TAX

1.29

Modernisation of the Tax Administration – new electronic systems for data collection and processing

Previous year in the area of taxation was marked by successful implementation of the new electronic systems of the Tax Administration for data collection and processing, and which had significant impact of businesses in terms of the need to adjust their own information systems and business processes. New model of fiscalization achieved a comprehensive collection of data on supplies of goods and services by businesses to end consumers – individuals, while the introduction of the electronic invoicing system enabled collection of very detailed information about transactions in business-to-business relations among taxpayers registered for VAT. These electronic systems give to the Tax Administration precise and very timely insights in business activities of taxpayers on one hand, and also represent the basis for complex risk analyses, data processing and control procedures on the other hand. They are a segment of the modernization of IT systems and digitalization of operations of the Tax Administration, as a part of the ongoing multi-year program of transformation, modernization and digitalization of the Tax Administration.

From a taxpayer perspective, these novelties required detailed and complex preparations and mofications of the accounting and business information systems, as well as changes in business processes with regards to recording of the business transactions and creation, flows and storing of documentation in a company. This resulted in various costs of implementation of new systems and training of the staff to use them. However, it is to be expected that these changes will bring long term benefits in terms of less paper documentation, lower costs of its storing and manipulation, faster and more reliable exchange of information and higher efficiency. Taxpayers encountered a number of uncertainties and problems in the course of preparation, implementation and initial go-live period. Some of these issues are still awaiting response and resolution from the Tax Administration and the Ministry of Finance. Tax Committee of the Foreign Investors Council has communicated to the respective Government bodies on these issues and made constructive suggestions for improvement.

Unfortunately, there were no significant improvements in tax legislation with regards to tax issues that the Foreign Investors Council raised in prior years. We still do not see the willingness and openness for dialogue on the side of the Government. The Working Group tasked for implementing the recommendations contained in the FIC White Book was not active in the area of taxation neither. Notwithstanding that, FIC will continue to fight for continuation of the dialogue and improvement of the tax legislation and practice, along with higher transparency and timely public presenting of planned amendments of the tax laws. We will continue to fight for resolving as soon as possible the most important problems from prior periods, such as changes of the Property Taxes Law, corporate income tax treatment of property measured at fair value etc.

A. CORPORATE INCOME TAX (CIT)

1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Cancel or amend the controversial opinions of the Ministry of Finance on the tax treatment and documenting of reimbursement of employees' commuting expenses.	2019			√
Supplement the CIT Law with provisions to regulate taxation of company restructuring, treatment of liquidation or bankruptcy remainder that is below the threshold of invested capital, and through by-laws, provide guidelines on taxation of permanent establishments. Consistent interpretation and application of the domestic tax law and provisions of the international tax treaties on transactions with a foreign element should be ensured.	2010			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Aligning domestic practices with respect to withholding tax with the best international practices and definitions applied in the relevant international treaties, (especially with respect to the treatment of proprietary software licensing). Introduce monthly, quarterly or annual filing of tax returns for withholding tax on services, in accordance with customary international practices, instead of filing a tax return for each taxable transaction separately. Also, confirmation on paid withholding tax should be automatically generated in the Tax Administration's system and obtained upon filing and payment of withholding tax, rather than through a separate procedure.	2012			√
Revisit the currently applicable rule that only paid taxes are recognized as an expense in the tax balance sheet and align the above provision with the IFRS rules that do not impose the payment of taxes as a condition for their recognition as an expense in the Profit and Loss Account.	2010			√
Introduce tax incentives for investments in fixed assets amounting to less than RSD 1 billion in the form of a tax credit or reduced corporate income tax rate over a certain period, and in proportion to the amount invested.	2014			√
"Introduce detailed tax depreciation rules which will allow for the proper classification and depreciation of specific assets such as windmills, oil rigs etc. in accordance with their economic and useful life. Revise the CIT Law and Rulebook governing regulations on the classification of fixed assets by groups and the manner of determining depreciation for tax purposes to resolve the following issues: 1) Tax depreciation expenses should be recognized for fixed assets acquired before 2013 (present in the accounting records on 1 January 2013) whose individual value at the time of purchase did not exceed the amount of the average gross salary of an employee in Serbia. We suggest that this change be implemented in the Rulebook governing regulations on the classification of fixed assets by groups and the manner of determining depreciation for tax purposes. 2) Further clarify the method of calculation and recognition of tax depreciation costs for the first group of fixed assets, as at 31 December 2003 that caused numerous dilemmas and controversial interpretations in practice. 3) In case of acquisition of a bankruptcy debtor as a legal entity, tax depreciation should be calculated based on a proportionate share of the purchase price allocated to relevant assets."	2015			√
Prescribe that the historical cost model should apply for taxation purposes to assets for which the IFRS provides a free choice between historical cost and fair value accounting, irrespective of the chosen accounting method, to ensure the uniform and equitable tax treatment of taxpayers. However, if the intention is to allow application of the fair value model for taxation purposes, amend the rules relating to tax deductibility of impairment expenses, so that it is clear that decreases in the fair value of assets accounted for under the fair value model are not a non-deductible impairment, and so that fair value increases and decreases are treated equitably.	2017			√
Properly regulate the application of the tax credit for banks defined by the Law on the Conversion of Housing Loans Indexed in Swiss Francs. Avoid introducing tax incentives in regulations that do not constitute tax regulations.	2020			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Since the corporate income tax application and accompanying forms are submitted through the eTaxes portal, taxpayers should be allowed to submit transfer pricing reports in the same way. In this way, the cost of printing and storing reports in paper form would be avoided, the quality of data related to the determination of tax liability would be improved, and the reports would be more easily accessible.	2022			√

CURRENT SITUATION

The taxation of companies in Serbia is governed by the Law on Corporate Income Tax (hereinafter: the CIT Law) and ratified international agreements. The implementation of certain provisions of the CIT Law is regulated by several by-laws.

The CIT Law was last amended in late 2021 (RS Official Gazette No 118/2021). As for international treaties, on January 1, 2023, the Double Taxation Agreement with Morocco became applicable, which entered into force on April 19 2022. Additionally, on 27 July 2023, the National Assembly of Serbia adopted the proposal to amend the Law on the Ratification of the Multilateral Convention for the Implementation of Measures with the aim of preventing the erosion of the tax base and profit shifting, refer to tax treaties (MLI), which specify the reservations that the Republic Serbia took the position regarding the application of the provisions of the MLI, as well as the scope of the application of the MLI within the existing network of agreements on the avoidance of double taxation of the Republic of Serbia.

POSITIVE DEVELOPMENTS

There were no changes to the Corporate Income Tax Law and related bylaws and hence no progress was made with respect to previously identified problems and issues.

REMAINING ISSUES

- In 2019, the Ministry of Finance issued a few opinions on the tax treatment and documentation of reimbursement of employees' commuting expenses that caused a negative backlash from the business community and legal uncertainty among taxpayers. The opinions introduce cumbersome requirements for documenting these expenses, which is contrary to labour and tax laws, to the stance taken by the Supreme Court of Cassation and some previous opinions of the Ministry of Finance. As such, these opinions should be cancelled or amended without further delay.

- The lack of regulations or their vagueness with respect to certain situations and issues lead to different interpretations consequently causing problems for taxpayers in practice. Specifically, the provisions governing the taxation of a permanent establishment are still incomplete and insufficiently clear; the CIT Law does not contain provisions regulating the taxation of company restructuring or provisions governing the treatment of losses arising from the liquidation or bankruptcy estate surplus. Consistent interpretation and application of the domestic tax law to transactions with a foreign element and of double tax treaties is increasingly important considering the ratification of the Multilateral Convention.

- Occasionally, interpretations by the Ministry of Finance pertaining to withholding tax differ from provisions of the relevant double tax treaties and best international practices, especially in cases of proprietary software licensing. This leads to legal uncertainty and increases the tax burden for taxpayers, contrary to the rights provided in the relevant double tax treaties. Also, filing separate tax returns for withholding tax on services for each taxable payment of income subject to withholding tax is an administrative burden for businesses. Finally, the procedure for obtaining confirmation of paid withholding tax should be simplified and streamlined. In addition, taxpayers are faced with disproportionately long resolving tax issues procedures, such as making a decision on the (non) existence obligation to pay capital gains tax with an element of foreignness. Consequently, this puts taxpayers in a situation where the realized funds, received through a non-resident account, cannot be taken out of the Republic of Serbia due to the slow action of the tax authorities, which again has the consequence of creating an unfavourable business climate.

- New rules on tax depreciation were introduced for new-

ly acquired non-current assets from 1 January 2019. However, tax depreciation rules applicable to non-current assets acquired before 2019 remained largely unchanged since 2004, and their application in the contemporary business environment causes many difficulties and problems. Also, properly regulating the classification and depreciation of specific assets (e.g. windmills, oil rigs etc.) is particularly important.

- Provisions of the law pertaining to the method for calculating tax depreciation for assets acquired before 2019 continuously create discrepancies and permanently unrecognized expenses in the tax balance sheet in cases where, at the moment of disposal of an asset, the current accounting value is lower than the current tax value of that asset, as well as in cases where a fixed asset is being disposed of, where that asset was not previously depreciated for tax purposes, as its cost value at the moment of purchase was lower than the average salary in Serbia. The Ministry of Finance issued an opinion in 2017 which gave rise to additional dilemmas about the cessation of tax depreciation for written-off assets.

- Tax depreciation is not calculated on fixed assets purchased before changes to the CIT Law from the beginning of 2013, and whose individual value was below the average gross salary at that time.

- During 2015 and the first half of 2016, the Ministry of Finance published opinions regarding the method of calculation of the cost and recognition of tax depreciation for the first group of fixed assets on 31 December 2003, causing numerous dilemmas and controversial interpretations in practice.

- The Ministry of Finance issued an opinion in 2017 regarding the method of calculation of tax depreciation of assets in case of acquiring a bankruptcy debtor as a legal entity, and took the position that tax depreciation should be calculated in the same way as before the filing of a bankruptcy petition. We are of the view that this is a debatable interpretation and that it would be more appropriate to calculate tax depreciation on the basis of a proportionate share of the purchase price allocated to relevant assets.

- Accounting regulations, i.e. International Financial Reporting Standards (IFRS), provide for the possibility to either opt for the cost model or the fair value model for certain types of assets (investment property, biological assets, and financial assets). The CIT Law does not have clear rules regarding assets measured at fair value. Unrealized gains from the increase of fair value of assets are taxed before the asset is disposed of, i.e. before the gain is realized.

- The CIT Law does not clearly distinguish between impairment of assets and decrease of fair value of assets (e.g. investment property), for which the IFRS prescribes different rules and treatment. As a result, the decrease of fair value of assets is interpreted as an impairment expense which is non-deductible until such assets are sold. On the other hand, every increase of fair value of assets is immediately taxable. This results in an unfair increase of taxable income for taxpayers.

- Due to the application of IFRS 9 which is mandatory since 2020, taxpayers are obligated to write-off receivables that have been outstanding for less than 60 days and therefore, in accordance with the CIT law, an unrecognized tax expense occurs in the period in which the write-off is made. As a result, this leads to continuous temporary differences between accounting and tax values due to misalignment of the law with the new IFRS.

FIC RECOMMENDATIONS

- Cancel or amend the controversial opinions of the Ministry of Finance on the tax treatment and documenting of reimbursement of employees' commuting expenses.

- Supplement the CIT Law with provisions to regulate taxation of company restructuring, treatment of liquidation or bankruptcy remainder that is below the threshold of invested capital, and through by-laws, provide guidelines on taxation of permanent establishments. Consistent interpretation and application of the domestic tax law and

provisions of the international tax treaties on transactions with a foreign element should be ensured.

- Aligning domestic practices with respect to withholding tax with the best international practices and definitions applied in the relevant international treaties, (especially with respect to the treatment of proprietary software licensing). Introduce monthly, quarterly or annual filing of tax returns for withholding tax on services, in accordance with customary international practices, instead of filing a tax return for each taxable transaction separately. Also, confirmation on paid withholding tax should be automatically generated in the Tax Administration's system and obtained upon filing and payment of withholding tax, rather than through a separate procedure.

- Revisit the currently applicable rule that only paid taxes are recognized as an expense in the tax balance sheet and align the above provision with the IFRS rules that do not impose the payment of taxes as a condition for their recognition as an expense in the Profit and Loss Account.

- Introduce tax incentives for investments in fixed assets amounting to less than RSD 1 billion in the form of a tax credit or reduced corporate income tax rate over a certain period, and in proportion to the amount invested.

- Introduce detailed tax depreciation rules which will allow for the proper classification and depreciation of specific assets such as windmills, oil rigs etc. in accordance with their economic and useful life. Revise the CIT Law and Rulebook governing regulations on the classification of fixed assets by groups and the manner of determining depreciation for tax purposes to resolve the following issues:
  - Tax depreciation expenses should be recognized for fixed assets acquired before 2013 (present in the accounting records on 1 January 2013) whose individual value at the time of purchase did not exceed the amount of the average gross salary of an employee in Serbia. We suggest that this change be implemented in the Rulebook governing regulations on the classification of fixed assets by groups and the manner of determining depreciation for tax purposes.
  - Further clarify the method of calculation and recognition of tax depreciation costs for the first group of fixed assets, as at 31 December 2003 that caused numerous dilemmas and controversial interpretations in practice.
  - In case of acquisition of a bankruptcy debtor as a legal entity, tax depreciation should be calculated based on a proportionate share of the purchase price allocated to relevant assets.

- Prescribe that the historical cost model should apply for taxation purposes to assets for which the IFRS provides a free choice between historical cost and fair value accounting, irrespective of the chosen accounting method, to ensure the uniform and equitable tax treatment of taxpayers. However, if the intention is to allow application of the fair value model for taxation purposes, amend the rules relating to tax deductibility of impairment expenses, so that it is clear that decreases in the fair value of assets accounted for under the fair value model are not a non-deductible impairment, and so that fair value increases and decreases are treated equitably.

- Align the CIT law with accounting requirements set by new standards, including IFRS 9.

- Since the corporate income tax application and accompanying forms are submitted through the eTaxes portal, taxpayers should be allowed to submit transfer pricing reports in the same way. In this way, the cost of printing and storing reports in paper form would be avoided, the quality of data related to the determination of tax liability would be improved, and the reports would be more easily accessible.

B. PERSONAL INCOME TAX 1.20

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Repeal or amend the disputed opinion of the Ministry of Finance regarding tax treatment and documentation required for the reimbursement of commuting costs of employees to and from work and amend the Law so that the documentation requirement is revoked or harmonized with the earlier judgment of the Supreme Court of Cassation.	2020			√
The application of schedular personal income taxation is still in force and this remains a problem of the Serbian system of taxation of personal income. Therefore, the Government of Serbia should consider the introduction of a synthetic taxation system, which is present in many advanced tax systems.	2008			√
The recommendation refers to the timely adoption of an appropriate bylaw that will regulate in detail the issue of per diems for business trips and reimbursement of expenses.	2017			√
The recommendation is that the Ministry of Finance should take a clear position regarding the tax treatment of interest-free loans (i.e., loans with interest rates below market ones) and publish their position in the form of an official opinion that would lead to greater legal certainty in this respect.	2017			√
We believe that cooperation should be established between the Ministry of Finance and the Ministry of Labour, Employment, Veterans and Social Affairs to ensure the proper application of relevant regulations, i.e., to treat compensation for unused leave as compensation (as recognized by the Labour Law) and not as salary.	2017			√
Considering that social security rights are among the basic social and economic rights of workers, we would like to stress the importance of harmonizing provisions of regulations to allow foreign nationals seconded to work in Serbia (without entering employment) and Serbian nationals employed with foreign employers in Serbia to register for mandatory social insurance. Additionally, we note that Serbia needs to expand the network of international agreements regulating the issue of social security, to avoid double payment of contributions.	2017			√
It is necessary that annual personal income tax return form be aligned with Article 12 of the PIT Law (the right to tax credit) and agreements on the avoidance of double taxation, i.e., the taxpayer should be allowed the right to use the tax credit.	2019			√
While some progress has been made in terms of electronic communication, we believe that there is significant room for improving the functionality of the E-porezi platform, as well as the communication between taxpayers and the Tax Administration via e-mail. The number of tasks that can be carried out through the E-porezi platform should be expanded and digital profiles of taxpayers should be introduced.	2020			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Types of income should be clearly differentiated according to their intrinsic nature and adequate taxation methods should be applied to income of persons working for foreign employers under other types of contracts (as remuneration for work performed along with eligible standardized costs of 20%) as well as of persons who work for foreign employers under employment contracts (as salary). We believe that, in this case, it is necessary to amend not only the tax laws, but also the regulation governing the field of labour and compulsory social insurance, in order to have this issue regulated properly.	2021		√	
In order to eliminate discrimination against taxpayers on the basis of whether the entity paying their income is a domestic or foreign entity, we propose to either amend the provisions governing the calculation of the tax base for the remuneration for work performed, on which the tax is paid by self-assessment, or define the categories of taxpayers that are considered freelancers because of whom this provision was introduced in the first place, while other taxpayers, specifically, domestic experts paid by a foreign entity for their work, receiving regular and higher payments, should have equal tax treatment as taxpayers whose remuneration is paid by domestic entities.	2021		√	

CURRENT SITUATION

Taxation of personal income in Serbia is based on the schedular income tax system which has been abandoned by many advanced tax jurisdictions as unclear and unfair.

The Personal Income Tax (PIT) Law as the key regulatory instrument recognizes several categories of taxable income. Depending on each individual case, personal income tax is paid: (I) as withholding tax, (II) based on the decision of the relevant tax authority or (III) by self-assessment.

We would like to highlight in particular amendments to the PIT Law, adopted in late 2022: I) a new, detailed, and significantly fairer method of taxing freelancers, i.e. individuals who receive contractual compensation for copyright and related rights or perform work in exchange for contractual compensation, and this compensation is received from entities that are not income payers according to the Law, replacing the previous transitional method of taxing these individuals, which was applicable to income earned until December 31, 2022; II) The method of determining and collecting annual personal income tax has been changed, and this tax is now determined through self-assessment.

POSITIVE DEVELOPMENTS

PIT Law amendments from the end of 2022 and its implementing by-laws have led to some positive developments:

- With the amendments to the Law from the end of 2022, a special method of taxing internet workers, known as freelancers, has been prescribed. Freelancers will be taxed based on self-assessment on a quarterly basis for their income earned from January 1, 2023, in accordance with 2 models (hereinafter referred to as Model A and Model B). The law allows the taxpayer to freely choose either Model A or Model B on a quarterly basis without any restrictions. Under Model A, the taxable base consists of the gross income earned in the calendar year quarter, reduced by the predetermined fixed normative costs in the absolute amount of 96,000 RSD. This determined taxable income is subject to personal income tax at a rate of 20%. Under Model B, the taxable base consists of the gross income earned in the calendar year quarter, reduced by variable normative costs, composed of fixed costs in the absolute amount of 57,900 RSD increased by relative costs in the amount of 34% of the gross income earned in the respective quarter. This determined taxable income is subject to personal income tax at a rate of 10%. Regardless of the chosen model, the earned income is subject to the obligation to calculate and pay contributions for mandatory social insurance, specifically contributions for pension and disability insurance, as well as contributions for health insurance - if the taxpayer is not already insured on another basis.

- With the newly prescribed method of determining annual personal income tax, the practice of determining this tax based on the decision of the Tax Administration has ceased, and self-assessment has been introduced. It should be noted that, in accordance with the amendments to the Law, the Tax Administration is obliged to prepare a preliminary tax return for the taxpayer, which is published on the eTaxes portal no later than April 1 of the year in which this tax is determined. This significantly simplifies the process of determining and collecting this tax form. Furthermore, progress in digitization is evident as the Tax Administration prepares the preliminary tax return based on official records. Finally, with the amendments to the bylaws governing the completion and submission of the tax return for annual personal income tax, it is provided that if no taxable income is determined due to the application of tax relief for individuals under the age of 40, those individuals are not obliged to submit a tax return - which was not the case in the previous year.

REMAINING ISSUES

- Amendments to the Law from the end of the 2022 have stipulated that transportation costs for commuting to and from work must be documented in order for their reimbursement to be non-taxable up to a certain amount, but it is not specified what constitutes documented expenses. This has deepened the problem that arose from the issuance of the controversial opinion of the Ministry of Finance in 2019, which has caused negative reactions from the economy, different approaches in practice, and has imposed unnecessarily complicated requirements on taxpayers regarding the documentation of such expenses.

- In the field of reimbursement of expenses for business trips abroad, there have been no advancements. This area is still not regulated in an appropriate manner, nor have there been any amendments to the Law that would help solve this problem. The same controversial provisions are still in force, which indicate that the amount of per diem is determined in accordance with the decision of a state authority, which creates uncertainties regarding which acts of state authorities it refers to. As a result, tax inspectors often use the provisions of the Regulation on Compensation of Costs and Severance Pay for State Officials and Employees, even though it exclusively regulates the public sector.

- Furthermore, the latest amendments to the Law do not mention the tax treatment of interest-free loans, i.e. loans with interest rates lower than market rates, provided by employers to employees. It remains unclear whether the granting of such a loan is considered a benefit or not.

- Compensation for damages related to unused annual leave, which is paid to an employee who has not used their annual leave during their employment, is still treated as income. The reasons why the Ministry of Finance has decided on this tax treatment remain unclear, considering that the Labour Law states that this payment is compensation for damages, not income. This clearly implies that a satisfactory level of cooperation between these two competent ministries has not yet been achieved, at least regarding the mentioned tax treatment.

- Due to the introduction of point 18 in Article 85, paragraph 1, stating that income from contracted remuneration for performed work, subject to self-taxation, is taxed as other income, the opinions of the Ministry of Finance no. 011-00-689/2021-04 of July 23, 2021, and no. 011-00-511/2022-04 of July 11, 2022, give the impression that all income from abroad related to work will be taxed as other income. In practice, there is a certain number of tax residents of Serbia who have a contractual relationship that could indicate an employment contract with foreign companies, even though the Ministry of Labour does not recognize these contracts as employment contracts because foreign companies cannot conclude an employment contract in Serbia without the existence of a permanent business unit. These individuals are effectively in an employment relationship, have their employer who determines their working hours, vacations, provides professional training, and similar. With this provision, their income, which is effectively a salary, will be unfairly treated as other income and subject to a higher tax rate, and consequently subject to mandatory social security contributions without the possibility of applying the maximum monthly base. Additionally, these individuals are discriminated against compared to foreign individuals seconded to the Republic of Serbia, whose income from abroad is treated as salary for tax purposes.

- The law does not clearly define how qualified newly employed individuals, once they lose the right to this tax relief with their current employer, can regain the same right. Namely, the individual is the holder of the tax relief, and according to the opinion of the Ministry of Finance no. 011-00-59/2020-04 of February 11, 2020, a qualified newly employed individual, when terminat-

ing an employment relationship with one employer and establishing it with another, can still apply the tax relief, but in a situation when this right is lost with the same employer, it is not possible to regain it. The law should clarify this part so that taxpayers are not misled into thinking that once lost, the right can be regained.

- The tax treatment of individuals based on Contracts on Rights and Obligations of Directors outside of an employment relationship, when the representative of the company is in an employment relationship with another employer, or when the representative of the company is a non-resident individual and does not receive compensation for work in the company, causes certain uncertainties and divided interpretations in practice. The Labour Law does not prescribe the obligation of a contracted remuneration for directors, the payment schedule, and does not define the criterion for determining the amount or assessing the adequacy of the remuneration (the Ministry of Finance introduces the concept of adequate remuneration - Opinion no. 011-00-1137/2018-04). The minimum amount of remuneration for the work of directors has not been determined by legislation, i.e. there are no minimum amounts prescribed by law, as is the case with salaries. It is necessary to clearly specify whether remuneration is a mandatory element of the Contract on Rights and Obligations of Directors who are not in an employment relationship with the employer and, according to the decision of the company's founders' assembly, do not receive compensation for work.

- Certain income type codes defined by the Regulation on Tax Return for Withholding Tax are not adapted to the method of calculating taxes and contributions in accordance with the Law on Personal Income Tax and the Law on Contributions when it comes to Contracts outside of an employment relationship and cannot be applied in practice.

FIC RECOMMENDATIONS

- Repeal or amend the disputed opinion of the Ministry of Finance regarding tax treatment and documentation required for the reimbursement of commuting costs of employees to and from work and amend the Law so that the documentation requirement is revoked or harmonized with the earlier judgment of the Supreme Court of Cassation.

- The application of schedular personal income taxation is still in force and this remains a problem of the Serbian system of taxation of personal income. Therefore, the Government of Serbia should consider the introduction of a synthetic taxation system, which is present in many advanced tax systems.

- The recommendation refers to the timely adoption of an appropriate bylaw that will regulate in detail the issue of per diems for business trips and reimbursement of expenses.

- The recommendation is to clearly define and specify the stance on the tax treatment of interest-free loans (i.e. loans with interest rates lower than market rates) granted by employers to employees through amendments to the Law, and to express this stance through an official explanation that would provide greater legal certainty in this regard.

- We believe it is necessary to establish cooperation between the Ministry of Finance and the Ministry of Labour, Employment, Veterans' Affairs, and Social Affairs in order to ensure the proper implementation of relevant regulations, specifically treating compensation for unused annual leave as compensation for damages (as recognized by the Labour Law) rather than as income.

- Recognizing that social security rights represent one of the fundamental social and economic rights of employees or engaged individuals, we emphasize the importance of harmonizing certain provisions of regulations to enable foreign individuals seconded to work in Serbia (without establishing an employment relationship) and domestic citizens employed by foreign employers to be registered for mandatory social security. Additionally, we note that

the Republic of Serbia should expand the network of international agreements regulating social security in order to avoid double payment of contributions.

- Although progress has been made in terms of electronic communication, we believe there is significant room for increasing the functionality of the E-tax platform, as well as communication between taxpayers and the Tax Administration via email. It is necessary to expand the range of actions that can be carried out through the E-tax platform and introduce digital profiles for taxpayers.

- In addition to the progress made in taxing freelancers and aligning the fiscal burden they face with that of taxpayers who have received the same types of income from payers under the Law, it is necessary to continue with further positive development of regulations, both in tax and labour law, in order to adequately regulate the position of individuals who have valid employment contracts with foreign employers in accordance with the regulations of the jurisdiction of the entity that engaged them. It is necessary to clearly define and specify in which cases and whether there is an obligation to calculate and pay taxes and contributions based on the lowest base according to the Contract on Rights and Obligations of Directors when directors do not receive compensation for work in the company and when they are employed by another employer, or when non-resident individuals are involved. The recommendation is to clearly specify whether there is an obligation to determine compensation in these cases, and if so, to establish a minimum amount of compensation (e.g. minimum contribution bases) for Directors of companies who have concluded contracts outside of an employment relationship and do not receive compensation for work in the company.

- The recommendation is for the Tax Administration to review and align the codes for types of income for income of individuals outside of an employment relationship in accordance with the Law on Social Contributions.

C. VALUE ADDED TAX 1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
With respect to the application of the reverse charge mechanism, it should be specified that for supplies by a foreign entity, the obligation of the recipient of goods and services to account for the VAT due should occur either at the moment when: 1) an invoice is received for goods or services provided by the foreign entity; or 2) when an advance payment is made to the foreign entity, whichever of these two events occurs earlier. Also, the introduction of an annual VAT return (monthly/quarterly returns would be treated as advance payments) should be considered, which would be submitted by March of the current year for the previous year, and through which taxpayers could make all the necessary changes, including changes related to transactions from abroad for which the recipient of goods or services is obliged to calculate VAT as a tax debtor.	2013			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
The Law should specify that the obligation to account for VAT lies with the transferee of goods and services in the following instances: 1) in the case of in-kind contributions, when the supply of goods and services as an in-kind contribution is subject to VAT; and 2) in the case of a change in status, when the supply of goods and services is subject to VAT.	2015			√
VAT legislation should provide that a credit note may be issued either by the supplier or recipient of goods/services. This practice is in line with VAT rules in other countries and a common business practice. This cannot jeopardize VAT collection in any way. On the other hand, this would help companies decrease their administrative costs. Additionally, it is necessary to specify clearly that in the case of mistaken delivery of goods in a smaller quantity than was previously invoiced, the taxpayer may either issue a new invoice or credit note. This practice also corresponds to a customary business practice. Insisting on exclusively one approach imposes additional costs, whereas from the VAT collection point of view, there is no reason why both approaches cannot be applied. With respect to above, in case of return of goods, it is also necessary to define that irrespective of the expiration date, the supplier can issue a credit note or the buyer can issue an invoice/debit note in accordance with their mutual agreement. This approach can not jeopardize VAT collection since the same VAT rate is applied irrespective of who issues the credit note.	2022			√
In the first place, it is necessary to harmonize the VAT regulations of Serbia with the regulations in force in the EU regarding the calculation of VAT for transactions in the field of construction. Namely, in EU countries, the recipient is a tax debtor for sales in the field of construction due to the prevention of evasion and fraud in the calculation of VAT, whereby the relevant, special rules are applied when sales are made by a subcontractor to a contractor, but not when sales are made by a contractor to an investor. We emphasize that the greatest number of problems in practice occur precisely in the transaction between the contractor and the investor, since the "investor" in this case can also be a person who procures, for example, ongoing facility maintenance services and the like (ie, the "investor" does not have to be active in the field of construction at all). Bearing in mind this motive for defining the recipient as a tax debtor, there is no reason to prevent the provider from calculating and paying VAT, nor for any of them to be penalized, because the general rule of taxation was applied, and not a special rule according to which the recipient is a tax payer. debtor. This approach would also be more favorable for the state, from the perspective of cash flows (by applying the "reverse charge" mechanism, the state consciously "renounces short-term financing", in order to avoid tax evasion). It is necessary to specify that in the case of supplies in the field of construction, parties may choose taxation in line with the general principle – that is, VAT charged by supplier. Also, in the case when a supplier calculated and paid VAT, and the tax authority considers that the recipient should have calculated VAT, as the tax debtor, the recommendation is for the supplier's invoice to be considered the correct invoice, and that administrative proceedings should not be initiated against either the supplier or the recipient.	2022			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
With respect to VAT records and the preparation of VAT calculation reviews, we believe it is necessary that the adopted Rulebook and User manual be reconsidered, and especially the requirements with regard to the POPDV form contents and the method for presenting certain transactions, such as the final invoice and invoice for advance payment.	2015			√
The processing of requests for refunds reported in VAT returns should be harmonized with the VAT Law and the Law on Tax Procedure and Tax Administration, meaning that the initiation of a tax audit cannot constitute grounds for delaying a VAT refund. The Ministry of Finance needs to issue a binding explanation in line with the VAT Law and the Law on Tax Procedure and Tax Administration, and the Tax Administration should comply with it.	2017			√
We suggest that in Article 10a, paragraph 6 of the Law on Value Added Tax, the words: "issuance of invoices ".	2020			√

CURRENT SITUATION

The value added tax is governed by the Law on Value Added Tax (RS Official Gazette No 84/2004, 86/04 – correction, 61/05, 61/07, 93/12 and 108/13, 142/2014, 83/2015, 108/2016, 7/2017, 113/2017, 13/2018, 30/2018, 4/2019, 72/2019, 8/2020 and 153/2020, 138/2022; hereinafter: the "VAT Law") an by the VAT Rulebook (RS Official Gazette No 37/2021, 64/2021, 127/2021, 49/2022, 59/2022, 7/2023, 15/2023 i 60/2023; hereinafter: VAT Rulebook).

VAT Law was amended in December 2022, implementation started January 1, 2023.

In accordance with amendments following was implemented:

- The circle of foreign persons who do not have the obligation to register for VAT (that is, appoint a tax representative in Serbia) has been expanded to include persons who trade in goods that are in customs storage.
- It is stipulated that in the case of the electricity transfer, as well as in the case of the transfer of services of taking electricity into the energy system, to which the rules of the relevant European associations of transmission system operators are applied in accordance with the law governing the energy sector, the transfer is considered to have been performed, that is, the service is considered to have been provided on the day of issuing the invoice.
- The concept of market value is defined. The market value represents the total amount that the buyer of goods, that is, the recipient of services would pay at the time of the sale of those goods, that is, services to an independent supplier for sale in Serbia.
- The concept of related parties is defined. Related persons are considered to be related persons in accordance with the Law on the Profit Tax of Legal Entities, persons with whom there are family or other personal ties, management, ownership, membership, financial or legal ties, including the relationship between the employer and the employee, i.e. members of the employee's family household.
- In the case of turnover of goods or services for a fee between related parties when the fee is lower than the market value and the acquirer does not have the right to deduct the previous tax in full, the tax base is the market value of those goods or services, excluding VAT.
- It is stipulated that the right to deduct previous VAT can be exercised on the basis of an electronic invoice that is considered accepted in accordance with the law governing electronic invoicing.
- It is stipulated that the right to deduct previous tax based on an accepted electronic invoice can be exercised at the earliest for the tax period in which the tax liability arose, regardless of whether the electronic invoice was issued on the day the tax liability arose or after that day.

Along with the above, VAT Rulebook was changed 3 times, mainly for the purpose of harmonizing with the amendments to the VAT Law, but also with the new regulations on electronic invoicing and fiscalization.

In accordance with the relevant amendments to the Rulebook, among other things, the following is foreseen/specified:

- It is specified that if the turnover of services is performed

without compensation by a foreign person who is not a registered VAT payer in the Republic of Serbia, the recipient of the service has the obligation to calculate VAT as a tax debtor, regardless of whether the foreign person provided the service for business or non-business purposes.

- Changes were made to the rules regarding the change of tax debtor after advance payment.
- What is considered the market value on the basis of which the VAT base is determined has been specified, and the concept of an independent supplier, similar goods and services and total costs of turnover of goods and services is additionally regulated.
- It is specified that the change of the VAT base in the case of subsequent fulfillment of the conditions for achieving tax exemption with the right to deduct the previous tax occurs only in the case of the turnover of goods that are sent or shipped abroad and the turnover of goods that foreign travelers ship abroad in their personal luggage With myself.
- Numerous changes and additions have been made that relate to the realization of tax exemptions with the right to deduct the previous tax. Among other things, the following is prescribed:
  - the customs declaration in electronic form can serve as evidence for obtaining tax exemptions,
  - the customs authority can certify a printed copy of the e-invoice, which is confirmed by the signature of the person who issued it,
  - a copy of the e-invoice certified by the competent customs authority can also be used as evidence for obtaining tax exemptions,
  - new Form SNPDV and Form LNPDV are prescribed.
- Numerous novelties and clarifications have been prescribed in the part governing the issuing of invoices. Inter alia:
  - It is specified that the obligation to issue a VAT invoice does not exist for the sale of goods and services to natural persons, with the exception of entrepreneurs, who are not liable for VAT, except for sales for which a fiscal invoice is issued in accordance with the regulations governing fiscalization.
  - It is specified that in the case of turnover of goods and services for which a tax exemption is prescribed without the right to deduct previous tax, there is no obligation to issue an invoice, except for turnover for which there is an obligation to issue an electronic invoice (e-invoice) or a fiscal invoice.
  - It is specified that there is an obligation to issue an invoice based on the received advance payment for transactions made in the same tax period in relation to the received advance payment, in the case where there is an obligation to issue a fiscal invoice or e-invoice for such transactions.
  - It is prescribed that when creating an e-invoice, in the e-invoice for sales based on which it is considered that the tax liability arose on the date for which the date of VAT liability is the date of the invoice, the date of issue of the e-invoice is stated as the date of sale.
  - It is specified that the e-invoice contains information about the transaction date, even in the case when the e-invoice issue date and the transaction date are the same day.
  - In situations where the VAT payer claims funds that do not represent compensation for the sale of goods and services and when the VAT payer transfers a multi-purpose value voucher, it is necessary to issue a VAT invoice, (that is, an e-invoice) if there is an obligation to issue an e-invoice for that situation.
- It is stipulated that an e-invoice issued for several individual deliveries made to one person can be issued within 15 days from the end of the calendar month for which it is issued. The last day of the calendar month for which it is issued is stated as data on the transaction date on such an e-invoice.
- The concept of corporate card is defined as an instrument issued by the supplier of goods, that is, the provider of services, which serves to determine the financial obligations of the recipient of goods, that is, services towards the supplier. This has been harmonized with the regulations in the field of fiscalization.
- The obligation to issue a book approval is prescribed in the case when the charged advance for which the advance invoice was issued ceases to be considered as an advance for the sale of goods and services. An exception to the obligation exists when the charged advance or part of the advance becomes a fee or part of the fee for the transaction.
- The obligation to draw up an internal invoice has been extended for all cases when the VAT payer as a tax debtor calculates VAT for the turnover made to him. Additionally, the content of the internal account that the tax debtor is obliged to prepare for the turnover of another person is prescribed.
- In the case of submitting a document that is an attachment to an invoice, it is prescribed that such a document is not considered an invoice on the basis of which a tax liability arises or the right to deduct previous tax.

The previous period was certainly most marked by the start

of implementation of regulations on fiscalization and electronic invoicing, as well as further harmonization of VAT regulations with regulations on fiscalization and electronic invoicing, and the changes in question are directed in that direction. In addition, during the year, changes were made to regulations on fiscalization and electronic invoicing in order to harmonize these regulations with VAT regulations.

The regulations on fiscalization and electronic invoicing are analysed in a separate document where certain recommendations are given that are also important for the application of VAT regulations.

POSITIVE DEVELOPMENTS

With the latest amendments to the VAT regulations, certain useful clarifications were made to the existing rules and certain situations were more precisely regulated (for example defining the concept of related parties or market value).

In addition to the amendments to the VAT Rulebook, provisions were made to harmonize the VAT regulations with the regulations on electronic invoicing and fiscalization. This is, for example, the case with a corporate card defining concept or defining special rules in the case when an electronic invoice is issued for a transaction, especially in the part that concerns the issuing of invoices. This eliminated part of the mismatch between VAT regulations and regulations on fiscalization and electronic invoicing.

However, the problems addressed in the previous period were not in the focus of the regulator.

REMAINING ISSUES

VAT is accounted for by the recipient of goods and services performed by a foreign supplier (applying the so-called reverse charge mechanism) at the moment when the supply takes place or at the moment when advance payment is made, depending on which occurs earlier. In case there is no advance payment, VAT should be accounted for at the moment the service is rendered, something often unfeasible in practice, especially in the case of services for which the price in the contract was not specified as a fixed amount, but rather depends on a contractually specified calculation. At the moment of supply, or up to the deadline for filing a tax return, the VAT payer frequently does not have the supplier's invoice or information on the amount of the compensation, and so cannot know what the taxable amount is.

VAT legislation provides that in cases where taxable amount has changed after the supply of goods and services has taken place (e.g. subsequently approved discounts), the supplier should issue a document containing certain obligatory items. VAT legislation does not provide the possibility for the recipient of goods/services to issue this document, as is the business practice in other countries. Because of this, additional costs are imposed on companies since they have to change their business practices due to Serbian VAT rules.

In practice, there is an issue with VAT treatment of in-kind contribution of goods and services and status changes. Specifically, in such instances the VAT accounted for by the transferor of assets is income for the transferor and an expense for the transferee, and consequently in-kind contribution and status changes are not neutral from the perspective of the income statement, as they should be, essentially. For this reason, in such instances, the transferee should be the one to account for the VAT (applying the so-called reverse charge rule).

The VAT Law defines new rules regarding the assessment of VAT in the case of supplies in the field of construction. The rules relate to the classification of business activities, which results in numerous questions and uncertainties in practice, because, in substance, the classification was not drafted for tax purposes. Consequently, taxpayers have to deal with legal uncertainty due to the different interpretation of regulations by taxpayers and by Tax Administration alike. Due to diverging interpretations, taxpayers face the risk that Tax Administration will hold the supplier accountable for output VAT, although the recipient as the taxpayer accounted for the VAT, or that the recipient who accounted for the output VAT is denied his right to input VAT deduction because tax authorities deem that the obligation to assess VAT is on the side of the supplier, even though none of these two approaches is to the detriment of the state budget.

The Rulebook prescribes the method of keeping VAT records and preparation of VAT calculation review (POPDV Form). Since the harmonization of accounting programmes with new requirements is financially and time-demanding, a significant share of VAT payers is preparing VAT records and POPDV Forms manually. This considerably increases the VAT payers' costs. In addition, due to significant number of categories, the risk of error in categorizing invoices is high (even if VAT treatment is correctly determined), giving rise to the question of the informative value of this data for the Tax Administration. Having in mind the limited value of

data provided in particular fields of the POPDV form and the significant expenses of VAT payers related to preparation of the POPDV form, it is recommendable to reconsider simplifying the POPDV form and its filling procedure (presentation of certain types of transactions). The user manual published on the website of the Tax Administration succeeded in facilitating the application of the new rules by providing a number of examples and clarifications. On the other side, it introduced some additional requests that are difficult to implement in practice, e.g. displaying the final invoice issued after the advance payment invoice so that the final invoice state the full amount of the VAT base and the difference in VAT stated on the final and advance payment invoice. Generating data from the accounting records in this manner is extremely demanding so that, as a rule, even those VAT payers who have adjusted their accounting programs to the new method of keeping VAT records, generate/enter these data manually. In addition, the informative value of showing the full amount of the base and the difference of VAT for the Tax Administration is questionable since it is not possible to reconcile the advance payment invoice with the final invoice from the POPDV form.

The Law specifies that a VAT refund shall be made within 45 days of the deadline for filing the tax return, or within 15 days for predominant exporters. It has been noted that in practice the Tax Administration is late in making VAT refunds. Also, it has been noted that VAT is not refunded because a tax audit has been initiated. Neither does the VAT Law, nor the Law on Tax Procedure and Tax Administration specify that VAT shall not be refunded for the duration of the tax control. In addition, VAT refund audit is not prescribed as precondition for VAT refund, the Tax Administration has a right to audit VAT regardless on executed VAT refund until expiration of period of limitation. Moreover, the Law on Tax Procedure and Tax Administration specifies that if no refund is made to the VAT payer within the deadline specified by the VAT Law, interest shall be accrued as of the next day after the expiry of such a deadline. We emphasize that a VAT refund is not the result of error or oversight on the part of the taxpayer, but a key mechanism for the functioning of this form of taxation. All delays in VAT refunds directly impact the liquidity of companies that are required to make payments that include VAT to their suppliers by statutory deadlines, and on which depends the ability of their suppliers to regularly settle their tax liabilities.

Article 10a paragraph 6 of the Law on VAT stipulates that the tax representative of a foreign person in the name and on behalf of a foreign person registered for VAT performs all tasks related to fulfilling obligations and exercising the rights that a foreign person has as a VAT payer . We believe that the relevant wording of Article 10a paragraph 6 of the Law on VAT "invoicing" should be deleted, because the provision in question is not precise, it creates a bang in which customers receive two invoices (one commercial issued by a foreign person) and the other VAT invoice to submit a VAT proxy and create unnecessary additional administration and legal uncertainty. The VAT representative is certainly jointly and severally liable for the obligations of a foreign person who is registered as a VAT payer through him.

Furthermore, bearing in mind that the VAT Rulebook is additionally harmonized with the regulations governing electronic invoicing, as well as the tendency for tax regulations to be digitized, we believe that an amendment to Article 95a of the VAT Rulebook should be considered. Namely, in accordance with the mentioned article, the tax exemption from Article 24 of the VAT Law can be achieved if the competent customs authority certifies the printed copy of the e-invoice (external display) which has been previously confirmed by the signature or seal of the issuer. We believe that this provision creates an additional burden on taxpayers, since it significantly complicates the fulfilment of the conditions for tax exemption, as well as that its wording is not in the spirit of the Law on Electronic Invoicing, which promotes digitalization of the invoice issuance process.

FIC RECOMMENDATIONS

- With respect to the application of the reverse charge mechanism, it should be specified that for supplies by a foreign entity, the obligation of the recipient of goods and services to account for the VAT due should occur either at the moment when: 1) an invoice is received for goods or services provided by the foreign entity; or 2) when an advance payment is made to the foreign entity, whichever of these two events occurs earlier. Also, the introduction of an annual VAT return (monthly/quarterly returns would be treated as advance payments) should

be considered, which would be submitted by March of the current year for the previous year, and through which taxpayers could make all the necessary changes, including changes related to transactions from abroad for which the recipient of goods or services is obliged to calculate VAT as a tax debtor.

- VAT legislation should provide that a credit note may be issued either by the supplier or recipient of goods/services. This practice is in line with VAT rules in other countries and a common business practice. This cannot jeopardize VAT collection in any way. On the other hand, this would help companies decrease their administrative costs. Additionally, it is necessary to specify clearly that in the case of mistaken delivery of goods in a smaller quantity than was previously invoiced, the taxpayer may either issue a new invoice or credit note. This practice also corresponds to a customary business practice. Insisting on exclusively one approach imposes additional costs, whereas from the VAT collection point of view, there is no reason why both approaches cannot be applied. With respect to above, in case of return of goods, it is also necessary to define that irrespective of the expiration date, the supplier can issue a credit note or the buyer can issue an invoice/debit note in accordance with their mutual agreement. This approach can not jeopardize VAT collection since the same VAT rate is applied irrespective of who issues the credit note.

- The Law should specify that the obligation to account for VAT lies with the transferee of goods and services in the following instances: 1) in the case of in-kind contributions, when the supply of goods and services as an in-kind contribution is subject to VAT; and 2) in the case of a change in status, when the supply of goods and services is subject to VAT. In the first place, it is necessary to harmonize the VAT regulations of Serbia with the regulations in force in the EU regarding the calculation of VAT for transactions in the field of construction. Namely, in EU countries, the recipient is a tax debtor for sales in the field of construction due to the prevention of evasion and fraud in the calculation of VAT, whereby the relevant, special rules are applied when sales are made by a subcontractor to a contractor, but not when sales are made by a contractor to an investor. We emphasize that the greatest number of problems in practice occur precisely in the transaction between the contractor and the investor, since the "investor" in this case can also be a person who procures, for example, ongoing facility maintenance services and the like (ie, the "investor" does not have to be active in the field of construction at all). Bearing in mind this motive for defining the recipient as a tax debtor, there is no reason to prevent the provider from calculating and paying VAT, nor for any of them to be penalized, because the general rule of taxation was applied, and not a special rule according to which the recipient is a tax payer debtor. This approach would also be more favourable for the state, from the perspective of cash flows (by applying the "reverse charge" mechanism, the state consciously "renounces short-term financing", in order to avoid tax evasion).

- It is necessary to specify that in the case of supplies in the field of construction, parties may choose taxation in line with the general principle – that is, VAT charged by supplier. Also, in the case when a supplier calculated and paid VAT, and the tax authority considers that the recipient should have calculated VAT, as the tax debtor, the recommendation is for the supplier's invoice to be considered the correct invoice, and that administrative proceedings should not be initiated against either the supplier or the recipient.

- With respect to VAT records and the preparation of VAT calculation reviews, we believe it is necessary that the adopted Rulebook and User manual be reconsidered, and especially the requirements with regard to the POPDV form contents and the method for presenting certain transactions, such as the final invoice and invoice for advance payment.

- The processing of requests for refunds reported in VAT returns should be harmonized with the VAT Law and the Law on Tax Procedure and Tax Administration, meaning that the initiation of a tax audit cannot constitute grounds for delaying a VAT refund. The Ministry of Finance needs to issue a binding explanation in line with the

VAT Law and the Law on Tax Procedure and Tax Administration, and the Tax Administration should comply with it.

- We suggest that in Article 10a, paragraph 6 of the Law on Value Added Tax, deletes the words: "issuance of invoices".
- We propose to consider the amendment of Article 95a of the VAT Rulebook, since it does not reflect the goal of the Law on Electronic Invoicing, and as such does not facilitate the possibility of achieving the tax exemption from Article 24 of the VAT Law. In this regard, we believe that it should be possible to send e-invoices to the competent customs authority in their integral form, that is, that the customs authorities should be involved in this procedure in such a way that taxpayers do not print and verify external representations of them. The aforementioned results from the fact that such invoices have already been created, posted and sent through the eInvoice portal, which certainly appreciates their validity.

D. PROPERTY TAX 1.20

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
It is recommended that the provisions of Article 7 of the Law should specify that the fair value is the property tax base for entities applying the fair value measurement according to the IAS/IFRS for SMEs and accounting policies.	2015			√
To ensure the adequate calculation of the market value of immovable property, it is necessary to: harmonize the zoning criteria of local municipalities; prescribe corrective factors to differentiate between immovable properties in terms of quality, year of construction, purpose and characteristics; consider the adequacy of the methodology used for calculating the average prices of immovable property.	2014			√
It is advisable that the property tax return form and supporting documents be simplified by linking the Portal with the Cadaster and storing of such data enabled. Also, it should be possible to list more than one cadastral parcel in a single municipality in Annex 1 on the territory of a specific local municipality, then automate the following data entries: a) all facilities of the same type (e.g. all taxpayer's warehouses in the territory of a particular local municipality); b) calculation of quarterly installments (e.g. based on Sub-Annexes); and c) amended tax returns. In line with the above, make appropriate technical adjustments after which, it would be possible, based on the data saved from the Cadaster, to automatically fill in the appropriate forms (PPI-1, Annex 1, sub-annex), for the purpose of filing property tax returns for each year.	2018		√	

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Rephrasing provisions regulating exemptions from the absolute rights transfer tax, so that it is understood that the exemption applies to the transfer and acquisition of absolute rights that are subject to VAT, not to those for which VAT is paid.	2021			√
Enable public access to data used by the tax authorities to determine whether the contractual price of an absolute rights transfer is in line with the market price.	2018			√

CURRENT SITUATION

Having in mind FIC recommendations in 2022, we consider that the amendments to the Law on Property Taxes (hereinafter: "the Law") that are in effect from January 1, 2023, generally, did not resolve the important issues (recommendations) that we pointed out in the previous edition of the White Book:

- In accordance with the current version of the Law, companies that keep accounting records determine the tax base for property tax based on the real estate's market value (except in special cases prescribed by the Law). The market value of a real estate represents the fair value stated in the accounting records, for taxpayers using the fair value method according to the International Accounting Standards (IAS), the International Financial Reporting Standards (IFRS), and their accounting policy.
- The introduction of the concept of market value as the property tax base caused different interpretations over the years as to which taxpayers can apply this concept and due to the fact that the legislation did not regulate this issue in a sufficiently precise way. Opinions of the Ministry of Finance that have been issued over the years expressed in the unequivocal stand regarding the possibility for small and medium-sized enterprises ("SMEs") to determine the property tax base using the fair value of immovable property recorded, in accordance with IFRS for SMEs. However, according to our experience from practice, the opinions in question increased the level of legal uncertainty in terms of whether these would be applied by the Tax Authorities and whether their application would be binding only for future tax liabilities or retroactive.

On the other hand, amendments to the Law have introduced new rules and certain clarifications , thus below we would refer to some of them that we consider to be the most significant:

- The property tax base for the taxpayers that keep accounting books established in the tax year, shall not be the fair value in accordance with IAS, IFRS and the adopted accounting policy on the last day of the taxpayer's business year in the year preceding the tax year. The tax base should be determined by applying the usable area and the average price per square meter of the corresponding real estate in the relevant zone.
- When the taxpayer does not record in the business books the land on which (or under which) the object recorded in its business books is located, for the purpose of property tax taxation, such land should be considered as recorded. The tax base should be determined by applying the usable area and the average price per square meter of the corresponding real estate in the relevant zone.
- In a situation where the taxpayer has recorded in the business books the combined value of the building and the associated land and at the same time the municipality has not published either the average price per square meter of the relevant buildings or the average price per square meter of relevant land (neither in the zone nor in the most equipped zone), the tax base should be the book value of the land (or building), which contains the value of the building (or land), stated on the last day of the taxpayer's business year in the current year, depending on whether the average price for the building or land is published.
- For the purpose of classifying immovable property, the term business facility has been replaced by the term business building and other (above-ground and underground) building that serves for the performance of business activities, whereby it is defined that this term also includes a garage in which registered business activities would be performed (at all or mostly).
- It is defined that in the case when the subject of the con-

tract is the transfer of immovable property as a future thing, the tax liability arises on the earlier of the following days: the day of registration of the acquired right in the relevant cadaster or by handing over, i.e. taking possession of the immovable property. Therefore, the date of the tax liability could be considered the day of registration of the acquired right in the relevant cadaster, if that day precedes the day of handover, i.e. the day of possession.

- absolute rights transfer tax should be paid in the case of the transfer with compensation of the right to permanently use a parking space in an open residential block or residential complex.
- municipalities (local tax administrations) will exclusively determine, collect and audit tax on gift and inheritance and absolute rights transfer tax starting from January 1, 2025 (amendment is in effect from January 1, 2024).
- beside the standard exemption on transfer of property rights for diplomatic-consular office, starting from January 1, 2024, absolute rights transfer tax should not be paid when a foreign country acquires real estate for the needs of its diplomatic-consular office, under the condition of reciprocity (amendment in effect from January 1, 2024).

POSITIVE DEVELOPMENTS

FIC supports the amendments to the Law, which have specified the way of proceeding in the previously mentioned cases where there were dilemmas in practice, and in this way the potential legal uncertainty regarding their application has been removed.

Bearing in mind the recommendations from last year, we believe that in the meantime there have been no significant improvements as a result of the implemented recommendations from the past.

REMAINING ISSUES

We would like to point out the inconsistent implementation of the concept of market value of the property, as well as certain gaps related to the determination of the tax base for entities that apply fair value appraisal in accordance with IFRS for SMEs (instead of IAS/IFRS fair value for real estate assets for accounting purposes).

Law on Accounting prescribes that IFRS for small and medium-sized enterprises (hereinafter: IFRS for SMEs) can be applied by small and medium enterprises, while micro legal entities may opt to apply stated standards, and article 7. of the Law does not explicitly state whether it also applies to legal entities that apply IFRS for SMEs. The issued Opinions of the Ministry of Finance are of a rigid stand that there are no legal grounds for legal entities applying IFRS for SMEs to determine the property tax base based on the fair value method. However, in order to completely remove doubts on this issue it would be advisable to additionally clarify provisions of Article 7.

When determining the property tax base by applying the average prices published by local tax authorities, one of the basic parameters is the zone in which the property is located, determined by local municipalities based on the criteria of how public areas are developed. However, the procedure of assessing a public area's development level is insufficiently transparent. Also, no criteria for value adjustments are envisaged regarding the quality/age and/or purpose and size of the property, which in practice may lead to that tax base of a newly built real estate and one that is significantly older, can be the same. Due to the above, market values of properties assessed by certified appraisers significantly differ from their market values calculated by using the average prices published by local tax authorities, which puts in an unequal position taxpayers who evaluate real estate in their business records at fair value and those who use some other method of evaluation.

Particular administrative difficulties are caused by the Rulebook on property tax return forms for determining property tax, according to which taxpayers are obliged to file data to the LPA Portal every fiscal year, even when there were no changes compared to the previous year. The taxpayer fills a tax return form for each municipality where it has property rights that are subject to tax, annexes for each cadastral parcel and sub-annexes for each building on a cadastral parcel on territory of that municipality, as well as for the land itself. FIC members concluded that although electronic tax return is technically improved and it is possible to copy data from previous tax years, still one data must be recorded on all related forms which leads to double data entry which often causes errors, especially for the taxpayers owning properties in different local municipalities, which can lead to filing hundreds of tax returns in electronic form.

The tax authorities have been given exclusive rights to determine the property transfer tax base. In practice, the tax base is determined in accordance with internally determined market prices on territories of specific unit of local

municipality (so called parities), unknown to taxpayers, so in most cases, it remains unclear whether or not the contractual price is equal to the market price.

As for the provision of the Law which defines exemptions from the absolute rights transfer tax, and in accordance with which the absolute rights transfers on which VAT is paid are exempt from the payment of absolute rights transfer tax, we consider the term ''paid'' is not appropriate, because VAT is calculated and reported in the VAT return, where certain transactions subject to VAT may be exempted from VAT for reasons prescribed by this Law.

FIC RECOMMENDATIONS

- It is recommended that the provisions of Article 7. of the Law should specify that the fair value is the property tax base for entities applying the fair value measurement according to the IAS/IFRS for SMEs and accounting policies.
- To ensure the adequate calculation of the market value of immovable property, it is necessary to: harmonize the zoning criteria of local municipalities; prescribe corrective factors to differentiate between immovable properties in terms of quality, year of construction, purpose and characteristics; consider the adequacy of the methodology used for calculating the average prices of immovable property, simplify the method of calculating property taxes, if, for example, the storage area, the administrative building and the land represent one unit.
- It is advisable that the property tax return form and supporting documents be simplified by linking the Portal with the Cadaster and storing of such data enabled. Also, it should be possible to list more than one cadastral parcel in a single municipality in Annex 1 on the territory of a specific local municipality, then automate the following data entries: a) all facilities of the same type (e.g. all taxpayer's warehouses in the territory of a particular local municipality); b) calculation of quarterly installments (e.g. based on Sub-Annexes); c) amended tax returns and d) automate the mathematical sequence (e.g. after entering market or accounting parameters). In line with the above, make appropriate technical adjustments after which, it would be possible, based on the data saved from the Cadaster (based on the plot number and property description, enter the zone and the average value per square meter), to automatically fill in the appropriate forms (PPI-1, Annex 1, sub-annex), for the purpose of filing property tax returns for each year.
- Rephrasing provisions regulating exemptions from the absolute rights transfer tax, so that it is understood that the exemption applies to the transfer and acquisition of absolute rights that are subject to VAT, not to those for which VAT is paid.
- Enable public access to data used by the tax authorities to determine whether the contractual price of an absolute rights transfer is in line with the market price.

E. TAX PROCEDURE 1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
The electronic services of the Tax Administration should be further improved and developed in a way to enable the taxpayer to download all tax returns in a form customized to user, as well as to enable all taxpayers to electronically obtain TIN and all tax certificates. Propose an amendment to the Rulebook on the allocation of TIN, so that it is prescribed that the Tax Administration delivers the confirmation of the TIN allocation to the taxpayer in e-form.	2014			√
Regulating the provisions of the Criminal Code concerning tax crimes in more detail and taking into account the size of the legal entity and the volume of taxable activities.	2014			√
The introduction of a statutory deadline for tax audit duration (or adopt the provision of Article 38 of the Law on Inspection according to which the control procedure is suspended after 8 days have passed from the date of submission of the taxpayer's request for the end of the control in a situation where the inspector does not make a decision after the end of the day of the end of the control after the end of the day of the end of the inspection supervision specified in inspection order), and a tacit acceptance procedure in the case of a failure by the Tax Administration to issue its decision within the deadline, both for the Tax Administration and the Ministry of Finance.	2011			√
Introduction of a time limit duration of the TIN temporary revocation.	2022			√
Establishing the function of administrative supervision within the Ministry of Finance that will provide an effective mechanism for controlling legal compliance of the work of the Tax Administration's organizational units. The PTA Law should envisage offenses of employees in the Tax Administration who do not act in accordance with regulations (or decisions of immediate higher instances) during their work, especially in cases when they do not act within the deadlines prescribed by the PTA Law and in case of non-execution of the second instance body's decision in line with guidelines and understandings set forth therein. The PTA Law should be further aligned with provisions of the LIO. The LIO provides that inspectors are required to act not only to detect illegal activities and penalize entities violating the law, but also to prevent irregularities and provide advice to controlled entities to minimize risks from illegal acts.	2019			√
Introduction of the obligation in the PTA Law of the second-instance authority of the Ministry of Finance to resolve the administrative matter by itself, instead of the first instance authority, if the first-instance authority does not act according to its order and does not issue a decision within the deadline, as stipulated in Art. 173 st. 3 GAP Law. In this way, the multi-year duration of tax proceedings would be resolved, where often the first-instance authority does not act according to the order of the second-instance authority, as well as the first-instance authority does not issue a decision in the re-procedure within the time prescribed by law, which jeopardizes the legal security of taxpayers and violates the principle of legality of the tax procedure.	2022			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Amending Article 147(1) of the PTA Law, so as to read that an appeal suspends the enforcement of the decision.	2016			√
Eliminate legal uncertainty in the process of issuing of opinions of the Ministry of Finance by amending Article 80 of the Law on State Administration with regard to whether the ministry's opinions are legally binding if so prescribed by a separate law; amending the PTA Law to prescribe that the ministry's opinions are binding only if they are published or available to all parties in a public-legal relationship; defining a 30-day deadline for issuing an opinion defining the consequences in a situation where previously issued opinions are changed or disregarded; amending the PTA Law to prescribe that opinions of the Tax Administration sent by email are binding for the Tax Administration, and introducing provisions to the PTA Law to govern the liability of authorized officers and adequate penalties for failure to issue a binding opinion within the 30-day deadline.	2017			√
Abolishing the provision of the PTA Law which prohibits the SBRA from erasing a taxpayer from the register, registering status changes, or amending information for the duration of a tax audit or procedures undertaken by the Tax Police.	2014			√
Abolishing the provision of the PTA Law which prohibits the SBRA from registering acquisition of shares in legal entities as well as establishment of new legal entities in cases when the founder of such entity is a legal entity or entrepreneur over whom tax audit or any other action performed by the competent tax authorities has been registered.	2021			√
Strengthen the capacity of the Administrative Court in terms of expertise, specialization and speed in resolving tax disputes.	2020			√
Adopt Ministry of Finance binding opinion the for the actions of the Tax Administration in the domain of termination of tax liability by statute of limitations, for which termination of tax liability is prescribed that the Tax Administration issues a decision on the termination of tax liability ex officio and that the same one is in accordance with Art. 163 PTA Law transfers to off-balance sheet tax accounting. In the opinion in question, it is necessary for the Ministry of Finance to clearly state that this is a tax-legal relationship as a relationship of public law and that any tax paid in which the statute of limitations has expired does not represent a natural obligation.	2022			√

CURRENT SITUATION

The regulatory framework for the tax procedure in Serbia is shaped by four principal laws:

- The Law on Tax Procedure and Tax Administration, (PTA Law);
- The Law on General Administrative Procedure (GAP Law);
- The Law on Administrative Disputes, (AD Law);
- The Law on Inspection Oversight, (LIO Law).

The tax procedure is a special type of administrative procedure governed primarily by the PTA Law (lex specialis), which regulates in detail the organization and functioning of the Tax Administration, as well as the procedures for the assessment, control, and collection of taxes. The PTA Law comprehensively regulates all tax misdemeanours. The general rules of the GAP Law apply to the tax procedure where a certain issue is not regulated by the PTA Law, while the rules of the LIO Law further specify the activities of the Tax Administration regarding inspections. The AD Law regulates the judicial review of administrative decisions issued by the Tax Administration as an additional taxpayer pro-

tection system (e.g. deciding on actions against second-instance decisions of the Ministry of Finance).

The most important amendments of the PTA Law from 2022 relate to:

- Specifying procedural measures of The Tax Administration in case of tax-related criminal offences.
- Specifying that the Annual income tax returns are submitted exclusively in electronic form.
- Exclusion of the provisions of the law stipulating that if the taxpayer timely submits a request for rescheduling a tax payment referred to in Articles 73, 74a, or Article 74b of this law, the Tax Administration shall not pass a decision on enforced tax collection, until this request is decided on.
- Tightening of measures of temporary ban on performance of business activity in the course of tax audit:
  a) The time period of the temporary ban is increased;
  b) The tax auditor is able to order measures of temporary ban on the performance of business activity in the course of tax audit by way of verbal decision, when he believes that the collection of tax may be jeopardised.
- Specifying the internal control procedure.
- Introducing new tax-related criminal offences / the offences are introduced in respect of unlawful production and circulation of fiscal devices and accounting software used for false turnover reporting and tax evasion purposes.

In the beginning of 2023 the GAP Law was also amended. The changes to the law were based on the decision of the Serbian Constitutional Court which deemed the time limit of five years for submitting a request for repeating the administrative procedure unconstitutional.

POSITIVE DEVELOPMENTS

The newest PTA Law amendments focused on harmonising the provisions of the Criminal Procedure Code regarding tax-related criminal offences with the PTA Law by specifying procedural measures for tax crimes punishable by a term of imprisonment of eight years or more. Additionally the introduction of two tax-related criminal offences was carried out as a means of coordination between the provisions of the Law on Fiscalization and the PTA Law. Additionally, the amendments pushed for further digitalisation of the Tax Administration by prescribing that the submission of annual income tax return is carried out exclusively in the electronic form, potentially shortening the overall tax procedure and improving the cost-reduction. First steps towards regulating the internal control procedure of the Tax Administration have been made with the amendments which stipulate that a legal act dealing with the procedure of internal control of the Tax Administration is to be introduced no later than one year after the amendments of this Law take effect.

The latest changes in the GAP Law put the interested party in a more favourable position by cancelling the five year time limit for submitting a request for repeating the administrative procedure. In line with this the taxpayer is no longer obligated by the five year time limit starting from the moment that the taxpayer has been notified that the final decision has been made, in order to submit a request for repeating the tax procedure.

Nevertheless, significant progress regarding earlier recommendations is yet to be made. The previous inadequacies of the Tax Administration when it comes to providing tax services and client relationship affirmation still remain.

REMAINING ISSUES

- The existing regulatory framework governing the tax procedure still does not provide sufficient protection for taxpayers against discretionary decisions of tax authorities. Additionally, the lack of capacity and competences jeopardizes the protection of legality in the control procedure, as well as in the appellate and court proceedings.
- Rules on tax-related criminal offences still do not take into consideration the size and volume of taxable activities of taxpayers and apply the same threshold to both small businesses and large corporations in Serbia.
- More often than not, tax inspectors do not apply the "substance over form" principle in good faith. This regularly leads to highly unfavourable decisions for taxpayers, which are practically impossible to change.
- Tax authorities routinely fail to comply with the deadlines for the issuance of decisions based on submitted appeals.
- The existing rules regarding delayed execution of tax administrative acts via requests submitted to the second-instance authority do not provide for clear conditions for delaying execution, providing the second-instance authority with a very broad-set discretionary right.

- Rules that relate to the possibility of a tax refund in the event of the existence of matured tax liabilities in another respect are unclear and restrictive and do not take into account whether such tax liabilities are deferred or disputed (e.g. an appeal against a tax assessment issued by the Tax Administration). As a result of the foregoing, taxpayers are in a situation wherein uncollectible tax liabilities result in a complete discontinuation of the tax refund.
- The statutory 30-day deadline for issuing and publishing binding opinions upon request of taxpayers is not observed, so, in practice, taxpayers wait for opinions for more than a year. Such uncertainties are additionally aggravated by binding opinions that the Tax Administration applies but fails to publicly disclose despite its legal obligation to publish them on its own website and the website of the Ministry of Finance. Therefore, these opinions are unavailable to taxpayers, i.e. to all parties in a public-legal relationship.
- Limiting the filing of amended tax returns to two times is not justified. In fact, in most cases mistakes are made unintentionally, or are technical, especially in the case of large taxpayers who have large-scale and complex internal organization systems. Given that a taxpayer cannot amend a tax return in the event of a tax audit for a specific period, abolishing this restriction would not create an additional burden for the Tax Administration. Quite the contrary, it would help increase the efficiency of tax collection and encourage taxpayers' co-operation, consequently reducing the scope of tax audits.
- During a tax audit, as well as during the period in which a taxpayer's TIN is temporarily withdrawn, and until it is reinstated, the SBRA cannot erase a taxpayer from the register, register status changes, or change any of the registered data. In addition, tax liabilities become due regardless of whether or not a company is actually doing business (e.g. mandatory social security contributions, municipal taxes). Due to the vagueness and restrictiveness of this provision, the initiation of a tax audit may preclude the company from closing down business, which will lead to additional tax liabilities for the company, regardless of the outcome of the audit, thus de facto arbitrarily punishing the taxpayer for no reason. Additionally, taxpayers are unable to register changes that may even enable tax payment (capital increase, registration of a change of legal representative, etc.).
- Prohibiting SBRA to register the acquisition of shares in legal entities or establishment of new legal entities in cases when the founder of such entity is a legal entity or entrepreneur over whom tax audit or any other action performed by the competent tax authorities has been registered. The restrictiveness of this provision leads to the business limitations of taxpayers, which de facto taxpayer represent a punishment for a taxpayer without any grounds.
- The PTA amendments introduced the possibility for the Tax Administration to secure the collection of a tax liability that is not due, but for which an audit procedure has been initiated, even though criteria or conditions for the implementation of this measure have not been prescribed, which is not in line with the legality principle. As a consequence, tax resolutions that impose the measure do not contain valid reasons why the Tax Administration considers that there is risk in tax collection.
- Amendments to the PTA Law abolished the function of administrative supervision within the Tax Administration. According to the amended text of the PTA Law, the Tax Administration has exclusive competencies to perform the function of internal control. The Ministry of Finance has not established supervision as a separate function, from the moment of the abolition of the function of administrative supervision within the Tax Administration.
- The Serbian Administrative Court, as the final instance for tax disputes, does not have a sufficient level of specialization and expertise to adjudicate on tax matters. A court decision will typically take more than one year. Considering that the procedure before the court does not postpone a tax liability, i.e. the taxpayer still has to settle the previously disputed tax, even if he eventually does win the case, incurred costs for the taxpayer usually result in taxpayers receiving refunds of lower value in real terms. In addition, courts almost never decide on the merits of a case.
- In its actions, the Tax Administration, despite the normative regulation of the termination of tax obligations due to statute of limitations, transfers them to off-balance sheet tax accounting and those obligations are still considered the taxpayer's debt, and in those cases they do not issue certificates to taxpayers that they do not owe tax, which is in conflict with by provision of Art. 23 PTA Law.
- There is no prescribed length of time for the temporary confiscation of PIB by the Tax Administration, which in practice equates to the permanent confiscation of TIN and preventing taxpayers from performing their activities, as they cannot perform any payment transaction except paying taxes.

FIC RECOMMENDATIONS

- The electronic services of the Tax Administration should be further improved and developed in a way to enable the taxpayer to download all tax returns in a form customized to user, as well as to enable all taxpayers to electronically obtain TIN and all tax certificates. Propose an amendment to the Rulebook on the allocation of TIN, so that it is prescribed that the Tax Administration delivers the confirmation of the TIN allocation to the taxpayer in e-form.

- Regulating the provisions of the Criminal Code concerning tax crimes in more detail and taking into account the size of the legal entity and the volume of taxable activities.

- The introduction of a statutory deadline for tax audit duration (or adopt the provision of Article 38 of the Law on Inspection according to which the control procedure is suspended after 8 days have passed from the date of submission of the taxpayer's request for the end of the control in a situation where the inspector does not make a decision after the end of the day of the end of the control after the end of the day of the end of the inspection supervision specified in inspection order), and a tacit acceptance procedure in the case of a failure by the Tax Administration to issue its decision within the deadline, both for the Tax Administration and the Ministry of Finance.

- Introduction of a time limit duration of the TIN temporary revocation.

- Establishing the function of administrative supervision within the Ministry of Finance that will provide an effective mechanism for controlling legal compliance of the work of the Tax Administration's organizational units. The PTA Law should envisage offenses of employees in the Tax Administration who do not act in accordance with regulations (or decisions of immediate higher instances) during their work, especially in cases when they do not act within the deadlines prescribed by the PTA Law and in case of non-execution of the second instance body's decision in line with guidelines and understandings set forth therein. The PTA Law should be further aligned with provisions of the LIO. The LIO provides that inspectors are required to act not only to detect illegal activities and penalize entities violating the law, but also to prevent irregularities and provide advice to controlled entities to minimize risks from illegal acts.

- Introduction of the obligation in the PTA Law of the second-instance authority of the Ministry of Finance to resolve the administrative matter by itself, instead of the first-instance authority, if the first-instance authority does not act according to its order and does not issue a decision within the deadline, as stipulated in Art. 173 st. 3 GAP Law. In this way, the multi-year duration of tax proceedings would be resolved, where often the first-instance authority does not act according to the order of the second-instance authority, as well as the first-instance authority does not issue a decision in the re-procedure within the time prescribed by law, which jeopardizes the legal security of taxpayers and violates the principle of legality of the tax procedure.

- Amending Article 147(1) of the PTA Law, so as to read that an appeal suspends the enforcement of the decision.

- Eliminate legal uncertainty in the process of issuing of opinions of the Ministry of Finance by amending Article 80 of the Law on State Administration with regard to whether the ministry's opinions are legally binding if so prescribed by a separate law; amending the PTA Law to prescribe that the ministry's opinions are binding only if they are published or available to all parties in a public-legal relationship; defining a 30-day deadline for issuing an opinion defining the consequences in a situation where previously issued opinions are changed or disregarded; amending the PTA Law to prescribe that opinions of the Tax Administration sent by email are binding for the Tax Administration, and introducing provisions to the PTA Law to govern the liability of authorized officers and

adequate penalties for failure to issue a binding opinion within the 30-day deadline. Introduce the obligation to publish a redacted request with the issued opinion.

- Abolishing the provision of the PTA Law which prohibits the SBRA from erasing a taxpayer from the register, registering status changes, or amending information for the duration of a tax audit or procedures undertaken by the Tax Police.
- Abolishing the provision of the PTA Law which prohibits the SBRA from registering acquisition of shares in legal entities as well as establishment of new legal entities in cases when the founder of such entity is a legal entity or entrepreneur over whom tax audit or any other action performed by the competent tax authorities has been registered.
- Strengthen the capacity of the Administrative Court in terms of expertise, specialization and speed in resolving tax disputes.
- Adopt Ministry of Finance binding opinion the for the actions of the Tax Administration in the domain of termination of tax liability by statute of limitations, for which termination of tax liability is prescribed that the Tax Administration issues a decision on the termination of tax liability ex officio and that the same one is in accordance with Art. 163 PTA Law transfers to off-balance sheet tax accounting. In the opinion in question, it is necessary for the Ministry of Finance to clearly state that this is a tax-legal relationship as a relationship of public law and that any tax paid in which the statute of limitations has expired does not represent a natural obligation.

F. E-FISCALIZATION 2.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
We recommend the introduction of a consolidated instruction for the implementation and recording of e-invoices, modeled on the User Instructions on Reporting Data in the POPDV form.	2022	√		
We recommend the following amendments or clarifications of the Law on Electronic Invoicing;				
a. Enable a simple and transparent access to the "European and Serbian electronic invoicing standard";	2022			√
b. Postpone the application of Art. 18 – 21 of the EI Law for six months, i.e., until the establishment of the regular business process by most business entities;	2022			√
c. We recommend to postpone the application of Art. 10 of the EI Law for at least six months, i.e., until the relevant facts are established in practice and thus the deadline for accepting or rejecting e-invoices is adequately regulated. Additionally, it is necessary to specify the consequences in case an invoice is rejected (in the case of active or passive rejection) and the payment has been performed;	2022			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
d. Further harmonize the terminology of VAT and EI laws, especially with Article 42 of the VAT Law;	2022		√	
e. Make it possible for foreign entities registered for VAT through a tax proxy to electronically record the value added tax calculation from Art. 4 of the EI Law collectively in the case of transactions with natural persons.	2022	√		
f. We suggest to exempt transactions in the construction industry from the EIL regulations, as well as other transactions for which exemptions are stipulated under Art.164-169 of the VAT Rulebook.	2022	√		
g. Align E-Invoicing Law with VAT regulations, further specify the concept of transaction date stated on the e-Invoice for transactions involving services of copyright and related rights regulated by Art. 167 of the VAT Law Rulebook.	2022	√		
h. We propose to develop in the SEF and specify by the E-Invoicing Law the digital signing of cancelled documents as proof of correction of the previous VAT.	2022			√
The implementation of digitalization is expected to bring the streamlining of processes and time-savings in this respect and we are asking for further development of the SEF in terms of digital verification of the formal correctness of e-Invoice elements such as e.g., logical and mathematical checks of e-Invoice correctness as well as error reporting.	2022			√
We recommend that the recording of transactions of positioning of advertising articles should be exempted from the Law on Fiscalization and that these transactions should be recorded on the e Invoice.	2022	√		

CURRENT SITUATION

E-commerce in the Republic of Serbia implies a comprehensive change in business operations of the public and private sector and its implementation first started in 2017, with the passing of the Law on Electronic Document, additionally amended in 2021, and from January 1, 2023 Law on Electronic Invoicing came into force, regulating in the domain of fiscalization, electronic document/invoice, electronic identification and electronic data exchange in the public and private sector. In this way, the Republic of Serbia took a step further in legally regulating and implementing e-commerce and in following the developments in information technologies based on solutions enshrined in international practice, regulations and standards of the European Union.

Members of the Foreign Investors Council support the introduction and modernization of e-commerce, whose aim is to stimulate more efficient in business entities' operations, contribute to a decrease in grey economy and develop a trusted market, make citizens' access to the services of public authorities easier and safer, while the introduction of electronic archiving is expected to simplify the access to financial documents.

Electronic business has been regulated by following legislation:

- Law on Fiscalization entered into force on May 1, 2022 regulating new fiscalization model, entering new fiscalization model making fiscal invoice visible to the Tax Administration in real time, as opposed to the previous method of data transfer at the end of the day. Fiscal invoice is being tracked by generated unique QR code/ hyperlink, that is a part of each fiscal invoice. Taxpayers are obliged to register for each retail point of sale, unless exempted on the basis of the Law on Fiscalization, an electronic fiscal device, in addition to a cash register, can be a computer, tablet, or mobile phone and the QR code on each slip enables customers, i.e., users of services, to check the validity of the bill by a simple code scanning.

- Law on Electronic Invoicing ("RS Official Gazette", no. 44/2021, 129/2021, 138/2022 and 92/2023"), hereinafter "EI Law")is fully implemented since January 1, 2023, EI Law regulates which subjects are obliged to issue electronic invoices; introduces a special obligation to electronically record VAT tax calculations in the electronic invoicing system; regulates the way of using the system of electronic invoices; provides basic instructions for handling electronic invoices, how to accept/reject an electronic invoice, as well as other relevant instructions.
- Rulebook on Electronic Invoicing („RS Official Gazette", no. 47/2023"), hereinafter "EI Rulebook ") is unified rulebook, that substitutes 3 previous rulebooks. It regulates manner of accessing and using the e-Invoicing System (SEF), method of application of the e-invoice standard; e-invoice elements and attachments; method and procedure of electronic recording of VAT calculation in SEF; action in the event of a temporary interruption in the work of the SEF; use of data from SEF; way of acting of the Central Information Intermediary.
- Of great importance is the Internal Technical Instruction published by the Ministry of Finance of the Republic of Serbia.

The e-Invoicing System ("SEF") has been introduced as an information technology solution for sending, receiving, recording, processing and storing e-Invoices, which is managed by the central information intermediary. In addition, recording of VAT calculation is also done in the SEF for public and private sector entities, as well as of VAT for the legal proxies of foreign entities registered for VAT in the Republic of Serbia who are required to provide technical capacities and timely implementation in line with the EI Law.

The implementation of e-commerce and issuance of invoices in electronic form is the biggest change since the introduction of VAT and, even with the new regulations, implies further harmonization with other relevant laws, mainly with the VAT Law and the Law on Accounting, especially in terms of specifying more precisely the content and manner of issuing invoices.

POSITIVE DEVELOPMENTS

FIC timely communicated clarification proposals of the EI Law regulation as well as the functioning of the information system, which largely had a positive response from the working group of the Ministry of Finance in charge of establishing the e-invoice system. We list the most important:

a. the introduction of a unified Rulebook, (FIC recommendation in "White Book 2022"), which introduced certain clarifications regarding the method of issuing electronic invoices in SEF and the method and procedure of electronic recording of VAT calculations in SEF, in connection with which there were the most doubts in the previous period due to the fact that certain issues were not precisely regulated, and some were not regulated at all.

b. technical settings of the SEF, and the following had the most significant impact: search by different categories, tax rates, categories are linked to the relevant article of the law, four decimal places were introduced for the price per unit measure of the product, and the like.

REMAINING ISSUES

I. We will point out remaining doubts regarding the interpretation of the E-Invoicing Law and information system functioning:

   a) The terms of the European and Serbian standard on electronic invoicing that have not yet been applied in business are listed, and with the aim of better understanding and adequate application, legal entities have researched the legal regulations, but it is not easy to find complete explanations, and even the standard itself is not publicly available. We believe that for a better understanding of the rights and obligations of the private sector entity, it is important that the standards are transparent and publicly available.
   b) Certain concepts in the VAT and E-Invoicing Law are still terminologically incoherent, especially when it comes to the implementation of Article 42 of the VAT Law. Some examples include the concepts of "bill" and "e-Invoice", "transaction date", etc.
   c) In reference to Article 44 of the Law on VAT, a person who made a value correction or canceled an invoice, must have a notification from the invoice recipient in paper form that he did not use the calculated VAT as previous tax, i.e., that he made a correction of deduction of previous tax. It is expected that the digitalization of invoicing also refers to these documents, but the corresponding technical option has not been created in the SEF.
   d) In practice, the concept of a request for payment is still unclear, as well as whether a pro-invoice to a public sector entity is considered a request for pay-

ment and, if so, what type of document is selected in SEF.

II. The SEF functionality will be fully implemented from 1 January 2023 and FIC has communicated its recommendations for its technical upgrading on several occasions. With the further development of e-commerce, it would be important to introduce automated data checks.

III. The latest amendments to the EI Law stipulate a deadline of 10 days after the end of the tax period for electronic recording of VAT calculations, i.e. previous tax, which creates an unnecessary additional obligation for taxpayers, as well as additional costs and administration. Also, this provision moves and shortens the deadline for submitting the VAT return, which is already established and provided for by the VAT Law.

IV. The latest amendments to the EI Law provide for the obligation to electronically record the previous tax paid when importing goods, which further burdens taxpayers, bearing in mind that these taxes are already available in other systems of competent authorities.

V. EI Rulebook regulates the recording of VAT calculations in different situations. Also, on the e-Invoice website, instructions have been published regarding the electronic recording of VAT calculations. However, the regulations and the aforementioned instructions still do not define sufficiently precisely when individual and collective accounting records are made, as well as how to record in one of the records in certain situations.

FIC RECOMMENDATIONS

- We recommend the following amendments or clarifications of the Law on Electronic Invoicing;
  a) Enable a simple and transparent access to the "European and Serbian electronic invoicing standard";
  b) Further harmonize the terminology of VAT and EI laws, especially with Article 42 of the VAT Law;
  c) We suggest that the SEF develop and specify the digital signing of the cancellation document as proof of the correction of the previous VAT with the E-Invoicing regulation.
  d) We suggest specifying whether the request for payment refers/does not refer to the pro-invoice issued to the public sector.

- The implementation of digitalization is expected to bring the streamlining of processes and time-savings in this respect and we are asking for further development of the SEF in terms of digital verification of the formal correctness of e-Invoice elements such as e.g., logical and mathematical checks of e-Invoice correctness as well as error reporting.

- Harmonize the date of electronic recording of the VAT calculation, i.e. previous tax with the date for submitting the VAT return (by the 15th of the current month for the previous month);

- Amend paragraph 1 in Article 4a of the Law on Electronic Invoicing, ie delete: "regarding paid upon importation of goods".

- We propose a more detailed regulation of the way of recording VAT calculations in aggregate and individual records, for already prescribed situations in which records are made, as well as more detailed definition of other situations in which individual and collective records of VAT calculations are made.

G. LATEST DEVELOPMENTS IN THE SERBIAN TAX SYSTEM (PARAFISCAL CHARGES)

1.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Continuation of the reform of the non-tax revenue system, by eliminating all parafiscal charges that do not provide corresponding benefits in return, in terms of specific rights, services, or resources, while at the same time ensuring a consistent application of the Law on the Budget System, which regulates the basic principles of introducing and collecting non-tax public revenues.	2015			√
Adoption of the Law on Fees that should regulate all fees paid for a public service, while setting their level in line with Methodology and a new Law on the Financing of Local Governments, preceded by a comprehensive analysis of and alignment with solutions and tendencies of sectoral laws.	2014			√
Any new tax burden, or increase to an existing one, should be pre-announced to taxpayers and introduced through tax laws drafted by the Ministry of Finance, not by funds, agencies, or other ministries.	2013			√
Apply the business signage tax ceiling to the obligation of a single taxpayer, regardless of the number of facilities with displayed business signs that they have in the territory of any one municipality or whether they have more business facilities in other municipalities in Serbia (banks, insurance companies, telecom companies, etc.).	2014			√
Change the methodology and manner of determining the fee for the environment protection and improvement so that the fee is paid exclusively by taxpayers whose activities affect environmental pollution and use the funds to mitigate the negative consequences of these activities.	2020			√
Judicial protection of taxpayers' rights should be significantly improved through a reform of the Administrative Court, specialization of judges in tax matters, or the establishment of a special department within the Administrative Court with the sole jurisdiction to handle tax disputes.	2016			√

CURRENT SITUATION

There are numerous parafiscal charges in Serbia that exist in parallel with taxes, increasing the effective burden on the economy under conditions that are often non-transparent and unfair. As a kind of public levy, parafiscal charges actually impose an obligation that does not provide (at all or in an adequate proportion) a specific service, right, or good in return.

The authorities recognize this fact, which is why a parafiscal reform was carried out in late 2012, abolishing 138 parafiscal levies. The reform continued in 2013, with a first draft of the Law on Fees for the Use of Public Resources and the adoption of the final version of the Law at the end of 2018, but also by imposing new parafiscal levies such as a mandatory membership fee for the Serbian Chamber of Commerce in 2018. The reform process is still ongoing, which is especially reflected in the large number of changes that have been made to the regulations governing the manner of determining and reporting compensation for the protection and improvement of the environment.

POSITIVE DEVELOPMENTS

During the previous year no significant improvements occurred in respect to FIC recommendations given earlier.

REMAINING ISSUES

The reform of non-tax revenues has not been completed yet. The remaining issue is related to fees that should be paid for a public service proportionally to the costs of its provision. Currently, only a part of the fees are regulated by the Law on State Administrative Fees, while numerous laws and by-laws have introduced levies that are by their fiscal nature fees, but which come under different names (charge, compensation, etc.). In addition, it is questionable whether the Rulebook on Methodology for Determining Costs of Public Service (Methodology) was applied when setting the levels of all these fees.

A particular problem that we deem should be highlighted concerns the local utility tax for displaying business signs (business signage tax). Business signage tax costs for remaining taxpayers has significantly increased since the regime for the payment of the business signage tax was changed. The overall liability of a business entity for business signage has reached significant amounts, inter alia, due to diverse practices amongst local governments.

To additionally point out, during 2019, the determining the fee method for the environment protection and improvement was changed on two occasions. The methodology initially established by the Law on Fees for the Use of Public Goods and accompanied by provided bylaws, inter alia, defined the fee to be paid according to the amount of pollutants emitted and the hazardous waste produced and disposed of. However, although the method of determining the fee was intended to be paid by legal entities and entrepreneurs who perform activities that negatively affect the environment, the calculating fee methodology was too complicated, which resulted in a very small number of applications fees for environment protection and improvement by taxpayers.

At the end of December 2019, the manner of determining the compensation for the environment protection and improvement was changed again by the bylaws amendments. The new methodology simplifies the calculating fee method and it envisages that the fee is paid in a fixed annual amount depending on the size of the legal entity in accordance with accounting regulations and the degree of environmental impact of the predominant activity performed in accordance with the prescribed classification. However, in this way, the obligation to pay compensation was imposed on almost all legal entities and entrepreneurs in Serbia, regardless of whether their predominant activities really have a negative impact on the environment. The current methodology for determining the amount of compensation is contrary to the provisions of the Law on Fees for the Use of Public Goods, which, among other things, stipulates that the basis of compensation for environmental protection and improvement is the amount of pollution, i.e. the degree of negative impact on the environment.

At the beginning of 2023, a new amendment to the Law on Fees for the Use of Public Goods were proposed. Certain changes to the provisions regulating compensation for the environment protection and improvement have been proposed. However, the amendments to the law would not affect the methodology in which the amount of compensation is determined.

The FIC reiterates that the introduction of new taxes and duties, or increasing existing ones, during the fiscal year, without prior notice to taxpayers that would enable them to adapt their business to the new fiscal burden, adversely affects the predictability of the business environment and the operating results of companies.

The judicial protection of taxpayers' rights is ineffective. The proceedings before the Administrative Court are very lengthy and the Court usually simply confirms the decision of the Tax Administration, without providing an adequate statement of reasons for such a ruling. Alternatively, in exceptional cases, the disputed decision is annulled, and the case remanded back to the second-instance Tax Authority, without going into the merits of the case, which further protracts the entire process of the protection of taxpayers' rights. The Court almost never schedules any hearing where a taxpayer could explain its arguments before the Court or present its objections to the findings of the Tax Administration.

FIC RECOMMENDATIONS

- Continuation of the reform of the non-tax revenue system, by eliminating all parafiscal charges that do not provide corresponding benefits in return, in terms of specific rights, services, or resources, while at the same time ensuring a consistent application of the Law on the Budget System, which regulates the basic principles of introducing and collecting non-tax public revenues.

- Adoption of the Law on Fees that should regulate all fees paid for a public service, while setting their level in line with Methodology and a new Law on the Financing of Local Governments, preceded by a comprehensive analysis of and alignment with solutions and tendencies of sectoral laws.

- Any new tax burden, or increase to an existing one, should be pre-announced to taxpayers and introduced through tax laws drafted by the Ministry of Finance, not by funds, agencies, or other ministries.

- Apply the business signage tax ceiling to the obligation of a single taxpayer, regardless of the number of facilities with displayed business signs that they have in the territory of any one municipality or whether they have more business facilities in other municipalities in Serbia (banks, insurance companies, telecom companies, etc.)

- Change the methodology and manner of determining the fee for the environment protection and improvement so that the fee is paid exclusively by taxpayers whose activities affect environmental pollution and use the funds to mitigate the negative consequences of these activities.

- Judicial protection of taxpayers' rights should be significantly improved through a reform of the Administrative Court, specialization of judges in tax matters, or the establishment of a special department within the Administrative Court with the sole jurisdiction to handle tax disputes.

* Law on Fees for the Use of Public Goods was amended at the end of October 2023, impact will be noted in the next WB edition.