

VAT adjustments (2/44/17)

In the course of business, taxable persons sometimes need to adjust their output tax or any input tax they have deducted. For example, allowing a discount, returning an advance received, recovering a bad debt and terminating a hire purchase involve adjusting output tax, while receiving a discount, taking back an advance paid, selling used real estate and writing off any excess wastage involve adjusting any deducted input tax. This article explores adjustments that are caused by a number of reasons and governed by several provisions of the VAT Act.

Hire purchase

Do we adjust VAT in the event of terminating a car hire purchase (finance lease) if the reason is theft or total destruction of the car? The answer is yes and no, because the VAT legislation provides for two types of adjustments in this case.

For example, when a car worth €40,000 is delivered to the lessee under a hire purchase agreement, the lessor will issue a tax invoice charging VAT on the total price: car €40,000 and 21% VAT €8,400.

Say the car gets stolen. The theft is immediately notified to investigation agencies, and they decide to start or to refuse criminal proceedings. The outstanding balance at the time of theft is €5,000 and 21% VAT equals €1,050.

In view of this, the hire purchase is terminated. In this case the lessor will first of all issue a credit note for the outstanding balance: car €5,000 and VAT €1,050.

The lessor should deduct the VAT appearing on the credit note from the output tax on his VAT return for the tax period, entering it on line 67. On receiving the credit note, the lessee should add €1,050 to the output tax, entering it on line 57 of his VAT return.

The lessee might wonder if he should adjust the input tax deducted on the €35,000 already paid under the agreement, including cases where 50% of the input tax has been deducted under section 100(2) of the VAT Act.

Here we should refer to section 106(3) of the VAT Act, which provides that no adjustment should be made to any deducted input tax if the goods are stolen or destroyed in a natural disaster or other *force majeure* and if there is documentary evidence of such theft or destruction.

Also, the Cabinet of Ministers' Regulation No. 17 of 3 January 2013, *Application of Provisions of the VAT Act and Certain Requirements for VAT Payment and Administration*, paragraph 163 explains that a registered taxable person can avoid adjusting input tax on goods that are stolen or destroyed in a natural disaster or other *force majeure* if he holds documents proving that he has taken all reasonable steps to recover the value of the goods lost, for example, immediate notification of investigators and their decision to start or to refuse criminal proceedings.

Since our example saw investigators immediately notified, the lessee is not required to adjust the input tax he deducted on the completed portion of the agreement.

We'll soon be writing about other types of adjustments.