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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL IMPLEMENTING REGULATION amending Implementing Regulation (EU) No 282/2011 as regards the VAT and/or excise duty exemption certificate

COUNCIL IMPLEMENTING REGULATION (EU) 2022/...

of ...

**amending Implementing Regulation (EU) No 282/2011
as regards the VAT and/or excise duty exemption certificate**

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,

¹ OJ L 347, 11.12.2006, p. 1.

Whereas:

- (1) Directive 2006/112/EC and Council Directive 2008/118/EC¹ were amended by means of Council Directive (EU) 2019/2235², which introduced exemptions from VAT and excise duty for defence efforts undertaken within the Union framework. Those exemptions were to be applied by the Member States from 1 July 2022.
- (2) Directive 2006/112/EC was further amended by means of Council Directive (EU) 2021/1159³, which introduced new VAT exemptions concerning measures taken at Union level in response to the COVID-19 pandemic. In view of the urgency of the situation related to the COVID-19 pandemic, those exemptions were to be applied by the Member States with retroactive effect from 1 January 2021.

¹ Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC (OJ L 9, 14.1.2009, p. 12).

² Council Directive (EU) 2019/2235 of 16 December 2019 amending Directive 2006/112/EC on the common system of value added tax and Directive 2008/118/EC concerning the general arrangements for excise duty as regards defence efforts within the Union framework (OJ L 336, 30.12.2019, p. 10).

³ Council Directive (EU) 2021/1159 of 13 July 2021 amending Directive 2006/112/EC as regards temporary exemptions on importations and on certain supplies, in response to the COVID-19 pandemic (OJ L 250, 15.7.2021, p. 1).

- (3) The VAT and/or excise duty exemption certificate set out in Annex II to Council Implementing Regulation (EU) No 282/2011¹ (the ‘certificate’) serves to confirm that a transaction qualifies for the exemption from VAT and/or excise duty under Article 151 of Directive 2006/112/EC. In order to enable the Member States to apply the new VAT exemption for defence efforts undertaken within the Union framework and the new VAT exemptions concerning measures taken at Union level in response to the COVID-19 pandemic in a uniform way, the certificate should be amended.
- (4) As regards the new VAT exemptions concerning measures taken at Union level in response to the COVID-19 pandemic, the certificate should be amended in order to include as an eligible body the Commission or any agency or body established under Union law, where the Commission or that agency or body executes its tasks in response to the COVID-19 pandemic. In order to avoid unnecessary administrative burden in cases where the exempted supplies have already been processed using the current version of the certificate, it is appropriate for the certificate, as amended by means of this Regulation, not to be applied retroactively.

¹ 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).

- (5) As regards the new exemption from VAT for defence efforts undertaken within the Union framework, the certificate should be amended in order to include as eligible bodies the Commission or any agency or body established under Union law, where the Commission or that agency or body executes its tasks in response to the COVID-19 pandemic, and the armed forces of a Member State taking part in a Union activity under the common security and defence policy (CSDP). For that purpose, and in line with the date of application of the laws, regulations and administrative provisions necessary for the Member States to comply with Directive (EU) 2019/2235, the certificate should be amended with effect from 1 July 2022.
- (6) In view of the retroactive effect of the new VAT exemptions concerning measures taken at Union level in response to the COVID-19 pandemic, this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*.
- (7) 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) Annex II is replaced by the text appearing in Annex I to this Regulation;
- (2) Annex II is replaced by the text appearing in Annex II to this Regulation.

Article 2

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

Article 1, point (1), shall apply until 30 June 2022.

Article 1, point (2), shall apply from 1 July 2022.

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

Done at ...,

For the Council

The President

ANNEX I

'ANNEX II

Article 51 of this Regulation

EUROPEAN UNION

**VAT AND /OR EXCISE DUTY EXEMPTION CERTIFICATE (*)
(Directive 2006/112/EC – Article 151 – and Directive 2008/118/EC – Article 13)**

Serial No (optional):
1. ELIGIBLE BODY/INDIVIDUAL
Designation/name
Street and number
Postcode, place
(Host) Member State
2. COMPETENT AUTHORITY RESPONSIBLE FOR STAMPING (name, address and telephone number)
3. DECLARATION BY THE ELIGIBLE BODY OR INDIVIDUAL
The eligible body or individual ⁽¹⁾ hereby declares
(a) that the goods and/or services set out in box 5 are intended ⁽²⁾
<input type="checkbox"/> for the official use of <input type="checkbox"/> for the personal use of
<input type="checkbox"/> foreign diplomatic mission <input type="checkbox"/> a member of a foreign diplomatic mission
<input type="checkbox"/> foreign consular representation <input type="checkbox"/> a member of a foreign consular representation
<input type="checkbox"/> a European body to which the Protocol on the privileges and immunities of the European Union applies <input type="checkbox"/> a staff member of an international organisation
<input type="checkbox"/> an international organisation <input type="checkbox"/> a staff member of an international organisation
<input type="checkbox"/> the armed forces of a State being a party to the North Atlantic Treaty (NATO force) <input type="checkbox"/> a staff member of an international organisation
<input type="checkbox"/> the armed forces of the United Kingdom stationed in the island of Cyprus <input type="checkbox"/> a staff member of an international organisation
<input type="checkbox"/> for the use of the European Commission or any agency or body established under Union law, where the Commission or that agency or body executes its tasks in response to the COVID-19 pandemic <input type="checkbox"/> a staff member of an international organisation
(designation of the institution) (see box 4)
(b) that the goods and/or services described at box 5 comply with the conditions and limitations applicable to the exemption in the host Member State mentioned in box 1, and
(c) that the information above is furnished in good faith.
The eligible body or individual hereby undertakes to pay to the Member State from which the goods were dispatched, or from which the goods and/or services were supplied, the VAT and/or excise duty which would be due if the goods and/or services did not comply with the conditions of exemption or if the goods and/or services were not used in the manner intended.
Place, date
Name and status of signatory
Signature

4. STAMP OF THE BODY (in case of exemption for personal use)					
Place, date	Stamp	Name and status of signatory Signature			
5. DESCRIPTION OF THE GOODS AND/OR SERVICES FOR WHICH THE EXEMPTION FROM VAT AND/OR EXCISE DUTY IS REQUESTED					
A. Information concerning the supplier/authorised warehousekeeper:					
(1) name and address					
(2) Member State					
(3) VAT/excise number or tax reference number					
B. Information concerning the goods and/or services:					
No	Detailed description of the goods and/or services ⁽³⁾ (or reference to the attached order form)	Quantity or number	Value excluding VAT and excise duty		Currency
			Value per unit	Total value	
Total amount					
6. CERTIFICATION BY THE COMPETENT AUTHORITIES OF THE HOST MEMBER STATE					
The consignment/supply of goods and/or services described in box 5 meets:					
<input type="checkbox"/> totally <input type="checkbox"/> up to a quantity of (number)⁽⁴⁾					
the conditions for exemption from VAT and/or excise duty					
Name and status of signatory					
Place, date	Stamp	Signature			
7. PERMISSION TO DISPENSE WITH THE STAMP UNDER BOX 6 (only in case of exemption for official use)					
By letter No:					
Dated:					
Designation of eligible institution:					
Is by					
Competent authority in host Member State:					
Dispensed from the obligation under box 6 to obtain the stamp					
Name and status of signatory					
Place, date	Stamp	Signature			

(*) Delete as appropriate.
(1) Delete as appropriate.
(2) Place a cross in the appropriate box.
(3) Delete space not used. This obligation also applies if order forms are attached.
(4) Goods and/or services not eligible should be deleted in box 5 or on the attached order form.

Explanatory notes

1. For the supplier and/or the authorised warehousekeeper, this certificate serves as a supporting document for the tax exemption of the supplies of goods and services or the consignments of goods to the eligible bodies/individuals referred to in Article 151 of Directive 2006/112/EC and Article 13 of Directive 2008/118/EC. Accordingly, one certificate shall be drawn up for each supplier/warehousekeeper. Moreover, the supplier/warehousekeeper is required to keep this certificate as part of his records in accordance with the legal provisions applicable in his Member State.
2. (a) The general specification of the paper to be used is as laid down in the *Official Journal of the European Communities* (C 164, 1.7.1989, p. 3).

The paper is to be white for all copies and should be 210 millimetres by 297 millimetres with a maximum tolerance of 5 millimetres less or 8 millimetres more with regard to their length.

For an exemption from excise duty the exemption certificate shall be drawn up in duplicate:
 - one copy to be kept by the consignor;
 - one copy to accompany the movement of the products subject to excise duty.
- (b) Any unused space in box 5.B is to be crossed out so that nothing can be added.
- (c) The document must be completed legibly and in a manner that makes entries indelible. No erasures or overwriting are permitted. It shall be completed in a language recognised by the host Member State.
- (d) If the description of the goods and/or services (box 5.B of the certificate) refers to a purchase order form drawn up in a language other than a language recognised by the host Member State, a translation must be attached by the eligible body/individual.
- (e) On the other hand, if the certificate is drawn up in a language other than a language recognised by the Member State of the supplier/warehousekeeper, a translation of the information concerning the goods and services in box 5.B must be attached by the eligible body/individual.
- (f) A recognised language means one of the languages officially in use in the Member State or any other official language of the Union which the Member State declares can be used for this purpose.
3. By its declaration in box 3 of the certificate, the eligible body/individual provides the information necessary for the evaluation of the request for exemption in the host Member State.
4. By its declaration in box 4 of the certificate, the body confirms the details in boxes 1 and 3(a) of the document and certifies that the eligible individual is a staff member of the body.
5. (a) The reference to the purchase order form (box 5.B of the certificate) must contain at least the date and order number. The order form should contain all the elements that figure at box 5 of the certificate. If the certificate has to be stamped by the competent authority of the host Member State, the order form shall also be stamped.
- (b) The indication of the excise number defined in Article 2, point (12), of Council Regulation (EU) No 389/2012 of 2 May 2012 on administrative cooperation in the field of excise duties and repealing Regulation (EC) No 2073/2004 is optional; the VAT identification number or tax reference number must be indicated.
- (c) The currencies should be indicated by means of a three-letter code in conformity with the ISO code 4217 standard established by the International Standards Organisation¹.
6. The abovementioned declaration by the eligible body/individual shall be authenticated at box 6 by the stamp of the competent authority of the host Member State. That authority can make its approval dependent on the agreement of another authority in its Member State. It is up to the competent tax authority to obtain such an agreement.
7. To simplify the procedure, the competent authority can dispense with the obligation on the eligible body to ask for the stamp in the case of exemption for official use. The eligible body should mention this dispensation at box 7 of the certificate.²

¹ As an indication, some codes relating to currencies currently used: EUR (euro), BGN (lev), CZK (Czech koruna), DKK (Danish krone), GBP (pound sterling), HUF (forint), LTL (litas), PLN (zloty), RON (Romanian leu), SEK (Swedish krona), USD (United States dollar).

ANNEX II

**ANNEX II*

Article 51 of this Regulation

EUROPEAN UNION

VAT AND /OR EXCISE DUTY EXEMPTION CERTIFICATE (*)

(Directive 2006/112/EC – Article 151 – and Directive 2008/118/EC – Article 13)

Serial No (optional):	
1. ELIGIBLE BODY/INDIVIDUAL	
Designation/name	
Street and number	
Postcode, place	
(Host) Member State	
2. COMPETENT AUTHORITY RESPONSIBLE FOR STAMPING (name, address and telephone number)	
3. DECLARATION BY THE ELIGIBLE BODY OR INDIVIDUAL	
The eligible body or individual ⁽¹⁾ hereby declares	
(a) that the goods and/or services set out in box 5 are intended ⁽²⁾	
<input type="checkbox"/> for the official use of <ul style="list-style-type: none"> <input type="checkbox"/> foreign diplomatic mission <input type="checkbox"/> foreign consular representation <input type="checkbox"/> a European body to which the Protocol on the privileges and immunities of the European Union applies <input type="checkbox"/> an international organisation <input type="checkbox"/> the armed forces of a State being a party to the North Atlantic Treaty (NATO force) <input type="checkbox"/> the armed forces of a Member State taking part in a Union activity under the common security and defence policy (CSDP) <input type="checkbox"/> the armed forces of the United Kingdom stationed in the island of Cyprus <input type="checkbox"/> for the use of the European Commission or any agency or body established under Union law, where the Commission or that agency or body executes its tasks in response to the COVID-19 pandemic	<input type="checkbox"/> for the personal use of <ul style="list-style-type: none"> <input type="checkbox"/> a member of a foreign diplomatic mission <input type="checkbox"/> a member of a foreign consular representation <input type="checkbox"/> a staff member of an international organisation
(designation of the institution) (see box 4)	
(b) that the goods and/or services described at box 5 comply with the conditions and limitations applicable to the exemption in the host Member State mentioned in box 1, and	
(c) that the information above is furnished in good faith.	
The eligible body or individual hereby undertakes to pay to the Member State from which the goods were dispatched, or from which the goods and/or services were supplied, the VAT and/or excise duty which would be due if the goods and/or services did not comply with the conditions of exemption or if the goods and/or services were not used in the manner intended.	
Place, date	Name and status of signatory
	Signature

4. STAMP OF THE BODY (in case of exemption for personal use)					
Place, date	Stamp	Name and status of signatory Signature			
5. DESCRIPTION OF THE GOODS AND/OR SERVICES FOR WHICH THE EXEMPTION FROM VAT AND/OR EXCISE DUTY IS REQUESTED					
A. Information concerning the supplier/authorised warehousekeeper:					
(1) name and address					
(2) Member State					
(3) VAT/excise number or tax reference number					
B. Information concerning the goods and/or services:					
No	Detailed description of the goods and/or services ⁽³⁾ (or reference to the attached order form)	Quantity or number	Value excluding VAT and excise duty		Currency
			Value per unit	Total value	
Total amount					
6. CERTIFICATION BY THE COMPETENT AUTHORITIES OF THE HOST MEMBER STATE					
The consignment/supply of goods and/or services described in box 5 meets:					
<input type="checkbox"/> totally <input type="checkbox"/> up to a quantity of (number)⁽⁴⁾					
the conditions for exemption from VAT and/or excise duty					
Name and status of signatory					
Place, date	Stamp	Signature			
7. PERMISSION TO DISPENSE WITH THE STAMP UNDER BOX 6 (only in case of exemption for official use)					
By letter No:					
Dated:					
Designation of eligible institution:					
Is by					
Competent authority in host Member State:					
Dispensed from the obligation under box 6 to obtain the stamp					
Name and status of signatory					
Place, date	Stamp	Signature			

(*) Delete as appropriate.
(1) Delete as appropriate.
(2) Place a cross in the appropriate box.
(3) Delete space not used. This obligation also applies if order forms are attached.
(4) Goods and/or services not eligible should be deleted in box 5 or on the attached order form.

Explanatory notes

1. For the supplier and/or the authorised warehousekeeper, this certificate serves as a supporting document for the tax exemption of the supplies of goods and services or the consignments of goods to the eligible bodies/individuals referred to in Article 151 of Directive 2006/112/EC and Article 13 of Directive 2008/118/EC. Accordingly, one certificate shall be drawn up for each supplier/warehousekeeper. Moreover, the supplier/warehousekeeper is required to keep this certificate as part of his records in accordance with the legal provisions applicable in his Member State.
2. (a) The general specification of the paper to be used is as laid down in the *Official Journal of the European Communities* (C 164, 1.7.1989, p. 3).

The paper is to be white for all copies and should be 210 millimetres by 297 millimetres with a maximum tolerance of 5 millimetres less or 8 millimetres more with regard to their length.

For an exemption from excise duty the exemption certificate shall be drawn up in duplicate:
 - one copy to be kept by the consignor;
 - one copy to accompany the movement of the products subject to excise duty.
- (b) Any unused space in box 5.B is to be crossed out so that nothing can be added.
- (c) The document must be completed legibly and in a manner that makes entries indelible. No erasures or overwriting are permitted. It shall be completed in a language recognised by the host Member State.
- (d) If the description of the goods and/or services (box 5.B of the certificate) refers to a purchase order form drawn up in a language other than a language recognised by the host Member State, a translation must be attached by the eligible body/individual.
- (e) On the other hand, if the certificate is drawn up in a language other than a language recognised by the Member State of the supplier/warehousekeeper, a translation of the information concerning the goods and services in box 5.B must be attached by the eligible body/individual.
- (f) A recognised language means one of the languages officially in use in the Member State or any other official language of the Union which the Member State declares can be used for this purpose.
3. By its declaration in box 3 of the certificate, the eligible body/individual provides the information necessary for the evaluation of the request for exemption in the host Member State.
4. By its declaration in box 4 of the certificate, the body confirms the details in boxes 1 and 3(a) of the document and certifies that the eligible individual is a staff member of the body.
5. (a) The reference to the purchase order form (box 5.B of the certificate) must contain at least the date and order number. The order form should contain all the elements that figure at box 5 of the certificate. If the certificate has to be stamped by the competent authority of the host Member State, the order form shall also be stamped.
- (b) The indication of the excise number defined in Article 2, point (12), of Council Regulation (EU) No 389/2012 of 2 May 2012 on administrative cooperation in the field of excise duties and repealing Regulation (EC) No 2073/2004 is optional; the VAT identification number or tax reference number must be indicated.
- (c) The currencies should be indicated by means of a three-letter code in conformity with the ISO code 4217 standard established by the International Standards Organisation¹.
6. The abovementioned declaration by the eligible body/individual shall be authenticated at box 6 by the stamp of the competent authority of the host Member State. That authority can make its approval dependent on the agreement of another authority in its Member State. It is up to the competent tax authority to obtain such an agreement.
7. To simplify the procedure, the competent authority can dispense with the obligation on the eligible body to ask for the stamp in the case of exemption for official use. The eligible body should mention this dispensation at box 7 of the certificate.²

¹ As an indication, some codes relating to currencies currently used: EUR (euro), BGN (lev), CZK (Czech koruna), DKK (Danish krone), GBP (pound sterling), HUF (forint), LTL (litas), PLN (zloty), RON (Romanian leu), SEK (Swedish krona), USD (United States dollar).