



NEWSLETTER 2/2020

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1. Amendments of Property Law

In Official Gazette of Republic of Serbia no. 144/2020 published on 27. November 2020 amendments to Property Law were prescribed. We highlight the following amendments that will apply from 1 January 2021.

Open and **alternative investment funds** are taxpayers when it comes to property tax irrelevant to their obligation whether to keep business records or not.

Average value of certain real estate is determined based on sale prices of real estate per property zone during a period from **1 October of the year preceding the year for which the property tax is determined till the 30 September of the previous year for which property tax is being determined.**

Auxiliary facilities are sorted in the same real estate group **as garages that form a part of a real estate.** Auxiliary facilities are:

- Separate facilities that are not used for residential or commercial purposes such as:
 - ✓ Auxiliary facilities that are not buildings (well, pools, reservoirs, tanks and other);
 - ✓ Auxiliary building (ground-floor buildings and buildings whose flooring is below ground) that are built on the same property as facilities used for residential or commercial purposes (furnace, basement, shacks and sheds);
- Economic facilities as defined in Planning and construction Law;
- Canopy that has a base over 10 m² that are separate facilities.

When useful footage and average price are factors that determine tax base and there is no comparable sale price due to the fact that there were no sales performed during the prescribed period, **tax base is defined as product of average price and coefficient as prescribed by local authorities.**

Cases in which the **value of real estate as recorded in business books** on the last day of the business year can be used for calculation of **property tax base** are specifically prescribed.

Tax on inheritance and gifts

Digital property which is received as a gift or inherited is also subject to tax on inheritance and gifts.



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Tax on transfer of absolute rights

The new amendments stipulate that the conditions for a realization of entitlement to a tax exemption by the buyer of the first apartment **must be fulfilled as of the day of the concluding of the sales contract**, i.e., another legal act on the basis of which the byer purchases his/her first apartment.

Determining taxes

The new amendments provide for two more cases in which taxpayer is obliged to file a tax return:

- For real estate the total tax base of which has exceeded the amount of RSD 400.000, which triggers a cessation to a tax exemption- within 30 days from the date of the occurrence of the tax liability on real estate for which the liability arose within the taxation year;
- For a facility the usable area of which had been changed - within 30 days from the day that of the change.

To determine the property tax for 2021, the following will be applied:

- average prices per square meter of relevant real estate in zones determined on the basis of market prices in zones or border zones, i.e., average prices of relevant real estate in the most equipped zone - if they have been published by November 30, 2020;
- acts regulating the depreciation rate, zones and property tax rates, which have been published by November 30, 2020., or before the year 2020., if their application had not been limited to the end of the year 2020.

When determining the property tax for the year 2021. for auxiliary facilities, the average prices per square meter of garages and garage spaces in zones will be applied, as determined on the basis of market prices of these real estates in zones or border zones, i.e., on the average prices of garages and garage spaces in the best equipped zone.

2. Amendments to the Law on Tax Procedure and Tax Administration

The Law on Amendments to the Law on Tax Procedure and Tax Administration was published in the Official Gazette of the of the Republic of Serbia no. 144/2020 of 27.11.2020. The law entered into force on December 5, 2020, and the most important changes thereto are highlighted below.

Introduction of open and alternative investment funds as a taxpayer

A provision is introduced which characterizes **open or alternative investment funds** as taxpayers, who have rights and obligations in the fiscal procedure, whereby it is defined that the fund management company, as a legal entity is responsible for tax, property and legal liabilities. In exercising this liability, the fund management company performs activities related to the fund's tax liabilities: filing an application for registration, filing tax returns, keeping business books and records for taxation purposes, paying the fund's tax liabilities, etc.

Submitting a request in electronic or written form



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From January 1, 2021, a request for refund of overpaid or incorrectly paid tax (i.e. secondary taxes), as well as for tax refund, i.e. for the settlement of due liabilities based on other legal grounds by means of tax rebooking, will be submitted **in electronic form** through the Tax Administration portal, or **in writing** - directly or by regular post services.

Tax identification number

It is specified that the Tax Administration also assigns TIN in case of due and unsettled obligations on the basis of public revenues, which arose in connection with the performance of activities of economic entities deleted from the prescribed registers in the bankruptcy procedure.

Taxpayer registration

For the purpose of TIN issuance, the term **resident entrepreneur** is defined in more detail, so that it now also includes the category of entrepreneurs, as defined by the Law on Personal Income Tax.

A provision has been introduced which specifies that the fund, through the management company, submits an application for registration to the headquarters of the Tax Administration **within five days** from the day of being entered into the prescribed register.

It has been determined that SBRA (Serbian business register Agency) cannot register the acquisition of shares or stocks in economic entities, nor the establishment of new economic entities, in the case when the relevant legal entity or entrepreneur that is registered as a founder is subject to tax audit in order to detect tax crimes or from whom TIN has been temporarily revoked.

Rules for electronic submission of fiscal acts to individuals

The act of the tax administration can be submitted in electronic form without the consent of the individual, if the individual submits tax returns through the portal of the tax administration. In the event that an individual submits tax returns in paper form, it is necessary to obtain his/her consent to have tax acts submitted to him/her through the portal of the tax administration.

The consent of an individual is not necessary for the submission of tax acts issued by a local self-government unit, if the individual is registered with the system of a single electronic mailbox.

Tax deferral

The Law introduces the **obligation to submit requests in electronic form** through the portal of the tax administration.

In addition, **the entitlement to defer the payment of taxes** can also be exercised by taxpayers in the event of consequences caused by a pandemic, force majeure, or other extraordinary event.

In the following period, the Government will pass an act regulating the deferral of the payment of the tax due, i.e. of still immature fiscal obligations.



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The relevant amendment allows taxpayers to defer fiscal payments in order to mitigate the economic consequences caused by the COVID-19 virus pandemic, as well as those of other future, uncertain events that may affect the economic position of economic entities.

This provision will be applied retroactively, from January 1, 2020.

Measures during tax audit

The rule has been prescribed that the good from the warehouse, as well as the goods placed in the premises, about which the tax administration had not been informed, will be confiscated during the tax audit.

A new criminal offence

A new criminal offence has been prescribed - tax fraud in connection with value added tax:

- A person who realizes the entitlement to an unjustified tax credit or VAT refund in the previous 12 months by submitting a tax return or returns with false content, should the amount of the refund or tax credit exceed the amount of RSD 1,000,000, will be sentenced to an imprisonment for a term of 1 to 5 years and a fine;
- For a person who, in the intention to avoid paying taxes, fails to file one or more tax returns, files a tax return with untrue content or otherwise avoids paying taxes, should the amount of the tax evasion exceed RSD 1,000,000, shall be sentenced to an imprisonment. For a term of 1 to 5 years and a fine.

If the amount of VAT exceeds RSD 5,000,000, the perpetrator will be sentenced to an imprisonment for a term of 2 to 8 years and a fine.

If the amount of VAT exceeds RSD 15,000,000, the perpetrator will be sentenced to an imprisonment for a term of 3 to 10 years and a fine.

In addition, a security measure prohibiting the performance of vocation, activities and duties for a term of 1 to 5 years shall be imposed on an individual, entrepreneur and responsible person in a legal entity.

3. Amendments to the Law on Republic Administrative Fees

The Law on Amendments to the Law on Republic Administrative Fees was published in the Official Gazette of the Republic of Serbia no. 144/2020 of 27.11.2020.

The amounts of certain administrative fees have been amended by this Law, while certain documents and actions that are within the competence of the body for whose work the republic administrative fee is paid have also been added and determined.



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