

**LAW No. 04/L-108
ON AMENDING AND SUPPLEMENTING THE LAW NO. 03/L-146 ON VALUE ADDED TAX AS
AMENDED AND SUPPLEMENTED BY THE LAW NO. 03/L-197**

Assembly of Republic of Kosovo,

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves

**LAW ON AMENDING AND SUPPLEMENTING THE LAW No. 03/L-146 ON VALUE ADDED
TAX AS AMENDED AND SUPPLEMENTED BY THE LAW No. 03/L-197**

Article 1

After Article 1 of the basic law a new Article 1.A shall be added with the following naming and content:

**Article 1.A
Purpose of the Law**

Purpose of this Law is the adjustment of specific situations which with the Law No.03/L-146, as amended, are not covered and are not in compliance with the VAT EU Directive, Defining the place of supply of goods for taxable persons, Place of the service supply, International transport of passengers and transport of their accompanying goods, Adjustments for deduction of input VAT and goods under special customs arrangements.

Article 2

1. Article 2 of the basic law sub-paragraph 1.5, at the end of sub-paragraph shall be added the following text:

“As capital goods shall also be considered those services which have characteristics similar to those normally attributed to capital goods if the total cost of the services exceeds twenty thousand (20,000) Euro. The Minister of Finance may issue a sub-legal act on the definition of capital goods.”

2. Article 2 of the basic law, sub-paragraph 1.6. shall be reworded with the following text:

1.6. Tangible property – any property including the following:

Sub-subparagraphs 1.6.1, 1.6.2. and 1.6.3. of paragraph 1.6 remain unchanged.

3. Article 2 of the basic law, sub-paragraph 1.8. shall be reworded with the following text:

1.8. Consideration - any act or act of forbearance in respect of a supply of goods or services, and/or shall include any amount that is payable or goods or services received in a barter transaction.

4. Article 2 of the basic law, sub-paragraph 1.21.1 shall be reworded with the following text:

1.21.1. VAT due or paid in Kosovo in respect of supplies of goods and services, carried out or to be carried out by another taxable person.

5. Article 2 of the basic law, sub-subparagraph 1.21.2 shall be reworded with the following text:

1.21.2. VAT due or paid in respect of the importation of goods into Kosovo.

6. Article 2 of the basic law, sub-subparagraph 1.43 shall be reworded with the following text:

1.43. **Independent Review Board** – the Board established under the Law on Tax Administration and Procedures and it is competent to receive the tax appeals lodged by taxpayers until November 2012.

7. Article 2 of the basic law, after sub-subparagraph 1.43 a new sub-paragraph 1.44 shall be added with the following text:

1.44. **Competent Court** - the court as set forth in the Law No. 04/L-102 on Amending and Supplementing the Law on Tax Administration and Procedures No. 03/L-222.

Article 3

In Article 3 of the basic law, paragraph 2. shall be deleted from the text of the law.

Article 4

1. Article 6 of the basic law, paragraph 5. shall be replaced with the following text:

5. The persons not settled in Kosovo are subject to VAT registration from the beginning of their economic activity in Kosovo. Such taxable persons not settled in Kosovo, shall appoint a tax representative as referred to in paragraph 2. of Article 26 of this Law. The taxable person shall be registered under his own name and the name of his tax representative within five (5) days after the appointment as tax representative and prior to the starting of economic activity in Kosovo. However, they are not required to get registered, if they only make supplies for which the recipient is liable for the payment of VAT according to Article 52, sub-paragraphs 1.2 and 1.3 of the basic Law, but they are still being considered taxable persons.

Article 5

Article 10 of the basic law, sub-paragraph 2.2 at the end of sub-paragraph shall be added the following text:

The Minister of Finance may issue a sub-legal act that defines application of this sub-paragraph.

Article 6

Article 12, paragraph 3. of the basic law shall be reworded with the following text:

3. With the exception of the cases referred to in Article 13 of the basic Law, the retention of goods by a taxable person, or by his successors, when he ceases to carry out an economic activity or the cessation of registration, where the VAT on such goods became wholly or partly deductible upon their acquisition or upon their application in accordance with paragraph 1. of this Article, are also considered as a supply of goods for consideration.

Article 7

1. Article 13, paragraph 2. of the basic law shall be reworded with the following text:

2. The person to whom the goods are transferred is to be treated as the successor to the transferor in regard of the transferred assets and no VAT shall be charged on such transfer provided that the successor to the transferor is a taxable person who is registered or required to register for VAT purposes. The transferor and the transferee shall notify TAK of their intention to implement this Article at least thirty (30) days before the transfer will occur.

2. Article 13, paragraph 3. of the basic law shall be reworded with the following text:

3. Any unpaid liability and right of the transferor in regard of the transferred assets provided by virtue of this law before the time of the transfer, becomes the liability and the right of the transferee.

3. Article 13 of the basic law paragraph 4. shall be deleted from the text of law and paragraph 5. becomes paragraph 4.

Article 8

1. The heading of Article 15 of the basic law **“The use of business goods for non-business needs”** shall be replaced with the following text **“The use of business goods and services for non-business needs”**.

Article 9

1. Article 16 of the basic law, paragraph 1. shall be reworded with the following text:

1. The Minister of Finance may by a sub-legal act decide to treat as a supply of services for consideration the supply by a taxable person of certain services for the purpose of his business, where the VAT on such a service, if supplied by another taxable person, would not be wholly deductible.

2. Article 16 of the basic law paragraph 2. shall be deleted from the text of the law.

Article 10

1. In Article 19 of the basic law after sub-paragraph 2.2. a new sub-paragraph 2.3. shall be added with the following text:

2.3. The Minister of Finance may issue a sub-legal act to define the place of supply of goods in cases where several persons enter into transactions over the same good and where the good during the transport or dispatch is directly moved from the first supplier to the last recipient.

2. Article 19 of the basic law, sub-paragraph 3.1 shall be reworded with the following text:

3.1. Where goods are supplied on board of aircraft or trains during the section of a passenger transport operation effected within Kosovo, the place of supply shall be deemed to be Kosovo.

3. Article 19 of the basic law, sub-paragraphs 3.2. and 3.3. shall be deleted from the text of the law.

Article 11

1. Article 20 of the basic law, sub-paragraph 1.1. shall be reworded with the following text:

1.1 any person who carries out an economic activity as referred to in Article 4 of this Law.

2. Article 20 of the basic law, sub-subparagraphs 1.1.1., 1.1.2. and sub-paragraph 1.2. shall be deleted

from the text of the law.

3. Article 20 of the basic law, sub-subparagraph 2.2.2 shall be reworded with the following text:

2.2.2. the place of supply of passenger transport shall be the place where the transport takes place, proportionate to covered distances.

4. Article 20 of the basic law, sub-subparagraph 2.2.4 shall be reworded with the following text:

2.2.4. the place of supply of restaurant and catering services other than those physically carried out on board of aircrafts or trains during the section of a passenger transport operation effected within Kosovo, shall be the place where the services are physically carried out.

5. Article 20 of the basic law, sub-paragraph 2.2.6 shall be reworded with the following text:

2.2.6. the place of supply of restaurant and catering services which are physically carried out on board of aircrafts or trains during the section of a passenger transport operation effected within Kosovo, should be Kosovo.

6. Article 20 of the basic law, sub-paragraph 3.2.7 shall be reworded with the following text:

3.2.7. the place of supply of restaurant and catering services which are physically carried out on board of aircrafts or trains during the section of a passenger transport operation effected within Kosovo, should be Kosovo.

Article 12

1. Article 22 of the basic law, paragraph 2. the first part of paragraph shall be reworded with the following text:

2. Specific rules:

Sub-paragraphs of paragraph 2. remain unchanged.

2. Article 22 of the basic law, paragraph 3. the first part of paragraph shall be reworded with the following text:

3. Payment or issuance of invoices:

Sub-paragraph s of paragraph 3. remain unchanged.

3. Article 22 of the basic law sub-paragraph 4.2 shall be deleted from the text of the law.

Article 13

1. Article 23 of the basic law sub-paragraph 2.1 shall be reworded with the following text:

2.1. Where, on entry into Kosovo, goods are placed under a suspensive arrangement, a customs procedure with economic impact or a customs approved treatment as referred to in the customs legislation, with full exemption from import duty. The chargeable event shall occur and VAT shall become chargeable only when the goods cease to be covered by such arrangement, procedure or treatment.

However, where imported goods are subject to customs duties, the chargeable event shall occur and VAT shall become chargeable when the chargeable event in respect of those duties occurs and those duties become chargeable.

2. Article 23 of the basic law, sub-paragraph 2.2 shall be deleted from the text of the law.

3. Article 23 of the basic law sub-paragraph 2.3 becomes subparagraph 2.2.

4. Article 23 of the basic law after renumbered paragraph 2.2. a new sub-paragraph 2.3 shall be added with the following text:

2.3. for goods placed under temporary importation procedure with partial relief from customs duties the chargeable event shall occur and VAT shall become chargeable when the goods cease to be covered by this procedure.

Article 14

1. Article 25 of the basic law after sub-paragraph 1.1. new sub-paragraphs 1.2. and 1.3. shall be added with the following text:

1.2. where goods temporarily exported from Kosovo, are re-imported in Kosovo after having undergone repair, processing, adaptation, making up or re-working outside of Kosovo, the taxable amount shall be the value of the repair, processing, adaptation, making up or re-working.

1.3. if goods have been supplied, while they were placed under an arrangement, a procedure or a treatment as referred to in Article 23, sub-paragraph 2.1 of this Law, the taxable amount shall be the value for the last supply, plus the value of exempted services that have been performed in relation to the goods after the last supply.

2. Article 25 of the basic law the current sub-paragraphs 1.2 and 1.3 shall become sub-paragraphs 1.4 and 1.5 and the current sub-paragraph 1.4 shall be deleted from the text of the law.

3. Article 25 of the basic law sub-paragraph 1.4.3 the reference to sub-paragraph 1.2.2 shall be changed to 1.4.2

4. Article 25 of the basic law a new sub-paragraph 1.4.4 shall be added with the following text:

1.4.4. in regard of goods that cease to be covered by an arrangement, a procedure or a treatment as referred to in Article 23, sub-paragraph 2.1. of this Law, the taxable amount shall include the value of exempted services that have been performed in relation to the goods. Sub-paragraph 1.3. applies for goods that have been supplied while they were placed under an arrangement, a procedure or a treatment as referred to in Article 23, subparagraph 2.1. of this Law.

Article 15

1. Article 27 of the basic law, subparagraph 1.1 the part of the text "in particular charging prices comparable or" shall be deleted and the other part of the sentence remains the same.

2. Article 27 of the basic law sub-paragraphs 1.6, 1.7 and 1.8. in the last part is deleted the text "and become at comparable prices".

3. Article 27 of the basic law sub-paragraph 1.18 in the last part shall be added the following text:

Code 4902 newspapers, magazines and periodic journals, if they are or not illustrated or contain advertising materials.

4. Article 27 of the basic law after sub-paragraph 1.18 shall be added a new sub-paragraph 1.19. with the following text:

1.19. Electronic and printed media services supplying.

Article 16

1. Article 28 of the basic law, sub-paragraph 1.8 shall be reworded with the following text:

1.8. The supply at face value of fiscal stamps and other similar stamps.

2. Article 28 of the basic law, paragraph 2. shall be reworded with the following text:

2. The following shall be excluded from the exemption provided for in sub-paragraph 1.2 of paragraph 1 of this Article:"

3. Article 28 of the basic law, in sub-paragraph 3.4. the current reference "sub-paragraph 3.1. of this Article" is amended and becomes "sub-paragraph 1.3. of this Article."

4. Article 28 of the basic law, after paragraph 3. a new paragraph 4. shall be added with the following text:

4. The supply of goods used solely for an activity exempted under Article 27 and Article 28 of this Law, if those goods have not given right to deductibility."

Article 17

1. Article 29 of the basic law, sub-paragraph 1.8 shall be deleted from the text of the law.

2. Article 29 of the basic law, the current sub-paragraphs 1.9. and 1.10. become sub-paragraphs 1.8 and 1.9.

3. Article 29 of the basic law after sub-paragraph 1.10. two new subparagraph 1.11 and 1.12. shall be added with the following text:

1.11. imported goods that have been placed under a suspensive arrangement, a customs procedure with economic impact or a customs approved treatment, as referred to in paragraph 2.1 of Article 23 of this Law, and are exported out of Kosovo when the goods cease to be covered by the arrangement, procedure or treatment.

1.12. imported goods for/or by electronic media and printed only for their purposes.

Article 18

1. Article 31 of the basic law, sub-paragraph 1.5. shall be reworded with the following text:

1.5. the supply of services, including transport and ancillary services, but excluding the services exempted in accordance with Articles 27 and 28, where these are directly connected with the exportation or importation of goods. In regard of importation the exemption only apply for services that shall be included in the taxable amount according to sub-paragraph 1.4.2. of Article 25 of the basic law.

2. Article 31 of the basic law, paragraph 2 the text after sub-paragraph 2.1.3. shall be deleted and replaced with the following text:

"A traveler who is not settled within Kosovo shall mean a traveler whose permanent address or habitual residence is not located within Kosovo. In that case "permanent address or habitual

residence” means the place entered as such in a passport, identity card or other document. Proof of exportation shall be furnished by means of the invoice or other documents in lieu thereof, endorsed by the customs office on exit from Kosovo.”

3. Article 31 of the basic law, sub-paragraph 2.2 shall be reworded with the following text:

2.2. the application of the exemption referred to in paragraph 2. of this Article, shall be defined by a sub-legal act which shall be issued by the Minister of Finance who shall also define the date from which the exemption shall begin to be applied.

Article 19

1. Article 33 of the basic law, after paragraph 4. a new paragraph 5. shall be added with the following text:

5. International transport of passengers and the transport of goods accompanying them, such as luggage or the supply of services relating to the transport of passengers.

5.1. international transport of passengers shall mean the transport of passengers by train, aircraft, bus when the transport is carried out:

5.1.1. from a place on the territory of Kosovo to a place outside the territory of Kosovo, or

5.1.2. from a place outside Kosovo to a place on the territory of Kosovo.

Article 20

Article 35 of the basic law shall be reworded with the following text:

1. The following transactions treated as export are exempted:

1.1. supply of goods that are placed under an arrangement, a procedure or a treatment as referred to in Article 23, sub-paragraph 2.1. of this Law.

1.2. supply of services directly relating to goods placed under an arrangement, a procedure or a treatment as referred to in Article 23, sub-paragraph 2.1 of this Law.

2. Supply of goods in “duty free shops” in an airport with international air traffic, on condition that the travellers carry such goods as personal luggage to another country by aircraft. For the purpose of this paragraph a traveller is deemed to be a person who has a ticket on which the destination airport or port of another country is stated.

3. Supply of goods delivered for aircrafts for sale to travellers on board where the place of arrival is situated outside Kosovo.

Article 21

1. Article 36 of the basic law, at paragraph 5, after sub-paragraph 5.3 new sub-paragraphs 5.4. and 5.5. shall be added with the following text:

5.4 in the case of immovable property forming part of the business assets of a taxable person and used both for purposes of the taxable person’s business and for his private use or that of his staff, or, more generally, for purposes other than those of his business, VAT on expenditure related to this property shall be deductible only up to the proportion of the property’s use for purposes of the taxable person’s business.

5.5. as exclusion from Article 15 of the basic law, changes in the proportion of use of immovable property referred to in sub-paragraph 5.4. shall be taken into account in accordance with the principles provided for in Article 41 of the basic Law.”

2. Article 36 of the basic law, sub-paragraph 5.4. becomes sub-paragraph 5.6.

Article 22

1. Article 37 of the basic law, sub-paragraph 3.2. reference “**Article 37**” shall be replaced by a reference “**Article 36**”.

2. Article 37 of the basic law, sub-paragraph 3.4. reference “**Article 53**” shall be replaced by a reference “**Article 52**”.

Article 23

Article 38 of the basic law, paragraph 1. shall be reworded with the following text:

1. Taxable persons shall effect the deduction by subtracting from the total amount of VAT due for a given tax period the total amount of VAT in respect of which, during the same period, the right to deduct has arisen in accordance with paragraph 1. and 2. of Article 37 of the basic Law.

Article 24

Article 41 of the basic law, shall be reworded with the following text:

1. The initial deduction shall be adjusted:

1.1. if it is subsequently determined that the deduction of input VAT has been calculated at a higher or lower amount than the amount to which the taxable person was entitled.

1.2. after the VAT return is submitted, changes occur in the factors used to calculate the deductible amount of input VAT, where for example purchases are cancelled or price reductions are obtained after the supply takes place.

2. In regard of capital goods, adjustment shall be spread over five (5) calendar years. For immovable property a period of twenty (20) years shall apply.

3. The correction period referred to in paragraph 2. of this Article shall be regarded as five calendar years starting with and including the year in which the start of use of the equipment took place. In case of immovable property twenty (20) calendar years starting with and including the year in which the start of use of the facilities took place.

4. The annual adjustment shall be made only in respect of one-fifth (1/5), respectively one-twentieth (1/20) of the VAT charged on the capital goods. This adjustment shall be made on the basis of the variations in the deduction entitlement in subsequent years in relation to the input VAT that was deducted with regards to the capital good. No adjustment shall be made of the deduction of input VAT if the difference in the actual deductible proportion (tax credit coefficient) is less than three percent (3%) of points.

5. If supplied during the adjustment period, capital goods shall be treated as if they had been applied to an economic activity of the taxable person up until expiry of the adjustment period. The economic activity shall be presumed to be fully taxed in cases where the supply of the capital goods is taxed. The economic activity shall be presumed to be fully exempt in cases where the supply of the capital goods is exempt. The adjustment provided for in paragraph 4. of this Article shall be made only once in respect of all the time covered by the correction period

that remains to run.

6. The Minister of Finance shall work out practical rules to record the VAT adjustments and to determine the deductible and non-deductible VAT in respect of these adjustments.

Article 25

Article 45 of the basic law, sub-paragraph 1.12. shall be reworded with the following text:

1.12. if a taxable person supplies goods or services where the customer is liable for the payment of VAT, reference to the applicable provision of this Law or any other reference indicating that the supply of goods or service is subject to the reverse charge procedure as referred to in sub-paragraphs 1.2, 1.3 and 1.4 of Article 52 of the basic Law, should be made.

Article 26

1. Article 52 of the basic Law, at the end of sub-paragraph 1.2. the following text shall be added:

“This does not apply to services in respect of admission to cultural, artistic, sporting, scientific, educational, entertainment or similar events, such as fairs and exhibitions, and of ancillary services related to the admission.”

2. Article 52 of the basic Law, paragraph 5. shall be replaced with the following text:

5. A taxable person who is not established in Kosovo should appoint a tax representative as the person liable for payment of the VAT and for exercising all his rights, except for the cases defined by sub-paragraph 1.2. of Article 26 of this law and sub-paragraph 1.3. of Article 52 of the basic law, , where the recipient is liable for the payment of VAT.

3. Article 52 of the basic law, after paragraph 5. a new paragraph 6. shall be added with the following text:

6. The Minister of Finance may, by sub-legal act, in case of goods sold at auctions or by intermediaries provide that a person, other than the person liable for payment of VAT, is to held jointly and severally liable for the payment of VAT.

Article 27

1. Article 64 of the basic law, paragraph 3. at the end of sub-paragraph 3.3 the following text shall be added: “and sub-paragraph 1.1 of Article 28 of this Law for which the transitional period ends on 31 December 2014”.

2. Article 64 of the basic law sub-paragraph 3.4 shall be deleted from the text of the law.

3. Article 64 of the basic law, sub-paragraph 3.5 becomes sub-paragraph 3.4.

4. Article 64 of the basic law, sub-paragraph 3.4 the roman chapter number “XX” shall be replaced by “XIX”.

Article 28

After Article 62 of the basic law, a new Article 62.A shall be added with the following text:

Article 62.A

The procedure for contesting the decision made by the tax authorities in administering the value added tax, shall be carried out in accordance with the procedures set forth by Law No. 03/L-222 on Amending and Supplementing Law on Tax Administration and Procedures.

Article 29

This law shall enter into force fifteen (15) days after publication in the Official Gazette of the Republic of Kosovo.

Law No. 04/L-108
03 May 2012

Promulgated by Decree No.DL-021-2012, dated 17.05.2012, President of the Republic of Kosovo
Atifete Jahjaga.