

Council Directive 2006/138/EC of 19 December 2006 amending Directive 2006/112/EC on the common system of value added tax as regards the period of application of the value added tax arrangements applicable to radio and television broadcasting services and certain electronically supplied services

COUNCIL DIRECTIVE 2006/138/EC

of 19 December 2006

amending Directive 2006/112/EC on the common system of value added tax as regards the period of application of the value added tax arrangements applicable to radio and television broadcasting services and certain electronically supplied services

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 93 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament,

Having regard to the Opinion of the European Economic and Social Committee,

Whereas:

- (1) The temporary value added tax arrangements of Directive 77/388/EEC⁽¹⁾ applicable for radio and television broadcasting services and certain electronically supplied services were extended until 31 December 2006 by Council Directive 2006/58/EC of 27 June 2006 amending Council Directive 2002/38/EC as regards the period of application of the value added tax arrangements applicable to radio and television broadcasting services and certain electronically supplied services⁽²⁾.
- (2) It has not yet been possible to adopt provisions on the place of supply of services and on a more general electronic mechanism. Considering that the legal situation and the facts which justified the extension until 31 December 2006 have not changed and that to avoid a temporary gap in the value added tax arrangements for radio and television broadcasting services and certain electronically supplied services, those arrangements should continue to apply until 31 December 2008.
- (3) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, which has recast Directive 77/388/EEC, should therefore be amended accordingly.
- (4) Given the urgency of the matter, in order to avoid a legal gap, it is imperative to grant an exception to the six-week period mentioned in point I(3) of the Protocol on the role of national Parliaments in the European Union, annexed to the Treaty on European Union and to the Treaties establishing the European Communities,

HAS ADOPTED THIS DIRECTIVE:

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Article 1

Directive 2006/112/EC is hereby amended as follows:

1. in Article 56, paragraph 3 shall be replaced by the following:
3. Points (j) and (k) of paragraph 1 and paragraph 2 shall apply until 31 December 2008.;
2. in Article 57, paragraph 2 shall be replaced by the following:
2. Paragraph 1 shall apply until 31 December 2008.;
3. in Article 59, paragraph 2 shall be replaced by the following:
2. Until 31 December 2008, Member States shall apply Article 58(b) to radio and television broadcasting services, as referred to in point (j) of Article 56(1), supplied to non-taxable persons who are established in a Member State, or who have their permanent address or usually reside in a Member State, by a taxable person who has established his business outside the Community or who has a fixed establishment there from which the services are supplied, or who, in the absence of such a place of business or fixed establishment, has his permanent address or usually resides outside the Community.;
4. Article 357 shall be replaced by the following:
Article 357

This Chapter shall apply until 31 December 2008.

Article 2

Transposition

1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive with effect from 1 January 2007. They shall forthwith communicate to the Commission the text of those provisions

When Member States adopt these measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2 Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2007.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 19 December 2006.

For the Council

The President

J. KORKEAOJA

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- (1) Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ L 145, 13.6.1977, p. 1). Directive repealed by Directive 2006/112/EC (OJ L 347, 11.12.2006, p. 1).
- (2) OJ L 174, 28.6.2006, p. 5.