

A SELECTION OF GUIDELINES AGREED BY THE VAT COMMITTEE FROM 1977 TO 2010 (as at 31 December 2010) **with regard to QUESTIONS** concerning the application of EU VAT provisions

NOTICE: Guidelines which have been transformed into legally binding implementing measures pursuant to Article 397 of the VAT Directive are not included in this selection

Meeting number	Date of meeting	Provisions Directive 1977/388 (6th Dir.) respectively Directive 2006/112(*)	General Theme	Subject
1	23-24/11/1977	Art. 11(B)(2)	Taxable amount	Standard value importation, supply of racehorses and exemption of racehorses training fees
2	13-14/06/1978	Art. 25 & Annexes A, B & C	Flat-rate scheme farmers	Common method for calculating VAT rate in agriculture
6	09-10/01/1980	Art. 13(A)(1) (m) & (n)	Exemptions	"Certain services closely linked to sport" and "certain cultural services"
6	09-10/01/1980	Art. 13(A)(1)(b)	Exemptions	"Comparable social conditions"
6	09-10/01/1980	Art. 28(3)(e)	Exemptions	(Gold Transactions) System applicable to agents
7	04-05/03/1980	Art. 13(A)(1)(l)	Exemptions	Scope of the exemptions laid down in Art. 13A(1)(l) - individualisable transactions
8 & 9	6-7/5 & 4/6/1980	Art. 28(3)(e)	Exemptions	Transactions concerning gold, and payments to professional agents
8 & 9	6-7/5 & 4/6/1980	Art. 4	Taxable persons	Competitions for architects
8 & 9	6-7/5 & 4/6/1980	Art. 9(2)(e), second indent	Supply of services	Place where advertising services are supplied
10	23-24/10/1980	Art. 13(B)(d)(1)	Exemptions	"Travel and entertainment cards" issued by certain organisations
10	23-24/10/1980	Art. 28(3)(e)	Exemptions	Consequences of defining gold coins eligible for exemption
10	23-24/10/1980	Art. 9 & Art. 21(1)(a)	Supply of services & persons liable	Taxable person established abroad
10	23-24/10/1980	Art. 3	Territorial application	Definition of the territory of the Community

Meeting number	Date of meeting	Provisions Directive 1977/388 (6th Dir.) respectively Directive 2006/112(*)	General Theme	Subject
10	23-24/10/1980	Art. 25	Flat-rate scheme farmers	Data to be taken into account for the calculation of the flat-rate compensation percentages in agriculture
11	10-11/3/1981	Art. 9(1)(2) & Art. 15(13) & 16(1)	Supply of services & exemption	Hiring out of containers
11	10-11/3/1981	Art. 11(B)(3)(b)	Taxable amount	Derogation in respect of agreements between Member States and third countries regarding transport costs and value + Definition of the first place of destination
12	30/6 & 1/7/1981	Art. 16(2)	Exemptions	Persons covered
12	30/6 & 1/7/1981	Art. 9(2)(e), eighth indent & Art. 15(2)	Supply of services & exemptions	Meaning of the term "means of transport"
13	15-16/12/1981	Art. 28(3)(b) - Annex F, point 2	Exemptions	Activity of colour-scheme consultants
13	15-16/12/1981	Art. 19	Deductions	Certain banking transactions : shares
14	23-24/6/1982	Art. 3	Territorial application	Territorial scope
14	23-24/6/1982	Art. 9	Supply of services	Hotel and restaurant services
15	8-9/12/1983	Art. 17	Deductions	Eighth directive should apply to Greek firms
16	30/11 & 1/12/1983	Art. 9(1)	Supply of services	International telecommunications services supplies
17	4-5/7/1984	Art. 15(10) & (14)	Exemptions	Tax-free importation of motorway stickers sold on behalf of the Swiss Confederation
17	4-5/7/1984	Art. 13(B)(d)(6)	Exemptions	Special investment funds
17	4-5/7/1984	Art. 11(A)(2)(b)	Taxable amount	Incidental expenses
17	4-5/7/1984	Art. 26	Travel agencies	Special scheme

Meeting number	Date of meeting	Provisions Directive 1977/388 (6th Dir.) respectively Directive 2006/112(*)	General Theme	Subject
<u>20</u>	4-5/6/1986	Art. 4	Taxable persons	Musicians and other performing artists
<u>20</u>	4-5/6/1986	Art. 26(1) & (2)	Travel agencies	Organization of language study trips
<u>21</u>	12-13/12/1986	Art. 9(2)(b)	Supply of services	Transport operations
<u>22</u>	19-20/3/1987	Art. 9(1), (2)(e) & (3)(b) & Art. 17(2)	Supply of services & deductions	International leasing - other than means of transport
<u>22</u>	19-20/3/1987	Art. 13(B)(d)(1) & (5)	Exemptions	Capital contributions made in cash
<u>22</u>	19-20/3/1987	Art. 15(8)	Exemptions	Supplies of telecommunications service
<u>22</u>	19-20/3/1987	Art. 13(A)(1)(l) & (B)(a)	Exemptions	Tourist assistance operations : services supplied by the "assister" to the "insurer"
<u>23</u>	1-2/2/1988	Art. 13(B)(d)(5)	Exemptions	Shares issued by companies to increase their capital : outside the scope or exempt as financial transactions
<u>23</u>	1-2/2/1988	Art. 9(2)(a)(c) & Art. 26	Supply of services & travel agencies	Application of Art. 26 of the Sixth Directive
<u>24</u>	14-15/11/1988	Art. 14(1)(d)	Exemptions	Art. 22 of Directive 83/181 - Term "total value" & Incidental expenses
<u>25</u>	10-11/4/1989	Art. 15(14) & Art. 26(3)	Exemptions & Travel agencies	Organization of travel to the Canary Islands and to Ceuta and Melilla
<u>26</u>	13/07/1989	Art. 13(B)(a)	Supply of services & exemptions	Actuarial services : not covered by the exemption in Art. 13(B)(a)
<u>28</u>	9-10/7/1990	Art. 13(B)(d)(5) & Art. 17	Exemptions & deductions	Costs associated with a transfer of shares

Meeting number	Date of meeting	Provisions Directive 1977/388 (6th Dir.) respectively Directive 2006/112(*)	General Theme	Subject
31	27-28/1/1992	Art. 13(A)(1)(c)	Exemptions	Medical Research
31	27-28/1/1992	Art. 11(A)(2)(b) & Art. 13(B)(a)	Taxable amount & exemptions	Transactions linked to the additional guarantee offered when durable goods are sold
34	23-24/11/1992	Art. 2	Scope & supply of services	Transfer of footballers: consideration for a supply of services
38	25/05/1993	Art. 9(1), (2)(e) & (3)(b)	Supply of services	Software
39	5-6/7/1993	Art. 4(1) & Art. 5(6)	Taxable persons & supply of goods	Tangible movable property presented to game-show winners: private television companies are taxable persons - two taxable transactions
41	28/2 & 1/3/1994	Art. 28a(5)(b)	Scope	Defective goods refused by the taxable purchaser in the Member State of destination (MS2) and for goods returned to the MS of origin (MS1) for repair
41	28/2 & 1/3/1994	Art. 13(A)(1)(n)	Exemptions	Services supplied by soloists
47	11-12/3/1996	Art. 16(1)(B)(e)	Exemptions	Goods likely to be placed under warehousing arrangements other than customs warehousing
48	25/06/1996	Art. 28a(5) & 28b(F)	Scope	Consolidated document on transactions, other than bilateral, involving work on movable tangible property
51	13/3/1997	Art. 27	Simplifications	Telecommunication services - Derogation (I)
52	28-29/5/1997	Art. 9(2)(a) & (c), first indent	Supply of services	Packages of services supplied in connection with trade fairs and similar exhibitions
52	28-29/5/1997	Art. 13(A)(1)(a)	Exemptions	Deliveries by public postal services

Meeting number	Date of meeting	Provisions Directive 1977/388 (6th Dir.) respectively Directive 2006/112(*)	General Theme	Subject
53	4-5/11/1997	Art. 4(1) & (2)	Taxable persons	Services supplied by company directors
53	4-5/11/1997	Art. 9(2)(e), third indent	Supply of services	Services involving the tracing of heirs
54	16-17-18/2/1998	Art. 9(2)(c), fourth indent	Supply of services	Total or partial subcontracting
57	16-17/12/1998	Art. 8(1)(c)	Supply of goods	Sales of goods on board international means of transport following the abolition of tax-free sales
60	20-21/3/2000	Art. 8(1)(a) & (b)	Supply of goods	Scope of the definition "goods installed or assembled"
61	27/06/2000	Art. 4(5) & Art. 9	Taxable persons & supply of services	Services provided to public sector hospitals
62	14/11/2000	Art. 9(1) & 21	Supply of services & persons liable	Place of supply when the supplier is registered in the Member State of establishment of the client
65	19/06/2002	Art 12(3)(a) & Annex H, point 6	VAT rates	VAT rates applicable to CD-ROMS
67	8/01/2003	Art. 9(2)(e)	Supply of services	Radio and Television Broadcasting
70	25/09/2003	Art. 15(13)	Exemptions	Services directly connected with the exportation of goods
90	11/12/2009	Art. 43, 44 & 214	Supply of services & obligations	Individual VAT identification number - VAT identification of a non-taxable legal person

Meeting number	Date of meeting	Provisions Directive 1977/388 (6th Dir.) respectively Directive 2006/112(*)	General Theme	Subject
<u>91</u>	10-12/05/2010	Art. 199(1)(d) & Annex VI	Persons liable	Optional reverse charge for waste and scrap batteries
<u>92</u>	7-8/12/2010	Art. 98 & Annex III	VAT rates	Meaning of the term "books on all physical means of support"

VAT COMMITTEE - Guidelines of the 1st meeting - 23-24 November 1977

1. Questions raised by the United Kingdom delegation

Is it possible to apply a standard value in respect of the importation and supply of racehorses and is it possible to exempt racehorse training fees?

The Committee endorsed unanimously the position of the Commission's staff on the questions raised

- on importation, the application of a standard value would be compatible with Article 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 Article 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.

(...)

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

VAT COMMITTEE - Guidelines of the 2nd meeting of 13-14 June 1978

5. Problems in connection with the application of the common method for calculating the VAT rate in agriculture (Article 25 of the Sixth Directive and Annexes A, B and C)

a) 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.

c) 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.

d) References to the activities defined in Annexes A and B

The Committee agreed unanimously that final production and total inputs referred to in Point I, (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.

VAT COMMITTEE - Guidelines of the 6th meeting of 9 and 10 January 1980

I. Matters raised concerning the interpretation of the Sixth Directive

A. Matters raised, in the context of determining the VAT base for own resources purposes, concerning

a) the scope of the exemptions laid down in Article 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 Article 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 Article 28 (4), subject to tax the services exempted under Article 13 A-1 (m), and (n);
3. it will therefore be impossible to lay down any parameter allowing financial compensations to be determined as long as there is no list of exempt services.

VAT COMMITTEE - Guidelines of the 6th meeting of 9 and 10 January 1980

I. Matters raised concerning the interpretation of the Sixth Directive

A. Matters raised, in the context of determining the VAT base for own resources purposes, concerning

b) the scope of the exemptions laid down in Article 13-A-1(b) comparable social conditions

The conclusions drawn following discussion of this matter were as follows:

1. under Article 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 Article 28(3)(b) and Annex F.

VAT COMMITTEE - Guidelines of the 6th meeting of 9-10 January 1980

1. Matters raised concerning the interpretation of the Sixth Directive

A. Matters raised, in the context of determining the VAT base for own resources purposes, concerning

d) Taxation of transactions concerning gold other than gold for industrial use

2. System applicable to agents

The conclusion was drawn that those Member States availing themselves of the option provided for in Article 28(3)(e), which allows derogation from Article 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.

VAT COMMITTEE - Guidelines of the 7th meeting of 4-5 March 1980

I. Matters raised concerning the interpretation of the Sixth Directive

The scope of the exemptions laid down in Article 13A1(1)

The Committee drew the following conclusions:

1. All the delegations were theoretically in favour of taxing individualisable transactions carried out on behalf of a particular member (*of a non-profit-making organization*) rather than in the collective interest.

VAT COMMITTEE - Guidelines of the 8th and 9th meeting of 6-7 May & 4 June 1980

II. Questions raised concerning the interpretation of the Sixth Directive:

a) The system of VAT applicable to transactions concerning gold, and payments to professional agents

- i) The Committee stated that several Member States tax transactions concerning gold ingots or bars whilst others exempt such transactions under the transitional provisions of Article 28; two Member States have no gold market;
- ii) The Committee unanimously agreed on the inevitable consequences of the application of the transitional provisions of the 6th 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 Article 5(4)c) or taxed separately on the basis of Article 28(3)e).

VAT COMMITTEE - Guidelines of the 8th and 9th meeting of 6-7 May & 4 June 1980

II. Questions raised concerning the interpretation of the Sixth Directive:

c) The application of VAT to competitions for architects

The Committee reached the following conclusions:

- i) the delegations were unanimously in favour of taxing the consideration paid for competitions by invitation as well as payments made to the architects' professional body if it ranks as a taxable person for VAT purposes, in the sense of Article 4 of the 6th Directive.

VAT COMMITTEE - Guidelines of the 8th and 9th meeting of 6-7 May & 4 June 1980

II. Questions raised concerning the interpretation of the Sixth Directive :

g) The place where advertising services are supplied

The Committee unanimously decided that newspaper announcements in respect of private individuals are not affected by the provisions of Article 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.

VAT COMMITTEE - Guidelines of the 10th meeting of 23-24 October 1980

I. Questions raised concerning the interpretation of the 6th Directive

b) Common VAT arrangements applicable to "travel and entertainment cards" issued by certain organisations

The Committee was in favour of exempting under Article 13B(d)1 (granting of credit) of the 6th Directive those services supplied by the issuing organisation to the card holder.

VAT COMMITTEE - Guidelines of the 10th meeting of 23-24 October 1980

I. Questions raised concerning the interpretation of the 6th Directive

c) The consequences of defining gold coins eligible for exemption under Point 26 of Annex F of the 6th 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 Article 28(3)(b) and exempt only those transactions relating to coins which were already exempted when the 6th 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).

VAT COMMITTEE - Guidelines of the 10th meeting of 23-24 October 1980

I. Questions raised concerning the interpretation of the 6th Directive

d) The connection between Article 9 and Article 21(1)(a) of the 6th Directive in the case of a taxable person established abroad

The Committee unanimously agreed that Article 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 Article 9(2) (a) (b) (c) and (d) of the 6th Directive.

VAT COMMITTEE - Guidelines of the 10th meeting of 23-24 October 1980

I. Questions raised concerning the interpretation of the 6th Directive

f) A definition of the territory of the Community

All delegations agreed with the analysis that the territories listed in Article 3 of the 6th Directive should be treated as third countries in applying both that directive and the 8th 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. These difficulties will be brought up by the Committee at a later date.

VAT COMMITTEE - Guidelines of the 10th meeting of 23-24 October 1980

I. Questions raised concerning the interpretation of the 6th Directive

g) The data to be taken into account for the calculation of the flat-rate compensation percentages in agriculture

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.

VAT COMMITTEE - Guidelines of the 11th meeting of 10-11 March 1981

II. Questions raised on the interpretation of the 6th Directive concerning

d) Tax arrangements applicable to the 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 Article 9(1) if containers are deemed to be means of transport, or on Article 9(2) if they are not considered as such, with Art 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.

VAT COMMITTEE - Guidelines of the 11th meeting of 10-11/3/1981

II. Questions raised on the interpretation of the 6th Directive concerning

f) i) Derogation from the provisions of the Sixth directive in respect of agreements between Member States and third countries

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 importation, as for import transactions other than those covered by Article 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 Article 11B.(3)b. Derogations should be allowed only pursuant to Art. 30 of the 6th directive.

ii) Definition of the first place of destination within the meaning of Article 11B.(3)b of the 6th 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 itself,

- or, in the absence of such details, the first transfer of cargo in the country by a road vehicle.

VAT COMMITTEE - Guidelines of the 12th meeting of 30 June & 1 July 1981

Questions raised on the interpretation of the 6th Directive concerning

a) the interpretation of Article 16(2) of the Sixth Directive

(ii) Persons covered by the provisions of Article 16(2)

The Committee unanimously agreed that Art. 16(2) can only be used in respect of the taxable persons actually exporting the goods and should not be used to apply an exemption at an earlier stage.

In addition, where Member States have applied Article 28(3) to derogate from Article 5(4) of the 6th Directive, then the provisions of Article 16(2) cannot be applied to the person supplying the exporting agent.

VAT COMMITTEE - Guidelines of the 12th meeting of 30 June & 1 July 1981

Questions raised on the interpretation of the 6th Directive concerning

b) the meaning of the term "means of transport" used in Articles 9 and 15 of the Sixth Directive

The Committee was unanimously agreed that motor vehicles and other equipment and devices 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 Article 9 and 15 of the Sixth directive.

VAT COMMITTEE - Guidelines of the 13th meeting of 15-16 December 1981

II. Questions raised on the interpretation of the 6th Directive concerning:

a) Application of point 2 of Annex F to the activity of a colour-scheme consultant

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 6th directive was introduced.

VAT COMMITTEE - Guidelines of the 13th meeting of 15-16 December 1981

II. Questions raised on the interpretation of the 6th Directive concerning:

b) Incidence of certain banking transactions on the right to deduct VAT

2. Transactions in shares

The Committee unanimously agreed that where the bank acts as an agent in the name 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.

VAT COMMITTEE - Guidelines of the 14th meeting of 23-24 June 1982

Questions raised on the interpretation of the 6th Directive concerning

a) Territorial scope of the 6th VAT Directive

The Committee agreed unanimously that the Principality of Monaco, the Principality of Andorra, the Republic of San Marino, the Channel Islands and the Isle of Man are excluded from the territorial scope of the 6th Directive.

VAT COMMITTEE - Guidelines of the 14th meeting of 23-24 June 1982

Questions raised on the interpretation of the 6th Directive concerning

d) Taxation of hotel and restaurant services

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

VAT COMMITTEE - Guidelines of the 15th meeting of 8-9 December 1983

II. Refund of VAT to Greek firms under the Eighth VAT Directive

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.

VAT COMMITTEE - Guidelines of the 16th meeting of 30 November & 1 December 1983

II. Questions on the interpretation of the Sixth Directive concerning

a) Place of taxation of international telecommunications services supplies

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).

VAT COMMITTEE - Guidelines of the 17th meeting of 4-5 July 1984

II. Questions raised on the interpretation of the Sixth Directive concerning

a) Tax-free importation of motorway stickers sold on behalf of the Swiss Confederation

The Committee held unanimously that the importation of Swiss Confederation motorway stickers should not be taxed because these motorway stickers 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 Article 15(14) (or 15(10)) of the Sixth Directive.

VAT COMMITTEE - Guidelines of the 17th meeting of 4-5 July 1984

II. Questions raised on the interpretation of the Sixth Directive concerning

c) Application of Article 13B(d)(6) of the Sixth Directive to "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 Article 13B(d)(6).

VAT COMMITTEE - Guidelines of the 17th meeting of 4-5 July 1984

II. Questions raised on the interpretation of the Sixth Directive concerning

f) Taxable amount. Application of Article 11(A)(2)(b) of the Sixth Directive to 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 126/78 to the context of Article 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.

VAT COMMITTEE - Guidelines of the 17th meeting of 4-5 July 1984

II. Questions raised on the interpretation of the Sixth Directive concerning

g) Scope of Article 26 of the Sixth Directive: special scheme for travel agents

The Committee held unanimously that Article 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)

VAT COMMITTEE - Guidelines of the 20th meeting of 4-5 June 1986

II. Questions on the interpretation of the Sixth Directive concerning:

b) Treatment of the supply of services by musicians and other performing artists

The Committee unanimously agreed that it was not possible to lay down a system of Community tax treatment applicable to all artists' services which are subject to contractual provisions in view of the wide variety of clauses that might be included in the contract (working conditions, remuneration, relationship of employer and employee, etc.).

VAT COMMITTEE - Guidelines of the 20th meeting of 4-5 June 1986

II. Questions on the interpretation of the Sixth Directive concerning:

c) Application of Article 26 to the organization of language study trips

The Committee unanimously agreed that, under the terms of Article 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 Article 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.

VAT COMMITTEE - Guidelines of the 21st meeting of 12-13 December 1986

I. Questions on the interpretation of VAT Directives

a) Interpretation of Article 9(2)(b) of the Sixth Directive

The Committee held unanimously that Article 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.

VAT COMMITTEE - Guidelines of the 22nd meeting of 19-20 March 1987

Questions on the interpretation of VAT Directives

a) 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) (Article 1(b) of the Eighth and the Thirteenth Directives).

VAT COMMITTEE - Guidelines of the 22nd meeting of 19-20 March 1987

Questions on the interpretation of VAT Directives

c) Treatment for tax purposes of 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 Article 13B(d)(5).

VAT COMMITTEE - Guidelines of the 22nd meeting of 19-20 March 1987

Questions on the interpretation of VAT Directives

e) Tax treatment of supplies of telecommunications service

The Committee was unanimous in its support for:

1. application of Article 15(8) to telecommunications services supplied to sea-going vessels;
2. for simplification purposes,
 - a) exemption, similar to the one planned for transactions classed with exports, of services supplied by public telecommunication 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.

VAT COMMITTEE - Guidelines of the 22nd meeting of 19-20 March 1987

Questions on the interpretation of VAT Directives

g) Tax arrangements applicable to tourist assistance operations

(...)

The Committee was unanimous in its opinion that services supplied by the "assister" 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.

VAT COMMITTEE - Guidelines of the 23rd meeting of 1-2 February 1988

Questions on the interpretation of Community VAT legislation

a) Treatment for tax (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.

(...)

VAT COMMITTEE - Guidelines of the 23rd meeting of 1-2 February 1988

Questions on the interpretation of Community VAT legislation

b) Application of Article 26 of the Sixth Directive

1. The delegations agreed unanimously that a travel agency, insofar as it directly supplied its services by its own means, was no longer acting as an agency (Article 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 Article 9(2)(a) and Article 9(2)(c) respectively.

3. The delegations were unanimous in recognizing that, under the definitive arrangements, Article 26 did not permit tax to be charged on the margin or part of the margin of a travel agent established in the Community which related to tours to be carried out in non-Community countries.

VAT COMMITTEE - Guidelines of the 24th meeting of 14-15 November 1988

Interpretation of Community provisions on VAT

a) Article 22 of Directive 83/181/EEC of 28 March 1983

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

VAT COMMITTEE - Guidelines of the 25th meeting of 10-11 April 1989

II. Questions raised on the interpretation of the Community provisions on VAT

4. Taxation of travel agents' services in respect of the organization of travel to the Canary Islands and to Ceuta and Melilla

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 Article 26(3), can be regarded as those of an intermediary exempted under Article 15(14).

VAT COMMITTEE - Guidelines of the 26th meeting of 13 July 1989

a) Tax arrangements for actuarial services

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

VAT COMMITTEE - Guidelines of the 28th meeting 9-10 July 1990

II. Questions concerning the interpretation of the Community rules on VAT

5. Interpretation of Article 17 of the Sixth Directive with regard to deductibility of the tax levied on 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 Article 13(B)(d)(5).

VAT COMMITTEE - Guidelines of the 31st meeting of 27-28 January 1992

I. Questions raised concerning the interpretation of the Community rules on VAT

3. Interpretation of Article 13(A)(1)(c) of the Sixth Directive - hospital and medical care

(...)

In the opinion of all the delegations, medical research was not covered by the exemption (*provided for in Article 13(A)(1)(c)*).

VAT COMMITTEE - Guidelines of the 31st meeting of 27-28 January 1992

I. Questions raised concerning the interpretation of the Community rules on VAT

4. VAT arrangements applicable to transactions linked to the additional guarantee offered when durable goods are sold

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 Article 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 Article 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.

VAT COMMITTEE - Guidelines of the 34th meeting of 23-24 November 1992

II. Questions concerning the interpretation of the Community rules on VAT

2. Conditions applicable to transfers of footballers

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 Article 2 of the Sixth Directive and should be subject to tax. However, sums paid as compensation for breach of contract and to penalise 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.

(...)

VAT COMMITTEE - Guidelines of the 38th meeting of 25 May 1993

II. Questions raised on the interpretation of the Community VAT provisions

(VAT treatment of software)

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).)

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 normalized 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 Article 9(2)(e). 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 Article 9(1).
- iv) Purchases by non-taxable persons from third countries of specific software should be treated as services made use of in the Member State of consumption by application of Article 9(3)(b) and, accordingly, subject to VAT there. However, for practical reasons they may instead be treated as the import of goods, but the whole value invoiced, support plus data, must be included in the taxable amount.

VAT COMMITTEE - Guidelines of the 39th meeting of 5-6 July 1993

II. Question concerning the interpretation of the Community rules on VAT

Tax arrangements applicable to tangible movable property presented to game-show winners

The delegations agreed unanimously that private television companies were taxable persons within the meaning of Article 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 organised 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 provided and possibly money, and the supply of those goods, such supply to be taxed as a self-supply by the business.

VAT COMMITTEE - Guidelines of the 41st meeting of 28 February & 1 March 1994

- a) Tax arrangements for defective goods¹ 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 (doc. XXI/273/94, No 170)

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 Article 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 lapsed 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 MS 1 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 MS 1 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 Article 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 MS 1, to which the goods have been returned temporarily for repair.

1. 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...).

VAT COMMITTEE - Guidelines of the 41st meeting of 28 February & 1 March 1994

b) Application of Article 13(A)(1)(n) of the Sixth Directive to services supplied by soloists (doc. XXI/234/94, No 169)

The Committee unanimously took the view that the exemption laid down by Article 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 bodies cannot be widened to cover services supplied individually by artists.

VAT COMMITTEE - Guidelines of the 47th Meeting - REV.2 of 11 and 12 March 1996

II. QUESTIONS CONCERNING THE INTERPRETATION OF THE COMMUNITY VAT PROVISIONS

5.3 ARTICLE 16(1)(B)(e)

**Goods likely to be placed under warehousing arrangements other than customs warehousing
(Doc. XXI/2024/95 - Working Paper No 185)**

All delegations took the view that goods subject to excise duties could not give rise to exclusive placing under the VAT tax-warehousing arrangements provided for in Article 16(1)(B)(e). However, the Member States agreed that places which were approved as warehouses pursuant to Directive 92/12/EEC on excise duties could be recognized in parallel as VAT warehouses.

VAT COMMITTEE - Guidelines of the 48th meeting of 25 June 1996

II. QUESTIONS WHICH CONCERN THE APPLICATION OF COMMUNITY VAT PROVISIONS

2. 5.2

Article 28a(5) and 28b(F)

Consolidated document on transactions, other than bilateral, involving work on movable tangible property (cases No 1 to 4.2) (Doc. XXI/2118/95 Rev.2 - Working Paper No 188)

The Committee **unanimously** takes note of the updating work on the simplification of a number of contract work transactions already agreed by the Working Party No 1 at its meeting on 25 and 26 May 1993. The changes are made necessary (i) by the removal of the term 'contract work' (deletion of Article 5(5)(a)) and the amendment of Article 28a(5), and (ii) by the insertion of a new section F in Article 28b in connection with the adoption of Council Directive 95/7/CE of 10 April 1995.

The delegations agreed **unanimously** that:

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 Section F of Article 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 well 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 Article 28a paragraph 5 b) 5th indent, is deemed to have been satisfied even where 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.**

The simplification examples described constituted typical cases for 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 the 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.

VAT COMMITTEE - Guidelines of the 51st meeting REV.2 of 13 March 1997

I. ANY OTHER BUSINESS

7.1.

Application of VAT on telecommunication services - Derogation based on the Article 27 of the Sixth Directive as approved at the ECOFIN Council on 17.3.1997

All the delegations are of the opinion that a uniform field of application of the derogation approved by the Council on 17 March includes in particular:

- standard connection, subscription and installation transfer charges allowing emission or reception of telecommunication;
- provision of access to a telecommunication network;
- the right to use a network of special lines;
- 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.

VAT COMMITTEE - Guidelines of the 52nd meeting of 28-29 May 1997

II. QUESTIONS CONCERNING THE INTERPRETATION OF THE COMMUNITY VAT PROVISIONS

5.4 ARTICLE 9

Packages of services supplied in connection with trade fairs and similar exhibitions

(Document XXI/96/610 - Working Paper N° 210)

Cf. the minutes of the 55th meeting point 8.2

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 organiser 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 itemised according to their own place of taxation.

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 Article 9(2)(a) or based on Article 9(2)(c), first indent.

VAT COMMITTEE - Guidelines of the 52nd meeting REV.4 of 28 & 29 May 1997

II. QUESTIONS CONCERNING THE INTERPRETATION OF THE COMMUNITY VAT PROVISIONS

5.6 ARTICLE 13 A(1)(a)

Scope of the exemption applicable to deliveries by public postal services

(Document XXI/377/97 - Working Paper No 232)

This guideline was approved at the 53rd meeting

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 Article 13A(1)(a).

VAT COMMITTEE - Guidelines of the 53rd meeting of 4-5 November 1997

II. QUESTIONS CONCERNING THE INTERPRETATION OF THE COMMUNITY VAT PROVISIONS

5.2 ARTICLE 4

Services supplied by company directors
(document XXI/97/1.424 - Working Paper No 239)
Cf. the minutes of the 56th meeting point 3.2

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

VAT COMMITTEE - Guidelines of the 53rd meeting of 4-5 November 1997

II. QUESTIONS CONCERNING THE INTERPRETATION OF THE COMMUNITY VAT PROVISIONS

5.3 ARTICLE 9

Place of supply of services involving the tracing of heirs

(document XXI/97/1.658 - Working Paper No 242)

Cf. the minutes of the 55th meeting point 8.2

This guideline was approved at the 56th meeting

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

VAT COMMITTEE - Guidelines of the 54th meeting of 16-17-18 February 1998

II. QUESTIONS CONCERNING THE INTERPRETATION OF THE COMMUNITY VAT PROVISIONS

5.5 Article 9(2)(c)4th indent

Application in cases of total or partial subcontracting

(Document XXI/96/0.314 - Working Paper N° 198 Rev.1)

This guideline was approved at the 55th meeting

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 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.

VAT COMMITTEE - Guidelines of the 57th meeting of 16-17 December 1998

6. QUESTIONS CONCERNING THE INTERPRETATION OF THE COMMUNITY VAT PROVISIONS

Reference: Article 8(1)(c)

Subject: VAT rules applicable to sales of goods on board international means of transport following the abolition of tax-free sales (Document XXI/98/1623 - Working Paper No 272)

As regards supplies on board aircraft of goods to be carried away, the Committee unanimously agrees that, where the “part of a transport of passengers effected in the Community” referred to in Article 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.

VAT COMMITTEE - Guidelines of the 60th meeting of 20-21 March 2000

4. QUESTIONS CONCERNING THE APPLICATION OF COMMUNITY VAT PROVISIONS

4.2 References: Article 8 of the Sixth VAT Directive

Subject: Scope of the definition “goods installed or assembled”

(Document TAXUD/00/1810 - Working Paper No 294)

All delegations unanimously agree that for tiling, papering and parqueting the place of supply is there where the immovable property is situated. Some Member States reach this conclusion because they consider these operations as a supply of a service, to be taxed in accordance with the provisions of Article 9(2)(a) of the Sixth VAT Directive at the place where the immovable property is situated. However, other Member States make use of the option provided for under Article 5(5) of the Sixth VAT 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 Article 8(1)(a) of the Sixth VAT 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 Article 8(1)(b) of the Sixth VAT 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 statement provided for in Article 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.

VAT COMMITTEE - Guidelines of the 61st meeting of 27 June 2000

4. QUESTIONS CONCERNING THE APPLICATION OF COMMUNITY VAT PROVISIONS

4.3 References: Article 4(5) and Article 9

Subject: Services provided to public sector hospitals.

(Document TAXUD/1872/00 - Working Paper No 303)

(In exercising the option provided for in Article 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 Article 13 (such as hospitalisation 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).

VAT COMMITTEE - Guidelines of the 62nd meeting of 14 November 2000

4. QUESTIONS CONCERNING THE APPLICATION OF COMMUNITY VAT PROVISIONS

4.2 References: Articles 9 and 21

**Subject: Place of supply when the supplier of the service is registered in the Member State of establishment of the client
(Document TAXUD/1962/00 - Working Paper No 310)¹**

All the delegations believed that, according to Article 9(1) of the Sixth VAT 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 of taxation 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 Article 9(1) of the Sixth VAT Directive.

¹ Please note that with the new rules on the place of supply of services introduced on 1 January 2010, this guideline is relevant only for services falling under Article 45 of the VAT Directive, that is B2C services.

VAT COMMITTEE - Guidelines of the 65th meeting of 19 June 2002

3. QUESTIONS CONCERNING THE APPLICATION OF COMMUNITY VAT PROVISIONS

3.4 References: Article 12(3)(a)

Subject: VAT rates applicable to CD-ROMs

(Document TAXUD/2358/02 - Working paper n°352)

The delegations unanimously agreed that electronic media including text or spoken word were not included in Annex H, category 6

VAT COMMITTEE - Guidelines of the 67th meeting of 8 January 2003

4.3. QUESTIONS CONCERNING THE APPLICATION OF COMMUNITY VAT PROVISIONS

References : Article 9

Subject : Radio and Television Broadcasting

(Document TAXUD/2337/03 Rev. 1 - Working paper n°390)

The Delegations agree **unanimously** that the meaning of radio and television broadcasting services referred to in the penultimate indent of Article 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 utilised in providing a broadcast or any other ancillary services. *(Another Guideline of the 67th Meeting of the VAT Committee differentiates - in item 4.1.1 - between radio and television broadcasting services and those services only broadcast over the Internet or similar network (i.e. an electronically supplied service).*

VAT COMMITTEE - Guidelines of the 70th meeting of 25 September 2003

4.1 References: Article 15.13

Subject: Services directly connected with the exportation of goods

(Document TAXUD/2367/03 - Working paper n° 392)

After having discussed the specific case in the light of similar cases and various sub-contracting 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 Article 15(13) of the 6th Directive.

VAT COMMITTEE - Guidelines of the 90th meeting of 11 December 2009

5. NEW LEGISLATION - MATTERS CONCERNING THE IMPLEMENTATION OF RECENTLY ADOPTED COMMUNITY VAT PROVISIONS

5.1 References: New Articles 43, 44 and 214

**Subject: Individual VAT identification number - VAT identification of a non-taxable legal person
(Document taxud.d.1(2009)333305 - Working paper No 646)**

The VAT Committee unanimously confirms that a non-taxable legal person who is identified for VAT purposes within the meaning of the version of Article 43 of the VAT Directive that will come into force on 1 January 2010 is a person to whom a Member State has, under Article 214(1)(b) of the Directive, allocated an individual VAT identification number as specified in Article 215.

The VAT Committee unanimously confirms that pursuant to Article 214(1)(b) and Article 216 of the VAT Directive Member States must take the measures necessary to ensure that only non-taxable legal persons who make intra-Community acquisitions of goods subject to VAT or who have exercised the option to subject those acquisitions to VAT are identified by means of an individual number as specified in Article 215 of the Directive.

VAT COMMITTEE - Guidelines of the 91st meeting of 10, 11 & 12 May 2010

5. QUESTIONS CONCERNING THE APPLICATION OF COMMUNITY VAT PROVISIONS

5.2 References: Article 199(1)(d) and Annex VI

Subject: Optional reverse charge for waste and scrap batteries

(Document taxud.d.1(2010)146307 – Working paper No 663)

The VAT Committee unanimously agrees that waste batteries and accumulators, as defined in point 7 of Article 3 of Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC, are covered by Article 199(1) (d) of Directive 2006/112/EC.

VAT COMMITTEE - Guidelines of the 92nd meeting of 7 & 8 December 2010

6. QUESTIONS CONCERNING THE APPLICATION OF EU VAT PROVISIONS

6.7 References: Article 98 and Annex III

Subject: Meaning of the term "books on all physical means of support"

(Document taxud.c.1(2010)688984 - Working paper No 677)

The VAT Committee unanimously confirms that the concept of "books on all physical means of support" mentioned in category 6 of Annex III of the VAT Directive following the adoption of Directive 2009/47/EC only covers traditional books printed on paper, as well as the content of books on physical means of support such as cassettes, diskettes, CDs, DVDs, CD-ROMs, USB memory sticks, etc. that predominantly reproduces the same information content as printed books.

The VAT Committee also unanimously confirms that the supply of books in electronic format, usually called "E-books" (e.g.: in PDF files) or virtual books, which have to be downloaded from a Web site to be viewed on a desktop computer, laptop, Smartphone, e-book reader or any other reading system, as well as the supply of on-line newspapers and on-line periodicals, does not fall within the scope of category 6 of Annex III of the VAT Directive. The supply of e-books as well as the supply of on-line newspapers and on-line periodicals qualifies as electronically supplied services to which the reduced rates shall not apply according to the second subparagraph of Article 98(2) of the VAT Directive.