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URUGUAY

Exports of services

Decree No. 167/2003 of 30 April 2003, published in the Official Gazette of 6 May 2003, and effective from that date, provided that, for VAT purposes, the following services are treated as being "exported" where they are rendered in connection with exported goods and services, and exclusively supplied for the benefit of non-established customers:

- quality control services;
- advice; and
- intermediary services.

In those circumstances, the services are not subject to VAT.

IMESI on imported cigarettes

Art. 1 of Decree No. 142/2003 of 11 April 2003, published in the Official Gazette of 11 April 2003, and in force as from 1 May 2003, provides that cigarettes manufactured abroad are subject to IMESI under the same conditions as those applicable to cigarettes manufactured in Uruguay.

The fixed price of domestically manufactured cigarettes was set at UYU 19.90 per packet of 20 cigarettes and the IMESI rate was set at 27%, regardless of their origin or the place of supply, eliminating the differences that existed between "frontier" tobacco products and tobacco products of other origins.

From our correspondent Marianela Fernández
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UZBEKISTAN

Agreement with Russia enters into force

See under Russia.

VENEZUELA

VAT on medical services

Art. 63(5) of the VAT Law that was published in Extraordinary Official Gazette No. 5,600 of 26 August 2002 and, due to a material error, reprinted in Extraordinary Official Gazette No. 5,601 of 30 August 2002 replaced the exemption of medical, dental, surgical and hospital services by a reduced VAT rate of 8% as from 1 January 2003. However, on 19 May 2003, the Constitutional Chamber of the Venezuelan Supreme Court declared Art. 63(5) to be unconstitutional. The President of the Supreme Court and of its Constitutional Chamber held that VAT on medical services infringes the constitutional right of access to adequate medical care. As the state is unable to provide ad-

equated health care, the public must have recourse to the services provided by the private sector. Imposition of VAT on private health care services poses an imminent threat to the basic human right of access to health care and, in addition, constitutes unjustified discrimination of private health sector providers vis-à-vis public health care institutions. As a social security system is practically inexistent in Venezuela, an 8% tax on private health care imposes an unjustified financial burden on citizens and may prevent them from utilizing private medical services. The Court's decision does not have retroactive effect and therefore does not affect payments that were made between 1 January and 19 May 2003.

Some days before the Constitutional Chamber of the Supreme Court delivered its decision, on 15 May 2003, the National Assembly approved a draft bill to the effect that it reintroduced the exemption of medical services. Before it can enter into effect, the draft legislation needs to be approved by the Finance Commission. That approval is expected to be given under an emergency procedure. The proposal to reintroduce the exemption of medical services followed massive protests of the public against the 2002 VAT reform and was presented by the same coalition that had previously approved the withdrawal of the exemption.

The decision of the Supreme Court to declare VAT on medical services unconstitutional has also reignited the controversy over the scope of the VAT reform that was approved by the National Assembly on 15 May 2003. The Minister for Agriculture and other government officials are calling for a further amendment of the VAT Law to reinstate the exemption of certain foodstuffs. Following that suggestion would completely reverse the 2002 VAT reform. In addition, the opposition insists that the exemption should be further extended to all goods and services relating to health care, including the importation of medical materials.

Administrative obligations

Administrative Order No. SNAT/2003/1677 regarding the obligations of formal VAT payers ("Order") was initially published in the Official Gazette No. 37,661 of 31 March 2003,²³ and, due to material errors, reprinted in the Official Gazette No. 37,677 of 25 April 2003 ("Revised Order").

Pursuant to the Order, formal taxpayers were required to issue vouchers instead of VAT invoices with respect to operations carried out by them. The Order also laid down that if they used electromechanical or automated means such as cash registers, or if their customers were individuals, taxpayers were not required to mention their identification number (RIF) on the vouchers. Under the Revised Order, taxpayers are required to mention their RIF number on vouchers but they are not required to mention their customer's number.

23. See *International VAT Monitor* 3 (2003), pp. 254-255.

(b) Other reforms. These include:

- real estate transfer tax and inheritance and gift tax would be abolished;
- real estate tax would be determined on the basis of market value; and
- excise duties would be increased and the methods of levying the duties amended so as to be in line with EU legislation.

Reference: TNS-60, 345, 637, 648, 702 (2002); TNS-389, 436 (2003).

[Top of the page](#)

VENEZUELA

Report from our correspondent Mr Ronald Evans, Baker & McKenzie, Caracas

Supreme Court holds VAT on medical, dental, surgical and hospital services unconstitutional

The Constitutional Chamber of the Supreme Court held in a decision of 19 May 2003 that the imposition of VAT on medical, dental, surgical and hospital services was unconstitutional. The Supreme Court stated that Art. 63(5) of the VAT Law (see TNS-726 (2002)), published in Extraordinary Official Gazette No. 5,600 of 26 August 2002 and, due to material errors, reprinted in Extraordinary Official Gazette No. 5,601 of 30 August 2002, cannot be applied from the date of the decision, i.e. from 19 May 2003. The Supreme Court's decision does not have retroactive effect and does not affect those taxpayers who have already paid VAT on these services. Details of the decision are summarized below.

(a) Background. The VAT Law of 2002 established a special 8% rate on medical, dental, surgical and hospital services with effect from 1 January 2003.

(b) Decision. The President of the Supreme Court and its Constitutional Chamber stated that the imposition of VAT on medical, dental, surgical and hospital services affects the constitutional right to adequate medical care and that, given the state's inability to fulfill its duties in respect of this, the general population has to use the services provided by the private sector. VAT on these services, therefore, poses an imminent threat to the basic human right to health and well-being and is also an undue discrimination against private health sector providers vis-à-vis public sector entities. In addition, given the practical non-existence of a social security system in Venezuela, in the opinion of the Supreme Court, VAT on these services could impose an undue burden on citizens and prevent some of them from using private medical services, something which should be regarded as unacceptable under the constitution.

Reference: TNS-726 (2002); LA, C, 8.01.