Bloomberg BNA

TAX PLANNING INTERNATIONAL

INDIRECT TAXES

International Information for International Business

VOLUME 11, NUMBER 9 >>> SEPTEMBER 2013

www.bna.com

sensible and correct judgment. To have come to any other conclusion would, in the circumstances, have been somewhat absurd.

Karen Robb, Partner, Grant Thornton, UK
Email: karen.robb@uk.gt.com

CJEU

Update on Bulgarian VAT references released in July 2013

Actual supply for VAT purposes

On July 18, 2013, the ruling on case C-78/12 *Evita-K* was published.

The case concerns the requirement of the presence of actual supply for VAT purposes.

The Court held that the concept of *'supply of goods'* and evidence that such a supply has, in fact, been carried out are not linked to the form of the ownership acquisition. Instead, an overall assessment of all the facts and circumstances should be made in each separate case to determine whether the supplies of goods at issue were actually carried out.

It was ruled that Article 185(1) of Directive 2006/112 must be interpreted as allowing a deduction of VAT to be adjusted only if the taxable person concerned previously benefitted from a right to deduct that tax under the conditions laid down in Article 168(a) of that directive.

This case will have a positive impact on the taxpayers in the means employed by the revenue authorities in denying VAT credit to taxpayers on the grounds that no actual supply has taken place.

Anelia Tatarova, Tax Attorney, Tatarova, Sofia
Email: anelia.tatarova@tatarova.com

Cyprus

Interest on late refunds of VAT and temporary waiver of penalties for late submission of returns

The general VAT framework

VAT is due on any supply of goods or services made in Cyprus by a taxable person in the course of business. The standard VAT rate is 18 percent and there are reduced rates of 5 percent (in respect of personal services, fertilisers and foodstuffs, pharmaceutical products and printed media) and 8 percent (in respect of inland transport). Certain supplies (including medicines and food) and services are zero-rated, and services such as rental of immovable property, financial services, lotteries, medical care and education are exempt.

The VAT registration threshold is 15,600 euros and returns must generally be submitted quarterly.

Interest on late refunds

In October 2012 the VAT Law was amended to provide for the payment of interest on VAT refunds in accordance with the provisions of Council Directive 2008/9/EC of February 12, 2008 laying down detailed rules for the refund of VAT. The effect of the amendment is that a taxable person who submits a claim for a refund of VAT which is not paid within four months of submission of the claim is entitled to interest at the statutory rate (currently 5 percent per year) from the date the four-month period expires, provided that the delay in repayment is not due to any fault, action or omission on the part of the taxable person. In the event that a VAT audit is carried out in relation to the refund application, the four-month deadline for repayment and accrual of interest is increased to eight months.

The amendment took effect from February 19, 2013 and relates to tax periods commencing after that date. The first period affected was March 1 – May 31, 2013, in respect of which the due date for submission of returns was July 10, 2013. If refunds due for the period are not paid within four months of submission of the return, the taxpayer will be entitled to interest subject to no VAT audit being undertaken.

Temporary waiver of penalties for late submission of returns

A penalty of 51 euros is normally imposed for late submission of a return, with a further penalty for late payment of 10 percent of the amount due, plus interest at the rate of 5 percent per year. In serious cases there may be criminal liability, punishable by a fine of up to 8,550 euros, imprisonment for up to 12 months or both. However, in response to the disruption to business caused by the interruption of banking activities in the spring of 2013, the VAT authorities have announced concessions regarding late submission of returns and late payment of tax by taxpayers. The VAT (Amendment) Law 83(I) of 2013 provides that no interest or penalties will be imposed in respect of late submission of VAT returns for quarters ended February 28, 2013, March 31, 2013, April 30, 2013 and May 31, 2013 as long as the return is submitted and the liability is paid no later than December 10, 2013. For VAT returns for quarters ending June 30, 2013, July 31, 2013, August 31, 2013 and September 30, 2013 the penalty for late payment will be reduced to 5 percent as long as the return is submitted and the liability is paid no later than December 10, 2013. In addition to the 5 percent penalty, interest will be payable at the rate of 4.75 percent per annum.

Philippos Aristotelous, Partner, Andreas Neocleous & Co LLC, Cyprus
Email: aristotelous@neocleous.com