

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

TITLE XI

**OBLIGATIONS OF TAXABLE PERSONS
AND CERTAIN NON-TAXABLE PERSONS**

CHAPTER 1

Obligation to pay

Section 1

Persons liable for payment of VAT to the tax authorities

[^{F1}Article 192a

For the purposes of this Section, a taxable person who has a fixed establishment within the territory of the Member State where the tax is due shall be regarded as a taxable person who is not established within that Member State when the following conditions are met:

- (a) he makes a taxable supply of goods or of services within the territory of that Member State;
- (b) an establishment which the supplier has within the territory of that Member State does not intervene in that supply.]

Textual Amendments

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

Article 193

VAT shall be payable by any taxable person carrying out a taxable supply of goods or services, except where it is payable by another person in the cases referred to in Articles 194 to 199 and Article 202.

Article 194

- 1 Where the taxable supply of goods or services is carried out by a taxable person who is not established in the Member State in which the VAT is due, Member States may provide that the person liable for payment of VAT is the person to whom the goods or services are supplied.
- 2 Member States shall lay down the conditions for implementation of paragraph 1.

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Article 195

VAT shall be payable by any person who is identified for VAT purposes in the Member State in which the tax is due and to whom goods are supplied in the circumstances specified in Articles 38 or 39, if the supplies are carried out by a taxable person not established within that Member State.

[^{F1}Article 196

VAT shall be payable by any taxable person, or non-taxable legal person identified for VAT purposes, to whom the services referred to in Article 44 are supplied, if the services are supplied by a taxable person not established within the territory of the Member State.]

Textual Amendments

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

Article 197

1 VAT shall be payable by the person to whom the goods are supplied when the following conditions are met:

- a the taxable transaction is a supply of goods carried out in accordance with the conditions laid down in Article 141;
- b the person to whom the goods are supplied is another taxable person, or a non-taxable legal person, identified for VAT purposes in the Member State in which the supply is carried out;
- [^{F2}c the invoice issued by the taxable person not established in the Member State of the person to whom the goods are supplied is drawn up in accordance with Sections 3 to 5 of Chapter 3.]

2 Where a tax representative is appointed as the person liable for payment of VAT pursuant to Article 204, Member States may provide for a derogation from paragraph 1 of this Article.

Textual Amendments

- F2** Substituted by [Council Directive 2010/45/EU of 13 July 2010 amending Directive 2006/112/EC on the common system of value added tax as regards the rules on invoicing.](#)

Article 198

1 Where specific transactions relating to investment gold between a taxable person who is a member of a regulated gold bullion market and another taxable person who is not a member of that market are taxed pursuant to Article 352, Member States shall designate the customer as the person liable for payment of VAT.

If the customer who is not a member of the regulated gold bullion market is a taxable person required to be identified for VAT purposes in the Member State in which the tax is due solely in respect of the transactions referred to in Article 352, the vendor shall fulfil the tax obligations on behalf of the customer, in accordance with the law of that Member State.

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2 Where gold material or semi-manufactured products of a purity of 325 thousandths or greater, or investment gold as defined in Article 344(1) is supplied by a taxable person exercising one of the options under Articles 348, 349 and 350, Member States may designate the customer as the person liable for payment of VAT.

3 Member States shall lay down the procedures and conditions for implementation of paragraphs 1 and 2.

Article 199

1 Member States may provide that the person liable for payment of VAT is the taxable person to whom any of the following supplies are made:

- a the supply of construction work, including repair, cleaning, maintenance, alteration and demolition services in relation to immovable property, as well as the handing over of construction works regarded as a supply of goods pursuant to Article 14(3);
- b the supply of staff engaged in activities covered by point (a);
- c the supply of immovable property, as referred to in Article 135(1)(j) and (k), where the supplier has opted for taxation of the supply pursuant to Article 137;
- d the supply of used material, used material which cannot be re-used in the same state, scrap, industrial and non industrial waste, recyclable waste, part processed waste and certain goods and services, as listed in Annex VI;
- e the supply of goods provided as security by one taxable person to another in execution of that security;
- f the supply of goods following the cession of a reservation of ownership to an assignee and the exercising of this right by the assignee;
- g the supply of immovable property sold by a judgment debtor in a compulsory sale procedure.

2 When applying the option provided for in paragraph 1, Member States may specify the supplies of goods and services covered, and the categories of suppliers or recipients to whom these measures may apply.

3 For the purposes of paragraph 1, Member States may take the following measures:

- a provide that 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 shall be regarded as a taxable person in respect of supplies received as referred to in paragraph 1 of this Article;
- b provide that a non-taxable body governed by public law, shall be regarded as a taxable person in respect of supplies received as referred to in points (e), (f) and (g) of paragraph 1.

4 Member States shall inform the VAT Committee of national legislative measures adopted pursuant to paragraph 1 in so far as these are not measures authorised by the Council prior to 13 August 2006 in accordance with Article 27(1) to (4) of Directive 77/388/EEC, and which are continued under paragraph 1 of this Article.

[^{F3}Article 199a

1 Member States may, until 30 June 2015 and for a minimum period of two years, provide that the person liable for payment of VAT is the taxable person to whom any of the following supplies are made:

- a the transfer of allowances to emit greenhouse gases as defined in Article 3 of Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003

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- establishing a scheme for greenhouse gas emission allowance trading within the Community⁽¹⁾, transferable in accordance with Article 12 of that Directive;
- b the transfer of other units that may be used by operators for compliance with the same Directive.
- 2 Member States shall inform the Commission of the application of the mechanism provided for in paragraph 1 on the introduction of any such mechanism and shall provide the following information to the Commission:
- a statement on the scope of the measure applying the mechanism and a detailed description of accompanying measures, including any reporting obligations on taxable persons and any control measures;
 - evaluation criteria to enable comparison between fraudulent activities in relation to the services listed in paragraph 1 before and after the application of the mechanism, fraudulent activities in relation to other services before and after the application of the mechanism, and any increase in other types of fraudulent activities before and after the application of the mechanism;
 - the date of commencement and the period to be covered by the measure applying the mechanism.
- 3 Member States applying the mechanism provided for in paragraph 1 shall, on the basis of the evaluation criteria provided for under paragraph 2(b), submit a report to the Commission no later than 30 June 2014. The report shall clearly indicate the information to be treated as confidential and the information which may be published.
- The report shall provide a detailed assessment of the measure's overall effectiveness and efficiency, in particular as regards:
- the impact on fraudulent activities in relation to supplies of services covered by the measure;
 - the possible shift of fraudulent activities to goods or other services;
 - the compliance costs for taxable persons resulting from the measure.
- 4 Each Member State that has detected, as from the entry into force of this Article, a shift in trends of fraudulent activities in its territory in relation to the services listed in paragraph 1, shall submit a report to the Commission in that respect no later than 30 June 2014.]

Textual Amendments

- F3** Inserted by [Council Directive 2010/23/EU of 16 March 2010 amending Directive 2006/112/EC on the common system of value added tax, as regards an optional and temporary application of the reverse charge mechanism in relation to supplies of certain services susceptible to fraud.](#)

Article 200

VAT shall be payable by any person making a taxable intra-Community acquisition of goods.

Article 201

On importation, VAT shall be payable by any person or persons designated or recognised as liable by the Member State of importation.

Article 202

VAT shall be payable by any person who causes goods to cease to be covered by the arrangements or situations listed in Articles 156, 157, 158, 160 and 161.

Article 203

VAT shall be payable by any person who enters the VAT on an invoice.

Article 204

1 Where, pursuant to Articles 193 to 197 and Articles 199 and 200, the person liable for payment of VAT is a taxable person who is not established in the Member State in which the VAT is due, Member States may allow that person to appoint a tax representative as the person liable for payment of the VAT.

Furthermore, where the taxable transaction is carried out by a taxable person who is not established in the Member State in which the VAT is due and no legal instrument exists, with the country in which that taxable person is established or has his seat, relating to mutual assistance similar in scope to that provided for in Directive 76/308/EEC⁽²⁾ and Regulation (EC) No 1798/2003⁽³⁾, Member States may take measures to provide that the person liable for payment of VAT is to be a tax representative appointed by the non-established taxable person.

However, Member States may not apply the option referred to in the second subparagraph to a non-established taxable person, within the meaning of point (1) of Article 358, who has opted for the special scheme for electronically supplied services.

2 The option under the first subparagraph of paragraph 1 shall be subject to the conditions and procedures laid down by each Member State.

Article 205

In the situations referred to in Articles 193 to 200 and Articles 202, 203 and 204, Member States may provide that a person other than the person liable for payment of VAT is to be held jointly and severally liable for payment of VAT.

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- (1) [^{F3}[OJ L 275, 25.10.2003, p. 32.](#)]
- (2) Council Directive 76/308/EEC of 15 March 1976 on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures ([OJ L 73, 19.3.1976, p. 18.](#)). Directive as last amended by the Act of Accession of 2003.
- (3) Council Regulation (EC) No 1798/2003 of 7 October 2003 on administrative cooperation in the field of value added tax ([OJ L 264, 15.10.2003, p. 1.](#)). Regulation amended by Regulation (EC) No 885/2004 ([OJ L 168, 1.5.2004, p. 1.](#)).

Textual Amendments

- F3** Inserted by [Council Directive 2010/23/EU of 16 March 2010 amending Directive 2006/112/EC on the common system of value added tax](#), as regards an optional and temporary application of the reverse charge mechanism in relation to supplies of certain services susceptible to fraud.