

January 2018

In focus: Law on Amendments and Supplements to the Value Added Tax Law

On December 14th 2017, the National Assembly of the Republic of Serbia adopted the Law on Amendments and Supplements to the Value Added Tax Law which applies from January 1st 2018, except for provisions where another application date is indicated (hereinafter: **“Amendments to the Law”**).

The reasons for the adoption of the Amendments to the Law are contained in the necessity to create more favorable conditions for the operation of business entities, to promote the general interest of the community, as well as to comply with the regulations of the European Union. The most significant novelties included in the Amendments to the Law refer to:

1. Postponement of the obligation to file the VAT calculation review form

By the Amendments to the Law, the obligation to file the VAT calculation review form has been postponed until July 1st 2018.

2. Refund of VAT to a first apartment buyer

Amendments to the Law stipulate the conditions for exercising the right to a VAT refund based on the purchase of a first apartment where **the apartment is the subject of mortgage or enforcement in enforcement proceedings**.

The aforementioned amendment has eliminated the previous problem of the inability to refund VAT to buyers who, instead of paying the agreed price to the account of the seller, paid the same to the account of an executive or mortgage creditor or to the account of other entities in the process, since they bought the apartment in the enforcement procedure.

In this regard, the Amendments to the Law stipulate that the buyer of an apartment who has purchased it prior to entry into force of the Amendments to the Law, as a mortgaged real estate or during enforcement proceedings, and paid in full the agreed price of the apartment including **VAT to the corresponding accounts** in accordance with the law, has the right to submit to the competent tax authority **a new VAT refund request**, in case it has not received a VAT refund as per the submitted request.

3. Deduction of preliminary VAT on the supply of food and beverages to employees

The Amendments to the Law specify that the VAT payer is entitled to deduction of preliminary VAT based on food expenses, including beverages, which are served in its own catering facilities, for employees or other work-engaged persons, **when the VAT payer charges a fee on that basis**. It

has been determined that by providing food and beverages for a fee is considered as a direct payment from the employee, as well as a retention from the employee's salary.

According to the above, the VAT payer shall not be entitled to deduct preliminary VAT on the stated basis, if it provides food and beverages from third parties or free of charge.

4. Reduction of output VAT calculated in the capacity of a tax debtor

In order to create more favorable conditions for the operation of business entities, the Amendments to the Law stipulate the right to a reduction of the calculated tax when the tax authority in the control procedure determines that the VAT payer, recipient of goods, i.e. services, calculated VAT as a tax debtor and expressed the calculated VAT as preliminary VAT, and, on that basis, disputed (corrected) the deduction of the preliminary tax. Factually, the stated means that the VAT payer would have the right to reduce the calculated VAT starting from the tax period in which it received the respective decision of the tax authority.

Additionally, if the abovementioned decision is annulled, amended or revoked in the part which has corrected the input vat, the VAT payer is obliged to disclose the VAT due on that basis.

5. Other amendments

- **Place of provision of travel services**

Amendments to the Law stipulate that the place of provision of travel services is deemed to be the place where the service provider has its seat or a permanent business unit, if the services are provided from the permanent business unit which is not located in the same place where the service provider has its seat, that is, the place where the service provider has residence or sojourn.

- **Taxation of the production and trade of investment gold**

In order to promote the production and trade of investment gold (gold bars, plates and coins with certain characteristics), the Amendments to the Law introduce a new article establishing a special procedure for taxing the turnover of investment gold, which will be in effect from April 1st 2018. Namely, in accordance with the Amendments to the Law, VAT shall not be paid for the trade and import of investment gold, as well as for intermediary services related to the trade of investment gold. Thereby, the VAT payer who chooses to calculate VAT for such trade has the right to deduct preliminary VAT.

- **Trade of goods that travelers transport abroad in their personal luggage**

In order to harmonize with the regulations of the European Union, the Amendments to the Law stipulate the conditions which need to be met starting from **January 1st 2019**, in order to obtain the right to tax exemption with the right to deduction of the preliminary VAT for the trade of goods which a traveler transports abroad for non-commercial purposes.

The abovementioned tax exemption shall be achieved if:

- a) the traveler does not have residence or sojourn in Serbia;
- b) the VAT payer (supplier of goods) has proof that the traveler transported the goods abroad;
- c) the total value of supplied goods for is higher than 100.00 euros;
- d) if the goods are transported before the expiration of three calendar months after the expiry of the calendar month in which the turnover of goods took place.

The subject tax exemption does not apply to excise goods, as well as the supply of goods for the equipping and supplying of any means of transport for personal purposes.

- **Turnover of goods and services in accordance with contracts on public-private partnerships with elements of concession**

Amendments to the Law stipulate that, in the case of turnover of goods and services the concession grantor to the concessionaire and vice versa, it shall be considered that the turnover of goods and services has not been carried out under the following conditions:

- that the concession grantor and the concessionaire are VAT payers;
- that the turnover is carried out as part of the implementation of a public-private partnership agreement;
- that the concession grantor and the concessionaire were entitled to

deduct preliminary VAT in full, in case the transaction was considered as turnover which has been executed.

*Disclaimer: The text above is provided for general guidance and does not represent legal advice.
Copyright Cvetkovic, Skoko & Jovicic 2018*