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ADVOKATSKA KANCELARIJA

## LEGAL NEWS

Having in mind recent changes and amendments of legislation in the Republic of Serbia, in this edition of JSP Legal News we are presenting the most important novelties in legislation which could influence your business and which pertain to the following laws:

- Law on Tax Procedure and Tax Administration;
- Law on Income Tax procedure and Law on Mandatory Social Contributions;
- Law on Consumer Protection;
- Law on Mediation;
- Law on Civil Procedure;
- Decree on Conditions and Manner of Attracting of Direct Investments;
- Rulebook on Conditions, Criteria, Manner and Procedure for Inscription of the Medicine to the List of Medicines, Amendments and Supplements of the List of Medicines, i.e. for Removal of the Medicines from the List of Medicines.

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## LAW ON TAX PROCEDURE AND TAX ADMINISTRATION

Having in mind the number of amendments prescribed by the Law on Amendments and Supplements of the Law on Tax Procedure and Tax Administration (“Official Herald of RoS” no. 64/2014) which entered into force on 4 July 2014, we hereby present only the most important amendments.

Filing of tax returns electronically is prescribed for all taxpayers as of:

- 1) 1 October 2014, for corporate income tax;
- 2) 1 January 2015, for excise tax and for income tax of entrepreneurs which keep business books;
- 3) 1 April 2015, for annual income tax of citizens;
- 4) 1 October 2014, for all other taxes.

Authorizations of the Tax Authority (“TA”) are defined in a more detailed manner, with the most important amendment being that there is a possibility of issuance of a misdemeanor warrant. Namely, conducting of misdemeanor procedures is now in the competence of the Misdemeanor Courts, and the TA has only the right to issue a misdemeanor warrant (which orders the offender to pay the prescribed pecuniary fine), but only in exceptional cases. In other cases, the competent court conducts the misdemeanor procedure in accordance with the law.



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## **LAW ON TAX PROCEDURE AND TAX ADMINISTRATION**

Furthermore, it is prescribed that the statute of limitation for determination and collection of taxes and tax benefits does not run during:

- 1) the time from commencement of the administrative dispute until the finality of the court decision;
- 2) the time when the tax procedure may not be initiated, i.e. already commenced procedure is suspended, as prescribed by another law.

Time of suspension shall not be taken into account with respect to the statute of limitation.

As of entering into force, i.e. 4 July 2014, penalty provisions of all tax laws have ceased to be in effect.

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## LAW ON INCOME TAX AND LAW ON MANDATORY SOCIAL CONTRIBUTIONS



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As of 1 July 2014 new incentives based on employment of new persons, prescribed by the Law on Amendments and Supplements of the Law on Income Tax and Law on Amendments and Supplements of the Law on Mandatory Social Contributions (“Official Herald of RoS” no. 57/2014) have entered into force, and shall be valid until 30 June 2016.

The aforementioned amendments of the law stipulate the right for refund of paid taxes and contributions in the amount of:

- 1) 65% if the employment is concluded with at least one, and a maximum of nine new employees;
- 2) 70% if the employment is concluded with at least 10, and a maximum of 99 new employees;
- 3) 75% if the employment is concluded with at least 100 new employees.

New employee is a person which has entered into employment agreement with employer in accordance with the law which governs employment relations, who is registered on mandatory social insurance with the competent organization for mandatory social insurance and who has been registered before the National Employment Service for at least six consecutive months before employment as an unemployed person, or at least three months for the person who is considered as a trainee, and who has not received any kind of work-related income in that period.

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**LAW ON INCOME TAX  
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New employee is not considered to be a person who was employed with the affiliate of the employer, i.e. with the employers which would, if they had not ceased to exist, would be an affiliate of the employer where the new employee starts his employment, regardless of the fact if there was a termination of employment.

Incentive may be realized by an employer if by initiation of employment with the new employee the number of employees with the employer is increased in comparison to the number of employees on 31 March 2014.



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## LAW ON CONSUMER PROTECTION

The Parliament of the Republic of Serbia adopted the new Law on Consumer Protection at its session on 13 June 2014. The Law is published in the “Official Gazette of RS“ no. 62/2014, and entered into force on 21 June 2014, its implementation to commence on 21 September 2014.

The most important novelties are:

- collective protection of customers by which unfair business practice and unfair contractual provisions are sanctioned;
- deadline for dealers to respond to reclamation is 8 days, instead 15 days.

Further, other novelties include:

- imposition of repair of goods in the first six months from the purchase date is prohibited;
- easier filling of reclamation;
- in areas of public economic interest the Associations for Costumer Protection is granted a more significant role;
- more significant role of local government units.

## LAW ON MEDIATION



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The Law on Mediation in Dispute Resolution (the “**Law**”) completely replaces the previous Law on Mediation. It was published in the "Official Gazette of RS", no. 55/2014 of 23/05/2014; it entered into force on 31 May 2014 and shall apply as from 1 January 2015, except for the provisions of Art. 6 to 8 and Article 33, paragraph 5, which shall apply from the day of accession of the Republic of Serbia to the European Union.

The Law provides for the following novelties:

- International mediation;
- Mediation in cross-border disputes;
- Residence or registered office in a cross-border dispute;
- Execution of agreements achieved through mediation in cross-border disputes;
- Mediation procedure;
- Effect of mediation on limitation periods and preclusive deadlines. The statute of limitation periods and specific periods for filing of claims are suspended by commencement of mediation, but only up to 60 days;
- Agreement on resolving of the dispute through mediation;
- Agreement on resolving of the dispute through mediation as an executive title;
- Issuance of a permit for mediation;
- Training of mediators.

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## LAW ON CIVIL PROCEDURE



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The National Assembly of Serbia has adopted amendments to the Civil Procedure Code (“RS Official Gazette” no. 55/2014), which entered into force on 31 May 2014. These amendments relate to several novelties related to proxies; serving of documents; initiating actions against the Republic of Serbia; hearings and extraordinary legal remedy – “revizija”.

**Proxies:** When it comes to natural person, The present amendments to the Code provide that a party in litigation, who is a natural person, may be represented by an attorney-at-law as well as a lineal kin, a sibling, a spouse, or a person with a degree in law and a bar exam who is engaged by the local community to provide legal aid. A natural person who is a party to a labor dispute may be represented by a trade union representative.

Under the amendments, a legal entity may be represented by an attorney-at-law as well as an employee of such legal entity who has graduated from the faculty of law and has passed the bar exam.

Also, as regards to substitution of an attorney-at law, under the present amendments, a party in litigation is no longer under the obligation to state explicitly in the power-of-attorney that the attorney-at-law may be substituted by a legal trainee.



## LAW ON CIVIL PROCEDURE



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**Serving:** If the court is not able to serve the writ to the designated address, it will obtain the correct address from the official competent body, and make the serving to such address.

**Action against the Republic of Serbia:** Under the present amendments, a proposal for amicable settlement of the dispute is merely an option, and not an obligation of the claimant.

**Hearing - required before dismissal of a Complaint:** The new amendments provide that before dismissing a complaint, the court is obliged to hold a hearing where the claimant will be allowed to make a statement regarding the dismissal of the complaint.

As stated in the statement of reasons, these amendments aim to achieve a better protection of claimants' rights in cases where a complaint is dismissed on any grounds provided by the law.

## LAW ON CIVIL PROCEDURE



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“Revizija”: The new amendments have redefined the availability of review, providing that a review is always allowed when a second-instance court has altered the judgment and decided on requests of the parties, as well as in cases where a second-instance court has allowed the appeal, revoked the judgment and decided on requests of the parties (different rulings of first-instance and second instance courts). This allows for a much greater accessibility to the Supreme Court of Cassation and control of final court judgments by the court of highest instance.

Also, the threshold for initiating review before the Supreme Court of Cassation has been lowered. Under the previous version of the Code, the value of a dispute in property-related and commercial disputes had to be in excess of 100,000 EUR and 300,000 EUR respectively, in RSD counter-value at the median exchange rate of the NBS on the day of filing the claim, for the case to merit a review, and now, that threshold has been lowered to 40,000 EUR and 100,000 EUR in property-related and commercial disputes, respectively.

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## DECREE ON CONDITIONS AND MANNER OF ATTRACTING OF DIRECT INVESTMENTS

Decree on Conditions and Manner of Attracting Direct Investments (“Official Herald of RoS” no. 55/2014 and 65/2014) prescribes terms and manners of attraction of direct investments on the territory of the Republic of Serbia, criteria for awarding of funds, dynamics of payment of awarded funds as well as other issues important for increase of competitiveness of the Serbian economy through acquisition of direct investments which have positive influence for opening of new work places, transfer of knowledge and technologies, equal regional development of Serbia, and attraction of investments in tourism.

The amount of funds is determined using criteria specified within the decree in relation to the justified costs of investment or to the justified costs of gross salaries for new work places in two year period upon realization of the investment project.

The amount of funds which could be awarded to big commercial entities is determined up to 50%, for medium commercial entities up to 60%, and for small commercial entities up to 70% of justified costs for the realization of investment project.



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## DECREE ON CONDITIONS AND MANNER OF ATTRACTING OF DIRECT INVESTMENTS

The amount of awarded funds for investments over EUR 50 million cannot be more than 25% of justified costs of investment, and for investments of more than EUR 100 million the percentage may not be higher than 17% of justified costs of investment.

The user of the funds is obliged to secure at least 25% of justified costs from its own funds or through other sources which do not entail state help.

Dynamics of the payment are determined by the agreement on awarding of funds, in accordance with the available budget funds and dynamics of realization of investment.

Deadline for realization of investment and opening of new work places is three years as of the execution of the agreement on awarding of funds, but in exceptional cases this deadline may be prolonged up to five years as of the day of execution of the agreement on awarding of funds.

For big and medium investment projects and project of special importance the deadline for realization of investment and opening of new work places is determined by the agreement on awarding of funds and it cannot be longer than ten years as of the day of execution of agreement on awarding of funds.



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**RULEBOOK ON CONDITIONS,  
CRITERIA, MANNER AND  
PROCEDURE FOR INSCRIPTION OF  
MEDICINE TO THE LIST OF  
MEDICINES, AMENDMENTS AND  
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The Rulebook on Conditions, Criteria, Manner and Procedure for Inscription of a Medicine to the List of Medicines, Amendments and Supplements of the List of Medicines, i.e. for Removal of Medicines from the List of Medicines (“Official Herald of RoS” no. 41/2014) determines the conditions, criteria, manner and procedure for inscription of medicines to the List of Medicines which are prescribed and issued at the expense of the funds of mandatory health insurance (hereinafter: the “**List of Medicines**”).

General criteria for inscription of medicine to the List of Medicines, and amendments and supplements of the List of Medicines are:

- 1) pharmacotherapy justification of the medicine;
- 2) pharmaco-economic justification of the medicine;
- 3) financial funds provided by the Financial Plan of the Republic Fund.

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**RULEBOOK ON CONDITIONS,  
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Special criteria for inscription of medicine to the List of Medicines, and amendments and supplements of the List of Medicines are:

- 1) special agreements; and
- 2) priority of inscription of medicine to the List of Medicines.

The Republic Fund and the producer, i.e. marketing authorization holder may enter into a special agreement in the form of:

- 1) risk-sharing agreement;
- 2) agreement on limitation of number of secured persons whose costs of treatment by the medicine in question is financed by the Republic Fund (“volume cap”);
- 3) agreement on limitation of amount up to which the Republic Fund finances the use of medicine by secured persons (“value-cap”);
- 4) cost-sharing agreement;
- 5) other agreement considered as allowed in accordance with the competition law.

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Special agreement may regulate financing relations between two contractual parties which pertain to medicine which is subject of request for inscription to the List of Medicines as well as other medicines of the applicant which are already on the List of Medicines. The Republic Fund and a producer, i.e. marketing authorization holder of innovative and original medicine of special INN, pharmaceutical shape and power, which is not on the List of Medicines, may execute a special agreement if such agreement would enable inscription of medicine to the List of Medicines in accordance with the general criteria of this Rulebook.

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