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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.

Tax alert

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Legal acts

Draft law for the amendments to the value-Added Tax Act

The Ministry of Finance has sent for round of approvals the draft law for amendments to the Value-Added Tax Act (VAT Act) which concerns the following topics. The amendments should enter into force in January 1st, 2019.

Tax treatment of vouchers

From January 1st, 2019 the Directive regulating VAT treatment of vouchers is amended. The purpose of the aforementioned Directive is to simplify, update and harmonize the VAT rules applicable to vouchers. With the draft law these amendments are transferred from the Directive to the VAT Act.

The concept of a voucher is defined, it can be either single-purpose or multi-purpose and the discount vouchers are excluded from the definition. Different types of vouchers must be defined because the time of supply for various types is different. Vouchers can be issued on paper or electronically. Voucher is deemed to be as a single-purpose, when the place of supply of the goods or services and the VAT payable on those goods or services are known at the time of issuing the voucher. In all other cases the voucher is defined as multi-purpose voucher. According to the explanatory note, the new provisions for vouchers will not change the VAT treatment of tickets for public transport, cultural and sporting events and postage stamps.

Only vouchers, which can be used for redemption of goods or services are targeted by these rules. The rules do not apply on various instruments granting merely discounts.

When a single-purpose voucher is sold, the VAT liability arises on the day when the voucher for goods or services is handed over to the purchaser (if a prepayment is received before handing over the voucher, the VAT liability arises at the time of receiving the funds for prepayment). For example, a restaurant gift card is a single-purpose voucher[1]. If the seller of single-purpose voucher is an intermediary (for example a web site for vouchers) the intermediary's supply arises from the provision of the service to the real seller of the good or service. The time of supply of the actual seller of the goods or service is generated either from receiving the payment or delivery of the goods/services to the purchaser, whichever is earlier.

When a multi-purpose voucher is sold, the time of supply is not when the voucher is handed over to the purchaser (or receiving the payment) but VAT should be charged when the goods or services are redeemed. Multi-purpose voucher is for example a gift card of a book store[2]. It is a multi-purpose voucher because goods with both 20% and 9% VAT rate are sold in a book store.

Change in the place of taxation of digital services in case of small supply

The rule for the place of supply in case of digital services provided cross-border to a final consumer in another Member State is amended. Both electronic communications and electronically supplied services are considered as digital services. The proposal establishes a threshold of EUR 10 000 for digital services in a calendar year, after exceeding the threshold the place of the supply of services is the country of location of the final consumer. Until this threshold has not been exceeded, an enterprise has the right to comply with the rules of taxation in its Member State (including the tax rate) excl. in the event that the enterprise itself does not decide otherwise.

This means that from January 1st, 2019 an Estonian company with a VAT number, who sells digital services to final consumers located in other Member States (for example

[1] Medieval meal in Olde Hansa Tallinn - value EUR 60.

[2] Rahva Raamat gift card, diferent values.

Latvia, Lithuania, Finland) declares VAT on the form KMD line 1 (taxable supply at a rate of 20%) rather than on a quarterly MOSS VAT return (as a general rule, the provider of digital service is MOSS special arrangements user). If the sale of digital services to other Member States exceeds EUR 10 000 from the beginning of the calendar year, then from the day on which the threshold is exceeded, the place of supply of services is the country of location of each final customer. The seller can apply for the MOSS special arrangement and declare the supply on the MOSS VAT return.

If the seller of the digital services is currently using the MOSS special arrangements then from January 1st, 2019 it is permitted to continue the same arrangement regardless of the threshold, meaning the place of supply for all cross-border customers will be the country of location of the final customer.

Filing import VAT on VAT return

Generally the import VAT on goods or fixed assets is taxed and payed to customs in accordance with the customs regulations, but this obligation can also be complied with in a substantially simpler way - by declaring the import VAT on the VAT return form KMD line 4.1, provided that the conditions in the VAT Act are met.

The Ministry of Finance is drafting a proposal to simplify the conditions, which give the taxable person the right to use the line 4.1 on form KMD.

The main obstacle to the majority is eliminated, according to which the share of 0% supply in the total supply, of the previous 12 months before the corresponding customs declaration was submitted, should be at least 50%. However, in order to avoid tax evasion, the list of conditions is supplemented with a new condition, according to which the taxable person must have “an impeccable business reputation” to help ensure that only law-abiding taxpayers are entitled to use line 4.1. Since Value Added Tax Act § 38 (2) 6) is also amended, the interest in maintaining an impeccable business reputation is ensured, otherwise the Tax and Customs Board may invalidate the right to use line 4.1.

As a result, the number of persons who may apply for the right to declare import VAT on VAT return should be extended, since those who don’t have any 0% supply or it forms a small part of the total supply can also apply (currently there are about 200 persons with such right, estimated number of persons is 3 000).

In addition, it is provided that the taxable person who imports fuel can deduct VAT in the VAT return.

The deadline for filing the first INF14 declaration fell

The deadline for filing the INF14 (for loans granted and repaid) for the first time was 20th of April

The first INF14 had to be filled in for longer period than one quarter, since in addition to loans granted and repaid in the 1st quarter of 2018, the loans granted and repaid within the period from July 1, 2017 to December 31, 2017 had to be reported in accordance with the transitional provision (Income Tax Act (ITA) § 61 (54)). A loan, which was granted under a loan agreement concluded before July 1, 2017, but which was increased or for which the repayment deadline was extended during this period, is also subject to reporting. The first INF 14 should have been filed no later than April 20, 2018. The reporting obligation also applies to permanent establishments of resident and a non-resident companies (no reporting obligation for banks and public limited liability funds).

It should be noted that only the loans issued (cash-bases) to parent and so-called sister companies will be subject to the reporting obligation. Loans will be classified into three categories: (classical) loans, loan granted under cash pool agreements and other transactions equivalent to loans (such as overdrafts, deposits).

Legal acts

Amendments in Taxation Act

The Parliament of Estonia is in the process of adopting a draft law introducing amendments to Taxation Act and related legislation aimed at making the tax proceedings more efficient and modern. Amendments will be effective from January 1st, 2019. Please find below a description of the most significant changes, according to our selection.

Declaring in full euros

The draft law amends the principle of rounding-off the tax amounts payable or refundable. The rounding is currently done with euro-cent accuracy, in the future the rounding should be done in full euros according to the general rule, unless otherwise specified by the specific tax law or customs regulation. For example, currently the report on intra-community supply (VD) is filled in with full euro accuracy, but the VAT return (KMD) is filled in with euro-cent accuracy and in the future the KMD should also be filled in full euros.

Amendments concerning tax arrears

The amendments clarify the concept of tax arrears in order to clarify, that tax arrears include the amounts refunded without incorrectly and the interests calculated on tax not paid by the due date.

In addition, when issuing a certificate on the absence of tax arrears, the threshold of tax arrears is raised. Currently, the Tax and Customs Board issues a certificate on the absence of tax arrears if the amount of tax arrears is below 10 EUR (including the amount of interest). In future, the certificate on the absence of tax arrears is issued when amount of tax arrears is below 100 EUR (including the amount of interest).

Calculated tax interest is not public information

If the taxpayer is late in tax payment, the interest is automatically calculated, but the interest liability is not disclosed until the taxpayer has received an administrative act (a claim for interest) from Tax and Customs Board, where the due date for payment is provided (Taxation Act §27 (2)). Therefore, the interest liability is not public information until claim for interest payment is submitted to the taxpayer and becomes public information after the due date for the payment of interest claim has fallen (unless the claim for interest is suspended).

Late payment interest as business related expenses

Income Tax Act § 34 (3) is amended with two exceptional cases, when late payment interest can be considered as a business related expense, meaning its payment will not trigger the obligation to pay corporate income tax on top of the late payment interest. If the taxable person voluntarily corrects a tax return in which the data was either incomplete or incorrect and as a result tax arrears arise, then the obligation to pay late payment interest on tax arrears still arises, but without the obligation to pay corporate income tax on the interest. However, the implementation of this exception is not black-and-white: if the declaration contained false information intentionally or with the aim of creating a tax advantage, the tax authority may not accept late payment interests as business related expenses. The second exception is a situation in which a taxpayer faces tax arrears due to payment difficulties, but he himself requests payment of tax arrears by instalments – the interest calculated after the date of approval of payment of tax arrears in instalments is no longer subject to corporate income tax.

The amendment does not therefore apply to late payment interest payable as a result of a tax proceeding and late payment interest due on tax arrears which have not been deferred. These late payment interests continue to be subject to corporate income tax.

Legal acts

Non-calculation of tax interest

An additional provision (Taxation Act §119 (5)) is included which establishes that in certain cases the tax authority does not calculate the late payment interest. For example, if a tax audit is delayed as a result of tax authorities activity (or inactivity), the tax authority does not calculate late payment interest on tax for that unreasonably delayed period.

Interest payable to the taxpayer

In the future, the taxpayer does not have to submit a separate application to the Tax and Customs Board for interests payable, in situations where the Tax and Customs Board is obliged to pay interest to the taxpayer – for example, if the tax authority has issued a notice of tax assessment, which the taxpayer has paid, but the court has later canceled. The tax authority complies with the interest obligation upon its own initiative, transferring interest to the taxpayer's prepayment account.

Tax proceedings

The differences between the examination of individual cases (*üksikjuhtumi kontroll*) and tax audits (*maksurevisjon*) are abolished. Instead, tax proceeding is introduced as tax examination category, which is regulated by Taxation Act §41 and these provisions will apply on tax proceedings that begin as of January 1st, 2019.

Solidarity-based liability of the factual company manager

In the future, it will be possible to collect the tax arrears caused intentionally from a person who is not registered as a member of the management board in the commercial register, but who is the factual manager of the company.

The data in the employment register will be increasing

The precise composition of the data in the employment register (TÖR) will no longer be provided by the law, but instead by the implementing act, as the data, which is required is dynamically changing and increasing over time. It is also planned to include additional data concerning the work in the TÖR (job title and place of work).

Automatic decisions and documents

It will be regulated in which cases (Taxation Act §462) the tax authorities have the right to submit decisions and documents created by an automated data processing system via e-Tax/e-Customs environment (warnings, tax notices, certificates).

For example, the decision of payment of tax arrears by instalments, provided certain conditions are met (period of payment by instalments is up to 1 year, the amount of tax arrears is up to 20,000 EUR etc.); the decisions on registering for VAT or VAT group; tax notices etc. In practice, the application and decisions on payments by instalments is already an automatized process.

The regulation on delivery by electronic means is supplemented and the legal basis for using the e-Stamp is laid provided for.