Profit Tax Act

(Consolidated text, "Official Gazette" no. 177/04, 90/05, 57/06, 146/08, 80/10, 22/12, 148/13, 143/14, 50/16, 115/16, 106/18, 121/19)

Came into force and applicable from 20 March 2020, except for article 30.h which shall come into force on 1 January 2022.

I FUNDAMENTAL PROVISIONS

Article 1

(1) Profit tax shall be calculated and paid pursuant to the provisions of this Act.

(2) The division and distribution of the revenue from the profit tax shall be regulated by a separate act.

Article 1a

This Act shall transpose the following into the legal order of the Republic of Croatia:

– Council Directive 2003/49/EC of 3 June 2003 on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States (OJ L 157/49, 26.6.2003),

– Council Directive 2004/76/EC of 29 April 2004 amending Directive 2003/49/EC as regards the possibility for certain Member States to apply transitional periods for the application of a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States (OJ L 157/106, 30.4.2004),

– Council Directive 2006/98/EC adapting certain Directives in the field of taxation, by reason of the accession of Bulgaria and Romania (OJ L 363/129, 20.12.2006),

– Council Directive 2009/133/EC of 19 October 2009 on the common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States and to the transfer of the registered office of an SE or SCE between Member States (OJ L 310/34, 25.11.2009),

– Council Directive 2011/96/EU of 30 November 2011 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (recast) (OJ L 345/8, 29.12.2011),

– Council Directive 2014/86/EU of 8 July 2014 amending Directive 2011/96/EU on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (OJ L 219/40, 25.7.2014),

– Council Directive (EU) 2015/121 of 27 January 2015 amending Directive 2011/96/EU on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (OJ L 21/1, 28.1.2015),

– Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (OJ L 193/1, 19.7.2016.) and

– Council Directive (EU) 2017/952) of 29 May 2017 amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries (OJ L 144/1, 7.6. 2017).

II TAXPAYER

1 General provisions

Article 2

(1) A taxpayer is a company or another legal or natural person that is a resident of the Republic of Croatia and performs its economic activity independently, permanently, and in order to achieve profit, income, or revenue, or other business relevant benefits,

(2) A taxpayer is also a domestic permanent establishment of a foreign entrepreneur (non-resident).

(3) Taxpayers are also natural persons who determines income in the manner prescribed for self-employment activities under the regulations on income taxation or who are starting to perform a self-employment activity or if they declare that they will pay profit tax instead of income tax.

(4) Natural persons referred to in paragraph 3 of this article are profit tax taxpayers if in the previous taxation period they generated a total receipt greater than HRK 7,500,000.00.

(5) State administration bodies, regional self-government authorities, local self-government authorities and the Croatian National Bank are not profit tax payers, unless otherwise stipulated by this Act.

(6) State institutions, institutions of units of regional self-government, institutions of units of local self-government, state institutes, religious communities, political parties, trade unions, chambers, associations, artistic associations, voluntary firemen associations, technical culture associations, tourist boards, sport clubs, sport societies and associations, trust funds and foundations are not profit tax payers.

(7) Persons referred to in paragraphs 5 and 6 of this article, that, pursuant to special regulations, perform a certain economic activity whose non-taxation would result in the acquisition of unjustified privileges on the market, are required to enter the taxpayer registry managed by the Tax Administration within eight days from the commencement of performing that activity, in order to determine the profit tax liabilities on the basis of performing a certain economic activity. If they do not register, the Tax Administration, at its own initiative or at the recommendation of other taxpayers or other interested parties, shall adopt a decision that these persons are profit tax payers for that activity.

(8) Open investment funds, founded and operating pursuant to the act under which they were founded, are not taxpayers liable to profit tax.

(9) Taxpayers are also all entrepreneurs or their legal successors who are not entrepreneurs listed in items 1 through 8 of this article, who are not income taxpayers under the regulations on income taxation and whose profit is not taxed elsewhere.

2 Resident and non-resident

Article 3

(1) Residents are, within the meaning of article 2, paragraph 1 of this Act, legal and natural persons whose registered office is registered in the commercial or other registry or record in the Republic of Croatia, or whose effective management and supervision location is in the Republic of Croatia. Residents are also entrepreneurs - natural persons with permanent residence or habitual residence in the Republic of Croatia, whose activity is inscribed in a registry or record.

(2) Non-residents are persons who are not residents under paragraph 1 of this article, under special act or an international agreement.

3 Non-resident’s permanent establishment

Article 4

A permanent establishment of a (non-resident) foreign entrepreneur referred to in article 2, paragraph 2 of this Act shall be determined pursuant to the general tax regulation.

III TAX BASE

1 General provisions

Article 5

(1) The tax base is the profit that is assessed pursuant to accounting regulations as the difference between revenue and expenditures before the profit tax calculation, increased and reduced pursuant to the provisions of this Act.

(2) The tax base of a resident taxpayer consists of profit generated domestically and abroad.

(3) The tax base of a non-resident consists only of profit generated domestically, and is determined pursuant to the provisions of this Act.

(4) Profit from liquidation or other procedure terminating business operations of a taxpayer under special regulation, profit from sales, change of legal form and division of taxpayer shall be included in the tax base, and the tax base shall be determined according to the market value of assets, unless otherwise provided for under this Act.

(5) Expenditures from paragraph 1 of this article shall also mean expenditures on the basis of paid premiums of occupational retirement provision paid by the employer for the benefit of the employee, with their consent, to a domestic occupational retirement provision fund, registered pursuant to the regulations governing occupational retirement provision, and for which income tax is not paid, pursuant to the provisions of the Income Tax Act.

(6) Expenditures in the taxation period shall not mean expenditures not related to performance of the taxpayer’s activity nor a consequence of the performance of the activity.

(7) The taxpayer that in the previous taxation period has not generated revenue greater than HRK 7.500.000,00 may determine the tax base according to the cash method of accounting.

(8) The tax base from paragraph 7 of this article is determined in such a way that the tax base from paragraph 1 of this article, before the prescribed additional increases or reductions, is increased or reduced by certain non-monetary transactions and non-realised gains/losses, and certain monetary transactions and realised gains/losses.

(9) The tax base of the taxation period from paragraph 8 of this article is additionally:

a) increased by

1. expenditures (losses) from value adjustments of fixed tangible and intangible assets

2. expenditures (losses) from value adjustments of financial assets

3. expenditures from value adjustments of accounts receivable for delivered goods and performed services

4. expenditures from provisions

5. expenditures from non-realised exchange rate differences

6. expenditures from other non-monetary transactions

7. reduced claims from business activities

8. reduced short-term claims on the basis of interests deducted as revenue

9. destocking

10. increase in short-term liabilities from business activities

11. increase in short-term liabilities on the basis of interests deducted as expenditure

12. other corrections increasing profit and

b) reduced by

1. revenues from value adjustments of financial assets

2. revenues from provisions

3. revenues from non-realised exchange rate differences

4. revenues from other non-monetary transactions

5. increased claims from business activities

6. increased short-term claims on the basis of interests deducted as revenue

7. increase in stocks

8. reduction in short-term liabilities from business activities

9. reduction in short-term liabilities on the basis of interests deducted as expenditure

10. other corrections decreasing profit.

(10) After the expiration of the deadline for collection of certain items from paragraph 8 of this article, or after the realisation of items that additionally reduced or increased the tax base from this article, they shall be included in the tax base as provided by this Act, following the principle of avoiding double taxation and the principle of avoiding double reduction of the tax base.

(11) The taxpayer intending to change the way of determining the tax base pursuant to paragraph 7 of this article shall submit a statement on changing the method of determining the tax base to the Tax Administration, no later than 15 days after the beginning of the taxation period. If the taxpayer that submits a statement on changing the method of determining the tax base satisfies the conditions from paragraph 7 and paragraph 12 of this article, they may apply that procedure from the first day of the taxation period.

(12) Taxpayers that are also a value-added tax payers may choose the method of determining the tax base pursuant to paragraph 7 of this article if they applies the procedure of taxation according to collected fees, pursuant to the special regulation on value-added tax.

(13) Taxpayers that have chosen the method of determining the tax base pursuant to paragraph 7 of this article shall keep the same method of determining the tax base for at least three taxation periods if they satisfy the conditions from that paragraph and conditions from paragraph 12 of this article.

(14) The method of applying this article is laid down by the Minister of Finance by virtue of an ordinance.

Article 5a

(1) The rights provided by the provisions of this Act, particularly those related to the reductions of the tax base, exceptions, tax exemption and withholding tax exemption, or reduction of the tax liability, shall not be used by the taxpayer for arrangements or a series of arrangements, if it is determined that the taxpayer had started them in order to realise, as the main purpose or one of the main purposes, the mentioned benefits, and as such, considering all the relevant facts and circumstances, they are not authentic.

(2) Within the meaning of paragraph 1 of this article, an arrangement is any business transaction, activity, scheme, agreement, obligation or event, and it can consist of several measures or parts.

(3) An arrangement or a series of arrangements shall be considered inauthentic insofar as it has not been started for valid commercial reasons reflecting the economic reality, in other words, if it has been started for tax fraud or tax evasion.

Article 5b

(1) By way of derogation from article 5, paragraph 1 of this Act, profit taxpayers from article 2, paragraph 7 of this Act may determine a flat-rate for the profit tax base if, during the previous taxation period, they did not, on the basis of performing an economic activity, generate revenue greater than HRK 7.500.000,00.

(2) Taxation pursuant to paragraph 1 of this article may not be applied by persons from article 2, paragraph 7 of this Act if they only perform an activity on the basis of which they are profit taxpayers or generate more than 50% of total revenue on the basis of said activity.

(3) The taxpayer from paragraph 1 of this article shall, for reasons of determining the flat rate for the profit tax, have records of revenue on the basis of performing the activity from paragraph 1 of this article.

(4) The taxpayer from paragraph 1 of this article intending to pay a flat rate for the profit tax shall file an application to pay a flat-rate for the profit tax to the Tax Administration no later than 15 days after the start of the taxation period. The taxpayer that is, during the taxation period, pursuant to article 2, paragraph 7 of the Act, determined to be a profit taxpayer may file the application from this article within eight days after determining the obligation to pay profit tax.

(5) Annual tax in flat-rate amount, amount of advance on flat-rate tax and the difference in the flat-rate tax for payment or return shall be determined on the basis of the report from paragraph 6 of this article, which the taxpayer shall submit to the Tax Administration no later than within 15 days from the day of the end of the taxation period for which the report is submitted. The taxpayer shall pay the difference of the annual flat rate tax on the day of submitting the report.

(6) The amount of tax base and flat-rate profit tax liability, payment deadlines, registers and reports related to flat-rate taxation shall be stipulated in an ordinance issued by the Minister of Finance.

2 Reduction of the tax base

Article 6

(1) The tax base from article 5 of this Act is reduced:

1. by dividend and profit share revenues, determined by the method prescribed by this Act.

1.1. Revenues from item 1 of this paragraph shall mean revenues:

a) the payer of which is a profit tax payer pursuant to this Act, or a payer of an equivalent tax type, and

b) the payer of which is an organisation with the legal form comparable to a limited liability company, company or another person whose legal form and accounting and taxation method is comparable to profit taxpayers pursuant to this Act, and

c) that are not a tax deductible expenditure or deductible for the payer.

1.2. When dividend and profit share revenues are generated from EU Member States, the conditions from item 1, subitem 1.1. a) and b) of this paragraph are considered to be fulfilled if the payer is:

a) a payer of one of the taxes for which the common taxation system is applied, valid for parent companies and associated companies in different EU Member States, pursuant to the list in the Annex which is an integral part of the Profit Tax Ordinance adopted by the

Minister of Finance, and

b) a company having one of the forms for which the common taxation system is applied, valid for parent companies and associated companies in different EU Member States, pursuant to the list in the Annex which is an integral part of the Profit Tax Ordinance adopted by the Minister of Finance, and

c) a resident of a EU Member State pursuant to the law in that State, and is not applied to non-residents outside of the EU, pursuant to international agreements for the avoidance of double taxation, concluded with non-Member States,

2. by revenues from value adjustments in stocks and shares (non-realised gains), if they were included in the tax base,

3. by revenues from collected written-off claims that, in previous taxation periods, were included in the tax base, but were not excluded from the tax base as a tax-deductible expenditure,

4. by the amount of amortisation that was not tax deductible in the earlier periods up to the value provided in article 12 of this Act,

5. by the amount of subsidies in the form of tax exemption or advantage, pursuant to special regulations,

(2) The tax base from article 5 of this Act may be reduced by expenditures from earlier periods that were included in the tax base.

(3) For the amounts from paragraph 1 of this article, a tax loss may be expressed, that is, the loss may be increased, respecting the rules of state aid and de minimis aid.

(4) Subsidies from paragraph 1, item 5 of this article which include state aid must be approved pursuant to special regulations on state aid and de minimis aid.

(5) The taxpayer from article 5, paragraph 7 of this Act that uses the cash method of accounting to determine the tax base shall apply the provisions of this article in an appropriate way, applying the cash method of accounting.

(6) The tax base referred to in article 5 of this Act shall be reduced for the amount of aids received for the purpose of mitigating negative consequences in the event of exceptional circumstances occurring within the meaning of the general tax regulation.

(7) The amount of received aids referred to in paragraph 6 of this article shall not have any effect on the turnover threshold referred to in paragraph 4 of article 2, paragraph 7 of article 5, paragraph 1 of article 5b and article 28 of this Act.

(8) The Minister of Finance shall prescribe the implementation of this article in relation to the reduction of tax base.

3 Increase of the tax base

Article 7

(1) The tax base from article 5 of this Act is increased:

1. by expenditures from value adjustment of stocks and shares (non-realised losses) if they were expressed in expenditures,

2. by the amount of amortisation above the amounts provided in article 12 of this Act,

3. by 50% of representation costs (hospitality, gifts with or without the logo of the company or product, costs of holiday, sport, recreation, rental of automobiles, vessels, airplanes, holiday homes), to the amount of costs created in the business relation with the business partner,

4. by 30% of the costs, except insurance and interest costs, due to own or rented motor vehicles and other personal transportation methods (personal automobile, vessel, helicopter, airplane etc.) of managing and other employed personnel, if salary is not determined on the basis of using personal transportation methods,
Comment: From 1 January 2018 in item 4, the number: “30” is replaced by the number: “50”.

5. by deficits on assets above the amount determined by decision of the Croatian Chamber of Economy or the Croatian Chamber of Trades and Crafts, within the meaning of value-added tax regulations, on the basis of which income tax is not paid,

6. by costs of compulsory recovery of tax or other duties,

7. by the fines pronounced by a competent authority,

8. by default interests between associated parties,

9. by benefits and other forms of proceeds given to natural or legal persons for a certain event to take place, that is, not to take place, i.e. for performance of a certain action, for example, better or faster than usual, or for its non-performance,

10. by gifts above the amount from paragraph 7 and 8 of this article,

11. by interests that are not a tax deductible expenditure as per the provisions of this Act,

12. by expenditures determined in the process of supervision with the associated value-added tax, income tax, income tax surtax, and obligatory contributions created in relation to hidden profit payments, and exemption of shareholders, company members and natural persons performing a self-employment activity from which profit tax is paid, and parties connected to them,

13. by all other expenditures not directly related to profit generation and other amounts increasing the tax base that were not included in the tax base.

(2) The tax base shall not be increased by expenditures from paragraph 1 of this article, except by expenditures from items 9 and 12 of that paragraph, when, pursuant to the Income Tax Act, income tax is calculated and paid.

(3) The costs from paragraph 1, item 4 of this article includes costs with the applicable value-added tax, according to the status of the individual vehicle:

1. for vehicles owned by the taxpayer, costs of fuel and oil, maintenance and repair, registration and amortisation,

2. for rent-a-car services, the charged fee plus fuel costs,

3. for rented vehicles, contract fee cost, fuel and maintenance cost, and all other costs covered by the renter according to the rent agreement, and in case of financial rental, amortisation cost.

(4) Deleted.

(5) Deleted.

(6) By way of derogation from paragraph 1, item 3 of this article, representation shall not mean products and merchandise by the taxpayer adapted for those purposes, marked “not for sale”, and other advertisement objects with the name of the company, product, and other forms of advertisement (glasses, ashtrays, tablecloths, coasters, pens, planners, lighters, appendages and the like) provided for the customer’s use in the sales area, and if given to consumers, they shall not mean representation if their individual value without value-added tax is up to HRK 160.00.

(7) Gifts from paragraph 1, item 10 of this article shall mean gifts in kind or in money, effected domestically for cultural, scientific, educational, health, humanitarian, sport, religious, ecological, and other generally useful purposes to associations and other persons performing the named activities pursuant to special regulations, if they are higher than 2% of the revenue generated in the previous year. By way of derogation, the amount may be higher than 2% of the revenue generated in the previous year, if it is given pursuant to decisions of competent ministries on financing special schemes and actions.

(8) Gifts referred to in paragraph 7 of this article are also payments of expenses for heath requirements of natural persons (surgery, treatment, procurement of medicines and orthopaedic aids and costs of travel and accommodation in health institutions) the payment of which is not covered by the compulsory, supplementary, additional or private health insurance or at the burden of the funds of the natural person, under the condition that the donation, i.e. payment of the expenses, was made to the transfer account of the recipient of the donation or a health institution based on authentic documents.

(9) The tax base is increased by temporarily undeductible expenditures.

(10) The taxpayer from article 5, paragraph 7 of this Act that uses the cash method of

accounting to determine the tax base shall apply the provisions of this article in an appropriate way, applying the cash method of accounting.

4.1 Interest for shareholders' and company members' loans

Article 8

(1) Interest from article 7, paragraph 1, item 11 of this Act shall include interest for loans accepted from shareholders or company members holding at least 25% of the stocks or capital shares or voting rights in the taxpayer, if at any time during the taxation period these loans exceed four times the amount of the share of that shareholder or company member in capital or voting right, determined in relation to the amount and loan period during the taxation period, except interest for loans by financial organisations.

(2) Loans of shareholders or company members, pursuant to paragraph 1 of this article, shall also mean loans by third parties vouched for by the shareholder or company member, and loans from associated parties.

(3) The amount of the shareholder's or company member's share in the loan user's capital is determined for the taxation period as the average capital paid, profit kept and reserves on the last day of every month of the taxation period.

4.2 Value adjustment and claim write-off

Article 9

(1) Value adjustment on the basis of correcting the value of accounts receivable for delivered goods and performed services, shall be acknowledged as expenditures if more than 60 days has passed from the due date to the end of the taxation period, and they have not been charged until the fifteenth day before submitting the tax form. The amounts from value adjustments of accounts receivable expressed in previous taxation periods as tax deductible expenditures are included in revenue, if until the moment of the limitation period, actions provided in paragraph 2 of this article were not undertaken.

(2) Value adjustment of claims is recognised if the claims are recorded in financial records as revenue, and if all actions for insuring debt payment were undertaken with due diligence.

(3) Actions referred to in paragraph 2 of this article shall be deemed performed if the action is taken against the claim or the claim is the subject of enforcement procedure, if the claim is declared under bankruptcy procedure over a debtor or a settlement with the debtor, who is not an associated party, was reached under special regulation for cases of bankruptcy, arbitration or mediation.

(4) By way of derogation from the provision of paragraph 3 of this article, write-off of claims from non-associated parties, whose limitation period became effective and which are not greater than HRK 5,000.00 in each individual taxation period per individual profit tax taxpayer or income tax taxpayer based on performing a self-employment activity shall be recognised. Write-off of claims up to HRK 200.00 whose limitation period became effective shall also be recognised for non-associated parties whose debt was not generated based on performing a self-employment activity, if total determined claim per individual person on the last day of the taxation period does not exceed that amount.

(5) By way of derogation from paragraph 3 of this article and article 10, paragraph 1 of this Act, tax deductible expenditures of a credit institution includes the amounts of claim write-off for non-associated natural persons, in accordance with criteria and procedures of the credit institution, on the basis of approved residential loans, and due interest expressed in revenue until the moment of the write-off, if it is determined that the write-off was conducted to facilitate loan payment for the users whose monthly payment imperils basic living necessities, i.e. to prevent foreclosure by the credit institution of the only residential real estate in which the loan user has a declared permanent residence and resides permanently.

(6) The credit institution may also apply the provisions of approval of claim write-off from paragraph 5 of this article out of other economic, that is, business and socially approved reasons, in accordance with the criteria and procedures of the credit institution, on the condition that they are applied in the same way on all users of residential loans.

(7) By way of derogation from the provision in paragraph 3 of this article and article 10, paragraph 1 of this Act, tax deductible expenditures shall include the amount of claim write-off for non-associated parties, in accordance with the criteria and procedures of the credit institution, on the basis of approved entrepreneurial loans, and due interest expressed in revenue until the moment of write-off if it is determined that the liabilities per approved loans significantly imperil the development of investment projects or significantly imperil the continuation of the entrepreneurial activity, that is, lead to stoppage of performing the activity.

(8) By way of derogation from paragraph 2 of this article, a tax deductible expenditure is a write-off of claims expressed in revenue from a non-associated party if the taxpayer proves that the costs of starting certain proceedings from paragraph 3 of this article exceed the amount of the claim or if they prove that certain actions were undertaken with due diligence in order to recover the claims whereupon final impossibility was determined for the recovery of the written-off claim amount.

(9) Claim write-offs confirmed pursuant to special regulation on consumer’s insolvency and special regulation on extraordinary administration procedure in the companies of systemic importance shall be deemed as tax deductible expenditure.

4.3 Value adjustment of stocks and financial assets

Article 10

(1) Expenditures from value reduction in stocks and financial assets are approved in the period in which the property was sold or used in another way.

(2) Stocks expenditures on the basis of stocks deficits are approved to the amount determined by decision of the Croatian Chamber of Economy or the Croatian Chamber of Trades and Crafts, within the meaning of the value-added tax regulation.

Article 10a

If during the taxation period a natural person received a profit advance, and at the expiration of that taxation period, the realised profit is not enough to cover such an advance, the resulting difference shall be considered a receipt and taxed pursuant to the Income Tax Act.

4.4 Provisions

Article 11

(1) In determining the tax base, provisions are not recognised, except for the purposes provided in this article.

(2) Provisions for risks and costs in accordance with the law or other regulation are recognised as expenditure, as well as provisions stemming from agreements (redundancy payment provisions, natural resource restoration costs provisions, guarantee period costs provisions and provisions for costs of started legal proceedings).

(3) Provisions in banks for potential loss risks are recognised as expenditures of the calculated sum, but at most up to the amount defined by regulations of the Croatian National Bank.

(4) Obligatory provisions in insurance companies formed pursuant to the act regulating insurance are recognised for the insurance company as expenditures of the calculated sums, but at most up to the amount or upper limit pursuant to the act regulating insurance.

(5) Provisions for unused annual leave shall be recognised as expenditures pursuant to accounting regulations.

(6) Cancellation or using the provision is recognised in such a way that revenues are excluded and expenditures recognised so that the tax base does not again include the revenues and expenditures previously increasing or reducing the tax base, unless otherwise provided by this Act.

(7) Provisions from paragraph 5 of this article shall be cancelled obligatorily during the next

taxation period as per paragraph 6 of this article.

4.5 Amortisation

Article 12

(1) Amortisation of fixed tangible and intangible assets is recognised as expenditure to the amount calculated for procurement costs using the linear method and applying annual amortisation rates from paragraph 5 of this article.

(2) Amortisation is calculated individually.

(3) Fixed tangible and intangible assets shall mean objects and rights whose individual procurement cost is higher than HRK 3,500.00 and life cycle longer than one year.

(4) Land, forest and similar renewable natural resources, financial assets, culture monuments, and artwork are not liable to amortisation.

(5) The annual amortisation rates are determined according to the amortisation period for taxation purposes, for individual groups of fixed assets:
1. 1. for real estate and ships larger than 1000 GRT, (20 years), 5%,
2. for the basic herd, personal automobiles (5 years), 20%,
3. for intangible assets, equipment, vehicles, except for personal automobiles, and for machinery (4 years), 25%,
4. for computers, computer equipment and programmes, mobile telephones and computer network equipment (2 years), 50%,
5. for other unmentioned assets (10 years), 10%.

(6) Annual amortisation rates from paragraph 5 of this article may be doubled.

(7) If the taxpayer calculates amortisation in the amount that is lower than the one permissible by tax, amortisation calculated in this manner shall be considered a tax deductible expenditure.

(8) Amortisation cost for a fixed asset object is recognised as tax expenditure from the first day of the month after the month in which fixed assets were put to use.

(9) Amortisation cost for sold, gifted, otherwise alienated or destroyed fixed assets is recognised as tax expenditure until the end of the month in which fixed assets were put to use.

(10) Unamortised acquisition cost for fixed assets is recognised as tax expenditure in the taxation period in which fixed assets were sold, gifted, otherwise alienated or destroyed.

(11) By way of derogation from the provision of paragraph 10 of this article, if the procurement cost is expressed in the revaluated amount, unamortised cost of procurement minus the revaluated amount, included in revenue until it was sold, gifted, otherwise alienated and destroyed, shall be recognised as tax expenditure.

(12) Amortisation for written-off fixed assets is not recognised as tax expenditure.

(13) Amortisation for personal automobiles and other means of personal transportation is recognised up to costs of HRK 400,000.00 for procurement of one vehicle. If the cost of procurement exceeds the named sum, amortisation above the named sum is recognised only if the vehicle serves for a registered rental or transport activity.

(14) fixed assets, even after total write-off, are kept in records until the moment of sale, gifting, other alienation or destruction.

(15) Amortisation expenditures for assets not used in the performance of the activity are not recognised.

(16) For the taxpayer that has documented vessels, airplanes, apartments and holiday homes in fixed assets, amortisation of such assets shall be recognised as expenditures under the conditions:

1. that the taxpayer is registered to perform the activity of rental and vessel or airplane transport, i.e. for the activity of renting apartments and holiday homes, and

2. that, on the basis of using vessels and airplanes, they generate revenue of at least 7% of purchase price of such assets during the taxation period, and

3. that, on the basis of using apartments and holiday homes, they generate revenue of at least 5% of purchase price of such assets during the taxation period.

(17) The taxpayer that does not fulfil the conditions from paragraph 16 of this article during the taxation period shall increase the tax base in that taxation period by the amount of amortisation of such assets, and all applicable costs resulting from usage of such assets.

(18) For the taxpayer whose assets from paragraph 16 of this article were amortised in previous taxation periods, costs related to usage of such assets are recognised pursuant to this act, if the taxpayer fulfils conditions from paragraph 16 of this article during the taxation period. If the taxpayer does not fulfil the conditions from paragraph 16 of this article in the taxation period, their tax base shall be increased by all associated costs created in relation to usage of such assets.

(19) For the taxpayer that uses assets from paragraph 16 of this article on the basis of business rental, costs of rental for such assets shall be recognised, as well as costs created on the basis of using these assets pursuant to this act, on the condition that the taxpayer has generated revenue of at least the amount of rental costs on the basis of using such assets in the taxation period. If the taxpayer does not fulfil the mentioned condition in the taxation period, their tax base shall be increased by the cost of renting such assets and associated costs created on the basis of using such assets.

(20) Within the meaning of paragraph 16 of this article, a vessel shall mean a ship or a yacht, and boat for inland navigation with the purpose of entertainment, sport or recreation, and rental.

(21) Within the meaning of paragraph 16 of this article, an airplane shall not mean an airplane for regular or extraordinary air transport of passengers.

(22) If the taxpayer expresses value adjustment of fixed assets mentioned in this article in financial records, only the amount that would be determined by applying annual amortisation rates from paragraph 5 of this article may be included in tax deductible expenditures in the taxation period.

(23) The difference between realised non-refundable monetary resources from European Union funds and state budget of the Republic of Croatia for measures of permanent termination of fishing activity with destruction of the vessel and unamortised acquisition cost for the destroyed vessel pursuant to paragraph 10 of this article shall also be considered a tax deductible expenditure in the taxation period.

5 Tax base in business dealings between associated parties of residents and non-residents

Article 13

(1) If agreed prices or other conditions between associated parties in their business dealings are different than prices or other conditions that would be agreed between non-associated parties, all profit in the amount in which it would be realised if it was a relationship of non-associated parties shall be included in the tax base of associated parties.

(2) Associated parties from paragraph 1 of this article shall mean parties wherein one party participates directly or indirectly in management, supervision, or capital of the other party, or both parties participate directly or indirectly in management, supervision or capital of the company.

(3) In determining and assessing whether business dealings between associated parties from paragraph 2 of this article correspond to market prices, one of the following methods may be used:

(a) The method of comparable uncontrolled prices in which prices for sold products, merchandise, or services in controlled dealings are compared to those in uncontrolled dealings and comparable circumstances.

(b) The method of commercial prices on the basis of which price is determined for which the merchandise procured from associated parties is sold to non-associated parties. The

determined price is reduced by the appropriate gross commercial margin which can be achieved in the existing market conditions. The resulting difference is the price for which the merchandise could have been procured from non-associated parties.

(c) The method of adding gross profit on top of costs, firstly determining the costs of the product, half-product or services of the person that sold the products, half-products, or services to another related party. The determined costs are increased by the appropriate gross profit which can be achieved in the existing market conditions. The resulting amount is the price for which the product, half-product, or service could have been procured from non-associated parties.

(d) The method of profit sharing, eliminating the effect of special conditions for profit in dealings between associated parties. This elimination is conducted through determining the profit sharing that non-associated parties would expect for participating in one or more dealings. In the profit sharing method, profit sharing between associated parties in one or several dealings in which these parties are participating is calculated first. After that, profit sharing that would arise if, in the existing market conditions, non-associated parties had participated in the dealings is assessed, and the determined profit shares are distributed to associated parties.

(e) Net gain method, in which the realised net gain is examined in relation to some basis such as total costs, sales revenue, assets, or own capital which one person realises in dealings with one or several associated parties. The realised net gain is compared to net gain of similar parties in similar circumstances.

(4) Business dealings between associated parties shall be approved only if the taxpayer possesses and, at the demand of the Tax Administration, provides data and information on associated parties and business dealings with these parties, through methods used for determining comparable market prices and reasons for choosing those concrete methods.

(5) Provisions of this article also pertain to associated parties from paragraph 2 of this article that are residents if one of the associated parties:

1. has a privileged tax status, that is, pays profit tax with rates that are lower than the prescribed rate, or is exempted from paying the profit tax, or

2. has the right to transfer tax loss from previous taxation periods to the current taxation period.

(6) Detailed elaboration and instructions related to the application of provisions of this article is adopted by the Minister of Finance.

5.1 Interest between associated parties

Article 14

(1) In determining interest revenue from loans given, for associated parties, interest is calculated at least to the amount of the interest rate that would have been realised between non-associated parties in the moment of loan approval.

(2) In determining interest expenditure from loans received, for associated parties, interest is recognised at most to the amount of the interest rate that would have been realised between non-associated parties in the moment of loan approval.

(3) The interest rate from paragraph 1 and 2 of this article is determined and published by the Minister of Finance before the beginning of the taxation period in which it will be used, taking into consideration that this is an interest rate realised in comparable circumstances or that would have been realised between non-associated parties.

(4) By way of derogation from paragraph 3 of this article, the taxpayer may determine the interest from paragraph 1 and 2 of this article according to the conditions and using the method provided in article 13 of this Act, and on the condition that this method is applied for all agreements.

(5) Provisions of this article relate to associated parties from article 13, paragraph 5 of this Act.

5.2 Previous transfer pricing arrangement

Article 14a

(1) A previous transfer pricing and contractual relations arrangement from article 13 and 14 of this Act is an arrangement between the taxpayer and Ministry of Finance, Tax Administration, and tax bodies from other countries in which associated parties are residents or perform business activities through a permanent establishment, through which, for transactions between associated parties, before their commencement, an appropriate set of criteria is determined, such as methods, comparative criteria, appropriate harmonisation, or key suppositions related to future events, in order to determine transfer pricing for these transactions during a given time period.

(2) A previous transfer pricing arrangement is obligatory for the taxpayer and for the Ministry of Finance, Tax Administration, for the time in which it is concluded.

(3) Costs for concluding the previous transfer pricing arrangement are entirely covered by the taxpayer.

(4) The method of conclusion, contents, validity deadlines and costs of concluding previous transfer pricing arrangements are laid down by the Minister of Finance by virtue of an ordinance.

6 Tax base for non-resident permanent establishments

Article 15

(1) The tax base for non-resident permanent establishment is profit determined pursuant to this act that can be ascribed to the permanent establishment in the Republic of Croatia.

(2) In determining the tax base, the profit made by the permanent establishment must correspond to such profit that the permanent establishment might be expected to make if it were a separate and independent company engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the company of which it is a permanent establishment, taking into account the functions performed, used assets and risks assumed in any manner.

(3) In determining the profit of the permanent eestablishment, expenditures created for the needs of the permanent establishment, including general managerial and administrative expenditures, whether created domestically or abroad, are recognised.

7 Changing the method of determining the tax base

Article 16

(1) The income taxpayer that turns into a profit tax payer must, on the first day of the taxation period for which they determine profit tax, create a starting balance and continue managing financial records pursuant to accounting regulations.

(2) At the end of the first taxation period for which profit tax base is determined, the determined profit is increased (+) and reduced (-) by the starting balance positions stated below:
+ value of existing stocks
+ advances given for merchandise and services
+ accounts receivable for merchandise and services
+ accounts receivable for sold fixed assets objects from
the list of fixed assets
+ suspense items receivable
+ transfer tax and similar tax return requests
- accounts payable for merchandise and services
- accounts payable for received customers’ advances for merchandise and services

- suspense items payable
- long-term provisions
- transfer tax and similar tax liabilities.

(3) The starting balance from paragraph 1 of this article shall be delivered to the Tax Administration by the taxpayer together with the profit tax return.

(4) At the end of the first taxation period in which the taxpayer chose the method of determining the tax base pursuant to article 5, paragraph 7 of this Act, the taxpayer shall increase and reduce the determined profit through applying the opposite sign for positions from paragraph 2 of this article, and increase it by liabilities towards employees, on the basis of avoiding double taxation and the basis of avoiding double reduction of the tax base.

8 Tax loss

Article 17

(1) If, during the process of determining the tax base, a negative base is determined, the taxpayer has a tax loss.

(2) The tax loss is transferred and compensated by reducing the tax base during the next five years, unless otherwise provided by the Act.

(3) If the transfer of the right for compensation of losses takes place alongside mergers by incorporation, mergers by acquisition, and divisions to legal successors during the taxation period, the right to loss transfer starts in the period in which the legal successor acquired the right to loss transfer.

(4) In reducing the tax base for losses from previous taxation periods, the tax base is first reduced by older losses.

(5) The legal successor loses the right to tax loss transfer:

1. if the legal predecessor does not perform activities already two taxation periods before the change of status, or

2. if during two taxation periods from the creation of the change of status, the activity of the legal predecessor is significantly changed.

(6) The legal successor shall increase the tax base by the amount of the used tax loss in the taxation period in which the right to tax loss transfer was cancelled, pursuant to paragraph 5 of this article.

(7) Paragraphs 5 and 6 of this article are applied even if, during the taxation period, there is a change in the structure of ownership of the taxpayer by more than 50% in relation to the structure of ownership at the beginning of the taxation period.

(8) Paragraphs 5, 6, and 7 of this article are not applied to the legal successor that significantly changes the activity in order to preserve jobs or to recover the business.

9 Conversion, liquidation, bankruptcy and termination of business activities

Article 18

(1) If the taxpayer converts (changes legal form), in which accounting values of assets and liabilities are continued, this change shall have no effect on taxation.

(2) If in case of paragraph 1 of this article accounting values are not continued, the difference in capital resulting from the conversion shall be considered taxable profit.

(3) In the case when liquidation procedure, or any other procedure of terminating business activities of the taxpayer under special regulation, is closed, the taxpayer shall close his financial records, draw up final financial statements and determine the tax liability on the last day of the taxation period. If, on the last day of the said taxation period, all assets are not encashed, the amount shall be included in the tax base as if the assets were encashed.

(4) At the end of the liquidation period, or period of any other procedure of terminating business activities of the taxpayer under special regulation, the assets shall be estimated according to the market price.

(5) If during the change of legal form or liquidation procedure, or any other procedure of terminating business activities of the taxpayer under special regulation, items or rights are excluded or the assets are used for investments, provisions of article 7 of this Act shall apply.

(6) In case of insolvency, provisions from paragraphs 1 to 5 of this article shall be applied.

10 Mergers by incorporation, mergers by acquisition and divisions

Article 19

(1) A merger by incorporation is a transaction in which one or more companies (hereinafter: transferring company) dissolve, but without going into liquidation, by transferring all assets and liabilities to a new company (hereinafter: receiving company), pursuant to the regulations governing that area.

(2) A merger by acquisition is a transaction in which one or more companies (hereinafter: transferring company) dissolve, but without going into liquidation, by transferring all assets and liabilities to another existing company (hereinafter: receiving company), pursuant to the

regulations governing that area.

(3) A division is a transaction which includes separation and detachment:
1. in separation of a company (hereinafter: transferring company), the company dissolves, without going into liquidation, by transferring all assets and liabilities to two or more newly founded or existing companies (hereinafter: receiving company) pursuant to the regulations governing that area.
2. in detachment, the company (hereinafter: transferring company) transfers one or several activities to one or more newly founded or one or more existing companies (hereinafter: receiving company) pursuant to the regulations governing that area. A transfer of activities shall mean transfer of total assets and liabilities ascribed to a part of the company making up an organisational separate unit of business.

(4) The rights and liabilities of merged or divided taxpayers from the legal tax relationship are transferred to the legal successor.

(5) Merging or dividing taxpayers shall submit financial reports and a tax return to the Tax Administration with the date preceding the date of the merger or division.

11 Acquisition and valuation of rights in mergers and divisions

Article 20

(1) In the case of merger, acquisition or division pursuant to article 19 of this Act, the taxpayers shall be obliged to include the previously declared value adjustments or valuation of assets into the tax base, unless they apply the provisions of article 20a through 20r of this Act.

(2) If the taxpayer has no declared adjustments referred to in paragraph 1 of this article and was not obliged to execute, did not execute, and should not execute specific value adjustments under an accounting regulation, then the actions referred to in article 19 of this Act shall bear no effect on taxation.

(3) In the case when the conditions referred to in paragraph 2 of this article are not met, the taxpayers are obliged to evaluate assets and disclose hidden reserves for the purpose of taxation, and include the difference, together with already declared reserves, into the tax base, unless they apply the provisions of article 20a through 20r of this article.

(4) The provisions of this article shall apply accordingly to all profit tax taxpayers irrespective of whether these are one or several transferring companies or acquiring companies.

12. Mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States pursuant to Directives 90/434/EEC and 2005/19/EC - chapter shall enter into force on the day of accession of the Republic of Croatia to the European Union

12.1 General provisions

Article 20a

Individual notions within the meaning of this Act in applying the Council Directives 90/434/EEC and 2005/19/EC have the following meaning:

1. an EU Member State resident commercial company shall mean a company that:

1.1 has one of the forms to which the common taxation system is applied, valid for mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States of the EU, and for transfer of the registered office of a Societas Europaea (hereinafter: SE) or a European Cooperative Society (hereinafter: SCE) between Member States, pursuant to the list in the Annex which is an integral part of the Profit Tax Ordinance adopted by the Minister of Finance,

1.2 is a EU Member State resident pursuant to the law in that state, and does not apply to residents outside the EU pursuant to international agreements for the avoidance of double taxation, concluded with non-Member States,

1.3 is a payer of one of the taxes for which the common taxation system is applied, valid for mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States of the EU and for transfer of the registered office of a SE or SCE between Member States, pursuant to the list in the Annex which is an integral part of the Profit Tax Ordinance adopted by the Minister of Finance. This does not apply to tax-exempted companies or companies that may choose.

2. a merger is a business activity in which:

2.1 one or more companies dissolve without going into liquidation, transferring all assets and liabilities to another existing company in exchange for remittance of securities to their shareholders in an appropriate amount of the other company’s capital, and if payment is done in cash, it does not exceed 10% of the nominal value, or, absent nominal value, accounting value of these securities,

2.2 two or more companies are dissolved without going into liquidation, transferring all assets and liabilities to a newly founded company in exchange for remittance of securities to their shareholders in an appropriate amount of the new company’s capital, and, if payment is done in cash, it does not exceed 10% of the nominal value, or, absent nominal value, accounting value of these securities,

2.3 a company is dissolved without going into liquidation and transfers all assets and liabilities to the company holding all securities which represent its capital,

3. a division is a business activity in which a company is dissolved without going into liquidation, and all assets and liabilities are transferred to two or more existing companies in exchange for securities issued to its shareholders in proportion to the capital of the other company, which receives assets and liabilities, and if payment is done in cash, it does not

exceed 10% of the nominal value, or, absent nominal value, carrying amount of these securities,

4. a partial division is a business activity in which a company, without dissolving, transfers one or more branches of activity to one or more existing or new companies in which at least one branch of activity remains in the company performing the transfer in exchange for proportionally issued securities, representing the companies' capital for company members gaining the assets and liabilities, and if payment is done in cash, it does not exceed 10% of the nominal value, or, absent nominal value, carrying amount of these securities,

5. an asset transfer is a business activity in which a company, without dissolving, transfers all or one or more branches of activity to another already founded company or to a company being founded, in exchange for issuance or transfer of securities that represent shares in the receiving company's capital to the members of the transferring company,

6. exchange of stocks or shares is a business activity in which an existing or new company (acquiring company) acquires securities of another company in exchange for issuance or transfer of own securities to members of the acquired company in exchange for securities representing the acquired company's capital, on the condition that, after exchanging securities, the acquiring company acquires, or keeps the majority of voting rights in the acquired company through further acquisition of securities, and if payment is done in cash, that it does not exceed 10% of the nominal value, or, absent nominal value, carrying amount of these securities,

7. a transferring company is a company transferring all its assets and liabilities, or transferring one or more branches of activity,

8. a receiving company is a company that receives all assets and liabilities, or receives one or more branches of activity of the transferring company,

9. an acquired company is a company whose capital was acquired by another company through exchange of securities,

10. an acquiring company is a company that acquired the other company's capital through exchange of securities,

11. a branch of activity are all assets and liabilities of the company that represent an independent business subject from a business-organisational perspective, i.e. a subject capable for completely autonomous business transactions with its own assets,

12. transfer of registered office is a procedure in which an SE or SCE, without going into liquidation or founding a new legal person, performs a transfer of its registered office from one EU Member State to another Member State.

Article 20b

(1) In mergers, divisions, or partial divisions, conducted pursuant to article 20.a - 20.r of this Act, the taxpayer shall express hidden reserves relating to remaining and transferred assets during the taxation period.

(2) The amount representing hidden reserves from paragraph 1 of this article is calculated as a difference between fair value and value for tax purposes of transferred assets and liabilities according to the state on the day of creating the tax return.

(3) A fair value is an amount in which the assets can be sold or otherwise replaced, or with which liabilities can be covered, or for which divided capital can be exchanged between well informed and willing business parties, the parties being mutually independent and of equal rights.

(4) The value for tax purposes of individual assets or liabilities is the amount obtained by assessment of these assets and liabilities in tax calculation, or the amount obtained by calculating tax deductible revenues and expenditures, or profit and loss.

(5) Transferred assets and liabilities are assets and liabilities of the company performing the transfer, which is, on the grounds of a merger, division, or partial division, really affiliated to a permanent establishment of the receiving company in the Member State of the company performing the transfer, and has influence over profit or loss during tax calculation.

12.2 Asset transfer

Article 20c

(1) If, during the transfer of assets and liabilities from article 20.a, item 5 of this Act, the transferring company generates profit ascribed to the transferred branch of activity, that profit is not taxed. If, during the transfer of assets and liabilities, the transferring company generates loss ascribed to the transferred branch of activity, that loss is not recognised.

(2) The transferring company shall estimate the received securities of the receiving company according to their fair value on the day of transfer.

Article 20d

(1) The receiving company may receive provisions created by the transferring company, as well as rights and obligations in relation to these provisions, on the same conditions that were valid in the transferring company, if they are ascribed to the transferred branch of activity.

(2) The receiving company may receive tax losses on the same conditions that would be valid in the transferring company, if they are ascribed to the transferred branch of activity.

(3) The receiving company estimates the received assets and liabilities, amortises the received assets and determines profit or loss in relation to the received assets and liabilities according to value for tax purposes on the day of transfer in the transferring company, in other words, as if the transfer was not done.

Article 20e

(1) In cases where a domestic transferring company transfers a part or an entire branch of activity to a receiving company with a registered office in an EU Member State in exchange for stocks of the receiving company, the resulting difference is not taxed, on the condition that the receiving company continues performing the activity domestically through a permanent establishment.

(2) In cases where a transferring company with a registered office in one of the EU Member States, performing an activity domestically through a permanent establishment, transfers a part or an entire branch of activity to a receiving company in another Member State in exchange for stocks of the transferring company, the resulting difference between the market value of the branch of activity and its value for tax purposes is not taxed, on the condition that the receiving company continues performing the activity domestically through a permanent establishment.

(3) If a receiving company does not continue performing the activity pursuant to article 1 and 2 of this article, or within 5 years from the day of transfer alienates the transferred branch of activity, the resulting positive difference between the fair value of the transferred branch of activity and its value for tax purposes is not taxed.

Article 20f

The transferring company and the receiving company realise rights from articles 20.c, 20.d and 20.e of this Act on the condition that they are residents of the Republic of Croatia and/or residents of another EU Member State, and if:

1. the transferring company and receiving company are residents of the Republic of Croatia, for the transfer of a branch of activity in the Republic of Croatia or another EU Member State,

2. the transferring company is a resident of another EU Member State, and the receiving company is a resident of the Republic of Croatia, for the transfer of a branch of activity located in the Republic of Croatia, if, after the transfer, the transferred assets and liabilities, provisions, reserves, and losses do not belong to the branch of activity of the receiving company outside the Republic of Croatia,

3. if the receiving company is a resident of another EU Member State, and the transferring

company is a resident of the Republic of Croatia or another EU Member State, on the condition that, after the transfer, the transferred assets and liabilities, provisions, reserves, and losses belong to the branch of activity of the receiving company in the Republic of Croatia.

12.3 Merger and division

Article 20g

(1) If, during a merger, division, and partial division from article 20.a, item 2, 3 and 4 of this Act the transferring company generates profit or loss related to the transferred assets and liabilities on the day of the merger, division, o partial division, the profit is not taxed and the loss is not recognised.

(2) In mergers, divisions, or partial divisions, conducted pursuant to article 20.g - 20.j of this Act, the taxpayer shall, pursuant to article 19 of this Act, express hidden reserves that are not taxed in the moment of the merger, division or partial division during the taxation period preceding the merger, division or partial division, but increased amortisation is compared to revenues in the same amount.

Article 20h

(1) The receiving company may receive provisions created by the transferring company, as well as rights and obligations in relation to these provisions, on the same conditions that would be valid in the transferring company, if there were no transfer.

(2) The receiving company may receive tax losses on the same conditions that would be valid in the transferring company, if there were no transfer.

(3) In the receiving company, profits generated from cancelling shares in the transferring company are not taxed if, before the merger, division, or partial division, it had shares in the capital of the transferring company.

(4) The receiving company estimates the received assets and liabilities, amortises the received assets and determines profit or loss in relation to the received assets and liabilities according to value for tax purposes on the day of transfer in the transferring company, in other words, as if the transfer was not done.

(5) If a member of the company generates profit or loss during the merger, division, or partial division with exchange of securities of the transferring company for the securities of the receiving company, these shall not be taxed or recognised for the purposes of taxation.

(6) Paragraph 5 of this article is not applied if the company member is a resident of the Republic of Croatia and receives monetary compensation, or if they are not a resident of the

Republic of Croatia, but they own securities in the transferring company and receiving company through a permanent establishment in the Republic of Croatia.

(7) The company member declares received securities of the receiving company with the value for tax purposes the securities of the transferring company had at the moment of the merger, division, or partial division.

Article 20i

(1) If the receiving company possesses a share in the capital of the transferring company, capital gains realised by the receiving company for cancelling shares in the capital shall not be taxed.

(2) Paragraph 1 of this article is not applied in cases where the receiving company has less than 10% of owned shares in the transferring company's capital.

(3) During a merger, division, partial division or exchange of stocks from article 20.a of this Act, issuance of securities of the receiving company to members of the transferring company in exchange for securities representing the transferring company's capital shall not be taxed.

Article 20j

The transferring company and the receiving company realise rights from articles 20.g, 20.h and 20.i of this Act on the condition that they are residents of the Republic of Croatia and/or residents of another EU Member State, and if:

1. the transferring company and receiving company are residents of the Republic of Croatia, regardless if the branch of activity of the transferring company is located in the Republic of Croatia or another EU Member State,

2. the transferring company is a resident of another EU Member State, and the receiving company is a resident of the Republic of Croatia, on the condition that, after the merger, division, or partial division, the transferred assets and liabilities, provisions, reserves, and losses do not belong to the branch of activity of the receiving company outside the Republic of Croatia,

3. if the receiving company is a resident of another EU Member State, and the transferring company is a resident of the Republic of Croatia or another EU Member State, on the condition that, after the merger, division, or partial division, the transferred assets and liabilities, provisions, reserves, and losses belong to the branch of activity of the receiving company in the Republic of Croatia.

12.4 Transfer of a permanent establishment

Article 20k

(1) If a merger, division, partial division, or asset transfer includes a permanent establishment of the transferring company located in another Member State, the Member State in which the company has a registered office shall not tax that permanent establishment.

(2) The transferring company may include losses of the permanent establishment that were not compensated to its profit.

(3) During a merger, division, partial division or asset transfer from paragraph 1 of this article, the Member State in which a permanent establishment has a registered office and a Member State in which the receiving company has a registered office shall apply provisions from articles 20.a - 20.o of this Act regarding taxation of such a transfer. The same is applied when a permanent establishment is located in the same Member State as the resident receiving company.

(4) By way of derogation from paragraph 1, 2, and 3 of this article, when the Member State of the company being transferred applies the principle of global profit taxation, it has the right to tax any profit or capital gains of a permanent establishment that are a consequence of a merger, division, partial division, or asset transfer, on the condition that it includes the tax that would have been calculated for that profit or capital gains in the Member State in which the permanent establishment is located.

12.5 Exchange of stocks and shares

Article 20l

(1) If, during exchange of stocks and shares, a member of the acquired company realises capital gains, they are not taxed, and the loss that would be realised through exchange of securities of the acquired company is not recognised for the purpose of taxation.

(2) If a member of the company receives monetary payment, they are a taxpayer in proportion corresponding to monetary payment, in which realised gains or losses are proportionally ascribed to cash payment and fair value of the securities of the acquiring company.

(3) A member of the company estimates the securities of the acquired company according to the value for tax purposes that the securities of the acquired company had at the moment of the exchange.

(4) The acquiring company shall estimate the received securities of the acquired company according to their fair value on the day of transfer.

Article 20m

Article 20.l of this Act is applied on the condition that the acquiring company and the acquired company are residents of the Republic of Croatia and/or residents of another EU Member State and if the member of the company is a resident of the Republic of Croatia, or if they are not a resident of the Republic of Croatia, but own securities of the acquired company and the acquiring company through a permanent establishment in the Republic of Croatia.

Transfer of a registered office of an SE or SCE

Article 20n

In transferring the registered office of an SE or SCE from the Republic of Croatia to another EU Member State, or from another EU Member State to the Republic of Croatia, such transfer of the registered office does not lead to taxation of gains in the Member State from which the registered office was transferred, realised from assets and liabilities of the SE or SCE pursuant to article 20.c of this Act, on the condition that these companies remain connected with permanent establishment of that SE or SCE in the Member State from which the transfer of the registered office was executed.

12.7 Common provisions

Article 20o

For taxation of asset transfers, exchange of stocks, and mergers, divisions, or partial divisions, pursuant to article 20.a - 20.n of this Act, provisions on transfers of securities representing a share in the capital are also applied to companies such as, for example, limited liability companies, where securities do not represent the capital.

Article 20p

Provisions of articles 20.a - 20.o of this Act shall not be applied if it is apparent that the business merger, division, partial division, asset transfer, exchange of stocks, or transfer of the registered office of an SE or SCE has as its main purpose or one of the main purposes tax fraud or tax evasion.

Article 20r

(1) The transferring company, receiving company, and company member have rights and obligations pursuant to article 20.a - 20.p of this Act if they have fulfilled the prescribed conditions, and on the basis of reporting the procedures of a merger, division, partial division, asset transfer, and exchange of stocks to the Tax Administration.

(2) If the conditions from paragraph 1 of this article are not fulfilled, the transferring company, receiving company, and company member have no rights and obligations pursuant to article 20.a - 20.p of this Act. In that case, the transferring company shall include the hidden reserves from article 20.b of this Act into the tax base.

(3) The method of application of this article is prescribed by the Minister of Finance.

IV DELETED

Article 21

Deleted.

Article 22

Deleted.

Article 23

Deleted.

Article 24

Deleted.

Article 25

Deleted.

Article 26

Deleted.

Article 27

Deleted.

V. TAX RATE

Article 28

The profit tax is paid based on the determined tax base at the rate of:

1. 12% if, during the taxation period, revenue has been generated up to HRK 7,500,000.00, or
2. 18% if, during the taxation period, revenue has been generated equal or higher than HRK 7,500,000.01.

V.a TAX RELIEFS AND EXEMPTIONS FOR TAXPAYERS PERFORMING ACTIVITIES IN ASSISTED AREAS

Article 28a

(1) Taxpayers performing activities in the area of the City of Vukovar, determined pursuant to special regulation on restoration and development of the City of Vukovar, and employing more than five employees under a permanent employment contract, in which more than 50% of employees have a permanent residence and reside in the assisted areas of the local self-government units categorised as group 1 according to development status, i.e. in the City of Vukovar, do not pay profit tax.

(2) Taxpayers performing activities in the areas of the local self-government units categorised as group 1 according to development status pursuant to special regulation on regional development of the Republic of Croatia, and employing more than five employees under a permanent employment contract, in which more than 50% of employees have a permanent residence and reside in the assisted areas of the local self-government units categorised as group 1 according to development status, i.e. in the City of Vukovar, do not pay profit tax.

(3) The amount of the profit tax exemption from paragraphs 1 and 2 of this article is determined in accordance to the relevant rules on de minimis aid.

(4) It shall be considered that the taxpayer from paragraphs 1 and 2 of this article employs an employee under a permanent employment contract if the above mentioned had spent at least nine months during the taxation period performing work under a permanent employment contract for the taxpayer and had permanent residence and resided in an assisted area of the local self-government units categorised as group 1 according to development status, i.e. in the City of Vukovar pursuant to special regulation on development of the City of Vukovar.

(5) The method of realising the tax relief from paragraphs 1 and 2 of this article is determined through an ordinance adopted by the Minister of Finance in cooperation with the minister responsible for regional development.

VI PERIOD OF DETERMINING THE TAX LIABILITY

Article 29

(1) Profit tax is determined for the taxation period which is usually the calendar year.

(2) By way of derogation from paragraph 1 of this article, the Tax Administration may, at the demand of the taxpayer, approve that the taxation period and the calendar year differ, in which the taxation period shall not exceed a 12-month period. The chosen taxation period cannot be changed by the taxpayer for three years.

(3) The taxation period makes up a part of the business year if it is:
1. the period from the beginning of business of the taxpayer until the end of that business year,
2. the period from transferring the registered office or managing international business domestically until the end of that business year,
3. the period which is a continuation of the last business year until the transfer of the registered office or management of domestic business abroad,
4. the period which is a continuation of the last business year until the day of the merger or division,
5. the period which is a continuation of the last business year until liquidation or insolvency,

6. the period which is a continuation of insolvency until the end of the business year,
7. the period which is a continuation from opening until closing the procedure of liquidation,

8. the period which is a continuation of the last financial year until terminating business activities in accordance with special regulations.

(4) The taxpayer who plans to start the procedures referred to in paragraph 3, items 3, 4 and 7 in the event of closure of the liquidation and item 8 of this article, shall be obliged to announce such procedures to the Tax Administration no later than 30 days from the start of formal actions with the competent authorities and to submit the data on authorised tax advisor if one is involved in the execution of the said procedure.

(5) A taxation period and profit tax liability and financial records liability, pursuant to accounting regulations for entrepreneurs - natural persons from article 2, paragraphs 3 and 4 of this Act, starts with the beginning of the taxation period, following after the taxation period in which the prescribed conditions were fulfilled.

(6) Profit tax liability and the obligation to keep financial records according to accounting regulations shall be binding for the entrepreneurs referred to in paragraph 4 of this article for the period of the following three years. In duly justified cases and based on a written request of the taxpayer, the Tax Administration may also approve a shorter term on which it shall issue a decision. Duly justified cases shall include, in particular, an overall change of the activity carried out by the taxpayer and significantly altered condition (more than 50%), due to which the taxpayer changed his or her manner of taxation.

VII SET-OFF OF TAX PAID ABROAD

Article 30

(1) If the taxpayer generated revenue or profit abroad (directly or through a permanent establishment) for which it paid profit tax or an equivalent tax, the tax paid abroad may be set off in the domestic tax at the highest to the amount of the profit tax that would be paid domestically for the generated profit or revenue.

(2) The amount of the profit tax from paragraph 1 of this article is determined in such a way that the set-off rate is applied on the profit or revenue generated abroad. The set-off rate is calculated by comparing the total tax liability determined before additional reductions of the tax base and the total generated profit only from domestic business activities.

(3) For the purpose of setting off the tax paid abroad from paragraph 1 of this article, the taxpayer is liable to present evidence on tax paid abroad to the Tax Administration.

VII.a ANTI PROFIT-SHIFTING RULES

Interest limitation rule

Article 30.a

(1) Taxpayer may establish the exceeding borrowing costs incurred in a tax period as tax deductible expenditure only up to:

1. 30 % of earnings before interest, taxes, depreciation and amortisation (EBITDA) or

2. 3.000.000,00 EUR if greater amount is thus achieved than under item 1 of this paragraph.

(2) Taxpayer shall be deemed to make exceeding borrowing costs when the borrowing costs of the taxpayer exceed taxable interest revenues and other economically equivalent taxable revenues.

(3) Within the meaning of paragraph 1 of this Article, the following shall be deemed as borrowing costs: interest expenses on all forms of debt, other costs economically equivalent to interest and expenses incurred in connection with the raising of finance, including, inter alia, payments under profit participating loans, imputed interest on instruments such as convertible bonds and zero coupon bonds, amounts under alternative financing arrangements, such as Islamic finance, the finance cost element of finance lease payments, capitalised interest included in the balance sheet value of a related asset, or the amortisation of capitalised interest, amounts measured by reference to a funding return under transfer pricing rules where applicable, notional interest amounts under derivative instruments or hedging arrangements related to an entity's borrowings, foreign exchange gains and losses on borrowings and instruments connected with the raising of finance, guarantee fees for financing arrangements, arrangement fees and similar costs related to the borrowing of funds.

(4) For the purposes of paragraph 1 of this Article, when calculating EBITDA, only taxable revenue shall be taken into account and the tax deductible expenditures of amortisation established under this Act shall be added to earnings before tax as well as the total borrowing costs.

(5) Provisions on interest limitation rule referred to in paragraph 1 of this Article shall not apply to:

1. an independent taxpayer or entity outside consolidated group for accounting purposes and without any associated party within the meaning of Article 30.b paragraph 7 of this Act, or permanent establishment, and not borrowing or approving loans to its members of shareholders and

2. a taxpayer which is a financial undertaking.

(6) Within the meaning of paragraph 5 item 2 of this Article, financial undertaking shall be any entity in any of the following organisational and legal forms: credit institution, investment

company, management company, UAIF, investment fund (UCITS and AIF), insurance undertaking, reinsurance undertaking, institutions for occupational retirement provision, pension insurance undertaking, pension fund, central counterparty, central securities depository, as established pursuant to special regulations.

(7) When calculating the exceeding borrowing costs the taxpayer may exclude loans used to fund long-term public infrastructure projects where the project operator, borrowing costs, assets and income are all in the European Union, in which case all income arising from a long-term public infrastructure project shall be excluded from the EBITDA of the taxpayer.

(8) A long-term public infrastructure project referred to in paragraph 7 of this Article shall mean a project to provide, upgrade, operate and/or maintain a large-scale asset that is considered to be in the general public interest by a Member State.

(9) The taxpayer may carry forward to the three following tax periods the exceeding borrowing costs referred to in paragraph 1 of this Article determined in a tax period , but in each tax period only up to the amount determined under paragraph 1 of this Article.

(10) The taxpayer shall increase the tax base for the amount of exceeding borrowing costs which are higher than the amount referred to in paragraph 1 of this Article.

(11) By way of derogation from paragraph 10 of this Article, taxpayers applying the provisions of Articles 8 and 14 of this Act shall decrease the amount of tax non-deductible expenditures referred to in paragraph 1 of this Act by means of the amounts to be added to the tax base determined under the said Articles of this Act.

(12) The method of implementation of this article shall be prescribed by the Minister of Finance.

Controlled foreign company rule

Article 30.b

(1) Controlled foreign company of a taxpayer is any entity in any organisational and legal form or a permanent establishment situated in another state whose profit is not liable to taxation or is tax exempt in that state if the following conditions have been met:

1. in the case of an entity, if the taxpayer, solely or jointly with associated parties, participates directly or indirectly with more than 50% of voting rights or owns directly or indirectly more than 50% of capital or is entitled to receive 50% of the profits of that entity;

2. the actual profit tax paid by the entity or permanent establishment abroad (other Member State) is lower than the difference between the profit tax that would have been charged on the entity or permanent establishment under the Act and the actual profit tax paid by the entity or permanent establishment.

(2) Where an entity or permanent establishment is treated as a controlled foreign company pursuant to paragraph 1 of this Act, the taxpayer shall include in the tax base the undistributed profit of an entity or permanent establishment arising from the following revenue categories:

1. interest or other revenue arising from assets,

2. royalties or any other revenue from intellectual property,

3. dividends, carried interests and revenue from disposal of stocks or shares,

4. financial leasing,

5. insurance, banking and other financial activities,

6. from sales and services, arising from goods and services acquired from associated companies and sold to associated companies with little or no added economic value.

(3) Paragraph 2 of this Article shall not apply where the controlled foreign company carries on a substantive economic activity supported by staff, equipment, assets and premises, as evidenced by relevant facts and circumstances.

(4) Where revenue referred to in paragraph 2 of this Article accounts for one third or less of the total revenue of the entity or permanent establishment, the entity or permanent establishment shall not be treated as a controlled foreign company.

(5) By way of derogation from paragraph 1 of this Article, financial undertakings established under Article 30.a, paragraph 6 of this Act shall not be treated as controlled foreign company if one third or less of the revenue from paragraph 2 of this Article comes from transactions with the taxpayer or its associated companies.

(6) Provisions of paragraphs 4 and 5 of this Article shall not apply when the entity or permanent establishment are located in countries included in the EU list of non-cooperative jurisdictions for tax purposes.

(7) For the purpose of determining a controlled foreign company, the following shall be regarded as associated parties referred to in paragraph 1 item 1 of this Article:

1. an entity in which the taxpayer holds directly or indirectly a participation in terms of voting rights or capital ownership of 25% or more or is entitled to receive 25% or more of the profits of that entity,

2. an individual or entity which holds directly or indirectly a participation in terms of voting rights or capital ownership in a taxpayer of 25% or more or is entitled to receive 25% or more of the profits of the taxpayer and

3. if an individual or entity holds directly or indirectly a participation of 25% or more in a taxpayer and one or more entities, all the entities concerned, including the taxpayer, shall also be regarded as associated parties.

(8) The method of implementation of this article shall be prescribed by the Minister of Finance.

Calculating the profit of controlled foreign company

Article 30.c

(1) Profit of the controlled foreign company or permanent establishment which, pursuant to Article 30.b, paragraph 2 of this Act, is to be included in the tax base of the taxpayer, shall be calculated in the manner laid down for resident taxpayers, and the participation in profit shall be calculated in the manner defined in Article 30.b, paragraph 1, item 1 of this Act. Losses of entity or permanent establishment shall not be included in the tax base.

(2) Every taxpayer who participates directly or indirectly in management, supervision, capital or is entitled to participation in the profit of entity or permanent establishment situated abroad shall be obliged to submit, together with the profit tax return, the data necessary to determine the controlled foreign company referred to in Article 30.b of this Act as well the data on the amount of profit which is to be included in the tax base pursuant to paragraph 1 of this Article.

(3) Where the controlled foreign entity or permanent establishment paid the profit tax for the taxation period in which such profit was included in the tax base pursuant to Article 30.b, paragraph 2 of this Act, the paid taxes shall be calculated pursuant to Article 30 of this Act.

(4) The method of implementation of this article shall be prescribed by the Minister of Finance.

Exit taxation

Article 30.d

(1) The taxpayer shall be obliged to include in the tax base the difference between the market value of assets and its value established for taxation purposes when transferring:

1. assets to its permanent establishment in another Member State or in a third country in so far as the right to tax the transferred assets due to the transfer no longer exists although the assets remain under the legal or economic ownership of the same taxpayer,
2. assets from its permanent establishment to its head office or another permanent establishment in another Member State or in a third country in so far as the right to tax the transferred assets no longer exist or
3. business carried on by permanent establishment to another Member State or to a third country so that the right to tax the business of the permanent establishment is acquired by another Member State or third country without becoming resident in that Member State or third country.
(2) The provisions of paragraph 1 of this article shall apply when the taxpayer transfers its tax residence to another Member State or to a third country or becomes a resident of that state or third country, except for those assets which remain effectively connected with a permanent establishment.
(3) The taxpayer who takes over the assets from another country according to paragraphs 1 and 2 of this article shall accept the established value of assets for tax purposes only when they reflect the market value at the moment of transfer.
(4) The provisions of paragraphs 1 and 2 of this article shall not apply if the assets are set to revert within a period of 12 months, or to asset transfers related to the financing of securities, assets posted as collateral or where the asset transfer takes place in order to meet prudential capital requirements or for the purpose of liquidity management.
(5) The taxpayer shall be obliged to declare the changes referred to in paragraph 1, item 3 and paragraph 2 of this article to the Tax Administration within eight days.
(6) The taxpayer may include into the tax base, during five taxation periods, the amount referred to in paragraph 1 of this article with appropriate collateral, in the event of transferring assets to another Member State or a third country that is party to the Agreement on the European Economic Area which has concluded an agreement on the mutual assistance for the recovery of tax claims, equivalent to the mutual assistance provided for in Directive 2010/24/EU concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures. During the time period of deferral, interests shall be calculated for the taxpayer.
(7) The Minister of Finance shall prescribe by virtue of an ordinance the implementation of this article in relation to the assessment of tax base and deferral of exit taxation of assets.

Hybrid mismatches

Article 30.e

1) Within the meaning of article 30f through 30i of this Act, the said terms have the following meaning:
1. mismatch outcome means a double deduction or a deduction without inclusion
2. double deduction means a deduction of the same payment, expenses or losses in the jurisdiction in which the payment has its source, the expenses are incurred, or the losses are suffered (payer jurisdiction) and in another jurisdiction (investor jurisdiction). In the case of a payment by a hybrid entity or permanent establishment the payer jurisdiction is the jurisdiction where the hybrid entity or permanent establishment is established or situated,
3. deduction without inclusion means the deduction of a payment or deemed payment between the head office and permanent establishment or between two or more permanent establishments in any jurisdiction in which that payment or deemed payment is treated as

made (payer jurisdiction) without a corresponding inclusion for tax purposes of that payment or deemed payment in the payee jurisdiction. The payee jurisdiction is any jurisdiction where that payment or deemed payment is received, or is treated as being received under the laws of any other jurisdiction,
4. deduction means the amount that is treated as deductible from the taxable income under the laws of the payer or investor jurisdiction. The term “deductible” shall be construed accordingly,
5. inclusion means the amount that is taken into account in the taxable income under the laws of the payee jurisdiction. A payment under a financial instrument shall not be treated as included to the extent that the payment qualifies for any tax relief solely due to the way that payment is characterised under the laws of the payee jurisdiction. The term “included” shall be construed accordingly,
6. tax relief means tax exemption, reduction in the tax rate or any tax deduction or refund (other than deduction for taxes withheld at source),
7. dual inclusion income means any item of income that is included under the laws of both jurisdictions where the mismatch outcome has arisen,
8. person means a natural person or entity,
9. hybrid entity means any entity or arrangement that is regarded as a taxable entity under the laws of one jurisdiction and whose income or expenditure is treated as income or expenditure of one or more other persons under the laws of another jurisdiction.
10. financial instrument means any instrument to the extent that it gives rise to a financing or equity return that is taxed under the rules for taxing debt, equity or derivatives under the laws of either the payee or payer jurisdictions and includes a hybrid transfer,
11. financial trader is a person or entity engaged in the business of regularly buying and selling financial instruments on its own account for the purposes of making a profit,
12. hybrid transfer means any arrangement to transfer a financial instrument where the underlying return on the transferred financial instrument is treated for tax purposes as derived simultaneously by more than one of the parties to that arrangement,
13. on-market hybrid transfer means any hybrid transfer that is entered into by a financial trader in the ordinary course of business, and not as part of a structured arrangement,
14. disregarded permanent establishment means any arrangement that is treated as giving rise to a status of permanent establishment under the laws of the head office jurisdiction and is not treated as giving rise to a status of permanent establishment under the laws of the other jurisdiction,
15. structured arrangement means an arrangement involving a hybrid mismatch where the mismatch outcome is priced into the terms of the arrangement or an arrangement that has been designed to produce a hybrid mismatch outcome, unless the taxpayer or an associated enterprise could not reasonably have been expected to be aware of the hybrid mismatch and did not share in the value of the tax benefit resulting from the hybrid mismatch.
(2) For the purpose of applying article 30g and article 30h of this Act, the definition of associated parties referred to in article 30b paragraph 7 of this Act shall be modified as follows:
1. where the mismatch comes under paragraph 1, items 2, 3, 4, 5 or 7 of this article or if adjustment was made under article 30g paragraph 4 or article 30h of this Act, the definition of associated party is modified so that the 25 percent requirement is replaced by a 50 percent requirement,

2. natural person or entity, who acts together with another person in respect of the voting rights or capital ownership of an entity shall be treated as holding a participation in all of the voting rights or capital ownership of that entity that are held by the other person,
3. an associated enterprise also means an entity that is part of the same consolidated group for financial accounting purposes as the taxpayer or a enterprise in which the taxpayer has a significant influence in the management or a enterprise that has a significant influence in the management of the taxpayer.

Article 30.f

(1) Hybrid mismatches shall be deemed to occur in the following situations:
1. a payment under a financial instrument gives rise to a deduction without inclusion and such payment is not included within a reasonable period of time and the mismatch outcome is attributable to differences in the characterisation of the instrument or the payment made under it,
2. a payment to a hybrid entity gives rise to a deduction without inclusion and that mismatch outcome is the result of differences in the allocation of payments made to the hybrid entity under the laws of the jurisdiction where the hybrid entity is established or registered and the jurisdiction of any person with a share in that hybrid entity;
3. a payment to an entity with one or more permanent establishments gives rise to a deduction without inclusion and that mismatch outcome is the result of differences in the allocation of payments between the head office and permanent establishment or between two or more permanent establishments of the same entity under the laws of the jurisdictions where the entity operates,
4. a payment gives rise to a deduction without inclusion as a result of payment to a disregarded permanent establishment,
5. a payment by a hybrid entity gives rise to a deduction without inclusion and that mismatch is the result of the fact that the payment is disregarded under the laws of the payee jurisdiction,
6. a deemed payment between the head office and permanent establishment or between two or more permanent establishments gives rise to a deduction without inclusion and that mismatch is the result of the fact that the payment is disregarded under the laws of the payee jurisdiction,
7. a double deduction outcome occurs or
8. a structured arrangement occurs.

(2) For the purpose of paragraph 1, item 1 of this article, a payment under a financial instrument shall be treated as included in income within a reasonable period of time where:
1. the payment is included by the jurisdiction of the payee in a tax period that commences within 12 months from the end of the payer's tax period or
2. it is reasonable to expect that the payment will be included by the jurisdiction of the payee in a future tax period and the terms of payment are those that would be expected to be agreed between non-associated parties.
(3) By way of derogation from paragraph 1 of this article, hybrid mismatches shall be deemed not to occur where:
1. payment representing the underlying return on a transferred financial instrument under paragraph 1, item 1 of this article is made by a financial trader provided that the payer jurisdiction requires the financial trader to include as income all amounts received in relation to the transferred financial instrument,

2. in cases referred to in paragraph 1, items 5, 6 or 7 of this article the payer jurisdiction allows the deduction to be set off against an amount that is a dual-inclusion income or
3. it does not occur between associated parties determined under article 30b, paragraph 7 and article 30e, paragraph 2 of this Act, between taxpayer and associated enterprise between the head office and permanent establishment or between two or more permanent establishments of the same entity or within structured arrangement.

Article 30.g

(1) In the case when hybrid mismatch results in a double deduction, a taxpayer who is:
1. investor, that is, natural person or entity, with direct or indirect shares in capital or voting right of the payee, cannot declare a tax deduction
2. a payer cannot declare a tax deduction if the investor jurisdiction does not deny the deduction.
3. items 1 and 2 of this paragraph shall not apply when the deduction can be set off against the income that is a dual-inclusion income, regardless whether or not it is generated in the current or the next tax period.
(2) In the case when hybrid mismatch results in deduction without inclusion, a taxpayer who is:
1. a payer cannot declare a tax deduction, that is, expenditure,
2. a payee includes in the tax base the amount of payment that would otherwise give rise to a mismatch outcome if the payer jurisdiction does not deny the deduction.
(3) The taxpayer cannot declare the tax deduction for any payment that directly or indirectly funds deductible expenditure giving rise to a hybrid mismatch through a transaction or series of transactions between associated enterprises or entered into as part of a structured arrangement except when one of the jurisdictions involved in the transaction or series of transactions has made an equivalent adjustment in respect of such hybrid mismatch.
(4) In the case when a hybrid mismatch involves disregarded permanent establishment income, the taxpayer shall be required to include the income that would otherwise be attributed to the disregarded permanent establishment, unless income is exempted under a double taxation treaty.
(5) In the case when a hybrid transfer of a financial instrument is designed to produce a relief for tax withheld at source on a payment derived from a transferred financial instrument to more than one of the parties involved, the benefit of a relief related to tax withheld at source in proportion to the net taxable income regarding such payment shall be limited for the taxpayer.
(6) The provisions of paragraph 2, item 2 of this article shall not apply when hybrid mismatches are identified under article 30f, paragraph 1, items 2, 3, 4 or 6 of this Act, that is, when the payee is not the profit tax taxpayer in accordance with this Act.
(7) The taxpayer shall be obliged to raise the tax base for the determined amounts of non-deductible tax or amounts that are added to the tax base under this article and article 30i of this Act, and as regards the amount established under article 30h of this Act, the taxpayer shall be obliged to submit a tax return.
(8) The taxpayer is obliged to submit together with the tax return, the information on transactions with associated persons which resulted in hybrid mismatch, in relation to which the taxpayer raised the tax base or submitted the tax return under paragraph 7 of this article.
(9) Hybrid mismatches resulting in accordance with article 6, paragraph 1 of this Act shall be included with the amounts referred to in paragraph 8 of this article.

(10) The Minister of Finance shall prescribe by virtue of an ordinance the implementation of this article in relation to hybrid mismatches.

Reverse hybrid mismatches

Article 30.h

(1) Where one or more associated non-resident entities holding in aggregate a direct or indirect share of at least 50 % of the voting rights, capital interests or rights to a share of profit in a hybrid entity that is incorporated or established in the Republic of Croatia are located in jurisdictions that regard the hybrid entity as a taxpayer, the hybrid entity shall be regarded as resident and profit tax taxpayer taxed on its income to the extent that income is not otherwise taxed under the laws of any other jurisdiction. The provision of this paragraph shall apply irrespective of article 3 of this Act.
(2) The provisions of paragraph 1 of this article shall not apply on investment funds referred to in article 2, paragraph 8 of this Act.
(3) The Minister of Finance shall prescribe by virtue of an ordinance the implementation of this article in relation to reverse hybrid mismatch.

Tax residency mismatches

Article 30.i

(1) In the case when the taxpayer is a resident for tax purposes also in another jurisdiction and when a deduction for payment, expenses or losses of the taxpayer is deductible from the tax base in other jurisdiction also, the taxpayer may declare the tax deduction only to the amount that the other jurisdiction allows the duplicate deduction to be set off against income that is a dual-inclusion income.
(2) Where, in the case referred to in paragraph 1 of this article, the other jurisdiction is a Member State, the state deemed not to be the residence of the taxpayer under the double taxation treaty shall deny the deduction.
(3) The Minister of Finance shall prescribe by virtue of an ordinance the implementation of this article in relation to residency mismatch.

VIII WITHHOLDING TAX

1 Calculation and payment of the withholding tax

Article 31

(1) Withholding tax within the meaning of this Act is a tax applied to profit generated by a non-resident in the Republic of Croatia.

(2) The withholding tax payer is the payer.

(3) The tax base of the withholding tax is the gross amount of the fee that the domestic payer pays to the non-resident - foreign recipient.

(4) The withholding tax from paragraph 1 of this article is paid for interest, dividends, profit shares, and royalties and other intellectual property rights (reproduction rights, patents, licenses, copyrighted marks, designs, or models, manufacturing procedure, production formulas, sketch, plan, industrial or scientific experience, and other similar rights) paid to foreign persons that are not natural persons.

(5) By way of derogation from the provisions from paragraph 4 of this article, the withholding tax is not paid for interest paid:
1. for merchandise loans for the procurement of goods used
for the performance of business activity of the taxpayer,
2. for loans given by a foreign bank or other
financial institution,
3. to possessors of bonds, both state and corporate,
that are foreign legal persons.

(6) The withholding tax is paid for services of market research, tax and business counselling, and auditing, paid to foreign persons.

(7) The withholding tax is paid at a rate of 15% except for dividends and shares in profit for which the withholding tax is paid at a rate of 12%.

(8) The withholding tax is paid by permanent establishments of a foreign entrepreneur when paying fees from paragraph 4 of this article to the parent company.

(9) By way of derogation from paragraph 8 of this article, if the fee is ascribed as a profit of a domestic permanent establishment of a foreign entrepreneur, withholding tax is not paid.

(10) Withholding tax referred to in paragraph 1 of this article shall be paid at a rate of 15% for remuneration for performances of foreign performers (artists, entertainers and athletes) when remuneration is paid by domestic or foreign payer under agreement with foreign person who is not a natural person which does not give rise to the obligation of assessment of income tax and contributions for natural person who is the performer.

(11) The taxpayer from paragraph 2 of this article shall calculate, stop, and pay withholding tax when paying fees from this article.

(12) By way of derogation from the provisions of this Article, the withholding tax is paid at a rate of 20% on all services and all types of remunerations that are subject to taxation pursuant to this Article when paid to persons having their headquarters or place of effective management, or supervision of business, in the countries placed on the EU list of non-cooperative jurisdictions for tax purposes, with which the Republic of Croatia has no double taxation treaties applicable.

2 Taxation applicable to interest and royalty payments made between associated companies of different Member States pursuant to Directive 2003/49/EC - chapter shall enter into force on the day of accession of the Republic of Croatia to the European Union

2.1 General provisions

Article 31a

Individual notions within the meaning of this Act in applying the Council Directive 2005/49/EC have the following meaning:

1. interest means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest,

royalties means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, including cinematograph films and software, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience. Payments for the use of, or the right to use, industrial, commercial or scientific equipment shall be regarded as royalties.

3. company (payer or beneficial owner):

3.1 is a company with one of the forms for which the common taxation system is used in relation to payment of interest and royalties, valid for associated parties from different EU Member States pursuant to the list in the Annex which is an integral part of the Profit Tax Ordinance adopted by the Minister of Finance,

3.2 for tax purposes, is a resident in a EU Member State, pursuant to the laws of that state, and is not considered to be a resident outside the EU, pursuant to the international treaty on avoiding double taxation, concluded with a non-Member State of the EU,

3.3 is a taxpayer of one of the taxes for which the common taxation system is used in relation to payment of interest and royalties, valid for associated parties from different EU Member States pursuant to the list in the Annex which is an integral part of the Profit Tax Ordinance adopted by the Minister of Finance. A taxpayer shall not mean a company exempted from the profit tax.

4. A company shall be considered associated with another company if:

4.1 the first company (payer) has a direct minimal share of 25 % of the capital of the other company (beneficial owner), or

4.2 the other company (beneficial owner) has a direct minimal share of 25 % of the capital of the first company (payer), or

4.3 a third company has a direct minimal share of 25 % of the capital of the first (payer) and second company (beneficial owner), that being shares between companies from EU Member States.

5. A permanent establishment shall mean a permanent business location in one EU Member State through which a company of another EU Member State performs its business activities in its entirety or partially.

2.2 Payment of interest and royalties

Article 31b

(1) Withholding tax is not paid for interest and royalty payment in case of associated companies from different EU Member States pursuant to article 31.a, item 4 of this Act, on the condition that interest and royalty payments are performed for the beneficial owner of the company from another EU Member State or permanent establishment of the company with a registered office in the Republic of Croatia, located in another EU Member State.

(2) When a company from an EU Member State or a permanent establishment located in another EU Member State pay interest or royalties, it shall be considered that this payment originated from that Member State (origin state).

(3) Paragraph 1 of this article is applied on the condition that minimal conditions prescribed in article 31.a, item 4 of this Act last without interruption for at least 24 months.

Article 31c

(1) A permanent establishment shall be considered a payer of interest and royalties only if this payment represents a tax deductible expenditure for the permanent establishment in the Member State in which it is located.

(2) A company of an EU Member State shall be considered a beneficial owner of interest or royalties only if it receives these payments for its benefit and is not an intermediary, such as an agent, fiduciary or authorised underwriter for another person.

(3) A permanent establishment shall be considered a beneficial owner of interest or royalties if:

3.1. the claim, right to information or information use, for which the interest and royalties are

paid, is effectively connected to that permanent establishment,

3.2. the interest or royalties represent revenue for which that permanent establishment in the EU Member State is a payer of one of the taxes for which the common taxation system is applied for interest and royalty payment between associated parties from different EU Member States pursuant to article 31.a, item 3, subitem 3.3 of this Act.

(4) If the permanent establishment of the EU Member State company is considered a payer or beneficial owner of the interest or royalties, no other part of that company shall be considered a payer or beneficial owner of the interest or royalties.

(5) Provisions of article 31.a - 31.d of this Act shall not be applied to interest and royalty payment to a permanent establishment or to payments effected by the permanent establishment located in a third state outside of the EU, through which, entirely or partially, business activities are performed for a company located in an EU Member State.

(6) Fulfilling conditions from articles 31.a - 31.d of this Act is proven by a confirmation of the competent tax authority at the moment of interest or royalty payment. If the fulfilment of conditions is not proven by confirmation at the moment of payment, the payer shall pay the withholding tax for the payment of interest and royalties.

(7) The method of application of paragraph 6 of this article is prescribed by the Minister of Finance.

Article 31d

(1) Provisions of article 31.a - 31.d of this Act shall not be applied if it is:

1. payments having a character of distributing profit or returning capital,

2. interest for loans containing the right of participation in the debtor’s profit,

3. interest for loans providing the loan issuer the right to exchange its rights for loans with the right of participation in profit,

4. payments from loans not containing provisions for the return of the principal, or if the return of the principal is due 50 years after creation.

(2) If, due to a special relation between the payer and the beneficial owner of the interest or royalties, or between each of them and another person, the amount of interest or royalties is higher than the amount that would have been agreed between the payer and the beneficial owner if such a relation were not present, the provisions of articles 31.a - 31.d of this Act are applied only on the amount that would have been agreed if there were no such relation.

(3) The provisions of articles 31.a - 31.d of this Act shall not be applied if it is apparent that interest and royalty payment was effected for the purpose of tax fraud and tax evasion.

3 Taxing dividends and profit shares between parent companies and associated companies from different Member States

Article 31e

(1) Withholding tax for dividends and profit shares from article 31, paragraph 4 and 7 of this Act is not paid when the dividends and profit shares are paid to the company that has one of the forms for which the common taxation system is applied, valid for parent companies and associated companies from different EU Member States, if:

1. the recipient of the dividend or profit share has at least 10% of the capital of the company paying the dividend or profit share,

2. if the lowest percentage of shares from item 1 of this paragraph is held without interruption for 24 months.

(2) The recipient from paragraph 1 of this article is a company:

1. with one of the forms for which the common taxation system is used, valid for parent companies and associated companies from different EU Member States pursuant to the list in the Annex which is an integral part of the Profit Tax Ordinance adopted by the Minister of Finance,

2. resident in a EU Member State, pursuant to the laws of that state, and is not applied to residents outside the EU, pursuant to international treaties on avoiding double taxation, concluded with a non-Member State,

3. is a taxpayer of one of the taxes for which the common taxation system is used, valid for parent companies and associated companies from different EU Member States pursuant to the list in the Annex which is an integral part of the Profit Tax Ordinance adopted by the Minister of Finance. This does not apply to tax-exempted companies or companies that may choose.

(3) The provisions of paragraph 1 and 2 of this article are not applied if it is apparent that dividend or profit share payment has tax fraud or tax evasion as the main purpose or one of the main purposes.

(4) The method of application of this article is prescribed by the Minister of Finance.

IX CALCULATION AND PAYMENT OF TAX

1 Tax calculation and payment liability

Article 32

(1) Profit tax is calculated for the taxation period, according to the tax base determined for the taxation period and the prescribed rate pursuant to the provisions of this Act.

(2) The taxpayer shall determine the tax base and pay the tax ending with the day of submitting the tax return.

2 Financial records and financial reports

Article 33

(1) The tax base is determined on the basis of data recorded in financial records managed pursuant to accounting and financial report regulations, created based on these regulations (balance sheet, profit and loss statement), unless otherwise provided by this Act.

(2) taxpayers using tax exemptions or reliefs from article 6, paragraph 1, item 5 of this Act shall ensure the necessary accounting supervision of business events and profit calculation for the activity for which these tax exemptions and reliefs are used.

3 Profit tax advance payment liability

Article 34

(1) The taxpayer pays a tax advance on the basis of the tax return for the previous taxation period. The advance is paid monthly by the end of the month for the past month, in the amount calculated when the tax liability for the previous taxation period is divided by the number of months of that period.

(2) The Tax Administration may, based on performed supervision or other available business data for the taxpayer, and at the demand of the taxpayer, adopt a decision changing the amount of monthly advances for the profit tax.

(3) The taxpayer starting to perform an activity shall not pay advances until the first tax return.

(4) For the taxpayer that cannot transfer losses anymore, the Tax Administration shall determine the amount of advances until the first tax return submitted, based on the estimated possibility of profit generation. The advance estimation is determined according to achieved business results after three months.

4 Tax return

Article 35

(1) The taxpayer shall submit a profit tax return for the taxation period and pay profit tax by the deadline in which it submits the tax return.

(2) The profit tax return is submitted to the Tax Administration no later than four months after the expiration of the period for which profit tax is determined.

(3) The taxpayer that is, pursuant to accounting regulations, categorised as a large and middle enterprise, shall submit its profit tax return electronically.

(4) The liability to pay the tax calculated in the tax return for individual taxation periods is reduced by the paid profit tax advance.

(5) Paid tax advances greater than the liability based on the tax return are returned to the taxpayer on its demand, or set-off for the next period.

(6) With reporting profit tax, a balance sheet and profit and loss statement are also submitted.

(7) By way of derogation from paragraph 2 of this article, in the case referred to in article 29, paragraph 3, item 4 and item 5 of this Act, when initiating bankruptcy procedure, profit tax return shall be submitted within 30 days upon expiration of a taxation period, and in cases referred to in items 7 and 8 of the same article, within eight days upon expiration of a taxation period.

(8) Where the taxpayer does not submit the tax return under this article, the profit tax liability shall be assessed in accordance with the general tax regulation, taking into account the available data from previous taxation periods, in particular gained income, established tax liability, assets and bank account balances.

(9) In the case referred to in paragraph 8 of this article, where it can be established based on all objective circumstances that the taxpayer acts as an entrepreneur, the tax liability shall be assessed as if the liquidation procedure, or any other procedure of terminating business activities of the taxpayer under special regulation, is closed.

(10) The form for the profit tax return is prescribed by the Minister of Finance.

X APPLICATION OF OTHER REGULATIONS

Article 36

For determining, payment and return of tax, appeals, limitation periods, misdemeanour proceedings, and other measures in relation to the profit tax, the General Tax Act and the Misdemeanour Act are applied.

XI AUTHORITY

Article 37

The Minister of Finance shall adopt the implementing rules, for the adoption of which he is authorised by the provisions of articles 6, 7, 8, 13, 14, 20, 30, 31 and 35 of this Act within 6 months from the day of entry into force of this Act.

XII PENAL PROVISIONS

Article 38

(1) A fine of HRK 2,000.00 to 20,000.00 shall be imposed on the legal person and natural person - profit tax payer:

1. if it does not determine the tax base pursuant to the provisions of this Act (article 5, paragraphs 1, 2 and 4),

2. if it does not determine the liability for the withholding tax by the prescribed deadline, pursuant to the provisions of this Act, or does not pay it in the determined amount (article 31, paragraph 11),

3. if, after the expiration of the period for determining tax, it does not determine the tax liability pursuant to the provisions of this Act, or does not pay the tax in the determined amount and by the prescribed deadline (article 32),

4. if it does not pay the tax advance by the prescribed deadline (article 34, paragraph 1),

5. if it does not notify the Tax Administration in case of changing the legal form, liquidation, insolvency, merger by incorporation, merger by acquisition, or division by the prescribed deadline (article 39, paragraph 1).

(2) A fine of HRK 2,000.00 to 20,000.00 shall also be imposed on the responsible person at the legal person for misdemeanours referred to in paragraph 1 of this Article.

(3) For repeated misdemeanours from paragraph 1 of this article, a fine of HRK 3,000.00 to 300,000.00 shall be imposed on the legal person and natural person - profit tax payer, and HRK 3,000.00 to 30,000.00 on the responsible person at the legal person.

XIII TRANSITIONAL AND FINAL PROVISIONS

Article 39

(1) The taxpayer in which one of the changes from article 18 and 19 of this Act arose shall notify the Tax Administration in writing within eight days of the change. At the demand of the Tax Administration, the taxpayer shall present additional documents on the mentioned change from the paragraph.

(2) Deleted.

(3) Deleted.

(4) Provisions from article 2, paragraph 4 of this Act are applied since 1 January 2006 based on the realised criteria on the income tax return for 2005, about which the Tax Administration shall be notified in writing no later than by the end of 2005.

Article 40

On the day of entry into force of this Act, the Profit Tax Act (Official Gazette no. 127/00 and 163/03) shall cease to be in force.

Article 41

This Act shall be published in the "Official Gazette" and shall enter into force on 1 January 2005.

NOTE, OG 90/05

Act on Amendments to the Profit Tax Act

Article 2: This Act shall enter into force on the eighth day since its publication in the Official Gazette.

NOTE, OG 57/06

Act on Amendments to the Profit Tax Act

Article 4: The Minister of Finance shall hereby be authorised to harmonise the implementing rules from article 37 of the Profit Tax Act (Official Gazette, no. 177/04 and 90/05) with the provisions of this Act within six months from the day of its entry into force.

Article 5: This Act shall enter into force on the eighth day since its publication in the Official Gazette, and shall be applied since 1 January 2007.

NOTE, OG 146/08

Act on Amendments to the Profit Tax Act

Article 4:
This Act shall be published in the "Official Gazette" and shall enter into force on the day of accession of the Republic of Croatia to the European Union.

NOTE, OG 80/10

Act on Amendments to the Profit Tax Act

Article 14:

(1) For 2010, the tax deductible amount of amortisation and costs of usage of assets, pursuant to article 6 of this Act, shall be determined from the day of entry into force of this Act, for the proportional part of the taxation period.

(2) The Minister of Finance shall hereby be authorised to adopt implementing rules to prescribe in more detail the implementation of articles 4, 6, 7, 8, and 8 of this Act, the method of keeping records and contents of records of costs for private needs from article 2 of this Act, and to adopt a List of states from article 10 of this Act, no later than three months from entry into force of this Act.

(3) The Minister of Finance shall hereby be authorised to harmonise the implementing rules from article 37 of the Profit Tax Act ("Official Gazette", no. 177/04, 90/05, 57/06 and 146/08) with the provisions of this Act within four months from the day of its entry into force.

Article 15:

This Act shall be published in the "Official Gazette" and shall enter into force on 1 July 2005.

NOTE, OG 22/12

Act on Amendments to the Profit Tax Act

Article 2:

This Act contains provisions harmonised with the following acts of the European Union:

– Council Directive 90/435/EEC on the common system of taxation applicable in the case of parent companies and associated companies from different Member States (OJ L 225, 20/ 8/ 1990),

– Council Directive 2003/123/EC of 22 December 2003 amending Directive 90/435/EEC on the common system of taxation applicable in the case of parent companies and associated companies from different Member States (OJ L 007, 13/ 1/ 2004),

– Council Directive 2006/98/EC adapting certain Directives in the field of taxation, by reason of the accession of Bulgaria and Romania (OJ L 363, 20/ 12/ 2006).

Article 9:

(1) Provisions of article 1 of this Act shall be applied in the procedure of submitting the profit tax return for 2012.

(2) Provisions of article 4 of this Act shall be applied for claims after 1 March 2012.

(3) Provisions of article 7 of this Act shall be applied in payment of dividends and profit shares, paid from the day of entry into force of this Act, except in case of payment of dividends and profit shares realised by 31 December 2000, regardless of the time of payment.

(4) The Minister of Finance shall hereby be authorised to harmonise the implementing rules from article 37 of the Profit Tax Act ("Official Gazette", no. 177/04, 90/05, 57/06, 146/08, and 80/10) with the provisions of this Act within three months from the day of its entry into force.

Article 10:

This Act shall be published in the "Official Gazette", and it shall enter into force on 1 March 2012, except the provision of article 1 of this Act which shall enter into force on 1 January 2013, and the provision of article 8 of this Act which shall enter into force on the day of accession of the Republic of Croatia to the European Union.

NOTE, OG 148/13

Act on Amendments to the Profit Tax Act

Article 9: By way of derogation from the provision of article 3, paragraph 1 of this Act, and

article 9, paragraph 4 of the Profit Tax Act ("Official Gazette", no. 177/04, 90/05, 57/06, 146/08, 80/10 and 22/12), claim write-off in the limitation period from non-associated natural persons up to the amount of HRK 2,000.00 is recognised, if the total determined claim per individual person does not exceed the named amount on the last day of the taxation period, and if it was written off by 31 December 2013 at the latest.

Article 10: The Minister of Finance shall hereby be authorised to adopt an Ordinance on the method of realising tax reliefs from performing activities in assisted areas from article 5 of this Act, the List of states from article 6 of this Act, and to harmonise the implementing rules from article 37. of the Profit Tax Act ("Official Gazette", no. 177/04, 90/05, 57/06, 146/08, 80/10 and 22/12) with the provisions of this Act within 60 days from the day of its entry into force.

Article 11: This Act shall enter into force on the eighth day of its publication in the "Official Gazette", except article 5 and article 7 of this Act, that shall enter into force on 1 January 2014.

NOTE, OG 143/14

Act on Amendments to the Profit Tax Act

Article 7:

(1) A natural person generating income from crafts and activities equivalent to crafts shall determine their profit tax liability for 2015 pursuant to conditions from article 2, paragraph 1 of this Act.

(2) This Act is applied in the procedure of submitting the profit tax return for 2014 and onward, except provisions of article 3, paragraphs 4 through 7 of this Act, amending article 6, paragraphs 5 through 7. of the Profit Tax Act ("Official Gazette", no. 177/04, 90/05, 57/06, 146/08, 80/10, 22/12 i 148/13), applied in the procedure of submitting the profit tax return for 2015 and onward.

(3) The withholding tax from article 31 paragraph 4 of the Profit Tax Act ("Official Gazette", no. 177/04, 90/05, 57/06, 146/08, 80/10, 22/12 i 148/13) is not paid in payment of dividends and profit shares if they are paid from profit generated by 29 February 2012.

(4) The Minister of Finance shall hereby be authorised to harmonise the implementing rules from article 37 of the Profit Tax Act ("Official Gazette", no. 177/04, 90/05, 57/06, 146/08, 80/10, 22/12 and 148/13) with the provisions of this Act within 60 days from the day of its entry into force.

Article 8

This Act shall enter into force on the eight day since its publication in the "Official Gazette".

NOTE, OG 50/16

Act on Amendments to the Profit Tax Act

Article 3
(1) The Minister of Finance shall hereby be authorised to harmonise the implementing rules of the Profit Tax Act ("Official Gazette", no. 177/04, 90/05, 57/06, 146/08, 80/10, 22/12, 148/13 and 143/14) with the provisions of this Act within 90 days from the day of its entry into force.

(2) Inauthentic arrangements in relation to realising rights prescribed by article 5a, paragraph 1, supplemented by article 2 of this Act are determined from 1 January 2016.

Article 4

This Act shall enter into force on the eight day since its publication in the "Official Gazette".

NOTE, OG 115/16

Act on Amendments to the Profit Tax Act

Transitional and final provisions

Article 14

(1) For a credit institution that writes off claims for the principal and interest, categorised based on the Decision on classifying placements and liabilities to credit institutions outside of the scope of balance sheets ("Official Gazette", no. 41A/14) as partially recoverable and completely recoverable placements, and the basis of that, sees:

1. expenditures, because the amount of the claim write-off is greater than the amount of the tax deductible expenditure from the reduction of value of the placement expressed in earlier periods, that expenditure is a realised loss and a tax deductible expenditure.

2. revenue, because the amount of the claim write-off is greater than the amount of the tax deductible expenditure from the reduction of value of the placement expressed in earlier periods, that revenue is taxable and is included in the tax base.

(2) Provisions of paragraph 1 of this article shall be applied if the following conditions have been cumulatively fulfilled:

– a claim being written off is expressed as a partially recoverable and completely unrecoverable placement in the financial records of the credit institution by 31 December 2015.

– a claim being written off is expressed in the financial records of the credit institution whose

value was reduced by 31 December 2015, based on the decision from paragraph 1 of this article

– the claim is written off on the basis of debt release within the meaning of a special regulation governing contractual relations, and is effected through a written statement of the credit institution freeing the debtor from liabilities in the stated amount, as well as guarantor's liabilities, because of foregoing the right to demand the fulfilment, and the debtor being in accordance with that statement

– the debtor whose debt is released is not an associated party within the meaning of the Profit Tax Act and the special regulation on credit institutions and

– expenditure from paragraph 1, item 1 of this article is expressed in the profit and loss statement for the period in which the claim was written off based on the debt release.

(3) The taxpayer is liable, together with the profit tax return for 2017, deliver an overview of write-offs effected pursuant to paragraphs 1 and 2 of this article of the Act, per individual placement and loan user.

Article 15

(1) This Act shall be applied in the procedure of submitting the profit tax return for 2017 and onward, i.e. for taxation periods starting with 1 January 2017, except the provision of article 4, paragraph 2 of this Act which shall be applied in the procedure of submitting the profit tax return for 2018 and onward and except the provisions of article 5 of this Act, which shall be applied in the procedure of submitting the profit tax return for 2016 and onward.

(2) By way of derogation from article 12 of this Act, in calculating the profit tax advance from article 34, paragraph 1 of the Profit Tax Act ("Official Gazette", no. 177/04, 90/05, 57/06, 146/08, 80/10, 22/12, 148/13, 143/14 and 50/16) for 2017, on the basis of the profit tax return for 2016, tax rates from article 9 of this Act shall be applied, in which the reduction in tax liability expressed on the basis of article 28.a, paragraph 2 of the Profit Tax Act ("Official Gazette", no. 177/04, 90/05, 57/06, 146/08, 80/10, 22/12, 148/13, 143/14 and 50/16) shall not be taken into consideration.

(3) Taxpayers that reduced the tax base based on article 6, paragraph 1, item 6 of the Profit Tax Act ("Official Gazette", no. 177/04, 90/05, 57/06, 146/08, 80/10, 22/12, 148/13, 143/14 and 50/16) shall apply the provisions of article 6, paragraphs 5, 6, 7, 8, 9, and 10, and article 31, paragraph 11 of the Profit Tax Act ("Official Gazette", no. 177/04, 90/05, 57/06, 146/08, 80/10, 22/12, 148/13, 143/14 and 50/16) after entry into force of this Act.

(4) The provisions of the Profit Tax Ordinance ("Official Gazette", no. 95/05, 133/07, 156/08, 146/09, 123/10, 137/11, 61/12, 146/12, 160/13, 12/14, 157/14 and 137/15) remain in force insofar as not opposing this Act.

(5) The Ordinance from article 7 and article 10 of this Act shall be adopted by the Minister of Finance within 90 days.

(6) The Minister of Finance shall hereby be authorised to harmonise the implementing rules

of the Profit Tax Act ("Official Gazette", no. 177/04, 90/05, 57/06, 146/08, 80/10, 22/12, 148/13, 143/14 and 50/16) with the provisions of this Act within 90 days from the day of its entry into force.

Article 16

This Act shall be published in the "Official Gazette" and it shall enter into force on 1 January 2017, except the provision of article 4, paragraph 2, amending article 7, paragraph 1, item 4 of the Profit Tax Act ("Official Gazette", no. 177/04, 90/05, 57/06, 146/08, 80/10, 22/12, 148/13, 143/14 and 50/16) which shall enter into force on 1 January 2018.

NOTE, OG 106/18

Act on Amendments to the Profit Tax Act

TRANSITIONAL AND FINAL PROVISIONS

Article 8

(1) This Act shall be applied in the procedure of submitting the profit tax return for 2019 and onward, i.e. for taxation periods starting with 1 January 2019, except the provision of Article 4 this Act amending Article 9, paragraph 9 of Profit Tax Act (“Official Gazette”, 177/04, 90/05, 57/06, 146/08, 80/10, 22/12, 148/13, 143/14, 50/16 and 115/16) which shall be applied in the procedure of submitting the profit tax return for 2018 and onward.

(2) The Minister of Finance shall harmonise the implementing provisions of the Profit Tax Act (“Official Gazette”, 177/04, 90/05, 57/06, 146/08, 80/10, 22/12, 148/13, 143/14, 50/16 and 115/16) with the provisions of this Act within 90 days from the day of its entry into force.

(3) The Minister of Finance shall adopt the Ordinance referred to in Article 6 of this Act within 90 days from the day of its entry into force.

(4) The Minister of Finance shall harmonise the Profit Tax Act (“Official Gazette”, 95/05, 133/07, 156/08, 146/09, 123/10, 137/11, 61/12, 146/12, 160/13, 12/14, 157/14, 137/15, 1/17 and 2/18) with the provisions of this Act within 90 days from the day of its entry into force.

Article 9

The Ministry of Finance shall carry out an ex post impact assessment as regards to this Act within two years from the day of its entry into force.

Article 10

This Act shall enter into force on the eighth day from its publication in the “Official Gazette”.

NOTE, OG 121/19

Act on Amendments to the Profit Tax Act

TRANSITIONAL AND FINAL PROVISIONS

Article 16.
(1) This Act shall be applied in the procedure of submitting the profit tax return for 2020 and onward, i.e. for taxation periods starting with 1 January 2020, except for article 13 of this Act in the part whereby article 30h is added to the Profit Tax Act (“Official Gazette”, 177/04, 90/05, 57/06, 146/08, 80/10, 22/12, 148/13, 143/14, 50/16, 115/16 and 106/18), whose provisions prescribe the tax treatment in case of reverse hybrid mismatch, which shall be applied in the procedure of submitting the profit tax return for 2022 and onward, i.e. for taxation periods starting with 1 January 2022.

(2) When calculating the advances on profit tax referred to in article 34, paragraph 1 of Profit Tax Act (“Official Gazette”, 177/04, 90/05, 57/06, 146/08, 80/10, 22/12, 148/13, 143/14, 50/16, 115/16 and 106/18) for 2020, on the basis of profit tax return for 2019, the provisions of article 10 of this Act shall apply.

(3) Natural person who generates an income in the manner prescribed for self-employment activities pursuant to the regulations on income taxation shall asses the profit tax liability for 2020 according to the conditions referred to in article 2, paragraph 2 of this Act.

(4) The taxpayers that determine the tax base through cash method of accounting or in flat rate, shall determine the tax base for 2020 under the provisions of article 4, paragraph 2, or article 5 of this article.

(5) The provisions of articles 4, 8, 11 and 15 of this Act shall apply accordingly to the taxpayers whose business operations were terminated in a summary procedure without liquidation during 2019, if profit tax returns were not submitted for the business period during 2019.

(6) The provisions of article 5 of this Act may apply to taxpayers whose tax liability is assessed for previous taxation periods during 2020.

(7) The taxpayer referred to in paragraph 5 of this article shall be obliged to apply the provisions of the Accounting Act (“Official Gazette 120/15 and 116/18) for the purpose of public notification of annual financial statements in the manner applied in the case of closing the liquidation procedure.

Article 17.
The Minister of Finance shall harmonise the Ordinance on Profit Tax (“Official Gazette”, 95/05, 133/07, 156/08, 146/09, 123/10, 137/11, 61/12, 146/12, 160/13, 12/14, 157/14, 137/15, 1/17, 2/18 and 1/19) with the provisions of this Act within 90 days from the day of its entry into force.

Article 18.
This Act shall be published in the "Official Gazette" and shall come into force on 1 January 2020 except for article 30.h which is added by virtue of article 13 of this Act and which shall come into force on 1 January 2022.

NOTE, OG 32/20

Act on the Amendments of the Profit Tax Act

TRANSITIONAL AND FINAL PROVISIONS

Article 2
This Act shall be applied in the procedure of submitting the profit tax return for 2020 and onward, i.e. for taxation periods starting with 1 January 2020, if the said taxation periods did not end prior to this Act coming into force, and in the procedure of submitting the profit tax return for taxation period starting before 1 January 2020, if the said taxation period for which the profit tax return is submitted did not end prior to this Act coming into force.

Article 3
The Minister of Finance shall be authorised to harmonise the Ordinance on Profit Tax (“Official Gazette”, 95/05, 133/07, 156/08, 146/09, 123/10, 137/11, 61/12, 146/12, 160/13,

12/14, 157/14, 137/15, 1/17, 2/18, 1/19 and 1/20) with the provisions of this Act within 30 days from the day of its entry into force.

Article 4
This Act shall enter into force on the first day from its publication in the “Official Gazette”.