

# Tax Newsletter

Amendments and Changes in Tax Legislation

**Grant Thornton Legal and Tax LLC**

*This tax newsletter is aimed to present a brief précis of the main provisions of several changes and amendments made to the tax legislation effective since the 1st of January 2018*



# Value Added Tax

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## Change in VAT reporting period

Unlike legislation provisions effective until 1 January 2018, according to which as a reporting period for Value Added Tax (hereinafter referred to as "VAT" ) calculation and payment was deemed to be each month or quarter depending on the turnover of the taxpayer, currently as a reporting period for VAT calculation and payment shall be each reporting month.



## Refund of VAT recoverable amount

According to Article 74 of the Tax Code, in case a VAT taxpayer, as of the 21st of the month following the end of each semester, has VAT recoverable amount, such amount shall be transferred to the taxpayer's joint account by the results of the review or audit conducted by the Tax Authorities based on the taxpayer's written application.

In accordance with the Tax Code VAT recoverable amount is defined as negative difference between VAT amount calculated for the reporting period for VAT taxable transactions and VAT amounts offset in the manner so established.

It should be noted that in accordance with the previous legislation provisions previously taxpayers might refund VAT recoverable amounts only for VAT zero-rate taxable transactions at the amount not exceeding 20% of VAT zero rate taxable turnover. This provision of the Tax Code has retroactive force and will be applied for the VAT recoverable amounts arising from VAT returns covering periods July-December, 2017 as well.

# Profit Tax

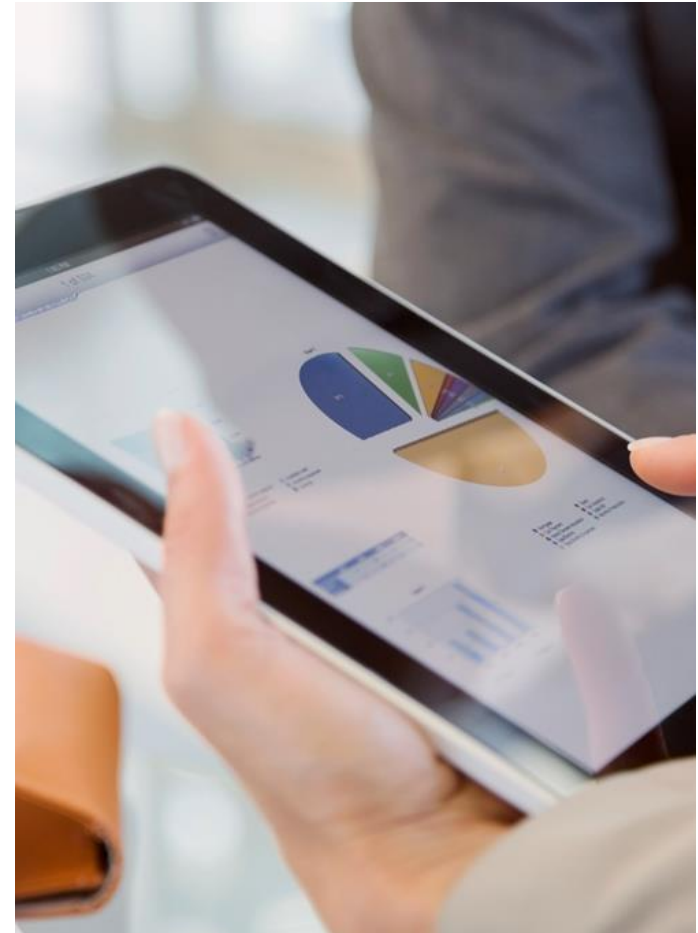
# Profit Tax

## Establishment of new Taxation Mechanism for Dividends payable to non-resident profit tax payer companies

The liability for tax agent to calculate and withheld withholding profit tax from dividends payable to non-resident profit tax payers arise, consequently, for the latter's right to receive income in the form of dividends shall be deemed to be obtained at the date the decision on dividend distribution is made by shareholders meeting.

It is worth mentioning that this provision is applicable for the dividends received by non-resident companies attributable to the periods after the 1st of January, 2017.

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# Profit Tax

## Turn-back to the straight line method of depreciation allowance calculation

The RA Law on “Profit tax” which was in force until the 1 January 2018 prescribes the parallel application of two methods for depreciation allowances and amortization calculation for fixed assets and intangible assets, more specifically straight line method for depreciation and amortization calculation for fixed assets and intangible assets being acquired until 1 January 2014 and “pooling” method for depreciation allowances and amortization calculation for fixed assets and intangible assets acquired after above mentioned date.

The Tax Code establishes straight line method for depreciation allowance calculation with the application of the following minimum depreciation periods:

Asset class	Minimum depreciation period (year)
Buildings, constructions	20
Hotels, recreation houses, rest houses, health resorts, educational institutions and establishments	10
Production equipment	5
Robot equipment and assembly lines	3
Computing and computer equipment, communication equipment	1
Other fixed assets (including livestock, perennial planting stock, and capital investments for land improvement)	8

# Profit Tax

Under the current regulations, fixed assets and intangible assets with a gross value less AMD 50,000 (inclusively) shall be fully expensed from the gross income at the year of acquisition thereof.

In the same time Tax Code establishes a procedure for recalculating depreciation and residual economic lifetime of fixed/intangible assets acquired after the 1st of January 2014, and the net book value of the fixed/intangible assets received as a result of such recalculation will be considered as a net book value of such assets as of the 1st of January 2018.





a gross value less AMD  
50,000 (inclusively)

...acquired after  
the 1st of  
January 2014

...as of the 1st of  
January 2018

# Profit Tax

## Restrictions on deductibility for some kind of expenses when determining taxable base

-  When determining the tax base of profit tax payers, the gross income of profit tax payers shall not be deducted by the amount of the expenses incurred for the assistance rendered to individuals, provision of food and organization of socio-cultural events for them, as well as the part of other similar expenses that exceeds 0.25% of the gross income for the given fiscal year.
-  When determining the tax base of profit tax payers, the gross income of profit tax payers shall not be deducted by the amount of the expenses related to the obtainment of services (or) works from individuals (other than private entrepreneurs and notary) in the scope of civil law contracts pertaining to the part of the expenses that exceeds AMD 3mln monthly (per each individual).
-  When determining the tax base of profit tax payers, the gross income of profit tax payers shall not be deducted by the amount exceeding AMD 12 000 with respect to per diem for each calendar day for a person on business trip within the territory of the Republic of Armenia.
-  When determining the tax base of profit tax payers, the gross income of profit tax payers shall not be deducted by the amount of the expenses for the purchases made with receipts generated by a cash register machine, except for the cases when tax payers taxpayer identification number (TIN) is reflected in respective cash machine receipts. The latter is applicable for legal relations arising after 1 July 2018.



# Profit Tax

## New Due Dates for Tax Calculations/Reports and Payments

- RA Tax Code establishes the deadline for annual profit tax report submission 20th of April (inclusively) of the fiscal year following the respective reporting period, although this deadline is not applicable for 2017 annual profit tax report and the latter should be submitted until the 15th of April 2018 in accordance with the previous legislation provisions.
- Tax agents are obliged in the manner so established to submit the Tax Authorities with a report (and pay relevant non-resident profit tax) on incomes paid to non-resident profit tax payers, calculated and withheld profit tax amounts during the preceding quarter before the 20th of the first month following the quarter end. It should be noted that previously this report should have been submitted on annual basis. Profit tax amounts withheld from the incomes paid by tax agents to non-resident profit tax payer should be paid until the 20th of the month following the quarter in which relevant incomes were paid to non-resident profit tax payer.



# Profit Tax

Profit tax payers are obliged to make profit tax advance payments on quarterly basis before the 20 (inclusively) of the last month of the respective quarter at the rate of 20% of the profit tax amount of the previous fiscal year unless alternative method of advance payments is chosen. For the comparison purposes it should be noted that in accordance with the provisions of the RA Law “On Profit Tax” being in force until the 1st of January, 2018, the profit tax advance payments should have been done before the 15th of the last month of respective quarter at rate of 18.78% of the profit tax amount of the previous fiscal year.

It is worth nothing that profit tax payer may choose alternative method of making advance payments if they have submitted declaration on choosing the alternative method of making advance payment prior to the twentieth of March of the given year.



Taxpayer which chose alternative method of profit tax advance payments shall make advance payments for each quarter in the amount of two percent of the incomes received from supply of goods, performance of works and/or provision of services.

# Income Tax

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## New rates of income tax

In accordance with the Tax code Income tax from the incomes paid to individuals shall be calculated and paid by the following rates, unless other specific tax rates are defined by the Tax Code for certain types of incomes




Monthly Taxable Base	Applicable PIT rate
Up to and including AMD 150,000	23%
From AMD 150,000 up to AMD 2,000,000	AMD 34,500 plus 28% of the amount exceeding AMD 150,000
Over AMD 2,000,000	AMD 552,500 plus 36% of the amount exceeding AMD 2,000,000

There have been also changes in terms of special tax rates, in particular:

- dividends received by foreign citizens and individuals without citizenship are subject for income tax at the rate of 10% while dividends received by RA citizens are subject for income tax at the rate of 5%.
- Taxation of dividends received by foreign citizens and stateless persons shall enter into force starting from the 1st of January, 2017 and shall extend to the dividends declared after the 1st of January, 2017, while the provision related to the income taxation of the dividends received by the citizens of the Republic of Armenia shall extend to the dividends declared after the 1st of January, 2018;
- incomes paid by tax agent without supporting documents (invoice or agreement), will be subject for income tax at the rate of 20%.

# Income Tax

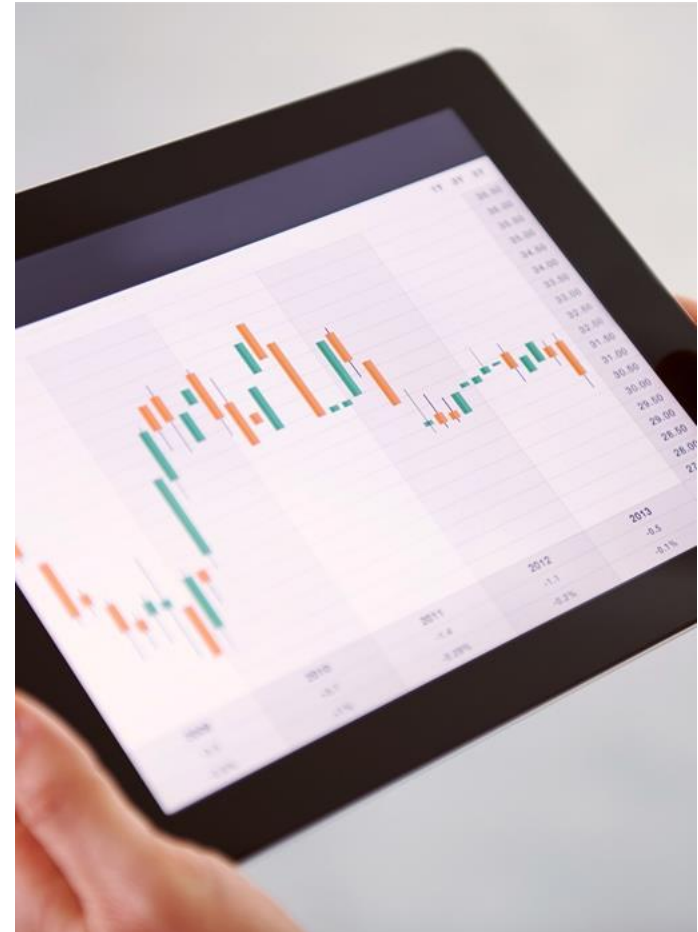
## Changes in Reporting deadline and introduction of the requirement for the annual information

-  Tax agents are obliged to submit new employee registration application (except for foreign citizens and stateless persons without residence permit in the Republic of Armenia) to the Tax Authorities not later than the date proceeding the actual work starting day. For comparison purposes, it is worth noting that previously this obligation for registration application should have been fulfilled before the 20th of the month following the employment date.
-  Tax agents shall submit to the Tax Authorities personal information on the individuals, who received only passive incomes during the previous tax year, as well as foreign citizens and stateless persons without residence permit (residence status) in the Republic of Armenia, personal information (except for information deemed to be a banking or insurance secret) on their incomes and the income tax calculated and withheld from those incomes before the 20th of April (inclusively) of the tax year following each tax year.
-  The deadline for employee/contractors termination applications is also tightened, in particular termination applications (both for employees and contractors) as well as employee's application for vacation for taking care of child under the age of three should be submitted no later than the 3rd working day following the date of termination/vacation start.



# Changes of general character

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- In case of delay in paying taxes on time, the taxpayer (or tax agent) is liable to a fine at the rate of 0.075% of the amount of the tax overdue for each day of delay, but not in excess of up to a maximum of 730 days. It should be noted that previously the percentage of the fine imposed to the taxpayer (or tax agent) for such delay was at the rate of 0.15% and the maximum period of the time for which such fines can be calculated was no more that 365 days.
- Transactions executed within the framework of the electronic commerce can be documented on the basis of the documents issued by payment and settlement organizations or the document issued/printed by the payment instruments (devices) applied by these organizations.



# Changes of general character

-  The tax bases with regard to the transactions related to the import or export of goods and original costs of goods shall be determined:
- in case of operations relating to import of goods from the non-EAEU-member states or export of goods to the non-EAEU-member as of the date of the customs declaration for the import or export of goods respectively based on the average market exchange rate published by the Central Bank of Armenia as of that day;
  - in case of operations in connection with import of goods from the EAEU member states or export of goods to the EAEU member states, as of the date of the tax declaration for the import of goods or export of goods respectively based on the average market exchange rate published by the Central Bank of Armenia as of that day;
  - where the obligation for calculating and paying the value added tax with regard to the transaction involving supply of goods, performance of work or rendering of services carried out by a non-resident organization should be borne by a resident organization or non-resident organization having registered permanent establishment in the Republic Armenia who is considered to be a party to the transaction (reverse charge VAT mechanism), the formed tax bases and original costs shall be determined as of the date of issuance of the relevant settlement document (reverse charge VAT invoice issuance date) based on the average market exchange rate published by the Central Bank of Armenia.
-  Average market exchange rate for the above mentioned transactions shall be taken exchange rate published by the Central Bank of Armenia by 16:00 of the given day shall serve as a basis for determining the average market exchange rate published by the Central Bank of Armenia on the given day.



# Transfer Pricing: key points

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## Controlled Transactions



The following transactions shall be controlled in accordance with the Tax code:

- ▶ transactions between resident and non-resident related parties;
- ▶ transactions between resident related parties when at least one of the parties is a royalty (nature utilization payment) payer or takes use of the tax incentives or conducts economic activity in the free economic zone;
- ▶ transactions between the Armenian taxpayers and the persons registered in offshore zones, regardless of their affiliation.

## Related Parties



In particular, the following parties are deemed to be related:

- ▶ one of the taxpayers is directly or indirectly involved in the management, supervision of the other taxpayer or has a participation (stock, share, unit) in the authorised or share capital of the other taxpayer;
- ▶ the same taxpayer is directly or indirectly involved in the management, supervision of two or more taxpayers or has a participation (stock, share, unit) in the authorised or share capital thereof.

# Transfer Pricing: key points

## The Arm's Length Principle

- ▶ According to the Tax Code the taxable income (profit) in the controlled transactions and royalties are consistent with the arm's length principle, unless these transactions differ from those which should have been applied to the comparable uncontrolled transactions.
- ▶ The Tax Code also defines the procedure for determining the comparability of transactions.
- ▶ If the conditions of a controlled transaction do not meet the arm's length principle, the tax authorities may make appropriate adjustments

## Transfer Pricing Methods

The Tax Code defines the following Transfer Pricing (hereinafter referred to as "TP") Methods:

- 1 Comparable Uncontrolled Price method
- 2 Resale Price method
- 3 "Cost Plus" method
- 4 Transactional Net Margin method
- 5 Profit Split method

It should be noted that at selecting the TP Method under the Tax Code, the priority is given to the Comparable Uncontrolled Price method.

Upon application of the most appropriate TP method, an arm's length range – a range of relevant financial indicators (e.g. price, margin, revenue or profit share) is produced to a number of comparable uncontrolled transactions.

# Transfer Pricing: key points

If the financial indicator of a controlled transaction, which is derived from application of appropriate TP method, is within the arm's length range, the controlled transaction is not subject to adjustment. Otherwise, the tax authorities may adjust it and any such adjustment shall be to a point in the arm's length range.

## Report on Controlled Transactions

According to the Tax Code taxpayers shall be obligated to submit to the competent authorities a report on controlled transactions no later than the 20th of April of the year following the reporting year, if the total amount of the transactions is in excess of the threshold of AMD 200 million.

Taxpayers shall be also obliged, within 30 days upon receipt of a written request by the tax authorities, to submit paper or electronic copy of the TP documentation, which prove the compliance of the controlled transaction (transactions) with the arm's length principle.

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