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## Online conferences, seminars and different workshops – comment on the opinion issued by the Tax Office where some of the relevant provisions of VAT regulations have not been taken into account so acting according to that opinion can – in some cases – result in incorrect VAT treatment

The Tax Office's opinion (class number: 410-19/20-02/249, reference number: 513-07-21-01/20-2, dated 22.12.2020.) considers the VAT treatment of virtual/online conferences, seminars and different workshops. The opinion states that electronically supplied services in the context of the VAT Act includes also **distance teaching** as prescribed by Article 26 paragraph 7 of the VAT Act. The Tax Office concludes – **we are of the opinion that online conferences, seminars and different workshops are deemed as distance teaching, that is electronically supplied services as stated in Article 26 paragraph 7 of the VAT Act.**

However, based on the content of the opinion it is visible that **the opinion was issued without taking into account the provisions of the EU Implementing Regulation 2011/282** (which is a regulation directly applicable in Croatia) and this includes especially the following as prescribed by Article 7 of the EU Implementing Regulation 2011/282:

- "Electronically supplied services", according to the Implementing regulation, are services supplied over the Internet or an electronic network and which are impossible to ensure in the absence of information technology, but **only such services the nature of which renders their supply essentially automated and involves minimal human intervention;**
- However, "electronically supplied services", according to the Implementing Regulation, **shall not cover:**
  - ♦ teaching services, where the course content is only delivered by a teacher over the Internet or an

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## Online konferencije, seminari i razne radionice – osvrt na mišljenje koje je nedavno izdala Porezna uprava pri čemu u obzir nisu uzete neke od relevantnih odredbi PDV propisa te postupanje po tom mišljenju može – u nekim slučajevima – dovesti do pogrešnog PDV tretmana

Mišljenje PU (broj klase: 410-19/20-02/249, urudžbeni broj: 513-07-21-01/20-2, od 22.12.2020.) razmatra PDV tretman virtualnih/online konferencija, seminara i raznih radionica. U tom mišljenju se navodi da se elektronički obavljenim uslugama u smislu Zakona o PDV-u smatra i **učenje na daljinu** što je propisano člankom 26. stavkom 7. Zakona o PDV-u. PU zaključuje - **mišljenja smo da se online konferencije, seminari i razne radionice smatraju učenjem na daljinu, odnosno elektronički obavljenim uslugama u smislu članka 26. stavka 7. Zakona o PDV-u.**

Međutim, iz sadržaja ovog mišljenja je vidljivo da su prilikom njegovog izdavanja **zanemarene odredbe EU Provedbene uredbe 2011/282** (koja je propis koji se izravno primjenjuje u Hrvatskoj) a to posebno uključuje sljedeće kako je propisano člankom 7. EU Provedbene uredbe 2011/282:

- „Elektronički isporučene usluge”, sukladno Provedbenoj uredbi, jesu one usluge koje su dostavljene putem interneta ili putem elektroničke mreže te koje u odsutnosti informacijske tehnologije ne bi mogle opstati, ali **samo one a čija priroda omogućava da se u velikoj mjeri obavljaju automatizirano i s minimalnim čovjekovim sudjelovanjem;**
- Međutim, "elektronički isporučene usluge", sukladno Provedbenoj uredbi, **ne obuhvaćaju sljedeće:**
  - ♦ usluge podučavanja u slučaju kad se sadržaj poduke od strane predavača samo prenosi putem

- ♦ electronic network;
- ♦ teaching services purely involving correspondence courses, such as postal courses;

Consequently, based on the above stated provisions it is clear that some forms of distance teaching should be deemed as electronically supplied service, but this is not applicable to all forms of distance teaching, and especially not in case of those where a content is only transferred over the Internet (“online”) and it is not essentially automated, but substantially depends on human participation (e.g. especially in cases where there is a direct interaction between a teacher and a participant).

**That is why the application of the above mentioned opinion of the Tax Office to all forms of distance teaching may lead to incorrect VAT treatment which is not in line with the provisions of the EU Implementing Regulation 2011/282. Taking this into account, it would be good if the Tax Office notices the outlined limitations of the opinion which was recently issued by the Tax Office and issues amendment or correction of that opinion in order to prevent situations in which taxpayers would simply apply that opinion and based on that opinion act in a way which – at least for some forms of on line education – would not be in line with VAT regulations.**

- ♦ interneta ili elektroničke pošte;
- ♦ usluge podučavanja koje uključuju učenje na daljinu, kao što su tečajevi putem pošte;

Prema tome, iz navedenih odredbi propisa sasvim jasno proizlazi da iako se određeni oblici učenja na daljinu trebaju smatrati elektroničkim obavljenom uslugom, to nije primjenjivo na sve oblike učenja na daljinu, a posebno ne kod onih oblika učenja na daljinu gdje se sadržaj samo prenosi putem interneta (“online”) ali gdje sadržaj nije u velikoj mjeri automatiziran već značajno ovisi o čovjekovom sudjelovanju (npr. posebno kada postoji izravna interakcija predavača i sudionika).

**Zbog toga primjena ovdje spomenutog mišljenja Porezne uprave na sve oblike učenja na daljinu može dovesti do pogrešnog PDV tretmana koji je protivan odredbama EU Provedbene uredbe 2011/282. Stoga bi bilo dobro kada bi Porezna uprava uočila ovaj nedostatak u mišljenu koje je nedavno izdala te izdala dopunu ili ispravak tog mišljenja kako ne bi dolazilo do situacija da porezni obveznici pojednostavljeno primjene to mišljenje i temeljem tako izdanog mišljenja postupe na način koji – barem za neke oblike online edukacija – ne bi bio utemeljen na PDV propisima.**

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