

Part One

Directive 2006/112 and several other VAT Directives

are located and “place of arrival” shall mean the place where transport of the goods actually ends.

[Directive 2008/8]

Article 52

Member States need not apply VAT to that part of the intra-Community transport of goods to non-taxable persons taking place over waters which do not form part of the territory of the Community.

[Directive 2008/8]

Subsection 4

Supply of cultural, artistic, sporting, scientific, educational, entertainment and similar services, ancillary transport services and valuations of and work on movable property

Article 53

[Text until 31 December 2010]

The place of supply of services and ancillary services relating to cultural, artistic, sporting, scientific, educational, entertainment or similar activities, such as fairs and exhibitions, including the supply of services of the organisers of such activities, shall be the place where those activities are physically carried out.

[Directive 2008/8]

Article 53

[Text from 1 January 2011]

The place of supply of services in respect of admission to cultural, artistic, sporting, scientific, educational, entertainment or similar events, such as fairs and exhibitions, and of ancillary services related to the admission, supplied to a taxable person, shall be the place where those events actually take place.

[Directive 2008/8]

Article 54

[Text until 31 December 2010]

The place of supply of the following services to non-taxable persons shall be the place where the services are physically carried out:

- a. ancillary transport activities such as loading, unloading, handling and similar activities;

b. valuations of and work on movable tangible property^{*)}.

[Directive 2008/8]

- *) Under Art. 37 of Draft Regulation **/2010, except where the goods being assembled become part of immovable property, the place of the supply of services to a non-taxable person consisting only of the assembly by a taxable person of the different parts of a machine, all of which were provided to him by his customer, shall be established in accordance with Art. 54.

Article 54

[Text from 1 January 2011]

1. *The place of supply of services and ancillary services, relating to cultural, artistic, sporting, scientific, educational, entertainment or similar activities, such as fairs and exhibitions, including the supply of services of the organisers of such activities, supplied to a non-taxable person shall be the place where those activities actually take place.*
2. *The place of supply of the following services to a non-taxable person shall be the place where the services are physically carried out:*
 - a. *ancillary transport activities such as loading, unloading, handling and similar activities;*
 - b. *valuations of and work on movable tangible property.*

[Directive 2008/8]

Subsection 5

Supply of restaurant and catering services

Article 55

The place of supply of restaurant and catering services^{*)} other than those physically carried out on board ships, aircraft or trains during the section of a passenger transport operation effected within the Community, shall be the place where the services are physically carried out.

[Directive 2008/8]

- *) Under Art. 8 of Draft Regulation **/2010,
1. Restaurant and catering services as referred to in Directive 2006/112 mean services consisting of the supply of prepared or unprepared food or beverages or both, for human consumption, accompanied by sufficient support services allowing for the immediate consumption thereof. The provision of food or beverages or both is only one component of the whole in which services shall largely predominate. Restaurant services are the supply of such services on the premises of the supplier, and catering services are the supply of such services off the premises of the supplier.
 2. The supply of prepared or unprepared food or beverages or both, with or without transport included, accompanied by no other support services shall not be considered restaurant and catering services within the meaning of Para. 1.
- *) Under Art. 9 of Draft Regulation **/2010, where the provision of food or beverages or both is made by one taxable person, and the support services allowing for the immediate consumption thereof are provided to the same customer by a different taxable person, each separate supply shall be assessed on its own merits, provided no evidence of abuse of law exists.

- *) Under Art. 39 of Draft Regulation **/2010, where restaurant services and catering services are supplied during the section of a passenger transport operation effected within the Community, that supply shall be covered by Art. 57.
Where restaurant services and catering services are supplied outside such a section but on the territory of a Member State, that supply shall be covered by Art. 55 of that Directive.

Subsection 6 **Hiring of means of transport**

Article 56

1. The place of short-term hiring of a means of transport^{*)} shall be the place where the means of transport is actually put at the disposal of the customer.

- *) Under Art. 41 of Draft Regulation **/2010,
1. "Means of transport" as referred to in Art. 56 and Art. 59(g) shall include vehicles, whether motorised or not, and other equipment and devices designed to transport persons or objects from one place to another, which might be pulled, drawn or pushed by vehicles and which are normally designed and actually capable to be used for transport.
 2. Para. 1 shall apply, in particular, to the following:
 - a. land vehicles, such as cars, motor cycles, bicycles, tricycles and caravans unless fixed to the soil;
 - b. trailers and semi-trailers;
 - c. railway wagons;
 - d. vessels;
 - e. aircraft;
 - f. vehicles specifically designed for the transport of sick or injured persons;
 - g. agricultural tractors and other agricultural vehicles;
 - h. vehicles for military, surveillance or civil defence purposes other than for combat;
 - i. mechanically or electronically propelled invalid carriages.
 3. Para. 1 shall not apply to containers.
- *) Under Art. 43 of Draft Regulation **/2010, where the hiring of a means of transport falls within the scope of Art. 56(1), the place where the means of transport is actually put at the disposal of the customer shall be the place where the means of transport is located when the customer takes physical control over it.

2. **[Text until 31 December 2012]**

For the purposes of paragraph 1, "short-term" shall mean the continuous possession or use^{*)} of the means of transport throughout a period of not more than thirty days and, in the case of vessels, not more than ninety days.

- *) Under Art. 42 of Draft Regulation **/2010,
1. The duration of the continuous possession or use of a means of transport which is the subject of hiring referred to in Art. 56 shall be determined on the basis of the contractual agreement between the parties involved, including any tacit agreement. The contract shall serve as a presumption which may however be rebutted by any means in fact or law in order to establish the actual duration of the continuous possession or use.
Where the period of hiring as set out in the contract is exceeded due to clearly established circumstances outside the control of the parties involved, it shall have no bearing on the established duration of the possession or use of the means of transport.
 2. Where hiring of a means of transport is covered by two or more consecutive contracts between the same parties or where the interval between contracts is two days or less, the duration of the continuous possession or use of the means of

transport under a contract shall take into account any possession or use of that means of transport provided for under previous contracts.

Provided no abuse of law exists, the duration of the continuous possession or use of a means of transport under a contract shall not take into account any possession or use of that means of transport provided for under subsequent contracts.

3. Where the means of transport covered by hiring contracts is not the same, the duration of the continuous possession or use of the means of transport under each contract shall be determined on its own merits, provided no evidence of abuse of law exists.

2. **[Text from 1 January 2013]**

The place of hiring, other than short-term hiring, of a means of transport to a non-taxable person shall be the place where the customer is established^{)}, has his permanent address or usually resides.*

*) Under Art. 27(1) of Draft Regulation **/2010, where, in accordance with Art. 56(2), a supply of services is taxable at the place where the customer is established, or, in the absence of an establishment, where he has his permanent address or usually resides, the supplier shall ascertain that place based on factual information provided by the customer, and verify that information by existing security measures.

*) Under Art. 30(1) of Draft Regulation **/2010, where services covered by Art. 56(2) are supplied to a non-taxable person who is established or, in the absence of an establishment, has his permanent address or usually resides, in more than one place, priority shall be given to the place that best ensures taxation at the place of actual consumption when determining the place of supply of those services.

However, the place of hiring a pleasure boat to a non-taxable person, other than short-term hiring, shall be the place where the pleasure boat is actually put at the disposal of the customer, where this service is actually provided by the supplier from his place of business or a fixed establishment situated in that place.

3. **[Text from 1 January 2013]**

For the purposes of paragraphs 1 and 2, "short-term" shall mean the continuous possession or use of the means of transport throughout a period of not more than thirty days and, in the case of vessels, not more than 90 days.

[Directive 2008/8]

Subsection 7

Supply of restaurant and catering services for consumption on board ships, aircraft or trains

Article 57

1. The place of supply of restaurant and catering services^{*)} which are physically carried out on board ships, aircraft or trains during the section of a passenger transport operation effected within the Community, shall be at the point of departure of the passenger transport operation.

*) For "restaurant and catering services", see Arts. 8 and 9 of Draft Regulation **/2010, p. 39.

*) Under Art. 39 of Draft Regulation **/2010, where restaurant services and catering services are supplied during the section of a passenger transport operation effected within the Community, that supply shall be covered by Art. 57.

Where restaurant services and catering services are supplied outside such a section but on the territory of a Member State, that supply shall be covered by Art. 55 of that Directive.

- *) Under Art. 40 of Draft Regulation **/2010, the place of supply of a single restaurant service or catering service carried out partly during a section of a passenger transport operation effected within the Community, and partly outside such a section but on the territory of a Member State, shall be determined at the beginning of the supply of the service.

2. For the purposes of paragraph 1, “section of a passenger transport operation effected within the Community”^{*)} shall mean the section of the operation effected, without a stopover outside the Community, between the point of departure and the point of arrival of the passenger transport operation.

- *) Under Art. 38 of Draft Regulation **/2010, the section of a passenger transport operation effected within the Community referred to in Art. 57 shall be determined by the journey of the means of transport.

“Point of departure of a passenger transport operation” shall mean the first scheduled point of passenger embarkation within the Community, where applicable after a stopover outside the Community.

“Point of arrival of a passenger transport operation” shall mean the last scheduled point of disembarkation within the Community of passengers who embarked in the Community, where applicable before a stopover outside the Community.

In the case of a return trip, the return leg shall be regarded as a separate transport operation.

[Directive 2008/8]

Subsection 8 **Supply of electronic services to non-taxable persons** *[Text until 31 December 2014]*

Article 58 *[Text until 31 December 2014]*

The place of supply of electronically supplied services^{*)}, in particular those referred to in Annex II, when supplied to non-taxable persons who are established in a Member State, or who have their permanent address or usually reside in a Member State, by a taxable person who has established his business^{*)} outside the Community or has a fixed establishment there from which the service is supplied, or who, in the absence of such a place of business or fixed establishment, has his permanent address^{*)} or usually resides^{*)} outside the Community, shall be the place where the non-taxable person is established, or where he has his permanent address or usually resides.

*) Under Art. 10 of Draft Regulation **/2010,

1. “Electronically supplied services” as referred to in Directive 2006/112 shall include services which are delivered over the Internet or an electronic network and the nature of