

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

TITLE V

PLACE OF TAXABLE TRANSACTIONS

CHAPTER 3

Place of supply of services

Section 2

Particular provisions

Subsection 1

Supply of services by intermediaries

Article 44

The place of supply of services by an intermediary acting in the name and on behalf of another person, other than those referred to in Articles 50 and 54 and in Article 56(1), shall be the place where the underlying transaction is supplied in accordance with this Directive.

However, where the customer of the services supplied by the intermediary is identified for VAT purposes in a Member State other than that within the territory of which that transaction is carried out, the place of the supply of services by the intermediary shall be deemed to be within the territory of the Member State which issued the customer with the VAT identification number under which the service was rendered to him.

Subsection 2

Supply of services connected with immovable property

Article 45

The place of supply of services connected with immovable property, including the services of estate agents and experts, 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 property is located.

Subsection 3

Supply of transport

Article 46

The place of supply of transport other than the intra-Community transport of goods shall be the place where the transport takes place, proportionately in terms of distances covered.

Article 47

The place of supply of intra-Community transport of goods shall be the place of departure of the transport.

However, where intra-Community transport of goods is supplied to customers identified for VAT purposes in a Member State other than that of the departure of the transport, the place of supply shall be deemed to be within the territory of the Member State which issued the customer with the VAT identification number under which the service was rendered to him.

Article 48

‘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.

‘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.

‘Place of arrival’ shall mean the place where transport of the goods actually ends.

Article 49

The transport of goods in respect of which the place of departure and the place of arrival are situated within the territory of the same Member State shall be treated as intra-Community transport of goods where such transport is directly linked to transport of goods in respect of which the place of departure and the place of arrival are situated within the territory of two different Member States.

Article 50

The place of the supply of services by an intermediary, acting in the name and on behalf of another person, where the intermediary takes part in the intra-Community transport of goods, shall be the place of departure of the transport.

However, where the customer of the services supplied by the intermediary is identified for VAT purposes in a Member State other than that of the departure of the transport, the place of the supply of services by the intermediary shall be deemed to be within the territory of the Member State which issued the customer with the VAT identification number under which the service was rendered to him.

Article 51

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

Subsection 4

Supply of cultural and similar services, ancillary transport services or services relating to movable tangible property

Article 52

The place of supply of the following services shall be the place where the services are physically carried out:

- (a) cultural, artistic, sporting, scientific, educational, entertainment or similar activities, including the activities of the organisers of such activities and, where appropriate, ancillary services;
- (b) ancillary transport activities, such as loading, unloading, handling and similar activities;
- (c) valuations of movable tangible property or work on such property.

Article 53

By way of derogation from Article 52(b), the place of supply of services involving activities ancillary to the intra-Community transport of goods, supplied to customers identified for VAT purposes in a Member State other than that in the territory of which the activities are physically carried out, shall be deemed to be within the territory of the Member State which issued the customer with the VAT identification number under which the service was rendered to him.

Article 54

The place of the supply of services by an intermediary, acting in the name and on behalf of another person, where the intermediary takes part in the supply of services consisting in activities ancillary to the intra-Community transport of goods, shall be the place where the ancillary activities are physically carried out.

However, where the customer of the services supplied by the intermediary is identified for VAT purposes in a Member State other than that within the territory of which the ancillary activities are physically carried out, the place of supply of services by the intermediary shall be deemed to be within the territory of the Member State which issued the customer with the VAT identification number under which the service was rendered to him.

Article 55

By way of derogation from Article 52(c), the place of supply of services involving the valuation of movable tangible property or work on such property, supplied to customers identified for VAT purposes in a Member State other than that in the territory of which the services are physically carried out, shall be deemed to be within the territory of the Member State which issued the customer with the VAT identification number under which the service was rendered to him.

The derogation referred to in the first paragraph shall apply only where the goods are dispatched or transported out of the Member State in which the services were physically carried out.

Subsection 5

Supply of miscellaneous services*Article 56*

1 The place of supply of the following services to customers established outside the Community, or to taxable persons established in the Community but not in the same country as the supplier, shall be the place where the customer has established his business or has a fixed establishment for which the service is supplied, or, in the absence of such a place, the place where he has his permanent address or usually resides:

- a transfers and assignments of copyrights, patents, licences, trade marks and similar rights;
- b advertising services;
- c the services of consultants, engineers, consultancy bureaux, lawyers, accountants and other similar services, as well as data processing and the 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 paragraph;
- 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, such as those referred to in Annex II;
- l the supply of services by intermediaries, acting in the name and on behalf of other persons, where those intermediaries take part in the supply of the services referred to in this paragraph.

2 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 for the purposes of point (k) of paragraph 1.

3 Points (j) and (k) of paragraph 1 and paragraph 2 shall apply until 31 December 2006.

Article 57

1 Where the services referred to in point (k) of Article 56(1) are 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, the place of supply shall be the place where the non-taxable person is established, or where he has his permanent address or usually resides.

2 Paragraph 1 shall apply until 31 December 2006.

Subsection 6

Criterion of effective use and enjoyment

Article 58

In order to avoid double taxation, non-taxation or distortion of competition, Member States may, with regard to the supply of the services referred to in Article 56(1) and with regard to the hiring out of means of transport:

- (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;
- (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 services referred to in point (k) of Article 56(1), where those services are rendered to non-taxable persons.

Article 59

1 Member States shall apply Article 58(b) to telecommunications services 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.

2 Until 31 December 2006, Member States shall apply Article 58(b) to radio and television broadcasting services, as referred to in point (j) of Article 56(1), 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 who 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.