

Porezne i poslovne vijesti

Tax and Business Newsletter

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Mišljenja Ministarstva financija

Plaćanje posebnog poreza prilikom isplate dividendi i udjela u dobiti na skrbničke račune

Na temelju upita poreznog obveznika, Porezna uprava je izdala pisano mišljenje o plaćanju posebnog poreza na plaće, mirovine i druge primitke (dalje: posebni porez) na dividende i udjele u dobiti koji se isplaćuju na skrbničke račune.

Naime, Središnje deponitno klirinško društvo prema nalogu skrbnika (u pravilu banke koja drži vrijednosne papire za račun trećih osoba) otvara skrbničke račune na kojima se onda vode pozicije registrirane sa skrbnikom. Kako skrbnički računi, osim na ime, mogu biti i računi pod zaporkom i/ili zbirni, porezni obveznik postavlja pitanje na koji će način obračunati, obustaviti i uplatiti iznos posebnog poreza ako u trenutku isplate dividende, odnosno udjela u dobiti ne raspolaže podacima potrebnim za točno utvrđivanje porezne obveze.

Porezna uprava ističe da je Zakonom o posebnom porezu propisano da poseban porez obračunava, obustavlja i uplaćuje isplatelj primitaka istodobno s isplatom primitka koji podliježe oporezivanju. S tim u vezi, Porezna uprava dodaje da kod skrbničkih računa koji se vode na ime, u pravilu, ne bi trebalo biti problema s utvrđivanjem i plaćanjem porezne obveze. Međutim, kod skrbničkih računa koji se vode pod zaporkom ili kao zbirni računi, dužnost je skrbnika - kao osobe kojoj je poznat identitet svakog ulagatelja - da prije svake jednokratne isplate koja se ima izvršiti na skrbničke račune dostavi isplatelju primitka podatke o broju korisnika, svotama udjela i iznosu obračunatog posebnog poreza i to za svakog korisnika bez otkrivanja njegova identiteta.

Zaključno, Porezna uprava napominje da joj je poznata obveza skrbnika da postupa u najboljem interesu svojih klijenata, ali ističe da jednako tako postoji i obveza skrbnika da nadležnom državnom tijelu dostavi podatke potrebne za obavljanje poslova iz njegova zakonom utvrđenog djelokruga.

Porezni tretman plaćenih premija za osiguranje od nezgode

Porezna uprava je izdala pisano mišljenje o poreznom tretmanu premija osiguranja od nezgode. Naime, porezni obveznik uplaćuje za svoje radnike navedene premije osiguranja te, s tim u vezi, postavlja pitanje postoji li obveza obračunavanja i plaćanja poreza na dohodak od nesamostalnog rada po osnovi tako plaćenih premija.

Opinions Issued by the Ministry of Finance

Special tax liability related to dividends and profit shares paid to custody accounts

On the basis of a taxpayer's inquiry, the Tax Administration issued an opinion in writing related to the payment of the special tax on salaries, pensions and other receipts (hereinafter: the special tax) on dividends and profit shares paid to custody accounts.

Namely, the Central Depository and Clearing Company, based on the request of the custodian (generally a bank holding securities for the account of third persons) opens custody accounts where the positions registered with the custodian are held. Due to the fact that custody accounts can be open in the tenant's name, but they can also be coded accounts and/or they can have a form of joint accounts, the taxpayer raised a question of how the special tax will be calculated, withheld and paid if, at the moment of dividend or profit shares payment, it does not have at its disposal the data required for the correct determination of the tax liability.

The Tax Administration points out that the Special Tax Act stipulates that the special tax is calculated, withheld and paid by the payer of the receipt at the same time as the receipt to be taxed. The Tax Administration adds that, as far as custody accounts held in the tenant's name are concerned, no problems should arise in relation to tax calculation and payment of the tax. However as regards the coded accounts or those held as joint accounts, it is the custodian's liability, as it is the person who knows the identity of all investors, to provide the payer of receipts with the information on the number of users, amounts of shares and the amount of the calculated special tax without revealing the identity of individual users, before each single payment to be executed at custody accounts.

In conclusion, the Tax Administration underlines that it is aware of the custodian's liability to act in the clients' best interest, but it emphasizes that the liability of the custodian to provide the state authorities with the information needed for them to exercise the activities within their competence should also be respected.

Tax treatment of casualty insurance premiums

The Tax Administration issued an opinion in writing related to the tax treatment of casualty insurance premiums. Namely, the taxpayer pays for his workers the mentioned insurance premiums and in relation to this issue raised the question of whether there is a liability to calculate and pay income tax in relation to these premiums.

Porezna uprava ističe da se primicima od nesamostalnog rada smatraju svi primici koje poslodavac isplaćuje ili daje radnicima po osnovi radnog odnosa kojima se, između ostalog, smatraju i premije osiguranja koje poslodavac plaća za svoje radnike po osnovi životnog osiguranja, dopunskog i privatnog osiguranja, dobrovoljnog mirovinskog osiguranja i osiguranja njihove imovine.

S tim u vezi, Porezna uprava napominje da se osiguranje od nezgode, sukladno odredbama Zakona o osiguranju, smatra poslom neživotnog osiguranja te da se osiguranu svotu isplaćuje samo u slučaju nastupa osiguranog slučaja – npr. smrti uslijed nesretnog slučaja, potpune ili djelomične invalidnosti radi nesretnog slučaja ili drugih sličnih slučajeva. Prema tome, zaključuje Porezna uprava, premije osiguranja koje poslodavac plaća s ciljem osiguranja svojih radnike od nezgode ne smatraju se primicima od nesamostalnog rada i ne podliježu oporezivanju porezom na dohodak.

Osim toga, Porezna uprava napominje da se trošak uplaćenih premija osiguranja smatra porezno priznatim rashodom poreznog obveznika za potrebe poreza na dobit.

Oslobodenje od obveze doprinosa za osobu koja se prvi put zapošljava

Porezna uprava je izdala pisano mišljenje o primjeni oslobodenja od obveze plaćanja doprinosa na osnovicu za osobu koja se prvi put zapošljava. Naime, porezni obveznik je sa svojim radnikom sklopio ugovor o radu na puno radno vrijeme, ali je, zbog gospodarske krize u kojoj se našao, odlučio s navedenim radnikom sklopiti aneks ugovoru o radu, kojim je radni odnos na puno radno vrijeme promijenjen u radni odnos s nepunim radnim vremenom.

S tim u vezi, porezni obveznik je postavio pitanje može li se, s obzirom na takvu promjenu, navedenog radnika i dalje smatrati osobom koja se prvi put zapošljava i, posljedično, može li porezni obveznik nastaviti koristiti oslobodenje od obveze obračunavanja i plaćanja doprinosa na osnovicu.

Porezna uprava ističe da je odredbom Zakona o doprinosima propisano da se osobom koja se prvi put zapošljava smatra, između ostalog, ona osoba koju poslodavac po osnovi ugovora o radu prijavljuje na obvezna osiguranja, a koja do dana početka osiguranja po toj osnovi nema evidentiran staž u mirovinskom osiguranju.

Kako se u konkretnom slučaju radi o nastavku radnog odnosa s promijenjenim uvjetima, dakle ne dolazi do sklapanja novog ugovora o radu, Porezna uprava zaključuje da se navedena osoba i dalje može smatrati osobom koja se prvi put zapošljava te da, prema tome, porezni obveznik može nastaviti koristiti oslobodenje od obveze obračunavanja i plaćanja doprinosa na osnovicu do isteka razdoblja od godine dana od dana prvog zaposlenja.

The Tax Administration underlines that receipts from employment refer to all receipts paid or given to the workers by the employer, which also includes life-insurance, supplemental and private insurance, voluntary pension insurance and property insurance premiums paid by the employer in the name of the worker.

The Tax Administration also underlines that, in accordance with the provisions of the Insurance Act, casualty insurance is considered non-life insurance and that the insured amount is paid only in case of insured casualty, i.e. death caused by a casualty, total or partial disability caused by a casualty or similar. Therefore, as the Tax Administration concludes, insurance premiums paid by the employer with the aim of insuring employees against casualties are not considered receipts from employment and thus are not subject to income tax.

Furthermore, the Tax Administration emphasizes that the expense of paid insurance premiums is considered a tax deductible expense for the purpose of corporate income tax.

Exemption from social security contributions payment liability for the first-time employed individual

The Tax Administration issued an opinion in writing on the right to exemption from employer's social security contributions payment for an individual being employed for the first time. Namely, a tax payer signed a full-time employment contract with an employee but, due to the economic crisis, he decided to sign an annex to the contract whereby the full-time employment became the part-time employment.

In relation to this issue, the taxpayer raised the question of whether, having in mind the mentioned change of status, this employee can still be considered the first-time employed individual and, as a consequence, if the taxpayer can still exercise the right to be exempt from the liability to calculate and pay employer's social security contributions.

The Tax Administration underlines that the provisions of the Contributions Act stipulate that the first-time employed individual is, among other, an individual who is registered for compulsory insurance based on the employment contract and who, up to the date of the beginning of his insurance status from that employment, has not been registered with the Pension fund.

As in this case the continuation of the employment takes place but in different conditions, i.e. a new employment contract has not been signed, the Tax Administration concludes that the mentioned person can still be considered a first-time employed individual. Accordingly, the taxpayer can continue exercising the right to be exempt from calculating and paying employer's social security contributions up to one year from the first day of employment.

Novi propisi

Tijekom siječnja i veljače 2010. godine (od izdavanja proteklog broja do izdavanja ovog broja naših Poreznih i poslovnih vijesti), objavljeni su, između ostalog, sljedeći propisi vezani uz područje poreza, doprinosa, financija te poslovanja općenito:

- Odluka o zajamčenom prinosu obveznih mirovinskih fondova za 2009. godinu (NN 13/10)
- Pravilnik o odobrenju za pružanje usluga potrošačkog kreditiranja (NN 14/10)
- Pravilnik o obvezi informiranja potrošača i o dodatnim pretpostavkama za izračun efektivne kamatne stope (NN 14/10)
- Pravilnik o izmjenama i dopunama Pravilnika o pravima, uvjetima i načinu korištenja zdravstvene zaštite u inozemstvu (NN 14/10)
- Odluka o izmjeni Odluke o obveznoj pričuvu (NN 18/10)
- Odluka o izmjenama i dopunama Odluke o objavljivanju Međunarodnih standarda financijskih izvještavanja (NN 18/10)
- Odluka o objavljivanju tumačenja Odbora za tumačenje Međunarodnog financijskog izvještavanja 17, 18 (NN 18/10)
- Zakon o upravnim sporovima (NN 20/10), stupa na snagu 1. prosinca 2012.
- Pravilnik o strukturi i sadržaju godišnjih financijskih izvještaja investicijskih društava (NN 20/10)
- Zakon o izmjeni i dopunama Zakona o posebnim porezima na osobne automobile, ostala motorna vozila, plovila i zrakoplove (NN 21/10)

Međunarodni ugovori

- Uredba o objavi Ugovora između Vlade Republike Hrvatske i Vlade Ruske Federacije o međusobnoj pomoći u carinskim pitanjima (NN MU 1/10)

Kratke poslovne vijesti

Allianz ostvario dobit u četvrtom kvartalu 2009. Njemački osiguravatelj Allianz ostvario je u četvrtom tromjesečju 2009. dobit od 1,1 milijarde eura, oporavivši se od gubitka od preko tri milijarde eura u istom razdoblju godinu ranije zahvaljujući dijelom i boljim uvjetima na tržištima kapitala. Prihodi su u četvrtom tromjesečju porasli za 11 posto na 26 milijardi eura, nakon 23 milijarde ostvarene u istom razdoblju 2008. U cijeloj prošloj godini kompanija je zabilježila neto dobit od 4,3 milijarde eura, u usporedbi s gubitkom od 2,2 milijarde eura u 2008., dok su prihodi za cijelu godinu porasli više od pet posto na 97 milijardi eura, prema 93 milijarde zabilježene u 2008.

New Regulations

In January and February 2010 (from previous to this issue of our Tax and Business Newsletter) the following regulations (among other) related to the field of taxation, social security contributions, finance, as well as business in general, were published:

- Decision on the Guaranteed Rate of Return of Mandatory Pension Funds for 2009 (OG 13/10)
- Rulebook on the Approval for Consumer Credit Service Provision (OG 14/10)
- Rulebook on the Duty to Inform Consumers and on Additional Prerequisites for the Calculation of Effective Interest Rate (OG 14/10)
- Rulebook on Amendments to the Rulebook on the Rights, Conditions and Modalities of Use of Health Protection Abroad (OG 14/10)
- Decision on the Amendments to the Decision on Reserve Requirements (OG 18/10)
- Decision on the Amendments to the Decision on Publishing International Financial Reporting Standards (OG 18/10)
- Decision on Publishing the Interpretations 17, 18 of the International Financial Reporting Interpretations Committee (OG 18/10)
- Administrative Disputes Act (OG 20/10), it will take effect on 1 December 2012
- Rulebook on the Structure and Content of Annual Financial Statements of Investment Fund Management Companies (OG 20/10)
- Act on Amendments to the Special Tax on Automobiles, Other Motor Vehicles, Vessels and Aircrafts Act (OG 21/10)

International Agreements

- Ordinance on Publishing the Agreement between the Government of the Republic of Croatia and the Government of Russian Federation on Mutual Assistance in Customs Issues (OG IA 1/10)

Business News Flash

Allianz gains profit in the fourth quarter of 2009. German insurer Allianz made 1.1 billion euro in the fourth quarter of 2009, bouncing back from a loss of more than 3 billion euro a year ago, owing it partially to improvements in capital markets. Revenue was 11 percent higher reaching 26 billion euro in contrast to 23 billion euro in the fourth quarter of 2008. For the full year, the company reported net income of 4.3 billion euro, compared to a loss of 2.2 billion euro in 2008, as the company's revenue for the year rose more than 5 percent reaching 97 billion euro compared to 93 billion euro in 2008.

Razlike u BDP-u među regijama u Europskoj uniji. Najbogatija regija u Europskoj uniji prema regionalnom BDP-u po stanovniku područje je užeg Londona koje je više od sedam puta bogatije od najsiromašnije regije Severozapaden u Bugarskoj, pokazala je najnovija europska studija europskog statističkog ureda Eurostata. Druga je najbogatija regija EU-a Luksemburg, a slijede Bruxelles i Hamburg. Prag je četvrti po redu i jedini je grad srednje Europe među 20 najbogatijih. Izvješće pokazuje da se 20 najsiromašnijih regija EU-a nalazi u Bugarskoj, Rumunjskoj, Poljskoj i Mađarskoj. Popisom najbogatijih područja Europe dominiraju regije u Njemačkoj, Nizozemskoj, Danskoj i Britaniji. Bogatstvo neke regije bit će važan čimbenik kod odlučivanja o dodjeli sredstava iz novoga proračuna EU.

Pad broja noćenja u hotelima u EU u 2009. Broj noćenja u hotelima i ostalim ugostiteljskim objektima u 27 zemalja članica Europske unije smanjio se u prošloj godini za 5,1 posto u odnosu na 2008. a u Hrvatskoj je taj pad bio još izrazitiji i iznosio je 9,4 posto, objavio je u europski statistički ured Eurostat. Prošle je godine u EU27 zabilježeno gotovo 1,5 milijardi noćenja. Broj noćenja domaćih gostiju pao je u 2009. za 1,6 posto a inozemnih za 9,1 posto. U Hrvatskoj je u 2009. zabilježeno 18,6 milijuna noćenja u hotelima, od čega 16,1 milijuna otpada na strance. U kategoriji stranih gostiju broj noćenja pao je za 8,5 posto a u kategoriji domaćih gostiju za 14,5 posto.

Differences in regional GDP in the EU. The Inner London, the leading region in the ranking of regional GDP per inhabitant in the European Union, is more than seven times richer than the lowest ranked region of Severozapaden in Bulgaria, reveals the latest study issued by Eurostat, the statistical office of the European Union. The second ranked region is Luxembourg, followed by Bruxelles and Hamburg. The City of Prague comes into fourth place being the only Central European city among the 20 most successful ones. The 20 lowest figures were recorded in Bulgaria, Romania, Poland and Hungary. The highest figures were recorded in the regions of Germany, the Netherlands, Denmark and Great Britain. A region's GDP will be an important factor for the decision-making process related to the allocation of funds from the new EU budget.

Total number of nights spent in hotels in EU fell in 2009. The number of nights spent in hotels and similar establishments in 27 EU countries decreased by 5.1 per cent in 2009 compared to 2008. The decrease was even more significant in Croatia and it amounted to 9.4 per cent as stated in a study published by Eurostat, the statistical office of the European Union. Last year nearly 1.5 billion nights were spent in hotels in the EU27. The number of nights spent by residents in their own country in 2009 fell by 1.6 per cent and the number of hotel nights spent by non-residents fell by 9.1 per cent. In Croatia 18.6 billion nights spent in hotels were recorded in 2009, whereby 16.1 million nights were spent by non-residents. The total number of nights spent by non-residents fell by 8.5 percent and by residents by 14.5 per cent.

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Prethodni brojevi

Mišljenja Porezne uprave:

01/2010 Obveza plaćanja posebnog poreza prilikom isplate dividende otvorenim investicijskim fondovima i mirovinskim fondovima ▪ Osnovica za obračun i plaćanje doprinosa za osiguranike – izaslane radnike ▪ Pravo na korištenje oslobođenja od plaćanja poreza na promet nekretnina

12/2009 Plaćanje posebnog poreza prilikom isplate dividende u dionicama ▪ Porezni tretman usklađenja vrijednosti dugotrajne imovine ▪ Oslobođenje od plaćanja PDV-a za javne ustanove koje obavljaju komercijalnu djelatnost ▪ Poseban porez na duhanske proizvode

11/2009 Obveza poreza na dohodak pri otuđenju četiriju nekretnina unutar razdoblja od pet godina ▪ Carinski i porezni tretman uvoza i prodaje vinjeta za cestarinu ▪ Posebni porez na luksuzne proizvode (nakit)

10/2009 Porezni tretman podmirenja kamata obračunskim plaćanjem ▪ Tretman porezom na promet nekretnina u slučaju podjele ustanove ▪ Porezni tretman unosa vlastite (privatne) imovine u obrt

08/2009 Porezni tretman isporuka vjerskih zajednica ▪ Porezno priznati tehnološki gubitak pri proizvodnji piva ▪ Porezni tretman jednokratnih isplata stipendija učenicima srednjih škola

Računovodstvo i revizija:

01/2010 Kratki prikaz novosti u računovodstvenoj praksi

12/2009 Kratki prikaz najznačajnijih promjena u računovodstvenom tretmanu "Troškova posudbe" sukladno revidiranom MRS-u 23

11/2009 Kratki prikaz najznačajnijih promjena u Međunarodnom računovodstvenom standardu 1

10/2009 Kratki prikaz glavnih razlika između MSFI 8 i MRS 14.

06/2009 Kratki prikaz bitnih promjena u odredbama novog Zakona o reviziji

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02/2010 Oporezivanje transfera nogometaša PDV-om

01/2010 (Ne)oporezivanje kamate PDV-om

12/2009 Kratki pregled Zakona o potrošačkom kreditiranju

11/2009 Kratki prikaz važnijih izmjena i dopuna Zakona o porezu na dodanu vrijednost

10/2009 Neki problemi vezani uz primjenu novog Zakona o posebnom porezu na primitke od samostalne djelatnosti i ostale primitke

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01/2010 Special tax liability related to dividends paid to open investment funds and pension funds ▪ Basis for calculation and payment of contributions for insured persons – seconded workers ▪ Right to use exemption from the real estate transfer tax payment

12/2009 Special tax on dividends paid in shares ▪ Tax treatment of a long-term asset value adjustment ▪ VAT exemption for public institutions performing commercial activities ▪ Excise duty on tobacco products

11/2009 Personal Income Tax liability related to alienation of four pieces of real estate within a five-year period ▪ Customs and tax treatment of import and sale of highway vignettes ▪ Excise duty on luxury products (jewellery)

10/2009 Tax treatment of cash-free interest payment ▪ Real estate transfer tax treatment in the case of a division of an institution ▪ Tax treatment of the contribution of own (private) assets into a craft

08/2009 Tax treatment of supplies made by religious communities ▪ The amount of tax deductible technological loss in the production of beer ▪ Tax treatment of a one-time scholarship payment to high school students

Accounting and Audit:

01/2010 A brief overview of novelties in the accounting practice

12/2009 In this section we give a brief overview of the major changes in the accounting treatment of "Borrowing costs" in accordance with the revised IAS 23

11/2009 In this section we give a brief overview of major changes in the International Accounting Standard 1

10/2009 A brief overview of the main differences between IFRS 8 and IAS 14.

06/2009 A short overview of important changes to the provisions of the new Audit Act

TaxFlash

02/2010 VAT taxation of football transfers

01/2010 (Non) taxation of interest with VAT

12/2009 A brief overview of the Consumer Credit Act

11/2009 A brief overview of the main amendments to the Value Added Tax Act

10/2009 Certain problems related to the application of the new Act on Special Tax on Receipts from Independent Activity and Other Receipts

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