

Council Directive 2008/8/EC of 12 February 2008 amending
Directive 2006/112/EC as regards the place of supply of services

COUNCIL DIRECTIVE 2008/8/EC

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amending Directive 2006/112/EC as regards the place of supply of services

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⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee⁽²⁾,

Whereas:

- (1) The realisation of the internal market, globalisation, deregulation and technology change have all combined to create enormous changes in the volume and pattern of trade in services. It is increasingly possible for a number of services to be supplied at a distance. In response, piece-meal steps have been taken to address this over the years and many defined services are in fact at present taxed on the basis of the destination principle.
- (2) The proper functioning of the internal market requires the amendment of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax⁽³⁾ as regards the place of supply of services, following the Commission's strategy of modernisation and simplification of the operation of the common VAT system.
- (3) For all supplies of services the place of taxation should, in principle, be the place where the actual consumption takes place. If the general rule for the place of supply of services were to be altered in this way, certain exceptions to this general rule would still be necessary for both administrative and policy reasons.
- (4) For supplies of services to taxable persons, the general rule with respect to the place of supply of services should be based on the place where the recipient is established, rather than where the supplier is established. For the purposes of rules determining the place of supply of services and to minimise burdens on business, taxable persons who also have non-taxable activities should be treated as taxable for all services rendered to them. Similarly, non-taxable legal persons who are identified for VAT purposes should be regarded as taxable persons. These provisions, in accordance with normal rules, should not extend to supplies of services received by a taxable person for his own personal use or that of his staff.

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- (5) Where services are supplied to non-taxable persons, the general rule should continue to be that the place of supply of services is the place where the supplier has established his business.
- (6) In certain circumstances, the general rules as regards the place of supply of services for both taxable and non-taxable persons are not applicable and specified exclusions should apply instead. These exclusions should be largely based on existing criteria and reflect the principle of taxation at the place of consumption, while not imposing disproportionate administrative burdens upon certain traders.
- (7) Where a taxable person receives services from a person not established in the same Member State, the reverse charge mechanism should be obligatory in certain cases, meaning that the taxable person should self-assess the appropriate amount of VAT on the acquired service.
- (8) To simplify the obligations on businesses engaging in activities in Member States where they are not established, a scheme should be set up enabling them to have a single point of electronic contact for VAT identification and declaration. Until such a scheme is established, use should be made of the scheme introduced to facilitate compliance with fiscal obligations by taxable persons not established within the Community.
- (9) In order to further the correct application of this Directive every taxable person identified for VAT purposes should submit a recapitulative statement of the taxable persons and the non-taxable legal persons identified for VAT purposes to whom he has supplied taxable services which fall under the reverse charge mechanism.
- (10) Some of the changes made to the place of supply of services could have a considerable impact on the budget of Member States. To ensure a smooth transition these changes should be introduced over time.
- (11) In accordance with point 34 of the Interinstitutional Agreement on better law-making⁽⁴⁾, Member States are encouraged to draw up, for themselves and in the interests of the Community, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public.
- (12) Directive 2006/112/EC should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

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- (1) [OJ C 104 E, 30.4.2004, p. 143](#) and opinion delivered on 16 May 2006 (not yet published in the Official Journal).
- (2) [OJ C 117, 30.4.2004, p. 15](#) and [OJ C 195, 18.8.2006, p. 54](#).
- (3) [OJ L 347, 11.12.2006, p. 1](#). Directive as last amended by Directive 2007/75/EC ([OJ L 346, 29.12.2007, p. 13](#)).
- (4) [OJ C 321, 31.12.2003, p. 1](#).