

C omments on the changes in the Regulation on Application of Value Added Tax Law, effective from 31 March 2003

Rules on Amendments and Supplementation of the Regulation on Application of Value Added Tax Law (RAVATL) has been published in the State Gazette, issue 29 of 31 March 2003. **The Regulation shall come into force on the date of their publishing in State Gazette, i.e. on 31 March 2003.** Most of the amendments and supplementations made are solely editorial. Their purpose is to synchronize the provisions of RAVATL with the amendments and supplementations made in VATL, published in State Gazette, issue 117 of 17 December 2002, effective from 1 January 2003. The more significant amendments refer to:

1. Obligation for declaring of circumstances

By virtue of the amendments made in RAVATL the cases requiring special declaring or registration of circumstances by registered persons have been reduced. Thus, some of the existing administrative procedures have been eased. For example:

- √ Art. 11b, s. 4 and Art. 11c of RAVATL determining the requirement, which a person should meet in order to be registered as **a software producer** or as a representative of a foreign software producer **have been revoked**. This change is related to the revocation of the special regime for registration of the specified persons regulated by VATL (and effective until 31 December 2002).
- √ The requirement existing for registered persons performing **supplies with motor vehicles as their main activity** to declare this circumstance before the territorial tax directorate (tax office) at place of registration **has been repealed** through the revocation of para 3 of Art. 65 of the Regulation.
- √ The requirement existing for the persons performing **supplies with investment gold** to declare this fact in their application for registration **has been repealed** through the revocation of Art. 82b of the Regulation.
- √ The requirement for submission of actual court registration of tax non-residents (in the case of voluntary registration under VATL upon effectively paid share capital of BGN 500 thousand) **has been repealed** through the revocation of Art. 103, para 4, s. 1 of the Regulation, **as the requirement is kept only in respect with tax residents.**

2. Tax base

The provision of Art. 42, para 2 of RAVATL concerning the manner for determining the tax base for taxable supplies of goods **has been revoked** since the text of this provision repeated the text of the amended Art. 29, para 6, s. 1 of VATL, thus being redundant.

The substitution made in Art. 31 and 38 of "National Accounting Standards" with "applicable accounting standards" is related to the application of the International Accounting Standards by some of the Bulgarian enterprises. The so effected change allows both types of standards be covered by the provisions.

3. Finance lease

The revocation of Art. 45, as well as of Art. 46, para 2 and Art. 47, para 1 and 3 of the Regulation, is related to the positive change made in Art. 36 of VATL whereby the list of VAT exempt financial services has been made more precise and the treatment of the interest under finance lease has been equalised regardless of its amount.

Art. 60 of RAVATL has also been revoked, which envisaged in case of hire-purchase of goods without clause for postponement of the transfer of ownership VAT to be charged on the entire price, agreed and due on installments, on the date of ownership transfer.

4. Accrual and calculation of the tax for large investment projects

Through the amendments and supplementations of VATL (effective from 1 January 2003) a special regime for charging VAT upon import of goods for purposes of large investment projects was established. By virtue of Art. 58a-58c of VATL persons granted permission by the Minister of Finance to apply this order were provided with an option to accomplish customs clearance of the goods imported for the purposes of the investment project without effectively paying VAT due on the import and without establishing collaterals thereon. However, VATL did not contain provision concerning the procedure for charging VAT, as well as for the manner of documenting the transaction by the investors granted such permission. Through the present amendments of the Regulation provisions are established for dealing with such cases.

5. Charge of VAT upon re-import

Art. 58 para 5 of RAVATL concerning certain specific cases of exemption from VAT upon import of goods has been amended as it aims at the equalization of the provisions of the Regulation with those of VATL (Art. 59, s. 17). In particular, the amendment is that the tax upon the temporary export of imported goods in unchanged condition is not due not only in the cases where those goods are re-imported within the time periods specified in Art. 183 of the Customs law (three years), but also after their repair if the provisions of Art. 154 of the Customs law

are fulfilled.

6. Tax credit

Art. 61, para 1, s. 2 of the Regulation has been amended aiming at making the text more precise and compliant with the provisions of VATL. One of the main conditions for the right of deduction of input VAT to arise is the tax on the supplies and services received to be charged by the supplier. The quoted provision of RAVATL provides for that **VAT on taxable supply of good or service is considered charged if this is done as at a date not later than the date of expiration of the tax period following the period when the tax event for the taxable supply has occurred**, and not as at the date of issuance of the tax invoice or the tax debit note.

7. VAT exemption under international agreements, treaties, conventions, etc.

There are few supplementations made to **Art. 83, para 2 of the Regulation** concerning the requisites that the request for confirmation of the grounds for using the VAT exemption regime under international agreements, treaties, conventions and other similar should contain. Some editorial changes aiming at the equalization of the texts with these of Art. 92 of VATL are made as well.

By virtue of the amendment of **Art. 83b of the Regulation** it is now required the persons determined to be performers of the respective international treaty in addition to the other information **shall inform the territorial tax directorate in Sofia for the way of financing the supplies under these agreements. Through the revocation of Art. 84 of the Regulation the requirement** to the main performer on the agreement to submit actual information within 14 days following the change in the circumstances related to the agreement has been repealed.

8. Tax documents

Through the amendment of Art. 89, para 1 and of Art. 90, para 1 of RAVATL the requirement for filing the VAT tax return for each tax period and of the annual VAT tax return in two copies has been repealed. **Art. 89 of RAVATL has been supplemented with a new para 6**, by virtue of which the provisions of the Regulation have been made compliant with these of the VATL providing for an opportunity for filing the VAT tax return along with the respective ledgers (sales ledger and purchase ledger) via electronic mail.

9. VAT account

Supplementations added to Art. 115 of the Regulation make the so effective texts more precise, namely:

- Till now there was no clarity in respect with the time period, within which permission should have been given by the tax authorities for

opening a VAT account upon registration of the person under VATL through the amendment of **para 2** of Art. 115 **this shall be made within 3-day period following the date of registration of the person**;

- **The new para 7 of Art. 115 of the Regulation** regulates the cases when upon its own initiative a commercial bank closes an acting VAT account and opens a new one of the same person in the same bank **in these cases no new permission from the tax authority is required.**

Art. 120 of RAVATL has been supplemented by a new para 4, which deals with the sanctions to be imposed on the commercial banks servicing VAT accounts in case of non-fulfillment of the requirements stated in the previous paragraphs of the same article (failure to submit information within the set out deadlines, or presentation of incorrect or incomplete information as per the requirements of the law).

Finally, we would like to summarise that the amendments in the Regulation on Application of VATL are mainly editorial and they have been generally aimed at providing for more accurate application of the law.

The comments set out above represent an overview of the amendments and supplementations of the Regulation on Application of VATL and they are not exhaustive. The purpose is to acquaint you in general with the texts. Should issues arise or if you would like to discuss in further details some problems you have faced in the course of conducting your business, please do not hesitate to contact us at tel. 943 37 00, fax 943 37 07 or through our web site: www.afa.bg.

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