

Overview of the Amendments to the Property Taxes Law

Tax Alert

January 2021



At its session held on 26 November 2020, Serbian Parliament adopted the Law on Amendments to the Property Taxes Law (**Law**). The Law was published in the Official Gazette of the Republic of Serbia no. 144 dated 27 November 2020.

The Law entered into force on 1 January 2021, when most of its provisions come into effect, while certain provisions will apply as of 1 January 2022.

Important amendments are presented below.

1) Property tax

Investment funds

Open-end investment funds and alternative investment funds, that do not have a legal entity status, but which are registered with the competent register in accordance with the law, have become taxpayers of property tax.

Changes in real estate groups subject to property tax

The group of Office Buildings and Other Facilities (Aboveground and Underground) Used for Performing Business Activities, includes:

- an apartment or a house for living that are categorized for performing of business activities or in which (in whole or in part) a registered business activity is being performed; and
- garages that consist of several garage spaces or boxes intended for performing of parking service activity for vehicles, aircrafts or vessels.

In addition, the group of Garages and Garage Spaces has been expanded to include Ancillary Facilities, which should ensure their more consistent taxation according to the taxpayers' economic power. Ancillary Facilities are defined as:

- independent facilities that are not used for housing or performing business activities, such as ancillary facilities that are not buildings (wells, pools, reservoirs, cisterns, etc.) and ancillary buildings (ground floor buildings and buildings whose floor area is below the ground)

that are functionally used with a residential or business facility, which is built on the same land (boiler rooms, basements, sheds for fuel storage, etc.);

- economic facilities, in accordance with the law governing planning and construction;
- canopies, which are independent facilities, with a base of over 10 m².

Determining of the average price of real estate by the local municipality

Amendments to the Law further specify and supplement the rules on the manner of determining the average price of real estate by a local municipality, which is used in determining the property tax base in prescribed cases.

One of the amendments concerns the extension of the period from 9 to 12 months, which is used when determining the average price of real estate (1 October of the previous year – 30 September of the current year for the then next year), in order to enable more realistic determination of the average real estate prices and increase the probability that the average prices in zones can be determined on the basis of real estate transfer in the zones.

If in the prescribed period there were no sales of appropriate real estate in the best equipped and most unequipped zone, so the average prices in these zones are determined on the basis of average prices in border zones, the highest price in the border zone will be used as the average price in the best equipped zone, while lowest price in the border zone will be used as the average price in the most unequipped zone.

The average prices determined on the basis of the new rules will be used to determine the property tax for 2022.

Defining public facilities

For the first time, the Law defined public facilities, by defining them as facilities for public use regardless of the form of ownership (hospitals and health centers, old people's homes, educational and cultural facilities, sports and recreational facilities, post offices, etc.).

Determining the property tax base for taxpayers who keep business books

The provision has been corrected according to which fair value could not be used in determining the tax base for the year from which the taxpayer applies fair value in accordance with IAS, or IFRS and adopted accounting policies (in the first year of application of fair value), in cases when the tax liability for that real estate arose earlier.

If in its business books the taxpayer does not separately record the value of the land and the value of the facility, and the tax base is determined for previous years (e.g. during tax audit), the Law stipulates that the value of the facility is its construction value estimated on the last day of the calendar year preceding the year for which the tax is determined.

The Law introduces amendments concerning all or some facilities specified in Article 7, paragraph 4 of the Property Taxes Law (exploitation fields and exploitation facilities, facilities where the processing industry production facilities are located, storage and warehousing facilities, etc.), and for which the tax base is the bookkeeping value, as follows:

- For facilities where the processing industry production facilities are located, the tax base is the book value of the real estate, provided it is used to perform that business activity.

Processing industry production facilities are defined as above-ground and underground facilities that are intended for performing of production within the scope of the business activity that is classified as a processing industry in accordance with the law governing classification of business activities.

- Storage and storage facilities are defined as above-ground and underground facilities intended for taking over and storing raw materials and goods (including storage tanks and cisterns that are considered real estate, as well as waste storage facilities), which are not used for retail trade or other purposes, i.e. in the part in which they are not used for retail trade or other purposes.

- For the taxpayer which during the tax year, or in the current year after the beginning of the taxpayer's business year that is different from the calendar year, incurs a tax liability for facilities specified in Article 7 paragraph 4 of the Property Taxes Law and belonging land, and does not separately record the purchase value of the land from the purchase value of that facility, the construction value estimated by an authorized construction expert, as of the date of tax liability, will represent the tax base for the tax year, for the value of that facility along with the value of the belonging land.

- The value of the facility as a whole, which is partly included in the facilities specified in Article 7 paragraph 4 of the Property Taxes Law, is determined as the sum of (i) the value of the percentage of that part in the total usable area of the facility and (ii) the value of the remaining part of the facility.

The property tax base for cable cars, roads, railways and other infrastructure facilities is still defined as the book value, but the amendments to the Law stipulate that buildings and other high-rise facilities are not considered infrastructure facilities.

The book value also represents the tax base when there was no turnover of corresponding real estate in the zones and border zones (so the average price is not determined), and the tax base cannot be determined by applying the average price of corresponding real estate (on the basis of which the tax base is determined in the best equipped zone for the current year), as there is no corresponding real estate in that zone.

Determining of property tax rate

The tax rate, up to the amounts prescribed by law, shall be determined by the decision of the assembly of the local self-government unit.

The rates used shall be proportional and determined in the same amount for all types of real estate of taxpayers who keep business books, and in the same amount for all types of land for taxpayers who do not keep books, in all zones of the same unit of local self-government.

Tax exemptions amendments

The exemption from property tax on land, for the area under the facilities on which the tax is paid, has also been extended to the case when the land is permanently given to other persons for the purpose of generating income. This exemption does not apply if the taxpayer does not disclose the value of the land and the value of the facilities separately in his business books, or if the land is under a storage facility or other specific facilities prescribed by law (paths and other open spaces covered with slag, asphalt, concrete or other solid material, fences, retaining walls, stairs outside the dimensions of the building, etc.).

Land area of less than 10 acres is still exempt from property tax. However, the novelty is that when there are several persons considered taxpayers subject to property tax for the land and the land area is greater than 10 acres, each of these persons will have a tax liability in proportion to their share in relation to the total land area, even if the proportional area of the individual taxpayer is less than 10 acres.

Determining property tax for 2021

Property tax will be determined and paid in accordance with the amendments to the Law starting for 2021.

If the average prices per square meter and the decisions regulating the depreciation rate, zones and property tax rates, are published by 30 November 2020, they will be applied to the determination of the property tax for 2021.

2) Transfer tax and gift tax

Investment funds

Open-end investment funds and alternative investment funds, that do not have a legal entity status, but which are registered with the competent register in accordance with the law, have become taxpayers of tax on transfer of absolute rights, as well as inheritance and gift tax.

Digital property

As a part of the set of laws governing digital property in Serbia, the Law introduces taxation of digital property with inheritance and gift tax.

Changes in filing tax returns

The tax return for real estate that is subject to inheritance and gift tax determination, must be submitted to the tax authority of the local self-government unit where the real estate, that the taxpayer inherits or receives as a gift, is located.

Determining tax on the transfer of absolute rights and tax on inheritance and gift

The provisions of the Law transferring the competence of the Tax Administration to local municipalities for determining, collecting and controlling inheritance and gift tax and tax on the transfer of absolute rights, as well as the provisions regulating the receipt of tax returns, will apply from 1 January 2022.

If the determination procedure for these taxes has been initiated according to the regulations that were in effect until the beginning of the application of the Law, the tax liability will be determined by the application of the law that was in force on the day when the tax liability arose.

In addition, if the taxpayer has not filed a tax return for these taxes, and the tax liability arose on the day when the competent tax authority found out about such tax liability, which was after 1 January 2021, the tax will be determined and paid by applying the law which was in force on the day on which the tax liability would have arisen if it had been reported within the prescribed period.

The KPMG team is at your disposal for all your questions in respect of the application of the Law

If you have any questions or need the support of our experts, feel free to contact us at tax@kpmg.rs.

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