
On December 28th, 2016, the National Assembly of the Republic Serbia, adopted the Law on Amendments to the Law on Value-Added Tax (“Official Gazette of RS”, no. 108/2016, hereinafter the “Law”), on the seventh sitting of the Second Regular Session in 2016, which entered into force on January 1, 2017, except for the provisions relating to the place of supply of goods and provision of services, which will be applicable from April 1, 2017.

The Law defines for the first time the concept of permanent establishment, which is defined as an organizational part of a legal entity that, as such, can perform business activity.

The Law specifies provisions relating to the tax liability of foreign legal entity in the Republic of Serbia. The Article 10 of the Law prescribes that a tax debtor shall be the recipient of goods and services when a foreign entity that distributes those goods and services, is not obliged to pay value-added tax (“VAT”) in Republic of Serbia, regardless whether the foreign entity has a permanent establishment in the territory of Republic of Serbia or is obliged to pay VAT.
In addition, Article 10a of the Law stipulates the obligation of a foreigner who conducts taxable trade of goods and provision of services in the Republic of Serbia which must appoint a tax proxy and register for VAT payment, regardless of the value of traded goods and provided services in the previous 12 months.

The Law no longer prescribes the exception from the obligation of appointing tax proxy and registering for VAT payment, for foreign entities that provide services electronically. On the other hand, the Law specifies that foreign legal entity is not obliged to appoint tax proxy and register for VAT payment, if it distributes goods or provides services to the VAT taxpayers in the Republic of Serbia or to the State authorities and local government, which are not VAT taxpayers.

Article 12 of the Law, which regulates the place of provision of services, has been changed, and now specifies the manner of determining the taxpayer solely for the purpose of applying the rules on determining the place of provision of services. Specifically, Article 12 of the Law defines the concept of taxpayer to whom the service is provided, depending on whether the service is provided by a person who is a taxpayer or a foreigner which is not VAT taxpayer. Furthermore, the Law defines the concept of the place of provision of services, depending on whether the service is provided to the taxpayer (when the place of provision of services is seat, domicile or residence of the recipient of services, or business unit, if different from the business unit / domicile / residence of the recipient of services) or a person who is not a taxpayer (when the place of provision of services is seat, domicile or residence of the service provider, or business unit, if different from the business unit/residence/domicile of the service provider).

The Article 12 of the Law sets forth certain exceptions related to these general rules; some exceptions have remained unchanged, while others have been specifically defined. Thus, the Law separates the transport of persons and transport of goods; prescribes that place of provision of services for food and drinks on the spot is the place where the service is provided; regulates the place of provision of services of renting vehicles; expands the list of services, for which the place of residence of the recipient of services is the place of provision of services; and prescribes that for mediation services provided to a person who is not the taxpayer, the place of provision of services is the place of trade of goods or provision of services the mediation refers to.

Finally, the Law no longer contains provisions for VAT refund for the purchase of food and baby equipment, prescribing that deleted Article 56b of the Law that regulated this issue, will be applicable until the effective date of the Law governing financial support for families with children.

Transitional and final provisions of the Law suspend implementation of the obligations of taxpayers to prepare and submit the calculation of VAT, to January 1, 2018. Thus, the Rulebook on the Form, Content and Manner of Keeping Records of Value-added Tax and the Form and Content of the Review of Value-added Tax Calculation (“Official Gazette of RS”, no. 80/2016) has been amended, so that the provisions concerning preparation and submission of VAT calculations, alongside the VAT application, will be applicable from January 1, 2018.