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TAX AUDIT CONSULTING

Your reference for Tax News in Croatia

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Confida Croatia has 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

DODJELA DIONICA I UDJELA ČLANOVIMA UPRAVE I ZAPOSLENICIMA TRGOVAČKOG DRUŠTVA

S ciljem nagrade i dugoročne stimulacije svojih članova uprave i ostalih zaposlenika, trgovačka društva mogu odlučiti dodijeliti im vlastite dionice i udjele ili pak mogućnost opcijske kupnje vlastitih dionica.

Kod kupnje dionica po nižoj vrijednosti od tržišne i opcijske kupnje dionica, netto primitak se utvrđuje kao razlika između tržišne vrijednosti dodijeljenih dionica i plaćene naknade.



Način oporezivanja dohotka koji pri tom nastaje ovisi o tome kome su dionice dodjeljene i kotiraju li dionice društva na burzi i uređenim javnim tržištima.

Primici članova uprave

Dodjelom, kupnjom po nižoj cijeni ili opcijском kupnjom dionica nastaju primici u naravi.

Kod kupnje dionica po nižoj vrijednosti od tržišne i opcijske kupnje dionica, netto primitak se utvrđuje kao razlika između tržišne vrijednosti dodijeljenih dionica i plaćene naknade.

Ako vlastite dionice u trenutku dodjele, kupnje ili realizacije prava iz opcije kotiraju na burzi ili uređenim javnim tržištima, utvrđuje se dohodak od kapitala, koji se oporezuje po stopi od 24% uz mogućí prirez. Ako pak dionice ne kotiraju na tim tržištima, utvrđuje se drugi dohodak, također po stopi od 24% s prirezom, ali tada je potrebno obračunati i doprinose za mirovinsko i zdravstveno osiguranje.

Primici zaposlenika

Kao i članovi uprave, zaposlenici mogu stjecati dionice i udjele dodjelom, povoljnijom kupnjom te mogućnošću opcijske kupnje.

U slučaju zaposlenika, primici u svezi s dionicama u pravilu se smatraju dohotkom od nesamostalnog rada.

Kod dodjele dionica, netto primitak od nesamostalnog rada jest ukupna nominalna ili tržišna cijena vlastitih dionica, ako je veća od nominalne.

Isto tako, razlika u cijeni između tržišne i cijene određene opcijским ugovorom u trenutku realizacije prava iz opcije te razlika između tržišne cijene i plaćene naknade kod stjecanja uz djelomičnu naknadu, predstavlja netto primitak na koji se obračunavaju porez, prirez i doprinosi za socijalna osiguranja.

Kupnja dionica povezanih društava

U rjeđim slučajevima, društva mogu svojim članovima uprave i zaposlenicima omogućiti i sklapanje opcijških ugovora za kupnju dionica povezanih društava iz inozemstva.

Razlika koja se u trenutku realizacije prava iz opcijškog ugovora postigne između tržišne cijene dionica i cijene iz opcijškog ugovora, predstavlja drugi dohodak.

Zakon o prijevozu u cestovnom prometu definira taksi prijevoz kao djelatnost javnog prijevoza i slijedom toga prijevoz taksijem do ili iz mjesta službenog puta izjednačen je u poreznom smislu sa prijevozom autobusom, vlakom ili avionom.



Darovanje dionica ili udjela od strane člana društva (vlasnika) članu uprave ili zaposleniku

Suprotno prethodnim slučajevima, ovdje se ne radi o odnosu poslodavca i zaposlenika.

Događa se klasični prijenos ili otuđenje financijske imovine, koje rezultira kapitalnim neto primitkom člana uprave ili zaposlenika.

Kapitalni dobici oporezuju se stopom poreza na dohodak od 12% i prirezom, osim kada se radi o otuđenju između bračnih drugova, srodnika, nasljeđivanju financijske imovine te kada je financijska imovina otuđena nakon dvije godine od dana nabave odnosno stjecanja. Tada se kapitalni primici oporezuju porezom na nasljedstva i darove po stopi od 4%.



TROŠKOVI TAKSI PRIJEVOZA NA SLUŽBENOM PUTU

Pravila poreznog tretmana troškova za prijevoz taksijem utvrđena su Zakonom o porezu na dohodak, Zakonom o PDV-u i Zakonom o porezu na dobit.

Prije svega, potrebno je utvrditi odnosi li se trošak korištenja taksi prijevoza na putovanje u ili iz mjesta u koje je radnik upućen na službeni put, ili se radi o troškovima prijevoza u mjestu u koje je radnik upućen.

Zakon o prijevozu u cestovnom prometu definira taksi prijevoz kao djelatnost javnog prijevoza i slijedom toga prijevoz taksijem do ili iz mjesta službenog puta izjednačen je u poreznom smislu sa prijevozom autobusom, vlakom ili avionom. Takvi troškovi nisu oporezivi porezom na dohodak, poslodavac ostvaruje pravo na odbitak pretporeza prema računu za taksi prijevoz i trošak smanjuje osnovicu poreza na dobit.

Ugovorene zatezne kamate također moraju biti po stopama takvim da ne dolazi do neravnopravnosti u pravima i obvezama bilo koje ugovorne stranke.



Nasuprot tome, troškovi taksi prijevoza u mjestu u koje je radnik upućen na službeni put smiju se nadoknaditi isključivo iz dnevnice isplaćene radniku za službeni put. Ako bi se takav trošak ipak podmirivao od strane poslodavca, to bi bila nadoknada privatnih troškova radnika, a time i vrsta plaće od nesamostalnog rada. Na tu plaću morali bi se obračunati porezi i doprinosi i cjelokupni trošak plaće bio bi porezno priznat pri utvrđivanju osnovice poreza na dobit. Račun za taksi prijevoz predstavljao bi nadoknadu privatnih troškova radnika i pretporez s takvog računa ne bi smio biti priznat.

NOVE STOPE ZATEZNIH IUGOVORNIH KAMATA OD 01. SRPNJA 2018. GODINE

Zatezne kamate

Stope zateznih kamata za razdoblje od 01.07.2018. do 31.12.2018. godine za ugovore između trgovaca iznose 8,82%, a prema odredbama Zakona o obveznim odnosima.

U ugovorima između trgovaca i osoba javnog prava, zatezne kamate iznose također 8,82%, dok je u ostalim odnosima važeća stopa od 6,82%.

Zatezne kamate mogu se ugovoriti i po stopama drugačijim od objavljene stope, ali nikako po višim stopama od 8,82%. Ugovorne redovne kamate po stopi višoj od ove stope zateznih kamata ne mogu teći poslije dužnikova zakašnjenja.

Ugovorene zatezne kamate također moraju biti po stopama takvim da ne dolazi do neravnopravnosti u pravima i obvezama bilo koje ugovorne stranke.

Ugovorne kamate

Stope najviših dopuštenih ugovornih kamata za razdoblje od 01.07.2018. do 31.12.2018. godine na temelju odredbi Zakona o obveznim odnosima iznose:

- Za ugovore između trgovaca: 17,29%
- Za ugovore između osoba od kojih barem jedna nije trgovac: 11,82%

Stope najviših dopuštenih kamata kada su kamate ugovorene, ali nije određena stopa, za razdoblje od 01.07.2018. do 31.12.2018. godine na temelju odredbi Zakona o obveznim odnosima iznose:

- Za ugovore između trgovaca: 4,94%
- Za ugovore između osoba od kojih barem jedna nije trgovac: 1,97%



■ Croatia

GRANTING COMPANY SHARES AND SHARE OPTIONS TO MANAGEMENT BOARD MEMBERS AND EMPLOYEES

In order to reward and provide a long-term incentive to its board members and other employees, companies may decide to grant company shares and share purchase options.

Taxation of the income resulting from those transactions depends to whom the shares and options have been granted and if the shares are listed on stock markets and regulated public markets.

In cases of a discount share purchase and optional purchase of shares, net receipts are determined as the difference between a market value of shares and the compensation paid.



Board members' receipts

Granting, purchase at a lower price or an optional purchase of shares results in benefits in kind to the board members.

In cases of a discount share purchase and optional purchase of shares, net receipts are determined as the difference between a market value of shares and the compensation paid.

If own shares are listed on the stock exchange market or regulated public markets at the time of the granting, purchase or realisation of the option rights, then should be determined personal income from capital, which is taxed at a rate of 24% with a possible surtax. If shares are not listed in regulated markets, determined should be the Other income, also at a rate of 24% with a surtax, but then must also be calculated social security contributions.

Employee receipts

As well as management board members, employees may acquire stocks and shares by granting, discount purchase and share option purchase.

In the case of an employee, equity-related receipts are generally considered income from non-independent employment.

When granting shares to employees, the net receipt from a non-independent employment is the total nominal or market price of company own shares, if market price is higher than the nominal.

Similarly, the difference between a market price and price stipulated in the option contract at the time of realisation of the share option and the difference between the market price and compensation paid at discount share purchase constitutes the net receipt on which should be calculated personal income tax, surtax and social security contributions.

Purchase of related party shares

In some cases, the company may also offer its management board members and employees to conclude option share purchase contracts for shares of affiliated companies from abroad. The difference that arises between the price from a share purchase option contract and a market share price at the time of rights realisation represents the Other income.

he Law on Road Transportation defines a taxi transportation as a public transport activity and consequently the transport by taxi to or from the place of the business trip is equal to the taxation of costs of transport by bus, train or airplane.



Share granting by a company member (owner) to a board member or an employee

Contrary to the previous cases, there is no employment factor in this kind of a transaction. Here occurs a classic transfer or a supply of a financial asset, resulting in net capital receipt of a board member or an employee.

Capital receipts are taxed at the income tax rate of 12% and surtax, except on transfers between spouses, relatives, inheritance of financial assets and when the financial asset is sold/granted after two years from the date of acquisition or purchase. In such cases, capital receipts are subject to the Tax on inheritance and gifts at a rate of 4%.



COSTS OF TAXI ON A BUSINESS TRIP

The rules for tax treatment of taxi transportation costs are determined by the Personal Income Tax Law, the Value Added Tax Law and the Corporate Income Tax Law.

First of all, it is necessary to ascertain whether the cost relates to travelling to or from the place where the employee is sent to the business trip, or relates to transport in the place of a business trip.

The Law on Road Transportation defines a taxi transportation as a public transport activity and consequently the transport by taxi to or from the place of the business trip is equal to the taxation of costs of transport by bus, train or airplane. Such costs are not taxable with personal income tax, the employer is allowed to deduct a pretax from the transporter's invoice and the cost reduces the profit tax base.

Invoice for taxi transportation represents a private cost of the employee and a pretax from such an invoice should not be recognised.



By contrast, the costs of taxi transportation in the place where the employee was sent to the business trip may be compensated exclusively from the daily allowance paid to the employee on a business trip. If such an expense would still be settled by the employer, that would be a compensation for the private cost of the employee, and hence the sort of income from non-independent employment (salary). On that salary should be calculated and paid taxes, surtax and social security contributions, and the total salary cost would be included in a Corporate Profit Tax base.

Invoice for taxi transportation represents a private cost of the employee and a pretax from such an invoice should not be recognised.

NEW RATES OF PENALTY INTERESTS VALID FROM 01ST JULY 2018 TO 31ST DECEMBER 2018

Penalty interests

Penalty interest rates for period from 01st July 2018 to 31st December 2018 to be used in contracts between companies and other trading parties amount 8,82%, following prescriptions of the Croatian Mandatory Relations Law and the Financial Business and Prebankruptcy Settlement Law.

Contractual penalty interest between traders and entities obliged to act in line with public procurement regulations is 8,82%. In contracts not deemed trading contracts and contracts subject to public procurement regulations, valid penalty interest is 6,82%.

Penalty interests may be agreed at rates different to the published rate above, but not at higher rates. Regular contract interest rates higher than 8,82% are not valid after the debtor is late with payment.

Contract penalty interests must also be agreed at rates such that it does not cause unequal rights and liabilities of any of contractual parties.

Contract interests

Highest allowed contract interest rates for period from 01st July 2018 to 31st December 2018, prescribed by the Croatian Mandatory Relations Law are:

- For contracts between companies and other trading parties: 15,44%
- For contracts between companies, traders and public legal parties: 15,44%
- For contracts between persons when at least one of the parties is not a company or trader: 10,23%



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