

Council Regulation (EC) No 143/2008 of 12 February 2008 amending Regulation (EC) No 1798/2003 as regards the introduction of administrative cooperation and the exchange of information concerning the rules relating to the place of supply of services, the special schemes and the refund procedure for value added tax

Article 2

From 1 January 2015, Regulation (EC) No 1798/2003 is hereby amended as follows:

1. in Article 1(1), the fourth subparagraph shall be replaced by the following:

This Regulation also lays down rules and procedures for the exchange by electronic means of value added tax information on services in accordance with the special schemes provided for in Chapter 6 of Title XII of Directive 2006/112/EC and also for any subsequent exchange of information and, as far as services covered by those special schemes are concerned, for the transfer of money between Member States' competent authorities.;

2. in Article 2, the sole paragraph shall be numbered '1' and the following paragraph shall be added:

2. The definitions contained in Articles 358, 358a and 369a of Directive 2006/112/EC shall also apply for the purposes of this Regulation.;

3. in Article 5, paragraph 3 shall be replaced by the following:

3. The request referred to in paragraph 1 may contain a reasoned request for a specific administrative enquiry. If the Member State takes the view that no administrative enquiry is necessary, it shall immediately inform the requesting authority of the reasons thereof.

Notwithstanding the first subparagraph and without prejudice to Article 40 of this Regulation, an enquiry into the amounts declared by a taxable person in connection with the supply of telecommunications services, broadcasting services and electronically supplied services which are taxable in the Member State in which the requesting authority is situated and for which the taxable person makes use or opts not to make use of the special scheme provided for in Section 3 of Chapter 6 of Title XII of Directive 2006/112/EC, may only be refused by the requested authority if information on the same taxable person obtained in an administrative enquiry held less than two years previously, has already been supplied to the requesting authority.

However, with respect to the requests referred to in the second subparagraph made by the requesting authority and assessed by the requested authority in conformity with a Statement of Best Practices concerning the interaction of this paragraph and Article 40(1) to be adopted in accordance with the procedure referred to in Article 44(2), a Member State which refuses to hold an administrative enquiry on the basis of Article 40 shall provide to the requesting authority the dates and values of any relevant supplies made over the last two years by the taxable person in the Member State of the requesting authority.;

4. in Article 17, the following paragraph shall be added:

For the purposes of the first paragraph, each Member State of establishment shall cooperate with each Member State of consumption so as to make it possible to ascertain whether the taxable persons established on its territory declare and pay

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correctly the VAT due with regard to telecommunications services, broadcasting services and electronically supplied services for which the taxable person makes use or opts not to make use of the special scheme provided for in Section 3 of Chapter 6 of Title XII of Directive 2006/112/EC. The Member State of establishment shall inform the Member State of consumption of any discrepancies of which it becomes aware.;

5. in Article 18, the second paragraph shall be replaced by the following:

Each Member State shall determine whether it will take part in the exchange of a particular category of information, as well as whether it will do so in an automatic or structured automatic way. However, each Member State shall take part in exchanges of the information available to it with regard to telecommunications services, broadcasting services and electronically supplied services for which the taxable person makes use or opts not to make use of the special scheme provided for in Section 3 of Chapter 6 of Title XII of Directive 2006/112/EC.;

6. Article 27(4) shall be replaced by the following:

4. The competent authorities of each Member State shall ensure that persons involved in the intra-Community supply of goods or of services and non-established taxable persons supplying telecommunication services, broadcasting services and electronically supplied services, in particular those referred to in Annex II of Directive 2006/112/EC, are allowed to obtain confirmation of the validity of the VAT identification number of any specified person.

The Member States shall provide such confirmation by electronic means in accordance with the procedure referred to in Article 44(2) of this Regulation.;

7. the heading of Chapter VI shall be replaced by the following:
PROVISIONS CONCERNING THE SPECIAL SCHEMES IN CHAPTER 6 OF TITLE XII OF DIRECTIVE 2006/112/EC;

8. Article 28 shall be replaced by the following:

Article 28

The following provisions shall apply concerning the special schemes provided for in Chapter 6 of Title XII of Directive 2006/112/EC.;

9. Article 29 shall be replaced by the following:

Article 29

- 1 The information provided by the taxable person not established in the Community to the Member State of identification when his activities commence pursuant to Article 361 of Directive 2006/112/EC shall be submitted in an electronic manner. The technical details, including a common electronic message, shall be determined in accordance with the procedure provided for in Article 44(2) of this Regulation.

- 2 The Member State of identification shall transmit the information referred to in paragraph 1 by electronic means to the competent authorities of the other Member States within 10 days from the end of the month during which the information was received from the taxable person not established within the Community. Similar details for the identification of the taxable person applying the special scheme under Article 369b of Directive 2006/112/EC shall be transmitted within 10 days from the end of the month during which the taxable person stated that his taxable activities under

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that scheme commenced. In the same manner the competent authorities of the other Member States shall be informed of the allocated identification number.

The technical details, including a common electronic message, by which this information is to be transmitted, shall be determined in accordance with the procedure provided for in Article 44(2) of this Regulation.

3 The Member State of identification shall without delay inform by electronic means the competent authorities of the other Member States if a taxable person not established in the Community or a taxable person not established in the Member State of consumption is excluded from the special scheme.;

10. in Article 30, the first and second paragraphs shall be replaced by the following:

The return with the details set out in Articles 365 and 369g of Directive 2006/112/EC is to be submitted in an electronic manner. The technical details, including a common electronic message, shall be determined in accordance with the procedure provided for in Article 44(2) of this Regulation.

The Member State of identification shall transmit this information by electronic means to the competent authority of the Member State of consumption concerned at the latest 10 days after the end of the month in which the return was received. The information provided for in the second paragraph of Article 369g of Directive 2006/112/EC shall also be transmitted to the competent authority of the Member State of establishment concerned. Member States which have required the tax return to be made in a national currency other than euro, shall convert the amounts into euro using the exchange rate valid for the last date of the reporting period. The exchange shall be done following the exchange rates published by the European Central Bank for that day, or, if there is no publication on that day, on the next day of publication. The technical details by which this information is to be transmitted shall be determined in accordance with the procedure provided for in Article 44(2) of this Regulation.;

11. Article 31 shall be replaced by the following:

Article 31

The provisions in Article 22 of this Regulation shall apply also to information collected by the Member State of identification in accordance with Articles 360, 361, 364, 365, 369c, 369f and 369g of Directive 2006/112/EC.;

12. in Article 32, the following paragraph shall be added:

Concerning the payments to be transferred to the Member State of consumption in accordance with the special scheme provided for in Section 3 of Chapter 6 of Title XII of Directive 2006/112/EC, the Member State of identification shall, of the amounts referred to in the first and second paragraphs, be entitled to retain:

- (a) from 1 January 2015 until 31 December 2016 — 30 %,
- (b) from 1 January 2017 until 31 December 2018 — 15 %,
- (c) from 1 January 2019 — 0 %.;

13. Article 34 shall be deleted;

14. in Article 39, the first paragraph shall be replaced by the following:

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The Commission and the Member States shall ensure that such existing or new communication and information exchange systems which are necessary to provide for the exchanges of information described in Articles 29 and 30 are operational. The Commission will be responsible for whatever development of the common communication network/common system interface (CCN/CSI) is necessary to permit the exchange of this information between Member States. Member States will be responsible for whatever development of their systems is necessary to permit this information to be exchanged using the CCN/CSI..

Changes to legislation:

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