

Amendments to the Tax Legislation for 2015

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On 5 December 2014, the National Assembly passed the amendments to several tax laws through the adoption of the amending bill to the Value Added Tax Act at its second reading. Some of the major amendments are as follows:

Amendments to the Value Added Tax Act (VAT Act):

On 1 January 2015, new provisions will enter into force with regard to the supplies of telecommunications, broadcasting and electronic services within the European Union. The amendments to the VAT Act are in line with the need for transposing Council Directive 2008/8/EC of 12 February 2008 amending Directive 2006/112/EC as regards the place of supply of services, as well as for adjusting the Bulgarian legislation with the implementing regulations. In accordance with Directive 2008/8/EC, as from 1 January 2015, the supplies of telecommunications, broadcasting and electronically supplied services by a taxable person to a non-taxable person will be taxed in the country in which the recipient is established, has his permanent address or usually resides, referred to as “the Member State of consumption”. In this connection, Art. 21 of the Bulgarian VAT Act reads that, as from 1 January 2015, *the place of supply of telecommunications services, broadcasting services and electronically supplied services to a non-taxable person shall be the place where that person is established, has his permanent address or usually resides*. At present, these supplies are taxed in the state of establishment of the supplier.

Hence the supplier will have to register for VAT purposes and pay the tax in the EU Member States where he has clients. The law provides suppliers with two service schemes of the “mini-One-Stop-Shop” (MOSS) type available to the supplier so that to facilitate the taxable person in the fulfillment of his VAT obligations. The schemes enable the person to specify a single Member State, called “the Member State of identification” in which he can electronically fulfill all his obligations for registration, submission of VAT returns and payment of the value added tax for his supplies. There are two schemes, depending on the place of establishment of the supplier. They are optional and it is the supplier to decide whether to apply them or not.

Amendments to the Corporate Income Tax Act (CITA):

The Corporate Income Tax Act has been amended in view of the need for transposing the following requirements of the *acquis communautaire* into the national legislation:

- Income taxation applicable to interest and royalty payments to foreign legal persons

In accordance with Council Directive 2003/49/EC of 3 June 2003 on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States, Member States are precluded from taxing interest and royalty payments made by local companies to companies of other Member States, where the payer and the beneficial owner of the income are in a relationship. In the Treaty concerning the accession of Bulgaria and Romania to the EU, Bulgaria has negotiated a derogation, whereby Bulgaria is allowed not to apply the provisions of the Directive until 31 December 2014 (a transition period of eight years).

Therefore Art. 195 CITA has been amended by inserting new paragraphs 7 through 12 on the conditions under which the income from interest and royalty payments is not taxed by deduction at source.

- *De minimis* aid or state aid in the form of tax exemptions

The changes concerning tax exemptions which constitute *de minimis* aid or state aid stem from the commitment of the Republic of Bulgaria to transpose the new EU rules on *de minimis* aid and state aid which are in force in 2014. The tax exemption representing a 2014 *de minimis* aid applies to taxable persons who meet the new requirements of Regulation No. 1407/2013. In this connection, the provisions of Art. 188(1) CITA have been amended and a new paragraph 2 has been inserted. The new provisions read that when, as of 31 December of the respective year, the taxable person is a single undertaking, the tax exemption exists, where the amount of all *de minimis* aid granted to all persons who are the single undertaking for the last three years, including the current year, regardless of the form or source, does not exceed the relevant ceiling in BGN equivalent under Art. 188(1).

Art. 198(3) CITA has been amended to the effect that, in cases of tax exemptions granted to a large investment project at a total value exceeding the BGN equivalent of EUR 37.5 million or to an initial investment of EUR 18.75 million in a municipality in the South West Region, as calculated in accordance with the official exchange rate of the Bulgarian lev to the euro, the tax exemption may be used for the respective year only upon the receipt of a positive decision of the European Commission after notification under Art. 108(3) of the Treaty on the Functioning of the European Union.

The amendments introduce legal definitions of the terms “single undertaking”, “South West Region”, “date of granting of the aid”, and “large undertakings”.

Amendments to the Local Taxes and Fees Act (LTFA):

The change relates to the provisions of Art. 48(2) and the new Art. 49(4) LTFA. The objective is to facilitate the fulfillment of the obligation of persons exempted from the tax on properties

acquired by donation to declare such property acquired by donation, as well as to reduce the administrative burden.

Amendments to the Tax and Social Security Procedure Code (TSSPC):

The amendments to the TSSPC are as follows:

- Greater transparency of the tax and social security information in connection with the application of the state aid and *de minimis* aid schemes

The change is that the provisions on the non-disclosure of tax and social security information will no longer apply to cases in which state aid and *de minimis* aid is granted.

Pursuant to Art. 73(1) TSSPC, the authorities and officers of the National Revenue Agency (NRA), the experts and specialists and all other persons who have received or become aware of tax and social security information are under the obligation not to disclose such information and not to use it for any purposes other than those directly related to the discharge of their duties. Paragraph 2 lays down the cases which do not constitute a breach of the non-disclosure obligation, while the amendments in force as from 2015 in the new paragraph 4 regulate the disclosure of tax and social security information related to the granting of state aid and *de minimis* aid.

- Electronic submission of documents through a Personal Identification Code (PIC)

The amendment has introduced the option for electronic submission of documents through a PIC. The provisions of Art. 102 TSSPC have been amended with the new text that returns, documents or data are submitted electronically by the person or his representative through a qualified electronic signature or *a personal identification code issued by the National Revenue Agency*.

The objective of the amendment is to reduce the administrative burden and the costs entailed in the filling in and submission of tax and social security returns to the NRA in the light of the fact that the personal identification code is issued free of charge. The terms and conditions for the issuance and use of a PIC, as well as the types of returns, documents or data to be submitted through a PIC will be laid down in an order issued by the NRA Executive Director, which will be published on the website of the National Revenue Agency.