

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

TITLE V

**PLACE OF TAXABLE TRANSACTIONS**

[<sup>F1</sup>CHAPTER 3

**Place of supply of services**

Section 1

**Definitions**

*Article 43*

For the purpose of applying the rules concerning the place of supply of services:

1. a taxable person who also carries out activities or transactions that are not considered to be taxable supplies of goods or services in accordance with Article 2(1) shall be regarded as a taxable person in respect of all services rendered to him;
2. a non-taxable legal person who is identified for VAT purposes shall be regarded as a taxable person.

Section 2

**General rules**

*Article 44*

The place of supply of services to a taxable person acting as such shall be the place where that person has established his business. However, if those services are provided to a fixed establishment of the taxable person located in a place other than the place where he has established his business, the place of supply of those services shall be the place where that fixed establishment is located. In the absence of such place of establishment or fixed establishment, the place of supply of services shall be the place where the taxable person who receives such services has his permanent address or usually resides.

*Article 45*

The place of supply of services to a non-taxable person shall be the place where the supplier has established his business. However, if those services are provided from a fixed establishment of the supplier located in a place other than the place where he has established his business, the place of supply of those services shall be the place where that fixed establishment is located. In the absence of such place of establishment or fixed establishment, the place of supply of services shall be the place where the supplier has his permanent address or usually resides.

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### Section 3

#### **Particular provisions**

##### Subsection 1

#### **Supply of services by intermediaries**

##### *Article 46*

The place of supply of services rendered to a non-taxable person by an intermediary acting in the name and on behalf of another person shall be the place where the underlying transaction is supplied in accordance with this Directive.

##### Subsection 2

#### **Supply of services connected with immovable property**

##### *Article 47*

The place of supply of services connected with immovable property, including the services of experts and estate agents, the provision of accommodation in the hotel sector or in sectors with a similar function, such as holiday camps or sites developed for use as camping sites, the granting of rights to use immovable property and services for the preparation and coordination of construction work, such as the services of architects and of firms providing on-site supervision, shall be the place where the immovable property is located.

##### Subsection 3

#### **Supply of transport**

##### *Article 48*

The place of supply of passenger transport shall be the place where the transport takes place, proportionate to the distances covered.

##### *Article 49*

The place of supply of the transport of goods, other than the intra-Community transport of goods, to non-taxable persons shall be the place where the transport takes place, proportionate to the distances covered.

##### *Article 50*

The place of supply of the intra-Community transport of goods to non-taxable persons shall be the place of departure.

##### *Article 51*

‘Intra-Community transport of goods’ shall mean any transport of goods in respect of which the place of departure and the place of arrival are situated within the territories of two different Member States.

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‘Place of departure’ shall mean the place where transport of the goods actually begins, irrespective of distances covered in order to reach the place where the goods are located and ‘place of arrival’ shall mean the place where transport of the goods actually ends.

*Article 52*

Member States need not apply VAT to that part of the intra-Community transport of goods to non-taxable persons taking place over waters which do not form part of the territory of the Community.

Subsection 4

**Supply of cultural, artistic, sporting, scientific, educational, entertainment and similar services, ancillary transport services and valuations of and work on movable property**

*Article 53*

The place of supply of services and ancillary services relating to cultural, artistic, sporting, scientific, educational, entertainment or similar activities, such as fairs and exhibitions, including the supply of services of the organisers of such activities, shall be the place where those activities are physically carried out.

*Article 54*

The place of supply of the following services to non-taxable persons shall be the place where the services are physically carried out:

- (a) ancillary transport activities such as loading, unloading, handling and similar activities;
- (b) valuations of and work on movable tangible property.

Subsection 5

**Supply of restaurant and catering services**

*Article 55*

The place of supply of restaurant and catering services other than those physically carried out on board ships, aircraft or trains during the section of a passenger transport operation effected within the Community, shall be the place where the services are physically carried out.

Subsection 6

**Hiring of means of transport**

*Article 56*

1 The place of short-term hiring of a means of transport shall be the place where the means of transport is actually put at the disposal of the customer.

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2 For the purposes of paragraph 1, ‘short-term’ shall mean the continuous possession or use of the means of transport throughout a period of not more than thirty days and, in the case of vessels, not more than ninety days.

#### Subsection 7

### **Supply of restaurant and catering services for consumption on board ships, aircraft or trains**

#### *Article 57*

1 The place of supply of restaurant and catering services which are physically carried out on board ships, aircraft or trains during the section of a passenger transport operation effected within the Community, shall be at the point of departure of the passenger transport operation.

2 For the purposes of paragraph 1, ‘section of a passenger transport operation effected within the Community’ shall mean the section of the operation effected, without a stopover outside the Community, between the point of departure and the point of arrival of the passenger transport operation.

‘Point of departure of a passenger transport operation’ shall mean the first scheduled point of passenger embarkation within the Community, where applicable after a stopover outside the Community.

‘Point of arrival of a passenger transport operation’ shall mean the last scheduled point of disembarkation within the Community of passengers who embarked in the Community, where applicable before a stopover outside the Community.

In the case of a return trip, the return leg shall be regarded as a separate transport operation.

#### Subsection 8

### **Supply of electronic services to non-taxable persons**

#### *Article 58*

The place of supply of electronically supplied services, in particular those referred to in Annex II, when supplied to non-taxable persons who are established in a Member State, or who have their permanent address or usually reside in a Member State, by a taxable person who has established his business outside the Community or has a fixed establishment there from which the service is supplied, or who, in the absence of such a place of business or fixed establishment, has his permanent address or usually resides outside the Community, shall be the place where the non-taxable person is established, or where he has his permanent address or usually resides.

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.

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## Subsection 9

### **Supply of services to non-taxable persons outside the Community**

#### *Article 59*

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

- (a) transfers and assignments of copyrights, patents, licences, trade marks and similar rights;
- (b) advertising services;
- (c) the services of consultants, engineers, consultancy firms, lawyers, accountants and other similar services, as well as data processing and the 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 Article;
- (e) banking, financial and insurance transactions including reinsurance, with the exception of the hire of safes;
- (f) the supply of staff;
- (g) the hiring out of movable tangible property, with the exception of all means of transport;
- (h) the provision of access to, and of transport or transmission through, natural gas and electricity distribution systems and the provision of other services directly linked thereto;
- (i) telecommunications services;
- (j) radio and television broadcasting services;
- (k) 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.

## Subsection 10

### **Prevention of double taxation or non-taxation**

#### *Article 59a*

In order to prevent double taxation, non-taxation or distortion of competition, Member States may, with regard to services the place of supply of which is governed by Articles 44, 45, 56 and 59:

- (a) consider the place of supply of any or all of those services, if situated within their territory, as being situated outside the Community if the effective use and enjoyment of the services takes place outside the Community;

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- (b) consider the place of supply of any or all of those services, if situated outside the Community, as being situated within their territory if the effective use and enjoyment of the services takes place within their territory.

However, this provision shall not apply to the electronically supplied services where those services are rendered to non-taxable persons not established within the Community.

*Article 59b*

Member States shall apply Article 59a(b) to telecommunications services and radio and television broadcasting services, as referred to in point (j) of the first paragraph of Article 59, supplied to non-taxable persons who are established in a Member State, or who have their permanent address or usually reside in a Member State, by a taxable person who has established his business outside the Community or has a fixed establishment there from which the services are supplied, or who, in the absence of such a place of business or fixed establishment, has his permanent address or usually resides outside the Community.]

**Textual Amendments**

- F1** Substituted by [Council Directive 2008/8/EC of 12 February 2008 amending Directive 2006/112/EC as regards the place of supply of services.](#)