



NEWSLETTER 3/2020

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1. Approved laws in connection with the improvement of the business environment affected by the corona crisis

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On 21 July 2020, Act No. 198/2020 Coll., amending and supplementing certain laws in connection with the improvement of the business environment affected by measures to prevent the spread of dangerous contagious human disease COVID-19 was published in the collection of laws.

This Act approved 114 measures in an accelerated legislative procedure, which are based on the requirements of application practice and should help boost the Slovak economy. In addition to measures of administrative nature, the Act also contains measures to remove bureaucratic restrictions affecting small and medium-sized businesses and self-employed persons. The approved measures include, for example:

- in connection with the effort to achieve stable legislative environment, changes of tax and levy laws will only be possible with effect from 1 January, while a reasonable legislative period will need to be applied (this measure is effective from 1 January 2021);
- an automatic increase in demonstrably incurred fuel consumption expenses by 20% compared to the consumption stated in the vehicle registration certificate;
- extending the minimum period for commenting on the tax inspection report from 15 to 30 business days;
- introduction of the principle of "second chance" (non-imposition of a fine) for individuals and legal entities failing to fulfil its obligation on time within the deadlines set by the Social Insurance Act;



- abolition of various notification obligations towards the Social Insurance Agency;
- rapid increase in size criteria for the statutory audit of business companies in two phases (from 1 January 2021, the audit will be mandatory for companies that meet at least two of the following conditions: total amount of assets exceeding EUR 3,000,000, net turnover exceeding EUR 6,000,000, average number of employees in one accounting period exceeding 40; and from 1 January 2022: total amount of assets exceeding EUR 4,000,000, net turnover exceeding EUR 8,000,000, average number of employees exceeding 50);
- abolition of the obligation to display the cash receipt generated by the e-cash register at points of sale;
- abolition of the bank levy for the 3Q and 4Q of 2020.

2. Practice-requested changes in the payment of income tax advances and in the deduction of tax losses

The approved Act No. 198/2020 Coll. concerned (114 measures to help entrepreneurs) also amends and supplements the so-called LexKorona-Act No. 67/2020 Coll. on certain exceptional measures in the financial area in connection with the spread of the dangerous contagious human disease COVID-19, in particular in the field of payment of advances on corporate income tax and in the field of deduction of tax losses as follows:

- waiver of the obligation to pay the difference in corporate income tax advances paid and payable from the beginning of the tax period (from 1 January 2020 for taxpayers applying the tax period of the calendar year) to the end of the calendar month in which the taxpayer's period for filing the tax return expired (one month after the end of the pandemic) if the advances paid were lower than those resulting from the calculation according to the tax return for the previous tax period;
- in the case of taxpayers applying the fiscal year as the tax period, the obligation to pay the difference in corporate income tax advances is also waived if the last day of the period for filing the corporate income tax return expires during the pandemic period, or if at least one month of the fiscal year expires within the period from 1 January 2020 to 31 December 2020;
- the above change also applies to those taxpayers for whom the tax administrator has determined the income tax advances by decision on the basis of a request for payment of advances otherwise;
- in the case of taxpayers with the fiscal year as the tax period, unapplied tax losses reported for tax periods ended in 2015 to 2018 may be deducted in the tax period for which the deadline for filing the tax return expires during the calendar year 2020. At the same time, such taxpayers may claim deduction of these losses in one tax period only if the deadline for filing the income tax return expires in 2020 for several tax periods. This change does not amend the original conditions for the deduction of unapplied tax losses between 2015 and 2018, which you were informed about in previous editions of our Newsletter.

3. Draft amendment to the VAT Act effective from 1 January 2021

The Government's amendment to the VAT Act was submitted to the National Council of the Slovak Republic on 28 August 2020. The purpose of this amendment is, in particular, to transpose some articles of the Council (EU) directives, which should fundamentally change the application of VAT in electronic trading in goods from 1 January 2021 and introduce the possibility of correcting the tax base and related VAT in the case of unpaid receivables, which has not been possible so far in the Slovak Republic as one of the few EU Member States.

The amendment proposes, in particular, the following changes to the VAT Act:

- redefining mail order business and adjusting the rules for determining the place of delivery for distance selling of goods within the EU, but also for goods imported from third territories or third countries – the Member State in which the shipping or transport of goods to the customer ends;
- abolition of the tax exemption in case of imports of consignments the value of which does not exceed EUR 22, as this exemption distorted economic competition between suppliers established inside and outside the EU;
- extension of the existing voluntary special arrangement, the so-called Mini One Stop Shop (MOSS), which currently only applies to digital services (telecommunications services, radio and television broadcasting services and electronic services), to other services provided by a taxable person not established in the EU to other than taxable persons established in some EU Member States, the place of delivery of which is in the given Member State of consumption;
- extension of the existing voluntary special arrangement MOSS for digital services supplied by taxable persons, which are established in the EU territory but not established in the Member State of consumption, to other services provided by this taxable person, as well as to the distance selling of goods within the EU, and certain domestic supplies of goods – extension of the system to a single point of contact, the so-called One Stop Shop (OSS);
- introduction of a new voluntary special arrangement in the case of the distance selling of goods which is imported from a third country, the value of which does not exceed EUR 150 and, at the same time, is not subject to excise duty – this new arrangement will allow taxable persons to meet their tax return and tax payment obligations in only one Member State, the so-called Member State of identification;
- introduction of the possibility of correcting the tax base on the supply of goods or services if the taxable person, the supplier, has not been paid and its claim has become uncollectible. At the same time, it is proposed to impose an obligation on the customer who has not paid for the supply of goods or services, to correct the deducted tax.

The act is proposed to take effect from 1 January 2021, except for the provisions which are directly transposed the articles of the Council Directive (EU) 2017/2455 as amended and the Council Directive (EU) 2019/1995 as amended, which are proposed with regard to Decision of the Council EU 2020/1109 to take effect from 1 July 2021.

4. Draft amendment to the Income Tax Act from 1 January

The Government's amendment to Act No. 595/2003 Coll. on Income Tax, as amended, was submitted to the National Council of the Slovak Republic on 28 August 2020. The submitted draft implements, among other things, Council Directive (EU) 2017/952 of 29 May 2017 amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries. The aim of this amendment is primarily to strengthen the level of protection against aggressive tax planning and the rules against violating the tax base and transferring profits outside the territory of the Slovak Republic.

The most significant proposed changes include:

- the definition of the registered office and place of actual management, as one of the criteria for determining the tax residence of a legal entity in the Slovak Republic, is made more precise;
- the exception for those individuals who cross the borders of the Slovak Republic on a daily basis for the purpose of performing dependent activity in Slovakia is omitted from the criteria for determining the residence of an individual. The purpose of such arrangement is to ensure that the tax residence of individuals is determined according to the delimitation criteria in the relevant agreement on avoidance of double taxation;
- for the purposes of defining the position of the so-called micro-taxpayer, only taxable income (and not all income from business and from other self-employed activities, as under the current valid wording of the law) should be included in the income (revenues);
- legislation on hybrid mismatches is being extended, e.g. the definition of transparent entity and reverse hybrid entity is introduced, and the rules for the taxation of income of these entities are introduced;
- the application of the CFC rules (rules for controlled foreign persons – so far valid in law only for legal entities) is extended also to individuals; the aim of these rules is to prevent tax evasion and to tax the income of a CFC company in the Slovak Republic as early as at the moment of achieving the income in the CFC company and not as late as when dividends are paid out;
- it is proposed to exempt from taxation the income/performance provided under the active labour policy to support the retention of jobs and employees in the employment, in connection with the declaration of an emergency situation as a result of COVID-19;
- it is proposed to refrain from settling the corporate income tax advances paid, which are paid from the beginning of the tax period to the deadline for filing the tax return in a lower amount than that based on the tax return filed;
- it is proposed to extend the benefits provided by the financial administration to taxpayers, namely by including the obligation of the tax administrator to notify the taxpayer filing the tax return of the amount and due date of the income tax advance no later than 20 days after the deadline for filing the tax return;
- for the sake of simplification and legal certainty, an employee is allowed to request the annual settlement from any employer who is a taxpayer and who paid a taxable salary to the employee during the tax period.

The submitted act is proposed to be effective from 1 January 2021, with the exception of some provisions, proposed to be effective as late as from 1 January 2022.



5. Adjustment of subsistence minimum amounts from 1 July 2020

On 1 July 2020, the measure of the Ministry of Labour, Social Affairs and Family of the Slovak Republic of 19 June 2020 on the adjustment of the subsistence minimum amounts took effect. This change affects, inter alia, the amount of the non-taxable part of the taxpayer's tax base, which thus increases from the original EUR 4,414.20 valid for 2020 to the new amount of EUR 4,511.43, to be used in the calculation of the tax liability for 2021.

To this effect, also the limit for the calculation of the personal income tax base is changed, and will be subject to a 25% tax rate if exceeded. The limit amounts to EUR 37,981.94 per year, i.e. EUR 3,165.16 per month.

6. Draft amendment to the Tax Code from 1 January 2021

The Ministry of Finance of the Slovak Republic published preliminary information on the prepared amendment to the Tax Code, which has the following three basic objectives:

1. Strengthening the tax reliability index – the Financial Directorate of the Slovak Republic is to publish, on its website, precisely determined indicators and the method of assigning the reliability index, including a list of tax entities with their assigned degree of reliability index, while each type of assessment will entail appropriate benefits. Among other things, taxpayers will have the opportunity to find out where and what their shortcomings are so they can improve their assessment.
2. Introduction of the institute of simultaneous tax inspections for the purpose of a comprehensive examination of the entire business chain within a single tax inspection in the cases of suspected tax evasion. This basically means, that if one company is suspected, all other entities that may have been involved in the tax fraud will also be inspected.
3. Public register of tax unreliable persons – this is an amendment to the Tax Code following the provisions of the Commercial Code relating to disqualified persons. The purpose is to prevent such persons from accessing positions in business companies and to increase the effectiveness of the fight against tax fraud. The business community by itself will thus have a chance to verify the credibility of potential business partners in advance.

7. Overview of some changes in the area of payroll and labour law

Below are some of the changes that were approved during 2020 and may be interesting and necessary, especially in the area of payroll and labour law:

Social Insurance Act

- With effect from 1 January 2021, the employer's obligation to notify changes in the data of its employee (surname, first name, date and place of birth, status and place of permanent residence, etc.), change of data on the date of origination and termination of employment or another legal relationship with the employer, the beginning and end of the use of maternity leave or parental leave by an employee, is cancelled.
- At the end of an employee's employment relationship with an employer, the employer is obliged to submit a record sheet to the Social Insurance Authority. The deadline for fulfilling the obligation is newly set by the end of the calendar month following the calendar month in which the legal relationship ended. This change is effective from the date of promulgation of the act, i.e. 21 July 2020.

Employment Services Act

- An employer is obliged to notify the vacancy and its characteristics to the authority in the territorial district of which the vacancy is located. However, fine will newly not be imposed for non-compliance with this obligation.

Occupational Health and Safety Act

- The obligation for all employers to appoint one or more employees as employee safety representatives is cancelled. Newly, this obligation must be fulfilled only by an employer employing at least 10 employees. Smaller employers may or may not do so.

Act on the Protection, Promotion and Development of Public Health

- Employers' obligation to notify the competent public health authority, in electronic form each year, of the data relating to employees performing work falling into the second category to a specified extent, is cancelled.

Labour Code

- With effect from 30 July 2020, there were fundamental changes in the conditions concerning the cross-border posting of employees from the EU Member States to Slovakia, and thus the labour-law relationships of such employees will be governed by the provisions of Section 5 (2) of the Labour Code.
- This means that the visiting employer (an employer established in another EU Member State and posting an employee to perform work in the provision of services in the territory of the Slovak Republic) will be obliged to comply with the so-called core of the working conditions, i.e. the rules laid down by the legislation of the State to which the employee is posted. If the employee is posted to Slovakia, it is necessary to comply with the conditions under the Slovak Labour Code (e.g. minimum wage and

overtime pay, length of working time and rules for rest, safety and health protection at work, length of holiday, safety and health protection at work, meal allowance, accommodation, transport in the case of a business trip, etc.).

- When posting for longer than 12 or 18 months, all provisions of the Labour Code, special regulations and collective agreements will apply to the labour-law relationship, except for the establishment, end and termination of the labour-law relationship and the non-competition clause. The visiting employer is therefore obliged to comply (with exceptions) with the entire Labour Code.

8. The amount of the meal allowance will not increase temporarily

On 21 May 2020, Act No. 127/2020 Coll. relating, inter alia, to Act No. 283/2002 Coll. on Travel Expenses, took effect. Given the declaration of an emergency situation in connection with the spread of the dangerous contagious human disease COVID-19, this act will temporarily not increase the amount of meal allowance and compensation for the use of road motor vehicles.

The determination of the amount of meal allowance for the specified time zones and of the amount of basic compensation for the use of road motor vehicles will thus continue to be based on the measure issued on 1 July 2019, when the last increase in meal allowance amounts was made.

The amount of travel expenses also determines the value of meal allowance vouchers, which will not increase as a result of this change. Pursuant to the adopted act, the amounts of meal allowance remain unchanged until 31 December 2021. All employers were thus given a helping hand and a guarantee during the corona crisis that these costs would not increase temporarily.

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9. Approval of the provision of rent subsidies

On 9 June 2020, the National Council of the Slovak Republic approved an amendment to Act No. 71/2013 Coll. on the provision of subsidies in the exercise of the competence of the Ministry of Economy of the Slovak Republic. It is a measure taken in order to mitigate the negative effects and unfavourable financial situation of entrepreneurs—tenants caused by government restrictions of their activities in connection with the COVID-19 disease.

Pursuant to this amendment, the state will provide tenants with a rent subsidy up to the amount forgiven by the landlord, but not more than 50% of the rent for the period of obstructed use (i.e. for the period during which the tenant could not use the subject of rent for the agreed purpose as a result of government measures related to the spread of the COVID-19 disease).



Such subsidies may be provided:

- for a rental relationship, according to which the tenant became entitled to use the subject of rent no later than from 1 February 2020, whereas the subject of rent shall be the space in which the tenant carries out its economic activity, i.e. sells goods or provides services;
- if the use of the subject of rent was prevented in connection with the prevention of the consequences of the spread of dangerous contagious human disease COVID-19, by "governmental" measures in the form of closure of establishments, interruption of teaching in schools and school facilities, or substantially restricted by a ban on the presence of the public in establishments;

The landlord shall apply for the subsidy on behalf of the tenant and on its own account, electronically using a form published by the Ministry of Economy of the Slovak Republic.

If non-compliance with the conditions stipulated by law is proven, the tenant shall be obliged to return the subsidy.

10. Postponement of the deadline for notification of cross-border measures – DAC 6

As you were already informed in previous issues of our Newsletter, an automatic exchange of information about cross-border transactions used for aggressive tax planning has been introduced with effect from 1 July 2020 (implementation of DAC 6). To ensure this automatic exchange of information, the notification obligation has been imposed on the so-called liable persons (intermediary or respective taxpayer, i.e. user), while the deadline for its fulfilment as for transactions (measures) carried out from 25 June 2018 to 30 June 2020 was no later than 31 August 2020.

Given the current situation regarding the spread of the dangerous contagious human disease COVID-19, the European Commission decided, at the end of June 2020, to postpone the original deadlines for EU Member States by adopting Council Directive (EU) 2020/876. For this reason, amendment to Act No. 442/2012 Coll., which moves the original deadline for the notification of cross-border transactions carried out between 25 June 2018 and 30 June 2020 from 31 August 2020 to 28 February 2021, was approved and published in the Collection of Laws of the Slovak Republic under no. 198/2020 Coll. on 21 July 2020.

At the same time, a new deadline for the notification of measures resulting from cross-border transactions carried out between 1 July 2020 and 31 December 2020 is set for the period from 1 January 2021 to 31 January 2021.



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Best regards,

Your TPA team.

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