

Amendments to the Individuals` Income Taxes Act, in force as of 01 January 2008

In State Gazette issue 113 dated 28 December 2007 the Law on the Amendment and Supplementation of the Individuals` Income Taxes Act (LASIITA) was promulgated /prom. SG, issue 95 from 2006; amend. issues 52 and 64 from 2007/. The law is in force as of 01 January 2008.

The main amendments in the law are related to:

1. Scope of the employment relationship

With amendment of the legal definition in §1, i. 26 of the Additional Provisions of LASIITA the scope of the employment relationship is changed. As employment relationship shall be treated also:

- the relationship related to employment of employees by a non-resident person when the employment is carried out in the territory of Bulgaria, as well as the relationship where non-resident person employs a resident individual when the employment is carried out abroad;
- the relationship between an employer and a Bulgarian or a non-resident individual, when this relationship is settled according to a contract for provision of staff (personnel) concluded between the employer and the third person;
- **the relationships under contracts for management and control**, including with members of the management and control bodies of enterprises.

In this relation the legal definition of an employer is changed, namely an “employer” is each resident person, non-resident person performing activity through permanent establishment or fixed base in the territory of Bulgaria, as well as representative office under the Encouragement of Investments Act, which employs individuals under employment relationship **or is a party under a contract for provision of staff (personnel) by a non-resident person** (§1, i. 27 of the Additional Provisions of IITA).

2. Tax reliefs:

- **Tax reliefs for individuals with disabilities:**

Article 18, para 1 is amended as it is provided that the sum of the annual tax bases of individuals with 50% and more than 50% disability, established by an effective decision issued by a competent authority, shall be reduced with a fixed amount of **BGN 7 920**, including for the year of arising of the disability and for the year of expiring of the validity of the decision.

Para 2 of Art. 18 IITA is amended, as tax relief is provided for individuals with 50% and more than 50% disability at amount of BGN 660 (by now BGN 400) when calculating their monthly taxable bases according to Art. 42, para 2 for employment income.

- In Art. 21 IITA is now set **a sequence of use of the tax reliefs** for individuals with disabilities, for personal contributions for voluntary insurance and life insurance and for social security length of service for retirement, namely:

1. from the sum of the annual tax bases from employment income (Art. 25), from other business activity (for example, under a civil contract – Art. 30), from rent (Art. 32), from capital gains (Art. 34) and other sources of income (Art. 36);
2. from the annual tax base under Art. 28, para 1 – for business income of sole traders.

- **Reliefs for donations – Art. 22**

With the new edition of the provision **the scope of the individuals**, for whom benefit the donation is a ground for use of tax relief of 5% according to the law, **is narrowed**. In the new law the grounds for use of reliefs for donations to **the following individuals are revoked**:

- people with disabilities;
- individuals, affected by crises within the meaning of the Crises Management Act, or their families;
- socially disadvantaged individuals;
- children with disabilities or without parents;
- pupils and students in Bulgarian schools for provided scholarships;
- drug-addicts.

3. Tax allowances

With the new law are set amendments in the rates and the types of the tax deductible expenses in forming of the taxable income from business activity of individuals, who are not traders according to the meaning of the Commercial Act /Art. 29/. The tax deductible expenses are now separated into **only two categories** whereas their rates are:

- **40%** for income from sale of produced, processed or unprocessed products from agriculture (including from sale of produced decorative plants), from forestry (including from collecting of wildgrowing herbs, mushrooms and fruits), from hunting and from fishery; royalties, including for income from sale of inventions, products of science, culture and art by their authors as well as for fees for performances of performing artists; income from practice of crafts, which are not taxable with final annual (patent) tax according to the Local Taxes and Charges Act;

- **25%** for income of free-lancers or remuneration under non-employment relationships (civil contracts).

For rental income the tax deductible expenses are reduced from 20% **to 10%**.

4. Obligatory social security contributions paid abroad

With supplementation to the provisions of Art. 25 (employment relationships), Art. 28 (income from business activity as a sole trader) and Art. 30 (income from other business activity) is provided **an option to the individuals to deduct from their taxable income the obligatory social security contributions paid by them abroad** in relation to income earned abroad.

5. Flat tax

One of the most fundamental amendments to IITA is related to the transition from progressive to proportional system of taxation, through the implementation of the so-called flat tax at the rate of **10%**. This means implementation of one tax rate for taxation, regardless of the amount of income.

According to the new taxation procedure, the amount of the advance tax on income from employment relationships is defined as the monthly tax base is multiplied by a 10% tax rate /Art. 42, para 4/.

Annually, the amount of the tax on the total annual tax base is defined, as the total annual tax base is multiplied by 10% tax rate, whereas for the income from business activity as a sole trader – by 15% tax rate.

The rate of the advance tax is changed from 15% to 10% for income from business activity of individuals, who are not traders, and for income from rent or another use of rights or property against consideration. The advance tax for sole traders remains 15%.

6. Final taxes

The rate of the final tax on the taxable dividends and liquidation proceeds is reduced from 7 to **5%**.

The rate of the final tax on sources of income taxable with 15% final tax, according to the old edition of the law, is reduced to **10%**. Such types of income are the taxable ones in the cases of withdrawal of the personal contributions paid for life insurance and additional voluntary insurance.

7. Declaring

Till 31 December 2007, the stocks and shares owned in companies, permanent establishment, fixed base and immovable property abroad were subject to declaring in the annual tax return, but it was not the case with the **dividends and liquidation proceeds from sources abroad**. The income from dividends and liquidation proceeds from sources abroad are taxable with final tax at the amount of 5%.

A requirement is introduced to the individuals carrying out business activity as traders within the meaning of the Commercial Act, including the sole traders, to declare in their annual tax returns the taxes on expenses due and paid as per the procedure of the Corporate Income Taxation Act (CITA). With the amendments and supplementations of CITA, promulgated in the end of 2007, such obligation is implemented and for the other traders.

The term for declaring of the final tax on the sources of income under Chapter VI is changed. According to the new edition the tax return shall be submitted till the end of the month, following the quarter of payment of the tax /Art. 56, para 1/.

8. Amendments related to taxation with final annual (patent) tax

Article 14 of the law called "Taxation of the income" is amended and new Art. 4 is introduced. The amendments provide for taxation with final annual (patent) tax on the income from patent activities of individuals, including the sole traders, to be done **in accordance with the Local Taxes and Charges Act /LTCA/**.

The purpose of the information in this paper is only to point out certain issues related to the application of the new regime of taxation under IITA and therefore it is not exhaustive. Should any questions about the application of the new provisions arise, please do not hesitate to contact us on telephone number: 943 37 00, fax number: 943 37 07, e-mail: office@afa.bg or at the postal address: 1504 Sofia, 38, Oborishte Str.