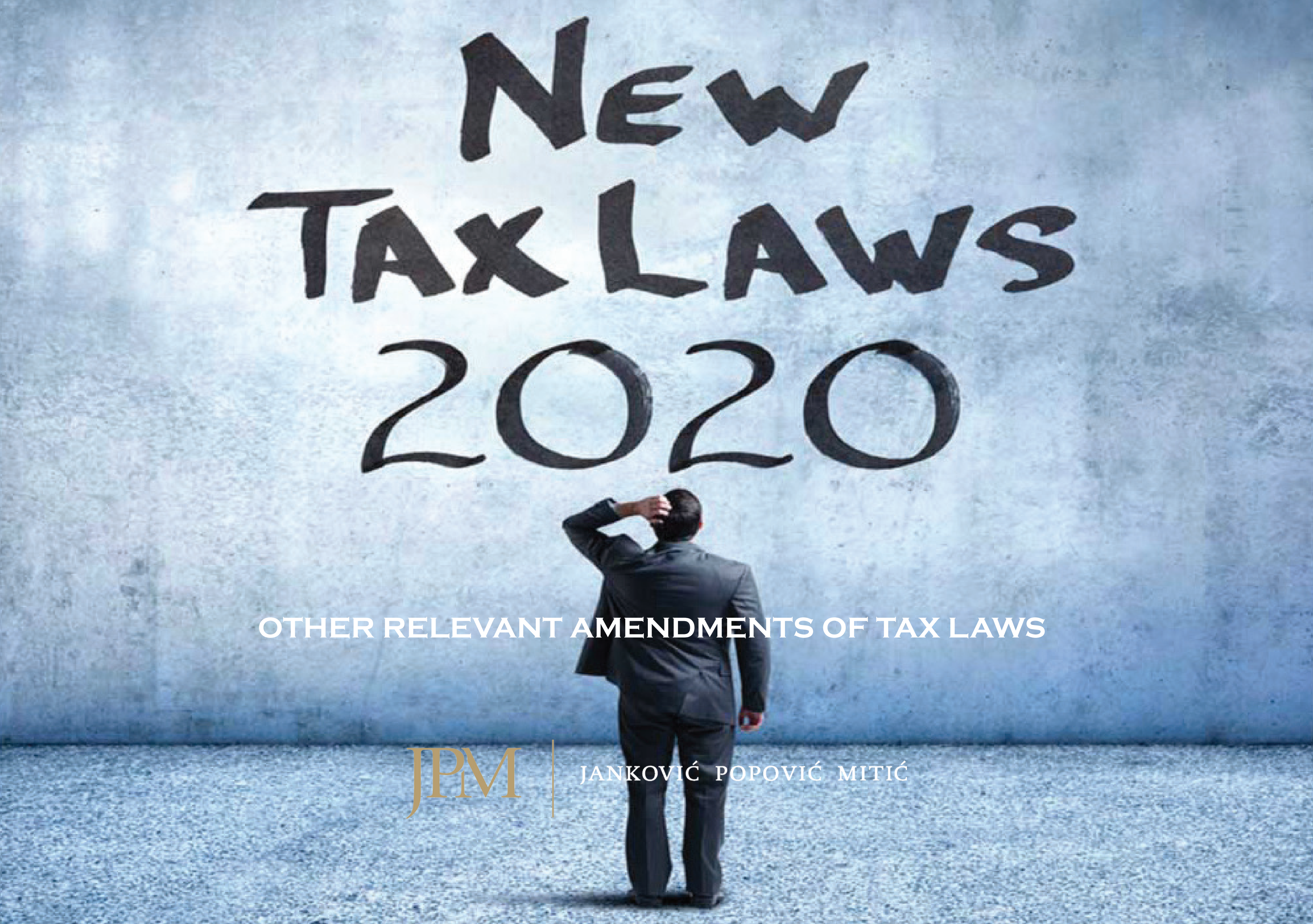

OTHER RELEVANT AMENDMENTS OF TAX LAWS

JPM | JANKOVIĆ POPOVIĆ MITIĆ

As usual, December is a month in which tax laws are subject to amendments.

This year, the following laws were amended:

- **The Individual Income Tax Law;**
- **The Law on Contributions for Mandatory Social Insurance;**
- **The Corporate Income Tax Law;**
- **The Law on Property Taxes, the Law on Value Added Tax;**
- **The Excise Law; and**
- **The Law on Tax Procedure and Tax Administration**

OTHER RELEVANT AMENDMENTS OF TAX LAWS

As per the other modifications implemented with the latest amendments of Serbian Tax Laws, apart from the novelties in terms of taxation of digital assets, the most important ones that we would single out would be the following:

1. Investment funds

Having in mind new legislation regulating the investment funds - the Law on Open Investment Funds with Public Offer and the Law on Alternative Investment Funds, adopted last year, the amendments of the new Tax Laws have implemented more detailed provisions in order to include various types of investment funds and investment units of investment funds and enable their taxation in various situations.

Accordingly, the amendments of the Individual Income Tax Law specify that both the income from investment units of open investment funds and income from investment units of alternative investment funds are subject to taxation of income aggregated from capital, as well as that the remaining net value (in the amount above its purchase price) that is distributed to members of investment funds in case when an investment fund is dissolved is treated as dividend for the purpose of taxation with this tax (which corresponds to the solution applicable to liquidation surplus/excess bankruptcy mass in case of liquidation or bankruptcy proceedings over a company).

The amendments also include transfer of investment units of alternative investment funds for the purposes of taxation with the capital gain tax, in addition to already existing taxation of transfer of investment units of open investment funds with this tax.

Finally, one novelty of the amendments of the Individual Income Tax Law is that the lawmaker granted tax credit for annual individual income tax in cases when taxpayer made an investment in an alternative investment fund, making thereof a specific incentive for investments in alternative investment funds.

As per the Corporate Income Tax Law, similar as the Individual Income Tax Law, the amendments specify that the tax on capital gain applies to capital gain acquired through the transfer of investment units of investment funds (including all investment funds in accordance with the provisions of laws regulating these types of entities).

Additionally, the amendments of the Corporate Income Tax Law also prescribe that the remaining net value of the investment fund without the status of a legal person (in the amount that is above its purchase price), that is distributed to members of such investment fund in case when the investment fund is dissolved, is considered as capital gain.

The Law on Property Taxes, as well as the Law on Value Added Tax are also amended to include both opened investment fonds, as well as alternative investment funds that are not legal persons, as taxpayers for the purposes of taxes regulated under these laws.

The amendments of the Law on Tax Procedure and Tax Administration are made accordingly – they aim to include both open investment funds and alternative investment funds that do not have the status of legal persons, whereby it also specifies the person responsible for payment of taxes on behalf of investment funds – logically, the responsible person shall be the company for managing investment fund.

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2. Investment incentives under the Corporate Income Tax Law

The amendments of the Corporate Income Tax Law modify the provision that regulates the investment related incentives in part that regards the newly employed employees for indefinite period of time.

Namely, the definition of newly employed employee is widened – now it does not exclude employees that were, directly or indirectly, employed with an affiliate of the taxpayer in general, but only those employees that were employed with an affiliate of the taxpayer starting from the last day of the tax period that precedes the investment period, which means that potential former employees of an affiliate whose employment relationship was terminated on some prior date can be treated as newly employed for the purposes of this incentive.

3. Diversity of facilities to which property tax applies

The amendments of the Law on Property Taxes brought detailed definitions of facilities that are subject to property tax. Such definition provides that greater variety of facilities, including ancillary facilities such as wells, reservoirs, pools, etc., are going to be taxed with property tax.

The said amendments also bring more detailed provisions on how is the value of immovable property for the purposes of calculating property tax, and tax base, determined.

4. More restricted treatment of ancillary delivery of goods and ancillary services for the purposes of determining value added tax

The Law on Value Added Tax prescribes that ancillary delivery of goods and ancillary services provided in regard to main delivery/services are included in such main delivery/services, i.e. they are considered as one delivery of goods or one service.

Therefore, further limitations of delivery of goods and/or provision of services that are considered as ancillary, and that are prescribed under the amendments of the Law on Value Added Tax, enable for taxation with higher value added tax rate in certain cases – e.g. movable property delivered/transferred with the transfer of ownership over immovable property shall not be treated as ancillary delivery, meaning that the transfer of ownership over movable property shall be taxed with the regular 20% value added tax rate, instead of 10% rate that applies to the transfer of ownership over immovable property – residential facilities.

5. Exclusion of costs borne by the taxpayer from the tax base of value added tax

The amendments of the Law on Value Added Tax prescribe one more category of payments that is not included in tax base of value added tax – the costs that the taxpayer is claiming from the person to which the goods are delivered or services are provided, which costs were paid by the tax payer on behalf of such person and in its name.

6. Electronic receipts

The amendments of the Law on Value Added Tax now include the possibility of issuance of receipts in electronic form, which amendment is in line with general process of modernization of business activities.

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7. Delivery of tax related acts via registered mail and in electronic form

The amendments of the Law on Tax Procedure and Tax Administration modify the matter of delivery of tax acts via registered mail, facilitating the position of taxpayers, i.e. addressees of tax acts.

Namely, the previous solution prescribed that the registered mail that could not be served to the addressee was considered as delivered on 15th day counting from the day when such mail was delivered to the post office.

Now, in case when the addressee was not served with the respective tax act first time, the sender is obliged to resend the tax act, and only in case that the resent tax act could not be served to the addressee, the 15-day rule applies.

Additionally, the amendments further specify the delivery of tax acts to natural persons in electronic form, differentiating the situation in which tax application was submitted by natural person in electronic form from the situation in which the same was submitted in hard copy.

8. New form of settlement of tax obligation

The amendments of the Law on Tax Procedure and Tax Administration prescribe one more form in which taxpayers may settle their tax obligations – delivery instead of payment, i.e. "datio in solutum" principle, in accordance with which the taxpayer may settle its tax obligation higher than RSD 50,000,000.00 in this manner, but only if the Republic of Serbia has the interest to receive the assets/property that is being offered instead of payment.