



Changes and Amendments to the Property Tax Law

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The Serbian Government has established a Proposition for Changes and Amendments to the Property Tax Law. An overview of the most important changes will be made in the text below.

Property tax

One of the reasons for making changes and amendments to the Property Tax Law (hereinafter: the Law) is the integration of the city planning tax into the property tax.

Scope of taxation

In comparison to the previous solution, the scope of taxation has been widened so to include, amongst other things, the property utilization right, i.e. the utilization rights of public land, as well as the possession and utilization of real estate under the financial leasing contracts. Rental of publicly owned construction land, as well as state owned agricultural land are exempt from taxation, considering that the lessee is paying the leasing fee for such land. With the aim of clarification, the term real estate property has been expanded, so it includes construction objects both above and below ground level.

Establishing the tax base

The tax base is determined as the market value of the land on which real estate is located.

For real estate of taxpayers that do not keep business records, the tax base is calculated by using the following elements: usable area of the real estate and average price per square meter in the zone in which the real estate is located, reduced for up to 1% per year due to depreciation, with a maximum of 40%.

The stated elements will also be used for determining the tax base of taxpayers that keep business records, however there are a few exceptions to that rule.

One of the exceptions is the case when the taxpayer keeps the real estate value in its business records using the fair market value method – then the tax base for the real estate is the stated fair market value on the last day of the business year preceding the year for which the tax is being calculated. Otherwise, the tax base is comprised of land value for the city construction planning land, or the real estate property value increased by the value of the remaining land belonging to the taxpayer;

For real estate for which the tax obligation emerges during the year for which the tax is being calculated – the tax base is the purchase price stated in the taxpayer's business books;

If the local governing body fails to publish law acts constituting average square meter price and defining city zones by November 30th of the current year – the tax base is real estate's bookkeeping value on the last day of the business year preceding the year for which the tax is being calculated.

If the taxpayer with accounting practice, who owns real estate and has it stated in their accounting books as a goods intended for further sale, than such taxpayer is exempt from property tax in the year when the real estate was acquired and in the year that follows. Difference between this solution and the rules before the changes and amendments to the Law is the timeframe length.

Assessing and paying property tax

The taxpayers that keep business records will be self-assessing their property tax obligations by March 31st of the year for which the tax is being calculated.

It is determined that the right to a tax credit based on property tax, when all required conditions are met, can be realized by all taxpayers.

The moment when the taxable event has occurred has been more precisely defined, so that it is considered that a tax liability was triggered: on the date of acquisition, when the utilization begun, on the date the premises were enabled for use, date when the usage permit was issued, date when the use of property was enabled by any other means, whichever occurs first.

The property tax return filing deadlines are extended, from 10 to 30 days, for submitting the property tax return through which occurrence or cessation of a tax obligation is reported.

Tax exemptions

Rules for property tax exemptions have been amended in the following manner:

- The right to a tax exemption, under the prescribed conditions, is available to all taxpayers (for instance, lessee of property, user of public real state...), and not just the taxpayers which are right bearers and owners of real estate that are being taxed.
- Land under warehouses will not be exempt from taxation.

Gift tax

The scope of taxation for the gift tax is defined more precisely in order to remove the possibility of double taxation of certain incomes using both the gift tax and some other forms of taxation. In that sense, it is defined that, amongst other things, the transfer of goods and rights without compensation, on which VAT is calculated and paid, as well as income which is included in the tax base for corporate income tax purposes, are not considered as gifts.

Property transfer tax

The lease of construction land is defined more closely as the object of taxation by property transfer tax, so that it is now applied to lease in line with the law which regulates planning and construction (so that it now includes both lease with and without compensation).

The transfer of legal entity's entire business assets (on which VAT is not levied) is taxable by property transfer tax, regardless of the basis on which the transfer is made.

At the same time, the transfer of rights based on expropriation, transfer of rights based on reorganization of legal entity and transfer of rights based on the distribution of liquidation surplus which is subject to personal income tax or corporate income tax.

Regulations on tax exemptions regarding property transfer tax are redefined so that the following transactions are exempt from the property transfer tax:

- Exchange of agricultural and forested land for grouping (so that the tax exemption is applicable only when the land is exchanged, and not for other goods for agricultural and forested land);
- Property transfer tax on property, or part of the property of a privatization subject which is being transferred from the privatization subject to the property buyer, where the property buyer is considered as an entity defined by the Law on Privatization – as a buyer in a privatization process.

Wider possibilities for property transfer tax exemption are introduced, as follows:

- In proportion to the stake of public or state capital in the total capital of a legal entity which is being sold as the liquidation debtor;
- When the ownership right is formed on land based on consolidation, i.e. arranging and grouping the land ownership in order to enable a more economical usage and exploitation.

In order to harmonize deadlines for submitting tax returns defined by the Law, an extension, from 10 to 30 days, is made for submitting tax returns for gift and property transfer tax.

Entry into force

Most of the changes will enter into force on January 1st, 2014.

Contacts

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