

II. QUESTIONS CONCERNING THE INTERPRETATION OF THE COMMUNITY VAT PROVISIONS

**5.3 ARTICLE 12(3) AND ANNEX H CATEGORY 4
Reduced rates on medical equipment and other appliances
(Document XXI/97/1863 – Working Paper No 252)**

The delegations **almost unanimously** agreed that Member States may apply a reduced VAT rate to products specifically designed for disabled people (medical equipment, aids and other similar appliances) which are normally purchased or used only by (permanently or temporarily) disabled people to alleviate or treat their complaints. Products normally used for other purposes (e.g. cordless telephones) are excluded by the provision, as are also medical equipment and aids designed for general use and not specifically for disabled people (e.g. x-ray equipment).

**5.4 ARTICLE 4
Assignment of broadcasting rights in respect of international football matches by organisations established abroad
(Document XXI/97/1.864 – Working Paper No 244)
*This guideline was approved at the 55th meeting***

The Committee **unanimously** agrees that the assignment of TV broadcasting rights in respect of football matches by bodies established in third countries constitutes an economic activity taxable in the hands of the customer on the basis of Article 9(2)(e), first indent, of the Sixth Directive.

**5.5 ARTICLE 9(2)(C) 4TH INDENT AND 28B(F)
Application in cases of total or partial subcontracting
(Document XXI/96/0.314 – Working Paper No 198 Rev.1)
*This guideline was approved at the 55th meeting***

The Committee **unanimously** agrees that partial or total subcontracting of work on movable tangible property does not alter the intrinsic nature of the service supplied by the principal contractor in his relationship with his co-contractor customer and which therefore still ranks as work in respect of movable tangible property, even where the work is not “physically” carried out by the principal contractor who had undertaken to carry out the work, for which he bears full contractual responsibility vis-à-vis the customer.

In the case of partial subcontracting, provided that in the relationship between the principal contractor and the final customer the conditions under Article 28b(F) are not met, a **large majority** of the delegations considered that, in accordance with the fourth indent of Article 9(2)(c), the place of the supply of the service by the principal contractor (including the work carried out by the subcontractor or subcontractors) in its entirety is the place where his own part of the work is physically carried out.

5.6 ARTICLE 28B(B)

Distance selling

(Document XXI/97/2.034 – Working Paper No 247)

The Committee agrees **almost unanimously** that Article 28b(B) ensuring taxation at destination of distance sales does not apply to supplies carried out until such time as, in the course of the calendar year, the amount laid down by the Member State of arrival has been exceeded (except in the situations covered by the second indent of paragraph 2 or where the taxable person has exercised the option under paragraph 3).

Taxation at destination can apply only to supplies of goods which give rise to the overstepping of the threshold, subsequent supplies, and all sales transacted during the year following that in which the threshold was exceeded.

5.7 ARTICLE 28A

Purchasing a new car before moving to another Member State

(Document XXI/97/2.035 – Working Paper No 248)

This guideline was approved at the 55th meeting

The Committee agrees **unanimously** that the transfer of a vehicle which still satisfies the definition of “new means of transport” within the meaning of Article 28a(1a)(b), second subparagraph, is not a taxable transaction when made by a private individual on moving house. It also agrees that, similarly, the return of a vehicle initially supplied under the exemption provided for in Article 28c(A) cannot be regarded as a taxable transaction authorising Member States to demand that the owner pay the VAT not collected when the initial supply was exempted.

The Committee also agrees **unanimously** that only the initial supply should be checked to ascertain whether the conditions for exemption by reason of transport outside the Member State of departure are met: to this end, registration of the vehicle with normal plates may be sufficient criterion for ruling out definitively any exemption in the Member State of purchase; conversely, registration of the vehicle under “transit” plates may indicate that the supply in fact concerns a new means of transport sent or transported to the buyer outside the territory of the Member State of departure but within the Community.

5.8 ARTICLE 28A(1A)(B)

Exceeding the threshold for acquisitions of goods

(Document XXI/97/2.036 – Working Paper No 249)

This guideline was approved at the 55th meeting

Where the rules on the place at which taxable transactions are carried out have been incorrectly applied, the Committee **unanimously** agrees that:

- Each Member State must exercise its powers of taxation, irrespective of events elsewhere (Member State or third country);
- The Member State which collected the VAT incorrectly invoiced must return it to the person liable for the tax (the supplier of the goods or services) in accordance with its own domestic rules. Refunding the sum thus recovered to the final customer depends entirely on the contractual relations between the supplier and his customer.