



## GENERAL

In this newsletter, we summarize the main changes as per 1 January 2018 in the Dutch value added tax ("VAT") Act. We furthermore describe certain legal provisions which have been adopted by the European Union during 2017, and will be implemented in the Dutch VAT Act at a later stage (1 January 2019 and 1 January 2021). It is recommendable to consider the possible implications of these changes timely.

## AMENDMENTS TO THE DUTCH VAT ACT AS PER 1 JANUARY 2018

As per 1 January 2018 the following changes to the Dutch VAT Act came into force:

- Supplemental VAT returns to correct earlier VAT returns which lead to an additional payable or refund of more than € 1,000 must at all times be filed by electronic means. Until calendar year 2017 it was possible to also file a paper supplemental VAT return made available by the Dutch tax authorities or by means of a letter.
- The application of the reduced VAT rate for medicines has been restricted by amending the definition of 'medicines' for VAT purposes. In addition the parliament also agreed that the zero VAT rate on the supply and provisioning of, as well as services to, commercial seagoing vessels will be restricted as per 1 January 2019. Please note that the reduced VAT rate of 6% and the zero rate are regularly subject to changes either by law or by ministerial decree. If you apply other rates than the general VAT rate of 21% it is recommendable to regularly check whether changes became effective.
- A new liability stipulation will be introduced. The holders of a right of pledge and/or mortgage, as well as execution creditors will be held jointly and severally liable for VAT liabilities arising from the recovery of VAT upon the transfer of the pledge and/or mortgage. However, if and in so far the pledgee, mortgagee or executor did not know and also should not have known that VAT was not (fully) paid nor will be (fully) paid, the scheme does not apply.

## ADOPTED LEGAL PROVISIONS FOR AMENDMENT OF THE VAT DIRECTIVE

### New rules on the VAT treatment of vouchers

Currently European and Dutch VAT laws do not provide for specific rules on the VAT treatment of vouchers. A legislative proposal has now been adopted in which two different kinds of vouchers are introduced as per 1 January 2019: single-purpose vouchers ("SPV") and multi-purpose vouchers ("MPV"). The new rules should only apply to vouchers issued after 31 December 2018. Please note that the new VAT rules for vouchers do not apply on instruments that merely provide a discount, admission tickets to cinemas and museums, transport tickets and other similar tickets.

A voucher is considered to be a SPV when upon issue, the VAT treatment (i.e. the place of supply of the goods or services and the VAT rate) of the underlying supply of goods or services can be determined upfront. Each transfer of a SPV, made by a taxable person acting in its own name, should be regarded as a supply of the underlying goods or services to which the voucher relates. As a consequence, no VAT is due on the actual supply of the goods or services in exchange of the voucher. It is furthermore agreed by EU-member states to define MPV's as vouchers that are not SPV's. In other words, it is not upfront clear where and/or for what purpose the vouchers will be used. The issuance and resale of the MPV does not constitute a taxable event. The actual taxable event for VAT purposes is when the MPV is exchanged for goods or services. In general, VAT is due on the remuneration paid in return for a supply of goods and services. The value of the used voucher should be considered to be the paid remuneration.

### **New VAT rules on e-commerce**

Recently the European Union adopted new rules which principally affect both EU and non-EU businesses involved in supplies of electronic services and businesses involved in the sale of goods cross-border to EU consumers ("distance sales"):

- As from 1 January 2019 an annual € 10,000 threshold for cross-border supplies of electronic services will be introduced. Below this threshold a supplier can apply its domestic VAT rules, above the threshold the supplier should comply with local VAT rules.
- The so-called distance sales regime for intra-EU B2C supplies will change significantly with effect from 1 January 2021. In replacement of the current various national registration thresholds for distance sales of goods, one new common annual threshold of € 10,000 will apply for all cross border sales within the EU, i.e. it will require more businesses to charge VAT on distance sales of goods based on the location of their customer. In addition businesses involved in distance sales may apply the so-called 'one-stop-shop' already in place for electronic services.
- The existing VAT exemption for so-called small consignments imported into the EU from outside the EU with a value of less than € 22 will be abolished in 2021. However, where distance sales of goods imported into the EU are facilitated by an electronic marketplace including platforms or portals and have an intrinsic value of € 150 or below, the marketplace operator will be liable to pay the VAT in the EU country where the customer is located. Above the threshold of € 150, a full customs declaration will still be required.

Should you have any questions on the above, please contact your regular advisor at Hamelink & Van den Tooren at + 31 70 310 50 70 or + 31 20 333 92 80.