

Serbian Parliament has adopted the Law on Amendments and Additions of the VAT Law

At the session of Serbian Parliament held on 28 September 2015, the Law on Amendments and Additions of the Value Added Tax ('VAT') Law has been adopted (hereinafter: Law on VAT amendments). The Law on VAT amendments was published in the Official Gazette of the Republic of Serbia no. 83/2015 as of 3 October 2015.

The Law on VAT amendments came into force as at 3 October 2015 and will be applied starting from 15 October 2015 (except for certain provisions further explained in the text below).

The most significant adopted changes are presented below.

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 exist 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 provided 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.

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.

The place of supply of electricity, natural gas, heating and cooling energy depends on the usage of these goods. In the case of goods which are intended for further sale, place of supply is considered to be the place of the registered seat of the recipient, or place where the recipient has a business unit acquiring the goods. For supplies of the goods intended for final consumption, place of supply is the place where the goods have been received by the customer.

VAT liability arises at the moment of transfer of right to dispose the goods intended for further sale. In case of goods intended for final consumption, VAT liability arises at the moment of recording of consumption of electricity, natural gas, heating and cooling energy.

Import of electricity, natural gas, heating and cooling energy is VAT exempt.

Transfer of assets in full or in part

In cases of transfer of assets in full or in part 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.

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 a VAT payer, the 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.

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 goods is subject to transfer tax, in such cases

a taxpayer will pay transfer tax 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

The Law on VAT amendments will come into force on 15 October 2015, except for 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.

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