

Newsletter

by SRS LEGAL

● TAX



NEW SPECIAL MARGIN TAX REGIME

Decree-Law no. 33/2025 of March 24 was published, amending the VAT Regime applicable to second-hand goods, works of art, antiques and collector's items (Decree-Law no. 199/96 of October 18).

The Decree-Law amends, among other things, the VAT rules applicable to the trade of second-hand goods, works of art, antiques and collector's items, more precisely the so-called "special margin tax regime".

First, it should be noted that the resellers of works of art, antiques and collector's items will be particularly affected by this change in the law, namely galleries, websites and other entities whose main activity is the purchase and resale of this type of objects.

Until now, the special margin tax regime allowed the resale carried out by the reseller to be subject to the 23% VAT rate only in relation to the difference between the purchase value and the sale value.

However, with the changes now introduced to this regime, there are two major changes in terms of its scope.

Firstly, works of art are now practically excluded from this regime. In fact, it can only be applied to the resale of such objects in exceptional situations, namely when (i) the purchase is made from a person or entity that is not considered a taxable person for VAT purposes, or (ii) the purchase is made from a reseller and has been considered exempt for VAT purposes (iii) the purchase is made from a reseller, established in Portugal or in another European Union country, and has been subject to the special margin tax regime or another identical one in force in the Member State where the transfer was made.

Secondly, the resale of antiques and collector's items may also be subject to the special margin tax regime in the cases set out above for works of art and when these objects (i) have been imported from outside the European Union (ii) by the reseller himself.

As a result, the application of the special margin tax regime has been restricted to residual situations, with strong implications for the trade in works of art, in Portugal.

On the other hand, as far as the right to deduct is concerned, with the entry into force of the Decree in question, it will apply generally to work of art resellers, to the extent that they no longer benefit from the special margin tax regime.



It should be noted that the Decree also provides for a transitional regime for resellers of works of art, allowing them to deduct the tax they have previously incurred until the Decree comes into force.

In any case, whenever the special margin tax regime applies, it will remain identical to the previous one in all other respects.

The Decree entered into force on the 5th day after its publication, i.e. 29 March 2025.

Tax Department

