

Proposal to extend VAT adjustment rules to 'expensive services' has enormous impact

The VAT adjustment scheme is likely to be extended to cover the refurbishment of real estate and other so-called 'expensive services' such as software. It will then take longer for the VAT deduction on these to become final and, in the event of a change of use, VAT deducted in the past may have to be repaid. The new rules also offer the prospect of a VAT refund, which was initially precluded. This follows from a draft proposal published by the Ministry of Finance for [public consultation](#) purposes. The proposed amendment has an enormous impact on many companies and institutions, especially if they are subject to VAT exemptions. The administrative burden will increase because investments have to be followed for longer.

The current VAT adjustment rules

'Expensive services' are used over a longer period, are usually capitalized on the balance sheet and consequently have the characteristics of a capital good. Dutch VAT rules currently include an adjustment scheme for capital goods. Movable property is followed for five years, immovable property for ten years. However, no VAT adjustment scheme currently applies to 'expensive services'. According to the Ministry of Finance, the current scheme therefore calls for tax planning that is detrimental to the treasury. In order to prevent VAT-driven behavior and to remove any uncertainty arising from case law of the Court of Justice of the European Union, the Ministry of Finance wishes to amend the VAT adjustment scheme for 'expensive services'.

The proposal

Based on the draft proposal of the Ministry of Finance published for internet consultation, the VAT use of 'expensive services' will have to be followed for an extended period from January 1, 2018. According to the proposal, 'expensive services' relating to immovable property will have to be followed for ten financial years, while 'expensive services' that do not relate to such property must be followed for five financial years. The proposal defines 'expensive services' as services that the VAT taxable person usually writes down for personal and corporate income tax purposes.

It is currently unclear whether transitional rules will be introduced. Therefore, it is not yet known whether the proposed amendment will also affect the VAT deduction of 'expensive services' purchased and/or completed in 2017 or earlier.

The Ministry of Finance offers interested parties the opportunity to respond to the proposed amendment.

Practical consequences

Due to the extension of the adjustment scheme, the VAT use of 'expensive services' is also relevant in the financial years after first use. A change in the VAT use of the 'expensive services' leads to a (proportionate) correction of the VAT deducted in the past. If the 'expensive services' are used within the adjustment period for more VAT-taxed purposes than in the year of first use, part of the VAT that originally was not deducted can still be recovered by the taxpayer. On the other hand, if the 'expensive services' are used within the adjustment period for fewer VAT-taxed purposes than in

the year of first use, part of the VAT that originally was deducted will still have to be repaid to the Dutch tax authorities.

Compared with the current scheme, the introduction of the adjustment of 'expensive services' may entail both an advantage and a disadvantage for the taxpayer. For example, if a taxpayer rents out a refurbished property VAT-exempt during the first three years and subsequently rents it out subject to VAT, the current legislation does not provide for an additional entitlement to a refund of the refurbishing VAT. This is disadvantageous for the taxpayer. Following the introduction of the proposed amendment, the taxpayer will each year be able to reclaim 10% of the refurbishing VAT from the tax authorities during the remaining years of the VAT adjustment period (approximately seven years). However, the opposite may also be the case. A change from VAT-taxed rental to VAT-exempt rental results in an annual repayment obligation after amendment of the adjustment rules.

In addition to refurbishing services in respect of real estate, the amendment also has consequences for software services and licensing fees, for example.

The extension of the adjustment scheme will also lead to additional administrative obligations. It will be necessary to assess in each individual case whether or not the VAT adjustment rules apply to a purchased service. If that is the case, it will have to be properly accounted for.

The tax advisors of Meijburg & Co's Indirect Tax Group would be pleased to help you identify the possible impact of the proposed amendment on your business. Our advisors can also be of assistance during the internet consultation.

Feel free to contact one of them or your regular contact for more information.

Meijburg & Co
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