Ivana M. Božić Miljković[*]
https://orcid.org/0000-0002-3311-7841

UDC 336.226.12(497.11)

DOI: 10.5937/MegRev2401033B
Review scientific paper
Received 15.03.2023.
Approved 13.11.2023.

CORPORATE INCOME TAX – EXPERIENCES OF IMPLEMENTATION IN THE REPUBLIC OF SERBIA[**]

Summary: *Companies are independent economic entities that have the competence and legitimacy to carry out a certain type of activity. As such, companies act in the market, are in the role of buyers and sellers, enter into contracts, own property, incur debts and resolve potential problems in legal disputes. Just like any other person who engages an activity and earns income from it, the company must pay taxes on the profit it earns from this activity. Profit tax belongs to the category of direct taxes. Revenue from corporate income tax accounts for approximately 6% of the total tax revenue of the Republic of Serbia. The rights and obligations of companies as taxpayers under this measure of tax policy in the Republic of Serbia are regulated by the Law on Profit Tax of Legal Entities. The importance of profit tax as a measure of tax policy can be observed and analyzed from the aspect of its impact on state revenues. In this context, the corporate income tax is one of the elements of achieving the basic fiscal goal: collecting public revenues to cover public expenditures. Also, the application of regulations in the field of taxation of positive business results has certain implications for the company's operations, and as such, is very important for business decision-makers in the company. That part of the fiscal policy determines the total volume of investments in equipment and facilities, the types of those investments and the method of their financing. The effects of the application of legal provisions, which in practice regulate the issue of profit tax, on domestic companies are often compared with the effects that this measure of fiscal policy has on companies and states from the region. On the other hand, the experiences of the European Union in this area are of great importance, and the monitoring of those experiences, as well as the application of European regulations in this area, can be extremely useful from the perspective of the state and its economic entities.*

Keywords: *corporate profit tax, revenue, GDP, tax balance, double taxation*

[*] Vanredni professor, Univerzitet Metropolitan Beograd, Srbija.
E-mail: ibozicmiljkovic@gmail.com

[**] This paper is the result of the project "The impact of tax policy on the economic growth of the Republic of Serbia", which was realized in the period January-June 2022 in cooperation with the Faculty of Economics and Finance of the Union Nikola Tesla University in Belgrade and the Union of Employers of Serbia.

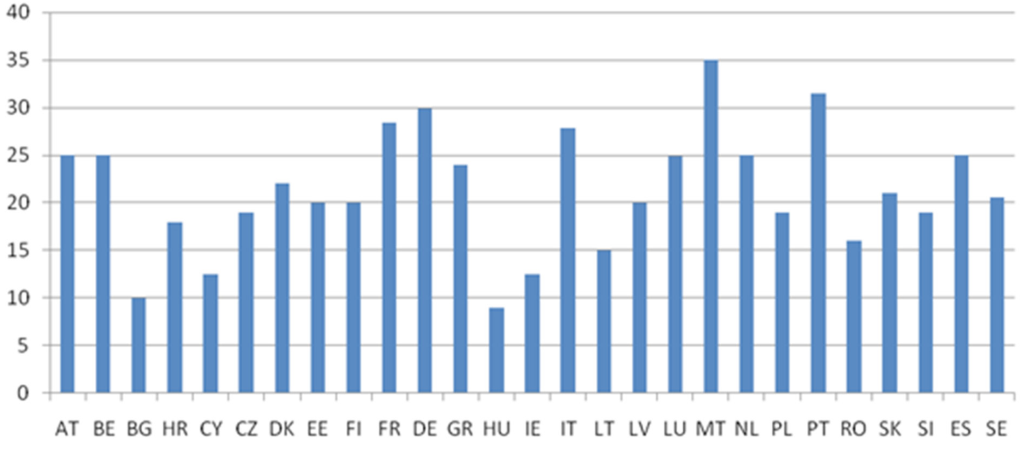
1. FISCAL ROLE OF PROFIT TAX

Corporate income tax is one of those taxes that are the result of the development and improvement of tax systems and are of great importance in the modern market economy. It is a type of direct tax that captures part of the realized profit of legal entities that can be residents or non-residents. A legal entity that is a taxpayer can be organized as a partnership (entrepreneur, partnership, limited partnership), capital company (joint-stock company, limited liability company), public company, and a branch of a foreign company that is registered as a permanent business unit in the Republic of Serbia but only if the international agreement on the avoidance of double taxation does not stipulate otherwise. According to the Law on Profit Tax, a taxpayer is both a cooperative that generates income by selling products on the market or providing services for a fee, but also those organizations that were not established to generate profit, if they generate income by selling products and providing services. The tax base for the calculation of profit tax is the difference between total income and total operating costs with possible additional reductions for investments or accelerated depreciation. The process of precisely determining profit as a tax base is followed by a series of issues such as the method of inventory calculation, determination of depreciation rates, recognition of interest on used loans, application of accelerated depreciation and investment incentives, the inclusion of tax benefits, fiscal treatment of tax losses, etc. (Ristić, Ristić, 2014:387).

The introduction and development of this model of taxation in business practice are based on the fact that companies are independent entities in which the ownership function is separated from the control function, and as such are subject to the obligation to pay this form of tax. On the other hand, there is also an understanding that the profit tax represents a kind of „insurance" for the income tax of natural persons. This opinion is based on the fact that in the absence of profit tax, individuals could very easily avoid paying income tax (Gorčić, Anđelković, 2005:755). By buying shares, that is, by investing capital in corporations, the income of natural persons becomes the property of the company and as such is subject to taxation. In that case, the taxpayers are the same person from an economic point of view, although they are legally separate - some invest the money as natural persons, and the corporation in whose shares they invest money is a separate legal entity and a separate taxpayer. The taxation of the corporation, as an independent entity, entails the taxation of the shareholders, and the problem of double economic taxation may arise. There are different approaches to solving this economic problem. The way that is recognized as reliable in modern economic systems is a well-ordered relationship between corporate income tax and personal income tax (Miljković, Savić, 2018:61) Compared to other forms of taxation, corporate income tax has a relatively modest fiscal significance. In the structure of tax revenues of the Republic of Serbia, the share of profit tax is about 6%. This tax form is very suitable for the realization of the economic goals of taxation, such as: stimulating economic growth, mitigating regional and sectoral disparities in the economy, encouraging employment, improving the ecological situation, etc. (Gorčić, Anđelković, 2005:755). According to the Profit Tax Law, the profit tax rate for legal entities is 15% and it is proportional and uniform, that is, it is applied to all forms of legal entities regardless of their size and scope of business activities. According to the provisions of the Law, the corporate income tax is determined by self-taxation, and that means that the legal entity must submit a tax return within 180 days from the end of the period for which the tax is calculated, along with the tax balance. The tax return should contain the income tax calculation for the current year. The law also foresees the possibility for the taxpayer to pay profit tax during the year in the form of monthly installments, the amount of which is determined based on the taxable profit stated in the tax return for the previous year. The deadline for submitting the tax return for the previous year is the end of June of the current year. The advance payment for the first six months of the current year is paid based on the advance payment from the last month of the previous period, and at the end of that period, the advance payment is adjusted upwards or downwards to bring the total amount into line with the amount of total tax from the previous period (Popović, 2017).

2. TAX POLICY IN SERBIA, THE REGION AND THE EUROPEAN UNION - TRENDS AND CHARACTERISTICS

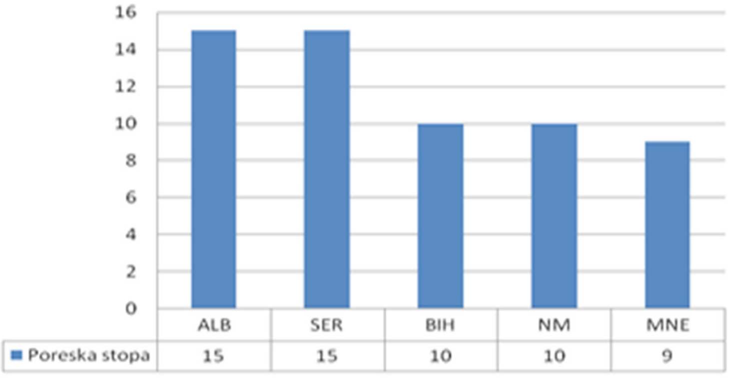
Observed in the European framework, the introduction of a mandatory collection of corporate income tax belongs to the ranks of relatively recent legal and economic activities. From a historical point of view, for a long time, there was an opinion that business entities do not have income in the economic sense and that they should not be taxed as such, but taxation should be done by the natural persons of the shareholders. Profit tax, as an economic category, was first introduced in 1862 in Prussia, and then in Switzerland, in 1913 it was introduced in the USA, in 1920 in Germany, and 1937 in England (Jović, 2018:75). The obligation to pay this tax in the Kingdom of Serbs, Croats and Slovenes was regulated in 1928 by the First Law on Direct Taxes. That law introduced the obligation to pay tax on income from land (land tax), tax on income from buildings (house tax), tax on income from companies, shops, and self-employment, rent tax, tax on profits of companies obliged to submit public accounts (social tax) and tax on income from employment and occupation (official tax) (Kovačević, Ilić, Damnjanović, 2017:11). The social tax was the closest to the corporate income tax known today in market economies, and it included all state-owned enterprises and financial institutions. Profit tax, by its name and elements of calculation, is a product of the market way of doing business and as such is characteristic of capitalist economies. In the tax system of Serbia, this form of tax was introduced on January 1, 1992, as a corporate profit tax (Šipovac, Vesić, Đukić, 2013:77). To date, the law has undergone numerous amendments and additions, and in principle, its provisions regulate the method of determining and collecting income tax, as well as the method of distributing income on this basis between the Republic and the Province. The most basic measure of corporate income tax is the tax rate prescribed by law. The way this rate is defined varies from country to country, where there may be special rules that apply depending on the size of the company or the industry in which the company operates. In all countries, the creation of the profit tax base includes a wide range of laws that regulate compensation for capital expenditures, contribution deductions, assessment of the volume of assets up to which expenses can be deducted, etc. Graph 1 provides an overview of corporate income tax rates in the countries of the European Union.



Graph 1: *Corporate income tax rates in the countries of the European Union in 2020 (in %)*

Source: European Commission, Data on Taxation, https://ec.europa.eu/taxation_customs/taxation-1/economic-analysis-taxation/data-taxation_en dostupno 3/11/2021

Based on the presented data, we can conclude that among the observed countries, Malta has the highest corporate income tax rate of 35%, followed by Portugal with 31.5%, and then Germany and France with 29.9% and 28.4%, respectively. The lowest corporate income tax rates are Hungary 9%, Bulgaria 10% and Cyprus and Ireland each 12.5%. On average, European Union countries levy corporate income tax at a rate of 21.3%. This rate is below the world average which, measured in 177 tax jurisdictions, was 23.9% in 2020 (Asen, E, 2020). Compared to the countries of the European Union, Serbia could be classified in the group of countries with a lower tax rate, according to the corporate income tax rate. However, compared to the countries of the Western Balkans, Serbia has the highest corporate income tax rate. Albania is on a par with Serbia, while Montenegro has the lowest corporate income tax rate, where it is 9%.



Graph 2: *Corporate income tax rates in the countries of the Western Balkans in 2020 (in %)*

Source: Gjokutaj, A, Gjokutaj, E. (2020). Taxation Trends in Western Balkans 2020, A Comparative View of Taxation and Legal Framework for Businesses and Individuals in Western Balkan, pp.118

From the above data, a general conclusion can be drawn that the level of corporate income tax rates is in line with the economic strength of the state and its development potential in the corporate sector. The fact that the amount of income from this type of tax is not conditioned by a high tax rate does not diminish the importance of the tax rate. This is especially true for foreign direct investment: when deciding where to report income, the foreign company will take into account all allowances and deductions that the host country offers. Thereafter, tax on any excess income will be charged at the statutory rate. The legal tax rate is therefore a key factor in determining the location of profits, i.e. the place where the real economic activities of the company will take place.

3. TAXATION OF COMPANY PROFITS IN THE REGION AND THE EUROPEAN UNION

The member states of the European Union represent a destination for capital investments of many transnational companies, and on the other hand, they themselves show a high level of investment activity in the European and world frameworks. As a single market, the European Union has numerous specificities when it comes to all forms of taxation. Within the European Union, tax harmonization is achieved through the coordination of the tax systems of the member states. This means that each member state of the European Union has the right to maintain a fixed tax system. Within that system, each member state can independently make a decision on the level of the profit tax rate and the level of the taxation base with the obligation to harmonize them with the regulations valid within the Union.

The directive of the European Commission from 2011 adopted the system of consolidation and the introduction of a common system of taxation of parent and subsidiary companies of various member states of the European Union. In order to tax the income of companies active in different member states, a consolidated tax base is calculated, which is then distributed among the member states according to a formula that includes factors such as employment, assets and sales. According to the provisions of this Directive, EU member states are not allowed to calculate and collect withholding tax on dividends paid to a parent company based in one-member state by a branch operating in another member state (https://lexparency.org/eu/32011L0096/). The system of calculation and collection of profit tax established by this Directive was the subject of discussion among member countries. Namely, the introduction of a common consolidated tax base was not in the interest of the member countries with attractive tax regimes, considering the tax competition that prevails between the member countries. (Princen, S, 2012: 164). Regardless of all the shortcomings of the company's profit taxation system, the profit tax has remained an important source of income in the European Union and, as can be seen from the data shown in Table 1, it is around 2 to 2.5% of GDP in 2020.

Table 1: *Structure of tax revenues in selected countries of the European Union and the Western Balkans in 2020*

	Personal income tax		Income tax		Insurance contribution		VAT		Excise taxes	
	participation in total tax revenues (in %)	% GDP	participation in total tax revenues (in %)	% GDP	participation in total tax revenues (in %)	% GDP	participation in total tax revenues (in %)	% GDP	participation in total tax revenues (in %)	% GDP
AT	27,9	11,9	4,4	1,9	11,2	16,1	17,6	7,5	5,8	6,2
GE	25,8	10,2	3,9	2,0	25,4	14,1	21,3	6,9	11,5	5,1
IT	28,3	10,8	7,3	2,9	30,9	14,7	20,2	8,9	7,1	4,4
SI	19,3	7,3	5,1	1,9	45,3	17,2	19,9	7,5	5,6	2,3
CR	16,0	6,6	6,1	2,4	31,9	11,8	30,6	13,7	11,3	2,8
RO	13,7	4,8	9,2	2,1	34,2	11,3	30,4	6,2	12,0	3,7
BG	14,1	5,5	10,5	2,0	29,1	8,9	35,4	9,2	13,9	4,8
HU	20,3	6,6	10,3	1,2	42,1	11,8	22,4	9,5	10,4	3,0
PL	17,1	7,9	11,0	2,2	39,4	14,6	26,5	8,0	12,6	4,0
SER	16,3	3,9	6,1	2,3	19,5	7,5	25,6	9,9	5,3	4,8
BiH	9,2	3,8	8,4	1,6	24,9	8,0	30,0	-	45,3*	-
N. M.	9,5	4,2	5,4	1,8	15,3	10,5	24,4	7,7	11,9	4,4
AL	8,8	2,1	7,0	1,8	13,1	5,7	-	8,4	49**	3,4

Source: Author's calculation based on the database: for European Union countries:[1]

[1] https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Tax_revenue_statistics For Serbia: Republic Institute of Statistics https://data.stat.gov.rs/Home/Result/09020107?languageCode=sr-Cyrl; for Bosnia and Herzegovina: Administration for Indirect Taxation www.newuino.gov.ba/bs/statistika; for North Macedonia: https://finance.

The data presented in the table show that in the structure of tax revenues of the developed countries of the European Union, direct taxes have a larger share than indirect taxes, while in Serbia and the countries of the region, the opposite is true. This structure of tax revenues in Serbia and the region can have a positive impact on future growth because it tends to rely more on consumption taxation than on income taxation (Vranješ, 2008:107). It can be a stimulus for the development of investments in these countries. The largest share in the structure of tax revenues comes from VAT, followed by insurance contributions and personal income tax. Corporate income tax and excise taxes have the smallest share in the structure of tax revenues.

4. ELEMENTS OF CORPORATE INCOME TAX

The elements of corporate income tax are defined by the Law on Income Tax and their joint engagement is a function of correct calculation and timely fulfillment of tax obligations while respecting the possibility of applying for certain tax benefits under the conditions prescribed by the Law. The elements of corporate income tax are 1. A taxpayer, that is, a business entity that generates income on the market through its economic activity, and on that basis, in conditions where costs are lower than income, make a profit. The institution of the taxpayer includes two basic forms of organizing business companies: a company of persons (entrepreneur, partnership, or limited partnership) and a capital company (limited liability company and joint stock company). According to the provisions of the Law on Profit Tax, the taxpayer is also a public company, a cooperative that generates income by selling products or providing services for a fee. Also, the taxpayer is another legal entity that generates income mainly by selling products or providing services for a fee, that is, a non-profit organization if it generates income by selling products or providing services for a fee (Profit Tax Act, Article 1). By the provisions of the Law on Profit Tax, both residents and non-residents of the Republic of Serbia have the same status as taxpayers. A resident taxpayer is a legal entity that is established or has a place of actual management and control in the territory of the Republic of Serbia, that is, it pays tax on the profit it makes in the territory of the Republic and outside it (Law on Profit Tax, Art. 2). A non-resident is a legal entity that was established and has a place of actual management and control outside the territory of the Republic of Serbia, i.e. it pays tax on the profit realized by doing business through a permanent business unit located in the territory of the Republic (Law on Profit Tax, Art. 2 and Art. 3). The taxpayer expresses his intention to

gov.mk; For Albania: IMF https://www.elibrary.imf.org/view/journals/002/2016/143/article-A003-en.xml.

* According to the available data, the share of indirect tax revenues from a single account (excise duties, tolls) other than VAT is shown

** According to the available data, the total share of VAT and excise taxes in total tax revenues is shown pay income tax by submitting a tax return for the prescribed tax period, which is more closely defined in Art. 63-68 of the Law on Profit Tax and the User's Guide issued by the Tax Administration of the Republic of Serbia. 2. The second element of corporate income tax is the tax base, which is made up of profit, which is the difference between total income and total expenses, shown in the income statement of the company, and then also in the tax balance. 3. The third element of corporate income tax is the tax rate. According to the Law on Profit Tax (Article 39), the corporate profit tax rate is proportional and uniform and amounts to 15%. The principle of proportionality was applied so that, from the aspect of profitability, all taxpayers would have equal treatment and avoid double taxation of profits.

The introduction of the principle of uniform taxation of all companies, regardless of which economic branch and activity they belong to, is justified from the aspect of simplifying the administrative procedure of taxation and reducing costs on that basis. However, there are countries in which a single rate of taxation is not applied, but is determined based on the amount of annual gross income or depending on the activity. For example, in Albania, companies with an annual turnover of up to 14 million Albanian Lek are exempt from the obligation to pay profit tax, while those whose annual turnover exceeds the mentioned amount pay a profit tax at the rate of 15%. In Albania, there is a third group of taxpayers who are subject to profit tax at the rate of 5%, namely those whose activities are production and software development, agriculture, and agritourism (www.taxsummaries.pwc.com). Also, in Croatia, companies with an annual income of up to HRK 7.5 million are taxed at a rate of 10%, while companies whose annual income is higher than the mentioned amount are subject to a profit tax rate of 18% (the Republic of Croatia, Ministry of finance). 4. The fourth element of the corporate income tax is tax relief, which can be motivated by the stimulation of economic growth, the development of small and medium-sized enterprises, the need for a greater inflow of foreign investments, the reduction of unemployment, and the improvement of the quality of the environment. Tax benefits by definition mean the elimination or reduction of tax obligations for a certain period (Nar, 2020:1). The tax relief can be granted in the form of a complete exemption from the payment of the tax liability, in the form of a reduced tax rate at which the tax is calculated, or it can be a combination of the mentioned two ways in the sense of a complete exemption from the payment of profit tax for a certain period, after which, in for a defined period, the tax is calculated at a tax rate that is lower than the reference rate (Easson, Zolt, 2003). The implementation of the concept of tax credits differs from country to country, however, regardless of the differences in application foreseen by the legislator, the introduction of tax credits is the function of encouraging domestic and foreign capital investments in certain economic branches or geographical areas, in the function of reducing unemployment or in the function of motivating business entities to increase their income perform daily activities in accordance with the basic principles of environmental protection. The tax relief can be applied as a reduction of the tax rate/base or a complete exemption from the obligation to pay taxes. The Law on Profit Tax foresees a complete exemption from profit tax for a newly established legal entity that carries out innovative activities, then for a legal entity that invests more than one billion dinars in its fixed assets and employs at least one hundred persons for an indefinite period of time, as well as the legal entity that trains and employs disabled persons in proportion to the participation of those persons in the number of employees (Law, part six).

5. THE IMPACT OF PROFIT TAX ON THE ECONOMIC DECISIONS OF COMPANIES

Corporate taxation policy is a key part of each country's tax system that directly affects the current and future business decisions of their managers and owners. The profit tax determines not only the costs of capital and labor but also the net present value of future production, on which the future investment activity of the company depends. The importance of optimally designed tax policies that will ensure optimal growth of production and investments within the company, and on the other hand favor economic growth and national well-being, has been additionally emphasized in the last few decades by the increased international mobility of capital in search of lower tax burden and lower production costs as competitiveness would be ensured (Bonucci et al, 2015:228). The results of numerous studies show that, precisely because of the pronounced international mobility of capital in the modern economy, the strongest negative impact on economic growth is the corporate profit tax (Johansson et al, 2008: 63). When it comes to transnational companies, differences in the national tax laws of the countries in which their branches operate can be a source of additional tax burdens and make financial management procedures within the system more complicated. Complying with the tax rules of each country in which they locate their business is a heavy administrative burden for these companies and results in high compliance costs and can also lead to double taxation. When making a decision on the allocation of its capital and choosing the country in which it will perform its business activities, the transnational company will, in addition to general macroeconomic indicators, be guided by the taxation policy, i.e. the level of the corporate income tax rate in force in that country. On the other hand, states that do not have enough of their accumulation and are developmentally dependent on the inflow of foreign capital will strive to create a positive investment climate suitable for attracting foreign investments. Among the more significant instruments that can influence the decisions of potential investors on the placement of their capital and the choice of location for business activities is certainly a stimulating tax environment. Tax competition itself implies that one jurisdiction tries to attract foreign capital by offering favorable tax treatment to foreign investors, usually through tax breaks or the possibility of repatriating profits, while at the same time lowering the tax base or tax rate. (Marjanović, Domazet, 2018: 6). In this way, countries increase their investment competitiveness and get much-needed capital. The company's profit taxation policy affects, in addition to investments and asset structure, company financing, and dividend policy. The tax system encourages larger investments in those types of assets that are subject to the calculation of depreciation at high rates (electronic data processing equipment, application software, IT infrastructure equipment, etc.). In this sense, the structure of assets is also changing in favor of a greater share of the mentioned assets and assets belonging to the group to which high depreciation rates are applied (Regulations on the method of classifying fixed assets by group). If the company operates successfully, part of the profit is set aside for the payment of dividends to the founders or shareholders. There is also another possibility of paying a share in the profit, which is that instead of paying dividends, the founders are paid increased wages (bonuses), which implies the cancellation of the profit in that amount. Observed from the aspect of taxation, and bearing in mind that income from capital and income from wages have different tax treatment, it would be a more tax-rational solution for the company to pay out increased wages (bonuses) than to declare profits that are taxed by corporate income tax, from which dividend was paid out, which is taxed with personal income tax as income from capital (Porezi i računovodstvo, 2020:215).

6. TAX BASE, CORRECTION OF INCOME AND EXPENDITURE AND TAX BALANCE

As stated above, the basis for calculating income tax is the company's profit, which is the difference between total income and total expenses determined by tax regulations. Profit, as a positive result of the company's operations, is reported in the income statement, and then also in the tax balance. In the way of defining the tax base, there are no systematic differences between Serbia, the countries of the region, and the countries of the European Union. Given that we are talking about different tax systems, it is logical that the individual solutions contained in those systems differ from each other, but these differences do not have a decisive impact on the amount of the tax burden based on the profit tax (Raičević, Randjelović, 2008:8). The tax systems of European Union countries recognize as total costs only those that are the result of performing activities, but there may be differences in their definition and structure (Devereux, Fuest, 2010:25).

The situation is similar both in Serbia and in the countries of the region. For example, it is common for all of them that the dividends received by resident legal entities from resident persons represent non-taxable income and are not included in the tax base, while on the other hand there is a restrictive approach in recognizing the costs of paid fines and penalties, representation costs, donations and gifts (Raičević, Ranđelović, 2008:9). Expenses that have a humanitarian character (donations and gifts) in some tax systems are not included in the structure of total expenses, while in others they are partially recognized. The profit shown in the income statement and based on it in the tax balance is taxable. To define the taxable profit as precisely as possible, the legal regulations foresee the possibility of corrections of the profit and loss account, both on the income side and on the expenditure side, and only after these corrections the taxable profit enters the tax balance. On the income side, the income from transactions between related legal entities, which were carried out in transfer prices, is adjusted by reducing the values of those transactions to market prices. The value of inventories is also corrected by defining their sales value on the date of submission of the tax balance sheet. Corrections on the expenditure side include the previously mentioned expenditures for specific purposes (costs of representation, donations, and gifts), that is, their write-off or partial amount in which they will be recognized is determined. Also, corrections on the expenditure side include the costs of materials and the purchase value of goods, which must be expressed using the average price method, then gross earnings, which are treated as business expenses and are not included in taxable profit, as well as depreciation, which must be consistently implemented using the method that is chosen at the beginning of the amortization period concerning the application of the rates that are prescribed by law. In almost all European countries, depreciation for taxation purposes is calculated according to the proportional method, while for some categories of fixed assets the application of the degressive method is also approved (https://www.oecd.org/tax/). Tax depreciation rates in European Union countries range from 8% to 33.3% for machines and from 2% to 8% for construction objects (https://www.europarl.europa.eu/workingpapers/econ/105/part2c_en.htm). In Serbia, tax depreciation rates range from 2.5% to 30%, depending on the group in which intangible assets are classified. The tax balance sheet is a document in which the taxable profit is stated and which, along with the tax return, forms an integral part of the documentation that a legal entity as a taxpayer submits to the tax authority. The content of the tax balance sheet is determined in more detail by the Rulebook on the content of the tax balance sheet and other matters of importance for the method of determining corporate income tax („Official Gazette of RS", no. 20/2014, 41/2015, 101/2016, 8/2019, 94/2019, 159/2020 and 97/2021).

7. TRANSFER PRICING AND GROUP TAXATION

Different tax rules applied in different tax systems can also lead to double taxation. Although there is a network of agreements between countries on the avoidance of double taxation, this type of taxation is still often present, especially when it comes to branches of transnational companies or related legal entities on other grounds that apply transfer prices in mutual transactions. Transfer prices are prices that, as a rule, are lower than those at which business would be conducted on the market, and are applied to reduce the tax base. In the literature, transfer prices are referred to as „at arm's length" prices, while market prices are known as „out of arm's reach" prices (Ilić Popov, Kostić, 2011:154). The price of goods sold by one related company to another should be determined according to the principle of „arm's length" and should be tax treated in the same way. This principle requires related companies to act as if they were independent parties and to conduct transactions with each other at market prices. In the taxation of company profits, apart from transfer prices, there is also the phenomenon of group taxation. Group taxation refers to the parent company and its subsidiaries that together form a group of companies. Different legislations determine differently the conditions that must be met for a set of certain subsidiaries to be considered a group. In Serbia, this form of association of companies is defined by the Law on Business Companies. A group of companies has the right to perform group taxation and tax consolidation (Mikerević, 2018:294). The parent company submits a request for consolidation to the competent tax authority, and upon approval of the request, it can apply group taxation. The advantages of group taxation consist of the fact that the losses of one part of the group members can be compensated by the gains of another part of the group members, which reduces the total taxable profit of the group. However, this convenience carries a certain amount of risk arising from the observance of the principle of permanence. Namely, once approved tax consolidation remains in effect for a certain legally prescribed period. If this deadline is not met and if one of the companies exits the group taxation system, all companies from the group must compensate the state treasury for the amount of tax that was reduced due to tax consolidation (Đurović Todorović, Đorđević, 2010:284).

8. MEASURES TO ELIMINATE DOUBLE TAXATION

The corporate income tax system includes two forms of tax and, accordingly, two types of taxpayers - corporate income tax, which is the obligation of the taxed business entity, and personal income tax, which is paid by stockholders on dividends paid. In connection with that, the question arises whether the company should be taxed as an independent legal entity or the profit of the company should be distributed to the shareholders before taxation. From the point of view of the shareholders, in both cases there is double taxation - their income from dividends suffers a double tax burden, once through the profit tax, and the second time through the personal income tax. In tax practice, there are two concepts of taxation: the classical system and the system of tax integration (Gorčić, Anđelković, 2005:755). The classic system of corporate profit taxation implies the taxation of corporate profits, and then the taxation of dividends as part of the shareholders' income. The separation of these two categories of income into separate tax entities, i.e. the absence of integration of corporate income tax and personal income tax, is called double taxation. This type of taxation system causes certain negative consequences for companies and the economy (Jelčić, B, Jelčić, B, 1998:235): - It encourages capital companies to retain rather than invest the realized profit; - Since, when determining the tax base of profit tax, debt interest is deducted, but dividends are not, such treatment favors the financing of investments through loans instead of own capital; - Due to the higher tax burden on profits in those economic entities that are organized as capital companies about the tax burden on entities that are not, there may be disruption of the optimal allocation of capital, which may lead to the transfer of capital from the corporate to the non-corporate sector of the economy. Contrary to the classical system of corporate profit taxation, modern tax systems recognize partial tax integration as a more efficient and fair model of corporate profit taxation. Partial tax integration includes measures that can be implemented at the corporate level or the shareholder level. At the heart of this model is the provision of tax relief to shareholders for the taxation of their share of profits, which aims to reduce or eliminate double taxation. The system of partial deduction of dividends is based on a procedure in which a certain percentage of paid dividends is deducted from the corporate income tax base (Ilić Popov, 1995:747). This system also has certain disadvantages, which are reflected in the fact that the number of dividends deducted from the tax base can be determined arbitrarily. Also, with the system of partial deduction of dividends, the tax relief does not have an immediate effect on the shareholders, but that effect becomes visible after a larger number of accumulated dividends, that is, the relief can be talked about when there is a capital gain from the disposal of shares. Measures that eliminate double taxation result in a greater decrease in budget revenues than measures that only reduce it. These measures include (Popović 1997:647-655):

- at the company level: a system of complete rejection of dividends, and
- at the shareholder level: full imputation system and full dividend exemption system.

9. CAPITAL GAINS AND LOSSES

According to the Law on Profit Tax of Legal Entities, capital gain is considered to be the income that the taxpayer realizes through the sale or other transfer for a fee: 1) immovable property that he used, that is, that he uses as a basic asset for performing activities, including immovable property under construction; 2) industrial property rights; 3) shares in the capital of legal entities and shares and other securities, which in accordance with IAS, i.e. IFRS and IFRS for SMEs, represent long-term financial placements, except for bonds issued in accordance with the regulations regulating the settlement of the Republic's obligations on the basis of a loan for economic development, foreign currency savings of citizens and debt securities whose issuer, in accordance with the law, is the Republic, an autonomous province, a local self-government unit or the National Bank of Serbia; 4) investment units purchased by an open investment fund, in accordance with the Law regulating investment funds (Articles 27-31). The law also defines what is considered the sale and purchase price of a property for which it is necessary to determine whether there is a capital gain or loss, as well as the conditions under which capital losses and gains can be set off, as well as cases in which the occurrence of capital gains is postponed and losses. Capital gains of resident legal entities are not taxed separately but as an integral part of the income tax base (www.pktatic.rs). This is because capital gain is usually impossible to determine precisely. For some types of assets such as, for example, gold, the only return is capital gain, and it can be determined with great precision (Stiglitz, 2008:602). However, in the case of a company, there may be various circumstances that affect the formation of assets: type, method of its valuation in business books, how the asset was acquired, etc. All of the above complicates the procedure for determining capital gains. The same applies to the determination of capital losses. A decrease in the value of an asset represents a negative return, and to determine the net amount of the loss, that loss must be subtracted from the realized total return. The problem of complex determination of increase and decrease in property value is regulated by tax legislation by allowing the taxpayer the benefit of the uncertainty. In the case of capital gains, usually, no tax has to be paid before the gain is realized or before the asset is sold (Stiglitz, 2008:602). The concept of benefit from uncertainty is applicable in the case of assets because it is difficult to accurately determine the value before buying or selling, but it does not apply to assets such as securities, whose turnover is realized in highly active markets. The method of taxation of capital gains is determined by the form of organization of the company. With a capital company, when selling property at a price that is above its book value, the capital gain is added to other business income and thus taxed. In the case of a company of individuals (entrepreneurs), capital gain occurs indirectly: the capital asset sold for a fee is income, and the book value is an expense, so we can talk about capital gain if the selling price is higher than the book value (Pezerović, 2013:42). The sector of small businesses and entrepreneurial activities is, by the way, a sector of the economy, where taxes on capital gains can significantly affect the efficiency of production. For example, if an entrepreneur has ambitions to leave the existing company and start a new business, he could sell his current company to another entrepreneur. In that case, the tax on capital gains can be a big obstacle, and the company remains to survive, that is, it operates with significantly lower efficiency than it would have achieved in the hands of another owner.

10. REFORM TASKS AND RECOMMENDATIONS

The performance of income from corporate income tax varies significantly among European countries. Revenues collected through the collection of profit tax are not only conditioned by the legal tax system, that is, by the amount of the tax base and the tax rate but are also influenced by the economic environment in which the company operates, as well as the way the company is managed. In economies that are developmentally dependent on the inflow of foreign capital, income from profit tax is conditioned to a large extent by macroeconomic and fiscal regulations of the state towards foreign investors. Fiscal policy and the state's attitude towards foreign investors in terms of profit taxation have a significant, though not decisive, influence on investors' decisions about the destination of capital placement. Apart from fiscal policy measures, investors' decisions are influenced by several other economic and non-economic measures. When it comes to small economies, open to the inflow of foreign capital, the repatriation of profits is of great importance in the realization of income from income tax. In other words, regardless of the country in which they perform their economic activity, transnational companies that have branches in several countries can use the right to move profits to the country that offers the most favorable tax treatment. In this way, profit shows greater mobility than capital, which means that differences in tax rates between countries can affect the movement of profit more than the movement of capital and the economic activity associated with that capital. In revising the elements of the corporate tax structure, each country should pay attention to the level of the tax rate, follow the trend of corporate tax rates in other countries, and resist competitive pressures with its tax policy in this area. Corporate income tax is unevenly reflected in companies' investment decisions. Fiscal policy conducted in that area can, most often through the level of the tax rate, treat economic branches differently or make a difference between companies according to the level of annual income. Decisions in this area can direct companies to make investment decisions in favor of assets or economic branches that enjoy privileges, that is, to the detriment of those that do not enjoy privileges. For this reason, the system of proportional and uniform taxation is the most optimal. Capital gains, i.e. the increase in the value of assets over time, is another way in which a return on capital is realized and should be taxed in the same way as income. However, there are problems here related to the precise determination of capital gains and losses. Capital gains can be determined and taxed only after the asset is sold. A high capital gains tax rate can cause a retention effect: individuals may hold on to assets (businesses) because selling them would pay high taxes. In this way, the company remains to survive in the market, that is, to operate below the efficiency limit. Also, the decrease in the value of the company's capital cannot be determined in a simple and precise way. Depreciation is usually used to assess depreciation, which should correspond to real depreciation to comply with the principle of tax neutrality. In modern tax systems, a major reform challenge is to find ways to reduce double taxation. Given that profit, as capital income, is taxed at the company level, there is a need to identify the appropriate treatment of such income when it is paid to shareholders as a dividend. In the literature, there are several methods for mitigating the effects of double taxation, which are based on the experiences of developed countries. For example, the application of a lower rate of personal income tax, the application of a lower rate of corporate profit tax on part of the distributed profit, or the imputation system. The imputation system is the most complicated in terms of application, but it can have positive effects in the long run. This system takes place through three phases: in the first phase, tax is paid on the total realized profit, in the second phase, the total, undistributed, dividend is taxed at progressive rates, and in the third phase, a tax credit is granted for the tax paid at the company level. Such a system is applied by most of the countries of the European Union, and when considering the reform of the profit tax, one should be guided by their experiences. In the countries of the European Union, direct taxes (including profit tax) have a dominant share in total tax revenues. The profit tax in those countries is not only significant from the aspect of collecting funds for financing public spending but also represents an instrument for the successful management of fiscal policy and for the reform processes that are carried out within that policy. The tax reform in Serbia should follow the reform in this area implemented by the countries of the European Union, in terms of harmonizing fiscal burdens and harmonizing the level of tax rates. In addition, Serbia should monitor the dynamics and quality of changes in the tax structure of European Union countries. Harmonization of the tax structure is important a determinant of the quality of the domestic fiscal reform, and it is also in the function of economic rapprochement with the European Union.

LITERATURE

- Asen, E. (2021). “Corporate Income Tax Rules in Europe”. https://taxfoundation.org/2021-corporate-tax-rates-in-europe/
- Barbara Jelčić, Božidar Jelčić, *Porezni sustav i porezna politika*, Informator, Zagreb, 1998, str. 235.
- Bonucchi, M., Ferrari, M., Tomasini, S. & Tsenova, T. (2015). “Tax policy, investment decisions and economic growth.” *Revue de l’OFCE*, 141, 225-262. https://doi.org/10.3917/reof.141.0225
- Devereux, M. P., & Fuest, C. (2010). “Corporate income tax coordination in the European Union”, *European Review of Labour and Research*, 16(1), 23–28. https://doi.org/10.1177/1024258909357699
- Đurović Todorović, J. & Đorđević, M. (2010). *Javne finansije*. Ekonomski fakultet Niš.
- Easson, A., Zolt, M. (2003). “Tax Incentives For Foreign Direct Investments.” *World Bank Institute*, Washington D.C., pp.370-371. Dostupno na: http://siteresources.worldbank.org/INTTPA/Resources/EassonZoltPaper.pdf
- EU Parent-Subsidiary Directive https://lexparency.org/eu/32011L0096/

- Gjokutaj, A, Gjokutaj, E. (2020). *Taxation Trends in Western Balkans 2020, A Comparative View of Taxation and Legal Framework for Businesses and Individuals in Westrn Balkan*. ALTAX Center.
- Gorčić, J. & Anđelković, M. (2005). *Javne finansije, finansijsko pravo I ekonomija javnog sektora*. Pronikom d.o.o. Beograd
- Gordana Ilić-Popov, "Oporezivanje dobiti preduzeća u Srbiji: poreska integracija ili klasični system", *Pravo i privreda*, 5-8/97, str. 747.
- https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Tax_revenue_statistics
- https://finance.gov.mk;
- https://taxsummaries.pwc.com/albania/corporate/taxes-on-corporate-income
- https://www.europarl.europa.eu/workingpapers/econ/105/part2c_en.htm
- https://www.oecd.org/tax/corporate-tax-remains-a-key-revenue-source-despite-falling-rates-worldwide.htm
- Ilić Popov, G. & Kostić, V.S. (2011). "Transferne cene u Srbiji", *Industrija*, 39(4), 151-179.
- Ilić Popov, G. (1995). *Osnovica poreza na dobit korporacija*. Pravni fakultet Univerziteta u Beogradu.
- IMF https://www.elibrary.imf.org/view/journals/002/2016/143/article-A003-en.xml.
- Johansson, A, Heady, C, Arnold, J, Brys, B, Vartia, L. (2008). "Taxation and Economic Growth, OECD Economics Department", *Working Papers* No. 620, Paris, 2008, 1–83.
- Jović, Lj. (2018). *Poreski sistem I politika oporezivanja: Teorija I praksa*. Visoka poslovna škola strukovnih studija. Novi Sad. ISBN 978-86-7203-145-4
- Kovačević, M., Ilić, J., & Damnjanović, R. (2017). "Evolucija poreza na dohodak u Srbiji", *Oditor*, *3*(1), 7-22. https://doi.org/10.5937/Oditor1701007K
- Marjanović, D. & Domazet, I. (2018) *Unapređenje makrokonkurentnosti – Fiskalni aspekti*. Institut Ekonomskih Nauka. Beograd.
- Mikerević, D. (2018). *Finansijski menadžment*, peto izdanje, Ekonomski fakultet, Finrar, Banja Luka
- Miljković, M., Savić, A. (2018). "Analiza dvostrukog ekonomskog oporezivanja i mogućnost njegove primene u finansiranju budžeta", *Oditor*, *4*(2), 58-66. https://doi.org/10.5937/Oditor1802058M
- Nar, M. (2020). "Tax Holding as an Incentive Policy Tool", *Journal of Economic and Public Finance* 6(1), pp.1-6. DOI: 10.22158//jepf.v6n1p1
- Pezerović, A. (2013). "Oporezivanje kapitalnog dobitka kao oblika dohotka od kapitala", *Financing*. 1/13, str.41-49.
- Pezerović, A. (2013). "Upotreba transfernih cijena sa stanovišta poreza na dobit", *Financing* 2(4). str.12-21 DOI: 10.7251/FIN1302012P
- Popović, D. (1997). *Nauka o porezima i poresko pravo*. COLPI, Budapest i Savremena administracija, Beograd.

- Popović, D. (2017). *Poresko pravo*. Pravni fakultet Univerziteta u Beogradu.
- "Porezi I računovodstvo". Novembar 2020. Poreska kancelarija Tatić, str. 201-218. Dostupno na: https://pktatic.rs/cms_upload/uploads/besplatan_broj/porezi-i-racunovodstvo-nov20-odabrani-tekstovi.pdf
- Pravilnik o načinu razvrstavanja stalnih sredstava po grupama i načinu amortizacije za poreske svrhe *Sl. glasnik RS*, br. 116/2004, 99/2010, 104/2018 i 8/2019. Dostupno na: https://www.paragraf.rs/propisi/pravilnik_o_nacinu_razvrstavanja_stalnih_sredstava_po_grupama_i_nacinu_utvrdjivanja_amortizacije_za_poreske_svrhe.html
- Pravilnik o sadržaju poreskog bilansa I drugim pitanjima od značaja za način utvrđivanja poreza na dobit pravnih lica (*Sl. glasnik RS*, br. 20/2014, 41/2015, 101/2016, 8/2019, 94/2019, 159/2020 i 97/2021).
- Princen, S. (2012). "Determining the impact of taxation on corporate financial decision-making", *Reflets et perspectives de la vie économique*, LI, 161-170. https://doi.org/10.3917/rpve.513.0161
- Raičević B. i S. Ranđelović (2008) "Analiza visine poreza u Srbiji", *Industrija* br. 1/08, str. 1-16
- Republic of Croatia, Ministry of finance https://mfin.gov.hr/en
- Republic of North Macedonia, Government of Republic of North Macedonia, 2021-2023 Revised Fiscal Strategy of the Republic of North Macedonia (with prospects until 2025) https://finance.gov.mk/wp-content/uploads/2021/02/REVISED-FISCAL-STRATEGY-OF-THE-REPUBLIC-OF-NORTH-MACEDONIA-2021-2023.pdf
- Republički zavod za statistiku RS https://data.stat.gov.rs/Home/Result/09020107?languageCode=sr-Cyrl;
- Ristić, Ž. & Ristić, K. (2014). *Poslovne I preduzetničke finansije*. EtnoStil Beograd. ISBN 978-86-6347-031-6
- Šipovac, R., Vesić, S., Đukić, D. (2013). "Porez na dobit i mogućnosti utaje", *Pravo -teorija i praksa* 30 (7-9), str. 75-89
- Stiglitz, E. J. (2008). *Ekonomija javnog sektora*. Ekonomski fakultet Univerziteta u Beogradu
- Uprava za indirektno oporezivanje BiH www.newuino.gov.ba/bs/statistika;
- Vranješ, M. (2008). "Struktura I trendovi kretanja javnih prihoda u zemljama članicama Evropske unije I u Srbiji", *Zbornik radova Pravnog fakulteta u Novom Sadu*, 1 2/2008 336.2:061.1EU 336.2(497.11)
- www.taxsummaries.pwc.com
- Zakon o investicionim fondovima (*Sl. glasnik RS*, br. 46/2006, 51/2009, 31/2011 i 115/2014)
- Zakon o porezu na dobit RS (*Sl. glasnik RS*, br. 25/2001, 80/2002, 80/2002 - dr. zakon, 43/2003, 84/2004, 18/2010, 101/2011, 119/2012, 47/2013, 108/2013, 68/2014 - dr. zakon, 142/2014, 91/2015 - autentično tumačenje, 112/2015, 113/2017, 95/2018, 86/2019 i 153/2020)

Ivana M. Božić Miljković
https://orcid.org/0000-0002-3311-7841

UDK 336.226.12(497.11)

DOI: 10.5937/MegRev2401033B
Pregledni naučni rad
Primljen 15.03.2023.
Odobren 13.11.2023.

POREZ NA DOBIT PREDUZEĆA – ISKUSTVA PRIMENE U REPUBLICI SRBIJI

Sažetak: *Preduzeća su nezavisni privredni subjekti koji imaju kompetencije i legitimitet za obavljanje određene vrste delatnosti. Kao takva, preduzeća posluju na tržištu, nalaze se u ulozi kupaca i prodavaca, sklapaju ugovore, poseduju imovinu, zadužuju se i eventualne probleme rešavaju u pravnim sporovima. Kao i svako drugo lice koje se bavi nekom delatnošću i od te delatnosti ostvaruje prihode, tako i preduzeće mora da plaća porez na dobit koju u poslovanju ostvaruje. Porez na dobit spada u red direktnih poreza. Prihodi od poreza na dobit pravnih lica učestvuju sa oko 6% u ukupnim poreskim prihodima Republike Srbije. Prava i obaveze privrednih subjekata kao poreskih obveznika u okviru ove mere fiskalne politike, u Republici srbiji su regulisana Zakonom o porezu na dobit pravnih lica. Značaj poreza na dobit, kao mere fiskalne politike se može posmatrati I analizirati sa aspekta njenog uticaja na prihode države. Porez na dobit preduzeća je, u tom kontekstu, jedan od elemenata ostvarivanja osnovnog fiskalnog cilja: prikupljanja javnih prihoda za pokriće javnih izdataka. Takođe, primena propisa u oblasti oporezivanja pozitivnih rezultata poslovanja ima određene implikacije na poslovanje preduzeća i kao takva, veoma je značajna za donosioce poslovnih odluka u preduzeću. Taj deo fiskalne politike determiniše ukupan obim investicija u opremu i objekte, vrste tih investicija i način njihovog finansiranja. Efekti primene zakonskih odredbi koje u praksi uređuju pitanje poreza na dobit, na domaća preduzeća često su predmet poređenja sa efektima koje ova mera fiskalne politike ima na preduzeća i države iz regiona. Sa druge strane, iskustva Evropske unije u ovoj oblasti imaju veliki značaj i praćenje tih iskustava, kao i primena evropskih propisa u ovoj oblasti može biti izuzetno korisna sa aspekta države i njenih privrednih subjekata.*

Ključne reči: *porez na dobit preduzeća, prihod, BDP, poreska ravnoteža, dvostruko oporezivanje*