

## Tax Alert

28 November 2024

### Adopted amendments to the following laws:

#### I. The amendments to the Law on Value Added Tax (hereinafter: "VAT Law")

Some of the major changes in the functioning of the VAT system since its introduction are envisaged. Namely, the **POPDV Form** will be abolished and there is an introduction of an obligation to submit a **preliminary VAT return prepared based on data available in the electronic invoice system (hereinafter:"SEF")**. These changes will take effect starting from the first tax period beginning in 2026, while the form, content, and method for preparing and submitting the preliminary VAT return will be regulated by a by-law that would be adopted by 15 June 2025.

It should be noted that a substantial portion of the amendments establishes a law basis for provisions already encompassed by previous amendments of the Rulebook on VAT.

Other significant amendments to the VAT Law encompass:

- Introduction of the possibility of specifying in a contract or a decision regarding **the transfer of whole or part of the business** as per Article 6 para 1 item 1) of the VAT Law, that VAT will be calculated, thereby considering that a supply in accordance with the VAT Law has been performed.
- The rules for the **change of the VAT base** are modified, with the following highlights:
  - the issuance of a document for the increase of the VAT base is prescribed as mandatory by VAT Law, whereas possessing a document for the reduction of the VAT base is a formal condition for reducing the VAT amount;
  - a formal condition for reducing the VAT amount is that the taxpayer to whom the supply was made corrects the deduction of the input VAT, and that the taxpayer who made the supply possess a notification from the recipient confirming that the calculated VAT was not deducted or that the deduction has been corrected. The requirement for the notification to be in written form has been abolished.
- It is stipulated that the taxpayer is obliged to **correct the deduction of input VAT** in cases of the reduction of the advance payment, as well as if the previous participant in the supply cancels the invoice or other document on which the deducted input tax was declared. A statement regarding the correction of deducted input VAT may be provided if the taxpayer who made the supply or received the advance payment issued the document related to the reduction.
- It is prescribed that the taxpayer may **cancel an invoice**, without specifying the cases in which such right can be exercised. The conditions for reducing VAT stemmed from the canceled

invoice remain essentially unchanged, however the provision requiring the new invoice to include a note that it replaces the canceled issued invoice has been abolished.

- The **internal invoice** gains significant importance. It is required to be issued for advance payments, supplies, changes of the VAT base, and reductions of advance payments. Its possession will represent a formal condition for the right to deduct input tax, as well as for the reduction of calculated VAT.
- The right to deduct input VAT could be used for electronic invoices that are **accepted no later than the 10<sup>th</sup> day of the calendar month** following the tax period.
- It is introduced that the invoice **will be considered formally correct** even if there are deficiencies in the identification elements of the recipient, except for the Tax Identification Number (TIN).
- Instead of the current procedure, where an entity who ceases to exist submits a request for deregistration from the VAT register before being deregistered in front of the Serbian Business Registers Agency, it is now envisaged that the legal successor should notify the Tax Authorities about the status change within 15 days from the date of its implementation.
- A special article stipulates that for **services whose compensation is included in the customs value of imported goods**, VAT should be calculated on the amount of compensation that is not included in the customs value.
- If the value of goods or services **received from farmers subsequently changes**, the taxpayer should issue a receipt on farmer's compensation in the case of an increase, or a document for a decrease in the case of a decrease of the value.
- **The request to change the tax period** to a calendar month should now be submitted between December 15<sup>th</sup> and December 31<sup>st</sup> of the current year for the following calendar year, instead of by January 15<sup>th</sup> of the current year. The method and procedure for changing the tax period, as well as the time period for which the tax period has been changed, will be further prescribed by 15 December 2024.
- The **deadline for submitting the registration form** has been shortened to 5 days from the date of exceeding a total supply of 8 million dinars in the previous 12 months.

Except for the provisions regarding the POPDV form and the preliminary VAT return, the amendments to the VAT Law will take effect from 1, January 2025, while the provision regarding the request for a change of the tax period will take effect from 15, December 2024.

## II. The amendments to the Law on Electronic Invoicing (hereinafter: “E-invoicing Law”)

The most significant amendments to the E-invoicing Law include the preparation of a **preliminary VAT return** within the SEF and **obtaining data on import directly from the Customs Authorities**. Further regulations will clarify these amendments. It should be noted that a substantial portion of the amendments establishes a law basis for provisions already encompassed by previous amendments of the Rulebook on e-invoicing.

Other notable amendments to the E-invoicing Law include:

- The deadline for **electronic recording of output and input VAT has been moved to the 12<sup>th</sup> day of the calendar month** following the tax period for which recording is being done. The recording of input VAT should be done with data no later than the 10<sup>th</sup> day of the calendar month following the tax period for which recording is done.
- There is still the possibility of **correcting** electronic recordings of output and input VAT, however the provisions on the deadlines for such corrections are abolished.
- Introduction of an obligation for the **cumulative** electronic recording of VAT for **retail** transactions, including advance payments.
- The recording of the supply of **newly constructed buildings**, economically divisible units within those buildings, and ownership shares in those goods is changed from cumulative to **individual** VAT recordings.
- The definition of “**public sector entity**” is expanded to include limited liability and joint stock companies in which the Republic of Serbia holds a majority share or stake.
- The term “**entity status**” is introduced, encompassing data on whether the entity is a VAT payer and, if so, whether the tax period is a calendar month or a quarter. The entity should declare its status upon registration in the list of SEF users and update it as necessary. Entities that do not declare their status by December 15<sup>th</sup>, 2024, will have their status information sources from the Tax Authorities.
- The issuer may be prohibited from further processing the e-invoice if it has **outstanding monetary claims** associated with that e-invoice.
- The scope of existing **offenses** is expanded to include supplements and amendments related to the recording of VAT and the use of SEF in accordance with the E-invoicing Law. In addition, failing to provide and update information about the entity's status will constitute an offense, subject to the same monetary penalties as those prescribed for existing offenses.
- An **offense will be considered not committed** if the entity corrects the mistake in the electronic recording of VAT before the control procedure is initiated.

The amendments to the E-invoicing Law will be applicable as of 1, January 2025 or for tax periods starting after 31, December 2024. The exceptions include provisions regarding the preliminary VAT return, which will be applicable for the tax periods starting after 31, December 2025, and the provision regulating entity status, which will be applicable as of 15, December 2024.

### III. The amendments of the Corporate Income Tax Law

In the following text, we will present some of the most significant amendments and supplements.

- Members of a company that has ceased to exist due to liquidation are **jointly liable for settlement of corporate income tax liability** determined in the tax return submitted upon completion of the liquidation process, **up to the value of the assets individually allocated to each of them in that process.**
- A new obligation is introduced for legal successors of a company that has undergone a status change, such as division or spin-off, to submit **a report to the Tax Administration on the realization of the division of rights and obligations** of the legal predecessor **within 60 days from the date** of registration of the status change in the relevant register. The report would be submitted electronically, as an attachment (in pdf form) on the taxpayer's tax balance.
- It is specified that in case of a status change resulting in the termination of the company, the tax return is submitted by its **legal successor**, or the legal representative of the company that is ceasing to exist, in case there are multiple legal successors.
- The tax return and tax balance sheet in bankruptcy and liquidation processes will henceforward be submitted by **the liquidation/bankruptcy trustee**. Additionally, the specific date from which the deadlines for submitting the tax return and tax balance sheet in liquidation and bankruptcy processes begin has been further clarified.

The amendments and supplements to the Corporate Income Tax Law will apply as of 1, January 2025.

### IV. The amendments of the Personal Income Tax Law

The following text reflects on the most significant amendments and supplements to the Personal Income Tax Law:

- **Non-taxable amount** for salary will be RSD 28,423 in 2025.
- Non-taxable amount for **per diem** for the business trip abroad will be EUR 90 in 2025.
- **Application of the tax incentives** from the Articles 21v (employment of new individuals) and Article 21d (employment of new individuals with micro and small legal entities and entrepreneurs) has been **extended** until 31, December 2025.
- Income of **maritime professionals** is categorized separately. Such income will be taxed with the tax rate of 10%. Tax return is submitted by 31 March of the current year for the previous year. Provided that tax payers are sailing in the period from 01 January until 31 March they need to submit their tax return within 15 days from the first day of disembarking from the ship. Level of income will be determined on a daily basis in accordance with the rules determined in the bylaws.
- A limitation is introduced in the application of the tax credit for the annual income tax based on **investment in an alternative investment fund**. If the taxpayer alienates shares or stocks in an alternative investment fund, or investment units of an alternative investment fund within 3 calendar years, they lose the right to a tax credit and will be obliged to amend the annual income tax return and pay the difference in the annual income tax as well as the interest. These novelties are applicable for calculation of annual personal income tax for 2024.
- **Maritime professionals'** income will also be subject to additional non-taxable amount for annual income tax purposes if the individuals are **younger than 40 years of age**.

The amendments and supplements to the Personal Income Tax Law will apply as of 1, January 2025.

## V. The amendments of the Law on Mandatory Social Security Insurance

In the following text, we will present some of the most significant amendments and supplements.

- Social security base for the mandatory health insurance for **maritime professionals** (regardless of whether they have or do not have a tax obligation) is at least twelve times the amount of the lowest monthly contribution base of this Law.
- Application of the SSC incentives from the Articles 45 (employment of new individuals) and 45v (employment of new individuals with micro and small legal entities and entrepreneurs) is **prolonged** until 31, December 2025.

The amendments and supplements will apply as of 1, January 2025.

## VI. The amendments of Property Tax Law

Hereunder we would like to present the most significant amendments and supplements:

- Defining the day when the right to **tax exemption for property that is exclusively intended for sale ceases**, as the earliest of the following days: the day of ceasing to record the property as an asset exclusively intended for further sale, the day when use of the property begins, or the end of the year following the year in which the tax obligation arose.
- Specifying the type of **land** for which the right to exemption for the part under the building cannot be realized, including land under the building whose book value included in the tax base equals to zero, and land above an underground structure where the upper base is entirely below the ground surface, or in the part where that base is below the ground surface.
- In the case of compensation agreed alternatively or optionally, the agreed price for the purposes of determining **the transfer tax** will be considered the highest of these on the day the tax obligation arises.

The implementation of the amendments and supplements will commence on January 1, 2025, while the property tax will be calculated and paid in accordance with the amendments and supplements starting from 2025.

## VII. The proposed amendments and additions to the Law on Excise Duties

The most significant proposed amendments and additions to the Law on Excise Duties include the following:

- Starting from 1, January 2026, instead of a single monthly tax return, there will be **two tax returns for a month**, each aligned with the deadlines for the payment of excise duties. Therefore, one tax return would cover the period from the 1<sup>st</sup> to the 15<sup>th</sup> of the month and should be submitted no later than the last day of that month, while the other would cover the period from the 16<sup>th</sup> to the end of the month and should be submitted no later than the 15<sup>th</sup> day following the end of the month.
- Applicable from 1, July 2025, there should be an increase of the **refund of paid excise duty** on motor fuel used for transporting passengers and cargo in **international road traffic**, notably for gas oils and biofuels.
- **An increase of the minimum excise duty** on cigarettes, cut tobacco, and pipe tobacco.
- Introduction of **production and collective** codes, which should be printed on individual and collective packaging of cigarettes and non-burning tobacco.
- Introduction of the **excise duty on plant products for smoking or heating** and products for **water pipes (narghile flavors)**.
- A special set of rules is being introduced for calculating excise duty on **compressed natural gas**. It should be noted that the buyer is exempt from paying excise duty if submits a corresponding statement that the purchase is for heating or industrial purposes.

It is envisaged that the amendments and additions to the Law on Excise Duties would apply as of 1, January 2025, except for the provision regarding the minimum excise duty for cigarettes, cut tobacco, and pipe tobacco, which would take effect eight days after the publication of the adopted amendments and additions.

## VIII. Proposed amendments of Law on Tax Procedure and Tax Administration

In the following text, we will present some of the most significant amendments and supplements that were proposed.

### 1. Introduction of Records of Private Individuals

The most significant proposed change is the introduction of a **record of private individuals** aimed at more effectively conducting tax procedures. The record will include citizens of the Republic of Serbia, refugees, asylum seekers, foreigners granted asylum or subsidiary protection and temporary protection under the law, foreigners with approved temporary residence or permanent residence, and foreigners without permits for permanent residence or temporary stay, who own property or have rights and obligations related to social security insurance in Serbia or qualify as taxpayers.

- Data entry will be based on the unique citizens identity number or the foreigner's identity number.
- The records of private individuals will be established and maintained by the Tax Administration and will include data obtained from:
  - Central Population Register (unique citizens identity number, name and surname, date of birth, residence, marital and property status, personal and travel documents number, etc.),

- Unique Bank Account Register of the National Bank of Serbia (account number, designation and type of account, and dates of account opening and closure),
  - Unique Vehicle Register (data on vehicles and ownership type), and
  - Registry of Firearm in Legal Possession (data on the type of weapon and firearm permit).
- Additionally, the record will encompass all other data collected by the Tax Administration in the tax procedure (unique number, basis for social insurance, business capacity, residency status, family information, contact details, etc.).
  - Strict data protection measures and access restrictions are foreseen. Data from the record will be retained for 5 years from the date of an individual's death or 10 years from the date of deregistration of residence for individuals who have permanently emigrated, or from the last processing moment of data for a foreigner with approved temporary residence.

## **2. Amendments to Provisions on the Cessation of Tax Obligations**

- Instead of the previous term "debt write-off", the term "debt discharge" is introduced, although the conditions for realizing rights based on this remain unchanged.
- If a tax debt ceases due to the statute of limitations, the new rules impose an obligation on the Tax Administration to issue a decision establishing the cessation of the tax obligation due to relative statute of limitations. The Tax Administration will make this decision at the request of the party or without the request of the party, taking into account the efficiency of the procedure.
- Furthermore, the Tax Administration will also ex officio issue a decision on the cessation of the right to tax relief and refund, the cessation of the right to reimbursement, tax credits, or settlement of obligations through transfer, due to statute of limitations.
- The amendments also introduce a new institute of permanent uncollectible taxes. The Tax Administration will ex officio issue a decision on the cessation of tax obligations if the following cumulative conditions are met: the taxpayer has been deleted from the register or registered in death records, there is no person responsible for fulfilling their unpaid tax obligations, and tax collection is not secured by a mortgage or lien.
- In this context, the Tax Administration will henceforth perform tax write-offs and related tax contributions based on a decision on the cessation of tax obligations due to statute of limitations or due to the uncollectibility of the tax obligation, as well as based on the government's decision regarding the discharge of taxes and related contributions. Additionally, the Tax Administration will write off rights to tax relief and refund, cessation of rights to reimbursement, tax credits, or settlement of obligations through transfer, based on decisions regarding the statute of limitations, deletion of the taxpayer from the prescribed register, except in cases where there is a legal successor or a person responsible for fulfilling the obligations of that taxpayer. In such cases, the right to prepayment of the deleted taxpayer will belong to the mentioned parties in proportion to the tax obligation they fulfil and the total debt of the deleted taxpayer.

### 3. Clarification of Deadlines and Methods for Delivering Tax Acts in Electronic Form

- A tax act delivered through the Tax Administration portal will be considered **delivered on the day the taxpayer accesses the act on the portal**. If the taxpayer does not access to the tax act, it will be deemed delivered after 15 days from the date it was posted on the portal.
- If the email address or phone number of the taxpayer is available on the portal, the Tax Administration will notify them of the posting on the same day the tax act is made available on the portal.
- In the case of delivering a tax act to the taxpayer's email address, **delivery will be considered conducted on the day the taxpayer confirms receipt via email**. If the receipt is not confirmed, the tax act will be deemed delivered after 15 days from the date it was sent to the email address.

Other significant amendments include:

- The introduction of the possibility for non-residents to settle tax obligations in foreign currency to the Tax Administration's foreign currency account. The method of paying taxes in foreign currency will be further regulated by the Minister after the proposed amendments are adopted by the Assembly.
- Clarification of provisions regarding international legal assistance, which is international administrative cooperation.
- The inability to defer the payment of complementary annual income tax.
- The statute of limitations (of the right to determine collection, refund, and settlement of overdue obligations through the transfer) of contributions for unemployment insurance.
- The obligation for a legal representative (another person as per the law) of a legal entity that ceases to exist due to a status change to submit a tax return due after the legal entity has been deleted.
- Amendments and clarifications to misdemeanour provisions, which will entail stricter financial penalties for certain tax offenses.
- The introduction of the concept of dubious and disputed claims, which would include unpaid tax obligations of a company under bankruptcy proceedings, which has been deleted from the register during forced liquidation, or of deceased, legally incapacitated, or absent individuals exceeding the value of their assets.

Transitional provisions include the write-off of all tax debts and related tax obligations for which the absolute statute of limitations on the Tax Administration's right to collect, refund, or transfer has occurred by January 1, 2025, except for tax debts and related obligations secured by a lien in public records or registers.

The proposed amendments and supplements are planned to take effect on January 1, 2025, except for provisions regarding the record of individuals and payment of taxes in foreign currency, which will apply starting January 1, 2026.

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