

Regulation

No. 194/1990, on Value Added Tax (VAT) on Services for Foreign Parties and on Services Purchased Abroad^{*1)}

^{*1)} Cf. Regulations Nos. 151/1993, 179/1993, 86/1994, 346/1995, 275/1996 and 480/2002

CHAPTER I

Sale of services to foreign parties

Article 1

(1) Sale of services as referred to in Article 2 to parties who are neither resident in nor have an establishment in Iceland is exempt from taxable turnover as provided for in Act No. 50/1988, provided at least one of the following conditions is met:

- a) The services are utilised completely abroad.
- b) The purchaser could – if its activities were subject to registration in Iceland, as provided for in Act No. 50/1988 – include the VAT for purchase of the services with its input tax, cf. Articles 15 and 16 of the said Act.

(2) To verify that subparagraph b of the first paragraph applies to the purchaser, the seller must obtain from it a certificate from the competent authority in its home state, stating what sort of commercial operations it carries out. This certificate is valid for [two years]¹⁾ from the date of issue and the seller must preserve it in the same manner as other accounting documentation. [The seller may request that the regional tax director in Reykjavík extend the validity of the certificate for two years at a time, if it appears confirmed that the assumptions remain unchanged since the certificate was issued.]¹⁾

(3) [Services which comprise reimbursement of VAT to foreign travellers shall always be exempt from taxable turnover, even if the conditions of the first paragraph are not satisfied.]^{2) *1)}

¹⁾ Cf. Point 1 of Art. 1 of Reg. No. 346/1995. ²⁾ Cf. Art. 1 of Reg. No. 275/1996. ^{*1)} See now Point 11 of the first paragraph of Art. 12 of Act No. 50/1988, cf. Act No. 115/1997.

Article 2

The following services are covered by the provisions of Article 1:

1. transfer of copyright, patent, trademark or pattern rights, as well as transfer of other comparable rights;
2. advertising services;
3. consultancy services, engineering services, legal services, services of auditors and other similar expert services;
4. computer services, other data processing and information communication;
5. employment services;
6. rental of movable assets, with the exception of any sort of transport equipment;
7. encumbrances and obligations concerning commercial or manufacturing activities or exploitation of rights, as referred to in this Article;
8. [repairs under warranty, performed by a dealer on the account of a foreign warrantor;]^{1) *1)}
9. [services provided in connection with landing or sale of fishing catches in Iceland;]^{2) *2)}
10. [domestic transportation of goods shipped directly to or from the country;]^{3) *3)}
11. services of intermediaries, acting on behalf of or on the account of other parties, with regard to the sale or delivery of services referred to in this Article.

*¹⁾ Cf. Art. 1 of Reg. No. 151/1993. ²⁾ Cf. Art. 1 of Reg. No. 179/1993. ³⁾ Cf. Art. 1 of Reg. No. 86/1994. ^{*1)} The point lost its legal basis with the adoption of Act No. 55/1997 and this was not reinstated until the adoption of Act No. 115/1997. In the Notes to the bill adopted as Act No. 115/1997, this is explained as follows: "The exemption for warranty repairs is repealed, as the State Internal Revenue Board has ruled that payment to a domestic repair party, responsible for a sold product, is deemed payment for damages rather than sale of taxable services." In other words, the claim of an Icelandic distributor on a foreign warrantor due to repairs for which the distributor is responsible toward the purchaser is a claim for damages, and damages are not subject to VAT. ^{*2)} See now Point 9 of the first paragraph of Art. 12 of Act No. 50/1988, cf. Act No. 55/1997. ^{*3)} The point lost its legal basis with the adoption of Act No. 115/1997, and is thus no longer valid. ^{*4)} This Point was originally Point 8, but it has not been substantively altered.*

Article 3

Notwithstanding the provisions of Articles 1 and 2, the sale of the following services in Iceland shall always be included with taxable turnover:

1. services concerning real estate in Iceland, including design services and consultancy services for building construction, as well as services of realtors;
2. [transportation, other than domestic transportation of goods shipped directly to or from the country;]^{2) *1)}
3. taxable services concerning activities exempt from VAT, as provided for in the third paragraph of Art. 2 of Act No. 50/1988, such as cultural activities, artistic activities, sports activities, educational activities and other comparable activities;
4. [work on moveable assets other than that covered by Point 8 of Article 2;]¹⁾
5. taxable opinions and assessments concerning movable assets.

*¹⁾ Cf. Art. 2 of Reg. No. 151/1993. ²⁾ Cf. Art. 2 of Reg. No. 86/1994. ^{*1)} Transport of goods between countries and domestic transport of goods shipped directly to or from Iceland is exempt from taxable turnover as provided for in Point 2 of the first paragraph of Art. 12 of Act No. 50/1988, on Value Added Tax.*

CHAPTER II

Purchase of services abroad

Article 4

(1) Anyone purchasing services as referred to in Articles 2 or 3 from abroad, to use in part or in full in Iceland, must pay VAT on the value of the services, cf. however the second paragraph. [Concerning tax value, settlement, assessment, estimation, re-assessment, surcharge, penalty interest and appeals, this shall be treated as is the case in domestic transactions.]¹⁾

(2) A party registered in accordance with Act No. 50/1988, shall be exempt from the obligation to pay VAT on purchases referred to in the first paragraph if it can make full use of the VAT on the purchase for input tax, cf. the third and fourth paragraphs of Article 15 and the first paragraph of Art. 16 of Act No. 50/1988. Provisions of this paragraph shall not however apply to services as referred to in Article 7.

¹⁾ Cf. Art. 1 of Reg. No. 480/2002.

Article 5

A purchaser of services as provided for in Articles 2 and 3 must record the information in its accounts. It must indicate the nature of the services, when they were received and how payment was made.

Article 6

(1) [A party obliged to pay VAT pursuant to Article 4 must on own initiative provide an account to the [regional tax director]²⁾ of the purchase of services referred to in Article 2 or 3 on a special form in such format as the Director of Internal Revenue decides.

(2) The due date for payment shall be the fifth day of the second month after the end of the normal reporting period during which the transaction occurred. Payment together with the account referred to in the first paragraph must be delivered to a Treasury collection agent no later than on the due date for payment.]¹⁾

¹⁾ Cf. Art. 2 of Reg. No. 275/1996. ²⁾ Cf. Art. 2 of Reg. No. 480/2002.

Article 7

(1) Should a taxable service be provided, or availed of in connection with the import of goods, the importer shall then pay VAT in a single payment on the taxable goods and services to the Director of Customs where the goods clear customs.

(2) The Directorate of Customs^{*1)} shall determine what information is to be provided in the import documents and other customs documents for payment to customs. Determination of the tax value of imported services referred to in the first paragraph shall be subject to the provisions of Chapter III of Act No. 50/1988, and regulations and other instructions adopted on their basis.

**1) The adoption of Act No. 155/2000, amending the Customs Act No. 55/1987, as subsequently amended, etc. abolished the Directorate of Customs, cf. Article 25 of the Act. The Minister of Finance and the Director of Customs in Reykjavík assume the general rights and obligations of the Directorate of Customs.*

CHAPTER III

Miscellaneous provisions

Article 8

(1) A foreign party selling taxable services pursuant to Act No. 50/1988 in Iceland must send notification of its activities to the regional tax director, collect VAT on these transactions and remit this to the National Treasury as provided for in the general rules of the Act, provided Point 3 of Article 4 of the Act does not apply to the party. In such instances there is no collection of tax as referred to in Chapter II of this Regulation.

(2) [If a foreign party selling taxable services in Iceland does not have a permanent establishment in this country, it must entrust an agent domiciled in Iceland to serve as its representative, including sending notification of its activities to the regional tax director, collecting VAT on taxable services and remitting this to the Treasury.

(3) If a foreign party as referred to in the second paragraph does not have an agent or representative in Iceland and neglects to notify the regional tax director of its activities in Iceland, a purchaser of its services shall be responsible for remitting the VAT of the foreign party on the services which it purchased. The provisions of Articles 4 and 6 shall apply to remittance of tax in such instances.]¹⁾

¹⁾ Cf. Art. 3 of Reg. No. 275/1996.

Article 9

(1) Infringements against the provisions of this Regulation are liable to punishment pursuant to Art. 40 of Act No. 50/1988.

(2) [Should it be revealed that a party has neglected to pay VAT as provided for in Article 4 or 7, or has not remitted the tax at the prescribed time, in accordance with Article 6, it must, in addition to the unpaid tax, pay a surcharge as referred to in Art. 27 of Act No. 50/1988, on Value Added Tax, as subsequently amended.]¹⁾

¹⁾ Cf. Art. 4 of Reg. No. 275/1996.

Article 10

This Regulation is issued on the basis of an authorisation in the second paragraph of Article 12 and Article 35 of Act No. 50/1988, and shall enter into force immediately. The provisions of Chapter I shall, however, apply to transactions as of 1 January 1990.