

Amendments to the Law on Foreign Currency Operations adopted by the Serbian Parliament

Tax Alert

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The draft Law on Amendments to the Law on Foreign Currency Operations (**the Law**) was adopted at the session of the Parliament of the Republic of Serbia held on 19 April 2018. The adopted Law was published in the Official Gazette of RS number 30 on 20 April 2018. The Law shall apply from 28 April 2018, except for provisions that relate to transfer of competencies from the Tax Authorities to the National Bank of Serbia, and redefining of requirements for conducting foreign exchange operations, which shall apply from 1 January 2019.

An overview of significant changes is provided below.

Change in requirements for transfer of payables and receivables

An additional requirement is specified for the purpose of harmonization with contracts and torts legislation – the obligation of getting approval from creditors for transfer of payables:

- resulting from foreign trade supply of goods and services by a resident;
- resulting from cross border credit transactions of a resident; and
- resulting from current and capital transactions between a resident and a non-resident, when a debt is transferred to another non-resident.

Change in requirements for investing in long-term securities

Requirements are liberalized for investing in long-term securities, allowing residents to invest in long-term securities issued by the European Union and legal entities with registered offices in the European Union (regardless of their credit rating).

Change in requirements for investing in short-term securities

Requirements are liberalized for investing in short-term securities allowing resident entities to invest in short-term securities issued by

- the European Union;
- European Union member states;

- international financial organizations and development banks or financial institutions in which European Union member states are shareholders; and
- Legal entities with headquarters in European Union member states.

Furthermore, it is specified that domestic banks besides investing in above short-term securities can also invest in short-term securities issued by OECD member states, international financial organizations and development banks or financial institutions in which OECD states are members and legal entities with headquarters in OECD member states.

It is specified that non-residents with headquarters/permanent address in the European Union can invest in short-term securities in Serbia.

Change in requirements for taking short-term loans abroad

Requirements are liberalized for taking short-term loans abroad where it is specified that resident individuals and branch offices of foreign entities can take short-term loans from non-resident creditors/funders with headquarters or a permanent address in European Union member states.

Obligations of a bank to secure collateral for cross border credit transactions

The Law specifies that banks are required to secure collateral for receivables from non-resident entities when conducting cross border credit transactions.

Requirements for granting financial loans to non-residents are liberalized

A resident entity will now be allowed to grant financial loans to a non-resident debtor.

Also, it is now permitted for a resident legal entity to issued guarantees and other instruments of security:

- for cross border credit transactions; and
- for credit transactions between non-residents.

The requirement of majority ownership in a non-resident loan beneficiary is now cancelled.

The Law specifies that the National Bank of Serbia can issue a bylaw with which it can limit the granting of financial loans/guarantees to non-residents in particular cases if that is justified considering objectives because of which they are prescribed.

According to bylaw issued by the National Bank of Serbia giving financial loans is limited to legal entities with headquarters in European Union member states.

New grounds for taking guarantees from non-residents

New grounds are specified for which a resident can take a guarantee, a surety and other instrument of security from a non-resident, as follows:

- based on imports of goods and services; and
- based on investment work carried out by a non-resident in Serbia.

New basis for foreign currency payment operations in Serbia

The law specifies that payments in foreign currency in Serbia are permitted for the purchase and sale of software and other digital products:

- when the purchase or sale is done on the internet;
- if delivery is through telecommunications, digital or other information-technological equipment; and
- if payment is made using debit cards or electronic money through a provider of payment services with headquarters in Serbia.

Transfer of competencies

Starting as of 1 January 2019, the National Bank of Serbia will be assuming competencies from the Ministry of Finance – Tax Authority for performing the following tasks:

- control of foreign exchange operations; and
- control of foreign currency transactions of residents and non-residents.

Requirements for performing foreign exchange operations

Requirements for performing foreign exchange operations are more stringent, in accordance with FATF recommendations.

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