

## ANNEX III

### Tax Code SECTION VII. VALUE ADDED TAX

#### CHAPTER 24. General Provisions

##### Article 176. Concept of value added tax

The value added tax, hereinafter VAT, is a form of collection to the budget of a portion of the value added in the process of the production and circulation of goods, works, and services on the territory of the Republic of Tajikistan, and of a portion of the value of all taxable goods imported onto the territory of the Republic of Tajikistan. The value added tax, as an indirect tax, is payable at all stages of the production and supply of goods, fulfilment of works, and rendering of services. The amount of VAT payable with respect to taxable turnover is determined as the difference between the sum of tax assessed on this turnover and the sum of tax that is creditable according to issued VAT invoices in accordance with this Section.

#### CHAPTER 25. Taxpayers

##### Article 177. Taxpayers

1. A VAT taxpayer is a person who is registered or is required to be registered as a VAT taxpayer.
2. A person who is registered is a VAT taxpayer from the time the registration takes effect. A person who is not registered, but who is required to apply to be registered, is a VAT taxpayer from the beginning of the accounting period following the period in which the obligation to apply for registration arose.
3. In addition to persons who are VAT taxpayers under point 1, all persons carrying out taxable import of goods to the Republic of Tajikistan are considered VAT taxpayers with respect to such import.
4. A nonresident person who carries out works or performs services without registration for VAT that is subject to taxation under Article 195 is considered a VAT taxpayer with respect to such works or services.

##### Article 178. Requirement for submission of application to be registered

1. A person who carries on economic activity and whose taxable transactions in the preceding 12 full calendar months exceeded 12,000 non-taxable minimum incomes is required to file an application with the tax authorities to be registered for VAT no later than 10 days from the end of that period.
2. For the purpose of this article, the supply of goods, fulfilment of works, and rendering of services carried out by a nonresident are taken into account in determining the total value of taxable transactions only if carried out through a permanent establishment in the Republic of Tajikistan.

Article 179. Voluntary registration

A person who is not required to be registered for VAT may voluntarily apply to the tax agencies for such registration.

Article 180. Registration

1. A person applying to register for VAT is required to do so in su

## CHAPTER 26. Objects of Taxation

### Article 182. Objects of taxation

1. The objects of taxation for the value added tax are taxable transactions and taxable imports.
2. Taxable transactions are the supply of goods, fulfillment of works, and rendering of services—other than supply, fulfillment, or rendering which are exempt under this Section—carried out in the course of independent economic activity by a person, if they are considered to be carried out on the territory of the Republic of Tajikistan under Article 193 or Article 194. Taxable transactions do not include the rendering of services or the fulfillment of works outside the Republic of Tajikistan according to Article 194.
3. If a VAT taxpayer purchases goods, services, and works (including those imported) for use in the production of taxable goods, services, and works, the VAT paid on such purchases is deductible from the VAT payable on the sale of such goods, services, and works.

the taxpayer receives or is entitled to receive, whether from the customer or any other person, including any duty, taxes, or other fees payable, but without including VAT.

2. If the taxpayer receives or is entitled to receive goods, works, or services in exchange for a taxable transaction, the value of the taxable transaction includes the market prices of these goods, works, or services (including any duties, taxes, or other fees payable), but without including VAT.
3. In a case where the taxpayer receives or is entitled to receive nothing of value in exchange for a taxable transaction (including that of goods remaining on hand in the case of a cancellation of registration), the value of the taxable transaction is the market price of the goods, works, or services supplied, fulfilled, or rendered (including any taxes, duties, or other fees payable), but without including VAT.
4. In the case of consumption or use of goods (works or of services) for noneconomic activity according to Article 182 (3), as well as in the bases of a supply to one's own employees according to Article 182 (4), the amount of the taxable transaction is the market price of the goods, works, or services (including any duties and fees payable), but without including VAT.

#### Article 185. Adjustment of taxable turnover

1. This article applies where, in relation to a taxable transaction made by a taxpayer:
  - a. the transaction is canceled;
  - b. the nature of the transaction is changed;
  - c. the previously agreed consideration for the transaction is altered, whether due to a reduction of prices or for any other reason; or
  - d. the goods (works or services) are returned in full or in part to the taxpayer.
2. If a taxpayer has, as a result of the occurrence of one or more of the events described in point 1 of this article:
  - a. provided a VAT invoice, and the amount of VAT shown on the invoice is incorrect, or
  - b. shown an incorrect amount of VAT on a VAT return, then an adjustment is made as specified in point 5 of Article 201 or point 2 of Article 200.

#### Article 186. Amount of a taxable import

1. The amount of a taxable import is the customs value of the goods, determined in accordance with the customs legislation of the Republic of Tajikistan, plus the sum of duties and taxes payable upon the import of goods into the Republic of Tajikistan, excluding VAT.
2. In the case of services considered part of an import under Article 197(2), their value, without VAT, is added to the value defined under point 1 of this article.

### CHAPTER 28. Tax Preferences

#### Article 187. Exemptions from payment of tax

1. The following types of supplies of goods, fulfillment of works, and rendering of services, as well as the following types of imports, are exempt from payment of VAT (except for the export of goods):
  - a. the sale, transfer or lease of immovable property, except for the following:

- the sale or transfer of hotel or holiday accommodations;
- the sale or transfer of newly constructed residential property, unless the property has been occupied as a residence for at least 2 years;
- b. the rendering of financial services;
- c. the supply or import of national or foreign currency (except for that used for numismatic purposes) and of securities;
- d. the import of gold to be transferred to the National Bank of the Republic of Tajikistan;
- e. the rendering by religious organizations of religious or church-related services;
- f. the rendering of medical services;
- g. the rendering of educational services provided to children and teens by hobby groups or study circles, as well as child care services for children at pre-school institutions;
- h. the rendering of educational services provided by educational institutions;
- i. supply of goods, performance of works, and rendering of services in the form of humanitarian aid, as well as import of goods transferred to state agencies of the Republic of Tajikistan and public organizations for purposes of rehabilitation after natural disasters, industrial accidents, and catastrophes;
- j. import of goods into the Republic of Tajikistan from countries which impose value added tax on exports of goods (works, services) from the Republic of Tajikistan. If the VAT paid in the country from which the goods are imported is lower than the VAT on such goods determined in accordance with this Section, the imported goods shall be subject to VAT for the amount of the difference.

#### Article 188. Regime of Taxation Goods Crossing the Customs Border of the Republic of Tajikistan

1. When goods are imported to the customs territory of the Republic of Tajikistan, the following taxation procedures shall be applied, depending on the customs regime chosen:
  - a. when goods are treated for customs purposes as released for free circulation, tax shall be paid in full;
  - b. when goods are treated for customs purposes as exports, the taxpayer shall pay the amounts of taxes from which he was exempt or which were refunded to him in connection with exports of goods in accordance with this Code under the procedure established by the customs legislation of the Republic of Tajikistan;
  - c. when goods are treated for customs purposes as goods in transit, goods in customs warehouses, reexports, goods for duty-free shops, goods intended for processing under customs control, goods designated for a free customs zone, a spare depot, for destruction, or for waiver in favor of the state, tax shall not be paid;
  - d. when goods are treated for customs purposes as intended for processing on the customs territory, tax shall be paid when the goods are imported to the customs territory of the Republic of Tajikistan and refunded when processed products are exported from the customs territory of the Republic of Tajikistan;
  - e. when goods are treated for customs purposes as temporary imports, they are fully or partially exempt from tax according to the procedure stipulated by the customs legislation of the Republic of Tajikistan;
  - f. when products of processing of goods that have been placed under the customs regime of processing outside the customs territory of the Republic of Tajikistan are imported into the country, full or partial exemption from tax shall be granted according to the procedure stipulated by the customs legislation of the Republic of Tajikistan.
2. In cases of export of goods from the customs territory of the Republic of Tajikistan the following taxation procedures shall be applied:

- a. when goods are treated for customs purposes as exported outside the territory of the Republic of Tajikistan, tax shall not be paid if paid, shall be refunded (credited) by tax authorities of the Republic of Tajikistan according to the procedure stipulated by the legislation of the Republic of Tajikistan and this Code; The procedure described in this point shall also be applied to exports of goods under the customs regimes of exports through a customs warehouse, a spare depot, or a free customs zone;
  - b. when foreign goods are treated for customs purposes as reexports, the amounts of tax paid on their import to the customs territory of the Republic of Tajikistan shall be refunded to the taxpayer according to the procedure stipulated by the customs legislation of the Republic of Tajikistan;
  - c. when goods are exported from the customs territory of the Republic of Tajikistan under customs regimes other than those provided in subpoints "a" and "b" of this point, the tax exemption and/or refund is not provided, unless stipulated otherwise by the legislation of the Republic of Tajikistan.
3. When physical persons carry goods which are not intended for production or other economic activities, a simplified or preferential tax payment procedure may be applied. Under this regime, the value of the purchased goods intended for personal consumption must not exceed the equivalent of 1,000 U.S. dollars.
  4. If the terms of the selected customs regime are not observed in cases stipulated by the customs legislation of the Republic of Tajikistan, the taxpayer shall pay the amounts of tax as well as interest accrued on these amounts at the interest rate of the interbank credit

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- b. the place where the works (services) are actually carried out, if they are connected with movable property;
- c. the place where services are actually carried out, if they are rendered in the field of culture, art, education, physical fitness, or sports, or another similar activity;
- d. the place where transportation actually takes place, if the works (services) are connected with that transportation. For purposes of Article 191, a transaction connected with the performance of works or rendering of services by a taxpayer outside the borders of the territory of the Republic of Tajikistan, is considered as carried out on the territory of the Republic of Tajikistan;
- e. the location of the permanent establishment of the purchaser of the services to which the services most closely relate.

The provisions of this subpoint are applied to the following services:

- the transfer of ownership or concession of patents, licenses, trademarks, copyrights, or other similar rights;
- consulting, legal, accounting, engineering, and advertising services, as well as data processing services, and other similar services;
- staff provision services;
- the leasing of movable property (except for vehicles of transportation enterprises);
- services of an agent that engages someone (enterprise or physical person) on behalf of the main participant in a contract to perform the services that are described in this subpoint;
- f. the location of the economic activity of the person who fulfills the works or renders the services.

2. In applying point 1 of this article, the place for the fulfillment of works or rendering of services that are described in more than one of the subpoints in point 1 of this article shall be determined according to the subpoint that comes first.

#### Article 195. Reverse taxation

1. If a nonresident person who is not registered for VAT in the Republic of Tajikistan renders services or fulfills works on the territory of the Republic of Tajikistan for a tax agent described in point 2 of this article, for purposes of this Section the fulfillment of works or rendering of services is taken according to this article.
2. For purposes of this article, a tax agent is any person registered in the Republic of Tajikistan for VAT or any resident legal person.
3. In a case where point 1 of this article applies the tax agent withholds the tax from the amount payable to the nonresident. The amount of tax is determined by applying the tax rate under Article 199(1) to the amount payable to the nonresident after withholding of tax.
4. If the tax agent is registered for VAT, the withheld tax is payable at the time for filing of the VAT return for the month in which the transaction took place. The payment document for payment of the withheld tax is considered to be a VAT invoice, and gives the tax agent the right to a VAT credit according to Article 201.
5. If the tax agent is not registered for VAT, he is required to pay the withheld tax in the manner prescribed by the Tax Committee of the Republic of Tajikistan within five days of the date of payment to the nonresident.
6. In the case of the import of property owned by a nonresident to be leased to a tax agent,



where the lease payments are subject to VAT. After this article, the tax agent may claim a VAT credit for the tax paid on the import upon the agreement of the non-resident owner. In this event, the tax agent is treated as the taxpayer and is responsible for VAT payable upon the subsequent supply of the product (other than its export).

#### Article 196. Time of import

An import of goods takes place when the goods become liable to customs duty under customs legislation. If the goods are exempt from customs duty, the import of goods takes place when the customs duty would be payable if the goods were not exempt.

#### Article 197. Mixed transactions

1. A supply of goods, fulfillment of works, or rendering of services which is incidental to a (main) supply of goods, fulfillment of works, or rendering of services is treated as part of the latter.
2. A fulfillment of works or rendering of services incidental to an import of goods is part of the import of goods.
3. A taxable transaction involving independent elements, one more of which provides for separate supply of goods, rendering of services, or fulfillment of works would be exempt from tax, is treated as separate transactions. An exempt transaction which involves independent elements which provides for separate supply of goods, rendering of services, or fulfillment of works is treated as separate transactions.

#### Article 198. Transactions by agent

1. A supply of goods, rendering of works, or fulfillment of services by a person as agent ("proxy") for another person ("the principal") on behalf and on instructions of that other person (principal) is considered as a transaction made by the principal.
2. Point 1 of this article does not apply to services rendered by agent to the principal.
3. Point 1 of this article does not apply to the supply of goods to the Republic of Tajikistan by a resident agent of a nonresident person who is registered for VAT in the Republic of Tajikistan. In this case for purposes of VAT the supply is considered as carried out by the agent.

### CHAPTER 31. Procedure for the Calculation and Payment of Tax

#### Article 199. Rates of value added tax

1. The rate of value added tax is 20 percent of the amount of the taxable turnover or taxable import.
2. The taxable turnover is the total value of taxable transactions during an accounting period.

#### Article 200. Value added tax on taxable turnover payable to the budget

1. The sum of value added tax payable to the budget in respect of taxable turnover taking place during an accounting period according to Article 192 is determined as the difference between the sum of tax charged on the taxable turnover in accordance with Article 199 (1) and the sum of tax creditable under Article 202.



- a. family name (last name, first name) of the taxpayer and the purchaser (client), and the taxpayer's trade name, if different from the legal name;
- b. identification number of the taxpayer and the purchaser (client);
- c. number and date of the VAT registration certificate;
- d.

Article 285. Tax Rates

The sales tax rates are determined in percentage of the market price of the taxable goods as follows:

- a. for cotton fiber — 23 percent.
- b. for primary aluminum — 4 percent.

Article 286. Procedures for Calculation and Deadlines for Payment of Sales Tax

1. The tax amount subject to payment is calculated by the seller independently based on