

Tax & Legal Alert

Bulgaria • issue 4, 4 March 2008

Indirect taxes

Amendments to VATA

At the end of 2007 the Parliament adopted two Acts for Amendment of the Value Added Tax Act (VATA) which entered into force on 19 December 2007 and 1 January 2008 respectively.

Some of the amendments are aimed at clarifying specific provisions which cause problems with the practical application of VATA. Others seek the harmonization of certain provisions of VATA with Council Directive 2006/112/EC.



Summary of the main amendments to the VATA

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Amendments concerning taxable persons involved in cross-border transactions

- More favourable VAT treatment in case of advance payments related to export

The one-month period for collecting the documents proving a zero rated supply (export) starts after the month in which the VAT for the supply (and not for the advance payment) has become chargeable.

- More favourable conditions for VAT refund within 30 days

In addition to the taxable base of the zero-rated supplies carried out in the last 12 months the 30% threshold for application of the shorter 30-day VAT refund period includes the taxable base of supplies of intra-community transport of goods (including services related thereto) and supplies of valuation, expertise or work on movable goods with place of supply in another EU Member State.

- Extension of the period for issuance of protocols

The period for issuance of protocols for VAT reverse-charge as per Art. 117 of the VAT Act is extended from 5 to 15 days.

Place of supply and VAT treatment of certain supplies

- The VAT treatment of forwarding, courier and postal services is now regulated in VATA as well (so far it was provided in the Regulations for the Application of VATA).

- Where such services are performed in relation to international transport of goods their VAT treatment follows the treatment of the initial transport service. In case of intra-community transport, the forwarding, courier and postal services are respectively treated in the same way as intra-community transport of goods.

- The services related to international goods traffic for which 0% VAT applies are explicitly listed. The amendments in this regard deviate from the relevant provisions of Council Directive 2006/112/EC, which provide for a wider scope of the services related to international goods traffic.
- The rules on determining the place of supply of intermediary services effected in relation to supply of services are also applicable for intermediary services related to supply and intra-community acquisition of goods (in the general case, the place of supply of the intermediary service is where the underlying supply is effected).
- The provisions regarding the place of supply rule for services related to valuation of movable tangible property or work on such property has been supplemented and now covers also expertise services.
- The amended wording of the derogation from the general rule for place of supply of the above services now clarifies that the provision also applies to the case where the recipient of the service is registered for VAT purposes in Bulgaria, but the service is performed in another Member State.

Investment projects

In order to apply the special regime for charging of VAT upon import and for VAT refund within the shorter 30-day period, the taxable person should comply with the conditions for granting of minimal aid as per Council Regulation 2006/1998/EC for application of articles 87 and 88 of the EC Treaty. Until the entering into force of this amendment VATA referred to the Bulgarian State Aid Act and the Regulation for its application.

The maximum amount of the state aid for investment projects for which no individual notification to the European Commission is required is increased from BGN 200,000 to the Bulgarian leva equivalent of EUR 200,000.

Amendments related to the VAT deregistration rules

- The scope of the deemed supplies upon deregistration has been extended.

Besides for all available goods which qualify as assets for tax purposes and for which the taxable person has used the right to VAT credit, a taxable supply is also deemed effected for all services (the costs for which can be capitalised) upon deregistration.

- There is a change of the date on which the deregistration is considered completed.

Extension of the tax audit periods for taxpayers carrying out intra-community supplies

According to the amendments in the Tax and Social Insurance Procedure Code the tax audit period for persons performing intra-community supplies or acquisitions and/or transactions with place of supply in other EU Member States is up to 6 months (with possibility for a further 2-month extension) as opposed to the general 3-month period in all other cases.

Possibility for offset /recovery of VAT in case of a tax audit against setting up a security

VAT can be offset /recovered despite of an ongoing tax audit if a security is set up in cash, government bonds or as bank guarantee. This procedure allows VAT amounts subject to refund to be recovered during the tax audit.

Increase in the administrative penalties

The administrative penalties have been significantly increased, in some cases up to 20 times.

For example, in case a VAT return has not been submitted within the statutory deadline the administrative penalty can reach up to BGN 10,000. Where a tax document has not been issued or an issued/received tax document has not been reflected in the VAT ledgers, the penalty is equal to the amount of the VAT not reflected, but not less than BGN 1,000 (whereas before the amendments the maximum penalty in this case was BGN 2,500).

Other amendments

- Subsidies and financing granted in relation to the quantity and quality of goods or services are excluded from the scope of the subsidies and financing directly linked to the supply and should not be included in the taxable amount of the supply.
- A new VAT registration procedure against setting up a security is envisaged for persons that have unsettled VAT liabilities of more than BGN 5,000 or have been convicted for tax felonies.
- Freelancers, including persons acting as private bailiffs and notaries, have been included again in the scope of the taxable persons who carry out an independent economic activity.
- The date of taxable event has been specified for the supply of certain goods (press, books and other publications, music audio and video recordings, etc.) under the terms of a commissionaire contract.
- The scope of the exempt supplies of non-economic nature and the supplies related to health care has been extended.
- The obligation for payment of the VAT in case of temporary import with partial relief of customs duties arises before the release of the goods by the customs authorities.

Please address any queries for additional information or assistance to your usual PricewaterhouseCoopers contact or to Tania Pavlova, or Nevena Haygarova.

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