

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

TITLE IV

TAXABLE TRANSACTIONS

CHAPTER 1

supply of goods

Article 14

1 'Supply of goods' shall mean the transfer of the right to dispose of tangible property as owner.

2 In addition to the transaction referred to in paragraph 1, each of the following shall be regarded as a supply of goods:

- a the transfer, by order made by or in the name of a public authority or in pursuance of the law, of the ownership of property against payment of compensation;
- b the actual handing over of goods pursuant to a contract for the hire of goods for a certain period, or for the sale of goods on deferred terms, which provides that in the normal course of events ownership is to pass at the latest upon payment of the final instalment;
- c the transfer of goods pursuant to a contract under which commission is payable on purchase or sale.

3 Member States may regard the handing over of certain works of construction as a supply of goods.

Article 15

1 Electricity, gas, heat, refrigeration and the like shall be treated as tangible property.

2 Member States may regard the following as tangible property:

- a certain interests in immovable property;
- b rights in rem giving the holder thereof a right of use over immovable property;
- c shares or interests equivalent to shares giving the holder thereof de jure or de facto rights of ownership or possession over immovable property or part thereof.

Article 16

The application by a taxable person of goods forming part of his business assets for his private use or for that of his staff, or their disposal free of charge or, more generally, their application for purposes other than those of his business, shall be treated as a supply of goods for consideration, where the VAT on those goods or the component parts thereof was wholly or partly deductible.

However, the application of goods for business use as samples or as gifts of small value shall not be treated as a supply of goods for consideration.

Article 17

1 The transfer by a taxable person of goods forming part of his business assets to another Member State shall be treated as a supply of goods for consideration.

‘Transfer to another Member State’ shall mean the dispatch or transport of movable tangible property by or on behalf of the taxable person, for the purposes of his business, to a destination outside the territory of the Member State in which the property is located, but within the Community.

2 The dispatch or transport of goods for the purposes of any of the following transactions shall not be regarded as a transfer to another Member State:

- a the supply of the goods by the taxable person within the territory of the Member State in which the dispatch or transport ends, in accordance with the conditions laid down in Article 33;
- b the supply of the goods, for installation or assembly by or on behalf of the supplier, by the taxable person within the territory of the Member State in which dispatch or transport of the goods ends, in accordance with the conditions laid down in Article 36;
- c the supply of the goods by the taxable person on board a ship, an aircraft or a train in the course of a passenger transport operation, in accordance with the conditions laid down in Article 37;
- d the supply of gas through the natural gas distribution system, or of electricity, in accordance with the conditions laid down in Articles 38 and 39;
- e the supply of the goods by the taxable person within the territory of the Member State, in accordance with the conditions laid down in Articles 138, 146, 147, 148, 151 or 152;
- f the supply of a service performed for the taxable person and consisting of work on the goods in question physically carried out within the territory of the Member State in which dispatch or transport of the goods ends, provided that the goods, after being worked upon, are returned to that taxable person in the Member State from which they were initially dispatched or transported;
- g the temporary use of the goods within the territory of the Member State in which dispatch or transport of the goods ends, for the purposes of the supply of services by the taxable person established within the Member State in which dispatch or transport of the goods began;
- h the temporary use of the goods, for a period not exceeding twenty-four months, within the territory of another Member State, in which the importation of the same goods from a third country with a view to their temporary use would be covered by the arrangements for temporary importation with full exemption from import duties.

3 If one of the conditions governing eligibility under paragraph 2 is no longer met, the goods shall be regarded as having been transferred to another Member State. In such cases, the transfer shall be deemed to take place at the time when that condition ceases to be met.

Article 18

Member States may treat each of the following transactions as a supply of goods for consideration:

- (a) the application by a taxable person for the purposes of his business of goods produced, constructed, extracted, processed, purchased or imported in the course of such business, where the VAT on such goods, had they been acquired from another taxable person, would not be wholly deductible;

- (b) the application of goods by a taxable person for the purposes of a non-taxable area of activity, where the VAT on such goods became wholly or partly deductible upon their acquisition or upon their application in accordance with point (a);
- (c) with the exception of the cases referred to in Article 19, the retention of goods by a taxable person, or by his successors, when he ceases to carry out a taxable economic activity, where the VAT on such goods became wholly or partly deductible upon their acquisition or upon their application in accordance with point (a).

Article 19

In the event of a transfer, whether for consideration or not or as a contribution to a company, of a totality of assets or part thereof, Member States may consider that no supply of goods has taken place and that the person to whom the goods are transferred is to be treated as the successor to the transferor.

Member States may, in cases where the recipient is not wholly liable to tax, take the measures necessary to prevent distortion of competition. They may also adopt any measures needed to prevent tax evasion or avoidance through the use of this Article.