



REPUBLIKA E KOSOVËS - REPUBLIKA KOSOVA - REPUBLIC OF KOSOVO
QEVERIA E KOSOVËS - VLADA KOSOVA - GOVERNMENT OF KOSOVO
MINISTRIA E EKONOMISË DHE FINANCAVE - MINISTARSTVO ZA PRIVREDU I FINANSIJE - MINISTRY OF ECONOMY AND FINANCE
ADMINISTRATA TATIMORE E KOSOVËS - PORESKA ADMINISTRACIJA KOSOVA - TAX ADMINISTRATION OF KOSOVO

Pursuant to Article 9 of the Law No. 2004/48 on Tax Administration and Procedures as amended and supplemented with the Law No .03/L-071 on Amendments and Supplements of the Law No. 2004/48 on Tax Administration and Procedures, the Director General of Tax Administration issues the following:

Public Ruling No: 02 / 2010

On tax treatment for exempted supplies in accordance with subparagraph 3.1 of Article 33 of the Law on VAT when directly financed by the EC and exemption for imports in accordance with subparagraph 2.1 of article 30 of the Law on VAT when directly financed by the European Commission (EC)

**Article 1
Description and Scope**

This description applies for taxable persons that are exclusively engaged in making exempt supplies in accordance with article 27, article 28 and subparagraphs 1.1, 1.2, 1.3 and paragraph 3 of Article 33 of the Law on VAT when making supplies directly financed by the EC and exemption for imports directly financed by the EC.

**Article 2
Legal Ground**

Taxable persons exclusively engaged in making exempt supplies in accordance with Article 27, Article 28 and subparagraphs 1.1, 1.2, 1.3 and paragraph 3 of Article 33 of the Law on VAT may irrespectively of subparagraph 2.2 of Article 40 of the Law on VAT claim a monthly VAT refund without regard to the amount of VAT credit for input VAT related to supplies directly financed by the EC and exempt in accordance with subparagraph 3.1 of Article 30 of the Law on VAT. Such claim will be taken under consideration only if the taxable person complies with all applicable customs and VAT

provisions and that all VAT returns and other tax returns for all past periods are submitted.

Irrespective of Article 24 of the Law no.2004/48, on Tax Administration and Procedures as amended and supplemented with the Law 03/L-071, TAK shall undertake actions for such claims within 30 days since the date when the TAK received the claim for a refund from the taxpayer if the taxpayer on request can present duly prove of the claim. The appropriate proves are specified under the Article 27 of the Instruction 16/2009 on Implementation of the Law on Tax Administration and Procedures.

Article 3 **VAT Exemptions**

The Law on VAT provides an exemption from VAT for the following supplies to be treated as exports:

Article 33, subparagraph 3.1 (transitional provision): The supply of goods or services funded from the proceeds of grants made to the budget or through the budget of Kosovo or under the supervision of competent bodies or directly financed by contracts for the benefit of Ministries, local authorities and other bodies governed by law, by international inter- governmental organizations and their agencies, by governments, government agencies, governmental or non-governmental organizations in support of humanitarian and reconstruction programs and other projects including European integration projects in Kosovo

The Law on VAT provide an exemption for the following imports:

Article 30, subparagraph 2.1 (transitional provision)Imports funded from the proceeds of grants made to the budget or through the budget of Kosovo or under the supervision of competent bodies or directly financed by contracts for the benefit of Ministries, local authorities and other bodies governed by law, by international inter-governmental organizations and their agencies, governments, government agencies, governmental or non-governmental organizations in support of humanitarian and reconstruction programs and other projects including European integration projects in Kosovo.

Article 4 **The right to deduct VAT**

Subparagraph 3.2 of Article 36 provides a right to deduct input VAT in so far as the goods and services are used for the purpose of transactions which are exempt pursuant to Chapter 12 (Articles 33 – 35)

Article 5

VAT Refund

Subparagraph 2.2 of Article 40 describes that for exports a taxable person may claim a monthly VAT refund under certain conditions if the amount of VAT credit exceeds five thousand (5000) € at the end of the tax period provided that the taxable person complies with all applicable customs and VAT provisions and that all VAT returns and all other tax returns for all past tax periods are submitted.

Regardless of subparagraph 2.2 of article 40, the taxable person is entitled to claim VAT refund on a monthly basis of input VAT related to supplies directly financed by the EC and exempt in accordance with subparagraph 3.1 of Article 30 of the Law on VAT, without regard to the amount of VAT credit and TAK shall undertake actions on review of such claims. Such claim will be taken under consideration only if taxable person has submitted all VAT returns and all other tax returns for tax periods that he/she was obliged to submit as well as if he/she has complied with all requirements determined under the Article 27 of Instruction 16/2009 on Implementation of the Law on Tax Administration and Procedures

Article 6

VAT Registration Procedure for VAT and for Income Tax

Taxable persons not established in Kosovo but established in a Member State of the EU or another country eligible under IPA (excluding Kosovo) are not required to be registered for business purposes in Kosovo pursuant to Article 26, paragraph 2, letter c) of IPA Agreement for supplies that are directly financed by the EC (EC Contractor). However, if these persons hire local staff, will pay the rent, will pay interest or copyright, they are required to be equipped with the Fiscal Number from TAK which enables them to withhold tax. Additionally they need to be equipped with Fiscal Number in order to implement the special schemes for monthly refund regardless of VAT Credit amount.

Other taxable person will be subject to all procedures of business registration as determined in accordance with applicable Laws in Kosovo.

Article 7

Issuance of Invoices

Taxable person making exempt supplies

A taxable person making an exempt supply in accordance with subparagraphs 1.1, 1.2, 1.3 or paragraph 3 of Article 33 of the Law on VAT shall issue an invoice in accordance with the normal rules for issuance of invoices.

The taxable persons, not charging VAT on these invoices, are obliged to indicate the reason of exemption. Therefore, the following text shall be mentioned: “The supply is exempted under (mention the relevant provision of the law)”. A reference shall be made to the contract or similar under which the supply is made.

Article 8

Contractors and subcontractors

Contractors

For supplies exempt in accordance with subparagraph 3.1 of Article 33 due to the fact that they are directly financed by EC, the following shall apply:

The taxable person making the supply shall be referred to as the contractor. The contractor shall be construed as natural and legal persons or other organizations rendering services and/or supplying goods under a contract directly financed by the EC.

Subcontractors

The suppliers or sub-contractors of the contractor making exempt supplies are not subject to a special exemption. Therefore they shall apply the normal VAT scheme and charge VAT if the supply is not exempt from VAT in accordance with Article 27 or Article 28 of the Law 03/L-146 on VAT.

It is strengthened that the suppliers and sub-contractors of the taxable person making the exempt supply are subject to the normal VAT rules: the purchases which they acquire must be charged with VAT and the supplies of goods and services which they make are subject to VAT unless the supply is exempt in accordance with article 27 or article 28 of the Law 03/L-146 on VAT.

They can in accordance with the general rules make their input VAT deduction in their VAT returns and their VAT refunds are falling under the normal VAT rules of implementation and audit.

For purposes of this Public Ruling, a “subcontractor” or contractor’s supplier shall be considered every taxable person that is not part of signing the Contract between the EC and its contractor.

Article 9

Request for Import VAT Exemption on imports directly financed by the EC

The EC Contractor need to file a request to Taxpayer Service Division which is located in TAK Headquarters, in order to obtain an authorization for exemption of VAT when importing goods.

In order to obtain such exemption, notwithstanding they need to submit copies of the following documents:

1. EC Contract
2. Complete specification in respect of description and amount of goods that will be imported which are exclusively related to implementation of the contract directly financed by the EC.
3. Fiscal Number Certificate
4. VAT Certificate
5. If the returns are not proceeded, copies of them
6. If liable to debts the EC contractor need to bring the agreement for payment with instalments and prove that he/she is complying with this.

TAK Director General
Behxhet Haliti

per:

B. Shala



Pristina 13/08/2010