



Tax&Legal Highlights

Serbia

International taxation

Serbia is one of the first countries to ratify the Multinational Convention, as the National Assembly of the Republic of Serbia has adopted the Law on ratification of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting, on 19 April 2018.

Multilateral Convention amends the provisions of the existing bilateral Double Tax Treaties, in case the Multilateral Convention has come into force for both contracting states which have notified the Double Tax Treaty under the Multinational Convention. Serbia has notified 64 Double Tax Treaties, both ones that have already come to force and ones which have not been ratified yet.

Serbia has still not deposited its ratification document with the OECD, therefore, Multilateral Convention will come into force for Serbia at the expiry of three months from the date the ratification document is deposited with the OECD, which is expected to happen shortly.

More detailed information on the Multilateral Convention will be provided in the coming period.

Amendments to the Law on Value Added Tax, Law on Tax Procedure and Tax Administration and Excise Law

National Assembly of the Republic of Serbia has adopted amendments to the Law on Value Added Tax (hereinafter: VAT Law), the Law on Tax Procedure and Tax Administration (hereinafter: Tax Procedure Law) and Excise law.

The Law on Amendments to the VAT Law entered into force on 28 April 2018, with the majority of the amendments being applied as of 1 July 2018, with the exception of the amendment to the Article 53 - VAT refund to a non-resident taxpayer, which shall apply as of 1 January 2019.

Law on Amendments to the Tax Procedure Law has come into force and applies as of 28 April 2018, except for the amendments regarding the new business functions of the Tax Authority (including providing tax services), introducing the unified information system of the local tax administration and abolishing the authority of the Tax Authority in the area of foreign exchange which are applicable as of 1 January 2019, as well as amendments related to the obligation to inform the Tax Authority of all premises where the taxpayer stores goods and/or performs business activities, which are applicable as of 27 August 2018.

The Law on Amendments to the Law on Excise is published in the Off. Gazette RS No. 030/2018, from 20.04.2018. and will enter into force on 28 April 2018.

Further below is an overview of the most important changes encompassed by the above stated laws.

1. Amendments to the VAT Law

Newly adopted amendments of the VAT Law have extended the implementation of the legal provision governing tax point for services stated in the Article 5, paragraph 3, Item 1) of the VAT Law, providing that VAT liability arises at the moment when the invoice is issued for transfer, assignment or lease of copyrights and other related rights, patents, licenses, trademarks, as well as other intellectual property rights but also for the services provided in direct connection with them assuming that they are provided by the same supplier.

In Article 24, paragraph 1, item 5a) is added which states that VAT should not be paid for the supply of goods that are entered into the free zone, transport and other services that are directly related to the entry and supply of goods in the free zone and which are performed to a non-resident person who has concluded a contract with the VAT payer - free zone user to incorporate these goods into goods intended for dispatches abroad.

In addition, in Article 53, paragraph 1, item 4) of the VAT Law was amended and a new provision was added which states that the VAT refund is to be allowed for a non-resident taxpayer who performs supplies of goods and services in the Republic of Serbia if a tax debtor for such supply is deemed to be a registered VAT payer - recipient of goods or services.

2. Amendments to the Tax Procedure Law

2.1 Refund of value added tax

Pursuant to the amendments to Article 70 of the Tax Procedure Law, in case when a taxpayer is entitled to a VAT refund, such refund will be granted in the total amount of VAT refund, decreased by the amount of other tax debts of the taxpayer (for any type of tax).

2.2 Expanding the liability of natural persons and persons responsible for calculation and payment of tax

Amendment to the Article 31 of the Tax Procedure Law stipulating the secondary tax liability, extends the liability of natural persons and persons responsible for calculation and payment of tax for all types of tax, and not solely for withholding tax, as it was prior to the amendments.

2.3 Amended tax return

New paragraph has been added to Article 40 of the Tax Procedure Law which stipulates that the taxpayer cannot file an amended VAT return for the tax period for which it has already file a tax return, in which he will amend its choice for a refund, regardless of the amount of the refund.

Also, provisions of Article 40 of the Tax Procedure Law were further specified, so that the taxpayer will be obliged to file amended tax return at the latest until the expiry of the statute of limitations, when he determines that the filed tax return contain an omission which results in incorrectly assessed tax liability.

Furthermore, pursuant to the amendments, amended tax return cannot be filed in case tax police has started taking actions with the purpose of detecting tax frauds.

2.4 Providing information

Pursuant to the amendments to the Article 45 of the Tax Procedure Law, apart from the taxpayer, the Tax Authority may request information which are of importance for undertaking the activities within the competence of the Tax Authority from other persons, companies, banks and government bodies

2.5 Addendum to the Minutes of the Tax Authority

Amendments to the Article 128 of the Tax Procedure Law introduce an addendum to the Minutes of the Tax Authority – namely, in case the tax inspector, after delivering the Minutes of the tax audit to the taxpayer, becomes aware of new facts of information which influence the facts of the case, the tax inspector will prepare addendum to the Minutes and deliver it to the taxpayer. The taxpayer will have 8 days from the date of receiving the addendum to file comments to the Minutes.

2.6 Electronic filing of the property tax return

Pursuant to the amendments to the Article 38 of the Tax Procedure Law, as of 1 January 2019, taxpayers will be able to file the property tax return electronically.

2.7 Write off of penalty interest

Article 76 of the Tax Procedure Law, which provides for possibility of write-off of 50% of penalty interest for taxpayer which has been granted a deferral of payment of tax debt and which settles both the deferred tax liability and the current liabilities in a timely manner, has been amended so that the write-off is not available in case the tax debt was assessed in a tax audit.

2.8 New structure of the business activities of the Tax Authorities

Instead of current structure where the Tax Authority performs desk audits, field audits and activities with the goal of detecting tax frauds, after the amendments which will come into force as of 1 January 2019, the Tax Authority will provide tax services, tax audits and activities with the goal of detecting tax frauds.

Therefore, the Tax Authority will provide tax services which encompass, among others, providing legal assistance to taxpayers, receipt and processing of tax returns, etc.

Upon amendments to the Tax Procedure Law, the difference between desk and field audit is no longer made, but all audits are defined as "tax audits" and are subject to unified rules.

2.9 National Bank of Serbia

As of 1 January 2019 Tax Authority will no longer be authorized to issue licenses for exchange operations nor will it be authorized to supervise exchange operation, but these areas will be taken over by the National Bank of Serbia.

2.10 Delivering tax documents electronically and sending reminders to the taxpayers

Amendments to the Tax Procedure Law also refer to possibilities of delivering tax document electronically as well as electronic communication between the Tax Authority and taxpayers. Additionally, the amendments provide legal grounds for the Tax Authority to send reminders to taxpayers, in written form, electronically or via SMS, prior to sending official notices.

2.11 Filing of request for initiation of criminal or offense procedures

In accordance with the amendments to the Tax Procedure Law, when a tax inspector during a tax audit determines irregularities, tax inspector will either file a request for the initiation of offense procedure or will file a report to the tax police on reasonable doubt that a tax fraud might have been committed. If the report is filed to the tax police, the tax inspector will not file the request for initiation of the offense procedure, but such request will be filed by the public prosecutor, if required. In case the tax police does not file a criminal charge against the taxpayer it will inform the Tax Authority that will consequently file a request for the initiation of the offense procedure.

2.12 Groundless request for tax refund

Article 173a of the Tax Procedure Law has been amended so that in case the amount of request tax refund is unjustified and does not exceed the amount of 1,000,000 dinars in a 12 month period, such case will be subject to offense procedure and not to criminal charges.

2.13 Informing the Tax Authority

Amendments to the Article 25 of the Tax Procedure Law clarify that the taxpayer is obliged to inform the Tax Authority on all important data which are not filed the Serbian Business Registers Agency, which includes data on all business premises in which the taxpayer stores goods or performs business activities, unless such data has already been provided to the Tax Authority. Pecuniary fine ranging from 100,000 to 2,000,000 dinars is prescribed for a legal entity that does not provide such data to the Tax Authority.

2.14 Local Tax Administration

Amendments to the Tax Procedure Law provide grounds for establishing unified information system of the local tax administrations, which would contain data relevant for assessing property tax and other public charges, as well as data on collection of such revenues, and all with the purpose of unifying the work and increasing the effectiveness by doing the administrative work electronically.

It is expected that the unified information system will be set up as of 1 January 2019, as of which date the local tax administrations will be obliged to connect with that system, which the Tax Authority will take over the running of the unified information system at the latest as of 1 January 2020.

3. Amendments to the Excise law

The most significant amendments to the Law on Excise are related to the additional clarification of the provisions of Article 39b, which significantly increases the legal security of taxpayers.

Namely, to the paragraph 1 of the above-mentioned Article, a part of the provision is added that unambiguously states that the Buyer - final consumer has a right to refund the excises paid on the listed petroleum derivatives and bioliquids even when listed petroleum derivatives are used as energy fuel or as a raw material.

Additionally, in paragraph 3, point 4), and in accordance with the above, the terminology of this provision has been harmonized in sense that the amended provision states that a right of refund excise paid on petroleum derivatives listed in Article 9, paragraph 1, item 3), 4), 5) and 6) of this Law, which are used as energy fuels or as a raw material, is entitled to a entity who uses these petroleum derivatives for industrial purposes

Pavle Kutlešić

Manager

Tel: +381113812173

Email: pkutlesic@deloitteCE.com

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