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# **Your reference for Tax News in SEE**

**Confida's network of independent member firms has created the Confida Quarterly SEE Newsletter with the aim of providing both local and international businesses with answers to key questions regarding tax regulations in the SEE region.**

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# Albania

Tax news from 1st May to 30th July

## ■ Albania

### **Determining the criteria, procedures and documentation for entities applying for the status “Investor in accommodation structures with 4 or 5 stars, with special status”**

As part of the Fiscal Package 2018, among others, there were approved certain fiscal incentives for "4 and/or 5 star hotels/resorts with special status" as listed below:

**Fiscal laws refer to the legislation on tourism to determine which structures will be considered as “4/5 star hotels/resorts, with special status”.**



Fiscal laws refer to the legislation on tourism to determine which structures will be considered as “4/5 star hotels/ resorts, with special status”. In this context, Law no. 114/2017 “On some additions to the law no. 93/2015, “On tourism””, provides:

1. Supplies of goods and services within these structures will be treated with VAT at a reduced rate of 6%;
2. The structures concerned shall be exempt from:
  - a. corporate income tax for a period of 10 years for structures that obtain the special status until December 2024;
  - b. tax of impact on infrastructure;
  - c. tax on immovable property.

- Definitions for "4 or 5 star accommodation structures, with special status", "Investor in a 4 or 5 star accommodation structure, with special status" as well as "Managing Operator of a 4 or 5 star accommodation structure, with special status"; The criteria to be met by an applicant to obtain the title "Investor in a 4 or 5 star accommodation structure, with special status"; as well as,
- Delegation to the Council of Ministers of the right and obligation to provide the other criteria, procedures and documentation to be fulfilled by entities that apply for the status "Investor in 4 or 5 star accommodation structure, with special status"

Following, the Council of Ministers has approved the Decision No. 257, dated 09.05.2018 “On determining the criteria, procedures and documentation for entities applying for the status “Investor in accommodation structure with 4 or 5 stars, with special status”, published in the Official Gazette No. 70, dated 16 May 2018.

Below we have summarized the main provisions of this Decision. Who can apply to obtain the status of an investor? In order to obtain the status of “investor in a 4 or 5 star accommodation structure, with special status”, any investor that meets the following criteria has the right to apply:

### **General criteria the applying investor must:**

- Invest in the construction of a 4 or 5 star accommodation structure, in the areas that have a priority in tourism development and the constructed structure be certified as such;
- Have a valid management contract, lease contract, ‘franchising contract’ or other similar contracts during the entire duration of the status with a “managing operator of accommodation structures with 4 or 5 stars, special status”, where the latter must meet certain criteria set out in this Decision;

**Before submitting the application with the ministry responsible for tourism, the applicant must pay the non-refundable application fee.**



### **Specific criteria:**

- To carry forward its activity according to domestic/foreign legislation, not be subject of bankruptcy and/or liquidation procedures, and to comply with all the obligations deriving from domestic/foreign legislation on taxes; Etc.
- Invest an amount of at least 8 million Euro for the construction of a 4-star accommodation structure and at least 15 million Euro for a 5-star accommodation structure; To have had an annual turnover of at least 40% of the investment value in the last three financial years taken together.

Before submitting the application with the ministry responsible for tourism, the applicant must pay the non-refundable application fee, which is: - ALL 200,000 for applicants to become investors in 4 star hotels; - ALL 300,000 for applicants to become investors in 5 star hotels;

- The evaluation commission of applications at the Ministry of Tourism decides by simple majority on the application and submits to the minister responsible for tourism the summary report;

- The Minister reviews the summary report of the commission and if he/she agrees, he/she proposes to the Council of Ministers the granting of special status to the applicant "investor in a 4 or 5-star accommodation structure, with special status". Against the decision of the Minister can be filed a lawsuit with the court;
- The Council of Ministers approves the granting of the status and afterwards, the investor and the ministry sign the development agreement after the investor has put a guarantee of EUR 0.8 million for 4-star hotels and EUR 1.5 million for 5-star hotels.



**As of 01.01.2019, the reduced VAT rate of 6% will be applied to the supply of accommodation and restaurant services.**



The status of “investor in a 4 or 5-star accommodation structure” has a validity period of 10 years. Justifying documentation, The documentation to be submitted by the applicant for “investor in a 4 or 5 star accommodation structure, with special status” shall contain (but not be limited to) the following information: the data of the applicant entity; description of its economic activity; the curriculum vitae of managers and qualified staff who will manage the accommodation structure; proposal of the technical project related to the accommodation structure; project funding sources; feasibility study; assessment of the environmental impact of the project; and assessment of the social impact, economic impact and the expected employment level.



## **New VAT Law**

The Law “On VAT” II. Law “On local taxes” As of 01.01.2019, the reduced VAT rate of 6% will be applied to the supply of accommodation and restaurant services provided within accommodation facilities that are certified as “agrotourism entities”.

The supply of beverages from these structures will continue to be subject to a standard VAT rate of 20%. The criteria and the certification bodies of the agrotourism activity are defined under the Decision of the Council of Ministers no. 22, dated 12.01.2018 “On the approval of certification criteria for agrotourism activity”.

The amendment of the Law “On local taxes system” provides the exemption from the tax of impact on infrastructure of investments of entities that conduct hosting activities, certified as “agrotourism”. This amendment will enter into force on 01.01.2019 ■



# Bosnia and Herzegovina

Tax news from 1st May to 30th July

■ Bosnia and Herzegovina

## **Tax Treaty between Bosnia and Herzegovina and Romania has Entered into Force**

The income tax treaty between Bosnia and Herzegovina and Romania entered into force on 18 May 2018. The treaty, signed 6 December 2016, replaces the 1986 tax treaty between Romania and the former Yugoslavia as it applies in respect of Bosnia and Herzegovina and Romania.

**As of 01.01.2019, the reduced VAT rate of 6% will be applied to the supply of accommodation and restaurant services.**



## Taxes Covered

The treaty covers Bosnia and Herzegovina individual income tax and enterprise profit tax, and covers Romanian tax on income and tax on profit.

### Withholding Tax Rates

**Dividends** - 5% if the beneficial owner is a company directly holding at least 25% of the paying company's capital; otherwise 10%

**Interest** - 7%

**Royalties** - 5%

### Capital Gains

The following capital gains derived by a resident of one Contracting State may be taxed by the other State:

- Gains from the alienation of immovable property situated in the other State;
- Gains from the alienation of movable property forming part of the business property of a permanent establishment in the other State; and

- Gains from the alienation of shares deriving more than 50% of their value directly or indirectly from immovable property situated in the other State.
- Gains from the alienation of other property by a resident of a Contracting State may only be taxed by that State
- Double Taxation Relief

Both countries apply the credit method for the elimination of double taxation.



**New Ministry Standpoint in regard to application of the tax incentive based on newly recruited employees.**



## Effective Date

The treaty applies from 1 January 2019. The 1986 tax treaty between Romania and the former Yugoslavia ceases to be effective in respect of Bosnia and Herzegovina and Romania from that date.

### **New Ministry Standpoint in regard to application of the tax incentive based on newly recruited employees.**

One of tax incentives introduced by the new Corporate Income Tax Act ("Official Gazette of FBiH", no: 15/16) is related to recruitment of new employees.

Namely, a taxpayer is entitled to a tax-deductible expense in the double amount of gross salary, paid to newly recruited employees, if both of the following conditions are met:

- 1) the duration of the employment contract is at least the period of 12 months full-time and
- 2) newly recruited employee has not been employed by the taxpayer or a related party in the previous five years.

Considering the doubts that emerged in practice in regard to application of the aforementioned incentive, the Federal Ministry of Finance (the Ministry") has several times issued official opinions/standpoints.

Within the recently issued Standpoint, no. 05-14-2-3665/15-1 as of 16 June 2018, the Ministry has explained that a taxpayer which is FBiH resident and which has business units (branch offices) in Republika Srpska and/or Brčko District, is also entitled to a right to use tax incentive based on newly recruited employees in those business units (if all prescribed conditions are met).

Permanent residence address of newly recruited employees in those business units is not relevant for application of the tax incentive, i.e. it also applies to employees with permanent residence address in Republika Srpska and/or Brčko District. ■





The Una River  
is natural border between  
Croatia and Bosnia & Herzegovina



# Croatia

Tax news from 1st May to 30th July

■ 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.

**The Tax Authority determines new obligations based on estimates, or on credible documentation.**



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 cannot 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;
- 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.



**Electronically provided services,  
together with radio and televi-  
sion broadcasting services and  
telecommunication services  
represent a type of service.**



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.

If 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.

## **Electronically Provided Services**

Electronically provided services, together with radio and television broadcasting services and telecommunication services represent a type of service for which is prescribed a special Value Added Tax (VAT) taxation procedure.

Electronically provided services are electronic services performed over the Internet or the electronic network, are automated and can be executed solely by using information technology, and in particular they include:

- 1.** Website delivery, hosting of websites, remote maintenance of programs and equipment;
- 2.** Delivery of computer programs and their updating;
- 3.** Provision of pictures, texts and information and access to databases;

**The provider should be registered for VAT purposes in the country in which provides the services and apply VAT rate according to the law of that country.**



4. Provision of music, films and games, including games of chance and gambling, and broadcasting of political, cultural, artistic, sports, scientific and entertainment programs and events; and
5. Providing distance learning services.

The place of performing the electronic, communication and broadcasting services to the taxpayer is the place of the taxpayer's head office or permanent residence, and when performed to a person who is not a taxpayer, then also a place of service provision is a place of head office or residence of that person, which is one of the exceptions to the general service taxation rule.

When these services are provided to persons who are not taxpayers but are resident or have their headquarters in another EU country, the provider should be registered for VAT purposes

es in the country in which provides the services and apply VAT rate according to the law of that country.

For the purpose of facilitating the taxation process of this type of services, prescribed is a “special taxation procedure” for electronic services, when provided to persons who are not taxpayers and have their registered office, permanent residence or habitual abode in any EU country. The special taxation procedure is different in some ways depending on whether or not the service provider has a head office in the EU.



**Taxpayer is obliged to maintain and update prescribed records on all VAT transactions and keep it 10 years from the end of the year in which they occurred.**



## **Special taxation procedure for non-EU service providers**

The service provider starting with business activities must report the start (as well as the termination) of its activity to the Tax Authority, after which he is assigned a VAT number and obliged to file a VAT declaration for each quarter until the 20th day in the following month. Such a taxpayer will not be entitled to deduct pretax from invoices received through quarterly VAT declarations, but the refund is to be realized through the return procedure for taxpayers having their head office outside the EU, in third countries.

Taxpayer is obliged to maintain and update prescribed records on all VAT transactions and keep it 10 years from the end of the year in which they occurred.

## **Special taxation procedure for EU-based service providers**

The difference with regard to the procedure applicable to non-EU based service providers is that the EU seated service provider registers for a VAT related activity in the EU country in which it has head office or residence, and if it is not seated in the EU country, then in the EU country in which it has a permanent establishment (PE).

The service provider will not be entitled to use a pretax from incoming invoices but may request a refund in the EU-country of the service consumption. However, if it performs deliveries that are not included in a special taxation procedure, it has a right to deduct pretax also from incoming invoices included in the special taxation procedure.

Finally, in order to simplify the VAT process for providers of electronic, telecommunication and broadcasting services, introduced is the MOSS procedure (not mandatory). It allows service providers who deliver services to customers in several EU countries to use only one VAT number and one VAT declaration at the same time for reporting on services provided in one or more EU countries.

Applications for special taxation procedures, as well as applications for the MOSS procedure, oblige the taxpayers to use them for the current calendar year and two subsequent years.



**In order to determine a set of business activities as a business unit, the OECD model of double taxation treaty stipulates three conditions.**



## Permanent Establishments Updates

Permanent Establishment (PE) is a term from international double tax treaties (DTT) on the avoidance of double taxation and characterizes a particular business unit of a foreign entrepreneur in the Republic of Croatia, which because of the characteristics of its business activities becomes a taxpayer of the Croatian Corporate Profit Tax.

In order to determine a set of business activities as a business unit, the OECD model of double taxation treaty stipulates three conditions:

- 1. Business location** - there must be physical presence in a country;
- 2. The permanent place** - the place of business must reflect a certain level of continuity. Only in some cases period of business performance may be shorter, due to the specific nature of a business;
- 3. Business** - along with a permanent place of business, the enterprise operates in whole or in part in the place of business unit. Business activity is considered to be any activity of a company in a contracting country.

Permanent establishment is certainly the place

of management and an affiliate, and most often it occurs in form of offices, factories, workshops, mines, petroleum or gas springs, quarries or some other places for the exploitation of natural resources. Equal treatment also has construction or assembly projects, if they last longer than 6 months. However, a permanent establishment also arises from the activity of a representative with a dependent status, acting on behalf of the company, and who is authorised to enter into contracts on behalf of the company, while being under the supervision of the company and carrying out no other separate activity.

As well, provision of services, including advisory or business services, will constitute a permanent establishment if, for the same or related project, the provision of services lasts longer than three consecutive months in any period of 12 months in a row.

A construction site, construction or assembly project makes a permanent establishment if they last longer than 6 months.



**The existence of an independent representative, legally and economically independent of the principal, does not constitute a permanent establishment.**



The prescribed duration of business activities or the provision of services is in some double tax treaty agreements stipulated for a shorter or longer time period than the time limits prescribed by the Croatian Corporate Profit Tax.

Prior to starting a business activity in Croatia which, according to the described rules, would constitute a permanent establishment, a foreign entrepreneur is obliged to deliver to the Croatian Tax Authority a completed Questionnaire for determination of a permanent establishment.

### **Activities that do not constitute a permanent establishment**

Generally, a permanent establishment does not constitute preparatory and auxiliary business activities:

- 1.** Use of facilities - for the purpose of storing, displaying or delivering goods or merchandise belonging to the enterprise;
- 2.** Stock or inventory maintenance - for the purpose of storing, displaying or delivering goods or merchandise belonging to the enterprise; or for the purpose of processing carried out by another company;

- 3.** Maintenance of a permanent place of business - solely for the purpose of purchasing goods or merchandise, for the purpose of collecting data for the enterprise or for the purpose of carrying out any other preparatory or auxiliary activities for the enterprise.

The existence of an independent representative, legally and economically independent of the principal, does not constitute a permanent establishment.



**New rates of penalty interests  
valid from the 1st of July 2018  
to the 31st of December 2018**



**New rates of penalty interests valid from the 1st  
of July 2018 to the 31st of 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% ■





# Kosovo

Tax news from 1st May to 30th July

■ Kosovo

## SSA between Kosovo and Switzerland Signed

On 8 June 2018, officials from Kosovo and Switzerland signed a social security agreement. The agreement will be the first of its kind directly between the two countries and will enter into force after the ratification instruments are exchanged. The 1962 agreement between Switzerland and the former Yugoslavia had applied in respect of Kosovo, but its application was terminated in 2010.

**On 8 June 2018, officials from Kosovo and Switzerland signed a social security agreement.**



## **Tax Treaty between Austria and Kosovo Signed**

On 8 June 2018, officials from Austria and Kosovo signed an income tax treaty. The treaty is the first of its kind between the two countries and will enter into force after the ratification instruments are exchanged. Details of the treaty will be published once available.

## **Belgian Cabinet Approves Pending SSA with Kosovo**

On 20 July 2018, the Belgian Cabinet approved for ratification the pending social security agreement with Kosovo. The agreement, signed 20 February 2018, will enter into force after the ratification instruments are exchanged and, once in force and effective, will replace the 1954 social security agreement between Belgium and the former Yugoslavia as it applies in respect of Belgium and Kosovo.

## **Swiss Federal Assembly Approves Pending Tax Treaty with Kosovo**

On 15 June 2018, the Swiss Federal Assembly (parliament) approved the pending income tax treaty with Kosovo. The treaty with Kosovo, signed 26 May 2017 (previous coverage), is the first of its kind between the two countries and will enter into force once the ratification instruments are exchanged. ■





# Macedonia

Tax news from 1st May to 30th July

## ■ Macedonia

# EU initiates Macedonia screening process

The EU's enlargement commissioner Johannes Hahn announced on Tuesday the official launch of the EU screening process with Macedonia, the European Commission said. The move comes a month after the foreign ministers of Macedonia and Greece signed a deal to resolve the 27-year old dispute between the two neighboring countries by changing the name of the former Yugoslav republic to North Macedonia. The agreement paves the way for the former Yugoslav republic to join NATO and the European Union under its new name. For the agreement to enter into force, it must be ratified by the Greek parliament. In addition, Macedonia will also hold a referendum on the deal in the autumn of 2018.

The EU's enlargement commissioner Johannes Hahn announced on Tuesday the official launch of the EU screening process with Macedonia.



## NATO invites Macedonia to start accession talks

The member countries of the North Atlantic Treaty Organization (NATO) decided to invite Macedonia to start accession talks, the secretary general of the Alliance, Jens Stoltenberg, said. - See more at: The deal was signed on June 17 by the foreign ministers of Macedonia and Greece Nikola Dimitrov and Nikos Kotzias, paving the way for the former Yugoslav republic to join NATO and the European Union under its new name of North Macedonia. The signing ceremony took place in the presence of Zaev, Greek prime minister Alexis Tsipras and senior representatives of the European Commission.

## Macedonia Signs Mutual Assistance Convention

According to an update from the Council of Europe, Macedonia on 27 June 2018 signed the OECD-Council of Europe Convention on Mutual Administrative Assistance in Tax Matters as amended by the 2010 protocol. The Convention must now be ratified by Macedonia and the ratification instrument deposited before entering into force in the country.

## Protocol to Tax Treaty between Germany and Macedonia in Force

On 24 May 2018, Germany published a notice in the Official Gazette that the amending protocol to the 2006 tax treaty with Macedonia entered into force on 16 January 2018. The protocol, signed 14 November 2016, is the first to amend the treaty and provides for the replacement of Article 26 (Exchange of Information) to bring it in line with the OECD standard for information exchange. The protocol applies from 1 January 2019. ■





# Montenegro

Tax news from 1st May to 30th July

■ Montenegro

## Economic Citizenship Programme

In July, the Government of Montenegro adopted information on the program for acquiring Montenegrin citizenship which will be implemented thanks to a special investment program that applies from the 1st of October 2018.

**The EU's enlargement commissioner Johannes Hahn announced on Tuesday the official launch of the EU screening process with Macedonia.**



The program of economic citizenship will be available for up to 2,000 applicants from non-EU countries for a limited period of three years.

Interested individuals will have the following options:

- To invest 250,000 EUR in one of the development projects previously approved by the Government in undeveloped areas of Montenegro, or
- to invest 450,000 EUR in some of the development projects previously approved by the Government in the developed area of Montenegro.

In addition, the government will charge a fee of up to 100,000 EUR per application. The fee will be directed to a special fund for the development of underdeveloped areas. The program will be managed by a special government agency that will hire pre-approved marketing agents. Marketing agents will be in charge of the successful promotion of this program and attracting interested investors. The government will also engage renowned agents specializing in checking interested applicants as well as reputable audit firms / legal advisors to perform all of the other necessary reviews of interested candidates.

This new program is part of the government's ongoing effort to attract foreign direct investment. The government expects this program to lead to an increase in economic activities and capital movements.

The Government adopted a Decision amending the Decision on the criteria for determining the scientific, economic, cultural interest of Montenegro for the acquisition of Montenegrin citizenship by admission. The amended Decision prescribes that the criteria, method and procedure for selecting applicants will be proposed by the state administration body in charge of economic affairs as well as the state administration body competent for sustainable development and tourism, within 120 days from the date this Decision enters into force. ■





# Serbia

Tax news from 1st May to 30th July

■ Serbia

## International Taxation Updates

The Republic of Serbia became one of the first states to ratify the Multinational Convention, the National Assembly of the Republic of Serbia adopted the Law on the Confirmation of the Multilateral Convention on the Application of Measures relating to tax contracts, aimed at the prevention of the erosion of the tax base and the transfer of profit on the 19th of April 2018.

**The Multilateral Convention alters the provisions of existing bilateral agreements on the avoidance of double taxation.**



The Multilateral Convention alters the provisions of existing bilateral agreements on the avoidance of double taxation, provided that the Multilateral Convention entered into force for both Contracting States that covered the agreement in question with the Multilateral Convention. The Republic of Serbia has included 64 agreements on the avoidance of double taxation by the Multilateral Convention, both those that entered into force and those that have not yet been ratified.

The Republic of Serbia has not yet submitted the OECD ratification agreement, and the Multilateral Convention for the Republic of Serbia will enter into force three months after the date of submission of the OECD ratification instrument, which is expected in the foreseeable future.

After the adoption of the amendments to the Law on Foreign Exchange Operations, which came into force on April 28th (except for the provisions related to the transfer of the competencies of the Tax Administration to the National Bank of Serbia, as well as the redefinition of the conditions for conducting exchange transactions, the implementation of which is

expected starting from January 1st next year). The most significant changes included alterations in the conditions for the transfer of debts and receivables as well as changes in the conditions for investments in long-term and short-term debt securities where the conditions were quite liberalized and allowed to invest in all securities issued by EU and EU-based persons. The conditions of short-term borrowing abroad have also been facilitated, in such a way as to allow natural persons and legal entities to borrow from non-residents with a head office, i.e. residence in an EU member state.



**The Multilateral Convention alters the provisions of existing bilateral agreements on the avoidance of double taxation.**



## **Amendments to the Law on Foreign Exchange Operations**

Amendments to the Law on Foreign Exchange Operations were adopted, where the most significant change is the liberalized conditions for granting loans to foreign countries. In this respect, the amendment of regulations allows a resident to grant a financial loan to a non-resident in which it does not have majority ownership, provided that the borrower has a head office in the European Union.

## **Law on the Central Registry of Real Owners Adopted**

The Law on the Central Registry of Real Owners entered into force on the 8 th of June , 2018.

The Law envisages the improvement of the existing system of money laundering and terrorism financing detection and prevention, and refers to:

- Companies (other than public joint stock companies),
- branches of foreign companies as well as

their representative offices,

- business associations (other than trade unions, political parties, etc.),
- foundations and endowments, cooperatives and institutions.

According to the Law, the beneficial owner is:

- An individual who is directly or indirectly the holder of 25% or more of the shares, voting rights or other rights on the basis of which he participates in the management of the Registered Entity.
- An individual who directly or indirectly has a dominant influence on business management and decision-making.
- An individual who directly or indirectly provides funds to the Registered Entity and, on that basis, significantly influences the decision of the managing body in deciding on financing and operations.
- An individual who is a founder, trustee, protector, as well as a person who has a dominant position in the management of a trust, or in another person of foreign law.
- An individual registered for representation of cooperatives, associations, foundations, endowments and institutions, provided that the authorized person for representation did not register another person as the real owner.

**Companies are obliged to register an e-mail address in accordance with the Law on Amendments to the Company Law, which entered into force on June 8, 2018.**



The law foresees that the beneficial owner should be determined by 09.07.2018., while the Registry is expected to start operating at the beginning of next year. Also, companies could be required to pay a fine of up to RSD 2,000,000 if the registration of the beneficial owner is not executed within the statutory time-limit. In addition to fines, the responsible representative could be sentenced to 3-5 months in prison.

## **Registration of e-mail address for business entities**

Companies are obliged to register an e-mail address in accordance with the Law on Amendments to the Company Law, which entered into force on June 8, 2018.

The registration of an e-mail address has become a legal obligation for both existing companies and newly-established companies

that automatically have to register their e-mail address. Businesses will have to register it before the Serbian Business Registers Agency (APR) without paying a fee.

Legal entities, both domestic and foreign, as well as branch offices and representative offices of foreigners who have not registered an address, are obliged to register it within one year from the date of implementation of the Amendment of the Law.

The reasoning for the registration of the e-mail address is the electronic registration for company incorporation which is expected to commence starting from October 2018.



**The Serbian Parliament adopted the Law on Amendments to the Companies Law.**



## **New Law on Amendments to Companies Law**

The Serbian Parliament adopted the Law on Amendments to the Companies Law. Much of the provisions will apply starting from the 1st of October 2018, while the provisions relating to cross-border mergers of companies, the European society and the European economic interest grouping will apply starting from the 1st of January 2022.

The most important changes are the following: Comprehensive regulation of matters related to the use of seals and the abolition of regulations that were inconsistent with the legal solution in this matter:

- 1.** Business name
- 2.** Procuration
- 3.** Introduction of a qualified electronic signature institute as well as the obligation to own and register an e-mail address
- 4.** Rights of minority shareholders
- 5.** Determination of the market value of shares of a public joint-stock company
- 6.** Forced buyout of shares

- 7.** The disposal of high-value assets
- 8.** Reduction of share capital of a limited liability company
- 9.** Deadline for dividend payment
- 10.** Forced liquidation
- 11.** Obligatory registration of a branch of a domestic company
- 12.** Compliance with EU regulations

**Updated**

## **User Guide for Displaying Data on the POPDV form**

In July, the Tax Administration has published the User Manual for the new data display in the VAT Calculation (the POPDV form) on their website. This version is an additional version of the original User Manual, which was passed in February of this year. The differences are minimal, but one of the most important changes is that in the period starting from July 2018 until the 30th of June 2019. The competent authorities will not consider data that is incorrectly presented in the VAT calculation and that has

**In July, the Tax Administration has published the User Manual for the new data display in the VAT Calculation (the POPDV form) on their website.**



no effect on the final amount of tax obligations. This provides a chance for taxpayers to set up a data-retrieval system in the next 12 months, which will be fully compliant with the rules in the future.

Another significant change relates to the way the data on purchased goods and services is disclosed. According to Article 2a of the Rulebook on the form and content of the VAT calculation, the data on the provision of goods and services that were provided to a VAT payer by another VAT payer or a non-VAT payer (foreign or domestic), including information on the change of the fee, the tax base, or the value of the turnover shall be recorded on the basis of the invoice on performed turnover, the change in the fee, the tax base or the value of that turnover or any other document proving the business change, with the exception of the data on:

The supply of goods and services for which the tax debtor is in accordance with the VAT Law and changes in the tax base or value of such supply;

- Paid advance, exclusive of VAT, regardless of the type of turnover;

- Reduction of VAT based on the reduction of the tax base for purchased goods and services and for turnover for which the taxpayer is excluded from and is in accordance with VAT Law.

The essence is that the recipient of goods and services - in most cases - will not be obliged to disclose data on purchased goods and services on the basis of the assumed / estimated amounts, but on the basis of the invoice or any other available document proving the business change (for example, in the case of a banking commission, for which banks usually don't issue invoices, the data will be shown on the basis of a checking account statement). However, in cases where the recipient is a tax debtor – he/she has the duty to charge VAT based on received goods and services, regardless of whether he is in possession of the invoice of the previous participant in the turnover. Also, the recipient of goods and services is obligated to correct the deduction of the previous tax by deducting the base in the tax period in which that change occurred, regardless of whether the supplier received a document on the reduction of the base. ■



# Slovenia

Tax news from 1st May to 30th July

■ Slovenia

## Tax treatment of income generated by business operations with virtual currencies

Virtual currencies under this section comprise crypto coins if the explanation does not stipulate otherwise.

Virtual currencies are not considered as monetary funds as per Point 7 of Article 4 of the Payment Services and Systems Act.

**Virtual currencies under this section comprise crypto coins if the explanation does not stipulate otherwise.**



The tax treatment of income generated by business operations with virtual currencies depends on the circumstances of an individual case. It must be established who generates income (legal entity, natural person, natural person with an activity) and what type of income is involved in each case (income from generating virtual currencies, from buying and selling virtual currencies, payment of other income in virtual currency, payment for a service etc.). Some examples that may occur in practice are explained in the continuation.



## **Tax treatment as per Personal Income Tax Act**

In accordance with Personal Income Tax Act – ZDoh-2 all income of a natural person is taxed, regardless of the type, and excluding income that is separately determined as income exempt from taxation or which is not considered as income as per the aforementioned act. A resident of the Republic of Slovenia (hereinafter referred to as "the RS") is taxed according to global income, meaning that they are obliged to pay income tax on all income that originates from the RS and on all income that originate from outside the RS. A non-resident is obliged to pay income tax only on income from sources in Slovenia.

**Virtual currencies are not considered as monetary funds as per Point 7 of Article 4 of the Payment Services and Systems Act.**



As per Point 1 of Article 32 of the ZDoh-2, personal income tax is not paid on income from capital gains on movable property sales, except for movable property as per Points 2 and 3 of Article 93 of the ZDoh-2, and on the disposal of derivative financial instruments, excluding the profit on the capital of an employee who disposes of the right to purchase shares or the right to acquire other property. The aforementioned provision does not affect the tax obligation of a natural person who carries out an activity as per Section III.3 of the ZDoh-2. Movable property as per Points 2 and 3 of Article 93 of the ZDOh-2 are securities and shareholdings in enterprises, cooperatives and other organisations, and investment coupons.



Personal income tax is not paid on profit from capital gains from the disposal of virtual currencies that: - are not considered as capital as per Points 2 and 3 of Article 93 of the ZDoh-2, or - are considered as derivative financial instruments (except in the case as per Point 1 of Article 32 of the ZDoh-2 of the aforementioned profit of an employee), under the condition that the natural person does not generate such income in connection with carrying out an activity as per Section III. 3 of the ZDoh-2. More is explained in the continuation under 2.1.2.

As has been explained, profits generated from the disposal of derivative financial instruments are not taxed as per the ZDoh-2, but the mentioned profits are subject to taxation as per the Tax on profit generated by the disposal of derivative financial instruments – ZDDOIFI.

Therefore, as per the ZDoh-2, two situations must be distinguished, depending on whether the income from trading/mining in virtual currencies is generated by a natural person or a natural person as an activity. ■

# Bled Lake in Slovenia



# Contact

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