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Serbia: Law on Amendments to the Law on Value Added Tax

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Tax

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Amendments to the Law on Value Added Tax (hereinafter the "Law") was adopted by the National Assembly on 28 September 2015. The Law shall apply as of 15 October 2015 with the exception of the following provisions:
- provisions related to the regulation of respective deadline for submitting the tax returns for all VAT taxpayers regardless of the duration of the tax period – to be applied from 1 January 2016.
- provisions related to the regulation of obligations of preparation and submission of review of calculated VAT along with the tax return for each tax period
- to be applied from 1 January 2017.
Also, it is worth mentioning that the provisions related to the submission of the request and issuance of the approval for tax representation are effective as of 1 October 2015, i.e. before the date of entering into force of the Law.
Although the Law introduced numerous changes, none of these were in regards to the tax rates. One of the main reasons for adopting the Law certainly represents harmonization with European Union regulations. Below we will present some of the most important novelties of the Law.
Significant novelty introduced by the Law relate to the changes of the provisions of the tax Page | 3 debtor and the amendment to the Law with a new Article 10a which refers to a tax representative. Namely, non-residents that engaged in taxable activities in Serbia were not allowed to register for VAT in the Republic of Serbia. Non-residents could only appoint a tax representative in accordance with Article 14 of the Law on Tax Procedure and Administration, which then treated the foreign supplier's VAT as its own VAT and was required to pay such VAT through its own VAT return. In this situation, the tax representative was not allowed to deduct input VAT which the foreign entity paid to its suppliers from the territory of the Republic of Serbia. Bearing in mind the abovementioned, in most cases, the VAT tax representative had not been appointed. In such situations, VAT was settled by recipients of goods and services at the territory of the Republic of Serbia (reverse charge). The new Article 10a introduces the possibility for non-resident natural and legal entities supplying goods and services in the territory of the Republic of Serbia to be registered for VAT in the Republic of Serbia. In order to be registered for VAT in the Republic of Serbia non-resident taxpayer who supplies goods and services in the Republic of Serbia is obliged to appoint tax representative for such purpose. Also, the Law prescribes an exception from determining a tax representative, for example for non-residents which on the territory of the Republic of Serbia supply services considered to be supplied in electronic form. A non-resident taxpayer can, for its tax representative, determine a natural or legal entity which has residence/registered seat in the Republic of Serbia and which is registered for VAT in the Republic of Serbia for at least 12 months before submission of the request for issuance of the approval for tax representative. A person who was convicted for a tax-related criminal offense may not be appointed as a tax representative. Further, the tax representative may not be a permanent establishment of that non-resident. Also, it is important to point out that the tax representative of the non-resident is severally and jointly liable for all obligations of a non-resident as a VAT payer, and in particular for the payment of VAT, penalties and interest relating to the debt arising from VAT. We also note that in the application of other tax regulations, tax representative of non-residents shall be determined in accordance with Article 14 of the Law on Tax Procedure and Tax Administration, but not in accordance with the Law.
Significant changes are related to the supply of electricity and gas. In accordance with the Law, VAT due on supplies of electricity and gas intended for further sale is now settled in the following manner: the buyer of gas or electricity is required to account for output VAT on the supply and has the right to deduct such VAT as its input VAT. Now the place of supply of electricity is considered to be the place of registered seat of the supplier, and for supplies of gas/electricity intended for final consumption is considered to be the place where the electricity/gas have been received by the customer.
In addition to the above mentioned changes, the Law stipulates that during the sale of mortgaged or pledged assets the buyer (not the owner) of the pledged or mortgaged property will be required to account output VAT due on such sale, provided that the buyer will also have the right to deduct this VAT (so-called reverse charge). This rule applies to the sale of goods or services that are subject to the enforcement proceedings.
Also, there was an expansion of the special scheme for the construction industry. Recipient of goods and services from the field of construction industry is obliged to charge VAT in the case when it has no

status of investor. The supplier which has no status of contractor in terms of regulations on planning and construction is also obliged to account the VAT. The special scheme for construction industry shall include the delivery carried out between persons who do not have the status of an investor or contractor.

Bearing in mind the above mentioned changes, we can conclude that the aim of adoption of the Law is creating favorable conditions for the Page | 4 business performance of the companies, prevention of possible abuses as well as to ensure improvement of the control of VAT by the Tax Administration. Practice will show to which extent the mentioned changes will get us closer to this aim.