

Council Directive 2006/69/EC of 24 July 2006 amending Directive 77/388/EEC as regards certain measures to simplify the procedure for charging value added tax and to assist in countering tax evasion or avoidance, and repealing certain Decisions granting derogations

COUNCIL DIRECTIVE 2006/69/EC

of 24 July 2006

amending Directive 77/388/EEC as regards certain measures to simplify the procedure for charging value added tax and to assist in countering tax evasion or avoidance, and repealing certain Decisions granting derogations

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 93 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament<sup>(1)</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>(2)</sup>,

Whereas:

- (1) In order to combat tax evasion or avoidance and to simplify the procedure for charging value added tax, certain derogations covering similar problems were granted under varying terms to individual Member States by the Council pursuant to Article 27(1) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment<sup>(3)</sup>. A solution to the said problems should be made available to all Member States through incorporation into that Directive. Those measures should be proportionate and limited to countering the problem concerned. Given that the Member States have different needs, that incorporation should be limited to extending the option of adopting the rules concerned to all Member States, as and when the need arises.
- (2) Member States should be able to take action to ensure that measures provided for in Directive 77/388/EEC relating to the taxable person and the transfer of a business as a going concern are not being exploited to evade and avoid tax.
- (3) It should be possible for Member States to intervene as regards the value of supplies and acquisitions in specific limited circumstances, to ensure that there is no loss of tax through the use of connected parties to derive tax benefits.
- (4) It should be possible for Member States to include, within the taxable amount of a transaction which involves the working of investment gold provided by a customer, the value of that investment gold where, by virtue of being worked, the gold loses its status of investment gold.

- (5) It should be emphasised that certain services with the nature of capital items may be included in the scheme which allows the adjustment of deductions for capital items over the lifetime of the asset, according to its actual use.
- (6) Member States should be able, in specific cases, to designate the recipient of supplies as the person responsible for paying and accounting for value added tax. This should assist Member States in simplifying the rules and countering tax evasion and avoidance in identified sectors and on certain types of transactions.
- (7) Directive 77/388/EEC should therefore be amended accordingly.
- (8) Consequently, Member States should not be able to continue to avail themselves of individual derogations granted to them by certain Council Decisions adopted pursuant to Article 27(1) of Directive 77/388/EEC and which are covered by the provisions in this Directive. The Decisions concerned should therefore be explicitly repealed. This Directive should not affect measures applied by Member States pursuant to Article 27(5) of Directive 77/388/EEC; nor should it affect derogations which have been granted pursuant to Article 27(1) of that Directive and which have not been repealed by this Directive.
- (9) The application of certain provisions in this Directive should be optional and they should allow Member States a certain degree of discretion. Where appropriate for reasons of transparency, it should be provided that Member States should inform the other Member States through the Advisory Committee on value added tax established under Article 29 of Directive 77/388/EEC of any national law adopted pursuant to those provisions. Such information should not be necessary with respect to national measures taken under a Decision which is repealed by this Directive, or which expires at the date of this Directive's entry into force, but which a Member State continues to apply under the provisions of this Directive,

HAS ADOPTED THIS DIRECTIVE:

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*Status: This is the original version (as it was originally adopted).*

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- (1) Opinion of 6 July 2006 (not yet published in the Official Journal).
- (2) [OJ C 65, 17.3.2006, p. 103.](#)
- (3) [OJ L 145, 13.6.1977, p. 1.](#) Directive as last amended by Directive 2006/18/EC ([OJ L 51, 22.2.2006, p. 12.](#)).