

## **LAW ON VALUE-ADDED TAX**

**(Newly formulated)**

### **Article 1. The purpose of the law**

1.1. The purpose of this law is to regulate relations concerning the imposition of value-added tax on goods imported and exported by a citizen and legal entity, and goods sold, work performed, and services provided in the territory of Mongolia and its payment to state budget, and its refund from state budget.

### **Article 2. Legislation on value-added tax**

2.1. Legislation on value-added tax (VAT) comprises the General Taxation Law, this Law, and other legislative acts enacted in conformity with them.

### **Article 3. Legal terminologies**

3.1. The following terms used in this law shall be comprehended in the following way:

3.1.1. "Sales" means in the case of goods, the transfer for a consideration into ownership of others, and in the case of services and jobs, the performance for a consideration;

3.1.2. "Goods" refers to all types of property other than money;

3.1.3. "VAT receipt with a uniform coding" refers to a primary document of accounting with a uniform coding that indicates type, quantity, unit cost, and total cost of and amount of VAT on goods sold, work performed, and services rendered;

3.1.4. "Economic activity" refers to complete or partial sales of goods, performance of work, and services rendered by any entity for profit-making or non-profit-making purposes;

3.1.5. "Citizen" refers to a citizen of Mongolia, a traveler to Mongolia, temporary or long-term resident in the territory of Mongolia, permanent resident, immigrant, foreign national, non-resident foreign national, stateless person; a traveler, temporary or long-term resident, permanent resident, immigrant, foreign national, non-resident foreign national, and stateless person shall be comprehended as provided in the Articles 5 and 6 of the Personal Income Tax Law;

3.1.6. "Legal entity" refers to an entity that obtained the state registry of legal entity as specified in paragraph 17.4 of the Law on State Registration of Legal Entity following the registration with the authority as specified in the Article 7.

3.1.7. "Services" refers to any activities other than goods and money;

3.1.8. “Premises in use” refers to buildings commissioned for exploitation before or after July 1, 1998, for housing purposes and on which VAT is imposed according to this law;

3.1.9. “Day determined as a value-added taxpayer” refers to the first day of a month following the one in which an amount of sales revenues of a citizen or legal entity who earns income from its engagement in producing goods, performing work, and providing services subject to VAT as indicated in income tax statement or personal income tax form has reached Tg10.0 million or more;

3.1.10. “Goods received from governments and NGOs of foreign countries, international and charity organizations as humanitarian assistance and grant aid” refers to non-repayable goods given by international aid organizations under international agreements of Mongolia entered into by the Government of Mongolia with governments of foreign countries and international organizations for the purposes of eliminating losses suffered due to force major and other equivalent disasters.

Goods, work, and services being purchased on domestic markets using finances (funds) provided by governments of foreign countries, international organizations and charities as humanitarian assistance and grant aid shall be included therein.

#### **Article 4. Value-added taxpayers, their registration and exclusion from registry**

4.1. A citizen or legal entity, who engages in import and export of goods and sales of goods, performance of work, and services rendered in the territory of Mongolia, shall be a value-added taxpayer.

4.2. An entity shall submit his/her application for registration to the tax authority concerned within 3 working days after he/she has become a value-added taxpayer as specified in subparagraph 3.1.9 of this Law.

4.3. A citizen or legal entity with goods sold, work performed and service rendered as stated in this Law other than those specified in Article 5.1.4 and Article 9 of this Law, shall be registered as a VAT payer and issued a certificate within 2 working days after his or her application has been received. A format for a VAT payer’s certificate shall be approved by the Chairman of the General Department of National Taxation.

4.4. A citizen or legal entity that qualifies for the following conditions can be registered as a value-added taxpayer on voluntary basis:

4.4.1. Taxable VAT revenue of core production and services has reached 80 percent of revenue specified in subparagraph 3.1.9 of this Law.

4.4.2. Investment of more than 2 million USD in Mongolia regardless of the amount of revenue from core production and services as specified in subparagraph 4.4.1 of this Law.

4.5. Revenue and investment specified in subparagraphs 4.4.1 and 4.4.2 of this Law must be proven by the prior year tax statement or income and tax form of an individual; and that entity must regularly keep accounting books and documents in accordance with the Law.

4.6. Timeframe specified in paragraphs 4.2 and 4.3 shall also apply to submittal of request to register as a value-added taxpayer on voluntary basis and issuance of the certificate.

4.7. A citizen who performs work on a permanent or temporary basis under a labor contract shall not be considered as a value-added taxpayer. VAT shall not be imposed on salaries, wages, additional wages, pensions, bonuses and allowances.

4.8. "Classification for industries of all types of economic activities" approved by the state administration in charge of finance shall be applied in imposing of or exempting from taxes with respect to activities engaged by individuals or legal persons as provided in Articles 5 and 9 of this Law.

4.9. An individual or legal entity which were registered as a value-added taxpayer shall be excluded from taxpayers' registry and their certificate shall be cancelled by respective tax authority if it has been proven by financial statements or by income and tax form for an individual that their taxable income amount for the subsequent year after being registered as value-added taxpayer is less than 10 million togrog and if taxable income amount for next years shall not reach 10 million togrog.

4.10. The General Department of National Taxation shall publicize a list of names of such legal entities or citizens that are registered as value-added taxpayers or removed from the value-added taxpayers' registry at the national level through the mass media or its website on a monthly basis.

4.11. One or more than one legal entity that owns not less than 66 percent of property or voting rights of legal entity can be registered as a group. Each entity included in the group must be registered as a value-added taxpayer in accordance with this Law.

4.12. A written permit to be registered as a value-added taxpayer group as specified in paragraph 4.11 of this Law must be obtained from the corresponding tax office.

4.13. Each member of a group shall be liable for VAT to be paid by any member of the group and shall communicate with the corresponding tax office.

4.14. Each member shall not be required to pay VAT and submit the report individually, but each member shall bear the final responsibility of VAT and maintain related accounting records as specified in the law.

4.15. The exclusion of any entity from the value-added taxpayer registry shall not serve as grounds or being released from responsibilities related to activities it performed or did not perform while being as a value-added taxpayer according to the Law on VAT.

## **Article 5. Goods, work, and services subject to imposition of a value-added tax**

5.1. Unless otherwise provided in this Law, the value-added tax shall be imposed on the following goods, work and services:

5.1.1. Goods sold in the territory of Mongolia;

5.1.2. Goods exported for use or consumption outside the territory of Mongolia;

5.1.3. Work performed and services provided in the territory of Mongolia. If the total value of work performed and services provided by a non-resident taxpayer of Mongolia, citizen, legal entity and stateless person in the territory of Mongolia is more than Tg10.0 million they shall be treated as the above.

5.1.4. All types of goods imported in the territory of Mongolia for sale, use, or consumption.

5.2. The following activities shall be treated as “sale of goods”:

5.2.1. Sales of rights of current business or specific businesses;

5.2.2. Goods retained by a taxpayer for himself or herself from the business assets on his or her termination of his production and services and cessation of the VAT payer’s register;

5.2.3. Goods from which taxes shall be reduced under Article 11 of this law;

5.2.4. Goods given as repayment of debts owed to other entities;

5.3. The following activities shall be treated as the “services rendered”:

5.3.1. To provide electricity, heat, gas, water, sewers, postal services, communication, and other utilities;

5.3.2. To lease goods or possess or use them in other forms;

5.3.3. To rent out rooms in hotels or in similar establishments or allow to possess or use them in other forms;

5.3.4. To rent out rooms in buildings and houses or allow to possess or use them in other forms;

5.3.5. To rent immovable and movable property other than buildings and houses or allow to possess or use them in other forms;

5.3.6. To sell, transfer, or lease patents, copyrights, trademarks, software, know-how, and other information on assets;

5.3.7. To carry out lotteries, quizzes, and gambling games; provide intermediary services;

5.3.8. Work performed and services provided for repayment of debts owed to other entities;

5.3.9. Goods sold, work performed, and services provided by any entity that does not reside in the territory of Mongolia based on orders placed by citizens or legal entities of this country;

5.3.10. Interests and penalties paid to others due to misconduct of activities;

5.3.11. Work and services to be credit from tax as specified in the Article 11 of this law;

5.4. The following conditions shall be met to impose taxes on goods, work, and services specified in Article 5.1.

5.4.1. The entity must be a value-added taxpayer specified in the Article 4 of this Law (this provision shall not apply to subparagraph 5.3.9 of this Law);

5.4.2. Sales shall be made within the scope of business activities.

## **Article 6. VAT Rates**

6.1. VAT shall be imposed on each case of imports or sales of goods, work, and services. In case of construction activities, VAT shall be imposed on final sale. Equipment purchased or imported by leasing shall be taxed each time when scheduled lease payment is made.

6.2. VAT shall be imposed on goods imported or sold, work performed, and services rendered at the rate of 15 percent unless this law provides otherwise;

6.3. VAT rate on the following goods, work, and services shall be equal to zero (0).

6.3.1. Goods, work and services exported

6.3.2. State medals, currencies, and coins domestically made and ordered by the Government and Mongol Bank

6.5. VAT equal to 10 percent of value of agricultural primary raw materials shall be deducted.

## **Article 7. Taxable Amount of VAT**

7.1. Taxable amount of VAT in respect of goods imported shall be determined by amount specified in the Customs Tariff Law of Mongolia plus customs duty, excise tax and other taxes;

7.2. Taxable amount of VAT on goods sold, work performed, and services rendered in the territory of Mongolia shall be determined based on prices and tariffs of the goods sold, work performed, and services rendered;

7.3. Taxable amount of VAT on goods specified in Articles 5.2.1; work and services specified in 5.3.8 and 5.3.11 of this law shall be determined based on fair market price and tariffs of the goods, work, and services;

7.4. If prices and tariffs of the goods sold, work performed, and services rendered are not determined, taxable amount of VAT shall be determined by the corresponding tax authority based on fair market price and tariffs;

7.5. If goods, work, and services are exchanged as a whole or in part, taxable amount of VAT shall be determined by the corresponding tax authority based on the fair market prices and tariffs;

7.6. If goods sold, work performed, and services rendered among associated citizens or legal entities at free of charge or at unreasonably low or high rates, taxable amount of VAT shall be determined by the tax authority based on the fair market prices and tariffs;

7.7. In the case of the provision of lottery, quizzes and gambling services, the taxable amount shall be equal to the total amount paid by participants less any amount paid out as winnings;

7.8. Taxable amount of goods, work, and services given as a repayment of debt to others shall be determined based on its value.

7.9. Where the taxable amount is expressed in foreign currency, it shall be converted into togrog using the exchange rate fixed by the Mongol Bank on the day specified in accordance with paragraph 10.1 of this Law;

7.10. A free transfer of the goods or jobs and services to others or use for personal needs /except used for internal production turnover/ shall not serve a basis for exemption from the VAT.

#### **Article 8. Use of /"0"/ tax rate for exports**

8.1. The rate of tax imposed in compliance with paragraph 6.3 of this Law shall be zero /"0"/ with respect to the following goods, jobs and services:

8.1.1. Sale of goods by a taxpayer who have met the following conditions:

- a) Goods exported from the territory of Mongolia for sale;
- b) Export of such goods from the territory of Mongolia verified by the customs office.

8.1.2. Passenger and cargo transportation services:

- a) From the territory of Mongolia to a foreign country;
- b) From a foreign country to the territory of Mongolia;
- c) From a foreign country to a foreign country.

8.1.3. Services provided (“including tax free services”) outside the territory of Mongolia;

8.1.4. Services provided (“including tax free services”) to a foreign citizen or legal entity who was not in the territory of Mongolia when the services were provided; This shall not apply to services provided in direct connection with movable or immovable property located in the territory of Mongolia;

8.1.5. A citizen or a legal person specified in subparagraph 8.1.4 of this Law shall be deemed to be outside the territory of Mongolia if that person:

- a) has a representative office in his country and no such office in the territory of Mongolia;
- b) has no representative office in his country but resides permanently in the country other than Mongolia;
- c) has representative offices both in his country and in Mongolia, but the services are wholly or mainly used for the representative office in his

country.

8.1.6. Services provided to international aircrafts shall include air navigation, technical services, in-flight refueling, and cleaning provided to both national and international aircrafts carrying out international flights, and in-flight supply of food for passengers and services essential for aircrews.

8.1.7. State medals, currencies, and coins domestically made and ordered by the Government and Mongol Bank as specified in paragraph 6.3 of this law.

8.2. Paragraph 8.1 shall apply to a foreign national or legal entity that is registered as a VAT payer and carries out export activities under a contract entered into with a foreign business entity, organization, or individual.

## **Article 9. VAT Exemption**

9.1. To the extent provided in this Law, the following services are exempted from the value-added tax:

9.1.1. Financial services:

- a) Currency exchange;
- b) Receipt and transfer of money, issuance of bank guarantee, invoice, drafts and banking services related to savings accounts;
- c) Services for insurance, reinsurance, and property registration;
- d) Issuance, transfer, and receipt of securities or shares and underwriting of such securities or shares;
- e) Services for issuing advance and loan;
- f) Services for issuing and transferring interests of social and health insurance funds;
- g) Services in respect of fees for bank interests, dividends, premiums for credit guarantees and insurance contracts;

9.1.2. Renting of accommodation for its intended purpose: renting of apartment or apartment built for only residential purpose shall be subject to this clause.

9.1.3. Educational services: service provided to educate and provide professional training and performed by individuals and entities with special licenses and permits for educational and professional training from the authority specified in the Law on Education;

9.1.4. Health services: This shall not apply to manufacturing, purchase and/or sale of drugs, drug ingredients, medical equipment and tools;

9.1.5. Services by a religious organizations;

9.1.6. Services provided by state organizations - this shall include services provided by the Government, its agencies and budgetary organizations;

9.1.7. Services of public transportation: "public transportation" shall be comprehended as in subparagraph 3.1.11 of the Transportation Law;

9.1.8. Services provided by organizations (tour operators) engaged in tour operating activities to foreign tourists: service of accepting foreign tourists based on independent contracts with foreign tourist organizations, planning of tours, advertising, and collecting of official documents /This provision shall not apply to tourist camps, restaurants, transportation means, tour guides and hotels that will serve to foreign tourists/;

9.2. To the extent provided in this Law, the following goods are exempted from VAT:

9.2.1. Passengers baggage for personal use - personal use items allowed by the customs as exempt from tax;

9.2.2. Goods imported for use of diplomatic missions or international organizations residing permanently in the territory of Mongolia;

9.2.3. Goods, work and services purchased in the territory of Mongolia for operational needs of diplomatic missions and consular offices residing in Mongolia, if goods, work and services purchased for the needs of diplomatic missions and consular offices of Mongolia in foreign countries are exempted from tax in respective countries (this paragraph shall not apply to one-time purchase under 10,000 togrog)

9.2.4. Goods obtained through humanitarian assistance and grant aid from governments and NGOs of foreign countries, international and charity organizations;

9.2.5. Special purpose appliances for people with development challenges;

9.2.6. Any weapons, technical appliances imported for needs of defense, police, state security, and law enforcement (this shall not apply to vehicles in purpose other than above);

9.2.7. Civil aviation transportation and its parts;

9.2.8. Full or partial sale of property used as residence. (This provision shall not apply to newly built buildings to be sold as a residential property in full or part of it);

9.2.9. Equipments, materials, raw materials, spare parts, gasoline, and diesel fuel imported for activities of a product-sharing contract concluded with the Government of Mongolia in oil sector;

9.2.10. Blood, blood products, organs to be used for medical treatment;

9.2.11. Imported computer, printer, scanner, and its parts;

9.2.12. Goods purchased from producers of domestic software products;

9.2.13. Gas fuel, gas fuel containers, machinery, equipment, special purpose machinery, mechanism, tools, gears. Government shall be authorizing the list of products for applying to this provision;

9.2.14. The Mongolian currency printed in foreign country;

9.2.15. Sold gold;

9.2.16. Sold newspaper;

9.3. Production and service providers with annual sale revenue of 10 million togrog or less shall be exempted from the VAT. This provision shall not apply to importers.

9.4. Principle of refund of taxes paid shall be applied in allowing foreign diplomatic missions or consular offices to have tax exemption specified in subparagraph 9.2.3 of this Law.

#### **Article 10. Tax imposition period**

10.1. The time of imposition of tax shall start from day of issuing certificate by tax authority; however the time of imposition of tax with respect to taxable sale shall be determined as taking place at the earliest of the following actions:

10.1.1. The day when the seller issues an invoice;

10.1.2. The day when the seller receives payment for the sale of goods, jobs and services;

10.1.3. The day of purchase of goods, jobs and services.

10.2. In the case of services which are provided continuously, such as the supply of electricity, water, heat, the time of imposition of tax shall be defined as the day of issuing an invoice or the day of receiving payment, whatever takes place earliest.

10.3. The time of imposition of tax on the sale of goods, jobs and services, specified in subparagraph 5.2.2 of this Law, shall be defined as the day of such retention of goods, jobs, and services by the taxpayer.

10.4. The time of imposition of tax on imported goods shall be defined as the day of declaring to the Customs authority.

10.5. VAT shall be imposed in accordance with lease payment schedule for equipments purchased or imported through lease;

10.6. Retail seller shall issue an invoice once a month and wholesale seller shall issue each time when transaction takes place. Report of VAT imposition shall be submitted to the taxation office within 10<sup>th</sup> of the next month.

#### **Article 11. Deducting VAT paid for purchased goods, jobs and services**

11.1. Following value added taxes paid by an individual or legal person in conformity with Articles 5 and 6 of this Law after being registered as a taxpayer in accordance with article 4 of this Law shall be deducted from VAT to be paid to the budget:

11.1.1. Taxes paid in connection with the purchase of goods, jobs and services from the supplier for production and service purposes;

11.1.2. Taxes paid in connection with the direct importing of goods, jobs and services from the supplier for the purpose of further sale or production and service purposes;

11.1.3. Taxes paid in connection with the purchase of reserve goods, materials at the time of being registered as a value-added taxpayer shall be deducted from total cost;

11.1.4. Non-processed raw materials of livestock and agriculture “meat, milk, egg, leather, grain”, which were prepared by individuals, entities, and/or organizations in livestock and agricultural field that are supplied to domestic producers shall be assumed 10 percent of VAT already included in sale price, and domestic producers shall deduct the above mentioned amount calculated from primary raw material cost from VAT payment.

This provision shall not apply to importing of agricultural raw materials and purchasing/reselling of domestically produced raw materials;

11.2. No deduction shall be allowed, unless the VAT paid to the suppliers is substantiated by an invoice or other accounting documents.

11.3. No deduction of the VAT paid on imports or purchase of the following goods, works and services shall be allowed from the total value-added tax due by the taxpayer:

11.3.1. Motor car, its components and spare parts /This provision shall not apply to legal entities registered as VAT payers, which specified, and following that course, in their contract and rule to sale and trade passenger vehicles, its spare parts, gears /;

11.3.2. Goods and services purchased for personal or employee needs;

11.3.3. Goods and services imported or purchased according to Article 9 of this Law for production and service purposes;

11.4. If for any month an amount of the taxpayer’s deduction under provision 11.1 of this Article exceeds such person’s value-added tax liability for the month, the Tax Administration shall either:

11.4.1. Credit the excess against next value-added tax payments that is due on the succeeding month, quarter, or year;

11.4.2. Credit the excess against other forms of taxes which shall be transferred to the state central budget as provided by law and that are due;

11.4.3. Refund the excess from the budget for producer-exporter monthly and for other taxpayers quarterly.

11.5. In situation where some part of imported or purchased goods, jobs and services, for the purpose of production and service, is used in production and service that VAT shall be paid upon, and other part is used for production and service that VAT is not paid upon or other tax exempt usage, then the part that used for production and service that VAT shall be paid upon shall be deductible.

11.6. The Tax authority shall verify the excess payment of the value-added tax made by taxpayers or payment of value added tax made by diplomatic mission or consular offices of foreign countries within fifteen (15) days after concerned organization has cleared the transaction with the Tax authority and submit the issue of refunding for consideration of and resolution by State Central Administration organization in charge of Finance.

11.7. Taxpayer's overpayment of VAT shall be refunded from the budget. The overpayment shall be a part of the state budget revenue and calculated as up to 30 percent of total VAT paid to the budget in that month, quarter, and year.

## **Article 12. Withholding and refund of VAT**

12.1. The taxpayer shall file the written notification of VAT refund request by subparagraphs 11.4.2 and 11.4.3 of this Law to subsequent tax office with submission of tax payment balance, and tax office shall verify and confirm such residue within fifteen (15) business days after receiving such notification and forward the statement to General Department of National Taxation. An entity of a group shall have a right to deduct and receive tax refund.

12.2. As specified in subparagraph 9.2.3 of this Law, foreign diplomatic missions, consular offices and their employees shall file the request for refund of VAT from the budget, paid on purchased domestic goods, jobs, and services for the concerning month, with related documents to General Department of National Taxation by 10th of following month.

12.3. General Department of National Taxation after receiving requests specified in provision 12.1 and 12.2 of Article 12 of this Law shall verify and determine the refund amount within seven (7) business days.

12.4. General Department of National Taxation following the provisions 12.1 and 12.2 of Article 12 of this Law shall forward the information including name, registration numbers, associated bank account numbers, refundable VAT amounts, and arrear amounts of all taxpayers and allied organizations filed for VAT refund from budget and/or withholdings for concerning month to the State Central Administration organization in charge of Finance.

12.5. The State Central Administration organization in charge of Finance shall reimburse the VAT refund and withholdings after receiving the information specified in Article 12.4 of this Law.

12.6. A member of the Cabinet in charge of Finance can authorize and enforce regulations concerning VAT deduction, refund and accounting of these transactions.

## **Article 13. Imposition, payment and reporting of the VAT on imported goods**

13.1. For the purposes of Articles 5, 6 of this Law, imposition and payment of the value-added tax on imported goods will be administered by the Customs Administration along with customs duties.

13.2. An importer of goods shall pay the value-added tax imposed to the account of the state treasury.

13.3. A monthly tax report shall be submitted to the State Central Administration organization in charge of Finance by the 10th of the following month, an annual tax return by the 15th of January of the next year.

13.4. The form of the value-added tax declaration for imported goods shall be approved by the Chairman of the General Customs Administration.

13.5. The Customs Administration shall provide any information requested by the Tax Administration concerning the imposition and payment of the value-added tax on imported goods.

#### **Article 14. VAT payment to the budget and report**

14.1. A taxpayer shall pay the VAT imposed on goods sold, jobs performed and services rendered in a month to the account of the state treasury by the 10th of the following month and prepare the report according to the approved standard format and submit to the corresponding Tax Administration.

14.2. The Mongolian citizen and/or legal entity purchased the service, specified on provision 5.3.9 of this Article, from non-resident entity shall withhold VAT and pay to the budget, and VAT specified in provisions 5.2.4 and 5.2.8 of this Article shall be payable by the individual/entity who has given goods in return of dues, and/or provided the service.

#### **Article 15. Liability for violators of the law on VAT**

15.1. If it is determined by tax inspection that an individual or legal entity, who must have been registered as value-added taxpayer according to Articles 4.2 and 4.3 of this Law is not being registered so with respective tax authority or has not obtained a certificate and has earned revenue from selling goods, performing jobs, and providing services, on which VAT must be imposed, a certified state inspector shall make that entity liable for the following:

15.1.1. To pay the VAT that is imposed;

15.1.2. To pay interest of 0.3 percent on taxable amount of VAT; the “interest” specified in this clause shall not be referred to the term penalty in the Civil Code;

15.1.3. To pay fine not exceeding 50 percent of VAT payable;

15.2. If it is determined by tax inspection that an individual or legal entity, who registered as value-added taxpayer, has imposed VAT on goods sold, work performed and service rendered but not paid it to the tax authority, a certified state inspector shall make that entity liable for the obligations specified in subparagraphs 15.1.1-15.1.3 of this Law.

15.3. If it is determined that an individual or legal entity, who must have been registered as value-added taxpayer as specified in paragraphs 4.2., 4.3 of this Law is not being registered so with respective tax authority or has not obtained a certificate and has earned revenue from selling goods, performing jobs, and providing services, on which VAT must be imposed, a certified state inspector shall make that entity liable for the following:

15.3.1. Obligation specified in subparagraphs 15.1.1-15.1.2 of this Law;

15.3.2. To impose fine not exceeding the amount of the tax payable.

**Article 16. Entry into force**

16.1. The present Law shall come into force from ...2005.

16.2. Subparagraphs 9.2.11 and 9.2.12 of this Law shall be in effect for the period of June 2, 2005 to June 2, 2009 (4 years).

SIGNATURE