

# DIRECTIVES

## COUNCIL DIRECTIVE 2013/61/EU

of 17 December 2013

### amending Directives 2006/112/EC and 2008/118/EC as regards the French outermost regions and Mayotte in particular

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament <sup>(1)</sup>,

Having regard to the opinion of the European Economic and Social Committee <sup>(2)</sup>,

Acting in accordance with a special legislative procedure,

Whereas:

(1) By means of European Council Decision 2012/419/EU <sup>(3)</sup>, the European Council decided that, from 1 January 2014, the status of Mayotte will be that of an outermost region within the meaning of Article 349 of the Treaty on the Functioning of the European Union (TFEU) instead of that of an overseas country or territory (OCT) within the meaning of Article 355(2) TFEU. Union tax provisions will apply to Mayotte after this amendment of status.

<sup>(1)</sup> Opinion of 12 December 2013 (not yet published in the Official Journal).

<sup>(2)</sup> Opinion of 16 October 2013 (not yet published in the Official Journal).

<sup>(3)</sup> European Council Decision 2012/419/EU of 11 July 2012 amending the status of Mayotte with regard to the European Union (OJ L 204, 31.7.2012, p. 131).

(2) As regards value added tax (VAT) and excise duties, Mayotte is in a situation similar to that of the other French outermost regions (Guadeloupe, French Guiana, Martinique, Réunion and Saint-Martin), which fall outside the territorial scope of Council Directive 2006/112/EC <sup>(4)</sup> and Council Directive 2008/118/EC <sup>(5)</sup>, and should therefore be excluded from the territorial scope of those Directives as from the date its status is amended under the TFEU. The relevant provisions of Directive 2006/112/EC and Directive 2008/118/EC should consequently be adapted and their application to the French overseas territories at the same time be clarified.

(3) In order to make it clear that Mayotte and the other French outermost regions are excluded from the scope of Directives 2006/112/EC and 2008/118/EC regardless of any change in their status under French law, reference should be made in those Directives to Article 349 and Article 355(1) TFEU in respect of those regions.

(4) Directives 2006/112/EC and 2008/118/EC should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

#### Article 1

Point (c) of Article 6(1) of Directive 2006/112/EC is replaced by the following:

'(c) the French territories referred to in Article 349 and Article 355(1) of the Treaty on the Functioning of the European Union;'

#### Article 2

Article 5 of Directive 2008/118/EC is hereby amended as follows:

<sup>(4)</sup> 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).

<sup>(5)</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).

(1) Point (b) of paragraph (2) is replaced by the following:

'(b) the French territories referred to in Article 349 and Article 355(1) of the Treaty on the Functioning of the European Union;'

(2) Paragraph (5) is replaced by the following:

'France may give notice, by means of a declaration, that this Directive and the Directives referred to in Article 1 apply to the territories referred to in point (b) of paragraph (2), subject to measures to adapt to the extreme remoteness of those territories, in respect of all or some of the excise goods referred to in Article 1, as from the first day of the second month following the deposit of such declaration.'

*Article 3*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive with effect from 1 January 2014. They shall communicate to the Commission the text of those provisions before 1 January 2015.

When Member States adopt those provisions, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

*Article 4*

This Directive shall enter into force on 1 January 2014.

*Article 5*

This Directive is addressed to the Member States.

Done at Brussels, 17 December 2013.

*For the Council*

*The President*

L. LINKEVIČIUS