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L.N. 350 of 2024

VALUE ADDED TAX ACT
(CAP. 406)

Value Added Tax Act (Amendment of Fourteenth Schedule) Regulations, 2024

IN EXERCISE of the powers conferred by article 75 of the Value Added Tax Act, the Minister responsible for finance, has made the following regulations:-

Citation, scope and commencement. Cap. 406.

1. (1) The title of these regulations is the Value Added Tax Act (Amendment of Fourteenth Schedule) Regulations, 2024 and these regulations shall be read and construed as one with the Fourteenth Schedule to the Value Added Tax Act, hereinafter referred to as the "Fourteenth Schedule".

(2) These regulations transpose the provisions of Council Directive (EU) 2020/285 of 18 February 2020 amending Directive 2006/112/EC on the common system of value added tax as regards the special scheme for small enterprises and Regulation (EU) No 904/2010 as regards the administrative cooperation and exchange of information for the purpose of monitoring the correct application of the special scheme for small enterprises, as well as introduce technical improvements to the existing provisions contained in the Fourteenth Schedule.

(3) These regulations shall come into force on 1st January 2025.

Amends the Fourteenth Schedule.

2. The Fourteenth Schedule shall be amended as follows:

(a) Part One thereof shall be substituted by the following new part:

"Part One
Cash Accounting

Interpretation

1. In this Part:

"qualifying supplies" means:

(a) services performed by a person holding a warrant issued under any law in force in Malta to practise a profession acting in an independent capacity in the exercise of such profession;

(b) services performed by a group of persons holding a warrant issued under any law in force in Malta to practise a profession whether associated in a partnership or otherwise, but excluding a company;

(c) services performed by a company, which if performed by a physical person would require a warrant issued under any law in force in Malta to perform such services in the exercise of a profession, and which is registered in accordance with any law in force in Malta to practice such profession;

(d) services performed by an arbitrator pursuant to a submission for arbitration made in conformity with the Arbitration Act;

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(e) services performed by a judicial referee, or an expert appointed by a court or a tribunal set up by law;

(f) services performed by civil, mechanical and electrical engineering contractors in their professional capacity; and

(g) supplies made by retailers.

Cash accounting option

2. (1) Subject to the other provisions of this Part, a taxable person registered under article 10 who carries out qualifying supplies and whose annual turnover, calculated in accordance with item 3 of the Definitions in the Sixth Schedule, does not exceed €2,000,000, excluding tax, may opt for such tax to become chargeable on the earlier of:

(a) the date when a tax invoice or fiscal receipt, as the case may be, is issued for the supply, to the extent covered by such tax invoice or fiscal receipt; or

(b) the date when a payment is made for such supply, to the extent covered by that payment:

Provided that the right of deduction of input tax of such person shall be postponed until the tax on any goods or services supplied to him has been paid to his supplier.

(2) The provisions of sub-item (1) shall not apply to supplies of services in respect of which the tax is payable by the customer and to supplies or transfers of goods referred to in item 4 of the Fourth Schedule.

Invoices and receipts for qualifying supplies

3. (1) Where a tax invoice is required to be issued for a qualifying supply made in terms of item 2, it shall be issued by not later than the fifteenth (15) day of the month following the month in which the payment for the said supply is made, to the extent covered by such payment.

(2) Where a fiscal receipt is required to be issued for a qualifying supply made in terms of item 2, unless it has been issued before the payment has been made, it shall be issued and delivered to the person who effects the payment or to whom the supply is made, immediately after payment has been effected, to the extent covered by such payment.

Transfers of debts arising from supplies subject to cash accounting

4. Notwithstanding the other provisions of this Part, where a person transfers any debts owed to him arising as a result of a supply made in terms of item 2, the tax on such a supply shall become chargeable on the date of such transfer.

Cancellation of a registration under article 10

5. Notwithstanding the other provisions of this Part, where the registration of a person registered under article 10 is, for any reason cancelled, the tax on a supply made in terms of item 2 shall become chargeable, at the latest, on the last day of his last tax period.";

(b) Part Two thereof shall be amended as follows:

(i) item 3(b) thereof shall be substituted by the following new sub-item:

"(b) by another taxable person not being a taxable person covered by the exemption for small enterprises provided for in Article 284 of Council Directive 2006/112/EC, in so far as the supply of goods by such other person is an exempt without credit supply;";

(ii) item 3(c) thereof shall be substituted by the following new sub-item:

"(c) by another taxable person, in so far as the supply of goods by such other taxable person is covered by the exemption for small enterprises

provided for in Article 284 of Council Directive 2006/112/EC and involves capital goods."; and

(iii) item 5 thereof shall be substituted by the following new item:

"5. (1) Second-hand goods dealers shall have the option to apply the provisions of this Part, after having obtained the approval of the Commissioner in writing, in respect of supplies of:

(a) works of art supplied to them by their creators or their successors in title; and

(b) works of art supplied to them by a taxable person other than a taxable dealer.

(2) Where a second-hand goods dealer exercises the option available under sub-item (1), such option shall cover, a minimum of, two (2) calendar years.

(3) Where a second-hand goods dealer exercises the option available under sub-item (1), the taxable value shall be determined in accordance with item 4 of this Part.";

(iv) item 11(1)(c) thereof shall be substituted by the following new paragraph:

"(c) another taxable person, in so far as the supply of goods, carried out by such taxable person in accordance with a contract under which commission is payable on sale, is covered by the exemption for small enterprises provided for in Article 284 of Council Directive 2006/112/EC and involves capital goods; or";

(c) Part Three thereof shall be substituted by the following new Part:

"Part Three
Professional Services

Definition of professional services

1. For the purpose of this Part, "professional services" shall mean the qualifying services referred to in Part One of this Schedule."

Date when certain services are performed

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2. When, for any purpose of this Act, it is necessary to determine the date when professional services referred to in this Part are performed, the following provisions shall apply:

(a) the services of an advocate or of a legal procurator in assisting any party to judicial proceedings shall be treated as performed on the date when a final decree or judgment in those proceedings is delivered by the court in which the proceedings have been instituted, or, when the advocate or legal procurator abandons or is abandoned by his client at an earlier date, on such earlier date:

Provided that services relating to proceedings instituted in different courts are to be treated as supplied separately;

(b) the services of a judicial referee or of an expert appointed by a court or a tribunal set up by law shall be treated as performed on the date on which the report is filed or made to the court or tribunal or, when the appointment is terminated on an earlier date, on such earlier date; and

(c) the services of an arbitrator shall be treated as performed on the date of the award or, when the appointment is terminated on an earlier date, on such earlier date.

Tax on certain professional services where tariffs of fees are established by law

3. (1) The tax chargeable on a supply of professional services shall be an amount over and above the amount resulting to be chargeable for those services in terms of any tariff of fees established under any law in force in Malta.

(2) Nothing in this item shall be construed as requiring any person required by law to assess or declare the fees payable in accordance with any such tariff to declare or assess also the said tax.

(3) In any action for the enforcement of the executive title referred to in article 253(c) of the Code of Organization and Civil Procedure, the amount for which payment may be enforced shall be the amount indicated in the taxed bill of costs concerned increased by any tax chargeable on the supply of professional services to which the taxed bill of costs refers as evidenced by a tax invoice or a fiscal receipt or a certified copy thereof attached to the said bill.

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(4) The provisions of sub-item (3) shall be without prejudice to the right of the debtor to request the delivery of the original tax invoice or the fiscal receipt in accordance with item 4 of this Part.

Tax claimed from third parties

4. The provisions of this item shall apply with respect to any action for the payment of fees for professional services brought against any person other than the person to whom the services were supplied:

(a) the person against whom the action is brought shall not be bound to pay the amount relating to the tax, if any, chargeable on the supply of the said services unless the original tax invoice or fiscal receipt for those services complying with the provisions of paragraph (b) is delivered to him or, where the action is brought against a number of persons jointly, to any one of them;

(b) a tax invoice delivered as aforesaid shall, in addition to the information required by this Act, contain:

(i) the following declaration signed by the person to whom the said services were rendered:

"I declare that no credit for input tax has been or shall be claimed by me in respect of the professional services referred to in this tax invoice;

(ii) where the person against whom the action or claim is brought is a person registered under article 10 or, where the action is brought against a number of persons jointly, when any one of them is a person registered under article 10, the name and value added tax identification number of the said registered person; and

(c) when a tax invoice or fiscal receipt for fees for professional services, complying with the provisions of paragraph (b) if applicable, is delivered to a taxable person who is bound at law to pay or reimburse the said fees it shall for the purposes of this Act be deemed as if it were a tax invoice for professional services supplied to him."; and

(d) Part Five thereof shall be amended as follows:

(i) item 1 thereof shall be substituted by the following new item:

"1. Where, in any particular contract of supply, and in order to secure the regular payment of the tax in terms of this Act, the Commissioner may, by notice in writing to the parties to the contract direct that the payment of the tax on a taxable supply made to a person established in Malta and registered under articles 10 or 12 shall be a liability of the person to whom the supply is made."; and

(ii) item 3 thereof shall be substituted by the following new item:

"3. When a direction has been given by the Commissioner in terms of item 1 of this Part, the tax invoice which is required to be issued in terms of this Act by the person who makes the supply shall, instead of the information required by item 3(i) of the Twelfth Schedule, indicate the words "Direction for customer to self-charge VAT in terms of Part Five of the Fourteenth Schedule to the VAT Act.".

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