



**TAX  
RELIEF  
JUST AHEAD**

**NEW DEVELOPMENTS IN LEGAL FRAMEWORK  
FOR TAX RELIEFS**

**JPM**

JANKOVIĆ POPOVIĆ MITIĆ



## **New developments in legal framework for tax reliefs for companies in research and development sector**

Serbian Personal Income Tax Law <sup>1</sup> and Serbian Corporate Income Tax Law <sup>2</sup>, as well as the Serbian Law on Mandatory Social Insurance Contributions <sup>3</sup> prescribe tax and social insurance contributions related reliefs for companies that conduct activities of research and development in the Republic of Serbia.

These tax and contributions related reliefs pursuant to the above laws encompass the following reliefs:

(i) approval of research and development related costs in double amount as expenditure in tax balance, in accordance with the Corporate Income Tax Law; (ii) relief of payment of 70% of calculated and suspended amounts for personal income tax for salaries of employees directly engaged on tasks of research and development which is to be paid by the company, for the portion of salary that corresponds to the amount of time spent on these tasks compared to full working hours, in accordance with the Personal Income Tax Law; and (iii) relief of payment of 100% of contributions for mandatory pension and disability insurance, borne both by the company and its employee, payable for the same portion of the salary as in previous point, in accordance with the Law on Mandatory Social Insurance Contributions.

<sup>1</sup> The Personal Income Tax Law ("Official Gazette of the Republic of Serbia", no. 24/2001, 80/2002, 80/2002 – other law, 135/2004, 62/2006, 65/2006 – correction, 31/2009, 44/2009, 18/2010, 50/2011, 91/2011 – Constitutional Court Decision, 7/2012 – adjusted RSD amounts, 93/2012, 114/2012 – Constitutional Court Decision, 8/2013 – adjusted RSD amounts, 47/2013, 48/2013 – correction, 108/2013, 6/2014 – adjusted RSD amounts, 57/2014, 68/2014 – other law, 5/2015 – adjusted RSD amounts, 112/2015, 5/2016 – adjusted RSD amounts, 7/2017 – adjusted RSD amounts, 113/2017, 7/2018 – adjusted RSD amounts, 95/2018, 4/2019 – adjusted RSD amounts, 86/2019, 5/2020 – adjusted RSD amounts, 153/2020, 156/2020 – adjusted RSD amounts, 6/2021 – adjusted RSD amounts, 44/2021, 118/2021, 132/2021 – adjusted RSD amounts and 10/2022 – adjusted RSD amounts);

<sup>2</sup> The Corporate Income Tax Law ("Official Gazette of the Republic of Serbia", no. 25/2001, 80/2002, 80/2002 – other law, 43/2003, 84/2004, 18/2010, 101/2011, 119/2012, 47/2013, 108/2013, 68/2014 – other law, 142/2014, 91/2015 – authentic interpretation, 112/2015, 113/2017, 95/2018, 86/2019, 153/2020 and 118/2021)

<sup>3</sup> The Law on Mandatory Social Insurance Contributions ("Official Gazette of the Republic of Serbia", no. 84/2004, 61/2005, 62/2006, 5/2009, 52/2011, 101/2011, 7/2012 – adjusted RSD amounts, 8/2013 – adjusted RSD amounts, 47/2013, 108/2013, 6/2014 – adjusted RSD amounts, 57/2014, 68/2014 – other law, 5/2015 – adjusted RSD amounts, 112/2015, 5/2016 – adjusted RSD amounts, 7/2017 – adjusted RSD amounts, 113/2017, 7/2018 – adjusted RSD amounts, 95/2018, 4/2019 – adjusted RSD amounts, 86/2019, 5/2020 – adjusted RSD amounts, 153/2020, 6/2021 – adjusted RSD amounts, 44/2021, 118/2021 and 10/2022 – adjusted RSD amounts)

# TAX RELIEF

All of the above laws prescribe same basic conditions for the relief prescribed under each particular law, which come down to the following:

- The company needs to conduct research and development activities on the territory of the Republic of Serbia;
- The reliefs related to personal income taxes and contributions apply only to employees directly engaged in the research and development tasks (as specified under the relevant laws), and the relief related to costs applies only to the costs directly related to research and development activities in the Republic of Serbia (as specified under the relevant law);
- The company applying for reliefs related to personal income taxes and contributions needs to conduct the research and development related activities for its own account, and it needs to remain the owner of non-material property that may be created through research and development;
- The reliefs do not apply to research activities conducted in order to find and develop oil, gas or mineral reserves in extractive industries; and
- In order to acquire relief related to personal income taxes and contributions in relation to specific employee, the company cannot use any other form of incentive based on the existence of employment relationship for such employee, safe for reliefs from point (i) to (iii) above.

Since some of the above conditions and the actual manner of exercising the right to relief required further specification, the relevant provisions of the above laws were left to be further specified through bylaws.

The first rulebook regulating the subject reliefs, particularly the one related to recognition of costs in double amount in tax balance, prescribed under the Corporate Income Tax Law – the Rulebook on the Conditions and Manner of Exercising of Right to Recognition of Costs Directly Connected to Research and Development in Double Amount in Tax Balance <sup>4</sup> was rendered by the Ministry of Finance in the year 2019.

Now, the Ministry of Finance rendered a second rulebook – the Rulebook on the Conditions and Manner of Exercising the Right to Tax Relief based on the Salaries of Employees Engaged in Research and Development <sup>5</sup>, that came into force on 16 April 2022.

---

<sup>4</sup> The Rulebook on Conditions and Manner for Exercising of Right to Recognition of Costs Directly Connected to Research and Development in Double Amount in Tax Balance (“Official Gazette of the Republic of Serbia”, no.50/2019)

<sup>5</sup> The Rulebook on the Conditions and Manner of Exercising the Right to Tax Relief based on the Salaries of Employees Engaged in Research and Development (“Official Gazette of the Republic of Serbia”, no. 48/2022)

This latest rulebook aims to further specify the conditions for relief prescribed by the Personal Income Tax Law – the relief that consists in exclusion of the companies (and other legal persons) who employ persons on tasks of research and development from obligation of payment of 70% of calculated and suspended amounts for personal income tax for relevant portion of salaries (that correspond to the amount of time spent on the tasks of research and development) of such employees.

The most relevant specifications of conditions initially prescribed by the Personal Income Tax Law, and further conditions, i.e. requirements for exercising of the right to relief – deduction of 70% of calculated and suspended amounts for personal income tax are presented in the chart below:

- REQUIREMENT - THE PERSONAL INCOME TAX LAW	- SPECIFICATION OF REQUIREMENT - THE RULEBOOK
What is considered as the project conducted on the territory of the Republic of Serbia?	Project in which minimum 90% of all employees engaged on research and development tasks conduct their project related activities on the territory of the Republic of Serbia, with minimal exemptions to this rule.
What is considered as direct engagement of an employee on research and development tasks, i.e. who is considered as an employee who is engaged in conducting of a project in a manner that involves his/her direct engagement in identification and finding solutions to procedural or technical problems or tasks connected to the particular project?	The rulebook provides two answers to this question:  (i) Positive approach – who is considered as an employee that meets this condition – e.g. employee engaged on tasks of development of new or improvement of existing production system/products, computer circuits, solutions for reducing pollution of soil and environment, invention of formulas for new chemical, development of software solutions, etc.  (ii) Negative approach – who is not considered as an employee that meets this condition – e.g. an employee engaged in: (i) tasks connected with direct or indirect supervision of the project, such as attendance of meetings regarding the project, project planning, assessment of suggested solutions in terms of designs and processes, etc; (ii) tasks connected to project support, in terms of activities that directly support employees engaged directly in conducting the project or engaged in project supervision.
What is considered as the time spent on research and development tasks?	The rulebook takes a negative approach on this matter stating what is not considered as the time spent on research and development tasks as time spent on vacation, or any other type of absence from work pursuant to the labor regulations (sick leave, military practice, etc.)
Who is considered as an employee for the purposes of above definition	Employees are only persons employed with the company – legal person, i.e. persons that executed employment agreement (for definite/indefinite period of time; as part time/full time working hours)
What is considered as the salary that is taken into account for the purpose of tax relief?	This is an employees' salary pursuant to the labor laws, whereby the taxable part of salary from Art. 18 of the Personal Income Tax are not included.

In addition to specifying the conditions that were initially prescribed by the Personal Income Tax Law, the Rulebook on the Conditions and Manner of Exercising the Right to Tax Relief based on the Salaries of Employees Engaged in Research and Development introduces additional obligations of companies, that or of rather technical nature, and are necessary to properly monitor due fulfillment of conditions for tax relief.

ADDITIONAL REQUIREMENTS/LIMITATIONS PRESCRIBED UNDER THE RULEBOOK	
What legal entities – employers are not considered to be eligible for this relief?	In addition to the legal persons that do not conduct research and development activities for their own account and/or do not remain the owners of the non-material property created thereof, the rulebook explicitly indicates foreign legal entities – i.e. foreign companies, or Serbian branch offices or representative offices of foreign companies as non-eligible for this relief.
Obligation of keeping records on employees	The rulebook introduces the obligation of companies to keep records on each employee engaged on research and development tasks, for which the tax relief is used. These records contain relevant information for determining whether the conditions for tax relief are met in each particular case, whereby the mandatory data of these records are enumerated in the rulebook.
Obligation of keeping project related records	The rulebook introduces the obligation of companies to keep records for each particular research and development project in regard to which the tax relief is used. The mandatory data of these records are enumerated in the rulebook.

#### NEW DEVELOPMENTS IN LEGAL FRAMEWORK FOR TAX RELIEFS FOR COMPANIES IN RESEARCH AND DEVELOPMENT SECTOR

Publisher: JPM Janković Popović Mitić

Vladimira Popovića 8a, Delta House, 11070 Belgrade

www.jpm.rs

Autors: Nikola Đorđević, Partner, Marija Vukčević, Senior Associate

Copyright: © JPM Janković Popović Mitić 2022. All rights reserved.

Disclaimer:

The sole purpose of this publication is to provide information about specific topics.

It makes no claims to completeness and does not constitute legal advice.

The information it contains is no substitute for specific legal advice.

If you have any queries regarding the issues raised or other legal topics, please get in touch with your usual contact at JPM Jankovic Popovic Mitic.



**TAX  
RELIEF  
JUST AHEAD**

**JPM Jankovic, Popovic, Mitic**

8a Vladimira Popovića,  
Delta House  
11070 Belgrade, Serbia  
T:+ 381/11/207-6850  
E: office@jpm.rs

[www.jpm.rs](http://www.jpm.rs)