

AMENDMENT IN APPLICATION OF 0% VAT RATE FOR THE PROVISIONING OF DRILLING RIGS

Introduction

Based on the VAT legislation, the 0% VAT rate applies to the supply of goods for the provisioning of certain ships. This is also laid down in the Table II Decree. Recently, the State Secretary of Finance announced an amendment of this Decree. The amendment means that the 0% VAT rate cannot be applied for the provisioning of specific drilling platforms.

In this newsletter, we first briefly elaborate on the conditions for applying the 0% VAT rate and then discuss the amendment of the Decree.

Application of 0% VAT rate

A condition for the application of the 0% VAT rate is that the goods need to be used for the provisioning of ships that are used for more than seventy percent for navigation on the high seas. The high seas are defined as "all parts of the sea that do not belong to the Dutch territorial or internal waters". Hereafter, we will speak of "seagoing vessels".

It can be assumed that ships that have been assigned a so-called IMO number, qualify as seagoing vessels. Suppliers who supply goods for the provisioning of ships that do not have such a number, must prove by other means that the ship is used for navigation on the high seas.

In addition to the foregoing condition, the seagoing vessels must be used for certain activities. This could either be (i) the transport of passengers for a remuneration or (ii) activities related to industry, trade or fishery.

Navigation is a secondary function

The Decree contains an approval that vessels for which navigation is incidental to their main function, can also qualify as seagoing vessels. The main function of the vessel must then refer to the use of the vessel for the purpose of an industrial, commercial or fishing activity.

Specifically, these must be vessels that, because of that main function, are only used in the (wind) offshore industry. Examples of these vessels are dredgers and ships used to lay pipelines on the seabed. Floating drilling rigs are also mentioned as such vessels.

Amendment of Decree

The State Secretary has now amended the Decree in response to European case law. The amendment means that as of January 1, 2023, certain drilling rigs no longer qualify as vessels used for the navigation on the high seas.

These are "jack-up drilling rigs that are placed on the seabed with pillars attached to the rig, to be used as a static platform".

This means that the supply of goods for the provisioning of such drilling platforms will no longer be subject to the 0% VAT rate as of January 1, 2023.

Please note that the 0% VAT rate can still be applied for the provisioning of floating drilling rigs.

Supply of seagoing vessels

Separate from the discussed amendment, it is worth mentioning that the 0% VAT rate also applies to the supply of the seagoing vessels used for the activities described in the fourth indention.

Conclusion

When certain conditions are met, the 0% VAT rate can be applied for the supply of goods used for the provisioning of drilling rigs. As of January 1, 2023, this will no longer apply for supplies related to the provisioning of a drilling platform used as a static platform.

Do you have questions about the application of the 0% VAT rate in your situation? Our maritime services team will be happy to assist you with your tax and legal questions. In addition, this [link](#) will take you directly to our section of the website specifically aimed at shipping companies.



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