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Prepoznavanje z DDV-jem obdavčljivih in neobdavčljivih transakcij (javni sektor in gospodarstvo) – I. del

Identifying taxable and non-taxable transactions for VAT purposes (public bodies and business entities) – part I

POVZETEK ● Z vidika DDV-ja razvrščamo transakcije kot obdavčljive in neobdavčljive. Obdavčljive transakcije opredelita že sama Direktiva o DDV-ju in ZDDV-1 v obliki seznama, in sicer so to dobave blaga, opravljanje storitev ter pridobitve blaga iz Unije za plačilo ter uvoz blaga. Vse ostalo so neobdavčljive transakcije. Za dejansko obdavčljivost neke transakcije je bistvenega pomena, da jo izvede davčni zavezanec, saj zakonodaja o DDV-ju obvezuje le davčne zavezance. V skladu s tem sta lahko dva razloga za neobdavčljivost transakcije: ali transakcijo sicer opravi davčni zavezanec, vendar sama kot taka ne izpolnjuje meril, da bi jo lahko uvrstili v opredelitev obdavčljivih transakcij iz zakonodaje o DDV-ju, ali pa na drugi strani sicer gre za transakcijo, ki izpolnjuje pogoje za obdavčljivost, jo pa opravi oseba, ki ni davčna zavezanka. Osebe javnega prava načeloma opravljajo neobdavčljive transakcije, vendar morata biti izpolnjena dva pogoja – ta oseba mora imeti javno priznan status osebe javnega prava in opravljati dejavnost kot organ oblasti. Kljub temu pa lahko štejejo za zavezance, če bi njihova obravnava, kot da niso davčni zavezanci, povzročila znatno izkrivljanje konkurence. Prispevek v prvem delu obravnava glavne značilnosti obdavčljivih transakcij v skladu z zakonodajo o DDV-ju in sodbami Sodišča Evropske unije, v drugem delu pa bodo podrobneje predstavljene najznačilnejše neobdavčljive transakcije.

Ključne besede ● DDV, obdavčljive transakcije, neobdavčljive transakcije, davčni zavezanec, osebe javnega prava

SUMMARY ● In terms of VAT, transactions are classified as taxable and non-taxable. Taxable transactions are defined by the VAT Directive and the VAT Act in the form of a list containing the supply of goods, the supply of services, the acquisition of goods from the Union and the import of goods. All other transactions are non-taxable. Furthermore, for the actual taxation of a

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transaction, it is essential that it is carried out by a taxable person, as VAT legislation only obligates taxable persons as such. Accordingly, the reasons for the non-taxable nature of a transaction may be two-fold: either the transaction is carried out by a taxable person, but itself does not meet the criteria for inclusion in the definition of taxable transactions, or, on the other hand, the transaction as such may qualify as taxable, but it is carried out by a non-taxable person. Public bodies generally carry out non-taxable transactions, if two conditions are met – they must have a publicly recognized status of a public law entity and pursue an activity as a public authority. Nevertheless, they can be regarded as taxable persons if their treatment as non-taxable persons would lead to significant distortions of competition. The first part of this article deals with the main features of taxable transactions in the light of VAT legislation and jurisprudence of the Court of Justice of the European Union. In the second part, typical examples of non-taxable transactions will be presented.

Key words ● VAT, taxable transactions, non-taxable transactions, taxable person, public bodies

Mag. Robert Horvat

SRS 15 (2019) – Prihodki po novem

SRS 15 (2019) – Key changes in revenue accounting

POVZETEK ● V prispevku predstavljamo in analiziramo nekatere najpomembnejše spremembe, ki jih v računovodenje prihodkov prinaša predlog prenove SRS 15 – Prihodki, v primerjavi s trenutno veljavnimi rešitvami v SRS 15 (2016). Kot razkriva naša analiza, v večini primerov spremembe niso tako radikalne, kot se morda zdi na prvi pogled, ampak gre v glavnem za nadgradnjo in podrobnejšo vsebinsko opredelitev rešitev oz. zamisli, ki so v veliki meri že v obstoječem SRS 15 (2016). Deloma je to zagotovo tudi zato, ker je bila večina novih konceptov v MSRP 15 (Prihodki iz pogodb s kupci) upoštevana že ob pripravi SRS 15 (2016), ko je bil novi MSRP 15 še v fazi javne obravnave. Nekaj začetne zmede zato lahko povzročijo predvsem številne terminološke novosti, ki pa so v glavnem posledica uskladitve s terminologijo v novem MSRP 15.

Ključne besede ● prihodki, Slovenski računovodski standardi

SUMMARY ● The paper presents and analyses the key proposed changes of SRS 15 – Revenues in comparison to the existing SRS 15 (2016) solutions. As our analysis reveals, in most cases changes are much less radical, as it seems at first glance, and are mainly in a form of an upgrade and a more detailed determination of solutions and ideas, already present in the current SRS 15 (2016). At least partially, this is a consequence of the fact, that many of the new concepts and ideas of IFRS 15 (Revenues from contracts with customers) were already incorporated in SRS 15 (2016) while IFRS 15 was still in the phase of

public debate. Some initial confusion can be expected because of changes in terminology, but once learned, new terminology becomes logical and in most cases more understandable than the old one.

Key words ● revenues, Slovene accounting standards (SRS)

Mag. Saša Jerman

Računovodski vidik konverzije terjatev v kapital dolžnika

Accounting view of debt to equity transaction

POVZETEK ● Konverzija terjatev v kapital dolžnika je korporacijska transakcija, po kateri dotedanji upniki svoje terjatve prenesejo na dolžnika zaradi povečanja kapitala dolžnika. Čeprav gre za transakcijo, ki jo v razmerju do družbe izvedejo lastniki, je IASB v Pojasnilu OPMSRP 19 zaključil, da gre za transakcijo zaradi poravnave dolgov v obliki kapitalskih instrumentov družbe. Razlika med pošteno vrednostjo izdanih kapitalskih instrumentov in odplačno vrednostjo dolgov dolžnika se pripozna v izkazu poslovnega izida. V tem prispevku podrobneje analiziramo konverzijo terjatev v kapital dolžnika tako z vidika ZFPPIPP-ja kot ZGD-1, v sklepu pa je lasten pogled na zaključke v OPMSRP 19. Čeprav SRS 2016 nimajo izrecnih določb glede tega vprašanja, je davčni organ s pojasnilom že privzel vsebino OPMSRP 19 kot razlago za obravnavo takih transakcij tudi za uporabnike SRS-jev.

Ključne besede ● terjatev, stvarni vložek, dolg, odpis dolga, povečanje kapitala, konverzija terjatev v kapital, ZFPPIPP, ZGD-1, OPMSRP 19

SUMMARY ● Conversion of debt to equity is a corporate transaction under which the former creditors transfer their claims to the debtor and increase the debtor's equity. Although this is a transaction carried out by owners in relation to the company, the IASB in the IFRIC 19 concluded that it is a transaction with a view to settle debts by issuing equity instruments to the creditors. The difference between the fair value of the issued equity instruments and the amortized cost of the debt is recognized in the P&L. In this article, we analyze in detail, both in terms of the Slovenian Financial Operations, Insolvency Proceedings and Compulsory Winding-up Act (ZFPPIPP) and the Slovenian Companies Act (ZGD-1), the conversion of debt to equity and conclude with our own view of the IFRIC 19 conclusions. Although the current Slovenian Accounting Standards (SRS 2016) contain no explicit provisions on this issue, the Tax Authorities have already adopted the content of the IFRIC 19 as an explanation for the treatment of such transactions also for the users of the SRS.

Key words ● *receivables, in-kind contribution, debt, write-off of debt, capital increase, debt-to-equity swap, Slovenian Financial Operations, Insolvency Proceedings and Compulsory Winding-up Act (ZFPPIPP), Slovenian Companies Act (ZGD-1), IFRIC 19*

Mag. Mojca Koder

Splošno o prevarantskem računovodskem poročanju

General information on fraudulent financial reporting

POVZETEK ● *Pomembnost zgodnjega odkrivanja in preiskovanja finančnih in računovodskih prevar je v svetu začela naraščati v zadnjih dveh desetletjih, po razkritju velikih finančnih škandalov. V prispevku smo predstavili najpogostejše vrste računovodskih prevar, motive in kazalnike računovodskih prevar, metode njihovega preiskovanja in sodno prakso pri njihovi obravnavi. Pokazali smo, da so lahko finančni in računovodski podatki predmet znatnih manipulacij, zlasti glede na obstoječe alternative pri izbiri računovodske politike.*

O računovodskih prevarah zato govorimo takrat, ko načini kreativnega računovodstva izražajo popačeno realnost zaradi določenih interesov, zaradi česar se deležniki ne morejo zanesti na objavljene računovodske informacije. Stabilnost trgov in gospodarstva temelji predvsem na zaupanju deležnikov, ki morajo imeti vse potrebne informacije, da lahko primerjajo poslovanje družb, ovrednotijo tveganja in sprejemajo razumne odločitve. Za to pa potrebujejo točne, pregledne in popolne finančne informacije, ki obsegajo tudi realno ovrednotenje tveganj. Odločitve, ki jih deležniki sprejemajo na podlagi nepopolnih, zavajajočih ali popolnoma izkrivljenih in neresničnih informacij, imajo lahko uničujoče posledice za žrtve računovodskih prevar.

Ključne besede ● *preiskovanje prevar, računovodske prevare*

SUMMARY ● *Over the past two decades, the importance of early detection and investigation of financial and accounting fraud has risen intensely, ever since the uncovering of vast financial scandals. The presentation includes the most common types of accounting fraud, motives for and indicators of accounting fraud, investigation methods, as well as the related case law. We have demonstrated that financial and accounting data can be subject to considerable manipulation, especially given the range of alternatives available when choosing accounting policies.*

One can speak of accounting fraud when creative accounting approaches result in a distorted reality with the aim of pursuing certain interests, which is why stakeholders cannot rely on the published accounting information. Market and economic stability depends on the trust of stakeholders, who need to have all the necessary information in order to compare the operations of companies,

assess the risks and make sound decisions. To do so, they require accurate, transparent and complete financial information, including a realistic assessment of risks. Decisions made by the stakeholders based on incomplete, misleading or even entirely distorted and false information may lead to devastating consequences for victims of accounting fraud.

Key words ● fraud examination, accounting frauds

Mag. Blaž Pate

Aktualnosti pri obdavčitvi dohodkov fizičnih oseb, rezidentov Slovenije v tujini in Republiki Sloveniji

Current issues in the taxation of income of natural persons, tax residents of the Republic of Slovenia abroad and in the Republic of Slovenia

POVZETEK ● Decembrska davčna reforma, ki se je začela uporabljati 1. 1. 2018, v pretežnem delu posega na področje obdavčitve dohodkov delavcev, napotениh na delo v tujino. Bistvene spremembe je prinesla glede možnosti izplačevanja neobdavčenih povračil stroškov napotениm delavcem, pod določenimi pogoji dopušča možnost določitve in uveljavitve posebne davčne osnove omenjenih delavcev, delodajalcem pa določa nove, dodatne obveznosti glede poročanja posameznih prejemkov napotениh delavcev Finančni upravi RS (obrazci REK-1). Z davčnimi pravicami in obveznostmi napotениh delavcev in njihovih delodajalcev je tesno povezana tudi pravica delodajalca do izvajanja čezmejnih storitev. Gre za vprašanje obveznosti plačevanja prispevkov za socialno varnost napoteneda delavca v določeni državi in s tem povezano obveznost pridobitve obrazca A1, kar od 1. 1. 2018 podrobneje ureja Zakon o izvajanju čezmejnih storitev.

Ključne besede ● napoteni delavec, dohodnina, povračilo stroškov v zvezi z delom, posebna davčna osnova, obrazci REK-1, prispevki za socialno varnost, obrazec A1

SUMMARY ● The December tax reform, which has been in use since 1 January 2018, in its predominant part introduces changes in the field of taxation of income of employees posted to work abroad. The main changes were introduced with respect to the possibility of payment of non-taxable reimbursements of expenses to posted employees. Under certain conditions, it allows for the possibility of determining and enforcing a special tax base of the mentioned employees and, consequently, defining new, additional obligations for the employers concerning the reporting of individual income of the posted employees to the Slovenian tax authority (REK-1 forms). Furthermore, the employers' rights to carry out cross-border services are closely connected with the tax rights and obligations of the posted employees and their employers. It is a question of the obligation to pay social security contributions for a posted

employee in a particular country and the related obligation of acquiring the A1 form, which has since 1 January 2018 been governed by the Transnational Provision of Services Act.

Key words ● *posted employee/worker, income tax, reimbursement of work-related expenses, special tax base, REK-1 forms, social security contributions, A1 form*