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**TAX AND FISCAL LAWS RELATING TO NOT-FOR-PROFIT  
ORGANIZATIONS IN CROATIA**

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## INTRODUCTION

The term not-for-profit organization encompasses all organizations organized and operated with a purpose other than an economic activity or making profit for private gain. With respect to the manner of their financing they could be classified as follows:

- budget beneficiaries – organizations financed exclusively from the state budget or budgets of local administration or self-government bodies
- not-for-profit organizations in the narrow sense – organizations funded by various forms of grants, donations, subsidies, membership fees, contributions etc.

Not-for-profit organizations supported by sources other than state or local budgets, are:

- private citizen associations,
- political parties,
- chambers,
- trade unions,
- sports associations, clubs and other associations,
- professional associations, communities and federations,
- social welfare-humanitarian associations and organizations,
- religious communities,
- youth associations and organizations,
- health institutions with non-budgetary funding (health centers, hospitals, clinics, and other health organizations),
- other legal entities founded in accordance with specific regulations and with the purpose other than making profit.

This paper refers to not-for-profit organizations in the narrow sense -- associations, trusts, foundations and other private institutions not financed exclusively by the state, which is how the term is generally understood in an international context.

### 1. TAXATION OF PROFIT FOR NOT-FOR-PROFIT ORGANIZATIONS

According to Article 2, Paragraph 10 of the Profit Tax Act (People's Bulletin, no. 35/95 and 106/96) not-for-profit organizations founded with a purpose other than

making a profit are exempted from profit taxation. The same applies to the institutions performing activities limited to the purpose for which they are set up.

The By-law on Profit Tax (People's Bulletin no. 7/96, 142/97, and 17/98) further defines not-for-profit organizations and institutions as:

- the Republic of Croatia and state administrative bodies, local administration and self-government entities and their bodies;
- institutions according to the Law on Institutions (People's Bulletin no. 76/93);
- religious communities, political parties, trade unions, chambers, and private citizen associations;
- trusts and other funds organized for charitable, humanitarian, scientific, cultural or similar purposes; and
- other not-for-profit organizations and institutions not corresponding to any of the aforementioned not-for-profit organizations and institutions, entitled to that status by a special decision issued by the Tax Administration.

Institutions and not-for-profit organizations engaged in profit-making activities become liable for tax on the profit generated by those activities. The By-law on Profit Tax provides additional criteria for tax liability. Until December 31, 1997, not-for-profit organizations and institutions financed or co-financed directly from a budget (state, county, municipal or communal) as well as trusts and funds organized for charitable, humanitarian, scientific, cultural and other similar purposes, were exempted from profit taxation under the condition that the income generated by the economic activities be used exclusively for carrying out jobs and tasks or accomplishing the purposes for which the organization was established.

Until December 31, 1997, not-for-profit organizations and institutions earning profit from a regular economic activity in an amount which exceeds 50,000.00 kuna were obligated to calculate and pay profit tax for the difference between the total profit earned and the tax-free profit amounting to 50,000.00 kuna.

As a result of amendments and changes to the By-law on Profit Tax of January 1, 1998 the taxation status of not-for-profit organizations suffered significant changes. Namely, not-for-profit organizations and institutions regularly engaged in profit generating economic activities, besides their principal activity, are liable for tax on the total profit generated by those activities, and not only for the difference between the generated profit and a determined lump amount of the exempted profit. The By-law

does not define a criteria for the regularity of the engagement in an activity. It also fails to regulate tax exemption for those not-for-profit organizations and institutions financed directly from a budget (state, county, municipal or communal). In addition, the By-law has no provisions in relation to the trusts and funds organized for charitable, humanitarian, scientific, cultural and other similar purposes, which use all the profit earned from economic activities exclusively for carrying out the principal purpose for which they were organized.

The profit tax base is not defined as the difference between the income produced by carrying out an economic activity and tax exempted business expenses resulting from the activity in question, but as the difference between equity capital at the beginning and the end of the tax period. Business books are conducted in accordance with special regulations pertaining to not-for-profit organizations. Regarding the transactions connected to economic activities, not-for-profit organizations are required to file income tax returns with a Tax Administration office at the end of each fiscal year. If there are no economic activities, only those not-for-profit organizations with income or property worth more than 5,000 DEM are required to file returns. The income tax return is filed on a prescribed PD form with balance of accounts as well as a profit and loss statement attached to it. The documents in question should be prepared in accordance with the Law on Accounting. In case an economic activity generates a loss, the organization in question is allowed to transfer that loss into the following accounting period. The loss transferred to the following year is subject to interest. The tax loss may be transferred from one year to another for up to 5 years.

## 2. TAXATION OF GRANTS, GIFTS, AND DONATIONS TO NOT-FOR-PROFIT ORGANIZATIONS

Not-for-profit organizations are financed by various forms of subsidies, donations, subsidies, grants, etc., provided by their members or other legal or physical persons. The resources generated in this manner are not subject to taxation if devoted to financing a purpose other than producing income. On the other hand, if the funds received are spent to finance an economic activity carried out by a not-for-profit organization rather than on a non-profit activity then the funds obtained without compensation, in the form of donations, gifts or grants will be subject to taxation as a part of the total revenue generated by that economic activity.

In accordance with the Law and the By-law on Income Tax, a taxpayer will not be entitled to an income tax deduction with respect to donations or sponsorships he or she supplied, unless the recipient provides the donor or sponsor with an adequate reciprocal favor in the form of promotional services related to the donor's company, product or emblem. When no reciprocal favor exists, donations are not tax deductible regardless of the nature of the recipient's organization (humanitarian association, religious society etc.).

However, pursuant to specific legal regulations, there are two cases when donations up to certain amount, are considered tax deductible expenses. First, in the case of donations to free-lance artists or nonprofit organizations engaged in creative activities. Second, in the case of donations to sports associations, institutions or commercial associations carrying out sports activities.

2.1. Tax preferences regarding donations to artistic activities

In compliance with the provisions of Article 21 of the Law on free-lance artists' rights and promotion of cultural and creative work (People's Bulletin no. 43/96, and 44/96) all outflows of resources having monetary value (cash, goods, services) for the benefit of legal entities or physical persons engaged in creative or cultural activities and dedicated to accomplishing those activities are considered tax deductible expenses, under the condition that there are no reciprocal favors by the recipients. The income tax base for physical persons, or the profit tax base for legal entities which are not predominantly owned by the state or local administration and self-government entities, as well as public enterprises, will be reduced by the corresponding amount of the gift.

In accordance with Article 21, Paragraph 2 of the Law on the rights of free-lance artists, an individual may deduct up to 5,000.00 kuna annually, while a legal person may deduct up to 15,000.00 kuna. In special cases, individuals or legal persons may deduct larger amounts upon obtaining a certificate by the Minister of Culture stating that the funds in question will be spent on cultural or artistic programs. The certificate is issued upon a request submitted by a taxpayer – supplier of goods.

Donors, whether legal or physical persons, must provide evidence of the amounts paid to the giro account of the free-lance artist or nonprofit organization. This evidence should include a statement of the giro account, a copy of the transfer order,



the deed of the donation, the donation agreement, the decision issued by the legal entity's authorized body, written documentation of the goods and services rendered including their market value and, in the case of a gift worth over 5,000.00 or 15,000.00 kuna, a certificate of the Minister of Culture. Pursuant to Article 2, Paragraph 1 of the Law on the Rights of Free-Lance Artists, donations received from legal or physical persons of up to 20,000.00 kuna annually are not considered to be income produced by free-lance activity and free-lance artists are not obliged to register such donations received on their giro account as business income in their business books, nor are they requested to include such donations in their annual income tax return, which has to be submitted at the end of each taxation period.

Pursuant to Article 22 of the Law on Rights of Free-Lance Artists, the tax-free portion of an artistic author's fee for a work of art is 25% , provided that the work of art has been certified by an authorized professional artistic association or an authorized agency upon collection of the author's fee.

## 2.2. Tax preferences regarding donations to sports activities

Pursuant to the provisions of Law and the By-law on Income Tax (People's Bulletin no. 111/97) legal persons subject to profit tax may deduct expenses for all outflows of goods bearing monetary value (cash, goods, services) and donated without compensation to organizations, institutions and commercial associations engaged in sporting activities. The tax-deductible amount cannot exceed 500,000.00 kuna annually. Taxpayers subject to income tax may deduct up to 50,000.00 kuna regarding donations to sports activities. Such donations are considered to be expenses which can be deducted from their tax base amount. However, the Minister of Finance can approve larger amounts of tax deductible income or profit in the case of sponsoring national teams.

## 3. TAXATION OF ECONOMIC ACTIVITIES

Generally, not-for-profit organizations are allowed to perform activities for which they are registered, provided that their primary purpose is not making profit. Regulations related to the registration procedure of not-for-profit organizations lack a clear definition of permitted economic activities. In practice, a restrictive principle with respect to registering associations is generally applied: associations including economic activities in their registration documents are often denied registration or

required to delete the proposed activities from their forms, thus eliminating the possibility of doing them. According to this approach, associations should only carry out activities relating to spare time, leisure, amusement, pursuing special interests, humanitarian activities and the like. For example, an association wishing to offer Esperanto courses was not allowed to do so because it was considered to be a commercial activity. In addition, offices authorized to register associations lack uniform standards regarding the definition of an economic activity.

In practice, not-for-profit organizations are generally not permitted to engage in economic activities. Limitation of economic activities to a certain percentage of the entire engagement of an organization is not applied as a principle. However, in exercising this restrictive principle regarding permitted activities, there are some exceptions. For instance, the small number of associations included in the value-added tax system indicates that a considerable portion of these associations' activities is of a commercial nature.

#### 4. NOT-FOR-PROFIT ORGANIZATIONS IN THE VALUE-ADDED TAX SYSTEM

The status of not-for-profit organizations in the value-added tax system is not consistently determined. For example, some not-for-profit organizations are not considered subject to the value-added tax, while others are under certain circumstances.

##### 4.1. Not-for-profit organizations not subject to taxation

In accordance with Article 6 of the Law on Value-Added Tax (people's Bulletin no. 47/95), state authorities, state and local self-government and administration bodies, political parties, chambers and trade unions are not subject to value-added tax because they are not engaged in entrepreneurial activity. In other words, they are not considered entrepreneurs. According to Article 2 Paragraph 3 of the Law, an entrepreneur is a legal or physical person pursuing independently and regularly an income-generating activity. The above-mentioned organizations perform their activities independently and regularly, but the third condition – offering certain deliveries for the purpose of making income – is not satisfied because the principal

purpose of the activities carried out by these organizations is fulfillment of particular interests and goals of their members or of the state not making a profit.

These organizations are eligible for value-added tax exemptions for their deliveries, but not for deductions of the value-added tax (preliminary tax) contained in the purchase invoices received. In other words, the value-added tax calculated in vendors' invoices represents a portion of their purchasing expenses. However, they can be subject to VAT with respect to certain activities. In the case of starting an economic market-competitive activity, the tax exemption for such activity would create certain advantages. Therefore, the Tax Administration issues a decision establishing value-added tax liability exclusively for that particular activity. The decision is issued by the Tax Administration based on their own estimation of acquired conditions or upon the suggestion of another taxpayer or interested party, in which case, the authorized chamber should support the suggestion.

With respect to business activities subject to taxation, not-for-profit organizations are granted the right to deduct the value-added tax amount from the purchases connected to the taxed activity. That means dividing the total amount of the calculated value-added tax on suppliers' invoices (preliminary tax) into two parts: a deductible portion related to the entrepreneurial activity, and a non-deductible portion related to carrying out statutory activities.

In addition to the not-for-profit organizations listed earlier, which are explicitly granted value-added tax exemptions according to legal regulation, the same applies to not-for-profit organizations engaged in supplying goods or services with a total value under 50,000.00 kuna annually (upon deducting the value of tax-exempted deliveries). These not-for-profit organizations are not obliged to include the value-added tax amount in the invoices for goods or services supplied, but they are also not eligible for preliminary tax deductions on their own purchases. Their invoices should specify that the issuer is not included in the value-added tax system. If they want, they can apply for changing their taxation status. The application should be filed with an authorized Tax Administration office. Upon receiving the application (provided it was received before the end of the current year) the Tax Administration will issue a decision stating

that the not-for-profit organization in question is included in the value-added tax system starting January 1 the following year. The decision is considered effective for the period of the next five calendar years.

#### 4.2. Not-for-profit organizations eligible for tax-exempt deliveries

According to the provisions of Article 11 of the Law on Value-added Tax, value-added tax exemption applies to:

- lease services of residential premises;
- medical treatment services provided by health institutions: health centers, ambulance services, clinics, general and specialized hospitals and clinics, and medical treatment services provided by a home care health institution;
- services and deliveries supplied by social welfare institutions;
- services and deliveries supplied by child and youth care institutions;
- services and deliveries provided by religious societies and institutions;
- services provided by educational institutions and student welfare institutions;
- and
- services provided by public cultural institutions: museums, galleries, archives, libraries, theaters, orchestras and other musical or theatrical, conservation, or restoration institutions as well as institutions for protection of cultural monuments.

The lease of residential premises is tax exempt so long as its purpose is for a permanent dwelling. Occasional leasing of residential premises for tourist or business purposes however, is not tax exempted. This is called a functional tax exemption because it applies to the service category and not to the person or organization providing the service.

The other tax exemptions are considered to be of an institutional character, which means that the institutions or societies mentioned earlier are eligible for tax exemption, but only if they act in accordance with the specific regulations determining their activity. All institutions satisfying these conditions are exempted from value-added tax on all services and goods delivered, including deliveries performed within the scope of their supplementary or secondary activity. Consequently, those institutions will be exempted from value-added tax on the lease of their property, calculation of interest, delivery of goods produced by a production

unit that is part of the organization (for example students' workshops in educational institutions) and the like. Invoices for their deliveries have to specify the section of the law that stipulates the tax exemption.

However, with the development of the nonprofit sector, activities concerning child care, education, culture, health and social welfare are just partially covered by state (public) institutions, while the other part is covered by private institutions formed in compliance with the regulations on commercial companies or the regulations on craftsman activity. The organizations carrying out these activities are required to calculate the value-added tax on all services and goods they deliver. The same applies to institutions, that are not eligible for tax exemption pursuant to legal provisions.

#### 4.3. Not-for-profit organizations – subject to value-added tax

Not-for-profit organizations are, in principle, included in the value-added tax system. Only those organizations which are explicitly declared as not being tax liable have their services and deliveries of goods exempted from VAT. The following organizations are subject to VAT only if they perform taxable deliveries worth over 50,000.00 kuna annually, or have applied to be included in the system:

- private citizen associations,
- sports associations, clubs and federations,
- professional associations, societies and federations,
- youth organizations and associations,
- welfare-humanitarian associations and organizations,
- other legal persons founded according to specific regulations and with a statutory purpose other than making a profit.

Not-for-profit organizations within the value-added tax system are responsible for:

- 1) calculating the amount of value-added tax at a 22% tax rate on the total value of their deliveries;
- 2) keeping records of their accounts receivables, accounts payables and goods imported;
- 3) determining their tax liability or rebate based upon issued and received invoices within a taxation period

- 4) submitting the value-added tax return to the authorized Tax Administration office within 10 days of the conclusion of a taxation period;
- 5) paying the calculated tax amount or submitting an application for a tax rebate within the periods prescribed; and
- 6) submitting the final value-added tax return (on PDV-K form) to an authorized Tax Administration office before the end of April for the previous calendar year, and paying the difference between the stated total tax amount and the amount actually paid or applying for a rebate.

The tax included in the suppliers' invoices is considered a preliminary tax amount, so long as the invoice was not paid in cash. As such, the value-added tax is not considered to be an acquisition cost. Regarding not-for-profit organizations financed in part by donations, membership fees, and contributions, or partly by income generated through the delivery of goods and services which are subject to VAT, the requirement to divide the preliminary tax into deductible and non-deductible portions is not explicitly prescribed. The deductible portion of the preliminary tax refers to entrepreneurial activity, while the non-deductible portion refers to non-entrepreneurial activity of the not-for-profit organization. There are different views concerning the right of not-for-profit organizations to completely exercise the eligibility for deduction of the preliminary tax. Therefore, an explanation by the Ministry of Finance is anticipated.

#### 4.3.1. Associations in the value-added tax system

Citizens are allowed to form associations in order to fulfill their political, cultural, sporting or other needs. With the exception of political parties and trade unions, which are not considered tax liable, and religious societies, which are tax exempted for their deliveries and services, other associations are generally subject to taxation if the value of rendered services and delivered goods exceeds 50,000.00 kuna.

Membership fees represent one of the financing sources for an association. They are determined based upon a particular criteria that is applied equally for all members. However, it is not necessary that a membership fee be the same for all members. For example, a membership fee in a professional association could be determined differently for working members, retired members and students. However, it is not

permissible to grant benefits relating to the fee amount. For instance, a membership fee in a tennis club should not be related to the number of allowable hours on a tennis court. In that case, the membership fee can be regarded as compensation for use of the tennis court and not a true membership fee. Since a membership fee does not represent compensation for the delivery of goods or services, it, therefore, is not subject to taxation.

Besides membership fees, various forms of donations can support an association. A donation is defined as a transfer of property for which the transferor receives no compensation. Donations can be in the form of money, goods or rights. A donation in goods or services by an entrepreneur, subject to value-added taxation, is not tax exempt, however. The donor is liable to calculate and pay taxes with respect to the donation in question. Furthermore, the value-added tax is imposed on all deliveries of goods and services regardless of the nature of the donee.

Donations in goods or services by legal persons not subject to value-added taxation are exempt from VAT. Donations in cash are also tax exempt because the Law on Value-Added Tax does not contain provisions on the taxation of monetary transactions, so long as the money in question is not compensation for a service rendered.

#### *4.3.2. Humanitarian associations in the value-added tax system*

There are some specific characteristics concerning the taxation of humanitarian associations. Humanitarian associations carry out the collection and distribution of humanitarian aid in accordance with the Law on humanitarian aid. Their activities are not intrinsically entrepreneurial i.e. their purpose is not making a profit. However, the Law on Value-added Tax does not include humanitarian organizations among the explicitly enumerated organizations entitled to tax exemption. A subsequent commentary by the Tax Administration Central office (letter class: 410-19/97-01/557, file no.: 513-07/97-2 of January 23, 1998) clarifies that the Croatian Red Cross is not considered to be subject to value-added tax, since it is not engaged in entrepreneurial activities. In compliance with this commentary, the Red Cross is tax exempted even with respect to the first aid courses it offers for a fee, as well as blood deliveries to the Croatian Health Care Institute rendered for compensation, although voluntary

donators supplied the blood. This tax exemption is applied regardless of the compensation value demanded by the Croatian Red Cross.

In most cases humanitarian associations are not included in the value-added tax system, i.e. with respect to taxation they have the status of a final consumer. When they buy goods or services on the domestic market, the value-added tax is included in the price. This value-added tax amount cannot be declared as a preliminary tax because humanitarian organizations are not subject to value-added tax.

In the case of donations from abroad and pursuant to the tax exemption prescribed by Law, the customs office will not calculate value-added tax on final import of humanitarian aid. The tax exemption of humanitarian aid will not be administered for import of oil and oil derivatives, tobacco and tobacco products as well as alcohol and alcoholic beverages.

International humanitarian organizations are entitled to special status with respect to taxation. As reflected in the following instances:

1. Provided that the status of a humanitarian organization is made equal to the status of diplomatic and consular representative offices (for example UNHCR) the organization is eligible for the same tax exemption prescribed for diplomatic and consular offices. This tax exemption right is stipulated by the reciprocity principle and refers to the purchase of goods and services for official needs. If state protocol implies reciprocity, then the foreign humanitarian association is eligible for tax exemption on the territory of the Republic of Croatia for the goods and services purchased for official needs as well as private needs of the office staff members with the same status as diplomatic and consular personnel. The tax exemption right is not applicable to the purchase of goods used for humanitarian purposes.

However, under certain conditions, international humanitarian organizations can realize tax exemptions on the purchase of goods, under the condition that the goods will be distributed in Croatia within humanitarian programs and purchased on the Croatian market. The prerequisite for the tax exemption is conduction of an import-export customs procedure prescribed by the provisions of the Trade Act. The procedure permits customs to approve import-export customs clearance of goods



although the goods have not passed the customs line, but approval of all participants in the import-export procedure is necessary. Export delivery is considered to be any direct or indirect delivery of goods to a recipient abroad i.e. outside the Republic of Croatia customs territory, or in other words to an entrepreneur with headquarters or residence outside Croatia. A taxpayer proves an export delivery of goods by an export customs declaration certified by an authorized customs office. The document declares that the goods have passed customs clearance and left the Republic of Croatia territory, and also that collection was carried out in compliance with the regulations prescribed for foreign trade and foreign exchange operations. Provided that the above conditions are satisfied, the entrepreneur delivering the goods to a foreign humanitarian organization is eligible for the value-added tax exemption because the delivery in question is subject to the exemption. Inasmuch as the goods are intended for distribution within a humanitarian aid program inside the Republic of Croatia territory, an import customs declaration designated to the foreign humanitarian organization is issued. The import of goods for the purpose of humanitarian aid is customs exempted with respect to the Customs Law, while pursuant to the Law on Value-added Tax a final import of humanitarian aid is also tax exempted.

2. The Law on Value-added Tax does not grant a general tax exemption for the purchase of goods and services offered by international organizations. However, if the organization in question has signed international agreements with the Republic of Croatia and the agreements are approved and proclaimed in accordance with the Constitution, they can exercise the tax exemptions prescribed by those agreements. According to the provisions of Article 134 of the Republic of Croatia Constitution, the legal power of such agreements takes precedence over the law. Since the regulations on value-added tax fail to prescribe the procedure and technical implementation of the tax exemption ensured by the international agreements ratified by the Republic of Croatia, the Ministry of Finance has suggested the issuing of certificates, which will permit international organizations to prove their tax exemption eligibility consequent to the ratified international agreements (letter to the Ministry of Foreign Affairs class: 410-19/98-01/238, file number: 513-07/98-2 of February 6, 1998). Thus, as a result of ratification of an agreement with the Republic of Croatia, the International Red Cross

Committee is permitted to exercise a tax exemption right on its purchases of goods and services.

## 5. CUSTOMS DUTIES

The Customs Law (People's Bulletin no. 53A/91. to 92/94.) prescribes certain exemptions for the import of goods by not-for-profit organizations. As a result, international organizations are entitled to customs exemption of the items intended for their official needs. The same applies to diplomatic and consular offices of foreign countries in Croatia, and to articles designated for their official needs as well as to diplomatic and consular personnel with respect to articles for their personal use. If the articles exempted from customs duties are to be alienated or given to other person, they must be reported to a customs office in order for custom clearance to be executed.

Humanitarian organizations, associations of the blind and persons with impaired hearing, and associations of persons suffering from muscular and neurological disorders are exempted from duties on the import of specific equipment, devices and instruments, spare parts and operating supplies for the purpose of their needs, and under condition that the goods are produced outside of the country. Duties are not imposed on the import of specific equipment used in various workshops for rehabilitation, employment and retraining of handicapped persons if the equipment is produced outside of the country.

Imports of art collections and art objects by museums and art galleries are not subject to customs if they serve the purpose of carrying out their activities. The same applies to archives importing reproduced archive material. Government bodies, companies, institutions, associations and other legal persons are also exempted from duties on goods received from abroad free of charge for scientific, cultural, religious, humanitarian or welfare purposes. The Customs Administration keeps records on the type, quantity, and value of the goods imported with customs preferences for all these situations.

Pursuant to the decision issued by a customs office, the customs preferences will be declared void if the exempted goods are used for purposes other than the one for which they were exempted. In such case, the beneficiaries of the customs exemption will have to pay duties according to the customs base and rate determined at the moment of import as well as the total amount of default interest accrued.

The Republic of Croatia has ratified the Convention on the import of goods of an educational, scientific, and cultural nature. In conformance with the Republic of

Croatia Constitution, the above mentioned Convention is a constituent part of the Croatian internal juridical system, and accordingly takes precedence over the law. In compliance with the provisions of the aforementioned Protocol the signatory states have agreed to grant exemptions from tax and other internal imposts of any kind, on the import of books and publications designated to libraries. In compliance with the stated provision of the Protocol, the customs office will not impose duties on the books designated to libraries in cases where the import is carried out by means of certain foundations or trusts.

## 6. OTHER TAXES

### 6.1. Capital Transfer Tax

In accordance with the Law on Capital Transfer Tax (People's Bulletin no. 69/97) the capital transfer tax rate is set at 5% and is imposed on acquisitions of real estate property. According to the law, "real estate" refers to land and buildings. The following are subject to value-added taxation rather than capital transfer tax:

- Buildings constructed and delivered and paid for after enactment of the Law on Value-added Tax, are not subject to capital transfer taxation, but to value-added taxation.

For the same reason, the following are subject to value-added taxation:

- buildings and their component parts (individual houses, apartments, business premises, garages, roads, bridges and alike) completed (i.e. constructed and delivered) after enactment of the Law on Value-added Tax,
- those portions of real estate do which are to be completed after enactment of the Law on Value-added Tax.

The following are subject to capital transfer taxation:

- all types of land,
- real estate constructed and delivered before enactment of the Law on Value-added Tax (before December 31, 1997),
- real estate constructed before December 31, 1997 but delivered after that date,
- newly built real estate which is not entirely completed on December 31, 1997, but only for the sections fully completed before that date,

- newly built real estate when delivery is not carried out by entrepreneur but by a person not having entrepreneurial status in the sense of the Law and the By-law on Value-added Tax. Consequently, when the newly built real estate is alienated by a not-for-profit organization, which is not subject to value-added taxation, the acquirer will be liable for the capital transfer tax.

The acquirer pays the capital transfer tax. The tax liability arises at the moment of conclusion of a contract or some other legal business for the purpose of acquiring a real estate. A taxpayer is obligated to report the inception of tax liability to a Tax Administration office in the area where the real estate is situated, within 30 days of the date of inception. Based on the reported tax liability, the Tax Administration will issue a decision on evaluation of the capital transfer tax amount, which is due to be paid by the taxpayer within 15 days.

The Republic of Croatia and local self-government and administration bodies, state government bodies, public institutions, trusts and foundations, the Red Cross and similar humanitarian associations founded according to special regulations are exempted from capital transfer tax. In compliance with this tax exemption, capital transfer tax is not imposed on acquisitions of real estate by the above mentioned institutions regardless of whether the acquisition is realized as a transfer between the institutions or between the institution (as acquirer) and some other person. Nevertheless, if the stated institutions transfer their real estate property to other persons, the persons in question are not tax exempted for the transfer of real estate. The acquirer will be tax exempted only in the case that such transfer of property is free from taxation pursuant to some other modes of tax exemptions regulated by the Law on capital transfer tax, some other laws or international conventions. The capital transfer tax exemption applies also to foreign country diplomatic and consular representative offices under condition of reciprocity, as well as international organizations for which the capital transfer tax exemption is stipulated by an international convention.

## 6.2. The inheritance and gift tax

In compliance with the Law on Financing Local Self-Government and Administrative Bodies (People's Bulletin no. 117/93) inheritance and gift tax is imposed on gift recipients and inheritors (legal and physical persons) for currency and monetary claims as well as for movables with individual exchange value exceeding

the equivalent value of 2,000 German Marks (DEM) in kunas accounted according to the mean exchange rate at the National Bank of Croatia on the day of establishing the liability. The inheritance and gift tax is not imposed in cases where donated or inherited movables have already been subject to capital transfer taxation (value-added tax).

The basis for the gift and inheritance tax amount is the market value of inherited or donated property at the moment of inception of tax liability, depreciated for debts and expenses. The Tax Administration Office or some other authorized body determines the market value. The inheritance and gift tax is paid at a 5% rate within 15 days of receiving a decision on tax assessment issued by an authorized Tax Administration body.

In accordance with the aforementioned law, the inheritance and gift tax is not imposed on the state, local self-government and administration bodies, the Red Cross organization, institutions, trusts, and other humanitarian organizations and associations.

#### 6.3. Tax on organizing entertainment and sports shows

Not-for-profit organizations which are, within the boundaries of their activities, engaged in organizing entertainment and sporting events, such as movies, entertainment, sports and other shows, are subject to tax on the income made on the tickets charged for the shows. The tax rate amounts to 5% of the total value of the sold tickets, and the payment is due within seven days of the date of the show. Payment is made to the account of the county which hosted the show. The income made on tickets for theatre shows, museums, and other cultural shows as well as economic shows and exhibitions, are tax exempted with respect to the tax on organizing entertainment and sports shows.

#### 6.4. Tax on company name

The tax on company name or title is imposed on the legal and physical persons liable for the profit tax or income tax. The city or municipality where the main office or residence of the taxpayer is situated administers this tax. The tax is paid at the annual amount determined by a decision on tax assessment issued by the body authorized for tax administration according to the seat or residence of the taxpayer. Not-for-profit organizations exempted from profit taxation are not subject to tax on the company name.

### 6.5. Administrative and court fees

Public benefit companies in the fields of preschool education, education, science, culture, heritage preservation, health, social welfare and humanitarian organizations do not pay administrative fees in connection with their operation. Humanitarian organizations, organizations dealing with the protection of disabled people and families of victims of the Homeland war do not pay court fees.

## 7. TAXATION OF EMPLOYEES' SALARIES

The salaries of not-for-profit organizations' employees are established in compliance with employment contracts, labor relations by-laws or collective agreements between authorized trade unions and authorized bodies without additional limitations prescribed by special regulations. Employers in not-for-profit organizations assess the amount of income tax for their employees in the same manner as the employers in for-profit organizations or employers – physical persons.

In contrast, salaries of government employees and personnel, as well as public service employees, are determined in accordance with special legal regulations: -- the Law on Government Employees and Personnel and on Salaries of Judiciary Officials (People's Gazette no. 74/94, 7/95), the Law on Salaries of Judges and Other Judiciary Officials (People's Gazette no. 75/95), and the Law on Salaries of Public Service Employees, as well as collective agreements between the Republic of Croatia government and authorized trade unions. The Republic of Croatia government and the authorized trade unions establish dynamics of salary increase by means of mutual agreements.

The following taxation rules apply to not-for-profit organizations as well as for-profit ones.

The employer (or a person supplying salaries) is due to file statistical report on payment of salaries (SPL form) with an authorized money transfer organization (ZAP) not later than the eighth day in a month for the previous month. The principal purpose of the report is to provide statistical data on the fluctuation of salaries. The form is sold at stationary stores or People's Bulletin stores.

The total amount of an employee's salary is decreased for the following compulsory contributions assessed on wages and salaries:

- contribution to Pension and Disability Fund
- contribution to Health Insurance Fund
- contribution to Employment Fund.

An employer providing salaries is entitled to certain preferences with respect to the calculation and payment of salaries.

A legal person is released from payment of contributions to the Pension and Disability Fund as well as contributions to the Health Insurance Fund on the salaries of employees who are disabled Croatian war veterans. With respect to the contributions from the salaries and wages of Croatian disabled war veterans, companies, institutions and other legal or physical persons are liable for a pay health contribution amounting to 50% of the prescribed rate.

Companies, institutions and other legal or physical persons must pay 50% of the prescribed rate for health insurance contributions assessed on and from the wages and salaries of employees who are disabled workers, or disabled persons included in professional rehabilitation programs. Other contributions on and from the salaries and wages of disabled workers are assessed and paid in accordance with the prescribed rates.

Commercial associations and institutions for the employment of the disabled are exempted from payment of pension and disability insurance contributions on the salaries of disabled persons employed or disabled persons included in professional rehabilitation programs, while the health insurance contribution on and from the salaries and wages is paid at 50% of the rate prescribed by law.

The income from non-independent work is decreased by the contributions prescribed by law. The basis for the income tax consists of the total amount of income realized from non-independent work reduced by the amount of the prescribed contributions assessed on wages and salaries and the non-taxable portion of income defined as a personal deduction.

Until January 1, 1997 the primary personal deduction for domestic taxpayers amounted to 800.00 kuna per month annually. The personal deduction for retired



persons is equal to the total pension amount but cannot exceed 2,000.00 kuna per month.

Personal deductions for domestic taxpayers are increased with respect to supporting family members. Increase rates are as follows:

- 30% of the personal deduction amount for supporting a husband or wife or other family members including the first child,
- 10% of the personal deduction amount for the second child. The same rate is added for each following child.
- 20% of the personal deduction amount for supporting a disabled close family member.

The personal deductions are cumulative. The income tax rate amounts to 20% of the income tax base up to the triple amount of the primary personal deduction, i.e. up to the amount of 2,400.00 kuna, or 35% on the income realized above that amount.

The income tax is increased by a surtax, which may be introduced by any city with more than 40,000 inhabitants. The surtax base is the amount of income tax assessed for a taxpayer residing in a city, which introduced the surtax.

The amount of non-taxable income depends on a taxpayer's social status or on certain tax preferences (for example, Croatian disabled war veterans are tax exempted for the income from non-independent work).

The following types of income are tax exempted:

- 1) Based on non-market status:
  - relief provisions for disabled war veterans and close family members of fallen war veterans,
  - relief for destroyed property caused by war, natural disasters and other uncommon occurrences,
  - welfare relief pursuant to special regulations,
  - child care allowance and money received for newborn babies,
  - support for disabled persons based upon regulations on health and pension insurance (for example, compensation for physical injuries, allowance for help and care, compensations for disability),
  - state awards,
  - pensions of domestic taxpayers realized abroad,
  - amounts received for insurance of goods, life, and property,

- amounts received from optional pension plans.
- 2) Based on avoiding double taxation:
  - interest realized on domestic and foreign currency savings, current accounts, credits and loans, and securities,
  - dividends and shares in companies subject to profit taxation,
  - profit made on the sale of financial property.
- 3) Based on particular laws:
  - compensation for military service – the military wages paid directly by the Ministry of defense,
  - compensation to civil security members and other persons regarding activity related to protection from natural disasters,
  - compensation for temporary incapacity for work paid by the employment bureau (for example, cash compensation for period of unemployment - dole), health insurance bureau ( the compensation regarding health insurance) or social-welfare fund,
  - awards to pupils and students with respect to the work within their practical school programs, up to the amount of 1,000.00 kuna per month,
  - income realized by regular students and pupils for the jobs provided by students and pupils associations,
  - compensation for injuries occurring at work,
  - compensation and awards to convicts for work in correctional institutions
  - compensation, allowances, awards, daily expense allowances for business trips, dismissal wages, non-recurring money relief in the case of employee's death, and other financial supports up to the amount stipulated by the provisions of the Article 23. Paragraph 2. of the By-law on income tax.

## 8. GOVERNMENT FUNDING

The funding of not-for-profit organizations in Croatia from the state budget or budgets of local administration or self-government bodies is regulated in various ways. The health care and welfare activities carried out by private institutions are funded either in accordance with agreements concluded for corresponding activity or according to specific regulations. There are particular conditions set up with respect to

founding such organizations. Upon satisfying those conditions, an organization acquires the special status of a private institution becoming a contractual party to an authorized ministry.

At the beginning of July 1998, in compliance with Article 23 of the Law on associations, the Parliament has adopted the "decision on criteria required to establish eligibility for state funding for associations carrying out activities for the benefit of the Republic of Croatia" (Peoples' Gazette no. 86/98.).

The Republic of Croatia is interested in associations pursuing their activities throughout the entire state territory by means of a membership network. The associations are expected to promote the highest constitutional values: freedom, equality, national equality, peacekeeping, social justice, respecting human rights etc. In addition, they must be members of an international organization. An association's programs and activities are assessed in order to determine the fulfillment of these conditions. The Republic of Croatia Government sets up a government commission responsible for assessment of activities performed by associations and the benefits they can carry.

The above mentioned associations can be granted financial support from the state budget, provided that they are engaged in activities outside the scope of state governing bodies. These funds are not granted to associations financed according to special regulations. Those associations are obliged to submit a report on the state of their program realization as well as a financial report on sources of funds.

Support funds obtained from the budget cannot be used to cover the benefits pertaining to the association's members pursuant to special regulations.

The Government of the Republic of Croatia upon the suggestion from the Government Commission sets up the amount of budget funds which will be used to support the aforesaid associations.

Twice a year the Government reports to the Parliament on the amount and distribution of state budget funds to associations beneficial to the Republic of Croatia. There is currently no experience regarding the budgetary financing of associations.

The local administration and self-government bodies (municipalities, cities, and counties) also provide support to associations from their budgetary funds. Some cities introduce competitions for distribution of these funds. However, the major part is distributed without any contest or activity program presentation. In compliance

with the Law on associations (Art. 23 ), the decision mentioned earlier should be consistently applied to grants supplied from municipal, city or county budgets.