

# Tax & Legal Alert

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## Legislative developments

- New VAT invoice rules will apply from 1 July 2010.
- The exemption from taxation for certain dividends paid to non-resident companies is removed.
- Withholding tax provides sufficient basis for deducting most payments to unregistered individuals.
- Electronic submission of tax returns is mandatory for some taxpayers.

For more information, please contact one of the individuals identified below.



## Numbered tax invoices

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From 1 July 2010, new rules will apply for VAT payers when they issue tax invoices for sales subject to the standard 20% VAT rate.

A tax invoice will need to have a unique series and number. The invoice may be issued electronically. The procedures are yet to be defined by the Government, but will involve taxpayers linking their accounting system with that of the tax authorities in some form.

Alternatively, taxpayers will be able to use forms obtained from the tax authorities. The forms will be non-transferable and may not be duplicated.

Under current law, VAT taxpayers are required to submit information of all sale and purchase invoices exceeding AMD 100,000 in value with their VAT return. Once the new rules take effect, taxpayers will no longer need to submit information on tax invoices that they issue electronically. However, information will still need to be submitted on other invoices for the reporting period (including electronically issued invoices that are received).

Penalties will apply when electronically issued tax invoices are issued in violation of prescribed procedures, or when prescribed forms are acquired illegally or are used in duplicate form. The issuer of the tax invoice will be penalised in the amount of double the transaction value (including the VAT amount) for each affected invoice, subject to a minimum penalty of AMD 5 million for each penalty assessment. Thus, if a taxpayer is found during review to have issued ten invoices:

- A penalty of AMD 5 million would apply if the invoices have an aggregate transaction value of AMD 2 million (minimum penalty).
- A penalty of AMD 8 million would apply if the invoices have an aggregate transaction value of AMD 4 million (double the transaction value).

(Law No. HO-203-N, adopted 29 October 2009, published in Official Journal No.60 (726))

**Our comment:** We understand that the Government wants to exercise more control over business transactions to reduce tax leakage. However, the experience of other countries suggests such practices to be ineffective, and the overall effect of the initiative may merely be to place an unrealistic and intrusive administrative burden on taxpayers. The minimum penalty also appears excessive, as the law does not contain any exception if a taxpayer makes an innocent mistake and could result in punitive assessments and/or informal settlements for affected taxpayers. In our view, the government should rethink its initiative.

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## 0% tax on dividends removed

Until 2009, dividends paid to a foreign company that had owned more than 25% of the Armenian company for at least two calendar years preceding the distribution were exempt from Armenian tax if the foreign company was not subject to profit tax on those dividends in its country of residence.

The exemption has now been repealed.

The Government had published a long list of exceptions to the exemption rule and it was necessary for the Armenian company to confirm the entitlement with the tax authorities. Consequently, it is unclear how often the exemption was used and what the real tax effects of the amendment will be.

(Law No. HO-193-N, adopted 27 October 2009)

## Deductibility of payments to unregistered individuals

Payments to an unregistered individual for services not covered by contractual relationship are subject to 11% withholding tax. In the past, taxpayers may not have been able to deduct the cost of payments to the individual because of a lack of proper supporting documentation.

The law has been amended. The fact of withholding will now be treated as sufficient evidence that the taxpayer is

entitled to deduct the expense for profit tax purposes, provided:

- The expense is incurred in connection with the taxpayer's production of income; and
- The amount of the expenses do not exceed AMD 300,000 per transaction and AMD 3 million per month.

(Law No. HO-201-N, adopted 27 October 2009)

## Electronic tax return submission

From 1 January 2010, the following organisations are required to submit their returns, documents and other information electronically:

- Banks and most other financial organisations.
- Companies that are considered large companies by the Law on Accounting.
- State institutions whose turnover exceeded AMD 100 million in the previous year.

- Other organisations whose turnover exceeded AMD 100 million in the previous year, and in which the State has at least a 50% share in their equity.

From 1 July 2010, organisations whose turnover exceeded AMD 100 million in previous year will also be required to submit tax returns electronically.

(Law No. HO-194-N, adopted 27 October 2009, published in Official Journal No.60 (726))