

The Government of Serbia has adopted draft Law on amendments of the VAT Law



At the government session held on Saturday, 19 September 2015, the draft Law on Amendments of the Value Added Tax ('VAT') Law have been adopted (hereinafter: Law on VAT amendments) and forwarded to the Serbian Parliament for adoption.

KPMG will prepare a separate Tax Alert edition once amendments are actually adopted by the Serbian Parliament.

The most significant proposed changes are presented below.

Transfer of totality or part of assets

In cases of transfer of totality or part of assets that is not subject to VAT in accordance with article 6 of the VAT Law (so called "going concern"), the acquirer will have the liability to charge VAT if the requirements from article 6 of the VAT Law are no longer fulfilled, within 3 years as of the date of transfer of property. If the acquirer fulfills the general requirements for deduction of input VAT, the acquirer will have the right to deduct charged VAT as input VAT. This rule does not apply to equipment and buildings used for performing business activity and investments into buildings used for performing the business activity.

Registration of foreign entities for VAT

The Law on VAT amendments allows foreign entity to register for VAT in Serbia by appointing the tax proxy. Liability of registration and appointing of a tax proxy does not exists if the foreign entity performs supply of services in Serbia which are provided electronically and for entities providing passenger transportation by buses in cases when consideration and VAT

for these services are calculated by the customs authorities. This means that the obligation of appointing of a tax proxy exists even for the supply where the tax debtor is recipient of goods and services, which we believe is not in accordance with the rules in the European Union.

Tax proxy can be an entity fulfilling the following conditions:

- Registered for VAT for at least 12 months,
- Does not have outstanding tax liabilities, as at the day of submitting the request,
- Has not been convicted of a criminal tax offense,
- Received status of the proxy by the Tax Authorities decision.

Tax proxy executes all obligations in the name and for the account of a foreign entity, which includes payment of VAT, and it is jointly responsible for all liabilities of the foreign entity.

It is anticipated that once the application of amendments of the VAT Law begins, i.e. as at 15 October 2015, legal effect of tax power of attorneys given earlier according to article 10 of the VAT Law will cease.

Provisions of the Law on VAT amendments which relate to submission of request and issuance of approval for tax power of attorneys (tax proxies) shall apply as of 1 October 2015.

Extension of special scheme for construction works

Recipient of goods and services in the field of construction has the obligation to charge VAT even in cases when it does not have the investor status, i.e. when the supplier does not have the status of the contractor in line with regulation on planning and construction. Hereby, the special scheme for construction works expands on supply performed between entities which do not have status of investor, i.e. the status of a contractor.

Services provided electronically by foreign entities

In cases when services are provided electronically by a foreign entity which do not have an obligation to register for VAT in Serbia, to an entity / individual which is not VAT payer, obligation of charging VAT lies with an entity which in the name and for the account of the foreign entity collects consideration for that supply.

New rules for supply of electricity, natural gas, heating and cooling energy

New rules for supply of electricity, natural gas, heating and cooling energy have been introduced in terms of:

- place of supply,
- the moment when VAT liability arises,
- VAT exempt import.

Liability of charging VAT on certain services

For services of transfer, assignment and granting of authorship and related rights, patents, licenses, trademarks, and other rights of intellectual property the new rule is introduced, whereby the liability of charging VAT arises as at the day of supply of service, date when advance payment was received or date of issuing of invoice, whichever occurs sooner.

Subsidies not included in the tax base

Definition of subsidies not included in the tax base has been introduced in a way that it defines them as cash funds used as an incentive for specific public policy set out in accordance with the law.

Application of reduced rate of 10%

Reduced VAT rate of 10% applies for all accommodation services within hospitality facilities according to the law regulating tourism, as well as for passenger transportation and transportation of their baggage regardless whether it is a city or other transport.

Deduction of input VAT (meals and transportation of employees, definition of entertainment)

The taxpayer does not have the right to deduct input VAT based on employee meals and transportation, as well as for expenses of traveling to and from the place of work of other work-engaged persons. In addition, definition of entertainment expenses is introduced based on which no input VAT can be deducted.

Special scheme for second hand goods – VAT or transfer tax

In cases where taxpayer applies special scheme for second hand goods, if the supply of goods is subject to transfer tax, in such cases a taxpayer will pay transfer tax only if the amount of transfer tax exceeds the amount of VAT that would be charged.

Quarterly VAT returns – deadline shortened to 15 days

Deadline for submitting tax return is 15 days for both, monthly and quarterly tax returns.

VAT calculation breakdown

The new obligation is introduced – preparation of VAT calculation breakdown which will be submitted along with the tax return. The form and the scope of VAT calculation breakdown will be subsequently prescribed by respective rulebook.

Application

It is stated that Law on VAT amendments will come into force on 15 October 2015, except of the following provisions:

- Provision prescribing the deadline for submitting tax return within 15 days for both, monthly and quarterly tax returns – comes into force on 1 January 2016
- Provisions which state that VAT calculation breakdown will be submitted along with the tax return - comes into force on 1 January 2017
- Provisions regarding submitting the request and issuing of the approval for tax proxy - comes into force on 1 October 2015.

Contact details:

Igor Lončarević

Partner

Tax & Legal

T: +381 60 20 55 570

iloncarevic@kpmg.com

Biljana Bujić

Director

Tax & Legal

T: +381 60 20 55 511

bbujic@kpmg.com

Nenad Nešovanović

Departmental Senior Manager

Tax & Legal

T: +381 60 20 55 543

nnesovanovic@kpmg.com

Jelena Miljković

Senior Manager

Tax & Legal

T: +381 60 20 55 516

jmiljkovic@kpmg.com

Aleksandar Ilić

Manager

Tax & Legal

T: +381 60 20 55 572

ailic@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

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