

Tax Alert

Tax Services

Estonia • December 2008

AS PricewaterhouseCoopers in Estonia helps clients in finding tax efficient business solutions and managing tax risks.

We work together with our colleagues in other PricewaterhouseCoopers' offices world-wide and use our access to international know-how and long-term experience to quickly and efficiently solve tax issues that arise both locally and in foreign jurisdictions.

For more information, please see our contact details below.



Estonian tax changes 2009

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VAT and income tax changes - 2009

The Estonian Parliament adopted further amendments to the VAT and Income Tax Act on 4 December 2008, which will generally become effective from 1 January 2009. The overview on most significant law amendments is provided below.

The private use of passenger cars

The taxable value of the private use of passenger cars (i.e. company cars) in the fringe benefit taxation will be doubled from 2009. The new fixed monthly value per each company car, which is used also for private purposes, will be EEK 4,000 (approx. EUR 255.65). Until the end of 2008, such taxable value is EEK 2,000 (approx. EUR 127.82). This will cause to employers additional income tax, social tax and VAT liability, unless there is a logbook kept for the company car for tracking the private use of such cars in the established order. In such a case, the taxable value of private trips is 3 or 4 EEK per kilometre (subject to

the age and engine of the car), but not exceeding in total EEK 4,000 per month. The VAT is inclusive in all above referred taxable values.

Therefore, in the absence of keeping the logbook, for the private use of each passenger car the company has to pay on a monthly basis the VAT in the amount of EEK 610 ($4,000/1.18 \times 0.18$), the income tax in the amount of EEK 1,063 ($4,000 \times 21/79$) and the social tax in the amount of EEK 1,671 ($5,063 \times 0.33$). It is likely that due to such a significant increase of the taxable value, the logbooks of company cars will become more common.

Dwelling maintenance services

The most significant VAT change for end-users concerns dwelling maintenance services (Art. 16 (2) 2) of the VAT Act), which will become subject to taxation from 2009. Until the end of 2008, such services are tax exempt services, but this treatment is not in accordance with the EU VAT Directive.

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References on VAT invoices

When dealing with cross-border transactions, instead of references to the Articles of the old Sixth Directive (EC/77/388), VAT invoices should refer to the Articles of the new Directive (EC/2006/112).

Taxable value

One of the aims of amendments made in the VAT Act was also to introduce the provisions of the VAT Directive (Art. 72 and 80), which concern the adjustment of taxable value in case of transactions between associated persons. Thus, the provisions of Art. 12 of the VAT Act were significantly amended. For this purpose, the term „associated persons“ is defined in the Income Tax Act and the VAT Act will not introduce its own definition for associated persons.

The taxable value will be subject to adjustment only when the result of the „distortion“ of the price would be the reduction of VAT revenues to the state budget. As a general rule, the open market value will represent the taxable value. When there are no comparable goods or services, then the tax base will be the purchase price or cost price for goods and full cost for services.

VAT grouping

Another substantial change concerns the rules on VAT grouping (Art. 26 of the VAT Act), as the VAT group will act in respect of third persons as a single person, which means that the whole VAT group will have a single VAT registration number, single VAT return and EC Sales Listing. The output supplies and deductions for input VAT of persons belonging to the VAT group will be aggregated. The supplies

within the VAT group remain outside the scope of VAT. The new rules on VAT grouping are introduced in accordance with the VAT Directive and will be effective from 1 January 2010.

ECJ case law

Pursuant to the case C-363/05 (*JP Morgan Fleming*), the exemption applicable to the management of the investment fund will become available for wider range of investment funds.

On the basis of case C-90/2002 (*Bockemühle*), the deduction of input VAT will be simplified – the VAT invoice is no longer obligatory for deduction, if there are other documents in place, which enable to determine the taxable value for the purchases, in which the reverse-charge mechanism is applied on the level of the Estonian purchaser.

Miscellaneous

The VAT rules applicable to taxable land plots and new buildings will be extended also to certain types of securities. The timeframe of binding application of option to tax will be further specified in the VAT Act. Although the Ministry of Finance intended to change the taxation of lease transactions, no changes were adopted by the Parliament in this respect.

For more information regarding the above matter, please do not hesitate to contact us

