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DISCUSSION PAPER

VALUE ADDED TAX

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INTRODUCTION

The process of European integration formally started after the democratic changes in 2000. At the Thessaloniki summit in June 2003, Serbia, along with other Western Balkan countries, was granted potential candidate status. The Stabilization and Association Agreement (SAA) was signed in 2008, and the following year, Serbia submitted a formal application for EU membership. In March 2012, Serbia received the status of a candidate for EU membership, and in September 2013, the implementation of the SAA began. In December of the same year, a *negotiating framework* was adopted and a decision was made to hold the first Intergovernmental Conference in January 2014, which represented the actual beginning of negotiations on Serbia's accession to the EU.

EU accession implies that the country fully harmonizes its legislative framework with EU legislation - the so-called *Acquis communautaire*. *The Acquis* is a set of laws and regulations, directives, international treaties, standards, court rulings, etc., which, depending on the area of social life they regulate, are divided into 35 chapters. The Republic of Serbia has passed the so-called Screening process (explanatory and bilateral) for each individual area covered by a particular chapter. The usual procedure is that after the screening is completed, the EC makes a recommendation to open a chapter or to set a certain condition, or conditions (so-called *opening benchmarks*), after which the chapter can be opened. Closing of the chapter implies that the candidate country has harmonized its legislative, institutional and administrative capacities in a certain area with the requirements arising from the Acquis, which is practically confirmed by fulfilling the criteria for closing chapters (so-called *closing benchmarks*).

Out of a total of 35 negotiating chapters, 18 chapters have been opened to date, and two have been temporarily closed (25 and 26)[1]. Chapter 16, which refers to taxes, or taxation, is not open for negotiations, considering that, according to the European Commission (EC), the ***Republic of Serbia has not fulfilled the conditions related to equalizing the excise burden on strong alcoholic beverages carried by domestic producers and importers.***[2] On the other hand, until the point in time when this chapter is closed, it is expected that the Republic of Serbia will have harmonized all its regulations, primarily in the field of indirect taxation, with EU directives and rules.

In terms of tax policy, countries have full fiscal sovereignty, so they can introduce taxes by their own laws. In other words, member states are responsible for enacting and amending tax laws that set tax rates, or their increase or decrease. A higher degree of harmonization of regulations is required by the directives related to consumption taxes, while the degree of harmonization of direct taxes (taxes on labor and capital) is significantly lower. Thus, certain rules are applied to corporate income tax in order to prevent discrimination and eliminate double taxation. As regards personal income tax and property tax, member states retain almost complete sovereignty, with the restriction that their tax rules must not put citizens and legal entities from other member states in an unequal position.

The EC, in principle, promotes cooperation between member states in combating tax evasion, eliminating discrimination and reducing the administrative burden on businesses and citizens.

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[1] 1, 5, 6, 7, 9, 13, 17, 18, 20, 23, 24, 25, 26, 29, 30, 32, 33 and 35.

[2] The initial condition of the EC for the opening of the chapter was related to the elimination of discrimination in terms of excise duties on coffee. This condition is fulfilled, in the meantime, by amending the Law on Excise Duties, from January 1st 2018.

In that sense, it is important to note that the implementation of tax policy must aim at respecting the principle of neutrality on the one hand and being the simplest possible, primarily, for businesses.

METHODOLOGICAL NOTES

The work on this analysis in the part related to the administrative costs of the implementation of bylaws on value added tax borne by businesses was limited due to short deadlines. For this reason, no ex post analysis was made and hence there was no basis to determine the actual costs as well as the attitudes of businesses after two and a half year-long implementation of regulations. This type of analysis involves the selection of a representative sample, survey of respondents, data processing and development of appropriate statistics, and deeper analysis. In that sense, the time constraint affected the quality of the part of the analysis that focuses on one of the key administrative problems of businesses. For these reasons, the analysis is based on:

- ✓ desk research, which was used to develop a comparative review of relevant legislation in the EU and the Republic of Serbia, and to review the regulation methods and procedures of taxation system
- ✓ meta-analysis of existing analyzes, to assess the effects and costs estimated before application of the appropriate bylaw regulating value added tax
- ✓ interviews conducted with accounting agencies and companies engaged in consulting in the field of tax policy. On the other hand, it is methodologically correct to look at the effects of the application of regulations from the point of view of the body that controls its application, which is why an interview was conducted with the Tax Administration (TA).

TAXATION OF EU CONSUMPTION

Chapter 16 legislation covers as much as possible indirect taxes, primarily value added tax (VAT) and excise duties. The relevant Directives prescribe definitions, coverage, principles, minimum rates and exemptions /refunds/refactions of value added tax and excise duties.

The harmonization of consumption taxes began in the late 1960s, with the abolition of customs duties between the countries of the then European Economic Community (EEC). Customs duties have been abolished in order to eliminate the impact of different tax systems on trade between Member States and to establish equal treatment for companies from all Member States. At the same time, the retail sales tax was abolished and replaced by the value added tax - VAT. However, harmonization was not fully completed because of double taxation in some cases, while, on the other hand, some transactions were not taxed. In order to eliminate these problems, in 1977 a new (sixth) VAT directive was passed, to more precisely define the taxable turnover, or the taxpayer, the place of taxation, tax rates, tax reliefs, etc. In order to ensure the smooth functioning of the single market, or the free movement of people, goods, services and capital, the tax directives have been amended several times.

During 2006, the Directive [3] on the Common VAT System in the European Union was adopted. Today, value added tax is the most widespread and most important form of general tax. Namely, it was introduced and applied in nearly 130 countries and became the most popular form of taxation of trade in products and services. Moreover, it is applied by all members of the Organization for Economic Cooperation and Development (OECD), except the United States.

[3] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006L0112&from=EN

The 2006 directive, as one of the most important EU regulations in this area, establishes a common system of value added tax and regulates the entire basic elements of VAT, from defining the taxpayer and the VAT rate to VAT exemption and special taxation procedures. The 2006 VAT Directive is based on several principles presented below.

Taxable sale is the sale of all goods and services, which are not explicitly stated in the part that regulates exemptions. The sale of certain types of goods and services is exempt from VAT without the right to deduct incoming VAT, including services that concern culture, health and educational services, financial intermediation services, real estate transactions, etc. When it comes to sale, or procurement of fixed assets used for business activities, VAT is paid, but at the same time it is recognized that the buyer has paid tax (he is entitled to a tax credit or VAT refund). The sale of goods in the country in which the goods will be used is taxed, which actually means that *VAT is paid when importing goods into a certain country, while the export of goods is exempt from VAT*. When it comes to the supply of services, depending on the type of service provided, VAT is paid according to the final destination of the recipient of the service or according to the country of origin. It should be noted that the obligation to pay value added tax arises at the time of sale of goods or services and that the EU Directive does not provide (except in special cases[4]) for the payment of VAT after collection of receivables.

In terms of tax rates, the possibility of applying one general (higher) tax rate and up to two lower rates is prescribed. Annex III of the Directive sets out a list of groups of products and services that may be taxed at lower rates. This list includes basic food products including various types of soft drinks, pharmaceutical products, medical equipment, water supply, transport of passengers and luggage, books, newspapers, various types of services in the field of sports, theater, fairs, funeral services and services related to street cleaning and waste treatment.

At the same time, the Directive stipulates that the standard VAT rate cannot be lower than 15% and 5%, respectively, when it comes to lower rates. There is a possibility for a member state to introduce the so-called super *-reduced rate-* less than 5%, but in exceptional cases with EU approval. Some Member States - Ireland, Spain, Italy, Luxembourg and France apply a special reduced rate in trade in certain products or services. For example, in Spain, a super reduced rate of 4% is applied to the turnover of medicines, books and newspapers. In France, a super reduced VAT rate of 2.1% is also applied to the sale of medicines, newspapers, but also food and ticket sales for cinema, theater, etc. In Ireland, a rate of 4.8% applies to the sale of food and agricultural inputs. In Italy, the list of products subject to VAT at a rate of 4% is significantly longer, and in addition to food, books, newspapers, it also includes trade in the field of construction (construction of apartments) as well as medical equipment for the disabled. In Luxembourg, a super reduced rate of 3% is applied to the list of products and services, which is significantly longer than in the other four countries.

In addition, Member States which, on 1 January 1991, applied a reduced rate of VAT to the supply of certain goods and services not provided for in Annex III to the Directive are allowed to continue to apply a reduced rate or one of two reduced rates to those goods and services instead the general rate, provided that the rate is not less than 12%. It is about the so-called parking rate which, like the super reduced rate, applies in several Member States (Luxembourg, Ireland, Austria, Portugal and Belgium). Belgium has the lowest parking rate - 12% on certain types of coal and inner and outer tires for tractors and other machines used in agriculture. A parking rate of 13% applies in Austria (for certain wines) and Portugal (wine, diesel fuel used in agricultural production). In Ireland, the parking rate is 13.5% (photographic services, driving school services, tourist guide, etc.) and in Luxembourg 14% (certain types of wine, fuel, cleaning products, etc.).

The fiscal sovereignty of the countries is reflected in the different amount of VAT rates, with strict observance of the rules regarding the amount of the prescribed minimum general and reduced rate.

[4] Articles 63-67 of the Directive

Thus e.g. **Luxembourg has the lowest general VAT rate of 17% and one of the lowest reduced rates - 8%**. On the other hand, **Hungary, with a general VAT rate of as much as 27% and a reduced rate of 18%, is one of the countries with the highest tax on consumption**.

Table 1: VAT in EU Member States (28)

	Standard VAT rate	Reduced VAT rate (1)	Reduced VAT rate (2)	Super-reduced VAT rate
Luxembourg	17	8		3
Malta	18	7	5	
Germany	19	7		
Cyprus	19	9	5	
Romania	19	9	5	
Bulgaria	20	9		
Estonia	20	9		
France	20	10	5,5	2,1
Austria	20	13	10	
Slovakia	20	10		
United Kingdom	20	5		
Belgium	21	12	6	
Czech Republic	21	15	10	
Spain	21	10		4
Latvia	21	12	5	
Lithuania	21	9	5	
Netherlands	21	9		
Italy	22	10	5	4
Slovenia	22	9,5	5	
Ireland	23	13,5	9	4,8
Poland	23	8	5	
Portugal	23	13	6	
Greece	24	13	6	
Finland	24	14	10	
Denmark	25	0		
Croatia	25	13	5	
Sweden	25	12	6	
Hungary	27	18	5	
EU AVERAGE - 28	**21**	**10**	**6**	

Source: European Commission - VAT rates applicable in EU countries on 1 January 2020

The fiscal importance of VAT revenues, measured by the share of this revenue in GDP, varies from country to country and ranges from 4.3% GDP in Luxembourg to as much as 13.7% of GDP in Croatia, which is logical given the level of standard rates applied by these two countries. At the level of all 28 EU member states in 2019, the average share of this tax form in GDP was 7.2%[5].

[5] https://ec.europa.eu/eurostat/documents/2995521/11469100/2-29102020-BP-EN.pdf/059a7672-ed6d-f12c-2b0e-10ab4b34ed07.

CURRENT CONSUMPTION TAXATION SYSTEM IN RS

Until 2005, Serbia paid sales tax in “retail”, which was replaced by a system of value added taxation, in which each participant in the production and sales chain pays tax on the value it "added" to a specific product or services.

The Law on VAT was passed at the end of 2004, and since then it has been amended practically every year. Nevertheless, the basic structure of the value added taxation system in Serbia is based on the principles and rules defined by the EU directive. In that sense, the Law[6] regulates /defines the basic parts of the system as follows:

Taxable sale: Taxable sale is defined as sale of goods and services in the Republic of Serbia and import. Also, the Law prescribes tax exemptions with and without the right to deduct incoming VAT, which is a tax that was calculated and paid in the previous phase of trade in goods and services.

Time of obligation: Like the Directive, the Law provides for the possibility (Article 36a) that tax liability and payment occur after collection of receivables, under certain conditions, but in most cases obligations and payment arise at the time of turnover of goods and services, or at the time of receivables.

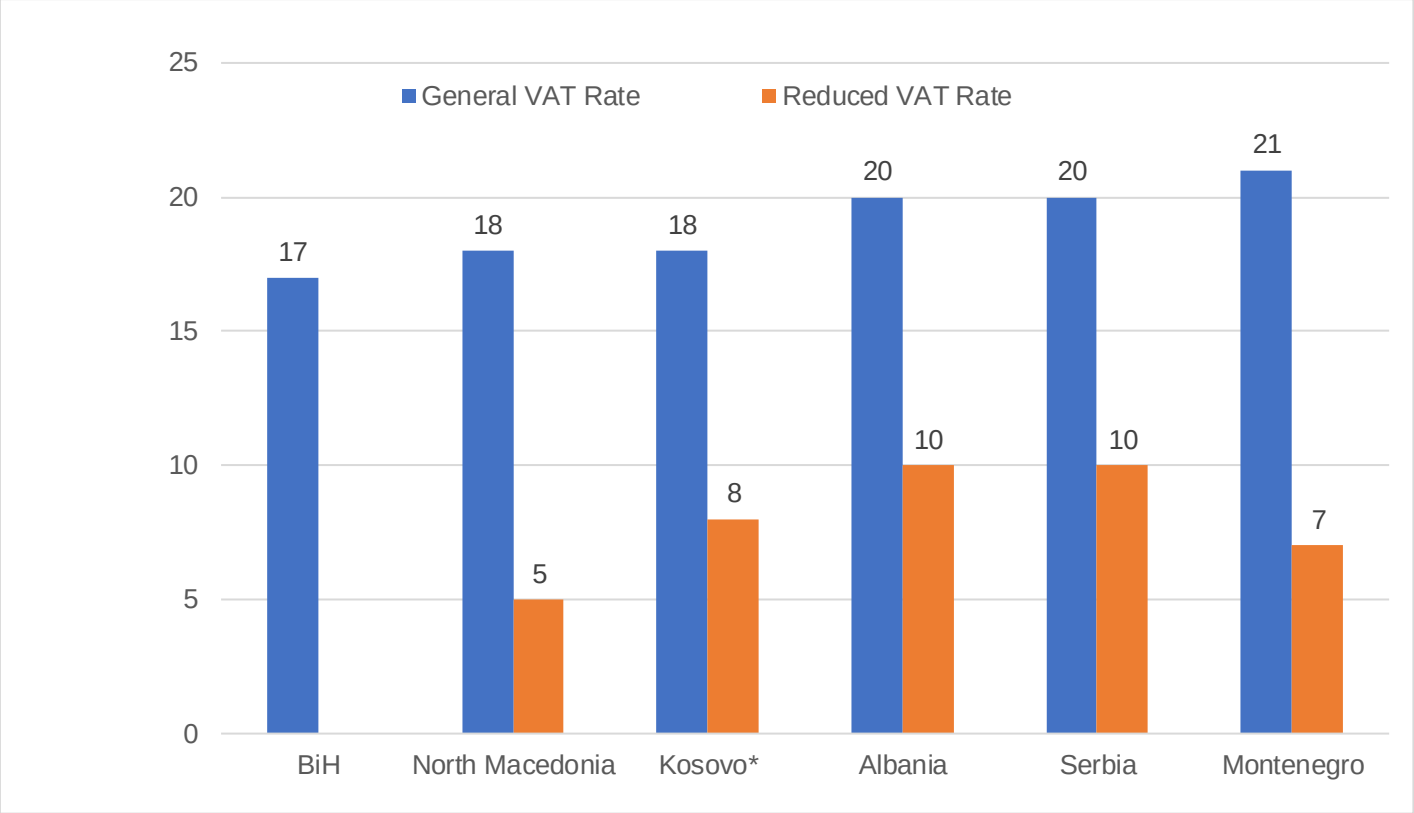
VAT payers: The law defines the limit in terms of the amount of annual sale, above which businesses are required to register as VAT payers. In that sense, **all businesses with annual sale higher than 8 million dinars must be registered as VAT payers**. On the other hand, **businesses with an annual sale of less than 8 million dinars are considered to be small taxpayers**. The law provides an opportunity for small taxpayers to opt for one of two variants: entering the VAT system, which includes calculation, keeping the prescribed VAT records and paying tax quarterly, with the right to deduct the incoming tax. Small taxpayers may choose not to calculate VAT, in which case they are not entitled to deduct previously paid tax.

Tax rates: The Law on VAT, passed at the end of 2004, provided for two rates - a standard rate of 18% and a reduced rate of 8%. The rates were changed twice during the previous period, at the end of 2012 the **general rate was set at 20%** (October 1), while the **reduced rate was increased from 8% to 10%** at the beginning of 2014 (January 15).

Compared to EU countries, the Republic of Serbia with a general VAT rate of 20% is slightly below the EU (28) average, while in terms of reduced rates it is at the level of an average of 10%. In relation to the surrounding countries, only Montenegro has a higher general VAT rate than Serbia, while in comparison with the reduced rates it is on a par with Albania. By comparing VAT rates between EU countries and countries in the region, 8 countries have a general VAT rate of 20%. Three countries out of the total number of countries have a general VAT rate of 25% (Denmark, Croatia and Sweden), while Hungary is the only country with the highest VAT rate of 27%. Also, all countries have a reduced rate (one or two), except Denmark and BiH, which have a single rate of value added tax - 25% and 17%, respectively.

[6] https://www.paragraf.rs/propisi/zakon-o-porezu-na-dodatu-vrednost.html.

Chart 1: Comparative overview of the standard and reduced VAT rate in Serbia and neighboring countries



*UN SC Resolution 1244

As well as the Directive, the **Law on VAT, Article 23, provides a list of products and services that are taxed at a lower rate of 10%** - basic foodstuffs, such as bread, milk, flour, oil, sugar, medicines, medical equipment, newspapers, water supply, transport of passengers and luggage, textbooks, funeral services, services related to municipal waste management, etc. *In addition, the lists include natural gas, thermal energy for heating purposes and transfer of disposal rights to residential buildings*.

Payment deadlines: **The law prescribes the time limit for the payment of VAT, namely the 15th in the current month, for the obligation that arose on the basis of the sale of goods and services in the previous month or the previous quarter**. The dynamics of VAT payments is primarily affected by the amount of sale in the previous 12 months. Namely, taxpayers whose turnover of goods and services in the previous year was higher than 50 million dinars, pay VAT on a monthly basis, while businesses with a turnover of less than 50 million dinars (which include small taxpayers) have the obligation to pay VAT quarterly (January, April, July and October).

Deadlines for VAT refunds: If the amount of incoming tax is higher than the amount of tax liability, the taxpayer is entitled to a refund of the difference, in the form of a tax credit, or reduction of the liability for the next tax period or VAT refund. **The law prescribes a time limit of no later than 45 days for VAT refunds, or 15 days for taxpayers who have the status of predominantly exporting business**. The Government Regulation[7] sets out the criteria on the basis of which it is determined what is a predominantly exporting business.

[7] https://www.paragraf.rs/propisi/uredba-kriterijumima-osnovu-utvrdjuje-smislu-zakona-pdv-inostranstvu.html.

The status of “predominantly exporting business” is acquired by a VAT payer who exported more than 50% of the goods he sold in the period from January 1 of the current year to the end of the tax period for which he files a tax return, or at least EUR 10 million worth of goods.

The law prescribes the obligation of taxpayers who are in the VAT system to maintain records, and to make an overview of VAT calculation for each tax period for the purpose of proper calculation and payment The obligation to maintain records is provided by the Rules on the Form, Content and Manner of Maintaining VAT Records and on the Form and Content of the Review of VAT Calculations, which will be

Relevant authorities: Revenue from VAT consists of two components: VAT in the country, collected by the **Tax Administration** and VAT on imports collected **by the Customs Administration**. From the total collected income, funds are provided for VAT refunds to businesses that submit a request to the Tax Administration after the expiration of the appropriate tax period. After the Tax Administration finishes the control **the Treasury Administration deposits the refund to the** taxpayers' accounts. Although the law prescribes maximum time limits for refunds, in practice it often happens that they are breached (longer than 45 days), especially for taxpayers who do not fall into the category of predominantly exporting businesses. These delayed payments of the TA are explained by the length of the controls themselves, which precede the decision on the payment of refunds. Control procedures have been improved over the past few years, resulting in a “shortened waiting period” for VAT refunds, but in the opinion of some businesses, in practice there is still a breach of 45 days.

NEXT STEPS TOWARDS COMPLIANCE WITH EU REGULATIONS

The Law on VAT is largely in line with the European VAT model. Consequently, the basic structure of the value added taxation system in Serbia is based on the principles and rules defined by the EU directive. This was shown by the EC report, after explanatory and bilateral screening, as well as subsequent reports, concluding with the report for 2020, given that in the area of value added tax there are no obstacles to opening chapters. In the process of joining the EU, no significant changes will be necessary in the way the VAT system of Serbia functions, especially when it comes to the level of rates, both standard and reduced. As stated in the introduction, the criterion for opening the chapter concerns the Law on Excise Duties, or equalization of the amount of excise duties on strong alcoholic beverages in order to eliminate fiscal discrimination between domestic producers and importers of these products.

On the other hand, it will be necessary to make the rules of taxation of transactions between member states, as well as the rules regarding the manner of defining the taxpayer, the place of origin of the tax liability, etc. fully compliant with EU directives. Although both the general and reduced VAT rate in Serbia are in line with EU directives, the list of goods the sale of which can be taxed at a reduced rate in Serbia includes some products and services which in accordance with the EU Directive, or Annex III, cannot be taxed at a lower rate. Therefore, **after the opening of the chapter and during the negotiations, amendments to the Law will be needed in order for these products and services to be taxed at a higher, standard rate of 20%. These are goods such as natural gas, thermal energy intended for heating, and transactions of real estate units which are sold for the first time.** In addition, in the part related to tax exemptions, it will be necessary to abolish exemptions from **taxation of equipment for the disabled, purchase of the first apartment, and transport of goods by inland waterways**, as well as **exemptions for religious communities**.
A significant step was taken in that direction, by abolishing the exemption or VAT refund for the purchase of food and equipment for babies (until the second year of the child's life).

This tax and demographic measure had been applied since the beginning of 2013, and expired on July 1, since it was compensated by the higher parental allowances for the 1st, 2nd, 3rd and 4th child by amending the Law on Financial Support to Families with Children.

Also, in the accession process, it will be necessary to abolish the exemption from VAT for the delivery of goods and services to customers in Free Zones, for goods and services that are used in the Free Zone for final consumption, and not as an intermediate good. These changes will ultimately affect the increase in the scope of work of the Tax Administration, which will require the improvement of organizational, staffing and financial capacity of this institution. In addition, for full harmonization with the EU system, it will be necessary to fully integrate Serbia into the electronic system of VAT data exchange between member states. It is an electronic VAT Information Exchange System (VIES).

Finally, in terms of the fiscal position of the state and the structure of public revenues, it should be noted that VAT revenues (VAT in the country and VAT on imports) represent the largest revenue of the national budget (more than 40%) and second largest (after compulsory social security contributions) general government budget revenue. VAT revenue accounts for almost a quarter of total public revenue, while the share of VAT in GDP, in recent years, has been around 10%, significantly higher than the EU average (28 countries). Regarding the structure of VAT revenues, the largest part refers to the import component (86.6% in 2019) while the rest (13.4% in 2019) is the tax on domestic consumption, or trade in goods and services in country. Certainly, harmonization in this area with the EU Directive could have fiscal effects, primarily through higher collection of VAT revenues, after accession and redefining the list of products that are taxed at a lower rate of 10%.

After fulfilling the conditions to initiate negotiations on this important chapter, the further course of negotiations and the speed of closing will primarily depend on the agreed dynamics of harmonization of the tax system of Serbia with the EU Directives. In principle, all changes to tax laws must be adopted before closing the negotiating chapter. However, there is some flexibility, so it is possible that some legal mechanisms will be implemented later, or from the day of EU accession. The experiences of the countries that joined the EU show that there is a possibility to envisage the so-called transition period, which means that on the day of the country's accession to the EU, the old tax regulation continues to apply, until the moment towards full adjustment. Also, in the negotiations, it is possible to agree on minor deviations from the general rule, if the relevant directive allows it. From the aspect of the impact on the budget, or the amount of public revenues, it will be necessary to consider the effects of changes in tax laws, given that harmonization of regulations implies greater coverage of the tax base, in certain cases higher tax rate, lower number of tax exemptions, etc.

KEY ADMINISTRATIVE PROBLEM FOR BUSINESSES RELATED TO VAT

Since the introduction of a different way of taxing consumption, the Law on VAT has changed every year, both due to changes in tax rates (increases) and efforts to improve the legislative framework and solve problems that have arisen in practice. In addition, any amendment to the Law implies the adoption of appropriate bylaws, which explain in more detail and more precisely the manner of application of certain provisions of the Law in practice. Thus, even though the Law on VAT, Article 23 defines the list of goods and services that are taxed at a lower VAT rate, the Minister of Finance issues a special Rulebook on determining goods and services the sale of which is taxed at a special VAT rate[8], and specifying goods and services the sale of which is taxed at a lower rate.

As for the time limits for filing tax returns and paying VAT, as stated above, they are due by the 15th of the month, for the previous month or the previous quarter. In both **cases, starting from 2012, in accordance with the law, taxpayers are obliged to maintain special records on the basis of which they calculate VAT, but are not required to submit them to the Tax Administration when submitting tax returns and paying taxes.**

At the end of 2016, a new Rulebook on the Form, Content and Manner of Maintaining Records on VAT and on the Form and Content of the Review of Calculations ("Official Gazette of the RS", No. 80/2016 and 109/2016) was drafted and adopted to require significantly more detailed VAT records as well as submitting an overview of VAT calculations (POPDV) with each VAT tax return (PPPDV) - monthly or quarterly. Considering that the Rulebook was adopted in the last quarter of 2016 and that, according to the claims of accounting agencies and producers of tax accounting software, it implied significant software changes, but also employee training, its application was postponed to 2018. **In the meantime, in October 2017, a new Rulebook was adopted ("Official Gazette of the RS", No. 90/2017 and 119/2017), the implementation of which began on July 1, 2018.**

ANALYSIS OF PROBLEMS FROM THE STANDPOINT OF BUSINESSES

During September 2017, NALED prepared an ex-ante analysis of the Draft Rulebook on the Form, Content and Manner of Maintaining VAT records, with the aim of estimating additional costs incurred by businesses due to the introduction of the new Rulebook. The analysis, or cost estimation was done on the basis of data and attitudes of accounting agencies, or companies that maintain VAT records with the engagement of accounting agencies, as well as from the point of view of companies that independently maintain VAT records. Therefore, the analysis itself did not take into account any additional costs (administrative capacity or changes in software solutions) that the application of regulations may cause to the competent authority - the Tax Administration. The results of the ex-ante analysis showed that the application of the Rulebook will create additional costs for businesses, primarily in the technical domain, through software changes and adjustments, but through additional training that employees in legal entities or accounting agencies had to go through to get acquainted with the new Rulebook and how to fill in and file tax returns[9].

As stated above, an overview of VAT calculations which constitute the basis for tax returns was regulated by the Rulebook on the Form, Content and Manner of Maintaining VAT Records of 2012.

[8] https://www.paragraf.rs/propisi/pravilnik_o_utvrdjivanju_dobara_i_usluga_ciji_se_promet_oporezuje_po_posebnoj_stopi_pdv.html.
[9] The costs estimated based on the Standard Cost Model –SCM were between EUR 8.2 mil. and EUR 17.8 mil., where more than a half concerned changes to software solutions and the remaining amount concerned additional training for employees.

The tax payer was obliged to make an overview of the VAT calculation on the basis of which the tax return was filled out for each tax period, monthly or quarterly. However, the form of the overview was not prescribed, nor did the mentioned rulebook stipulate the obligation to submit it to the Tax Administration. The overview of VAT calculations was supposed to improve the process of control of VAT returns by tax inspectors and facilitate the identification of risk-prone business entities.

Data obtained through interviews with companies and accounting agencies, as part of the ex-ante analysis, showed that, even when the control was performed, the taxpayer was not required to show the overview of calculations, and the control was performed on the basis of incoming and outgoing invoices (IIB and OIB), which makes the review of VAT calculations meaningless.

It was the comments and resistance of accounting agencies and businesses that led to the amendments to the 2016 Rulebook. The Rulebook provided for filling in about 150 lines in the VAT form, and the changes at the end of 2017 reduced the number of lines to about 75[10], while retaining the requirement to maintain records that are more detailed than the records prescribed by the Rulebook of 2012. Namely, both Rulebooks required maintaining two types of records: general records and special records. Comparing the Rulebook of 2012 and the Draft Rulebook of 2017, it was established that there are no additional requirements regarding special records, while on the other hand, the new regulation includes about 60% more requests in the part related to general records. Almost the same was confirmed by the respondents in the interview, stating that the required data are more detailed than the data contained in the invoice issued by the VAT payer for trade in goods and /or services, which raised the issue of the possibility to link VAT records with financial accounting records or the issue of matching these two sets of records.

In the context of the EU accession process, it should be noted that the Directive provides only general guidelines to the fiscal authorities of the Member States, according to which bylaws need to prescribe the coverage of relevant data that will allow relevant authorities – the TA faster and more efficient control. In other words, the Directive does not prescribe the structure of additional forms that taxpayers fill in and submit together with the tax return, and its structuring is entirely within the competence of the Ministry of Finance, or the Tax Administration.

At the time of drafting the Rulebook of 2016, and later that of 2017, there was great dissatisfaction and resistance from the professionals to the introduction of more detailed POPDV and PPPDV forms compared to the requirements prescribed by the Rulebook of 2012. Arguments against the adoption of the new Rulebook (some of which are contained in the ex-ante analysis are):

- High costs for businesses - a minimum of 7.5 million euros;
- PPPDV is more extensive than the EU average;
- The new rulebook will not contribute to better tax collection and the suppression of the shadow economy;
- In Germany, records and registration are much simpler;
- Insufficient transparency of tax policy because during the adoption of amendments to the VAT law at the end of 2015, no change in VAT records was announced;
- The new rulebook is not about harmonization with the EU or their guidelines and proposals.

On the other hand, the representatives of the state provided their arguments in favor of the adoption of the new Rulebook:

[10] Some parts of the POPDV form contain a separately stated tax base and tax rate within one line, which further increases the number of fields to be filled in.

- The Rulebook is in line with EU regulations;
- Additional data and information obtained through POPDV will raise the quality of tax administration to a higher level;
- VAT refund time will be significantly reduced;
- Thanks to this Rulebook, a large number of controls will be performed in the offices of the Tax Administration (desk control) without going to the taxpayer's business premises.

Based on interviews with accounting agencies, it was concluded what the application of the Rulebook in practice meant for businesses:

- Taxpayers have fully fulfilled their obligations, or the accounting software has been changed, with additional costs;
- Taxpayers were largely trained to apply the Rulebook, as they had to go through a training course / seminar, which resulted in higher costs;
- On January 2018, the Tax Administration posted on its website the User's Guide[11] for the preparation and filling in POPDV, but it is to some extent complicated and complex;
- Even though the software solutions have changed, some items in the POPDV still have to be corrected manually;
- In the initial, first period, during the submission of the PPPDV form, there was no control of attachments by the TA, which proves that the TA itself was getting used to using this form;
- The application of the new Rulebook shortened the time period for VAT refunds, for the most taxpayers;
- During the control conducted by the TA's inspection bodies VAT records were considered in a very small number of cases which was explained by the complicated form and insufficient training of tax inspectors.

Since this particular POPDV form has been applied for almost two and a half years, businesses have "adapted" to the requirements, whereas filing this form together with PPPDV form has become a common, routine job. However, the impression of businesses is that the TA "avoids" using the data from the records during its control, and in that sense the adequacy of the form itself becomes questionable.

ANALYSIS OF PROBLEMS FROM THE STANDPOINT OF GOVERNMENT

The interview with the representative of the TA was conducted to take into account the effects of the Rulebook and its contribution to the improvement of control and the risk identification system, which ultimately reflects on revenue collection, and the shadow economy.

The representatives of the Tax Administration stated that the new Rulebook was adopted because of the problems that the Tax Administration had during the control conducted pursuant to the Rulebook of 2012. Namely, the records prescribed by the 2012 Rulebook are records that were maintained exclusively by the taxpayer, which were analyzed only at the stage of oversight, or control; also, those records can be quite extensive particularly if they concern a long period. As the TA would receive only tax returns it was difficult to match the data (the TA required the submission of data contained in the records from time to time, in case something was suspected in the control). **The aim of introducing the overview of the calculation is to ensure that all records prescribed by the 2012 Rulebook are systematically completed and submitted to the TA**.

[11] https://www.purs.gov.rs/sr/pravna-lica/pregled-propisa/korisnicka-uputstva/4674/korisnicko-uputstvo-za-iskazivanje-podataka-u-pregledu-obracuna-pdv-.html.

In the first version of the Rulebook of 2016, each field of the tax return is systematically divided into its components. **In that way, the Tax Administration would be able to see all the necessary data, on the basis of which it could prepare a tax return for the taxpayer.** Therefore, the basic intention of the original solution of the POPDV form was for the TA to fill in advance tax return on behalf of the taxpayer and offer him that tax return, based on the data provided in the form. In addition, the adoption of the new Rulebook was suggested by the permanent representative of the IMF, believing that the tax return alone is not enough for analysis, because e.g. it does not provide a precise insight into whether some equipment was procured for the performance of activities or as an input that will be sold further. To that end, a German tax return is provided, which can serve as a basis for structuring the VAT record form. However, the significant resistance of businesses led to the Rulebook being changed, and from 2018, a somewhat simpler POPDV form will be applied.

With regard to EU regulations in this area, the TA points out that the Directive itself does not prescribe or prohibit Member States from obtaining this type of supplementary information in a way that it deems expedient and justified for further use in taxpayers' analyzes and controls. Croatia is cited as an example of similar practices and actions, where in addition to the tax return, 7 additional tables are filled out.

The application of the new Rulebook required and created additional costs for businesses, as shown by the results of ex-ante analysis, but the state, or the TA had to prepare administratively and technically for the implementation and filing of POPDV, together with PPPDV, which is submitted exclusively electronically as of 2017. In that sense, for each new data element, a decision should have been made on where the data would be filed in order to perform control and validation. In addition to software solutions, made during the period of six months, for the appropriate use of received data and risk analysis, TA need one calendar or fiscal year, practically 12 months (during the 2019) for applications. As there was no need to hire new employees, lecturers from the Sector for Providing Services to Taxpayers held trainings on how to use the Rulebook, or read data included in the POPDV form for inspectors in Control Department. At the same time, trainings for tax payers were held in cooperation with the Serbian Chamber of Commerce.

Even though the data included in POPDV form are available all the time to tax inspectors who perform oversight, i.e., control, the data contained in it are not sufficient to automatically generate a tax return from them, which was intention of the originally adopted Rulebook.

At the beginning of the application of the Rulebook, the TA noticed numerous errors in the presentation of data in the POPDV forms, which prevented a quality risk analysis. In order to solve the problems that arose in practice, during the first 6 months of application of the Rulebook, the TA analyzed the behavior of taxpayers, and then started conducting training to help taxpayers correctly fill out their forms, to increase their value in further analysis. According to TA’s statistics, as many as 68% taxpayers, who had been contacted, had to amend their tax returns.

The POPDV and PPPDV forms include enough data and information for tax inspectors to identify and analyze risks, and prepare for the oversight, or control procedure. On the other side, in case of fieldwork, no matter if the control is performed for the purpose of approving VAT refunds or other purpose, inspectors look not only incoming invoice books and outgoing invoice books, but also individual invoices received from the particular suppliers or issued to the particular buyers.

The TA will have more detailed analyses of the impact that the POPDV may have on the increase of VAT collection at the beginning of the next year, given that it is necessary to compare 2019 data included in POPDV and PPPDV forms with data from last year’s financial statements, which will be available as early as in April next year due to the postponement. The aim of this comparison is to look at and compare taxable and non-taxable income stated in POPDV and PPPDV, for the entire 2019. This type of data comparison should improve

the oversight process and risk identification concerning businesses that provided discrepant data. Certainly, the greatest positive effects are reflected in more efficient preparations of tax inspectors for the control procedure, because POPDV enables a clear distinction between e.g. import components, exports and tax exemptions. On the other hand, the Tax Administration at this time cannot assess the extent to which the implementation of Rulebook has helped increase collection of VAT revenues, as it depends from various factors[12] but it has certainly helped shorten the time limits for VAT refunds in the practice, which is also confirmed by the analysis that are done internally within the TA.

RELEVANT LAWS

At the time of making this analysis, a new Law on Fiscalization[13], was adopted, which will repeal the Law on Fiscal Cash Registers of 2005. The law (and most of its provisions) is expected to enter into force on January 1, 2022, in order to leave enough time for the adoption of bylaws (until the beginning of October 2021) and for businesses to prepare and adapt to changes. The law determines the subject of fiscalization, the procedure of fiscalization via an electronic device, the content of the fiscal account, the entities subject to fiscalization, etc.

The subject of fiscalization is the retail sale of goods and services and the received advance in retail trade.

The taxpayer subject to fiscalization is any self-employed taxpayer paying income tax and any retailer paying corporate income tax. The taxpayer subject to fiscalization is obliged to record each individual retail sale, regardless of the method of payment, including the received advances for future retail sale, through an electronic fiscal device. At the same time, the **taxpayer must submit to the Tax Administration data on issued fiscal invoices via a continuous internet connection in real time at the time of retail sale**.

Fiscalization procedure: At the time of retail sale, which includes receiving advance, a taxpayer should issue a fiscal invoice using an electronic fiscal device, the use of which is approved by the Tax Administration. The taxpayer has the right to decide on the type of electronic fiscal device that he will use, as follows:
1) an electronic fiscal device that enables the issuance of fiscal invoices even in case of temporary or permanent interruption of the Internet connection; and / or
2) an electronic fiscal device that enables the issuance of fiscal invoices exclusively through a continuous internet connection in real time.

The fiscal invoice confirms that the individual retail sale, including the advance, is recorded in the electronic fiscal device. The law prescribes the mandatory content of the fiscal invoice (type of invoice, type of transaction, tax rates, amount of tax at a particular tax rate and total tax, total value of sale, etc.), while specific elements of the fiscal invoice will be regulated in more detail by a bylaw issued by the minister.

The draft Economic Reform Program (ERP) for the period 2021-2023[14] anticipates the drafting and adoption of the law on e-invoices. The draft law itself was not publicly available at the time of making this analysis, so the connection with the Law on Fiscalization and the Rulebook on Records cannot be fully considered. According to the available information, it is planned to introduce a centralized platform for the exchange of electronic invoices, both between businesses themselves (deadline January 01, 2022) and

[12] Revenue collection is affected by economic acitivity, number of tax payers, as well as some other activities that Tax administration is implementing.
[13] 1932-20.pdf (parlament.gov.rs)
[14] https://www.mfin.gov.rs/propisi/nacrt-programa-ekonomskih-reformi-erp-2021-2023/.

between the public sector and businesses (July 01, 2021). The goal of the law is to completely eliminate the issuance of paper invoices, which will be replaced by invoices in electronic form.

The transition to an electronic invoicing system is a process resorted to by the most developed EU countries, such as Germany, Italy and France. Thus, Italy introduced the obligation to issue e-invoices in 2019, while France envisaged a complete transition to electronic invoices, in phases, in the period from 2023 to 2025 (depending on the size of the company). In Germany, electronic invoicing has been introduced as an obligation of both the private and the public sector.

CONCLUSION AND RECOMMENDATIONS

Based on the data and views presented, the Law on Fiscalization, and the announcement regarding the new law on e-invoices, the **conclusion, at the end of this analysis, is that as of the beginning of 2022, businesses will no longer need to fill out and submit POPDV forms, which will relieve them of some administrative costs.** Almost the same conclusion can be drawn based on the interviews conducted. Businesses believe that the application of these two laws will in some way render the need to maintain additional records, or filling in the POPDV form meaningless. Also, the position of the TA is that the implementation of new mechanisms will provide all the necessary information and data, which will enable the generation of PPPDV, which will further improve the control function and strengthen the risk assessment process.

However, this conclusion should be taken with some reservations, given that the bylaws regarding the new fiscalization system are yet to be adopted, and that at this moment the draft law on electronic invoices is not publicly available, which would enable a better and above all qualitative overview of the entire framework, links with the currently valid rulebook and records needed. It seems realistic to assume that all data currently entered in the POPDV form will be contained in individual invoices, with the TA having access to this data in real time. In that sense, it will probably be possible to automate PPPDV, or their production by the TA. In that way, the **obligation to fill in the POPDV form would no longer have a purpose, or the obligation to fill in the POPDV would cease, by repealing the Rulebook, which would certainly lead to a reduction of administrative costs of businesses**. Certainly, the process of digitalization, especially in light of the crisis caused by the Covid-19 pandemic, is becoming increasingly important, and can facilitate and significantly improve the process of filing tax returns, so that on the one hand the authorities will have all the data needed for analysis and control and on the other, businesses, i.e., taxpayers will be relieved of the current burden.

Even though the implementation of the Law on Fiscalization will start as of the beginning of 2022, and the full transition to electronic invoices between businesses will occur in the same period, it is recommended to ensure consistency between these two laws, which will help repeal the current Rulebook as of 2022. This solution is optimal for both government and businesses. The second solution would be to simplify the form, but in such a way to avoid new and additional costs of upgrades of software used by businesses.

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