

I SERIES – No. 21 – O.B. – REPUBLIC OF CAPE VERDE – 14 JULY 2003

COUNCIL OF MINISTERS

Decree-Law No. 22/2003

Of 14 July 2003

Approves the VAT Regulation

The normal implementation of the Value Added Tax (VAT), created by Law No. 14/VI/2002, of 19 September, imposes the identification and reasonable knowledge and well near the reality of the passive subjects of this new tax. The concretization of such desiderata requires the organization of a registration of a national register of the passive subjects of the VAT, with a view to constitute a national record, which must be permanently updated. This legislation institutes the mandatory prior registration of the VAT passive subjects, and defines the norms relative to the organization of the national record of the passive subject of the same tax.

On the other hand, in the search for an efficient and effective organization of the VAT passive subject record, the instructions for filling out the declaration of registrations, MOD 108 are published as annexes and constitute integral part of this legislation.

Thus:

Under the terms of Article 1 No. 19 of Law No. 14/VI/2002, of 19 September;

In the use of the faculty conferred by subparagraph c), No. 2 of Article 203 of the Constitution, the Government decrees the following:

Article 1
Object

Prior registration is hereby instituted for the purpose of constituting a record of passive subjects of the Value Added Tax (VAT).

In annex are published the instruction for filling out the declaration of prior registration in VAT, denominated MOD 108, which is an integral part of this legislation.

Article 2
Obligation to File the Registration

The following are subject to presenting a registration of prior declaration in VAT, as well as with compliance with the remaining obligations defined in this legislation:

The singular or collective persons who, while enterprises or comparable, under the terms of Article 2 of the Regulation of the Single Tax on Revenue (IUR) and the passive subjects of the IUR covered by the verification method under the terms of Article 52 of Law No. 43/V/97, of 31 December, have or are obligated to have organized accounting;

The remaining passive subjects of the IUR, subject to taxation by the estimate method.

For the purpose of filling out the declaration of prior registration, when it is not possible to determine the average corresponding to the volume of business of the last two years, that the same refers to, the average of the fix revenue relative to the two closest previous civil years that are established shall be taken as the basis for the average

The passive subjects that initiate their activity on the year that the VAT goes into effect, shall indicate as average the volume of business referred to in the preceding number a provisional value relative the period of activity during that exercise.

The attribution or recognition of exemption in the ambit of the taxes referred to in No. 1, does not exempt the beneficiary passive subject of exemption of the obligation dealt with in this legislation.

Article 3 Correction of the Declaration

For the purpose of verification and control, the elements contained in the declaration of registration referred to in this legislation shall be confronted with existing data in the files of the Department of Finance and of the General Directorate of Contributions and Taxation.

In the even of divergence between the elements contained in the filed declaration and the data existing in the Department of Finance or in the General Directorate of Contribution and Taxation, the corrections due shall ensue and the taxpayer shall be so notified.

Article 4 Processing of Appeals

If there is an appeal of the dispatch referred to in the preceding Article, The Head of the Finance Department shall remit to the VAT Services, accompanied by the elements and information relevant to the case.

After analyzing the alleged facts and fundaments, the services referred to in the preceding number shall remit the case to the General Directorate of Contributions and Taxation, accompanied by an expert technical opinion, for the purpose of a final decision, observing the procedures and deadlines foreseen in Chapter III of the Tributary Process Code, with the necessary adaptations.

Article 5 Filing the Declaration of Registration

The passive subjects of the taxes referred to in Article 2, or their representatives, are obligated to present a declaration of registration, MOD 108, in triplicate, during the period elapsed between 15 July 2003 and 31 August 2003.

The subjects referred in Article 2 who initiate their activities after the end of the period referred to in the preceding number and until the date the VAT Regulation goes into effect, shall deliver the declaration of prior registration, jointly with the declaration of start up of activities referred to in Article 61 of the IUR.

The passive subjects who own affiliated entities or branches should fill out and file one additional declaration of registration, for each of those establishments.

All declarations shall be filed at the Finance Departments in the tax-payer's fiscal area, signed by the respective tax-payer or representative thereof, pointing out, in observations, any amendments or erasures. Receipt of the filing of the declaration shall be annotated in the copies of the forms to be returned.

The tax-payer should keep affixed in its main office, principal establishment, affiliated establishments or branches, in a visible place of easy access to the public, the copy of the declaration of registration containing the annotation of the receipt referred to in the preceding number, or a copy of same duly authenticated by the Department of Finance of the respective fiscal area.

Article 6 Ex-officio Inscription

After the period for appeal referred to in Articles 3 and 4, the Head of the Department of Finance shall proceed to the ex-officio inscription of the passive subjects that did not present their respective declaration.

After the ex-officio inscription, in the thirty days immediately following the period for filing an appeal referred to in Articles 3 and 4, the Head of the Finance Department shall remit to the taxpayer a duly authenticated copy of the declaration of prior registration in VAT.

The ex-officio inscription may be appealed under general terms.

Article 7 Registration of VAT's Passive Subjects

Based on the duplicate of the declarations remitted by the Finance Department, the alterations of declaration of alterations presented or of the ex-officio declarations and other available elements, the Fiscal Administration shall organize a registration of the passive subjects in VAT, which constitutes the national record of the passive subject in VAT.

The registration referred to in the preceding number shall be updated taking into account the alterations made in relation to the elements previously declared.

The Fiscal Administration shall notify the passive subjects of all the alterations that may have been made in their respective record by virtue of the discordance of the elements supplied with those contained in existing files in the fiscal services or others.

Cancellation of the registration shall take place in the face of a declaration of cessation of activities by the subjects referred to in Article 2, or as consequence of other elements the Fiscal Administration may have.

Article 8 Declaration of Alteration

The passive subjects should communicate the alterations made in the declared elements within fifteen days counted from their occurrence, by filing a declaration of alteration of registration, MOD 109, in which it shall mention these facts and the altered elements, in the appropriate square

Article 9 Declaration of Cessation

With cessation of activities, the taxpayers registered in the national record of passive subjects in VAT are obligated to communicate such fact to the Fiscal Administration, through the Department of Finance of the respective fiscal area, or of the General Directorate of Contributions and Taxation, under the terms of Article 29 of VAT's Regulation.

Article 10 Forms

The forms for the alteration and cessation of activities referred to in this legislation, as well as the declaration of start-up of activities shall be approved by ordinance from the member of the Government responsible for Finance.

Article 11 Effective Date

This legislation goes into effect on the date of its publication.

Viewed and approved in the Council of Ministers

José Maria Neves, Carlos Augusto Duarte de Burgo

Promulgated on 3 July 2003

Publish it

The President of the Republic, PEDRO VARONA RODRIGUES PIRES

Referended on 4 July 2003

The Prime Minister, José Maria Neves

TRANSLATOR'S NOTE:

The forms cited in the above legislation have not been translated due to their numbers, complexity of design and time constraints. They are available in Portuguese.