

# ***Amendments to the Bulgarian tax and social security legislation as of 1 January 2017***

27 December 2016

## ***In brief***

Amendments to the Bulgarian tax and social security legislation have been promulgated in the State Gazette on 6 and 9 December 2016, envisaging new rules for proportional VAT deduction regarding immovable property and other assets used for mixed supplies, administrative simplifications in the area of excise duties, simplified procedure for correcting filed returns, as well as other amendments, which may have an impact on your business. Most of the amendments will enter into force as of 1 January 2017.

### ***Value Added Tax Act (VATA)***

#### ***New rules for input VAT deduction regarding immovable property and other assets used both for business and private purposes***

A new rule is introduced according to which the input VAT will be deducted proportionately depending on the percentage of the use of the goods or the immovable property for business purposes.

An allocation criterion, which ensures the most precise calculation of the VAT amount related to the business use, should be applied for the calculation of the VAT credit taking into account the specifics of the immovable property/assets. Upon acquisition or construction of an immovable property, an option is introduced for taxable persons to decide whether the whole immovable property will be allocated to the business assets or only a separate part of it that will be used for the economic activity. The rules in the VAT Act will not be applied

for property not included in the business assets.

The above-mentioned rules would apply also when limited property rights on immovable property are established.

#### ***Annual adjustments of input VAT deduction for immovable property and fixed assets***

New rules are introduced that envisage annual adjustment of the input VAT for immovable property and other fixed assets. The amount of the used VAT credit should be adjusted for each year in which a change of the use has occurred for supplies subject to input VAT deduction. Such adjustment is required in all cases when the taxable person deducted input VAT wholly, partially or proportionately upon acquiring, manufacturing or importing goods as well as when no VAT have been previously deducted.

The adjustment should be performed in the last tax period of the year by issuing and reporting a protocol and reflecting the adjustment in the purchases ledger and the VAT return for the respective tax

period. The period for annual adjustments of immovable property is 20 years (starting from the later between the date of deduction of input VAT and the date of commencement of the actual use). For other assets and services, the period will be 5 years.

A new definition of fixed assets is introduced for the purposes of the VAT Act, which includes the following:

- Immovable property and motor vehicles
- Other assets having a value over BGN 5,000 meeting the criteria for fixed assets under the Corporate Income Tax Act.

#### ***New rules for adjustments of input VAT deduction and specific cases of issuing credit notes***

It is specified that a taxable person should adjust the input VAT deduction in the case of cancellation of the supply, provided that there is an issued invoice for advance payment. The correction should be performed in the tax period

when the supply is cancelled irrespective of whether the advance paid amount is returned/offset or whether the supplier has issued a credit note.

From the supplier's perspective, a credit note for returned advance payment should be issued not later than 5 days after the date of the return of the advance payment or the offset.

A similar adjustment should be performed in the cases when the VAT registration of the supplier is terminated.

### ***Specific rules for amendments of incorrectly reported tax document***

A possibility is introduced to make corrections of incorrectly reported documents in situations where the person has already been deregistered for VAT purposes.

### ***New VAT rules for consortiums***

It is clarified that contributions of goods/services by partners in unincorporated entities (i.e. consortiums) would not be considered supplies of goods/services in the cases when they are contributed for the achievement of a common goal provided that there is no remuneration agreed upon.

The partner contributing goods/services for the achievement of the common goal will have the right to deduct input VAT and the obligation to perform adjustments of the VAT credit.

The amendments explicitly envisage that the participation of a VAT registered partner in an unincorporated entity shall automatically trigger a mandatory VAT registration for the unincorporated entity as of the date of its establishment.

### ***Taxable turnover in the case of a mandatory VAT registration***

The taxable turnover includes the turnover generated by the

restructuring entity or by the transferor (if it is a VAT non-registered person) for a period not longer than the preceding 12 consecutive months prior to the restructuring or the transfer in the case of a restructuring of an entity, transfer of a company or in the case of in-kind contribution. In the case of a spin-off, splitting or in-kind contribution of a part of an entity, the turnover generated by the restructuring entity or by the transferor should be taken into account. If this is impossible, the turnover should be determined in relation to the activities, i.e. in proportion to the transferred assets.

### ***Supplies between tour operators subject to TOMS***

The supplies of single tourist services between tour operators will fall within the scope of the tour operator margin scheme (TOMS).

### ***Amendments to the scope of supplies of goods and services related to aircraft and vessels***

The scope of supplies subject to 0% VAT rate related to aircraft and vessels will be limited. Until now, the supplies of all kinds of aircraft and vessels were subject to 0% VAT, with the exception of these intended for private or entertainment purposes.

According to the amendments, the supply of vessels, which are not used for navigation on the high seas, i.e. mostly inland waterways and cabotage, will be subject to 20% VAT.

Supplies of aircraft will be subject to 0% VAT rate only if they are used by airlines operating mainly on international routes.

## ***Excise Duties and Tax Warehouses Act (EDTWA)***

### ***Administrative simplifications for various procedures***

As of 1 January 2017, a certificate for absence of tax or social security liabilities will no longer be required in the following cases:

- issuing a certificate for end customer exemption from excise duty;
- issuing a license for operation of a tax warehouse;
- mandatory registration under the EDTWA by persons who import/acquire/trade with coke, coal, electricity and natural gas;
- registered consignee/consignor status.

### ***Tacit denial for excise duty exemption***

Currently, entities that have been denied issuance a certificate for end customer exemption from excise duties, for incompliance established by the customs authorities, are being informed explicitly about the denial through a written decision. With the new amendment, if no written decision is issued within the terms defined under the Bulgarian EDTWA, this will be considered a tacit denial.

### ***Changes in the excise duty rates for cigarettes***

The excise rates will change as follows:

- an increase in the specific excise rate from BGN 70 to BGN 101 per 1,000 pieces;
- a decrease in the proportional excise rate:
  - as of 1 January 2017 – from 40% to 27% of the retail price;
  - as of 1 January 2018 – from 42% to 28% of the retail price.

***Refund of excise on alcohol used for cleaning purposes in the production of medicines***

According to the new amendment, the excise on alcohol used for cleaning purposes within the production process of medicines will be subject to refund. This is in line with the judgment of the CJEU on the Bulgarian case C-306/14 (Biovet).

***No excise exemption for some additives for lubricating oils***

Currently, excise duty exemption is available for some additives for lubricating oils containing petroleum oils or oils obtained from bituminous materials and other chemical products used for purposes different from motor or heating fuel. This exemption is abolished with the new amendments.

***New requirements for foreign traders***

Entities registered as traders in EU or EEA will have the right to apply for a certificate for an end customer exempt from excise duties if they have a registered branch in Bulgaria.

EU and EEA registered entities will be able to sell electricity and/or natural gas for household and industrial purposes through a branch or a tax representative under the VAT Act.

***Additional requirements for controlling technical devices installed on some vehicles***

Further requirements for controlling the correct exploitation of the GPS devices installed on motor vehicles and containers for transportation of energy products for heating purposes are introduced.

In this respect, entities operating with such vehicles shall be responsible for ensuring and monitoring the technical capabilities of the GPS devices and other devices for controlling and measuring

purposes on a regular basis. If the customs authorities find that the above requirements are not met, the operator may lose its certificate for approved container for transportation as of the date of the customs authorities check.

***New option for selling tobacco products from motor vehicles***

Currently, the EDTWA, explicitly enumerates the sites allowed to be used for trade with tobacco products. The usage of motor vehicles for such trade was not specified in this list.

The new amendment provides that licensed traders of tobacco products will have the option to trade from motor vehicles without a preliminary request but after providing the identification information of the motor vehicles to the customs authorities.

***Personal Income Tax Act (PITA)***

***New rules for income from winnings and awards***

Currently, monetary and non-monetary awards from participation in games, not qualified as gambling, where the awards are determined randomly, are non-taxable.

As of 1 January 2017, the exemption from taxation will apply only to prizes with insignificant value from entertaining gambling machines or from participation in games where the prizes are determined randomly and are not qualified as gambling. A prize with insignificant value is the one, whose market price does not exceed BGN 30.

***Income taxable with one-off tax***

Currently, Bulgarian tax residents that have acquired particular types of foreign source income, taxable with one-off tax in Bulgaria, have to declare and pay the tax themselves on a quarterly basis. These are, for example, dividends and liquidation

proceeds, interest on foreign bank accounts, etc.

As of 1 January 2017 these types of income have to be reported and taxed on an annual basis only with the annual tax return.

***Contributions in kind***

Currently, no tax is due at the moment of acquisition of stock and shares against a contribution in kind in a company. The tax becomes due at the subsequent disposal of the stock and shares.

The amendment concerns scenarios where a contribution in kind was made in a company and the company subsequently disposes off that contribution and as result reduces its capital and makes a payment to the individual who had made the contribution in kind. In such case it will be considered that the individual has received taxable income from the sale of assets at the date of registration of the capital reduction at the Commercial register.

***Tax relief for non-cash payments***

A new tax relief has been introduced for individuals who use non-cash methods for payment of their expenses.

The requirements are: the individual has received taxable income during the tax year; 100% of the taxable income to be received by bank transfers; at least 80% of the expenses of the individual to be paid by non-cash methods; and the individual must have no outstanding public liabilities at the date of filing of the annual tax return. The tax relief is 1% of the outstanding tax due for the tax year, but capped to BGN 500.

***Tax relief for electronic filing of annual tax return***

As per the new amendments, the discount of 5% from the outstanding tax due, from which the individuals benefit when filing tax returns

electronically by 31 March of the following year, is capped at BGN 1,000.

Simplified procedure for correcting tax returns already filed

Individuals will be allowed to file a one-off corrective tax return without a penalty by 30 September of the following year. This amendment is applicable also for mistakes found during 2017 in the declared data and liabilities for tax year 2016.

### ***Simplified condition for filing tax returns by heirs***

As of 1 January 2017 heirs of deceased persons will have the option to file an annual tax return under Art. 50 of PITA. If the heir chooses not to file an annual tax return, the Bulgarian tax authorities will have the right to assess the liabilities of the deceased, as per the procedures in the Bulgarian Tax and Social Security Procedural Code. The tax return can be filed by any of the heirs and has effect upon the others. The deadline for filing the tax return is 30 April of the following year. It can be also filed after the deadline but no later than 6 months from the discovery of the heritage.

Income, which the heirs discovered after the abovementioned deadlines, has to be declared within one month from the discovery.

### ***Corporate Income Tax Act (CITA)***

#### ***Mandatory electronic filing of tax returns***

A mandatory obligation for electronic filing of tax returns under CITA is introduced. The new requirement will enter into force as of 1 January 2018.

#### ***Simplified procedures for corrections of tax returns***

In the case of establishing accounting or other errors following the initial submission of the annual tax return, a new option is introduced to allow the taxable person a one-time

submission of a corrective tax return by 30 September of the year following the tax period.

If errors relate to past periods, the companies will have to submit a written notification to the National Revenue Agency, which will take steps to correct their taxable result no later than 30 days after the filing of the notification.

### ***Local Taxes and Fees Act (LTFA)***

#### ***Real estate tax for concessions***

According to the amendments, in the case of concession, the person subject to tax will be the concessionaire. In case of extraction concession the person subject to tax is the owner with the exception of the cases when the concessionaire has a right in rem to use the property or a part of it.

#### ***Postponed implementation of the new garbage collection fee calculation***

The implementation of the new methodology for calculation of the garbage collection fee (i.e. by applying a base other than the tax value/gross book value or the market price of the immovable property) is postponed and has to enter into force as of 1 January 2018.

### ***Accountancy Act***

#### ***Enterprise definition clarification***

A clarification to the definition of enterprise for the purposes of the Accountancy Act is introduced and it will include also:

- Bulgarian branches of foreign traders;
- consortia under the Commercial Act;
- partnerships under the Obligations and Contracts Act;
- joint enterprises and other unions based on contractual relations where the parties have rights over the net assets.

#### ***Enterprises without activity in the reporting period***

An amended definition for enterprises that have not

performed activity during a reporting period has been introduced. These are entities meeting simultaneously the following requirements:

- they have not performed transactions (as provided in Art. 1, para 1 of the Commercial Act);
- they have not performed activities related to investments, production and/or sales;
- there have been no conditions for revenue recognition under the Accountancy Act and the applicable accounting standards;
- they have not performed purchases of goods/services with a purpose to realise income/profit.

#### ***Groups of entities***

A new option for categorising groups of enterprises is introduced with the amendments to the Accountancy Act. It will be possible the groups of entities to be defined on the basis of the sum of the figures from the individual financial statements of the entities within the group prepared as of 31 December of the current reporting period. In this case, for defining the group category, the levels of the indicators of the balance sheet value of the assets and the net income of the sales are increased with 20%. Currently, the categorizing of a group of entities is performed only on consolidated base.

### ***Social security***

As of 1 January 2017, the social security contributions for "Pension" fund are increased by 1 %, out of which:

- 0,56 at the expense of the insurer;
- 0,44 at the expense of the insured person.

In addition, the minimum monthly insurance base for self-employed individuals who has not performed any activities in 2015, as well as for freelancers who launched their activities in 2016 and 2017, is increased from BGN 420 to BGN 460.

## ***Let's talk***

For a deeper discussion of how these issues might affect your business, please contact:

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