On February 18, 2022, a Law Amending and Supplementing the Value Added Tax Act was promulgated, introducing changes in pursuance of provisions of EU directives while ironing out some discrepancies with Directive 2006/112/EC and bringing said Act in line with relevant judgments of the Court of Justice of the European Union (CJEU).

Amendments related to the COVID-19 pandemic

The changes to the Value Added Tax Act (VATA) necessitated by the transposition of Council Directive (EU) 2021/1159 of 13 July 2021 amending Directive 2006/112/EC concern the *exemption* from value added tax of the importation of goods and services to be used in response to the COVID-19 pandemic. The amendment to Bulgaria's VATA aims to secure the exemption from VAT of the purchases of goods and services designated as a donation from the European Commission or an agency or a body established under Union law in the execution of tasks in order to respond to the COVID-19 pandemic. No such exemption will apply in cases where the imported or otherwise acquired goods or services are used, either immediately or at a later date, for the purposes of onward supplies.

The amendments made to VATA will be back-dated to January 1, 2021 on account of the urgency of the situation and in order to create readiness to act when dealing with the effects of the COVID-19 pandemic.

Amendments related to goods and services for use by the armed forces

To incorporate the provisions of Council Directive (EU) 2019/2235 of 16 December 2019 and Directive 2008/118/EC concerning the general arrangements for excise duty, a provision is inserted in the Value Added Tax Act, to come into force as from July 1, 2022, whereby *exempted* from VAT shall be the imports of goods introduced in the territory of Bulgaria by the armed forces of other EU Member States for the use of said armed forces or the civilian staff accompanying them, or for supplying their messes or canteens, when such forces take part in a defence effort in the territory of the country and/or another country carried out for the implementation of a Union activity under the Common Security and Defence Policy (CSDP).

Those exemptions should apply only to situations where armed forces carry out tasks directly

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linked to a defence effort under the CSDP and should not cover civilian missions.

Amendments seeking alignment with CJEU judgements

Pursuant to the need for improvement of the legal framework and for ensuring compliance with the principles of legal certainty and neutrality of VAT, some new provisions have been added to VATA that allow for corrections to be made in cases of erroneous tax treatment of a supply, as established by a tax assessment, which has become final. In CJEU case law (judgment in case C-314/17, judgment in case C-111/14, judgment in case C-835/18 and judgment in case C-138/12), the Court assumes that to ensure the neutrality of VAT, Member States should provide in their domestic legal framework the possibility of correcting invoiced tax that should not have been levied, provided that the issuer of the invoice is able to demonstrate that he/she has acted in good faith, including in cases where a tax assessment has become final.

The new provisions of article 116(6) and (7), and article 117a of VATA allow for a *correction* to be made in case of erroneously issued tax documents when there is a tax assessment, which has become final, i.e. of erroneous tax treatment of a supply, as follows: 1. correction of tax documents containing a tax that should not have been levied; 2. correction in the case of supplies containing no tax where tax should have been levied; 3. correction for an incorrectly applied tax rate.

No corrections or additions are allowed to notes as per VATA article 117. Notes that have been issued erroneously or wherein subsequent corrections have been inserted are to be declared null and void and new ones are to be issued in their stead.

Other changes:

An amendment to paragraph 16 of VATA article 156 repeals the obligation for persons who register voluntarily under Union scheme to also have tax registration under the Bulgarian VATA (whether mandatory or optional).

Northern Ireland is to be treated as a territory of an EU Member State for the following supplies: intra-Community supply or intra-Community acquisition of goods; intra-Community

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supply or intra-Community acquisition of new vehicles; supply of goods to be assembled or installed; supply of goods subject to a 'call-off stock' regime; and supply of goods under Chapter 18 of VATA.

A reduced VAT rate of 9 percent will be levied until 31 December 2022 on foods suitable for babies or infants: specialized milk formulas (with partially hydrolyzed protein and those for children with allergies) and dietary foods for special medicinal purposes specifically developed for infants.

It is also worth mentioning the latest amendment to the Corporate Income Tax Act, promulgated in *State Gazette*, No. 17/01.03.2022, whereby the tax rate on in-kind expenditures related to the personal use of company assets, the so-called *'Weekend' Tax*, has been reduced from 10 to 3 percent.

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