

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

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.

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;

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

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- 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;
  - (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.

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

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[<sup>F1</sup>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.

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.

**Changes to legislation:**

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