Recommendations for the Tax System Reform in 2021

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AmCham

American Chamber of Commerce in Croatia Američka gospodarska komora u Hrvatskoj

Contents

Introduction

According to AmCham's *Survey of the Business Environment in Croatia*, taxation of labor is still seen by respondents as one of the main limiting factors for doing business in Croatia. The effect of the previous reduction of the tax burden has been noted, considering that the high tax burden on business has fallen to fourth place.

The main limiting business factors in 2019:
1) Taxation of labor
2) Lack of adequate workforce
3) High tax burden on business

The main limiting business factors in 2020:
1) Lack of demand (due to the pandemic or other reasons)
2) Lack of adequate workforce
3) Taxation of labor

The biggest disadvantages of doing business in Croatia compared to CEE countries (2020) had to do with the small market, slow administration, and third, lack of long-term government strategy. The level of taxation was in second place last year (2019), dropping to fourth place in this year's survey.

AmCham has welcomed relief measures to date, presented through the five rounds of tax reform, and particularly highlights measures related to:

- Equity plans;
- Equalizing the VAT rate on medicinal products;
- Raising the monthly gross amount with a personal income tax rate of 20%;
- Introducing possibility to reward employees through a non-taxable amount of up to HRK 5,000;
- Introducing possibility of non-taxable payments regarding the accommodation and meals for employees;
- Introducing possibility of payments of supplementary/additional health insurance premiums up to HRK 2,500 a year per employee as non-taxable income;
- Increasing the non-taxable part of income (that is, personal deduction) from HRK 3,800 to HRK 4,000;
- Introducing voluntary reporting of tax liability regarding the foreign income earned by natural persons;
- Decrease of personal income tax rate from 24% to 20% and 36% to 30%;
- Decrease of corporate income tax rate from 12% to 10% for undertakings that generate annual revenues of up to HRK 7.5 million;
- Increasing the threshold for the application of the taxation procedure on the basis of the remuneration received from HRK 7.5 million to HRK 15 million.

AmCham believes that further reduction of the tax burden is necessary.

In this position paper, the American Chamber of Commerce sets out recommendations for the further reduction of the tax burden aimed at attracting investment and greater competitiveness of Croatian employers in attracting and retaining the workforce.

General Recommendations

Better regulation

Frequent, unpredictable and non-standardized changes to the tax system, regardless of content, are not good for the economy. The announcement of the Ministry of Finance that there will be no tax changes in the current year if they have not been agreed upon in the previous year, as well as the practice of planning tax regulations, is seen by AmCham sees as a positive development, but it is essential that this principle be maintained in the future.

Tax authorities as partners to the business community

AmCham members often report on their impression that tax inspectors are focused on looking for errors in order to penalize businesses. Inspectors and the Tax Administration should position themselves as economic advisors. In the event that it is clear that the error was unintentional, it is sufficient and far more useful to issue a warning with a plan to rectify the error.

In a considerable number of cases, tax inspectors discover an error in the books and build a case to penalize companies, leaving them with the sole option of going through years of appeal followed by litigation. Such behavior by the tax authorities directly affects the business and investment environment in the country.

In accordance with the best practices of the tax authorities in developed countries, in cases where undertakings voluntarily inform the tax authorities about previous miscalculation of taxes or other procedural errors, the Croatian Tax Administration should respect the initiative and openness of undertakings, mitigate any adverse consequences (additional liabilities and administrative fines) and cooperate with the undertaking in solving the problem.

It is important to adhere to the principle of proportionality. Family farms or small businesses often do not have a full-time accountant and it is not justified to burden them with the same expectations and requirements that are expected of larger companies with an accounting department. Examples from practice show the disparate actions taken by tax officials, who often set requirements that cannot be met within the given deadlines.

AmCham calls for the Tax Administration to be more focused on preventive measures, instead of imposing additional tax liabilities and administrative fines for minor omissions (e.g. failure to submit a blank VAT form).

Equal treatment and certainty in the conduct of tax authorities

The Croatian tax system is characterized by frequent changes in tax regulations, which significantly affects its complexity. Even though measures are necessary, what further complicates the business of taxable persons is the observed different actions taken by different levels of tax authorities (branches, regional offices, including auditing departments, Central Office) in the same or similar cases.

This is especially evident for taxable persons who fall under the jurisdiction of multiple organizational units of the Tax Administration. It has also been observed that certain branches of the Tax Administration espouse different views on certain issues in relation to the competent Regional Office or the Central Office of the Tax Administration.

One of the reasons for the lack of uniform actions taken by different tax authorities is the fact that expert opinions on the application of tax regulations issued by the Central Office of the Tax Administration haven't been binding on lower organizational units (regional offices and branches) since 1 January 2017. In practice, we have observed that this leads to actions that are completely contrary to the opinions and instructions issued by the Central Office, which were signed by the Director General of the Tax Administration.

This leads to a paradox, whereby opinions signed by the hierarchically highest office within the Tax Administration do not find their application in practice.

In accordance with the above, we propose that a **provision be added to the Tax Administration Act in force, prescribing that the opinions, instructions and operational methodologies issued by the Central Office of the Tax Administration be binding on all organizational units of the Tax Administration.** We also consider it important to clearly **define the deadline** within which the tax authority must comment, i.e. issue an opinion on any inquiry made in order to avoid any further uncertainty for the taxable person.

Strict separation between the operations of first- and second-level tax authorities

There should be substantive rather than formal strict separation between the Tax Administration, which issues tax rulings, and the appellate body, i.e. the Independent Sector for Second-Instance Administrative Procedure. It is necessary to make additional progress in the field of reaching higher levels of expertise and experience of second-instance body experts. The appellate body currently mostly confirms tax decisions made at first instance. In these circumstances, appeals against first-instance decisions seem meaningless, and often only prolong the process.

As explained in the previous chapter, it has been observed that in the actions of the first-instance bodies of the Tax Administration, the expert opinions of the Central Office of the Tax Administration are ignored. A similar situation has also been observed frequently in the proceedings of the appellate (second-instance) body, although it is not obliged to follow such opinions.

Respecting full independence in the work of the appellate body and advocating for formal and substantive separation from the first-instance body, in addition to the applicable laws and bylaws, the appellate body should take into account the expert opinions of the Central Office of the Tax Administration when deciding on a specific case, especially due to the impression that the Central Office is often more informed and faster in implementing and interpreting new legislation than the appellate body.

Although currently, formally speaking, the expert opinions of the Central Office of the Tax Administration do not represent a legislative framework, they point to the correct application of laws and bylaws, whereby the following should be noted in particular:

- Expert opinions of the Central Office of the Tax Administration are issued on the basis of authorizations laid out in the Tax Administration Act;
- These opinions are prepared by highly specialized officials of the Tax Administration and signed by the Director General;
- These opinions refer to the correct handling of particular tax cases, especially when it is assessed that a different way of prescribing the correct course of action (through law or regulations) would be disproportionate to the circumstances of the specific case; or would lead to over-regulation of the tax system; or it is not possible to change a particular regulation at short notice.

With respect to the above, we believe that the **adoption of expert opinions** on **certain tax issues** is justified both from the point of view of the taxable person and the tax authority.
Given that from the point of view of the taxable person, the work of the appellate body is a continuation of the same single procedure in which decisions are made on tax liabilities, we believe that the appellate body (while being independent and autonomous in its work), when deciding on a particular appeal, should also take into account any possible expert opinion of the Central Office of the Tax Administration on the same or similar tax issue, i.e. that derogations in treatment should not be so frequent.

What is also necessary is that **administrative law judges be specialized in financial (primarily tax) law.** As a rule, judges dealing with a very wide range of administrative disputes from different legal areas also decide on highly sophisticated financial and tax cases, and their judgments, in general, have significant financial consequences.

Obligation to pay arising only after the end of the administrative dispute

According to existing legislation, the order of activities and obligations is as follows:

- Tax audits are performed by the Tax Administration or (e.g. in the case of the Special Tax on Motor Vehicles) by the Customs Administration;
- After an audit, a report is issued, followed by a tax decision, which the legal entity may appeal against before the Independent Sector for Second-Instance Administrative Procedure;
- In the event that the second-instance authority confirms the decision, the legal entity has the right to initiate an administrative dispute before the Administrative Court, but this does not postpone the collection of the tax liability determined by the decision.

The Tax Administration can thus cause irreparable damage to the legal entity in a short period of time, e.g. cause it to become insolvent or bankrupt, while the legal entity must depend on the agility of the administrative court, where disputes last, as a rule, for several years.

Introducing the possibility of voluntarily reporting undeclared tax liabilities

The General Tax Law and other tax regulations relating to the determination, calculation, and declaration of certain types of taxes prescribe penalties for tax offenses and the calculation of default interest on late payment of liabilities. According to the provisions of the General Tax Law, interest is calculated from the maturity of an individual tax liability, and the maturity of a particular type of tax is determined by special laws. As a rule, the maturity of a tax liability is determined from the day when the tax liability arose.

In the tax systems of some EU Member States, the concept of "voluntary reporting of undeclared tax liability" has been introduced. Its purpose is to encourage taxable persons to voluntarily declare an undeclared tax liability, before the Tax Administration identifies the undeclared tax liability through the auditing procedure within the deadlines prescribed for the statute of limitations. In return, the Tax Administration, depending on the amount of undeclared tax liability and the established circumstances that led to the failure to report on time (with intent to evade or without intent to evade), reduces the administrative fine and interest in percentages depending on the circumstances that are specifically defined.

AmCham has welcomed the introduction of voluntary reporting of tax liability regarding the foreign income earned by natural persons as a part of the Article 12.b of the General Tax Act, however, it has deemed that such possibility should also be introduced for other tax types.

The introduction of the proposed measure would lead to the creation of a positive environment in relations between taxable persons and tax authorities and serve as an incentive for taxable persons to voluntarily reach out to the Tax Administration and report a tax liability that was not reported on time, while being aware of the

material consequences of such an act, which should be lower compared to the case when the Tax Administration itself determines the obligation through the auditing procedure.

Issuing certificates by the Tax Administration on the absence of tax debts urgently and on the basis of the real situation

Obtaining tax debt certificates has been facilitated by the good functioning of the e-Tax system, which AmCham welcomes. However, despite this system, the accuracy of data on the status of the tax debt depends on the timely receipt and processing of received data, which is done by the Tax Administration. It is important to continue to work to increase efficiency in this regard.

In order to further facilitate the participation of undertakings in public tenders, for which they regularly need a certificate that they do not have tax debts, we propose that debts up to a certain reasonable amount, e.g. up to HRK 1,000, also be regarded as no outstanding tax liability. This can be easily achieved in the system in such a way that debts below that certain amount are not shown in the tax debt balance sheet at all, as if there is no tax debt.

A similar measure was temporarily introduced while implementing the procedure of tax payment in special circumstances caused by the COVID-19 pandemic in the Ordinance on the Implementation of the General Tax Act. According to the Ordinance provisions, if the amount of the tax debt is less than HRK 200.00, which is the lowest cost of the enforcement proceedings according to the provisions of the General Tax Act, it is deemed that there is no uncollected tax debt due.

Administrative measures to facilitate the business of undertakings and the Tax Administration

Undertakings often complain about the high level of bureaucracy, i.e. the large number of administrative requirements they have to meet in fulfilling their tax and related obligations. Further relief is proposed based on digitalization and automation of the entire system (modernization of the Tax Administration's information system), which would contribute to increased transparency, equal treatment, and simplification of the process, and would be more environmentally friendly ("paperless business"). A large number of forms does not contribute to easier business. In addition, forms need to be simplified. Challenges are presented by, for example, the large number of codes used in JOPPD forms, the large number of data in the VAT return (e.g. the UK VAT form has 5-7 fields, and the Croatian more than 20 fields), the RPO form (registration in the register of taxable persons), and the like.

It would also be preferable to have a different arrangement for issuing the opinion of the Central Office of the Tax Administration to taxable persons, outside the system of binding opinions issued in a special procedure provided for that purpose. An illustrative example is the inquiry made on August 6, to which an answer was received at the end of the year. In comparison, in the UK, the same undertaking received a response within a few days.

It is important to implement measures aimed at improving the investment environment through cheaper and simpler operations.

Extending the period of tax loss carryforward

Existing rules on the five-year loss carryforward do not encourage long-term investments, especially not high-tech investments. It is necessary to extend the loss carryforward period in accordance with the best European and global practices. For example, Austria has a period of 7 years, while the US has 20 years. We believe that in Croatia this period should be extended from 5 to 10 years. A good example is the solution implemented by Slovenia where there is no time limit for the loss carryforward in advance, but each year, only 50% of the realized profit can be covered by the loss carryforward, and corporate income tax must be paid on the remaining 50%.

Adjustment of Tax Liability Due to Bad Debt

The Croatian tax legislation does not provide for VAT exemption in the case of bad debt, nor an option of a unilateral VAT adjustment without the written confirmation of the purchaser on the performed adjustment of input tax in the VAT records. Many purchasers are unwilling to make an adjustment and provide the necessary confirmation. The AmCham finds that the Croatian Tax Administration should **enable a unilateral VAT adjustment for bad debts** by reconciling the Croatian VAT legislation with the EU regulations.

Amendments to the law in such a way as to extend the application of the taxation procedure on the basis of the remuneration collected to all taxable persons that did not exceed the threshold of HRK 15 million and based on the explanations given by the Tax Administration when introducing these changes that this amount covers 96% of taxpayers, it is evident that the failure to act in relation to the bad debts of larger companies is defended.

The key reasons for the urgent need to amend Croatian VAT legislation stem from the recent case law (judgment) of the Court of Justice of the European Union (CJEU). The Court advocates the right of taxable persons to reduce the tax base in case of non-payment, even in cases where EU Member States do not allow such a reduction, as is the case in Croatia (and Member States' tax authorities must comply with court rulings). Among other things, from the Court's case-law follows:

- that a ban on reducing the tax base in the event of non-payment would be contrary to the principle of tax neutrality,
- that Member States may lay down conditions for reducing the tax base in order to prevent tax evasion or avoidance.

However, those measures must be limited to the attainment of those objectives and should have the least possible effect on the principles of the VAT Directive, and in particular on the principle of neutrality. In the case of non-payment in particular, these conditions should be limited to the taxable person obtaining proof that the consideration for a supply of goods or services to the purchaser will not be collected.

The taxable person may reduce the tax base after it is definitively determined that the purchaser will not pay the full price for the supply of goods or services or when the taxable person can show with reasonable probability that the debt will not be settled.

Legislative provisions provide Croatian taxable persons with the possibility of amending their VAT liability in relation to bad debts, but the procedure makes this amending more difficult for taxable persons. Namely, one of the conditions for amendment is that the taxable person that has supplied the goods or performed a service must have a written statement from the recipient of the supply that they have amended the input tax deduction in their business books and records. In other words, an amendment is not possible without the purchaser's cooperation.

For example, the UK tax system imposes an automatic and legal obligation on purchasers to refund input tax to the Tax Administration if they have failed to pay their suppliers within six months of receiving the goods or services. The American Chamber of Commerce believes that the Croatian Tax Administration should, by changing the legal regulations, also be involved in the process of collecting bad debts and prescribe a deadline within which taxable persons must correct their input tax if they have not paid their suppliers on time. This would facilitate the amendment process to taxable persons that were unable to collect payments for the delivered goods and performed services, while at the same time having to pay VAT with their own funds because they could not collect their debts from customers. The burden of amendment would also be shifted from the taxable person to the Tax Administration, which is considered a more appropriate and effective procedure.

Many EU countries allow VAT exemptions for bad debts and prescribe certain formal requirements in this regard. For example, in the Czech Republic, France, Greece, Italy, the Netherlands, and Slovenia, the application of VAT exemptions for bad debts generally requires the debtor to initiate official bankruptcy or other insolvency proceedings as required by law, often with additional restrictive conditions for the application of the VAT exemption (e.g. modified supplier invoice or approval, court decision, etc.).

On the other hand, the application of the VAT exemption to bad debt in Belgium requires only the condition that bad debt must be shown in the financial statements and other reporting obligations, such as the issuance of a corrective document that includes specific information related to bad debt at the time when the supplier can prove by all means that the claim is considered lost. Similar conditions allowing for a wider scope of VAT exemption for bad debts apply, for example, in Austria, Cyprus, Denmark, Ireland, Latvia and Poland, with the additional condition of issuing a written notice of the supplier to the purchaser, on the basis of which the purchaser has the obligation to amend (i.e. reduce) their input tax. AmCham believes that there is no obstacle to implementing such a solution in the Croatian tax system.

Therefore, in order to adapt its regulations to the positive practices in other EU countries, AmCham proposes that the current Article 33, paragraph 7 of the Croatian VAT Act be amended as follows: "If the tax base subsequently changes

due to revocation, various discounts or inability to collect, then the taxable person that supplied the goods or services may correct the amount of VAT if the taxable person to whom the goods or services were supplied is notified in writing of the amount of VAT for which recipient has no right to deduct".

AmCham also proposes that the following paragraphs be added to Article 33.

(8) The taxable person may also amend (reduce) the amount of VAT charged if, after a final court decision on the completion of bankruptcy proceedings or the successful completion of the compulsory settlement procedure, the taxable person's claim has not been collected or has not been fully collected. The taxable person may act in the same way if they receive a final court decision terminating the enforcement proceedings or another document showing that at the end of the enforcement proceedings their claim has not been collected or has not been fully collected. The same applies to a taxable person to which the debt has not been repaid or has not been repaid in full because the debtor has been deleted from the register or registers or other relevant statutory records.

(9) Notwithstanding the preceding paragraph, if the taxable person subsequently receives a payment or partial payment for the supply of goods or services, the taxable person must amend (reduce) the amount of unpaid VAT on that basis, i.e. must pay the appropriate amount of VAT into the state budget.

Further rules on the reduction of the VAT liability due to the inability to collect prescribed in Article 43, paragraph 1 of the Ordinance on VAT remain unchanged: "If the compensation is subsequently reduced due to various types of discounts given by the supplier to the recipient, such as discounts due to earlier payment, rebates and other types of approval or due to inability to collect, then the tax base shall be reduced in the manner prescribed by Article 33, paragraph 7 of the VAT Act."

Extension of the deadline for submission of personal income tax and corporate income tax returns

Croatian tax legislation provides for very short annual deadlines for filing personal income tax and corporate income tax returns, which often leads to incomplete submissions due to lack of information. AmCham believes that the Tax Administration should allow for an **extension of the submission deadline.** Exceptionally, because of the declaration of special circumstances caused by the COVID-19 pandemic, delay measures and/or installment payments of tax liabilities due, exemptions from the contribution liabilities for co-financed net salaries, exemptions from paying tax liabilities and the implementation of other provisions regarding the procedures during the special circumstances have been introduced by the General Tax Act and the Ordinance on the Implementation of the General Tax Act. Other provisions stipulate the exceptional deadline extension for submitting the corporate income tax return and other related forms and reports until 30 June of the year in progress. The maturity of public benefit obligations according to the forms submitted in this way has been moved to 31 July 2020 (for 2019) and 30

June 2021 (for 2020). However, the listed provisions were applied only during the time of special circumstances.

a) Personal income tax

Personal income tax filing dates[1]			
	Deadline*	**Deadline extensions**	
Croatia	**28 February**		
Bosnia and Herzegovina	28 February		
Slovakia	31 March	30 June	30 September[1]
Czech Republic	1 April	1 July	1 November[2]
Austria	30 April	30 June[3]	
Poland	30 April		
Serbia	15 May		
Hungary	20 May	20 November[4]	
Slovenia	31 May	31 July[5]	
Germany	31 July	28 February[6]	
Italy	31 October		

*in the current year for the previous year

[1]June if the tax authorities received notification of the extension. September for persons earning income from foreign sources.

[2]July if filed with the assistance of a tax advisor. November for persons earning income from foreign sources.

[3]June for persons submitting electronically, but only if they earn more than the minimum amount from sources other than employment or if they have more than one employer at a time.
[4]If the taxable person is not personally responsible for the lack of data to file.
[5]Only if the person does not receive a calculation from the government by May 31.
[6]If filed with the assistance of a tax advisor, the second following year (e.g., February 28, 2020 for a 2018 tax return)

Croatian personal income tax legislation provides for very short annual deadlines for filing personal income tax returns, 31 January (INO-DOH form) and the last day of February (ZPP-DOH form) of the current year for income earned in the previous year. In practice, this often leads to the submission of incomplete documentation, especially for persons earning income from abroad. At the time of filing, these persons do not have complete information on income earned from abroad or on foreign tax liabilities that can be used as a tax credit with respect to Croatian tax liabilities and, in some cases, even on their tax residency.

AmCham proposes that Croatian personal income tax legislation be amended so that:

The deadline for filing an annual personal income tax return gets moved to March 31 of the current year for income earned in the previous year.

[1] https://www.ey.com/Publication/vwLUAssets/ey-2018-19-worldwide-personal-tax-and-immigration-guide/$FILE/ey-2018-19-worldwide-personal-tax-and-immigration-guide.pdf Accessed: 23 July 2019

Persons that do not have complete information on foreign income and foreign tax liabilities on March 31 can request an "automatic" extension of the deadline for filing personal income tax returns until November 30 of the current year for income earned during the previous year.

Under AmCham's proposal, the general deadline for filing an annual personal income tax return would be March 31 of the current year for income earned in the previous year (instead of the current deadlines of January 31 and the end of February).

A person that earns income from abroad and does not have complete information on income from abroad earned in the previous year and foreign tax liabilities shall notify the Tax Administration and request an extension of the deadline. The notice should be submitted by March 31 of the current year for income earned in the previous year (AmCham proposes that the content and form of the notice be prescribed in personal income tax legislation). After the person has complete information on income from abroad and foreign tax liabilities, they shall submit Croatian annual forms, but no later than November 30 of the current year for income earned during the previous year.

This proposal is in line with the current provisions of the regulations on personal income tax, which stipulate that the certificate confirming taxes paid abroad be submitted to the Tax Administration by November 30 of the current year for income earned in the previous year.

This is expected to have a positive effect on the administrative capacity of taxable persons and the Tax Administration, i.e. it will reduce the additional administration on both ends:

Persons earning income from abroad will no longer be required to submit incomplete documentation (due to lack of information) in order to meet the deadline for submission, nor to submit documentation upon receipt of information through changes to previously submitted incomplete documentation (to adequately show adequate income and foreign tax liabilities).

The Tax Administration will no longer receive inaccurate, incomplete documentation, which needs to be processed upon receipt, on foreign income and foreign tax liabilities, which can lead to incorrect planning of personal income tax refunds.
This proposal will also significantly ease the administrative burden and improve compliance / reporting schedule for persons receiving income from abroad, which will be a positive development for Croatian citizens earning income from abroad, as well as foreign citizens working and doing business in Croatia.

b) *Corporate income tax*

Dates for filing corporate income tax[2]			
	Deadline*		**Deadline extensions**
Croatia[1]	**30 April**		
Bosnia and Herzegovina[2]	31 March		
Slovakia[3]	31 March	30 June	30 September
Czech Republic[4]	31 March	30 June	
Poland[5]	31 March		
Slovenia[5]	31 March		
Austria[6]	30 April	30 June	31 March / 30 April
Hungary[7]	31 May		
Germany[8]	31 May	31 December	
Serbia[9]	30 June		
Italy[10]	30 September		

*in the current year for the previous year

[1]Or 4 months after the end of the company's financial year.

[2]In the Federation of Bosnia and Herzegovina; in the Republika Srpska and the Brčko District, 90 days after the end of the company's financial year.

[3]Or 3 months after the end of the company's financial year. June if the tax authorities have received notification of the extension. September if the company received income from foreign sources.

[4]June automatically if the taxable person has been subject to statutory audit. Otherwise, the extension may be granted at the discretion of the tax authorities.

[5]Or 3 months after the end of the company's financial year.

[6]June if submitted electronically. March 31 / April 30 of the following year if the taxable person is represented by an authorized tax advisor.

[7]Or 5 months after the end of the company's financial year.

[8]December if licensed tax consultant preparing the return.

[9]Or 6 months after the end of the company's financial year.

[10]Or 9 months after the end of the company's financial year.

Under the Croatian Corporate Income Tax Act, the deadline for filing a corporate income tax return is four months after the end of a financial year. This deadline is final and no option of extension is provided for.

Many countries in the region allow for a longer deadline for filing a corporate income tax return, and in addition, many countries allow taxable persons to request an extension of the deadline.

Taxable persons that have business units and pay corporate income tax abroad are usually unable to obtain the necessary documentation for calculating the tax paid abroad by the prescribed deadline and are therefore forced to subsequently correct the filed corporate income tax return.

[2] https://www.ey.com/Publication/vwLUAssets/ey-2018-19-worldwide-personal-tax-and-immigration-guide/$FILE/ey-2018-19-worldwide-personal-tax-and-immigration-guide.pdf Accessed: 23 July 2019

Furthermore, according to the Accounting Act, the deadline for the preparation and submission of (unconsolidated) annual financial statements is six months from the end of a financial year. Annual financial statements are the basis for the preparation of a corporate income tax return, i.e. accounting profit is the starting point for determining the corporate income tax liability. This means that taxable persons must first prepare and determine their annual financial statements in order to have accurate and complete information for the purpose of determining the corporate income tax liability, but the legal deadline for their preparation and submission is longer than the deadline for the preparation and submission of a corporate income tax return.

In practice, many taxable persons have a problem with finalizing their annual financial statements by the deadline for the submission of a corporate income tax return, which is particularly the case in medium-sized and large undertakings, that is, undertakings that are subject to audit (and other undertakings that carry out audits of their financial statements). In practice, it is very demanding to close the business books, prepare the annual financial statements and audit the annual financial statements by the deadline for filing a corporate income tax return.

In some cases, taxable persons have to intervene in their business books even after filing a corporate income tax return, either to correct the errors observed by the taxable persons themselves or because of audit findings. Even though, in such cases, taxable persons prepare and submit their annual financial statements for public release, they are forced to make a subsequent correction of the corporate income tax return.

Consequently, the extension of the deadline for filing a corporate income tax return would to some extent reduce the administrative burden of taxable persons, and indirectly the Tax Administration.

Accordingly, AmCham proposes that the **deadline for the filing of a corporate income tax return should be extended to six months after the end of a financial year** (i.e. to be equal to the deadlines for submitting annual financial statements for public release) or that taxable persons at least have the option of requesting an extension of the deadline for filing a corporate income tax return.

Personal income tax – reducing the tax burden on labor contributions

In the Business Climate Survey that AmCham presented at the beginning of 2021, there is visible progress in terms of the reduction in the taxation of labor. AmCham believes that the Government should continue to work on further reducing the taxation of labor in order to make it more competitive compared to other Central and Eastern European countries and for it to focus on retaining the workforce in Croatia.

The KPMG table below provides an overview of tax rates and contributions in the Croatian and competing markets.

Overview of tax systems in 2021	Croatia	Bulgaria	Czech Republic	Romania	Serbia	Slovakia
Corporate income tax rate (general)	10% - for generated revenue up to HRK 7,500,000.00 18% - for generated revenue equal to or greater than HRK 7,500,000.01	10%	19%	16%	15%	21% 15% for micro-undertakings whose taxable profit does not exceed EUR 49,790 per year
VAT rate (general)	25%	20%	21%	19%	20%	20%
Personal income tax rates (salaries)	20%, 30% + surtax up to 18% (the highest rate applies to the annual taxable income above HRK 360,000.00, or EUR 48,000.00 in 2018	10%	15%-23% (relative to income)	10%	10% (+ 10% for annual incomes from EUR 25,317 to EUR 50,634, or +15% for incomes above EUR 50,634)	19% (25% for the amount of annual income exceeding EUR 37,981.94) 15% for micro-undertakings whose taxable profit does not exceed EUR 49,790 per year
Salary contributions	Employee: 20% (partially limited) Employer: 16.5% (unlimited)	Employee: 13.78% (limited) Employer: 18.92% to 19.62% (limited)	Employee: 11% (partially limited) Employer: 33.8%* (partially limited)	Employee: 35% (unlimited) Employer: 2.25% (unlimited)	Employee: 19.9% (limited) Employer: 16.65% (limited)	Employee: 13.4% (partially limited) Employer: 35.2% (partially limited)

Source: KPMG, July 2021

The table shows that Croatia is not competitive when it comes to the tax burden on labor, particularly in the area of higher salaries. This is one of the reasons why a large number of propulsive sectors in Croatia are experiencing problems with a lack of qualified workers, a fact especially evident in the ICT industry and tourism. AmCham welcomes the reduction in the personal income tax rate that came into force in early 2021.

Reducing the tax burden on labor would contribute to the opening of regional centers of international companies in Croatia, since due to the reduction of the burden imposed on salaries by public contributions, it would be more affordable for undertakings to remunerate the best managers. In this way, Croatia would position itself as a regional business center, with EU membership and its geographical location as contributing factors, and expensive employment as a detriment.

AmCham proposes three key measures:

- Increase of non-taxable personal deductions to HRK 4,800;
- Decrease of personal income tax rate from 20% to 12%;

- Additional decrease of the 30% personal income tax rate.

The increase of non-taxable personal deductions to HRK 4,800, together with the proposed changes in personal income tax rates, would provide the working population with a greater disposable income, along with the expected increase in consumption and greater economic activity.

Increase of non-taxable personal deductions

The increase in the non-taxable part of income (i.e. personal deduction) has already been achieved in a few steps from HRK 2,600 to HRK 4,000. However, AmCham believes that a further increase to HRK 4,800 would be beneficial for a large section of the working population in Croatia by lowering the total tax burden and increasing net income for persons with high and middle incomes.

It would also open up space for employers of persons with net income of up to HRK 4,000 (who would not otherwise feel an effect of the increase of the non-taxable part of the salary as they do not pay personal income tax because of their relatively low salary) to consider increasing salaries of those persons as the net effect for the employee and the gross effect for the employer would be more favorable than in the situation where a 20% personal income tax would have to be applied to the part of the increased salary if personal deductions remained the same.

The social effects this measure would have require no further explanation.

Reduction of the tax rate from 20% to 12%

Reducing the personal income tax rate from 20% to 12% would have a very strong impact on the Croatian economy and would increase the purchasing power of a large number of workers.

The measure is proposed to further relieve relatively low or "medium" incomes. With the same cost for employers, employees receive higher net income, which increases their economic power and capacity for consumption, i.e., it increases their standard of living. This indirectly positively impacts economic growth in Croatia. Over the past few quarters, the greater economic power of the population stemming from the implemented reduction of the tax burden has led to higher rates of economic growth generated significantly by personal consumption. AmCham believes that lowering the 20% personal income tax rate would contribute to further economic growth due to higher consumption of citizens who would have a higher disposable income.

Decrease of the 30% personal income tax rate

Although the personal income tax rate of 36% was reduced in the last round of tax reform to 30%, in order to fully stimulate investment, attract regional headquarters, and encourage an increase in higher paid professions in Croatia, the personal income tax rate of 30% should be further reduced. Alternatively, a rate of 30% should only apply to gross monthly salaries in excess of HRK 75,000.

For activities that are relatively "better" paid, the 30% tax rate (increased by a city surtax, where applicable) represents a significant burden on income and reduces the competitiveness of Croatian employers compared to other comparable countries. Reducing this tax rate makes it possible to create/attract jobs for highly educated employees who create high added value (e.g. IT, tourism, financial sector, pharmaceuticals...). Croatia needs to keep up with the trend of employee role change in companies operating in several countries where these employees are in charge of markets in several countries. An attractive income taxation system, with a lower burden for a comparatively higher income, will attract such companies and enable Croatian tax residents to get regional roles (not necessarily managerial, but highly qualified) because these employees would have a higher net income at the same salary cost. That is why we suggest lowering the higher tax rate or further increasing the threshold of the higher tax bracket. Both measures have a positive impact on increasing net income at the same cost.

Changes to the tax treatment of "remuneration in kind"

The Personal Income Tax Act lays down that any remuneration paid by the employer to its worker which is not in cash falls under the definition of remuneration in kind and represents the worker's taxable remuneration (apart from certain exceptions laid down in the Act and Ordinance).

In practice, this means that the realized remuneration represents the net value, whereby the base must be increased by the corresponding taxes and contributions (so-called gross-up). Such a calculation method leads to an extremely large tax burden, which results in an effective tax rate that can reach as much as 125.43% (if the person moves to a higher tax bracket).

Moreover, the Act does not lay down any different tax treatment depending on whether the tax and contribution liabilities are paid by the employer or employee:

- If they are paid by the employer, apart from the expense itself for obtaining a remuneration in kind, such a tax burden discourages employers from enabling any kind of additional benefits to their employees (except for those expressly defined as untaxable up to a certain amount) because they find the costs simply too high;
- If they are paid by the employee, the value of the taxes and contributions that the employee must pay is higher than what they receive from the employer, therefore, the employee simply has no financial motive to accept such remuneration.

An informative research carried out by KMPG in August 2020 in several neighboring countries (Austria, Hungary, Slovakia, Slovenia) indicates that, apart from having established taxation exemptions regarding certain categories of remuneration in kind, countries generally do not treat remuneration in kind as net, but rather gross remuneration, particularly if the taxes are paid by the employees. A short list of taxation method by country* can be found below:

Hungary	Hungary has implemented various models of remuneration in kind which employers may grant their employees without paying personal income tax (even though they must pay the mandatory contributions), provided that the funds are paid for a specific purpose (accommodation, entertainment, leisure) and that they are spent exclusively with Hungarian service providers. The amount is limited to (approximately EUR 2,280 or HRK 17,000 annually per employee). Moreover, there are certain types of remuneration that are completely exempt from taxes and contributions, such as tickets for sports and cultural events.
Slovakia	Slovakian regulations define two types of remuneration in kind: monetary benefits and non-monetary benefits. Monetary benefits are treated the same as the salary (gross remuneration), while non-monetary benefits are grossed up for the purpose of calculating the amount of taxes and contributions.
Austria	As a rule, Austria treats remuneration in kind as gross for the purpose of calculating the amount of taxes and contributions.
Slovenia	Slovenian regulations do not require remuneration in kind to be grossed up if the employee as a natural person is subject to taxation (the same treatment as cash remuneration). An exception applies only if the tax liability is assumed by the employer.

**Source: KPMG, September 2020*

With regard to the above and the need of finding additional methods of rewarding and incentivizing labor in Croatia, we recommend that the authorities consider **deleting the provision prescribing an increase in the base for related taxes and contributions** as prescribed by law, in relation to the taxation of remuneration in kind because it makes such remuneration extremely uncompetitive and administratively complex to implement. Instead, we propose that the authorities consider **defining the market value of the remuneration in kind as the gross value for the purpose of tax and contribution payment.**

Raising bonus payments for work results

AmCham suggests increasing the non-taxable amount of "bonus payments for work results and other forms of additional reward for workers" (additional salary, bonus on the monthly salary, etc.) from HRK 5,000 to HRK 12,000 (Ordinance on personal income tax, Article 7, paragraph 2)

The measure provides an optimal net effect for employees and employers in the circumstances when employers have the option of additionally rewarding their workers. AmCham believes that an appropriate amount for this is HRK 1,000 per month.

This measure would not affect the revenues of local authorities, which would facilitate its adoption without objections from other stakeholders.

Relieving contributions on individual employee remuneration

Taxing income from bonuses in the form of allotment of shares and equity option contracts

From 1 January 2019 onwards, all remuneration based on bonuses in the form of allotment of shares and equity option contracts have the same tax treatment, i.e. they are considered to be capital income in kind, which is subject to the tax rate of 24% (plus surtax). Subsequently, the 24% rate was reduced to 20% (as of January 1, 2021).

However, although AmCham welcomes these positive changes, several situations have been observed in practice that would necessitate further regulation, so that this positive and major change in the Personal Income Tax Act would have a full impact on the Croatian economy and labor market.

Namely, in order to fully achieve favorable tax treatment for all companies in the same way, including companies **structured as limited liability companies ("d.o.o.")**, it is necessary to amend the regulations in order to unequivocally ensure **more favorable tax treatment for the allocation of shares and to encourage the implementation of equity plans in these companies as well.**

In addition, in order to relieve the tax burden and simplify the taxation of remuneration based on participation in option plans, it is recommended that the following amendments to the tax regulations stipulate that the **value of this remuneration is considered gross proceeds**, as opposed to the current regulation which prescribes that it is a net remuneration that needs to be converted to gross proceeds, which results in an increase in the effective tax rate.

Also, it is proposed to further **reduce the rate** to **10%** (equalization of the tax rate with that of dividends and interest).

More details are given below.

Including limited liability companies ("d.o.o.") in the implementation of options plans

The current wording of the Personal Income Tax Act explicitly provides for more favorable tax treatment for the allotment of or equity options contracts for **shares**, but does not prescribe such treatment for **business interest**. As a consequence, the interests of limited liability companies have emerged to provide their employees with a more favorable treatment of participation in the company's capital.

As a result of the tax reform and a more favorable taxation of optional bonuses for employees, many companies began implementing this model to increase their

competitiveness on the European market and retain their employees. In some industries such as IT and start-ups, such models are crucial for the continuation of their operations in Croatia. However, a vast majority of such companies in Croatia were established as "d.o.o.", i.e. limited liability companies.

The legal interpretations that can be found in practice support the fact that there is no essential difference between the acquisition of shares and business interest by workers:

- Shares and business interest yield equal property rights;
- Income from shares (dividends) is taxed in the same manner as income from business interest, at the single tax rate of 10%;
- "D.o.o." is an organizational form of a capital company, therefore, it is appropriate that income from such business interest should be taxed as capital;
- Most of the companies generating additional economic growth in Croatia and small and medium-sized companies that are, as a rule, always "d.o.o."; a different tax treatment of the acquisition of business interest in them would be discriminatory;
- Insisting on transforming a company from "d.o.o." to "d.d." only for the purpose of a more favorable taxation of the employee-share scheme would be merely a matter of form, since there would essentially be no other changes – neither within the company (apart from the formality) nor in the employment relationship.

An amendment to the Personal Income Tax Act is proposed, whereby it would be clearly prescribed that, apart from the allotment or purchase of own shares, the **allotment and acquisition of interest in a company** is also considered income from capital.

We believe that this will regulate a large number of companies that are by their structure "d.o.o.", and which due to positive signals from the legislator and the legal interpretation of capital ownership, began to implement optional remuneration of their employees by allocating or purchasing equity, and then stopped the process due to regulations that grant this possibility to "d.d." companies exclusively.

Due to this situation on the one hand, and the necessity of implementing worker participation in the company capital on the other, companies are considering the possibility of restructuring and moving their registered offices out of Croatia.

If the relevant legal framework were to be defined, such a scenario would surely be avoided, with the added benefit of stimulating the development of SMEs and start-ups in Croatia.

We note that these changes are urgent and necessary as soon as possible for certain sectors of significant interest to the Republic of Croatia, primarily start-up companies and the IT industry.

In essence, this is a specific sector for the following reasons:

- Most start-up companies are established as a "d.o.o";
- These companies are characterized by relatively rapid growth and a strong need for capital and a highly educated workforce; at this stage the focus of the business is not on changing organizational forms or listing on the stock market to become a "d.d." (often companies at this stage of growth simply do not qualify or have the means and resources to finance such a move);
- All the while, they are faced with a shortage of manpower, which is a characteristic of the IT sector in general. In such situations, it is impossible to retain employees in the company on the basis of regular remuneration (salary). Instead, it is necessary to implement a tax incentive form of long-term rewarding of employees through participation in capital, which guarantees stay in the company;
- Salaries and similar remuneration in Croatia compared to other countries are still significantly burdened by public contributions, which is why these employees (who are otherwise very mobile and easily employable) are quick to go abroad;
- Based on our experience with foreign markets, for such employees, the standard part of the compensation package involves inclusion in the ownership of the company through optional remuneration.

Given that this is a sector that is important for the further development of the Croatian economy, we believe that the country can no longer wait with the implementation of the above changes. Also, the implementation of more favorable taxation for this sector would be the first step by which the Tax Administration could test the market and see what impact it has on government revenues, but also on the labor market. This would be a good platform for applying more favorable treatment to all other "d.o.o." companies, which is the ultimate goal and position of AmCham.

Net vs gross remuneration with regard to option plans and further rate reduction

Since the tax regulations prescribe that remuneration based on participation in an option plan are considered net remuneration, the effective rate, due to the prescribed requirement for conversion to gross, is 30.89% (for a taxable person residing in Zagreb).

Given that this is a significantly higher actual rate than the one seemingly prescribed by law (a uniform rate of 20%), AmCham proposes changes to Croatian personal income tax legislation so that:

- remuneration from bonuses in the form of allotment of shares / ownership stakes and option purchase of shares / ownership stakes are considered as **gross proceeds from capital**; and
- instead of the current flat rate of 20%, a **flat rate of 10%** is applied, which is currently applicable to dividends, interest, and capital gains

which would eliminate the need to convert to gross amount and emphasize the effective tax rate, and would enable the retention and attraction of highly skilled labor in Croatia. Also, Croatia would thus become a more attractive destination for foreign investment, primarily for the establishment of regional headquarters of foreign and domestic companies in Croatia.

Compensation intended for the health of workers

AmCham further proposes to stimulate employers through **tax-free payments** for **certain costs intended for workers' health.** According to the Explanation of the financial plan of the Croatian Health Insurance Fund (HZZO) for 2021 and the projection of the plan for 2022 and 2023, which is publicly available, revenues from contributions that are the revenue of the HZZO should amount to approximately HRK 22.6 billion this year. In comparison, corporate income tax revenues should amount to approximately HRK 8 billion. In order to reduce the pressure on the cost side of the HZZO (in terms of payments for sick leave, treatment, medication, etc.), AmCham proposes non-taxable benefits for certain costs that employers would cover, such as the costs of certain specific medical examinations, medication costs, but also the costs of some sports and health activities, which would reduce sick leave, or generally improve the health of the working population (e.g. sports activities, gyms, etc.). In this way, the employer would increase work efficiency and reduce absenteeism, workers would receive activities whose costs they finance themselves, and consequently the pressure would be reduced.

Further tax reform will also have to take into account contributions (pension and health), but through the mechanisms available in the personal income tax such as non-taxable treatment of certain expenditures, the desired results can be achieved in a relatively short period of time.

Compensation for sports activities

Given the high number of sick days, obesity of a part of the population, the costs of the health sector, and the resulting damage to the economy and the general government, AmCham proposes the introduction of the possibility of tax-free financing of sports activities of employees with the aim of improving their general health (e.g. monthly or annual membership fees for the gym, city pool, dates for the use of sports fields, etc.).

For easier administration, AmCham suggests that the non-taxable amount for sports activities can be paid directly to the service provider.

Tax break for additional and supplementary health insurance

AmCham has welcomed the introduction of possibility of non-taxable payments of premiums of supplementary/additional health insurance for employees up to HRK 2,500 a year per employee and, in accordance with earlier recommendations, it proposes the maximum amount of the supplementary/additional health insurance relief of up to HRK 7,500.

An example of a country applying tax breaks to health insurance premiums is Portugal where the health insurance premium is used as a tax deduction in personal income tax. The deduction has a set limit that is determined depending on other tax breaks and depends on the level of taxable income, with the maximum tax break amounting to EUR 1,000.

Organizing "team building" activities

Working requires a certain amount of mental and physical effort on the part of each employee. At the same time, individual workers are usually part of a certain organizational unit or team with which they solve and perform tasks through common business operations.

In line with the trends of developed economies, Croatian employers are increasingly organizing activities to strengthen the team, i.e. team building activities. Joint activities of business colleagues lead to better development of their team spirit and a sense of belonging to the team, and contribute to better mutual knowledge, trust, understanding, and respect, which results in significantly better individual and collective business results.

Currently, this type of activity is subject to taxation, which is a significant cost to employers, who often give up on organizing recreational activities for employees or reduce the scope and quality of planned activities in order to reduce costs. Organizing team building is a standard in modern management of organizations and human resources management, and taxing recreational activities makes it difficult for employees to follow the most modern business trends in Croatia.

AmCham believes that not taxing team building activities, i.e. clearly prescribing the treatment of the costs of these activities in tax terms, would have multiple positive effects on the mental and physical well-being of employees, but also on better productivity of individuals, companies, and ultimately the Croatian economy.

Use of taxi services on a business trip

If the worker has used a taxi or other means of transport for transportation from the airport to the place where they are sent on a business trip, these expenses are not considered transport at the place of mission and are recognized as business travel expenses. This is a case of being transported to the place of mission, as opposed to local travel at the place of mission, so they can be reimbursed to the employee without paying personal income tax and contributions.

In the event that expenditures for taxi services relate to transport at the place of mission, the said expenditures should be paid from the amount of per diem. If the employee is nevertheless reimbursed, remuneration in kind would have to be calculated for the said expense.

As a rule, workers try to make the most of their time at their place of mission. In situations where multiple meetings and business activities are organized in one day, it is common to use taxi services to avoid slowing down the daily plan or unnecessarily prolonging the stay. The use of taxi services for business purposes is an operating expense and should not be covered by workers' per diems.

AmCham considers that the use of taxi services on a business trip should be treated as the cost of the business trip, without calculating the remuneration in kind, i.e. that the per diem should be intended only to cover the cost of drinks and food during the business trip.

Introducing a tax relief for the private use of official plug-in vehicles

If a company owns plug-in vehicles (BEV and PHEV) and its employees use them for private purposes, AmCham believes that such use should be exempt from taxes on fringe benefits in kind as in the United Kingdom and the Netherlands.

Introduction of a non-taxable bonus for working from home

In the last few years, there has been a major change in the labor market, with employers increasingly agreeing to workers' flexibility in choosing not only working hours but also places of work. The emergence of the COVID-19 pandemic, which forced many workers and employers to organize the option of working from home, proved that this way of working, in addition to being necessary given the spread of the virus, is no less efficient than working at the office. In view of the above, AmCham advocates:

Amending the personal income tax regulations by introducing an **item of entitlement** to a **non-taxable fixed monthly remuneration for the cost of equipment and materials** needed to work from home or some other separate place of work that is considered a worker's private space. When defining a separate place of work, the Labor Law prescribes the contractual regulation of the employer's obligation to reimburse workers for the costs incurred by using their own equipment and other costs of workers related to performing work (when it is not possible to easily determine that the cost is exclusively related to the employment relationship, such as the cost of internet, electricity, water, and central heating). Given that employers are already obliged to pay a worker who works from home or another separate place of work compensation for indeterminate costs incurred, the non-compliance of this regulation with tax regulations leads to the treatment of such payments as benefits in kind or payments that are taxed just like a salary. Considering that this is an objectively incurred expense that the employer, when the employee works in the business premises, is entitled to pay as part of the regular operating costs, there is no justifiable reason why the same costs could not be reimbursed by the employer tax-free to the worker when they are incurred while working from home.

Non-taxable reimbursement of the cost of working from home has been recognized in a number of neighboring legislations. The following is an example of a solution to reimbursement for working from home in other jurisdictions:

Slovenia - monthly non-taxable **compensation for work from home in the amount of 5% of salary,** but **not more than 5% of the average Slovenian salary.** In order for the reimbursement of the cost of equipment and materials needed to work from home to be tax-free, it needs to be defined through internal work regulations and employment contract, and the equipment purchased for work from home must be necessary and common for a particular workplace and the reimbursement of the cost of equipment and materials needed to work from home should be backed by real expenses.
Poland – non-taxable reimbursement of the cost of equipment and materials needed to work from home
Italy – doubled the non-taxable amount of benefits in kind (goods and / or services) during the epidemic
The Netherlands – non-taxable reimbursement of equipment costs (e.g. desk, work chair, computer, mobile device, cost of Internet plan, etc.) up to the amount that the employer deems reasonable and justified in relation to work from home
Czech Republic – non-taxable compensation / reimbursement of actually incurred costs related to work from home
UK – non-taxable reimbursement of the costs of equipment (computers, etc.) and office supplies, provided that the worker is obliged to work from home and that the equipment and office supplies are mainly used for business purposes. Also, an allowance for increased overheads in the amount of GBP 6 per week without supporting documentation, or for really higher costs incurred with supporting documentation
Ireland – furniture, internet connection costs, and equipment needed to work from home (computer, printer / scanner / fax machine, Internet connection device, computer peripherals, etc.) are not considered to be benefits in kind provided that they are used predominantly for business purposes. Daily non-taxable fee for increased overheads (electricity and heating) in the amount of GBP 3.20, under certain conditions

If the **Slovenian model** of determining the monthly non-taxable compensation of equipment and materials for work from home in the legislation of the Republic of Croatia were implemented, the **non-taxable amount** of compensation for work from home would amount to **HRK 330 per month** (calculated based on the average salary in the Republic of Croatia, which in 2020 amounted to HRK 9,181 gross, i.e. around HRK 6,555 net), which would objectively represent an appropriate amount for further successful implementation of this method of work.

Normative regulation of provisions governing the taxation of income on the basis of capital gains

Taxation of capital income on the basis of capital gains was introduced on 1 January 2016. In practice, it has been noticed that certain provisions are not regulated precisely enough, which leads to doubts as to whether taxable income has occurred at all and what is the basis for calculating taxes, i.e. what is the capital gain.

Regarding the issue of the occurrence of a tax event, the general rule is that capital gains are not taxed if more than 2 years have elapsed between the acquisition and disposal of financial assets.

However, the provisions of the Personal Income Tax Act regulate differently the beginning of the calculation of a period of two years, depending on whether it is a gift, disposal between relatives, or inheritance. Namely, it is not uncommon for certain financial assets to be repeatedly disposed of during a certain (shorter) period, for example, financial assets were first donated, then inherited or vice versa.

Accordingly, there are doubts as to which date is relevant for the start of the two-year period and which value should be taken as the initial cost.

In order to avoid these doubts, we consider it necessary to **standardize the beginning of the calculation of the period**, regardless of the method of acquiring financial assets.

In addition, in practice there are problems in determining the amount of capital gain on the disposal of shares in the capital of the company that are not transferable in the capital market.

Namely, in the above cases, the tax liability is determined by a decision of the Tax Administration. However, the Act and the Income Tax Ordinance do not provide clear guidance on how the Tax Administration will assess the purchase and sale value of a share to determine whether what is reported by the taxable person corresponds to actual market values.

The lack of clear provisions by which the Tax Authority could act may lead to an arbitrary determination of the tax base by the Tax Authority, which does not correspond to the actual market value and the actual capital gain. This creates a certain legal uncertainty and, accordingly, we believe that this issue needs to be regulated in an agreed manner, especially since these are often material and significant transactions.

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