

Amendments to the tax legislation in 2014

19 December 2013

In brief

State Gazette № 98 from 12 November 2013, № 100 from 19 November 2013, № 101 from 22 November 2013 announced changes in the tax legislation introducing new regime of VAT cash accounting, withholding tax exemption for interest on EU bonds, new rules for the taxable base in case of barter and improvements of leased assets as well as other amendments to the tax legislation that may have an impact on your business.

Amendments to the Value Added Tax Act

Leasing of goods

Leasing contracts with an option for the transfer of ownership at the end of the lease term will also be considered a supply of goods if the total amount of lease payments, excluding the value of the financial service, is practically identical to the market value of the good as at the day of its delivery. As a result the VAT due under such leasing contracts will be no longer deferred but become payable at the time of delivery of the goods. The amendment will apply to leasing contracts concluded after 1 January 2014.

Barter

In cases of barter where no monetary value is agreed the taxable base for each supply will be the taxable base of the goods upon acquisition, import or the cost value and for services - the direct costs

incurred. The taxable base will be equal to the market value in case the above rules cannot apply. Until now the taxable base for barter was equal to the market value.

“Free-of-charge” supplies with a status of supply of goods or services for consideration

The scope of “free-of-charge” supplies treated as supplies for consideration is extended so that it covers also supplies of goods or services for purposes other than the independent economic activity of the taxable person provided that VAT credit was deducted at the acquisition.

Improvements of leased assets

In cases of improvements of leased assets the taxable base will be equal to the direct costs incurred for the improvement reduced by the depreciation costs in accordance with the usual economic life of the improvement. The new

development is that the depreciation is taken into account when determining the taxable base upon the return of the leased asset. Where the direct costs cannot be estimated the taxable base should be equal to the market value.

Cash accounting for VAT

The amendments introduce a new regime of cash accounting for VAT which may be used by persons with a taxable turnover below EUR 500,000 for a period of 12 months (a number of restrictive requirements are also envisaged like lack of outstanding public liabilities).

The regime will apply mainly to transactions with a place of supply in the country with some exceptions (e.g. contracts between related parties).

Persons authorised to apply the new regime will be liable for VAT upon receiving a payment from their counterparties and will be

entitled to VAT credit upon payment on their side.

Under the new regime a person who has received an invoice from a supplier authorised to use the regime, will be entitled to VAT credit upon payment of the invoiced amount.

A supplier which applies the new regime should indicate “cash accounting for VAT” in its invoices and credit/debit notes.

Import

More precise wording is introduced for payments included in the taxable base of imports – i.e. it is explicitly stated that taxes paid abroad are to be included in the taxable amount.

A definition of “first destination” is introduced – the location indicated on a bill of lading document or other document for the import of the goods in the country. Where no location is indicated as a first destination will be considered the place of first transshipment of the goods from one vehicle to another on the territory of the country.

Supply of import related services (such as commission, packaging, transportation and insurance) will be treated as a zero rate taxable supply provided that their value is included in the customs value of the goods – this avoids double taxation of the same supply.

Reverse charge for supplies of grain and industrial crops

The amendments introduce a reverse charge mechanism for supplies of grain and industrial crops. The chargeable event will occur according to the general rules.

The supplier will issue an invoice without charging VAT by indicating “art. 163a, para.2 of the VAT Act” on the invoice as grounds for non-charging of VAT.

The tax will be due by the recipient (including in case of advance payments) irrespective of whether the supplier is a taxable or a non-taxable person.

The recipient of the supply will issue a protocol in which it should indicate an identification number of the supplier, the number and date of the invoice. Monthly summary protocols will be issued for supplies to non-taxable individuals.

The special regime for supplies of grain and industrial crops will apply only to local supplies. The new rules will enter into force as from 1 January 2014.

Right to VAT credit at the moment of VAT registration and deregistration

The deadline for use of VAT credit for assets available at the time of VAT registration is extended from 3 to 12 months.

The taxable base of the available assets at the moment of deregistration

will be the taxable base upon acquisition, the cost value or import value of the goods and for services – the direct costs incurred less the depreciation associated with the usual economic life of the good or service. If the taxable base cannot be determined by the above rules it will be equal to the market value.

Loss of goods during storage and transportation

The maximum allowable limits for shortage of goods during their storage and transportation may be determined within the limits set by a legislative act or a company standard (until now only limits set by a legislative act were allowable).

Amendments to the Excise Duties and Tax Warehouses Act

Rules for tobacco wastes

The amendments introduce rules regarding tobacco wastes that are to be destroyed, put into a production process, transported out of Bulgaria or delivered to a party licensed operator for collection, transportation or treatment of waste.

Increase of excise duties

There is an increase of the excise duties on natural gas used for motor fuel or for heating as well as duties on heavy oils used as marine fuels. (the amendments relate to the country's commitments under the EU accession treaty).

Deduction of excise duty against fuel vouchers

A special procedure for deduction of excise duties against fuel (gas oil) vouchers is introduced. The aim of the amendment is to compensate agricultural producers through a state aid scheme for the application of a reduced rate of excise duties. Fuel suppliers may submit the vouchers collected from the crop producers instead of remitting the excise duties charged on the respective supplies.

Simplifications for collaterals when applying for deferred payment of excise duties

The amendments introduce some simplifications for collaterals when applying for a regime of deferred payment of excise duties.

Amendments to the Local Taxes and Fees Act

New tax rates for the local tax on vehicles

The amendments introduce new rules which establish the taxation of vehicles in connection with the levels of harmful gas emissions.

New calculation method for the garbage fee from 2015

The amendments envisage a new mechanism for determining the garbage fee which is binding for the municipalities from 2015. The fee will be determined by reference to the garbage generated and not by reference to the tax or

accounting book value of the real estate.

Relief from garbage fee

Municipalities will not collect garbage fees for real estates for waste collection and transport which are not used throughout the year, provided that the owner or the tenant has submitted a declaration by the end of the preceding year to the municipality where the property is located.

Amendments to the Corporate Income Taxation Act

Withholding tax exemption for interest on bonds

An exemption from withholding tax is introduced for income from interest on bonds and other debt securities issued by a local tax resident and admitted to a regulated stock exchange in an EU/EEA member state.

Exempt from withholding tax will be also income from interest on loans extended by a non-resident person, issuer of bonds or other debt securities, provided that:

- the bond issuer is a tax resident of an EU/EEA Member state; and
- the bonds /debt securities are issued for the purposes of extending a loan to a local legal entity; and
- the bonds /debt securities are traded on a regulated stock exchange in an EU/EEA member state.

Simplification for the taxation of interest and royalties at source

The lower tax rate on income from interest and royalties of EU tax residents will be applied before the qualification of the 2-years period for ownership of the investment in the paying company provided that the receiving company does not dispose of its investment in the company within 2 years.

Tax incentives for municipalities with high unemployment rates

The scope of application of the tax incentive for municipalities with high unemployment rates is extended with the following amendments:

- The incentive will apply to municipalities with unemployment rates of 25% higher (not 35%) than the average for the country;
- New personnel requirements – at least 10 employees, 50% of whom are directly engaged in manufacturing activity, and 30% of employees need to have a permanent address in the respective municipality;

The aforementioned amendments will enter into force only upon approval by the European Commission.

Tax treatment of receivables and liabilities with an expired statute of limitations

The rules for the recognition of income and expenses from subsequent evaluations and write-offs of receivables and liabilities are amended to reflect the specific statute of limitation under the civil law – namely 3 and 5 years statute of limitation.

Amendments to the Personal Income Tax Act

Tax incentive for young families

In relation to an initiated infringement procedure by the European Commission the scope of application of the incentive for young families is extended to allow deduction of interest payments on mortgages also of foreign individuals, tax residents of an EU/EEA Member State.

Amendments to the taxation of agricultural producers

The amendments repeal the obligation for agricultural producers to register additionally as tobacco producers. They may choose their income to be taxed as income of a sole trader for a period not less than 5 years by submitting a declaration by 31 December of the preceding year.

Reduced tax rate for interest on deposits

The tax rate on interest on fixed-term deposits is reduced to 8% as of 1

January 2014. The amendments envisage a gradual reduction of the tax rate to the complete repeal of the tax in 2017.

Amendments to the Tax and Social Security Procedure Code

Extended control over goods with high fiscal risk

The amendments introduce additional control powers to the tax authorities in respect of goods with a high fiscal risk. The purpose of the amendment is to prevent tax avoidance and tax frauds.

The goods with a high fiscal risk will be determined by a list of the Minister of Finance (excluding only goods under a customs regime).

The new measures include stopping of vehicles, check of documents, inspection of goods, installation of control devices, etc.

Disclosure of bank secrecy

The amendments introduce a possibility for disclosure of bank secrecy under a procedure for exchange of information initiated by the competent authorities of another EU member state (until now such opportunity existed only under a respective double tax treaty and under the condition of reciprocity).

The amendments introduce also rules for automatic exchange of information with the competent

authorities of other EU member states.

Deferral and rescheduling of tax and social security liabilities

The amendments introduce simplified grounds for deferral and rescheduling of tax and social security liabilities with the aim to facilitate the taxpayers in cases of temporary financial difficulties.

Amendments to the Accountancy Act

When issuing primary accounting documents the signature of the issuer of the document may be replaceable by a numeric or another identifier (numeric or another unique and constantly reoccurring code) unequivocally identifying the issuer.

The rule will apply only to accounting documents related to the activity of the company and issued for internal use only.

Let's talk

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

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