

COMMISSION IMPLEMENTING REGULATION (EU) 2021/2007**of 16 November 2021****laying down detailed rules for the application of Council Regulation (EU) No 904/2010 as regards the special scheme for small enterprises**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax ⁽¹⁾, and in particular Articles 17(2), 32(2), 37a(2) and 37b(4) thereof,

Whereas:

- (1) Title XII, Chapter 1, of Council Directive 2006/112/EC ⁽²⁾, which provides for a special scheme for small enterprises, has been amended by Council Directive (EU) 2020/285 ⁽³⁾.
- (2) Directive (EU) 2020/285 also amended Regulation (EU) No 904/2010 that lays down rules for administrative cooperation and the fight against fraud in the field of value added tax (VAT). Article 17(1), point (g), Article 21(2b), Article 32(1) and Articles 37a and 37b of that Regulation specifically concern the storage, the automated enquiry and the transmission of information relating to that special scheme. The measures necessary to comply with those amendments are to apply from 1 January 2025.
- (3) In order to facilitate automated enquiry, it is necessary to define practical details and specifications concerning the access a Member State is to grant the competent authority of any other Member State to information, such as identification details and the value of supplies of goods or services carried out by the taxable person availing itself of the special scheme as applied by the Member State in which the supply takes place.
- (4) To ensure that the information referred to in Article 37a(1) and Article 37b(2) and (3) of Regulation (EU) No 904/2010 is exchanged in a uniform manner, the Commission is to adopt practical arrangements for such exchange, including a common electronic message. This would also allow for the uniform development of the technical and functional specifications, as they would follow a regulated framework.
- (5) In particular, those practical arrangements should ensure effective transmission and processing of information relating to the registration of small enterprises, required for them to be able to avail themselves of the special scheme outside their Member State of establishment, since Member States would need to modify their electronic interfaces which are currently designed for the scheme allowing for an exemption to be granted only to enterprises established in the Member State in which the VAT is due, so that information can be exchanged in a uniform manner.
- (6) Information relating to changes to the identification details, such as the exclusion from the special scheme, should also be exchanged in a uniform manner in order to allow Member States to monitor the correct application of the special scheme within their territory and to combat fraud. To that end, common arrangements for the electronic exchange of such information should be provided.
- (7) In order to keep the administrative burden on taxable persons to a minimum, while monitoring the correct application of the special scheme, it is necessary to establish certain minimum requirements for the electronic interface in case of submission of notifications by taxable persons. Member States should not, however, be prevented from providing additional functionalities to further reduce administrative burdens.

⁽¹⁾ OJ L 268, 12.10.2010, p. 1.

⁽²⁾ 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).

⁽³⁾ Council Directive (EU) 2020/285 of 18 February 2020 amending Directive 2006/112/EC on the common system of value added tax as regards the special scheme for small enterprises and Regulation (EU) No 904/2010 as regards the administrative cooperation and exchange of information for the purpose of monitoring the correct application of the special scheme for small enterprises (OJ L 62, 2.3.2020, p. 13).

- (8) Practical arrangements should also be determined to facilitate the provision of details on the measures approved by each Member State in transposing Article 167a, Title XI, Chapter 3, and Title XII, Chapter 1, of Directive 2006/112/EC.
- (9) This Regulation should apply from the day from which Article 17(1), point (g), Article 21(2b), Article 32(1) and Articles 37a and 37b of Regulation (EU) No 904/2010 apply.
- (10) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Administrative Cooperation,

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) 'special scheme' means the special scheme of exemptions for small enterprises provided for in Title XII, Chapter 1, Section 2, of Directive 2006/112/EC;
- (2) 'Member State of exemption' means the Member State granting the exemption from VAT to the supply of goods and services made within its territory by taxable persons eligible for exemption under the special scheme;
- (3) 'Member State of establishment' means the Member State in which the taxable person availing itself of the special scheme is established.

Article 2

Functionalities of electronic interfaces

The electronic interface in the Member State of establishment, by which a taxable person may be required, pursuant to Article 284c(2) of Directive 2006/112/EC, to submit a prior notification, any update to that notification and to report the value of supplies for the use of the special scheme in another Member State, shall offer the facility to save the information and any change to that information, to be provided pursuant to Article 284(3) and (4) and Articles 284a and 284b of Directive 2006/112/EC.

Article 3

Automated exchange of information

Pursuant to Article 21(2b) of Regulation (EU) No 904/2010, the Member State of establishment shall grant the competent authority of other Member States automated access to the following information collected and stored in accordance with Article 17(1), point (g), of that Regulation, via the CCN/CSI network or via an equivalent secure network or system:

- (a) the individual number by which a taxable person availing itself of the exemption in any of those other Member States is identified pursuant to Article 284(3) of Directive 2006/112/EC;
- (b) name, activity and business sector if relevant pursuant to Article 284(1), second subparagraph, of Directive 2006/112/EC, legal form and address of that taxable person;
- (c) in case of change of the place of establishment, the date from which such change takes effect and, if available, the Member State in which the taxable person has decided to establish itself;
- (d) the Member States in which the taxable person intends to avail itself of exemption as regards prior notification or update to a prior notification, as referred to in Article 284(3) or (4) of Directive 2006/112/EC;
- (e) the Member States in which the taxable person avails itself of exemption under Article 284(2) of Directive 2006/112/EC;

- (f) the date of commencement of the exemption in each of the Member States in which the taxable person avails itself of exemption;
- (g) the total value of supplies of goods and/or services carried out in the Member State in which the taxable person is established and in each of the other Member States, specified by business sector if relevant pursuant to Article 284c(1), point (c), of Directive 2006/112/EC, during the calendar year of notification and during the calendar years prior to notification, pursuant to Article 288a(1) of Directive 2006/112/EC;
- (h) the total value of supplies of goods and/or services, including any amendments to it, carried out per calendar quarter in the Member State in which the taxable person is established and in each of the other Member States, specified by business sector if relevant pursuant to Article 284c(1), point (c), of Directive 2006/112/EC, or "0" if no supplies have been made;
- (i) the date on which the Union annual turnover exceeded the amount referred to in Article 284(2), point (a), of Directive 2006/112/EC and the total value of the supplies carried out in the Member State in which the taxable person is established and in each of the other Member States, specified by business sector if relevant pursuant to Article 284c(1), point (c), of Directive 2006/112/EC, or "0" if no supplies have been made, from the beginning of the calendar quarter up until the date the Union annual turnover threshold was exceeded;
- (j) the date on which the taxable person is no longer eligible to apply the exemption and the Member State or Member States in which cessation takes effect, following a notification by the Member States of exemption as referred to in Article 284e, point (b), of Directive 2006/112/EC;
- (k) the date on which the decision of the taxable person to voluntarily cease applying the exemption scheme takes effect and the Member State or Member States in which cessation takes effect;
- (l) the date on which the activities of the taxable person have ceased and the Member States concerned.

Article 4

Transmission of information

1. Member States shall, without delay, provide the details listed in Annex I to this Regulation and their updates as regards the provisions which transpose Article 167a, Title XI, Chapter 3, and Title XII, Chapter 1, of Directive 2006/112/EC, in accordance with Article 32(1) of Regulation (EU) No 904/2010. That information shall be submitted via the web portal established by the Commission.
2. The Member State of establishment shall transmit the following information via the CCN/CSI network, or via an equivalent secure network or system, as a common electronic message set out in Annex II to this Regulation, to the competent authorities of the Member State of exemption, within 15 working days from the date on which the information becomes available, pursuant to Article 37a(1) of Regulation (EU) No 904/2010:
 - (a) as regards prior notification or update to a prior notification, as referred to in Article 284(3) or (4) of Directive 2006/112/EC, in order to inform the Member State concerned of a taxable person seeking the exemption:
 - (i) the individual identification number of the taxable person, issued by the Member State of establishment and referred to in Article 21(2b), point (a), of Regulation (EU) No 904/2010, or, if not yet available;
 - (ii) any other number for the purpose of the identification of the taxable person;
 - (b) as regards the prior notification or the update to a prior notification referred to in Article 284(3) or (4) of Directive 2006/112/EC, subsequent to having informed the taxable person of its individual identification number or having confirmed the number to the taxable person as referred to in Article 284(5) of Directive 2006/112/EC:
 - (i) the individual identification number assigned to that taxable person referred to in Article 21(2b), point (a), of Regulation (EU) No 904/2010; and

- (ii) the date of commencement of the exemption referred to in Article 21(2b), point (d), of Regulation (EU) No 904/2010 in respect of the taxable person in the Member State concerned;
- (c) as regards any taxable person whose Union annual turnover has exceeded the amount referred to in Article 284(2), point (a), of Directive 2006/112/EC:
 - (i) the individual identification number of that taxable person, referred to in Article 21(2b), point (a), of Regulation (EU) No 904/2010; and
 - (ii) the date on which the Union annual turnover of that taxable person exceeded the amount referred to in Article 284(2), point (a), of Directive 2006/112/EC;
- (d) as regards any taxable person who has failed to comply with the reporting obligations laid down in Article 284b of Directive 2006/112/EC:
 - (i) the individual identification number of that taxable person referred to in Article 21(2b), point (a), of Regulation (EU) No 904/2010; and
 - (ii) the fact of failure to comply with those obligations.

3. The Member State of exemption shall transmit the following information to the competent authorities of the Member State of establishment via the CCN/CSI network or via an equivalent secure network or system, as a common electronic message set out in Annex III to this Regulation, pursuant to Article 37b(2) and (3) of Regulation (EU) No 904/2010:

- (a) within 15 working days from receiving the information referred to in paragraph 2, point (a):
 - (i) the individual identification number of the taxable person, issued by the Member State of establishment and referred to in Article 21(2b), point (a), of Regulation (EU) No 904/2010 or, if not yet available, any other number received from the Member State of establishment for the purpose of the identification;
 - (ii) information as to whether or not the annual turnover threshold applicable in that Member State for the exemption, referred to in Article 284(2), point (b), of Directive 2006/112/EC, in the current year is exceeded;
 - (iii) information as to whether the conditions referred to in Article 288a(1) of Directive 2006/112/EC are fulfilled;
 - (iv) any request for additional clarification needed in view of the information to be provided under points (ii) and (iii);
- (b) without delay, the individual identification number of the taxable person, referred to in Article 21(2b), point (a), of Regulation (EU) No 904/2010, and the date on which it ceased to be eligible for the exemption pursuant to Article 288a(1) of Directive 2006/112/EC;
- (c) without delay, the date on which the special scheme for small enterprises has ceased to apply in that Member State.

Article 5

Entry into force

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, 16 November 2021.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

**Information to be provided by Member States pursuant to Article 32(1) of Regulation (EU)
No 904/2010**

1. Special scheme for cash accounting

Article 167a of Directive 2006/112/EC – optional scheme for cash accounting

Q1. Is it possible to opt in your Member State for the special scheme for cash accounting?

Q2. If yes, which is the threshold in force? Please indicate it in EUR and in your national currency.

2. Special scheme for small enterprises

Title XII, Chapter 1, Section 1, of Directive 2006/112/EC

Article 281 – Simplified procedures for charging and collection

Q3. Do you apply simplified procedures, such as flat-rate schemes, for charging and collecting VAT to small enterprises?

Q4a. If yes, which simplified procedures do you apply to small enterprises?

Q4b. Under which conditions or limits do you apply such simplified procedures?

Title XII, Chapter 1, Section 2, of Directive 2006/112/EC

Articles 282-290 of Directive 2006/112/EC – Exemptions

Q5. Do you apply the special scheme for small enterprises as set out in Title XII, Chapter 1, Section 2, of Directive 2006/112/EC?

Q6a. If yes, from which date?

Q6b. If no, but you have applied it in the past, until which date?

Article 283(2) of Directive 2006/112/EC – Exclusions

Q7. Which transactions are excluded from the exemption under the special scheme for small enterprises as applied by your Member State?

Article 284(1) of Directive 2006/112/EC – Threshold

Q8. Which is(are) the level(s) of the annual turnover threshold(s) in force to benefit from the exemption (exemption threshold(s)) in your Member State? Please indicate it in EUR and in your national currency.

Q9. From which date has(have) the current level(s) of the exemption threshold(s) been in force?

Q10. If you apply more than one threshold, please indicate the criteria for qualifying for the respective categories of supplies to which the different thresholds apply and indicate the date from which those criteria apply.

Article 284(3) of Directive 2006/112/EC – Individual identification number

Q11. For the purpose of the identification referred to in Article 284(3), point (b), of Directive 2006/112/EC, do you use the individual VAT identification number already allocated to the taxable person in respect of that person's obligations under the internal system or do you apply the structure of a VAT number or any other number?

Article 284c(1) of Directive 2006/112/EC – Currency

Q12. For the purposes of Article 284c(1), first subparagraph, point (b), of Directive 2006/112/EC, do you require the values to be expressed in your national currency?

Article 284c(2) of Directive 2006/112/EC – Submission of information

Q13. Do you require the information referred to in Article 284(3) and (4) and in Article 284b(1) and (3) of Directive 2006/112/EC to be submitted by the taxable person by electronic means?

Q14. If yes, subject to which conditions?

Article 284d(3) of Directive 2006/112/EC – Failure to comply

Q15. Where a taxable person fails to comply with the obligations provided for in Article 284b of Directive 2006/112/EC, do you require such a taxable person to fulfil VAT obligations in respect of exempt transactions carried out in your Member State?

Q16. If yes, which obligations?

Article 288a(1) of Directive 2006/112/EC – Transitional period

Q17. In your Member State, does the exemption provided for in Article 284(1) of Directive 2006/112/EC cease to apply as of the time when the threshold laid down in accordance with that paragraph is exceeded, pursuant to Article 288a(1), fourth subparagraph?

Q18. If this is not the case and you allow the taxable person to continue to benefit from the exemption provided for in Article 284(1) of Directive 2006/112/EC during the calendar year when the threshold is exceeded, do you apply a ceiling?

Q19. If yes, do you apply a ceiling of 10 % or 25 %?

Q20. For how many years is the taxable person excluded from the special scheme for small enterprises after having exceeded the exemption threshold?

Article 290 of Directive 2006/112/EC – Option for taxable persons who are entitled to exemption

Q21. Do you have any detailed rules or conditions in place for applying the option provided for in Article 290 of Directive 2006/112/EC?

Q22. If yes, which rules and conditions do you apply?

Title XII, Chapter 1, Section 2a, of Directive 2006/112/EC

Articles 292a-292d of Directive 2006/112/EC – Simplification of obligations for exempt small enterprises

Q23. Do you release small enterprises established within the territory of your Member State, which avail themselves of the exemption only in your Member State, from any obligations?

Q24. If yes, from which obligations?

Q25. Do you release exempt small enterprises from any of the obligations referred to in Articles 217 to 271 of Directive 2006/112/EC, pursuant to Article 292d of Directive 2006/112/EC?

Q26. If yes, from which obligations?

ANNEX II

Information to be transmitted by the Member State of establishment to the Member State(s) granting the exemption pursuant to Article 37a(1) of Regulation (EU) No 904/2010

to be transmitted by electronic means within 15 working days from the date on which the information becomes available

1. As regards prior notification or update to a prior notification as referred to in Article 284(3) or (4) of Directive 2006/112/EC:

- a. In order to inform the Member State concerned of taxable persons' intention to avail themselves of the exemption in that Member State:

i. The individual identification number of the taxable person, issued by the Member State of establishment and referred to in Article 21(2b), point (a), of Regulation (EU) No 904/2010 or, if not yet available, any other number for the purpose of the identification.		
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- b. After having received a confirmation from the Member State of exemption that the taxable persons are eligible for the exemption and after having notified the taxable persons:

i. Individual identification number of the taxable person availing itself of the exemption, issued by the Member State of establishment and referred to in Article 21(2b), point (a), of Regulation (EU) No 904/2010		
ii. Member States in which the taxable person avails itself of the exemption with indication of the date of commencement of the exemption in each of the Member States concerned:		Repeatable
ii.1. Member State		
ii.2. Date of commencement of the exemption		

2. As regards taxable persons whose Union annual turnover exceeds EUR 100 000 as referred to in Article 284(2), point (a), of Directive 2006/112/EC:

a. Individual identification number of the taxable person concerned, issued by the Member State of establishment and referred to in Article 21(2b), point (a), of Regulation (EU) No 904/2010	
b. Date on which the Union annual turnover of the taxable person exceeded EUR 100 000	

3. As regards taxable persons who have failed to comply with the reporting obligations laid down in Article 284b of Directive 2006/112/EC:

a. Individual identification number of the taxable person concerned, issued by the Member State of establishment and referred to in Article 21(2b), point (a), of Regulation (EU) No 904/2010	
b. The fact of failure to comply with the reporting obligations	

ANNEX III

Information to be transmitted by the Member State(s) granting the exemption to the Member State of establishment pursuant to Article 37b(2) and (3) of Regulation (EU) No 904/2010

to be transmitted by electronic means within 15 working days after receiving the information referred to in point 1(a) of Annex II

1. As regards prior notification or an update to a notification as referred to in Article 284(3) or (4) of Directive 2006/112/EC, in order to inform the Member State of establishment of a taxable person's eligibility to the exemption in that Member State:

a. Individual identification number of the taxable person, issued by the Member State of establishment and referred to in Article 21(2b), point (a), of Regulation (EU) No 904/2010 or, if not yet available, any other number received from the Member State of establishment for the purpose of identification of that taxable person.	
b. Whether or not the annual turnover threshold referred to in Article 284(2), point (b), of Directive 2006/112/EC was exceeded during the current calendar year	
c. Whether the conditions referred to in Article 288a(1) of Directive 2006/112/EC are fulfilled	
d. Request for additional clarification needed in view of the information to be provided under points (b) and (c).	Optional information

to be transmitted by electronic means without delay

2. As regards the taxable persons who have ceased to be eligible for the exemption:

a. Individual identification number of the taxable person, issued by the Member State of establishment and referred to in Article 21(2b), point (a), of Regulation (EU) No 904/2010	
b. The date on which the taxable person ceased to be eligible for the exemption under Article 288a(1) of Directive 2006/112/EC	

3. As regards the cessation of the application of the special scheme for small enterprises in the Member State granting the exemption, referred to in Article 284e(b) of Directive 2006/112/EC:

a. The date on which the special scheme for small enterprises has ceased to apply in that Member State	
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