

TO: Clients and Friends of the Firm

FR: Frishberg & Partners

RE: Value Added Tax

I. Taxable Transactions

In accordance with the Law of Ukraine No. 168/97 “On Value Added Tax,” dated April 3, 1997, value added tax (“VAT”) is imposed on:

- (a) Domestic sale transactions of goods or services, including payment for services under lease agreements and operations involving the transfer of ownership rights to pledged objects to a creditor to extinguish debt;
- (b) Import of goods or services for use or consumption in Ukraine, including the import of property under leasing agreements, pledge agreements and/or mortgage agreements;
- (c) Export of goods or related services or re-export and the supply of passenger, cargo and other transportation services outside the territory of Ukraine. This includes the export of goods or related services outside the territory of Ukraine under financial leasing agreements (including the return of a financial lease object to a non-resident lessor or other person at the instructions of such lessor) and under pledge and other agreements which do not provide for the transfer of ownership rights to such goods (property) or do not provide for their exchange for corporate rights or securities (including cases when the export is connected with the expiration of such agreements). This also includes (i) the delivery of goods or related services from the customs territory of Ukraine onto the territory of duty-free shops; (ii) the transfer of goods from customs warehouses for further export from Ukraine; and (iii) other cases provided by the Customs Code of Ukraine.

VAT is levied at a rate of 20 percent of the taxable amount for domestic sales and imported goods or services. For exported goods and the services related to such export the VAT rate is zero percent. The zero percent rate is also applied to the following operations:

- 1) the supply of goods which are composed of “works using moveable property” which was earlier imported onto the customs territory of Ukraine for the performance of

such works and exported from the territory of Ukraine by the taxpayer which performed such works or by the non-resident receiver of the final products. “Works using moveable property” includes processing works, assembly works, etc. which result in a different type of good, such as toll manufacturing, modernization and complete repair of goods; and

- 2) the supply of sea vessels, aircrafts or space objects for refilling or delivery in specific cases, such as the transportation of passengers and cargo.

The general rule is that the taxable amount is defined on the basis of the contractual value of the goods or services supplied.

II. Exempt Transactions

A. Transactions Specifically Exempt from VAT

Certain transactions subject to the provisions of the “Law on Value Added Tax” (“the VAT Law”) are exempt from VAT. These include, but are not limited to:

- The supply/import of medical or medical-related products included on the list which is annually determined by the Cabinet of Ministers before September 1st of each year (if the Cabinet of Ministers fails to publish such list, then the list of the previous year will be applied);
- Sale of domestically produced baby food products;
- Supply (subscription) of domestically produced periodical mass media publications and books (except those of an erotic nature), student notebooks, textbooks, supplementary study materials, and Ukrainian-foreign language and foreign language-Ukrainian dictionaries, including the delivery of such periodical mass media publications on the territory of Ukraine;
- Provision of educational services by institutions with special permission (license) for provision of such services (music and art schools, etc.);
- Sale of special-purpose goods for disabled individuals;
- Delivery of pensions and monetary assistance to the population;
- Provision of health care services by institutions with the respective licenses;

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