

# Tax News

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## Value Added Tax

Administrative Instruction MF-No. 06/2016, “On Amending and Supplementing Administrative Instruction No. 03/2015 for implementing Law No. 05 /L-037 “On Value Added Tax””, was signed on 1 December 2016 and enters into force seven days after being signed by the Minister of Finance.

This Administrative Instruction amends the current Administrative Instruction MF-No. 03/2015 for implementing Law No. 05/L-037 “On Value Added Tax”, dated 31 August 2015.

All of the amendments brought by the new Administrative Instruction on VAT are listed below.

### VAT refund procedure

#### ► Reducing administrative burdens in VAT refund procedures

Under the new Administrative Instruction on VAT, the following amendments have been made regarding the VAT refund procedure:

Article 59, paragraph 6 of Administrative Instruction No. 03/2015 is repealed and replaced by:

*“6. If the amount of the claimed refund turns out to be inaccurate by the TAK evaluation, penalties will be imposed on the over-declared amount under the Law No. 03/L-222 on Tax Administration and Procedures, while the approved amount will be refunded in accordance with Article 40 of the Law No. 05/L-037 on the Value Added Tax.”*

The repealed paragraph in the previous Administrative Instruction stated that if the amount of requested VAT refund was higher than the amount assessed by the Tax Administration of Kosovo, the request would be automatically rejected and the taxpayer would have to initiate a new refund request for the assessed amount.

The new provision signals an improvement from a procedural perspective for VAT refund applications, as it should reduce the bureaucratic burden and increase the expediency of VAT refund procedures.

### *VAT Reverse Charge Mechanism for Supply of Construction Services*

- ▶ *Extending the application of the reverse charge mechanism on construction services*

Under the new Administrative Instruction on VAT, the following amendments have been made with regards to the VAT reverse charge mechanism for supply of construction services:

Article 70, paragraph 2 of Administrative Instruction No. 03/2015 is repealed and replaced by:

*“2. Persons in special construction scheme are taxable persons who provide services in the field of construction to other taxable persons”*

The repealed paragraph in the previous Administrative Instruction required the application of the VAT reverse charge mechanism for supply of construction services only across three levels, namely in transactions involving an investor, contractor and / or subcontractor.

The new provision, therefore, extends the application of the reverse charge mechanism on construction services to all taxable persons who provide services in this field, rather than just across the aforementioned levels.

- ▶ *Removing the construction permit requirement as a pre-requisite for applying the reverse charge mechanism*

In addition to the above, Article 70, paragraph 3, subparagraph 3.1 below, of Administrative Instruction No. 03/2015, is repealed:

*“3.1. The application of the reverse charge for the supply of the construction works according to this Instruction is done only for the construction cases which are in line with the Law on Construction in Kosovo and are equipped with the construction permits by the competent bodies.”*

As of the entry into force of the new Administrative Instruction, the application of the reverse charge mechanism on construction services will no longer be subject to the condition of possession of a construction permit.

- ▶ *Removing the contract date requirement as a pre-requisite for applying the reverse charge mechanism*

Finally, Article 70, paragraph 1 of Administrative Instruction No. 03/2015 is repealed and replaced by:

*“11. Based on the above explanations, all construction services (identified by subparagraph 10.1 up to subparagraph 10.11 of paragraph 10 of this article) provided by a taxable person to a taxable person, from the date of entry into force of this Administrative Instruction, are subject to the application of the*

*reverse charge within the country, regardless of the date of conclusion of the contract or contract annex.*

The repealed paragraph in the previous Administrative Instruction required that only contracts signed after 1 September 2015 be subject to the application of reverse charge mechanism on construction services.

As of the entry into force of the new Administrative Instruction, the reverse charge mechanism on construction services will be applicable regardless of the signing date of contracts or annex contracts.

### *VAT reimbursement procedure for goods in travellers' personal luggage*

Under the new Administrative Instruction on VAT, Article 51, which regulates the reimbursement of VAT paid in Kosovo for non-commercial purchases of goods intended to be carried in the personal luggage of travellers, will not be applicable until 2018.

The new Administrative Instruction postpones the start date for application of this Article from 1 January 2017 to *1 January 2018*.

*[Source: Administrative Instruction No. MF-06/2016, issued by the Ministry of Finance, Official Gazette, published on 5 December 2016.]*