THE INSTRUCTIONS FOR COMPLETING THE FORM FOR THE NOTIFICATION OF EXERCISE OF THE RIGHT TO DEFERRAL OF TAX LIABILITY ASSESSMENT IN DONATING CAPITAL TO A SPOUSE OR A CHILD

1. INTRODUCTION

The form, with which the exercise of the right is notified to deferral of tax liability assessment in donating capital, including the gratuitous handing over based on the deed of conveyance, to the taxable person's spouse or child, shall be filed by the taxable person:

- who donates the real estate, within 15 days following the donation or disposal of real estate with the competent financial office, with which the declaration for assessment of personal income tax on capital gains at disposal of real estate shall be filed;
- who donates securities, shares in companies, cooperatives and other organisational forms and fund shares, at the latest by 28 February of the current year for the preceding year with the competent financial office, where the declaration for assessment of personal income tax on profit from disposal of securities and other shares and fund shares shall be filed;
- that is a non-resident, who donates securities or shares in companies, cooperatives and other organisational forms, within 15 days following the donation of securities or shares or by 28 February of the current year for donation in the preceding year, when such person declares all disposals of securities and shares in the preceding year[1].

When the taxable person claims the deferral, the tax liability is not established in the period when the taxable person disposes the capital to the spouse or child, but the establishing of tax liability is deferred until the next taxable disposal of the donated capital performed by the spouse or child. The date and the value of capital in such cases shall be deemed to be the value and date of acquisition of capital (real estate or securities, other shares and fund shares) during the period, when the donor has acquired it.

At disposal of capital (disposal of capital after 15 years of holding), which is at the donor exempt from payment of personal income tax, the gift recipient may claim the deferral at further disposal of the capital in question.

If taxable persons miss the deadline for filing this form, based on Article 63 of the Tax Procedure Act – ZDavP-2 they may file this form based on voluntary disclosure at the latest until serving of assessment decision or until the beginning of the tax audit supervision or until the beginning of the offence procedure or the criminal proceedings. The filing of this form based on voluntary disclosure is no longer possible when one of the circumstances referred to in the preceding sentence occurs for the first time.

1. ENTERING DATA ABOUT THE TAXABLE PERSON - DONOR

The basic identification data are entered of the taxable person, who donates the capital (full name of the taxable person; data about the residence; town, street and house number; post office number and post office; state and tax number). The taxable person shall state the financial office, where the declaration for assessment of personal income tax on capital gains should be filed.

[1] We would like to add that the taxable person that is a non-resident claims the deferral for establishing the tax liability only in cases if the securities or equity interest disposed by the non-resident is a part of the substantially ownership interest. The substantially ownership interest is every ownership interest based on which the taxable person has or had in any period in the preceding five years before the disposal of interest, directly or indirectly via associated persons, at least the share of 10% of voting rights or at least the share of 10% in capital or in an individual class of shares of a certain legal entity.

2. ENTERING DATA UNDER POINT 1 – DATA ABOUT THE GIFT RECIPIENT

The basic identification data are entered of the gift recipient (full name, data about the residence: town, street, house number and post office; state and tax number). Use 'X' for marking the relationship in the table between the gift recipient and the donor (whether the gift recipient is donor's spouse/cohabitant, own child, adopted child or stepchild).

3. ENTERING DATA UNDER POINT 2 – DATA ABOUT THE ASSET

The taxable person enters the data about the type of asset, which is subject to exercising the right to deferral.

If the type of asset is **a) real estate,** the following data are completed:

- type (the type of real estate is entered in the form of appropriate number from the Code table 1, which is a part of the declaration for assessment of personal income tax on capital gains at disposal of real estate);
- address and other data (the identification mark of real estate is entered (if this is a plot – code of cadastral municipality and the number of plot; if this is a building or a part of a building – code of cadastral municipality, number of building, number of a part of a building and address));
- purchase value (the amount of purchase value of is entered in EUR of real estate in the period, when the donor has received the real estate);
- date of acquisition (in the form of 'dd.mm.YY'; the date is entered when the contract was concluded or another legal transaction or the date of finality of legal decision or administrative finality of decision of administrative authority based on which the taxable person has acquired the real estate; in other cases of acquisition the time when the real estate has been acquired is considered to be the date, which is clear in other supporting documents).

If the type of asset is **b) securities and the share in a company, cooperative and other organisational forms and fund shares**, the following data are completed:

- type or description (the name is entered of securities, fund shares or the name of company, cooperative and the tax number of company or cooperative, which is donated);
- quantity (at securities the quantity of securities is entered, which is donated; at fund shares the number of points is entered of fund share, which is donated; at donation of share in a company the amount of share is entered in relation to the initial capital of company, the share of which is donated, stated in percentage (%));
- purchase value (in EUR):
  - At securities the purchase value is entered (per unit) of security on the day, when the security was acquired or bought by the donor.
  - At fund shares the purchase value is entered (per unit of fund share's point) on the day, when the fund share was acquired or bought by the donor.
  - At donation of share in a company if the donor:
    - has established the company and the manner of acquisition is *A – contribution of capital,* the amount is entered of initial capital, which the donor has paid at the establishing of company, which is subject to donation;
    - has acquired the business share in a company by purchase and the manner of acquisition is *B - purchase*, then the purchase value is entered – proceeds of sale, which the donor has paid at acquisition or purchase and it is clear from the contract on the acquisition of business share in the form of notarial record;
    - during the period of holding the business share in a company has acquired a new business share in relation to the *Increase of company's capital with one's own resources (manner of acquisition C),* the amount is entered, which the donor has subsequently paid into the company (and it is clear from the notarial record – Decision

on the increase of initial capital with company member's own funds) or/and in relation to the *Increase of company's capital from company's resources (manner of acquisition D)* – the amount is entered, which the donor has received proportionally to his/her business share at increase of capital from company's resources and it is clear from the corporate charter or other notarial record, which the company receives *(e.g. Order on the increase of company's initial capital from company's resources in the form of notarial record)*;

- has received a business share in a company based on the inheritance *(manner of acquisition – F)* or gift *(manner of acquisition - G)*, then in cases that the tax has been assessed on gifts and inheritance, the value is entered from which the tax on gifts and inheritance has been assessed to the donor and if the tax has not been assessed, the comparable market price of asset during the period of acquisition, which the taxable person proves with appropriate supporting documents;
- has received a business share in a company due to the equity swap at status changes of company *(manner of acquisition - E)*, the value is entered of equity swap, which is clear from the *Notification of exchange of equity holdings*, of which the company has notified the competent tax authority in accordance with Article 47 of the Corporate Income Tax Act - ZDDPO-2.

- date of acquisition (in the form of 'dd.mm.YY'; the date is entered, when the donor acquired or purchased the securities/fund shares/shares in the company, cooperative or other organisational forms, which is donated).

The taxable person encloses supporting documents with the application for notification of exercising the right to deferral. These documents are the base for approval of deferral for establishing the tax base at donation of capital (deed of gift, deed of conveyance, supporting documents on the date of acquisition and the purchase value of capital, when the donor acquired it, the proof of status of the gift recipient, etc.) and possible remarks are also added.

The date of the application is completed and handwritten signature is added of the taxable person who exercises the right to deferral.

For additional information, go to the website of the Financial Administration of the Republic of Slovenia or call 08 200 1001 (call centre for taxes of individuals).