



Deloitte Tax Alert

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The Ministry of Finance has issued several new Rulings that further explain the implementation of the provisions of the Value Added Tax Law, Corporate Income Tax Law and Law on Tax Procedure and Tax Administration.

The most recent Ministry of Finance Rulings are:

- **VAT treatment of the supply of real estate not considered as the first transfer of ownership** – The supply of newly built real estate not considered as the first transfer of ownership is nonetheless subject to VAT if all of the following conditions are met: if the supply is made between VAT taxpayers, if the acquirer has the right to fully deduct calculated VAT as input VAT, and if it is provided under contract that the supply is subject to VAT. In this situation, the acquirer is obliged to apply reverse charge and compute output VAT.

(Ministry of Finance Ruling, no. 430-00-15/2014-04 issued on March 3, 2014)

- **VAT cannot be levied on the supply of newly built real estate not considered as the first transfer of ownership when the acquirer obtains real estate in order to demolish it and build new real estate** – If a VAT taxpayer performs a supply of real estate to another VAT taxpayer, for the purposes of demolition and construction of new real estate (which is known at the time of supply), there is no legal basis for calculating output VAT. Namely, the acquirer does not have the right to deduct input VAT based on the acquisition of real estate which will be demolished.

(Ministry of Finance Ruling, no. 413-00-151/2013-04 issued on February 21, 2014)

- **Tax treatment of the supply of goods considered to be rendered abroad** – When a VAT taxpayer supplies goods that are shipped from one foreign country to another, there is no obligation to calculate VAT in Serbia, due to the fact that the place of supply is deemed to be abroad. For this particular supply of goods, the VAT taxpayer issues an invoice containing the gross amount, without the elements prescribed by Article 42 of the VAT Law, stating that VAT was not computed under Article 11 para. 1 item 1) of VAT Law.

(Ministry of Finance Ruling, no. 413-00-87/2013-04 issued on March 13, 2014)

- **VAT treatment of the supply of intermediary services for the supply of goods delivered from abroad into the territory of Serbia** – The place of supply for intermediary services for the supply of goods is considered to be the place where the goods are supplied from. In this regard, the supply of intermediary services for the supply of goods that are delivered from abroad to Serbia is not subject to VAT, considering that the place of supply of goods is not in Serbia.

(Ministry of Finance Ruling, no. 413-00-00263/2012-04 issued on February 25, 2014)

- **VAT base for the supply of electricity** – The VAT base for the supply of electricity is considered to be the amount of compensation that the supplier of electricity receives or should receive on this basis (without VAT), including all auxiliary costs that the supplier of electricity charges to the recipient.

(Ministry of Finance Ruling, no. 07-00-51/2014-04 issued on March 13, 2014)

- **Tax treatment of capital gains which a resident of Hungary realizes from selling shares in a resident of Serbia** – Capital gains realized by a nonresident taxpayer, a legal entity – tax resident of Hungary, from selling shares in a legal entity – resident of Serbia, are taxable only in Hungary. In this case, a nonresident taxpayer, i.e. its tax representative, submits a request to the competent organizational unit of the Tax Authority for issuing the confirmation that, in this particular case, there are no capital gains tax liabilities.

(Ministry of Finance Ruling, no. 430-00-177/2013-04 issued on February 28, 2014)

- **Recognizing the right to a tax credit based on investments made in 2013** – The right to a tax credit based on investments into fixed assets made in 2013 is recognized for taxpayers, in line with Corporate Income Tax Law (“Off. Gazette RS” no. 25/2001, 80/2002, 80/2002 - oth. Law 43/2003, 84/2004 and 18/2010).

(Ministry of Finance Ruling, no. 011-00-00009/2014-04 issued on February 25, 2014)

- **Recognizing interest and negative foreign exchange differences originating from loans for business activities for tax balance purposes** – When a taxpayer reports in his business records interest and foreign exchange losses originating from loans taken for business activities, these expenses are deductible in the taxpayer’s tax balance. Namely, in accordance with the Company Law, a company has its principal activity, registered in accordance with the law which regulates registration, but is also allowed to perform all other business activities regardless of whether such activities are listed in the articles of association, i.e. statute.

(Ministry of Finance Ruling, no. 413-00-84/2013-04 issued on March 11, 2014)

- **No obligation to submit amended CIT returns for tax periods during which the taxpayer applied a previous accounting policy** – In case of a change in accounting policy related to the valuation of investment properties by switching to the fair value method, the taxpayer is not obligated to submit an amended CIT returns for tax periods in which the taxpayer applied the previous accounting policy.

(Ministry of Finance Ruling, no. 430-00-283/2013-04 issued on February 4, 2014)

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