

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

TITLE XII

SPECIAL SCHEMES

CHAPTER 5

SPECIAL SCHEME FOR INVESTMENT GOLD

Section 1

General provisions

Article 344

1 For the purposes of this Directive, and without prejudice to other Community provisions, 'investment gold' shall mean:

- (1) gold, in the form of a bar or a wafer of weights accepted by the bullion markets, of a purity equal to or greater than 995 thousandths, whether or not represented by securities;
- (2) gold coins of a purity equal to or greater than 900 thousandths and minted after 1800, which are or have been legal tender in the country of origin, and are normally sold at a price which does not exceed the open market value of the gold contained in the coins by more than 80 %.

2 Member States may exclude from this special scheme small bars or wafers of a weight of 1 g or less.

3 For the purposes of this Directive, the coins referred to in point (2) of paragraph 1 shall not be regarded as sold for numismatic interest.

Article 345

Starting in 1999, each Member State shall inform the Commission by 1 July each year of the coins meeting the criteria laid down in point (2) of Article 344(1) which are traded in that Member State. The Commission shall, before 1 December each year, publish a comprehensive list of those coins in the 'C' series of the *Official Journal of the European Union*. Coins included in the published list shall be deemed to fulfil those criteria throughout the year for which the list is published.

Section 2

Exemption from VAT

Article 346

Member States shall exempt from VAT the supply, the intra-Community acquisition and the importation of investment gold, including investment gold represented by certificates for allocated or unallocated gold or traded on gold accounts and including, in particular, gold loans and swaps, involving a right of ownership or claim in respect of investment gold, as well as transactions concerning investment gold involving futures and forward contracts leading to a transfer of right of ownership or claim in respect of investment gold.

Article 347

Member States shall exempt the services of agents who act in the name and on behalf of another person, when they take part in the supply of investment gold for their principal.

Section 3

Taxation option

Article 348

Member States shall allow taxable persons who produce investment gold or transform gold into investment gold the right to opt for the taxation of supplies of investment gold to another taxable person which would otherwise be exempt pursuant to Article 346.

Article 349

1 Member States may allow taxable persons who, in the course of their economic activity, normally supply gold for industrial purposes, the right to opt for the taxation of supplies of gold bars or wafers, as referred to in point (1) of Article 344(1), to another taxable person, which would otherwise be exempt pursuant to Article 346.

2 Member States may restrict the scope of the option provided for in paragraph 1.

Article 350

Where the supplier has exercised the right under Articles 348 and 349 to opt for taxation, Member States shall allow the agent to opt for taxation of the services referred to in Article 347.

Article 351

Member States shall lay down detailed rules for the exercise of the options provided for in this Section, and shall inform the Commission accordingly.

Section 4

Transactions on a regulated gold bullion market

Article 352

Each Member State may, after consulting the VAT Committee, apply VAT to specific transactions relating to investment gold which take place in that Member State between taxable persons who are members of a gold bullion market regulated by the Member State concerned or between such a taxable person and another taxable person who is not a member of that market. However, the Member State may not apply VAT to supplies carried out in accordance with the conditions specified in Article 138 or to exports of investment gold.

Article 353

Member States which, pursuant to Article 352, tax transactions between taxable persons who are members of a regulated gold bullion market shall, for the purposes of simplification, authorise suspension of the tax to be collected and relieve taxable persons of the accounting requirements in respect of VAT.

Section 5

Special rights and obligations for traders in investment gold

Article 354

Where his subsequent supply of investment gold is exempt pursuant to this Chapter, the taxable person shall be entitled to deduct the following:

- (a) the VAT due or paid in respect of investment gold supplied to him by a person who has exercised the right of option under Articles 348 and 349 or supplied to him in accordance with Section 4;
- (b) the VAT due or paid in respect of a supply to him, or in respect of an intra-Community acquisition or importation carried out by him, of gold other than investment gold which is subsequently transformed by him or on his behalf into investment gold;
- (c) the VAT due or paid in respect of services supplied to him consisting in a change of form, weight or purity of gold including investment gold.

Article 355

Taxable persons who produce investment gold or transform gold into investment gold shall be entitled to deduct the VAT due or paid by them in respect of the supply, intra-Community acquisition or importation of goods or services linked to the production or transformation of that gold, as if the subsequent supply of the gold exempted pursuant to Article 346 were taxed.

Article 356

1 Member States shall ensure that traders in investment gold keep, as a minimum, accounts of all substantial transactions in investment gold and keep the documents which enable the customers in such transactions to be identified.

Traders shall keep the information referred to in the first subparagraph for a period of at least five years.

2 Member States may accept equivalent obligations under measures adopted pursuant to other Community legislation, such as Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing⁽¹⁾, to comply with the requirements under paragraph 1.

3 Member States may lay down obligations which are more stringent, in particular as regards the keeping of special records or special accounting requirements.

(1) OJ L 309, 25.11.2005, p. 15.