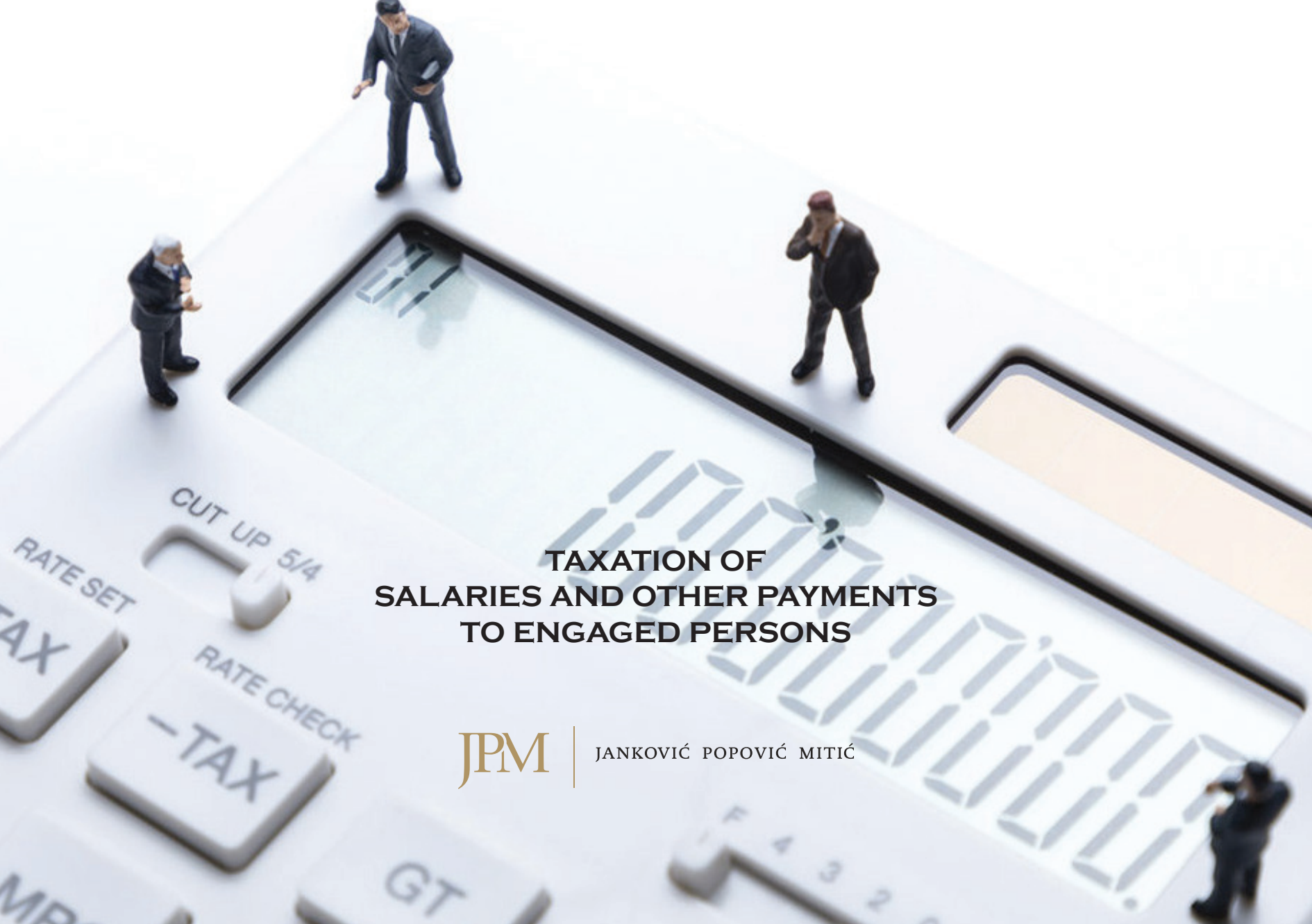

TAXATION OF SALARIES AND OTHER PAYMENTS TO ENGAGED PERSONS

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**

TAXATION OF SALARIES AND OTHER PAYMENTS TO ENGAGED PERSONS

The incentive for employment of new employees which entitles the employer to refund up to 75% of taxes and contributions paid on salary of a newly employed employee, and which had been prolonged over the last couple of years, is again prolonged for the year 2021.

In addition to prolongation of the relevant incentive period, one of the important novelties of the latest amendments of the Individual Income Tax Law is introduction of provisions regulating the matter of individual income tax in regard to employees referred to a Serbian company by a foreign employer.

The previous version of the Individual Income Tax Law regulated the matter of individual income tax of employees referred by the foreign employer to the Serbian company in merely one provision, where it prescribed that the foreign persons referred to work with a Serbian company are obliged to calculate and pay tax in accordance with the rules of "self-taxation", on the basis of income aggregated from the employer from other country.

The latest amendments of the Individual Income Tax Law regulate the matter of tax treatment of payments to such referred foreign employee in more details.

Namely, the latest amendments prescribe two options for taxation of the income aggregated by the referred foreign employee:

1. one being the previously mentioned "self-taxation" principle – calculation and payment of tax by the referred foreign employee on the basis of income (salary and other income) aggregated from its foreign employer that referred him/her to work in the Serbian company; and the other (
2. in accordance with which the Serbian company to which such employee is referred to is obliged to calculate and pay tax as the "withholding tax" for the amounts paid by the Serbian company to the foreign employer of the referred employee as the remuneration of costs of labor of referred employee.

However, the latest amendments do not specify which of these two principles is the prevailing one, i.e. the question is which of these two principles shall be applied in case that the interested parties have not specifically agreed who shall be obliged to calculate and pay the subject tax – the referred foreign employee or the Serbian company to which he/she is referred to?

The idea of the lawmaker probably was to differentiate the case when Serbian company is making payments to a foreign employer, in which case a Serbian company shall pay this tax, from the case when there are no such payments involved, in which case a foreign employee shall be obliged to calculate and pay this tax.

Finally, the non-taxable portion of salary is increased from RSD 16,300.00 to RSD 18,300.00 (but does not apply to foreign employees referred to a Serbian company).