

CHANGES TO THE VAT ACT (IN FORCE AS OF 1 JANUARY 2013)

The Act for the amendment of the Value Added Tax Act (VAT Act) was promulgated in State Gazette No. 94/30.11.2012. The Act shall enter into force on 01.01.2013.

Some of the most important changes in the VAT Act are summarized below.

1. Transposing the Provisions of Directive 2010/45/EU concerning the Rules on Invoicing

▪ applicable rules to invoicing

Part of the amendments to the VAT Act were introduced with a view to transposing in the national law of the provisions of Directive 2010/45/EU which contains certain new rules on invoicing.

The new provisions concerning invoicing explicitly specify the rules of which Member State shall apply to invoicing. The general rule is that invoicing shall be subject to the rules applying in the Member State where the supply of goods or services is deemed to be made. The general rule shall not apply where the VAT is payable by the customer (reverse-charge) – in this case the invoicing would be subject to the rules of the Member State where the supplier is established.

▪ electronic invoices

The new provisions also aim at promoting the use of electronic invoices and treating them equally with paper invoices. In this regard it has been clarified that the authenticity of the origin, the integrity of the content and the legibility of the electronic invoices may be ensured by any business control as long as there is a reliable audit trail between the invoice and the supply of goods or services. The advanced electronic signature and the electronic data interchange (EDI) are mentioned only as examples of such technologies.

The authenticity of the origin, the integrity of the content and the legibility of the invoices must be ensured from the point in time of issue of the invoice until the end of the period for storage of the invoice. If the invoice is stored by electronic means, the taxable persons must also store the data ensuring the authenticity of the origin and the integrity of the content. The persons storing invoices by electronic means which guarantee on-line access, are obliged to grant such access to the competent Bulgarian tax authorities and to the tax authorities of the Member State where the tax is payable.

▪ summary invoices

By virtue of the new express provisions the taxable persons are allowed to issue a summary invoice for several separate supplies of goods or services, where the tax on the supplies becomes chargeable during the same tax period. In this case the summary invoice is issued no later than the last day of the month when the tax for the supplies has become chargeable.

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The summary invoice must contain details for the quantity, type of goods or services, unit price, taxable event date, VAT amount and total amount for payment for each separate supply documented with the summary invoice.

- **simplified invoices**

The invoices for certain supplies may not contain part of the mandatory details of the invoice set forth in the VAT Act. The so called simplified invoices can be issued in the following instances:

- Where the amount of the taxable base and the VAT on the invoice does not exceed EUR 100, the taxable persons are allowed not to mention the VAT rate and the total amount for payment. The taxable persons, however, shall not be allowed to issue summary invoices for intra-Community supplies, supplies made in the territory of another Member State or distant sale of goods.
- Where the invoice documents a supply taking place in the territory of a third state and is issued by a supplier established in Bulgaria, the taxable persons are allowed not to mention the VAT rate and amount.
- The credit and debit notes issued to invoices may lack the tax rate and the total amount unless they concern intra-Community supplies, supplies made in the territory of another Member State or distant sale of goods.

In addition, the taxable persons shall not be required to translate in Bulgarian the incoming invoices issued in a foreign language.

- **invoice contents for specific supplies**

For certain specific supplies the invoices must contain the following insertions:

- where the customer is liable for the payment of the VAT, the invoice must contain the mention "Reverse charge";
- where the margin scheme for travel agents is applied, the invoice must contain the mention "Margin scheme – Travel agents";
- where the special arrangements for second-hand goods, works of art, collectors' items and antiques apply, the invoice must contain the mentions "Margin scheme – Second-hand goods", "Margin scheme – Works of art", or "Margin scheme – Collectors' items and antiques" respectively.

2. Excluding the Gratuitous Supply of Services for Repair of Rented Assets from the Scope of the Taxable Supplies

The supply of services by a lessee for repair of rented assets against no consideration has been removed from the scope of the deemed taxable supplies. This way, only the supply by a lessee for improvements on a rented asset against no consideration shall be treated as a deemed taxable supply, where the lessee must charge VAT, if he had enjoyed deduction of the input VAT related to the improvements. The tax on the supply connected with the improvements becomes chargeable on the date of the actual handing back of the asset with the improvements upon the termination of the rental agreement, where the improvement was not a condition and/or obligation set forth in the agreement. The set up of a new asset is deemed as an improvement.

The restrictions to VAT deduction for supplies used for the purposes of repairs, irrespective of the term of the rental agreement, and for improvements against no consideration, have been repealed.

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3. Changes to the Conditions for VAT Deductions for Supplies Related to Cars

Following a letter of the European Commission for non-compliance with the EU VAT Directive, the VAT Act provisions concerning VAT deduction for supplies of cars and motorcycles have been changed so that the relevant provisions which were in force prior to Bulgaria's EU accession are restored.

As a result, the restriction to the VAT deduction right shall no longer apply to rented cars and motorcycles and would only encompass vehicles which were purchased or imported. Another restriction which has been repealed concerns the requirement to take into account only the seats installed by the manufacturer when determining whether the vehicle qualifies for the restriction based on the number of the seats. Further, the VAT deduction for acquired transport or taxi services shall be no longer subject to restrictions.

In addition, the scope of the input supplies related to purchased or imported vehicles which give rise to VAT deduction has been broadened so that taxable persons are entitled to VAT deduction even if they make supplies differing from those expressly listed in the VAT Act as long as the latter (e.g. transport services, taxi services, renting of vehicles, courier services, etc.) form part of the main business activities of the person. In this regard, a legal definition of the term "main business activities" has been adopted.

4. Increase in the Time Limits for Submitting Inventory of Assets Acquired prior to the VAT Registration

The time limits for submitting an inventory of the available assets which were acquired by the taxable persons prior to their VAT registration is extended from 7 to 45 days. Those persons who are obliged to submit such an inventory as at 31.12.2012 and for which the 7-day term under the former legislation has not lapsed until 01.01.2013, will be entitled to file the inventory within 45 days following their VAT registration.

5. Entitlement to Subsequent Increase in the Initially Enjoyed VAT Deduction

The newly-adopted provisions of the Act entitle the taxable persons to adjust the initial VAT deduction enjoyed by them by subsequently increasing its amount. While up to date the initially enjoyed VAT deduction was subject only to subsequent decrease, following the amendment the taxable persons who have not deducted the input VAT at all or who have deducted it only partially would be entitled to subsequently claim or increase the VAT deduction on input supplies of goods or services if the latter are used exclusively for taxable supplies.

The amendment was probably prompted by the series of requests for preliminary rulings referred to the European Court of Justice by Bulgarian courts. The exact procedure for subsequent VAT deduction or increase of the initial partial deduction would be set forth in the Regulations Implementing the VAT Act.

6. Continuous Intra-Community Supplies of Goods for Periods Exceeding One Month

When continuous intra-Community supplies of goods are carried out for periods exceeding one calendar month, the tax would become chargeable at the end of each calendar month. The tax for the month when the supply ceases becomes chargeable on the date of the termination of the supply. The tax base for each calendar month will be determined based on the proportion between the number of the days during a said month and the total days during which the supply was carried out.

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