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## NEWSLETTER

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### *The Customs Law*

*("Off. gazette of RS", no. 18/2010, 111/2012, 29/2015 and 108/2016)*



National Assembly of the Republic of Serbia adopted the ***Law on Amendments of the Customs Law*** ("Off. Gazette of RS", no. 108/2016 - hereinafter the "**Law**"), at its Seventh Sitting of the Second Regular Session in 2016, on December 28, 2016, which is applicable as of February 5, 2017, except for the provisions of Articles 3, 6, 7 and 34 of this Law, which shall apply from 1 July 2017.

The Law harmonizes national legislation with EU regulations and rules of the World Trade Organization, but it is also harmonized with national regulation such as the Law on Administrative Procedure, the Law on the Budget System, the Law on Protection of Personal Information, the Law on Misdemeanors and the Law on Medicines and Medical Devices.

This Law introduced significant changes in terms of jurisdiction for deciding in the second instance in customs administrative procedures. Specifically, Article 12 of the Law stipulated that the appeal against the first instance decision made by the customs office in the administrative proceedings is submitted to the Appeals Commission of the Customs Administration. However,

the Article 216 of the Law on Administrative Procedure ("Off. Gazette of RS", No. 33/97 and 31/2001 and "Off. Gazette of RS", no. 30/2010) prescribes that the authority that has rendered a decision in the first instance in administrative proceeding, cannot also be competent to decide in the second instance. Thus, the provisions of the Law are harmonized with the Law on Administrative Procedure by prescribing the jurisdiction of the Ministry of Finance for deciding in the second instance.

The system of collecting and processing personal information, that the customs authorities collect in their field of competence, has been enhanced. The Customs Administration is obliged to establish an electronic database on protection of intellectual property rights, in order to harmonize with the Law on Protection of Personal Information ("Off. Gazette of RS", no. 97/2008, 104/2009 – other law, 68/2012 - decision and 107/2012) and the regulations of the European Union.

In order to harmonize with the new Law on Misdemeanors ("Off. Gazette of RS", no. 65/2013, 13/2016 and 98/2016 - decision of the US), the Law sets forth stricter fines for certain customs misdemeanors, so instead of RSD 100,000, the legal entity shall be fined RSD 200,000, an entrepreneur shall pay a fine of RSD 100,000 instead of a fine of RSD 50,000 and individual, including the responsible person in the legal entity shall be fined with RSD 20,000 instead of RSD 10,000.

A new paragraph is added to Article 103 of the Law regulating the implementation of subsequent control of the declaration by the customs authority. Article 103 of the Law authorizes the customs authorities to carry out additional control, whereas procedural matters, such as the initiation of the procedure, the deadline for implementation etc. are regulated by the Law on Inspection.

Further, the Law doesn't contain Article 218, paragraph 1, item 1 of the previous Customs Law which prescribed that import duties shall not be paid for the new equipment which is not produced in the country, which is imported for new production or for expanding existing production, for modernization of production or introduction of new technology or modernization of existing technology, except for motor vehicles and apparatus for games of chance. This since full liberalization of trade was established on January 1, 2015, in accordance with the existing network of free trade agreements, so economic entities can import equipment at privileged mode, i.e. without paying customs duties.

Unlike the previous provisions which prescribed that the funds collected through fees for services provided by the Customs Administration, belonged to the Customs Administration, the Law now prescribes that these fees are considered as an income of the budget of the Republic of Serbia, in accordance with the Law on Budget system ("Off. Gazette of RS", No. 54/2009, 73/2010, 101/2010, 101/2011, 93/2012, 62/2013, 63/2013 - corr., 108/2013, 142/2014, 68/2015 - other law 103/2015 and 99/2016).

Regarding sale of customs goods, the Law sets forth managing of temporarily retained goods which are subject of customs misdemeanor, in the manner provided for assets derived from crime.