

## AMENDMENTS IN THE CORPORATE INCOME TAXATION ACT-II

in force as of 1 January 2009

An Act for Amendment and Supplementation of the Corporate Income Taxation Act (AASCITA) was published in the State Gazette issue No 106 dated 12 December 2008. We will try herein to present the most important amendments in the legal provisions without enumerating them exhaustively.

### 1. Gains and losses from disposal of financial instruments

According to the provision of art. 44 CITA effective during 2008, the gains and losses<sup>1</sup> resulting from disposal of shares, tradable rights of shares in public companies, stocks and shares in collective investment schemes (mutual funds and investment companies) made on regulated Bulgarian stock market were not recognized for tax purposes.

The amendment of art. 44 CITA enlarges the scope of this regulation by adding a transformation of the accounting financial result with the gains and losses resulting from disposal of financial instruments on regulated stock markets in other EU member states or in states parties to the European Economic Area Agreement<sup>2</sup> (EEAA).

In this regard the new definition of “disposal with financial instruments“ (para 1, item 21 CITA), which replaces the definition of “disposal, made on regulated Bulgarian stock market” applied until now, should also be considered. The scope of the transactions, performed on regulated stock markets, to be applied for the purposes of the corporate taxation.

The new definitions of “disposal of financial instruments” shall be also applied upon determining the income of foreign legal persons that shall not be subject to withholding tax under art. 196 CITA.

### 2. Donations

By virtue of the AASCITA the scope of the tax deductible expenses on donations is expanded with two new positions, namely:

- As from 1 January 2009, pursuant to the new item 18 of art. 31, para 1 of the CITA the accounting expenses on donations to the Children Fund of the United Nations – (UNICEF) shall be tax deductible at an amount up to 10% of the positive accounting result.

<sup>1</sup> The gains and losses from disposal with financial instrument are determined as a difference between the sale and the acquisition price of the respective instrument.

<sup>2</sup> The states parties to the EEAA are: Norway, Iceland and Lichtenstein.

- By virtue of the amendment of item 3 of art. 31, para 1 CITA it is specified that the expenses on donations made to institutions for medical and social care of children under the Medical Treatment Institutions Act shall be tax deductible up to the limit provided for by the law (10% of the accounting profit).

### 3. Tax relieves

**3.1.** The new provision of art. 189a CITA introduces a tax relief for the persons performing engaged in agriculture, processing industry, production, high-tech technology and infrastructure. The relief consists of the right to remission of 100% of the corporate income tax due by the said persons for a period of up to 5 years for profits derived from business activity in the respective branches.

The application of the relieved tax regime is possible in case the requirements specified in art. 189a, items 1-3 CITA are simultaneously met. According to para 18 AASCITA the tax relief applies to profits resulting from investments in assets acquired after 1 January 2009.

**3.2.** As from **1 January 2009** the tax relief provided upon creating new workplaces consisting of the right to reduce the financial result with the amount of social security contributions paid at account of the employer for newly created workplaces during the current year is repealed. The amendment includes the repeal of section V, art. 191 – 193 CITA.

The tax relief introduced by art. 177 CITA granting the employers the right to deduct from the financial result the amount of the remunerations and of the social security contributions paid for the hired unemployed persons during the first 12 months of their employment is preserved.

It should be taken into consideration that during 2009 the employers who have employed persons during 2008 and have benefited from the tax relief in art. 192 CITA (para 17 AASCITA) may not benefit from the tax relief in art. 177 CITA. Thus, the possibility for using tax relieves for the same newly created workplaces is eliminated.

### 4. Tax treatment of expenses on written-off uncollectible receivables

The amendment in art. 34, para 1 and art. 37 of CITA leads to the following tax effects:

- A tax regulation for the expenses incurred as a result of writing-off of receivables as uncollectible (art. 34, para 1 and art. 37 CITA) is introduced as well. The said expenses shall not be tax deductible in the year of their accrual but upon the same circumstances at occurrence of which the expenses on write down of receivables (specified in art. 37 CITA) become deductible. The tax regulation is applied only under the condition that none of the circumstances in art. 37 CITA (for example, expiry of five years from the maturity of the receivable) has occurred in the same or in a preceding year. As a result of the amendment the tax treatment of the expenses on writing-off of receivables is equalized to the tax treatment of the expenses on writing down of receivables.

- A supplement to art. 34, para 1 CITA has been made, which provides that the financial result shall not be adjusted with accounting revenue and expenses on subsequent valuations of receivables, in case that during the current year (the one in which the accounting has been performed) or in a previous year, any of the circumstances under art. 37 CITA occurred.

The new regime does not change the treatment of already accrued write-downs of receivables. In case write-down of receivables has been reported before 31 December 2007, the expenses on these write-downs would be deductible upon the expiry of the statutory period of limitation (due to lack of transitional provisions in CITA for recognition of the previously accrued write downs).

## 5. Accelerated tax depreciation

The amendment of art. 55, para 6 CITA allows accrual of accelerated depreciation for machines, production equipment and apparatus, which are not part of an initial investment under para 1, item 29 CITA in case the following requirements are met:

- ✓ The assets are new;
- ✓ The assets have been acquired in relation with an investment for increasing the energy efficiency and voluntary agreements under the Energy Efficiency Act have been concluded.

## 6. Food vouchers

As from 1 January 2009 the amount for the expenses on food vouchers, which are not subject to one-off tax on social expenses under art. 204, item 2 CITA has been increased from BGN 40 to BGN 60 monthly per member of the personnel.

With the amendment of art. 209, para 3 CITA several new circumstances have been added in the presence of which the Minister of Finance has the right to revoke the issued permit for performance of the activity of food vouchers operators (for example when the operator suspends its activity or when the operator has issued vouchers above its permitted quota, etc.).

As from 1 January 2009, on grounds of the new art. 277a and art. 277b CITA, additional sanctions have been introduced for food vouchers operators in cases of established violations of the law (for example, for issuance of food vouchers above its distributed nominal value for the respective year – a property sanction varying between BGN 10,000 and BGN 15,000).

## 7. Other amendments

With the amendment of the supplementary provisions (new items 53-55 in para 1 of the Additional Provisions of CITA), CITA now contains explicit definitions for additional voluntary social security insurance, voluntary health insurance and life insurance, which refer to definitions in the provisions of the Individuals' Income Taxes Act (IITA) (Para. 1, items 12-14 IITA).

The amendments of CITA shall become effective as from 1 January 2009 except for the amendment to art. 209, para 3 CITA by virtue of para 12, item 2 of AASCITA regarding the cases when the Minister of Finance revokes an issued permit to an operator for the performance of the activity of printing and distribution of food vouchers, which shall become effective as from 1 January 2010.

*The information set out above has the purpose only to mark specific issues related to the application of the new taxation regime, introduced with CITA and is not comprehensive. In case you have questions regarding the application of the new provisions, please do not hesitate to contact us on the following phones 02/943-37-00, e-mail [office@afa.bg](mailto:office@afa.bg) or at: Sofia 1504, 38 Oborishte St.*