

Portugal introduces indirect tax stimulus measures, including VAT changes, in response to COVID-19

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Executive summary

Portugal's Minister of Finance and the Minister of the State, Economy and Digital Transition announced, on 18 March 2020, a set of additional measures aimed at supporting companies and independent workers. Accordingly, a Decree-Law that sets forth an extraordinary and temporary regime concerning tax reporting obligations, social security contributions and the provision of a mutual guarantee, within the scope of the coronavirus disease (COVID-19) outbreak in Portugal was approved by the Council of Ministers on 20 March 2020.

In order to mitigate the negative economic impact of this outbreak at the company level and, as a result, promote the improvement of their cash flow needs, the Portuguese Government implemented the following Value-Added Tax (VAT) measures, as summarized below.

Detailed discussion

Deferral of the VAT reporting obligations and the respective payments' deadlines

In accordance with the consolidated version (dated last 28 March) of the Decree-Law no. 10-F/2020, in relation to the 2nd Quarter of 2020, all VAT-able entities, falling under the monthly or quarterly VAT regime, will have the possibility to comply with the VAT payment obligation, in one of the following ways:

- ▶ Immediate payment, under the general regime
- ▶ Payment in three- or six-monthly installments, without interest or penalties being charged

In the case of VAT-able entities that choose to apply the monthly installments' regime, those installments will be due as follows:

- ▶ The first installment is due on the date of the voluntary payment
- ▶ The other installments will be due on the same date of the following months

The request for the payment installments must be submitted through the Portuguese Tax Authorities' website, by the due date of the voluntary payment.

Taxpayers who may benefit from this tax measure are:

- ▶ Taxpayers with turnover up to €10 million in 2018
- ▶ Taxpayers who have started business activity as of 1 January 2019 onwards
- ▶ Taxpayers who have re-started business activity on/as of 1 January 2019 onwards and without any turnover during 2018
- ▶ Taxpayers with an activity listed in the closed sectors, as set forth in the Decree-Law no. 2-A/2020, of 20 March
- ▶ For the remaining taxpayers, the same payment installments may be applicable provided that a reduction, communicated through the Portuguese Tax Authorities' website (E-Fatura), of at least 20% of the turnover on the average during the last three-month period has occurred, when compared with the previous year equivalent period. It should be highlighted that VAT-able entities must ensure that this invoicing reduction is duly certified by a statutory auditor or a chartered accountant.

These payment installments plans do not require the provision of any guarantee.

Moreover, whenever the report of the invoices through the Portuguese Tax Authorities' website does not reflect the total amount of the operations carried out by the company during the period at stake, the assessment of this reduction should be done with reference to the turnover and must be duly certified by a statutory auditor or a chartered accountant.

Additionally, in accordance with the Ministerial Order of the Secretary of State and Tax Affairs no. 129/2020, of 27 March:

- ▶ The periodical VAT return of February 2020 may be computed with the invoices recorded on the E-Fatura website, without any supporting documentation. Thereafter, the VAT-able entities may issue a replacement VAT return in order to adjust any VAT computation or VAT due. These replacement VAT returns will not be subject to any penalties, if they are submitted and any VAT due is paid during the month of July 2020.

This provision may be applicable provided that one of the following conditions is met:

- ▶ The taxpayer's turnover for the period of 2019 does not exceed the €10 million.
- ▶ The VAT-able entity has started its business activity on/as of 1 January 2019 onwards.
- ▶ The taxpayer has re-started its business activity from on/as of 1 January 2020 onwards and does not have a turnover for the period of 2019 (otherwise, if the taxpayer had turnover with reference to 2019, the applicable limit of €10 million shall apply).

Also, during the months of April, May and June 2020, invoices in "PDF" format will be accepted and deemed as e-invoices for all tax purposes.

VAT measures to improve cash-flow and to mitigate the negative financial impacts for companies of COVID-19

Taking into consideration that VAT assessment and its recoverability have a significant impact on the treasury positions of many companies, there are alternatives within the existing mechanisms that may reduce this impact.

- ▶ Improve bad debt relief efficiencies

The VAT recovery mechanism on bad debts is currently the most effective and straightforward process to improve the cash-flow of companies. Therefore, it is crucial to collect the required back-up documentation to claim bad debt relief as early as possible and to make sure that the right to the VAT recovery is preserved.

- ▶ Increase VAT recovery in accounts payable

Assuming the potential delayed filing deadlines for periodical VAT returns, VAT-able entities should ensure that purchase invoices of services and goods are recorded after the closing month as to guarantee that the VAT amounts are still allocated to the correct VAT return, increasing the VAT recovery process.

- Request compliant invoicing documents from vendors and adopt electronic (e-)invoicing mechanisms

To ensure that the input VAT recovery is properly made as well as to avoid the imposition of any penalties or further compliance costs, purchase invoices should be received on time and should be compliant with the Portuguese rules in force. To reduce compliance costs and time efforts for VAT recovery, companies should adopt the e-invoicing procedure.

- Accurate submission of VAT refund applications
Incomplete or incorrect VAT refund applications may result in VAT refund denials or suspensions (meaning, significant VAT recovery delays).
- Performance of a VAT and Excise Duties review of products classifications and flows (also including services)
Given the current disruption to supply chains and in order to ensure the efficiency of the national and international flows, companies should apply the correct VAT and Excise Duties treatment to the products and services traded. A review of classifications may enable the application of zero rates or exemptions to specific products that are now used for different purposes. In light of the above, undertaking a review may be essential to improve the cash-flows of companies.

- Apply for the VAT import reverse charge mechanism

The pursuit of suppliers outside of the European Union territory results in additional costs in relation to the VAT paid to customs authorities. The import VAT reverse charge mechanism avoids delays between the payment of the VAT to customs authorities and its respective recovery by the VAT-able entities (which will occur simultaneously in the periodical VAT return of a certain taxable period).

- VAT adjustments for cancelled sales/events

Cancelled or postponed events may lead to the issuing of credit notes, allowing companies to adjust on their behalf the VAT already assessed and paid to the Portuguese State and input VAT deduct such VAT amounts on the applicable monthly or quarterly VAT returns.

- Increase VAT recovery on employee expenses

VAT recovery on employee and travel expenses through foreign VAT refunds represents a way to improve cash-flow for companies. Certain jurisdictions may allow retroactive claims on under-recovered input VAT related to these types of expenses.

For additional information with respect to this Alert, please contact the following:

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