

Greece reduces VAT rates and makes additional amendments to the VAT Code

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With recent Laws 4611/2019, 4607/2019 and 4591/2019, Greece amended the Value Added Tax (VAT) Code with respect to: (i) the extension of the application of the reduced VAT rates in Annex III; (ii) the tax treatment of vouchers; (iii) the application of the effective use and enjoyment rule in the short-term leasing of professional pleasure vessels; and iv) the determination of the place of taxation when e-services are supplied to individuals, non-taxable persons.

Replacement from 20 May 2019 of Annex III of the Value Added Tax (VAT) Code

- ▶ On 17 May 2019, the Greek Government published in the Government Gazette (FEK A' 73) L.4611/2019 titled, *Settlement of debts to social security bodies, Tax Administration and Local Authorities, Pension arrangements and Other Insurance and Pension Provisions, Enhancement of the Employee Protection and Other Provisions*, which brought changes in Annex III of the VAT Code (Article 68 L. 2859/2000), by extending the application of the reduced VAT rates (13% and 6%).
- ▶ Goods and services that are not listed in Annex III or for which inclusion therein is doubtful, are subject to the standard VAT rate of 24%.
- ▶ The categories of goods and services subject to the reduced VAT rates of 13% and 6% as of 20 May 2019 are listed below.

Basic types of reclassified foodstuff subject to the reduced VAT rate 13%

- ▶ Oil types
- ▶ Meat and fish preparations
- ▶ Sugars and sugar confectionery
- ▶ Cocoa and cocoa preparations
- ▶ Miscellaneous edible preparations based on cereal, flour, starch or milk
- ▶ Preparations of vegetables, fruit, nuts, as well as fruit and vegetable juices
- ▶ Coffee, tea, preparations based on these products and coffee substitutes
- ▶ Pastes, preparations for sauces and soups, preparations for soups and broths, ice-creams, vinegar and salt

Reclassified services subject to the reduced VAT rate 13%

- ▶ Food services supplied by restaurants, grills, taverns, coffee shops, cafeterias, patisseries and other related businesses (other than entertainment centers). In particular, the reduced VAT rate applies for food, prepared meals and sweets, either delivered for on-site consumption or taken away, as well as waterBased on the content of Circular E. 2083/2019, it derives that on-site consumption as well as carry out delivery of alcoholic and non-alcoholic drinks, coffee and beverages are subject to the standard VAT rate. While on-site consumption of packaged and non-packaged juices is subject to the standard VAT rate, their carry out delivery is subject to the reduced VAT rate.
- ▶ The single price for the accommodation with breakfast is subject to the reduced VAT rate 13%, whereas the single price for the accommodation with breakfast and lunch, full board accommodation and all-inclusive accommodation is subject to the standard VAT rate proportionate to 10%, 15% and 25% respectively.
- ▶ Provision of services for boarding schools, structures for disabled persons and structures providing accommodation to people with mental retardation, mental disorders and use of drugs.

Reclassified goods subject to the super reduced VAT rate 6%

- ▶ The supply of electricity and gas, as well as district heating

Entry into force of the reduced VAT rates

- ▶ According to Circular E. 2083/2019, the new reduced VAT rates apply for:
 - Tax records issued as of 20 May 2019 for supplies of goods, irrespective of whether the underlying supplies were made at an earlier date
 - Credit notes issued as of 20 May 2019 for discounts, returns of goods, etc. and affect the value or content of the original tax record
 - Tax records issued as of 20 May 2019 for supplies of services, whether they refer to ongoing services completed after this date or a service supplied before this date without the relevant record being issued

Alignment of the VAT Code with the EU Council Directive 2016/1065 for the VAT treatment of vouchers (article 9, L. 4607/2019)

- ▶ Par. 1a of article 9 of L. 4607/2019 *I. Ratification of the Asian Infrastructure and Investment Bank Agreement, II. Harmonization of the VAT Code (EU) 2016/1065, III. Incorporation of Article 2 (1), (2), (4) and (5) and Articles 4, 6, 7 and 8 of Directive 1164/2016; Amendment to Law 2971/2001 and other provisions* (Government Gazette A 65 / 24-04-2019), introduced article 12a in the VAT Code, according to which as of 01 January 2019 “vouchers” which can have physical or electronic form are acceptable as consideration in exchange for the supply of goods or services.
- ▶ The goods or services to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument.
- ▶ “Vouchers” are distinguished between “single purpose vouchers,” where the place of supply of the goods or services to which the voucher relates and the VAT due on those goods or services are known at the time of issue of the voucher and “multi-purpose vouchers,” which are “vouchers” other than “single-purpose vouchers.”
- ▶ According to the Directive, transport tickets, admission tickets to cinemas and museums, postage stamps and instruments entitling the holder to a discount upon purchase of goods or services but carrying no right to receive such goods or services, should not be treated as “vouchers.”

- ▶ The essential difference between the two categories of vouchers (“single purpose” and “multi-purpose”) is their VAT treatment. More specifically, in “single purpose vouchers,” the taxable event is their distribution and not the subsequent supply of goods or services. On the other hand, in “multi-purpose vouchers,” VAT is due at the time of their redemption, when the goods or services to which the voucher relates are supplied, whereas any prior transfer of them should not be subject to VAT.
- ▶ Intermediary services for the distribution of “vouchers,” which are supplied by taxable persons, should be subject to VAT.
- ▶ As of 01 January 2019, the place of supply of ESS remains the place where the customer or non-taxable person resides, except if the following conditions are cumulatively met:
 - The supplier is established or has his permanent address or usually resides only in one EU Member State.
 - The e-services are supplied to individuals or non-taxable persons established or having their permanent address or usually reside in another EU Member State.
 - The total net amount of the ESS (without VAT), within a calendar year or the previous one, does not exceed the amount of €10k.

Application of the effective use and enjoyment rule in the short-term leasing of professional pleasure vessels (article 49, L. 4607/2019)

- ▶ Article 49 of L. 4607/2019 has replaced article 14 par. 15 case b’ of the VAT Code, providing that in the case of short-term leasing (i.e. duration less than 90 days) of professional pleasure vessels, which are made available to (a taxable or non-taxable) customers in Greece, no VAT is due, insofar as those pleasure vessels are used outside the EU.
- ▶ This amendment was deemed necessary, after the European Committee condemned Greece for infringement (Decision 2017/2143), to comply with its obligation to apply a single tax treatment to the chartering of pleasure vessels insofar as those vessels are used in Greece.
- ▶ The relevant criteria of the “effective use and enjoyment” and the proof of their fulfillment thereof will be determined by a decision to be issued by the Minister of Finance.
- ▶ When the above conditions are cumulatively met, the place of supply is compulsory the place where the supplier is established, unless that supplier opts for his services to be subject to VAT at the place where the customer or non-taxable person is established.
- ▶ According to the relevant published Circular E. 2049/2019, the right to opt for the place of taxation can be exercised by submitting a declaration in the competent Tax Office. This option binds the supplier for at least two full calendar years.

New rule for the determination of the place of taxation of electronically supplied services (ESS) to individuals (article 15 par. 1 L. 4591/2019)

- ▶ By article 15 par. 1 of L. 4591/2019 *Integration into Greek legislation: (a) Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of websites and mobile applications of public sector bodies; and (b) Article 1 of Council Directive (EU) 2017/2455 of 5 December 2017* (Government Gazette A 19 / 12-02-2019 and A 47 / 13-03-2019) amendments were made to article 14 par. 13 of the VAT Code with respect to the place of taxation of ESS, in the case where these services are supplied to individuals or non-taxable persons.

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