<table>
<thead>
<tr>
<th>Meeting No.</th>
<th>Date of meeting</th>
<th>Subject</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Taxable event – Art. 2</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>34</td>
<td>23-24/11/1992</td>
<td>Transfers of football players</td>
<td>5</td>
</tr>
<tr>
<td><strong>Territorial scope – Art. 3</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>23-24/10/1980</td>
<td>Territory of the Community</td>
<td>5</td>
</tr>
<tr>
<td>14</td>
<td>23-24/6/1982</td>
<td>Territorial scope</td>
<td>5</td>
</tr>
<tr>
<td><strong>Taxable persons – Art. 4</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>20</td>
<td>4-5/6/1986</td>
<td>Musicians and other performing artists</td>
<td>5</td>
</tr>
<tr>
<td>53</td>
<td>4-5/11/1997</td>
<td>Company directors</td>
<td>6</td>
</tr>
<tr>
<td>39</td>
<td>5-6/7/1993</td>
<td>Game show winners</td>
<td>6</td>
</tr>
<tr>
<td>64</td>
<td>20/3/2002</td>
<td>Air traffic control services</td>
<td>6</td>
</tr>
<tr>
<td><strong>Supply of goods or services – Arts. 5 and 6</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>38</td>
<td>25/5/1993</td>
<td>Software</td>
<td>6</td>
</tr>
<tr>
<td>53</td>
<td>4-5/11/1997</td>
<td>Transfers of football players</td>
<td>7</td>
</tr>
<tr>
<td>67</td>
<td>8/1/2003</td>
<td>Hire purchase schemes</td>
<td>7</td>
</tr>
<tr>
<td>80</td>
<td>8/11/2006</td>
<td>Printing services</td>
<td>7</td>
</tr>
<tr>
<td>83</td>
<td>28-29/2/2008</td>
<td>Digital photography processing transactions</td>
<td>7</td>
</tr>
<tr>
<td><strong>Place of supply – Arts. 8 and 9</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>60</td>
<td>20-21/3/2000</td>
<td>Goods installed or assembled</td>
<td>7</td>
</tr>
<tr>
<td>52</td>
<td>28-29/5/1997</td>
<td>Construction of buildings</td>
<td>7</td>
</tr>
<tr>
<td>58</td>
<td>23-6-1999</td>
<td>Contracts without any supply of goods by the customer</td>
<td>8</td>
</tr>
<tr>
<td>57</td>
<td>16-17/12/1998</td>
<td>Goods supplied on board aircraft</td>
<td>8</td>
</tr>
<tr>
<td>61</td>
<td>27/6/28</td>
<td>Public-sector hospitals</td>
<td>8</td>
</tr>
<tr>
<td>65</td>
<td>19/6/2002</td>
<td>Goods and services supplied by undertakers</td>
<td>8</td>
</tr>
<tr>
<td>14</td>
<td>23-24/6/1982</td>
<td>Hotel and restaurant services</td>
<td>8</td>
</tr>
<tr>
<td>52</td>
<td>28-29/5/1997</td>
<td>Trade fairs and similar exhibitions</td>
<td>8</td>
</tr>
<tr>
<td>53</td>
<td>4-5/11/1997</td>
<td>Tracing of heirs</td>
<td>9</td>
</tr>
<tr>
<td>61</td>
<td>27/6/29</td>
<td>Translators’ and interpreters’ services</td>
<td>9</td>
</tr>
<tr>
<td>62</td>
<td>14/11/29</td>
<td>Fixed establishments</td>
<td>9</td>
</tr>
<tr>
<td>16</td>
<td>30/11/1983 and 1/12/1983</td>
<td>International telecommunications services</td>
<td>9</td>
</tr>
<tr>
<td>22</td>
<td>19-20/3/1987</td>
<td>International leasing (hiring, financing, leasing)</td>
<td>9</td>
</tr>
<tr>
<td>56</td>
<td>13-14/10/1998</td>
<td>Hiring-out of movable tangible property</td>
<td>9</td>
</tr>
<tr>
<td>83</td>
<td>28-29/2/2008</td>
<td>Services connected with immovable property</td>
<td>9</td>
</tr>
<tr>
<td>21</td>
<td>12-13/12/1986</td>
<td>Transport transactions</td>
<td>10</td>
</tr>
<tr>
<td>54</td>
<td>16-18/2/1998</td>
<td>Total or partial subcontracting</td>
<td>10</td>
</tr>
<tr>
<td>8 &amp; 9</td>
<td>6-7/5/1980 and 4/6/1980</td>
<td>Advertising services</td>
<td>10</td>
</tr>
<tr>
<td>12</td>
<td>30/6/1981 and 1/7/1981</td>
<td>Means of transport</td>
<td>10</td>
</tr>
<tr>
<td>52</td>
<td>28-29/5/1997</td>
<td>Transfers of football players</td>
<td>10</td>
</tr>
<tr>
<td>54</td>
<td>16-18/2/1998</td>
<td>Broadcasting rights</td>
<td>10</td>
</tr>
<tr>
<td>56</td>
<td>13-14/10/1998</td>
<td>Concept of agent</td>
<td>10</td>
</tr>
<tr>
<td>67</td>
<td>8/1/2003</td>
<td>Electronic services</td>
<td>11</td>
</tr>
<tr>
<td>67.C</td>
<td>8/1/2003</td>
<td>Radio and television broadcasting</td>
<td>12</td>
</tr>
<tr>
<td>Item</td>
<td>Date</td>
<td>Description</td>
<td>Page</td>
</tr>
<tr>
<td>------</td>
<td>------------</td>
<td>------------------------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>75</td>
<td>14/10/2004</td>
<td>Greenhouse gas emission allowances</td>
<td>12</td>
</tr>
<tr>
<td>80</td>
<td>8/11/2006</td>
<td>Printing services</td>
<td>12</td>
</tr>
<tr>
<td>17</td>
<td>4-5/7/1984</td>
<td>Incidental expenses</td>
<td>14</td>
</tr>
<tr>
<td>31</td>
<td>27-28/1/1992</td>
<td>Additional guarantees</td>
<td>14</td>
</tr>
<tr>
<td>1</td>
<td>23-24/11/1977</td>
<td>Racehorses</td>
<td>14</td>
</tr>
<tr>
<td>65</td>
<td>19/6/2002</td>
<td>Payments by credit cards</td>
<td>15</td>
</tr>
<tr>
<td>11</td>
<td>10-11/3/1981</td>
<td>Imports – First place of destination</td>
<td>15</td>
</tr>
<tr>
<td>54</td>
<td>16-18/2/1998</td>
<td>Medical equipment and other appliances</td>
<td>15</td>
</tr>
<tr>
<td>65</td>
<td>19/6/2002</td>
<td>CD-ROMs</td>
<td>15</td>
</tr>
<tr>
<td>26</td>
<td>13/7/1989</td>
<td>Actuarial services</td>
<td>15</td>
</tr>
<tr>
<td>60</td>
<td>20-21/3/2000</td>
<td>Scope of the exemptions</td>
<td>15</td>
</tr>
<tr>
<td>6</td>
<td>9-10/1/1980</td>
<td>Hospital and medical care</td>
<td>16</td>
</tr>
<tr>
<td>52</td>
<td>28-29/5/1997</td>
<td>Public postal services</td>
<td>16</td>
</tr>
<tr>
<td>31</td>
<td>27-28/1/1992</td>
<td>Hospital and medical care</td>
<td>16</td>
</tr>
<tr>
<td>7</td>
<td>4-5/3/1980</td>
<td>Individualizable transactions by non-profit-making organizations</td>
<td>16</td>
</tr>
<tr>
<td>22</td>
<td>19-20/3/1987</td>
<td>Tourist assistance transactions</td>
<td>16</td>
</tr>
<tr>
<td>52</td>
<td>28-29/5/1997</td>
<td>Hospital and medical care</td>
<td>16</td>
</tr>
<tr>
<td>10</td>
<td>23-24/10/1980</td>
<td>Travel and entertainment cards</td>
<td>17</td>
</tr>
<tr>
<td>22</td>
<td>19-20/3/1987</td>
<td>Capital contributions made in cash</td>
<td>17</td>
</tr>
<tr>
<td>23</td>
<td>1-2/2/1988</td>
<td>Shares issued to increase capital</td>
<td>17</td>
</tr>
<tr>
<td>28</td>
<td>9-10/7/1990</td>
<td>Costs associated with a transfer of shares</td>
<td>17</td>
</tr>
<tr>
<td>17</td>
<td>4-5/7/1984</td>
<td>Special investment funds</td>
<td>17</td>
</tr>
<tr>
<td>24</td>
<td>14-15/11/1988</td>
<td>Total value</td>
<td>17</td>
</tr>
<tr>
<td>60</td>
<td>20-21/3/2000</td>
<td>Personal luggage</td>
<td>17</td>
</tr>
<tr>
<td>48</td>
<td>28/6/1996 and 8/7/1996</td>
<td>Method of calculation of the ECU 175 threshold</td>
<td>17</td>
</tr>
<tr>
<td>22</td>
<td>19-20/3/1987</td>
<td>Telecommunications service</td>
<td>17</td>
</tr>
<tr>
<td>17</td>
<td>4-5/7/1984</td>
<td>Tax discs for motorway users</td>
<td>18</td>
</tr>
<tr>
<td>49</td>
<td>8-9/10/1996</td>
<td>Exemption certificate</td>
<td>18</td>
</tr>
<tr>
<td>75</td>
<td>14/10/2004</td>
<td>Electronic services</td>
<td>18</td>
</tr>
<tr>
<td>70</td>
<td>25/9/2003</td>
<td>Exportation of goods</td>
<td>18</td>
</tr>
<tr>
<td>25</td>
<td>10-11/4/1989</td>
<td>Travel agents</td>
<td>18</td>
</tr>
<tr>
<td>47</td>
<td>11-12/3/1996</td>
<td>Removal from tax warehousing arrangements</td>
<td>18</td>
</tr>
<tr>
<td>47</td>
<td>11-12/3/1996</td>
<td>Warehousing arrangements</td>
<td>18</td>
</tr>
<tr>
<td>48</td>
<td>28/6/1996 and 8/7/1996</td>
<td>Warehousing arrangements</td>
<td>18</td>
</tr>
<tr>
<td>12</td>
<td>30/6/1981 and 1/7/1981</td>
<td>Exports</td>
<td>18</td>
</tr>
<tr>
<td>15</td>
<td>8-9/12/1983</td>
<td>Refund of VAT to Greek firms</td>
<td>19</td>
</tr>
<tr>
<td>50</td>
<td>7/11/1996</td>
<td>Imports</td>
<td>19</td>
</tr>
<tr>
<td>Section</td>
<td>Date</td>
<td>Description</td>
<td>Page</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>-------------------</td>
<td>---------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>Partial deduction – Art. 19</td>
<td>15-16/12/1981</td>
<td>Transactions in shares</td>
<td>19</td>
</tr>
<tr>
<td>Person liable for payment of VAT – Art. 21</td>
<td>23-24/10/1980</td>
<td>Taxable person established abroad</td>
<td>19</td>
</tr>
<tr>
<td>Flat-rate farmers – Art. 25</td>
<td>23-24/10/1980</td>
<td>Flat-rate compensation</td>
<td>19</td>
</tr>
<tr>
<td></td>
<td>13-14/6/1978</td>
<td>Method for calculating the flat rate</td>
<td>19</td>
</tr>
<tr>
<td>Travel agents – Art. 26</td>
<td>4-5/7/1984</td>
<td>Travel agents</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td>4-5/6/1986</td>
<td>Language study trips</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td>1-2/2/1988</td>
<td>Travel agents</td>
<td>20</td>
</tr>
<tr>
<td>Investment gold – Art. 26b</td>
<td>16-17/12/1998</td>
<td>Investment gold</td>
<td>20</td>
</tr>
<tr>
<td></td>
<td>16-17/12/1998</td>
<td>Investment gold transactions</td>
<td>20</td>
</tr>
<tr>
<td>Special measures – Art. 27</td>
<td>13/3/1997</td>
<td>Telecommunications services</td>
<td>21</td>
</tr>
<tr>
<td>Transitional arrangements – Art. 28</td>
<td>6-7/5/1980 and 4/6/1980</td>
<td>Gold and professional agents</td>
<td>21</td>
</tr>
<tr>
<td></td>
<td>15-16/12/1981</td>
<td>Colour scheme consultants</td>
<td>21</td>
</tr>
<tr>
<td></td>
<td>23-24/10/1980</td>
<td>Gold coins</td>
<td>21</td>
</tr>
<tr>
<td></td>
<td>9-10/1/1980</td>
<td>Gold – System applicable to agents</td>
<td>21</td>
</tr>
<tr>
<td>Taxable transfer of goods – Art. 28a</td>
<td>16-18/2/1998</td>
<td>New means of transport</td>
<td>21</td>
</tr>
<tr>
<td>Intra-Community acquisitions – Art. 28a</td>
<td>16-18/2/1998</td>
<td>Exceeding the threshold for acquisitions of goods</td>
<td>22</td>
</tr>
<tr>
<td>Intra-Community services – Art. 28b</td>
<td>25/6/1996</td>
<td>Work on movable tangible property</td>
<td>22</td>
</tr>
<tr>
<td>Distance selling – Art. 28b</td>
<td>16-17/12/1998</td>
<td>Distance selling</td>
<td>23</td>
</tr>
<tr>
<td></td>
<td>20/3/2002</td>
<td>Distance selling</td>
<td>23</td>
</tr>
<tr>
<td>Exemption for intra-Community acquisitions – Art. 28c</td>
<td>13-14/10/1998</td>
<td>Scope of the exemption</td>
<td>23</td>
</tr>
</tbody>
</table>
VAT Committee – Guidelines 1977-2008
The VAT Committee was set up under Art. 29 of the former Sixth Directive to examine questions which concern the application of the provisions of the Sixth Directive in the Member States, thus serving as a platform for an exchange of views in order to establish guidelines on the uniform application of the provisions of Community VAT law. The VAT Committee is made up of representatives of each of the 27 Member States, and is chaired by a representative of the European Commission.

Since they are not legally binding, the guidelines adopted by the VAT Committee were initially not published. That situation changed in October 1998 when, under the then applicable Rules of Procedure of the VAT Committee, the Member States could publish agreed guidelines on specific matters.¹ Ten years later, the European Commission published a large number of unanimously adopted guidelines which, as the Commission expressed it, were not subject to any legislative discussion. The fact that the guidelines are published does not change their position: they still reflect the non-binding views of the Member States that formed part of the European Union when the guidelines were adopted.

As an additional service to those interested in European VAT, this Annex to the International VAT Monitor contains the VAT Committee’s guidelines, both those previously published or released for publication by two of the Member States and those recently published by the European Commission.

The guidelines below have been grouped by topic. It should, however, be noted that several guidelines relate to several different provisions of the Community VAT legislation. In that case, with one exception, the guidelines have been included in the overview at the most appropriate place. It should also be noted that several guidelines have been included in the Implementing Regulation,² whereas the guidelines which correspond with other provisions of the Implementing Regulation are not included in the following overview. Finally, it should be noted that several guidelines may no longer be relevant on the ground that the Community VAT legislation has been amended or the European Court of Justice has delivered a judgment regarding the topic of the guideline. For that reason, the guidelines indicate the date on which they were adopted. Unless indicated otherwise, the articles referred to in the guidelines relate to the articles of the former Sixth Directive. Only those guidelines adopted in February 2008 relate to the articles of Directive 2006/112. Many guidelines were clearly designed for internal use by the authorities of the Member States only (they occasionally make reference to documents that are – not yet – publicly available).

### Taxable events – Art. 2

**Transfers of football players**

All the delegations took the view that the fee paid when a footballer was transferred from one club to another was the consideration for a supply of services within the meaning of Art. 2 of the Sixth Directive and should be subject to tax. However, sums paid as compensation for breach of contract and to penalize the failure to fulfil an obligation by one of the parties did not fall within the scope of VAT as they were not a consideration for services supplied.


### Territorial scope – Art. 3

**Territory of the Community**

All delegations agreed with the analysis that those territories in Art. 3 of the Sixth Directive should be treated as third countries in applying both that Directive and the Eighth Directive which refers to the refund of value added tax to taxable persons not established in the territory of the country. However they acknowledged that problems still remained regarding the application of the “travellers allowances” and “small consignments” Directives and these difficulties will be brought up by the Committee at a later date.

Meeting No. 10 of 23/24 October 1980.

---

¹. The first batch of VAT Committee guidelines was published as an Annex to International VAT Monitor 3 (2002). Further guidelines were published in International VAT Monitor 3 and 4 (2003).

clauses that might be included in the contract (working conditions, remuneration, relationship of employer and employee, etc.).

Meeting No. 20 of 4/5 June 1986.

Company directors
All delegations agreed that services supplied by a legal person (company) as a member of a company’s board of directors should be regarded as economic activities carried out independently within the meaning of Art. 4(1) and (2) and that they should therefore be subject to VAT.

Meeting No. 53 of 4/5 November 1997.

Game show winners
The delegations agreed unanimously that private television companies were taxable persons within the meaning of Art. 4(1) of the Sixth Directive with respect to all their activities. In the case of a private television company which, as part of a televised game show organized jointly with a number of commercial businesses, presented winners with items of tangible movable property donated or to be donated by the businesses concerned, the delegations were unanimously of the view that two taxable transactions took place: the supply of an advertising service the consideration for which was the goods transferred, and the supply of those goods, such supply being taxable in the hands of the business.

Meeting No. 39 of 5/6 July 1993.

Air traffic control services
The delegations agree unanimously that:

(1) Air traffic control services provided in the airport zone are within the scope of VAT, being exempted on the basis of Art. 15(9) provided that the conditions required for the application of this exemption are fulfilled.

(2) Services related to aircraft activity in the approach and take-off zone are non-taxable services pursuant to the first subparagraph of Art. 4(5) where the provider is a body governed by public law who carries out these activities as a public authority.

(3) Services related to aircraft activity in upper and lower air space are non-taxable services, pursuant to the first subparagraph of Art. 4(5), where the provider is a body governed by public law who carries out these activities as a public authority.

(4) Eurocontrol is a non-taxable person both in respect of its en-route navigation control services and in respect of the calculation, collection and redistribution of fees levied on airline companies where these services are supplied to non-taxable persons.

Meeting No. 64 of 20 March 2002.

Supply of goods or services – Arts. 5 and 6

Software
The VAT Committee agreed unanimously the following guideline:

(1) Definition of normalized and specific software

Normalized products, as opposed to specific software, are mass produced items which are freely available to all customers and usable by them independently after installation and limited training in a standard form to carry out the same applications or functions. They are made up of a coherent set of programs and support material and often include the service of installation, training and maintenance. Personal computer software, home computer software and game packages are in this category. Also included are standard packages adapted at the supplier’s instigation to include security or similar devices.

(2) Tax treatment

Cession of standardized software shall not be considered as the supply of goods when:

- the transfer of the right to dispose of the property as owner cannot be established;
- the goods are not tangible as there is no support or when the subject of the contract is the transfer of the copyright.

(i) In the case of normalized software (other than the case mentioned above), there is a single import of goods and the taxable amount on importation is the whole value.

(ii) In the case of specific software, there is an import of the physical support and a supply of services (the cession of data). Where the recipient is a taxable person the physical support will be treated as an accessory to the data (ancillary service to the cession of data) and both elements of the service will be taxed within the Member State of the recipient as a single supply of services in accordance with the criteria laid down in the third indent of Art. 9(2)(c). In order to avoid double taxation the physical support will not be taxed at import.

(iii) Purchases of specific software by non-taxable persons in other Member States are not taxed in the Member State of the recipient, because the service is subject to tax in the Member State of the supplier of the service under Art. 9(1).

3. This guideline replaces the guideline agreed on this issue at meeting No. 30.
4. This guideline cancels and replaces the guideline agreed at the 18th meeting of the VAT Committee held on 8 and 9 March 1985 (Document XV/199/85 Final 3).
Meeting No. 38 of 25 May 1993.

Transfers of football players
A large majority of delegations took the view that a payment made by a football club to a player’s original club (a payment required by law and intended to compensate for expenditure incurred in training and developing the player) after the original contract had expired or had been terminated constituted a supply of services that was subject to VAT, even if the old club no longer had any rights over the player.

Meeting No. 53 of 4/5 November 1997.

Hire purchase schemes
The delegations almost unanimously agreed that the question as to whether a supply was one of goods or services was a matter of fact to be determined on a case-by-case basis.

There would always be a supply of goods when it was agreed between the parties, whether or not in writing, that the right to dispose of tangible property as owner would be transferred. The timing of the transfer of this right after the payment of the final instalment did not alter the fact that a supply of goods is one of goods.

Meeting No. 67 of 8 January 2003.

Printing services
As regards the question whether the supply of printing services for the publishing of a paper-format publication is a supply of goods or services, the Committee agreed almost unanimously that in order to categorize this operation, a distinction must be made between two situations:

- When the customer limits himself to providing an original (manuscript, CD, diskette, etc.) and employs a printer/publisher to undertake the printing and publishing, the latter is engaging in the supply of goods (books, brochures, etc.) within the meaning of Art. 14 of the VAT Directive. This would appear to be the most common situation.

- On the other hand, when the customer provides the printer/publisher with the original and also provides it with the paper and/or other elements to be used in the printing and publishing of a book, brochure, etc., the latter is providing a service within the meaning of Art. 24 of the VAT Directive.

Meeting No. 83 of 28/29 February 2008.

Goods installed or assembled
All delegations unanimously agreed that for tiling, papering and parqueting, the place of supply is where the immovable property is situated. Some Member States arrive at this result because they consider these operations as a supply of a service, to be taxed in accordance with the provisions of Art. 9(2)(a) of the Sixth Directive at the place where the immovable property is situated. However, other Member States make use of the option provided for under Art. 5(5) of the Sixth Directive, and consider these operations to be supplies of goods. In this case some Member States consider these operations to be supplies of goods with installation or assembly by or on behalf of the supplier, falling within the scope of Art. 8(1)(a) of the Sixth Directive, while other Member States consider this to be a supply of goods that takes place at the time the work is finished and therefore falling within the scope of Art. 8(1)(b) of the Sixth Directive.

For intra-Community operations, the differences in the Member States’ interpretations (supply of goods or supply of services) lead to differences regarding the obligation to submit the recapitulative statements provided for in Art. 22(6).

All delegations unanimously agree that the supply of a good, whereby the supplier also carries out certain services, such as the plugging in of a machine or connecting a water pipe to an existing tap and the drainpipe to the outlet, should be considered one single supply of a good without installation or assembly and that these accessory services should be considered as activities of minor importance. This remains, nevertheless, an analysis on an ad hoc basis, case by case.

Meeting No. 60 of 20/21 March 2000.

Construction of buildings
Virtually all the delegations considered that the construction of houses constituted a supply of services connected with immovable property which Member States however may, by virtue of Art. 5(5) of the Sixth Directive, consider to be a supply of goods.
VAT Committee – Guidelines 1977-2008

Where construction of houses is classified as a supply of goods, virtually all the delegations took the view that the location of this supply is governed by the criteria of Art. 8(1)(b), which means that it should be taxed where the work is carried out.

They agreed that the dispatch or transport of materials by the construction firm from one Member State to another for these to be used in the construction of a building in another Member State constitutes a transfer followed by an acquisition of goods. In this respect, the non-established firm must, pursuant to the third indent of Art. 22(1)(c), register for VAT purposes in the Member State of acquisition and fulfil the obligations as stipulated.

Member States may, under Art. 21(1)(d), adopt arrangements whereby tax is payable by another person, such as a tax representative.

Meeting No. 52 of 28/29 May 1997.

Contracts without any supply of goods by the customer

The Committee agreed that the supply of a machine, even if it is assembled following specific requirements of the customer, should be considered as a supply of a good. What the constituting elements of the produced machine are, has no influence on the qualification of the machine as a tangible good.

The place of taxation of this transaction is determined by Art. 8(1)(a) when the goods are dispatched or transported or by Art. 8(1)(b) if the goods are not dispatched or transported.

When the supplier produces the machine and installs or assembles this machine at the location requested by the client, the operation should be qualified as a supply of goods with installation or assembly, whereby the place of taxation is where the goods are installed or assembled according to Art. 8(1)(a) of the Sixth Directive.

However, the operation is considered to be a supply of a service if the supplier would only assemble the different parts of the machine provided to him by his customer. In this case, the place of taxation is covered by Art. 9(2)(c) or Art. 28b(F) of the Sixth Directive.

Meeting No. 58 of 23 June 1999.

Goods supplied on board aircraft

As regards supplies on board aircraft of goods to be carried away, the Committee unanimously agreed that, where the “part of a transport of passengers effected in the Community” referred to in Art. 8(1)(c) includes stopovers between its point of departure and its point of arrival, this transport shall be regarded as a single journey on condition that, except in the case of force majeure, the means of transport used and the flight number remains the same throughout the journey and that each stopover is of a short duration.

Meeting No. 57 of 16/17 December 1998.

Public-sector hospitals

In exercising the option provided for in Art. 4(5), a Member State may decide to regard activities which, according to the general principles, fall within the scope of VAT but are exempt under Art. 13 (such as hospitalization and medical care provided by bodies governed by public law) as being outside the scope of VAT.

All delegations take the view that this option affects the decision on the place of taxation of certain expenditure incurred by such bodies in public law. Consequently, research services provided by a taxable person established in a Member State to a hospital governed by public law in another Member State are to be taxed either in the Member State in which the public hospital is established (according to the general principles), or in the Member State in which the service provider is established (if the Member State in which the public hospital is established has waived the first option).

Meeting No. 61 of 27 June 2000.

Goods and services supplied by undertakers

Delegations agreed almost unanimously that the services supplied by the undertaker in the framework of organizing a funeral should be considered as composite elements of a single service, although it still has to be determined on a case-by-case basis.

Furthermore, delegations also agreed unanimously that the place of supply of this single service would be where the undertaker is established, in accordance with Art. 9(1) of the Sixth VAT Directive.

Meeting No. 65 of 19 June 2002.

Hotel and restaurant services

The Committee is for reasons of principle unanimously opposed to exempting restaurant and overnight stay services which, the Committee considers, should be taxed in the country in which they are supplied whether or not the person receiving the service is established in that country.


Trade fairs and similar exhibitions

The Committee unanimously considers that, when in the framework of a fair or similar exhibition, an enterprise intervenes between the exhibitor and the owner or organizer of the exhibition and, for an all-in price, supplies to the exhibitor a complex package of services comprising, in addition to the provision of a stand, a number of other, related services, the whole package is to be regarded as a single service comprising various components which cannot and need not to be itemized according to their own place of taxation.

Meeting No. 58 of 28/29 May 1997.

5. Editor’s note: As this Article read prior to its amendment under Council Directive 2000/65/EC, it must however be assumed that reference is made to Art. 21(1)(c), last sentence of the former text of the Directive.
As to the place-of-supply rules, delegations unanimously agree that the provision of a single compound service should be subject to taxation in the Member State where the fair or exhibition is located, either on the grounds of Art. 9(2)(a) or based on Art. 9(2)(c), first indent.

Meeting No. 52 of 28/29 May 1997.

**Tracing of heirs**

The Committee unanimously agrees that the tracing of heirs falls within the scope of the third indent of Art. 9(2)(e), either as a service similar to one of the activities referred to in that Article or as the supply of information.

Meeting No. 53 of 4/5 November 1997.

**Translators’ and interpreters’ services**

All delegations agree that translation services are among the services covered by Art. 9(2)(e).

The great majority of delegations agree that interpretation services are also among the services covered by Art. 9(2)(e).

Meeting No. 61 of 27 June 2000.

**Fixed establishments**

All the delegations believed that, according to Art. 9(1) of the Sixth Directive, the place of supply of a service should be deemed to be the place where the supplier had established his business or had set up a fixed establishment from which the service was supplied. The fixed establishment should be regarded as determining the place of supply only when it was obvious that the service was effectively supplied from that fixed establishment. If this condition was not fulfilled, the principle of taxation at the place where the supplier had established his business should be maintained.

The question as to whether or not the branch in question took part in the supply of services, to what extent, and whether this intervention was of such a kind as to change the place of taxation, should be examined on a case-by-case basis.

Finally, the Committee accepted that, in order to simplify control procedures, Member States might create a rebuttable presumption (juris tantum) whereby, once a foreign trader was established and registered with a VAT registration in their territory, the supply was considered to take place from that establishment. Nevertheless, it is certain that the presumption could never reverse the principle laid down in Art. 9(1) of the Sixth Directive.

Meeting No. 62 of 14 November 2000.

**International telecommunications services**

The Committee held unanimously that the place of supply of international telecommunications services is in the country of the person paying for the communication. (Rule of the place where the supplier has established his business).

Meeting No. 16 of 30 November and 1 December 1983.

**Hiring-out of containers**

The Committee considered unanimously that the hiring of containers constitutes an equipment hiring service unrelated to the supply of transport services and that consequently the tax arrangements to be applied should be based either on Art. 9(1) if containers are deemed to be means of transport, or on Art. 9(2) if they are not considered as such, with Arts. 15(13) or 16(1) making it possible in many cases to solve these problems in the form of exemption of the service in the case of exports.

Meeting No. 11 of 10/11 March 1981.

**International leasing (hiring – financing – leasing)**

The Committee was unanimously in favour of taxing leasing transactions other than the leasing of means of transport in the Member State of the customer (lessee) whenever the supplier (lessor) did not have a fixed establishment in that state. In the case where the customer is a taxable person, the refund of VAT paid on the purchase, in the Member State of the customer, of the equipment hired should be done via the Eighth VAT Directive (supplier established in the territory of the Community) or the Thirteenth VAT Directive (supplier established in a non-Member State) (Art. 1(b) of the Eighth and the Thirteenth Directives).

Meeting No. 22 of 19/20 March 1987.

**Hiring-out of movable tangible property**

As regards the hiring-out of movable tangible property, with the exception of all forms of transport, the Committee agreed that trailers and semi-trailers should be considered means of transport for the application of Art. 9(2)(e), eighth indent of the Sixth Directive.

Meeting No. 56 of 13/14 October 1998.

**Services connected with immovable property**

The large majority of delegations agreed that legal services referring to immovable property shall only be considered as "connected with" immovable property within the meaning of Art. 45 of the VAT Directive, and consequently taxed where the property is located when the purpose of the services in question is the legal or physical alteration of that immovable property.6

This guideline has the following implications:

(1) Legal services relating to the conveyance or the transfer of a title to immovable property, such as notary work, would fall within the scope of Art. 45,
since they have as their purpose the legal alteration of the immovable property.

(2) The drawing up of a contract to sell or acquire immovable property would fall within the scope of Art. 45, even if they form a supply distinct from the services mentioned in point (1).

(3) When services aiming at the transfer of an item of immovable property are carried out, but the final transaction resulting in the alteration of that immovable property is not carried through, they would nevertheless fall within the scope of Art. 45.

(4) The supply of legal work mentioned in points (2) and (3) will, however, not fall within Art. 45, when it focuses on different aspects connected to contracts, which in general terms may concern any kind of legal matter and they are therefore not specific to the transfer of an item of immovable property.

(5) Legal services relating to advice given on the terms of a contract to transfer immovable property, or to enforce such a contract, or to prove the existence of such a contract would not be covered by Art. 45, if their immediate goal is not the legal alteration of the immovable property but the legal dispute over a contract.

That said, where the aim of the legal work is the legal alteration of the immovable property then the supply falls within Art. 45 e.g. legal advice on a contract prior to signing to change the ownership of a property.

(6) In the situation where a more complex legal service (composed of different elements) is supplied, the overall final goal should be determined in order to assess whether Art. 45 applies. This assessment would need to be done on a case-by-case basis.

Meeting No. 83 of 28/29 February 2008.

Transport transactions
The Committee held unanimously that Art. 9(2)(b) of the Sixth Directive was as a rule applicable to all transport operations and that the VAT system laid down in the Sixth Directive applied to transport between a place within the territory of a Member State and a place within the territory of a third country.

Meeting No. 21 of 12/13 December 1986.

Total or partial subcontracting
The Committee unanimously agrees that partial or total subcontracting of work on movable tangible property does not alter the intrinsic nature of the service supplied by the principal contractor in his relationship with his co-contractor customer and which therefore still ranks as work in respect of movable tangible property, even where the work is not "physically" carried out by the principal contractor who had undertaken to carry out the work, for which he bears full contractual responsibility vis-à-vis the customer.

In the case of partial subcontracting, provided that in the relationship between the principal contractor and the final customer the conditions under Art. 28b(F) are not met, a large majority of the delegations considered that, in accordance with the fourth indent of Art. 9(2)(c), the place of the supply of the service by the principal contractor (including the work carried out by the subcontractor or subcontractors) in its entirety is the place where his own part of the work is physically carried out.

Meeting No. 54 of 16/17/18 February 1998.

Advertising services
The Committee unanimously decided that newspaper announcements in respect of private individuals are not affected by the provisions of Art. 9(2)(e), but that these provisions do apply in respect of all "commercial" announcements placed by taxable persons. The restriction also applies in respect of property advertisements.

Meetings No. 8 and 9 of 6/7 May and 4 June 1980.

Means of transport
The Committee unanimously agreed that motor vehicles and other equipment and devises which might be pulled or drawn by such vehicles and which are normally used for carrying out a transport contract should be regarded as means of transport within the meaning of Art. 9 and 15 of the Sixth Directive.

Meeting No. 12 of 30 June and 1 July 1981.

Transfers of football players
A large majority of delegations confirm the initial guideline agreed by the Committee in its 34th meeting, namely that transfer fees are to be taxed according to Art. 9(2)(e) at the place where the customer has established his business or has a fixed establishment to which the service is supplied.

Meeting No. 52 of 28/29 May 1997.

Broadcasting rights
The Committee unanimously agrees that the assignment of TV broadcasting rights in respect of football matches by bodies established in third countries constitutes an economic activity taxable in the hands of the customer on the basis of Art. 9(2)(e), first indent, of the Sixth Directive.

Meeting No. 54 of 16/17/18 February 1998.

Concept of agent
The Committee agreed that Art. 9(2)(e), seventh indent of the Sixth Directive covers supplies by agents who act both in the name and for the account of the buyer and in the name and for the account of the supplier of services referred to in Art. 9(2)(e).

Meeting No. 56 of 13/14 October 1998.
Electronic services

(1) The Delegations agree unanimously that a television or radio programme that is broadcast over the Internet or similar electronic network and is simultaneously broadcast over a traditional radio and television network (i.e. by wire or over the air, including by satellite) is radio and television broadcasting within the penultimate indent of Art. 9(2)(e) of the Sixth Directive. Conversely, a programme that is broadcast only over the Internet or similar electronic network, is an electronically supplied service under the last indent of Art. 9(2)(e).

(2) The Delegations agree unanimously that distance teaching is an electronically supplied service within the meaning of the last indent of Art. 9(2)(e) when it is automated and dependent on the Internet or similar electronic network to function and its supply requires little or no human involvement. Where the Internet or similar electronic network is used as a tool simply for communication between the teacher and student (e.g. e-mail), this will not be viewed as an electronically supplied service.

(3) The Delegations agree unanimously that a non-established taxable person who is taxable under the special scheme provided for under Art. 26c, may cease to qualify for the special scheme under that Article at any time throughout a calendar quarter where any of the criteria for exclusion are satisfied. The non-established taxable person is required to submit any outstanding return up to the end of the calendar quarter in which they were excluded. The requirement to submit this return has no effect on the requirement, if any, for the non-established taxable person to register under the normal procedures in a Member State immediately upon exclusion from the special scheme.

(4) The Delegations agree unanimously that where a non-established taxable person declares and remits an amount of VAT to the Member State of Identification, who in turn distributes the amount to the Member State of Consumption, and the Member State of Consumption subsequently realizes that the amount is too high, the Member State of Consumption will advise the Member State of Identification of the adjustment and send the overpayment directly to the non-established taxable person. The Delegations also agree unanimously that where a non-established taxable person remits, in relation to the declaration, an overpayment of VAT to the Member State of Identification, this Member State will return the overpaid amount directly to the non-established person.

(5) The Delegations agree unanimously that each reporting period of a non-established taxable person to the Member State of Identification under the special scheme set out in Art. 26c, is treated as an independent, closed reporting period.

(6) The Delegations agree unanimously that, in respect of returns made under the special scheme set out in Art. 26c, the Directive does not permit the rounding of amounts to the nearest whole monetary unit (e.g. euro) and that the exact amount of VAT must be reported and remitted in accordance with the Sixth Directive.

(7) The Delegations agree unanimously that where potential sellers obtain the right to list an item for sale on a website (e.g. an online market place) in exchange for a fee (e.g. a listing fee and/or a success fee), potential buyers bid for the item on the website via an automated process, the parties are notified by an automatically computer-generated e-mail in the event of a completed sale and the buyer and the seller ultimately complete the sale, the service provided by the website operator (e.g. the operator of the online market place) is considered to be an electronically supplied service under the last indent of Art. 9(2)(e). Such supplies may well constitute, at least in part, web-hosting services.

(8) The Delegations agree unanimously that the attached Guide to Interpretation and accompanying tables set out the guidance on what is meant by “electronically supplied services” for purposes of the last indent of Art. 9(2)(e) of the Sixth VAT Directive.

Annex – “Electronically Supplied Services” – Guide to Interpretation

Introduction

This document sets out guidance on what is meant by “electronically supplied services” and will help businesses decide whether their services fall within the place-of-supply rules for such services (as per the last indent of Art. 9(2)(e) of the Sixth VAT Directive). This document only addresses the place of supply issue.

The attached tables give examples of transactions that are either included or excluded from the definition of ‘electronically supplied services’. Supplies of goods or supplies of services that are excluded from the definition are treated in accordance with other place-of-supply rules.

What is an “electronically supplied service”? An “electronically supplied service” is one that:

- in the first instance is delivered over the Internet or an electronic network (i.e. reliant on the Internet or similar network for its provision); and then
- the nature of the service in question is heavily dependent on information technology for its supply (i.e. the service is essentially automated, involving
minimal human intervention and in the absence of information technology does not have viability).

Therefore, on the basis of this two-step test, an "electronically supplied service" includes:
- digitized products generally, such as software and changes to or upgrades of software; or
- a service which provides or supports a business or personal presence on an electronic network (e.g. website or web page); or
- a service automatically generated from a computer, via the Internet or an electronic network, in response to specific data input by the customer; or
- services, other than those specifically mentioned in Annex I, which are automated and dependent on the Internet or an electronic network for their provision.

Telecommunications and radio and television broadcasting services, covered respectively in the ninth and penultimate indents of Art. 9(2)(e) of the Sixth VAT Directive, are not regarded as electronically supplied services for purposes of this Directive.

In general, the use of the Internet or other electronic networks by parties to communicate with respect to transactions or to facilitate trading does not, any more than the use of a phone or fax, affect the normal VAT rules that apply. For example, where parties simply use the Internet to convey information in the course of a business transaction (e.g. e-mail), this does not change the nature of that transaction. This differs from a supply that is completely dependent on the Internet in order to be carried out (e.g. searching and retrieving information from a database with no human intervention).

In all instances, electronically supplied services will be taxable at the standard rate established by a Member State (in accordance with Art. 12(3)(a) of the Sixth Directive), unless an exempting provision in a Member State applies. For example, when considering the supply of gambling, if the supply in the traditional manner is exempt in a Member State, it would also be exempt if it constituted a supply of an electronically supplied service.

Tables 1 and 2 (see pp. 13-14) illustrate the above approach by classifying a range of supplies to provide clear examples of those that are regarded as being electronically supplied services and those that are not. This guidance is not intended to be exhaustive. Supplies shown as excluded are treated in accordance with other place of supply rules. Particular care should be taken where a service includes both electronic and other elements. Such composite transactions must generally be considered on a case-by-case basis.

Meeting No. 67 of 8 January 2003.

Radio and television broadcasting
The delegations agree unanimously that the meaning of radio and television broadcasting services referred to in the penultimate indent of Art. 9(2)(e) must be interpreted narrowly. Radio and television broadcasting services are transmissions by wire or air, including satellite, intended for reception by the public. The term radio and broadcasting services does not include cessions of broadcasting or transmission rights, the leasing of technical equipment or facilities utilized in providing a broadcast or any other ancillary services. Guideline 4.1.1 of the 67th Meeting of the VAT Committee differentiates between radio and television broadcasting services and those services only broadcast over the Internet or similar network (i.e. an electronically supplied service).

Meeting No. 67 of 8 January 2003.

Greenhouse gas emission allowances
The delegations agreed unanimously that the transfer of greenhouse gas emission allowances as described in Art. 12 of Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003, when made for consideration by a taxable person is a taxable supply of services falling within the scope of Art. 9(2)(e) of Directive 77/388/EEC. None of the exemptions provided for in Art. 13 of Directive 77/388/EEC can be applied to these transfers of allowances.

Meeting No. 75 of 14 October 2004.

Printing services
The Committee agreed almost unanimously that for operations that consist in the publication of books, brochures, etc. between persons subject to VAT, the place of taxation is determined as follows:

Operation deemed to be a supply of goods
Where goods are dispatched or transported either by the supplier or by the person acquiring them or by a third person, the place of supply shall be deemed to be where the goods are located at the time the goods are dispatched or transported to the person acquiring the goods, in accordance with the first subparagraph of Art. 32 of the VAT Directive.

The delivery may be exempted in the Member State of departure if the goods represent an "intra-Community supply of goods", i.e. they are transported out of the Member State under the conditions laid down in Art. 138(1) of the VAT Directive.

In the latter situation, the place of the intra-Community acquisition of goods shall be deemed to be the place where the goods are at the time when dispatch or transport to the person acquiring them ends, in accordance with Art. 40 of the VAT Directive.

Operation deemed to be a provision of services
The operation consisting in the publication of a book, brochure, etc. using paper and/or other elements belonging to the customer is deemed to be work on
Table 1

<table>
<thead>
<tr>
<th>Annex L reference</th>
<th>Supplies covered by the legal text</th>
<th>Example of a service that is an electronically supplied service</th>
</tr>
</thead>
</table>
| Item 1            | A. Website supply, web hosting and distance maintenance of programmes and equipment | - Website hosting and web page hosting  
- Automated, online distance maintenance of programmes  
- Remote systems administration  
- Online data warehousing (i.e. where specific data is stored and retrieved electronically)  
- Online supply of on-demand disc space |
| Item 2            | A. Software and updating thereof | - Accessing or downloading software (e.g. procurement/ accountancy programmes, anti-virus software) plus updates  
- Banner blockers (software to block banner adverts showing)  
- Download drivers, such as software that interfaces PC with peripheral equipment (e.g. printers)  
- Online automated installation of filters on websites  
- Online automated installation of fire walls |
| Item 3            | A. Images  
B. Text and information  
C. Making databases available | - Accessing or downloading desktop themes  
- Accessing or downloading photographic or pictorial images or screen savers  
- The digitized content of books and other electronic publications  
- Subscription to online newspapers and journals  
- Weblogs and website statistics  
- Online news, traffic information and weather reports  
- Online information generated automatically by software from specific data input by the customer, such as legal and financial data (e.g. continually updated stock market data)  
- The provision of advertising space (e.g. banner ads on a website/web page)  
- Use of search engines and Internet directories |
| Item 4            | A. Music  
B. Films  
C. Broadcasts and events – political, cultural, artistic, sporting, scientific and entertainment  
D. Games, including games of chance and gambling games | - Accessing or downloading of music onto PCs, mobile phones, etc.  
- Accessing or downloading of jingles, excerpts, ringtones, or other sounds  
- Accessing or downloading of films  
- Web-based broadcasting that is only provided over the Internet or similar electronic network and is not simultaneously broadcast over a traditional radio or television network, as opposed to Item (4), Table 2  
- Downloads of games onto PCs, mobile phones, etc.  
- Accessing automated online games which are dependent on the Internet or other similar electronic networks where players are remote from one another |
| Item 5            | A. Distance teaching | - Teaching that is automated and dependent on the Internet or similar electronic network to function, including virtual classrooms, as opposed to item (2)(b), Table 2  
- Workbooks completed by pupil online and marked automatically, without human intervention |
| Item 6            | A. Other services included: Those not explicitly listed in Annex L | - Online auction services (to the extent that they are not already considered to be web-hosting services under Item 1 that are dependent on automated databases and data input by the customer requiring little or no human intervention (e.g. an online market place or online shopping portals), as opposed to Item (3)(f), Table 2  
- Internet Service Packages (ISPs) in which the telecommunications component is an ancillary and subordinate part (i.e. a package that goes beyond mere Internet access comprising various elements (e.g. content pages containing news, weather, travel information; games fora; web hosting; access to chat lines etc.)) |
movable tangible property and, in accordance with Art. 52(c) of the VAT Directive, is deemed to be supplied at the place where the works are physically carried out.

However, by way of derogation from Art. 52(c), Art. 55 lays down that the place of the supply of services involving valuations or work on movable tangible property provided to customers identified for purposes of value added tax in a Member State other than that within the territory of which the services are physically performed, shall be deemed to be within the territory of the Member State which issued the customer with the value added tax identification number under which the service was rendered to him. This derogation shall not apply where the goods are not dispatched or transported out of the Member State where the services were physically performed.

Meeting No. 80 of 8 November 2006.

**Table 2**

<table>
<thead>
<tr>
<th>Example of a transaction not considered to be a supply of an “electronically supplied service”</th>
<th>Rationale</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) A supply of... (a) a good, where the order and processing is done electronically (b) a CD-ROM, floppy disc and similar tangible media (c) printed matter such as a book, newsletter, newspaper or journal (d) a CD, audio cassette (e) a video cassette, DVD (f) games on a CD-ROM</td>
<td>These are supplies of goods</td>
</tr>
<tr>
<td>(2) A supply of... (a) services of lawyers and financial consultants, etc., who advise clients through e-mail (b) interactive teaching services where the course content is delivered by a teacher over the Internet or an electronic network (i.e. via remote link)</td>
<td>This is a supply of service that relies on substantial human intervention and the Internet or electronic network is only used as a means of communication</td>
</tr>
<tr>
<td>(3) A supply of... (a) physical repair services of computer equipment (b) off-line data warehousing services (c) advertising services, such as in newspapers, on posters and on television (d) telephone helpdesk services (e) teaching services involving correspondence courses such as postal courses (f) conventional auctioneers' services reliant on direct human intervention, irrespective of how bids are made (e.g. in person, Internet or telephone), as opposed to Item 6 A., Table 1</td>
<td>These are supplies of services that are not delivered over the Internet and rely on substantial human intervention</td>
</tr>
<tr>
<td>(4) A supply of a radio and television broadcasting service provided over the Internet or similar electronic network simultaneous to the same broadcast being provided over traditional radio or television network, as opposed to Item 4 C., Table 1</td>
<td>This is a supply of a radio and television broadcasting service which is covered by the penultimate indent of Art. 9(2)(e)</td>
</tr>
<tr>
<td>(5) A supply of... (a) video phone services (i.e. telephone services with a video component) (b) access to the Internet and world wide web (c) telephony (i.e. telephone service provided through the Internet)*</td>
<td>These are supplies of telecommunications services and are covered by the place of supply rules for such services under the ninth indent of Art. 9(2)(e)</td>
</tr>
</tbody>
</table>

---

**Incidental expenses**

With regard to the commission charge by a carrier for collecting the payment for goods carried, all the delegations considered it impossible merely to extend the Court judgment in Case 126/78⁹ to the context of Art. 11(A)(2)(b) of the Sixth Directive, and that only examination of the terms of the contract concluded between consignor and carrier would reveal whether or not this commission was an incidental expense.


**Additional guarantees**

The delegations were unanimous in their view that an additional guarantee offered by a seller of durable goods was not covered by the exemption provided for in Art. 13 (B)(a) of the Sixth Directive. The sum paid by the purchaser for the additional guarantee had to be taxed either by including it as an incidental expense in the taxable amount for the product sold in accordance with Art. 11 (A)(2)(b) or as a separate service provided under a maintenance contract. A repair carried out by the seller under an additional guarantee was not subject to VAT since it had already been taxed when the product was sold or when the maintenance contract was concluded.


**Racehorses**

As regards the possibility to apply a standard value in respect of the importation and supply of racehorses and

---

the possibility to exempt racehorse training fees, the Committee endorsed unanimously the position of the Commission's staff that:
- on importation, the application of a standard value would be compatible with Art. 11(B)(2) of the Sixth Directive only where this did not involve a systematic reduction of the taxable amount;
- for internal supplies, as for imports, the application of a standard value could not be justified by using Art. 27 of the Sixth Directive unless this was genuinely a case of a simplification procedure, with no significant impact on the tax due at the final consumption stage.

In this connection it was argued that Art. 27 could be invoked to simplify the procedure for charging the tax on imports or successive supplies, using as a basis the value which the horse would have on final consumption, i.e. the carcass value. (However, the majority of the delegations questioned the compatibility of this interpretation with the above mentioned provisions of the Directive).

The Committee also felt that the exemption of racehorse training fees could not be justified by Art. 13 (Exemptions within the territory of the country).

Meeting No. 1 of 23/24 November 1977.

Payments by credit cards
All delegations agreed that in circumstances where goods are sold at a given price irrespective of how payment is to be made and where a customer paying by credit card was required to pay a card-handling fee to an associate of the retailer, this fee was in principle ancillary and subordinate to the main supply and would thus take on the same VAT liability.

Meeting No. 65 of 19 June 2002.

Imports – First place of destination
The Committee unanimously agreed that an agreement concerning international road transport of goods established by a Member State with a third country cannot contain any provision to exclude from the taxable amount for import transactions other than those covered by Art. 14(1) and 16(A) of the Directive, those transport costs corresponding to the transport effected between the place of entry of the goods into the territory of that Member State and the first place of destination as defined by Art. 11(B)(3)(b). Derogations should be allowed only pursuant to Art. 30 of the Sixth Directive.

As regards the definition of the first place of destination within the meaning of Art. 11(B)(3)(b) of the Sixth Directive, the Committee was unanimously in favour of adopting the following definitions to establish the first place of destination within a country:
- either the place shown on the road transport document made out abroad under cover of which the goods are brought into the country; or
- where the place shown on the road transport document differs from the destination the destination itself;
- in the absence of such details, the first transfer of cargo in the country by a road vehicle.

Meeting No. 11 of 10/11 March 1981.

Tax rates – Art. 12
Medical equipment and other appliances
The delegations almost unanimously agreed that Member States may apply a reduced VAT rate to products specifically designed for disabled people (medical equipment, aids and other similar appliances) which are normally purchased or used only by (permanently or temporarily) disabled people to alleviate or treat their complaints. Products normally used for other purposes (e.g. cordless telephones) are excluded by the provision, as are also medical equipment and aids designed for general use and not specifically for disabled people (e.g. X-ray equipment).

Meeting No. 54 of 16/17/18 February 1998.

CD-ROMs
As regards the VAT rates applicable to CD-ROMs, the delegations unanimously agreed that electronic media including text or spoken word were not included in Annex H, category 6 of the Sixth Directive.

Meeting No. 65 of 19 June 2002.

Exemptions – Art. 13
Actuarial services
The Committee unanimously agreed that actuarial services (e.g. calculations of probability and of premiums) were not covered by the exemption provided for in Art. 13(B)(a) of the Sixth Directive.

Meeting No. 26 of 13 July 1989.

Scope of the exemptions
The Member States agree almost unanimously that the exemption mentioned under Art. 13 of the Sixth Directive prevails over the exemptions mentioned under Arts. 15 and 28c of the Sixth Directive. This implies that supplies of goods that are mentioned under Art. 13 of the Sixth Directive are exempted on the basis of this Article, even if they are exported (Art. 15) or supplied to a client registered for VAT in another Member State than the Member State of departure, and the goods leave the territory of the Member State of departure to the Member States of arrival (Art. 28c). The consequence is that for these supplies there is no right to deduct the relevant input VAT for the supplier.

---

Following the same line of reasoning, a large majority of delegations agree that the exemption of Art. 26b(B) of the Sixth Directive, that introduces a special exemption for supplies, intra-Community acquisitions and imports of investment gold, prevails over the exemptions of Arts. 15 and 28c of the Sixth Directive except in the case of the exemption provided for in Art. 15(1) regarding supplies of gold to central banks. If, on the other hand, the supplier of investment gold opts for the taxation of his supplies, following the provision of Art. 26b(C) of the Sixth Directive, then the special exemption of Art. 26b(B) is no longer applicable, and the other exemptions of Arts. 15 and 28c of the Sixth Directive are applicable if the conditions mentioned therein are fulfilled.

Meeting No. 60 of 20/21 March 2000.

Hospital and medical care

As regards the questions of how to determine the VAT base for own resources purposes, concerning the scope of the exemptions laid down in Art. 13(A)(1)(b) dealing with the comparable social conditions to those applicable to bodies governed by public law, by hospitals, centres for medical treatment or diagnosis and other duly recognized establishments of a similar nature. The conclusions drawn following discussion of this matter were as follows:

(1) under Art. 13, the services supplied by "public" hospitals are in any case exempt;
(2) the services supplied by "private sector" bodies providing care under social conditions comparable to those of the public sector are also exempt; such conditions should be determined for each Member State – on the basis of answers to a questionnaire, for example – if it is wished to establish precisely what private sector services qualify for exemption;
(3) other services should be subject to VAT, but may be exempted pursuant to Art. 28(3)(b) and Annex F.

Meeting No. 6 of 9/10 January 1980.

Public postal services

The delegations unanimously agreed that a Member State’s "public" postal service can only be treated as such when it operates within that country. A public postal service operating in a country other than its own should lose its status as a public service and, therefore, the right of exemption provided for under Art. 13(1)(a).11

Meeting No. 52 of 28-29 May 1997.

Hospital and medical care

With regard to certain care services supplied to patients by companies employed to do so by a hospital, almost all the delegations took the view that such services were covered by the exemption provided for in Art. 13(A)(1)(c) of the Directive irrespective of the recipient of the invoice but provided that the services in question were of a typically medical nature as defined by each Member State. A large majority of delegations considered that this exemption applied to general care services also of typically medical nature provided at home on behalf of an institution. In the opinion of all the delegations, medical research was not covered by the exemption.


Individualizable transactions by non-profit-making organizations12

All the delegations were theoretically in favour of taxing individualizable transactions carried out on behalf of a member rather than in the collective interest.

Meeting No. 7 of 4/5 March 1980.

Tourist assistance transactions

The Committee was unanimous in its opinion that services supplied by the "assistant" to the "insurer" fell within the field of application of the tax and could be taxed or exempted depending on the nature of the service.

Meeting No. 22 of 19/20 March 1987.

Sport and cultural services

The matter raised was the VAT base for own resources purposes, concerning the scope of the exemptions laid down in Art. 13(A)(1)(m) and (n) ("certain services closely linked to sport" and "certain cultural services").

The conclusions drawn by the Committee were as follows:

(1) the services exempted under Art. 13(A)(1)(m) and (n) are indeterminate;
(2) under points 4 and 5 of Annex E to the Directive, Member States may, during the transitional period referred to in Art. 28(4), subject to tax the services exempted under Art. 13(A)(1)(m); and (n);
(3) it will therefore be impossible to lay down any parameter allowing financial compensations to be determined so long as there is no list of exempt services.

Meeting No. 6 of 9/10 January 1980.

Services supplied by soloists13

The Committee unanimously took the view that the exemption laid down by Art. 13(A)(1)(n) of the Sixth Directive concerning certain cultural services supplied by bodies governed by public law or by other cultural bodies recognized by the Member State concerned cannot apply to services supplied by individual artists. As the Court of Justice has recalled on several occasions, since exemptions must be interpreted restrictively, the concept of services supplied by public or recognized

11. Editor’s note: Read Art. 13(A)(1)(a).
12. This guideline refers to the exemption under Art. 13(A)(1)(i) of the Sixth Directive for the supply of services and goods closely linked thereto for the benefit of their members in return for a subscription fixed in accordance with their rules by non-profit-making organizations with aims of a political, trade union, religious, patriotic, philosophical, philanthropic or civic nature, provided that this exemption is not likely to cause distortion of competition.
bodies cannot be widened to cover services supplied individually by artists.

Meeting No. 41 of 28 February and 1 March 1994.

Public radio and television bodies
Almost all the delegations took the view that the main element which serves to identify a television body as a public television body is public funding (public authority subsidies or licence fees). However, amongst other characteristics are special obligations such as coverage of a certain territory or a linguistic area.

Virtually all the delegations were of the opinion that the broadcasting of programmes for which the radio or television body receives funding through licence money and subsidies constitutes the only non-commercial activity of public radio and television bodies. On the other hand, they considered that the sale of television programmes must always be taxed even if the transaction takes place between public bodies.

Meeting No. 52 of 28/29 May 1997.

Travel and entertainment cards
The Committee was in favour of exempting under Art. 13(B)(d)(1) (granting of credit) of the Sixth Directive those services supplied by the issuing organization to the card holder.

Meeting No. 10 of 23/24 October 1980.

Capital contributions made in cash
The Committee was unanimous in its opinion that cash contributions should not be liable to VAT, either because they were considered as being outside the field of application of the "Sixth Directive", or because they were exempted under Art. 13(B)(d)(5).

Meeting No. 22 of 19/20 March 1987.

Shares issued to increase capital
As regards the treatment for VAT purposes of shares issued by companies to increase their capital, the Committee agreed unanimously that such operations should either remain outside the scope of VAT or should be exempt as financial transactions.

Meeting No. 23 of 1/2 February 1988.

Costs associated with a transfer of shares
The delegations were unanimous in the view that VAT levied on costs incurred in connection with a transfer of shares was not deductible, since those costs related to transactions that were exempted under Art. 13(B)(d)(5).

Meeting No. 28 of 9/10 July 1990.

Special investment funds
The Committee held unanimously that only the activities of undertakings with a contractual structure could give rise to a chargeable event for VAT purposes and hence to the application of Art. 13(B)(d)(6).


Exemption on importation – Art. 14

Total value
All delegations considered that the term "total value", as used in Art. 22 of Directive 83/181/EEC of 28 March 1983, does not include incidental expenses.

Meeting No. 24 of 14/15 November 1988.

Zero rates – Art. 15

Personal luggage
The great majority of the delegations take the view that "personal luggage" should be understood to mean the whole of the luggage which a traveller is in a position to submit to the customs authorities on his/her departure, as well as that which he/she has presented in advance to the customs authorities, subject to proof that such luggage was registered as accompanied luggage; at the time of his/her departure, with the company which is responsible for conveying him/her.

Meeting No. 60 of 20/21 March 2000.

Method of calculation of the ECU 175 threshold
The delegations are unanimously of the opinion that, for the application of the exemption according to Art. 15(2), the threshold of ECU 175 (or the lower value specified by the Member State in which the supply is deemed to be located) can be ascertained by invoice: implying that the exemption can concern the delivery of several goods shown on a single invoice issued by the same taxable person for the same customer. The threshold mentioned cannot refer to various invoices issued by one or by different taxable persons regarding deliveries carried out for one or more customers.

Meeting No. 48 of 28 June/8 July 1996.

Telecommunications service
The Committee was unanimous in its support for:
– the application of Art. 15(8) to telecommunications services supplied to sea-going vessels; and
– for simplification purposes;
(a) exemption, similar to the one planned for transactions classed with exports, of services supplied by public telecommunications companies in connection with the use of their networks by other states;
(b) exclusion of telecommunications services provided on board vessels sailing in international waters and using territorial waters for a short part of their journey.

Meeting No. 22 of 19/20 March 1987.
**Tax discs for motorway users**
The Committee held unanimously that the importation of Swiss Confederation tax discs for motorway users should not be taxed because these discs did not correspond to a taxable transaction within the country of importation. The Committee was unanimously in favour of exempting the commission on the sale of such discs on the basis of Art. 15(14)(or 15(10)) of the Sixth Directive.


**Exemption certificate**
All delegations agreed to the common VAT and excise duty exemption certificate\(^{14}\) for the application of Art. 15(10) of the Directive as this had been amended following linguistic comments having been received from delegations.

Meeting No. 49 of 8/9 October 1996.

**Electronic services\(^{15}\)**
The delegations agree that Art. 15(10) of Directive 77/388/EEC also applies to services provided by electronic means by taxable persons to whom the special scheme provided for in Art. 26c of the Directive applies.

Meeting No. 75 of 14 October 2004.

**Exportation of goods\(^{16}\)**
After having discussed the specific case in the light of similar cases and various subcontracting scenarios, delegations agreed unanimously that specific services of assessing the conformity of manufactured goods with marketing standards of the third country of destination are not directly connected with the export of goods in the sense of Art. 15(13) of the Sixth Directive.

Meeting No. 70 of 25 September 2003.

**Travel agents**
The Committee unanimously considered that travel agencies which organize travel to the Canary Islands and to Ceuta and Melilla, using services provided by other taxable persons, are supplying services which, in accordance with Art. 26(3), can be regarded as those of an intermediary exempted under Art. 15(14).

Meeting No. 25 of 10/11 April 1989.

---

**Warehousing arrangements**
A large majority of the delegations confirmed the conclusions agreed by Working Party No. 1 at its meeting of 18 and 19 May 1992 and took the view that the fact of goods being removed from warehousing arrangements did not in itself constitute a taxable transaction. Nevertheless, when goods were removed from warehousing arrangements, it should be checked that the amount of value added tax due on the stored goods was the same as if exemption had not applied.

In the event of the goods having been resold successively in the warehouse, the delivery resulting in their being removed from warehousing arrangements no longer qualified for exemption under Art. 16; application of the normal taxation or exemption rules for this delivery makes any other corrective measures superfluous.

However, in cases where removal from warehousing arrangements was unconnected to the delivery of the stored goods, corrective measures should be implemented where the goods remained on the territory of the Member State which authorized the warehouse.

Meeting No. 47 of 11/12 March 1996.

---

**Zero rates – Art. 16(2)**

**Exports**
The Committee unanimously agreed that Art. 16(2) can only be used in respect of the taxable persons actually

---


16. TAXUD/2367/03 – Working paper No. 392: Services directly connected with the exportation of goods.
exporting the goods and should not be used to apply an exemption at an earlier stage.

In addition, where Member States have applied Art. 28 (3) to derogate from Art. 5(4) of the Sixth Directive, then the provisions of Art. 16(2) cannot be applied to the person supplying the exporting agent.

Meeting No. 12 of 30 June and 1 July 1981.

Deduction and refund of VAT – Arts. 17 and 18

Refund of VAT to Greek firms
The Committee unanimously agreed that the provisions of the Eighth VAT Directive should apply to Greek firms provided that the Greek tax authorities were able to certify that such firms carried out business activities and were subject to turnover tax.

Meeting No. 15 of 8/9 December 1983.

Imports
The Committee unanimously feels that Art. 18(1)(b) of the Sixth Directive must be interpreted as meaning that the import ‘document’ specifying the recipient or the importer of the goods and stating or permitting the calculation of the amount of tax due does not necessarily have to be an original paper copy of a certificate, but may take the form of electronic data insofar as the importing Member State has introduced a system allowing customs formalities to be completed by computer.

In this case, it falls to the importing Member State, which lays down the rules for the making of the declarations and payments of VAT, to take the necessary measures to ensure that the import declaration system provides every opportunity for checking regarding the exercise of the right to deduction, e.g. via electronic means.

The vast majority of the Committee consider that in accordance with Art. 3(a) of the Eighth Directive, the current legal situation is such that a taxable person may not obtain a refund of value added tax if the original paper copies of the import documents are not attached to the application. However, this does not prevent the customs administration from certifying as original a printout of data transmitted electronically.

Indeed, regarding the application of the Eighth Directive, it must be taken into account that the person applying for a refund does not keep in the refunding Member State any records which include the originals and which would permit checks to be carried out at a later date.

Meeting No. 50 of 7 November 1996.

Partial deduction – Art. 19

Transactions in shares
As regards the incidence of certain banking transactions on the right to deduct VAT, specially on transactions in shares, the Committee unanimously agreed that where the bank acts as an agent in the same of a third party the total remuneration received by the bank for its services as an agent should be taken into account in the deductible proportion.

Meeting No. 13 of 15/16 December 1981.

Person liable for payment of VAT – Art. 21

Taxable persons establish abroad
As regards the connection between Art. 9 and Art. 21(1) (a) of the Sixth Directive in the case of a taxable person established abroad, the Committee unanimously agreed that Art. 21(1)(a) could only be applied in respect of supplies of goods effected by a taxable person established abroad and those services envisaged in Art. 9(2) (a), (b), (c) and (d) of the Sixth Directive.

Meeting No. 10 of 23/24 October 1980.

Flat-rate farmers – Art. 25

Flat-rate compensation
Whilst taking into account the problems which could arise in practice, the Committee considered that in determining flat-rate compensation percentages in agriculture, statistical data for the three years preceding the current year should be taken into account in order to reach an average figure for the three years. However, where such data is not yet available, statistics for the last three available years should be used.

Meeting No. 10 of 23/24 October 1980.

Method of calculating the flat rate
As regards the problems in connection with the application of the common method for calculating the VAT rate in agriculture, more specifically, with the terms used for the method of calculation, the Committee agreed that the definitions used in the SOEC’s agricultural accounts should be those used for the method of calculation.

In relation to the nature of packing and storage services for agricultural products, the Committee agreed unanimously that the nature of the services in connection with Annex B should be determined on the basis of the following distinctions:

1. packing and storage by the farmer of agricultural products belonging to him: services included in the delivery price of agricultural produce;
2. packing and storage by the farmer on behalf of others but using facilities related to his own requirements: agricultural services;
3. same supplies of services on behalf of others but with facilities exceeding those normally used by the farmer: this work would not constitute supplies of services.

As regards the references to the activities defined in Annexes A and B, the Committee agreed unanimously that final production and total inputs referred to in
Point 1 (1) and (2) of Annex C, were, as for gross fixed asset formation, those in connection with the activities listed in Annexes A and B.

Meeting No. 2 of 13/14 June 1978.

Travel agents – Art. 26

Travel agents

The Committee held unanimously that Art. 26 must apply where the following conditions are met:

– the agency must act in its own name; and
– use at least one service supplied by another taxable person in the provision of travel facilities.

The Committee also held that the principle applied to travel agents of taxing the margin does not preclude determination of the margin for all transactions on the basis of the same formula during a specific period.

The Committee further held that where a package includes an amount which represents the consideration for transactions for which the agency is to be taxed separately in another Member State, this amount should not be taken into account in determining the margin.


Language study trips

The Committee unanimously agreed that, under the terms of Art. 26:

(1) all transactions performed by the travel agent in respect of a journey are to be treated as a single service supplied by the travel agent to the traveller;
(2) the single service is taxable in the Member State in which the travel agent has established his business or has a fixed establishment from which the travel agent has provided the services;
(3) the taxable amount is the travel agent’s margin.

Since the terms of Art. 26 do not allow a particular type of journey to be excluded, the Committee unanimously agreed that language study trips are also covered by the article.

Meeting No. 20 of 4/5 June 1986.

Travel agents

The delegations agreed unanimously that a travel agency, in so far as it directly supplied its services by its own means, was no longer acting as an agency (Art. 26) but was carrying out an economic activity which was subject to the general principles of the Sixth Directive. Each operation would be taxed entirely, or exempted entirely, in the Member State in which the activity was carried out.

If the above conditions are met, the operations connected with the provision of camping facilities and of educational courses would be subject to the provisions of Art. 9(2)(a) and Art. 9(2)(c) respectively.

Meeting No. 23 of 1/2 February 1988.

Investment gold – Art. 26b

Investment gold

All the delegations agreed that, for the application of the definition in Art. 26b(A)(i), the weights accepted by the bullion markets include at least the following weights:

<table>
<thead>
<tr>
<th>Unit</th>
<th>Weights traded</th>
</tr>
</thead>
<tbody>
<tr>
<td>kg</td>
<td>12.5/1</td>
</tr>
<tr>
<td>gram</td>
<td>500/250/100/50/20/10/5/2.5/2/1/0.5/0.25/0.1/0.05/0.025/0.01/0.005/0.0025/0.001/0.0005/0.00025/0.0001/0.00005/0.000025/0.00001/0.000005/0.0000025/0.000001/0.0000005/0.00000025/0.0000001/0.00000005/0.000000025/0.00000001/0.000000005/0.0000000025/0.000000001/0.0000000005/0.00000000025/0.0000000001/0.00000000005/0.000000000025/0.00000000001</td>
</tr>
<tr>
<td>ounce</td>
<td>100/5/1/1/0.5/0.25/0.1/0.05/0.025/0.01/0.005/0.0025/0.001/0.0005/0.00025/0.0001/0.00005/0.000025/0.00001/0.000005/0.0000025/0.000001/0.0000005/0.00000025/0.0000001/0.00000005/0.000000025/0.00000001/0.000000005/0.0000000025/0.000000001/0.0000000005/0.00000000025/0.0000000001</td>
</tr>
<tr>
<td>tael</td>
<td>10/5/1</td>
</tr>
<tr>
<td>tola</td>
<td>10</td>
</tr>
</tbody>
</table>

1. Tael = a traditional Chinese unit of weight. The nominal fineness of a Hong Kong tael bar is 990 but in Taiwan 5 and 10 tael bars can be 999.9 fine.
2. Tola = a traditional Indian unit of weight for gold. The most popular sized bar is 10 tola, 999 fineness.

All delegations agree to use the market value of gold coins and of the gold contained in them on 1 April of each year, to check compliance with the condition mentioned in the fourth indent of Art. 26b(A)(ii).

Meeting No. 57 of 16/17 December 1998.

Investment gold transactions

A large majority of delegations agreed that the exemption of Art. 26b(B), first paragraph is restricted to supplies of goods and does not cover transactions qualifying as supplies of services. Accordingly, Art. 8(1) determines the place of supply of investment gold exempted under Art. 26b(B).

When investment gold represented by certificates for allocated or unallocated gold is physically located in another Member State than the Member State where the certificate is handed over to the buyer almost all delegations consider that Art. 22(9)(a), third indent allows Member States to release the supplier from his obligations in the Member State where the gold is physically located, provided that he is carrying out in that Member State none of the transactions referred to in Art. 22(4)(c).

Meeting No. 57 of 16/17 December 1998.
Special measures – Art. 27

Telecommunications services

As regards the derogation based on the Art. 27 of the Sixth Directive as approved at the Ecofin Council on 17 March 1997, all the delegations are of the opinion that a uniform field of application of the derogation approved by the Council includes in particular:

- standard connection, subscription and installation transfer charges of allowing omission or reception of telecommunications;
- provision of access to a telecommunications network;
- the right to use a network of special lines; and
- subscriptions for providing access to the Internet (connection, messaging systems).

Whereas the Committee considered that value added voice telephony services and provision of pay-TV programmes were not included.

Meeting No. 51 of 13 March 1997, Rev. 2.

Transitional arrangements – Art. 28

Gold and professional agents

The Committee stated that several Member States tax transactions concerning gold ingots or bars whilst others exempt such transactions under the transitional provisions of Art. 28; two Member States have no gold market.

The Committee unanimously agreed on the inevitable consequences of the application of the transitional provisions of the Sixth Directive in respect of agents, acknowledging that the remuneration of such agents should either be included in the taxable amount of the transaction in respect of which they are acting under Art. 5(4)(c) or taxed separately on the basis of Art. 28(3)(e).

Meetings No. 8 and 9 of 6/7 May and 4 June 1980.

Colour scheme consultants

As regards the application of point 2 of Annex F to the activity of colour scheme consultants, the Committee concluded that the temporary exemption provided in Art. 28(3)(b) could only apply in respect of exemptions which were already in existence when the Sixth Directive was introduced.

Meeting No. 13 of 15/16 December 1981.

Gold coins

As regards the consequences of defining gold coins eligible for exemption under Point 26 of Annex F of the Sixth Directive, the delegations of those Member States who tax gold coins considered that it was both necessary and sufficient when referring to the exemption in Annex F (26) to keep to the provisions of Art. 28(3)(b) and exempt only those transactions relating to coins which were already exempted when the Sixth Directive came into force. This point of view means therefore that it is impossible to determine a uniform scope for those transactions relating to gold coins referred to in Annex F(26).

Meeting No. 10 of 23/24 October 1980.

Gold – System applicable to agents

As regards taxation of transactions concerning gold other than gold for industrial use and the system applicable to agents, the conclusion was drawn that those Member States availing themselves of the option provided for in Art. 28(3)(e), which allows derogation from Art. 5(4)(c) in particular, should only tax the agents’ commission even where it concerns transactions which are exempt or are carried out by non-taxable persons.

Meeting No. 6 of 9/10 January 1980.

Taxable transfers of goods – Art. 28a

New means of transport

The Committee agrees unanimously that the transfer of a vehicle which still satisfies the definition of “new means of transport” within the meaning of Art. 28a(a) (b), second paragraph, is not a taxable transaction when made by a private individual on moving house. It also agrees that, similarly, the return of a vehicle initially supplied under the exemption provided for in Art. 28c (A) cannot be regarded as a taxable transaction authorizing Member States to demand that the owner pay the VAT not collected when the initial supply was exempted.

The Committee also agrees unanimously that only the initial supply should be checked to ascertain whether the conditions for exemption by reason of transport outside the Member State of departure are met: to this end, registration of the vehicle with normal plates may be sufficient criterion for ruling out definitively any exemption in the Member State of purchase; conversely, registration of the vehicle under “transit” plates may indicate that the supply in fact concerns a new means of transport sent or transported to the buyer outside the territory of the Member State of departure but within the Community.

Note: This guideline applies only where a private individual can produce independent evidence to show that the vehicle was purchased before there was any intention of transferring residence from one Member State to another.

If the vehicle was purchased with a view to transfer of residence to another Member State, then clearly it was purchased for use in that other Member State, and should therefore be subject to VAT in that, Member State.

Meeting No. 54 of 16/17/18 February 1998.

______________________________________________________
17. Editor’s note: It must be assumed that reference is made to Art. 28(a)(b).
Defective goods

As regards the tax arrangements for defective goods, which are refused by the taxable purchaser in the Member State of destination (MS2) and for goods returned to the Member State of origin (MS1) for repair,19 the Committee unanimously took the view that, if a supplier in MS1 supplies goods to a taxable customer in MS2, the following arrangements apply:

1. the permanent return of goods by the customer in MS2 to his supplier in MS1 before accepting them, i.e. without there being any transfer of the right to dispose of the goods as their owner, may be considered equivalent to a temporary movement of goods and, therefore, be covered by the final indent of Art. 28a(5)(b). Since this would constitute a non-taxable transfer, the supplier is not required to identify himself in MS2;
2. however, if the goods are not returned to MS1 but either remain in MS2 or are dispatched or transported to another country, the supplier will be deemed to have carried out a taxable transfer and must identify himself in MS2. However, if a short time has elapsed between the first dispatch and the supply to a new purchaser, the first refused supply can be ignored;
3. the return of goods by the customer in MS2 to his supplier in MS1 after the right to dispose of them as their owner has been transferred must be regarded as a cancellation of the initial transaction (supply/purchase). Thus, it does not give rise to a supply of goods from MS2 to MS1;
4. however, if the goods are not returned to MS2 but either remain in MS1 or are dispatched to another country, the supplier will be deemed to have carried out a taxable transfer and must identify himself in MS2. However, if a short time has elapsed between the first dispatch and the supply to a new purchaser, the first refused supply can be ignored;
5. the return of goods by the customer in MS2 to MS1 for the purposes of their repair under a guarantee is carried out in order for a service to be provided and is therefore covered by the fifth indent of Art. 28a(5)(b), irrespective of whether the service is provided for valuable consideration or free of charge. Since the transfer is non-taxable, the customer is not required to identify himself in MS1, to which the goods have been returned temporarily for repair.

Meeting No. 41 of 28 February and 1 March 1994.

Intra-Community services – Art. 28b

Exceeding the threshold for acquisitions of goods

Where the rules on the place at which taxable transactions are carried out have been incorrectly applied, the Committee unanimously agrees that:

- each Member State must exercise its powers of taxation, irrespective of events elsewhere (Member State or third country);
- the Member State which collected the VAT incorrectly invoiced must return it to the person liable for the tax (the supplier of the goods or services) in accordance with its own domestic rules. Refunding the sum thus recovered to the final customer depends entirely on the contractual relations between the supplier and his/her customer.

Meeting No. 54 of 16/17/18 February 1998.

Intra-Community services – Art. 28a

Work on movable tangible property

The Committee unanimously took note of the updating work on the simplification of a number of contract work transactions (cases Nos. 1 to 4.2)20 already agreed by Working Party No. 1 at its meeting on 25 and 26 May 1993. The changes are made necessary:

1. All the simplification cases have the following elements in common:
   - the agreed simplification for applying tax consists in treating, in an identical manner, transactions which are similar from a tax and economic viewpoint;
   - the conditions governing the application of Sec. F of Art. 28b are met as the goods that have to undergo the work are dispatched or transported outside the Member State where the services were physically carried out;
   - if the goods to be worked on are making temporary stops or are strictly speaking not subject of an expedition or re-expedition towards the principal, the finished products have, from the outset, a known final destination: they are solely destined to the client/principal.

2. All simplifications are based on the same interpretation: the requirement that the finished products be returned to the Member State of initial departure, as foreseen in Art. 28a(5)(b), fifth indent, is deemed to have been satisfied everywhere temporary stops occur. This presupposes that the individual places in which the work is carried out are not regarded as places of arrival of the goods to be worked on.

---

18. The term ‘defective goods’ is meant to cover not only goods inappropriate for use by the recipient, but also goods which are refused by purchasers because they do not correspond to their expectations (e.g. quality, size, design ...).
20. The cases were published in the Annex to International VAT Monitor 3 (2002).

© IBFD
The simplification examples described constituted typical cases from which precise conditions have been laid down to enable simplifications to be made. Provided that other Community tax legislation was not affected and subject to the conditions laid down being observed, each of the simplifications envisaged could in practice be combined with any of the other simplifications.

The Committee unanimously considers that document XXI/2118/95 Rev. 2 could be published in order to make this information available to operators and to strengthen the coherence of the implementation of these simplifications within the Union.

Meeting No. 48 of 28 June/8 July 1996.

Distance selling – Art. 28b

Distance selling

The Committee agrees almost unanimously that Art. 28b(B) ensuring taxation at destination of distance sales does not apply to supplies carried out until such time as, in the course of the calendar year, the amount laid down by the Member State of arrival has been exceeded (except in the situations covered by the second indent of Para. 2 or where the taxable person has exercised the option under Para. 3).

Taxation at destination will apply to those supplies of goods which give rise to the threshold being exceeded, any subsequent supplies during that year, and all supplies made to customers in that Member State during the calendar year following that in which the threshold has been exceeded. Taxation will not apply retrospectively to the beginning of the year in which the threshold was exceeded.

Meeting No. 64 of 20 March 2002.

Exemption for intra-Community acquisitions – Art. 28c

Scope of the exemption

The Committee agreed that the exemptions without a right to deduct input VAT mentioned under Art. 13 of the Sixth Directive continue to apply when the goods are dispatched or transported from the Member State of the supplier to another Member State and are subject to an intra-Community acquisition according to Art. 28a in the Member State of arrival.

The intra-Community acquisition will be exempted according to Art. 28c(B)(a) of the Sixth Directive. There was some dissent from this view.

Meeting No. 56 of 13/14 October 1998.

22. See note 20.
23. This guideline replaces the guideline agreed on this issue at meeting No. 57.
Stay on top of global tax developments with Global Tax Explorer

The one-stop online tax resource
With additional country analyses and our unique comparison tool, tax professionals can seamlessly explore the world’s most extensive tax treaties database, discover country analyses on corporate and individual taxation, and much, much more.

Contents:

- Tax Treaties Database – The world’s most extensive and accurate source of tax treaties
- Global Tax Surveys – Includes overviews of tax systems in 112 countries
- Tax News Service (TNS) – Keep up to date with the latest international tax news
- IBFD International Tax Glossary – Contains more than 2,000 descriptions of tax terms
- Tax Treaty Case Law – Allows direct access to worldwide court decisions and case summaries

Explore the benefits of the above with a 14-day free trial
To request a trial, to order or for further information: www.ibfd.org/gte

Free monthly newsletter
Offers a wealth of information on courses, conferences, new products and Tax News Service monthly highlight.
Sign up: www.ibfd.org/newsletter

For further information, including full contents and an excerpt from the book, or to order, visit www.ibfd.org. Alternatively, contact Customer Service via info@ibfd.org or +31-20-554 0176.

IBFD, Your Portal to Cross-Border Tax Expertise