Commission Implementing Regulation (EU) 2020/194 of 12 February 2020 laying down detailed rules for the application of Council Regulation (EU) No 904/2010 as regards the special schemes for taxable persons supplying services to non-taxable persons, making distance sales of goods and certain domestic supplies of goods

COMMISSION IMPLEMENTING REGULATION (EU) 2020/194

of 12 February 2020

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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 points (a) and (b) of Article 47l thereof,

Whereas:

(1) Chapter 6 of Title XII of Council Directive 2006/112/EC[(2)], which provides for special schemes for taxable persons supplying certain services, has been amended by Council Directive (EU) 2017/2455[(3)] and Council Directive (EU) 2019/1995[(4)] to enlarge the special schemes. The measures necessary to comply with those two amending Directives are to apply from 1 January 2021.

(2) Regulation (EU) No 904/2010 lays down rules for administrative cooperation and the fight against fraud in the field of value added tax (VAT). Articles 47b, 47c, 47d and 47e of that Regulation concern the exchange of certain information relating to the special schemes provided for in Chapter 6 of Title XII of Directive 2006/112/EC. In particular, those Articles provide for the exchange of identification details and VAT return details and for the exchange of any subsequent changes to those details. Those Articles are applicable from 1 January 2021.

(3) To ensure that the information referred to in those Articles is exchanged in a uniform manner, it is necessary to adopt the technical details for such exchanges, 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.

(4) Certain information such as the exclusion from the special schemes, the voluntary cessation or the change of Member State of identification should also be exchanged, without delay, in a uniform manner in order to allow Member States to monitor the correct application of the special schemes and to combat fraud. To that end, common arrangements for the electronic exchange of such information should be provided.

(5) In order to keep the administrative burden on taxable persons to a minimum, it is necessary to establish certain requirements for the electronic interface that will make it easier for taxable persons to submit identification information and VAT returns. Member States are not prevented from providing additional functionalities to further reduce the administrative burden.

(6) It is necessary to make it clear what specific information is required to be submitted in cases where no supplies falling under the special schemes are made in a particular period.

(7) With a view to enabling Member States and taxable persons to refer to VAT returns in an unambiguous way in subsequent communications, including communications on the payment of the tax, the Member State of identification should allocate a unique reference number to each VAT return.

(8) This Regulation should apply from the day from which Articles 47b, 47c, 47d and 47e of Regulation (EU) No 904/2010 apply.

(9) Commission Implementing Regulation (EU) No 815/2012[(5)] lays down detailed rules under Articles 44 and 45 of Regulation (EU) No 904/2010 concerning the exchange of information relating to the special schemes for telecommunications, broadcasting or electronic services. Those Articles are applicable for the period from 1 January 2015 to 31 December 2020. Implementing Regulation (EU) No 815/2012 should therefore be repealed with effect from 1 January 2021. However, it should continue to apply until 10 February 2024 as regards the submission of and corrections to VAT returns in respect of supplies of services covered by either of the special schemes referred to in that Implementing Regulation that were carried out before 1 January 2021.

(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) ‘non-Union scheme’ means the special scheme for services supplied by taxable persons not established within the Community provided for in Section 2 of Chapter 6 of Title XII of Directive 2006/112/EC;

(2) ‘Union scheme’ means the special scheme for intra-Community distance sales of goods, for supplies of goods within a Member State made by electronic interfaces facilitating those supplies in accordance with paragraph 2 of Article 14a of Directive 2006/112/EC and for services supplied by taxable persons established within the Community but not in the Member State of consumption provided for in Section 3 of Chapter 6 of Title XII of Directive 2006/112/EC;

(3) 'import scheme' means the special scheme for distance sales of goods imported from third territories or third countries provided for in Section 4 of Chapter 6 of Title XII of Directive 2006/112/EC;

(4) 'special schemes' means the non-Union scheme, the Union scheme and the import scheme.

Article 2

Functionalities of the electronic interface

The electronic interface in the Member State of identification by which a taxable person or an intermediary acting on his behalf registers for the use of one of the special schemes, and by which that person or his intermediary submits value added tax (VAT) returns under that scheme to the Member State of identification, shall have the following functionalities:

(a) it must offer the facility to save the information, and any change in the information, to be provided pursuant to Article 361 or 369p of Directive 2006/112/EC, and the information to be included in the VAT return pursuant to Article 365, 369g or 369t of Directive 2006/112/EC, before that information or change is submitted;

(b) it must allow for the taxable person or the intermediary acting on his behalf to submit the relevant information relating to the VAT returns via an electronic file transfer in accordance with conditions laid down by the Member State of identification.

Article 3

Transmission of identification information

1 The Member State of identification shall transmit the following information to the other Member States via the CCN/CSI network, including any changes to such information:

a information to identify the taxable person using the non-Union scheme;
b information to identify the taxable person using the Union scheme;
c information to identify the taxable person using the import scheme;
d information to identify an intermediary;
e the identification number allocated to the taxable person or to an intermediary.

2 The common electronic message set out in Annex I shall be used to transmit the information referred to in paragraph 1 using the following column in each case:

a column B for the non-Union scheme;
b column C for the Union scheme;
c column D for the import scheme for identification of the taxable person in accordance with Article 369p(1) or (3) of Directive 2006/112/EC;
d column E for the import scheme for identification of the intermediary in accordance with Article 369p(2) of Directive 2006/112/EC.

3 The Member State of identification shall without delay inform the other Member States via the CCN/CSI network, using the common electronic message set out in Annex II to this Regulation, where the taxable person:

a is excluded from, or deleted from the identification register of, one of the special schemes in accordance with Article 363, 369e or 369r(1) or (3) of Directive 2006/112/EC;

b voluntarily ceases to use one of the special schemes;

c changes the Member State of identification within the Union scheme or the import scheme.

4 The Member State of identification shall without delay inform the other Member States via the CCN/CSI network, using the common electronic message set out in Annex II to this Regulation, where the intermediary:

a is deleted from the identification register in accordance with Article 369r(2) of Directive 2006/112/EC;

b voluntarily ceases to act as intermediary;

c changes the Member State of identification.

5 The individual VAT identification numbers allocated to or, as applicable, in respect of taxable persons pursuant to Article 369q(1) and (3) of Directive 2006/112/EC shall be automatically exchanged between the Member State of identification and the other Member States via a central register or another trusted data sharing tool in a manner that ensures at all times that Member States have a correct up-to-date view of the validity of all such VAT identification numbers that have been allocated by all Member States.

Article 4

Submission of VAT return by the taxable person or the intermediary

1 The taxable person or, where applicable in the case of the import scheme, the intermediary acting on his behalf shall submit the VAT returns with the details required pursuant to Article 365, 369g or 369t of Directive 2006/112/EC to the Member State of identification using the common electronic message set out in Annex III to this Regulation. Column B of that common electronic message shall be used for the non-Union scheme, column C for the Union scheme and column D for the import scheme.

2 Where, with respect to a special scheme, a taxable person makes no supplies of goods or services under that special scheme in any Member State during a tax period and has no amendments to make to previous VAT returns, a nil VAT return shall be completed. For that purpose, only the following boxes of the common electronic message set out in Annex III shall be completed:

a boxes 1, 2, 11 and 24 for the non-Union scheme;

b boxes 1, 2, 21 and 24 for the Union scheme;

c boxes 1, 1a, 2, 11 and 24 for the import scheme.

3 The taxable person or, where applicable in the case of the import scheme, the intermediary acting on his behalf shall only be required to insert the supplies relating to a Member State of consumption if supplies of goods or services under the special schemes have been made in that Member State within the tax period.

In addition, in the case of the Union scheme, the taxable person shall only be required to insert the supplies referred to in Article 369g(2)(a) and (b) of Directive 2006/112/EC relating to a Member State where goods are dispatched or transported from if goods covered by the Union scheme have been dispatched or transported from that Member State within the tax period. Similarly, the taxable person shall only be required to insert

the supplies from a Member State of establishment if supplies of services under the Union scheme have been made from that Member State within the tax period.

Article 5

Transmission of information contained in VAT return

The information contained in the VAT return referred to in Article 4(1) shall be sent by the Member State of identification via the CCN/CSI network, using the common electronic message set out in Annex III:

(a) to each Member State of consumption mentioned in the VAT return;

(b) in addition, in the case of the Union scheme, to each of the following Member States mentioned in the VAT return:

(i) each Member State from which goods are dispatched or transported;

(ii) each Member State of establishment from which services have been supplied.

For the purpose of the first paragraph, the Member State of identification shall transmit to each relevant Member State the general information contained in part 1 of the common electronic message set out in Annex III, together with the information in parts 2, 3 and 4 of that common electronic message relating to that particular Member State.

Article 6

Unique reference number

The information transmitted pursuant to Article 5 shall contain a reference number allocated by the Member State of identification which is unique to the specific VAT return.

[*F1 Article 7*

Repeal

Implementing Regulation (EU) No 815/2012 is repealed with effect from 1 July 2021.

However, as regards the submission of and corrections to VAT returns in respect of supplies of services covered by either of the special schemes referred to in Implementing Regulation (EU) No 815/2012 that were carried out before 1 July 2021, that Implementing Regulation shall continue to apply until 10 August 2024.**]**

Textual Amendments

F1 Substituted by Commission Implementing Regulation (EU) 2020/1318 of 22 September 2020 amending Implementing Regulations (EU) 2020/21 and (EU) No 2020/194 as regards the dates of application in response to the COVID#19 pandemic.