

# The Penalty Interest Law and the Law on Deadlines for Settlement of Cash Liabilities from Commercial Transactions have been adopted



## Penalty Interest Law

On 15 December 2012 the Serbian Parliament adopted the Penalty Interest Law.

The Penalty Interest Law went into force on 25 December 2012.

### Penalty interest payment obligation

A debtor overdue with payment of cash liabilities owes penalty interest assessed on the amount of outstanding debt. Penalty interest is assessed from the due date until settlement date at the rate prescribed by the Penalty Interest Law.

### Penalty interest rate on outstanding debt denominated in dinars (RSD)

The penalty interest rate on the amount of outstanding debt denominated in RSD is assessed annually by applying key policy rate of the National Bank of Serbia's (11.25% as at 11 January 2013) increased for eight percentage points (19.25% as at 11 January 2013).

Currently valid key policy rate of the National Bank of Serbia may be obtained on the web page [www.nbs.rs](http://www.nbs.rs)

### Penalty interest rate on outstanding debt denominated in euros (EUR)

The penalty interest rate on the amount of outstanding debt denominated in EUR is assessed annually by applying main refinancing operations rate of the European Central Bank (0.75% as at 11 January 2013) increased for eight percentage points (8.75% as at 11 January 2013).

Currently valid main refinancing operations rate of the European Central Bank may be obtained on the web page [www.ecb.eu](http://www.ecb.eu)

### Penalty interest rate on outstanding debt denominated in another foreign currency

The penalty interest rate on the amount of outstanding debt denominated in other foreign currency (i.e. foreign currency other than EUR), is assessed annually by using key/basic interest rate prescribed for and/or applied to principal operations of the central bank of the country of the domicile currency increased for eight percentage points.

### Significance of settlement currency for calculating penalty interest

The penalty interest rate is calculated based on the currency in which the outstanding debt is denominated (irrespective of the currency in which the debt is settled/paid).

### Penalty interest calculation method

Penalty interest is calculated using the simple interest formula. Consequently, compound interest method which was applied earlier has been revoked.

## Law on Deadlines for Settlement of Cash Liabilities from Commercial Transactions

On 15 December 2012 the Serbian Parliament adopted the Law on Settlement Deadlines for Cash Liabilities in Commercial Transactions (the Law).

The Law went into force on 25 December 2012.

Application of the Law shall commence on 31 March 2013.

The start of application of the Law for commercial transactions in which debtors are commercial entities undergoing restructuring will be postponed until 1 January 2014.

## Scope

The Law regulates deadlines for settlement of cash liabilities in commercial transactions between:

- 1 public sector and private sector entities, and
- 2 between private sector entities.

## Application

Provisions of the Law shall also apply to transactions which have not been realised/completed by 31 March 2013 but which are based on contracts concluded before this date.

The Law shall not apply in the following circumstances:

- 1 to commercial entities undergoing bankruptcy proceedings, where such entities act as debtors in commercial transactions;
- 2 to contracts concluded prior to 31 March 2013 based on which supply of services/goods has commenced before 31 March 2013.

## Deadlines for settlement of cash liabilities between commercial entities

As a general rule, contracts between commercial entities cannot specify a settlement period for cash liabilities longer than 60 days.

Exceptions:

- period not longer than 90 days for payment in instalments – at least 50% of cash liability must be settled by middle of contract period, and the remainder of cash liability until expiry of 90 day period;
- period longer than 60 days with provision of bank guarantee – it is possible to agree a payment period longer than 60 days if the debtor provides a bank guarantee which contains a clause “irrevocable”, “unconditional”, “collectible upon first call without contestation” or bills of exchange issued by a bank as form of security for debt collection;
- period longer than 60 days for settlement of liabilities of a registered agricultural household or agricultural cooperative – it is possible to agree a payment period for settlement of liabilities of an agricultural household or agricultural cooperative in cases of purchase of raw materials for performing core commercial activity (seeds and planting materials, pesticides and fertilizers).
- Deadlines for settlement of cash liabilities between commercial entities and public sector

A contract between a public sector entity and a private sector entity cannot specify a payment period for cash liabilities longer than 45 days when in such contract the debtor is a public sector entity.

The period for settlement of cash liabilities is 60 days in cases when in a contractual relationship between a public sector entity and private sector entity latter acts as debtor.

## Deadlines for settlement of cash liabilities toward the Health Insurance Fund of the Republic of Serbia

The Health Insurance Fund and beneficiaries of the Health Insurance Fund are under obligation to settle their cash liabilities within 90 days.

The Law specifies the following schedule for gradual reduction in deadlines for settlement of cash liabilities:

- up to 31 December 2013 – the deadline for settlement of cash liabilities cannot be longer than 150 days;
- up to 31 December 2014 – the deadline for settlement of cash liabilities cannot be longer than 120 days;
- up to 1 January 2015 – the deadline for settlement of cash liabilities cannot be longer than 90 days.

## Calculation of deadlines

As a general rule calculation of the deadline for settlement of cash liabilities begins on one of the following dates:

- 1 Date when debtor receives the invoice,
- 2 Date when creditor settles his obligation or
- 3 Date of expiration of deadline for inspecting the subject of the liability (i.e. goods/services provided) – period for inspecting the subject of the liability cannot be longer than 30 days.

## Penalty provisions

Cash fines range between RSD 10,000 and RSD 2,000,000 for commercial sector entities and for public sector entities who fail to settle their cash obligations within settlement periods prescribed by the Law.

The Law also prescribes penalties for responsible persons in the range from RSD 5,000 to RSD 150,000.

## Contact details

### Igor Lončarević

Partner, Tax

**M:** +381 60 20 55 570

*iloncarevic@kpmg.com*

### Biljana Bujic

Director

**M:** +381 60 20 55 511

*bbujic@kpmg.com*

### Nenad Nešovanović

Senior Manager

**M:** +381 60 20 55 543

*nnesovanovic@kpmg.com*

### KPMG d.o.o. Beograd

Kraljice Natalije 11

11000 Belgrade

Serbia

**T:** +381 11 20 50 500

**F:** +381 11 20 50 550

*tax@kpmg.rs*

[kpmg.com/rs](http://kpmg.com/rs)

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

The KPMG name, logo and “cutting through complexity” are registered trademarks or trademarks of KPMG International.

© 2013 KPMG d.o.o. Beograd, a Serbian limited liability company and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative (“KPMG International”), a Swiss entity. All rights reserved.