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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL DIRECTIVE amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods

COUNCIL DIRECTIVE (EU) 2017/…

of…

amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament[1],

Having regard to the opinion of the European Economic and Social Committee[2],

Acting in accordance with a special legislative procedure,

[1] OJ C , , p. .
[2] OJ C , , p. .

Whereas:

(1) Council Directive 2006/112/EC[1] provides for special schemes for charging value added tax (VAT) for non-established taxable persons providing telecommunications, broadcasting or electronically supplied services to non-taxable persons.

(2) Council Directive 2009/132/EC[2] provides for an exemption from VAT of imports of small consignments of negligible value.

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

[2] Council Directive 2009/132/EC of 19 October 2009 determining the scope of Article 143(b) and (c) of Directive 2006/112/EC as regards exemption from value added tax on the final importation of certain goods (OJ L 292, 10.11.2009, p. 5).

(3) The assessment of those special schemes as introduced on 1 January 2015 has identified a number of areas for improvement. First, the burden for micro-businesses established in a Member State occasionally supplying such services to other Member States of having to comply with VAT obligations in Member States other than their Member State of establishment should be reduced. A Community-wide threshold should therefore be introduced up to which those supplies remain subject to VAT in their Member State of establishment. Second, the requirement of having to comply with the invoicing requirements of all Member States to which supplies are made is very burdensome. Hence, to minimise burdens on business, the rules concerning invoicing should be those applicable in the Member State of identification of the supplier making use of the special schemes. Third, taxable persons not established in the Community but having a VAT registration in a Member State, for example because they carry out occasional transactions subject to VAT in that Member State, can use neither the special scheme for taxable persons not established in the Community, nor the special scheme for taxable persons established in the Community. As a consequence, such taxable persons should be permitted to use the special scheme for taxable persons not established within the Community.

(4) Furthermore, the assessment of the special schemes for the taxation of telecommunications, broadcasting or electronically supplied services introduced on 1 January 2015 has shown that the requirement to submit the VAT return within 20 days following the end of the tax period covered by the return is too short a time limit, in particular for supplies through a telecommunications network, an interface or a portal, where the services supplied through that network, interface or portal are presumed to be supplied by the operator of the network, interface or portal, who has to collect the information to complete the VAT return from each single service supplier. The assessment has also shown that the requirement to make corrections in the VAT return of the tax period concerned is very burdensome for taxable persons, as it may require them to re-submit several VAT returns every quarter. As a consequence, the deadline to submit the VAT return should be extended from 20 days to the end of the month following the end of the tax period and taxable persons should be allowed to correct previous VAT returns in a subsequent return instead of in the returns of the tax periods to which the corrections relate.

(5) To avoid that taxable persons supplying services other than telecommunications, broadcasting or electronically supplied services to non-taxable persons have to be identified for VAT purposes in each and every Member State where those services are subject to VAT, Member States should permit taxable persons supplying such services to make use of the IT system for registration and for declaration and payment of the VAT allowing them to declare and pay VAT on those services in a single Member State.

(6) The realisation of the internal market, globalisation, and technological change have resulted in an explosive growth of electronic commerce and, hence, of distance sales of goods, both supplied from one Member State to another and from third territories or third countries to the Community. The relevant provisions of Directives 2006/112/EC and 2009/132/EC should be adapted to this evolution, taking into account the principle of taxation at destination, the need to protect Member States' tax revenue, to create a level playing field for the businesses concerned and to minimise burdens on them. The special scheme for telecommunications, broadcasting or electronically supplied services supplied by taxable persons established within the Community but not in the Member State of consumption should therefore be extended to intra-Community distance sales of goods and a similar special scheme should be introduced for distance sales of goods imported from third territories or third countries. To clearly determine the scope of the measures applying to intra-Community distance sales of goods and distance sales of goods imported from third territories or third countries, those concepts should be defined.

(7) A major share of distance sales of goods, both supplied from one Member State to another and from third territories or third countries to the Community are facilitated through the use of an electronic interface such as a marketplace, platform, portal or similar means, often resorting to fulfilment warehousing arrangements. Whilst Member States may provide that a person other than the person liable for the payment of VAT is to be held jointly and severally liable for payment of VAT in such cases, this has proved insufficient to ensure effective and efficient collection of VAT. To achieve that objective and reduce the administrative burden for vendors, tax administrations and consumers, it is, therefore, necessary to involve taxable persons who facilitate distance sales of goods through the use of such an electronic interface in the collection of VAT on those sales by providing that they are the persons who are deemed to make those sales. For distance sales of goods imported from third territories or third countries to the Community, this should be restricted to sales of goods which are dispatched or transported in consignments of an intrinsic value not exceeding EUR 150, as of which a full customs declaration upon importation is required for customs purposes.

(8) The keeping of records for a period of at least ten years in respect of supplies by taxable persons facilitated by an electronic interface such as a marketplace, platform, portal or similar means is necessary to assist Member States to verify that VAT has been accounted for correctly on those supplies. The period of ten years is consistent with existing record keeping provisions. Where the records consist of personal data, they should comply with Union law on data protection.

(9) To reduce the burden for businesses making use of the special scheme for intra-Community distance sales of goods, the obligation to issue an invoice for such sales should be removed. To provide legal certainty to such businesses, the definition of those supplies of goods should clearly state that it applies also where the goods are transported or dispatched on behalf of the supplier including where the supplier intervenes indirectly in the transport or dispatch of the goods.

(10) The scope of the special scheme for distance sales of goods imported from third territories or third countries should be restricted to sales of goods of an intrinsic value not exceeding EUR 150 that are dispatched directly from a third territory or third country to a customer in the Community, as of which a full customs declaration is required for customs purposes upon importation. Goods subject to excise duty should be excluded from its scope as excise duty is part of the taxable amount for VAT upon importation. In order to avoid double taxation, an exemption from value added tax upon importation of the goods declared under that special scheme should be introduced.

(11) In addition, in order to avoid distortion of competition between suppliers inside and outside the Community and to avoid losses of tax revenue, it is necessary to remove the exemption for imports of goods in small consignments of negligible value provided for in Directive 2009/132/EC.

(12) A taxable person making use of the special scheme for distance sales of goods imported from third territories or third countries should be allowed to appoint an intermediary established in the Community as the person liable for payment of the VAT and to fulfil the obligations laid down in that special scheme in his name and on his behalf.

(13) In order to protect Member States' tax revenue, a taxable person not established in the Community making use of this special scheme should be obliged to designate an intermediary. However, that obligation should not apply if he is established in a country with which the Union has concluded an agreement on mutual assistance.

(14) In order to ensure uniform conditions for the implementation of this Directive concerning the establishment of the list of third countries with which the Union has concluded an agreement on mutual assistance similar in scope to Council Directive 2010/24/EU[1] and Council Regulation (EU) No 904/2010[2], implementing powers should be conferred on the Commission. Those powers should be *exercised* in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[3]. Since the establishment of the list of third countries is directly linked with the administrative cooperation in the field of value added tax, it is appropriate that the Commission be assisted by the Standing Committee on Administrative Cooperation set up by Article 58 of Regulation (EU) No 904/2010.

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1 Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ L 84, 31.3.2010, p. 1).

2 Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax (OJ L 268, 12.10.2010, p. 1).

3 Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

(15) Following the explosive growth of electronic commerce and the resulting increase in the number of small consignments of an intrinsic value not exceeding EUR 150 imported in the Community, Member States should systematically permit the use of special arrangements for declaration and payment of import VAT. Those arrangements can be applied where the special scheme for distance sales of goods imported from third territories or third countries is not used. Where the Member State of importation does not provide for the systematic application of reduced VAT rates under this special arrangement, the final customer should be able to opt for the standard import procedure in order to avail himself of a potential reduced VAT rate.

(16) The date of application of the provisions of this Directive shall, where relevant, take account of the time needed to put in place the measures necessary to implement this Directive and for the Member States to adapt their IT system for registration and for declaration and payment of the VAT.

(17) Since the objective of this Directive, namely the simplification of VAT obligations, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

(18) In accordance with the Joint Political Declaration of Member States and the Commission of 28 September 2011 on explanatory documents[1], Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

(19) Directives 2006/112/EC and 2009/132/EC should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

[1] OJ C 369, 17.12.2011, p. 14.

Article 1

Amendments to Directive 2006/112/EC with effect from 1 January 2019

With effect from 1 January 2019, Directive 2006/112/EC is amended as follows:

(1) Article 58 is replaced by the following:

'*Article 58*

1. The place of supply of the following services to a non-taxable person shall be the place where that person is established, has his permanent address or usually resides:

   (a) telecommunications services;

   (b) radio and television broadcasting services;

   (c) electronically supplied services, in particular those referred to in Annex II.

   Where the supplier of a service and the customer communicate via electronic mail, that shall not of itself mean that the service supplied is an electronically supplied service.

2. Paragraph 1 shall not apply where the following conditions are met:

   (a) the supplier is established or, in the absence of an establishment, has his permanent address or usually resides in only one Member State; and

   (b) services are supplied to non-taxable persons who are established, have their permanent address or usually reside in any Member State other than the Member State referred to in point (a); and

(c) the total value, exclusive of VAT, of the supplies referred to in point (b) does not in the current calendar year exceed EUR 10 000, or the equivalent in national currency, and did not do so in the course of the preceding calendar year.

3. Where, during a calendar year, the threshold referred to in point (c) of paragraph 2 is exceeded, paragraph 1 shall apply as of that time.

4. The Member State within the territory of which the suppliers referred to in paragraph 2 are established or, in the absence of an establishment, have their permanent address or usually reside, shall grant those suppliers the right to opt for the place of supply to be determined in accordance with paragraph 1, which shall in any event cover two calendar years.

5. Member States shall take appropriate measures to monitor the fulfilment by the taxable person of the conditions referred to in paragraphs 2, 3 and 4.

6. The corresponding value in national currency of the amount referred to in point (c) of paragraph 2 shall be calculated by applying the exchange rate published by the European Central Bank on the date of adoption of Council Directive (EU) 2017/….*

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* Council Directive (EU) 2017/… of… amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods (OJ L …)[+].';

[+] OJ: Please insert the number of this amending Directive and complete the corresponding footnote.

(2) Article 219a is replaced by the following:

'Article 219a

1. Invoicing shall be subject to the rules applying in the Member State in which the supply of goods or services is deemed to be made, in accordance with the provisions of Title V.

2. By way of derogation from paragraph 1, invoicing shall be subject to the following rules:

   (a) the rules applying in the Member State in which the supplier has established his business or has a fixed establishment from which the supply is made or, in the absence of such place of establishment or fixed establishment, the Member State where the supplier has his permanent address or usually resides, where:

      (i) the supplier is not established in the Member State in which the supply of goods or services is deemed to be made, in accordance with the provisions of Title V, or his establishment in that Member State does not intervene in the supply within the meaning of point (b) of Article 192a, and the person liable for the payment of the VAT is the person to whom the goods or services are supplied unless the customer issues the invoice (self-billing);

      (ii) the supply of goods or services is deemed not to be made within the Community, in accordance with the provisions of Title V;

(b) the rules applying in the Member State where the supplier making use of one of the special schemes referred to in Chapter 6 of Title XII is identified.

3. Paragraphs 1 and 2 of this Article shall apply without prejudice to Articles 244 to 248.';

(3) in Article 358a, point (1) is replaced by the following:

'(1) taxable person not established within the Community' means a taxable person who has not established his business in the territory of the Community and who has no fixed establishment there;';

(4) in Article 361(1), point (e) is replaced by the following:

'(e) a statement that the person has not established his business in the territory of the Community and has no fixed establishment there.'.

Article 2

Amendments to Directive 2006/112/EC with effect from 1 January 2021

With effect from 1 January 2021, Directive 2006/112/EC is amended as follows:

(1) in Article 14, the following paragraph is added:

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

(1) 'intra-Community distance sales of goods' means supplies of goods dispatched or transported by or on behalf of the supplier, including where the supplier intervenes indirectly in the transport or dispatch of the goods, from a Member State other than that in which dispatch or transport of the goods to the customer ends, where the following conditions are met:

(a) the supply of goods is carried out for a taxable person, or a non- taxable legal person, whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 3(1) or for any other non-taxable person;

(b) the goods supplied are neither new means of transport nor goods supplied after assembly or installation, with or without a trial run, by or on behalf of the supplier;

(2) 'distance sales of goods imported from third territories or third countries' means supplies of goods dispatched or transported by or on behalf of the supplier, including where the supplier intervenes indirectly in the transport or dispatch of the goods, from a third territory or third country, to a customer in a Member State, where the following conditions are met:

(a) the supply of goods is carried out for a taxable person, or a non- taxable legal person, whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 3(1) or for any other non-taxable person;

(b) the goods supplied are neither new means of transport nor goods supplied after assembly or installation, with or without a trial run, by or on behalf of the supplier.';

(2) the following Article is added:

'Article 14a

1. Where a taxable person facilitates, through the use of an electronic interface such as a marketplace, platform, portal or similar means, distance sales of goods imported from third territories or third countries in consignments of an intrinsic value not exceeding EUR 150, that taxable person shall be deemed to have received and supplied those goods himself.

2. Where a taxable person facilitates, through the use of an electronic interface such as a marketplace, platform, portal or similar means, the supply of goods within the Community by a taxable person not established within the Community to a non-taxable person, the taxable person who facilitates the supply shall be deemed to have received and supplied those goods himself.'

(3) Article 33 is replaced by the following:

'*Article 33*

By way of derogation from Article 32:

(a) the place of supply of intra-Community distance sales of goods shall be deemed to be the place where the goods are located at the time when dispatch or transport of the goods to the customer ends;

(b) the place of supply of distance sales of goods imported from third territories or third countries into a Member State other than that in which dispatch or transport of the goods to the customer ends, shall be deemed to be the place where the goods are located at the time when dispatch or transport of the goods to the customer ends;

(c) the place of supply of distance sales of goods imported from third territories or third countries into the Member State in which dispatch or transport of the goods to the customer ends shall be deemed to be in that Member State, provided that VAT on those goods is to be declared under the special scheme of Section 4 of Chapter 6 of Title XII.';

(4) Article 34 is deleted;

(5) Article 35 is replaced by the following:

'*Article 35*

Article 33 shall not apply to supplies of second-hand goods, works of art, collectors' items or antiques, as defined in points (1) to (4) of Article 311(1), nor to supplies of second-hand means of transport, as defined in Article 327(3), subject to VAT in accordance with the relevant special arrangements.';

(6) in Article 58, paragraphs 2 to 6 are deleted;

(7) in Title V, the following Chapter is inserted:

'CHAPTER 3a
Threshold for taxable persons making supplies of goods covered by point (a) of Article 33 and supplies of services covered by Article 58

Article 59c

1. Point (a) of Article 33 and Article 58 shall not apply, where the following conditions are met:

   (a) the supplier is established or, in the absence of an establishment, has his permanent address or usually resides only in one Member State;

(b) services are supplied to non-taxable persons who are established, have their permanent address or usually reside in any Member State other than the Member State referred to in point (a) or goods are dispatched or transported to a Member State other than the Member State referred to in point (a); and

(c) the total value, exclusive of VAT, of the supplies referred to in point (b) does not in the current calendar year exceed EUR 10 000, or the equivalent in national currency, nor did it do so in the course of the preceding calendar year.

2. Where, during a calendar year, the threshold referred to in point (c) of paragraph 1 is exceeded, point (a) of Article 33 and Article 58 shall apply as of that time.

3. The Member State within the territory of which the goods are located at the time when their dispatch or transport begins or where the taxable persons supplying telecommunications, radio and television broadcasting services and electronically supplied services are established shall grant taxable persons carrying out supplies eligible under paragraph 1 the right to opt for the place of supply to be determined in accordance with point (a) of Article 33 and Article 58, which shall in any event cover two calendar years.

4. Member States shall take appropriate measures to monitor the fulfilment by the taxable person of the conditions referred to in paragraphs 1, 2 and 3.

5. The corresponding value in national currency of the amount mentioned in point (c) of paragraph 1 shall be calculated by applying the exchange rate published by the European Central Bank on the date of adoption of Directive (EU) 2017/…[+].';

[+] OJ: Please insert the number of this amending Directive.

(8) the following Article is added:

'*Article 66a*

By way of derogation from Articles 63, 64 and 65, in respect of supplies of goods for which VAT is payable by the person facilitating the supply pursuant to Article 14a, the chargeable event shall occur and VAT shall become chargeable at the time when the payment has been accepted.';

(9) in Article 143(1), the following point is inserted:

'(ca) the importation of goods where the VAT is to be declared under the special scheme in Chapter 6, Section 4, of Title XII and where, at the latest upon lodging of the import declaration, the individual VAT identification number for the application of the special scheme of the supplier or of the intermediary acting on his behalf allocated under Article 369q has been provided to the competent customs office in the Member State of importation;';

(10) in Article 220(1), point (2) is replaced by the following:

'(2) supplies of goods as referred to in Article 33 except where a taxable person is making use of the special scheme in Section 3 of Chapter 6 of Title XII;';

(11) the following Article is added:

'*Article 242a*

1. Where a taxable person facilitates, through the use of an electronic interface such as a market place, platform, portal or similar means, the supply of goods or services to a non-taxable person within the Community in accordance with the provisions of Title V, the taxable person who facilitates the supply shall be obliged to keep records of those supplies. Those records shall be sufficiently detailed to enable the tax authorities of the Member States where those supplies are taxable to verify that VAT has been accounted for correctly.

2. The records referred to in paragraph 1 must be made available electronically on request to the Member States concerned.

   Those records must be kept for a period of ten years from the end of the year during which the transaction was carried out.';

(12) the heading of Chapter 6 of Title XII is replaced by the following:

'Special schemes for taxable persons supplying services to non-taxable persons or making distance sales of goods';

(13) in Article 358, points 1, 2 and 3 are deleted;

(14) the heading of Section 2 is replaced by the following:

'Special scheme for services supplied by taxable persons not established within the Community';

(15) in Article 358a, the following point is added:

'(3) 'Member State of consumption' means the Member State in which the supply of services is deemed to take place according to Chapter 3 of Title V.';

(16) Article 359 is replaced by the following:

'Article 359

Member States shall permit any taxable person not established within the Community supplying services to a non-taxable person who is established in a Member State or has his permanent address or usually resides in a Member State, to use this special scheme. This scheme applies to all those services supplied within the Community.';

(17) Article 362 is replaced by the following:

'*Article 362*

The Member State of identification shall allocate to the taxable person not established within the Community an individual VAT identification number for the application of this special scheme and shall notify him of that number by electronic means. On the basis of the information used for that identification, Member States of consumption may have recourse to their own identification systems.';

(18) in Article 363, point (a) is replaced by the following:

'(a) if he notifies that Member State that he no longer supplies services covered by this special scheme;';

(19) Articles 364 and 365 are replaced by the following:

'*Article 364*

The taxable person not established within the Community making use of this special scheme shall submit by electronic means to the Member State of identification a VAT return for each calendar quarter, whether or not services covered by this special scheme have been supplied. The VAT return shall be submitted by the end of the month following the end of the tax period covered by the return.

Article 365

The VAT return shall show the individual VAT identification number for the application of this special scheme and, for each Member State of consumption in which VAT is due, the total value, exclusive of VAT, of supplies of services covered by this special scheme carried out during the tax period and total amount per rate of the corresponding VAT. The applicable rates of VAT and the total VAT due must also be indicated on the return.

Where any amendments to the VAT return are required after its submission, such amendments shall be included in a subsequent return within three years of the date on which the initial return was required to be submitted pursuant to Article 364. That subsequent VAT return shall identify the relevant Member State of consumption, the tax period and the amount of VAT for which any amendments are required.';

(20) Article 368 is replaced by the following:

'*Article 368*

The taxable person not established within the Community making use of this special scheme may not deduct VAT pursuant to Article 168 of this Directive. Notwithstanding point (1) of Article 1 of Directive 86/560/EEC, the taxable person in question shall be refunded in accordance with that Directive. Article 2(2) and (3) and Article 4(2) of Directive 86/560/EEC shall not apply to refunds relating to services covered by this special scheme.

If the taxable person making use of this special scheme is required to be registered in a Member State for activities not covered by this special scheme, he shall deduct VAT incurred in that Member State in respect of his taxable activities which are covered by this special scheme in the VAT return to be submitted pursuant to Article 250 of this Directive.';

(21) the heading of Section 3 of Chapter 6 of Title XII is replaced by the following:

'Special scheme for intra-Community distance sales of goods and for services supplied by taxable persons established within the Community but not in the Member State of consumption';

(22) In Article 369a, the following point is added:

'(3) 'Member State of consumption' means the Member State in which the supply of services is deemed to take place according to Chapter 3 of Title V or, in the case of intra-Community distance sales of goods, the Member State where the dispatch or transport of the goods to the customer ends.';

(23) Articles 369b and 369c are replaced by the following:

'*Article 369b*

Member States shall permit any taxable person carrying out intra-Community distance sales of goods and any taxable person not established in the Member State of consumption supplying services to a non-taxable person, to use this special scheme. This special scheme applies to all those goods or services supplied in the Community.

Article 369c

A taxable person shall state to the Member State of identification when he commences and ceases his taxable activities covered by this special scheme, or changes those activities in such a way that he no longer meets the conditions necessary for use of this special scheme. He shall communicate that information electronically.'

(24) Article 369e is amended as follows:

(a) the introductory words are replaced by the following:

'The Member State of identification shall exclude a taxable person from the special scheme in any of the following cases:'

(b) point (a) is replaced by the following:

'(a) if he notifies that he no longer carries out intra-Community distance sales of goods and supplies of services covered by this special scheme;';

(25) Articles 369f and 369g are replaced by the following:

'*Article 369f*

The taxable person making use of this special scheme shall submit by electronic means to the Member State of identification a VAT return for each calendar quarter, whether or not intra-Community distance sales of goods have been carried out or services covered by this special scheme have been supplied. The VAT return shall be submitted by the end of the month following the end of the tax period covered by the return.

Article 369g

1. The VAT return shall show the VAT identification number referred to in Article 369d and, for each Member State of consumption in which VAT is due, the total value, exclusive of VAT, of intra-Community distance sales of goods as well as of supplies of services covered by this special scheme carried out during the tax period and the total amount per rate of the corresponding VAT. The applicable rates of VAT and the total VAT due must also be indicated on the return. The VAT return shall also include amendments relating to previous tax periods as provided in paragraph 4 of this Article.

2. Where, in the case of intra-Community distance sales of goods covered by this special scheme, goods are dispatched or transported from Member States other than the Member State of identification, the VAT return shall also include the total value of such sales for each Member State where the goods are dispatched or transported from, together with the individual VAT identification number or the tax reference number allocated by each such Member State. The VAT return shall include this information for each Member State other than the Member State of identification, broken down by Member State of consumption.

3. Where the taxable person supplying services covered by this special scheme has one or more fixed establishments, other than that in the Member State of identification, from which the services are supplied, the VAT return shall also include the total value of such supplies, for each Member State in which he has an establishment, together with the individual VAT identification number or the tax reference number of this establishment, broken down by Member State of consumption.

4. Where any amendments to the VAT return are required after its submission, such amendments shall be included in a subsequent return within three years of the date on which the initial return was required to be submitted pursuant to Article 369f. That subsequent VAT return shall identify the relevant Member State of consumption, the tax period and the amount of VAT for which any amendments are required.';

(26) in the second subparagraph of Article 369h(1), the second sentence is replaced by the following:

'If the supplies have been made in other currencies, the taxable person making use of this special scheme shall, for the purposes of completing the VAT return, use the exchange rate applying on the last date of the tax period.';

(27) in Article 369i, the first paragraph is replaced by the following:

'The taxable person making use of this special scheme shall pay the VAT, making reference to the relevant VAT return, at the latest at the expiry of the deadline by which the return must be submitted.';

(28) Article 369j is replaced by the following:

'*Article 369j*

The taxable person making use of this special scheme may not, in respect of his taxable activities covered by this special scheme, deduct VAT incurred in the Member State of consumption pursuant to Article 168 of this Directive. Notwithstanding Article 2(1), Article 3 and point (e) of Article 8(1) of Directive 2008/9/EC, the taxable person in question shall be refunded in accordance with that Directive.

If the taxable person making use of this special scheme is required to be registered in a Member State for activities not covered by this special scheme, he shall deduct VAT incurred in that Member State in respect of his taxable activities which are covered by this special scheme in the VAT return to be submitted pursuant to Article 250 of this Directive.';

(29) in Article 369k, paragraph 1 is replaced by the following:

'1. The taxable person making use of this special scheme shall keep records of the transactions covered by this special scheme. Those records must be sufficiently detailed to enable the tax authorities of the Member State of consumption to verify that the VAT return is correct.';

(30) in Chapter 6 of Title XII, the following Section is added:

'Section 4

Special scheme for distance sales of goods imported from third territories or third countries

Article 369l

For the purposes of this Section, distance sales of goods imported from third territories or third countries shall only cover goods, except products subject to excise duty, in consignments of an intrinsic value not exceeding EUR 150.

For the purposes of this Section, and without prejudice to other Community provisions, the following definitions shall apply:

(1) 'taxable person not established within the Community' means a taxable person who has not established his business in the territory of the Community and who has no fixed establishment there;

(2) 'intermediary' means a person established in the Community appointed by the taxable person carrying out distance sales of goods imported from third territories or third countries as the person liable for payment of the VAT and to fulfil the obligations laid down in this special scheme in the name and on behalf of the taxable person;

(3) 'Member State of identification' means the following:

(a) where the taxable person is not established in the Community, the Member State in which he chooses to register;

(b) where the taxable person has established his business outside the Community but has one or more fixed establishments therein, the Member State with a fixed establishment where the taxable person indicates he will make use of this special scheme;

(c) where the taxable person has established his business in a Member State, that Member State;

(d) where the intermediary has established his business in a Member State, that Member State;

(e) where the intermediary has established his business outside the Community but has one or more fixed establishments therein, the Member State with a fixed establishment where the intermediary indicates he will make use of this special scheme.

For the purposes of points (b) and (e), where the taxable person or the intermediary has more than one fixed establishment in the Community he shall be bound by the decision to indicate the Member State of establishment for the calendar year concerned and the two calendar years following;

(4) 'Member State of consumption' means the Member State where the dispatch or transport of the goods to the customer ends.

Article 369m

1. Member States shall permit the following taxable persons carrying out distance sales of goods imported from third territories or third countries to use this special scheme:

   (a) any taxable person established in the Community carrying out distance sales of goods imported from third territories or third countries;

   (b) any taxable person whether or not established in the Community carrying out distance sales of goods imported from third territories or third countries and who is represented by an intermediary established in the Community;

   (c) any taxable person established in a third country with which the Union has concluded an agreement on mutual assistance similar in scope to Council Directive 2010/24/EU* and Regulation (EU) No 904/2010 and who is carrying out distance sales of goods from that third country.

   Those taxable persons shall apply this special scheme to all their distance sales of goods imported from third territories or third countries.

2. For the purposes of point (b) of paragraph 1, any taxable person cannot appoint more than one intermediary at the same time.

3. The Commission shall adopt an implementing act establishing the list of third countries referred to in point (c) of paragraph 1 of this Article. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 5 of Regulation (EU) No 182/2011 and for this purpose the committee shall be the committee established by Article 58 of Regulation (EU) No 904/2010.

Article 369n

For distances sales of goods imported from third territories or third countries on which VAT is declared under this special scheme, the chargeable event shall occur and VAT shall become chargeable at the time of supply. The goods shall be regarded as having been supplied at the time when the payment has been accepted.

Article 369o

The taxable person making use of this special scheme or an intermediary acting on his behalf, shall state to the Member State of identification when he commences or ceases his activity under this special scheme, or changes that activity in such a way that he no longer meets the conditions necessary for use of this special scheme. That information shall be communicated electronically.

Article 369p

1 The information which the taxable person not making use of an intermediary must provide to the Member State of identification before he commences the use of this special scheme shall contain the following details:

(a) name;

(b) postal address;

(c) electronic address and websites;

(d) VAT identification number or national tax number.

2. The information which the intermediary must provide to the Member State of identification before he commences the use of this special scheme on behalf of a taxable person shall contain the following details :

(a) name;

(b) postal address;

(c) electronic address;

(d) VAT identification number.

3. The information which the intermediary must provide to the Member State of identification in respect of each taxable person which he represents before that taxable person commences the use of this special scheme shall contain the following details :

(a) name;

(b) postal address;

(c) electronic address and websites;

(d) VAT identification number or national tax number;

(e) his individual identification number allocated in accordance with Article 369q(3).

4. Any taxable person making use of this special scheme or where applicable his intermediary shall notify the Member State of identification of any changes in the information provided.

Article 369q

1. The Member State of identification shall allocate to the taxable person making use of this special scheme an individual VAT identification number for the application of this special scheme and shall notify him of that number by electronic means.

2. The Member State of identification shall allocate to an intermediary an individual identification number and shall notify him of that number by electronic means.

3. The Member State of identification shall allocate an individual VAT identification number for the application of this special scheme to the intermediary in respect of each taxable person for which he is appointed.

4. The VAT identification number allocated under paragraphs 1, 2 and 3 shall be used only for the purposes of this special scheme.

Article 369r

1. The Member State of identification shall delete the taxable person not making use of an intermediary from the identification register in the following cases:

   (a) if he notifies the Member State of identification that he no longer carries out distance sales of goods imported from third territories or third countries;

   (b) if it may otherwise be assumed that his taxable activities of distance sales of goods imported from third territories or third countries have ceased;

   (c) if he no longer meets the conditions necessary for use of this special scheme;

   (d) if he persistently fails to comply with the rules relating to this special scheme.

2. The Member State of identification shall delete the intermediary from the identification register in the following cases:

(a) if for a period of two consecutive calendar quarters he has not acted as an intermediary on behalf of a taxable person making use of this special scheme;

(b) if he no longer meets the other conditions necessary for acting as an intermediary;

(c) if he persistently fails to comply with the rules relating to this special scheme.

3. The Member State of identification shall delete the taxable person represented by an intermediary from the identification register in the following cases:

(a) if the intermediary notifies the Member State of identification that this taxable person no longer carries out distance sales of goods imported from third territories or third countries;

(b) if it may otherwise be assumed that the taxable activities of distance sales of goods imported from third territories or third countries of this taxable person have ceased;

(c) if this taxable person no longer meets the conditions necessary for use of this special scheme;

(d) if this taxable person persistently fails to comply with the rules relating to this special scheme;

(e) if the intermediary notifies the Member State of identification that he no longer represents this taxable person.

Article 369s

The taxable person making use of this special scheme or his intermediary shall submit by electronic means to the Member State of identification a VAT return for each month, whether or not distance sales of goods imported from third territories or third countries have been carried out. The VAT return shall be submitted by the end of the month following the end of the tax period covered by the return.

Where a VAT return is to be submitted in accordance with the first paragraph, Member States shall not impose, for VAT purposes, any additional obligation or other formality upon importation.

Article 369t

1. The VAT return shall show the VAT identification number referred to in Article 369q and, for each Member State of consumption in which VAT is due, the total value, exclusive of VAT, of distance sales of goods imported from third territories or third countries for which VAT has become chargeable during the tax period and the total amount per rate of the corresponding VAT. The applicable rates of VAT and the total VAT due must also be indicated on the return.

2. Where any amendments to the VAT return are required after its submission, such amendments shall be included in a subsequent return within three years of the date on which the initial return was required to be submitted pursuant to Article 369s. That subsequent VAT return shall identify the relevant Member State of consumption, the tax period and the amount of VAT for which any amendments are required.

Article 369u

1. The VAT return shall be made out in euro.

   Member States whose currency is not the euro may require the VAT return to be made out in their national currency. If the supplies have been made in other currencies, the taxable person making use of this special scheme or his intermediary shall, for the purposes of completing the VAT return, use the exchange rate applying on the last date of the tax period.

2. The conversion shall be made by applying the exchange rates published by the European Central Bank for that day, or, if there is no publication on that day, on the next day of publication.

Article 369v

The taxable person making use of this special scheme or his intermediary shall pay the VAT, making reference to the relevant VAT return at the latest at the expiry of the deadline by which the return must be submitted.

Payment shall be made to a bank account denominated in euro, designated by the Member State of identification. Member States which have not adopted the euro may require the payment to be made to a bank account denominated in their own currency.

Article 369w

The taxable person making use of this special scheme may not, in respect of his taxable activities covered by this special scheme, deduct VAT incurred in the Member States of consumption pursuant to Article 168 of this Directive. Notwithstanding point (1) of Article 1 of Directive 86/560/EEC and point (1) of Article 2 and Article 3 of Directive 2008/9/EC, the taxable person in question shall be refunded in accordance with those Directives. Article 2(2) and (3) and Article 4(2) of Directive 86/560/EEC shall not apply to refunds relating to goods covered by this special scheme.

If the taxable person making use of this special scheme is required to be registered in a Member State for activities not covered by this special scheme, he shall deduct VAT incurred in that Member State in respect of his taxable activities which are covered by this special scheme in the VAT return to be submitted pursuant to Article 250 of this Directive.

Article 369x

1. The taxable person making use of this special scheme shall keep records of the transactions covered by this special scheme. An intermediary shall keep records for each of the taxable persons he represents. Those records must be sufficiently detailed to enable the tax authorities of the Member State of consumption to verify that the VAT return is correct.

2. The records referred to in paragraph 1 must be made available electronically on request to the Member State of consumption and to the Member State of identification.

Those records must be kept for a period of ten years from the end of the year during which the transaction was carried out.

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* Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ L 84, 31.3.2010, p. 1).';

(31) In Title XII, the following Chapters are added:

'CHAPTER 7

Special arrangements for declaration and payment of import VAT

Article 369y

Where, for the importation of goods, except products subject to excise duties, in consignments of an intrinsic value not exceeding EUR 150, the special scheme in Section 4 of Chapter 6 is not used, the Member State of importation shall permit the person presenting the goods to customs on behalf of the person for whom the goods are destined within the territory of the Community to make use of special arrangements for declaration and payment of import VAT in respect of goods for which the dispatch or transport ends in that Member State.

Article 369z

1. For the purpose of this special arrangement, the following shall apply:

   (a) the person for whom the goods are destined shall be liable for the payment of the VAT;

   (b) the person presenting the goods to customs within the territory of the Community shall collect the VAT from the person for whom the goods are destined and effect the payment of such VAT.

2. Member States shall provide that the person presenting the goods to customs within the territory of the Community takes appropriate measures to ensure that the correct tax is paid by the person for whom the goods are destined.

Article 369za

By way of derogation from Article 94(2), Member States may provide that the standard rate of VAT applicable in the Member State of importation is applicable when using this special arrangement.

Article 369zb

1. Member States shall allow that the VAT collected under this special arrangement be reported electronically in a monthly declaration. The declaration shall show the total VAT collected during the relevant calendar month.

2. Member States shall require that the VAT referred to in paragraph 1 is payable by the end of the month following the importation.

3. The persons making use of this special arrangement shall keep records of the transactions covered by this special arrangement for a period of time to be determined by the Member State of importation. Those records must be sufficiently detailed to enable the tax or customs authorities of the Member State of importation to verify that the VAT declared is correct and be made available electronically on request to the Member State of importation.

CHAPTER 8

Exchange values

Article 369zc

1. The exchange value in national currency of the euro to be taken into consideration for the amount mentioned in Articles 369l and 369y be fixed once a year. The rates to be applied shall be those obtaining on the first working day in October and shall take effect on 1 January the following year.

2. Member States may round off the amount in national currency arrived at by converting the amounts in euro.

3. Member States may continue to apply the amount in force at the time of the annual adjustment provided for in paragraph 1, if conversion of the amount expressed in euro leads, before the rounding-off provided for in paragraph 2 to an alteration of less than 5 % in the amount expressed in national currency or to a reduction in that amount.'

Article 3

Amendment to Directive 2009/132/EC

With effect from 1 January 2021, Title IV of Directive 2009/132/EC is deleted.

Article 4

Transposition

1. Member States shall adopt and publish, by 31 December 2018, the laws, regulations and administrative provisions necessary to comply with Article 1 of this Directive. They shall immediately communicate to the Commission the text of those provisions.

   Member States shall adopt and publish, by 31 December 2020, the laws, regulations and administrative provisions necessary to comply with Articles 2 and 3 of this Directive. They shall immediately communicate to the Commission the text of those provisions.

   They shall apply the measures necessary to comply with Article 1 of this Directive from 1 January 2019.

   They shall apply the measures necessary to comply with Articles 2 and 3 of this Directive from 1 January 2021.

   When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 5

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 6

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the Council

The President