

# LEGAL OVERVIEW OF THE TAX REGIME IN SERBIA

## 1. VALUE ADDED TAX

**Value Added Tax** (hereinafter: VAT) is charged on supplies of goods and on services provided by a company, entrepreneur or individual in the course of pursuing its business activities within the territory of Serbia, as well as on the import of goods into Serbia, whereas export is exempt from taxation.

**Tax Rate:** The regular VAT rate in Serbia is 20%, whereas the reduced rate of 10% is applied for supplies of certain products of public interest, including but not limited to: basic food products (e.g. sugar, cooking sunflower oil, bread, milk, flour, edible fats; fruits, vegetables, meat, fish, eggs); human and animal medicines, orthopedic and prosthetic appliances; text books and teaching aids, natural gas, etc.

**Exemptions:** VAT Law provides an extensive list of exemptions with the right to deduct input tax (so called "zero rated supply") and ordinary exemptions without such right. Separately, VAT Law provides for exemptions applicable to the import of certain goods.

**Special Treatment:** It should be noted that VAT Law provides for exceptional treatment of small taxpayers whose annual turnover does not exceed RSD 8.000.000 (approximately EUR 68.500) or is not estimated to exceed the aforementioned amount. Specifically, those taxpayers are not subjected to VAT, unless they choose to be taxed in that manner.

**Tax period:** In the event that the taxable income exceeds the amount of RSD 50.000.000 (approximately EUR 427.000), the taxpayer is obligated to submit a monthly VAT return, otherwise VAT return shall be filed quarterly.

## 2. CORPORATE INCOME TAX

**Corporate income tax** is imposed on the profits of a company (joint-stock company, limited liability company, general partnership, limited partnership, state owned enterprises, cooperative, etc.). Taxable income is usually comprised of business income and capital gains.

**Tax base and taxable income:** Resident companies are responsible for paying taxes on their worldwide income, whereas nonresident legal entities are responsible for paying taxes on income generated within the territory of Serbia. Taxable income is calculated in accordance with the tax balance sheet, which is specially prepared for that purposes. It should be noted that, for tax purposes, the branch/es and the head office of a foreign company are treated as separate entities. Generally, the corporate income tax is self-assessed by the taxpayer.

**Tax Rates:** Both corporate income and capital gains are taxed at the rate of 15%. However, capital gains are subjected to a 20% rate for a nonresident taxpayer (e.g. branch office). Other related withholding taxes (e.g. interests, dividends, royalties) are taxed at rates between 15% and 25 %, nevertheless, different rates may be stipulated in Double Taxation Avoidance Treaties (hereinafter: Treaties). Serbia has concluded more than fifty Treaties, including those with Cyprus, Greece, Russia and Germany.

As regards the special regimes stipulated in the Treaties, please see below succinct overview of tax-related issues that may arise in the Republic of Serbia between a mother company incorporated in Greece or Cyprus (hereinafter: Mother Company) and its subsidiary in Serbia (hereinafter: Serbian Subsidiary) concerning corporate income tax, related withholding taxes, other relevant issues and possible taxes on corporation (e.g. real estate property tax). In addition, for the purposes of this overview, the Serbian Subsidiary shall be considered as a company with residence in Serbia whereas the Mother Company shall be considered as resident of Cyprus or Greece.

Type of taxable base	Cyprus	Greece
<b>Capital gains</b>	If Serbian Subsidiary is willing to sell real estate assets, it shall be subjected to capital gains tax at the 15% rate. Furthermore if Mother Company is the seller of the real estate assets in Serbia, it will be subjected to the capital gains tax at the 20% rate.	If Serbian Subsidiary is willing to sell real estate assets, it shall be subjected to capital gains tax at the 15% rate. Furthermore if Mother Company is the seller of the real estate assets in Serbia, it will be subjected to the capital gains tax at the 20% rate.
<b>Corporate Income</b>	Corporate income tax is not subject to the Treaty regime. The corporate income of Serbian Subsidiary shall be taxed solely in Serbia for its world wide income	Corporate income tax is not subject to the Treaty regime. The corporate income of Serbian subsidiary shall be taxed solely in Serbia for its world wide income

Type of taxable base	Cyprus	Greece
	at the 15% rate. Branch Office in Serbia of the Company based in Cyprus shall be taxed for income earned within the territory of Serbia at the same rate.	at the 15% rate. Branch Office in Serbia of the Company based in Greece shall be taxed for income earned within the territory of Serbia at the same rate.
<b>Affiliated companies</b>	If Serbian Subsidiary failed to realize any profits due to corporate governance that is controlled and exercised by Mother Company in Cyprus, unrealized profits may be added to the taxable base of corporate income tax.	If Serbian Subsidiary failed to realize any profits due to corporate governance that is controlled and exercised by Mother Company in Greece, unrealized profits may be added to the taxable base of corporate income tax.
<b>Dividends</b>	Serbian Subsidiary shall be subjected to the withholding tax at the 20% rate. However, if Serbian Subsidiary pays out intercompany dividends to the Mother Company, intercompany dividends shall be taxed in Serbia at the 10% rate on its gross amount.	Serbian Subsidiary shall be subjected to the withholding tax at the 20% rate. However, if Serbian Subsidiary pays out intercompany dividends to the Mother Company, intercompany dividends shall be taxed in Serbia at the following rates: 5% if Mother Company owns more than 25% shares of Subsidiary; 15% if Mother Company owns less than 25% shares of Subsidiary.
<b>Interest</b>	Interest received in Serbia shall be subjected to the withholding tax at the 20% rate. However, if interest arises in Serbia and is payable in Cyprus, such interest shall be taxed in Serbia at the 10% rate on its gross amount.	Interest received in Serbia shall be subjected to the withholding tax at the 20% rate. However, if interest arises in Serbia and is payable in Greece, such interest shall be taxed in Serbia at the 10% rate on its gross amount.
<b>Royalties</b>	Royalties realized in Serbia shall be subjected to the withholding tax at the 20% rate. However, if such royalties are paid from Serbia, they might be taxed at a rate up to 10%.	Royalties realized in Serbia shall be subjected to the withholding tax at the 20% rate. However, if such royalties are paid from Serbia, they might be taxed at a rate up to 10%.
<b>Real Estate Property</b>	Real Estate Property Tax is not subject to the Treaty regime. If Serbian Subsidiary owns or uses real estate, it shall be taxed at the following progressive rates: Up to 0,4% for taxpayers that maintaining business books; Up to 2% for taxpayers that do not keep business books. If Mother Company owns real estate, it shall be taxed at the same rates outlined above. It should be noted that the Law on Property Tax prescribes above limitations on tax rates, whereas the actual rate is prescribed by the competent authority of the Municipality where the Real Estate is located at, in accordance with the Tax Revenue Policies.	Real Estate Property Tax is not subject to the Treaty regime. If Serbian Subsidiary owns or uses real estate, it shall be taxed at the following progressive rates: Up to 0,4% for taxpayers maintaining business books; Up to 2% for taxpayers that do not keep business books. If Mother Company owns real estate, it shall be taxed at the same rates outlined above. It should be noted that the Law on Property Tax prescribes above limitations on tax rates, whereas the actual rate is prescribed by the competent authority of the Municipality where the Real Estate is located at, in accordance with the Tax Revenue Policies.
<b>Double taxation avoidance</b>	If Serbian Subsidiary derives income or owns or uses capital that, pursuant to the Treaty, may be taxed in Cyprus, the Serbian tax authorities shall exempt such income or capital from taxation. With respect to corporate withholding taxes (interests, dividends and royalties), if they are already taxed and paid in Cyprus, the Serbian tax authorities shall allow withholding tax in an amount equal to the already paid in Cyprus.	If Serbian Subsidiary earns income or owns or uses capital that, pursuant to the Treaty, may be taxed in Greece, the Serbian tax authorities shall allow withholding tax in an amount equal to the already paid in Greece.
<b>Equal treatment clause</b>	Yes	Yes
<b>Dispute resolution and settlement before Tax Authorities</b>	Besides the legal remedies afforded by Serbian legislation, a special regime is provided for. The legal prescription for complaints regarding rights and obligations under the Treaty is 3 years.	Besides the legal remedies afforded by Serbian legislation, a special regime is provided for. The legal prescription for complaints regarding rights and obligations under the Treaty is 3 years.

**Tax incentives:** Corporate Income Tax Law provides for tax holidays and investment tax incentives. The tax holiday that is envisaged as exemption from corporate income tax shall apply to other taxpayers (e.g. nonprofit organization) who shall not be considered as a joint-stock company, a limited liability company, a general partnership, a limited partnership, a state owned enterprise or a cooperative and for whom the realized surplus of receivables over the expenses did not exceed the amount of RSD 400,000 in the tax period for which the right to exemption was granted, in accordance with the conditions prescribed by Corporate Income Tax Law. Investment tax incentives are prescribed mainly in favor of large investors. Any taxpayer that invests more than RSD 1.000.000.000 (approximately EUR 8.540.000) in its fixed assets and who uses such assets for the exercise of its principal business and activities as those are defined in its founding documents or in some other documents of the taxpayer in which the line of business of said taxpayer and is identified and, further, who employed during the investment period at least 100 persons for an indefinite time period, shall be exempt from corporate profit tax in proportion to its investment for a period of ten years.

### **3. PERSONAL INCOME TAX AND CONTRIBUTIONS FOR MANDATORY SOCIAL INSURANCE**

**Tax base and taxable income:** Residents (or persons with the centre of its business activities in Serbia or persons with permanent residence who stay in Serbia for more than a 183 days during the tax year) are responsible for their worldwide income (sum of all net receivables generated by taxpayer during the tax year), whereas nonresidents are responsible for income earned within the territory of Serbia.

**Salary taxes and insurance contributions:** In terms of employment related taxes and contributions, in particular salaries and insurance contributions (pension, health and unemployment), the taxable base is always the gross wage or salary, currently reduced for RSD 18.300,00 (approximately EUR 160). However, the Law on Personal Income also provides for minimum base (the amount of RSD 18.300,00 represents the nontaxable limit) in that regard. Salary taxes and insurance contributions are levied at the following rates:

(i) salary tax, 10%; (ii) pension insurance contribution, 11.5%; (iii) health insurance contribution, 5,15%; (iv) unemployment insurance contribution, 0%. These salary taxes and contributions payable by employees are withheld by the employer.

**Tax on income from self-employed activity:** The taxpayer is a natural person who earns income by way of performing business activities or by being subjected to value added tax in accordance with the law governing VAT. It should be noted that, pursuant to the latest amendments to the Law on Personal Income, income realized from agricultural and forestry activity shall also be considered as income from self-employed activity. Those natural persons are taxed at the rate of 10%, unless they are subjected to the lump-sum taxation regime. The limit for the lump-sum taxation is currently set at RSD 6.000.000 (approximately EUR 52.000).

**Other personal income taxes:** The taxpayer shall also be subjected to tax for the following kinds of income: (i) royalties, at the rate of 20%; (ii) rentals and capital income, at the rate of 15% (iii) capital gains, at the rate of 15%; (iv) other income, at the rate of 20%.

**Complementary annual global income tax:** Taxpayers are residents whose annual income exceeded the amount of three average annual salaries in Serbia. Said tax is levied at two progressive rates of 10% or 15%.

### **4. PROPERTY TAX**

**Real estate property tax:** In general, the rights to own and use various kinds of real estate properties are subject to taxation. If the taxpayer is a natural person then the tax is levied on the market value of the real estate with progressive rates between 0,3% and 2%. However, if the taxpayer is a legal entity then the value of the real estate is determined in accordance with the book value of the real estate and is taxed at the following progressive rates: (i) Up to 0,4% for taxpayers maintaining business book; (ii) Up to 2% for taxpayers that do not keep business books. The actual rate will be defined by Municipality within the aforementioned limits.

**Inheritance and gift tax:** A person who inherits or receives property as a gift is defined as a taxpayer and thus is subjected to taxes at the progressive rate ranging from 1,5% to 2,5%. It should be noted that Property Tax Law in Serbia (hereinafter PTL) envisages numerous exemptions and beneficiaries based predominantly on family law relations.

**Transfer tax:** Transfer tax is payable by both natural persons and legal entities that sell or assign real estate property, intellectual property rights, certain motor vehicles, usage rights on construction land. Given that transfer tax and VAT are competitive taxes, PTL provides for an exemption from transfer tax applied on transfer of absolute rights if the assignment is considered as supply and thus subjected to the VAT regime. Taxpayers are taxed at the rate of 2,5%, whereas the taxable base is the agreed price so long as it is not below the market value.

### **5. EXCISE TAX**

**Products subjected to the excise regime:** Certain products in the Republic of Serbia (petroleum products, tobacco products, alcoholic beverages, coffee, bio-fuels and bio-liquids) are taxed in accordance with the excise regime.

## 6. ANTI-AVOIDANCE MECHANISMS

Serbian governing law envisages two mechanisms for the prevention of tax avoidance: (i) Transfer pricing rules; (ii) Thin capitalization rules.

**Transfer pricing rules:** Financial transactions between affiliated companies (companies shall be deemed as affiliated if there is a possibility of control or significant influence on business decisions) must be done at arms length terms, which means that the taxpayer is subject to certain reporting requirements.

**Thin capitalization rules:** Thin capitalization usually occurs when the capital of the company is comprised of greater debt than equity (misbalance of the debt-equity ratio). Thus, pursuant to the Serbian rules, interests and related expenses paid on loans may not be withheld if they exceed by four times the equity of the company. For banks, insurance companies and other financial institutions the debt-equity ratio is set at 10:1.

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