

# Porezne i poslovne vijesti

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## Tax and Business Newsletter

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### SADRŽAJ

#### Mišljenja Porezne uprave

- Plaćanje posebnog poreza na alkohol
- Porezni tretman primitaka tijekom dobrovoljnog služenja vojnog roka
- Porezni učinci pri statusnoj promjeni podjele društva

#### Novi propisi

#### Međunarodni ugovori

#### Kratke poslovne vijesti

### CONTENTS

#### Opinions issued by the Tax Administration

- Payment of excise duty on alcohol
- Tax treatment of receipts during voluntary military service
- Tax treatment of a division of a company

#### New Regulations

#### International Agreements

#### Business News Flash



## Mišljenja Porezne uprave

### *Plaćanje posebnog poreza na alkohol*

Porezna uprava izdala je pisano mišljenje o plaćanju posebnog poreza na alkohol. Naime, porezni obveznik stavlja u promet proizvod od propolisa, u pakiranju od 15 ml. S tim u vezi, porezni obveznik postavio je pitanje postoji li obveza plaćanja posebnog poreza na alkohol budući da navedeni proizvod u sebi sadrži određeni postotak alkohola.

Porezna uprava navodi da se alkoholnim pićem smatraju pića koja sadrže više od 2% alkohola i stavljaju se u promet u bocama ili drugoj prikladnoj ambalaži, i to pod nazivom „alkoholna pića“. Porezna uprava ističe da se u navedenom slučaju ipak ne bi radilo o alkoholnom piću, nego o proizvodu koji je deklariran kao alkoholna tinktura propolisa i koji se smatra dodatkom prehrani koji pomaže u jačanju otpornosti organizma i pri blagim upalama grla i usta.

Slijedom toga, navedeni se proizvod ne bi mogao smatrati predmetom oporezivanja u smislu Zakona o posebnom porezu na alkohol i zato ne podliježe naplati posebnog poreza.

### *Porezni tretman primitaka tijekom dobrovoljnog služenja vojnog roka*

Na temelju upita poreznog obveznika, Porezna uprava je izdala pisano mišljenje o poreznom tretmanu primitaka što ih ostvaruju fizičke osobe tijekom dobrovoljnog služenja vojnog roka. Naime, propisima koji reguliraju predmetnu materiju propisani su uvjeti i način dobrovoljnog služenja vojnog roka, a jedno od bitnih pitanja je i iznos novčane naknade koju ročnici ostvaruju tijekom trajanja obuke.

Mišljenje je zatraženo iz razloga što iz propisa o porezu na dohodak nije jasno smatra li se navedena naknada primitkom na koji se ne plaća porez na dohodak ili se pak radi o oporezivom primitku.

Porezna uprava smatra da navedeni primitak predstavlja „ostali posebno nenavedeni primitak“ koji se smatra drugim dohotkom, a svoj zaključak obrazlaže na način da u propisima o porezu na dohodak navedena novčana naknada koja se isplaćuje ročnicima nije navedena

## Opinions issued by the Tax Administration

### *Payment of excise duty on alcohol*

The Tax Administration issued an opinion in writing regarding the payment of excise duty on alcohol. Namely, a taxpayer puts onto the market a propolis product, in a 15 ml packaging. Since the mentioned product contains a certain percentage of alcohol, the taxpayer raises the question whether he is liable to pay the excise duty on alcohol.

The Tax Administration explains that a beverage containing more than 2% of alcohol, which is put onto the market in bottles or other suitable packaging and is called “alcoholic beverage” is considered an alcoholic beverage. The Tax Administration emphasizes that in this case, however, the product should not be considered an alcoholic beverage but the product which is labelled as an alcohol based propolis tincture, considered being a food supplement that helps strengthen immunity and fights mild throat and mouth infections.

As a result, the mentioned product should not be considered as subject to taxation in the sense of Alcohol Excise Duty Act and is, therefore, not subject to excise duty.

### *Tax treatment of receipts during voluntary military service*

On the basis of a taxpayer’s inquiry, the Tax Administration issued an opinion in writing regarding the tax treatment of receipts during voluntary military training. Namely, the conditions and the modalities of the voluntary military training are laid down in special regulations and one of the important issues regards the amount of remuneration received by the trainees during the training.

The opinion was requested since the personal income tax regulations do not specify whether the mentioned receipt is considered to be non-taxable or taxable.

The Tax Administration considers that the mentioned receipt should be treated as “other unlisted receipt”, which is considered other income, and further explains its position in the following way: the mentioned receipt paid to military trainees is neither mentioned in the

u članku Zakona u kojem se navode primici na koje se ne plaća porez na dohodak, a ne radi se ni o primitku od nesamostalnog rada jer ročnik nema sklopljen ugovor o radu s nadležnim ministarstvom (navedeni ugovor će se sklopiti tek nakon uspješnog završetka obuke, što je i jedan od glavnih uvjeta za sklapanje ugovora).

Sukladno tome, postoji obveza obračunavanja i plaćanja poreza na dohodak od drugog dohotka.

## **Porezni učinci pri statusnoj promjeni podjele društva**

Na temelju upita poreznog obveznika, Porezna uprava je izdala pisano mišljenje o poreznim učincima pri statusnoj promjeni podjele društva. Naime, radi se o odvajanju s preuzimanjem, pri čemu se na društvo preuzimatelja, između ostalog, prenosi dio dugotrajne imovine koja je revalorizirana do fer vrijednosti.

Porezni obveznik je postavio pitanje mogu li se prilikom prijenosa dugotrajne imovine, u pasivi bilance prenijeti i pripadajuće revalorizacijske pričuve i tako ih voditi u bilanci preuzimatelja te postoji li obveza obračuna poreza na dobit kod kojeg od društava uključenih u ovakav postupak.

Porezna uprava smatra da je pri odvajanju dijela društva imovinu potrebno prenijeti u drugo društvo po revaloriziranoj vrijednosti, a revalorizacijska pričuva nastala revalorizacijom imovine koja se prenosi realizira se, tj. dolazi do njenog iskniženja iz bilance društva iz kojeg se prenosi i u društvu preuzimatelja postaje kapital s kojim se može raspolagati. Zbog navedenoga iznos revalorizacijske pričuve treba uključiti u osnovicu poreza na dobit društva u kojemu je revalorizacijska pričuva nastala, a to je društvo iz kojeg se imovina izdvaja.

article of the Personal Income Tax Act regulating non-taxable receipts, nor it is a salary since there is no employment contract between the trainee and the competent Ministry (the contract will be signed only after successful completion of the training, which is one of the main prerequisites for its conclusion).

Therefore, such receipts are subject to taxation and payment of personal income tax on other income.

## **Tax treatment of a division of a company**

On the basis of a taxpayer's inquiry, the Tax Administration issued an opinion in writing regarding the tax treatment of a division of a company. In the particular case, the division is carried out as a spin-off with take over, whereby a dividing company, among other things, transfers a part of its tangible assets (which had previously been revalued to their fair value) to another company.

A taxpayer therefore raised the question whether it is possible to also transfer the revaluation reserves related to the tangible assets that are being transferred and to disclose these revaluation reserves as such in the balance sheet of the acquirer and whether any corporate income tax liability arises for the companies involved in this process.

The Tax Administration considers that in the division of the company through the spin-off the assets need to be transferred to another company at their revalued amounts, and that the revaluation reserve related to the transferred assets is then regarded as realized, i.e. it is booked out of the balance sheet of the dividing company and in the acquirer it becomes a capital which can be distributed. Because of that, the amount of the revaluation reserve should be included in the corporate income tax base of the company in which the revaluation reserves were incurred, and that is the company whose assets are extracted.



[Financijska matematika](#)



[Financijsko modeliranje](#)

[crolex.hr](http://crolex.hr)

## Novi propisi

**Tijekom travnja i svibnja 2009. 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:**

- Uredba o izmjeni Uredbe o Carinskoj tarifi za 2009. godinu (NN 51/09)
- Pravilnik o načinu ostvarivanja porezne olakšice obveznika poreza na dobit na područjima posebne državne skrbi (NN 53/09)
- Izmjene i dopune Statuta Hrvatske revizorske komore (NN 53/09)
- Odluka o objavljivanju pravila privremenog okvira za mjere državnih potpora kojima se podupire pristup financiranju u trenutnoj financijskoj i gospodarskoj krizi (NN 56/09)
- Naredba o izmjeni i dopuni Naredbe o načinu uplaćivanja prihoda proračuna, obveznih doprinosa te prihoda za financiranje drugih javnih potreba u 2009. godini (NN 56/09)
- Stopa promjene proizvođačkih cijena industrijskih proizvoda u travnju 2009. godine (NN 58/09)
- Indeks potrošačkih cijena u Republici Hrvatskoj u travnju 2009. godine (NN 58/09)
- Pravilnik o postupanju u dobroj vjeri sudionika porezno-pravnog odnosa, gospodarskoj cjelini te obrascima prijave činjenica za koje postoji obveza prijavljivanja i izjave o izvorima stjecanja imovine (NN 59/09)
- Pravilnik o obliku, sadržaju, roku i načinu dostave poslovnih knjiga, evidencija i izvješća koji se čuvaju u elektroničkom obliku (NN 59/09)

## Međunarodni ugovori

- Objava o stupanju na snagu Sporazuma između Republike Hrvatske i Kraljevine Belgije o obavljanju dohodovne djelatnosti članova obitelji diplomatskog i konzularnog osoblja (NN MU 04/09)
- Ispravak Zakona o potvrđivanju Ugovora između Republike Hrvatske i Kraljevine Maroko o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak (NN MU 04/09)
- Objava o stupanju na snagu Sjevernoatlantskog ugovora (NN MU 04/09)

## New Regulations

**In April and May 2009 (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:**

- Regulation on Amendments to the Regulation on Customs Tariff for 2009 (OG 51/09)
- Rulebook on Modalities of Exercising the Right to Tax Reliefs for Corporate Income Taxpayers in the Areas of Special State Concern (OG 53/09)
- Amendments to the Statutes of the Croatian Audit Chamber (OG 53/09)
- Decision on Publishing the Rules of the Temporary Framework for State Support Measures Supporting the Approach to Financing in the Current Financial and Economic Crisis (OG 56/09)
- Order on Amendments to the Order on the Mode of Depositing Budget Income, Compulsory Contributions and Income for Financing other Public Needs in 2009 (OG 56/09)
- Rate of change of industrial products production price in April 2009 – (OG 58/09)
- Consumer price index in the Republic of Croatia in April 2009 (OG 58/09)
- Rulebook on the Principle of Acting in Good Faith for the Participants of Tax and Business Relationships, on the Business Entity as well as on the Forms for Reporting the Facts which Need to Be Reported and the Declaration on the Sources of Acquiring the Assets (OG 59/09)
- Rulebook on the Form, Content, Time Limit and the Modality of the Delivery of Business Records, Registers and Reports Kept in Electronic Form (OG 59/09)

## International Agreements

- Announcement on the Entering into Force of the Agreement between the Republic of Croatia and the Kingdom of Belgium on Income-generating Activities Performed by Family Members of Diplomatic and Consular Officers (OG IA 04/09)
- Correction to the Act on Recognition of the Agreement between the Republic of Croatia and the Kingdom of Morocco on Avoidance of Double Taxation and Prevention of Fiscal Evasion with Respect to Income Taxes (OG IA 04/09)
- Notice on the Entering into Force of the North Atlantic Treaty (OG IA 04/09)

## Kratke poslovne vijesti

**Rast njemačkog IFO indeksa.** Indeks poslovne klime njemačkog ekonomskog instituta IFO porastao je u svibnju drugi mjesec za redom i na najvišoj je razini u proteklih šest mjeseci. Indeks ukazuje na poboljšanje poslovne klime među njemačkim društvima i smatra se indikatorom trenda budućeg rasta.

**Rast priljeva u regulirane investicijske fondove u Europi.** Tijekom prva tri mjeseca 2009. povećan je neto priljev novca u regulirane investicijske fondove u Europi. Prema podacima Europskog udruženja za upravljanje fondovima i imovinom (EFAMA), priljev u UCITS fondove u prvom kvartalu ove godine iznosio je 22 milijarde eura. Tijekom četvrtog kvartala 2008. odljev iz fondova iznosio je 142 milijarde eura.

**Protiv četiri europske zemlje pokrenut postupak zbog proračunskog deficita.** Europska komisija pokrenula je postupak protiv četiri zemlje Europske unije zbog kršenja pravila Pakta o stabilnosti i rastu, koji propisuje da proračunski deficit ne smije prelaziti tri posto bruto domaćeg proizvoda. Postupak je pokrenut protiv Litve, čiji je proračunski deficit prošle godine iznosio 3,2 posto, Malte, 4,7 posto, Poljske 3,9 posto i Rumunjske 5,4 posto. Komisija je još u veljači pokrenula postupak protiv Francuske, Španjolske, Irske, Grčke i Letonije.

**Bruxelles najavljuje stroži nadzor financijskih institucija.** Europska komisija najavila je stroži nadzor nad financijskim institucijama. Jedan od ključnih prijedloga Komisije je uspostava novog Europskog vijeća za sistemske rizike (ESRC), na čijem čelu bi bila Europska središnja banka (ECB) zajedno s guvernerima središnjih banaka zemalja Europske unije, a koje bi europskim zemljama davalo rano upozorenje o prijetnjama financijskoj stabilnosti. Predlaže se i uspostava Europskog sustava financijskih supervizora (ESFS), koje bi se sastojalo od tri nova tijela ovlaštena za nadzor nad bankovnim i osiguravateljskim sektorom, kao i sektorom vrijednosnica.

## Business News Flash

**Rebound of German IFO index.** The IFO Business Climate Index rose for the second consecutive month in May to the highest value in the last six months. The index signals the improvement of the business climate among German companies and is considered to be the indicator of future growth trends.

**Growth of inflow into Europe's regulated investment funds.** Europe's regulated investment funds saw a net inflow of money during the first three months of 2009. According to the European Fund and Asset Management Association, about €22bn flowed into UCITS funds during the first quarter of the year. During the fourth quarter of 2008, €142bn flowed out from the funds.

**Excessive deficit procedures initiated for four European countries.** The European Commission initiated excessive deficit procedures for four EU countries which did not comply with the criteria from the Stability and Growth Pact, prescribing that the deficit should not exceed 3% of GDP. The procedure is initiated against Lithuania, whose deficit in 2008 was 3.2%, Malta, 4.7%, Poland, 3.9%, and Romania 5.4%. In February, the Commission had already initiated excessive deficit procedures for France, Spain, Ireland, Greece and Latvia.

**Bruxelles announces closer monitoring of financial institutions.** The European Commission announced closer monitoring of financial institutions. One of the key propositions is the foundation of the new European Systemic Risk Council (ESRC), under the chairmanship of the European Central Bank (ECB) and the governors of all central banks of the European Union. It would issue early warnings to European countries on threats to financial stability. The creation of European System of Financial Supervisors (ESFS), composed of three new bodies authorized to supervise banking, assurance securities sectors, is proposed as well.



## Prethodni brojevi

### Mišljenja Porezne uprave:

**04/2009** Preoblikovanje zajma u temeljni kapital društva ▪ Porez na dodanu vrijednost – održavanje i nadogradnja informatičkog sustava u inozemstvu ▪ Porez na dodanu vrijednost – sportski tjednik u kladionicama

**03/2009** Porezne olakšice za područja posebne državne skrbi ▪ Porezni tretman troškova povezanih s obavljanjem djelatnosti nadzora

**02/2009** Porez na dodanu vrijednost ▪ Plaćanje poreza na dobit po odbitku na licence za softver

**01/2009** Porezni tretman goodwilla pri statusnim promjenama ▪ Korištenje neto-dobiti (dividende) za uvećanje temeljnog kapitala društva-kćeri

**12/2008** Vjerodostojne isprave o izdacima za službene putovanja (trošak cestarine) ▪ Unos nekretnina u trgovačko društvo ▪ Naknada za odvojeni život ▪ Promjena obračunskog razdoblja za plaćanje poreza na dodanu vrijednost

### Računovodstvo i revizija:

**04/2009** Iskazivanje vlastitih dionica ▪ Iskazivanje ostalih/izvanrednih prihoda i rashoda

**03/2009** Dugotrajna imovina namijenjena prodaji – promjene na planu prodaje ▪ Metode amortizacije ▪ Prima nja zaposlenih – Kratkoročne naknade za odsustvovanje

**02/2009** Negativne tečajne razlike – nemonetarna imovina ▪ Reklasifikacija između kategorija financijskih instrumenata

**01/2009** „Oslobođenje“ od prikazivanja konsolidiranih financijskih izvještaja ▪ „Isključenje“ iz konsolidacije

**12/2008** Goodwill – iskazivanje nakon početnog priznavanja ▪ Goodwill – preneseni porezni gubici (priznavanje odgođene porezne imovine nakon početnog knjiženja poslovnog spajanja)

### TaxFlash

**05/2009** Primjena članka 66. Općeg poreznog zakona (ispravak porezne prijave)

**04/2009** Obračun doprinosa za obvezna osiguranja pri isplati otpremnine

**03/2009** Kamate između povezanih osoba

## Previous issues

### Opinions issued by the Tax Administration:

**04/2009** Transformation of granted loans to the company's share capital ▪ Value added tax – maintenance and upgrade of an information system abroad ▪ Value added tax – weekly magazine in betting stores

**03/2009** Tax reliefs for areas of special state concern ▪ Tax treatment of costs related to supervisory activities

**02/2009** Value added tax ▪ Withholding tax payment on software licences

**01/2009** Tax treatment of goodwill related to mergers and acquisitions ▪ Use of net profit (dividend) for the share capital increase of the subsidiary

**12/2008** Credible documents on expenditures for business trips (toll costs) ▪ Contribution of immovable property to a company's share capital ▪ Separation allowance ▪ Change in the VAT reporting and payment period

### Accounting and Audit:

**04/2009** Treasury shares ▪ Classification of other/exceptional revenues and expenses

**03/2009** Non-current assets held for sale – changes to a plan of sale ▪ Depreciation methods ▪ Employee benefits – Short-term compensated absences

**02/2009** Negative foreign exchange differences – non-monetary assets ▪ Reclassification between categories of financial instruments

**01/2009** „Exemption“ from presentation of consolidated financial statements ▪ „Exemption“ from consolidation

**12/2008** Goodwill – measurement after initial recognition ▪ Goodwill – income tax loss carry-forwards (recognition of deferred tax asset after the initial recording of the business combination)

### TaxFlash

**05/2009** Application of the Article 66 of the General Tax Act (correction of the tax return)

**04/2009** Calculation of contributions for compulsory insurance related to the severance payment

**03/2009** Interest income/expense between related persons

Molimo da nam se obratite za detaljnije informacije u vezi s temama obrađenim u ovoj publikaciji.

#### PRAVNI UVJETI

Namjera je ove publikacija zainteresiranim osobama pružiti određene korisne informacije o porezima, računovodstvu i drugim poslovnim temama. Informacije koje se u njoj nalaze mogu upućivati na određene zakone i druge pravne propise. Kako su oni podložni promjenama, a njihovo tumačenje ovisi o određenim specifičnim okolnostima, savjetujemo da prije postupanja po iznesenim informacijama zainteresirana osoba svakako detaljno analizira svoju situaciju kako bi utvrdila jesu li te informacije na nju primjenjive te – prema potrebi – zatraži i stručnu pomoć u smislu njihove primjene. Obavijesti dane u ovoj publikaciji ne predstavljaju savjetovanje ni bilo kakvu drugu uslugu.

Should you need any additional information with respect to the texts published in this newsletter, do not hesitate to contact us.

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