

*English is not an official language of the Swiss Confederation. This translation is provided for information purposes only and has no legal force.*

# **Federal Act on Value Added Tax (Value Added Tax Act, VAT Act)**

of 12 June 2009 (Status as of 1 January 2022)

---

*The Federal Assembly of the Swiss Confederation,  
based on Article 130 of the Federal Constitution<sup>1</sup>,  
and having considered the Dispatch of the Federal Council dated 25 June 2008<sup>2</sup>,  
decrees:*

## **Title 1            General Provisions**

### **Art. 1            Subject and principles**

<sup>1</sup> The Confederation shall levy a general consumption tax based on the system of net all-phase taxation with input tax deduction (Value Added Tax). The purpose of the tax is to tax non-business end use on Swiss territory.

<sup>2</sup> As Value Added Tax, it levies:

- a. a tax on goods and services supplied for consideration by taxable persons on Swiss territory (domestic tax);
- b. a tax on the acquisition by recipients on Swiss territory of supplies from businesses domiciled abroad (acquisition tax);
- c. a tax on the import of goods (import tax).

<sup>3</sup> The tax is levied on the following principles:

- a. competitive neutrality;
- b. efficiency of payment and imposition;
- c. transferability.

AS 2009 5203

<sup>1</sup> SR 101

<sup>2</sup> BBl 2008 6885

**Art. 2** Relationship to cantonal law

<sup>1</sup> Ticket taxes and taxes on the transfer of title that are imposed by the cantons and communes do not qualify as taxes of the same nature as those defined in Article 134 of the Federal Constitution.

<sup>2</sup> They may be imposed to the extent they do not include Value Added Tax in their assessment basis.

**Art. 3** Definitions

In this Act:

- a. *Swiss territory* means the territory of the Swiss Confederation together with the customs enclaves according to Article 3 paragraph 2 of the Customs Act of 18 March 2005<sup>3</sup> (CustA).
- b. *Goods* means movable and immovable objects and electricity, gas, heating, refrigeration and the like.
- c. *Supply* means the concession of a usable economic asset to a third party in expectation of a consideration, even if it is required by law or based on an official order.
- d. *Supply of goods* means:
  - 1. the transfer of the power to dispose of a good commercially in one's own name;
  - 2. the delivery of a good on which work has been performed, even if the good is not altered by the work, but only tested, calibrated, regulated, checked for its function or has been treated in another way;
  - 3. making a good available for use or exploitation.
- e. *Supply of services* means every supply that is not a supply of goods; a supply of services is also made if:
  - 1. intangible assets and rights are made available;
  - 2. an action is omitted or an action or a situation is tolerated.
- f. *Consideration* means an asset which the recipient or, in place of the recipient, a third party expends in return for receipt of a supply.
- g.<sup>4</sup> *Sovereign activity* means an activity of a public authority or of a person or organisation acting for a public authority without business character, in particular where it is not marketable and not in competition with activities of private suppliers, even if fees, contributions or other charges are levied for it.

<sup>3</sup> SR 631.0

<sup>4</sup> Amended by No I of the FA of 30 Sept. 2016, in force since 1 Jan. 2018 (AS 2017 3575; BBl 2015 2615).

h.<sup>5</sup> *Closely related persons* means:

1. the owners of at least 20 per cent of the nominal or basic capital of a business or of an equivalent participation in a partnership, or persons associated with them;
2. foundations and associations with which there is a particularly close economic, contractual or personal relationship; pension schemes are not regarded as closely related persons.

i.<sup>6</sup> *donation* means a voluntary contribution with the intention of enriching the recipient without expectation of a consideration in the VAT sense; a contribution also qualifies as a donation if:

1. the contribution is mentioned on one or more occasions in a publication in neutral form, even if the name or the logo of the donor is used;
2. it is a contribution by passive members and by patrons to associations or to charitable organisations; contributions by patrons to charitable organisations are also deemed to be donations if the charitable organisation voluntarily grants its patrons advantages in terms of its articles provided it informs the patron that they have no right to be granted the advantages.

j. *Charitable organisation* means an organisation which fulfils the requirements that apply for Direct Federal Tax pursuant to Article 56 letter g DFTA.

k. *Invoice* means any document by which the consideration for a supply is settled with a third party, irrespective of how the document is titled in business transactions.

#### **Art. 4** Samnaun and Sempuch

<sup>1</sup> As long as the valley areas of Samnaun and Sempuch remain outside Swiss customs territory, this Act applies in both valley areas only to services.<sup>7</sup>

<sup>2</sup> The loss of tax revenue suffered by the Confederation as a result of paragraph 1 must be compensated for by the communes of Samnaun and Valsot.<sup>8</sup>

<sup>3</sup> The Federal Council regulates the details in consultation with the communes of Samnaun and Valsot. In doing so it shall take appropriate account of the savings resulting from the lower cost of levying the tax.<sup>9</sup>

<sup>5</sup> Amended by No I of the FA of 30 Sept. 2016, in force since 1 Jan. 2018 (AS 2017 3575; BBl 2015 2615).

<sup>6</sup> Amended by No I of the FA of 30 Sept. 2016, in force since 1 Jan. 2018 (AS 2017 3575; BBl 2015 2615).

<sup>7</sup> As the legal successor to the commune of Tschlin, Valsot must from 1 Jan. 2013 compensate the Confederation for tax-free supplies made on its part of the customs enclave (AS 2012 3551).

<sup>8</sup> Amended by No I of the FA of 30 Sept. 2016, in force since 1 Jan. 2018 (AS 2017 3575; BBl 2015 2615).

<sup>9</sup> Amended by No I of the FA of 30 Sept. 2016, in force since 1 Jan. 2018 (AS 2017 3575; BBl 2015 2615).

**Art. 5** Indexation

The Federal Council shall decide on the adjustment of the Swiss franc amounts mentioned in Articles 31 paragraph 2 letter c, 37 paragraph 1, 38 paragraph 1 and 45 paragraph 2 letter b, as soon as the Swiss consumer price index has increased by more than 30 per cent since the most recent adjustment.

**Art. 6** Passing on of the tax

<sup>1</sup> The passing on of the tax is based on agreements governed by private law.

<sup>2</sup> The civil courts are competent to judge disputes about the passing on of the tax.

**Art. 7** Place of supply of goods

<sup>1</sup> The place of supply of goods is the place where:

- a. the good is located at the time of transfer of the power to dispose commercially of it, of its delivery or of its being made available for use or exploitation;
- b. the transport or dispatch of the good to the customer or to a third party on his instructions begins.

<sup>2</sup> The place of supply of electricity by cable, gas via the natural gas distribution network or district heating is deemed to be the place at which the recipients of the supply have their registered office or a permanent establishment for which the supply is made, or, in the absence of such a registered office or such a permanent establishment, the place where the electricity, gas or district heating is actually used or consumed.<sup>10</sup>

<sup>3</sup> In the case of the supply of a good from abroad to Swiss territory, the place of supply is deemed to be on Swiss territory, provided the supplier:

- a. has authorisation from the Federal Tax Administration (FTA) to import the good in its own name (declaration of subordination), and does not waive authorisation at the time of import; or
- b. makes supplies of goods under paragraph 1 letter b of the preceding article that are exempt from import tax under Article 53 paragraph 1 letter a because of the insignificant tax amount, and makes a minimum turnover of 100 000 francs per year therefrom.<sup>11</sup>

**Art. 8** Place of supply of a service

<sup>1</sup> The place of supply of a service is deemed, subject to paragraph 2, to be the place at which the recipient of the service has its registered office or a permanent estab-

<sup>10</sup> Amended by No I of the FA of 30 Sept. 2016, in force since 1 Jan. 2018 (AS 2017 3575; BBl 2015 2615).

<sup>11</sup> Inserted by No I of the FA of 30 Sept. 2016, let. a in force since 1 Jan. 2018 and let. b in force since 1 Jan. 2019 (AS 2017 3575; BBl 2015 2615).

lishment for which the service is provided, or in the absence of such a registered office or such a permanent establishment, its domicile or the place of his normal abode.

<sup>2</sup> The place of supply of the following services is deemed to be:

- a. for services that are typically supplied directly in the physical presence of individuals, even if exceptionally they are supplied at a distance: the place where the person supplying the service has his registered office or a permanent establishment, or in the absence of such a registered office or such a permanent establishment the domicile or the place from which the person works; such services are in particular: healing treatments, therapies, nursing, personal hygiene, marriage, family and life counselling, social services and social welfare services and child and youth care;
- b. for services supplied by travel agencies and event organisers: the place where the person supplying the service has his registered office or a permanent establishment, or, in the absence of such a registered office or such a permanent establishment, the domicile or the place from which the person works;
- c. for services in the area of culture, the arts, sport, the science, scholarship, entertainment or similar services, including services of the event organiser and related services, if applicable: the place where these activities are actually performed;
- d. for restaurant supplies: the place where the supply is actually made;
- e. for passenger transport services: the place where transport actually takes place, as measured by the distance travelled; in the case of cross-border transport, the Federal Council may order that short internal distances may count as foreign and short distances abroad as internal distances;
- f. for services in connection with immovable property: the place where the property is situated; such services are in particular: brokerage, management, survey and valuation of the property, services in connection with the purchase or creation of rights in rem, services in connection with the preparation or the coordination of construction services, such as architectural, engineering and construction supervision services, surveillance of properties and buildings and accommodation services;
- g. for services in the area of international development cooperation and humanitarian help: the place for which the service is destined.

#### **Art. 9**                      Avoidance of distortion of competition

In order to avoid a distortion of competition due to the double taxation or non-taxation of cross-border supplies, the Federal Council may, in divergence from Article 3, regulate the definition of supplies of goods and services and, in divergence from Articles 7 and 8, determine the place of supply.