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TAX AUDIT CONSULTING

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Confida Croatia created the Confida Monthly Newsletter with the aim of providing both local and international businesses with answers to key questions regarding tax regulations in Croatia.



■ Hrvatska

SKLAPANJE DJELOMIČNE POREZNE NAGODBE

U postupcima poreznih nadzora, Porezna uprava može utvrditi dodatne obveze po osnovi poreza i doprinosa, kao i zaračunati zatezne kamate na zakašnjelo plaćanje novoutvrđenih obveza. Porezna uprava utvrđuje nove obveze ili procjenom, ili na temelju vjerodostojne dokumentacije.

Treba spomenuti da se porezna nagodba može sklopiti i za dio novoutvrđenih obveza i u Prijedlogu za poreznu nagodbu treba točno navesti dio obveze koji je porezni obveznik spreman platiti. Preostali iznos rješavat će se po uobičajenom poreznom postupku.



Za takve novoutvrđene obveze, do uručanja Zapisnika o obavljenom poreznom nadzoru, porezni obveznik ima mogućnost s Poreznom upravom sklopiti poreznu nagodbu, kojom se može utjecati na iznos novoutvrđene obveze (kada je osnovica utvrđena procjenom), rok plaćanja i smanjenje obveze po osnovi zateznih kamata.

Porezna nagodba ne može se sklopiti u slijedećim slučajevima:

1. ako je protivno propisima, javnom interesu ili pravima trećih osoba;
2. ako postoji sumnja na počinjenje kaznenog djela;
3. za novoutvrđene obveze poreza na dohodak, prireza i doprinose za obvezna osiguranja; te
4. za obveze utvrđene izdanim poreznim rješenjima prema kojima je izvršena uplata, osim ako je podnesena tužba Upravnom sudu.

Ako su novoutvrđene obveze i pripadajuće zatezne kamate utvrđene procjenom, mogu se smanjiti za ukupno 5%. U ostalim slučajevima može se ostvariti smanjenje zateznih kamata prema postotku osnovice plaćene na dan sklapanja nagodbe, ili se može ostvariti smanjenje kamata za 50% ako se uplati ostatak ili cijela svota obveze unutar 90 dana.

Obavijest o visini novoutvrđenih obaveza zajedno s kamatama, dostavlja se poreznom obvezniku najmanje 15 dana prije održavanja zaključnog razgovora, dok se Prijedlog za sklapanje nagodbe može podnijeti najkasnije do 8 dana nakon održanog zaključnog razgovora.

Treba spomenuti da se porezna nagodba može sklopiti i za dio novoutvrđenih obveza i u Prijedlogu za poreznu nagodbu treba točno navesti dio obveze koji je porezni obveznik spreman platiti. Preostali iznos rješavat će se po uobičajenom poreznom postupku.

Ako je prijedlog podnesen, najkasnije tri dana od ugovorenog roka plaćanja porezni obveznik treba Poreznoj upravi dostaviti nalog za plaćanje i izvadak poslovne banke na kojem se vidi izvršena isplata. Plaćanje je moguće izvršiti i preknjiženjem preplate sa računa drugih poreza i doprinosa, podnošenjem Zahtjeva za preknjiženje.

U slučaju da porezni obveznik ne izvrši svoje obveze prema poreznoj nagodbi, nagodba postaje ovršna isprava, gubi se svo pravo na smanjenje zateznih kamata i one se plaćaju i na vremenski period između sklapanja nagodbe i same uplate.

Utvrđivanje primitka u naravi po osnovi
1% nabavne vrijednosti ili 20%-tnog
iznosa rate za najam (leasing)



UPOTREBA POSLOVNIH VOZILA ZA PRIVATNE SVRHE - PRIMITAK U NARAVI

Utvrđivanje primitka u naravi po osnovi 1% nabavne vrijednosti ili 20%-tnog iznosa rate za najam (leasing)

Netto primitkom – plaćom u naravi smatra se 1% nabavne vrijednosti (uvećane za 100% PDV) prijevoznog sredstva mjesečno (ako je sredstvo nabavljeno-kupljeno) ili 20% mjesečne rate za leasing uvećane za pripadajući 100% PDV. Također, iznosu mjesečnih rata leasinga treba pribrojiti i sve ono što je uplaćeno ili će biti uplaćeno na ime ukupne vrijednosti nabavljenog sredstva putem leasinga: npr. ako je pri operativnom leasingu koji će trajati 50 mjeseci uplaćen predujam od 50.000,00 HRK, a ostatak se otplaćuje mjesečnim ratama, onda u izračun mjesečne rate treba pribrojiti i jednu pedesetinu iznosa od 50.000,00 HRK (1000,00 HRK).

Iznos od 20% mjesečne rate leasinga (ili 1% nabavne vrijednosti za kupljena vozila) smatra se netto iznosom, a do bruto iznosa primitka dolazi se uvećavanjem netto iznosa za porez, preiznos i obvezne doprinose iz plaće.

Kad se za privatnu upotrebu sredstava za prijevoz obračunava plaća u naravi, svi troškovi uključujući i 50% nepriznatog PDV-a (osim troškova amortizacije na nabavnu vrijednost iznad 400.000,00 HRK) su porezno priznati (100%) i za njihov iznos se ne uvećava porezna osnovica u Prijavi poreza na dobit. Ako se po osnovi korištenja prijevoznog sredstva utvrđuje plaća u naravi, porezno su priznati i svi troškovi koji su nastali na temelju korištenja prijevoznog sredstva: troškovi održavanja, korištenja, uporabe toga sredstva itd.



Jedno od najnovijih mišljenja Porezne uprave odnosi se na pravo korištenja osobnog odbitka za uzdržavanje djeteta nezaposlenog bračnog druga, kada porezni obveznik nije biološki roditelj djeteta.



UVEĆANJE OSOBNOG ODBITKA PO OSNOVI UZDRŽAVANJA DJETETA

Jedno od najnovijih mišljenja Porezne uprave odnosi se na pravo korištenja osobnog odbitka za uzdržavanje djeteta nezaposlenog bračnog druga, kada porezni obveznik nije biološki roditelj djeteta.

Djecom se, prema odredbama Zakona o porezu na dohodak, smatraju djeca koju roditelji, posvojitelji, udomitelji i skrbnici uzdržavaju te djeca koja su završila redovito školovanje sve do prvog zaposlenja, ako ne ostvaruju više od šesterostrukog iznosa osnovice osobnog odbitka godišnje (15.000,00 HRK): oporezivih primitaka, primitaka na koje se ne plaća porez na dohodak i drugih primitaka koji se ne smatraju dohotkom. Osobni odbitak po osnovi uzdržavanja djeteta moguće je raspodijeliti između osoba koje ga

uzdržavaju, a u slučajevima posvojene, udomljene i djece dodijeljene na skrb prema posebnom propisu, biološki roditelji ne mogu koristiti uvećanje osobnog odbitka po osnovi uzdržavanja djeteta.

Sve spomenute odredbe primjenjuju se i na bračnog druga, izvanbračnog druga, životnog partnera i neformalnog životnog partnera pa oni imaju pravo na uvećanje osobnog odbitka, ako su usvojitelji djeteta i posjeduju vjerodostojne isprave kojima dokazuju taj status.





■ Croatia

DISCHARGE OF ACTUAL TAX CHARGES

In tax inspection procedures, the Tax Authority may determine additional tax and contribution liabilities as well as default interest on late payment of newly identified obligations. The Tax Authority determines new obligations based on estimates, or on credible documentation.

It should be noted that the tax settlement can also be made for part of the newly identified obligations and in the Proposal for tax settlement should be specified the part of the obligation the taxpayer is willing to pay.



For such newly identified obligations, the taxpayer has a possibility to conclude a tax settlement with the Tax Authority, to the effect that the amount of the newly identified obligation (when the base is determined based on estimate), the payment deadline and the reduction of default interest due to the Tax Authority.

A tax settlement can not be made in the following cases:

1. if it is contrary to regulations, public interest or the rights of third parties;
2. if there is a suspicion of committing a criminal offense;
3. for newly established income tax liabilities, surtaxes and contributions for compulsory social insurances; and
4. for liabilities imposed by the issued Decisions of the Tax Authority, against which the payment has already been issued, unless a lawsuit has been filed with the Administrative Court.

If the newly identified liabilities and related default interest are determined based on estimate, these can be reduced by a total of 5%. In other cases, a reduction in default

interest may be made according to the percentage of the base paid on the day of settlement, or a 50% interest reduction may be made if the remainder or full amount of the obligation is paid within 90 days.

Notice of the amount of the newly identified obligations together with the penalty interests shall be delivered to the taxpayer at least 15 days before the conclusion of the final interview, and the Settlement Proposal may be submitted no later than 8 days after the conclusion of the final interview.

It should be noted that the tax settlement can also be made for part of the newly identified obligations and in the Proposal for tax settlement should be specified the part of the obligation the taxpayer is willing to pay. The remaining amount will be settled in the usual taxation procedure.

If the proposal is filed, the taxpayer must submit to the Tax Authority at least three days from the agreed payment deadline the payment order and the statement of the business bank showing the payment made. Payments can be made by reposting from other tax and contributions accounts, by submitting a Request for Reposting.

In the event that a taxpayer does not fulfill his obligations to tax settlement, settlement becomes an enforceable document, there is no right to reduce default interest and these are also payable for the period between settlement and payment.

Determination of benefit in kind based on 1% of the purchase value or 20% of the lease installment.



USE OF BUSINESS VEHICLES FOR PRIVATE PURPOSES – BENEFIT IN KIND

Determination of benefit in kind based on 1% of the purchase value or 20% of the lease installment.

The net amount of benefit in kind is considered to be 1% of the purchase value (increased by 100% VAT) of the business vehicle per month (if acquired or purchased) or 20% of the monthly lease installment increased by the corresponding 100% VAT. Also, the amount of monthly lease installments should be increased for all that has been paid or will be paid in the name of the total value of the leased asset. For example, if for an operating lease that lasts 50 months is paid an advance of 50,000.00 HRK on top of the monthly installments, then one fifty of the sum of HRK 50,000.00 (1000,00 HRK) should be added to the calculation of the monthly installment.

The amount of 20% of the monthly lease installment (or 1% of the acquisition/purchase value) is considered a net amount. Gross amount of the receipt is arrived at by increas-

ing the net amount for tax, city surtax and compulsory social security contributions from the salary.

When for private use of business vehicles is calculated benefit in kind, all costs including 50% of the unrecognised VAT (except for depreciation costs above the value of 400,000.00 HRK) are tax deductible (100%) and their amount is not increasing taxable base in the Corporate Profit Return form. If, based on use of business vehicles for private



One of the most recent opinions of the Tax Authority refers to the right to use a personal allowance for the support of a child of unemployed spouse when the taxpayer is not the biological parent of that child.



INCREASE OF PERSONAL ALLOWANCE BASED ON CHILD SUPPORT

One of the most recent opinions of the Tax Authority refers to the right to use a personal allowance for the support of a child of unemployed spouse when the taxpayer is not the biological parent of that child.

According to the provisions of the Personal Income Tax Law, children are considered as children supported by parents, adopters, foster parents and caregivers, and children who have completed regular education up to their first employment if they do not earn more than six times the amount of the basic personal allowance annually (15,000.00 HRK), what includes: taxable receipts, non-taxable receipts and other receipts not deemed an income.

Personal allowance based on child support can be distributed among the persons who are supporting a child, and in cases of adoption,

caregiving and children assigned to care under a special regulation, biological parents can not use increased personal allowance based on child support.

All of these provisions apply to a spouse, a life partner and an informal life partner, so they have the right to increase their personal allowance if they are adopters of a child and have credible documents proving that status.





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