

## Deloitte Tax Alert

### April 2014



## VAT refund

### 1) VAT refund to foreign taxpayers

Since the 2012 changes and amendments to the Value Added Tax Law (hereinafter: VAT Law) came into force on January 1, 2013 the VAT refund was made available to foreign taxpayers. Thus, we hereby inform you that the deadline for submitting the refund claim is June 30, 2014 for supplies made in 2013.

Namely, the VAT Law defines that the refund will be made only for the supply of movable goods and services in Serbia under the condition that:

- the invoice with stated VAT is paid and the VAT amount must be higher than 200 EUR
- the right to deduct input VAT can be realized, and
- the foreign taxpayer does not perform supplies in Serbia.

The last restriction, that the foreign taxpayer does not perform taxable supplies in Serbia, is not applied if the foreign entity only provides services related to the importation of goods (including free zones), directly related to export, transit or temporary importation of goods, or performs the transport of passengers that is subjected to taxation in line with Article 49 para 7 of the VAT Law.

Apart from the abovementioned, it is necessary that reciprocity exists in this respect between Serbia and the resident state of the taxpayer submitting a VAT refund claim.

Currently, reciprocity is established with the following countries: Netherlands, Slovakia, Croatia (partially – only for fairs), Denmark, Austria, Bosnia and Herzegovina, Belgium, Montenegro, Macedonia, Slovenia (partially – only for fairs from February 1, 2012; full scale reciprocity is established as of October 1, 2013), Germany (from July 1, 2013), Great Britain (from January 1, 2013). In other words, taxpayers from said jurisdictions can realize the right to refund VAT paid in Serbia.

We are using this opportunity to inform you that Deloitte is able to assist you with the preparation and submission of VAT refund claims, i.e. to help your partners and related entities to refund VAT paid in Serbia, especially due to the fact that practice on this basis has yet to be formed in Serbia.

### 1) Refund of VAT paid abroad

Since a large number of countries worldwide allow the refund of VAT to foreign taxpayers, Deloitte has, on a global level, created a centralized system for providing assistance with VAT recovery.

Accordingly, Deloitte Serbia is able to assist you with the VAT refund procedure from some EU member states and other countries that allow the refund of VAT to be made to Serbian companies, and via the abovementioned centralized system.

## Ministry of Finance Rulings

The Ministry of Finance has issued several new Rulings that further explain the application of Corporate Income Tax Law and Property Tax Law provisions.

### The most recent Ministry of Finance Rulings are:

- **Application of transfer pricing rules regardless of whether the taxpayer uses the right to deduct tax on any grounds** – The taxpayer is required to submit the transfer pricing documentation along with the tax balance, regardless of the fact that it does not use incentives prescribed by tax laws, i.e. incentives based on other state benefits.

*(Ruling of the Ministry of Finance, no. 430-00-00031/2014-04 issued on March 18, 2014)*

- **Recognition of taxpayer's expenses for medicine advertising as marketing expenses** – Expenses that the taxpayer, producer and distributor of drugs, states in its business books based on medicine advertising are considered as the taxpayer's marketing expenses.

*(Ruling of the Ministry of Finance, no. 413-00-68/2013-04(II) issued on March 18, 2014)*

- **Tax balance recognition of interest expenses and foreign currency exchange currency losses from loans taken in order to perform business activities** – When the taxpayer states in its business books interest expenses and foreign currency exchange losses from loans taken, including the purchase of shares in companies for the purposes of performing the existing activity, or for starting a new activity, this type of expense is recognized in the taxpayer's tax balance.

*(Ruling of the Ministry of Finance, no. 413-00-84/2013-04(II) issued on March 26, 2014)*

- **Displaying transactions between related entities at arm's length** – A resident taxpayer that sells its products exclusively to a related entity is obliged to separately state, in the tax balance, transactions with the related entity at transfer prices. Further, it should also distinctly state, within documentation submitted along with

the tax balance, the value of same transactions under market prices that would be realized for same or similar transactions to unrelated entities.

*(Ruling of the Ministry of Finance, no. 430-00-423/2013-04 issued on April 7, 2014)*

- **Assessing property tax in certain borderline cases** – There is no basis to qualify for exemption for real estate purchased in years 2008 and 2009, intended for renovation and selling, recorded in business books as fixed assets held for sale.

*(Ruling of the Ministry of Finance, no. 430-00-00088/2014-04 issued on April 4, 2014)*

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