

Kosovo Tax Newsflash

VAT Reverse Charge Mechanism for Supply of Construction Services

March 2016

Overview

Administrative Instruction 3/2015 on the implementation of the Law 05/L-037 on VAT (in force from September 1st, 2015) has introduced a new special VAT scheme for construction services.

Specifically, the latter prescribes that the person liable to pay VAT through reverse charge is the taxable person to whom the following services were provided:

- *Supply of construction works*, including repairs, cleaning, maintenance, modification and demolition services;
- *Services provided by engagement of staff* related to construction activities.

Application

The special scheme for construction services is applicable *only in case all the following conditions are met*:

1. Parties (i.e. supplier and recipient) involved in the transaction are taxable persons (i.e. VAT registered);
2. The agreement for construction services is signed after 1 September 2015.
3. Construction works are in accordance with the Kosovo Law on Construction and with the appropriate construction permit (if applicable)

The above special scheme is applicable for construction of new facilities as well as for renovation of existing ones. More specifically, *construction services to which the special scheme is applicable are as follows*:

- Design services and other works related to the construction;
- Preparatory works in construction sites, works for the demolition of the building or its parts;

- Construction of buildings and its parts;
- Installation works;
- Final construction works;
- Maintenance, renovation and repair of buildings or its parts, including, cleaning;
- Provision of oversight works;
- Installation or the fitting of equipment or machinery which after the installation or fitting become immovable property;
- Leasing of equipment for construction or demolition;
- Engagement of staff in construction work;
- All other services which include the supply of movable items and their integration in the construction works, such that their movability converts into immovability.

In February 2016, a Public Explanatory Decision 1/2016 was published by the tax authorities to further explain the reverse charge mechanism for construction services.

Beyond what was provided in the Administrative Instruction, it specifies that the special scheme is *applicable only for supply of construction services*, while construction goods are not subject to the above scheme - *unless it is a mixed supply* (i.e. supply of goods and services at the same time). If there is mixed supply of goods and construction services, the total supply is subject to the reverse charge mechanism, regardless of the proportion of goods/services in that supply.

Invoicing

Although the supplier is not liable to pay VAT, he is liable to issue and invoice without VAT by indicating that the following paragraph applies: “*the reverse charge, subparagraph 1.4 of article 52 of the Law on VAT in Kosovo*”.

The recipient of services must calculate VAT based on the information provided in the invoice received by the supplier of services. However, the moment when VAT becomes chargeable is when the supply is made. In specific cases, the moment when VAT becomes chargeable is regulated as below:

- When there are successive statements of accounts/payments for the supply of goods, excluding handing over of goods pursuant to a leasing contract for a certain period or for selling goods on deferred terms or supply of services the supply is considered to have been made at the end of the period(s) for which the successive accounts/payments correspond.*
- When there is a continuous supply of goods or services over a period of time the supply is considered to have been made at one (1) month intervals*

- c) *When there are long-term contracts (including construction and installation)*
- In the month of issuance of an IPC , but no later than 1 month after its issuance if technical acceptance of works is done at a later stage;
 - If one or more IPCs have been issued during the year, at year-end there must be a final IPC issued based on the measurement of works completed;
 - If no IPC has been issued during the year, at year-end there must be a final IPC issued based on the measurement of works completed.

As a general principle, VAT becomes chargeable *whichever of the following occurs first*:

- a) a supply of goods/services is made,
- b) a payment (incl. advance payment) is made, or
- c) an invoice is issued.

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