



Indirect Taxation – Recent Developments

Recent indirect tax developments in Greece include a VAT suspension regime for newly developed real estate, the reclassification of certain goods to qualify for reduced rates of VAT, the extension of the application of reduced VAT rates for certain islands, and guidelines for the adjustment of input VAT deducted with respect to certain unused assets.

"Tax reform with a focus on the Greece of tomorrow" (Law 4646/2019 (FEK 'A 201/12.12.2019))

Suspension of VAT for newly developed real estate

The new law, which amends various provisions of the VAT code (L.2859/2000), as well as other tax provisions, aims to foster recovery of the real estate market, which was severely impacted by the recent

Contact

Eftichia Piligou

Tax Partner

epiligou@deloitte.gr

Tel.: +30 210 6781294

Kyriaki Dafni

Principal | VAT Leader

kdafni@deloitte.gr

Tel.: +30 210 6781293

financial crisis. The law suspends VAT on newly developed real property (article 39), in conjunction with other real estate provisions. The new rules apply as from 12 December 2019, the date the law was published in the government gazette.

- *Supply of real estate (article 6)*

Building contractors may elect to be subject to the VAT suspension regime through 31 December 2022 (new paragraph 4a). Once elected, the regime must be applied consistently until that date. Under this regime, VAT will not be imposed on the supply/sale of real estate, but taxpayers will not be able to deduct related input VAT. Instead, the supply/sale of real estate will be subject to the real estate transfer tax.

Taxpayers will have to file an application to elect to be subject to the VAT suspension regime, as follows:

- For building licenses already issued, within the six-month period as from 12 December 2019; and
- For building licenses issued as from 12 December 2019, within the six-month period as from the date the license is issued.

The VAT suspension regime applies to all real property owned by a building contractor. Thus, in practice, a building contractor must submit a list of all unsold property and their corresponding input VAT amount when submitting the election application.

With respect to the “apartments (flats)-for-land” system (“*antiparochi* system”), a building contractor who has elected to be subject to the VAT suspension regime may not charge VAT on the construction of property to be “sold” to the landholder in return for the land (new paragraph 2b).

Further guidance on the process to be followed for filing the election was released in AADE Decision no. A.1012/2020.

- *Input VAT deduction right (VAT code article 30 paragraph 1)*

The right to deduct input VAT (i.e. the VAT on expenses) is suspended during the period the VAT suspension regime applies to specific property.

- *VAT adjustment (VAT code article 33 paragraph 1)*

Before the VAT suspension regime is applied, the deductible input VAT amount for each property (i.e. a proportionate percentage of the total input VAT amount, which is calculated based on a construction project's "real" supply of goods and services) is adjusted at the time of the sale.

The input VAT amount to be adjusted may be deducted from income tax in the year of the adjustment (article 39 paragraph 8 of the new law).

- *Taxpayer requirements (VAT code article 36 paragraph 4 case a)*

Building contractors are required to keep an account of building costs to monitor the cost of each building/real property, even if they have elected to be subject to the suspension regime.

- *Reporting and other relevant requirements (VAT code article 38 new paragraph 11a)*

Building contractors who sell real property that is subject to the suspension regime must remit the adjusted VAT amount to the tax authorities through an extraordinary VAT return at the time of the sale and before filing the real estate transfer tax return, "parental benefit" return (for the transfer of property by parents to their children), or gift return, as applicable.

AADE Decision A. 1013/2020 provides further procedural guidance on the VAT adjustment right applicable to properties subject to the suspension regime.

Reclassification of certain goods to qualify for reduced VAT rates

The new law (articles 40 and 79) amends Annex III of the VAT code providing for reduced VAT rates for certain goods and services as follows:

- The law clarifies that the reduced VAT rate (13%) applies for infant and children food preparations that are packaged for retail sale (tariff class codes C.N. 1901, 1902, 1903, 1904 and 1905) (revised paragraph 26). To assist families economically, items for infant safety and protection, such as diapers made with any materials (C.N. E.X. 9619), as well as child car seats and their parts (C.N. E.X. 9401), are reclassified to be subject to the reduced VAT rate of 13% instead of the standard 24% rate (new paragraph 49).

In addition, with respect to citizens' road safety, bicycle helmets (C.N. E.X. 6506) are reclassified to qualify for the reduced 13% VAT rate instead of the standard rate (new paragraph 48).

These provisions are effective as from 1 January 2020.

- As from 12 December 2019, immunological products used in human medicines (C.N. E.X. 3002) are reclassified to qualify for the super reduced 6% VAT rate from the reduced 13% rate. This applies to medicinal products administered to patients with serious chronic diseases, such as cancer, diabetes, rheumatoid arthritis, and myasthenia gravis (revised paragraph 37).

The super reduced 6% VAT rate continues to apply to human vaccines (C.N. E.X. 3002).

Extension of application of special VAT rates for certain islands

Pursuant to a ministerial decision (No. A.1470/2019) published in the government gazette on 23 December 2019, the special VAT rates for the supply of goods and services for the islands of Leros, Lesbos, Kos, Samos, and Chios are extended for six months, from 1 January 2020 to 30 June 2020, provided the necessary conditions are fulfilled. The special VAT rates equal the mainland rates reduced by 30% and are 17% (standard rate), 9%, and 4% (reduced rates).

For the Greek mainland and all other islands, the VAT rates are 24% (standard rate), 13%, and 6% (reduced rates).

Guidelines for required adjustment of input VAT deducted with respect to certain unused assets

Based on a decision of the Greek Independent Authority for Public Revenue (IAPR) (E.2200/2019/20.12.2019), taxpayers are not required to adjust the input VAT amount deducted at the time they acquired an investment asset/capital good if its usage or operation has not started within the first five calendar years after its acquisition or construction because of an act or omission by the Greek government.

In principle, if an investment asset/capital good has not been used or operated within five calendar years of its acquisition/purchase or construction, it is treated as being used for non-VATable transactions. Therefore, the taxpayer is required to adjust the input VAT deducted at the time of purchase or construction, which means that this VAT amount must be repaid to the tax authorities (article 33 paragraph 3).

The Supreme Administrative Court (SAC) ruled in a case (no. 1862/2019) that a taxpayer's right to deduct the input VAT incurred when acquiring or building an investment asset/capital good continues to apply, in principle, even if the asset or good has not been used or operated due to circumstances beyond the taxpayer's control. This would be the case if non-usage is due to sovereign acts (i.e. government actions or omissions) that have rendered use or operation impossible.

Consistent with the SAC decision, the IAPR provided the following guidelines in its decision:

- Input VAT deducted at the time an investment asset/capital good is acquired/built does not have to be adjusted if it can be concluded with certainty, either based on the law or a court decision, that non-usage within five calendar years is due to circumstances beyond the taxpayer's control.

An example of this are investment projects subject to developmental laws 3299/2004, 3908/2011 and 4399/2016 as their completion has been delayed due to the issuance of specific laws.

- Taxpayers in such cases are not required to adjust the deducted input VAT amount if they can prove that they have the right to delay completion of the investment project based on specific authorization for an extension from the relevant authority.
- The IAPR decision further defines the documentation that taxpayers should keep in their files and be able to present to prove authorization for the delay. The documentation required depends on which developmental law applies to each investment project. Additional documents are required in the event of a delay due to force majeure.

- Notably, taxpayers who have not adjusted input VAT are not required to do so for the duration of the project's delay. However, taxpayers who have adjusted input VAT and who have been granted a delay may claim a refund of the VAT amount by filing an amended VAT return for the relevant tax period, provided a refund is not barred by the statute of limitations. However, the VAT amount may not be used to offset income in a future tax period.
- Tax assessments that have been finalized will not be reversed, whereas VAT amounts that have been collected through final tax assessments will not be refunded.



Get in touch

If you no longer wish to receive emails on this topic, please send an email to the sender with the word "Unsubscribe" in the subject line.



Deloitte Business Solutions Societe Anonyme of Business Consultants, a Greek company, registered in Greece with registered number 000665201000 and its registered office at Athens, 3a Fragkokklisias & Granikou str., 151 25, is an affiliate of Deloitte Central Mediterranean S.r.l., a company limited by guarantee registered in Italy with registered number 09599600963 and its registered office at Via Tortona no. 25, 20144, Milan, Italy.

Deloitte Central Mediterranean S.r.l. is the affiliate for the territories of Italy, Greece and Malta of Deloitte NSE LLP, a UK limited liability partnership and member firm of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"). DTTL and each of its member firms are legally separate and independent entities. DTTL, Deloitte NSE LLP and Deloitte Central Mediterranean S.r.l. do not provide services to clients. Please see www.deloitte.com/about to learn more about our global network of member firms.

© 2020 Deloitte Central Mediterranean. All rights reserved.