

AMENDMENTS TO THE VALUE ADDED TAX SYSTEM (IN FORCE AS OF 01 JANUARY 2010)

As of the beginning of 2010 a number of amendments have been introduced to the Value Added Tax system which are mainly related to the amendments of Directive 2006/112/EC on the common system of VAT as regards the place of supply of services and regarding the VAT refund to persons established in other EU Member States.

The most important changes in the VAT legislation are summarized below.

I. AMENDMENTS TO THE VALUE ADDED TAX ACT

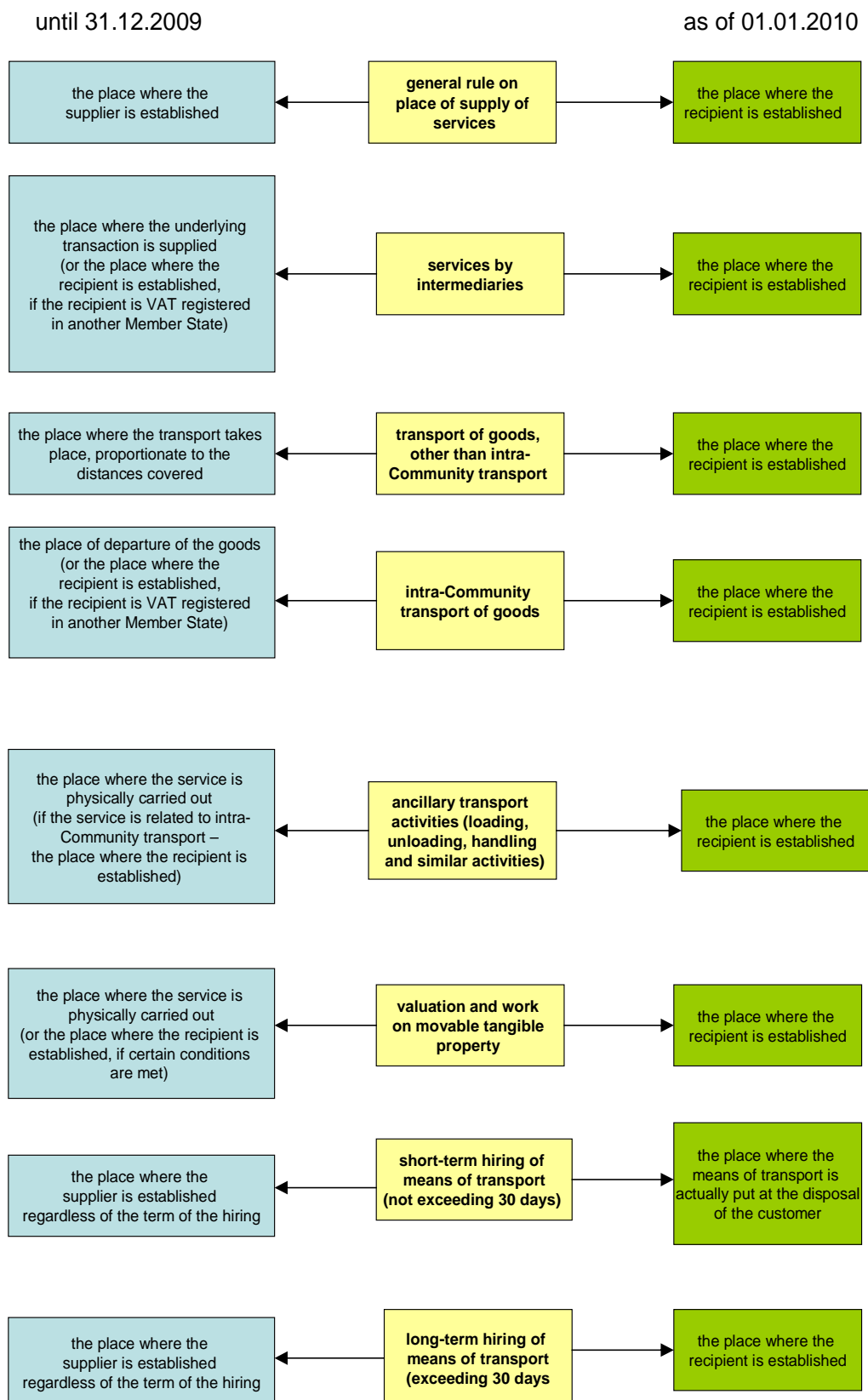
1. New Rules as regards the Place of Supply of Services

While up to now the general rule with respect to the place of supply of services was based on the place where the supplier was established, under the new rules the place of supply of the services would be now dependent largely on the status and on the place of establishment of the recipient of the service. Depending on whether the recipient of the service is a taxable or a non-taxable person, the place of supply of the service would be determined as follows:

- Where services are supplied to taxable persons, the place of supply would be based on the place where the recipient is established. It has been also specified that if the service is provided to a permanent object in a place other than the place where the recipient is established, the place of supply would be the place where that permanent object is situated.
- Where services are supplied to non-taxable persons, the former general rule applies and the place of supply is the place where the supplier is established. The exceptions to this general rule are expressly set forth and encompass mainly the so called intellectual services when provided to non-taxable persons established outside the EU who used to fall under the specific provisions of Art. 21, para. 3 in its wording until 31.12.2009 (e.g. transfers of copyrights, advertising services, services of consultants, lawyers and accountants, supply of staff, etc.) In those cases the place of supply would be the place where the recipient is established.

The changes in the place of supply rules between taxable persons are summarized in the below table:

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The specific place of supply rules are maintained for the following services:

- services connected to immovable property– the place where the immovable property is located;
- cultural, artistic, sporting, scientific, educational, entertainment and similar services – the place where the service is physically carried out.

In relation to the changes in the place of supply of services rules, there are also amendments to the provisions on the persons liable to payment of VAT. The VAT shall be generally payable by the recipient of the service where the supplier is not established in Bulgaria and the service is supplied in Bulgaria and is taxable. As a result, the reverse-charge mechanism becomes the main mechanism for accounting for the due VAT.

2. Longer Time Limits for Input VAT Deduction

As of 1 January 2010 the time limits for enjoying the right to deduct the input VAT is lengthened from three to twelve months. The longer period is also applicable for right to VAT deduction which occurred up to 1 January 2010 but has not been enjoyed up to that date and with regards to which the three tax periods following the period during which the right occurred have not lapsed.

3. Shorter Time Limits for VAT Refund

By virtue of the amendments shorter time limits for VAT refunds are introduced – the VAT subject to refund could be carried forward within the subsequent two, instead of formerly three, periods. The two-month carry-forward is applicable for VAT which became subject to refund in a tax period following 1 January 2010. The remainder for effective refund which could not be deducted should be refunded within 30 days from the date of filing of the last VAT return compared to the former 45-day term.

When the person has carried out during the last 12 months before the current month zero-rated taxable supplies which form more than 30% of all taxable supplies made by the person, the VAT is subject to immediate refund within 30 days following the submission of the VAT return and is not subject to carry-forward, as previously.

In case the VAT subject to refund is not refunded unreasonably or under repealed grounds (e.g. when a tax assessment act is repealed), the VAT should be refunded to the taxable persons together with the statutory interest, calculated from the date when the tax should have been refunded until the final refund regardless of the fact that in case of a tax audit the time limits for VAT refund are the deadline for the tax assessment act issue. This means that the interest shall be due as of the lapse of the 30-day term for refund and not from the date of the tax assessment act, as before.

4. New VAT Registration Obligations

With a view to the changes in the services place of supply rules a new obligatory VAT registration is introduced. Taxable persons who receive services with a place of supply in Bulgaria and who are liable to account for the VAT under the reverse-charge mechanism, are obliged to register for VAT purposes regardless of their turnover.

Taxable persons who are established for VAT purposes in Bulgaria and who supply services with a place of supply in another EU Member State are also liable to VAT registration.

The foreign persons who are established for VAT purposes in another EU Member State or in a third country which Bulgaria has mutual assistance arrangements with, are no longer

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obliged to register for VAT purposes via a VAT agent and could register under the regular proceedings. The foreign persons could still voluntarily opt for a VAT registration through a VAT agent.

5. Obligation to Declare an E-mail Address

All VAT registered persons are obliged to declare an e-mail address for correspondence with the National Revenue Agency provided that they have not already declared one before the Registry Agency. The deadline for declaring the address is 1 April 2010. If the deadline is not met, the VAT registration of the person could be terminated by the revenue authorities.

6. Invoicing Requirements

As of the entry into force of the VAT Act amendments it is no longer necessary to indicate the name of the person who drafted the invoice in the latter.

II. AMENDMENTS IN VAT REFUND PROCEDURE REGARDING PERSONS ESTABLISHED IN ANOTHER EU MEMBER STATE

As of 1 January 2010 the VAT refunds to persons established in another EU Member State are carried out under the provisions of the new Regulation No. N-9 of 16.12.2009 which revokes Regulation No. R-11 of 2006. The new Regulation shall apply for VAT refund applications filed after 01.01.2010.

The new VAT refund rules are summarized in the below table:

<u>Procedure under the revoked Regulation No. N-11 of 2006</u>	<u>Procedure under Regulation No. N-9 of 16.12.2009</u>
The application form is filed on paper in Bulgarian language to the Member State of refund.	An electronic application is filed via the electronic portal of the Member State in which the applicant is established in Bulgarian or in English language.
Original invoices under which VAT refund is requested should be enclosed to the application.	No copies of the invoices should be enclosed to the application. The invoices could be additionally requested.
The application is submitted by 30 June of the following year.	The application is submitted by 30 September of the following year.
If the refund relates to a refund period of three months, VAT for refund may not be less than BGN 400.	If the refund relates to a refund period of three months, VAT for refund may not be less than BGN 800.
If the refund relates to a refund period of one calendar year, VAT for refund may not be less than BGN 50.	If the refund relates to a refund period of one calendar year, VAT for refund may not be less than BGN 100.
VAT is refunded within 6 months of receipt of the application.	Notification of the Member State of refund decision to approve or refuse the application should be sent by electronic means within 4 months of its receipt. The VAT should be paid within 10 working days of the expiry of the 4-month deadline.

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VAT could be refunded through an agent who must meet certain registration conditions. A VAT refund agent is no longer required.

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