

Personal Income Tax Law Amended

TAX ALERT
January 2016



On 29 of December 2015 Serbian Parliament has adopted amendments to the Personal Income Tax (PIT), which were published in the Official Gazette of the Republic of Serbia no. 112, dated 30 December 2015.

Application of the adopted amendments

Amendments are applicable as of 1 January 2016, except the provisions related to the taxation of income from real estate, which will be applicable as of 1 January 2017.

The most significant amendments are the following.

Income exempt from taxation

The PIT Law amendments now deal more precisely with the taxpayer's income that is exempt from the tax:

- welfare payments paid by the National employment service, as a part of the active employment program and measures;
- redundancy payments paid if the employment was terminated:
 - o through the cut-down of the number of civil servants in accordance with the law regulating the maximum number of employees in the public sector – up to the amount set by that law;
 - o as a measure in the process of privatization – up to the amount set by the regulation of the Government. Specifically, for persons above 50 years of age, maximum non-taxable amount has been introduced and is equal to the one specified in the regulation of the Government;
- awards for school and university students awarded in the international competitions that are organized as a part of the educational system;
- compensation for the work of the voting committee members as well as the fee for the population census administrators – up to RSD 5,000 during the same election period or the census period.

The exemptions from taxation now do not include any more consideration for the collection and sale of secondary raw materials and waste that have been paid to the seller's bank account. This income is now taxable as 'other income' with the 40% reduction of the calculated tax.

Adjustment of the amounts in RSD

The PIT Law amendments provide for the consumer price index adjustment of the

- individually derived income from games of chance
- cash assistance and other benefits paid to the persons that are not employed by the payer during the calendar year.

Salary tax base for employees seconded abroad

For employees seconded abroad, the PIT Law amendments reinforce the rule that was applicable before the amendments of the PIT Law made in 2013. This means that the tax base is the salary the employee would have earned in Serbia if he/she was employed on the same or similar job position, and not the amount the employee actually received, as the case was until now.

Tax exemptions

Per diems

Non-taxable amount of per diem allowances for business trips for employees other than public servants is increased to EUR 50 per day, no matter the destination of the business trip. This interpretation is derived from the explanation that followed as an addition to text of the PIT Law amendments. We emphasize that the provision in the PIT Law has not been clearly drafted, having in mind that it was not stated precisely whether the special Government regulation dealing with the per diem allowances will be applicable only to the public sector.

Moreover, it is now stated that, for the purpose of calculating the tax on salary, the amount of the per diem allowance above the untaxable amount will be converted into RSD according to the National Bank of Serbia exchange course, applicable on the day of the conversion from foreign currency to RSD.

Thanks to this precision, many uncertainties that were present in practice due to the need of conversion of foreign currencies into RSD have been solved.

Use of private car for business purposes

The use of private car for business trips or other business purposes is not taxable up to the amount of 30% of the gasoline price per liter multiplied by the number of used liters.

Tax allowances for new hiring

The application of the provisions regulating the refund of the tax paid for the newly employed employees is extended by 31 December 2017. The term 'sole proprietor' dealing with the question of who has the right to use this allowance is identified more clearly.

Additionally, the Law regulates the allowance for the employment of two new employees. The allowance is granted to the employer who is defined as a: sole proprietor, micro or a small enterprise, as well as the employer that started its activity after 31 October 2015. The employer defined this way has the right to a refund of 75% of the salary tax paid by 31 December 2017.

Employers that have been using the tax allowance applicable before the amendments introduced in the PIT Law, will continue to apply it until 31 December 2017.

Tax on income from self-employed activity

The PIT amendments specify that the taxable income from the self-employed activity is taxable profit, as well as lump sum revenue specified in the decision of the Tax Authority, when it comes to sole proprietors taxed on a lump sum basis.

It is specified that the application for the lump sum taxation can be submitted already in the moment of the business registration. The Serbian Business Register Agency will then forward the application to the Tax Authority in order for the amount of the lump sum revenue to be determined. In addition, the sole proprietors are classified into different groups according to the criteria of profitability, turnover and types of activity.

Income from capital

As of 1 January 2016, taking out of company assets as well as the use of company's services by the owner of the company for private purposes is considered to be income from capital.

Capital gain/loss

The PIT Law amendments specify the right to tax exemption in the case of the sale of rights or shares which have been in the owner's portfolio continuously for the period of at least 10 years, if during that period the percentage of rights/shares in the company's capital changed, or their nominal value changed.

The PIT Law amendments specify that the tax return for the capital gain/loss must be submitted 30 days from the moment when the taxpayer gained or started gaining income. The exception to this rule is the sale of securities, in case of which the tax return must be submitted 30 days after the end of the calendar half-year. Thanks to this amendment, the taxpayer is not obliged to pay tax if he did not derive the income from the

sale of securities, e.g. when the deferred payment has been stipulated.

Moreover, the PIT Law amendments included again the old provision which specified that the tax on capital gains shall be determined by the assessment of the competent authority and must be paid in the period of 15 days from the moment the assessment is delivered.

All the proceedings for the determination and collection of taxes on capital gains that have not been terminated by the moment of the start of the application of the PIT Law amendments will be terminated according to the provisions of the new PIT Law. In practice, this means that for all tax returns that have been submitted so far, but according to which the tax has not been paid, tax liability will be determined by the assessment of the Tax Authorities.

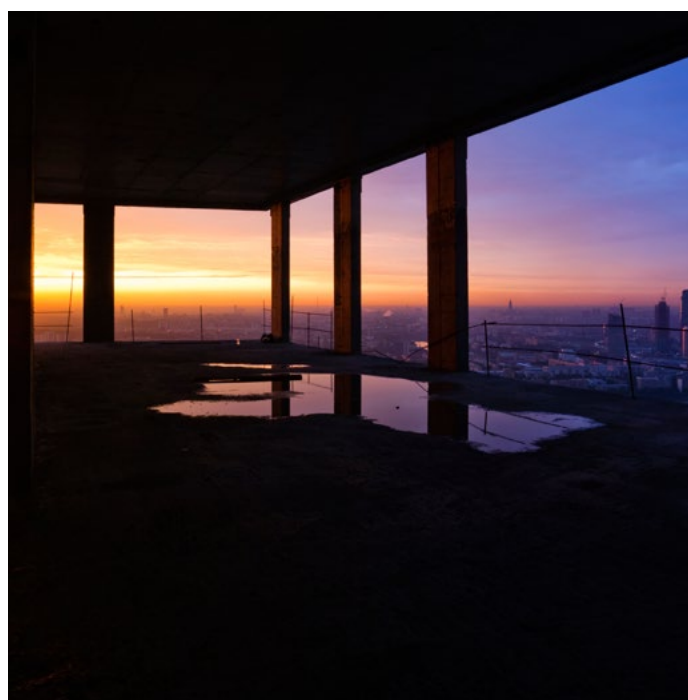
Tax on income from real estate

The PIT Law amendments specify that the income from lease of owned real estate will be taxed as a separate type of income, but only as of 1 January 2017. Before this date, this type of income will still be considered to be income from capital.

As of 1 January 2017, income from real estate is subject to real estate income tax and includes income from the lease and sublease of real estate.

Regarding this type of income, it is specified that the taxpayer is the individual who derives income from the lease or sublease of real estate. The PIT Law now specifically states that the sole proprietor who leases or subleases real estate as a part of his registered self-employment activity is not regarded as a taxpayer when it comes to tax on income from real estate. Income from real estate derived by these two persons shall be taxed as income from self-employment.

Moreover, it is stated that income from real estate comprises of generated rent and the value of all obligations i.e. services



that the lessee is obliged to provide. Expenses incurred during the period of lease, which depend on the amount of the consumption of the lessee himself and which are paid by him, are not considered a part of the income from real estate (e.g. electricity, telephone service, heating...).

The definition of taxable income remains unchanged – it is defined as gross income less the regulated costs of 25% or actual costs. The exception is income derived by the sub lessor of real estate, for which the taxable income is defined as a positive difference between the amount of rent derived from the sublease and the amount of the rent derived from the lease payable to the lessor.

Tax rate remains the same – 20%.

The tax return for the income from real estate must be submitted to the Tax Authority unit on whose territory the real estate in question is located. Moreover, if the payer is a sole proprietor or a legal person, the tax is payable through withholding.

Income from games of chance

The PIT Law amendments abolished the additional reduction of the taxable income for the amount previously paid by the taxpayer in order to participate in such games.

Other income

The PIT Law amendments provide that the non-taxable part of income from rewards, cash assistance and other payments, amounts to RSD 12,000 for income derived by persons that are not employed by the payer. In addition, the amendments state that participation fees (e.g. for congresses) is not considered to be taxable other income.

Considerations stemming from the collection and sale of secondary raw materials and waste are now taxable as other income with a 40% reduction of the calculated tax.

Self-assessment: foreign sourced income

The PIT Law amendments restated the old deadline for the submission of tax returns when it comes to income to which self-assessment is applicable, e.g. foreign sourced income and other income for which the payer is not obliged to calculate and withhold the tax. This deadline is now again 30 days counting from the day the income has been paid (instead 45 days, as it was according to the provisions before the amendment).

We would like to emphasize that the last amendments to the Law on Tax Procedure and Tax Administration include the

obligation of electronic submission of PP OPO form, as of 1 March 2016.

It is additionally clarified that in the case of the taxpayer's obligation to calculate and pay taxes by applying self-assessment rules, the tax base includes the income he or she received or the income from which he is obliged to pay his tax obligations. This amendment solves the previously existent question whether, in the case of determination of the tax base, there is an obligation to increase foreign sourced income or income whose payer is not obliged to calculate and withhold the tax, for the related taxes and social contributions.

Annual personal income tax

The PIT Law amendments additionally confirm the obligation of the non-resident individual who derives Serbian sourced income above the non-taxable limit for the annual personal income tax purposes to submit the annual tax return.

Contact details:

Igor Lončarević

Partner, Tax & Legal

T: +381 60 20 55 570

iloncarevic@kpmg.com

Biljana Bujić

Partner, Tax & Legal

T: +381 60 20 55 511

bbujic@kpmg.com

Gordana Zekić

Manager, Tax & Legal

T: +81 60 20 55 568

gzekic@kpmg.com

KPMG d.o.o. Beograd

Kraljice Natalije 11

11000 Belgrade, Serbia

T: +381 11 20 50 500

F: +381 11 20 50 550

tax@kpmg.rs

kpmg.com/rs

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

The KPMG name and logo are registered trademarks or trademarks of KPMG International.

© 2016 KPMG d.o.o. Beograd, a Serbian limited liability company and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.