

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

TITLE VIII

RATES

CHAPTER 1

Application of rates

Article 93

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 applicable shall be that in force when VAT becomes chargeable:

- (a) in the cases referred to in Articles 65 and 66;
- (b) in the case of an intra-Community acquisition of goods;
- (c) in the cases, concerning the importation of goods, referred to in the second subparagraph of Article 71(1) and in Article 71(2).

Article 94

1 The rate applicable to the intra-Community acquisition of goods shall be that applied to the supply of like goods within the territory of the Member State.

2 Subject to the option under Article 103(1) of applying a reduced rate to the importation of works of art, collectors' items or antiques, the rate applicable to the importation of goods shall be that applied to the supply of like goods within the territory of the Member State.

Article 95

Where rates are changed, Member States may, in the cases referred to in Articles 65 and 66, effect adjustments in order to take account of the rate applying at the time when the goods or services were supplied.

Member States may also adopt all appropriate transitional measures.

CHAPTER 2

Structure and level of rates

Section 1

Standard rate

Article 96

Member States shall apply a standard rate of VAT, which shall be fixed by each Member State as a percentage of the taxable amount and which shall be the same for the supply of goods and for the supply of services.

Article 97

1 From 1 January 2006 until 31 December 2010, the standard rate may not be less than 15 %.

2 The Council shall decide, in accordance with Article 93 of the Treaty, on the level of the standard rate to be applied after 31 December 2010.

Section 2

Reduced rates

Article 98

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

2 The reduced rates shall apply only to supplies of goods or services in the categories set out in Annex III.

The reduced rates shall not apply to the services referred to in point (k) of Article 56(1).

3 When applying the reduced rates provided for in paragraph 1 to categories of goods, Member States may use the Combined Nomenclature to establish the precise coverage of the category concerned.

Article 99

1 The reduced rates shall be fixed as a percentage of the taxable amount, which may not be less than 5 %.

2 Each reduced rate shall be so fixed that the amount of VAT resulting from its application is such that the VAT deductible under Articles 167 to 171 and Articles 173 to 177 can normally be deducted in full.

Article 100

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.

The Council may, in accordance with Article 93 of the Treaty, decide to alter the list of goods and services set out in Annex III.

Article 101

By 30 June 2007 at the latest the Commission shall present to the European Parliament and the Council an overall assessment report on the impact of reduced rates applying to locally supplied services, including restaurant services, notably in terms of job creation, economic growth and the proper functioning of the internal market, based on a study carried out by an independent economic think-tank.

Section 3

Particular provisions

Article 102

Member States may apply a reduced rate to the supply of natural gas, of electricity or of district heating, provided that no risk of distortion of competition thereby arises.

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

Article 103

1 Member States may provide that the reduced rate, or one of the reduced rates, which they apply in accordance with Articles 98 and 99 is also to apply to the importation of works of art, collectors' items and antiques, as defined in points (2), (3) and (4) of Article 311(1).

2 If Member States avail themselves of the option under paragraph 1, they may also apply the reduced rate to the following transactions:

- a the supply of works of art, by their creator or his successors in title;
- b the supply of works of art, on an occasional basis, by a taxable person other than a taxable dealer, where 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 VAT.

Article 104

Austria may, in the communes of Jungholz and Mittelberg (Kleines Walsertal), apply a second standard rate which is lower than the corresponding rate applied in the rest of Austria but not less than 15 %.

Article 105

Portugal may, in the case of transactions carried out in the autonomous regions of the Azores and Madeira and of direct importation into those regions, apply rates lower than those applying on the mainland.

CHAPTER 3

Temporary provisions for particular labour-intensive services

Article 106

The Council may, acting unanimously on a proposal from the Commission, allow Member States to apply until 31 December 2010 at the latest the reduced rates provided for in Article 98 to services listed in Annex IV.

The reduced rates may be applied to services from no more than two of the categories set out in Annex IV.

In exceptional cases a Member State may be allowed to apply the reduced rates to services from three of those categories.

Article 107

The services referred to in Article 106 must meet the following conditions:

- (a) they must be labour-intensive;
- (b) they must largely be provided direct to final consumers;
- (c) they must be mainly local and not likely to cause distortion of competition.

There must also be a close link between the decrease in prices resulting from the rate reduction and the foreseeable increase in demand and employment. Application of a reduced rate must not prejudice the smooth functioning of the internal market.

Article 108

Any Member State wishing to apply for the first time after 31 December 2005 a reduced rate to one or more of the services referred to in Article 106 pursuant to this Article shall inform the Commission accordingly no later than 31 March 2006. It shall communicate to it before that date all relevant information concerning the new measures it wishes to introduce, in particular the following:

- (a) scope of the measure and detailed description of the services concerned;
- (b) particulars showing that the conditions laid down in Article 107 have been met;
- (c) particulars showing the budgetary cost of the measure envisaged.

CHAPTER 4

Special provisions applying until the adoption of definitive arrangements

Article 109

Pending introduction of the definitive arrangements referred to in Article 402, the provisions laid down in this Chapter shall apply.

Article 110

Member States which, at 1 January 1991, were granting exemptions with deductibility of the VAT paid at the preceding stage or applying reduced rates lower than the minimum

laid down in Article 99 may continue to grant those exemptions or apply those reduced rates.

The exemptions and reduced rates referred to in the first paragraph must be in accordance with Community law and must have been adopted for clearly defined social reasons and for the benefit of the final consumer.

Article 111

Subject to the conditions laid down in the second paragraph of Article 110, exemptions with deductibility of the VAT paid at the preceding stage may continue to be granted in the following cases:

- (a) by Finland in respect of the supply of newspapers and periodicals sold by subscription and the printing of publications distributed to the members of corporations for the public good;
- (b) by Sweden in respect of the supply of newspapers, including radio and cassette newspapers for the visually impaired, pharmaceutical products supplied to hospitals or on prescription, and the production of, or other related services concerning, periodicals of non-profit-making organisations.

Article 112

If the provisions of Article 110 cause for Ireland 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 Articles 98 and 99.

In the case referred to in the first paragraph, Ireland shall submit 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 reduced rates proposed.

Article 113

Member States which, at 1 January 1991, in accordance with Community law, were granting exemptions with deductibility of the VAT paid at the preceding stage or applying reduced rates lower than the minimum laid down in Article 99, in respect of goods and services other than those specified in Annex III, may apply the reduced rate, or one of the two reduced rates, provided for in Article 98 to the supply of such goods or services.

Article 114

1 Member States which, on 1 January 1993, were obliged to increase their standard rate in force at 1 January 1991 by more than 2 % may apply a reduced rate lower than the minimum laid down in Article 99 to the supply of goods and services in the categories set out in Annex III.

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.

2 Member States may not rely on paragraph 1 to introduce exemptions with deductibility of the VAT paid at the preceding stage.

Article 115

Member States which, at 1 January 1991, were applying a reduced rate to restaurant services, children's clothing, children's footwear or housing may continue to apply such a rate to the supply of those goods or services.

Article 116

Portugal may apply one of the two reduced rates provided for in Article 98 to restaurant services, provided that the rate is not lower than 12 %.

Article 117

1 For the purposes of applying Article 115, Austria may continue to apply a reduced rate to restaurant services.

2 Austria may apply one of the two reduced rates provided for in Article 98 to the letting of immovable property for residential use, provided that the rate is not lower than 10 %.

Article 118

Member States which, at 1 January 1991, were applying a reduced rate to the supply of goods or services other than those specified in Annex III may apply the reduced rate, or one of the two reduced rates, provided for in Article 98 to the supply of those goods or services, provided that the rate is not lower than 12 %.

The first paragraph shall not apply to the supply of second-hand goods, works of art, collectors' items or antiques, as defined in points (1) to (4) of Article 311(1), subject to VAT in accordance with the margin scheme provided for in Articles 312 to 325 or the arrangements for sales by public auction.

Article 119

For the purposes of applying Article 118, Austria may apply a reduced rate to wines produced on an agricultural holding by the producer-farmer, provided that the rate is not lower than 12 %.

Article 120

Greece may apply 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 islands of Thassos, the Northern Sporades, Samothrace and Skiros.

Article 121

Member States which, at 1 January 1993, regarded work under contract as the supply of goods may apply to the delivery of work under contract the rate applicable to the goods obtained after execution of the work under contract.

For the purposes of applying the first paragraph, 'delivery of work under contract' shall mean the handing over 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 that purpose, whether or not the contractor has provided any part of the materials used.

Article 122

Member States may apply a reduced rate to the supply of live plants and other floricultural products, including bulbs, roots and the like, cut flowers and ornamental foliage, and of wood for use as firewood.

CHAPTER 5

Temporary provisions

Article 123

The Czech Republic may, until 31 December 2007, continue to apply a reduced rate of not less than 5 % to the following transactions:

- (a) the supply of heat energy used by households and small entrepreneurs who are not subject to VAT for heating and the production of hot water, excluding raw materials used to generate heat energy;
- (b) the supply of construction work for residential housing not provided as part of a social policy, excluding building materials.

Article 124

Estonia may, until 30 June 2007, continue to apply a reduced rate of not less than 5 % to the supply of heating sold to natural persons, housing associations, apartment associations, churches, congregations, and institutions or bodies financed from the State, rural municipality or city budget, as well as to the supply of peat, fuel briquettes, coal and firewood to natural persons.

Article 125

1 Cyprus may, until 31 December 2007, continue to grant an exemption with deductibility of VAT paid at the preceding stage in respect of the supply of pharmaceuticals and foodstuffs for human consumption, with the exception of ice cream, ice lollies, frozen yoghurt, water ice and similar products and savoury food products (potato crisps/sticks, puffs and similar products packaged for human consumption without further preparation).

2 Cyprus may continue to apply a reduced rate of not less than 5 % to the supply of restaurant services, until 31 December 2007 or until the introduction of definitive arrangements, as referred to in Article 402, whichever is the earlier.

Article 126

Hungary may continue to apply a reduced rate of not less than 12 % to the following transactions:

- (a) the supply of coal, coal-brick and coke, firewood and charcoal, and the supply of district heating services, until 31 December 2007;
- (b) the supply of restaurant services and of foodstuffs sold on similar premises, until 31 December 2007 or until the introduction of definitive arrangements, as referred to in Article 402, whichever is the earlier.

Article 127

Malta may, until 1 January 2010, continue to grant an exemption with deductibility of VAT paid at the preceding stage in respect of the supply of foodstuffs for human consumption and pharmaceuticals.

Article 128

1 Poland may, until 31 December 2007 grant an exemption with deductibility of VAT paid at the preceding stage in respect of the supply of certain books and specialist periodicals.

2 Poland may, until 31 December 2007 or until the introduction of definitive arrangements, as referred to in Article 402, whichever is the earlier, continue to apply a reduced rate of not less than 7 % to the supply of restaurant services.

3 Poland may, until 30 April 2008, continue to apply a reduced rate of not less than 3 % to the supply of foodstuffs as referred to in point (1) of Annex III.

4 Poland may, until 30 April 2008, continue to apply a reduced rate of not less than 3 % to 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, as referred to in point (11) of Annex III.

5 Poland may, until 31 December 2007, continue to apply a reduced rate of not less than 7 % to the supply of services, not provided as part of a social policy, for construction, renovation and alteration of housing, excluding building materials, and to the supply before first occupation of residential buildings or parts of residential buildings, as referred to in point (a) of Article 12(1).

Article 129

1 Slovenia may, until 31 December 2007 or until the introduction of definitive arrangements as referred to in Article 402, whichever is the earlier, continue to apply a reduced rate of not less than 8,5 % to the preparation of meals.

2 Slovenia may, until 31 December 2007, continue to apply a reduced rate of not less than 5 % to the supply of construction, renovation and maintenance work for residential housing not provided as part of a social policy, excluding building materials.

Article 130

Slovakia may continue to apply a reduced rate of not less than 5 % to the following transactions:

- (a) the supply of construction work for residential housing not provided as part of a social policy, excluding building materials, until 31 December 2007;
- (b) the supply of heat energy used by private households and small entrepreneurs who are not subject to VAT for heating and the production of hot water, excluding raw materials used to generate heat energy, until 31 December 2008.