

## Promulgated amendments to the VATA



The sixth issue of Tax News for 2016 presents a summary of the most significant changes in the Value Added Tax Act (VATA) which are promulgated in the State Gazette, issue No. 97, and enter into force effective 1 January 2017.

### Proportional input VAT deduction for non-current assets of mixed use

A new regime for a proportional input VAT deduction upon acquisition of non-current assets intended for mixed use by taxpayers is introduced. Along with the currently applicable partial input VAT deduction, applicable when assets are used for provision of both taxable and exempt supplies, a new proportional input VAT deduction will apply for non-current assets used for both business and private purposes. The business-to-private proportion is to be determined on the basis of a reasonable criterion which should guarantee the correct calculation of the amount of the input VAT to be deducted taking into account the nature of the assets.

In this respect, a new definition of 'non-current assets' for VAT purposes is introduced which includes (i) immovable property, (ii) vehicles and (iii) goods and services which would qualify as non-current assets within the meaning of the Bulgarian Corporate Income Tax Act with an acquisition value of BGN 5,000 or more.

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## Annual adjustment of the input VAT deduction for non-current assets

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In addition to the general one-off input VAT adjustment currently required under the VATA (e.g. upon exempt sale of assets, scrapping or shortages of assets, etc.), the law introduces a new obligation for an annual upward or downward adjustment of the input VAT deduction upon changes of the use of the assets.

The annual adjustment is to reflect the difference between the amounts of (i) the input VAT initially utilized and (ii) the deductible proportion calculated for the respective year as a fraction of 1/20 for immovable properties and 1/5 for other goods and services. Thus, the deductible input VAT on an annual basis will be determined according to both the business-to-private proportion and the pro-rata coefficient for partial input VAT deduction (if applicable).

It is specifically clarified that, under close-end lease contracts, the annual and the general one-off adjustments must be performed by the lessees.

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## Adjustment of input VAT deduction performed prior to 2017

Taxpayers may perform a one-off upward adjustment of the partially deducted or not deducted input VAT for goods and services for which input VAT adjustments under the current VATA have been made. This one-off adjustment could be made by 30 June 2017 by means of cancelling the old protocols for adjustments.

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## Possibility to adopt an alternative method for calculating the partial input VAT deduction

Taxpayers are allowed to calculate the partial VAT deduction for goods and services which are not qualifying non-current assets and are used for both taxable and exempt supplies on the basis of either the pro-rata coefficient (determined on a turnover allocation) or by using an alternative method.

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## Correction of input VAT deducted on advance payment invoices for canceled supplies

Upon cancelation of a supply for which an advance payment invoice was issued, an obligation for adjustment of the input VAT deducted on the referred invoice arises for the recipient irrespective of whether or not the supplier has repaid the advance payment and has issued a credit note. Correction by the recipient is also due where the supplier has been VAT deregistered.

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### **Correction after deregistration under the VATA**

The amendments introduce a possibility for deregistered taxpayers to amend the submitted VAT returns or to subsequently declare tax documents including invoices, debit and credit notes for adjustment of the output VAT on invoices issued prior to their deregistration.

These corrections will be allowed after informing and receiving a positive resolution from the revenue authorities.

Upon reduction of the taxable base of supplies or cancelation of supplies for which a VAT deregistered supplier has issued a tax invoice for advance payment, the supplier will be allowed to issue a credit note after repayment or settlement of the prepaid amount.

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### **Specific rules for consortia**

The changes stipulate that the contribution in kind of a consortium partner to the consortium for the common purpose of the consortium and for which no remuneration is agreed does not qualify as a VAT taxable supply. The consortium does not assume any rights or obligations related to the receipt of the goods/services from the partners; the right of input VAT credit and the obligation for correction of input VAT credit remains at the level of the partners. A consortium in which a VAT registered partner participates will automatically be liable to apply for a mandatory VAT registration. The above amendments partially reflect the current practice of the NRA on the topic.

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### **Supplies performed by intermediaries**

In the event of supplies of goods and services performed by an intermediary acting in its own name but on behalf of a principal, for VAT purposes two separate supplies take place:

- between the supplier and the intermediary and
- between the intermediary and the client.

The amendments eliminate the introduction of a separate supply of commission payable to the intermediary in the cases where the consideration of the intermediary is included in the value of the supply between the intermediary and the principal.

The above rules will apply with regard to intermediation for both sales and purchases of goods and services.

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### **VAT exemption of supplies related to international transport**

For the purposes of aligning the national rules to the European legislation, the supply of vessels, the supply of goods for their fuelling and provisioning and the supply of services related to them such as chartering and processing are explicitly excluded from the scope of the VAT exemption if the vessels are used for sports/pleasure and private purposes.

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### **Supply of single tourist services by tour operators**

Effective 1 January 2017, the special VAT regime for taxation of single tourist services performed by tour operators (the tour operator margin scheme) will also apply in regard to the supplies carried out between tour operators.

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