

## **LAW ON VALUE ADDED TAX**

### **I GENERAL PROVISIONS**

#### **Article 1**

- 1) This law regulates the system and introduces the requirement to pay value added tax in the Republic of Montenegro.
- 2) Value Added Tax (hereinafter: VAT) as a general tax on final consumption is accounted for and paid in all stages of supply of taxable products that is taxable services, unless otherwise prescribed by this law.

#### **Article 2**

Revenues from VAT belong to the Budget of the Republic of Montenegro.

### **II OBJECT OF TAXATION**

#### **Article 3**

The object of taxation of VAT is as follows:

- 1) a supply of goods and supply of services effected for consideration by a taxpayer in furtherance of his activities and
- 2) the importation of goods into Republic of Montenegro (hereinafter: Montenegro).

#### **Supply of Goods**

#### **Article 4**

- 1) Supply of goods shall be the right to dispose of movable that is immovable property unless otherwise provided by this law.
- 2) The following shall also be considered to be a supply of goods, for the purpose of paragraph 1 of this Article:

1. a supply of goods for consideration on the basis of a regulation passed by a state body that is a local government body;
  2. the sale of goods under contract on the basis of which commission is payable on the purchase that is sale of goods;
  3. the sale of goods on the basis of a contract of lease of goods for a specified period of time that is on the basis of sales contract on deferred payment which provides that (under normal circumstances and in the normal course of events) ownership shall be transferred no later than by the time of payment of the final installment;
  4. the sale of newly constructed structures and transfer of material rights and shares in respect of immovable property which give the holder (owner) ownership rights that is the right to possess the immovable property or part of the immovable property;
  5. the disposal of the business assets of the taxpayer by another person including liquidation and bankruptcy administrators and custodians;
  6. the supply of electric power, gas, and energy for heating, refrigeration or air conditioning;
  7. the use of goods of taxpayer for non-business purposes;
  8. the exchange of goods.
- 3) The following shall be considered to be a supply of goods within the meaning of paragraph 2, point 1 of this article:
1. acquisition of ownership rights on goods by, or for the account of, the state or local community on the basis of law;
  2. withdrawal of ownership right on goods from a person on the basis of law.
- 4) Supply of land (agricultural, building, developed or undeveloped) shall not be considered as a supply of goods for the purposes of this Article.

### **Use of goods for non-business purposes**

#### **Article 5**

- 1) If a taxpayer uses goods, which form a part of his business assets, for private purposes or for private purposes of his employees, disposes of the goods free of charge or for consideration that is lower than that which could be achieved on the market that is uses the goods for a purpose unrelated to the furtherance of his activities, such use that is disposal shall be considered as a supply of goods for consideration.
- 2) Notwithstanding paragraph 1 of this Article, the following shall not be considered a supply of goods for consideration:
  1. disposal free of charge of business samples in reasonable quantities to customers or potential customers provided that they are not placed on sale that is if they are in a form in which it is not possible to sell them;

2. disposal of low-value gifts for the purpose of pursuing activities of a taxpayer provided that this is done occasionally and not to the same persons. The Minister of Finance shall regulate what constitutes a low-value gift referred to in this item.

### **Use of the products of own production, change of purpose and retention of the products after the termination of the business**

#### **Article 6**

The following shall be considered a supply of goods for consideration:

1. the taking (usage) of goods which a taxpayer produces, builds, processes, acquires that is imports within the furtherance of his activities;
2. the use of goods for which input VAT has been partly or wholly deducted by the taxpayer and for the purpose of performing VAT exempted activities;
3. the retention of goods for which input VAT has been partly or wholly deducted after the cessation of activities that is the cessation of registration.

### **Supply of property**

#### **Article 7**

A supply of goods for the purpose of Article 4 of this Law shall not include the transfer of property or part thereof with or without consideration or as an investment if the transferee of the property who is, or upon transfer becomes, a taxpayer and who continues to perform the same business activity. In such case, the transferee is deemed to take the place of the transferor.

### **Supply of Services**

#### **Article 8**

- 1) A supply of services shall mean the performance, omission, that is toleration of any action in furtherance of activities other than the supply of goods within the meaning of Articles 4, 5 and 6 of the Law.
- 2) The following shall also be considered a supply of services:
  1. the transfer, assignment or use of copyrights, patents, licenses, trademarks and other property rights (hereinafter: property rights);

2. supply of services on the basis of a regulation [decision] of a state body or local community body;
3. use of services of a taxpayer for non-business purposes, and exchange of services.

### **Use of services for non-business purposes**

#### **Article 9**

The following shall also be considered a use of services of a taxpayer within the meaning of Article 8 paragraph 2, item 3 of the law:

1. the use of goods forming part of business assets of a taxpayer for the provision of services for private purposes or for private purposes of his employees, or other use of goods for purposes unrelated the furtherance of his activities, and
2. supply of services performed by a taxpayer without consideration or for reduced consideration for his private purposes, for the private purposes of his employees that is purposes other than the furtherance of his activities.

### **Supply of services in one's own name and for the account of other person**

#### **Article 10**

If a taxpayer acts in his own name and for the account of other person, while supplying services, it shall be considered that the taxpayer both receives and supplies such services.

### **Import of Goods**

#### **Article 11**

The import of goods shall mean any entry of goods into the customs territory of Montenegro unless otherwise provided by this law.

### **III VAT TAXPAYERS**

#### **Article 12**

The VAT taxpayer shall be:

1. Taxpayers who supply goods that is services on which VAT is accounted for and paid;
2. Tax representatives appointed by the taxpayer who does not have a registered office, business unit, permanent that is regular residence in Montenegro (hereinafter: taxpayer not based in Montenegro) if the taxpayer performs the supply of goods or services in Montenegro. If the taxpayer not based in Montenegro does not appoint a tax representative, the recipient of the goods or services shall pay the VAT;
3. Recipient of the services under Article 17, paragraph 3 of this law if the services are performed by a taxpayer without registered office in Montenegro;
4. Any person who shows VAT in his invoice or other document, which serves as invoice, and it is not allowed to be shown under this law;
5. person that imports goods that is recipient of goods in case of import.

### **IV TAXPAYER**

#### **Article 13**

- 1) Taxpayer shall be any person (natural or legal) who conducts the business activity independently, in accordance with the legislation, regardless whether it has been registered or entered into any other prescribed records.
- 2) The activities referred to in paragraph 1 of this Article shall include all the activities of production, processing, trade and providing service activities including, mining, agriculture and professional activities, as well as use of property and property rights.
- 3) Taxpayer shall also be every person who imports goods for his own account or receives goods from abroad, as well as the person for the account of which the products are being imported.
- 4) State bodies and organizations and bodies of local self-government and other public bodies shall not be considered taxpayers within the framework of their activities on the basis of public functions even if, in connection to these activities, taxes, fiscal stamps, or other contributions are being collected.
- 5) State bodies and organizations and bodies of local self-government and other public bodies shall be considered as taxpayers if they are performing supply of goods that is services, which is taxable according to this law.

- 6) Organizers of services under Article 17, paragraph 2, point 3a) of this law shall be considered as taxpayers.

## **V PLACE OF TAXATION**

### **Article 14**

- 1) VAT shall be accounted for and paid at the place where supply of goods that is services was performed that is at the place where the supply is considered to be performed under this law.
- 2) The territory of Montenegro shall be considered the single place of the supply of goods that is services.

### **Place of Supply of Goods**

#### **Article 15**

The following shall be considered to be the place of supply of goods:

1. the place where goods are located at the time of dispatch or transport commences. If dispatch that is transport of the goods commences outside Montenegro, it shall be considered that the importer performs it within Montenegro;
2. the place where the goods are installed that is assembled if the goods have been installed that is assembled by the supplier or another person on behalf of and for the account of the supplier;
3. the place where the goods are located at the time the supply is made, if the supply of the goods is carried out without dispatch that is transportation;
4. the place of receipt of the electric power, gas and energy used for heating, refrigeration and air condition.

### **Place of supply at importation**

#### **Article 16**

- 1) For the import of goods, the place of supply is the place where the goods enter Montenegro.

- 2) Notwithstanding paragraph 1 of this Article, for goods in respect of which permission was granted immediately on entry into Montenegro for temporary storage or customs-approved use or use of the goods referred to in Article 30, paragraph 1, point 2, of this law or for which a temporary import procedure with full exemption from payment of import duties or a customs transit procedure was initiated, the importation shall be considered as having been performed where the second customs-approved treatment or use for these goods begins.

## **Place of Supply of Services**

### **Article 17**

- 1) The place where the supply of services is performed shall be considered to be the place where the taxpayer who provides the service has established his business or has a fixed establishment from which the service is provided, or his place of permanent or usual residence if he has not established a business and does not have fixed establishments, unless otherwise provided by this law.
- 2) Notwithstanding paragraph 1 of this Article, the place where the supply of services is performed shall be considered to be:
  1. place where immovable property is located if the provision of the service is directly connected to the immovable property, including services such as those of estate agents, valuations of immovable property and preparatory works for construction (the services of architects, on-site supervision and etc.);
  2. Road or part of the road where transport services are performed. If the transport services are not performed exclusively in Montenegro (but also abroad) this law shall apply only to that part of the transport services performed in Montenegro.
  3. the place where services are actually performed provided that the services concerned are:
    - a) services in the field of: culture, art, science, education, sports, entertainment events and similar services including the services rendered by the organizers of such services;
    - b) ancillary transport services, such as loading, unloading, transferring, warehousing and other services that are in common way related to transport;
    - c) services performed on movable property;
    - d) valuation of immovable property;
- 3) Notwithstanding paragraph 1 of this Article, with respect to the following services:
  1. renting of movable things, except renting of any type of transport means;
  2. telecommunication services;

3. services related to withdrawal from carrying out business activity (abstentions of carrying out the activity or toleration of certain action or condition);
4. agency services in connection with services under this paragraph.

The place where the supply of services is performed shall be considered to be the place of the registered office or permanent or temporary residence of the recipient of the service. If the recipient of the service has his permanent residence abroad, then the place of the supply of the services shall be the place of his permanent residence.

- 4) The Minister of Finance may in respect of services referred to in paragraph 3 of this Article and for the purpose of avoiding double taxation that is tax evasion, determine as a place of supply a place where the service is used that is where the service is rendered.

## **VI INCEPTION OF OBLIGATION TO ACCOUNT FOR VAT**

### **Article 18**

- 1) VAT is accounted for at the moment of delivery of goods that is at the moment of providing the service.
- 2) Goods shall be considered delivered that is services performed when an invoice is issued.
- 3) If an invoice referred to in paragraph 2 of this Article has not been issued, VAT shall be accounted for on the eighth day after the delivery of the goods that is performance of the services.
- 4) If the payment is partly or fully made before an invoice has been issued, or before the supply of goods and services has been performed, VAT shall be accounted for on the day of receipt of the payment.
- 5) In case of supply of goods, excluding goods referred to in Article 4, paragraph 2, item 3, of this law, that is in case of supply of services where successive invoices and successive payments are made, VAT shall be accounted for on the last day of the period to which the invoice that is payment relates.
- 6) In case of supply of goods that is services referred to in Articles 5, 6 and 9 of this law, VAT shall be accounted for within the tax period in which the supply was performed.
- 7) For changes to the tax base under Article 20, VAT shall be accounted for when the invoice that is other document on the change of tax base is issued.



## **Inception of Tax Liability at Importation**

### **Article 19**

- 1) The obligation to account for VAT at importation shall be established at the same moment when obligation to assess customs duty and other import charges are established.
- 2) With respect to goods that are not subject to customs duties and other import charges, VAT shall be accounted for at the moment when obligation to pay import duties has been established as if the obligation should have been established according to the customs legislation.

## **VII TAX BASE**

### **Tax base and correction of the tax base**

#### **Article 20**

- 1) The VAT base (hereinafter: tax base) shall be everything, which constitutes the consideration (in cash, in goods or in services), that the taxpayer has received or will receive from the purchaser, customer or third party for performed supply of goods or services, including subsidies directly linked to the price of such supply, excluding the VAT, unless otherwise provided by this law.
- 2) The tax base shall include:
  1. excise duty and other taxes, fees, customs and other import duties and charges, excluding VAT;
  2. the indirect costs, such as commissions, costs of packaging, transport and insurance, which the supplier charges to the purchaser that is client of the services;
  3. amounts charged on the returnable packaging and the caution money charged.
- 3) If the consideration for supply of goods that is services is not paid or not entirely paid in cash, the tax base shall be the same as the market value of the goods that is services at the time the supply was performed.
- 4) For exchange of goods or services, the tax base shall be the value of the goods that is services that are received in exchange.
- 5) For the supply of goods that is services performed by a taxpayer who has not been established in Montenegro, the tax base shall be considered to be everything that constitutes the consideration which the recipient of goods that is services has paid or will pay to the supplier of goods that is services.

- 6) For the supply of goods referred to in Articles 5 and 6 of this law, the tax base shall be the VAT exclusive purchase price of goods in question that is service, that is the cost of the goods at the time and place the supply was performed; for supply of services under Article 9 of this law, the tax base shall be amount of costs of the services performed.
- 7) If for non-business reasons the consideration is less than the market value, or if there is no consideration, the tax base shall be the market value of the goods that is services at the time and place the supply was performed.
- 8) The following shall be excluded from the tax base:
  1. price reductions and discounts given on the invoice at the time the supply is performed;
  2. amounts which the taxpayer charges, receives or pays in the name and for the account of the purchaser or third party.
- 9) If the tax base subsequently changes due to repayment, discount or the inability to pay, the taxpayer who performed the supply of goods that is services may correct that is reduce the amount of VAT if the taxpayer for whom the supply of goods that is services was performed corrects (reduces) the deduction of input VAT and provided that he informs the supplier of goods that is services of the changes in writing.
- 10) If the amount of the VAT charged on the import of goods that the taxpayer takes into account as a deduction of input VAT changes, the deduction of input VAT may be corrected for this difference on the basis of the decision of the customs authority.
- 11) The correction of the tax bases may only be done within the accounting period in which the tax base was changed.
- 12) In the case of transfer of rights relating to collateral security, the tax base shall be the price of the collateral security, increased by the amount of difference of market value to the collateral.
- 13) If packaging on which VAT was accounted is returned, the tax base may be corrected in the tax period during which the packaging was returned.

**Tax base when selling property**  
**Article 21**

If an entire business entity or an entire plant is transferred then the tax base shall be the consideration given for each item transferred in such way that the sum of all the individual amounts paid in consideration equals the total payment made for the entire business entity or for the entire plant reduced by the value of real estate which is taxed in accordance with special law. Debts taken over shall not be deducted from the tax base. If the VAT accounted for at the time of acquisition of the business entity or plant may entirely be

deducted by the buyer as an input tax then the VAT shall not be paid and the transfer shall be considered to be tax-free.

### **Tax base for the import of goods**

#### **Article 22**

- 1) The tax base for the import of good shall be the value of the goods determined in accordance with customs legislation.
- 2) The tax base under the Paragraph 1 of this Article shall include:
  1. excise duty and other taxes, fees and other charges paid outside Montenegro and on import, excluding VAT, under this law;
  2. contingent expenses, such as commissions, packaging costs, transport and insurance, which arise after the import of goods to the first place of destination in Montenegro. The first place of destination is the place stated in the consignment note or the other document with which the goods are imported into Montenegro.
- 3) For imports of goods, the tax base shall exclude, if not already excluded, price reductions and discounts in accordance with Article 20, paragraph 8 of this law.
- 4) The tax base for import of goods which were previously temporarily exported by the taxpayer for processing, refining, repair, or mounting abroad is the value determined by Customs authority.

### **Converting the value of foreign currency into domestic currency**

#### **Article 23**

- 1) If the value that was the basis for determining the tax base for the importation of goods is denominated in foreign currency, the conversion of this amount into domestic currency shall be made by applying the exchange rate determined in accordance with customs legislation for calculating the customs value of goods.
- 2) If the value which was the basis for determining the tax base, with the exception of the import of goods, is denominated in foreign currency, the conversion of this amount into Montenegrin currency shall be made by applying the middle exchange rate of the Central Bank of Montenegro on the day the tax liability arises.

## VIII VAT RATES

### Rate of VAT

#### Article 24

VAT shall be accounted for and paid at the standard rate of 17% on the supply of goods, services and import of goods, except for supply of goods, services and import of goods for which it has been envisaged that the VAT shall not be assessed and paid as well on supply of goods, services and import of goods that have been zero rated.

#### Article 25

1) VAT shall be paid at the rate of 0% on:

1. goods that have been exported from Montenegro by the seller that is goods that have been exported on his behalf by another person;
2. supply of services, including transport and other ancillary services, except services referred to in Article 26 and 27 of this law, which are directly linked to export that is import of goods in accordance with Article 16, paragraph 2 that is Article 30, paragraph 1, item 1 of this law;
3. goods exported from Montenegro by a purchaser that is another person on behalf of the purchaser, who has not established a business in Montenegro, except for goods intended to supply private watercrafts, aircrafts or any other means of transport for private use;
4. services performed on goods imported in Montenegro and exported by a person who has provided the service or by a client if he has not established the business, does not have a permanent establishment that is a permanent or usual residence in Montenegro;
5. supply of services provided by representatives or other intermediaries in the name and for the account of another person, provided that those services are a part of services listed in this Article or services provided outside Montenegro. Exemption does not relate to travel agents that are providing services in the name and for account of travelers outside Montenegro;
6. supply of goods relating to supplying:
  - a) vessels for open-sea sailing which transport passengers for consideration that is which are intended for performing commercial and industrial activities;
  - b) sea rescue and assistance vessels;
  - c) military vessels leaving Montenegro, which destinations are foreign ....., that is anchorages;
7. goods and services that are used in international passenger traffic under condition of reciprocity;
8. goods and services intended for:
  - a) the official purposes of diplomatic and consular representatives;
  - b) the official purposes of international organizations, if this is envisaged by an international treaty;
  - c) for personal needs of foreign staff of diplomatic and consular representatives including their family members;

- d) for personal needs of foreign staff of international organizations including members of their families, if provided by international treaties;
- 2) The right referred to in paragraph 1, item 9 of this Article shall be realized under condition on reciprocity, which is approved by a Minister of Foreign Affairs;
- 3) Goods shall be considered as exported when they are actually taken out of Montenegro or when they enter a customs-free zone or a customs warehouse if intended for export.

## **IX VAT EXEMPTIONS**

### **VAT exemptions in public interest**

#### **Article 26**

The following services that are in public interest shall be exempt from the VAT payment:

1. Public postal services performed by the post office of Montenegro;
2. Health services and care and delivery of goods including supply of human organs, blood and human milk performed in accordance with the law governing the field of health care activities;
3. Social security services and the supply of goods directly linked to social security services that are performed in accordance with the regulations governing the field of social security services;
4. Services in pre-school education and the education and training of children, young people and adults, including the supply of goods and services directly linked to these activities, provided these activities are performed in accordance with the regulations governing this field;
5. Services and deliveries of goods by nursery schools, primary and secondary schools, universities, and by student catering and boarding institutions;
6. Services related to culture including tickets for cultural events and supply of goods directly related to those services provided by non profit organizations in accordance with regulation governing the field of culture;
7. Services related to sport and sport education, which perform nonprofit organizations (associations, etc);
8. Monthly subscription on radio and TV program;

9. Copyrights and services related to literature and art areas;
10. Copyrights related to science and art products, works of art and antiques under the article 45, paragraphs 3, 4, and 5
11. Tickets for exhibitions, fairs and sport's games;
12. Religious services and supply of goods directly linked to religious services performed by religious institutions in order to satisfy the needs of the faithful, in accordance with the regulations related to those communities;
13. Services provided by non - government organizations established in accordance with the regulations governing the activities of those organizations unless it is unlikely that such exemptions would lead to a distortion of competition;
14. Supply of water;
15. Services of the public transport of passengers and their accompanying baggage.
16. Services of public sanitation (communal facilities).
17. Funeral services and related goods;

### **Other VAT exemptions**

#### **Article 27**

The following shall also be exempt from VAT :

1. Main food items for human consumption (bread, milk, fat, oil and sugar);
2. Medicines and medical items, determined by Decree on production and supply of medicines;
3. School books for elementary, middle, and high school education, which are approved by the responsible Minister;
4. Books and publications of a special interest for science, art, culture and sport by virtue of an opinion given by a competent minister;
5. Insurance and reinsurance services, including services provided by insurance brokers and agents;

6. Supply of immovable propriety, except the first transfer of the ownership rights that is the rights to dispose of newly-constructed immovable property;
7. Services of leasing and subletting of residential houses, apartments and permanent residential premises for longer than 60 days and lease of agricultural land or forests, which are registered in land books;
8. Banking and financial services, such as:
  - a) Approving and managing credits, and approving and managing guarantees that is other forms of credit insurance on the part of the lender;
  - b) Services relating to the management of deposits, savings, bank accounts, conducting payment transactions, transfers, executing due liabilities, cashing cheques or other financial instruments, except for recovery of debts and factoring;
  - c) Transactions, including the issuing of bank notes and coins, which are legal tender in any country, excluding collector items; the collector items shall be considered to be coins of gold, silver and other material, bank notes not in use as legal tender, and coins with a numismatic value;
  - d) Trading in shares that is other forms of participation in companies, bonds and other securities, including their issuance, except for the safekeeping of securities;
  - e) Investment fund management.
9. Current postage stamps, administrative and court and tax stamps;
10. Supply of gold and other precious metals to the Central Bank of Montenegro;
11. Services of games of chance.

### **VAT exemptions for import of goods**

#### **Article 28**

The following shall be exempt from VAT:

1. Imported goods the supply of which is exempt from VAT in Montenegro;
2. Goods brought into Montenegro as part of a customs transit procedure;
3. Re-imported goods imported in an unchanged state by the person who exported the goods, provided that such goods are exempt from payment of customs duties in accordance with customs regulations;
4. Re-imported goods on which services have been performed abroad but in respect of which the right to a deduction that is refund of VAT has not been recognized;

5. Goods imported by state bodies or humanitarian organizations, which are intended for, people, as a free of charge delivery, for their social needs. This exemption does not include alcohol drinks, tobacco and tobacco products, coffee and vehicles, except rescue vehicles;
6. Imported goods exempt from payment of customs duties intended for official purposes of diplomatic, consular organizations and international organizations and to members of such organizations, within the limits and under the conditions set forth in international conventions establishing the organizations, on the basis of an opinion issued by a minister responsible for foreign affairs. ;
7. Services related to imports of goods, provided that the value of such services is included in the tax base in accordance with Article 22, paragraph 2, item 2 of this Law.
8. Gold and other precious metals, bank notes and coins imported by the Central Bank of Montenegro;

### **Exemptions for a temporary import**

#### **Article 29**

Goods that are temporarily imported shall be exempt from VAT payment provided that are exempt customs duties according to the customs legislation.

### **Other special exemptions**

#### **Article 30**

- 1) The following shall be exempt from VAT:
  1. the release of imported goods that are not placed into free circulation provided that those goods are intended for storage in an excise warehouse;
  2. imports of goods intended:
    - a) to be submitted to customs authorities and when permitted to be stored temporarily in accordance with customs regulations;
    - b) to be entered into a free customs zone;
    - c) to be subjected to a customs warehousing procedure or import procedure for export under suspension arrangement.
- 2) Exemption referred to in paragraph 1 of this article shall apply to supply of services linked to supply of those goods.



- 3) The payment of VAT shall be exempted under this article on condition that the goods are not released for free circulation and that the amount of VAT on release for free circulation is the same amount as would have been charged and levied if such supply of goods had been taxed at import into Montenegro;

## **X ISSUANCE OF INVOICES**

### **Obligation to issue invoice**

#### **Article 31**

- 1) Taxpayer shall be obligated to issue invoice or any document, which can be used as and invoice for each separate supply of goods that is services (hereinafter: invoice). Invoice shall be issued in two copies, where buyer keeps original of invoice, and seller keeps copy of invoice.
- 2) Taxpayer shall be obligated to issue invoice for any payment received prior to supply of goods or services (subscription, advance payment), as well as for any subsequent change of tax base.
- 3) An invoice shall be any document issued by a taxpayer or by other person on taxpayer's request regardless of the form and title, which contains a calculated supply of goods that is services.
- 4) In the case of exchange of goods or services, every participant in exchange shall be obligated to issue invoice .
- 5) If a taxpayer shows on an invoice issued for the supply of goods or services an amount of VAT which exceeds the amount of VAT that he is obliged to show under the law, he shall be obliged to pay this excess amount, except in cases referred to in Article 20, paragraph 9 of this law.
- 6) Taxpayer may issue the invoice in non-material form, provided that the taxpayer has permission from the tax authorities to issue invoices in this form. A taxpayer who receives an invoice in a non-material form shall also have to have permission from the tax authorities; otherwise it shall be deemed that the invoice was not issued for the purposes of deducting input VAT.

## **Basic data contained in the invoice issued to a taxpayer and other persons**

### **Article 32**

- 1) The taxpayer who performs supply of goods or provision of services to the other taxpayer, on his invoice must state at least the following data:
  1. the place and date of issue and invoice number;
  2. the name of company and its seat that is permanent residence and tax identification number;
  3. the name of company and its seat, that is permanent residence of the recipient of goods that is service and its tax identification number;
  4. type and quantity of delivered goods that is provided services;
  5. selling price of goods that is services, which is VAT inclusive;
  6. sales value of goods that is services , which is VAT inclusive;
  7. the total amount of VAT calculated in the sales value of goods that is services..
- 2) In the case that goods delivered or services performed are exempt from VAT or zero rated, it should be clearly stated on the invoice that VAT has not been charged, with the reference to the article of this law which prescribes zero rate that is exemption;
- 3) The invoice issued by a taxpayer to other persons needs not show information under paragraph 1, points 3 and 6 of this article. However, it shall show the sales value of the goods or services, including VAT, and the amount of the VAT.
- 4) Taxpayer shall be obliged to issue an invoice to the purchaser of goods that is recipient of services irrespective of whether the purchaser that is recipient specifically requested one. The purchaser of goods that is recipient of services shall be obliged to retain the invoice immediately on departure from the sales or other business premises, and present it upon the request of an authorized person from the tax authority.
- 5) The liability to issue an invoice in accordance with paragraph 3 and 4 of this article shall not include farmers selling their products on the green market.
- 6) The liability to issue an invoice referred to in paragraphs 3 and 4 of this Article does not apply to sale of travel tickets and tokens in passenger traffic (train, bus, funicular railway), stamps, fees, securities and forms in postal traffic, periodic newspapers and revenue from slot machine. Turnover data shall be obtained by making an inventory, at least once monthly, of stocks at the beginning and at the end.
- 7) The competent tax authority shall prescribe, in more detail, use of technical means and methods of keeping records of supply of taxable goods that is services.

## **XI TAX PERIOD, ACCOUNTING AND PAYMENT OF VAT**

### **Tax period**

#### **Article 33**

- 1) Tax period is the time period in which taxpayer shall be obliged to account and pay VAT.
- 2) The tax period shall be a period starting as of the first until the last day in a month (calendar month).

### **Accounting for VAT**

#### **Article 34**

- 1) Taxpayer shall account for VAT according to the amounts charged on taxable supplies indicated on the issued invoices for supplied goods that is for services rendered in the tax period.
- 2) The amounts charged on taxable supplies as referred to in the paragraph 1 of this article shall be considered to include:
  1. the amounts on issued invoices;
  2. the amounts of advance payments that have been made in accordance with article 1, paragraph 4 of this law;
  3. the value of the supply of goods or services referred to in Articles 5, 6 and 9 of this law;
  4. the amounts on invoices issued by the taxpayer that has a registered office abroad, according to the paragraph 5 of Article 20 of this Law;

### **Submission of VAT return**

#### **Article 35**

- 1) The taxpayer shall indicate his tax liability in the monthly tax return for assessment of VAT.
- 2) The taxpayer shall submit the tax return from paragraph 1 of this Article to the responsible tax authority no later than the 15th day of the following month after the elapse of the tax period;
- 3) Taxpayer shall submit a VAT return referred to in paragraph 1 of this article irrespective of whether he is obliged to pay the VAT for the period for which the VAT return is submitted.
- 4) The VAT return referred to in paragraph 1 of this article shall contain all the information necessary to assess the tax liability;

- 5) A competent tax authority shall prescribe the form and content of return referred to in paragraph 1 of this article.
- 6) If the taxpayer does not submit the tax return in the prescribed time or does not have the prescribed documentation or tax records, then the Tax authority can make an assessment of the tax liability on the basis of control carried out, by comparison with a taxpayer in similar business, or on the basis of other data about the business operations of the taxpayer.

### **Payment of the tax liability**

#### **Article 36**

- 1) Tax liability for the taxation period becomes payable on the 15<sup>th</sup> day of the current month after the elapse of the taxation period.
- 2) Persons from Article 12, Items 2 and 3 of this law are also obligated to pay VAT within the deadline defined in Paragraph 1 of this Article.
- 3) At importation, VAT shall be accounted for and paid as import duty in accordance with the customs regulations.

## **XII DEDUCTION OF INPUT VAT**

### **Conditions for deduction of input VAT**

#### **Article 37**

- 1) In the calculation of their tax liability, taxpayer may deduct VAT which they are obliged to pay or which they have paid at the time of purchase of goods or services from another tax payer, at the time of importation of goods and as a recipient (beneficiary) of services (hereinafter: input VAT), provided he has used those goods that is services or will use them for the purposes of performing activities on which VAT is paid.
- 2) Taxpayers may also deduct input VAT on goods and services used for performing activities outside Montenegro, on condition that the right to deduct input VAT would have been recognized if the activity had been performed in Montenegro;
- 3) Taxpayers shall not deduct input VAT:
  1. on goods and services used for supply of goods or services on which VAT exemption is prescribed, unless otherwise provided by this law;
  2. on goods and services used for performing activities outside Montenegro, on condition that the right to deduct input VAT would not have been recognized if the activity had been performed in Montenegro;

- 4) Taxpayer may deduct input VAT in respect of the supply of goods that is services which are exempt from payment of VAT:
  1. under Articles 25, 28 point 7, and article 30 of this law;
  2. under Article 27 points 5 and 8a) to 8d) of this law, provided that the services are performed for clients who have established a business or have a permanent establishment outside Montenegro, or provided that such services are directly linked to goods intended for export;
- 5) Taxpayer shall not deduct input VAT on:
  1. yachts and watercrafts intended for sport and recreation, private aircrafts, personal automobiles and motorcycles, fuels and oils and spare parts and services closely related to them, other than vessels that is vehicles, used for renting as well for further sale;
  2. expenses for business entertainment and accommodation;
- 6) Taxpayers may deduct input VAT only;
  1. if it is shown on invoices under article 32 of this law;
  2. if it is shown on customs declarations;
  3. if it is paid on the basis of Article 39 paragraph 2 and Article 43 paragraph 3 of this law;
- 7) Taxpayer may deduct input VAT within the tax period in which he received the invoice for supply of goods and services to him that is customs declarations for imported goods;
- 8) If a taxpayer receives an invoice showing VAT from a person who may not issue an invoice under this law, he shall not deduct the VAT shown as input VAT, even if the unauthorized person pays the VAT;
- 9) If a taxpayer receives an invoice showing an amount of VAT which exceeds the amount of VAT that should be charged and levied according to this law, the taxpayer shall not deduct this excess amount as input VAT, irrespective of whether this VAT has been paid.

### **Proportional tax deduction (division of input tax)**

#### **Article 38**

- 1) A taxpayer who performs partly taxable and partly tax-exempt supply of goods that is services is entitled to a deduction of input VAT only for those activities that relate to taxable supplies.
- 2) Taxpayers must divide input VAT to a deductible share and to a non-deductible share, prior to submitting the VAT return.

- 3) Input VAT is determined for total supply of goods that is services by applying the formula showing:
  1. In the numerator: the total amount of annual supply, excluding VAT, which relates to supply on which the taxpayer has the right to deduct input VAT;
  2. In the denominator: the amount included in the numerator and the total amount of annual supply on which the taxpayer does not have the right to deduct VAT, including subsidies and grants, except for subsidies referred to in Article 20, paragraph 1, of this law;
- 4) The calculation of the proportionate deduction shall not include:
  1. the amount of supply which relates to equipment that the taxpayer disposed with in the pursuance of their business activities;
  2. the amount of supply of financial services, if they are performed periodically;
  3. the amount of supply of real estate, if the supply is performed periodically;
- 5) The deductible share of VAT shall be determined on an annual (calendar) basis as a percentage, and shall be rounded up to the nearest whole number;
- 6) The deductible share of VAT for the current year shall be determined on the basis of data on supply in the previous year. If there is no data on supply in the previous year, or if it is a negligible amount, the deductible share shall be determined by the taxpayer on the basis of his own assessment with the written approval of the responsible tax authority.
- 7) Notwithstanding the third paragraph of this article, taxpayer may determine the deductible share for each individual area of its activities separately, provided he maintains accounts for each individual area of their activities separately and provided they obtain written permission from the competent tax authorities;

### **Correction of deduction of input VAT**

#### **Article 39**

- 1) Deductions of input VAT which taxpayer has made in accordance with this law may be corrected:
  1. if they subsequently determine that the deduction of input VAT was calculated at a higher or lower amount than the amount which the taxpayer was obligated to pay;
  2. it after the tax calculation it emerges that the factors used for calculating the deductible amount of input VAT have changed (when the change of prices occurs, or in case of cancellation of the agreed purchase);
- 2) If, within a period of five years from the calendar year of the beginning of use of the equipment, changes occur in the conditions, which were decisive for the deduction of input VAT that year, a correction of the input VAT shall be made for the period following the change. For immovable property this period shall be twenty years;

- 3) The beginning of use of the equipment that is immovable property under the paragraph 2 of this Article shall be considered to be the tax period in which the deduction of input VAT was (or was not) made;
- 4) Equipment under the second paragraph of this article shall mean equipment, which under accounting regulations is classified as the tangible fixed assets of the taxpayer;
- 5) A correction of deduction of input VAT may be made if the difference exceeds 30 Euros (€).

### **Deduction of input VAT on commencement of performance of activities**

#### **Article 40**

- 1) On the day his registration for VAT becomes valid, taxpayer who commences with performance of activities which are subject to VAT, acquires the right to proportional deduction of input VAT for products which he has on stocks before the registration has become valid. The proportional deduction of input VAT shall be determined by the tax authority on the basis of the accounting information of the taxpayer and data on comparable stocks of goods for performing the same type of activity by other taxpayers;
- 2) Taxpayers under the paragraph 1 of this article may deduct input VAT in proportion to the supply performed, but shall not have the right to a VAT refund on this basis.

### **Deduction of input VAT on the supply of used means of transport**

#### **Article 41**

- 1) Taxpayer who acquires used means of transport with the intention of resale (hereinafter: resellers), may deduct as input VAT the amount which they establish in accordance with the calculated rate of VAT on the purchase price of the used means of transport (hereinafter: residual tax);
- 2) The entitlement to deduct residual tax shall arise only where a reseller has purchased or obtained used means of transport:
  1. from a person who was not entitled to deduct input VAT on these means of transport;
  2. from another taxpayer who, according to this law, was not entitled to deduct input VAT for these goods;
  3. from another reseller who has exercised the entitlement to deduct residual tax on these means of transport;

- 3) Where a reseller performs the supply of means of transport for the account of another person in accordance with a contract on the basis of which commission is paid for purchases or sales, it shall be considered that the supply has been performed by the other person at the moment when the reseller performs the supply;
- 4) Where the amount of residual tax exceeds the VAT charged and levied on the supply of means of transport by reseller, the residual tax shall be an amount equal to the amount of VAT charged and levied on that supply;
- 5) The resellers, who deduct residual tax in relation to purchased means of transport, are not entitled to zero (0) rate under the article 25 of this law.

### **XIII SPECIAL TAX PROCEDURES**

#### **Small Businesses**

##### **Article 42**

- 1) Notwithstanding article 13, paragraph 1 of this law, person whose value of supply of goods that is services in the past 12 months does not exceed or is unlikely to exceed, the amount of 18 000 Euros (€) shall not be considered taxpayers under this law.
- 2) Person referred to in paragraph 1 of this Article must not calculate or state VAT it in his accounts and he is not entitled to deduct input VAT and do not keep books in accordance with this law.
- 3) Person referred to in paragraph 1 of this Article may voluntarily submit a request to the responsible tax authority to start calculating and paying VAT. Based on the written request, tax authority adopts the decision on the registration for VAT payment for the period of minimum three years.
- 4) Taxpayers who do not have a registered seat in Montenegro are not subject to the provisions of this Article.

#### **Farmers**

##### **Article 43**

- 1) Farmer who is not considered as a VAT taxpayer by virtue of supply of agricultural and forestry goods that is services (hereinafter: farmer) shall be entitled to a lump-sum compensation of input VAT (hereinafter referred to as: lump-sum compensation), under conditions and in the manner prescribed by this law.



- 2) Lump-sum compensation referred to in paragraph 1 of this article shall be granted only to those farmers who perform the supply of agricultural and forestry goods that is services for taxpayers referred to in this law.
- 3) Taxpayers referred to in paragraph 2 of this Article to whom the supply of goods that is services was performed by farmers shall be obliged to add lump-sum compensation in the amount of 3% of the purchase value to the payment of this supply of goods and services;
- 4) Taxpayers referred to in Paragraph 3 of this Article shall be entitled to deduct the lump-sum compensation as the input VAT under the conditions determined by this law;
- 5) The farmers referred to in paragraph 1 of this article shall be entitled to lump-sum compensations on condition that they have previously acquired the permission of the competent tax authority.
- 6) Minister of finance shall regulate in greater detail conditions and method of exercising rights referred to in this article.

### **Services provided by travel agencies and tour operators**

#### **Article 44**

- 1) Travel agencies and tour operators (hereinafter: travel agencies) operating in their own name and using the goods and services of other taxpayers in the provision of travel facilities may account for and pay VAT in accordance with this Article.
- 2) All services performed by a travel agency in respect of a journey shall be treated as a single service provided by the travel agency to the traveler;
- 3) VAT shall be paid in the place where the travel agency has established its business and on the amount which represents the difference between the total amount paid by the traveler, exclusive of VAT, and the actual cost to the travel agency of the supplies and services provided by the other taxpayers, provided that a direct beneficiary of those services is the traveler.
- 4) If supply of goods that is services, which travel agency performs with other taxpayers, is performed outside of Montenegro, VAT shall not be paid according to Article 15, paragraph 1, item 5 of this law. Where the supply of goods and services is performed partly in Montenegro and partly outside of Montenegro, VAT shall not be paid on that part which is performed outside Montenegro.
- 5) A travel agency shall not be entitled to deduct VAT charged by other taxpayers in the supply of goods, that is services performed for the direct benefit of the traveler.

- 6) Provisions contained in this article shall not apply to travel agencies acting only as intermediaries and submitting an account in accordance with Article 20, paragraph 8 item 2 of this law.

## **Used goods, works of art and antiques**

### **Article 45**

- 1) Taxpayer who, in performing his activities, either working in his own name or in the name of another person under a contract on the basis of which commission is paid for purchases or sales, and who purchases or obtains used goods, works of art, collectors' items and antiques with the intention of resale (hereinafter: resellers), may account for and pay VAT in accordance with this article and Articles 46 and 47 of this law;
- 2) Used goods shall mean any movable item which is intended for further use as it is (in the state in which it was obtained) or after repair, other than means of transport, works of art, collectors' items and antiques, precious metals and precious stones. The following shall be considered precious metals: silver (including silver combined with gold or platinum), gold (including gold combined with platinum), platinum, and all items made from these metals, provided that the consideration for supply of the metals in question does not exceed the market value. The following shall be considered precious stones: diamonds, rubies, sapphires and emeralds, either processed or unprocessed, provided they are not mounted or chained.
- 3) Works of art shall mean:
  1. paintings, drawings and pastels, collages and similar decorative plaques if executed by hand by the artists;
  2. original engravings, prints and lithographs if executed by hand by the artist in limited numbers in black and white or in color of one or of several plates, irrespective of the process and of the material employed, but not including any mechanical or photomechanical process;
  3. original sculptures and statues, in any material, provided that they are executed by the artist, and sculpture casts the production of which is limited to eight copies and supervised by the artist or his successors in title;
  4. tapestries and wall textiles made by hand from original designs provided by artists, provided that they are not more than eight copies of each;
  5. individual pieces of ceramics executed entirely by the artist and signed by him,
  6. enamels on copper, executed entirely by hand, limited to eight numbered copies bearing the signature of the artist or the studio, excluding artists of jewellery and goldsmiths' and silversmiths' wares;
  7. photographs taken or printed by the artist or taken under his supervision, provided they are signed and numbered and limited to 30 copies, all sizes included.

- 4) Collectors' items shall mean:
  1. postage or revenue stamps, first – day covers, pre – stamped stationary and the like, franked or if unfranked not being or legal tender and not being intended for use as legal tender,
  2. collections and collectors' pieces of zoological, botanical, mineralogical, anatomical, historical, archeological, palaeontological, ethnographic or numismatic interest.
- 5) Antiques shall mean objects listed in the customs tariff other than works of art and collectors' items, which are more than 100 years old.
- 6) If reseller simultaneously accounts for and pays VAT under general arrangements, under these arrangements, he shall be obliged to provide in his accounts separate statements of supply and to account for and pay VAT for each item separately.
- 7) Reseller shall be obliged to submit to the tax authority a return to be taxed under a special arrangement each fifteen days before the start of the month in which he intends to begin to account for VAT under the special arrangement. VAT shall be accounted for under the special arrangement starting from the first day of the first subsequent month following the submission of the return for taxation under a special arrangement. The VAT accounting period under this article may not be shorter than 24 months.
- 8) Reseller may account for VAT under a special arrangement if he has purchased or obtained goods referred to in the first paragraph of this article from:
  1. the person who is not a taxpayer;
  2. another taxpayer who, in accordance with this law, did not have the right to deduct input VAT for these goods;
  3. taxpayer referred to in Article 42 paragraph 1 of this law if business assets are concerned;
  4. another reseller.
- 9) Reseller who accounts for VAT in accordance with this article and Articles 46 and 47 of this law shall not show VAT in the invoices, which he issues.

### **Tax base for used goods, works of art collectors' items and antiques**

#### **Article 46**

- 1) The tax base for supply of goods under the article 45 shall be the difference between the sales price and the purchase price of the resellers of those goods decreased for the amount of VAT.
- 2) The purchase price for resellers shall mean the total payment (in cash, goods or services) including all taxes, commissions, expenses and duties paid by reseller to the person from whom he obtained the goods;

- 3) The sales price of the reseller shall include the total payment received or to be received by the reseller from the purchaser or a third party, including subsidies directly linked to this supply, taxes and all other duties and direct purchase costs, commissions, packaging costs, transport and insurance charged to the purchaser by the reseller, including VAT.
- 4) If the purchase price exceeds the sales price for the goods, the tax base shall be considered as being equal to “0.”

### **Other instances of supply of works of art, collectors’ items and antiques**

#### **Article 47**

- 1) Reseller may also account for VAT on the difference between the sales price and purchase price for supply of the following goods:
  1. works of art, collectors’ items and antiques which he imports himself;
  2. works of art which he acquires directly from the artist or successors in title.
- 2) The VAT accounting period under this article may not be shorter than 24 months.
- 3) Notwithstanding paragraph 1 of this Article, reseller may account for VAT under a general arrangement in instances of individual supply of goods under the first paragraph of this article. In such instances he may deduct the input VAT which he paid or which he was charged in the accounting period when the supply of these goods was performed.
- 4) The tax base for supply of goods referred to in paragraph 1 of this article shall be the difference between the sales price of the reseller for the goods in question and the purchase price of the reseller for these goods, reduced by the VAT on the difference;
- 5) The purchase price for imports shall be an amount, which is equal to the tax base for the importation of goods, increased by the VAT, which is accounted for or paid at the importation of these goods. The purchase price under the paragraph 1, point 2 of this Article shall be the total payment, including all taxes, commissions, expenses and duties paid by the reseller to the person from whom he acquired the goods in question.
- 6) The sales price of the reseller shall mean the total payment received or to be received by the reseller from the purchaser or third party, including subsidies directly linked to this supply, taxes and all other duties, and contingent purchase costs (commissions, packaging costs, transport and insurance), which the reseller charges to the purchaser, including VAT.
- 7) If the purchase price exceeds the sales price for the same goods, the tax base shall be considered as being equal to zero “0”;
- 8) Reseller who performs supply of goods under this article may not deduct input VAT on goods acquired or imported in this manner;

- 9) Provisions contained in Article 46, paragraphs 2 and 3 of this law shall also apply to supply of goods under this article.

### **Supply of goods at public auction**

#### **Article 48**

- 1) Taxpayer who in pursuing his business activities, either working in his own name or in the name of another person in accordance with a contract on the basis of which commission is paid for purchases or sales and who offers used goods, works of art, collectors' items and antiques for sale at public auction (hereinafter: auctioneers) with the intention of selling to the highest bidder, may account for VAT in accordance with this article and with Article 49 of this law.
- 2) If an auctioneer simultaneously accounts for VAT under general arrangement and under special arrangement (rule), he shall be obliged to provide in his accounts separate statements of supply of goods and to account for VAT for each item separately.
- 3) Auctioneer shall account for VAT in accordance with paragraph 1 of this article, if acting in the name of a principal who is:
  1. a person who is not a taxpayer;
  2. another taxpayer who in accordance with this law is not entitled to deduct input VAT in respect of these goods;
  3. a taxpayer referred to in Article 42, paragraph 1 of this law, if his business assets are concerned;
  4. a reseller referred to in Article 45 of this law;

### **Tax base for the supply of goods at public auction**

#### **Article 49**

- 1) The tax base for supply of goods under Article 48 of this law shall be the difference between the price reached at the public auction and the amount paid by the auctioneer to the principal for the supply of goods performed and the amount of VAT the auctioneer is liable to pay for his commission;
- 2) The auctioneer shall be obliged to pay to the principal the amount equal to the difference between the price reached for the goods at the public auction and the amount of the commission received or to be received by the auctioneer from the principal under a contract whereby commission is paid on sales;
- 3) The price reached at auction shall include the total amount, including taxes and all other duties, and indirect purchase costs (commissions, packaging costs, transport and insurance) paid by the purchaser to the auctioneer for the goods;

- 4) Auctioneer shall be obliged to issue an invoice to the purchaser and the principal for each supply of goods at a public auction. The invoice issued to the purchaser must state the price of the goods reached at the auction, taxes and other duties, and indirect purchasing costs, (commission, packaging costs, transport and insurance) which the auctioneer charges to the purchaser of the goods. VAT shall not be stated separately on the invoice.
- 5) The document issued by the auctioneer to the principal must state separately the amount that is price reached at auction, reduced by the amount of the commission received or to be received from the principal;
- 6) If the auctioneer has issued an invoice to a principal who is a taxpayer, it shall be considered that the principal has issued the invoice.
- 7) The principal shall be considered to perform the supply at the moment when goods have been sold to the auctioneer at a public auction.

## **XIV VAT REFUND**

### **Refund of input VAT**

#### **Article 50**

- 1) If the amount of the tax liability (output tax) in a tax period is lower than the amount of the input VAT which the taxpayer may deduct in the same period, the difference in VAT shall be accepted as a tax credit for the following tax period that is it shall be refunded upon the request within 90 days after the VAT return had been submitted.
- 2) A taxpayer, who mainly exports goods and taxpayer who in more than three successive VAT assessments states the surplus of input VAT, might be refunded the difference in VAT within 60 days after the VAT return was submitted.
- 3) If a taxpayer failed to pay other taxes within the prescribed deadline his difference in VAT shall be reduced for the amount of the tax debt.
- 4) Minister of Finance shall prescribe in detail conditions and method of refunding the input VAT referred to in this article.

### **Refund of VAT to taxpayers who have not established their business in Montenegro**

#### **Article 51**

- 1) Taxpayer who has not established their business in Montenegro shall have the right to refund of input VAT which was charged to that person on the basis of the supply of goods or services performed by taxpayers in Montenegro, or which was charged upon the import of goods into Montenegro, under the conditions and in the manner provided in this law;
- 2) A taxpayer referred to in paragraph 1 shall have the right to a refund of input VAT if:
  1. the goods were bought that is imported and services performed, for the purpose of conducting the activity, which is performed abroad, under such conditions when a taxpayer would be entitled to deduct the input VAT if the activity was performed in Montenegro.
  2. during the period in which the person is recognized as being entitled to a refund of input VAT, that person does not perform supply of goods that is services which would be deemed supply performed in Montenegro, except for:
    - a) services relation to import of goods in connection with item 2 of the second paragraph of Article 22 of this law; services in relation to exports in accordance with Article 25 and import services in accordance with Article 30 of this law;
    - b) services on which VAT must be paid by the person for whom the services were performed;
- 3) Taxpayers shall have the right to a refund of input VAT in a given period on the basis of a claim submitted to a competent authority;
- 4) The Minister of Finance shall prescribe the detailed conditions which must be fulfilled by a taxpayer in order to be granted the right to a refund of input VAT, the time limits for submitting a refund claim, the period to which a claim relates, the minimum amount which may be claimed, and the refund procedure, including the deadline for a refund;

### **Refund of VAT in respect of passenger transport**

#### **Article 52**

- 1) Purchaser who is a natural person without a permanent or temporary residence in Montenegro shall have the right to a refund of VAT on goods which they purchase in Montenegro and take out of Montenegro;
- 2) The right to a refund of VAT referred to in paragraph 1 shall not apply to mineral oils, alcohol and alcohol beverages and tobacco products;
- 3) The Minister of Finance shall prescribe detailed regulations on conditions and methods of refunding the VAT, the minimum purchase value which entitles the person under paragraph 1 of this article to receive the VAT refund, the contents of a refund claim, the obligations of the seller in respect of VAT refund, and the accounting of his tax liability;

## **XV ACCOUNTING OF TAXPAYERS AND STORAGE OF DOCUMENTATION**

### **Accounting of taxpayers**

#### **Article 53**

- 1) Taxpayers shall be obliged to record in their accounts all information required for the accurate and timely charging, levying and payment of VAT, and in particular, information on:
  1. the total value of supply of goods or services performed; the value of the supply of goods or services taxable at the standard VAT rate; the value of the performed supply taxable at zero rate; the value of the performed supply of goods that is services envisaged as exempt from VAT;
  2. VAT charged according to invoices issued for supply of goods that is services;
  3. the total value of goods or services received; the value of goods or services received with VAT charged at the prescribed rates; the value of goods or services received with VAT charged at the zero rate; the value of goods or services received exclusive of VAT;
  4. VAT charged and levied on invoices for goods and services received (input VAT);
  5. liabilities to pay VAT and on VAT payment;
  6. claims for a refund of input VAT and on its payment or transfer to the following tax period;
- 2) Taxpayer shall be obliged to provide the information referred to in items 1 to 5, paragraph 1 of this article for the tax period prescribed for payment of VAT;
- 3) Taxpayer who record stocks of goods at tax inclusive sales price shall be obliged to provide, in addition to the information under the first paragraph of this article, also information on VAT;
- 4) In order to provide the information on issued and received invoices, taxpayers shall be obliged to keep a book to record issued invoices and a book to record received invoices;
- 5) Taxpayers who import goods shall be obliged to keep a separate record of input VAT paid on the import of goods;
- 6) The contents of the book of received invoices and the book of issued invoices shall be prescribed by the Minister of Finance.



## **Storage of documentation**

### **Article 54**

- 1) Taxpayers shall be obliged to store all received and issued documents, in particular, received and issued invoices, documents on amendments to invoices, export and import documents, financial documents, documents on the basis of which they have exercised VAT exemptions, VAT settlements and all other accounting documents in any way concerning the supply of goods and services that is the import of goods which are important for charging, levying and paying VAT for a period of at least five years after the end of the year to which these documents refer;
- 2) Notwithstanding paragraph 1 of this article, taxpayers shall be obliged to store documentation concerning the taxation of immovable property for at least ten years after the end of the year to which the documents refer.
- 3) For the period stipulated in the first paragraph of this article, persons referred to in Article 42, paragraph 1 of this law shall be obliged to store all documents issued to them in relation to goods or services supplied to them and imports of goods.

## **XVI REGISTRATION OF TAXPAYERS**

### **VAT Registration**

#### **Article 55**

- 1) Taxpayers shall be obliged to report to the tax authorities when their activities in respect of which they are liable to charge, levy and pay VAT, begin, change and cease, unless otherwise provided by this law;
- 2) The tax authorities shall issue a decision on entry into the VAT tax register to any person referred to in paragraph 1 of this article.
- 3) A person who becomes or may become a taxpayer for the first time shall be obliged to submit to the tax authority an application for registration no later than the 20<sup>th</sup> day of the calendar month following the month in which he performed or is likely to perform supply of goods or services in the amount which exceeds the amount set out in the first paragraph of Article 42 of this law. The status of a taxpayer shall be acquired on the day determined by the tax authority in the decision on VAT registration, which shall be issued within fifteen days time as of the receipt of an application.
- 4) All persons disposing of goods which under this law are treated as being supplied by taxpayers pursuing their business activities shall be obliged to submit to the tax authorities an

application for registration within fifteen days of the day when they acquire the right to dispose of the goods;

- 5) The tax authorities shall establish and maintain a register of persons who are or who may become taxpayers under this law or persons disposing of goods in respect of which it is deemed under this law that the disposal is performed by taxpayers;
- 6) The Minister of Finance shall prescribe the form and contents of the application for VAT registration.

### **Cessation of registration**

#### **Article 56**

- 1) The tax authority may, at the request of a taxpayer who in the period of the last twelve months (last calendar year) has failed to achieve turnover in the amount determined in the first paragraph of Article 42 of this law, issue a decision on the cessation of registration for VAT;
- 2) If a taxpayer ceases to perform activities, the tax authorities shall rule on the cessation of registration for VAT ex officio;
- 3) Prior to the cessation of registration, the taxpayer shall be obliged to calculate and pay VAT on all purchases performed until the day of notification of cessation and to make an inventory of all stocks of goods. The taxpayer shall be obliged to calculate VAT on stocks of goods intended for personal use.
- 4) The tax authorities shall issue a decision on the cessation of registration after the settlement of tax liabilities referred to in paragraph 3 of this article.

## **XVII CONTROL OF THE CHARGING, LEVYING AND PAYMENT OF VAT**

#### **Article 57**

- 1) The charging, levying and payment of VAT shall be controlled by the tax authority in accordance with the law which governs the tax procedure.
- 2) If a taxpayer fails to submit a VAT settlement or submits it in incomplete form or if the tax authority determines that the tax liability has been incorrectly charged and levied, and also in respect of late-payment interest, legal remedies and all questions of procedure and the jurisdiction of the tax authority not determined by this law, the law which governs the tax procedure.

- 3) For imports of goods, the charging, levying and payment of VAT shall be controlled by the customs authorities in accordance with customs regulations as if VAT was an import duty.

## **XVIII PENALTY PROVISIONS**

### **Tax offences**

#### **Article 58**

- 1) A legal entity that is entrepreneur shall be penalized for an offense with a fine to the level of fifty times to hundred times the amount of the minimum wage in Montenegro, if:
  1. fails to issue an invoice to the purchaser of goods or the recipient of services (fourth paragraph of Article 32);
  2. fails to submit a VAT settlement within the prescribed time limit (Article 35);
  3. fails to submit timely an application for taxation under a special arrangement (seventh paragraph of Article 45);
  4. fails to report to the tax authority when its activity begins, changes or ceases (first paragraph of Article 55);
  5. fails to submit an application for registration within the prescribed time limit (third paragraph of Article 55);
  6. fails to draw up a list as at 30<sup>th</sup> of June 2002 of all issued, unpaid invoices and to submit them to the tax authority within the prescribed time limit (Article 66);
  7. fails to make an inventory as at 30<sup>th</sup> of June 2002 of all goods on stock (first and second paragraphs of Article 67);
  8. fails to make an inventory as at 30<sup>th</sup> of June 2002 with the sales tax and to submit the inventory lists to the competent tax authority within the prescribed time limit (Article 68);
- 2) A responsible person in the legal entity shall be penalized for the offenses specified in paragraph 1 of this article with fine to the level of five times to twenty times the amount of the minimum wage in Montenegro.

#### **Article 59**

- 1) A legal entity that is entrepreneur shall be penalized for an offense with a fine to the level of twenty times to three hundred times the amount of the minimum wage in Montenegro, if:
  1. fail to charge and levy VAT when the liability arises in accordance with Article 18 of this Law;
  2. fail to charge and levy VAT on the tax base in accordance with Article 20 of this Law;
  3. fail to issue an invoice and fail to retain a copy of the invoice (first paragraph of Article 31);

4. fail to state the prescribed information on an invoice (Article 32, paragraphs 1, 3 and 4);
  5. fail to charge and levy or incorrectly charge and levy VAT (Article 34);
  6. incorrectly calculate the amount of input VAT (Articles 37, 38, 39, 40 i 41);
  7. calculate VAT, shows VAT on invoices and deduct input VAT in contradiction to Article 42 of this Law;
  8. fail to charge and levy VAT in accordance with Article 44 of this Law;
  9. fail to charge and levy VAT in accordance with Articles 45, 46 and 47 as resellers of used goods, works of art, collectors' items and antiques;
  10. fail to charge and levy VAT in accordance with Articles 48 and 49 of this Law as an auctioneer;
  11. state VAT on invoices (sixth paragraph of Article 45, fourth paragraph of Article 49);
  12. fail to state on an invoice the price reached at auction, taxes and other duties and direct purchase costs (fifth paragraph of Article 49);
  13. fail to state on a document separately the price reached at auction reduced by the amount of commissions (fifth paragraph of Article 49);
  14. fail to provide in their accounts the information referred to in Article 53 of this Law or fail to provide the information for the prescribed period;
  15. fail to keep a book of received and issued invoices and other records (fourth and fifth paragraphs of Article 53);
  16. fail to store business books and other documents for the prescribed period (Article 54);
  17. fail to calculate and pay VAT in accordance with the third paragraph of Article 56 of this Law;
  18. fail to pay sales tax in the manner and within the prescribed time limits (Article 65);
- 2) A responsible person in a legal entity shall be penalized for offenses specified in paragraph 1 of this article with a fine to the level of ten times to twenty times the amount of the minimum wage in Montenegro.

### **Mandatory penalty**

#### **Article 60**

Individual purchasers of products or recipients of services who fail to retain the invoice immediately upon leaving the sales or other business premises and to submit it on demand to an authorized person of the tax authority (fourth paragraph of Article 32) shall be subject to an on-the-spot fine to the level of one time the amount of the minimum wage in Montenegro.

## **XIX SPECIAL PROVISIONS**

### **Implementation of the regulations**

#### **Article 61**

Legal regulations on customs tariff shall be used for the classification of products under this law, whereas the classification regulations of activities shall be used for the classification of activities.

#### **Article 62**

In case of relations that are not regulated by this Law (complaint procedure, enforced collection, interests, etc.) the Law on tax procedure shall be applied accordingly.

#### **Article 63**

Rate of VAT, prescribed by this law, may be increased or decreased up to 15 % in accordance to the Budget Law.

### **Regulations related to the execution of the Law**

#### **Article 64**

The Minister of Finance shall prescribe detailed regulations on the method of VAT calculation and payment, as well as the manner in which the right to VAT exemption may be exercised.

## **XX TRANSITIONAL PROVISIONS**

### **Final calculation of the tax on the supply of products that is services**

#### **Article 65**

- 1) Taxpayers under the Law on Sales Tax (Official Gazette of the Republic of Montenegro, no. 4/94, 13/94, 42/94, 13/96, 45/98 and 55/2000) shall present a final calculation of the tax on the supply of products and services for the period from 1<sup>st</sup> of January – 30<sup>th</sup> of June 2002 and shall submit it to the competent tax authorities no later than 15<sup>th</sup> of August.
- 2) Sales tax on supply of goods that is services for which the obligation to calculate has been established until 30<sup>th</sup> of June 2002 shall be paid within the time limits and in the manner defined in paragraph 1 of this article.

## **List of unpaid issued invoices**

### **Article 66**

Taxpayers shall be obliged to draw up a list of unpaid issued invoices and advance payments on June 30, 2002, which shall include the tax on the supply of products and the supply of services, calculated in accordance with the Law on Sales Tax (Official Gazette of the Republic of Montenegro, no. 4/94, 13/94, 42/94, 13/96, 45/98 and 55/2000) and to submit it to the responsible tax authority at the same time when the final calculation for the sales tax for the period January – June 2002 is submitted.

## **List of goods in retail trade**

### **Article 67**

- 1) The taxpayers, according to the provisions of the Law on Sales Tax (Official Gazette of the Republic of Montenegro, no. 4/94, 13/94, 42/94, 13/96, 45/98 and 55/2000), who perform retail sales activities are obliged to make an inventory of goods in stock recorded according to the sales price, inclusive of tax on the sale of products and services, on June 30, 2002, and to cancel the calculated sales tax in stocks.
- 2) The taxpayers referred to in the previous paragraph shall determine the sales price for goods under the previous paragraph exclusive of sales tax, and on the sales price thus calculated they shall calculate VAT under the provisions of this law. If this leads to an increase in the retail sales price, the taxpayers shall be obliged to submit inventory lists of stocks and retail sales prices to the tax authority by 15 July 2002.
- 3) The taxpayers referred to Paragraph 2 of this Article, who are not VAT taxpayers shall submit the sales tax settlement in accordance with the provision of paragraph 1 of this article until 31<sup>st</sup> of July 2002 and to pay the tax.
- 4) Market inspectorate shall supervise the change of the sales prices referred to in this article.

## **List of certain goods in retail trade and catering**

### **Article 68**

- 1) Notwithstanding the Article 67 of this law, taxpayers under the Law on Sales Tax (Official Gazette of the Republic of Montenegro, no. 4/94, 13/94, 42/94, 13/96, 45/98 and 55/2000) conducting the retail trade activity and catering and who are VAT taxpayers shall be obliged to make an inventory of stocks, on June 30 2002 containing sales tax and to submit the inventory lists with the sales tax indicated to the responsible tax authority no later than July 31, 2002.

- 2) Sales tax shown in the stocks form Paragraph 1 of this Article shall be treated as input VAT under this law. Taxpayers shall have the right to deduct this tax in proportion to the executed turnover, but they shall not have the right to the refund of input VAT on this basis.

### **Application for VAT registration**

#### **Article 69**

- 1) Persons from Article 13 of this law shall become taxpayers under the provisions of this law if, during the year 2001, they achieved the turnover exceeding 18 000 Euros (€).
- 2) Persons from Paragraph 1 of this Article shall be obliged to submit an application for VAT payment registration to the tax authority, no later than April 30, 2002.
- 3) The tax authority shall issue to the persons from Paragraph 2 of this Article, the certificate of registration no later than May 15, 2002.

### **Deferred Application**

#### **Article 70**

Notwithstanding Article 2 of this Law, for the year 2002, part of revenue from the VAT tax may be transferred to the Budget beneficiary, to which revenues of Sales tax used to be transferred directly before this Law came into force, based on special Government program.

#### **Article 71**

- 1) Notwithstanding Article 38 of this Law, the deductible share of input VAT shall be determined on the basis of actual data on the supply of goods that is services on which VAT is accounted and paid until December 31, 2002.
- 2) Provisions of Article 40 of this Law shall not be applied to goods in stock purchased before July 1, 2002.

## **XXI FINAL PROVISIONS**

### **Cessation of validity of regulations**

#### **Article 72**

On the day when this law comes into effect, the following shall no longer be valid:

- 1) Law on Sales Tax (“Official Gazette of RM”, no. 4/94, 13/94, 42/94, 13/96, 45/98 and 55/2000) and the regulations issued on the basis of that Law prescribed under this law.
- 2) Provisions of Article 9 paragraph 1 item 3 of the Law on system of public revenue (»Official Gazette of RM «, no. 30/93, 3/94, 42/94, 13/96 i 45/98).

### **Entry into force**

#### **Article 73**

This law shall enter into force on January 1, 2002, and shall be applied from July 1, 2002.