

CHANGES TO THE VAT ACT (IN FORCE AS OF 1 JANUARY 2015)

The Act for the amendment of the Value Added Tax Act (VAT Act) was promulgated in State Gazette No. 105/19.12.2012. The Act enters into force on 01.01.2015.

The main changes concern the supply of telecommunication, broadcasting services and electronically supplied services, provided by companies from the European Union (EU) and non-EU companies to their end customers – non-taxable persons.

1. Place of supply of services

As of 01.01.2015 the supply of telecommunication services, radio- and television broadcasting services, and electronically supplied services, rendered to private individuals (non-taxable persons), established in another EU Member State, shall be taxable in the country where the recipient is established, has his permanent address or usually resides. Before the amendment the place of supply of this type of services to non-taxable persons in the EU was the state where the supplier is established. This change aims at allocation of the VAT income to the EU Member State of consumption of the respective services.

To insure the correct charging of VAT on these services the EU companies and non-EU companies suppliers should determine the status of the recipient of the services (i.e. a taxable or a non-taxable person) and the place where the recipient is established (i.e. in a EU or a non-EU Member State).

2. Scope of the services subject to the new rules

Among the services affected by the new rules are:

- Fixed and mobile telephone services;
- Access to the Internet;
- Supply of games of mobile phones;
- Radio and television programmes distributed via a radio or television network, or via the Internet;
- Supply of software, software applications and actualizations;
- Access to and downloading ring tones, screensaver, music, films, pictures, text and information;
- Remote maintenance of software applications;
- Website hosting services;
- Supply of on-line courses;
- Facsimile, telegraph and telex;
- Voice mail, call waiting, call forwarding;
- Electronic auction services

Definitions of the above listed services could be found in the Supplementary provisions of the VAT Act¹.

3. Special tax regime and VAT reporting obligations

In practice the changes to the VAT Act shall oblige the companies suppliers of the mentioned services to register for VAT purposes in any of the EU Member State where they perform supplies of such services to non-taxable persons.

To eliminate the administrative burden of having a VAT registration in each EU Member State the suppliers are allowed to apply a special scheme of taxation with VAT – the scheme denoted as “**mini One-Stop Shop**” (**MOSS**).

The MOSS scheme shall allow the taxable persons to determine only one EU Member State, called a “Member State of identification”, which shall be used for a sole place of VAT registration, reporting and payment of the due VAT on the telecommunication, radio- and television broadcasting services and electronically supplied services, provided to end customers (non-taxable persons). The MOSS scheme is not obligatory, but in case the supplier has not chosen to apply the MOS scheme, then he shall be obliged to register for VAT in each EU Member State where he provides services to end customers non-taxable persons.

4. Scope of the special MOSS scheme

The special regime of taxation of the supply of services under the MOSS scheme shall be applicable under the following conditions:

- The supplier is a taxable person not established in the EU Member State of services consumption;
- The supplier has chosen to register for applying one of the MOSS schemes in Bulgaria or in another EU Member State.

5. Types of special regimes for registration under the MOSS scheme

Two types of applying the MOSS scheme are possible dependent on supplier's place of establishment.

(i) „Union Scheme”

The Union Scheme shall be applicable by services providers, established and registered for that scheme in the EU Member State other than the place of services consumption. In this case the EU companies shall be allowed to register and report the charged VAT on the services in their own Member State as per registration for the telecommunication, radio- and television broadcasting services, and the electronically supplied services, provided to non-taxable persons.

¹ Pursuant to para 1, point 13 of the Supplementary Provisions of the VAT Act „**Radio- and television broadcasting services**“ are the services, listed under art. 6b of Council Implementing Regulation (EU) № 1042/2013 of the Council amending Implementing Regulation (EU) № 282/2011 as regards the place of supply of services.

Pursuant to para 1, point 14 of the Supplementary Provisions of the VAT Act „**Telecommunication services**“ are the services, listed under art. 6a of Council Implementing Regulation (EU) № 1042/2013 of the Council amending Implementing Regulation (EU) № 282/2011 as regards the place of supply of services.

Pursuant to para 1, point 14a of the Supplementary Provisions of the VAT Act „**Electronically supplied services**“ are the services according to Attachment II of Council Directive 2006/112/ EC on the common system of the valued added tax and under art. 7 of Implementing Regulation (EU) № 282/2011, and Council Implementing Regulation (EU) № 1042/2013 of the Council amending Implementing Regulation (EU) № 282/2011 as regards the place of supply of services. In case where the supplier of the services or his customer exchange correspondence via e-mail, this per se does a electronically supplied services take place.

Right to register in Bulgaria under the special “Union Scheme” has the supplier of the abovelisted services provided to non-taxable persons who:

- provides services to non-taxable persons established or having its permanent address or habitual residence in other EU Member State;
- has its seat and registered address in Bulgaria, or if does not has its seat and registered office in the EU, has its permanent object in Bulgaria.
- is not registered for applying the “Union Scheme” in other EU Member State, if it is established as per its permanent object in Bulgaria.

(ii) „Non-Union Scheme”

This scheme has been already introduced in the Bulgarian VAT law as regards electronically supplied services by providers not established in the EU. The changes to the Bulgarian VAT Act only widen the scope of the services which fall within the special regime by including telecommunication, radio- and television broadcasting services.

Right to register under the “Non-Union Scheme” has a services provider - not-established in the territory of the EU, who is not registered in Bulgaria or in another EU Member State on the grounds different from provision of the specified above services, and under the condition that he is not registered for applying the “Non-Union Scheme” in other EU Member States.

6. MOSS scheme registration procedure

The registration under the two MOSS schemes is completed electronically by submission of an electronic form to Territorial Directorate – Sofia at the National Revenue Agency through a web-based application at the NRA’s official website.

The registration takes place within 14-days’ as of submission of the application form. The supplier shall be deemed registered under the MOSS scheme as of the first date of the quarter following the calendar quarter in which the application form was submitted.

In case a supply of service has been performed prior to filing of the application form to the NRA, the date of registration under any of the two MOSS schemes shall be deemed the date on which the supply has taken place provided that the supplier has filed the application form not later than 10th of the month following the month of the first supply.

7. VAT-event, invoicing and reporting requirements under the MOSS scheme

(i) Taxable base and tax rate

The tax event date, the taxable base and the applicable VAT rate shall be determined according to the VAT law of the EU Member State of services consumption.

(ii) Issuance of invoices under the MOSS scheme

The tax documents (invoices), which the supplier issues for the services rendered to end customers should correspond to the statutory requirements of the EU Member State of services consumption.

(iii) Tax period and reporting requirements under the MOSS scheme

The tax period applicable to both “Union Scheme” and “Non-Union Scheme” is the calendar quarter. In practice the taxable person registered under the MOSS scheme in a concrete EU Member State (the Member State of identification) is obliged to file electronically an aggregate VAT return which contains information about all supplies of telecommunication services, radio- and television broadcasting services and services, supplied electronically, to non-

taxable persons in all EU Member States of services consumption, and at the same time determines the total amount of VAT due for all services supplied to non-taxable persons.

The VAT returns filed under the MOSS scheme are enclosed to the general VAT return filed by the taxable person in the EU Member State as per VAT registration.

The quarterly VAT return is completed and filed electronically through a web-based application of the official website of the Bulgarian National Revenue Agency. The VAT return states the identification number of the registered person for applying the MOSS scheme. The registered person should state in the VAT return the taxable base for the taxable in the respective EU Member State of consumption and the applicable VAT rate, as well as the total amount of taxable base and due VAT for the period in each EU Member State.

The VAT return is filed by 20th of the month following the calendar quarter for which it is due, including the tax period in which no provision of services is in place, i.e. a “nil” VAT return is filed as well.

(iv) Term for payment of the due VAT

The VAT should be paid within the deadline for submission of the respective VAT return, i.e. by 20th of the month following the tax period for which it is due. The total amount of VAT should be paid in Euro to the bank account of the Bulgarian National Revenue Agency. Following the payment of the VAT the tax administration ex officio allocates the due VAT to the other EU Member States in which the taxable person has provided the respective services.

(v) Electronic register of the supplies performed under the MOSS scheme

Each taxable person applying any of the two MOSS schemes shall be obliged to keep a detailed electronic register for the data reported under the VAT returns which data should be available for review by the tax administration upon request. The Register should contain information about the taxable person, including the date of registration and date of de-registration under the MOSS scheme. The Register should also contain data about the supplied services, the name and address of the customer, if these are known to the supplier. The information in the electronic register should be stored for a period of ten years, starting from the end of the year in which the respective supply took place.

8. Right of input VAT deduction and refund of Bulgarian VAT on purchases of goods or services

(i) Taxable persons applying the “Non-Union Scheme”

Suppliers of services under the “Non-Union” scheme shall be entitled to refund of the VAT charged on received services or purchase of goods related to the provision of telecommunication, radio- and television broadcasting services, and electronically supplied services, according to the applicable rules of the VAT Act as regards VAT refund to taxable persons not established in the EU.

(ii) Taxable persons applying the “Union Scheme”

Each service provider, registered in Bulgaria for applying the “Union Scheme” shall be entitled to input VAT deduction according to the general rules of the VAT Act as regards the input VAT on purchases of goods or services with place of supply in Bulgaria.

Taxable persons, registered in other EU Member States for applying the “Union Scheme”, who are not registered for VAT purposes in Bulgaria under the general rules, shall be entitled to refund the input VAT pursuant to the rules of the VAT Act relevant to taxable persons not established in the EU Member State of refund, but established in the territory of other EU Member State.

9. Mandatory VAT registration in Bulgaria outside the MOSS scheme

A Supplier of telecommunication services, radio- and television broadcasting services and services supplied electronically, who is not established in Bulgaria and has not registered voluntarily under any of the MOSS scheme regimes, shall be obliged to register for VAT in Bulgaria, in case of provision of such type of services to end customers in the country. This supplier shall not have the right to state the amount of VAT under the sales invoices issued for supplies other than the specified services. The VAT Act also puts a restriction to the right of input VAT deduction as regards the VAT on purchases of goods or services by a taxable person, registered for VAT under this mandatory VAT registration, if the purchased goods or services do not correlate to the provision of the telecommunication, radio- and television broadcasting services, and to the electronically supplied services.

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