Chapter 16: Taxation

The indirect taxation *acquis* consists primarily of harmonised legislation in the field of Value Added Tax (VAT) and excise duties. *Value Added Tax* was first introduced in the Community in 1967, eventually leading to the Sixth VAT Directive from 1977 and still in place today. It includes the application of a non-cumulative general tax on consumption. This is levied on all stages of production and distribution of goods and services. The VAT *acquis* provides for an equal tax treatment of domestic and non-domestic (import) transactions. VAT is also based on the neutrality principle whereby the tax applied is proportional to the price, whatever the number of intermediate transactions.

In the field of *excise duties* the *acquis* contains harmonised legislation as regards energy products, tobacco products and alcoholic beverages**.** EU legislation establishes the structure of the duty that should be charged, together with a system of minimum rates for each product group. Goods are subject to duty when they are produced within the EU or imported from a third country. However, in principle, the duty is payable only to the Member State in which the goods are released into consumption (with certain limited exceptions), and at the applicable rates in that Member State. The EU legislation lays down provisions on production, holding, movement and monitoring of excisable goods. As a result of the introduction of the single market, all systematic fiscal controls at the EU's internal frontiers were abolished by 1 January 1993. As regards excise products, their holding and movement for commercial purposes within the Internal Market continued to be closely monitored to establish the chargeability of the duty.

The *acquis* in the area of **direct taxation** concerns certain aspects of profit taxes and capital duty. The focus is on eliminating distortions for cross-border economic activities between enterprises within the Union. It also includes provisions to ensure effective taxation of income from savings in the form of interest payments made to individuals. The *Code of Conduct* for business taxation represents a political commitment by Member States to tackle harmful tax measures. Member States are required not to introduce new harmful tax measures, and to roll-back existing ones.

The EU legislation in the field of **administrative cooperation and mutual assistance** between Member States' tax and customs authorities provides tools to share information in order to circumvent tax evasion and tax avoidance. It allows gathering information about tax subjects, both automatically and on request. It also allows Member States to provide recovery assistance to each other.

The *acquis* in area of **operational capacity and computerisation** covers different areas of taxation. In the field of VAT, the acquis on the Value Added Tax Information Exchange System (VIES) provides for direct electronic interchange of data between national VAT administrations within the timeframe established in the relevant EU legislation. This allows national administrations to monitor and control intra-EU trade and detect possible irregularities. In addition, a specific IT system (VAT Refund) has become operational on January 1st 2010 to ensure the electronic treatment of applications for the refund of VAT paid in other Member States than the Member State of Establishment of the Economic Operators. A third major IT-system (VoeS) is required to establish the inter-connection for exchange of information among Member States related to the special scheme for e-Services provided by non-EU traders to EU citizens. Regarding excise duties, the EU *acquis* requires IT systems to allow Member States exchanging information on producers and traders of excisable products (EMCS). In the area of direct taxation Member States are required to put

in place an automatic system for the exchange of information of savings income in the form of interest payments through an electronic standardised format.

I. INDIRECT TAXATION

A. General

1. Please specify the elements of your VAT and excise legislation which might provide for:

a) a higher level of taxation on imported products than that imposed on similar domestic products (Article 110 TFUE).

The value added tax on consumption is regulated by the Value Added Tax Law in the Republic of Serbia (Official Gazette of RS, Nos. 84/04, 86/04 – corr. 61/05 and 61/07 – hereinafter: The VAT Law). The VAT Law provides that the supply and importation of goods are charged the same tax rate – 18% general rate, or 8% specific rate. There is a possibility that different VAT rates apply to the importation and supply of the same goods but only in the exceptional cases when importation concerns the goods on the supply of which a specific 8% VAT rate is chargeable in the Republic of Serbia, provided such goods are not identically classified, namely they are not covered by a regulation governing the customs tariff.

The Excise Tax Law (Official Gazette of RS, Nos. 22/01,73/01, 80/02, 43/03, 72/03, 43/04, 55/04, 135/04, 46/05, 101/05 – other law, 61/07, 5/09, and 31/09 and и 101/10 – hereinafter: the ETL) does not contain any provisions setting out higher levels, namely higher excise rates for imported products than that for domestic products.

b) repayment of tax on exported products which exceeds the internal tax imposed on them (Article 111 TFUE).

If VAT was calculated on the supply of goods in the Republic, and the goods concerned are later exported, the VAT refund against the exportation of goods may not exceed the amount of VAT calculated for the supply in the Republic.

For the excisable products for which the amount of excise duty had been duly paid but they were later exported, the Excise Tax Law provides that the refundable amount of excise duty may not exceed the amount of internal excise duty paid for them. Namely, the level of excise duty refund for exported products may not exceed the level of excise duty that was internally paid for those products, which is in compliance with the provisions of Article 111 TFUE.

Since the question is not clearly defined, presuming that it concerns the taxes imposed on exported goods that are supplied internally (not including VAT and excise tax charges), in view of the application of tax legislation, the charge is identical. Neither VAT nor excise tax are payable on the exportation of goods.

B. Value Added Tax

2. Please provide a copy of your country's VAT legislation (in one of the official EU languages), including other related legislation, such as administration guidelines, etc.

SEE APPENDIX 1 FOR ENGLISH TRANSLATIONS OF THE VAT LAW, AND THE BYLAWS ADOPTED BASED ON THE VAT LAW.

The bylaws governing the implementation of this Law are the following:

- The Regulation on the criteria for identification of predominantly international supply of goods, for the purposes of the Value Added Tax Law *(Official Gazette of RS, Nos. 124/2004 and 27/2005);*
- Regulation on the level of expense (ullage, spillage, breakage and defect) that is not VAT chargeable *(Official Gazette of RS No. 124/2004);*
- The Regulation on implementation of the Value Added Tax Law in the territory of the Autonomous Province of Kosovo and Metohija, within the validity period of the UN Security Council Resolution 1244 *(Official Gazette of RS No. 15/2005);*
- The Rulebook on identification of the goods and services for which special VAT rates are applicable *(Official Gazette of RS Nos. 108/04, 130/04, 140/04, 65/05 and 63/07);*
- The Rulebook on how to apply for VAT exemption, with and without the entitlement to input tax deduction (*Official Gazette of RS Nos.* 124/04, 140/04, 27/05, 54/05, 68/05, 58/06, 112/06, 63/07 and 99/10);
- The Rulebook on the format and content of the VAT Registration Application Form, the registration and de-registration procedures, and the format and content of VAT Application Form (Official Gazette of RS No. 94/04, 108/05 and 120/08);
- The Rulebook on the events when it is not obligatory to issue the invoice, and on the invoices from which some data may be omitted (Official Gazette of RS Nos. 105/04, 140/04 и 67/05);
- The Rulebook on the form, content and manner of keeping records of VAT (Official Gazette of RS No. 107/2004, 67/2005)
- The Rulebook on how to identify the events deemed to constitute the seizing and use of the goods which are part of the taxpayer's business assets, the provision of services, and other supply for no consideration, and how to identify the usual quantity of product samples and small value gifts *(Official Gazette of RS No. 114/2004);*
- The Rulebook on how to identify the newly built facilities or economically divisible units within such facilities, for which VAT is chargeable on the first transfer of disposal rights *(Official Gazette of RS No.* 105/2004*);*
- The Rulebook on the VAT refund procedure and the manner and procedure for VAT reimbursement and refund *(Official Gazette Nos. 107/2004, 65/2005, 63/2007);*
- The Rulebook on how to determine and correct the proportional tax deduction *(Official Gazette Nos. 67/2005);*
- The Rulebook on how to determine the equipment and facilities needed for the performance of business activity and how to implement the correction of input tax deduction for the equipment and facilities needed for the performance of business activity (Official Gazette Nos. 67/2005);
- The Rulebook on how to determine the transfer of assets, in full or in part, for a consideration or for no consideration, or as a contribution, not deemed to constitute the supply of goods or services for the purposes of the Value Added Tax Law, (Official Gazette of RS Nos. 67/2005);
- The Rulebook on goods replacement within the guarantee period, not deemed to

constitute the supply of goods and services for the purposes of the Value Added Tax Law (Official Gazette of RS Nos. 67/2005);
- The Rulebook on the goods deemed to be fine art, collectors items, or antiques (Official Gazette No. 105/2004);
- The Rulebook on how to determine the base amount to calculate VAT on bus transport of passengers that is performed by a foreign taxpayer (Official Gazette Nos. 105/2004);

3. Please give a detailed description of your current VAT regime particularly in the following areas:

a) taxable persons (i.e. conditions for being subject to tax, ceilings, etc.); liable persons (i.e. who is paying the tax);

i) the response should include the VAT treatment of government bodies and public institutions; non-resident taxable persons, small and medium sized entrepreneurs, liberal professions, non-profit organisations, affiliated enterprises, groups, etc; **8, 9, 10, 33, 34. and 38 of VAT Law).**

• Any person can be a taxpayer: a legal person (small, medium, or large company), a natural person (e.g., a lawyer, auditor, advisor, artist, etc), an association, etc., that is independently supplying goods or services within the performance of a business activity as a continuous activity performed to generate income.
The Republic and its authorities, the territorial autonomy and local government bodies, and the legal persons that were established by law in order to perform the public administration tasks, are not taxpayers for the purposes of the Law, provided they supply the goods or services falling within the competences of such authorities, namely for the purposes of performing the public administration tasks.
The Republic and its authorities, the territorial autonomy and local government bodies, and the legal persons that were established by law in order to perform the public administration tasks, however, are the taxpayers if they are involved in the taxable supply of goods and services that are outside the competences of such authorities, namely outside performing the public administration tasks.
A foreign person, i.e. a person without a registered office, a permanent business establishment, or a residential address in the territory of the Republic of Serbia does not have a possibility to be registered for VAT in the Republic of Serbia.
A person who independently supplies goods or services within performing a business activity as a continuous activity not intended to generate income is not a VAT payer (e.g., humanitarian organisations who are exclusively involved in humanitarian work, including non-profit organisations, business associations established for the purposes of achieving a shared interest of their members).
Related persons shall be deemed to be separate taxpayers.

• A person independently supplying goods or services within performing a business activity as a continuous activity intended to generate income **is under the obligation** to, before the expiry of the first deadline for filing the periodic tax reports (10 days after the expiry of current tax period), file the VAT registration application, namely get registered as a VAT payer if, in the previous 12-month period, his total turnover of supplied goods or services, not including the equipment and facilities needed for the performance of business activity (hereinafter: total turnover), exceeding **RSD 4 million (≈EUR 40,000)**.

Persons independently supplying goods or services within performing a business activity as a continuous activity intended to generate income are to file the registration application if deeming, when commencing to perform their business activity, that their total turnover, in the following 12 months, will exceed RSD 4 million.
Persons whose total turnover in previous 12 months did not exceed RSD 4 million, or persons who deem, when commencing their business activity, that their turnover, within the following 12 months, will not exceed RSD 4 million (hereinafter: small taxpayers), shall not calculate or pay VAT for their turnover of goods and services (they are not in the VAT system).

In the beginning of a calendar year, small taxpayers and agricultural workers shall have a **possibility** to, by filing the registration application before 15 January of current year, undertake the obligation to calculate and pay VAT, if their total turnover within previous 12 months exceeded RSD 2 million (≈ EUR 20,000) or if they deem that their turnover in following 12 months will exceed that level. In such a case, the VAT liability subsists for at least two calendar years. Upon the expiry of two calendar years, taxpayers may, before 15 January of the current year at the latest, file with the competent tax authority a request for cessation of VAT liability (provided their turnover in previous 12 months did not exceed RSD 4 million).

• Tax debtor is a person who failed to complete an activity falling within tax relations. Tax debtors are principally required to pay VAT for the supply of goods or services, and/or importation of goods.

A tax debtor is:

1) a VAT payer;

2) a tax representative appointed by a foreign person without a registered office or a permanent business establishment in the Republic who supplies goods and services in the Republic;

3) a recipient of goods or services, where a foreign person did not appoint a tax representative;

4) a person who states VAT in an invoice or other document used for the same purpose, even though not required to calculate and pay VAT under the VAT Law;

5) a person who imports the goods.

ii) how many VAT taxable persons are there in your country?

As of 28 February 2010, total of 109 133 VAT payers were registered with the Tax Administration, out of which 47 400 on monthly basis and 61 733 on trimestral basis. Out of the total number of VAT payers, 64 065 are legal persons and 44 068 are entrepreneurs or natural persons.
As of 31 October 2010, there were 115 071 active VAT payers in the VAT register, out of which 68 381 are legal persons, 44 933 are entrepreneurs, and 1 757 are natural persons.

b) scope of taxable transactions (supply of goods, including immovable property, and services, incl. self-supply, private use),

What is subject to VAT taxation (Art. 3, 4, 5, and 6 of the VAT Law)**;**

• The following is subject to VAT:

- **supply of goods or services** (hereinafter: **supply of goods or services) made by a taxpayer in the Republic, with consideration, within performing the business activity;**
- **importation of goods into the Republic**.

• **Supply of goods** is the transfer of disposal rights over tangible items (hereinafter: the goods) to a person who may use such goods as their owner, unless otherwise provided by the VAT Law. Water, electricity, gas and heat are also deemed to be the goods.

• The supply of goods is deemed to include also:

- the transfer of disposal rights over the goods, with a consideration pursuant to the regulation of a national authority, or an authority of territorial autonomy or local government;
- handover of goods under a lease contract, in accordance with the law, or under a deferred payment sale contract which provides for the transfer of disposal rights with the payment of last installment at the latest;
- transfer of goods by the owner to the commission agent and vice versa;
- supply of goods under a contract which provides for payment of a commission with sale;
- transfer of goods by the owner to the consignee and vice versa;
- supply of the goods manufactured or assembled according to the ordering party's instructions, from the ordering party's materials, unless such goods are accessories or other ancillary materials;
- the first transfer of disposal rights over newly built facilities or economically divisible units within such facilities;
- the first transfer of an interest in newly built facilities or economically divisible units within such facilities;
- exchange of goods for other goods or services.

• **Rulebook on how to identify the newly built facilities or economically divisible units within such facilities for which VAT is chargeable on the first transfer of disposal rights** *(Official Gazette of RS No. 105/2004)* specify in more detail what is deemed to be a newly built facility. According to the provisions of this Rulebook, newly built facilities, for the purposes of Article 4 (3) 7) of the VAT Law, shall be deemed to be the facilities at all stages of completeness, provided their construction commenced as of 1 January 2005, the disposal rights over which can be transferred. Economically divisible unit (residential or commercial space, a garage, etc.) shall be deemed to be the part of a newly built facility the construction of which commenced as of 1 January 2005, which are supplied as a specific unit and for which specific consideration is agreed.

Also, newly built facilities or economically divisible units within such facilities, for the purposes of Article 4 (3) 7) of the VAT Law, are deemed to be the structures the construction of which commenced before 31 December 2004, and was then resumed as of 1 January 2005, in the part which was constructed as of 1 January 2005, regardless of the stage of completeness, the disposal rights over which can be transferred. In this case, basis amount for VAT calculation for the first transfer of disposal rights is determined by applying the percentage obtained using the formula below to the total amount of the consideration for the facility that was received at the time of the first transfer of disposal rights:

$$100\% \text{ minus } \frac{\text{Value of the facility as of 31 December 2004}}{\text{---------- (\%)}}$$

Total value of the facility at the time
of the first transfer of disposal rights

• The following is deemed to be the same as the supply of goods for a consideration:

- taking of goods which are a part of the taxpayer's business assets for the personal use of the founder, employees, or other persons;

- any other supply of goods for no consideration;

- stated level of loss (ullage, spillage, breakage and defect) above the level laid down in the act issued by the Government of the Republic of Serbia.

Taking of goods which are a part of the taxpayer's business assets for the personal use of the founder, employees or other persons, or any other supply of goods for no consideration, however, is deemed to be the supply of goods if the VAT payer was entitled to deduct the VAT calculated by the previous participant in the supply, namely if it was paid, fully or proportionally, at the time such products were imported, as the input tax.

The rulebook on how to identify the events deemed to constitute the seizing and use of the goods which are a part of the taxpayer's business assets, the provision of services and other supply for no consideration, and how to identify the usual quantity of product samples and small value gifts *(Official Gazette of RS No. 114/2004)* specify in more detail what is deemed to constitute the seizing of goods which are a part of the taxpayer's business assets, and any other supply for no consideration. *According to the provisions of these Rulebook,* the seizing of goods is deemed to be the seizing of goods which constitute a part of the taxpayer's business assets, for the taxpayer's own consumption, for the personal needs of the founder, employees, or other persons (hereinafter: own consumption). The own consumption shall be deemed to include in particular:

- giving the goods as the compensation for work done or a salary to a person employed with the taxpayer or other person who performs particular tasks for the taxpayer, regardless of the legal grounds on which such person does so;

- taking of goods for the taxpayer's private use, other than the goods related to such person's business activity;

- taking of goods for the personal requirements of the founder, members of the founder's family, or other persons;

- any other taking of goods, which are a part of the taxpayer's business assets, for non-business purposes.

The own consumption is also deemed to include the deficit of goods. Exceptionally, own consumption shall not be deemed to include the deficit of goods which can be explained by force majeure or otherwise as provided by the law (natural disaster, theft, traffic accident, etc.), the deficit that is determined based on an act issued by the competent authority or organisation, or an expense recognised for tax purposes that was determined in accordance with the regulation governing the level of loss (ullage, spillage, breakage and defect) on which VAT is not chargeable.

Any other supply of goods for no consideration is deemed to include the giving away of goods as a present, not including the giving away of product samples and small value gifts referred to in Articles 7 and 8 of this Rulebook.

• Where a delivery of goods is accompanied by an adjunct delivery of goods or adjunct provision of services, it shall be deemed that a single delivery of goods is made.

• Where the same goods are delivered in a succession in which the first supplier transfers the disposal rights directly to the last recipient of goods in such sequence, every delivery in the sequence is deemed to be a separate delivery.

• **The supply of services** are all tasks and actions within the performance of a business activity other than the ones deemed to be the supply of goods. The supply of services is also deemed to include all events of failing to take action or being subjected to an action.

• The supply of services is also deemed to include:

- transferring or ceding the copyrights, and transferring, ceding, or allowing access to patents, licenses, trademarks, and other intellectual property rights;
- providing services for a consideration pursuant to the regulation of a national authority, or an authority of territorial autonomy or local government;
- handover of the goods manufactured or assembled according to the ordering party's instruction, from the ordering party's materials;
- exchange of services for goods or services;
- surrender of food and drink for on site consumption;
- ceding an interest or a right.

• The following is deemed to be the same as the supply of services for a consideration:

- use of the goods which are a part of the taxpayer's business assets for the personal use of the founder, employees, or other persons;
- providing the services by the taxpayer, for no consideration, for the personal use of the founder, employees, or other persons;
- any other supply of services for no consideration.

The use of goods which are a part of the taxpayer's business assets for the personal use of the founder, employees or other persons, is deemed to be the supply of services if the VAT payer was entitled to deduct the VAT calculated by the previous participant in the supply, namely if it was paid, fully or proportionally, at the time such products were imported, as the input tax. **The rulebook on how to identify the events deemed to constitute the seizing and use of the goods which are a part of the taxpayer's business assets, the provision of services and other supply for no consideration, and how to identify the usual quantity of product samples and small value gifts** *(Official Gazette of RS No. 114/2004)* specify in more detail what is deemed to constitute the use of goods, which are a part of the taxpayer's business assets, for personal use of the founder, employees or other persons, and provision of services made by the taxpayer, for no consideration, for the personal use of the founder, employees, or other persons. According to the provisions of this Rulebook, the use of goods is deemed to be a temporary and/or periodical use of goods which constitute a part of the taxpayer's business assets, for the personal needs of the founder, employees, or other persons, and in particular:

- the provision of services by using the goods which constitute a part of the taxpayer's business assets as the compensation for work done or a salary to a person employed with the taxpayer or other person who performs particular tasks for the taxpayer, regardless of the legal grounds on which such person does so;
- the use of goods for the taxpayer's own needs other than the ones related to such person's business activity;

- the use of goods for the personal requirements of the founder, members of the founder's family, or other persons;

- any other use of goods, which are a part of the taxpayer's business assets, for non-business purposes.

The provision of services, for the purposes of Article 5 (4) 2) of the VAT Law is deemed to include all services which the taxpayer provide for no consideration, for the personal use of the founder, employees, or other persons.

• Where a service is accompanied by an adjunct provision of services or adjunct delivery of goods, it is deemed that a single service is provided.

• **Certain transactions, for the purposes of the VAT Law, <u>are not deemed to constitute a supply of goods or services,</u> which means that no VAT is chargeable on them. These include:**

- the transfer of all assets or part of assets, for a consideration or for no consideration, or as a contribution, if the transferee is a taxpayer or if this transfer causes him to become a taxpayer and he continues to perform the same business activity;

- the supply of passenger vehicles, motorcycles, vessels, aircrafts for which, at the time of first acquisition, VAT payer was not entitled to deduct the input tax, in full or proportionally;

- the replacement of goods within the warranty period;

- giving away product samples to customers or prospective customers, free of charge, in the quantities usually given for such purposes.- giving small value gifts, if they are given sporadically and to different persons.

The replacement of goods , on which VAT is not chargeable, within guarantee period, is regulated by the Rulebook on goods replacement within guarantee period that is, for the purposes of the Value Added Tax Law, not deemed to constitute the supply of goods and services (Official Gazette of RS Nos. 67/2005).

The rulebook on how to determine the transfer of property, in full or in part, for a consideration or for no consideration, or as a contribution, that is, for the purposes of the Value Added Tax Law, not deemed to constitute the supply of goods or services (Official Gazette of RS, No. 27/2005) specify in more detail what is deemed to be the transfer of property, in full or in part, for a consideration or for no consideration, or as a contribution.

The rulebook on how to identify the events deemed to constitute the seizing and use of the goods which are a part of the taxpayer's business assets, the provision of services and other supply for no consideration, and how to identify the usual quantity of product samples and small value gifts *(Official Gazette of RS No. 114/2004)* specify in more detail what is deemed to be a usual quantity of product samples and small value gifts.

c) territorial scope <u>(Art. 61 of the VAT Law)</u>;

The provision of Article 61 of the VAT Law provides that the Government of the Republic of Serbia shall arrange for the implementation of this Law in the territory of the Autonomous Province of Kosovo and Metohija within the validity period of the UN Security Council Resolution 1244. Taking into account the specificity of current situation, and aiming to ensure the unhindered functioning of the Republic of Serbia tax system, in respect of ensuring the VAT revenues under the destination principle, the Regulation on the implementation of the Value Added Tax Law in the territory of the Autonomous Province of

Kosovo and Metohija within the validity period of the UN Security Council Resolution 1244 (Official Gazette of RS, No. 15/2005) laid down that the VAT Law, the regulations adopted based on the VAT Law and this Regulation shall apply to the supply of goods or services made by the VAT payers from the territory of the Republic of Serbia outside the territory of the Autonomous Province of Kosovo and Metohija (hereinafter: the RS outside the APKaM) to the territory of the APKaM, and from the territory of APKaM to the territory of the RS outside the APKaM. With regard to this, please note that

- for the supply of goods which are dispatched from the territory of the Republic outside the APKaM to the territory of the APKaM, VAT shall not be calculated or paid, provided the requirements laid down by the Regulation are met and the VAT payer is entitled to input tax deduction on that basis;
- for the supply of the goods which are dispatched from the territory of the APKaM to the territory of the Republic outside the APKaM, VAT shall not be calculated or paid;
- for the supply of the services made in the territory of the RS outside the APKaM, for the purposes of Article 12 of the VAT Law, VAT shall be chargeable, and for the supply of the services made in the territory of the APKaM, for the purposes of Article 12 of the VAT Law, VAT shall not be chargeable.

d) importation (taxation, suspension regimes, exemptions, etc.). How are goods that have been placed under a suspension regime treated in respect of VAT?(Art. 7 and 26 of VAT Law);

• Importation is every introduction of goods into the customs territory of the Republic. For the importation of goods, the customs authority implementing the customs procedure is responsible for VAT calculation and collection.

• VAT is not chargeable on the importation of:

- the goods that are being entered in the free zone, provided the taxpayer – recipient of goods would have been entitled to input tax deduction if such goods were acquired for the requirements of performing a business activity outside the free zone;
- the aircrafts that are predominantly used for a consideration in the international air traffic, and delivery of the goods intended as equipment for such aircrafts;
- the goods intended to be used directly for the aircrafts that are predominantly used for a consideration in the international air traffic;
- the vessels predominantly used for a consideration in the international in-land waterway traffic, and the goods intended as equipment for such vessels;
- the goods intended to be used directly for the vessels predominantly used for a consideration in the international in-land waterway traffic;
- the gold for the requirements of the National Bank of Serbia;
- the goods intended for official use by diplomatic and consular missions, official use by international organisations, if it is so provided by relevant international agreement, or for personal needs of the foreign staff of diplomatic and consular missions, including the members of their families, and for personal needs of the foreign staff of international organisations, including the members of their families, if it is so provided by relevant international agreement;
- the goods imported in accordance with a donation agreement concluded with the Joint State of Serbia and Montenegro, or the Republic of Serbia, where such agreement provides that tax levies shall not be paid from the monetary funds received;

- the goods imported in accordance with a credit or loan agreement concluded between the Joint State of Serbia and Montenegro, or the Republic of Serbia, and an international financial organisation, or other state; or between a third party and an international financial organisation, or other state, in which the Republic of Serbia appears as a guarantor, or counter-guarantor, where such agreement provides that tax levies shall not be paid from the monetary funds received;

- the goods imported based on international contracts, where such contracts provide for tax exemption, with the exception of international donation or loan agreements;

- the legal tender, except for the banknotes or coins that are not being used as a legal tender or that have a numismatic value;

- the shares, interests in the companies or associations, bonds and other securities, duty stamp and other valid securities;

- human organs, tissue, body fluids and cells, blood and mother's milk;

- the goods imported under the donation contract, or as humanitarian aid;

- the goods that were exported but are being returned to the Republic because they were not sold or do not comply with the obligations arising from the contract or business relationship under which they were exported;

- the goods being entered, within a customs procedure, in duty free shops;

- the goods being temporarily imported and re-exported, within a customs procedure, or placed under the customs procedure of inward processing with a storage system;

- the goods being temporarily exported and then re-imported in unaltered state, within a customs procedure;

- the goods for which the processing procedure under customs control was approved, within a customs procedure;

- the goods within a customs procedure over the goods in transit;

- the goods for which the processing procedure under customs control was approved, within a customs procedure;

Besides, in some cases of the importation of goods on which, in accordance with customs regulations, customs duty is not chargeable, VAT is not chargeable neither (except for the imporation of motor vehicles). With regard to this, VAT is not be charged on:

- the passengers coming from abroad – items for their personal use during travel (personal luggage), regardless whether they carry it with them or have forwarded it;

- domestic passengers, in addition to personal luggage – the items entered from abroad, provided they are not intended for resale;

- foreign nationals who acquired citizenship and foreign nationals who were granted asylum, or permanent residence permit in Serbia – their household items, not including the passenger motor vehicles;

- domestic nationals – crew members of domestic ships and domestic nationals who, regardless of the grounds, worked abroad for at least two years – their household items, except passenger motor vehicles;

- domestic and foreign nationals – the items they receive in the dispatchment from abroad;

- domestic and foreign nationals – the medicines for their personal use that they receive as dispatches from abroad;

- domestic nationals and foreign nationals with permanent residence – the items they inherited abroad;

- domestic nationals, foreign nationals with permanent residence, undertakings, communities and other organisations – decorations, medals, sport trophies, and other items they receive abroad at competitions, exhibitions or performances of international importance;

- scientists, writers and painters – their own works they are introducing from abroad;

- domestic nationals who live in the border area – agricultural, farming, fishery, apiary, and forestry products obtained from their holdings located in the border area of the neighbouring country, and cattle offspring and other products derived from cattle that are, due to the works in the fields, grazing or wintering, located in such holdings;

- drivers of motor vehicles – fuel and grease in the tanks that are inbuilt in motor vehicle;

- disabled persons – prosthetics and other devices used to replace a missing or a defective body part, and spare parts and consumables for such devices;

- persons with disability category I or II, and persons whose disability degree corresponds to disability degree I or II, who gained, after occupational rehabilitation, competency to perform a particular business activity – the equipment needed for performance of business activity other than the one manufactured in Serbia;

- organisations with persons with special needs (death or with hearing impairment, muscular dystrophy, paraplegia, or motor neuron diseases, etc.), or members of such organisations – specific equipment, devices and instruments, and the spare parts and consumables needed for such equipment that are not manufactured in Serbia;

- general population – specific equipment, devices and instruments for health care, and spare parts and consumables needed to use such equipment, for personal use, other than those manufactured in Serbia;

- persons, other than natural persons – the goods they receive free of charge from abroad, or acquire with the funds received from abroad as a monetary aid, provided such aid is intended for remedying the consequences of natural disasters (earthquakes, floods, droughts, environmental accidents, etc.), a war or armed conflict.

• For the supply of goods which, when imported, were subjected to a suitable customs procedure (e.g., customs warehousing), which allows for deferred payment of VAT (so-called suspension regime), VAT shall not be chargeable on the supply of such goods (placed under customs supervision in the customs warehouse) (unless tax exemption is laid down for the supply in question).

e) exportation (exemptions); - Art. 24 of the VAT Law;

The VAT Law provides that **tax exemption with entitlement to input tax deduction (so-called zero rate) on exportation of goods,** namely the supply of the goods that the taxpayer or a third party instructed by him, forwards or dispatches abroad, namely for the supply which a foreign recipient or a third party instructed by him, sends or dispatches abroad.

Above tax exemption applies even if the compensation, or a part of compensation, was collected before the importation.

The Rulebook on the Manner and Procedure for Applying for VAT Exemption, with and without the Entitlement to Input Tax Deduction (Official Gazette of RS Nos. 124/04, 140/04, 27/05, 54/05, 68/05, 58/06, 112/06, 63/07 and 99/10) specifies what evidence the VAT payer exporting the goods, or receiving the compensation before the exportation, needs to present to be granted tax exemption.

Tax exemption with entitlement to the deduction of input tax (which essentially means zero rated VAT) is provided for:

- transport and other services connected with the importation of goods, provided the value of such services is contained in the base amount for calculation of VAT on exportation of goods;

- supply of the goods that the taxpayer, or a third party instructed by him, forwards or dispatches abroad;

- supply of the goods that the foreign recipient, or a third party instructed by him, forwards or dispatches abroad, not including the supply of the goods that the foreign recipient transports on his own to be used as equipment or supplies for sport boats, sport aircrafts, or other means of transport for personal use;

- supply of the goods that the taxpayer dispatches in the luggage he carries with him abroad, if:

- the goods are dispatched within three calendar months of the delivery of such goods;
- total value of the goods delivered exceeds EUR 150, in RSD equivalent calculated at the National Bank of Serbia median exchange rate, including VAT;

- introduction, in the free zone, of the goods for which the taxpayer – recipient of goods would be entitled to input tax deduction if such goods were acquired for the requirements of performing a business activity outside the free zone;

- providing, to the free zone users, the transport and other services that are directly connected with introducing in the free zone the goods for which the taxpayer – recipient of goods would have been entitled to input tax deduction if such goods were acquired for the requirements of performing a business activity outside the free zone;

- dispatching the goods into duty free shops at the international airports that have passport control and customs in place to ensure that goods are sold to passengers in accordance with customs regulations (hereinafter: duty free shops), and delivering the goods from duty free shops;

- services of working on the movable assets acquired by a foreign recipient in the Republic, or imported for further processing, repairing, or mounting, which are, after such further processing, repairing, or mounting, transported or dispatched abroad by the service provider, foreign recipient, or a third party;

- transport and other services directly connected with the importation, transit, or temporary importation of goods, except for the services exempted from VAT without the entitlement to tax deduction in accordance with the VAT Law;

- services of international air transportation of passengers, with tax exemption applying to non-resident air companies exclusively subject to the reciprocity;

- delivery, after-sale services, repair, maintenance, chartering and renting the aircrafts predominantly used for a consideration in the international air traffic, and delivery, renting, repair and maintenance of assets intended as equipment for such aircrafts, and supply of goods and services intended to be used directly for such aircrafts;

- services of international inland waterways transport of passengers, with tax exemption applying to non-resident companies providing services of international inland waterways transport of passengers exclusively subject to the reciprocity;

- delivery, after-sale services, repair, maintenance, and renting the vessels predominantly used for a consideration in the international air traffic, and delivery, renting, repair and maintenance of assets intended as equipment for such vessels, and supply of goods and services intended to be used directly for such vessels;

- delivery of gold to the National Bank of Serbia;

- goods and services intended for:

- official use by diplomatic and consular missions (subject to reciprocity, based on the certification issued by the ministry responsible for foreign affairs);
- official use of international organisations, where it is so provided by an international agreement;
- personal use by foreign staff of diplomatic and consular missions, including their family members (subject to reciprocity, based on the certification issued by the ministry

responsible for foreign affairs);
- personal use by foreign staff of international organisations, including their family members, where it is so provided by an international agreement;

- supply of goods and services made in accordance with donation agreements concluded with the Joint State of Serbia and Montenegro, or the Republic, where such agreements provide that tax levies shall not be paid from the monetary funds received;

- the supply of goods and services made in accordance with a credit or loan agreement concluded between the Joint State of Serbia and Montenegro, or the Republic, and an international financial organisation, or other state; or between a third party and an international financial organisation, or other state, in which the Republic of Serbia appears as a guarantor, or counter-guarantor, where such agreement provides that tax levies shall not be paid from the monetary funds received;

- the supply of goods and services made based on international contracts, where such contracts provide for tax exemption;

- the intermediation services related to the supply of goods and services the supply of which is exempted with entitlement to input tax deduction.

Tax exemption with entitlement to input tax deduction also applies where the consideration, or a part of the consideration for supply of the goods or services the supply of which is exempted with entitlement to input tax deduction, was collected before the supply.

Rulebook on How to Apply for VAT Exemption, With or Without the Entitlement to Input Tax Deduction (Official Gazette of RS Nos. 124/04, 140/04, 27/05, 54/05, 68/05, 58/06, 112/06 and 63/07 and 99/10) specify how to apply for above tax exemptions.

f) exemptions without credit for input VAT; (Art. 25 of the VAT Law);

The VAT Law provides that the supply of certain goods and services shall be exempted from VAT without the entitlement to input tax deduction. Above tax exemption is provided for:

- transactions and intermediation in the transactions with legal tender, not including the banknotes and coins not used as legal tender or having a numismatic value;
- transactions and intermediation in the transactions with shares, interests in companies and associations, bonds and other securities, not including the transactions related to securities keeping and managing;
- credit transactions, including the intermediation, and monetary loans;
- services aimed at assessing the creditworthiness of natural and legal persons;
- taking over the liabilities, warranties and other sureties, including intermediation;
- transactions and intermediation in the transactions with deposits, current and giro accounts, payment orders, and payments system and remittances;
- transactions and intermediation in the transactions with monetary claims, cheques, drafts, and other similar securities, not including claims collection for third parties;
- transactions of investment fund management companies in accordance with the regulations governing the investment funds;
- transactions of voluntary pension fund management companies in accordance with the regulations governing the voluntary pension funds and pension plans;
- insurance and reinsurance services, including the related services of insurance brokers and agents;
- land (agricultural, forest, construction, developed or undeveloped), and renting such land;
- buildings, not including the first transfer of disposal rights over the facilities or

economically divisible units within such facilities, and the first transfer of ownership interest in newly built facilities or economically divisible units within such facilities;
- services of renting the apartments, where they are used for housing;
- interests, securities, postage stamps, stamp duty certificates and other current securities, according to their value imprinted in the Republic, unless for ownership interests referred to in Art. 4 of this Law;
- postal services provided by a public enterprise, and related delivery of goods;
- services provided by medical institutions in accordance with the regulations governing health care, including the beds, food, and care for the patients in such institutions, not including the pharmacies and pharmacy institutions;
- services provided by physicians, dentists, or other persons in accordance with the regulations governing health care;
- dental prosthetics services and delivery, within the dental technician's business activity, and dental prosthetics delivery by dentists;
- human organs, tissue, body fluids and cells, blood and mother's milk;
- social welfare and social care services, children and young people protection services, services provided by social welfare institutions, and directly related supply of goods and services made by persons registered to perform such business activities;
- boarding services for school children and university students in dormitories or similar facilities, and directly related supply of goods and services;
- education (pre-school, primary, secondary, college and university education) and vocational re-training services, and directly related supply of goods and services made by the persons registered for performance of such business activities, where these business activities are performed in accordance with the regulations governing this area;
- services in the area of culture and directly related supply of goods and services made by the persons whose business activity is not profit oriented but who are registered for performance of such activity (theatre, music, museums, galleries, archives, protection of cultural wealth and historical monuments, libraries, zoological and botanical gardens);
- services in the area of science and directly related supply of goods and services made by the persons whose business activity is not profit oriented but who are registered for performance of such activity;
- services of religious nature, provided by registered churches and religious communities, and related delivery of goods and services;
- public broadcasting services, not including the services of commercial character;
- the services of organising the games of chance;
- services in the area of sport and physical education to the persons involved in sport or physical education, by the persons whose business activity is not proift oriented but who are registered for performance of such activity;

Rulebook on How to Apply for VAT Exemption, With or Without the Entitlement to Input Tax Deduction (Official Gazette of RS Nos. 124/04, 140/04, 27/05, 54/05, 68/05, 58/06, 112/06 and 63/07 and 99/10) specify in more detail how to apply for above tax exemptions.

g) place of supply (goods and services);(Art. 11 and 12 of the VAT Law);

• The place of supply of goods is deemed to be a place:
- in which the asset is located at the time of being forwarded or dispatched to the

recipient or, at his instructions, to a third person, if the asset is forwarded or dispatched by the supplier, recipient, or a third person at his request;

- in which the asset is mounted or installed, if it is to be mounted or installed by the supplier or, at his instructions, by a third party;

- in which the goods are located at the time of delivery, where the goods are delivered without dispatching, or forwarding;

- of receiving the water, electricity, or heat energy.

• The place of supply of services is identified according to a number of different criteria: As a rule, the place of supply of services is deemed to be a place in which the service provider performs his business activity, and, where the supply of goods is made via a business unit, the place of supply of services is deemed to be the place of the business unit.

For the supply of some services, however, the place of supply is determined according to other criteria.

For the supply of the services directly related to real estate, including the business activity of real estate related intermediating and assessing, or designing, preparing and executing construction works and supervision over such works, the place of supply of such services shall be deemed to be the place in which the real estate in question is located.

For supply of transportation services, the place of supply of services shall be deemed to be the place in which the transportation in question is performed, and, where the transportation is performed in the Republic and abroad (international transport), VAT shall be chargeable only on a part of the service performed in the Republic.

The place of supply of services shall be deemed to be the place in which the services was actually provided, and for:

- services in the field of culture, art, sport, science and education, entertainment and similar services, including the event organising services, and related services;

- ancillary services in the field of transport, such as loading, unloading, reloading, and similar services;

- movable assets assessment services;

- works on movable assets.

The place of supply of services is deemed to be a place in which the recipient of service performs his business activity or has a business unit for which he provides services, namely a place in which the recipient of services has his registered office or residence, where the services in question are the following:

- renting the movable assets, non including the means of transport, based on a rent-a-car contract;

- providing telecommunication services;

- undertaking the obligation to, fully or in part, give up the performance of a business activity or exercise of a right;

- in the field of commercial promotion;

- transferring, ceding, or allowing access to copyright, patent rights, licenses, trademarks, or other intellectual property rights;

- banking, finances, and insurance and reinsurance, not including safe deposit box rental;

- the services provided by advisors, engineers, lawyers, auditors, and similar;

- data processing and provision of information services;

- staff providing services;

- services provided by electronic means, and broadcasting services;

- intermediation in provision of the services the place of supply of which is

identified according to the place in which the recipient of service either performs the business activity or has the business unit for which the service is provided, or the place in which the recipient of service has the registered office or residence.

For the supply of goods and services (not including the supply of services for which the place of supply is identified according to the place of the recipient of service), the place of supply shall be identified according to the place of supply of goods and services which are the subject of intermediation.

h) chargeable event and chargeability of tax (Art. 14, 15 and 16 of the VAT Law);

• **In the supply of goods and services, tax liability** is incurred at the time of the earliest of the following actions:

- supply of goods and services;

-collection, where the consideration or a part of the consideration is collected before the supply of goods or services.

• **The supply of goods occurs on the day of**:

- commencing the forwarding or dispatching the goods to the recipient or a third party, at his instructions, if the goods are forwarded or dispatched by the supplier, recipient, or a third party, at their instructions;

- taking over the goods by the recipient, where the goods are mounted or installed by the supplier, or, at his instructions, by a third party;

- transfer of disposal rights over the goods to the recipient, where the goods are delivered without forwarding, or dispatching;

- taking meter readings for received water, electricity, gas, or heat energy, made by the supplier so as to determine consumption.

The time of supply of goods in the commission or consignment transactions, namely the time of delivery of goods by the commission agent or consignee, is determined as above described for the delivery to the commission agent or consignee.

The time of supply of goods is determined the same way for partial delivery, namely where a specific consideration is agreed for delivery of the specific parts of an economically divisible delivery.

• **The supply of services occurs on the day** when:

- individual provision of service is completed;

- the legal relationship which constituted the grounds for provision of service ceased – for the provision of time-limited or unlimited services.

For the provision of time-limited or unlimited services the duration of which exceeds one year, periodical invoice is obligatory, but the period for which such invoice is issued may not exceed one year. If periodical invoices are issued for the provision of services, the supply of services is deemed to be completed on the last day of the period for which the invoice is issued.

Partial service, which is in place where a specific consideration is agreed for particular parts of the economically divisible service, is deemed to be completed at the time when the provision of relevant part of the service is completed.

• **Tax liability in importation of goods** arises on the day when the obligation to

pay the customs debt is incurred and, where such obligation is absent, on the day when the obligation to pay the customs debt would be incurred.

• **Importation of goods arises on the day** when the goods are entered into the customs territory of the Republic.

i) VAT rates, including the application of zero rates (levels and scope). Are reduced VAT rates set at levels, which would in the normal course of events permit complete deduction of input tax? Are supplies of services liable to a special VAT rate?(Art. 23 and 24 of the VAT Law)

• General VAT rate in the Republic of Serbia is 18%. The specific 8% VAT rate is provided for the supply and importation of certain goods, and for supplies of some services.

• The specific 8% VAT rate applies to the supply, or importation of the following goods:

- bread and bakeries, milk and dairies, flour, sugar, edible sunflower, corn, rape, soy, and olive oils, edible fats of animal or plant origin, and honey;
- drinkable water, non including the bottled water;
- fresh, cooled, and frozen fruit, vegetable, meat, including the innards and other similar products, fish, and eggs;
- cereals, sunflower, soy, sugar beat, and rape;
- medicines, including the veterinary medicines;
- orthotic and prosthetic devices, and medical devices – surgically implanted products;
- dialysis material;
- fertilisers, pesticides, seed stock, nursery stock, mycelia compost, complete fodder mixture, and livestock;
- textbooks and teaching aids;
- personal computers and their components;
- daily newspapers;
- monograph and serial publications;
- firewood;
- natural gas;
- the first transfer of disposal rights over residential facilities, economically divisible units within such facilities, and ownership interests over such assets.

• The specific 8% VAT rate applies to the supply of following services:

- hotel, motel, resort, and camp accommodation services;
- utility services;
- the services charged by the tickets for cinema and theatre performances, fairs, circuses, fun parks, concerts (music events), exhibitions, sport events, museums, galleries, botanical gardens, and zoo gardens, where the supply of these services is not exempt from VAT.

NB: The rulebook on how to identify the goods and services on the supply of which specific VAT rate is chargeable (Official Gazette of RS Nos. 108/04, 130/04, 140/04, 65/05 and 63/07) specifies in more detail the individual goods and services to which specific VAT rate is applicable.

• Based on the supply of goods and services made by the VAT payer, where specific 8% VAT rate is chargeable, the VAT payer is entitled to the deduction of the total VAT amount calculated by previous participants in such supply, namely paid at the importation of goods, regardless what tax rate is chargeable on the supply of goods and services acquired by such VAT payer.

• Tax exemption with entitlement to the deduction of input tax (which essentially means zero rated VAT) is provided for:

- transport and other services connected with the importation of goods, provided the value of such services is contained in the basis amount for calculation of VAT on exportation of goods;
- supply of the goods that the taxpayer, or a third party instructed by him, forwards or dispatches abroad;
- supply of the goods that the foreign recipient, or a third party instructed by him, forwards or dispatches abroad, not including the supply of the goods that the foreign recipient transports on his own to be used as equipment or supplies for sport boats, sport aircrafts, or other means of transport for personal use;
- supply of the goods that the taxpayer dispatches in the luggage he carries with him abroad, if:
- the goods are dispatched within three calendar months of the delivery of such goods;
- total value of the goods delivered exceeds EUR 150, in RSD equivalent calculated at the National Bank of Serbia median exchange rate, including VAT;
- introduction, in the free zone, of the goods for which the taxpayer – recipient of goods would be entitled to input tax deduction if such goods were acquired for the requirements of performing a business activity outside the free zone;
- providing, to the free zone users, the transport and other services that are directly connected with introducing in the free zone the goods for which the taxpayer – recipient of goods would have been entitled to input tax deduction if such goods were acquired for the requirements of performing a business activity outside the free zone;
- dispatching the goods into duty free shops at the international airports that have passport control and customs in place to ensure that goods are sold to passengers in accordance with customs regulations (hereinafter: duty free shops), and delivering the goods from duty free shops;
- services of working on the movable assets acquired by a foreign recipient in the Republic, or imported for further processing, repairing, or mounting, which are, after such further processing, repairing, or mounting, transported or dispatched abroad by the service provider, foreign recipient, or a third party;
- transport and other services directly connected with the importation, transit, or temporary importation of goods, not including the VAT exempt services without the entitlement to tax deduction under the VAT Law;
- services of international air transportation of passengers, with tax exemption applying to non-resident air companies exclusively subject to the reciprocity;
- delivery, after-sale services, repair, maintenance, chartering and renting the aircrafts predominantly used for a consideration in the international air traffic, and delivery, renting, repair and maintenance of assets intended as equipment for such aircrafts, and supply of goods and services intended to be used directly for such aircrafts;
- services of international inland waterways transport of passengers, with tax exemption applying to non-resident companies providing services of international inland

waterways transport of passengers exclusively subject to the reciprocity;
- delivery, after-sale services, repair, maintenance, and renting the vessels predominantly used for a consideration in the international air traffic, and delivery, renting, repair and maintenance of assets intended as equipment for such vessels, and supply of goods and services intended to be used directly for such vessels;
- delivery of gold to the National Bank of Serbia;
- goods and services intended for:
- official use by diplomatic and consular missions (subject to reciprocity, based on the certification issued by the ministry responsible for foreign affairs);
- official use of international organisations, where it is so provided by an international agreement;
- personal use by foreign staff of diplomatic and consular missions, including their family members (subject to reciprocity, based on the certification issued by the ministry responsible for foreign affairs);
- personal use by foreign staff of international organisations, including their family members, where it is so provided by an international agreement;
- supply of goods or services made in accordance with donation agreements concluded with the Joint State of Serbia and Montenegro, or the Republic, where such agreements provide that tax levies shall not be paid from the monetary funds received;
- supply of goods or services made in accordance with a credit or loan agreement concluded between the Joint State of Serbia and Montenegro, or the Republic of Serbia, and an international financial organisation, or other state; or between a third party and an international financial organisation, or other state, in which the Republic of Serbia appears as a guarantor, or counter-guarantor, where such agreement provides that tax levies shall not be paid from the monetary funds received;
- supply of goods and services made based on international contracts, where such contracts provide for tax exemption;
- intermediation services related to the supply of goods and services the supply of which is exempted with entitlement to input tax deduction.

Tax exemption with entitlement to input tax deduction shall also apply where the consideration, or a part of the consideration for supply of the goods or services the supply of which is exempted with entitlement to input tax deduction, was collected before the supply.

Rulebook on how to apply for VAT exemption, with or without the entitlement to input tax deduction (Official Gazette of RS Nos. 124/04, 140/04, 27/05, 54/05, 68/05, 58/06, 112/06 and 63/07 and 99/10) specify how to apply for above tax exemptions.

j) scope and procedures (credit/refund of VAT) in respect of the right of deduction. How long on average does it take to refund VAT to traders e.g. in the case of exports? Do you have any limitations to the right of deduction, and if so, which ones?(Art. 52, 29, 30, 31 and 32 of the VAT Law)**;**

• If the level of input tax in a tax period exceeds the level of tax liability, the VAT payer is **entitled to a refund of the difference**, and, if the payer decides not to get the refund, the difference shall be recognised as the **tax credit**.
A taxpayer may request a refund of the unused amount of tax credit by filing a relevant request, but not before the expiry of the deadline for filing tax return for the current tax

period.
Refund of the difference or tax credit is made within 45 days, namely within 15 days for the payers who are predominantly supplying goods abroad, of the expiry of deadline for filing the tax return, namely of the day of filing the request for a refund of tax credit.
The Regulation on the Criteria for Identification of Predominantly International Supply of Goods, for the Purposes of the Value Added Tax Law (Official Gazette of RS Nos. 124/04 and 27/05) specifies in more detail what is a predominantly international supply and lists the persons who are entitled to a VAT refund within 15 days of the expiry of deadline for filing the tax return, namely of the day of filing the request for a refund of the tax credit;
The rulebook on VAT refund procedure and the manner and procedure for VAT refund and reimbursement (Official Gazette Nos. 107/04, 65/05, 63/07) specifies the procedure for VAT refund.
If the level of input tax exceeds the level of tax liability, you should prefix the VAT amount with a minus and insert it in box 110 of the PPPDV form (VAT Return Form). If the VAT payer decided to get a refund of the difference, he should circle 'Yes' in box 11 of the PPPDV form and if he opted to use the difference as a tax credit, then he should circle 'No' .
If the VAT opts for 'Yes', then the competent authority, after the procedure is completed, makes the VAT refund to the bank account as indicated by the VAT payer in his VAT registration application (Registration Application – EPPDV Form), and, if the VAT payer opts for 'No', then he will use this amount to settle his tax liability for the following tax period.
If, after settling his tax liability, he has an amount of tax credit outstanding, the VAT payer may use it to settle his tax liability for coming tax periods or demand to be refunded the unused amount of tax credit.
The taxpayer may request a refund of the unused amount of tax credit by filing a relevant request, but not before the expiry of the deadline for filing tax return for the current tax period (10 days after expiry of current tax period).

• **The question related to the average time period required for VAT refund – the competence of the Tax Administration**

Art. 24 and 25 of the VAT Law regulate the entitlement to tax exemption, and Art. 28 thereof regulates what requirements need to be met for entitlement to deduction.
The entitlement to VAT refund is regulated by Art. 52 of the Value Added Tax Law. This Article also specifies the deadlines in which VAT is to be refunded to VAT payers: the refund must be effected within 45 days, or within 15 days for predominant exporters.
VAT refund orders are submitted by the Tax Administration to the Treasury Administration in accordance with the deadlines provided by the law, namely within 15 / 45 days. In case the control procedure is still ongoing, VAT refund may not be effected to the tax payer concerned before it is completed. It happens sometimes that the Tax Administration issues the VAT refund order to the Treasury Administration but the refund cannot be effected since the funds on the VAT account are insufficient and the VAT refund is therefore delayed until sufficient funds are available on the VAT account. The Tax Administration is not responsible for above delay of VAT refund .

• Taxpayer is not entitled to a deduction of input tax on the grounds of:

- acquisition, manufacturing, and importation of passenger cars, motorcycles, vessels and

aircrafts, spare parts, fuel and consumables required for them, and rental, maintenance, repair and other services related to the use of these means of transport, unless the means of transport and other goods are used exclusively for the performance of the business activity of supply and rental of above means of transport and other goods, transport of persons and goods, or driver training for above means of transport;
- taxpayer's representation expenses;
- acquisition or importation of carpets, household electrical appliances, TV and radio sets, items of fine arts or applied arts and other decorative items, used in office premises.

• If using the supplied or imported goods or receiving the services for the requirements of performing his business activity, to supply the goods or services for which the entitlement to a deduction of input tax is in place, or to supply the goods or services for which the entitlement to a deduction of input tax is not in place, VAT payer is required to divide the input tax according to the economic affiliation, into the part for which he is entitled to deduct VAT and the part for which he is not entitled to deduct VAT.
If, for individual supplied or imported goods or received services used for the requirements of performing his business activity, to supply the goods or services for which the entitlement to deduction of input tax is in place, or to supply the goods or services for which the entitlement to deduction of input tax is not in place, the VAT payer is not able to divide the input tax according to the economic affiliation, such VAT payer may deduct a proportional part of input tax, corresponding to the share of the supply of goods and services with the entitlement to deduct the input tax in which VAT is not included in the total supply in which VAT is not included (proportional tax deduction).
The Rulebook on how to determine or correct the proportional tax deduction **(***Official Gazette Nos. 67/2005)* specifies in more detail how to determine the level of proportional tax deduction and how to correct the proportional tax deduction.

In case of a change to the basis amount of taxable supply of goods and services, the VAT payer who was supplied goods and services is required to, in accordance with such change, correct the relevant input tax deduction. This obligation also applies to the representative of foreign person, namely recipient of goods or services, who, as the tax debtor, calculated the VAT for the supply made by a foreign person.
If the VAT on the importation of goods deducted as the input tax was increased, decreased, refunded, or the payer is exempted from the liability, the VAT payer is required to, against the customs document or the decision of customs authority, correct the input tax deduction accordingly.
The correction of input tax deduction is to be made within the tax period in which the basis amount was changed.

• The VAT payer who was granted the entitlement to a deduction of input tax for the equipment and facilities needed for the performance of business activity is required to correct the input tax deduction if he ceases to meet the requirements for such entitlement, within five years of the first use for equipment, and within ten years of the first use for the facilities.
Correction of the input tax deduction is made for the period which is equal to the difference between the period of five years, namely ten years, and the period in which the taxpayer was meeting the requirements for the entitlement to a deduction of input tax.
Exceptionally, VAT payer shall not correct the input tax deduction in the case of supply of equipment needed for the performance of business activity and in the case of transfer of

assets or part of assets referred to in Article 6 (1) 1) of the VAT Law. In the case of transfer referred to in Article 6 (1) 1) of the VAT Law, the deadlines of five, namely ten years shall not be suspended, and the transferor of assets shall be required to provide to the transferee the data necessary for the implementation of the correction of input tax deduction. The transferee shall correct the input tax deduction that the transferor was granted for the equipment and facilities needed for the performance of business activity if, within the period required by law, he ceases to meet the requirements for the entitlement to a deduction of input tax.
The rulebook on how to determine the equipment and facilities needed for the performance of business activity and how to implement the correction of input tax deduction for the equipment and facilities needed for the performance of business activity (Official Gazette Nos. 67/2005) specify in more detail what is deemed to be the equipment and facilities needed for the performance of business activity.

k) right to deduct input VAT by a taxable person (Art. 28 of the VAT Law);

VAT payer is entitled to deduct the VAT calculated by previous participants in the supply for the supply of goods and services, or paid for the importation of goods, from the VAT owed, provided he meets all the requirements required by law:

- to have the invoice or other document used as the invoice, and
- to use, or intend to use, the acquired goods and services for the performance of business activity within which the supply of goods and services with the entitlement to the deduction of input tax is performed, i.e.:
- for the supply that is VAT chargeable,
- for the supply for which VAT exemption is in place, or
- the supply made abroad, if an entitlement to input tax deduction would be in place if it were made in the Republic.

The entitlement to input tax deduction shall come into effect on the day when the requirements required by law are met.

l) special regimes (small and medium sized enterprises, second-hand goods, works of art, collectors items and antiques, flat-rate scheme for farmers, travel agents, simplification procedures, investment gold, others),(Art. **33, 34, 35 and 36 of the VAT Law);**

• Small taxpayers are all persons whose total turnover of goods and services in previous 12 months did not exceed RSD 4 million, namely persons who deem, when commencing their business activity, that their turnover, within the following 12 months, will not exceed RSD 4 million, who did not opt for the obligation to calculate and pay VAT. These persons do not calculate or pay VAT even though they supply goods and services, within their business activity. Total supply of goods and services shall not include the supply of goods and services needed for the performance of a business activity. Besides not calculating or paying VAT, small taxpayers do not have a right to state VAT in their reports and other documents, do not have a right to input tax deduction, and are not required to keep record as provided by the VAT Law. However, if stating the VAT in his financial statement or other document, a small taxpayer is required to pay the VAT stated in this way (as a tax debt). The VAT Law provides for small taxpayers a possibility to decide, in the beginning of a calendar year, to

calculate and pay VAT by filing the registration application before 15 January of current year, provided their total turnover in previous 12 months exceeds RSD 2 million, or they deem that their turnover in the following 12 months will exceed that level. In such a case, the VAT liability subsists for at least two calendar years. Upon the expiry of two calendar years, taxpayers may, before 15 January of the current year at the latest, file with the competent tax authority a request for cessation of VAT liability, provided their turnover in previous 12 months did not exceed RSD 4 million.

• An agricultural worker is deemed to be a person paying personal income tax for the income from agriculture and forestry, based on the cadastral income.

The agricultural workers who supplied agricultural or forestry products, or agricultural services, to VAT payers are granted the entitlement to a VAT based compensation. If he is supplied agricultural or forestry products, or agricultural services, by an agricultural worker, VAT payer is required to calculate the VAT based compensation in the amount of 5% of the value of goods and services received, and to issue a relevant document (a receipt), and disburse the calculated VAT compensation to the agricultural workers (by transferring the funds to the current accounts, savings account, or in cash). VAT payer is entitled to deduct the amount of the compensation calculated based on VAT as the input tax, provided he has paid to the agricultural worker such compensation and the value of the goods and services received.

In the beginning of a calendar year, agricultural workers may opt, by filing the registration application before 15 January of current year, undertake the obligation to calculate and pay VAT, if, within previous 12 months, their total turnover of agricultural and forestry products, or agricultural services, exceeded RSD 2 million. In this case too, the obligation to pay VAT subsists for at least two years and, after this period, before 15 January of the current year at the latest, the agricultural worker may file a request for cessation of VAT liability (provided their turnover in previous 12 months did not exceed RSD 4 million).

• Tourist agency is deemed to be a taxpayer who, acting on its own behalf, provides tourist services to the travellers and, for the purposes of organising the trips, receives other taxpayers' goods and services directly used by the travellers (previous tourist services). The tourist services provided by a tourist agency are deemed to be a single service.

The basis amount of single tourist service provided by a tourist agency is the amount representing the difference between the total compensation paid by the traveler and the actual costs paid by the tourist agency for previous tourist services, with deduction of the VAT contained in such difference.

For the tourist services provided in this way, tourist agency may not state VAT in its financial statements or other documents and is not entitled to the input tax deduction based on previous tourist services.

• The taxpayers involved in the supply of used goods, including the used motor vehicles, fine arts, collectors items and antiques, determine the basis amount as the difference between the selling price and acquisition cost of the goods (taxation of difference), with the deduction of VAT contained in such difference. The basis amount determined as above is used if, at the time of the acquisition of goods, the supplier of such goods did not owe VAT, or if he used the taxation of difference. In the supply of above goods with the taxpayer using the taxation of difference, the taxpayer may not state the VAT in his financial statements or other documents and is not entitled to the input tax deduction based on acquisition of such goods.

The rulebook on determination of goods that are deemed to be fine art, collectors items, or antiques (Official Gazette of RS, No. 105/2004) specifies in more detail what is deemed to be fine art, collectors items, or antiques.

• For investment gold, the VAT Law provides neither for taxation procedure or simplifying procedures.

m) rules governing administration and records, including registration, records, invoices

(Art. **38-51 of the VAT Law)**

• If their turnover in previous 12 months exceeded RSD 4 million, the taxpayers independently supplying goods or services within a continuous business activity performed in order to generate income are required to, before expiry of the deadline for filing the periodic tax return, file the registration application.
At the time of registration for VAT liability, the competent tax authority checks whether the requirements for acquiring the status of a VAT payer are met (whether a person concerned independently supplies goods and services within the performance of his business activity, whether such person performs or intend to perform the business activity as a continuous activity performed to generate income). After establishing that all the requirements provided by the law are met, the competent tax authority issues to the taxpayer a certification about completion of the registration for VAT.
The rulebook on the format and content of the VAT Registration Application Form, the registration and de-registration procedures, and the format and content of the VAT Application Form (Official Gazette of RS Nos. 94/04, 108/05 and 120/08) specify in more detail the format and content of the registration application, and the registration procedure.

• The tax period for which VAT is calculated, tax return is filed, and VAT is paid, is a calendar month for the taxpayer whose total turnover in previous 12 months exceeded RSD 20 million or who estimates that his total turnover in following 12 months will exceed RSD 20 million.
The tax period for which VAT is calculated, tax return is filed, and VAT is paid, is a calendar trimester for the taxpayer whose total turnover in previous 12 months was under RSD 20 million or who estimates that his total turnover in following 12 months will be under RSD 20 million. For the payer whose total turnover, in a calendar trimester, exceeds RSD 20 million, the tax period is the calendar month beginning with the month following the expiry of calendar trimester. The taxpayer whose tax period is a calendar trimester may file with the competent tax authority a request to have the tax period changed to a calendar month, before 15 January of current calendar year at the latest. In such a case, the approved tax period subsists for at least 12 months.
For the taxpayers who start performing a business activity for the first time in the current calendar year, the calendar month is the tax period for the current year and subsequent calendar year.
The VAT payer is required to calculate VAT for the relevant tax period, based on the supply of goods and services in such period, provided tax liability was incurred.
Exceptionally, in a case of the transportation of passengers by busses, performed by foreign taxpayers, where the country border is crossed, competent tax authority calculates VAT for each instance of transportation, subject to reciprocity.
The VAT payer files tax return with the competent tax authority, in the form required by law, within 10 days of the expiry of tax period, regardless whether VAT liability for such tax period is in place or not.
Also, the tax return need to be filed by tax debtors referred to in Article 10 (1) 2) & 3), and Article 44 (3) of the VAT Law, for the tax period in which the VAT based liability was

incurred, within 10 days after the expiry of the tax period. The VAT payer (and tax debtor referred to in Article 10 (1) 2) & 3), and Article 44 (3) of the VAT Law) is required, for each tax period, to pay the VAT that is equal to the positive difference between the total amount of tax liability and the amount of input tax, within the deadline for tax return filing.
The rulebook on the format and content of the VAT Registration Application Form, the registration and de-registration procedures, and the format and content of VAT Application Form (Official Gazette of RS, Nos. 94/04, 108/05 and 120/08) specify in more detail the format and content of the value added tax return.

• The VAT payer is required to issue an invoice or other document used for the same purpose (hereinafter: invoice) for each supply of goods and services to other taxpayers.
Also, the obligation of issuing an invoice is in place if the taxpayer collects the compensation or a part of compensation before the supply of goods and services (advance payment), but the advance payments containing VAT are deducted in the final invoice.
The VAT Law and the Rulebook on the events when it is not obligatory to issue an invoice, and on the invoices from which specific data can be omitted (Official Gazette of RS Nos. 105/04, 140/04 and 67/05) regulate the content of the invoice, i.e. the mandatory elements of the invoice, and the events when the VAT payer is not required to issue an invoice.
The invoice is also deemed to be a calculation document issued by the taxpayer as a recipient of goods and services, against which the compensation for the supply of goods or services is calculated, where:

- the taxpayer – recipient of goods or services has the right to state the VAT in his invoice;
- the taxpayer issuing the calculation document and the taxpayer receiving the calculation document agree that the calculation of the supply of goods or services should be made by the recipient of goods or services;
- the calculation of document was delivered to the taxpayer who supplied goods or services;
- the taxpayer who supplied goods or services agreed with the stated VAT, in writing.

If stating, in the invoice for supplied good or services, a VAT exceeding the VAT that is in accordance with this Law, the VAT payer is required to pay the VAT stated in this way, pending the correction of the VAT amount in a new invoice.
A person who states VAT in an invoice or another document used for the same purpose but is not a VAT payer, or did not supply good or services, or does not have a right to state VAT, shall owe the stated VAT.

• The taxpayer is required, for the purposes of proper VAT calculation and payment, to keep record that allow audit. The taxpayer is required to retain the records for at least 10 years after the expiry of the calendar year to which the records relate.

The Rulebook on the VAT return procedure and the manner and procedure for VAT refund (*Official Gazette Nos. 107/2004, 67/2005*) specify the format, content and manner of keeping the records.

• The removal of VAT payers from the VAT register shall be made by the tax authority, at the request of the taxpayer or *ex officio*.
A request for removal from the VAT register may be filed by a small taxpayer or an agricultural worker who opted for the obligation to pay VAT in accordance with the Law, upon the expiry of two calendar years during which they had the obligation to calculate and pay VAT, provided their turnover in previous 12 months did not exceed RSD 4 million.
Also, a request to be removed from the VAT register is to be filed by the VAT payer who discontinues his business activity, not later than 15 days prior to being removed from the business register or other register in accordance with the law.

Where the taxpayer's total turnover in the previous calendar year is under RSD 2 million, the competent tax authority, *ex officio*, after the procedure is completed, removes the taxpayer from the VAT register.
The competent tax authority issues a certification about the completion of the removal of taxpayer from the VAT register.
The authority responsible for keeping the business register may not remove the taxpayer from such register without the certification about the removal from the VAT register.

n) assessment and appeals (VAT returns, assessment and collection, procedure for claiming the credit and refund, penalties, appeal procedure, international mutual assistance and recovery of VAT claims);

Two stage procedures are provided for all VAT and excise duty control and payment.
Appeals are filed with the second instance authority, through a first instance authority, and, provided it accepts it in full, the latter may settle the appeal falling within its competences.
Deadline for settlement of appeals is laid down in Article 147 (4) of the Law on Tax Procedure and Tax Administration (Official Gazette of RS, Nos. 80/02....72/09) and is 60 days of the day of appeal filing.
Assessment and complaints (VAT refund, assessment and collection, procedure for claiming the credit and refund, penalties, complaints procedure, international mutual assistance and recovery of VAT claims):
Tax credit and refund claiming procedures: If he opted for the tax credit in his tax return, the VAT payer is entitled, in the following tax period at the earliest, when filing the tax return, to request the tax credit refund in accordance with Article 10 of the Law on Tax Procedure and Tax Administration. The request is to be accepted and the VAT refunded up to the requested amount, namely up to the amount of the surplus on the VAT payer's VAT account, provided there are no legal obstacles to decide otherwise. If the VAT payer opted for VAT refund in his tax return, the Tax Administration proceeds as follows: All VAT returns with enclosed PID form (predominant export of goods abroad) by which the taxpayer provides evidence that he is a predominant exporter, are entered in the system before the tenth day of the month (representing the legal deadline for tax return filing) and tax control is immediately conducted, considering that the VAT return is to be made within 15 days of the legal deadline for tax return filing. Other tax returns are to be entered before the thirteenth day of the month in which, based on risk analysis, the selection is made between the tax returns against which refund will be made without control, and the tax returns which will be controlled. The control of tax returns is to be conducted before the eighteenth day of the month. Before the twentieth day of the month, the Treasury Administration provides the information about the anticipated amount for the VAT refund so that the funds needed for the refund can be obtained. Refund orders in electronic format are to be submitted to the Treasury Administration for execution before the twenty third day of the month, so as to ensure that they are processed within the shortest time possible, namely before the twenty fifth day in the month.
Complaints procedure: In accordance with the provision of Article 40 of the Tax Procedure Law, if he finds that the tax return he has filed with the Tax Administration contains an error or omission, the VAT payer is entitled to, immediately and before the expiry of the limitation period at the latest, file an amended tax return in which he has remedied the error or omission. The VAT payer may not proceed like this more than twice in a tax period. Under the above conditions it will be deemed that the error or omission in the original tax

return did not cause a criminal offence or misdemeanour, according to the Tax Procedure Law.

• The rulebook on the format and content of the VAT Registration Application Form, the registration and de-registration procedures, and the format and content of VAT Application Form (Official Gazette of RS, Nos. 94/04, 108/05 and 120/08) specify in more detail the form of the value added tax return.

• The procedure for VAT and tax credit return are explained in part j) of the Questionnaire.

o) transitional and temporary measures of the current VAT system;

right to deduct input VAT by a taxable person (Art. 61 of the VAT Law);

Within the validity period of the UN Security Council Resolution 1244, the Government of the Republic of Serbia regulates the implementation of the VAT Law in the territory of the Autonomous Province of Kosovo and Metohija. In this regard, the Government adopted the Regulation on implementation of the Value Added Tax Law in the territory of the Autonomous Province of Kosovo and Metohiia, within the validity period of the UN Security Council Resolution 1244 (Official Gazette of RS, No. 15/05 – hereinafter: the Regulation).

p) taxable persons not established within your country (obligations, right to refund of VAT, etc.);

The foreign taxpayer who exhibits in the fairs in the Republic is, subject to reciprocity, entitled to VAT reimbursement based on the filed request, provided such taxpayer:

- does not supply goods or services in the Republic;
- paid the invoice.

The VAT reimbursement may be made to a foreign taxpayer for the goods supplied, or services provided, in the Republic, specifically for:

- rental, development, construction, and repair of the exhibition area;
- the goods needed for the development of the exhibition area;
- electricity, water, gas, heating, cooling, telephone and telecommunications, for the requirements of exhibition area;
- parking;
- accommodation services.

The foreign payers exercise their entitlement to reimbursement in accordance with the VAT Law and against the procedure laid down in the Rulebook on VAT refund procedure and the manner and procedure for VAT refund and reimbursement (Official Gazette Nos. 107/04, 65/05, 63/07).

According to the above Rulebook, the foreign payer files the VAT reimbursement request with the Tax Administration Head Office in the REF 1 Form – The Foreign Taxpayer's Reimbursement Request. The request is to be filed annually, before the 30th June of current year, for the goods and services acquired in the Republic in the previous calendar year.

The following needs to be appended to the request:

- the certification on VAT registration, or other form of consumption tax, issued by the tax authority of the tax state in which the foreign taxpayer has its registered office (the

original and the verified translation);
- the paid invoice originals and copies about the acquired goods or services used in the Republic, against which the VAT was calculated and paid.

The competent tax authority decides on the request, by issuing a decision, within 15 days of the day of filing the request and the VAT is to be reimbursed to a foreign payer within 15 days of the decision submitting. The originals of invoices, namely the documents the party filing the VAT reimbursement request appends to the request, verified by the Head Office, are to be submitted to the party filing the request, together with the decision on deciding on the foreign taxpayer's request for VAT reimbursement.

• Foreign taxpayers have neither the right nor the obligation to register for VAT in the Republic.

q) Control procedures:

i) Is VAT control incorporated with the control of other taxes or is it separate?

The VAT control is conducted within the regular control over the taxpayers' transaction, but the control of VAT calculation and payment may be conducted independently, depending on the order issued to the field control inspector.

Tax control is conducted by the inspector, based on the control order.
Based on the established factual status, the tax inspector composes the minutes on the control conducted and hands it over to the taxpayer. The taxpayer may raise an objection to the minutes handed over to him, within five days of the day of its receipt.
If it is found within the control procedure that, when the tax liability was determined, the regulations were not implemented, or were not properly implemented by the taxpayer, the decision is made based on the minutes on the conducted field control and the supplementary minutes.
An appeal may be filed against the decision made within the tax procedure. A second hand authority settles the appeal within 60 days of the appeal receipt date.
Against the decision made within the second instance procedure, an appeal may be filed with the court.
Within the control, and aimed at the removal of established violations of the law and irregularities in the implementation of regulations, the measures the implementation of which is regulated in Art. 130 and 131 of the Law on Tax Procedure and Tax Administration are undertaken.

The provisions of Art. 58 and 59 of the VAT Law (Official Gazette of RS, Nos. 84/2004, 86/2004 - corr., 61/2005 and 61/2007 of 30 June 2007) lays down that customs regulations apply to the VAT on importation of goods, unless otherwise provided therein, and that the customs authority implementing the customs procedure is responsible for the calculation and collection. In this regard, the customs authority’s control over the calculation and collection of VAT on importation is conducted in the scope laid down by the provisions of the Customs Law, primarily in the ex post control procedure, for the purposes of Article 103 of the Customs Law (Official Gazette of RS, No. 18/2010 of 26 March 2010). Pursuant to the provisions of this Article of the Law, the customs authority may, ex officio or at the

request of the declarant, by controlling the accounting and commercial documents in connection with the importation of the goods concerned, check the truthfulness of the data indicated in customs declaration even after releasing the goods to the declarant. If it is found, when the declaration is subsequently checked, that the regulations related to a particular customs procedure were applied based on untruthful or incomplete data, the customs authority will, in accordance with the regulations, undertake the required measures and issue suitable decisions so as to remedy the flaws and align the legal status to the newly established circumstances.

Therefore, if, within the ex post control procedure and in the course of the control of the calculation and collection of customs duty and other import levies, it finds that the level of VAT calculated on import is below the proper level, the customs authority is required to issue a decision to make a proper calculation and bind the declarant to pay, within the deadline specified in such decision, the determined difference in the calculated and paid VAT. And vice versa, in the case it subsequently finds that the VAT on importation was paid in the amount exceeding the level that was supposed to be paid, the customs authority issues a decision the explanatory note of which contains the precise amount of surplus VAT paid on the importation of goods, including the notification that the declarant/taxpayer may be granted the refund of surplus VAT paid on importation of the goods if he files the relevant request with the competent tax authority, in accordance with the provisions of Article 10 (2) 1) of the Law on Tax Procedure and Tax Administration (Official Gazette of RS, Nos. 80/2002, 84/2002 - correction, 23/2003 - correction, 70/2003, 55/2004, 61/2005, 85/2005 – other law, 62/2006 – other law, 63/2006 – correction of other law, 61/2007, 20/2009, 72/2009 – other law, and 53/2010 of 29 July 2010).

ii) How many tax officials are involved in VAT control, excluding Customs?

The Tax Administration has 710 field control inspectors involved in the VAT control.

iii) What is your experience in the exchange of information for tax purposes?

Based on the Agreement on the Cooperation and Mutual Assistance, tax administrations are directly sharing information with regard to all tax forms.
So far, the Agreement on the Cooperation and Mutual Assistance was entered on 11 June 2006 in Skopje, between the Ministry of Finance – Tax Administration of the Republic of Serbia, and

- the Indirect Taxation Authority of Bosnia and Herzegovina
- the Ministry of Finance – State Revenues Agency of the Republic of Bulgaria
- the Ministry of Finance – State Revenues Department of the Republic of Macedonia
- the Ministry of Finance – Tax Administration of the Republic of Montenegro

Based on the above Agreement, the Tax Administration of the Republic of Serbia maintains good cooperation with the tax administration of other states.

The exchange of information between the Customs Administration and other state authorities is described in detail in the answer to Question 52, Section 29 – Customs Union.

4. Please provide information regarding rules governing travellers' allowances on import and export. Is a general tax rate envisaged? How would it be collected? Is a

general tax rate envisaged? How would it be collected?

• Importation is every entry of goods into the customs territory of the Republic. The customs authority implementing the customs procedure is responsible for the calculation and collection of VAT on the importation of goods, at either the 8% or 18% rate, as required by law.
In some cases when the goods are imported by natural persons who, as travellers, introduce such goods to the territory of the Republic of Serbia and customs regulations do not provide for the payment of customs duty for these goods, VAT is not chargeable neither, but the above allowance does not apply tot he importation of motor vehicles. With regard to this, VAT is not charged on:

- the passengers coming from abroad – items for their personal use during travel (personal luggage), regardless whether they carry it with them or have had it forwarded;
- domestic passengers, in addition to personal luggage – the items entered from abroad, provided they are not intended for resale;
- domestic nationals and foreign nationals with permanent residence – decorations, medals, sport trophies, and other items they receive abroad at competitions, exhibitions or performances of international importance;
- scientists, writers and painters – their own works they are introducing from abroad;
- domestic nationals who live in the border area – agricultural, farming, fishery, apiary, and forestry products obtained from their holdings located in the border area of the neighbouring country, and cattle offspring and other products derived from cattle that are, due to the works in the fields, grazing or wintering, located in such holdings;
- drivers of motor vehicles – fuel and grease in the tanks that are inbuilt in motor vehicle;

• At the request of a foreign national who is not a taxpayer and has no residence in the Republic of Serbia, but who has made an acquisition of goods in the Republic of Serbia, will be reimbursed the VAT if dispatching such goods abroad within three calendar months of the delivery of goods, and if the total value of delivered goods exceeds EUR 150, in RSD equivalent calculated at the National Bank of Serbia median exchange rate, including VAT. VAT reimbursement to foreign nationals are made in accordance with Articles 7 - 10 of the Rulebook on the VAT Return Procedure and the Manner and Procedure for VAT Reimbursement and Refund (Official Gazette of RS, Nos. 107/04, 65/05, and 63/07).

5. Does your country operate free zones? If yes, please provide the text of the relevant act. Which regime is applied in the free zones for VAT and excise purposes? Are the free zones excluded from the territorial application of VAT and/or excise duties?

Does your country operate free zones?

Yes, the Government of the Republic of Serbia has supported the creation of free zones as the parts of the territory of country which are especially conducive for business, in terms of the economic policy instruments aimed at the creation of the accelerated development areas.

If yes, please provide the text of the relevant act.

Free zones in the Republic of Serbia are legislatively regulated through the Law on Free Zones (Official Gazette of RS, No. 62/06) and the Customs Law (Official Gazette of RS, No. 18/2010), and by the appertaining bylaws. Individual issues touching on the operation of free zones are considered in specific laws, the ones that are systemic laws for other areas such as tax, foreign exchange policy, construction, insurance, etc.

Which regime is applied in the free zones for VAT and excise purposes?

Are the free zones excluded from the territorial application of VAT and/or excise duties?

The VAT Law provides tax exemption with the entitlement to input tax deduction for:

- introduction, in the free zone, of the goods for which the taxpayer – recipient of goods would be entitled to input tax deduction if such goods were acquired for the requirements of performing a business activity outside the free zone;
- providing, to the free zone users, the transport and other services that are directly connected with introducing into the free zone the goods for which the taxpayer – recipient of goods would have been entitled to input tax deduction if such goods were acquired for the requirements of performing a business activity outside the free zone.

A VAT payer may be granted above allowances if having available the evidence specified in the Rulebook on the manner and procedure for applying for VAT exemption, with and without the entitlement to input tax deduction (Official Gazette of RS, Nos. 124/04, 140/04, 27/05, 54/05, 68/05, 58/06, 112/06, 63/07 and 99/10).
These tax exemptions, however, are not applicable to the supply of goods or services made by the VAT payer within the free zone (supply of the goods or services the place of supply of which, in accordance with Art. 11 and 12 of the VAT Law, is the territory outside the zone).
Also, the VAT Law does not provide any tax exemptions for the performance of specific business activities in the free zone.

Considering that free zones are not specifically exempted by the Law on Excise Duty, the provisions of Excise Tax Law apply.

6. What are your targets for future developments of your VAT legislation (short/long term)? Please specify these in terms of timetables and anticipated problem areas.

In the coming period, Serbian regulations on VAT will be further aligned with EU legislation, in the first place with Directive 112/62/EC. Deadline for alignment is the day of becoming a full member of EU.
The anticipated areas of challenge include: abolishment of the specific tax rate for the first transfer of disposal rights over the newly built housing facilities (not including the apartments built under the social policy), abolishment of VAT refund for the first time home buyers, abolishment of VAT reimbursement to traditional churches and religious communities.

7. Which VAT regime applies to goods transferred from Serbia to Kosovo and vice versa?

The provisions of Art. 61 of the VAT Law (Official Gazette of RS, Nos. 84/2004, 86/2004 - corr., 61/2005 and 61/2007 of 30 June 2007) lay down that the Government of the Republic of Serbia regulates the implementation of this Law in the territory of the Autonomous Province of Kosovo and Metohija during the validity period of the UN Security Council Resolution 1244, and the Government complied by adopting the Law on the Value Added Tax in the Territory of the Autonomous Province of Kosovo and Metohija (Official Gazette of RS, No. 15/2005 of 18 February 2005).

In accordance with the Regulation, for the supply of the goods of foreign origin forwarded, delivered or transited from the territory of the APKaM to the territory of the Republic outside the APKaM, VAT shall not be calculated or paid, in accordance with the VAT Law. Moreover, VAT shall be calculated and paid on the supply of the goods of domestic origin from the territory of the APKaM to the territory of the Republic outside the APKaM. VAT is not chargeable on the supply of domestic goods made by VAT payers from the territory of the Republic outside APKaM to the territory of APKaM, and VAT payers are entitled to input tax deduction in accordance with the Law on Value Added Tax, provided the goods were dispatched to the territory of APKaM.

C. Excise duties

8. Please provide a copy of your country's VAT legislation (in one of the official EU languages), including other related legislation, such as administration guidelines, etc.

PLEASE SEE APPENDIX 2 FOR ENGLISH TRANSLATIONS OF THE EXCISE TAX LAW (OFFICIAL GAZETTE OF RS, NOS. 22/01,73/01, 80/02, 43/03, 72/03, 43/04, 55/04, 135/04, 46/05, 101/05 – OTHER LAW, 61/07, 5/09, 31/09 AND 101/10), AND BYLAWS ADOPTED FOR THE IMPLEMENTATION THEREOF.

The bylaws adopted based on the Excise Tax Law governing the implementation thereof are the following:

- The Regulation on excise stamp appearance, the type of data to be provided on the stamp, and the procedures for stamp issuing, keeping the records on approved and issued stamps, and labeling of cigarettes and alcoholic beverages (Official Gazette of RS, Nos. 137/04, 11/05, 29/05, 56/05, 75/05, 88/05 and 108/06)
- The Regulation on the level of loss (ullage, spillage, breakage and defect) that is not VAT chargeable (Official Gazette of RS Nos. 137/04 and 109/09)
- The Regulation on how to determine the price level for the most popular cigarettes, cigarillos, smoking tobacco, and other tobacco products (Official Gazette of RS, Nos. 49/05, 116/06, 22/09 and 41/09)
- The RSD excise levels referred to in Article 9 (1) 3), Art. 12 and 12a of the Excise Tax Law corrected for 2009 retail price growth index, namely in Art. 9 (1) 1), 2) & 4), Art. 40a (1) 2), and Art. 40d (1) of the Excise Tax Law corrected for the June – December 2009 retail price index (Official Gazette of RS, No. 3/10) – the last corrected excise tax levels applicable as of 23 January 2010. It should be noted that the Law Amending the Excise Tax Law (Official Gazette of RS, No. 101/10), effective since 1 January 2011, stipulates the new amounts of excise tax on petroleum products and cigarettes.
- The RSD excise tax levels for cigarettes referred to in Article 40a (1) 3) & 4) of the Excise Tax Law corrected for the June – December 2009 retail price index (Official Gazette of RS, No. 3/10) – the last corrected excise tax levels applicable as of 23 January 2010. It should be noted that the Law Amending the Excise Tax Law (Official Gazette of

RS, No. 101/10), effective since 1 January 2011, stipulates the new amounts of excise tax on cigarettes depending on the period of application, therefore, the previously stated act is no longer applicable.

- The Decision on the most popular price levels and minimum excise tax levels for tobacco products (Official Gazette of RS, No. 53/10) - the last determined most popular price and minimum excise tax levels for tobacco products, applicable as of 20 July 2010
- The Rulebook on excise tax calculation and payment, the type, content, and method of record keeping, data delivery, and excise accounting (Official Gazette of RS, Nos. 3/05, 54/05, 36/07, 63/07 and 53/09)
- The Rulebook on the list of other oil derivatives obtained from the oil fractions with the distillation range of up to 380ºC (Official Gazette of RS, No. 63/07)
- The Rulebook on the content, type of data, and the manner of keeping register of the manufacturers of alcoholic beverages (Official Gazette of RS, No. 3/05)
- The Rulebook on the content, type of data, and the manner of keeping the register of the sellers of liquefied petroleum gas for motor vehicles (Official Gazette of RS, No. 63/07)
- The Rulebook on the requirements and procedure for obtaining excise licenses, their renewal and revocation, the manner and control of conveying products from and to excise warehouses and keeping records in excise warehouses (Official Gazette of RS, No. 41/09

- The Rulebook on more detailed requirements and procedure for exemption from excise tax on the products sold by the manufacturer, or the importer, to diplomatic or consular missions and international organisations, and on the oil derivatives sold pursuant to international agreements (Official Gazette of RS, No. 41/09)
- The Rulebook on requirements for the entitlement to reimbursement of the excise tax paid on diesel fuel, the reimbursement procedure, the requirements for diesel fuel distribution authorisation, the norms for the quantities required for tractors (Official Gazette of RS, Nos. 3/05, 5/05, 36/07, and 23/09)
- The Rulebook on more detailed requirements and procedure for the entitlement to reimbursement of the excise tax paid on other oil derivatives referred to in Article 9 (1) 3) of the Excise Tax Law, used for industrial purposes (Official Gazette of RS, No. 51/05)

- The Rulebook on more detailed requirements and procedure for the entitlement to reimbursement of the excise tax paid on the oil derivatives referred to in Article 9 (1) 1) & 2) of the Excise Tax Law sold to the buyers from the territory of the AP Kosovo and Metohija (Official Gazette of RS, Nos. 54/05 and 88/08) – Please note that the Law on the Amendments to the Excise Tax Law (Official Gazette of RS, No. 5/09) abolished the entitlement to reimbursement of the excise tax paid on the oil derivatives referred to in Article 9 (1) 1) & 2) of the Excise Tax Law which were dispatched by their manufacturers to the territory of the AP Kosovo and Metohija, and that, accordingly, the above Rulebook are not applicable.

9. Please give a detailed description of your current excise legislation, particularly in the following areas:

The Law on Excise Tax (Official Gazette of RS, Nos. 22/01,73/01, 80/02, 43/03, 72/03, 43/04, 55/04, 135/04, 46/05, 101/05 - other law, 61/07, 5/09, 31/09 and 101/10 – hereinafter: the LOET), in application since 2001, governs the excise taxation. According to the Law, excise tax shall be payable on the following excisable products: petroleum products; manufactured tobacco; alcoholic beverages and coffee (green, roast, ground and

coffee extract). Excise tax shall be payable on the excisable products produced in the Republic of Serbia and on the excisable products imported to the Republic of Serbia. The stated law provides for an equal treatment in terms of the excise tax, both for the domestic and imported excisable products.
Upon its adoption, this Law has been amended, thus harmonising it further with the EU standards, particularly in the part referring to excise taxation of the cigarettes. In the following period, further harmonisation will take place, particularly in terms of taxation of alcohol and alcoholic beverages and energy products.

a) Taxable scope (product categories liable to excise duty). The following are of particular interest:

i) alcohol and alcoholic beverages;

ii) cigarettes and other manufactured tobacco;

iii) mineral oils (petrol, diesel heating oil, etc.) and other energy products (electricity, natural gas, coal, biofuels);

iv) motor vehicles (excise duties, registration taxes, circulation taxes);

v) other product categories constituting a major part of excise income.

Taxable scope

According to the LOET, the products liable to excise duty are the following:

- **Alcoholic beverages:**

Alcoholic beverages shall be understood to mean the beverages that, depending on the raw materials used and the ethanol content, are put into circulation as such, in accordance with the quality regulation and other requirements pertaining to alcoholic beverages. All types of beer shall also be considered as alcoholic beverages, regardless of the manner of their packing. According to the LOET, alcoholic beverages subject to excise tax are the following:

a) brandy made of fruit, grape, special types of brandy and brandy made of grain and other agricultural products;

b) spirits and liqueurs;

c) low alcohol drinks.

d) beer (excise duty shall be paid on all types of beer, except for the non-alcoholic beer containing up to 0.5% of alcohol).

Alcohol is not subject to excise tax.

- **Manufactured tobacco:**

- cigarettes;
- cigars and cigarillos;
- tobacco for smoking and other manufactured tobacco (shredded tobacco, pipe tobacco, chewing tobacco and snuff).

- **Petroleum products:**

- all types of motor gasoline other than EURO unleaded motor gasoline 98 and EURO

Premium unleaded motor gasoline 95
- EURO unleaded motor gasoline 98 and EURO Premium unleaded motor gasoline 95
- all types of diesel fuel other than EURO diesel
- EURO diesel
- liquefied petroleum gas for motor vehicles;
- other petroleum products obtained from petroleum fractions with the distillation range of up to 380°C, in particular:

2710 - oils obtained from petroleum and oils obtained from bituminous minerals, except for the crude ones; products, not mentioned or included in some other place, containing 70 mass % or more oil from petroleum or oils obtained from bituminous minerals, and if they present essential components of those products:
2710 11 11 00 – light oils and products, for processing in specific processes
2710 11 15 00 – light oils and products, for treatment in chemical processes, except for those stated in tariff subheading 2710 11 11
2710 11 21 00 – light oils and products, for other purposes, special gasolines, white spirit
2710 11 25 00 – light oils and products, for other purposes, special gasolines, etc.
2710 11 90 00 – light oils and products, for other purposes, other light oils
2710 19 11 00 - middle oils, for processing in specific processes
2710 19 15 00 - middle oils, to be treated in chemical processes, except for those stated in tariff subheading 2710 19 11
2710 19 21 00 – middle oils, for other purposes, kerosene, jet fuel
2710 19 25 00 – middle oils, for other purposes, kerosene, etc.
2710 19 29 90 - middle oils, for other purposes, etc.
2710 19 31 00 – gas oils, for processing in specific processes
2710 19 35 00 – gas oils, for treatment in chemical processes, except for those stated in tariff subheading 2710 19 31
2710 19 41 90 – gas oils, for other purposes, with the sulfur content of up to 0.05% per mass, except for extra light heating oil (EL)
2710 19 45 90 – gas oils, for other purposes, with the sulfur content of over 0.05% per mass to 0.2% per mass, etc.
2710 19 49 90 – gas oils, for other purposes, with the sulfur content of over 0.2% per mass, etc.
2710 19 99 00 01 - spindle super raffinate and mineral oil for textile industry
The list of other petroleum products has been set in the Rulebook on the list of other petroleum products obtained from petroleum fractions with the distillation range of up to 380ºC (Official Gazette of RS, No 63/07).
It should be noted that the other energy products (electricity, natural gas, coal) are not subject to excise tax.

Another product subject to excise tax is coffee (green, roast ground and coffee extract).
Motor vehicles are not subject to excise tax.

In the Republic of Serbia, the Law on the Tax Payable on the Use, Keeping and Carrying of Goods (Official Gazette of RS, Nos. 26/01, 80/02, 43/04, 132/04, 112/05, 114/06, 118/07, 114/08, 31/09,106/09, 95/10 and 101/10 – hereinafter: the LTUKCG) introduces tax on the use of motor vehicles, paid at the time of issuing registration licence, and registration label (hereinafter: registration) for motor vehicles: passenger cars, cargo vehicles with the maximum permissible mass of less than 3.5 tonnes, motorcycles, sidecar motorcycles and motorised tricycles.
This tax shall be payable on the use of certain vessels, aircraft, and also certain types of

registered weapons, but the revenue generated from these taxes is insignificant compared to the revenues generated from excisable product taxes.

When transferring the proprietary rights for the motor vehicles (except for moped, motor cultivator, tractor and accessory operating machine) registered at least once in the Republic of Serbia (i.e. used vehicles), inheritance and gift tax (for the transfer without any compensation), and/or tax on the transfer of absolute rights (for the transfer against compensation) shall be paid, if no VAT is paid for such a transfer. In case VAT is payable – inheritance and gift tax, and/or tax on the transfer of absolute rights shall not be payable. Taxation of the transfer of motor vehicle proprietary rights by way of the inheritance and gift tax, and tax on the transfer of absolute rights shall be governed by the Law on Property Tax (Official Gazette of RS, Nos. 26/01, 80/02, 135/04, 61/07, 5/09 and 101/10 – hereinafter: LPT).
Transfer of proprietary rights for motor vehicles not registered in the Republic of Serbia shall not be subject either to inheritance and gift tax, or tax on the transfer of absolute rights.

b) Establishment of the duties, i.e. how are they calculated (e.g. by volume, weight, *ad valorem*, etc.)?

Excise tax base

The excise tax base shall be a unit of measure.
For petroleum products – motor gasoline and diesel fuel - the unit of measure shall be a litre. For liquefied petroleum gas used in motor vehicles and for other petroleum products obtained from petroleum fractions with the distillation range of up to 380ºC, the unit of measure shall be a kilogram.
The excise tax base for all types of alcoholic beverages shall be a litre.
The excise tax base for imported coffee (green, roast, ground and coffee extract) shall be the product value, established in accordance with the customs regulations, plus customs duty and other import charges.
In terms of manufactured tobacco, *ad valorem* excise tax base for the cigarettes shall be retail sale price per pack of cigarettes, determined by the manufacturer, and/or importer of cigarettes. In addition to *ad valorem* excise tax on the cigarettes, there shall also be a specific excise tax payable on the base which is a 20 cigarette pack. The excise tax on cigars and cigarillos shall be a specific amount paid on the base which is one cigar or cigarillo. On smoking tobacco and other manufactured tobacco, *ad valorem* excise tax shall be payable on the base which is the retail sale price of these products per kilogram, and which is determined by the manufacturer, and/or importer of these products.

c) Exemptions from duty.

Exclusions

- The excise tax shall not be payable on the following excisable products (Article 19 of the LOET):

1) the ones exported by the producer;
2) the ones that the producer, and/or importer sell for:
   (1) official requirements by diplomatic and consular representation offices;
   (2) official requirements by international organisations, if this is provided for by

international agreements;

(3) personal requirements by foreign staff members of diplomatic and consular representation offices, including their family members;

(4) personal requirements by foreign staff members of international organisations, including their family members, if this is provided for by international agreements;

3) petroleum products sold by the producer, and/or importer, the trade of which is conducted based on an international agreement, if that agreement provides for an exemption from excise duty;

4) the ones that the producer, and/or importer consigns to be sold in aircraft and on ships on international traffic routes, and the ones consigned to duty-free shops at the airports open for international traffic (where passport and customs control takes place), in order to be sold to passengers in line with customs the regulations;

5) petroleum products, stated in Article 9, paragraph 1, item 5) of the LOET, which are sold by the producer provided that these petroleum products are used exclusively for ethylene and propylene production by the legal persons and entrepreneurs dealing with ethylene and propylene production in their own production facilities, and/or which are imported by importers for exclusive production of ethylene and propylene in their own production facilities, or for users (owners) who use these petroleum products exclusively for ethylene and propylene production in their own production facilities;

6) jet fuel – kerosene, sold by producers directly to end users (owners) for aviation purposes, and/or imported by importers for themselves to be directly used for aviation purposes or for users (owners) who use that fuel directly for air traffic purposes;

6a) cigarettes, and/or alcoholic beverages destroyed by the producer as authorised or ordered by the competent authorities, and which had been marked by control excise stamps.

The exemptions specified in paragraph 1, items 1) and 4) of this Article, shall be exercised based on the customs documents evidencing that the products have left the Republic of Serbia, or that they have been dispatched for the purpose of sale in aircraft and on ships on international traffic routes or in duty-free shops at the airports (where passport and customs control takes place) open for international traffic.

The exemptions specified in paragraph 1, item 2, subpoints 1) and 3) of this Article shall be exercised on reciprocity basis, based on the certificate by the ministry responsible for foreign affairs.

More detailed conditions, manner and procedure of exercising exemption from tax, as stipulated in paragraph 1, items 2) and 3) of this Article are set out in the Rulebook on more detailed conditions, manner and procedure of exercising exemption from excise tax on the products sold by the producer, and/or importer to diplomatic and consular representation offices and international organisations, and on petroleum products sold on the basis of international agreements (Official Gazette of RS, No. 41/09).

- Tax on the use of motor vehicles shall not be paid by the following, in accordance with Article 5 of the LTUKCG:

1. a person with disability of 80% or higher, on one vehicle referred to in Article 4, paragraph 1, item 1) of this Law, which is, in a particular year, first registered in that person's name;
2. a person with a physical injury resulting in leg disability of 60% or higher, on one passenger car, or a cargo vehicle with the maximum permissible mass of less than 3.5 tonnes, which is, in a particular year, first registered in that person's name;

2a. parents of multiply disabled children, who are under constant care, i.e. of whom the parents directly take care – on one passenger car, or a cargo vehicle with the maximum permissible mass of less than 3.5 tonnes, which is, in a particular year, first registered in

their name, or in the name of one of them;
3. health institutions, for ambulance motorcars;
4. organisations of disabled persons, registered in accordance with the law, established for the purpose of providing aid to the disabled persons – for the vehicles adjusted exclusively for the transport of their members;
5. Ministry of Interior;
6. owners of electrically driven motorcycles, sidecar motorcycles and motorised tricycles.

- When motor vehicle proprietary rights are transferred without compensation, according to Article 21 of the LPT, the inheritance and gift tax shall not be payable by/on the following:

- an heir in the first order of succession, decedent's spouse and parent, and a donee in the first order of succession and donor's spouse;

- a foundation, when a motor vehicle inherited or received as gift, serves exclusively for the generally beneficial purposes for which the foundation has been established;

- a foundation or association, established for generally beneficial purposes, within the meaning of the law governing foundations, registered in accordance with the law – on a motor vehicle inherited or received as gift, serving exclusively for the purposes for which that foundation or association has been established;

- an heir or donee to ambulance motorcars, special driving school motorcars with built-in dual controls and motorcars for taxi and rent-a-car service, which are marked accordingly;

- the Republic of Serbia, autonomous province, and/or local government unit, as an heir or donee of a motor vehicle;

- receiver of a donation as per international agreement concluded by the Republic of Serbia, if stipulated in that agreement that no gift tax shall be paid for the received motor vehicle;

- for a motor vehicle received from the Republic of Serbia, autonomous province, or local government unit.

- When motor vehicle proprietary rights are transferred with compensation, according to Article 31 of the LPT, the tax on the transfer of absolute rights shall not be payable in the following cases:
  - when a proprietary right is transferred for the purpose of settling debts relating to public revenues, in accordance with the regulations governing tax procedure and tax administration;
  - when amublance motorcars, special driving school motorcars with built-in dual controls, and motorcars for taxi and rent-a-car service specially marked as such are transferred against a compensation;
  - transfer of motor vehicle as transfer of property or part of property of the entity undergoing privatisation, in compliance with the regulations dealing with privatisation, from the entity undergoing privatisation to the acquirer of property;
  - when the taxpayer is the Republic of Serbia, autonomous province, or local government unit;
  - when it is stipulated in an international agreement concluded by the Republic of Serbia that no tax on the transfer of absolute rights shall be payable for the transfer of motor vehicle proprietary rights;

d) What is the level of duty applied for each product concerned? Is the rate level the

same for similar imported products? If not, explain why.

- Currently valid amounts, adjusted most recently, i.e. excise duty rates in application since 23 January 2010, and 1 January 2011, are as follows:

Type of excisable product	**amount, i.e. excise duty rate**
Petroleum products:	
1) all types of motor gasoline other than EURO unleaded motor gasoline 98 and EURO Premium unleaded motor gasoline 95	45.00 dinars/litre
2) EURO unleaded motor gasoline 98 and EURO Premium unleaded motor gasoline 95	49.50 dinars/litre
3) all types of diesel fuel other than EURO diesel	35.00 dinars/litre
4) EURO diesel	37.00 dinars/litre
5) other petroleum products obtained from petroleum fractions with the distillation range of up to 380°C	53.34 dinars/kg
6) liquefied petroleum gas for motor vehicles	17.95 dinars/kg
Alcoholic beverages:	
1) brandy: - made of fruit, grape, special types of brandy* - made of grain and other agricultural products*	 87.58 dinars/litre 222.20 dinars/litre
2) spirits and liqueurs*	142.42 dinars/litre
3) low alcohol drinks*	14.62 dinars/litre
4) beer*	16.56 dinars/litre
Coffee	30%
Manufactured tobacco: **	
- On cigarettes: in the period from 1 January to 31 December 2011	35% on retail sale price + 26.00 dinars/pack
- Cigars and cigarillos*	15.74 dinars/piece
- Smoking tobacco and other manufactured tobacco (shredded tobacco, pipe tobacco, chewing tobacco and snuff)	35% on retail sale price

*Excise tax amounts adjusted last and in force since 23 January 2010 shall be applied to alcoholic beverages, cigars and cigarillos. Adjustment of the stated excise tax amounts, in accordance with Article 4 of the Law Amending the Excise Tax Law (Official Gazette of RS, No. 101/10), in force since 1 January 2011, shall be effected in January 2011, based on the retail price increase rate in 2010, in accordance with the data by the republic authority responsible for statistics-related works.

**It should be noted that the Law Amending the Excise Tax Law stipulates that a special excise tax amount shall be paid for each type of motor gasoline and diesel fuel. The new amounts of excise tax have been prescribed on other petroleum products obtained from petroleum fractions with the distillation range of up to 380°C and on liquefied petroleum gas for motor vehicles.
Furthermore, starting from 1 January 2011, new excise tax amounts on the cigarettes depending on the period of application, shall be effective. In accordance with the provision of Article 5 of the Law Amending the Excise Tax Law, the first next adjustment of the amounts in dinars of excise duties on petroleum products and cigarettes shall take place in January 2012, based on the consumer price index in 2011.

- excise tax on the cigarettes

In terms of cigarette taxation in the Republic of Serbia, in accordance with Article 40a and

40b of the LOET, the following excise tax shall be payable on the cigarettes:

- specific excise tax
- *ad valorem* excise tax per rate of 35% on the cigarette retail sale price.

The Law prescribes that *ad valorem* excise tax rate (35%) on the cigarettes shall not change, regardless of the period of application, whereas for the specific excise tax different amounts have been specified, depending on the period of application, thus:

- in the period from 1 January to 31 December 2011, the prescribed excise tax amount shall be 26.00 dinars/pack.
- from 1 January 2012 forward, specific excise tax shall be 30.00 dinars/pack.

According to Article 17 of the LOET, excise tax amounts in dinars shall be adjusted annually based on the consumer price index in the calendar year that precedes the year in which adjustment is effected, in accordance with the data by the republic authority responsible for statistics-related works.

The excise tax amounts in dinars, i.e. the excise tax rates on all excisable products shall be the same, regardless of whether excisable products have been produced in the country or have been imported.

- Tax on the use of motor vehicles shall be payable at the time of their registration in the amount prescribed for the same-type vehicles, regardless of the place of manufacture (tax level shall be the same for the same-type vehicles of same age, regardless of whether the vehicle was manufactured in the country or imported).

The tax on the use of motor vehicles is set in absolute amounts, depending on the cubic capacity of the vehicle, with certain deductions based on the age (Article 4 of the LTUKCG). Each December, tax amounts are adjusted, for payment in the following year, based on the consumer price index in the preceding twelve months. Therefore, tax amounts to be paid in 2011 are yet to be adjusted.

Tax liability in 2010 shall be as follows:

Passenger cars, i.e. cargo vehicles with the maximum permissible mass of less than 3.5 tonnes	Dinars
up to 1,150 cm^3	950
over 1,150 to 1,300 cm^3	1.860
over 1,300 to 1,600 cm^3	4.110
over 1,600 to 2,000 cm^3	8.430
over 2,000 to 2,500 cm^3	41.630
over 2,500 to 3,000 cm^3	84.370
over 3,000 cm^3	174.370
2. Motorcycles	Dinars
1) up to 125 cm^3	1.120
2) over 125 to 250 cm^3	1.860
3) over 250 to 500 cm^3	2.810
4) over 500 to 750 cm^3	5.620
5) over 750 to 1,100 cm^3	7.000
6) over 1,100 cm^3	10.000

The prescribed amount of tax on the use of motor vehicles shall be reduced for the vehicles older than five years by:

1) 15% - for the vehicles over five to eight years old;
2) 25% - for the vehicles over eight to ten years old;
3) 40% - for the vehicles over ten years old.

For the motor vehicles 20 or more years old, tax on the use of motor vehicle shall be 20% of the prescribed tax amount.
In addition to the stated deductions, the tax shall further be reduced by 50% for the motorcars for taxi service and for special driving school motorcars with built-in dual controls.

- Inheritance and gift tax and tax on the transfer of absolute rights shall be payable per rate of 2.5% on the tax base, which is essentially the market value of the motor vehicle established by the tax authority, on the day of taxation (Articles 16, 19, 27, 28. and 30 of the LPT).

The level of inheritance and gift tax and tax on the transfer of absolute rights depends on the value of the vehicle, regardless of whether the motor vehicle the transfer of which is levied has been imported or not. It should be noted that these taxes shall not be payable on the transfer of motor vehicle proprietary rights if these vehicles have not been registered in the Republic of Serbia, or if VAT is paid on their transfer.

e) Chargeable event and chargeability of the duty;

- **Chargeable event shall occur when the excisable products have been:**

- produced in the Republic of Serbia;
- imported into the Republic of Serbia.

Imported excisable products shall be understood to mean any excisable products imported in accordance with the customs, and/or foreign trade regulations.

Excise taxpayer

According to the Law, an excise taxpayer shall be any producer or importer of excisable products. Producer of excisable products shall be any person who produces and further processes in the production plant the products on which excise tax shall be payable, and importer of excisable products shall be any person who in its own name and for its own account carries out the import, i.e. the person for whose account the products on which excise tax shall be payable are imported.
Furthermore, in addition to the persons stated above (producer and importer), excise taxpayer shall, in specific situations, also be:

1) any legal person, i.e. entrepreneur dealing with the sale of liquefied petroleum gas to final consumer for motor vehicles.
2) any legal person authorised by a state authority to sell the confiscated excisable products;
3) buyer of excisable products confiscated in the control procedure and the procedure of forced collection, and sold by a state authority.

1. Producers

Excise taxpayer shall calculate the excise tax at the moment of putting excisable products in circulation.
For the purposes of the LOET, the following shall be understood to mean putting excisable products into circulation:

1) any dispatch of excisable goods from the production plant by the producer of these goods for which he/she has no excise licence;

2) any dispatch of excisable products from an excise warehouse, except for the dispatch to the same owner's other warehouse;

3) any statement of a product shortage in an excise warehouse, except for the shortage that may be attributed to force majeure;

4) any statement of a shortage in liquefied petroleum gas for motor vehicles which occurred in a retail facility of the LPG excise taxpayer, except for the shortage resulting from force majeure;

5) statement of the expenses (spillage, wastage, failure and breakdown) in excise warehouse, and/or retail facility owned by the payer of excise tax on liquefied petroleum gas for motor vehicles, above the quantity laid down by the regulation adopted by the Government of the Republic of Serbia.

2. Importers

Obligation to calculate excise at the time of import of excisable products (manufactured tobacco, alcoholic beverages, coffee and petroleum products - except for liquefied petroleum gas for motor vehicles) coincides with the obligation to calculate import duties, and excise tax shall be calculated by the competent customs authority.

3. Sellers of liquefied petroleum gas for motor vehicles

The excise tax on liquefied petroleum gas for motor vehicles shall be calculated at the moment when liquefied petroleum gas is sold to the final consumer for motor vehicles, and in this case there is an exception that the excise taxpayer shall be the LPG seller (and not the producer or importer).

Excise tax payment

Excise taxpayer – producer, and/or seller of liquefied petroleum gas for motor vehicles - shall pay the accounted excise tax, as follows:

1) the excise tax amount calculated for the period from 1st to 15th day in a month – no later than on the last day of the month;

2) the excise tax amount calculated for the period from 16th to the end of the previous month – no later than on 15th day of the month.

The excise goods importer shall pay the excise tax, calculated at the time of import, within the time limits and in the manner prescribed for the payment of import duties.

- Tax on the use of motor vehicles shall be payable at the time of registration of motor vehicles. Taxpayer shall calculate and pay the tax on the use of motor vehicles to a specified public revenues account (Articles 2. and 5b of the LTUKCG).

- The tax liability based on inheritance of motor vehicle proprietary rights shall commence on the effective date of the decision on inheritance. The gift tax liability shall commence on the day of conclusion of the gift contract, and if that contract has not been concluded in writing - on the day of reception of the gift. If a contract on gift, decision on inheritance or court ruling has not been reported to tax authorities, or has been reported untimely, it shall be deemed that the tax liability commenced on the day when the competent tax authorities became aware of inheritance or gift in the form of a motor vehicle (Article 17 of the LPT).

- The tax liability based on the transfer of absolute rights, concerning the transfer of motor vehicle proprietary rights against compensation, shall commence on the day when the contract on the transfer of motor vehicle proprietary rights is concluded. If an absolute right

is transferred on the basis of a court ruling or decision rendered by a competent administrative authority, tax liability shall commence on the effective date of that ruling or the date of enforceability of that decision. If an absolute rights transfer contract or a court ruling or decision rendered by a competent administrative authority has not been registered or has been registered untimely, tax liability shall be deemed effective on the date on which the competent tax authority became aware of such a transfer (Article 29 of the LPT).
The taxpayer shall declare the inheritance and gift tax and tax on the transfer of absolute rights to the tax authority that determines the tax liability by way of a decision. The tax shall be paid within 15 days from the presentation of the decision to the taxpayer (Articles 35, 36. and 39 of the LPT).

f) Importation/exportation, including travel allowances. Which excise regime applies to goods transferred from Serbia to Kosovo and vice versa?

Importation and exportation of products subject to excise tax in accordance with the LOET shall be free and unconditional. Nevertheless, a special regime for the import of manufactured tobacco and alcoholic beverages has been prescribed. In order to implement the procedure of obtaining control excise stamps for marking alcoholic beverages, the importer of alcoholic beverages, except beer, must be authorised by the foreign producer, or by a distributor authorised by the foreign producer, for the sale of such products on the market of the Republic of Serbia. Furthermore, at the time of approving control excise stamps, the importer of alcoholic beverages shall present to the Ministry of Finance a security instrument – a bank guarantee in the amount of corresponding excise and value added tax for the planned quantities of the product to be imported. Export of alcoholic beverages shall be free.
The Law specifies that the persons engaged in the production and circulation of manufactured tobacco shall be entered in the corresponding registries kept in the Ministry of Finance – Tobacco Administration. The Law on Tobacco (Official Gazette of RS, Nos. 101/05, 90/07 and 95/10), stipulates the requirements for obtaining a licence for: producers and processors of tobacco; producers of tobacco products; wholesalers and retailers of tobacco products; importers and exporters of tobacco and tobacco products, and the requirements, manner and procedure of registration in corresponding registers. Therefore, import and export of tobacco products may be undertaken only by a person entered in the Register of Importers and Exporters of Tobacco Products, in accordance with the Law on Tobacco. Furthermore, importer of tobacco products must be authorised by the foreign producer, or by a distributor authorised by the foreign producer, for the sale of such products on the market of the Republic of Serbia. Furthermore, importer of cigarettes shall, in addition to the stated requirements, present to the Ministry of Finance a security instrument – a bank guarantee in the amount of corresponding excise and value added tax for the planned quantities of cigarettes to be imported.

Circulation of excisable products from Autonomous Province of Kosovo and Metohija (APKM) shall be governed by the LOET and the Regulation on the requirements and manner of calculating public revenues, the contents and manner of keeping records for the circulation of goods from AP Kosovo and Metohija (Official Gazette of RS, Nos. 48/01, 5/02.....27/05 – hereinafter: the Regulation).
Circulation of goods from the territory of the Republic outside APKM to the territory of APKM
In case excisable goods are dispatched from the territory of the Republic of Serbia outside APKM to the territory of APKM, the excise taxpayer shall be the producer of excisable

goods who calculates and pays the excise tax in the amount and within the time limit specified by the LOET.

Circulation of goods from the territory of APKM to the territory of the Republic outside APKM

When excisable products are dispatched from the territory of APKM to the Republic of Serbia outside APKM, according to Article 13 of the Regulation, a special tax in the amount of the excise prescribed by the Law shall be paid, on the goods on which the excise tax is payable in accordance with the LOET. Special tax on excisable goods shall be payable up to the amount of excise tax prescribed by the LOET, only if it has not already been paid in the territory of APKM, or if it has been paid in the amount smaller than prescribed by the LOET. This special tax shall be paid by the person who delivers the excisable products from the territory of APKM to the Republic of Serbia outside APKM. In this manner, an equal taxation treatment for the excisable goods in ensured in the entire territory of the Republic of Serbia. Also, economic operators from APKM and from the Republic of Serbia outside APKM are placed in an equal position, for the purpose of implementing the constitutional principles of economic operators' equality and equality in market operations.

g) Registered/non-registered traders.

These taxpayer categories have not been included in the LOET.

Excise taxpayer shall be:

- Producer of excisable products,
- Importer of excisable products,
- Legal person and entrepreneur selling liquefied petroleum gas to the final consumer for motor vehicles,
- Legal person authorised by a state authority to sell the confiscated excisable products,
- Buyer of excisable products confiscated in the control procedure, or the procedure of forced collection, and sold by state authorities

h) Do you have a tax warehousing system for some/all product categories subject to excise? If not, what system do you apply:

i) to domestic products?

Fiscal System Department: According to the Law, producer of excisable products may obtain an excise licence for all types of excisable goods produced by it. Authorised holder of an excise warehouse for tobacco products, and/or alcoholic beverages may be the producer of tobacco products, and/or alcoholic beverages entered in the corresponding register with the Tobacco Administration, and/or Tax Administration – Head Office. The LOET shall define the legal concept of an excise licence. The excise licence is a document approving the consignment and storage of excisable products in the warehouses, without calculating and paying the excise tax. An excise warehouse shall mean one or several interconnected, closed or enclosed spaces comprising the whole, in which the authorised holder of excise warehouse (the excise licence holder) stores, receives or consigns the products under the regime of deferred excise tax calculation and payment. This warehouse shall be marked visibly and separated from the other facilities. The excise licence shall be issued by the Minister of Finance, based on the previously obtained opinion of the

competent Tax Administration organisational unit corresponding to the place where the warehouse is located. The excise licence shall be issued for the period of two years, and it is renewable. More detailed conditions and procedure for obtaining, renewing and withdrawing of excise licence, and movement of goods, are prescribed in the Rulebook on the conditions and procedure for obtaining, renewing and withdrawing the excise licence, the manner and control of dispatching from and receiving the products into excise warehouse and keeping the records in excise warehouse (Official Gazette of RS, No. 41/09). The excise taxpayer – producer of excisable products who has obtained an excise licence shall be entitled to dispatch and store excisable products under the regime of deferred excise tax calculation and payment, i.e. shall be entitled to store excisable products with no calculated and paid excise tax, and the obligation to calculate excise tax shall be deferred up to the moment of putting the excisable products in circulation.

The regime of excise tax deferred payment shall mean that there is a time period within which there is no obligation of calculating and paying the excise tax.
According to Article 20a of the LOET, calculation and payment of excise tax shall be deferred in the following cases:

- when the producer who has obtained an excise licence consigns the excisable products into excise warehouse
- when the producer who has obtained an excise licence consigns the excisable products from one into another one of his excise warehouses.

An authorised holder of an excise warehouse may be a producer of any excise product other than liquefied petroleum gas, considering that the excise tax on liquefied petroleum gas is not paid at the time of production, but at the time of sale to the final consumer.

The excise warehouse holder may have one or more excise warehouses within the factory site, and one or more excise warehouses outside the factory site.

The Law does not require presentation of a special guarantee for fulfilling deferred liabilities regarding excise tax on the products stored in the excise warehouse.

The Ministry shall issue an excise licence for every individual excise warehouse to the producers who meet the prescribed conditions:

- that they have been registered to perform the activity,
- that no bankruptcy or liquidation proceedings have been instituted against them,
- that they have no outstanding tax liabilities,
- that the person responsible in the legal entity or entrepreneur is not under investigation for a criminal offence,
- for the producers of alcoholic beverages and tobacco products, that they have been entered in the corresponding register,
- that they are the owners of the premises where the excise warehouse is located or that they have a contract on the lease of the storage space,
- authorisation by the competent authorities for the use of measuring devices,
- contract on petroleum processing if the petroleum refiner uses third-party services for petroleum processing,
- that the premises intended for the excise warehouse meet the prescribed technical and space-related requirements and
- that the records on the state and movement of excise products are provided and electronic data exchange as well, if the records are kept in electronic form.

Before issuing an excise licence, Tax Administration shall verify if the conditions for obtaining the excise licence have been met.

ii) to imports?

The Law on Excise Tax does not prescribe the issuance of excise licence to importers. The importers of excisable products shall pay the excise tax at the time of import (except for liquefied petroleum gas) as their final liability, and they can not be the excise tax holders.

The importers of excisable products shall pay the excise tax at the time of import (except for liquefied petroleum gas), and they can not have excise warehouses.

iii) how far down the distribution chain does each warehousing system generally reach? Do general warehouses exist to which any importer may consign his products? How is duty financially secured? What physical security is required? How are movements between warehouses and between the frontier and warehouses handled?

An excise warehouse shall mean one or several interconnected, closed or enclosed spaces comprising the whole, in which the authorised excise warehouse holder (the excise licence holder) stores, receives or consigns the products under the regime of deferred excise tax calculation and payment. This warehouse shall be marked visibly and separated from other facilities. The authorised excise warehouse holder may be the producer of excisable products who has obtained an excise licence.
In accordance with Article 4 of the Rulebook, an excise licence may be obtained if technical, economic, space-related and some other requirements, specified in this Rulebook, have been met. These requirements ensure monitoring of excisable goods production, state and movement, as well as efficient control of production and consignment of excisable goods to the excise warehouse.
Article 10 of the Rulebook specifies that the excise warehouse must be located within the factory site, except in the cases of storing petroleum products. An excise taxpayer, who is a producer and has an excise warehouse within the factory site, may be approved an excise warehouse outside the factory site, if this significantly improves the sale conditions and reduces operating costs, and if such a warehouse is located at least 80 kilometres from the place of production.
Consignment of excisable products from the production plant to the excise warehouse within the factory site, from the production plant to the excise warehouse outside the factory site, consignment of excisable products from the excise warehouse within the factory site to the excise warehouse outside the factory site, consignment of excisable products from one excise warehouse to another within the factory site, and consignment of excisable products from one excise warehouse to another outside the factory site, shall be conducted with the relevant accompanying document, and when products are consigned from the production plant to be stored in an excise warehouse outside the factory site, the person carrying out consignment, and/or reception of excisable products shall inform the competent Tax Administration organisational unit 24 hours before the moment of consignment, and/or reception of the product, at latest.
Excise licensee who stores the goods in excise warehouse is not obliged to submit financial means for securing the goods under the regime of deferred excise tax calculation and payment.
According to Article 18 of the Rulebook, consignment of excisable products from an excise warehouse to the border (the products exported by producer), for which it has been

prescribed in Article 19(1) 1) of the LOET that the excise tax shall not be payable, shall be conducted in a way that the excise taxpayer states in an invoice, consignment note or some other document that the products are exempt from excise tax payment according to Article 19 of the LOET, also stating that it is excisable products that are to be exported.
The Law on Excise Tax and the by-laws do not deal with the movement of products from the border to warehouse, considering that the excise tax is calculated at the time of import of these products.
Importers may store the excisable products in warehouses that do not have the excise warehouse status, meaning only with the accounted excise tax.

The Tax Administration keeps the records on the consignment and reception of excisable products in excise warehouses.
The Tax Administration keeps the registers of producers of alcoholic beverages and sellers of liquefied petroleum gas (all retail sale facilities).
A tax inspector must be present at the time of consignment and reception of excisable products between two excise warehouses.

The Tax Administration shall keep the records on the consignment and reception of excisable products in excise warehouses.
The Tax Administration shall keep the registers of producers of alcoholic beverages and sellers of liquefied petroleum gas (all retail sale facilities).
A tax inspector must be present at the time of consignment and reception of excisable products between two excise warehouses.

i) Do you operate other suspension schemes, i.e. tax arrangements applied to the production, processing, holding and movement of products where excise duties are being suspended? Is there a special tax regime with any non-EU countries requiring no excise duty payment or tax stamping?

The LOET prescribes only the stated regime of deferred excise tax calculation and payment, and specifies no other suspension schemes. Excise tax shall be calculated and paid on excisable products imported to the market of the Republic of Serbia, in accordance with the LOET, regardless of the territory of import. Furthermore, excisable goods (cigarettes and alcoholic beverages) already in internal circulation of the Republic of Serbia must be marked with the excise stamps in accordance with the Regulation on the appearance of control excise stamp, the type of data on the stamp and the manner and procedure of authorising and issuing the stamps, keeping records on the authorised and issued stamps and marking of cigarettes and alcoholic beverages (Official Gazette of RS, Nos. 137/04...108/06), regardless of the territory of import.

j) Do you apply special regimes for certain producers, such as farmers, small producers, fishermen, etc.?

The Law on Excise Tax defines, among other things, the legal concept of excise taxpayer – producer and importer, regardless of their scope of activity. In compliance with Article 39 of the Law, the person who has exported an excisable product procured in the country directly from the producer of the excisable product, shall be entitled to a deduction of the excise tax paid. The excise tax deduction shall be exercised based on a written request submitted to the competent tax authority. The person requesting the deduction shall submit the following documents, along with the request:

1) invoice by the producer of the excisable product with the stated excise tax;
2) order for the transfer or another document on non-cash means of payment
3) unified customs document or some other document as a proof that the excisable products have been exported.

In accordance with Article 39a of the LOET, the farms entered in the Farm Register with an authority responsible for keeping such a register, may exercise the right to a deduction of the excise tax paid, if they use diesel fuel for tractors, in the amounts necessary for land cultivation. The manner and procedure of exercising the right to a deduction shall be regulated by the Rulebook on the conditions of exercising the right to a deduction of the excise tax paid on diesel fuel, the manner and procedure of exercising the deduction, the conditions for obtaining authorisation for the distribution of diesel fuel, standard required quantities for tractors (Official Gazette of RS, Nos. 3/05, 5/05, 63/07 and 23/08).
In accordance with Article 39b of the LOET, the persons who use other petroleum products obtained from petroleum fractions with the distillation range of up to 380°C for industrial purposes, may also exercise the right to a deduction of the excise tax paid, provided they purchase such petroleum products from an importer, and/or producer of these petroleum products, and that importer, and/or producer paid the prescribed excise tax on these petroleum products. Legal persons and entrepreneurs who may also exercise the right to a deduction of the excise tax paid are the ones registered for and engaged in the activities that are in compliance with the Law on Activity Classification and on the Classification Unit Register (Official Gazette of FRY, Nos. 31/96, 34/96, 12/98, 59/98 and 74/99) included in the C, D and F Departments of the Activity Classification. More detailed conditions, manner and procedure for exercising the right to a deduction of the excise tax paid are regulated by the Rulebook on detailed conditions, manner and procedure for exercising the right to a deduction of the excise tax paid on the other petroleum products listed in Article 9(1) 3) of the LOET, which are used for industrial purposes (Official Gazette of RS, No. 51/05).

k) What are the provisions for tax free shops (airports, at land borders, etc…)? What are the traveller's allowances for third countries?

The excise tax shall not be paid on the excisable products that the producer, and/or importer consigns to be sold in aircraft and on ships on international traffic routes, and on the products dispatched to tax-free shops at the airports open for international traffic (where passport and customs control takes place), so that these products can be sold to passengers in line with the customs regulations (Article 19(1) item 4) of the LOET).

l) Rules governing administration and records, including registration, invoices.

Excise taxpayer shall compile quarterly an excise tax account within 20 days of the three-month period expiry and shall present the calculation to the competent tax authorities. The taxpayer shall make the final excise tax accounts when the year expires. The final excise tax accounts shall be compiled and presented together with the annual tax statement. In order to compile the final excise tax accounts, the taxpayer shall take an inventory of stocks as on 31 December of the year for which the final accounts are being compiled. Stocks inventory shall be taken separately for each type of excisable product. The manner of excise duties calculation and payment, the type, contents and manner of keeping records, data submission and compiling the excise tax accounts, and the manner and procedure of authorising the quantities of manufactured tobacco on which no excise tax shall be calculated and paid, and which are used for the product quality testing, are specified in the Rulebook on the manner

of excise tax calculation and payment, the type, contents and manner of keeping records, data submission and compiling the excise tax accounts (Official Gazette of RS, Nos. 3/05, 54/05, 36/07, 63/07 and 53/09).
The Law on Excise Tax specifies that the producers of alcoholic beverages shall be entered in the Registry of the Producers of Alcoholic Beverages kept in the Tax Administration – Head Office. The Rulebook on the contents, type of data and the manner of keeping the Registry of the Producers of Alcoholic Beverages (Official Gazette of RS, No. 3/05) regulates the manner and procedure of making an entry in the registry. The Law on Excise Tax specifies that the persons selling liquid petroleum gas to the final consumer for use in motor vehicles shall be entered in a registry kept in the Tax Administration – Head Office. The Rulebook on the contents, type of data and the manner of keeping the registry of the sellers of liquid petroleum gas for motor vehicles (Official Gazette of RS, No. 63/07) regulates the manner and procedure of making an entry in the registry. The Law on Excise Tax specifies that the persons engaged in the production and circulation of manufactured tobacco shall be entered in corresponding registries kept in the Ministry of Finance – Tobacco Administration. The Law on Tobacco (Official Gazette of RS, Nos. 101/05, 90/07, and 95/10), stipulates the requirements for obtaining a licence for: tobacco manufacturers and processors; manufacturers of tobacco products; manufactured tobacco wholesale and retail traders; importers and exporters of tobacco and tobacco products, and the requirements, manner and procedure of registration in corresponding registries.

m) Assessment and appeals (assessment and collection, procedure for claiming the credit and refund, penalties, appeal procedure, international mutual assistance and recovery of excise claims).

Two-instance principle shall be provided in all procedures of control and payment of VAT and excise duties.
Appeals shall be stated to a second instance authority, and shall be presented through a first instance authority, which can also settle the appeal within its jurisdiction, if it fully admits the appeal.
Provisions of Article 147(4) of the Law on Tax Procedure and Tax Administration – hereinafter: LTPTA (Official Gazette of RS, Nos. 80/02....72/09) stipulate that the appeals procedure must be concluded within 60 days from the day of submitting the appeal.

In terms of the right to an excise tax refund, provision of Article 37 of the LOET stipulates that a taxpayer who has paid an excise tax that he/she was not obliged to pay, or who has paid an excise tax in the amount higher than prescribed by the law, shall be entitled to a refund of such an excise tax.
For non-compliance with the provisions of the LOET, legal persons shall be sentenced to a fine of 10,000 to 1,000,000 dinars, and entrepreneurs shall be sentenced to a fine of 5,000 to 500,000 dinars. If an excise taxpayer, who is a legal person, does not calculate or calculates the excise tax incorrectly, it shall be sentenced to a fine of two to ten times the amount of not accounted excise tax, but not less than 125,000 dinars. If an excise taxpayer, who is an entrepreneur, does not calculate or calculates the excise tax incorrectly, he/she shall be sentenced to a fine of two to ten times the amount of not accounted excise tax, but not less than 75,000 dinars.

The right to a refund shall be governed by the LTPTA.

In accordance with Article 10, paragraphs 2. and 3 of the LTPTA, in terms of the tax legal relation, natural, and/or legal person shall have the right to:

1) a refund of overpaid taxes or taxes collected in error, i.e. secondary tax duties, and a refund of tax if provided for by another tax law;

2) a tax deduction;

3) use a tax credit with respect to the tax liability, and/or liability based on secondary tax duties;

4) use the tax, and/or secondary tax duties overpaid or paid in an incorrect amount, to settle the liabilities due on some other basis by way of transfer.

If a natural, and/or legal person opts for a refund, or deduction of taxes, and/or secondary tax duties, the Tax Administration shall fulfil such a request without delay, but no later than 15 days of the receipt of such a request.

The taxpayers who infringe certain legal provisions shall be sanctioned. Law infringement can occur both by taking certain action or failure to take certain action (failure to fulfil a prescribed tax obligation). Law infringement occurring in this manner, and offender's responsibility shall be determined in the corresponding proceedings, and if the infringement includes some elements of criminal offence, offender's responsibility shall be determined in a criminal proceedings, in accordance with the Criminal Code of the Republic of Serbia.

Articles 173a-176a of the LTPTA specify criminal offences affecting public revenues:
- Unfounded statement of a tax refund amount and tax credit (Article 173a);
- Obstruction of tax collection and control (Article 175);
- Illegal trade in excisable goods (Article 176);
- Illegal storage of goods (Article 176a).

The provisions on criminal offence of tax evasion stated in Article 172 of the LTPTA, non-payment of withholding tax stated in Article 173 of the LTPTA, and the criminal offence of production or submission of counterfeit documents of significance to taxation stated in Article 174 of the LTPTA, have been repealed by the provisions of the Criminal Code of the Republic of Serbia and these are now governed by the mentioned Code. According to Article 176b of the LTPTA, tax offences shall be regulated by the Law on Tax Procedure and Tax Administration and other tax regulations. This was necessary to specify for the reason that tax offences have not been regulated in a uniform manner by a single law, but individual offences have been included in different tax regulations. Tax violations are specified in Articles 177-182b of the LTPTA.

In the LTPTA, tax violations have been classified as follows:
- Failure to file tax return, to calculate and pay the tax;
- Reporting smaller tax amounts;
- Entering incorrect data in tax return, which resulted or could have resulted in a smaller tax amount;
- Other tax violations by legal persons and entrepreneurs;
- Tax violations by taxpayers - natural persons;
- Tax violations by tax agents and other tax debtors;
- Violations by responsible persons in the Tax Administration.

Taking into consideration that the Law on Tax Procedure and Tax Administration is a complete procedural law, provisions of Articles 140-154. define the legal remedy procedure (appeal procedure).

An appeal may be filed against the tax administrative act regulating individual rights and obligations from the tax-legal relation. An appeal may also be filed when, at the request of a taxpayer, a tax administrative act decision has not been taken within the set time limit.

An administrative dispute may be initiated against the final tax administrative act, unless

otherwise provided for by the law. A claim filed shall not delay the enforcement of the tax administrative act. Exceptionally, the second-level tax authority may delay the execution of the appealed tax administrative act, if the taxpayer substantiates that by the payment of tax or secondary tax duties before the finality of the appealed tax administrative act he would suffer substantial financial damage.
An appeal shall be submitted within 15 days of the day of receiving the tax administrative act, unless otherwise provided for by the Law. An appeal shall be submitted to the competent second-level tax authority, and this shall be done in person or by means of registered mail, or stated for the record at the first-level tax authority. The appeal against the tax administrative act adopted by the first-level tax authority shall be ruled upon by the competent second-level tax authority determined by this Law.
If the appeal is not permitted, is untimely submitted or submitted by an unauthorised person, and the first-level tax authority has failed to reject it on those grounds, the second-level tax authority shall reject it.

If it does not reject the appeal, the second-level tax authority shall settle it.

The second-level tax authority may:
1) reject the appeal;
2) annul the tax administrative act entirely or in part;
3) amend the tax administrative act.
Article 147(4) of the LTPTA specifies that the appeals procedure must be concluded within 60 days from the day of submitting the appeal.

n) Control procedures (in particular, what use is made of tax stamps and other fiscal markings, including fiscal markings for mineral oils).

Provisions of Article 18 of the LOET (Official Gazette of RS, Nos. 22/01....31/09) specify that the producer, and/or importer shall, at the time of production, and before import of cigarettes and alcoholic beverages, other than beer and cigarettes used for the product quality testing, mark with control excise tax stamps each of these products separately. This means that, according to the LOET, alcoholic beverages (other than beer) and cigarettes shall be marked with control excise tax stamps. According to the LOET, oil products shall not be marked with the excise stamps. Excise stamps shall have a control, and not fiscal purpose, meaning that excise tax shall not be paid at the time of taking over the excise stamps, but in the manner and within the time limits prescribed by the LOET.
The manner and procedure of authorising, issuing, keeping records of the excise stamps, the manner of marking the cigarettes and alcoholic beverages and return of the stamps are specified in the Regulation on the appearance of control excise stamp, the type of data on the stamp and the manner and procedure of authorising and issuing the stamps, keeping records of the authorised and issued stamps and marking of cigarettes and alcoholic beverages (Official Gazette of RS, Nos. 137/04...108/06). This document also specifies the special control excise stamps for the products manufactured in the country and control excise stamps for imported products, and control excise stamps for the cigarettes, and/or alcoholic beverages that the producer, and/or importer consigns to be sold in aircraft and on ships on international traffic routes, and/or in duty-free shops at the airports open for international traffic (where passport and customs control takes place) in order to be sold to passengers in line with the customs regulations. Marking of cigarettes and alcoholic beverages with control excise stamps prescribed for the market of the Republic of Serbia shall take place in foreign producer's plant.
Importer of cigarettes and alcoholic beverages shall, before procurement of excise stamps, present a bank guarantee in the amount of corresponding excise and value added tax to be

paid for the quantity of received excise stamps. Domestic producer of cigarettes and alcoholic beverages intended for sale in duty-free shops, shall have the same obligation of presenting a bank guarantee, in the amount of corresponding excise and value added tax to be paid for such products if these were sold on the domestic market.
Excise stamps are printed in the National Bank of Serbia – The Institute for Manufacturing Banknotes and Coins – Topcider.
Authorisation for issuing excise stamps is provided by the Ministry of Finance. The Ministry keeps records of the issued, used, damaged and unused stamps for the cigarettes, and/or alcoholic beverages for each producer, and/or importer separately, and the control implementation procedure is within the competence of the Tax Administration.
The excise taxpayers shall draw up quarterly a report on the quantity of the procured, used, damaged and unused excise stamps, and on the type and quantity of the produced excisable goods. The report shall be presented to the Ministry. The Ministry shall submit the data from these reports to the Tax Administration for verification.

Legal regulations do not prescribe marking of other excisable products (coffee, beer, crude oil and oil products).

If the products on which the excise tax has been paid are exported or used in industrial purposes, the exporter, and/or producer shall have the right to a tax deduction, upon presentation of required proofs. The same applies to the excise tax on the diesel fuel for tractors used by the registered farms to cultivate land.

Excise stamps shall be attached on the top of alcoholic beverage bottles, and under the cellophane of cigarette packs.

Foreign producer shall attach excise stamps on the cigarettes and alcoholic beverages to be imported.
The Ministry shall inform the Tax Administration on the type and quantity of issued excise stamps.
The mint shall inform the Tax Administration on the quantities and types of received stamps, at the time when the excise stamps are taken over by the producers and importers.

o) What specific measures are taken to tackle illicit trade in excisable goods from third countries (e.g. cigarettes)?

For the purpose of tackling illicit trade in excisable goods, particularly cigarettes and alcoholic beverages, the LOET prescribes that the producer, and/or importer shall, at the time of production, i.e. before import of cigarettes and alcoholic beverages, other than beer and cigarettes used for the product quality testing, mark with control excise stamp each of these products separately (Article 18 of the LOET). The manner and procedure of authorising, issuing, keeping records of the excise stamps, the manner of marking the cigarettes and alcoholic beverages and return of stamps are specified in the Regulation on the appearance of control excise stamp, the type of data on the stamp and the manner and procedure of authorising and issuing the stamps, keeping records of the authorised and issued stamps and marking of cigarettes and alcoholic beverages (Official Gazette of RS, Nos. 137/04...108/06).
This document prescribes special control excise stamps for the products manufactured in the country and control excise stamps for imported products. Foreign producer shall mark the cigarettes and alcoholic beverages to be imported with control excise stamps. Importer of cigarettes and alcoholic beverages shall, before procurement of excise stamps, present a

bank guarantee in the amount of corresponding excise and value added tax for all the received control excise stamps. Excise stamps are printed by the National Bank of Serbia – The Institute for Manufacturing Banknotes and Coins – Topcider, where the authorised representatives of domestic producers take over the excise stamps in person, whereas excise stamps are sent by mail to foreign producers. The Ministry of Finance shall approve the excise stamps. The Ministry shall keeps the records of the issued, used, damaged and unused stamps for the cigarettes, and/or alcoholic beverages for each producer, and/or importer separately, and the control implementation procedure shall be within the competence of the Tax Administration. The excise taxpayers - producers shall draw up quarterly a report on the quantity of the procured, used, damaged and unused excise stamps, and on the type and quantity of the produced excisable goods, and the report shall be presented to the Ministry, which shall send the data from these reports to the Tax Administration for verification. Importers of cigarettes and alcoholic beverages shall submit a report on the quantity of the used (imported) excisable products, damaged and unused stamps for cigarettes, and/or alcoholic beverages within the bank guarantee validity period. Furthermore, for the purpose of preventing possible abuse in connection with the issued control excise stamps, the Regulation stipulates that the Ministry of Finance shall initiate the guarantee implementation procedure, if the importer fails to import and present a proof, within the bank guarantee validity period, of the payment of corresponding excise and value added tax for the quantity of cigarettes, and/or alcoholic beverages for which the stamps have been issued, or to return the damaged, and/or unused stamps. The bank guarantee implementation procedure shall also be initiated in case that the producer, and/or importer fails to submit, within the bank guarantee validity period, a proof that the cigarettes, and/or alcoholic beverages have been sold in aircraft and on ships on international traffic routes, or to return the damaged, and/or unused stamps.

In accordance with Article 135 of the Law on Tax Procedure and Tax Administration, it is within the competence of the Tax Police Department to discover tax offences. Article 176 of this Law defines filing criminal charges for an illegal trade in excisable goods, and the Tax Police Department shall file criminal charges for such actions, in the cases of putting into circulation, and/or sale of the products that have not been properly marked with the prescribed control excise stamps, as set out in the Law on Excise Tax. The same procedure shall be applied in the cases of possible illegal trade in excisable goods from third countries, and these goods shall be seized to serve as an evidence in criminal proceedings.

p) Transitional and temporary measures

The Law on Excise Tax does not contain the provisions stipulating transitional and temporary measures. However, it should be noted that provision of Article 40a of this Law prescribes different amounts of excise tax on cigarettes depending on the period of application.

10. What are your targets for future developments in your excise legislation (short/long term)? Please specify these in terms of timetables and anticipated problem areas; in particular in terms of aligning to the EU *acquis*:

Considering that the LOET is to be fully aligned with the EU regulations in the transitional period, it is necessary to establish new rules, standards and procedures that will be harmonised with the EU directives. With respect to this, the Ministry of Finance is drawing

up a new law on excise tax that shall be fully in line with the EU standards. This particularly refers to defining the legal concept of taxpayer, excise warehouse, and storage, movement and control of goods, excise warehouse operation, security instruments, taxation of alcoholic beverages in accordance with the degree of pure alcohol, increase in excise levies with respect to the minimum excise levy for certain product categories in the European Union, etc.

II DIRECT TAXATION

11. Does your legislation allow, for domestic operations of mergers, divisions, transfers of assets and exchange of shares, a deferral of the taxation of capital gains until their actual realisation (i.e. until disposal of the assets to which they relate:

In accordance with Article 31 of the Law on Corporate Profit Tax (Official Gazette of RS, Nos. 25/01 ... 18/10 – hereinafter: LCPT), the status change of resident taxpayers conducted in accordance with the law governing companies (hereinafter: status change), shall defer the commencement of tax liability on the basis of capital gains.

The tax liability on the basis of capital gains shall commence at the moment the legal person that has obtained a property by status change sells such a property. In this case, any capital gain shall be calculated as the difference between the property sale price and its acquisition price paid by the legal person that had transferred that property to another legal person by way of a status change (adjusted in the manner referred to in this Law, from the date of acquisition to the date of sale).

The right to defer the payment of corporate profit tax on the capital gains, in accordance with this Law, shall apply if the owner of the legal person that had transferred the property at the time of the status change has received a compensation in the form of shares or interest in the legal person to which the property was transferred, as well as any compensation in cash, the amount of which does not exceed 10% of the par value of the obtained shares or interests.

If the compensation in cash exceeds 10% of the par value of the obtained shares or interests, the tax liability on capital gains shall commence at the moment of the status change, and capital gain shall be calculated as the difference between the price at which the property could have been sold on the market and its acquisition price, determined in the manner referred to in the LCPT.

12. What are the essential features of your regime for the taxation of the disposal of fixed (long-term) assets of corporations?

- What kind of exceptions/exemptions do you apply to the taxation of capital gains of corporations?

According to the LCPT, capital gain shall be understood to mean the revenue that a taxpayer realises through the sale, and/or other transfer against compensation of the following: real estate, industrial property rights, interests in the assets of legal persons, stocks and other securities, with the exception of bonds issued in conformity with the regulations dealing with settlement of commitments of the Republic of Serbia based on the loan towards economic development, the household foreign exchange savings, and debt securities the

issuer of which, according to the Law, is the Republic, autonomous province, local government unit or the National Bank of Serbia, as well as the investment units purchased by the unit trust, in accordance with the law governing these trusts (Article 27 of the LCPT).

- Do the same rules apply within a trade or business of an individual? If not, what are the rules for individuals? What are the applicable rules for individuals in the framework of their portfolio management?

- From the aspect of taxation of natural persons' revenue, the revenue stemming from performance of self-employed activity shall be subject to individual income tax, in accordance with the provisions of the Law on Individual Income Tax (Official Gazette of RS, Nos. 24/01, 80/02, 135/04, 62/06, 65/06 – corrigendum, 31/09, 44/09 and 18/10 – hereinafter: LIIT).- Revenue from self-employment shall, in accordance with Article 31 of the LIIT, be understood to mean the revenue stemming from a business and provision of professional and other intellectual services, as well as from other activities, unless tax is payable on such revenue on some other grounds.
- The payer of tax on the revenue stemming from self-employment (entrepreneur), as per Article 32 of the LIIT, shall be any natural person who earns revenue by engaging in self-employed activity, including any natural person who earns revenue from agriculture and forestry, and any other natural person who is a payer of value added tax in accordance with the law governing value added tax.
- Entrepreneurs shall keep books, in which they shall state operating changes in the manner prescribed by the LIIT. These books shall be kept on the single-entry basis, in compliance with the Law, or on the double-entry basis, in compliance with the law governing accounting and audit. The entrepreneurs who have founded partnerships shall keep books on the double-entry basis, and those paying tax on lump sum revenue shall only keep the book of sale. The entrepreneurs who keep books on the single or double-entry basis shall draw up the annual tax statement.- The entrepreneur shall file a tax return and tax statement, containing true data, with the competent tax authority no later than 15 March of the following year. The taxpayers shall file with the competent tax authority, together with the tax return and tax statement, any financial statements, to be submitted to the competent authority in accordance with the regulations governing accounting and audit (balance sheet, profit and loss account) if they keep double-entry books, or profit and loss account if they keep single-entry books, as well as the documentation the competent authority may request in accordance with the regulations governing tax procedure and tax administration.
- Any entrepreneur who starts up a self-employed activity in the course of a year shall file a tax return containing an estimate of his/her revenues and expenditures and/or turnover until the end of the first business year, within 15 days from being entered in the register kept by the competent authorities, i.e. from the commencement of performing activity. Any taxpayer who withdraws from performing the self-employed activity on a lasting or temporary basis in the course of a year, shall file a tax return for the final determination of tax or until the date of temporary withdrawal, within 30 days of the date of withdrawal from business.
- The tax payable on revenue from self-employment shall be determined by decision of the competent tax authority on the basis of the data entered in the tax return, tax statement and books and other data obtained by conducting inspection or in another manner - in the case of taxpayers that keep books, and in the case of taxpayers that pay tax on lump sum revenue, on the basis of the data entered in the tax return, criteria and elements determined pursuant to the provisions of the LIIT. Should the tax authority find that the data entered in the tax return, tax statement and books do not correspond to the actual state, tax may be

determined in a different manner, specified in this Law, e.g. by examining books, by making comparisons, and the like.
- Revenue that a natural person earns by performing a self-employed activity shall be subject to payment of obligatory social security contributions, in accordance with the provisions of the Law on Obligatory Social Security Contributions (Official Gazette of RS, Nos. 84/04, 61/05, 62/06 and 5/09).

13. Do you apply a special tax regime for business reorganisations?

In accordance with the Law on Bankruptcy (Official Gazette of RS, No. 105/09), reorganisation (together with bankruptcy) presents a way of implementing bankruptcy, with the reorganisation being implemented if it provides a better creditor settlement with respect to bankruptcy, and particularly if there are economically justified conditions for the continuation of debtor's business operations. According to the law governing the corporate profit taxation, taxpayer's profit determined in the bankruptcy procedure (thus, in the reorganisation procedure as well) is subject to a special tax treatment.
The Tax Administration may, in response to an argumented request in writing by the taxpayer undergoing reorganisation, in accordance with the bankruptcy governing law, approve the deferral of the tax debt payment in equal instalments up to 60 months, with a deferred payment possibility for the first 12 months. Approval of the tax debt payment deferral in this case ends the limitation of the right to collection of the tax debt whose term of payment has been deferred, and the time for which payment deferral has been approved shall not be included in the limitation period (Article 74a of the LTPTA).

- What are the reorganisations covered? , How does this special tax regime work?

According to the LCPT, the manner of determining taxable profit of a taxpayer in bankruptcy is different from the manner of determining taxable profit of a taxpayer who is not in bankruptcy. Namely, tax treatment of a taxpayer's bankruptcy shall be such that the taxable profit of a taxpayer shall be determined in the bankruptcy proceedings as the positive difference between the taxpayer's assets at the beginning and at the end of the bankruptcy proceedings, and if proceedings are carried over to the next year, the taxpayer concerned shall also compile a tax statement as on 31 December of the current year. Therefore, unlike the taxable profit of a taxpayer not in a bankruptcy proceedings, which is established by harmonising the taxpayer's profit stated in the profit and loss account (drawn up in accordance with the International Accounting Standards (IAS) and the International Financial Reporting Standards (IFRS), the regulations governing accounting and audit) in the manner laid down in the LCPT, the taxable profit of a taxpayer in the bankruptcy proceedings shall be determined as the difference between assets at the beginning and at the end of the proceedings, i.e. as the difference between the assets at the end of bankruptcy proceedings and on 1 January of the current year (if the bankruptcy proceedings are carried over to the next year), stated in the balance sheet.

- Does this tax regime apply in cross-border situation? If yes, which?

Enterprise reorganisation and bankruptcy procedure shall apply only to the enterprises with the head office in the Republic of Serbia, therefore it shall not be applied in a cross-border situation.

14. Please provide information on the taxation of raising of capital by companies.

In accordance with the law governing the operation of companies, company fixed assets may be raised, among other means, by new inputs (from own members or third-party inputs) which may be pecuniary or non-pecuniary (things and/or rights). In case when a taxpayer by investing a non-pecuniary input (which when transferred against compensation results in the capital gain referred to in Articles 27. to 29 of the LCPT) raises fixed assets in that company, he/she shall, at the time of investing a non-pecuniary input, calculate the capital gain, if he/she establishes the difference between the value at which non-pecuniary input (into company) is made and the input acquisition price, established in accordance with Article 29 of the LCPT.

15. Does your legislation contain a definition of tax residence for individuals and companies? Please explain.

1. According to the provisions of the LCPT, any resident taxpayer shall be a legal person established or having its head office of actual management and control in the Republic of Serbia. Resident taxpayer shall be subject to taxation for any profit it generates in the Republic of Serbia or outside it. In accordance with the LCPT, the corporate profit taxpayer shall be any company or enterprise set up in one of the following forms: stock company, limited liability company, general partnership, limited partnership, socially owned enterprise, public enterprise and other legal forms of companies, i.e. enterprises in accordance with the special regulations.
A taxpayer shall also be any cooperative that earns income by selling products on the market or providing services for a fee, as well as some other legal person (not set up as a company or cooperative), if it earns income by selling products on the market or providing services for a fee.

2. In accordance with the LIIT, individual income tax shall be payable on the following kinds of revenues:
1) wages and salaries;
2) revenue from agriculture and forestry;
3) revenue from self-employed activities;
4) revenue from copyrights and related rights, and industrial property rights;
5) revenue from yield on capital;
6) revenue from real estate;
7) capital gains;
8) other revenues.
These revenues shall be subject to individual income tax regardless of whether they were received in money or kind, on the basis of performance or in some other manner.
Individual income tax shall be payable by the natural persons who earn income. The payer of individual income tax shall be any natural person who is bound to pay tax under the provisions of the LIIT. The payer of individual income tax shall be any natural person who is a resident, as well as any natural person who is not a resident of the Republic of Serbia.
A resident shall be a payer of individual income tax on the revenue earned in the Republic of Serbia and in some other country. Within the meaning of the LIIT, a resident of the Republic of Serbia shall be understood to mean any natural person:

1) whose residence or centre of business and vital interests is in the territory of the Republic

of Serbia;
2) who resides in the territory of the Republic of Serbia for 183 or more days, continuously or with breaks, over a period of 12 months beginning or ending in the respective taxation year.

A resident of the Republic shall also be understood to mean any natural person who is sent abroad for the purpose of working for a natural or legal person, who/which is a resident of the Republic, or an international organisation.
A non-resident shall be a payer of individual income tax for the revenue earned in the territory of the Republic of Serbia.
If an income that a resident of the Republic of Serbia earns abroad, together with the income realised otherwise (either abroad or in the Republic of Serbia reduced by the paid taxes and contributions for obligatory social security) subject to annual taxation, exceeds the specified non-taxable amount for that calendar year, it shall be subject to the payment of annual individual income tax (for the amount above the specified non-taxable amount), in accordance with the provisions of Articles 87. to 89 of the LIIT.

Subject to annual individual income tax shall be the following:
1) wages/salaries;
2) taxable revenue from self-employed activity;
3) taxable revenue from copyrights and related rights, and industrial property rights;
4) taxable revenue from real estate;
5) taxable revenue from leasing out chattels;
6) taxable revenue from personal insurance;
7) taxable revenue from athletes and athletic specialists;
8) other taxable revenue;
9) other taxable revenues as referred to in items 1) to 8), realised and taxed in another country.

16. Please explain the taxation of Serbian source income of non-residents stressing any differences with the taxation of residents:

a) Taxable base
b) Deduction of expenses
c) Exemptions
d) Tax rate
e) Tax incentives
f) Specific regime for permanent establishments, if any.

1. A non-resident, within the meaning of the LCPT, shall be a legal person established and having its head office of actual management and control outside the territory of the Republic of Serbia. Any non-resident taxpayer shall be subject to taxation for any profit it generates through a permanent operating unit located in the territory of the Republic. A permanent operating unit shall be understood to mean any permanent place of business through which a non-resident conducts its business, and it may be the following in particular:

   1) branch;
   2) plant;

3) representative office;
4) production site, factory or workshop;
5) mine, quarry or other site of exploitation of natural resource

A permanent operating unit may also consist of a permanent or mobile construction site, civil or construction works, if they last more than six months, including:

a) one of several construction or installation projects conducted simultaneously, or
b) several construction or installation projects conducted one after another without interruption.

If in representing a non-resident taxpayer, a person has and exercises the authority to conclude contracts on behalf of that taxpayer, it shall be deemed that the non-resident taxpayer has a permanent operating unit with regard to the operations performed by the representative on behalf of the taxpayer. A permanent operating unit shall be deemed non-existent if the non-resident taxpayer conducts its business through a commissioner, broker or any other person which in the conduct of its own business acts in its own name and for the account of taxpayer. Neither shall the following make up a permanent operating unit:

1) keeping stocks of goods or materials belonging to any non-resident taxpayer exclusively for purposes relating to storage, display and delivery, or using premises intended for such purposes exclusively;
2) keeping stocks of goods or materials belonging to any non-resident taxpayer exclusively for the purpose of their being processed in another enterprise or by an entrepreneur;
3) keeping a permanent business place exclusively for the purpose of procuring goods or collecting information for the needs of a non-resident taxpayer, or for the purpose of engaging in other activities of preparatory or accessory nature for the needs of a non-resident taxpayer.

Any non-resident taxpayer performing an activity in the Republic shall keep in the permanent operating unit records in accordance with the regulations governing accounting and audit (branch and other organisational parts of non-resident taxpayer performing the activity, hereinafter: a branch), shall establish the taxable profit in accordance with this law and shall submit a tax statement (in which tax base is determined) for the permanent operating unit, in the manner that resident taxpayer does. This means that the branch shall determine the taxable profit (in the manner that resident taxpayer does) in a tax statement (Form PB 1) by adjusting the profit declared in the profit and loss account, drawn up in accordance with the International Accounting Standards (IAS), and/or the International Financial Reporting Standards (IFRS), and the regulations governing accounting and audit, in the manner prescribed by this Law. However, the contents of a tax return (in which the taxpayer calculates the corporate profit tax amount) for the branches is different from the tax return submitted by a resident taxpayer.
Any non-resident taxpayer who performs business activity through a permanent operating unit that does not keep the records in accordance with the regulations governing accounting and audit, shall keep in that permanent operating unit the records containing all data on the revenue and expenditure, and other data important for determining the profit that unit realises by conducting business operations in the Republic.

Any non-resident of the Republic of Serbia shall be subject to payment of withholding tax

in the case when he/she realises in the Republic, directly from a resident taxpayer (therefore, with no mediation by the permanent operating unit), an income from dividends and share in the profits of a legal person, compensation based on copyrights and related rights, and industrial property rights (royalties), interest and compensation from leasing real estate and chattels. Tax calculation base, to which 20% tax rate is applied, unless otherwise prescribed by an international agreement on double taxation avoidance, shall constitute gross income of a non-resident taxpayer. The withholding tax shall be calculated and paid for the income that non-resident taxpayer earned by performance in shows, entertaining, artistic, sports or similar programmes in the Republic, which are not subject to taxation as individual income (of a performer, musician, athlete, and the like), in accordance with the regulations governing individual income taxation.
Furthermore, on income that a non-resident taxpayer earns from a resident taxpayer, another non-resident taxpayer, a natural person, non-resident or resident, or from a unit trust, in the territory of the Republic, based on capital gains generated in accordance with the provisions of Articles 27. to 29 of the LCPT, a 20% tax shall be calculated and paid, unless otherwise stipulated in an international agreement on the double taxation avoidance.

2. In accordance with the LIIT, individual income tax shall be payable on the following kinds of revenues:
1) wages and salaries;
2) revenue from agriculture and forestry;
3) revenue from self-employed activities;
4) revenue from copyrights and related rights, and industrial property rights;
5) revenue from yield on capital;
6) revenue from real estate;
7) capital gains;
8) other revenues.
These revenues shall be subject to individual income tax regardless of whether they were received in money or kind, on the basis of performance or in some other manner.

- Individual income tax shall be payable by the natural persons who earn income. The payer of individual income tax shall be any natural person who is bound to pay tax under the provisions of the LIIT. The payer of individual income tax shall be any natural person who is a resident of the Republic of Serbia, on the revenue earned in the Republic of Serbia and in another country, as well as any natural person who is a non-resident, on the revenue earned in the Republic.

1) **wages and salaries:** The wage/salary tax base shall be the paid or realised wage/salary. In the case of natural persons who are residents of the Republic and sent abroad for the purpose of working for legal persons, which are residents of the Republic, the wage/salary tax base shall be the wage/salary that they would have been paid in conformity with law, general act and contract of employment in the Republic for the same or similar jobs.
The base for determining the tax payable on employee wages/salaries, within the meaning of the law governing labour, shall be the wage/salary reduced by the amount of 6,554 dinars a month.
The payer of wage/salary tax shall be any natural person who earns a wage/salary.
Wage/salary tax shall not be payable, in accordance with Article 18(1) of the LIIT, on any employee's receipts based on the following:
1) public transport allowance (to and from the place of work), up to the price of monthly ticket or up to the actual transport costs, if monthly ticket is not available, but no

more than 2,596 dinars;

2) per diem allowance on business trips in the country in the amount not exceeding 1,557 dinars, and per diem allowance on business trips abroad in the amount specified by the competent authorities;

3) accommodation allowance on business trips, against presented bills;

4) transport allowance on business trips, against public carrier bills, and when the use of the employee's own motorcar is permitted under laws and regulations, up to 30% of the price of a litre of super petrol, but no more than 4,542 dinars a month;

5) solidarity aid in the event of sickness, medical rehabilitation or disability of an employee or member of his/her family, up to 25,956 dinars;

6) gifts to employees' children until they turn 15, for the New Year and Christmas holidays– up to 6,489 dinars a year per child;

7) employment anniversary rewards for employees, in accordance with the labour law – up to 12,978 dinars a year.

The rate of tax payable on wage/salary shall be 12%.

Provisions of Articles 21c, 21d and 21e of the LIIT specify tax benefits for employment of new employees, as follows: interns, persons younger than 30, persons older than 45, and disabled persons, in such a way that employer shall be exempt from the payment of withheld tax from the wage/salary of such a new employee, over the period of 3 years – for the interns younger than 30, and for disabled persons, and over the period of 2 years – for the persons younger than 30 and persons older than 45.

2) **revenue from agriculture and forestry:** The taxable revenue from agriculture and forestry shall be the cadastral revenue or actual revenue, if the taxpayer opts for the payment of tax on actual revenue. Cadastral revenue shall be understood to mean the revenue that has been set in the land and real estate registry for each unit of land that can be used for agricultural production and/or forestry, irrespective of whether it is used as such or not. Actual revenue shall be understood to mean the revenue determined in the way set by the provisions of the LIIT dealing with the determination of revenue from self-employment.

The payer of tax on the revenue from agriculture and forestry shall be any natural person who has earned revenue in the capacity of owner, holder of the right of use or usufructuary of the land entered in the land registry as on 31 December of the year preceding the year for which the tax is levied. If a natural person has leased out land on a long-term basis, the lessee shall be deemed the taxpayer as of the effective date of lease, if he/she reports the matter accordingly, with the lessor's consent, within 15 days from conclusion of the lease.

Provisions of Article 29 of the LIIT specify that tax on the revenue from agriculture and forestry shall not be payable on the cadastral revenue from the following:

1) land containing embankments, canals and dams, willow and other plantations, trenches and other facilities serving for flood control, irrigation or erosion control purposes;

2) land prohibited from being used under law;

3) land under the buildings belonging to foreign states and housing their diplomatic and consular missions, subject to reciprocity, and land under buildings belonging to international organisations;

4) land making up the protective surroundings of proclaimed cultural monuments and protected natural attractions, and the land owned by churches, temples, monasteries and mosques declared as cultural monuments;

5) courtyards of churches, temples, monasteries and mosques;

6) formerly non-arable land that was made arable by the taxpayer's investment – within five years of bringing the land to its purpose;

7) land on which new orchards and vineyards are raised – within five years of

commencement of planting fruit trees and vines;

8) land under residential buildings owned by citizens and land serving for their regular use – up to 500 m^2;

9) land of a taxpayer if he/she and members of his/her household are over 65 years of age in the case of males and 60 in the case of females, provided that the taxpayer and members of his/her household do not realise revenues on some other grounds and have no family members or other persons who are bound to sustain them by law on some other ground;

10) land let by a taxpayer without compensation to a person who was driven out after 1 August 1995, on condition that the driven out person does not earn revenue on some other grounds.

The stated exemptions shall be revoked if the purpose of the land concerned is changed.

Furthermore, the cadastral revenue for land on which the yield had decreased by more than 25% of the average yield for the last three years in the municipality concerned because of natural disasters, plant diseases and pests or because of other extraordinary occurrences that the taxpayer could not have prevented from taking place, shall be reduced in proportion to the decrease in yield.

The agriculture and forestry revenue tax rate shall be 10%. By way of amendments of the LIIT and and the Law on Temporary Exemption of Certain Kinds of Income from Personal Income Tax (Official Gazette of RS, No. 5/09) made between 2004 and 2010, exemptions from the payment of tax on the revenue from agriculture and forestry, on cadastral revenue, for the period from 2004 to 2011, have been prescribed.

3) **revenue from self-employed activity:** The taxable revenue stemming from self-employment shall be the taxable profit, unless otherwise provided for by the LIIT. The taxable profit shall be determined in a tax statement by adjusting the profit declared in the profit and loss account, drawn up in accordance with the international accounting standards and the regulations governing accounting and audit, if the entrepreneur keeps the books on a double-entry basis, and/or in accordance with the provisions of the LIIT, if the entrepreneur keeps the books on a single-entry basis, in the manner prescribed by the Law. In the case of partnerships, the taxable revenue shall be determined in proportion to each partner's share in profit, in accordance with the partnership formation document.

The payer of tax on the revenue stemming from self-employment (the entrepreneur) shall be any natural person who earns revenue by engaging in the a self-employed activity, including the natural person who earns revenue from agriculture and forestry, and any other natural person that is a payer of value added tax in accordance with the law governing value added tax.

The harmonisation of revenues and expenditures, determination of capital gains and losses, tax treatment of losses incurred in previous years and transfer prices shall be declared in the entrepreneur's tax statement in conformity with corresponding provisions of the law dealing with enterprise profit tax, unless otherwise provided for by this Law. Depreciation of fixed assets shall be granted to entrepreneurs as expenditure in the amount and in the way applicable to legal persons under the law governing enterprise profit tax and the by-laws adopted based on that law.

The following shall be granted to entrepreneurs as expenditure in a tax statement:

1) calculated and paid social security contributions on the basis of self-employed activity;

2) business trip costs up to the amount specified in Article 18(1) 2) to 4) of the LIIT.

Appropriation by the entrepreneur from business assets for private purposes shall be treated as business revenue, whereas investment of personal assets into business assets, other than

investment into fixed assets, shall be treated as entrepreneur's business expenditure. Assets appropriation, and/or investment, not in pecuniary form, shall be evaluated against comparable market value, in accordance with the perpetuity principle.
Tax rate on the revenue from self-employed activity shall be 10%.
Tax incentives based on accelerated depreciation of fixed assets, investment in fixed assets used in an entrepreneur's registered business, investments made in conformity with the regulations dealing with incentives to investing in the industries of the Republic of Serbia shall be granted to entrepreneurs under the conditions and in the manner applicable to legal persons under the law dealing with enterprise profit tax.

4) **revenues from copyrights and related rights, and industrial property rights:** Tax base shall be the taxable revenue from copyrights and related rights, and industrial property rights, as a difference between gross revenue and the costs incurred on taxpayer when realising and preserving the revenue, unless otherwise prescribed by the LIIT.
The payer of tax on revenues from copyrights and related rights, and industrial property rights shall be any natural person who receives remuneration on the basis of copyrights and related rights and/or industrial property rights, in the capacity of author, holder of related rights, and/or holder of industrial property rights. The payer of tax on revenues from copyrights and related rights, and industrial property rights shall also be the successor to copyrights and related rights, and industrial property rights and any other natural person who is receiving remuneration on such grounds.
Standard and/or actual expenditures incurred by a taxpaying author shall be recognised.
The following expenditures incurred by a taxpaying author shall be recognised:

1) on sculptures, tapestries, artistic ceramics, plastic ceramics, mosaic and stained glass, on art photographs, murals and fine art applications in the following techniques: fresco, graphics, intarsia, enamel, intarsial and enamelled items, costumography, fashion designs and artistic treatment of textiles (woven textile, printed textile and the like) – 50% of gross revenue;

2) paintings, graphics, industrial designs, including the making of models and dummies, small plastic art items, visual communication works, interior decoration and façade treatment, landscaping, horticulture, artistic supervision over work on interior decoration and façade treatment, landscaping and horticulture, including the making of models and dummies, artistic designs for scenography, scientific, technical, literary and publicist works, translations, works of music, films and restoration and conservation in the fields of culture and arts, performance of works of art (playing and singing, theatre and film acting, reciting), film shooting and conceptual sketches for tapestries and costumography when not made in material – 43% of gross revenue;

3) performance of pop and folk music programmes, production of phonograms, videograms, shows, data base and other copyrights and related rights not stated in the mentioned items 1) and 2) - 34% of gross revenue.

In addition to taxpaying author's (related right holder's) standard expenditures, actual expenditures shall be recognised as well, in the full amount paid for the services rendered by an appropriate copyright agency, organisation for the protection of music copyrights and enterprises and other legal persons authorised to sell and collect revenue from copyrights. At the request of a taxpaying author and a holder of related rights, the actual expenditures he/she had incurred in the realisation and preservation of income, shall be recognised instead of the standardised ones, if he/she presents evidence thereof.
Actual expenditures, incurred by all taxpayers based on the revenue from copyrights, related rights and industrial property rights, shall be recognised in the full amount paid for the services rendered by an appropriate copyright agency, organisation for the protection of

music copyrights and enterprises and other legal persons authorised to sell and collect revenue from copyrights.

The following actual expenditures shall be recognised as expenditures in the determination of the taxable income of a taxpaying holder of industrial property rights:

1) taxes and charges payable towards protection of patents, petty patents, brands, models, samples and technical innovations, subject to confirmation by the authority competent for their protection;

2) cost of preparing drawings and technical description of patents, petty patents, brands, models, samples and technical innovations constituting an integral part of the applications for their protection filed with competent authorities, as certified by the duly qualified person who had prepared such drawings and technical descriptions and subject to presentation of the opinion of the professional association of inventors that such cost is reasonable;

3) cost of making the prototype necessary for testing the patent, petty patent, brand, model, sample or technical innovation involved, if registered and/or protected. If the prototype has been made in an enterprise, and/or establishment, the maker shall issue the certificate of cost. If the prototype has been made by the inventor him/herself, his/her actual cost shall be recognised, subject to presentation of the opinion of the professional association of inventors that such cost is reasonable.

The rate of tax on the revenue from copyrights and related rights and industrial property rights shall be 20%.

5) **yield on capital:** Taxable yield on capital: - interest based on loans, savings and other deposits (time or sight), and based on debt and related securities (Article 61(1) item 1) of the LIIT), and positive difference realised by disposal of or redemption of discounted debt securities as laid down in Article 61, paragraphs 2. and 3 of this Law, for the period from the day of acquisition to the day of disposal or redemption of such a security; - dividends and other revenues based on profit sharing; - receipts of company employees and members of administration based on profit sharing - in money or by allocation or optional purchase of own shares; - appropriation from the assets and use of company services by the company owner for own private purposes, conducted in accordance with the law; - receipts of a unit trust member based on the right to a proportional part in the revenue from an investment unit of such a trust (Article 61, paragraph 1, items 2) to 5) of the LIIT, in which cases the taxable yield on capital shall be the revenue paid (allocated) to the taxpayer, and/or realised by appropriating from the company assets, and receipts of a unit trust member based on the right to a proportional part in the revenue from the investment unit. If an income has been realised in a non-pecuniary form, the value of such an income shall be evaluated against a comparable market value.

The payer of tax on the yield on capital shall be a natural person realising such a yield.

The tax on the yield on capital shall not be payable on the interest accrued from the following:

1) savings and other deposits (time or sight) in dinars;

2) based on the debt securities, within the meaning of the regulations governing the market of securities and other financial instruments, the issuer of which is the Republic, autonomous province, local government unit or the National Bank of Serbia.

The rate of tax on the yield on capital shall be 10%.

6) **revenues from real estate:** Taxable revenue from real estate shall be the gross revenue a taxpayer realises by leasing or subleasing real estate, in particular the following: land,

residential and commercial buildings, parts of such buildings, apartments, parts of apartments, business premises and garages, and the rent collected and the value of implemented duties and services to which the lessee, and/or sub-lessee has committed itself (Article 66(2) of the LIIT), reduced by standard expenditures amounting to 20%.
By way of exception, when determining the taxable revenue from real estate realised based on the lease of apartments, rooms and beds to the travellers and tourists for whom residence tax has been paid, standard expenditures shall be recognised in the amount of 50% of gross revenue.
The payer of tax on revenues from real estate shall be any natural person who realises revenue by leasing or sub-leasing real estate. Any entrepreneur who is leasing or sub-leasing real estate in the scope of his/her registered self-employed activity shall not be regarded as a taxpayer.
At the request of a payer of tax on revenue from real estate, the actual expenditures he/she had incurred in the realisation of and preservation of revenue shall be recognised instead of standard expenditures, if he/she presents evidence thereof.
Actual expenditures shall also be understood to mean the amount of yearly depreciation calculated by the proportional method at the rate presented in the nomenclature of assets for depreciation.
The rate of tax on the revenue from real estate shall be 20%.

7) **capital gains:** Capital gain shall be understood to mean any revenue a taxpayer realises by selling, and/or transferring in some other way against a compensation the following:

1) right of ownership to real estate;
2) perpetual right of using and building on urban building land;
3) copyrights and related rights, and industrial property rights;
4) shares in the assets of legal persons, shares and other securities, other than debt securities;
5) investment unit purchased by unit trust, in compliance with the law governing unit trusts;
6) voluntary pension fund investment unit;
7) accumulated funds as per programmed payment from the voluntary pension fund member account.

The taxable base on which the tax on capital gains is payable shall be determined in the manner referred to in Articles 72 to 75 of the LIIT. A capital gain shall be the difference between the sale price of rights, shares and securities and their purchase price adjusted in accordance with the provisions of this Law. For the purpose of determining capital gains, the sale price shall be understood to mean the contract price, or the market price as determined by the competent tax authority, if it finds that the contract price is lower than the market one. For the purpose of determining capital gains, the purchase price shall be understood to mean the price for which the taxpayer concerned has acquired the right, share or security and/or the price determined by the competent tax authority in conformity with this Law. The purchase price shall be increased by the retail price growth rate from the date of acquisition to the date of sale, as published by the republic authority dealing with statistics, and in the case of real estate, it shall be reduced on the basis of depreciation.
The payer of tax on capital gain shall be a natural person that has realised capital gain.
Any taxpayer, who prior to sale, has been keeping his/her rights, shares or securities in his/her portfolio before 24 January 1994, shall not be deemed to have made a capital gain by selling them.

In addition to that, capital gain shall not be determined and taxed in the following cases, when the rights, share or securities are transferred:- if the transfer is conducted

between spouses and first degree blood relatives;

- if the transfer is conducted between divorced spouses, and is directly related to the divorce;

- on the revenue realised based on the transfer of debt securities, within the meaning of the regulations governing the market of securities and other financial instruments, the issuer of which is the Republic, autonomous province, local government unit or the National Bank of Serbia.

Transfer of account from one to another voluntary pension fund, conducted by a fund as instructed by and for the account of a voluntary pension fund member, in accordance with the law governing voluntary pension funds and pension plans, shall not be considered as capital gain.

The rate of tax on capital gain shall be 10%.

A capital loss incurred through the sale of a right, share or security may be offset with a capital gain resulting from the sale of some other right, share or security in the same year. If even after the offsetting a capital loss still exists, such loss may be offset in the next five years at the expense of future capital gains.

Any taxpayer that invests the proceeds of the sale of real estate towards dealing with his/her own housing issue or that of a member of his/her family or household within 90 days of the date of sale, shall be exempt from tax on the capital gain made. The paid tax on capital gain shall be refunded to a taxpayer who invests, within 12 months of the day the real estate was sold, the proceeds of the sale of real estate towards dealing with the housing issue. If a taxpayer invests towards dealing with the housing issue referred to in Article 79 of the LIIT only a part of the proceeds of the sale of real estate, his/her tax liability shall be reduced proportionately.

Any taxpayer withdrawing accumulated funds based on a member's share in net assets of a voluntary pension fund that, as instructed and for the account of the fund member, have been invested in the purchase of annuity in an insurance company, in accordance with the law governing voluntary pension funds and pension plans, shall be exempt from tax on capital gain.

8) **other revenues:** Other revenues shall be understood to mean the following: - revenue a taxpayer obtains by leasing out equipment, means of transport and other chattels; - games-of-chance winnings; - revenue from personal insurance; - revenues of athletes and athletic specialists and other revenues, other than those that are expressly exempt under the LIIT.

- In terms of the revenue from leasing out chattels taxable base shall be the taxable revenue as gross revenue - realised by leasing out equipment, means of transport and other chattels, and the value of all implemented liabilities and services that lessee has committed him/herself to, reduced by 20% of standard expenditures. At the substantiated request of any taxpayer, the tax authority shall recognise the cost of depreciation, financing and capital and current maintenance of property and other actual costs he/she had incurred in connection with the leased out chattels, instead of standard expenditures.

The payer of tax on the revenue from leasing out equipment, means of transport and other chattel shall be any natural person that leases out such chattels.

- The taxable revenue from games-of-chance winnings shall be any such winning, other than those that are exempt under the LIIT. The winnings shall be understood to mean the total winnings based on all combinations in the games of chance played in several combinations. If the winnings consist of things and rights, the taxable revenue shall be the market value of the things or rights at the moment of winning.

The payer of tax on the games-of-chance winnings shall be any natural person that wins in

such games.

Tax on the games-of-chance winnings shall not be payable on the following:

1) games-of-chance winnings amounting to less than 19,467 dinars;

2) lottery prizes associated with public loans;

3) games-of-chance winnings in casinos and on slot machines.

- In terms of revenue from personal insurance tax base shall be taxable revenue as the value of paid out benefit from personal insurance reduced by the amount of the funds paid for insurance premium, unless it is exempt from taxation pursuant to Article 9, paragraph 1, item 7), of the LIIT. By way of exception, taxable revenue from personal insurance, in case withdrawn accumulated funds based on a member's share in net assets of a voluntary pension fund, as instructed and for the account of the fund member, have been invested in the purchase of annuity in the insurance company, in accordance with the law governing voluntary pension funds and pension plans, shall be the value of the paid out benefits from personal insurance reduced by the amount of the withdrawn accumulated funds invested in the purchase of annuity.

The payer of tax on revenue from personal insurance shall be any individual who receives a benefit based on personal insurance.

- The taxable revenue in the case of athletes and athletic specialists shall be set by reducing 50% of standard expenditures from gross revenue.

The revenues of athletes and athletic specialists shall include the receipts earned by professional athletes, amateur athletes and athletic specialists and received from a sports organisation or organisation engaged in sport activities, sport society or association, which do not have the nature of wages as referred to in the regulations dealing with sports and labour relations. These revenues shall be understood to mean the following ones in particular:

1) remuneration stipulated by contract (transfer, etc.);

2) remuneration for the use of an athlete’s image;

3) aid in money given to particularly meritorious top athletes;

4) grants extended to top athletes towards advanced training;

5) monetary and other prizes;

6) national acknowledgements and prizes for special contribution to the development and establishment of sports;

7) remuneration and prizes paid to athletic specialists and specialists in sports (coaches, referees, delegates, etc.).

The payer of tax on the revenue of athletes and athlete specialists shall be any natural person that has realised such revenue.

- Other revenues shall also be understood to mean other revenues that by their nature make up the revenue of a natural person, in particular:

1) revenue stemming from a contract of hiring work;

2) revenues based on the contracts on performing temporary and occasional work concluded through youth or student associations with the persons up to 26 years of age, if attending high school, college or university;

3) revenue stemming from supplementary work;

4) revenue stemming from trade representation;

5) revenue stemming from voluntary work;

6) remuneration received by members of boards of directors and supervisory boards of legal persons;

7) fees paid to members of parliament and councilors;

8) remuneration paid for the work done in connection with national defence, civil defence and protection against natural disasters;

9) receipts by liquidators in bankruptcy, professional witnesses, lay-judges and court interpreters;

10) receipts based on the collection and sale of secondary raw material, collection and sale of forest fruit and medicinal herbs, growing and selling of mushrooms, breeding and selling of bees, breeding and selling of snails, and/or based on the sale of other goods realised by performing temporary or occasional jobs, if not taxed as revenue from self-employed activity, and/or revenue from agriculture and forestry within the meaning of this Law;

11) prizes, subsidies and other grants to natural persons not employed with the payor, and which, by their nature present natural persons' income;

12) receipts referred to in Article 9 of the LIIT in excess of the non-taxable amounts;

13) refund of costs and other expenditures to the persons not employed with the payor;

14) all other revenues not taxed on any other basis or not exempt from taxation or exempt from tax payment, in accordance with this Law.

Tax base shall be taxable revenue as gross revenue reduced by 20% of standard expenditures.

The payer of tax on other revenues shall be any natural person that has realised such revenues.

By way of exception, tax on other revenue shall not be paid for substantiated refund of costs related to business trips, at most in the amount of these costs exempt from wage/salary tax payment for employees in compliance with Article 18, paragraph 1, items 2) to 4) of the LIIT, if payment is effected to natural persons not employed with the payor, in particular to:

1) the ones invited by the state authority or organisation, with the right to cost compensation, regardless of which funds the payment is effected from;

2) the members of representative and executive bodies of the Republic, autonomous province and local government, with respect to performing the function;

3) the ones instructed to work in the Republic, as per orders by a foreign employer, in connection with the activity of the domestic payor;

4) if they provide assistance for humanitarian, health-related, educational, cultural, sports, scientific-research, religious or other purposes, voluntarily or upon invitation, and/or if they cooperate with trade union organisations, chambers of commerce, political parties, unions and associations, non-governmental and other non-profit organisations, not realising any other remuneration based on such a cooperation.

Accounted tax shall be reduced by 40% in case when other revenues are earned by the members of pupil, student or youth association, until they are 26 years of age, if they are attending high school, college or university, and by natural persons if the revenue was earned by collecting and selling secondary raw materials, forest fruit and medicinal herbs.

The rate of tax payable on other revenue shall be 20%, the exception being that the rate of tax payable on the revenue from personal insurance shall be 10%.

Should a taxpayer who is a resident of the Republic earn revenue in another country, on which tax was paid in that country, he/she shall be allowed a tax credit amounting to the income tax paid in that country, on the account of individual income tax levied in conformity with the provisions of this Law. The tax credit may not be higher than the amount that would be obtained by applying the provisions of the LIIT to the income earned in another country (Article 12 of the LIIT).

9) **annual individual income tax:** The payer of annual individual income tax shall be a natural person that is a resident of the Republic of Serbia, and any foreigner that is a resident of the Republic of Serbia. In accordance with the provisions of Articles 87. to 89 of the LIIT, income earned by a natural person that is a resident of the Republic of Serbia, including foreigners that are residents, in the Republic of Serbia, as well as abroad (decreased by the amount of paid taxes and compulsory social security contributions), which together with the other income subject to annual taxation exceeds the prescribed non-taxable amount for that calendar year, shall be subject to annual individual income tax (for the part above the prescribed non-taxable amount).

Serbian tax-related legislation does not apply the term "nationality", but "residency".
Provisions of Article 7 of the Law on Individual Income Tax, stipulate that the payer of individual income tax shall be any resident of the Republic of Serbia on the revenue earned in the territory of the Republic of Serbia, and some other country.
A resident of the Republic shall be understood to mean any natural person:
- whose residence or centre of business and vital interests is in the territory of the Republic;
- who resides in the territory of the Republic for 183 or more days, continuously or with breaks, over a period of 12 months beginning or ending in the respective taxation year.
A resident of the Republic shall also be understood to mean any natural person who is sent to another country for the purpose of working for a natural or legal person, which is a resident of the Republic, or an international organisation.
According to Article 8 of the Law on Individual Income Tax the payer of individual income tax shall also be any natural person who is **not a resident**, on the revenue earned in the territory of the Republic.
According to Article 3 of the Law on Individual Income Tax, individual income tax shall be payable on the following kinds of revenues:

1) wages and salaries;
2) revenue from agriculture and forestry;
3) revenue from self-employed activity;
4) revenue from copyrights and related rights, and industrial property rights;
5) revenue from yield on capital;
6) revenue from real estate;
7) capital gains;
8) other revenues.

Annual individual income tax shall be payable on the revenue earned in a calendar year, as levied by the competent tax authority.
In accordance with Article 4, paragraph 5 of the Law on Property Tax, the provisions of the law dealing with enterprise profit tax shall apply to the residency of legal persons and those of the law dealing with individual income tax shall apply to the residency of natural persons.
According to Article 15 of the Law on Property Tax, the payer of inheritance and gift tax shall be a resident or non-resident of the Republic of Serbia who inherits or receives as gift the right referred to in Article 14, paragraphs 1. and 2 of this Law in relation to real estate existing in the territory of the Republic of Serbia. The payer of inheritance and gift tax who inherits or receives as gift a taxable object referred to in Article 14, paragraph 3 of this Law, shall be a resident of the Republic of Serbia in case of an object existing in the territory of the Republic of Serbia, or abroad. The taxpayer of inheritance and gift tax who inherits or receives as gift a taxable object referred to in Article 14, paragraph 3 of this Law, shall be a

non-resident of the Republic of Serbia in case of an object existing in the territory of the Republic of Serbia. According to the provisions of Article 26 of the Law on Property Tax, the person that is a resident of the Republic of Serbia shall be a payer of tax on the transfer of the absolute rights referred to in Article 23, item 2) of this Law, for the transfer carried out in the Republic of Serbia and outside its territory. A person who is a non-resident of the Republic of Serbia shall be the payer of tax on the transfer of the absolute rights referred to in Article 23, item 2) of this Law, only in case of a transfer carried out in the territory of the Republic of Serbia.

The differences in taxation between **residents** and **non-residents** are the following:

a) Taxable base - none

b) Deduction of expenses- none

c) Exemptions - none

d) Tax rate - none

e) Tax incentives- none

f) Specific regime for permanent establishments, if any.

In accordance with Article 2 of the Law on Corporate Profit Tax, a taxpayer shall be a resident of the Republic of Serbia who is subject to taxation for any profit it generates in and out of the territory of the Republic of Serbia. In accordance with Article 3 of the Law, any **non-resident** of the Republic shall be subject to taxation for any profit it generates through a permanent business unit in the territory of the Republic. For the purposes of this Law, any non-resident taxpayer shall be a legal person formed and having its head office of actual management and control outside the territory of the Republic. Provision of Article 5 of the Corporate Profit Tax stipulates that a **non-resident** taxpayer, who is engaged in a business activity through a business unit, and who keeps business books, in accordance with the Law on Accounting and Audit, shall determine the taxable profit in compliance with the Law on Corporate Profit Tax, and shall submit a tax statement and tax return in the same manner as resident taxpayers. Non-resident taxpayer who performs an activity through a business unit, but does not keep business books in accordance with the Law on Accounting and Audit, shall keep records on the revenue and expenditure and provide data important for determining the profit generated by conducting business operations in the territory of the Republic.

17. Does your legislation allow for levying withholding taxes on payments (dividend, interest, royalties or rent etc.) to other legal entities (natural persons or corporations) residing in and/or outside your country?

1. Pursuant to provisions of the *LCIT*, the withholding tax is calculated and paid at a rate of 20% on dividends and shares in profits of a legal person, income from copyrights and related rights and industrial property rights (hereinafter: copyrights), interest and rental income from real property and movables in the Republic earned by a non-resident taxpayer from a resident person, unless stipulated otherwise by an international treaty on avoidance of double taxation. The withholding tax is also calculated and paid on income of a non-

resident taxpayer earned by performance of show-business, entertaining, artistic, sport or similar programme in the Republic, that are not taxed as income of a natural person (of an entertainer, musician, athlete and similar), in accordance with the regulations governing taxation of personal income.
If the person receiving such income is a resident legal person, the income is carried in the financial statements of the taxpayer (prepared in conformity with the regulations governing accounting and auditing, IAS and IFRS) and as such entered into the tax statement (under number 1 of the TS 1 Form – Profit of the Business Year), where the corporate income tax base is determined by adjustment of the taxpayer's profit carried in the financial statements as stipulated by *LCIT*. It should be noticed that dividends earned by a resident person from another resident person are excluded from the tax base.

2. Pursuant to the LPIT provisions, the following types of income are subject to personal income taxation:

1) Wages,
2) Agricultural and forestry income;
3) Self-employment income;
4) Copyrights and related rights including industrial property rights;
5) Yield on capital;
6) Real property income;
7) Capital gains;
8) Other income.

Income earned by a natural person from interest on loans, savings and other deposits (time or demand deposits) debt securities and other similar securities and income earned from dividends and shares in profit, inter alia, is subject to the tax on income from capital, in accordance with provisions of LPIT (Articles 61 to 65).
Income from copyrights and related rights, industrial property rights that a natural person earns as an author, holder of the related rights and/or holder of the industrial property rights, and/or a person who inherits copyrights and related rights or industrial property rights and any other natural person earning such fee is subject to the tax on income arising from copyrights, related rights and industrial property rights pursuant to provisions of LPIT (Articles 52 to 60).
Income earned by a natural person arising from rental of real property and movable property is considered to be income of the natural person and it is subject to the tax on income from real property and other income pursuant to provisions of Articles 66 through 81 and Articles 82 and 86 of LPIT.

Personal income taxpayer is a natural person under the obligation to pay taxes in accordance with provisions of the Law on Personal Income Tax. Furthermore, the taxpayer is a resident person of the Republic of Serbia for income earned in the Republic of Serbia and across national borders, and non-residents of the Republic for income earned in the Republic of Serbia pursuant to provisions of Articles 6 through 8 of LPIT.
To avoid double taxation of natural persons, the provision of Article 12 of LPIT sets forth that if a taxpayer – resident person of the Republic, derives income in another state, which was taxed in the state, a tax credit is allowed on the personal income tax in the amount equal to the income tax levied in that other state. However, the tax credit cannot exceed the amount computed by application of the provisions of the law to the income earned in that other state.

a) What are the main features of the taxation regime on income from capital (personal and corporate)?

1. Income earned from interest by a resident taxpayer from another resident taxpayer is entered in the business books of the resident taxpayer as income; it is subject to taxation in accordance with LCIT. However, when a resident taxpayer earns income arising from a share in capital (share in profit and/or dividends) from another resident taxpayer, such income is exempted from the tax base in accordance with LCIT.

Income of a resident taxpayer earned from a share in profit, and/or dividend and interest from a non-resident person is included in the tax base for the corporate income tax. However, in accordance with Article 52 of LCIT, the resident person is allowed, as a parent legal person, to decrease the calculated corporate income tax for the amount of the tax its non-resident branch office has paid in another state on the profit from which dividend was paid that are included in income of the parent legal person, and for the amount of the withholding tax the non-resident branch has paid in another state for the dividend payments. Likewise, the parent legal person – resident taxpayer is allowed to decrease the calculated corporate income tax for the amount of the withholding tax on interest that its non-resident branch office has paid in another state.

The tax credit of a parent legal person (resident taxpayer) on the basis of the withholding tax on dividends or interest that is paid by its non-resident branch office in another state may be used for deduction of the computed tax of the parent legal person; the amount is not to exceed the tax amount stipulated by the law at the rate of 10%, that would be calculated on dividends or interest.

A parent legal company has the right to claim the tax credit, if in the period of at least a year, preceding the submission of the tax statement, it held 25% or more shares, and/or a holding in a non-resident branch. However, the taxpayer must submit to the competent tax authority relevant evidence of the size of its holding in the non-resident branch, the length of time for which the holding has been in its possession, and the tax paid in another state by the branch, together with its profit-and-loss account and the tax statement.

The withholding tax (at a rate of 20%) is calculated and paid on income which a non-resident taxpayer earns in the Republic, from a resident person on dividends and shares in profit in a legal person and interest, unless stipulated otherwise by an international treaty on avoidance of double taxation.

2. As regards the main characteristics of the income from capital taxation, let us point out that LPIT regulates the subject of taxation, taxpayers, tax rates and tax exclusions.

The following income earned by a natural person is subject to the tax on income from capital:

1) Interest arising from loans, savings and other deposits (time or sight deposits) and from debt securities and similar securities;

2) Dividends and shares in profit;

3) Employee earnings and compensations of members of the board in a company, arising from shares in profit – in money or by share allotment or options to purchase own shares;

4) The deployment of assets and use of services of a company by its owners for their own individual needs, conducted in accordance with the law (hereinafter: deployment of company assets);

5) Income earned by a member of an open-end investment fund arising from the right to a proportional share of income on the fund's investment unit.

The taxpayer is a natural person who earns income from capital.
The tax base is the generated income.
The tax base of 10% is applied to all types of income from capital.
Tax exclusions on certain income from capital are stipulated.
The tax on income from capital is calculated and paid at source; the income payer calculates, withholds and pays the tax in the prescribed accounts, on behalf of each taxpayer and for every income payment, at the moment of their payment, in accordance with the regulations in force (Article 99, paragraph 1, point 3, and Article 101 of LPIT).

b) Are there withholding taxes on income from capital (interest on bank deposits, debt instruments)? Please indicate tax base, tax rates, exemptions, fiscal treatment of residents (on domestic and foreign income) and non-residents, automatic reporting etc.

The Law on Personal Income Tax lays down taxation of income from capital earned by natural persons (Articles 61 through 65 of LPIT).
The following income earned by a natural person is subject to the tax on income from capital:

1) Interest arising from loans, savings and other deposits (time or demand deposits) and from debt securities and similar securities;

2) Dividends and shares in profit;

3) Employee earnings and compensations of members of the board in a company, arising from shares in profit – in money or by share allotment or options to purchase own shares;

4) The deployment of assets and use of services of a company by its owners for their own individual needs, conducted in accordance with the law (hereinafter: deployment of company assets);

5) Income earned by a member of an open-end investment fund arising from the right to a proportional share of income on the fund's investment unit.

The taxpayer is a natural person who earns income from capital, as follows:
Resident of the Republic of Serbia for income generated in the Republic and across national borders, and a non-resident of the Republic for income earned in the Republic.
The tax base for the tax on income from capital on loans, savings and other deposits (time or demand deposits) debt securities and other similar securities is the accrued interest and the positive difference earned by disposal (alienation) or redemption of discounted debt securities, for the period from the acquisition to the disposal or redemption of the security.

The tax base for the tax on income from capital on dividends and shares in profit, earnings of employees and compensation of members of the board in a company, arising from shares in profit – in money or by share allotment or options to purchase own shares, deployment of assets and use of services of a company by its owners for their own individual needs, conducted in accordance with the law, income earned by a member of an open-end investment fund arising from the right to a proportional share of income on the fund's investment unit, is income allocated to the taxpayer, and/or generated by deployment of the company assets, and income earned by a member of an open-end investment fund arising from the right to a proportional share of income on the investment units. If such income is realized in a non-pecuniary form, the value of income is estimated according to its comparable market value.
The tax rate of the tax on income from capital is 10%.

The tax on income from capital on interest is not payable:

1) For dinar amounts of savings or other deposits (time or demand deposits);

2) For debt securities, within the meaning of the regulations governing the market of securities and other financial instruments, issued by the Republic, autonomous territorial unit, local governments or the National Bank of Serbia.

The tax on personal income from capital is calculated and paid for income earned from interest on foreign currency assets from savings and other deposits (time or demand deposits) at a rate of 10%.

The tax on income from capital is paid at source. This means that the income payer must calculate, withhold and pay the tax in the prescribed accounts, on behalf of each taxpayer and for every income payment, at the moment of the payment, in accordance with the regulations in force (Article 99, paragraph 1, point 3, and Article 101 of LPIT).
At the expiration of the calendar year, and not later than January 1 of the current year for the previous year, the income payer must file to the competent tax authority a single tax return, (on the TIA Form) listing information about the calculated and paid taxes on income from capital for persons who have earned such income in the previous calendar year.

c) Are turnover taxes or stamp duties applied to securities, credit contracts, insurance contracts, etc.?

1. Income of a natural person earned from sale or some other transaction with a fee, of holdings in a legal person, shares and other securities, excluding debt securities, is considered to be the capital gain and it is subject to the capital gains tax in accordance with provisions of Articles 72 through 80 of LPIT. A capital gain is the difference between the selling price of a right, holding or securities and their purchase price (Article 72, paragraph 5 of LPIT). Capital gains are taxed at a rate of 10%.
Income earned by a natural person from insurance of persons is subject to the tax on insurance of persons in accordance with provisions of Article 84 of LPIT. The tax base of the tax on income from insurance of persons is the benefit arising from the insurance, net of the amount paid in as insurance premiums. The taxpayer of the tax on income from insurance of persons is a natural person who derives the benefit arising from the insurance, net of the amount paid in as insurance premiums. Income earned from insurance of persons is taxed at a rate of 10%.

It should be noted that the personal income tax is not payable on property insurance benefits received by natural persons, excluding benefits for lost profit and benefits from insurance of persons received as coverage of damage, unless the damage coverage is provided by the tortfeasor (Article 9, paragraph 1, point 7) of LPIT).

2. Transfer of securities is not subject to the inheritance and gift tax (when transferred without a compensation), nor is it subject to the t*ax* on the transfer of absolute rights (when the transfer entails a compensation) (Articles 14 and 23 of PTL).
The inheritance and gift tax and the t*ax* on the transfer of absolute rights are not applied to credit contracts and insurance contracts.

d) What treatment applies to dividends distributed by foreign companies to companies that are resident in Serbia? What mechanisms apply to avoid double taxation on dividends?

Income earned from dividends by a resident legal taxpayer from a non-resident legal person

is entered in the business books of the resident taxpayer as income, and it is subject to taxation in accordance with *LCIT*. Please note that income earned by a resident person from dividends and holdings in another resident person is not included in the tax base.

Pursuant to Article 52 of *LCIT*, a parent legal person – resident taxpayer in the Republic is allowed to reduce the calculated corporate income tax for the amount of the tax, paid by its non-resident branch in another state, on the profit from which dividend payments were made, included in the profit of the parent legal person, and for the amount of the withholding tax the non-resident branch has paid in another state on the dividend payments. However, the tax credit can be used for deduction of the tax payable by the parent legal company for the amount of the tax levied in the other state, not exceeding the amount of tax that would be levied on profit and dividends at a rate specified in this law (10%). The unclaimed portion of the tax credit may be transferred to the tax account of the parent legal person for future accounting periods, but no longer than five years.
A parent legal company has the right to claim the tax credit referred to in Article 52 of *LCIT*, if in the period of at least a year, preceding the submission of the tax statement, it held 25% or more shares, and/or a holding in a non-resident branch. However, the taxpayer must submit to the competent tax authority relevant evidence of the size of its holding in the non-resident branch, the length of time for which the holding has been in its possession and the tax paid in another state by the branch, together with its profit-and-loss account and the tax statement.

18. How is foreign income, received by resident taxpayers, treated in your country? What kind of system do you apply to prevent double taxation?

1. If a resident taxpayer earns a profit by doing business in another state, a tax credit is allowed on the corporate income tax determined in accordance with *LCIT*, in the amount of the corporate income tax levied in the other state. However, the tax credit must not exceed the amount obtained by application of provisions of this law, on profit realized across national borders (Article 51of *LCIT*).
Pursuant to Article 52 of *LCIT*, a parent legal person – resident taxpayer in the Republic is allowed to reduce the calculated corporate income tax for the amount of the tax paid by its non-resident branch in another state, on the profit from which dividend payments were made, included in the profit of the parent legal person, and for the amount of the withholding tax the non-resident branch has paid in another state on the dividend payments. However, the tax credit referred in paragraph 1 of this Article can be used for deduction of the tax payable by the parent legal company for the amount of the tax levied in the other state, not exceeding the amount of the tax that would be levied on profit and dividends at a rate specified in this law (10%). The unclaimed portion of the tax credit might be transferred to the tax account of the parent legal person for future accounting periods, but no longer than five years.
Pursuant to Article 53a of *LCIT*, a parent legal person – resident taxpayer in the Republic is allowed to reduce the calculated corporate income tax for the amount of the withholding tax, paid by its non-resident branch in another state, on interest and copyrights. However, the tax credit referred to in this Article can be used for deduction of the computed tax payable by the parent legal company for the amount of the tax levied in the other state, not exceeding the amount of tax which would be levied on interest and copyrights at a rate specified in this law (10%).

2. Pursuant to provisions of Articles 7 and 8 of LPIT, the taxpayer is considered to be a

resident person of the Republic of Serbia for income earned in the Republic and across national borders, and non-residents of the Republic for income earned in the Republic.
Income earned by a natural person – resident of the Republic of Serbia across national borders is taxable in accordance with the provisions of LPIT, except as otherwise provided by a treaty on avoidance of double taxation.

A taxpayer, resident person of the Republic, who derives income in another state, which was taxed in the state, is allowed a tax credit on the personal income tax determined in accordance with provisions of LPIT, in the amount equal to the income tax levied in that other state. However, the tax credit cannot exceed the amount computed by application of the provisions of LPIT to the income earned in that other state (article 12 of the Law).

Pursuant to provision of Article 107 of LPIT, a taxpayer deriving wages and other income to or from another state, in a diplomatic mission or consular post of a foreign state and/or international organization, with representatives or staff of such missions and/or organizations must calculate and pay the withholding tax in accordance with provisions of this law, if the income payer fails to calculate and pay the tax. Likewise, the taxpayer must calculate and pay the tax even in cases when other income payer fails to calculate and pay the withholding tax, and if income is earned from a person not considered to be a taxpayer of the withholding tax. A taxpayer must calculate and pay the tax and file to the competent tax authority the tax return for the calculated and paid tax, not later than 30 days from the day of receipt of wages and other income.

Moreover, if income earned by a resident of the Republic of Serbia together with other income earned (across national borders or in the Republic of Serbia, net of paid taxes and mandatory social security contributions), taxable by the annual tax, exceeds the statutory non-taxable treshold for the year, it is also subject to the annual personal income tax (the portion exceeding the statutory non-taxable amount), pursuant to provisions of Articles 87 through 89 of LPIT.

3. If the Republic of Serbia has not concluded a treaty on elimination of double taxation with the country in which residents of the Republic of Serbia earn income, double taxation is avoided by application of the tax credit method stipulated by provisions of the domestic legislation of the Republic of Serbia.

If the Republic of Serbia has concluded a treaty on avoidance of double taxation with the country in which residents of the Republic of Serbia derive income, double taxation is eliminated by application of the exemption method provided for in the relevant article of the treaty as follows:

- **Employment of tax credit method**

The tax credit method entails that the Republic of Serbia as the state of residence (in calculation of income and property taxes for its residents) grants the employment of tax credits on income tax or property tax the residents of the Republic of Serbia have paid in the contracting state. The tax credit is limited by the amount of the relevant portion of the Serbian tax on such income or property. It is important for the employment of the tax credit method that the tax is actually paid in the other state and that the taxpayer has a valid proof thereof.

- **Employment of exemption method**

The exemption method entails that the Republic of Serbia (as the state of residence) in calculation of income and property taxes for its residents, exempts such income and property from taxation (in accordance with the treaty on avoidance of double taxation) which may be taxed in the other contracting state. It is not relevant for the employment of the exemption model the fact whether the tax has been actually paid in the other contracting state.

When following the exemption method, the Republic of Serbia (residents of which have derived income or property exempted from taxation under the provisions of the treaty in the Republic of Serbia) may take into account the exempted income or property when calculating tax on the remaining income or property, with a view to properly applying the progressive tax rate on income or property, on condition that the Republic of Serbia applies progressive taxation of income or property.

19. Which is your general policy on transfer pricing? Does your legislation contain any specific rules in transfer pricing? Please explain.

Pursuant to Article 59 of LCIT, transfer prices refer to charges made between related parties as regards transactions of assets or their dealings, in which process a person related to the taxpayer is considered to be a natural or legal person that might be controlled or its business decisions might be affected considerably by the taxpayer.
A holding of 50% or more, or a single largest block of shares or holding is considered to be a feasible control over the taxpayer (paragraph 3, Article 59 of *LCIT*).
In addition to the case stipulated in paragraph 3 of this Article, impact on business decisions of a taxpayer is present when a related party to the taxpayer holds 50% or more or the largest share of votes in the taxpayer's management bodies (paragraph 4, Article 59 of *LCIT*).
The person related to the taxpayer is the legal person likewise, where the same natural or legal persons participate directly or indirectly in the management, control or capital in the manner specified in paragraphs 3 and 4 of this Article.
In this regard, concerning related parties, a taxpayer must separately carry transactions referred in Article 59 of this law in its tax statement (where the taxable base is determined). In addition, it must also carry the value of such transactions separately at prices which would be determined on the market for identical or similar transactions, were the related persons not involved (the arm's length principle), and the difference between the price determined by application of the arm's length principle and the taxpayer's transfer price is included in the tax base.
When determining arm's length prices of transactions, comparable market prices are used. When this is not possible, the cost plus method or the resale price method is used. The manner of using the arm's length method in price testing for transactions among related parties is regulated in detail by the The Rulebook on the content of tax statement and the other issues of importance for the manner of determining the corporate profit tax (Official Gazette of RS, No. 99/10)

Moreover, the taxpayer must separately indicate the amount of interest and corresponding costs in the tax statement for the loan or credit taken out from the related person, and the amount of interest and corresponding cost (for the loan or credit taken out from the related person) at market conditions (the arm's length standard). The taxpayer increases the tax base by the difference between the interest and corresponding costs determined by the arm's

length principle and interest and corresponding costs obtained from the related party.

The transfer price is a price made between related parties as regards transactions of assets or their dealings.

The issue of transfer pricing is regulated by the Law on Corporate Income Tax, Articles 59-61, and Article 5 of the the The Rulebook on the content of tax statement and the other issues of importance for the manner of determining the corporate profit tax (Official Gazette of RS, No. 99/10)

20. Does your legislation contain any specific rules in thin capitalisation and Controlled Foreign Corporations? Please explain.

As to debt to a creditor who is a related person referred to in Article 59 of LCIT, tax creditors are allowed to carry as expenditure in their tax statements, the amount of interest and corresponding charges on the loan and/or credit that the taxpayer has received from its related person. The amount is not to exceed the quadruple value (for banks – the tenfold value) of the taxpayer's equity, where the equity equals the difference between the assets on which the taxpayer earns income and corresponding debt. However, the assets and debt are averaged as at 1 January and 31 December of the current year.

21. Please provide a copy (in English) of your country's legislation on the taxation of income, profits and/or capital gains, including other related legislation, such as regulations concerning investment incentives or administrative guidelines, etc. Please describe the procedures for payment of personal income tax and calculation methods used. How is control carried out?

ATTACHMENT 3 CONTAINS TRANSLATION INTO ENGLISH OF THE LAW ON PERSONAL INCOME TAX (OFFICIAL GAZETE OF RS, NO. 24/01, 80/02, 135/04, 62/06, 65/06 - CORR, 31/09, 44/09 AND 18/10), AND THE BY-LAWS ADOPTED UNDER THE LAW.

The legislation implementing this law:
- Decree on detailed conditions, criteria and elements for levying flat-rate taxes on income arising from self-employment (Official Gazette of RS, No. 65/01, 45/02, 47/02, 91/02, 23/03, 16/04, 76/04 and 31/05);
-The dinar non-taxable amounts of personal income tax referred to in Article 9, paragraph 1, points 9), 12) and 13), Article 15a paragraph 2, Article 18, paragraph 1, points 1), 2), 4), 5), 6) and 7), Article 21a, Article 83, paragraph 5, point 1) and Article 101a paragraphs 1, 3 and 4 of the Law on Personal Income Tax indexed by the retail price growth rate in 2009 (Official Gazette of RS, No. 3/10) – the last indexed amounts applied from 1 February 2010;
- Rulebook on the manner and procedure for calculation of the wage tax when tax rate deductions are applied (Official Gazette of RS, No. 116/06 and 37/07);
-Rulebook on the manner and procedure for obtaining tax relief for employing apprentices and persons under the age of 30 (Official Gazette of RS, No. 72/06);
-Rulebook on the manner and procedure for obtaining tax relief for employing persons older than 45 (Official Gazette of RS, No. 72/06);
-Rulebook on the manner and procedure for obtaining tax relief for employing disabled

persons (Official Gazette of RS, No. 72/06);
-Rulebook on the contents of application for entry into the Register of Employers (Official Gazette of RS, No. 102/06);
-Rulebook on criteria for qualifying for exclusion from payment of the capital gains tax (Official Gazette of RS, No. 38/01);
-Rulebook on claiming rights to tax exemption of allocation received as support for destruction or damage to property, organized social assistance and humanitarian aid, grants and student loans, subsistence allowance for amateurs sportsmen and right to tax exclusion for illness solidarity aid (Official Gazette of RS, No. 31/01 and 5/05);
-Rulebook on the manner of determining, payment and recording of the withholding tax and the contents of the aggregate tax return on the calculated and paid withholding tax (Official Gazette of RS, No. 137/04 and 82/06);
-Rulebook on the tax return form of the calculated and paid withholding tax and the corresponding contributions of natural persons as taxpayers (Official Gazette of RS, No.11/05);
-Rulebook on business books and carrying the financial result in accordance with the single-entry accounting system (Official Gazette of RS, No. 140/04);
-Rulebook on the contents of the tax statement and other significant issues for determining tax on personal income and self-employment (Official Gazette of RS, No.140/04);
-Rulebook on tax return forms for determining personal income tax (Official Gazette of RS, No. 7/04, 19/07 and 20/10);
-Rulebook on the contents of applications for entry into the register of income payers for show business programmes of pop and folk music and other entertainment and on the contents of notification of contracts concluded on performance of such programmes (Official Gazette of RS, No. 139/04)
-Rulebook on the individual tax return form of the calculated and paid withholding tax and contributions for mandatory social security charged to the income recipient (Official Gazette of RS, No. 128/03);

ATTACHMENT 4 CONTAINS TRANSLATION INTO ENGLISH OF THE LAW ON CORPORATE INCOME TAX (OFFICIAL GAZETE OF RS, NO. 25/01, 80/02, 43/03, 84/04 AND 18/10), AND THE BYLAWS ADOPTED UNDER THE LAW.

The legislation implementing this law:
- The Rulebook on the content of tax statement and the other issues of importance for the manner of determining the corporate profit tax (Official Gazette of RS, No. 99/10).
- Rulebook on the contents of the tax statement for calculation of the corporate profit tax (Official Gazette of RS, No. 99/10);
- Rulebook on the manner of braking down fixed assets by groups and the manner of determining depreciation for tax purposes (Official Gazette of RS, No. 116/04 and 99/10);
- Rulebook on the manner of carrying revenue and expenditure for purposes of determining profit realized by an establishment of a non-resident taxpayer in the Republic of Serbia (Official Gazette of RS, No. 38/01, 19/07 and 99/10);
- Rulebook on the collective tax return form of the calculated and paid withholding corporate income tax for profits earned by non-resident taxpayers – legal persons (Official Gazette of RS, No. 116/04 and 20/10);
- Rulebook on the contents of the tax return for calculation of income tax on capital gains earned by non-resident taxpayers – legal persons (Official Gazette of RS, No. 20/10);
- The Rulebook on the content of tax statement for other legal persons (non-profit organisations) – corporate profit taxpayers (Official Gazette of RS, Nos. 19/05, 15/06, 20/08

and 99/10).

Provisions of Article 99 of LPIT provide for the manner of determining and paying tax. The personal income tax is determined and paid:

- Pursuant to a decision of the competent tax authority, and
- Deducted at source, for every taxpayer and every individual payment of income.

Pursuant to a decision of a competent tax authority, the following income is taxed:

1) Agricultural and forestry income;
2) Self-employment income;
3) Capital gains;
4) Income from copyrights and related rights and industrial property rights, real property income, rental of movable property income and other income not taxed at source, and/or when the income payer is not a legal person or an entrepreneur;
5) Annual personal income tax.

Tax is deducted at source for every individual items of income for the following income:

1) Wages;
2) Income derived from copyrights and related rights and industrial property rights, if the income payer is a legal person or entrepreneur;
3) Yield on capital;
4) Real property income, if the income payer is a legal person or entrepreneur;
5) Income from rental of movable property, if the income payer is a legal person or entrepreneur;
6) Winnings in games of chance;
7) Income from personal insurance;
8) Income of sportsmen and sport experts;
9) Other income, if the income payer is a legal person or entrepreneur;

A part of the legal person – a business unit of a non-resident legal person registered with the competent state authorities (representative office etc.) and state authorities and organisations is also considered to be a legal person.

The income payer calculates, withholds and pays the withholding tax in the prescribed accounts, on behalf of each taxpayer and for every income payment, at the moment of their payment, in accordance with the regulations in force. The income payer notifies the Tax Authority of the conducted payments and the calculated tax amounts by filing a collective tax return on a prescribed form by the 5th of the current month for the payments made in the previous month.

In this regard, when determining the tax base for the wage tax within the meaning of Article 15a paragraph 2 of LPIT, RSD 6,554 is deducted from the wage on a monthly basis and in the full amount for employees working full time.

The wage tax is calculated by application of the stipulated rate of 12% on the gross paid amount (the net paid amount plus the tax and contributions borne by the employee). The payment is made at source at the time of payment of the wage. The person under obligation to make the payment is the person paying the wages.

In-house (office) control of employee personal income is exercised by checking regularity of submitted forms and the accuracy of the calculated amounts (the software itself checks the accuracy of the rate and the calculated profit, and does not allow entry of liabilities if they are not correct), monitors amounts of the calculated tax (per payer, on a monthly level)

and controls taxpayers with wide discrepancies between the accrued and paid liabilities, or in the number of employees.

Considering the different calculation methodologies depending on the type of personal income, there are adopted guidelines on conduct of office control tax inspectors. These guidelines also set forth certain designation procedures for selection of taxpayers for audit. The following guidelines apply in exercise of control:

1. Procedure for resolving applications for flat-rate taxation in 2010, No.43-2955-2/09-18 dated 19/11/2009,
2. Guidelines for (in-house) office control of exclusions from payment of taxes and mandatory social security contributions claimed under the hiring-of-new-employees stipulation, No. 43-2790/06-18 dated 25/10/2006,
3. Guidelines for in-house (office) control and determining personal income tax and other public income on self-employment income No.431-15/06-18 and 21/03/2006,
4. Instructions on income payers and the obligation of filing individual tax returns, No. 43-13/04-10 dated 16/01/2004,
5. Guidelines for application of regulations governing the annual personal income tax, No.43-582/2006-10 dated 31/03/2006,
6. Methodological guidelines for in-house (office) control, No.43-851/2003-10 dated 28/08/2003.

22. Do you apply any preferential tax schemes? If so, please provide a detailed description of these schemes (the main purpose of the scheme, the minimum requirements, the tax benefits, if it is time-limited, the kind of beneficiaries, etc.).

1. The Law on Personal Income Tax provides for certain tax exemptions and exclusions.

• Tax exemptions are stipulated for the following income received by virtue of:

1) Regulations on rights of persons disabled in war;
2) Parent's allowance and child allowance;
3) Domiciliary care allowance and allowance for bodily impairment;
4) Unemployment benefits;
5) Sustenance allowance granted in conformity with law;
6) Health insurance benefits, with the exception of wages;
7) Property insurance indemnity, excluding insurance indemnities for lost profit and personal insurance indemnities covering suffered loss, unless the coverage is provided by the tortfeasor;
8) Compensation for property damage and non-material damage, excluding lost profit and wage (salary) compensation, and/or lost wage (salary) indemnity;
9) Financial support in the event of demise of an employee, member of family or retirement, in the amount not exceeding RSD 45,423;
10) Financial support for destruction of or damage to property in consequence of natural disasters or other extraordinary occurrences;
11) Organised welfare and humanitarian aid;
12) Grants and loans to pupils and students amounting to RSD 7,787 per month;
13) Food allowance - subsistence allowance for amateur sportsmen by amateur sport clubs in conformity with the law regulating sport, amounting to RSD 6,489 per month;
14) Remuneration and rewards for work of convicts and juvenile delinquents kept in penitentiaries and reform establishments;
15) Remuneration and reward for work of inmates of psychiatric establishments;
16) Remuneration for work of persons in the bodies conducting elections or population

censuses;
17) Pension benefits and disability pension withdrawals from the mandatory pension and disability insurance, and/or military insurance;
18) Retirement gratuity – its lowest amount is established by the law governing labour;
19) Severance payments/gratuities paid by employers to redundant employees, in conformity with the law governing labour relations, up to the amount determined by the law;
20) Pecuniary compensation to a person whose employment is terminated in the process of reorganisation, restructuring and preparation for privatisation in conformity with the Government regulation laying down the redundancy programme for the process of reorganisation, restructuring and preparation for privatisation – in the amount established in the programme and in an unlimited amount for persons older than 50 years of age;
21) Remuneration for work of a foster parent in a foster home;
22) Benefits paid to soldiers (doing military service in the Army or civil service) in accordance with the regulations governing the Army of Serbia, to students of military universities, students of military high-schools and attenders of schools for military reservists;
23) Benefits paid to students of law enforcement high schools in accordance with the law governing interior affairs;
24) Incentives, subsidies, advance payments and other payments made to boost development of agriculture from the budget of the Republic, autonomous province and local governments to special-purpose accounts of taxpayers of the tax on agricultural and forestry income, and/or to farmers entered into the register of farms, in accordance with the relevant regulations;
25) VAT compensations in accordance with the law governing value added tax, paid to persons who are taxpayers of the tax on agricultural and forestry income on the cadastral income, holders or members of the farm;
26) Reward to pupils and students for their accomplishments in the course of schooling and education, and accomplishments at competitions within the educational system.
• There are certain tax exclusions for wage taxation:
1) Non-taxable amount of wage – RSD 6,554 per month;
2) Public transport allowance (to and from the place of work), up to the price of a monthly ticket or up to the actual cost of transport, if the monthly ticket is not available, but not exceeding RSD 2,596;
3) Per diem allowance for business trips in the country in the amount not exceeding RSD 1,557, and/or per diem allowance for business trips across national borders not exceeding the amount imposed by the competent state authority;
4) Reimbursement for the accommodation costs incurred in the course of a business trip, against the presented bills;
5) Reimbursement for transport costs on business trips, against public carrier bills, and when the use of the employee's own motor car is permitted under laws and regulations, up to 30% of the price of a litre of super petrol, but no more than RSD 4,542 dinars per month;
6) Solidarity aid for illness, medical rehabilitation and disability of an employee or member of his/her family – in the amount not exceeding RSD 25,956,
7) New Year and Christmas gifts to children not older than 15 years, in the amount of RSD 6,489 per child, per annum;
8) Rewards to employees in celebration of anniversaries, in accordance with the law governing labour – in the amount not exceeding RSD 12,978 per annum;
9) Premiums of voluntary pension and disability insurance that employers deduct at source and withhold from the wage of an employee – member of a voluntary pension and disability

insurance – RSD 3,894.

- In addition, provisions of Articles 21c, 21d and 21e of LPIT provide for tax relief for employment of new persons: apprentices, persons under the age of 30, persons older than 45 years of age and the disabled. The employer is discharged from the obligation to pay the withholding tax on wages of the new employees, in the course of 3 years – for apprentices under 30 years of age and the disabled, and in the course of 2 years – for persons under 30 years of age and persons older than 45.

• There are tax incentives concerning income from self-employment on the basis of accelerated depreciation of fixed assets, investments in fixed assets within the registered activity, investments in accordance with regulations governing investment promotion in the economy of the Republic; They are provided to entrepreneurs under the condition and in the manner applicable to legal persons, in accordance with the law governing corporate income.

• Tax exclusion is stipulated for the following income of natural persons received by virtue of:

1) Individual winnings in games of chance not exceeding the amount of RSD 19,467;
2) Yield on capital from interest on dinar amounts of savings or other deposits (time or demand deposits);
3) Yield on capital from interest on debt securities, within the meaning of the regulations governing the market of securities and other financial instruments, issued by the Republic, autonomous territorial unit, local governments or the National Bank of Serbia.

• Tax exemption is stipulated on income generated as capital gains:
- If the transfer of rights, holdings or securities is between spouses and relatives in lineal consanguinity;
- If the transfer of rights, holdings or securities is between divorced spouses and directly concerns the divorce;
- By virtue of transfer of debt securities, within the meaning of the regulations governing the market of securities and other financial instruments, issued by the Republic, autonomous territorial unit, local governments or the National Bank of Serbia.
• Moreover, as regards the capital gains, tax exclusion is stipulated when a taxpayer invests the assets earned by sale of real estate in purchase of his or hers or his or hers family's primary residence, within 90 days of the sale.

• As regards annual personal income taxation, at the end of a calendar year there is an additional tax on certain income taxed in that calendar year (for which the annual personal income tax is determined). A non-taxable amount is set (**triple amount of the average annual salary in the Republic in the year for which the tax is determined, according to data of the Republic statistical authorities) as income which is not taxed by the annual personal income tax.**

2. The Law on Corporate Income Tax (hereinafter: LCIT), provides for tax incentives for all taxpayers, regardless of the fact whether they are companies in ownership of foreign investors or domestic investors, as follows:
• **Concession-related investments -** the concession-receiving enterprise or concessionaire which owns an enterprise registered for concession-related activities is exempted from the tax on corporate profit earned from the subject of the concession, to a time period not

exceeding five years of the contracted date of completion of the concession-related investment in its entirety.

• **Fixed assets investments**

1. A taxpayer investing in property, plant, equipment or biological assets (hereinafter: fixed assets) in the scope of its registered core business activity and activities listed in its Instruments of Incorporation i.e. another official document of the taxpayer determining activities carried out by the taxpayer, its corporate income tax is reduced by 20% of the investments made in that year. However, the tax deduction cannot exceed 50% of the calculated tax for the year of the investment.

The unclaimed portion of the tax credit might be carried over to the corporate income tax account for future accounting periods, in the amount not exceeding 50% of the calculated tax, in the time period of the following ten years.

There is special (more favourable) tax relief specified for small legal persons concerning investments in fixed assets (the right to the tax credit for investments in fixed assets is granted in the amount of 40% of the executed investment, insofar as the deduction of the calculated tax in the year of the investment cannot exceed 70% of the calculated tax) and the unclaimed portion of the tax credit might be carried over to the corporate income tax account for future accounting periods, in the following ten years.

2. Exceptionally, (concerning all taxpayers regardless of the size of the legal person), the right to the tax credit for the investment in fixed assets is granted in the amount of 80% of the investment executed in that year in procurement of fixed assets for carrying out specific activities (e.g. agriculture, production of machines and appliances, recycling, cinematography and video production and similar), under the condition that it is classified under one of the classes of activities in accordance with the law governing classification of business activities and the register of units of classification, inasmuch as the tax credit is recognized to be without limitation in relation to the calculated tax in the year in which the investment was made and for the following ten years into which the unclaimed portion of the tax credit can be carried over.

• **Concerning large investments -** When a taxpayer invests in its fixed assets, or if another person invests in its fixed assets in the amount exceeding RSD 800 million, using such assets for carrying out its core activity and activities listed in the Instruments of Incorporation of the taxpayer, i.e. another official document of the taxpayer providing for activities the taxpayer carries out, and in the period of investment, additionally employs (for an indefinite period) not less than 100 persons, the taxpayer is excluded from the obligation to pay the corporate income tax for the period of ten years – proportionally to the investment.

The tax exclusion is applied upon fulfilment of the conditions as of the first year in which the taxable profit was generated.

Likewise, in accordance with Article 50b LCIT, a taxpayer who carries out its activity in an underdeveloped area is excluded from payment of the corporate income tax for a period of five years, under the following conditions:

1) That it or some other person has invested more than eight million dinars in its fixed assets;

2) That it is using 80% of the value of its fixed assets in carrying out its core activity and activities listed in the Instruments of Incorporation or another official document of the taxpayer, in an underdeveloped area or region;

3) That the taxpayer employs at least five persons for an indefinite period during the investment period;

4) That at least 80% of employees recruited for an indefinite period live and have their place of residence in the underdeveloped area or region.

The tax exclusion is applied in proportion to the investment and implemented upon fulfilment of the listed conditions as of the first year in which the taxable profit was generated.

- **Considering profit earned by a newly founded business establishment in an underdeveloped area defined in regulations governing regional development, and/or opting for underdeveloped areas –** the taxpayer headquartered outside of the area declared to be underdeveloped, that opens a new business establishment in an underdeveloped area, has the right to decrease the corporate tax proportionally to the share of such profit in the total profit of the legal person for two years.

- The corporate income tax is not payable for training, professional rehabilitation and employment of the disabled, in proportion of the share of the persons in the total number of employees.

III. ADMINISTRATIVE COOPERATION AND MUTUAL ASSISTANCE

23. Please indicate how you cooperate with other countries in the field of administrative assistance in tax matters.

If the Republic of Serbia has concluded an agreement on elimination of double taxation with the country in which residents of the Republic of Serbia derive income, administrative cooperation regarding tax matters is ensured under the conditions referred in Article 26/27 (Exchange of Information) of the Treaty on Avoidance of Double Taxation.

Provisions of Article 157 of LTPTA define international legal aid. International legal aid is established as the right of the Tax Administration to appeal for legal aid to a foreign tax authority in the course of a tax procedure and the obligation of the Tax Administration to extend such aid to a foreign tax authority.

International legal aid is grounded on international treaties.

If provision of international legal aid is not regulated by an international agreement, legal aid will be extended under the conditions:

1) There is reciprocity;
2) If the state receiving legal aid commits to use the received information and documents only for the purpose of tax proceedings, offence or criminal proceedings, and any information received is disclosed only to persons or authorities, including judicial authorities concerned with the tax matter or enforcement in respect of the tax proceeding, offence or criminal proceedings regarding the matter;
3) If the state receiving legal aid commits to avoid potential double taxation by mutual agreement, with respect to taxes on income, capital and property by virtue of determination of the tax jurisdiction;
4) If complying with the request is not contrary to public policy or other considerable interests of the Republic;
5) If there is no danger that such legal aid would lead to divulging of professional or official secrecy or that the taxpayer would be inflicted a considerable damage.

International legal aid is provided by virtue of mutual agreement and exchange of information between the competent tax authorities of the contracting states.

Tax authorities exchange information directly owing to the cooperation and mutual assistance agreements.

Until now, the Cooperation and Mutual Assistance Agreement was made in Skopje 11 June, 2006, between the Ministry of Finance – Tax Administration of the Republic of Serbia and

- Administration for Indirect Taxation of Bosnia and Herzegovina
- Ministry of Finance – Republic of Bulgaria State Revenue Agency
- Ministry of Finance – Republic of Macedonia Public Revenue Agency
- Ministry of Finance – Tax Administration of the Republic of Montenegro

Pursuant to the Agreement, the Tax Administration of the Republic of Serbia has active cooperation with tax authorities of the states - signatories to the agreement.

24. What is your policy to promote good governance in tax matters notably the international standard on exchange of information for tax purposes, on transparency of tax system and on fair tax competition?

The corporative strategy or the Strategy for Development of the Tax Administration for the period 2010 – 2014, adopted 01 June 2010, specifies the key statements regarding the mission, aim and the value of the Tax Administration and the strategic context for support to harmonization with EU acquis. The Tax Administration remains strongly committed to endeavours to introduce e-government and to provide better enforcement in advancement of its operations.
The Tax Administration is building on its reputation of a highly professional, efficient and successful tax authority and a model government agency, by virtue of continuous education of its employees.

In exchange of information concerning tax matters, the Tax Administration cooperates with other state authorities and other states by means of concluded agreements and treaties on avoidance of double taxation or agreements on exchange of information and taxation of income and capital.
The Tax Administration has established a Department Contact Centre within the Section for Education and Communication to enhance transparency of its operation. The department has started to work and works in full swing. The modernized Tax Administration Contact Centre was opened 19 April 2010.

The following measures were introduced for functioning of the Tax Administration Contact Centre:

- Education of employees in the Contact Centre;
- Application of IT and communication infrastructure by employment of the cutting-edge technology and establishment of an advanced infrastructure in the Contact Centre;
- Setting up a web knowledge base (web application) to provide uniform answers to clients.

In this phase of development of the Contact Centre of the Tax Administration, information will be provided on tax regulations concerning tax liabilities, by telephone, e-mail and through the website.

25. With which countries do you currently have Double Tax agreements or Exchange of Information agreements for taxation of capital and income? What kinds of income and capital sources are covered by such agreements? Are there any restrictions on the availability or use of such information? Please provide a version of an article on exchange of information for tax purposes you are currently negotiating with your

contracting partners in relation to Double Tax agreements or Exchange of Information agreements.

Pursuant to the provision of Article 157, paragraph 2 LTPTA, international legal aid is grounded on international treaties.

International legal aid is provided by virtue of mutual agreement and exchange of information between the competent tax authorities of the contracting states.

Exchange of Information between the Competent Authorities of the Contracting States Pursuant to the Treaty on Avoidance of Double Taxation

Provisions for exchange of information between the competent authorities of the contracting states in agreements on avoidance of double taxation are usually founded on provisions of Article 26 of the OECD Model Convention with Respect to Taxes on Income and on Capital.

The competent authorities of the contracting states exchange information as is necessary for carrying out the provisions of the convention or of the domestic laws concerning taxes imposed on behalf of the contracting states, insofar as the taxation there under is not contrary to the convention. The competent authorities of the contracting states may agree on the manner in which information from the convention will be exchanged.

Any information received by a contracting state shall be treated as secret in the same manner as information obtained under the domestic laws of that state and it is disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in the convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. It should be noted that provision of Article 7, paragraph 6, point 6 of LTPTA specifies that the duty of official secrecy is not breached if a document, fact or information is disclosed in accordance with Article 157 of the Law, to an authorized person of the tax authority of a foreign country, in the course of exchange of information and extending legal aid.

However, in no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a competent authority of a contracting state the obligation:

- **To carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;**

In this regard, competent authorities of the contracting state have no obligation to disclose information to a competent authority of the other contracting state if it is not in accordance with their legislation and their administrative practice. However, the internal regulations of the contracting state as regards the tax secrecy should not be construed as an impediment to the exchange of information considering the obligation of the other contracting state to treat any information received as secret.

- **To supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other contracting state;**

Competent authorities of the contracting state from which the information is requested are not under the obligation to supply such information, if the information is not obtainable under the laws or in the normal course of administration of the contracting state which has requested the information. This is because the contracting state cannot use the benefits of the IT system of the other contracting state, if it furnishes a wider scope of information than

its IT system.
Exchangeable information is information which the competent authority of the contracting state already has or which can be obtained in the regular tax assessment procedure, inasmuch as the procedure includes special examination, overview and appraisal of the business accounting of the taxpayer or other persons. Accordingly, the competent authorities of the contracting state collect the information requested by the authorities of the other contracting state in the same manner as if the matter concerns domestic taxation, observing the conditions listed above.

● **To supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.**

Competent authorities of the contracting state are not under the obligation to supply information if the disclosure of information would threaten the vital interests of the state, or if it is at variance with its public policy.
The Republic of Serbia (SFRY, SRY, SAM) has ratified the Treaty on Avoidance of Double Taxation with 47 states.

Please find attached to the answer an overview (a list) of the concluded treaties now in force, and those terminated in the meanwhile, with relevant information concerning: Signatory state to the treaty, subject of the treaty, ratification date, date of entry into force of the treaty, date of termination of the treaty, official journal in which the treaty was published.

The existing taxes to which treaties on avoidance of double taxation apply in the Republic of Serbia, are in particular:

1. the corporate income tax ;
2. the personal income tax;
3. the tax on capital.

Article 26
EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeable relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation there under is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a

Contracting State the obligation:

1. To carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

2. To supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

3. To supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).

(4) If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

(5) In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

International measures for avoidance or elimination of double taxation take form of the **bilateral and multilateral agreements**.

As the contracting states have different legal, economic and tax systems, a model agreement must ensure that differences in those systems are reconciled in the course of ratification of the agreements by application of the mutual solutions for determining competences, apportionment of tax revenues and elimination of double taxation.

Consequently, when drawing up their bilateral agreements, all the states, including the Republic of Serbia, endeavour to follow the form and the content of the OECD (Organisation for Economic Cooperation and Development) Model Convention with respect to Taxes on Income and on Capital and the United Nations Model Double Tax Convention.

26. Do you have agreements with other countries for the recovery of taxation, and/or the serving of official notices from other states?

If the Republic of Serbia has concluded an agreement on elimination of double taxation with the state in which residents of the Republic of Serbia derive income, serving of official notices regarding tax matters is conducted under Article 26/27 (Exchange of Information) of the Treaty on Avoidance of Double Taxation.
The Tax Administration has not concluded any agreements with other states on recovery of taxation and/or serving of official notices from the states.

IV. OPERATIONAL CAPACITY AND COMPUTERISATION

A. Tax Policy

27. Describe the current and envisaged tax policy of your Government (notably, introduction of new taxes and/or abolition of existing ones).

Certain activities are planned on further harmonization with EU standards, especially in the field of excise and VAT taxation. There are no significant changes of regulations governing taxation of legal entities planned, as well as regulations governing taxation of individuals. In this regard, approximately the same share of fiscal revenues from various fiscal forms of tax revenue is expected.

B. *General Tax Administration*

28. Please provide information on the organisational structure of your administration responsible for taxation, including excise duties.

Please find attached the organisational structure of the Tax Administration.

29. Describe the laws governing the tax administration and taxpayers' rights and obligations.

The Law on Tax Procedure and Tax Administration (Official Gazette of RS No. 80/02, 84/02-correction, 23/03-correction, 70/03, 55/04, 61/05, 85/05- other law, 62/06-other law, 61/07, 20/09, 72/09- other law and 53/10 – hereinafter: LTPTA), establishes the Tax Administration as the administrative authority within the Ministry of Finance, and governs its competence and organization. The main duty of the Tax Administration as an administrative authority of the Republic of Serbia is to determine, collect and enforce public revenues (taxes and secondary tax duties) in accordance with the Constitution of the Republic of Serbia and the laws. The Tax Administration carries out government administration activities concerning first instance and second instance tax proceedings, the register of taxpayers, tax accounting, detection of tax criminal offences and their perpetrators, instituting tax offence proceedings and other activities as stipulated by LTPTA. Likewise, the Tax Administration provides professional assistance for taxpayers in implementation of tax regulations, in accordance with the code of conduct of employees in the Tax Administration.
The Law on Tax Procedure and Tax Administration governs tax procedures as regards assessment, collection and enforcement of public revenues by the Tax Administration, rights and obligations of taxpayers, registration of taxpayers and tax criminal offences and infringements.
Provisions of Article 24 of LTPTA, sets forth the fundamental rights of taxpayers as follows:
1) To receive from the Tax Administration, free of charge, information on tax regulations, from which his/her tax liability arises and if he/she is uneducated – basic legal aid as well, which shall enable the person to report and pay tax and calculate and pay secondary tax

duties in accordance with regulations;
2) To receive in writing a reply to the question addressed in the same form to the Tax Administration, which concerns his/her tax situation;
3) To request that the Tax Administration and the officers thereof treat him with respect and consideration;
4) That the information about him/her gathered in the tax procedure by the Tax Administration is kept confidential and used or made available to other persons, authorities or organizations only in the manner regulated by Article 7 of LTPTA;
5) That the Tax Administration respects his/her privacy;
6) To inspect information on the assessment and collection of taxes that is kept on him by the Tax Administration and to request that the incomplete or incorrect information be amended;
7) To represent his own interests before the Tax Administration, directly or through a legal representative;
8) To use tax relief in a manner provided for by the regulations;
9) To receive a recovery or a refund of excess tax or tax collected in error, in the manner and time limits stipulated by the regulations;
10) To be present during onsite (field) tax controls;
11) To receive an explanation of the documents compiled in the process of tax control;
12) To provide information to the tax authorities in the tax procedure;
13) To use legal remedies in the tax procedure;
14) To use other rights provided for by LTPTA and other tax laws.

On the other hand, there are obligations of taxpayers (Article 25 of LTPTA) to:
1) Submit to the Tax Administration an application for registration within the statutory time period, except for the taxpayers falling under the competence of the Agency for Business Registers and to report all subsequent changes of information in the application that is not reported to the Agency for Business Registers;
2) File a tax return to the Tax Administration on the prescribed form, in due time and in the manner stipulated by tax regulations;
3) Submit documentation and provide information required by the Tax Administration, in accordance with the tax regulations;
4) Keep proper business books and records for the purpose of taxation;
5) Correctly calculate taxes within the statutory time period, when required to do so by the law;
6) Pay taxes in the manner, under the terms and within the time frame regulated by the law;
7) Not obstruct and prevent officers participating in the tax procedure in the performance of their duties provided for by the law;
8) Inform the Tax Administration of opening or closing an account with a bank, another financial institution, postal savings bank or any other organization which performs payment operations (hereinafter: bank) in the Autonomous Province of Kosovo and Metohija or abroad – within 15 days of the day of opening or closing the account;
9) Be present during tax controls;
10) Perform other duties determined by this Law and other tax laws.

30. Please provide a copy of your legislation on Tax Administration.

Please find attached a copy of the Law on Tax Procedure and Tax Administration

(Official Gazette of RS No. 80/02, 84/02-correction, 23/03-correction, 70/03, 55/04, 61/05, 85/05- other law, 62/06-other law, 61/07, 20/09, 72/09 and 53/10) – a consolidated version.

31. Please give a detailed description of the infrastructure of your VAT, excise and direct tax administration, including staff levels and IT systems.

The value added tax is administered by 54 branch offices and the Centre of Large Taxpayers. All other taxes including excise and direct taxes are administered in all 75 branches.
The IT system for processing taxes in the system of self-assessment (DIS 2003) covers VAT, excise and direct taxes. The system is distributed. Migration is conducted on a daily basis from all organisational units of the Tax Administration, and it is a two-way system. There is a centralised base for data collection from all organisational units. The system for assessment and collection of public revenues (System IMP) is also distributed and covers taxes of taxpayers that are levied based on certain input parameters by virtue of a decision generated by the IMP system. A central data base was established as with the system DIS 2003. There are a lot of small systems which are technologically unequal and different, serving the purpose of enhancement of certain business processes in Tax Administration which work in local environment.

32. Please describe the current state of computerisation of your country's administrative IT systems.

Currently, there are 13 sections within the Tax Administration that can be considered separate IT systems, forming the IT system of the Tax Administration. The two fundamental sections are:

1. The system for assessment and collection of public revenues (System IMP),

2. The system for processing taxes in the system of self-assessment (DIS 2003).

The main characteristic of all the sections is that they are located on various technological platforms; linkages between them are very complex and it is not ensured that data processed by the systems are in the single data base of the Tax Administration. Due to the wide technological variety of the sections in the system of the central data base there is an unsatisfactory structure in place with a considerable amount of inadequate information. Currently well underway, there is a single register of taxpayers (SRTP) within the IT system of the Tax Administration that will substitute the past registers: Tax Identification Number TIN register, VAT register and local registers of natural persons taxpayers in organisational units of the Tax Administration, resolving the unsatisfactory structure of data and their discrepancies in structure that exists in the listed registers respectively. The single register of taxpayers is a foundation for creation of a new information system of the Tax Administration employing advanced technologies.

The subsystems for management of business information, reporting and risk assessment are poorly developed and they fail to provide quality criteria for implementation of the process of business decision-making. Some parts of the reporting system and risk assessment system were developed, that do not satisfy the current needs as a foundation for efficient management of business processes. In the course of 2010, the system or reporting was improved and a system BI was implemented. A smaller set was created – reports for the management of the Tax Administration, bringing the first standardized reporting. Support

provided to the fundamental business processes of the Tax Administration is of many different types, and it is realized by virtue of individual applications, which have different features and are on an unsatisfactory level. That is why it is necessary to set up an up-to-date operational support system for management processes concerning flow, registering and archiving of documentation, management of human and material resources, safety of information and management of internal communication. The infrastructure of the information system of the Tax Authority is developed and on a high level, and it is manifested in the established central computer system within the Computer Centre of the Tax Administration and the Single Information and Telecommunication Network of the Tax Administration.

Integration of the Information System of the Tax Administration into the e-government system will require:

1. Development of the internal infrastructure and establishment of external connections with other systems

2. Development of the central register of the Tax Administration and exchange of information with external systems

3. Development of electronic services for taxpayers.

The majority of current subsystems of the information system is not possible to be further developed and integrated into a unique whole, because of their technological variety; it is necessary to replace them with the new, which will meet the criteria regarding their quality and support the business processes of the Tax Administration.

The strategic plan of the development of the single information system of the Tax Administration (2009-2011) defines strategic directions of development of the Single Information System of the Tax Administration which will occur in two phases.

The first phase requires the following strategic directions:

Development and advancement of the infrastructure and the resources comprising the information system,

Development of the underlying IT system.

The second phase requires the following strategic directions:

Development of the management system for business processes,

Development of internal and external services.

Based on the analysis conducted and the implemented projects on development of information systems, there are two key prerequisites to the future development:

1. Funding for future development projects should be mostly obtained from the budget of the Tax Administration, appropriated and earmarked for IT projects,

2. Due to the limited capacities, it is necessary to outsource the realization of the development projects.

Based on the met prerequisites, adequate planning according to the defined priorities and monitoring of the realization of the planned projects with necessary funds in place, the business cycle of development of the Single Information System of the Tax Administration should be completed by the end of 2011.

33. What are your plans regarding preparations towards full interconnectivity of your IT systems with the European Union IT taxation systems (VIES, VAT Refund, EMCS, etc…)?

At the moment, the Tax Administration does not have devised plans for connecting the IT system with the EU IT taxation systems. The main prerequisite for connecting the IT system of the Tax Administration with the European Union IT taxation systems are described in the answer to the previous question.

Accordingly, development of the Single Information system of the Tax Administration, integration of the Information System of the Tax Administration into the system of *e-government,* that is, development of the internal infrastructure and establishing external connections with other systems, development of the central register of the Tax Administration and exchange of information with external systems and development of electronic services for taxpayers should enable the preparation and implementation plans towards full interconnectivity with the European Union IT taxation systems.

34. Please provide statistics on the number of taxpayers for direct and indirect taxation, and the number of excise warehouse keepers.

The total number of VAT taxpayers is 127,285 (out of which there are 93,184 profit organizations, 33,993 non-profit organizations and 108 businesses).
The total number of the withholding taxpayers (wages, compensations, yield on capital and other income of natural persons where the withholding tax is applicable) is 155,600 of income payers.
On 31 October 2010, the VAT register had 115,071 active taxpayers, of which 68,381 legal persons, 44,933 entrepreneurs and 1,757 natural persons.
The total number of taxpayers – producers of excise products and liquid petroleum gas distributors is 692 (of which 3 producers of petroleum products, 318 producers of alcoholic beverages, 370 liquid petroleum gas distributors, 4 tobacco products manufacturers).
On 01 December 2010, there were 36 excise warehouses, 12 for tobacco products, 14 for alcoholic beverages and 10 excise warehouses for petroleum and petroleum products.

35. Please provide statistics on the number of taxpayers importing and exporting goods and services.

According to the information which we receive on a monthly basis from the Customs Administration, in the first ten months of 2010, there were 21,500 taxpayers importing in 98,704 cases. Likewise, there were 26,006 natural persons importing in 35,501 cases.
When it comes to exports, there were 13,060 taxpayers and 53,116 cases and 949 natural persons exporting in 1,230 cases.

36. Please provide statistics for 2007/2009 on measures against tax evasion. In particular, how much additional tax was claimed by the Tax Office, what proportion of the additional tax was collected, how many tax crimes were investigated by the Police, how many of these were prosecuted, and to how many convictions did they lead? What

sentences were imposed?

In the course of the 2007 tax control procedure, onsite (field) tax inspectors calculated additional taxes in the amount of RSD 23,647,038,933, of which RSD 7,884,917,493 of the value added tax. In 2008, the additional taxes amounted to RSD 25,950,769,217, of which RSD 12,432,284,621 of the value added tax. In 2009, the additional taxes amounted to RSD 27,998,334,168, of which RSD 13,747,674,159 of the value added tax.
In the period 2006-2009, the Tax Police Department filed 6,984 criminal charges against 9,286 persons for the total amount of evaded taxes RSD 70,268,583,052.24. From the total number of the filed criminal charges, there were 6,461 proceedings instituted before the courts. There were a total of 900 rulings, out of which 106 convictions to unconditional prison sanction, 48 fines and 746 suspended sentences to an imprisonment – the sentence which will not be received, if during the stipulated time no new offence is committed.

37. Please provide information on corruption in the Tax Office. How are such cases dealt with? Have any cases reached the courts?

Corruption as manifestation of deviant behaviour has been spotted within the Tax Administration as well. However, bearing in mind the fact that such manifestations can be regarded as only sporadic occurrences, it can be concluded that the established system of anti-corruption measures provides an adequate control over the undesirable effects.
Namely, the Administration striving for its own modernisation, insists with consistency on establishment of anti-corruption measures, code of honour and professional ethics.
In this regard, numerous systemic solutions were instituted such as automation of business processes concerning enforcement and selection of audit matters; this ensures objectivity and impartiality in work and removes the possibility of application of double standards in selecting matters for tax audit.
A notable step forward of the Administration concerning the above is creation of the risk management software for value added tax enforcement procedures. The Tax Administration Central Office has drawn up lists of taxpayers selected for VAT control in the relevant tax period, according to the given algorithm, and the lists are served to the competent territorial units, preventing malpractice within the work process.
With the same objective, certificates of registration (tax identification numbers TIN) are awarded to the taxpayers, i.e. the process of awarding and suspending TIN is conducted with the Central Office of the Tax Administration exclusively.
Likewise, impartiality in tax audits which can be defined as complex according to specific parameters is ensured by assignment of inspectors from organisational units other than the place of residence of the audited taxpayer, and an authorized person from the Central Office of the Tax Authority is assigned to coordinate the audits.
Clear definition of scope of work and competences, in addition to the assignment of key duties and responsibilities among the employees reduces the risk of error or misappropriation. All transactions and events must be clearly substantiated and the documentation available to verification of any kind.
This administration precludes and impedes eventualities of corruption by carrying out continuous activities from its own scope of competence and by conducting ex-ante control of business processes and ex-post control by supervision of all tax services.
In this regard, the priority of the Internal Control Group, a separate organisational unit within the Central Office of the Tax Authority, is implementation of the planned internal controls defined by the Dynamic Work Plan with the main spur to monitor the tax services, intervene in the risk points of operation of the tax authority with a view to achieve the legal and ethical compliance, determine the level of efficiency of the processes, identify issues

and introduce measures for their removal, and as the final instance implementation of disciplinary procedures and imposing disciplinary measures.
Insisting on the planned controls/supervision pursuant to the established annual work plan of the Group, exercising functional and classical supervision in response to complaints in capacity of an objective guardian of lawfulness in the form of non-scheduled administrative controls – all of these send a clear message to employees that their work is subject to intense scrutiny regarding compliance, timeliness, accountability and efficiency of their activities.
Moreover, irrespective of the fact whether the complaint was submitted by a known person or it was anonymous, supervision proceedings are conducted to check the complaints and in cases were irregularities are observed – corresponding documents are adopted, disciplinary measures introduced and as necessary, other state authorities notified thereof.
Furthermore, the Tax Administration has facilitated the taxpayer's ability to reveal corruption by an open telephone as well, published on the website of the Tax Administration.

The Tax Administration cooperates with the competent state authorities and takes measures within its competence in all stages of the procedures with a view to increase accountability, irrespective of the outcome of the procedure in case.

Having regard to the fact that criminal charges were introduced against a number of tax officers, and that the competent court is conducting the review procedure of criminal liability of the persons for acts committed in the course of their official duty, the Administration (in addition to the cooperation with the competent state authorities in revealing criminal offences and in criminal proceedings) takes measures within its competence, in accordance with the regulations in force by virtue of suspensions and imposing disciplinary measures in cases where conditions exist for such measures.

38. Please describe the cooperation with the Customs Authorities.

Cooperation with the Customs Administration is regulated by special Guidelines on Mutual Cooperation between the Tax Administration and the Customs Administration regarding exchange of information, data and documents concerning companies under suspicion of considerable tax evasion in the VAT system. The Guidelines specify that the tax Administration serves the Customs Administration with information from the register of taxpayers and the register of VAT taxpayers, on a daily basis. The Customs Administration serves the Tax Administration with the electronic information on export and import of goods on a daily basis (PCI) and information on import and export on a monthly basis. Not later than the 6th of the month, by 12 o'clock, the Customs Administration must serve the aggregated information on import, export, calculated VAT and paid VAT, with tax identification numbers of VAT taxpayers, or VAT tax debtors.

The two Administrations in accordance with the Guidelines on Exchange of Information can exchange other information of significance for implementation of the customs and tax regulations.

Their cooperation is regulated by the Guidelines on Mutual Cooperation between the Tax Administration and the Customs Administration as regards preventing operation of companies with considerable tax evasion No. 43-1594/03 –01 dated 10/12/2003, *Guidelines amending Guidelines on mutual cooperation between the Tax Administration and the Customs Administration as regards preventing operation of companies with considerable tax evasion* No. 43-2835/2004-01 dated 13/08/2004 and *Guidelines on Exchange of Information between the Tax Administration and the Customs Administration to enforce customs and tax regulations*, dated 23/11/2004.

39. Please provide a copy of tax returns for direct and indirect taxation (VAT).

Please find attached copies of tax returns for direct and indirect taxation (VAT) (attachment named Forms)

40. Please provide a copy of the application form for being registered as a (VAT) taxable person; what is the threshold for registration?

A taxpayer is any person who independently carries out the supply of goods and services in pursuit of business as a continuing activity with the purpose of making profit. The Republic and the authorities of the Republic, the territorial unit authorities and local government authorities, and legal persons formed by the law with the purpose of carrying out activities of the public administration, are not taxable persons within the meaning of the law if they supply goods and services from the scope of work of the authorities, or with the purpose of carrying out activities of the public administration. Any taxable person who over the last 12 months has a total turnover of goods and services, except for the turnover of equipment and property for conduct of business (hereinafter: total turnover), in the amount exceeding RSD 4,000,000 (≈ EUR 40,000) must register for VAT. A person who independently carries out the supply of goods and services in pursuit of business as a continuing activity with the purpose of making profit, and at the start-up estimates that over the following 12 months the total turnover will be higher than RSD 4,000,000. A small taxable person may be able to choose to register for VAT voluntarily (person whose total turnover over the last 12 months did not exceed RSD 4,000,000, or if at the start-up of the business activity the person estimates that over the following 12 months will not have a total turnover exceeding RSD 4,000,000), including farmers if over the last 12 months the farmer has had or estimates that over the following 12 months will record a total turnover exceeding RSD 2,000,000 (≈ EUR 20,000).
The registration VAT form (Form RFVAT), appended to the document, is regulated by the Rulebook on the form and contents of the VAT registration, registration procedure and deletion from the register and on the contents and form of the VAT return (Official Gazette of RS, No. 94/04, 108/05 and 120/08).
The VAT registration of taxable persons is carried out based on the filed registration – RFVAT (section 2.2. Commencement of business date).
The Registration for value added tax taxable persons is appended – Form RFVAT.

C. Revenue

41. Please provide a detailed description and relevant statistics of the overall revenue structure (taxes and social contributions) and of its main components (according to OECD revenue classification).

The answer is provided in the appended table (under the name excel tables).

42. How much, as a percentage of total State revenue, is generated by VAT, excise duties, taxes on income, profits and capital gains respectively?

The answer is provided in the appended table.

43. Which proportion of your tax due did you receive in 2008:

	% collected by the date	% collected after the date	% not collected at all
VAT	90.70	0.87	8.43
Excise duties	87.75	0.44	11.81
Corporate income tax	82.12	2.85	15.03
Personal income tax	67.72	0.82	31.47

44. What is your estimation of your grey economy and how do you calculate it?

The Tax Administration does not have devised criteria for computation of the grey economy. Likewise, it is not possible to exert tax control of all the taxpayers. Therefore, it is very difficult to provide any projections.
We have written more about the tax control in the answers to the Questionnaire – Indirect Taxation B. Value Added Tax, point q) under i).

The Labour Inspectorate, a body within the Ministry of Labour and Social Policy, carries out inspection activities and the related expert activities in the field of employment relationships, safety and occupational health.
The Law on Labour regulates that the labour inspection supervises implementation of the Law, other regulations on labour relations, collective labour agreements and labour agreements governing rights, obligations and responsibilities of employees, meaning that the labour inspection supervises legality of labour relations as well, and whether a labour relation is founded in accordance with the Law on Labour, and that it ensures enforcement of the law, collective agreements and other regulations together with other competent state bodies.
According to information from the Labour Inspectorate, young, unqualified workers are most often recruited to work in the gray economy. Most often these are persons with no more than high school education, employees without regular salaries and employees more than 40 years of age, persons on benefits, social assistance and similar. Although their work usually entails high risk, in practice it is hard to validate it, because of the fear of losing even such jobs, there is mutual agreement between the workers and employers that at the moment of inspection they avoid legalisation of their relationship. This is especially so in the construction business, one of the high-risk businesses, and in the catering industry, trade and activities of craftsmen.
The Labour Inspectorate, as the inspecting authority, **is neither mandated nor responsible to statistically monitor the situation in the gray economy**, but merely manages information obtained in the course of inspections.
In accordance with the target of the Labour Inspectorate to minimize the gray economy, the activities of the Labour Inspectorate are oriented towards control of enforcement of the Law governing the legal and labour postulate – the act of employing, and detection of persons who actually work for an employer.
It is important to point out that the labour inspectors are not competent to conduct inspection and take statutory measures against the alleged employers, those not registered with the Agency for Business Registers, since they are subject to supervision and control of

the market inspection and tourism inspection.
Based on the Report on Work of the Labour Inspectorate for 2008 and 2009, it is established that in 2008 the labour inspectors carried out 42,595 inspections of labour relations (306,416 persons encompassed), finding 9,054 persons working off the books. After the inspections employers established 6,394 employment relations, while in 2009 labour inspectors carried out 40,222 inspections, when 357,498 employees were encompassed out of which 5,734 persons were caught working off the books, and after the inspections employers employed 4,178 persons.
The comparative analysis of the number of persons caught working under the table and the number of people employed after the inspections in 2009 in relation to 2008, points to a downward trend in the number of persons found working without a contract of employment.

The total number of informal employment is not known, however, partial estimations are obtainable by comparison of information on employees from the Survey on Workforce with statistics collected from the registered entities and entrepreneurs.
In 2007, the Republic Statistical Office made an assessment of GDP for 2003 employing a method recommended by the Organization for Economic Cooperation and Development (OECD). The area of gray economy was estimated to 14.6% of GDP, of which 6.4% as a result of deliberate underreporting of wages paid by registered employers mainly in the trade industry, construction and business services industry, while 4.3% of GDP applied to unregistered companies.

45. Please explain how your tax control is organised and resourced and how it functions. Furthermore, which is your control strategy for VAT, direct taxation and excise duties? In this context, please highlight which is the authority (or authorities) that are setting the overall control strategy and which are the main features of this strategy.

The tax control in the Tax Administration of the Republic of Serbia includes in-house and onsite controls (office and field audits), executing tax proceedings and the tax police which undertakes activities to detect criminal offences. The office audit is done in all branch-offices and section-offices of the Tax Administration and has 790 inspectors. The field audit is organized in braches only and has 893 inspectors, while the tax police is organized within the Central Office and has 134 inspectors.