

## AMENDMENTS TO THE APPLICATION REGULATION TO THE VALUE ADDED TAX ACT

The Regulation on Amendment and Supplement to the Application Regulation of the Value Added Tax Act (RAS RAVATA) was promulgated in the State Gazette, issue 25 dated 20 March 2020. The amendments are aimed at aligning the provisions of RAVATA to those of the Value Added Tax Act (VATA) following the amendments published in the State Gazette, issue 96/2019, effective as from 1 January 2020.

Some of the amendments are technical or editorial. This material summarises the most significant amendments:

### 1. Amendments related to the application of the new Call-off stock of goods arrangement

In relation to the obligation of the persons who will send or receive goods under such an arrangement to maintain registers of the goods sent/received (Art. 123, Para 5 and 6 of VATA), have been created:

- official forms of these registers (new Appendix 39 and Appendix 40); and
- requirements to the structural format of the information from the registers to be submitted to NRA authorities upon request (New Appendix 41).

The new Art. 113d provides specific instructions for the information to be entered in the registers about the goods sent/received under the new call-off stock arrangement in the sales/purchases ledger.

In relation to the new Call off stock arrangement, amendments were also made to the information to be contained in the Sales Ledger (Appendix 10), the Purchases Ledger (Appendix 11), the VAT return (Appendix 12), and the VIES declaration (Appendix 15). The new official forms will be applied for tax periods after 1 April 2020.

The transitional and final provisions of RAS RAVATA envisage a possibility for the information on goods sent/received under the Call off stock arrangement for the periods January, February and March to be entered in the registers, ledgers and declarations for the month of April, unless already entered therein in previous period.

In view of the amendments made to the documents and the requirements to their formats, a change in accounting software will also be necessary, for which you need to contact your supplier.

### 2. Regarding proof of an Intra-Community supply (ICS)

Art. 53, Para 2 of VATA (following the amendments promulgated in the State Gazette, issue 96/2019) set requirements regarding the documents to prove ICS:

- documents under RAVATA; **and**
- those explicitly stated in Art. 45a of Regulation 2018/1912, which prove the transportation of goods from the territory of Bulgaria to the territory of another member state.

In other words, VATA requires the cumulative provision of documents pursuant to RAVATA and pursuant to Art. 45a of Regulation 2018/1912. According to the amendment to Art. 45 of

RAVATA, however, the provision of evidence is alternatively defined – if the supplier does not apply the presumption of Art. 45a of the above quoted Regulation, they shall possess:

- an invoice stating the recipient's VAT identification number; and
- documents evidencing the goods' dispatch or transportation.

In this way the provisions of RAVATA practically create a procedure other than the one stipulated in both VATA and Regulation 2018/1912, which might result in a controversial practice in providing proof of ICS.

Another requirement set pursuant to the VATA amendments effective as from 1 January 2020 for ICS recognition was that the supplier shall have accurately registered the supply in its VIES declaration. In case of failure to submit or inaccurate filling in of the VIES declaration, it is assumed that there is no ICS of goods, unless the supplier can justify the reason for the discrepancies, including by elimination thereof in the subsequent VIES declaration (argument under Art. 7, Para 5, item 11 of VATA).

In relation thereto, it was specified by means of the amendment to Art. 115 of RAVATA that if the supplier can justify the reason for the error made in the VIES declaration, the correction shall be made in the period when the error was found.

## **2. Intra-Community acquisition (ICA)**

The amendments to VATA effective as from 1 January 2020 created a new provision (Art. 6, Para 7 of VATA), according to which the sending or transportation of own goods to the territory of another member state in which the entity does not have VAT registration shall not be deemed a taxable supply for consideration, if the entity has evidence that the ICA has been taxed in the member state where the goods were transported to. If Bulgarian VAT was charged for the supply and the entity subsequently proves that the ICA was also taxed in the member state where the goods are delivered or transported, the entity shall adjust the result following the procedure described in RAVATA.

In relation thereto, in Art. 9 of RAVATA, new Para 8 and 9 were added, stating that the following should be provided as proof of ICA taxation in another member state:

- a document certifying that the entity has VAT registration in another member state; and
- a declaration by the entity that the ICA was taxed in this other member state.

The new Para 6 and 7 of Art. 10 of RAVATA provide for a procedure for adjustments to VAT already charged in Bulgaria prior to provision of the above evidence (by annulling/cancelling the protocol issued under Art. 117 of VATA and issuing a new protocol, which is entered in the VIES declaration).

## **3. Coefficient under Art. 73 of VATA**

The new Art. 10b of VATA excluded from the scope of supplies the construction, enhancement and repair of elements of the technical infrastructure which is public state or municipal property. In relation thereto, Art. 64 of RAVATA was supplemented, thereby clarifying that these non-supplies are not taken into consideration when calculating the coefficient under Art. 73 of VATA.

## **4. Tax deduction adjustments**

The new Art. 67, Para 4 of RAVATA clarifies that with respect to enhancements of real estate properties other than buildings, other goods and services constituting non-current assets pursuant to VATA, no further 20-year/5-year term shall commence for tax deduction adjustments under Art. 79, 79a and 79b of VATA. This clarification is unnecessary, in view of the explicit provisions of RAVATA that a new adjustment term commences only with respect to new buildings resulting from the enhancement.

## **5. Supplies to the continental shelf and the Exclusive Economic Zone (EEZ)**

The new Para 10 -12 of Art. 25 of VATA introduced new hypotheses in which a taxable event occurs, related to supplies to continental shelf and EEZ. The provision of Art. 4, Para 2 of RAVATA specifies that the place of supply of such supplies will be on the territory of the country.

In addition, the new Art. 123 of RAVATA establishes the procedure for preliminary notification to NRA 7 days before the first supply for which tax shall be charged in accordance with Art. 82, Para 6 of VATA.

## **6. Supplies to EU bodies, foreign armed forces, NATO, diplomatic missions and consular offices and staff thereof**

Art. 109 of RAVATA clarifies that in order for these supplies to be exempt from VATA, the supplier shall possess:

- an invoice; and
- exemption certificate as per approved form (in accordance with Regulation 282/2011).

The new Art. 109a of RAVATA specifies that if until the end of the month following the month in which the tax was due these documents were not provided, within a 15-day period the supplier shall charge VAT by means of a protocol pursuant to Art. 117 of VATA. When the documents are subsequently provided, the protocol issued shall be annulled/cancelled.

## **8. Other amendments**

### **8.1. Changes in documents**

Changes were made to the official forms of registration and deregistration applications to account for the new registration/deregistration hypotheses envisaged by VATA effective as from 1 January 2020. The amendment to Art. 77 of RAVATA also amends the references and documents to be submitted together with the deregistration application.

The amendments are effective as from the promulgation date (20 March 2020) with the exceptions stated above in the text.

*This material is not exhaustive, but rather has general information nature and does not constitute specific advice or consultation. Should you have questions, do not hesitate to contact us at Tel. + 359 2 9433700, Fax + 359 2 9433707, e-mail: [office@afa.bg](mailto:office@afa.bg) or at the following address: 1504 Sofia, 38, Oborishte Street.*