

Law on Amendments to the Law on Tax Procedure and Tax Administration Adopted

Tax Alert

December 2022

On 9 December 2022 the Serbian Parliament adopted the Law on Amendments to the Law on Tax Procedure and Tax Administration (hereinafter: **Law on Amendments to the LTPTA**) as published in the Official Gazette of the Republic of Serbia No. 138 dated 12 December 2022.

The Law on Amendments to the LTPTA goes into force on 20 December 2022.

The most significant adopted amendments are:

Electronic filing of tax returns for personal income tax

The Law prescribes that a taxpayer – individual must file a personal income tax return only in electronic form via the Tax Administration's Portal.

With the introduction of annual personal income tax into the regime of self-taxation and for the purpose of simplifying data entry and calculation of the tax liability, the Tax Administration (TA) will prefill the tax return and deliver it to the taxpayer electronically via the Portal, with stated information on income that the individual realized from the income payer for which appropriate tax returns had been filed with the TA. The individual will be able to amend/supplement a prefilled return and file it electronically.

The aforesaid applies to tax returns for annual personal income tax for 2022 for whose filing the TA shall ensure that technical requirements are provided for supporting taxpayers in the form of prefilled tax returns.

Request by taxpayer for deferral of tax payment submitted within the period indicated in a warning does not postpone the initiation of enforced collection procedure

Amendments to the LTPTA propose deletion of paragraph 6 of article 77 of the LTPTA, which prescribes that the Tax Administration shall not issue a decision on enforced collection if the request for deferral of tax payment is submitted within the period indicated in a warning, and until processing of such request is completed.

The result of the amendment is that the Tax Administration does not have any limitation in regard to initiating enforced collection procedure, even when a taxpayer has submitted the said request.

The implications for the taxpayer are increase in the tax debt that is subject to enforced collection, potential costs of enforced collection and establishment of a measure for securing tax collection in enforced collection procedure, irrespective of the filed request and potential outcomes in processing such request.

Approval of the taxpayer's request for deferral of tax payment shall result in suspension of the initiated enforced collection procedure in respect of the tax amount owed, whose deferral of payment is approved.

Duration of a measure prohibiting the performance of commercial activity pronounced in a tax audit

A measure prohibiting the performance of commercial activity shall be pronounced against a taxpayer for whom irregularities have been identified in tax audit procedure (*goods and services are not accompanied by reliable documentation relevant for assessing tax, failure to deposit daily sales to a bank account, employment of persons without an employment contract or other employment document and failure to report an individual to the competent mandatory social insurance organization, failure to record a supply through fiscal cash registers, electronic fiscal devices or in another prescribed manner*), as follows:

1. for a period of **15 days** - if *the irregularity is determined for the first time*,
2. for a period of **90 days** - if *the irregularity is determined for the second time*,
3. for a period of **one year** - if *the irregularity is determined for the third time*.

Exceptionally, the prohibition of performance of commercial activity for a taxpayer who performs an activity at the event location shall be pronounced for the duration of such event.

Ex officio appointment of state attorney in preliminary investigative procedure

Taxpayer-suspect who has not secured an attorney shall be appointed a state attorney by the tax police during an interview when there is probable cause that the suspect committed a tax crime which carries an eight year sentence or longer.

The objective of the proposed amendment is to harmonize the LTPTA with the Law on Criminal Proceedings, which prescribes that a suspect must have a defense attorney from the first interview until completion of criminal proceedings, when proceedings are conducted for a crime that carries a prison sentence within the specified range.

New crimes

Criminal liability is prescribed for persons who in violation of regulations perform **prohibited supply of fiscalization equipment, as well as prohibited supply of accounting and other software**, and which can be used for avoiding the recording of supplies and for evading tax payment, with the introduction of two new criminal acts.

These crimes carry a prison sentence from one to five years.

For the said crimes a security measure of prohibition against performing a calling, activity and duty shall be pronounced against the responsible person in an entity for the duration from one to five years.

The electronic device, equipment and software, as well as accounting and other software used in committing such crimes shall be confiscated.

Possibility of pronouncement prohibiting the performance of certain activities by a responsible person in an entity for a repeated offence

Besides a monetary fine, a measure of prohibition against performing certain activities can be pronounced to the responsible person in an entity, when within a period of two years from the date of enforceability of a final ruling for offences of:

- i. failure to file a tax return, failure to calculate and pay tax,
- ii. failure to file a tax return, with calculation of tax, but without its payment,
- iii. filing a tax return, but without tax payment, and
- iv. failure to file a tax return when the law prescribes that self-taxation is not to be carried out, or based on a tax audit order, the same offence is repeated.

Hence, the amendment of the regulation that ensures the possibility of pronouncing a measure of prohibition, along with a monetary fine, relates exclusively to repeat offenders committing the aforesaid offences.

A measure of prohibition can be pronounced for a period from six months to three years.

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