

TAX NEWSLETTER 3/2020

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1. Amendments to the Value Added Tax Law

Law on Amendments of the VAT Law was published in the Official Gazette of the Republic of Serbia no. 153/2020 on 21 December 2020. Below is an overview of the most important changes:

- It is specified that the transfer of the right of disposal on a construction object or economically divisible whole within a construction object, which is considered real estate, as well as movables with the transfer of the right of disposal on real estate could not be considered as an ancillary supply of goods.
- It is specified that the ancillary provision of services is not considered to be the service of renting or leasing the use of a construction object or an economically divisible whole within a construction object that is considered real estate.
- In accordance with the new changes, an opened or alternative investment fund, which does not have the status of a legal entity, and is registered in accordance with the law, is also considered as a VAT payer.
- It is specified that the recipient of goods and services in the field of construction, VAT payer is the tax debtor **in case that turnover performed by VAT payer exceeds RSD 500,000 without VAT.**
- According to new provision, VAT should not be paid on the **supply of goods during inward processing**, for which the taxpayer - acquirer would have the right to deduct the input tax if those goods were purchased with calculated VAT.
- It is specified that VAT should not be paid on a **transfer of virtual currencies and exchange of virtual currencies for cash.**

Keeping records of VAT taxpayers

If the taxpayer in the previous 12 months achieved a total turnover of more than RSD 8 mil. and did not submit the registration application until the expiration of the first deadline for submission of periodic VAT return, **the registration application may be submitted even after that deadline**, i.e. it will be submitted by the competent authority ex officio.

This taxpayer **has the right to deduct the previous tax** for the purchase of goods and services (including any advance payment), **starting from the day of submitting the registration application.**

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Invoicing

The taxpayer may issue an **invoice in electronic form** if there is a confirmation of the recipient of the invoice to accept it in electronic form. The recipient's confirmation is not required when there is a legal obligation to issue invoices electronically.

It is envisaged that the VAT payer has the right **to correct the amount of VAT even if he cancelled the invoice** in case when the invoice should not have been issued (and not only if he issued a new invoice with corrected VAT amount, or invoice in which VAT is not stated) and if he possesses the recipient's statement confirming that VAT stated in the invoice that is being cancelled was not used as an input tax.

This Law will be applied from 1 January 2021, and the application of the provision that VAT is not paid when transferring virtual currencies and exchanging those currencies for cash begins with the application of the law governing digital property.

2. Amendments of the Personal Income Tax Law

Below are the amendments to the Personal Income Tax Law with effect from 1 January 2021, except for the provisions related to digital property that will apply from the entry into force of the Digital Property Law.

It is envisaged that from 1 January 2021 the non-taxable amount of salary has been increased to **18.300 RSD** per month.

It is specified that a **qualified employer is considered to be** any employer resident of Serbia, who establishes an employment relationship with a newly settled taxpayer who had a residence or centre of business and life interests in the territory of the Serbia **for at least three years from the 1990.**

The right to use the tax relief for the employment of new persons has been extended, as well as the right to exemption from paying taxes from the salaries of the founders who are employed in the newly established company as of 31 December 2021.

According to the new amendments, the notion of who is considered as an employer who has the right to exemption from salary tax based on the employment of a qualified new employee has been expanded: **an entrepreneur, a lump-sum entrepreneur, a legal entity, a representative office, a branch office, a farmer entrepreneur and an individual.**

In accordance with the amendments to the Law related to the aforementioned tax reliefs, the provisions of the Law on Social Security Contributions have been amended, extending the employer's right to a refund, i.e. exemption from paying total social security contributions as of 31 December 2021.

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Below are the amendments to the Law related to investment units of alternative investment funds:

- It is defined that the income based on the ownership of the investment unit of the alternative investment fund is also considered as **income from capital**, except for the fee for the transfer of that investment unit.
- **Dividend** is also considered to be the remaining net value of the assets of an opened and/or alternative investment fund, that does not have the status of a legal entity, which is distributed to members in proportion to their investment units after the dissolution of that investment fund, and which is above the documented purchase value.
- It is defined that income realized in transfer of an investment unit of alternative investment fund, as well as transfer of digital property, should be taxed by **capital gain tax**. The tax return on this basis should be submitted within 30 days from the day when the taxpayer has earned or started earning income based on the transfer of investment units.
- The right to a tax exemption based on capital gains tax of 50% is prescribed for a taxpayer who, within the prescribed period of 90 days, invests funds generated by the sale of digital assets in the share capital of a company in Serbia or in the capital of an investment fund whose centre of business and investment activities is located on the territory of Serbia.
- A taxpayer who invests the funds generated by the sale of digital property for the stated purposes within 12 months from the day of sale, may exercise the right to a refund of 50% of the paid capital gain tax in a certain percentage.
- **The right to a tax credit for the annual personal income tax is regulated** and, may be exercised by a taxpayer who has invested in an alternative investment fund in the calendar year for which the annual personal income tax is determined, as well as, in the purchase of an investment unit of an alternative investment fund. The tax credit **cannot exceed 50% of the determined liability** based on the annual personal income tax.

By amendments to the Law, it is specified that **a person who is on secondment in Serbia, i.e. sent to work for a domestic legal entity**, is obliged to calculate and pay taxes on the basis of salary and other income earned by a foreign employer who seconded him to work for a domestic legal entity.

In case that the seconded person does not pay the tax, domestic legal entity is obligated to calculate, withhold and pay tax on the income of the seconded person at the moment of payment of the cost reimbursement related to seconded person's work to foreign employer, regardless of whether that deadline for paying the tax according to self-taxation principle has expired (30 days from the day of generating income, i.e. salary).

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3. Amendments to the Corporate Income Tax Law

The Law on Amendments to the Corporate Income Tax Law was adopted on 17 December 2020 and published in the Official Gazette of the Republic of Serbia no. 153/2020 on 21 December 2020. The law will be applied from 1 January 2021, and below we provide an overview of the most important amendments.

Capital gains and losses

The latest amendments envisage that the capital gain is realized through the sale (or other transfer for a fee) **of the investment unit of the investment fund**, regardless of whether it is an opened or closed investment fund.

In addition, it is envisaged that the capital gain is also realized through the **sale of digital property**, provided that the taxpayer has a license to provide services related to digital property and if he acquired this property solely for resale within the provision of services related to digital assets.

It is specified that capital gains realized from the sale of digital assets **should not be included in the tax base** if the funds from that sale were invested in that tax period in the share capital of a resident taxpayer, i.e. an investment fund that is a resident of the Republic of Serbia, i.e. whose centre of business and investment activities is in Serbia. In this way, investors would be motivated to invest in investment funds.

Also, capital losses arising from the sale of digital property **cannot be offset against capital gains** if money from the sale is invested in the manner previously explained.

In accordance with the latest amendments, **income that a non-resident legal entity realizes based on membership in an alternative investment fund** that does not have the status of a legal entity **is considered as dividend**. An alternative investment fund management company is obliged to submit a tax return within 3 days from the day of payment of income that is taxable with withholding tax.

Investment incentives

It is specified that newly employed persons **are not** persons who, **starting from the last day of the tax period preceding the investment period**, were employed directly or indirectly in a related party, as well as persons who are not directly employed by the taxpayer. Therefore, new employees are also those newly employed persons who were employed by related parties, but provided that they were not employed by these related parties starting from the last day preceding the beginning of the investment period.

The provisions of this Law apply to the determination, calculation and payment of tax liability starting for 2021, and the provisions relating to digital property shall apply from the date of entry into force of the law governing digital property.

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4. Fiscalisation Law

The Fiscalisation Law has been published in the Official Gazette of the Republic of Serbia no. 153/2020 on 21 December 2020. Most of the provisions of Law will be applied from 1 January 2022.

Below we present the most important provisions of this Law:

- The Fiscalisation Law refers to every taxpayer of income tax on self-employment in terms of the law governing personal income tax and every taxpayer of corporate income tax in terms of the law governing corporate income tax, which **carries out retail trade**.
- The taxpayer is obliged to issue fiscal invoice at the moment of retail turnover electronically through the electronic fiscal device, as well as to **submit data on issued fiscal invoices to the Tax Administration via a permanent internet connection in real time at retail**.
- Exceptionally, if there is an interruption of the Internet connection, the taxpayer submits to the Tax Administration data on issued fiscal invoices periodically, immediately after the establishment of the Internet connection, **and no later than five days** from the date of issuance of an individual fiscal invoice.
- In case of change of data, the taxpayer is obliged to submit this data to the Tax Administration, no later than **24 hours before the change**.
- Supervision over the application of this law is performed by the Tax Administration. In case that the inspector finds non-compliance with the provisions of the law, he shall impose on the taxpayer a ban on performing activities for **up to one year**.

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