

A GUIDE TO THE

European VAT Directives

Introduction to

European VAT **2023**

Volume **1 & 2**

Ben Terra – Julie Kajus

A Guide to the European VAT Directives 2023

Why this book?

Published annually, this two-volume set provides a comprehensive overview of the key elements of the European Union's VAT Directives. Written with ease of use in mind, it covers topics ranging from sources of EU tax law and the effectiveness of EU (indirect tax) law to methods of interpretation, taxable persons and taxable transactions. It serves as an invaluable textbook and reference tool for both advanced tax law or community law students and tax professionals.

Volume 1: Introduction to European VAT

This volume offers a systematic survey of the implications of the EU legal principles on indirect tax matters and of the EU VAT rules in force, and it provides a discussion of the case law of the Court of Justice of the European Union in indirect tax matters, especially in VAT. It is divided into two parts: (i) General subjects; and (ii) European VAT. Part I deals with six subjects: sources of EU tax law; legal principles; legal acts; judicial remedies and judicial protection; effectiveness of EU (indirect tax) law; and methods of interpretation. In Part II, after a general introduction on VAT as fiscal phenomenon, the European VAT is discussed as provided for in the VAT Directive (i.e. Directive 2006/112/EC replacing the First and Sixth VAT Directives) and Implementing Regulation (EU) No. 282/2011 (recast) as amended. VAT issues are illustrated by excerpts of decisions of the Court of Justice of the European Union.

Volume 2: Integrated Text of the VAT Directive and the Implementing Regulation / Integrated text of the Sixth VAT Directive

Volume 2 of A Guide to the European VAT Directives consists of two parts. Part I contains an integrated text of the VAT Directive (Council Directive 2006/112/EC on the common system of value added tax, as amended) and the Implementing Regulation (Implementing Regulation (EU) No. 282/2011, as amended), including references to the guidelines of the VAT Committee. It also contains the two refund VAT Directives (Council Directive 2008/9/EC, as amended, and the Thirteenth Directive (86/560/EEC)) and the three directives granting exemption on importation (Directive 2006/79/EC, Directive 2007/74/EC and Directive 2009/132/EC). Part II contains an integrated text of the Sixth VAT Directive as applicable until 1 January 2007. Volumes 1 and 2 accompany the Terra/Kajus database European VAT Directives, part of the IBFD digital Tax Research Platform.

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A Guide to the European VAT Directives

Volume 1

Introduction to European VAT

2023

Ben Terra – Julie Kajus

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Preface

It has been said that VAT “arouses as much interest as a new execution technique does to somebody waiting in death row”. On the other hand, it has been suggested that VAT may be thought of as the Mata Hari of the tax world, “many are tempted, many succumb, some tremble at the brink, while others leave only to return, eventually, the attraction appears irresistible”. Between the ends of this spectrum VAT is a day-to-day reality within the European Union.

As of 1 July 2013, 28 Member States (from 31 January 2020, 27 Member States) levy VAT based upon a “uniform basis of assessment”. In these Member States the national VAT laws are based on EU legislation, predominantly Directive 2006/112/EC on the common system of value added tax, the recast of the First and Sixth VAT Directives, as amended.

A directive is binding upon each Member State to which it is addressed as to the result to be achieved, but allows the national authorities to choose the form and methods of reaching such end. As a result of this freedom of choice national VAT laws are not identical. However, in the final analysis EU legislation is decisive; individual taxpayers can derive rights from it.

In 1990, we wrote *A Guide to the European VAT Directives*, a two-volume commentary on the European VAT directives. In 1992 these bound volumes were replaced by a loose-leaf version, eventually of six binders of several thousands of pages. In 2004 the loose-leaf version was replaced by an even more extended digital version (updated regularly).

The digital version of the “European VAT Directives”, part of the IBFD digital Tax Research Platform, is accompanied by two bound volumes (replaced yearly):

Volume 1 (“Introduction to European VAT”) is meant to serve as a textbook for advanced students of tax law and/or EU law and as a reference book for (indirect) tax law or EU law practitioners. It offers a systematic survey of the implications of the legal principles on indirect tax matters and VAT rules of the European Union in force and a discussion of the case law of the Court of Justice of the European Union in indirect tax matters, particularly in VAT.

Volume 1 is divided into two parts:

- I) General subjects;
- II) European VAT.

Part I “General subjects” deals with six subjects:

- 1) Sources of EU tax law;
- 2) Legal principles;
- 3) Legal Acts;
- 4) Judicial remedies;
- 5) Effectiveness of EU (indirect tax) law; and
- 6) Methods of interpretation.

In Part II, after a general introduction on VAT as fiscal phenomenon, the European VAT is discussed as provided for in the Sixth VAT Directive as replaced by Council Directive 2006/112/EC on the common system of VAT (the Recast VAT Directive, referred to as “the VAT Directive”). VAT issues are illustrated by excerpts of decisions of the Court of Justice.

In the interest of brevity, we have at various places omitted citations, references to the European Court Reports and footnotes from quoted materials without specifically mentioning the omission.

We have included the changes by the VAT package and updated all chapters and references with the changes by the Lisbon Treaty.

Volume 2 consists of two parts. The first part contains an (unofficial) integrated text of Council Directive 2006/112/EC on the common system of value added tax (“the VAT Directive”), as amended, including implementing Regulation (EU) No. 282/2011, as amended; references to guidelines of the VAT Committee; the refund VAT Directive 2008/9/EC, as amended; the Thirteenth (refund) Directive (86/560/EEC); and the three directives granting exemption on importation (Directive 2006/79/EC on the exemption from taxes of imports of small consignments of goods of a non-commercial character, Directive 2007/74/EC on the exemption from VAT and excise duty of goods imported by persons travelling from third countries and Directive 2009/132/EC regarding exemption from VAT on the final importation of certain goods).

The second part is an (unofficial) integrated text of the Sixth VAT Directive as applicable until 1 January 2007.

Although almost 1,000 cases are covered in Volume 1 of this book, the choice to omit others is entirely ours. We welcome comments from readers.

Ben Terra/Julie Kajus

1 January 2023

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List of Abbreviations

ACT	Advance corporation tax
AG	Advocate General
AIF	Alternative investment funds
ATA	Admission temporaire/Temporary admission
AUT	Authorized unit trust
Bull.	Bulletin
C-	Court case number (as opposed to T- for General Court)
CAP	Common Agricultural Policy
CBR	Cross-border rulings
CC	Customs Code
CCIP	Implementing Customs Code
CCT	Common Customs Tariff
CESOP	Central Electronic System of Payment information
CFI	Court of First Instance
CJEU	Court of Justice of the European Union
CMR	Convention relative au contrat de transport international de marchandises par route
CN	Combined Nomenclature
COM	Document of the Commission of the European Union
CoR	European Committee of the Regions
Coreper	Comité des représentants permanents
CPA	Statistical classification of products by activity
CST	Civil Service Tribunal
CTP	Certified Taxable Person
DAUCC	Delegated Act Union Customs Code
DB	Defined benefit
DC	Defined contribution
DRR	Digital reporting requirements
EC	European Community/Communities
ECA	European Court of Auditors
ECB	European Central Bank
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECOFIN	Council of Ministers for Economic Affairs and Finance
ECR	European Court Reports
ECSC	European Coal and Steel Community
ECtHR	European Court of Human Rights
ECU	European Currency Unit
EDI	Electronic Data Interchange
EEA	European Economic Area
EEAS	External Action Service
EEC	European Economic Community
EEIG	European Economic Interest Grouping
EESC	European Economic and Social Committee
EESV	Europees Economisch Samenwerkingsverband

List of Abbreviations

EFSD	European Financial Stability Facility
EFSD	European Financial Stabilisation Mechanism
EFTA	European Free Trade Association
EIB	European Investment Bank
EMU	Economic and Monetary Union
EP	European Parliament
EPPO	European Public Prosecutor's Office
ESCB	European System of Central Banks
ESM	European Stability Mechanism
ESSC	European Statistical System Committee
EU	European Union
EUA	European Unit of Account
Eurojust	European Union's Judicial Cooperation Unit
Europol	EU Agency for Law Enforcement Cooperation
FTE	Full-time equivalent
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GC	General Court
GDP	Gross Domestic Product
GNI	Gross National Income
GNP	Gross National Product
HS	Harmonized system
IAS	International Accounting Standards
IAUCC	Implementing Act Union Customs Code
IFRS	International Financial Reporting Standards
IGC	Intergovernmental Conference
IGP	Independent group of persons
IMC	Investment Fund Management Company
IMF	International Monetary Fund
IMSI	International Mobile Subscriber Identity
IOSS	Import One-Stop Shop
IP	Internet Protocol
IPO	Initial public offering
IPT	Insurance Premium Tax
I/S	Interessentskab
ITA	Agreement on trade in information technology products
ITC	Investment Trust Company
LRD	Limited risk distributor
MCAs	Monetary Compensatory Amounts
MCC	Mobile Country Code
MCC	Modernized Customs Code
MFF	Multiannual Financial Framework
MOSS	Mini One-Stop Shop
MTIC	Missing Trader Intra-Community
OECD	Organisation for Economic Co-operation and Development
OEIC	Open-ended Investment Company
OJ	Official Journal of the European Communities
OLAF	European Anti-Fraud Office

OMV	Open Market Value
OSS	One-Stop Shop
PAS	Postponed accounting system
QMV	Qualified majority voting
SAD	Single Administrative Document
SCAC	Standing Committee on Administrative Cooperation
SCE	Societas Cooperativa Europaea
SE	Societas Europaea
SICAV	Société d'investissement à capital variable, i.e. open-ended investment companies
SIM	Subscriber Identity Module
SLIM	Simpler Legislation for the Internal Market
SME	Small and medium-sized enterprises
SPE	Societas Privata Europaea
SVR	Single VAT registration
SWIFT	Society for Worldwide Interbank Financial Telecommunication
T-	Tribunal de Première Instance (now the General Court)
TBE services	Telecommunications, broadcasting or electronic services
TEDB	"Taxes in Europe" database (web portal)
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
TOGC	Transfer of a going concern
TRIPS	Trade-Related Aspects of Intellectual Property Rights
UCC	Union Customs Code
UCIT	Undertaking for Collective Investment in Transferable Securities
UMTS	Universal Mobile Telecommunications System
VAT	Value added tax
VIES	VAT Information Exchange System
VoIP	Voice over Internet Protocol
VTTL	VAT Total Tax Liability
WTO	World Trade Organization
www	World Wide Web



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