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PROPOSAL

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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

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2022/0410 (NLE)

Proposal for a

COUNCIL IMPLEMENTING REGULATION

amending Implementing Regulation (EU) No 282/2011 as regards information requirements for certain VAT schemes

{SEC(2022) 433 final} - {SWD(2022) 393 final} - {SWD(2022) 394 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

This proposal is part of the package of legislation on the VAT in the Digital Age initiative, together with a proposal for a Council Directive on amending Directive 2006/112/EC as regards VAT rules for the digital age¹, and a proposal for a Council Regulation amending the Regulation (EU) No 904/2010 as regards the VAT administrative cooperation arrangements needed for the digital age². The context of this initiative is set out comprehensively in the explanatory memorandum to the proposal for a Council Directive amending Directive 2006/112/EC³.

This explanatory memorandum describes the necessary modifications to Council implementing Regulation amending Council Implementing Regulation (EU) No 282/2011 as regards information requirements for certain VAT schemes.

This package has three main objectives:

- (1) Modernising **VAT reporting obligations**⁴, by introducing Digital Reporting Requirements, which will standardise the information that needs to be submitted by taxable persons on each transaction to the tax authorities in an electronic format. At the same time it will impose the use of e-invoicing for cross-border transactions;
- (2) Addressing the challenges of the **platform economy**⁵, by updating the VAT rules applicable to the platform economy in order to address the issue of equal treatment, clarifying the place of supply rules applicable to these transactions and enhancing the role of the platforms in the collection of VAT when they facilitate the supply of short-term accommodation rental or passenger transport services; and
- (3) Avoiding the need for multiple **VAT registrations** in the EU and improving the functioning of the tool implemented to declare and pay the VAT due on distance sales of goods⁶, by introducing Single VAT Registration (SVR). That is, improving and expanding the existing systems of One-Stop Shop (OSS)/Import One-Stop Shop (IOSS) and reverse charge in order to minimise the instances for which a taxable person is required to register in another Member State.

Elements of the package require implementing measures, in particular those relating to the VAT treatment of the platform economy and the single VAT registration. These will ensure that key elements are applied equally across the Member States, giving legal certainty for businesses and tax administrations.

¹ Please include reference when available.

² Please include reference when available

³ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

⁴ VAT reporting obligations refer to the obligation of VAT-registered businesses to make periodic declarations of their transactions to the tax authority to allow monitoring the collection of VAT.

⁵ In this respect, the term ‘platform economy’ relates to supplies of services made via a platform.

⁶ https://ec.europa.eu/taxation_customs/business/vat/vat-e-commerce_en

- **Consistency with existing policy provisions in the policy area**

This proposal is part of the package of legislation on the VAT in the digital age initiative. The consistency of the package as a whole is set out comprehensively in the explanatory memorandum of the proposal for a Council Directive amending Directive 2006/112/EC.

- **Consistency with other Union policies**

The VAT in the Digital Age initiative runs alongside other Commission initiatives relating to the Digital Economy, such as the Digital Services Act⁷, the recent proposal for a Directive to improve working conditions in platform work⁸, and the ongoing work relating to short-term accommodation rentals⁹. The general approach taken in these initiatives is to require platforms to be more transparent, including by providing relevant information, in relation to their users (e.g. short-term accommodation rental providers; or platform workers) and facilitate compliance by the users of their service with the relevant regulatory requirements.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The proposal is based on Article 397 of the VAT Directive. This Article provides that the Council, acting unanimously on a proposal from the Commission, shall adopt the measures necessary to implement the Directive.

- **Subsidiarity (for non-exclusive competence)**

This proposal is part of the package of legislation on the VAT in the digital age initiative. The subsidiarity of the package as a whole is set out comprehensively in the explanatory memorandum of the proposal for a Council Directive amending Directive 2006/112/EC.

This proposal accompanies that in that it provides for measures which ensure the VAT Directive is implemented effectively.

- **Proportionality**

This proposal is part of the package of legislation on the VAT in the digital age initiative. The proportionality of the package is set out comprehensively in the explanatory memorandum of the proposal for a Council Directive amending Directive 2006/112/EC.

This proposal accompanies that in that it provides for measures which ensure the VAT Directive is implemented effectively.

- **Choice of the instrument**

A Council Regulation is required to amend Council Regulation (EU) No 282/2011

⁷ Regulation (EU) ... /... of the European Parliament and of the Council on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC (Text with EEA relevance)

⁸ The proposed Directive is expected to bring legal certainty on the employment status of people working through digital labour platforms, improve their working conditions (including for self-employed people subject to algorithmic management) and increase transparency and traceability in platform work, including in cross-border situations

⁹ See annex for descriptions of relevant current and ongoing initiatives.

3. RESULTS OF *EX-POST* EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- ***Ex-post* evaluations/fitness checks of existing legislation**

A summary of *ex-post* evaluations and fitness checks of existing legislation is provided in the explanatory memorandum of the accompanying proposal to amend the VAT Directive.

- **Stakeholder consultations**

Extensive information on stakeholder consultations is provided in the explanatory memorandum of the proposal to amend the VAT Directive.

- **Collection and use of expertise**

The Commission used the analysis carried out by Economisti Associati S.r.l., for the “VAT in the Digital Age” study (running from October 2020 to January 2022)¹⁰. The final report was submitted on 1 April 2022 and the study has been published on the Commission's website.

The study's aims were to:

- (1) evaluate the current situation with regard to the digital reporting requirements, the VAT treatment of the platform economy, the cases still triggering VAT registration in a Member State in which a trader is not established, and the Import One Stop Shop;
- (2) assess the impacts of a number of possible policy initiatives in these areas.

- **Impact assessment**

The impact assessment for the proposal was considered by the Regulatory Scrutiny Board on 22 June 2022. The Board gave a positive opinion to the proposal with some recommendations that have been taken on board. The Board's opinion and recommendations are included in Annex 1 to the staff working document for the impact assessment accompanying this proposal. The executive summary sheet is available at the following page: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13186-VAT-in-the-digital-age_en.

- **Regulatory fitness and simplification**

A detailed analysis of the regulatory fitness and simplification is provided in the explanatory memorandum of the accompanying proposal to amend the VAT Directive.

- **Fundamental rights**

N/A

4. BUDGETARY IMPLICATIONS

The budgetary impacts are presented in the explanatory memorandum of the accompanying proposal to amend the VAT Directive.

¹⁰ VAT in the Digital Age. Final report (vol. I – III). Specific Contract No 07 implementing Framework Contract No TAXUD/2019/CC/150.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

These elements are presented in the explanatory memorandum of the accompanying proposal to amend the VAT Directive.

- **Explanatory documents (for directives)**

N/A

- **Detailed explanation of the specific provisions of the proposal**

A definition of the term ‘facilitates’ is provided in order to provide for a degree of legal certainty concerning the scope of the deemed supplier regime.

For the effective operation of the deemed supplier regime for passenger transport and short-term accommodation rental, it is necessary to clarify how the platform can identify whether the deemed supplier regime applies, this being where the underlying supplier does not provide the platform with a VAT number.

In addition, it is stipulated that, in circumstances in which the underlying supplier is in possession of a VAT identification number but does not charge VAT (for example because they are using the special scheme for small enterprises in a Member State which provides a VAT identification number for such businesses), then that supplier should not provide the platform with this VAT identification number.

Further, it is clarified that the platform should not be held liable where the information provided by the underlying supplier is incomplete or erroneous, and that the platform can consider the customer receiving the underlying supply as a non-taxable person where they do not provide a VAT number.

On 1 July 2021 the VAT e-commerce package entered into application. As of that date, taxable persons carrying out distance sales of goods within the EU or making distance sales of imported goods into the EU can opt to make use of the One-Stop Shop system (OSS) or Import One-Stop Shop system (IOSS). Alternatively, they can still identify for VAT in the Member State of arrival of the goods or import goods using the standard importation rules and pay VAT at the border.

Following the first year of application, some issues were identified that needed further clarification and are reflected in the proposal to modify the VAT Directive. Further details thereof are included in this proposal.

In the framework of Eurofisc, the antifraud experts mentioned they are facing serious challenges to detect risk on non-payment of VAT and to control the compliance of businesses in a timely manner. This is because of the lack of granular data when the information is kept and transmitted by the platform acting as deemed supplier, since the information transmitted contains aggregated information on all underlying sellers using their platform.

In addition, when making reconciliations of the information on the supply and the payment related thereto based on data available in CESOP (payment data refers to individual payees=sellers), tax authorities need to know the taxable persons that will actually receive the payment. This is especially challenging when the deemed supplier rules apply.

For both reasons mentioned above, transmission of the underlying supplier's identification information from the platforms to the tax authority of the Member State of identification is necessary.

At the same time a new simplification scheme in the One-Stop Shop will be set up to allow for the reporting of transfers of own goods to another Member State. Again, the detailed provisions are laid down in this proposal.

Finally, the proposal to modify the VAT Directive will make the use of the IOSS obligatory for marketplaces. Therefore, the current rules, laid down in the Council Implementing Regulation in relation to the consequences of a taxable person no longer qualifying to use the scheme, are adapted.

The modifications and additions to Article 57a complete the definitions that apply to the existing OSS schemes (Union and non-Union scheme) by including the new simplification scheme for transfers of own goods;

The new paragraph 3 in Article 57d inserts the provision regarding the VAT identification for the special scheme for transfers of own goods and as of when the taxable person will be allowed to start applying the scheme;

The modification in Article 57e specifies the VAT number that the Member State of identification shall use to identify the taxable person using the transfers of own goods scheme;

The additions to Article 57f identify the actions that the Member State of identification should take in case the taxable person will be excluded from the transfers of own goods scheme;

The additions to Article 57g provide details regarding the obligations of a taxable person voluntarily wanting to stop using the scheme. When it concerns the use of the transfers of own goods scheme, these rules are the same as for the Union and Non-Union schemes. However, when it concerns a deemed supplier using the IOSS scheme, the Article removes the possibility for this deemed supplier to voluntarily de-register, since the use of the IOSS is made obligatory for those traders;

The new paragraph 2a in Article 58 provides new details regarding the conditions for exclusion in the context of the transfers of own goods scheme;

The new Article 58aa specifies that the deemed suppliers cannot be excluded from the IOSS scheme since this scheme is obligatory for them;

The additions to Article 58a add references to the new transfers of own goods special scheme for the purpose of the relevant situations of cessation of taxable activities;

The additions to Article 58b cover the consequences where a mandatory IOSS user persistently fails to comply with the rules relating to that scheme;

The additions to Article 58c concern the new transfers of own goods special scheme so that in case of exclusion from this scheme, a taxable person shall fulfil its related VAT obligations directly to the Member State where the goods have been dispatched or transported to;

The additions to Articles 59 and 59a(2) detail specific rules pertaining to VAT return (periodicity and content) for the transfers of own goods scheme;

The additions to Article 60a which deal with electronic reminders, to Article 61 which deal with changes to the figures of the VAT return and to Article 61a which relate to the submission of the final VAT return and final VAT payment concern a reference to the Member State to which the goods have been dispatched or transported, which is required

because in the transfers of own goods scheme there will not be a Member State of consumption, but instead there will be a Member State where the goods arrive;

The additions to the Article 63c(3) make the reporting of the VAT rate and the VAT amount subject to relevance, as under the new rule, zero rated and exempt supplies also need to be reported. The further additional data that needs to be kept by the deemed supplier in respect of the Union and non-Union schemes, concern detailed information of the suppliers that use its platform to supply goods and services, both information they have to keep and other information they need to keep only if available. Finally, record keeping obligations are introduced for taxable persons using the transfers of own goods scheme.

Proposal for a

COUNCIL IMPLEMENTING REGULATION

amending Implementing Regulation (EU) No 282/2011 as regards information requirements for certain VAT schemes

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax¹, and in particular Article 397 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) For the proper functioning of the deemed supplier model, for platforms, portals, or similar means facilitating the supply of short-term accommodation rental or passenger transport services, as referred to in Article 28a of Directive 2006/112/EC it is necessary to specify certain elements of the measure.
- (2) It is necessary to define the term ‘facilitates’ to provide taxable persons who facilitate, through the use of an electronic interface such as a platform, portal, or similar means, the supply of short-term accommodation rental or passenger transport, legal certainty as to whether the deemed supplier measure applies to those taxable persons. Certain providers, including those that provide listings, should be explicitly excluded from the measure because they do not enter into direct competition with the traditional, non-digital sectors.
- (3) It is necessary to specify how taxable persons who facilitate, through the use of an electronic interface such as a platform, portal, or similar means, the supply of short-term accommodation rental or passenger transport, should identify the status of the underlying supplier of the service. Where a VAT identification number is not provided, those taxable persons should be deemed to have received and supplied the services themselves. The taxable person facilitating the supply is not required to carry out extensive validation of the VAT identification number supplied by the underlying supplier of the service.
- (4) Certain Member States allocate a VAT identification number to taxable persons who do not charge VAT on their supplies, including taxable persons who use the special scheme for small enterprises as set out in Title XII, Chapter 1, of Directive 2006/112/EC. In order that the taxable person facilitating the supply can identify whether the deemed supplier model applies or not, it is necessary to set out that, in those cases, the underlying supplier should not provide that VAT identification number to the taxable persons who facilitate, through the use of an electronic interface

¹ OJ L 347, 11.12.2006, p. 1.

such as a platform, portal, or similar means, the supply of short-term accommodation rental or passenger transport.

- (5) Taxable persons who facilitate, through the use of an electronic interface such as a platform, portal, or similar means, the supply of short-term accommodation rental or passenger transport, should not be held responsible for payment of any VAT due when acting on information provided by the underlying supplier, if those taxable persons can demonstrate that they could not reasonably have known that that information was incorrect.
- (6) Taxable persons who facilitate, through the use of an electronic interface such as a platform, portal, or similar means, the supply of short-term accommodation rental or passenger transport and who are the deemed supplier should be able to easily identify the status of the customer, that is to say the receiver of the underlying services. In order to facilitate such identification and to reduce the administrative burden on those taxable persons, those taxable persons should assume that the customer is a taxable person where a VAT identification number is provided, and a non-taxable person where no VAT identification number is provided.
- (7) A new One Stop Shop (OSS) simplification scheme for taxable persons who are transferring certain own goods cross-border is to be introduced in Directive 2006/112/EC. In order to implement that specific scheme in the overall framework of the VAT special schemes provided for in Title XII, Chapter 6 of Directive 2006/112/EC, specific rules pertaining to VAT identification, conditions for exclusion from the scheme, VAT returns and record keeping obligations should be provided in Council Implementing Regulation (EU) No 282/2011².
- (8) As the new OSS simplification scheme will be comprehensive and encompasses cross-border movements of goods that are currently covered by call-off stock arrangements, those arrangements are to be removed from Directive 2006/112/EC. The implementing provisions pertaining to those specific arrangements are no longer required and therefore should be deleted from Implementing Regulation (EU) No 282/2011.
- (9) The use of the Import One-Stop-Shop special scheme is to be made mandatory for electronic interfaces facilitating as deemed supplier certain distance sales of imported goods by changes introduced into Directive 2006/112/EC. The mandatory nature of that scheme affects the conditions for identification and exclusions for those taxable persons. Therefore these conditions should be amended in Implementing Regulation (EU) No 282/2011.
- (10) Under Article 242a of Directive 2006/112/EC, taxable persons who facilitate, through the use of an electronic interface such as a marketplace, platform, portal or similar means, the supply of goods or services to a non-taxable person within the Community in accordance with the provisions of Title V of that Directive are obliged to keep records of those supplies. However, information is only required in respect of supplies of goods or services that are facilitated by the electronic interface and is not required in cases where the deemed supplier rule applies. In order to support the fight against VAT fraud, such information relating to underlying suppliers should also be included in the mandatory set of information to be kept by deemed suppliers who are registered

² Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax (OJ L 77, 23.3.2011, p. 1).

to use the special One Stop Shop simplification schemes. Those additional data elements should allow a comparison of information reported by platforms with payment data on cross-border transactions available in the central electronic system of payment information as established by, Chapter V, Section 2, of Council Regulation (EU) No 904/2010³ and entering into force on 1 January 2024.

- (11) The elements of Directive 2006/112/EC which require amendments to Implementing Regulation (EU) No 282/2011 are to be transposed by Member States into national legislation by 31 December 2024. Therefore it is necessary that the amendments to that Regulation are applicable from 1 January 2025.
- (12) Implementing Regulation (EU) No 282/2011 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) No 282/2011 is amended as follows:

- (1) In Chapter IV, Section 2 the following Articles 9b to 9e are inserted:

'Article 9b

1. For the application of Article 28a of Directive 2006/112/EC, the term 'facilitates' shall mean the use of an electronic interface to allow a customer and a supplier offering supplies of short-term accommodation rental or passenger transport through the electronic interface to enter into contact, which results in a supply of those services through that electronic interface.

However, a taxable person shall not be considered to facilitate a supply of short-term accommodation rental or passenger transport where all of the following conditions are met:

- (a) that taxable person does not set, either directly or indirectly, any of the terms and conditions under which the supply is made;
- (b) that taxable person is not, either directly or indirectly, involved in authorising the charge to the customer in respect of the payments made;
- (c) that taxable person is not, either directly or indirectly, involved in the provision of those services.

2. Article 28a of Directive 2006/112/EC shall not apply to a taxable person who only provides any of the following:

- (a) the processing of payments in relation to the supply of short-term accommodation rental or passenger transport;
- (b) the listing or advertising of short-term accommodation rental or passenger transport;

³ Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax (OJ L 268, 12.10.2010, p. 1).

- (c) the redirecting or transferring of customers to other electronic interfaces where short-term accommodation rental or passenger transport services are offered for sale, without any further intervention in the supply.

Article 9c

Article 28a of Directive 2006/112/EC shall apply where the person providing the short-term accommodation rental or passenger transport service does not provide the taxable person facilitating the service through the use of an electronic interface such as a platform, portal, or similar means, with a valid VAT identification number.

Where the person providing the underlying service has a VAT identification number and falls under any of the categories listed in Article 28a, points (c) to (f), of Directive 2006/112/EC, that VAT identification number shall not be communicated to the taxable person facilitating the service.

Article 9d

For the application of Article 28a of Directive 2006/112/EC, where, on the basis of information supplied by the person providing the underlying service, a taxable person does not act as the deemed supplier, that taxable person shall not be held liable for the payment of the VAT due should it be subsequently found that that taxable person should have been deemed to be the supplier, where all of the following conditions are met:

- (a) the taxable person is solely dependent on information provided by the supplier of the services;
- (b) the information so provided is erroneous;
- (c) the taxable person can prove that he or she did not and could not reasonably have known that that information was erroneous.

Article 9e

Unless the taxable person has information to the contrary, the taxable person deemed to have received and supplied services under Article 28a of Directive 2006/112/EC shall regard the person to whom those services were supplied as a non-taxable person where that person to whom those services were supplied does not provide a VAT identification number.’;

- (2) in Article 54a, the following paragraph is added:
‘3. Section 1A of Chapter X shall cease to apply on 31 December 2025.’;
- (3) in Chapter XI, the heading of Section 2 is replaced by the following:

‘SECTION 2

Special schemes for taxable persons supplying services to non-taxable persons or making distance sales of goods, certain domestic supplies of goods or certain transfers of own goods

(Articles 358 to 369xj of Directive 2006/112/EC)’;

- (4) Article 57a is amended as follows:

(a) the following point (3a) is inserted:
'(3a) 'transfers of own goods scheme' means the special scheme for the transfers of own goods as set out in Title XII, Chapter 6, Section 5, of Directive 2006/112/EC;';

(b) points (4) and (5) are replaced by the following:

'(4) 'special scheme' means the 'non-Union scheme', the 'Union scheme', the 'import scheme' or the 'transfers of own goods scheme' as the context requires;';

(5) 'taxable person' means any of the following:

(i) a taxable person as referred to in Article 359 of Directive 2006/112/EC who is permitted to use the non-Union scheme;

(ii) a taxable person as referred to in Article 369b of Directive 2006/112/EC who is permitted to use the Union scheme;

(iii) a taxable person as referred to in Article 369m of Directive 2006/112/EC who is permitted to use the import scheme;

(iv) a taxable person as referred to in Article 369xb of Directive 2006/112/EC who is permitted to use the transfers of own goods scheme;';

(5) in Article 57d, the following paragraph 3 is added:

'3. Where a taxable person informs the Member State of identification that he or she intends to make use of the transfers of own goods scheme, that special scheme shall apply as from the first day of the following calendar month.

However, where the first transfer of goods to be covered by the transfers of own goods scheme takes place before that date, the special scheme shall apply from the date of that first transfer, provided the taxable person informs the Member State of identification of the commencement of his or her activities to be covered by the scheme no later than the tenth day of the month following that first supply.';

(6) in Article 57e, the following paragraph is added:

'The Member State of identification shall identify the taxable person using the transfers of own goods scheme by means of his or her VAT identification number referred to in Articles 214 and 215 of Directive 2006/112/EC.';

(7) Article 57f is amended as follows:

(a) in paragraph 2, the third subparagraph is replaced by the following:

'Notwithstanding the second subparagraph of this paragraph, where that taxable person is deemed to have received and supplied in accordance with Article 14a(1) of Directive 2006/112/EC, that taxable person shall indicate as the new Member State of identification the Member State in which that taxable person has established his or her business or, if that taxable person has not established his or her business in the Community, a Member State where that taxable person has a fixed establishment.

Where the Member State of identification changes in accordance with the second or third subparagraph, that change shall apply from the date on which the taxable person or his or her intermediary ceases to have a place of

business or a fixed establishment in the Member State previously indicated as the Member State of identification.’;

(b) the following paragraph 3 is added:

‘3. Where a taxable person using the transfers of own goods scheme ceases to meet the conditions of the definition laid down in Article 369xa, point (2) of Directive 2006/112/EC, the Member State in which that taxable person has been identified shall cease to be the Member State of identification.

However, where that taxable person still fulfils the conditions for using that special scheme, that taxable person shall, in order to continue using that scheme, indicate as the new Member State of identification the Member State in which that taxable person has established his or her business or, if that taxable person has not established his or her business in the Community, a Member State where that taxable person has a fixed establishment. Where the taxable person using the transfers of own goods scheme is not established in the Community, that taxable person shall indicate as the new Member State of identification a Member State from which he or she dispatches or transports goods.

Where the Member State of identification changes in accordance with the second subparagraph, that change shall apply from the date on which the taxable person ceases to have a place of business or a fixed establishment in the Member State previously indicated as the Member State of identification or from the date on which that taxable person ceases to dispatch or transport goods from that Member State.’;

(8) in Article 57g, the following paragraphs 3 and 4 are added:

‘3. A taxable person using the import scheme who is deemed to have received and supplied goods in accordance with Article 14a(1) of Directive 2006/112/EC may only cease to use that scheme if that taxable person no longer carries out distance sales of goods imported from third territories or third countries. The taxable person or the intermediary acting on his or her behalf shall inform the Member State of identification at least 15 days before the end of the month prior to that in which that taxable person intends to cease to use the scheme. Cessation shall be effective from the first day of the next month and the taxable person shall no longer be allowed to use the scheme for supplies carried out from that day.

4. A taxable person using the transfers of own goods scheme may cease to use that special scheme regardless of whether that taxable person continues to transfer goods which can be eligible for that special scheme. The taxable person shall inform the Member State of identification at least 15 days before the end of the calendar month prior to that in which that taxable person intends to cease to use the scheme. Cessation shall be effective as of the first day of the next calendar month. VAT obligations relating to transfers of own goods arising after the date on which the cessation became effective shall be discharged directly with the tax authorities of the Member States which goods have been dispatched or transported from and to.’;

(9) Article 58 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Where a taxable person using one of the special schemes meets one or more of the criteria for exclusion laid down in Articles 369e or 369xe of Directive 2006/112/EC, or for deletion from the identification register laid down in Article 363 or in Article 369r(1) and (3) of that Directive, the Member State of identification shall exclude the taxable person from that scheme.

Only the Member State of identification can exclude a taxable person from one of the special schemes.

The Member State of identification shall base its decision on exclusion or deletion on any information available, including information provided by any other Member State.’;

(b) the following paragraph 2a is inserted:

‘2a. The exclusion of a taxable person from the transfers of own goods scheme shall be effective from the first day of the calendar month following the day on which the decision on exclusion is sent by electronic means to the taxable person. However, where the exclusion is due to a change of place of business or fixed establishment, or of the place from which dispatch or transport of goods begins, the exclusion shall be effective from the date of that change.’;

(10) Article 58a is replaced by the following:

‘Article 58a

A taxable person using a special scheme who has, for a period of two years, made no supplies of goods or services or no transfers of own goods covered by that scheme shall be assumed to have ceased his or her taxable activities within the meaning of Article 363, point (b), Article 369e, point (b), Article 369r(1), point (b), Article 369r(3), Article 369xe, point (b) of Directive 2006/112/EC. That cessation shall not preclude the use of a special scheme if that taxable person recommences his or her activities covered by any scheme provided for in Chapter 6 of Title XII of that Directive.’;

(11) the following Article 58aa is inserted:

‘Article 58aa

For the purposes of the special scheme covered by Title XII, Chapter 6, Section 4, of Directive 2006/112/EC, Article 58 of this Regulation, with the exception of paragraph 3, point (a), thereof, shall not apply to a taxable person who is deemed to have received and supplied goods in accordance with Article 14a(1) of that Directive.’;

(12) Article 58b is amended as follows:

(a) in paragraph 1, the following subparagraphs are added:

‘For the purposes of the special scheme covered by Title XII, Chapter 6, Section 4, of Directive 2006/112/EC, the first subparagraph shall not apply where the taxable person is deemed to have received and supplied goods in accordance with Article 14a(1) of that Directive. However, where that taxable person is excluded from one of the other special schemes by reason

of persistent failure to comply with the rules of those special schemes, that taxable person shall remain excluded from using those other special schemes in any Member State for two years following the return period during which that taxable person was excluded.

Where that taxable person persistently fails to comply with the rules of the special scheme covered by Title XII, Chapter 6, Section 4, of Directive 2006/112/EC, that taxable person shall not be excluded from that scheme but shall be excluded from all other special schemes for the two years following the return period during which he or she was found to be persistently failing to meet his or her obligations under that scheme.’;

(b) paragraph 2 is replaced by the following:

‘2. A taxable person or an intermediary shall be regarded as having persistently failed to comply with the rules relating to one of the special schemes, within the meaning of Article 363, point (d), Article 369e, point (d), Article 369r(1), point (d), Article 369r(2), point (c) Article 369r(3), point (d), or Article 369xe, point (d) of Directive 2006/112/EC, in the following cases:

- (a) where reminders pursuant to Article 60a of this Regulation have been issued to the taxable person, or the intermediary acting on his or her behalf by the Member State of identification for three immediately preceding return periods and the VAT return has not been submitted for each and every one of these return periods within 10 days after the reminder has been sent;
- (b) where reminders pursuant to Article 63a of this Regulation have been issued to the taxable person or the intermediary acting on his or her behalf by the Member State of identification for three immediately preceding return periods and the full amount of VAT declared has not been paid by that taxable person, or the intermediary acting on his or her behalf for each and every one of these return periods within 10 days after the reminder has been sent, except where the remaining unpaid amount is less than EUR 100 for each return period;
- (c) where, following a request from the Member State of identification and one month after a subsequent reminder by the Member State of identification, the taxable person, or the intermediary acting on his or her behalf has failed to make electronically available the records referred to in Articles 369, 369k, 369x and 369xk of Directive 2006/112/EC.’;

(13) Article 58c is replaced by the following:

Article 58c

A taxable person who has been excluded from the non-Union scheme, the Union scheme or the transfers of own goods scheme shall discharge all VAT obligations relating to supplies of goods or services, or transfers of own goods, arising after the date on which the exclusion became effective directly with the tax authorities of the Member State of consumption concerned or the Member State to which the goods have been dispatched or transported .’;

(14) Article 59 is amended as follows:

- (a) paragraph 1 is replaced by the following:
- ‘1. Any return period within the meaning of Articles 364, 369f, 369s or 369xf of Directive 2006/112/EC shall be a separate return period.’;
- (b) the following paragraph 2a is inserted:
- ‘2a. Where, in accordance with Article 57d(3), second subparagraph, the transfers of goods scheme applies from the date of the first transfer, the taxable person shall submit a separate VAT return for the calendar month during which the first transfer took place.’;
- (c) the following paragraph 3a is inserted:
- ‘3a. Where a taxable person has been registered under the transfers of own goods scheme during a return period, the taxable person shall submit VAT returns to the Member State of identification in respect of the transfers made and the periods covered by that scheme.’;
- (d) paragraph 4 is replaced by the following:
- ‘4. Where the Member State of identification changes in accordance with Article 57f after the first day of the return period in question, the taxable person or the intermediary acting on his or her behalf shall submit VAT returns and, where applicable, make corresponding payments to both the former and the new Member State of identification covering the supplies made during the respective periods in which those Member States have been the Member State of identification.’;

- (15) Article 59a is replaced by the following:

‘Article 59a

Where a taxable person using a special scheme has supplied no goods or services in any Member State of consumption or made no transfers of own goods under the transfer of own goods scheme during a return period and has no corrections to make in respect of previous returns, the taxable person, or the intermediary acting on his or her behalf shall submit a VAT return indicating that no supplies or transfers have been made during that period (a nil-VAT return).’;

- (16) Article 60a is replaced by the following:

‘Article 60a

The Member State of identification shall remind, by electronic means, taxable persons, or intermediaries acting on their behalf, who have failed to submit a VAT return under Articles 364, 369f, 369s or 369xf of Directive 2006/112/EC of their obligation to submit such a return. The Member State of identification shall issue the reminder on the tenth day following that on which the return should have been submitted, and shall inform the other Member States by electronic means that a reminder has been issued.

Any subsequent reminders and steps taken to assess and collect the VAT shall be the responsibility of the Member State of consumption concerned or the Member State to which the goods have been dispatched or transported.

Notwithstanding any reminders issued and any steps taken by a Member State of consumption or a Member State to which the goods have been dispatched or transported, the taxable person or the intermediary acting on his or her behalf shall submit the VAT return to the Member State of identification.’;

- (17) Article 61 is replaced by the following:

‘Article 61

‘1. Changes to the figures contained in a VAT return relating to periods up to and including the second return period in 2021 shall, after the submission of that VAT return, be made only by means of amendments to that return and not by adjustments in a subsequent return.

Changes to the figures contained in a VAT return relating to periods from the third return period in 2021 shall, after the date on which the return was required to be submitted in accordance with Directive 2006/112/EC, be made only by adjustments in a subsequent return.

2. The amendments referred to in paragraph 1 shall be submitted electronically to the Member State of identification within three years of the date on which the initial return was required to be submitted.

However, the rules of the Member State of consumption or of the Member State to which the goods were dispatched or transported, on assessments and amendments shall remain unaffected.’;

- (18) Article 61a is replaced by the following:

‘Article 61a

1. A taxable person or an intermediary acting on his or her behalf shall submit the final VAT return and any late submissions of previous returns, and the corresponding payments, where relevant, to the Member State which was the Member State of identification at the time of the cessation, exclusion or change where that taxable person:

- (a) ceases to use one of the special schemes;
- (b) is excluded from one of the special schemes;
- (c) changes the Member State of identification in accordance with Article 57f.

Any corrections to the final return and previous returns arising after the submission of the final return shall be discharged directly with the tax authorities of the Member State of consumption concerned or the Member State to which the goods were dispatched or transported.

2. In respect of all taxable persons on whose behalf an intermediary is acting, that intermediary shall submit the final VAT returns and any late submissions of previous returns, and the corresponding payments, where relevant, to the Member State which was the Member State of identification at the time of deletion or change where that intermediary:

- (a) is deleted from the identification register;
- (b) changes the Member State of identification in accordance with Article 57f(2).

Any corrections to the final return and previous returns arising after the submission of the final return shall be discharged directly with the tax authorities of the Member State of consumption concerned or the Member State to which the goods were dispatched or transported.’;

(19) Article 63c is amended as follows:

(a) paragraph 1 is amended as follows:

(i) points (f) and (g) are replaced by the following:

‘(f) the VAT rate applied, where relevant;

(g) the amount of VAT payable indicating the currency used, where relevant;’;

(ii) points (k) and (l) are replaced by the following:

‘(k) in respect of services, the information used to determine the place of supply of the service and, in respect of goods, the information used to determine the place where the dispatch or the transport of the goods to the customer begins and ends;

(l) any proof of possible returns of goods, including the taxable amount and the VAT rate applied;’;

(iii) the following point (m) is added:

‘(m) in respect of supplies where the taxable person is deemed to have received and supplied goods in accordance with Article 14a of Directive 2006/112/EC, the name, postal address and electronic address or website of the supplier whose supplies are facilitated through the use of the electronic interface, and, if available:

i) the VAT identification number or national tax number of the supplier;

ii) the bank account number or number of virtual account of the supplier.’;

(b) paragraph 2 is amended as follows:

(i) point (m) is replaced by the following:

‘(m) the unique consignment number where that taxable person is directly involved in the delivery;’;

(ii) the following point (n) is added:

‘(n) in respect of supplies where the taxable person is deemed to have received and supplied goods in accordance with Article 14a of Directive 2006/112/EC, the name, postal address and electronic address or website of the supplier whose supplies are facilitated through the use of the electronic interface, and, if available:

(i) the VAT identification number or national tax number of the supplier;

(ii) the bank account number or number of virtual account of the supplier.’;

(c) the following paragraph 2a is inserted:

‘2a. In order to be regarded as sufficiently detailed within the meaning of Articles 369xk of Directive 2006/112/EC, the records kept by the taxable person shall contain all of the following information:

(a) as regards the Member State from which the goods have been dispatched or transported:

(i) the taxable person’s VAT identification number or tax identification number in that Member State, if any;

(ii) the address from which the goods were dispatched or transported;

(b) as regards the Member State to which the goods have been dispatched or transported:

(i) the taxable person’s VAT identification number or tax identification number in that Member State, if any;

(ii) the address to which the goods were dispatched or transported;

(c) the description and quantity of the goods dispatched or transported to another Member State;

(d) the date of the transfer of the goods referred to in point (c);

(e) the taxable amount indicating the currency used;

(f) any subsequent increase or reduction of the taxable amount;

(g) where a self-invoice is issued, the information contained on the invoice;

(h) in respect of transfers where the taxable person is deemed to have received and supplied goods in accordance with Article 14a of Directive 2006/112/EC, the name, postal address and electronic address or website of the supplier whose transfer of goods are facilitated through the use of the electronic interface, and, if available:

(i) the VAT identification number or national tax number of the supplier

(ii) the bank account number or number of virtual account of the supplier.’;

(d) paragraph 3 is replaced by the following:

‘3. The information referred to in paragraphs 1, 2 and 2a of this Article shall be recorded by the taxable person or the intermediary acting on his or her behalf in such a way that it can be made available by electronic means without delay and in respect of each individual good or service supplied, or transferred. Where that taxable person or the intermediary acting on his or her behalf has been requested to submit, by electronic means, the records referred to in Articles 369, 369k, 369x and 369xk of Directive 2006/112/EC and they have failed to submit them within 20 days of the date of the request, the Member State of identification shall remind the taxable person or the intermediary acting on their behalf to submit those records. The

Member State of identification shall by electronic means inform the Member States of consumption or the Member State to which the goods have been dispatched or transported that the reminder has been sent.’.

Article 2

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

It shall apply from 1 January 2025.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President