

VALUE-ADDED TAX LAW OF MONGOLIA

Article 1. The purpose of the Law

- 1.1 The purpose of this Law is to regulate the imposition of a value-added tax on imported and exported goods, goods sold, jobs performed, and services rendered in the territory of Mongolia, sale of imported goods by citizens and legal entities in Mongolia, and to the payment of value-added tax to the budget.

/This paragraph was changed by Law of June 29, 2001/.

Article 2. Legislation on value-added tax

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

Article 3. Definitions of legal terms of this Law

- 3.1 For the purposes of this Law, the following terms mean:

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” means movable and immovable property other than money;

3.1.3 Tax “invoice” means prime book-keeping documents of accounting showing thereon the types and quantity of goods, performed jobs and rendered services, their unit price and total price, and the amount of a value-added tax imposed;

/This subparagraph was changed by Law of August 28, 1998/.

3.1.4 “economic activity” means complete or partial sale of goods, services rendered and jobs performed by any person for the purpose of profit-making as well as for non profit purposes;

/This subparagraph is added by Law of August 28, 1998/

3.1.5 “citizen” means a citizen of Mongolia, a traveler to Mongolia, a temporary or long-term resident in the territory of Mongolia, a permanently residing immigrant, a foreign citizen, a stateless person and a non-resident foreign citizen;

A traveler to Mongolia, a temporary or long-term resident in the territory of Mongolia, a resident, an immigrant, a foreign citizen, a non-resident foreign citizen and a stateless person shall be understood to the extent defined in Article 3 of the Personal Income Tax Law of Mongolia.

- 3.1.6 “legal person” means companies, cooperatives, partnerships, business entities with foreign and joint investment, organizations, sole proprietorships, legal persons with state or local property, non-government organizations, religious organizations, and all other similar organizations.

- 3.1.7 “services” means any activities other than goods and cash;
/This subparagraph was added by Law of August 28, 1998/**
- 3.1.8 “premises in use” means buildings that were commissioned for exploitation before or after July 1, 1998 for apartment purposes and on which value added tax was imposed according to this Law.
/This subparagraph was added by Law of August 28, 1998/**
- 3.1.9 “day being determined as value added tax payer” means a day on which amount of sale revenues, of a person or legal entity who is engaged in production of goods, performance of work or rendering of services on which value added tax shall be imposed, has reached 10.0 million togrogs;
/This subparagraph was added by Law of June 29, 2001/**
- 3.1.10 “humanitarian and grant aid goods obtained from governments and non-governmental organisations of foreign countries, international and charity organisations” shall mean grant aid goods sent under International Agreement of Mongolia entered by the Government of Mongolia with Governments of foreign countries and international organizations for purposes of eliminating losses suffered due to force majeure and other disasters identical to this. Goods, works and services to be purchased on domestic markets using funds granted by Governments of foreign countries and international organizations within the scope of grant and humanitarian aid shall be included into it.
/This subparagraph was added by Law of June 29, 2001/**

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

- 4.1 Any citizen and legal person, who is engaged in import and export of goods, sale and manufacturing of any goods, performance of work and rendering of services in the territory of Mongolia, shall be value-added taxpayers.
/This paragraph was changed by Law of June 29, 2001/.**
- 4.2 A taxpayer shall submit its application for registration to the concerned tax authority within 10 business days after being considered as a value-added taxpayer in accordance with this Law./This paragraph was changed by Law of August 28, 1998 and by Law of June 29, 2001/.**
- 4.2 Any citizen and legal person, who is carrying out activities other than specified in Articles 5.1.4 and 9 of this Law, shall be registered as a value added taxpayer and issued a certificate within 3 days after receipt of their application. Format for value added tax payer Certificate shall be approved by the Chairman of the National Taxation Authority
/This paragraph was changed by Law of August 28, 1998 and by Law of June 29, 2001/**
- .
- 4.4 Any citizen and a legal person specified in clause 4.3 of this Article may be registered as a value-added taxpayer, if he/she desires so, provided he/she complies with primary bookkeeping and accounting requirements.**
- 4.5 .
/This paragraph was annulled by Law of June 21, 2001/**

- 4.6 Any citizen engaged in activities under a part or full-time labour contract shall not be treated as a taxpayer.
- 4.7 “Classification for industries of all types of economic activities” approved by authorized state administrative organ 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.
/This subparagraph was added by Law of June 29, 2001/
- 4.8 An individual or legal person which were registered as value added tax payers shall be excluded from taxpayers’ registry and their certificate shall be cancelled by respective tax authority if it has been proven by financial statements for a business entity or organization or by income and tax determination report for an individual that their taxable income amount for the subsequent year after being registered as VAT payer is less than 10 million togrog and if taxable income amount for next years will not reach 10 million togrogs. Excluding the taxpayer from registry shall not serve as grounds for not being reregistered.
/This subparagraph was added by Law of June 29, 2001/
- 4.9 National taxation authority shall on monthly basis publish the list of names of business entities, organizations or individuals on national scale that were additionally registered as value added tax payers or excluded from the registry through mass media. .
/This subparagraph was added by Law of June 29, 2001/

Article 5. Goods, jobs 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, jobs and services:
- 5.1.1 goods sold in the territory of Mongolia;
 - 5.1.2 goods exported from the territory of Mongolia for use or consumption outside the territory of Mongolia;
 - 5.1.3 jobs performed and services rendered in the territory of Mongolia;
 - 5.1.4 goods imported for sale, use or consumption in the territory of Mongolia.
- 5.2 For the purposes of this Law, the following shall be treated as the “sale of goods”:
- 5.2.1 the sale of a business and business rights;
 - 5.2.2 any goods, jobs and services retained by a taxpayer for himself from the business assets upon termination by the taxpayer of his production and services and cessation of the value-added tax payer’s registration;
 - 5.2.3 any goods, jobs and services for which a credit has been allowed under Article 11 of this Law;
 - 5.2.4 any goods, jobs and services of a taxpayer that are sold in satisfaction of a debt owed to others persons.
- 5.3 For purposes of this Law, the following shall be treated as the “sale of services”:
- 5.3.1 the supply of electricity, heat, gas, water, postal services, communications, and other utilities;

- 5.3.2 the leasing of goods or other grant of the right to possess or to use;
 - 5.3.3 the renting of (or other grant of the right to possess or to use) accommodation in a hotel or a similar establishment;
 - 5.3.4 the renting of (or other grant of the right to possess or to use) premises in a building;
/This subparagraph was changed by Law of August 28, 1998/.
 - 5.3.5 the renting of (or other grant of the right to possess or to use) premises for storing goods;
 - 5.3.6 the sale, transfer, and assignment of patent, copyright, trade mark, software and other proprietary information;
 - 5.3.7 the provision of the right to participate in any gambling.
- 5.4 Following conditions need to be met in imposing taxes on goods, works and services specified in paragraph 1 of this Article:
- a/ seller shall be the value added tax payer as provided in Article 4 of this Law;
 - b/ sales shall be conducted within the scope of business activities.
/This paragraph was added by Law of August 28, 1998/

Article 6. Value- added tax rates

- 6.1 Value-added tax shall be imposed on each case of imports or sale of goods, jobs and services.
- 6.2 Unless otherwise provided in this Law, the value-added tax shall be imposed at the rate of 15 percent of the value of imported or sold goods performed jobs and rendered services.
/This paragraph was changed by Law of November 17, 2000/.
- 6.3 The rate of value-added tax on exported goods, jobs and services shall be zero / "0".
/This paragraph was amended by Law of November 6, 1998 and by Law of December 27, 2001/.
- ~~6.4 Value added tax shall be imposed at rate of 10 percent of sales revenue on gold converted to 99.99 percent of fineness/ sold or exported by a business entity. /This paragraph was amended by Law of November 6, 1998/.~~
/This paragraph was annulled by Law of December 27, 2001/

Article 7. Taxable amount

- 7.1 The taxable amount for imported goods shall be defined by total amount of price determined by the Customs in conformity with Custom Tariff Law, plus custom duty, excise tax and other taxes.
/This paragraph was changed by Law of August 28, 1998/.
- 7.2 The taxable amount for goods sold, jobs performed and services rendered in the territory of Mongolia shall be based on the price or tariffs of goods sold, jobs performed and services rendered.

- 7.3 The taxable amount for goods, jobs and services indicated in clauses 5.2.1, 5.2.2, 5.2.3 of this Law shall be based on the current market price or tariffs of the goods, jobs and services sold.
- 7.4 The taxable amount of sold goods, performed jobs and rendered services for which the price or tariffs are uncertain, shall be defined by the Tax and Customs Administrations based on their current market value.
/This paragraph was changed by Law of August 28, 1998/.
- 7.5 The taxable amount for any goods, jobs and services exchanged (whether in whole or in part) shall be defined based on the current market value of the goods or jobs and services exchanged.
- 7.6 The taxable amount for any goods, jobs and services sold to an associated citizen, entity or organisation at an unreasonably low or high price or tariffs shall be based on the current market value of those goods or jobs and services.
- 7.7 In the case of the provision of gambling services, the taxable amount shall be equal to the total amount paid by participants less any amount paid out as winnings.
- 7.8 Where the taxable amount is expressed in foreign currency, it shall be converted into togrogs using the exchange rate fixed by the Mongol Bank on the day specified in accordance with the clause 10.1 of this Law.
- 7.9 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. Zero-rating for exports

- 8.1 The rate of tax imposed in compliance with the clause 6.3 of this Law shall be zero /"0"/ with respect to the following goods, jobs and services:
- 8.1.1 Any sale of goods by the taxpayer who have met the following conditions:
a/ export of goods from the territory of Mongolia for sale;
b/ export of such goods from the territory of Mongolia has been verified by the Customs Administration.
- 8.1.2 Any 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 Any services rendered /"including non taxable services"/ outside the territory of Mongolia;
/This paragraph was changed by Law of August 28, 1998/.
- 8.1.4 Any sale of services /"including non taxable services"/ to a foreign citizen or a legal person, who is outside the territory of Mongolia at the time, the services are rendered;
This does not apply to services, which are rendered in direct connection with movable or immovable property situated in the territory of Mongolia.

/This paragraph was changed by Law of August 28, 1998/.

- 8.1.5 A citizen or a legal person specified in clause 8.1.4 of this Law shall be deemed to be outside the territory of Mongolia if that person:
- a/ has a permanent 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 the international aircraft.

- 8.2 Paragraph 1 of Article 8 shall apply to an individual or legal person registered as value added tax payer and engaged in exporting activity on the basis of a contract concluded with foreign business entity, organization or individual.
/This paragraph was added by Law of June 29, 2001/

Article 9. Exemptions from VAT

- 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/ exchanging currency;
 - b/ banking services, such as the receipt or transfer of, or any dealing with, money, any security for money or any note or order for the payment of money and the operation of any savings account;
 - c/ insurance services, reinsurance and registration of property;
 - d/ the issuance, transfer or receipt of any securities, shares, and underwriting of such securities;
 - e/ the making the advance or the granting of credit;
 - f/ the provision, or transfer of an interest on social insurance fund;
 - g/ any services in respect of fees for bank interest, dividend, credit guarantees or insurance contract;
 - h/ the financial leasing.
 - 9.1.2 the renting of accommodation in a building as a place of residence or abode;
 - 9.1.3 educational services;
 - 9.1.4 medical services. This shall not apply to manufacturing, purchase or sale of drugs, drug ingredients, medical equipment and tools;
/This subparagraph was changed by Law of June 29, 2001/.
 - 9.1.5 ;
/This subparagraph was annulled by Law of August 28, 1998/.
 - 9.1.6 services by a religious organisation;
 - 9.1.7 Services rendered by Government organizations;
/This subparagraph was changed by Law of August 28, 1998/.
 - 9.1.8 funeral services;
 - 9.1.9
/This subparagraph was annulled by Law of August 28, 1998/.
 - 9.1.10 9.1.11
/These subparagraphs were annulled by Law of August 28, 1998/.

- 9.1.12 services for mitigation of the accident aftermath;
- 9.1.13 services provided by organizations engaged in tour operating activities to foreign tourists.

/This subparagraph was added by Law of June 29, 2001/

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

- 9.2.1 passengers baggage for personal use;
- 9.2.2 goods imported for use of diplomatic missions or international organisations residing permanently in the territory of Mongolia;
- 9.2.3 goods, jobs and services purchased in the territory of Mongolia for work needs of diplomatic missions and consular offices residing in Mongolia, if goods, jobs 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 was changed by Law of June 29, 2001/.

- 9.2.4 Humanitarian and grant aid goods obtained from governments and non-governmental organisations of foreign countries, international, charity organisations; */This paragraph was changed by Law of August 28, 1998/.*

9.2.5

9.2.6

/These subparagraphs were annulled by Law of August 28, 1998/.

- 9.2.7 special purpose appliances for handicapped people;
- 9.2.8 any weapons, technical appliances imported for needs of defence, police, state security, labour correction institutions, and law enforcement;
- 9.2.9 Primary raw materials produced in the territory of Mongolia from agriculture, forestry and hunting. This provision shall apply to producers of the primary raw material of respective types;

/This paragraph was changed by Law of June 29, 2001/.

- 9.2.10 equipment and heavy machinery to be used and assembled for technological purposes in production by a business entity with foreign investment which has made an investment into priority industries and export goods manufacturing. List of priority industries shall be approved by the Government.

/This subparagraph was edited by Law of November 17, 2000/

- 9.2.11 sale of apartment and or part of it. This provision shall not apply to apartment or to its part, newly built for purposes of sale.

/This subparagraph was added by Law of August 28, 1998 and by Law of June 29, 2001/.

- 9.2.12 imported machinery, equipment, materials, raw materials, spare parts, gasoline, diesel fuel, food and personal items for employee needs, in support of activities related to crude oilas provided in an Agreement entered with the Government based on principles of products sharing in crude oil industry.

/This subparagraph was added by Law of January 27, 2000/.

9.2.13 personal use passenger vehicle /not more than one/ of individuals who were appointed to work in diplomatic missions or consular offices residing in foreign countries or in inter-governmental international organizations for period of more than one year and who is returning back to the country permanently.

/This subparagraph was added by Law of January 28, 2000/.

- 9.2.14 blood, blood products, and organs to be used for treatment purposes;

9.2.15 sold gold.

/This subparagraph was added by Law of December 27, 2001/

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

/This paragraph was changed by Laws of August 28, 1998 and May 12, 1999/.

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

/This paragraph was added by Law of June 29, 2001/.

Article 10. Time of imposition

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 */This paragraph was changed by Law of June 29, 2001/.*

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.

/This paragraph was changed by Law of June 29, 2001/.

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 clause 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. */This paragraph was changed by Law of August 28, 1998/.*

Article 11. Deducting Value -added tax 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 value added tax to be paid to the state budget::

/This paragraph was changed by Law of August 28, 1998 and June 29, 2001/.

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 purchase of goods, jobs and services from the supplier for the purpose of further sale or production and service purposes;

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

/This paragraph was changed by Law of August 28, 1998/.

11.3 No deduction of the value-added tax 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 a motor car, its components and spare parts;

11.3.2 goods and services purchased for personal or employees' needs;

/This subparagraph was annulled by Law of August 28, 1998/.

11.4 If for any month an amount of the taxpayer's refund under clause 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 are 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;

/This subparagraph was changed by Law of December 27, 2001/

11.4.3 deduct the excess from the budget.

/This paragraph was changed by Law of August 28, 1998/.

11.5 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 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 financial and economic matters. */ This paragraph was changed by Law of June 29, 2001/.*

11.6 The Tax Administration shall have the special fund set apart for the purpose of refunding the excess payment of the value-added tax paid by a taxpayer. This special fund shall be under subordination of General Administrator of centralized state budget. */This paragraph was changed by Law of August 28, 1998/.*

11.7 The fund specified in clause 11.6 of this Article shall be set at the rate of 30 percent of the total amount of value-added tax revenue collected to the budget for that month, quarter, and year.

11.8 The regulations on setting up and disposition of the special fund for making refunds shall be approved by the Government member in charge of economic and financial matters.

/This paragraph was changed by Law of June 29, 2001/

Article 12. Imposition, payment and submitting returns of the value-added tax on

imported goods

- 12.1 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.
- 12.2 An importer of goods shall pay the value-added tax imposed to the account of the Customs Administration within 3 business days after the assessment of the tax.
/This paragraph was changed by Law of June 29, 2001/
- 12.3 The Customs Administration shall transfer to the state budget the value-added tax within 3 business days after the payment is received at their account.
/This paragraph was changed by Law of June 29, 2001/
- 12.4 A monthly tax report shall be submitted to the State Central Administration organization in charge of financial and economic matters by the 10th of the following month, an annual tax return by the 15th of January of the next year.
/This paragraph was changed by Law of June 29, 2001/
- 12.5 The form of the value-added tax declaration for imported goods shall be approved by the Chairman of the General Customs Administration.
- 12.6 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 13. Value-added tax payment to the budget and returns

- 13.1 A taxpayer shall pay to the budget the value-added tax imposed on goods sold, jobs and services furnished in that month by the 10th of the following month and prepare the report observing the approved standard format and submit to the Tax Administration.
/This paragraph was changed by Law of August 28, 1998 and by Law of June 29, 2001 and by Law of June 21, 2001/.
- 13.2 Revenues generated from value added tax shall be allocated to rural areas through consolidated account of state treasury.
/This paragraph was added by Law of November 16, 2001/

Article 13¹ Liability for violators of value added tax law

- 13¹.1. If it is determined that an individual or legal person, who must have been registered as value added tax payer 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 conducted activities and has earned income after a date on which it has to be registered, the individual or legal person shall be subject to penalty equal to 8 percent of earnings on which value added tax shall be imposed.
- 13¹.2. If an individual or legal person who was not registered as value added tax payer has imposed the tax on goods sold or services provided and has earned illegal additional income by way of substantiating invoice, such an individual or legal

person shall pay the invoiced amount to the state budget and shall be subject to pay 1 percent interest for the amount paid for each day after such invoice was issued, unless such an action is not considered to be prosecuted with criminal liabilities.
/These paragraphs were added by Law of June 29, 2001/.

Article 14. Entry into force

14.1 The present Law shall come into force from July 1, 1998.

Chairman of the State Ih Hural of Mongolia

R. Gonchigdorj

Ulaanbaatar
Mongolia