

Council Directive 2009/132/EC of 19 October 2009 determining the scope of Article 143(b) and (c) of Directive 2006/112/EC as regards exemption from value added tax on the final importation of certain goods (codified version)

TITLE V

**CAPITAL GOODS AND OTHER EQUIPMENT  
IMPORTED ON THE TRANSFER OF ACTIVITIES**

*Article 25*

1 Without prejudice to the measures in force in the Member State with regard to industrial and commercial policy, and subject to Articles 26 to 29, Member States may allow exemption, on admission, for imports of capital goods and other equipment belonging to undertakings which definitively cease their activity in the third country or third territory of origin in order to carry on a similar activity in the Community and which, in accordance with Article 213(1) of Directive 2006/112/EC, have given advance notice to the competent authorities of the Member State of importation of the commencement of such activity.

Where the undertaking transferred is an agricultural holding, its livestock shall also be exempt on admission.

2 For the purposes of paragraph 1:

- a 'activity' means an economic activity as referred to in Article 9(1) of Directive 2006/112/EC;
- b 'undertaking' means an independent economic unit of production or of the service industry.

*Article 26*

1 The exemption shall be limited to capital goods and equipment which:

- a except in special cases justified by the circumstances, have actually been used in the undertaking for a minimum of 12 months prior to the date on which the undertaking ceased to operate in the third country or third territory from which it is transferring its activity;
- b are intended to be used for the same purposes after the transfer;
- c are to be used for the purposes of an activity not exempted under Articles 132, 133, 135 and 136 of Directive 2006/112/EC;
- d are appropriate to the nature and size of the undertaking in question.

2 Pending entry into force of the common rules referred to in the first paragraph of Article 176 of Directive 2006/112/EC, Member States may exclude from the exemption, in whole or in part, capital goods in respect of which they have availed themselves of the second subparagraph of Article 176 of that Directive.

*Article 27*

No exemption shall be granted to undertakings established outside the Community and the transfer of which to the territory of the Community is consequent upon or is for the purpose of merging with, or being absorbed by, an undertaking established in the Community, without a new activity being set up.

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*Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

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#### *Article 28*

No exemption shall be granted for:

- (a) means of transport which are not in the nature of instruments of production or of the service industry;
- (b) supplies of all kinds intended for human consumption or for animal feed;
- (c) fuel and stocks of raw materials or finished or semi-finished products;
- (d) livestock in the possession of dealers.

#### *Article 29*

Except in special cases justified by the circumstances, the exemption shall be granted only in respect of capital goods and other equipment imported before the expiry of a period of 12 months from the date when the undertaking ceased its activities in the third country or third territory of origin.