

The Ministry of Finance issued an opinion indicating that transactions between headquarters of a foreign company and its Serbian branch may represent supply subject to VAT

The Serbian Ministry of Finance recently issued an opinion dealing with VAT implications of assistance provided by foreign headquarter to its Serbian branch. The opinion refers to consulting services provided by the headquarters to the branch.

Apart from explaining the place of supply of consulting services to be the place where recipient conducts its business - which is principle

incorporated in VAT legislation, the Ministry took the standpoint that transaction between foreign headquarter and its branch actually represents supply subject to VAT.

Having in mind that this specific type of transaction is not expressly regulated in the VAT regulations and that previously there was no guidance, this opinion may represent the basis for the approach to be taken by the Tax authorities going forward in this respect.

It should be also mentioned that the approach expressed in the opinion of the Ministry ignores the fact that branch and headquarters do not constitute separate legal entities but only organisational parts of the same legal entity, and that therefore transactions between these parts should not represent supply subject to VAT. In addition, relevant practice in some EU countries differs from standpoint presented by the Ministry.

Also, transactions in Serbia between headquarters and branch of a Serbian company are ignored for VAT purposes.

However, Serbian branches of foreign companies as well as Serbian companies having branches abroad should carefully consider impact that presented Ministry's approach may have on their VAT position. Apart from considering possible additional VAT costs that may occur, possibilities for tax benefits should be analysed as well (e.g. input VAT recovery).

We will be glad to meet you and discuss in detail possible consequences of this opinion for your business.

Key Contacts

Krzysztof Lipka

Partner
krzysztof.lipka@rs.pwc.com
Tel: + 381 11 33 02 100

Dragan Drača

Senior Manager
dragan.draca@rs.pwc.com
Tel: + 381 11 33 02 100

Novak Anđelić

Senior Consultant
novak.andjelic@rs.pwc.com
Tel: + 381 11 33 02 100

PwC Serbia

Omladinskih brigada 88a
11070 Belgrade
Tel: + 381 11 33 02 100

www.pwc.rs
www.pwcacademy.rs



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