

A Law on Amendment and Supplementation of the Value Added Tax Law (LASVATL) has been published in the State Gazette, issue 109 of 16 December 2003, which enters into force from 1 January 2004. The most significant amendments and supplementations in the so-far-effective legal framework, as adopted with LASVATL, relate to:

(1) Definition of the term "supply"

Art. 6 VATA has been supplemented by the creation of 3 new paragraphs, which exclude certain events from the term "supply". As non-supply the following has been determined:

- Transfer of enterprise under Art. 15 of the Commercial Act;
- The guarantee services for goods under a contract at the account of a foreign person;
- The gratuitous provision of goods and services from an employer to an employee that are related to the company's activities.

(2) Treatment of the supplies under the Labour Code (LC)

A new principle is introduced in the treatment of the supplies made under LC. All supplies, including those under Chapter XIV of LC are taxable (considering the repeal of Art. 48 VATA). This assumes that upon provision of social benefits by the employer, **it should charge VAT and report these benefits rendered as taxable supplies**. In order this treatment be used, however, it is necessary **certain conditions** are fulfilled, listed under Art. 64, para 5 VATA.

(3) Guarantee services

By means of LASVATL the performance of guarantee service at the account of a foreign person is excluded from the scope of supplies (the new para 3 of Art. 6 VATA) and therefore, the persons, who render such services to foreign persons **will not have the right to deduct input VAT for the purchases related to the guarantee services**. LASVATL provides for the fulfillment of **certain requirements** (Art. 6, para 3) in order to treat the guarantee service as non-supply.

(4) Finance lease

The provision of Art. 29, para 2 VATA has been amended and supplemented as the hitherto text is made s.1 and new s.2 is created, by means of which specific treatment of the expenses related to usage of goods given under the terms of finance lease, is introduced. From the tax base the expenses of both the lessor and the lessee related to the usage of the goods subject of the finance lease, are excluded.

(5) Exempt supplies and supplies for which zero rate is applied

The scope of the exempt supplies has been extended, as some of the **services of the**

Bulgarian Red Cross have been included therein. The scope of supplies to which zero rate is applicable has also been broadened as **the supplies of cars** having volume of the engine up to 1800 cub.cm and power of up to 100 hp **of persons with permanently reduced working capacity** have been added if certain conditions are met. Para 2 of Art. 92 VATA has been supplemented also, as the scope of the supplies taxed with zero rate include those funded by loans guaranteed by the state.

(6) Preferential import of goods for large investment projects

By means of the supplementation of Art. 58b, para 3, i. 4 VATA and the creation of new para 6 of the same article are clarified from the procedure for obtaining permission by the Minister of Finance for usage of the preferential regime for import of goods on large investment projects and the information, which shall be included in the list of goods to be imported under the project. Limit is set regarding the possibility for making additions to the list of goods for which the usage of the preferential regime is permitted.

(7) VAT in case of import of motor vehicles

In relation to the amendment effected in the Customs Law and the Regulation on its application by means of LASVATL amendment is effected (s. 21 of Art. 59 VATA), which provides for that no VAT is due in relation to the import of motor vehicles, which were illegally deprived or stolen.

(8) Transformation of companies

By means of the present amendments an attempt is made to make the provisions of VATA correspondent to the newly effected provisions of the Commercial Act concerning the transformation of companies.

The comments set out above represent an overview of the amendments and supplementations of VATL and is not exhaustive. For access to the detailed commentary and should issues arise regarding the application of the new provisions, please do not hesitate to contact us at tel. 943 37 00, fax 943 37 07, e-mail office@afa.bg, or postal address at 38, Oborishte Str. Sofia 1504.