

WHEN IS THE BUILDING SERVICE CONSIDERED TO BE COMPLETED – PUBLIC TAX RULING

We wish to draw your attention to a public tax ruling by the Finance Minister ("FM") dated 1 April 2016 (ref. PT3.8101.41.2015.AEW.2016.AMT.141) which addresses the issue of tax point for building or building and assembly services.

According to VAT Act, in the case of building or building and assembly services supplied to a taxable person, the tax becomes chargeable on the invoice date (Article 19a.5 (3) (a) VAT Act); this time is also called "tax point". And the invoice must be issued no earlier than 30 days before completion of the service and no later than 30 days after its completion. If the taxable person fails to issue an invoice within that time, the tax becomes chargeable on expiry of the time prescribed for issuing it.

One practical problem with tax point in such situations boils down to determining when building or building and assembly services should be considered to be completed (performed) for VAT purposes.

In its ruling, FM held that building or building and assembly services should be considered to be completed on that date on which they are physically completed in whole or in an agreed part. This is the date when *"the works (or their part) have actually been finished on completion of the agreed service or its part (if partial acceptance is provided for) and the contractor reports the works as ready for commissioning (in contractor's opinion, the works or their part are ready to be accepted by the customer)."*

Continuous services (e.g. services which are not accepted in parts and for which there are successive periods of account or payment) are generally treated as completed on expiry of each period to which the accounts or payments relate, until the services are no longer provided.

If this issue pertains to your business and you are interested in our assistance, please contact your WTS&SAJA consultant or our office.

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