



MONTENEGRO TAX HIGHLIGHTS OCTOBER 2017

IZMJENE I DOPUNE ZAKONA O PDV I PRAVILNIKA O PRIMJENI PDV

Skupština Crne Gore 26. jula 2017. godine donijela je Zakon o izmjenama i dopunama Zakona o porezu na dodatu vrijednost a koji je stupio na snagu 08.08.2017. godine.

Najznačajnije izmjene se odnose na određivanje mjesta prometa usluga i povećanje opšte stope PDV-a.

Izmjene Pravilnika o primjeni Zakona o PDV, koji je stupio na snagu 22. avgusta 2017. godine odnose se na proceduru imenovanja poreskog zastupnika stranog lica.

Izmjena pravila o mjestu prometa usluga

Osnovno pravilo o mjestu prometa usluga definisano članom 17. Zakona o PDV, koje je do sada podrazumjevalo da je to mjesto pružaoca usluge, od sada je mjesto u kojem **poreski obveznik primalac usluga** obavlja svoju djelatnost, odnosno mjesto u kome poreski obveznik primalac usluga ima stalnu poslovnu jedinicu, ako se promet usluga vrši u stalnoj poslovnoj jedinici koja se ne nalazi u mjestu sjedišta primaoca usluga, odnosno mjesto u kojem primalac usluga ima prebivalište ili boravište.

Za svrhu određivanja mjesta pružanja usluga poreskim obveznikom se smatra:

- svako lice koje obavlja djelatnost trajno;
- pravna lica, državni organi, organizacije i organi jedinice lokalne samouprave i druga javno pravna tijela u skladu sa ovim zakonom;
- strana pravna lica.

AMENDMENTS TO THE VAT LAW AND RULEBOOK ON VAT APPLICATION

On 26 July 2017, the National Assembly of Montenegro adopted the Law on Amendments to the VAT Law which entered into force on 8 August 2017.

The most important changes are related to the determination of the place of supply and an increase in the general VAT rate.

The amendments to the Rulebook on application of VAT, which entered into force on 22 August 2017 are related to the procedure for appointment of a tax representative of foreign person.

Change of rules related to place of supply of services

The general rule of the place of supply defined by Article 17 of the VAT Law which stated that the service was considered to be supplied where the supplier was located, was changed to be the place where the **taxpayer recipient of service** carries its business activities, or the place where the service recipient's permanent establishment is located (if the supply of services is performed to a permanent establishment that is not located at the same place as the seat of the service recipient or the place of permanent residence or the residence of a service recipient).

For the purpose of determination of the place of supply, a taxpayer is considered to be:

- all persons carrying business activities on a permanent basis;
- legal entities, state bodies, bodies of the autonomous regions and local municipalities in accordance with this Law;
- foreign legal entities.

Kada su usluge pružene licu koje nije poreski obveznik, mjestom prometa smatra se mjesto u kojem pružalac usluga ima sjedište ili stalnu poslovnu jedinicu, ako se promet usluga vrši iz stalne poslovne jedinice koja se ne nalazi u mjestu sjedišta pružaoca usluga, odnosno mjesto u kojem pružalac usluga ima prebivalište ili boravište, osim za nepokretnost (mjesto prometa je mjesto gde se nepokretnost nalazi), usluge prevoza (gde se vrši usluga a ako se usluga vrši i van teritorije CG onda samo na dio usluge prevoza koji se obavlja u CG). Mjesto prometa usluge smatra se mjesto u kojem je usluga stvarno izvršena ako se radi o:

- uslugama u vezi sa prisustvovanjem umjetničkim, kulturnim, sportskim, naučnim, obrazovnim zabavnim ili stručnim događajima, usluge organizatora događaja, pruženih licu koje nije poreski obveznik;
- pomoćnim uslugama u vezi sa prevozom (utovar, istovar, pretovar, skladištenje), pruženih licu koje nije poreski obveznik;
- uslugama pružanja stručnih mišljenja u vezi procjene vrijednosti pokretnih stvari, odnosno radova na pokretnim stvarima pruženih licu koje nije poreski obveznik;
- uslugama prodaje jela i pića za konzumaciju na licu mjesta, osim ako se te usluge pružaju na plovnim objektima, vazduhoplovima i vozovima u kom slučaju se mjesto prometa smatra mjesto početka prevoza putnika.

Mjestom prometa usluge smatra se:

- mjesto u kojem se prevozno sredstvo stvarno daje na korišćenje (iznajmljivanje) primaocu usluga, na neprekidni vremenski period do 30 dana, a ako se radi o plovnim objektima do 90 dana;
- mjesto iznajmljivanja prevoznih sredstava na period duži od 30, odnosno 90 dana licu koje nije poreski obveznik, smatra se mjesto u kojem to lice ima sjedište, prebivalište ili boravište;

If supply of service is performed to entity that is not taxpayer, place of supply of services is considered to be the place where service provider has seat or permanent establishment, if supply of service is performed from permanent establishment not located in the same place as seat of service provider, or place of permanent residence or residence of service provider, except for immovable properties (place of supply is where property is), transportation services (where service is performed and if service is performed outside of Montenegro then only for part of service performed in Montenegro). Place of service is considered to be place where the service is actually performed if it is:

- services related to the artistic, cultural, sport, scientific, educational, entertainment or other similar events, services of organizing such events, provided to a person which is not a taxpayer;
- ancillary services related to transport (loading, unloading, reloading, warehousing), provided to the person which is not a taxpayer;
- services of providing expert opinions related to valuation of movable property, i.e., works on movable property provided to the person which is not a taxpayer;
- services of selling of food and drinks for consumption on site, except where these services are provided on vessels, aircrafts and trains when the place of supply of these services is considered to be the place where transportation of passengers begins.

The place of the supply of a service is:

- The place in which a transportation vehicle is given for using (renting) to a service recipient for a continuous period of 30 days, or 90 days for vessels;
- the place of renting of transportation vehicle for the period exceeding 30, i.e., 90 days to the person that is not a taxpayer (the place where the recipient has its seat or residence);

Mjestom prometa usluge smatra se mjesto u kojem primalac usluge koji nije poreski obveznik ima sjedište, prebivalište ili boravište za pružanje usluga:

- prenosa, ustupanja i korišćenja autorskih prava, patenata, licenci, zaštitnih znakova i drugih prava intelektualne svojine;
- telekomunikacija;
- oglašavanja;
- koje pružaju savjetnici, inženjeri, advokati, revizori, usluge prevođenja, uključujući i prevođenje u pisanom obliku;
- obrade podataka i ustupanja, odnosno davanje informacija, uključujući i informacije o poslovnim postupcima i iskustvu;
- preuzimanja obaveze da se u potpunosti ili djelimično odustane od obavljanja neke aktivnosti ili od korišćenja nekog prava;
- bankarskog i finansijskog poslovanja i poslovanja u oblasti osiguranja, uključujući reosiguranje, osim iznajmljivanja sefova;
- posredovanja u zapošljavanju; iznajmljivanja pokretnih stvari, osim prevoznih sredstava;
- omogućavanja pristupa mreži prirodnog gasa, mreži za prenos električne energije i mreži za grijanje, odnosno hlađenje, transporta i distribucije putem tih mreža, kao i drugih usluga koje su neposredno povezane sa tim uslugama;
- radijskog i televizijskog emitovanja; i
- pruženih elektronskim putem.

Mjesto u kojem je izvršena usluga posredovanja kod prometa usluga koja se pruža licu koje nije poreski obveznik, je mjesto u kojem je izvršen promet usluga. Mjesto prometa usluge posredovanja koja se pruža poreskom obvezniku je mjesto u kojem primalac usluge ima sjedište ili stalnu poslovnu jedinicu.

Radi izbjegavanja dvostrukog oporezivanja, odnosno neoporezivanja, Ministarstvo finansija može, za usluge čije se mjesto prometa određuje prema generalnom pravilu kao i za pojedine usluge koje se pružaju licu koje nije poreski obveznik, kao i usluge davanja u zakup prevoznih sredstava, mjestom izvršenog prometa da

The place of the supply of a service is the place where a service recipient which is not a taxpayer has its seat, permanent or temporary residence for services provision:

- transfer and giving the right to use of copyright, patents, licences, trade marks and other intellectual property rights,
- telecommunications,
- advertising,
- service provided by consultants, engineers, lawyers, auditors, services of interpreters and translators ,
- data processing and assignment, i.e., providing information, including information of business actions and experience;
- taking over an obligation to desist, entirely or partially, from engaging in certain activity or exercising a certain right,
- banking and financial transactions and activities in the area of insurance, including reinsurance, other than renting of safety deposit boxes,
- intermediation in employment, renting of movable properties, except transportation means,
- facilitating access to the natural gas network, network for the transmission of electricity and network for heating or cooling, transport and distribution via these networks and other services similar to these,
- radio and television broadcast, and
- services provided electronically.

Place in which service of intermediation related to supply of service to entity that is not taxpayer is performed, is place in which supply is performed. Place where intermediation services are provided to taxpayer is place where head office or permanent business establishment of service recipient is located.

In order to avoid double taxation and/or non-taxation, the Ministry of Finance is entitled to determine the place of supply as the place where the service is used, i.e. performed, for such services whose supply place is determined according to the general rules, services

odredi i mjesto u kojem se usluga može iskoristiti, odnosno mjesto u kome se usluga izvrši.

Opšta stopa PDV

PDV se obračunava po opštoj stopi od 21% umesto dosadašnjih 19%. Uvećana stopa PDV primenjivaće se od 1. januara 2018. godine.

Izmjene Pravilnika o primjeni Zakona o PDV (procedura za imenovanje poreskog zastupnika)

Prema izmjenama Pravilnika o primjeni Zakona o PDV, poreski zastupnik stranog lica može biti imenovan ako:

- je registrovani obveznik za PDV najmanje 12 mjeseci prije podnošenja zahtjeva za imenovanje poreskog zastupnika;
- na dan podnošenja zahtjeva nema dospjele, a neplaćene poreske obaveze koje utvrđuje Poreska uprava; i
- nije pravosnažno osuđivan za krivično djelo iz oblasti poreza.

Zahtjev za imenovanje poreskog zastupnika za porez na dodatu vrijednost podnosi se na obrascu ZIPZ PDV.

Zahtjev za imenovanje poreskog zastupnika sadrži:

- naziv, odnosno ime i prezime stranog lica;
- ime i prezime odgovornog lica u stranom pravnom licu;
- adresu sjedišta, odnosno prebivališta stranog lica;
- broj pod kojim je strano lice evidentirano za obavezu plaćanja PDV kod nadležnog organa u državi u kojoj ima sjedište, odnosno prebivalište i naziv tog organa;
- PIB, odnosno evidencioni broj koji je stranom licu dodijelio poreski organ;
- naziv, odnosno ime i prezime zastupnika;
- ime i prezime odgovornog lica u pravnom licu - zastupniku;

provided to an entity that is not a foreign person, as well as services of renting transportation means.

Standard VAT rate

VAT is calculated by the general rate of 21% instead of the current of 19%. The increased rate will be applied as of 1 January 2018.

Amendments to the Rulebook of VAT Law application (appointment procedure for tax representative)

Pursuant to the amendments to the Rulebook on the VAT Law application, the tax representative of a foreign person can be appointed if:

- is registered for VAT at least 12 months before the request for appointing a tax representative is submitted;
- any due but unpaid tax liabilities established by the Tax Authority do not exist on the day of the request submission; and
- they have not been convicted for a tax criminal offence.

The request for appointment of tax representative for VAT should be submitted on the ZIPZ PDV form.

Request for tax representative appointment contains:

- name, i.e. name and surname of foreign person;
- name and surname of responsible person with a foreign entity;
- the address of seat, i.e. residence of foreign entity;
- the number under which foreign entity is registered for liability of VAT payment with a responsible authority in state in which he has seat, i.e. residence and the name of that authority;
- TIN, i.e. evidence number obtained by foreign person from the Tax Authority;
- name, i.e. name and surname of tax representative;
- name and surname of responsible person in legal entity - representative;

- adresu sjedišta, odnosno prebivališta zastupnika;
- PIB, odnosno JMBG zastupnika; i
- JMB odgovornog lica u pravnom licu - zastupniku.

Propisana je dodatna dokumentacija koju je potrebno dostaviti uz Obrazac ZIPZ PDV.

Zahtjev za imenovanje poreskog zastupnika podnosi se najkasnije u roku od 15 dana prije početka obavljanja djelatnosti tog stranog lica u Crnoj Gori.

Seminar u narednom periodu

BDO će u narednom periodu održati seminar na temu otvorenih pitanja koja su proizašla iz najnovijih izmjena i dopuna Zakona i Pravilnika o primjeni PDV u Crnoj Gori.

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- the address of the seat, i.e. residence of tax representative;
- TIN of the tax representative;
- TIN of responsible person in legal entity - representative.

Additional prescribed documentation should be submitted along with the ZIPZZ PDV form.

The request for appointment should be submitted at least 15 days before starting performing activity that foreign person in Montenegro.

Seminar in the following period

In the following period BDO will hold seminar on which open questions resulting from latest amendments VAT Law and Rulebook of application of VAT in Montenegro.

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