



## NEW VAT REGULATIONS

The government has proceeded to transpose into national law Directive no. 2008/8/EC of 12 February and Directive no. 2008/9/EC of 16 December via Portuguese Decree-Law no. 186/2009 of 12 August, thereby significantly amending the Value Added Tax (VAT) Code, the VAT system for Intra-Community Transactions (RITI) and applicable supplementary legislation. The purpose of these amendments is twofold: firstly, they seek to establish new rules regarding the place of supply of services to taxable persons domiciled in another Member-State of the European Union and secondly, they approve the new regime for refunding VAT paid by taxpayers established in another Member-State or outside the Community.

As regards the new rules for the place of the supply of services, the general rule that applies to services supplied to VAT taxable persons becomes that of the location of the head office, stable establishment or domicile of the recipient of the services. As such, whenever the head office, stable establishment or domicile of the suppliers of the services is not located in Portugal and the person acquiring the service is a Portuguese VAT taxable person, as a rule the tax shall be paid on a self-assessment basis in Portugal. However, the following exceptions have been established: operations related to real property, including supply of accommodation services, which are taxed in the place where the building is located; passenger transport services, which are taxed in

the place where transportation takes place in accordance with the distances travelled; food and beverage services supplied on board ships, aircraft or trains during passenger transport within the Community, which are taxed in the place of departure of the means of transport; cultural, artistic, scientific, sporting, recreational, educational and similar services, as well as food and beverage services, which are taxed in the place where these services are materially supplied; and finally the short-term leasing of a means of transport, which is subject to VAT in the place where the good is made available to the recipient.

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This Decree-Law also approved the new VAT refund scheme for taxable persons established in another Member-State or outside the Community, thereby revoking the currently applied regime (Decree-Law no. 408/87 of 31 December).

As regards supply of services to private individuals, the general rule currently applied in terms of taxation in the Member-State of the head office, stable establishment or domicile of the supplier of the services remains valid with the exception of the services mentioned above, telecommunications, radio and television broadcasting services and services supplied via electronic means by taxable persons with head office, stable establishment or domicile outside the Community, which are taxed in the place where the recipients of the service have their regular domicile or residence.

This Decree-Law also approved the new VAT refund scheme for taxable persons established in another Member-State or outside the Community, thereby revoking the currently applied regime (Decree-Law no. 408/87 of 31 December). The goal of the new scheme is to institute a simpler refund procedure by employing electronic resources with respect to receiving and processing new requests, also extending the deadline for submitting

requests (which can now be submitted up to 30 September of the calendar year that follows the year in which the tax became chargeable, instead of the currently applied deadline which ends on the last day of the month of June), in addition to reducing the decision period to four months (instead of the current six months). After the end of the four month time limit, if no decision has been reached, the refund requests become tacitly considered inadmissible for the purpose of claims or objections.

All of these amendments will come into force on 1 January 2010. As such, and with respect to VAT refund requests submitted by taxable persons not established in Portugal, the rules currently in force under Decree-Law no. 408/87 of 31 December will continue to apply until 31 December 2009.

Rogério M. Fernandes Ferreira  
Roberto Mendes Londral

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