

# Tax News

## New Rulebooks adopted

July 2019

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New Rulebooks for the implementation of the Personal Income Tax Law (hereinafter "PIT Law") and the Corporate Income Tax Law (hereinafter "CIT Law") have been published in the Official Gazette of the Republic of Serbia number 50/2019. More details about the changes can be found below.

### **Rulebook on exercising the right to tax relive based on organization of recreation, sports events and activities for employees.**

The Rulebook on exercising the right to tax relive based on the organization of recreation, sports events and activities for employees applies from July 20, 2019. This Rulebook regulate the conditions that must be fulfilled to achieve tax relief for the organization of recreation, sports events and activities for employees.

Tax relief for **the benefit of recreation at the workplace and collective recreation**, can be achieved with the fulfillment of the following conditions:

- Expenses must be documented;
- Payments are made directly to the supplier's account;
- The benefit is regulated by the general act of the employer;
- All employees have the right to recreation of the same type, quality and scope to improve health.

The right to **tax relieves for the benefit of "team-building" organization** can be achieved with the fulfillment of the following conditions:

- The benefit is regulated by the general act of the employer, and implemented based on the employer's decision;
- The right to participate has at least 70% of employees of the total number of employees;
- At least 70% of employees are using the right to participate, from the total number of employees entitled to participate;
- Expenses must be documented;
- Payments are made directly to the supplier's account.

### **Rulebook on exercising the right to tax relief for the employee's earnings on the basis of own shares that employee acquires without compensation or at a preferential price.**

The Rulebook on exercising the right to tax relief for employee benefits based on own shares acquired without compensation or at a preferential price applies starting from July 20, 2019. The Rulebook regulates the conditions that must be met to achieve tax exemption for employees' income based on own shares, options for own shares or shares in capital of the employer, that is, shares, options for own shares or shares in capital of the employer (hereinafter "own shares").

Tax exemption for the benefit of income based on own shares is realized using the following conditions:

- The benefit is regulated by the general act of the employer or related entity of the employer, the employment contract, or other act/document of the employer or related entity of the employer;
- The date of acquiring of the right of disposal of own shares, as well as elements that qualitatively and quantitatively define own shares (type, number, percentage, etc.) should be determined;
- An employee cannot alienate his/her own shares, within two years from the acquisition of the right of disposal (it is confirmed by the employee's signed statement and the relevant document from the electronic database of the domestic or foreign regulated market);
- An employer or related entity of an employer cannot redeem his / her own shares from the employee (confirmed by the statement of the legal representative of the employer).
- An employee has not terminated his employment with the employer, before the expiration of two years from the date of acquisition of the own shares (confirmed by the employment contract and the corresponding document of the Central Social Security Register). If, before the expiration of a period of two years from the date of acquiring of the right of disposal of own shares, there is one reason for termination of employment, the fulfillment of the conditions for tax relieve is confirmed by the appropriate documentation (the act of termination of employment irrespective of the will of the employee and employer, medical documentation on the established degree of disability, employment contract with the employer-related entity, etc.).

### **Rulebook on the conditions and method of exempting qualified income from the corporate income tax base**

The Rulebook on the conditions and method of exempting qualified income from the corporate income tax base prescribes the conditions and method of exempting qualified income from the tax base by article 25b of the CIT Law. This rulebook applies to the determination of the CIT liability starting in 2019, for the tax period beginning in 2019.

**Qualified income** is the income that a taxpayer earns based on compensation for the use of the deposited copyrighted work or subject of related rights, i.e. the transfer of rights in connection with the invention for compensation under the license agreement (hereinafter: "**copyright**").

**Qualified expenses** are considered as total historical or current tax recognized expenses related to research and development activities resulting in the creation of a copyright. Expenses are determined by the provisions of the Rulebook on conditions and method of exercising the right to recognition of costs which are directly related to research and development in the tax balance in doubled amounts, regardless of whether the taxpayer applies for the benefit from article 22g of the CIT Law.

Qualified income is calculated as the amount of income generated from compensation for the use of the copyright reduced by the amount of qualified expenses, and then multiplied by a percentage that shows the share of total qualified expenditures in the total costs incurred concerning that copyright. The determined qualified income can be exempted from the tax base in the amount of 80%.

Qualified income can be excluded from the tax base exclusively by the taxpayer - the holder of the copyright work, provided that the work has been deposited, i.e. filed an application in connection with the invention, to the authority responsible for protection and registration of intellectual property not later than the expiry of the tax period in which Article 25b of the CIT Law and the provisions of this Rulebook are first time applied.

**The calculation of qualified income** is made separately for each copyright on the **OKP Form - Calculation of Qualified Income**.

### **Rulebook on the conditions and method of exercising the right to recognize costs directly related to research and development in the tax balance sheet in the double amount**

The Rulebook on conditions and method of exercising the right to recognize costs directly related to research and development in the tax balance sheet in double amount regulates more closely what is considered as costs directly related to the research and development carried out by the taxpayer in the Republic of Serbia, as well as the conditions and method of exercising the right to their recognition as expenses in the tax balance in the double amount increased by article 22g paragraph 1) of the CIT Law. This rulebook applies to the determination of the CIT liability starting in 2019, for the tax period beginning in 2019.

**Research and development costs** are deemed to be all expenses that a taxpayer has related to funds directly invested in research and development such as salaries of employees, purchase of materials and fixed assets, leasing of real estate, plant and equipment, professional opinion, advisory services and know-how transfer, costs related to legal protection of intellectual property rights, borrowing costs, production services costs.

Research and development costs are recognized as an expense in the amounts recognized in the income statement prepared by the accounting regulations and are additionally recognized in the tax period in which they were incurred and are therefore reported in a **double amount in the tax balance**.

Some research and development expenditures that are not disclosed as an expense in accordance with accounting regulations but as assets (fixed assets, fixed assets leased and subsequent investments on assets), are recognized as an expense in the tax balance in the period in which they were acquired, in the amount of their purchase value, whereby this recognition does not affect the recognition of the depreciation of these assets, or their impairment.

The taxpayer realizes the right to recognize the costs of research and development solely based on projects carried out in the Republic of Serbia, i.e. if at least 90% of all employees in the project perform their activities in the Republic of Serbia. It also provides an exception and it is permissible for a project to be considered as carried out in the Republic of Serbia and if some of its parts are performed outside the territory of the Republic of Serbia, but only provided that the displacement of activities is caused by special physical, geographical or natural factors that can not be provided on territories of the Republic of Serbia.

The taxpayer is obliged to submit with the tax balance a description i.e. specification of the project with particularly prominent goals, a record of the time spent by each of the employees working on a particular project, as well as a conclusion in which it is obliged to provide data on

the amount of all costs individually listed, as well as the total amount of these costs. The taxpayer is obliged to have a project budget, a procurement plan, expert opinions, invoices, contracts, as well as a record of research and development costs for each project separately, by providing tax analytical records.

### **The Rulebook on the conditions and method of exercising the right to tax credit for investments in the share capital of a newly established company performing innovative activities**

The Rulebook on the conditions and method of exercising the right to tax credit for investments in the share capital of a newly established company performing innovative activities regulates the procedure for confirming fulfilled conditions for exercising the right to use the tax credit by article 50j of the CIT Law. This rulebook applies to the determination of the CIT liability starting in 2019, for the tax period beginning in 2019.

A taxpayer who has invested in the share capital of a newly established company and who intends to exercise the right to a tax credit on this basis, submits with the tax return for the year in which he invested the following documents electronically:

**UID Form** - Statement of Investments in Innovation Activity confirming that the following conditions for exercising the right to tax credit are met:

- The company in which the investment is made is newly established company and performs innovative activities;
- Before investing, the newly established company and the taxpayer were not related parties;
- That the investment was made based on fully paid deposits that increase the capital of the newly established company that performs innovative activities.

**UID Form 1** - which confirms that the conditions for the newly established company that performs innovative activities are fulfilled.

**UID 2 Form** - confirming that the conditions prescribed by article 50j paragraph 10 point 2) and 5) are met.

The method of reduction of calculated tax when investing in the capital of a newly established company that performs innovative activities is shown on the Form PK 5, which is filed with the tax return in each tax period in which the amount of the CIT is reduced by applying for the tax credit.

### **Amendments to the Law on Mandatory Social Security Contributions in Montenegro**

On 23 July 2019 Montenegrin Assembly adopted amendments to the Law on Mandatory Social Security Contributions. The most important amendments refer to the following:

- a decrease of the obligation to pay social security contributions for health insurance on behalf of employer from 4.3% to 2.3% of gross salary;
- an increase of minimal salary to EUR 222.



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