

## **VALUE ADDED TAX LAW**

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### **I. INTRODUCTORY PROVISIONS**

#### **Article 1**

This Law shall introduce the value added tax (hereinafter: VAT) in the Republic of Serbia (hereinafter: the Republic).

The VAT shall mean a general consumption tax that is assessed and paid on the delivery of goods and provision of services in all stages of production and sales of goods and services, as well as on the import of goods, unless otherwise provided by this Law.

#### **Article 2**

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

### **II SUBJECT OF TAXATION**

#### **Article 3**

The subject of the VAT shall be the following:

- 1) Delivery of goods and provision of services (hereinafter: the sale of goods and services) carried out by a taxpayer in the Republic for a charge, in the conduct of its business;
- 2) Import of goods into the Republic.

#### **Sale of Goods and Services**

#### **Article 4**

For the purposes of this Law, the sale of goods shall mean the transfer of the right to manage tangibles (hereinafter: the goods) to a person who can dispose of them as their owner, unless otherwise provided by this Law.

Goods shall also mean water, electricity, gas and heat energy.

For the purposes of this Law, the sale of goods shall also mean the following:

- 1) Transfer of the right to dispose of goods for a charge on the basis of the regulations of a government body, a territorial autonomy body or a local self-government body;
- 2) Delivery of goods under a leasing contract, in accordance with law, or under a sales contract with deferred payment, which provides that the right of disposal is to be transferred upon payment of the last instalment;
- 3) Delivery of goods by the owner to a commission agent and by a commission agent to the recipient;
- 4) Delivery of goods under a contract on the basis of which commission is payable on sale;
- 5) Delivery of goods by the owner to the consignment-stock keeper and by the consignment-stock keeper to the recipient of goods;
- 6) Delivery of goods produced or assembled on the customer's order using the supplier's materials, unless only additions or other accessory materials are involved;
- 7) First transfer of the right of disposal of newly erected buildings or economically divisible entireties in such buildings;
- 7a) First transfer of equity shares in newly constructed buildings or economically divisible entireties in such buildings;
- 8) Exchange of goods for other goods or services.

The sale of goods for a charge shall be equated with the following:

- 1) Taking goods that are a part of the taxpayer's business assets for the founders', employees' and other persons' personal needs;

- 2) Any other sale of goods without a charge;
- 3) Declared expenditures (ullage, wastage, breakdown and breakage) over and above the quantity determined by an act issued by the Republic of Serbia Government.

The taking of goods or any other transfer of goods referred to in paragraph 4 of this Article shall mean the sale of goods for a charge, on condition that the VAT assessed in the previous phase of sale on such goods or their integral parts may be deducted wholly or proportionately.

If the delivery of goods is made concurrently with an accessory delivery of goods or ancillary provision of services, it shall be deemed that a single delivery of goods has been made.

In the case of a delivery in batches of one and the same product, where the first supplier transfers the right of management directly to the last recipient of goods, any delivery effected in batches shall be deemed a separate delivery.

The minister in charge of finance (hereinafter: the Minister) shall set out in greater detail what is meant by a newly erected building referred to in paragraph 3, item 7), of this Article, as well as what is meant by taking the goods that are a part of the taxpayer's business assets, as well as any other transfer without a charge as referred to in paragraph 4 of this Article.

#### **Article 5**

For the purposes of this Law, the sale of services shall be understood to mean all operations and acts that do not constitute the sale of goods as referred to in Article 4 of this Law.

Any failure to act and sufferance shall also mean the sale of services.

For the purposes of this Law, the following shall also be regarded as the sale of services:

- 1) Transfer and relinquishment of copyrights, as well as transfer, relinquishment and disposition of patents, licenses, trade marks, as well as other intellectual property rights;
- 2) Provision of services for a charge on the basis of the regulations of government bodies, territorial autonomy bodies or local self-government bodies;
- 3) Delivery of goods produced or assembled on the ordering party's instructions using the materials supplied by the ordering party;
- 4) Exchange of services for goods or services;
- 5) Delivery of foods and beverages for consumption on the spot;
- 6) **DELETED – in 61/2005**
- 7) Relinquishment of shares or interests.

The following shall be equated with the sale of services for a charge:

- 1) Use of goods that are a part of a taxpayer's business assets for the founders', employees' and other persons' personal needs;
- 2) Provision of services by the taxpayer free of charge for the founders', employees' and other persons' needs;
- 3) Any other provision of services without charge

The use of goods as referred to in paragraph 4, item 1), of this Article shall be deemed the sale of goods for a charge, on condition that the VAT assessed in the previous sale phase on such goods can be deducted wholly or proportionately.

If an accessory service is provided or accessory goods are delivered concurrently with a service, it shall be deemed that one service has been provided.

The Minister shall set out in greater detail what is meant by the use of goods that are a part of a taxpayer's business assets for the founders', employees' and other persons' personal needs and the provision of services by the taxpayer without a charge for the personal needs of founders, employees and other persons referred to in paragraph 4 of this Article.

#### **Article 6**

For the purposes of this Law, the following shall not be understood to mean the sale of goods and services:

- 1) Transfer of property wholly or partly, with or without charge or as investment, if the transferee is a taxpayer or is to become one on the basis of that transfer and if it carries on conducting the same business;
- 2) Sale of motorcars, motorcycles, watercraft and aircraft on which the VAT payer was not entitled to deduction of input tax at the time of purchase, wholly or proportionately;
- 2a) Replacement of goods in warranty period;
- 3) Giving away free of charge business samples in the usual quantity for such purposes to buyers or prospective buyers;
- 4) Giving presents of small value, if given occasionally to different persons.

In the case of transfer of the entire or a part of the assets as referred to in paragraph 1, item 1), of this Article, it shall be deemed that the acquirer is taking the place of the transferor.

The Minister shall set out in greater detail the procedure for the replacement of goods in the warranty period, what is meant by the transfer of entire or a part of assets, with or without charge, or as an investment, as referred to in paragraph 1, item 1), as well as what is meant by the usual quantity of business samples and presents of small value referred to in paragraph 1, items 3) and 4), of this Article.

### **Import of Goods**

#### **Article 7**

Import shall mean any bringing of goods into the customs territory of the Republic.

### **III. TAXPAYER AND OTHER TAX DEBTOR**

#### **Taxpayer**

#### **Article 8**

A taxpayer (hereinafter: the taxpayer) shall mean a person that is selling goods and services independently in the scope of its business.

The business referred to in paragraph 1 of this Article shall mean a lasting activity of a producer, merchant or provider of services that is pursued for the purpose of generating income, including the exploitation of natural resources, farming, forestry and self-employment.

A taxpayer shall be deemed to be conducting a business also when it is conducting it in the scope of an operating unit.

A taxpayer shall mean a person in whose name and for whose account goods are delivered or services provided.

A taxpayer shall mean a person that is delivering goods, providing services or importing goods in its own name and for account of another person.

#### **Article 9**

For the purposes of this Law, the Republic and its bodies and special organisations and bodies of territorial autonomy and local self-government, as well as the legal entities formed lawfully for the purpose of dealing with matters within the competencies of government agencies, shall not be deemed taxpayers, if they are selling goods and services in the scope of the government administration competencies.

The Republic, bodies and legal entities referred to in paragraph 1 of this Article shall be deemed taxpayers, if they are selling goods and services that are outside the scope of the government administration competencies, which are taxable under this Law.

#### **Tax Debtor**

#### **Article 10**

For the purposes of this Law, tax debtors shall also include the following:

- 1) A taxpayer referred to in Article 8 and Article 9, paragraph 2, of this Law;
- 2) A tax agent appointed by a foreign person whose head office or a permanent operating unit is not situated in the Republic and is selling goods and services in the Republic;

- 3) A recipient of goods and services, if the foreign person referred to in Item 2 of this paragraph does not appoint a tax agent;
- 4) A person that declares the VAT in an invoice or other document serving as the invoice (hereinafter: the invoice), without being obligated to assess and pay the VAT under this Law;
- 5) A persons that is importing goods.

If the taxpayer referred to paragraph 1, items 2) and 3) of this Article is also a tax debtor, it shall perform the duties determined by this Law for taxpayers, with the exception of that to issue invoices.

#### **IV PLACE AND TIME OF THE SALE OF GOODS AND SERVICES AND ONSET OF TAX LIABILITY**

##### **Place of the Sale of Goods**

###### **Article 11**

The place of the sale of goods shall be the place:

1. Where goods are at the moment of their dispatch or transport to the recipient or on the recipient's order, to a third party, if the goods are dispatched or transported by the supplier, recipient or a third party, on their order;
2. Where the goods are incorporated or assembled, if they are incorporated or assembled by the supplier or on its instructions, by a third party;
3. Where the goods are at the moment of delivery, if delivery is being carried out without dispatching and/or carriage;
4. Where water, electricity, gas and heat energy are received.

In the case of sale of goods on consignment stock or commission basis, the place of the sale of goods by the commission agent or consignment-stock keeper shall be determined as provided by paragraph 1 of this Article, also when the delivery is made to the commission agent or the consignment-stock keeper.

##### **Place of the Sale of Services**

###### **Article 12**

The place of sale of services shall be the place where a service provider conducts its business.

If services are sold through an operating unit, the place of sale of services shall be the location of the operating unit.

Notwithstanding the provisions of paragraphs 1 and 2 of this Article, the place of sale of services shall be one of the following:

- 1) The place where the real estate is situated, in the case of a service directly associated with that real estate, including mediation and assessment in connection with that real estate, as well as engineering, preparatory works and construction together with supervision over the latter;
- 2) The place where transport is carried out, and if transport is carried out both in the Republic and abroad (hereinafter: international transport), the provisions of this Law shall apply only to the transport carried out in the Republic;
- 3) The place where service was actually provided, if the following are involved:
  - (1) Services in the fields of culture, arts, sports, science, education, entertainment/show business and similar services, including show organizing and related services;
  - (2) Accessory transport services, such as loading, unloading, transshipments and similar services;
  - (3) Chattel assessment services; (4) Work performed on chattels;
- 4) The place where the recipient of services conducts its business or has an operating unit for which it renders services or the place in which the service recipient has its head office or residence, if services relating to the following are involved:

- (1) Hiring out chattels, with the exception of means of transport on the basis of rent-a-car contracts;
- (2) Provision of telecommunications services;
- (3) Undertaking to partly or fully refrain from conducting a business or exercising a right; (4) In the field of advertising;
- (5) Transfer, relinquishment and placing at disposal copyrights, patents, licenses, trademarks and other intellectual property rights;
- (6) Banking, financial transactions, insurance and reinsurance, with the exception of the renting of safes;
- (7) Consulting, engineering, legal advice, auditing and the like; (8) Data processing and relinquishment of information;
- (9) Making personnel available;
- (10) E-services, as well as radio and TV services, provided;
- (11) Mediation in the provision of the services referred to in items (1) through (10) of this Article.

The place of sale of mediation services, other than the mediation services referred to in paragraph 3, item 4), subitem (11) of the present Article, shall be determined according to the place of sale of the goods and services, which are the subject matter of mediation.

### **Place of the Import of Goods**

#### **Article 13**

The place of import of goods shall be any place at which goods are brought into the customs territory of the Republic.

### **Time of the Sale of Goods**

#### **Article 14**

The sale of goods shall be deemed occurred as follows:

- 1) On the date of commencement of the dispatch or carriage of goods to the recipient or a third party, on its request, if goods are being sent or carried by the supplier, recipient or a third party at its request;
- 2) On the date of the take over of goods by the recipient in the case of goods that are to be installed or mounted by the supplier or on its order, by a third party;
- 3) With the transfer of the right of disposal of goods to the recipient, if goods are delivered without dispatch and/or carriage;
- 4) On the date of reading the metered quantity of received water, electricity, gas and heat energy by the supplier, for the purpose of calculating the consumption;
- 5) When the goods are brought into the customs territory of the Republic.

In the case of commission sales and consignment stock sales, the time of delivery of goods by the commission agent or consignment-stock keeper shall be determined in conformity with paragraph 1 of this Article also for the delivery to the commission agent or consignment-stock keeper.

The provisions of paragraphs 1 and 2 of this Article shall also apply to partial deliveries.

The partial deliveries referred to in paragraph 3 of this Article shall also be deemed existent if a special price has been stipulated by contract for economically divisible deliveries.

### **Time of the Provision of Services**

#### **Article 15**

A service shall be deemed provided on the date of:

- 1) Completion of each service individually;
- 2) Termination of the legal relationship serving as basis for the provision of services, in the case of provision of time limited and unlimited services.

In the case of provision of the time-limited or time-unlimited services, the duration of which is longer than a year, a periodical invoice shall be issued, where the period for which that invoice is issued may not be longer than a year.

If periodical invoices are issued for the provision of services, the sale of services shall be deemed effected on the last day of the period for which the invoice is issued.

A partial service shall be deemed effected when the provision of that part of service was completed.

The partial provision of services referred to in paragraph 4 of this Article shall be deemed existent, if a special charge has been stipulated for parts of economically divisible services.

### **Onset of Tax Liability**

#### **Article 16**

Tax liability shall run from the date of completion of the earliest of the following operations:

- 1) Sale of goods and services;
- 2) Collection of payment, if the price was paid wholly or partly prior to the sale of goods and services;
- 3) Onset of the duty to pay customs debt in the case of importing goods and if there is no such duty, on the date on which the duty to pay that debt would mature.

### **V. TAX BASE AND TAX RATE**

#### **Tax Base in the Case of Sale of Goods and Services**

##### **Article 17**

The tax base (hereinafter: the base) in the case of sale of goods and services shall be the price (in money, things or services) received or to be received by the taxpayer for the goods delivered or services rendered, including the subsidies directly associated with the price of such goods or services, excluding VAT, unless otherwise provided by this Law.

The base shall also include the following:

- 1) Excise tax, customs duty and other import charges, as well as other public revenues, with the exception of VAT;
- 2) All incidental expenses the taxpayer charges to the recipient of goods and services.

The base shall not include the following:

- 1) Discounts and other price reductions granted to the recipient of goods or services at the time of sale of goods or services;
- 2) Amounts collected by the taxpayer on behalf and for account of another person, if it is transferring that amount to the person on behalf and for the account of which the taxpayer has collected payment.

If the price or a part thereof is not expressed in money, but in the form of sale of goods and services, the base shall mean the market value of such goods or services on the date of their delivery, excluding VAT.

In the case of sale of goods or services which make up an equity share in a company, the base shall be the market value of such goods and services as on the date of their delivery, excluding VAT.

##### **Article 18**

The base in the case of sale of the goods and services referred to in Article 4 paragraph 4, and Article 5, paragraph 4, of this Law, shall mean the purchase price of such or similar goods and services, at the moment of their sale, excluding VAT.

In a case referred to in paragraph 1 of this Article, VAT shall not be included in the base.

In the case of transport of passengers by bus by a person whose actual place of business is not in the Republic, the base shall be the average fare for each transport individually.

The manner of determining the average fare referred to in paragraph 3 of this Article shall be dealt with in greater detail by the Minister.

## **Base in the Case of Imported Goods**

### **Article 19**

In the case of imported goods, the base shall be the value of such goods as determined in accordance with customs regulations.

The base referred to in paragraph 1 of this Article shall also include the following:

- 1) Excise tax, customs duty and other import charges, as well as other public revenues, with the exception of VAT.
- 2) All incidental expenses incurred before reaching the first destination in the Republic.

For the purposes of paragraph 2, item 2), of this Article, the first destination shall mean the place denoted in the dispatch note or some other shipping document, and if one has not been denoted, the place of the first transshipment of goods in the Republic.

### **Article 20**

In the case of import of goods that had been temporarily exported by the taxpayer for the purpose of their being refined, processed, finished or converted (hereinafter: refinement), repair, or incorporation, the base shall be the price that has already been or is to be paid by the taxpayer for refinement, repair or incorporation, and if such price is not payable, the base shall be the increase in value resulting from refinement, repair or incorporation.

In a case referred to in paragraph 1 of this Article, the provisions of Article 19, paragraph 2, of this Law shall apply.

## **Change in the Tax Base**

### **Article 21**

In the event of a change in the base in the case of sale of goods and services on which VAT is payable, the taxpayer who has delivered goods or rendered services shall adjust the VAT owed on such grounds to the change made.

The duty referred to in paragraph 1 of this Article shall also apply to the persons referred to in Article 10, paragraph 1, items 2) and 3) of this Law.

If goods and services have been supplied to a taxpayer who is not eligible for deduction of the previous VAT or a person who is not a VAT payer, the taxpayer may make the amendment referred to in paragraph 3 of this Article, if it possesses the document on the reduction of the charge for the goods and services sold to such persons.

The taxpayer may change the base for the part of the price that has not been paid only on the basis of an effective court decision on the conclusion of bankruptcy proceedings or on the basis of a verified record of court settlement.

If the taxpayer who has changed the base pursuant to paragraph 5 of this Article receives the full or a part of the price of delivered goods and services, he shall assess VAT on the amount received.

The correction of the base referred to in paragraphs 1 through 5 of this Article shall be made in the taxation period in which the change had occurred.

If the base for imported goods on which the VAT is payable is changed pursuant to customs regulations, the provisions of this Law shall apply.

## **Calculation of the Values Declared in Foreign Currencies**

### **Article 22**

If the price of goods and services is declared in a foreign currency, that value shall be converted into domestic currency by applying the mean exchange rate of the central bank valid on the date of onset of tax liability.

If the base for imported goods is expressed in a foreign currency, that value shall be converted into domestic currency by applying the customs regulations dealing with the setting of customs value valid on the date of onset of the tax liability.

## **Tax Rate**

### **Article 23**

The general VAT rate for the taxable sale of goods and service and import of goods shall be 18%.

The special VAT rate of 8% shall apply to the sale of goods and services or import of goods in the case of the following ones:

- 1) Bread and other baked products, milk and dairy products, flour, sugar, edible sunflower seed, maize, rape, soybean and olive oil, and edible fats of animal and vegetable origin and honey;
- 1a) Drinking water other than bottled;
- 2) Fresh, chilled and frozen fruits, vegetables, meats, including giblets and other slaughterhouse products, fish and eggs;
- 2a) Cereals, sunflower seeds, soybean, sugar beet and rape;
- 3) Medicaments, including the ones used in veterinary medicine;
- 4) Orthotic and prosthetic aids, as well as medical aids – products that are surgically implanted in the organism;
- 5) Dialysis materials;
- 6) Fertilizers, pesticides, seed stock, nursery stock, compost with mycelia, complete feed mixtures and livestock;
- 7) Textbooks and teaching aids;
- 7a) Personal computers and their components;
- 8) Daily newspapers;
- 9) Monographs and serial publications;
- 10) Firewood;
- 11) Hotel, motel, rest home and holiday camp accommodation;
- 12) Public utilities;
- 12a) Services paid for with the means of cinema and theatre, trade fair, circus, amusement park, concert (music event), exhibition, sport events, museums and art gallery, botanical garden and zoo admission tickets, if the sale of such services is not exempt from VAT;
- 13) Natural gas;
- 14) First transfer of the right of disposition of residential buildings, economically divisible entreties within such buildings, as well as equity shares in such buildings (hereinafter: the apartment).

The Minister shall set out in greater detail what is meant for the purposes of this Law by the goods and services referred to in paragraph 2, items 1), 2a and 4), 6) and 4) through 12) of this Article.

## **VI. TAX EXEMPTIONS**

### **Tax Exemption in the Sale of Goods and Services with the Right to Deduct Input Tax**

#### **Article 24**

The VAT shall not be payable on the following:

- 1) Transport and other services associated with the import of goods, if the value of such goods is included in the base referred to in Article 19, paragraph 2, of this Law;
- 2) Sale of the goods which are dispatched or shipped abroad by the taxpayer or a third party on the instructions of the former;
- 3) Sale of the goods which are dispatched or shipped abroad by a foreign recipient or a third party on his instructions;
- 4) Sale of goods which a foreign recipient is dispatching abroad in the luggage carried by him, on condition that:
  - (1) Goods are dispatched prior to the expiration of three calendar months from the delivery of



such goods;

(2) The total value of delivered goods is greater than the dinar equivalent of €150 calculated at the National Bank of Serbia mean rate, including VAT:

5) Import of goods in a free zone for which the taxpayer – acquirer would have the right to input tax deduction, if it is obtaining such goods for the conduct of business outside the free zone;

6) Provision of transport and other services to the users of free zones, which are directly associated with the import of goods in the free zone referred to in item 5) of the present paragraph for which the taxpayer – recipient of service would have the right to input tax deduction, if it is using such services for the conduct of business outside the free zone;

6a) Dispatching goods to duty-free shops opened at the international airports provided with passport and customs control facilities, for the purpose of their being sold to passengers in conformity with customs regulations (hereinafter: duty-free shops), as well as delivery of goods from duty-free shops;

7) Services performed on the chattels acquired by a foreign recipient of services in the Republic or which are imported for the purpose of being refined, repaired or incorporated, after which they are carried or shipped abroad by the performer of services, foreign recipient or a third party on their instructions;

8) Transport and other services directly related to the export, transit or temporary import of goods, except for the goods exempt from VAT, without the right to tax deduction pursuant to this Law;

9) International passenger air transport services, where in the case of non-resident air companies, the tax exemption is subject to reciprocity;

10) Delivery of aircraft, servicing, repairs, maintenance, chartering and renting the aircraft that are used in international air traffic for a charge mainly, as well as the delivery, renting, repair and maintenance of the goods intended for equipping such aircraft;

11) Sale of goods and services intended to satisfy the direct needs of the aircraft referred to in item 10) of this paragraph;

12) International passenger transport services on river-faring ships, where in the case of non-resident companies engaged in international transport by river-faring ships, the tax exemption is subject to reciprocity;

13) Deliveries of ships, servicing, repair, maintenance and renting of the ships that are mainly used in international river transport for a charge, as well as deliveries, renting, repair and maintenance of goods intended for equipping such ships;

14) Sale of the goods and services intended to satisfy the direct needs of the ships referred to in item 13) of this 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, if so provided by international agreements;

(3) Personal needs of the foreign staff of diplomatic and consular missions, including their family members;

(4) Personal needs of foreign staff of international organisations, including their family members, if so provided by international agreements;

16a) Sale of goods and services carried out in conformity with donation agreements concluded with the State Union of Serbia and Montenegro or the Republic, which provide that tax is not to be paid from the funds obtained;

16b) Sale of goods and services carried out in conformity with credit and/or loan agreements concluded by the State Union of Serbia and Montenegro or the Republic with international financial organizations or other states or by third parties with international financial

organizations or other states, where the Republic of Serbia is the guarantor or counter-guarantor, if such agreements provide that tax is not to be paid from the funds thus obtained;

16c) Sale of goods and services carried out on the basis of international agreements, if such agreements provide for tax exemption, with the exception of the international agreements referred to in items 16a) and 16b) of the present paragraph;

17) Mediation services related to sale of the goods and services referred to in items 1) through

16) of this paragraph.

The tax exemption referred to in paragraph 1 of the present Article shall apply even if the price was collected wholly or partly before the sale.

The tax exemption referred to in paragraph 1, item 3) of this Article shall not apply to the sale of goods transported by a foreign recipient itself for the purpose of equipping or purveying sports vessels, sports aircraft and other means of transport for private needs.

The exemption referred to in paragraph 1, item 16), subitems (1) and (3) of this Article shall be subject to reciprocity, on the basis of a certificate issued by the ministry in charge of foreign affairs.

For the purposes of this Article, the following shall be deemed foreign recipients of goods and services:

1) A taxpayer whose head office is outside the Republic;

2) A person who is not a taxpayer and whose residence or head office is outside the Republic. The Minister shall prescribe the manner of and the procedure for exercising the right to tax exemption referred to in paragraphs 1 through 3 of this Article.

### **Tax Exemption in the Sale of Goods and Services without Right to Deduction of Input Tax**

#### **Article 25**

VAT shall not be payable in the money and capital transactions in the case of the following:

1) Operation and mediation in transactions involving legal tender, with the exception of bank notes and coinage which are not used as legal tender or are of numismatic value;

2) Operation and mediation in transactions involving shares, interests in companies and associations, bonds and other securities, with the exception of operations relating to the safekeeping and management of securities;

3) Credit transactions, including mediation, as well as loans in money;

3a) Services relating to the determination of credit worthiness of individuals and legal entities;

4) Taking on commitments, guarantees and other sureties, including mediation;

5) Operation and mediation in the business relating to deposits, current and transfer accounts, payment orders, as well as payment operations and remittances;

6) Operation and mediation in the business relating to receivables, checks, bills and other similar securities, with the exception of collection of debts on behalf of other persons;

7) Operation of investment fund management companies in conformity with the regulations dealing with investment funds;

8) Operation of optional pension fund management companies in conformity with the regulations dealing with optional pension funds and pension schemes.

VAT shall also not be payable on the sale of the following:

1) Insurance and reinsurance services, including the supporting services of the insurance intermediaries and agents;

2) Land (farming, forest, building, developed and non-developed), as well as leasing out such land;

3) Buildings, with the exception of the first transfer of the right of disposition of new buildings

or economically divisible entireties in such buildings, as well as the first transfer of an equity share in new buildings or economically divisible entireties in such buildings;

- 4) Apartment letting services, if they are used for housing purposes;
- 5) Interests, securities, postal orders, tax and other valid securities according to their printed value in the Republic, with the exception of the equity shares referred to in Article 4 of the present Law;
- 6) Postal services provided by public enterprises and related delivery of goods;
- 7) Services provided by public health establishments in accordance with public health service regulations, including care, board and lodging for patients in such institutions, with the exception of pharmacies and pharmacy-related establishments;\*
- 8) Services rendered by physicians, dentists or other persons providing services in accordance with public health service regulations;
- 9) Services and delivery of dental prosthetics in the dental technician domain, as well as delivery of dental prosthetics by dental surgeons;
- 10) Human organs, tissues, body liquids and cells, blood and mother's milk;
- 11) Services relating to social welfare, childcare and youth care, social welfare centre services, as well as directly related sale of goods and services by persons duly registered therefore;
- 12) Accommodation and meals for pupils and students in their hostels or similar establishments, as well as directly related sale of goods and services;
- 13) Services in the field of education (preschool, elementary, secondary, college and university) and vocational retraining, as well as directly related sale of goods and services by persons duly registered for the conduct of such business, if that business is conducted in accordance with the regulations dealing with that area;
- 14) Services in the field of culture and directly related sale of goods and services carried out by persons whose business is not geared to profit-making and who are duly registered for the conduct of such business;
- 15) Services in the field of science and directly related to them sale of goods and services by persons whose business is not geared to profit-making and who are duly registered for the conduct of such business;
- 16) Services of a religious nature provided by registered churches and religious communities and directly related to them sale of goods and services;
- 17) Public broadcasting services other than those of commercial nature;
- 18) Games-of-chance staging services;
- 19) Services provided in the field of sports and physical training to persons engaged in sports and physical training by persons whose business is not geared to profit making and who are duly registered for such business.

The Minister shall deal in greater detail with the way of and the procedure for exercising the right to the tax exemptions referred to in paragraph 2 Item 7), 11), 12), 13), 14), 15) and 18) of this Article.

### **Tax Exemptions in the Importing of Goods**

#### **Article 26**

VAT shall not be payable on the import of the following goods:

- 1) Goods the sale of which is exempt from VAT under Article 24, paragraph 1, items 13) through 16c) and Article 25, paragraph 1, items 1) and 2) and paragraph 2, items item 5) and 10) of this Law;
  - 1a) Goods imported on the basis of donation agreements or as humanitarian aid;
  - 1b) Exported goods which are being returned to the Republic as unsold or because of their non-compliance with the terms of contract or business arrangement on the basis of which

they were exported;

- 1c) Goods brought into duty-free shops in the scope of the customs clearance procedure;
- 2) Goods temporarily imported and then exported again in the scope of customs procedure, as well as put in the customs procedure for inward processing with deferment;
- 3) Goods temporarily exported in the scope of customs procedure and then imported again in unaltered state;
- 4) Goods allowed to be processed under customs surveillance in the scope of the customs procedure;
- 5) Goods in transit in the scope of customs procedure;
- 6) Goods allowed to be stored under customs surveillance in the scope of the customs clearance procedure;
- 7) Goods that are exempt from customs duty pursuant to Article 192 and Article 193, paragraph 1, item 6), of the Customs Law (RS Official Gazette , Nos. 73/03, 61/05, 85/05 and 62/06), with the exception of motor vehicle importing.

## **VII. INPUT TAX Definition**

### **Article 27**

The input tax shall be the amount of VAT assessed in the input stage of the sale of goods and services, which the taxpayer may deduct from the VAT owed.

### **Requirements for Deduction of Input Tax**

#### **Article 28**

The taxpayer may exercise the right to deduction of the input tax if the taxpayer uses the goods that are acquired in the Republic or imported, including the procurement of equipment, as well as buildings for the conduct of business and economically divisible entireties in such buildings (hereinafter: facilities for the conduct of business) or received services, for the sale of goods and services in the following cases:

- 1) If VAT is payable;
- 2) If such sale is exempt from VAT under Article 24 of this Law;
- 3) If such sale was made abroad, if such sale would have been eligible for deduction of input tax if it had been made in the Republic.

The taxpayer may exercise the right to deduction of input tax subject to its possession of the following:

- 1) An invoice issued by the other taxpayer in sale about the amount of input tax, in conformity with this Law;
- 2) Document on the effected import of goods, stating the input tax, i.e. confirming that the recipient or importer has paid the thus declared VAT on importing.

In the tax period in which the requirements referred to in paragraphs 1 and 2 of this Article have been met, the taxpayer may deduct the input tax from the VAT owed, including:

- 1) Assessed and declared VAT for the sale of goods and services, which has been or is to be made by the second taxpayer in the sale;
- 2) The VAT that has been paid when goods were imported.

The right to deduction of the input tax shall run from the date of fulfilment of the requirements referred to in paragraphs 1 through 3 of this Article.

The right to deduction of the input tax may also be exercised by a taxpayer referred to in Article

10, paragraph 1, items 2) and 3), of this Law on condition that the VAT has been paid on the goods and services received in conformity with this Law and that the received goods and services serve for the sale of goods and services referred to in paragraph 1 of this Article.

## **Non-eligibility for Input Tax Deduction**

### **Article 29**

The taxpayer shall not be eligible for deduction of input tax on the following grounds:

- 1) Procurement, production and import of motorcars, busses, motorcycles, watercraft and aircraft and spare parts, fuels and expendables for their needs, as well as renting, maintaining, repairing and other services related to the use of these means of transport;
- 2) Taxpayer's entertainment expenses;
- 3) Procurement or import of carpets, electrical household appliances, radio and television sets, works of fine and applied arts and other decorative items used for refurbishing office premises.

Notwithstanding the provision of paragraph 1, item s 1) of this Article, the taxpayer shall be eligible for deduction of input tax if it is using the means of transport and other goods exclusively for the conduct of the following business:

- 1) Selling and renting of the mentioned means of transport and other goods;
- 2) Transporting people or training drivers for the mentioned means of transport.

## **Input Tax Division and Proportional Tax Deduction**

### **Article 30**

If a taxpayer is using the delivered or imported goods or receiving services for the needs of its business, in order to sell the goods and services to which the right to deduction of input tax applies or in order to sell the goods and services to which the right to deduction of input tax does not apply, it shall divide the input tax according to economic affiliation into the portion it may deduct from the VAT owed and the portion it may not deduct from the VAT owed.

If a taxpayer is unable to divide the input tax in the way referred to in paragraph 1 of this Article in the case of some delivered or imported goods or received services, which it is using towards conducting its business, in order to sell the goods and services to which the right to deduction of input tax applies or in order to sell the goods and services to which the right to deduction input tax does not apply, it may deduct a proportionate part of the input tax that corresponds to the share of the sale of goods and services to which the right to deduction of input tax in which VAT is not included applies, in the total sales in which the VAT is not included (hereinafter: the proportionate tax deduction).

The proportionate tax deduction shall be worked out by applying the percentage of the proportionate tax deduction to the amount of input tax in the previous taxation period, less the amounts worked out in the way referred to in paragraph 1 of this Article, as well as the amount of input tax for which the taxpayer does not have the right to deduction as referred to in Article 29, paragraph 1, of this Law.

The percentage of proportional tax deduction for the tax period shall be established by relating the sale of goods and services to the right to deduction of input tax in which VAT is not included and the total sales of goods and services in which VAT is not included, effected from 1 January of the current year to expiration of the tax period for which the tax declaration is filed.

The sales of equipment and buildings used for the conduct of business shall not be included in the sale of goods for fixing the percentage of the proportionate tax deduction referred to in paragraph 4 of this Article.

In the last taxation period or the last taxation period of the calendar year, the VAT payer shall correct the proportionate tax deduction by applying the percentage of the proportionate tax deduction to the amount of previous tax from all taxation periods in the calendar year.

The Minister shall set in greater detail the way of working out and correcting the proportionate tax deduction.

## **Correction of Input Tax Deduction when the Base is Changed**

### **Article 31**

If the base of taxable sales of goods and services has been changed, the taxpayer to whom goods and services have been sold shall correct in accordance with that change, the input tax deduction it had enjoyed on such grounds.

The correction of input tax deduction referred to in paragraph 1 of this Article shall also apply to the recipient of goods or services referred to in Article 10, paragraph 1, items 2) and 3) of this Law.

The correction of the input tax deduction referred to in paragraph 1 of this Article shall also be carried out on the basis of a verified copy of the record of the court settlement, pursuant to Article 21, paragraphs 3 and 5, of this Law

If the VAT on imported goods, which was deducted as input tax, is decreased or refunded or the taxpayer has been exempted from paying it, the taxpayer shall correct the input tax deduction accordingly on the basis of a customs document or customs authorities' decision.

The input tax deduction shall be corrected in the tax period in which the base was changed.

### **Correction of Input Tax Deduction in the Case of Equipment and Buildings Serving for Business Purposes**

#### **Article 32**

The taxpayer who has exercised the right to input tax deduction for equipment and buildings serving for business purposes, shall correct the input tax deduction if it stops fulfilling the requirements for the exercise of that right, within five years from the moment of first use of the equipment and/or within ten years from the moment of first use of the building.

The correction of the input tax deduction shall be made for a period that is equal to the difference between the terms referred to in paragraph 1 of this Article and the period in which the taxpayer has been fulfilling the requirements for exercising the right to input tax deduction.

Notwithstanding the provision of paragraph 1 of this Article, the taxpayer need not correct the input tax deduction in the case of sale of equipment for use in the conduct of a business, as well as in the case of transfer of title to the property referred to in Article 6, paragraph 1, item 1) of the present Law or to a part of it.

In the case of a transfer referred to in Article 6, paragraph 1, item 1), of this Law, the time limits referred to in paragraph 1 of this Article shall not cease to run.

The transferor of property referred to in paragraph 4 of this Article shall make available to the transferee the data necessary for the correction referred to in paragraph 1 to be made.

The property acquirer referred to in paragraph 4 of the present Article shall correct the input tax deduction to which the transferor of property is entitled for the buildings and equipment, if it no longer meets the requirements for input tax deduction.

The Minister shall set out in greater detail what is meant by the equipment and buildings serving for the conduct of business in the meaning of this Law, as well as the way of making the correction of the input tax deduction.

## **VIII SPECIAL TAXATION PROCEDURE Petty Taxpayers**

### **Article 33**

A person whose total sales of goods and services, with the exception of those relating to equipment and building serving for the conduct of business (hereinafter: the total sales) amounted to less than 4,000,000 dinars in the last 12 months or who at the start up of his business reckons that he will not effect sales exceeding 2,000,000 dinars in the next 12 months (hereinafter: the petty taxpayer), need not compute the VAT on the sales of goods and services.

A petty taxpayer shall not have the right to state the VAT in the bills or other documents or be eligible for input tax deduction and need not keep the records required by this Law.

A petty taxpayer whose sales totalled more than 2,000,000 dinars in the last 12 months or

who is expecting them to total as much as that in the next 12 months may opt for payment of VAT at the beginning of the calendar year by filing a VAT registration form (hereinafter: the registration form) in conformity with the present Law with the competent tax office by 15 January of the current year at the latest.

In a case referred to in paragraph 3 of this Article, the obligation to pay VAT shall run for at least two calendar years.

Upon the expiration of the term referred to in paragraph 4 of this Article, the taxpayer may file an application for termination of his duty to pay VAT with the competent tax office prior to the expiration of the term set for filing the first interim tax declaration for the current calendar year, by 15 January of the current year at the latest.

### **Farmers**

#### **Article 34**

The payers of tax on personal income accruing from farming and forestry on the basis of cadastral revenue (hereinafter: the farmers) shall have the right to an allowance based on the VAT (hereinafter: the VAT allowance), on the conditions and in the way provided by this Law. The farmers who sell produce, forest products and/or farming services to taxpayers shall be entitled to the VAT allowance.

If farmers are selling the goods and services referred to in paragraph 2 of this Article, the taxpayer shall calculate the VAT allowance at the rate of 5% of the value of the goods and services received and issue a document to that effect (hereinafter: the receipt), as well as pay the calculated VAT compensation to farmers in money (in a current account, savings account or in cash).

The taxpayers referred to in paragraph 3 of this Article shall have the right to deduct the VAT allowance as input tax, on condition that such allowance has been paid to farmers.

A farmer may opt at the beginning of a calendar year for the obligation to pay the VAT, by filing the registration form prescribed by this Law with the competent tax office by 15 January of the current year, on condition that in the last 12 months, he has sold produce, forest products and/or farming services totalling at least 2,000,000 dinars in value.

In a case referred to in paragraph 6 of this Article, the obligation to pay VAT shall run for at least two calendar years.

Upon the expiration of the term referred to in paragraph 6 of this Article, the farmer concerned may file with the competent tax office the application for termination of his obligation to pay VAT, by 15 January of the current year.

### **Tourist Agency**

#### **Article 35**

For the purposes of the present Law, a tourist agency shall mean a taxpayer that provides tourist services to travellers acting in its own name in relation to them and receives goods and services for travel organization purposes from other taxpayers, which are used by travellers directly (hereinafter: the input tourist services).

For the purposes of this Law, the tourist services provided by a tourist agency shall be deemed a single service.

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

The base for the single tourist service provided by a tourist agency shall be the amount representing the difference between the total amount paid by the traveller and the actual costs paid by the tourist agency for the input tourist services, less the VAT already included in that difference.

In the cases referred to in Article 5, paragraph 4, of this Law, the value referred to in paragraph

4 of this Article, shall be the value referred to in Article 18 of this Law.

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

A tourist agency may not state the VAT in bills or other documents for the tourist services referred to in paragraph 1 of this Article and it shall not be eligible for input tax deduction on the basis of the input tourist services stated in the bill.

### **Second-hand Goods, Works of Art, Collector Pieces and Antiques**

#### **Article 36**

The taxpayers engaged in the sale of second-hand goods, including second-hand motor vehicles, works of art, collector goods and antiques, shall determine the base as the difference between the sale and purchase price of the goods involved (hereinafter: taxation of difference), less the VAT deduction included in that difference.

The tax base referred to in paragraph 1 of this Article shall apply if on the procurement of goods, their supplier did not owe any VAT or did not use the taxation of the difference referred to in paragraph 1 of this Article.

In the cases referred to in Article 4, paragraph 4, of this Law, the value referred to in Article 18 of this Law shall be deemed the selling price serving for the calculation of difference.

In the sale of the goods referred to in paragraph 1 of this Article, the taxpayer may not state the

VAT in the bills and other documents and shall not be eligible for the input tax deduction.

The Minister shall set out in greater detail what is meant by a work of art, a collector piece and an antique as referred to in paragraph 1 of this Article.

### **IX DUTIES OF TAXPAYERS IN THE SALE OF GOODS AND SERVICES**

#### **Article 37**

It shall be the duty of a taxpayer to do as follows:

- 1) Present the registration form;
- 2) Issue bills for the goods and services sold;
- 3) Keep records in accordance with this Law;
- 4) Assess and pay the VAT and file tax declarations.

#### **Keeping Records of VAT Payers and their Deletion from Records**

#### **Article 38**

A taxpayer whose sales totalled more than 4,000,000 dinars in the previous 12 months shall file with the competent tax office an application for registration before expiration of the first deadline for filing the interim tax declaration.

The registration form shall also be filed by any taxpayer who at the start up of his business is of the opinion that its sales will exceed 4,000,000 dinars in the next 12 months, by the deadline referred to in paragraph 1 of the present Article.

The competent tax office shall issue to the taxpayer the VAT certificate of registration.

The taxpayer shall notify the competent tax office in writing of any changes in the data stated in the registration form within five days from the date of change.

The taxpayer shall state his tax identification number (TIN) in all documents in conformity with this Law.

#### **Article 39**

At the request of a taxpayer referred to in Article 33, paragraph 3, and Article 34, paragraph 5, of this Law for termination of the obligation to pay VAT, the competent tax office shall institute the procedure for and issue the certificate of deletion from the VAT records.

Having conducted the procedure, the competent tax office shall delete the taxpayer from the VAT records ex officio if the sales of the taxpayer concerned totalled less than 2,000,000 dinars in the previous calendar year and issue the certificate referred to in paragraph 1 of this Article



#### **Article 40**

Prior to being deleted from the register of businesses or some other register provided by law (hereinafter: the register) kept by the authority responsible for keeping registers, the taxpayer who withdraws from business shall file with the competent tax office a request for being deleted from the records of the VAT payers, within 15 days prior to being deleted from the register.

The competent tax office shall conduct the procedure for and issue the certificate of deletion from the VAT records.

The authority competent for keeping the registers may not delete a taxpayer from the appropriate register without the certificate referred to in paragraph 2 of this Article.

The certificate referred to in Article 38, paragraph 3, and paragraph 2 of this Article shall include the following data:

- 1) Name and address of taxpayer;
- 2) Date of the certificate of registration for VAT or date of deletion from VAT records;
- 3) Tax identification number (hereinafter: TIN);
- 4) Date of starting up business, registration for VAT and/or deletion from the VAT records.

The competent tax office shall keep a record of all taxpayers who have been issued the certificates referred to in paragraph 4 of this Article.

#### **Article 41**

The Minister shall prescribe the registration form and the procedure for entering the payers of VAT in the records and deleting them from such records.

#### **Issuance of Bills**

#### **Article 42**

The taxpayer shall issue a bill or some other document serving as a bill (hereinafter: the bill) for any sale of goods and services to other taxpayers.

The duty to issue the bill referred to in paragraph 1 of this Article shall be performed even if the taxpayer collects the price wholly or partly before the sale of goods and services is effected (advance payment), provided that the advances that include VAT are deducted in the final bill.

The bill shall include the following data in particular:

- 1) Name, address and TIN of the bill issuing taxpayer;
- 2) Place and date of issue and serial number of the bill;
- 3) Name, address and TIN of the bill receiving taxpayer;
- 4) Kind and quantity of delivered goods or kind and volume of services provided;
- 5) Date of sale of goods and services and amount of advance payment;
- 6) Tax base;
- 7) Tax rate applied;
- 8) Amount of the VAT computed against the base;
- 9) Note about tax exemption.

The bill shall be issued in at least two copies, of which one shall be retained by the bill issuer and the rest be presented to the recipient of goods and services.

#### **Article 43**

The bill referred to in Article 42, paragraph 1, of this Law shall also serve as an accounting document issued by the taxpayer as the recipient of goods and services, on the basis of which the price of the goods and services is computed in the following cases:

- 1) If the goods and services receiving taxpayer has the right to state the VAT in the bill;
- 2) If there is an agreement between the accounting document issuing and receiving taxpayers that the sale of goods and services should be accounted by the recipient of goods

and services;

3) If the accounting document has been presented to the taxpayer who has delivered the goods or services;

4) If the taxpayer who has delivered the goods and services has agreed in writing with the stated VAT.

#### **Article 44**

Should a taxpayer state in the bill for delivered goods and services the VAT in an amount that is higher than that owed under this Law, he shall pay the stated amount of tax, until he makes the correction for VAT in a new bill.

Article 21, paragraph 7, of this Law shall be applied when making a correction pursuant to this Law.

A person who states the VAT in a bill or some other document and is not a VAT payer or who has not effected a sale of goods and services or does not have the right to state the VAT, shall be in debt for the VAT stated.

#### **Article 45**

The Minister shall specify the cases in which bills need not be issued or certain data may be omitted in the bill and in which the bill issuing procedure may be simplified additionally.

#### **Duty to Keep Records**

#### **Article 46**

For the sake of proper assessment and payment of the VAT, the taxpayer shall keep such records as will allow the checking up to be done.

The Minister shall deal in greater detail with the form, contents and way of keeping records.

#### **Article 47**

The taxpayer shall keep the records referred to in Article 46 of this Law for at least 10 years from the end of the calendar year to which the records relate.

#### **Taxation Period, Tax Declaration Filing, VAT Assessment and Payment**

#### **Article 48**

The taxation period, for which VAT is assessed, the tax declaration is filed and VAT is paid, shall be a calendar month in the case of a taxpayer whose sales totalled more than 20,000,000 dinars in the previous 12 months or who reckons that his sales will total more than 20,000,000 dinars in the next 12 months.

The taxation period, for which the VAT is assessed, the tax declaration is filed and the VAT is paid, shall be a calendar quarter in the case of a taxpayer whose sales totalled less than 20,000,000 dinars in the previous 12 months or who reckons that his sales will total less than 20,000,000 dinars in the next 12 months.

In the case of a taxpayer referred to in paragraph 2 of this Article, whose sales exceeded 20,000,000 dinars in a calendar quarter, the taxation period shall be a calendar month starting from the month following the calendar quarter.

The taxpayer referred to in paragraph 2 of this Article may file with the competent tax office a request for the taxation period to be changed to a calendar month, by 15 January of the current calendar year at the latest.

The validity of the approved period referred to in paragraph 3 of this Article shall run for at least 12 months.

In the case of the taxpayers who are starting up a business for the first time in the current calendar year, the taxation period shall be one calendar month in the current and the next taxation year.

#### **Article 49**

A taxpayer shall assess the VAT for the appropriate taxation period on the basis of the total

sales of goods and services effected in that period, if they are taxable pursuant to Article 16 of this Law and the taxpayer is also a tax debtor.

The corrections referred to in Article 21 and Article 44, paragraph 1, of this Law shall also be taken into account in assessing the VAT.

The VAT computed pursuant to paragraphs 1 and 2 of this Article shall be reduced by the amount of the input tax in conformity with Articles 28, 30 and 34 of this Law.

The corrections referred to in Articles 31 and 32 of this Law shall also be taken into account in assessing the input tax referred to in paragraph 3 of this Article.

The VAT on imported goods shall be deducted from the VAT in the period in which it was paid. Notwithstanding the provisions of paragraph 1 of this Article, in the case of transport of passengers by bus carried out by foreign taxpayers, in the course of which the state border is crossed, the competent customs office shall assess the VAT for each transport individually (hereinafter: individual transport taxation), subject to reciprocity.

#### **Article 50**

The taxpayer shall file the tax declaration with the competent tax office on the prescribed form, within 10 days from expiration of the taxation period.

The taxpayer shall file the tax declaration regardless of whether he is obliged to pay VAT in the taxation period or not.

The tax debtors referred to in Article 10, paragraph 1, items 2) and 3) and Article 44, paragraph 3, of this Law shall also file tax declarations.

The tax declaration referred to in paragraph 3 of this Article shall be filed for the taxation period in which the VAT liability occurred, within the term referred to in paragraph 1 of this Article

#### **Article 51**

The taxpayer shall pay for each taxation period the VAT that is equal to the positive difference between the total amount of tax liability and the amount of input tax, within the term set for filing the tax declaration referred to in Article 50, paragraph 1, of this Law.

The duty to pay VAT also applies to the other tax debtors referred to in Article 10, paragraph 1, items 2) and 3) and Article 44, paragraph 3, of this Law.

### **X TAX REFUND, REIMBURSEMENT AND RESTITUTION**

#### **Tax Refund**

#### **Article 52**

If the amount of the input tax is higher than the tax payable, the taxpayer shall have the right to be refunded the difference.

If the taxpayer does not opt for the refund referred to in paragraph 1 of this Article, the difference shall be recognized as a tax credit.

The taxpayer may request a reimbursement for the non-utilised amount of the tax credit referred to in paragraph 2 of this Article by filing a request therefore not before the expiration of the term for filing the tax declaration for the current taxation period

The refund referred to in paragraphs 1 and 3 of this Article shall be paid within 45 days or 15 days, in the case of taxpayers who sell goods mainly abroad, upon the expiration of the term for filing the tax declaration, or the filing date of the request referred to in paragraph 3 of this Article.

The Government of the Republic of Serbia shall set the criteria for establishing pursuant to this Law what is meant by selling goods abroad mainly.

The Minister shall set out in greater detail the procedure for exercising the right to the VAT refunding, as well as the procedure and conditions for the reimbursement of VAT instead of tax credit.

#### **VAT Reimbursements to Foreign Taxpayers**

### **Article 53**

Any foreign taxpayer who is exhibiting at trade fairs in the Republic shall have the right to VAT reimbursement, subject to reciprocity, on the following conditions:

- 1) That it is not selling goods and services in the Republic;
- 2) That it has paid the bill.

The foreign taxpayer concerned shall attach to the application referred to in paragraph 1 of the present Article the certificate issued by the competent tax office of the country in which it is registered as a VAT payer.

VAT may be reimbursed to any foreign taxpayer for the goods delivered or services provided to it in the Republic, including:

- 1) Renting, putting in order, construction and repair of the exhibition space;
- 2) Goods required for putting the exhibition space in order;
- 3) Exhibition space power, water and gas supply and heating, cooling, telephone and telecommunication connections;
- 4) Parking;
- 5) Accommodation services.

### **Humanitarian Organisations**

#### **Article 54**

The right to the VAT reimbursement may be exercised on request by registered humanitarian organisations in the case of goods delivered to them in the Republic, on condition that:

- 1) The sale of goods is taxable;
- 2) The VAT on the delivered goods is stated in the bill, in accordance with Article 42 of this Law, as well as that the bill has been paid;
- 3) The purchased goods must be dispatched abroad, where they are to be used for humanitarian, charitable or educational purposes.

### **Traditional Churches and Religious Communities**

#### **Article 55**

The right to the VAT reimbursement may be exercised on request by traditional churches and religious communities: Serbian Orthodox Church, Islamic Community, Catholic Church, Slovakian Evangelist Church a.v, Hebrew Community, Reformist Christian Church and Evangelist Christian Church a.v. (hereinafter: the traditional churches and religious communities), for the goods delivered to them in the Republic or being imported by them, as well as for the services rendered to them, on condition that:

- 1) The sale of goods and services and import of good are taxable;
- 2) The VAT on the delivered good and/or services provided is stated in the bill, in accordance with Article 42 of this Law, as well as that the bill has been paid and/or the VAT owed on the basis of import of goods has been paid beforehand;

### **VAT Reimbursement to Diplomatic & Consular Missions and International Organisations**

#### **Article 55a**

If a diplomatic or consular mission or an international organization or a person referred to in Article 24, paragraph 1, item 16), of this Law does not decide to procure or import goods or receive services intended for their official or personal needs free of tax, it shall have the right to reimbursement of the VAT.

The persons referred to in paragraph 1 of this Article may enjoy the right to VAT reimbursement on request, under the conditions set for tax exemption in the following cases:

- 1) If the deliveries or import of goods or provision of services are subject to VAT;
- 2) If VAT on the sale of goods and services is stated in the invoice in conformity with this Law

and the invoice and the VAT owed for imported goods have been paid;

3) If the total value of goods or services declared in the invoice or the value declared in the customs clearance document is greater than EUR 50 without VAT, except in the case of purchasing motor vehicle fuels.

### **VAT Reimbursement to Foreign Citizens**

#### **Article 56**

The VAT reimbursement shall be carried out under the conditions referred to in Article 24, paragraph 1, item 4), of this Law, on request of a foreign citizen who is not a taxpayer and is not a resident of the Republic.

### **VAT Restitution to the Buyer of First Apartment**

#### **Article 56a**

Any individual of legal age who is a citizen of the Republic and its resident, who is buying his/her first apartment (hereinafter: the buyer of first apartment) shall have the right to restitution of VAT on buying the first apartment.

The buyer of first apartment shall have the right to VAT restitution as referred to in paragraph 1 of this Article on the following conditions:

1) That he/she has not been the owner or co-owner of an apartment in the territory of the Republic from 1 July 2006 to the date of verification of the sales contract on the basis of which he/she is acquiring the first apartment;

2) That the contract price of the apartment has been paid to the seller fully.

The right to VAT restitution as referred to in paragraph 1 of the present Article may be exercised for an apartment the floor area of which is up to 40 m<sup>2</sup> for the buyer of first apartment and up to 15 m<sup>2</sup> per member of his/her family, who was not the owner or co-owner of an apartment in the territory of the Republic in the period referred to in paragraph 2, item 1), of the present Article.

If a buyer of first apartment is buying an apartment the floor area of which is greater than the floor area for which he/she has the right to VAT restitution pursuant to paragraph 3 of the present Article, he/she may exercise the right to VAT restitution in the amount corresponding to the apartment floor area referred to in paragraph 3 of the present Article.

For the purposes of paragraph 3 of the present Article, the family household of a buyer of first apartment shall be understood to mean a union of living, working and spending the income of the buyer of first apartment, his/her spouse, his/her children, his/her adoptees, children of his/her spouse, his/her spouse's adoptees, his/her parents, his/her adoptive parents, parents of his/her spouse, adoptive parents of the buyer's spouse having the same residence as the buyer of first apartment.

The following shall not have the right to VAT restitution as referred to in paragraph 1 of the present Article:

1) A buyer who has exercised the right to VAT restitution on buying the first apartment;

2) A member of the family household of the buyer of first apartment on account of whom the buyer of first apartment has exercised the right to VAT restitution, when such member of the family household is buying an apartment;

3) A buyer of an apartment who has acquired the first apartment without the seller's obligation to pay tax on the transfer of absolute rights on the basis of buying the first apartment in conformity with the law dealing with property tax;

4) A member of the family household of the buyer of first apartment who has acquired the first apartment without the seller's obligation to pay tax on the transfer of absolute rights on the basis of buying the first apartment in conformity with the law dealing with property tax, for whom such tax exemption has been exercised.

Having conducted the required procedure, the competent tax office shall render a decision restituting the VAT to the buyer of first apartment.

The competent tax office shall keep a record of the buyers of first apartment and members of the family household of the buyers of first apartment for which the buyers of first apartment have exercised the right to VAT restitution, as well as the amount of restitution.

#### **Article 57**

The Minister shall set out in greater detail the way of and the procedure for effecting the tax reimbursement and restitution referred to in Articles 53 through 56a of this Law, as well as what is meant by goods and services directly associated with a religious activity pursuant to Article 55 of this Law

### **XI SPECIAL REGULATIONS DEALING WITH THE IMPORT OF GOODS**

#### **Article 58**

The customs regulations shall apply to the VAT on imported goods, unless otherwise provided by this Law.

#### **Article 59**

The customs office conducting the customs clearance procedure shall be competent for the assessment and collection of VAT, unless otherwise provided by this Law.

### **XII PENAL PROVISIONS**

#### **Article 60**

Any taxpayer having the status of a legal entity shall be fined 100,000 to 1,000,000 dinars for breach of regulations in the following cases:

- 1) If it fails to perform the duties provided by this Law (Article 10, paragraph 2);
- 2) If it fails to correct the amount of the VAT owed or assess the VAT in the event of the tax base being changed (Article 21);
- 3) If it exercises the right to the input tax deduction without having the documents necessary therefore (Article 28, paragraph 2);
- 4) If it deducts the input tax on the delivery of goods and provision of services without having the right to do so (Article 29, paragraph 1);
- 5) If it fails to correct the input tax deduction (Article 31);
- 6) If it fails to correct the input tax deduction for the equipment and buildings serving for the conduct of business (Article 32, paragraph 1 through 3);
- 7) If it fails to present to the transferee the data necessary for adjusting the input tax (Article 32, paragraph 5);
- 8) If it states the VAT on a bill or similar document or deducts the input tax without having the right to do so (Article 33, paragraph 2, Article 35, paragraph 7);
- 9) If it deducts the amount of the VAT benefit as the input tax and has not paid that compensation (Article 34, item 4);
- 10) If it fails to issue a bill (article 37, item 2), and Article 42);
- 11) If it fails to keep the required records (Article 37, item 3), and Article 46);
- 12) If it fails to assess the VAT (Article 37, item 4), and Article 49);
- 13) If it fails to pay the VAT within the set term (Article 37, item 4), and Article 51);
- 14) If it fails to file the registration form within the set term (Article 38, paragraph 1, and Article 63);
- 15) If it fails to notify the tax office of any change in the data in its registration form or of its withdrawal from business (Article 38, paragraph 4, and Article 40, paragraph 1);
- 16) If it fails to state its TIN in all documents determined by this Law (Article 38, paragraph 5);
- 17) If it fails to keep records for the prescribed period (Article 47);

The person responsible in the legal entity concerned for a breach of regulations referred to in paragraph 1 of this Article shall also be fined 10,000 to 50,000 dinars.

Any entrepreneur proprietor shall be fined 12,500 to 500,000 dinars for any breach of regulations referred to in paragraph 1 of this Article.

Any taxpaying individual shall be fined 5,000 to 50,000 dinars for a breach of regulations referred to in paragraph 1 of this Article.

The responsible person in a law court, local self-government agency, the bar, professional association and any other agency or organization competent for registration, shall be fined 10,000 to 50,000 dinars, if he/she deletes a taxpayer from the appropriate public register without the certificate referred to in Article 40, paragraph 3, of this Law.

#### **Article 60a**

A tax debtor – legal entity who is not a taxpayer shall be fined 100,000 to 1,000,000 dinars for breach of regulations in the event of its failure to pay the VAT within the prescribed term (Article 51, paragraph 2).

The responsible person in a legal entity for the breach of regulations referred to in paragraph 1 of this Article shall also be fined from 10,000 to 50,000 dinars.

A tax debtor – entrepreneur who is not a taxpayer shall be fined 12,500 to 500,000 dinars for the breach of regulations referred to in paragraph 1 of this Article.

A tax debtor – individual who is not a taxpayer shall be fined 5,000 to 50,000 dinars for the breach of regulations referred to in paragraph 1 of this Article.

### **XIII TRANSITIONAL REGIME**

#### **Article 61**

The Government of the Republic of Serbia shall regulate the enforcement of this Law in the territory of the Autonomous Province of Kosovo and Metohija for the duration of validity of the UN Security Council Resolution Number 1244.

### **XIV TRANSITIONAL AND CONCLUDING PROVISIONS**

#### **Article 62**

The provisions of this Law shall apply to all sales of goods and services and imports of goods as of 1 January 2005.

If a taxpayer has paid the sales tax on issued bills or received advances by 31 December 2004 inclusive and the sales of goods and services were effective as of 1 January 2005, the taxpayer may reduce the tax debt in the taxation period by the amount of paid sales tax.

If goods or services are delivered/provided in parts pursuant to Article 14, paragraph 4, and Article 15, paragraph 3, of this Law, the provisions of this Law shall apply to the goods and services sales effected from 1 January 2005 onwards and the provisions of the law governing the sales tax, to those effected by 31 December 2004.

Taxpayers shall make lists of the issued bills and the received advances referred to in paragraph

2 of this Article and present them to the competent tax office by 15 January 2005.

#### **Article 63**

A person whose sales of goods and services totalled more than 2,000,000 in the 12 months preceding the filing of the registration form referred to in Article 37, item 1), of this Law or who reckons that its total sales of goods and services are going to exceed that sum in the next 12 months, shall file the VAT registration form with the competent tax office by 30 September 2004 at the latest.

A person whose sales of goods and services totalled more than 1,000,000 dinars in the 12 months preceding the filing of the registration form referred to in paragraph 1 of this Article or who reckons that its sales of goods and services are going to exceed that sum in the next 12 months, may file the registration form with the competent tax office by 30 September 2004 at the latest.

#### **Article 64**

The persons who are the payers of VAT under this Law shall take an inventory on 31 December 2004 of all existing stocks of tobacco products, alcoholic beverages, coffee, engine petrol, diesel fuel and heating oil intended for further sale and work out the amount of sales tax relating to such stocks which was assessed on delivery and paid through the purchase price or on import.

The taxpayer concerned may use as input tax the established amount of tax referred to in paragraph 1 of this Article in conformity with the provisions of this Law, if it uses such products in the sale of goods and services and is eligible for input tax deduction.

The input tax deduction referred to in paragraph 2 of this Article may be effected in the amount that is proportional to the effected sales of goods and services in the future taxation periods.

The taxpayer shall not be eligible for the refunding of the established sales tax referred to in paragraph 1 of this Article.

The taxpayer concerned shall present the inventory lists referred to in paragraph 1 of this Article, as well as the list of suppliers and import customs declarations, to the competent tax office by 15 January 2005 at the latest.

The Minister shall deal in greater detail with the way of exercising the right to the deduction of sales tax as input tax.

#### **Article 65**

The persons who are the payers of VAT under this Law shall take an inventory on 31 December

2004 of the newly erected buildings and buildings under construction.

The newly erected buildings that have not been handed over or paid for by 31 December 2004 shall be taxed in conformity with the law dealing with property tax.

As for buildings under construction, which are to be handed over as of 1 January 2005, their value shall be established as on 31 December 2004 and they shall be taxed in conformity with the law dealing with property tax.

The value of the buildings referred to in paragraph 3 of this Article as on 1 January 2005 shall be taxed in conformity with this Law.

The taxpayer shall present the inventory lists referred to in paragraph 1 of this Article to the competent tax office by 15 January 2004 at the latest.

#### **Article 66**

The provisions of the Sales Tax Law (RS Official Gazette, Nos. 22/01, 73/01, 80/02 and 70/03)

shall apply to the assessment and payment of goods and services sales tax payable by 31 December 2004.

#### **Article 67**

This Law shall supersede on its effective date the Value Added Tax Law (FRY Official Gazette, Nos. 74/99, 4/00, 9/00, 69/00 and 70/01).

The validity of the Sales Tax Law (RS Official Gazette, Nos. 22/01, 73/01, 80/02 and 70/03) and the regulations enacted on the basis of that law shall expire on 1 January 2005 and the Ordinance on the Mode of Registering Sales with the Means of Fiscal Memory Cash Registers and the Schedule of Introducing such Cash Registers (RS Official Gazette, Nos. 5/03, 39/03,

72/03, 20/04 and 31/04) and the regulations enacted on the basis of it, shall be applicable until the beginning of application of the law governing the introduction and recording sales with the means of fiscal cash registers.

#### **Article 68**

This Law shall come into force on the eighth day upon its publication in the Republic of Serbia



Official Gazette and be applicable as of 1 January 2005, with the exception of Article 37, item 1), Article 63, and the provisions of this Law containing authorisations for the enactment of regulations, which shall be applicable as of the effective date of this Law.

\* \* \*

## **AMENDED 61/2007 PROVISIONS NOT INTEGRATED IN THE TEXT**

### **Article 25**

»A taxpayer whose total turnover in goods and services, excluding the turnover in equipment and building effected for the purpose of conducting business (hereinafter: the total turnover) amounted to less than 2,000,000 dinars in 2007, need assess and pay the VAT on the turnover in goods and services as of 1 January 2008.

### **Article 26**

A taxpayer whose total turnover in 2007 amounted to more than 2,000,000 and less than 4,000,000 dinars may opt for assessing and paying the VAT, if it presents to the competent tax office a notice in writing within the term set for filing the tax declarations for the 2007 taxation period.

The notice in writing referred to in paragraph 1 of this Article shall include the following:

- 1) Name, address and TIN of the taxpayer;
- 2) Place and date of the notice;
- 3) Turnover effected in 2007.

The taxpayer referred to in paragraph 1 of this Article who has failed to present the notice in writing to the competent tax office within the term set in paragraph 1 of this Article, need not work out and pay VAT for the turnover in goods and service as of 1 January 2008.

### **Article 27**

The taxpayers referred to in Articles 25 and 26, paragraph 3, of this Law shall make an inventory of the assets on the procurement of which it had exercised the right to input tax deduction, as on 31 December 2007, including:

- 1) Stock of assets procured as of 1 January 2005;
- 2) Equipment and buildings used in the conduct of business for which the input tax deduction has to be corrected as on 1 January 2008;
- 3) Assets, other than the assets referred to in items 1) and 2) of this paragraph, which have been acquired as of the effective date of this Law.

The taxpayer referred to in paragraph 1 of this Article shall determine the amount of input tax deduction for the assets referred to in paragraph 1, items 1) and 3) of this Article, correct the input tax deduction for the assets referred to in paragraph 1, item 2), of this Article and determine the amount of corrected input tax deduction in conformity with law.

The taxpayer shall present to the competent tax office the inventory lists referred to in paragraph 1 of this Article by 20 January 2008 at the latest.

The taxpayer shall pay the assessed input tax deduction and the amount of corrected input tax deduction as referred to in paragraph 2 of this Article by 20 February 2008.

The minister in charge of finance shall set out the contents of the inventory lists referred to in paragraph 1 of this Article and the way of assessing the amount of input tax deduction as referred to in paragraph 2 of this Article.

### **Article 28**

Any taxpaying legal entity shall be fined 100,000 to 1,000,000 dinars for breach of regulations in the following cases:

- 1) If it fails to determine the amount of actual and the amount of corrected input tax

(Article 27, paragraph 2, of this Law);

2) If it fails to present the inventory lists within the prescribed term (Article 27, paragraph 3, of this Law);

3) If it fails to pay the determined actual amount and corrected amount of input tax deduction within the prescribed term (Article 27, paragraph 4, of this Law).

The responsible person in a legal entity for the breach of regulations referred to in paragraph 1 of this Article shall also be fined 10,000 to 50,000 dinars.

Any taxpaying entrepreneur shall be fined 12,500 to 500,000 dinars for the breach of regulations referred to in paragraph 1 of this Article.

Any taxpaying individual shall be fined 5,000 to 50,000 dinars for the breach of regulations referred to in paragraph 1 of this Article.

#### **Article 29**

The right to the VAT restitution as referred to in Article 22 of this Law may be exercised only on the basis of apartment contracts of sale verified as of the effective date of this Law.

#### **Article 30**

The minister in charge of finance shall enact the regulation referred to in Article 27, paragraph 5, of this Law within 90 days from the effective date of this Law.

#### **Article 31**

The provisions of Article 11, Article 12, paragraph 2, Article 14, paragraphs 1 and 2, and Article 15 of this Law shall be applicable as of 1 January 2008.

#### **Article 32**

This Law shall come into force on the eighth day upon its publication in the Republic of Serbia Official Gazette. «