

Ministry of Finance ruling regarding issuing of invoices for supplies without consideration



In line with the VAT Law, free of charge supplies of goods and services are subject to VAT. The taxable amount is the purchase price or cost price of such or similar goods and services at the moment of supply.

VAT invoices should be issued for each supply of goods and services performed by a taxable person to another taxable person, including supplies without consideration.

In practice, taxpayers used to issue VAT invoices for free of charge supplies, but they indicated on the invoice that only the VAT amount should be paid to the supplier. Recipients of such issued invoices reclaimed input VAT if general conditions for input VAT deduction were met.

The Tax Authorities have accepted this practice during tax audits.

The Ministry of Finance issued a ruling (no. 413-00-102/2012-04) of 19 June 2012 under which only supply from

which the supplier/VAT payer does not have any receivable is deemed to be free of charge supply.

If the supplier/VAT payer declares a certain transaction as a free of charge supply, issues an invoice with calculated VAT, and has a receivable (in the amount of calculated VAT), based on the opinion of the Ministry of Finance such an invoice is not considered as issued in accordance with the Law and the invoice recipient does not have the right to reclaim the VAT indicated on this invoice.

The Ministry of Finance's standpoint is that if based on the issued invoice there is a receivable in the amount of VAT declared on the invoice, then it cannot be deemed that a free of charge supply has been performed.

Please note that rulings issued by the Ministry of Finance are not legally binding, but in practice the Tax Authorities usually apply them.

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