

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

TITLE XII

SPECIAL SCHEMES

CHAPTER 6

**Special scheme for non-established taxable persons
supplying electronic services to non-taxable persons**

Section 1

General provisions

Article 357

This Chapter shall apply until 31 December 2006.

Article 358

For the purposes of this Chapter, and without prejudice to other provisions, the following definitions shall apply:

- (1) 'non-established taxable person' means a taxable person who has not established his business in the territory of the Community and who has no fixed establishment there and who is not otherwise required to be identified pursuant to Article 214;
- (2) 'electronic services' and 'electronically supplied services' mean the services referred to in point (k) of Article 56(1);
- (3) 'Member State of identification' means the Member State which the non-established taxable person chooses to contact to state when his activity as a taxable person within the territory of the Community commences in accordance with the provisions of this Chapter;
- (4) 'Member State of consumption' means the Member State in which, pursuant to Article 57, the supply of the electronic services is deemed to take place;
- (5) 'VAT return' means the statement containing the information necessary to establish the amount of VAT due in each Member State.

Section 2

Special scheme for electronically supplied services

Article 359

Member States shall permit any non-established taxable person supplying electronic services to a non-taxable person who is established in a Member State or who has his

permanent address or usually resides in a Member State, to use this special scheme. This scheme applies to all electronic services supplied in the Community.

Article 360

The non-established taxable person shall state to the Member State of identification when he commences or ceases his activity as a taxable person, or changes that activity in such a way that he no longer meets the conditions necessary for use of this special scheme. He shall communicate that information electronically.

Article 361

1 The information which the non-established taxable person must provide to the Member State of identification when he commences a taxable activity shall contain the following details:

- a name;
- b postal address;
- c electronic addresses, including websites;
- d national tax number, if any;
- e a statement that the person is not identified for VAT purposes within the Community.

2 The non-established taxable person shall notify the Member State of identification of any changes in the information provided.

Article 362

The Member State of identification shall allocate to the non-established taxable person an individual VAT identification number and shall notify him of that number by electronic means. On the basis of the information used for that identification, Member States of consumption may have recourse to their own identification systems.

Article 363

The Member State of identification shall strike the non-established taxable person from the identification register in the following cases:

- (a) if he notifies that Member State that he no longer supplies electronic services;
- (b) if it may otherwise be assumed that his taxable activities have ceased;
- (c) if he no longer meets the conditions necessary for use of this special scheme;
- (d) if he persistently fails to comply with the rules relating to this special scheme.

Article 364

The non-established taxable person shall submit by electronic means to the Member State of identification a VAT return for each calendar quarter, whether or not electronic services have been supplied. The VAT return shall be submitted within 20 days following the end of the tax period covered by the return.

Article 365

The VAT return shall show the identification number and, for each Member State of consumption in which VAT is due, the total value, exclusive of VAT, of supplies of electronic services carried out during the tax period and the total amount of the corresponding VAT. The applicable rates of VAT and the total VAT due must also be indicated on the return.

Article 366

1 The VAT return shall be made out in euro.

Member States which have not adopted the euro may require the VAT return to be made out in their national currency. If the supplies have been made in other currencies, the non-established taxable person shall, for the purposes of completing the VAT return, use the exchange rate applying on the last day of the tax period.

2 The conversion shall be made by applying the exchange rates published by the European Central Bank for that day, or, if there is no publication on that day, on the next day of publication.

Article 367

The non-established taxable person shall pay the VAT when submitting the VAT return.

Payment shall be made to a bank account denominated in euro, designated by the Member State of identification. Member States which have not adopted the euro may require payment to be made to a bank account denominated in their own currency.

Article 368

The non-established taxable person making use of this special scheme may not deduct VAT pursuant to Article 168 of this Directive. Notwithstanding Article 1(1) of Directive 86/560/EEC, the taxable person in question shall be refunded in accordance with the said Directive. Articles 2(2) and (3) and Article 4(2) of Directive 86/560/EEC shall not apply to refunds relating to electronic services covered by this special scheme.

Article 369

1 The non-established taxable person shall keep records of the transactions covered by this special scheme. Those records must be sufficiently detailed to enable the tax authorities of the Member State of consumption to verify that the VAT return is correct.

2 The records referred to in paragraph 1 must be made available electronically on request to the Member State of identification and to the Member State of consumption.

Those records must be kept for a period of ten years from the end of the year during which the transaction was carried out.