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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



- 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.



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,





- 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 payment, 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)

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

## 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



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

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

Basic data contained in the invoices 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 sales , 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 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 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 for passenger traffic (train, bus, funicular railway), stamps, fees, securities and forms in postal office, 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

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- 4) Taxpayer may deduct input VAT in respect of 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 are used for renting as well for further sale;
  2. expenses for business entertainment and accommodation;
- 6)

- 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.

- 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 ~~a~~ tangible fixed asse

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- 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 price of this supply of goods and services;
- 4) Taxpayers referred to 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 for 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 ta

- 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.
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- 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) w



- 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

## 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 take 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 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 rates 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

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.





- 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