

New Corporate Income Tax Bylaws

Following amendments of CIT Law in March 2010, Ministry of Finance enacted on 27 December new bylaws regulating methods of determining and declaring corporate income tax (CIT) liability for companies, permanent establishments (PEs) of non-resident companies and non-profit organisations.



Major changes that may impact you

For your consideration we list below major amendments that may impact you (the amendments are further elaborated in the following section of our flash report):

- Introduction of new fields in Tax balance sheet in accordance with changes of CIT Law from March 2010;
- Significant changes in tax depreciation rules related to disposal of assets;
- Significantly changed and more restrictive thin capitalization rules;
- Introduction of specific and more restrictive requirements related to transfer pricing on intra-group loans;
- New tax credit calculation form.

How we can assist you

We can provide our assistance with the following:

- Correct application of newly introduced CIT rules;
- Automation of tax depreciation calculation and tax credit assessment process;
- Determining correct tax treatment of transactions leading to capital gains/losses;
- Correct application of new thin capitalization rules;
- Structuring loan agreements with related parties in order to achieve interest deductibility according new thin capitalization and transfer pricing rules.

Benefits for you

Benefits of engaging PwC to assist you encompass the following:

- Comfort that CIT is properly calculated and settled;
- Achieving CIT compliance with minimal effort;
- Minimized effect of new restrictive rules related to interest payments to related parties.

New Corporate Income Tax Bylaws - Major Amendments

New fields in tax balance sheet form

The tax balance sheet form has been amended in order to match the latest changes of the CIT law. In this respect, new fields related to adjustment of expenses have been introduced to tax balance sheet form.

In respect of newly introduced fields reducing the tax base we outline the following:

- Tax deduction for redundancy payments made in the period, that were treated as non-deductible expense in previous period;
- Tax deduction for utilized long term provisions that were treated as non-deductible expense in the previous period;
- Impairment expenses that were treated as non-deductible expense in the previous period;
- Taxes, contributions and other public revenues that were treated as non-deductible expense in the previous period (accrued but unpaid taxes);

In respect of newly introduced fields increasing the tax base we outline the following:

- Adjusted value of the receivables that were treated as deductible expense in the previous period for which at the moment of write off the conditions prescribed by the CIT Law were not met;
- Separate positions for declaring transfer prices on intra-group loans;
- Adjusted value of general provisions made by insurance companies above the threshold prescribed by the National Bank of Serbia;

- Payments to employees on the basis of share in profits;
- Taxes, contributions and other public revenues that were treated as an expense, but not paid within the same period;
- Expenses incurred in relation to procedure of enforced payment of taxes and other debentures.

Capital Gains

The inconsistency related to taxation of capital gains from previous bylaw which envisaged that tax capital gains are subtracted from accounting result and subsequently added back in order to determine tax base is now corrected.

According to amended Bylaw, capital gains calculated in accordance with accounting rules should be subtracted from accounting result and (tax) capital gains calculated in accordance with tax legislation subsequently added in order to determine the tax base.

Thin capitalization

The interest and related costs will be fully deductible provided that the loans from related parties do not exceed four times of taxpayer's net equity (ten times for banks). The amount of tax payer's net equity for this purpose are calculated as average of the total assets less total liabilities on the beginning and the end of the year, while the amount of loan from related parties is calculated as a daily average for the year.

In case the loans from related parties exceed prescribed threshold, the amount of non-deductible interest will be calculated as proportional to the amount of loans exceeding 4:1 (10:1) threshold.



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Transfer pricing rules for intra-group loans



The amended Bylaw provides detailed rules for what is considered to be interest under market terms for inter-company loans. Namely, the key policy rate applied by the National Bank of the country in which currency the loan is denominated will be regarded as interest rate under market terms.

Transfer pricing rules in this respect are applied up to the amount of tax deductible interest determined in accordance with thin capitalization threshold.

Tax depreciation

The bylaw dealing with tax depreciation has introduced significant change related to disposal of assets stating that assets disposed during the year are excluded from tax depreciation register at their net tax value instead of sales price as previously applicable.

Also, assets transferred in the course of a business restructuring (merger, demerger etc) are for the tax purposes recognized by the new owner at their net tax value of the legal predecessor.

The new bylaw also provides more details and resolves some ambiguities stating that additions to the existing assets already classified into relevant tax depreciation group will be added to that group.

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Tax credit for investment in fixed assets

The form for claiming tax credit for investments in fixed assets is now much more comprehensive and resolves some of the uncertainties associated with the previous form. Namely, separate fields are introduced for data relevant for determining available and used tax credit for current year and amount carried forward from previous years. The new form also incorporates field for correction of tax credit on the basis of disposal of assets prior to expiration of deadline prescribed by the legislation. However, some inconsistencies in the form still remain.

Taxation of branches and other permanent establishments (PEs)

The practical issues related to taxation of the PEs that are obliged to keep accounting records are now partially resolved. Namely, PEs are obliged to complete and submit same tax balance sheet form as Serbian based companies and are consequently now in the position to utilize tax losses carried forward. However, the form of tax return for PEs still does not allow the use of tax credits.

There is still no practical possibility to utilize tax losses nor tax credits for PEs that are not obliged to keep accounting records.

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