



Brussels, **XXX**
[...] (2020) **XXX** draft

COMMISSION IMPLEMENTING REGULATION (EU) .../...

of **XXX**

amending Implementing Regulation (EU) 2020/194 as regards the control of transactions made by taxable persons supplying services to non-taxable persons, making distance sales of goods and certain domestic supplies of goods

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.

DRAFT

COMMISSION IMPLEMENTING REGULATION (EU) .../...

of **XXX**

amending Implementing Regulation (EU) 2020/194 as regards the exchange of records held by taxable persons or their intermediaries and the designation of competent authorities responsible for coordinating administrative enquiries

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 tax¹, and in particular Article 471 (a) and (b) thereof,

Whereas:

- (1) Chapter 6 of Title XII of Council Directive 2006/112/EC², which provides for special schemes for taxable persons supplying certain services, has been amended by Council Directives (EU) 2017/2455³ and (EU) 2019/1995⁴ to extend the special schemes.
- (2) By Commission Implementing Regulation (EU) No 2020/194⁵, detailed rules for the application of 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 (“special schemes”) were adopted.
- (3) Regulation (EU) No 904/2010 lays down rules for administrative cooperation and the fight against fraud in the field of value added tax (VAT). More specifically, Articles 47i and 47j of that Regulation, as amended by Council Regulation (EU) 2017/2454⁶, lay down measures necessary to control the transactions made by taxable persons using one of the special schemes.
- (4) The special schemes allow taxable persons to declare and pay VAT for certain supplies of goods and services in the Member State in which they are established (Member State of identification) instead of having to register, declare and pay VAT in each Member State in which they supply those goods or services (Member State of consumption). The Member State of identification forwards the VAT returns and the

¹ OJ L 268, 12.10.2010, p. 1.

² Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

³ Council Directive (EU) 2017/2455 of 5 December 2017 amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods (OJ L 348, 29.12.2017, p. 7).

⁴ Council Directive (EU) 2019/1995 of 21 November 2019 amending Directive 2006/112/EC as regards provisions relating to distance sales of goods and certain domestic supplies of goods (OJ L 310, 2.12.2019, p. 1).

⁵ Commission Implementing Regulation (EU) 2020/194 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 (OJ L 40, 13.2.2020, p. 114).

⁶ Council Regulation (EU) 2017/2454 of 5 December 2017 amending Regulation (EU) No 904/2010 on administrative cooperation and combating fraud in the field of value added tax (OJ L 348, 29.12.2017, p. 1).

payments to the respective Member State of consumption. The Member State of consumption should be able to check the correctness of the declared supplies and to audit the taxable persons by asking them to provide records for those supplies.

- (5) All exchanges of information and records between the Member States should be made by use of a secure network available at Union level.
- (6) In order to facilitate the exchange of information and records pertaining to transactions made by taxable persons using one of the special schemes, the Member State of identification should be able to verify, when receiving a request for information, that the request pertains to a taxable person using one of the special schemes, who is the taxable person concerned by the request and to identify the type of records requested by the Member State of consumption.
- (7) In order to facilitate the provision of information and records to the Member State of identification, taxable persons using one of the special schemes or their intermediaries should be able to use a standard form in a readable format. This would allow the Member State of identification to provide an answer to the Member State of consumption within 30 days of the date the request was made, in accordance with Article 47i (5) of Regulation (EU) No 904/2010.
- (8) Carrying out administrative enquiries about taxable persons making use of one of the special schemes should not create unnecessary administrative burdens for the Member State of identification. To this end, a Member State of identification should inform in advance all the other Member States about administrative enquiries concerning taxable persons making use of one of the special schemes that it intends to carry out. In its notice, the Member State of identification should provide enough details to the other Member States allowing them to identify the taxable person and the scope of the intended administrative enquiry. The notice should grant enough time to the other Member States to provide a reply.
- (9) To permit a correct administrative functioning of the special schemes and facilitate the control and audit of taxable persons making use of them, the Member States should exchange the contact details of the person responsible for coordinating these matters in each Member State to allow an efficient communication.
- (10) Implementing Regulation (EU) 2020/194 should therefore be amended accordingly.
- (11) This Regulation should apply from the same date as the provisions of Chapter 6 of Title XII of Directive 2006/112/EC as amended by Directives (EU) 2017/2455 and (EU) 2019/1995, and the corresponding amendments made to Regulation (EU) No 904/2010 by Regulation (EU) 2017/2454.
- (12) 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

Implementing Regulation (EU) 2020/194 is amended as follows:

- (1) the following Articles 6a, 6b and 6c are inserted:

‘Article 6a

Exchange of records held by taxable persons or their intermediaries

1. The Member State of consumption shall request records held by a taxable person or intermediary pursuant to Articles 369, 369k and 369x of Directive 2006/112/EC from the Member State of identification using the standard form referred to in Article 1 of Commission Implementing Decision C(2019) 2866*. The Member State of consumption shall transmit the standard form by electronic means via the CCN/CSI network.

The Member State of consumption shall include the following information in the standard form:

- (a) a statement indicating that the request is made under Article 47i(1) of Regulation (EU) No 904/2010;
- (b) the name of the taxable person and the name of the intermediary if one is appointed;
- (c) the VAT identification number allocated by the Member State of identification to the taxable person or to the intermediary in respect of the taxable person represented by the intermediary;
- (d) the tax periods covered by the request;
- (e) the type of records requested.

2. The Member State of identification shall transmit the records collected from the taxable person or the latter's intermediary to the Member State of consumption by use of the form referred to in Article 1 of Implementing Decision C(2019) 2866. The standard form shall be transmitted electronically via the CCN/CSI network.

3. The electronic message to be sent by the Member State of identification to the competent authorities of the other Member States pursuant to Article 47j(1) and (2) of Regulation (EU) No 904/2010 shall include the following information:

- (a) a statement indicating that the electronic message is sent under Article 47j(1) or (2) of Regulation (EU) No 904/2010;
- (b) the name of the taxable person and the name of the intermediary if one is appointed;
- (c) the VAT identification number allocated by the Member State of identification to the taxable person or to the intermediary in respect of the taxable person represented by the intermediary;
- (d) the tax periods covered by the intended administrative enquiry;
- (e) the scope of the intended administrative enquiry;
- (f) the date by which the competent authorities of the other Member States are to provide an answer to the electronic message.

The Member State of identification shall send the electronic message to the other Member States by use of the CCN/CSI network.

4. The Member State of consumption shall consult the Member State of identification pursuant to Article 47j(2) of Regulation (EU) No 904/2010 by means of the standard form referred to in Article 1 of Implementing Decision C(2019) 2866 and electronically via the CCN/CSI network. The Member State of consumption shall include the following information in that standard form:

- (a) the name of the taxable person and name of the intermediary if one is appointed;

- (b) the VAT identification number allocated by the Member State of identification to the taxable person or to the intermediary in respect of the taxable person represented by the intermediary;
- (c) the tax periods covered by the intended administrative enquiry;
- (d) the scope of the intended administrative enquiry.

If the Member State of identification agrees to launch an administrative enquiry, that Member State shall inform the other Member States by way of the message referred to in paragraph 3.

Article 6b

Standard form for submitting records held by the taxable person or his/her intermediary to the Member State of identification

The standard form referred to in Article 47i(3) of Regulation (EU) No 904/2010 shall follow the structure set out in Annex IV to this Regulation.

Article 6c

Designation of a competent authority responsible for coordinating administrative enquiries

The contact details of the competent authority responsible for coordinating in each Member State administrative enquiries in relation to taxable persons making use of one of the special schemes shall include the name, department, address, phone number and e-mail address to be used to contact that competent authority.

This information shall be made available to the other Member States and the Commission by use of the CCN/CSI network.

* Commission Implementing Decision C(2019) 2866 laying down detailed rules for the application of Council Regulation (EU) No 904/2010 with regard to the standard forms, the automated enquiry of certain information and the service level agreement.’;

(2) a new Annex IV, the text of which is set out in the Annex to this Regulation, is added.

Article 2

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

It shall apply from 1 July 2021.

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

Done at Brussels,

For the Commission
The President
[...]