TAX

1.10

Serbia did not react to ongoing changes in the global tax system, and there are no significant changes in domestic tax regulations

Significant changes in the area of taxation that are taking place at the international level, such as OECD Pillar 2 initiative for introduction of the global minimum corporate income tax of 15% which was endorsed and implemented by a number of developed countries, introduction of CBAM (Carbon Border Adjustment Mechanism) at EU level and other, directly and indirectly impact also Serbian tax system and taxpayers. These changes may lead to decrease of the attractiveness of tax incentives offered by Serbia to foreign investors, as well as changes of conditions and/or increase of costs of doing business of local companies that are part of large international groups and/or which have significant export activities. In contrast to a number of other countries in the region and in the EU, which are adjusting their tax systems in response to current and upcoming changes, there is no indication that local tax laws will be changed in that respect.

Unfortunately, there were no significant changes of the domestic tax laws, except in relation to improvement of the electronic invoicing system and resolving problems and issues arising in practice. Improvement of the electronic invoicing system will contribute to better and easier reporting on one side, and more precise and comprehensive insight of the Tax Administration in business activities of companies on the other side. However, taxpayers are facing the challenge to timely respond to these changes and adjust their business information systems, which requires significant time and resources.

New law on electronic delivery notes is currently being prepared, which should further contribute to digitalization od business activities of companies and long term increase of efficiency and costs reduction.

With regard to customs regulations, Serbia concluded last year the Free Trade Agreement with China which came into force in July this year.

Since domestic tax regulations did not change, 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.

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 176 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: - 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.	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 nondeductible impairment, and so that fair value increases and decreases are treated equitably.	2017			√
Align the CIT law with accounting requirements set by new standards, including IFRS 9.	2023			√

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.

During 2024 there were no amendments of CIT law nor its bylaws. Upon the ending of this White Book edition, Ministry of Finance announced public consultations on the Draft Law on Amendments to the Corporate Income Tax Law, which will be addressed in the next White Book edition.

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 of the 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 newly 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 calcu-

lating 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 1.11

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 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.	2017			√
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.	2017			√
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 toavoid double payment of contributions.	2017			√
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.	2020			√
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.	2023			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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.	2023		√	

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.

In 2024, there were no significant changes to the Law on Personal Income Tax, nor to by-laws. As every year, the non-taxable amounts of personal income tax in dinars and the amounts of average monthly wages are harmonized.

Upon the ending of this White Book edition, Ministry of Finance announced public consultations on the Draft Law on Amendments to the Personal Income Tax Law, which will be addressed in the next White Book edition.

POSITIVE DEVELOPMENTS

In 2024, there were no significant changes to the Law on Personal Income Tax and related by-laws, and therefore no improvement in terms of the remaining issues.

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 Labor 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 Labor 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 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 terminating 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 Labor 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). Even though recent opinions of the Ministry of Labour 011-00-00416/2021-07 from 15.10.2021 and 011-00-00383/2021-07 from 8.12.2021. have specified that the remuneration for the work of directors is a mandatory element of the Contract on the Rights and Obligations of Directors who are not in an employment relationship with the employer, it is still necessary to legally define the amount of adequate remuneration for the directors. 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.

- 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 Labor, 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 Labor 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 labor 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 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 1.08

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
Regarding the application of the so-called reverse charge mechanism, it should be specified that for transactions involving a foreign entity, the obligation to calculate VAT for the recipient of goods and services arises either at the moment: 1) when the invoice for goods or services provided by the foreign entity is received, or 2) when an advance payment is made to the foreign entity, whichever of these two events occurs earlier.	2013			√
Consideration should be given to introducing an annual VAT return (with monthly/quarterly returns treated as advance payments), which would be submitted by March of the current year for the previous year. Through this return, taxpayers could make all necessary adjustments, including changes related to transactions from abroad for which the recipient of goods or services is obliged to calculate VAT as the taxpayer.	2013			√
VAT regulations should allow that a credit note for a change in the tax base can be issued either by the person who supplied the goods and services or by the recipient of the goods and services. This practice is in line with VAT rules in other countries and common business practices. This cannot in any way jeopardize the collection of VAT. On the other hand, this would help companies reduce their administrative costs.	2014			√
It is necessary to clearly define that in the case where a smaller quantity of products than invoiced is mistakenly delivered, the taxpayer can either issue a new amended invoice or a credit note. This corresponds to common business practice, and insisting on only one approach imposes additional costs, while from the aspect of VAT collection, there is no reason why both approaches should not be applied.	2014			√
It is necessary to define that in the case of returning goods, regardless of the expiration date, the supplier of the goods can issue a credit note or the buyer can issue an invoice/credit note, depending on their mutual agreement. This approach cannot jeopardize the collection of VAT, because, regardless of who issues the credit note, the same VAT rate applies.	2014			√
The law should stipulate that the obligation to calculate VAT lies with the recipient of goods and services in the following cases: 1) in the case of the contribution of goods and services to the capital of a company, when the supply of goods and services as a contribution to the capital is subject to VAT, and 2) in the case of a status change, when the supply of goods and services in a status change is subject to VAT.	2015			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
First and foremost, it is necessary to align Serbia's VAT regulations with the regulations in force in the EU regarding the calculation of VAT for transactions in the construction sector. In EU countries, the recipient is the taxpayer for transactions in the construction sector to prevent evasion and fraud in VAT calculation. These specific rules apply when a subcontractor supplies the contractor, but not when the contractor supplies the investor. We emphasize that most problems in practice arise precisely in transactions between contractors and investors, as the "investor" in this case can also be an entity that procures, for example, maintenance services for a building and similar (i.e., the "investor" does not necessarily have to be active in the construction sector). Given this motivation for defining the recipient as the taxpayer, there is no reason to prevent the provider from calculating and paying VAT, nor to penalize any party, as the general taxation rule has been applied, not the specific rule where the recipient is the taxpayer. This approach would also be more favorable for the state from the perspective of cash flow (by applying the "reverse charge" mechanism, the state consciously "forgoes short-term financing" to prevent tax evasion).	2022			√
It is necessary to stipulate that in the case of transactions in the construction sector, the parties can opt for taxation according to the general principle – the supplier calculates VAT. Additionally, in cases where the supplier has calculated and paid VAT, but the tax authority believes that the recipient should have calculated VAT as the taxpayer, it is recommended to prescribe that the supplier's invoice will be considered a valid invoice and that no misdemeanor proceedings will be initiated against either the supplier or the recipient.	2017			√
Regarding VAT records and the preparation of VAT calculation reviews, we believe it is necessary to reconsider the adopted Rulebook and user manual, especially regarding the content of the VAT Rulebook form and the manner of presenting certain transactions, such as advance and final invoices.	2015			√
It is necessary to align the handling of refund requests stated in the VAT return with the provisions of the VAT Law and the Tax Procedure and Tax Administration Law, which means that the control procedure cannot delay the VAT refund. The Ministry of Finance needs to issue a binding explanation in accordance with the VAT Law and the Tax Procedure and Tax Administration Law, and the Tax Administration should align its procedures accordingly.	2017			√
We propose that in Article 10a, paragraph 6 of the Value Added Tax Law, the words "issuing an invoice" be deleted.	2020			√
We propose to consider amending Article 95a of the VAT Rulebook, as it does not reflect the goal of the Electronic Invoicing Law and does not facilitate the possibility of obtaining tax exemption under 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, and that customs authorities should be involved in this process in such a way that taxpayers do not print and certify external representations of the same. This arises from the fact that such invoices have already been created, uploaded, and sent via the eInvoice portal, which certainly validates their authenticity.	2023		√	

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, 60/2023, 96/2023, 116/2023 i 29/2024; hereinafter: VAT Rulebook).

The VAT Law has not been amended in the previous period. However, the VAT Rulebook has been amended several times.

In accordance with the relevant amendments to the VAT Rulebook, the following has been stipulated, among other things:

- A more detailed Record of Traveler's VAT Refund Requests Form (EZPPPDV) has been prescribed. It is required to report data within seven days from the end of the tax period in which the certified original of the traveller's VAT refund request was received. It is also prescribed to keep these records for fiscalization obligors on the Tax Administration portal.

- It is envisaged that tax exemption can be achieved for the supply of goods in the customs warehousing procedure in the case of advance payment for future supply of goods, i.e., before the goods are entered into the free zone, provided that the required documentation is obtained.

- It is specified that an e-invoice for multiple individual deliveries can be issued for a period shorter than a calendar month, where the date of transaction is indicated as the last day of the period for which the e-invoice is issued.

- It is specified that a fiscal receipt issued for a transaction for which an e-invoice has been issued at the request of a public sector entity is not considered an invoice within the meaning of the VAT Law.

- The obligation for the taxpayer to possess an invoice for the supply of goods certified by the competent customs authority, to exercise the right to tax exemption for the supply of goods in the customs warehousing procedure, has been abolished.

- It is specified that tax exemption based on international agreements can be achieved according to the international agreement that is applicable on the date of the contract conclusion under which the transaction is carried out or on the date of the supply of goods or services.

- It is prescribed that the right to a VAT refund for the buyer of the first apartment is achieved exclusively based on the fiscal receipt of the VAT obligor – the seller, who is the taxpayer in accordance with the VAT Law.

The previous period has certainly been marked by further harmonization of VAT regulations with fiscalization and e-invoicing regulations. Additionally, during the year, amendments to e-invoicing regulations were made, and by the end of the year, further amendments to e-invoicing regulations (regarding the announced obligation for electronic recording of previous tax) are expected, which could potentially have significant effects on the application of VAT regulations.

In this regard, 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.

Upon the ending of this White Book edition, Ministry of Finance announced public consultations on the Draft Law on Amendments to the Value Added Tax, which will be addressed in the next White Book edition.

POSITIVE DEVELOPMENTS

The latest amendments to the VAT regulations have introduced certain useful simplifications of the existing rules and more precise regulation of specific situations (for example, the obligation to possess an invoice certified by customs authorities as a condition for obtaining tax exemption for the supply of goods in the customs warehousing procedure has been abolished).

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

REMAINING ISSUES

I. Construction: When interpreting the classification of activities of legal entities in the field of construction, for which the Law prescribes special rules for VAT calculation, there are still uncertainties in practice regarding the determination of the taxpayer, between the service provider and

the service recipient. The classification of activities of legal entities is not aligned with tax laws, and very often, due to different interpretations, legal inconsistencies and uncertainties arise in practice. Taxpayers are at risk that the Tax Administration will calculate output VAT to the supplier, even though the recipient, as the taxpayer, has calculated VAT, or that the recipient, who has calculated output VAT, will be denied the right to deduct input VAT, considering that the tax authority believes that the obligation to calculate VAT was on the supplier. Additionally, it is necessary to harmonize the VAT regulations of the Republic 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 the taxpayer for transactions in the field of construction to prevent evasion and fraud in VAT calculation, whereby these special rules apply when the transaction is performed by a subcontractor to the contractor, but not when the transaction is performed by the contractor to the investor.

We emphasize that most problems in practice arise precisely in transactions between contractors and investors, since the "investor" in this case can also be a person who procures, for example, maintenance services for the building, and so on (i.e., the "investor" does not necessarily have to be active in the field of construction). Given this motive for defining the recipient as the taxpayer, there is no reason to prevent the provider from calculating and paying VAT, nor to penalize any of them, as the general taxation rule has been applied, not the special rule by which the recipient is the taxpayer. 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 "forgoes short-term financing" to prevent tax evasion).

II. VAT Refund: The law prescribes that VAT refunds are to be made within 45 days of the deadline for submitting the tax return, or 15 days if it concerns predominant exporters. In practice, it has been observed that the Tax Administration delays VAT refunds. It has also been noted that VAT is not refunded because a tax audit has begun. Neither the VAT Law nor the Law on Tax Procedure and Tax Administration prescribe that VAT will not be refunded if the audit is ongoing. Additionally, the audit of the declared VAT refund is not prescribed as a condition for the VAT refund. The Tax Administration has the right to audit regardless of the refund, and this can be done until the statute of limitations expires. Moreover, the Law on Tax Procedure and Tax Administration prescribes that if the VAT refund is not made to the taxpayer within the period prescribed by the VAT Law, interest is calculated from the next day after the expiration of that period.

We emphasize that the VAT refund is not the result of an error or omission by the taxpayer, but a key mechanism for the functioning of this tax form. Any delay in the VAT refund directly affects the liquidity of companies that must make timely payments to their suppliers, which include VAT, and on which the ability of their suppliers to regularly meet their tax obligations depends.

III. VAT Rulebook: The VAT Rulebook prescribes the method of keeping VAT records and preparing the VAT calculation overview (VAT Rulebook form). Adapting accounting programs to these requirements is time-consuming and financially demanding, and many VAT payers have opted to manually keep VAT and POPDV records. This situation significantly increases the costs for taxpayers. Additionally, due to the large number of categories, there is a high risk of misclassifying certain invoices, even though the VAT treatment is correctly applied, which calls into question the informational value of these data for the Tax Administration. Given the limited utility of certain items in the VAT Rulebook form, the required way of presenting certain transactions, and the significant costs imposed on taxpayers by preparing the POPDV form, it is necessary to consider abolishing or greatly simplifying the VAT Rulebook form and the method of its completion (presentation of certain types of transactions). The user manual published (on the Tax Administration's website), which has facilitated its application to some extent with numerous examples and explanations, on the other hand, introduces some additional requirements that are difficult to implement in practice, e.g., presenting the final invoice issued after the advance invoice in such a way that the full amount of the base and the difference in VAT calculated on the final and advance invoice are shown on the final invoice. Generating data in this way from accounting records is extremely demanding, so, as a rule, even those taxpayers who have adapted their accounting programs to the new way of keeping VAT records enter/keep these data manually. Also, the informational value of presenting the full amount of the base and the VAT difference for the Tax Administration is questionable when it is not possible to match the advance invoice with the final invoice from the VAT Rulebook form.

IV. Issuing Advance and Final Invoices: Before the adoption and implementation of e-invoicing regulations, the VAT Rulebook prescribed that if advance payments were

made in the same tax period as the supply of goods or services, the VAT payer was not obliged to issue both an advance and a final invoice, but only a final invoice for the performed supply of goods or services. This was a significant administrative and financial relief for VAT payers based on practical experience. With the introduction of e-invoices in Serbia, the legal framework has changed so that VAT payers, including tax representatives of foreign entities, are now obliged to issue both an advance and a final invoice when advance payment and the supply of goods or services are made in the same tax period. The recommendation is to amend the legal framework and revert to the previous legal solution. It is considered necessary to reassess the importance of issuing advance invoices if the final invoice is issued in the same month. The introduction of this obligation has created additional administrative burdens for taxpayers in issuing additional documents and linking their numbers with final invoices. In certain cases, the introduction of this obligation has also affected commercial business conditions, as sellers now insist that buyers take delivery of goods on the same day the payment is made to avoid issuing both advance and final invoices.

V. Reverse Charge Mechanism: A taxpayer who is liable for VAT on the supply of goods and services provided by a foreign entity calculates VAT (applies the so-called "reverse charge mechanism") at the moment the supply is made or at the moment of advance payment, whichever occurs earlier. In cases where there are no advance payments, VAT should be calculated at the moment the service is performed, which is often not applicable in practice, especially for services where the price is not agreed upon in a fixed amount but depends on the agreed calculation. At the moment of supply, or by the deadline for submitting the tax return, the taxpayer often does not have the supplier's invoice or information on the amount of the fee, and therefore cannot know the tax base on which to calculate VAT.

VI. Change of Tax Base: VAT regulations define that when the consideration for the supply of goods and services changes after the supply has been made, i.e., the tax base is altered (e.g., a discount is subsequently granted), the entity that made the supply must issue a document containing certain mandatory elements. The regulations do not allow this document to be issued by the entity to whom the goods and services were supplied, which is a common business practice in other countries. This imposes additional costs on companies, as they must change their usual business practices due to regulations in Serbia. The proposed change would be in line with the existing solution for issuing invoices prescribed by Article 43 of the VAT Law, which provides for so-called "self-billing," i.e., the issuance of invoices by the recipient of goods or services under certain conditions. Additionally, based on practical experience, many foreign companies planning to expand their business in the Serbian market often inquire about the possibility of applying self-billing. Therefore, we believe it makes sense to reconsider the application of this institute to other documents (documents on the change of the tax base) in addition to the invoice itself.

VII. Status Changes: In practice, there is a problem with VAT calculation in the case of the contribution of goods and services to the capital of a company and in the case of status changes. Namely, in these cases, the VAT calculated by the transferor of the assets represents income for the transferor and an expense for the transferee, which means that the capital increase and status change are not neutral from the perspective of the income statement, although they should be by their nature. For this reason, in these cases, VAT should be calculated by the recipient of the goods and services (the so-called reverse charge).

The law should prescribe that the obligation to calculate VAT lies with the recipient of the goods and services in the following cases:

1. In the case of the contribution of goods and services to the capital of a company, when the supply of goods and services as a contribution to the capital is subject to VAT.

2. In the case of a status change, the supply of goods and services in the status change is subject to VAT.

VIII. Customs Authority Certification: Given that the VAT Rulebook has been further harmonized with the regulations governing e-invoicing, as well as the tendency for tax regulations to move towards digitalization, we believe that Article 95a of the VAT Rulebook should be reconsidered. Namely, according to this article, the tax exemption from Article 24 of the VAT Law can be achieved if the competent customs authority certifies a printed copy of the e-invoice (external display) that has been previously confirmed by the issuer's signature or stamp. We believe that this provision imposes an additional burden on taxpayers, as it significantly complicates the fulfilment of conditions for obtaining a tax exemption, and its formulation is not in

the spirit of the e-Invoicing Law, which promotes the digitalization of the invoicing process.

IX. Invoice Cancellation or Reduction of Tax Base: The process of documenting the statement on the change of the tax base is still in paper rather than digital format. It has been pointed out several times that with the transition to the electronic invoicing system, the number of corrections, i.e., "cancellations" of invoices, which are not necessarily VAT-related, has increased. For each correction, it is necessary to obtain an official statement in paper form with a stamp and signature that the other legal entity has made the VAT correction. The process of obtaining the document on the change of the tax base for all corrected documents has proven to be extremely inefficient and additionally leads to temporary differences in the form of overpaid VAT. We believe that the statement of the invoice recipient on whether they have used the previous VAT should be digitized in the e-Invoicing System (SEF) environment.

X. Disputed Claims: The VAT Law should simplify the application of this institute by prescribing more relaxed conditions for the refund of VAT that has not been collected from customers. The current solution stipulates that uncollected VAT can only be refunded based on a final court decision on the concluded bankruptcy proceedings or based on a certified transcript of the court settlement record. We point out that a significant number of neighbouring countries prescribe less stringent conditions for the refund of uncollected VAT. For example, in Croatia, it is possible to correct output VAT if the claim has been uncollected for more than a year, provided that measures have been taken to collect it (e.g., the claims have been sued or enforcement proceedings have been initiated). The correction is carried out by the seller notifying the debtor of the correction using a special electronic form, and the debtor is obliged to adjust the input VAT deduction. In Bulgaria, the seller can, after taking measures to collect the claim, inform the buyer in writing that the claim is considered uncollected and issue a document reducing the tax base. In the Netherlands, for example, uncollected VAT can be refunded if the claim has not been collected for a year, with the refund possible even earlier as soon as it is determined that the claim is uncollectible.

XI. Tax Exemption with the Right to Deduct Previous Tax for Transactions Arising from the Donation of Used IT Equipment to Schools and Other State Institutions: It is common for legal entities to use IT equipment (e.g., computers, monitors, printers, and other accompanying equipment) for a limited period, such as three years, in accordance with company policy that aligns the usage period with optimal efficiency. After this period, the IT equipment is replaced with new equipment, and the used IT equipment is recycled, sold, or donated. Used IT equipment is often still functional and fully capable of handling less demanding tasks, such as applications used in the educational system or other state institutions. Considering that IT equipment in the educational system is outdated or non-functional, and with the aim of encouraging legal entities to donate their used IT equipment, we propose that Article 24 of the Law be expanded to include this type of donation.

FIC RECOMMENDATIONS

- **I - Construction:** It is necessary to prescribe that in the case of transactions in the field of construction, the parties can opt for taxation according to the general principle – the supplier calculates VAT. Additionally, in cases where the supplier has calculated and paid VAT, but the tax authority believes that the recipient should have calculated VAT as the taxpayer, it is recommended to prescribe that the supplier's invoice will be considered a valid invoice and that no misdemeanour proceedings will be initiated against either the supplier or the recipient.
- **II - VAT Refund:** It is necessary to align the handling of refund requests stated in the VAT return with the provisions of the VAT Law and the Law on Tax Procedure and Tax Administration, which means that the audit process cannot delay the VAT refund. The Ministry of Finance needs to issue a binding explanation in accordance with the VAT Law and the Law on Tax Procedure and Tax Administration, and the Tax Administration should align its procedures accordingly.

- **III - VAT Rulebook:** We propose that the VAT Rulebook form be completely abolished or significantly simplified in accordance with the previously mentioned comments.

- **IV - Issuing Advance and Final Invoices:** We believe it is necessary to reassess the importance of the obligation to issue advance invoices if the final invoice is issued in the same month. The recommendation is to amend the legal framework and revert to the previous legal solution in accordance with the previous explanation.

- **V - Reverse Charge Mechanism:** When it comes to the application of the so-called reverse charge mechanism, it should be specified that for the supply of goods and services by a foreign entity, the obligation to calculate VAT for the recipient of goods and services arises either at the moment:
    1. When the invoice for goods or services provided by the foreign entity is received, or
    2. When advance payment is made to the foreign entity, whichever of these two events occurs earlier. Additionally, it should be considered to introduce an annual VAT return (monthly/quarterly returns would be treated as advance payments), which would be submitted by March of the current year for the previous year, through which taxpayers could make all necessary adjustments, including those related to transactions from abroad for which the recipient of goods or services has the obligation to calculate VAT as the taxpayer.

- **VI - Change of Tax Base:** VAT regulations should allow that a credit note for a change in the tax base can be issued either by the person who supplied the goods and services or by the recipient of the goods and services. This practice is in line with VAT rules in other countries and common business practices. This cannot in any way jeopardize the collection of VAT. On the other hand, this would help companies reduce their administrative costs. It is also necessary to clearly define that in the case where a smaller quantity of products than invoiced is mistakenly delivered, the taxpayer can either issue a new amended invoice or a credit note. This corresponds to common business practice, and insisting on only one approach imposes additional costs, while from the aspect of VAT collection, there is no reason why both approaches should not be applied. In accordance with this, it is also necessary to define that in the case of returning goods, regardless of the expiration date, the supplier of the goods can issue a credit note or the buyer can issue an invoice/credit note, depending on their mutual agreement. This approach cannot jeopardize the collection of VAT, because, regardless of who issues the credit note, the same VAT rate applies.

- **VII - Status Changes:** We propose that in the case of the contribution of goods and services to the capital of a company and in the case of status changes, VAT should be calculated by the recipient of the goods and services (so-called reverse charge mechanism), in accordance with the previous explanation.

- **VIII - Customs Authority Certification:** We propose to consider amending Article 95a of the VAT Rulebook, as it does not reflect the goal of the Electronic Invoicing Act and does not facilitate the possibility of obtaining tax exemption under Article 24 of the VAT Act. In this regard, we believe that it should be possible to send e-invoices to the competent customs authority in their integral form, and that customs authorities should be included in this process in such a way that taxpayers do not print and certify external representations of the same. This arises from the fact that such invoices have already been created, uploaded, and sent via the eInvoice portal, which certainly validates their authenticity.

- **IX - Invoice Cancellation or Reduction of Tax Base:** We propose that a technical solution be enabled in the e-Invoicing System (SEF) environment for a digitized Statement from the invoice recipient regarding whether the previous VAT correction has been made. From the perspective of SEF users, the simplest solution would be to add some form of Statement that the VAT has not been corrected when rejecting the e-invoice, thereby providing confirmation from the taxpayer that they have not used the right to deduct the previous tax; conversely, by accepting the invoice, a Statement on the use of the previous VAT would be generated, confirming that the previous tax correction has been

made. This would expedite the reduction of the calculated tax and reduce the increased administrative activities of taxpayers in the process of issuing and tracking the acquisition of these documents.

- **X Disputed Claims:** We propose that more relaxed conditions be prescribed for the refund of VAT that has not been collected from customers, and that EU practices be applied in accordance with the previous explanation.
- **XI Tax Exemption with the Right to Deduct Previous Tax:** We propose that Article 24 of the Law includes a tax exemption with the right to deduct previous tax for transactions arising from the donation of used IT equipment to schools and other state institutions, with adequate proof and documentation.

D. PROPERTY TAX 1.00

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, simplify the method of calculating property taxes, if, for example, the storage area, the administrative building and the land represent one unit.	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); 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.	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 2023, we consider that the latest amendments to the Law on Property Taxes (hereinafter: "the Law") that are in effect from January 1, 2024, 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, tha latest amendments to the Law relate to the following: 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)

Upon the ending of this White Book edition, Ministry of Finance announced public consultations on the Draft Law on Amendments to the Property Tax Law, which will be addressed in the next White Book edition.

POSITIVE DEVELOPMENTS

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.

Additionally, it should be noted that some local municipalities did not publish decisions related to determination of average prices of square meters of respective properties and determination of zones for 2024, which caused certain confusion for taxpayers related to determination of property tax for 2024.

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 tax-payers to electronically obtain TIN and all tax certificates. Propose an amendment to the Rulebook on the allocation of TIN, so that it is pre-scribed 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			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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			√
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. Introduce the obligation to publish a redacted request with the issued opinion.	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			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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 protection system (e.g. deciding on actions against second-instance decisions of the Ministry of Finance).

The latest amendments to the PTA Law are in effect from the end of 2022 (Official Gazette of RS, number 138/2022). When it comes to changes to the rest of the legal framework regulating the tax procedure matters, changes to the GAP Law were made at the beginning of 2023 in accordance with the decision of the Constitutional Court of the Republic of Serbia (Official Gazette of the RS, number 2/2023). There were no changes in AD Law and LIO Law in the recent past.

Upon the ending of this White Book edition, Ministry of Finance announced public consultations on the Draft Law on Tax Procedure and Tax Administration, which will be addressed in the next White Book edition.

POSITIVE DEVELOPMENTS

In the previous year, there were no significant changes affecting the normative framework governing the tax procedure in Serbia, and as a consequence no progress in terms of the previously highlighted problems was made.

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. 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 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. FISCALIZATION AND E-INVOICING 1.63

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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. Further harmonize the terminology of VAT and EI laws, especially with Article 42 of the VAT Law.	2022	√		
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.	2022			√
d. We suggest specifying whether the request for payment refers/ does not refer to the pro-invoice issued to the public sector.	2023			√

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
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			√
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)	2023			√
Amend paragraph 1 in Article 4a of the Law on Electronic Invoicing, ie delete: "regarding paid upon importation of goods".	2023	√		
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.	2023		√	

CURRENT SITUATION

The implementation of electronic business in the Republic of Serbia began in 2017 with the introduction of the Law on Electronic Document. With the adoption of the Law on Fiscalization and the Law on Electronic Invoicing (ZEF), electronic business in Serbia has gained an appropriate legal framework and a new way of functioning. The most significant changes relate to the preparation, reporting, and exchange of electronic documents/invoices; electronic identification; and electronic data exchange in the public and private sectors. The Republic of Serbia has taken a step further in the legal regulation and implementation of electronic business and the monitoring of the development of information technologies based on solutions contained 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 is regulated by the following laws and by-laws:

Law on Fiscalization ("Official Gazette of RS", Nos. 153/2020, 96/2021, and 138/2022)

- 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 invoices are 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 based on 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 (Official Gazette of RS", Nos. 44/2021, 129/2021, 138/2022, and 92/2023)

- Fully implemented from January 1, 2023, with the aim to regulate the obligation of electronic recording of VAT calculations in the electronic invoicing system; regulate the use of the electronic invoicing system; provide basic instructions for handling electronic invoices, including how to accept/reject an electronic invoice, as well as other relevant instructions.

Rulebook on Electronic Invoicing (Rulebook) ("Official Gazette of RS", Nos. 47/2023, 116/2023, 65/2024, and 73/2024)

- Implemented from July 1, 2023, the consolidated rulebook replaces the previous three rulebooks and regulates the method and procedure for registering access

to the electronic invoicing system (SEF); the application of e-invoice standards; the elements and attachments of e-invoices; the method and procedure for electronic recording of VAT calculations in SEF; procedures in case of temporary interruptions in SEF operations; the use of data from SEF; and the procedures of the Central Information Intermediary.

- Of significant importance is the Internal Technical Manual, published and additionally harmonized by the Ministry of Finance of the Republic of Serbia.

The Electronic Invoicing System (SEF) has been introduced, which represents an information technology solution for sending, receiving, recording, processing, and storing e-invoices, managed by the central information intermediary. Additionally, the SEF records VAT calculations for public and private sector entities, as well as VAT for representatives of foreign entities registered for VAT in the Republic of Serbia, who are obliged to ensure technical capabilities and timely implementation in accordance with the Law on Electronic Invoicing (ZEF).

The introduction of electronic business and issuing invoices in electronic form is the biggest change since the introduction of VAT. In addition to the new regulations, further alignment with other relevant laws is required, primarily with the Law on VAT and the Law on Accounting, especially in terms of specifying the content and manner of issuing invoices.

The Ministry of Finance of Serbia has announced the Law on Electronic E-Delivery Notes (ZEO), which is a platform for sending, receiving, managing, and storing e-delivery notes. The implementation of the ZEO is planned to be phased: Phase I - in the form of e-delivery notes will include transactions with the public sector and transactions of excise goods, coffee, alcoholic and tobacco products, with the proposed implementation from January 1, 2026. In the second phase, other transactions are planned, and this segment is scheduled from October 1, 2027. It is planned that the e-delivery note module will be integrated with the e-invoice system to link issued e-delivery notes and sent invoices, which should facilitate business operations, speed up administration, and reduce the possibility of errors.

Upon the ending of this White Book edition, Ministry of Finance announced public consultations on the Draft Law on Amendments to the Electronic Invoicing Law, which will be addressed in the next White Book edition.

POSITIVE DEVELOPMENTS

Since the transition to electronic business, the technical functionality of the system has been improved several times, enabling more efficient work for all users.

The latest amendments and additions to the Rulebook, which came into effect on September 1, 2024, regulate the following:

- Determining the status of the entity and setting the tax period: In the SEF, the user can determine the status of the entity regarding whether the entity is a VAT payer or not.

- New tax categories are introduced: S20, S10, AE20, AE10.

- Special invoices for the sale of construction objects: It is prescribed that in the electronic invoice (e-invoice) issued for the sale of objects, economically divisible units within those objects, and ownership shares in those goods (construction objects), data on other transactions cannot be displayed.

- The most significant innovation is the introduction of electronic recording of input tax: the procurement of goods and services from local VAT payers is carried out collectively by types of invoices such as e-invoices, fiscal receipts, etc.; while for foreign legal entities (recipient as the tax debtor), the recording is done collectively from individual records based on internal invoices.

- The data contained in the input VAT records have been specified, such as: input VAT record number; year and tax period; procurement of goods and services in the Republic of Serbia from VAT payers - transactions for which the tax debtor is the supplier of goods or service provider; procurement of goods and services in the Republic of Serbia - transactions for which the tax debtor is the recipient of goods or services; VAT paid for the importation/e-delivery of goods placed in free circulation in accordance with customs regulations; VAT compensation paid to the farmer, including increases; corrections of input tax deductions.

- Automatic data entry: it is performed at the end of the tax period for which the electronic recording of input tax is carried out (from the 1st to the 10th day of the calendar month following that tax period), with the status as of the day preceding the day of automatic entry.

- The deadline for electronic recording of VAT calculation

and input VAT: It is specified that the deadline for electronic recording of VAT calculation, as well as the deadline for electronic recording of input VAT, expires on the 10th day of the calendar month following the tax period for which the electronic recording of VAT calculation/input tax is carried out.

- E-Delivery note as an attachment to the e-invoice: It is stipulated that e-delivery notes and transport documents can be attached to the e-invoice.

The Foreign Investors Council (FIC) has communicated proposals for clarifying the ZEF regulations, as well as the functioning of the information system, which have received a positive response to some extent from the working group of the Ministry of Finance responsible for establishing the e-invoice system. The most significant of these are the technical adjustments to the SEF.

REMAINING ISSUES

I. We will point out the remaining ambiguities regarding the interpretation of the Law on Electronic Invoicing, as well as the functioning of the information system:

   a) The terms of the European and Serbian standards on electronic invoicing, which have not yet been applied in business, are listed. To better understand and adequately apply them, 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 private sector entities, it is important that the standards are transparent and publicly available.

   b) Certain terms in the VAT and ZEF laws still have terminological inconsistencies, especially regarding the application of Article 42 of the VAT Law. For example, the terms "invoice" and "e-invoice," "date of transaction," etc.

   c) Referring to Article 44 of the VAT Law, the entity that has corrected the value or canceled the invoice needs to have a paper notification from the invoice recipient that the calculated VAT was not used as input tax or that the correction of the input tax deduction was made. It is expected that the digitization of the invoicing process would also apply to these documents, but the technical capability in the SEF has not been created.

   d) In practice, the concept of a payment request is still unclear, as well as whether a proforma invoice to a public sector entity is considered a payment request and, if so, which type of document is selected in the SEF.

   e) Although the amendments to the Rulebook were announced in advance by the Ministry of Finance, only 25 days were left from the adoption of the Rulebook to the start of its application for all technical adjustments of the system by taxpayers, which is not feasible in practice. It turned out that the e-invoice system was not ready on time either. An additional complication arises when entering data into the e-invoice system. Since 2018, we have been reporting in the form of a VAT calculation overview (Rulebook on Value Added Tax), which is submitted through the e-taxes portal, i.e., through the Tax Administration. Now, the same data, only in a different way, is systematized and entered the e-invoice system, which is not within the Tax Administration but the Ministry of Finance. This way, two types of records are kept in parallel, i.e, the data we enter is duplicated.

   f) There is no integration with the fiscalization system. In the spirit of digitalization, it would be expected that the data already passing through fiscalization would be available and transferred to other records, but unfortunately, this functionality in the SEF is not enabled and represents a serious administrative burden and risk for the taxpayer.

II. The functionality of the SEF has been fully implemented since January 1, 2023, and the FIC has communicated proposals for technical improvements on several occasions. With further enhancement of e-business, it would be significant to introduce automated data checks.

III. A deadline of 10 days after the end of the tax period is provided for the electronic recording of VAT calculation and input tax, creating an unnecessary additional obligation for taxpayers, as well as additional costs and administration. Also, this provision shifts and shortens the already established deadline for submitting VAT returns as prescribed by the VAT Law.

IV. The Rulebook on Electronic Invoicing regulates the

recording of VAT calculations in different situations. Additionally, the e-Invoice website has published instructions related to the electronic recording of VAT calculation. However, the regulations and the mentioned instructions still do not precisely define when individual and when collective recording of calculations is performed, as well as how recording is done in one of the records in certain situations.

FIC RECOMMENDATIONS

- We propose the following amendments or clarifications to the Law on Electronic Invoicing:

  a) Enable simple and transparent access to the "European and Serbian standard for electronic invoicing".

  b) Further harmonize the terminology of VAT and ZEF, especially aligning with Article 42 of the VAT Law.

  c) We propose that the SEF develop, and the ZEF regulations specify the digital signing of cancellation documents as proof of input VAT correction.

  d) We propose clarifying whether the payment request applies/does not apply to proforma invoices issued to the public sector.

  e) We propose that when amending and supplementing legal regulations, for which technical adjustments of the taxpayer's system are necessary, the implementation period should be a minimum of 3 to 6 months. Additionally, we propose abolishing the POPDV form to eliminate duplicate record-keeping.

  f) We propose suspending the manual transfer of fiscal receipt data until digital transfer within the SEF is established.

- With the introduction of digitalization, it is expected to simplify processes and save time in this regard, and we ask that the development of the SEF be considered in terms of digital verification of the formal correctness of e-invoice elements, such as logical and mathematical verification of e-invoice correctness, as well as error reporting.

- Align the date of electronic recording of VAT calculation and input tax with the date for submitting the VAT return (by the 15th of the current month for the previous month).

- We propose more detailed regulation of the method of recording VAT calculation, in collective and individual records, as well as recording input tax, for already prescribed situations in which records are kept, and closer definition of situations in which individual and collective VAT calculation records are kept.

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. The changes which occurred in the year 2024 solely relate

to the adjustments of RSD amounts of certain parafiscal charges.

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.

The Law on Fees for the Use of Public Goods was amended at the end of October 2023. 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.