

## **APPENDIX**

### **DEDUCTION LIMITATIONS OF INPUT VAT IN THE DIFFERENT MEMBER STATES**

Below follows a short summary of the Member States' different rules regarding deduction limitations of input VAT. It shall be noted that each deduction limitation can be interpreted in a certain way by the Member State in question. Thus, in some cases it can be a good idea to consult a local tax office or a tax consultant.

#### **AUSTRIA**

Deduction of input VAT in Austria cannot be made for:

- Expenses that are not deductible for income tax purposes (e.g. living expenses (entertainment expenses) or business meals) unless it is shown that such expenses have served advertising purposes and have been incurred predominantly for business or professional purposes;
- Expenses in connection with the purchase (manufacture), leasing or the operation of cars, mixed vehicles or motorcycles (including mopeds and motorcycles with side-car);
- VAT on estates and buildings as far as the building is used for private purposes.

Regarding cars, mixed vehicles and motorcycles deduction of input VAT can, however, be made if vehicles are to be used in driving schools, as demonstration motor vehicles and for motor vehicles which are intended exclusively for commercial resale and motor vehicles which are used to the extent of at least 80% for commercial passenger transport or for commercial lease.

#### **BELGIUM**

Deduction of input VAT in Belgium cannot be made for:

- Supplies of manufactured tobacco and alcoholic beverages other than those intended for resale or to be provided as part of a supply of services;
- Accommodation, food and beverages for immediate consumption, unless the costs are incurred by employees delivering goods or providing services away from the business premises or other entrepreneurs who in turn supply the same services for consideration;
- Entertainment expenses.

Travel agencies can not deduct the VAT on goods and services supplied by other taxable persons to be used for travel services which are directly for the consumption by travelers.

With respect to the supply, importation and intra-community acquisition of motor vehicles intended for passenger and/or goods transport by road, and with respect to goods and services related to such vehicles, deduction may under no circumstances exceed 50 % of the VAT paid.

A 100 % deduction is applicable for:

- Vehicles with a maximum permitted mass of more than 3 500 kg;
- Passenger vehicles with more than eight seats, not including the driver's seat;

- Vehicles specifically designed to transport sick and wounded people, prisoners and corps;
- Vehicles which, because of their technical specifications, cannot be registered in the books held by the vehicle registration service;
- Vehicles specially equipped for camping;
- Vehicles covered by an article in the Belgian Tax Code (art 4 § 2) for taxes equivalent to income taxes;
- Scooters and motorbikes;
- Vehicles intended to be sold by a taxable person exercising an economic activity which consists of the sale of motor vehicles;
- Vehicles intended for the hire by a taxable person exercising an economic activity which consists of the hire of motor vehicles to any other party;
- Vehicles intended exclusively for paid passenger transport.

For new vehicles that are subject to a supply exempted on the basis of being an intra-community supply of goods deduction of input VAT can be allowed, but not always up to a 100 %.

### **BULGARIA**

The right to VAT deduction is granted if the place of supply of the goods or services is situated outside Bulgaria. Among the goods or services with regard to which the right of VAT deduction is limited are the following:

- Goods and services for representative and entertainment purposes;
- Purchase or lease of motorcycles and cars, unless they are used for transport and security services, taxi services, hiring-out, courier services, driving lessons and re-sale;
- Goods and services related to the maintenance, repair and exploitation of motorcycles and cars and transport services by motorcycles and cars unless the latter are used for the purposes described in the previous point;
- VAT which is unlawfully accrued.

### **CYPRUS**

Deduction of input VAT in Cyprus cannot be made for:

- Acquisitions and import that does not relate to business activities;
- Acquisitions and import of certain types of cars.

However, deduction of input VAT in Cyprus can be made for;

- Entertainment expenses;
- Fuels;
- Rental of cars;
- Transportation expenses (bus tickets, taxi rentals etc.);
- Food, drinks and other restaurant services;
- Participation in commercial and other exhibitions.

### **THE CZECH REPUBLIC**

Deduction of input VAT in the Czech Republic cannot be made for:

- Costs on transactions that are not accepted for income tax deduction: expenses for entertainment, refreshments, drinks etc. and presents (with the exception of presents with a value of less than 500 CZK, not including tax).

Since April 2009 input VAT on passenger cars is deductible.

### **DENMARK**

In accordance with the Danish VAT Act input VAT cannot be recovered for the following:

- Acquisition and import that does not relate to activities subject to VAT;
- Food for the owner and employees of the enterprise;

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- Acquisition and ongoing maintenance of accommodation for the owner and employees of the enterprise;
- Acquisition, maintenance and operation of vacation premises, holiday cottages, childcare facilities etc. for the employees of the enterprise;
- Payment in kind to the employees of the enterprise;
- Entertainment, representation and presents;
- Restaurant and hotel services;
- Acquisition, repair and operation of motor vehicles designed for transportation of no more than nine persons.

Only 25 per cent of the full VAT on restaurant visits and hotel stays is refunded. However, the condition for this is that the costs are of a strictly commercial character.

A limited entitlement to deduct VAT in connection with lease of cars exists. Thus, you can obtain refund of a VAT amount, if the lease term exceeds six consecutive months. It is a condition that at least ten per cent of the vehicle usage is for activities subject to VAT.

Erroneous levied VAT is not refundable.

Refund of VAT on the bridge toll for passage of the Oresund Bridge must be applied for in Sweden and not Denmark.

**ESTONIA**

Deduction of input VAT in Estonia cannot be made for:

- Costs that are not related to business activity;
- Goods and services related to the reception of guests;
- Goods and services related to the provisions of meals or accommodation for employees.

Deduction can, however, be made for costs for accommodation services received during a business trip.

**FINLAND**

Deduction of input VAT in Finland cannot be made for:

- A unit of immovable property that the taxable person or his staff uses as a residence, a nursery or a recreational or leisure facility, as well as goods and services connected with it or its use;
- Goods and services related to transportation between the residence and place of work;
- Goods and services used for business entertainment purposes;
- Postage stamps or other comparable rights, if the sale of the transport service is not subject to tax on the basis that the service takes place abroad;
- Passenger cars, multipurpose cars, motorcycles, caravans, vessels intended for recreational or sports purposes, and aircraft with a maximum permissible take-off weight not exceeding 1 550 kg, as well as goods and services related to their use.

The following purchases are included in acquisitions that do not qualify for refund:

- Purchases intended for the private consumption of the business entrepreneur or his personnel. Such a purchase is e.g. breakfast in connection with hotel accommodation;
- Purchases for business entertainment purposes, e.g. restaurant, business gifts;
- Purchase of a passenger car and purchase of goods and services related to passenger cars (e.g. fuel, lubricants, maintenance, repair, parts) when the passenger car has not been purchased for purely tax-deductible use. Consequently, the VAT included in the rental costs of a passenger car is refundable only on the condition that the car is used for business purposes entirely;
- Foreign travel services (under particular circumstances);

- Expenses linked to the sale of tax-exempt investment gold

### **FRANCE**

Deduction of input VAT in France cannot be made for:

- Costs that are not related to business activity;
- Lodging expenses incurred by the company on behalf of its executives and employees;
- Expenses related to the vehicles used to transport people, and related services (except for vehicles used for the public transport of passengers or vehicles leased or sold).

For fuel a deduction of between 50-80 % of input VAT can be made depending on the type of fuel. For gas, except gazole, up to 80 % can be deducted, and for liquefied petroleum gas (GPL) or natural gas up to 50 % can be deducted.

### **GERMANY**

Deduction of input VAT in Germany cannot be made for:

- Costs that are not related to business activity.

Repayment can be approved for housing, purchase and hiring of passenger cars and motorcycles as well as for representation under the condition that the expenses are related to the business activity.

### **GREAT BRITAIN**

Deduction of input VAT cannot be made for:

- Non-business supplies. However, if a supply covers both business and non-business use, VAT can be reclaimed on the business element of the supply;
- Any supply used or to be used to make a supply in the United Kingdom;
- Supply or importation of most ordinary business cars (and any fitted accessories and delivery);
- Goods and services for non-business use bought by charities or not-for-profit organizations;
- Hospitality expenses and business gifts unless the cost of the gift and any others given to the same recipient does not exceed £50 in the same year;
- Certain second-hand goods, for example, cars and antiques for which no tax invoices will be issued;
- Goods and services, such as hotel accommodation, that have been bought for resale and which are for the direct benefit of travelers.

Deduction can, however, be made regarding expenses for cars that are to be used as a taxi, for driving instruction and for self-drive hire. Moreover, deduction can be made regarding travel- and living expenses for employees.

Input VAT for costs concerning the leasing of cars can be deduction up to 50 %. If the car is used exclusively in the taxable business or if the car is to be used as a taxi, for driving instruction or for self-hire drive full deduction can be made.

Deduction can also be made regarding costs for repairs and maintenance as long as the business pays for the work and as long as there is some business use of the vehicle.

### **GREECE**

Deduction of input VAT in Greece cannot be made for:

- Purchases or imports related to tobacco products and spirits;
- Purchasing expenses, maintenance, leasing and circulation expense of passenger cars (with up to 9 seats), motorbikes, motorcycles, boats and aircrafts, planes etc. unless it is a matter of resale, hiring, commercial transport of passengers, driving instruction and in general if they are used for the object of the business;

- Expenses related to hospitality, entertainment and receptions;
- Expenses for the employees and management of the entity relating to housing, food and beverages, transportation or entertainment.

### **HUNGARY**

Deduction of input VAT in Hungary cannot be made for:

- Expenses not related to business activity;
- Purchase of leaded and unleaded petrol;
- Purchase and hiring of passenger cars, motor-bicycles with a cylinder capacity exceeding 125 cm<sup>3</sup>, yachts or boats serving sports or entertainment purposes;
- Purchase of food and drink;
- Use of restaurant, confectionary and other open-sale catering industrial services;
- Use of entertainment services;
- Purchase of products and use of services related to the operation and maintenance of passenger cars;
- Use of long-distance and local passenger taxi transport;
- Use of parking services and the payment of toll fee;
- Purchase of residential real estate property as well as purchases related to the construction and renovation of residential real estate property.

The input VAT connected to the purchase of petrol is, however, deductible if it is not used for passenger cars.

The prohibition of input VAT deduction also covers 30% of VAT for phone and cell phone service.

### **IRELAND**

Deduction of input VAT in Ireland cannot be made for:

- Costs that are not related to business activity;
- Expenditure on food or drinks or other personal services for the applicant or his/her agents or employees, except to the extent that such expenditure is incurred in relation to a supply of services in respect of which the applicant is accountable for tax;
- Expenditure on accommodation other than qualifying accommodation in connection with attendance at a qualifying conference;
- Entertainment expenses;
- Expenditure on food and drinks, or accommodation, or other entertainment services, where such expenditure forms all or part of the cost of providing an advertising service in respect of which tax is due;
- Purchase, hiring, import of passenger vehicles generally;
- Purchase and import of petrol otherwise than as stock-in-trade;
- Contract work involving the handing over of goods when such goods are not themselves deductible.

### **ITALY<sup>1</sup>**

Deduction of input VAT in Italy cannot be made for:

- Costs that are not related to business activity;
- Purchase and leasing of cars and motorcycles and costs for related parts and components and related equipments except where the said cars or motorcycles constitute the main business purpose of the taxpayer (for example, if said taxpayer is a reselling or hiring company, a driving school, etc.);
- Passenger transport (except where such service constitutes the main business purpose of the taxpayer);
- Food and beverages (except where such goods constitute the main business purpose of the taxpayer);
- Expenses for mobile phones

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<sup>1</sup> It is likely that these deduction limitations will still be applicable once Italy has fully implemented Council Directive 2008/9/EC.

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- Entertainment expenses (except expenses related to the purchase of goods having a single value not exceeding EUR 25,82);
- Immovable properties.

As far as mobile phones are concerned there is not a punctual limitation, but as a matter of fact the Italian tax authorities punctually investigate the taxpayers deducting more than 50% of the related input VAT.

**LATVIA**

Refund of input VAT in Latvia is not allowed for:

- Tax amounts included in the invoice issued by the taxable person that does not conform with the requirements set out by the Latvian VAT law;
- Transactions that has not happened;
- Acquisition of unused real property domestically and for services received domestically related to construction, reconstruction, renovation or repairing of the real property;
- Goods purchased domestically and services received domestically for personal consumption (such as restaurant visits, health care and entertainment expenses);

Refund is not allowed for travelling companies or agencies of other Member States acting in Latvia under the special regime for travel agencies.

**LITHUANIA**

Deduction for input VAT in Lithuania cannot be made for:

- Passenger cars;
- Passenger car rent services;
- Services of passenger transportation with passenger cars (taxi services);
- Goods and services intended for the purpose of entertainment and representation.

75 % of input VAT for entertainment and representation shall be refunded to taxable persons established in a Member State.

**LUXEMBOURG**

Deduction of input VAT in Luxembourg cannot be made for:

- Costs that are not related to business activity;
- Entertainment and representation expenses;
- Costs for short-term leasing of passenger cars;
- Sumptuary (luxury) expenses.

**MALTA**

Deduction of input VAT in Malta cannot be made for:

- Acquisition or importation of tobacco and alcohol beverages;
- Acquisition or importation of works of art, collector's items and antiques;
- Acquisition or importation motor vehicles, vessels of aircraft (including the supply thereof for hire or leasing arrangements);
- Goods/services for the purpose of repairing, maintaining, fuelling and keeping motor vehicles, vessels and aircraft;
- Electricity;
- Supply of goods/services used in the provision of receptions, entertainment or hospitality, except where the said provision is made for consideration in the normal course of the economic activity;
- Supply of goods/services to the officers or employees of transport or entertainment.

Under some circumstances the exclusions do not apply.

**THE NETHERLANDS**

Condition for refund is that the applicant is a VAT entrepreneur and the VAT-bearing costs can be attributed to his business activity. The Netherlands only grant a refund if the business

activity would be taxable with VAT, if performed in the Netherlands. Certain costs are deemed to be not related to business activity, such as restaurant and entertainment costs, and VAT on such costs is not refundable.

### **POLAND**

Refund of input VAT in Poland is not made for:

- VAT that has been invoiced inconsistently with the Polish VAT Act;
- VAT that has been charged on the exportation of goods and on the intra-community supply of goods;
- Goods or services that were subject to donation or a free of charge provision and that was not subject to VAT;
- Expenses for engine fuel, fuel oil and LPG gas to passenger cars, accommodations services, gastronomic services, part of input VAT from purchase, leasing and hiring of passenger cars.

Regarding the purchase, leasing and hiring of passenger cars taxpayers are entitled to deduct 60 % of VAT arisen from transactions, but no more than 6 000 PLN for each object.

### **PORTUGAL<sup>2</sup>**

Deduction of input VAT in Portugal cannot be made for:

- Acquisition, production or import, as well as hiring, use, processing and repair of light vehicles considered to be vehicles used for non-working purposes, pleasure boats, helicopters, aircrafts, motor vehicles and motorcycles;
- Expenses connected with transport and business travels, including tolls, representation fees, accommodation and meals;
- Entertainment or luxury charges (expenses which, either by nature or amount, do not constitute ordinary operating expenses);
- Second-hand goods, art- or collection works and antiques (under particular circumstances).

However, these expenses shall give right to VAT deduction if the goods are intended for sale (e.g. motor vehicle stands) or are the object of a business activity (e.g. rent-a-car).

Deduction for input VAT can be made:

- up to 50 % concerning representation, travel- and accommodation expenses where such expenses are in connection with congresses, fairs, exhibitions, seminars or conference arrangements (and by 25 % if related to the participation in such events);
- up to 50 % concerning expenses relating to fuel used in motor vehicles other than gas oil, liquefied petroleum, gas, natural gas and bio fuels;
- up to 100 % concerning expenses for fuel used in heavy passenger vehicles, vehicles licensed for public transport, machines other than registered vehicles, tractors for agriculture, and vehicles designed for the transport of goods with a gross weight over 3 500 kg.

### **ROMANIA**

Deduction of input VAT in Romania cannot be made for:

- Purchase of passenger cars (with a maximum weight of 3 500 kg and a maximum of 9 seats) which are used solely for road transport as well as for fuel related to such passenger cars.

The abovementioned deduction limitation is not valid regarding:

- Vehicles used for interventions, repairs, security, mailing, transport of personnel from and to the working place, vehicles used by sales agents or headhunting agents;
- Vehicles used for transport with remuneration (including taxi);
- Vehicles used for rental (leasing);

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<sup>2</sup> It is likely that these deduction limitations will still be applicable once Portugal has fully implemented Council Directive 2008/9/EC.

- Vehicles acquired for commercial purposes (for resale).

### **SLOVAKIA**

Deduction of input VAT in Slovakia cannot be made for:

- Purchase of goods and services for the purpose of treat and entertainment;
- Expenses that are paid on behalf of a purchaser or customer and for which the supplier charges the purchaser/customer (so called "suspense items").

### **SLOVENIA**

Deduction of input VAT in Slovenia cannot be made for:

- Yachts and boats intended for sport and recreation;
- Private aircraft;
- Passenger cars and motorcycles;
- Fuels, lubricants, spare parts and services which are closely linked thereto;
- Entertainment expenses;
- Meal expenses, including drinks;
- Accommodation expenses.

Deduction of input VAT can, however, be made for:

- Vessels or vehicles used for carrying out an taxi activity, for leasing, renting and resale;
- Vehicles used in driving schools;
- Vehicles adapted exclusively for the transport of deceased people.

### **SPAIN**

Deduction of input VAT in Spain cannot be made for:

- Costs that are not related to business activity;
- Costs related to jewellery, tobacco, food, drinks, recreational events, and kindness to clients or employees;
- Purchase of passenger cars and motorcycles that are investment goods (thus, not only leased).

Regarding the deduction of input VAT related to the purchase of passenger cars and motorcycles there is a presumption that 50 % of the input VAT relates to private costs while 50 % related to costs within a business activity. 50 % of the input VAT is therefore in such cases deductible. The assumption of a 50% allocation to entrepreneurial use can be refuted by the Spanish tax authorities.

### **SWEDEN**

Deductions of input VAT in Sweden cannot be made for:

- Purchase and hiring of passenger cars, trucks and motorcycles;
- Expenses related to the purchase and hiring of permanent residence;
- Entertainment expenses.

The limits in the right to deduct input VAT related to the purchasing and leasing of cars and motorcycles is, however, not applicable if it is a matter of resale, hiring, commercial transport of passengers, transport of deceased or driving instruction.

A reasonable deduction is allowed for entertainment expenses that are directly connected to the business. Thus, expenses for food and drinks can be deducted up to a maximum of 90 SEK per meal and person, and expenses for example tickets to events or golf fees can be deducted up to a maximum of 180 SEK per person. The same limits apply for external representation as for internal representation (for example staff parties).

Refund of VAT on the bridge toll for passage of the Oresund Bridge must be applied for in Sweden and not Denmark.