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GREECE:

International Legal and Business Aspects of the VAT Law

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INTRODUCTION**

On 1 January 1981 Greece became the 10th member of the European Communities. The Accession Treaty and the Act of Accession were signed in Athens on 28 May 1979 and ratified by L.945/1979 (GG170/ 27.7.79).'

As part of the EEC movement toward harmonization in the field of indirect taxation (through the substitution of VAT for the various cumulative turnover taxes), Greece undertook the obligation to introduce the VAT, based on the EEC Model (primarily the 6th Directive as well as the 1st and 2nd Directives), in replacement of its general indirect (turnover-type) taxes.

The VAT, as adjusted by the special provisions made in the Act of Accession (Art. 128, Annex VIII (Title II) & Art. 145, Annex XII (Title II)), was to be enacted on 1 January 1984, but for various administrative and economic reasons, its introduction was initially postponed until 1 January 1986 (15th Directive) and then finally until 1 January 1987 (21st Directive).

On 27 January 1986 the Minister of Finance submitted the VAT bill to the Parliament,[2] which was subsequently approved by the Parliamentary Committee of Finance on 29 May 1986, passed by the Parliament on 22 July 1986 and published in the Government Gazette as Law 1642/1986 (GG125/21.8.86), which took effect on 1 January 1987.

List of terms and abbreviations used

-	Art.	: Article of the VAT Law (unless otherwise indicated)
-	BTL	: Bulletin of Tax Legislation,
-	CC	: Civil Code,
-	Com.C.	: Commercial Code,
-	DEC.	: Draft Explanatory Circular on the VAT Law issued by the Ministry of Finance, as published in EXPRESS (special issue 30,8-3,9.86),
-	GG	: Government Gazette,
-	IR	: Introductory Repoit of the VAT bill,
-	L	: Law,
-	L.D.	: Legislative Decree,
-	MP	: Minutes of the Parliament (parliamentary debates),
-	P.D.	: Presidential Decree,
-	TPT	: Transter of Property (immovable) Tax (L. 1587/1950)
-	TRC	: Tax Records Code (P.O. 99/1977 (GG 34/9.2.77), as amended by P.O. 356/1986 (GG 157/10.10.86)),
-	VAT	. Value Added Tax.
-	VAT Law orLaw	: Law No. 1642/1936 (GG 125/21.8.86).

1. Indirect taxation in Greece

Greece's system of indirect taxation was very complicated and anachronistic as well as counter-productive, as most indirect taxes were of a cumulative, multistage ("cascade") nature with all the consequent negative effects from a business, economic and social point of view.

There were numerous taxes, each with more than one rate imposed on a different calculation base, and there were also different procedures for the assessment and collection of each tax.[3]

2. Adoption of VAT

In view of the above, the adoption of VAT should not be seen merely as a matter of fulfilling a contractual obligation toward the EEC, but also as a measure of historic significance called for by the urgent need to modernize and simplify the present "Byzantine-like system", making it more conducive to economic and social development. The introduction of VAT, therefore, presented a unique opportunity toward the realization of that goal. The Minister of Finance described the VAT bill in the Parliament as "the most fundamental bill" on tax matters of the last decade, which, when

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1. See box "List of Terms and Abbreviations used".
2. ' In certain respects the provisions of subsequent Directives were also taken into account in drafting the bill, e.g. Art. 27(2); (see text under heading 38.2).
See also: Ministry of Finance, "General Principles of VAT and its Application in Greece" (October 1985); K. Giannopoulos. "The Introduction of VAT in Greece" (including also detailed bibliography on the history of VAT since 1967), BTL No. 863 (April 1986); and K/Zacharopoulos, I. Fotopoulos and A. Papanastassatos, "Introduction to VAT - The Greek VAT Bill" (1986).
3. According to state budget statistics, the revenues from indirect taxes represented about 70% of the total tax revenues in 1984 and about 65% in 1986.

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passed, "would bring revolution to the indirect taxation of the country".[4]

3. Indirect taxes abolished

As said, the VAT was intended to replace, on the principle of equal return,[5] a number of indirect consumption taxes, mainly the turnover tax and stamp duties,[6] as well as certain other taxes. In particular, according to Art. 57(1), as of 1 January 1987 the following taxes were abolished:'

(a) turnover tax (L.660/1937, as amended and supplemented) on the transactions of Art. 2, i.e. delivery of goods and supply of services, as well as importation of goods; see text under heading 7 below,[8]
(b) stamp duties (Code of Stamp Duties Laws, P.D. of 28 July 1931 as amended and supplemented) imposed on the same transactions as mentioned under (a) above;[9]
c) public entertainment tax (L.505/1937);
d) turnover tax on tobacco products (Art. 46 of L. 1249/1982);
(e) turnover tax on transportation companies (Art. 13.1(c) of L. 1524/1950, ratified by L. 1620/1951);
(f) special sugar consumption tax (Art. 4(2) of L.3287/1955);
(g) tax on personnel remuneration of industrial and handicraft enterprises (Art. 5 of L.843/1948);
(h) luxury tax on entertainment and luxurious establishments (L.D. 254/1953); (i) contributions in favour of the Farmers' Insurance Fund (OGA) (Art. 10 of L.4169/1961 and Art. 3 of L. 1066/1980); (j) additional consumption tax on luxurious items (Art. 2(2) of the Act of Legislative Content of 18 May 1977, ratified by L. 625/1977); (k) consumption taxes on domestically produced starch-syrup (Art. 1 of L. 1901/1939), on waxed materials (L.4324/1963) and on detergents (Art. 4 of L. 156/1967) ;[10] and (1) special saccharin consumption tax (L.D. 1674/1942, L.D. of 31 October 1942 and Art. 20 of L. 154/1967).

4. Basic differences between VAT and former indirect taxes

The primary feature of VAT is "the tax credit mechanism" through which the tax remitted to the State by an entrepreneur, in a given tax period, is the difference between: (a) the tax imposed on the entrepreneur's sales, i.e. the tax he collected from his customers, whether the customers are other entrepreneurs or ordinary consumers ("output VAT") and (b) the tax the entrepreneur has paid on his purchases ("input VAT").[11] As a result, the entrepreneur sustains no economic burden on his inputs, and instead the effect of the credit mechanism operates to push the VAT forward through the production and distribution chain to the final consumer, who absorbs the VAT as part of the sales price and receives no credit.

The credit mechanism set up under the VAT systerr represents the main change from the old system of indirect taxation, under which the stamp duties and turnover tax were imposed on each sale without any deduction for taxes paid on purchases, except in the case of manufacturing enterprises which could deduct the turnover tax paid on raw materials purchased.[12]

Other differences between former indirect taxes and the new VAT Law include, inter alia, the equal tax treatment of domestically produced and imported goods, e.g. Arts. 16, 18(1)^34), 19(l)(d); the total exemption of investment/capital goods and exports (Arts. 20, 23 and 26); and the restriction of tax evasion through "the self-policing requirement", i.e. no input tax credit, unless supported by the appropriate purchase and other invoices (Art. 25).

5. Structure of the VAT Law

5.1. The VAT Law (hereafter the Law) is divided into three parts:

- the first includes the substantive provisions (Arts. 1-37),
- the second, the procedural provisions (Arts. 38-55), and
- the third, the transitional and final provisions (Arts. 56-67).

4. MP of 9 July 1986, p. 193; also, IR p. 1.
5. That is, the revenue from VAT should be about equal to the combined revenue of the abolished taxes, MP of 9 July 1986, p. 200 (statement of the Minister of Finance in the Parliament), and BTLNo. 859 (February 1986, announcement of the Ministry of Finance).
6. In 1985 the total revenue from indirect taxes was approximately 705 billion Drs., the stamp duties represented about 26% thereof, i.e. about 183 billion Drs., and the turnover tax about 12%, i.e. about 87 billion Drs., MP of 9 July 1986, p. 183.
7. The provisions of Art. 57(1) also include the area of Mount Athos, and therefore as of 1 January 1987 neither said abolished taxes nor VAT are imposed in that area (Art. 57(1) in combination with Art. 1(2)); see text under heading 6. Taxes not mentioned in Art. 57(1) continue to apply in parallel with VAT.
According to the Ministry of Finance, the taxes replaced by VAT represent about 46% of all the revenue collected from indirect taxes in 1986, i.e. about 400 billion Drs., MP of 9 July 1986, p. 200-201 and of 15 July 1986, p. 307; see also the Financial Time of 17 July 1986, p. 31 et seq.
8. Insurance companies are not included, and therefore they shall con tinue to be subject to turnover tax (Art. 57(l)(a)).
9. The provisions for the imposition of stamp duties on real estate rentals and on various activities of insurance companies, e.g. insurance premium payment receipts, are not affected hereby (Art. 57(l)(b)).
10. These taxes were unified in a single tax (the so-called special consump tion tax) by Art. 3 of L. 1477/1984.
11. As per Art. 23(1) (see text under heading 32). Corollary to that is the neutrality of VAT to the effect that the final tax burden on a good or service is independent from the number of transactions and stages that occur before the good or service reaches the final consumer. IR, p. 1.
12. In particular, as opposed to VAT which operates on "the system of tax from tax" through the said credit mechanism, the turnover tax operates on "the system of base from base", whereby the value of raw and support materials is deducted from the gross revenues and the tax corresponding on the difference is remitted to the State. Further, under the turnover tax the industrial and handicraft enterprises were entitled to deduct only the tax paid for the purchase of raw and support materials, while under the VAT basically all input taxes are deductible (see text under headings 32-36).

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5.2. Each part includes the following chapters:

Part one: (A) scope of application (Arts. 1-4); (B) taxable transactions (Arts. 5-10); (C) place of taxable transactions (Arts. 11-12); (D) taxable event and chargeability of tax (Arts. 13-14); (E) taxable value and calculation of tax (Arts. 15-17); (F) exemptions (Arts. 18-22); (G) credit mechanism and refund of tax (Arts. 23-27); (H) persons liable for payment of tax and their obligations thereof (Arts. 28-31); and (I) special schemes (Arts. 32-37).
- Part two: (A) procedure for assessment and pay ment of tax (Arts. 38-46); (B) tax violations-sanc tions (Arts. 47-51); (C) time-bar and confidential ity (Arts. 52-54); and (D) special procedures for assessment and collection of tax on importation (Art. 55).
- Part three: Art. 56 (deduction of taxes paid on commercial goods inventories on hand on 1 January 1987); Art. 57 (abolishedprovisions); Art. 58 (final provisions);[13] and Art. 67 (effective date).

5.3. Also attached to the Law are the following four annexes:
- Annex I, listing the taxable activities as per Art. 3(2)(b);
- Annex II, goods and services subject to the low rate;[14]
- Annex III, goods and services subject to the high rate;[15] and
- Annex IV, agricultural goods and services for which lump-sum tax-refund rates are to be applied.

After a brief overview of the basic terms and definitions of the Law and a description of the taxable transactions (including the necessary cross-references to other related fields of law, such as civil law and commercial law), the analysis that follows focuses particularly on those legal and business aspects that may be of relevance to foreign entrepreneurs involved in transnational business transactions.

I. BASIC TERMS AND DEFINITIONS

6. Territorial application

The VAT applies to the whole territory of Greece, except the area of Mount Athos which for VAT purposes is considered a third country (Art. 1(2)).[16] As a result, no VAT shall be imposed on any supply of goods or services taking place in the Mount Athos area. Moreover, deliveries of goods from the rest of Greece to the area of Mount Athos are not taxable because they are considered "quasi exports". But the deliveries of goods from that area to the rest of the country are taxable as "quasi imports".[17]

"Greek territory" is defined by the Ministerial Circular as the area contained within the national borders, including also any other area adjacent to the Greek territorial waters within which it is possible for Greece ~> exercise its sovereign rights with respect to exploration and exploitation of the natural resources of the seabed and its sub-soil.[18]

7. Scope of VAT

Art. 2 specifies the transactions subject to VAT, i.e. the taxable transactions, which cover both transactions taking place within Greek territory, i.e. delivery of goods and supply of services, as well as importation of goods into Greece, as defined in Arts. 5-10 (see text under headings 9-14 below).

7.1. Delivery of goods and supply of services (Art. 2(a)):

VAT is imposed upon the delivery of goods and supply of services, provided that they are performed for a consideration within Greek territory by a taxable person acting in his business capacity.

More analytically, in order for VAT to be imposed there must be:
a) delivery of goods or supply of services;
b) said delivery of goods or supply of services must take place in Greece (as specified in Arts. 11-12; see •text under headings 19-20 below) for consider ation (payment in cash or in kind), bearing in mind, however, the provisions of Arts. 7 and 9 whereby certain consideration-free transactions are deemed (by legal fiction) to be delivery of goods or supply of services within the meaning of Art. 2(a), i.e. "as supplies made for considera tion"; and
(c) said delivery of goods or supply of services to be carried out in all cases by a taxable person (as defined in Art. 3; see text under heading 8 below), acting in the course of his business. Therefore, activities carried out occasionally by private persons, or by taxable persons not acting in their professional capacity, are not subject to VAT.

7.2. Importation of goods (Art. 2(b)):

The act of importation is a taxable event per se. Therefore, the importation of goods into Greece is subject to VAT, irrespective of whether the importer is a taxable or private person.

8. Taxable persons (Art. 3)

A "taxable person" (in VAT language: an entrepre-

13. Arts. 59-66 refer to matters irrelevant to VAT. See also To Vima of 13 July 1986, p. 28 and of 7 September 1986, p. 20.
14. MP of 11 July 1986, p. 261; see also text under heading 25.
15. Id.
16. Documents XV/16/81/EEC. This exception, justified by historic, re ligious and spiritual reasons, is warranted by the Constitution of 1975 (Art. 105) and it is also in accordance with the special provision made therefore in the Act of Accession (Annex I (Title VI)), as well as "The Joint Decla ration concerning Mount Athos" attached thereto. See also A. Stamatiou "The Application of VAT in Greece" (1986) (hereafter referred to as Stamatiou: p. 19: T. Georgakopoulos, "The Value Added Tax" (1986) (hereafter cited as Georgakopoulos); p. 75; and N. Totsis and C. Totsis, •The Value Added Tax" (1986), pp. 22-23 (hereafter cited as Totsis).
17. DEC, p. 2.
18. Id.

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neur) is defined as any person, whether an individual or a legal entity, or an association of persons, of any nationality, who independently carries out in Greece any economic activity,[19] irrespective of the place of establishment (in Greece or abroad), the purpose pursued (for profit or non-profit) or the results of that activity (profit or loss).

8.1. Exclusion of dependent workers (Art. 3(1)(b)):

Salaried employees and other persons, bound to an employer by a contract of employment or by any other legal relationship creating dependency as regards working conditions or remuneration, and implying the employer's liability therefor, are outside the scope of VAT because they are not considered "independent" for VAT purposes, i.e. they are not considered taxable persons in their own right.

8.2. State and other governmental bodies (Art. 3(2)):

The State, municipalities and other bodies governed by public law are not considered taxable persons with respect to the delivery of goods and the supply of services to the extent that they are "performing their mission", i.e. as public authorities, even where they collect dues, fees or contributions in connection therewith.[20] However, they are taxable when they engage in activities unrelated to their governmental functions.

In any case, these bodies are considered taxable persons when they engage in any of the activities listed in Annex I of the Law (see text under heading 5.3 above),[21] irrespective of whether they are carried out or not in "performing their mission", unless they are negligible (Art. 3(2)(b)).

II. TAXABLE TRANSACTIONS A.

DELIVERY OF GOODS

9. Delivery of goods in general (Art. 5)

Delivery of goods is defined as any act by which the owner's right to dispose of corporeal movable goods[22] and the immovable property specified in Art. 6 (new buildings and certain in rem rights) is transferred to a third party, i.e. transfer of the ownership right in rem. Natural forces or energies which can form the object of a trade, e.g. electric current, gas, heat, cooling and similar utilities, are also considered corporeal goods.[23]

In order for the transfer of ownership in movable goods to be effected,[24] the following two elements, according to Art. 1034 CC, are required: (i) an agreement between the owner and the recipient that ownership is being transferred;[25] and (ii) delivery of possession of the goods by the former to the latter.[26] These two elements constitute the so-called "contract in rem", whose legal effect is the transfer of ownership.[27]

In particular, for contracts in rem, possession is said to be transferred when the transferor voluntarily places the goods at the disposal of the recipient in such a way as to put the recipient in a position to exercise control over the goods (Arts. 974 and 976 CC), i.e. at the time of transfer of the power of disposal thereof.[28] Delivery can take place either by the actual (physical) delivery (traditio) of the goods or through one of the substitute (symbolic) ways provided for in the Civil Code.[29] '

19. According to Art. 4. "economic activity" means any activity of a producer, trader or a person supplying services, including mining, agricul tural activities (as defined in Art. 34) and activities of the liberal professions (as specified in Art. 45 of L.D. 3325/1955), as well as the exploitation of tangible (corporeal) or intangible goods for the purpose of obtaining in come therefrom, e.g. leasing of machinery or equipment, or the granting of patents or know-how licences.

20. It should be pointed out that these bodies are subject to VAT for their purchases of goods or services in the same way as any final consumer. DEC, p. 3.

21. The taxable activities listed in Annex I are the following:
(a) telecommunications,
(b) supply of gas, electricity and steam,
(c) transport of goods,
(d) supply of port and airport services,
(e) passenger transport,
(f) delivery of new goods manufactured for sale,
(g) transactions of agricultural intervention organizations with respect to agricultural products, where such transactions are carried out pur suant to regulations on the common organization of the market in these products,
(h) exploitation of public feasts (local festivals) and trade fairs,
(i) warehousing,
(j) activities of commercial publicity offices,
(k) activities of travel agencies,
(1) transactions of staff shops, cooperatives and industrial canteens and similar shops, (m) commercial activities of radio and television bodies.

22. The term "corporeal goods" in its legal sense coincides with the term "things" (corporeal objects) as used in Arts. 947 and 948 CC.

23. Said forms of energy or forces must be contained within a certain space, e.g. production line, distribution network, etc., being subject to human possession (Art. 947(b) CC).

24. Said transfer may relate to full ownership (fee simple, i.e. use, enjoy ment and disposal rights, Art. 1000 CC) as well as to "naked" ownership, i.e. ownership without usufruct. (Usufruct comprises the use and enjoy ment rights, Art. 1142 CC.) See also infra note 40.

25. Said agreement can be either express or tacit, e.g. shipment of the goods sold to buyer or acceptance of said goods by buyer without objection. See K. Vavouskos, "Law of Property" (1972), p. 162 et seq. (hereafter cited as Vavouskos).

26. Possession is defined by Art. 974 CC as the physical control over th goods being exercised by the holder as owner (animus dominandi).

27. The transfer of ownership is effected exclusively through the "contract in rem", as opposed to the so-called "promissory agreements" whereby an obligation is merely assumed for the transfer of goods (without any legal effect in rem). The former is usually executed pursuant to the latter, and in practice these two acts take place simultaneously.
Such "promissory agreements" are, inter alia, a sales agreement whereby the seller, for a price, undertakes to transfer the ownership of the goods and deliver them to buyer (Art. 513 CC: The usual forms of sale under the CC include sale in cash or on credit, trial sale, sale on condition precedent or on resolutory condition), an exchange of goods (Art. 573 CC) and the case where the creditor accepts a transfer of goods instead of payment (Art. 419 CC). DEC, pp. 3-4.

28. At that time, the taxable event, i.e. delivery of goods, has occurred and the tax liability arises, and therefore VAT becomes chargeable by the State (see text under heading 16).

29. The Civil Code provides in certain cases for the delivery of possession, even though there is no material delivery, e.g. the case of "longa manu traditio" where the recipient is in a position to exercise control over the goods or "brevi manu traditio" where the recipient is already in possession of the goods (Art. 976 CC), the case where it is agreed between the transferor and the recipient that the transferor himself or a third party shall remain in possession of the goods (Art. 977 CC), and the case where delivery is effected through the transfer of a warehouse warrant or bill of lading (Art. 978 CC). See Vavouskos, p. 61 et seq.

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9.1. Consignment transactions (Art. 5(2)):

In the case of a commission agent (consignee) who sells or buys goods in his own name for the account of a principal (consignor),[30] it is deemed that a delivery of goods occurs between them. The commission agent is considered towards the consignor as purchaser or seller of the goods. Therefore, in every such case of a sale or purchase consignment, two separate taxable transactions, i.e. deliveries of goods, take place:

(a) Sale consignment: In the case where the consignor sends goods to the consignee for sale to a third party,[31] the said two deliveries are: (i) the one from the consignor to the consignee (fictional), and (ii) the actual one, i.e. the sale of the goods by the consignee to the third party (purchaser). The first delivery is deemed to occur at the time when the latter is effected, at which time the tax liability arises for both.[32]

(b) Purchase consignment: In this case there is an ac tual delivery from the third party (seller) to the consignee (the purchaser of the goods) and a fic tional delivery, i.e. the shipment of the purchased goods by the consignee to the consignor. The tax liability arises for both deliveries at the time the former is effected.[33]

It should be pointed out that pure brokerage activities (Arts. 703-707 CC), i.e. where the broker for a fee (commission) merely brings together the interested parties (buyers and sellers), are not included in Art. 5(2), but they are taxed as a supply of services under Art. 8 (see text under heading 12 below).

9.2. Other delivery acts (Art. 5(3)):

Although not constituting "delivery" in the strict legal sense, the following acts are also considered delivery of goods:

(a) the sale of goods under a conditional sales contract where the transfer of ownership is deferred until full payment is made (Art. 532 CC);[34]

(b) the production of, manufacture of or assembly of movable goods under a contractor's work contract (Arts. 681-701 CC), where the materials and ob jects are supplied by the customer (owner) to the contractor for this purpose, regardless of whether the contractor also makes use of his own mate rials;[35] and

(c) the involuntary transfer of the ownership of goods, upon payment of a compensation made by order of a public authority or in pursuance of the law.

9.3. Transfer of enterprises (Art. 5(4)):

The transfer of the totality of assets (goods),[36] or part thereof, of an enterprise, whether for consideration or not, e.g. donation or inheritance, or as a contribution to an existing company or one being formed, e.g. merger or take-over, is not considered a delivery of goods and therefore is not taxable.

For such a transfer to be exempt both of the following requirements must be met: (i) that the recipient con- tinue the work of said enterprise, regardless of whether it was a taxable person or not (if not, it should immediately submit a commencement of trade decla- ration to the competent tax office as per Art. 29(1)),[37] and (ii) that all parties concerned, i.e. the transferor and recipient, conduct taxable transactions for which the right of deduction is granted (if either party does not conduct such transactions, then said transfer of assets shall be considered a taxable delivery).[38]

Moreover, for VAT purposes the recipient is treated as the successor to the transferor, enjoying the rights, but also assuming the obligations, of said transferor (predecessor).[39] Insofar as the payment of any VAT

30. Art. 90 Com.C. defines the consignee as a person who acts in his own name for the account of someone else (the consignor).[1] The rights and obligations of the parties to a consignment contract ("solo consensu", i.e. express or tacit, written or oral) are provided for in Arts. 91-94 Com.C., and when there is no special provision in Com.C., by the provisions of Arts. 713-727 CC.

31. The goods are accompanied by a dispatch notice certified by the tax office. Such a dispatch notice includes, inter alia, the terms of the sale and it is issued by the consignor according to Arts. 20(4) and 23(1) TRC.

32. At the sale, the consignee issues an invoice to the purchaser (purchase price + commission + VAT) and in turn the consignor issues an invoice to the consignee (sale price + VAT), so that each party can offset their respective input tax. Also, the consignee issues a certified statement for the settlement of accounts between himself and the consignor, including, inter alia, the value of the goods sold, the commission and expenses incurred on behalf of the consignor (Art. 23(1) TRC). See also Minister of Finance Decision No. S.3043/134/15.10.1986.

33. At the purchase, the seller issues an invoice to the consignee (sale price + VAT), and in turn the consignee issues an invoice to the consignor (purchase price + commission + VAT) together with the respective state ment (according to Art. 23(4) TRC).

34. The bill also included the- financial leasing, but due to the fact that financial leasing had not at the time been introduced in Greece, it was not finally included in the Law. It should be noted however, that a bill on financial leasing was submitted to the Parliament at the end of September 1986, which was then passed on 5 November 1986 (and published in the Government Gazette as Law 1665/1986 (GG 194/4 December 1986)). According to this law, finance leases include all transactions in which movable goods are supplied to the lessee (for its own professional use) for a stipulated period of time (not less than 3 years) during which the lessee pays periodic amounts (rentals) and at the end of which the lessee has the option to buy the goods (or renew the lease).
Further, in order to encourage the promotion of leasing, special incentives are provided therein, such as use of foreign exchange clauses, various tax benefits and exemptions, etc. It is understood that if the lease does not provide for the said transfer of ownership of the goods, then it is to be treated as a supply of services, being taxed under Art. 8 (see text under heading 12).

35. It is required that the result of said work be the creation of a new product (including the transformation of a good into another or the refine ment of raw materials into a new product) that is different from the raw materials or objects used therefore, and not mere maintenance thereof. DEC, p. 1; see also Stamatiou, op. cit., pp. 60-61.

36. Goods include, inter alia, capital goods, consumer goods and the real property listed in Art. 6. See Stamatiou. op. cit., pp. 62-63.

37. On the contrary, if the recipient ceases said work, then above transfer of assets shall be considered as a taxable delivery. In this case, if the transfer takes place for consideration, the invoice should state separately the VAT corresponding to the price (Arts. 15(1) and 29(1)); if, on the other hand, the transfer is made gratuitously, then the VAT shall be calculated on the basis of the actual transfer value of the goods (Art. 15(2)).
Further, in the case of partial continuation of said work, Art. 5(4) shall apply only to the continued part of the work of the enterprise.

38. If part of the goods is used for such transactions, then Art. 5(4) shall apply only to that part. DEC, p. 5.

39. See also Art. 479 CC which says: "In the event of a contractual transfer of an enterprise, the recipient is liable toward the creditors for the enterprise's debts (at the time of the transfer) up to the value of the transferred assets. The transferor continues to be liable thereof. Opposite agreement between the parties thereto to the detriment of the creditors, is invalid against them".

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due at the time of transfer is concerned, the transferor remains jointly and severally liable therefor (Art. 45(c)).

10. Delivery of immovable property (Art. 6)

Delivery of real property is the transfer of ownership of buildings (complete or semi-complete) or parts thereof and the land on which they stand (Art. 6(1)).[40] In order for this transfer to be subject to VAT, the following conditions must be met:[41]

(a) the transfer must refer to buildings, and not to any immovable property;[42]
(b) the transfer must include the necessary building land for the buildings:[43]
(c) the buildings must be "new", i.e. the transfer must take place prior to the first occupation of the building, and
(d) the building permit must have been issued (by the competent governmental authority) as of 1 January 1987 (Art. 6(4)).

10.1. Transfer of certain rights in rem: Performance of work on immovables (Art. 6(2)):

Aside from the delivery of immovables under Art. 6(1) above, i.e. the transfer of the full rights of ownership, delivery of immovables is also considered the transfer of certain limited rights in rem, as well as the performance of certain works on immovables under a contractor's work contract. In particular:

(a) Rights in rem: Subject to the conditions stated above, VAT also applies to the following transactions (Art. 6(2)(a)):[45]
   (i) the transfer of the "naked" ownership, i.e. ownership without the usufruct;[46]
   (ii) the constitution or waiver of a personal servitude right;[47] and
   (iii) the transfer of the right to exercise the usufruct.[48]
(b) The execution by construction contractors of certain works on immovable property under a contractor's work contract (Arts. 681 et seq. CC),[49] irrespective of whether the materials are provided by the owner or the contractor, and on the further condition that said works do not constitute normal maintenance work thereon (Art. 6(2)(b)).[50]

10.2. Non-application of the transfer of property (immovable) tax (hereafter TPT) (Art. 6(3)):

In order to avoid the double taxation on the transfers of immovables, the TPT shall not be imposed in the cases where the VAT applies, i.e. in the cases of Arts. 6(1) and 6(2)(a); see text under headings 10 and 10.1(a) above, and under heading 27(j) below.

10.3. Commencement of application of Arts. 6(1) and 6(2)(a):

According to Art. 6(4), VAT in the case of Arts. 6(1) and 6(2)(a) applies on the immovables, whose building permit is issued after 1 January 1987. Therefore, the transfer of buildings, for which a building permit has been issued before that date as well as the transfer of said in rem rights thereon, shall not be subject to VAT but to TPT, irrespective of whether construction of them begins after that date.[51]

11. Acts deemed delivery of goods (Art. 7)

The following transfers are deemed to be deliveries of

40. The delivery under Art. 6. i refers to the transfer of "the full ownership" of the buildings, i.e. of the right of direct, absolute and total possession (including use, enjoyment and disposal) over them (Arts. 973 and 1000 CC), as opposed to the transfer of certain limited rights in rem under Art. 6(2) (as to which see text under heading 10.1; see also supra note 24). According to Arts. 369 and 1033 CC, the transfer of ownership of immovables is effected through a contract in rem before a notary public (notarial deed), which must be registered at the public records office (Registrar's Office) of the area where the property is located (Arts. 1192 et seq. CC). In this respect, it should be noted that the movement of foreign capital in relation to, inter alia, investments in real estate by residents of other EEC countries recently has been liberalized by P.O. 170/1986 (GO 64/19.5.86) on "the movement of capital between Greece and the other EEC member-states" (harmonizing Greek foreign exchange control restrictions with the requirements of the EEC legislation, i.e. 1st Directive of 11 May 1960 and 2nd Directive of 18 December 1962),

41. Aside from the general requirements (stated in the text under heading 7.1), i.e. that the transfer be performed, for consideration (and not gratuitously, e.g. parental grant, donation), by a taxable person, e.g. building contractor. As a result, transfers made by private persons (non-entrepreneurs) are not subject to VAT, even if they refer to new buildings, i.e. whose building permit was issued after 1 January 1987, Kerdos of 8 October 1986, p. 2.

42. The term "buildings" is defined by Art. 6(l)(a) as structures in general and constructions of any kind which are affixed to structures or to the ground in a firm and permanent way. Also, it should be pointed out that this provision does not make a distinction between urban and agricultural structures.

43. If the land transferred, along with the buildings thereon, is larger than the one required for building according to the zoning laws, then the delivery of the excess land is also subject to VAT, provided that it is not, in itself, sufficient for another building according to the same laws (Art. 6(l)(b)). If it is. then it shall be subject to TPT, and not to VAT, since it is not considered a "building".

44. "First occupation" is defined by Art. 6(l)(b) as the first use in any way of the buildings after their construction, such as self (owner)-occupancy, self (owner)-use, leasing or other use.

45. According to Art. 973 CC, the rights in rem are: the ownership, the servitudes (easements), the chattel mortgage (pledge) and the mortgage (on real property). The servitudes are divided into real (Arts. 1118-1141 CC) and personal (Arts. 1142-1191 CC) servitudes.

46. See supra notes 24 and 40.

47. The personal servitudes are the usufruct (Arts. 1142-1182 CC), the habitation (Arts. 1183-1187 CC) and certain limited personal easements (Arts. 1188-1191 CC). The constitution of the personal servitudes can take place either by contract or usucaptton (Arts. 1143, 1187, 1191 CC), while the waiver thereof through a unilateral declaration of the holder to the owner before a notary public is being subject to registration at the Registrar's Office (Arts. 1169, 1187, 1191 CC).

48. In principle the usufruct is non-transferrable, unless otherwise stipulated. However, the right of its exercise can be transferred for such a period of time as not to exceed the duration of the usufruct (Art. 1166 CC).

49. The term "works" is defined indicatively by Art. 6(2)(b) as excavation, demolition, construction of buildings, roads, bridges, aqueducts, water supply and drainage projects, electrical and mechanical installations and technical works in general (including supplements, expansions, alterations and repairs thereof).

50. Maintenance work is considered a supply of services, and therefore is subject to VAT under Art. 8 (see text under heading 12).

51. It should be noted however, that said execution of works on immovables under Art. 6(2)(b) shall be subject to VAT to the extent that the work is performed after 1 January 1987. regardless of the time of commencement of construction of said work or the time of signing of the relevant contract. DEC, p. 6.

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goods for a consideration (though in reality they are consideration-free):

11.1. Application of goodsfor which no deduction is allowed (Art. 7(1)):

The self-supply of the goods listed in Art. 23(4), i.e. the application by a taxable person for the purposes of his business of said goods of his own enterprise, is treated as a taxable transaction,[52] where the tax on such goods would not be wholly deductible had they been acquired from another taxable person. In such a case the taxable person is treated as the final consumer.

11.2. Application of goods for which deduction is allowed (Art. 7(2)):

This category includes the following acts:
(a) the application of goods from a taxable activity to a non-taxable one of the same entrepreneur;
(b) the withdrawal by a taxable person of goods of his enterprise for the satisfaction of his own personal needs or for that of his employees and generally the free disposal thereof for purposes other than business. However, a de minimis exception is pro vided for small-value gifts (gifts of up to 3,000 Drs. per recipient; the total of such gifts, however, should not exceed 1% of the gross revenues of the enterprise in a particular fiscal year) and samples of the goods produced by the enterprise for their promotion;[53]
(c) owner-occupancy, owner-use, leasing or the use (for any purpose) of the immovables provided for in Art. 6 (see text under heading 10);
(d) the receipt by a partner or shareholder of a share, in the form of goods, due to the dissolution of a company or withdrawal of a partner; and
(e) the retention by a taxable person of goods of his own personal enterprise in the event of the ceasing of his business.

B. SUPPLY OF SERVICES

12. Supply of services in general (Art. 8)

"Supply of services", within the meaning of Art. 2(a), is broadly defined as any transaction which does not constitute a delivery of goods, as per Arts. 5-7. Such transactions may include, inter alia: (i) the transfer or granting of the use of intangible goods, e.g. patents, copyrights, licence of industrial/commercial trade marks, business reputation and clientele, trade secrets (know-how), etc., (ii) obligations to refrain (forbear) from an action or tolerate an action or situation.

12.1. Other supply of services acts (Art. 8(2)):

The following transactions are deemed as supply of services:
(a) the exploitation of hotels, furnished rooms and houses, campings and similar installations, parking areas for any means of transportation, including trailers;
(b) the sale of food and drinks for on-the-premises consumption by restaurants, patisseries, places of entertainment and similar businesses;
(c) the performance of services, upon payment of compensation, in pursuance of an order made by, or in the name of, a public authority or in pur suance of the law; and
(d) the leasing of industrial premises and safe deposit boxes.

12.2. Intermediation in the supply of services (Art. 8(3)):

In cases where a taxable person acts as an intermediary in a supply of services, acting in his own name but on behalf of other persons, he is considered to have received and supplied those services himself, i.e. more than one taxable act takes place, each being taxed separately.

12.3. Transfer of enterprises (Art. 8(4)):

The provisions of Art. 5(4), regarding the transfer of the assets of an enterprise (see text under heading 9.3 above), are applied in a way that is analogous to the supply of services. Therefore, in case the transfer of an enterprise involves tangible goods, e.g. assets and intangible goods, e.g. business reputation and clientele, there shall be a tax exemption for both transfers, i.e. for the delivery of the tangible goods under Art. 5(4) and for the supply of services under Art. 8(4).[54]

13. Acts deemed as supply of services (Art. 9)

As in the case of the delivery of goods, the following acts are deemed to be a supply of services for consideration (though in reality they are consideration-free):
(a) the use by a taxable person of goods of his enter prise for the satisfaction of his own needs or for the needs of his employees or for non-business pur poses, provided that on their acquisition a deduc tion was allowed thereon;[55]
(b) the provision of services by a taxable person for his own needs or for those of his staff or for purposes unrelated to his business; and
(c) the self-supply of the services listed in Art. 23(4) (basically Paras, (c), (d) and (e)), i.e. the use by a taxable person of his own said services for the needs of his enterprise, where the tax on similar services, had they been supplied by another taxa ble person, would not be wholly deductible.[56]

52. See text under heading 35.
53. See Minister of Finance Decision No. P.7015/690/21.10.1986; see also text under headings 33(e) and 37.1.
54. DEC, p. 9.
55. See also text under heading ll(2)(b). As opposed to the private use under Art. 7(2)(b), where said goods are taken away from the enterprise by the entrepreneur or other person, in this instance only use of said goods takes place.
56. See text under headings 35 and 11.1.

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C. IMPORTATION OF GOODS

14. Definition

"Importation of goods" is defined by Art. 10 as the entry of goods into the Greek territory according to the customs legislation (see text under headings 6 and 7.2 above).

III. TAXABLE EVENT AND CHARGEABILITY OF TAX

15. General

A "taxable event" is an event which, when it occurs, fulfils the legal conditions necessary for the tax to become chargeable. In turn, the tax becomes "chargeable" when the State becomes entitled under the law at a given moment to claim the tax from the person liable to pay, notwithstanding that the time of payment, for practical reasons, may be deferred to a later time.[57] At the same time the tax becomes chargeable the right of the taxable person to claim the credit for input tax also arises, as per Art. 23(3) (see text under heading 34 below).

16. Delivery of goods and supply of services: Time of supply (Art. 13)

The tax liability arises and the tax becomes chargeable by the State at the time the delivery of goods or the supply of services is effected (Art. 13(1)).

(a) In the case of delivery of goods, the general rule is that the delivery is effected at the time the goods are placed at the disposal of the acquiring party (recipient/transferee).
In case the supplier of goods undertakes the obligation of their dispatch, delivery is effected at the time the dispatch begins, unless the supplier also undertakes the obligation of assembling or installing the goods. In that case, delivery is effected at the time of completion of such work.

(b) In the case of supply of services, the Law does not stipulate the time at which the supply is effected, due to the great variety of services which may require several criteria for the determination of the time of supply. In practice, however, the time of supply of services is considered to be the time at which the services are completed (subject to various exceptions, e.g. transportation services where the supply is deemed to occur at the moment transportation commences).^8

16.1. Exceptions (Art. 13(2)):

By way of exception to the above general rules, the tax becomes chargeable:

(a) when an invoice (or other document in place thereof) is issued in those instances, where it is allowed by the Tax Records Code (hereafter TRC) to be issued at a later time than the time of supply of the goods or services;"l"

(b) when payment of the compensation is received in the cases of involuntary supply of goods or services (Arts. 5(3)(c) and 8(2)(c)) (see text under headings 9.2(c) and 12. l(c) above); and

(c) at the time agreed upon for the payment of each instalment in the case of the provision of services for which the consideration is payable periodically.

16.2. Immovable property (Art. 13(3)):

Insofar as the acts regarding the real property listed in Art. 6 are concerned, the tax becomes chargeable:[60]

(a) on the signing of the memorandum of agreement (Art. 166 CC), provided that it makes provision for self-contracting (as per Art. 235 CC), i.e. the buyer is granted the legal authority to execute the final contract, when the terms and conditions of said memorandum of agreement are fulfilled. The same time applies if, at the time of signing said memorandum of agreement, the purchase price is paid in full and the possession of the property is delivered;

(b) on the drawing up of the report (record) of an auction in case of transfer of real property by vol untary or compulsory auction;

(c) on the signing of the final contract; or

(d) in all other cases on registration, in which the draw ing up of a notarial deed is not required, e.g. jud icial adjudgement of ownership, judicial distribu tion of estates, etc.

17. Importation of goods (Art. 14)

As regards imported goods, the tax obligation arises upon entry of the goods into a customs territory. However, the tax becomes chargeable at the time of imposition of customs duties according to the customs legislation, i.e. at the time of clearing the goods through customs for consumption or disposal.[61] The same time applies in the case of importation of goods which are made available for consumption following their exit from any kind of a (pre-existing) special customs arrangement, e.g. customs-free zone, temporary importation, etc. (see text under heading 30 below).

57. DEC, p. 13; see also Art. 10(1) of the 6th Directive.
58. DEC. p. 14.
59. Such instances include, inter alia:
repeated sales to the same purchaser (Art. 20(3) TRC), - exceptional difficulty in the immediate issuance of an invoice (Art. 20(4) TRC),
execution of technical works or installations (Art. 20(7) TRC),
supply of gas. electric current and telecommunications (Arts. 18(8), 20(10) and 21(5) TRC).
60. See text under headings 10 and 10.1(a). Regarding the execution of a contractor's work on said property (see text under heading U).l(b)), the time at which the tax obligation arises is the time of the issuance of the invoice thereof as per Art. 13(2)(a) (see text under heading 16. l(a)).
61. Arts. 25 et seq. of L. 1165/1918 (as amended and supplemented) on the Customs Code. See also A.K. Kontaxis. "The Customs Code" (1986). p. 18 et seq. Further, according to Art. 55, the VAT is assessed and collected according to the customs legislation applicable for the assessment and collection of the import customs duties and other taxes.

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IV. PLACE OF TAXABLE TRANSACTIONS

18. General

As the application of Greek VAT is limited to transactions within the Greek territory (see text under heading 7 above), the place of delivery of goods or the place of supply of services is of vital importance.

19. Place of delivery of goods (Art. 11)

The delivery of goods is considered to take place in Greece if, at the time the tax obligation arises, i.e. at the time of delivery, the goods are located within Greece, irrespective of the nationality, establishment of economic activity or residence of the contracting parties. The crucial fact taken into account is the actual location of the goods at the time of delivery thereof.[62]

In case of a delivery of goods made by the importer prior to the importation of the goods into Greece, i.e. while the goods are outside Greece (e.g. en route), the place of delivery is still considered to be within Greece, provided that their final destination is Greece (Art.

20. Place of supply of services (Art. 12)

The general rule is that the supply of services is considered to take place in Greece if, at the time the tax obligation arises, i.e. at the time of supply, the supplier has in Greece the seat of his economic activity or a permanent establishment from which his services are provided[64] or, in the absence thereof, his residence or usual abode.[63]

20.1. Exceptions:

By way of exception to this general rule, the Law provides that Greece is still considered to be the place of supply as follows:

20.1.1. According to Art. 12(2), when the following kinds of services are provided:

(a) services connected with immovable property lo cated in Greece, including, inter alia, the services of estate agents and experts, architects, engineers and supervision offices;
(b) transport services carried out within the country and, in the case of international transport, for that part of the overall route travelled within the coun try;
(c) services involving the installation or assembly of imported goods, insofar as these activities are per formed within the country by the supplier of the goods (who is established abroad);
(d) services of leasing means of transport, if:
   - the lessor is established within the country and the lessee uses the vehicle in Greece or in another EEC country, or
   - the lessor is established in a non-EEC country and the lessee uses the vehicle in Greece; and
(e) services performed in Greece and having the following objects:
   (i) cultural, artistic, sporting, scientific, educational, entertainment or similar activities, including the organization of such activities; (ii) ancillary transport activities such as loading, unloading, handling and similar activities; and (iii)expert assessments in general and work related to movable tangible goods.

20.1.2. According to Art. 12(3), the place of supplying services is also considered to be in Greece in the following categories of services, if:

- provided by persons established in another EEC country to taxable persons whose seat of economic activity or permanent establishment or, in the ab sence thereof, residence or usual abode is in Greece, or
- provided by persons established outside the EEC to any recipient (whether a taxable or private per son), who is established in Greece:
   (a) assigning or granting the right of use of copyrights, patents, licences of industrial and

62. See text under heading 16(a): (i) in the case of goods dispatched or transported, the place where the goods are at the time when dispatch or transport to the person to whom they are supplied begins; (ii) in the case where the goods are assembled or installed, the place where the assembly or installation takes place, and (iii) in all other cases, the place where the goods are when the delivery takes place. See also Art. 8(1) of the 6th Directive.

63. This provision basically refers to the sale of the import right (Art. 2(2)(b) and Art. 20(1) and (2) TRC), whereby the goods (originating from abroad and destined for importation into Greece) are delivered by the importer (original buyer) to the new purchaser, through the transfer (by endorsement) of the shipping documents (Art. 978 CC; see supra note 29), prior to their importation into Greece. IR, p. 5 and DEC, p. 11; see also Stamatiou supra note 16, p. 78.

64. The term "permanent establishment" is not defined in the Law, but in the area of income tax legislation there are two such definitions with respect to foreign enterprises:

(a) the one contained in every double taxation treaty signed by Greece with various countries (14 to date, including treaties with both EEC and non-EEC countries) which in principle follow the definition of Art. 5 of the Model 1977 OECD Treaty on the avoidance of double taxation. For more details see: N. Fellonis: "The Application of Double Taxation Treaties in Settlement of Tax Disputes" in Greece, 26 European Taxation 1986 (No. 11), p. 342 et seq.,
(b) in all other cases where no such treaty exists, the definition stated in Art. 5(1) of L.D. 3843/1958 (as amended by Art. 6(5) of L.1591/1986) applies, under which foreign enterprises are considered to have a permanent establishment in Greece when they:
   - maintain in Greece one or more stores, agencies, offices, warehouses, industrial plants or workshops, as well as raw mate rials exploitation installations, or
   - carry out industrial processing of raw materials or processing of agricultural products through their own installations or the use of third party's installations in Greece, acting upon their request and for their account, or
   carry out activities in Greece or offer services through a representative authorized to negotiate and sign contracts on their behalf, as well as when said activities or services are performed without a representative, provided that they relate to the drawing up of studies or designs, or to the conducting of research in general or they are of a technical or scientific nature in general, or
   - keep stocks of merchandise from which they fill orders for their own account, or
   participate in a Greek personal company or a limited liability company.

65. Arts. 51 ct seq. and 64 CC.

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property rights, trade marks and other similar rights;
(b) advertising services;
(c) services of consultants in general, engineers, consultancy offices, lawyers, accountants and other similar services, as well as data proces sing and the supplying of information;
(d) the undertaking of an obligation to refrain from exercising, in whole or in part, a business activity or a right provided for in this section;
(e) banking, financial, insurance and reinsurance services, with the exception of the leasing of safe deposit boxes;
(f) the supply of staff;
(g) the leasing of movable tangible goods, with the exception of means of transport (see text under heading 20.1.1(d) above); and
(h) the services of agents who, in the performance of the services referred to in this section, act in the name of and for the account of other persons.

20.2. Place of supply of services outside Greece (Art. 12(4)):

Although the general rule is that services performed by a supplier established in Greece are considered to have been supplied in Greece (see text under heading 20 above), there are exceptions (with the effect that the place of supplying services is deemed to be outside Greece), when such a supplier provides:
(a) services connected with immovable property lo cated abroad (see text under heading 20.1.1(a) above);
(b) transport services which are carried out abroad (see text under heading 20.1.1(b) above);
(c) installation or assembly services performed on goods exported abroad (see text under heading 20.1.1 (c) above);
(d) leasing services of means of transport for use by the lessee outside the EEC (see text under heading 20.1.1(d) above);
(e) the services described in the text under heading 20.1.1(e) above, when substantially performed abroad; and
(f) the services described in the text under heading 20.1.2 above for a taxable person established in another EEC country or for any recipient estab lished outside the EEC.

V. TAXABLE VALUE AND CALCULATION OF TAX

21. Consideration as taxable value (Art. 15(1))

With respect to the delivery of goods and the supply of services, the taxable value (base) is the consideration obtained (or to be obtained) by the supplier of goods or services, increased by any payment(s) directly linked therewith (including, inter alia, subsidies).[66]

22. Other criteria in determining the taxable value (Art. 15(2))

By way of derogation from the consideration rule, the taxable value is determined differently in the following cases:
(a) for the acts of delivery of goods referred to in Art. 7 (see text under heading 11 above), the taxable value is the purchase price of the goods or of simi lar goods or, in the absence of such a price, the price at the time of delivery, i.e. the current pur chase price;[67]
(b) for the supply of services provided for in Art. 9(a) and (b) (see text under heading 13 above), the taxable value is the full cost of the expenses incur red for the performance of said services;
(c) for the supply of services provided for in Art. 9(c) (see text under heading 13 above), for the ex change of goods, as well as for any case where there is a non-monetary consideration (payment in kind or supply of another service), the taxable value is their normal value, i.e. open market value;[68] and
(d) for the acts provided for in Paras. 1 and 2(a) of Art. 6 (see text under headings 10 and 10.1(a) above), the taxable value is the market value as determined by the relevant legislation in force at the time the tax obligation on the transfer of the immovable property arises (see text under heading 16.2 above).[69]

23. Computation of taxable value (Paras. 3,4 and 5 of Art. 15)

The taxable value includes: (i) the incidental expenses the supplier charges the recipient of the goods or services, such as commission, packing, transport and insurance costs (even if they are covered by a separate agreement); and (ii) taxes of any kind, levies, contributions, duties in favour of the State or third parties and stamp duties, excluding the VAT itself.

66. The subsidies (granted by the State or other public organizations) are included, provided that they are directly linked to the price of the goods and paid directly to the seller. MP of 15'July 1986, p. 290; see also DEC, p. 15, and Totsis, pp. 89-90.
67. "Current purchase price" is defined by Art. 41(1) TRC as the price at which the entrepreneur can purchase or produce the goods or similar goods at the time of delivery.
68. "Normal value" is defined by Art. 15(2)(c) as the current market price, i.e. the sum which a customer would have to pay to any supplier at arm's length in order to obtain the goods or services under conditions of fair competition.
69. At present, there are two systems for the determination of the taxable value for the taxation of real estate transfers:
(a) in the case of real estate located in the areas of Athens, Thessaloniki and Larissa. the taxable value is considered the price determined according to "the system of objective determination of the taxable value of real estates" (Art. 41 of L.1249/1982, Art. 14 of L.1473/1983 and P.D. 355/1986 (GO 156/7.10.86)),
(b) with respect to real estate located in any other area of the country, taxable value is considered the market value determined through comparative price data according to the provisions of L. 1587/1950. DEC, p. 16; also To Vima of 7 September 1986. p. 20. Kerdos of 8 October 1986, p. 2 and Expres of 10 October 1986. p. 7.

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tary guarantees, e.g. promissory letters or letters of guarantee, and other assurances, the negotiation thereof and the management of credit guarantees by the person who is granting the credit;
(g) transactions (including negotiation) concerning deposits, current accounts, payments, transfers of deposits, remittances, claims, cheques and other negotiable instruments, excluding debt collection;
(h) the leasing of immovable property of any kind (urban, commercial, agricultural, etc.), apart from those mentioned in Art. 8(2)(a) and (d) (see text under heading 12.1(a) and (d) above);
(i) the supply of services, the value of which is included in the taxable value of the goods imported, as defined in Art. 16;[77]
(j) the delivery of immovables, other than those provided for in Art. 6;[78] and
(k) the delivery of goods, when the importation of similar goods is exempt from VAT.[79]

28. Exemptions at importation of goods (Art. 19)

The following acts are exempt:
(a) the re-importation of goods in the same state in which they were exported, e.g. defective goods or goods that did not comply with contractual specifications, by the person who exported them, provided that the goods qualify for exemption from customs duties or would qualify therefrom if imported from a third country;[80]
(b) the re-importation of goods by the person who exported them (or by another person on his account), where the goods have been in another EEC country and have been subject to work, e.g. repair, assembly, processing, etc., for which VAT has been paid without the right to a deduction or a refund, e.g. in the case of a private person;[81]
(c) importation by fishing enterprises of their catches, either unprocessed or preserved for marketing but before delivery for sale;
(d) the final importation of goods, the delivery of which is exempt from VAT within the country; and
(e) importation of newspapers and periodicals.[82]

29. Exemption of exports and like trans actions (Art. 20)

The following acts are exempt:
(a) the delivery of goods exported (act of exportation) by or on behalf of the vendor;
(b) the delivery of goods exported by or on behalf of a purchaser not established in Greece, with the exception of goods transported by the purchaser himself for the equipping, fuelling and provisioning of pleasure boats and private aircraft or any other means of transport for private use;[83]
(c) the supply of services consisting of finishing work, e.g. processing, adaptation services (perfectionnement actif), on movable goods acquired or imported in Greece for the purpose of undergoing such work and subsequently exported (to their country of destination or of origin) by the person providing the services or by the recipient (customer) not established in Greece or by another person acting on their behalf, i.e. processing of goods for foreign (non-resident) principals;[84]
(d) the delivery of goods to recognized non-profit humanitarian, charitable or educational organizations for export as part of their activities abroad;[85]
(e) the supply of services, including transport and ancillary activities, directly linked to the exportation and international transport of goods, as well as to the importation of goods as per Art. 21(l)(a) and (b) (see text under heading 30(a) and (b) below):
(f) services supplied by brokers or other intermediaries, acting in the name and for the account of another person, which are related to transactions specified in this article and in Art. 22 (see text under heading 31 below) or to transactions carried out outside the EEC;[86] and
(g) delivery of agricultural products by farmers'

77. See text under headings 24.1(c) and (d). This provision aims at the avoidance of double taxation of these services which, having been taxed upon importation, shall not be taxed as a separate supply of services within the country. DEC, p. 22.
78. It is understood that the transfer of immovables exempt from VAT shall continue to be subject to TPT (see text under heading 10).
79. The object of this provision is to ensure equal tax treatment between domestically produced goods and imported goods. This provision represents the reverse situation from the one provided for in Art. 19(l)(d), i.e. the exemption of certain final importations of goods (see text under heading 28(d)). DEC. p. 22.
80! Minister of Finance Decision No. P.67H7/641/7.10.1986. See also Totsis, op. cit., p p. 119-122.
81. Therefore, in such a case, said perfection work shall be taxed in the other EEC country where performed, but the goods shall be exempt from VAT when re-imported in Greece (see text under heading 29(c)). On the contrary, no such exemption is granted to re-importation of goods by such a person, when exported to a non-EEC country for said work (see Stamatiou, op. cit., p. 134).
82. However, when they are further disposed of within the country, they are subject to tax according to Art. 15(6). i.e. the taxable base is the delivery price charged by the publishing and import companies, without VAT, and after deducting the commission granted to distribution agencies. In turn, their delivery and distribution by agencies, newspaper stands and other retail sellers (kiosks) is exempt as per Art. 18(1)(33).
83. As per Art. 20(1)(b), "equipment goods" are those goods incorporated into or used in any form of means of transport for private use, while "fuelling and provisioning goods" are mainly the fuels, lubricants and combustibles for said means of transport. See also Minister of Finance Decision No. P.S.3044/135/15.10.1986.
84. The processing of said movable goods (usually raw materials or semi finished products) for a non-resident principal by an entrepreneur in Greece is considered a supply of services (rather than a supply of goods), and if these goods are exported, said services are exempt.
However, this exemption presupposes that said services are performed on behalf of a taxable person, having the right to a deduction or refund of the tax. In that case, said services shall be subject to tax in the country of importation of the goods. On the contrary, if said services are performed on behalf of persons without the right to deduction or refund, e.g. private persons, then said services shall be taxed in Greece where performed and the goods shall be exempt when re-imported into their country of origin (Art. 19(1)(b);see also supra text under heading 28(b)): see also Stamatiou supra note 16, pp. 141-142. Moreover, these goods destined for said finishing work, whether acquired in Greece or imported temporarily tor this purpose, are exempt from tax by virtue of the provisions of Arts. 20(i)(b). 21(1)(a) and 21(l)(b)(dd) (see text under headings 29(b). 30(a) and 30(b)(iv)).
85. Minister of Finance Decision No. P.6788/642/7.10.1986.
86. However, this exemption does not apply to services supplied by travel agencies acting in the name and for the account of travellers, insofar as they are performed in another EEC country. Therefore, this supply of services is subject to tax: on the contrary, if they are performed in a

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cooperatives and associations of such cooperatives to taxable persons for export."

30. Exemptions to international traffic of goods (Art. 21)

The following acts are exempt:
(a) the importation of goods placed in transit status or temporary importation status (Regulation 3599/827 EEC);
(b) the importation of goods placed under one of the following special customs arrangements:
 (i) temporary storage within the customs area (Directive 68/312/EEC);
 (ii) customs-free zone (Directive 69/75/EEC);
 (iii)cus'toms warehousing (Directive 69/74/EEC);
 (iv) finishing work performed on goods for re-exportation or adaptation services in the sense of Directive 69/73/EEC, Arts. 1-39 of L.1402/1983 (effective as of 1 January 1981), and Regulation 1999/85/EEC (effective as of 1 January 1987);
(c) the delivery of goods (including relevant services thereon) while they are in a transit or temporary importation status, on the condition that they re main in the same status thereafter;
(d) the delivery of goods (including relevant services thereon) snipped or carried to the places men tioned in text under heading 30(b) above; and
(e) the delivery of goods and supply of services,carried out in the places mentioned in text under heading 30(b) above while the goods are under any one of said special customs arrangements.

31. Special exemptions (Art. 22)

The following transactions are exempt:
(a) the delivery and importation of vessels and means of navigation, e.g. tow-boats, floating cranes, offshore drilling platforms, etc., destined for use in commercial navigation or fishing, or other com mercial exploitation in general, or for scrapping or for use by the armed forces and the State, as well as of objects and materials to be incorporated into or used therefore, but excluding private boats used for pleasure or sport;
(b) the delivery and importation of aircraft destined for use by the armed forces and the State in gener al, or for commercial exploitation by airline com panies engaged in transport or for scrapping, as well as of objects and materials to be incorporated into or used therefore, but excluding private air craft used for pleasure or sport;
(c) the delivery and importation of fuels, lubricants, combustibles and other goods destined for the fuel ling and provisioning of the vessels, means of navi gation and aircraft exempted under (a) and (b) hereinabove. In the case of sea-going vessels of the domestic merchant marine and fishing vessels within Greek territorial waters, the exemption is limited to fuels and lubricants;
(d) the chartering of vessels and means of navigation and the leasing of aircraft, with the exception of private boats and aircraft for pleasure or sport, except for professional use, i.e. exploitation. This exemption also covers construction, conversion, repair and maintenance work on the means exempted under (a) and (b) hereinabove, as well as on the objects incorporated therein or used for their exploitation;
(e) the supply of services to meet the immediate needs of said vessels, means of navigation and aircraft, such as towage, pilotage, mooring, rescue (sal vage), expert opinion, use of ports and airports, including services relating to the cargoes of these means of transport;
(f) the delivery and importation of goods, as well as the supply of services, which are carried out:
 (i) within the framework of the arrangements for diplomatic and consular relations,
 (ii) for the needs of international organizations recognized by Greece or their members under the conditions set forth in their constituent treaties or the agreements for their establishment in Greece,
 (iii)within the framework of NATO for use by the armed forces of the other Member States and the accompanying civilian staff;[88]
(g) the delivery of gold to the Bank of Greece, as well as the importation of gold by it; and
(h) the air, rail and sea transport of persons to and from the country as well as ancillary services closely connected thereto.[89]

VII. DEDUCTION - REFUND OF TAX

32. Right to deduction of tax (Art. 23(1))

The VAT credit mechanism grants a taxable person who charges VAT on his outputs (supplies of goods and services) the right to offset against his output VAT the VAT he has paid for goods and services supplied to him by other taxable persons plus the VAT paid on imported goods (input credit), e.g. for materials, services, professional expenses, fixed assets and capital/investment goods. However, this deduction is allowed on the condition (and to the extent) that said goods and services are used for the carrying out of taxable

non-EEC country, then they are exempt. DEC, p. 24. Said ad hoc services rendered by travel agencies as brokers for a commission should not be confused with those rendered under Art. 35 (special scheme), whereby the agencies provide "a package of services" acting in their own name vis-a-vis the travellers.
In the latter case, the fee (payment) received from the travellers by the agency, provided that it has its place of business in Greece, shall be subject to the special tax treatment provided therein, whether the travellers' destination is another EEC country or a third country. DEC. p. 24.
87. Minister of Finance Decisions Nos. P.6784/638/7.10.1986 and P.6789/643/7.10.1986.
88. Minister of Finance Decisions Nos. P.6790/644/7.10.1986. P.6791/645/7.10.1986 and P.7089/703/22.10.1986.
S9. This exemption covers the whole price of the ticket, irrespective of the distance travelled within the country, i.e. an exception to the rule of Art. 12(2)(b); see text under heading 20.1.1(b). MP of 15 July 1986, p. 29(1: see also Stamatiou, op. cit.. pp. 157-158.

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transactions, i.e. VAT paid on inputs shall be deducted only to the extent that these inputs are used for said purpose.

33. Special deduction cases (Art. 23(2))

A right of deduction is also granted to a taxable person insofar as the goods or services are used for:
(a) the carrying out abroad of the economic activities referred to in Art. 4, provided they would have been eligible for deduction of tax had they occurred in Greece;
(b) the supply of services exempt from tax as listed under heading 27(i) above;
(c) the acts exempt from tax as listed under headings 29,30 (Paras, (a), (c), (d) and (e)) and 31 above;*
(d) the transactions exempt from tax as listed under heading 27, Paras, (a), (b), (c), (e), (f) and (g) above, i.e. insurance and banking transactions, when the recipient is established outside the Community or when these transactions are directly linked with goods intended to be exported to a country outside the Community; and
(e) the disposal of small business gifts and samples (see text under heading 11.2(b) above).

34. Time of deduction (Art. 23(3))

The right to deduct the input tax arises at the time the output tax becomes chargeable on the supplier of goods and services or the importer, according to the provisions of Arts. 13 and 14 (see text under headings 16 and 17 above).

In practice, however, entrepreneurs are obliged to remit the tax to the State at regular time periods as per Art. 31 (see text under heading 37.1 below), and therefore said right of deduction is exercised in the same periods, i.e. the entrepreneur calculates the tax collected from his customers in a given tax period, then deducts the input tax he paid in that period and the difference is to be remitted to the State.[91]

35. Disallowance of credit (Art. 23(4))

No right to deduct is allowed for VAT paid on the following expenditures:
(a) purchase or import of manufactured tobacco products;
(b) purchase or import of alcoholic beverages not used in taxable activities;
(c) receptions, entertainment and hospitality in general;
(d) accommodation, food, drinks, transport and entertainment for the staff or representatives of the enterprise; and
(e) purchase or importation for private use of passenger cars up to nine (9) seats (including the driver's seat), of motorcycles and motorized bicycles, of boats and aircraft intended for private recreation or sport, as well as related maintenance and operating expense (including fuel).[42]

36. Exercise of the right to deduct (Art. 25)

To exercise his right to deduct, the taxable person must:
(a) with respect to goods or services supplied to him, hold an invoice (or equivalent document);
(b) with respect to imported goods, hold the appropriate import documents specifying him as importer and stating the tax paid thereon.

In the case of payment of the tax by the persons liable therefor, as provided in Art. 28(l)(b) and (c),[93] the right of deduction may be exercised when said persons possess documents establishing: (i) the performance of taxable transactions in Greece by a taxable person established abroad,[94] and (ii) the payment of the respective tax.

Where for a given tax period the amount of deduction exceeds the amount of tax due, the excess credit is carried forward for deduction in the following period, except when refunded according to Art. 27 (Arts. 25(3) and 31(2); see text under heading 38 below).

37. Adjustment of deductions (Art. 26)

All deductions made are subject to adjustment as follows:

37.1. Adjustments in general (Art. 26(1)):

The initial deduction made on the basis of the preliminary returns submitted according to Art. 31(l)(a) (every month or every three months, as the case may be) is subject to final adjustment on submission of the annual settlement return as required by Art. 31(l)(b), i.e. within two months from the end of the respective fiscal year, where:
(a) the deduction was higher or lower than that to which the taxable person was entitled;
(b) after submission of the preliminary returns changes occurred in the factors used to determine the amount to be deducted, such as price reductions or cancellation of purchases.

90. Said acts are granted a "total exemption" from VAT since, on the one hand, the acts themselves are exempt from tax and, on the other, the taxable person is entitled to deduct the respective input VAT.
91. See Georgakopoulos, p. 130.
92. This provision is not applicable to the listed means of transport, when they are destined for commercial use such as sale, leasing or transport of persons for a fare (Art. 23(4)(e)).
93. In the case of the supply of goods or services, said persons are:
- the agent of a taxable person established abroad or the recipient of the goods or services (when there is no such agent). This provision covers basically the cases listed in Art. 12(2) (see text under heading 20.1.1).
the recipient of the services as per Art. 12(3) (see text under heading 20.1.2).
94. According to Art. 29(l)(f), a taxable person permanently established abroad is obliged, prior to carrying out any taxable transactions in Greece. to appoint an agent (basically in the cases of Art. 12(2); see supra note 93). This appointment takes place through the submission of a copy of the relevant power of attorney to the tax office that is competent for the income taxation of the agent. Said copy must be duly legalized by the Greek Consulate of the country of establishment of said foreign taxable person.

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However, no adjustment is made in the case of destruction, loss or theft of property when duly proved or confirmed, nor in the case of granting inexpensive gifts and samples for business purposes (see text under heading 11.2(b) above).

37.2. Investment goods (Art. 26(2)):[95]

In the case of investment capital goods, the tax deduction is subject to adjustment over a 5-year period, commencing in the year in which said goods were first used. The adjustment is made annually equal to Vs of the tax imposed on the goods, according to subsequent years' variations in the deduction entitlement in relation to the one for the year in which the goods were acquired or manufactured.[96]

In the event of delivery of the above goods during the said 5-year adjustment period, these goods are treated as if they had still been used for business purposes by the taxable person until expiration of that period (fictional use of remaining time, including the year of delivery). In turn, a distinction is made as to whether the delivery of said goods is taxed or exempt (Art. 26(3)). In the former case, the goods are presumed to be used exclusively in taxable activities for the remaining years (in which case no adjustment is justified), while in the latter, the goods are presumed to be used exclusively in non-taxable activities (in which case a single adjustment shall be made, in the year of delivery, for the whole period of adjustment still to be covered).

38. Refund of the tax (Art. 27)

In certain cases where the input tax exceeds the output tax, the excess credit is refunded to the taxable person as follows:

38.1. Refund in general (Art. 27(1)):

The tax is refunded in the following cases, when:
(a) the tax has been paid to the State without being due, or
(b) the tax cannot be carried forward for deduction in the next fiscal year, e.g. ceasing of business activities, or
(c) the tax concerns acts provided for in Arts. 20 (see text under heading 29 above), 22 (see text under heading 31 above) and 23(2)(a) and (d) (see text under heading 33 above), i.e. in the cases where the entrepreneur conducts, in total or in part, tax-exempt transactions with the right of deduction or refund of the tax (see text under heading 33 above), and therefore he is not in a position to offset the input tax paid because of the non-existence or limited amount(s) of output tax, or
(d) the tax relates to capital goods as provided for in Art. 26(4) (see text under heading 37.2 above), i.e. basically refers to newly established enterprises as well as to expansion of business activities, in which case major purchases of capital goods take place and as a result it is not usually possible to offset, in whole or in part, the input tax paid.

38.2. Refund to foreign entrepreneurs (Art. 27(2)):

In addition, taxable persons established in another EEC country are entitled to receive refund(s) for the tax charged on movable goods and services supplied to them by other taxable persons, or on importation of goods in Greece to the extent to which said goods and services were used for:
(a) taxable activities whose place of taxation is abroad and for which they would have a right of deduction, had said activities been carried out within the country;
(b) the following transport services (and ancillary works closely connected therewith) which are carried out in Greece and are exempted fr,om the tax:
(i) international air and sea transport of persons (see text under heading 31(h) above); (ii) transport of goods destined for export (see text under heading 29(e) above); (iii)transport of goods placed in special temporary exemption status (see text under headings 29(e) and 30(a)-(b) above); (iv) transport of imported goods to their first place of destination within the country, insofar as the value of these services is included in the taxable base on importation (see text under heading 27(i)); and
(c) the taxable acts of Art. 12(3) (see text under headings 20.1.2 and 36 above).

38.2.1. Conditions for the refund (Art. 27(3)):
The following two conditions are required for the said refund:
(i) the taxable person may not have the seat of his economic activity or a permanent establishment through which said activity is exercised in Greece, nor in the absence thereof, may his residence or abode be in Greece, and
(ii) no acts, other than those of instances (b) and (c) listed under heading 38.2 above,[97] may have been carried out in Greece during the period stated in heading 38.2.2 below.

38.2.2. Time limits (Art. 27(4)):
Said refund may not cover a period of less than three (3) months or more than one (1) year, and it shall be made by the competent tax authority within six (6) months from the date of submission of the relevant request.

95. For the purposes of the present Law, "investment goods" are considered: (i) the corporeal goods owned by the enterprise and which are placed by the enterprise in permanent use (their value, however, does not include repair and maintenance expenses), and (ii) rights to use patents, copyrights, commercial or industrial trade marks and other similar rights, provided that they serve more than one use (Art. 26(4)).

96. A de minimis rule is established with respect to capital goods, that is if the tax difference resulting from the annual final adjustment does not exceed 10,000 Drs. then it is not payable to the State, nor deductible from the output tax (Art. 26(5)).

97. In case where a foreign entrepreneur carries out such acts, then he becomes subject to tax in Greece and instead of a refund he is entitled to a deduction of the tax (see Stamatiou, op. cit., p. 182). Lastly, it should be noted that Paras. 2. 3 and 4 of Art. 27 have been included in the Law in accordance with the provisions of the 8th Directive (79/1072/EEC).

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