

## VAT TAXATION

The Value Added Tax Act ("VAT Act") is effective as of 1 January 1999. Although Bulgaria is not a member of the European Community, the VAT legislation in many aspects follows the provisions of the Sixth VAT Directive.

### Administration

The Ministry of Finance and the Customs Authorities who also work within the Ministry of Finance administer VAT. Although VAT is administered separately from the other taxes at present, any VAT refunds that arise can be used to cover other tax liabilities. This, however, has to be agreed in advance with the relevant tax office.

### Registration

Any person (legal or physical, resident or non-resident) who has a taxable turnover exceeding BGN 75,000 during the preceding twelve months is obliged to register for VAT purposes.

The most important changes compared to the old VAT regime are in the area of the registration of foreign persons performing taxable supplies in Bulgaria. According to VAT Act, such persons are subject to mandatory VAT registration, through an agent, upon achieving the respective turnover, regardless of whether:

- they have a permanent establishment in Bulgaria, and
- the activities are continuing and/or performed from an "object" in Bulgaria.

Voluntary registration is possible for persons whose taxable turnover is below BGN 75,000, who at the same time carry on non-exempt export supplies, accumulating a turnover above BGN 50,000.

Group or divisional registration is not allowed. Therefore, a group of companies or a subsidiary of a company and its parent cannot be registered as one fiscal unit for VAT purposes.

VAT Act provides for a few new instances of optional VAT registration:

- A local legal entity that does not meet the requirements for mandatory VAT registration can register if its contributed share capital is at least the BGN equivalence of USD 1 million. Such a person can keep its VAT registration for a period of three years following the date of registration. After the expiry of this term the person is de-registered ex officio, unless it has met the requirements for mandatory registration or optional registration, based on effected exports.
- As of 1 January 2000 any person who is not subject to mandatory VAT registration can register for VAT purposes when the value of its basic funds acquired in the preceding 12 months exceed BGN 150,000. Such a person can keep its registration for 12 months, after whose expiry it is de-registered, unless it has reached the required turnover for mandatory VAT registration.

There are considerable changes in the rules on the VAT registration in some cases of commercial companies' transformation and acquisition. There are a number of new grounds for optional VAT registration applicable to transformation of commercial companies and acquisitions of companies and company assets.

### Filing requirements

A VAT-registered person files annual and monthly tax returns. The tax return must be submitted within 14 days as of the end of each tax period. VAT-registered persons who provide both taxable (including export) and exempt supplies are obliged to submit annual VAT returns.

**Payment requirements**

VAT payments to the state and VAT refunds from the state can only be made in BGN. The payment must be made within 14 days as of the end of the tax period.

**VAT credit refund**

The VAT credit to be refunded can be set off against the VAT due, as well as against other liabilities to the state. The offsetting takes place during a 6-month term following the period in which the VAT credit occurred. If after this term there is still VAT to be refunded, the refund is to be made within 45 days.

Exporters are entitled to a VAT credit refund within 45 days, if they do not have pending liabilities to the state. The scope of taxpayers, treated as exporters is expanded under the new VAT Act. Persons whose turnover from export supplies, exceeds 30 per cent of the value of their supplies in aggregate, are also considered exporters.

**Tax base**

The tax base for local supplies is the price (exclusive of VAT) invoiced to the customer, and all other taxes and fees, including excise duties, subsidies and financing relating to a transaction, as well as any interest and penalties under a transaction. The tax base also includes transportation, package and other expenses relating to the supply, provided that these are borne by the customer.

The tax base for transactions between related persons is at least the market value of the goods and/or services involved.

VAT is also charged on goods and services provided by the employer (if registered) to the employees (benefits in kind).

The VAT mechanism applicable to sales of goods at a loss has been changed as follows:

- The VAT refund available to the supplier for such sales will not be subject to adjustments. Instead, the supplier will be obliged to charge VAT to the customer on an amount not lower than the acquisition value of the goods, or their cost, respectively, if the goods are manufactured by the supplier.
- The above rule will not apply to sales of tangible fixed assets.
- General rules for charging VAT will not apply where the sale at a loss is due to objective market conditions.

The tax base for imports includes the customs value, the customs duties and excise duties (if any) on the import goods.

**Place of supply**

Bulgaria has adopted the EC definitions of place of supply of goods and services.

**VAT Exemptions**

There are three types of exempt supplies:

- Supplies that, according to the statutory "place of supply" rule, are provided outside the territory of Bulgaria.
- Supplies of goods in customs warehouses within the frame of the respective customs procedure.
- Supplies exempt due to their subject, such as:
  - transfer of ownership and limited property rights on land;
  - financial services;
  - insurance services;
  - lease of buildings and parts thereof, provided these are leased out for dwelling purposes;
  - transfer of the commercial enterprises of a company as per article 15 of the Commerce Act as well as businesses or parts thereof as per the Privatization Act;
  - provision of legal advice by registered attorneys in accordance with Bulgarian Bar Association Act and of services in accordance with the Public Notaries Act;

- land processing services rendered by co-operatives by means of their own equipment, provided that the land is owned by the co-operative members;
- supply of grain as an in-kind rent for use of land;
- betting and gambling;
- donations in favour of charity institutions
- others.

### Export of goods and services

According to the Act, the export of goods and services is subject to VAT at a zero rate.

Within the meaning of the VAT Act export of goods is exportation abroad or to the free zones, free warehouses and duty-free outlets. However, export supply to customs warehouses does not qualify as export.

The most important changes refer to international transport and the relating services. International transport is defined to be the transportation between two points abroad, irrespective of whether part of the transport route passes through Bulgaria or not. The transport between the free zones and the free warehouses within Bulgaria is also considered international transport. A number of services relating to international transport (including forwarding or agent services) are also considered export services.

Processing of import good that are further re-exported is also zero-rated.

### Partial exemption

Where a registered person makes both taxable (including zero-rated) and exempt supplies the following rules apply:

1. The input VAT charged for goods or services entirely used in relation to taxable (including zero-rated) supplies is fully recoverable.
2. The input VAT charged for goods or services entirely used in relation to exempt supplies is not recoverable.
3. The input VAT charged for goods or services used both in relation to taxable (including zero-rated) supplies and exempt supplies is partially recoverable. The amount of recoverable input VAT is calculated by reference to the proportion of taxable supplies to exempt supplies.

### VAT rates

Under the Act two rates are applicable to taxable supplies.

- 20% applicable to taxable supplies, including import of goods and services.
- A zero-rate applicable to imports and supplies of precious metals to the Bulgarian National Bank.

### Disallowable input VAT

As a rule, input VAT cannot be reclaimed for goods and services that are:

- used for promotional purposes,
- relating to cars,
- used for exempt transactions.

### Refund of VAT to non-registered persons

VAT is not refundable to non-registered persons. However, a number of new possibilities as to recovery of VAT charged upon acquisition of assets in the period when the taxpayer has not been VAT-registered, or upon cancellation of previous VAT registration, are introduced. Such VAT refund can be claimed, if the following requirements are met cumulatively:

- the taxpayer registers for VAT purposes

- the assets are available with the taxpayer on the date of the VAT registration, and
- the required documentation is available.

If VAT is not refunded within the statutory term, interest is charged at the statutory interest rate.

#### Reverse charge

Only where services are imported VAT at 20% must be charged and paid by the recipient if:

- the latter is registered for VAT, and
- the supplier is not a VAT-registered person, and
- the services relate to exempt supplies.

In all other cases no reverse charge applies in Bulgaria to import services.

## INDIVIDUAL TAXATION

- An individual in Bulgaria is liable for tax on his income as an employee as well as on income as a self-employed person. In the case of an individual who answers the test of a "permanent resident" of Bulgaria, tax will be calculated both on his income earned in Bulgaria and overseas. A foreign resident who is employed in Bulgaria pays tax only on his income in Bulgaria.
- To be considered a Bulgarian resident, the requirements must be met of residency in Bulgaria of at least 183 days in any calendar year, and occasionally also if residency is less than 183 days, if the individual has a home in Bulgaria that is his main residence, he will be considered a Bulgarian resident.
- An employer is obligated to deduct the income tax payable as well as national insurance, immediately each month from a salary paid to an employee.
- Certain payments are deducted from taxable income as detailed below.

#### INDIVIDUAL TAX TABLE

| TAXATION BRACKET | INCOME (BGL)    |
|------------------|-----------------|
| 0                | to 1,320        |
| 15%              | 1,321 - 1,800   |
| 22%              | 1801 - 3,000    |
| 26%              | 3,001 - 7,200   |
| 29%              | 7,201 and above |

## CORPORATE TAXATION

#### Tax on corporate income

All companies and partnerships (including non-incorporated partnerships) are liable to corporate income tax. Corporate income is taxed at the rate of 10%. In addition to the corporate tax there is a municipal tax at 0 %. The municipal tax is deductible from the taxable base for corporate income tax. Thus the aggregate tax rate (including corporate and municipal tax) for annual taxable income up to BGN 50,000 is 28%, whereas for income above that aggregate tax rate is 34.3%.

Bulgarian resident entities are taxed on a worldwide basis. Other entities are taxed on their Bulgarian-source income. Non-business organizations (including governmental) are taxed for their business activities.

**Taxation of company expenses**

Entertainment and representative expenses, sponsorships and business gifts, that do not bear the trade-mark of the donating company, are subject to 25% taxation. Expenses representing bonuses to staff, benefits in kind, as well as expenses for maintenance, repair and exploitation of cars are taxed at 20%.

**Property tax**

Taxpayers are natural and legal persons who are owners of immovable property, e.g. buildings. Property tax rate is 0,15%. If the owner is a company, the tax base is the book value of the property.

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**Rental Income Received:** Personal income tax is due on an annual basis. 20% of the income is regarded as non-taxable. If the real estate and/or the movable property are owned by more than one person, the income is divided in proportion to the participation in the ownership. If the rent is payable to a non-Bulgarian tax resident, a 15% withholding tax is levied.

**EMPLOYER TAXATION****EMPLOYER AND EMPLOYEE CONTRIBUTIONS**

| TYPE                                   | TOTAL         |               | EMPLOYER      |               | EMPLOYEE      |               |
|----------------------------------------|---------------|---------------|---------------|---------------|---------------|---------------|
|                                        | 2004          | 2005          | 2004          | 2005          | 2004          | 2005          |
| Pension                                | 29.00%        | 29.00%        | 21.75%        | 20.30%        | 7.25%         | 8.70%         |
| General illness and maternity          | 3.00%         | 3.00%         | 2.25%         | 2.10%         | 0.75%         | 0.90%         |
| Unemployment contribution              | 4.00%         | 3.50%         | 3.00%         | 2.45%         | 1.00%         | 1.05%         |
| Health insurance                       | 6.00%         | 6.00%         | 4.20%         | 4.20%         | 1.50%         | 1.80%         |
| Guarantee fund for salaries            | -             | 0.50%         | -             | 0.50%         | -             | -             |
| Work accidents and job related illness | 0.70%         | 0.4-1.1%      | 0.70%         | 0.4-1.1%      | -             | -             |
| <b>TOTAL</b>                           | <b>42.70%</b> | <b>42.00%</b> | <b>32.20%</b> | <b>29.55%</b> | <b>10.50%</b> | <b>12.45%</b> |

**CAPITAL GAINS**

1. The tax base in case of sale or exchange of immovable and movable property is the difference between the selling price, on the one hand, and the higher price between the factual and updated price paid for the acquisition of such property. This rule applies to certain types of vehicles (e.g. aircraft, sea vessels). For any other type of movable property the tax base is the difference between the selling price and the re - valued price for the acquisition of such property.
2. Capital gains are included in corporate income and taxed at the full corporate tax rate. Exchange rate gains and losses are to be reported in the balance sheet and reflected in the assessment of taxable profit.

3. In Bulgaria, capital gains tax is paid by an individual on the sale of real estate or work vehicles such as planes or cars on the difference between the sale price and the higher of two calculations - the market price of the asset sold, or the cost of purchase linked to the index.
4. An individual who sells one moveable asset pays tax on the difference between the sale price and the cost of the asset sold on adjusting the cost to the rate of inflation.
5. Capital gains tax for companies in Bulgaria is added to the regular income.