



## Deloitte Tax Alert

August 2013



Several new tax rulebooks have been recently adopted. Also, numerous new rulings were issued by the Ministry of Finance and Economy, out of which we have selected the most relevant for the tax practice.

#### The new Rulebooks are:

- The Rulebook on Transfer Pricing and Arm's Length Methods Used for Determining the Transaction Prices between Related Entities (*"Official Gazette of the Republic of Serbia", no. 61/2013*)
- The Rulebook on the Contents of the Withholding Tax Return on Assessed and Settled Withholding Tax for Compensation Received by Resident and Nonresident Legal Entities for the Supply of Waste Materials (*"Official Gazette of the Republic of Serbia", no. 61/2013*)
- The Rulebook on the Withholding Tax Return (*"Official Gazette of the Republic of Serbia", no.74/2013*)
- The Rulebook on Amendments to the Rulebook on Determining Waste Materials and Services Directly Related to Waste Materials, Related to VAT Law (*"Official Gazette of the Republic of Serbia", no.74/2013*)
- The Rulebook on Amendments to the Rulebook on Tax Return Forms for Determining Personal Income Tax (*"Official Gazette of the Republic of Serbia", no.74/2013*)
- The Rulebook on Amendments to the Rulebook on the Manner of Determining, Settling and Recording Withholding Tax and the Contents of the Joint Withholding Tax Return on Assessed and Settled Withholding Tax (*"Official Gazette of the Republic of Serbia", no. 61/2013*)
- The Rulebook on Amendments to the Rulebook on the Joint Tax Return for Assessed and Withheld Mandatory Social Security Contributions (*"Official Gazette of the Republic of Serbia", no. 61/2013*)

#### The Rulebook on transfer pricing:

The new Rulebook on Transfer Pricing and Arm's Length Methods Used for Determining the Transaction Prices between Related Entities that entered into force on July 20<sup>th</sup>, 2013 basically regulates the following:

- Form and content of the transfer pricing documentation
- Procedure of the transfer pricing audit by the Tax Authority
- Selecting and applying appropriate transfer pricing methods, adjusting transfer prices, and
- The possibility to minimize the transfer pricing adjustment from transactions with a single related entity.

This Rulebook is of a special importance for taxpayers that have related entities, considering that it will be applied for completing the 2013 tax balance sheet. We would like to remind you that the 2012 amendments to the Law on Corporate Income Tax have introduced the obligation to submit the transfer pricing documentation along with the tax balance sheet.

The new rulings of the Ministry of Finance and Economy are:

- **Obligation of a foreign construction company's branch office to pay corporate income tax** – If a branch office of a construction company from a country that has concluded a DTT with Serbia performs construction works for a time period which does not elapse the time necessary for creating a PE under the DTT, the right to tax the branch office's gains belongs solely to the other contracting state. Nevertheless, the nonresident taxpayer has an obligation to file a tax return on the PDO form to the competent tax authority.

*(Ruling of the Ministry of Finance and Economy, no. 413-01-85/2013-04 dated on July 30<sup>th</sup> 2013)*

- **The tax treatment of outsourced collection of receivables, virtual market endorsement and e-services rendered to individuals** – When a VAT taxpayer collects fees in the name and on behalf of a nonresident – virtual market owner, from the users of electronic content, the VAT taxpayer is obliged to compute VAT for such service.

VAT is levied on the amount of compensation received for the supply of fee collection services. However, the amount of the fee collected in the name and on behalf of the nonresident which is transferred to that nonresident is not taxed.

Considering that virtual market endorsement services are taxable according to the place of the service recipient, which is a nonresident in this case, no VAT is levied.

Due to the fact that the supply of electronic content is rendered by a nonresident to individuals in Serbia, which is an e-service taxed according to the place of the service recipient, individuals in Serbia are the tax debtors for these services.

*(Ruling of the Ministry of Finance and Economy, no. 430-01-331/2013-04 dated on July 9<sup>th</sup> 2013)*

# Contacts

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