

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

TITLE IX

EXEMPTIONS

CHAPTER 10

Exemptions for transactions relating to international trade

Section 1

**Customs warehouses, warehouses other than
customs warehouses and similar arrangements**

Article 154

For the purposes of this Section, ‘warehouses other than customs warehouses’ shall, in the case of products subject to excise duty, mean the places defined as tax warehouses by Article 4(b) of Directive 92/12/EEC and, in the case of products not subject to excise duty, the places defined as such by the Member States.

Article 155

Without prejudice to other Community tax provisions, Member States may, after consulting the VAT Committee, take special measures designed to exempt all or some of the transactions referred to in this Section, provided that those measures are not aimed at final use or consumption and that the amount of VAT due on cessation of the arrangements or situations referred to in this Section corresponds to the amount of tax which would have been due had each of those transactions been taxed within their territory.

Article 156

- 1 Member States may exempt the following transactions:
 - a the supply of goods which are intended to be presented to customs and, where applicable, placed in temporary storage;
 - b the supply of goods which are intended to be placed in a free zone or in a free warehouse;
 - c the supply of goods which are intended to be placed under customs warehousing arrangements or inward processing arrangements;
 - d the supply of goods which are intended to be admitted into territorial waters in order to be incorporated into drilling or production platforms, for purposes of the construction, repair, maintenance, alteration or fitting-out of such platforms, or to link such drilling or production platforms to the mainland;
 - e the supply of goods which are intended to be admitted into territorial waters for the fuelling and provisioning of drilling or production platforms.
- 2 The places referred to in paragraph 1 shall be those defined as such by the Community customs provisions in force.

Article 157

- 1 Member States may exempt the following transactions:
 - a the importation of goods which are intended to be placed under warehousing arrangements other than customs warehousing;
 - b the supply of goods which are intended to be placed, within their territory, under warehousing arrangements other than customs warehousing.
- 2 Member States may not provide for warehousing arrangements other than customs warehousing for goods which are not subject to excise duty where those goods are intended to be supplied at the retail stage.

Article 158

- 1 By way of derogation from Article 157(2), Member States may provide for warehousing arrangements other than customs warehousing in the following cases:
 - a where the goods are intended for tax-free shops, for the purposes of the supply of goods to be carried in the personal luggage of travellers taking flights or sea crossings to third territories or third countries, where that supply is exempt pursuant to point (b) of Article 146(1);
 - b where the goods are intended for taxable persons, for the purposes of carrying out supplies to travellers on board an aircraft or a ship in the course of a flight or sea crossing where the place of arrival is situated outside the Community;
 - c where the goods are intended for taxable persons, for the purposes of carrying out supplies which are exempt from VAT pursuant to Article 151.
- 2 Where Member States exercise the option of exemption provided for in point (a) of paragraph 1, they shall take the measures necessary to ensure the correct and straightforward application of this exemption and to prevent any evasion, avoidance or abuse.
- 3 For the purposes of point (a) of paragraph 1, 'tax-free shop' shall mean any establishment which is situated within an airport or port and which fulfils the conditions laid down by the competent public authorities.

Article 159

Member States may exempt the supply of services relating to the supply of goods referred to in Article 156, Article 157(1)(b) or Article 158.

Article 160

- 1 Member States may exempt the following transactions:
 - a the supply of goods or services carried out in the locations referred to in Article 156(1), where one of the situations specified therein still applies within their territory;
 - b the supply of goods or services carried out in the locations referred to in Article 157(1)(b) or Article 158, where one of the situations specified in Article 157(1)(b) or in Article 158(1) still applies within their territory.
- 2 Where Member States exercise the option under point (a) of paragraph 1 in respect of transactions effected in customs warehouses, they shall take the measures necessary to provide for warehousing arrangements other than customs warehousing under which point (b) of paragraph 1 may be applied to the same transactions when they concern goods listed in Annex V and are carried out in warehouses other than customs warehouses.

Article 161

Member States may exempt supply of the following goods and of services relating thereto:

- (a) the supply of goods referred to in the first paragraph of Article 30 while they remain covered by arrangements for temporary importation with total exemption from import duty or by external transit arrangements;
- (b) the supply of goods referred to in the second paragraph of Article 30 while they remain covered by the internal Community transit procedure referred to in Article 276.

Article 162

Where Member States exercise the option provided for in this Section, they shall take the measures necessary to ensure that the intra-Community acquisition of goods intended to be placed under one of the arrangements or in one of the situations referred to in Article 156, Article 157(1)(b) or Article 158 is covered by the same provisions as the supply of goods carried out within their territory under the same conditions.

Article 163

If the goods cease to be covered by the arrangements or situations referred to in this Section, thus giving rise to importation for the purposes of Article 61, the Member State of importation shall take the measures necessary to prevent double taxation.

Section 2

Transactions exempted with a view to export and in the framework of trade between the Member States

Article 164

1 Member States may, after consulting the VAT Committee, exempt the following transactions carried out by, or intended for, a taxable person up to an amount equal to the value of the exports carried out by that person during the preceding 12 months:

- a intra-Community acquisitions of goods made by the taxable person, and imports for and supplies of goods to the taxable person, with a view to their exportation from the Community as they are or after processing;
- b supplies of services linked with the export business of the taxable person.

2 Where Member States exercise the option of exemption under paragraph 1, they shall, after consulting the VAT Committee, apply that exemption also to transactions relating to supplies carried out by the taxable person, in accordance with the conditions specified in Article 138, up to an amount equal to the value of the supplies carried out by that person, in accordance with the same conditions, during the preceding 12 months.

Article 165

Member States may set a common maximum amount for transactions which they exempt pursuant to Article 164.

Section 3

Provisions common to Sections 1 and 2

Article 166

The Commission shall, where appropriate, as soon as possible, present to the Council proposals concerning common arrangements for applying VAT to the transactions referred to in Sections 1 and 2.