

## THE NEW RULES OF THE VALUE ADDED TAX CODE



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The Value Added Tax Code (*Código do Imposto Sobre o Valor Acrescentado* - "CIVA"), approved by Law 32/2007 of 31 December, was recently amended by Law no. 13/2016 of 30 December, which republished the CIVA.

The main changes made to the CIVA relate to the geographical scope of application of this tax, to the rules on localisation of operations, to exempt transfers of goods and provisions of services, and to the rules on invoicing.

These changes broaden the scope of incidence of the tax and establish strict rules for the purposes of compliance with tax declaration obligations. This will allow greater control by the tax authorities and streamline tax operations.

### **I. GEOGRAPHICAL SCOPE OF APPLICATION OF THE CIVA**

The first change introduced by the recently approved legislation relates to the scope of geographical application of Value Added Tax.

For the purposes of application of this tax, the new legislation provides that besides its land area, maritime area and airspace, Mozambican territory now extends to the zones where the Republic of Mozambique has sovereign rights in relation to prospecting, exploration and exploitation of mineral resources on the seabed, its subsoil and the underlying waters.

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## II. LOCATION OF OPERATIONS

The scope of incidence of VAT is extended to services whose provider does not have its registered office, permanent establishment or domicile in Mozambique and whose acquirer is a taxable person for VAT purposes, even if it exclusively engages in exempt operations with no right to deduction, whose registered office, permanent establishment or domicile is located in Mozambique.

In this scenario, the following services made by electronic means are now subject to VAT:

- i) supply of websites, hosting of webpages, remote maintenance of programs and equipment;
- ii) supply and updating of programs;
- iii) supply of images, texts and information, and provision of databases;
- iv) supply of music, films and games, including betting and other forms of gambling, and political, cultural, artistic, sporting, scientific or entertainment broadcasts or events;
- v) provision of distance learning services;
- vi) other similar services.

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## III. EXEMPTIONS

### Internal operations

The following will be exempt from VAT internal operations (i) typewriters with braille characters, dot matrix and ink jet printers (ii) transfers of goods to be used as raw materials, intermediate products and components for the production of medicines, when they are made by public or private establishments that are part of the National Health Service, provided for in the customs tariff and listed in Annex III to the VAT Code (iii) public transport services; (iv) services provided in opening channels, harvesting, drainage, supply of water for irrigation, cleaning of drainage ditches, and pulverisation of earth, done in the context of agricultural activity.

### Exports, operations treated as exports, and transports

Diplomatic and consular bodies whose exemption results from international agreements and conventions entered into by Mozambique, and the international bodies recognised by Mozambique or members of the same bodies, subject to the limits and with the conditions set out in the international agreements and conventions entered by Mozambique, are now exempt from VAT in the provisions of services to them. The exemption applicable to transfers of goods remains in place.

A further change involves the extension of the exemption from VAT to transfers of crates or packaging used to send merchandise to be exported.

## IV. RIGHT TO DEDUCTION OF TAX

The rules on when it becomes possible to exercise the right to the deduction, provided for in Law 32/2007 of 31 December, have been partially amended because they are not in line with the current situation Mozambique. The right to the deduction arises at the moment the deductible tax becomes due. Under Law 32/2017, the request for reimbursement was allowed in cases in which there was an excess of 50,000 meticaís in 12 consecutive months.

Under the amendments made to the VAT Code, the reimbursement may now be requested if, when 4 months have passed in relation to the period the excess begins, there remains a credit of above a 100,000 meticaís in favour of the taxable person.

The new legislation also establishes that, regardless of the period of 4 months referred to above, the taxable person may request the reimbursement when, in any given month, it has registered a credit in its favour that exceeds 500,000 meticaís, and the oldest credits must be considered sequentially. This possibility joins the previously established possibilities of requesting the reimbursement, regardless of the period of 4 months, when termination of the activity is confirmed or when the taxable person exclusively engages in operations exempt from tax, when it reaches a turnover of 750,000 meticaís or lower, or is subject to the simplified taxation rules.

## V. VAT OBLIGATIONS

When it comes to the requirements for issuing invoices and equivalent documents, the new legislation establishes clearly and objectively that the invoices or equivalent documents must be issued in the language and currency of Mozambique. The legislation also makes it mandatory for these documents to bear the bank identification number (NIB) to which the payment of the State is made.

When the content of invoices or equivalent documents is processed by electronic means, it is now established that the taxable person must use specific invoicing software authorised by the tax authorities. Furthermore, taxable persons must submit the data relating to the invoices issued in each transfer of goods or services by electronic means to the tax authorities, using e-invoicing or tax machines. The use of specific software that requires the authorisation of the tax authorities is extremely important for taxable persons, not only for reason of control of operations subject to VAT by the tax authorities, but also to avoid tax contingencies and the potential application of fines for failing to comply with this obligation.

The legislation also provides that invoices issued by retailers and service providers must include the words "VAT included".

In relation to the special obligations, the taxable persons covered by the simplified taxation rules are now obliged to file a declaration setting out the sales and purchases or services provided during the previous year in duplicate by the last business day of the month of February of the year. The declaration must be filed at the applicable local tax office, border post, tax post or collection post.

Finally, the new legislation repeals the exemption granted under Law 3/2012 of 23 January to the acquisition of services relating drilling, exploration and construction of infrastructures in the context of mining and oil activity in the phase of prospecting and exploration.

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