

**II. QUESTIONS CONCERNING THE INTERPRETATION OF THE COMMUNITY  
VAT PROVISIONS**

**5.1 ARTICLES 8 AND 9**

**Construction of buildings**

**(Document XXI/95/338 – Working Paper No 218)**

*This guideline was approved at the 53<sup>rd</sup> meeting*

**Virtually all** the delegations considered that the construction of houses constituted a supply of services connected with immovable property which Member States however may, by virtue of Article 5(5) of the Sixth VAT Directive, consider to be a supply of goods.

Where construction of houses is classified as a supply of goods, **virtually all** the delegations took the view that the location of this supply is governed by the criteria of Article 8(1)(b) which means that it should be taxed where the work is carried out.

They agreed that the dispatch or transport of materials by the construction firm from one Member State in order for this to be used in the construction of a building in another Member State constitutes a transfer followed by an acquisition of goods. In this respect, the non-established firm must, pursuant to the third indent of Article 22(1)(c), register for VAT purposes in the Member State of acquisition and fulfil the obligations as stipulated. Member States may, under Article 21(1)(d), adopt arrangements whereby tax is payable by another person, inter alios a tax representative.

**5.2 ARTICLE 13(A)(1)(Q)**

**Activities of public radio and television bodies**

**(Document XXI/1500/96 – Working Paper No 223)**

*This guideline was approved at the 53<sup>rd</sup> meeting, subject to linguistic reservations*

**Almost all** the delegations took the view that the main element which serves to identify a television body as a public television body is public funding (public authority subsidies or licence fees). However, amongst other characteristics are special obligations such as a coverage of a certain territory or a linguistic area.

**Virtually all** the delegations were of the opinion that the broadcasting of programmes for which the radio or television body receives funding through license money and subsidies constitutes the only non-commercial activity of public radio and television bodies. On the other hand, they considered that the sale of television programmes must always be taxed even if the transaction takes place between public bodies.

**5.4 ARTICLE 9**

**Packages of services supplied in connection with trade fairs and similar exhibitions  
(Document XXI/96/610 – Working Paper No 210)**

*Cf. the minutes of the 55<sup>th</sup> meeting point 8.2*

The Committee **unanimously** considers that, when in the framework of a fair or similar exhibition, an enterprise intervenes between the exhibitor and the owner or organiser of the exhibition and, for an all-in price, supplies to the exhibitor, a complex package of services comprising, in addition to the provision of a stand, a number of other, related services, the whole package is to be regarded as a single service comprising various components which cannot and need not to be itemised according to their own place of taxation.

As to the place of supply rules, delegations **unanimously** agree that the provision of a single compound service should be subject to taxation in the Member State where the fair or exhibition is located, either on the grounds of Article 9(2)(a) or based on Article 9(2)(c), first indent.

**5.5 ARTICLE 9(2)(E)**

**Transfers of football players**

**(Document XXI/96/507 – Working Paper No 212 Rev. 1)**

*This guideline was approved at the 53<sup>rd</sup> meeting*

A **large majority** of delegations confirm the initial guideline agreed by the Committee in its 34<sup>th</sup> meeting, namely that transfer fees are to be taxed according to Article 9(2)(e) at the place where the customer has established his business or has a fixed establishment to which the service is supplied.

**5.6 ARTICLE 13(A)(1)(A)**

**Scope of the exemption applicable to deliveries by public postal services**

**(Document XXI/377/97 – Working Paper No 232)**

*This guideline was approved at the 53<sup>rd</sup> meeting*

The delegations **unanimously** agreed that a member state's "public" postal service can only be treated as such when it operates within that country. A public postal service operating in a country other than its own should lose its status as a public service and, therefore, the right of exemption provided for under Article 13(A)(1)(a).

### III. ANY OTHER BUSINESS

#### 7.1 Practical application of Article 27 derogations on the telecommunication services

*This guideline was approved at the 55<sup>th</sup> meeting*

Article 9(3)(b) of the Directive is aimed at taxing services supplied by persons not established in the EU where the effective use and enjoyment of the services take place within the Union. **Nearly all** delegations consider that telecommunication services should only be treated as having been effectively “used and enjoyed” within the EU if the customer is resident in the EU, i.e. has his domicile there. Where it is clear from the general circumstances under which the service is supplied, one could have recourse to the billing address. Consequently, services provided by third-country telecommunication companies to tourists or visitors to Europe would not be taxed.

The delegations consider, on the other hand, that services supplied by Community telecommunications companies to EU tourists and visitors who go to countries outside the Community should be taxed, pursuant to Article 9(1) of the Directive. However, a Member State could apply Article 9(3)(a) to such services.