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New rules set for VAT refunds on consumption goods in Azerbaijan

On February 20, 2017, President of the Republic of Azerbaijan signed a decree on approval of “Rule for the refund of the value added tax paid by natural persons during shopping festivals for the goods that are not intended for commercial or production purposes, and that are purchased in the territory of the Republic of Azerbaijan” (“Rule”).

According to Article 165.4 of the Tax Code of the Republic of Azerbaijan, this Rule regulates the refunding process of value added tax (“VAT”) paid by natural persons during shopping festivals for the goods that are not intended for commercial or production purposes.

The provisions of this Rule are applied only to the consumption goods (except for below-mentioned goods) that are not intended for the commercial or production purposes, and that are purchased during shopping festivals.

This Rule is not applied to the following goods:

- ▶ excise goods;
- ▶ food products;
- ▶ medicines and medical facilities;
- ▶ goods, which domestic sale are exempted from VAT;
- ▶ unframed, unprocessed or unsorted precious stones;
- ▶ precious metals in the form of ingots;
- ▶ vehicles and their spare parts.

This Rule is applicable to the goods in case their value (including VAT) on one electronic tax invoice is more than AZN100. The refund of VAT to the buyer is carried out either in cash or through transfer to bank card (or bank account).

Service fee will be charged at 20% of VAT amount to be paid to buyer for the services rendered by the Operator. Service fee is included to extra-budgetary revenues of tax authorities and used for financing the activities specified in this Rule. VAT, paid for the goods that purchased during the shopping festival, is returned by authorized bank during the purchase day of the goods. VAT paid for the purchased goods is not allowed to refund on the other days upon purchased day. Shopping festivals in the Republic of Azerbaijan are organized as a determined order by the Ministry of Culture and Tourism of the Republic of Azerbaijan.

The basic definitions used for the purposes of this Rule shall have following meanings:

Natural person – citizen of the Republic of Azerbaijan as well as foreigner and stateless person;

Buyer – natural person who buys the goods in the territory of the Republic of Azerbaijan that is not intended for commercial or production purposes;

Seller – VAT-payers who has been registered in order to carry out sale on condition of VAT refund during shopping festivals;

Operator – state authority, which arranges and manages software and unified database that allows making out electronic tax

invoices (ETI) and transferring the information on those ETIs accordingly;

Operator's functions are carried out by the Ministry of Taxes of the Republic of Azerbaijan.

VAT kiosk – a kiosk specifically established by the operator to formalize the refund of VAT during shopping festival.

Registration of taxpayers, for carrying out the sale on condition of VAT refund during shopping festival, is carried out by the Ministry of Taxes of the Republic of Azerbaijan in an order approved together with the Ministry of Culture and Tourism of the Republic of Azerbaijan.

Formalizing the sale of goods

During shopping festival, when buyer approaches the payment point in order to pay for the purchased goods, the seller identifies whether the buyer wishes using the right to VAT refund. While buyer wishes to use VAT refund right, seller gives overall information concerning the requirements of this Rule.

In case buyer is a foreigner or a stateless person, alongside with the requirements of this Rule, seller gives overall information with respect to the requirements of "Rule for the refund of the value added tax paid by foreigners or stateless persons for the goods that are not intended for the commercial or production purposes, and that are purchased in the territory of the Republic of Azerbaijan" approved by the Decree No.985 of the President of the Republic of Azerbaijan, dated July 12, 2016 ("Tax Free Rule"). As a buyer, a foreigner or stateless person may request refund of VAT at his/her sole discretion, either within the framework of this Rule or Tax Free Rule.

Refunding process of VAT

The sequence of VAT refund process in the VAT kiosk is stipulated below:

- ▶ buyer submits ETI on the goods to the tax official in VAT kiosk;
- ▶ upon identification of ETI information by tax authority in unified database, automatic risk assessment is conducted;
- ▶ based on the risk assessment results, software disclosures whether the goods shall be examined or not by the tax official. In case the examination of goods is required, buyer submits such goods to the tax official for the purpose of examination thereof. The tax official checks the compliance of the submitted goods with the information entered into unified database, and according to the results of examination, takes note on submitted ETI regarding the amount of VAT to be refunded to buyer. Upon sealing of ETI, the tax official submits it to buyer and transfers the relevant information to authorized bank in real time regime;
- ▶ based on the risk assessment results, when submission of goods for their examination is not required from buyer, the tax official confirms ETI and the information in this respect are transferred to authorized bank in real time regime.

After the Buyer had been checked out at the VAT kiosk, authorized bank returns the amount of VAT either by cash in national currency within the day of purchase or according to Buyer's request, by means of transfer to bank account in national currency (in respect of foreigners and stateless persons, national or foreign currency) not later than 10 working days.

If buyer returns the goods to seller, in the case at hand, seller takes back the hard copies of ETI from buyer and takes respective notes by cancelling that ETI in the electronic database. In case buyer returns the goods upon VAT refund, seller returns the value of goods (excluding VAT) to buyer.

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