

TaxAlert

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New VAT regulations

Following amendments to the VAT Law, effective as of 1 January 2010, the VAT Regulations have been published in National Gazette issue 149/09 dated 15 December 2009. The VAT Regulations have prescribed detailed guidance, and we summarise some of the key issues below:

Deliveries at no charge

The VAT Regulations specifically prescribe that promotional items, such as catalogues, leaflets, bags, etc. will not be considered to be deliveries at no charge and VAT does not need to be assessed on such giveaways.

VAT will not have to be charged on small gifts, up to the value of HRK 80 (without VAT), if these are given occasionally and in reasonable quantities, i.e. to one person per quarter.

Entertainment & Company cars

Input VAT on incoming invoices for own consumption, i.e. for entertainment or personal cars, will not be fully deductible – input VAT will initially be divided into recoverable and irrecoverable VAT. Accordingly, a VAT book

of own consumption will not need to be maintained. A similar procedure is prescribed for remuneration provided through benefits in kind.

Place of supply of services

In all cases where a Croatian VAT-registered entity or individual provides a service to a non Croatian recipient that is not an entrepreneur, e.g. to a non resident individual, that service will be subject to VAT in Croatia. Currently, the VAT status of the service recipient is not relevant for VAT treatment, but rather the type of the service provided.

VAT in construction

The VAT liability for construction companies arises in the VAT period in which a temporary certificate issued by a construction company is approved by a supervisory body. If the supervisory body does not approve the temporary certificate, the VAT liability arises at the latest by the end of the VAT period following the period in which the temporary certificate was issued. However, the service recipient only has the right to recover input VAT in the VAT period in which the temporary

certificate is approved by the supervisory body.

Financial services

The current institutional exemption applicable to banks and insurance companies is replaced with a service exemption. Certain services provided by banks and insurance companies which do not have financial substance, such as the rental of safe deposit boxes, factoring, management services, custodial services, etc. will be subject to VAT as of 1 January 2010. Financial institutions that had VATable deliveries in 2009 in excess of HRK 85,000 will be obliged to register for VAT purposes by 15 January 2010 at the latest.

The above-mentioned VAT exemption for financial services might also influence the current VAT status and obligations of other entities which render financial services, such as commercial companies, leasing companies, credit card companies, fund management companies, brokerages, etc. Specifically, if a commercial company provided a loan to another company, it would not be obliged to assess VAT on the interest.

A commercial company that provides a loan from its own funds for the delivery of goods or services is provided with the ability to choose/opt whether the interest on such a loan will be VATable or VAT exempt, provided the total value of VAT exempt deliveries does not exceed 2% of total deliveries annually and if the Tax Authorities are notified of the opted VAT treatment.

For all companies that will have VAT exempt deliveries (e.g. financial services) and VATable deliveries, rules on input VAT recoverability have been prescribed:

- the general rule is that a VAT payer can recover input VAT that relates to the provision of VATable deliveries, input VAT cannot be recovered for purchases relating to the provision of VAT exempt deliveries, while input VAT which cannot be directly allocated to either VATable or exempt deliveries (e.g. general expenses) is determined based on a percentage calculated as a portion of VATable deliveries in total deliveries (not including certain "one-off deliveries") made in the previous year. An adjustment is then made in the final VAT return for the year for input VAT which cannot be directly allocated based on the actual percentage of VATable deliveries in total deliveries in the year

However, the regulations provide exceptions to the above rule, that is, simplifications are prescribed for certain entrepreneurs:

- during 2010, financial institutions, except insurance companies, have the right to recover 2% of total input VAT, but an adjustment must then be made in the final VAT return for 2010 based on the actual percentage of VATable deliveries in total deliveries in 2010
- entrepreneurs whose total deliveries are at least 98% VATable, have the right to recover all input VAT without allocation

Foreign entrepreneurs

Foreign entrepreneurs, who do not have a seat, residence, management board, subsidiary or other permanent establishment in Croatia can, under certain conditions, recover VAT charged by Croatian suppliers. Croatian representative offices of foreign entrepreneurs will also be entitled to exercise this right to recover VAT.

Other changes

Other notable changes include:

- changes to the place of supply of certain services,
- assessment of the VAT base for imported goods,

- clarification of the procedure for calculating VAT on the mark-up of second-hand goods; and
- possible VAT registration requirement for foreign entrepreneurs.

For more detailed information and explanations of the new VAT rules in effect as of 1 January 2010 please contact:

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