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E-003170/2026

Answer given by Mr Hoekstra
on behalf of the European Commission
(16.9.2026)

Under Article 9(1) of Council Directive 2006/112/EC¹ (the value-added tax (VAT) Directive), any person who, independently, carries out in any place any economic activity, whatever the purpose or results of that activity, is regarded as a taxable person. Whether the activity of a company director who is a natural person falls within the scope of the VAT Directive must be assessed in the light of that provision and the relevant case-law of the European Court of Justice, in particular as regards the condition of independent economic activity.

The Court has clarified that a member of the board of directors of a public limited company does not carry out an economic activity independently, within the meaning of Article 9(1) of the VAT Directive, where that person does not act on his or her own behalf or under his or her own responsibility, and does not bear the economic risk linked to the activity². The assessment depends on the factual circumstances of the activity concerned.

Where a director, as a natural person, resides in one Member State but holds a position in a company established in another Member State, the VAT treatment is assessed by the Member State where the taxation of the activity takes place according to the place of supply rules in the VAT Directive. If this Member State considers the director's activity to be an independent taxable service, this will result in VAT obligations to occur in that Member State in connection with that supply. The director may be allowed under certain conditions to apply the small businesses VAT exemption scheme³, available since 1 January 2025, also in Member States where they are not established.

¹ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, OJ L 347, 11.12.2006, pp. 1–118.

² Judgment of 21 December 2023, *TP v Administration de l'enregistrement, des domaines et de la TVA*, C-288/22, EU:C:2023:1024.

³ See https://sme-vat-rules.ec.europa.eu/index_en.