



Key amends of the Law on Tax Procedure and Tax Administration

On November 26th 2020, the National Assembly of the Republic of Serbia adopted Laws on amendment to the Law on Tax Procedure and Tax Administration and Law on the amendments to the Law on Property Taxes, both published in the "Official Gazette of the RS", No. 144/2020.

Key amends of the Law on Tax Procedure and Tax Administration include:

- Clarification of tax treatment of the open-end investment funds and alternative investment funds:

The new definition of the taxpayer is extended to include investment funds, since under Laws regulating subject matter of the investment funds, open-end and alternative investment funds are not considered legal person;

Tax Acts addressed at the funds will be delivered on the address of the registered office of the fund management company from the register, or to the special address for delivery of the mail if such address is registered in the Business Register Agency;

- Amends with regard to communication with Tax Administration and delivery of tax documents:

The Law now allows for electronic communication and filing requests for reimbursement or refund of overpaid or incorrectly paid taxes, as well as for other types of refunds electronically through portal of the Tax Administration;

Electronic communication is now a two-way street, since Tax Administration can without additional consent from the natural persons, deliver Acts electronically, provided the request was submitted in electronic form, through portal of Tax Administration. If the person submitted requests in paper form, the person Tax Administration must obtain consent for electronic delivery of Tax Acts;

Caution is advised, since when means of electronic communications are employed, Tax Act is considered delivered on the day it is published on the Portal of the Tax Administration and limitation periods start on the day of publication. In practice taxpayers will have to check Portal of Tax Administration on regular basis in order to ensure exercise of their complaint rights in due time.

In case of the Tax Act delivered by means of registered mail, tax Administration must attempt another delivery in case the first delivery of the Tax Act was unsuccessful.

- New criminal provisions:

The new provisions concerning tax fraud related to value added tax (VAT), now incriminate as tax crime punishable by fine and imprisonment between one and five years when:

A person intentionally claims the right to an unjustified VAT refund or tax credit or submits one or more VAT returns of incorrect content, in the previous 12 months, for either themselves or other persons, and the amount of refund or tax credit exceeds one million dinars

A person intentionally fails to submit one or more VAT returns, or submits false returns, or otherwise avoids the payment of value added tax, in the previous 12 months, and the amount of tax avoided exceeds one million dinars.

Depending on the amount of tax avoided, prison sentence could be even longer. If the amount exceeds five million dinars, the fine could be sentence between two to eight years in prison, and if the amount exceeds fifteen million dinars, a fine could be between three and ten years of imprisonment.

Key amends to Law on Property Taxes include:

- General changes

Additional condition for realization of tax credit for residential house/apartment by natural persons, is that the taxpayer must have declared domicile on the address of the property in accordance with the law regulating subject matter;

If house or apartment is subject to several possible tax credits, reduction is accounted only on one the basis of one, most favorable for the taxpayer. Tax credit cannot be used as tax exemption by cumulating several bases.

- Changes relating digital assets and investment funds;

Digital assets are now subject to taxes on inheritance and gift;

Investment funds and alternative investment funds are now considered taxpayers for purpose of taxes on inheritance and gift;

- Clarification on the subject of taxation, i.e. classification of the property:

This includes construction land (by referencing to the law governing planning and construction), agriculture land (by referencing to the law governing the use of agricultural

land), forest land (by referencing to the Law governing the use and management of forests and forest land);

Apartment, as a separate part of the building that forms a functional unit consisting of one or more rooms intended for residence and, as a rule, has a separate entrance, unless it has been categorized for pursue of professional activities or registered activity is pursued in it;

Residential house, as a facility intended for living or for occasional residence (family house, villa, cottage, mountain hut, hunting lodge, etc.), unless it has been categorized for performing pursue of professional activities, or the registered activity is pursued in it;

Business premise, as a building or other (both surface and underground) construction facility, a special part of the facility (premises, office, etc.), which is intended for pursue of professional activities, including apartments and garages when they are used for pursue of professional activities;

Garage, as a facility or a special part of the facility that forms a functional unit such as garage box, or garage space, intended for parking vehicles, or for accommodation of aircraft, except the garage that are business facility;

Auxiliary facility, can be 1) independent facilities that are not used for housing or pursue of professional activities and are not classified as apartments, houses, business facilities. Such facilities include: auxiliary facility other than buildings (such as wells, pools, reservoirs, cisterns, etc.), and auxiliary buildings (ground floor buildings and buildings where floor area is below the ground) which are in the function of a residential or business facility, which is built on the same land (boiler rooms, basements, sheds for fuel storage, etc.); 2) economic facilities, in accordance with the law governing planning and construction; 3) canopies over 10 m² of surface that are independent buildings.

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