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**NOTE**

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Council Implementing Regulation amending Implementing Regulation (EU) No 282/2011 as regards the electronic value added tax exemption certificate - Political agreement

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Delegations will find attached the text of the above draft Implementing Regulation, which is submitted for a political agreement.

Draft

## COUNCIL IMPLEMENTING REGULATION

**amending Implementing Regulation (EU) No 282/2011 as regards the electronic value added tax 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 tax<sup>1</sup>, and in particular Article 397 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Article 151(1a) of Directive 2006/112/EC introduces the new electronic VAT exemption certificate and the electronic procedure required to process it. To give Member States sufficient flexibility to implement the large number of related IT projects under way, they are allowed to continue to use the existing paper certificate, as set out in Annex II to Council Implementing Regulation (EU) No 282/2011<sup>2</sup>, for transactions made until 30 June 2032. Article 51(1) of that Implementing Regulation should be amended to allow for the use of either electronic or paper certificates during a transitional period.

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<sup>1</sup> OJ L 347, 11.12.2006, p. 1, ELI: [http://data.europa.eu/eli/reg\\_impl/2011/282/oj](http://data.europa.eu/eli/reg_impl/2011/282/oj).

<sup>2</sup> 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, ELI: <http://data.europa.eu/eli/dir/2006/112/oj>).

- (2) Annex II to Implementing Regulation (EU) No 282/2011 should be replaced to reflect the fact that Council Directive 2008/118/EC<sup>3</sup> has been replaced by Council Directive (EU) 2020/262<sup>4</sup>.
- (3) In accordance with Directive 2006/112/EC, from 1 July 2032, only the electronic exemption certificate referred to in Article 151(1a) of that Directive is to be used. Consequently, Article 51 of, and Annex II to, Implementing Regulation (EU) No 282/2011, which provide for the paper version of the exemption certificate, should be deleted from that date.
- (4) 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 Article 51, paragraph 1 is replaced by the following:

‘1. Where the recipient of a supply of goods or services is established within the Union but not in the Member State in which the supply takes place, and the electronic exemption certificate pursuant to Article 151(1a) of Directive 2006/112/EC is not used, the VAT and/or excise duty exemption certificate set out in Annex II to this Regulation, shall, subject to the explanatory notes set out in the Annex to that certificate, be used to confirm that the transaction qualifies for the exemption under Article 151(1) of Directive 2006/112/EC.

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<sup>3</sup> 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, ELI: <http://data.europa.eu/eli/dir/2008/118/oj>).

<sup>4</sup> Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty (OJ L 58, 27.2.2020, p. 4, ELI: <http://data.europa.eu/eli/dir/2020/262/oj>).

When making use of that certificate, the Member State in which the recipient of the supply of goods or services is established may decide to use either a common VAT and excise duty exemption certificate or two separate certificates.’;

- (2) Annex II is replaced by the text in the Annex to this Regulation.

### *Article 2*

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

- (1) Article 51 is deleted;
- (2) Annex II is deleted.

### *Article 3*

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

Article 1 shall apply from 1 July 2031.

Article 2 shall apply from 1 July 2032.

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

Done at Brussels,

*For the Council*

*The President*

ANNEX

\*ANNEX II

VAT and/or excise duty exemption certificate referred to in Article 51

EUROPEAN UNION

VAT AND /OR EXCISE DUTY EXEMPTION CERTIFICATE (\*)

(Directive 2006/112/EC - Article 151 – and Directive (EU) 2020/262 - Article 12)

Serial No (optional):	
<b>1. ELIGIBLE BODY/INDIVIDUAL</b>	
Designation/name  Street and number  Postcode, place  (Host) Member State	
<b>2. COMPETENT AUTHORITY RESPONSIBLE FOR STAMPING (name, address and telephone number)</b>	
<b>3. DECLARATION BY THE ELIGIBLE BODY OR INDIVIDUAL</b> The eligible body or individual <sup>(1)</sup> hereby declares (a) that the goods and/or services set out in box 5 are intended <sup>(2)</sup>	
<input type="checkbox"/> for the official use of  <div style="margin-left: 20px;"> <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         </div> <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  <div style="margin-left: 20px;"> <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         </div>
<div style="text-align: right;">(designation of the institution) (see box 4)</div> (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 in which the place of supply of the goods or services acquired is located 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
<b>4. STAMP OF THE BODY (in case of exemption for personal use)</b>	
	<div style="border: 1px solid black; width: 100%; height: 100%;"></div> Name and status of signatory

Place, date	Stamp	Signature
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**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 <sup>(3)</sup> (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:

☐ totally ☐ up to a quantity of (number)<sup>(4)</sup>

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 12 of Directive (EU) 2020/262. 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 of 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 Organisation\*.
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.

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\* 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).'