UNIT. 4. VALUE ADDED TAX (VAT)

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Regulatory Framework

COUNCIL DIRECTIVE 2006/112/EC 28-11-06 on the Common System of Value Added Tax

- Act 37/1992, of 28 December – **VATL**

- **VAT Regulation** (Royal Decree 1624/1992, 29 December)

1. GENERAL ASPECTS OF VAT (I)

1.1. CHARACTERISTICS AND OPERATING MECHANISM

DETERMINATION OF ADDED VALUE

NATURE AND CHARACTERISTICS

DEFINITION and CHARACTERISTICS:

INDIRECT TAX ON CONSUMPTION, SUBJECTING ALL ECONOMIC TRANSACTIONS CARRIED OUT IN THE TERRITORY OF APPLICATION

FROM A LEGAL POINT OF VIEW: INDIRECT, REAL, OBJECTIVE, INSTANTANEOUS (EVEN IF IT IS SETTLED PERIODICALLY). HARMONISED TAX (PRINCIPLE OF NEUTRALITY)

BY THE WAY IT IS APPLIED: MULTI-PHASE TAX ON ADDED VALUE. IT IS NEUTRAL

MECHANISM FOR APPLYING THE TAX

THE CONSUMPTION LIEN THROUGH THE TRANSMISSION IS **TECHNICALLY ARTICULATED IN VAT THANKS TO**:

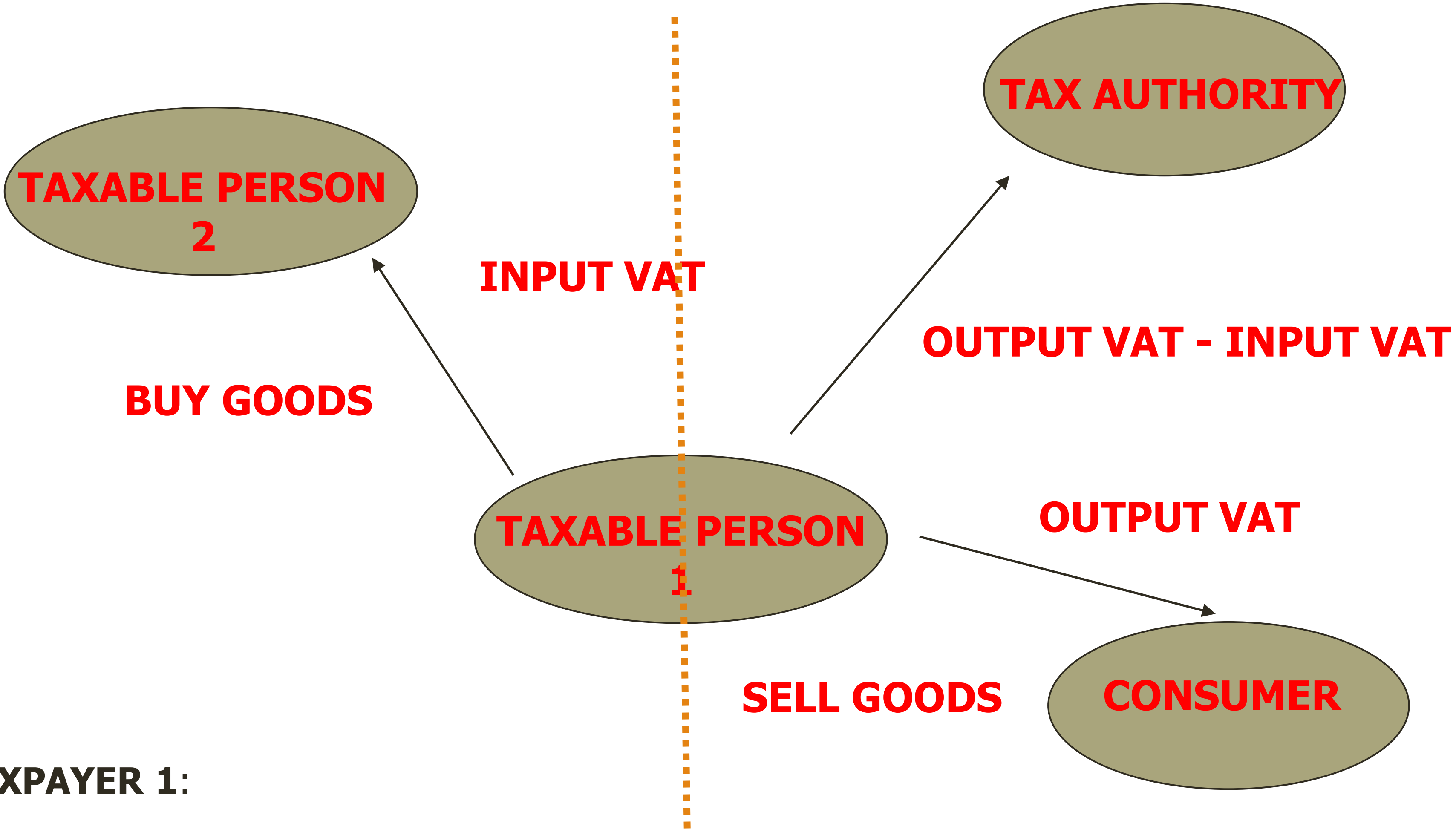
- Effect of VAT on the operations carried out by the taxable person
- Deduction of input VAT on purchases of goods and services related to the subject operations carried out

INPUT VAT (Purchase of goods and services)	→	**TAXABLE PERSON** (business owner or professional)	→	**OUTPUT VAT** (deliveries of goods and provision of services)

VAT SETTLEMENT (quarterly or monthly) **= OUTPUT VAT - INPUT VAT**

THE ADDED VALUE IS NOT DETERMINED OPERATION BY OPERATION. A SET OF OPERATIONS IS INCLUDED IN EACH SETTLEMENT.

VAT: MECHANICAL APPLICATION



TAXPAYER 1:

- DELIVERY OF GOODS OR A PROVISION OF SERVICES IN FAVOUR OF THE CONSUMER OR ANOTHER BUSINESS OR PROFESSIONAL

- ANOTHER TAXABLE PERSON SUPPLIES GOODS OR SERVICES TO TAXPAYER 1

Company / consumer	Purchase price	INPUT VAT	Added value	Sale price (purchase price + added value)	OUTPUT VAT (21% OF sale price)	Sale price + OUTPUT VAT	VAT in TREASURY (OUTPUT VAT - INPUT VAT)
Tropic shafts			1200	1200	252	1200+252 = 1,452	252
Furniture SA	1200	252	2400	3600	756	3,600+756 = 4,356	756-252 = 504
Modern Furniture	3600	756	900	4500	945	4500+945 = 5,445	945-756 = 189
Final consumer	4,500	945					Total: 252 + 504 + 189 = 945

1.2 TAXABLE EVENT

INTRODUCTION: TYPE OF TAXABLE EVENT

VAT INVOLVES MULTIPLE TAXABLE EVENTS

Three types:

- INTERNAL OPERATIONS: SUPPLY OF GOODS AND SERVICES LOCATED IN THE T.A.T (ARTICLE 4, VATL)
- INTRA-EU ACQUISITIONS OF GOODS (ARTICLE 13, VATL).
- IMPORTS (ARTICLE 17, VATL)

1.2.1 DELIVERIES OF GOODS AND PROVISION OF SERVICES

DEFINITION (article 4 VATL)

GOODS AND SERVICES SUPPLIED BY PROFESSIONALS FOR VALUABLE CONSIDERATION, whether regularly or occasionally, as long as they are conducted in the COURSE OF BUSINESS OR PROFESSIONAL ACTIVITIES

1.2.2 INTRA-COMMUNITY ACQUISITIONS (ARTICLE 15.1, VATL)

INTRA-COMMUNITY ACQUISITION OF GOODS: Acquisition of the right to dispose of movable tangible goods that are dispatched or transported to the tax jurisdiction from another Member State. This can occur through the transferor, the acquirer themselves, or a third party acting on behalf of any of these parties.

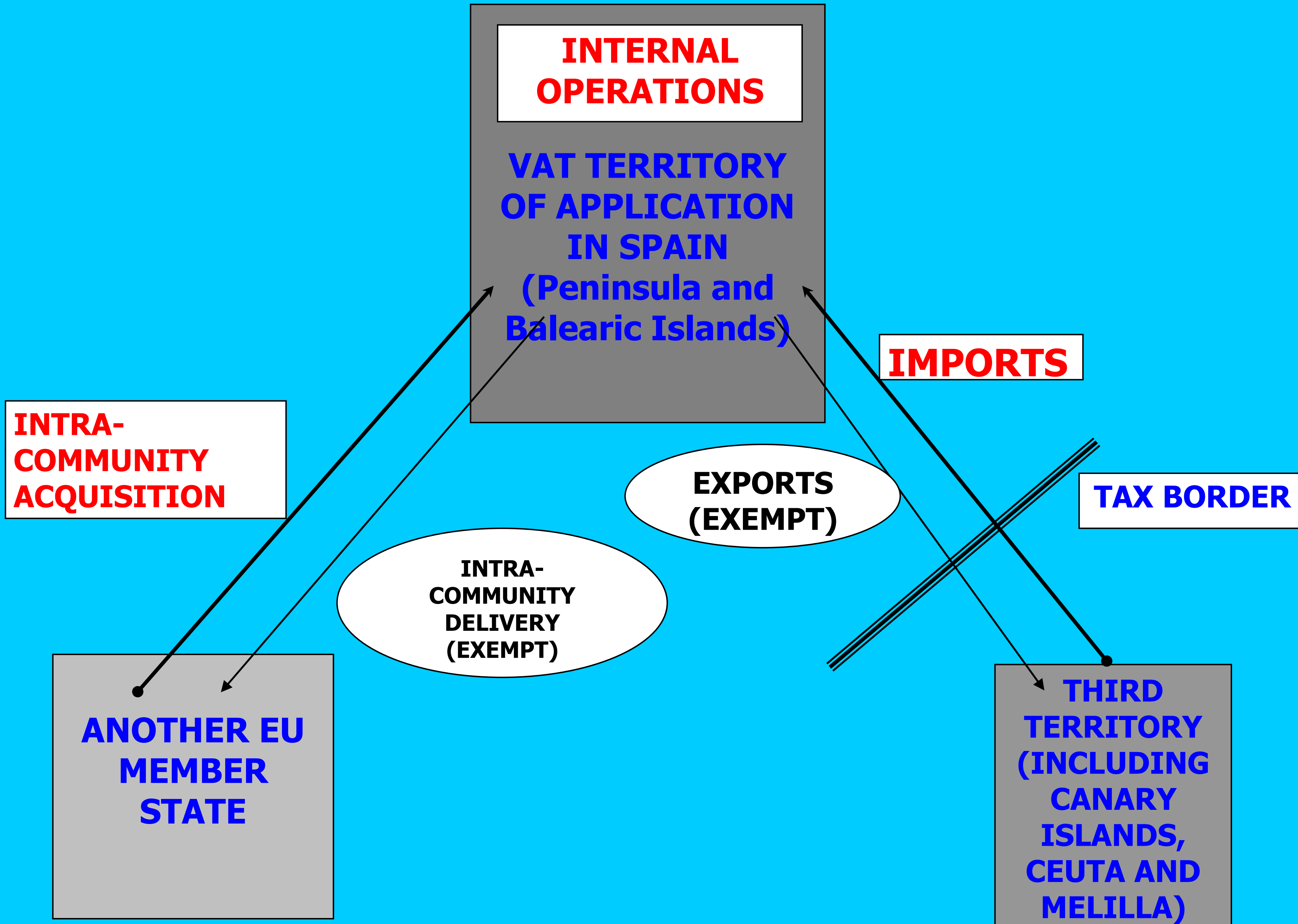
→

IN GENERAL, THE TRANSFEROR AND THE ACQUIRER MUST BE BUSINESS OWNERS OR PROFESSIONALS acting within the framework of their business or professional activity.

1.2.3 IMPORTS

DEFINITION: The entry of goods into Spain from a third territory, as outlined in Articles 17 and 18 of VAT legislation.

IMPORTS OCCUR WHEN THE GOOD THAT ENTERS IN A COUNTRY IS A NON-COMMUNITY GOOD, BECAUSE IT CANNOT BE CONSIDERED AS ORIGINATED IN THE EU, OR IS A *NON-COMMUNITY* GOOD.


INTERNAL OPERATIONS
VAT TERRITORY OF APPLICATION IN SPAIN (Peninsula and Balearic Islands)
IMPORTS
INTRA-COMMUNITY ACQUISITION
EXPORTS (EXEMPT)
TAX BORDER
INTRA-COMMUNITY DELIVERY (EXEMPT)
ANOTHER EU MEMBER STATE
THIRD TERRITORY (INCLUDING CANARY ISLANDS, CEUTA AND MELILLA)

1.3 SCOPE OF APPLICATION (ARTICLE 3, VATL)

THE **TERRITORY OF APPLICATION OF VAT IN SPAIN** INCLUDES THE PENINSULA AND BALEARIC ISLANDS.

THE CANARY ISLANDS, CEUTA and MELILLA ARE NOT INCLUDED.

2. INTERNAL OPERATIONS: SUPPLY OF GOODS AND SERVICES (TAXABLE EVENT AND EXEMPTIONS)

2.1 TAXABLE EVENT: INTERNAL OPERATIONS (ARTICLE 4. VATL 1)

1. **SUPPLY OF GOODS AND SERVICES**
2. **PERFORMED BY BUSINESSES AND PROFESSIONALS** (whether regularly or occasionally)
3. **FOR VALUABLE CONSIDERATION**
4. **CARRIED OUT IN THEIR BUSINESS OR PROFESSIONAL ACTIVITY**

REQUIREMENTS FOR TAXATION

THE OPERATION MUST BE CARRIED OUT BY A BUSINESS OR PROFESSIONAL according to article 5, VATL

THE OPERATION MUST BE CARRIED OUT IN THE COURSE OF A BUSINESS OR PROFESSIONAL ACTIVITY - article 4, VATL 2

THE OPERATION MUST BE CARRIED OUT FOR VALUABLE CONSIDERATION - article 4, VATL 1

THE OPERATION MUST BE CARRIED OUT IN SPANISH T.A.T - articles 68-74, VATL

THE OPERATION MUST NOT BE CONSIDERED EXEMPT OR NOT SUBJECT TO THE TAX (to bear it effectively) articles 7 and 20, VATL

MUST BE CONSIDERED A DELIVERY OF GOODS OR A PROVISION OF SERVICES - articles 8-12, VATL

CONCEPT OF BUSINESS OWNER OR PROFESSIONAL (ARTICLE 5, VATL)

BUSINESS OWNERS OR PROFESSIONALS for VAT purposes (article 5, VATL 2):

- **THOSE WHO CARRY OUT BUSINESS OR PROFESSIONAL ACTIVITIES THAT IMPLY THE MANAGEMENT ON THEIR OWN ACCOUNT OF MATERIAL AND/OR HUMAN PRODUCTION FACTORS WITH THE PURPOSE OF INTERVENING IN THE PRODUCTION OR DISTRIBUTION OF GOODS OR SERVICES.**

THOSE WHO ACQUIRE THIS STATUS *OPE LEGIS* due to the type of operations they conduct, in accordance with various technical, opportunistic, or substantive considerations of the tax:

- **COMMERCIAL COMPANIES**, when they carry out an economic activity
- **PROPERTY LESSORS, URBAN DEVELOPERS, PROMOTERS AND BUILDERS**
- **THOSE WHO MAKE INTRA-COMMUNITY DELIVERIES OF NEW MEANS OF TRANSPORT**

DELIVERIES OF GOODS (ARTICLE 8, VATL)

DEFINITION: The transmission of the right to dispose of corporate assets, including when it occurs through the transfer of titles representing these assets

ARE DELIVERIES OF GOODS, IN PARTICULAR, **THOSE LISTED IN ARTICLE 8, VATL.**

ASSIMILATED OPERATIONS TO DELIVERIES OF GOODS (ARTICLE 9, VATL): THEY DO NOT CONSTITUTE GENUINE DELIVERIES OF GOODS, BUT THEY ARE SIMILAR FOR VAT APPLICATION PURPOSES DUE TO SEVERAL REASONS. EXAMPLE: CERTAIN SELF-CONSUMPTIONS

PROVISION OF SERVICES (ARTICLE 11, VATL)

- **DEFINITION**: EVERY OPERATION SUBJECT TO VAT THAT IS NOT A DELIVERY OF GOODS, INTRA-COMMUNITY ACQUISITION, OR IMPORTATION OF GOODS (NEGATIVE DELIMITATION)
- IN PARTICULAR, **THOSE LISTED IN ARTICLE 11, VATL**: TRANSPORT, CATERING SERVICES, HOSPITALISATION SERVICES, ETC.
- **ASSIMILATED OPERATIONS TO PROVISION OF SERVICES** (ARTICLE 12, VATL): SOME SELF-CONSUMPTION OF SERVICES

2.2 NON-SUBJECTION SCENARIOS (ARTICLE 7, VATL)

DEFINITION

- **THE ASSUMPTIONS OF NON-SUBJECTION, UNLIKE EXEMPTIONS, FALL OUTSIDE THE SCOPE OF THE TAXABLE EVENT.** Therefore, they are not part of the taxable event.

  - THERE IS NO VAT CHARGE
  - TAXABLE PERSONS ARE NOT DEPRIVED OF THE RIGHT TO DEDUCT INPUT VAT

CERTAIN NON-SUBJECT ASSUMPTIONS (ARTICLE 7, VATL)

- **CERTAIN TRANSMISSIONS OF ALL BUSINESS OR PROFESSIONAL ASSETS**
- **FREE DELIVERIES OF SAMPLES OF GOODS WITHOUT ESTIMATED COMMERCIAL VALUE (PROMOTIONAL AIM)**
- **FREE DEMONSTRATION SERVICES, PROVIDED FOR THE PROMOTION OF BUSINESS OR PROFESSIONAL ACTIVITIES**
- **DELIVERY OF ADVERTISING OBJECTS WITH A COST FOR CUSTOMERS UNDER €90.15**
- **SERVICES PROVIDED IN DEPENDENCY REGIME (LABOUR OR ADMINISTRATIVE)**
- **SERVICES PROVIDED BY WORKING MEMBERS OF COOPERATIVES**
- **OPERATIONS FOR PUBLIC ENTITIES THROUGH TAX COMPENSATION (WITH EXCEPTIONS)**

2.3 EXEMPTIONS IN INTERNAL OPERATIONS (ARTICLES 20-25, VATL)

CHARACTERISTICS OF EXEMPTIONS

The exempted event implies the performance of the taxable event; however**, it does not create a tax obligation** because it is neutralized by the exemption.

- The non-existence of liens imply **THE ABSENCE OF OUTPUT VAT**

- ALSO THE LOSS OF THE RIGHT TO DEDUCT INPUT VAT

- Furthermore, the existence of exempt and non-exempt operations requires the application of the proportionate deduction rule.

BUT

- **THERE ARE CERTAIN EXEMPTIONS THAT CAN BE WAIVED** (second and subsequent delivery of buildings, provided the buyer is a business owner or professional and is entitled to a full deduction of the tax incurred): article 20. VATL 2
- and, **TECHNICAL EXEMPTIONS** generate the right to deduct the INPUT VAT (exports and intra-community deliveries of goods)

IMPORTANT ASSUMPTIONS OF EXEMPTIONS

FOR REASONS OF PUBLIC INTEREST: health, education, social security, social assistance services, socio-cultural activities, and public postal services.

- **DELIVERIES OF GOODS LINKED TO THEM**

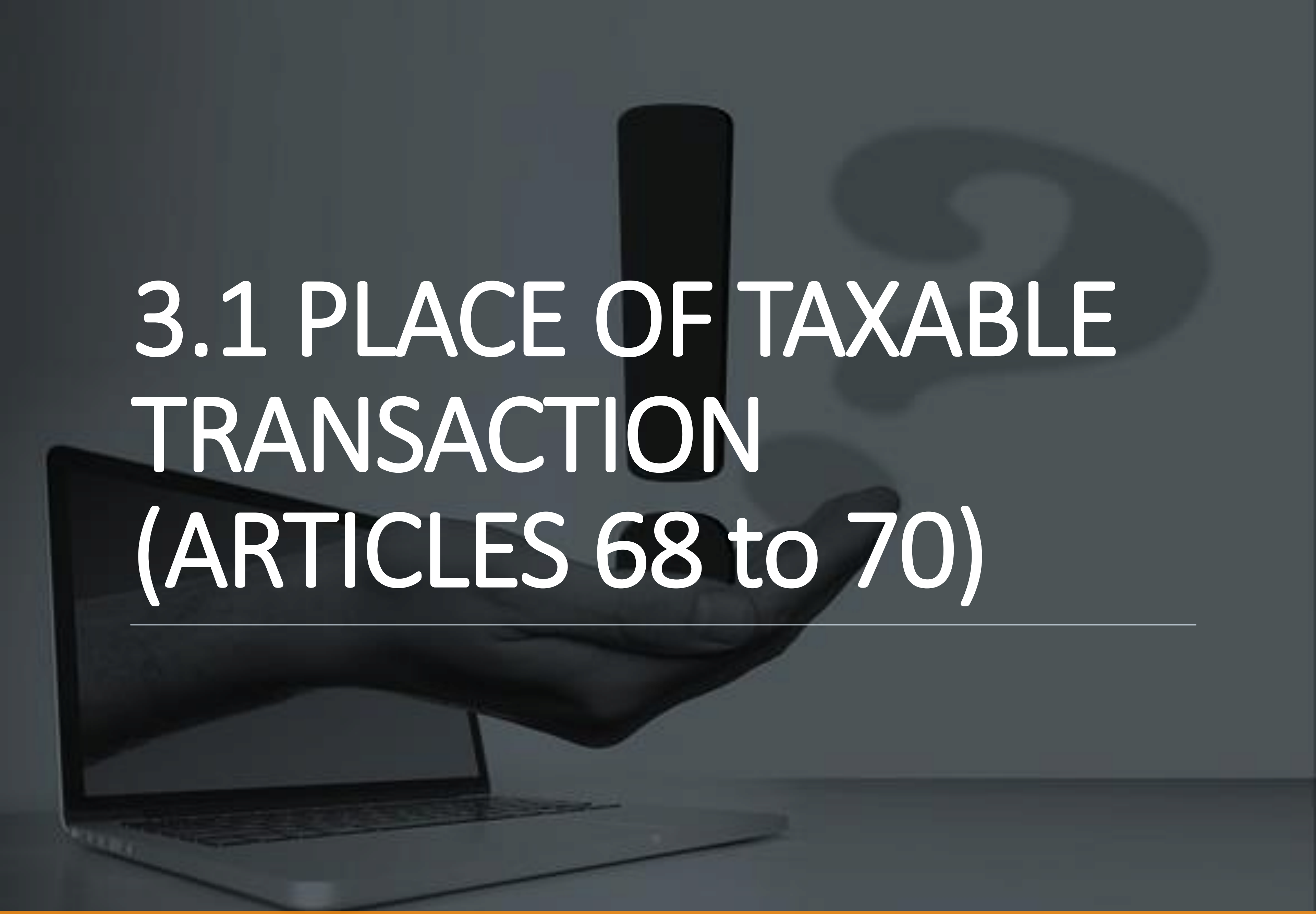
EXEMPTIONS FOR ECONOMIC REASONS: insurance, reinsurance and capitalization operations, financial operations, some real estate operations.

EXEMPTIONS FOR CULTURAL REASONS

<u>TECHNICAL EXEMPTIONS</u>: lotteries, betting and games, exports and intra-community delivery of goods

SUPPLY OF GOODS AND SERVICES (PLACE OF PERFORMANCE, TAXABLE PERSON AND CHARGEABLE EVENT [accrual])

3.1 PLACE OF TAXABLE TRANSACTION (ARTICLES 68 to 70)



IMPORTANCE OF DETERMINING THE PLACE OF PERFORMANCE:

ONLY THE DELIVERY OF GOODS AND SERVICES <u>RENDERED IN THE T.A.T.</u> ARE TAXED FOR VAT

THEREFORE, THESE ARE POINTS OF CONNECTION WITH THE TERRITORY (VAT IS A TERRITORIAL TAX)

DELIVERY OF GOODS:

GENERAL RULE (articles 68. 1 and 2.1)

- **SUPPLIES OF GOODS THAT ARE NOT DISPATCHED OR TRANSPORTED SHALL BE DEEMED TO HAVE BEEN MADE IN THE T.A.T.** when the goods are placed at the purchaser's disposal therein.

IF THE GOOD IS **DISPATCHED OR TRANSPORTED, THE DELIVERY IS CONSIDERED MADE IN THE T.A.T.** WHEN SHIPMENT OR TRANSPORT BEGIN IN THE SAME. INTRA-COMMUNITY EXPORT OR DELIVERY EXEMPTED

DELIVERY OF GOODS:

SPECIAL RULES (article 68, App. Two et seq.)

DIFFERENT ASSUMPTIONS: deliveries of goods that require installation or assembly, sale of real estate, sales on board of ships and aircraft, and distance sales

E.G.: **DISTANCE SALES BY BUSINESSES FROM ANOTHER MEMBER STATE (article 68.3) ARE UNDERSTOOD TO HAVE BEEN CARRIED OUT IN SPAIN WHEN:**

- the **SHIPMENT OR TRANSPORT** is carried out by the seller or on his behalf.

- the **PURCHASERS ARE PERSONS THE INTRACOMMUNITY ACQUISITIONS OF WHICH THEY ARE NOT SUBJECT** (taxable persons in special regime for agriculture or carrying out operations that do not give a right to deduction, legal persons that do not act as businesspeople or professional individuals)

- **CERTAIN GOODS ARE NOT INVOLVED** (new means of transport, goods subject to installation or assembly, goods under the special regime of used goods)

- **THE TOTAL AMOUNT OF THE SALES** (excluding VAT), with destination to the T.A.T, effected by the businesspeople or professionals of OTHER member states, that has surpassed the quantity of €35.000 the previous year, or the current year, if taxation in destination was chosen from the first euro.

PROVISION OF SERVICES (ARTICLES 69 and 70, VATL)

GENERAL RULE (article 69):

- THE **PLACE WHERE THE HEADQUARTERS OF THE ECONOMIC ACTIVITY** OF THE PROVIDER IS LOCATED
- OR IN THE **PERMANENT ESTABLISHMENT** FROM WHERE THE ACTIVITIES ARE CARRIED OUT
- **ALTERNATIVELY, IN THE DOMICILE** OF THE TAXABLE PERSON

SPECIAL RULES (article 70) SOME ASSUMPTIONS

- **SERVICES RELATED TO REAL ESTATE** LOCATED IN THE TERRITORY OF APPLICATION
- **CERTAIN SERVICES** PROVIDED MATERIALLY IN THE TERRITORY OF APPLICATION (CULTURAL, ARTISTIC, SPORTS, etc.)
- **ELECTRONIC SERVICES**
- **TELECOMMUNICATION SERVICES, RADIO AND TELEVISION BROADCASTING**

3.2CHARGEABLE EVENT (accrual)

GENERAL RULE

- **VAT IS AN INSTANT TAX**
- **THEREFORE, IT IS ACCRUED EACH TIME A SUBJECT TRANSACTION IS PERFORMED**
- **CHARGEABLE EVENT (accrual) IS IMPORTANT FOR:**
  - **TAX RATE** (article 90.2, VATL)
  - **INPUT VAT DEDUCTIONS** (article 98.1, VATL)
  - The determination of **OPERATIONS THAT MUST BE INCLUDED IN THE TAX RETURN** for each period (article 164.1.6, VATL)

CHARGEABLE EVENT (accrual): INTERNAL OPERATIONS

DELIVERIES OF GOODS (article 75, 1.1):

- **GENERAL RULE**: **AT THE MOMENT WHEN THE GOODS ARE DELIVERED TO THE PURCHASER** OR, IF APPROPRIATE, WHEN THE OPERATIONS ARE CARRIED OUT IN ACCORDANCE WITH LAW.
- **EXCEPTION:** IN CASE OF CONTRACTS OF SALE WITH RESERVATION OF DOMAIN OR SUSPENSIVE CONDITION, LEASE-SALE OR LEASE WITH BINDING TRANSFER CLAUSE: **THEN IT WILL BE THE MOMENT AT WHICH THE PROPERTY IS TAKEN INTO POSSESSION**

PROVISION OF SERVICES (Article 75.1.2):

- **GENERAL RULE:** WHEN THEY ARE LENT, EXECUTED, OR PERFORMED
- **EXCEPTION:** IF PERFORMANCE OF WORKS WITH CONTRIBUTION OF MATERIALS: WHEN IT IS AVAILABLE TO THE OWNER

SPECIAL RULES

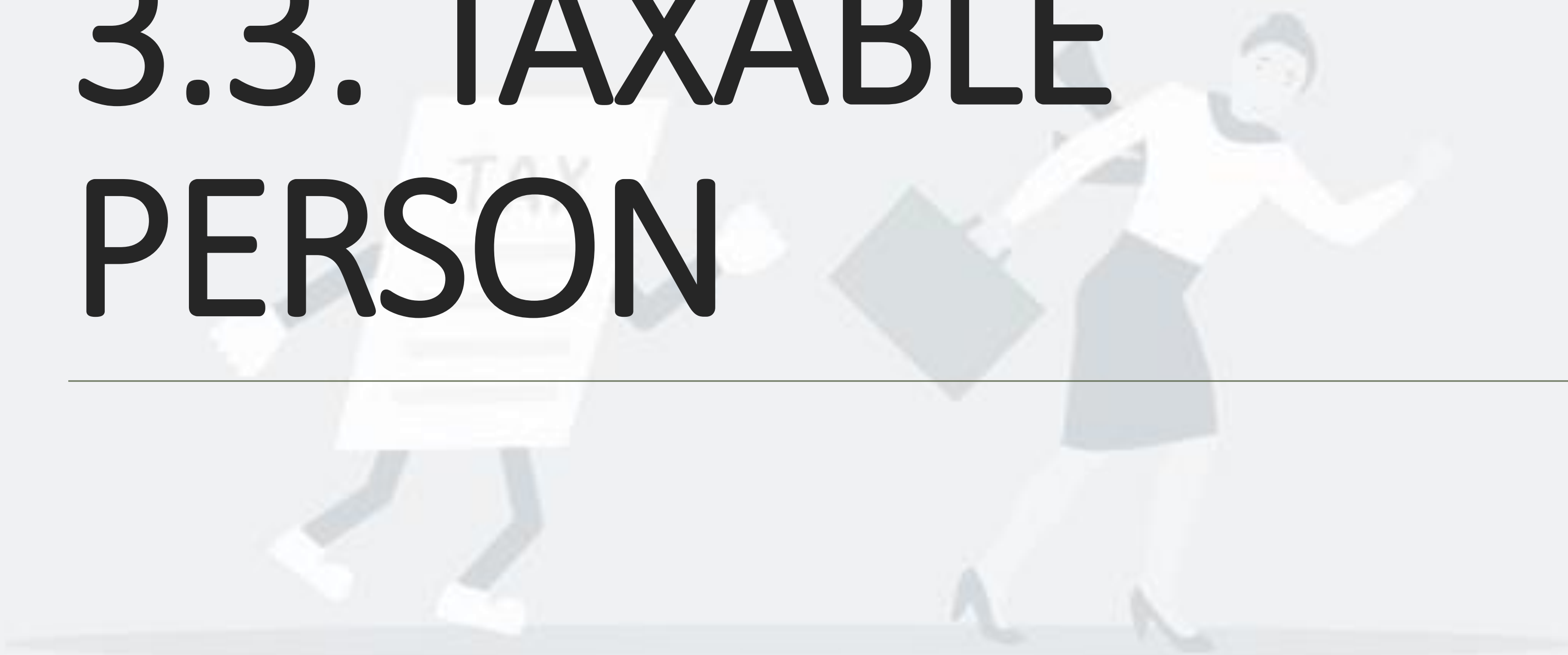
EXAMPLES:

- **TRANSMISSION OF GOODS BETWEEN POWER OF ATTORNEY AND COMMISSIONER ACTING IN HIS OWN NAME: WHEN THE COMMISSIONER MAKES THE DELIVERY OF THE GOOD - SALE COMMISSION - OR WHEN THE GOODS ARE RECEIVED - PURCHASE COMMISSION - (article 75. 1.3 and 4).**

- **IN LEASES, SUPPLIES, AND IN GENERAL, OPERATIONS OF SUCCESSION OR CONTINUOUS TREATMENT: when each portion of the price, corresponding to each consideration, becomes payable (article 75.1.7).**

- **OPERATIONS WITH ADVANCE PAYMENTS. At the TAXABLE EVENT: tax shall become chargeable on payment, in whole or in part, of the price for the amounts received (article 75.2).**

3.3. TAXABLE PERSON



TAXABLE PERSON (ARTICLE 84, VATL)

GENERAL RULE:

- **INDIVIDUALS OR LEGAL ENTITIES THAT ACT AS BUSINESS OWNERS OR PROFESSIONALS AND SUPPLY GOODS AND SERVICES**
- **ENTITIES WITHOUT LEGAL PERSONALITY** THAT CARRY OUT OPERATIONS SUBJECT TO TAX IN THE SAME TERMS

THERE ARE SPECIAL RULES

TAXABLE PERSON SUBSTITUTE

- **IN CERTAIN CASES, THE TAXABLE PERSON IS THE BUSINESS OR PROFESSIONAL WHO RECEIVES GOODS OR SERVICES, RATHER THAN THE ONE WHO SUPPLIES THEM.**

- **EXAMPLE: OPERATIONS PERFORMED BY SUBJECTS NOT ESTABLISHED IN THE T.A.T (WITH EXCEPTIONS)**

TAXABLE BASE AND TAX RATE

4.1. DETERMINATION OF THE TAXABLE BASE

GENERAL RULE

TAXABLE BASE: the total amount of the consideration received from the purchaser or a third party for the taxable transactions (article 78, VATL 1).

BY LEGAL PROVISION, CERTAIN CONCEPTS ARE INCLUDED OR EXCLUDED. For example:

- **INCLUDED (article 78, VATL 2):**
  - TRANSPORT AND INSURANCE EXPENSES
  - SUBSIDIES LINKED TO PRICE
  - TAXES AND FEES (WITH THE EXCEPTION OF VAT AND SPECIAL TAX ON CERTAIN MEANS OF TRANSPORT)
  - PACKAGING, etc.
- **NOT INCLUDED (article 78, VATL 3):**
  - COMPENSATION THAT DOES NOT CONSTITUTE CONSIDERATION
  - JUSTIFIED DISCOUNTS AND BONUSES, PRIOR TO OR SIMULTANEOUSLY WITH THE OPERATION AND IN ACCORDANCE WITH THE SAME
  - SALES COMMISSIONS
  - ACCESSORY EXPENSES ON BEHALF OF CLIENT
  - SUBSIDIES NOT LINKED TO THE PRICE, INTEREST REPORTED FOR PAYMENT DEFERMENT OF THE PRICE CORRESPONDING TO A PERIOD AFTER THE DELIVERY OF GOODS OR PROVISION OF SERVICES (article 78.2)

SPECIAL RULES (ARTICLE 79): CERTAIN ASSUMPTIONS

- TRANSACTIONS FOR NON-MONETARY CONSIDERATION
- SELF-CONSUMPTIONS
- TRANSACTIONS AMONG RELATED PARTIES
- OPERATIONS BETWEEN CLIENT AND REPRESENTATIVE ACTING ON THEIR OWN BEHALF
- TRANSACTIONS IN FOREIGN CURRENCY

4.2 MODIFICATION OF THE TAXABLE BASE

IN CERTAIN CASES, IT IS POSSIBLE TO MODIFY THE TAXABLE BASE (article 80) <u>THROUGH A CORRECTIVE INVOICE</u>:

- Return of package
- Discounts and volume discounts (*a posteriori*) which are justified
- Resolution of contracts
- Debtors in bankruptcy
- Uncollectable credits (one year from the accrual of output VAT)

4.3 TAX RATE

- GENERAL (article 90): 21%
- REDUCED (article 91.1): 10%
- SUPER REDUCED (article 91.2): 4%

CHARGEABILITY OF VAT AND INVOICING DUTIES

CHARGEABILITY OF VAT

ARTICLE 88.1 ESTABLISHES:

- **DUTY OF THE TAXABLE PERSON TO CHARGE VAT TO PURCHASERS**
- **OBLIGATION TO BEAR THE VAT**, REGARDLESS OF THE EXISTING ARRANGEMENTS BETWEEN PURCHASER AND BUSINESS OWNER

IN CASES IN WHICH THERE IS IDENTITY OF PARTS BETWEEN THE TAXABLE PERSON AND THE PURCHASER:

- THERE IS NO NEED TO CHARGE VAT, BUT THE OBLIGATION TO PAY VAT TO TREASURY EXISTS.
- WE CAN SAY *'THE VAT IS CHARGED BY ITSELF'*: TAXABLE PERSON SUBSTITUTE, SELF-CONSUMPTION, IMPORTATION, AND INTRA-COMMUNITY ACQUISITION OF GOODS.

TEMPORARY REQUIREMENT: CHARGEABILITY OF VAT (article 88. 3, 4, and 5):

VAT IS CHARGED ON THE ISSUE AND DELIVERY OF THE CORRESPONDING INVOICE OR INVOICE DOCUMENT

↓

THE RIGHT TO CHARGE VAT IS LOST AFTER ONE YEAR HAS ELAPSED FROM DATE OF ACCRUAL

↓

THE BENEFICIARY OF THE OPERATION IS NOT OBLIGED TO BEAR THE IMPACT OF THE TAX PRIOR TO THE ACCRUAL

OUTPUT VAT RECTIFICATION (ARTICLE 89)

ONLY IN CASES EXPRESSLY LISTED IN THIS ARTICLE, AND IN ACCORDANCE WITH FORMAL AND TIME REQUIREMENTS ESTABLISHED THEREIN

ASSUMPTIONS OF RECTIFICATION:

- INCORRECT SETTING OF OUTPUT VAT (DUE TO MISTAKES OF FACT OR LAW)
- VARIATION IN THE CIRCUMSTANCES THAT DETERMINE THE AMOUNT (TAXABLE BASE MODIFICATION ACCORDING TO ARTICLE 80, VATL)
- INVALIDITY, ACCORDING TO LAW, OF TRANSACTIONS

FORMAL REQUIREMENTS (article 88.2):

- **THE TAX IS CHARGED TO THE PURCHASER THROUGH AN INVOICE OR SIMILAR DOCUMENT, WHICH MUST DETAIL SEPARATELY THE TAXABLE BASE AND OUTPUT VAT.**

- **INVOICES MUST BE ISSUED IN ACCORDANCE WITH RD 1496/2003 OF 28 NOVEMBER (invoice content: article 6).**

- **A LACK OF FORMAL REQUIREMENTS ON INVOICES RESULTS IN THE INABILITY TO DEDUCT INPUT VAT (article 97, VATL).**

5.2 INVOICING DUTIES

VAT DEDUCTION. FORMAL DUTIES

INPUT VAT DEDUCTION

IN EACH SETTLEMENT PERIOD (QUARTERLY OR MONTHLY, AS PER ARTICLE 71.3, RVAT), **TAXABLE PERSONS MAY DEDUCT THE TOTAL AMOUNT OF DEDUCTIBLE INPUT VAT ON THEIR PURCHASES FROM THE TOTAL OUTPUT VAT ON THEIR SUPPLIES AND SERVICES.**

- **IF THE RESULT IS POSITIVE** (output VAT exceeds input VAT): **PAYMENT** is required

- **IF IT IS NEGATIVE** (OUTPUT VAT IS LESS THAN INPUT VAT)**: THE NEGATIVE DIFFERENCE MAY BE CARRIED FORWARD TO THE NEXT PERIOD, WITH THE RIGHT TO REQUEST A REFUND IF IT IS THE FINAL SETTLEMENT PERIOD OF THE YEAR (ARTICLE 115, VATL).**

DEDUCTION REQUIREMENTS

<u>SUBJECTIVE REQUIREMENT</u> (article 93. 1.1): ONLY BUSINESS OWNERS OR PROFESSIONALS CAN CLAIM DEDUCTIONS IN VAT (ARTICLE 5 OF VAT ACT).

FILING A DECLARATION TO START THE ACTIVITY <u>IS REQUIRED</u> (article 93.1.2).

THE EFFECTIVE SUPPLY OF GOODS OR SERVICES MUST HAVE STARTED

HOWEVER, IT **IS POSSIBLE TO DEDUCE INPUT VAT PRIOR TO BEGINNING, UNDER THE CONDITIONS AND REQUIREMENTS** ESTABLISHED IN ARTICLES 111, 112, and 113.

DEDUCTIBLE VAT (ARTICLE 92).

Those who have paid **DIRECT VAT CHARGE** OR SATISFIED THE FOLLOWING OPERATIONS:

- **Supply of goods and services by another taxable person**
- **Imports of goods**
- **Internal self-consumption: articles 9.1 c) and d)**
- **TAXABLE PERSON SUBSTITUTE** (articles 84.1.2 and 140.5)
- **Intracommunity acquisitions of goods (articles 13.1 and 16 VATL)**

HOWEVER, LIMITS, RESTRICTIONS, AND EXCLUSIONS EXIST (articles 9 and 96)

LIMITATIONS - ARTICLE 95- (EXAMPLES):

No deduction of input VAT is allowed for expenses that do not affect, directly and exclusively, the business activity: SUCH AS GOODS OR SERVICES USED SIMULTANEOUSLY FOR ECONOMIC ACTIVITIES AND FOR PRIVATE NEEDS

- **NOT IN THE CASE OF GOODS OR SERVICES THAT DO NOT APPEAR IN ACCOUNTS OR REGISTERS**

SPECIAL RULES FOR INVESTMENT GOODS

- **MOTOR VEHICLES WILL BE PRESUMED TO BE USED AT A RATE OF 50%** (therefore, half may be deducted), unless a greater or lesser degree of use is demonstrated.
- **IN SOME CASES, VEHICLES ARE PRESUMED TO BE 100% USED** (MIXED VEHICLES FOR TRANSPORT OF GOODS, TRANSPORT OF PASSENGERS)

RESTRICTIONS (ARTICLE 96)

THESE ARE INPUT VAT AMOUNTS PAID ON THE PURCHASE OF GOODS OR SERVICES WHICH, apart from the exceptions expressly provided for, ARE NOT OBJECTIVELY NECESSARY FOR THE ECONOMIC ACTIVITY.

For example, jewellery, food, beverages, and tobacco

ARTICLE 164 VATL. OBLIGATIONS OF TAXABLE PERSONS

1st **SUBMIT DECLARATIONS** related to starting, modification, and cessation of activities that determine tax liability

2nd Request a **TAX IDENTIFICATION NUMBER** from the tax authority

3rd **ISSUE INVOICES FOR ALL ITS OPERATIONS**, in accordance with regulations

4th ACCOUNTING AND REGISTERS, regardless of the provisions of the commercial code and other accounting regulations

5th INFORM THE TAX AUTHORITY of economic operations with third parties

6th FILE TAX RETURNS

Taxable persons must FILE an **ANNUAL SUMMARY DECLARATION**