

February 2018

In focus: Law on Amendments and Supplements to the Law on Personal Income Tax

On December 14th 2017, the National Assembly of the Republic of Serbia adopted the Law on Amendments and Supplements to the Law on Personal Income Tax, which applies starting from January 1st 2018, unless otherwise indicated (hereinafter: **“Amendments to the Law”**).

The purpose of the novelties envisaged by the Amendments to the Law is to incite entrepreneurship, eliminate obstacles for initiating and conducting business through the establishment of tax exemption, and reduce the gray market.

The most important novelties adopted by the Amendments to the Law are as follows:

1. *Non-resident's income*

Amendments to the Law more precisely define the term of income achieved by a non-resident in the territory of the Republic of Serbia, by specifying that deemed as income is income realized by a non-resident from employment in the Republic, as well as income derived from rights incurred in the territory of the Republic, including rights based on property located on the territory of Serbia owned by a non-resident.

2. *Exemption from income tax*

Amendments to the Law prescribe new income of individuals which is not subject to personal income tax, as follows:

- financial aid to individuals not employed by the provider of financial aid for the purpose of medical treatment in the country or abroad, in the amount of the actual costs of treatment, documented by bills of the healthcare institution that performed the treatment, as well as documented costs of transportation and accommodation for the treatment of that individual;
- financial aid to individuals not employed by the provider, and which does not represent the equivalent for their work, i.e. counter service for some of their activities in relation to the provider – in the amount up to 12,375.00 dinars per year, realized from one payer.

3. *Tax on salary*

• **Subject of taxation**

Amendments to the Law specify that salary is considered income which the employee in relation to work with a domestic employer realizes from a person who, in the sense of the Corporate Profit Tax Law, is considered to be related to the employer. Furthermore, it is determined that also

considered as salary is income from work for the employer which, **on the basis of employment, a person realizes upon termination of the same.** Accordingly, the compensation for unused vacation and annual leave, various payments based on bonuses and rewards, or on the basis of the employee's contribution to the business success of the employer for the period when he was employed, etc., shall be deemed as salary subject to taxation.

- **Tax basis**

The non-taxable amount related to salary has increased from RSD 11,790.00 **to RSD 15,000.00 for a full-time employee.**

4. Tax exemptions

Amendments to the Law determine that income of any employee on the basis of reimbursement of business trip expenses in the country and abroad is not subject to taxation, if such expenses are determined in accordance with the regulations of the competent body.

Also, it is determined that financial aid for the medical treatment of an employee in the country or abroad, in the amount of the actual costs of treatment, documented by bills of the healthcare institution that performed the treatment, as well as documented travel and accommodation costs for the treatment of that person, is tax exempt.

5. Tax reliefs

- **Extension of applying current tax reliefs**

By Articles 21v and 21d of the Amendments to the Law, the period of application of existing tax reliefs for the employment of new persons which are using employers has been extended until **December 31st 2019**, and it is specified that tax reliefs for the employment of new employees can also be realized by entrepreneurs taxed on a lump sum basis and entrepreneur-agriculturists if they, through employment, increase the number of employees **in relation to the number of employees on March 31st 2014.**

It is determined that an employer – legal entity classified as a micro and small legal entity in the sense of the law which regulates accounting, as well as an entrepreneur, entrepreneur taxed on a lump sum basis and entrepreneur-agriculturist, who establishes employment with at least two new persons, has the right to a 75% refund of paid income tax for a newly employed person paid inclusive with **December 31st 2019.** The employer can achieve tax relief if he, through employment, increases the number of employees **by at least two in relation to the number of employees the employer had on October 31st 2015.**

- **Introduction of new tax exemptions**

Introduced is the right of an employer – newly founded company, as well as newly founded entrepreneur who is registered with the competent authority or organization, **to tax exemption based on the founder's salary, i.e. based on the personal earnings of the entrepreneur, as well as based on the salaries of employees, at most for nine newly employed persons**

with whom he established employment, under the following conditions:

- if the founder, i.e. each of the founders if there are more than one, establish employment in that legal entity, and that he is registered (as well as the newly founded entrepreneur) for mandatory social insurance with the Central Registry of Mandatory Social Insurance;
- that the founders of the newly founded legal entity, as well as the entrepreneur, have been registered as unemployed for a period of at least six months without interruption prior to the date of foundation of the legal entity or registration of the entrepreneur or that, in the period of 12 months prior to the date of foundation, or registration, the same acquired secondary, college or higher education, in accordance with the law;
- that the employer concluded an employment agreement with newly employed persons (up to 9 persons) in accordance with the law regulating labor relations and that such persons were registered for mandatory social insurance with the Central Registry of Mandatory Social Insurance.

The right to tax exemption may be exercised by the employer for the tax period in which it was founded, as well as for the subsequent tax period, based on salaries paid inclusive with December 31st of the said tax period.

The person who is a founder or entrepreneur can only achieve the above tax exemption as a newly established entity, either in the capacity of a founder or an entrepreneur.

The mentioned tax exemption **shall apply from October 1st 2018**, and the same can be realized by an employer – legal entity or entrepreneur **founded inclusive with December 31st 2020**, provided that use of the stated tax exemption excludes the right to other tax reliefs.

6. Income tax for freelance work

• Taxpayer

Amendments to the Law more precisely define the term taxpayer obliged to pay income tax for freelance work, determining the taxpayer as an individual who is registered with the competent authority or organization, and pays income tax for freelance work based on taxable gain (hereinafter: **entrepreneur**), i.e. the determined lump sum income (hereinafter: **entrepreneur taxed on a lump sum income**), as well as that considered the same is a **taxpayer who pays tax on the basis of income from agriculture and forestry** - an individual who is holder of the family estate registered as agricultural holdings, who keeps books according in accordance with law and is liable to pay taxes related to his taxable gain (**hereinafter: entrepreneur-agriculturist**), **as well as an individual who is liable to pay value added tax** in accordance with law, and every other individual who is performing an activity irrespective of

whether the activity is registered and income tax for freelance work is paid on taxable gain (**hereinafter: other entrepreneur**).

- **Tax base**

It is specified that taxable income from freelance work is a **taxable gain**, and for an entrepreneur taxed on a lump sum, income is **lump sum income**.

- **The entrepreneur's obligation to keep business books**

As a general rule, all entrepreneurs who perform a registered activity are obliged to keep business books under the double accounting system in accordance with the Law on Accounting.

Exceptionally, an entrepreneur taxed on a lump sum income keeps a book on turnover, and individuals who are taxpayers of VAT, individuals who are hold a family estate and other taxpayers performing activities regardless of whether they are registered – keep books under the system of simple bookkeeping.

This amendment is applied starting from 2019

The deadline for filing the tax return and tax balance for income from freelance work, except entrepreneurs taxed on a lump sum income, has been moved to **April 15th (instead of March 15th) of the year which follows the year for which the tax is determined.**

Finally, an entrepreneur taxed on a lump sum income who ceases, i.e. terminates to

perform freelance work, is obligated to inform the tax authority of this fact by submitting a tax return within 30 days from the day of ceasing, i.e. termination of performing such work.

7. Other significant amendments

- **Treatment of specific collective insurance premiums for employees**

It is determined that the premium of collective life insurance in the event of an employee's death due to an illness which is paid by the employer for all employees is not considered as salary.

- **Return of paid tax**

It is envisaged that banks will have the possibility to be refunded for income tax paid on the basis of write-off of individual claims based on non-payable loans in the sense of the regulations of the National Bank of Serbia and the Law on Corporate Income Tax.

- **Securities**

The amendments to the Law specify the term *moment of realizing income* as the moment when the employee acquires the right to dispose of the securities he received from the employer or from the employer's related person.

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