



## **Incentives for Startups – New Innovation Fund’s Register and Copyright deposition as missing links for Tax reliefs**

**JPM** | JANKOVIĆ POPOVIĆ MITIĆ



**INCENTIVES FOR STARTUPS – NEW INNOVATION FUND'S REGISTER AND COPYRIGHT DEPOSITION AS MISSING LINKS FOR TAX RELIEFS**

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Authors: Miloš Maksimović, Senior Associate, Katarina Savić

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**In the Republic of Serbia, there is a number of various incentives for startups, stretching from state aid incentives to private support programs, which represent either a form of financing and subsidization of startups or a form of tax relief with the aim nonetheless to help innovative businesses grow and keeping the economy sustainable.**

**Through various incentives and accompanying programs, the Republic of Serbia is working to create an environment that encourages the development of new, original, and innovative businesses from all respectable areas.**

**Furthermore, the legislator has also introduced significant incentives for holders of copyrights and related rights when respective works of authorship are properly deposited with the Intellectual Property Office, all with a clear goal to both encourage and support the creation of new works of authorship, but also to unite and round up single elements into the innovative system of Serbia as a whole. It wouldn't be a stretch to say, that only if such an environment is established, the innovation may just start booming thus propelling the Serbian economy and general well-being.**

## WHAT IS A STARTUP?

The Serbian Law on Innovation Activity (“Law”) defines a ‘startup’ as a company, other legal entity, a part of a legal entity, an entrepreneur, a natural person, or several natural persons that develop innovations, places innovations on the market or puts them in use. On the other hand, ‘innovation’ is defined as the application of a new or significantly improved product, process, or service with the goal of creating new added values.

Furthermore, the subjects of the national innovation system are: i) innovative subject (e.g. startups and startup teams), a subject of the innovation infrastructure (e.g. Science Technology parks), as well as the investor who invests in an innovative activity (e.g. business angels and other investors).

Law defines ‘Innovative subject’ as a company, other legal entity, a part of a legal entity, an entrepreneur, a natural person, or a group of natural persons (“startup team”) that develops innovations, places its own or others’ innovations on the market or puts them in use, and these are:

- i. centres carriers of innovative activities;
- ii. startups;
- iii. spin-offs and
- iv. other innovative subjects.

Startups are becoming more and more popular in the Republic of Serbia and neighbouring countries, which has been recognized by the legislator with numerous tax incentives whose primary goal is to support innovative activity, but with an ultimate aim of boosting the economy as a whole.

Tax incentives come with a set of conditions and restrictions, which is why, pursuant to the Law, the Innovation Fund of the Republic of Serbia ("Fund"), supported by the Serbian Government's service responsible for design, harmonization, development and functioning of the electronic administration system, maintains the Register of subjects of the national innovation system ("Register") where data on innovative subjects, subjects of innovation infrastructure and business angels shall be entered.

The very purpose of establishing such a register, is, among others, to ensure easier access to financing of innovative activities, granting incentives and stimulating respective procedures. The adoption of The Rulebook on Register of subjects of the national innovative system ("Rulebook") was a crucial step towards the implementation of the numerous incentives for startups.

The Rulebook regulates conditions for subjects of the national innovative system to be entered in the Register, as well as general and specific information regarding these subjects and conditions for deletion of these subjects therefrom.

## **CONDITIONS THAT A STARTUP MUST MEET FOR ENTERING THE INNOVATION FUND'S REGISTER?**

What differentiates startups from any other company is innovation. According to the Rulebook, the following conditions must be fulfilled in order for a company or an entrepreneur to be eligible as a startup and registered in the Register, and in particular that: registered business seat is in the Republic of Serbia;

- not more than ten years have passed since their establishment and not more than five years since the first business income was generated; and
- no bankruptcy or liquidation proceedings has been initiated.
- a company cannot be registered as a startup if it was incorporated by virtue of merger of two or more companies or by division thereof.

If the above general conditions are met, the Law provides a special condition for registration of a startup in the Register and it comes down to the fact that the research and development costs ('R&D') must represent at least 10% out of total expenses in each year prior to the year when the request for entering in the Register was submitted, i.e., in the period from incorporation to submission of the request for registration. In case of a company which was established in the same year when the request for registration was submitted and which has no financial history. In case of a company with no financial history, the Commission formed by the Fund, shall decide upon the request for registration, based on an assessment carried out in accordance with a defined criteria whether the applicant is developing an innovative product, service or technology and whether it has the potential for rapid and large growth.

## **INNOVATION FUND'S REGISTER**

Pursuant to the Law, the Fund manages the Register, with the support of the Serbian Government's service responsible for the design, harmonization, development and functioning of the electronic administration system.

The establishment of the Register gives the opportunity for all subjects of the national innovation system (from startups, business angels and spinoffs to Science Technology parks) to enter the Register on a voluntary basis. This way, each entity therein is enabled to identify itself before state authorities and other relevant entities, primarily investors, without additional procedures or requirements.

With this Register competent authorities of the Republic of Serbia, autonomous provinces or local self-government units, as well as any legal entity managing the public funds, will be able to use data from the Register to provide support to registered subjects, including startups, so the whole procedure of determining whether subjects are eligible for different state aid, grant, investment, tax reliefs or any other incentives is simplified and backed up with this legal presumption similar to other already maintained public registers like the one operated by Business Register Agency.

The creation of a favorable environment for the development of innovative activities cannot be limited to certain markets and particular entities. In this sense, the Law provides that any legal entity or natural person engaged in innovative activity can be entered into the Register voluntarily. Therefore, the principle of a free market is respected, so the effects of Law will not lead to distortion of competition in the Republic of Serbia. Moreover, the new Law acts as a stimulator for these entities to enter the Register but does not impose any obligation thereof.

## **TAX RELIEFS FOR HOLDERS OF A COPYRIGHT OR RELATED RIGHTS**

This tax relief makes a significant incentive for holders of copyrights and related rights allowing them to exempt an amount of income from the tax base and reduce the payable tax thereof. This is applicable when the holder of the copyright is an entity pursuant to the Corporate Income Tax Law.

Qualified income, realized by the taxpayer, holder of a copyright or a related right, based on the fee for using the deposited work of authorship or subject matter of a related right, except for the fee for the transfer of the copyright or a related right as a whole, can be exempted from the tax base in the amount of 80% of the qualified income.

In accordance with the Corporate Income Tax Law, a deposited work of authorship or subject matter of a related right is considered to be a work of authorship or subject matter of related right as defined by the Law on Copyright and Related rights, and which is recorded and deposited at the Intellectual Property Office of the Republic of Serbia.



## **IP BOX REGIME – DEPOSITING OF WORKS OF AUTHORSHIP AND SUBJECT MATTERS OF A RELATED RIGHT**

The author acquires moral, economic and other accompanying rights regarding his work of authorship from the moment of its creation, without any registration of the work of authorship.

However, the 'Regulation on the conditions to be fulfilled by copies of works of authorship and subject matters of related rights that are deposited, registration and deposit of works of authorship and subject matters of related rights, and the contents of the records of deposited works of authorship and subject matters of related rights, with the competent authority', introduces a non-compulsory deposition of works of authorship and subject matters of related rights.

The depositing does not influence the moment of acquiring the copyright or the related right and, in accordance with that, the registration is not a condition for the protection of copyright or related rights. The author still acquires copyright from the moment of its creation, as stated above.

The main purpose of depositing a work of authorship or a subject matter of a related right is to provide evidence and a legal presumption, in the same manner as provided for startups entered in the Register, of all facts that may be of importance for granting respective tax relief as well as for a possible court dispute.

## **CONCLUSION**

The register of subjects of the national innovation system, as well as the register for depositing of the works of authorship and subject matters of related rights, are both crucial and necessary for the application of tax reliefs that are granted for startups, and for copyright and related rights holders, which further encourages new investments in startups as well as providing support for the creation of new works of authorship as a very essence of innovative activity.

JPM Jankovic Popovic Mitic

8a Vladimira Popovića,

DELTA HOUSE, V Floor

11070 Belgrade, Serbia

T: +381/11/207-6850

E: [office@jpm.law](mailto:office@jpm.law)

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