



NEWSLETTER 4/2018

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1. Special levy for chain stores

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A law establishing the obligation to pay a special levy by chain businesses was passed by the National Council of the Slovak Republic. The bill has aroused a very stormy debate.

The argument for approval of the bill was its declared intention, which is in particular to obtain funds for subsequent investment in the agriculture and food industries of Slovakia, to ensure the food self-sufficiency of Slovakia, to support the sale of quality Slovak products not only on the domestic market but also abroad, and to compensate for the negative impacts of global climate changes.

The proposed law should therefore apply to those chains that are operators of a food business and at least 25% of their turnover comes from the sale of food to the final consumer and have establishments in at least two districts under the same name, design, and communication and marketing activities.

The rate of the levy is 2.5 % of the net turnover for the relevant levy period, which is generally deemed to be three consecutive calendar months.

The law brings the chain businesses an increase in the administrative burden associated with the notification obligation, as well as possible penalties for late submission of the notification, late payment of the levy, or for the payment of a lower amount of the levy.

On the other hand, there is great concern that this special levy would be reflected in an increase of the final consumer prices of foods that are already quite expensive.

Despite of presidential veto the parliament approved the Act and it enters into force on 1 January 2019.



2. New rules for resolving taxation disputes

The approved law of the Ministry of Finance of the Slovak Republic on the rules for the resolution of disputes concerning the avoidance of double taxation is the transposition of Council Directive (EU) 2017/1852 on tax dispute resolution mechanisms in the European Union into domestic legislation.

The law deals with the modification of procedures for resolving disputes with Member States and other countries with which the Slovak Republic has concluded double taxation treaties. The main objective of the law is to prevent double taxation of income and improve the existing rules for resolving possible disputes, thus creating a more effective tax system that will increase legal certainty.

The law is primarily aimed at businesses and companies. Although based on the rules of the arbitration process, it extends its scope to areas that are not currently covered and, based on practical experience, adds new enforcement elements to help resolve disputes better and more effectively.

The law regulates the conditions for instituting proceedings for the avoidance of double taxation between the Slovak Republic and other states with which the Slovak Republic has concluded double taxation treaties, if these disputes arise from the interpretation and application of the treaties. The law also covers dealing with situations that arise as a result of transfer pricing or assigning profits to a permanent establishment.

This law enters into force on 1 July 2019 and already applies to proceedings initiated on the basis of an application for the avoidance of double taxation filed after 30 June 2019 for tax periods starting after 31 December 2017.

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3. Cross-border tax planning will be subject to reporting duty

The aim of the new amendments to the EU Directive on Administrative Cooperation in Taxation (“DAC6”), which became effective on 25/06/2018, is to introduce automatic exchange of information on cross border potentially aggressive tax planning arrangements and tax avoidance. The transactions that need to be reported are those which meet at least one of the characteristics (hallmarks) listed in an Annex to DAC6. Such arrangements include, for instance, acquiring a loss-making company, using its losses in order to reduce its tax liability, an arrangement that has the effect of converting income into capital, gifts or other categories of revenue which are taxed at a lower level or exempt from tax.

The Directive not only imposed the reporting duty on the taxpayers, but also on the so-called intermediaries. Such intermediaries will potentially also include tax advisors and lawyers.

As DAC6 respects the confidentiality duty of intermediaries transposed into the national laws of Member States, each Member State may grant exemption from the reporting duty. In such case, the reporting duty would transfer to another intermediary, or to the taxpayer themselves, as the case may be.

The Member States must transpose the DAC6 Directive into national laws by 31/12/2019. However, it should



be noted that the reporting duty will be retroactively subject to the above mentioned transactions already effected from 25/06/2018, and such transaction will have to be reported by 31/08/2020.

4. e-Kasa – duty to be online

As you have already been informed in the Newsletter 2/2018 issue, the Financial Administration of the Slovak Republic created a project consisting in online connection of all cash registers to the e-Kasa portal. It essentially means online connection of cash registers to the state fiscal modules.

The aim of the online connection of cash registers is for the Financial Administration of the Slovak Republic to obtain immediate access to made transactions, to check the validity of cash vouchers in real time and thus prevent tax fraud and tax evasion and increase the inflow of funds into the State Budget.

This innovation brings multiple benefits for entrepreneurs and buyers such as, for example, issuing of cash vouchers in electronic form, easier voucher registration for the purposes of preparation of an income tax return or VAT control statement. A personal computer, tablet or mobile phone can be used as a cash register, which should result in the reduction of operating expenses incurred on cash register servicing. The basic precondition for entrepreneurs is to have an Internet connection. In case an Internet connection is unavailable, it is possible to file a request for deferral of the date for the data sending to the e-Kasa system.

All entrepreneurs who use electronic cash registers when selling the goods or providing services are obliged to start using e-Kasa system. The Act will come into effect on 1 January 2019 and will apply at two stages. The first stage commencing on 1 April 2019 will affect entrepreneurs who start to use cash registers for the first time as of this date. Other entrepreneurs with cash registers can join voluntarily. The second stage commencing on 1 July 2019 will impose the obligation to be connected into the e-Kasa system on all entrepreneurs nationwide.

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5. The National Council of the Slovak Republic (NRSR) approved introduction of an annual social security contribution statement starting from 2022

As we have already informed you in the previous Newsletter issues, the proposed amendment to the Social Security Act was to introduce the annual statement of social security contributions. This amendment was approved with the aim of combating social security contribution planning schemes by entities which recorded high income in one month and thus did not pay the contributions from the amount exceeding the maximum monthly assessment base. It is expected that this annual statement will result in fairer charges on income and increased state income.

The annual social security contribution statement will apply to employees, self-employed persons paying mandatory health insurance and pension insurance contributions, and to employers. It will not apply to the state, the Social Security Agency and persons paying voluntary contributions. The annual statement will include health insurance and pension insurance contributions, mandatory pension savings, unemployment contributions and contributions to the solidarity reserve fund. Accident and guarantee insurance will not be included in the annual statement.



Social security contributions will be paid starting from January 2022 and the Social Security Agency will prepare the initial annual statement for 2022 by 30 September 2023, or by 31 October 2023 (for payers with an extended income tax return deadline).

6. Reduction of VAT rate on accommodation services to 10%

On 23 October 2018, the National Council of the Slovak Republic approved an amendment to the VAT Act, by which the VAT rate on accommodation services is reduced from the original 20% to 10%.

The reduced VAT rate applies to accommodation services with statistical classification of products by activity (CPA or code 55, which are further divided into:

- 55.1 Hotel and similar accommodation services
- 55.2 Camping sites and other short-stay accommodation services
- 55.3 Operation of camp sites and recreational vehicle and caravan parks
- 55.9 Other accommodation services

More detailed classification is included in Regulation (EC) No. 451/2008 of the European Parliament and of the Council of 23 April 2008 establishing a new statistical classification of products by activity (CPA).

The amendment to the VAT Act is aimed at increasing demand for accommodation services in the territory of the Slovak Republic. The amendment comes into effect on 1 January 2019.

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The more complex amendment to the VAT Act, which we informed you about in the preceding Newsletter, is currently also approved. We will inform you about the approved changes in the next Newsletter issue.

7. Recreational vouchers for employees

In connection with an amendment to the Act on Tourism Promotion and concurrently an amendment to the Labour Code, the employer obligation to contribute to employee recreation in the territory of the Slovak Republic was introduced. The tool securing this obligation, the so-called recreation voucher, is a specific means of payment.

The recreation voucher is designed for employees employed by employers with more than 49 employees, provided that the employee applying for the recreation has been in permanent employment with the employer for at least 24 months. Based on such application, the employer is obliged to pay 55% of justified expenses (a maximum EUR 275 per calendar year). If an employee has been employed for a shorter period of time, the maximum amount of the contribution is pro rata reduced.



8. Review of the most significant changes in the Income Taxes Act occurring during 2018 and by 1 January 2019

Changes of the Income Taxes Act, which were enacted by amendments and other substantive law regulations and became effective during 2018, i.e., they already apply to the 2018 taxable period, are listed below:

- exemption of a non-monetary benefit for an employee (not an agency worker) in the form of accommodation provided by the employer in an amount not exceeding EUR 60 per month, provided that the employer predominantly uses shift work in its operations. If the accommodation is not provided during the entire calendar month, the exempt amount is pro rata reduced. The accommodation must be provided in buildings of class 112 and 113 (boarding houses, family houses, dormitories, hotels for housing workers, etc.);
- exemption of monetary and non-monetary fulfilments received by a sportsperson representing the Slovak Republic and remuneration to a sportsperson representing the Slovak Republic from the State Budget for a result achieved in an important tournament such as the Olympic Games and Paralympic Games;
- adjustment of the profit/loss in connection with the transition of financial institutions to the IFRS accounting standard;
- specification of an employer's tax-deductible expenses in the form of depreciation of assets used during the provision of practical training of pupils, irrespective of whether the practical training is provided under a contract on dual education or a practical training contract;
- extending tax-deductible expenses incurred on the material welfare of a pupil, financial welfare of a pupil and on the provision of practical training at a practical training workplace, on the employer's recognised expenses incurred for the practical training, and on the operation of a secondary vocational school in excess of the provided normative funds;
- specification of the moment and manner of taxation of personal and corporate income from virtual currencies.

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The approved amendments to the Income Tax Act with proposed effect on 1 January 2019 include:

- exemption of contributions for recreation provided to employees in connection with the introduction of recreation vouchers and similarly recognising such expenses as the employer's tax-deductible expenses;
- doubling the total tax bonus on a dependent child or pre-school child under 6 years of age who lives in a common household with the taxpayer;
- defining technical appreciation in the form of implementing energy efficiency appreciation of assets to providers of energy services with guaranteed energy savings for a public entity.

9. Introduction of Insurance Premium Tax

On 20 June 2018 the National Council of the Slovak Republic approved the Insurance Tax Act. As we informed you in the preceding Newsletter, the aim of this new legal regulation is to introduce insurance premium tax at the rate of 8%, which is levied on the insurance premium received in non-life insurance business.

The insurance premium tax is an indirect tax and replaces the current 8% levy on accepted non-life insurance premiums. The tax will be levied on all non-life insurance products, with the exception of compulsory motor



third-party liability insurance, where the 8% levy will be preserved. The tax levy is subject to the insured risk being located in the Slovak Republic.

The insurance premium tax will in principle be levied on and paid to the State Budget by insurance companies from the insurance premium received, subject to exceptions defined by law. We would like to particularly note the fact that in certain cases the payer will be the policy holder or the legal person to whom the insurance costs will be charged, such as in the case of insurance taken out with a so-called foreign insurance company, i.e., an insurance company seated outside the EU/EEC. Insurance companies will be required to file tax returns on a quarterly basis, i.e., by the end of the last calendar month in a quarter, and the tax will also be due by that date.

An advantage for the insurance premium tax payer (insurance company) is that the payer may decide when the tax liability will accrue to the payer, i.e., on the date of the insurance premium receipt, or on the date of crediting the assessed tax liability amount to account, or on the date of the insurance premium due date.

10. Proposal of a new Methodical Instruction for the determination of the content of transfer pricing documentation

The draft bill of the new Methodical Instruction of the Ministry of Finance for the determination of the content of transfer pricing documentation has been circulated for comment; the draft bill is based on the principles and policies stipulated in the revised OECD Guideline on Pricing for Multinational Enterprises and Tax Administration. The main objective of this Methodical Instruction should be simplification of the process of transfer prices documenting for business entities, as well as introduction of new rules for preparation of transfer documentation.

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If the taxpayer carries out transactions with related parties, this Methodical Instruction preserves the taxpayer's duty to prepare the transfer documentation either in abbreviated, basic or full version depending on the type of the transactions performed. Fundamental changes most affecting the taxpayers occurred in the scope of the obligation to document the transfer prices and the content of respective document versions.

The full and basic documentation version will be adopted from the current version of the OECD Guideline, whereas both the document versions will be extended by new required information. As regards the abbreviated documentation, the contents should be standardised in a printed form, which has the form of an attachment that is only to be submitted when requested by a tax administrator. Transfer pricing of certain transactions will not be necessary, however, the transactions will have to be disclosed in the income tax return.

Changes will also affect transaction aggregation, monitoring of the significance of credits and loans, but also the possibility to refer to information disclosed in documentation for the previous taxable periods.

This Methodical Instruction will for the first time be used upon the request of a tax administrator when the documentation for the taxable period starting after 31 December 2017 is filed.



11. Legal regulation of accounting for cryptocurrencies

In newsletter 2/2018, we informed you of the issuance of methodological guidelines to ensure a consistent interpretation of the taxation of income from the sale of virtual currency within the meaning of the Income Tax Act. In addition to the method of taxation, this guideline also specified in more detail the method of valuing and accounting for virtual currency.

With effect from 1 October 2018, Act No 431/2002 on accounting was amended, and the Decree of the Ministry of Finance of the Slovak Republic of 16 December 2002, No 23054/2002-92 was supplemented, laying down the details of accounting practices and the framework account classification for entrepreneurs accounting using the double-entry accounting system. Due to these amendments, virtual currency valuation and accounting now has a legal form.

We regard virtual currency as a short-term financial asset that is recognised in a separate synthetic account to be added by the accounting entity within accounting group 25 – Short-term financial assets. Analytical accounts are created according to individual virtual currencies. The differences arising in the accounts up to the time of crediting or debiting the virtual currency are accounted for with their effect on business income.

The virtual currency, services, or assets acquired in exchange for virtual currency are valued at fair value upon the acquisition date. The fair value of virtual currency for these purposes is the market price arrived at in the manner determined by the accounting entity in the selected public market in virtual currency. The valuation of virtual currency loss is carried out using the method of valuation by arithmetic mean or the FIFO method. As of the date on which the financial statements are prepared, the virtual currency is not revalued to fair value.



This Newsletter is a product of TPA.
Best regards,

Your TPA team

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