

JUNE 16, 2003

FANTASIA

LAW on the VALUE ADDED TAX

Preamble

The value added tax, hereinafter VAT, is a form of collection to the federal budget of a portion of the value added in the process of the production and circulation of goods and services within the territory of Fantasia and of a portion of the value of all taxable goods imported onto the territory of Fantasia. The value added tax, as an indirect tax, is payable at all stages of the production and supply of goods and rendering of services. The amount of VAT payable with respect to taxable transactions is determined as the difference between the sum of tax assessed on these transactions and the sum of tax that is creditable according to issued VAT invoices in accordance with this Law.

Chapter 1
Definitions

Article 1
Definitions

For the purpose of this Law, unless the context otherwise requires,

- a) “accounting period” means a calendar month;
- b) “agent” means any person who acts on behalf of and on instructions from another person;
- c) “entrepreneurial activity” means any industrial, commercial, banking, transport or mining activity pursued by a person according to the provisions of the Commercial Code;
- d) “export” means taking goods out of Fantasia or rendering services for use outside Fantasia;
- e) “import of goods” means bringing goods into Fantasia within the meaning of the customs legislation;
- f) the term “permanent establishment” means a fixed place of entrepreneurial activities through which those activities of a person are wholly or partly carried on. The following shall, in particular, be considered to be a permanent establishment: an administrative office, branch, factory, workshop, mine, quarry or any other place for

the exploitation of natural resources, and a building site or place where construction and/or assembly works are carried out.

- g) “person” means any natural or legal person and all forms of associations;
- h) “taxable transactions” means a taxable transaction as defined in article 7, paragraph (2), or a transaction treated as a taxable transaction under article 7;

Article 2 *Taxpayers*

- (1) For the purpose of this Law, the following persons are taxpayers:
 - a) a person who is registered or is required to be registered;
 - b) a person carrying out taxable import of goods to Fantasia, with respect to such import;
 - c) a nonresident person who performs services without registration for VAT who is subject to taxation under Article 22, with respect to such services.
- (2) A person who is registered is a taxpayer from the time the registration takes effect.
- (3) A person who is not registered, but who is required to be registered, is a taxpayer from the beginning of the accounting period following the period in which the obligation to apply for registration arose.

Article 3 *Obligatory Registration*

- (1) A person who carries on entrepreneurial activity and whose taxable transactions in the preceding 12 calendar months exceeded EUR 20,000 is required to file an application with the Tax Administration to be registered for VAT no later than on the last day of the month following that 12-month period.
- (2) For the purpose of this Article, the supply of goods and rendering of services carried out by a nonresident are taken into account in determining the total value of taxable transactions only if carried out through a permanent establishment in Fantasia.

Article 4 *Voluntary Registration*

A person who carries on entrepreneurial activity and is not required to be registered for VAT may voluntarily apply to the Tax Administration for such registration, if he regularly is supplying or rendering at least 75% of his goods and services to registered persons.

Article 5 *Registration procedure*

- (1) A person applying to register for VAT is required to do so in such a form as is established by the implementation regulations issued by the Ministry of Finance.
- (2) When a person carrying out taxable supplies files an application to be registered for VAT, the Tax Administration is required to register the person in the VAT register, and to issue a certificate of registration within 30 days of the registration, that states:
 - a) the full name and other relevant details of the taxpayer;
 - b) the date of issuance of the certificate;
 - c) the date from which the registration takes effect; and
 - d) the taxpayer identification number.
- (3) Registration takes effect on one of the following dates, depending on which date comes first:
 - a) in the case of obligatory registration, on the first day of the accounting period following the month in which the obligation to apply for registration arose;
 - b) in the case of voluntary registration, on the first day of the accounting period following the month in which the person applied for registration;
 - c) on the date selected by the taxpayer on his application for registration, but not before the date the application is filed.
- (4) The Tax Administration is required to establish and maintain a VAT register containing details of all persons registered for VAT.
- (5) If a person is required to register for VAT and has not applied to be registered, the Tax Administration shall register the taxpayer on their own initiative and send the taxpayer the certificate mentioned in paragraph (2) of this Article.
- (6) A person registered for VAT is required to use his taxpayer identification number on all VAT invoices, and on all tax returns and official communications with the Tax Administration.

Article 6

Cancellation of Registration

- (1) A taxpayer is required to apply to have his registration for VAT canceled if he has ceased to make taxable transactions.
- (2) With the exception of those instances provided for in paragraph (1) of this Article, a taxpayer may apply to have his registration for VAT canceled at any time after a period of three years of the date of his most recent registration for VAT if the taxpayer's total taxable transactions during the preceding 12 calendar months do not exceed EUR 20,000.
- (3) The cancellation of VAT registration takes effect at the time the taxpayer ceased to make taxable transactions or, if the taxpayer has not ceased to do so, at the time the person

applies to the Tax Administration for cancellation of VAT registration in accordance with paragraph (2) of this Article.

(4) If a person's registration for VAT is canceled, the Tax Administration is required to remove the person's name and all other details from the VAT register as well as withdrawing the issued certificate of registration.

Chapter 2 ***Taxable Transactions***

Article 7 *Taxable Objects*

(1) The taxable objects for the VAT are taxable transactions, and the import of goods, other than exempt imports.

(2) Taxable transactions are the supply of goods and the rendering of services – other than supply or rendering that is exempt under Article 18 – carried out in the course of independent entrepreneurial activity by a person, if they are considered to be carried out in Fantasia under Articles 10 or 11. Taxable transactions do not include the rendering of services which are considered to be rendered outside Fantasia according to Article 11.

(3) If a taxpayer purchased goods or services accompanied by a VAT payment and received (or has the right to receive) appropriate credit, the use of such goods or services (or of their results) for non-entrepreneurial activity is considered to be a taxable transaction.

(4) The supply of goods or rendering of services by a taxpayer to his employees, including gratuitously, is a taxable transaction.

(5) If a taxpayer's VAT registration is canceled, his goods on hand at the time the cancellation takes effect are considered to be supplied in a taxable transaction taking place at that time.

(6) Notwithstanding the other provisions of this Article, the supply of a good by a person who acquired such good in a transaction subject to VAT, but who was not entitled to a credit for the VAT on the acquisition of the good by reason of the operation of Article 20, is not considered a taxable transaction. If a credit was partially disallowed on the acquisition of the good, then the amount of the taxable transaction is reduced proportionally according to the portion of the credit that was disallowed.

(7) Except in the case of sales at retail, the deposit charged on returnable containers is not included in the taxable amount of the supply of the goods in the container. Retailers may reduce the value of their taxable transactions by amounts shown to have been paid by them as refunds to customers of deposits on returned containers.

Article 8
Sale or Transfer of Entire Enterprise

- (1) The sale or transfer in a single transaction of substantially all the assets of an enterprise or an independently functioning part of an enterprise by a registered person to another registered person is not considered a taxable transaction.
- (2) Under paragraph (1) of this Article, the purchaser or transferee succeeds to the rights and obligations of the seller or transferor indicated in this Law relating to the enterprise or independently functioning part of an enterprise which was sold or transferred.
- (3) This Article applies only if the seller (transferor) and the purchaser (transferee) notify the Tax Administration in writing within 30 days of the sale or transfer of their decision to apply the provisions of this Article.

Article 9
Mixed transactions

- (1) A supply of goods or rendering of services which is incidental to a (main) supply of goods or rendering of services is treated as part of the latter.
- (2) The rendering of services incidental to an import of goods is part of the import of goods.
- (3) A taxable transaction involving independent elements, one or more of which involves the separate supply of goods or rendering of services which would be exempt from tax, is treated as separate transactions. An exempt transaction which involves independent elements which involve the separate supply of taxable goods or rendering of taxable services is treated as separate transactions.

Chapter 3
Place of Taxable Transactions

Article 10
Place of supply of goods

- (1) If a supply involves goods being transported, the supply takes place at the location of the goods when transportation starts. In other cases, the supply of goods takes place at the location where the goods are transferred.
- (2) A supply of electric or thermal energy, gas, or water takes place where the goods are received, except that if these are exported from Fantasia, the supply is considered to take place in Fantasia.

Article 11
Place of rendering of services

- (1) Except as otherwise provided by this Article, the place of rendering of services is the location of the entrepreneurial activity of the person who renders the services.
- (2) The place of rendering of services is:
- a) the place where immovable property is located, if the services are directly connected with that property;
 - b) the place where the services are actually carried out, if they are connected with movable property;
 - c) the place where services are actually carried out, if they are rendered in the field of culture, art, education, physical fitness, or sports, or in another similar activity;
 - d) the place where transportation actually takes place, if the services are connected with that transportation. For purposes of Article 17, paragraph (2), letter b), a transaction connected with the rendering of such services by a taxpayer outside Fantasia, is considered as carried out in Fantasia;
 - e) the location of the permanent establishment of the purchaser of the services to which the services most closely relate, in case of:
 - the transfer of ownership or concession of patents, licenses, trademarks, copyrights, or other similar rights;
 - consulting, legal, accounting, engineering, and advertising services, as well as data processing services, and other similar services;
 - the leasing of movable property (except for vehicles of transportation enterprises);
 - services of an agent that engages a person on behalf of the main participant in a contract to perform the services that are described in this letter.
- (3) In applying paragraph (2) of this Article, the place for rendering of services that are described in more than one of the letters in paragraph (2) of this Article shall be determined according to the letter that comes first.

Chapter 4
Chargeable Event and Chargeability of Tax

Article 12
Time of taxable transactions

- (1) Except as provided in paragraphs (2) and (3) of this Article, a taxable transaction occurs when a VAT invoice is issued for that transaction.
- (2) If a VAT invoice is not issued within 5 days after the moment described in this paragraph, then paragraph (1) of this Article does not apply and the taxable transaction occurs:
- a) at the time the goods are received, sold or transferred, or the services are rendered; or

b) in the case of a delivery of goods that involves shipment of the goods, when the shipment starts.

(3) If payment is made in advance of the time described in paragraph (2), letters a) or b) of this Article, and if a VAT invoice is not issued within 5 days after the date of payment, then paragraphs (1) and (2) of this Article do not apply, and the taxable transaction occurs when payment is made.

(4) For the purpose of paragraph (3) of this Article, and except as provided in paragraph (5) of this Article, if two or more payments are made for a taxable transaction, each payment is treated as made for a separate transaction to the extent of the payment.

(5) If services are rendered on a regular or continuing basis, a rendering of services is treated as taking place on each occasion when a VAT invoice is issued in connection with such services or, if payment is made earlier, at the time when payment is made for any part of such services.

(6) In the case of the application of Article 7, paragraph (3), the time of the taxable transaction is the time when the use or consumption of goods or services begins.

(7) In the cases specified in Article 7, paragraph (4), the time the taxable transaction occurs is the time of supply of the goods or rendering of the services to the employee.

(8) In the case of the application of Article 7, paragraph (5), the time of supply is immediately before the cancellation takes effect.

Article 13

Time of the import of goods

An import of goods takes place when the goods are treated as entered for customs purposes.

Chapter 5

Taxable Amount

Article 14

Value of a taxable transaction

(1) The value of a taxable transaction is determined according to the amount the taxpayer receives or is entitled to receive in return for the supply of goods or rendering of services, whether from the customer or any other person (including any duty, taxes, or other fee payable), but without including VAT.

(2) If the taxpayer receives or is entitled to receive goods or services in exchange for a taxable transaction, the value of the taxable transaction includes the market price of these

goods or services (including any duty, taxes, or other fee payable), but without including VAT.

(3) In a case where the taxpayer receives or is entitled to receive nothing of value in exchange for a taxable transaction (including that of goods remaining on hand in the case of a cancellation of registration), the value of the taxable transaction is the market price of the goods or services supplied or rendered (including any duty, taxes, or other fee payable), but without including VAT.

(4) In the case of consumption or use of goods or services for non entrepreneurial activity according to Article 7, paragraph (3), as well as in the case of a supply or rendering to a taxpayer's employee according to Article 7, paragraph (4), the value of the taxable transaction is the cost price of the goods or services supplied, fulfilled, or rendered (including any duty, taxes, or other fee payable), but without including VAT.

Article 15

Adjustment of the value of a taxable transaction

(1) This Article applies where, in relation to a taxable transaction made by a taxpayer:

- a) the transaction is cancelled;
- b) the nature of the transaction is changed;
- c) the previously agreed consideration for the transaction is altered, whether due to a reduction of prices or for any other reason; or
- d) the goods or services are returned in full or in part to the taxpayer.

(2) If a taxpayer has, as a result of the occurrence of one or more of the events described in paragraph (1) of this Article:

- a) provided a VAT invoice, and the amount of VAT shown on the invoice is incorrect, or
 - b) shown an incorrect amount of VAT on a VAT return,
- then an adjustment is made as specified in Article 19, paragraph (2) or Article 20, paragraph (5).

Article 16

Value of a taxable import

(1) The value of a taxable import of goods is the customs value of the goods, determined in accordance with the customs legislation of Fantasia, plus the sum of duties and taxes payable upon the import of the goods into Fantasia, excluding VAT.

(2) In the case of services considered part of an import under Article 9, paragraph (2), their value, without VAT, is added to the value as defined under paragraph (1) of this Article.

Chapter 6

Tax Rate and Exemptions

Article 17
Tax Rate

- (1) The tax rate is 15 percent, applied to the value of the taxable transactions or the taxable import.
- (2) The following taxable transactions are taxed at a zero rate:
 - a) the export of goods or services;
 - b) the rendering of transportation or other services directly connected with international transport of goods or passengers, as well as the supply of lubricants and other consumable technical supplies taken on board for consumption during international flights;
 - c) the supply of gold to the National Bank of Fantasia.

Article 18
Exempt transactions

The following types of supply of goods (other than by way of export) or rendering of services, as well as the following types of import of goods, are exempt from payment of VAT to the extent provided in regulations:

- a) the sale, transfer or lease of immovable property, except for the following:
 - the sale or transfer of hotel or holiday accommodations;
 - the sale or transfer of newly constructed residential property, unless the property has been occupied as a residence for at least two years;
- b) the rendering of financial services;
- c) the supply or import of national or foreign currency (except for that used for numismatic purposes), and of securities;
- d) the import of gold to be transferred to the National Bank of Fantasia;
- e) the rendering by religious organizations of religious or church-related services;
- f) the rendering of medical services;
- g) the rendering of educational services provided by educational institutions, as well as child care services for children at pre-school institutions;
- h) the supply of goods and rendering of services in the form of humanitarian aid, as well as import of goods transferred to state agencies of Fantasia and public organizations for purpose of rehabilitation after natural disasters, industrial accidents, and catastrophes
- i) the import of goods that are exempt under a customs regime not involving their release for free circulation, under the same conditions applicable to the customs regime.

Chapter 7
Procedures for the Calculation and Payment of Tax

Article 19
Obligation to pay

- (1) The amount of tax payable in respect of any accounting period is the difference between the amount of tax charged in accordance with Article 17 and the amount of tax creditable under Article 20. The taxpayer shall be held liable to pay the tax.
- (2) In cases described in Article 15, where VAT payable exceeds VAT actually indicated by the taxpayer, the amount of the excess is treated as VAT due for the accounting period in which the event referred to in Article 15 occurred and is added to the amount of tax payable for the accounting period under paragraph (1) of this Article.

Article 20
Tax credit

- (1) Except as otherwise provided by this Article, the amount of VAT that is creditable is the amount of VAT payable (paid) by the taxpayer in respect of tax invoices issued to the taxpayer or import documents covering taxable imports, taking into account the time of the taxable transaction or import, for:
- a) imports of goods that take place during the accounting period under Article 13; and
 - b) taxable transactions involving the supply of goods or rendering of services that are considered to take place during the accounting period under Article 12, where the goods or services are used or are to be used for the purpose of the taxpayer's entrepreneurial activity.
- (2) In the case where the VAT payable (paid) by the taxpayer in respect of issued VAT invoices for imports of goods and taxable transactions is partly for the purpose of the taxpayer's entrepreneurial activity and partly for other purposes, VAT shall be creditable in proportion to their use in entrepreneurial activity.
- (3) No credit is allowed for VAT:
- a) on passenger automobiles, except those for sale or hire by a person whose principal business is automobile sales or rental; or
 - b) on expenses for entertainment or representation, for charity, or for social purposes.
- (4) In the case where the taxpayer has taxable transactions and transactions exempt from VAT in accordance with Article 18, the amount of VAT allowed as a VAT credit is determined on the basis of the ratio of the taxable transactions to the total amount of transactions. If the taxpayer has only exempt transactions, no credit is allowed. Paragraph (2) of this Article is applied before applying this paragraph.
- (5) In cases provided for in Article 15, where VAT indicated in the VAT invoice or VAT declaration for a transaction exceeds VAT payable on this transaction, the taxpayer is allowed a credit for the amount of the excess in the accounting period in which the event referred to in Article 15 occurred.

Article 21

Invoices

(1) Except as otherwise provided in paragraph (4) of this Article, a person registered for VAT that carries out a taxable transaction is required to issue a VAT invoice to the person who receives the goods or services. A person who is not registered for VAT does not have the right to issue a VAT invoice.

(2) A VAT invoice is a document executed in the form stipulated by the Ministry of Finance and containing the following information:

- a) full name of the taxpayer and the purchaser (client), and the taxpayer's trade name, if different from the legal name;
- b) identification number of the taxpayer and the purchaser (client);
- c) number and date of the VAT registration certificate;
- d) name of the goods shipped or services rendered;
- e) amount of the taxable transaction;
- f) amount of the excise on excisable goods;
- g) sum of the VAT due on the given taxable transaction;
- h) the issue date of the VAT invoice; and
- i) serial number of the VAT invoice.

(3) The taxpayer is required to issue and give the VAT invoice to the purchaser of goods or services upon the supply or rendering, but not later than 5 days after the transaction.

(4) In the case of the supply of goods or rendering of services at retail to purchasers who are not VAT taxpayers, a receipt or simplified form of VAT invoice prescribed by the Ministry of Finance may be used instead of a VAT invoice.

Article 22

Reverse taxation

(1) If a nonresident person who is not registered for VAT in Fantasia renders services in Fantasia for a customer described in paragraph (2) of this Article, the rendering of services is taxed according to this Article.

(2) For purposes of this Article, a customer is any person registered in Fantasia for VAT or any resident legal person.

(3) In a case where paragraph (1) of this Article applies, the customer withholds the tax from the amount payable to the nonresident. The amount of tax is determined by applying the tax rate under Article 17, paragraph (1) to the amount payable to the nonresident after withholding of tax.

(4) If the customer is registered for VAT, the withheld tax is payable at the time for filing of the VAT return for the accounting period in which the transaction took place. The payment document for payment of the withheld tax is considered to be a VAT invoice, and gives the customer the right to a VAT credit according to Article 20.

(5) If the customer is not registered for VAT, he is required to pay the withheld tax in the manner prescribed by the implementation regulations issued by the Ministry of Finance within 30 days of the date of payment to the nonresident.

(6) In the case of the import of property owned by a nonresident to be leased to a customer, where the lease payments are subject to VAT under this Article, the customer may claim a VAT credit for the tax paid on the import upon the agreement of the nonresident owner. In this event, the customer is treated as the taxpayer and is responsible for VAT payable upon the subsequent supply of the property (other than its export).

Article 23 *Transactions by agent*

(1) A supply of goods or rendering of services by a person as agent (“proxy”) for another person (“principal”) on behalf and on instruction of that other person is considered as a transaction made by the principal. Both agent and principal shall be held liable to pay the tax according to the provisions of this Law.

(2) Paragraph (1) of this Article does not apply to services rendered by an agent to the principal.

(3) Paragraph (1) of this Article does not apply to the supply of goods in or to Fantasia by a resident agent of a nonresident person who is not registered for VAT in Fantasia. In this case for purposes of VAT the supply is considered as carried out by the agent.

Article 24 *Special rules*

The determination of the amount of VAT to be paid in the case of gambling, lotteries, services of travel agents, commission sales, sales of second-hand goods, and other industries where the determination of the tax base under the general rules gives rise to difficulties is carried out under instructions of the Tax Administration agreed with the Ministry of Finance.

Chapter 8
Administrative procedures

Article 25
General provisions

- (1) Except as otherwise provided by this Law, the provisions regarding tax administration procedures, administrative penalties and collection and enforcement in the Law on Tax Administration (other than provisions concerning withholding of tax at source) shall apply to the VAT as if it were an income tax.
- (2) VAT on taxable imports is levied and collected by customs agencies in accordance with this Law and the customs legislation of Fantasia under the procedure contemplated for customs duty.

Article 26
Filing of Tax Return and Payment of VAT

- (1) Every taxpayer is required:
- a) to file a VAT return with the Tax Administration for each accounting period;
 - b) to pay the tax for every accounting period by the deadline for filing the VAT return.
- (2) The VAT return is filed for every accounting period no later than the last day of the calendar month following the accounting period.
- (3) In cases where a registration takes place with retroactive effect under Article 5, paragraph (3), letter c), the taxpayer is required to pay VAT for taxable transactions taking place since the coming into effect of the registration and is entitled to a VAT credit according to the procedure for taxpayers. In addition, the corresponding transactions are to be reflected on the first return filed by the taxpayer and are considered as taking place during the month to which the return relates. In this event the taxpayer is entitled to issue VAT invoices for the transactions shown on the return.
- (4) Paragraphs (1) and (2) of this Article do not apply to a person who is a taxpayer only with respect to the import of goods according to Article 2, paragraph (1), letter b).

Article 27
VAT refund

- (1) In the case of a taxpayer at least 25 percent of whose taxable transactions for the accounting period are taxed at a zero rate, the amount of VAT applied as a credit in excess of the amount of VAT charged for the accounting period is immediately refunded from the appropriate budget by the Tax Administration after an application from the taxpayer.

(2) In the case of other taxpayers, the amount of VAT applied as a credit in excess of the amount of VAT charged for the accounting period is to be carried forward to the next five accounting periods and credited against payments for these periods, with any excess being refunded from the appropriate budget immediately after the end of this five-month period.

(3) In all cases where an amount refunded to a taxpayer is established by the Tax Administration to have been made erroneously, the Tax Administration may demand the return of such amount according to the procedure for collection of tax.

Article 28 *Responsibility and control*

(1) The responsibility for the correct calculation and timely payment of VAT and presentation of a return to the Tax Administration by the prescribed deadline rests on the taxpayers in accordance with this Law, and in cases where the collection of VAT is in the competence of customs agencies of Fantasia – in accordance with the customs legislation of Fantasia.

(2) The tax is administered by the Tax Administration and by the customs organs within their respective competencies, in accordance with this Law and with the customs legislation of Fantasia.

(3) If – after control by the Tax Administration – it appears that the taxpayer has understated his tax obligation, the Tax Administration shall issue an assessment. This assessment has to be issued within 5 years after the end of the accounting period concerned, except that if the understatement is due to fraud, the assessment may be issued at any time.

Chapter 9 ***Penalties***

Article 29 *Special VAT Penalties*

The following penalties are imposed for VAT violations:

- a) in the event of operation without VAT registration where VAT registration is required – 100 percent of the amount of VAT payable to the budget for the entire period of operation without VAT registration;
- b) in the event of the incorrect issuance of a tax invoice resulting in a decrease in the amount of tax or increase in a credit or in the event of the failure to issue a VAT invoice – 100 percent of the amount of VAT for the invoice or on the transaction;
- c) for issuing a VAT invoice a person who is not registered for VAT is assessed a penalty of 100 percent of the value added tax which is indicated in the tax invoice and is due for transfer to the budget but has not been transferred; and
- d) for the unauthorized collection of VAT, 100 percent of the amount of VAT collected.

Chapter 10
Appeal procedure

Article 30
Appeal

- (1) Any taxpayer who objects to an additional assessment made by the Tax Administration has the right to appeal, within 30 days from the receipt of that assessment notification to the Tax Appeal Commission by depositing in cash with the Tax Administration an amount equal to 50% of the additional tax assessed.
- (2) If no appeal is made within the period prescribed in paragraph (1) of this Article, the additional assessment of the tax made by the Tax Administration shall be deemed to be correct and final and shall be immediately payable.
- (3) Without prejudice to paragraph (1) of this Article, the provisions of the Law on Tax Administration, concerning appeals shall, mutatis mutandis, apply to appeals regarding taxes imposed by this Law.

Chapter 11
Transitional provisions

Article 31
Creditable sales tax

To the extent provided in regulations, a person registered as of the moment this Law enters into force shall be granted a VAT credit under Article 20 for Fantasia sales tax paid on qualifying goods on hand at that moment that were acquired within six months before that moment.

Chapter 12
Final provisions

Article 32
Regulations

The Ministry of Finance is charged with issuing regulations on the basis of and for the implementation of this Law.

Article 33
Entry into force

- (1) This Law is effective as of [].

(2) The provisions of this Law concerning registration of taxpayers apply as of [four months before this Law enters into force].