

# *Tax Newsletter #5*

## Tax Code: Key changes in VAT treatment of services

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# VAT on Services

*The Tax Code has changed VAT treatment of certain services. Below we summarize the main issues.*

## I. General overview

In comparison to the VAT Law, the Tax Code establishes a number of amendments to the VAT treatment of certain services including changes in the definition of their places of supply.

These changes relate both to cross-border and local supply of services and may have a critical impact on certain industries.

## II. Specific amendments

### • *Imported services – place of supply*

The Tax Code establishes various rules for determining the place of supply of services. If a particular service is not covered by the special rules, the general rules will apply and the service will be considered to be supplied at the place where the provider is registered.

This means that if services are provided by a non-resident and such services are covered by the general rule for place of supply determination, they will be treated as supplied outside Ukraine and no reverse-charge VAT for Ukrainian customers should arise.

If the special rules apply, a reverse-charge VAT may continue to arise.

### • *Marketing and promotional services*

Marketing and promotional services are currently not covered by the special rules of place of supply determination, so they are regulated by the general rules. Therefore, if such services are supplied to a non-resident they should be subject to 20% VAT.



### • *Services of a consulting nature*

The list of services not subject to VAT was extended to include consulting, engineering, accounting, legal, audit, actuarial and other similar services of a consulting nature.

Such services will not be subject to VAT irrespective whether they are provided to/by a resident or a non-resident.

We expect the tax authorities to provide further explanations on which services should be of a consulting nature.

### • *Data processing and provision of information*

The services on development, supplying and testing of software, data processing and consulting on ‘informatization’, supplying of information and other services in the area of ‘informatization’, including services assisted by computer systems, will also be VAT exempt irrespective of whether they are supplied to/by a resident or a non-resident.

Based on the current wording of the Tax Code, it is likely that the data processing and provision of information services will be VAT exempt only if they are connected to information technology.

Processing of data and provision of information in other areas, including their supply to a non-resident, will be subject to 20% VAT.

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### **III. Impact of the amendments**

If a Ukrainian company supplies services of a promotional/marketing nature, or provides data processing and provision of information services to non-residents (except of an IT nature), they will be obliged to charge 20% VAT.

Such VAT will not be recoverable by a non-resident customer and will represent an additional cost.

Companies engaged in the supply of exempt services (consulting, audit, software development, etc.) will be unable to recover input VAT. Furthermore, they will be required to recognize deemed sale of the assets in respect of which VAT input was previously claimed.

### **IV. Industries impacted by the amendments**

The amendments to the VAT treatment of the aforementioned services may have a significant impact on the following industries:

- Consulting and auditing;
- Marketing/promotional services and market-research companies;
- Clinical trials;
- Other companies engaged in the supply of various services to non-residents.

**We recommend the companies engaged in such activities analyze the issue in detail and restructure their operations accordingly.**

*Should you have any questions or comments in connection with the Tax Code, do not hesitate to contact us.*