



NEWSLETTER

12/05/2021

Law on Determining the Origin of Property and Special Tax

("Official Gazette of RoS", no. 18/2020 and 18/2021)

Law on Determining the Origin of Property and Special Tax ("Official Gazette of RoS", no. 18/2020 and 18/2021, hereinafter referred to as: the "**Law**") entered into force on March 11th, 2020 and its implementation began on March 12th, 2021.

This Law regulates the conditions, manner and procedure under which the property and increase of property of a natural person are determined as well as the special tax on increase of property for which a natural person cannot prove that it was acquired legally, as well as the authorities responsible for enforcement of the Law.

The Law applies to all citizens of the Republic of Serbia whose lifestyle may cause suspicion that their income is not in accordance with the declared income, and therefore the Law will apply to all persons suspected by the tax authorities, that is to all persons for which it shall be determined to have for a maximum of three consecutive calendar years, a difference of more than 150,000 euros between the

increase in property and reported income, and in case of suspicion of a crime, the case will be reported to the police and the prosecutor's office.

The key terms introduced by the new Law are:

- 1) "**property**" means immovable and movable property, registered or unregistered, as well as other property rights in the Republic of Serbia and abroad;
- 2) "**declared income**" is the income of a natural person reported to the competent tax authority;
- 3) "**increase in property**" represents a positive difference between the value of the property of a natural person at the end in relation to the beginning of a certain period;
- 4) "**expenditures for private needs of a natural person**" are expenditures that a natural person had for private needs that were established in the procedure of determining property and special tax;
- 5) "**property subject to special tax**" represents the difference between the sum of the increase in property and expenditures for private needs of a natural person, on the one hand and the declared income increased by the amount of income not subject to taxation in the Republic of Serbia, unencumbered property, property acquired by borrowing, i.e. property acquired in another lawful manner.

The procedure for determining property and special tax is initiated and conducted ex officio, and consists of the previous procedure and the procedure for control and determination of special tax.

The previous procedure is conducted by the Tax Administration on the basis of a risk analysis, **but it can also be initiated on the basis of a report by another authority or the initiative of any natural or legal person.**

In the previous procedure, the competent unit of the Tax Administration determines the increase of property on the basis of data at its disposal and data collected from other authorities and organizations, legal or natural persons and compares them with the declared income in a certain period. In the control procedure, the property of a natural person on which the special tax is calculated is determined as well as its value.

Tax Administration has to prove the increase of the property in relation to the declared income of a natural person, and the natural person has to prove that he/she legally acquired property in the amount in which the increase of his/hers property is not in accordance with the declared income.

The special tax rate is 75% of the tax base determined in accordance with the Law, which means that persons who are not able to prove that they have legally acquired their property will be left without three quarters of the value of the same. The Law provides the possibility of examining the entire property of natural persons, especially real estate, shares in legal entities, motor vehicles, vessels and aircraft, savings deposits and cash, as well as other property rights.

The natural person has the opportunity to appeal the decision determining the special tax to the Ministry of Finance, whose decision will be final in the administrative procedure, but the natural

person will still be able to initiate an administrative dispute – with a lawsuit before the Administrative Court.

The Government of the Republic of Serbia also adopted a **Decree on the manner and procedure of determining the value of property and income of a natural person and expenditures for private needs of a natural person**, which is related to the Law and which further regulates the manner and procedure of determining the value of property of a natural person on the beginning and at the end of a calendar year, expenditures for private needs of a natural person in a calendar year and declared income of a natural person in a calendar year which are increased by the amount of income not subject to taxation in the Republic of Serbia, unencumbered property, property acquired by borrowing, or property acquired in another lawful manner as well as the tax base on which the special tax is determined.

For any additional consultations or legal assistance, you can contact the Tasić & Partners team by email at na office@tasiclaw.com or by phone at +381116302233.