

Deloitte Tax Alert

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Ministry of Finance has issued a number of Rulings relevant for applying the provisions of the Value Added Tax Law, Corporate Income Tax Law and Property Tax Law. Further, on December 30, 2013 the Rulebook on Changes and Amendments to the Rulebook on the Forms of Tax Returns for Determining Property Taxes ("Off. Gazette" , no. 118/2013) was adopted. The said Rulebook is in effect as of January 1, 2014 and it has changed the way in which the property tax returns are being filled out.

The most recent Ministry of Finance Rulings are:

- **No withholding tax is levied when a nonresident taxpayer waives the interest claim** – Withholding tax is not levied when a nonresident taxpayer waives the interest claim from a loan towards a related resident legal entity.

(Ruling of the Ministry of Finance, no. 413-00-404/2013-04 issued on November 5, 2013)

- **Levying corporate income tax on income realized by a nonresident from the lease of moveable property to its branch office in Serbia** – No withholding tax is levied on the income realized by a nonresident taxpayer from the lease of immovable property to its branch office in Serbia. In this case, the nonresident taxpayer is obliged to file a tax return for this income.

(Ruling of the Ministry of Finance, no. 413-01-372/2013-04 issued on November 11, 2013)

- **Terminating the contract on the sale of immovable property (which was predominantly completed) is subject to property transfer tax** – When the obligations of contracting parties from a contract on the sale of business premises are predominantly fulfilled, terminating the contract has the effect, from a tax standpoint, of concluding a new legal transaction, the purpose of which is the transfer of ownership. In this new transaction, the buyer and the seller have switched sides, and this sale is subject to property transfer tax, unless it is subject to VAT.

(Ruling of the Ministry of Finance, no. 413-00-00032/2013-04 issued on November 12, 2013)

- **The tax treatment of income realized from wrongfully charged contractual penalty** – Income recorded in the business books of a taxpayer from wrongfully charged contractual penalty that was not recognized as a tax deductible expense in the period when it was collected should not be included in the tax base for 2013 and onwards.

(Ruling of the Ministry of Finance, no. 401-00-662/2013-04 issued on November 12, 2013)

- **Computing VAT on the supply of mobile communication services carried through a distributor and sub-distributor, which was paid in advance** – When a supply of mobile communication services, which was paid in advance, is carried through a distributor, whereby the operator charges a discounted fee from the distributor, and whereby the distributor also charges a discounted fee from the sub-distributor, the VAT base for the supply that the operator/distributor is making is the amount of compensation that should be received, without VAT, minus the discount.

(Ruling of the Ministry of Finance, no. 413-00-136/2013-04 issued on December 5, 2013)

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