

Opozorilo: Neuradno prečiščeno besedilo predpisa predstavlja zgolj informativni delovni pripomoček, glede katerega organ ne jamči odškodninsko ali kako drugače.

Neuradno prečiščeno besedilo Pravilnika o opredelitvi pridobitne in nepridobitne dejavnosti obsega:

- Pravilnik o opredelitvi pridobitne in nepridobitne dejavnosti (Uradni list RS, št. 109/07 z dne 30. 11. 2007),
- Pravilnik o spremembah in dopolnitvah Pravilnika o opredelitvi pridobitne in nepridobitne dejavnosti (Uradni list RS, št. 68/09 z dne 28. 8. 2009).

PRAVILNIK o opredelitvi pridobitne in nepridobitne dejavnosti

(neuradno prečiščeno besedilo št. 1)

1. člen

Ta pravilnik podrobneje opredeljuje, kaj se šteje za pridobitno ali nepridobitno dejavnost oziroma za dohodke iz opravljanja pridobitne ali nepridobitne dejavnosti pri zavezancu iz 9. člena Zakona o davku od dohodkov pravnih oseb (Uradni list RS, št. 117/06, 56/08, 79/08 in 5/09; v nadaljnjem besedilu: ZDDPO-2), ki je ustanovljen za opravljanje nepridobitne dejavnosti (v nadaljnjem besedilu: zavezanec).

2. člen

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The unofficial consolidated version of the Rules concerning definitions of for-profit and non-profit activity comprises:

- Rules concerning definitions of for-profit and non-profit activity (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 109/07 of 30 November 2007),
- Rules Amending the Rules concerning definitions of for-profit and non-profit activity (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 68/09 of 28 August 2009).

RULES concerning definitions of for-profit and non-profit activity

(Unofficial consolidated version No. 1)

Article 1

These Rules define in detail what shall be deemed for-profit or non-profit activity or income derived from the performance of for-profit or non-profit activity by a taxpayer referred to in Article 9 of the Corporate Income Tax Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 117/06, 56/08, 79/08 and 5/09; hereinafter: ZDDPO-2) that is established to perform a non-profit activity (hereinafter: a taxpayer).

Article 2

(1) Če ta pravilnik ne določa drugače, je dejavnost zavezanca pridobitna, če je izpolnjen vsaj eden od naslednjih pogojev:

1. dejavnost se opravlja na trgu zaradi pridobivanja dobička;
2. zavezanec z njenim opravljanjem konkurira na trgu z drugimi osebami, zavezanci po ZDDPO-2.

(2) Če ta pravilnik ne določa drugače, so dohodki iz opravljanja dejavnosti iz prejšnjega odstavka dohodki iz opravljanja pridobitne dejavnosti.

3. člen

(1) Za dohodke iz opravljanja nepridobitne dejavnosti zavezancev, ki se izvemajo iz davčne osnove po 27. členu ZDDPO-2, se štejejo zlasti:

- donacije, pri čemer je donacija brezpogojno plačilo oziroma prispevek v denarju ali naravi oziroma so donacije zneski ali stvari, ki jih dobiva zavezanec iz 9. člena ZDDPO-2 od fizičnih in pravnih oseb brez obveznosti vračila in se ne nanašajo na plačila za proizvode ali storitve, katerih kupci so te osebe;
- članarine, če gre za članarine, ki dejansko pomenijo obvezni denarni prispevek članov zavezancu in za katere iz ene ali več okoliščin izhaja, da so po vsebini članarine, primeroma, da v celoti ali deloma ne predstavljajo plačila za določene proizvode, blago, storitve ali plačila za ugodnosti, ki jih ta zavezanec nudi članom ali njihovim povezanim osebam;
- volila in dediščine;
- prihodki iz davkov in dajatev ter prispevkov, ki so plačani neposredno Zavodu za zdravstveno zavarovanje Slovenije in Zavodu za pokojninsko in invalidsko zavarovanje;
- obresti za sredstva na podračunih, ki so vključeni v sistem enotnega zakladniškega računa (EZR) države oziroma občin in obresti za vloge, naložene v okviru sistema enotnega zakladniškega računa (EZR) države oziroma občin;
- sredstva za izvajanje javne službe iz javnofinančnih virov;
- namenska javna sredstva.

(1) Unless otherwise provided by these Rules, an activity of the taxpayer shall be deemed to be for-profit if at least one of the following conditions is fulfilled:

1. The activity is performed in the market to gain a profit;
2. In performing the activity, the taxpayer competes in the market with other persons liable according to the ZDDPO-2 .

(2) Unless otherwise provided by these Rules, incomes from performing activities referred to in the preceding paragraph shall be considered incomes from performing for-profit activities.

Article 3

(1) The following in particular shall be deemed income deriving from non-profit activities of taxpayers exempt from the tax base referred to in Article 27 of ZDDPO-2:

- Donations, where a donation is an unconditional payment or contribution in cash or in kind, or amounts or things given to the taxpayer referred to in Article 9 of ZDDPO-2 by natural or legal persons without repayment obligation, and that do not relate to payments for products or services whose customers are these persons;
- Membership fees, where they actually mean obligatory monetary contribution of members to a taxpayer and for which, from one or more circumstances it proceeds that they are in substance membership fees, for instance they do not represent a full or partial payment for any particular products, goods, services or privileges this taxpayer provides to the members or their associated enterprises;
- Bequests and inheritances;
- Revenues from taxes and duties and contributions paid directly to the Health Insurance Institute of Slovenia and the Pension and Disability Insurance Institute of Slovenia;
- Interest on funds in sub-accounts that are included in the single treasury account system (EZR) of the state or municipalities and interest on deposits invested within the single treasury account system (EZR) of the state or municipalities;
- Publicly funded resources for performing public services;
- Allocated public funds.

(2) Za donacijo iz prve alineje prvega odstavka tega člena se šteje tudi izkupiček oziroma denarna protivrednost sredstev, zbranih v akciji zbiranja odpadkov in materiala, primernega za recikliranje, ki jo organizira zavezanec iz 9. člena ZDDPO-2 z namenom zbiranja finančnih sredstev za namene opravljanja dejavnosti, za katero je zavezanec ustanovljen, če gre za zbiranje odpadkov in materiala, ki v trenutku transakcije nima vrednosti ali je ta zanemarljiva, ker gre za odpadke in material, ki je namenjen recikliranju, in ne gre za izogibanje davkom.

4. člen

Za pridobitne dohodke se štejejo zlasti:

- sredstva za izvajanje javne službe, ki niso sredstva iz prvega odstavka šeste alineje 3. člena tega pravilnika (kot so doplačila uporabnikov),
- **(črtana)**,
- bančne obresti, razen obresti na transakcijskih računih, in obresti za vezane vloge pri bankah in hranilnicah, ustanovljenih v skladu s predpisi v Sloveniji ter pri bankah in hranilnicah drugih držav članic Evropske unije, pri čemer se dohodki od obresti za vezane vloge ne štejejo za pridobitne do vključno višine 1000 eurov letno,
- dividende in drugi dohodki iz naložb,
- dohodki od prodaje blaga in storitev, vključno z donosi od prodaje spominkov članom in nečlanom, vključno s hrano in pijačo, ki jo prodaja zavezanec članom in nečlanom, običajno v klubskih prostorih, kadar obiščejo zavezanca,
- najemnine in druga plačila iz oddajanja prostorov zavezanca, drugih zmogljivosti zavezanca ali opreme drugim osebam,
- dohodki, doseženi z odsvojitvijo osnovnih sredstev,
- plačila članov in nečlanov zavezanca za udeležbo na večerjih, zabavah, plesih ali drugih družabnih srečanjih, ki jih organizira zavezanec,
- plačila članov in nečlanov zavezanca za udeležbo na razgovorih, predstavitev ali delavnicah, ki jih organizira zavezanec,
- dohodki od srečelovov in podobnih iger, ki jih organizira zavezanec.

(2) A donation referred to in indent one of paragraph one of this Article shall also be deemed profit or a monetary equivalent of means gathered through collection of waste and materials suitable for recycling, organised by a taxpayer referred to in Article 9 of ZDDPO-2 with the intention of mobilising financial resources to perform activities for which a taxpayer is established for, if the waste and materials collected at the time of the transaction have no value or the value is negligible, as the waste and materials are meant for recycling and this does not involve tax avoidance.

Article 4

The following in particular shall be deemed income from for-profit activities:

- Resources for performing public services that are not considered resources referred to in paragraph one of indent six of Article 3 of these Rules (such as additional payments by users),
- **(Deleted)**,
- Bank interest, except interest on bank accounts, and interest on fixed deposits at banks and savings banks established in accordance with Slovenian regulations, as well as at banks and savings banks of other EU Member States, providing that the interest income on fixed deposits is not deemed profitable up to and including EUR 1,000 per year,
- Dividends and other income from investments,
- Income deriving from selling goods and services, including returns from the sale of souvenirs to members and non-members, including food and drinks sold by the taxpayer to members and non-members, usually in club premises, when they visit the taxpayer,
- Rent and other payments from renting premises of the taxpayer, other capacities of the taxpayer or equipment to other persons,
- Income achieved from the disposal of fixed assets,
- Payments of members and non-members to the taxpayer for participation in dinners, parties, dances and other social events organised by the taxpayer,
- Payments of members and non-members to the taxpayer for participation in interviews, presentations or workshops organised by the taxpayer,
- Income deriving from tombola and similar games organised by the

taxpayer.

4.a člen

Pri javnem skladu po Zakonu o javnih skladih (Uradni list RS, št. 77/08) in skladu, ki v skladu s prehodnimi določbami Zakona o javnih skladih (Uradni list RS, št. 77/08) nadaljuje z delom (v nadaljnjem besedilu: javni sklad), se za dohodke iz opravljanja nepridobitne dejavnosti štejejo:

- dohodki iz naložb premoženja javnega sklada, vključno z dohodki iz nalaganja prostih denarnih sredstev in z dohodki iz naložb v kapital druge pravne osebe,
- obresti od podeljenih kreditov, in
- dohodki iz dajanja premoženja v finančni zakup, če javni sklad nalaga premoženje oziroma sredstva ter podeljuje kredite v skladu z Zakonom o javnih skladih (Uradni list RS, št. 77/08).

5. člen

Pri opredeljevanju pridobitne ali nepridobitne dejavnosti oziroma dohodkov iz opravljanja pridobitne ali nepridobitne dejavnosti pri zavezancu iz 9. člena ZDDPO-2 so pomembna tudi dejstva in okoliščine posamezne pravne osebe iz 9. člena ZDDPO-2 pri opravljanju dejavnosti in doseganju dohodkov.

6. člen

Ta pravilnik začne veljati naslednji dan po objavi v Uradnem listu Republike Slovenije, prva in druga alineja 4. člena tega pravilnika pa se uporabljata od 1. januarja 2008 dalje.

Article 4a

With regard to public funds pursuant to the Public Funds Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 77/08) and funds which in accordance with the transitional provisions of the Public Funds Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 77/08) continue their work (hereinafter: public funds), the following in particular shall be deemed income deriving from performing a non-profit activity:

- Income deriving from the investments of assets of public funds, including income from investing available cash funds and income from investments in the capital of another legal person,
- Interest from granted loans, and
- Income from financial leasing of assets, if the public fund invests assets and grants loans in accordance with the Public Funds Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 77/08).

Article 5

In defining for-profit or non-profit activities or income derived from performing for-profit or non-profit activities at a taxpayer referred to in Article 9 of ZDDPO-2, the facts and circumstances of an individual legal person referred to in Article 9 of ZDDPO-2 in performing activities and achieving income shall also be relevant.

Article 6

These Rules shall enter into force on the day following their publication in the Official Gazette of the Republic of Slovenia, and indents one and two of Article 4 of these Rules shall apply from 1 January 2008.