

AMENDMENTS TO THE LOCAL TAXES AND CHARGES ACT in force as of 1 January 2010

In the State Gazette Issue 95 dated 1 December 2009 the Act on Amendment and Supplementation of the Local Taxes and Charges Act (AASLTCA) was promulgated. In this letter we will try to present the most important amendments of the law provisions without enumerating them exhaustively. Most of the new provisions enter into force **as of 1 January 2010**.

The amendments made with AASLTCA are in two principal aspects:

- Amendments in relation to the development of the financial decentralization process of the municipalities and expansion of their revenue source;
- Amendments aimed at precision of some texts of the act and achieving fairness in the taxation of the tax liable persons.

1. Amendments regarding the financial decentralization of the municipalities and the expansion of their revenue source

In view to expand the municipal revenue sources, the limits within which the rates for taxation with real estate tax and tax on acquisition of property for consideration are changed, whereas the lower limits are decreased and the upper limits are increased. **The new limits for determining the rate of the real estate tax stipulated in the amended LTCA are within the range from 0,1 to 2,5 per thousand (Art. 22 LTCA), and for the tax on acquisition of property for consideration – from 0,1 to 3 per cent (Art. 47, para 2 LTCA).**

The new para 3 of Art. 44 stipulates **that tax on acquisition of property for no consideration is also due when acquiring real estate and limited property rights on real estate upon expiry of the limitation period.** Till present these real estate transactions have not been explicitly stated within the scope of the taxable transactions. In the cases of acquisition upon expiry of a limitation period the taxable base shall be the valuation of the property calculated in BGN as at the moment of issuance of the act for the ownership right subject to registration.

As of 1 January 2011 the tax valuation of companies' real estates shall be the higher value between their book value and the tax valuation. This amendment is adopted in view to avoid the unfair determination of the taxable base for calculating the real estate tax by the companies and respectively to guarantee the tax revenues to municipal budgets. The amendment **enters into force as of 1 January 2011** so that the companies shall have the possibility to submit tax returns for their non-real estate properties, as it is envisaged this to happen **till 30 June 2010**.

The minimum value of the real estate tax valuation, by the amount of which real estate tax is not due, is reduced to BGN 1,680 (compared to 2,520 before the amendment). In view of the fact that a big part of the real estate in lower category settlements have been left beyond the scope of taxation, the change of this threshold has its purpose to increase the revenues in smaller municipalities and to provide an opportunity for improving their infrastructure. ,

According to the amended provision of Art. 64, para 1 LTCA the garbage charge shall be due on the concessionaire's account in case the real estate is given under concession. For the cases when other persons' buildings are built on land plots owned by the state or municipality, the charge shall be due on the account of the owner of the building.

Another amendment pointed to the improvement in the collection of local taxes foresees the municipal administration employees to be entitled to some of the authorities of public performers besides the ones they already have as revenue authorities.

The Transitional and Final Provisions of AASLTCA stipulate that the rates of real estate tax and tax on acquisition of property for 2010 should be determined by 31 January 2010 and in case this is not done, the tax rates effective as at 31 December 2009 shall be applied. **The term for payment of the first installment on real estate tax is from 1 March till 30 April**, as the persons who prepay the whole tax amount due for 2010 shall receive a 5 per cent discount.

2. Amendments regarding the precision of some texts of the act and achieving fairness in taxation of the tax liable persons

The second group of amendments aims to correct some texts from the act causing difficulties upon their application in practice, as well as to achieve fairness in the way of taxation of the taxable persons.

The provision of Art. 58, para 4 LTCA concerning the taxation of motor vehicles has been specified. **Tax shall not be due for motor vehicles with terminated registration as from the month, following the month of termination of their registration.**

Art. 54, para 3 from the act has been amended by which the owners of motor vehicles shall be obliged to submit a tax return for claiming their right to tax exemption/tax relief in cases when the motor vehicle is stolen or destroyed as well.

A new provision is introduced regarding the liability for patent tax upon transfer of a sole trader's company when the transferee continues to perform the respective activity. The transferee shall be liable to pay tax as from the quarter following the quarter in which the company was transferred, and the transferor – shall pay tax for the quarter in which the transfer was performed (new para 7 of Art. 611). The purpose of this amendment is to avoid double payment of patent tax by the transferee for period for which the transferor of the company already has paid the tax.

The term “permanent place” used upon determining the patent tax for some types of activities is clarified with the new para 4 of Art. 61o LTCA in view to avoid its subjective interpretation. The activity shall not be considered performed from a permanent place when during the year the change in location of the unit from which the activity is performed also leads to a change in the amount of the patent tax due.

Some editorial amendments were also made in view to remove gaps in the provisions.

The information in this material has as purpose only to note certain issues related to applying the new taxation regime introduced with AASLTCA and is not exhaustive. Should any questions on the application of the said provisions arise, please do not hesitate to contact us at tel.: 02/943 37 00, fax: 02/943 37 07, e-mail: office@afa.bg or at 38, Oborishte Str., Sofia 1504.