

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.](#)

[^{F2}^{X1}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 199b and Article 202.]]

Editorial Information

- X1** Substituted by [Corrigendum to Council Directive \(EU\) 2018/1695 of 6 November 2018 amending Directive 2006/112/EC on the common system of value added tax as regards the period of application of the optional reverse charge mechanism in relation to supplies of certain goods and services susceptible to fraud and of the Quick Reaction Mechanism against VAT fraud \(Official Journal of the European Union L 282 of 12 November 2018\).](#)

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Textual Amendments

- F2** Substituted by [Council Directive \(EU\) 2018/1695 of 6 November 2018 amending Directive 2006/112/EC on the common system of value added tax as regards the period of application of the optional reverse charge mechanism in relation to supplies of certain goods and services susceptible to fraud and of the Quick Reaction Mechanism against VAT fraud.](#)

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.

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;
- [^{F3}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.

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Textual Amendments

- F3** 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.

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

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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.

[^{F4}Article 199a

1 [^{F2}Until 30 June 2022, Member States may provide that the person liable for the 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 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^[^{F5}];
- ^{[^{F6}c} supplies of mobile telephones, being devices made or adapted for use in connection with a licensed network and operated on specified frequencies, whether or not they have any other use;
- d supplies of integrated circuit devices such as microprocessors and central processing units in a state prior to integration into end user products;
- e supplies of gas and electricity to a taxable dealer as defined in Article 38(2);
- f supplies of gas and electricity certificates;
- g supplies of telecommunication services as defined in Article 24(2);
- h supplies of game consoles, tablet PC's and laptops;
- i supplies of cereals and industrial crops including oil seeds and sugar beet, that are not normally used in the unaltered state for final consumption;
- j supplies of raw and semi-finished metals, including precious metals, where they are not otherwise covered by point (d) of Article 199(1), the special arrangements for second-hand goods, works of art, collector's items and antiques pursuant to Articles 311 to 343 or the special scheme for investment gold pursuant to Articles 344 to 356.]

^{[^{F6}d} Member States may lay down the conditions for the application of the mechanism provided for in paragraph 1.

1b The application of the mechanism provided for in paragraph 1 to the supply of any of the goods or services listed in points (c) to (j) of that paragraph is subject to the introduction of appropriate and effective reporting obligations on taxable persons who supply the goods or services to which the mechanism provided for in paragraph 1 applies.]

^{[^{F52}} Member States shall inform the VAT Committee 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 VAT Committee:

- a the scope of the measure applying the mechanism together with the type and the features of the fraud, and a detailed description of accompanying measures, including any reporting obligations on taxable persons and any control measures;
- b actions taken to inform the relevant taxable persons of the introduction of the application of the mechanism;

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- c evaluation criteria to enable comparison between fraudulent activities in relation to the goods and services listed in paragraph 1 before and after the application of the mechanism, fraudulent activities in relation to other goods and 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;
- d the date of commencement and the period to be covered by the measure applying the mechanism.]

3 [F5 Member States applying the mechanism provided for in paragraph 1 shall, on the basis of the evaluation criteria provided for under point (c) of paragraph 2, submit a report to the Commission no later than 30 June 2017.] 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:

- [F5a the impact on fraudulent activities in relation to supplies of goods or services covered by the measure;]
- b the possible shift of fraudulent activities to goods or other services;
- c the compliance costs for taxable persons resulting from the measure.

[F54 Each Member State that has detected a shift in trends of fraudulent activities in its territory in relation to the goods or services listed in paragraph 1 from the date of entry into force of this Article with respect to such goods or services, shall submit a report to the Commission in that respect no later than 30 June 2017.

5 Before 1 January 2018, the Commission shall present to the European Parliament and to the Council an overall assessment report on the effects of the mechanism provided for in paragraph 1 on combatting fraud.]]

Textual Amendments

- F2** Substituted by Council Directive (EU) 2018/1695 of 6 November 2018 amending Directive 2006/112/EC on the common system of value added tax as regards the period of application of the optional reverse charge mechanism in relation to supplies of certain goods and services susceptible to fraud and of the Quick Reaction Mechanism against VAT fraud.
- F4** 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.
- F5** Substituted by Council Directive 2013/43/EU of 22 July 2013 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 goods and services susceptible to fraud.
- F6** Inserted by Council Directive 2013/43/EU of 22 July 2013 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 goods and services susceptible to fraud.

[F2 Article 199b

1 A Member State may, in cases of imperative urgency and in accordance with paragraphs 2 and 3, designate the recipient as the person liable to pay VAT on specific supplies of goods and services by derogation from Article 193 as a Quick Reaction Mechanism (QRM) special measure to combat sudden and massive fraud liable to lead to considerable and irreparable financial losses.

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The QRM special measure shall be subject to appropriate control measures by the Member State with respect to taxable persons who supply the goods or services to which that measure applies, and shall be for a period not exceeding nine months.

2 A Member State wishing to introduce a QRM special measure as provided for in paragraph 1 shall send a notification to the Commission using the standardised form established in accordance with paragraph 4 and at the same time send it to the other Member States. The Member State shall provide the Commission with the information indicating the sector concerned, the type and the features of the fraud, the existence of imperative grounds of urgency, the sudden and massive character of the fraud and its consequences in terms of considerable and irreparable financial losses. If the Commission considers that it does not have all the necessary information, it shall contact the Member State concerned within two weeks of receipt of the notification and specify what additional information is required. Any additional information provided by the Member State concerned to the Commission shall at the same time be sent to the other Member States. If the additional information provided is not sufficient, the Commission shall inform the Member State concerned thereof within one week.

The Member State wishing to introduce a QRM special measure as provided for in paragraph 1 of this Article shall at the same time also make an application to the Commission in accordance with the procedure laid down in Article 395(2) and (3).

In cases of imperative urgency as set out in paragraph 1 of this Article, the procedure laid down in Article 395(2) and (3) shall be completed within six months of receipt of the application by the Commission.

3 Once the Commission has all the information it considers necessary for appraisal of the notification referred to in the first subparagraph of paragraph 2, it shall notify the Member States thereof. Where it objects to the QRM special measure, it shall produce a negative opinion within one month of that notification, and shall inform the Member State concerned and the VAT Committee thereof. Where the Commission does not object, it shall confirm this in writing to the Member State concerned and to the VAT Committee within the same time period. The Member State may adopt the QRM special measure from the date of receipt of that confirmation. In appraising the notification, the Commission shall take into account the views of any other Member State sent to it in writing.

4 The Commission shall adopt an implementing act establishing a standardised form for the submission of the notification for the QRM special measure referred to in paragraph 2 and of the information referred to in the first subparagraph of paragraph 2. That implementing act shall be adopted in accordance with the examination procedure referred to in paragraph 5.

5 Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 of the European Parliament and of the Council⁽²⁾ shall apply and for this purpose the committee shall be the committee established by Article 58 of Council Regulation (EU) No 904/2010⁽³⁾.

6 The QRM special measure as provided for in paragraph 1 shall apply until 30 June 2022.]

Textual Amendments

- F2** Substituted by [Council Directive \(EU\) 2018/1695 of 6 November 2018 amending Directive 2006/112/EC on the common system of value added tax as regards the period of application of the optional reverse charge mechanism in relation to supplies of certain goods and services susceptible to fraud and of the Quick Reaction Mechanism against VAT fraud.](#)

[^{F7} Article 199c

1 By way of derogation from Article 193, a Member State may, until 30 June 2022, introduce a generalised reverse charge mechanism ('GRCM') on non-cross-border supplies, providing that the person liable for payment of VAT is the taxable person to whom all supplies of goods and services are made above a threshold of EUR 17 500 per transaction.

A Member State wishing to introduce the GRCM shall comply with all of the following conditions:

- a it had in 2014, in accordance with the method and figures set out in the 2016 final report dated 23 August 2016 on the VAT gap published by the Commission, a VAT gap, expressed as a percentage of the VAT total tax liability, of at least 5 percentage points above the Community median VAT gap;
- b it has, based on the impact assessment that accompanied the legislative proposal for this Article, a carousel fraud level within its total VAT gap of more than 25 %;
- c it establishes that other control measures are not sufficient to combat carousel fraud on its territory, in particular by specifying the control measures applied and the particular reasons for their lack of effectiveness, as well as the reasons why administrative cooperation in the field of VAT has proven insufficient;
- d it establishes that the estimated gains in tax compliance and collection expected as a result of the introduction of the GRCM outweigh the expected overall additional burden on businesses and tax authorities by at least 25 %; and
- e it establishes that the introduction of the GRCM will not result in businesses and tax authorities incurring costs that are higher than those incurred as a result of the application of other control measures.

The Member State shall attach to the request referred to in paragraph 3 the calculation of the VAT gap according to the method and figures available in the report on the VAT gap published by the Commission, as referred to in point (a) of the second subparagraph of this paragraph.

2 Member States that apply the GRCM shall establish appropriate and effective electronic reporting obligations for all taxable persons and, in particular, for taxable persons who supply or receive goods or services to which the GRCM applies to ensure the effective functioning and monitoring of the application of the GRCM.

3 Member States wishing to apply the GRCM shall submit a request to the Commission and provide the following information:

- a a detailed justification of fulfilment of the conditions referred to in paragraph 1;
- b the starting date of application of the GRCM and the period to be covered by the GRCM;
- c actions to be taken to inform taxable persons of the introduction of the application of the GRCM; and
- d a detailed description of the accompanying measures referred to in paragraph 2.

If the Commission considers that it does not have all the necessary information, it shall request additional information, including underlying methods, assumptions, studies and other supporting documents, within one month of receipt of the request. The requesting Member State shall submit the required information within a month of receipt of the notification.

4 Where the Commission considers that a request complies with the requirements set out in paragraph 3, it shall, no later than three months after it has received all the necessary information, submit a proposal to the Council. The Council, acting unanimously on such a proposal from the Commission, may authorise the requesting Member State to apply the GRCM.

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Where the Commission considers that a request is not compliant with the requirements set out in paragraph 3, it shall, within the same deadline, communicate its reasons to the requesting Member State and to the Council.

5 Where a considerable negative impact on the internal market has been established in accordance with the second subparagraph of this paragraph, the Commission shall, no later than three months after it has received all the necessary information, propose the repeal of all the implementing decisions referred to in paragraph 4, at the earliest six months after the entry into force of the first implementing decision authorising a Member State to apply the GRCM. Such repeal shall be deemed to be adopted by the Council unless the Council decides by unanimity to reject the Commission's proposal within 30 days of the Commission's adoption thereof.

A considerable negative impact shall be considered established where the following conditions are fulfilled:

- a at least one Member State that does not apply the GRCM informs the Commission of an increase of VAT fraud on its territory due to the application of the GRCM; and
- b the Commission establishes, including on the basis of the information provided by the Member States referred to in point (a) of this subparagraph, that the increase of VAT fraud on their territory is related to the application of the GRCM in one or more Member States.

6 Member States that apply the GRCM shall submit the following information in electronic format to all Member States:

- a the names of the persons who, in the 12 months preceding the starting date of application of the GRCM, have been subject to proceedings, whether criminal or administrative, for VAT fraud; and
- b the names of the persons, including in the case of legal persons the names of their directors, whose VAT registration in that Member State is terminated after the introduction of the GRCM; and
- c the names of the persons, including in the case of legal persons the names of their directors, who have failed to submit a VAT return for two consecutive tax periods after the introduction of the GRCM.

The information referred to in points (a) and (b) of the first subparagraph shall be submitted no later than three months after the introduction of the GRCM and shall be updated every three months thereafter. The information referred to in point (c) of the first subparagraph shall be submitted no later than nine months after the introduction of the GRCM and shall be updated every three months thereafter.

Member States that apply the GRCM shall submit an interim report to the Commission no later than one year after the start of application of the GRCM. That report shall provide a detailed assessment of the effectiveness of the GRCM. Three months after the end of the application of the GRCM, Member States that apply the GRCM shall submit a final report on its overall impact.

7 Member States that do not apply the GRCM shall submit an interim report to the Commission as regards the impact in their territory of the application of GRCM by other Member States. That report shall be submitted to the Commission within three months following the application of the GRCM for at least one year in one Member State.

If at least one Member State applies the GRCM, Member States that do not apply the GRCM shall, by 30 September 2022, submit a final report to the Commission as regards the impact in their territory of the GRCM applied by other Member States.

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8 In the reports referred to in paragraph 6, Member States shall assess the impact of the application of the GRM on the basis of the following evaluation criteria:

- a the evolution of the VAT gap;
- b the evolution of VAT fraud, in particular carousel fraud and fraud at retail level;
- c the evolution of the administrative burden on taxable persons;
- d the evolution of administrative costs for the tax authorities.

9 In the reports referred to in paragraph 7, Member States shall assess the impact of the application of the GRM on the basis of the following evaluation criteria:

- a the evolution of VAT fraud, in particular carousel fraud and fraud at retail level;
- b a shift in fraud from those Member States that apply or have applied the GRM.]

Textual Amendments

- F7** Inserted by [Council Directive \(EU\) 2018/2057 of 20 December 2018 amending Directive 2006/112/EC on the common system of value added tax as regards the temporary application of a generalised reverse charge mechanism in relation to supplies of goods and services above a certain threshold.](#)

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⁽⁴⁾ and Regulation (EC) No 1798/2003⁽⁵⁾, 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.

[^{F8}However, Member States may not apply the option referred to in the second subparagraph to a taxable person not established within the Community, within the

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meaning of point (1) of Article 358a, who has opted for the special scheme for telecommunications, broadcasting or electronic 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.

Textual Amendments

F8 Substituted by [Council Directive 2008/8/EC of 12 February 2008 amending Directive 2006/112/EC as regards the place of supply of services.](#)

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) [^{F4}OJ L 275, 25.10.2003, p. 32.]
- (2) [^{F2}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 Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).]
- (3) [^{F2}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).]
- (4) 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.
- (5) 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

- F2** Substituted by Council Directive (EU) 2018/1695 of 6 November 2018 amending Directive 2006/112/EC on the common system of value added tax as regards the period of application of the optional reverse charge mechanism in relation to supplies of certain goods and services susceptible to fraud and of the Quick Reaction Mechanism against VAT fraud.
- F4** 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.