

LAW

ON VALUE-ADDED TAX

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I INTRODUCTORY PROVISIONS

Article 1

Value-added tax (hereinafter: VAT) shall be introduced in the Republic of Serbia (hereinafter: the Republic).

VAT shall be a general consumption tax to be calculated and paid, unless otherwise prescribed by the present Law, at the delivery of goods and at providing services, in all the phases of production and trade of goods and services, as well as at the imports of goods.

Article 2

The proceeds from VAT shall belong to the budget of the Republic.

II SUBJECT OF TAXATION

Article 3

The subject of VAT taxation shall be:

- 1) the delivery of goods and providing of services (hereinafter: trade of goods and services) effected by a taxpayer in the Republic against consideration, within the framework of performing an activity;
- 2) the imports of goods into the Republic.

Trade of Goods and Services

Article 4

Trade of goods, in terms of the present Law, unless otherwise specified by the present Law, shall be the transfer of the right to disposition of material objects (hereinafter: goods) to a person who may thus dispose of such goods as an owner.

The term goods shall include also water, electric power, power gas and heating power.

In terms of the present Law, the following shall be considered as the trade of goods, too:

- 1) the transfer of the right of disposal of goods against consideration, on the ground of regulations of a state authority, an authority of territorial autonomy, or of local self-government;
- 2) the handing over of goods on the ground of a leasing contract, in conformity with law, or on the ground of a contract of sale with postponed payment, specifying that the right of disposal shall be transferred at the payment of the last installment, at the latest;

- 3) the transfer of goods by an owner to a commission agent, and on the part of the commission agent to a recipient;
- 4) the delivery of goods on the ground of a contract stipulating the payment of commission on sales at the moment of sale;
- 5) the transfer of goods by an owner to a consignee and by the consignee to a recipient of goods;
- 6) the delivery of goods manufactured or assembled at the order of a customer from the material of a supplier, except in the case of additions or other accessory materials;
- 7) the first transfer of the right of disposal relating to newly constructed structures or economically indivisible entreties within the framework of such structures;
- 7a) the first transfer of the owner's share in newly constructed structures or economically divisible entreties within the framework of such structures;
- 8) the exchange of goods for other goods or services.

The following shall be considered equal to the trade of goods against consideration:

- 1) taking of goods that are a part of business property of a taxpayer for personal needs of the founder, of the employed personnel or other persons;
- 2) any other trade of goods without consideration;
- 3) indicated expenditure (short weight, wastage, damage and breakage) exceeding the quantity to be determined by an act ordained by the Government of the Republic Serbia.

The taking of goods and/or any other trade of goods referred to in paragraph 4 of the present Article shall be considered as the trade of goods against compensation on condition that the VAT calculated in the preliminary trade phase relating to such goods or to their component parts may be entirely or proportionally deducted.

Where a delivery of goods is coupled with a successory delivery of goods or a successory providing of services, it shall be considered that only one delivery of goods has been effected.

In case of a delivery in succession of one and the same item of goods, where the initial supplier transfers the right of disposal directly to the last recipient of the goods in the row, every single delivery of goods in succession shall be considered as a separate delivery.

The minister responsible for financial affairs (hereinafter: the minister) shall regulate the details of the meaning of the term - newly-built facilities, referred to in paragraph 3, item 7 of the present Article, as well as of what shall be considered as partaking of goods that are a part of business property of a taxpayer referred to in paragraph 4 of the present Article.

Article 5

In terms of the present Law, the trade of goods shall include all the transactions and actions within the framework of performing the activities that are not the trade of goods specified in Article 4 of the present Law.

The trade of goods shall be also every omission to act or sufferance.

In terms of the present Law, the trade of services shall also include:

- 1) the transfer and ceding of copyrights, as well as the transfer, ceding and placing at the disposal of patents, licenses, trade marks, as well as other intellectual property rights;
- 2) providing of services against compensation on the ground of regulations of the State authorities, the territorial autonomy authorities or local self-government authorities;
- 3) handing over of goods manufactured or assembled by an order of the customer from customer's materials;
- 4) the exchange of services for the goods or services;
- 5) handing over of food and drinks for consumption on the spot;
- 6) *(deleted)*;
- 7) the ceding of other shares or rights.

The following shall be made equal to the trade of services against compensation:

- 1) the use of goods that are a part of business property of a taxpayer for the personal needs of the founder, the employed personnel or other persons;
- 2) providing of services effected by a taxpayer without consideration for the personal needs of the founder, the employed personnel or other persons;
- 3) every other providing of services without compensation.

The use of goods specified in paragraph 4, item 1 of the present Article shall be considered as the trade of services against compensation on condition that the VAT, calculated in the preliminary trade phase regarding these goods, may be deducted entirely or proportionally.

Where a service is coupled with an accessory providing of services or a successory delivery of goods, it shall be considered that only one single service has been rendered.

The minister shall regulate the details of meaning of the terms - use of goods that are a part of the business property of a taxpayer, intended for personal needs of the founder, the employed personnel or other persons, and what shall be the providing of services by the taxpayer without consideration for the personal needs of the founder, the employed personnel and other persons referred to in paragraph 4 of the present Article.

Article 6

In terms of the present Law, the term - trade of goods and services shall not include:

- 1) the transfer of the entire or a part of property, against or without consideration, or effected as a deposit, where the acquirer is a taxpayer or becomes a taxpayer through such a transfer, and where he continues to be engaged in the same activity;

2) the trade of the passenger automobiles, motorcycles, vessels and aircrafts for which the VAT taxpayer had no right to deduction of the previous tax, totally or proportionally;

2a) the replacement of goods in the guarantee period;

3) the supply of free trade samples in usual quantities for that purpose for buyers or prospective buyers;

4) giving low value gifts, should they be given from time to time to various persons.

In case of transfer of the entire or a part of property referred to in paragraph 1, item 1 of the present Article, the acquirer shall be considered as the one to take the position of the transferrer.

The minister shall regulate the details of the procedure of replacement of goods in the guarantee period, of what shall be considered the transfer of the entire or a part of property, with or without compensation, or as a deposit referred to in paragraph 1, item 1/, as well as of what shall be considered as the usual quantities of trade samples and low value gifts referred to in paragraph 1, items 3 and 4 of the present Article.

Imports of Goods

Article 7

The imports shall be every entering of goods into the customs area of the Republic.

III TAXPAYER AND TAX DEBTOR

Taxpayer

Article 8

A taxpayer shall be a person independently engaged in the trade of goods and services, within the framework of his activity.

The activity specified in paragraph 1 of the present Article shall be a permanent activity of a manufacturer, a merchant or supplier of services with the aim of making revenue, including the activities of exploitation of natural resources, in the sphere of agriculture, forestry, and the independent professions.

It shall be considered that the taxpayer is engaged in an activity also if he performs it within the framework of a branch unit.

Taxpayer shall be a person on whose behalf and for whose account delivery of goods or providing of services is effected.

Taxpayer shall be a person effecting the delivery of goods and/or providing services on his own behalf and for the account of another person.

Article 9

The Republic and its authorities, the territorial autonomy and local self-government authorities, as well as juridical entities established on the ground of law for the purpose of performing State administration tasks, shall not be the taxpayers in terms of the present Law if they are engaged in the trade of goods and services within the scope of their responsibility and/or for the purpose of performing the State administration tasks.

The Republic and/or juridical entities referred to in paragraph 1 of the present Article shall be the taxpayers if they are engaged in the trade of goods and services outside the responsibility of the authority, and/or outside the sphere of performing State administration tasks, which tasks are taxable in conformity with the present Law.

Tax Debtor

Article 10

In terms of the present Law a tax debtor shall be:

- 1) a taxpayer referred to in Article 8 and Article 9, paragraph 2 of the present Law;
- 2) a tax proxy designated by a foreign national having neither a head office nor a permanent branch office in the Republic, and who is performing the trade of goods and services in the Republic;
- 3) a recipient of goods and services, should the foreign national specified in item 2 of the present paragraph fail to designate a tax proxy;
- 4) a person who indicates the VAT in an bill or another document serving as a bill (hereinafter: bill), while not being obliged, in accordance with the present Law, to calculate and pay the VAT;
- 5) a person importing the goods.
- 6) *(deleted)*

A tax debtor referred to in paragraph 1, items 2 and 3 of the present Article who is also a taxpayer, shall be obliged to meet the duties specified by the present Law for a taxpayer, except that of issuing a bill.

IV PLACE AND TIME OF TRADE OF GOODS AND SERVICES AND TAKING PLACE OF TAX DUTY

The Place of Trade of Goods

Article 11

A place of the trade of goods shall be the place:

- 1) at which goods are situated at the moment of forwarding or carriage to the recipient or, at his order, to a third party, in the event the goods are forwarded or carried by a supplier, a recipient or a third party at his order;
- 2) of fitting or assembly of goods, should these be fitted or assembled by the supplier or, at his order, by a third party;

3) at which goods are situated at the moment of delivery, if the goods are delivered without forwarding and/or carriage;

4) of receiving water, electric power, power gas and heating power.

In the event of the trade of goods within the framework of commission or consignment transactions, the place of the trade of goods on the part of a commission agent or a consignee shall be determined, in conformity with paragraph 1 of the present Article, also for the delivery to the commission agent or the consignee.

The Place of Trade of Services

Article 12

A place of the trade of services shall be the place at which the supplier of services performs his activity.

Where the trade of services is performed through a branch unit, the location of the branch unit shall be considered as the place of trade of services.

By exception to paragraphs 1 and 2 of the present Article, considered as the place of trade of services shall be the place:

1) at which the immovable property is situated, in the event of the trade of services directly connected to such immovable property, including the activity of mediation and evaluation regarding the immovable property, as well as the project drawing up, preparation and carrying out of construction works and supervision over such works;

2) where a carriage is effected, while should the carriage be effected both in the Republic and abroad (hereinafter: international transport), the provisions of the present Law shall apply only to the portion of carriage effected in the Republic;

3) where a service is actually provided, in the event of:

(1) services in the spheres of culture, fine arts, sports, science and education, entertainment and show business services, including the services of performance organisers, as well as services connected to these;

(2) secondary services in the spheres of transport, such as loading, unloading and reloading operations and similar services;

(3) movable property evaluation services;

(4) works on movable property objects;

4) at which a recipient of services is engaged in an activity or at which he possesses a branch unit receiving the service, and/or the place of the head office or residence of the recipient of services, in the event of the following services:

(1) renting of movable property objects, except for vehicles on the ground of a rent a car contract;

- (2) providing telecommunication services;
- (3) taking over an obligation to desist, entirely or partially, from engaging in certain activity or exercising a certain right;
- (4) services in the sphere of commercial advertising;
- (5) transferring, ceding and placing at the disposal of copyrights, rights to patents, licenses, trademarks and other intellectual property rights;
- (6) banking, financial transactions and transactions in the sphere of insurance and reinsurance, except for renting of safes;
- (7) performed by advisers, attorneys-at-law, auditors and similar services;
- (8) data processing and providing information;
- (9) making available the personnel;
- (10) rendered by electronic devices, as well as radio and television services;
- (11) mediating in the providing of services specified in sub-items 1 through 10 of the present item.

5) *(deleted)*

A place of the trade of mediation services, except for mediation services specified in paragraph 3, item 4), sub-item (11) of the present Article, shall be determined in accordance with the place of the trade of goods and services that are subject to mediation

The Place of Imports of Goods

Article 13

The place of imports of goods shall be a place at which the imported goods are taken into the customs area of the Republic.

The Time of Trade of Goods

Article 14

The trade of goods shall take place on the day:

- 1) of the beginning of forwarding or carriage of goods to a recipient or a third party, if the goods are forwarded or carried by a supplier, a recipient or a third party, at their order;
- 2) of taking over of goods by the recipient in the event of building in, or assembling of goods by the supplier or, at his order, by a third party;
- 3) of the transfer of the right of disposal of goods onto the recipient, where the goods are delivered without forwarding and/or carriage;

4) of noting down of the quantity of received water, electric power, power gas and heating power effected by the supplier, for the purpose of calculating the consumption;

5) of entering of goods into the customs area of the Republic.

In the event of commission and consignment transactions, the time of delivery of goods by commission agent or a consignee shall be determined in conformity with paragraph 1 of the present Article, also for a delivery to the commission agent or the consignee.

The provisions of paragraphs 1 and 2 of the present Article shall apply to partial deliveries as well.

Partial deliveries referred to in paragraph 3 of the present Article shall exist also where a special fee is stipulated by contract for the delivery of specified portions of a commercially divisible delivery.

The Time of Trade of Services

Article 15

A service shall be considered rendered on the day:

- 1) on which a single providing of service is completed;
- 2) on which a legal relationship that is the ground for providing a service is terminated - in the event of providing limited or unlimited services in terms of time.

In case of providing services that are time limited or unlimited with duration for a period longer than one year, periodical bill must be issued, providing such a bill is issued for a period not longer than one year.

Where periodical bills are issued for providing the services, the trade of services shall be considered effected on the last day of the period covered by the issued bill.

A partial service shall be considered effected at the time of termination of providing of that part of the service.

Partial service specified in paragraph 4 of the present Article shall exist if a fee is separately stipulated by contract regarding the specific portions of a commercially divisible service.

Taking Place of Tax Obligation

Article 16

A tax obligation shall take place on the day at which one of the following actions is effected, at the earliest:

- 1) the trade of goods and services;
- 2) the collection, if a fee or a part of the fee is paid prior to the trade of goods and services;
- 3) taking place of the duty of payment of a customs debt, in the event of imports of goods, and should there be no such duty, on the day the obligation of paying such debt would have taken place.

V TAX BASE AND TAX RATE

Tax Base Applicable to Trade of Goods and Services

Article 17

Tax base (hereinafter: base) applicable to the trade of goods and services shall be the amount of consideration (in money, objects of property or services) that is received or should be received by a taxpayer for the goods delivered or services provided, including subsidies that are directly connected with the price of these goods or services, into which the VAT is not included, unless otherwise prescribed by the present Law.

The base shall also include:

- 1) the excise tax, customs duty and other import duties, as well as the remaining public revenue, except the VAT;
- 2) all accessory charges the taxpayer adds to the bill for the recipient of goods and services.

The base shall not include:

- 1) discounts and other price reductions granted to a recipient of goods or services at the moment of effecting the trade of goods or services;
- 2) amounts collected by a taxpayer on behalf and for the account of another, if he transfers such amount to a person on whose behalf and for whose account he has made the collection.

Where the consideration or a part of consideration is not expressed in money, but in the form of trade of goods and services, the base to be considered shall be the market value of these goods and services on the day of their delivery, excluding the VAT.

Where trade of goods or services represent stakes of the business company, the basis to be considered shall be the market value of these goods and services on the day of their delivery, excluding the VAT.

Article 18

Considered as a base applicable to the trade of goods and services, referred to in Article 4, paragraph 4 and Article 5, paragraph 4 of the present Law, shall be the buying price and/or the cost price of these or similar goods and services at the moment of effecting the trade.

In the event referred to in paragraph 1 of the present Article, the VAT shall not be included in the base.

In the event of carriage of passengers by buses, effected by a person having no place of actual administration in the Republic, the base shall be the average fare for every single carriage.

The way of setting the fare specified in paragraph 3 of the present Article shall be regulated in detail by the minister.

The Base Applicable to the Import of Goods

Article 19

The base applicable to the import of goods shall be the value of the imported goods as specified by the customs regulations.

The base referred to in paragraph 1 of the present Article shall include as well:

- 1) the excise tax, customs duty and other import duties, as well as the remaining public revenues, except the VAT;
- 2) all accessory charges that have taken place until the first destination point in the Republic.

Considered as the first destination point, in terms of paragraph 2, item 2 of the present Article, shall be a place indicated in the delivery note or in another transportation document, and where such is not indicated, the place of the first reloading of goods in the Republic.

Article 20

At the imports of goods that are temporarily exported by a taxpayer for the purpose of refining, processing, finishing or remodeling (hereinafter: refining), repair or building into, the base shall be the price paid or to be paid by the taxpayer for the refining, repair or building into, while where such price should not be paid, the base shall be the increase in value originated through refining, repair or building into.

In the case of paragraph 1 of the present Article, the provisions shall apply of Article 19, paragraph 2 of the present Law.

The Change of the Tax Base

Article 21

Should the base be changed for the VAT taxable trade of goods and services, a taxpayer who has delivered the goods or services shall be obliged to correct, in conformity with such change, the VAT amount owed by him on that ground.

The duty referred to in paragraph 1 of the present Article shall apply as well to persons specified in Article 10, paragraph 1, items 2 and 3 of the present Law.

Should the base be subsequently changed - reduced, the taxpayer who has effected the trade of goods and services may change the VAT amount only if the taxpayer - counterpart of the trade of goods and services - has corrected the deduction of the preliminary VAT, and if he has notified accordingly, in writing, the supplier of goods and services.

If the delivery of goods and services has been effected to a taxpayer who is not entitled to deduction of the preliminary VAT, and/or to a person who is not a VAT taxpayer, the change specified in paragraph 3 of the present Article may be effected by the taxpayer if he possesses a document relating to the reduction of compensation for the effected trade of goods and services to such persons.

A taxpayer may change the base by applying the part of the price that is not paid in, only on the ground of a finally binding court decision on the completed bankruptcy proceedings, and/or on the ground of a certified minutes on compulsory settlement with creditors..

Should a taxpayer who has changed the base in conformity with paragraph 5 of the present Article, receive the price, or a part of the price, for the delivered goods and services that have been the ground for permitting the change of the base, such taxpayer shall be obliged to calculate the VAT on the amount of price received by him.

The change of the base referred to in paragraphs 1 through 5 of the present Article shall be effected within the tax period in which the change has taken place.

Should the base for the imports of goods and services that are subject to VAT be changed in conformity with customs regulations, the provisions of the present Law shall apply.

Accounting of Value Expressed in Foreign Currency

Article 22

Where the price for the trade of goods and services is expressed in foreign currency, the accounting of that value in domestic currency shall be done by applying the average rate of exchange of the Central Bank in effect on the day of the tax duty taking place.

Where the base for imports of goods and services is expressed in foreign currency, to be applied for the accounting of that value in domestic currency shall be the customs regulations specifying the customs value, applicable on the day of taking place of the tax duty.

Tax Rate

Article 23

The general VAT rate for the trade of goods and services or imports of goods subject to taxation shall be 18%.

Special 8% VAT rate shall apply to the trade of goods and services or the imports of goods to the following items:

1) bread and other bakery products, milk and milk products, flour, sugar, edible sunflower oil, corn, turnip and soy bean oils, olive-oil, edible animal and vegetable fats and honey;

1a) drinking water, except bottled;

2) fresh, refrigerated and frozen fruit, vegetable, meat, includingentrailsand other meat offal, fish and eggs;

2a) cereals, sunflower, soy beans, sugar-beet, and oleiferous rape;

3) medicines, including medicines for veterinary use;

4) orthotic and prothetic appliances as well as medical appliances - products that are built into the organism by surgical means;

- 5) dialyse material;
- 6) fertilizers, plant-protection substances, reproduction seeds; planting material, compost with mycelium, complete fodder mixture for livestock;
- 7) text-books and teaching appliances;
- 7a) personal computers and personal computers' components;
- 8) daily newspapers
- 9) monographic and serial publications;
- 10) fuel wood;
- 11) accommodation in hotels, motels, resting houses, public homes and campsites;
- 12) municipal services;
- 12a) services paid by way of tickets for cinema and theater performances, fairs, circuses, entertainment parks, concerts (musical events), exhibitions, sports events, museums and galleries, botanical gardens and zoological gardens, if the trade of such services is not exempted from VAT;
- 13) natural power gas;
- 14) first transfer of the right of disposal over residential objects, economically dividable entireties within such objects and ownership shares on such properties (hereinafter referred to as: apartment).

The minister shall regulate the details of what shall be considered, in terms of the present Law, as goods and services specified in paragraph 2, items 1, 2a and 4 through 12 of the present Article.

VI TAX EXEMPTIONS

Tax Exemptions in the Trade of Goods and Services with the Right to Preliminary Tax Deduction

Article 24

VAT shall not be paid on the following:

- 1) transportation and other services relating to the imports of goods, where the value of these services is included in the base specified in Article 19, paragraph 2 of the present Law;
- 2) trade of goods shipped or forwarded abroad by a taxpayer or a third party at his order;
- 3) trade of goods shipped or forwarded abroad by a foreign recipient or a third party at his order;
- 4) trade of goods forwarded by a foreign recipient within the luggage carried with him abroad, if:
 - (1) the goods are forwarded prior to the expiration of three calendar months after the delivery of these goods;
 - (2) the total value of the delivered goods exceeds 150 EUR in dinar countervalue at the average rate of exchange of the National Bank, including the VAT;

- 5) taking in of goods into a free-trade zone, for which the tax payer – acquirer of goods would have the right to preliminary tax deduction if such goods were acquired for the purpose of conducting activities outside free-trade zone;
- 6) providing transportation and other services to users of free-trade zones that are directly connected with the taking in of goods into a free-trade zone specified in item 5) of the present paragraph, for which the tax payer – recipient of services would have the right to preliminary tax deduction if such services were used for the purpose of conducting activities outside free-trade zone;
- 6a) dispatch of goods to free-trade zones established in airports open for international transport with the organised passport and customs control, for the purpose of sale to passengers in conformity with customs regulations (hereinafter: duty-free shops), as well as on the delivery of goods from duty-free shops;
- 7) services relating to the works on movable goods acquired by a foreign recipient of service in the Republic, or imported for the purpose of refining, repair or building into, and which after the refining, repair or building into, are transported or forwarded abroad by the supplier of the service, the foreign recipient or a third party, at his order;
- 8) transportation and other services that are directly connected with the exports, transit or temporary imports of goods, except for the services that are exempted from the VAT without the right to tax deduction in conformity with the present Law;
- 9) services of international carriage of persons in air transportation, provided the tax exemption for a non-resident airline shall apply only in case of reciprocity;
- 10) deliveries of aircrafts, servicing, repair, maintenance, chartering and renting of aircrafts that are primarily used against consideration in international air transportation, as well as delivery, renting, repair and maintenance of goods intended for fitting out of these aircrafts;
- 11) trade of goods and services intended for direct needs of aircrafts specified in item 10 of the present paragraph;
- 12) services of international carriage of persons by ships in river transport, provided the tax exemption for a non-resident enterprise engaged in international carriage of persons in river transport shall apply only in case of reciprocity;
- 13) deliveries of ships, servicing, repair, maintenance and renting of ships that are primarily used against consideration in international river transport, as well as deliveries, renting, repair and maintenance of goods intended for fitting these ships;
- 14) trade of goods and services intended for direct needs of ships specified in item 13 of the present paragraph;
- 15) deliveries of gold to the National Bank of Serbia;
- 16) goods and services intended for:
 - (1) official needs of diplomatic and consular missions;

(2) official needs of international organisations, where this is provided for by an international treaty;

(3) personal needs of foreign personnel of diplomatic and consular missions, including the members of their families;

(4) personal needs of foreign personnel of international organisations, including the members of their families, where this is provided for by an international treaty;

16a) trade of goods and services effected in conformity with donation contracts concluded with the Serbia and Montenegro State Union, and/or the Republic, which contract provides that the acquired money resources will not be used for payment of the tax expenses;

16b) trade of goods and services effected in conformity with contracts on credit and/or loan concluded between the Serbia and Montenegro State Union and/or the Republic, and an international financial organization and/or other state, as well as between a third party and an international financial organization and/or other state, in which the Republic of Serbia appears as a guarantor and/or counter-guarantor, if such contract provides that the acquired money resources will not be used for payment of tax expenses;

16c) trade of goods and services based on international treaties, if such treaties envisage tax exemption, except for international treaties specified in items 16a) and 16b) of the present paragraph;

17) mediation services relating to the trade of goods and services specified in items 1 through 16 of the present paragraph.

Tax exemption specified in paragraph 1 of the present Article shall be applied even if fees and/or part of the fees have been paid prior to conducted transaction.

Tax exemption referred to in paragraph 1, item 3 of the present Article shall not apply to the trade of goods carried by a foreign recipient himself for the purpose of fitting or equipping sports boats, sports aircrafts and other transportation means intended for private use.

The exemption referred to in paragraph 1, item 16, sub-items 1 and 3 of the present Article shall be effected on condition of reciprocity, and on the ground of a certificate issued by the ministry of foreign affairs.

In terms of the present Article, a foreign recipient of goods or services shall be understood to mean a person who:

1) is a taxpayer and whose place of real administration is outside the Republic;

2) is not a taxpayer, and whose residence or head office is outside the Republic.

The mode and the procedure of putting into effect of the tax exemption referred to in paragraphs 1 through 3 of the present Article shall be prescribed by the minister.

Tax Exemptions in Trade of Goods and Services without the Right to Preliminary Tax Deduction

Article 25

VAT shall not be paid in the trade of money and capital on the following transactions:

- 1) transactions, and transaction mediation in legal means of payment, except for paper money and coins that are not used as legal means of payment, or that have a numismatic value;
- 2) transactions, and mediation in transactions with stock, shares in companies and corporations, bonds and other securities, except for transactions relating to keeping and managing of securities.;
- 3) credit transactions, including mediation, and monetary loans;
- 3a) services of assessing solvency of natural and legal persons;
- 4) at assuming of obligations, guarantees and other security means, including mediation;
- 5) transactions, and mediation in transactions regarding deposits, current and transfer accounts, payment orders, as well as payment transactions and remittances;
- 6) transactions, and mediation in the transactions with monetary claims, checks, bills of exchange and other similar securities, except for the collection of claims for other persons;
- 7) business activities of investment funds' management companies in accordance with regulations defining investment funds;
- 8) business activities of voluntary pension funds' management companies in accordance with regulations defining voluntary pension funds and pension plans.

VAT shall not be paid also in the trade of the following:

- 1) insurance and reinsurance services, including the accompanying services of insurance brokers and agents (representatives) in the sphere of insurance;
- 2) lands (agricultural, forest, construction sites - with structures or without structures), as well as letting of such land;
- 3) structures, except for the first transfer of the right of disposal of newly constructed structures or economically divisible entireties within the framework of such structures, as well as the first transfer of owner's share in newly constructed structures or economically divisible structures within the framework of such structures;
- 4) services of renting the apartments, if used for residential purposes;
- 5) shares, securities, postal securities, revenue and other current stamp duties according to their printed value in the Republic, except for ownership shares specified in the Article 4 of the present Law;
- 6) postal services provided by a public enterprise, as well as relating to deliveries of goods connected with them;
- 7) services provided by health-care institutions in conformity with the regulations covering health care, including accommodation, nursing and food of patients in these institutions, except for pharmacies and pharmaceutical institutions,

- 8) services provided by physicians, stomatologists or other persons in conformity with the regulations covering health care;
- 9) services and deliveries of dental prosthetic appliances within the sphere of dental technician's activity, as well as deliveries of dental prosthetic appliances, effected by a stomatologist;
- 10) human organs, tissues, bodily liquids and cells, blood and mother's milk;
- 11) services of social welfare and care, children protection and protection of the young people, social protection services, as well as the trade of goods and services directly related to these, provided by persons registered for engaging in these activities;
- 12) services of accommodation and food for pupils and students in school and student homes or similar institutions, as well as the trade of goods and services directly related to these;
- 13) educational services (pre-elementary, elementary, secondary, high, and university education) and services of professional retraining, as well as the trade of goods and services directly related to these, provided by persons registered for engaging in these activities, where these activities are effected in conformity with the regulations covering the relevant area;
- 14) services in the area of culture and directly related trade of goods and services, provided by persons whose activity is not aimed at making profit, and who are registered for engaging in such activity;
- 15) services in the area of science and the directly related trade of goods and services, provided by persons whose activity is not aimed at making profit, and who are registered for such activity;
- 16) services of religious character provided by registered churches and religious communities, and the trade of goods and services directly related to these;
- 17) services of public broadcasting service, except for services of commercial character;
- 18) services of making arrangements for chance games;
- 19) services in the area of sports and physical education provided to persons engaged in sports and physical education, provided by persons whose activity is not aimed at making profit, and who are registered for such activity.

The minister shall regulate in detail the mode and the procedure of putting into effect of the right to tax exemption specified in paragraph 2, items 7, 11, 12, 13, 14, 15 and 18 of the present Article.

Tax Exemptions at Imports of Goods

Article 26

VAT shall not be paid on the imports of goods:

- 1) whose trade is in conformity with Article 24, paragraph 1, items 5, 10, 11 and 13 through 16c, and Article 25, paragraph 1, items 1 and 2, and paragraph 2, items 1 and 10 of the present Law, which trade is exempted from the VAT;

- 1a) which are imported on the ground of a donation contract and/or as humanitarian assistance;
- 1b) which are exported, and are returned to the Republic as unsold or as not complying with the obligations stipulated in the contract and/or business relationship on the ground of which they were exported;
- 1c) Which are carried into duty-free shops under the customs procedure;
- 2) which are temporarily imported and exported again, within the framework of customs procedure, as well as placed in the customs procedure of active refining, coupled with the postponement system;
- 3) which are temporarily exported and imported again in an unchanged condition, under the customs procedure;
- 4) for which the procedure is permitted of their remodeling under customs control;
- 5) under the customs procedure, relating to the transit of goods;
- 6) for which the procedure is permitted, under the customs procedure, of the customs storage;
- 7) for which, in conformity with Article 192 and Article 193, paragraph 1, item 6 of the Customs Law ("Official Herald of the RS", No. 73/03, 61/05, 85/05 and 62/06), the exemption from customs is provided for, except in case of the import of motor vehicles.

VII PRELIMINARY TAX

Concept

Article 27

The preliminary tax shall be the amount of VAT calculated in the preceding phase of the trade of goods and services, and/or paid at the imports of goods, and which may be deducted by the taxpayer from the VAT owed.

Conditions for the Preliminary Tax Deduction

Article 28

The right to the preliminary tax deduction may be effected by a taxpayer if the goods procured in the Republic or from import, including the supply of equipment, as well as structures and for performing an activity and economically divisible entireties within the framework of such structures (hereinafter: structures for performing an activity), and/or the received services, are used or will be used by him for the purpose of trade of goods and services:

- 1) which is taxable by the VAT;
- 2) for which, in conformity with Article 24 of the present Law, there exists an exemption from paying the VAT;

3) which is effected abroad, if such trade would have entailed the right to preliminary tax deduction, in the event of its being effected in the Republic.

The right to the preliminary tax deduction may be effected by a taxpayer if he is in possession of:

- 1) a bill issued by another taxpayer in the trade regarding the amount of the preliminary tax, in conformity with the present Law;
- 2) a document regarding the effected imports of goods where the preliminary tax is indicated, and/or by which it is confirmed that the recipient or the importer has paid the indicated VAT on the occasion of imports.

The taxpayer may deduct the preliminary tax from the VAT owed, within a tax period in which the requirements specified in paragraphs 1 and 2 of the present Article are fulfilled, relating to:

- 1) calculated and indicated VAT for the trade of goods and services that has been done - or that will be done - to him by the other taxpayer in the trade;
- 2) the VAT that has been paid on the occasion of imports of goods.

The right to preliminary tax deduction shall come about on the day of fulfilling the requirements specified in paragraphs 1 through 3 of the present Article.

The right to preliminary tax deduction may be effected also by a tax payer referred to in Article 10, paragraph 1, items 2 and 3 of the present Law, on condition that he has calculated the VAT on the price for the received goods and services in conformity with the present Law, and that he uses the received goods and services in the trade of goods and services specified in paragraph 1 of the present Article..

Exemption from Preliminary Tax Deduction

Article 29

A taxpayer shall not be entitled to preliminary tax deduction on the ground of:

- 1) acquisition, production and imports of a passenger vehicle, motorcycle, navigable craft and aircraft, spare parts, fuel and operating supplies intended for these, as well as renting, maintenance, repair and other services that are related to the use of these transportation means,
- 2) taxpayer's entertainment allowance;
- 3) acquisition or imports of carpets, household electrical appliances, television and radio receivers, fine arts and applied arts works and other decorative objects used for fitting of administrative premises.
- 4) *(deleted)*

As an exception to paragraph 1, item 1 of the present Article, the taxpayer shall be entitled to preliminary tax deduction if using the transportation means and other goods exclusively for performing an activity:

- 1) of trade and renting of mentioned transportation means and other goods;
- 2) of carriage of persons and goods, or of training of drivers for the operation of the mentioned transportation means.

Division of the Preliminary Tax and the Proportionate Tax Deduction

Article 30

If a taxpayer uses delivered or imported goods for the performing of his activity, or receives services necessary for his activity, in order to effect the trade of goods and services for which there exists the right to preliminary tax deduction as well as for the trade of goods and services for which the right to preliminary tax deduction does not exist - such taxpayer shall be obliged to divide the preliminary tax according to economic association with the part entitling him to deduction and the part that does not entitle him to deduct from the VAT owed by him.

If the taxpayer is not able to divide the preliminary tax for individual delivered or imported goods or received services, in the mode specified in paragraph 1 of the present Article, and which he uses for his activity in order to effect the trade of goods and services for which there exists the right to preliminary tax deduction, and the trade of goods and services for which the right to preliminary tax deduction does not exist - he may deduct the proportionate part of the preliminary tax that corresponds to the participation of the trade of goods and services with the right to preliminary tax deduction in which the VAT is not included, within the total trade in which the VAT is not included (hereinafter: proportionate tax deduction).

The proportionate tax deduction shall be determined by applying the percentage of the proportionate tax deduction to the amount of preliminary tax in the tax period, reduced by the amounts that are set apart in the mode specified in paragraph 1 of the present Article, as well as by the amount of preliminary tax that does not entitle the taxpayer to deduction in terms of Article 29, paragraph 1 of the present Law.

The percentage of the proportionate tax deduction for the tax period shall be determined by placing into relationship the trade of goods and services with the right to preliminary tax deduction, in which the VAT is not included, and the total trade that does not include the VAT, effected from 1st January of the current year until the expiry of the taxation period for which a tax return is to be filed.

The trade of goods for determining the percentage of the proportionate tax deduction specified in paragraph 4 of the present Article shall not include the trade of equipment and structures necessary for performing the activity.

In the last tax period and/or last tax period of a calendar year, the VAT taxpayer shall make the correction of the proportionate tax deduction by applying the percentage of the proportionate tax deduction to the amount of preliminary tax from all tax periods in the calendar year.

The minister shall regulate the details of the mode of determination and the correction of the proportionate tax deduction.

Correction of the Preliminary Tax Deduction at the Change of the Base

Article 31

Should there be a change in the base of taxable trade of goods and services, a taxpayer who is a receiving party of the trade of goods and services, shall be obliged to correct, in accordance with such change, the deduction of the preliminary tax realised by him on that ground.

The correction of the preliminary tax deduction specified in paragraph 1 of the present Article shall refer also to a recipient of goods and services specified in Article 10, paragraph 1, items 2 and 3 of the present Law.

The correction of the preliminary tax reduction specified in paragraph 1 of the present Article shall be done also on the ground of a certified transcription of the minutes on court settlement of creditors, in conformity with Article 21, paragraphs 3 and 5 of the present Law.

If VAT on the imports of goods, that is deducted as a preliminary tax, is increased, reduced and refunded, or if the taxpayer is exempted from the duty of payment, the taxpayer shall be obliged to correct, on the ground of a customs document or a decision of the customs authority, the preliminary tax deduction in accordance with that change.

The correction of the preliminary tax deduction shall be effected within the tax period in which the base has been modified.

Correction of Preliminary Tax Deduction for Equipment and Installations Used in Performing an Activity

Article 32

A taxpayer who has realised the right to preliminary tax deduction for equipment and installations intended for performing an activity, shall be obliged to make a correction of the preliminary tax reduction after ceasing to meet the requirements for the realisation of that right, and within a time limit shorter than five years from the moment of the first use of the equipment, and/or ten years from the moment of the first use of the installations.

The correction of the preliminary tax reduction shall be made for the period that is equal to the difference between the time limits specified in paragraph 1 of the present Article, and the period in which the taxpayer has been meeting the requirements for the realisation of the right to preliminary tax reduction.

As an exception to paragraph 1 of the present Article, the taxpayer shall not make the correction of preliminary tax deduction in the case of the trade of equipment intended for performing the activity, and in the case of the trade of property or part of the property referred to in the Article 6, paragraph 1, item 1) of the present Law.

In the event of the transfer specified in Article 6, paragraph 1, item 1 of the present Law, the time limits referred to in paragraph 1 of the present Article shall continue to run.

The transferor of property specified in paragraph 4 of the present Article shall be obliged to submit to the acquirer the data necessary for carrying out the correction specified in paragraph 1 of the present Article.

The acquirer of property specified in paragraph 4 of the present Article shall make the correction of preliminary tax deduction made by the transferor of property for equipment and installations after ceasing to meet the requirements for the realisation of the right to preliminary tax deduction.

The minister shall regulate the details of defining the equipment and installations intended for the performing of an activity in terms of the present Law, as well as the mode of carrying out the correction of the preliminary tax deduction.

VIII PARTICULAR TAXATION PROCEDURE

Small Taxpayers

Article 33*

A person whose total trade of goods and service, except for the trade of equipment and installations intended for performing an activity (hereinafter: total trade) in the preceding 12 months does not exceed 4,000,000 dinars, and/or who estimates, at the beginning of the activity, that he is not going, within subsequent 12 months, to realise the total trade exceeding 4,000,000 dinars (hereinafter: small taxpayer), shall not calculate the VAT for the effected trade of goods and services.

The small taxpayer shall have no right to indicate the VAT in the bills or other documents, nor the right to preliminary tax deduction, and shall not be obliged to keep the records prescribed by the present Law.

The small taxpayer who has realised, within the preceding 12 months, or who estimates that in the subsequent 12 months, he is going to realise the total trade exceeding 2,000,000 dinars, may decide to meet the duty of payment of the VAT at the beginning of the calendar year by submitting to the responsible tax authority a record keeping application form (Hereinafter referred to as: record keeping application form) prescribed in conformity with the present Law, no later than until January 15 of the current year.

In the case specified in paragraph 3 of the present Article, the duty of payment of the VAT shall continue for at least two calendar years.

After the expiration of the time limit referred to in paragraph 4 of the present Article, the taxpayer may submit to the responsible tax authority a request for the termination of the duty of payment of VAT, no later than until January 15 of the current year.

Farmers

Article 34*

Taxpayers in terms of the revenue of citizens derived from agriculture and forestry, on the ground of cadastre revenue (hereinafter: farmers) shall be entitled to reimbursement on the ground of VAT (hereinafter: VAT reimbursement), on the conditions and in the mode as provided for by the present Law.

The VAT reimbursement shall be granted to farmers who effect the trade of agricultural and forest products, and/or agricultural services to taxpayers.

If the farmers effect the trade of goods and services specified in paragraph 2 of the present Article, the taxpayer shall be obliged to calculate the VAT reimbursement at the amount of 5% of the value of the received goods and services, which shall be acknowledged by an accounting document (hereinafter: receipt), and to pay the farmers the calculated VAT reimbursement in money (by making payment to the current account, savings account or by cash).

The taxpayer referred to in paragraph 3 of the present Article shall have the right to deduct the amount of the VAT reimbursement as a preliminary tax, on condition that they have paid to the farmer the VAT reimbursement and for the value of the received goods and services.

A farmer may decide, at the beginning of a calendar year, for a duty to pay VAT, by submitting to the responsible tax authority a record keeping application form prescribed by the present Law, until 15 January of the current year, at the latest, on condition that he has realised, within the preceding 12 months, the total trade of agricultural and forest products and/or agricultural services at the amount exceeding 2,000,000 dinars.

In the case specified in paragraph 5 of the present Article, the duty of payment of the VAT shall continue for at least two years.

After the expiration of the time limit referred to in paragraph 6 of the present Article, the farmer may submit to the responsible tax authority a request for termination of the duty of payment of VAT, until 15 January of the current year, at the latest.

Tourist Agency

Article 35

A tourist agency, in terms of the present Law, shall be understood to mean a taxpayer providing to passengers tourist services, and in relation to them acting in its own name, while receiving from them for the travel organisation goods and services of other taxpayers that are used directly by passengers (hereinafter: preliminary tourist services).

Tourist services provided by a tourist agency shall be considered in terms of the present Law as a single service.

The place of effecting of a single tourist service shall be determined in accordance with Article 12, paragraphs 1 and 2 of the present Law.

The base of the single tourist service provided by a tourist agency shall be the amount representing the difference between total price paid by a passenger, and actual expenses paid by the tourist agency for preliminary tourist services, after deducting the VAT that is included in that difference.

In the cases specified in Article 5, paragraph 4 of the present Law, the total price in terms of paragraph 4 of the present Article shall be the value referred to in Article 18 of the present Law.

A tourist agency may determine the base in accordance with paragraphs 4 and 5 of the present Article for the groups of tourist services or for all tourist services provided within the tax period.

A tourist agency may not indicate the VAT for tourist services, specified in paragraph 1 of the present Article, in the bills or other documents, and shall have no right to preliminary tax deduction on the ground of preceding tourist services that have been indicated to it in the bill.

Used Goods, Fine Arts Works, Collector's Goods and Antiques

Article 36

Taxpayers engaged in the trade of used goods, including second-hand motor vehicles, fine arts works, collector's goods and antiques, shall determine the basis as a difference between the sale and the buying price of the goods (hereinafter: taxing the difference), by deducting the VAT that is included in that difference.

The tax base referred to in paragraph 1 of the present Article shall be applied where at the acquisition of goods their deliverer did not owe the VAT, or has used the taxation of the difference specified in paragraph 1 of the present Article.

In the cases specified in Article 4, paragraph 4 of the present Law, the sale price for calculating the difference shall be the value referred to in Article 18 of the present Law.

At the trade of goods referred to in paragraph 1 of the present Article, the taxpayer may not indicate the VAT in the bills or other documents and shall have no right to preliminary tax deduction.

The minister shall regulate what shall be considered as fine arts work, collector's goods and the antique specified in paragraph 1 of the present Article.

IX DUTIES OF TAXPAYERS AT THE TRADE OF GOODS AND SERVICES

Article 37

A taxpayer shall be obliged to:

- 1) submit a record keeping application;
- 2) issue a bill relating to the effected trade of goods and services;
- 3) keep records in conformity with the present Law;
- 4) calculate and pay the VAT and submit the tax returns.

Keeping Records and Striking out of VAT Taxpayers

Article 38*

A taxpayer who has realised in the preceding 12 months the total trade exceeding 4,000,000 dinars, shall be obliged to submit a record keeping application to the responsible tax authority until the expiration of the first tax period for submitting the periodical tax return, at the latest.

A record keeping application shall also be submitted by a taxpayer who estimates at the beginning of performing activity that in the subsequent 12 months he is going to realise the total trade exceeding 4,000,000 dinars within a period of time specified in paragraph 1 of the present Article.

The responsible tax authority shall issue to the taxpayer a certificate on effected record keeping relating to the VAT.

The taxpayer shall be obliged to notify in writing the responsible tax authority on the changes of data from the record keeping application, within a 5 day time limit from the day of taking place of the change, at the latest.

The taxpayer shall be obliged to indicate the tax identification number (hereinafter: TIN) in all the documents, in conformity with the present Law.

Article 39*

At the request by the taxpayer, referred to in Article 33, paragraph 3 and Article 34, paragraph 5 of the present Law, applying for the termination of duty of payment of the VAT, the responsible tax authority shall conduct the proceedings and shall issue a certificate on striking out from the records of VAT taxpayers.

After conducting the proceedings, and on line of duty, the responsible tax authority shall strike out the taxpayer from the VAT records if the taxpayer has realised in the preceding calendar year a total trade at the amount of less than 2,000,000 dinars, to with such authority shall issue the certificate specified in paragraph 1 of the present Article.

Article 40

Before striking out from the register of commercial entities and/or other register in conformity with law (hereinafter: register) by the authority responsible for keeping the register, the taxpayer who terminates the activity shall be obliged, within 15 days before striking out from the register, to submit to the responsible tax authority a request for striking out from the VAT taxpayer records.

The responsible tax authority shall conduct the proceedings and shall issue the certificate on striking out from the VAT records.

The authority responsible for keeping the register may not effect the striking out of a taxpayer from the register without the certificate referred to in paragraph 2 of the present Article.

The certificate specified in Article 38, paragraph 3 and Article 39 of the present Law and in paragraph 2 of the present Article shall include the following data:

- 1) taxpayer's name and address;
- 2) date of issuing the certificate on effected filing into the VAT records and/or of striking out from the VAT records;
- 3) TIN;
- 4) date of the beginning of the activity, filing in the VAT records, and/or the date of striking out from the VAT records.

The responsible tax authority shall keep the records of all the taxpayers being issued the certificates under paragraph 4 of the present Article.

Article 41

The minister shall prescribe the form of the record keeping application and the procedure of filing of taxpayers and their striking out from the VAT taxpayers records.

Invoicing

Article 42

A taxpayer shall be obliged to issue a bill or another document serving as a bill (hereinafter: bill) for every case of the trade of goods and service to other taxpayers.

The duty of issuing the bill specified in paragraph 1 of the present Article shall apply also should the taxpayer collect the price or a part of the price prior to effecting the trade of goods and services (advance payment), provided that the advance payments be deducted in the final bill that includes the VAT.

A bill shall particularly include the following data:

- 1) name, address and the VAT taxpayer - of the bill issuer;
- 2) place and date of issuing the bill and its ordinal number;
- 3) name, address and the VAT taxpayer - recipient of the bill;
- 4) kind and quantity of delivered goods or kind and size of services;
- 5) date of the trade of goods and services, and the amounts of advance payments;
- 6) base amount;
- 7) applicable tax base;
- 8) amount of VAT calculated on the base;
- 9) note on tax exemption.

A bill shall be issued in minimum of two copies, out of which one shall be kept by the issuer of the bill, and the remaining ones shall be given to the recipient of goods and services.

Article 43

The bill referred to in Article 42, paragraph 1 of the present Law shall also be a document of calculation issued by a taxpayer as a recipient of goods and services, by which the price is calculated of the goods and services, if:

- 1) a taxpayer - recipient of goods and services, is entitled to indicate the VAT in the bill;
- 2) there is an agreement between a taxpayer issuing the calculation document and a taxpayer receiving it, that the calculation of the trade of goods and services be effected by the recipient of goods and services;

- 3) a calculation document is delivered to a taxpayer who has delivered the goods and services;
- 4) a taxpayer who has delivered the goods and services has agreed, in writing, with the indicated VAT.

Article 44

A taxpayer who indicates in a bill for delivered goods and services a VAT that exceeds the one that is in conformity with the present Law, shall be obliged to pay the VAT as indicated, until making the correction of the VAT amount in a new bill.

In making the correction, in conformity with the present Law, Article 21, paragraph 7 of the present Law shall apply.

A person who indicates the VAT in a bill or another document, while not being a VAT taxpayer, or has not effected the trade of goods and services, or has no right to indicate the VAT, shall owe the indicated VAT.

Article 45

The minister shall regulate in details in which cases there shall be no duty of issuing a bill, or no possibility of omitting certain data in the bill, and/or in which cases it may be possible to introduce additional simplifications related to invoicing.

Compulsory Record Keeping

Article 46

A taxpayer shall be obliged, for the purpose of regular calculation and payment of the VAT, to keep records ensuring the control.

The minister shall regulate the details of form, content and mode of record keeping.

Article 47

A taxpayer shall be obliged to maintain the record keeping referred to in Article 46 of the present Law for at least 10 years after the expiration of the calendar year related to the record keeping.

Tax Period, Tax Return Filing, Calculation and Payment of the VAT

Article 48

Tax period in which VAT has to be calculated, tax return filed and VAT paid, shall be the calendar month regarding a taxpayer who has effected, within 12 preceding months, a total trade exceeding 20,000,000 dinars, or who has estimated that he was going to effect in the subsequent 12 months a total trade exceeding 20,000,000 dinars.

The tax period in which VAT has to be calculated, tax return filed and VAT paid, shall be a calendar quarter for a taxpayer who has effected, in the preceding 12 months, a total trade less than 20,000,000 dinars, or who has estimated that he was going to effect in the subsequent 12 months a total trade less than 20,000,000 dinars.

For the taxpayer specified in paragraph 2 of the present Article who in the calendar quarter realizes the total trade exceeding 20,000,000 dinars, the tax period shall be the calendar month starting with the month upon expiration of a calendar quarter.

The taxpayer specified in paragraph 2 of the present Article may submit to the responsible tax authority a request for changing a period in the calendar month, until 15 January of the current calendar year, at the latest.

The approved tax period specified in paragraph 3 of the present Article shall continue for at least 12 months.

For taxpayers who begin for the first time the activity in the current calendar year, the tax period for the current and the subsequent calendar year shall be the calendar month.

Article 49

A taxpayer shall be obliged to calculate the VAT for the corresponding tax period on the ground of trade of goods and services within that period, if these involve, in conformity with Article 16 of the present Law, a tax duty, and provided that the taxpayer is at the same time a tax debtor.

In calculating the VAT, corrections specified in Article 21 and Article 44, paragraph 1 of the present Law, shall also be included.

The VAT calculated in conformity with paragraphs 1 and 2 of the present Article, shall be reduced by the amount of preliminary tax, in accordance with Articles 28, 30 and 34 of the present Law.

The calculation of the amount of preliminary tax specified in paragraph 3 of the present Article, shall also include the corrections referred to in Articles 31 and 32 of the present Law.

The imports VAT shall be deducted from the VAT in the tax period in which it has been paid.

As an exception to the provision of paragraph 1 of the present Article, in the event of transport of passengers by buses, effected as a transborder traffic by foreign taxpayers, the responsible tax authority shall calculate the VAT for every single carriage (hereinafter: singular taxation of carriage), under the condition of reciprocity.

Article 50

A taxpayer shall file a tax return with the responsible tax authority by using the prescribed form, within a 10 day time limit after the expiration of the tax period.

A taxpayer shall file the tax return regardless of whether he has the duty of payment of VAT within the tax period.

The tax return shall be filed also by tax debtors referred to in Article 10, paragraph 1, items 2 and 3, and Article 44, paragraph 3 of the present Law.

The tax return specified in paragraph 3 of the present Article shall be filed, within the time limit specified in paragraph 1 of the present Article, for the tax period in which the duty on the ground of VAT has taken place.

Article 51

A taxpayer shall be obliged to pay the VAT for each tax period, that is equal to positive difference between the total amount of tax duty and the amount of the preceding tax, within the time limit applicable to tax return filing specified in Article 50, paragraph 1 of the present Law.

The obligation of paying the VAT shall refer also to taxpayers referred to in Article 10, paragraph 1, items 2 and 3, and Article 44, paragraph 3 of the present Law.

X RETRIEVAL, REFACTION AND REFUNDING OF TAX

Tax Refund

Article 52

Should the amount of a preceding tax exceed the amount of tax duty, the taxpayer shall be entitled to refund of the difference.

Should the taxpayer fail to decide on the refund referred to in paragraph 1 of the present Article, the difference shall be granted as a tax credit.

A taxpayer may demand the refund of an unused amount of tax credit specified in paragraph 2 of the present Article by filing a request, at the earliest by the expiry of the time limit for filing a tax return for the current tax period.

The refund specified in paragraph 1 and 3 of the present Article shall be effected within 45 day time limit, at the latest, and/or within 15 days in the case of taxpayers who are engaged predominantly in the trade of goods intended for abroad, after the expiry of the time limit for filing a tax return, and/or from the day of filing the request specified in paragraph 3 of the present Article.

The Government of the Republic of Serbia shall prescribe the criteria to serve as a ground for determining what shall be deemed, in terms of the present Law, a predominant trade of goods intended for abroad.

The minister shall regulate the details of the procedure of realisation of the right to VAT refund, as well as the procedure and conditions for the VAT refund instead of the tax credit.

Refaction of VAT to a Foreign Taxpayer

Article 53

The foreign taxpayer who exhibits on fairs in the Republic, has the right on VAT refaction, under the condition of reciprocity, based on the submitted request, on conditions that:

- 1) is not involved in trading of goods and services in the Republic
- 2) he paid the bill.

With the request from paragraph 1 of this Article, the foreign taxpayer shall submit the verification of the authorized tax body from the country where he is registered as a VAT taxpayer.

Refaction of VAT to the foreign taxpayer can be done for the goods which are delivered to him and/or for the services which are given to him in the Republic and that for:

- 1) the hiring, installment, constructing and repairing of the exhibition site;
- 2) the goods needed for the installment of the exhibition site;
- 3) electrical energy, water, gas, heating, cooling, telephone and telecommunication connections, needed for the exhibition site;
- 4) parking;
- 5) accommodation services

Humanitarian Organisations

Article 54

The right to refaction, on the ground of a submitted request, shall pertain to organisations registered for humanitarian activity, for the goods that are delivered to them in the Republic, on condition that:

- 1) the trade of goods is subject to taxation;
- 2) the VAT for the delivered goods is indicated in the bill, in conformity with Article 42 of the present Law, as well as that the bill has been paid;
- 3) the acquired goods are forwarded abroad, where they are used in humanitarian, charitable or educational purposes.

Traditional Churches and Religious Communities

Article 55

The right to refaction of VAT, on the ground of a filed request, shall pertain to the traditional churches and religious communities - Serbian Orthodox Church, Islamic Community, Catholic Church, Jewish Community, Reformatory Christian Church and Evangelical Christian Church a.v. (hereinafter: traditional churches and religious communities), for the goods delivered to them in the Republic or imported by them, and that are directly connected with religious activity, on condition that:

- 1) the trade of goods and services, and/or import of goods are taxable;
- 2) the VAT on the goods delivered goods, and/or services rendered is indicated in the bill, in conformity with Article 42 of the present Law, as well as that the bill has been paid, and/or that the owed VAT on the ground of imports has been previously paid.

Refaction of VAT to Diplomatic and Consular Representation Offices and International Organizations

Article 55a

Should a diplomatic and/or consular representation office or an international organization, and/or a person specified in Article 24, paragraph 1, item 16 of the present Law fail to decide on effecting the

acquisition or import of goods, and/or accept services intended for their official and/or personal needs, with tax exemption, shall be entitled to the refaction of VAT.

The right to refaction of the VAT on the ground of a filed request, and under the conditions prescribed by the present Law for the realization of the tax exemption, may be realised by the persons specified in paragraph 1 of the present Article if:

- 1) the deliveries or import of goods, and/or services supplied are VAT taxable;
- 2) VAT for the trade of goods and services is indicated in the bill, in conformity with the present Law, and if the bill has been paid, and/or if the VAT that is owed on the ground of import has been paid;
- 3) the total value of the goods and services, indicated in the bill, and/or the value of goods, indicated in the customs document, exceeds 50 EUR, excluding the VAT, except for the acquisition of fuel for motor vehicles.

Refaction of VAT to a Foreign Citizen

Article 56

At the request of a foreign citizen who is not a taxpayer and has no residence in the Republic, the refaction of VAT shall be effected under the conditions specified in Article 24, paragraph 1, item 4 of the present Law.

Refunding of VAT to the purchaser of the first apartment

Article 56a

The individuals right to refunding of VAT for purchasing the first apartment, based on the submitted request, - who is of legal age and citizen of the Republic, with a residence in the territory of the Republic, who purchases his first apartment (hereinafter purchaser of the first apartment).

Purchaser of the first apartment can realize refunding of VAT from the first paragraph of this Article, under the following conditions:

- 1) that from the 1st of July 2006 until the day of verification of the purchase/sale agreement upon which he acquires his first apartment, he did not have in his ownership and/or co-ownership the apartment on the territory of the Republic;
- 2) that the agreed price of the apartment with the VAT is completely paid to the dealer.

The right to refunding of VAT from the paragraph 1. of this Article can be realized for the apartment of the size not exceeding 40m², for the purchaser of the first apartment, and for each member of his family household, who did not have in their ownership and/or co-ownership apartment on the territory of the Republic, not exceeding 15 m², in the period stated in the paragraph 2., item 1) of this Article.

If the purchaser of the first apartment purchases the apartment of a size greater than that for which he has the right to refund the VAT according to the paragraph 3. of this Article, he can realize his right up to the sum which responds to the size of the apartment from the paragraph 3. of this Article.

Family household of the purchaser of the first apartment is considered to be, in terms of the paragraph 3. of this Article, the joint living, earning and spending the income of the purchaser of the first apartment, his spouse, purchaser's children, purchaser's adopted children, his spouse's children, his spouse's adopted children, purchaser's parents, his adopters, his spouse's parents, his spouse's adopters, with the same residence as the purchaser of the first apartment.

The right to refunding of VAT from the paragraph 1. of this Article does not have:

- 1) the purchaser of the apartments who has realized his right to refunding of VAT based on the purchasing of the first apartment;
- 2) the member of the family household for whom the purchaser of the first apartment has realized refunding of VAT, in the case when that member of the family household purchases the apartment;
- 3) the purchaser of the apartment who has acquired the first apartment without the seller's obligation to pay, for trading that apartment, the tax for the transfer of the absolute rights, based on the purchasing of the first apartment in accordance with the law which regulates tax on property;
- 4) the member of the family household of the purchaser of the first apartment who has acquired the first apartment without the seller's obligation to pay, for trading of that apartments, the tax for the transfer of the absolute rights, based on the purchasing of the first apartment in accordance with the law which regulates tax on property, and for whom that tax exemption has been realized.

The authorized tax body, following the executed procedure, decides on the VAT refunding for the purchaser of the first apartment.

The authorized tax body keeps the record of the purchasers of the first apartment and the members of the family households of the purchasers of the first apartment for whom the purchasers of the first apartment have realized refunding of VAT, as well as of the sum of the realized refunding of VAT.

Article 57

The mode and the procedure of refaction and refunding of tax referred to in Articles 53 through 56a of the present Law, as well as what shall be considered as goods and services directly connected with religious activity in terms of Article 55 of the present, Law shall be regulated in details by the minister.

XI SPECIAL REGULATIONS FOR THE IMPORTS OF GOODS

Article 58

Unless otherwise specified by the present Law, the VAT applicable at the imports of goods shall be subject to customs regulations.

Article 59

Unless otherwise specified by the present Law, responsible for the calculation and the collection of VAT at the imports of goods, shall be the customs authority conducting the customs procedure.

XII PENAL PROVISIONS

Article 60

A fine of from 100,000 to 1,000,000 dinars shall be imposed for a violation on a taxpayer - juridical entity which:

- 1) fails to fulfil the duties provided for by the present Law (Article 10, paragraph 2);
- 2) fails to correct the VAT amount owed by it or fails to calculate the VAT in the event of a change of the tax base (Article 21);
- 3) uses the right of preliminary tax deduction, without possessing the necessary documentation for it (Article 28, paragraph 2);
- 4) deducts a preliminary tax on the delivery of goods and provision of services, without possessing the right thereto (Article 29, paragraph 1);
- 5) fails to correct the deduction of the preliminary tax (Article 31);
- 6) fails to make a correction of the deduction of the preliminary tax on equipment and installations for performing an activity (Article 32, paragraphs 1 through 3);
- 7) fails to supply data necessary for the coordination of preliminary tax (Article 32, paragraph 5);
- 8) indicates the VAT in the bill or another document, or deducts the preliminary tax, without having the right thereto (Article 33, paragraph 2 and Article 35, paragraph 7);
- 9) deducts the amount of VAT reimbursement as a preliminary tax, and has failed to pay the VAT reimbursement and for the value of the received goods and services (Article 34, paragraph 4);
- 10) fails to issue a bill (Article 37, paragraph 2 and Article 42);
- 11) fails to keep the prescribed records (Article 37, item 3 and Article 46);
- 12) fails to calculate the VAT (Article 37, item 4, and Article 49);
- 13) fails to pay the VAT in the prescribed time limit (Article 37, item 4, and Article 51);
- 14) fails to submit the record keeping application in the prescribed time limit (Article 38, paragraph 1, and Article 63);
- 15) fails to notify the Tax Authority on changes of data in its record keeping application form or on the termination of activity (Article 38, paragraph 4, and Article 40, paragraph 1);
- 16) fails to indicate the TIN in all the documents prescribed by the present Law (Article 38, paragraph 5);
- 17) fails to maintain the records in the prescribed time limit (Article 47).

A fine of from 10,000 to 50,000 dinars shall be imposed for the violation specified in paragraph 1 of the present Article also on a responsible person within the juridical entity.

A fine of from 12,500 to 500,000 dinars shall be imposed on an entrepreneur for the violation specified in paragraph 1 of the present Article.

A fine of from 5,000 to 50,000 dinars shall be imposed on a taxpayer - natural person.

A fine of from 10,000 to 50,000 dinars shall be imposed for a violation on a responsible person in the court, the agency of local self-government unit, the Bar association, a professional association, as well as in other agency or organisation responsible for filing in the register, should such person strike out a taxpayer from the register without the certificate, specified in Article 40, paragraph 3 of the present Law.

Article 60a

A fine from 100.000 to 1.000.000 dinars shall be imposed for a violation on the tax debtor –legal entity which is not taxpayer, if it fails to pay the VAT in the prescribed time limit (Article 51., paragraph 2).

A fine from 10.000 to 50.000 dinars shall be imposed also on the responsible person in the juridical entity for the violation from the paragraph 1. of this Article.

A fine from 12.500 to 500.000 dinars shall be imposed on the tax debtor – entrepreneur who is not taxpayer for the violation from the paragraph 1. of this Article.

A fine from 5.000 to 50.000 dinars shall be imposed on the tax debtor – natural person who is not taxpayer for the violation from the paragraph 1. of this Article

XIII TRANSITIONAL REGIME

Article 61

The Government of the Republic of Serbia shall regulate the enforcement of the present Law in the territory of the Autonomous Province of Kosovo and Metohija in the period of validity of the UN Security Council Resolution number 1244.

XIV TRANSITIONAL AND CONCLUDING PROVISIONS

Article 62

The provisions of the present Law shall apply to the entire trade of goods and services effected from 1 January 2005.

If a taxpayer, for issued bills or received advance payments by 31 December 2004 inclusive, has paid the turnover tax, while the trade of goods and/or services has taken place from 1 January 2005, such taxpayer may reduce the tax duty, by the amount of the paid turnover tax, on the ground of the value added tax relating to the delivered goods and services in the tax period.

Should the goods or services be delivered in parts, in terms of Article 14, paragraph 4 and Article 15, paragraph 3 of the present Law, the provisions of the present Law shall apply to that part of the trade of goods and services which is effected from 1 January 2005, while the provisions of the law regulating the turnover tax shall apply to the part of the trade effected until 31 December inclusive.

The taxpayer shall be obliged to compose a list of issued bills and received advance payments, specified in paragraph 2 of the present Article, and shall deliver the list to the responsible tax authority until 15 January 2005, at the latest.

Article 63

A person who, in the 12 months preceding the day of filing the record keeping application form, specified in Article 37, item 1 of the present Law, has realised, or has estimated that he is going to realise in subsequent 12 months, a total trade of goods and services exceeding 2,000,000 dinars, shall be obliged to submit to the responsible tax authority a record keeping application form relating to VAT, until 30 September 2004, at the latest.

A person who, in the 12 months preceding the day of filing the record keeping application form, specified in paragraph 1 of the present Article, has realised, or has estimated that he is going to realise in subsequent 12 months a total trade of goods and services exceeding 1,000,000 dinars, may submit to the responsible tax authority a record keeping application form until 30 September 2004, at the latest.

Article 64

Persons who are VAT payers in conformity with the present Law, shall be obliged to make an inventory of stock, on 31 December 2004, of the tobacco manufactured products, alcoholic beverages, coffee, gasoline, diesel fuel and heating oil, intended for further trade, and shall determine the amount of turnover tax on products included in these stocks, that has been calculated through the buying price or at the imports.

The determined amount of tax specified in paragraph 1 of the present Article may be used by the taxpayer as a preliminary tax, in conformity with provisions of the present Law, should he use these products in performing the trade of goods and services, while being entitled to the preliminary tax deduction.

The deduction of preliminary tax specified in paragraph 3 of the present Article may be realised in the amount corresponding to the proportionately effected trade of goods and services in the subsequent tax periods.

The taxpayer shall not be entitled to refund of the determined amount of turnover tax, specified in paragraph 1 of the present Article.

Inventory lists referred to in paragraph 1 of the present Article, as well as the list of suppliers, and/or import customs declarations relating to products specified in paragraph 1 of the present Article, shall be delivered by the taxpayer to the responsible tax authority until 15 January 2005, at the latest.

The minister shall regulate the details of the mode of realisation of the right to turnover tax deduction as a preliminary tax.

Article 65

Persons who are VAT payers in conformity with the present Law shall be obliged to make, on 31 December 2004, an inventory of newly constructed building structures and building structures whose construction is in course.

The newly constructed building structures that are not delivered or paid until 31 December 2004, shall be taxed in conformity with the law regulating the property taxes.

The value of a building structure whose construction is in course, and that is to be delivered from 1 January 2005 on, shall be determined on 31 December 2004, and shall be taxed in conformity with the law regulating the property taxes.

The value of a building structure referred to in paragraph 3 of the present Article, that will take place from 1 January 2005, shall be taxed in conformity with the present Law.

The inventory lists specified in paragraph 1 of the present Article shall be forwarded to the responsible tax authority by the taxpayer until 15 January 2005, at the latest.

Article 66

The duties of calculation and payment of turnover tax relating to products and services, that have taken place until 31 December 2004, shall be subject to the Law on Turnover Tax ("Official Herald of the RS", Nos. 22/2001, 73/2001, 80/2002, and 70/2003).

Article 67

On the day of entering into force of the present Law, the Law on Value Added Tax ("Official Gazette of the FRY", Nos. 74/1999, 4/2000, 9/2000, 69/2000, and 70/2001) shall cease to be valid.

On 1 January 2005 the Law on Turnover Tax ("Official Herald of the RS", Nos. 22/2001, 73/2001, 80/2002, and 70/2003), and the regulations enacted on the ground of that Law, shall cease to be valid, provided the Decree on the Mode of Keeping Trade Records by Means of Fiscal Memory Cash Registers, and on the Dynamics of Introducing such Cash Registers ("Official Herald of the RS", Nos. 5/2003, 39/2003, 72/2003, 2/2004, and 31/2004), and the regulations enacted on the ground of that Decree, shall apply until the beginning of implementation of a law that is going to regulate the keeping of trade records by means of fiscal cash registers.

Article 68

The present Law shall enter into force on the eighth day from the day of publication in the "Official Herald of the Republic of Serbia", and shall apply from 1 January 2005, except for the provisions of Article 37, item 1, Article 63 and the provisions of the present Law that include the powers for enactment of by-laws, which provisions shall apply from the day of entering into force of the present Law.

Independent Articles of the Law on Amending the Law on Value-Added Tax

("Official Herald of the RS", No. 61/2005)

Article 30[s1]

Persons engaged in the trade of goods and services specified in Article 25, paragraph 2, item 7 of the Law on Value-Added Tax ("Official Herald of the RS", Nos. 84/04 and 86/04) for whom the ministry in charge of health-care affairs has paid the VAT, for goods covered by a contract on donation and humanitarian assistance, shall be entitled to the refund of VAT that was paid at the moment of acquisition of goods in the Republic, and/or at the moment of import, from 1st January 2005 until the coming into force of the present Law.

The right to refund of the VAT paid at the moment of acquisition of goods and services in the Republic, and/or at the moment of import, within the time limits referred to in paragraph 1 of the present article, shall pertain also to the traditional churches and religious communities for the goods and services directly connected with religious activity.

The minister in charge of financial affairs shall regulate in details the procedure of realization of right to the refund of VAT, as well as what shall be considered as goods and services directly connected with religious activity in terms of the present Article.

Article 31[s1]

The provisions of Article 14 of the present Law in the part relating to division of the preliminary tax and to the mode of determining the proportionate tax deduction shall apply from 1st October 2005, and in the part relating to correction of the proportionate tax deduction - from 1st January 2006.

Article 32[s1]

The present Law shall come into force on the eighth day from the day of publishing in the "Official Herald of the Republic of Serbia".

Independent Articles of the Law on Amending the Law on Value-Added Tax

("Official Herald of the RS", No. 61/2007)

Article 25[s2]

The taxpayer who has realized, in 2007, the total trade of goods and services except for the trade of equipment and installations intended for performing an activity (hereinafter: total trade) which is less than 2.000.000 dinars, shall not calculate and pay VAT for the trading of goods and services which are performed from the 1st of January 2008.

Article 26[s2]

The tax payer who has realized, in 2007, the total trade which is greater than 2.000.000 dinars but less than 4.000.000 can opt for the duty of calculating and paying VAT if he delivers the written information, to the authorized tax body, in time for submitting tax report for the last tax period of 2007.

The written information from the paragraph 1 of this Article includes the data about:

- 1) name, address and TIN (tax identification number) of the taxpayer;
- 2) place and date of information;
- 3) amount of realized trade in 2007.

The taxpayer from the paragraph 1. of this Article who has not delivered the written information to the authorized tax body in a period provided for in the paragraph 1. of this Article, does not calculate and pay VAT for the trading of goods and services in which he is involved from the 1st of January 2008.

Article 27[s2]

The taxpayer from the Article 25. and 26. paragraph 3. of this Law has the obligation, based on the actual state at the 31st of December, to make an inventory of goods for which obtaining he has realized his right for discounting the previous tax, as follows:

- 1) supply of goods obtained from the 1st of January 2005;
- 2) equipment and buildings for performing activity for which, at the 1st of January 2008, there is an obligation of correcting previous tax discount;
- 3) goods, except goods from the items 1) and 2) of this paragraph, which have been obtained from the day of entering into force of this Law.

The taxpayer from the paragraph 1. of this Article has the obligation to determine the amount of the realized previous tax discount for the goods from paragraph 1. items 1) and 3) of this Article, to make the correction of the previous tax discount for the goods from the paragraph 1. item 2) of this Article and to determine, for these goods, the amount of the corrected previous tax discount in accordance with the Law.

The tax payer has the obligation to deliver the inventory lists, from the paragraph 1. of this Article, to the authorized tax body until the 20 th of January 2008. at latest.

The taxpayer has the obligation to pay the determined amount of the realized previous tax discount and amount of the corrected previous tax discount from the paragraph 2. of this Article, until the 20 th of February 2008.

The minister in charge of financial affairs shall regulate the content of inventory lists from the paragraph 1. of this Article, as well as the method of determining the amount of the realized previous tax discount from the paragraph 2. of this Article.

Article 28[s2]

A fine from 100.000 to 1.000.000 dinars shall be imposed, for violation, on the taxpayer-juridical entity, if

- 1) he does not determine the amount of realized and amount of corrected previous tax discount (Article 27. paragraph 2. of this Law);

2) he does not deliver the inventory lists in a prescribed time (Article 27. paragraph 3. of this Law);

3) he does not pay determined amount of realized and amount of corrected previous tax discount in a prescribed time (Article 27. paragraph 4. of this Law).

A fine from 10.000 to 50.000 dinars shall be imposed on the responsible person in juridical entity for the violation from the paragraph 1. of this Article.

A fine from 12.500 to 500.000 dinars shall be imposed on the taxpayer – entrepreneur for the violation from the paragraph 1. of this Article.

A fine from 5.000 to 50.000 dinars shall be imposed on the taxpayer – natural person for the violation from the paragraph 1. of this Article.

Article 29[s2]

The right to refunding VAT from the Article 22. of this Law can be realized only on the basis of purchase/sale apartment agreement which has been verified after the entering in force of this Law.

Article 30[s2]

The minister in charge of financial affairs shall bring the regulation from the Article 27. paragraph 5. of this Law within 90 days from the day of entering this Law into force.

Article 31[s2]

The provisions of Article 11, Article 12. paragraph 2., Article 14 paragraphs 1. and 2. and Article 15 of this Law shall apply from 1st of January 2008.

Article 32[s2]

This law shall enter into force on the eighth day from the day of publishing in the "Official Herald of the Republic of Serbia".