

# TAX update

08/20

VAT LAW AMENDMENTS PUBLISHED  
ON THE 20<sup>TH</sup> OF AUGUST 2020

  
KINANIS  
LAW FIRM

## VAT LAW AMENDMENTS PUBLISHED ON THE 20<sup>TH</sup> OF AUGUST 2020

The new legislative amendments, Law 121(I)/2020 and Law 122(I)/2020, which have been voted in the meeting of the House of Representatives of the Republic of Cyprus held on 31/07/2020, were published on 20/8/2020.

The main aim of the amendments is twofold:

1. to improve VAT collection and
2. to combat VAT fraud.

### A. LAW 121(I)/2020

#### 1. Write off debts (Paragraph 11 of the Tenth Schedule of the VAT Law)

Law 121(I) 2020 abolishes the right of the VAT Commissioner to write off debts based on the VAT Law and provides that all the government's non-recoverable debts will be handled by the competent Technical Committee as provided by the Accounting, Financial Management and Financial Control of the Republic Law.

### B. LAW 122(I)/2020

#### 1. Addition of the definition of the Legal Person in Article 2 of the Law

"Legal Person" means a company, partnership, association, club, organization or any other association of persons, whether or not established in accordance with the provisions of any law or regulation.

#### 2. Extension of Reverse Charge under Article 11B for construction

Paragraph 4a of Article 11B (which shifts the obligation to account for VAT on construction services from the supplier to the recipient of the services) is altered to widen the scope of Article 11B by stating that the supplier of the relevant services can be any person, not only taxable persons, capturing thus transactions that are supplied by non-taxable persons as well.

Consequently, even if the supplier is not a taxable person registered for VAT purposes, the recipient would still have an obligation to self-account for VAT on services or services together with goods in relation to construction, modification, demolition, repair or maintenance of a property in the course of business.

### **3. Article 11E - Reverse charge on certain goods if supplied to taxable persons**

As from 1<sup>st</sup> of October 2020, Article 11E is being into effect to combat fraud in the field of mobile phones, other devices operating in networks, microprocessors, central processing units, gaming consoles, tablets and laptops.

Under Article 11E, the recipient of the above mentioned goods will be responsible to account for VAT under the reverse charge provisions, when these are acquired in the course of a business activity even if the relevant goods form capital assets of the business.

Suppliers of the goods mentioned above, are obliged to keep a file in which all transactions subject to this Article are recorded separately, for a period of six (6) years, starting from the date on which the goods are delivered to the buyer.

### **4. Article 20 - VAT credit balance**

1. Article 20 of the Law is amended empowering the VAT Commissioner to suspend the payment of a VAT credit balance in cases where taxpayers have failed to comply with the obligation to submit their income tax returns. The refund is suspended until the taxpayer complies with the relevant obligations.

It is also clarified that no interest is payable during the period which the taxpayer is not compliant with the relevant obligations.

2. The right to request refund of a VAT credit balance will be limited to six (6) years from the end of the VAT period in which it has arisen. Any requests submitted after the six-year period has elapsed will be examined at the discretion of the VAT Commissioner.

### **5. Article 45 - Increase of penalties**

The financial burden of non-compliance with certain VAT obligations is increasing, in an attempt to increase the compliance rates of taxpayers.

1. Article 45 is amended to increase the penalty for late submission of VAT returns from €51 to €100.
2. With effect from 1<sup>st</sup> of July 2021, failure to apply the reverse charge provisions as per Articles 11, 11A, 11B, 11C, 11D, 11E or 12A, will result in the imposition of €200 penalty per VAT return with a ceiling of a total penalty of €4.000. This is applicable irrespective of whether a taxpayer is in a fully recoverable VAT position or not.

## 6. Paragraph 4 of Article 50

Paragraph (4) of Article 50 of the Law is amended by adding the Supreme Court on appeal in the following sub-paragraph:

*(b) a decision of the Tax Tribunal concerning an objection to a tax assessment issued pursuant to Article 49 or 49A, declared in whole or in part invalid by the Administrative Court **or by the Supreme Court on appeal** pursuant to Article 146 of the Constitution and there is a need for reconsideration, the VAT Commissioner may issue new assessment within six months from the date of the judgment of the Court.*

## 7. Article 52A to include a deadline for submitting an objection to the VAT Commissioner

Article 52A of the law provides that the deadline for submitting an objection to the VAT Commissioner is set at 60 days from the date of the notification of the decision of the Commissioner to the taxpayer.

## 8. Article 54 - Appeals

Article 54 is amended by adding the Supreme Court on appeal in the following provision:

*If as a result of an annulment decision of the Administrative Court **or the Supreme Court on appeal**, pursuant to Article 146 of the Constitution, the VAT Commissioner must pay or reimburse a person a certain amount of money, including the amount received under Article 53 (3), then he returns or pays this amount at an interest rate of nine percent (9%) per annum.*

## 9. Paragraph 2 of Article 54A - Procedure for submitting a hierarchical appeal to the Tax Tribunal

Paragraph 2 of Article 54A - Procedure for submitting a hierarchical appeal to the Tax Tribunal is amended to the following:

*(2) The Tax Tribunal sets a date for the hearing of the hierarchical appeal and with a written notice invites the applicant or his representative and the VAT Commissioner or his representative, to appear before them and present their views regarding any issue relevant to the hierarchical appeal in question.*

## 10. First Schedule of the Cyprus VAT Law is amended to include provisions for Non-resident taxpayers

The new Part IA of the First Schedule provides for Registration for taxable supplies for Non-resident taxpayers, referring to Registration and Deregistration Obligation, when the notification of obligation for Registration and Deregistration should be made, when the Registration and Deregistration become effective and when non-resident taxpayers may be exempted from registration.

### **Obligation for Registration for Non-resident taxpayers**

Taxpayers who are not established in Cyprus but are engaged or expect to be engaged in taxable activities in Cyprus in the course of their business, will have the obligation to register for VAT purposes, without a VAT registration threshold.

Four Conditions to be met for Registration:

1. The person carries out taxable transactions or there are reasonable grounds to believe that the person will make taxable transactions during the period of thirty (30) days starting from this point in time;
2. The transactions are or will be carried out in the course of business carried on by the person;
3. The person does not have any business establishment or any other permanent establishment in the Republic in relation to the business carried on by him;
4. The person is not registered under the provisions of the VAT Law as amended.

It also clarifies that a person is considered "established in the Republic" when he has a business establishment or other permanent establishment in the Republic in relation to the business he carries on.

A person shall cease to be obliged to register at any time, if the VAT Commissioner is satisfied in relation to that time that the person in question:

- (a) has ceased to conduct taxable transactions within the framework or for the promotion of any business carried on by that person; or
- (b) is no longer a person with no business establishment or any other permanent establishment in the Republic in relation to the business carried on by him.

### **Notification of the obligation to get registered**

A taxable person having taxable activities in Cyprus needs to notify the VAT Commissioner of this obligation before the end of the period of thirty (30) days starting from the day on which the obligation is created.

A person who becomes obliged to register under the future test, notifies the VAT Commissioner of this obligation before the end of the 30-day period during which he expects to have taxable supplies.

The VAT Commissioner registers any such person, regardless of whether the person in question has notified him or not, and his registration is valid retroactively from the day on which the obligation was created.

### **Notification of termination of the obligation**

A person who ceases to carry out or ceases to have the intention to carry out taxable transactions needs to notify the VAT Commissioner of this event within sixty (60) days from the day of its occurrence.

The person does not need to notify the VAT Commissioner if on that day he would otherwise be obliged or beneficiary for registration under the VAT Law as amended.

### **VAT Deregistration**

The law also provides for the cancellation of the registration of the person under this Part when:

- (a) the VAT Commissioner is satisfied that the person is not required to register under this Part; and
- (b) the person requests the cancellation.

The cancellation becomes effective:

- (a) the day on which the application is made; or
- (b) at a later date to be agreed between the Commissioner and that person.

The Commissioner shall not cancel the registration with effect from any time unless he is satisfied that the person would not be obliged to register according to the VAT Law as amended at that time.

### **Exemption from registration**

The Commissioner may exempt a person from registration under this Part if the person satisfies the Commissioner that the taxable transactions he carries out or intends to carry out:

- (a) are subject to the zero rate (0%); or
- (b) would be subject to the zero rate (0%) if the person was a taxable person; or
- (c) are such that they could be handled in the same way.

The authority granted to the Commissioner under this provision may be exercised only upon a request of the person and if the Commissioner deems it appropriate.

### **11. Fifth Schedule, Paragraph 11 of Table B - Definition of "renovation"**

The term "renovation" is modified to include in the transactions eligible for the reduced VAT rate of five (5) %, in addition to improvements and repairs, any additions to a private home for which three years have passed since its first occupation.

## 12. Sixth Schedule, Paragraph 5 - Passenger Transportation Services

Passenger transportation services to and from the Republic are subject to the zero rate (0%) VAT to the extent the transport takes place within the Republic.

## 13. Eighth Schedule, Paragraph 1a(vi)

The word building is substituted with immovable property as follows:

*"The leasing and/or rental of immovable property to a taxable person for the purpose of conducting a taxable business, except in the case of leasing **of immovable property** which is used as a residence"*

## 14. The Effective Date of application of the Law amendments

The Law will become effective from the 20<sup>th</sup> of August 2020 (date of its Publication in the Gazette), with the exception of the following:

- Reverse charge (article 11 E) which will become effective as of 1<sup>st</sup> of October 2020;
- The penalties in relation to the non-application of the reverse charge mechanism which will apply as of 1<sup>st</sup> of July 2021.

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*Author:*

DEMETRA CONSTANTINO  
Partner - Accounting & Vat Department  
Demetra.Constantinou@kinanis.com

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### **Kinanis LLC**

#### **Lawyers' Limited Company**

12 Egypt Street, 1097, Nicosia  
P.O. Box 22303, 1520 Nicosia, Cyprus  
Tel: + 357 22 55 88 88 | Fax: + 357 22 66 25 00  
E-mail: [KinanisLLC@kinanis.com](mailto:KinanisLLC@kinanis.com) | Web site: [www.kinanis.com](http://www.kinanis.com)

### **Kinanis**

Civil Partnership, Law Firm

#### **Kinanis Fiduciaries Limited**

Suite 20, The Penthouse, 4th Floor, Ewropa Business Centre,  
Dun Karm Street, Birkirkara, BKR 9034, Malta  
Tel: + 356 27 54 00 24 Fax: + 356 27 54 00 25  
E-mail: [malta@kinanis.com](mailto:malta@kinanis.com) | Website: [www.kinanis.com](http://www.kinanis.com)

### **Kinanis (China) Limited**

China Representative Office

Room 909, 9/F, Building No.390-408,  
Beijing East Road, Huangpu District,  
Shanghai. 200001, China  
Tel: + 86 18 410 072 690  
E-mail: [china@kinanis.com](mailto:china@kinanis.com) | Website: [www.kinanis.com](http://www.kinanis.com)