PRICEWATERHOUSECOOPERS

New amendments to VAT Law

The Serbian Parliament adopted new Law on Changes and Amendments to VAT Law ("Official Gazette" of RS, No. 61/05). This Law came into effect on 26 July 2005.

Significant changes are presented below.

- **Scope of supply of goods and services <u>liable</u> to VAT:**

The following supplies are added as taxable under VAT Law:

- First transfer of ownership right over newly constructed buildings or economically divisible entireties within such buildings ("residential buildings");
- Services provided free of charge.

- **Scope of supply of goods and services <u>not liable</u> to VAT:**

The following supplies are not considered as taxable:

- Sale of motor cars, motorcycles, vessels and aircrafts provided that taxpayer was not entitled to recover input VAT at the time of purchase, wholly or proportionately,
- Replacement of goods within warranty period.

A ruling regarding what should be considered as "replacement of goods within a warranty period" has been adopted also.

- **"New" Tax Debtor**

The lower VAT rate will be applicable to first transfer of disposal or ownership rights over residential buildings.

However, if the acquirer of the right of disposal or ownership *changes the purpose* of the residential building within 5 years from the date of acquisition such person will be considered as a tax debtor and will be liable to pay the difference between the general and special VAT rate.

The Ministry of Finance has issued a ruling with further explanation of what should be considered as a change of purpose and methodology for calculation of the difference.

- **Change to the taxable base**

In the event of a taxable base decrease, the taxpayer (seller) is obliged to obtain a written statement from the taxpayer to whom goods and services have been supplied (i.e. his customer) confirming that he has made the adjustment of his input VAT.

Such a statement is not necessary if supply was made to taxpayer who has no recovery right or to person who is not registered for VAT.

- **Rate of VAT**

8% VAT rate will be applicable also to:

- Bakery and diary products,
- Honey,
- Drinking water with the exception of bottled water,
- Frozen fruit, vegetables, meat, fish and eggs,
- Cereals, sunflower seeds, soya beans, sugar beet and rape,
- Medicines, including the ones used in veterinary medicine,
- Compost with mycelia, complete feed mixtures and livestock,
- Natural gas,
- First transfer of the disposal or ownership right over residential buildings,
- Tickets for cinemas, theatres, trade fairs, circus, concert, exhibitions, sport events, galleries, museums, botanical gardens, zoo, amusement park.

- **Additional "zero rated" supplies**

The following supplies are added to the list:

- Supplies of goods and services carried out in accordance with donation agreements concluded with the Union of Serbia and Montenegro or with the Republic of Serbia, providing that tax will not be payable from the funds received;
- Supply of goods and services carried out in line with credit or/and loan agreements concluded either between:

    - The State Union of Serbia and Montenegro or the Republic of Serbia and international financial organizations or other state or

    - Third party with international financial organizations or other states where the Republic of Serbia is the guarantor or counter-guarantor

  provided that tax will not be covered from the funds thus obtained in terms of the agreements.

- **Additional VAT exemption without recovery right**

The following services are added to the list of VAT exemptions:

- Assessment of a company's or natural person's creditworthiness and
- Rent of agricultural, forest and construction land.

- **Additional VAT exemptions on import**

The following supplies are also added:

- Imports made under donation agreement or as humanitarian aid,
- Import of previously exported goods which are being returned to the Republic as unsold or because of their non-compliance with the terms of contract or business arrangement,
- Entrance of goods into a duty-free shop,
- Specific devices, equipment, instruments, spare parts materials for usage of such equipment when not produced in Serbia, for invalids for personal usage and organization of persons with specific needs (deaf, damaged hearing, blind, dystrophic, paraplegic etc.).

- **Right to deduct input VAT**

With the new changes expenses for *accommodation travel and meals* will be treated as deductible.

- **Introduction of direct attribution method**

Possibly the most significant change represents the introduction of the *direct attribution method*[1], with the following meaning:

If a taxable person uses goods and services for the purposes of undertaking taxable and exempted supplies he has to determine the deductible and non-deductible input VAT on the ground of its "economic substance" (i.e. depending on whether such input supplies were directly related to taxable or exempted output supplies).

For supplies for which such distinction is not possible, the taxpayer applies the ratio of total taxable supplies: total supplies to the total amount of input VAT decreased by the amounts of input VAT determined by application of direct attribution method and non-deductible input VAT.

Supplies of equipment and buildings used for business purposes are not relevant for ratio calculation.

The Law has introduced an annual adjustment that has to be made in the last taxable period by applying the annual ratio[2].

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[1] It will be in force from 1 October 2005;
[2] It will be in effect from 1 January 2006;

A new ruling deals in more details with determination and adjustment of proportional deductibility.

- **Change to adjustment of VAT recovery**

The taxpayer will not be obliged to adjust its input VAT in case of *sale of equipment* acquired for business purposes within five years from its acquisition. In this manner double taxation (i.e. application of VAT on the output and adjustment of VAT on the input side) will be avoided.

- **Registration of VAT payers**

VAT registration rules have also been changed in two areas:

- Small taxpayers can register at any moment during the calendar year, not only up to 15 January of the current year. The possibility to register either on the basis of *realized turnover* between CSD 1,000 thousand and CSD 2,000 thousand in the last 12 months or on the basis of *estimated turnover* within the same turnover range remains the same.

- VAT payers can register only if their total turnover in the last 12 months exceeded CSD 2,000 thousand. Right to register on the basis of estimated turnover exceeding CSD 2,000 thousand has been abolished by new Changes.

- **VAT records**

Taxpayers are obliged to keep VAT records for 10, instead of 5 years.

- **Right to refund**

If tax payer has not used a tax credit available from the previous taxable period in the current taxable period he will be entitled to a refund on the basis of a written request to the Tax authorities.

Amendments to the ruling on procedure for exercising the right to refund and reimbursement of input VAT relate to conditions and procedure in order to get the refund mentioned above.

Diplomatic and consular bodies and international organizations are entitled to a VAT reimbursement subject to certain conditions.

- **New penalty provision**

VAT payer – *natural person* - will be fined in the range CSD 5 thousand and CSD 50 thousand for a failure to comply with the provisions of VAT Law.

- **Sub regulations**

The Ministry of Finance has been introducing new rulings and changes to existing ones specifying in more details provisions of the VAT Law.

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