

Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax (recast)

COUNCIL REGULATION (EU) No 904/2010

of 7 October 2010

on administrative cooperation and combating fraud in the field of value added tax

(recast)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament⁽¹⁾,

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

Acting in accordance with a special legislative procedure,

Whereas:

- (1) Council Regulation (EC) No 1798/2003 of 7 October 2003 on administrative cooperation in the field of value added tax⁽³⁾ has been substantially amended several times. Since further amendments are to be made, it should be recast in the interests of clarity.
- (2) The instruments to combat fraud in the field of value added tax (hereinafter 'VAT') in Regulation (EC) No 1798/2003 should be improved and supplemented subsequent to the Council Conclusions of 7 October 2008; the Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee on a coordinated strategy to improve the fight against VAT fraud in the European Union; and the Report from the Commission to the Council and the European Parliament on the application of Council Regulation (EC) No 1798/2003 concerning administrative cooperation in the field of VAT (hereinafter the 'Commission's report'). Editorial and practical clarifications of the provisions of Regulation (EC) No 1798/2003 are also required.
- (3) Tax evasion and tax avoidance extending across the frontiers of Member States lead to budget losses and violations of the principle of fair taxation. They are also liable to bring about distortions of capital movements and of the conditions of competition. They thus affect the operation of the internal market.
- (4) Combating VAT evasion calls for close cooperation between the competent authorities in each Member State responsible for the application of the provisions in that field.

Status: Point in time view as at 05/11/2018.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)

- (5) The tax harmonisation measures taken to complete the internal market should include the establishment of a common system for cooperation between the Member States, in particular as concerns exchange of information, whereby the Member States' competent authorities are to assist each other and to cooperate with the Commission in order to ensure the proper application of VAT on supplies of goods and services, intra-Community acquisition of goods and importation of goods.
- (6) Administrative cooperation should not lead to an undue shift of administrative burdens between Member States.
- (7) For the purposes of collecting the tax owed, Member States should cooperate to help ensure that VAT is correctly assessed. They must therefore not only monitor the correct application of tax owed in their own territory, but should also provide assistance to other Member States for ensuring the correct application of tax relating to activity carried out on their own territory but owed in another Member State.
- (8) Monitoring the correct application of VAT on cross-border transactions taxable in a Member State other than that where the supplier is established depends in many cases on information which is held by the Member State of establishment or which can be much more easily obtained by that Member State. Effective supervision of such transactions is therefore dependent on the Member State of establishment collecting, or being in a position to collect, that information.
- (9) In order to establish the one-stop shop scheme provided for by Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax⁽⁴⁾, and to apply the refund procedure for taxable persons not established in the Member State of refund provided for in Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State⁽⁵⁾, rules on the exchange and storage of information by Member States are required.
- (10) In cross-border situations, it is important to specify the obligations of each Member State so that the tax can be effectively monitored in the Member State in which it is owed.
- (11) Electronic storage and transmission of certain data for VAT control purposes are indispensable for the proper functioning of the VAT system. They allow for rapid information exchange and automated access to information, which strengthen the fight against fraud. That can be achieved by enhancing the databases on VAT-taxable persons and their intra-Community transactions through the inclusion in those databases of a range of information on the taxable persons and their transactions.
- (12) The Member States should implement proper verification procedures to ensure that the information is up-to-date, comparable and of good quality, thereby increasing its reliability. The conditions for the exchange of, and the automated access of Member States to, electronically stored data should be clearly defined.

Status: Point in time view as at 05/11/2018.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)

- (13) In order to fight fraud effectively, it is necessary to provide for information exchange without prior request. To facilitate the exchange of information, the categories for which an automatic exchange needs to be established should be specified.
- (14) As indicated in the Commission's report, feedback is an appropriate means to ensure continual improvement of the quality of the information exchanged. A framework for the provision of feedback should therefore be put in place.
- (15) For the effective monitoring of VAT on cross-border transactions, it is necessary to provide for the possibility of simultaneous controls by Member States and of the presence of officials of one Member State in the territory of another Member State, within the framework of administrative cooperation.
- (16) Online confirmation of the validity of VAT identification numbers is a tool which is increasingly used by operators. The system for confirming the validity of VAT identification numbers should provide automated confirmation of the relevant information to operators.
- (17) Some taxable persons are subject to specific obligations which are different from those in force in the Member State in which they are established, particularly as regards invoicing, when they supply goods or services to customers established on the territory of another Member State. A mechanism should be established to make information on such obligations readily available for those taxable persons.
- (18) Recent practical experience of the application of Regulation (EC) No 1798/2003 in the fight against carousel fraud has shown that in some cases it is essential to establish a much faster mechanism for the exchange of information, covering much more, and better targeted, information in order to combat fraud effectively. In accordance with the Council Conclusions of 7 October 2008, a decentralised network without legal personality, to be called Eurofisc, should be established within the framework of this Regulation for all the Member States, to promote and facilitate multilateral and decentralised cooperation permitting targeted and swift action to combat specific types of fraud.
- (19) The Member State of consumption has primary responsibility for assuring that non-established suppliers comply with their obligations. To this end, the application of the temporary special scheme for electronically supplied services that is provided for in Chapter 6 of Title XII of Directive 2006/112/EC requires the definition of rules concerning the provision of information and transfer of money between the Member State of identification and the Member State of consumption.
- (20) Information obtained by a Member State from third countries may be very useful to other Member States. Likewise information obtained by a Member State from other Member States may be very useful to third countries. The conditions for the exchange of such information should therefore be specified.
- (21) National rules on banking secrecy should not stand in the way of the application of this Regulation.

Status: Point in time view as at 05/11/2018.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)

- (22) This Regulation should not affect other measures adopted at Union level which contribute to combating VAT fraud.
- (23) In the interests of effectiveness and speed and on grounds of cost, it is essential that the information communicated under this Regulation should be provided by electronic means wherever possible.
- (24) In view of the repetitive nature of certain requests and the linguistic diversity within the Union, it is important to enhance the use of standard forms in the exchange of information so that information requests can be more rapidly processed.
- (25) The time limits laid down in this Regulation for the provision of information are to be understood as maximum periods not to be exceeded, the principle being that, in order for cooperation to be effective, information already available to the requested Member State should be provided without further delay.
- (26) For the purposes of this Regulation, it is appropriate to consider limitations of certain rights and obligations laid down by Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data⁽⁶⁾ in order to safeguard the interests referred to in Article 13(1)(e) of that Directive. Such limitations are necessary and proportionate in view of the potential loss of revenue for Member States and the crucial importance of information covered by this Regulation for the effectiveness of the fight against fraud.
- (27) As the measures necessary to implement this Regulation are measures of general scope within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽⁷⁾, they must be adopted in conformity with the regulatory procedure provided for in Article 5 of that Decision,

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

1 This Regulation lays down the conditions under which the competent authorities in the Member States responsible for the application of the laws on VAT are to cooperate with each other and with the Commission to ensure compliance with those laws.

To that end, it lays down rules and procedures to enable the competent authorities of the Member States to cooperate and to exchange with each other any information that may help to effect a correct assessment of VAT, monitor the correct application of VAT, particularly on intra-Community transactions, and combat VAT fraud. In particular, it lays down rules and procedures for Member States to collect and exchange such information by electronic means.

Status: Point in time view as at 05/11/2018.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)

2 This Regulation lays down the conditions under which the authorities referred to in paragraph 1 are to assist in the protection of VAT revenue in all the Member States.

3 This Regulation shall not affect the application in the Member States of the rules on mutual assistance in criminal matters.

4 This Regulation also lays down rules and procedures for the exchange by electronic means of VAT information on services supplied electronically in accordance with the special scheme 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 that special scheme are concerned, for the transfer of money between Member States' competent authorities.

Article 2

1 For the purposes of this Regulation, the following definitions shall apply:

- a 'central liaison office' means the office which has been designated pursuant to Article 4(1) with principal responsibility for contacts with other Member States in the field of administrative cooperation;
- b 'liaison department' means any office other than the central liaison office which has been designated as such by the competent authority pursuant to Article 4(2) to exchange directly information on the basis of this Regulation;
- c 'competent official' means any official who can directly exchange information on the basis of this Regulation for which he has been authorised pursuant to Article 4(3);
- d 'requesting authority' means the central liaison office, a liaison department or any competent official of a Member State who makes a request for assistance on behalf of the competent authority;
- e 'requested authority' means the central liaison office, a liaison department or any competent official of Member State who receives a request for assistance on behalf of the competent authority;
- f 'intra-Community transactions' means the intra-Community supply of goods or services;
- g 'intra-Community supply of goods' means any supply of goods which must be declared in the recapitulative statement provided for in Article 262 of Directive 2006/112/EC;
- h 'intra-Community supply of services' means any supply of services which must be declared in the recapitulative statement provided for in Article 262 of Directive 2006/112/EC;
- i 'intra-Community acquisition of goods' means the acquisition of the right pursuant to Article 20 of Directive 2006/112/EC to dispose as owner of moveable tangible property;
- j 'VAT identification number' means the number provided for in Articles 214, 215 and 216 of Directive 2006/112/EC;
- k 'administrative enquiry' means all the controls, checks and other action taken by Member States in the performance of their duties with a view to ensuring proper application of VAT legislation;
- l 'automatic exchange' means the systematic communication of predefined information to another Member State, without prior request;
- m 'spontaneous exchange' means the non-systematic communication, at any moment and without prior request, of information to another Member State;
- n 'person' means:
 - (i) a natural person;
 - (ii) a legal person;

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- (iii) where the legislation in force so provides, an association of persons recognised as having the capacity to perform legal acts but lacking the legal status of a legal person; or
- (iv) any other legal arrangement of whatever nature and form, which has legal personality or not, and conducts transactions which are subject to VAT;
- o ‘automated access’ means the possibility of access without delay to an electronic system in order to consult certain information contained therein;
- p ‘by electronic means’ means using electronic equipment for the processing (including digital compression) and storage of data, and employing wires, radio transmission, optical technologies or other electromagnetic means;
- q ‘CCN/CSI network’ means the common platform based on the common communication network (hereinafter the ‘CCN’) and common system interface (hereinafter the ‘CSI’), developed by the Union to ensure all transmissions by electronic means between competent authorities in the area of customs and taxation;
- r ‘simultaneous control’ means coordinated checks on the tax situation of a taxable person or related taxable persons, organised by two or more participating Member States with common or complementary interests.

2 From 1 January 2015, the definitions contained in Articles 358, 358a and 369a of Directive 2006/112/EC shall also apply for the purposes of this Regulation.

Article 3

The competent authorities are the authorities in whose name this Regulation is to be applied, whether directly or by delegation.

Each Member State shall inform the Commission by 1 December 2010 of its competent authority for the purposes of this Regulation and shall subsequently inform the Commission without delay about any change thereof.

[^{F1}Croatia shall inform the Commission by 1 July 2013 of its competent authority for the purposes of this Regulation and of the subsequent changes as mentioned in the second paragraph.]

The Commission shall make available to the Member States a list of all competent authorities and publish this information in the *Official Journal of the European Union*.

Textual Amendments

- F1** Inserted by Council Regulation (EU) No 517/2013 of 13 May 2013 adapting certain regulations and decisions in the fields of free movement of goods, freedom of movement for persons, company law, competition policy, agriculture, food safety, veterinary and phytosanitary policy, transport policy, energy, taxation, statistics, trans-European networks, judiciary and fundamental rights, justice, freedom and security, environment, customs union, external relations, foreign, security and defence policy and institutions, by reason of the accession of the Republic of Croatia.

Article 4

1 Each Member State shall designate a single central liaison office to which principal responsibility shall be delegated for contacts with other Member States in the field of administrative cooperation. It shall inform the Commission and the other Member States thereof. The central liaison office may also be designated as responsible for contacts with the Commission.

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Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)

2 The competent authority of each Member State may designate liaison departments. The central liaison office shall be responsible for keeping the list of those departments up-to-date and making it available to the central liaison offices of the other Member States concerned.

3 The competent authority of each Member State may in addition designate, under the conditions laid down by it, competent officials who can directly exchange information on the basis of this Regulation. When it does so, it may limit the scope of such designation. The central liaison office shall be responsible for keeping the list of those officials up-to-date and making it available to the central liaison offices of the other Member States concerned.

4 The officials exchanging information pursuant to Articles 28, 29 and 30 shall in any case be deemed to be competent officials for this purpose, in accordance with conditions laid down by the competent authorities.

Article 5

Where a liaison department or a competent official sends or receives a request or a reply to a request for assistance, it shall inform the central liaison office of its Member State under the conditions laid down by the latter.

Article 6

Where a liaison department or a competent official receives a request for assistance requiring action outside its territorial or operational area, it shall forward such request without delay to the central liaison office of its Member State and inform the requesting authority thereof. In such a case, the period laid down in Article 10 shall start the day after the request for assistance has been forwarded to the central liaison office.

CHAPTER II

EXCHANGE OF INFORMATION ON REQUEST

SECTION 1

Request for information and for administrative enquiries

Article 7

1 At the request of the requesting authority, the requested authority shall communicate the information referred to in Article 1, including any information relating to a specific case or cases.

2 For the purpose of forwarding the information referred to in paragraph 1, the requested authority shall arrange for the conduct of any administrative enquiries necessary to obtain such information.

F²₃

[F³₄ The request referred to in paragraph 1 may contain a reasoned request for a specific administrative enquiry. The requested authority shall undertake the administrative enquiry in consultation of the requesting authority where necessary. If the requested authority takes the view that no administrative enquiry is necessary, it shall immediately inform the requesting authority of the reasons thereof.

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Notwithstanding the first subparagraph, an enquiry into the amounts declared or those that should have been declared by a taxable person established in the Member State of the requested authority, in connection with supplies of goods or services which are made by this taxable person and which are taxable in the Member State of the requesting authority, may be refused solely on any of the following grounds:

- a on the grounds provided for in Article 54(1), assessed by the requested authority in conformity with a statement of best practices concerning the interaction of this paragraph and Article 54(1), to be adopted in accordance with the procedure provided for in Article 58(2);
- b on the grounds provided for in Article 54(2), (3) and (4);
- c on the grounds that the requested authority had already supplied the requesting authority with information on the same taxable person as a result of an administrative enquiry held less than two years previously.

Where the requested authority refuses an administrative enquiry referred to in the second subparagraph on the grounds set out in point (a) or (b), it shall nevertheless provide to the requesting authority the dates and values of any relevant supplies made by the taxable person in the Member State of the requesting authority over the previous two years.]

[^{F4a} Where the competent authorities of at least two Member States consider that an administrative enquiry into the amounts referred to in the second subparagraph of paragraph 4 of this Article is required and submit a common reasoned request containing indications or evidence of risks of VAT evasion or fraud, the requested authority shall not refuse to undertake that enquiry except on the grounds provided for in point (b) of Article 54(1), Article 54(2), (3) or (4). Where the requested Member State already possesses the information requested, it shall provide this information to the requesting Member States. Where the requesting Member States are not satisfied with the information received, they shall inform the requested Member State to proceed further with the administrative enquiry.

If the requested Member State so requires, officials authorised by the requesting authorities shall take part in the administrative enquiry. Such administrative enquiry shall be carried out jointly and shall be conducted under the direction and according to the legislation of the requested Member State. The officials of the requesting authorities shall have access to the same premises and documents as the officials of the requested authority and, in so far as it is permitted under the legislation of the requested Member State for its officials, be able to interview taxable persons. The inspection powers of the officials of the requesting authorities shall be exercised for the sole purpose of carrying out the administrative enquiry.

Where the requested Member State has not required officials from the requesting Member States, the officials from any of the requesting Member States shall be able to be present during the administrative enquiry exercising the powers provided for in Article 28(2), in so far as conditions under the national law of the requested Member State are met. In any case, the officials from those requesting Member States shall be able to be present for consultation.

Where officials from the requesting Member States have to participate or have to be present, the administrative enquiry shall be carried out only when such participation or presence for the purposes of the administrative enquiry is ensured.]

5 In order to obtain the information sought or to conduct the administrative enquiry requested, the requested authority or the administrative authority to which it has recourse shall proceed as though acting on its own account or at the request of another authority in its own Member State.

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Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)

Textual Amendments

- F2** Deleted by Council Regulation (EU) 2018/1541 of 2 October 2018 amending Regulations (EU) No 904/2010 and (EU) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax.
- F3** Substituted by Council Regulation (EU) 2018/1541 of 2 October 2018 amending Regulations (EU) No 904/2010 and (EU) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax.
- F4** Inserted by Council Regulation (EU) 2018/1541 of 2 October 2018 amending Regulations (EU) No 904/2010 and (EU) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax.

Article 8

Requests for information and for administrative enquiries pursuant to Article 7 shall be sent using a standard form adopted in accordance with the procedure provided for in Article 58(2), except in the cases referred to in Article 50 or in exceptional cases where the request includes the reasons for which the requesting authority considers the standard form not to be appropriate.

Article 9

1 At the request of the requesting authority, the requested authority shall communicate to it any pertinent information it obtains or has in its possession as well as the results of administrative enquiries, in the form of reports, statements and any other documents, or certified true copies or extracts thereof.

2 Original documents shall be provided only where this is not contrary to the provisions in force in the Member State in which the requested authority is established.

SECTION 2

Time limit for providing information

Article 10

The requested authority shall provide the information referred to in Articles 7 and 9 as quickly as possible and no later than three months following the date of receipt of the request.

However, where the requested authority is already in possession of that information, the time limit shall be reduced to a maximum period of one month.

Article 11

In certain special categories of cases, time limits which are different from those provided for in Article 10 may be agreed between the requested and the requesting authorities.

Article 12

Where the requested authority is unable to respond to the request by the deadline, it shall inform the requesting authority in writing forthwith of the reasons for its failure to do so, and when it considers it would be likely to be able to respond.

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Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)

CHAPTER III

EXCHANGE OF INFORMATION WITHOUT PRIOR REQUEST

Article 13

1 The competent authority of each Member State shall, without prior request, forward the information referred to in Article 1 to the competent authority of any other Member State concerned, in the following cases:

- a where taxation is deemed to take place in the Member State of destination and the information provided by the Member State of origin is necessary for the effectiveness of the control system of the Member State of destination;
- b where a Member State has grounds to believe that a breach of VAT legislation has been committed or is likely to have been committed in the other Member State;
- c where there is a risk of tax loss in the other Member State.

2 The exchange of information without prior request shall either be automatic, in accordance with Article 14, or spontaneous, in accordance with Article 15.

[^{F3} The information shall be forwarded by means of standard forms except in the cases referred to in Article 50 or in specific cases when the respective competent authorities deem other secure means more appropriate and agree to use them.

The Commission shall adopt by means of implementing acts the standard forms. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 58(2).]

Textual Amendments

- F3** Substituted by [Council Regulation \(EU\) 2018/1541 of 2 October 2018 amending Regulations \(EU\) No 904/2010 and \(EU\) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax.](#)

Article 14

1 The following shall be determined in accordance with the procedure provided for in Article 58(2):

- a the exact categories of information subject to automatic exchange;
- b the frequency of the automatic exchange for each category of information; and
- c the practical arrangements for the automatic exchange of information.

A Member State may abstain from taking part in the automatic exchange of information with respect to one or more categories where the collection of information for such exchange would require the imposition of new obligations on persons liable for VAT or would impose a disproportionate administrative burden on the Member State.

The results of the automatic exchange of information for each category shall be reviewed once a year by the Committee referred to in Article 58(1), so as to ensure that this type of exchange takes place only where it is the most efficient means for the exchange of information.

2 As from 1 January 2015, the competent authority of each Member State shall, in particular, exchange information automatically in order to enable Member States of consumption to ascertain whether taxable persons not established in their territory declare and

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correctly pay the VAT due with regard to telecommunication services, broadcasting services and electronically supplied services, regardless of whether those taxable persons 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.

Article 15

The competent authorities of the Member States shall, by spontaneous exchange, forward to the competent authorities of the other Member States any information referred to in Article 13(1) which has not been forwarded under the automatic exchange referred to in Article 14 of which they are aware and which they consider may be useful to those competent authorities.

CHAPTER IV

FEEDBACK

Article 16

Where a competent authority provides information pursuant to Article 7 or 15, it may request the competent authority which receives the information to give feedback thereon. If such request is made, the competent authority which receives the information shall, without prejudice to the rules on tax secrecy and data protection applicable in its Member State, send feedback as soon as possible, provided that this does not impose a disproportionate administrative burden on it. Practical arrangements shall be determined in accordance with the procedure provided for in Article 58(2).

CHAPTER V

STORAGE AND EXCHANGE OF SPECIFIC INFORMATION

Article 17

- 1 Each Member State shall store in an electronic system the following information:
 - a information which it collects pursuant to Chapter 6 of Title XI of Directive 2006/112/EC;
 - b data on the identity, activity, legal form and address of persons to whom it has issued a VAT identification number, collected pursuant to Article 213 of Directive 2006/112/EC, as well as the date on which that number was issued;
 - c data on VAT identification numbers it has issued which have become invalid, and the dates on which those numbers became invalid; and
 - d information which it collects pursuant to Articles 360, 361, 364 and 365 of Directive 2006/112/EC as well as, from 1 January 2015, information which it collects pursuant to Articles 369c, 369f and 369g of that Directive.
- 2 The technical details concerning the automated enquiry of the information referred to in points (b), (c) and (d) of paragraph 1 shall be adopted in accordance with the procedure provided for in Article 58(2).

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Article 18

To enable the information referred to in Article 17 to be used in the procedures provided for in this Regulation, that information shall be available for at least five years from the end of the first calendar year in which access to the information is to be granted.

Article 19

Member States shall ensure that the information available in the electronic system referred to in Article 17 is kept up-to-date, and is complete and accurate.

Criteria shall be defined, in accordance with the procedure provided for in Article 58(2), to determine which changes are not pertinent, essential or useful and therefore need not be made.

Article 20

1 The information referred to in Article 17 shall be entered into the electronic system without delay.

2 By way of derogation from paragraph 1, the information referred to in Article 17(1)(a) shall be entered into the electronic system no later than one month after the end of the period to which that information relates.

3 By way of derogation from paragraphs 1 and 2, where information is to be corrected in, or added to, the electronic system pursuant to Article 19, the information must be entered no later than one month after the period in which it was collected.

Article 21

1 Every Member State shall grant the competent authority of any other Member State automated access to the information stored pursuant to Article 17.

2 With respect to the information referred to in Article 17(1)(a), at least the following details shall be accessible:

- a VAT identification numbers issued by the Member State receiving the information;
- b the total value of all intra-Community supplies of goods and the total value of all intra-Community supplies of services to persons holding a VAT identification number referred to in point (a) by all operators identified for the purposes of VAT in the Member State providing the information;
- c the VAT identification numbers of the persons who carried out the supplies of goods and services referred to in point (b);
- d the total value of the supplies of goods and services referred to in point (b) from each person referred to in point (c) to each person holding a VAT identification number referred to in point (a);
- e the total value of the supplies of goods and services referred to in point (b) from each person referred to in point (c) to each person holding a VAT identification number issued by another Member State under the following conditions:
 - (i) ^[F3]access is in connection with an investigation into suspected fraud or is to detect fraud;
 - (ii) access is through a Eurofisc liaison official, as referred to in Article 36(1), who holds a personal user identification for the electronic systems allowing access to this information.]
 - (iii) ^[F2]. . . .]

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The values referred to in points (b), (d) and (e) shall be expressed in the currency of the Member State providing the information and shall relate to the periods for submission of the recapitulative statements specific to each taxable person which are established in accordance with Article 263 of Directive 2006/112/EC.

[^{F43} The Commission shall determine by means of implementing acts the practical arrangements as regards the conditions provided for in point (e) of paragraph 2 of this Article in order to enable the Member State providing the information to identify the Eurofisc liaison official accessing the information. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 58(2).]

Textual Amendments

- F2** Deleted by Council Regulation (EU) 2018/1541 of 2 October 2018 amending Regulations (EU) No 904/2010 and (EU) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax.
- F3** Substituted by Council Regulation (EU) 2018/1541 of 2 October 2018 amending Regulations (EU) No 904/2010 and (EU) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax.
- F4** Inserted by Council Regulation (EU) 2018/1541 of 2 October 2018 amending Regulations (EU) No 904/2010 and (EU) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax.

Article 22

1 In order to provide a reasonable level of assurance to tax administrations with regard to the quality and reliability of the information available through the electronic system referred to in Article 17, Member States shall adopt the measures necessary to ensure that the data provided by taxable persons and non-taxable legal persons for their identification for VAT purposes in accordance with Article 214 of Directive 2006/112/EC, are, in their assessment, complete and accurate.

Member States shall implement procedures for checking these data as determined by the results of their risk assessment. The checks shall be carried out, in principle, prior to identification for VAT purposes or, where only preliminary checks are conducted before such identification, no later than six months from such identification.

2 The Member States shall inform the Committee referred to in Article 58(1) of the measures implemented at national level to ensure the quality and reliability of the information in accordance with paragraph 1.

Article 23

Member States shall ensure that the VAT identification number, referred to in Article 214 of Directive 2006/112/EC, is shown as invalid in the electronic system referred to in Article 17 of this Regulation at least in the following situations:

- (a) where persons identified for VAT purposes have stated that their economic activity, as defined in Article 9 of Directive 2006/112/EC, has ceased or where the competent tax administration considers that they have ceased such activity. A tax administration may presume in particular that a person has ceased economic activity when, despite being required to do so, that person has failed to submit VAT returns and recapitulative statements for a year after expiry of the deadline for submission of the first return or statement missed. The person shall have the right to prove the existence of an economic activity by other means;

Status: Point in time view as at 05/11/2018.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)

- (b) where persons have declared false data in order to obtain VAT identification or have failed to communicate changes to their data and, had the tax administration known, the latter would have refused identification for VAT purposes or withdrawn the VAT identification number.

Article 24

Where, for the purposes of Articles 17 to 21, the competent authorities of the Member States exchange information by electronic means, they shall take all measures necessary to ensure compliance with Article 55.

Member States shall be responsible for all necessary developments to their systems to permit the exchange of that information using the CCN/CSI network.

CHAPTER VI

REQUEST FOR ADMINISTRATIVE NOTIFICATION

Article 25

The requested authority shall, at the request of the requesting authority and in accordance with the rules governing the notification of similar instruments in the Member State in which the requested authority is established, notify the addressee of all instruments and decisions which emanate from the competent authorities and concern the application of VAT legislation in the territory of the Member State in which the requesting authority is established.

Article 26

Requests for notification, mentioning the subject of the instrument or decision to be notified, shall indicate the name, address and any other relevant information for identifying the addressee.

Article 27

The requested authority shall inform the requesting authority immediately of its response to the request for notification and notify it, in particular, of the date of notification of the decision or instrument to the addressee.

CHAPTER VII

[^{F3}PRESENCE IN ADMINISTRATIVE OFFICES AND DURING ADMINISTRATIVE ENQUIRIES AND ADMINISTRATIVE ENQUIRIES CARRIED OUT JOINTLY]

Article 28

1 By agreement between the requesting authority and the requested authority, and in accordance with the arrangements laid down by the latter, officials authorised by the requesting authority may, with a view to exchanging the information referred to in Article 1, be present in the offices of the administrative authorities of the requested Member State, or any other place where those authorities carry out their duties. Where the requested information is contained in documentation to which the officials of the requested authority have access, the officials of the requesting authority shall be given copies thereof.

Status: Point in time view as at 05/11/2018.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)

2 By agreement between the requesting authority and the requested authority, and in accordance with the arrangements laid down by the latter, officials authorised by the requesting authority may, with a view to exchanging the information referred to in Article 1, be present during the administrative enquiries carried out in the territory of the requested Member State. Such administrative enquiries shall be carried out exclusively by the officials of the requested authority. The officials of the requesting authority shall not exercise the powers of inspection conferred on officials of the requested authority. They may, however, have access to the same premises and documents as the latter, through the intermediation of the officials of the requested authority and for the sole purpose of carrying out the administrative enquiry.

[^{F4}2a By agreement between the requesting authorities and the requested authority, and in accordance with the arrangements laid down by the latter, officials authorised by the requesting authorities may, with a view to collecting and exchanging the information referred to in Article 1, take part in the administrative enquiries carried out in the territory of the requested Member State. Such administrative enquiries shall be carried out jointly by the officials of the requesting and requested authorities and shall be conducted under the direction and according to the legislation of the requested Member State. The officials of the requesting authorities shall have access to the same premises and documents as the officials of the requested authority and, in so far as it is permitted under the legislation of the requested Member State for its officials, be able to interview taxable persons.

Where it is permitted under the legislation of the requested Member State the officials of the requesting Member States shall exercise the same inspection powers as those conferred on officials of the requested Member State.

The inspection powers of the officials of the requesting authorities shall be exercised for the sole purpose of carrying out the administrative enquiry.

By agreement between the requesting authorities and the requested authority, and in accordance with the arrangements laid down by the requested authority, the participating authorities may draft a common enquiry report.]

[^{F3}3 The officials of the requesting authority present in another Member State in accordance with paragraphs 1, 2 and 2a must at all times be able to produce written authority stating their identity and their official capacity.]

Textual Amendments

- F4** Inserted by [Council Regulation \(EU\) 2018/1541 of 2 October 2018 amending Regulations \(EU\) No 904/2010 and \(EU\) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax.](#)

CHAPTER VIII

SIMULTANEOUS CONTROLS

Article 29

Member States may agree to conduct simultaneous controls whenever they consider such controls to be more effective than controls carried out by only one Member State.

Status: Point in time view as at 05/11/2018.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)

Article 30

1 A Member State shall identify independently the taxable persons which it intends to propose for a simultaneous control. The competent authority of that Member State shall notify the competent authority of the other Member States concerned of the cases proposed for a simultaneous control. It shall give reasons for its choice, as far as possible, by providing the information which led to its decision. It shall specify the period of time during which such controls should be conducted.

2 The competent authority of the Member State that receives the proposal for a simultaneous control shall confirm its agreement or communicate its reasoned refusal to its counterpart authority, in principle within two weeks of receipt of the proposal, but within a month at the latest.

3 Each competent authority of the Member States concerned shall appoint a representative to be responsible for supervising and coordinating the control operation.

CHAPTER IX

PROVIDING INFORMATION TO TAXABLE PERSONS

Article 31

1 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 to Directive 2006/112/EC, are allowed to obtain, for the purposes of such transactions, confirmation by electronic means of the validity of the VAT identification number of any specified person as well as the associated name and address. This information shall correspond to the data referred to in Article 17.

2 Each Member State shall provide confirmation by electronic means of the name and address of the person to whom the VAT identification number has been issued in accordance with its national data protection rules.

3 During the period provided for in Article 357 of Directive 2006/112/EC, paragraph 1 of this Article shall not apply to non-established taxable persons supplying telecommunication services and radio and television broadcasting services.

Article 32

1 The Commission shall, on the basis of the information provided by the Member States, publish on its website the details of the provisions approved by each Member State which transpose Chapter 3 of Title XI of Directive 2006/112/EC.

2 The details and format of the information to be submitted shall be decided in accordance with the procedure provided for in Article 58(2).

Status: Point in time view as at 05/11/2018.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)

CHAPTER X

EUROFISC

Article 33

[^{F3}1 In order to promote and facilitate multilateral cooperation in the fight against VAT fraud, this Chapter establishes a network for the swift exchange, processing and analysis of targeted information on cross-border fraud between Member States and for the coordination of any follow-up actions ('Eurofisc').]

- 2 Within the framework of Eurofisc, Member States shall:
- a establish a multilateral early warning mechanism for combating VAT fraud;
 - [^{F3}b carry out and coordinate the swift multilateral exchange and the joint processing and analysis of targeted information on cross-border fraud in the subject areas in which Eurofisc operates ('Eurofisc working fields');
 - c coordinate the work of the Eurofisc liaison officials as referred to in Article 36(1) of the participating Member States in acting on warnings and information received;]
 - [^{F4}d coordinate participating Member States' administrative enquiries of fraud identified by the Eurofisc liaison officials as referred to in Article 36(1) without the power to require Member States to carry out administrative enquiries.]

Textual Amendments

- F3** Substituted by [Council Regulation \(EU\) 2018/1541 of 2 October 2018 amending Regulations \(EU\) No 904/2010 and \(EU\) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax.](#)
- F4** Inserted by [Council Regulation \(EU\) 2018/1541 of 2 October 2018 amending Regulations \(EU\) No 904/2010 and \(EU\) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax.](#)

Article 34

1 Member States shall participate in the Eurofisc working fields of their choice and may also decide to terminate their participation therein.

[^{F3}2 Member States having chosen to take part in a Eurofisc working field shall actively participate in the multilateral exchange and the joint processing and analysis of targeted information on cross-border fraud between all participating Member States and in the coordination of any follow-up actions.]

3 Information exchanged shall be confidential, as provided for in Article 55.

Textual Amendments

- F3** Substituted by [Council Regulation \(EU\) 2018/1541 of 2 October 2018 amending Regulations \(EU\) No 904/2010 and \(EU\) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax.](#)

Status: Point in time view as at 05/11/2018.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)

[^{F3} Article 35

The Commission shall provide Eurofisc with technical and logistical support. The Commission shall not have access to the information referred to in Article 1, which may be exchanged over Eurofisc, except in the circumstances provided for in Article 55(2).]

Textual Amendments

F3 Substituted by Council Regulation (EU) 2018/1541 of 2 October 2018 amending Regulations (EU) No 904/2010 and (EU) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax.

Article 36

1 The competent authorities of each Member State shall designate at least one Eurofisc liaison official. Eurofisc liaison officials shall be competent officials within the meaning of Article 2(1)(c) and shall carry out the activities referred to in Article 33(2). They shall remain answerable only to their national administrations.

[^{F4}1a The liaison officials of the Member States shall designate a Eurofisc chairperson among the Eurofisc liaison officials, for a limited period of time.

The liaison officials of the Member States shall:

- a agree on the establishment and termination of Eurofisc working fields;
- b examine any issues relating to the operational functioning of Eurofisc;
- c assess, at least on a yearly basis, the effectiveness and efficiency of the operation of Eurofisc activities;
- d approve the annual report, referred to in Article 37.]

[^{F3}2 The liaison officials of the Member States participating in a particular Eurofisc working field ('participating Eurofisc liaison officials') shall designate a Eurofisc working field coordinator, among the participating Eurofisc liaison officials, for a limited period of time.

Eurofisc working field coordinators shall:

- a collate the information received from the participating Eurofisc liaison officials as agreed by the working field participants and shall make all information available to the other participating Eurofisc liaison officials; this information shall be exchanged by electronic means;
- b ensure that the information received from the participating Eurofisc liaison officials is processed and analysed together with the relevant targeted information on cross-border fraud communicated or collected pursuant to this Regulation, as agreed by the participants in the working field, and shall make the result available to all participating Eurofisc liaison officials;
- c provide feedback to all participating Eurofisc liaison officials;
- d submit an annual report on the activities of the working field to the liaison officials of the Member States.]

[^{F4}3 Eurofisc working field coordinators may request relevant information from the European Union Agency for Law Enforcement Cooperation ('Europol') and the European Anti-Fraud Office ('OLAF'). For this purpose and as agreed by the working field participants they may send them as much information as necessary in order to receive the requested information.

Status: Point in time view as at 05/11/2018.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)

4 Eurofisc working field coordinators shall make the information received from Europol and OLAF available to the other participating Eurofisc liaison officials; this information shall be exchanged by electronic means.

5 Eurofisc working field coordinators shall also ensure that the information received from Europol and OLAF, is processed and analysed together with the relevant targeted information communicated or collected pursuant to this Regulation, as agreed by the working field participants, and shall make the results available to the participating Eurofisc liaison officials.]

Textual Amendments

- F3** Substituted by Council Regulation (EU) 2018/1541 of 2 October 2018 amending Regulations (EU) No 904/2010 and (EU) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax.
- F4** Inserted by Council Regulation (EU) 2018/1541 of 2 October 2018 amending Regulations (EU) No 904/2010 and (EU) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax.

[^{F3} Article 37

The Eurofisc chairperson shall submit an annual report on the activities of all of the working fields to the Committee referred to in Article 58(1).

The Commission shall adopt by means of implementing acts the procedural arrangements in relation to Eurofisc. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 58(2).]

Textual Amendments

- F3** Substituted by Council Regulation (EU) 2018/1541 of 2 October 2018 amending Regulations (EU) No 904/2010 and (EU) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax.

CHAPTER XI

PROVISIONS CONCERNING THE SPECIAL SCHEMES IN CHAPTER 6 OF TITLE XII OF DIRECTIVE 2006/112/EC

SECTION 1

Provisions applicable until 31 December 2014

Article 38

The following provisions shall apply concerning the special scheme provided for in Chapter 6 of Title XII of Directive 2006/112/EC. The definitions contained in Article 358 of that Directive shall also apply for the purpose of this Chapter.

Status: Point in time view as at 05/11/2018.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)

Article 39

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 by electronic means. The technical details, including a common electronic message, shall be determined in accordance with the procedure provided for in Article 58(2) of this Regulation.

2 The Member State of identification shall transmit this information 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 non-established taxable person. 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 58(2).

3 The Member State of identification shall without delay inform by electronic means the competent authorities of the other Member States if a non-established taxable person is excluded from the identification register.

Article 40

1 The return with the details set out in Article 365 of Directive 2006/112/EC is to be submitted by electronic means. The technical details, including a common electronic message, shall be determined in accordance with the procedure provided for in Article 58(2) of this Regulation.

2 The Member State of identification shall transmit this information by electronic means to the competent authority of the Member State concerned at the latest 10 days after the end of the month during which the return was received. 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 58(2).

3 The Member State of identification shall transmit by electronic means to the Member State of consumption the information needed to link each payment with a relevant quarterly tax return.

Article 41

1 The Member State of identification shall ensure that the amount the non-established taxable person has paid is transferred to the bank account denominated in euro which has been designated by the Member State of consumption to which the payment is due. Member States which required the payments 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 transfer shall take place at the latest 10 days after the end of the month during which the payment was received.

2 If the non-established taxable person does not pay the total tax due, the Member State of identification shall ensure that the payment is transferred to the Member States of consumption in proportion to the tax due in each Member State. The Member State of

Status: Point in time view as at 05/11/2018.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)

identification shall inform by electronic means the competent authorities of the Member States of consumption thereof.

Article 42

Member States shall notify by electronic means the competent authorities of the other Member States of the relevant bank account numbers for receiving payments according to Article 41.

Member States shall without delay notify by electronic means the competent authorities of the other Member States and the Commission of changes in the standard tax rate.

SECTION 2

Provisions applicable from 1 January 2015

Article 43

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

Article 44

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 by electronic means. The technical details, including a common electronic message, shall be determined in accordance with the procedure provided for in Article 58(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 pursuant to 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 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 58(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.

Article 45

1 The return with the details set out in Articles 365 and 369g of Directive 2006/112/EC is to be submitted by electronic means. The technical details, including a common electronic message, shall be determined in accordance with the procedure provided for in Article 58(2) of this Regulation.

2 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

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Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)

after the end of the month during 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 58(2) of this Regulation.

3 The Member State of identification shall transmit by electronic means to the Member State of consumption the information needed to link each payment with a relevant quarterly tax return.

Article 46

1 The Member State of identification shall ensure that the amount the non-established taxable person has paid is transferred to the bank account denominated in euro which has been designated by the Member State of consumption to which the payment is due. Member States which required the payments 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 transfer shall take place at the latest 10 days after the end of the month during which the payment was received.

2 If the non-established taxable person does not pay the total tax due, the Member State of identification shall ensure that the payment is transferred to the Member States of consumption in proportion to the tax due in each Member State. The Member State of identification shall inform by electronic means the competent authorities of the Member States of consumption thereof.

3 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 paragraphs 1 and 2 of this Article, 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 %.

Article 47

Member States shall notify by electronic means the competent authorities of the other Member States of the relevant bank account numbers for receiving payments in accordance with Article 46.

Member States shall without delay notify by electronic means the competent authorities of the other Member States and the Commission of changes in the tax rate applicable for supplies of telecommunication services, broadcasting services and electronically supplied services.

CHAPTER XII

EXCHANGE AND CONSERVATION OF INFORMATION IN THE CONTEXT OF THE PROCEDURE FOR THE REFUND OF VAT TO

Status: Point in time view as at 05/11/2018.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)

TAXABLE PERSONS NOT ESTABLISHED IN THE MEMBER STATE OF REFUND BUT ESTABLISHED IN ANOTHER MEMBER STATE

Article 48

1 Where the competent authority of the Member State of establishment receives an application for refund of VAT pursuant to Article 5 of Directive 2008/9/EC, and Article 18 of that Directive is not applicable, it shall, within 15 calendar days of its receipt and by electronic means, forward the application to the competent authorities of each Member State of refund concerned with confirmation that the applicant as defined in Article 2(5) of Directive 2008/9/EC is a taxable person for the purposes of VAT and that the identification or registration number given by this person is valid for the refund period.

2 The competent authorities of each Member State of refund shall notify by electronic means the competent authorities of the other Member States of any information required by them pursuant to Article 9(2) of Directive 2008/9/EC. 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 58(2) of this Regulation.

3 The competent authorities of each Member State of refund shall notify by electronic means the competent authorities of the other Member States if they want to make use of the option to require the applicant to provide the description of business activity by harmonised codes as referred to in Article 11 of Directive 2008/9/EC.

The harmonised codes referred to in the first subparagraph shall be determined in accordance with the procedure provided for in Article 58(2) of this Regulation on the basis of the NACE classification established by Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2⁽⁸⁾.

CHAPTER XIII

[^{F3}RELATIONS WITH THE COMMISSION AND OTHER INSTITUTIONS, BODIES, OFFICES AND AGENCIES OF THE UNION]

Article 49

1 The Member States and the Commission shall examine and evaluate how the arrangements for administrative cooperation provided for in this Regulation are working. The Commission shall pool the Member States' experience with the aim of improving the operation of those arrangements.

2 The Member States shall communicate to the Commission any available information relevant to their application of this Regulation.

[^{F4}2a The Member States may communicate to OLAF relevant information to enable it to consider appropriate action in accordance with its mandate. Where that information was received from another Member State, the latter may require that the transmission of the information be subject to its prior agreement.]

3 A list of statistical data needed for evaluation of this Regulation shall be determined in accordance with the procedure provided for in Article 58(2). The Member States shall communicate these data to the Commission in so far as they are available and the communication is not likely to involve administrative burdens which would be unjustified.

Status: Point in time view as at 05/11/2018.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)

4 With a view to evaluating the effectiveness of this system of administrative cooperation in combating tax evasion and tax avoidance, Member States may communicate to the Commission any other information referred to in Article 1.

5 The Commission shall forward the information referred to in paragraphs 2, 3 and 4 to the other Member States concerned.

6 Where necessary, in addition to what is required by other provisions in this Regulation, the Commission shall send to the competent authorities of each Member State any information that might enable them to combat fraud in the field of VAT as soon as it obtains such information.

7 The Commission may, at the request of a Member State, provide its expert opinions, technical or logistical assistance, or any other support with a view to attaining the objectives of this Regulation.

Textual Amendments

- F4** Inserted by [Council Regulation \(EU\) 2018/1541 of 2 October 2018 amending Regulations \(EU\) No 904/2010 and \(EU\) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax.](#)

CHAPTER XIV

RELATIONS WITH THIRD COUNTRIES

Article 50

1 When the competent authority of a Member State receives information from a third country, that authority may pass the information on to the competent authorities of Member States which might be interested in it and, in any event, to all those which request it, in so far as permitted by assistance arrangements with that particular third country.

2 Competent authorities may communicate, in accordance with their domestic provisions on the communication of personal data to third countries, information obtained in accordance with this Regulation to a third country, provided that the following conditions are met:

- a the competent authority of the Member State from which the information originates has consented to that communication; and
- b the third country concerned has given an undertaking to provide the cooperation required to gather evidence of the irregular nature of transactions which appear to contravene VAT legislation.

CHAPTER XV

CONDITIONS GOVERNING THE EXCHANGE OF INFORMATION

Article 51

1 Information communicated pursuant to this Regulation shall, as far as possible, be provided by electronic means under arrangements to be adopted in accordance with the procedure provided for in Article 58(2).

Status: Point in time view as at 05/11/2018.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)

2 Where the request has not been lodged completely through the electronic system referred to in paragraph 1, the requested authority shall confirm receipt of the request by electronic means without delay and, in any event, no later than five working days after receipt.

Where an authority has received a request or information of which it is not the intended recipient, it shall send a message by electronic means to the sender without delay and, in any event, no later than five working days after receipt.

Article 52

Requests for assistance, including requests for notification, and attached documents may be made in any language agreed between the requested and requesting authority. The said requests shall be accompanied by a translation into the official language or one of the official languages of the Member State in which the requested authority is established only in special cases when the requested authority gives a reason for asking for such a translation.

Article 53

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 this Regulation are operational. A service level agreement ensuring the technical quality and quantity of the services to be delivered by the Commission and the Member States for the functioning of those communication and information exchange systems shall be decided in accordance with the procedure provided for in Article 58(2). The Commission shall be responsible for whatever development of the CCN/CSI network is necessary to permit the exchange of this information between Member States. Member States shall be responsible for whatever development of their systems is necessary to permit this information to be exchanged using the CCN/CSI network.

Member States shall waive all claims for the reimbursement of expenses incurred in applying this Regulation except, where appropriate, in respect of fees paid to experts.

Article 54

1 The requested authority in one Member State shall provide a requesting authority in another Member State with the information referred to in Article 1 provided that:

- a the number and the nature of the requests for information made by the requesting authority within a specific period do not impose a disproportionate administrative burden on that requested authority;
- b that requesting authority has exhausted the usual sources of information which it could have used in the circumstances to obtain the information requested, without running the risk of jeopardising the achievement of the desired end.

2 This Regulation shall impose no obligation to have enquiries carried out or to provide information on a particular case if the laws or administrative practices of the Member State which would have to supply the information do not authorise the Member State to carry out those enquiries or collect or use that information for that Member State's own purposes.

3 The competent authority of a requested Member State may refuse to provide information where the requesting Member State is unable, for legal reasons, to provide similar information. The Commission shall be informed of the grounds of the refusal by the requested Member State.

Status: Point in time view as at 05/11/2018.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)

4 The provision of information may be refused where it would lead to the disclosure of a commercial, industrial or professional secret or of a commercial process, or of information whose disclosure would be contrary to public policy.

5 Paragraphs 2, 3 and 4 should on no account be interpreted as authorising the requested authority of a Member State to refuse to supply information on a taxable person identified for VAT purposes in the Member State of the requesting authority on the sole grounds that this information is held by a bank, other financial institution, nominee or person acting in an agency or fiduciary capacity or because it relates to ownership interests in a legal person.

6 The requested authority shall inform the requesting authority of the grounds for refusing a request for assistance.

7 A minimum threshold triggering a request for assistance may be adopted in accordance with the procedure provided for in Article 58(2).

Article 55

1 Information communicated or collected in any form pursuant to this Regulation, including any information to which an official has had access in the circumstances set out in Chapters VII, VIII and X, and in the cases referred to in paragraph 2 of this Article, shall be covered by the obligation of official secrecy and enjoy the protection extended to similar information under both the national law of the Member State which received it and the corresponding provisions applicable to Union authorities. Such information shall be used only in the circumstances provided for in this Regulation.

Such information may be used for the purpose of establishing the assessment base or the collection or administrative control of tax for the purpose of establishing the assessment base.

The information may also be used for the assessment of other levies, duties, and taxes covered by Article 2 of Council Directive 2008/55/EC of 26 May 2008 on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures⁽⁹⁾.

In addition, it may be used in connection with judicial proceedings that may involve penalties, initiated as a result of infringements of tax law without prejudice to the general rules and legal provisions governing the rights of defendants and witnesses in such proceedings.

[^{F32} Persons duly accredited by the Security Accreditation Authority of the Commission may have access to this information only in so far as it is necessary for care, maintenance and development of the electronic systems hosted by the Commission and used by the Member States to implement this Regulation.]

3 By way of derogation from paragraph 1, the competent authority of the Member State providing the information shall permit its use for other purposes in the Member State of the requesting authority, if, under the legislation of the Member State of the requested authority, the information can be used for similar purposes.

4 Where the requesting authority considers that information it has received from the requested authority is likely to be useful to the competent authority of a third Member State, it may transmit it to the latter authority. It shall inform the requested authority thereof in advance. The requested authority may require that the transmission of the information to a third party be subject to its prior agreement.

Status: Point in time view as at 05/11/2018.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)

[^{F35} All storage, processing or exchange of information referred to in this Regulation is subject to Regulations (EU) 2016/679⁽¹⁰⁾ and (EC) No 45/2001⁽¹¹⁾ of the European Parliament and of the Council. However, Member States shall for the purpose of the correct application of this Regulation, restrict the scope of the obligations and rights provided for in Articles 12 to 15, 17, 21 and 22 of Regulation (EU) 2016/679. Such restrictions shall be limited to what is strictly necessary in order to safeguard the interests referred to in point (e) of Article 23(1) of that Regulation, in particular to:

- a enable the competent authorities of the Member States to fulfil their tasks properly for the purposes of this Regulation; or
- b avoid obstructing official or legal enquiries, analyses, investigations or procedures for the purposes of this Regulation and to ensure that the prevention, investigation and detection of tax evasion and tax fraud is not jeopardised.

The processing and storage of information referred to in this Regulation shall be carried out only for the purposes referred to in Article 1(1) of this Regulation and the information shall not be further processed in a way that is incompatible with those purposes. The processing of personal data on the basis of this Regulation for any other purposes, such as commercial purposes, shall be prohibited. The storage periods of this information shall be limited to the extent necessary to achieve those purposes. The storage periods of the information referred to in Article 17 of this Regulation shall be determined as per the limitation periods provided for in the legislation of the Member State concerned but no longer than ten years.]

Textual Amendments

- F3** Substituted by [Council Regulation \(EU\) 2018/1541 of 2 October 2018 amending Regulations \(EU\) No 904/2010 and \(EU\) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax.](#)

Article 56

Reports, statements and any other documents, or certified true copies or extracts thereof, obtained by the staff of the requested authority and communicated to the requesting authority under the assistance provided for by this Regulation may be invoked as evidence by the competent bodies of the Member State of the requesting authority on the same basis as similar documents provided by another authority of that country.

Article 57

1 For the purpose of applying this Regulation, Member States shall take all necessary measures to:

- a ensure effective internal coordination between the competent authorities;
- b establish direct cooperation between the authorities authorised for the purposes of such coordination;
- c ensure the smooth operation of the information exchange arrangements provided for in this Regulation.

2 The Commission shall communicate to each Member State, as quickly as possible, any information which it receives and which it is able to provide.

Status: Point in time view as at 05/11/2018.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)

CHAPTER XVI

FINAL PROVISIONS

Article 58

1 The Commission shall be assisted by the Standing Committee on Administrative Cooperation.

[^{F32} Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 of the European Parliament and of the Council⁽¹²⁾ shall apply.]

Textual Amendments

F3 Substituted by [Council Regulation \(EU\) 2018/1541 of 2 October 2018 amending Regulations \(EU\) No 904/2010 and \(EU\) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax.](#)

Article 59

1 By 1 November 2013 and thereafter every five years, the Commission shall report to the European Parliament and the Council on the application of this Regulation.

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

Article 60

1 This Regulation shall be without prejudice to the fulfilment of any wider obligations in relation to mutual assistance ensuing from other legal acts, including bilateral or multilateral agreements.

2 Where the Member States conclude bilateral arrangements on matters covered by this Regulation, in particular pursuant to Article 11, other than to deal with individual cases, they shall inform the Commission without delay. The Commission shall in turn inform the other Member States.

Article 61

Regulation (EC) No 1798/2003 shall be repealed with effect from 1 January 2012. However, the effects of Article 2(1) of that Regulation shall be maintained until the date of publication by the Commission of the list of competent authorities referred to in Article 3 of this Regulation.

Chapter V, with the exception of Article 27(4), of that Regulation shall remain applicable until 31 December 2012.

References made to the repealed Regulation shall be construed as references to this Regulation.

Article 62

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2012.

However, Articles 33 to 37 shall apply from 1 November 2010;

Status: Point in time view as at 05/11/2018.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)

Chapter V, with the exception of Articles 22 and 23, shall apply from 1 January 2013;

— Articles 38 to 42 shall apply from 1 January 2012 until 31 December 2014; and

— Articles 43 to 47 shall apply from 1 January 2015.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

*Status: Point in time view as at 05/11/2018.**Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)*F² ANNEX I[F²
F²]

ANNEX II

REPEALED REGULATION AND SUCCESSIVE AMENDMENTS

| | |
|--------------------------------------|-----------------------------|
| Council Regulation (EC) No 1798/2003 | OJ L 264, 15.10.2003, p. 1. |
| Council Regulation (EC) No 885/2004 | OJ L 168, 1.5.2004, p. 1. |
| Council Regulation (EC) No 1791/2006 | OJ L 363, 20.12.2006, p. 1. |
| Council Regulation (EC) No 143/2008 | OJ L 44, 20.2.2008, p. 1. |
| Council Regulation (EC) No 37/2009 | OJ L 14, 20.1.2009, p. 1. |

ANNEX III

CORRELATION TABLE

| Regulation (EC) No 1798/2003 | This Regulation |
|--|--|
| First and second subparagraphs of Article 1(1) | First and second subparagraphs of Article 1(1) |
| Third subparagraph of Article 1(1) | — |
| Fourth subparagraph of Article 1(1) | Article 1(4) |
| Article 1(2) | Article 1(3) |
| Article 2(1)(1) | Article 3 |
| Article 2(1)(2) | Article 2(1)(a) |
| Article 2(1)(3) | Article 2(1)(b) |
| Article 2(1)(4) | Article 2(1)(c) |
| Article 2(1)(5) | Article 2(1)(d) |
| Article 2(1)(6) | Article 2(1)(e) |
| Article 2(1)(7) | Article 2(1)(f) |
| Article 2(1)(8) | Article 2(1)(g) |
| Article 2(1)(9) | Article 2(1)(h) |
| Article 2(1)(10) | Article 2(1)(i) |
| Article 2(1)(11) | Article 2(1)(j) |

Status: Point in time view as at 05/11/2018.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)

| | |
|-------------------------------|---|
| Article 2(1)(12) | Article 2(1)(k) |
| Article 2(1)(13) | Article 2(1)(l) |
| Article 2(1)(14) | — |
| Article 2(1)(15) | Article 2(1)(m) |
| Article 2(1)(16) | Article 2(1)(n) |
| Article 2(1)(17) | — |
| Article 2(1)(18) | Article 2(1)(p) |
| Article 2(1)(19) | Article 2(1)(q) |
| Article 2(2) | Article 2(2) |
| Article 3(1) | — |
| Article 3(2) | Article 4(1) |
| Article 3(3) | Article 4(2) |
| Article 3(4) | Article 4(3) |
| Article 3(5) | Article 4(4) |
| Article 3(6) | Article 5 |
| Article 3(7) | Article 6 |
| Article 4 | — |
| Article 5(1) | Article 7(1) |
| Article 5(2) | Article 7(2) |
| Article 5(3) | Up to 31 December 2014: Article 7(3) From 1 January 2015: Article 7(4) |
| Article 5(4) | Article 7(5) |
| Article 6 | Article 8 |
| Article 7 | Article 9 |
| Article 8 | Article 10 |
| Article 9 | Article 11 |
| Article 10 | Article 12 |
| Article 11 | Article 28 |
| Article 12 | Article 29 |
| Article 13 | Article 30 |
| Article 14 | Article 25 |
| Article 15 | Article 26 |
| Article 16 | Article 27 |
| Article 17 first subparagraph | Article 13(1) |

*Status: Point in time view as at 05/11/2018.**Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)*

| | |
|--|---|
| Article 17 second subparagraph | Article 14(2) |
| Article 18 | First subparagraph of Article 14(1) |
| Article 19 | — |
| Article 20 | — |
| Article 21 | Second subparagraph of Article 14(1) |
| First subparagraph of Article 22(1) | Article 17(1)(a) |
| Second subparagraph of Article 22(1) | Article 18 |
| Article 22(2) | Article 19 |
| First paragraph of Article 23 | Article 21(2)(a) and (b) |
| Second paragraph of Article 23 | Second subparagraph of Article 21(2) |
| First paragraph of Article 24, point (1) | Article 21(2)(c) |
| First paragraph of Article 24, point (2) | Article 21(2)(d) |
| Second paragraph of Article 24 | Second subparagraph of Article 21(2) |
| Article 25(1) | Article 20(1) |
| Article 25(2) | Article 20(2) |
| Article 25(3) | — |
| Article 26 | Article 24 first subparagraph |
| Article 27(1) | Article 17(1)(b) |
| Article 27(2) | Article 17(1)(b) and Article 21(1) |
| Article 27(3) | Article 17(1)(b) and Article 21(1) |
| Article 27(4) | Article 31 |
| Article 27(5) | Article 24 |
| Article 28 | Up to 31 December 2014: Article 38 From 1 January 2015: Article 43 |
| Article 29 | Up to 31 December 2014: Article 39 From 1 January 2015: Article 44 |
| Article 30 | Up to 31 December 2014: Article 40 From 1 January 2015: Article 45 |
| Article 31 | Article 17(1)(d) |
| Article 32 | Up to 31 December 2014: Article 41 From 1 January 2015: Article 46 |
| Article 33 | Up to 31 December 2014: Article 42 From 1 January 2015: Article 47 |
| Article 34 | — |
| Article 34a | Article 48 |
| Article 35 | Article 49 |

Status: Point in time view as at 05/11/2018.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)

| | |
|------------|---------------|
| Article 36 | Article 50 |
| Article 37 | Article 51(1) |
| Article 38 | Article 52 |
| Article 39 | Article 53 |
| Article 40 | Article 54 |
| Article 41 | Article 55 |
| Article 42 | Article 56 |
| Article 43 | Article 57 |
| Article 44 | Article 58 |
| Article 45 | Article 59 |
| Article 46 | Article 60 |
| Article 47 | Article 61 |
| Article 48 | Article 62 |

Status: Point in time view as at 05/11/2018.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010. (See end of Document for details)

- (1) Opinion of 5 May 2010 (not yet published in the Official Journal).
- (2) Opinion of 17 February 2010 (not yet published in the Official Journal).
- (3) OJ L 264, 15.10.2003, p. 1.
- (4) OJ L 347, 11.12.2006, p. 1.
- (5) OJ L 44, 20.2.2008, p. 23.
- (6) OJ L 281, 23.11.1995, p. 31.
- (7) OJ L 184, 17.7.1999, p. 23.
- (8) OJ L 393, 30.12.2006, p. 1.
- (9) OJ L 150, 10.6.2008, p. 28.
- (10) [^{F3}Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).]
- (11) [^{F3}Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).]
- (12) [^{F3}Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).]

Textual Amendments

- F3** Substituted by [Council Regulation \(EU\) 2018/1541 of 2 October 2018 amending Regulations \(EU\) No 904/2010 and \(EU\) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax.](#)

Status:

Point in time view as at 05/11/2018.

Changes to legislation:

There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010.