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SAO TOME AND PRINCIPE

VALUE ADDED TAX

The Value Added Tax Code (“**VAT Code**”) was approved by Law 13/2019, published in the national official journal on 6 November 2019.

The new tax will enter into force on 1 March 2020.

1. Scope of application

Contrary to what happens with the current Consumption Tax, VAT will be applicable to most supplies of goods and services, carried out for consideration, which are deemed as being located in Sao Tome and Principe. The new tax will also apply to imports of goods.

Taxpayers who carry out transactions subject to this tax and whose turnover is greater than Dbs. 1,000,000.00 will be covered by the scope of application of the **general VAT regime**.

All other taxpayers will be subject to an **exemption regime**, under which they must pay a special VAT rate of 7% on the value of their sales (taxpayers with a turnover in excess of Dbs. 100,000.00 and equal to or lower than Dbs. 1,000,000.00 are subject to a fixed annual rate of 2%).

2. Rate and exemptions

The VAT Code provides for a single VAT rate of 15%, although certain food products, when sold on national territory, are only subject to VAT on 50% of their invoice value.

Certain transactions may benefit from a tax exemption, such as those related to life insurance and reinsurance, financial intermediation (except those transactions in which a specific fee or consideration is charged for the service), or the leasing and transfer of immovable property for residential purposes, excluding the first transfer.

Exports, as well as certain imports and transactions related to international transport, are also exempt from tax.

3. Right to deduction and refunds

A tax deduction mechanism is established, under which taxable persons may deduct from their output VAT the input VAT borne on goods or services acquired, imported or used by the taxable person to carry out its non-exempt taxable transactions (or exempt transactions that grant the right to deduction). The deduction of VAT borne on certain transactions, such as the purchase, import and leasing of pleasure boats, helicopters and aircrafts, is excluded.

When the VAT deducted exceeds the amount of VAT due in any given period, the excess is carried forward and deducted in subsequent periods. The taxable person may claim a refund of VAT credit when it persists for more than three months or, regardless of this time period, if the taxable person's activity ceases or if it only carries out exempt transactions that grant the right to deduct.

A request for VAT refund is made by electronic data transmission and must be accompanied by supporting documents for the VAT paid.

4. Payment of tax and reporting obligations

The liability for payment of VAT lies with taxable persons who carry out taxable transactions, and the tax burden falls on the purchaser of the goods or services. In the case of services supplied by non-residents without a permanent establishment in national territory, the law foresees a mechanism under which responsibility for payment of the tax lies with the person acquiring the goods or services, provided that he is a taxable person.

The VAT Code also sets out new reporting obligations applicable to taxable persons, including the obligation to submit a monthly return on transactions carried out in the previous month. Payment of VAT due must also be made during the month following that to which the transactions refer.

Non-resident taxpayers, without a permanent establishment in national territory, will be obliged to appoint a representative in Sao Tome and Principe, unless they opt for the simplified registration regime.

5. Impact on other taxes

The law approving the VAT Code revokes the current Consumption Tax and also provides for certain changes to Stamp Duty, SISA and CIT, including the revocation of Stamp Duty on receipts.

The new VAT Code also foresees the application of a provisional measure, under which the Consumption Tax paid by taxable persons on the acquisition or import of certain movable tangible property, which is still in their possession, may be deducted in the first VAT return, subject to certain conditions.