

# Proposals for amendments to indirect tax legislation

16 January 2017

## In brief

On 23 and 29 December 2016, the Ministry of Finance published proposals for amendments to Regulations for Application of the Value Added Tax Act and Regulations for Application of the Excise Duties and Tax Warehouses Act suggesting new rules for proportional deduction and annual adjustments of input VAT in the cases of mixed use of assets, amendments to the requirements for proving the application of 0% VAT rate for supplies related to vessels, new rules for excise duty labels, administrative simplifications as well as other amendments that may impact your business.

### **Regulations for Application of the Value Added Tax Act**

#### **New rules regarding the proportional deduction of input VAT**

In relation to the option for proportional input VAT deduction introduced in the VAT Act for assets for mixed use (i.e. for business and for private purposes), it is suggested as a criterion for proportional deduction to be considered any rational time or quantitative criterion or a combination of both, that reflects correctly the use of the asset.

New requirements are suggested to be introduced for reporting of the taxable base and the VAT in the purchases ledger in the cases of proportional deduction of VAT.

It is envisaged the mechanism of proportional input VAT deduction to be applied also in terms of assets available at the date of the initial VAT registration.

In addition, it is suggested the rules for proportional deduction and annual adjustments of input VAT to be

applied to improvements of fixed assets.

It is indicated that a taxable supply of goods/services will be considered to occur in the cases when no input VAT has been deducted on their acquisition/production/importation but the right to VAT credit has been exercised regarding an improvement to them (fully, partially or proportionally).

#### **Issuing of protocols in difference cases**

Detailed rules are suggested to be implemented regarding protocols for adjustment of input VAT deduction and their reporting in different cases, such as:

- cancellation of a supply;
- destruction, scrapping and shortages of goods;
- annual adjustments of input VAT deduction;
- in the cases of a subsequent taxable supply of goods/services for which no input VAT has been deducted on the initial acquisition/production/importation but after that adjustments

of input VAT deduction have been performed;

- reduction of the taxable base or cancellation of a supply in relation to which an invoice for advance payment (including VAT) has been issued;
- donation of food products.

It is suggested to introduce an option for issuing one protocol with summarised information for different supplies of goods/services for which an adjustment of input VAT is performed on the same grounds in the same tax period. In such cases, the persons will be obliged to present the details regarding the performed adjustments upon request of the tax authorities.

#### **New approach for fixed assets for which no input VAT has been deducted (but subsequently adjustments have been performed leading to deduction of input VAT)**

A new formula is suggested to be introduced for calculation of the input VAT deduction in the cases of taxable supplies of fixed assets for which the right to VAT credit has not been exercised on the initial

acquisition/production/importation but subsequently part of the input VAT has been deducted through annual adjustments.

#### ***Clarification regarding the supplies of prepaid telephone cards***

It is proposed to clarify explicitly that the supply of prepaid telephone cards is considered a supply of telecommunication services.

#### ***Simplification for supplies of tourist services***

In the cases of supplies of single tourist services, it is suggested to abolish the requirement for the recipient to provide a written declaration that the supply is not intended for a subsequent sale.

#### ***Amendments to the requirements for application of the 0% VAT rate in the cases of supplies related to vessels and aircraft***

The proposal suggests amendments to the required documents for application of the 0% VAT rate for supplies related to vessels and aircraft.

New criteria are proposed to be introduced for proving the purpose / use of vessels on high seas. In addition, a list of activities for which 0% VAT rate will not be applicable is suggested to be introduced for vessels that are used, for example, for the following activities:

- commercial and industrial activities in territorial waters;
- sports, entertainment or private purposes;
- navigation on rivers.

#### ***Adjustment of input VAT deduction by unincorporated entities***

In relation to the new rules introduced in the VAT Act regarding the taxation of unincorporated entities, it is

suggested when an adjustment of input VAT deduction is required in terms of provided goods/services for common use by the unincorporated entity, the partner to be obliged to apply a pro-rata coefficient for the respective year calculated on the basis of the turnover of the unincorporated entity.

#### ***Appendix 6 no longer will be required in the cases of VAT refund***

It is suggested to abolish the requirement for submission of a report for offsetting (Appendix 6) after completion of the VAT offsetting procedure.

#### ***Regulations for Application of the Excise Duties and Tax Warehouses Act***

##### ***New rules regarding missing goods under excise duty suspension arrangement***

It is suggested new detailed rules regarding payment and the reporting of the excise duty to be implemented regarding the cases of missing goods after the completion of a movement of these goods under excise duty suspension arrangement. These changes reflect a ruling of the European Court of Justice on Case C-64/15.

##### ***New obligations for the reporting of losses from natural wastage***

A new reporting obligation is suggested to be introduced for the authorized warehouse keepers that have not calculated and reported losses due to natural wastage for each tax period. The authorized warehouse keepers will be obliged to report the losses from natural wastage in the Inventory ledger, as well as in a special additional document.

#### ***Transfer of excise labels from one tax warehouse to another in specific cases***

It is proposed in the cases of closing of a tax warehouse, to be possible all unused excise duty labels to be transferred to another tax warehouse, which is owned by the same authorized warehouse keeper.

#### ***Simplifications in cases of scrapping of excise duty labels***

Simplification of the process of scrapping of excise labels is proposed in cases there are any defects which have occurred in the process of the production of tobacco or bottled alcohol products or when excise goods under duty suspension cannot be released for consumption due to any discrepancies with the law requirements or technical or quality standards of the producer including the consumer packages themselves.

In this case, it will no longer be required for the excise labels to be removed from the consumer's package and then affixed to sheets of paper, which are later submitted to the competent customs office.

#### ***New requirements for the end users exempt from excise duties***

A new explicit obligation for the end users exempt from excise duties is proposed, which envisages that the customs officials will be granted access not only to their documentation, but also to the production and warehouse facilities, and to the available raw materials and finished goods.

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

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

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