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U protekle dve nedelje, objavljen je niz uredbi i pravilnika od velikog značaja za poreske obveznike i učesnike na tržištu uopšte, od kojih je svakako najznačajniji Pravilnik o transfernim cenama i meto-

dama koje se po principu „van dohvata ruke” primenjuju kod utvrđivanja cene transakcija među povezanim licima. Pored pravilnika, kojim se detaljnije reguliše oblast transfernih cena, objavljena su i sledeća podzakonska akta:

- Pravilnik o sadržaju poreske prijave o obračunatom i plaćenom porezu na dobit po odbitku na naknade koje po osnovu prometa sekundarnih sirovina i otpada ostvaruju rezidentna i nerezidentna pravna lica;
- Pravilnik o izmenama i dopunama Pravilnika o obrascu zbirne poreske prijave o obračunatim i plaćenim doprinosima za obavezno socijalno osiguranje po odbitku;
- Pravilnik o izmenama i dopunama Pravilnika o načinu utvrđivanja, plaćanja i evidentiranja poreza po odbitku i o sadržini zbirne poreske prijave o obračunatom i plaćenom porezu po odbitku;
- Pravilnik o izmenama Pravilnika o obrascima poreskih prijava za utvrđivanje poreza na imovinu;
- Uredba o dopuni Uredbe o određivanju delatnosti kod čijeg obavljanja ne postoji obaveza evidentiranja prometa preko fiskalne kase; i
- Uredba o načinu prebijanja dugovanja i potraživanja po osnovu realizovanog spoljnotrgovinskog prometa robe i usluga.

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A number of decrees and protocols of major importance for taxpayers and generally for the participants in the market have been published in the last two weeks, out of which the most significant is the Protocol on transfer prices and methods applied in accordance with the 'arm's length' principle when assessing the prices of transactions between related parties. Beside the protocol, which regulates the transfer pricing aspect in more details, following by-laws have been published:

- The Protocol on the content of the tax return concerning the calculated and paid income tax by withholding on fees of resident and non-resident legal entities from secondary materials and waste;
- The Protocol on amendments to the Protocol on the form of the tax report on calculated and paid mandatory social security contributions by withholding;
- The Protocol on amendments to the Protocol concerning the assessment, payment and recording of the withholding tax and on the content of the tax report on the calculated and paid withholding tax;
- The Protocol on the amendments of the Protocol concerning the tax returns for the property taxes;
- The Decree on the amendments to the Decree concerning the activities, which do not require recording of the turnover in the cash register; and
- The Decree on offsetting debts and receivables from realised foreign trade operations with goods and services.

1 Pravilnik o transfernim cenama

Pravilnikom o transfernim cenama i metodama koje se po principu „van dohvata ruke“ primenjuju kod utvrđivanja cene transakcija među povezanim licima uređuje se forma i sadržina dokumentacije o transfernim cenama, izbor i način primene metode po principu „van dohvata ruke“ kod utvrđivanja cene transakcija među povezanim licima, kao i način utvrđivanja osnovice za obračun amortizacije stalnog sredstva nabavljenog iz transakcije sa povezanim licem.

Ovaj pravilnik uvodi obavezu za poreske obveznike da, uz poreski bilans, Poreskoj upravi podnese dokumentaciju o transfernim cenama u formi izveštaja. Utvrđen je minimalni sadržaj izveštaja, pa tako dokumentacija o transfernim cenama naročito sadrži:

- Analizu grupe povezanih lica kojoj pripada obveznik,
- Analizu delatnosti,
- Funkcionalnu analizu,
- Izbor metoda za proveru usklađenosti transfernih cena sa cenama utvrđenim po principu „van dohvata ruke“,
- Zaključak,
- Priloge.

Pravilnik sadrži i opis šta sve pojedine analize, kao deo dokumentacije o transfernim cenama, moraju da sadrže.

Obveznik nije dužan da uz izveštaj podnosi posebnu dokumentaciju koja se odnosi na pojedinačne transakcije i odnose između društava unutar grupe, ali Poreska uprava

1 The Transfer Pricing Protocol

The Protocol on transfer prices and methods applied in accordance with the 'arm's length' principle when assessing the prices of transactions between related parties prescribes the form and the content of the transfer pricing documentation, the choice and application of the transfer pricing method when assessing the 'arm's length' price of the transactions between related parties, as well as the assessment of the depreciation base of fixed assets acquired from a related party.

This Protocol introduces the obligation of the taxpayer to submit to the Tax Administration the transfer pricing documentation in the form of a report, along with its tax balance. The Protocol provides for the minimum content, so the transfer pricing documentation contains specifically:

- The analysis of the group of related parties the taxpayer belongs to,
- The analysis of the business,
- The functional analysis,
- The choice of the transfer pricing method,
- The conclusion,
- The appendices.

The Protocol contains the descriptions of what the particular analysis need to contain, as part of the transfer pricing documentation.

The taxpayer is not obliged to submit separate documentation pertinent to particular transactions and relations between parties within a group, however

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može zahtevati i tu dopunsku dokumentaciju. Pored toga, Pravilnik ovlašćuje Poresku upravu da zahteva dodatnu dokumentaciju od obveznika ukoliko utvrdi da dokumentacija obveznika nije dovoljna za proveru usklađenosti transfernih cena sa cenama utvrđenim po principu „van dohvata ruke“ u transakcijama obveznika sa pojedinačnim povezanim licem. U poslednjem slučaju, Poreska uprava je dužna da vodi računa o troškovima, koji se zahtevom za dodatnom dokumentacijom nameću obvezniku, kao i o opštoj mogućnosti obveznika da obezbedi dodatnu dokumentaciju. Ukoliko se dodatna dokumentacija zahteva, Poreska uprava obvezniku za to ostavlja primereni rok (Pravilnik ne precizira rok). Pored toga, Poreska uprava može i sama da pristupi samostalnoj izradi, odn. dopuni dokumentacije o transfernim cenama po pravilima iz Pravilnika, ukoliko se u postupku kontrole ispostavi da dokumentacija o transfernim cenama nije pripremljena na način koji pruža adekvatnu osnovu za utvrđivanje usklađenosti transfernih cena obveznika sa cenama utvrđenim po principu „van dohvata ruke“.

U pogledu izbora metode utvrđivanja cena transakcija po principu „van dohvata ruke“, obveznik je dužan da izabere najprimereniju metodu, odnosno metodu koja odgovara okolnostima svakog konkretnog slučaja. Izbor metode se zasniva na analizi činjenica, pri čemu je potrebno sagledati:

- Prirodu transakcija, koje su predmet analize,
- Dostupnost i pouzdanost podataka za analizu,

the Tax Administration may require also such additional documentation. In addition, the Protocol permits the Tax Administration to require the additional documentation from the taxpayer, if it determines that the taxpayer's documentation is insufficient for the assessment of whether the transfer prices are in line with the 'arm's length' prices. In the latter case, the Tax Administration is obliged to take into the consideration expenses imposed to the taxpayer with the request for the additional documentation, as well as on the overall possibility of the taxpayer to provide the additional documentation. When additional documentation is requested, the Tax Administration allows to the taxpayer an appropriate deadline (the Protocol does not specify the deadline). Besides, the Tax Administration itself can draft, i.e. complete the transfer pricing documentation according to the Rules set out in the Protocol, in case it is determined that the transfer pricing documentation is not prepared in a way, which provides an adequate base for the assessment of whether the transfer prices are in line with the 'arm's length' prices.

Concerning the choice of the transfer pricing method, the taxpayer is obliged to choose the most appropriate method, i.e. a method applicable to the case at hand. The choice of the method depends on the analysis of the facts, whereby following must be taken into consideration:

- The nature of the transaction subject to analysis,
- The availability and reliability of the analysed data,

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- Stepen uporedivosti između transakcija obavljenih po transfernim cenama sa transakcijama koje se obavljaju sa ili između nepovezanih lica, kada se ove transakcije koriste za proveru usklađenosti transfernih cena obveznika sa cenama utvrđenim po principu „van dohvata ruke“,
- Primerenost korišćenja finansijskih podataka nepovezanih lica za analizu usklađenosti transfernih cena po pojedinim vrstama transakcija, koje obveznik obavlja sa povezanim licima,
- Prirodu i pouzdanost pretpostavki.

Prema Pravilniku, metoda za analizu se bira na nivou vrste transakcije. U pojedinim slučajevima, moguće je korišćenje kombinacije nekoliko metoda. Međutim, svaki izabrani metod mora biti praktično primenljiv i mora za krajnji efekat imati razumnu procenu rezultata u skladu sa principom „van dohvata ruke“.

Pravilnik daje i detaljniji opis svih predviđenih metoda za analizu, kao i način uključivanja korekcija transfernih cena u poresku osnovicu.

Pravilnik o transfernim cenama i metodama koje se po principu „van dohvata ruke“ primenjuju kod utvrđivanja cene transakcija među povezanim licima stupa na snagu 20. jula 2013. godine.

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- The level of comparability between the transactions between related parties and transactions with or between uncontrolled parties, when these transactions are used for the assessment of whether the transfer prices are in line with the 'arm's length' prices,
- The appropriateness of the financial data of uncontrolled parties for the analysis of transfer prices from specific types of transactions,
- The nature and reliability of the assumptions.

According to the Protocol, the transfer pricing method is chosen according to the type of the transaction. In some cases, combination of the methods is allowed. However, every chosen method must be practically applicable and has to lead to a reasonable assessment of the results in accordance with the 'arm's length' principle.

The Protocol provides for a detailed description of all prescribed transfer pricing methods, as well as the manner of the inclusion of the transfer price corrections into the tax base.

The Protocol on transfer prices and methods applied in accordance with the 'arm's length' principle when assessing the prices of transactions between related parties enters into force as of July 20, 2013.

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2 Poreske prijave za naknade po osnovu sekundarnih sirovina

Pravilnikom o sadržaju poreske prijave o obračunatom i plaćenom porezu na dobit po odbitku na naknade koje po osnovu prometa sekundarnih sirovina i otpada ostvaruju rezidentna i nerezidentna pravna lica propisuje obrazac poreske prijave, rok predaje i nadležnost za prijem poreskih prijava o obračunatom i plaćenom porezu na dobit po odbitku na naknade koje po osnovu prometa sekundarnih sirovina i otpada ostvaruju rezidentna i nerezidentna pravna lica.

Poreska prijava se podnosi na obrascu PPDSO.

Poreska prijava se podnosi u roku od 15 dana od isteka tromesečja u kojem je izvršena isplata naknade:

- Za prvo tromesečje- do 15. aprila,
- Za drugo tromesečje- do 15. jula,
- Za treće tromesečje- do 15. oktobra,
- Za treće tromesečje- do 15. januara.

Poreska prijava se podnosi sledećim Poreskim upravama:

- Za isplatioca naknade, koji je registrovan na teritoriji Srbije- Poreska uprava u opštini, na čijoj teritoriji isplatilac ima sedište,
- Za isplatioca naknade, koji je svrstan u velikog poreskog obveznika- Centar za velike poreske obveznike,
- Za isplatioca naknade, koji nije registrovan na teritoriji Srbije, ali Srbiji ima mesto stvarne uprave i kontrole- Poreska uprava u opštini, na čijoj teritoriji isplatilac ima mesto stvarne uprave i kontrole.

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2 The Tax Return for Income from Secondary Materials

The Protocol on the content of the tax return concerning the calculated and paid income tax by withholding on fees of resident and non-resident legal entities from secondary materials and waste prescribes the form of the tax return, the deadline for the submission of the tax return and the competence for the submission of the tax return on the calculated and paid income tax by withholding on fees of resident and non-resident legal entities from secondary materials and waste. The tax return is submitted on the PPDSO form.

The tax return is submitted within 15 days from the expiration of the quarter the fee was paid in:

- For the first quarter – by April 15,
- For the second quarter – by July 15,
- For the third quarter – by October 15,
- For the fourth quarter – by January 15.

The Tax Administrations competent for the submission are the following:

- For the income payer registered in Serbia – the Tax Administration in the municipality, the income payer has its seat in,
- For the income payer, which is a large taxpayer – the Center for large taxpayers,
- For the income payer, which is not registered in Serbia, but has the effective place of management and control in Serbia – the Tax Administration in the municipality, where the income payer has its effective place of management and control in.

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Poreska prijava se mora podneti i onda, kad se naknada, usled primene sporazuma o dvostrukom oporezivanju, ne oporezuje u Srbiji.

Pravilnik o sadržaju poreske prijave o obračunatom i plaćenom porezu na dobit po odbitku na naknade koje po osnovu prometa sekundarnih sirovina i otpada ostvaruju rezidentna i nerezidentna pravna lica stupio je na snagu 13. jula 2013. godine.

3 Zbirne poreske prijave za doprinose za obavezno socijalno osiguranje i poreze koji se plaćaju po odbitku

Pravilnikom o izmenama i dopunama Pravilnika o obrascu zbirne poreske prijave o obračunatim i plaćenim doprinosima za obavezno socijalno osiguranje po odbitku i Pravilnikom o izmenama i dopunama Pravilnika o načinu utvrđivanja, plaćanja i evidentiranja poreza po odbitku i o sadržini zbirne poreske prijave o obračunatom i plaćenom porezu po odbitku propisuju se novi obrasci poreskih prijava kao rezultat skorašnjih izmena Zakona o porezu na dohodak građana. Ova dva pravilnika ne sadrže materijalne izmene.

Ova dva pravilnika stupila su na snagu 13. jula 2013. godine.

4 Poreske prijave za utvrđivanje poreza na imovinu

Pravilnikom o izmenama Pravilnika o obrascima poreskih prijava za utvrđivanje poreza na imovinu izmenjen je izgled obrasca PPI-3 (poreska prijava za utvrđivanje poreza na nasleđe i poklon), i izgled obrasca PPI-4 (poreska prijava za utvrđivanje poreza na prenos apsolutnih prava).

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The tax return has to be submitted, even in case the fee is not taxed in Serbia, due to a double taxation treaty.

The Protocol on the content of the tax return concerning the calculated and paid income tax by withholding on fees of resident and non-resident legal entities from secondary materials and waste entered into force on July 13, 2013.

3 The Tax Reports for Social Security Contributions and Taxes Paid by Withholding

The Protocol on amendments to the Protocol on the form of the tax report on calculated and paid mandatory social security contributions by withholding and the Protocol on amendments to the Protocol concerning the assessment, payment and recording of the withholding tax and on the content of the tax report on the calculated and paid withholding tax provide for new forms of the tax reports, as a result of the recent changes of the Personal Income Tax Act. These two protocols do not contain material changes.

These two protocols entered into force on July 13, 2013.

4 Property Tax Returns

By way of the Protocol on the amendments of the Protocol concerning the tax returns for the property taxes the layout of the PPI-3 form (tax return for the assessment of the inheritance and gift tax) and the layout of the PPI-4 form (tax return for the assessment of the property transfer tax) have been changed.

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Pravilnik je stupio na snagu 6. jula 2013. godine.

5 Evidentiranje prometa

Uredbom o dopuni Uredbe o određivanju delatnosti kod čijeg obavljanja ne postoji obaveza evidentiranja prometa preko fiskalne kase utvrđeno je da ne postoji obaveza evidentiranja preko fiskalne kase za isporuke hrane i pića i prigodnih suvenira na kulturnim i sportskim manifestacijama, muzičkim festivalima, sajmovima, izložbama, vašarima i sličnim manifestacijama kod kojih se plaćanje dobara i usluga vrši internim karticama izdatim od strane organizatora manifestacije, pod uslovom da se podaci o vrsti dobra, količini, maloprodajnoj ceni i poreskoj stopi obezbeđuju elektronskim putem.

Uredba je stupila na snagu 6. jula 2013. godine.

6 Prebijanje dugovanja i potraživanja

Uredbom o načinu prebijanja dugovanja i potraživanja po osnovu realizovanog spoljnotrgovinskog prometa robe i usluga se uređuje način na koji rezidenti (pravna lica, ogranci stranih pravnih lica i preduzetnici) mogu prebiti dugovanja i potraživanja po osnovu realizovanog spoljnotrgovinskog prometa robe i usluga.

Prebiti se može svako postojeće, određeno, celo ili delimično, dospelo novčano dugovanje i potraživanje po osnovu realizovanog spoljnotrgovinskog prometa robe i usluga rezidenta, koji se ne smatra komercijalnim kreditom ili zajmom.

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The Protocol entered into force on July 6, 2013.

5 Recording of Turnover

In the **Decree on the amendments to the Decree concerning the activities, which do not require recording of the turnover in the cash register** it is stipulated that supply of food, beverages and souvenirs at cultural and sports events, music festivals, fairs, exhibitions and similar events, where the payment for these supplies is performed with internal cards issued by the organiser of the event, do not have to be registered in the cash register provided the information on the type, quantity, sales price of the supplies and the tax rate is available in electronic form.

The Decree entered into force on July 6, 2013.

6 Offsetting Debts and Receivables

The Decree on offsetting debts and receivables from realised foreign trade operations with goods and services regulates the procedure on offsetting debts and receivables from foreign trade operations with goods and services of Serbian residents (legal entities, branches of foreign entities and entrepreneurs).

Every existing, determined, full or partial, due monetary debt and receivable from a realised foreign trade operation with goods and services of a resident can be offset, save for operations regarded as commercial credits or loans.

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Prebijanje može biti:

- Bilateralno- između rezidenta i nerezidenta koji su realizovali spoljnotrgovinski promet robe i usluga, na osnovu sporazuma potpisanog od oba učesnika u prebijanju ili izjave koju jedan učesnik upućuje drugom
- Intrakorporativno- između rezidenta i nerezidenta koji posluju u sistemu iste multinacionalne korporacije, preko jednog društva- rezidenta ili nerezidenta koji je u sistemu multinacionalne korporacije, a koje obavlja prebijanja i plaćanja za sva ostala društva, i na osnovu ustanovljenih intrakorporativnih procedura za navedeni način i zmirenja međusobnih obaveza. Intrakorporativno prebijanje se ne može izvršiti ako društvo, koje je u sistemu multinacionalne korporacije i koje obavlja prebijanja i plaćanja za sva ostala društva, ima sedište na teritoriji jurisdikcije sa preferencijalnim poreskim sistemom
- Prebijanje na osnovu međunarodnih ugovora- između rezidenta i nerezidenta koji spoljnotrgovinski promet usluga obavljaju na osnovu međunarodnog ugovora ili na osnovu članstva u međunarodnoj asocijaciji, ukoliko je navedeni način izmirenja međusobnih obaveza predviđen tim međunarodnim ugovorom ili pravilima međunarodne asocijacije, čiji je rezident član.

Prebijanje se ne može vršiti u slučaju kada su računi rezidenta, u trenutku prebijanja, blokirani radi izvršenja prinudne naplate.

The offsetting can be:

- Bilateral – between a resident and a non-resident, who realised a foreign trade operation of goods and services, on the base of a written agreement signed by both parties, or on the base of a statement issued by one party to the other
- Intra-company – between a resident and non-resident who operate within a multinational group of companies, through a company (resident or non-resident), member of the group, which performs payments and offsetting for other group members, based on established intra-company procedures. The intra-company offsetting cannot be performed if the company, which performs payments and offsetting for other group members, has its seat in a territory with preferential tax system (black-listed country)
- Offsetting based on international treaties – between a resident and a non-resident, which perform the foreign trade operations of services based on an international treaty or based on the membership in an international association, if offsetting is prescribed as means of settling of obligations by the international treaty or the rules of the international association the resident is a member of.

The offsetting cannot be performed if the bank accounts of the resident are blocked due to enforcement in the moment of the offsetting.

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Rezident mora da čuva dokumentaciju o izvršenom prebivanju 10 godina i odgovara za istinitost i verodostojnost dokumentacije.

Uredba stupila je na snagu 13. jula 2013. godine.

DISCLAIMER: The Serbian version of the Newsletter prevails. The English version aims to present the Serbian version as comprehensive as possible.

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The resident must keep the offsetting documentation for 10 years and it is responsible for the true content of the documentation.

The Decree entered into force on July 13, 2013.

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Pravilnik o transfernim cenama

The Transfer Pricing Protocol

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Poreske prijave za naknade po osnovu sekundarnih sirovina

The Tax Return for Income from Secondary Materials

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Zbirne poreske prijave za doprinose za obavezno socijalno osiguranje i poreze koji se plaćaju po odbitku

The Tax Reports for Social Security Contributions and Taxes Paid by Withholding

Poreske prijave za utvrđivanje poreza na imovinu

Property Tax Returns

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Evidentiranje prometa

Recording of Turnover

Prebijanje dugovanja i potraživanja

Offsetting Debts and Receivables

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