



NEWSLETTER 2/2019

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1. Changes to the Income Tax Act from 1 January 2020

The Ministry of Finance of the Slovak Republic has proposed an amendment to the Income Tax Act to the Slovak government for deliberation and eventual implementation by 1 January 2020. The proposal aims, among other things, to support SMEs through income tax, to simplify the calculation of the income tax base, to remove barriers to the sustainable development of the automotive industry in Slovakia, and to transpose the EU Council Directive regarding hybrid mismatches with third countries (known as 'ATAD 2').

The draft amendment further proposes that the Income Tax Act:

- introduce a definition of a micro-taxpayer (a natural person with a maximum income of €49,790) and related changes for more favourable taxation of this group of taxpayers (e.g. shorter depreciation of tangible assets, no limitation of tax depreciation due to rent of tangible assets, more attractive conditions for amortisation of tax losses).
- adjust conditions for the deduction of tax loss, specifically cancellation of the uniformity of loss deduction and the extension of the period for its deduction to 5 years; compared to micro-taxpayers, who do not have a limit for amortised tax loss, other taxpayers can only apply a tax loss of up to 50% of the calculated tax base from which loss deductions can be made.
- simplify and adjust the scope of those expenses which only become a part of the tax base after payment. For example, it is proposed to eliminate capping expenditures for obtaining standards and certificates. On the other hand, contractual penalties, delinquency charges, and default interest, which are not currently included in tax expenditure at all, are to be regarded as post-payment tax expenses.
- introduce automatic registration of taxpayers by a tax administrator.
- for R&D taxpayers, increase tax deductions (deduction of R&D expenditure from the tax base reduced by the tax loss deduction), i.e. a super deduction of up to 200%.
- introduce a separate depreciation group 0 for electric vehicles with a depreciation period of 2 years.



- raise the threshold for the payment of corporate income tax advances from the current €2,500 to €5,000 and simplify the calculation of the last known tax liability.
- introduce clearer rules for avoiding the use of hybrid mismatches because of different tax assessments of financial instruments and taxpayers, leading to a reduction in tax liabilities.
- expand tax exemption for defined types of non-monetary income.
- introduce the ability for employers to issue and deliver, upon mutual agreement, certain types of documents to employees electronically.
- upon mutual agreement between employers and employees, enable employees to electronically submit an application for an annual settlement of tax advances.
- cancel the obligation of employees to sign an annual declaration to apply the non-taxable part of the tax base to the taxpayer and tax bonus.
- increase the amount of the exempted non-monetary payment of employees for the provision of accommodation by their employers from €60 to €100.

An interdepartmental comment procedure is currently being assessed. It will be a few months before the Act is approved, so we will keep a close eye on these proposals and inform you about them in subsequent editions of our Newsletter.

2. Proposed Act in Relation to Reportable Cross-Border Arrangements – DAC 6

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As we have already informed you in Newsletter No 4/2018, Member States are obliged to introduce an automatic exchange of information on cross-border arrangements with the potential for aggressive tax planning and tax avoidance, and are thus equally obliged to transpose the Directive on administrative cooperation in the field of taxation ('DAC 6') into local legislation by no later than 31 December 2019.

For this reason, the Ministry of Finance of the Slovak Republic has submitted a proposal to amend Act No 442/2012 Coll. on International Assistance and Cooperation in Tax Administration, as amended, and to implement DAC 6.

The aim of the submitted material is to increase tax transparency and thus the effectiveness of combating undesirable cross-border corporate tax practices. The bill is intended to deter mediators and taxpayers themselves from using potentially aggressive tax planning practices.

It follows up on the existing dynamic developments in the area of automatic exchanges of information and will implement an automatic exchange of information on cross-border reporting between the relevant authorities of EU Member States. In order to ensure such an automatic exchange of information, the Act will introduce an obligation for so-called liable persons (intermediaries or relevant taxpayers, i.e. users) to submit information on cross-border arrangements that meet at least one of the characteristics specified in Annex No 1a of the bill. The specified obligation applies to intermediaries, that is, persons who propose cross-border arrangements and offer them on the market, or who prepare such arrangements, make them available to taxpayers, or



manage their application for the taxpayer. Intermediaries may also be persons who provide assistance, support, or advice to others in the course of such activities. Under certain circumstances stipulated by law, the reporting obligation also concerns taxpayers themselves.

The proposed time limit for submitting information on reportable arrangements is 30 days after certain legal conditions are met. The Financial Directorate of the Slovak Republic will publish the format of reporting on its website, and reports should be submitted electronically via the tax administration portal.

A fine of up to €30,000 (depending on the severity, value of the arrangement, duration, consequences, etc.) will be imposed for failure to comply with the obligation to report information (or make a declaration) within the specified scope and time limit, and such a fine may be imposed repeatedly.

The proposed effective date of the Act is 1 July 2020. However, it should again be emphasised that the reporting duty will apply retroactively to the above-mentioned types of transactions effected beginning 25 June 2018, and such transactions will have to be reported by 31 August 2020.

3. Electronic Invoicing in Public Procurement

In April 2019, a bill on guaranteed electronic invoicing and a central economic system (hereinafter referred to as 'the Act'), which is a transposition of Directive 2014/55/EU of the European Parliament and of the Council, was submitted to Parliament.

The aim of the Act is to introduce the obligation to electronically receive and issue invoices and to create a new public administration information system. The Act defines the term 'guaranteed electronic invoicing' (in order to avoid confusion with the term 'electronic invoice' under the VAT Act) and the requirements of an electronic invoice. It further modifies the rules of the electronic invoicing process and defines the basic architecture of the solution, as well as the individual procedural steps. It will only be possible to complete guaranteed electronic invoicing through the electronic invoicing information system that will be established by the Ministry of Finance of the Slovak Republic.

Guaranteed electronic invoicing will compulsorily apply to public entities and public-sector entities, while any other entity will have the option to use it voluntarily.

In the future, the directive is expected to encourage the implementation of a uniform electronic invoice at an inter-company level within the private sector.

The Act is intended to be without prejudice to other related laws such as the e-Government Act or the Value Added Tax Act.

The proposed effective date of the Act is 1 August 2019.



4. Changes in Reimbursement for the Use of Private Cars for Business Trips and an Increase in Meal Allowances

At present, the Ministry of Labour, Social Affairs and Family has been working on measures related to the Act on Travel Allowances. Specifically, this concerns the adjustment of reimbursement for using a private car for business trips and an adjustment of the amounts of meal allowances for employees sent on business trips.

In relation to the development of food and non-alcoholic beverage price indices in restaurant catering, the purpose of the proposed measure is to increase the sum of meal allowances for individual trip durations as claimable compensation for employees on business trips; this shall depend on the trip durations as follows:

- business trips lasting 5 to 12 hours – an increase to €5.10 (from €4.80);
- business trips lasting 12 to 18 hours – an increase to €7.60 (from €7.10);
- business trips exceeding 18 hours – an increase to €11.60 (from €10.90);

In view of the development of the item price index associated with the running costs of motor vehicles, the measure also aims to increase the sum of basic reimbursement as claimable compensation for employees sent on business trips. The measures increase the sum of reimbursement for one kilometre as follows:

- for two- and three-wheeled vehicles, an increase to €0.053 (from €0.050);
- for passenger cars, an increase to €0.193 (for €0.183).

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The above-mentioned measure on reimbursement for using a car for business trips will take effect beginning 1 June 2019. The measure on change in meal allowances was not announced yet, however, should take effect beginning 1 July 2019.



5. Proposed Amendment to the VAT Act from 1 January 2020

In previous editions of our Newsletter, we have informed you of planned changes to the European Council's VAT Directive (Council Directive 2006/112/EC) and the preliminary opinion of the Ministry of Finance of the Slovak Republic in which it expressed reservations about individual substantive changes.

In this regard, based on a resolution of the Government of the Slovak Republic, a bill proposing to amend the VAT Act is currently being discussed. It concerns changes in the harmonisation and simplification of certain rules in the VAT system for taxation of trade between Member States on the basis of Council Directive (EU) 2018/1910 of 4 December 2018 amending Directive 2006/112/EC.

Although the text of the bill is not yet available, the explanatory memorandum suggests the following changes:

- a) common rules are to be introduced consisting of:
 - facilitation of cross-border goods trading within the framework of the call-off stock arrangement (under this arrangement, when certain conditions are met, the carriage of goods to another Member State will not be deemed to have been relocated to another Member State, i.e. payers shall become exempt from tax or shall be liable to pay tax at a different moment; it will also be possible to apply this arrangement even if the supplier has a VAT identification number in the destination Member State),
 - determination of the place of delivery of the goods with carriage performed by or on behalf of an intermediary entity as part of so-called intra-EU chain transactions (the aim is to establish a clear rule on the assignment of goods transport in intra-EU chain transactions, i.e. a precise rule for determining 'floating deliveries');
 - an addition stating that a goods purchaser's VAT identification number allocated by a Member State other than the Member State of departure of the goods shall constitute a substantive condition for the exemption of the supply of goods to another Member State (an important part of the conditions for tax exemption will also be a declaration of the delivery of the goods to a different Member State in a recapitulative statement - otherwise the tax administrator will not acknowledge a tax exemption).
- b) tax exemptions for transactions involving crude oil and mineral oils shall be added to allow for the trade of stored crude oil, diesel, and petrol on international stock exchanges (this exemption will cover taxable transactions with specific goods listed in Annex No 9 to the VAT Act if such goods are delivered in customs warehouses, in special warehouses, or in tax warehouses).

The effective date of this Act is proposed for 1 January 2020. It will be a few months before the Act is approved, so we will keep a close eye on these proposals and inform you about them in subsequent editions of our Newsletter.



6. What Tax Changes Will Affect Us Before the End of 2019, and What Else Awaits?

1. Expansion of the VAT record-keeping obligation from 1 January 2019

An amendment to the VAT Act, effective as of 1 January 2019, has expanded the record-keeping obligations of taxpayers with an obligation to maintain more detailed records of transactions that are not included in your tax return, recapitulative statement, or even your control statement.

2. Abolition of the levy for chain stores

In a shortened legislative procedure, MPs have approved the abolition of the special levy for chain stores. The decision to abolish the law came as a result of a European Commission arrangement that ordered the law to be suspended until such time as the effects of the particular reason are known. Levies already paid will be treated as advance income tax payments.

3. Child tax bonus

As of 1 April 2019, the tax bonus for children under 6 years of age has been doubled.

4. Act on Dispute Resolution Rules for resolving taxation disputes

The approved Act on Dispute Resolution Rules, which regulates the dispute resolution procedure in matters of avoiding double taxation on income (which we discussed in more detail in the Q4 2018 Newsletter) will come into force on 1 July 2019. It will apply 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.

5. Amendment to the Social Fund Act

Among other things, the bill to amend the Social Fund Act proposes to expand the possibility of using social fund resources for each case of providing a recreation allowance under the Labour Code, rather than only for recreation allowances provided beyond the scope of the Act. The aim of this change is to help employers who are obliged to pay such allowances and for whom the provision of these allowances is very costly (as an example, the legislator mainly mentions employers in the education and health sectors).

6. Amendment to the Building Act

An amendment to the Building Act is currently being prepared, intending to supplement the Act on Local Taxes and Local Fees for Municipal Waste and Minor Construction Waste, as well as the Income Tax Act and the Local Development Fee Act. Among other things, the proposed amendment looks to change the definition of building land for the purposes of real estate tax, while the construction of housing and small structures shall



be defined directly in the Local Tax Act. The proposed effective date of the amendment is 1 July 2021.

7. What Should We Prepare for After Brexit?

At the request of the United Kingdom of Great Britain and Northern Ireland (hereinafter 'the UK'), the European Commission has decided to postpone Brexit until 31 October 2019 at the latest. This means that if an agreement between the EU and the UK is ratified before this date, the UK will be able to leave the EU sooner. Companies that trade with the UK can expect a number of significant changes regarding customs, as well as direct and indirect taxes following the country's withdrawal from the EU.

In the event of a hard (no deal) Brexit, the UK shall be considered a third country, and therefore it will be necessary to prepare for the following most significant consequences:

- changes in the VAT and customs systems for goods travelling from the UK into the EU and, on the other hand, the obligation to pay import VAT and customs duties;
- an impact on goods subject to excise taxes;
- changes in rules when applying for refunds of VAT paid in Slovakia to persons from the UK and vice versa, and when Slovak businesses apply for a refund of VAT paid in the UK;
- UK taxpayers will be taxed in accordance with the Income Tax Act as 'third-country' taxpayers (of course, the relevant double taxation treaty will also need to be taken into consideration);
- Brexit will not affect the double taxation convention entered into between the UK and Slovakia.

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In relation to Brexit, Slovakia has already prepared legislative changes in various fields, e.g. to the Health Insurance Act, the Employment Services Act, and the Act on the Residence of Foreign Nationals.



This Newsletter is a product of TPA.
Best regards,

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