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TAX ADMINISTRATION OF THE REPUBLIC OF KOSOVO

VAT – CHANGE IN THE RATE FROM 15% to 16%

A GUIDE FOR VAT-REGISTERED BUSINESSES

December, 2008

INTRODUCTION

INCREASE OF THE RATE OF VAT FROM 15% to 16%

The Assembly of the Republic of Kosovo has adopted the Law on Value Added Tax.

Through this Law the VAT rate has been increased from 15% to 16%. This new rate comes into effect on January 1, 2009 and affects any VAT registered business that sells and purchases goods and services or imports goods other than those that are exempt. The VAT on import of goods and the VAT on purchases of goods and services will be higher and as a result, your input VAT credit will be higher.

A new VAT form allowing a correct VAT reporting for the first period affected by the new rate (VAT return to be submitted on February 28, 2009 for the tax period January 2009) will be developed.

PURPOSES OF THESE GUIDELINES

These guidelines will help the VAT taxpayers to move to the new rate of 16% - it is indeed much more than simply replacing the old rate of 15% by the new rate of 16%. Therefore, The Tax Administration of the Republic of Kosovo wants to encourage and assist businesses as they make the changes necessary to deal with the change in the rate.

FURTHER ASSISTANCE

If you have a query for which you have been unable to find the answer within this guidance please contact “The Taxpayer Education Department of the Tax Administration of Kosovo at the Central Office”

Contacts:

Tel.038 200 25 017

Email:info@atk-ks.org

Web: www.atk-ks.org

This service is available from 8.30 am to 15.30 pm, Monday to Friday.

1. SALES

1.1 When do you have to start charging the rate of 16% rate?

You have to charge the 16% rate on supplies of goods and services made on or after January 1, 2009. If you would like more information about when a supply takes place for VAT purposes (“tax moment”) please see the Annex 5 of this guidelines.

1.2 Which of my sales are calculated with new rate?

The following distinction must be made:

1.2.1 If you are a VAT registered business (e.g. a shop, restaurant) making cash supplies to non business clients and do not have to issue a tax invoice to such clients:

You must use the new rate of 16% for all compensation you receive on or after January 1, 2009

1.2.2 If you are a VAT registered business making supplies to other registered businesses and have thus to issue VAT invoices:

You must use the new rate for all VAT invoices you issue on or after January 1, 2009.

If you supplied goods and services before January 1, 2009, or if you were paid for the supply of goods and services before January 1, 2009, you must issue on or before January 16, 2009. In these circumstances, the sale takes place before January 1, 2009 and you must use the old rate of 15%.

On the VAT return for December of 2008 you have to report such invoices

If you received a partial payment before January 1, 2009, use the old rate for the partial payment.

There are special rules:

- For businesses that make continuous supplies of goods and services: see 5.3.2 of Annex 5, ; and
- Single supplies of goods and services carried out over a period of time – see 5.3.3 of the Annex 5.

1.3 What are “tax moments”?

These are the moments for VAT purposes for determining when a sale takes place – also known as the “time of supply”. These rules are summarized in the Annex to these guidelines.

1.4 *How to calculate the VAT if the prices are VAT inclusive:*

You have to work out the VAT fraction to determine the VAT amount.

For example:

Where the amount of VAT is not listed separately on the tax invoice, the VAT for that supply shall be calculated by dividing the total value by 7.25. The difference between the price inclusive of value added tax and the VAT shall be the taxable value. For example, if the price of a good displayed in a shop window is 116 euro VAT included, we can find the amount of VAT for that supply by dividing 116 by 7.25 which gives 16 euro. The taxable value is 100 euro, i.e. $116 - 16 = 100$.

1.5 *How do I correct VAT charged at the wrong rate (credit notes):*

If you charge the wrong rate of VAT on an invoice you will need to provide your client with a credit note or a debit note to correct the error. A credit note/debit note should contain the following details:

- The identifying number and date of issue of the credit/debit note;
- Your name, address and VAT registration number;
- Your client's name and address;
- The identifying number and date of issue of the VAT invoice;
- A description which identifies the goods or services supplied; and
- The amount of VAT being corrected.

Any credit note or debit note issued in accordance with the rules for sales that span the change in rate must be issued on or before January 30, 2009.

1.6 **Practical issues:**

1.6.1 **Businesses registered for VAT purposes making cash sales to non-business customers:**

Many of such businesses have till systems which calculate VAT at the point of sale. If you use an electronic system to record sales you will need to make sure it is adjusted to the new rate with effect from January 1, 2009. You may need to consult the manufacturer or supplier of your particular system to find out how to make the necessary adjustments.

1.6.2 What about invoices to persons not registered for VAT purposes?

If you issue a VAT invoice to persons not registered for VAT purposes on request, you will need to ensure it shows the correct VAT and VAT rate. It will in particular avoid queries by your customers.

1.6.3 What about discounts for sales in respect of sales made on or after January 1, 2009?

If you give a discount on or after January 1, 2009 for sales made before January 1, 2009, you will have to adjust your daily gross receipts to take into account of the VAT originally charged at 15%. The VAT fraction to be refunded is 15/115 of the price inclusive VAT.

1.6.4 What about coin operated machines such as vending, amusement and gaming machines?

You cannot delay accounting for VAT until the coins or tokens are removed from the machine.

However, at the time of the change on January 1, 2009 you are required to account for VAT based on that date for the period of use before January 1. If the machine does not record this information and you are removing the coins or tokens after December 31, 2008, you will need to apportion the earnings and you can apply the 15% VAT rate to the sales before January 1, 2009 – otherwise, you have to charge the earnings with 16%.

2. PURCHASES AND INPUT VAT DEDUCTION RIGHT also called VAT INPUT CREDIT:

2.1 When do I have to start offsetting the VAT input which is charged at 16%?

A VAT registered taxpayer makes his first offset of his input VAT at the rate of 16% as a credit against the output VAT at the rate of 16% for the tax period of January 2009 – thus in the tax return to be submitted on February 28, 2009.

2.2 The double set of rules allowing the VAT deduction right:

2.2.1 First set of rules whether VAT deduction right is allowable:

The offset occurs according to the normal rules on deducting VAT as explained in the Administrative Instruction No. 01/2004, dated September 1, 2001 on implementation of Value Added Tax

2.2.1.1 This includes that a credit of input tax shall not be allowed for VAT paid or to be paid in respect of supplies that are not used or going to be used for the taxable supplies made by the VAT taxpayer. Thus, you cannot take your credit for your input VAT for exempt supplies you make.

2.2.1.2 These rules include as well that a credit of input tax is neither allowed for VAT in the following cases:

a) for purchases of fuel, except when:

- The scope of activity is to trade fuels;
- The fuel is indispensable for the technological needs of the activity such as in the case of the fuel of a transport company, fuel for the central heating, fuel for delivery truck.

b) for travel, representation, lodging, meals and entertainment expenses;

c) for expenses related to cars, except when:

- The scope of the activity is trade cars;

- The use of cars is the sole activity of the VAT taxpayer as in the case of Rental services, Taxi Services, Ambulance Services and Funeral Services

d) For services related to the listed items from a) to c).

2.2.2 Second set of rules whether deduction right is allowable (called VAT input deduction moment):

In fact, the rules explained for the “Sales” – see 1 before and Annex – are the same for the “Purchases”.

This means that the “tax moment” for the sales is the “VAT input deduction moment” for the purchases. **BUT the VAT input deduction is only ALLOWED if the purchaser, possess in addition to what is described in 2.3.1 before the following evidences¹:**

- a) For imports or exports, authentic customs declarations (Single Administrative Documents in the case of imports, Single Administrative Documents and the copy of the Customs declaration of the recipient country being a SAD country in the case of an EU Member State or any other import customs declaration in the case of another country). These documents need to be completed with the issued invoices
- b) For all other transactions, an authentic invoice issued by the VAT taxpayer supplier;
- c) Proof that the debt is a bad debt as referred to in article 22 of the VAT law.

2.3 Practical issues:

2.3.1 Invoices received on or after January 1, 2009 with the new rate of 16%?

You can only be charged with the new rate of 16% if the “tax moment” is January 1, 2009 or a later date.

But suppose that the tax moment was before January 1, 2009 and the supplier is invoicing at the new rate of 16% where it should have been 15%. Remember that the VAT taxpayer - supplier is allowed to invoice you up to the 15th of January 2009.

In order to decrease the burden on the purchaser- VAT taxpayer who receives such invoice, TAK will accept such invoices if you are entitled to take your full input VAT credit. If you are not entitled to full input VAT credit, you must request from your supplier a credit note for the over charged VAT which allows you to make the adjustments.

¹ These evidences must be completed with other evidences such as tax invoices, contracts, bank payment evidence etc.

2.3.2 Invoices received on or after January 1, 2009 with the old rate of 15%?

You can only be charged with the old rate of 15% if “the tax moment” was before January 1, 2009.

But suppose that the tax moment was on January 1, 2009 and the supplier is charging you with the old rate of 15%. You should never receive such invoice in order to take your VAT input credit: You must require from your supplier a debit note for the under charged VAT which allows you to make the adjustments.

2.3.3 Not correct VAT invoices and the VAT fraction.

The VAT registered taxpayer- purchaser who does not receive correct VAT invoices in respect of supplies occurring before January 1, 2009 must correct the calculation for his input VAT credit purposes and attach the calculation to the not correct invoice. He then asked for a credit note.

To calculate the 16% rated element included in the sales value, you must use the new VAT fraction with the coefficient of 7.25 of the sales price including the 16% VAT.

Example: The supplier invoices 116,000 (100,000 + 16,000 VAT) euro for a supply with a tax moment before January 1, 2009.

The VAT to be corrected is $116,000 : 7.25 = 16,000$ which is exactly the VAT of 16,000 that the supplier charged. The credit note must be $16,000 \text{ VAT} - (100,000 \times 15\% \text{ VAT}) = 1,000 \text{ VAT}$

3 Imports, Customs warehouses and exports

3.1 Does the change from 15% to 16%, affects your imports?

For import VAT purposes goods are generally treated as imported when they arrive in Kosovo from a place outside Kosovo and are entered into free circulation after validation of the Customs Single Administrative Document.

All goods brought in free circulation on and after January 1, 2009 are subject to the VAT rate of 16%.

3.2 Goods in Customs warehouses:

VAT becomes due when goods are removed from a Customs warehouse to free circulation. Depending on the circumstances, the VAT may arise from an importation or a supply of the goods in warehouse.

The rate of VAT chargeable is that in force at the time the goods are removed from warehouse.

3.3 Does the change from 15% to 16%, affects your exports?

Your sales are zero rated if you meet the conditions for export. If you fail to obtain the evidence for export and have to bring VAT to account on your sale, you must do so at the rate in force when the export took place.

The input VAT treatment of purchases of goods and services and imports of goods related to these exports are explained in section 2 of these guidelines.

4 Need to make the necessary changes to my invoicing, accounting systems and my cash registers

4.1 Manual records

For businesses with manual records only minor changes are required. The key issue is ensuring you enter the correct rate of VAT in your sales and purchase books to record VAT at both the old and new rates for at least the first return after the change.

For businesses that rely on more complex electronic accounting systems (including both in-house and purchased software) the changes are likely to be more involved.

4.2 Computer systems

You have to check that your accounting software can process VAT invoices from January 1, 2009 when you may receiving and issuing VAT invoices showing either 15% or 16 % rates. In any way, you need to ensure that for supplies of goods and services made or received on or after January 1, 2009 the VAT rate being used and shown on the invoices is 16 %.

4.3 What if you cannot change my systems in time for the rate change on January 1, 2009?

If you can't make the necessary changes to your accounting and invoicing systems in time that is not necessarily a significant problem – you may be able to make some temporary arrangements or manual adjustments so that can account the correct amount of VAT in your first return after the change. You will be responsible for ensuring that you charge, or pay, the correct rate of 16% whether your system is changed or not.

For cash registers which will still be at 15% on January 1, 2009:

The takings you receive from January 1, 2009 onwards will be liable to VAT at 16%. If your systems (including tills) have not been amended to account for 16% (rather than 15%) by January 1, **you will need to calculate the VAT manually on your daily receipts using the VAT fraction with the coefficient of 7.25 of the sales price (see 1.4 before).**

That calculation must be reflected on a daily basis in your sales book.

For businesses issuing VAT invoices on January 1, 2009:

You need to ensure that you are charging VAT of 16% on the invoice you raise for sales made on or after January 1, 2009.

- For businesses issuing manual invoices this should be straightforward.
- For those issuing invoices automatically from an accounting system you will need to explore immediately how to change the VAT field from 15% to 16%. You may be able to do this yourself or you need to contact your software provider for assistance.

Most software packages should have the built-in capability to deal with changes in rate.

- **Temporary tolerance but not beyond January 30, 2009 for those who are unable to change the VAT field from 15% to 16%:**

A debit note is immediately issued for the invoices still using mentioning the old rate of 15% rate. In this debit note, the additional amount of VAT to be paid to the supplier is calculated by multiplying the price of the invoice calculating the VAT at 15%, with the VAT fraction 1/100. The invoice with the VAT calculated at the rate of 15% and the debit note with the VAT calculated through multiplying the price by 1/100, are due by the purchaser and to be paid to the supplier together with the new sales price. Both documents (invoice and debit note) are attached to each other and are providing the evidence for VAT purposes – a short written explanation is necessary.

Example: sales of 100,000 + 15,000 VAT = 115,000_(incorrectly using the old rate)

The VAT is equal to: 15,000 VAT (invoice with old rate of 15%) + (1/100). 100,000 VAT= 15,000 + 1,000 = 16,000 (correct VAT amount)

The calculation of 1% is very easy and also allows an easy manual issuance of the debit note.

5 The rules for determining the time of supply:

5.1 When does a supply takes place?

To work out when a supply takes place you need to know the time of supply which is also known as the “tax moment”. The tax moment rules are what you have to use to decide when to account for the supply on your VAT return. These rules are important when a rate changes.

The following description provides the rules how the “tax moment” is determined.

5.2 General rules for goods and services:

5.2.1 If you supply goods then the tax moment is usually the date when you send the goods to your customer or the customer takes them away. This includes supplies under hire-purchase, credit sale or conditional sale agreements.

5.2.2 If you supply goods but they are not to be sent or taken away (for example because you put them together on your customer’s premises) then the tax moment is the date you make them available for your customer to use.

5.2.3 If you supply services then the tax moment is the date when the service is performed - normally taken as the date when all the work except invoicing is completed.

But whether you supply goods or services, the normal rules for goods and services are overridden if particular rules apply as explained in 3.3 hereafter.

5.3 Particular rules

5.3.1 If you either issue a VAT invoice or receive a payment before the tax moment as defined under the basic rules, then the tax moment is the date you issue the invoice or receive the payment, whichever happens first.

5.3.2 Supplies that are in progress on January 1, 2009: Supplies of goods and services which give rise to successive statements are regarded as taking place at the expiry of the periods to which such statements of account or payments pertain and the tax moment is created at that moment.

Examples:

Statement of accounts in respect of supply of goods (water, heating and electricity) has to be regarded as being completed at the end of the period to which the statement pertains.

Continuous services are for example the hiring out of movable and immovable property, the operations of radio and TV-distribution companies.

5.3.3 Single supplies carried out over a period of time which spans the change in rate (e.g. the service provided by an advocate in respect of a Court case and other intellectual services such as those performed by barristers, solicitors etc.): he may account for the value of the services performed before the change in rate at 15%; the value of services performed after January 1, 2009, will be accounted for at the rate of 16%. The same is valid for the supply of maintenance services (e.g. photocopiers) for the technical interventions made before January 1, 2009.

These guidelines will be applicable as such, only if the VAT Law is promulgated by the Parliament of Republic of Kosovo and signed by the President of Republic of Kosovo

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