

## Amendments to the Individuals' Income Taxation Act, in force as of 1 January 2006

In the State Gazette, issue 102 of 20 December 2005, a Law on Amendment and Supplementation of the Individuals' Income Taxation Act (LASIITA) was published which **enters into force on 1 January 2006**, with the exception of § 3, § 4, i. 2, § 5 and 15 LASIITA. The latter concern the application of a tax relief for personal contributions made during the year for acquirement of length of service under the procedure of § 9 of the Transitional and Final Provisions (TFP) of the Social Security Code (SSC) and become effective as of the date of promulgation of the Law. The major amendments in the Individuals' Income Taxation Act (IITA) are related to:

### 1. Non-taxable income:

- Article 12, para 1, i. 15 IITA has been amended, which defines as non-taxable the incomes from transactions with shares made on the regulated Bulgarian securities market, “the shares of collective investment schemes” are added thereto as a potential source of non-taxable income;
- New i. 17 and 18 of Art. 12, para 1 IITA have been created, which define as non-taxable income any daily, traveling and accommodation allowances received by individuals from non-employment relationships if they are documented as per the effective legislation. The treatment of the daily business-trip allowances is more specific – they are non-taxable income only up to two times the limits envisaged for individuals working under employment relationships (i.e. those determined by the regulations on business trips in Bulgaria and abroad);
- Item 1 of Art.19, para 2 IITA has been amended, which defines the cost of the free food and/or nutritious supplements under the Labor Code (LC), the free protective food and antidotes under other laws provided in kind as a non-taxable income. The change aims to make the quoted IITA provision more precise and to harmonize it with the amendment regarding the free food made in Art. 285 LC made by the Law on Amendment and Supplementation of LC, the State Gazette, issue 83 of 18 October 2005 and with the new Regulation No 11 of 21 December 2005 on Determining the Terms and Procedure for Provision of Free Food and/or Nutritious Supplements (the State Gazette, issue 1 of 3 January 2006, effective as of 6 January 2006).

### 2. Different forms of tax relief:

- **For personal contributions made for acquirement of length of service under § 9 of the TFP of the SSC**, a possibility is explicitly provided that the individuals who have made personal contributions for length of service under § 9 of TFP of SSC to benefit from a tax relief by deducting these contributions when calculating their personal income tax base from performing activities as: employees under employment relationships (a new para 6 of Art.20 IITA has been implemented); and/or merchants, regardless of whether they have been registered as sole proprietors under the Commercial Act or not (the provision of Art. 21, para 1 IITA has been supplemented with new i. 3); and/or self-employment or carrying out another employment activity, including services

under non-employment relationships (i. 2 of Art. 22, para 1 IITA has been supplemented). The tax relief can be used for the year when the contributions have been made under § 9 of TFP of SSC, up to the positive amount calculated as a difference between the gross income and the amounts, which shall be deducted when calculating the tax base for this type of income before the contributions under § 9 of TFP of SSC.

- **For donations** - para 5 of TFP of the Patronage Act (published in the State Gazette, issue 103 of 23 December 2005, in force as of 23 December 2005) supplements the provisions of IITA concerning the calculation of the tax base of different types of income for which IITA provides for the option for application of a tax relief for donation, namely: employment income (Art. 20, para 7), non-employment income (Art. 22, para 1, i. 4), rental income (Art. 25, para 1). These amendments **introduce limits on the relief for donations for culture (15%) and on the total amount of all donations (65%)** for which a relief for each one of the abovementioned types of income may be used. The limit is calculated against the tax base derived for the respective type of income before deducting the amount of the donation.

The new i. 58 of § 1 of the AP of IITA defines the term “donation for culture” which refers to the Patronage Act.

The condition for occurrence of the right of relief for donation (Art. 28, para 1, i. 2 IITA) has been modified. Presently, the requirement is that the donator does not have liquid and exigible tax liabilities and liabilities for statutory social security as at **31 December** in the year when the donation has been made.

### **3. Amendments concerning the taxation with final annual (patent) tax:**

- Para 3 and 4 of Art. 30 IITA have been amended and new para 5 has been added to the same article. The changes are related to the transition from a regime of final annual (patent) taxation to a general taxation regime (under IITA or the Corporate Income Taxation Act) in the case the conditions for application of the special IITA regime fall away. The new para 3 of Art. 43 IITA introduces an obligation for submission of a tax return, indicating the realized turnover in the corresponding period before the end of the month after the month when the conditions for taxation with final annual (patent) tax has fallen away.

- Pursuant to the amendment of para 5 of Art. 31 IITA, for activities which are not carried out at a permanent commercial sites, which income is subject to final annual (patent) taxation, the latter shall be assessed at the permanent address of the individual who performs the activity (including when the individual is a sole proprietor), respectively the registered address of the legal entity/the non-personified company, but not as it has been so far – at place of tax registration. This change corresponds to the provisions of the new Tax and Social Security Proceedings Code.

### **4. Taxation with final tax under IITA**

Starting from the beginning of 2006, the types of income under Art. 26, i. 2-10 IITA (prizes in cash or in kind from contests and competitions, which are not provided by an employer or assignor;

compensations for lost benefits and damages; interests, except for the tax-exempt ones; etc.) are subject to a uniform final tax rate – 12%, pursuant to the amendment of Art. 40 IITA. Till the end of 2005 differentiated rates were applied depending on the type of income.

### **5. Calculation of the advance tax under Art. 36 IITA**

The amendment of Art. 36, para 2 IITA modifies the way of calculation of the excess over the taxable income for which an advance tax is due according to the cited provision. Starting from the beginning of 2006 when forming the tax base for calculation of an advance tax under Art. 36 IITA, the tax allowance shall be deducted first and then the annual zero-bracket amount (AZA). Till the end of 2005 the sequence of deductions was just the opposite.

### **6. Amendments in the tax tables under Art. 35 and Art. 38 IITA**

As done every year, the tax rates and the tax brackets under Art. 35 and Art. 38 IITA have been changed. The annual zero-bracket amount is increased from BGN 1,560 for 2005 to BGN 2,160 for 2006. Simultaneously, one of the tax brackets has been cancelled – the second one, where the tax rate was 10% in 2005. Respectively, because of increase in the annual zero-bracket amount, the second (till 31 December 2005 – the third) bracket now comprises income above BGN 2,160 annually. The tax rates in the tables are unchanged (20%, 22% and 24%). The fixed tax amounts in each one of the brackets in the tables have been reduced compared to 2005, as the reduction amounts to BGN 96 in the second and in the third bracket of the annual table, respectively - BGN 8 in the second and in the third bracket of the monthly table.

The information provided in this letter presents only a general view of some amendments and supplementations of IITA and it is not complete. Should any questions arise about the application of the new provisions, please, do not hesitate to contact us on tel. 943 37 00, fax 943 37 07, e-mail address: [office@afa.bg](mailto:office@afa.bg), or postal address: 38, Oborishte Str., Sofia 1504.