

Tax & Legal Alert

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Explanation of 17 November 2008 issued by the Ministry of Finance regarding the interest rate applicable to loans between related parties

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The statement by the Ministry of Finance (MF) refers to the amendments to the Corporate Income Tax Act (Official Gazette, no. 56/08, CITA-2). MF clarifies, inter-alia, the period applicable to the amendment of CITA-2A regarding loans between related parties. The amendment entered into force on 7 June 2008. Under the amendment in question, if a taxpayer has a loan with a related party and the interest payable or receivable on that loan is not equal to the rate prescribed in CITA-2, then the taxpayer does not have to amend the rate for tax purposes provided that he can prove that the rate used is in fact an arm's length rate.

MF has confirmed that the amended Article 19 of CITA-2 (interest rate for loans between related parties) does apply to interest on loans established after the date when CITA-2 came in force (i.e. 1 January 2007). If however the loan came into being in the period between 1 January 2007 and 7 June 2008, then the new rules only apply to

those loans with a variable interest of rate and where interest is calculated on a monthly basis. Loans with a fixed rate of interest which were established in this period must still have interest rates that are compliant with the prescribed rate.

The new rule applies to all loans (i.e. loans with either fixed or variable rates of interest) which came into being after 7 June 2008.

For further information please contact **Aljoša Trtnik**.



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Please note:

The Finance Ministry published data to be used for 2009 personal income tax season on the following link:

http://mf.gov.si/slov/mediji/2008/2008-12-04_1.htm

The data still needs to be published in the Official gazette of RS.

Key changes effective as of 1 January 2009 from the Corporate Income Tax and VAT perspective

The start of 2009 will see some changes in Corporate Income Tax Act and also some changes to administrative procedures arising from the Tax Procedure Act (ZDavP-2).

As of 1 January 2009 sole proprietors, small entities, micro entities and self employed individuals will have to submit their tax returns in electronic form via eDavki. Large and medium sized entities have already had to submit returns electronically since 1 April 2007. The transition to electronic submission for small and micro entities also includes the submission of VAT and withholding tax (WHT) returns.



For the submission of forms via eDavki the taxable person must acquire a digital certificate, which needs to be registered in the eDavki

system prior to the first submission of the form.

For these electronic submissions and also for other declarations, a taxable person may authorise another legal or natural person to prepare or/and submit the documents in the name of the taxable person. This authority may be granted either to an employee of the taxable person or to a third party (i.e. accountancy firm). Furthermore, we would like to raise your attention to additional two changes:

- In accordance with the transitional provisions of CITA-2, the transitional period for the reduction of the tax rate continues in 2009. Consequently, the tax rate of 21 % will apply in 2009.
- As of 1 January 2009 the transitional provision of article 92 of CITA-2 ceases to be effective. Hence, tax should not be withheld from dividend payments and income similar to dividends if the recipient, inter alia, holds at least 10% (instead of 15% which is valid until 31 December 2008) of the value or number of shares or holdings in the equity capital, share capital or voting rights of the person distributing the income.

For further information please contact Aleksander Ferik and Marijana Ristevski.