

## Tax News

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Dana 29. maja 2013. godine, srpski parlament je usvojio Zakon o potvrđivanju Ugovora između Vlade Republike Srbije i Vlade Socijalističke Republike Vijetnam o izbegavanju dvostrukog oporezivanja u odnosu na poreze na dohodak i izmene i dopune sledećih poreskih zakona:

- 1 Zakona o porezima na imovinu,
- 2 Zakona o porezu na dobit pravnih lica,
- 3 Zakona o poreskom postupku i poreskoj administraciji,
- 4 Zakona o doprinosima za obavezno socijalno osiguranje,
- 5 Zakona o porezu na dohodak građana, i
- 6 Zakona o akcizama.

Izmene zakona usmerene su na:

- ↪ pojednostavljenje administriranja poreza,
- ↪ uvođenje olakšica,
- ↪ pravičnije oporezivanje.

Izmene ovih poreskih zakona stupile su na snagu 30. maja 2013. godine, s tim što će se jedan broj novouvedenih pravila primenjivati od 2014. godine. Sporazum o izbegavanju dvostrukog oporezivanja u odnosu na poreze na dohodak sa Socijalističkom Republikom Vijetnam stupiće na snagu u godini, koja sledi godinu u kojoj su razmenjene diplomatske note o ispunjenju unutrašnjih zakonskih postupaka.

Neke od važnih izmena poreskih zakona se nalaze u nastavku:

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On May 29, 2013, the Serbian parliament adopted the Act on Ratification of the Treaty on Avoidance of Double Taxation of Income signed on January 1, 2013 between Serbia and the Socialistic Republic of Vietnam and the amendments to the following laws:

- 1 Property Taxes Act,
- 2 Corporate Income Tax Act,
- 3 Act on Tax Procedure and Tax Administration,
- 4 Social Security Contributions Act,
- 5 Personal Income Tax Act, and
- 6 Excise Duties Act.

The amendments to the laws are aimed at:

- ↪ simplification of administration of taxes,
- ↪ introduction of incentives,
- ↪ fairness of taxation.

The amendments to these tax acts entered into force on May 30, 2013, whereby some of the amendments will be effective as of 2014. The Treaty on the Avoidance of Double Taxation on Income with the Socialistic Republic of Vietnam will enter into force in the year following the year of exchange of diplomatic notes confirming the completion of national legal procedures.

Some of the important amendments to the tax acts can be found below:

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### 1 Zakon o porezima na imovinu

Zakon o porezima na imovinu je izmenjen prvenstveno sa ciljem da se u porez na imovinu integriše naknada za korišćenje građevinskog zemljišta.

Izmenama je, između ostalog, ukinuto izuzimanje 10 ari parcele od oporezivanja.

U pogledu poreskih obveznika, precizirano je da će porez na imovinu plaćati korisnik lizinga nepokretnosti.

Poreska osnovica za porez na imovinu obveznika koji vodi knjige više nije knjigovodstvena vrednost nepokretnosti, već njena fer vrednost.

Vremenski se ograničava poresko oslobođenje za objekte za dalju prodaju. Ovi objekt su oslobođeni poreza na imovinu u godini kad je poreska obaveza nastala i u narednoj godini.

Uvodi se samooporezivanje kod obveznika koji vode knjige.

Od poreza na nasleđe i poklon izuzima se 100.000 dinara, koje obveznik primi po svim osnovama tokom godine od jednog poklonodavca, tj. ostavioca.

### 2 Zakon o porezu na dobit

Uvodi se poreski kredit za ulaganja u istraživanja i razvoj. Pod ulaganjem u razvoj kao nematerijalnu imovinu, Zakon podrazumeva primenu rezultata istraživanja ili drugog znanja radi

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### 1 Property Taxes Act

The Property Taxes Act has been amended primarily with the aim to incorporate the construction land fee into the annual property tax.

Amongst other changes, the new act abolishes the exclusion of 10a of a parcel from taxation, i.e. the entire land plot will be subject to annual property tax.

As regards the taxpayers, the amendments prescribe that the lessee from a financial leasing agreement will be the taxpayer for the leased real estate.

The taxable base for the annual property tax of a taxpayer, which keeps business books, will be the fair market value of the real estate, as opposed to the book value, as it was until the amendments have been introduced.

The annual property tax exemption for real estate intended for further sale is limited to the year in which the tax obligation arises and to the year after.

Self-assessment is introduced for taxpayers, which keep business books.

Inheritance and gifts up to RSD 100,000 from one predecessor or donor during one year are excluded from taxation.

### 2 Corporate Income Tax Act

The tax credit for investment into research and development is introduced. Research and development as intangible asset shall mean application of research results or other knowledge in production

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proizvodnje novih značajnije poboljšanih materijala, uređaja, proizvoda, procesa, sistema ili usluga pre pristupanja komercijalnoj proizvodnji ili korišćenju. Poreski obveznik, koji je veliko ili srednje pravno lice, će imati pravo 20% ulaganja u razvoj koristiti kao poreski kredit u odnosu na najviše 33% obračunatog poreza u godini u kojoj je izvršeno ulaganje. Mala pravna lica moći će da koriste 40% ulaganja za umanjenje do najviše 70% obračunatog poreza. Pravo na poreski kredit po osnovu ulaganja u razvoj priznavaće se u onoj godini, u kojoj su stečeni uslovi za priznavanje takvog ulaganja u skladu sa MRS/MSFI. Neiskorišćeni poreski kredit, moći će da se prenese na buduće godine, ali ne duže od 10 godina. Poreski kredit se gubi, ukoliko poreski obveznik otuđi imovinu nastalu ulaganjem u razvoj pre isteka 3 godine od dana priznavanja prava na poreski kredit. U slučaju da otuđi imovinu nastalu ulaganjem u razvoj pre roka od 3 godina, poreski obveznik je dužan da plati valorizovan iznos poreza koji bi platio, da nije koristio poreski kredit. Ukoliko poreski obveznik otuđi imovinu nastalu ulaganjem u razvoj nakon isteka 3 godina od priznavanja, gubi pravo na eventualni preostali poreski kredit.

Izmenama Zakona se menjaju, odn. snižavaju uslovi za poresko oslobođenje po osnovu člana 50a (tzv. poresko oslobođenje za velike investitore). Pravo na desetogodišnje poresko oslobođenje ostvariće poreski obveznik, u čija osnovna sredstva se uloži više od milijardu dinara, i koji dodatno zaposli najmanje 100 lica na neodređeno vreme (do sad, 200 lica).

Svaka stalna poslovna jedinica će morati da predaje evidencije koje će da propiše ministar finansija, bez obzira da li se

of new significantly improved materials, devices, products, processes, systems or services before commencement to commercial production or use. The taxpayer, which is a large or medium enterprise, will have the right to use 20% of the investment into research and development as a tax credit against a maximum of 33% of calculated corporate income tax in the year of the investment. Small enterprises will have the right to use 40% of the investment against a maximum of 70% of the calculated tax. The tax credit is granted in the year, in which the research and development is recognized in terms of the IAS/IFRS. Any excess tax credit can be carried forward for a maximum of 10 years. The tax credit is lost if the taxpayer disposes of the asset before expiration of 3 years from the day the tax credit was recognized. In such case, the taxpayer is obliged to pay the valorized amount of tax, which would have been paid, if the tax credit was not utilized. If the taxpayer disposes of the asset after 3 days from the day the tax credit was recognized, any remaining tax credit is lost.

The amendment to the Corporate Income Tax Act decreases the conditions for the tax incentive under Article 50a (tax holiday for large investors). The right to a 10 years tax holiday is granted to the taxpayer, in which assets at least one billion RSD is invested, and which employs additional 100 workers for an indefinite period (formerly 200 workers).

Every permanent establishment will have to submit records, which will be prescribed by the Minister of finance,

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smatra stalnom poslovnom jedinicom u skladu sa ugovorom o izbegavanju dvostrukog oporezivanja ili ne.

Izdaci za zdravstvene, obrazovne, naučne, humanitarne, verske, zaštitu životne sredine i sportske namene kao i davanja učinjena ustanovama socijalne zaštite priznaju se kao rashod u iznosu do najviše 5% od ukupnih rashoda, za razliku od dosadašnjih 3,5%. Priznati rashod za kulturu se takođe povećava sa 3,5% na 5%, pri čemu se konkretizuje da „kultura“ obuhvata i kinematografiju.

Kao rashod će se priznavati i gubitak ostvaren od prodaje potraživanja, i to u iznosu iskazanom u bilansu uspeha.

Izmenama je ukinuta obaveza da se dokumentacija/studija o transfernim cenama obavezno predaje uz poresku prijavu.

Sve ovde opisane izmene Zakona primenjivaće se na utvrđivanje, obračun i plaćanje poreza na dobit za 2013. godinu.

### **3 Zakon o poreskom postupku i poreskoj administraciji**

Motiv za izmenu ovog zakona je smanjenje administrativnog opterećenja prilikom plaćanja poreza po odbitku, pa se pojedinačna poreska prijava drugačije reguliše i to na način da se broj prijavi i obrazaca, koji su potrebni za plaćanje poreza po odbitku (nekad i 35 poreskih prijavi i naloga za plaćanje) smanji na najmanju moguću meru.

Veoma važna izmena se odnosi na mišljenja, koja daje ministarstvo finansija. Ona postaju obavezujuća za Poresku upravu.

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irrespective of whether it is regarded as a permanent establishment according to the double tax treaty or not.

Expenditures for health, educational, scientific, humanitarian, religious, environmental and sports purposes are recognized as deductible expense up to 5% of the revenue, as opposed to 3.5%, as it was before the amendment. The deductible expenses for cultural purposes are also increased from 3.5% to 5%. Cinematography is explicitly included into the term 'culture'.

Losses from sale of receivables will be deductible in the amount stated in the profit and loss account.

The amendments to the Corporate Income Tax Act abolish the obligation to submit the transfer pricing documentation with the corporate income tax return.

All amendments here described apply to the assessment, calculation and payment of the tax for the year 2013.

### **3 Act on Tax Procedure and Tax Administration**

The motive for the amendment of this act is the relaxation of the administrative burden concerning payment of taxes by withholding. Therefore, the individual tax return is regulated differently in a way to reduce the number of tax returns and payment orders necessary for the payment of withholding taxes (sometimes up to 35 tax returns and payment orders).

A very important amendment concerns the opinions of the Ministry of Finance, which will be binding for the Tax Administration.

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Poreski obveznici se ne mogu brisati iz odgovarajućih registra, ukoliko registru ne bude dostavljena potvrda Poreske uprave da su svi porezi obveznika izmireni. Dostavljanje se smatra izvršenim po isteku 15 dana od dana predaje pošti. Jednom podneta poreska prijava se može izmeniti najviše dva puta.

Pojedinačna poreska prijava će se podnositi isključivo elektronski. Pojedinačna poreska prijava je pretrpela i druge izmene, za koje sprovođenje će ministar finansija doneti odgovarajući pravilnik.

Kamata će se obračunavati dekurzivnim metodom, bez pripisa kamate glavnici na kraju godine.

Izmene Zakona stupaju na snagu narednog dana od dana objavljivanja, s tim što će se primenjivati uglavnom od 1. januara 2014. godine (mišljenja ministarstva finansija međutim postaju obavezujuća odmah od stupanja na snagu izmena zakona).

#### **4 Zakon o doprinosima za obavezno socijalno osiguranje**

Zakon o doprinosima za obavezno socijalno osiguranje je izmenjen zbog preraspodele javnih prihoda i održavanja penzionog sistema, kao i radi usklađivanja sa izmenama zakona o porezu na dohodak građana.

Povećani doprinosi za penzijsko osiguranje sa 22% na 24%, pri čemu se na teret poslodavca plaća i dalje 11%, a na teret zaposlenog uvećanih 13%.

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Taxpayers will not be able to de-register from competent registries unless the statement of the Tax Administration is submitted, proving that all taxes of the liquidating taxpayer are settled. Tax acts are regarded as delivered after 15 days from the day of submission of the tax acts to the post.

A submitted tax return can be amended only twice. The individual tax return can be submitted only electronically. The individual tax return has undergone also other changes, and the minister of finance will pass protocols for the introducing procedures for the individual tax return.

The default interest will be calculated by application of the decursive method, whereby the default interest will not be capitalized at the end of the year.

The above amendments to the Act on Tax Procedure and Tax Administration have entered into force on May 30, 2013, and will be effective from January 1, 2014 (except the provision regulating the opinions of the Ministry of Finance, which is effective as of May 30, 2013).

#### **4 Act on Social Security Contributions**

The Act on Social Security Contributions is amended with the aim of redistribution of the public revenue and sustainability of the pension system, and with the intent to adjust the Act on Social Security Contributions with the amended Personal Income Tax Act.

Pension contributions are increased from 22% to 24%, whereby pension contributions due by the employer remain 11%, and the pension contributions due by the employee are increased to 13%.

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Dosadašnji rok u kome je poslodavac dužan uplatiti doprinose za obavezno socijalno osiguranje- do 30. dana u mesecu za prethodni mesec, ukoliko nije isplatio zaradu za prethodni mesec, produžava se do poslednjeg dana u mesecu za prethodni mesec.

Pored toga, ukoliko ne obračuna i ne plati doprinose u novopropisanom roku, Poreska uprava će sama zadužiti isplatioca prihoda za doprinose, prema raspoloživim podacima. Ova odredba će se primenjivati od 1. januara 2014. godine.

### 5 Zakon o porezu na dohodak građana

Najvažnije izmene Zakona o porezu na dohodak građana odnose se na:

- 1 smanjenje stope poreza na zaradu sa 12% na 10%, uz povećanje neoporezivog minimuma na 11.000 dinara.
- 2 ukida se kategorija prihoda od davanja nepokretnosti u zakup. Prihodi od davanja sopstvenih nepokretnosti u zakup se sada definišu kao prihodi od kapitala i oporezuju se primenom stope od 20% na osnovicu koju čini bruto prihod umanjen za 25% normiranih prihoda. Prihodi od davanja nepokretnosti u podzakup se definišu kao ostali prihod.
- 3 uvodi se samooporezivanje za prihode od samostalne delatnosti, kapitalne dobitke, prihode koje isplaćuje isplatilac koji nije obveznik obračuna i plaćanja poreza po odbitku.

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Until now, the employer was obliged to pay social security contributions until the 30, of the month for the previous month in case the salary for the previous month was not paid. By the amendments, the deadline is revised, and now social security contributions in such cases will have to be paid by the last day of the month. Moreover, in case the employer does not calculate and pay the social security contributions in the newly prescribed deadline, the Tax Administration will calculate the social security contributions based on available information. This provision will be effective as of January 1, 2014.

### 5 Personal Income Tax Act

The most important amendments to the Personal Income Tax Act concern the following:

- 1 The salary tax rate is reduced from 12% to 10%, and the non-taxable amount is increased to RSD 11,000.
- 2 The category of income from lease of real estate is abolished. The income from lease of owned real estate is now defined as income from capital and is subject to 20% tax levied on the taxable base, representing the gross income decreased by 25% fixed expenses. Income from sublease is defined and taxed as other income.
- 3 Self-assessment is introduced for income from entrepreneurship, capital gains and income generated from a payer, which is not obliged to calculate and withhold taxes.

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- 4 pojam poreskog rezidentstva se definiše daleko detaljnije.
- 5 preciznije definisanje pojma zarade, gde se između ostalog, zaradom smatraju npr. i učešća u share-option planovima, kao i prihodi ostvareni od lica povezanog sa poslodavcem, ukoliko se isplaćuju po osnovu rada zaposlenog kod poslodavca.
- 6 godišnji porez na dohodak građana plaćaće ubuduće i nerezidenti.

Zakon stupa na snagu 30. maja 2013. godine, a odredbe o samooporezivanju se primenjuju od 1. januara 2014.

### 6 Zakon o akcizama

Izmenama Zakona o akcizama uvodi se akciza na biogoriva i biotečnosti.

Dana 30. maja 2013. godine, pravno lice i preduzetnik, koji imaju biogoriva i biotečnosti na zalihama, dužni su izvršiti popis zaliha i popisne liste dostaviti u roku od 10 dana od izvršenog popisa Poreskoj upravi, kao i pregled stanja zaliha za svaki mesec počev od januara 2013. Godine. Za obveznika, koji ne dostavi ove popisne liste i podatke, predviđena je prekršajna kazna od 100.000-1.000.000 dinara, a za odgovorno lice 5.000-50.000 dinara.

Izmene Zakona o akcizama će se primenjivati na uvoz akciza, koji je počeo pre stupanja na snagu, a čije carinjenje nije završeno do stupanja na snagu izmena.

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- 4 The term 'tax resident' is defined in more detail.
- 5 The term 'salary' is defined in more detail. Now, also participation in share-option plans are treated as salaries, as well as income generated for the work performed, if this income is paid by a party related to the employer.
- 6 The annual personal income tax will be payable by non-residents.

The amendments enter into force on May 30, 2013, whereby the provisions on self-assessment will be effective as of January 1, 2014.

### 6 Excise Duties Act

The amendments introduce the excise duty on bio-fuel.

On May 30, 2013, the legal person or the entrepreneur keeping bio-fuel on stock, must perform an inventory and submit the inventory lists to the Tax Administration within 10 days from the day of the inventory, as well as monthly reports starting January 2013. Taxpayers, who do not submit the inventory lists and reports within the prescribed deadline, may be penalized with a monetary fine ranging between RSD 100,000-1,000,000, and the responsible person between RSD 5,000-50,000.

The amendments to the Excise Duties Act will apply to imports of bio-fuel which started prior to the introduction of the amendments, which customs clearance was not finalized by the day the amendments entered into force.

DISCLAIMER: The Serbian version of the Newsletter prevails. The English version aims to present the opinions of the Ministry of Finance as comprehensive as possible.

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