COMMISSION OF THE EUROPEAN COMMUNITIES

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2009/0009 (CNS)

Proposal for a

COUNCIL DIRECTIVE

amending Directive 2006/112/EC on the common system of value added tax as regards the rules on invoicing

EXPLANATORY MEMORANDUM

CONTEXT OF THE PROPOSAL

Grounds for and objectives of the proposal

Council Directive 2001/115/EC ('the Invoicing Directive') introduced common EU rules on VAT invoices, deemed necessary for the internal market to function properly. However, the aim of simplifying, modernising and harmonising the rules on VAT invoices was not fully met: the many options currently available to the Member States have led to a less than harmonised set of invoicing rules. This can clearly be seen in relation to the different rules in place for e-invoicing, and is generally regarded as one of the barriers to increased use of e-invoicing.

The Invoicing Directive, now incorporated in Council Directive 2006/112/EC ('the VAT Directive'), required the Commission to report to Council by 31 December 2008 on technological developments in e-invoicing and to present a proposal if appropriate. As the Invoicing Directive did not fully meet its stated objectives, the proposal accompanying the report to Council has been widened to address the shortcomings of provisions on invoicing.

General context

Unnecessary administrative burdens hamper growth and inhibit innovation. The rules on invoicing in the VAT Directive impose information obligations on nearly all businesses in Europe. A simplification of these rules has therefore a considerable potential to reduce the administrative burden on businesses.

Moreover, compliance with the VAT requirements hinders the take up of e-invoicing, with the result that businesses are losing out on potentially large cost savings. If business is to be encouraged to become more efficient, barriers to using new technologies need to be removed.

Together with introducing a more simplified and harmonised set of modern rules, consideration also needs to be given to the issue of VAT fraud. Significant work has been done to tackle VAT fraud and any changes to the invoicing rules should not undermine that work but seek to complement it.

Existing provisions in the area of the proposal

VAT Directive 2006/112/EC

Consistency with the other policies and objectives of the Union

The overriding aim of the proposal on invoicing is to create a modern set of harmonised rules that simplifies the invoicing requirements for businesses whilst allowing tax administrations effective means of ensuring that tax is paid. This can be seen as supporting four key aspects of the Commission's programme.

Reducing burdens on business

In January 2007, the Commission presented an ambitious Action Programme aimed at reducing administrative burdens on business in the EU by 25% by 2012. The Action Programme was endorsed by the Spring European Council in March 2007. The VAT Directive is among the 42 legal acts in the scope of the Action Programme. Within this directive the invoicing rules represent a key area where information obligations are imposed on businesses.

The present proposal aims at reducing the burdens stemming from these rules. In particular it aims to ensure the acceptance by tax authorities of electronic invoices under the same conditions as applied for paper invoices. Furthermore, the present proposal aims at creating a set of harmonised rules on invoicing by reducing the options allowed for Member States. Businesses regard a common set of standard rules on invoicing as crucial to reducing the burdens placed on them.

In its opinion of 22 October 2008, the High Level Group of Independent Stakeholders on Administrative Burdens pointed to the large potential for administrative burden reduction in the area of invoicing and endorsed the principle of equal treatment of electronic and paper invoices by tax authorities.

Promoting SMEs

The Small Business Act (SBA) was adopted by the Commission on 25 June 2008. It sets out a list of measures to be taken both by Member States and by the Commission with the common aim of promoting SMEs.

This proposal complements the SBA by extending the scope for using simplified invoices, including those for smaller amounts which are particularly important to SMEs, and by giving all Member States the opportunity to allow SMEs to account for VAT on a cash basis under a cash accounting scheme.

Increasing the use of e-invoicing

The Lisbon Agenda, focusing on growth and jobs, is a key priority for the Commission. Encouraging the use of e-invoicing by removing legal obstacles to the transmission and storage of e-invoices can help businesses reduce costs and increase efficiency, and so play a part in helping to meet the targets set out in the Lisbon Agenda.

An expert group on e-invoicing, set up by a Commission Decision, has highlighted the VAT Directive as a key piece of legislation with a direct bearing on the up-take of e-invoicing, although by no means the only one.

Also, the Single European Payment Area, which was launched in the beginning of 2008 in order to harmonise electronic payment processes across Europe, and the aim of promoting e-invoicing can be of mutual benefit to each other given the inherent links between invoices and payments.

To promote e-invoicing this proposal aims to eliminate the barriers to e-invoicing in the VAT Directive by removing the differences between invoices sent by electronic means and those sent on paper, thereby ensuring the method of transmission is neutral.

Helping to tackle fraud

The Commission published a communication on 31 May 2006 on the need to develop a coordinated strategy to improve the fight against fiscal fraud (COM(2006) 254). Certain forms of VAT fraud mentioned in the communication, such as unauthorised deductions and carousel fraud, rely on the invoice in order to perpetrate the fraud.

While an invoice can be used to commit fraud, it is in many cases the main document used by the tax authorities to check that tax is paid. With this is mind, in his oral report to ECOFIN in the meeting of 14 May 2008, Commissioner Kovacs stated that 'when updating the invoicing rules, the aspect of improving the possibility for the tax authorities to control the taxable persons should be taken into account'.

This proposal includes measures to help tax authorities better tackle VAT fraud. These measures include tightening up the rules on the role of the invoice in VAT deduction and enabling speedier exchange of information on intra-Community supplies. The latter measure complements the Commission proposal to cut the time limit for exchanging information between Member States on recapitulative statements.

CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

Consultation of interested parties

Consultation methods, main sectors targeted and general profile of respondents

Public consultation

Summary of responses and how they have been taken into account

Based on a selection of recommendations from the study on invoicing, and general principles on e-invoicing developed by the Expert Group on E-invoicing, the general public were invited to comment. In general, business and business associations were strongly in favour of the recommendations put to the public consultation. Those recommendations are largely reflected in this proposal.

An open consultation was conducted over the internet from 24 July 2008 to 19 September 2008. The Commission received 64 responses. The results are available on http://ec.europa.eu/taxation_customs/common/consultations/tax/index_en.htm.

Collection and use of expertise

Scientific/expertise domains concerned

On 25 July 2007 the Commission launched an open call for tender for a study on invoicing. The closing date for tenders was 7 September 2007. The contract for the study was signed with the successful contractor on 17 December 2007.

Methodology used

The aim of the study was threefold. Firstly, it was to identify the different rules in each of the 27 Member States in respect of the implementation of the Invoicing Directive

and to provide data on the take up of e-invoicing in the EU. Secondly, it was to analyse the difficulties that businesses faced in meeting the various invoicing obligations, particularly in relation to e-invoicing, and to evaluate the importance of the invoicing obligations as a control measure for the national administrations. Thirdly, the study was to present recommendations for changes in the legislation in those areas where the Member States could adopt a more harmonised approach or where the legislation could be modernised.

Main organisations/experts consulted

Tax consultants and VAT experts from the Member States.

Summary of advice received and used

No potentially serious risks with irreversible consequences have been indicated.

The advice received came in the form of a study on invoicing, which was used as a basis for the public consultation.

Member States were consulted in a Working Party No 1 meeting held on 25 September 2008. VAT experts from the Member States commented on a selection of measures to be included in this proposal.

Means used to make the expert advice publicly available

The invoicing study was published on the Commission website and a selection of recommendations was used for the public consultation.

The invoicing study is available on
http://ec.europa.eu/taxation_customs/common/publications/studies/index_en.htm

Impact assessment

Article 237 of the VAT Directive requires the Commission to present a report by 31 December 2008 at the latest and, if appropriate, a proposal amending the conditions for e-invoicing to reflect technological developments in the field. While no technological developments intrinsically require the Commission to present a proposal, the most appropriate option to remove the obstacles to e-invoicing is an amending Directive since the obstacles themselves are contained in the VAT Directive.

Other policy goals of reducing burdens on business and helping SMEs equally can only be achieved by changing the rules set out in the VAT Directive.

Whilst a full impact assessment has not been possible, bearing in mind the deadline contained in the VAT Directive, many of the features of an impact assessment are nevertheless contained in the proposal and accompanying communication.

The measurement exercise under the Action Programme for Reducing Administrative Burdens in the EU (http://ec.europa.eu/enterprise/admin-burdens-reduction/action_program_en.htm), using the EU standard cost model, estimates the maximum mid-term reduction potential in removing the VAT obstacles to e-invoicing as up to EUR 18 billion if all invoices were sent electronically. A more conservative

approach to the cost difference between paper and e-invoices, taking into account the number of VAT invoices required to be issued and the actual rate of up-take of e-invoicing experienced in Member States that already have a similar treatment between paper and e-invoices, would result in businesses experiencing a lower, but still very significant saving.

LEGAL ELEMENTS OF THE PROPOSAL

Summary of the proposed action

The proposed action is an amendment to the VAT Directive. The proposed legislative changes include the following measures.

Chargeability to tax for intra-Community supplies

This proposal complements the Commission proposal (COM(2008) 147) on the shortening of the timeframe for recapitulative statements by simplifying the rules on the chargeability to tax for intra-Community supplies. The aim is to create a single date on which the tax becomes chargeable, that of the date of the chargeable event as determined by the time of the supply. By requiring the invoice to be issued by the 15th day of the month following the chargeable event, the invoice will still remain the principle document evidencing the intra-Community supply.

Furthermore, the date of the chargeability to tax for intra-Community acquisitions is amended so as to correspond with the intra-Community supply.

Right of deduction

Two measures have been proposed regarding changes to the rules on the right of deduction.

Requirement to hold an invoice for deduction

The proposal applies equal treatment between the requirements of the supplier to issue an invoice and the customer to hold an invoice in order to exercise his right of deduction. The current rules lead to a disparity because in certain cases, such as reverse charge transactions, the customer is not obliged to hold a valid invoice in order to exercise the right to deduct. However, as is the case now, the proposal still allows Member States to allow a right of deduction subject to other evidence when a valid invoice is not available.

Cash accounting

Certain Member States have authorisation for a derogation in respect of the time at which the right of deduction can be exercised for those taxable persons declaring the VAT under an optional cash accounting scheme that simplifies the tax payment for small businesses. This derogation delays the right of deduction for those taxable persons in the cash accounting scheme until the payment is made to their suppliers provided they are allowed to delay until receipt of payment the moment when the tax is due.

It is proposed to extend this optional cash accounting simplification measure to all Member States. The scheme should be available to all micro enterprises having an annual turnover that does not exceed EUR 2 million as defined in Commission Recommendation 2003/361/EC concerning the definition of micro, small and medium-sized enterprises.

In addition, where the supplier only accounts for VAT on receipt of payment, a concession should be made for the recipient of those supplies to nevertheless claim an immediate right of deduction. This proposal creates a legal basis for Member States to further support businesses operating a cash accounting system.

There is also an amendment to the details required on a full VAT invoice which will oblige the supplier to state the date of the chargeability to tax on the invoice. Currently without this requirement the recipient, in certain cases, is unable to know at what point the right of deduction can be exercised.

Issuance of an invoice

Member State where the rules are applicable

There is some ambiguity at present regarding in which Member State the rules on invoicing are applicable. Whilst it is generally understood that the rules on invoicing are those applicable in the Member State where the tax is due this is not expressly stated.

This causes certain difficulties for businesses. A taxable person making supplies in which the tax is due in another Member State would have to meet the conditions on invoicing in the other Member States and these rules may be different to the Member State where he is established.

The proposal aims to resolve the problem by creating a set of harmonised rules for Business to Business (B2B) invoices with the consequence that a taxable person issuing an invoice from where he is identified for VAT will have legal certainty that the invoice is valid throughout the EU. This will also allow the rules to be applicable in the Member State of the supplier which builds on the One Stop Scheme idea of allowing businesses to fulfil their obligations from the Member State where they are established.

In particular the proposal aims to harmonise the invoice rules where there is currently divergent treatment, namely exempt supplies, time limits for issuing invoices, summary invoices, self billing and outsourcing to third parties.

For Business to Consumer (B2C) supplies the applicable rules will remain as the place of taxation but with greater harmonisation and transparency for business. By allowing Member States the option to require invoices for B2C supplies, which must be applicable equally to established and non-established businesses, but restricting this option to simplified invoices only, the proposal attempts to balance the needs of Member States to control the tax, and the need to reduce administrative burdens.

Transparency for business can be achieved by requiring Member States to make available on a web site detailed information regarding invoicing rules for B2C supplies.

In fact the Commission proposal (COM(2004) 728 - Article 34f of the Regulation (EC) No 1798/2003)) already foresees this for the "one stop-scheme" and so the adopted "mini one stop-scheme" will require something similar.

Contents of an invoice

An invoice is generally required to be issued for VAT purposes to evidence the VAT due to be paid to the Treasury and to allow the customer to exercise a right of deduction. The importance of the invoice in cases where a right to deduct can be exercised is clearly greater than where only VAT is due from the supplier.

With this in mind the proposal aims to create a two tier system of invoicing. Firstly there is a full VAT invoice which is a compulsory invoice containing an extensive set of details for B2B supplies when there is the likelihood that the customer will be exercising a right to deduction, the supplier has a right of deduction at the preceding stage or for a cross border supply. Secondly, there is the option, or in certain cases the requirement, for a simplified invoice.

Full VAT invoice

Regarding a full VAT invoice the current requirements in Article 226 of the VAT Directive are largely kept. There are three notable changes.

The first change regards the requirement for the supplier to state on the invoice the customer's VAT identification number. This will provide greater assurance to the tax authority that the customer's VAT number on the invoice matches that in which the right to deduct is being exercised. It also ends the distinction between domestic invoices and those invoices in relation to a supply to a customer in another Member State. Furthermore, it will help to uniquely identify the customer when, as is hoped, transmission of invoices by electronic means becomes more widespread.

The second change is that the date of the supply of goods or services is replaced by the date the tax becomes chargeable. In this way the recipient of the supply knows in what period he can exercise his right of deduction.

The third change relates to reverse charge supplies. Here the supplier, not liable for the payment of the VAT, may omit the VAT rate and the VAT amount payable from the full invoice when the supply takes place in another Member State. In many cases where the customer is in another Member State knowledge of the VAT rate may be difficult for the supplier.

Simplified VAT invoice

Member States have the option to require a taxable person to issue an invoice in the case of B2C supplies. However, in these cases as there is unlikely to be a VAT deduction only a simplified invoice can be required.

For B2B supplies a business has the option to issue a simplified invoice for credit notes and domestic exempt supplies that do not allow the supplier a right of deduction at the preceding stage. Also, when the invoice amount is less than EUR 200 only a simplified invoice is required. As the VAT amount that could be deducted is small, the resulting risk to Member States' budgets is similarly small. The majority of Member States have,

in any case, already consulted the VAT Committee to make use of simplified invoicing for minor amounts.

The details required on a simplified invoice are those items mentioned currently in Article 238 of the VAT Directive. The only addition is the requirement to include the value of the type of goods or services supplied.

E-invoicing

Allowed by the various options available to them, Member States have implemented the rules on e-invoicing in a divergent way. This has created a disharmonised set of e-invoicing rules that have been difficult for businesses to comply with, especially when sending cross border e-invoices.

The proposal aims to end any legal barriers to e-invoicing contained in the VAT Directive by treating the transmission of an invoice, whether by paper or by electronic means, equally. Thus, reference to the fact that the e-invoice should be by advance e-signature or by EDI are removed.

At the same time it is important that best practices develop so that standards, business requirements and all legal requirements converge towards a common approach. In this sense the VAT Directive can only play a part in helping to remove the obstacles that currently exist in terms of VAT legislation and here work of the Expert Group on E-invoicing will be useful.

Storage of invoices

The proposal sets out a common EU time period of 6 years for which invoices must be stored. This allows uniformity for the exchange of invoices between Member States and is generally in line with current storage periods in Member States.

The Member State in which the rules are applicable is now clearly defined in legislation by this proposal. In the case of the supplier the applicable rules are those of the Member State from where the supplier making the supply is established for VAT. In the case of the customer the rules applicable are those of the Member State where the customer belongs.

Importantly as well businesses will be allowed to convert paper invoices into electronic form for storage purposes.

Legal basis

Article 93 of the EC Treaty.

Subsidiarity principle

The proposal falls under the exclusive competence of the Community. The subsidiarity principle therefore does not apply.

Proportionality principle

The proposal complies with the proportionality principle for the following reasons.

A Directive has been chosen as the most appropriate and simplest measure, as the current rules to be simplified, modernised and harmonised are laid down in a Directive.

The measures aim to reduce burdens on business, help SMEs and facilitate the use of e-invoicing and as such should have a positive effect overall on economic operators while leaving Member States sufficient means to inspect taxes effectively and efficiently.

Choice of instruments

Proposed instruments: Directive.

Other means would not be adequate for the following reason.

The legislation being amended is a Directive and so no other legislative act would be suitable.

BUDGETARY IMPLICATION

The proposal has no implication for the Community budget.

ADDITIONAL INFORMATION

Simplification

The proposal aims to simplify the legislation and the administrative procedures for public authorities (EU and national), and for private parties.

The proposal aims at removing legal barriers in the internal market for VAT invoices. This proposal contributes to the simplification strategy launched by the Commission in October 2005 (COM(2005) 535) with a view to helping businesses to be more competitive. The simplified measures cover, notably, the issue of an invoice created within a set of harmonised rules valid throughout the EU, a simplified invoice in the case of B2C supplies, the equal treatment of electronic and paper invoicing, a common EU time period for the storage of invoices and the withdrawal of the Member States' option to impose conditions on self-billed invoices.

The proposal will improve the quality of data exchanged between Member States in relation to intra-Community supplies of goods.

Setting harmonised rules at EU level gives businesses the legal certainty that an invoice compliant with the rules in one Member State will be compliant in all Member States. Currently, businesses may need to comply with up to 27 different rules on invoicing.

Correlation table

The Member States are required to communicate to the Commission the text of national provisions transposing the Directive as well as a correlation table between those provisions and this Directive.

2009/0009 (CNS)

Proposal for a

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amending Directive 2006/112/EC on the common system of value added tax as regards the rules on invoicing

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 93 thereof,

Having regard to the proposal from the Commission[1],

Having regard to the opinion of the European Parliament[2],

Having regard to the opinion of the European Economic and Social Committee[3],

Whereas:

(1) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax[4] lays down conditions and rules concerning value added tax, hereinafter "VAT", invoices to ensure the proper functioning of the internal market. In accordance with Article 237 of that Directive, the Commission has presented a report which identifies, in the light of technological developments, certain difficulties with regard to electronic invoicing and which, in addition, identifies certain other areas in which the VAT rules should be simplified with a view to improving the functioning of the internal market.

(2) Since record keeping needs to be sufficient to allow Member States to control goods moving temporarily from one Member State to another, it should be made clear that record keeping is to include details of valuations on goods moving temporarily between Member States. Also, transfers of goods for valuation purposes to another Member State should not be regarded as a supply of goods for VAT purposes.

(3) The rules concerning the chargeability of VAT on intra-Community supplies of goods should be simplified in order to ensure the uniformity of the information submitted in recapitulative statements and the timeliness of the exchange of information by means of those statements. The derogation in Article 67(2) of Directive 2006/112/EC allowing the invoice to create chargeability to tax should be removed; only the time of the supply should cause VAT to become chargeable. In addition, the continuous

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1 OJ C , , p. .
2 OJ C , , p. .
3 OJ C , , p. .
4 OJ L 347, 11.12.2006, p. 1.

supply of goods from one Member State to another over a period of more than one calendar month should become chargeable at the end of each calendar month. The rules concerning the chargeability of VAT on intra-Community acquisitions should be similarly changed.

(4) To help small and medium sized enterprises that encounter difficulties to pay the VAT to the competent authority before they have received payment from their customers, Member States should have the option of allowing VAT to be accounted using a cash accounting scheme which allows the supplier to pay VAT to the competent authority when he receives payment for a supply and which establishes his right of deduction when he pays for the supply. This should allow Member States to introduce an optional cash accounting scheme that does not have a negative effect on cash flow relating to their VAT receipts.

(5) A valid invoice issued in accordance with Directive 2006/112/EC is an important document in the control of VAT, particularly with regard to the right of deduction. This is the case for all transactions irrespective of the person liable for payment of the tax. Rules should therefore be introduced to allow Member States the right to require a valid VAT invoice in all cases where there is a right of deduction.

(6) To provide legal certainty for business regarding their invoicing obligations, the Member State in which the invoicing rules apply should be clearly stated. The applicable rules should be those of the Member State in which the taxable person making the supply is identified for VAT or is otherwise established.

(7) To further help reduce burdens on business the use of simplified invoices should be extended to areas in which the tax risk is minimal, such as credit notes, low value supplies and certain exempt supplies.

(8) Given Member States' divergent invoicing rules for supplies to non-taxable persons and the need to maintain measures to control fraud, the option of requiring taxable persons to invoice non-taxable persons should be maintained. However, in order to balance this against the need to reduce burdens on business, only a simplified invoice containing a minimum level of information should be required.

(9) In order to harmonise the rules on invoicing to taxable persons or non-taxable legal persons, with a view to improving the functioning of the internal market, the relevant options available to Member States should be abolished or replaced by harmonised rules. This should be the case with regard to exempt supplies, the time limit for issuing an invoice, summary invoices, self-billing and outsourcing to third parties outside the Community.

(10) The requirements concerning the information to be provided on invoices should be amended to allow better control of the tax, to create equality of treatment between cross-border and domestic supplies and to help promote e-invoicing.

(11) Since the use of e-invoicing can help businesses to reduce costs and be more competitive, it is essential that paper invoices and e-invoices are treated equally. A technologically neutral approach can only be achieved by ensuring that no distinction is made between paper and electronic invoices on the basis of content, issue or storage.

(12) Since the divergent rules of the Member States regarding the period of time during which invoices must be stored, the medium in which they must be stored and their place of storage create significant burdens on business, a common storage period should be established and it should be possible to store invoices in electronic form and to store them outside the Member State in which the taxable person is established provided that those invoices can be made available without undue delay. It should also be provided that the rules which apply to the storage of invoices should be those of the Member State in which the taxable person is established.

(13) The rules on the access to invoices by the competent authority for control purposes should be made clear so that when a taxable person stores on-line invoices which he has issued or received, the Member State in which the tax is due should have access to those invoices.

(14) Since the objectives of the action to be taken regarding the simplification, modernisation and harmonisation of the VAT invoicing rules cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

(15) Directive 2006/112/EC should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1
Amendments to Directive 2006/112/EC

Directive 2006/112/EC is amended as follows:

(1) In Article 17(2), point (f) is replaced by the following:

"(f) the supply of a service performed for the taxable person and consisting in valuations of, or work on, the goods in question physically carried out within the territory of the Member State in which dispatch or transport of the goods ends, provided that the goods, after being valued or worked upon, are returned to that taxable person in the Member State from which they were initially dispatched or transported;"

(2) In Article 64, paragraph 2 is replaced by the following:

"2. Continuous supplies of goods over a period of more than one calendar month, which are dispatched or transported to a Member State other than that in which the dispatch or transport of those goods begins and which are supplied VAT-exempt or which are transferred VAT-exempt to another Member State by a taxable person for the purposes of his business, in accordance with the conditions laid down in Article 138, shall be regarded as being completed on expiry of each calendar month until such time as the supply comes to an end.

Supplies of services for which VAT is payable by the customer pursuant to Article 196, which are supplied continuously over a period of more than one year and which do not give rise to statements of account or payments during that period, shall be regarded as being completed on expiry of each calendar year until such time as the supply of services comes to an end.

Member States may provide that, in certain cases other than those referred to in the first and second subparagraphs, the continuous supply of goods or services over a period of time is to be regarded as being completed at least at intervals of one year."

(3) In Article 66, point (c) is replaced by the following:

"(c) where an invoice is not issued, or is issued late, no later than on the 15th day of the month following that in which the chargeable event occurs."

(4) Article 67 is deleted.

(5) In Chapter 2 of Title VI, the following Article 67a is inserted:

"Article 67a

Article 64(1), the third subparagraph of Article 64(2), Article 65 and Article 66 shall not apply where, in accordance with the conditions laid down in Article 138, goods dispatched or transported to a Member State other than that in which dispatch or transport of the goods begins are supplied VAT-exempt, or goods are transferred VAT-exempt to another Member State by a taxable person for the purposes of his business."

(6) In Article 68, the second paragraph is replaced by the following:

"The intra-Community acquisition of goods shall be regarded as being made, and VAT shall become chargeable, when the supply of similar goods is effected within the territory of the relevant Member State."

(7) Article 69 is deleted.

(8) The following Article 167a is inserted:

"Article 167a

1. Where the deductible tax becomes chargeable upon receipt of payment, Member States may provide that the right of deduction is to arise when the goods or services are supplied or at the time the invoice is issued.

2. Member States may provide within an optional scheme that taxable persons must, when the following conditions are met, postpone the right of deduction until the VAT has been paid to the supplier:

(a) the taxable person accounts for the output VAT for his supplies only when he has actually received the payments from his customers;

(b) the annual turnover of the taxable person is no higher than EUR 2 000 000.

Member States shall inform the VAT Committee of national legislative measures adopted pursuant to the first subparagraph."

(9) Article 178 is amended as follows:

(a) Point (a) is replaced by the following:

"(a) for the purposes of deductions pursuant to Article 168(a), in respect of the supply of goods or services, he must hold an invoice drawn up in accordance with Sections 3 to 6 of Chapter 3 of Title XI;"

(b) Point (c) is replaced by the following:

"(c) for the purposes of deductions pursuant to Article 168(c), in respect of the intra-Community acquisition of goods, he must set out in the VAT return provided for in Article 250 all the information needed for the amount of VAT due on his intra-Community acquisitions of goods to be calculated and he must hold an invoice drawn up in accordance with Sections 3, 4 and 5 of Chapter 3 of Title XI;"

(c) Point (f) is replaced by the following:

"(f) when required to pay VAT as a customer where Articles 194 to 197 or Article 199 apply, he must hold an invoice drawn up in accordance with Sections 3 to 6 of Chapter 3 of Title XI and he must comply with the formalities as laid down by each Member State."

(10) Article 180 is replaced by the following:

"Article 180

Member States may authorise a taxable person to make a deduction which he has not made in accordance with Articles 178 and 179.

The Member States shall determine the conditions and rules under which such authorisation is granted."

(11) Articles 181 and 182 are deleted.

(12) In Article 197(1), point (c) is replaced by the following:

"(c) the invoice issued by the taxable person not established in the Member State of the person to whom the goods are supplied is drawn up in accordance with Sections 3, 4 and 5 of Chapter 3."

(13) The following Article 218a is inserted:

"Article 218a

Member States may not impose on taxable persons any obligations or formalities, other than those laid down in this Chapter and Chapter 4, in relation to the issue or storage of invoices, irrespective of whether the invoices are sent or made available by electronic means or sent on paper."

(14) In Section 3 of Chapter 3 of Title XI, the following Article 219a is inserted:

"Article 219a

1. The issue of an invoice shall be subject to the rules applying in the Member State which issued the taxable person concerned with the VAT identification number under which he made the supply.

If no such number exists, the rules shall be those applying in the Member State in which the supplier has established his business or has a fixed establishment from which the supply is made or, in the absence of such a place of business or fixed establishment, in which he has his permanent address or usually resides or is otherwise required to be identified for VAT purposes.

2. Where a customer receiving a supply of goods or services is established in a Member State other than the Member State from which the supply was made and the customer is liable for the payment of VAT, the issue of invoice shall be subject to the rules applying in the Member State which issued the VAT identification number under which the customer received the supply."

(15) Article 220 is amended as follows:

(a) Point (2) is deleted;

(b) Point (4) is replaced by the following:

"(4) any payment on account made to him before the supply of goods referred to in point (1) was carried out or completed;"

(16) The following Article 220a is inserted:

"Article 220a

Member States shall allow the taxable person to issue a simplified invoice in any of the following cases:

(a) where the taxable amount of the supply of goods or services is less than EUR 200;

(b) where the invoice issued is a document or message treated as an invoice pursuant to Article 219;

(c) where the supply of goods or services is exempt without deductibility of the VAT paid at the preceding stage, and the taxable person required to ensure that an invoice is issued is identified for VAT in the same Member State as the place of taxation.

Point (c) of the first paragraph shall not apply where the supply of goods concerned is also exempt pursuant to Article 138."

(17) Articles 221, 222 and 223 are replaced by the following:

"Article 221

Member States may impose on taxable persons an obligation to issue a simplified invoice in respect of supplies of goods or services other than those referred to in Article 220 where the place of supply of those goods or services is within their territory.

Article 222

An invoice must be issued no later than on the 15th day of the month following that in which the chargeable event occurs.

Article 223

Member States shall allow the taxable person to issue a summary invoice that details several separate supplies of goods or services provided that the supplies mentioned in that summary invoice become chargeable for VAT during the same calendar month."

(18) Articles 224 and 225 are deleted.

(19) Article 226 is amended as follows:

(a) Point (4) is replaced by the following:

"(4) the customer's VAT identification number as referred to in Article 214;"

(b) Point (7) is replaced by the following:

"(7) the date on which VAT becomes chargeable, in so far as that date differs from the date of issue of the invoice, or, if the date on which VAT becomes chargeable is not known, a reference to the chargeable event concerned;"

(c) The following point (7a) is inserted:

"(7a) where the VAT becomes chargeable on receipt of payment, the date on which the goods or services are supplied if the date of supply precedes the date of payment;"

(d) The following point (10a) is inserted:

"(10a) where the customer receiving a supply issues the invoice instead of the supplier, the words "self-billed invoice";"

(e) Point (11) is replaced by the following:

"(11) in the case of an exemption, the mention "EX";"

(f) The following point (11a) is inserted:

"(11a) where the customer is liable for the payment of the VAT, the mention "RC";"

(g) Point (13) is replaced by the following:

"(13) where the margin scheme for travel agents is applied, reference to Article 306;"

(h) Point (14) is replaced by the following:

"(14) where one of the special arrangements applicable to second-hand goods, works of art, collectors' items and antiques is applied, reference to Articles 313, 326 or 323 as applicable;"

(20) The following Articles 226a and 226b are inserted:

"Article 226a

Where the invoice is issued by the taxable person making the supply to a customer who is liable for payment of VAT, the taxable person may omit the details referred to in points (8), (9) and (10) of Article 226 and instead indicate, by reference to the quantity or extent of the goods or services supplied and their nature, the value of those goods or services.

Article 226b

Only the following details are required on simplified invoices issued pursuant to Articles 220a and 221:

(a) the date of issue;

(b) identification of the taxable person making the supply;

(c) identification of the type of goods or services supplied and their value;

(d) the VAT amount payable or to be credited, or the information needed to calculate it."

(21) Articles 227 and 228 are deleted.

(22) Article 230 is replaced by the following:

"Article 230

The amounts which appear on the invoice may be expressed in any currency, provided that the amount of VAT payable or to be credited is expressed in the national currency of the Member State in which the supply of goods or services takes place, using the exchange rate published by the European Central Bank for the day on which the tax becomes chargeable, or, if there is no publication on that day, the previous day of publication."

(23) Article 231 is deleted.

(24) Article 232 is amended as follows:

"Article 232

Invoices issued pursuant to Section 2 may be sent on paper or they may be sent or made available by electronic means."

(25) Articles 233, 234, 235 and 237 are deleted.

(26) Article 238 is amended as follows:

(a) Paragraph 1 is replaced by the following:

"1. After consulting the VAT Committee, Member States may, in accordance with conditions which they may lay down, provide that in the following cases only the information required under Article 226b need be entered on invoices in respect of supplies of goods or services in their territory:

(a) where the amount of the invoice is above EUR 200 but not higher than EUR 400;

(b) where commercial or administrative practice in the business sector concerned or the technical conditions under which the invoices are issued make it particularly difficult to comply with all the obligations referred to in Article 226."

(b) Paragraph 2 is deleted;

(c) Paragraph 3 is replaced by the following:

"3. The simplified arrangements provided for in paragraph 1 shall not be applied when invoices must be issued pursuant to point (3) of Article 220 or when the taxable supply of goods or services is carried out by a taxable person who is not established in the Member State in which the VAT is due and the person liable for the payment of VAT is the person to whom the goods or services are supplied."

(27) Articles 239 and 240 are deleted.

(28) Article 243 is replaced by the following:

"*Article 243*

1. Every taxable person shall keep a register of the goods dispatched or transported, by that person or on his behalf, to a destination outside the territory of the Member State of departure but within the Community for the purposes of transactions consisting in valuations of those goods or work on them or their temporary use as referred to in points (f), (g) and (h) of Article 17(2).

2. Every taxable person shall keep accounts in sufficient detail to enable the identification of goods dispatched to him from another Member State, by or on behalf of a taxable person identified for VAT purposes in that other Member State, and used for services consisting in valuations of those goods or work on those goods."

(29) Article 244 is replaced by the following:

"Article 244

Every taxable person required to ensure that an invoice is issued by himself or by his customer or, in his name and on his behalf, by a third party shall ensure that copies of these invoices are stored.

Every taxable person receiving an invoice shall ensure that the invoice is stored.

The storage of an invoice shall be subject to the rules applying in the Member State in which the taxable person has established his business or has a fixed establishment from or for which the supply is made or, in the absence of such a place of business or fixed establishment, in which he has his permanent address or usually resides or is otherwise required to be identified for VAT purposes."

(30) In Article 245(2), the second subparagraph is deleted.

(31) In Article 246, the second paragraph is deleted.

(32) Article 247 is replaced by the following:

"Article 247

The taxable person shall ensure the storage of invoices for a period of six years."

(33) Article 248 is deleted.

(34) In Section 3 of Chapter 4 of Title XI, the following Article 248a is inserted:

"Article 248a

For control purposes, the Member States in which the tax is due may require particular invoices to be translated into their official languages."

(35) Article 249 is replaced by the following:

"Article 249

For control purposes, where a taxable person stores, by electronic means guaranteeing on-line access to the data concerned, invoices which he issues or receives, the competent authorities of the Member State in which he is established and, when the VAT is due in another Member State, the competent authorities of that Member State, shall have the right to access, download and use those invoices."

(36) In Article 272(1), the second subparagraph is replaced by the following:

"Member States may not release the taxable persons referred to in point (b) of the first subparagraph from the invoicing obligations laid down in Sections 3 to 6 of Chapter 3 and Section 3 of Chapter 4."

Article 2
Transposition

1. Member States shall adopt and publish, by 31 December 2012 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from 1 January 2013.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3
Entry into Force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4
Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the Council
The President