

TAX HIGHLIGHTS



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NOVI PRAVILNIK O POREZU NA DODATU VREDNOST

U Službenom glasniku br. 37/21 objavljen je novi Pravilnik o porezu na dodatu vrednost (u daljem tekstu: Pravilnik) koji predstavlja objedinjeni pravilnik koji zamenjuje 27 pojedinačnih pravilnika iz oblasti PDV koji su sada u primeni uz uvođenje određenih izmena, detaljnijih pojašnjenja i dopuna postojećih odredbi.

Novi Pravilnik o porezu na dodatu vrednost je stupio na snagu 22. aprila 2021. godine, dok je primena odredaba ovog Pravilnika odložena za 1. jul 2021. godine.

U nastavku dajemo pregled najznačajnijih izmena i dopuna.

PRENOS CELOKUPNE ILI DELA IMOVINE

- Početkom primene ovog Pravilnika donosi se izmena koja predviđa da se poslovnom celinom smatra celina čijim se prenosom sticaoocu omogućava da samostalno obavljanje delatnosti koju je obavljao prenosilac celine. Naime, prema novom pravilu za poresko izuzimanje više ne postoji uslov da prenosiocu imovine u momentu prenosa bude onemogućeno da obavlja tu delatnost.

ZAMENA DOBARA KOJA SU U GARANTNOM ROKU

- Zamenom dobara u garantnom roku ne smatra se zamena rezervnih delova i slično u okviru popravke, odnosno servisa određenog dobra.

POSLOVNI UZORCI

Bliže su definisani pojmovi uobičajene količine poslovnih uzoraka i poslovni uzorci +:

- **Uobičajenom količinom** poslovnih uzoraka koji se bez naknade daju kupcima ili potencijalnim kupcima, smatra se ona količina poslovnih uzoraka koja je potrebna da se kupci ili potencijalni kupci upoznaju sa karakteristikama određenog dobra.

NEW RULEBOOK ON VALUE ADDED TAX

In the Official Gazette no. 37/21, a new Rulebook on Value Added Tax (hereinafter: the Rulebook) was published. It is a unified rulebook that replaces 27 individual rulebooks in the field of VAT that are now in force with the introduction of certain changes, more detailed clarifications and amendments to existing provisions.

The new Rulebook on Value Added Tax entered into force on 22 April 2021, while the application of the provisions of this Rulebook was postponed until 1 July 2021.

Below is an overview of the most significant changes and additions.

TRANSFER OF PROPERTY OR PART OF THE PROPERTY

At the inception of the application of this Rulebook, an amendment is adopted which stipulates that the business unit is considered to be the unit whose transfer enables the acquirer to independently perform the activity performed by the transferor of the unit. Namely, according to the new rule for tax exemption, there is no longer a condition preventing the transferor of the property from performing that activity at the moment of transfer.

REPLACEMENT OF GOODS IN THE WARRANTY PERIOD

- Replacement of spare parts or similar replacements as part of repairs or service of a particular good is not considered to be a replacement of goods in the warranty period.

TRADE SAMPLES

The terms normal quantity of trade samples and trade samples are defined in more detail:

- **The normal amount of trade samples** that are given free of charge to customers or potential customers is considered to be the amount of trade samples that are needed to acquaint customers or potential customers with the characteristics of a particular good.

- **Poslovnim uzorcima** koja se daju za potrebe analize u količini određenoj aktom nadležnog organa smatraju se dobra su rezultat poslovanja obveznika PDV ili koja su neposredno povezana sa obavljanjem njegove delatnosti, nezavisno od toga da li su kao takva namenjena prometu.
- Goods that are the result of VAT payer's activities or which are directly related to the performance of its activities, regardless of whether they are intended for trade that are given for analysis in the quantity determined by an act of a competent authority are considered **trade samples.**

PROMET REKLAMNOG MATERIJALA KOJI SE DAJE BEZ NAKNADE

- Propisuje se da se svakim drugim prometom dobara bez naknade smatra svako drugo raspolaganje dobrima bez naknade, osim:
 - Flajera;
 - Kataloga;
 - Brošura bez PDV,Te se na gore pomenuta davanja ne primenjuje propisani kriterijum za reklamni materijal i poklone manje vrednosti od RSD 2,000, kao ni ograničenje od 0.25% ukupnog prometa u poreskom periodu.
- Dodatno, Pravilnik predviđa da se reklamnim materijalom smatraju sva dobra na kojima je odštampan logotip ili brend obveznika PDV koja obveznik PDV neposredno ili posredstvom trećih lica, besplatno daje različitim licima. Trenutno važećim odredbama relevantnog Pravilnika nije propisana mogućnost davanja reklamnog materijala posredstvom trećih lica.

IZMENE I DOPUNE PRAVILA ZA ODREĐIVANJE PORESKOG DUŽNIKA ZA PROMET IZ OBLASTI GRAĐEVINARSTVA

- Novim Pravilnikom su propisani izuzeci kada se određeni radovi ne smatraju građevinskim radovima iako su u skladu sa Klasifikacijom delatnosti razvrstani u šifre delatnosti koje spadaju pod radove iz oblasti građevinarstva.
- Naime, u skladu sa novim Pravilnikom a nezavisno od vrednosti koja je utvđena ranijim izmenama i dopunama Zakona o PDV, radovima iz građevinarstva ne smatraju se:
 - Popravka opreme;
 - Popravka instalacija;

TRADE OF ADVERTISING MATERIAL WHICH IS PROVIDED FREE OF CHARGE

- It is prescribed that any other disposal of goods without compensation is considered other trade of goods, except for:
 - Flyers;
 - Catalogues;
 - Brochures without VAT,Therefore, the prescribed criteria for advertising material and gifts of less than RSD 2,000, as well as the limit of 0.25% of the total turnover in the tax period do not apply to the above-mentioned payments.
- In addition, the Rulebook stipulates that advertising material is considered to be all goods on which the logo or brand of the VAT payer is printed, which the VAT payer gives free of charge to various persons directly or through third parties. The current provisions of the relevant Rulebook do not prescribe providing advertising material through third parties.

AMENDMENTS TO THE RULES FOR DETERMINING THE TAX DEBTOR FOR TRADE IN THE FIELD OF CONSTRUCTION

- The new Rulebook prescribes exceptions when certain works are not considered construction works, although in accordance with the Classification of Activities they are classified into activity codes that fall under works in the field of construction.
- Namely, in accordance with the new Rulebook and regardless of the value determined by previous amendments to the Law on VAT, the following are not considered to be construction works:
 - Repair of equipment;
 - Repair of installations;

- Isporuca sa ugradnjom tj. ugradnja elemenata za kuhinje i kupatila uređaja za grejanje i hlađenje, sistema za zalivanje zelenih površina, ormana, biblioteka, polica i ostalo.
- Pravilnik propisuje da se isporuka dobara i pružanje usluga u okviru uređenja zelenih površina, uključujući i uređenje zelenih površina na objektima odnosno u objektima ne smatra radovima iz oblasti građevinarstva. Dodatno, ozelenjavanje postojeće zelene površine, kao što su radovi sađenja trave, cveća itd.) ne smatraju radovima iz oblasti građevinarstva.
- Predviđeno je da se isporuka sa ugradnjom vodovodnih, kanalizacionih grejnih i klimatizacionih sistema smatra radovima iz oblasti građevinarstva, dok se s druge strane popravke vodovodnih, kanalizacionih grejnih i klimatizacionih sistema ne smatraju radovima iz oblasti građevinarstva.
- Delivery with installation, i.e., installation of elements for kitchens and bathrooms, heating and cooling devices, watering systems for green areas, cabinets, libraries, shelves, etc.
- The Rulebook stipulates that the delivery of goods and the provision of services as part of the arrangement of green areas, including the arrangement of green areas on buildings or in buildings, are not considered works in the field of construction. In addition, landscaping of existing green areas, such as planting of grass, flowers, etc.) is not considered construction works.
- It is envisaged that the delivery with the installation of water supply, sewerage heating and air conditioning systems is considered works in the field of construction, while on the other hand repairs of water supply, sewerage, heating and air conditioning systems are not considered construction works.

Sporedan promet uz glavni promet iz oblasti građevinarstva

- Propisano je da ako se uz promet dobara i usluga iz oblasti građevinarstva vrši sporedan promet dobara i usluga, smatra da se izvršen samo jedan promet dobara i usluga iz oblasti građevinarstva.

Sporedan promet uz glavni promet koji nije iz oblasti građevinarstva

- Suprotno od prethodno opisanog, ukoliko se uz promet dobara i usluga koji se ne smatra prometom iz oblasti građevinarstva vrši sporedan promet dobara i usluga koji se smatra prometom iz oblasti građevinarstva smatra se da je izvršen samo jedan promet dobara i usluga koji nije iz oblasti građevinarstva.

Kriterijum od RSD 500,000

- Pravilnikom se precizira da se vrednost prometa iz oblasti građevinarstva određuje na dan prometa iz oblasti građevinarstva, kao i da se odnosi na delimičnu isporuku dobara i usluga.

Accessory turnover with the main turnover in the field of construction

- It is prescribed that if, in addition to the supply of goods and services in the field of construction, a secondary supply of goods and services is performed, it is considered that one single supply of goods and services in the field of construction is rendered.

Accessory turnover with the main turnover that is not in the field of construction

- Contrary to the previously described, if in addition to the supply of goods and services that is not considered turnover in the field of construction, there is an accessory turnover of goods and services that is considered turnover in the field of construction, it is considered that only one single turnover of goods and services that is not in the field of construction is performed.

Criterion of RSD 500,000

- The Rulebook specifies that the value of turnover in the field of construction is determined on the day of turnover in the field of construction, as well as that it refers to the partial delivery of goods and services.

USLUGE U VEZI SA NEPOKRETNOSTIMA

Dato je pojašnjenje termina **mašina ili druge opreme koja se smatraju sastavnim delom nepokretnosti**.

Mašinama i drugom opremom smatraju se dobra koja se instaliranjem ili montažom ugrađuju u nepokretnost, a koja se ne mogu odvojiti od nepokretnosti bez teškog oštećenja, znatne fizičke promene ili menjanja prirode te nepokretnosti.

PORESKA OSNOVICA

Povratna ambalaža

- Odredbama novog Pravilnika propisano je da osnovica za PDV sadrži vrednost ambalaže (1) nepovratne odnosno jednokratne i (2) povratne ambalaže koju obveznik PDV zaračunava primaocu dobara.
- Pravilnik predviđa da ukoliko se ambalaža ne vrati u roku predviđenom ugovorom, smatra se da je istekom roka došlo do novog prometa, odnosno do prometa povratne ambalaže a ne do izmene osnovice.

Porez na dobit po odbitku

- Pravilnikom je bliže uređeno da se porez na dobit po odbitku uračunava u osnovicu za PDV nezavisno da li je na dan nastanka poreske obaveze za PDV nastala i obaveza obračunavanja i plaćanja poreza na dobit po odbitku.

Procena osnovice

- Ako za promet dobara ili usluga, za koji je primalac dobara ili usluga poreski dužnik, nije poznat iznos osnovice na dan nastanka poreske obaveze, poreski dužnik utvrđuje osnovicu procenom (npr. na osnovu podataka o istim ili sličnim prometima dobara ili uslugama izvršenih u prethodnom periodu, na osnovu elemenata iz ugovora i dr.).

PROPERTY SERVICES

Various terms for machinery and other equipment that are considered an integral part of immovable property are clarified.

Machinery and other equipment are deemed to be goods that are built in property by being installed or assembled, but which cannot be separated from the property without serious damage of, a significant physical change or a change in the nature of such property.

TAX BASE

Returnable packaging

- Provisions of the new Rulebook stipulate that the VAT base includes the packaging value (1) of non-returnable and/or single-use and (2) returnable packaging that a VAT payer charges to the recipient of goods.
- If packaging is not returned within the period specified under the contract, the Rulebook envisages that the expiration of such a period shall mean new supply of the returnable packaging, not a change in the tax base.

Withholding tax

- The Rulebook stipulates that withholding tax is included in the VAT base regardless of whether the obligation to charge and pay withholding tax arose on the same date when the VAT liability was incurred.

Tax base estimate

- If the tax base is unknown on the date when the tax liability was incurred with regard to the supply of goods and services whose recipient is the taxpayer, the taxpayer shall determine the base according to an estimate (e.g. based on data on similar or same supply of goods and services performed in the previous period according to contract elements, etc.).

MESTO PROMETA PREVOZNIH USLUGA KAO I USLOVI ZA PRIMENU PORESKOG OSLOBOĐENJA

- Pravilnikom je predviđena dopuna pojma prevoznika i organizatora prevoza, stoga u slučaju kada ima više učesnika u organizaciji jednog prevoza, smatra se da ima više pojedinačnih usluga prevoza, te se isti poreski tretman primenjuje na sve promete.

VRAĆANJE DOBARA KOJIMA ISTIČE ROK TRAJANJA

Rok trajanja dobara

- U skladu sa Pravilnikom, dobrima kojima istice rok trajanja smatraju se dobra kojima je isteklo najmanje dve trećine roka trajanja, a do isteka roka trajanja ostalo najviše dva meseca.
- Propisano je da oba roka moraju kumulativno da budu ispunjena.
- Novim Pravilnikom je ukinut uslov da vraćanje dobara mora da bude predviđeno propisom ili ugovorom.

ISPRAVKA SRAZMERNOG PORESKOG ODBITKA

Pravilnik unosi pojednostavljenje odnosno ako se ispravka srazmernog poreskog odbitka vrši primenom procenta srazmernog poreskog odbitka od najmanje 98%, PDV obveznik vrši ispravku srazmernog poreskog odbitka do iznosa od 100%.

IZDAVANJE RAČUNA

- Pravilnikom se predviđa da ako se račun izdaje na dan kada je izvršen promet dobara tj. usluga račun koji će biti izdat za taj promet ne mora da sadrži podatak o datumu prometa dobara i usluga.
- Predviđena je izmena i dopuna propisa koji se odnosi na promet dobara i usluga, tako da ako se naknada plaća u stranoj valuti, iznos osnovice i iznos PDV tj. iznos naknade za promet dobara i usluga može biti iskazan u stranoj valuti dok s

THE PLACE OF SUPPLY OF TRANSPORTATION SERVICES AND TAX EXEMPTION CONDITIONS

- The Rulebook envisages an additional explanation of the terms ‘carrier’ and ‘transportation organiser’. Therefore, in case several participants organise one transportation service, it is deemed to be several individual transportation services, and thus, the same tax treatment is applied to every supply.

RETURN OF GOODS WHOSE VALIDITY PERIOD EXPIRES

Validity period of goods

- According to the Rulebook, goods whose validity period expires are such goods whose two-thirds of the validity period have expired and two months have left until the expiration of the validity period at most.
- It is stipulated that both deadlines need to be cumulatively met.
- According to the new Rulebook, the condition envisaging that the return of goods has to be prescribed by a regulation or a contract has been removed.

CORRECTION OF PROPORTIONAL TAX DEDUCTION

The Rulebook brings simplification, i.e., if a proportional tax deduction is corrected by applying a percentage of at least 98% of the proportional tax deduction, the VAT payer shall correct the proportional tax deduction up to the amount of 100%.

INVOICE ISSUANCE

- According to the Rulebook, if an invoice is issued on the date when goods or services are supplied, the invoice that will be issued for such supply does not have to include the date of the supply of goods and services.
- The regulation related to the supply of goods and services has been envisaged to be amended. Hence, if the fee is paid in a foreign currency, the tax base and VAT and/or the fee for the

druge strane podaci o ukupnom iznosu osnovice I PDV moraju biti iskazani u dinarima.

PROPISANI SLUČAJEVI KAD SE PODACI NE ISKAŽUJU U OBRASCU POPDV

U nastavku su predstavljeni podaci za koje ne postoji obaveza evidentiranja u obrascu POPDV:

- zarade lica koja su u radnom odnosu kod obveznika PDV;
- promet dobara, odnosno usluga koji se vrši bez naknade, a koji se ne izjednačava sa prometom uz naknadu;
- kamate na depozite po viđenju, kamate zbog neblagovremenog plaćanja,
- naknade štete;
- novčane donacije;
- troškovi po osnovu računa koji ne glase na obveznika PDV i drugi podaci koji nisu od značaja za pravilno obračunavanje i plaćanje PDV.
- Obveznici PDV sa sedištem u Republici Srbiji ne evidentiraju podatke koji se odnose na promete dobara i usluga koji su izvršile njegove poslovne jedinice (ogranaci i predstavništva), odnosno koji su izvršeni njegovim poslovnim jedinicama registrovanim van Republike Srbije.

PROPISANA EVIDENCIJA O VAUČERIMA

- Obveznik PDV koji vrši prenos jednonamenskih, odnosno višenamenskih vrednosnih vaučera dužan je da u svojoj evidenciji, po vrsti vaučera, obezbedi podatke o:
 - 1) ukupnoj vrednosti vaučera;
 - 2) ukupnom broju vaučera čiji je prenos izvršen.

supply of goods and services may be stated in a foreign currency, whereas the total amounts of the tax base and VAT have to be expressed in RSD.

PRESCRIBED CASES WHEN DATA ARE NOT EXPRESSED IN THE POPDV FORM

The data for which there is no obligation to record in the POPDV form are presented below:

- salaries of persons employed by VAT payers;
- turnover of goods or services performed free of charge, which is not equated with turnover with compensation;
- interest on demand deposits, default interests,
- damage compensations;
- cash donations;
- costs based on invoices that do not refer to the VAT payer and other data that are not relevant for the correct calculation and payment of VAT.
- VAT payers based in the Republic of Serbia do not record data related to transactions in goods and services performed by their business units (branches and representative offices), i.e., which were performed by their business units registered outside the Republic of Serbia.

PRESCRIBED VALUE VOUCHER RECORDS

- The VAT payer transferring single-purpose, i.e., multi-purpose value vouchers is obliged to provide in its records, by type of voucher, data on:
 - 1) the total value of the voucher;
 - 2) the total number of vouchers transferred.



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