

Overview of the most important tax news for 2021

Introduction

With the beginning of 2021, numerous changes of tax rules have come into force.

In this Tax Alert, we present you with a summarized overview of the most important amendments to the Bylaws rendered in relation to the fifth round of tax reform and the amendments to the Acts that have come into force within that round. Please refer to **our Tax Alerts from 30 October and 22 December 2020** for more details regarding the amendments to the Acts.

Information about the amendments to the Forest Act and Act on Membership Fees in Tourist Boards is also included in this Tax Alert.

Furthermore, we present you with certain tax rules rendered due to the recent devastating earthquake that can mitigate the negative consequences caused by that event.

Finally, we would like to remind you that, following 1 January 2021, the obligation on reporting on cross-border arrangements based on the Council Directive (EU) 2018/822 has come into force and taxpayers should analyze their potential reporting obligations and possible steps for fulfilling those obligations.

Amendments to the Personal Income Tax Bylaws

A summarized overview of the most important amendments are as follows:

Receipts that are not deemed as income:

- ▶ The amount of debt written off by a credit institution to an unrelated natural, which was previously value adjusted and provided for in accordance with the regulations of the Croatian National Bank, is not considered taxable income.

Pupils and students

Receipts of regular and even part-time students received on the basis of working through student associations are not considered as taxable income up to the prescribed amount while in terms of taxation payments above the prescribed non-taxable amount are now equalized.

Reporting to Tax Authorities via JOPPD form

Tax Authorities will ex officio connect the unconnected data in their system:

- ▶ submitted JOPPD forms and
- ▶ unconnected payments, related to personal income tax, city surtax and mandatory social security contributions.

Connection of JOPPD forms and unconnected payments will take place after expiry of six months from the date of unconnected payment. In case the amount of payment differs from the amount of liability reported in a JOPPD form, the connection will be made starting from the oldest amount of payment and debit.

Furthermore, it is prescribed that a JOPPD form does not need to be submitted for income earned by a natural person based on employment or activity for an employer who is not registered in Croatia on the basis of acquired status of digital nomad based on Foreigners Act.

Receipts from independent activity

Amounts of received state aid intended for the acquisition of tangible long-term assets that are not subject to depreciation should be included in the tax base in the tax period in which the assets were sold, destroyed or otherwise disposed of.

International sailing

Change in filling in of the DPOM form is introduced.



Tax Authorities' News

Taxpayers who received total capital income in Croatia through financial intermediaries and have received capital gains in 2020 in the amount lower than 112 HRK are not obliged to submit JOPPD form by 28 February 2021.

- ▶ Prescribed tax rate for determination of annual lump sum tax is reduced from 12% to 10% according to both stated Regulations.
- ▶ The annual Report on lump-sum income from self-employment and paid lump-sum tax and city surtax (form PO-SD) is changed.

Decree about the basis for calculation of social security contributions

A new Decree on the basis for calculation of social security contributions for 2021 was adopted, according to which:

- ▶ A minimum monthly basis for calculation of social security contributions for 2021 amounts to HRK 3.488,78.
- ▶ A maximum monthly basis for calculation of social security contributions for 2021 amounts to HRK 55.086.
- ▶ A maximum annual basis for calculation of social security contributions for 2021 amounts to HRK 661.032.
- ▶ A minimum monthly basis for calculation of social security contributions for full time work of a company's board member or executive director or cooperative directors amounts to HRK 5.967,65.

Amendments to the Bylaws on lump sum taxation for rental services and organizing accommodation in tourism and to the Bylaws on lump sum taxation of independent activities

A summarized overview of the most important amendments are as follows:

Amendments to the Corporate Income Tax Bylaws

An overview of most important amendments to the Corporate Income Tax Bylaws, which will apply to tax return for 2021 and onwards, is presented below:

Rule on controlled foreign companies

- ▶ The rules on the controlled foreign companies outside EU are equalized with those in EU member states. Taxpayers will be obliged to submit data for controlled foreign companies in non-EU countries as well.

Transfer pricing

Provisions with respect to deadlines and documentation related to adjustment of transfer prices are added as follows:

- ▶ Prior to or at the time of the controlled transaction, the taxpayer will be required to document the company's reasonable efforts to establish prices in accordance with the arm's length principles, based on the information available at that moment.
- ▶ If, at the year end, the taxpayer finds that prices are not in line with the arm's length principles, he will be obliged to carry out transfer pricing adjustments.
- ▶ The adjustments must be performed before filing the tax return. At the time of filing the tax return, the taxpayer must submit an explanation on why the price he set before or at the time of the transaction did not meet the arm's length principle.

- ▶ The applied adjustment will not prevent a subsequent adjustment in a possible audit, nor will the adjustment have an impact on possible mutual agreement procedures.

Mergers, demergers, partial demergers, transfer of assets and exchange of shares of companies from different EU Member States according to Directives 90/434/EEC and 2005/19/EC

Reporting the transfer of assets

- ▶ The deadline for the Tax Authorities to issue the resolution on the recognition or denial of benefits under Articles 20.c - 20.f of the Corporate Income Tax Act is extended by an additional 90 days.

Reporting the exchange of shares, mergers and de-mergers

- ▶ A new provision is added related to the possibility of subsequent delivery of documents when reporting the exchange of shares as well as mergers and de-mergers, with the obligation to inform the Tax Authorities that the documents will be submitted at a later date, when available.

Other amendments to the Corporate Income Tax Bylaws

The provisions of the Corporate Income Tax Bylaws related to the contents of the Corporate Income Tax return are amended according to the amendments of the Corporate Income Tax Act.

The Bylaws amendments also prescribe the obligation to utilize the currently valid corporate income tax rates (10% and 18%) when calculating the advance payments in the Corporate Income Tax return for 2020.

The interest rate on loans between related parties for 2021

The Minister of Finance has rendered a decision on the interest rate on loans between related parties for 2021. The respective interest rate for 2021 amounts to 3%.

However, we remind you that taxpayers can, instead of the above prescribed interest rate, use one of five transfer pricing methods for determining the arm's length interest rates under the condition that the chosen methodology is being applied for all intercompany loans.

Amendments to the Value Added Tax Bylaws

New provisions of Bylaws clarify that renting of furnished or unfurnished rooms and living spaces to legal person is not considered as renting for private accommodation purposes and as such is not VAT exempt.

Furthermore, according to the provisions of previously valid Bylaws, taxable person without headquarter, residence or habitual residence in Croatia who is registered for VAT in Croatia, was not obliged to file Return on supplies of goods and services subject to domestic reverse charge in accordance with article 75(3) of the VAT Act (Form PPO). New provisions of the Bylaws abolish that exception.

New provisions of the Bylaws introduce obligation to file Form e-commerce. The respective form contains overview of telecommunications services, radio and television broadcasting services and electronically supplied services and distance sales of goods to non-taxable persons. In the respective form taxpayer should report total amount of:

- ▶ distance sales of goods, and
- ▶ telecommunications services, radio and television broadcasting services and electronically supplied services to non-taxable persons with headquarters, residence or habitual residence in other EU Member States.

The respective form shall be filed with Tax Authorities no later than 20 January for the previous year. In case the taxpayer exceeded the threshold of HRK 77,000 during the year, he shall file the respective form no later than 8 days from the day he performed the supply with which he exceeded the threshold of HRK 77,000.

Abovementioned provisions on filing of Form e-commerce are in force as of 1 July 2021.

VAT Guidelines for the last tax period of the calendar year

The Tax Authorities have issued the Guidelines for compiling and submitting the VAT return for the last tax period of the calendar year. Taxpayers are obligated to make **all the necessary adjustments and corrections for the calendar year** in the respective VAT return.

The most important adjustments are as follows:

- ▶ adjustment of input VAT for capital goods and
- ▶ recalculation of the proportional deduction ratio (pro-rata calculation). The Tax Authorities remind that the amounts received as support for employment retention should not be put in the denominator of the pro-rata calculation.

The Tax Authorities also remind about the rules concerning destruction, loss, or theft of property.

The submission of the final VAT return for 2020 is due **by 20 January 2021**.

Amendments to the Bylaws on Fiscalization in Cash Transactions

New provisions of the Bylaws prescribe the amount of the cash maximum for different categories of taxpayers.

Criteria for determining cash maximum is the size of entrepreneur in accordance with provisions of special act on development of small businesses. According to the mentioned criteria there are following categories of cash maximums:

- ▶ micro entities and natural persons - HRK 10,000,
- ▶ small entities - HRK 50,000,
- ▶ medium entities - HRK 80,000.

Cash maximum is determined for entity as a whole and within that range entity can determine cash maximum for its organizational parts.

Entities which exceed abovementioned criteria in for small businesses may determine cash maximum at the amount up to HRK 100,000.

Amendments to the Forest Act

On 15 December 2020, the Croatian Parliament enacted amendments of the Forest act which entered into force on 1 January 2021.

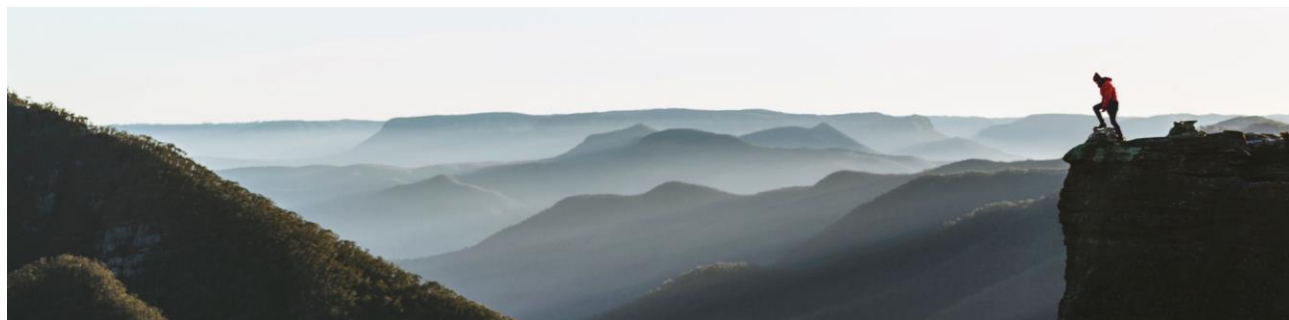
In accordance with the amendments of the Forest Act, legal and natural persons that are corporate income tax taxpayers and natural persons who are personal income tax taxpayers which perform a registered activity in the Republic of Croatia and generate a total revenue or income higher than HRK 7,500,000 pay forest contribution.

The contribution is paid at the rate of 0.024%, calculated at the total revenues or total income, quarterly and after the final report is filed.

Calculation of forest contribution for 2020

The calculation of the forest contribution for 2020 is prepared based on the old Forest Act. This means that taxpayers which have generated total revenue and income up to and including HRK 3,000,000 in 2020, do not pay forest contribution in Croatia.

The contribution is calculated at the rate of 0.0265% on total revenues and total income in case they were higher than HRK 3,000,000.



Amendments to the Act on Membership Fees in Tourist Boards

On 15 December 2020, the Croatian Parliament enacted amendments to the Act on Membership Fees in Tourist Boards which entered into force on 1 January 2021.

In accordance with the amendments to the Act on Membership Fees in Tourist Boards, legal and natural persons that are membership fee taxpayers according to the National Classification of Activities pay the membership fee based on the following rates:

- ▶ 1. Group - 0,14212
- ▶ 2. Group - 0,11367
- ▶ 3. Group - 0,08527
- ▶ 4. Group - 0,02842
- ▶ 5. Group - 0,01705

Furthermore, in accordance with amendments, there are prescribed cases when the monthly advance payment of the membership fee can be changed.

- ▶ The Tax Authorities may, on the basis of the performed audit or on the basis of other available data of the taxpayer's operations, change the amount of the monthly advance payment of the membership fee. An appeal to such resolution can be submitted in accordance with the special regulation governing the general tax procedure.
- ▶ The taxpayer may request a change in the amount of the advance payment by a written request sent to the competent branch office of the Tax Authorities according to its registered office stating the reasons for change of the amount.
- ▶ When making a decision on submitted request where a change in the amount of the advance payment is requested due to the reduced business activity due to material damage caused by major force (fire, earthquake, flood, war destruction, terrorist acts, destruction of property after burglary, etc.), the Tax Authorities may resolve the request of the taxpayer on the basis of the minutes of the competent body conducting the procedure for determining the amount of damage, i.e. the investigation procedure.

Calculation of Membership fees for 2020

The calculation of Membership fee for 2020 is prepared based on the rates from previous Act, respectively taxpayers from all of the five groups calculate the membership fee for 2020 based on the old rates, applicable prior to 1 January 2021. However, taxpayers prepare the amount of advances for 2021 based on the new rates, according to the amendments of the Act which is applicable from 1 January 2021.

Impact of the earthquake on taxation rules

Write-off of advance payment liabilities for taxpayers in the areas where the earthquake disaster was declared

The Tax Authorities will write off advance income tax liabilities to trade crafts and free professions and corporate income taxpayers from the areas in which catastrophe caused by an earthquake was declared.

This measure covers the advance payments which are due by filing of the income tax return in 2021 for 2020. Taxpayers affected by the earthquake that may not be recognized as such, can contact the Tax Authorities in any available manner in order to implement the said measure.

Deadlines and manner of submitting the prescribed reports for entrepreneurs and accounting service providers in the areas affected by the earthquake

Entrepreneurs and/or accounting service providers in the areas affected by the earthquake who are not able to timely fulfill the obligations of submission of the prescribed reports to the Tax Authorities on all accounts, may submit the reports subsequently during January 2021, after re-establishing the connection with the e-Tax system (e-Porezna) or when other necessary prerequisites are fulfilled, such as collecting the necessary documentation. In these cases, it is not necessary to submit individual requests for restitution.

No interest will be charged on taxpayers' accounting cards (PKK) due to delays in submitting the prescribed reports (forms) due to these circumstances.

Taxpayers who are not users of the e-Tax system (e-Porezna), and whose competent branches of the Tax Authorities are not in function due to the earthquake, may submit the prescribed reports to the addresses listed on the website of the Tax Authorities.¹

Payment of non-taxable aid to the employees who have suffered damages caused by the earthquake

Employers can pay non-taxable support to their employees due to destruction and damages of their property caused by the earthquake, under the following conditions:

- ▶ The competent state authority must render a decision in which it declares that a natural disaster has occurred on the territory for which it is competent. The Government of the Republic of Croatia has passed the decision and declared a catastrophe caused by the earthquake for the areas of Zagreb, Karlovac, and Sisak-Moslavina counties.
- ▶ All employees who have suffered the damage must be entitled to the support.

Tax treatment of donations

Personal Income Tax and Corporate Income Tax

By way of derogation from the Personal Income Tax Act and Corporate Income Tax Act:

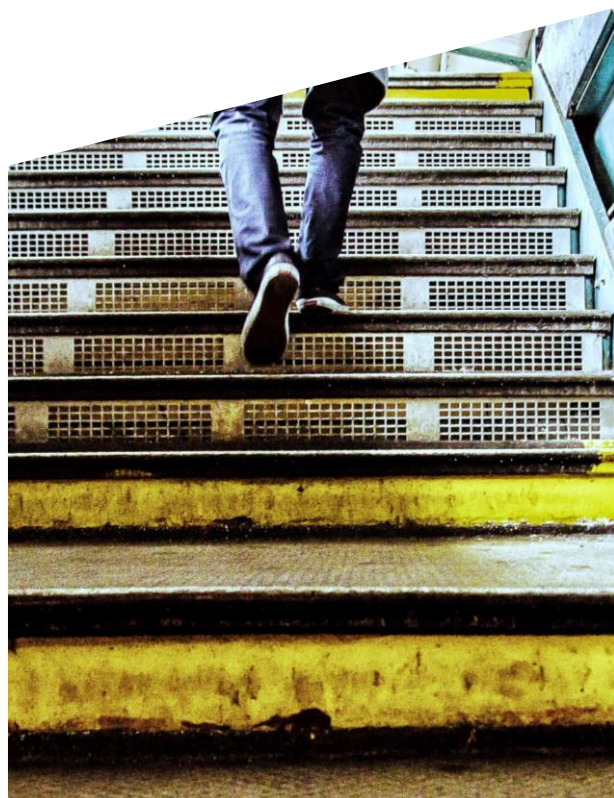
- ▶ all donations made to natural or legal persons shall be regarded as tax-deductible expenses and
- ▶ all donations made directly to legal or natural persons are also considered as eligible expenses that do not increase the personal allowance.

Hence, by way of derogation from the Personal Income Tax Act and Corporate Income Tax Act, taxpayers – entrepreneurs will be able to treat donations as a tax-deductible expense regardless of the amount of realized revenues or receipts in the previous tax period and regardless of whether they were given directly to a specific natural or legal person.

The above-mentioned shall be applied during the submission of annual PIT and CIT tax returns for 2020 and 2021 **for all donations made by the end of 2021.**

Value Added Tax

Taxpayers who supply goods or services free of charge (donate) to areas which were affected by earthquake will not be obliged to pay VAT on those supplies. The changes are provided for in the General Tax Act Bylaw. The donations should be done only for the areas provided for in the Decision on proclamation of disaster in areas affected by earthquake. Currently, these are: Sisak-Moslavina county, Zagreb county and Karlovac county. The new rule applies to VAT liability which is due in January 2021 and to supplies done until the end of 2021. This means that donations done in December 2020 or in last quarter of 2020 (for taxpayers who submit returns quarterly) are also covered by this rule.



¹ Taxpayers from the area of Petrinja and Glina submit the prescribed reports to the address of the Petrinja Branch Office in Gvozđ, Trg dr. Franje Tuđmana 6; Taxpayers from the Sisak Regional Office and the Sisak Branch Office are available at the address Sisak, Ante Starčevića 26.

Obligation on reporting cross-border arrangements based on the Council Directive (EU) 2018/822

Following 1 January 2021, the obligation on reporting cross border arrangements based on the Council Directive (EU) 2018/822 has come into force. The deadlines, which were extended in June due to COVID-19 pandemic, are the following:

- ▶ The cross-border arrangements for which the first step was implemented between 25 June 2018 and 30 June 2020 must be reported by 28 February 2021 at the latest.

The 30-days filing deadline has begun on 1 January 2021 for:

- ▶ Cross-border arrangements that are either made available for implementation, or are ready for implementation, or where the first step in its implementation has been made between 1 July 2020 and 31 December 2020.

The respective arrangements must be reported by the intermediaries that provided assistance, consulting or advice directly with regard to designing, offering, setting up, making available for implementation or managing the implementation of a reportable cross-border arrangement or by **relevant taxpayers** if there are no intermediaries or if they are exempt from the reporting obligation.

The first periodic report must be submitted by 30 April 2021.

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