

Adopted amendments to the VAT Law

Tax Alert

January 2017

On 28 December 2016 the Serbian Parliament adopted the Law on Amendments to the Law on Value Added Tax (hereinafter: the Law) as published in the Official Gazette of the Republic of Serbia no. 108/2016 on 29 December 2016.

The Law will go into force on 1 January 2017, except of provisions that regulate the place of supply of services which will be applied as of 1 April 2017.

An overview of significant changes is provided below.

Permanent establishment

The Law specifies that a permanent establishment in the sense of VAT shall be deemed to be any organizational unit of a legal entity which can conduct commercial activity.

Obligation for registering foreign entity as VAT payer

The Law specifies that a foreign entity is required to register as a VAT payer in Serbia only if it performs supplies in Serbia which are subject to VAT to entities that are not VAT payers.

Namely, the Law specifies that a foreign entity performing taxable supplies in Serbia is required to register for VAT through its tax representative, irrespective of the amount of turnover, unless it exclusively performs supplies to VAT payers or entities that provide public administration services, or entities that perform supplies of services of transport of passengers by bus for which VAT is assessed by the customs authorities.

Tax debtor for supply performed by foreign entity

The Law specifies that the recipient of goods and services has the obligation to calculate VAT for supply provided to him in Serbia by a foreign entity which is not registered for VAT, irrespective of whether it has a permanent establishment in Serbia and whether the permanent establishment is a VAT payer in Serbia.

Place of supply of services

The place of supply of services rule is largely harmonized with European Union rules. Instead of the rule based on which services are taxable according to the place of the service provider, irrespective of whether the service recipient is a VAT payer or not, the amendments to the Law specify special rules for supplies to VAT payers (so-called B2B supplies) and to entities that are not VAT payers (so-called B2C supplies):

1. If the supply of services is made to an entity that is a taxpayer (B2B), the place of supply of services is considered to be the place where the recipient of services has its headquarters/permanent establishment, or a place of permanent/temporary residence.
2. If the supply of services is made to an entity that is not a taxpayer (B2C), the place of supply of services is considered to be the place where the provider of services has its headquarters/permanent establishment, or a place of permanent/temporary residence.

A series of exceptions to the general rule is specified.

Time of supply of electricity, natural gas and heating to an entity for further reselling

The Law specifies that the supply of electricity, natural gas and energy for heating/cooling, whose supply is carried out through a transmission, transportation and distribution network, to an entity which purchased such goods for further reselling, occurs on the date of the reading or other measurement for the purpose of calculating such supply.

Tax rate for the supply of wood briquettes and pellets

The Law specifies a special rate of 10% for taxing not just wood used for heating, but also wood briquettes, pellets and other similar goods made of wood biomass.

Requirements for deducting input tax

The requirement is cancelled for a recipient of goods/services who must calculate VAT instead of the supplier to have an invoice in order to be entitled to exercise the right to deduct input tax. This relates to the following cases when the recipient of goods/services is required to calculate VAT:

- supply of secondary raw materials and related services;
- supply of buildings (so-called option to tax);
- supply of goods and services in the construction industry; and
- supply of electricity and natural gas supplied through a transmission, transportation and distribution network for further reselling.

Overview of VAT calculation

The Law postpones the date of application until 1 January 2018 of provisions that relate to the obligation of submitting along with the VAT return an overview of VAT calculation.

How the aforesaid can impact your business

Amendments to the Law will affect all entities receiving services from foreign entities and/or providing them to foreign entities, because of the change in the place of supply rule and different method for defining the obligation to register a foreign entity for VAT. The amendments will require changes in the IT system, VAT records, work processes, etc.

KPMG is ready to provide support at every step of the way in this process.

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