

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

TITLE XII

SPECIAL SCHEMES

CHAPTER 4

**Special arrangements for second-hand goods,
works of art, collectors' items and antiques**

Section 3

Special arrangements for sales by public auction

Article 333

1 Member States may, in accordance with the provisions of this Section, apply special arrangements for taxation of the profit margin made by an organiser of a sale by public auction in respect of the supply of second-hand goods, works of art, collectors' items or antiques by that organiser, acting in his own name and on behalf of the persons referred to in Article 334, pursuant to a contract under which commission is payable on the sale of those goods by public auction.

2 The arrangements referred to in paragraph 1 shall not apply to the supply of new means of transport, carried out in accordance with the conditions specified in Article 138(1) and (2)(a).

Article 334

These special arrangements shall apply to supplies carried out by an organiser of a sale by public auction, acting in his own name, on behalf of one of the following persons:

- (a) a non-taxable person;
- (b) another taxable person, in so far as the supply of goods, carried out by that taxable person in accordance with a contract under which commission is payable on a sale, is exempt pursuant to Article 136;
- (c) another taxable person, in so far as the supply of goods, carried out by that taxable person in accordance with a contract under which commission is payable on a sale, is covered by the exemption for small enterprises provided for in Articles 282 to 292 and involves capital goods;
- (d) a taxable dealer, in so far as the supply of goods, carried out by that taxable dealer in accordance with a contract under which commission is payable on a sale, is subject to VAT in accordance with the margin scheme.

Article 335

The supply of goods to a taxable person who is an organiser of sales by public auction shall be regarded as taking place when the sale of those goods by public auction takes place.

Article 336

The taxable amount in respect of each supply of goods referred to in this Section shall be the total amount invoiced in accordance with Article 339 to the purchaser by the organiser of the sale by public auction, less the following:

- (a) the net amount paid or to be paid by the organiser of the sale by public auction to his principal, as determined in accordance with Article 337;
- (b) the amount of the VAT payable by the organiser of the sale by public auction in respect of his supply.

Article 337

The net amount paid or to be paid by the organiser of the sale by public auction to his principal shall be equal to the difference between the auction price of the goods and the amount of the commission obtained or to be obtained by the organiser of the sale by public auction from his principal pursuant to the contract under which commission is payable on the sale.

Article 338

Organisers of sales by public auction who supply goods in accordance with the conditions laid down in Articles 333 and 334 must indicate the following in their accounts, in suspense accounts:

- (a) the amounts obtained or to be obtained from the purchaser of the goods;
- (b) the amounts reimbursed or to be reimbursed to the vendor of the goods.

The amounts referred to in the first paragraph must be duly substantiated.

Article 339

The organiser of the sale by public auction must issue to the purchaser an invoice itemising the following:

- (a) the auction price of the goods;
- (b) taxes, duties, levies and charges;
- (c) incidental expenses, such as commission, packing, transport and insurance costs, charged by the organiser to the purchaser of the goods.

The invoice issued by the organiser of the sale by public auction must not indicate any VAT separately.

Article 340

1 The organiser of the sale by public auction to whom the goods have been transmitted pursuant to a contract under which commission is payable on a public auction sale must issue a statement to his principal.

The statement issued by the organiser of the sale by public auction must specify separately the amount of the transaction, that is to say, the auction price of the goods less the amount of the commission obtained or to be obtained from the principal.

2 The statement drawn up in accordance with paragraph 1 shall serve as the invoice which the principal, where he is a taxable person, must issue to the organiser of the sale by public auction in accordance with Article 220.

Article 341

Member States which apply the arrangements provided for in this Section shall also apply these arrangements to supplies of second-hand means of transport, as defined in Article 327(3), carried out by an organiser of sales by public auction, acting in his own name, pursuant to a contract under which commission is payable on the sale of those goods by public auction, on behalf of a taxable dealer, in so far as those supplies by that taxable dealer would be subject to VAT in accordance with the transitional arrangements for second-hand means of transport.