



## Instructions on how to implement the procedure for exercising the right to exemption from value added tax for projects financed by the European Union (EU)

### Implementing the procedure for exercising the right to exemption from value added tax for projects financed by the EU in decentralized/indirect/shared management

*Exemption from payment of VAT for projects under the programmes financed by the EU, in the framework of decentralized/indirect/shared management, shall be carried out in accordance with the Rulebook on value added tax exemptions for investors and supply of certain products and services ("Official Gazette of Montenegro", 17/15 of 17 April 2015, 68/15 of 12 August 2015).*

An overview of the programmes funded by the EU and competent authorities responsible for implementing the procedure for VAT exemptions is shown in the table below:

| <b>Decentralized / Indirect / Shared Management</b>           |              |  |
|---|--------------|--|
| <i>Programme</i>  |              | <i>Competent Authority</i>   |
| <b>Financial Perspective 2007-2013</b>                        |              |  |
| IPA Component III   |              |  |
| Operational Programme "Regional Development 2012-2013"        |              | Directorate of Public Works  |
| IPA Component IV  |              |  |
| Operational Programme "Human Resources Development 2012-2013" |              | Directorate for Finance and Contracting the EU Assistance, Ministry of Finance |
| IPA Adriatic Programme  | Cross-Border | Directorate General for European Funds, Ministry of European Affairs           |
| <b>Financial Perspective 2014-2020</b>                        |              |  |

| <b>Decentralized / Indirect / Shared Management</b> |                  |  |   |
|---|------------------|--|---|
| <b>Programme</b>                                    |                  |  | <b>Competent Authority</b>  |
| Annual  | National         | Action Programme for Montenegro for the year 2014 (CAP 2014)     | Directorate for the Financing and Contracting of the EU Assistance, Ministry of Finance/Directorate of Public Works <sup>1</sup>  |
| Multi-Annual  | Action Programme | on Education, Employment and Social Policy (2015-2017)           | Directorate for the Financing and Contracting of the EU Assistance , Ministry of Finance/Directorate of Public Works <sup>2</sup> |
| Bilateral   | CBC              | Programme Montenegro - Albania (2014-2020)                       | Directorate for the Financing and Contracting of the EU Assistance , Ministry of Finance  |
| Bilateral   | CBC              | Programme Montenegro - Kosovo (2014-2020)                        | Directorate for the Financing and Contracting of the EU Assistance , Ministry of Finance  |
| Bilateral   | CBC              | Programme Serbia - Montenegro (2014-2020)                        | Directorate General for European Funds, Ministry of European Affairs  |
| CBC   | Programme        | Interreg-IPA Croatia-Bosnia and Herzegovina-Montenegro 2014-2020 | Directorate General for European Funds, Ministry of European Affairs  |
| CBC   | Programme        | Interreg-IPA Italy-Albania-Montenegro 2014-2020                  | Directorate General for European Funds, Ministry of European Affairs  |
| Interreg  | V-b              | Adriatic-Ionian Cooperation Programme 2014-2020 (ADRION)         | Directorate General for European Funds, Ministry of European Affairs  |
| Danube  | Transnational    | Programme 2014-2020  | Directorate General for European Funds, Ministry of European Affairs  |
| Interreg  | V-b              | Mediterranean Cooperation Programme (MED) 2014-2020              | Directorate General for European Funds, Ministry of European Affairs  |

## **Implementing the procedure for exercising the right to exemption from payment of value added tax for projects financed by the EU in centralized/direct management**

Exemption from payment of VAT for projects under the programmes funded by the EU, in the framework of centralized/direct management, will be implemented by the Delegation of the European Union to Montenegro (DEU), in accordance with the instructions available at <http://www.delmne.ec.europa.eu/code/navigate.php?Id=3589>

<sup>1</sup> For service contracts, contracts for the supply of goods, donations and twinning contracts, the Competent Authority is the Directorate for Financing and Contracting of the EU Assistance, and for works contracts the Competent Authority is the Directorate of Public Works.

<sup>2</sup> For service contracts, contracts for the supply of goods, donations and twinning contracts, the Competent Authority is the Directorate for Financing and Contracting of the EU Assistance, and for works contracts the Competent Authority is the Directorate of Public Works.

An overview of the programmes funded by the EU which are under the jurisdiction of DEU is provided in the table below:

| <b>Centralized /<br/>Indirect<br/>Management</b>                             | <b>Competent Authority– Delegation of European<br/>Union to Montenegro (DEU)</b> |
|--|--|
| <b>Financial Perspective 2007-2013</b>                                       |  |
| IPA Component I (Assistance to Transition and Institutional Building)        |  |
| Bilateral CBC Programme Albania - Montenegro                                 |  |
| Bilateral CBC Programme Bosnia and Herzegovina- Montenegro                   |  |
| Bilateral CBC Programme Montenegro-Kosovo                                    |  |
| Bilateral CBC Programme Croatia - Montenegro                                 |  |
| Bilateral CBC Programme Serbia - Montenegro                                  |  |
| <b>Financial Perspective 2014-2020</b>                                       |  |
| Annual National Action Programme for Montenegro for the year 2014 (CAP 2014) |  |
| Bilateral CBC Programme Bosnia and Herzegovina- Montenegro (2014-2020)       |  |

## **Legal basis for implementing the procedure for exercising the right to exemption from value added tax**

### **Financial Perspective 2007-2013**

**Decentralized and shared management** - Under Article 26 (Rules on taxes, customs duties and other fiscal charges) of the Law on Ratification of the Framework Agreement between the Government of Montenegro and the Commission of the European Communities on the rules for cooperation concerning EC financial assistance to Montenegro in the framework of the implementation of the Instrument for Pre-Accession Assistance (IPA) (Official Gazette of Montenegro, International Treaties 01/08), service contracts, supplies or works carried out by contractors registered in Montenegro or by foreign contractors, which are funded by the Community, shall not be subject to the payment of value added tax (VAT), or shall be exempt from VAT for services rendered, goods supplied and/or works in Montenegro.

### **Financial Perspective 2014-2020**

**Indirect and shared management** - Under Article 28 (Rules on taxes, customs duties and other fiscal charges) of the Law on Ratification of the Framework Agreement between Montenegro represented by the Government of Montenegro and the European Commission on the rules for the implementation of the Union's financial assistance to Montenegro in the framework of the Instrument for Pre-Accession Assistance (IPA II) (Official Gazette of Montenegro, International Treaties 05/15), contractors from the Union shall not be subject to VAT payment for any service provided and/or goods supplied and/or works under the contract funded by the Union. Procurement of goods or provision of services or performance of works by a contractor for another contractor from the Union shall also be exempt from paying VAT to the extent to which goods, services and works are related to the objectives and activities under the contract funded by the Union.

The possibility of exemption from VAT that is provided for the Law on Ratification of the Framework Agreement between the Government of Montenegro and the Commission of

the European Communities on the rules for cooperation concerning EC financial assistance to Montenegro in the framework of the implementation of the Instrument for Pre-Accession Assistance (IPA) and the Law on Ratification of the Framework Agreement between Montenegro represented by the Government of Montenegro and the European Commission on the rules for the implementation of EU financial assistance to Montenegro in the framework of the Instrument for Pre-Accession assistance (IPA II), identified and national Law on VAT. Article 25(1) item 12 and Article 28(1) item 12 of the Law on Value Added Tax ("Official Gazette of Montenegro", 65/01, 12/02, 38/02, 72 / 02, 21/03, 76/05, 04/06 and "Official Gazette of Montenegro", 16/07, 73/10, 40/11, 29/13, 09/15), provides for the possibility of exemption from the payment of VAT on supplies of goods or services, when stipulated under an international treaty, or donation agreement, that no tax shall be paid from the received funds. The above provision is further specified in the Rulebook on the procedure for exempting investors and supply of certain products from value added tax ("*Official Gazette of Montenegro*", 17/15 of 17 April 2015, 68/15 of 8 December 2015).

Concerning contracts financed from the EU funds, the Directorate for Financing and Contracting of the EU Assistance and Directorate of Public Works act as the Contracting Authorities in the framework of decentralized or indirect management and shall be responsible for contracts/projects implemented in the framework of relevant programmes. In this respect, Contracting Authorities, on the one hand, shall be responsible for making payments to contractors/grant beneficiaries (in accordance with the submitted invoices/ payment applications and as scheduled under the contract), and on the other hand they shall be responsible for implementing procedures for the exemption from paying VAT.

Concerning the contracts financed from the EU funds, Directorate General for European Funds of the Ministry of European Affairs shall coordinate the programmes implemented under indirect and shared management, for which the Contracting Authority is located outside of Montenegro, and shall be responsible for implementing the VAT exemption procedures for the relevant contracts/projects.

***In connection with the above, exemption from VAT shall be made on the total invoiced amount, including part of the EU funds and co-financing. Exemption from VAT shall be made for each invoice, and not at the level of the contract.***

**The procedure for exemption from VAT shall be under the jurisdiction of the Directorate of Finance and Contracting of the EU Assistance (CFCU) and the Directorate of Public Works (DPW)**

The procedure for exemption from VAT shall be conducted in accordance with the contract implementation schedule. In this regard, the contractor / grant beneficiary will apply for exemption from VAT (a form is attached to the Instruction, as Annex 1) for each invoice individually or, in the case of works, for each interim payment certificate approved by the Supervisory Authority and Contracting Authority.

**In the case of programmes for which the Contracting Authority is located in Montenegro, which are implemented under decentralized/indirect management, CFCU or DPW shall be the Competent Authorities for the VAT exemption procedure, as the Contracting Authorities for the relevant programmes. In this regard, at the time of the invoice/ application for payment to the Contracting Authority, the contractor/grant**

beneficiary, as supporting documents, shall submit the invoices for a given period of time, which have to be previously exempt from VAT.

In the case of interim payment certificates for works, an interim payment certificate approved by the Supervisory Authority and the Contracting Authority VAT shall be exempt from VAT, not each invoice individually for the given period, except in special situations when it has to be done before the submission of interim payment certificate.

Exemption from VAT is done in the way that a pro forma invoice (or invoice in situations where the value could not be previously determined due to the nature of the service provided) will be submitted by the contractor/grant beneficiary, enclosed with the application for exemption from VAT. Pro forma invoice shall include the costs for the service provided/ works carried out/ goods purchased without VAT, the amount of VAT and the total amount (i.e. the amount of the costs for the service provided/ works carried out/ goods purchased, including VAT).

This pro forma invoice, in addition to the foregoing, shall contain the following information:

- Date of issue,
- Number,
- Name of the contract,
- Contract Number,
- Name of the contractor or issuer of the pro forma invoice,
- Address of the contractor or issuer of the pro forma invoice,
- TIN of the contractor or issuer of the pro forma invoice,
- Bank account number of the contractor or issuer of the pro forma invoice.

Based on the submitted application for exemption from VAT, Competent Authority shall prepare a certificate for exemption from payment of VAT, to be submitted to the contractor/ grant beneficiary and tax authority within 5 days.

Competent Authority for the issuing of certificates shall keep records of issued certificates, or the delivery of products, provision of services, execution of works, and implementation of grants subject to tax exemption (especially by type, quantity, value of goods and services).

In addition, the contractor/grant beneficiary (importer, supplier of products, service provider or user of grants) shall keep separate records (by type, quantity, value, etc.) on the delivery of products or services, execution of works or implementation of grants covered by the tax exemption.

## **Procedure for VAT exemption under the jurisdiction of the Directorate General for European Funds (MEA)**

Procedure for VAT exemption shall be conducted in accordance with the contract implementation schedule. In this regard, the contractor can submit an application for exemption from VAT (the form is attached to the Instruction, as Annex 1) for each invoice individually or, in the case of works, for each interim payment certificate approved by the Supervisory Authority and the Contracting Authority.

**In the case of programmes for which the Contracting Authority is outside of Montenegro, which are implemented as part of shared /indirect management,** Competent Authority for the VAT exemption procedure is the Directorate General for European Funds. In this connection, after signing the agreement, the project beneficiary has to apply to the Directorate General for Consular Affairs at MFA to register the donation agreement, which is the basis for subsequent issue of VAT exemption certificate. The Directorate-General for Consular Affairs shall issue a certificate of agreement registration.

In the case of interim payment certificates for works, interim payment certificates approved by the Supervisory Authority and the Contracting Authority shall be exempted from VAT, not each invoice individually for the given period, except in special situations when it has to be done prior to the submission of interim payment certificate.

Exemption from VAT is done in the way that a pro forma invoice (or invoice in situations where the value could not be previously determined due to the nature of the service provided) will be submitted by the grant beneficiary, enclosed with the application for exemption from VAT. Pro forma invoice shall include the costs for the service provided/ works carried out/ goods purchased without VAT, the amount of VAT and the total amount (i.e. the amount of the costs for the service provided/ works carried out/ goods purchased, including VAT).

This pro forma invoice, in addition to the foregoing, shall contain the following information:

- Date of issue,
- Number,
- Name of the contract,
- Contract Number,
- Name of the contractor or issuer of the pro forma invoice,
- Address of the contractor or issuer of the pro forma invoice,
- TIN of the contractor or issuer of the pro forma invoice,
- Bank account number of the contractor or issuer of the pro forma invoice.

Based on the submitted application for exemption from VAT, Competent Authority shall prepare a certificate for exemption from payment of VAT, to be submitted to the contractor/ grant beneficiary and tax authority within 5 days.

Competent Authority for the issuing of certificates shall keep records of issued certificates, or the delivery of products, provision of services, execution of works, and implementation

of grants subject to tax exemption (especially by type, quantity, value of goods and services).

In addition, the contractor/grant beneficiary (importer, supplier of products, service provider or user of grants) shall keep separate records (by type, quantity, value, etc.) on the delivery of products or services, execution of works or implementation of grants covered by the tax exemption.

## Annex 1 - Application for exemption from VAT

### <COMPETENT AUTHORITY>

Attn: <xxxxxxxxxxxxxxxx>

Programme: <xxxxx>

Name of contract: <xxxxxx>

Contract Number: <xxxxxx>

Name of contractor: <xxxxxx>

Implementation Start Date: <Day / Month / Year>

Implementation End Date: <Day / Month / Year>

Pursuant to Article 26 (Rules on taxes, customs duties and other fiscal charges), the Law on Ratification of the Framework Agreement between the Government of Montenegro and the Commission of the European Communities on the rules for cooperation concerning the EC financial assistance to Montenegro in the framework of the implementation of the Instrument for Pre-Accession Assistance (IPA ) (Official Gazette of Montenegro, International agreements 01/08)/ Article 28 (Rules on taxes, customs duties and other fiscal charges), the Law on Ratification of the Framework Agreement between Montenegro represented by the Government of Montenegro and the European Commission on the rules for the implementation of the Union's financial assistance to Montenegro under the Instrument for Pre-Accession Assistance (IPA II) (Official Gazette of Montenegro, International Treaties 05/15) <keep the relevant provision depending on the management model>, <name of contractor / grant beneficiary> submits:

### APPLICATION FOR EXEMPTION FROM PAYMENT OF VAT

| Supplier | Invoice Number | Date of Invoice | Brief Description | Amount (net) | Amount of VAT | Total Amount |
|----------|----------------|-----------------|-------------------|--------------|---------------|--------------|
|          |                |                 |                   |              |               |              |
|          |                |                 |                   |              |               |              |
|          |                |                 |                   |              |               |              |
| Total    |                |                 |                   |              |               |              |

Place:

Date: <Day/Month/Year>

Signature and Stamp

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## Annex 2 - Certificate of Exemption from VAT



### <COMPETENT AUTHORITY>

Programme: <xxxxxx>  
Name of Contractor: <xxxxxx>  
Name of Contract: <xxxxxx>  
Contract Number: <xxxxxx>

Implementation Start Date: <Day / Month / Year>  
Implementation End Date: <Day / Month / Year>

Pursuant to Article 26 (Rules on taxes, customs duties and other fiscal charges), the Law on Ratification of the Framework Agreement between the Government of Montenegro and the Commission of the European Communities on the rules for cooperation concerning the EC financial assistance to Montenegro in the framework of the implementation of the Instrument for Pre-Accession Assistance (IPA ) (Official Gazette of Montenegro, International Treaties 01/08) / Article 28 (Rules on taxes, customs duties and other fiscal charges) of the Law on Ratification of the Framework Agreement between Montenegro represented by the Government of Montenegro and the European Commission on the rules for the implementation of the Union's financial assistance to Montenegro under the instrument for Pre-Accession assistance (IPA II) (Official Gazette of Montenegro, International Treaties 5/15) <keep the relevant provision depending on the management model>, of the Law on Value Added Tax ("Official Gazette of the Republic of Montenegro" 65/01, 12/02, 38/02, 72/02, 21/03, 76/05, 04/06 and "Official Gazette of Montenegro", 16/07, 73/10, 40/11, 29/13, 09/15) and the Rulebook on the procedure for exempting investors and the delivery of certain products and services from value added tax, ("Official Gazette of Montenegro", 17/15 of 17 April 2015, 68/15 of 8 December 2015) <Competent Authority> issues:

### CERTIFICATE OF EXEMPTION FROM VAT

The present case involves the <services / procurement of goods> according to the pro forma invoice/invoices of the company <company name>, <city>, no. <xxxxxx>, from <Date/Month/Year>, in the amount of <xxx, xx €> (net amount) for the requirements of <contractor's name>, under the contract <name of the contract> (number of contracts <xxxxxxx>) which is funded by the European Union, and exemption from value added tax is provided in the sense of Article 25(1) item 12 and Article 28(1) item 12 of the Law on Value Added Tax ("Official Gazette of Montenegro", 65/01, 12/02, 38/02, 72/02, 21/03, 76/05, 04/06, and "Official Gazette of Montenegro" 16/07, 73/10, 40/11, 29/13, 09/15) and Article 13a of the Rulebook on the procedure

for exempting investors and delivery of certain products and services from value added tax ("Official Gazette of Montenegro", 17/15 of 17 April 2015, 68/15 of 8 December 2015).

| Supplier | Invoice Number | Date of Invoice | Brief Description | Amount (net) | Amount of VAT | Total Amount |
|----------|----------------|-----------------|-------------------|--------------|---------------|--------------|
|          |                |                 |                   |              |               |              |
|          |                |                 |                   |              |               |              |
|          |                |                 |                   |              |               |              |
| Total    |                |                 |                   |              |               |              |

Number: <xxxxx>  
 Podgorica, <Day/Month/Year>

<XXXXXXXXXXXXXXXXXX>

Delivered (to the applicant):  
 - Tax authority  
 - Archives