

LAW ON VALUE ADDED TAX

- Cleared text-

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I GENERAL PROVISIONS

Article 1

- 1) This law regulates the system and introduces the obligation of payment of Value Added Tax in the Republic of Montenegro.
- 2) Value Added Tax (hereinafter referred to as VAT) is a general tax on final consumption and is accounted for and paid in all stages of the supply of taxable products and the provision of taxable services, unless otherwise provided by this law.

Article 2

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

II OBJECT OF TAXATION

Article 3

Object of taxation of VAT is as follows:

- 1) Supplies of products and provision of services effected for consideration by a taxpayer in furtherance of his activities;
- 2) importation of goods into the Republic of Montenegro (hereinafter referred to as Montenegro) .

1. Supply of Goods

Article 4

- 1) Supply of goods shall be the right to dispose of movable or immovable [tangible] things unless otherwise not provided by this law;
- 2) The following shall also be considered a supply of goods within referred to in paragraph 1 of this Article;

1. Supply of goods for consideration on the basis of a regulation [decision] made by a state body or a local government body;
2. Sales of goods under contract on the basis of which commission is payable on the purchase or sale of goods;
3. Sales of goods on the basis of contract of lease of goods a specified period of time, or 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(disbursement) of the final installment;
4. Supply of newly constructed facilities and transfer of material rights and shares in respect of immovable

Use of goods for non-business purposes

Article 5

- 1) If the taxpayer takes goods which form part of the business assets and uses them for private purposes or for private purposes of his employees or disposes of the goods free of charge or for consideration that is lower than that which could be achieved on the market or uses the goods for a purpose unrelated to the furtherance of his activities shall be considered supply of goods for consideration;
- 2) Notwithstanding the provisions of 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 (realistic) quantities to customers or potential customers provided that they are not placed on sale or 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.
 3. the Minister of Finance shall regulate, in a form of regulation, what constitutes a low-value gift referred to in paragraph 2, item 2 of this Article.

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. Taking [using of products which a taxpayer produces, builds, processes, ac

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 activities or the cessation of registration.

Property supply

Article 7

- (1) In the sense of Article 4 of this law, it is transfer of the entire or part of the property, with or without consideration, or as an equity when the buyer, who is taxpayer, or upon transfer becoming a taxpayer, continues to perform the same business, shall not be deemed as a supply of goods referred in Article 4 of this Law. In such case it shall be deemed that the buyer takes place of the transferor.
- 2) The acquirer of the property referred to in paragraph 1 of this Article shall be obliged to make correction of the input VAT for the acquired immovable property, in the manner prescribed by Article 39 of this Law.

2. Supply of Services

Article 8

- 1) Supply of services shall mean the performance, abandonment or permission of each operation in the furtherance of business activities other than the supply of goods in the sense of Article 4, 5 and 6 of this 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
 4. toleration or omission of certain actions,
 5. exchange of services.

Use of services for non-business purposes

Article 9

The following shall also be considered a supply of services of tax payers for non-business purposes, within the meaning of Article 8 paragraph 2 point 3 of this law :

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

In the supply of services, where a taxpayer acts in his own name and for the account of other person, it shall be considered that the taxpayer both receives and performs such services.

3. Imports of Goods

Article 11

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, except in the case when the recipient is a person who is not a VAT taxpayer, in which case the taxpayer is the provider of service;
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 who conducts any business activity, referred to in paragraph 2 of this Article, independently, in any place, regardless of a purpose or result of that activity.
- 2) The activity referred to in paragraph 1 of this Article shall include all the activities of production, trade and providing service activities including, mining, agriculture and professional activities. The use of tangible and non-tangible property (property rights) for the purpose of permanent realization of revenues shall be considered as a business activity.
- 3) A taxpayer shall also be a person who temporarily carries out the activity relating to the delivery of newly built construction facilities or parts of construction facilities.

- 4) The Ministry of Finance shall prescribe more detailed criteria regarding what shall be considered as the activity referred to in paragraph 3 of this Article.
- 5) Taxpayer shall be a person who imports goods for his own account or receives goods from abroad, as well as the person for whose account the goods are being imported.
- 6) State bodies and organizations and bodies of local self-government unit 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, contributions and other duties are being collected. Political parties, trade unions and chambers shall not be considered as the taxpayers, if they carry out activities within their scope of work, i.e. authorizations.
- 7) State bodies and organizations and bodies of local self-government unit 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, in the case of other taxpayers.
- 8) 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 of supply of goods or services was performed or 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 and services.

1. 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 or transport of the goods commences outside Montenegro, it shall be considered that the importer performs it within Montenegro;
- 2) place where products are installed or assembled if the goods are supplied by the supplier or by another person on behalf of and for the account of the supplier;
- 3) place where the goods are located at the time of performing the supply, if the supply of the goods is carried out without dispatch or transportation;
- 4)

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

5. electronic data processing and provision of information, including also information on business procedures and experiences;
6. banking, insurance and re-insurance services;
7. agency services in employment of labor;
8. rental of movable property, except for transportation means;
9. withdrawal from carrying out a business activity;
10. agency services in connection with services referred to in items 1 to 9 of this paragraph, if they are performed by the agents in the name and for the account of the customer, the place where the supply of services is performed shall be considered to be the place of the registered office of the recipient of the service. If the services are performed in the business unit, the place of the supply of services shall be considered to be the place of business unit 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) Regarding the agency services, except for the services referred to in paragraph 2, point 1 and paragraph 3, item 10 of this Article, the place of the supply of services shall be considered to be the place of delivery of goods or services for which the agency services have been performed.

5) The Minister of Finance may in respect of services referred to in paragraphs 1 and 3 of this Article and services of renting transportation means, 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)

- 3) If an invoice from paragraph 2 of this Article was not issued, the VAT shall be accounted for on the eighth day after the acquisition [delivery] of the goods or performance of the services.
- 4) If the payment is partly or fully made before an invoice is issued, or before a supply of goods and services is performed, VAT shall be accounted for on the day of receipt of the consideration [payment].
- 5) For a supply of goods, except for a supply of goods under Article 4, paragraph 2, item 3, of this law, or for the 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 or payment of [consideration] relates.
- 6) For a supply of goods and services under 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 or other document on the change of tax base is issued.
- 8) Notwithstanding paragraph 2 of this Article, in the case when in accordance with Article 12, points 2) and 3) of this Law, the tax debtor is the recipient of goods i.e. services, it shall be considered that goods are delivered i.e. services performed, when the recipient receives the invoice or when the payment is made, depending on what happened earlier in time. If the recipient does not receive the invoice, VAT shall be accounted for on the eighth day after the delivery of goods or performance of services.

Inception of Tax Liability at Importation **Article 19**

- 1) The obligation to account for VAT for imports commences at the moment of inception of liability to pay the customs duties and other import fees .
- 2) For the goods which are not subject to payment of customs and other import duties, VAT is accounted for at the moment of

inception of liability to pay import duties as if such liability ,should be incepted pursuant to the customs regulations , but it did not.

VII TAX BASE

tax base and correction of the tax base

Article 20

- 1) The taxable amount for VAT (hereinafter: taxable amount) shall be everything which constitutes the payment [consideration]which the taxpayer shall receive from the purchaser, customer or third party for performing 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 taxable amount shall include:
 1. excise duty and other taxes, fees, import duties and charges, excluding VAT;
 2. the indirect costs, such as commissions, cost of packaging, transport, and insurance which the supplier charges to the purchaser or client of the services;
 3. amounts charged on the returnable packaging and the caution money charged.
- 3) If the consideration for supply of goods or services is not paid or not entirely paid in cash, the tax base shall be the same as the market value of the goods or services at the time the supply was performed.
- 4) For exchange of goods or services, the taxable amount shall be the value of the goods or services which are received in exchange.
- 5) For the supply of goods and services performed by a taxpayer who has not a registered office in Montenegro, the taxable amount shall be considered to be everything which constitutes the consideration which the recipient of goods or services has or will have to pay to the supplier of goods or services.
- 6) For the supply of goods under Articles 5 and 6 of this law, the taxable amount shall be the purchase price of goods in question

or of similar goods, excluding VAT, or 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 taxable amount shall be amount of cost 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 or 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 receives from his customer as the refund of costs he paid in his name and for his account, and keeps them in his books as transitional items, in which case the taxpayer has to obtain the evidence on actual amount of these expenses and must not deduct the VAT from these transactions.

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, the tax base shall be the price of the collateral security, increased by the amount of difference of market value to the collateral.

13) Tax base shall not include the costs of refundable package, which are kept in the form of records with a delivering party. .

Article 20a

Due to inability to collect, a taxpayer may correct (reduce) the amount of VAT, if, on the basis of a final court decision on closed bankruptcy procedure or on successfully finalized compulsory composition, he is not compensated or not totally compensated. Taxpayer may act in the same manner if he gets a final court decision on suspension of the enforcement procedure, or another document from which it can be seen that he was not compensated or not totally compensated after the closed case, due to the debtor's deletion from the court registry, or other adequate registries or records. If the taxpayer subsequently receives the payment or partial payment for goods or services delivered which served as a ground for corrected tax base, he shall be obliged to account for VAT from the received amount.

Tax base when selling property

Article 21

Due to inability to collect, a taxpayer may correct (reduce) the amount of VAT, if, on the basis of a final court decision on closed bankruptcy procedure or on successfully finalized compulsory composition, he is not compensated or not totally compensated. Taxpayer may act in the same manner if he gets a final court decision on suspension of the enforcement procedure, or another document from which it can be seen that he was not compensated or not totally compensated after the closed case, due to the debtor's deletion from the court registry, or other adequate registries or records. If the taxpayer subsequently receives the payment or partial payment for goods or services delivered which served as a ground for corrected tax base, he shall be obliged to account for VAT from the received amount.

Tax base at import of goods

Article 22

2. contingent expenses, such as commissions, packaging costs, transport and insurance, which arise at 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 taxable amount 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 th

General rate

Article 24

and similar cultural and sports performances, except for those for which exemption from VAT payment is prescribed;

15) Services regarding the use of sports facilities for non-profit purposes;

15a) services provided in marinas;

15b) computer equipment;

16) Fodder, fertilizer, devices for plant protection, reproduction seeds, planting material and livestock.

(2) Goods i.e. services referred to in paragraph 1, items 1, 3, 4, 5, 6, 15, 15a), 15b) and 16 of this

- 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 piers, that is anchorages;
7. goods and services that are used in international air and maritime traffic;
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;
- 9) medicines and medical devices, determined by the list of medicines, i.e. medical devices prescribed and issued at the expense of the Health Insurance Fund of the Republic;
- 10) goods and services used for exploration of petroleum drills on the open sea;
- 11) deliveries of goods to the free zone, free and customs warehouses and deliveries of goods within a free zone, free and customs warehouses;
- 12) delivery of goods or services when it is envisaged by international treaties or contract of donation that tax expenses shall not be paid from the received funds.

(2) The manner and procedure for exercising the right to exemption from VAT payment referred to in paragraph 1, items 8, 10, and 12 of this Article shall be governed by the regulation of the Ministry of Finance. ;

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.

(4) Services directly related to export, i.e. import of the goods referred to in paragraph 1, item 2 of this Article shall be governed in more details by the regulation of the Ministry of Finance.

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, as well as supply of goods directly related with these deliveries;
2. Health services and care and delivery of goods including supply of human organs, blood and human milk, performed in accordance with regulations on health insurance;
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 (unions, associations, etc);
8. Services of public radio broadcasting service, except for services of commercial character;
9. 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;
10. Services provided by non - government organizations established in accordance with the regulations governing the activities of these organizations, unless there is probability that such exemption would lead to a distortion of competition.

Other VAT exemptions

Article 27

The following shall also be exempt from VAT:

1. Insurance and reinsurance services, including services provided by insurance brokers and agents;
2. Supply of immovable propriety, except the first transfer of the ownership rights that is the rights to dispose of newly-constructed immovable property;
3. Services of leasing or 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;
4. 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 (for example: numismatic collection); 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 equity interests in companies, bonds and other securities, including their issuance, except for the safekeeping of securities;
 - e) Investment fund management.
5. Current postage stamps, administrative and court and tax stamps;
6. Supply of gold and other precious metals to the Central Bank of Montenegro;
7. Services of games of chance and entertaining games.

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 voluntary humanitarian organizations and organizations of disabled persons, which are intended for, people, as a free of charge delivery, in 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 on establishment of 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
8. Gold and other precious metals, bank notes and coins imported by the Central Bank of Montenegro;

9. Imported goods for which exemption from payment of customs duties is prescribed, in accordance with Article 184, paragraph 1, points 2), 3), 9) and 13) of the Customs Law.
10. Goods specifically developed for education, enabling or employment of blind and deaf persons, or other physically or mentally handicapped persons, if these were acquired free of charge and imported by institutions or organizations whose activity is education or offering assistance to these persons, and if a donator does not express a commercial purpose, based on the opinion of the ministry in charge of social affairs;
11. passenger vehicles, especially adapted to transportation of disabled persons in wheelchairs, but only if they are imported for the needs of persons with physical handicaps for an individual use (the 226 paragraph 1) TJ-15.

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- 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.

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 paragraphs 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 tobacco products, travel tickets and tokens in passenger traffic (train, bus, funicular railway), stamps, fees, securities and forms in postal traffic, periodic

- 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 18, 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 15th 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 4a) to 4d) 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. vessels intended for sport and recreation, personal automobiles and motorcycles, fuels and oils and spare parts and services closely related to them, other than vessels that is vehicles, intended for : further sale, renting (rent-a-car), transportation of persons and goods (taxi) and training of drivers of the aforementioned transportation means;
2. expenses for business entertainment;

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

- 9) . 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.

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.

Article 41 is deleted.

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 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 Article.
- 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 5% 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) The Ministry 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 17, 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, 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 products of jewelers (valuables, jewelry, goldsmiths and filigrees);
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

- 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 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

- 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 (rule) and under special arrangement, 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

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 60 days after the VAT return had been submitted for calculation.
- 2) A taxpayer, who mainly exports goods and taxpayer who in more than three successive VAT assessments states the surplus of input VAT, is returned the difference in VAT within 30 days after the VAT return was submitted for calculation.
- 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) Taxpayer who was granted the right on remuneration of import VAT, while simultaneously having the obligations regarding the customs fee debt (according to VAT), on his request redirection of these funds may be granted for the purposes of paying VAT on import

- 1) Taxpayers shall be obliged to record in their accounts all information required for the accurate and timely charging 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 prescribed rates (general and reduced); 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 at the prescribed rates (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 Ministry 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 twenty 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 20th 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

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.

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7. fails to make an inventory as at 31st of March 2003 of all goods on stock (first and second paragraphs of Article 67);
8. fails to make an inventory as at 31st of March 2003 with the sales tax and to submit the inventory lists to the competent tax authority within the prescribed period (within 3.8 (a) - 3.5 (e) prescribed)

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 (ninth 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 indirect purchase costs (fourth 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, calculate incorrectly or 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.

Protective Measure Article 60

In addition to the pecuniary fine, a protective measure of prohibiting the performance of activity from one to three months may be imposed for the offence referred to in Article 59, paragraph 1, items 5 and 6 of this Law on a legal entity, i.e. entrepreneur.

XXIXSPECIAL 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 governing 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 of the Republic for a specific year.

Regulations related to the execution of the Law

Article 64

The Ministry 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 1st of January – 31st of March 2003 and shall submit it to the competent tax authorities no later than the 30th of April 2003.
- 2) Sales tax on supply of goods that is services for which the obligation to calculate has been established until 31st of March 2003 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 the 31st of March 2003, 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

1)

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 April 1, 2003.

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 adopted on the basis of that 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 and 45/98).

Entry into force

Article 73

This law shall enter into force on 1 January 2002, and shall be applied from 1 April 2003.

In the cleaned version of the Law on Amendments to the Law on Value Added Tax (Official Gazette of the Republic of Montenegro, No 76/05), the provisions of the following Articles are not included:

Article 29

1) Legal entities and physical persons carrying out the activity of trade and hospitality shall be obliged to take the inventory of goods which were exempted from the VAT payment on the basis of the Law on Value Added Tax (Official Gazette of the Republic of Montenegro, No 65/01, 38/02, 72/02 and 21/03), on the day of application of this Law.

(2) The persons referred to in paragraph 1 of this Article shall be obliged to, on the day of application of this Law, take inventory of the received and paid advance payments for goods that were exempted from the VAT

payment, and which are, in accordance with this Law, taxable under the reduced or zero rate.

- 3) The persons referred to in paragraphs 1 and 2 of this Article shall be obliged to submit the inventory of goods or advance payments to the tax authority until the 20th of January 2006.

Provisions of the Law on amendments to the Law on value added tax that was not included in the final version of the Law

Article 9

Article 10

This Law shall enter into force on the eighth day from its publication in the “Official Gazette of the Republic of Montenegro”.