



A DRAFT LAW TO IMPROVE VAT

FAO: tax managers, chief accountants and CFOs

Pepeliaev Group advises that Russian Ministry of Finance has placed¹, for public consultation a draft law² "On amending Chapter 21 of Part II of the Russian Tax Code (regarding the procedure for determining the tax base when an advance payment is received).

The objective of the draft law is declared to be simplifying VAT with regard to payment or partial payment remitted by buyers for future deliveries of goods (performance of work, supply of services), transfer of property rights and the general procedure for determining the date when taxpayers specified in article 170 (5) of the Tax Code should determine the tax base for value-added tax.

The public consultation will continue until 8 December 2015 and all the interested parties may provide their feedback on the draft law and put forward any adjustments they consider necessary.

Below we outline the main provisions of the draft law.

1. It is proposed that the VAT base be assessed as a portion of the value of goods (work, services) that the buyer has not paid for as at the date when goods are shipped (work is performed or services are supplied) for payment/partial payment received earlier and previously included in the tax base. At the same time, the buyer will deduct the amount of tax claimed by the seller on the above portion of the value of goods (work, services) without the tax being restored that the buyer has already deducted on the advance payment.
2. A special procedure for assessing the tax base is proposed to be established with regard to payment/partial payment received for future sales of goods which should be accounted for at a price including tax paid. Such procedure for determining the tax base is applied to the sale (transfer) of agricultural products, including processed products, purchased from individuals, cars purchased from individuals for resale purposes and the transfer of property rights.

Specifically, the draft law stipulates that when an advance payment is received for future supplies of the above goods (transfer of property rights) the VAT base will be assessed as the excess of the advance payment received over the purchase price. For the purposes of subsequent resale, the tax base will be assessed as the portion of the price that has not been paid as at the date when the goods (property rights) are shipped (transferred).

3. The draft law proposes that amendments be made to the procedure for issuing adjusted VAT invoices which will allow a consolidated VAT invoice to be issued without the need to include in it all the figures from the original VAT invoices.
4. For taxpayers that are financial market players, it is proposed to specify that article 170(5) of the Tax Code excludes the interpretation whereby the above taxpayers may assess the VAT 'on a payment basis' rather than when VAT is charged on the buyers.

¹ <http://regulation.gov.ru/projects#npa=38680>

² Project ID 02/04/08-15/00038680.

5. It is also proposed that a taxpayers' right to deduct VAT on payments or partial payments for future supplies of goods (performance of work, supply of services) or transfers of property rights be limited to three years after the date payment or partial payment was remitted.

Help from your adviser

Pepeliaev Group lawyers are monitoring the status of the proposed amendments and are ready to answer the questions arising with regard to changes in the statutory regulation of VAT.

In addition, our lawyers are ready to provide legal support regarding the influence of the rules described above on the day-to-day operations of a company, and to take part in drafting amendments to the draft law.

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