



## Tax & Legal Highlights

### Serbia

#### Amendments to the Corporate Income Tax Law introduce new tax incentives

Amendments to the Serbian Corporate Income Tax Law introduce tax incentives for the knowledge based industry - R&D deduction, IP box and tax credit on investments in start-up companies.

##### 1. R&D Deduction

R&D deduction is introduced - expenses directly related to R&D activities performed in Serbia are tax deductible in the double amount.

Research and development are defined in line with the IAS 38. R&D deduction is not applicable on research expenses arising with the aim of finding and developing oil, gas or mineral resources in the extractive industry.

Bylaw which would regulate in more detail the application of the tax incentive is expected in the coming period.

2. IP Box regime

Tax incentive for taxpayers who derive royalty income is introduced. Namely, qualified income, realized by the owner of the IP, based on the compensation for the use of registered IP, except compensation for the transfer of all rights on the IP, may be excluded from the tax base in the amount of 80% of such qualified income (also applicable to the income from patents), if the taxpayers opts for it.

It is expected that a bylaw will be adopted, which would closely define the application of this incentive and calculation of qualified income.

3. Tax credit for investments in start-up companies

A tax incentive is introduced for taxpayers which invest in start-up companies (newly established companies performing innovative business activities). Taxpayer which is not a start-up company, investing in a start-up company, has a right to a tax credit in the amount of 30% of such investment.

Tax credit may be used by the taxpayer:

- who before investment, independently or with all related entities, did not own more than 25% of the shares (voting rights) in the start-up company in which it invests,
- only based on fully paid in monetary investments that increase the capital of the start-up company,
- provided that the taxpayer did not decrease its investment continuously for a period of three years from the date of the investment – tax credit can be used for the first time in the tax period following the period in which this condition was fulfilled.

Maximum amount of the tax credit that can be used from one investments amounts to 100,000,000 dinars, while maximum amount of tax credit, which can be used in one tax period amounts to 50,000,000 dinars (exceptions exist for related entities). Carry forward of tax credit allowed for up to 5 years.

Certain conditions need to be fulfilled for a company to be deemed as a start-up company (that no more than 3 years have passed since its establishment, that its predominant business activity is innovative (as defined by the law governing innovative activities), etc.).

4. Lower taxation of capital gains derived from disposal of IP

A new tax incentive is introduced which provides that only 20% of capital gains will be included in the tax base, if derived from the transfer of full property rights on registered IP and patents. On the other hand, only up to 20% of the capital loss realized from the transfer these rights can be offset against capital gains from the sale of other right in the same year.

**Other Amendments to the Corporate Income Tax Law**

**Amendments to the Serbian Corporate Income Tax Law, apart from the new tax incentives, also encompass change of the method for calculation of tax depreciation and suspension of limit for deductibility of marketing expenses.**

1. Tax depreciation

New rules for calculation of tax depreciation apply to fixed assets acquired as of 1 January 2019, while existing provisions, with certain amendments, are applicable for depreciation of existing fixed assets. The main amendments are:

- fixed assets in all five depreciation groups will be depreciated using the straight-line method,
- if the tax depreciation is higher than the accounting one, only the amount of accounting depreciation will be tax deductible.

It is expected that two rulebooks will be adopted, which should provide more details on the calculation.

2. Suspension of limit for deductibility of marketing in tax balance

Marketing expenses are deductible in full amount (subject to the general rules on deductibility).

3. Other amendments

- Taxpayer's, i.e. concession provider's, income realized from the transfer of nonmonetary assets without consideration which was, under the concession contract, performed by the private partner, are not included in the tax base in the tax period in which they were recorded, under condition that the estimated value of the concession amounts to at least 50 million euros.
- Capital gains arising from the transfer of immovable property to the concession provider, performed by the private partner under the concession contract, are not included in the private partner's tax base in the tax period in which they were recorded, under condition that the estimated value of the concession amounts to at least 50 million euros. Capital losses arising from the aforementioned transfer of immovable property cannot be offset against capital gains.
- Taxpayer's income, in tax period in which it was recorded, realized from the cancellation of taxpayer's debt towards users of public funds, insolvent banks and towards chambers of commerce, is not included in the tax base when respective debts are included in the pre-prepared reorganization plan confirmed by the effective decision in accordance with the law governing bankruptcy.
- Effects of changes to the accounting policies arising from the first application of IAS, i.e. IFRS and IFRS for SME, based on which, in accordance with accounting legislation, the adjustments of certain positions of the balance sheet are performed, are recognized/deductible as income/expenses, starting from the tax period in which respective adjustments were performed. Such income and expenses are recognized/deductible in the tax balance in equal amounts in five tax periods.

## **Amendments to the Law on Personal Income Tax**

**Main amendments to the Serbian Personal Income Tax Law encompass amendments to the tax treatment of employee share plans (wherein, such benefits would be exempt from salary tax subject to certain conditions) as well as exemption from salary tax of employer's expenses related to recreation of employees.**

1. Taxation of securities, stock options and shares acquired from the employer or employer's related entity

New provisions introduce an exception from the general rules regarding the taxation of securities acquired from the employer or employers related entity. Hence, securities, stock options and shares of the employer and employer's related entity that the employee receives free of charge or at a discounted price from the employer or employer's related entity are exempted from salary tax if certain conditions are met.

Namely, above mentioned exemption will not be applicable in following cases:

- If the employee alienates such securities before the expiration of 2 years from the moment the employee acquires full ownership rights – employer will be obliged to calculate, withhold and pay the tax at the moment of alienation
- If the employer or employer's related entity redeem such securities – employer will be obliged to calculate, withhold and pay the tax at the moment of redemption
- If the employment terminates before the expiration of 2 years from the moment the employee acquires full ownership rights (except in certain cases such as retirement and disability) - employer will be obliged to calculate, withhold and pay the tax the last day of employment.

2. Expenses for recreational activities and team building

Amendments to the PIT Law prescribe that the following will be exempted from salary tax:

- Employer's expenses with regard to creating and maintaining conditions for recreational activities of employees at the work place (building and/or acquisition of the equipment for recreation)
- Reimbursement of expenses to employees for collective recreational activities
- Reimbursement of expenses for organizing sports events and activities of employees organized in order to improve health and/or build better relationships among employees, or employees and the employer.

In order for the exemption to be applicable, collective recreational activities of the employees would need to be prescribed in the employer's general act and all of the employees would need to be entitled to the recreational activities of the same type, quality and volume. Exceptionally, recreational activities can be provided to a certain number of employees if that is justified with the proper medical documentation.

As for the sports events i.e. activities of the employees, tax exemption will be applicable if such activities are carried out based on the employer's decision and if a significant number of employees has the right to participate and participates in such event.

3. Income from providing accommodation services

Amendments of the PIT Law introduce specific rules with respect to the taxation of income derived from providing accommodation services – i.e. income an individual receives from providing accommodation in home craft facilities and domestic country households for up to 30 days and in the accommodation facility regardless of the days.

**Law on amendments to the Law on Mandatory Social Security Contributions**

**The most important amendment is cancellation of employer's mandatory social security contributions for unemployment.**

The changes regarding unemployment social security contributions prescribe that the liability for the payment of unemployment social security contributions lies with the insured person only. Therefore, employers are not liable to calculate, withhold and pay unemployment insurance paid on top of the salary at the rate of 0.75%.

**New Customs Law**

**The most significant changes are:**

- **exchange of information (including submission of customs declarations) between customs offices and businesses, as well as storage of those, which should be completely done electronically;**
- **security (collateral) for collection of customs debt – an obligation to provide mandatory security has been envisaged for coverage of potential and actual customs debts for the majority of customs procedures.**

1. Electronic exchange of information

With the application of the new CL all exchange, as well as storage of information, such as customs declarations, requests or decisions, between customs offices and between customs offices and businesses should be done by means of systems for electronic information processing, that is, electronically. In other words, doing business will become paperless, which, among other things, assumes withdrawal from submission of paper declarations.

The new CL, at the same time, envisages possibility for the use of other means for exchange and storage of information, except for the systems for electronic information processing, if such electronic systems are not operative yet. Additionally, it also provides for the possibility to use other systems for exchange and storage of information, except for the systems for electronic information processing, in special cases when that is justified by the type of transport used or when electronic information processing is not appropriate for the given customs formalities.

In both cases, the new CL gives authority to the Government of the Republic of Serbia to regulate the said cases in more detail.

In any instance, it is expected that this change should result in development of new and upgrade of existing information systems that companies in the Republic of Serbia are already using.

2. Security (collateral) for collection of customs debt

The new CL prescribes mandatory collateral for coverage of potential and actual customs debts in the manner that, in situations where placement of collateral is mandatory, customs authority shall determine an exact amount of the collateral at the level equal to the actual amount of import or export duties which corresponds to the customs debt and other duties which are collected at import or export, if such amount can be determined at the time when the collateral is requested.

On the other hand, if it is not possible to determine the correct amount, the collateral is being determined at the highest possible amount of import and export duties, assessed by the customs authority, and which corresponds to the customs debt and other duties which are collected at import or export, that arose or could arise.

In addition, a mandatory collateral has been established for the majority of customs procedure, as well as for temporary storage of goods. That said, the mandatory collateral that should cover potential and actual customs debts, in the form of guarantee, has been prescribed for special customs procedures: storage procedures (including customs warehousing and free zones), special use procedures which encompass temporary import and special purpose use, and processing procedures encompassing inward and outward processing.

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