

16 Annex - Taxation

114. INSTRUCTIONS ON THE MANNER OF CONDUCT OF THE PROCEDURE RELATED TO REALISATION OF THE RIGHT TO EXEMPTION FROM PAYMENT OF VALUE ADDED TAX IN CASES PROVIDED FOR IN INTERNATIONAL AGREEMENT OR TREATY

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Article 1

These Instructions shall regulate the manner of conduct of the procedure related to realisation of the right to exemption from payment of value added tax on import of goods and delivery of goods, or services in the country in cases when the international agreement or treaty envisages that the assets of foreign donor aid cannot be used for payment of tax in the Republic of Montenegro.

Article 2

At import of goods, as well as the delivery of goods and services in the country, value added tax shall not be paid in cases when it is stipulated by international agreement or treaty that binds the Republic of Montenegro.

The right to tax exemption referred to in paragraph 1 of this Article may be realised by the importer or buyer of goods or services (international organisation or local party).

Buyer of goods or services referred to in paragraph 2 of this Article, regarding project implementation in domain of construction, is considered to be a party that signed a treaty on carrying out the construction works with foreign donor, or with competent state authority.

The right referred to in paragraph 2 of this Article shall be realised on the basis of the tax certificate, issued by the ministry competent for the domain of implemented project.

The competent ministry referred to in paragraph 4 of this Article is obliged to submit the tax certificate on the same day to the Public Revenue Directorate - headquarters in Podgorica.

Tax certificate, referred to in paragraph 4 of this Article, serves the supplier of goods or services (VAT payer) as a proof that he had the right not to charge value added tax on delivery of goods or services to the beneficiary of a tax relief.

Article 3

The supplier of goods or services must state the grounds for exemption from payment of value added tax on the invoice (VAT invoice) as well as the number of tax certificate issued by the competent ministry.

VAT payer referred to in paragraph 1 of this Article is entitled to a refund of VAT, which refers to goods and services on which tax exemption is applied, in accordance with the Law on Value Added Tax (Official Gazette of the Republic of Montenegro 65/01, 12/02, 38/02, 72/02 and 21/03).

The person referred to in paragraph 1 of this Article is obliged to provide special records (by quantity and value) on delivery of goods or services on which tax exemption, referred to in Article 2 paragraph 2 of these Instructions, is applied.

Article 4

Tax certificate referred to in Article 2 of these Instructions must include at least the following information:

- 1) The name of international agreement or treaty,
- 2) The number of treaties recorded by the Ministry of Foreign Affairs and confirmation that the treaty has entered into force,
- 3) Provision of the agreement or treaty which stipulates tax exemption,
- 4) Value of the project according to the treaty,
- 5) Specification of goods that are imported or purchased in the country and services that are used in the country,
- 6) Certificate's issuance date,

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7) Seal and signature of authorised person of issuer of the certificate.

Article 5

These Instructions shall enter into force on the day following that of its publication in the Official Gazette of the Republic of Montenegro.

No 04-1528/1

Podgorica, 30 May 2003

MINISTER,

Miroslav Ivanišević