

# THE CROATIAN PARLIAMENT

2129

Pursuant to Article 88 of the Constitution of the Republic of Croatia, I hereby issue the

## DECISION

### PROMULGATING THE ACT ON AMENDMENTS TO THE VALUE ADDED TAX ACT

I hereby promulgate the Act on Amendments to the Value Added Tax Act, passed by the Croatian Parliament at its session on 10 July 2009.

Class: 011-01/09-01/134

Ref. no. 71-05-03/1-09-2

Zagreb, 17 July 2009

The President of  
the Republic of  
Croatia **Stjepan  
Mesić**, m.p.

## ACT

### ON AMENDMENTS TO THE VALUE ADDED TAX ACT

#### Article 1

In the Value Added Tax Act (Official Gazette 47/95, 106/96, 164/98, 105/99, 54/00, 73/00, 127/00, 48/04, 82/04, 90/05 and 76/07) subparagraph 1c in Article 2, paragraph 1 is deleted.

Subparagraphs 2 and 3 are deleted.

The former subparagraph 4 becomes subparagraph 2.

#### Article 2

In Article 3, after paragraph 4, paragraph 5 is added as follows:

"(5) It shall be considered that a delivery of goods for a consideration occurred when a taxpayer or his employees exempt goods for private purposes, which are encompassed by entrepreneurial property, if they dispose with them without a consideration or exempt them for other non-entrepreneurial purposes, if an input VAT deduction could have been obtained entirely or partially for these goods. Deliveries of goods for a consideration shall not be the case when distributing free samples in reasonable amounts to consumers or future consumers,

and providing gifts in the value not exceeding HRK 80.00 within the scope of economic activity, provided that these are provided occasionally and not to the same persons."

#### Article 3

In Article 4, paragraphs 4 and 5 are added as follows:

"(4) Services rendered for a consideration shall be:

1. the usage of goods which are encompassed by entrepreneurial property by a taxpayer or his employees for private or other non-entrepreneurial purposes, when value added tax could have been deducted entirely or partially in regards to these goods,
2. services rendered without a consideration by a taxpayer or his employees for private or other non-entrepreneurial purposes.

(5) If a taxpayer, acting in his own name, but on behalf of another person, participates in the provision of services, it shall be considered that he received and rendered these services himself."

#### Article 4

In Article 5, paragraph 5, the sentence: "If a recipient of one of the services from Article 6 herein is not an entrepreneur, and has residence abroad, then his place of residence shall be considered as the place of delivery." is deleted.

In paragraph 6, subparagraph 4 the word: "electronic" is deleted.

Subparagraph 6 is replaced by the following:

"6. banking and financial services, insurance services, including reinsurance, with the exception of leasing safes,".

Following subparagraph 9, new subparagraph 10 is added, and subparagraphs 11, 12 and 13, reading:

"10. provision of access to natural gas and electricity distribution systems, and transport or transmission through these systems, including provision of other services directly linked thereto,

11. telecommunication services,

12. radio and television broadcasting services,

13. electronically supplied services,".

The former subparagraph 10 becomes subparagraph 14.

#### Article 5

In the title of Chapter IV, after the word "TAXPAYER", the following words are added: "AND TAX REPRESENTATIVE".

#### Article 6

In Article 6, paragraph 1, subparagraph 1, after the words "subparagraph 1", the words "2 and 3" are deleted.

In subparagraph 2, the number "4" is replaced by the number "2".

Subparagraph 3 is replaced by the following:

"3. an entrepreneur with no seat, subsidiary, permanent or usual residence in the territory of the Republic of Croatia where he delivers goods and services referred to in Article 2, paragraph 1, subparagraph 1 herein, with the exception of services for which a domestic recipient of services shall have the obligation to calculate and pay tax pursuant to Article 19, paragraph 2 herein,".

#### Article 7

Following Article 6, Article 6a is inserted as follows:

##### "Article 6a

- 1) The taxpayer from Article 6, paragraph 1, subparagraph 3 herein shall appoint his tax representative and authorize him to accept documents and perform all activities pertaining to the assessment and payment of tax.
- (2) The tax representative must be a taxpayer with a domestic seat or permanent residence, registered as a VAT taxpayer.
- (3) The tax representative from paragraph 1 of this Article shall register with the Tax Administration to provide data about himself and foreign enterprises he represents. Having received the above application, the Tax Administration shall issue an approval to the tax representative, provided he fulfils requirements stipulated for activities of a tax representative.
- (4) The Tax Administration shall have the right to deny the approval or to revoke an already issued approval if a tax representative was sentenced for an offence, based on a final ruling, or if he owes taxes or other public levies.
- (5) A tax representative shall guarantee tax payments due.
- (6) The Minister of Finance shall prescribe provisions for the implementation of this Article."

#### Article 8

In Article 7, paragraph 6 is replaced by the following:

"(6) In cases stipulated by Article 3, paragraph 5 and Article 4, paragraph 4 herein, a tax liability shall be incurred once the accounting period, during which the goods were exempt or services rendered, has expired."

#### Article 9

In Article 8, paragraph 6 is replaced by the following:

"(6) In cases of delivery of the goods or services stipulated in subparagraph 1b from Article 2, paragraph 1, Article 3, paragraph 5 and Article 4, paragraph 4 herein, the tax basis shall be determined based on market value, applicable at the time when the goods were delivered or services rendered."

Paragraph 7 is deleted.

Former paragraph 8 becomes paragraph 7.

#### Article 10

In Article 9, paragraph 1 is replaced by the following:

"(1) In regards to the importation of goods, within the meaning of Article 2, paragraph 1, subparagraph 2 herein, the tax basis shall be the customs value, determined in accordance with customs regulations. The tax basis shall include the following factors, when they have not already been included in the customs value:

- a) customs duties, excises, levies and similar charges paid when importing goods, except value added tax, and
- b) expenses, such as commission, packing, transport and insurance costs, incurred before reaching the first domestic destination."

Following paragraph 1, a new paragraph 2 is added, reading as follows:

"(2) The first destination from paragraph 1, subparagraph (b) of this Article shall be the place indicated on the delivery order or on another document based on which goods are being imported. In the absence of such indication on a document, the destination shall be deemed to be the place of the first domestic transfer of cargo."

Former paragraph 2 becomes paragraph 3.

#### Article 11

In Article 10, paragraph 1, subparagraph (e), after the words "insurance", the following words are added: with the exception of dental prostheses from Article 11, paragraph 1, subparagraph (e) herein,".

In paragraph 2, subparagraph (b), after the word: "magazines", the following words are added: "printed on paper".

## Article 12

Article 11 is replaced by the following:

"(1) Value added tax exemptions shall encompass the following deliveries of public interest:

- a) delivery of universal postal services and the delivery of goods related thereto,
- b) medical diagnostics in hospitals, treatment and medical care, supplied on the basis of public authority, in accordance with regulations pertaining to health care in health institutions: health centres, urgent care centres, polyclinics, general and specialized hospitals and clinics, health institutions providing medical care at home, entities with public authority or other organizations similar in nature, as well as deliveries of goods in the course of providing medical care by the institutions listed,
- c) delivery of services and goods by medical doctors, dentists, nurses, midwives, physical therapists and psychologists, and services of biochemical laboratories related to medical care, which are supplied within private practise,
- d) delivery of human organs, blood and milk,
- e) services rendered by dental technicians in their professional capacity and the delivery of dental prostheses by dental technicians and dentists,
- f) services rendered to its members by groups of persons whose activities are exempt from or who are not VAT taxpayers, when these services are intended directly for their professional activity, on the condition that these groups merely claim exact reimbursement of their share of joint expenses from their members, provided that such exemption does not lead to distortion of competition,
- g) delivery of services and goods related to social welfare, including those rendered by hospice centres, institutions, entities with public authority or other organizations considered as having a social character, based on regulations of the Republic of Croatia,
- h) delivery of services and goods related to the protection of children and youth, including those rendered by institutions, entities with public authority or other organizations considered as having a social character, based on regulations of the Republic of Croatia,
- i) education for children and youth, services and deliveries of goods for preschool, primary, secondary or higher education institutions, and institutions for the standard of pupils and students, vocational training or retraining of adults, including the delivery of services and goods closely related thereto, provided by entities with public authority with this purpose or by other organizations considered to have similar goals based on the regulations of the Republic of Croatia,
- j) tuition provided privately by teachers, encompassing education in preschool, primary, secondary or higher education institutions, and institutions for the standard of pupils and students,

k) engagement of staff by religious or spiritual institutions for the purposes defined by subparagraphs (b), (g), (h) and (i) of this Article, the goal of which is spiritual welfare,

l) delivery of services and goods closely related thereto, by non-profit organizations with aims of religious, patriotic, philosophical, philanthropic or other civic nature for the benefit of their members, in return for a subscription fixed in accordance with their rules, provided that this exemption does not lead to distortion of competition,

m) delivery of cultural services and goods closely related thereto, by entities with public authority or by other cultural organisations considered as such, based on regulations of the Republic of Croatia, including: museums, galleries, archives, libraries, theatres, orchestras and other institutions for performing arts and music, conservatories and restoration institutions, institutions for the protection of cultural monuments, art organizations and independent artists,

n) delivery of services and goods by organizations whose activities qualify for the exemption, based on provisions of subparagraphs (b), (g), (h), (i), (l) and (m) of this Article, in connection to fund-raising events organized exclusively for their own benefit, provided that this exemption does not lead to distortion of competition,

o) delivery of transport services by duly authorised personnel, for sick or injured persons in vehicles specially designed for this purpose,

p) subscription for carrying out activities of public radio and television, with the exception of commercial activities.

(2) Institutions and legal persons with public authority or other organizations from paragraph 1 of this Article, shall be entitled to this exemption on the condition that they perform such activities as prescribed by special regulations.”

#### Article 13

Following Article 11, Article 11a is inserted as follows:

#### *"Article 11a*

(1) The following shall be exempt from payment of value added tax:

a) insurance and reinsurance transactions, including related services rendered by insurance brokers and insurance agents,

b) granting and the negotiation of credit and credit management by the person granting it,

c) negotiation of credit guarantees or any other activities pertaining to credit guarantees or other forms of security for money, and credit management by the person granting the credit,

d) transactions, including mediation, concerning deposit and current accounts, payments, transfers, debts, cheques and other negotiable transferrable securities, with the exception of debt collection,

e) transactions, including mediation, concerning currency, banknotes and coins used as legal tenders, with the exception of collectors' items, gold, silver or other metal coins or banknotes which are not normally used as legal tenders or coins of numismatic value,

f) transactions, including mediation, but excluding management and safekeeping, in shares, stakes in companies or associations, bonds and other securities, with the exception of documents establishing title to goods and rights or securities establishing certain real estate rights,

g) management of special investment funds by companies managing investment funds, in accordance with special regulations,

h) delivery of postage stamps at face value, for domestic postal services use, and of fiscal stamps and other similar stamps,

i) lottery and casino games, betting and slot machine games,

j) renting of housing premises,

k) delivery of goods used solely for activities qualifying as an exemption, as stipulated by Articles 11 and 11a herein, if the delivery of these goods does not qualify for an input VAT deduction.

(2) Based on this Act, tax shall not be paid on trade with gold ingots carried out by the Croatian National Bank.

(3) A taxpayer shall be entitled to a right to opt for taxation in case of granting a credit in connection with the delivery of goods and services. These transactions shall be subject to the same tax rate as the one applied to the main transaction."

#### Article 14

Article 12 is replaced by the following:

"The following shall be exempt from value added tax payment:

1. final importation of goods, the delivery of which by a taxpayer would in all circumstances be exempt from tax within the territory of the Republic of Croatia,

2. imports of personal luggage, the delivery of non-commercial goods carried by travellers from abroad, the type, value and quantity of which is stipulated by customs regulations,

3. household goods imported by natural persons moving into the Republic of Croatia, after having permanently resided in another country for a minimum of twelve months, in accordance with customs regulations. The exemption shall not apply to alcohol and alcoholic beverages, tobacco and tobacco products,

4. goods imported by persons moving into the Republic of Croatia for the purpose of marriage, including gifts received on the occasion of marriage, in accordance with customs

regulations. The exemption shall not apply to alcohol and alcoholic beverages, tobacco and tobacco products, motor vehicles and equipment intended for this activity,

5. importation of items inherited abroad by Croatian and foreign citizens with usual residence in the Republic of Croatia, in accordance with customs regulations,

6. importation of tools and instruments carried by pupils and students for personal use and for the purpose of schooling in the Republic of Croatia, in accordance with customs regulations,

7. importation of consignments from abroad not exceeding HRK 160.00 in accordance with customs regulations. The exemption shall not apply to alcohol and alcoholic beverages, tobacco and tobacco products, perfumes and eau de toilette,

8. goods encompassed by business assets imported for the purpose of continuing an interrupted economic activity, by natural persons moving into the Republic of Croatia from abroad, after having permanently resided there for a minimum of twelve months, in accordance with customs regulations,

9. importation of agricultural products, crops, stock farming, forestry, fishery and beekeeping products, obtained on farms located on cross-border territory in a neighbouring country, in possession of nationals of the Republic of Croatia living in the cross-border territory, as well as seeds, fertilizers and products for farming and processing of products from those farms and importation of breeding cattle and other products derived from cattle owned on the farms for the purpose of agricultural works, pasture or wintering, in accordance with customs regulations,

10. importation of therapeutic substances of human origin and reagents for blood type determination and categorization of tissues used for non-commercial purposes, samples of reference substances for the control of medical products, including laboratory animals particularly cultivated to be used for scientific tests, drugs and medical products for the approved clinical, laboratory, pharmacological and toxicological tests, and importation of pharmaceutical products of human veterinary medicine for human and animal use in sport events, in accordance with customs regulations,

11. importation of goods specially produced and adapted for personal use, education, cultural, social, professional and any other kind of rehabilitation of the blind and persons with serious vision problems, deaf, dialyzed, mentally or physically handicapped persons, when imported by institutions or organizations registered for providing care and rehabilitation to such persons, in accordance with customs regulations,

12. importation of goods obtained free of charge for the fulfilment of basic human needs such as food, drugs, clothes, shoes, bedding, hygienic items and alike, imported by public institutions and other registered humanitarian and charitable organizations and institutions for the purpose of donation to the socially endangered persons. Tax exemption shall apply to goods for the fulfilment of basic human needs imported by public institutions and other registered humanitarian and charitable organizations and institutions for the purpose of donation to victims of disasters. Tax exemptions shall apply to imports of equipment donated from abroad to the above mentioned organizations and institutions for the purpose of their operation and achievement of their humanitarian goals. Tax exemption shall be exercised in accordance with customs regulations. The exemption shall not apply to alcohol and alcoholic



beverages, tobacco and tobacco products, coffee and tea, and to motor vehicles with the exception of ambulances,

13. imports of medals and rewards received at international events and gifts received as part of international relationships, goods used by presidents of states or their representatives on the occasions of visits to the Republic of Croatia, with the reciprocity principle applied, in accordance with customs regulations. The exemption shall not apply to alcohol and alcoholic beverages, tobacco and tobacco products,

14. importation of samples of insignificant value used only for the purpose of ordering identical goods, and unusable for any other purpose, in accordance with customs regulations,

15. importation of printed and promotional material sent by persons with their seat outside of the territory of the Republic of Croatia, in accordance with customs regulations,

16. importation of goods used or consumed at fairs, exhibitions and similar events, in accordance with customs regulations. The exemption shall not apply to alcohol and alcoholic beverages, tobacco and tobacco products, crude, liquid and gaseous fuels,

17. importation of goods intended for inspection, tests and analyses, and completely destroyed in those processes, in accordance with customs regulations,

18. importation of seals, trademarks, patents, models, designs and supporting documentation, forms for the acknowledgment of innovations, patents and alike, submitted to competent authorities for the protection of royalties or industrial and commercial rights, in accordance with customs regulations,

19. importation of materials for tourist information disseminated free of charge with the aim of presenting a foreign tourist offer, in accordance with customs regulations,

20. importation of documents, forms and data media:

a) documents delivered free of charge to public services,

b) publications of foreign governments and official international bodies intended for distribution free of charge,

c) ballots for the purpose of elections organized by foreign states bodies,

d) objects to be delivered as evidence or alike to courts and other official bodies,

e) samples of signatures and other printed circular letters sent as part of the usual exchange of information between public services or banking institutions,

f) official forms sent to the Croatian National Bank,

g) reports, statements, notes, leaflets, applications and other documents issued by companies registered outside of the territory of the Republic of Croatia and sent to holders or signatories of securities issued by these companies,

- h) recorded data carriers (perforated cards, audio records, microfilms, etc.) for the transmission of information distributed free of charge to recipients, provided that this exemption does not lead to misuse or distortion of competition,
- i) records, archive materials, printed forms and other documents to be used at international meetings, conferences and congresses as well as reports from such meetings,
- j) designs, technical drawings, copies of designs on transparent paper, descriptions and other similar documents imported with the aim of gathering or executing orders or participating in a tender opened in the Republic of Croatia,
- k) documents to be used for the purpose of explorations conducted in the Republic of Croatia by institutions established in other countries,
- l) printed forms to be used for the purpose of international treaties as official documents for the international transport of vehicles or goods,
- m) printed forms, stickers, cards and similar documents distributed to travel agencies established in the Republic of Croatia, by transportation or hotel establishments located in other countries,
- n) printed forms and cards, bills of lading, waybills and other commercial and official documents,
- o) official printed forms of national and international bodies and forms conforming to international standards, sent by associations of foreign countries to corresponding associations in the Republic of Croatia for distribution,
- p) photographs, slides and blocks for photographs with or without text, for distribution to news agencies and magazine publishers,
- r) items produced by the Organization of the United Nations or by a special agency thereof, regardless of their intended purpose,
- s) collectors' items and arts with an educational, scientific or cultural character, not intended for sale and imported by museums, galleries and other institutions holding an approval for duty free imports of such goods issued by competent authorities, where the exemption shall be allowed exclusively on the condition that the imported items in question are supplied free of charge or when they are imported for a charge, that they are not delivered by a taxpayer,
- t) official publications issued with the approval of the exporting country, international institutions, bodies of regional or local government and public legal bodies established in the exporting country, and forms for the purpose of national elections in the country of origin of the forms, distributed by foreign political organizations officially recognized in other countries, provided that tax was paid in the exporting country on these publications and forms, and provided that they are not exempt from export tax,

21. importation of auxiliary material for protection of goods and care of live animals during transportation, in accordance with customs regulations,

22. importation of fuels and lubricants contained in the tanks fitted by the manufacturer to road motor vehicles and special containers, in accordance with customs regulations,
23. importation of caskets with deceased persons, urns with the cremated ashes of deceased persons, flowers, wreaths and other common funeral decoration items and goods intended for the construction, maintenance or decoration of cemeteries and monuments to the victims of the war in the territory of the Republic of Croatia, in accordance with customs regulations,
24. importation of goods contained in deliveries free of charge made by natural persons from abroad to natural persons in the Republic of Croatia, provided that these deliveries have no commercial value and conform to the prescribed type, quantity and value, in accordance with customs regulations,
25. reimportation of goods by the person who exported them, in the identical state they were exported in, when these goods qualify for exemptions from customs duties,
26. importations of goods under diplomatic and consular arrangements, which qualify for exemption from customs duties,
27. importations of goods by international organizations recognized as such by the Republic of Croatia or by members of such organizations, within the limits and as stipulated by international conventions pertaining to the incorporation of such organizations or based on headquarters agreements,
28. importations of goods by the armed forces of other countries, members of the NATO Treaty, for the needs of these forces or the accompanying civilian staff or for supplying their messes or canteens, if such forces take part in the common defence effort,
29. importation of unprocessed or processed catch, undelivered, by sea fishing enterprises engaged in maritime fishing,
30. importation of gold by the Croatian National Bank,
31. delivery of services, relating to the importation of goods where the value of such services is included in the tax basis in accordance with Article 9, paragraph 1 herein,
32. temporary importation of goods, exempt from customs duties according to the international convention on temporary importation and customs regulations,
33. services directly connected to the importation of goods for which the Customs Administration issued a temporary domestic usage permit. The above shall not apply to services connected to transportation means, palettes and containers,
34. goods in transit through the customs territory of the Republic of Croatia including the services of transport and other dispatch services."

#### Article 15

In Article 13, paragraph 1, subparagraphs 3, 4 and 5 are replaced by the following:

"3. delivery of goods to competent authorities which export them outside of the Republic of Croatia within their humanitarian, charitable or educational activities outside of the Republic of Croatia,

4. delivery of goods, other than oil derivatives, delivered or transported from the Republic of Croatia by travellers in passenger transport or by someone else acting on their behalf. The exemption shall apply solely on the following conditions:

a) if a traveller's domicile or usual residence is not in the Republic of Croatia, which is verified by a passport or identity card,

b) if the total value of delivery, including value added tax, exceeds HRK 740.00,

c) if the goods are transported outside of the Republic of Croatia prior to the expiry of the three month period, and

d) if proof of exportation exists, and the invoice and form were endorsed by the customs office where goods were exported from the Republic of Croatia,

5. In respect of the exportation of goods as stipulated by subparagraph 4 of this paragraph, the exemption shall be granted when the taxpayer – supplier of the goods receives proof of exportation. The taxation of exportation already carried out can be adjusted in the accounting period during which the proof of exportation was received."

Paragraph 2 is replaced by the following:

"(2) The granting of exemption as referred to in this Article requires evidence of exportation and bookkeeping registers prescribed by the Minister of Finance."

Paragraph 3 is deleted.

#### Article 16

Following Article 13, titles 3a and 3b are added and Articles 13a and 13b, reading:

"3a. Tax exemptions for the delivery of goods and services equivalent to export

#### Article 13a

"The following shall be exempt from value added tax payment:

a) delivery of goods and services under diplomatic and consular arrangements, subject to the reciprocity principle,

b) importations of goods by international organizations recognized as such by the Republic of Croatia or by members of such organizations, within the limits and on conditions stipulated by international conventions pertaining to the incorporation of such organizations or based on headquarters agreements,

c) importations of goods by the armed forces of other countries members of the NATO Treaty, for the needs of these forces or the accompanying civilian staff or for supplying their messes or canteens, if such forces take part in the common defence effort,

### 3b. Tax exemptions related to international transport

#### Article 13b

(1) The following shall be exempt from value added tax payment:

a) delivery of goods for the provisioning of vessels, except the delivery of fuel, used for navigation on the high seas and for carrying passengers for a consideration or used for the purpose of commercial and industrial activities and of vessels used for rescue or assistance at sea,

b) delivery of fuel and goods for supplying warships, as defined in the Customs Tariff, tariff code 8906 10 00, leaving the Republic of Croatia and bound for foreign ports or anchorages,

c) delivery, modification, repair and maintenance of the vessels referred to in subparagraph (a) of this paragraph, and the delivery, hiring, repair and maintenance of equipment incorporated or used therein,

d) delivery, modification, repair, maintenance, chartering and hiring of aircraft used by airlines operating for a consideration, mainly on international routes, and the delivery, hiring, repair and maintenance of equipment incorporated or used therein,

e) delivery of fuel and goods for the supply of aircraft referred to in subparagraph (d) of this paragraph,

f) rendering services other than those indicated in subparagraph (c) of this paragraph, to meet direct needs of vessels referred to in subparagraph (a) of this paragraph or their cargo,

g) rendering services other than those indicated in subparagraph (d) of this paragraph, to meet the direct needs of vessels referred to in subparagraph (d) of this paragraph or their cargo.

(2) The taxpayer shall provide bookkeeping proof of having fulfilled the conditions referred to in paragraph 1 of this Article."

#### Article 17

In Article 15, paragraph 1, following the second sentence, a new sentence is added, reading: "In the case of delivering goods and services from Article 22a, paragraph 2 herein, the invoice must state the special margin taxation procedure."

In paragraph 3, subparagraph 2 the words: "identity number or personal identity number (business tax registry number)" is replaced with words "personal business identity number".

In subparagraph 3, the words: "tax number" is replaced with words: "personal identification number".

In paragraph 6, subparagraph 2 the words: "tax number" is replaced with words: "personal identification number".

## Article 18

In Article 20, paragraph 1, after the words: "taxpayer", the following words are added: "for business purposes".

In paragraph 3, subparagraph 1, after the number: "11" the following words are added within the brackets: "and 11a".

In paragraph 4, the words: "subparagraphs 15 and 16" are replaced by words: "subparagraph 34", and after the number "13" a comma is added, followed by words: "13a and 13b".

Paragraph 6 is replaced by the following:

"(6) If an entrepreneur uses received or imported goods and services which are supplied to him partly in the course of delivering goods and services which exclude an input VAT deduction, then the only portion of input VAT that can be deducted is the one that relates to the delivery of goods and services which qualify for an input VAT deduction. The amount of input VAT pertaining to the delivery of goods and services with the right to deduction, which cannot be directly attributed to these deliveries based on bookkeeping records and other documentation, shall be determined on an annual basis as a percentage obtained from the ratio between the total amount of taxable deliveries without value added tax which qualify for an input VAT deduction, and the total amount of deliveries without value added tax. Exceptionally, the portion of input VAT that can be deducted, can be determined by the taxpayer separately for each part of his economic activity, provided that he has established separate bookkeeping of which he has notified Tax Administration in advance. The Minister of Finance shall prescribe the manner of calculating the portion of input VAT to be deducted."

In paragraph 9, after number "8", the word "and" is replaced by a comma, and after number "10" a comma is added, followed by words: "11 and 12".

After paragraph 10, paragraphs 11, 12 and 13 are added as follows:

"(11) A taxpayer shall not deduct 70% of input VAT charged for received deliveries of goods, services or upon importation of goods used for representation in connection with hosting and giving presents to business partners.

(12) A taxpayer shall not deduct 30% of input VAT charged for received deliveries of goods, importation or lease of personal vehicles and other means of personal transportation and for deliveries of goods, services rendered or imported goods in connection with their acquisition, lease or usage. An input VAT deduction shall not be permitted for procurement of personal vehicles and other means of personal transportation, when exceeding HRK 400,000.00 of the procurement value per means of transportation.

(13) Exceptionally, provision of paragraph 12 of this Article shall not apply to personal vehicles and other personal means of transportation and to deliveries of goods and services incidental thereto, when used for the purpose of training drivers, testing vehicles, repair service, taxi service, transportation of deceased persons, lease and further sale."

## Article 19

A title is added before Article 21, reading: "1. Tax refund".

Paragraphs 2 and 3 in Article 21 are deleted.

## Article 20

Following Article 21, a title followed by Article 21a is inserted as follows:

"2. Tax refund to foreign enterprises"

### Article 21a

(1) Taxpayers without a business seat or residence, business establishment, subsidiary or another business unit in the Republic of Croatia, and who do not carry out deliveries of goods and services in the Republic of Croatia, shall be entitled to a refund of value added tax charged by taxpayers in the territory of the Republic of Croatia for the delivery of movable goods and services rendered. The right to the refund shall be granted provided that the domestic taxpayer is entitled to a tax refund in the applicant's country of origin as well.

(2) The right to the tax refund from paragraph 1 of this Article shall be granted to taxpayers with a domestic place of taxation, who have not engaged in deliveries of goods and services during the period they claim the tax refund for, with the exception of:

a) transport and transport-related services exempt from the payment of value added tax, pursuant to provisions of Article 12, subparagraphs 31 and 34 and Article 13 of this Act,

b) services subject to the calculation and payment of tax by a domestic recipient of services, as stipulated by Article 19, paragraph 2 herein.

(3) Provisions of Articles 20 and 22f herein shall apply to the tax refund from paragraph 1 of this Article.

(4) A taxpayer from paragraph 2 of this Article shall submit the application for refund to the Tax Administration within six months after the end of the calendar year covered by the refund claim.

(5) The Minister of Finance shall prescribe provisions for the implementation of this Article."

## Article 21

A title is added before Article 22, reading:

"1. Special taxation procedure for small enterprises".

In Article 22, paragraph 1 is replaced by the following:

"(1) An entrepreneur, except an entrepreneur as defined by Article 6, paragraph 1, subparagraph 3 herein, whose annual value of supplied goods and services referred to in

Article 2, paragraph 1, subparagraph 1 herein, after deducting the value of deliveries eligible for tax exemption pursuant to Articles 11 and 11a herein, in the preceding calendar year, did not exceed HRK 85,000.00, exempt from value added tax payment for the delivery of goods and services, shall have no right to charge tax on invoices issued and no right to deduct the input VAT he is charged by other entrepreneurs."

## Article 22

Following Article 22, a title followed by Articles 21a to 22h is inserted as follows:

"Special margin taxation procedure on second-hand goods, works of art, collectors' items and antiques

## Article 22a

(1) The following definitions shall apply for the purpose of this Act:

a) "second-hand goods" shall mean tangible movable property suitable for further use in its existing condition or after repair, with the exception of works of art, collectors' items or antiques and precious metals as defined by the Customs Tariff, tariff codes 7106, 7108, 7110 and 7112 and precious stones as defined by the Customs Tariff, tariff codes 7102 and 7103,

b) "works of art" shall mean objects as defined by the Customs Tariff, tariff codes 9701, 9702 00 00, 9703 00 00, 5805 00 00 and wall textiles as defined by Customs Tariff, tariff code 6304 from original designs of artists,

c) "collectors' items" shall mean objects as defined by the Customs Tariff, tariff codes 9704 00 00, 9705 00 00,

d) "antiques" shall mean objects as defined by the Customs Tariff, tariff code 9706 00 00,

e) "dealer" shall mean a taxpayer who, in the course of his economic activity, purchases or acquires for the needs of his enterprise, or imports with the aim to resell, second-hand goods and/or works of art, collectors' items or antiques, regardless of whether that taxpayer acts on his own behalf or on behalf of another person, pursuant to a contract stipulating the payment of commission on the purchase or sale.

(2) A special taxation procedure for price differences (margins) earned by a dealer shall apply to deliveries of second-hand goods, works of art, collectors' items or antiques completed by a dealer.

(3) Margin taxation shall apply to deliveries of goods referred to in paragraph 2 of this Article, completed by a dealer when the listed goods have been supplied to him by:

a) persons who are not taxpayers,

b) taxpayers who deliver goods exempt from taxation as referred to in Articles 11 and 11a herein, and enterprises from Article 22, paragraph 1 herein,



c) another dealer in so far as the delivery of goods by the other dealer is subject to the special margin taxation procedure.

#### Article 22b

(1) For the delivery of goods referred to in Article 22a, paragraph 1 herein, the tax basis shall be deemed to be the margin equal to the difference between the sale and the purchase price of the goods supplied, reduced for the amount of value added tax contained in that margin.

(2) The "sale price" within the meaning of paragraph 1 of this Article, shall mean everything constituting the consideration received or to be received by the dealer from the customer or from a third party, including subsidies directly linked to that transaction, taxes, customs duties, levies and related charges such as commission, packaging, transport and insurance costs charged by the dealer to the customer, but excluding the amounts charged, received or issued on behalf of and for the account of another person by the entrepreneur, and price discounts and margins granted to the customer at the time of issuing the invoice.

(3) The "purchase price", within the meaning of paragraph 1 of this Article, shall mean everything constituting the consideration defined in paragraph 2 of this Article, obtained, or to be obtained from the dealer by his supplier.

#### Article 22c

(1) A dealer shall have the possibility of opting for the application of the margin taxation procedure in the delivery of:

- a) works of art, collectors' items or antiques which he has imported himself,
- b) works of art supplied to him by their creators or their legal successors.

(2) A dealer opting for the application of margin taxation procedure as referred to in paragraph 1 of this Article, shall have the obligation to apply this option for at least two calendar years.

(3) The dealer shall notify in writing the competent local Tax Administration office about the beginning of applying the margin taxation procedure referred to in paragraph 1 of this Article, within the deadline for submitting the first value added tax return for the accounting period of the calendar year, during which the enterprise has applied the margin taxation for the first time.

(4) The dealer referred to in paragraph 3 of this Article shall be entitled to cease applying the margin taxation procedure once two calendar years have expired. He shall notify the competent local Tax Administration office in writing about this, within the deadline for submitting the value added tax return for the accounting period of the calendar year during which he has ceased to apply the special margin taxation procedure. In case he fails to submit the written notification to the competent local Tax Administration office, the dealer shall continue to apply the special margin taxation procedure during the next two calendar years.

(5) The tax basis for deliveries subject to the margin taxation procedure within the meaning of paragraph 1 of this Article shall be determined pursuant to Article 22b, paragraph 1 herein. As

regards the delivery of works of art, collectors' items or antiques purchased or imported by a taxable dealer in person, the amount of value added tax shall be added to the tariff base or purchase price.

#### Article 22d

The difference in price (margin) realized in the course of delivering works of art, collectors' items or antiques subject to the special margin taxation procedure shall be exempt from tax, provided that the delivery is carried out as stipulated by Articles 13, 13a and 14 herein.

#### Article 22e

(1) A dealer may apply the regular taxation procedure to any delivery of goods covered by the special margin taxation procedure.

(2) When the dealer applies the regular taxation procedure on works of art, collectors' items or antiques which he has imported himself, he shall be entitled to deduct the portion of value added tax paid when importing those goods, from his total value added tax liability.

(3) When the dealer applies the regular taxation procedure on works of art, supplied from its creator or the latter's legal successors or from taxpayers who are not dealers, he shall be entitled to deduct the portion of value added tax he was charged for the works of art supplied, from his total value added tax liability.

#### Article 22f

(1) A dealer applying the special margin taxation procedure shall not be entitled to deduct from value added tax he is liable for, tax paid during importation or tax charged for:

1. works of art, collectors' items or antiques which he has personally imported,
2. works of art which have been, or are to be, supplied to him by their creators or their legal successors,
3. works of art which have been, or are to be, supplied to him by taxpayers other than dealers.

(2) A dealer applying the margin taxation procedure shall not be entitled to deduct from value added tax he is liable for, tax charged by another dealer for the goods supplied, when the margin taxation procedure is applied for the delivery of these goods.

#### Article 22g

(1) A dealer applying the regular VAT taxation procedure simultaneously with the margin taxation procedure, shall keep special records for each of these procedures.

(2) The Minister of Finance shall prescribe the form and contents of these records.

#### Article 22h

The dealer shall not indicate the value added tax amount separately on invoices for the goods supplied, which are covered by the margin taxation procedure.

#### Article 23

In Article 24, paragraph 1, after the word "keep", the words "at least five years after the end of the year to which they refer" shall be replaced by words "within time frames prescribed by provisions of special regulations".

#### Article 24

In Article 28, paragraph 1, subparagraph 6, before number "23" the following words are added within the brackets: "22g and".

Following paragraph 1, a new paragraph 2 is added, reading as follows:

"(2) A taxpayer failing to fulfil his obligations from Article 6a, paragraph 5 herein, shall be penalized with a fine from HRK 1,000.00 to HRK 200,000.00."

In the existing paragraph 2, which becomes paragraph 3, after number "1" the following words are added: "and 2".

#### Article 25

In Article 29, paragraph 1, subparagraph 1, words in brackets "Articles 8 and 9" are replaced by words "Articles 8, 9 and 22b".

In subparagraph 2, words in brackets: "Articles 11, 12 and 13" are replaced by words "Articles 11, 11a, 12, 13, 13a and 13b".

In subparagraph 7, words in brackets: "9 and 10" are replaced by words "9, 10, 11 and 12 and Article 22f".

Following subparagraph 9, new subparagraph 10 is added, reading:

"10. if he fails to notify the competent local Tax Administration office about the beginning of applying the margin taxation procedure within the deadline for submitting the first value added tax return (Article 22c, paragraph 3)."

The former subparagraph 10 becomes subparagraph 11.

#### Article 26

(1) Taxpayers who have acquired personal vehicles and other means of transport for personal usage of the chairmen, directors, managers and other employees by 31 December 2009, and had exercised their right to a input VAT deduction, as well as calculated and paid value added tax on the amount of 30% of the depreciation value for the amount not exceeding HRK 400,00.00 of the purchase price for these means of transport, or on the amount of 100% of the depreciation value for the amount exceeding HRK 400,00.00 of the purchase price, shall have the obligation to continue calculating and paying value added tax on their personal

consumption on 30% or 100% of the depreciation value, respectively, until the expiry of the depreciation period or the time of sale, donation, alienation or destruction of these means of transport in another manner.

(2) Taxpayers from Article 21a, paragraph 1 herein shall be entitled to a refund of value added tax for the delivery of goods and services charged by domestic taxpayers after 31 December 2009.

(3) The margin taxation procedure shall also apply to the delivery of goods from Article 22a, paragraph 2 herein, supplied from persons referred to in Article 22a, paragraph 3 herein by 31 December 2009.

(4) Humanitarian organizations, health, educational, cultural, scientific, religious and social institutions, amateur sports clubs and national authorities, local and regional self-governments, may use received amounts of foreign cash donations without value added tax payment, at the latest by 31 December 2009, provided documents were issued confirming receipt of foreign cash donations by 31 December 2010.

(5) Procedures initiated by humanitarian organizations, health, educational, cultural, scientific, religious and social institutions, amateur sports clubs and national authorities, local and regional self-governments, prior to the entry of this Act into force, and pertaining to application for an exemption from the value added tax payment on imports of donated goods or goods paid with foreign cash donations received, shall be regulated in accordance with provisions of the Value Added Tax Act which was in force at the time when such procedures were initiated.

(6) By way of derogation from provisions of Article 20, paragraph 5 herein, taxpayers from Articles 11 and 11a, whose conditions relevant for taxation change once this Act has entered into force, who begin conducting taxable deliveries, shall not be entitled to the adjustment of input VAT on economic goods purchased prior to the entry of this Act into force.

#### Article 27

The Legislation Committee of the Croatian Parliament shall hereby be authorised to prepare and publish a revised version of the Value Added Tax Act.

#### Article 28

This Act shall be published in the Official Gazette and shall enter into force on 1 January 2010.

Class: 410-19/09-01/04

Zagreb, 10 July 2009

THE CROATIAN PARLIAMENT

President  
of the Croatian

PROVISIONAL TRANSLATION