser, the~~ customer or a third party for such supplies transactions including subsidies directly linked to the price of such supplies.

Article 69

~~(b) in respect of supplies~~ Where a taxable person reserves or allocates goods forming part of his business assets as referred to in ~~Article 5(6) and (7), Articles 15 and 17, 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 the transaction takes place.

Title VIII
(77/388/EEC)

Heading of
Title VIII
(77/388/EEC)

Unchanged

Article 11
(77/388/EEC)

Heading of
Article 11(A)
(77/388/EEC)

Obsolete

Article 11(A)(1)
(77/388/EEC)

Obsolete

Article 11(A)(1)(a)
(77/388/EEC)

Adapted

Article 11(A)(1)
(b)
(77/388/EEC)

Adapted

Provisional draft text

Article 70

~~(e) in respect of supplies referred to in Article 6(2), For supplies of services where goods forming part of the assets of a business are used for private purposes or of services carried out free of charge, as referred to in Article 25, the taxable amount shall be~~ the full cost to the taxable person of providing the services;

Article 11(A)(1)(c)
(77/388/EEC)

Adapted

Article 71

~~2. For the supply of goods referred to in Article 28c(A)(d), the taxable amount shall be determined in accordance with Article 11(A)(1)(b) and paragraphs 2 and 3~~ supplies involving 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 of supply.

Article 28e(2)
(inserted by
92/111/EEC)

Adapted

Article 72

~~(d) in respect of supplies referred to in Article 6(3), For supplies of services effected by a taxable person for the purposes of his business as referred to in Article 26, the taxable amount shall be~~ the open market value of the services supplied.

Article 11(A)(1)
(d), first subpara-
graph
(77/388/EEC)

Adapted

‘Open market value’ of services shall mean the amount which a customer, at the marketing stage at which the supply takes place, would have to pay to a supplier at arm’s length within ~~the territory of the country~~ Member State in which the services referred to in paragraph 1 are taxable at the time of the supply, under conditions of fair competition, to obtain the services in question.

Article 11(A)(1)
(d), second
subparagraph
(77/388/EEC)

Adapted

Article 73

~~2.~~ The taxable amount shall include the following factors:

Article 11(A)(2)
(77/388/EEC)

Adapted

Provisional draft text

(a) taxes, duties, levies and charges, excluding the ~~value added tax~~ VAT itself; **Article 11(A)(2)(a)**
(77/388/EEC)

Adapted

(b) incidental expenses such as commission, packing, transport and insurance costs charged by the supplier to the ~~purchaser or~~ customer. **Article 11(A)(2)**
(b), first sentence
(77/388/EEC)

Unchanged

EN amended

~~Expenses—Member States may treat 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)

Unchanged

EN amended

Article 74

~~3.~~—The taxable amount shall not include the following factors: **Article 11(A)(3)**
(77/388/EEC)

Adapted

(a) price reductions by way of discount for early payment; **Article 11(A)(3)(a)**
(77/388/EEC)

Unchanged

(b) price discounts and rebates allowed to the customer and ~~accounted for~~ applying at the time of the supply; **Article 11(A)(3)**
(b)
(77/388/EEC)

Unchanged

EN amended

Provisional draft text

- (c) the amounts received by a taxable person from his ~~purchaser or~~ customer as repayment for ~~expenses paid out~~ costs incurred in the name and ~~for the account on behalf~~ of the latter and which are entered in his books in a suspense account.

**Article 11(A)(3)
(c), first sentence
(77/388/EEC)**

Unchanged

EN amended

~~The~~ For the purposes of point (c) of the first paragraph, the taxable person must furnish proof of the actual amount of ~~this the~~ expenditure referred to therein 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 75

~~4. — By way of derogation from paragraphs 1, 2 and 3,~~ Member States which, on 1 January 1993, did not avail themselves of the option to apply a reduced rate as provided for in ~~the third subparagraph of Article 12(3)(a)~~ Article 91 may, ~~where they avail themselves of~~ when they exercise the option provided for in ~~Title B(6) Article 82,~~ provide that, for the ~~transactions supply of works of art~~ referred to in ~~the second subparagraph of Article 12(3)(e) Article 95(2),~~ the taxable amount shall be equal to a fraction of the amount determined in accordance with ~~paragraphs 1, 2 and 3~~ Articles 68, 73 and 74.

**Article 11(A)(4),
first subpara-
graph
(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 thus~~ VAT due is, ~~in any event,~~ equal to at least 5% of the amount determined in accordance with ~~paragraphs 1, 2 and 3~~ Articles 68, 73 and 74.

**Article 11(A)(4),
second subpara-
graph
(inserted by
94/5/EC)**

Adapted

Chapter 2

Intra-Community acquisition of goods

Provisional draft text

~~Article 28e~~ Article 76

Taxable amount and rate applicable

~~1. — In the case of the intra-Community acquisition of goods, For intra-Community acquisitions of goods,~~ the taxable amount shall be ~~established on the basis of the same elements~~ based on the same 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 same Member State. For transactions treated as intra-Community acquisition-acquisitions~~ of goods ~~referred to in Article 28a(6), under Articles 20 and 21~~ 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 supply.

Article 77

1. Member States shall take the measures necessary to ensure that the excise duty due or paid by the person effecting 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 73.~~

2. ~~When, — Where,~~ after ~~the moment~~ the intra-Community acquisition of goods ~~was~~ has been effected, the ~~acquirer person acquiring the goods~~ obtains ~~the a~~ refund of ~~the~~ excise ~~duties duty~~ paid in the Member State ~~from which where~~ dispatch or transport of the goods ~~were dispatched or transported~~ began, the taxable amount shall be reduced accordingly in the Member State where the ~~intra-Community~~ acquisition took place.

Article 28e
(inserted by
91/680/EEC)

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

Obsolete

Article 28e(1),
first subpara-
graph
(inserted by
91/680/EEC and
amended by
92/111/EEC)

Adapted

Article 28e(1),
second subpara-
graph, first
sentence
(inserted by
91/680/EEC)

Adapted

Article 28e(1),
second subpara-
graph, second
sentence
(inserted by
91/680/EEC)

Adapted

Provisional draft text

Chapter 3

Importation of goods

Article 78

~~B. Importation of goods~~

~~1. The For 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 79

~~3.1.~~ The taxable amount shall include the following factors, in so far as they are not already included:

(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;

(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.

Based on the heading of Article 11(B)

Heading of Article 11(B) (77/388/EEC)

Obsolete

Article 11(B)(1) (replaced by 92/111/EEC)

Adapted

Article 11(B)(3) (replaced by 91/680/EEC)

Adapted

Article 11(B)(3)(a) (replaced by 91/680/EEC)

Adapted

Article 11(B)(3) (b), first subparagraph (replaced by 91/680/EEC)

Unchanged

EN amended

Provisional draft text

2. ~~The~~In addition to the expenses referred to in paragraph 1(b), the taxable amount shall include the incidental expenses referred to ~~above shall also be included in the taxable amount where they result in paragraph 1(b) 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 sub-paragraph
(replaced by
95/7/EC)

Adapted

3. ~~First~~For the purposes of paragraph 1(b) 'first place of destination' ~~shall mean means~~ the place ~~mentioned shown~~ on the consignment note or 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 it is not shown,~~ 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 sub-paragraph
(replaced by
91/680/EEC)

Adapted

Article 80

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)

Adapted

(a) price reductions by way of discount for early payment;

Article 11(A)(3)(a)
(77/388/EEC)

Unchanged

(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

Provisional draft text

Article 81

~~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 working outside the Community, Member States shall take ~~steps the measures necessary~~ to ensure that ~~the treatment of~~ the goods are treated for ~~value-added tax — VAT~~ purposes ~~is in~~ the same way as ~~that which they~~ would have ~~applied to the goods in question been~~ had ~~the above those~~ operations been carried out within ~~the their~~ territory ~~of the country~~.

Article 82

~~6. — By way of derogation from paragraphs 1 to 4,~~ Member States which, on 1 January 1993, did not ~~avail themselves of exercise~~ the option to apply a reduced rate as provided for in ~~the third subparagraph of Article 12(3)(a) — Article 91~~ may provide that for ~~imports the importation of the~~ works of art, collectors' items and antiques as defined in ~~Article 26a(A)(a), (b) and (c), Article 291(1)(b), (c) and (d),~~ the taxable amount shall be equal to a fraction of the amount determined in accordance with ~~paragraphs 1 to 4 Articles 78, 79 and 80.~~

~~That~~ The fraction referred to in the first paragraph shall be determined in such a way that the ~~value-added tax thus — VAT~~ due on the import is, ~~in any event,~~ equal to at least 5% of the amount determined in accordance with ~~paragraphs 1 to 4 Articles 78, 79 and 80.~~

Chapter 4

Miscellaneous provisions

Article 11(B)(5)
(amended by
91/680/EEC)

Adapted

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

Based on the
heading of
Article 11(C)

Provisional draft text

Article 83

~~C.~~ Miscellaneous provisions

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.

**Heading of
Article 11(C)
(77/388/EEC)**

Obsolete

**Article 11(C)(1),
first subpara-
graph
(77/388/EEC)**

Unchanged

2. ~~However, in~~ In the case of total or partial non-payment, Member States may derogate from ~~this rule~~ the provisions of paragraph 1.

**Article 11(C)(1),
second subpara-
graph
(77/388/EEC)**

Adapted

Article 84

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 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 subpara-
graph
(replaced by
91/680/EEC)**

Unchanged

EN amended

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 assessment takes place, the exchange rate applicable shall be the latest selling rate recorded; at the time the tax 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 subpara-
graph, first
sentence
(replaced by
91/680/EEC)**

Unchanged

EN amended

Provisional draft text

However, for some of ~~these~~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)

Adapted

Article 85

~~3.~~—As regards the costs of returnable~~packing costs~~ packaging, Member States may:

Article 11(C)(3) (77/388/EEC)

Unchanged

EN amended

~~-(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-packaging is not returned.;

Article 11(C)(3), first indent (77/388/EEC)

Unchanged

EN amended

~~-(b)~~ or include them in the taxable amount and take the necessary measures necessary to see-ensure that this amount is adjusted where the packing-packaging is ~~in fact~~ actually returned.

Article 11(C)(3), second indent (77/388/EEC)

Unchanged

EN amended

~~TITLE IX~~TITLE VIII

Title IX (77/388/EEC)

RATES

Heading of Title IX (77/388/EEC)

Chapter 1

Unchanged

Rules governing the application of rates

Provisional draft text

~~Article 12~~ Article 86

~~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 to be used shall be that in force when the tax 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 61 and 62;

(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 case of 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 67(1) and Article 67(2).

Article 87

~~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~~ same Member State.

Article 12
(77/388/EEC)

Article 12(1), first sentence
(77/388/EEC)

Unchanged

Article 12(1), second sentence
(77/388/EEC)

Adapted

Article 12(1)(a)
(77/388/EEC)

Adapted

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 28e(4)
(inserted by
91/680/EEC and
renumbered by
92/111/EEC)

Adapted

Provisional draft text

5.2. Subject to ~~paragraph 3(e)~~ the option provided for in Article 95(1) to apply a reduced rate to imports of works of art, collectors' items and 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~~ same Member State.

Article 12(5)
(replaced by
94/5/EC)

Adapted

Article 88

2. ~~In the event of changes in the rates, Member States may:~~

Article 12(2)
(77/388/EEC)

Obsolete

~~Where rates are changed, Member States may~~ effect adjustments in the cases provided for in ~~paragraph 1(a)~~ Articles 61 and 62 in order to take account of the rate ~~applicable~~ applying at the time ~~when~~ of supply of 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 89

3. (a) ~~The Member States shall apply a~~ standard rate of ~~value added tax~~ VAT which shall be ~~fixed~~ set by each Member State as a percentage of the taxable amount and shall be the same for the supply of goods and for the supply of services.

Article 12(3)(a),
first subpara-
graph, first
sentence
(replaced by
2001/4/EC)

Adapted

Provisional draft text

Article 90

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 subpara-
graph, 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 subpara-
graph
(replaced by
2001/4/EC)

Adapted

Section 2

Reduced rates

Article 91

1. Member States may ~~also~~ apply either one or two reduced rates.

Article 12(3)(a),
third subpara-
graph, first
sentence
(replaced by
1999/49/EC)

Adapted

2. ~~The third subparagraph~~ The reduced rates shall apply only to supplies of the categories of goods and services listed in Annex III. They shall not apply under any circumstances to the services referred to in ~~the last indent of Article 9(2)(e)~~ Article 52(1)(j).

Article 12(3)(a),
fourth subpara-
graph
(inserted by
2002/38/EC)

Adapted

Provisional draft text

3. ~~In transposing the categories below which refer to goods into national legislation, When applying the reduced rates provided for under 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 subparagraph (inserted by 92/77/EEC)

Adapted

Article 92

1. ~~These~~ The reduced rates shall be ~~fixed~~ set 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)

Adapted

4.2. Each reduced rate shall be ~~so fixed~~ set in such a way that the amount of ~~value added tax~~ VAT resulting from the 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 150 to 159~~ can be deducted in the normal way.

Article 12(4), first subparagraph (amended by 92/77/EEC)

Adapted

Article 93

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 subparagraph, first sentence (inserted by 92/77/EEC)

Unchanged

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 listed in Annex H Annex III.

Article 12(4), second subparagraph, second sentence (inserted by 92/77/EEC)

Adapted

Provisional draft text

Section 3

Particular provisions

Article 94

(b) — Member States may apply a reduced rate to ~~supplies the supply~~ of natural gas and electricity provided that no risk of distortion of competition exists.

**Article 12(3)(b),
first sentence
(replaced by
92/77/EEC)**

Unchanged

EN amended

~~A~~ Any Member State intending to apply ~~such a~~ reduced rate ~~under the first paragraph~~ must, ~~before doing so~~, inform the Commission ~~before doing so~~. The Commission shall ~~give a decision on the existence of~~ decide whether there is a risk of distortion of competition. If the Commission has not taken ~~that a~~ decision within three months of ~~the~~ receipt of the information ~~a~~, no risk of distortion of competition is deemed ~~not~~ to exist.

**Article 12(3)(b),
second, third and
fourth sentences
(replaced by
92/77/EEC)**

Adapted

Article 95

(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) Articles 91 and 92~~ shall also apply to imports of works of art, collectors' items and antiques ~~as referred to in Article 26a(A)(a), (b) and (c)~~ as defined in ~~Article 291(1)(b), (c) and (d)~~.

**Article 12(3)(c),
first subpara-
graph
(replaced by
94/5/EC)**

Adapted

2. Where they ~~avail themselves of this exercise the~~ option provided for in paragraph 1, Member States may also apply the reduced rate to the following supplies of works of art, ~~within the meaning of Article 26a(A)(a)~~:

**Article 12(3)(c),
second subpara-
graph
(replaced by
94/5/EC)**

Adapted

Provisional draft text

~~-(a) supplies effected by their creator or his successors in title;~~

**Article 12(3)(c),
second subpara-
graph, first indent
(replaced by
94/5/EC)**

Adapted

~~-(b) supplies effected 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 12(3)(c),
second subpara-
graph, second
indent
(replaced by
94/5/EC)**

Adapted

Article 96

~~(b) — For the purposes of applying Article 12(3)(a), the Republic of In the communes of Jungholz and Mittelberg (Kleines Walsertal) Austria may 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 is not less than 15%.~~

**Annex IX(2)(b),
first subpara-
graph
(Act of Accession,
A, FIN and S)**

Adapted

Article 97

~~6. — The Portuguese Republic-Portugal may apply to transactions carried out in the autonomous regions of the Azores and Madeira and to direct imports to those regions, ~~reduced rates in comparison to those applying that are lower than the corresponding rates applied~~ on the mainland;~~

**Article 12(6)
(inserted by Act of
Accession, E and
P)**

Adapted

Chapter 3

Temporary provisions for particular labour-intensive services

*Based on the title
of Directive
1999/85/EC*

Provisional draft text

Article 98

~~6.—The Member States may be authorised by the~~ Council, acting unanimously on a proposal from the Commission, ~~may authorise any Member State~~ to apply for a maximum period of four years between ~~1 January 2000 and 31 December 2003~~ the reduced rates provided for in ~~the third subparagraph of Article 12(3)(a)~~ Article 91 to services listed in ~~as maximum of two of the categories set out in Annex K~~ Annex IV for a maximum period of four years between 1 January 2000 and 31 December 2003.

Article 28(6), first subparagraph, first sentence (inserted by 1999/85/EC and amended by 2003/92/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 four years between 1 January 2000 and 31 December 2003~~ the reduced rates provided for in ~~the third subparagraph of Article 12(3)(a)~~ may be applied to services listed in ~~as a~~ maximum of two of the categories ~~set out of services listed in Annex K that Annex~~.

Article 28(6), first subparagraph, first sentence (inserted by 1999/85/EC and amended by 2003/92/EC)

Adapted

In exceptional cases a Member State may be authorised to apply the reduced ~~rate~~ rates to ~~services in~~ three of the abovementioned categories of services.

Article 28(6), first subparagraph, second sentence (inserted by 1999/85/EC)

Adapted

Article 99

The services ~~concerned~~ referred to in Article 98 must satisfy the following requirements:

Article 28(6), second subparagraph (inserted by 1999/85/EC)

Adapted

Provisional draft text

(a) they must be labour-intensive;

**Article 28(6),
second subpara-
graph, point (a)
(inserted by
1999/85/EC)**

Unchanged

(b) they must be largely, in large measure, provided ~~direct~~ directly to final consumers;

**Article 28(6),
second subpara-
graph, point (b)
(inserted by
1999/85/EC)**

Unchanged

EN amended

(c) they must be mainly local and not likely to create ~~distortions~~ distortion of competition;

**Article 28(6),
second subpara-
graph, point (c)
(inserted by
1999/85/EC)**

Adapted

EN unchanged

~~(d) — there~~ There must also be a close link between the lower prices resulting from the rate reduction and the foreseeable increase in demand and employment and the application of a reduced rate must not prejudice the smooth functioning of the internal market.

**Article 28(6),
second subpara-
graph, point (d)
(inserted by
1999/85/EC)**

Adapted

~~The application of a reduced rate must not prejudice the smooth functioning of the internal market.~~

**Article 28(6),
third subpara-
graph
(inserted by
1999/85/EC)**

Obsolete

Provisional draft text

Article 100

Any Member State wishing to introduce the measure provided for in ~~the first subparagraph~~ Article 98 shall inform the Commission before 1 November 1999 and shall provide it before that date with all relevant ~~particulars~~ information, and in particular the following:

(a) scope of the measure and detailed description of the services concerned;

(b) particulars showing that the ~~conditions-requirements~~ laid down in ~~the second and third subparagraphs~~ Article 99 have been met;

(c) particulars showing the budgetary cost of the measure ~~envisaged~~ proposed.

Article 101

1. Member States ~~which have been~~ authorised under Article 98 to apply ~~the reduced rate referred to in the first subparagraph shall, before 1 October 2002, rates shall~~ draw up a detailed report containing an overall assessment of the measure's effectiveness, primarily in terms ~~notably~~ of job creation and efficiency, before 1 October 2002.

Article 28(6), fourth subparagraph (inserted by 1999/85/EC)

Adapted

Article 28(6), fourth subparagraph, point (a) (inserted by 1999/85/EC)

Unchanged

Article 28(6), fourth subparagraph, point (b) (inserted by 1999/85/EC)

Adapted

Article 28(6), fourth subparagraph, point (c) (inserted by 1999/85/EC)

Unchanged

EN amended

Article 28(6), fifth subparagraph (inserted by 1999/85/EC)

Adapted

Provisional draft text

2. Before 31 December 2002 the Commission shall ~~forward-submit~~ a global evaluation report to the Council and ~~the European~~ 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)

Adapted

Chapter 4

Particular provisions applying until the adoption of the definitive arrangements

Article 102

~~2.— Notwithstanding Article 12(3), the following~~ The provisions laid down in this Chapter shall apply ~~during the transitional period referred to in Article 281 until the definitive arrangements for the taxation of intra-Community trade provided for in Article 371 are adopted.~~

Article 28(2) (replaced by 92/77/EEC)

Adapted

Article 103

~~(a) — Exemptions Member States which, on 1 January 1991, applied exemptions, with refund of the right to deduct the tax-VAT paid at the preceding stage and, or 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 92, may continue to apply them.

Article 28(2)(a), first subparagraph (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 have been adopted for clearly defined social reasons and for the benefit of the final consumer.

Article 28(2)(a), first subparagraph (replaced by 92/77/EEC)

Adapted

Provisional draft text

~~Member States shall adopt the measures necessary to ensure the determination of own resources relating to these operations:~~

Article 28(2)(a),
second subparagraph
(replaced by
92/77/EEC)

Obsolete

Article 104

~~Subject to the conditions set out in the second paragraph of Article 103, exemptions, with the right to deduct the VAT paid at the preceding stage, may continue to be applied as follows:~~

Based on
Annex IX(2)(l) and
(z)

~~(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 the supply of subscribed newspapers and periodicals and the printing of publications distributed to the members of corporations for the public good.;~~

Annexe IX(2)(l)
(Act of Accession,
A, FIN and S)

Adapted

~~(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 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.~~

Annexe IX(2)(c)
(Act of Accession,
A, FIN and S)

Adapted

Provisional draft text

Article 105

~~In the event that~~ If the provisions of ~~this paragraph~~ Article 103 create 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 91 and 92.

**Article 28(2)(a),
third subpara-
graph, first
sentence
(replaced by
92/77/EEC)**

Adapted

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.

**Article 28(2)(a),
third subpara-
graph, second and
third sentences
(replaced by
92/77/EEC)**

Adapted

Article 106

~~(b)~~—Member States which, at 1 January 1991, in accordance with Community law, applied exemptions, with ~~refund of tax~~ the right to deduct the VAT paid at the preceding stage, or reduced rates lower than the minimum laid down in ~~Article 12(3) in respect of the reduced rates,~~ Article 92, to goods and services other than those ~~specified~~ listed in ~~Annex H,~~ Annex III may apply the reduced rate or one of the two reduced rates provided for in ~~Article 12(3)~~ Article 91 to any ~~such supplies~~ supply of such goods or services.

**Article 28(2)(b)
(replaced by
92/77/EEC)**

Adapted

Article 107

~~(e)1.~~ Member States which ~~under the terms of Article 12(3) will be, at 1 January 1993, were~~ obliged to increase their standard rate as applied 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 92 to the supply of categories of goods and services ~~specified~~ listed in ~~Annex H~~ Annex III.

**Article 28(2)(c),
first sentence
(replaced by
92/77/EEC)**

Adapted

Provisional draft text

~~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.

**Article 28(2)(c),
second sentence
(replaced by
92/77/EEC)**

Adapted

2. Member States may not rely on paragraph 1 to introduce exemptions, with ~~refund of the tax right to deduct the VAT paid at the preceding~~ the preceding stage ~~on the basis of this paragraph.~~

**Article 28(2)(c),
third sentence
(replaced by
92/77/EEC)**

Adapted

Article 108

~~(d)~~—Member States which, at 1 January 1991, applied a reduced rate to restaurant services, children's clothing, children's footwear and housing, may continue to apply such a rate to ~~such supplies~~ the supply of such goods or services.

**Article 28(2)(d)
(replaced by
92/77/EEC)**

Adapted

Article 109

~~(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 91 to restaurant services, provided that the rate is not lower than 12%.

**Article 28(2)(k)
(inserted by
2000/17/EC)**

Adapted

Article 110

~~(f)1.~~ For the purposes of applying ~~Article 28(2)(d), the Republic of Article 108,~~ Austria may continue to apply a reduced rate to restaurant services in accordance with Articles 91 and 92.

**Annex IX(2)(f),
first subpara-
graph
(Act of Accession
A, FIN and S)**

Adapted

Provisional draft text

~~(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 91~~ 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)

Adapted

Article 111

~~(e)~~—Member States which, at 1 January 1991, applied a reduced rate to ~~supplies the supply~~ of goods and services other than those ~~specified listed~~ in ~~Annex H Annex III~~ may apply the reduced rate or one of the two reduced rates provided for in ~~Article 12(3) Article 91~~ to ~~such supplies, the supply of such goods or services~~ provided that the rate is not lower than 12%.

**Article 28(2)(e),
first subpara-
graph**
(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 Article 291(1)(a) to (d) 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 292 to 304 or the arrangements for sales by public auction.~~

**Article 28(2)(e),
second subpara-
graph**
(inserted by
94/5/EC)

Adapted

Article 112

~~(g)~~—For the purposes of applying ~~Article 28(2)(e), the Republic of Article 111,~~ Austria may apply a reduced rate to wine ~~from made on the farm production carried out by the producing by the producer~~ farmer ~~and supplies of electrically driven vehicles~~ provided that ~~such the~~ rate is not lower than 12%.

**Annex IX(2)(g),
first subpara-
graph**
(Act of Accession
A, FIN and S)

Adapted

Article 113

~~(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: of~~ Thasos, ~~the~~ Northern Sporades, Samothrace and Skiros.

Article 28(2)(f)
(replaced by
92/77/EEC)

Adapted

Provisional draft text

Article 114

~~(h) — Member States which, on 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 treated work under a contract to make up work as a supply of goods may apply the rate applicable to the goods obtained after making up such work to such a supply.~~

**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,~~ work under contract shall be deemed to be delivery 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 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 115

~~(i) — Member States may apply a reduced rate to supplies the supply of live plants (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

Obsolete provision

~~(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

Provisional draft text

~~TITLE X~~ TITLE IX

EXEMPTIONS

Chapter 1

General provisions

Article 116

1. ~~Without~~ The exemptions provided for in Chapters 2 to 9 shall apply without prejudice to other Community provisions, ~~Member States shall exempt the following and~~ under conditions ~~which they shall lay laid~~ down ~~for the purpose of ensuring by Member States to ensure~~ the correct and straightforward application of such exemptions and ~~of preventing to prevent~~ any possible evasion, avoidance or abuse.

Chapter 2

Exemptions for certain activities in the public interest

~~Article 13~~ Article 117

Exemptions within the territory of the country

A. ~~Exemptions for certain activities in the public interest~~

Title X
(77/388/EEC)

Heading of Title X
(77/388/EEC)

Unchanged

Article 13(A)(1)
(77/388/EEC)

Adapted

Based on the heading of Article 13(A)

Article 13
(77/388/EEC)

Heading of Article 13
(77/388/EEC)

Obsolete

Heading of Article 13(A)
(77/388/EEC)

Obsolete

Provisional draft text

- | | |
|--|--|
| 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 <u>transactions</u> : | Article 13(A)(1)
(77/388/EEC)

<i>Adapted</i> |
| (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)

<i>Unchanged</i> |
| (b) <u>the provision of</u> hospital and medical care and closely related activities undertaken by bodies governed by public law or, under social conditions comparable to those applicable to bodies governed by public law, by hospitals, centres for medical treatment or diagnosis—diagnostic centres and other duly recognized—recognised establishments of a similar nature; | Article 13(A)(1)(b)
(77/388/EEC)

<i>Unchanged</i>

<i>EN amended</i> |
| (c) the provision of medical 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)

<i>Unchanged</i> |
| (d) supplies <u>the supply</u> of human organs, blood and milk; | Article 13(A)(1)(d)
(77/388/EEC)

<i>Unchanged</i>

<i>EN amended</i> |
| (e) <u>the supply of</u> services supplied by dental technicians in their professional capacity and <u>the supply of</u> dental prostheses supplied by dentists and dental technicians; | Article 13(A)(1)(e)
(77/388/EEC)

<i>Unchanged</i>

<i>EN amended</i> |

Provisional draft text

- | | |
|---|---|
| <p>(f) <u>the supply of</u> services supplied by independent groups of persons whose activities are carrying on an activity which is exempt from VAT or in relation to which they are not subject to value added tax <u>taxable persons</u>, for the purpose of rendering their members the services directly necessary for the exercise of their activity, where these groups merely claim from their members exact reimbursement of their share of the joint expenses, provided that such exemption is not likely to produce distortion of competition;</p> | <p>Article 13(A)(1)(f)
(77/388/EEC)</p> <p><i>Unchanged</i></p> <p><i>EN amended</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 organizations recognized <u>organisations recognised</u> as charitable by the Member State concerned;</p> | <p>Article 13(A)(1)(g)
(77/388/EEC)</p> <p><i>Unchanged</i></p> <p><i>EN amended</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 organizations recognized <u>organisations recognised</u> as charitable by the Member State concerned;</p> | <p>Article 13(A)(1)(h)
(77/388/EEC)</p> <p><i>Unchanged</i></p> |
| <p>(i) <u>the provision of</u> 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, provided by bodies governed by public law having such as their aim or by other organizations <u>organisations</u> defined by the Member State concerned as having similar objects <u>objectives</u>;</p> | <p>Article 13(A)(1)(i)
(77/388/EEC)</p> <p><i>Unchanged</i></p> <p><i>EN amended</i></p> |
| <p>(j) tuition given privately by teachers and covering school or university education;</p> | <p>Article 13(A)(1)(j)
(77/388/EEC)</p> <p><i>Unchanged</i></p> |
| <p>(k) certain supplies <u>the supply</u> of staff by religious or philosophical institutions for the purpose of subparagraphs (b), (g), (h) and (i) of this Article <u>the activities referred to in points (b), (g), (h) and (i)</u> and with a view to spiritual welfare;</p> | <p>Article 13(A)(1)(k)
(77/388/EEC)</p> <p><i>Unchanged</i></p> <p><i>EN amended</i></p> |

Provisional draft text

<p>(l) <u>the</u> supply of services and goods closely linked thereto for the benefit of to them, to their members <u>in their common interest</u> in return for a subscription fixed in accordance with their rules by non-profit-making organizations <u>organisations</u> 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>Article 13(A)(1)(l) (77/388/EEC) <i>Unchanged</i> <i>EN amended</i></p>
<p>(m) <u>the supply of</u> certain services closely linked to sport or physical education supplied by non-profit-making organizations <u>organisations</u> to persons taking part in sport or physical education;</p>	<p>Article 13(A)(1)(m) (77/388/EEC) <i>Unchanged</i> <i>EN amended</i></p>
<p>(n) <u>the supply of</u> certain cultural services and goods closely linked thereto supplied by bodies governed by public law or by other cultural bodies recognized <u>recognised</u> by the Member State concerned;</p>	<p>Article 13(A)(1)(n) (77/388/EEC) <i>Unchanged</i> <i>EN amended</i></p>
<p>(o) the supply of services and goods by organizations <u>organisations</u> whose activities are exempt under the provisions of subparagraphs (b), (g), (h), (i), (l), (m) and (n) above <u>points (b), (g), (h), (i), (l), (m) and (n)</u> in connection with fund-raising events organized <u>organised</u> exclusively for their own benefit provided that exemption is not likely to cause distortion of competition;</p>	<p>Article 13(A)(1)(o), first sentence (77/388/EEC) <i>Unchanged</i> <i>EN amended</i></p>
<p>(p) the supply of transport services for sick or injured persons in vehicles specially designed for the purpose by duly authorised bodies;</p>	<p>Article 13(A)(1)(p) (77/388/EEC) <i>Unchanged</i></p>
<p>(q) <u>the</u> activities of public radio and television bodies other than those of a commercial nature.</p>	<p>Article 13(A)(1)(q) (77/388/EEC) <i>Unchanged</i> <i>EN amended</i></p>

Provisional draft text

2. For the purposes of paragraph 1(o), Member States may introduce any ~~necessary~~-restrictions required in particular as regards the number of events or the amount of receipts which give entitlement to exemption~~;~~

Article 13(A)(1)
(o), second
sentence
(77/388/EEC)

Adapted

Article 118

~~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~~ Article 117(1)(b), (g), (h), (i), (l), (m) and (n) subject in each individual case to one or more of the following conditions:

Article 13(A)(2)(a)
(77/388/EEC)

Adapted

~~(a)~~ they the bodies in question shall not systematically aim to make a profit, but any profits ~~nevertheless~~ arising shall not be distributed, but shall be assigned to the continuance or improvement of the services supplied~~;~~

Article 13(A)(2)
(a), first indent
(77/388/EEC)

Unchanged

EN amended

~~(b)~~ they these bodies shall 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~~;~~

Article 13(A)(2)
(a), second indent
(77/388/EEC)

Adapted

~~(c)~~ they these bodies shall charge prices 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~~;~~

Article 13(A)(2)
(a), third indent
(77/388/EEC)

Adapted

~~(d)~~ ~~exemption of the services concerned~~ the exemptions shall not be likely to create ~~distortions~~ distortion of competition ~~such as to place at a disadvantage which might place~~ commercial enterprises ~~liable~~ subject to ~~value added tax~~ VAT at a disadvantage.

Article 13(A)(2)
(a), fourth indent
(77/388/EEC)

Adapted

Provisional draft text

Article 119

~~(b)~~—The supply of services or goods shall not be ~~granted~~ eligible for the exemption as provided for in ~~(1)(b), (g), (h), (i), (l), (m) and (n) above if Article 117(1)(b), (g), (h), (i), (l), (m) and (n) in the following cases:~~

Article 13(A)(2)(b)
(77/388/EEC)

Adapted

~~-(a)~~ ~~it is the transactions are~~ not essential to the transactions exempted;

Article 13(A)(2)(b), first indent
(77/388/EEC)

Adapted

~~-(b)~~ ~~its the~~ basic purpose of the transactions is to obtain additional income for the ~~organization by carrying out~~ organisation 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

Based on the heading of Article 13(B)

Article 120

~~B.~~—Other exemptions

Heading of Article 13(B)
(77/388/EEC)

Obsolete

~~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)

Adapted

(a) insurance and reinsurance transactions, including related services performed by insurance brokers and insurance agents;

Article 13(B)(a)
(77/388/EEC)

Unchanged

Provisional draft text

~~(d) — the following transactions:~~

~~1.(b)~~ the granting and the negotiation of credit and the management of credit by the person granting it;

~~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;

~~3.(d)~~ transactions, including negotiation, concerning deposit and current accounts, payments, transfers, debts, cheques and other negotiable instruments, but excluding debt collection ~~and factoring~~;

~~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 collectors' items, that is,~~ gold, silver or other metal coins or bank notes which are not normally used as legal tender or ~~coins which are~~ of numismatic interest;

~~5.(f)~~ transactions, including negotiation, ~~excluding but not~~ management ~~and safe keeping, or safekeeping~~ in shares, interests in companies or associations, debentures and other securities; ~~but~~ excluding documents establishing title to goods and the rights or securities referred to in Article 14(2);

~~— documents establishing title to goods;~~

Article 13(B)(d)
(77/388/EEC)

Obsolete

Article 13(B)(d)(1)
(77/388/EEC)

Unchanged

Article 13(B)(d)(2)
(77/388/EEC)

Unchanged

EN amended

Article 13(B)(d)(3)
(77/388/EEC)

Adapted

Article 13(B)(d)(4)
(77/388/EEC)

Adapted

Article 13(B)(d)(5)
(77/388/EEC)

Adapted

Article
13(B)(d)(5), first
indent
(77/388/EEC)

Obsolete

Provisional draft text

the rights or securities referred to in Article 5(3),	Article 13(B)(d) (5), second indent (77/388/EEC) <i>Obsolete</i>
6.(g) <u>the</u> management of special investment funds as defined by Member States;	Article 13(B)(d)(6) (77/388/EEC) <i>Unchanged</i> <i>EN amended</i>
(e)(h) the supply at face value of postage stamps <u>which are</u> valid for use for postal services for postage within the territory of the country, a Member State, fiscal stamps, and other similar stamps;	Article 13(B)(e) (77/388/EEC) <i>Adapted</i>
(f)(i) betting, lotteries and other forms of gambling, subject to <u>the</u> conditions and limitations laid down by each Member State;	Article 13(B)(f) (77/388/EEC) <i>Unchanged</i> <i>EN amended</i>
(g)(j) the supply of buildings a building or parts thereof, and of the land on which they stand it stands, other than as described that referred to in Article 4(3)(a) Article 11(1)(a);	Article 13(B)(g) (77/388/EEC) <i>Adapted</i>
(h)(k) the supply of land which has not been built on other than <u>the</u> building land as described in Article 4(3)(b) referred to in Article 11(1)(b);	Article 13(B)(h) (77/388/EEC) <i>Adapted</i>
(b)(l) the leasing or letting of immovable property excluding;	Article 13(B)(b), first subpara- graph (77/388/EEC) <i>Adapted</i>

Provisional draft text

<p>(b)2. the leasing or letting of immovable property excluding<u>The following transactions shall be excluded from the exemption provided for under paragraph 1(1):</u></p>	<p>Article 13(B)(b), first subparagraph (77/388/EEC)</p> <p><i>Adapted</i></p>
<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;</p>	<p>Article 13(B)(b), first subparagraph, point 1 (77/388/EEC)</p> <p><i>Unchanged</i></p>
<p>2.(b) the letting of premises and sites for <u>vehicle</u> parking vehicles;</p>	<p>Article 13(B)(b), first subparagraph, point 2 (77/388/EEC)</p> <p><i>Unchanged</i></p> <p><i>EN amended</i></p>
<p>3.(c) lettings <u>the letting</u> of permanently installed equipment and machinery;</p>	<p>Article 13(B)(b), first subparagraph, point 3 (77/388/EEC)</p> <p><i>Unchanged</i></p> <p><i>EN amended</i></p>
<p>4.(d) <u>the</u> hire of safes.</p>	<p>Article 13(B)(b), first subparagraph, point 4 (77/388/EEC)</p> <p><i>Unchanged</i></p> <p><i>EN amended</i></p>
<p>Member States may apply further exclusions to the scope of <u>the</u> this exemption <u>referred to in paragraph 1(1):</u>.</p>	<p>Article 13(B)(b), second subparagraph (77/388/EEC)</p> <p><i>Adapted</i></p>

Provisional draft text

Article 121

~~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:~~

(e)(a) ~~supplies the supply of goods used wholly solely for an activity exempted under this Article or under Article 28(3)(b) when Articles 117, 120 and 351 and Articles 355 to 360 when these 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~~ deduct the VAT paid at the preceding stage;

(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~~ allocation of which VAT was not deductible pursuant to Article 158.

Article 122

C. Options

1. Member States may allow ~~taxpayers taxable persons~~ a right of option for taxation in ~~eases respect~~ of the following transactions:

~~(b)(a)~~ the financial transactions covered in B(d), (g) and (h) above referred to in Article 120(1)(b) to (g);

Article 13(B)
(77/388/EEC)

Adapted

Article 13(B)(c)
(77/388/EEC)

Adapted

Article 13(B)(c)
(77/388/EEC)

Adapted

Heading of
Article 13(C)
(77/388/EEC)

Obsolete

Article 13(C), first
subparagraph
(77/388/EEC)

Adapted

Article 13(C), first
subparagraph,
point (b)
(77/388/EEC)

Adapted

Provisional draft text

(b) ~~the transactions covered in B(d), (g) and (h) above supply of a building or parts thereof and of the land on which it stands referred to in Article 120(1)(j);~~

Article 13(C), first subparagraph, point (b) (77/388/EEC)

Adapted

~~(b)(c) the transactions covered in B(d), (g) and (h) above supply of land not built on referred to in Article 120(1)(k);~~

Article 13(C), first subparagraph, point (b) (77/388/EEC)

Adapted

~~(a)(d) the letting and leasing of immovable property referred to in Article 120(1)(l);~~

Article 13(C), first subparagraph, 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 the exercise of the option provided for in paragraph 1.~~

Article 13(C), second subparagraph (77/388/EEC)

Adapted

Member States may restrict the scope of ~~this~~ the right of option ~~and shall fix the details of its use referred to in paragraph 1.~~

Article 13(C), second subparagraph (77/388/EEC)

Adapted

Chapter 4

Exemptions for intra-Community transactions

Based on the heading of Article 28c

Section 1

Exemptions for the supply of goods

Based on the heading of Article 28c(A)

Provisional draft text

~~Article 28c~~ Article 123

Exemptions

~~A. Exempt supplies of goods~~

~~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:~~

- ~~(a) 1. supplies Member States shall exempt the supply of goods, ~~as defined in Article 5~~, dispatched or transported by or on behalf of the vendor or the person acquiring the goods out of ~~the~~ their territory ~~referred to in Article 3~~ but within the Community, ~~effected~~ for another taxable person or a non-taxable legal person acting as such in a Member State other than that ~~of the departure of the~~ where dispatch or transport of the goods began.~~

- ~~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:~~

Article 28c
(inserted by
91/680/EEC)

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

Obsolete

Heading of
Article 28c(A)
(inserted by
91/680/EEC)

Obsolete

Article 28c(A),
first subpara-
graph
(inserted by
91/680/EEC)

Obsolete

Article 28c(A)(a),
first subpara-
graph
(inserted by
91/680/EEC and
95/7/EC)

Adapted

Article 28c(A),
first subpara-
graph
(inserted by
91/680/EEC)

Adapted

Provisional draft text

~~(b)(a)~~ supplies the supply of new means of transport, dispatched or transported to the purchaser customer by or on behalf of the vendor or the purchaser customer out of ~~the their~~ territory ~~referred to in Article 3~~ but within the Community, ~~effected~~ 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 are not subject to VAT pursuant to Article 4(1),~~ or for any other non-taxable person;

Article 28c(A)(b)
(inserted by
91/680/EEC)

Adapted

~~(e)(b)~~ the supply of goods products subject to excise duty dispatched or transported to the purchaser customer, by or on behalf of the vendor, by or the purchaser or on his behalf, outside the customer, out of ~~their~~ territory ~~referred to in Article 3~~ but inside within the Community, ~~effected~~ 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 these products have been dispatched or transported in accordance with Article 7(4) and (5), or Article 16 of Directive 92/12/EEC⁵;

**Article 28c(A)(c),
first subpara-
graph**
(replaced by
92/111/EEC)

Adapted

~~(d)(c)~~ the supply consisting in the transfer of goods, ~~within the meaning of Article 28a(5)(b), which benefit from to another Member State which would have been eligible for the exemptions set out above if they have provided for in paragraph 1 and points (a) and (b) if they had~~ been made on behalf of another taxable person.

Article 28c(A)(d)
(inserted by
92/111/EEC)

Adapted

Article 124

- ~~This~~ The exemption provided for in Article 123(1) shall not apply to supplies the supply of goods ~~effected~~ 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 eligible for the tax exemption for small enterprises provided for in Articles 264 to 267;~~

**Article 28c(A)(a),
second subpara-
graph**
(inserted by
91/680/EEC)

Adapted

⁵ OJ L 76, 23.3.1992, p. 1.

Provisional draft text

<p>This 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 are not subject to VAT pursuant to Article 4(1);</p>	<p>Article 28c(A)(a), second subparagraph (inserted by 91/680/EEC)</p>
<p><i>Adapted</i></p>	<p><i>Adapted</i></p>
<p><u>2.</u> ThisThe exemption provided for in Article 123(2)(b) shall not apply to supplies the supply of goods products subject to excise duty effected by taxable persons who benefit fromare eligible for the tax exemption from tax set out for small enterprises provided for in Article 24 <u>Articles 264 to 267;</u></p>	<p>Article 28c(A)(c), second subparagraph (replaced by 92/111/EEC)</p>
<p><i>Adapted</i></p>	<p><i>Adapted</i></p>
<p><u>(e)3.</u> Articles 28b(B) and 28c(A)(a), (e) and (d)The exemption provided for in Article 123(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 <u>the margin scheme provided for in Articles 292 to 304 or the arrangements for sales by public auction.</u></p>	<p>Article 26a(D)(c) (inserted by 94/5/EC)</p>
<p><i>Adapted</i></p>	<p><i>Adapted</i></p>
<p><u>(h)</u> Articles 28b(B) and 28c(A)(a) and (d)The exemption provided for in Article 123(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 scheme for means of transport.</p>	<p>Article 28o(1)(h) (inserted by 94/5/EC)</p>
<p><i>Adapted</i></p>	<p><i>Adapted</i></p>
<p><u>Section 2</u></p>	
<p><u>Exemptions for intra-Community acquisitions of goods</u></p>	
<p><i>Based on the heading of Article 28c(B)</i></p>	
<p><i>Article 125</i></p>	
<p>B. Exempt intra-Community acquisitions of goods</p>	<p>Heading of Article 28c(B) (inserted by 91/680/EEC)</p>
<p><i>Obsolete</i></p>	

Provisional draft text

~~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)**

Adapted

(a) the intra-Community acquisition of goods the supply of which by a taxable persons would person is in all circumstances ~~be~~ exempt within ~~the their~~ territory ~~of the country~~;

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

Adapted

(b) the intra-Community acquisition of goods the importation of which ~~would is~~ in all circumstances ~~be~~ exempt under ~~Article 14(1) Article 128~~;

**Article 28c(B)(b)
(inserted by
91/680/EEC)**

Adapted

(c) the intra-Community acquisition of goods where, pursuant to ~~Article 17(3) and (4) Articles 152 and 153~~, the person acquiring the goods ~~would is~~ in all circumstances ~~be~~ entitled to full reimbursement of the ~~value added tax VAT~~ due under ~~Article 28a(1) Article 3(1)(2)~~.

**Article 28c(B)(c)
(inserted by
91/680/EEC)**

Adapted

Article 126

~~3) — Each Member States State~~ shall take specific measures to ensure that ~~value added tax VAT~~ is not charged on ~~the~~ intra-Community ~~acquisition acquisitions~~ of goods effected, ~~within the meaning of Article 28b(A)(1)~~; within its territory ~~when subject to the criteria laid down in Article 37 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 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

Provisional draft text

- ~~-(b)~~ the ~~intra-Community~~ acquisition of goods is effected for the purpose of a subsequent supply of goods ~~made~~ by ~~a the~~ taxable person ~~referred to in point (a) in the territory of the country same~~ Member State;:
- ~~-(c)~~ the goods ~~so~~ 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~~ the subsequent supply is made;
- ~~-(d)~~ the person to whom the subsequent supply is made is a different taxable person or a non-taxable legal person who is identified for ~~value added tax-VAT~~ purposes within in the ~~territory of the country same~~ Member State;
- ~~-(e)~~ the person to whom the subsequent supply is made as referred to in point (d) has been designated in accordance with ~~Article 21(1)(e)-Article 177~~ as the person liable for the tax due on the ~~supplies effected supply made~~ 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),
second indent
(replaced by
92/111/EEC)**

Adapted

**Article 28c(E)(3),
third indent
(replaced by
92/111/EEC)**

Adapted

**Article 28c(E)(3),
fourth indent
(replaced by
92/111/EEC)**

Adapted

**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

*Based on the
heading of
Article 28c(C)*

C. Exempt transport services

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

Obsolete

Provisional draft text

Article 127

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 and goods transport services~~ between those islands.

Article 28c(C)
(inserted by
91/680/EEC)

Unchanged

EN amended

Chapter 5

Exemptions on importation

Based on the
heading of
Article 14

~~Article 14~~Article 128

Exemptions on importation

Article 14
(77/388/EEC)

Heading of
Article 14
(77/388/EEC)

Obsolete

~~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)

Adapted

(a) the final importation of goods of which the supply by a taxable person ~~would is~~ in all circumstances ~~be exempted exempt~~ within ~~the country their territory;~~

Article 14(1)(a)
(77/388/EEC)

Adapted

Provisional draft text

- ~~(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 78/1035/EEC⁶ and 83/181/EEC⁷;~~~~
- ~~(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~~ which would be ~~capable of benefiting from eligible for~~ the exemption ~~set out above if they had been imported within the meaning of Article 7(1)(a) under point (b);~~~~
- ~~D. Exempt importation of goods~~
- ~~(d) Where the importation of goods dispatched or transported from a third territory ~~are or a third country and~~ imported into a Member State other than that ~~of arrival of where~~ the dispatch or transport, ~~Member States shall exempt such imports of the goods ends,~~ where the supply of such goods by the importer ~~as defined in Article 21(4) designated or recognised as being liable for VAT pursuant to Article 180 is exempt in accordance with paragraph A under Article 123;~~~~
- ~~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.~~

**Article 14(1)(d),
first subparagraph
(amended by
91/680/EEC)**

Adapted

**Article 14(1)(d),
second subparagraph
(inserted by
92/111/EEC)**

Adapted

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

Obsolete

**Article 28c(D),
first
subparagraph
(inserted by
91/680/EEC and
amended by
2000/65/EC)**

Adapted

**Article 28c(D),
second subpara-
graph
(inserted by
91/680/EEC)**

Obsolete

⁶ [OJ L 366, 28.12.1978, p. 34.](#)

⁷ [OJ L 105, 23.4.1983, p. 38.](#)

Provisional draft text

<p>(e)(e) <u>the</u> reimportation by the person who exported them of goods in the state in which they were exported, where they qualify for exemption from customs duties;</p>	<p>Article 14(1)(e) (amended by 91/680/EEC)</p>
<p>(g) importations of goods:</p>	<p>Article 14(1)(g) (77/388/EEC)</p>
<p>(f) <u>the importation</u> under diplomatic and consular arrangements, <u>of goods</u> which qualify for exemption from customs duties;</p>	<p>Article 14(1)(g), first indent (amended by 91/680/EEC)</p>
<p>(g) <u>the importation of goods</u> by international organizations <u>recognized—organisations recognised</u> as such by the public authorities of the host country <u>Member State</u>, and by members of such organizations <u>organisations</u>, within the limits and under the conditions laid down by the international conventions establishing the organizations—organisations or by headquarters agreements;</p>	<p>Article 14(1)(g), second indent (77/388/EEC)</p>
<p>(h) <u>the importation of goods</u> into the territory of Member States which are parties to the North Atlantic Treaty by the armed forces of other States which are parties to that Treaty for the use of such 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>Article 14(1)(g), third indent (77/388/EEC)</p>
<p>(h)(i) <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>Article 14(1)(h) (77/388/EEC)</p>
<p>(j) <u>the</u> importation of gold by Central Banks <u>central banks</u>;</p>	<p>Article 14(1)(j) (77/388/EEC)</p>

Provisional draft text

(i)(k) the supply of services, ~~in connection with~~ relating to the importation of goods where the value of such services is included in the taxable amount in accordance with ~~Article 11B(3)(b)~~ Article 79(1)(b) and Article 79(2);

Article 14(1)(i)
(77/388/EEC)

Adapted

Article 129

2.1. The Commission shall submit to the Council at the earliest opportunity proposals ~~designed to lay down Community tax rules clarifying~~ clarify the scope of the exemptions ~~referred to in paragraph 1 provided for in Article 128 and to lay down the~~ detailed rules for their implementation.

Article 14(2), first subparagraph
(77/388/EEC)

Adapted

~~Until the entry into force of these rules, Member States may:~~

Article 14(2), second subparagraph
(77/388/EEC)

Obsolete

~~2.~~ Until the entry into force of the rules referred to in paragraph 1, Member States may maintain their national provisions in force ~~on matters related to the above provisions.~~

Article 14(2), second subparagraph, first indent
(77/388/EEC)

Adapted

~~Member States may~~ adapt their national provisions to minimize ~~minimise~~ distortion of competition and, in particular ~~the non-imposition, to avoid non-taxation~~ or double ~~imposition of value added tax taxation~~ within the Community.

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)

Adapted

Provisional draft text

3. Member States shall ~~inform~~ notify the Commission, which shall inform the other Member States, of the ~~measures they have adopted and are adopting pursuant to the preceding provisions in force and the provisions they adopt under~~ paragraph 2.

**Article 14(2),
third subparagraph
(77/388/EEC)**

Adapted

Chapter 6

Exemptions on exportation

*Based on the
heading of
Article 15*

*Article 15*Article 130

**Article 15
(77/388/EEC)**

~~Exemption of exports from the Community and like transactions and international transport~~

**Heading of
Article 15
(replaced by
91/680/EEC)**

Obsolete

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,
introduction
(77/388/EEC)**

Adapted

- 1.(a) the supply of goods dispatched or transported to a destination outside out of the Community by or on behalf of the vendor;

**Article 15(1)
(amended by
91/680/EEC)**

Unchanged

- 2.(b) the supply of goods dispatched or transported to a destination outside out of the Community by or on behalf of a purchaser customer not established within ~~the their~~ territory ~~of the country~~, with the exception of goods transported by the purchaser customer himself for the equipping, fuelling and provisioning of pleasure boats and private aircraft or any other means of transport for private use~~;~~

**Article 15(2), first
subparagraph
(amended by
91/680/EEC)**

Adapted

Provisional draft text

<p>12.(c) <u>the supply of</u> goods supplied to approved bodies which export them from out of the Community as part of their humanitarian, charitable or teaching activities outside the Community;</p>	<p>Article 15(12), first sentence (amended by 91/680/EEC)</p>
	<p><i>Unchanged</i></p>
	<p><i>EN amended</i></p>
<p>3.(d) the supply of services consisting of work on movable property acquired or imported for the purpose of undergoing such work within the territory of the Community, and dispatched or transported out of from the Community by the person providing the services or supplier, by the customer if not established within the their territory of the country or on behalf of either of them;</p>	<p>Article 15(3) (replaced by 91/680/EEC and amended by 92/111/EEC)</p>
	<p><i>Adapted</i></p>
<p>13.(e) the supply of services, including transport and ancillary operations, but excluding the supply of services exempted in accordance with Article 13 <u>Articles 117, 120 and 121</u>, where these are directly connected with the export of goods or imports <u>import</u> of goods covered by the provisions of Article 7(3) or Article 16(1), Title A <u>Article 57 or Article 140(1)(a)</u>;</p>	<p>Article 15(13) (replaced by 92/111/EEC)</p>
	<p><i>Adapted</i></p>
<p>2. This <u>The</u> exemption <u>provided for in paragraph 1(c)</u> may be implemented <u>granted</u> by means of a refund of the tax <u>VAT</u>;</p>	<p>Article 15(12), second sentence (77/388/EEC)</p>
	<p><i>Adapted</i></p>
<p><i>Article 131</i></p>	
<p>1. In the case of <u>Where</u> the supply of goods <u>referred to in Article 130(1)(b) relates to goods</u> to be carried in the personal luggage of travellers, this the exemption shall apply on condition <u>that only when the following conditions have been met:</u></p>	<p>Article 15(2), second subparagraph (replaced by 95/7/EC)</p>
	<p><i>Adapted</i></p>

Provisional draft text

~~-(a)~~ the traveller is not established within the Community~~;~~

**Article 15(2),
second subpara-
graph, first indent
(replaced by
95/7/EC)**

Unchanged

~~-(b)~~ the goods are transported ~~to a destination outside~~ out of the Community before the end of the third month following that in which the supply ~~is effected~~ takes place;

**Article 15(2),
second subpara-
graph, second
indent
(replaced by
95/7/EC)**

Unchanged

EN amended

~~-(c)~~ the total value of the supply, including ~~value added tax~~ VAT, is more than EUR 175 or the equivalent in national currency ~~of ECU 175~~, fixed ~~in accordance with Article 7(2) of Directive 69/169/EEC~~; ~~however, Member States may exempt a supply with a total value of less than that amount once a year by applying the rate obtaining on the first working day of October with effect from 1 January of the following year.~~

**Article 15(2),
second subpara-
graph, third
indent, first
sentence
(replaced by
95/7/EC)**

Adapted

*Incorporates parts
of Article 7(2) of
Directive
69/169/EEC*

~~however,~~ However, Member States may exempt a supply with a total value of less than ~~that~~ the amount laid down in paragraph 1(c).

**Article 15(2),
second subpara-
graph, third
indent, second
sentence
(replaced by
95/7/EC)**

Adapted

Provisional draft text

~~For the purposes of applying the second subparagraph:~~

**Article 15(2),
third subpara-
graph
(replaced by
95/7/EC)**

Obsolete

-2. For the purposes of paragraph 1, 'a traveller who is not established within the Community shall be taken to mean' means a traveller whose domicile or habitual residence is not situated within the Community. ~~For the purposes of this provision, 'domicile'~~ Domicile or habitual residence' ~~shall mean~~ means the place entered as such in a passport, identity card or other identity documents which the Member State within whose territory the supply takes place ~~recognizes~~ recognises as valid.

**Article 15(2),
third subpara-
graph, first indent
(replaced by
95/7/EC)**

Adapted

- ~~proof~~ Proof of exportation shall ~~be furnished by means~~ take the form of the invoice or other document ~~in lieu thereof, serving as invoice~~ endorsed by the customs office ~~where the goods left of exit from~~ the Community.

**Article 15(2),
third subpara-
graph, second
indent
(replaced by
95/7/EC)**

Unchanged

EN amended

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 second~~ subparagraph. The Commission shall ~~transmit forward~~ this information to the tax authorities ~~in~~ of the other Member States.

**Article 15(2),
fourth subpara-
graph
(inserted by
95/7/EC)**

Adapted

Provisional draft text

~~Article 28k~~Obsolete provision

Miscellaneous provisions

~~The following provisions shall apply until 30 June 1999:~~

~~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.~~

~~For the purposes of this Article:~~

~~(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;~~

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

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

Obsolete

**Article 28k,
introduction
(inserted by
91/680/EEC)**

Obsolete

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

Obsolete

**Article 28k(1),
second subpara-
graph
(inserted by
91/680/EEC)**

Obsolete

**Article 28k(1),
second subpara-
graph, point (b)
(inserted by
91/680/EEC)**

Obsolete

Provisional draft text

(e) '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.	Article 28k(1), second subparagraph, point (c) (inserted by 91/680/EEC) <i>Obsolete</i>
Supplies of goods effected by tax-free shops shall include supplies of goods effected on board aircraft or vessels during intra-Community passenger transport.	Article 28k(1), third subparagraph (inserted by 91/680/EEC) <i>Obsolete</i>
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.	Article 28k(1), fourth subparagraph (inserted by 91/680/EEC) <i>Obsolete</i>
2. Eligibility for the exemption provided for in paragraph 1 shall apply only to supplies of goods:	Article 28k(2) (inserted by 91/680/EEC) <i>Obsolete</i>
(a) the total value of which per person per journey does not exceed ECU 90.	Article 28k(2)(a), first subparagraph (replaced by 94/4/EC) <i>Obsolete</i>
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.	Article 28k(2)(a), second subparagraph (inserted by 94/4/EC) <i>Obsolete</i>

Provisional draft text

— 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;	Article 28k(2)(a), third subparagraph (inserted by 91/680/EEC) <i>Obsolete</i>
(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.	Article 28k(2)(b), first subparagraph (inserted by 91/680/EEC) <i>Obsolete</i>
— 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).	Article 28k(2)(b), second subparagraph (inserted by 91/680/EEC) <i>Obsolete</i>
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.	Article 28k(3) (inserted by 91/680/EEC) <i>Obsolete</i>
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.	Article 28k(4) (inserted by 91/680/EEC) <i>Obsolete</i>
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(5) (inserted by 91/680/EEC) <i>Obsolete</i>

Provisional draft text

Chapter 7

Exemptions for international transport

Article 132

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:

~~4.~~ ~~the supply of goods for the fuelling and provisioning of vessels:~~

(a) ~~used for navigation on the high seas and carrying passengers for reward or used for the purpose of commercial, industrial or the supply of goods for the fuelling and provisioning of vessels excluded by Article 3(2)(b), except ship's provisions for vessels used for inshore fishing activities;~~

(b) ~~used for rescue or assistance at sea, or for inshore fishing, with the exception, for the latter, of ships' provisions;~~

~~(e)~~(b) ~~the supply of goods for the fuelling and provisioning of vessels of war, as defined in subheading 89.01 A of the Common Customs Tariff, leaving the country falling within CN code 8906 10 00 leaving their territory and bound for foreign ports or anchorages outside the Community;~~

Based on the heading of Article 15

Article 15, introduction (77/388/EEC)

Adapted

Article 15(4), first subparagraph (77/388/EEC)

Obsolete

Article 15(4), first subparagraph, point (a) (77/388/EEC)

Adapted

Article 15(4), first subparagraph, point (b) (77/388/EEC)

Obsolete

Article 15(4), first subparagraph, point (c) (77/388/EEC)

Adapted

Provisional draft text

<p>5.(c) the supply, modification, repair, maintenance, chartering and hiring of the sea-going vessels referred to in paragraph 4(a) and (b) excluded by Article 3(2)(b) and the supply, hiring, repair and maintenance of equipment—, including fishing equipment—, incorporated or used therein;</p>	<p>Article 15(5) (77/388/EEC)</p> <p><i>Adapted</i></p>
<p>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 excluded by Article 3(2)(b) or of their cargoes;</p>	<p>Article 15(8) (77/388/EEC)</p> <p><i>Adapted</i></p>
<p>7.(e) the supply of goods for the fuelling and provisioning of aircraft referred to in paragraph 1(g) excluded by Article 3(2)(c);</p>	<p>Article 15(7) (77/388/EEC)</p> <p><i>Adapted</i></p>
<p>6.(f) the supply, modification, repair, maintenance, chartering and hiring of aircraft used by airlines operating for reward chiefly on international routes excluded by Article 3(2)(c), and the supply, hiring, repair and maintenance of equipment incorporated or used therein;</p>	<p>Article 15(6) (77/388/EEC)</p> <p><i>Adapted</i></p>
<p>9.(g) the supply of services other than those referred to in paragraph 6 point (f), to meet the direct needs of aircraft referred to in that paragraph excluded by Article 3(2)(c) or of their cargoes;</p>	<p>Article 15(9) (77/388/EEC)</p> <p><i>Adapted</i></p>
<p><i>Article 133</i></p>	
<p>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.</p>	<p>Article 15(15) (inserted by Act of Accession, E and P)</p> <p><i>Adapted</i></p>

Provisional draft text

Article 134

1. The Commission shall submit to the Council ~~as soon as possible, at the earliest opportunity,~~ proposals ~~to establish Community fiscal rules specifying aimed at defining~~ the scope of ~~and practical arrangements for implementing~~ the exemptions provided for in ~~(5) to (9)~~ Article 132 and laying down the detailed rules for implementing them.

**Article 15(4)
second subpara-
graph, first
sentence
(replaced by
92/111/EEC)**

Adapted

2. Until ~~these~~ the rules referred to in paragraph 1 come into force, Member States may limit the ~~extent of these~~ scope of the exemptions provided for under Article 132(a) and (b).

**Article 15(4)
second subpara-
graph, second
sentence
(replaced by
92/111/EEC)**

Adapted

Chapter 8

Exemptions for transactions treated as exports

*Based on the
heading of
Article 15*

Article 135

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 supplies of goods and services:

**Article 15,
introduction
(77/388/EEC)**

Adapted

- ~~10.~~ ~~supplies of goods and services:~~

**Article 15(10),
first subpara-
graph
(77/388/EEC)**

Obsolete

Provisional draft text

(a) the supply under diplomatic and consular arrangements;

**Article 15(10),
first subparagraph,
first indent
(77/388/EEC)**

Adapted

–(b) the supply to international ~~organizations—recognized~~ organisations recognised as such by the public authorities of the host ~~country, Member State,~~ and to members of such ~~organizations~~ organisations, within the limits and under the conditions laid down by the international conventions establishing the ~~organizations—organisations~~ or by headquarters agreements;

**Article 15(10),
first subparagraph,
second indent
(77/388/EEC)**

Adapted

–(c) ~~effected~~ the supply 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 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) ~~to~~ the supply 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

~~This exemption—~~ The exemptions referred to in the first subparagraph shall be subject to the limitations laid down by the host Member State until Community common tax rules are adopted.

**Article 15(10),
second subparagraph
(amended by
91/680/EEC and
92/111/EEC)**

Adapted

Provisional draft text

2. In cases where the goods are not dispatched or transported out of ~~the country~~ the Member State in which they are supplied, 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 subpara-
graph
(replaced by
92/111/EEC)**

Unchanged

EN amended

Article 136

~~11.~~ supplies Member States shall exempt the supply of gold to ~~Central Banks~~ central banks.

**Article 15(11)
(77/388/EEC)**

Adapted

Chapter 9

Exemptions for supplies of services by intermediaries

*Based on the
heading of
Article 15*

Article 137

~~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 part of 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 referred to in the first paragraph does not apply to travel agents who supply, in the name and ~~for account on behalf~~ of ~~the traveller~~ travellers services which are ~~supplied~~ carried out in ~~other~~ Member States other than that in which the travel agent is established.

**Article 15(14),
second subpara-
graph
(77/388/EEC)**

Adapted

Chapter 10

Exemptions for transactions relating to international trade

*Based on the
heading of
Article 16*

Provisional draft text

Section 1

Customs and tax warehouses and other similar arrangements

Article 16 Obsolete provision

Special exemptions linked to international goods traffic

~~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:~~

~~A. imports of goods which are intended to be placed under warehousing arrangements other than customs;~~

~~B. supplies of goods which are intended to be:~~

~~(a) produced to customs and, where applicable, placed in temporary storage;~~

Article 16
(77/388/EEC)

Heading of
Article 16
(77/388/EEC)

Obsolete

Article 16(1)
(77/388/EEC)

Obsolete

Article 16(1)(A)
(replaced by
91/680/EEC)

Obsolete

Article 16(1)(B),
first subpara-
graph
(replaced by
91/680/EEC)

Obsolete

Article 16(1)(B),
first subpara-
graph, point (a)
(replaced by
91/680/EEC)

Obsolete

Provisional draft text

~~(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 subpara-
graph, point (d),
second indent
(replaced by
91/680/EEC)**

Obsolete

Provisional draft text

(e) placed under warehousing arrangements other than customs;	Article 16(1)(B), first subparagraph, point (e) (replaced by 91/680/EEC) <i>Obsolete</i>
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) <i>Obsolete</i>
C. supplies of services relating to the supplies of goods referred to in B;	Article 16(1)(C) (replaced by 91/680/EEC) <i>Obsolete</i>
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) <i>Obsolete</i>
E. supplies:	Article 16(1)(E) (replaced by 91/680/EEC) <i>Obsolete</i>
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 (replaced by 91/680/EEC) <i>Obsolete</i>

Provisional draft text

~~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
(replaced by
91/680/EEC)**

Obsolete

~~as well as supplies of services relating to such supplies.~~

**Article 16(1)(E)
in fine
(replaced by
91/680/EEC)**

Obsolete

Article 138

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 are not ~~aimed at~~ intended for final use and/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 transactions been taxed within ~~the their~~ territory ~~of the country~~.

**Article 16(1)
(replaced by
Article 28c(E)(1)
of 95/7/EC)**

Adapted

Article 139

~~B.1. supplies of goods which are intended to be~~ Member States may exempt the following transactions:

**Article 16(1)(B),
first subpara-
graph
(replaced by
Article 28c(E)(1)
of 95/7/EC)**

Adapted

Provisional draft text

- | | |
|--|---|
| (a) produced <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) (replaced by Article 28c(E)(1) of 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) (replaced by Article 28c(E)(1) of 95/7/EC)

<i>Adapted</i> |
| (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) (replaced by Article 28c(E)(1) of 95/7/EC)

<i>Adapted</i> |
| (d) — admitted into territorial waters: | Article 16(1)(B), first subparagraph, point (d) (replaced by Article 28c(E)(1) of 95/7/EC)

<i>Obsolete</i> |
| -(d) <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; | Article 16(1)(B), first subparagraph, point (d), first indent (replaced by Article 28c(E)(1) of 95/7/EC)

<i>Adapted</i> |

Provisional draft text

(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 (replaced by Article 28c(E)(1) of 95/7/EC)

Adapted

2. The places referred to in ~~(a), (b), (c) and (d)~~ shall be as paragraph 1 are those defined as such by the Community customs provisions in force.

Article 16(1)(B), second subparagraph (replaced by Article 28c(E)(1) of 95/7/EC)

Adapted

Article 140

1. Member States may exempt the following transactions:

Based on the first subparagraph of Article 16(1)

~~A.(a) imports the importation~~ of goods which are intended to be placed under warehousing arrangements other than customs warehousing;

Article 16(1)(A) (replaced by Article 28c(E)(1) of 95/7/EC)

Unchanged

EN amended

~~(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 (replaced by Article 28c(E)(1) of 95/7/EC)

Adapted

Provisional draft text

2. For the purposes of ~~this Article~~ paragraph 1, warehouses other than customs warehouses shall, in the case of products subject to excise duty, be taken to be 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 (replaced by Article 28c(E)(1) of 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 (replaced by Article 28c(E)(1) of 95/7/EC)

Obsolete

~~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 (replaced by Article 28c(E)(1) of 95/7/EC)

Obsolete

Provisional draft text

~~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 (replaced by Article 28c(E)(1) of 95/7/EC)

Adapted

Article 141

- Nevertheless, By way of derogation from the second subparagraph of Article 140(2), Member States may provide for ~~such~~ warehousing arrangements other than customs warehousing for the following goods ~~intended for~~:

Article 16(1)(B), first subparagraph, point (e), third subparagraph (replaced by Article 28c(E)(1) of 95/7/EC)

Adapted

~~— taxable persons for the purposes of supplies effected under the conditions laid down in Article 28k;~~

Article 16(1)(B), first subparagraph, point (e), third subparagraph, first indent (replaced by Article 28c(E)(1) of 95/7/EC)

Obsolete

Provisional draft text

<p>-(a) <u>goods intended for</u> tax-free shops within the meaning of Article 28k, for the purposes of <u>their</u> supplies to travellers taking flights or sea crossings to <u>third territories or</u> third countries, where those supplies are exempt pursuant to Article 15 Chapters 6 to 9;</p>	<p>Article 16(1)(B) first subparagraph, point (e), third subparagraph, second indent (replaced by Article 28c(E)(1) of 95/7/EC)</p>
<p><i>Adapted</i></p>	
<p>-(b) <u>goods intended for</u> taxable persons for the purposes of <u>their</u> supplies to travellers on board aircraft or vessels during a flight or sea crossing where the place of arrival is situated outside the Community;</p>	<p>Article 16(1)(B) first subparagraph, point (e), third subparagraph, third indent (replaced by Article 28c(E)(1) of 95/7/EC)</p>
<p><i>Adapted</i></p>	
<p>-(c) <u>goods intended for</u> taxable persons for the purposes of <u>their</u> supplies effected free-exempt of tax-VAT pursuant to Article 15, point 10 Article 135.</p>	<p>Article 16(1)(B) first subparagraph, point (e), third subparagraph, fourth indent (replaced by Article 28c(E)(1) of 95/7/EC)</p>
<p><i>Adapted</i></p>	
<p>(a)2. <u>For the purposes of paragraph 1(a),</u> ‘tax-free shop’ shall mean <u>means</u> any establishment situated within an airport or port which fulfils the conditions laid down by the competent public authorities pursuant, in particular, to paragraph 5;</p>	<p>Article 28k(1), second subparagraph, point (a) (inserted by 91/680/EEC)</p>
<p><i>Adapted</i></p>	

Provisional draft text

Article 142

~~C.~~ ~~supplies~~ ~~Member States may exempt the supply~~ of services relating to the ~~supplies~~ ~~supply~~ of goods referred to in ~~B~~, Article 139, Article 140(1)(b) and Article 141;

Article 16(1)(C)
(replaced by
Article 28c(E)(1)
of 95/7/EC)

Adapted

Article 143

~~D.1.~~ ~~supplies~~ ~~Member States may exempt the supply~~ of goods and of services carried out in the following cases:

Article 16(1)(D),
first subpara-
graph
(replaced by
Article 28c(E)(1)
of 95/7/EC)

Adapted

(a) ~~in the places~~ ~~cases~~ listed in ~~B(a), (b), (c) and (d)~~ and still ~~subject to~~ Article 139(1) where one of the situations specified therein still applies;

Article 16(1)(D),
first subpara-
graph, point (a)
(replaced by
Article 28c(E)(1)
of 95/7/EC)

Adapted

(b) ~~in the places~~ ~~cases~~ listed in ~~B(e)~~ and still ~~subject, within the territory of the country, to~~ Article 140(1)(b) and Article 141, where one of the ~~situation~~ ~~situations~~ specified ~~therein~~ in Article 140(1)(b) and Article 141(1) still applies within their territory.

Article 16(1)(D),
first subpara-
graph, point (b)
(replaced by
Article 28c(E)(1)
of 95/7/EC)

Adapted

Provisional draft text

2. Where they exercise the option provided for in ~~(a) paragraph 1(a)~~ for transactions effected in customs warehouses, Member States shall take the measures necessary to ~~ensure that they have defined~~ provide for warehousing arrangements other than customs warehousing which permit ~~the provisions in (b) paragraph 1(b)~~ to be applied to the same transactions concerning goods listed in ~~Annex J–Annex V~~ which are ~~effected in such~~ carried out in warehouses other than customs warehouses;

**Article 16(1)(D),
second subparagraph
(replaced by
Article 28c(E)(1)
of 95/7/EC)**

Adapted

Article 144

E.—Member States may exempt the following supplies of goods and of services relating thereto:

**Article 16(1)(E)
(replaced by
Article 28c(E)(1)
of 95/7/EC)**

Adapted

(a) the supply of goods referred to in ~~Article 7(1)(a) still subject to the first paragraph of Article 29 which are still covered by~~ arrangements for temporary importation with total exemption from import duty or ~~to by~~ external transit arrangements;

**Article 16(1)(E),
first indent
(replaced by
Article 28c(E)(1)
of 95/7/EC)**

Adapted

(b) the supply of goods referred to in ~~Article 7(1)(b) still subject to the second paragraph of Article 29 which are still covered by~~ the internal Community transit procedure provided for in ~~Article 33a~~ Article 256;

**Article 16(1)(E),
second indent
(replaced by
Article 28c(E)(1)
of 95/7/EC)**

Adapted

~~services relating to supplies of goods referred to under points (a) and (b).~~

**Article 16(1)(E),
in fine
(replaced by
Article 28c(E)(1)
of 95/7/EC)**

Obsolete

Provisional draft text

Article 145

~~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 an 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 139, Article 140(1)(b) and Article 141 is covered by~~ the same provisions as ~~supplies the supply~~ of goods ~~effected that takes place~~ within ~~the country their territory~~ under the same conditions.

Article 16(1a)
(inserted by
Article 28c(E)(1)
of 95/7/EC)

Adapted

Article 146

When the ~~removal of fact that the~~ goods ~~from~~ cease to be covered by the arrangements or situations referred to in this ~~paragraph~~ Section gives rise to importation within the meaning of ~~Article 7(3) Article 57,~~ the Member State of ~~import~~ importation shall take the measures necessary to avoid double taxation ~~within the country.~~

Article 16(1),
third subpara-
graph
(replaced by
Article 28c(E)(1)
of 95/7/EC)

Adapted

Section 2

Transactions with a view to export

Article 147

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 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, persons,~~ up to ~~a maximum an amount~~ an amount equal to the value of ~~his~~ their exports during the preceding 12 months.;

Article 16(2), first
subparagraph
(amended by
Article 28c(E)(2)
of 92/111/EEC)

Adapted

Provisional draft text

- ~~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 taxable person and imports for and supplies of goods to a taxable person intending to export them outside 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.~~
- ~~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.~~
- ~~2. When they take up this Where Member States exercise the option the Member States provided for in paragraph 1, they shall, subject to the consultation provided for in Article 29, extend the benefit of after consulting the VAT Committee, also apply this exemption to intra-Community acquisitions of goods by a transactions relating to such supplies carried out by taxable person, imports for and supplies of goods to a taxable person intending to supply them, as they are or after processing persons, under the conditions laid down in Article 28c(A), as well as supplies of services relating to such supplies, Article 123, up to a maximum an amount equal to the value of his supplies of goods effected under the conditions laid down in Article 28c(A) the goods supplied under those conditions during the preceding twelve-12 months.~~

Article 148

Member States may set a common maximum amount for transactions which they exempt under the first and second subparagraphs Article 147.

Article 16(2), first subparagraph (amended by Article 28c(E)(2) of 92/111/EEC)

Adapted

Article 16(2), first subparagraph (amended by Article 28c(E)(2) of 92/111/EEC)

Adapted

Article 16(2), second subparagraph (inserted by Article 28c(E)(2) of 92/111/EEC)

Adapted

Article 16(2), third subparagraph (inserted by Article 28c(E)(2) of 92/111/EEC)

Adapted

Provisional draft text

Section 3

Provisions common to Sections 1 and 2

Article 149

~~3.~~—The Commission shall submit 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 the right to deduct

~~Article 17~~ *Article 150*

~~Origin and scope of the right to deduct~~

~~1.~~—The right to deduct shall arise at the time ~~when~~ the deductible tax becomes chargeable.

Article 16(3)
(77/388/EEC)

Adapted

Title XI
(77/388/EEC)

Heading of
Title XI
(77/388/EEC)

Unchanged

Based on the
heading of
Article 17

Article 17
(77/388/EEC)

Heading of
Article 17
(77/388/EEC)

Obsolete

Article 17(1)
(77/388/EEC)

Unchanged

EN amended

Provisional draft text

Obsolete provisions

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) <i>Obsolete</i>
(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) <i>Obsolete</i>
(b) value added tax due or paid in respect of imported goods;	Article 17(2)(b) (77/388/EEC) <i>Obsolete</i>
(c) value added tax due under Articles 5(7)(a) and 6(3).	Article 17(2)(c) (77/388/EEC) <i>Obsolete</i>
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) <i>Obsolete</i>
(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) <i>Obsolete</i>
(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) <i>Obsolete</i>
(c) 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) <i>Obsolete</i>

Provisional draft text

<p>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.</p>	<p>Article 17(4), first subparagraph (77/388/EEC)</p> <p><i>Obsolete</i></p>
<p>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.</p>	<p>Article 17(4), second subparagraph (77/388/EEC)</p> <p><i>Obsolete</i></p>
<p><i>Article 28f</i> Article 151</p>	<p>Article 28f (inserted by 91/680/EEC)</p>
<p>Right of deduction</p>	<p>Heading of Article 28f (inserted by 91/680/EEC)</p> <p><i>Obsolete</i></p>
<p>2. In so far as the goods and services are used for the purposes of his taxable <u>their taxed</u> transactions, the taxable <u>person</u> persons shall be entitled to deduct from the tax which he is <u>they are</u> liable to pay:</p>	<p>Article 17(2) (replaced by Article 28f(1) of 91/680/EEC)</p> <p><i>Adapted</i></p>
<p>(a) value added tax-VAT due or paid <u>within in</u> the <u>territory of the country</u> Member State in respect of goods or services supplied or to be supplied to him <u>them</u> by another <u>other</u> taxable person <u>persons</u>;</p>	<p>Article 17(2)(a) (replaced by Article 28f(1) of 95/7/EC)</p> <p><i>Adapted</i></p>
<p>(e)(b) value added tax-VAT due <u>in respect of transactions treated as a supply of goods or services</u> pursuant to Articles 5(7)(a), 6(3) and 28a(6) <u>Articles 17(a), 20, 21 and 26</u>;</p>	<p>Article 17(2)(c) (replaced by Article 28f(1) of 91/680/EEC)</p> <p><i>Adapted</i></p>

Provisional draft text

~~(d)(c)~~ ~~value added tax VAT~~ due in respect of intra-Community acquisitions of goods pursuant to ~~Article 28a(1)(a)~~ Article 3(1)(2)(a);

Article 17(2)(d)
(replaced by
Article 28f(1) of
91/680/EEC)

Adapted

~~(b)(d)~~ ~~value added tax VAT~~ due or paid in respect of ~~imported~~ goods within imported into the territory of the country Member State;

Article 17(2)(b)
(replaced by
Article 28f(1) of
91/680/EEC)

Adapted

Article 152

~~3. — Member States shall also grant every All taxable person the right to the deduction or refund of the value added tax persons shall have the right to deduct the VAT referred to in paragraph 2 Article 151 or be entitled to a refund in so far as the goods and services are used for the following purposes of:~~

Article 17(3)
(replaced by
Article 28f(1) of
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, on 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)
(replaced by
Article 28f(1) of
91/680/EEC)

Adapted

(b) transactions which are exempt pursuant to ~~Article 14(1)(i), 15, 16(1)(B), (C), (D) or (E) or (2) or 28c(A) and (C) Articles 123 and 127, Article 128(k), Articles 130 to 133, 135, 136, 137 and 139, Article 140(1)(b) and Articles 141 to 144 and 147;~~

Article 17(3)(b)
(replaced by
Article 28f(1) of
91/680/EEC and
amended by
Article 28f(1) of
92/111/EEC)

Adapted

Provisional draft text

- (c) ~~any of the~~ transactions which are exempt pursuant to ~~Article 13(B)(a) and (d)(1) to (5), when Article 120(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)
(replaced by
Article 28f(1) of
91/680/EEC)

Adapted

Article 153

- ~~4. The refund of value added tax referred to in paragraph 3 shall be effected:~~

Article 17(4), first
subparagraph
(replaced by
Article 28f(1) of
91/680/EEC)

Obsolete

- ~~-1. to taxable~~ Taxable persons who are not established ~~within in~~ the ~~territory of the country~~ Member State concerned but who are established in another Member State shall be refunded VAT in accordance with the detailed implementing rules laid down ~~in by~~ Council Directive 79/1072/EEC⁸.

Article 17(4), first
subparagraph,
first indent
(replaced by
Article 28f(1) of
91/680/EEC)

Adapted

- ~~For the purpose of applying the above:~~

Article 17(4)
second subpara-
graph
(inserted by
Article 28f(1) of
92/111/EEC)

Obsolete

⁸ OJ L 331, 27.12.1979, p. 11.

Provisional draft text

(a) ~~the~~ The taxable persons referred to in Article 1 of Directive 79/1072/EEC shall also be considered for the purpose of applying the said Directive 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~~ supplied of goods ~~and or~~ services to a person who has been designated as the person liable to pay the tax in accordance with ~~Article 21(1)(a) and (e)~~ Articles 175 and 177.

Article 17(4), second subparagraph, point (a) (inserted by Article 28f(1) of 92/111/EEC and amended by Article 28f(1) of 2000/65/EC)

Adapted

~~-2. to taxable~~ Taxable persons who are not established within the territory of the Community; shall be refunded VAT in accordance with the detailed implementing rules laid down in Council Directive 86/560/EEC⁹.

Article 17(4), first subparagraph, second indent (replaced by Article 28f(1) of 91/680/EEC)

Adapted

(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 Directive as taxable persons who are not established in the Community ~~when, inside the territory of the country,~~ where, in the relevant Member State, they have only ~~carried out supplies of~~ supplied goods ~~and or~~ services to a person who has been designated as the person liable to pay the tax in accordance with ~~Article 21(1)(a)~~ Articles 175 and 177;

Article 17(4), second subparagraph, point (b) (inserted by Article 28f(1) of 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 28c(A) when~~ Article 123 where the goods 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) (inserted by Article 28f(1) of 92/111/EEC)

Adapted

⁹ OJ L 326, 21.11.1986, p. 40.

Provisional draft text

Article 154

~~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 subpara-
graph
(inserted by
91/680/EEC)**

Obsolete

~~1. the taxable person~~ Persons treated as taxable persons because they supply, on an occasional basis, a new means of transport under the conditions laid down in Article 123(2)(a) shall be authorised, in the Member State in which the supply takes place, have the right to deduct the value-added tax-VAT included in the purchase price or paid on-in respect of the importation or intra-Community acquisition of the-this means of transport, up to an amount not exceeding the amount of the tax for which he-they would be liable if the supply were not exempt.

**Article 28a(4),
second subpara-
graph, second
indent
(inserted by
91/680/EEC)**

Adapted

~~the-The right of deduction to deduct shall arise and may be exercised only at the time of the-supply of the new means of transport,.~~

**Article 28a(4),
second subpara-
graph, first indent
(inserted by
91/680/EEC)**

Adapted

2. Member States shall lay down the detailed rules for the implementation of these-provisions the right to deduct VAT pursuant to paragraph 1.

**Article 28a(4),
third subpara-
graph
(inserted by
91/680/EEC)**

Adapted

Chapter 2

Proportional deduction

*Based on the
heading of
Article 19*

Provisional draft text

Article 155

5.1. ~~As regards~~ In the case of goods and services ~~to be~~ used by a taxable ~~person~~ persons both for transactions ~~covered by paragraphs 2 and 3,~~ in respect of which ~~value added tax~~ VAT is deductible under Articles 151 and 152, and for transactions in respect of which ~~value added tax~~ VAT is not deductible, only ~~such that~~ such that proportion of the ~~value added tax shall be deductible as is~~ VAT attributable to the former transactions shall be deductible.

~~This~~ The deductible proportion shall be determined, in accordance with ~~Article 19~~ Articles 156 and 157, for all ~~the~~ taxable transactions carried out by ~~the~~ taxable person persons.

2. ~~However,~~ Member States may:

(a) ~~authorize~~ the ~~authorise~~ taxable ~~person~~ persons to determine a proportion for each sector of ~~his~~ their business, ~~provided that where~~ separate accounts are kept for each sector;

(b) ~~compel~~ the ~~require~~ taxable ~~person~~ persons to determine a proportion for each sector of ~~his~~ their business and to keep separate accounts for each sector;

Article 17(5), first subparagraph (77/388/EEC)

Adapted

Article 17(5), second subparagraph (77/388/EEC)

Adapted

Article 17(5), third subparagraph (77/388/EEC)

Adapted

Article 17(5), third subparagraph, point (a) (77/388/EEC)

Unchanged

EN amended

Article 17(5), third subparagraph, point (b) (77/388/EEC)

Unchanged

EN amended

Provisional draft text

- (c) ~~authorize or compel the~~ authorise or require taxable ~~person~~ persons to make the deduction ~~on the basis of the use according to the use made~~ of all or part of the goods and services;

Article 17(5),
third subparagraph, point (c)
(77/388/EEC)

Unchanged

EN amended

- (d) ~~authorize of compel the~~ authorise or require taxable ~~person~~ persons to make the deduction in accordance with the rule laid down in ~~the first subparagraph, in respect of the first subparagraph of paragraph 1, for~~ all goods and services used for all transactions referred to therein;

Article 17(5),
third subparagraph, 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 be treated as nil.

Article 17(5),
third subparagraph, point (e)
(77/388/EEC)

Adapted

~~Article 19~~ Article 156

~~Calculation of the deductible proportion~~

Article 19
(77/388/EEC)

Heading of
Article 19
(77/388/EEC)

Obsolete

1. The deductible proportion ~~deductible under the first subparagraph of Article 17(5)~~ shall be made up of a fraction ~~having consisting of the following~~:

Article 19(1), first
subparagraph
(77/388/EEC)

Adapted

- ~~-(a)~~ as numerator, the total amount, exclusive of ~~value added tax VAT~~, of turnover per year attributable to transactions in respect of which ~~value added tax VAT~~ is deductible under ~~Article 17(2) and (3) Articles 150 to 159;~~

Article 19(1), first
subparagraph,
first indent
(77/388/EEC)

Adapted

Provisional draft text

<p>-(b) as denominator, the total amount, exclusive of value added tax VAT, of turnover per year attributable to transactions included in the numerator and to transactions in respect of which value added tax VAT is not deductible.</p>	<p>Article 19(1), first subparagraph, second indent, first sentence (77/388/EEC)</p>
<p>The<u>In addition to the amount referred to in point (b) of the first subparagraph</u> Member States may also include in the denominator the amount of subsidies, other than those specified in Article 11A(1)(a) <u>directly linked to the price of the supplies of goods or services.</u></p>	<p>Article 19(1), first subparagraph, second indent, second sentence (77/388/EEC)</p>
<p>2. By way of derogation from the provisions of paragraph 1, there shall be excluded from the calculation of the deductible proportion, amounts <u>the amount</u> of turnover attributable to the supplies of capital goods used by the taxable person <u>persons</u> for the purposes of his <u>their</u> business <u>shall be excluded from the calculation of the deductible proportion.</u></p>	<p>Article 19(2), first sentence (77/388/EEC)</p> <p><i>Unchanged</i></p> <p><i>EN amended</i></p>
<p>Amounts<u>In addition to the exclusion referred to in the first subparagraph, the amount</u> of turnover attributable to <u>real estate and financial</u> transactions <u>and those</u> specified in Article 13B(d) <u>Article 120(1)(b) to (g)</u>, in so far as these are incidental transactions, and to incidental real estate and financial transactions shall also be excluded.</p>	<p>Article 19(2), second sentence (77/388/EEC)</p> <p><i>Adapted</i></p>
<p><u>3.</u> Where Member States exercise the option provided under Article 20(5) <u>Article 172</u> not to require adjustment in respect of capital goods, they may include disposals of capital goods in the calculation of the deductible proportion.</p>	<p>Article 19(2), third sentence (77/388/EEC)</p> <p><i>Adapted</i></p>
<p><i>Article 157</i></p>	
<p><u>1.</u> The <u>deductible</u> proportion shall be determined on an annual basis, fixed as a percentage and rounded up to a figure not exceeding the next unit <u>whole number</u>.</p>	<p>Article 19(1), second subparagraph (77/388/EEC)</p> <p><i>Adapted</i></p>

Provisional draft text

~~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~~ If there are no transactions to refer to, or where they ~~were~~ are insignificant in amount, the deductible proportion shall be estimated provisionally, under ~~supervision of~~ the tax ~~authorities~~ authorities' supervision, by ~~the taxable person from his persons on the basis of their~~ own forecasts.

Article 19(3), first subparagraph, first and second sentences
(77/388/EEC)

Unchanged

EN amended

However, Member States may retain ~~their current the~~ rules in force at 1 January 1979 or, for Member States acceding 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~~ set during the ~~next following~~ year.

Article 19(3), second subparagraph
(77/388/EEC)

Unchanged

EN amended

Chapter 3

Restrictions on the right to deduct

Article 158

~~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 expenditure shall not be eligible for a deduction of ~~value added tax. Value added tax VAT.~~ 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

Provisional draft text

Until the ~~above~~ rules referred to in the first paragraph come into force, 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, for Member States acceding to the Community after that date, on the date of their accession.~~

**Article 17(6),
second subpara-
graph
(77/388/EEC)**

Adapted

Article 159

~~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 maintain identical conditions of competition, Member States may, instead of refusing deduction, tax ~~the~~ goods manufactured by ~~the~~ taxable ~~person himself~~ persons themselves or goods which ~~he has~~ they have 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 charged on the acquisition of similar goods.

**Article 17(7),
second sentence
(77/388/EEC)**

Adapted

Chapter 4

Rules governing the exercise of the right to deduct

*Based on the
heading of
Article 18*

Article 18 *Obsolete provision*

Rules governing the exercise of the right to deduct

**Article 18
(77/388/EEC)**

**Heading of
Article 18
(77/388/EEC)**

Obsolete

~~1. To exercise his right to deduct, the taxable person must:~~

**Article 18(1)
(77/388/EEC)**

Obsolete

Provisional draft text

<p>(a) in respect of deductions under Article 17(2)(a), hold an invoice, drawn up in accordance with Article 22(3);</p>	<p>Article 18(1)(a) (77/388/EEC)</p>
	<p><i>Obsolete</i></p>
<p>(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;</p>	<p>Article 18(1)(b) (77/388/EEC)</p>
	<p><i>Obsolete</i></p>
<p>(c) in respect of deductions under Article 17(2)(c), comply with the formalities established by each Member State;</p>	<p>Article 18(1)(c) (77/388/EEC)</p>
	<p><i>Obsolete</i></p>
<p>(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.</p>	<p>Article 18(1)(d) (77/388/EEC)</p>
	<p><i>Obsolete</i></p>
<p><i>Article 160</i></p>	
<p>1. To exercise his <u>their</u> right of <u>deduction</u>, a <u>to deduct</u>, taxable <u>person</u> <u>persons</u> must <u>meet the following conditions</u>:</p>	<p>Article 18(1) (replaced by Article 28f(2) of 91/680/EEC)</p>
	<p><i>Adapted</i></p>
<p>(a) in respect of deductions pursuant to Article 17(2)(a) <u>Article 151(a) for the supply of goods and services</u>, hold an invoice drawn up in accordance with Article 22(3) <u>Articles 198 to 209 and Articles 218, 219 and 220</u>;</p>	<p>Article 18(1)(a) (replaced by Article 28f(2) of 91/680/EEC)</p>
	<p><i>Adapted</i></p>
<p>(e)(b) in respect of deductions pursuant to Article 17(2)(e) <u>Article 151(b) for transactions treated as a supply of goods or services</u>, comply with the formalities established <u>laid down</u> by each Member State;</p>	<p>Article 18(1)(c) (replaced by Article 28f(2) of 91/680/EEC)</p>
	<p><i>Adapted</i></p>

Provisional draft text

~~(e)~~(c) in respect of deductions pursuant to ~~Article 17(2)(d)~~ Article 151(c) for the intra-Community acquisition of goods, set out in the VAT declaration provided for in ~~Article 22(4)~~ Article 229 all the information ~~needed~~ required for the amount of the VAT tax due ~~on his intra-Community~~ in respect of their acquisitions of goods to be calculated and hold an invoice drawn up in accordance with ~~Article 22(3)~~ Articles 198 to 209 and Articles 218, 219 and 220;

Article 18(1)(e)
(replaced by **Article 28f(2) of 91/680/EEC**)

Adapted

~~(b)~~(d) in respect of deductions pursuant to ~~Article 17(2)(b)~~ Article 151(d) for the importation of goods, hold ~~an~~ import ~~document~~ documents specifying ~~him~~ them as consignee or importer and stating or permitting the calculation of the amount of ~~tax~~ VAT due;

Article 18(1)(b)
(replaced by **Article 28f(2) of 91/680/EEC**)

Adapted

~~(d)~~(e) ~~when he is~~ where they are required to pay the tax as a customer ~~or purchaser~~ where ~~Article 21(1) applies~~, Articles 175, 176, 177 and 179 apply, comply with the formalities laid down by each Member State;

Article 18(1)(d)
(replaced by **Article 28f(2) of 91/680/EEC and amended by Article 28f(2) of 2000/65/EC**)

Adapted

Article 161

~~2. — The taxable person~~ Taxable persons 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 in respect of which, during the same period, the right to deduct has arisen and ~~can be~~ has been exercised ~~under the provisions of paragraph 1~~ in accordance with Article 160.

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)~~, Article 11 exercise the right to deduct ~~shall be exercised~~ only at the time of ~~the~~ supply.

Article 18(2), second subparagraph
(**77/388/EEC**)

Adapted

Provisional draft text

Article 162

3.— Member States ~~shall determine the conditions and procedures whereby a~~ may authorise taxable ~~person may be authorised to make persons to make~~ a deduction which ~~he~~ has not been made in accordance with ~~the provisions of paragraphs 1 and 2~~ Articles 160 and 161.

Article 18(3)
(77/388/EEC)

Adapted

Article 163

3a.— Member States may ~~authorize a~~ authorise taxable ~~person~~ persons who ~~does~~ do not hold an invoice drawn up in accordance with ~~Article 22(3) Articles 198 to 209 and Articles 218, 219 and 220~~ to make the deduction ~~referred for intra-Community acquisitions of goods pursuant to~~ in Article 17(2)(d) Article 151(c).

Article 18(3a),
first part of
sentence
(inserted by
Article 28f(3) of
91/680/EEC)

Adapted

Article 164

~~they~~ Member States shall determine the ~~conditions and arrangements~~ detailed rules for applying ~~this provision~~ Articles 162 and 163.

Article 18(3a),
second part of
sentence
(inserted by
Article 28f(3) of
91/680/EEC)

Adapted

Article 165

4.— Where for a given tax period the amount of ~~authorised~~ deductions exceeds the amount of ~~tax~~ VAT due, ~~the~~ Member States may either make a refund or carry the excess forward to the following period according to conditions ~~which they shall determine~~ to be laid down by them.

Article 18(4), first
subparagraph
(77/388/EEC)

Adapted

Provisional draft text

However, Member States may refuse to refund or carry forward ~~if~~ the amount of the excess if it is insignificant.

**Article 18(4),
second subpara-
graph
(77/388/EEC)**

Unchanged

EN amended

Chapter 5

Adjustment of deductions

*Based on the
heading of
Article 20*

~~Article 20~~ Article 166

**Article 20
(77/388/EEC)**

Adjustments of deductions

**Heading of
Article 20
(77/388/EEC)**

Obsolete

~~(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(1)(a)
(77/388/EEC)**

Adapted

Article 167

~~(b)1.~~ The adjustment referred to in Article 166 shall be made in particular where ~~after the return is made some change occurs in~~ the factors used to determine the amount to be deducted, ~~in particular~~ change after the return is made, 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 ~~eases the case~~ of transactions remaining totally or partially unpaid ~~and or~~ of destruction, loss or theft of property duly proved or confirmed, nor in the case of ~~applications goods~~ reserved for the purpose of making gifts of small value and giving samples ~~specified as referred to in Article 5(6)~~ Article 15.

**Article 20(1)(b),
second part of
first sentence
(77/388/EEC)**

Adapted

Provisional draft text

~~However, Member States may require adjustment in cases~~ In the case of transactions remaining totally or partially unpaid ~~and or~~ of theft, Member States may, however, require adjustment to be made.

**Article 20(1)(b),
second sentence
(77/388/EEC)**

Adapted

Article 168

~~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 166 and 167.

**Article 20(1)
(77/388/EEC)**

Adapted

Article 169

~~2.1.~~ In the case of capital goods, ~~adjustment adjustments~~ 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)**

Adapted

~~By way of derogation from the preceding subparagraph,~~ Member States may, however, base ~~the adjustment adjustments~~ on a period of five full years starting from the time at which the goods are first start to be used.

**Article 20(2),
second subpara-
graph
(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 subpara-
graph
(replaced by
95/7/EC)**

Unchanged

~~2.~~ ~~The annual adjustment~~ Annual adjustments shall be made only in respect of one-fifth, or, if the reference period has been extended, the corresponding fraction of the ~~tax~~ VAT imposed on the capital goods.

**Article 20(2), first
subparagraph,
second sentence
(77/388/EEC)**

Adapted

Provisional draft text

~~The adjustment~~ The adjustments 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.

Article 20(2), first subparagraph, third sentence (77/388/EEC)

Adapted

Article 170

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~~ allocated for business ~~use~~ activities by the taxable person ~~until expiry~~ up to the end of the ~~period of~~ adjustment ~~period~~.

Article 20(3), first subparagraph, first sentence (77/388/EEC)

Unchanged

EN amended

Such business activities are presumed to be ~~fully taxed in cases where the delivery of the said goods is taxed; they are presumed to be fully exempt where the delivery is exempt~~ subject to tax where the supply of the goods in question is taxed.

Article 20(3), first subparagraph, second sentence (77/388/EEC)

Unchanged

EN amended

~~Such business activities are presumed to be fully taxed in cases where the delivery of the said goods is taxed; they~~ They are presumed to be fully exempt where the ~~delivery~~ supply is exempt.

Article 20(3), first subparagraph, second sentence (77/388/EEC)

Unchanged

EN amended

2. ~~The~~ One single adjustment shall be made ~~only once~~ for the whole ~~period of~~ the adjustment ~~period~~ still to ~~be covered~~ run. However, in the ~~latter~~ case referred to in the third subparagraph of paragraph 1, Member States may waive the requirement for adjustment ~~in so far as the purchaser~~ if the person acquiring the goods 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

Provisional draft text

Article 171

4. — For the purposes of applying ~~the provisions of paragraphs 2 and 3~~ Articles 169 and 170, Member States may take the following measures:

~~-(a)~~ define the concept of capital goods~~;~~;

~~-(b)~~ indicate the amount of the ~~tax~~ VAT which is to be taken into ~~consideration~~ account for adjustment~~;~~;

~~-(c)~~ adopt any ~~suitable~~ measures ~~with a view to ensuring~~ necessary to ensure that adjustment does not ~~involve any unjustified~~ create any unfair advantage~~;~~;

~~-(d)~~ permit authorise administrative simplifications.

Article 20(4)
(77/388/EEC)

Adapted

Article 20(4), first indent
(77/388/EEC)

Unchanged

Article 20(4), second indent
(77/388/EEC)

Adapted

Article 20(4), third indent
(77/388/EEC)

Unchanged

EN amended

Article 20(4), fourth indent
(77/388/EEC)

Unchanged

EN amended

Provisional draft text

Article 172

5. — If in any Member State the practical effect of applying ~~paragraphs 2 and 3~~ would be ~~insignificant~~ Articles 169 and 170 in any Member State 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 these Articles in view of the overall ~~tax effect~~ VAT impact in the Member State concerned and the need for ~~due economy of administration~~ administrative simplifications provided there is no distortion of competition.

Article 173

6. — Where ~~the a~~ taxable person ~~transfers changes~~ from ~~being taxed in~~ the normal way system to a special scheme or *vice versa*, Member States may take all ~~necessary~~ necessary measures to ensure that the taxable person neither ~~benefits nor is prejudiced unjustifiably~~ enjoys any unfair advantage nor suffers any undue harm.

TITLE XII/TITLE XI

PERSONS LIABLE FOR PAYMENT FOR TAX/OBLIGATIONS OF TAXABLE PERSONS

Chapter 1

Obligation to pay

Section 1

Persons liable for payment of the tax to the Treasury

Article 20(5)
(77/388/EEC)

Adapted

Article 20(6)
(77/388/EEC)

Unchanged

EN amended

Title XII
(77/388/EEC)

Heading of Title XII
(77/388/EEC)

Adapted

Based on the heading of Article 21

Provisional draft text

~~Article 21~~ Obsolete provision

~~Persons liable to pay tax to the authorities~~

~~The following shall be liable to pay value added tax:~~

~~1. — under the internal system:~~

~~(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;~~

~~(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
(77/388/EEC)

Obsolete

Heading of
Article 21
(77/388/EEC)

Obsolete

Article 21,
introduction

Obsolete

Article 21(1)
(77/388/EEC)

Obsolete

Article 21(1)(a)
(77/388/EEC)

Obsolete

Article 21(1)(b)
(replaced by
1999/59/EC)

Obsolete

Provisional draft text

(e) any person who mentions the value added tax on an invoice or other document serving as invoice;	Article 21(1)(c) (77/388/EEC) <i>Obsolete</i>
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) <i>Obsolete</i>
<i>Article 28g</i>	Article 28g (inserted by 91/680/EEC) <i>Obsolete</i>
Persons liable for payment of the tax	Heading of Article 28g (inserted by 91/680/EEC) <i>Obsolete</i>
<i>Article 21</i> <i>Article 174</i>	Article 21 (replaced by Article 28g of 2000/65/EC)
Persons liable for payment for tax	Heading of Article 21 (replaced by Article 28g of 2000/65/EC) <i>Obsolete</i>
1. Under the internal system, the following shall be liable to pay value added tax:	Article 21(1) (replaced by Article 28g of 2000/65/EC) <i>Obsolete</i>

Provisional draft text

~~(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) and (e)~~ Articles 175 to 178.

**Article 21(1)(a),
first subpara-
graph
(replaced by
Article 28g of
2000/65/EC)**

Adapted

Article 175

Where the taxable supply of goods or ~~of~~ services is effected by a taxable person who is not established ~~within in~~ the ~~territory of the country~~ Member State where the VAT is payable, Member States may, ~~under conditions determined by them,~~ lay down that the person liable to pay the tax is the person ~~for to~~ whom the ~~taxable supply of~~ goods or ~~of~~ services ~~is carried out~~ are supplied.

**Article 21(1)(a),
second subpara-
graph
(replaced by
Article 28g of
2000/65/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 conditions determined by them,~~ shall 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~~ the detailed rules for implementing the first paragraph.

**Article 21(1)(a),
second subpara-
graph
(replaced by
Article 28g of
2000/65/EC)**

Adapted

Article 176

~~(b) — VAT shall be payable by any~~ taxable ~~persons person~~ to whom the services ~~covered by Article 9(2)(e) referred to in Article 52~~ 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)
(replaced by
Article 28g of
2000/65/EC)**

Adapted

Provisional draft text

Article 177

(e)1. VAT shall be payable by the person to whom the ~~supply of~~ goods is made are supplied when the following conditions are met:

**Article 21(1)(c),
first subpara-
graph
(replaced by
Article 28g of
2000/65/EC)**

Adapted

-(a) the taxable ~~operation transaction~~ is a supply of goods made under the conditions laid down in ~~Article 28e(E)(3)~~ Article 126;

**Article 21(1)(c),
first subpara-
graph, first indent
(replaced by
Article 28g of
2000/65/EC)**

Adapted

-(b) the person to whom the ~~supply of~~ goods is made are supplied is another taxable person or a non-taxable legal person identified for ~~the purposes of value added tax within the territory of the country~~ VAT purposes in a Member State other than that of the taxable person who has supplied the goods;

**Article 21(1)(c),
first subpara-
graph, second
indent
(replaced by
Article 28g of
2000/65/EC)**

Adapted

-(c) the invoice issued by the taxable person not established ~~within in the territory of the country conforms to Article 22(3)~~ Member State of the person to whom the goods are supplied is drawn up in accordance with Articles 198 to 209 and Articles 218, 219 and 220;

**Article 21(1)(c),
first subpara-
graph, third
indent
(replaced by
Article 28g of
2000/65/EC)**

Adapted

Provisional draft text

2. ~~However, Where a tax representative is appointed as the person liable for payment of the tax pursuant to Article 183, 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 (replaced by Article 28g of 2000/65/EC)

Adapted

Article 178

~~F. Reverse charge procedure~~

Heading of Article 26b(F) (inserted by 98/80/EC)

Obsolete

~~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 are supplied by a taxable person exercising one of the options provided for in Articles 327, 328 and 329, Member States may designate the purchaser customer as the person liable to pay for payment of the tax according to the procedures and conditions which they shall lay down.~~

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 179

~~(e) VAT shall be payable by any person effecting a taxable intra-Community acquisition of goods.~~

Article 21(1)(e) (replaced by Article 28g of 2000/65/EC)

Adapted

Provisional draft text

Article 180

~~4.— On importation, value added tax~~ In cases of importation, 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)
(replaced by
Article 28g of
2000/65/EC)**

Adapted

Article 181

~~By way of derogation from the first subparagraph of Article 21(1)(a), the 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 placed under the arrangements or situations listed in Articles 139, 140, 141, 143 and 144 to cease to be covered by ~~the~~ those arrangements or situations ~~listed in this paragraph.~~

**Article 16(1),
second subpara-
graph
(replaced by
Article 28c(E)(1)
of 95/7/EC)**

Adapted

Article 182

~~(d)— VAT shall be payable by~~ any person who ~~mentions~~ enters the value added tax on VAT in an invoice;

**Article 21(1)(d)
(replaced by
Article 28g of
2000/65/EC and
amended by
2001/115/EC)**

Adapted

Article 183

~~2.— By way of derogation from the provisions of paragraph 1:~~

**Article 21(2)
(inserted by
Article 28g of
2000/65/EC)**

Obsolete

Provisional draft text

- (a)1. ~~where~~ Where, in accordance with Articles 174 to 177 and Article 179, the person liable ~~to pay for payment of the tax in accordance with the provisions of paragraph 1~~ is a taxable person who is not established ~~within the territory of the country in the Member State where the VAT is payable~~, Member States may allow ~~him to appoint that person to appoint~~ a tax representative as the person liable ~~to pay for payment of the~~ tax. **Article 21(2)(a), first sentence (inserted by Article 28g of 2000/65/EC)**
Adapted
- (b) Furthermore, where the taxable transaction is effected by a taxable person who is not established ~~within the territory of the country in the Member State where the VAT is payable~~ and no legal instrument exists, with the country in which that taxable person ~~is~~ has established his business or has his seat, relating to mutual assistance similar in scope to that laid down by Council Directives 76/308/EEC¹⁰ and 77/799/EEC¹¹ and by Council Regulation (EEC) No 218/92¹², of 27 January 1992 on administrative cooperation in the field of indirect taxation (VAT) Member States may ~~take steps to provide that~~ adopt measures providing that the person liable for payment of the tax shall be a tax representative appointed by the non-established taxable person. **Article 21(2)(b) (inserted by Article 28g of 2000/65/EEC)**
Adapted
10. ~~Article 21(2)(b) shall~~ However, Member States may not apply the option referred to in the second subparagraph to ~~a non-established taxable person~~ persons not established in the Community as defined in point (1) of Article 338 who has ~~have~~ opted for ~~this the special~~ scheme for electronically supplied services. **Article 26c(B)(10) (inserted by 2002/38/EC)**
Adapted
2. ~~This~~ The option provided for in the first subparagraph of paragraph 1 shall be subject to the conditions and procedures laid down by ~~each the~~ Member State States; **Article 21(2)(a), second sentence (inserted by Article 28g of 2000/65/EC)**
Adapted

¹⁰ OJ L 73, 19.3.1976, p. 18.

¹¹ OJ L 336, 27.12.1977, p. 15.

¹² OJ L 24, 1.2.1992, p. 1.

Provisional draft text

Article 184

~~3.~~— In the situations referred to in ~~paragraphs 1 and 2~~ Articles 174 to 177; and Articles 179, 182 and 183, Member States may provide that ~~someone~~ a person other than the person liable for payment of the tax shall be held jointly and severally liable for ~~payment of the tax~~ payment of VAT.

**Article 21(3)
(replaced by
Article 28g of
2000/65/EC)**

Adapted

Section 2

Payment arrangements

Article 185

~~5.~~— ~~Every~~ Any taxable person ~~shall~~ liable for payment of the tax must pay the net amount of the ~~value added tax~~ VAT when submitting the ~~regular~~ VAT return pursuant to Article 229. Member States may, however, set a different date for ~~the~~ payment of that amount or may ~~demand an~~ require interim payments to be made.

**Article 22(5)
(replaced by
Article 28h of
91/680/EEC)**

Adapted

Article 186

~~7.~~— Member States shall take the measures necessary to ensure that those persons who, in accordance with ~~Article 21(1) and (2)~~ Articles 174 to 177 and Articles 179, 182 and 183, are ~~considered~~ deemed to be liable ~~to pay for payment of~~ the tax instead of a taxable person not established ~~within the territory of the country on 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
(replaced by
Article 28h of
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 184, 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
(replaced by
Article 28h of
2000/65/EC)**

Adapted

Provisional draft text

Article 187

When they exercise ~~this the~~ option to designate the customer of gold material or semi-manufactured products of a purity of 325 thousandths or greater, or investment gold as the person liable for payment of the tax, Member States shall take the measures necessary to ensure that ~~the that~~ person ~~designated as liable for the tax due fulfils 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 188

~~10.~~—Member States shall take the measures necessary to ensure that non-taxable legal persons who are liable for the tax payable ~~in respect of on~~ intra-Community acquisitions of goods ~~covered by the first subparagraph of Article 28a(1)(a) referred to in Article 3(1)(2)(a)~~ 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)
(inserted by
Article 28h of
91/680/EEC)**

Adapted

Article 189

~~11.~~—~~In the case of intra-Community acquisitions of products subject to excise duty referred to in Article 28a(1)(e) 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 in respect of the intra-Community acquisitions of new means of transport referred to in Article 3(1)(2)(b) and in respect of the intra-Community acquisitions of products subject to excise duty referred to in Article 3(1)(2)(c).

**Article 22(11)
(inserted by
Article 28h of
91/680/EEC and
amended by
Article 28h of
92/111/EEC)**

Adapted

Article 190

~~As regards imported goods,~~ Member States shall lay down the detailed payment rules for ~~the making of the declarations and payments imported goods.~~

**Article 23, first
subparagraph
(77/388/EEC)**

Adapted

Provisional draft text

In particular, Member States may provide that the ~~value added tax-VAT~~ payable on the importation of goods by taxable persons or persons liable ~~to for payment of the~~ tax or certain categories ~~of these two thereof~~ need not be paid at the time of importation, on condition that the tax is ~~mentioned entered~~ as such in ~~a the VAT~~ return to be submitted ~~under Article 22(4)~~ in accordance with Articles 229 and 230.

Article 191

~~(e)~~—Member States may release taxable persons from payment of the ~~tax~~ VAT due where the amount involved is insignificant.

TITLE XIII

OBLIGATIONS OF PERSONS LIABLE FOR PAYMENT

Article 22 *Obsolete provision*

Obligations under the internal system

~~1. — Every taxable person shall state when his activity as a taxable person commences, changes or ceases.~~

~~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 23, second subparagraph
(77/388/EEC)

Adapted

Article 22(9)(c)
(replaced by
Article 28h of
91/680/EEC)

Adapted

Title XIII
(77/388/EEC)

Heading of
Title XIII
(77/388/EEC)

Obsolete

Article 22
(77/388/EEC)

Obsolete

Heading of
Article 22
(77/388/EEC)

Obsolete

Article 22(1)
(77/388/EEC)

Obsolete

Article 22(2)
(77/388/EEC)

Obsolete

Provisional draft text

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.	Article 22(3)(a), first subparagraph (77/388/EEC) <i>Obsolete</i>
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.	Article 22(3)(a), second subparagraph (77/388/EEC) <i>Obsolete</i>
(b) The invoice shall state clearly the price exclusive of tax and the corresponding tax at each rate as well as any exemptions.	Article 22(3)(b) (77/388/EEC) <i>Obsolete</i>
(c) The Member States shall determine the criteria for considering whether a document serves as an invoice.	Article 22(3)(c) (77/388/EEC) <i>Obsolete</i>
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.	Article 22(4), first subparagraph (77/388/EEC) <i>Obsolete</i>
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.	Article 22(4), second subparagraph (77/388/EEC) <i>Obsolete</i>
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.	Article 22(5) (77/388/EEC) <i>Obsolete</i>

Provisional draft text

~~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.~~

Article 22(6)
(77/388/EEC)

Obsolete

~~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

Provisional draft text

Article 28h

Obligations of persons liable for payment

Article 22 Article 192

Obligations under the internal system

1. ~~(a) — Every~~ All taxable ~~person~~ persons shall state when ~~his~~ activity ~~their activities~~ as a taxable ~~person commences, changes~~ persons commence, change or cease.

Member States shall, subject to conditions which they lay down, allow ~~the~~ taxable ~~person~~ persons to make such statements by electronic means, and may also require ~~that electronic means are used~~ them to do so.

Article 28h
(inserted by
91/680/EEC)

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

Obsolete

Article 22
(replaced by
Article 28h of
91/680/EEC)

**Heading of
Article 22**
(replaced by
Article 28h of
91/680/EEC)

Obsolete

**Article 22(1)(a),
first sentence**
(replaced by
Article 28h of
2002/38/EC)

Unchanged

EN amended

**Article 22(1)(a),
second sentence**
(inserted by
Article 28h of
2002/38/EC)

Adapted

Provisional draft text

2. ~~(b)~~—Without prejudice to ~~(a)~~, every the first subparagraph of paragraph 1, all taxable person referred to in Article 28a(1)(a); second subparagraph, persons or non-taxable legal persons effecting intra-Community acquisitions of goods which are not subject to VAT pursuant to Article 4(1) shall state that he is effecting intra-Community they effect such acquisitions of goods when the conditions for application of the derogation provided for set out in that Article are not for not subjecting them to tax cease to be fulfilled.

Article 22(1)(b)
(replaced by
Article 28h of
91/680/EEC)

Adapted

Article 193

1. ~~(e)~~—Member States shall take the measures necessary to identify ensure the following persons are identified by means of an individual number:

Article 22(1)(c)
(replaced by
Article 28h of
91/680/EEC)

Adapted

- (a) ~~every~~ all taxable person persons, with the exception of those referred to in ~~Article 28a(4) Article 10(3)~~, who ~~within the territory of the country effects supplies of, in their territory, supply 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 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) or (e) Articles 175, 176 and 177;~~

Article 22(1)(c),
first indent, first
sentence
(replaced by
Article 28h of
2000/65/EC)

Adapted

- ~~(b)~~ every all taxable person referred to in paragraph 1(b) persons or non-taxable legal persons effecting intra-Community acquisitions of goods subject to VAT under Article 3(1)(2) and every all taxable person persons or non-taxable legal persons who exercises have exercised the option to make their intra-Community acquisitions subject to VAT provided for in the third subparagraph of Article 28a(1)(a) Article 4(3);

Article 22(1)(c),
second indent
(replaced by
Article 28h of
91/680/EEC)

Adapted

Incorporates parts
of Article 22(10)

Provisional draft text

~~-(c) every-all taxable person who, within the persons effecting, in their territory of the country, effects~~ intra-Community acquisitions of goods for the purposes of ~~his operations~~ their transactions relating to the economic activities referred to in ~~Article 4(2)–the second subparagraph of Article 10(1)~~ carried out ~~abroad~~ outside that territory.

Article 22(1)(c),
third indent
(inserted by
Article 28h of
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 defined in Article 11~~.

Article 22(1)(c),
first indent,
second sentence
(replaced by
Article 28h of
2000/65/EC)

Adapted

Article 194

~~(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
(inserted by
Article 28h of
91/680/EEC)

Adapted

Nevertheless, ~~the Hellenic Republic–Greece~~ shall be authorised to use the prefix ‘EL’.

Article 22(1)(d),
second sentence
(inserted by
Article 28h of
2001/115/EC)

Adapted

Article 195

~~(e)~~—Member States shall take the measures necessary to ensure that their identification systems ~~distinguish~~ enable the taxable persons referred to in ~~(e)–Article 193 to be identified~~ and ~~to hence~~ 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 371.

Article 22(1)(e)
(replaced by
Article 28h of
91/680/EEC)

Adapted

Provisional draft text

Chapter 3

Invoicing

Section 1

Concept of invoice

Article 196

For the purposes of this Directive, Member States shall accept documents or messages in paper or electronic form as invoices if they meet the conditions laid down in this ~~paragraph~~ Chapter.

**Article 22(3)(e),
second subpara-
graph
(inserted by
Article 28h of
2001/115/EC)**

Adapted

Article 197

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 subpara-
graph, first
sentence
(inserted by
Article 28h of
2001/115/EC)**

Unchanged

EN amended

Section 2

Issue of invoices

Provisional draft text

Article 198

~~3. (a) — Every taxable person shall—must 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 goods or services which he has supplied or rendered to another taxable person or to a non-taxable legal person in the following cases:;~~

**Article 22(3)(a),
first subpara-
graph, first
sentence
(replaced by
Article 28h of
2001/115/EC)**

Adapted

~~3.(1) (a) — 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 for 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 subpara-
graph, first
sentence
(replaced by
Article 28h of
2001/115/EC)**

Adapted

~~(2) 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 for the supplies of goods referred to in Article 28b(B)(1) Article 32 and in respect of for supplies of goods supplied under the conditions laid down in Article 28e(A) Article 123.;~~

**Article 22(3)(a),
first subpara-
graph, second
sentence
(replaced by
Article 28h of
2001/115/EC)**

Adapted

~~(3) 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 for any payment on account made to him before any supplies—supply of goods referred to in the first subparagraph points (1) and (2) and in respect of for any payment on account made to him by another taxable person or non-taxable legal person before the provision of services is completed.~~

**Article 22(3)(a),
second subpara-
graph
(replaced by
Article 28h of
2001/115/EC)**

Adapted

Provisional draft text

Article 199

1. Member States may impose ~~on taxable persons~~ an obligation on taxable persons to issue an invoice in respect of goods or services other than those referred to in ~~the preceding subparagraphs~~ Article 198 which they have supplied ~~or rendered~~ on their territory.

**Article 22(3)(a),
third subparagraph,
first sentence
(inserted by
Article 28h of
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 than those listed ~~under points (b), (c) and (d) in~~ Articles 204, 205, 223 and 225.

**Article 22(3)(a),
third subparagraph,
second sentence
(inserted by
Article 28h of
2001/115/EC)**

Adapted

2. ~~The~~ Member States may release taxable persons from the obligation laid down in Article 198 to issue an invoice in respect of goods or services which they have supplied ~~or rendered~~ in their territory and which are exempt, with or without refund of the right to deduct the ~~tax~~ VAT paid at the preceding stage, pursuant to ~~Article 13, Article 28(2)(a) and Article 28(3)(b)~~ Articles 103 and 104, Articles 117 to 121, Article 351 and Articles 355 to 360.

**Article 22(3)(a),
fourth subparagraph,
first sentence
(inserted by
Article 28h of
2001/115/EC)**

Adapted

Article 200

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
(inserted by
Article 28h of
2001/115/EC)**

Unchanged

Provisional draft text

Article 201

Under 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 (inserted by Article 28h of 2001/115/EC)

Unchanged

EN amended

Article 202

1. Invoices may be drawn up by the customer of a taxable person in respect of goods or services supplied ~~or rendered~~ to him by that taxable person, on condition that there is at the outset an a prior agreement between the two parties, and on condition 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 (inserted by Article 28h of 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 customer.

Article 22(3)(a), eighth subparagraph, second sentence (inserted by Article 28h of 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 their~~ customers ~~of taxable persons supplying goods or services on their territory~~. For example, they may 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 (inserted by Article 28h of 2001/115/EC)

Adapted

Provisional draft text

~~Such~~ The conditions referred to in the first subparagraph must always be the same wherever the customer is established.

**Article 22(3)(a),
ninth subpara-
graph, third
sentence
(inserted by
Article 28h of
2001/115/EC)**

Adapted

Article 203

Member States may ~~also~~ lay down specific conditions for taxable persons supplying goods or services in their territory in cases where the third party, or the customer, ~~who issues~~ issue 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 Directive Directives 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 and 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).~~

**Article 22(3)(a),
tenth subpara-
graph
(inserted by
Article 28h of
2001/115/EC)**

Adapted

Section 3

Contents of invoices

Article 204

~~(b)~~ Without prejudice to the ~~specific arrangements~~ particular provisions laid down by this Directive, only the following details are required for VAT purposes on invoices issued ~~under the first, second and third subparagraphs of point (a)~~ in accordance with Articles 198 and 199:

**Article 22(3)(b),
first subpara-
graph
(replaced by
Article 28h of
2001/115/EC)**

Adapted

Provisional draft text

- | | |
|--|---|
| <p>(1) the date of issue;</p> | <p>Article 22(3)(b),
first subpara-
graph, first indent
(inserted by
2001/115/EC)</p> <p><i>Adapted</i></p> <p><i>EN unchanged</i></p> |
| <p>(2) a sequential number, based on one or more series, which uniquely identifies the invoice;</p> | <p>Article 22(3)(b),
first subpara-
graph, second
indent
(inserted by
2001/115/EC)</p> <p><i>Unchanged</i></p> |
| <p>(3) the VAT identification number referred to in paragraph 1(e) Article 193 under which the taxable person supplied the goods or services;</p> | <p>Article 22(3)(b),
first subpara-
graph, third
indent
(inserted by
2001/115/EC)</p> <p><i>Adapted</i></p> |
| <p>(4) where the customer is liable to pay tax on goods supplied or services rendered or has been supplied with goods as referred to in Article 28e(A), the customer's VAT identification number, as referred to in paragraph 1(e) Article 193, under which the goods were customer was supplied <u>with goods</u> or the services rendered to him in respect of which he is liable for the tax, or has received <u>a supply of goods as described in Article 123</u>;</p> | <p>Article 22(3)(b),
first subpara-
graph, fourth
indent
(inserted by
2001/115/EC)</p> <p><i>Adapted</i></p> |
| <p>(5) the full name and address of the taxable person and of his customer;</p> | <p>Article 22(3)(b),
first subpara-
graph, fifth indent
(inserted by
2001/115/EC)</p> <p><i>Unchanged</i></p> |

Provisional draft text

- | | |
|--|--|
| <p>(6) the quantity and nature of the goods supplied or the extent and nature of the services rendered;</p> | <p>Article 22(3)(b),
first subparagraph,
sixth indent
(inserted by
2001/115/EC)</p> <p><i>Unchanged</i></p> |
| <p>(7) the date on which the supply of goods or of services was made or completed or the date on which the payment on account referred to in the second subparagraph of point (a) <u>point (3) of Article 198</u> was made, insofar as that a date can be determined and differs from the date of issue of the invoice;</p> | <p>Article 22(3)(b),
first subparagraph,
seventh indent
(inserted by
2001/115/EC)</p> <p><i>Adapted</i></p> |
| <p>(8) the taxable amount per rate or exemption, the unit price exclusive of tax <u>VAT</u> and any discounts or rebates if they are not included in the unit price;</p> | <p>Article 22(3)(b),
first subparagraph,
eighth indent
(inserted by
2001/115/EC)</p> <p><i>Adapted</i></p> |
| <p>(9) the VAT rate applied;</p> | <p>Article 22(3)(b),
first subparagraph,
ninth indent
(inserted by
2001/115/EC)</p> <p><i>Unchanged</i></p> |
| <p>(10) the VAT amount payable, except where a specific <u>special</u> arrangement is applied for which this Directive excludes such a <u>detail</u> <u>indication</u>;</p> | <p>Article 22(3)(b),
first subparagraph,
tenth indent
(inserted by
2001/115/EC)</p> <p><i>Unchanged</i></p> |

Provisional draft text

- | | |
|---|---|
| <p>(11) where an exemption is involved or where the customer is liable to pay for payment of the tax, reference to the appropriate provision of this directive <u>Directive</u>, to the corresponding national provision, or to any indication that the supply <u>of goods or services</u> is exempt or subject to the reverse charge procedure;</p> | <p>Article 22(3)(b), first subparagraph, eleventh indent
(inserted by 2001/115/EC)</p> <p><i>Adapted</i></p> |
| <p>(12) where the intra-Community supply of a new means of transport <u>effected under the conditions provided for in Article 123</u> is involved, the particulars specified in Article 28a(2) <u>Article 3(3)</u>;</p> | <p>Article 22(3)(b), first subparagraph, twelfth indent
(inserted by 2001/115/EC)</p> <p><i>Adapted</i></p> |
| <p>(13) where the margin scheme <u>for travel agents</u> is applied, reference to Article 26 or 26a <u>Article 268</u>, to the corresponding national provisions, or to any other indication that the margin this scheme has been applied;</p> | <p>Article 22(3)(b), first subparagraph, thirteenth indent
(inserted by 2001/115/EC)</p> <p><i>Adapted</i></p> |
| <p>(14) where <u>one of the margin scheme special schemes applicable to second-hand goods, works of art, collectors' items or antiques</u> is applied, reference to Article 26 or 26a <u>Article 292, 305 or 312</u>, to the corresponding national provisions, or to any other indication that the margin scheme <u>one of these schemes</u> has been applied;</p> | <p>Article 22(3)(b), first subparagraph, thirteenth indent
(inserted by 2001/115/EC)</p> <p><i>Adapted</i></p> |
| <p>(15) where the person liable to pay for payment of the tax is a tax representative within the meaning of Article 21(2) <u>Article 183</u>, the VAT identification number referred to in paragraph 1(e) <u>Article 193</u> of that tax representative, together with his full name and address.</p> | <p>Article 22(3)(b), first subparagraph, fourteenth indent
(inserted by 2001/115/EC)</p> <p><i>Adapted</i></p> |

Provisional draft text

~~Article 205~~

Member States may require taxable persons established on their territory and supplying goods or services ~~on their territory there~~ to indicate the VAT identification number referred to in ~~paragraph 1(e) Article 193~~ of their customer in cases other than those referred to in ~~the fourth indent of the first subparagraph~~ point (4) of Article 204.

**Article 22(3)(b),
second subpara-
graph
(inserted by
Article 28h of
2001/115/EC)**

Adapted

Article 206

Member States in whose territory goods or services are supplied ~~or rendered~~ may allow some of the obligatory details to be ~~left out of such~~ omitted from the documents or messages treated as invoices referred to in Article 197.

**Article 22(3)(a),
fifth subpara-
graph, second
sentence
(inserted by
Article 28h of
2001/115/EC)**

Adapted

Article 207

Member States shall not require invoices to be signed.

**Article 22(3)(b),
third subpara-
graph
(inserted by
Article 28h of
2001/115/EC)**

Unchanged

Provisional draft text

Article 208

The amounts which appear on the invoice may be expressed in any currency, provided that the amount of ~~tax~~ VAT to be paid is expressed in the national currency of the Member State where the supply of goods or services takes place, using the conversion mechanism laid down in ~~Article 11 C(2)~~ Article 84.

**Article 22(3)(b),
fourth subpara-
graph
(inserted by
Article 28h of
2001/115/EC)**

Adapted

Article 209

~~Where necessary for~~ For control purposes, Member States may require invoices in respect of goods ~~supplied~~ or services ~~rendered~~ supplied 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 subpara-
graph
(inserted by
Article 28h of
2001/115/EC)**

Adapted

Section 4

Sending invoices and making them available

Article 210

~~(e)~~—Invoices issued pursuant to ~~point (a)~~ Section 2 may be either sent ~~either~~ on paper or, subject to ~~an~~ acceptance by the ~~customer, recipient,~~ sent or made available by electronic means.

**Article 22(3)(c),
first subpara-
graph
(replaced by
Article 28h of
2001/115/EC)**

Adapted

Provisional draft text

Article 211

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 guaranteed¹³.

**Article 22(3)(c),
second subpara-
graph
(inserted by
2001/115/EC)**

Adapted

Article 212

1. The authenticity and integrity 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~~¹³.

**Article 22(3)(c),
second subpara-
graph, first
indent, first
sentence
(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 (2) and (10) of Article 2(6) and (10) of the ~~above-mentioned~~ abovementioned Directive¹³.

**Article 22(3)(c),
second subpara-
graph, first
indent, second
sentence
(inserted by
2001/115/EC)**

Unchanged

¹³ OJ L 13, 19.1.2000, p. 12.

Provisional draft text

2. ~~or~~ In addition to the case referred to 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~~¹⁴ when 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.

Article 213

Invoices may, ~~however~~, be sent or made available by ~~other~~ electronic means other than those set out in Article 212 subject to acceptance by the Member State(s) concerned.

**Article 22(3)(c),
second subparagraph,
second indent, first
sentence
(inserted by
2001/115/EC)**

Adapted

**Article 22(3)(c),
second subparagraph,
second indent, second
sentence
(inserted by
2001/115/EC)**

Unchanged

**Article 22(3)(c),
third subparagraph,
first sentence
(replaced by
Article 28h of
2001/115/EC)**

Adapted

¹⁴ OJ L 338, 28.12.1994, p. 98.

Provisional draft text

Article 214

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 and making available invoices by electronic means.

**Article 22(3)(c),
fourth subpara-
graph, first
sentence
(replaced by
Article 28h of
2001/115/EC)**

Adapted

~~However, they may~~ Member States may, however, provide, until 31 December 2005, that the use of such a system is to be subject to prior notification.

**Article 22(3)(c),
fourth subpara-
graph, second
sentence
(replaced by
Article 28h of
2001/115/EC)**

Adapted

Article 215

Member States may lay down specific conditions for invoices issued by electronic means for 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 76/308/EEC and 77/799/EEC and by Regulation (EEC) No 218/92.

**Article 22(3)(c),
fifth subpara-
graph
(replaced by
Article 28h of
2001/115/EC)**

Unchanged

Article 216

When 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 subpara-
graph
(inserted by
Article 28h of
2001/115/EC)**

Adapted

Provisional draft text

Article 217

The Commission ~~will~~shall present, at the latest on 31 December 2008, a report, together with a proposal, if appropriate, amending the conditions on electronic invoicing in order to take account of ~~possible~~ future technological developments in this field.

**Article 22(3)(c),
third subpara-
graph, second
sentence
(inserted by
Article 28h of
2001/115/EC)**

Adapted

Section 5

Simplification measures

Article 218

~~(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 provide that some of the information required in Article 204 need not be entered in invoices in respect of goods supplied or services rendered in their territory do not have to fulfil some of the conditions laid down in paragraph 3(b) supplied in their territory in the following cases:

**Article 22(9)(d),
first subpara-
graph
(inserted by
Article 28h of
2001/115/EEC)**

Adapted

(a) when the amount of the invoice is ~~minor, or~~ insignificant;

**Article 22(9)(d),
first subpara-
graph, first indent
(inserted by
Article 28h of
2001/115/EC)**

Unchanged

EN amended

Provisional draft text

(b) when commercial or administrative practice in the business sector concerned or the technical conditions under which the invoices are issued ~~make~~ makes it difficult to comply with all the requirements referred to in ~~paragraph 3(b)~~ Section 3.

**Article 22(9)(d),
first subparagraph, second
indent
(inserted by
Article 28h of
2001/115/EC)**

Adapted

2. ~~In any case, these invoices~~ Invoices must always contain the following information:

**Article 22(9)(d),
second subparagraph
(inserted by
Article 28h of
2001/115/EC)**

Adapted

(a) the date of issue_;

**Article 22(9)(d),
second subparagraph, first indent
(inserted by
Article 28h of
2001/115/EC)**

Unchanged

(b) identification of the taxable person_;

**Article 22(9)(d),
second subparagraph, second
indent
(inserted by
Article 28h of
2001/115/EC)**

Unchanged

Provisional draft text

(c) identification of the type of goods ~~supplied~~ or services rendered supplied;

Article 22(9)(d), second subparagraph, third indent (inserted by Article 28h of 2001/115/EC)

Unchanged

EN amended

(d) the tax due or the information needed to calculate it.

Article 22(9)(d), second subparagraph, fourth indent (inserted by Article 28h of 2001/115/EC)

Unchanged

3. The simplified arrangements provided for in ~~this point paragraph 1~~ may not be applied to transactions referred to in paragraph 4(e) Articles 19, 20, 21, 32, 35, 123 and 126 in the cases provided for in Article 230.

Article 22(9)(d), third subparagraph (inserted by Article 28h of 2001/115/EC)

Adapted

Article 219

~~(e)~~—In cases where Member States make use of the option provided for in ~~the third indent of point (a) Article 252(1)(b)~~ to refrain from 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 19, 20, 21, 32, 35, 123 and 126 in the cases provided for in Article 230, and where the supplier or the customer have not been allocated an identification number of this type, the invoice should feature instead another number called the tax reference number, as defined by the Member States concerned.

Article 22(9)(e), first subparagraph (inserted by Article 28h of 2001/115/EC)

Adapted

Provisional draft text

Article 220

~~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 applying the option provided for in the first subparagraph~~ Article 252(1)(b) may also require the invoice to show the following:

(1) for the supply of services ~~rendered~~ referred to in ~~Article 28b(C), (D), (E) and (F)~~ Articles 41, 44, 46, 47, 48, 50 and 51, and for ~~supplies the supply of~~ goods referred to in ~~Article 28c(A) and (E)~~ point 3 Articles 123 and 126, the VAT identification number ~~referred to in paragraph 1(e)~~ and the tax reference number of the supplier;

(2) for other supplies of goods and services, only the tax reference number of the supplier or only the VAT identification number ~~referred to in paragraph 1(e)~~.

Chapter 4

Accounting

Section 1

General obligations

**Article 22(9)(e),
second subparagraph
(inserted by
Article 28h of
2001/115/EC)**

Adapted

**Article 22(9)(e),
second subparagraph, first indent
(inserted by
Article 28h of
2001/115/EC)**

Adapted

**Article 22(9)(e),
second subparagraph, second indent
(inserted by
Article 28h of
2001/115/EC)**

Adapted

Provisional draft text

Article 221

~~2. (a) Every All taxable person persons shall keep sufficiently detailed accounts in sufficient detail for value added tax to permit VAT to be applied and inspected inspections to be undertaken by the tax authority authorities.~~

Article 22(2)(a)
(replaced by
Article 28h of
91/680/EEC)

Adapted

Article 222

~~(b)1. Every All taxable person persons shall keep a register of the goods he has dispatched or transported or which have been dispatched or transported by them or on his their behalf out of the territory defined in Article 3 from the territory of the Member State of departure but within the Community for the purposes of the transactions consisting in work on or temporary use of those goods as referred to in the fifth, sixth or seventh indents of Article 28a(5)(b) Article 16(2)(e), (f) and (g).~~

Article 22(2)(b),
first subpara-
graph
(replaced by
Article 28h of
95/7/EC)

Adapted

~~2. Every All taxable person persons shall keep sufficiently detailed accounts to permit the identification of goods dispatched to him them 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 and work on those goods as referred to in point (c) of Article 49.~~

Article 22(2)(b),
second subpara-
graph
(replaced by
Article 28h of
95/7/EC)

Adapted

Section 2

Particular obligations relating to the storage of all invoices

Article 223

~~(d) Every All taxable person persons shall ensure that copies of the invoices issued by himself, by his customer them or by their customers or, in his their name and on his their behalf, by a third party, and all the invoices which he has they have received, are stored.~~

Article 22(3)(d),
first subpara-
graph
(inserted by
Article 28h of
2001/115/EC)

Adapted

Provisional draft text

Article 224

1. For the purposes of this Directive, ~~the~~ taxable ~~person~~ ~~persons~~ may decide the place of storage provided that ~~he~~ ~~makes~~ ~~they~~ make the invoices or information stored ~~there~~ in accordance with Article 223 available ~~without undue delay~~ to the competent authorities without undue delay whenever ~~they~~ the latter so request.

Article 22(3)(d), second subparagraph, first sentence (inserted by Article 28h of 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 (inserted by Article 28h of 2001/115/EC)

Unchanged

Member States may, ~~in addition,~~ also require taxable persons established in their territory to store ~~within the country~~ ~~there~~ 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 they have received, ~~when the storage is not where they are not stored~~ by electronic means guaranteeing full on-line access to the data concerned.

Article 22(3)(d), second subparagraph, third sentence (inserted by Article 28h of 2001/115/EC)

Adapted

Article 225

The authenticity of the origin and 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 (inserted by Article 28h of 2001/115/EC)

Adapted

Provisional draft text

As regards the invoices referred to ~~in the third subparagraph of point (e),~~ the ~~The~~ information ~~they contain~~ contained in the invoices referred to in Article 213 may not be altered; it must remain legible throughout the ~~mentioned~~ storage period.

**Article 22(3)(d),
third subparagraph,
second sentence
(inserted by
Article 28h of
2001/115/EC)**

Adapted

Article 226

1. ~~The~~ Member States shall determine the period for which taxable persons must store invoices relating to goods or services supplied in their territory and invoices received by taxable persons established in their territory.

**Article 22(3)(d),
fourth subparagraph
(inserted by
Article 28h of
2001/115/EC)**

Unchanged

EN amended

2. In order to ensure that the conditions laid down in ~~the third subparagraph~~ Article 225 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 invoices are stored by electronic means, the data guaranteeing the authenticity of ~~the~~ their origin and integrity of ~~the~~ their content also be stored.

**Article 22(3)(d),
fifth subparagraph
(inserted by
Article 28h of
2001/115/EC)**

Adapted

3. Member States ~~referred to in the fourth subparagraph~~ may impose specific conditions prohibiting or restricting the storage of the 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 76/308/EEC, and 77/799/EEC ~~and or~~ by Regulation (EEC) No 218/92 and to the right of access by electronic means, download and use referred to in ~~Article 22a~~ Article 228.

**Article 22(3)(d),
sixth subparagraph
(inserted by
Article 28h of
2001/115/EC)**

Adapted

Provisional draft text

Article 227

Member States may, subject to conditions which they lay down, require ~~the storage of~~ invoices received by non-taxable persons to be stored.

Article 22(3)(d), seventh subparagraph (inserted by Article 28h of 2001/115/EC)

Unchanged

EN amended

Section 3

Right of access to invoices stored by electronic means in another Member State

Based on the heading of Article 22a

~~Article 22a~~Article 228

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)

Obsolete

When a taxable person stores invoices which he issues or receives by ~~an~~ electronic means guaranteeing on-line access to the data and when 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 of this ~~directive~~ Directive, to access by electronic means, download and use these invoices within the limits set by the regulations of the Member State where the taxable person is established and as far as that State requires for control purposes.

Article 22a (inserted by 2001/115/EC)

Unchanged

EN amended

Chapter 5

Returns

Provisional draft text

Article 229

~~(b) The All taxable persons 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)
(replaced by
Article 28h of
91/680/EEC)

Adapted

Article 230

~~(e) The In addition to the information referred to in Article 229, the~~ VAT return shall ~~also set out~~ show the following:

Article 22(4)(c)
(inserted by
Article 28h of
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 28e(A)~~ Article 123 on which tax ~~has become~~ became chargeable during the return period;

Article 22(4)(c),
first indent, first
subparagraph
(inserted by
Article 28h of
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)~~ Article 32 and the first paragraph of Article 35 effected ~~within~~ the territory of in another Member State ~~for on~~ which the tax ~~has~~ become became chargeable during the return period, 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 where the return is to be submitted;

Article 22(4)(c),
first indent,
second subpara-
graph
(inserted by
Article 28h of
91/680/EEC)

Adapted

Provisional draft text

- | | |
|---|---|
| <p>(c) on the other hand, the total amount, less value added tax exclusive of VAT, of the intra-Community acquisitions of goods and transactions treated as such referred to in <u>Article 28a(1) and (6) Articles 20 and 21</u> effected <u>within the territory of the country in the Member State where the return is to be submitted</u> on which <u>the tax has become became</u> chargeable <u>during the return period</u>;</p> | <p>Article 22(4)(c), second indent, first subparagraph
(replaced by Article 28h of 92/111/EEC)</p> |
| <p><i>Adapted</i></p> | |
| <p>(d) The following shall also be added: the total value, less value added tax exclusive of VAT, of the supplies of goods referred to in <u>the second sentence of Article 8(1)(a) and in Article 28b(B)(1) Article 32 and the first subparagraph of Article 35</u> effected in the <u>territory of the country Member State where the return is to be submitted</u> on which <u>the tax has become became</u> chargeable during the return period, where the place <u>of departure of the dispatch or transport of from which</u> the goods <u>were dispatched or transported</u> is situated within the territory of another Member State, <u>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</u>;</p> | <p>Article 22(4)(c), second indent, second subparagraph
(replaced by Article 28h of 92/111/EEC)</p> |
| <p><i>Adapted</i></p> | |
| <p>(e) The following shall also be added: the total value, less value added tax, of the supplies of goods referred to in <u>the second sentence of Article 8(1)(a) and in Article 28b(B)(1)</u> effected in the <u>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 exclusive of VAT, of the supplies of goods made within the territory of the country</u> effected in the <u>Member State where the return is to be submitted</u> for which the taxable person has been designated as the person liable for <u>payment of</u> the tax in accordance with <u>Article 28c(E)(3) Article 177</u> and <u>under on</u> which the tax <u>has become payable in the course of became chargeable during</u> the <u>return</u> period <u>covered by the declaration</u>.</p> | <p>Article 22(4)(c), second indent, second subparagraph
(replaced by Article 28h of 92/111/EEC)</p> |
| <p><i>Adapted</i></p> | |

Provisional draft text

Article 231

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
(replaced by
Article 28h of
2002/38/EC)**

Adapted

2. The tax period shall be ~~fixed set~~ by each Member State at one ~~month~~, two or three months ~~or a quarter~~.

**Article 22(4)(a),
third sentence
(replaced by
Article 28h of
2002/38/EC)**

Adapted

Member States may, however, set different periods provided that they do not exceed one year.

**Article 22(4)(a),
fourth sentence
(replaced by
Article 28h of
2002/38/EC)**

Adapted

EN unchanged

Article 232

~~(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.~~

**Annexe IX(2)(x)
(Act of Accession,
A, FIN and S)**

Obsolete

~~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 allowing taxable persons carrying out domestic only transactions taxable transactions only at national level to submit VAT returns three months after the end of the annual direct tax period;

**Annexe IX(2)(x),
first indent
(Act of Accession,
A, FIN and S)**

Adapted

Provisional draft text

Article 233

~~(d)~~—In the case of ~~supplies~~ any supply of new means of transport effected under the conditions laid down in ~~Article 28c(A)(b)~~ Article 123(2)(a) by a taxable person identified for ~~purposes of value added tax-VAT purposes~~ to a ~~purchaser-customer~~ not identified for ~~purposes of value added tax-VAT purposes~~ or by a taxable person ~~as~~ defined in ~~Article 28a(4)~~ Article 10(3), Member States shall take the measures necessary to ensure that the vendor communicates all the information ~~necessary required~~ for ~~value added tax-VAT~~ to be applied and ~~inspected-inspections to be undertaken~~ by the tax ~~authority~~ authorities.

Article 22(6)(d)
(replaced by
Article 28h of
91/680/EEC)

Adapted

Article 234

When they exercise ~~this the~~ option to designate the customer of gold material, semi-manufactured products of a purity of 325 thousandths or greater, or investment gold as the person liable for payment of the tax, Member States shall take the measures necessary to ensure that ~~the that~~ person ~~designated as liable for the tax due~~ fulfils the obligations ~~to submit a statement and to pay the tax in accordance with Article 22 governing returns set out in this Chapter~~.

Article 26b(F),
second sentence
(inserted by
98/80/EC)

Adapted

Article 235

~~7.~~—Member States shall take the measures necessary to ensure that ~~those~~ persons who, in accordance with ~~Article 21(1) and (2)~~ Articles 175, 176, 177, 179 and 183, are considered to be liable ~~to pay for payment of~~ the tax instead of a taxable person not established within ~~the their~~ territory ~~of the country~~, comply with the obligations ~~relating to declaration and payment governing returns~~ set out in this ~~Article Chapter~~.

Article 22(7), first
part of sentence
(replaced by
Article 28h of
2000/65/EC)

Adapted

Article 236

~~10.~~—Member States shall take ~~the~~ measures necessary to ensure that non-taxable legal persons who are liable for payment of the tax payable in respect of on intra-Community acquisitions of goods ~~covered by the first subparagraph of Article 28a(1)(a) referred to in Article 3(1)(2)(a)~~ 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) governing returns set out in this Chapter~~.

Article 22(10)
(inserted by
Article 28h of
91/680/EEC)

Adapted

Provisional draft text

Article 237

~~11. In the case of intra-Community acquisitions of products subject to excise duty referred to in Article 28a(1)(e) 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~~ the detailed rules governing returns for intra-Community acquisitions of new means of transport referred to in Article 3(1)(2)(b) and intra-Community acquisitions of products subject to excise duty referred to in Article 3(1)(2)(c).

Article 22(11)
(inserted by
Article 28h of
91/680/EEC and
amended by
Article 28h of
92/111/EEC)

Adapted

Article 238

Member States may ~~also~~ require persons who effect intra-Community acquisitions of new means of transport ~~as defined in Article 28a(1)(b) referred to in Article 3(1)(2)(b)~~ to provide, when submitting ~~the return referred to in paragraph 4~~ VAT returns, all the information ~~necessary required~~ for ~~value added tax~~ VAT to be applied and ~~inspected inspections~~ to be undertaken by the tax ~~authority~~ authorities.

Article 22(6)(e),
second subpara-
graph
(replaced by
Article 28h of
91/680/EEC)

Adapted

Article 239

~~As regards imported goods,~~ Member States shall lay down the detailed rules ~~for the making of the declarations and payments governing returns for the importation of goods.~~

Article 23, first
subparagraph
(77/388/EEC)

Adapted

Article 240

~~6. (a)~~ Member States may require a taxable person to submit a ~~statement, return~~ including all the particulars specified in ~~paragraph 4, concerning Articles 229 and 230 for~~ all transactions carried out in the preceding year. That ~~statement return~~ shall provide all the information ~~necessary required~~ for any adjustments.

Article 22(6)(a),
first and second
sentences
(replaced by
Article 28h of
2003/38/EC)

Adapted

Provisional draft text

Article 241

Member States shall, subject to conditions which they lay down, allow ~~the taxable person~~ persons to make ~~such the~~ returns referred to in Articles 229 and 240 by electronic means, and may also require ~~that electronic means are used~~ them to do so.

Article 22(4)(a), fifth sentence (inserted by Article 28h of 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 (inserted by Article 28h of 2002/38/EC)

Obsolete

Chapter 6

Recapitulative statements

Article 242

~~(b) Every~~ All taxable ~~person~~ persons 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 who acquire~~ goods from them under the conditions provided for in ~~Article 28c(A)(a) and (d)~~ Article 123(1) and Article 123(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 the supply of goods received as intra-Community acquisitions referred to in Article 39 was made~~.

Article 22(6)(b), first subparagraph (replaced by Article 28h of 95/7/EC)

Adapted

Provisional draft text

Article 243

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 (replaced by Article 28h of 2002/38/EC)

Adapted

~~(e) By way of derogation from subparagraph (b), Member States may, however, require recapitulative statements to be submitted on a monthly basis.~~

Article 22(6)(c) (replaced by Article 28h of 91/680/EEC)

Adapted

~~require recapitulative statements to be filed on a monthly basis;~~

Article 22(6)(c), first indent (replaced by Article 28h of 91/680/EEC)

Obsolete

2. Member States shall, subject to conditions which they lay down, allow ~~the taxable person~~ persons to make ~~such the recapitulative statements~~ referred to in paragraph 1 by electronic means, and may also require ~~that electronic means are used~~ them to do so.

Article 22(6)(b), second subparagraph, second sentence (inserted by 2002/38/EC)

Adapted

Provisional draft text

Article 244

1. The recapitulative statement shall ~~set out~~ contain the following:

~~-(a) the number by which the taxable person is~~ persons are identified for ~~purposes of value added tax-VAT purposes in the territory of the country~~ Member State in which the recapitulative statement is to be submitted and under which ~~he~~ they effected ~~supplies~~ the supply of goods in the conditions laid down in ~~Article 28e(A)(a)~~ Article 123(1);

~~-(b) the number by which each person~~ persons acquiring ~~the~~ goods ~~is~~ are identified for ~~purposes of value added tax-VAT purposes in another a~~ Member State other than that in which the recapitulative statement is to be submitted and under which the goods were supplied to ~~him~~ them;

~~-(c) for the supplies of goods covered by Article 28e(A)(d), the number by means of which the taxable person is~~ persons are identified for ~~purposes of value added tax in-VAT purposes in the territory of the country~~ Member State where the recapitulative statement is to be submitted and under which they effected the transfer of goods referred to in Article 123(2)(c) and the number by which ~~he~~ they are identified in the Member State ~~of arrival of the dispatch or transport and the total amount of the supplies, determined in accordance with Article 28e(2)~~ where transport ends;

**Article 22(6)(b),
third subpara-
graph
(replaced by
Article 28h of
91/680/EEC)**

Adapted

**Article 22(6)(b),
third subpara-
graph, first indent
(replaced by
Article 28h of
91/680/EEC and
amended by
Article 28h of
92/111/EEC)**

Adapted

**Article 22(6)(b),
third subpara-
graph, second
indent
(replaced by
Article 28h of
95/7/EC)**

Adapted

**Article 22(6)(b),
fourth subpara-
graph, first indent
(inserted by
Article 28h of
91/680/EEC and
amended by
Article 28h of
92/111/EEC)**

Adapted

Provisional draft text

~~-(d)~~ for each person acquiring the goods, the total value of the supplies of goods effected by the taxable person.;

**Article 22(6)(b),
third subpara-
graph, third
indent, first
sentence
(inserted by
Article 28h of
91/680/EEC)**

Adapted

~~—The recapitulative statement shall also set out:~~

**Article 22(6)(b),
fourth subpara-
graph
(inserted by
Article 28h of
91/680/EEC)**

Obsolete

~~-(e)~~ for ~~the supplies~~ supplies consisting in transfers of goods ~~covered by Article 28e(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 referred to in Article 123(2)(c),~~ the total amount of the supplies; determined in accordance with ~~Article 28e(2) Article 71;~~

**Article 22(6)(b),
fourth subpara-
graph, first indent
(inserted by
Article 28h of
91/680/EEC)**

Adapted

~~-(f)~~ the amounts of adjustments made pursuant to ~~Article 11(C)(4) Article 83.~~

**Article 22(6)(b),
fourth subpara-
graph, second
indent, first
sentence
(inserted by
Article 28h of
91/680/EEC)**

Adapted

Provisional draft text

2. ~~Those~~The amounts referred to in paragraph 1(d) shall be declared for the calendar quarter during which the tax became chargeable.

**Article 22(6)(b),
third subparagraph,
third indent, second
sentence
(replaced by
Article 28h of
91/680/EEC)**

Adapted

~~Those~~The amounts referred to in paragraph 1(f) 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 subparagraph,
second indent, second
sentence
(inserted by
Article 28h of
91/680/EEC)**

Adapted

Article 245

1. In the ~~cases set out in the third subparagraph of Article 28b(A)(2), the case of the intra-Community acquisitions referred to in Article 39,~~ taxable ~~person~~ persons identified for ~~value added tax-VAT~~ purposes ~~within the territory of the country in the Member State where the tax is payable~~ shall ~~mention in a clear way indicate the following clearly~~ on the recapitulative statement:

**Article 22(6)(b),
fifth subparagraph
(inserted by
Article 28h of
92/111/EEC)**

Adapted

~~-(a)~~ the number by which ~~he is~~they are identified for ~~value added tax-VAT~~ purposes ~~within the territory of the country in that Member State~~ and under which ~~he carried out they effected~~ the ~~intra-Community~~ acquisition and the subsequent supply of goods;

**Article 22(6)(b),
fifth subparagraph,
first indent
(inserted by
Article 28h of
92/111/EEC)**

Adapted

Provisional draft text

~~-(b)~~ the number by 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 where dispatch or transport of the goods ends~~;

Article 22(6)(b), fifth subparagraph, second indent
(inserted by Article 28h of 92/111/EEC)

Adapted

~~-(c)~~ ~~and,~~ for each ~~consignee such person~~, the total amount, ~~less value added tax~~ exclusive of VAT, of the supplies made by the taxable person ~~within the territory of in~~ the Member State ~~of arrival of the where~~ dispatch or transport ~~of the goods ends~~.

Article 22(6)(b), fifth subparagraph, third indent, first sentence
(inserted by Article 28h of 92/111/EEC)

Adapted

2. ~~These~~ ~~The~~ amount ~~referred to in paragraph 1(c)~~ shall be declared for the calendar quarter during which the tax became chargeable.

Article 22(6)(b), fifth subparagraph, third indent, second sentence
(inserted by Article 28h of 92/111/EEC)

Adapted

Article 246

~~(e)~~—By way of derogation from ~~(b)~~ Articles 244 and 245, Member States may provide that additional particulars be given in recapitulative statements;

Article 22(6)(c)
(inserted by Article 28h of 91/680/EEC)

Adapted

Provisional draft text

~~require that recapitulative statements give additional particulars.~~

Article 22(6)(c),
second indent
(inserted by
Article 28h of
91/680/EEC)

Obsolete

Article 247

~~7.—~~ Member States shall take the measures necessary to ensure that those persons who, in accordance with ~~Article 21(1) and (4), Articles 175, 176, 177, 179 and 183,~~ are ~~considered deemed~~ to be liable ~~to pay for payment of~~ the tax instead of a taxable person ~~not who is not~~ established ~~within the territory of the country in their territory~~ comply with the obligations relating to ~~declaration and payment the submission of recapitulative statements~~ set out in this ~~Article Chapter~~.

Article 22(7), first
part of sentence
(replaced by
Article 28h of
2000/65/EC)

Adapted

Article 248

~~(e)—~~ Member States may require ~~that~~ taxable persons who ~~in the territory of the country~~ effect ~~in their territory~~ intra-Community acquisitions of goods ~~as defined in Article 28a(1)(a) and (6) to and~~ transactions treated as ~~such referred to in Articles 20 and 21~~ submit statements giving details of such acquisitions ~~provided;~~ however, ~~that~~ such statements may not be required for a period of less than one month.

Article 22(6)(e),
first subpara-
graph
(inserted by
Article 28h of
91/680/EEC)

Adapted

Article 249

~~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 250 and 251~~ to simplify the ~~statement~~ obligations ~~relating to the submission of recapitulative statements~~ laid down in ~~paragraph 6(b) this Chapter~~. Such ~~simplification~~ measures, ~~which shall must~~ not jeopardise the proper monitoring of intra-Community transactions, ~~may take the following forms~~.

Article 22(12)
(inserted by
Article 28h of
91/680/EEC)

Adapted

Provisional draft text

Article 250

~~(a)~~—By virtue of the authorisation referred to in Article 249, Member States may authorise taxable persons ~~who meet the following three conditions to file one year to~~ submit annual recapitulative statements indicating the numbers by which the persons ~~to whom who have acquired goods from~~ those taxable persons ~~have supplied goods~~ under the conditions laid down in ~~Article 28e(A)–Article 123~~ are identified for ~~purposes of value added tax VAT~~ purposes in other Member States where those taxable persons meet the following three conditions:

(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/EUR 35 000 or the equivalent in national currency the amount of the annual turnover which is used as a reference for application of the tax exemption from tax provided for in Article 24 for small enterprises provided for in Articles 264 to 267;

(b) the total annual value, ~~less value added tax~~ exclusive of VAT, of supplies of goods effected by them under the conditions laid down in ~~Article 28e(A)–Article 123~~ does not exceed the equivalent in national currency of ECU/EUR 15 000 or the equivalent in national currency;

(c) ~~supplies any supply~~ of goods effected by them under the conditions laid down in ~~Article 28e(A) are other than supplies~~ Article 123 is not a supply of new means of transport;

Article 251

~~(b)~~—By virtue of the authorisation referred to in Article 249, Member States which set at over three months the tax period for which taxable persons must submit the ~~returns~~ VAT return provided for in ~~paragraph 4~~ Article 229 may authorise such persons to submit recapitulative statements for the same period where those taxable persons meet the following three conditions:

Article 22(12)(a)
(inserted by
Article 28h of
91/680/EEC)

Adapted

Article 22(12)(a),
first indent
(inserted by
Article 28h of
91/680/EEC)

Adapted

Article 22(12)(a),
second indent
(inserted by
Article 28h of
91/680/EEC)

Adapted

Article 22(12)(a),
third indent
(inserted by
Article 28h of
91/680/EEC)

Adapted

Article 22(12)(b)
(inserted by
Article 28h of
91/680/EEC)

Adapted

Provisional draft text

- | | |
|---|--|
| <p>(a) the overall total annual value, less value added tax <u>exclusive of VAT</u>, of the their supplies of goods and the services they supply, as defined in Articles 5, 6 and 28a(5), does not exceed the equivalent in national currency of ECU EUR 200 000 <u>or the equivalent in national currency</u>;</p> | <p>Article 22(12)(b),
first indent
(inserted by
Article 28h of
91/680/EEC)</p> <p><i>Adapted</i></p> |
| <p>(b) the total annual value, less value added tax <u>exclusive of VAT</u>, of supplies of goods effected by them under the conditions laid down in Article 28c(A)–Article 123 does not exceed the equivalent in national currency of ECU EUR 15 000 <u>or the equivalent in national currency</u>;</p> | <p>Article 22(12)(b),
second indent
(inserted by
Article 28h of
91/680/EEC)</p> <p><i>Adapted</i></p> |
| <p>(c) supplies any supply of goods effected by them under the conditions laid down in Article 28c(A) are other than supplies <u>Article 123 is not a supply</u> of new means of transport.</p> | <p>Article 22(12)(b),
third indent
(inserted by
Article 28h of
91/680/EEC)</p> <p><i>Adapted</i></p> |

Chapter 7

Miscellaneous provisions

Article 252

- | | |
|--|--|
| <p><u>9.1.</u> (a) —Member States may release <u>the following</u> taxable <u>persons</u> from certain or all obligations:</p> | <p>Article 22(9)(a),
first subpara-
graph
(replaced by
Article 28h of
91/680/EEC)</p> |
|--|--|

Adapted

Provisional draft text

<p>(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 are not subject to VAT pursuant to Article 4(1);</p>	<p>Article 22(9)(a), first subparagraph, second indent (replaced by Article 28h of 91/680/EEC)</p> <p><i>Adapted</i></p>
<p>(e)(b) taxable persons carrying out none of the transactions referred to in paragraph 4(e) <u>Articles 19, 20, 21, 32, 35, 123 and 126;</u></p>	<p>Article 22(9)(a), first subparagraph, third indent (replaced by Article 28h of 91/680/EEC)</p> <p><i>Adapted</i></p>
<p>(a)(c) taxable persons carrying out only supplies of goods or of services which are exempt pursuant to Articles 13 and 15 <u>Articles 117 to 121, Articles 130 to 133 and Articles 135, 136 and 137;</u></p>	<p>Article 22(9)(a), first subparagraph, first indent (replaced by Article 28h of 91/680/EEC)</p> <p><i>Adapted</i></p>
<p>(d) taxable persons eligible for the <u>tax exemption</u> from tax provided for in Article 24 and for the derogation provided for in Article 28a(1)(a), second subparagraph <u>for small enterprises provided for in Articles 264 to 267;</u></p>	<p>Article 22(9)(a), first subparagraph, second indent (replaced by Article 28h of 91/680/EEC)</p> <p><i>Adapted</i></p>
<p>4.(c) <u>Member States may release taxable persons covered by the flat-rate scheme for farmers from the obligations imposed upon taxable persons by Article 22.</u></p>	<p>Article 25(4), first subparagraph (77/388/EEC)</p> <p><i>Adapted</i></p>

Provisional draft text

<p>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 <u>invoicing</u> obligations referred to in Article 22(3) <u>Articles 198 to 209 and Articles 218, 219 and 220.</u></p>	<p>Article 22(9)(a), second subparagraph (inserted by Article 28h of 2001/115/EC)</p>
<p><i>Adapted</i></p>	<p><i>Adapted</i></p>
<p><u>2.</u> When <u>Where</u> they exercise this the option <u>laid down in point (e) of paragraph 1</u>, Member States 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 <u>referred to in Article 371.</u></p>	<p>Article 25(4), second subparagraph (inserted by Article 28j(1) of 91/680/EEC)</p>
<p><i>Adapted</i></p>	<p><i>Adapted</i></p>
<p><u>3.</u> (b)—Member States may release taxable persons other than those referred to in (a) <u>paragraph 1</u> from certain of the obligations referred to in 2(a) <u>Article 221.</u></p>	<p>Article 22(9)(b) (replaced by Article 28h of 91/680/EEC)</p>
<p><i>Adapted</i></p>	<p><i>Adapted</i></p>
<p><u>Article 253</u></p>	
<p><u>8.</u>—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, subject to the requirement of VAT and to prevent fraud, provided equal treatment for is given to 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 cross-border formalities connected with the crossing of frontiers in trade between Member States.</p>	<p>Article 22(8), first subparagraph (replaced by Article 28h of 91/680/EEC)</p>
<p><i>Unchanged</i></p>	<p><i>Unchanged</i></p>
<p><i>EN amended</i></p>	<p><i>EN amended</i></p>
<p>The option provided for in the first subparagraph <u>paragraph</u> cannot be used to impose additional <u>invoicing</u> obligations over and above those laid down in paragraph 3 <u>Chapter 3.</u></p>	<p>Article 22(8), second subparagraph (inserted by Article 28h of 2001/115/EC)</p>
<p><i>Adapted</i></p>	<p><i>Adapted</i></p>

Provisional draft text

Chapter 8

Obligations relating to certain importations and exportations

Article 23

Article 23
(77/388/EEC)

Obsolete

Obligations in respect of imports

**Heading of
Article 23**
(77/388/EEC)

Obsolete

Section 1

Importation

*Article 33a*Article 254

Article 33a
(inserted by
91/680/EEC)

1. — Articles 255, 256 and 257 shall apply to the importation of goods referred to in Article 7(1)(b) in free circulation entering the Community from a territory which forms part of the customs territory of the Community but which is considered treated as a third territory for the purposes of applying this Directive shall be subject to the following provisions:

Article 33a(1)
(replaced by
92/111/EEC)

Adapted

Article 255

(a) — The formalities relating to the entry of such importation of the goods into the Community referred to in Article 254 shall be the same as those laid down by the Community customs provisions in force for the import applying to the importation of goods into the customs territory of the Community:

Article 33a(1)(a)
(replaced by
92/111/EEC)

Adapted

Provisional draft text

Article 256

~~(b) — when~~ Where the place ~~of arrival of the where~~ dispatch or transport of ~~these the~~ goods referred to in Article 254 ends is situated outside the Member State where they ~~enter entered~~ the Community, they shall circulate in the Community under the internal Community transit procedure laid down by the Community customs provisions in force, insofar as they have been the subject of a declaration placing them under this regime when the goods provided they were declared under this procedure when they entered the Community_;

Article 33a(1)(b)
(replaced by
92/111/EEC)

Adapted

Article 257

~~(e) — when at the moment of their entry~~ Where at the time they enter into the Community the goods referred to in Article 254 are ~~found to be in covered by~~ one of the situations which would ~~qualify them, make them eligible,~~ if they ~~were had been~~ imported within the meaning of Article 7(1)(a), to benefit from the first paragraph of Article 29, for one of the arrangements referred to in ~~Article 16(1)(B)(a), (b), (c) and (d)~~ Article 139, or under are covered 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 arrangements.

Article 33a(1)(c)
(replaced by
92/111/EEC)

Adapted

Section 2

Exportation

Article 258

2. — Goods not referred to in Article 7(1)(a) Articles 259 and 260 shall apply to the exportation of goods in free circulation which are dispatched or transported from a Member State to a ~~destination in a~~ territory that forms parts of the customs territory of the Community but which is considered treated 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

Provisional draft text

Article 259

(a) ~~the~~ The formalities relating to the ~~export-exportation~~ of ~~those~~ the goods ~~outside-referred to in Article 258 from~~ the territory of the Community shall be the same as the Community customs provisions ~~in force in relation to export-applying to the exportation~~ of goods ~~outside from~~ the customs territory of the Community.

Article 33a(2)(a)
(replaced by 92/111/EEC)

Adapted

Article 260

(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 the same~~ be eligible for the provisions as-which would have applied if they had been temporarily exported outside the customs territory of the Community.

Article 33a(2)(b)
(replaced by 92/111/EEC)

Unchanged

EN amended

~~TITLE XIV~~ TITLE XII

Title XIV
(77/388/EEC)

SPECIAL SCHEMES

Heading of Title XIV
(77/388/EEC)

Unchanged

Chapter 1

Special scheme for small enterprises

Based on the heading of Article 24

Section 1

Simplified procedures for charging and collection

~~Article 24~~ Article 261

Article 24
(77/388/EEC)

~~Special scheme for small undertakings~~

Heading of Article 24
(77/388/EEC)

Obsolete

Provisional draft text

1. — Member States which might encounter difficulties in applying the normal ~~tax-VAT~~ scheme to small ~~undertakings enterprises~~ by reason of their activities or structure ~~shall have the option, may,~~ under 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 they do not lead to a reduction thereof.

Section 2

Exemptions or graduated relief

Article 262

3. — The ~~concepts of exemption and graduated tax relief~~ exemption and tax relief arrangements in this Section shall apply to the supply of goods and services by small ~~undertakings enterprises~~.

Article 263

1. ~~The provisions of paragraph 2~~ The arrangements referred to in this Section shall not, ~~in any case,~~ apply to the following transactions referred to in Article 4(3):

(a) ~~The provisions of paragraph 2 shall not, in any case, apply to the transactions~~ carried out on an occasional basis referred to in Article 4(3) Article 11:

Article 24(1)
(77/388/EEC)

Adapted

Article 24(3), first subparagraph
(77/388/EEC)

Adapted

Article 24(3), second subparagraph, second sentence
(77/388/EEC)

Adapted

Article 24(3), second subparagraph, first sentence
(77/388/EEC)

Adapted

Provisional draft text

- (b) ~~In all circumstances~~ supplies of new means of transport effected under the conditions laid down in ~~Article 28e(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 123;
- (c) ~~In all circumstances~~ supplies of new means of transport effected under the conditions laid down in ~~Article 28e(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~~ Member State where the VAT is payable.
2. Member States may exclude ~~certain~~ transactions other than those referred to in paragraph 1 from the arrangements provided for in ~~paragraph 2~~ this Section.
- Article 264
- (a)1. Member States which have ~~made use of~~ exercised the option under Article 14 of ~~the second~~ Council Directive ~~of 11 April 1967~~ 67/228/EEC¹⁵ to introduce exemptions or graduated tax relief may retain them and the arrangements for applying them if they ~~conform~~ comply with the ~~value added tax~~ VAT system.

**Article 24(3),
third subpara-
graph
(replaced by
Article 28i of
92/111/EEC)**

Adapted

**Article 24(3),
third subpara-
graph
(replaced by
Article 28i of
92/111/EEC)**

Adapted

**Article 24(3),
second subpara-
graph, first
sentence
(77/388/EEC)**

Adapted

**Article 24(2)(a),
first subpara-
graph
(77/388/EEC)**

Adapted

¹⁵ English Special Edition, Series-I, Chapter 1967, p. 16.

Provisional draft text

2. ~~Those~~ Member States which apply at 17 May 1977 applied an exemption from tax to taxable persons whose annual turnover ~~is was~~ less 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 at that date~~, may increase this exemption up to EUR 5 000 European units of account.

**Article 24(2)(a),
second subparagraph
(77/388/EEC)**

Adapted

3. Member States which apply applied graduated tax relief may neither increase the ceiling of the graduated tax ~~reliefs-relief~~ nor render the conditions for the granting of it more favourable.

**Article 24(2)(a),
third subparagraph
(77/388/EEC)**

Adapted

Article 265

~~(b)~~—Member States which have not ~~made use of this exercised the~~ option provided for under Article 14 of Directive 67/228/EEC may grant an exemption from tax to taxable persons whose annual turnover is ~~at the maximum equal to the equivalent in national currency of no higher than~~ EUR 5 000 European units of account at the conversion rate of the day on which this Directive is adopted or the equivalent in national currency.

**Article 24(2)(b),
first sentence
(77/388/EEC)**

Adapted

The Member States referred to in the first paragraph may, where appropriate, ~~they may~~ grant graduated tax relief to taxable persons whose annual turnover exceeds the ceiling ~~fixed by the Member States set by them~~ for the application of the exemption.

**Article 24(2)(b),
second sentence
(77/388/EEC)**

Adapted

Article 266

~~(e)~~—Member States which apply, at 17 May 1977, applied an exemption from tax to 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 at that date~~, may increase it in order to maintain its value in real terms.

**Article 24(2)(c)
(77/388/EEC)**

Adapted

Provisional draft text

Article 267

<p>(a)1. For the implementation of Article 24(2) to (6), the Hellenic Republic Greece, Spain, Portugal, Finland and Sweden may grant a tax an exemption from VAT to taxable persons whose turnover is less than the equivalent in national currency of 10,000 european units of account was no higher than the equivalent in national currency of 10 000 European units of account at the conversion rate on the date of the day of its their accession.</p>	<p>Annex VIII(II)(2) (a) (Act of Accession, EL) <i>Adapted</i></p>
<p>(a) For the implementation of Article 24(2) to (6):</p>	<p>Annex IV(3)(a) (Act of Accession, E and P) <i>Obsolete</i></p>
<p>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;</p>	<p>Annex IV(3)(a), first indent (Act of Accession, E and P) <i>Obsolete</i></p>
<p>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. The granting of exemption which is higher than the equivalent of ECU 10 000 will give rise to compensation for the calculation of own resources in accordance with Regulation (EEC, Euratom, ECSC) No 2892/77, as amended by Regulation (EEC, Euratom, ECSC) No 3625/83.</p>	<p>Annex IV(3)(a), second indent (Act of Accession, E and P) <i>Obsolete</i></p>
<p>(j) In implementation of Article 24(2) to (6) and pending rge 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;</p>	<p>Annex IX(2)(j) (Act of Accession, A, FIN and S) <i>Obsolete</i></p>

Provisional draft text

~~(x) — 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:~~

~~— 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.~~

~~(e)2. the Republic of Austria may apply grant an exemption from value added tax-VAT to taxable persons whose annual turnover is was less than ECU 35 000 or the equivalent in national currency of ECU 35 000 at the conversion rate on the date of its accession.~~

Article 268

~~4. — The turnover which shall serve 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;~~

**Annex IX(2)(x)
(Act of Accession,
A, FIN and S)**

Obsolete

**Annex IX(2)(x),
second indent
(Act of Accession,
A, FIN and S)**

Obsolete

**Annex IX(2)(c),
first subpara-
graph
(Act of Accession,
A, FIN and S)**

Adapted

**Article 24(4), first
subparagraph
(77/388/EEC)**

Adapted

Provisional draft text

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, of goods and services supplied as defined in Articles 5 and 6, to the extent that, where they are taxed subject to tax, including transactions exempted with refund of tax previously the right to deduct the VAT paid at the preceding stage 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 Articles 103 and 104;~~

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 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 Articles 130 to 133 and Articles 135, 136 and 137;~~

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 of real property estate transactions, the financial transactions referred to in Article 13B(d) Article 120(1)(b) to (g), and insurance services, unless these 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)

Unchanged

EN amended

Provisional draft text

Article 269

5.— Taxable persons ~~exempt who benefit from the exemption~~ from tax shall not ~~be entitled to deduct tax in accordance with the provisions of Article 17,~~ have the right to deduct in accordance with Articles 150 to 159, nor to show the ~~tax on VAT in~~ their invoices.

Article 24(5)
(amended by 2001/115/EC)

Adapted

Article 270

6.— Taxable persons eligible for exemption from the tax may opt either for the normal ~~value added tax VAT~~ scheme or for the simplified procedures referred to in ~~paragraph 1 Article 261~~. In ~~this the latter~~ case they shall be entitled to any graduated tax relief which may be ~~laid down provided for~~ by national legislation.

Article 24(6)
(77/388/EEC)

Adapted

Article 271

7.— Subject to the application of ~~paragraph 1 Article 261~~, taxable persons enjoying graduated relief shall be treated as taxable persons subject to the normal ~~value added tax VAT~~ scheme.

Article 24(7)
(77/388/EEC)

Adapted

Article 272

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 provided for in Article 371 enter into force.

Article 24(2)
(77/388/EEC)

Adapted

Section 3

Reporting and review

Provisional draft text

Article 273

~~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 to the Council, on the basis of information obtained from the Member States, on the application of the provisions of this ~~Article Chapter.~~ It shall as far as may be necessary, and taking into account the need to ensure the long-term convergence of national regulations, attach to this report proposals for:

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)

Unchanged

EN amended

~~(b)(2)~~ the adaptation of national systems ~~as regards of~~ exemptions and graduated ~~value added tax VAT~~ relief;

Article 24(8)(b)
(77/388/EEC)

Adapted

~~(e)(3)~~ the adaptation of the ~~limit of 5 000 European units of account mentioned in paragraph 2~~ thresholds referred to in Section 2.

Article 24(8)(c)
(77/388/EEC)

Adapted

Article 274

~~9.~~— The Council ~~will 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~~ shall decide whether a special scheme for small ~~undertakings enterprises is necessary under the definitive arrangements~~ and ~~will shall adopt,~~ if appropriate, ~~decide on~~ the common limits and ~~common implementing~~ conditions ~~of for implementing this special 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

Based on the heading of Article 25

Provisional draft text

~~Article 25~~ Article 275

~~Common flat-rate scheme for farmer~~

~~2.1.~~ For the purposes of this ~~Article, the following definitions shall apply~~ Chapter:

~~–(1) ‘farmer’~~ –a means any taxable person who carries ~~on his out~~ the activity in one of the undertakings defined below of an agricultural, forestry or fisheries undertaking;

~~–(2) ‘agricultural, forestry or fisheries undertakings’~~ –a means an undertaking considered to be such by each Member State within the framework of the production activities listed in ~~Annex A Annex VI~~;

~~–(3) ‘flat-rate farmer’~~ –a means any farmer subject to the flat-rate scheme provided for in ~~paragraphs 3 et seq. this Chapter~~;

~~–(4) ‘agricultural products’~~ –mean goods produced by an agricultural, forestry or fisheries undertaking in each Member State as a result of the activities listed in ~~Annex A Annex VI~~;

Article 25
(77/388/EEC)

Heading of
Article 25
(77/388/EEC)

Obsolete

Article 25(2)
(77/388/EEC)

Adapted

Article 25(2),
first indent
(77/388/EEC)

Adapted

Article 25(2),
second indent
(77/388/EEC)

Adapted

Article 25(2),
third indent
(77/388/EEC)

Adapted

Article 25(2),
fourth indent
(77/388/EEC)

Adapted

Provisional draft text

<p>–(5) ‘agricultural service’ <u>means</u> any service as set out listed in Annex B Annex VII supplied by a farmer farmers using his <u>their</u> labour force and/or by or means of the equipment normally available employed on the agricultural, forestry or fisheries undertaking operated by him <u>them and normally playing a part in agricultural production;</u></p>	<p>Article 25(2), fifth indent (77/388/EEC)</p> <p><i>Adapted</i></p> <p><i>Parts of introduction in Annex B incorporated</i></p>
<p>–(6) ‘value added tax charge on inputs’: ‘input VAT charged’ <u>means</u> the amount of the total value added tax attaching VAT applying 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 is deductible under Article 17 in accordance with Articles 150 to 159 by a farmer subject to the normal value added tax-VAT scheme;</p>	<p>Article 25(2), sixth indent (77/388/EEC)</p> <p><i>Adapted</i></p>
<p>–(7) ‘flat-rate compensation percentages’ <u>mean</u> the percentages fixed by Member States in accordance with paragraph 3 <u>Articles 277, 278 and 279</u> and applied by them in the cases specified in paragraph 5 Article 280 to enable flat-rate farmers to offset at a fixed rate the value added tax charge on inputs <u>input VAT charged;</u></p>	<p>Article 25(2), seventh indent (77/388/EEC)</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 provided for in paragraph 3 to the turnover of the flat-rate farmer in the cases referred to in paragraph 5 Article 280.</p>	<p>Article 25(2), eighth indent (77/388/EEC)</p> <p><i>Adapted</i></p>
<p><u>V.2.</u> Where a farmer processes, using means normally employed in an agricultural, forestry or fisheries undertaking, farmers process products deriving essentially from his—their agricultural production, <u>using means normally employed in an agricultural, forestry or fisheries undertaking,</u> such processing <u>activities</u> shall also be regarded be treated as agricultural production <u>activities listed in Annex VI.</u></p>	<p>Annex A(V) (77/388/EEC)</p> <p><i>Adapted</i></p>

Provisional draft text

Article 276

1. Where the application to farmers of the normal ~~value added tax VAT~~ scheme, or the ~~simplified special~~ scheme provided for in ~~Article 24, would Chapter 1, might~~ give rise to difficulties, Member States may apply to farmers a flat-rate scheme ~~tending designed~~ to offset the ~~value added tax VAT~~ charged on ~~the~~ purchases of goods and services made by the flat-rate farmers pursuant to this ~~Article Chapter~~.

Article 25(1)
(77/388/EEC)

Adapted

~~9.2.~~ Each Member State may exclude from the flat-rate scheme certain categories of farmers and farmers for whom the application of the normal ~~value added tax VAT~~ scheme, or the simplified ~~scheme procedures~~ provided for in ~~Article 24(1), would Article 261, will~~ not 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 VAT~~ scheme or, ~~as the case may be,~~ the simplified ~~scheme procedures~~ provided for in ~~Article 24(1) Article 261~~.

Article 25(10)
(77/388/EEC)

Adapted

Article 277

~~3.~~ Member States shall ~~fix, where necessary, set~~ the flat-rate compensation percentages, ~~where necessary, and shall notify the Commission before applying them. Member States. They may fix set~~ varying percentages for forestry, for the different ~~sub-divisions of agriculture agricultural subsectors~~ 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 set in accordance with the first paragraph~~ before applying them.

Article 25(3), first subparagraph, first sentence
(77/388/EEC)

Adapted

Provisional draft text

Article 278

~~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 percentage 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 279

~~They~~ ~~The flat-rate compensation percentages~~ may not be used to obtain for all 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

Obsolete provision

~~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

Article 280

~~5. —~~ The flat-rate compensation percentages ~~provided for in paragraph 3~~ shall be applied to the prices, exclusive of ~~tax~~ VAT, of the following:

Article 25(5), first subparagraph (replaced by Article 28j(2) of 91/680/EEC)

Adapted

Provisional draft text

<p>(a)(1) agricultural products supplied by flat-rate farmers to taxable persons other than those eligible within the territory of the country same Member State for the flat-rate scheme provided for in this Article;</p>	<p>Article 25(5), first subparagraph, point (a) (replaced by Article 28j(2) of 91/680/EEC)</p> <p><i>Adapted</i></p>
<p>(b)(2) agricultural products supplied by flat-rate farmers, under the conditions laid down in Article 28c(A), Article 123, to non-taxable legal persons not eligible, whose intra-Community acquisitions are subject to VAT in accordance with Article 3(1)(2), in the Member State of arrival of the where dispatch or transport of the agricultural products thus supplied, for the derogation provided for in Article 28a(1)(a), second subparagraph ends;</p>	<p>Article 25(5), first subparagraph, point (b) (replaced by Article 28j(2) of 91/680/EEC)</p> <p><i>Adapted</i></p>
<p>(e)(3) agricultural services supplied by flat-rate farmers to taxable persons other than those eligible within the territory of the country in the same Member State for the flat-rate scheme provided for in this Article.</p>	<p>Article 25(5), first subparagraph, point (c) (replaced by Article 28j(2) of 91/680/EEC)</p> <p><i>Adapted</i></p>
<p><i>Obsolete provision</i></p>	
<p>6. Member States may provide for the flat-rate compensation to be paid:</p>	<p>Article 25(6) (77/388/EEC)</p> <p><i>Obsolete</i></p>
<p>(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;</p>	<p>Article 25(6)(a) (77/388/EEC)</p> <p><i>Obsolete</i></p>

Provisional draft text

~~(b) — or by the public authorities.~~

Article 25(6)(b)
(77/388/EEC)

Obsolete

Article 281

6.1. In the case of the ~~supplies~~ supply of agricultural products and of agricultural services referred to in ~~paragraph 5~~ Article 280, Member States shall provide for the flat-rate compensation to be paid ~~either~~ by the customer or by the public authorities.

Article 25(6)
(replaced by
Article 28j(2) of
91/680/EEC)

Adapted

~~(a) — by the purchaser or customer.~~

Article 25(6)(a),
first subpara-
graph, first
sentence
(replaced by
Article 28j(2) of
91/680/EEC)

Obsolete

~~(b) — by the public authorities.~~

Article 25(6)(b)
(replaced by
Article 28j(2) of
91/680/EEC)

Obsolete

8.2. ~~As regards all supplies~~ For any supply of agricultural products and agricultural services other than those ~~covered by paragraph 5~~ referred to in Article 280, the flat-rate compensation is deemed to be paid by the ~~purchaser or~~ customer.

Article 25(8)
(77/388/EEC)

Adapted

Provisional draft text

Article 282

~~This compensation~~ Flat-rate farmers benefiting from flat-rate compensation shall ~~exclude any other form of deduction~~ not have any other right to deduct VAT for activities covered by this flat-rate scheme.

Article 25(5), second subparagraph (replaced by Article 28j(2) of 91/680/EEC)

Adapted

Article 283

1. ~~In that event, the Where~~ taxable purchaser or customer customers pay flat-rate compensation pursuant to Article 281(1), they shall ~~be authorised~~ have the right, as provided for in ~~Article 17 Articles 150 to 159~~ and in accordance with the procedures laid down by the Member States, to deduct the amount of this compensation from the ~~tax~~ VAT for which ~~he is~~ they are liable within the ~~territory of the country~~ the amount of the flat-rate compensation ~~he has paid to flat-rate farmers~~ same Member State.

Article 25(6)(a), first subparagraph, second sentence (replaced by Article 28j(2) of 91/680/EEC)

Adapted

2. Member States shall refund to ~~the purchaser or customer~~ customers the amount of the flat-rate compensation ~~he has~~ they have paid ~~to flat-rate farmers~~ in respect of any of the following transactions:

Article 25(6)(a), second subparagraph (replaced by Article 28j(2) of 91/680/EEC)

Adapted

~~-(a) supplies any supply~~ of agricultural products effected under the conditions laid down in ~~Article 28c(A) Article 123~~ 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 are subject to VAT pursuant to Article 3(1)(2);

Article 25(6)(a), second subparagraph, first indent (replaced by Article 28j(2) of 91/680/EEC)

Adapted

Provisional draft text

- ~~-(b) supplies any supply of agricultural products effected under the conditions laid down in Article 15 and in Article 16(1)(B), (D) and (E) Articles 130 to 133, Articles 135, 136, 137 and 139, Article 140(12)(b) and Articles 141, 143 and 144, to a taxable purchasers customer established outside the Community, provided that the products are used by those purchasers that customer for the purposes of the transactions referred to in Article 17(3)(a) and (b) Article 152(a) and (b) or for the purposes of services which are deemed to be supplied within the territory of the country Member State in which the customer is established and on which tax is payable solely by the customers customer under Article 21(1)(b) Article 176;~~
- ~~-(c) supplies any 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 the services are used by those customers for the purposes of the transactions referred to in Article 17(3)(a) and (b) Article 152(a) and (b) and or for the purposes of services which are deemed to be supplied within the territory of the country Member State where the customer is established and on which tax is payable solely by the customers customer under Article 21(1)(b) Article 176.~~
3. Member States shall determine the method by which the refunds referred to 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 284

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(6)(a), second subparagraph, second indent

(replaced by **Article 28j(2) of 91/680/EEC**)

Adapted

Article 25(6)(a), second subparagraph, third indent

(replaced by **Article 28j(2) of 91/680/EEC**)

Adapted

Article 25(6)(a), third subparagraph

(replaced by **Article 28j(2) of 91/680/EEC**)

Adapted

Article 25(7) (77/388/EEC)

Unchanged

EN amended

Provisional draft text

Article 285

Whenever they ~~exercise the option provided for in this Article~~ apply the flat-rate scheme, Member States shall take all measures necessary to ensure that the same method of taxation is applied to ~~supplies the supply~~ of agricultural products between Member States effected under the conditions laid down in ~~Article 28b(B)(1), Article 32, irrespective of whether the supply is they are~~ effected by a flat-rate farmer or by ~~a another~~ taxable person ~~other than a flat-rate farmer~~.

**Article 25(9),
second subparagraph
(inserted by
Article 28j(3) of
91/680/EEC)**

Adapted

Obsolete provisions

~~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

~~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:~~

**Annex C(I)
(77/388/EEC)**

Obsolete

~~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 of Annex C below, plus the output of the processing activities referred to in point V of Annex A;~~

**Annex C(I)(1)
(77/388/EEC)**

Obsolete

~~2. — the value of the total inputs required to achieve the production referred to in (1);~~

**Annex C(I)(2)
(77/388/EEC)**

Obsolete

~~3. — the value of the gross fixed asset formation in connection with the activities listed in Annexes A and B.~~

**Annex C(I)(3)
(77/388/EEC)**

Obsolete

Provisional draft text

~~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.~~

Annex C(II)
(77/388/EEC)

Obsolete

~~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.~~

Annex C(III)
(77/388/EEC)

Obsolete

Chapter 3

Special scheme for travel agents

Based on the heading of Article 26

~~Article 26~~Article 286

Article 26
(77/388/EEC)

Special scheme for travel agents

Heading of Article 26
(77/388/EEC)

Obsolete

1. Member States shall apply ~~value added tax~~ a special scheme of VAT to the ~~operations of transactions~~ effected by travel agents in accordance with the provisions of this ~~Article~~ Chapter, where ~~the~~ such travel agents deal with customers in their own name and use ~~the supplies and goods and services of supplied by~~ other taxable persons in the provision of travel ~~facilities~~ arrangements.

Article 26(1), first sentence
(77/388/EEC)

Adapted

This ~~Article 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)~~ are covered by point (c) of the first paragraph of Article 74.

Article 26(1), second sentence
(77/388/EEC)

Adapted

~~2. In this Article travel agents include~~ For the purposes of paragraph 1, tour operators shall also be treated as travel agents.

Article 26(1), third sentence
(77/388/EEC)

Adapted

Provisional draft text

Article 287

~~2.~~ ~~All transactions performed~~ Transactions effected by the travel agent in respect of a journey travel arrangements under the conditions set out in Article 286 shall be treated as a single service supplied by the travel agent to the traveller.

Article 26(2), first sentence
(77/388/EEC)

Adapted

~~†~~ This single service shall be taxable in the Member State in which the travel agent has established his business or has a fixed permanent establishment from which ~~the travel agent has provided the services~~ service is provided.

Article 26(2), second sentence
(77/388/EEC)

Adapted

Article 288

The taxable amount and the price exclusive of ~~tax~~ VAT, within the meaning of ~~Article 22(3)(b) point (8) of Article 204~~, 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 the goods and~~ services provided by other taxable persons where these transactions are for the direct benefit of the traveller.

Article 26(2), third sentence
(77/388/EEC)

Adapted

Article 289

~~3.~~ If transactions entrusted by the travel agent to other taxable persons are performed by such persons outside the Community, the travel agent's service shall be treated as an ~~exempted~~ intermediary activity ~~under Article 15(14)~~ exempted in accordance with Article 137.

Article 26(3), first sentence
(77/388/EEC)

Adapted

Where these transactions are ~~performed~~ effected 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)

Unchanged

EN amended

Provisional draft text

Article 290

4. ~~Tax VAT~~ charged to the travel agent by other taxable persons on the transactions ~~described-referred to~~ in ~~paragraph 2~~ Articles 287 and 288 which are for the direct benefit of the traveller, shall not be eligible for deduction or refund 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

Based on the heading of Article 26a

Section 1

Definitions

Based on the heading of Article 26a(A)

~~Article 26a~~ Article 291

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)

Obsolete

~~A. Definitions~~

Heading of Article 26a(A)
(inserted by 94/5/EC)

Obsolete

1. For the purposes of this ~~Article~~ Chapter, and without prejudice to other Community provisions:

Article 26a(A), introduction
(inserted by 94/5/EC)

Adapted

Provisional draft text

<p>(d)(a) second-hand goods shall mean <u>'second-hand goods'</u> means tangible movable property that is suitable for further use as it is in its present state 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;</p>	<p>Article 26a(A)(d) (inserted by 94/5/EC)</p> <p><i>Unchanged</i></p> <p><i>EN amended</i></p>
<p>(a)(b) 'works of art shall mean art' means the objects referred to listed in (a) of Annex I Annex VIII, Part A;</p>	<p>Article 26a(A)(a), first subpara- graph (inserted by 94/5/EC)</p> <p><i>Adapted</i></p>
<p>(b)(c) 'collectors' items shall mean items' means the objects referred to listed in (b) of Annex I Annex VIII, Part B;</p>	<p>Article 26a(A)(b) (inserted by 94/5/EC)</p> <p><i>Adapted</i></p>
<p>(e)(d) antiques shall mean <u>'antiques'</u> means the objects referred to listed in (e) of Annex I Annex VIII, Part C;</p>	<p>Article 26a(A)(c) (inserted by 94/5/EC)</p> <p><i>Adapted</i></p>
<p>(e) <u>'taxable dealer shall mean a dealer'</u> means any taxable person who, in the course of his economic activity, purchases or acquires for the purposes of his undertaking business, or imports with a view to resale, second-hand goods and/or works of art, collectors' items or antiques, whether that taxable person is acting for himself or on behalf of another person pursuant to <u>under</u> a contract under which commission is payable on purchase or sale;</p>	<p>Article 26a(A)(e) (inserted by 94/5/EC)</p> <p><i>Adapted</i></p>
<p>(f) <u>organizer 'organiser'</u> of a sale by public auction shall mean auction' means any taxable person who, in the course of his economic activity, offers goods for sale by public auction with a view to handing selling them over to the highest bidder;</p>	<p>Article 26a(A)(f) (inserted by 94/5/EC)</p> <p><i>Unchanged</i></p> <p><i>EN amended</i></p>

Provisional draft text

- (g) ~~principal~~ 'principal of an ~~organizer~~ organiser of a sale by public ~~auction shall mean~~ 'auction' means any person who transmits goods to an ~~organizer~~ organiser of a sale by public auction under a contract under which commission is payable on a sale ~~subject to the following provisions:~~
2. ~~However,~~ Member States ~~shall have the option of~~ may not ~~considering~~ treat as 'works of art' the ~~items mentioned~~ objects listed ~~in the final three indents in (a) in Annex I points A(5), (6) and (7) of Annex VIII;~~
- ~~-3.~~ The contract under which commission is payable on a sale referred to in paragraph 1(g) shall provide for the organizer ~~organiser~~ of the sale by public auction ~~offers to offer~~ the goods for sale in his own name but on behalf of his principal and to sell the goods, in his own name but on behalf of his principal, to the highest bidder at the public auction;
- ~~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)
(inserted by
94/5/EC)

Adapted

Article 26a(A)(a),
second subpara-
graph
(inserted by
94/5/EC)

Adapted

Article 26a(A)(g),
first indent
(inserted by
94/5/EC)

Adapted

Article 26a(A)(g),
second indent
(inserted by
94/5/EC)

Obsolete

Section 2

Special arrangements for taxable dealers

~~B.~~ Special arrangements for taxable dealers

*Based on the
heading of
Article 26a(B)*

**Heading of
Article 26a(B)**
(inserted by
94/5/EC)

Obsolete

Subsection 1

Margin scheme

Provisional draft text

Article 292

1. In respect of ~~supplies any supply~~ of second-hand goods, works of art, collectors' items ~~and or~~ antiques effected by taxable ~~dealers~~ dealers, Member States shall apply a special arrangements scheme for taxing the profit margin ~~made-obtained~~ by the taxable ~~dealer~~ dealers, in ~~accordance~~ 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) Article 3(3), effected ~~within~~ under the conditions laid down in ~~Article 28c(A) shall be excluded from the special arrangements provided for in B and C~~ Article 123;

Article 26a(D)(a)
(inserted by
94/5/EC)

Adapted

Article 293

~~2.—~~ ~~The supplies of goods referred to in paragraph 1 shall be supplies.~~ The margin scheme shall apply to any supply by ~~a taxable dealer, of second-hand goods, works of art, collectors' items or antiques~~ dealers of the goods referred to in Article 292(1) where these goods have been supplied to ~~him~~ them 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)

Adapted

~~(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)(c), or Article 121;

Article 26a(B)(2),
second indent
(inserted by
94/5/EC)

Adapted

~~(c)~~ by another taxable person, in so far as the supply of goods by that other taxable person qualifies for the tax exemption for small enterprises provided for in Article 24 Articles 264 to 267 and involves capital ~~assets, or~~ goods;

Article 26a(B)(2),
third indent
(inserted by
94/5/EC)

Adapted

Provisional draft text

-(d)	by another taxable dealer, in so far as the supply of goods by that other taxable dealer was subject to value added tax-VAT in accordance with these special arrangements <u>this special scheme</u> .	Article 26a(B)(2), fourth indent (inserted by 94/5/EC)
		<i>Adapted</i>
<i>Article 294</i>		
3.1.	The taxable amount of the supplies of goods referred to in paragraph 2 <u>Article 293</u> shall be the profit margin made-obtained by the taxable dealer, less the amount of value added tax-VAT relating to the profit margin.	Article 26a(B)(3), first subparagraph, first sentence (inserted by 94/5/EC)
		<i>Adapted</i>
	That <u>The taxable dealer's</u> profit margin 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 subparagraph, second sentence (inserted by 94/5/EC)
		<i>Adapted</i>
2.	For the purposes of this paragraph, the following definitions shall apply <u>paragraph 1</u> :	Article 26a(B)(3), second subparagraph (inserted by 94/5/EC)
		<i>Adapted</i>
	-(a) selling price shall mean <u>'selling price' means</u> everything which constitutes the consideration, which has been, or is to be, obtained by the taxable dealer from the <u>purchaser customer</u> or a third party, including subsidies directly linked to that <u>the</u> 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 but excluding the amounts referred to in Article 1(A)(3) <u>Article 74</u> ;	Article 26a(B)(3), second subparagraph, first indent (inserted by 94/5/EC)
		<i>Adapted</i>

Provisional draft text

~~-(b) purchase price shall mean~~ 'purchase price' means everything which constitutes the consideration defined in ~~the first indent, 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 295

4.1. Member States shall ~~entitle~~ allow taxable dealers to opt for application of the ~~special arrangements margin scheme~~ to ~~supplies the supply~~ of the following:

**Article 26a(B)(4),
first subpara-
graph
(inserted by
94/5/EC)**

Adapted

(a) works of art, collectors' items or antiques which they have imported themselves;

**Article 26a(B)(4),
first subpara-
graph, point (a)
(inserted by
94/5/EC)**

Adapted

EN unchanged

(b) works of art supplied to them by their creators or their successors in title;

**Article 26a(B)(4),
first subpara-
graph, point (b)
(inserted by
94/5/EC)**

Adapted

EN unchanged

Provisional draft text

- (c) works of art supplied to them by a taxable person other than a taxable dealer where the supply by that other taxable person was subject to the reduced rate pursuant to ~~Article 12(3)(e)~~ Article 95.

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 the exercise of the~~ option ~~provided for in paragraph 1, which shall, in any event all circumstances, shall~~ cover a period ~~of~~ at least ~~equal to~~ two calendar years.

Article 26a(B)(4), second subparagraph
(inserted by 94/5/EC)

Adapted

Article 296

~~If Where the taxable dealer exercises~~ the option ~~is taken up referred to in Article 295~~, the taxable amount shall be determined in accordance with ~~paragraph 3 Article 294~~.

Article 26a(B)(4), third subparagraph, first sentence
(inserted by 94/5/EC)

Adapted

For ~~the supplies of works of art, collectors' items or antiques which the taxable dealer has imported himself referred to in Article 295(1)(a)~~, the purchase price to be taken into account in calculating the margin shall be equal to the taxable amount on importation, determined in accordance with ~~Article 11(B) Articles 78 to 82~~, plus the ~~value added tax VAT~~ due or paid on importation.

Article 26a(B)(4), third subparagraph, second sentence
(inserted by 94/5/EC)

Adapted

Provisional draft text

Article 297

10.1.	In order to simplify the procedure for charging the tax and subject to consultation of <u>after consulting</u> 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 for supplies of goods subject to the special arrangements for taxing the margin <u>scheme</u> shall be determined for each tax period during which the taxable dealer must submit the <u>VAT</u> return referred to in Article 22(4) <u>Article 229</u> .	Article 26a(B)(10), first subparagraph (inserted by 94/5/EC)
	<i>Adapted</i>	
	In that event, the case referred to in the first subparagraph, the taxable amount for supplies of goods to which the same rate of value added tax VAT is applied shall be the total margin made obtained by the taxable dealer less the amount of value added tax VAT relating to that margin.	Article 26a(B)(10), second subparagraph (inserted by 94/5/EC)
	<i>Adapted</i>	
<u>2.</u>	The total margin shall be equal to the difference between <u>the following two amounts</u> :	Article 26a(B)(10), third subparagraph (inserted by 94/5/EC)
	<i>Adapted</i>	
	-(a) the total amount of supplies of goods subject to the special arrangements for taxing the margin <u>scheme</u> effected by the taxable dealer during the <u>return</u> period; that amount shall be equal to that is the total selling prices determined in accordance with paragraph 3, and <u>price</u> ;	Article 26a(B)(10), third subparagraph, first indent (inserted by 94/5/EC)
	<i>Adapted</i>	
	-(b) the total amount of purchases of goods as referred to in paragraph 2 Article 293 effected, during that the return period, by the taxable dealer; that amount shall be equal to that is the total purchase prices determined in accordance with paragraph 3 <u>price</u> .	Article 26a(B)(10), third subparagraph, second indent (inserted by 94/5/EC)
	<i>Adapted</i>	

Provisional draft text

3. Member States shall take the ~~necessary~~ measures necessary to ensure that the taxable persons referred to in paragraph 1 concerned do not enjoy unjustified ~~advantages~~ advantage or sustain unjustified ~~loss~~ harm.

Article 26a(B)(10),
fourth subpara-
graph
(inserted by
94/5/EC)

Adapted

Article 298

~~11.~~ ~~The taxable dealer~~ Taxable dealers 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 subpara-
graph
(inserted by
94/5/EC)

Adapted

Article 299

1. Where ~~the taxable dealer applies~~ dealers apply the normal value added tax-VAT arrangements to the supply of:

Article 26a(B)(11),
second subpara-
graph
(inserted by
94/5/EC)

Adapted

(a) ~~the supply of~~ a work of art, collectors' item or antique which ~~he has~~ they have imported ~~himself, he themselves,~~ they shall ~~be entitled~~ have the right to deduct from ~~his the~~ tax liability for which they are liable the value added tax-VAT due or paid on the import of those goods;

Article 26a(B)(11),
second subpara-
graph, point (a)
(inserted by
94/5/EC)

Adapted

(b) ~~the supply of~~ a work of art supplied to ~~him~~ them by its creator or his successors in title, ~~he they~~ shall have the right ~~be entitled~~ to deduct from ~~his the~~ tax liability for which they are liable the value added tax-VAT due or paid for the work of art supplied ~~to him~~ to them;

Article 26a(B)(11),
second subpara-
graph, point (b)
(inserted by
94/5/EC)

Adapted

Provisional draft text

<p>(c) the supply of a work of art supplied to him<u>them</u> by a taxable person other than a taxable dealer, he<u>they</u> shall be entitled<u>have the right</u> to deduct from his<u>the</u> tax liability for which they are liable the value added tax<u>VAT</u> due or paid for the work of art supplied to him<u>to them</u>.</p>	<p>Article 26a(B)(11), second subparagraph, point (c) (inserted by 94/5/EC)</p>
<p><i>Adapted</i></p>	
<p><u>2.</u> This<u>The</u> right to deduct shall arise at the time when the tax due for on the supply in respect of which the taxable dealer opts for application of the normal value added tax<u>VAT</u> arrangements become<u>becomes</u> chargeable.</p>	<p>Article 26a(B)(11), third subparagraph (inserted by 94/5/EC)</p>
<p><i>Adapted</i></p>	
<p><i>Article 300</i></p>	
<p><u>5.</u>—Where they are effected in<u>under</u> the conditions laid down in Article 15, the<u>Articles 130 to 133 and Articles 135, 136 and 137,</u> supplies of second-hand goods, works of art, collectors' item<u>items</u> or antiques subject to the special arrangements for taxing the margin <u>scheme</u> shall be exempt.</p>	<p>Article 26a(B)(5) (inserted by 94/5/EC)</p>
<p><i>Adapted</i></p>	
<p><i>Article 301</i></p>	
<p><u>7.</u>—In so far as<u>Where</u> goods are used for the purpose of their supplies by him subject to the special arrangements for taxing the margin <u>scheme</u>, the taxable dealer<u>dealers</u> may not<u>shall not be entitled to</u> deduct from the tax for which he is<u>they are</u> liable:</p>	<p>Article 26a(B)(7) (inserted by 94/5/EC)</p>
<p><i>Adapted</i></p>	
<p>(a) the value added tax<u>VAT</u> due or paid in respect of works of art, collectors' items or antiques which he has<u>they have</u> imported himself<u>themselves</u>;</p>	<p>Article 26a(B)(7)(a) (inserted by 94/5/EC)</p>
<p><i>Adapted</i></p>	
<p>(b) the value added tax<u>VAT</u> due or paid in respect of works of art which have been, or are to be, supplied to him<u>them</u> by their creators<u>creator</u> or their<u>his</u> successors in title;</p>	<p>Article 26a(B)(7)(b) (inserted by 94/5/EC)</p>
<p><i>Adapted</i></p>	

Provisional draft text

- (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-them~~ by a taxable person other than a taxable dealer.

Article 26a(B)(7)
(c)
(inserted by
94/5/EC)

Adapted

Article 302

6.— Taxable persons ~~shall not be entitled to~~ may not deduct from the tax 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 insofar~~ 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 303

8.— ~~Where he is led to apply both the normal arrangements for value added tax and the special arrangements for taxing the margin, the taxable dealer~~ Taxable dealers who apply both the normal VAT arrangements and the margin scheme must ~~follow separately in his~~ show separately in their accounts the transactions falling under each of these arrangements, according to rules laid down by the Member States.

Article 26a(B)(8)
(inserted by
94/5/EC)

Adapted

Article 304

9.— ~~The taxable dealer~~ Taxable dealers may not indicate separately on the invoices which ~~he issues, tax they issue, the~~ VAT relating to supplies the supply of goods which ~~he makes are made~~ subject to ~~the special arrangements for taxing the~~ margin scheme.

Article 26a(B)(9)
(inserted by
94/5/EC)

Adapted

Subsection 2

Transitional scheme for means of transport

*Based on the
heading of
Title XVI B*

Provisional draft text

TITLE XVI B

**~~TRANSITIONAL PROVISIONS APPLICABLE IN THE
FIELD OF SECOND-HAND GOODS, WORKS OF ART,
COLLECTORS' ITEMS AND ANTIQUES~~**

**Title XVI B
(inserted by
94/5/EC)**

**Heading of
Title XVI B
(inserted by
94/5/EC)**

Obsolete

Article 280~~Article 305~~

~~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 of second-hand means of transport effected by taxable dealers may 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 set out in this Subsection:~~

**Article 280(1)
(inserted by
94/5/EC)**

Adapted

~~2. — By way of derogation from the first sentence of paragraph 1, the Kingdom of Denmark shall be entitled to apply the special tax authorised to introduce the arrangements laid down in subparagraphs 1(a) to (h) during the period referred to in Article 281 the first paragraph.~~

**Article 280(2)
(inserted by
94/5/EC)**

Adapted

Article 306

~~(a) — the special These transitional arrangements shall apply only to supplies of the supply of means of transport referred to in Article 28a(2)(a) and the first subparagraph of Article 3(2) which are regarded as second-hand goods within the meaning of Article 26a(A)(d), effected by taxable dealers within the meaning of Article 26a(A)(e), and which are subject to the special tax arrangements for taxing the margin pursuant to Article 26a(B)(1) and (2) scheme.~~

**Article 280(1)(a),
first sentence
(inserted by
94/5/EC)**

Adapted

~~Supplies These arrangements shall not apply to the supply of new means of transport within the meaning of Article 28a(2)(b) that are carried out Article 3(3) effected under the conditions specified in Article 28c(A) shall be excluded from these special arrangements laid down in Article 123:~~

**Article 280(1)(a),
second sentence
(inserted by
94/5/EC)**

Adapted

Provisional draft text

Article 307

~~(b) — the tax~~ The VAT due in respect of each supply referred to in ~~(a) is~~ Article 306 shall be equal to the amount of tax 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 in the purchase price of the means of transport by the taxable dealer~~;~~.

Article 280(1)(b)
(inserted by
94/5/EC)

Adapted

Article 308

~~(e) — the tax~~ The VAT regarded as being incorporated in the purchase price of the means of transport by the taxable dealer shall be calculated according to the following method:

Article 280(1)(c)
(inserted by
94/5/EC)

Adapted

~~-(a)~~ the purchase price to be taken into account shall be the purchase price within the meaning of ~~Article 26a(B)(3) Article 294(2)(b);;~~

Article 280(1)(c),
first indent
(inserted by
94/5/EC)

Adapted

~~-(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~~ made the supply subject to the normal ~~value added tax~~ VAT arrangements~~;~~.

Article 280(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 86~~, in the Member State within which the place of the supply to the taxable dealer, determined in accordance with ~~Article 8~~ Articles 30 and 31, is deemed to be situated~~;~~.

Article 280(1)(c),
third indent
(inserted by
94/5/EC)

Adapted

Provisional draft text

Article 309

~~(d) — the tax~~ The VAT due in respect of ~~each supply as referred to in (a) the supply of means of transport referred to in the first paragraph of Article 306,~~ determined in accordance with ~~the provisions of (b) Article 307,~~ may not be less than the amount of ~~tax~~ VAT that would ~~be have been~~ due if that supply had been subject to the ~~special arrangements for taxing the margin in accordance with Article 26a(B)(3) scheme.~~ special arrangements

**Article 280(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 the margin, that the margin would not have been less than 10% of the selling price, within the meaning of B(3) Article 294(2)(a) if the supply had been subject to the margin scheme.~~

**Article 280(1)(d),
second subpara-
graph
(inserted by
94/5/EC)**

Adapted

Article 310

~~(f) — taxable~~ Taxable persons ~~shall not be entitled to~~ may not deduct from the tax for which they are liable the VAT tax due or paid in respect of second-hand means of transport supplied to them by a taxable dealer, ~~in so far insofar~~ as the supply of those goods by the taxable dealer is subject to ~~the tax arrangements in accordance with (a) the tax under this transitional scheme.~~ this transitional scheme.

**Article 280(1)(f)
(inserted by
94/5/EC)**

Adapted

Article 311

~~(e) — the taxable dealer shall~~ Taxable dealers may not ~~be entitled to~~ indicate separately on the invoices ~~he issues tax~~ they issue the VAT relating to supplies which ~~he is subjecting they have made subject to the special arrangements this transitional scheme.~~ this transitional scheme.

**Article 280(1)(e)
(inserted by
94/5/EC and
amended by
2001/115/EC)**

Adapted

Provisional draft text

Obsolete provision

~~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:~~

~~(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);~~

~~(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:~~

~~— 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);~~

~~— 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.~~

**Article 280(4)
(inserted by
94/5/EC)**

Obsolete

**Article 280(4)(a)
(inserted by
94/5/EC)**

Obsolete

**Article 280(4)(b),
first subpara-
graph
(inserted by
94/5/EC)**

Obsolete

**Article 280(4)(b),
first subpara-
graph, first indent
(inserted by
94/5/EC)**

Obsolete

**Article 280(4)(b),
first subpara-
graph, second
indent
(inserted by
94/5/EC)**

Obsolete

Provisional draft text

<p>— This right to deduct shall arise at the time when the tax due for the supply taxed in accordance with (a) becomes chargeable;</p>	<p>Article 280(4)(b), second subparagraph (inserted by 94/5/EC)</p> <p><i>Obsolete</i></p>
<p>(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:</p>	<p>Article 280(4)(c) (inserted by 94/5/EC)</p> <p><i>Obsolete</i></p>
<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,</p>	<p>Article 280(4)(c), first indent (inserted by 94/5/EC)</p> <p><i>Obsolete</i></p>
<p>— 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;</p>	<p>Article 280(4)(c), second indent (inserted by 94/5/EC)</p> <p><i>Obsolete</i></p>
<p>(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);</p>	<p>Article 280(4)(d) (inserted by 94/5/EC)</p> <p><i>Obsolete</i></p>
<p>(e) the category of rates applicable to these supplies of goods shall be that which was applicable on 1 January 1993;</p>	<p>Article 280(4)(e) (inserted by 94/5/EC)</p> <p><i>Obsolete</i></p>

Provisional draft text

~~(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

Based on the
heading of
Article 26a(C)

~~C. Special arrangements for sales by public auction~~

Heading of
Article 26a(C)
(inserted by
94/5/EC)

Obsolete

Article 312

- ~~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 a special scheme for taxing the profit margin obtained 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 this organiser, acting in his own name, pursuant to and on behalf of the persons referred to in Article 313, under 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

Provisional draft text

~~(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) Article 3(3)~~, effected ~~within~~ under the conditions laid down in ~~Article 28c(A) shall be excluded from the special arrangements provided for in B and C Article 123;~~

Article 26a(D)(a)
(inserted by
94/5/EC)

Adapted

Article 313

~~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 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)

Adapted

~~-(b) another taxable person, in so far insofar as the supply of goods; within the meaning of Article 5(4)(e); by that other taxable person under a contract whereby commission is payable on the sale of those goods is exempt in accordance with Article 13(B)(c); or Article 121;~~

**Article 26a(C)(1),
second indent**
(inserted by
94/5/EC)

Adapted

~~-(c) another taxable person, in so far insofar as the supply of goods; within the meaning of Article 5(4)(e) by that other taxable person under a contract whereby commission is payable on the sale of those goods qualifies for the tax exemption provided for in Article 24 Articles 264 to 267 for small enterprises 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 insofar as the supply of goods, within the meaning of Article 5(4)(e); by that other taxable dealer under a contract whereby commission is payable on the sale of those goods; 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

Provisional draft text

Article 314

7.—The supply of goods to a taxable person who is an ~~organizer~~ organiser of ~~sales—a sale~~ by public auction shall be regarded as being effected when the sale of those goods by public auction ~~is itself-effected~~ takes place.

Article 26a(C)(7)
(inserted by
94/5/EC)

Unchanged

EN amended

Article 315

2.—The taxable amount of each supply of goods referred to in ~~paragraph 1 this Section~~ shall be the total amount invoiced in accordance with ~~paragraph 4 Article 318~~ to the purchaser by the ~~organizer~~ organiser of the sale by public auction, less the following amounts:

Article 26a(C)(2)
(inserted by
94/5/EC)

Adapted

~~-(a)~~ the net amount paid or to be paid by the ~~organizer~~ organiser of the sale by public auction to ~~his—the~~ principal, determined in accordance with ~~paragraph 3, and Article 316~~;

Article 26a(C)(2),
first indent
(inserted by
94/5/EC)

Adapted

~~-(b)~~ the amount of the ~~tax—due—VAT payable~~ by the ~~organizer~~ organiser of the sale by public auction ~~in respect of his—on the~~ supply.

Article 26a(C)(2),
second indent
(inserted by
94/5/EC)

Adapted

Article 316

3.—The net amount paid or to be paid by the ~~organizer~~ organiser of the sale by public auction to ~~his—the~~ 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 the principal under the contract whereby commission is payable on the sale.

Article 26a(C)(3)
(inserted by
94/5/EC)

Adapted

Provisional draft text

~~the price of the goods at public auction, and~~

**Article 26a(C)(3),
first indent
(inserted by
94/5/EC)**

Obsolete

~~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)**

Obsolete

Article 317

~~6.~~ Organisers of sales by public auction who supply goods under the conditions laid down in ~~paragraph 1—~~[Article 313](#) must indicate [the following amounts](#) in their accounts, in suspense accounts:

**Article 26a(C)(6),
first subpara-
graph
(inserted by
94/5/EC)**

Adapted

~~(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)**

Unchanged

~~(b)~~ the amount 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)**

Unchanged

Provisional draft text

~~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)**

Adapted

Article 318

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 subpara-
graph
(inserted by
94/5/EC and
amended by
2001/115/EC)**

Adapted

~~-(a)~~ the auction price of the goods~~;~~

**Article 26a(C)(4),
first subpara-
graph, first indent
(inserted by
94/5/EC)**

Unchanged

~~-(b)~~ taxes, dues, levies and charges~~;~~

**Article 26a(C)(4),
first subpara-
graph, second
indent
(inserted by
94/5/EC)**

Unchanged

Provisional draft text

~~(c)~~ incidental expenses such as commission, packing, transport and insurance costs charged by the ~~organizer~~ organiser to the ~~purchaser~~ customer of the goods.

**Article 26a(C)(4),
first subpara-
graph, third
indent
(inserted by
94/5/EC)**

Unchanged

EN amended

~~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 subpara-
graph
(inserted by
94/5/EC)**

Adapted

Article 319

5.1. The ~~organizer~~ organiser of the sale by public auction to whom the goods were transmitted under a contract whereby commission is payable on a public auction sale must issue a statement to his principal.

**Article 26a(C)(5),
first subpara-
graph
(inserted by
94/5/EC)**

Unchanged

~~That~~ The statement issued by the organiser of the sale by public auction must ~~itemize~~ itemise the amount of the transaction, i.e. 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 under the conditions referred to in 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 198 and 199.

**Article 26a(C)(5),
third subpara-
graph
(inserted by
94/5/EC)**

Adapted

Provisional draft text

Article 320

~~3. — Where they apply the special arrangements for sales by public auction provided for in Article 26a(C),~~ Member States which apply the scheme set out in this Section shall also apply these ~~special~~ arrangements to supplies of second-hand means of transport effected by an ~~organizer~~ organiser of sales by public auction, acting in his own name, ~~pursuant to~~ under a contract ~~under which whereby~~ commission is payable on the sale of those goods by public auction, on behalf of a taxable dealer, ~~in so far insofar~~ as ~~the supply of the second hand means of transport, within the meaning of Article 5(4)(e), these supplies~~ by that ~~other~~ taxable dealer, ~~is~~ are subject to ~~tax~~ VAT in accordance with ~~paragraphs 1 and 2~~ transitional scheme for means of transport.

~~D. — Transitional arrangements for the taxation of trade between Member States~~

~~During the period referred to in Article 281, Member States shall apply the following provisions:~~

Section 4

Measures to prevent distortions of competition and fraud

Article 321

Member States may ~~take adopt~~ measures concerning the right to deduct ~~value added tax VAT~~ in order to ~~avoid ensure~~ the taxable dealers ~~concerned enjoying covered by one of the schemes referred to in Section 2~~ do not enjoy unjustified ~~advantages advantage~~ or ~~sustaining sustain~~ unjustified ~~loss~~ harm.

Article 280(3)
(inserted by
94/5/EC)

Adapted

Heading of
Article 26a(D)
(inserted by
94/5/EC)

Obsolete

Article 26a(D),
introduction
(inserted by
94/5/EC)

Obsolete

Article 2
(94/5/EC)

Adapted

Provisional draft text

Article 322

Acting unanimously on a proposal from the Commission, the Council may ~~authorize—authorise~~ any Member State to introduce ~~particular—special~~ measures ~~for the purpose of combating to combat~~ fraud, ~~by~~ providing that the ~~tax—VAT~~ due ~~in application of—under~~ the ~~arrangements for taxing the~~ profit margin ~~provided for in Article 26a(B)—scheme~~ cannot be less than the amount of ~~the~~ tax which would be due if the profit margin were equal to a certain percentage of the selling price.

~~This—The~~ percentage ~~of the selling price~~ shall be fixed ~~taking into account~~ ~~in the light of~~ the normal profit margins ~~realized—obtained~~ by economic operators in the sector concerned.

Chapter 5

Special scheme for investment gold

Section 1

General provisions

~~Article 26b~~Article 323

Special scheme for investment gold

A.—Definition

Article 3, first sentence (94/5/EC)

Adapted

Article 3, second sentence (94/5/EC)

Adapted

Based on the heading of Article 26b

Based on the heading of Article 26b(A)

Article 26b (inserted by 98/80/EC)

Heading of Article 26b (inserted by 98/80/EC)

Obsolete

Heading of Article 26b(A) (inserted by 98/80/EC)

Obsolete

Provisional draft text

<p><u>1.</u> For the purposes of this Directive, and without prejudice to other Community provisions, ‘investment gold’ shall mean <u>means</u>:</p>	<p>Article 26b(A), first subparagraph (inserted by 98/80/EC)</p> <p><i>Adapted</i></p>
<p>(i)<u>(1)</u> 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;</p>	<p>Article 26b(A), first subparagraph, point (i), first sentence (inserted by 98/80/EC)</p> <p><i>Unchanged</i></p>
<p>(i)<u>(2)</u> <u>gold coins which are of a purity equal to or greater than 900 thousandths, are minted after 1800, 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%;</u></p>	<p>Article 26b(A), first subparagraph, point (ii) (inserted by 98/80/EC)</p> <p><i>Adapted</i></p>
<p>— are of a purity equal to or greater than 900 thousandths,</p>	<p>Article 26b(A), first subparagraph, point (ii), first indent (inserted by 98/80/EC)</p> <p><i>Obsolete</i></p>
<p>— are minted after 1800,</p>	<p>Article 26b(A), first subparagraph, point (ii), second indent (inserted by 98/80/EC)</p> <p><i>Obsolete</i></p>

Provisional draft text

<p>— are or have been legal tender in the country of origin, and</p>	<p>Article 26b(A), first subparagraph, point (ii), third indent (inserted by 98/80/EC)</p> <p><i>Obsolete</i></p>
<p>— 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%.</p>	<p>Article 26b(A), first subparagraph, point (ii), fourth indent (inserted by 98/80/EC)</p> <p><i>Obsolete</i></p>
<p><u>2.</u> Member States may exclude from the scheme small bars or wafers of a weight of 1 g or less <u>from this special scheme</u>.</p>	<p>Article 26b(A), first subparagraph, point (i), second sentence (inserted by 98/80/EC)</p> <p><i>Adapted</i></p>
<p><u>3.</u> Such <u>For the purposes of this Directive, the</u> coins <u>referred to in paragraph 1(2)</u> are not, for the purpose of this Directive, considered to be sold for numismatic interest.</p>	<p>Article 26b(A), second subparagraph (inserted by 98/80/EC)</p> <p><i>Adapted</i></p>
<p style="text-align: center;"><u>Article 324</u></p>	
<p>Each Member State shall inform the Commission before by 1 July each year, starting in 1999, of the coins meeting these the criteria <u>set out in Article 323(1)(2)</u> which are traded in that Member State. The Commission shall publish a comprehensive list of these coins in the 'C' series of the Official Journal of the European Communities <u>Union</u> before 1 December each year. Coins included in the published list shall be deemed to fulfil these criteria for the whole year for which the list is published.</p>	<p>Article 26b(A), third subparagraph (inserted by 98/80/EC)</p> <p><i>Adapted</i></p>

Provisional draft text

Section 2

Exemption from tax

~~B.—Special arrangements applicable to investment gold transactions~~

Article 325

Member States shall exempt from ~~value added tax-VAT~~ the supply, ~~the~~ intra-Community acquisition ~~the~~ and 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 326

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-act~~ in the supply of investment gold for their principal.

Section 3

Option to tax

Based on the heading of Article 26b(B)

**Heading of Article 26b(B)
(inserted by 98/80/EC)**

Obsolete

**Article 26b(B),
first subparagraph
(inserted by 98/80/EC)**

Adapted

**Article 26b(B),
second subparagraph
(inserted by 98/80/EC)**

Adapted

Based on the heading of Article 26b(C)

Provisional draft text

~~C.~~ Option to tax

Heading of
Article 26b(C)
(inserted by
98/80/EC)

Obsolete

Article 327

Member States shall allow taxable persons who produce investment gold or transform any gold into investment gold ~~as defined in A~~ a the right of option to opt for taxation of supplies of investment gold to another taxable person which would otherwise be exempt under ~~B~~ Article 325.

Article 26b(C),
first subpara-
graph
(inserted by
98/80/EC)

Adapted

Article 328

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 taxation of supplies of ~~investment gold~~ gold bars or wafers as ~~defined referred to in A(i)~~ Article 323(1)(1) to another taxable person, which would otherwise be exempt under ~~B~~ Article 325.

Article 26b(C),
second subpara-
graph, first
sentence
(inserted by
98/80/EC)

Adapted

2. Member States may restrict the scope of ~~this the~~ option provided for under paragraph 1.

Article 26b(C),
second subpara-
graph, second
sentence
(inserted by
98/80/EC)

Adapted

Provisional draft text

Article 329

Where the supplier has exercised ~~a the~~ right ~~of option to opt~~ for taxation ~~pursuant to the first or second paragraph provided for in Articles 327 and 328~~, 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 326.

**Article 26b(C),
third subpara-
graph
(inserted by
98/80/EC)**

Adapted

Article 330

Member States shall ~~specify the details of lay down detailed rules for the use exercise of these the options referred to in this Section~~, and shall inform the Commission ~~of the rules of application for the exercise of these options in that Member State thereof~~.

**Article 26b(C),
fourth subpara-
graph
(inserted by
98/80/EC)**

Adapted

Section 4

Transactions on a regulated gold bullion market

*Based on the
heading of
Article 26b(G)*

~~G. Procedure for transactions on a regulated gold bullion market~~

**Heading of
Article 26b(G)
(inserted by
98/80/EC)**

Obsolete

Provisional draft text

Article 331

~~1. — A Any 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 bullion market regulated by the Member State concerned or between such an operator and another taxable person who is not a member of that market. However, that Member State may not tax the supplies effected under the conditions referred to in Article 123 or 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)**

Obsolete

**Article 26b(G)(1),
first subpara-
graph, point (b)
(inserted by
98/80/EC)**

Adapted

**Article 26b(G)(1),
second subpara-
graph
(inserted by
98/80/EC)**

Obsolete

Provisional draft text

Article 332

~~2. (a) For transactions under 1(a), for the purpose of simplification, the Member State States which, in accordance with Article 331, tax transactions between taxable persons who are members of a regulated gold bullion market shall, for the purpose of simplification, authorise suspension of the tax to be collected as well as dispense with the recording and waive the accounting requirements of value added tax in respect of VAT for taxable persons.~~

Article 26b(G)(2)
(a)
(inserted by
98/80/EC)

Adapted

Article 333

~~(b)1. For transactions under 1(b), the reverse charge procedure under F Member States which, in accordance with Article 331, 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 being liable for VAT in accordance with the procedures and conditions laid down pursuant to Article 178.~~

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 331, the member vendor shall fulfil the fiscal tax obligations on behalf of the non member customer, according to the provisions of that applying in the Member State where 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

Based on the
heading of
Article 26b(D) and
(E)

~~D. Right of deduction~~

Heading of
Article 26b(D)
(inserted by
98/80/EC)

Obsolete

Provisional draft text

Article 334

~~1.— Taxable persons—Where a subsequent supply of investment gold is exempted under this Chapter, taxable persons shall be entitled have the right to deduct;~~

Article 26b(D)(1)
(inserted by
98/80/EC)

Adapted

(a) ~~tax-VAT~~ due or paid in respect of investment gold supplied to them by a person who has exercised the right of option ~~under C referred to in Articles 327 and 328~~ or supplied to them pursuant to ~~the procedure laid down in G Section 4;~~

Article 26b(D)(1)
(a)
(inserted by
98/80/EC)

Adapted

(b) ~~tax-VAT~~ due or paid in respect of ~~a~~ supply to them, or ~~in respect of an~~ intra-Community acquisition or importation ~~effected~~ by them, of gold other than investment gold which is subsequently transformed by them or on their behalf into investment gold;

Article 26b(D)(1)
(b)
(inserted by
98/80/EC)

Adapted

(c) ~~tax-VAT~~ due or paid in respect of services ~~supplied to performed for~~ them consisting of ~~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)

Obsolete

Article 335

~~2.— Taxable persons who produce investment gold or transform any gold of whatever origin into investment gold, shall be entitled have the right be entitled to deduct the tax due or paid by them in respect of supplies, or on a supply, intra-Community acquisition or importation of goods or services linked to the production or transformation of that gold as if their subsequent supply of the gold exempted under this Article Article 325 were taxable.~~

Article 26b(D)(2)
(inserted by
98/80/EC)

Adapted

Provisional draft text

~~E. — Special obligations for traders in investment gold~~

**Heading of
Article 26b(E)
(inserted by
98/80/EC)**

Obsolete

Article 336

1. Member States shall, ~~as a minimum,~~ ensure that traders in investment gold ~~who carry out transactions exempted under this Chapter~~ keep ~~account, as a minimum, accounts~~ of all ~~substantial significant~~ 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
subparagraph
(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 subpara-
graph
(inserted by
98/80/EC)**

Adapted

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,~~¹⁶ to meet comply with the requirements of ~~the first paragraph~~ paragraph 1.

**Article 26b(E),
third subpara-
graph
(inserted by
98/80/EC)**

Adapted

3. Member States may lay down stricter obligations, in particular on special record keeping or special accounting requirements.

**Article 26b(E),
fourth subpara-
graph
(inserted by
98/80/EC)**

Unchanged

¹⁶ OJ L 166, 28.6.1991, p. 77.

Provisional draft text

Chapter 6

Special scheme for non-established taxable persons supplying electronic services to non-taxable persons

Based on the heading of Article 26c

Section 1

Definitions

Based on the heading of Article 26c(A)

Article 337

~~Article 1~~ The provisions of this Chapter shall apply for a period of three years starting from 1 July 2003.

Article 4 (2002/38/EC)

Adapted

~~Article 26e~~ Article 338

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)

Obsolete

~~A.~~ Definitions

Article 26c(A) (inserted by 2002/38/EC)

Obsolete

For the purposes of this ~~Article~~ Chapter, and without prejudice to other Community provisions:

Article 26c(A) (inserted by 2002/38/EC)

Adapted

Provisional draft text

- | | |
|--|--|
| <p>-(a)(1) ‘Non-<u>non</u>-established taxable person’ means a taxable person who neither has established his business nor has a <u>fixed permanent</u> establishment within the territory of the Community and who is not otherwise required to be identified <u>in</u> accordance <u>for tax purposes under Article 22 with Article 193</u>;</p> | <p>Article 26c(A)(a)
(inserted by
2002/38/EC)</p> <p><i>Adapted</i></p> |
| <p>-(b)(2) ‘Electronic—<u>‘electronic</u> services’ and ‘services supplied electronically’ means-mean those services referred to in the last indent of Article 9(2)(e) Article 52(1)(j);</p> | <p>Article 26c(A)(b)
(inserted by
2002/38/EC)</p> <p><i>Adapted</i></p> |
| <p>-(e)(3) ‘Member State of identification’ means the Member State which the non-established taxable person chooses to contact to state <u>notify</u> when his activity as a taxable person within the territory of the Community commences in accordance with the provisions of this Article Chapter;</p> | <p>Article 26c(A)(c)
(inserted by
2002/38/EC)</p> <p><i>Adapted</i></p> |
| <p>-(d)(4) ‘Member State of consumption’ means the Member State in which the supply of the electronic services is deemed to take place according to Article 9(2)(f) in accordance with Article 53;</p> | <p>Article 26c(A)(d)
(inserted by
2002/38/EC)</p> <p><i>Adapted</i></p> |
| <p>-(e)(5) ‘Value added tax-’<u>‘VAT</u> return’ means the statement containing the information necessary to establish the amount of tax-VAT that has become-is chargeable in each Member State.</p> | <p>Article 26c(A)(e)
(inserted by
2002/38/EC)</p> <p><i>Adapted</i></p> |

Section 2

Special scheme for supplied electronically services

~~B. — Special scheme for services supplied electronically~~

Based on the heading of Article 26c(B)

Article 26c(B)
(inserted by
2002/38/EC)

Obsolete

Provisional draft text

Article 339

1.—Member States shall ~~permit a~~ authorise any non-established taxable person supplying electronic services to a non-taxable person who is established or has his ~~permanent address or usually resides~~ domicile or habitual residence in a Member State, to use ~~a~~ this special scheme ~~in accordance with the following provisions~~. This scheme applies to all ~~those~~ services ~~supplies within~~ supplied electronically in the Community.

Article 26c(B)(1)
(inserted by
2002/38/EC)

Adapted

Article 340

2.—The non-established taxable person shall ~~state to~~ notify the Member State of identification when his activity as a taxable person commences, ceases or changes ~~to the extent so~~ that he no longer ~~qualifies~~ fulfils the conditions to qualify for ~~the~~ this special scheme. Such ~~a~~ statement information shall be ~~made~~ sent electronically.

Article 26c(B)(2),
first subpara-
graph
(inserted by
2002/38/EC)

Adapted

Article 341

1. The information ~~from~~ provided by the non-established taxable person to the Member State of identification when his taxable ~~activities~~ activity commences shall contain the following ~~details~~ for the identification identifying particulars:

Article 26c(B)(2),
second subpara-
graph, first
sentence
(inserted by
2002/38/EC)

Unchanged

EN amended

(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)

Adapted

Provisional draft text

~~(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)

Adapted

~~(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 subpara-
graph, part of
first sentence
(inserted by
2002/38/EC)

Adapted

~~(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 subpara-
graph, part of
first sentence
(inserted by
2002/38/EC)

Adapted

~~(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 subpara-
graph, part of
first sentence
(inserted by
2002/38/EC)

Adapted

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 subpara-
graph, second
sentence
(inserted by
2002/38/EC)

Unchanged

EN amended

Provisional draft text

Article 342

3.—The Member State of identification shall ~~identify~~ issue the non-established taxable person ~~by means of~~ an individual identification number. ~~Based on~~ and notify him electronically of the identification number allocated to him. On the basis of the information used for this 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)**

Obsolete

Article 343

4.—The Member State of identification shall exclude the non-established taxable person from the identification register ~~if in the~~ following cases:

**Article 26c(B)(4)
(inserted by
2002/38/EC)**

Adapted

(a) ~~he if the latter~~ notifies that Member State that he no longer supplies electronic services. ~~or;~~

**Article 26c(B)(4)
(a)
(inserted by
2002/38/EC)**

Adapted

(b) if it otherwise ~~can be assumed~~ comes to light that his taxable activities have ~~ended, or ceased;~~

**Article 26c(B)(4)
(b)
(inserted by
2002/38/EC)**

Adapted

Provisional draft text

(c) ~~he~~ if the taxable person no longer fulfils the requirements ~~necessary~~ to be allowed to use ~~the~~ this special scheme, ~~or;~~

Article 26c(B)(4)
(c)
(inserted by
2002/38/EC)

Adapted

(d) if he ~~persistently~~ systematically fails to comply with the rules ~~concerning the~~ of this special scheme.

Article 26c(B)(4)
(d)
(inserted by
2002/38/EC)

Adapted

Article 344

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 return shall be submitted within 20 days following the end of the ~~reporting tax~~ period to which the return refers.

Article 26c(B)(5),
first subpara-
graph
(inserted by
2002/38/EC)

Adapted

Article 345

The ~~value added tax~~ VAT return shall ~~set out~~ contain the identification number and, for each Member State of consumption where ~~tax has become due,~~ VAT is chargeable, the total value, ~~less value added tax~~ exclusive of VAT, of supplies of electronic services ~~for~~ effected in the ~~reporting tax~~ period and the total amount of the corresponding tax. The applicable ~~tax~~ rates and the total tax due ~~shall~~ must also be indicated in the return.

Article 26c(B)(5),
first subpara-
graph
(inserted by
2002/38/EC)

Adapted

Article 346

6.1. The ~~value added tax~~ VAT return shall be made in ~~Euro~~ euro.

Article 26c(B)(6),
first sentence
(inserted by
2002/38/EC)

Adapted

Provisional draft text

Member States which have not adopted the ~~Euro, euro~~ may require the ~~tax-VAT~~ return to be made in their national ~~currencies~~ currency. If the supplies have been ~~made-effected~~ in other currencies, the exchange rate ~~valid-for-applying on~~ the last date of the ~~reporting-period-tax period~~ shall be used by the non-established taxable person when completing the ~~value-added-tax~~ VAT return.

2. ~~The exchange shall be done following the~~ 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 shall be used for conversion.

Article 347

7. ~~The non-established taxable person shall pay the value-added-tax~~ VAT when submitting the VAT return.

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)(6),
second and third
sentences
(inserted by
2002/38/EC)**

Adapted

**Article 26c(B)(6),
fourth sentence
(inserted by
2002/38/EC)**

Unchanged

EN amended

**Article 26c(B)(7),
first sentence
(inserted by
2002/38/EC)**

Adapted

**Article 26c(B)(7),
second and third
sentences
(inserted by
2002/38/EC)**

Unchanged

EN amended

Provisional draft text

Article 348

~~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 deducting VAT~~ under ~~Article 17(2), Article 151,~~ be granted a refund ~~according to~~ in accordance with Directive 86/560/EEC. Articles 2(2), 2(3) and 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 349

~~9.1.~~ The non-established taxable person shall keep records of the transactions covered by this special scheme ~~in sufficient detail.~~ These 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~~ They must be kept for a period of ten years from the end of the year when the transaction was carried out.

Article 26c(B)(9),
third sentence
(inserted by
2002/38/EC)

Adapted

TITLE XVI/TITLE XIII

Title XVI
(77/388/EEC)

TRANSITIONAL PROVISIONS/DEROGATIONS

Heading of
Title XVI
(77/388/EEC)

Adapted

Chapter 1

General derogations

Provisional draft text

Section 1

Derogations for States which were members of the Community on
1 January 1978

Article 28 Obsolete provisions

~~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:~~

Article 350

~~(a) continue to subject to tax Member States which, on 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 do so;~~

Article 351

~~(b) continue to exempt the activities set out Member States which, on 1 January 1978, exempted the transactions listed in Annex F Annex IX, Part B may continue to do so under the conditions existing applying in the Member State concerned on this date;~~

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 28(3)(b)
(77/388/EEC)

Adapted

Provisional draft text

Article 352

~~(d) — continue to apply Member States which, on 1 January 1978, applied provisions derogating from the principle of immediate deduction laid down in the first paragraph of Article 18(2) Article 161 may continue to do so;~~

Article 28(3)(d)
(77/388/EEC)

Adapted

Article 353

~~(e) — continue to apply Member States which, on 1 January 1978, applied measures derogating from the provisions of Articles 6(4) and 11(A)(3)(e) Articles 27 and point (c) of the first paragraph of Article 74 may continue to do so;~~

Article 28(3)(e)
(77/388/EEC)

Adapted

Article 354

~~(g) — by By way of derogation from Articles 17(3) and 26(3), continue to exempt Articles 152 and 289, Member States which, on 1 January 1978, exempted, without repayment of input tax the right to deduct the VAT paid at the preceding stage, the services of travel agents referred to in Article 26(3) Article 289 may continue to do so. This derogation shall also apply to 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 355

~~(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;~~

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)

Obsolete

Provisional draft text

~~9. treatment of animals by veterinary surgeons;~~

~~Annex VIII(II)(2)
(b)
(Act of Accession,
EL)~~

~~*Obsolete*~~

~~12. the supply of water by public authorities;~~

~~Annex VIII(II)(2)
(b)
(Act of Accession,
EL)~~

~~*Obsolete*~~

~~16. supplies of those buildings and land described in Article 4(3);~~

~~Annex VIII(II)(2)
(b)
(Act of Accession,
EL)~~

~~*Obsolete*~~

~~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)~~

~~*Obsolete*~~

~~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)~~

~~*Obsolete*~~

~~25. the supply, modification, repair, maintenance chartering and hiring of warships.~~

~~Annex VIII(II)(2)
(b)
(Act of Accession,
EL)~~

~~*Obsolete*~~

Provisional draft text

Article 356

~~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~~ 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.

**Article 28(3a)
(inserted by
91/680/EEC)**

Adapted

Article 357

~~(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.

**Annex IV(3)(b),
first subpara-
graph
(Act of Accession,
E and P)**

Adapted

Article 358

~~(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,
A, FIN and S)**

Adapted

~~— pursuant to point 2 of Annex E, until 31 December 1996, services supplied by dental technicians in their professional capacity and dental prostheses supplied by dentists and dental technicians to Austrian social security institutions;~~

**Annex IX(2)(h),
first subpara-
graph, first indent
(Act of Accession,
A, FIN and S)**

Obsolete

Provisional draft text

~~the transactions listed in point 7 of Annex E.~~

**Annex IX(2)(h),
first subpara-
graph, second
indent
(Act of Accession,
A, FIN and S)**

Obsolete

(i)2. ~~For the purposes of applying Article 28(3)(b), the Republic of Austria long as the same exemptions are applied by one of the Member States which were members of the Community on 31 December 1994, Austria may continue to exempt from value added tax the following transactions:~~

**Annex IX(2)(i),
first subpara-
graph
(Act of Accession,
A, FIN and S)**

Adapted

~~telecommunications services supplied by public postal services, until such time as the Council has adopted a common scheme for taxation of such services, or until the date on which all the present Member States currently applying full exemption cease to apply it, whichever comes first, but in any event until 31 December 1995;~~

**Annex IX(2)(i),
first subpara-
graph, first indent
(Act of Accession,
A, FIN and S)**

Obsolete

~~(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 subpara-
graph, second
indent
(Act of Accession,
A, FIN and S)**

Adapted

~~(b) with refund of tax the right to deduct the VAT paid at the preceding stage, all parts of international passenger transport operations effected by air, sea or inland waterways waterway from Austria to a 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 subpara-
graph, third
indent
(Act of Accession,
A, FIN and S)**

Adapted

Provisional draft text

Article 359

~~(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 as long as such transactions are taxed by one of the Member States which were members of the Community on 31 December 1994.

**Annex IX(2)(m),
first subpara-
graph
(Act of Accession,
A, FIN and S)**

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 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 as long as such transactions are exempted by one of the Member States which were members of the Community on 31 December 1994.

**Annex IX(2)(n),
first subpara-
graph
(Act of Accession,
A, FIN and S)**

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,
A, FIN and S)**

Obsolete

~~— the transactions listed in points 7, 16 and 17 of Annex F.~~

**Annex IX(2)(i),
first subpara-
graph, second
indent
(Act of Accession,
A, FIN and S)**

Obsolete

Provisional draft text

Article 360

~~(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 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 as long as such transactions are exempted by one of the Member States which were members of the Community on 31 December 1994:~~

~~— services supplied by authors, artists and performers referred to in point 2 of Annex F;~~

~~— the transactions listed in points 1, 16 and 17 of Annex F.~~

Section 3

Provisions common to Sections 1 and 2

Article 361

~~(e) Member States which exempt the transactions referred to in Article 351 and Articles 355 to 360 may grant to taxable persons the option right to opt for taxation of exempt these transactions under the conditions set out in Annex G:~~

**Annex IX(2)(aa),
first subpara-
graph
(Act of Accession,
A, FIN and S)**

Adapted

**Annex IX(2)(aa),
first subpara-
graph, first indent
(Act of Accession,
A, FIN and S)**

Obsolete

**Annex IX(2)(aa),
first subpara-
graph, second
indent
(Act of Accession,
A, FIN and S)**

Obsolete

**Article 28(3)(c)
(77/388/EEC)**

Adapted

Provisional draft text

Article 362

~~(f)~~—Member States may provide that for supplies of buildings and building land purchased for the purpose of resale by a taxable person ~~for whom tax on the purchase was not deductible, who did not have the right to deduct VAT at the time of acquisition,~~ the taxable amount shall be the difference between the selling price and the purchase price~~;~~.

Article 28(3)(f)
(77/388/EEC)

Adapted

Article 363

~~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 review the situation with regard to the derogations set out in ~~paragraph 2~~Sections 1 and 2 on the basis of a report from the Commission and shall ~~unanimously determine on a proposal from the Commission~~ decide, in accordance with Article 93 of the Treaty, whether any or all of these derogations shall be abolished.

Article 28(4)
(77/388/EEC)

Adapted

~~5.2.~~ ~~At the end of the transitional period~~In order to abolish the derogation set out in point (10) of Annex IX, Part B 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 the detailed rules ~~of procedure~~ to be ~~laid down~~ adopted 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 fraud or tax evasion or avoidance

Based on the heading of Title XV

TITLE XV

SIMPLIFICATION PROCEDURES

Article 364

~~5. — Those~~ Member States which ~~apply~~, on 1 January 1977, ~~applied~~ special measures ~~of the type referred to in paragraph 1 above to simplify the procedure for charging the tax or to prevent certain types of tax fraud or evasion or avoidance~~ may retain them providing they ~~notify~~ notified the Commission of them 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 365(1).

*Article 27*Article 365

1. The Council, acting unanimously on a proposal from the Commission, may ~~authorize~~ ~~authorise~~ any Member State to introduce special measures ~~for derogation derogating~~ from the provisions of this Directive, in order to simplify the procedure for charging the tax or to prevent certain types of tax ~~fraud or~~ evasion or avoidance.

Measures intended to simplify the procedure for charging the tax, ~~except to a negligible extent~~, may not affect, or only to an insignificant extent, the amount of ~~tax~~ VAT due at the final consumption stage.

2. A Member State wishing to introduce the measures referred to in paragraph 1 shall inform the Commission of them and shall provide the Commission with all relevant information.

Title XV
(77/388/EEC)

Heading of
Title XV
(77/388/EEC)

Obsolete

Article 27(5)
(77/388/EEC)

Adapted

Article 27
(77/388/EEC)

Article 27(1), first
sentence
(77/388/EEC)

Unchanged

EN amended

Article 27(1),
second sentence
(77/388/EEC)

Adapted

Article 27(2)
(77/388/EEC)

Unchanged

Provisional draft text

~~3.~~ The Commission shall inform the other Member States of the proposed measures within one month of receiving this information.

Article 27(3)
(77/388/EEC)

Adapted

~~4.3.~~ The Council's decision shall be deemed to have been adopted if, within two months of the other Member States being informed ~~as laid down in the previous paragraph in accordance with the second subparagraph of paragraph 2~~, neither the Commission nor any Member State has requested that the matter be ~~raised by put before~~ the Council.

Article 27(4)
(77/388/EEC)

Adapted

Section 2

International agreements

Based on the heading of Article 30

~~Article 30~~Article 366

Article 30
(77/388/EEC)

International Agreements

Heading of Article 30
(77/388/EEC)

~~1.~~ The Council, acting unanimously on a proposal from the Commission, may ~~authorize~~authorise any Member State to conclude with a ~~non-member third~~ country or an international ~~organization~~organisation an agreement which may contain derogations from this Directive.

Article 30, first subparagraph, first sentence
(77/388/EEC)

Unchanged

~~2.~~ A Member State wishing to conclude ~~such an the~~ agreement referred to in paragraph 1 shall ~~bring the matter to the notice of~~ notify the Commission and provide it with all the relevant information ~~necessary for it to be considered~~.

Article 30, first subparagraph, second sentence
(77/388/EEC)

Adapted

The Commission shall inform the other Member States within one month of receiving this information.

Article 30, first subparagraph, third sentence
(77/388/EEC)

Adapted

Provisional draft text

3.	The Council's decision shall be deemed to have been adopted if, within two months of the other Member States being informed as laid down in the previous paragraph, in accordance with the second subparagraph of paragraph 2, neither the Commission nor any Member State has requested that the matter has not been raised <u>be put</u> before the Council.	Article 30, second subparagraph (77/388/EEC)
		<i>Adapted</i>
	TITLE XVIII <u>TITLE XIV</u>	Title XVIII (77/388/EEC)
	MISCELLANEOUS	Heading of Title XVIII (77/388/EEC)
		<i>Unchanged</i>
	<u>Chapter 1</u>	
	<u>VAT Committee</u>	<i>Based on the heading of Title XVII</i>
	TITLE XVII	Title XVII (77/388/EEC)
	VALUE ADDED TAX COMMITTEE	Heading of Title XVII (77/388/EEC)
		<i>Obsolete</i>
	Article 29 <u>Article 367</u>	Article 29 (77/388/EEC)
1.	An Advisory Committee on value added tax, hereinafter called 'the <u>VAT</u> Committee', is hereby set up.	Article 29(1) (77/388/EEC)
		<i>Adapted</i>
2.	The <u>VAT</u> Committee shall consist of representatives of the Member States and of the Commission.	Article 29(2), first subparagraph (77/388/EEC)
		<i>Adapted</i>

Provisional draft text

The chairman of the Committee shall be <u>chaired by</u> a representative of the Commission.	Article 29(2), second subpara- graph (77/388/EEC)
	<i>Unchanged</i>
	<i>EN amended</i>
Secretarial services for the Committee shall be provided by the Commission.	Article 29(2), third subpara- graph (77/388/EEC)
	<i>Unchanged</i>
3. The <u>VAT</u> Committee shall adopt its own rules of procedure.	Article 29(3) (77/388/EEC)
	<i>Adapted</i>
4. In addition to points <u>forming the</u> subject to of the consultation provided for under this Directive, the <u>VAT</u> Committee shall examine questions raised by its chairman <u>the chair</u> , on his <u>its</u> 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 <u>VAT</u> .	Article 29(4) (77/388/EEC)
	<i>Adapted</i>
<u>Chapter 2</u>	
<u>Conversion rates</u>	
<i>Based on the heading of Article 28m</i>	
<i>Article 31 <u>Obsolete provision</u></i>	
<u>Unit of account</u>	
Article 31 (77/388/EEC)	
Heading of Article 31 (77/388/EEC)	
	<i>Obsolete</i>
1. The unit of account used in this Directive shall be the European unit of account (EUA) defined by Decision 75/250/EEC.	Article 31(1) (77/388/EEC)
	<i>Obsolete</i>

Provisional draft text

~~Article 28m~~Article 368

Rate of conversion

~~To determine~~ Without prejudice to any other particular provisions, the equivalents in ~~their national currencies~~ currency of the amounts expressed in ECU's in this Title Member States in euro provided for by this Directive, shall ~~use~~ be determined on the basis of the conversion rate of exchange applicable on ~~16 December 1991~~ for the euro applying on 1 January 2002.

Article 369

2.—When converting ~~this unit of account~~ the amounts referred to in Article 368 into national currencies, Member States ~~shall have the option of rounding the~~ may round the amounts resulting from this conversion either upwards or downwards by up to 10%.

Chapter 3

Other taxes, duties and charges

~~Article 33~~Article 370

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~~, 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, more generally, any taxes, duties or charges which ~~cannot be characterized as~~ are not turnover taxes, provided ~~however~~ that the collection of those taxes, duties or charges ~~do does~~ not, ~~in trade between Member States~~, give rise to border crossing formalities connected with the crossing of frontiers in trade between Member States.

Article 28m
(inserted by
91/680/EEC)

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

Obsolete

Article 28m
(inserted by
91/680/EEC)

Adapted

Article 31(2)
(77/388/EEC)

Adapted

Article 33
(replaced by
91/680/EEC)

Article 33(1)
(replaced by
91/680/EEC)

Adapted

~~TITLE XVI A~~ TITLE XV

**TRANSITIONAL ARRANGEMENTS FOR THE
TAXATION OF TRADE BETWEEN MEMBER STATES
AND FINAL PROVISIONS**

TITLE XIX

FINAL PROVISIONS

~~Article 281~~ Article 371

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.~~

1. The ~~transitional~~ arrangements for the taxation of trade between Member States provided for in this Directive are transitional and shall be replaced by a definitive system ~~for the taxation of trade between Member States based in on the principle on the of~~ taxation in the Member State of origin of the supply of goods or services ~~supplied in the Member State of origin.~~

Title XVI A
(inserted by
91/680/EEC)

Heading of
Title XVI A
(inserted by
91/680/EEC)

Adapted

Title XIX
(77/388/EEC)

Heading of
Title XIX
(77/388/EEC)

Obsolete

Article 281
(inserted by
91/680/EEC)

Heading of
Article 281
(inserted by
91/680/EEC)

Obsolete

Article 281, first
subparagraph
(inserted by
91/680/EEC)

Obsolete

Article 281, second
subparagraph
(inserted by
91/680/EEC)

Adapted

Provisional draft text

2. ~~To that end, after having made a detailed examination of that~~
Having examined the report referred to in Article 374 and
~~considering found~~ that the conditions for transition to the
definitive system have been fulfilled ~~satisfactorily~~, the Council,
acting ~~unanimously on a proposal from the Commission and after~~
~~consulting the European Parliament in accordance with~~
Article 93 of the Treaty, shall ~~decide before 31 December 1995~~
~~on the arrangements adopt the provisions~~ necessary for the ~~entry~~
~~into force introduction~~ and the operation of the definitive system.

**Article 28l, third
subparagraph
(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
subparagraph
(inserted by
91/680/EEC)**

Obsolete

Article 372

~~Article 4~~ 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 Council, on the basis of a report from the Commission, shall review
the provisions of ~~Article 1 of this Directive~~ Articles 52(1)(i) and (j),
Articles 53, 54 and 55 and the second sentence of Article 91(2),
Articles 337 to 349 and Annex II before 30 June 2006 and shall either,
acting in accordance with Article 93 of the Treaty, adopt measures on an
appropriate electronic mechanism on a non-discriminatory basis for
charging, declaring, collecting and allocating ~~tax~~ VAT revenue on
electronically supplied services ~~with taxation in~~ taxed at the place of
consumption or, if considered necessary for practical reasons, acting
unanimously on ~~the basis of~~ a proposal from the Commission, extend the
period ~~mentioned in Article 4~~ referred to in the first paragraph.

**Article 5
(2002/38/EC)**

Adapted

Provisional draft text

~~Article 35~~Article 373

~~At the appropriate time Acting in accordance with Article 93 of the Treaty the Council 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 adopt further Directives on the appropriate Directives to finalise the common system of value added tax VAT, in particular to restrict progressively or to repeal measures taken by the Member States by way of derogation abolish derogations from the 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 34~~Article 374

~~For the first time on 1 January 1982 and thereafter every two years, On the basis of information obtained from the Member States, the Commission shall, after consulting the Member States, send the Council present a report every four years to the European Parliament and the Council on the application of the common system of value added tax VAT in the Member States, including the operation of the transitional arrangements for taxing trade between Member States, together with proposals on the definitive system as appropriate. This report shall be transmitted by the Council to the European Parliament.~~

~~Article 36~~Obsolete provision

~~The fourth paragraph of Article 2 and Article 5 of the first Council Directive of 11 April 1967 are repealed.~~

Article 35
(77/388/EEC)

Article 35
(77/388/EEC)

Adapted

Article 34
(77/388/EEC)

Article 34
(77/388/EEC)

Adapted

Article 36
(77/388/EEC)

Article 36
(77/388/EEC)

Obsolete

Provisional draft text

Article 37 *Obsolete provision*

~~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 375

Directive 67/227/EEC, as amended by the Directive listed in point (1) of Annex X, Part A and Directive 77/388/EEC as amended by the Directives listed in point (2) of Annex XI, Part A are hereby repealed without prejudice to the obligations of the Member States concerning the time-limits for transposing and implementing the Directives listed in Annex X, Part B.

References to the repealed Directives shall be deemed to be references to this Directive and shall be interpreted in accordance with the correlation table in Annex XI.

Article 376

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [...] at the latest.

When Member States adopt those provisions, they shall contain a reference to this Directive or shall be accompanied by such a reference when officially published. Member States shall determine how such reference is to be made.

Article 377

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Article 37
(77/388/EEC)

Article 37
(77/388/EEC)

Obsolete

Standard provision

Standard provision

Standard provision

Standard provision

Standard provision

Provisional draft text

~~Article 38~~ Article 378

This Directive is addressed to the Member States.

Done at Brussels, ~~17 May 1977.~~

For the Council

The President

Article 38
(77/388/EEC)

Article 38
(77/388/EEC)

Unchanged

Provisional draft text

ANNEX D/ANNEX I

**LIST OF THE ACTIVITIES REFERRED TO IN ~~THE~~
THIRD PARAGRAPH OF ARTICLE 4(5) ARTICLE 12**

1. (1) Telecommunication <u>telecommunications</u> services;	Annex D (77/388/EEC) Heading of Annex D (77/388/EEC) <i>Adapted</i>
2. (2) The <u>the</u> supply of water, gas, electricity and steam <u>thermal</u> <u>energy</u> ;	Annex D(1) (77/388/EEC) <i>Adapted</i> Annex D(2) (77/388/EEC) <i>Unchanged</i> <i>EN amended</i>
3. (3) The <u>the</u> transport of goods;	Annex D(3) (77/388/EEC) <i>Unchanged</i>
4. (4) Port <u>port</u> and airport services;	Annex D(4) (77/388/EEC) <i>Unchanged</i>
5. (5) Passenger <u>passenger</u> transport;	Annex D(5) (77/388/EEC) <i>Unchanged</i>
6. (6) Supply <u>the supply</u> of new goods manufactured for sale;	Annex D(6) (77/388/EEC) <i>Unchanged</i> <i>EN amended</i>

Provisional draft text

<p>7.(7) The<u>the</u> transactions of agricultural intervention agencies in respect of agricultural products carried out pursuant to Regulations<u>regulations</u> on the common organization<u>organisation</u> of the market in these products;</p>	<p>Annex D(7) (77/388/EEC)</p> <p><i>Unchanged</i></p> <p><i>EN amended</i></p>
<p>8.(8) The running<u>the organisation</u> of trade fairs and exhibitions;</p>	<p>Annex D(8) (77/388/EEC)</p> <p><i>Unchanged</i></p> <p><i>EN amended</i></p>
<p>9.(9) Warehousing<u>warehousing</u>;</p>	<p>Annex D(9) (77/388/EEC)</p> <p><i>Unchanged</i></p>
<p>10.(10) The<u>the</u> activities of commercial publicity bodies<u>advertising agencies</u>;</p>	<p>Annex D(10) (77/388/EEC)</p> <p><i>Unchanged</i></p> <p><i>EN amended</i></p>
<p>11.(11) The<u>the</u> activities of travel agencies<u>agents</u>;</p>	<p>Annex D(11) (77/388/EEC)</p> <p><i>Unchanged</i></p> <p><i>EN amended</i></p>
<p>12.(12) The<u>the</u> running of staff shops, cooperatives and industrial canteens and similar institutions;</p>	<p>Annex D(12) (77/388/EEC)</p> <p><i>Unchanged</i></p>
<p>13.(13) Transactions other than those specified in Article 13A(1)(q).<u>the activities</u> of radio and television bodies <u>which are of a commercial nature.</u></p>	<p>Annex D(13) (77/388/EEC)</p> <p><i>Adapted</i></p>

~~ANNEX L~~ ANNEX II

~~ILLUSTRATIVE LIST OF THE ELECTRONICALLY SUPPLIED SERVICES REFERRED TO IN~~
~~ARTICLE 9(2)(E)~~ ARTICLE 52(1)(J)

~~1.~~(1) ~~Web-web~~ site supply, web-hosting, distance maintenance of programmes and equipment.;

Annex L
(inserted by
2002/38/EC)

Heading of
Annex L
(inserted by
2002/38/EC)

Adapted

Annex L, first
subparagraph,
point (1)
(inserted by
2002/38/EC)

Unchanged

~~2.~~(2) ~~Supply-supply~~ of software and updating thereof.;

Annex L, first
subparagraph,
point (2)
(inserted by
2002/38/EC)

Unchanged

~~3.~~(3) ~~Supply-supply~~ of images, text and information and ~~making~~
provision of databases ~~available~~.;

Annex L, first
subparagraph,
point (3)
(inserted by
2002/38/EC)

Unchanged

EN amended

~~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
subparagraph,
point (4)
(inserted by
2002/38/EC)

Unchanged

Provisional draft text

5.(5) ~~Supply~~ supply of distance teaching.

Annex L, first
subparagraph,
point (5)
(inserted by
2002/38/EC)

Unchanged

ANNEX HANNEX III

**LIST OF SUPPLIES OF GOODS AND SERVICES
WHICH MAY BE SUBJECT TO THE REDUCED
RATES OF VAT REFERRED TO IN ARTICLE 91**

Category — **Description**

~~1~~(1) ~~Foodstuffs~~ 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 the preparation of foodstuffs; products normally intended to be used to supplement or ~~substitute~~ replace foodstuffs;

~~2~~(2) ~~Water supplies~~ the supply of water;

~~3~~(3) ~~Pharmaceutical~~ the supply of pharmaceutical products of a kind normally used for health care, prevention of diseases and treatment for medical and veterinary purposes, including products used for contraception and sanitary protection;

~~4~~(4) ~~Medical~~ the supply 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 of children's car seats;

**Annex H
(92/77/EEC)**

**Heading of
Annex H
(inserted by
92/77/EEC)**

Adapted

**Annex H, second
subparagraph
(inserted by
92/77/EEC)**

Obsolete

**Annex H(1)
(inserted by
92/77/EEC)**

Adapted

**Annex H(2)
(inserted by
92/77/EEC)**

Unchanged

EN amended

**Annex H(3)
(inserted by
92/77/EEC)**

Adapted

**Annex H(4)
(inserted by
92/77/EEC)**

Adapted

Provisional draft text

<p><u>5(5)</u> Transport—transport of passengers and their accompanying luggage;</p>	<p>Annex H(5) (inserted by 92/77/EEC)</p>
	<p><i>Unchanged</i></p>
<p><u>6(6)</u> Supply, the supply, including on loan by libraries, of books (including brochures, leaflets and similar printed matter, children’s picture, drawing 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 substantially devoted to advertising matter;</p>	<p>Annex H(6) (inserted by 92/77/EEC)</p>
	<p><i>Unchanged</i></p>
	<p><i>EN amended</i></p>
<p><u>7(7)</u> Admissions—admission to shows, theatres, circuses, fairs, amusement parks, concerts, museums, zoos, cinemas, exhibitions and similar cultural events and facilities;</p>	<p>Annex H(7), first subparagraph (inserted by 92/77/EEC)</p>
	<p><i>Unchanged</i></p>
<p><u>(8)</u> Reception—reception of <u>radio and television</u> broadcasting services;</p>	<p>Annex H(7), second subpara- graph (inserted by 92/77/EEC)</p>
	<p><i>Unchanged</i></p>
	<p><i>EN amended</i></p>
<p><u>8(9)</u> Services—supplied the supply of services by or royalties due to writers, composers and performing artists;</p>	<p>Annex H(8) (inserted by 92/77/EEC)</p>
	<p><i>Adapted</i></p>
<p><u>9(10)</u> Supply, the supply, construction, renovation and alteration of housing provided as part of a social policy;</p>	<p>Annex H(9) (inserted by 92/77/EEC)</p>
	<p><i>Unchanged</i></p>
	<p><i>EN amended</i></p>

Provisional draft text

10 (11) Supplies 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;	Annex H(10) (inserted by 92/77/EEC) <i>Unchanged</i> <i>EN amended</i>
11 (12) Aaccommodation -accommodation provided by hotels and similar establishments including the provision of holiday aeecomodation accommodation and the letting of camping sites and caravan parks;	Annex H(11) (inserted by 92/77/EEC) <i>Unchanged</i>
12 (13) Admission -admission to sporting events;	Annex H(12) (inserted by 92/77/EEC) <i>Unchanged</i>
13 (14) Use -use of sporting facilities;	Annex H(13) (inserted by 92/77/EEC) <i>Unchanged</i>
14 (15) Supply the supply of goods and services by organizations recognized -organisations recognised as charities by Member States and engaged in welfare or social security work, insofar as provided these supplies are not exempt -exempted under Article 13 Articles 117, 120 and 121;	Annex H(14) (inserted by 92/77/EEC) <i>Adapted</i>
15 (16) Services supplied the supply of services by undertakers and cremation services, together with the supply of goods related thereto;	Annex H(15) (inserted by 92/77/EEC) <i>Adapted</i>
16 (17) Provision the provision of medical and dental care as well as and thermal treatment in so far as provided these services are not exempt -exempted under Article 13 Article 117(1)(b) to (e);	Annex H(16) (inserted by 92/77/EEC) <i>Adapted</i>

Provisional draft text

~~17~~(18) ~~Services supplied~~ the 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 12.

Annex H(17)
(inserted by
92/77/EEC)

Adapted

ANNEX K ANNEX IV

**LIST OF SUPPLIES OF THE SERVICES REFERRED
TO IN ARTICLE 28(6) ARTICLE 98**

~~1.~~(1) ~~Small~~ minor services ~~of repairing to repair~~:

~~-(a)~~ bicycles~~;~~

~~-(b)~~ shoes and leather goods~~;~~

~~-(c)~~ clothing and household linen (including mending and alteration)~~;~~

**Annex K
(inserted by
1999/85/EC)**

**Heading of
Annex K
(inserted by
1999/85/EC)**

Adapted

**Annex K(1)
(inserted by
1999/85/EC)**

Unchanged

EN amended

**Annex K(1), first
indent
(inserted by
1999/85/EC)**

Unchanged

**Annex K(1),
second indent
(inserted by
1999/85/EC)**

Unchanged

**Annex K(1), third
indent
(inserted by
1999/85/EC)**

Unchanged

Provisional draft text

2.(2)	Renovation <u>renovation</u> and repairing of private dwellings, excluding materials which form a significant part of the value of the supply <u>service supplied</u> ;	Annex K(2) (inserted by 1999/85/EC)
		<i>Unchanged</i>
		<i>EN amended</i>
3.(3)	Window <u>window</u> cleaning and cleaning in private households;	Annex K(3) (inserted by 1999/85/EC)
		<i>Unchanged</i>
4.(4)	Domestic <u>domestic</u> 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)
		<i>Adapted</i>
5.(5)	Hairdressing <u>hairdressing</u> .	Annex K(5) (inserted by 1999/85/EC)
		<i>Unchanged</i>

Provisional draft text

ANNEX JANEX V

CATEGORIES OF GOODS REFERRED TO IN
ARTICLE 143 WHICH MAY BE SUBJECT TO THE
WAREHOUSING ARRANGEMENTS OTHER THAN
CUSTOMS WAREHOUSING

<u>Description of goods</u>	<u>CN-code</u>	<u>CN-code</u>	<u>Description of goods</u>	
				Annex J (inserted by 95/7/EC)
				Annex J, introduction (inserted by 95/7/EC)
				<i>Obsolete</i>
(1)	0701		Potatoes	<i>Unchanged</i>
(2)	0711 20		Olives	<i>Unchanged</i>
(3)	0801		Coconuts, Brazil nuts and cashew nuts	<i>Unchanged</i>
(4)	0802		Other nuts	<i>Unchanged</i>
(5)	0901 11 00		Coffee, not roasted	<i>Unchanged</i>
	0911 <u>0901</u> 12 00			
(6)	0902		Tea	<i>Unchanged</i>
(7)	1001 to 1005		Cereals	<i>Unchanged</i>
	1007 to 1008			
(8)	1006: unprocessed rice only		<u>Cereals-Husked rice</u>	<i>Adapted</i>
(9)	1201 to 1207		Grains and Oil seeds (including soya beans) <u>and oleaginous fruits</u>	<i>Adapted</i>
	1201 to 1207		Oil seeds and oleaginous fruit	<i>Obsolete</i>

Provisional draft text

<u>(10)</u>	1507 to 1515	Vegetable oils and fats and their fractions, whether or not refined, but not chemically modified	<i><u>Unchanged</u></i>
<u>(11)</u>	1701 11 1701 12	Raw sugar	<i><u>Unchanged</u></i>
<u>(12)</u>	1801	Cocoa beans, whole or broken, raw or roasted	<i><u>Unchanged</u></i>
<u>(13)</u>	2709 2710 2711 12 2711 13	Mineral oils (including propane and butane; also including crude petroleum oils)	<i><u>Unchanged</u></i>
<u>(14)</u>	Chapters 28 and 29	Chemicals in bulk	<i><u>Unchanged</u></i>
<u>(15)</u>	4001 4002	Rubber, in primary forms or in plates, sheets or strip	<i><u>Unchanged</u></i>
<u>(16)</u>	5101	Wool	<i><u>Unchanged</u></i>
<u>(17)</u>	7106	Silver	<i><u>Unchanged</u></i>
<u>(18)</u>	7110 11 00 7110 21 00 7110 31 00	Platinum (palladium, rhodium)	<i><u>Unchanged</u></i>
<u>(19)</u>	7402 7403 7405 7408	Copper	<i><u>Unchanged</u></i>
<u>(20)</u>	7502	Nickel	<i><u>Unchanged</u></i>
<u>(21)</u>	7601	Aluminium	<i><u>Unchanged</u></i>
<u>(22)</u>	7801	Lead	<i><u>Unchanged</u></i>

Provisional draft text

(23)	7901	Zinc	<i>Unchanged</i>
(24)	8001	Tin	<i>Unchanged</i>
(25)	ex 8112 9192	Indium	<i>Unchanged</i>
	ex 8112 99		

~~ANNEX A~~ ANNEX VI

LIST OF THE AGRICULTURAL PRODUCTION
ACTIVITIES REFERRED TO IN ARTICLE 275

~~I.1.(1) CROP PRODUCTION~~ crop production:

~~1.(a) General~~ general agriculture, including viticulture;

~~2.(b) Growing~~ growing of fruit (including olives) and of
vegetables, flowers and ornamental plants, both in the open
and under glass;

~~3.(c) Production~~ production of mushrooms, spices, seeds and
propagating materials; nurseries;

~~II.2.(2) STOCK FARMING TOGETHER WITH CULTIVATION~~ stock
farming together with cultivation:

~~1.(a) General~~ stock farming [stock rearing];

~~2.(b) Poultry~~ poultry farming;

Annex A
(77/388/EEC)

Heading of
Annex A
(77/388/EEC)

Adapted

Annex A(I)
(77/388/EEC)

Unchanged

Annex A(I)(1)
(77/388/EEC)

Unchanged

Annex A(I)(2)
(77/388/EEC)

Unchanged

Annex A(I)(3)
(77/388/EEC)

Unchanged

Annex A(II)
(77/388/EEC)

Unchanged

Annex A(II)(1)
(77/388/EEC)

Unchanged

EN amended

Annex A(II)(2)
(77/388/EEC)

Unchanged

Provisional draft text

3.(c) Rabbit-rabbit farming;	Annex A(II)(3) (77/388/EEC) <i>Unchanged</i>
4.(d) Beekeeping-beekeeping ;	Annex A(II)(4) (77/388/EEC) <i>Unchanged</i>
5.(e) Silkworm-silkworm farming;	Annex A(II)(5) (77/388/EEC) <i>Unchanged</i>
6.(f) Snail-snail farming;	Annex A(II)(6) (77/388/EEC) <i>Unchanged</i>
III.3.(3) FORESTRY forestry;	Annex A(III) (77/388/EEC) <i>Unchanged</i>
IV.4.(4) FISHERIES fisheries;	Annex A(IV) (77/388/EEC) <i>Unchanged</i>
1.(a) Fresh-water freshwater fishing;	Annex A(IV)(1) (77/388/EEC) <i>Unchanged</i>
2.(b) Fish-fish farming;	Annex A(IV)(2) (77/388/EEC) <i>Unchanged</i>
3.(c) Breeding-breeding of mussels, oysters and other molluscs and crustaceans;	Annex A(IV)(3) (77/388/EEC) <i>Unchanged</i>

Provisional draft text

4.(d) ~~Frog-frog~~ farming.

Annex A(IV)(4)
(77/388/EEC)

Unchanged

ANNEX B ANNEX VII

**LIST OF THE AGRICULTURAL SERVICES
REFERRED TO IN ARTICLE 275**

~~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:~~

~~-(1) field work, reaping and mowing, threshing, baling, collecting, harvesting, sowing and planting;~~

~~-(2) packing and preparation for market, for example drying, cleaning, grinding, disinfecting and ensilage of agricultural products;~~

~~-(3) storage of agricultural products;~~

~~-(4) stock minding, rearing and fattening;~~

~~-(5) hiring out, for agricultural purposes, of equipment normally used in agricultural, forestry or fisheries undertakings;~~

**Annex B
(77/388/EEC)**

**Heading of
Annex B
(77/388/EEC)**

Adapted

**Annex B
(77/388/EEC)**

Obsolete

**Annex B, first
indent
(77/388/EEC)**

Unchanged

**Annex B, second
indent
(77/388/EEC)**

Unchanged

**Annex B, third
indent
(77/388/EEC)**

Unchanged

**Annex B, fourth
indent
(77/388/EEC)**

Unchanged

**Annex B, fifth
indent
(77/388/EEC)**

Unchanged

Provisional draft text

<p>-(6) technical assistance;</p>	<p>Annex B, sixth indent (77/388/EEC)</p> <p><i>Unchanged</i></p>
<p>-(7) destruction of weeds and pests, dusting and spraying of crops and land;</p>	<p>Annex B, seventh indent (77/388/EEC)</p> <p><i>Unchanged</i></p>
<p>-(8) operation of irrigation and drainage equipment;</p>	<p>Annex B, eighth indent (77/388/EEC)</p> <p><i>Unchanged</i></p>
<p>-(9) lopping, tree felling and other forestry services.</p>	<p>Annex B, ninth indent (77/388/EEC)</p> <p><i>Unchanged</i></p>

~~ANNEX C~~ OBSOLETE ANNEX

~~COMMON METHOD OF CALCULATION~~

~~IV. — AGRICULTURAL PRODUCTS AND GAME~~

Annex C
(77/388/EEC)

Heading of
Annex C
(77/388/EEC)

Obsolete

ANNEX I ANNEX VIII

WORKS OF ART, COLLECTORS' ITEMS AND ANTIQUES REFERRED TO IN ARTICLE 291(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);~~

~~-(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);~~

**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)**

Unchanged

**Annex I(a),
second indent
(inserted by
94/5/EC)**

Unchanged

EN amended

Provisional draft text

<p>-(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_;</p>	<p>Annex I(a), third indent (inserted by 94/5/EC)</p> <p><i>Unchanged</i></p>
<p>-(4) 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_;</p>	<p>Annex I(a), fourth indent (inserted by 94/5/EC)</p> <p><i>Unchanged</i></p>
<p>-(5) individual pieces of ceramics executed entirely by the artist and signed by him <u>or her</u>_;</p>	<p>Annex I(a), fifth indent (inserted by 94/5/EC)</p> <p><i>Unchanged</i></p> <p><i>EN amended</i></p>
<p>-(6) 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_;</p>	<p>Annex I(a), sixth indent (inserted by 94/5/EC)</p> <p><i>Unchanged</i></p>
<p>-(7) photographs taken by the artist, printed by him <u>or her</u> or under his <u>or her</u> supervision, signed and numbered and limited to 30 copies, all sizes and mounts included_;</p>	<p>Annex I(a), seventh indent (inserted by 94/5/EC)</p> <p><i>Unchanged</i></p> <p><i>EN amended</i></p>
<p>(b)B <u>'collectors'</u> <u>Collectors'</u> items_{shall mean:}</p>	<p>Annex I(b) (inserted by 94/5/EC)</p> <p><i>Adapted</i></p>

Provisional draft text

<p>-(1) 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);</p>	<p>Annex I(b), first indent (inserted by 94/5/EC)</p> <p><i>Unchanged</i></p>
<p>-(2) collections and collectors' pieces of zoological, botanical, mineralogical, anatomical, historical, archaeological, palaeotological <u>palaeontological</u>, ethnographic or numismatic interest (CN code 9705 00 00);</p>	<p>Annex I(b), second indent (inserted by 94/5/EC)</p> <p><i>Unchanged</i></p> <p><i>EN amended</i></p>
<p>(e)C. 'antiques' shall mean objects other than works of art or collectors' items, which are more than 100 years old (CN code 9706 00 00) <u>Antiques:</u></p>	<p>Annex I(c) (inserted by 94/5/EC)</p> <p><i>Adapted</i></p>
<p>(e) 'antiques' shall mean objects <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>Annex I(c) (inserted by 94/5/EC)</p> <p><i>Adapted</i></p>

~~ANNEX E~~ ANNEX IX

LIST OF TRANSACTIONS COVERED BY THE
DEROGATIONS REFERRED TO IN ARTICLES 350
AND 351 AND ARTICLES 355 TO 360

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)(q) 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 the supply of a building or parts thereof, and of the land on which it stands, other than that described in Article 11(1)(a) insofar as they are made it is effected by a taxable persons-person who were-was entitled to ~~deduction of deduct~~ input tax on the building concerned;
- ~~15.4.~~(4) The the supply of the services of travel agents referred to in Article 26, Article 286, and those of travel agents acting in the name and on account behalf of the traveller, for-where journeys take place outside the Community.

ANNEX F

**Annex E
(77/388/EEC)**

Obsolete

**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

**Annex F
(77/388/EEC)**

Obsolete

Provisional draft text

Part B

~~TRANSACTIONS REFERRED TO IN~~
~~ARTICLE 28(3)(B)~~ Transactions which may Member States may
continue to exempt from tax

~~1.~~(1) ~~Admission~~ admission to sporting events;

**Heading of
Annex F
(77/388/EEC)**

Adapted

**Annex F(1)
(77/388/EEC)**

Unchanged

~~2.~~(2) ~~Services supplied~~ the supply of services by authors, artists, 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~~ with the exception of:

**Annex F(2)
(77/388/EEC)**

Adapted

(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)**

*Based on point 1 of
Annex B of
67/228/EEC*

(b) work, other than the supply of contract work, on tangible movable property, carried out for a taxable person;

**Annex F(2)
(77/388/EEC)**

*Based on point 2 of
Annex B of
67/228/EEC*

(c) services to provide or coordinate the carrying out of construction work, such as services provided by architects and by firms providing on-site supervision of works;

**Annex F(2)
(77/388/EEC)**

*Based on point 3 of
Annex B of
67/228/EEC*

(d) commercial advertising services;

**Annex F(2)
(77/388/EEC)**

*Based on Annex B
of 67/228/EEC*

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(e) <u>transport and storage of goods, and ancillary services;</u>	Annex F(2) (77/388/EEC)
	<i>Based on point 5 of Annex B of 67/228/EEC</i>
(f) <u>hiring out of tangible movable property to a taxable person;</u>	Annex F(2) (77/388/EEC)
	<i>Based on point 6 of Annex B of 67/228/EEC</i>
(g) <u>provision of staff to a taxable person;</u>	Annex F(2) (77/388/EEC)
	<i>Based on point 7 of Annex B of 67/228/EEC</i>
(h) <u>provision of services by consultants, engineers, planning offices and similar services in scientific, economic or technical fields;</u>	Annex F(2) (77/388/EEC)
	<i>Based on point 8 of Annex B of 67/228/EEC</i>
(i) <u>[compliance with] an obligation to refrain from exercising, in whole or in part, a business activity or a right covered by points (a) to (h) and (j);</u>	Annex F(2) (77/388/EEC)
	<i>Based on point 9 of Annex B of 67/228/EEC</i>
(j) <u>the services of forwarding agents, brokers, business agents and other independent intermediaries, insofar as they relate to the supply or importation of goods or the provision of services covered by points (a) to (i);</u>	Annex F(2) (77/388/EEC)
	<i>Based on point 10 of Annex B of 67/228/EEC</i>
5.(3) Telecommunications <u>the supply of telecommunications</u> services supplied by public postal services and supplies of goods incidental thereto;	Annex F(5) (77/388/EEC)
	<i>Adapted</i>

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<p>6.<u>(4)</u> Services supplied—the supply of services by undertakers and cremation services; together with goods related thereto;</p>	<p>Annex F(6) (77/388/EEC)</p> <p><i>Adapted</i></p>
<p>7.<u>(5)</u> Transactions—transactions carried out by blind persons or workshops for the blind provided these exemptions do not give rise to significant distortion of competition;</p>	<p>Annex F(7) (77/388/EEC)</p> <p><i>Unchanged</i></p>
<p>8.<u>(6)</u> The—the supply of goods and services to official bodies responsible for the construction, setting out and maintenance of cemeteries, graves and monuments commemorating the war dead;</p>	<p>Annex F(8) (77/388/EEC)</p> <p><i>Unchanged</i></p> <p><i>EN amended</i></p>
<p>10.<u>(7)</u> Transactions—transactions of hospitals not covered by Article 13A(1)(b) <u>Article 117(1)(b)</u>;</p>	<p>Annex F(10) (77/388/EEC)</p> <p><i>Adapted</i></p>
<p>12.<u>(8)</u> The—the supply of water by public authorities;</p>	<p>Annex F(12) (77/388/EEC)</p> <p><i>Unchanged</i></p>
<p>16.<u>(9)</u> Supplies—the supply before first occupation, of those buildings—a building or parts thereof and the land described—on which it stands as referred to in—Article 4(3) <u>Article 11</u>;</p>	<p>Annex F(16) (77/388/EEC)</p> <p><i>Adapted</i></p>
<p>17.<u>(10)</u> Passenger—passenger transport <u>and transport of goods such as luggage or motor vehicles accompanying passengers and the supply of services related to the transport of passengers, provided the transport of the passengers themselves is exempt;</u></p>	<p>Annex F(17), first subparagraph (77/388/EEC)</p> <p><i>Adapted</i></p>
<p>—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</p>	<p>Annex F(17), second subparagraph (77/388/EEC)</p> <p><i>Obsolete</i></p>

Provisional draft text

<p>23.(11) The<u>the</u> supply, modification, repair, maintenance, chartering and hiring of aircraft, including equipment incorporated or used therein, used by State institutions;</p>	<p>Annex F(23) (77/388/EEC)</p> <p><i>Unchanged</i></p>
<p>25.(12) The<u>the</u> supply, modification, repair, maintenance, chartering and hiring of warships;</p>	<p>Annex F(25) (77/388/EEC)</p> <p><i>Unchanged</i></p>
<p>27.(13) The<u>the supply of</u> services of travel agents referred to in Article 26<u>Article 286</u>, and those of travel agents acting in the name and on account<u>behalf</u> of the traveller, for<u>where</u> journeys <u>take place</u> within the Community.</p>	<p>Annex F(27) (77/388/EEC)</p> <p><i>Adapted</i></p>

~~ANNEX G~~ OBSELETE ANNEX

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)**

Obsolete

**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

DIRECTIVES REPEALED AND TIME LIMITS FOR
TRANSPOSITION INTO NATIONAL LAW

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Part A

Repealed Directives
(referred to in Article 375)

(1) Directive 67/227/EEC

(1) Directive 77/388/EEC

Part B

Time limits for transposition and implementation
(referred to in Article 375)

<u>Directive</u>	<u>Transposition</u>	<u>Implementation</u>
<u>Directive 67/227/EEC</u>		
<u>Directive 77/388/EEC</u>		

ANNEX XI

CORRELATION TABLE

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