

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

TITLE XII

SPECIAL SCHEMES

CHAPTER 2

Common flat-rate scheme for farmers

Article 295

- 1 For the purposes of this Chapter, the following definitions shall apply:
- (1) ‘farmer’ means any taxable person whose activity is carried out in an agricultural, forestry or fisheries undertaking;
 - (2) ‘agricultural, forestry or fisheries undertaking’ means an undertaking regarded as such by each Member State within the framework of the production activities listed in Annex VII;
 - (3) ‘flat-rate farmer’ means any farmer covered by the flat-rate scheme provided for in this Chapter;
 - (4) ‘agricultural products’ means goods produced by an agricultural, forestry or fisheries undertaking in each Member State as a result of the activities listed in Annex VII;
 - (5) ‘agricultural services’ means services, and in particular those listed in Annex VIII, supplied by a farmer using his labour force or the equipment normally employed in the agricultural, forestry or fisheries undertaking operated by him and normally playing a part in agricultural production;
 - (6) ‘input VAT charged’ means the amount of the total VAT attaching to the goods and services purchased by all agricultural, forestry and fisheries undertakings of each Member State subject to the flat-rate scheme where such tax would be deductible in accordance with Articles 167, 168 and 169 and Articles 173 to 177 by a farmer subject to the normal VAT arrangements;
 - (7) ‘flat-rate compensation percentages’ means the percentages fixed by Member States in accordance with Articles 297, 298 and 299 and applied by them in the cases specified in Article 300 in order to enable flat-rate farmers to offset at a fixed rate the input VAT charged;
 - (8) ‘flat-rate compensation’ means the amount arrived at by applying the flat-rate compensation percentage to the turnover of the flat-rate farmer in the cases specified in Article 300.
- 2 Where a farmer processes, using means normally employed in an agricultural, forestry or fisheries undertaking, products deriving essentially from his agricultural production, such processing activities shall be treated as agricultural production activities, as listed in Annex VII.

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Article 296

1 Where the application to farmers of the normal VAT arrangements, or the special scheme provided for in Chapter 1, is likely to give rise to difficulties, Member States may apply to farmers, in accordance with this Chapter, a flat-rate scheme designed to offset the VAT charged on purchases of goods and services made by the flat-rate farmers.

2 Each Member State may exclude from the flat-rate scheme certain categories of farmers, as well as farmers for whom application of the normal VAT arrangements, or of the simplified procedures provided for in Article 281, is not likely to give rise to administrative difficulties.

3 Every flat-rate farmer may opt, subject to the rules and conditions to be laid down by each Member State, for application of the normal VAT arrangements or, as the case may be, the simplified procedures provided for in Article 281.

Article 297

Member States shall, where necessary, fix the flat-rate compensation percentages. They may fix varying percentages for forestry, for the different sub-divisions of agriculture and for fisheries.

Member States shall notify the Commission of the flat-rate compensation percentages fixed in accordance with the first paragraph before applying them.

Article 298

The flat-rate compensation percentages shall be calculated on the basis of macro-economic statistics for flat-rate farmers alone for the preceding three years.

The percentages may be rounded up or down to the nearest half-point. Member States may also reduce such percentages to a nil rate.

Article 299

The flat-rate compensation percentages may not have the effect of obtaining for flat-rate farmers refunds greater than the input VAT charged.

Article 300

The flat-rate compensation percentages shall be applied to the prices, exclusive of VAT, of the following goods and services:

- (1) agricultural products supplied by flat-rate farmers to taxable persons other than those covered, in the Member State in which these products were supplied, by this flat-rate scheme;
- (2) agricultural products supplied by flat-rate farmers, in accordance with the conditions specified in Article 138, to non-taxable legal persons whose intra-Community acquisitions of goods are subject to VAT, pursuant to Article 2(1)(b), in the Member State in which dispatch or transport of those agricultural products ends;
- (3) agricultural services supplied by flat-rate farmers to taxable persons other than those covered, in the Member State in which these services were supplied, by this flat-rate scheme.

Article 301

1 In the case of the supply of agricultural products or agricultural services specified in Article 300, Member States shall provide that the flat-rate compensation is to be paid either by the customer or by the public authorities.

2 In respect of any supply of agricultural products or agricultural services other than those specified in Article 300, the flat-rate compensation shall be deemed to be paid by the customer.

Article 302

If a flat-rate farmer is entitled to flat-rate compensation, he shall not be entitled to deduction of VAT in respect of activities covered by this flat-rate scheme.

Article 303

1 Where the taxable customer pays flat-rate compensation pursuant to Article 301(1), he shall be entitled, in accordance with the conditions laid down in Articles 167, 168 and 169 and Articles 173 to 177 and the procedures laid down by the Member States, to deduct the compensation amount from the VAT for which he is liable in the Member State in which his taxed transactions are carried out.

2 Member States shall refund to the customer the amount of the flat-rate compensation he has paid in respect of any of the following transactions:

- a the supply of agricultural products, carried out in accordance with the conditions specified in Article 138, to taxable persons, or to non-taxable legal persons, acting as such in another Member State within the territory of which their intra-Community acquisitions of goods are subject to VAT pursuant to Article 2(1)(b);
- b the supply of agricultural products, carried out in accordance with the conditions specified in Articles 146, 147, 148 and 156, Article 157(1)(b) and Articles 158, 160 and 161, to a taxable customer established outside the Community, in so far as the products are used by that customer for the purposes of the transactions referred to in Article 169(a) and (b) or for the purposes of supplies of services which are deemed to take place within the territory of the Member State in which the customer is established and in respect of which VAT is payable solely by the customer pursuant to Article 196;
- c the supply of agricultural services to a taxable customer established within the Community but in another Member State or to a taxable customer established outside the Community, in so far as the services are used by the customer for the purposes of the transactions referred to in Article 169(a) and (b) or for the purposes of supplies of services which are deemed to take place within the territory of the Member State in which the customer is established and in respect of which VAT is payable solely by the customer pursuant to Article 196.

3 Member States shall determine the method by which the refunds provided for in paragraph 2 are to be made. In particular, they may apply the provisions of Directives 79/1072/EEC and 86/560/EEC.

Article 304

Member States shall take all measures necessary to verify payments of flat-rate compensation to flat-rate farmers.

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Article 305

Whenever Member States apply this flat-rate scheme, they shall take all measures necessary to ensure that the supply of agricultural products between Member States, carried out in accordance with the conditions specified in Article 33, is always taxed in the same way, whether the supply is effected by a flat-rate farmer or by another taxable person.