



## NEWSLETTER 3/2022

In the latest edition of the Newsletter, we bring you the following topics:

1. Upcoming changes to the VAT Act.....	1
2. Draft amendment to the Income Tax Act and the Tax Code .....	2
3. Implementation of the DAC Directive	
7.....	4
4. End of the validity of the certificates for qualified electronic signature.....	4
5. Change to meal allowances and basic reimbursement for business travel from 1 September 2022.....	5
6. Minimum assessment base for employee's health insurance.....	5

### 1. Upcoming changes to the VAT Act

The Ministry of Finance of the Slovak Republic has published a draft of the forthcoming amendment to Act No. 222/2004 Coll., on Value Added Tax, as amended (hereinafter referred to as the "VAT Act" or the "Amendment"). The subject of this draft amendment is, inter alia:

- The change in Section 53b **introduces an obligation for the customer to make a correction of the deducted VAT on purchased goods or services, in the price of which VAT has been applied, unless the customer settles the obligation in part or in full within 100 days after its due date.** This means that if the customer does not pay for the purchased goods or services within 100 days, the customer is obliged to correct the deducted VAT to the extent of the unpaid obligation in the tax period, in which 100 days have elapsed since its due date. The introduction of such an obligation is expected to increase the incentive for customers to pay outstanding debts, as non-payment will lead to an obligation to correct the deducted tax.
- **Waiver of the obligation to register as a VAT payer after exceeding a turnover of EUR 49,790 if the taxable entity exclusively supplies goods or services that are exempt from VAT.** The main aim of such a modification is to reduce the administrative burden. This is the case where the taxable entity carries out only exempt activities, such as the provision of financial or insurance services, or exempt property rental; in this case, VAT registration is no longer required once the turnover from these activities exceeds EUR 49,790. However, if such an entity wishes to register voluntarily, it may do so.
- **Other changes aimed at reducing the administrative burden and eliminating some of the shortcomings of the act that have arisen from application in practice.** These include, for example, a more detailed explanation of what constitutes a consignment of a small nature, the import of which is exempt from VAT, for the purposes of the VAT Act; the method for determining the amount of the correction



of deducted tax on the theft of goods specified by the act; the abolition of the obligation to submit a zero tax return in the case of the first customer under a triangular trade scheme; a change of the time limit for payment of tax on the acquisition of a new means of transport from another EU Member State.

- With effect from 1 January 2024, a **new record-keeping obligation** is introduced **for payment service providers** through which payments for delivered goods or services are made – this change is primarily due to the transposition of the EU Council Directive, the main objective of which is to combat tax evasion arising from cross-border e-commerce, where situations arise when the customer is located in one EU Member State and the supplier of goods or services is located in another EU Member State, or in a third country, with the entire purchase being made in the online space. The absence of the customer's information obligation in such transactions leads to insufficient and inaccurate information for national tax administrations and therefore often leads to a failure to declare tax liability. These records will subsequently be sent by each EU Member State to the central European payment system, where they will be checked.

The amendment to this VAT Act is proposed to take effect from 1 January 2023, except for the record-keeping obligation for selected payment service providers, which will take effect from 1 January 2024.

## 2. Draft amendment to the Income Tax Act and the Tax Code

After completion of the interdepartmental comment procedure, the Ministry of Finance of the Slovak Republic published a draft amendment to the Income Tax Act and to the Tax Administration Act (the "Tax Code"). Most of the proposed changes are to take effect on 1 January 2023.

2

The most important proposals and amendments to the **Income Tax Act** are as follows:

### 1) Transfer pricing

- the definition of an economically connected person and a controlled transaction is clarified;
- the rules for adjusting the tax base in the event of non-compliance with the arm's length principle and the rules for including costs incurred by another related party into the taxpayer's tax base are clarified;
- in order to reduce the administrative burden on small businesses in case of low-value transactions, a "safe harbor" of EUR 10,000 is introduced, except for loans and credits, which will be considered a significant controlled transaction if their principal exceeds EUR 50,000;
- in order to ensure legal certainty in the application of transfer pricing rules, a reference to the OECD Transfer Pricing Directive is added to the act;
- if the prices used by the taxpayer in transactions with related parties do not comply with the arm's length principle, in the event of a tax inspection the taxpayer's tax base will be adjusted "to the median" of the independent comparable values found;
- when issuing decisions on bilateral and multilateral agreements to the use of the valuation method, the possibility is added to issue a decision for more than five tax periods if the competent authorities have also agreed to apply the valuation method for the tax periods prior to the submission of the application,



- it will also be possible to submit the transfer documentation in a foreign language, and if the tax administrator requests the documentation in the state language, the taxpayer will be obliged to submit it within 15 days of receiving the tax administrator's request;
- foreign taxpayers doing business in the territory of the Slovak Republic through a permanent establishment will be able to determine the tax base of this permanent establishment on the basis of foreign records (e.g. from accounting records kept abroad), and thus the accrual principle is considered in this case and not the cash principle;
- the procedure for including incomes (revenues) and expenses (costs), that are recognised after the termination of a permanent establishment, into the tax base is also modified.

## 2) Limitation of tax deductibility of interest

- With effect from 1 January 2024, a new rule is introduced to limit the net interest expense (the difference between interest revenue and interest expense) included in the tax base.
- The limitation will not apply to taxpayers whose amount of net interest expense does not exceed EUR 3,000,000 inclusive. If the amount of net interest expense exceeds EUR 3,000,000, the tax base will be increased by the amount by which the net interest expense exceeds 30% of the EBIDTA indicator. For the limitation purposes, the EBIDTA indicator is proposed to be calculated as the sum of the individual tax bases (before adjustments are made under the interest expense limitation rule), net interest expense, and tax depreciation of assets.
- Net interest expense not included in the tax base in the relevant tax period will be deductible from the tax base in a maximum of five consecutive tax periods.
- The new net interest expense limitation rule is to be applied in preference to the thin capitalisation rules pursuant to Section 21a of the Income Tax Act and is not intended to apply to banks and insurance companies.

3

## 3) Other

- It is possible to complete the application of the entire entitlement to the tax bonus for a dependent child if the taxpayer's tax base is insufficient to apply the full amount of the tax bonus. The application of the tax bonus will be possible exclusively through the tax return, by including the tax base of both eligible persons nurturing a child into the aggregate income for the purposes of assessing the entitlement to the tax bonus.
- The tax administrator will register ex officio for income tax the taxpayers registered in the commercial and trade registers and according to the notice that will be published on the website of the Financial Directorate of the Slovak Republic.
- Adjustments to the tax base resulting from the implementation of IFRS 9 and IFRS 17 will be included in the tax base on a straight-line basis over three tax periods, starting with the tax period beginning no earlier than on 1 January 2023.

At the same time, the **Tax Code** is to be amended in the following areas:



- with effect from 1 January 2024, a so-called "second chance" is introduced when imposing penalties, where the tax administrator will not impose a penalty, which can be determined within an interval range, for the first violation of the Tax Code, but will first call on the tax entity to comply with its obligations, together with a warning that a penalty will be imposed for the next violation;
- with effect from 1 January 2024, it is proposed to shorten the time limit for charging interest on late payment in the event of full payment of the arrears, so that the tax administrator will be able to impose the interest only within one year from the end of the year in which the arrears were paid;
- for the purpose of extinguishing the criminality of a tax criminal offence under the Criminal Code on the ground of effective regret, the tax may be levied even after the right to levy it has expired by payment of the tax.

### 3. Implementation of the DAC 7 Directive

On 1 January 2023, an amendment to Act No. 422/2012 Coll., on International Assistance and Cooperation in Tax Administration, which transposes Council Directive (EU) 2021/514 (DAC7) on administrative cooperation in the field of taxation, enters into force. DAC7 aims to improve the automatic exchange of information between EU Member States' tax authorities.

A new reporting obligation for digital platform operators arises. Selected business activities (e.g. property rental, online or face-to-face training, IT services, data processing, transport, delivery and cleaning services, sale of goods and rental of means of transport) carried out through digital platforms will be subject to reporting. It will be necessary for digital platform operators to collect, control and report to the tax authorities the statutory information on individual sellers.

The calendar year 2023 will be the first reporting period, with digital platform operators having to report the required information to the relevant tax authorities by 31 January 2024.

### 4. End of the validity of the certificates for qualified electronic signature

Based on the information published by the Ministry of the Interior of the Slovak Republic, the validity of the certificates for qualified electronic signature (QES) on electronic ID cards and electronic foreigner documents issued before 21 June 2021 will expire on 31 December 2022. The reason for their expiration is the expired certification of the smart card on the identity document as a qualified signature and seal device.

The expiration of the certificate means that those users whose ID card was issued before 21 June 2021 and who use the electronic ID card for signing documents (e.g. for electronic submission of tax returns, notifications, reports on the financial administration portal) will be obliged to apply for a new ID card with a new signature certificate. For users, who do not use electronic signing via their ID card, nothing changes in this case.

ID card replacement can only be applied for in person. There will be a fee (EUR 4.50) for the ID card



replacement.

At the beginning of August 2022, information came out from the Ministry of Interior of the Slovak Republic that a temporary, emergency solution was being worked on, where physical exchange of identity documents would supposedly not be necessary. However, the details have still not been made public.

## 5. Change to meal allowances and basic reimbursement for business travel from 1 September 2022

As we already informed you in the last edition of the newsletter, with effect from **1 September 2022**, the values of the meal allowance have changed again, and the following is becoming reality:

- ✓ **EUR 6.40** for the time zone of 5 hours to 12 hours,
- ✓ **EUR 9.60** for the time zone of 12 hours to 18 hours,
- ✓ **EUR 14.50** for the time zone over 18 hours.

The set amount of the meal allowance has an impact on the provision of meals to employees as well, and thus the maximum possible employer contribution for meals provided under the Labour Code has also been increased to **EUR 3.52** (previously EUR 3.30), while the lowest possible value of the meal allowance has been increased to **EUR 4.80** (previously EUR 4.50).

5

The financial contribution for meals is the same as the amount the employer contributes to the employees' meal or meal voucher.

With effect from **1 September 2022**, the amounts of basic compensation for the use of road motor vehicles during business trips for each 1 km of travel have also changed, as follows:

- ✓ single-track vehicles and tricycles **EUR 0.063**
- ✓ passenger road motor vehicles **EUR 0.227**

## 6. Minimum assessment base for employee's health insurance

In July 2022, the Ministry of Health of the Slovak Republic published a draft amendment on health insurance companies, which includes, among other things:

- **Introduction of a minimum assessment base for an employee, in the amount of the minimum monthly wage.** In practice, this would mean that if the employee's income does not reach the amount of the minimum assessment base, the employee will have to pay the health insurance premium themselves,



at the rate of 14%. Such an adjustment would negatively affect not only low-income executives, but especially those people who work part-time and receive lower incomes.

- **Abolition of the health insurance deductible** – this is the abolition of the deductible introduced in 2015 as a tool to support low-income employees (this item reduces the assessment base for calculating advance payments for insurance premiums).

These changes should be effective from 1 January 2023.

We will inform you about the approval of this proposal in our next newsletter.

This Newsletter is a product of TPA.

Best regards,

Your TPA team.

**Contact:**

**TPA Slovakia**  
Blumental Offices II  
Nám. Mateja Korvína 1  
811 07 Bratislava

**TPA Slovakia**  
Letná 27  
040 01 Košice

Phone: +421 (02) 57 351 111

[www.tpa-group.sk](http://www.tpa-group.sk)

[www.tpa-group.com](http://www.tpa-group.com)

If you wish to receive information on a regular basis, subscribe to the Newsletter on our website.

**IMPRESSUM** The information contained in this document is for general information purposes only. If you decide to use it in practice, we recommend that you do so only on the basis of a professional consultation that allows for the assessment of all aspects of the case at hand. This document does not replace professional advice and, therefore, TPA cannot be held liable for any damage resulting from the use of the information contained herein.

Copyright © 2020 TPA, Blumental Offices II, Nám. Mateja Korvína 1, 811 07, Bratislava

All rights reserved.