

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

TITLE XII

**SPECIAL SCHEMES**

CHAPTER 6

**[<sup>F1</sup>Special schemes for non-established taxable persons supplying telecommunications services, broadcasting services or electronic services to non-taxable persons]**

Section 1

**General provisions**

*<sup>F2</sup>Article 357*

**Textual Amendments**

**F2** Deleted by [Council Directive 2008/8/EC of 12 February 2008 amending Directive 2006/112/EC as regards the place of supply of services.](#)

*<sup>F1</sup>Article 358*

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

1. 'telecommunications services' and 'broadcasting services' mean the services referred to in points (a) and (b) of the first paragraph of Article 58;
2. 'electronic services' and 'electronically supplied services' mean the services referred to in point (c) of the first paragraph of Article 58;
3. 'Member State of consumption means' the Member State in which the supply of the telecommunications, broadcasting or electronic services is deemed to take place according to Article 58;
4. 'VAT return' means the statement containing the information necessary to establish the amount of VAT due in each Member State.]

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## Section 2

### [<sup>F1</sup>Special scheme for telecommunications, broadcasting or electronic services supplied by taxable persons not established within the Community]

#### [<sup>F3</sup>Article 358a

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

1. [<sup>F4</sup>‘Taxable person not established within the Community’ means a taxable person who has not established his business in the territory of the Community and who has no fixed establishment there;]
2. ‘Member State of identification’ means the Member State which the taxable person not established within the Community 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 Section.]

#### Textual Amendments

- F3** Inserted by [Council Directive 2008/8/EC of 12 February 2008 amending Directive 2006/112/EC as regards the place of supply of services.](#)
- F4** Substituted by [Council Directive \(EU\) 2017/2455 of 5 December 2017 amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods.](#)

#### [<sup>F1</sup>Article 359

Member States shall permit any taxable person not established within the Community supplying telecommunications, broadcasting or electronic services to a non-taxable person who is established in a Member State or has his permanent address or usually resides in a Member State, to use this special scheme. This scheme applies to all those services supplied within the Community.

#### Article 360

The taxable person not established within the Community 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 taxable person not established within the Community 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;
- [<sup>F4</sup>e a statement that the person has not established his business in the territory of the Community and has no fixed establishment there.]

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2 The taxable person not established within in the Community shall notify the Member State of identification of any changes in the information provided.

**Textual Amendments**

- F4** Substituted by [Council Directive \(EU\) 2017/2455 of 5 December 2017 amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods.](#)

*Article 362*

The Member State of identification shall allocate to the taxable person not established within the Community 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 delete the taxable person not established within the Community from the identification register in the following cases:

- (a) if he notifies that Member State that he no longer supplies telecommunications, broadcasting or 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 taxable person not established within the Community shall submit by electronic means to the Member State of identification a VAT return for each calendar quarter, whether or not telecommunications, broadcasting or 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 telecommunications, broadcasting and electronic services carried out during the tax period and total amount per rate of the corresponding VAT. The applicable rates of VAT and the total VAT due must also be indicated on the return.]

*Article 366*

[<sup>F1</sup> 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 taxable person not established within the Community shall, for the purposes of completing the VAT return, use the exchange rate applying on the last day of the tax period.]

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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.

*[<sup>F1</sup>Article 367*

The taxable person not established within the Community shall pay the VAT, making reference to the relevant VAT return, when submitting the VAT return, at the latest, however, at the expiry of the deadline by which the return must be submitted.

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 the payment to be made to a bank account denominated in their own currency.

*Article 368*

The taxable person not established within the Community 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 telecommunications, broadcasting or electronic services covered by this special scheme.]

*Article 369*

[<sup>F1</sup> The taxable person not established within the Community 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.

[<sup>F3</sup>Section 3

**Special scheme for telecommunications, broadcasting or  
electronic services supplied by taxable persons established within  
the Community but not in the Member State of consumption**

*Article 369a*

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

1. 'taxable person not established in the Member State of consumption' means a taxable person who has established his business in the territory of the Community or has a fixed establishment there but has not established his business and has no fixed establishment within the territory of the Member State of consumption;
2. 'Member State of identification' means the Member State in the territory of which the taxable person has established his business or, if he has not established his business in the Community, where he has a fixed establishment.

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Where a taxable person has not established his business in the Community, but has more than one fixed establishment therein, the Member State of identification shall be the Member State with a fixed establishment where that taxable person indicates that he will make use of this special scheme. The taxable person shall be bound by this decision for the calendar year concerned and the two calendar years following.

*Article 369b*

Member States shall permit any taxable person not established in the Member State of consumption supplying telecommunications, broadcasting or electronic services to a non-taxable person who is established or has his permanent address or usually resides in that Member State, to use this special scheme. This special scheme applies to all those services supplied in the Community.

*Article 369c*

The taxable person not established in the Member State of consumption shall state to the Member State of identification when he commences and ceases his taxable activities covered by this special scheme, or changes those activities 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 369d*

A taxable person making use of this special scheme shall, for the taxable transactions carried out under this scheme, be identified for VAT purposes in the Member State of identification only. For that purpose the Member State shall use the individual VAT identification number already allocated to the taxable person in respect of his obligations under the internal system.

On the basis of the information used for that identification, Member States of consumption may have recourse to their own identification systems.

*Article 369e*

The Member State of identification shall exclude the taxable person not established in the Member State of consumption from this special scheme in any of the following cases:

- (a) if he notifies that he no longer supplies telecommunications, broadcasting or electronic services;
- (b) if it may otherwise be assumed that his taxable activities covered by this special scheme 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 369f*

The taxable person not established in the Member State of consumption shall submit by electronic means to the Member State of identification a VAT return for each calendar quarter, whether or not telecommunications, broadcasting or 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.

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#### *Article 369g*

The VAT return shall show the identification number referred to in Article 369d and, for each Member State of consumption in which VAT is due, the total value, exclusive of VAT, of supplies of telecommunications, broadcasting or electronic services carried out during the tax period and the total amount per rate of the corresponding VAT. The applicable rates of VAT and the total VAT due must also be indicated on the return.

Where the taxable person has one or more fixed establishments, other than that in the Member State of identification, from which the services are supplied, the VAT return shall in addition to the information referred to in the first paragraph include the total value of supplies of telecommunications, broadcasting or electronic services covered by this special scheme, for each Member State in which he has an establishment, together with the individual VAT identification number or the tax reference number of this establishment, broken down by Member State of consumption.

#### *Article 369h*

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 taxable person not established in the Member State of consumption shall, for the purposes of completing the VAT return, use the exchange rate applying on the last date 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 369i*

The taxable person not established in the Member State of consumption shall pay the VAT, making reference to the relevant VAT return, when submitting the VAT return, at the latest, however, at the expiry of the deadline by which the return must be submitted.

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 the payment to be made to a bank account denominated in their own currency.

#### *Article 369j*

The taxable person not established in the Member State of consumption making use of this special scheme may not, in respect of his taxable activities covered by this scheme, deduct VAT pursuant to Article 168 of this Directive. Notwithstanding Article 2(1) and Article 3 of Directive 2008/9/EC, the taxable person in question shall be refunded in accordance with the said Directive.

If the taxable person not established in the Member State of consumption making use of this special scheme also carries out in the Member State of consumption activities not covered by this scheme in respect of which he is obliged to be registered for VAT purposes, he shall deduct VAT in respect of his taxable activities which are covered by this scheme in the VAT return to be submitted pursuant to Article 250.

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### *Article 369k*

1 The taxable person not established in the Member State of consumption 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 consumption and to the Member State of identification.

Those records must be kept for a period of 10 years from 31 December of the year during which the transaction was carried out.]

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#### **Textual Amendments**

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