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Subject matter: VAT - STATE BUDGET FOR 2021. CHANGES TO THE VAT CODE AND COMPLEMENTARY LEGISLATION.

Law No. 75-B / 2020, which approves the State Budget for 2021 (OE2021), was published in the Diário da República, 1st Series, no. 253, of December 31, introducing changes to the VAT Code , List I attached to it and complementary legislation.

In order to clarify the most significant changes, these instructions are released.

PART I - VAT CODE AND ANNEX LIST I

Articles 53 and 78-D of the VAT Code and the amounts 1.6.4 and 2.24 of List I attached to it are amended.

A - Amendments to the VAT Code

1. Article 53

Article 53 (2) is replaced by the following:

" 2 - Notwithstanding the provisions of the preceding paragraph, taxable persons are still exempt from tax:

a) With a turnover of more than € 10,000, but less than € 12,500, which, if taxed, would fulfill the conditions for inclusion in the small retailers regime;

b) That, having not reached a turnover of more than € 12,500 in the previous calendar year and in the previous three calendar years, they have fulfilled the conditions provided for in paragraph 1. "

Since, under Law No. 2/2020 (OE / 2020), the exemption threshold established in paragraph 1 of article 53 is € 12,500 in relation to the calendar year 2020, producing effects from As of 1 January 2021, the amendment introduced to paragraph 2 does not give it any effectiveness, and this number is emptied of content.

2. Article 78d

Paragraph a) of paragraph 1 of article 78-D is replaced by the following:

" a) By a statutory auditor or certified independent accountant, in situations where the settlement of the tax does not exceed € 10 000 per request for prior authorization; "

This amendment clarifies that the certification of the elements and procedures related to bad debts and, as well as the certification that the legal requirements for the deduction of the tax regarding credits considered uncollectible covered by the

paragraph 4 of article 78-A, may be carried out by an independent certified accountant, provided that the regularization of the tax does not exceed the amount of € 10,000 per request for prior authorization. _____

This is a correction to the previous wording of the standard, which stated that the regularization of the tax could not exceed the amount of € 10,000 per periodic declaration. _____

The wording now approved was given an interpretative nature.

B - Amendment to list I attached to the VAT Code

1. Budget 1.6.4

Item 1.6.4 of List I attached to the VAT Code is replaced by the following:

"1.6.4 - Fruits, in their natural or dehydrated state, and frozen chestnuts and red fruits;"

The budget, which previously included any fruit, but only in its natural or dehydrated state, now also includes chestnuts and red fruits, in the frozen state.

Without prejudice to a case-by-case analysis that may prove necessary, the concept of red fruits includes strawberry, raspberry, blackberry, cherry, currant, blueberry, or cranberry, among others.

2. Budget 2.24

Item 2.24 of List I attached to the VAT Code is replaced by the following:

"2.24 - Real estate rehabilitation works that, regardless of location, are contracted directly to the National Building Rehabilitation Fund by its management company, by the Institute of Housing and Urban Rehabilitation, IP (IHRU, IP), by

Madeira Housing Investments, EPERAM (HMI), or by the Regional Housing Directorate of the Azores, as well as those carried out under special financial or fiscal support schemes for the rehabilitation of buildings or under programs supported financially by IHRU, IP, by the HMI or by the Azores Regional Housing Directorate "

The budget now covers the real estate rehabilitation contracts contracted by Madeira's Housing Investments, EPERAM (HMI) and the Regional Housing Directorate of the Azores, in the same terms that already covered those contracted by the Institute of Housing and Urban Rehabilitation, IP (IRHU, IP).

PART II - PROVISIONS CONCERNING VAT RATES PROVIDED FOR IN THE OE / 2021 LAW

Article 380 of the OE / 2021 Law states that " *subject to the reduced VAT rate referred to in paragraph 1 a) and paragraphs a) and b) of paragraph 3 of article 18 of the VAT Code, depending on the place where they are made, the intra-Community imports, transfers and acquisitions of the following goods:*

a) Respiratory protection masks;

b) Skin disinfectant gel with the specifics contained in the order of the members of the Government responsible for the areas of economy, finance and health. "

This wording is identical to that contained in article 3 of Law 13/2020, of 7 May. Thus, the application of the reduced rate to the listed goods does not cease at the end of the said Law.

PART III - COMPLEMENTARY LEGISLATION

Decree-Law No. 84/2017, of 21 July - Regulates the benefit to be granted to certain entities of public interest through total or partial refund of the amount equivalent to the value added tax (VAT) incurred in certain acquisitions of goods and services.

Articles 1, 2 and 6 of the Decree-Law are amended to include higher education institutions within their scope, giving them the treatment given to non-profit entities in the national science and technology system technology.

Law no. 13/2020, of 7 May - Establishes fiscal measures and extends the limit for granting guarantees, within the scope of the COVID-19 disease pandemic.

Articles 1, 2, 5 and 6 of the Law are amended to include, in addition to the State, other public bodies and non-profit organizations, scientific and

higher education, with the limitations established in the legal diploma, extending the period of application of the recommended VAT exemption, until April 30, 2021.

Thus, the VAT exemption provided for in this Law applies to intra-Community transfers and acquisitions of goods made in the national territory during the period between January 30, 2020 and April 30, 2021, with the Law in force until this date.

In view of what is mentioned in Part II of this Circular Letter, the application of the reduced rate to the goods listed in article 3 of Law no. 13/2020 is not limited to the period of its effectiveness.

Law no. 47/2020, of 24 August - Transposes articles 2 and 3 of Council Directive (EU) 2017/2455, of 5 December 2017 and Directive (EU) 2019/1995 of Council, of 21 November 2019, amending the VAT Code, the VAT Regime for Intra-Community Transactions and complementary legislation, within the scope of the treatment of electronic commerce.

Articles 7 and 10 of the Law are amended, in order to change the date of its entry into force to July 1, 2021, and taxable persons wishing to apply the special regimes provided for in Article 6 may registration, electronically, with the Tax and Customs Authority, between April 1 and June 30, 2021.

Finally, the transition from the special regime applicable to taxable persons not established in the Member State of consumption, or not established in the European Union, which provide telecommunications, broadcasting or television services and services electronically to persons who are not taxable persons, for the new special regime referred to in article 6 of the Law, it occurs directly for taxable persons who on June 30, 2021 are covered by that regime (revoked).

Best regards.

The Deputy Director-General