

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 2

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

*[<sup>F2</sup>Article 358a*

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

1. [<sup>F3</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**

- F2** Inserted by [Council Directive 2008/8/EC of 12 February 2008 amending Directive 2006/112/EC as regards the place of supply of services.](#)
- F3** 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.

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### 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>F3</sup>e a statement that the person has not established his business in the territory of the Community and has no fixed establishment there.]

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

- F3** 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

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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.]

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.

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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.](#)