

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

TITLE XV

FINAL PROVISIONS

CHAPTER 1

Transitional arrangements for the taxation of trade between Member States

Article 402

1 The arrangements provided for in this Directive for the taxation of trade between Member States are transitional and shall be replaced by definitive arrangements based in principle on the taxation in the Member State of origin of the supply of goods or services.

2 Having concluded, upon examination of the report referred to in Article 404, that the conditions for transition to the definitive arrangements are met, the Council shall, acting in accordance with Article 93 of the Treaty, adopt the provisions necessary for the entry into force and for the operation of the definitive arrangements.

Article 403

The Council shall, acting in accordance with Article 93 of the Treaty, adopt Directives appropriate for the purpose of supplementing the common system of VAT and, in particular, for the progressive restriction or the abolition of derogations from that system.

Article 404

Every four years starting from the adoption of this Directive, the Commission shall, on the basis of information obtained from the Member States, present a report to the European Parliament and to the Council on the operation of the common system of VAT in the Member States and, in particular, on the operation of the transitional arrangements for taxing trade between Member States. That report shall be accompanied, where appropriate, by proposals concerning the definitive arrangements.

CHAPTER 2

Transitional measures applicable in the context of accession to the European Union

Article 405

For the purposes of this Chapter, the following definitions shall apply:

- (1) 'Community' means the territory of the Community as defined in point (1) of Article 5 before the accession of new Member States;
- (2) 'new Member States' means the territory of the Member States which acceded to the European Union after 1 January 1995, as defined for each of those Member States in point (2) of Article 5;

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- (3) 'enlarged Community' means the territory of the Community as defined in point (1) of Article 5 after the accession of new Member States.

Article 406

The provisions in force at the time the goods were placed under temporary importation arrangements with total exemption from import duty or under one of the arrangements or situations referred to in Article 156, or under similar arrangements or situations in one of the new Member States, shall continue to apply until the goods cease to be covered by these arrangements or situations after the date of accession, where the following conditions are met:

- (a) the goods entered the Community or one of the new Member States before the date of accession;
- (b) the goods were placed, on entry into the Community or one of the new Member States, under these arrangements or situations;
- (c) the goods have not ceased to be covered by these arrangements or situations before the date of accession.

Article 407

The provisions in force at the time the goods were placed under customs transit arrangements shall continue to apply until the goods cease to be covered by these arrangements after the date of accession, where the following conditions are met:

- (a) the goods were placed, before the date of accession, under customs transit arrangements;
- (b) the goods have not ceased to be covered by these arrangements before the date of accession.

Article 408

1 The following shall be treated as an importation of goods where it is shown that the goods were in free circulation in one of the new Member States or in the Community:

- a the removal, including irregular removal, of goods from temporary importation arrangements under which they were placed before the date of accession under the conditions provided for in Article 406;
- b the removal, including irregular removal, of goods either from one of the arrangements or situations referred to in Article 156 or from similar arrangements or situations under which they were placed before the date of accession under the conditions provided for in Article 406;
- c the cessation of one of the arrangements referred to in Article 407, started before the date of accession in the territory of one of the new Member States, for the purposes of a supply of goods for consideration effected before that date in the territory of that Member State by a taxable person acting as such;
- d any irregularity or offence committed during customs transit arrangements started under the conditions referred to in point (c).

2 In addition to the case referred to in paragraph 1, the use after the date of accession within the territory of a Member State, by a taxable or non-taxable person, of goods supplied to him before the date of accession within the territory of the Community or one of the new Member States shall be treated as an importation of goods where the following conditions are met:

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- a the supply of those goods has been exempted, or was likely to be exempted, either under points (a) and (b) of Article 146(1) or under a similar provision in the new Member States;
- b the goods were not imported into one of the new Member States or into the Community before the date of accession.

Article 409

In the cases referred to in Article 408(1), the place of import within the meaning of Article 61 shall be the Member State within whose territory the goods cease to be covered by the arrangements or situations under which they were placed before the date of accession.

Article 410

1 By way of derogation from Article 71, the importation of goods within the meaning of Article 408 shall terminate without the occurrence of a chargeable event if one of the following conditions is met:

- a the imported goods are dispatched or transported outside the enlarged Community;
- b the imported goods within the meaning of Article 408(1)(a) are other than means of transport and are redispached or transported to the Member State from which they were exported and to the person who exported them;
- c the imported goods within the meaning of Article 408(1)(a) are means of transport which were acquired or imported before the date of accession in accordance with the general conditions of taxation in force on the domestic market of one of the new Member States or of one of the Member States of the Community or which have not been subject, by reason of their exportation, to any exemption from, or refund of, VAT.

2 The condition referred to in paragraph 1(c) shall be deemed to be fulfilled in the following cases:

- a when the date of first entry into service of the means of transport was more than eight years before the accession to the European Union.
- b when the amount of tax due by reason of the importation is insignificant.

CHAPTER 3

Transposition and entry into force

Article 411

1 Directive 67/227/EEC and Directive 77/388/EEC are repealed, without prejudice to the obligations of the Member States concerning the time-limits, listed in Annex XI, Part B, for the transposition into national law and the implementation of those Directives.

2 References to the repealed Directives shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex XII.

Article 412

1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 2(3), Article 44, Article 59(1), Article 399 and Annex III, point (18) with effect from 1 January 2008. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

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When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2 Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 413

This Directive shall enter into force on 1 January 2007.

Article 414

This Directive is addressed to the Member States.