

# ***Tax Alert#1***

## **Significant changes to the Law On Value Added Tax and other legislative amendments**

*29 January 2016*



# Significant changes to the Law On Value Added Tax and other legislative amendments

*Starting 1 January 2016, the new Law On Value Added Tax came into force. In addition, there are another changes in the tax law. This tax alert summarises main highlights of the these updates.*

## I. New Law On Value Added Tax

### Notions

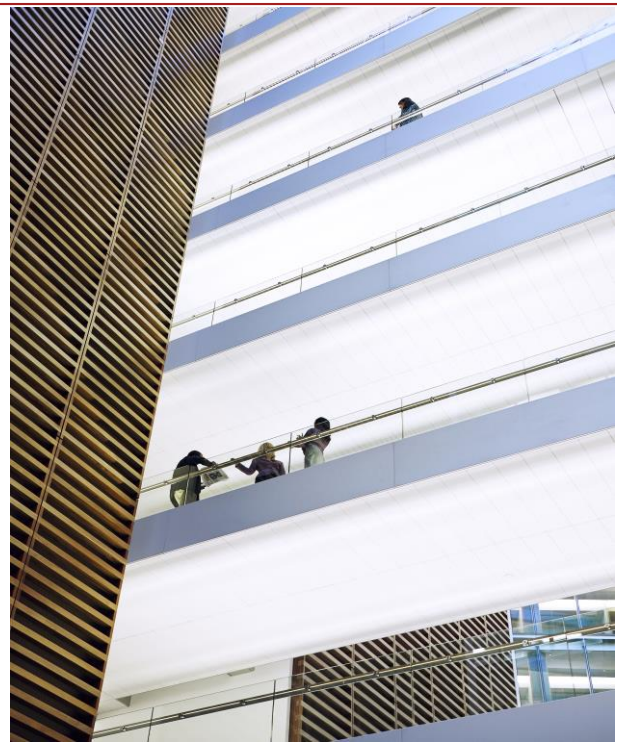
A number of new notions were introduced, such as the VAT withholder, e-invoice, user system, integrated system, etc.

### VAT withholder

- VAT withholder should be registered with tax authorities and has an obligation to withhold, report and transfer VAT to the state budget, when goods, works and services:
  - sold/performed in Mongolia;
  - imported, or
  - exported.
- The law mentions legal entities, individuals and permanent establishments as VAT withholders, which formally leaves such persons, as **representative offices of non-residents**, outside the scope of the law.
- Still, there is an legislator's intention to cover all potential persons that can perform as VAT withholders, including those that are not mentioned directly.

### VAT registration and threshold

- The law still provides a possibility for both mandatory and voluntary registration, however:
  - The threshold for the mandatory registration is increased to **MNT 50 million** of sales income (MNT 10 million previously).
  - The threshold for the voluntary registration should reach **20% of MNT 50 million** of sales income. Previously, the voluntary registration was possible (a) if there is an investment of USD 2 million or more or (b) taxable income reached 80% of threshold (e.g. MNT 8 million).
- The law removed a possibility to register as a VAT withholder after the sale of fixed assets.



### VAT de-registration

As previously, if the total taxable income for the consecutive 12 months is less than the statutory threshold, the tax authorities will automatically de-register the VAT withholder.

### Timing of VAT imposition

- Rules for timing of the VAT imposition were amended, and the current law allows an ambiguous interpretation that VAT may be imposed upon the receipt of advance payments, received for goods, works and services, which are not yet delivered.

### New VATable transactions

- The following transactions were added, *inter alia*, as VATable to the law:
  - notary services;
  - property valuation services;
  - legal services;
  - brokerage activities;
  - state funding, subsidy and incentives;
  - sale of rights (previously, the law referred only to **business** rights);
  - sale/transfer of debt claims, including factoring services and forfaiting;
  - interest/fines received from counterparties for breach of contracts.

## Transactions with non-residents

- Works and services received from a non-resident (***irrespective of whether they are supplied in Mongolia or not***) subject to VAT under the reverse charge procedure (the RC VAT). Previously, the law provided for taxation of only those transactions, which are performed ***in Mongolia***, although the tax authorities opined that transactions should be taxable regardless of their territory. Now the law is aligned with the tax practice.
- If goods received from a non-resident, ***were not subject to the customs clearance***, such goods shall be taxed with the RC VAT as well.
- The VAT threshold of MNT 50 million is not applicable to goods, works and services purchased from a non-resident – so, starting from 2016 the RC VAT applies ***irrespective*** of the transaction amount.
- Moreover, the separate tax return is introduced to report the VAT paid under the reverse charge procedure.\* And since the RC VAT and ‘normal’ VAT shall be reflected in different returns, VAT withholders will not be able to offset their RC VAT liability against the ‘normal’ VAT as it was done by companies before.

## Restriction of the input VAT

*Inter alia*, the law disallows the offset of the following input VAT:

- VAT incurred within the development and purchase of fixed assets;
- VAT incurred at the stage of mineral exploration and pre-mining operation;
- VAT which does not relate to VATable transactions of the reporting period;
- RC VAT incurred upon purchases from non-residents (this rule was previously set by and now it is introduced by the law as well).

This may result in additional 10% cost for companies having these transactions.

## VAT refund

- The new procedures for VAT refund were implemented:
  - “Procedure on VAT offset, refund and accounting”
  - “Procedure on VAT refund of an individual VAT payer”
  - “Procedure on a lottery reward for an individual VAT payer”.
- More favorable quote was introduced to provide the cash refund from the budget: instead of **15%**, as it was before, the state may refund to businesses **30%** of the VAT collected in a given year.
- Individuals-VAT payers can now apply for up to 20% of a VAT refund for the VAT paid on purchases (previously this was not possible for individuals).

## Electronic VAT system

The new law introduces the electronic VAT system, which purpose is to:

- ensure a correlation between VAT liabilities and VAT credits of businesses and thus reduce tax evasion;
- provide access to real-time transactions;
- reduce an administrative burden due to simplification of reporting.

## Penalties and liability

Penalty and liabilities for a failure to comply with the new VAT law will be regulated under the Article 74 “Liability to be imposed on violators of legislation” of the General Taxation Law dated 20 May 2008.

\* The new VAT return form (TT-03a) and RC VAT reporting form (TT-03b) are issued as appendixes of the Order #A/269 of the Head of General Taxation Department dated 30 December 2015

\* The Order of the Ministry of Finance # 333 dated 14 December 2015. It replaces the previous Order “On Procedure regarding the VAT offset, refund and accounting” #283, approved by the Ministry of Finance on 15 December 2009.

## II. Other legislative amendments

### New rate of interest on underpaid taxes

The new interest rate on underpaid taxes is set at **0.0537%** per day (previously it was 0.052 %).<sup>\*</sup> This interest is applied on late tax payments by taxpayers as well as taxes over imposed by faults of tax inspectors. This rate is effective from 1 January 2016.

### Changes to Personal Income Tax Law

- The exemption of interest income earned by a Mongolian citizens from bank savings **extended until 1 January 2018**.
- This exemption does not cover savings over MNT100 million with a maturity less than one year, or demand deposit.

### Contacts:

#### Michael Ahern

Tax Partner

[michael.ahern@kz.pwc.com](mailto:michael.ahern@kz.pwc.com)

#### Tsendmaa Chojiamts

Senior Manager

[tsendmaa.choijamts@mn.pwc.com](mailto:tsendmaa.choijamts@mn.pwc.com)

#### Maryna Tarnavska

Manager

[tarnavska.maryna@mn.pwc.com](mailto:tarnavska.maryna@mn.pwc.com)

#### Azzaya Lkhachin

Senior consultant

[azzaya.lkhachin@mn.pwc.com](mailto:azzaya.lkhachin@mn.pwc.com)

### PwC Tax TMZ LLC

Central Tower 6<sup>th</sup> floor.

Suite 603, Ulaanbaatar

14200, Mongolia

Tel : +976 70009089

Fax : +976 11 322068

[www.pwc.com/mn](http://www.pwc.com/mn)

This Tax Newsletter is produced by PwC Tax TMZ LLC. The material contained in this alert is provided for general information purposes only and does not contain a comprehensive analysis of each item described. Before taking (or not taking) any action, readers should seek professional advice specific to their situation. No liability is accepted for acts or omissions taken in reliance upon the contents of this alert.

© 2016 PricewaterhouseCoopers Tax TMZ LLC. All rights reserved. In this document, "PwC" refers to PricewaterhouseCoopers Tax TMZ LLC, which is a member firm of PricewaterhouseCoopers International Limited, each member firm of which is a separate legal entity.



<sup>\*</sup> The Government's Resolution # 30 dated 11 January 2016