

Regulation of Public Finances in Serbia in Light of Financial Constitutionality

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ABSTRACT

A country has always been an important factor in the economic processes of a county. With its activity, mechanisms for provision of services, consumption and investment system, its role in the allocation and distribution process of income and wealth, a country directly or indirectly establishes certain relations in the social reproduction process. Because of that it can be said that the country activity reflects on the public, but also on the private sector of a social community. No government, no county, can afford the ease of economic and any other activity taking place past it. A country must take on a lot of tasks, to establish the necessary harmony in all spheres of social activities in a social community. For realization of numerous tasks that are entrusted to one country, it needs certain funds that it collects either with the monopoly of its sovereign authority or in some other way. With the change and development of the county the tax system which is necessary to fulfil its role also changed and developed. In the field of taxation, the Republic of Serbia has no limitations on the scope of its tax jurisdiction. The constitution regulates the subjective financial law of the country, i.e., the right to introduce and collect taxes and prescribe the duty of natural and legal entities to act in accordance with tax regulations. Modern constitutions have established the principle of legality of taxes, which can be expressed by the maxim 'nullum tributum sine lege' ('there is no tax without law'). Thus, Article 91, paragraph 1 of the Constitution of Serbia prescribes that the funds from which the jurisdiction of the Republic of Serbia, autonomous provinces and local self-government units are financed, are provided from taxes and other revenues determined by law. Paragraph 2 of the same article proclaims the rule that the obligation to pay taxes and other duties is general and is based on the economic power of the taxpayer. Therefore, the basic postulates on which the financial right is built are contained in the constitution. It follows that financial law cannot exist without constitutional norms. On the other hand, through tax law, the constitution gained its concretization and realization. The science of financial law is exhibited in numerous monographs, textbooks, studies, discussions, articles, and other publications. Several authors have made a great contribution to the development of this scientific discipline in Serbia, among which the most important are Milan Todorović, Jovan Lovčević, Aleksandar Perić, Miodrag Jovanović, Miroslav Petrović, Dejan Popović, Božidar Raičević, and others.

KEYWORDS

Constitution, law, tax system, tax jurisdiction, fiscal rules, public revenues, taxes, contributions, fees, excise duties, customs, tax procedure, tax determination, tax collection, tax control.

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Legal theory of finance: Areas of regulation, current issues, and challenges in financial law

1. Historic development of Serbian fiscal legislation

Serbian history in a political-historical sense includes the period from the immigration of Serbs to the Balkans in the 7th century until today, and in the geographical-historical sense it includes the entire history of the territory of today's Serbia before the immigration of Serbs. In terms of building a fiscal system, Serbia has come a long historical way. In the pursuit of independence, Serbia and Serbian society (as well as any independent county), created its own tax and budget system based on the example of developed countries in the region, starting from its own interest and real possibilities. The first records of the Serbian fiscal system can be found in Dušan's Code from the years 1349 and 1354.¹

In the times to come, the Serbian country strived to create a fiscal system that had to be flexible, clearly made, generous and 'sufficiently' acceptable from the aspect of time. Observed throughout history, the Serbian fiscal system has changed and developed in accordance with the degree of social-economic development of the country and the domestic and international environment. With the growth and the development of the Serbian country the systems of social value in Serbia developed, as well as the system of fiscal value. Hence, we can say that the Serbian fiscal system from a time aspect maintains the level of social development of the country. In the continuation of the lecture, we will refer to the period of construction of the Serbian fiscal system in the twentieth and in the beginning of the twenty-first century.

1.1. Serbian fiscal system and tax administration until the Second World War

The system of determining and collecting of public revenues at the beginning of the twentieth century reflected that era and the level of social development in Serbia. To control and monitor the budget and public incomes, as well as to strengthen the control of taxpayers and the tax authorities themselves, in 1909, Serbia introduced the institution of a country representative in every financial administration. Country representatives were chosen from the ranks of former tax collectors and had the task: (a) to attend the meetings of the tax board and to give the necessary guidelines to the

1 The Code of Emperor Dušan (in old transcripts it is called the *Law of the Pious Emperor Stefan*) is the most important law of medieval Serbia. It was established at the council of rulers and church dignitaries, held on the Ascension of the Lord, on 21 May 1349 in Skopje, and was supplemented at the council held on 31 August 1354 in Serres. The law was adopted with the aim of regulating the Serbian country with regulations that would apply to the entire empire and equally to all subjects.

members of the board; (b) to file complaints against owed taxes by the board, and (c) to check whether all taxpayers entered the actual amount of yield in the tax return.

The assessment of the size of individual taxpayers' income was performed by the tax boards. Those were commissions composed of several members (five, ten or fifteen members), and each township had its own tax board. The number of members of the tax board depended on the place for which he would be elected, that is, from the number of inhabitants of a certain place.² In this period, to strengthen and maintain public finances, Serbia introduces a system of assembly oversight over budget items of revenues and expenditures.³

After the end of the First World War, in 1918, the State of Slovenes, Croats and Serbs was formed. With the creation of a new country union, it was necessary to adopt a unified tax system and enact unique regulations in that area. In that period, on the surface of the new country, five tax systems were applied simultaneously: Serbian, Montenegrin, Austrian, Hungarian and Turkish, which lasted until 1928, when the tax system of the former Yugoslavia was unified.

On the territory of Serbia, until the unification of the tax system, the tax authorities applied the following tax obligations: land tax, building tax, capital income tax, activities and occupations income tax, individual income tax, personal tax, and turnover tax.⁴ The Law of direct tax from 1884, which was applied in Serbia, Macedonia, as well as in one part of Montenegro, had a special meaning in the realization of fiscal revenues.

The Montenegrin tax system can be assessed as the simplest tax system inherited by the old Yugoslavia.⁵ The Montenegrin tax system included two types of direct taxes: tributes and capital and labour income tax. Tributes were charged semi-annually on 1 July and the 6th of October. The responsible tax board had the task of checking the accuracy of reported facilities on which the tribute was paid. The tax board functioned in each town.

The Austrian tax system was applied in Slovenia and Dalmatia. The county authorities in Slovenia and Dalmatia oversaw tax assessment at the seat of each county. Tax collection was performed by tax offices that were formed for each court county. The assessment of income tax and the general flow was performed by special tax committees, namely the committee for assessment of income tax and the committee for assessment of income flow.⁶

The Hungarian tax system was applied in one part of Vojvodina and in Croatia. Within this tax system, the primary tax authorities were the so-called financial directorate. As auxiliary bodies to the financial directorates, there were country tax offices, city tax offices, township offices and various tax boards. Tax offices took care

2 Milojević, 1925, p. 32.

3 Milošević and Kulić, 2016, p. 64.

4 Ibid., 2016, pp. 63-64.

5 Jelčić, 1983, p. 273.

6 Milojević, 1925, p. 132.

of book entry and tax collection. Township offices and various tax boards did book entries and collected only those taxes for which they were in charge by the country.

The Turkish tax system was applied in Bosnia and Herzegovina. The tax offices oversaw the assessment and collection of taxes as the first instance tax authorities. The tax boards performed the assessment of the size of the yield of a certain taxpayer.

In the legislative area, the first legal regulation of the Kingdom of Yugoslavia that regulates the matter of turnover taxation. In addition, in 1922 the Law of Business Turnover Tax was passed, in 1928 the Law on Direct Taxes was passed, and in 1932 the Decree on Luxury Tax was adopted. The Law on Direct Taxes introduces the obligation of paying taxes on the following income: from land, from buildings, from companies, shops, and independent occupations, from rents, from companies obliged to public billing (social tax) and from non-independent work and occupation (clerical tax). There was also an obligation to pay a bachelors' tax. Lower territorial units were entitled to surtax and excise revenues. Certain types of public revenues were paid according to special regulations. The newly created county, in terms of application of customs, took over the Customs Law of Serbia from 1899, which was applied to the territories of Yugoslavia until the beginning of the Second World War.⁷

1.2. Fiscal system of the Republic of Serbia from the Second World War until 2000

After the end of the Second World War, the new 'people's government' revoked many regulations from the old tax system. The tax system of the former Yugoslavia went through several stages of development in accordance with the changes in the structural and the ownership relations in the economy. The tax system was consisted of two parts: the part based on which the obligations of county-owned companies were determined and the part based on which the obligations of citizens and cooperatives were determined.

The tax system was also regulated in accordance with the Constitutional Decisions on Territorial Organization. In practice, there were nine tax systems, because in addition to the Federation, each of the six republics and two autonomous provinces pursued its own tax policy. In that period, there was no single tax administration that would deal with the collection of public revenues. The Social Accounting Service and the Republic and Township Administration of Social Revenues dealt with the tasks of determining, collecting, and controlling public revenues.

From the historical aspect, the system of public finances until 1988 mainly performed fiscal, but not economic and social functions, which is the result of the concept of contractual economy. By abandoning the contract economy and the country's orientation towards building a market economy, it conditioned the construction of a tax system and a tax policy that would be unique in the entire territory. In accordance with the set goals, the National Assembly of the Republic of Serbia in December 1991

7 The Customs Law of Serbia from 1899, with the changes from 1904, in the former Yugoslavia, was supplemented and amended by the Law on Amendments to the Customs Law from 1934.

adopted a tax package expressed in six legal regulations, which introduced a new tax system starting in 1992. The tax package included the following legal regulations: the Law on Public Revenues and Public Expenditures, the Law on Personal Income Tax, the Law on Social Insurance Contributions, the Law on Property Tax, the Law on Corporate Income Tax, and the Law on control, determination, and collection of public revenues.⁸ The new legal solutions defined the Republic Administration of Public Revenues as a single central tax authority.

Despite all the efforts of economic policy makers, the new system of public finances, however, did not achieve the set goals and tasks. This did not happen for known reasons (disintegration of the country, economic sanctions, inflation, etc.). After the year 2000, a great, in many ways historical, process of the disappearance of the old and the birth of the new system began. The Republic of Serbia has passed many important laws from various areas of social life. Within these and such events, the tax legislation has also undergone major changes.

2. Fiscal sovereignty of the Republic of Serbia

When it comes to the limit of application of tax law regarding the territory and to persons, it should be said that from the territorial sovereignty derives the right of the country to be able to tax natural and legal entities under its tax jurisdiction. International public law does not limit the sovereignty of countries; however, the tax jurisdiction of the county is still limited by the condition that there must be a certain connection between the country and the tax debtor (decisive fact). This connection can be of a personal or economic nature.

The Republic of Serbia is a sovereign country consisting of two autonomous provinces: Vojvodina and Kosovo and Metohija. Serbia borders Hungary to the north, Romania to the northeast, Bulgaria to the east, northern Macedonia to the south, Albania, and Montenegro to the southwest, and Croatia and Bosnia and Herzegovina (Republika Srpska entity) to the west. The Republic of Serbia is a country of Serbian people and all citizens living in it, based on the rule of law and social justice, the principles of civil democracy, human and minority rights and freedoms and belonging to European principles and values.⁹

From the mentioned aspect, in the tax area, the Republic of Serbia has no restrictions in the scope of its tax authority. The territory of the Republic of Serbia is unique and indivisible and the application of tax authority is carried out in accordance with the principles of its tax jurisdiction.

8 These laws were published in the Official Gazette of the Republic of Serbia, No. 76 and 79 from 1991. In addition to these laws, the National Assembly of the Republic of Serbia adopted two other laws that are important for the tax system: the Law on Sales Tax on Products and Services, the Official Gazette of the Republic of Serbia No. 89/91 and the Law on the Payment and Financial Supervision Service, Official Gazette of the Republic of Serbia No. 76/91.

9 Article 1 of the Constitution of the Republic of Serbia

3. Financial constitutionality of the Republic of Serbia

When considering financial constitutionality, one should start from the fact that the constitution is the highest legal act in a country and that all positive rights have their source in the constitution, which is why they must be harmonized with the constitution. Since financial law is a branch of a positive legal system, its source is in the constitution. It is built on the principles contained in the constitution, that is, its legal solutions must be in accordance with the constitution. Tax laws must derive from the constitution, that is, they must be built on the principles proclaimed in the constitution. Therefore, the basic requirements on which the financial right is built are contained in the constitution. The constitution contains mostly declaratory norms whose obligation is achieved by norms of other branches of law (even financial), while financial law contains imperative norms whose obligation is secured by the application of sanctions.¹⁰ It follows that financial law cannot exist without constitutional norms. On the other hand, through tax law, the constitution gains its concretization and realization.

We find legal institutes of financial law in the provisions of the 2006 constitution on the economic organization of the Republic of Serbia. According to the Constitution of the Republic of Serbia, the economic system in the Republic of Serbia is based on a market economy, open and free market, freedom of entrepreneurship, independence of economic entities and equality of private and other forms of ownership.¹¹

According to the constitutional provisions, the element of economic regulation is also public finances, which in the constitution means the acquisition and distribution of funds for financing public needs.¹² The constitution regulates the subjective financial law of the county, that is, the right to introduce and collect taxes and prescribe the duty of individual and legal entities to act in accordance with tax regulations.¹³ Modern constitutions have established the principle of legality of taxes, which can be expressed by the maxim *'nullum tributum sine lege'* ('there is no tax without law'). Thus, article 91, paragraph 1 of the Constitution of Serbia prescribes that the funds from which the competencies of the Republic of Serbia, autonomous provinces and local self-government units are financed are provided from taxes and other revenues determined by law. Paragraph 2 of the same article proclaims the rule that the obligation to pay taxes and other duties is general and is based on the economic power of the taxpayer. This constitutional principle is further elaborated in tax regulations.

The constitution stipulates that the Republic of Serbia, autonomous provinces, and local self-government units have budgets in which all revenues and expenditures that finance their jurisdictions must be presented. In terms of deadlines, the

10 Milosevićm Kulić and Cvjetković-Ivetić, 2021, pp. 21-22.

11 Article 82. paragraph 1 of the Constitution of the Republic of Serbia

12 Marković, 2018, p. 503.

13 Milosević, Kulić and Cvjetković-Ivetić, 2021, p. 22.

constitution stipulates that the law determines the deadlines within which the budget must be adopted and the manner of temporary financing in case the new budget is not adopted, and the validity of the previous one has expired.¹⁴

The execution control over all the budgets is performed by the Country Audit Institution. The Country Audit Institution is the highest country body for the audits of public funds in the Republic of Serbia, it is independent and subjected to the supervision of the National Assembly, to which it suits.¹⁵ The National Assembly is considering the proposal of the final budget account based on the obtained opinion of the Country Audit Institution.

The constitutional category in the field of public finances is also public debt, i.e., debt of the country and public bodies. The constitution provides for the possibility of borrowing by the Republic of Serbia, the autonomous province and local self-government units in accordance with the law.

The Constitution of Serbia contains certain provisions that also refer to the matter of application of tax law. The realization of the norms of tax law encroaches on the freedom and rights of tax debtors guaranteed by the constitution. However, this restriction of freedoms and rights is provided for in the constitution itself, i.e., situations that may cause this restriction are provided. Thus, the provision of Article 40, paragraph 1 of the Constitution of Serbia proclaimed that the apartment was invulnerable. However, based on paragraph 2 of the same article, another's apartment or other premises may be entered against the will of their occupant based on a written court decision. In that sense, the provision of Article 125, paragraph 5 of the Law on Tax Procedure and Tax Administration¹⁶ stipulates that the tax inspector has the right to enter the taxpayer's apartment with the approval of the court, to perform control.

The provisions of the constitution that refer to the position of the country administration are also important. Based on these constitutional provisions, the organization of the Tax Administration, which appears as a tax authority as a participant in the tax procedure, is considered.

4. Sources of Serbian financial law

Under the sources of Serbian financial law general legal acts—legal regulations are implied, which serve as a basis for performing tax transactions, i.e., for tax administrative acts issued by tax authorities, for undertaking tax administrative measures and performing tax administrative actions. Its formal sources may be: laws, authentic interpretations, other acts of country bodies (bylaws), international treaties, case law

14 Marković, 2018, p. 503.

15 Article 96. paragraph 1 of the Constitution of the Republic of Serbia.

16 Official Gazette of RS, no. 80/02, 84/02—corrected, 23/03—corrected, 70/03, 55/04, 61/05, 85/05—another law, 62/06—another law, 63/06—corr. ano. of Law, 61/07, 20/09, 72/09—ano. law, 53/10, 101/11, 2/12—correction, 93/12, 47/13, 108/13, 68/14, 105/14. 91/2015—authentic interpretation, 112/2015, 15/2016, 108/2016, 30/2018, 95/2018, 86/2019 and 144/2020.

and legal science. In Serbia, a series of laws is applied that regulate certain issues in the field of public revenues and public expenditures, such as: the budget system law,¹⁷ tax procedure and tax administration law, individual income tax law,¹⁸ legal entities income tax law,¹⁹ property tax law,²⁰ value-added tax law,²¹ law on excise duties,²² law on tax on non-life insurance premiums,²³ law on taxes on the use, possession and carrying of goods,²⁴ law on one-time tax on extra income and extra property acquired by taking advantage of special benefits,²⁵ law on determining the origin of property and special tax,²⁶ the customs law,²⁷ customs tariff law,²⁸ law on contributions for mandatory social insurance,²⁹ law on republic administrative fees,³⁰ the court fees law,³¹ law on local self-government financing³² and others. In this way, the matter of

17 Official Gazette of RS, no. 54/09, 73/10, 101/10 101/11, 93/12, 62/13, 63/13—corr., 108/13, 142/14, 68/2015—ano. law, 103/2015, 99/2016, 113/2017, 95/2018, 31/2019, 72/2019 and 149/20.

18 Official Gazette of RS, no. 24/01, 80/02, 80/02—ano. law, 135/04, 62/06, 65/06—corr. 31/09, 44/09, 18/10 50/11, 91/11—US, 93/12, 114/12—US, 47 / 13, 48/13—correction, 108/13, 57/14, 68/14, 5/2015, 112/2015, 5/2016, 7/2017, 113/2017, 7/2018, 95/2018, 4 / 2019, 86/2019, 5/2020—adjusted dinar amount, 153/20 and 156/20 adjusted dinar amount.

19 Official Gazette of RS, no. 25/01, 80/02, 80/02—ano. law, 43/03, 84/04, 18/10, 101/11, 119/12, 47/13, 108/13, 68/14—ano. law, 142/14. 91/2015—authentic interpretation, 112/2015, 113/2017, 95/2018 and 86/2019 and 153/20

20 Official Gazette of RS, no. 26/01, 'Official Gazette of the FRY', No. 42/02—decision of the SUS and 'Official Gazette of the RS', No. 80/02, 80/02—ano. law, 135/04, 61/07, 5/09, 101/10, 24/11, 78/11, 57/12—US, 47/13, 68/14, 95/2018, 99/2018—US, 86/2019 and 144/20.

21 Official Gazette of RS, no. 84/04, 86/04—corrected, 61/05, 61/07 93/12, 108/13, 6/14, 68/14, 142/14, 5/2015, 83/2015, 5/2016, 108/2016, 7/2017, 113/2017, 13/2018, 30/2018, 4/2019, 72/2019, 8/2020.—harmonized dinar amount and 153 / 2.0

22 Official Gazette of RS, 22/01, 73/01, 80/02, 43/03, 72/03, 43/04, 55/04, 135/04, 46/05, 101/05—ano. law, 61/07, 5/09, 31/09, 101/10, 43/11, 101/11, 93/12, 119/12, 47/13, 68/14, 142/14, 4/2015, 5/2015, 55/2015, 103/2015, 5/2016, 108/2016, 7/2017, 18/2018, 30/2018, 4/2019, 5/2020, 7/2020, 78/2020 and 153 / 20.

23 Official Gazette of RS, no. 135/04, 68/14—ano. law.

24 Official Gazette of RS, no. 26/01, 80/02, 43/04, 31/09, 101/10, 24/11, 100/11—ano. regulation, 120/12—ano. regulation, 113/13—ano. regulation, 68/14—ano. law, 140/2014, 109/2015, 112/2015, 105/2016, 119/2017, 104/2018, 86/2019, 90/2019 and 156/20

25 Official Gazette of RS, no. 36/01 and 'Official Gazette of the FRY', No. 17/02—SUS decision.

26 Official Gazette of RS, no. 18/2020 and 18/21.

27 Official Gazette of RS, no. 95/2018, 91/2019 and 144/2020.

28 Official Gazette of RS, no. 62/05, 61/07 and 5/09, 95/2018 and 91/2019

29 Official Gazette of RS, no. 84/04, 61/05, 62/06, 5/09, 52/11, 101/11, 47/13, 108/13, 57/14, 68/14—ano. law, 5/2015, 112/2015, 5/2016, 7/2017, 113/2017, 7/2018, 95/2018, 4/2019, 86/2019, 5/2020 and 153/20.

30 Official Gazette of RS, no. 43/03, 51/03—corrected, 61/05, 101/05—ano. law, 5/09, 54/09, 35/10—ano. regulation, 50/11, 70/11—ano. regulation, 55/12—ano. regulation, 93/12, 47/13—ano. regulation, 65/13—ano. regulation, 57/14, 45/2015, 83/2015, 112/2015, 50/2016, 61/2017, 113/2017, 3/2018, 50/2018, 95/2018, 38/2019, 86/2019, 90/2019, 98/2020 and 144/2020.

31 Official Gazette of RS, no. 28/94, 53/95, 16/97, 34/01—ano. law, 9/02, 29/04, 61/05, 116/08, 31/09, 101/11, 93/12 and 93/14, 106/2015 and 95/2018.

32 Official Gazette of RS, no. 62/06, 47/11, 93/12, 99/13 and 125/14, 95/2015, 83/2016, 91/2016, 104/2016, 96/2017, 89/2018, 95/2018, 86 / 2019 and 126/2020.

financial law is largely regulated by law, although no codification of this branch of law has been performed.

Authentic interpretations of tax laws, given by the National Assembly of the Republic of Serbia, are a source of tax law. These interpretations are mandatory, which means that the tax authorities and other persons who apply a certain tax regulation for which an authentic interpretation has been given, must apply it in the sense in which the interpretation has been given.

The source of tax law can also be general acts of authorized county bodies. These acts are lower in rank than the law, so they are called bylaws. They must be in accordance with the law, because otherwise they could not be applied. The government issues: decrees, decisions, instructions, conclusions, and guidelines. Administrative bodies may pass a) external general legal acts and b) internal general acts. The general legal acts of administrative bodies include: rulebook, order, and instruction. Internal general acts appear in the form of instructions (professional instructions). It is often the case in practice that the ministry in charge of finance issues expert opinions on the application of tax regulations. To ensure a united implementation of regulations within the competence of the ministry responsible for finance, acts (explanations, opinions, instructions, instructions, etc.) on the application of these regulations issued by the minister responsible for finance, or a person authorized by him, are binding on the Tax Administration.³³

International treaties on the avoidance of double taxation, which can be bilateral or multilateral, also appear as sources of this right

5. Fiscal rules

Fiscal rules given in the Budget System Law³⁴ refer to the general level of the county and they can be: 1) general and 2) special. The General Fiscal Rules determine the target medium-term fiscal deficit, as well as the maximum debt to GDP ratio, to ensure the long-term sustainability of fiscal policy in the Republic.³⁵ The general fiscal rules are as follows: (a) the target annual fiscal deficit will amount to 1% of GDP in the medium term, and (b) general government debt, not including restitution obligations, must not exceed 45% of the GDP³⁶

Special fiscal rules determine the movement of salaries and pensions, as well as the manner of including public investments in the calculation of the fiscal deficit and public expenditures starting from 2011. Special fiscal rules ensure that the structure of public spending changes in the direction of reducing current expenditures and increasing public investment.³⁷ According to special fiscal rules, the participation of

33 See: Article 11 paragraph 3 of the Tax Procedure and Tax Administration Law.

34 See: Articles 27e, 27z and 27z of the Budget System Law.

35 Art. 27e, para. 1-2 of the Budget System Law.

36 Art. 27e, para. 4 of the Budget System Law.

37 Art. 27e, para. 3, 16-17 of the Budget System Law

general government salaries in GDP can be up to 7%, and the participation of pensions in GDP up to 11%. The increase of salaries and pensions can be done no more than twice a year, but so that the expected share of general government salaries, i.e., pensions in GDP after adjustment is not above the stated percentage.³⁸

The fiscal deficit of a local government can arise only because of public investments, provided that in a given year it cannot exceed 10% of its revenues in that year. If the local government exceeds the deficit limit in a certain year, without the approval of the Ministry, the minister suspends the transfer of transfer funds from the budget of the Republic of Serbia, i.e., the corresponding part of the salary tax and legal entities income tax in the next budget year.³⁹

It is not uncommon for legislation to provide that prescribed fiscal rules may be deviated from under certain circumstances. In Serbia, it is prescribed that the government can only exceptionally and temporarily deviate from the fiscal principles and rules established by law, in cases of natural disasters and external shocks that affect human health, national security and decline in economic activity.⁴⁰

Financial constitutionality:

Legal institutions, areas of regulation, and current regulatory issues

6. Serbia's modern tax system

6.1. Public revenues and income

According to the positive legislation of Serbia, public revenues are all revenues generated by mandatory payments of taxpayers, legal and natural persons who use a certain public good or public service, as well as all other revenues generated by users of budget funds and funds of mandatory social insurance organizations. Depending on whether they have an unchanged confirmation of the name, they can be purposeful and general.⁴¹

Public revenues and incomes in Serbia are introduced by law, i.e., by a decision of the local government assembly in accordance with the law.⁴² Their amount is determined by law, i.e., by an act of the amenable authority in accordance with the law. Serbia's public revenues include: (a) tax revenues, which include taxes and contributions for mandatory social insurance; (b) non-tax revenues—fees, charges,

38 Art. 27e, para. 28-29 of the Budget System Law

39 Art. 27z of the Budget System Law.

40 Ibid.

41 Article 2, paragraph 1, point 14 and 15 of the Budget System Law.

42 Article 13, paragraph 1 of the Budget System Law.

penalties, and revenues generated using public funds; (c) self-contribution; (d) donations, transfers, and financial assistance of the European Union.⁴³

The county collects tax revenues through mandatory payments of taxpayers without the obligation to perform a special service in return. Non-tax revenues are a type of public revenues charged to legal or natural persons for the use of public goods (fees), provision of certain public services (fees), due to violation of contractual or legal provisions (penalties), as well as revenues generated using public funds.⁴⁴

Transactions in the form of *transfers* are those transactions in which one unit provides another unit with goods, services, property, or work, without receiving any goods, services, property, or work in return. Taxes and contributions for mandatory social insurance are mandatory transfers, while subventions, donations, social assistance, etc. are voluntary transfers. A *donation* is a purposeful non-refundable income, which is realized based on a written contract between the donor and the recipient of the donation.

In Serbia, the law may introduce taxes on consumption, income, profit, property, and transfer of property of individuals and legal entities.⁴⁵

Country revenues are funds that the county generates by selling non-financial and financial assets⁴⁶ and by borrowing.⁴⁷

Incomes from the sale of *non-financial assets* are: 1) income from the sale of country-owned real estate and movable property; 2) income from the sale of real estate and movable property owned by the autonomous province and local self-government unit; 3) income from the sale of other fixed assets; 4) income from the sale of commodity reserves; 5) income from the sale of valuables; 6) income from the sale of natural assets and 7) other income determined by law. From *borrowing and sale of financial assets* incomes are: 1) income from borrowing on the domestic and foreign markets; 2) income from the sale of financial assets on the domestic and foreign markets; 3) other income determined by law.⁴⁸

6.2. Tax forms

6.2.1. Citizens' income tax

The citizens income tax in Serbia is regulated by the Citizens' Income Tax Law. This tax is paid, in accordance with the law, by individuals who earn income. The citizens income tax in the Republic of Serbia is paid on income from all sources, except those that are specifically exempted by law.

43 Article 14, paragraph 1 of the Budget System Law.

44 Article 2, paragraph 1, point 17 and 18 of the Budget System Law.

45 Article 15 of the Budget System Law.

46 Financial assets include cash, receivables, shares, and actions in the capital of legal entities, securities, and other investments in legal entities.

47 Article 2, paragraph 1, item 19 of the Budget System Law.

48 Article 20 and 21 of the Budget System Law.

Taxable income is the difference between the gross income earned by the taxpayer and the expenses incurred in their realization and preservation, in accordance with the law. *Income* is the sum of taxable income earned in a calendar year.⁴⁹

The taxpayer of citizens income tax is a **resident** of the Republic of Serbia, for income earned on the territory of Serbia and in another country. The taxpayer of the citizens income tax is also an individual who is a non-resident, for the income earned on the territory of Serbia.

Citizens' income tax is paid: after deduction from each individual income; based on the decision of the amendable tax authority and self-taxation. The following types of income are subject to this tax form: 1) salaries; 2) income from self-employment; 3) revenues from copyrights, rights related to copyright and industrial property rights; 4) income from capital; 5) real estate income; 6) capital gains and 7) other revenues. These revenues are taxed, whether they are generated in cash, in kind, by doing or otherwise.

6.2.1.1. Tax on wages

Wages are earned based on employment, defined by the law regulating employment, and other income of the employee (e.g., holiday pay). Wages are also considered agreed compensation and other income earned by performing temporary and occasional jobs, based on a contract concluded directly with the employer, as well as based on a contract concluded through a youth or student cooperative, except with a person under 26 years of age, in institutions of secondary and higher education. The taxpayer is an individual who earns a salary.⁵⁰ The basis of the wages tax is the paid, i.e., realized salary. Wages tax, for each taxpayer and for each individually paid income, the payer calculates, suspends, and pays into the prescribed accounts at the time of payment of income, in accordance with the regulations which are valid on the day of payment of income. The wages tax rate is 10%.⁵¹

6.2.1.2. Independent activity income tax

Independent activity income tax is taxed on income from economic activities, including activities from agriculture and forestry, by providing professional and other intellectual services (law, accounting, medical, auditing, etc.), as well as income from other activities, if he does not pay tax on that income on another basis.

Taxpayer of independent activity income tax is a natural person who earns income by performing the above activities.⁵²

The basis of the independent activity income tax is a taxable profit, and for a flat rate entrepreneur a lump sum determined income. *Taxable profit is determined in the tax balance by adjusting the profit stated in the profit and lost report, made in accordance*

49 Article 2 and 6 of the Citizens' Income Tax Law.

50 Article 15 of the Citizens' Income Tax Law.

51 Article 16 of the Citizens' Income Tax Law.

52 Article 32 of the Citizens' Income Tax Law.

with the regulations editing accounting for the taxpayer who is obliged to keep double-entry bookkeeping, or in accordance with the regulation of the minister of Finance, if the entrepreneur keeps simple bookkeeping. The tax rate on independent activity income is 10%.

6.2.1.3. Tax on copyright income, rights related to copyright and industrial property rights

Revenue from *copyright, rights related to copyright, industrial property rights* is considered to be the fee that the taxpayer achieves as an author, holder of related rights, or owner of industrial property rights.⁵³ The taxpayer of this tax is a natural person who, as an author, holder of related rights, i.e., owner of industrial property rights, achieves compensation based on copyright and related rights, i.e., industrial property rights. The taxpayer is also the heir of the property copyright and related rights and the rights of industrial property and any other natural person who achieves compensation on those bases.

The basis (taxable income) of this tax is the difference between gross income and expenses incurred by the taxpayer in the realization and preservation of income. These costs can be real and standardized. The tax rate on income from copyright and related rights and industrial property rights is 20%.⁵⁴

6.2.1.4. Capital gains tax

The subject of taxation of this tax is the income that an individual person realizes from capital. Capital income is considered to be: 1) interest based on loans, savings and other deposits (term or demand) and based on debt and similar securities; 2) dividend and profit sharing; 3) income from the investment unit of the open-end investment fund; 4) income based on ownership over the investment unit of the alternative investment fund, except for the transfer fee of that investment unit; 5) taking from the property and using the services of the company by the owners of the company for their private needs and personal consumption.

A taxpayer of capital income tax is a natural person who generates that income. The tax base on capital income is the monetary or non-monetary amount of realized income. If the income from capital is realized in non-monetary form, the value of those income is determined according to the market value of rights, goods, i.e., services on the day of realization of income.

The capital gains tax rate is 15%.

6.2.1.5. Real estate income tax

Real estate income is considered to be the income that the taxpayer realizes by leasing or subleasing real estate. Immovable property is: 1) land and 2) residential, business, and other buildings, apartments, business premises, garages and other (above-ground and underground) buildings, i.e., their parts. A taxpayer of real estate income tax is

53 Article 52 and 53 of the Citizens' Income Tax Law.

54 Article 55, 56, 57, and 58 of the Citizens' Income Tax Law.

a natural person who, by leasing or subleasing real estate, realizes income on that basis. An entrepreneur is not considered a taxpayer, except for a flat rate entrepreneur, who leases or subleases real estate within the scope of performing a registered independent activity.

Taxable income from real estate, including income from renting apartments and rooms for a period longer than 30 days, makes the gross income reduced by standard costs in the amount of 25%. Taxable income does not include income from the provision of accommodation services for a period of up to 30 days, which has tax treatment of income from the provision of catering services. The rate is 20%.⁵⁵

6.2.1.6. Capital gains tax

Capital gains tax is taxed on income earned by a natural person based on capital gains. Capital gain, according to the tax regulations of Serbia, is considered to be the difference between the sale price of rights, shares and securities and their purchase price, realized by sale or other transfer with monetary or non-monetary compensation: 1) real rights to real estate; 2) copyright, rights related to copyright and industrial property rights; 3) shares in the capital of legal entities, shares and other securities; 4) investment units, except for investment units of voluntary pension funds, purchased by an open-end investment fund, in accordance with the law governing open-end investment funds; 5) investment units of the alternative investment fund, in accordance with the law governing alternative investment funds; 6) digital assets.

The basis, i.e., the taxable income of this tax, constitutes a capital gain. For determining the capital gain, the *selling price* is the agreed price, i.e., the market price determined by the amendable tax authority if it assesses that the agreed price is lower than the market price. For the purpose of determining capital gain, the *purchase price* is considered to be the price at which the taxpayer acquired the right, share or security.

This tax also provides for tax exemption. Namely, taxpayers who invest the funds generated by the sale of real estate within *90 days* from the day of sale in resolving their housing issue and the housing issue of their family members, i.e., households, in the Republic, is exempt from capital gains tax. A taxpayer who does so within *12 months* from the day of the sale of the real estate, will be refunded the paid capital gains tax. The tax on capital gains is determined and paid according to the decision.

Capital gains tax is paid at a rate of 15%.⁵⁶

6.2.1.7. Tax on other income

Tax on other income is taxed: 1) income that the taxpayer earns by leasing equipment, means of transport and other movable property; 2) winnings from games of chance; 3) income from personal insurance; 4) income of athletes and sports experts; 5) revenues based on the provision of catering services; 6) other incomes, except those that are specifically exempt from taxation by the Citizens' Income Tax Law.

⁵⁵ Article 65a, 65b, 65v and 65g of the Citizens' Income Tax Law.

⁵⁶ Article 74, 75 and 77 of the Citizens' Income Tax Law.

6.2.1.8. Annual citizens income tax

The annual citizens income tax is taxed on a natural person who earned more than three times the average annual salary per employee paid in Serbia in a calendar year in the year for which the tax is determined, according to the data of the republic authority responsible for statistics, namely income residents realized on the territory of the Republic and in another country, and non-residents for income realized on the territory of the Republic.

Income taxed by this tax is the annual sum of: 1) earnings; 2) taxable income from self-employment; 3) taxable income from copyright and related rights and industrial property rights; 4) taxable income from real estate; 5) taxable income from leasing movable property; 6) taxable income of athletes and sports experts; 7) taxable income from the provision of catering services; 8) taxable other income; 9) income on previous bases, realized and taxed in another country—only for resident taxpayers.

Income earned and taxed in another country is reduced by the tax paid in another country.

The basis of the citizens income tax is taxable income, which is the difference between taxable income and *personal deductions* amounting to: 1) for the taxpayer—40% of the average annual salary per employee paid in Serbia in the year for which the tax is determined, according to data of the republic body responsible for statistics and 2) for a dependent family member—15% of the average annual salary per employee paid in Serbia in the year for which the tax is determined, according to the data of the republic body responsible for statistics, per family member.

The total amount of personal deductions cannot exceed 50% of taxable income. Annual personal income tax is paid at the following rates: up to six times the average annual salary—10%; for an amount higher than six times the average annual salary—10% for the amount up to six times the average annual salary—15% for the amount higher than six times the average annual salary.

The annual citizens income tax is paid according to the decision of the amenable tax authority within 15 days from the day of delivery of the decision on determining the tax.⁵⁷

6.2.2. Legal entities income tax

Legal entities income tax in Serbia is regulated by the Legal Entities Income Tax Law. The taxpayer of legal entities income tax according to the tax regulations of Serbia is a company, i.e., an enterprise, another legal entity established for the purpose of performing activities for the purpose of gaining profit. A taxpayer is also a cooperative⁵⁸ that generates income by selling products on the market or performing services

57 Article 87-89a, Article 92, Article 98, paragraph 1, item 3, Article 109, paragraph 13, Article 110 of the Citizens' Income Tax Law.

58 *Cooperatives* are a specific type of organization of natural persons, which by achieving the cooperative principles of voluntariness and solidarity, economic participation, equal right of management, independence, as well as cooperative organization achieve their economic, social and cultural goals.

for a fee. Another legal entity that is not established for the purpose of making a profit (nonprofit organization) if it generates income by selling products on the market or performing services for a fee is also designated as a taxpayer. A non-resident of Serbia is subject to taxation of the profit he makes by doing business through a permanent business unit located on the territory of Serbia.

The legal entities income tax base is the taxable profit determined in the tax balance.⁵⁹ The tax period for which income tax is calculated is the business year. The profit of legal entities in Serbia is taxed at a proportional and uniform rate, which is 15%. Corporate income taxpayers are provided with tax incentives to achieve economic policy goals. Tax incentives are given in the form of: 1) tax exemptions and 2) investment incentives.

6.2.3. Property taxes

Property taxes in Serbia are regulated by the Property Tax Law. Property taxes include: 1) property tax (in statics); 2) inheritance and gift tax and 3) tax on transfer of absolute rights.

6.2.3.1. Property tax (in statics)

Property tax is taxed on property in its static form. Property tax in statics in Serbia is paid on real estate located on the territory of the Republic of Serbia. The taxpayer of the property tax is a legal and natural person (who keeps or does not keep business books), an open-end investment fund, i.e., an alternative investment fund, which does not have the status of a legal entity and is entered in the appropriate register in accordance with the law real estate on the territory of the Republic of Serbia, the holder of rights that are subject to taxation, i.e., which is the user or holder of real estate, under the conditions prescribed by law.

The property tax base is determined differently, depending on whether or not the taxpayer keeps business books. The property tax base for real estate of a taxpayer *who does not keep business books* is the value of real estate determined by the body of the local self-government unit responsible for determining, collecting, and controlling the source revenues of the local self-government unit by applying the following elements: 1) usable area⁶⁰; 2) the average price per square metre of the corresponding real estate in the zone⁶¹ in which the real estate is located.

The property tax base for real estate of *a taxpayer who keeps business books* and whose value in the business books is stated according to the fair value method in

59 Article 6. Of the Entities Income Tax Law.

60 The usable area for the land is its total area, including the area under the building. Useful area for the building is the sum of floor areas between the inner sides of the perimeter walls of the building, and for a building that does not have a horizontal floor surface or perimeter walls, the useful surface is the area of its vertical projection on the ground.

61 Zones represent parts of the territory of a local self-government unit that the amendable body of a local self-government unit may determine separately for settlements according to the type of settlement.

accordance with International Accounting Standards (IAS), i.e., International Financial Reporting Standards (IFRS) and adopted accounting policies is stated at fair value. the day of the taxpayer's business year in the current year. The basis of the property tax of a taxpayer who does not state real estate in their business books according to the fair value method is the value of real estate, which is determined based on the same criteria as with taxpayers who do not keep business books.

Property tax rates are prescribed by the assembly of the local self-government unit, with the legislator limiting their maximum amounts. Property tax rates are as follows: (a) on the real estate of the taxpayer who keeps business books—up to 0.4%; (b) on land with a taxpayer who does not keep business book—up to 0.30%; (c) on the real estate of a taxpayer who does not keep business books, except on land:

On the tax base	Property tax rates
(1) Up to 10,000,000 dinars	Up to 0.40%
(2) From 10,000,000 to 25,000,000 dinars	Tax from sub-item (1) + up to 0.6% on the amount higher than 10.000.000 dinars
(3) From 25,000,000 to 50,000,000 dinars	Tax from sub-item (2) + up to 1.0% on the amount higher than 25.000.000 dinars
(4) Over 50,000,000 dinars	Tax from sub-item (3) + up to 2.0% on the amount higher than 50.000.000 dinars

In the event that the assembly of the local self-government unit does not determine the amount of the tax rate, or determines it over the maximum amount, the property tax will be determined by applying the highest legally prescribed rates.⁶²

6.2.3.2. Inheritance and gift tax

Property can be transferred between people free of charge (*inter vivos*), as well as with death (*mortis causa*). Among living people, property is transferred free of charge as a gift, while with death it is transferred by inheritance.

Inheritance and gift tax in Serbia is paid on: 1) rights to real estate that heirs inherit, i.e., gift recipients receive as a gift; 2) inherited, i.e., cash received as a gift, savings deposits, bank deposits, monetary claims, digital property, intellectual property rights, property rights on a used motor vehicle, used vessel, i.e., used aircraft⁶³ and other movables; 3) transfer without compensation of the property of a legal entity, which is subject to taxation with inheritance and gift tax.

62 Article 11 of the Property Tax Law.

63 A used motor vehicle, used vessel, or used aircraft is a motor vehicle that has been registered in the territory of the Republic of Serbia at least once, starting from its production or last import, i.e., vessel or aircraft that is in the territory of the Republic of Serbia at least once, starting from its production or the last import, was entered in the prescribed register, i.e., register or records in accordance with the regulations.

The taxpayer of inheritance and gift tax is a resident and non-resident of the Republic of Serbia, i.e., an open-end investment fund, i.e., an alternative investment fund, which does not have the status of a legal entity and is entered in the appropriate register in accordance with the law, who inherits or receives rights as a gift the rights to real estate located on the territory of the Republic of Serbia. A donor who has undertaken to pay a gift tax under a contract guarantees jointly and severally for the payment of that tax.⁶⁴

The inheritance tax base is the market value of the inherited property, reduced by the amount of debts, costs and other burdens that the taxpayer is obliged to pay or otherwise settle from the inherited property on the day the tax liability arises. The tax base for the gift is the market value of the property received as a gift on the day of the tax obligation, which is determined by the amendable tax authority.⁶⁵

Inheritance and gift tax rates are proportional. That is, the inheritance and gift tax is paid by taxpayers who, in relation to the testator, i.e., the donor, are in (a) the second hereditary order according to the legal order of inheritance—at the rate of 1.5%; (b) to the third and further hereditary order, i.e., taxpayers who are not related to the testator, i.e., the donor—at the rate of 2.5%⁶⁶

6.2.3.3. Absolute rights transfer tax

The tax on the transfer of absolute rights in Serbia is paid in the case of transfer with compensation: 1) property rights to real estate; 2) intellectual property rights; 3) ownership rights on the used motor vehicle—except for the moped, motor cultivator, tractor and working machine, ownership rights on the used vessel, i.e., ownership rights on the used self-propelled aircraft—except the country one; 4) rights to use construction land.

Taxpayers of absolute rights transfer tax are: 1) *the seller, i.e., the transferor* of property rights on real estate, intellectual property rights and property rights on the used motor vehicle, vessel and aircraft; 2) *a person to whom the land is given for use, i.e., lease*; 3) *provider of support*, when the absolute right is transferred based on a contract on lifetime support; 4) *a person to whom an absolute right is transferred*—in the case of: (1) earning of property rights and other stated rights based on a final court decision or other act of a country or amendable body with public authority; (2) the acquisition of property rights by maintenance; (3) transfer with compensation of the entire property of the legal entity; (4) sale of the bankruptcy debtor as a legal entity—if the buyer has not assumed the obligations of the legal entity he bought, or has assumed only a part of those obligations.

The tax base for the transfer of absolute rights is: 1) *the agreed price* at the time of the tax obligation, if it is not lower than the market value; 2) *the market value* of the rights being transferred.⁶⁷

64 Article 15, 22. and 42. of the Property Tax Law.

65 Article 16 of the Property Tax Law.

66 Article 18 of the Property Tax Law.

67 Article 27 of the Property Tax Law.

The absolute rights transfer tax is paid at the rate of 2.5%.⁶⁸

6.2.4. Value added tax

Value Added Tax is defined in the Law as a general consumption tax that is calculated and paid on the delivery of goods and provision of services, at all stages of production and trade of goods and services, as well as on imports of goods, unless otherwise provided by law. The *principle of destination* has been accepted, which implies taxation of trade in goods and services according to the place of consumption.

A taxpayer is a person, including a person who does not have a place or residence (foreign person) in the republic, who independently performs trade in goods and services, within the scope of performing activities.

The tax base for the supply of goods and services is the amount of compensation (in money, goods or services) that the taxpayer receives or should receive for delivered goods or services, from the recipient of goods or services or a third party, including subsidies and other income (subsidies),⁶⁹ which does not include VAT, unless otherwise provided by law.

There are two types of VAT rates: 1) *general* of 20%, and 2) *special* of 10%. The tax rate is applied to the base in which VAT is not included. The general rate is taxed on the supply of goods and services, as well as the import of goods in all cases in which the application of a lower tax rate is not envisaged or no tax exemption is predicted.

Bearing in mind that the 'standard' VAT taxation procedure is complex and expensive, special taxation procedures are prescribed.⁷⁰ A special taxation procedure is prescribed for: 1) small taxpayers; 2) farmers; 3) travel agencies and 4) second-hand goods, works of art, collectibles, and antiques.

Execution of the Value Added Tax Law on the Territory of the Autonomous Province of Kosovo and Metohija during the validity of UN Security Council Resolution 1244 was regulated by the Decree on Execution of the Value Added Tax Law on the Territorial Province of Kosovo and Metohija during the Council Resolution UN Security Council No. 1244.

6.2.5. Excise

In Serbia, the following products are taxed with excise: 1) oil derivatives; 2) biofuels and bioliquids; 3) tobacco products, including tobacco products that are heated but not burned during use; 4) alcoholic beverages; 5) coffee; 6) liquids for filling electronic cigarettes; 7) electricity for final consumption.

Excise duty arises when excise products are: manufactured in Serbia or imported into Serbia. Excise taxpayer is a person who calculates and pays excise duty prescribed

68 Article 30 of the Property Tax Law.

69 Subsidies are funds that make up the fee, i.e., part of the fee for the supply of goods or services, except for funds in the name of incentives in the function of achieving the objectives of a particular policy in accordance with the law.

70 Popović, 2010, p. 501.

by law. The excise taxpayer is the producer,⁷¹ i.e., importer⁷² of excise products, as well as:

- a legal entity authorized by the country body for the sale of confiscated excise products;
- buyer of excise products seized in the control procedure, i.e., in the procedure of forced collection, and sold by a country body;
- any person who sells excise products that have been acquired in accordance with the law and which are kept in the business books of that person;
- any person who places on the market in the Republic of Serbia excise products contrary to the provisions of the Law on Excise Duties.

The basis for the calculation of excise duty, as a rule, is a unit of measure. However, some excises in the Serbian tax system are *ad valorem*.

The excise taxpayer is obliged to calculate the excise tax as soon as the excise products are placed on the market. The obligation to calculate excise duty *on import* of excise products arises on the day the obligation to calculate import duties arises.

6.2.6. Tax on non-life insurance premiums

The tax on non-life insurance premiums is regulated by the Tax on Non-Life Insurance Premiums Law. This tax is used to tax insurance premiums earned by concluding and executing contracts on non-life insurance business in Serbia. The obligation to calculate the tax on insurance premiums arises at the time of concluding the insurance contract.

Taxpayer of insurance premium is an insurance company that concludes contracts on non-life insurance business and collects insurance premiums, directly or indirectly—through intermediaries or agents. The tax base for calculating the tax on insurance premiums is the amount of the total insurance premium determined by the insurance contract. This tax is paid at the rate of five%.

6.2.7. Taxes on the use, possession and carrying of goods

Taxes on the use, possession and carrying of goods are regulated by the Law on Taxes on the Use, Holding and Carrying of Goods. Taxes on the use, possession and carrying of goods are: 1) tax on the use of motor vehicles; 2) tax on the use of the vessel; 3) tax on the use of aircraft and 4) tax on registered weapons. This tax form belongs to the group of specific taxes, so the rates are expressed in absolute amounts.

Tax on the use of motor vehicles is paid when issuing a traffic license, i.e., registration sticker (hereinafter: registration), except for temporary registration for a period

71 The producer of excise products is a person who makes, processes, processes, finishes, etc. in the production plant, products subject to excise duty, including a person who performs processing, roasting, packaging, as well as other related activities performed for the purpose of coffee production.

72 An importer of excise products is a person who imports in their own name and for their own account, i.e., a person for whose account products on which excise duty is paid are imported.

of less than one year, for motor vehicles, which are performed in accordance with regulations which regulate traffic safety on the roads, namely: passenger vehicles, motorcycles, motorcycles with a side seat and heavy tricycles. The taxpayer of the tax on the use of motor vehicles is a legal or natural person in whose name the motor vehicle is registered, unless otherwise provided by law.

The tax base for the use of motor vehicles is the working volume of the motor vehicle engine. The tax on the use of motor vehicles belongs to the group of specific taxes, so the rates are expressed in absolute amounts.

Tax on the use of the vessel is paid on: 1) boats; 2) ships and yachts, motor-powered, as well as 3) floating facilities—catering facilities. The taxpayer of the tax on the use of a vessel is a legal and natural person in whose name the vessel is entered in the appropriate register, i.e., extends the validity of the ship's certificate, i.e., navigation license, or floating license in accordance with regulations, unless otherwise provided by law.

The tax base for the use of the vessel is: 1) for boats—the length of the vessel expressed in metres, engine power expressed in kW, as well as the fact whether the vessel has or does not have a cabin; 2) for ships and yachts—engine power expressed in kW; 3) for floating facilities—catering facilities—area expressed in square metres.

Tax on the use of aircraft is paid on civil motor aircraft, when they are used for their own transport, i.e., for sport and amateur flying. The taxpayer of the aircraft use tax is a legal and natural person in whose name the aircraft is entered in the register, i.e., to whom the validity of the airworthiness review certificate is extended, in accordance with the regulations governing air traffic, unless otherwise prescribed by law. The base for the tax on the use of aircraft is the number of aircraft seats.

The tax on registered weapons shall be paid for each calendar year on registered weapons, as follows: 1) automatic rifle; 2) semi-automatic rifle; 3) category B personal security weapons.

The taxpayer of the registered weapons tax is the person to whom the document for holding, i.e., the document for holding and carrying, i.e., the document for carrying a weapon reads. The tax base on registered weapons is a piece of weapon for which an approval is issued, i.e., a weapon certificate, i.e., a permit to hold, i.e., to hold and carry.

6.2.8. *Special tax on illegally acquired property*

To improve the efficiency of the tax system and prevent abuses, which result in the possession of property that cannot be justified by the legal income of individuals, or to enable property acquired through corrupt activities to be subject to a special tax regime, the Law on Determining the Origin of Property and a special tax was adopted.

The Tax Administration Unit initiates the control procedure, in the manner prescribed by the law governing the tax procedure and tax administration, if in the previous procedure it makes it probable that in a maximum of three consecutive calendar years, in which a natural person has an increase in assets, there is a difference

between persons in excess of 150,000 euros. The basis of the special tax is determined in the value of illegally acquired property, which is the sum of the revalued value of the determined illegally acquired property for each calendar year that was the subject of control.

The Tax Administration Unit determines a special tax for the entire control period, by applying a special tax rate of 75% to the tax base.⁷³

6.2.9. Customs

Customs duties are calculated and charged on goods imported into the customs territory of the Republic of Serbia. Goods can be brought into the customs area *through border crossings* at the time when they are open for traffic.

A customs debt is an obligation of a person to pay the amount of import or export duties on certain goods, in accordance with customs regulations, and a customs debtor is any person responsible for a customs debt.⁷⁴

The customs base consists of the customs value of goods. The customs value of goods is the transaction value, i.e., the price actually paid or the price to be paid for the goods when they are sold for export to the Republic of Serbia, adjusted, if necessary. Customs are calculated and charged on goods imported into the customs territory of the Republic of Serbia by applying the customs rate determined in column 4 of the Customs Tariff, on the customs value of goods (*ad valorem* method). The rates provided for in the Customs Tariff shall apply to goods originating in countries to which *the greatest privileged* clause applies or which apply that clause to goods originating in Serbia. Imports of goods originating from countries with which Serbia has concluded free trade agreements are subject to the duty rates provided for in those agreements. The rates provided for in the Customs Tariff, increased by 70%, are applied to goods from other countries.

6.2.10. Contributions

Mandatory social security contributions in Serbia are regulated by the Law on Mandatory Social Insurance Contributions. There are the following contributions in Serbia: (a) *for pension and disability insurance*, where they include: (1) contribution for mandatory pension and disability insurance; (2) an additional contribution for the length of insurance calculated with an increased duration in accordance with the law; (3) contribution with disability and bodily injury based on injury at work and occupational disease in cases determined by law; (b) *for health insurance*, where they include: (1) contribution for compulsory health insurance and (2) contribution with injury at work and occupational disease in cases determined by law; (c) *for unemployment insurance*—contribution for compulsory unemployment insurance.

73 Article 2, paragraph 1, item 4, Article 3, 10, 13, 14, 15 and 16 of the Law on Determining the Origin of Property and Special Tax.

74 Article 4, paragraph 1, items 18 and 19 of the Customs Law.

Contributions are paid: (1) from the base and (2) to the base. *The contribution from the base* is the amount of the contribution that is calculated, suspended and paid by the employer, i.e., another payer of income on behalf and for the benefit of the insured. *The contribution to the base* is the amount of the contribution calculated and paid by the employer, i.e., another payer of income in his own name, and in favour of the insured or the insured who pays the contribution for himself.⁷⁵

The basis of contributions, depending on the category of taxpayers, i.e., income, can be: for employees and employers is salary; for posted workers, the amount of salary that they would, in accordance with the law, general act and employment contract, earn in the Republic on the same or similar jobs⁷⁶; for persons performing temporary and occasional work, as well as for employers, compensation has been agreed on that basis⁷⁷; for elected, appointed and appointed persons who, in addition to the salary with the employer when they are employed, also realize the difference in salary, that difference is the salary, i.e., earnings⁷⁸; for payers of pensions and disability benefits is the amount of pension, i.e., benefits⁷⁹ and the like.

The rates at which contributions are calculated and paid are (a) for mandatory pension and disability insurance—25.5%; (b) for compulsory health insurance—10.3%, and (c) for unemployment insurance—0.75%.

6.2.11. Taxes

In Serbia, the following fees may be introduced by law: 1) administrative; 2) court; 3) utilities; 4) registration, and 5) residence.

6.2.11.1. Administrative taxes

If the criterion of differentiation is the level of government that introduces the tax, i.e., to which the collected revenues belong, the administrative taxes are divided into: a) republic administrative taxes and b) local administrative fees.

Republic administrative fees are regulated by the Law on Republic Administrative Fees. These fees are paid for files and actions in administrative matters, as well as for other files and actions with the country body. An integral part of the Law on Republic Administrative Fees is the Tariff of Republic Administrative Fees, which contains Section A and Section B. Section A of the Tariff prescribes fees to be paid for documents and actions of bodies in the Republic of Serbia, and Section B prescribes consular fees. *Consular fees* are fees paid for files and actions of diplomatic and consular missions of the Republic of Serbia.⁸⁰

75 Article 3 and Article 6, paragraph 1, items 25 and 26. Law on Contributions for Mandatory Social Insurance.

76 Article 14 of the Law on Contributions for Mandatory Social Insurance.

77 Article 16 of the Law on Contributions for Mandatory Social Insurance.

78 Article 17 of the Law on Contributions for Mandatory Social Insurance.

79 Article 20: Law on Contributions for Mandatory Social Insurance.

80 Article 1a. paragraph 1, items 3. and Article 2. Law on Republic Administrative Fees.

The taxpayer is a person who addresses the body with a request⁸¹ to initiate an administrative or other procedure with the body, or a person in whose favour the file is issued, i.e., an action is performed with the body. If there are several taxpayers for the prescribed fee, their obligation is solidary.⁸²

The base for calculating the fee is the value of the case indicated in the request initiating the procedure. If the value of the case is not indicated in the request or a value less than the actual value is indicated, the value of the case shall be determined by a decision of the body conducting the procedure.

The fee is paid at the time of the tax liability, unless otherwise provided by law. The fee is paid in cash. Fees for documents and actions of bodies in Serbia are paid in *dinars* in the amounts prescribed by the Tariff, i.e., the amounts harmonized in accordance with the law.

Local administrative fees are regulated by the Law on Financing of Local Self-government. The Assembly of a local self-government unit may introduce local administrative fees for files and actions in administrative matters, as well as for other documents and actions issued by the bodies of the local self-government unit, i.e., performed within the scope of their original competence. The unit of local self-government may not introduce a local administrative fee for documents and actions within the competence of the body for which the law regulating the republic administrative fees prescribes the payment of the republic administrative fees.

6.2.11.2. Court fees

Court fees are regulated by the Law on Court Fees, of which the Tax Tariff is an integral part. They are paid in court proceedings.

The person liable for the court fee is the person on whose proposal or in whose interest the actions in the court procedure are taken. The fee shall be paid no later than eight days from the day of the occurrence of the tax obligation, unless otherwise provided by law. The fee is paid in court tax stamps or in cash.

6.2.11.3. Local utility fees

Local utility taxes are regulated by the Law on Financing Local Self-government. The assembly of the local self-government unit may introduce local communal fees for the use of rights, objects and services. No special fee may be introduced for the use of these rights, items and services. The payer of the local utility tax is the user of rights, objects and services for the use of which the payment of the local utility fee is prescribed. The tax obligation lasts as long as the use of the right, object or service lasts.

81 The request means a proposal, application, request, and other submission, including submissions submitted on the form, i.e., a statement sent to the body, as well as an oral address to the body, which initiates the procedure with the body. See: Article 1a. paragraph 1, item 1. Law on Republic Administrative Fees.

82 Article 3: Law on Republic Administrative Fees.

6.2.11.4. Residence tax

The Law on Financing of Local Self-government stipulates that the act of assembly of the local self-government unit introduces a residence tax, in accordance with the law governing the field of tourism. The income from the residence tax represents the income of the local self-government unit on whose territory it was collected.⁸³

6.2.12. Fees

The Budget System Law treats fees as non-tax revenues, together with fees, penalties and revenues arising from the use of public funds. From 2018, fees for the use of public goods can be introduced only by the Law on Fees for the Use of Public Goods.

The Law on Fees for the Use of Public Goods provides for the following types of fees: fees for geological research; fees for the use of resources and reserves of mineral resources; fees for the use of energy and energy products; fee for changing the purpose of agricultural land; fees for change of purpose and use of forests and forest land; fee for the use of game-protected game species; water fees; fees for environmental protection; fees for navigation and use of ports, piers, and navigation safety facilities on the country waterway; fees for the use of public roads; fees for the use of public railway infrastructure; fee for the use of public space; fee for the use of natural healing factor; fee for the use of tourist space; fees for electronic communications⁸⁴

The obligor to pay the fee for the use of a public good is a legal entity, entrepreneur or natural person who uses the public good. The basis for determining the fee for the use of a public good is the unit of measure (e.g., the amount of river sediment extracted expressed in cubic metres in the fee for extracted river sediment), the value of the good used (e.g., in the fee for changing the purpose of forests and forest land), or income generated (e.g., with compensation for the use of resources and reserves of mineral resources).

6.2.13. Self-contribution and other public revenues

Self-contribution in Serbia has a long tradition. He is a local public revenue. Unlike taxes and other fiscal revenues, self-contribution is introduced by the expressed will of citizens, future taxpayers. It is regulated by the Law on Financing of Local Self-government. The decision on the introduction of self-contribution is made by the citizens by referendum, in accordance with the regulations governing the procedure of direct declaration of citizens, unless otherwise provided by law.

The obligor for self-contribution is a natural person who has the right to vote and reside in the area where the funds are collected, as well as a natural person who does not have a residence in the area where the funds are collected, if he has real estate in that area.

83 Article 19 of the Law on Financing of Local Self-government.

84 See: Article 4 of the Law on Fees for the Use of Public Goods, Official Gazette of RS, no. 95/18, 49/19.

The basis of self-contribution is regulated by a decision. The self-contribution rate is proportional and is determined by decision.

Other public revenues are interest income; revenues from leasing, i.e., the use of real estate and movable property in country ownership; revenues from leasing, i.e., the use of real estate and movable property owned by the autonomous province and local self-government units; revenues generated from the sale of services of users of public funds whose provision has been contracted with natural and legal entities based on their free will; income from fines imposed in criminal, misdemeanour and other proceedings conducted before a country body and confiscated property gain in that procedure; revenues from fines imposed in misdemeanour proceedings for misdemeanours prescribed by an act of the local government assembly and confiscated property gain in those proceedings; concession fee; and donations, transfers, and financial assistance of the European Union.⁸⁵

7. Legal regulation of the application of tax laws—tax procedure

7.1. Legal rules of application of the tax procedure

The rights and obligations of natural and legal entities in connection with certain tax-law relations and tax-law situations are regulated by tax substantive legal norms, i.e., tax substantive legal regulations. Substantive legal regulations contain abstract legal rules, which should be applied in reality, for which it is necessary to apply tax substantive legal norms to certain cases and for certain natural or legal entities. For the correct application of substantive tax legal regulations to specific cases, legal rules are adopted which must be observed by tax authorities and natural and legal entities when applying tax laws and other tax substantive legal regulations to specific cases. These legal rules are called tax procedure or tax procedural rules.

In the Republic of Serbia, the tax procedure is regulated by the Law on Tax Procedure and Tax Administration. The Law on Tax Procedure and Tax Administration applies to all public revenues collected by the Tax Administration, unless otherwise regulated by another tax law. If the Law on Tax Procedure and Tax Administration does not regulate any issue in the field of tax procedure, the tax procedure is conducted according to the principles and in accordance with the provisions of the Law on General Administrative Procedure. This means that the Law on General Administrative Procedure serves as a subsidiary (supplementary) law in the application of the Law on Tax Procedure and Tax Administration.

The peculiarity of the tax procedure in relation to the general administrative procedure is reflected in the fact that the practical goal of the tax relationship—to provide the country with sufficient income necessary to perform its functions—is achieved through the obligation to pay taxes.

85 Article 14 of the Budget System Law.

7.2. Participants in the tax procedure

In the tax procedure, certain subjects appear, whose participation is necessary to accomplish the task of this procedure, i.e., lighting and solutions to tax matters. Starting from the role of participants in the tax procedure, they can be divided into: 1) main, i.e., obligatory participants in the tax procedure; 2) special participant and 3) possible participants.

The main, i.e., obligatory participants are the holders of basic activities in the tax procedure. The following appear as obligatory participants in the tax procedure: (1) the tax authority, which is authorized to conduct the tax procedure, and (2) the tax debtors—as the parties in respect of which the tax procedure is conducted. The tax procedure is authorized to be conducted by the Tax Administration and the competent bodies of local self-government units. The public prosecutor may appear as a special participant in the tax procedure, because by his participation in the procedure he does not protect and exercise his rights or interests, but represents the general interests. Thus, for example, a public prosecutor may request a retrial.

Possible participants in the tax procedure may be (1) witnesses, (2) experts, and (3) interpreters.

7.3. The content of the tax procedure

7.3.1. Tax determinations

Determining the tax is the activity of the tax authority, i.e., the tax debtor, which consists in issuing tax administrative acts, i.e., in undertaking legally prescribed actions, which establish the existence of an individual tax liability and determine the taxpayer, tax base and amount of tax liability. Determining public revenues is performed by: the tax debtor himself (so-called self-taxation); the tax authority (Tax Administration and the responsible authority of the local self-government unit), by issuing a tax decision; Customs Administration—in the customs procedure determines the value added tax and excises when importing goods, and organization for obligatory social insurance—determines contributions in certain cases.

7.3.2. Concept and types of tax collection

Tax collection is the most common way of repaying the tax debt, which consists of taking a certain, as a rule, amount of money from the tax debtor, to settle the tax claim. Collection of taxes and ancillary taxes can be: 1) regular or 2) forced. Regular collection is made on the maturity of the tax obligation, and is carried out by the tax debtor paying into the appropriate payment account of public revenues a sum of money corresponding to the amount of the due tax debt.

Compulsory collection is undertaken in accordance with the law, when the due tax obligation is not settled by the expiration of the prescribed period.

7.3.3. *Tax control*

The tax authority, in accordance with the law, performs tax control to determine violations of the law and irregularities in the application of regulations. In the tax control, the complete statement, correctness, accuracy and timeliness of calculation and payment of taxes by types are checked, depending on the subject of control, which is determined in the control order. If irregularities are found in the tax control or omissions in the execution of obligations from the tax law relationship, the tax debtor is ordered to eliminate them, which is a corrective function of tax control. The repressive function of tax control is reflected in the detection of tax crimes and misdemeanours, as well as in the taking of appropriate measures in relation to detected tax offences.

8. Conclusion

To have a more complete view of the tax system of a country, it is necessary to establish how, observed throughout history, the issue of certain forms of public revenues has been regulated. In terms of sources of income, it can be said that they have always been the same, but not equally represented. From the aspect of Serbia, the process of building the tax system began with the establishment of the country of Serbia. As the Serbian country grew and developed, so did its tax system. In the period after the end of the First World War, in 1918, the Kingdom of Serbs, Croats and Slovenes was formed, and five tax systems were applied at the same time in the new country: Serbian, Montenegrin, Austrian, Hungarian, and Turkish, which lasted until 1928. year, when the unification of the tax system of the former Yugoslavia. After the end of the Second World War, the tax system consisted of two parts: the part based on which the obligations of country-owned companies were determined and the part based on which the obligations of citizens and cooperatives were determined. In practice, there were nine tax systems, because in addition to the Federation, each of the six republics and two autonomous provinces pursued its own tax policy.

After the year 2000, a great, in many ways historical, process of the disappearance of the old and the birth of the new system began. As a sovereign country within a single and indivisible territory, the Republic of Serbia, in the tax area, has no restrictions on the scope of its tax jurisdiction.

From the mentioned aspect, many important laws have been passed from various areas of social life in Serbia, including tax legislation. The constitution regulates the subjective financial law of the country, i.e., the right to introduce and collect taxes and prescribe the duty of natural and legal entities to act in accordance with tax regulations.

The given fiscal rules in the Law on Budget System refer to the general level of the country. The General Fiscal Rules determine the target medium-term fiscal deficit, as well as the maximum debt-to-GDP ratio, to ensure the long-term sustainability of fiscal policy in the Republic. Special fiscal rules determine the movement of salaries

and pensions, as well as the manner of including public investments when calculating the fiscal deficit and public expenditures.

According to the positive legislation of Serbia, public revenues are all revenues generated by mandatory payments of taxpayers, legal and natural persons who use a certain public good or public service, as well as all other revenues generated by users of budget funds and funds for mandatory social insurance organizations. Public revenues and incomes in Serbia are introduced by law, i.e., by a decision of the local government assembly in accordance with the law. Their amount is determined by law, i.e., by an act of the competent authority in accordance with the law. Public revenues of Serbia include: 1) tax revenues, which include *taxes* determined by law: (1) value added tax; (2) excise duties; (3) personal income tax; (4) corporate income tax; (5) tax on the use, possession and carrying of certain goods; (6) taxes on international trade and transactions and *contributions for mandatory social insurance*; 2) non-tax revenues—fees, charges, penalties and revenues generated by the use of public funds; 3) self-contribution; 4) donations, transfers and financial assistance from the European Union.

The rights and obligations of natural and legal entities in connection with certain tax relations and tax situations are regulated by tax substantive legal norms, i.e., tax substantive legal regulations. These legal rules are called tax procedure or tax procedural rules. Its subject is resolving tax matters, as types of administrative matters. Under the tax item is meant an individual item, i.e., a case that is resolved by applying tax substantive legal regulations to a specific case. The tax procedure includes the determination, collection and control of all public revenues collected by the tax authorities.

Determining the tax is the activity of the tax authority, i.e., the tax debtor, which consists in undertaking the legally prescribed actions, which establish the existence of an individual tax liability and determine the taxpayer, the tax base, and the amount of the tax liability. The determination of public revenues is performed by: 1) the tax debtor himself (so-called self-taxation); 2) the tax authority (Tax Administration and the competent authority of the local self-government unit), by issuing a tax decision; 3) Customs Administration—in the customs procedure determines the value added tax and excise duties on the import of goods and 4) the organization for compulsory social insurance—determines the contributions in certain cases. Tax collection is the most common way of repaying the tax debt, which consists of taking a certain, as a rule, amount of money from the tax debtor, to settle the tax claim. Taxes and ancillary taxes are due for payment within the period prescribed by law. At the end of the due date, the tax debtor falls into debt arrears, from when the deadlines for: 1) calculation of interest begin to run; 2) sending a tax reminder; 3) the beginning of the procedure of forced collection of the tax debt and 4) the adoption of a decision on the establishment of a pledge (in certain cases). The tax authority, in accordance with the law, performs tax control to determine violations of the law and irregularities in the application of regulations. In the tax control, the complete statement, correctness, accuracy and timeliness of calculation and payment of taxes by types are checked, depending on the subject of control, which is determined in the control order.

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