

## Changes and Amendments to the Corporate Income Tax Law

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The reason behind the changes and amendments to the Corporate Income Tax Law (hereinafter: CITL) was to give support to companies investing in research and development of new products, processes or services. This was achieved by expanding the tax credit to include investments in research and development, which was so far reserved only for investments into the taxpayer's fixed assets. Additionally, there was an increase in the maximum allowed percentage for deductible expenses for healthcare, charity, sports, culture, and other purposes. Further, certain provisions in the CITL were clarified, such as the conditions for recognizing expenses related to the write-off of individual receivables. An overview of the most important changes is provided below.

### Permanent establishments of nonresident taxpayers

The changes have clarified that nonresident taxpayers are subject to taxation of profits obtained through permanent establishments (PE) situated in Serbia, unless otherwise provided for by double taxation treaties (DTT). These changes allow for the direct application of the terms of the treaties with respect to the taxation of profits of non-resident taxpayers' PEs, which prevail over the CITL.

However, non-resident taxpayers with a PE that, according to DTT is not considered as a PE will now have to submit tax balance and tax return, regardless of the fact that they do not have the obligation to pay CIT.

### Allowed expenses

The changes provide for an increase in the maximum allowed expenses, from 3.5% to 5% of total income for expenses incurred for healthcare, education, science, charity, religion, sports, environment and social security. An increase in the limit of deductible expenses from 3.5% to 5% was also made for expenses in culture, including film production.

### Receivable write-off

The terms for the deductibility of write-offs of individual receivables are regulated in more detail. In order for a write-off of individual receivables to be deductible, the taxpayer has to, amongst other things, provide evidence that the lawsuit was filed, or that the receivables were declared in the liquidation or insolvency proceedings of the debtor. Following the amendments, evidence of initiated enforcements proceedings for collection of receivables will also be permitted for these purposes.

### Losses from the sale of receivables

Article 16a is introduced which regulates the tax treatment of losses from the sale of receivables.

Following Article 16a, the losses from the sale of receivables are recognized for tax purposes, in the amount stated in the income statement.

With regard adjustments of receivables that were tax deductible in the previous period in line with Articles 16 and 22a of CITL, it is not necessary to provide the evidence that the lawsuit was started, or that the proceedings for the collection of receivables were initiated (for receivables recorded as the taxpayer's revenue); or the evidence that the receivables were written off as uncollectible in the

taxpayer's books, that a lawsuit was started or that proceedings for the collection of receivables were initiated (for receivables that were not recorded as the taxpayer's revenue).

### Income related to unrecognized expenses

In order to avoid double taxation, in the case when a taxpayer includes income related to previously unrecognized expenses (listed in Article 7a of the CITL), the aforementioned income will not be part of the tax base in the tax period in which it is included.

### Capital gains

The amendments provide that income from the sale of any industrial property, i.e. not just from the sale of that which was used for the company's business activity, will be considered as capital gain.

Further, the amendments specify that income generated by a non-resident taxpayer from the sale of immovable property (regardless of whether it was used as part of the company's business activity), company stakes, shares, other securities and investment units purchased from open investment funds will also be considered capital gains.

### Income taxation of non-residents

The changes to Article 40 of the CITL, which deals with the taxation of non-residents, have instated a tax on the income of non-resident taxpayers obtained from the leasing and subleasing of assets to persons which are not obliged to withhold and pay tax. This tax will be calculated and paid as provided for by the tax authorities based on a tax return submitted by the non-resident taxpayer.

### Withholding tax on purchase of waste materials

Withholding tax on the purchase of waste materials is introduced. Namely, the resident taxpayer that purchases waste materials from a resident or a non-resident legal entity is obliged to charge a 1% withholding tax on the total amount of compensation, excluding VAT.

The payer of this compensation is obliged to submit a tax return to the competent tax authority within 15 days from the end of the quarter. This tax return has to have data about the supply and withholding tax. The contents of this tax return should be prescribed by the Minister of Finance.

### Tax credit for investment into development as intangible assets

The tax credit detailed in Article 48 of the CITL has been expanded to include investments made by the taxpayer into research and development, as intangible assets. Development is considered to be the application of research results in order to improve processes, products, materials and services before commencing production or use.

Furthermore, the changes specify that the tax credit will only be granted for the investments into fixed assets situated in Serbia.

### Tax incentives for large investors

The amendments have reduced the number of newly employed persons, from 200 to 100, which is one of the requirements for the tax incentive prescribed under Article 50a of the CITL. Through this amendment the number of newly employed persons needed for this incentive has been reverted as it was in the provision that existed before the last amendments to the Law made in November 2012.

### Entry into force

The changes and amendments to the CITL have entered into force on May 30<sup>th</sup>, 2013, and will be applicable for the 2013 tax balance.

# Contacts

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For more information, please contact our experts:

**Srdjan Petrovic**  
Partner

Terazije no. 8  
Tel: + 381 11 3812 222  
spetrovic@deloittece.com

**Marijana Vujošević**  
Senior Manager

Terazije br. 8  
Tel: + 381 11 3812 149  
mvujosevic@deloittece.com

**Svetislav V. Kostić**  
Director

Terazije no. 8  
Tel: + 381 11 3812 148  
skostic@deloittece.com

**Tamara Dmitrović**  
Senior Manager

Terazije no. 8  
Tel: + 381 11 3812 163  
tdmitrovic@deloittece.com

**Jasmina Trkulja**  
Manager

Terazije br. 8  
Tel: + 381 11 3812 165  
jtrkulja@deloittece.com