



EUROPEAN UNION
DELEGATION TO MONTENEGRO

Cooperation Section
The Head of Cooperation

Guidelines to Contractors on VAT/customs exemption for EU-funded projects in direct and centralized management which are implemented by the EU Delegation/Commission

Update - February 2017

1) General information about the legal basis and procedures for tax exemption and project registration

List of major reference documents:

- International treaties:

IPA I (2007-2013)

Framework Agreement between the Government of Montenegro and the Commission of the European Communities signed on 05/11/2007, as reflected in the General Conditions Applicable to European Union-Financed Contracts for External Actions (Article 26), ("Official Gazette of Montenegro", International Agreements 01/08)

IPA II (2014-2020)

Framework agreement between Montenegro represented by the Government of Montenegro and the European Commission on the arrangements for implementation of Union financial assistance to Montenegro under the Instrument for pre-accession assistance (IPA II) signed on 26/02/2015 ("Official Gazette of Montenegro", International agreements 05/15), Article 28.

- National legislation:

- Montenegrin Law on Value Added Tax ("Official Gazette GoM" No. 65/01, 12/02, 38/02, 72/02, 21/03, 76/05, 16/07, 73/10, 40/11, 29/13, 9/15)
- Rulebook on the Implementation of Law on Value Added Tax ("Official Gazette GoM" No. 65/02, 13/03, 59/04, 79/05, 16/06, 64/08, 30/13 and 32/15)
- Rulebook on the procedure of exemption from payment of VAT of investors and delivery of certain products and services ("Official Gazette GoM" No. 17/15 and 68/15).
- For Customs exemptions applicable national law is Customs Law ("Official Gazette GoM" No. 07/02, 38/02, 72/02, 21/03, 31/03, 29/05, 66/06, 21/08, 1/11, 40/11, 28/12, 62/13 and Instruction on procedure of exercising the right to customs exemptions ("Official Gazette GoM" No 22/2003)
- As for excise, the Excise law ("Official Gazette GoM" no. 65/01, 12/02, 76/05, 76/08, 50/09, 78/10, 40/11, 61/11, 28/12, 38/13, 45/14, 8/15) and the Rulebook on the manner of exercising the right to excise and VAT exemptions for diplomatic and consular representation offices and international organisations ("Official Gazette GoM" no.74/04) apply.

Authorities in charge

The Rulebook (Rulebook on the VAT exemption procedure for investors and delivery of certain goods and services, Official gazette of Montenegro, no. 17/15 of 17/04/2015, 68/15 of 08/12/2015) issued by the Ministry of Finance, stipulates the procedure and identifies key administrative authorities involved in the exemption procedure:

Article 13e

"VAT exemptions for the supply of goods and services in accordance with the international treaty, or a grant agreement

Importer, supplier of products, service provider or beneficiary of donations (an international organization or a legal/natural person, or other form of business organization) in order to exercise the rights to exemption from VAT, as provided by international treaties, shall enclose the certificate issued by the competent authority responsible for the area in which the project is being implemented.

Supplier of goods or services referred to in Paragraph 1 of this article is considered to be a works contract signatory for the implementation of projects in the area of construction.

Certificate referred to in Paragraph 1 of this article shall be submitted to the Tax Authority for registration, within five days of the date of issuance.

VAT exemption is provided on the total amount of the contract."

(unofficial translation).

The competent authority responsible for the area in which the project or action is being implemented, referred to Article 13e, should be understood as the line Ministry in charge of the project or action.

Please note that the Rulebook may be updated by the Ministry of Finance, therefore please check their website regularly for up to date information.

(Formerly: The key administrative authorities involved processing the granting of taxes, duties and VAT exemption are defined by the "Official Gazette of RoM", No. 34/03).

Project registration and general tax exemption certificate:

In practice, the line Ministry issues a general tax exemption certificate for the whole project, and this certificate is complemented by separate statements – certificates issued by the Delegation for individual invoices. The procedure of project registration with the line Ministry is in two steps:

Step 1)

The Contractor submits a request to the Ministry of Foreign Affairs (hereinafter: MFA) to register the project in its database/records. The Contractor should provide all the necessary information to MFA, including copies of contracts signed with the Delegation, partnership agreements etc. For more information on registration, please contact the General Directorate for Consular Affairs of the MFA.

Step 2)

Once the MFA issues the certificate of project registration, the Contractor submits to the line Ministry a request for VAT exemption certificate, and encloses supporting documents including copy of the registration certificate obtained from MFA.

Practically the exemption takes effect once the Contractor obtains the Tax Certificate issued by the relevant Ministry (Art.13e of the Rulebook).

That Certificate should include:

- The name of international agreements or contracts.
- Number and date of the Registration certificate issued by the Department for Consular Affairs and Diaspora of MFA stating that the contract is in force.
- Provision of an agreement or a contract, which provides for exemptions.
- The value of the contract.
- Specification of the goods to be imported or procured in the country and services to be used in the country.
- Date and place of issuance of the certificate.
- Reference number, authorized by signature and stamp of the authority which issued the certificate.

To be noted: the procedure may change, as it is prescribed by the local legislation. The Delegation has no authority to intervene in these matters and its role is merely to inform the Contractor of this obligation. Consequently, the Delegation cannot be held accountable for any delays in deliveries caused by either untimely issuance of tax exemption certificate by the line Ministry or its failure to issue the certificate.

2) VAT/customs exemption procedure managed by the EU Delegation

The Contractors are obliged to send request for tax/customs/excise¹ exemptions accompanied by (pro forma) invoices to the EU Delegation for approval.

After verifying that invoices are fully justified within the scope of the EU funded project, the Delegation issues certificates – declarations related to supply of specific goods/services procured under the EU-funded projects.

Filling in the template for tax, customs and excise exemptions (Annex 1):

Below are the instructions on the completion of the template for tax/customs exemption requests:

- insert your company logo (letterhead = memo, at which company name and contact details are visible. Preferably use the letterhead you normally use in any external communication)
- address it to: Delegation of the European Union to Montenegro
Cooperation Section, for the attn. of. relevant Programme Manager (please enter name)
- indicate the total amount, amount of VAT (If applicable) and the net amount (amount excluding VAT) in the enclosed table
- enter project title in the footer as well.

¹ Excise exemptions apply for fuel only

- The request needs to be dated, stamped and signed by an authorized person
- If you opt for email submission of tax exemption requests, please enter in the subject line contract title and number. In addition, please provide us with details of a contact person for VAT (if other than a sender). We suggest that you create an electronic signature in which all the relevant details (name, surname, position, telephone and email address) are provided.

The request needs to be accompanied by an appropriate pro forma invoice (where applicable) or an invoice (for seminars, conferences and the like where it is not possible to know the exact amount before the event is finished). The (pro forma) invoice needs to have a number, date signature and/or stamp and net amounts clearly indicated.

The request can be hand delivered or sent by fax or email to the responsible Programme Manager (PM) for approval. Once the request is approved by the responsible PM and the Head of Cooperation, the certificates are prepared and forwarded to the Ministry of Foreign Affairs for final approval and co-signature.

Once the certificates have been processed by the Ministry of Foreign Affairs, the Delegation informs the Contractor, who shall collect 2 originals from the Delegation; **one original should be given to the supplier of goods and services, and the other has to be sent to the Tax Authority.** A copy of the VAT exemption certificate is to be kept in the project file.

Please also be reminded of the following principles:

Specific for supply contracts:

For **supply contracts** which include importation from abroad, Contractors (if they are not established in Montenegro) are advised to authorise a shipping agent to clear the customs/VAT on their behalf. It is important to emphasise that the costs of hiring a shipping agent should be borne by the Contractor. Please make this clear to the shipping agents so that they send invoices for their services directly to your company.

In order to assist you in this regard please find below for reference web links of some local agents that are acquainted with the procedures and documents required:

<http://www.milsped.com/milsped-montenegro-doo/>

<http://www.zetatrans.co.me/en/>

Here is the link for contact details of various shipping agents in Montenegro as well:

http://ktgt.me/Kontakti_m_ag.htm

However, it is the Contractor' responsibility to assess and select a suitable agent, considering the shipping mode (road, railway, sea), nature and complexity of the supplies to be imported.

Note 1: If you plan multiple deliveries the EUD will have to issue separate sets of exemption documents for each of them; consequently, you will have to submit separate requests for each planned delivery.

Note 2: Please note that for the importation of some perishables or chemicals, pharmaceuticals or medical equipment you may need to obtain special licences from the competent national authorities. Please enquire about the procedure well ahead of the planned delivery date.

Note 3: If an item within a supply contract has to be repaired or replaced within the warranty period, the Contractor needs to notify the Delegation of this temporary exportation and re-importation. The Delegation will issue a separate certificate on temporary exportation, and the Contractor needs to provide the following details:

Item no.	Quantity	Description	Serial no.	Unit Price (€)	Dimensions	Weight

Once the item has been repaired/replaced, it will have to be re-imported into Montenegro and a separate set of exemption certificates issued again. Therefore the Contractor needs to submit a separate tax/customs exemption request for re-importation of the item concerned.

Specific for works contracts:

- For **works contracts**, tax exemption certificates are issued following the approval of individual IPCs (Interim payment Certificates) for payment by the relevant Programme Manager

3) General remarks and recommendations:

- The requests should be admitted for approval when an individual **invoice equals or exceeds a value of € 50, with VAT included**.
- As a model of good practice and in order to reduce administrative workload, you are kindly advised to **collect invoices issued by the same supplier**, list them in a single request, submit them altogether and fit as many as possible into one certificate
- In projects where there are lead applicants and partners, please note that according to the local legislation only lead applicants (contract signatories) may submit requests for exemption. This does not mean that partners are not exempted, but it means that lead applicants should submit requests for exemption also on behalf of their partners. The requests need to be submitted at all times on the letterhead of the contract signatory and consequently, all the certificates will be issued in the name of the contract signatory. Under IPA II, subcontractors are also eligible to be exempted.
- The Contractors are advised before making a purchase to request a **pro-forma invoice** from their suppliers whenever possible, and submit it for tax/customs exemption. However this is not advised for the supply of services (e.g. seminars, media events etc.), as the total amount may not correspond to the initial calculation, therefore you are kindly asked to submit only the final invoice for approval.
- Local suppliers are aware of the procedure and will also urge for the certificates to be issued as soon as possible. Therefore **it is essential that you highlight to suppliers that the requested goods/services are project-related and VAT exempted**, so that they clearly indicate in the invoice project reference – title and number, amounts excluding VAT (net amount), the amount of VAT and total amount. They also should be reminded that they will be paid only the net amount.
- The requests are processed sequentially and priority is given to the importation of goods from abroad, when the delivery is scheduled for a fixed date. Usually it takes up to three weeks to obtain the tax exemption certificates, however this should be taken only indicatively, depending on the number of received requests, and the availability of the responsible person in the EU Delegation and in the Ministry of Foreign Affairs. The Delegation informs the Contractor by email when the certificates are fully processed and approved by the Ministry of Foreign Affairs, and the Contractor is obliged to collect them (in duplicate original) from our

reception. You are hence kindly asked to clearly indicate your contact details in the header of the request so that we inform you the moment the certificates become available.

For general VAT queries please contact Marija Markovic: marija.markovic@eeas.europa.eu

Specific for regional projects:

If the project is regional (covering different countries of the Western Balkans, contract signed with the Commission, e.g. DG NEAR, directly), the request needs to be filled in, scanned and sent (along with the corresponding invoice) by email to the responsible Programme Manager in Brussels (or in another Delegation), CC to Nina Markovic: nina.markovic@eeas.europa.eu

- Following the approval of the costs by the Programme Manager (by email), the certificates are issued in the same manner as for the projects managed by the EU Delegation to Montenegro.



André Lys

List of annexes:

Annex 1: Tax exemption request (template)

ANNEX I: Template of tax exemption request

Delete the heading above, this sentence and all part highlighted in grey below on the form to submit

COMPANY LOGO

(memo, company letterhead with contact details, address etc.)

Project Title: < insert name >

Contract Number: < insert number > (not tender/EuropeAid no. but the CRIS no. as indicated in the Special Conditions)

Attn: EU Delegation to Montenegro

Cooperation Section

Programme Manager: < enter name >

TAX EXEMPTION REQUEST N°...

Dear Sir / Madam,

Please provide us with the certificates for the tax exemptions (Customs + VAT) for the attached Invoice.

Supplier	Invoice No.	Invoice Date	Description	Amount (net)	VAT	Customs	Total amount
...

Podgorica, < date >

Signature and stamp



Project title : < insert name and reference number >

An EU-funded project managed by the Delegation of the European Union to Montenegro