Gas and electricity: VAT rules on the place of supply (amend. Directive 77/388/EEC)

2002/0286(CNS) - 07/10/2003 - Final act

PURPOSE : to adopt the new rules for applying value added tax (VAT) to the supplies of gas and electricity so as to facilitate the Internal Market for energy. LEGISLATIVE ACT : Council Directive 2003 /92/EC amending Directive 77/388/EEC as regards the rules on the place of supply of gas and electricity. CONTENT : in order to harmonise and simplify the taxation of the costs of access and use of distribution networks, the Directive also changes the place of supply of services directly connected to the supply of gas and electricity (such as use of the pipeline/cable network to transport the gas or electricity). The new rules provide, in the case of supplies of gas through the natural gas distribution system and of electricity, a departure from the basic principle governing the VAT treatment of goods which is that the place of taxation is the place where the goods are physically located. The rules distinguish between two categories of supplies for gas and electricity: supplies to traders buying with a view to resale and supplies to final consumers, whether or not they are traders. Supplies of gas and electricity to traders are taxable at the place where this person is established or has a fixed establishment for which the goods are supplied. Supplies to final consumers are taxable at the place of consumption of the gas and electricity. This is normally the place where the customer's meter is located. This will ensure that the VAT accrues to the Member State where the final consumption takes place. The changes in the rules governing the place of supply of gas through the natural gas distribution system, or of electricity, should be combined with a compulsory reverse charge when the customer is a person identified for VAT purposes. ENTRY INTO FORCE : 11/10/2003. IMPLEMENTATION : 01/01/2005.