

Tax Alert

Ernst & Young Albania

New VAT guidelines of the Albanian administration

The Ministry of Finance of Albania issued in November new guidelines on the application of the VAT legislation. The guidelines provide further details on the treatment of certain transactions which are of particular interest for the following sectors:

- ▶ Health care
- ▶ Energy
- ▶ Education

Furthermore the new guidelines specify the Albanian VAT requirements in relation to certain cross-border transactions. Finally they effectively eliminate the option of voluntary VAT registration.

VAT for the healthcare sector

The guidelines provide an exhaustive list of healthcare services qualifying for the reduced 10% VAT rate. Such services are the following:

- ▶ Supply of healthcare services by hospitals, public or private
- ▶ First aid services
- ▶ Dental services
- ▶ Medical and biochemical analyses for diagnostic purposes
- ▶ Check-ups
- ▶ Services offered in the context of the professional activity of a medical doctor, a physician or other regulated medical professions
- ▶ Issue of health status certificates

By contrast VAT at the standard rate of 20% will apply to:

- ▶ DNA analyses
- ▶ Medical certificates of damages suffered to be used for insurance purposes
- ▶ Veterinary services
- ▶ Beauty care & aesthetic services
- ▶ Alternative medical treatment

VAT for derivatives in the energy sector

The guidelines clarify that the taxable basis in case of forward contracts for energy prices will be the price agreed upon between the parties. In this way they set a precedent for potentially similar treatment of forward contracts with other commodities. In case of a tax audit, the burden of proof rests with the taxpayer to substantiate the nature and circumstances of the transaction i.e. that the price stems from genuine forward contract.

Educational services

The supply of educational services rendered by educational institutions, public or private, starting from 1 October 2010, is an exempt supply for VAT purposes. The exemption includes both general and professional education.

VAT treatment of certain cross-border transactions

VAT exempt services received from abroad

Services received from entities which are not established in Albania and which would have been VAT exempt had they been provided by a domestic entity, will not require application of the reverse charge by the recipient entity in Albania. As a result, if the domestic entity is engaged in VAT exempt activities as well, no input VAT will have to be calculated, pro-rated and eventually suffered as additional cost of the transaction.

Real estate related services

Foreign entities supplying services in Albania in regard to immovable property are required to appoint a fiscal representative. The obligation of the foreign entity to get registered and pay in Albania VAT, through a fiscal representative, is applied irrespective of the minimum VAT registration threshold, applied to other operations.

Return of goods by foreign customers

When exported goods are not accepted by the customer and are returned to the Albanian vendor, then, according to the new VAT instructions, the Albanian vendor (exporter) issues a credit note for the respective value of the returned goods. The credit note makes reference to the original sales invoice and to the customs declaration of export. The Albanian exporter is obliged to refund through a bank, the payment made by the customer, in compliance with the contractual provisions between the parties. The goods are returned to Albania in compliance with the Albanian Customs Code, accompanied with the relevant documentation issued by the customer.

For VAT purposes, the Albanian exporter prepares an adjustment or a credit fiscal invoice, which is recorded in the monthly VAT sales book, thus reducing the sales and the VAT for that month. The credit note is attached to the adjustment or credit invoice.

In case another customer outside Albania wants to buy the same goods, the Albanian vendor may arrange for the goods to be shipped directly from the first customer to the second, without the goods having to be shipped back to Albania first. The same procedure, mentioned above, applies also in this case. Simultaneously, the vendor issues a fiscal sales invoice to the second customer with 0% VAT, which is recorded accordingly in the VAT sales book as an export with the value of the good that is sold to the second customer.

VAT registration and de-registration

The new VAT guidelines will allow a taxpayer to remain registered for VAT purposes even if the turnover falls below the statutory VAT registration threshold.

On the other hand, the tax administration is authorized to deregister, with retroactive effect from the date of registration, VAT payers, who are neither obliged nor have the right to register. Consequently, such taxpayers can be exposed to tax audits in regard to VAT credit claimed from the moment of their registration. However, deregistered taxpayers are not obliged to calculate VAT on their remaining stock of goods. Contrary to the VAT law, the guidelines provide the administration the authority to refuse the voluntary VAT registration to taxpayers who are neither importer nor reach the registration threshold but operate independent economic activities and wish to register for VAT purposes.

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