

Key amendments in Value Added Tax legislation

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Recent amendment in the tax legislation:

Value added tax

The end of 2010 was a busy time for VAT developments. The Government issued new rules on VAT invoices in November 2011. Then, the National Assembly introduced legislative changes that affect other aspects of the VAT rules.

This edition of PwC Times discusses key changes to the VAT rules that you need to be aware of to ensure that your business continues to comply fully with its tax requirements.

Paper or electronic tax invoices

Following the introduction of numbered tax invoices in the VAT law in 2009, the Government on 26 November 2010 approved the procedures for issuing tax invoices electronically. [1]

Starting from 1 January 2011 VAT taxpayers must issue tax invoices in one of the following ways:

Electronic tax invoices

Online tax invoices may be issued with the use of special computer software available on the official web site of the tax authorities and installed on local computers of taxpayers. Software may be directly downloaded from www.taxservice.am.

Taxpayers may issue tax invoices by billing systems based on serial numbers received from the tax authorities. Serial numbers are provided electronically by the tax authorities based on a taxpayer's electronic application approved by electronic signature.

Paper tax invoices

VAT taxpayers may get invoice forms from the tax authorities, based on an application and receipt of payment certifying that the amount payable for the invoice forms has been paid to the treasury account.

The forms are non-transferable and may not be duplicated.

Advantages of new rules and penalties for non-compliance

Benefits

The issuance of electronic invoices reduces compliance time for VAT taxpayers:

- Under the current law, VAT taxpayers are required to submit information on all sale and purchase tax invoices in excess of AMD 100,000 with their VAT return. Under the new rules, taxpayers will generally no longer have to submit information on tax invoices they issue and receive electronically.
- All communications are done electronically, thus it reduces human intervention.
- The data required for issuing tax invoices can be imported from the taxpayer's accounting software to the online system or exported from the online system to the accounting software, if appropriate software support exists.

Penalties

Penalties apply when tax invoices are issued in violation of prescribed rules, 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 10 million would apply if the invoices have an aggregate transaction value of AMD 5 million (double the transaction value).

[1] Government Decree No. 1504-N of 11 November 2010.

New rules requiring certain businesses to account for VAT irrespective of AMD 58.35 million threshold

Except for taxpayers that elect to register voluntarily, the Armenian VAT rules do not explicitly contain the concept of a VAT-registered person. The rules requiring taxpayers to account for VAT once their revenue exceeds a minimum threshold are now being extended with emphasis on the economic relationships between taxpayers. [2]

When a taxpayer is required to account for VAT?

Previous rules:

Businesses with sales exceeding AMD 58.35 million in the preceding calendar year are required to account for VAT on their sales in the subsequent calendar year.

- Businesses that require a license costing more than AMD 100,000 to operate and businesses producing excisable goods are required to account for VAT on their sales.
- Businesses that produce or import products that are subject to excise tax are required to account for VAT on their sales.
- Other businesses are required to account for VAT on any sales in a calendar year in excess of AMD 58.35 million.

- Businesses with at least 80% of the revenues for the preceding year from one customer, or at least 80% of the expenses for purchase of goods (except of importation) for the preceding year are from one seller, are required to account for VAT.

- Interrelated persons i.e., companies that own 20% or more of other company's shares or companies whose shareholders hold 20% or more shares in other companies, are required to account for VAT because of the relationship.

Sales based on commission agency contract when determining the threshold

The Law on VAT has a provision that the revenue from activity that is subject to presumptive payment should be included in determining whether the AMD 58.35 million threshold is exceeded.

A new provision states that the total value of goods sold (including VAT) on a commission agency basis should also be

included in determining the VAT threshold. Thus, a taxpayer that received AMD 10 million commission in 2010 from the sale of goods worth AMD 60 million would be liable to account for VAT in 2011.

Interrelated persons should account for VAT

A new provision has been added to the Article 3 of the Law on VAT that requires interrelated persons to account for VAT.

The new provision refers back to the Law on Taxes to determine if persons are interrelated for tax purposes.

As a general rule, persons (whether individuals or legal entities) are interrelated for tax purposes if one person can impact on the entrepreneurial activity of the other person.

In addition, an amendment has been made to treat persons who have been acting in agreement based on mutual economic interests to be interrelated.

An interrelationship will exist only if the tax authorities formally confirm the relationship.

Such decision can be claimed invalid only by the court's decision.

PwC Armenia had a phone conversation with the Ministry of Finance, which informed that this provision is going to be officially clarified and the determination would be prospective, i.e., the persons would be treated interrelated for VAT purposed starting from the day when they received the official decision. VAT liabilities for the previous period would not be recalculated.

[2] Law "On amendments to the law on VAT" No. HO-208-N of 22 December 2010.

Law "On amendments to the law On taxes" No. HO-207-N of 22 December 2010.

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Further restrictions to some importers

The VAT threshold for being non-VAT payer will also not apply to the persons whose taxable turnover from the sale of imported goods for which customs authorities do not calculate and withhold VAT under “importation for free circulation” customs regime exceeds AMD 1 million at any moment of the reporting year.

In this case the person will be considered as VAT taxpayer from the date when AMD 1 million threshold is exceeded until the end of the calendar year .

VAT should be accounted for the revenue that exceeds AMD 1 million and other taxable transactions.

The good imported into Armenia for the purposes of commercial activities (sale) is the property that is disposed without being used or utilised.

VAT taxation of investment funds

Starting from 9 January 2011 managing or acting as a custodian for an investment fund are VAT exempt.

When do the new rules take effect?

The new rules will generally apply for VAT tax payers from 1 January 2011.

[1]Government Decree No. 1504 of 11 November 2010.

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