

## Deloitte Tax Alert

### Changes and Amendments to the Law on Tax Procedure and Tax Administration



The changes and amendments to the Law on Tax Procedure and Tax Administration (hereinafter: LTPTA) bring forth several novelties, including the unification of penalty provisions for tax offences within one law, as well as imposing stricter sanctions in case of violating tax regulations, and all with a goal of diminishing grey economy in Serbia.

### We single out the following changes and amendments to the LTPTA:

- **Language of the document:** If the taxpayer submits a document in a language that is not in official use with the Tax Authority, the Tax Authority will determine a deadline which cannot be shorter than 5 days within which the taxpayer will provide a certified translation into Serbian language. If the taxpayer fails to submit the certified translation within the designated timeframe, it will be deemed as if the document has not been submitted at all.
- **Fulfilling tax liabilities:** The tax liability may now be settled by a third party that is not responsible for settling the tax liability under tax law.
- **Awarding TIN:** In the future, TIN will not be awarded to, amongst others, a legal entity whose founder is a person that is at the same time the founder of another business entity that has outstanding fiscal liabilities. Furthermore, TIN will not be awarded to a legal entity created through a status change separation with founding, or mixed separation, if the legal entity subject to separation has outstanding fiscal liabilities.
- **Erasing, i.e. changing data in the commercial registry during the tax audit:** The Serbian Business Registers Agency cannot erase a business entity, register a status changes or change data in the period from receiving the notification from the Tax Authority that a tax audit of a business entity will be performed until receiving notification that the tax audit had been completed.
- **Obligation of the bank to submit data to the Tax Authority:** The bank is obligated to submit data to the Tax Authority about, amongst other, executed payment orders or transfer orders by income payers and billing codes until the 5<sup>th</sup> day of the current month for the previous month, as well as for payments received by a natural person from abroad, within 30 days from the day the payment was made.
- **Delivering tax acts:** If a tax act is being delivered via registered mail, the tax act is deemed to be delivered on the day the tax act was handed over, or on the 15<sup>th</sup> day from the day the tax act was delivered to the post office in case the tax act could not have been handed over (the previous solution prescribed a 15-day deadline, irrespective from the moment registered mail was handed over).  
  
If the taxpayer is a legal entity, the tax act is deemed to be delivered even if it is handed over to an employee in the legal entity.  
  
The tax act may be delivered via e-mail if the taxpayer concurs with that manner of delivery.
- **Submitting the tax return:** The tax return is submitted to the Tax Authority within 15 days from day the tax liability was triggered, except where it is otherwise prescribed by the LTPTA or another tax law.

The tax return is always submitted electronically for withholding taxes levied in line with the Law on Personal Income Tax and Law on Mandatory Social Security Contributions, VAT, as well as for:

- 1) Corporate income tax – as of October 1<sup>st</sup> 2014;
- 2) Excise duties and tax on income from own activities for entrepreneurs who keep business books – as of January 1<sup>st</sup> 2015;
- 3) Annual income tax – as of April 1<sup>st</sup> 2015;
- 4) All other taxes – as of October 1<sup>st</sup> 2015.

Until the day tax returns are exclusively submitted electronically, the tax return may be submitted directly or via post office.

The tax return is submitted by the Tax Authority instead of the taxpayer ex officio, i.e. in case when the taxpayer fails to submit on order after the audit, as well as in other cases prescribed by the law.

- **Settling the tax liability via transfer of surplus:** If the taxpayer submits a request for settling tax via transfer of surplus, the day when the tax liability was settled is deemed to be: the day when the tax settled via transfer of surplus became due, if on that day there is a surplus amount of paid tax on another basis; or the day when excess tax on another basis was paid, if the tax settled via transfer of surplus became due earlier. In other words, interest will not be computed if the taxpayer has overpaid its (tax) liability on another account, i.e. interest will be computed only up to the day when on another basis an excess amount was paid.
- **Payment allocation:** Payments will be allocated in such a way so that first the costs of collection will be covered, upon that interest and in the end the amount of the main tax liability.
- **Increasing the tax debt in case of enforced collection:** The entire amount of tax debt that is subject to enforced collection will be increased for 5% on the day enforced collection procedure commences.
- **Interrupting the statute of limitation:** Statute of limitations is now also interrupted by any action of the taxpayer taken with a goal of realizing the right to a refund or a tax credit, as well as for settling due liabilities via transfer of surplus and refund of secondary tax expenses.

### We single out the following penalty provisions:

#### Failing to submit and late filing of the tax return, failing to compute, settle and late-settlement of tax:

- The tax payer – legal entity that **does not submit the tax return, does not compute and pay tax** will be levied a monetary fine in the amount of 30% to 100% of the amount of owed tax determined during the course of the tax audit, with a minimum fine of RSD 500,000.
- The tax payer – legal entity that **does not submit the tax return, computes but does not pay tax** will be levied a monetary fine in the amount of 20% to 75% of the amount of owed tax determined during the course of the tax audit, with a minimum fine of RSD 400,000.

- The tax payer – legal entity that **submits the tax return, but does not pay tax** will be levied a monetary fine in the amount of 10% to 50% of the amount of owed tax determined during the course of the tax audit, with a minimum fine of RSD 250,000.
- The tax payer – legal entity that **does not submit the tax return, but does pay tax within the law prescribed deadline**, will be levied a monetary fine ranging from 100.000 to RSD 2,000,000.
- The tax payer – legal entity that **does not submit the tax return in time and does not pay tax within the law prescribed deadline**, will be levied a monetary fine in the amount of RSD 150,000.
- The monetary fine cannot be determined in the higher amount from the maximum amount of a monetary fine prescribed by the Law on Felonies (**RSD 10,000,000 for a legal entity**).

#### **Failing to submit documents along with the tax return, registration form and requests, notifications, documents and other data:**

- The tax payer – legal entity that, amongst other, does not submit to the Tax Authority the prescribed documentation will be levied a monetary fine ranging from 100.000 to RSD 2,000,000.
- The tax payer – legal entity that upon expiry of the prescribed deadline submits documents, or data will be levied a monetary fine in the amount of RSD 150,000.

#### **Actions contrary to the rules of doing business prescribed by tax law:**

- The tax payer – legal entity that does not keep records, i.e. business books, does not list goods, or make payments via bank account, **does not conclude a contract**, or does not submit documentation, data or notifications to third parties prescribed by tax law will be levied a monetary fine ranging from 100.000 to RSD 2,000,000.
- The tax payer – legal entity that does not report, publish or display retail prices in line with the tax law, or who sells goods under prices which are not in accordance with the tax law will be levied a monetary fine ranging from 100.000 to RSD 2,000,000.
- The tax payer – legal entity that displays tax in a receipt contrary to the tax law will be levied a monetary fine ranging from 100.000 to RSD 2,000,000.

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