



Deloitte Tax Alert

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Ministry of Finance has issued a number of Rulings relevant for applying the provisions of the VAT Law, CIT Law and Personal Income Tax Law.

Further, the Ministry announced increase of the reduced VAT rate from 8% to 10%, as well as taxation of certain categories of goods and services (e.g. supply of computers and hotel accommodation services etc.) with the standard 20% VAT rate to begin with January 1, 2014. So far, the proposed changes and amendments of the VAT Law have not entered into National Assembly proceedings.

The Ministry of Finance also announced "additional taxation of earnings in the public sector". However, according to available sources this will not be a tax measure. Instead, it will take the shape of a gradual decrease of employee net earnings in the public sector which exceed certain thresholds (60.000 RSD net – 20% reduction and 100.000 RSD net – 25% reduction). This measure will relate to the public sector in its entirety, including all budget users, public companies and local administration. Accordingly, the announced changes will not take the form of a tax regulation, nor of an amendment of tax laws. The draft regulation has not, up to this moment, entered into National Assembly proceedings.

The most recent Ministry of Finance Rulings are:

- **The conditions for the use of tax credits in subsequent tax periods in relation to the period when the investment in the fixed asset construction was made** – The right to the tax credit prescribed by Article 48 of the CIT Law which applies for determining the tax liability for 2012, is granted to the taxpayer in the tax period in which he invested in the fixed asset construction. In light of that, the taxpayer is not entitled to use the tax credit based on investments into fixed asset construction performed during the years 2008, 2009, 2010 and 2011, which were not reported in the tax period in which they were made.

(Ruling of the Ministry of Finance, no. 413-00-264/2012-04 issued on September 17th 2013)

- **Determining transaction prices under the arm's length principle under the CIT Law which was applied for determining the tax liability for 2012** – According to the law applicable for determining the CIT liability for 2012, the transaction price under the arm's length principle was determined using the cost plus or the resale minus methods, but only if the comparable uncontrolled price method was not applicable.

(Ruling of the Ministry of Finance, no. 011-00-192/2013-04 issued on September 16th 2013)

- **Annual personal income tax and dividends paid to individual - founder and employee in the company which he founded** – Income, realized by an individual – founder and employee in the company which he founded, in the form of dividends and capital income paid from profit distributed under the profit distribution decision paid after October 6, 2012 up to the end of the same year, is not subject to taxation by the annual personal income tax for the year 2012.

(Ruling of the Ministry of Finance, no. 433-01-347/2013-04 issued on September 17th 2013)

- **The tax treatment of the supply of services under the lease agreement which stipulates that the lessee will make certain investments into the leased premises and be exempt from paying rent within a certain period of time** – In the case when the lessee invests into leased premises, while the lease agreement prescribes that the lessee will be exempt from paying rent for a period of 5 years, it refers to a barter trade of investment for lease services. The provision of these services is subject to VAT.

(Ruling of the Ministry of Finance, no. 413-00-353/2013-04 issued on October 8th 2013)

- **Taxation of income from positive exchange rate differences reported by the taxpayer in its business records** – When the taxpayer reports income from exchange rate differences, income reported in such manner is included in the tax base.

(Ruling of the Ministry of Finance, no. 413-00-411/2013-04 issued on September 11th 2013)

- **Creating the tax liability for the recipient of cross border services when periodical invoices are issued** – When a foreign entity renders services to a Serbian entity and the place of supply is Serbia, then the tax debtor is the service recipient. The tax liability arises on the day when it is considered that the services were rendered. For the supply of services of both limited and unlimited duration, for which the foreign entity issues periodic invoices, the tax liability is triggered on the last day of the period for which the invoice is issued.

(Ruling of the Ministry of Finance no. 413-00-42/2013-08 issued on September 16th 2013)

- **VAT treatment of the transfer of goods under a lease agreement which provides for a possibility of unilateral contract termination** – When the transfer of goods is performed under a lease agreement providing for a possibility of unilateral termination, even when the contracting parties comply with their contractual obligations, this is deemed as a supply of services (not goods) taxable under the VAT Law.

(Ruling of the Ministry of Finance no. 011-00-00008/2013-04 issued on October 25 2013)

- **VAT treatment of the transfer of assets with consideration when these assets are transferred through three separate transactions** – When a VAT taxpayer transfers a part of the assets with consideration, it is considered that the supply is not performed if the mentioned part represents a business unit – the transfer of which enables the buyer to independently perform an activity, whilst fulfilling other prescribed conditions. If the VAT taxpayer transfers assets through three separate transactions, it must be ascertained for each of those transactions whether the conditions are fulfilled so that the transfer is not deemed as a supply.

(Ruling of the Ministry of Finance, no. 430-00-0097/2013-04 issued on October 28th 2013)

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