

# The Law on Amendments to the Law on Tax Procedure and Tax Administration adopted

## Tax Alert

May 2018

**On 19 April 2018 the Serbian Parliament adopted the Law on Amendments to the Law on Tax Procedure and Tax Administration (hereinafter: Law on Amendments to LTPTA) as published in the Official Gazette of the Republic of Serbia number 30 dated 20 April 2018.**

The Law on Amendments to LTPTA enters into force on 28 April 2018.

The main changes are as follows:

### **Transfer of competencies to the National Bank of Serbia for foreign exchange and foreign currency operations**

Starting as of 1 January 2019, the National Bank of Serbia will be assuming competencies from the Tax Authority for performing tasks of issuing and revoking authorizations for performing foreign exchange operations, tasks of issuing certificates for the performance of foreign exchange operations and control of foreign exchange operations, as well as other tasks related to the area of foreign exchange and foreign currency operations.

### **The principle of maintaining confidentiality in tax procedure - harmonization with other legislation**

The obligation of maintaining confidentiality shall not be deemed to have been violated when a particular document, fact or information related to the existence of a tax liability is provided in accordance with a specific law, and if such is provided to an official of another state authority or organization, a territorial self-government and local self-government official in the process of exchange of information for the purpose of the competencies of such officials.

### **Obligation to report information about business facilities**

The obligation has been introduced for the taxpayer to report information about business facilities in which goods are stored or warehoused, as well as about facilities in which registered commercial activity is conducted.

Failure to provide such information is subject to a fine. The fine for a legal entity is specified in the range from 100,000 to 2,000,000 dinars. Also, such violation carries a fine for the responsible person in the legal entity in the amount of 10,000 to 100,000 dinars.

### **The Business Registers Agency is not permitted to delete a legal entity from a registry, nor to register other changes of information forbidden by law during the period that the Tax Police is conducting its activities**

The Business Registers Agency shall not be permitted to delete a legal entity from a registry, nor to register changes of status and to change information related to the founder or member, name, register offices, initial capital and legal form in the period for which it receives notice of undertaking of activities by the Tax Police for the purpose of discovering criminal tax violations, until receiving notification about the conclusion of such activities.

### **Expansion of responsibilities of private individuals and responsible persons for tax calculation - secondary tax liability**

The responsibility of private individuals and responsible persons is expanded for matured tax liabilities of another taxpayer or matured secondary tax liability of another taxpayer for calculating tax and for other types of taxes, and not just for withholding tax, as has been the case up to now.

### **Adoption of an administrative tax document in the form of an electronic document**

An administrative tax document (assessment/conclusion) can be adopted not only in hard copy but also as an electronic document in accordance with regulations that relate to electronic documents.

### **Submission to a taxpayer's e-mail address**

The Law specifies that an administrative tax document in the form of an electronic document can be submitted to a taxpayer's e-mail address that is entered in the registration application or in the latest tax return.

Consent for submission of a tax document by e-mail is based on the taxpayer's obligation to submit electronically a tax return for the given type of tax.

### **Submission of tax return for property tax assessments by e-mail**

Submission of a tax return for property tax assessment shall be conducted electronically starting as of 1 January 2019.

Tax returns for property tax on sale of real-estate property can be filed by a taxpayer either by e-mail or in hard copy – either directly or by post and through an authorized representative, as well as through a public notary.

### **Prohibition against filing an amended tax return after actions initiated by Tax Police for the purpose of establishing a criminal tax violation**

The existing provision has been extended such that a taxpayer is prohibited against filing an amended tax return after actions have been initiated by Tax Police for the purpose of establishing a criminal tax violation.

### **Impossibility of changing a refund option by filing an amended tax return**

Also, it is specified that through filing an amended tax return it is not possible to change a refund option selected in the initially submitted VAT return (PP PDV).

### **Temporary measures for securing tax collection**

The Law introduces the possibility for the Tax Authority to pronounce a measure for securing tax collection, as follows: prohibition against disposal, sale and mortgaging of moveable property, prohibition against disposal, sale and mortgaging of real-estate property or ownership title over real-estate property entered into a public register.

The duration of such measure lasts until registration of pledge or collection of tax liability in full.

### **Conditional approval for VAT refund based on balances on the taxpayer's other tax accounts**

The Law specifies that a VAT refund based on a submitted VAT return (in which the taxpayer selected the "YES" refund option) shall be decreased for the amount of other tax liabilities that have not been settled (e.g. based on matured but unsettled corporate income tax liabilities, withholding tax liabilities, etc.).

### **Possibility for extension of tax payment up to 12 months in approving the right to deferred payment of tax liability**

The Law introduces the possibility for extension of payment for the first 12 months (grace period) in case of approval of the right to deferred payment of tax liability.

### **Extension of duration of right to grace period for taxpayers with restructuring plan and taxpayers with a concluded financial restructuring agreement**

The duration of right to a grace period for the category of taxpayers requesting consent for a proposed restructuring plan, as well as for taxpayers who file a request for deferral of tax payment, and who have concluded a financial restructuring agreement, is extended from 12 to 24 months.

### **Forced collection from savings and other income on current accounts of taxpayers**

The Law proposes changes to an object and measures for forced collection by prescribing forced collection from savings and other income on current accounts of taxpayers.

### **Possibility of preparing a supplement to a tax audit record after submission of tax audit record and supplementary tax audit record**

After submitting a tax audit record or a supplementary tax audit record to the taxpayer the tax inspector can prepare a supplement to a tax audit record if he/she learns new information or facts that impact the facts of the case.

The taxpayer is entitled to submit a comment within eight days on the supplement to a tax audit record, counting as of the day of receipt of the supplement to a tax audit record.

### **Duration of the measure of prohibition against performance of commercial activity when an infraction is identified in a tax audit**

The Law specifies that in a tax audit a tax inspector shall pronounce a temporary measure of prohibition against performance of commercial activity against a taxpayer, lasting:

- up to 15 days, if an infraction is identified for the first time,
- up to 90 days, if an infraction is identified for the second time, and
- up one year, if an infraction is identified for the third time

in instances that violations of the law are established or infractions specifically set out in article 131 of the LTPTA.

### **Amendments to provisions on criminal tax offences**

The characteristics of a criminal tax offence are specified more precisely as follows:

**Improper declaration of the amount of a tax refund and tax credit** – sanctions against perpetrators of improper declaration of the amount of a tax refund or tax credit of 1,000,000.00 dinars over the past 12 months shall be instituted through criminal proceedings.

At the same time, penalties for such offences are now stricter:

The penalty prescribed for improper declaration of the amount of a tax refund or tax credit in excess of

1,000,000.00 dinars is a prison sentence lasting from six months to five years and a cash fine.

The penalty prescribed for improper declaration of the amount of a tax refund or tax credit in excess of 3,000,000.00 dinars is a prison sentence lasting from one to eight years and a cash fine.

The penalty prescribed for improper declaration of the amount of a tax refund or tax credit in excess of 10,000,000.00 dinars is a prison sentence lasting from three to ten years and a cash fine.

An improper tax refund or tax credit below 1,000,000.00 dinars for the same period is designated, from the perspective of social danger, as an insignificant social danger and both shall be sanctioned in civil proceedings.

**Impermissible supply of excise duty products** – this criminal tax offence is expanded to include criminal actions, whereby the person who without authorization manufactures, processes, sells or purchases for the purpose of selling, holding or transferring or that otherwise sells products without authorization shall be held liable for the offence of impermissible supply of excise duty products.

### **New offences introduced for banks**

The following offences are introduced for banks:

- that fail to provide available information at the request of the Tax Authority, including information of relevance for the competence of the Tax Authority,
- that fail to execute forced collection from a taxpayer's funds in accordance with the law or if they fail to act on the decision on collection of tax liability of a taxpayer from the funds of such bank in accordance with the law or if they fail to discontinue settlement of cash liabilities that a taxpayer has toward third parties based on agreement on change of creditors or debtors, based on setting off and on other basis, in accordance with the law,
- in which current accounts or savings accounts are held, and that fail to act on a decision by the Tax Authority on transfer of tax liability and secondary tax liabilities to appropriate public revenues accounts.

The fine for such offences is in the range of 100,000 to 2,000,000 dinars for the bank and in the range of 10,000 to 100,000 dinars for the responsible person in the bank.

### **Contact details**

#### **Igor Lončarević**

Partner  
Tax & Legal Department  
**T:** +381 60 20 55 570  
[iloncarevic@kpmg.com](mailto:iloncarevic@kpmg.com)

#### **Biljana Bujić**

Partner  
Tax & Legal Department  
**T:** +381 60 20 55 511  
[bbujic@kpmg.com](mailto:bbujic@kpmg.com)

#### **Nenad Nešovanović**

Director  
Tax & Legal Department  
**T:** +381 60 20 55 543  
[nnesovanovic@kpmg.com](mailto:nnesovanovic@kpmg.com)

#### **Mirjana Sibinović Bisić**

Manager  
Tax & Legal Department  
**T:** +381 60 20 55 642  
[msibinovic@kpmg.com](mailto:msibinovic@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](mailto:tax@kpmg.rs)

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

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