

Amendments to the Corporate Income Tax Law and the Law on Tax Procedure and Tax Administration



On 29 December 2011, Serbian Parliament adopted amendments of the Corporate Income Tax Law and the Law on Tax Procedure and Tax Administration ("Amendments").

The Amendments have been published in the Official Gazette of Serbia no. 101/2011 dated 30 December 2011.

The amendments of the Corporate Income Tax Law are effective as of 7 January 2012 and applicable to the determination, calculation and payment of tax liabilities starting from 2012.

The amendments of the Law on Tax Procedure and Tax Administration are effective and applicable as of 7 January 2012, with exception of provisions dealing with obligations of commercial banks with respect to payment of salaries which are applicable as of 1 July 2012.

An overview of the most significant amendments is presented below.

The Corporate Income Tax Law

Receivables write-off

- Write off of receivables that were not included in taxpayer's revenues in line with the provisions of the accounting legislation and International Accounting Standards are considered tax deductible (e.g. placements (loans given), paid advance payments, etc.) and provided

the following conditions are fulfilled cumulatively:

- Receivables are written off as uncollectable in taxpayers accounting records, and
- The taxpayer possesses evidence of failed collection of receivables through court.

In addition, write off of receivables is tax deductible (irrespective of the fulfillment of conditions such as failed collection of receivables through court, etc.) provided these receivables are covered by financial restructuring in accordance with the law dealing with mutually agreed financial restructuring of companies.

Impairment of investments in subsidiaries undergoing restructuring and their acquisition value for the capital gains assessment

- Expenses from impairment of taxpayer's investment in subsidiaries acquired via debt to equity swap during the privatization restructuring process are generally deductible.
- The lowest impaired value of investments in subsidiaries would be regarded as their acquisition value for the purpose of capital gains tax assessment.

Withholding tax

- Withholding tax scope is extended to include revenues generated by non-

resident legal entities from excess of bankruptcy estate, or liquidation proceeds of a Serbian company.

- No withholding tax is assessed on interest revenues generated by non-resident legal entity from securities (in accordance with the law governing the capital markets) issued by the Republic of Serbia, the Autonomous Province, local authorities or National Bank of Serbia.

Incentive for users of free zones

- Amendments introduce a tax holiday for users of free zones in the manufacturing sector. A by-law prescribing methodology of application of this exemption has yet to be passed by the Minister of Finance.

Law on Tax Procedure and Tax Administration

Publication of information on amount of tax debt

- The Tax Authorities may publish on its internet website notifications on amount of tax debt of all tax payers. Presented publication will not be regarded as violation of confidentiality of tax procedure.

Fiscal representative

- It is specified that a Serbian fiscal representative can only be a resident taxpayer.

Assignment of receivables/debt in case funds on a bank accounts are blocked

- Taxpayers having funds on their bank accounts blocked due to enforced debt collection are free to execute assignment of receivables/debt as a means of settlement of tax debt.

Obligations of commercial banks with respect to payment of salaries

- A commercial bank can execute payment of salaries only if sufficient funds are also available for concurrent payment of associated salary tax and mandatory social security contributions.
- A commercial bank that violates the above rule can be subject to fines equal to the amount of corresponding salary tax and mandatory social security contributions increased for 50%.
- These provisions are applicable as of 1 July 2012.

Exception from general rule on providing collaterals

- Legal entity with tax debt below RSD 500,000 (approximately EUR 5,000) is not required to provide collateral while applying for deferral of payment of tax debt.

Enforced collection of taxes

- Enforced collection of taxes may be executed from funds paid to individuals up to the amount prescribed by the relevant legislation regulating enforced collection. The entity paying the salary is required to act in accordance with the Tax Authorities' Decision on assessment of enforced collection or it faces the risk of enforced collection being executed from funds available on its bank account.



Statute of limitation

- It is specified that no statute of limitation applies to assessment and payment of mandatory social security contributions, as well as to the right to refund of overpaid or erroneously paid mandatory social security contributions

Tax Authorities' audits

- Deadline for Tax Authorities to issue the Decision on assessment of tax as a result of audit performed in the Tax Authorities premises was set to 60 days from the day of delivery of the Protocol/Additional Protocol issued with respect to performed audit.

Penalties

- Amendments prescribe a general increase of all penalties.
- Additional specific fines are prescribed for commercial banks failing to perform one of the following:

- Execute enforced collection of personal income tax and social security contributions (based on the Decision issued by the Tax Authorities) from funds distributed to individuals, as well as for failing to notify the Tax Authorities of changes which can affect enforced collection of this tax debt;

- Execute transfer of funds from taxpayer's bank account to relevant account for settlement of tax liabilities based on the Tax Authorities Decision, in cases when there is collateral for settlement of debt arranged through temporary prohibition of transfer of funds from the taxpayer's account which is inscribed in the blocked accounts register.

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