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Porezne i poslovne vijesti

Tax and Business Newsletter

SADRŽAJ

Mišljenja Ministarstva financija

- Porezni tretman novčanih kazni
- Tretman PDV-om dječje slikovnice i crtanog filma na DVD-u
- PDV pri „prefakturiranju“ pruženih usluga

Novi propisi

Kratke poslovne vijesti

CONTENTS

Opinions issued by the Ministry of Finance

- Tax treatment of penalties
- VAT treatment of children's picture book and animated DVD movie
- VAT in "re-invoicing" of provided services

New Regulations

Business News Flash



Mišljenja Ministarstva financija

Porezni tretman novčanih kazni

Na temelju upita poreznog obveznika, Porezna uprava izdala je pisano mišljenje o poreznom tretmanu novčanih kazni s aspekta poreza na dobit i poreza na dohodak. Naime, porezni obveznik obavlja djelatnost dostave pošiljaka na području određenog grada, te radnici poreznog obveznika pri izvršavanju dostave često parkiraju dostavna vozila na nedopuštenim mjestima, pri čemu im službenici nadležnih tijela izriču novčane kazne za prometne prekršaje.

Mišljenje je zatraženo iz razloga što iz propisa koji reguliraju predmetnu materiju nije jasno mogu li se navedeni iznosi smatrati primicima od nesamostalnog rada radnika koji su počinili prekršaj budući da je kazna zbog protupravne radnje izrečena radniku, a plaća ju porezni obveznik umjesto radnika i, sukladno tome, postoji li obveza obračunavanja i plaćanja poreza na dohodak i socijalnih doprinosa na takav primitak.

Porezna uprava smatra da se takva plaćanja ne mogu smatrati oporezivim primitkom radnika, pri čemu svoj stav obrazlaže na način da se ti troškovi ne mogu smatrati izravnim ili neizravnim primicima radnika po osnovi njihovog rada za poreznog obveznika, pa zato ne podliježu obvezi doprinosa i poreza. Pri tome Porezna uprava napominje da se takvi troškovi ne mogu smatrati porezno priznatim rashodom poreznog obveznika i da zato u punom iznosu uvećavaju poreznu osnovicu poreza na dobit.

Tretman PDV-om dječje slikovnice i crtanog filma na DVD-u

Porezna uprava izdala je pisano mišljenje o poreznom tretmanu dječje slikovnice i crtanog filma na DVD-u s aspekta PDV-a.

Porezni obveznik stavlja u promet dječju slikovnicu uz koju je priložen i DVD istog naslova. S tim u vezi, porezni obveznik je postavio pitanje po kojoj poreznoj stopi se oporezuju navedeni proizvodi.

Opinions issued by the Ministry of Finance

Tax treatment of penalties

On the basis of a taxpayer's inquiry, the Tax Administration issued an opinion in writing regarding the treatment of penalties with respect to personal income tax and corporate income tax. Namely, the taxpayer performs delivery activities in the area of a particular city, and the taxpayer's employees in the execution of delivery often park their vehicles on places where parking is forbidden. For this reason, they are issued fines for traffic violations by the competent authorities.

The opinion was requested due to the fact that regulations governing these issues do not specify whether these costs can be considered taxable income of those employees who committed the traffic violation because the employees were punished for such actions but the fines were paid by the taxpayer. Thus, the question was raised if there is a liability for calculating and paying the personal income tax and social security contributions on such receipts.

The Tax Administration considers that such payments should not be treated as employees' taxable income. It explains its position in the way that these costs do not represent salary (direct or indirect) based on the employees' work for the taxpayer. Therefore, they are not subject to taxation and there is no social contributions liability. The Tax Administration mentions that such costs cannot be considered the taxpayer's deductible costs and the corporate income tax base should be increased for full amount of such costs.

VAT treatment of children's picture book and animated DVD movie

The Tax Administration issued an opinion in writing regarding the tax treatment of children's picture book and animated DVD movie with respect to VAT.

The taxpayer puts on the market a children's picture book accompanied by a DVD with the same title. The taxpayer raised the question of what VAT rate should be applied in taxation of the mentioned products.

Odredbom članka 10., stavak 1., točka c) Zakona o PDV-u propisano je, između ostaloga, da se PDV plaća po stopi od 0% na knjige obrazovnog sadržaja, otisnute na papiru ili na drugim nositeljima teksta, uključivo i CD – ROM. Pravilnikom o PDV-u je propisano da se knjigama smatraju neperiodične tiskovine koje istodobno imaju sva tri obilježja: imaju obrazovni sadržaj, a ne smiju imati promidžbeni sadržaj, izrađene su u tehničkom smislu u obliku knjige, odnosno otisnute su na arcima papira ili na nositeljima podataka i imaju najmanje 49 stranica, pri čemu dječje slikovnice mogu imati i manji broj stranica.

Porezna uprava smatra da dječja slikovnica ispunjava propisane pretpostavke i podliježe oporezivanju po stopi od 0%, ali da crtani film na DVD-u ne zadovoljava propisane pretpostavke i, prema tome, podliježe oporezivanju PDV-om po stopi od 22%.

PDV pri „prefakturiranju“ pruženih usluga

Porezna uprava je izdala pisano mišljenje o poreznom tretmanu “prefakturiranja” pruženih usluga. Naime, podnositelj upita je udruženje obrtnika koje organizira održavanje tečaja informatičkog obrazovanja svojih članova, a tečaj provodi obrazovna ustanova. Podnositelj upita postavio je pitanje može li na računima za pruženu uslugu iskazivati PDV koji bi obrtnici onda mogli odbiti kao pretporez.

Prema propisima o PDV-u, usluge predškolskih, osnovnih, srednjih i visokoškolskih ustanova te ustanova učeničkog i studentskog standarda, uz uvjet da djelatnost obavljaju u skladu s posebnim propisima koji određuju djelokrug rada tih ustanova, oslobođene su plaćanja PDV-a.

Budući da navedenu uslugu pruža ustanova za trajnu naobrazbu i kulturu, i to prema posebnom programu koji je verificiralo Ministarstvo znanosti, obrazovanja i športa, Porezna uprava navodi da su takve usluge oslobođene PDV-a. Prema tome, ta ustanova podnositelju upita treba izdati račun na kojem neće biti iskazan PDV.

S obzirom na to da ni podnositelj upita, kao udruga obrtnika, nije u sustavu PDV-a, ne može prilikom “prefakturiranja” usluge obrazovanja obrtnika izdavati račune s iskazanim PDV-om svojim članovima, koji su polaznici tečaja informatičkog obrazovanja.

The provision of Article 10, Paragraph 1, Point c) of the VAT Act prescribes, among other, that the VAT is paid at the rate of 0% on books of educational content, printed on paper or other text media, including the CD - ROM. The VAT Rulebook prescribes that books are considered non-periodical prints, which simultaneously contain three features: they have educational content and may not have advertising content, they are in the technical sense made in the form of books or are printed on double paper sheets or on other text media and have at least 49 pages, whereas children’s picture books can have less pages.

The Tax Administration considers that the children’s picture book meets the prescribed criteria and is subject to VAT taxation at the rate of 0%. However, the animated DVD movie does not meet the prescribed criteria and is, therefore, subject to VAT taxation at the rate of 22%.

VAT in “re-invoicing” of provided services

The Tax Administration issued an opinion in writing regarding the tax treatment of “re-invoicing” of provided services. The question was submitted by an association of craftsmen, which organizes courses of IT education for its members, and the courses are conducted by an educational institution. The association raised the question of whether it can issue invoices for the rendered services containing the amount of VAT, which can then be recovered by the craftsmen as input tax.

According to the VAT regulations, the services of preschools, elementary schools, high schools, colleges and institutions of scholar and students standard, are exempt from VAT, provided that the activity is performed in accordance with special regulations which determine the scope of work of these institutions.

Since the specified service is rendered by an institution for permanent education and culture and according to a special programme verified by the Ministry of Science, Education and Sports, the Tax Administration considers that such services are exempt from VAT. Therefore, this institution will have to issue the invoice not containing the amount of VAT.

Due to the fact that the association of craftsmen is also not in the VAT system, when re-invoicing, it cannot issue invoices containing the amount of VAT to its members, who are attendants of the course of IT education.

Novi propisi

Tijekom lipnja i srpnja 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:

- Zakon o izmjenama i dopunama Zakona o tržištu kapitala (NN 74/09)
- Odluka o osnovici i načinu plaćanja posebnog doprinosa za zapošljavanje osoba zaposlenih u inozemstvu (NN 74/09)
- Uredba o izmjenama i dopunama Uredbe za provedbu Carinskog zakona (NN 76/09)
- Kodeks profesionalne etike službenika Ministarstva financija, Porezne uprave (NN 76/09)
- Eskontna stopa Hrvatske narodne banke (NN 76/09)
- Zakon o trošarinama (NN 83/09), stupa na snagu 1. siječnja 2010., a dio određuje danom pristupanju EU
- Zakon o carinskoj službi (NN 83/09)
- Uredba o popisu obveznika primjene Zakona o javnoj nabavi (NN 83/09)
- Odluka o utvrđivanju plaća i drugih primanja predsjednika i članova uprava trgovačkih društava (NN 83/09), stupio na snagu 11. srpnja 2009., a primjenjuje se do 31. prosinca 2010.
- Zakon o igrama na sreću (NN 87/09), stupa na snagu 1. siječnja 2010.
- Zakon o izmjenama i dopunama Zakona o porezu na dodanu vrijednost (NN 87/09), stupa na snagu 1. siječnja 2010.
- Stopa promjene proizvođačkih cijena industrijskih proizvoda u lipnju 2009. godine (NN 87/09)
- Indeks potrošačkih cijena u Republici Hrvatskoj u lipnju 2009. godine (NN 87/09)
- Odluka o prirezu poreza na dohodak Grada Sveta Nedjelja – (NN 89/09), stupa na snagu 1. kolovoza 2009., a primjenjuje se od 1. rujna 2009.

Hrvatski sabor također je usvojio sljedeće propise (koji do dana izdavanja ovog broja naših Poreznih i poslovnih vijesti nisu još bili objavljeni u Narodnim novinama):

- Zakon o izmjeni Zakona o PDV-u
- Zakon o izmjenama Zakona o posebnim porezima na osobne automobile, ostala motorna vozila, plovila i zrakoplove
- Zakon o naknadi za pružanje usluga u pokretnim elektroničkim komunikacijskim mrežama
- Zakon o izmjeni Zakona o doprinosima

New Regulations

In June and July 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:

- Act on Changes and Amendments to the Capital Markets Act (OG 74/09)
- Decision on the Base and Modalities of Payment of Special Tax for Employment of Individuals Employed Abroad (OG 74/09)
- Ordinance on Changes and Amendments to the Customs Act Implementation Ordinance (OG 76/09)
- Ministry of Finance, Tax Authorities' Officials' Professional Ethics Codex (OG 76/09)
- Croatian National Bank Discount Rate (OG 76/09)
- Excise Duties Act (OG 83/09), takes effect on 1 January 2010, but the implementation of certain provisions shall start at the moment of accession to the EU
- Customs Office Act (OG 83/09)
- List of Persons Bound by the Public Procurement Act Ordinance (OG 83/09)
- Decision on Determining the Salaries and Other Receipts of Presidents and Board Members of Public Companies (OG 83/09), it took effect on 11 July 2009 and will be in force until 31 December 2010
- Games of Chance Act (OG 87/09), takes effect on 1 January 2010
- Act on Amendments to the Value Added Tax Act (OG 87/09), takes effect on 1 January 2010
- Rate of change of industrial products production price in June 2009 (OG 87/09)
- Consumer price index in the Republic of Croatia in June 2009 (OG 87/09)
- Ordinance on Surtax for the Town of Sveta Nedjelja (OG 89/09), takes effect on 1 August 2009 and will be implemented as of 1 September 2009

The Croatian Parliament also adopted the following regulations (which have not yet been published in the Official Gazette until the moment of issuance of our Newsletter):

- Act on Amendments to the Value Added Tax Act
- Act on Amendments to the Special Tax on Automobiles, Other Motor Vehicles, Vessels and Aircrafts Act
- Act on the Fees for Provision of Services in Mobile Electronic Communications Networks
- Act on Amendments to Contributions Act

Kratke poslovne vijesti

Potrošačke cijene u Hrvatskoj 25% niže od prosjeka Europske unije. U izvješću za 2008., statistički ured Europske komisije Eurostat objavio je da su cijene robe za široku potrošnju i usluga u Hrvatskoj 25% niže od prosjeka Europske unije. Cijene su najviše u Danskoj (14%), a najniže u Makedoniji (47%). Eurostat je usporedio cijene oko 2500 proizvoda za široku potrošnju i usluga u 37 europskih zemalja. Cijene u zemljama sjeverne i zapadne Europe u pojedinim kategorijama su i do tri puta više nego na istoku i jugu kontinenta.

Austrijske banke preživjele bi krizu u istočnoj Europi. Austrijska središnja banka objavila je rezultate provjere izdržljivosti tamošnjeg bankovnog sektora, koja je pokazala da austrijske banke imaju dovoljno kapitala da prežive značajniju recesiju u istočnoj Europi koja bi smanjila dobit i povećala izdvajanja za nenaplativa potraživanja u 2010. Provjera je provedena pod pretpostavkom rasta nenaplativih potraživanja na 10 posto u Austriji, te 20 posto u istočnoj Europi, a u sklopu recesije koja bi trajala do kraja 2010.

Europska komisija odustala od uvođenja carina na mobilne telefone treće generacije. Pod snažnim pritiskom skandinavskih članica Europske unije, Europska komisija odlučila je odustati od plana o uvođenju carina za mobilne telefone najnovije generacije, opremljene GPS čitačima i prijamnicima tv-signala. Tu su odluku, koja će vjerojatno dati dodatni poticaj premještanju europske telekomunikacijske industrije izvan Europe, pozdravili i proizvođači i potrošači.

Business News Flash

Consumer prices in Croatia 25% below the EU average. In its report for 2008, the Statistical Office of the European Communities, Eurostat, published that the price levels for consumer goods and services in Croatia were 25% lower than the average prices in the European Union. The highest price level was found in Denmark (141%) and the lowest in Macedonia (47%). Eurostat compared the prices of about 2500 products and services in 37 European countries. The prices in the countries in Northern and Western Europe are in some categories three times higher than those in the eastern and southern parts of the continent.

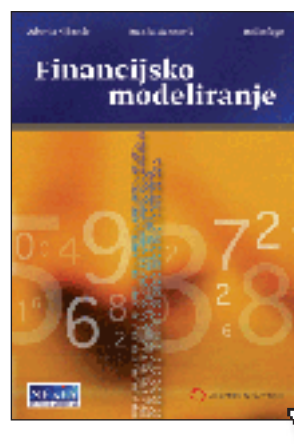
Austrian banks would survive Eastern European crisis. The Austrian Central Bank published the results of a stress-test performed on the Austrian banking sector, which revealed that Austrian banks have sufficient capital to survive a drastic Eastern European recession which would cut profit and increase loan-loss provisions in 2010. The test envisioned loan defaults rising to 10% in Austria and 20% in Eastern Europe during a recession lasting until the end of 2010.

European Commission abandoned plans to introduce duties on the third-generation mobile phones. Under strong pressure from Scandinavian member states of the European Union, the European Commission decided to abandon plans to introduce duties on the latest generation of mobile phones, with embedded GPS readers and TVs. This decision, which is likely to favour further relocation of EU telecommunications industry outside Europe, was welcomed by both manufacturers and consumers.

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Prethodni brojevi

Mišljenja Porezne uprave:

- 06/2009** Oslobođenje od plaćanja poreza na promet nekretnina ▪ Korištenje olakšica prilikom oporezivanja dobiti na području posebne državne skrbi ▪ Plaćanje posebnog poreza na luksuzne proizvode
- 05/2009** Plaćanje posebnog poreza na alkohol ▪ Porezni tretman primitaka tijekom dobrovoljnog služenja vojnog roka ▪ Porezni učinci pri statusnoj promjeni podjele društva
- 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

Računovodstvo i revizija:

- 06/2009** Kratki prikaz bitnih promjena u odredbama novog Zakona o reviziji
- 04/2009** Iskazivanje vlastitih dionica ▪ Iskazivanje ostalih/izvanrednih prihoda i rashoda
- 03/2009** Dugotrajna imovina namijenjena prodaji – promjene na planu prodaje ▪ Metode amortizacije ▪ Primaanja 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

TaxFlash

- 07/2009** Kodeks profesionalne etike službenika Ministarstva financija, Porezne uprave
- 06/2009** Pravilnik o postupanju u dobroj vjeri za sudionike porezno-pravnog odnosa, gospodarskoj cjelini te obrascima prijave činjenica za koje postoji obveza prijavljivanja i izjave o izvorima stjecanja imovine
- 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:

- 06/2009** Exemption from the real estate transfer tax payment ▪ Use of corporate income tax relief in the areas of special state concern ▪ Payment of excise duty on luxury products
- 05/2009** Payment of excise duty on alcohol ▪ Tax treatment of receipts during voluntary military service ▪ Tax treatment of a division of a company
- 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

Accounting and Audit:

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

TaxFlash

- 07/2009** The Ministry of Finance, Tax Authorities Officials' Professional Ethical Codex
- 06/2009** Rulebook on the Principle of Acting in Good Faith for the Participants of a Tax Law Relation, on the Business Unit as well as on the Forms for Reporting the Tax Relevant Facts and the Declaration on the Sources of Acquiring the Assets
- 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

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