

# New unified Rulebook on Value Added Tax adopted

## Tax Alert

May 2021

The Ministry of Finance (**MF**) of Serbia has adopted the Rulebook on Value Added Tax (**Rulebook**) which was published in the Official gazette of the Republic of Serbia No. 37 on 14 April 2021.

The Rulebook entered into force on 22 April 2021, and will be in application as of 1 July 2021.

### VAT legislation after the Rulebook enters into effect

The Rulebook regulates in a single place topics that are currently regulated in 27 standalone VAT rulebooks.

Existing rulebooks will be superseded by the new Rulebook, with the proviso that they will continue to be applied on supply of goods and services for which an advance payment is made up to 30 June 2021.

Accordingly, as of 1 July 2021 relevant VAT legislation will consist of:

1. VAT Law (**Law**),
2. Rulebook on Value Added Tax,
3. Decree on Quantity of Waste (shrinkage, spillage, spoilage and breakage) Which is Not Subject to VAT,
4. Decree on Criteria for Determining What, in Terms of the VAT Law, is Deemed Predominant Supply of Goods Abroad,
5. Decree on Enforcing VAT Law on the Territory of the AP KiM for the Duration of the UN SC Resolution 1244.

### Significant amendments introduced by the Rulebook

In addition to the fusion of all VAT rulebooks into one legal act, the Rulebook brings certain novelties that can be roughly divided into three categories:

- Terminological adjustments,
- Clarification and incorporation of confirmed positions of MF into the Rulebook,
- Amendments of the existing rules.

Certain significant novelties are presented below.



### Supply in the construction field – new exemptions

The Rulebook prescribes that, regardless of the supply value and fulfillment of other prescribed conditions, following activities shall not be considered as supply in the field of construction in terms of Article 10 of the Law:

1. Repair of equipment, which is part of a building,
2. Repair of water supply, heating, sewage, and air-conditioning installations,
3. Delivery and installation of elements for kitchen, bathroom, and other furniture,
4. Delivery and installation of heating & cooling devices,
5. Delivery and installation of irrigation systems,
6. Delivery of goods and services for landscaping,

The Rulebook particularly emphasizes that for the purpose of assessing whether supply in the field of construction exists, it is necessary to determine whether there is auxiliary and main supply and, depending on the determination of the main supply, the same tax rule shall be applied to the auxiliary supply.

### Transfer of business unit – expansion of rule

The Rulebook expands the definition of transfer of a part of assets that is not subject to VAT (in line with Article 6 of the Law), by abolishing the condition that the transfer of a business unit must be such as to prevent the transferor from performing respective business activity from the moment of transfer.

### Supply of goods without consideration

The Rulebook defines that any other supply of goods without consideration does not include free supply of catalogs, brochures, flyers and similar goods intended to inform potential customers about the activities of taxpayers.

Consequently, the free supply of these goods will not be considered as being subject to VAT (regardless of whether these goods can be qualified as business samples, advertising material or other small value gifts in terms of VAT regulations).

## Replacement of spare parts

The Rulebook specifies that the replacement of goods within a warranty period (in accordance with Article 6 of the Law) is not considered the replacement of spare parts within the repair of a particular good.

## Treatment of returnable packaging

The Rulebook prescribes that if the value of packaging is not charged, and the buyer does not return the packaging within the agreed deadline, it is deemed as a new supply of packaging, and a new VAT invoice must be issued for such supply, instead of only a debit note to increase the tax base.

## Subsequent changes of VAT base

The Rulebook specifies that the change of VAT base (and not the new supply) occurs especially due to:

- return of packaging whose value was included in the price of goods,
- return of goods due to a complaint,
- return of goods for which the period of normal use has expired (remittance),
- return of goods for which the expiration date determined by the manufacturer has expired or expires (this applies if at least two thirds of the shelf life has passed, and there are still up to maximum two months left until the expiration).

## VAT exemptions

The Rulebook regulates more precisely conditions for exercising tax exemptions with the right to deduct input tax in relation to:

- transportation and other services related to the import of goods,
- obtaining a tax exemption for an advance received for export of goods abroad,
- necessary documentation for tax exemptions for transport and other services to user of a free zone who is a tax debtor,
- necessary documentation for tax exemptions for services related to export, transit and temporary import when the recipient of these services is a tax debtor.

## Issuance of invoices

The Rulebook introduces the possibility of omitting a transaction date when the invoice date is the same as the transaction date.

The Rulebook stipulates that if a VAT base is changed, it is not necessary to list all invoices for which the change is made in a respective credit/debit note, but it is enough to state the start and end date of the period in which the relevant invoices were issued.

The Rulebook explicitly stipulates that in an invoice for supply of services, the contractual term which regulates the provision of services can be stated as information on the type of service provided.

The Rulebook specifies that in the case when consideration is charged in a foreign currency, for individual items the base and VAT may be stated in a foreign currency, but the total amount of the tax base and the total amount of VAT on that invoice must be expressed in dinars.

The KPMG team is at your disposal for all inquiries regarding the Rulebook's application:

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