

SERBIA: Important changes to the Corporate Income Tax Law and certain other tax laws

The National Assembly of the Republic of Serbia adopted on 29 December 2015 amendments to a number of tax laws, including the Corporate Income Tax Law, Law on Tax Procedure and Tax Administration, Personal Income Tax Law and Law on Mandatory Social Security Contributions. This newsletter highlights some of the most important changes primarily in the area of corporate income tax.

1. CORPORATE INCOME TAX ("CIT")

The CIT Law underwent important changes. Starting from 1 March 2016 service fees payable for services provided by non-resident service providers will become subject to the 20% withholding tax. It will apply to any type or kind of service, which has been rendered or used, or is to be rendered or used on the territory of Serbia. In case when there is no treaty for the avoidance of double taxation between Serbia and a country of residence of a service provider (or if such treaty do exist but could not be applied in a particular case) Serbian resident taxpayers will have to withhold and pay tax on service fees. A special withholding rate of 25% remains applicable to service fee payments to service providers established in a "preferential tax regimes" (i.e. in one of currently 51 jurisdiction listed of the Finance Minister's list of tax havens).

The amendments to the CIT Law attempt to create a legal framework for more fair tax treatment of receivables' write-offs. Effective from the FY 2016 all write-offs of receivables made pursuant to the prepackaged reorganisation plans (prepared and approved by the court in accordance with the Insolvency Law) will be fully recognised as expenses for the CIT purposes.

Effective from FY 2016, banks will benefit from the CIT Law amendments according to which all write-offs made with respect to loan receivables that are overdue for more than two years will be recognised for CIT purposes. Documentation that should be presented to prove debtor's inability to repay the debt, thus justifying the write-off made, may include e.g. debtor's loan file information regarding repayment in the last 12 months, correspondence with debtors etc.

In case banks write off the remaining loan receivables that could not be collected through the enforcement of a mortgage on real property, such write off will also be recognized as a deductible expense.

Also with the effect from FY 2016, the CIT Law amendments extend the definition of the long-term accruals which are recognised for CIT purposes. All long-term accruals made in accordance with IAS and IFRS as well as IFRS for the SMEs, are recognised as deductible in the fiscal year in which the accrued amount is out flown (and up to the amount that was actually out flown).

The amendments make clear that, effective from FY 2016, all employee salary and other employment-related benefits paid or provided to employees are deductible expense in a fiscal year in which these benefits were paid or provided, regardless of whether these benefits are subject to the personal income tax or not.

2. OTHER TAX LAWS

The Law on Tax Procedure and Tax Administration (the "**LTPTA**") underwent numerous changes, effective from 1 January 2016, which aim at clarifying and filling in gaps in the existing provisions and harmonizing them with other laws. Some of the most important changes include provisions regulating transition to the electronic filing of all tax returns. It is planned that full transition to the electronic filing of tax returns with respect to all taxes will be accomplished until 1 January 2018. Some of the tax returns can be filed electronically instead of a paper form starting from 1 March 2016 (most notably tax returns for withholding taxes on income earned by non-resident entities from Serbian sources and for capital gains tax realized by non-resident entities). During the transitional period from 1 January 2016 until 29 February 2016, paper-based tax returns may be accompanied with the electronic ones.

Changes to the Personal Income Tax Law ("**PIT Law**") and the Law on Mandatory Social Security Contributions mainly concern clarifications, minor changes and time extension to the existing incentives for the employers (in the form of a refund of a salary tax and mandatory social security contributions paid for newly employed workforce), as well as introducing a new tax relief for employers which qualify as micro and small companies under the Accounting Law. Micro and small company employers (as well as registered sole entrepreneurs) will benefit from refund of 75% of salary tax and social security contributions paid for newly employed staff (at least two additional employees) until the end of 2017.

Numerous changes to the PIT Law concern clarifications and improvement of the existing rules regarding taxation of salary, real property rental income, capital gains and annual PIT. One noteworthy change is capping the tax-free amount of daily allowances for business trips abroad at the maximum EUR 50 per day.

Corresponding to the amendments to the CIT Law regarding deductibility of banks' NPL write-offs, the PIT Law was amended to make clear that such write offs could not be regarded as a personal income of an individual debtor.

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For further information about these and any other legal issues, please feel free to contact us at any time.

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