



NEWSLETTER 1/2023

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1. Reduced VAT rate of 10%

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In the previous issue of our Newsletter, we informed you about the amendment to the Value Added Tax Act, in which the introduction of a reduced VAT rate of 10% for the selected services listed below was approved for a transitional period (until 31 March 2023). On 22 December 2022, the National Council of the Slovak Republic approved another amendment to the VAT Act, which will permanently allow the continued application of the reduced VAT rate for the abovementioned services, with effect from 1 April 2023.

The services, to which the reduced VAT rate can be applied after 31 March 2023, are listed in Annex No. 7a of the VAT Act, namely:

- passenger transport services by cable cars, funiculars and ski-lifts,
- services for the purpose of performing sport in indoor and outdoor sports facilities (including admission to fitness centres), and admission to swimming pools,
- restaurant and catering services,
- accommodation services.

Providers of restaurant and catering services in particular should be cautious when applying the reduced VAT rate, as its application is more complicated from a VAT point of view. For the correct application of the reduced rate, it is important that the restaurant and catering services are sufficiently accompanied by ancillary services enabling the food or drink provided to be consumed on the spot. An example of an ancillary service is the



provision of a space for eating, the provision of service, toilets or changing rooms. It follows from the above that if a customer orders and consumes food in a restaurant, the reduced rate applies. However, the purchase of takeaway food or the delivery of food is subject to the standard VAT rate of 20%, as it is considered as a supply of goods from the VAT perspective.

2. The amendment to the Act on Social Economy and Social Enterprises introduces the addition of so-called family businesses

On 2 December 2022, the National Council of the Slovak Republic approved an amendment to the Act on Social Economy and Social Enterprises. The most significant changes include the addition of new provisions on family businesses, which gives family business a separate legal framework.

Under this amendment, only an entity that was primarily established for the purpose of carrying on a business with substantial family ties may be a family business. Thus, the provisions for family businesses do not create a new, separate legal form, but rather define the characteristics of a family business for entities of already existing legal forms. Selected legal forms include: commercial company, cooperative, and individual – entrepreneur.

The existence of family ties is essential for a family business in terms of its internal functioning, as well as in terms of achieving business objectives. The essential characteristics of the existence of family ties are:

- majority exercise of voting rights in favour of members of the same family,
- participation in the management of the company through the statutory person as a member of the family,
- majority economic benefit of members of one family.

The amendment to the Act also regulates the council of the family business as the governing body of the business, the conditions under which a business may be included in the register of family businesses, as well as the granting of the status and obligations of a registered family business.

In the future, family businesses could gain access to selected forms of direct and indirect aid. However, specific forms of support for family businesses have not yet been established by law.

The amendment to the Act on Social Economy and Social Enterprises is effective from 1 January 2023, while the provisions relating to family businesses come into effect on 1 July 2023.

3. New Guideline of the Ministry of Finance of the Slovak Republic on the Determination of the Content of Transfer Pricing Documentation

At the end of 2022, the new Guideline of the Ministry of Finance of the Slovak Republic No. MF/020061/2022-724 (hereinafter referred to as the "New Guideline") on the Determination of the Content of Transfer Pricing



Documentation (hereinafter referred to as the "Documentation") was published in the Financial Bulletin. The New Guideline will apply when preparing the Documentation for the tax period beginning after 31 December 2022.

The New Guideline also introduces a documentation requirement for credits and loans that do not affect the income tax base.

The New Guideline also introduces a change for permanent establishments in the form of an extension of the Documentation obligation. In addition to the standard elements of full, basic or abbreviated Documentation, an obligation is introduced for permanent establishments to document the method of allocation of the capital and financing costs of the permanent establishment if the permanent establishment claims them as tax expenses.

The scope of entities that are obliged to keep abbreviated Documentation (where full or basic Documentation is not prepared for a given transaction) has also been also modified. This Documentation is now to be kept by:

- in a significant controlled transaction, taxpayers that have recognised a tax loss in the relevant tax period, claim a tax loss deduction, or do not qualify for the reduced 15% income tax rate,
- in a controlled transaction, taxpayers that claim tax relief in the relevant tax period.

4. Proposal of a non-taxable item for pension savings contributions

On 13 January 2023, a draft bill to increase the support for voluntary pension savings was submitted to the National Council of the Slovak Republic.

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It is proposed to introduce a tax incentive in the form of a non-taxable part of the tax base in the amount of demonstrably paid voluntary contributions to old-age pension savings, up to a maximum of 2% of the tax base on personal income from employment activities and entrepreneurship. At the same time, this amount must not exceed 2% of 60 times the average monthly wage in the Slovak economy for the calendar year two years preceding the calendar year for which the tax base is determined.

It is also proposed to allow the use of voluntary savings before reaching the retirement age. Adjustment of the tax base will only be necessary if the withdrawal of funds is made before the taxpayer reaches the age of 55 and, at the same time, if the taxpayer has claimed the non-taxable item in previous periods.

The proposed effective date of the amendment is 1 January 2024.

5. Draft Act on Conversions of Commercial Companies and Cooperatives

The Ministry of Justice of the Slovak Republic is currently evaluating the comments made on the draft Act on Conversions of Commercial Companies and Cooperatives and on Amendments and Additions to Certain Acts (hereinafter referred to as "the Act"). The Act was drafted in order to transpose Directive (EU) 2019/2121 of



the European Parliament and of the Council of 27 November 2019 amending Directive (EU) 2017/1132 as regards cross-border conversions, mergers and divisions.

The aim of the draft is to develop a uniform and comprehensive legal regulation of mergers, divisions, changes in the legal form of companies and their cross-border alternatives, which would replace the currently applicable legal regulation contained in the Commercial Code.

The draft Act (among other things):

- introduces new terminology, namely the concepts of conversions and cross-border conversions, whereby the conversions are understood as mergers (fusions) and divisions of companies, and the cross-border conversion is understood as cross-border merger and cross-border division;
- introduces new institutes – spin-off (an institute corresponding to a partial division, where the company being divided does not cease to exist and its part is split off into another company), cross-border division, cross-border change of legal form;
- shortens the time limit for notification to the tax administrator (tax or customs office) by the dissolving company that a draft conversion project has been drawn up, namely from the current 60 days to 30 days before the date of the general meeting at which a decision on the approval of the draft conversion project is to be taken.

As the Act is proposed to become effective on 1 June 2023, we will closely monitor its further development and will provide more detailed information in future issues of our Newsletter.

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6. Draft amendment to the Regional Investment Aid Act

Members of the National Council of the Slovak Republic have submitted a draft amendment to Act No. 57/2018 Coll., on Regional Investment Aid, which is also to amend the Income Tax Act.

The main objective of the amendment to the Act is to eliminate the adverse effects of the energy crisis and to mitigate the obligations for recipients of investment aid. The modified conditions also apply to potential applicants for regional investment aid, which are intended to attract new investors.

The amendment brings several temporary changes. The most significant proposed changes are:

- extension of the time limit for the start of the business activity specified in the investment plan and extension of the time limit for the completion of work on the project,
- reduction in the value of the minimum increase in production,
- reduction of the minimum investment costs to be invested in the project in 2023 and 2024,
- reduction in the value of the minimum growth in job positions under the project in 2023 and 2024.

The proposed amendment to the Act is also intended to introduce a change to the Income Tax Act that would extend the period during which recipients of investment aid will be able to claim income tax relief. Generally,



entrepreneurs that have been approved for investment aid in the form of income tax relief are entitled to apply tax allowance for a maximum of 10 immediately consecutive tax periods, subject to the statutory conditions being met. It is proposed not to include the following tax periods in the time limit for starting to apply the tax relief:

- the years 2023 and 2024, if the recipient of investment aid is entitled to tax relief also after 31 December 2022,
- the years 2024, 2025 and 2026, if 2023 is the first tax period in which the recipient can apply income tax relief.

The amendment to the Act is proposed to take effect on the date of its announcement.

7. Change to the Foundations Act and to the Civil Code

The Ministry of Justice of the Slovak Republic has submitted a draft Act amending and supplementing Act No. 37/2002 Coll., on Foundations and on Amendments to the Civil Code, amending and supplementing certain acts (hereinafter referred to as the "Foundations Act"). The main reason for the proposed Act is the introduction of an institute for the management of property for private purposes, which has up until now been absent in Slovak legislation. Similar instruments are known from abroad, such as trusts or private funds. This will allow citizens to set up how property is managed and handed over to family members or other persons designated by them.

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The proposed amendment to the Act is to add a new concept – private foundation. The forthcoming amendment will include legal regulation of the functioning of a private foundation, including the conditions for its establishment. The minimum contribution to a private foundation is proposed in the amount of EUR 1.

The assets of a private foundation will be able to consist of everything that can be the subject of private law relationships (e.g. movable and immovable property, securities, business shares, jewellery, cryptocurrencies). Information about the founder of a private foundation should be non-public.

From an income tax perspective, a private foundation should have a similar tax treatment to a regular corporate income tax payer. Contributions and donations to a private foundation should thus not be subject to taxation at the level of the private foundation. The income of a private foundation should be subject to the corporate income tax rate. Benefits provided to the beneficiary – an individual – from the profits of the foundation should be subject to withholding tax in a similar way as in the case of dividends.

However, if a benefit that is not made from the profits of a private foundation is paid to a beneficiary, the tax treatment will be the same as in the case of a donation. The gratuitous use of the private foundation's property by the beneficiary – individual – as well as the reimbursement of its costs from the private foundation's property will also be considered in the same way, and such use of property will not be subject to personal income tax.



The proposed effectiveness of the Foundations Act is from 1 January 2024. However, we will inform you in more detail about the forthcoming Act in future issues of our Newsletter.

8. Draft amendment to the Accounting Act

Based on preliminary information from the Ministry of Finance of the Slovak Republic, an amendment to Act No. 431/2022 Coll. on Accounting is currently being prepared, which will bring the Slovak law even closer to the European regulations. The aim of the proposed change is to improve the quality of information disclosed in the annual reports of selected accounting units regarding their environmental, social and governance impacts (sustainability information). All this information should also be given a uniform electronic reporting format in line with European standards and with the obligation of uniform assurance of this information by an independent party.

In connection with this change, a modification of the requirements for the professional education of auditors and the systematics of their work is also being planned. At present, these requirements for auditors are not mandated by the Audit Act or the Accounting Act and are therefore not further regulated. In view of the planned changes to the mandatory disclosure requirements for sustainability information, changes will need to be made not only to the aforementioned laws, but also to the Commercial Code.

The expected date for the start of the comment procedure for the amendment to the Accounting Act is May 2023.

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9. New regulation of wage supplements from 1 June 2023

With effect from 1 June 2023, the amount of wage benefits (supplements) is adjusted. After more than two years, the supplements will again be linked to the minimum wage as follows:

- supplement for working on Saturday: EUR 2.012 (50% of the minimum hourly wage).
- reduced supplement for working on Saturday: EUR 1.810 (45% of the minimum hourly wage).
- supplement for working on Sunday: EUR 4.023 (100% of the minimum hourly wage).
- reduced supplement for working on Sunday: EUR 3.621 (90% of the minimum hourly wage).
- supplement for night work for non-hazardous work: EUR 1.609 (40% of the minimum hourly wage).
- reduced supplement for night work for non-hazardous work: EUR 1.408 (35% of the minimum hourly wage)
- supplement for night work for hazardous work: EUR 2.012 (50% of the minimum hourly wage)
- wage compensation for difficulty in performing the work: EUR 0.805 (20% of the minimum hourly wage)
- wage compensation for inactive emergency duty away from the workplace: EUR 0.805 (20% of the minimum hourly wage)



10. Use of road motor vehicles for business trips

The Ministry of Finance of the Slovak Republic has submitted a proposal for a measure to increase the amount of the basic compensation for the use of road motor vehicles on business trips for every 1 km of travel from the current EUR 0.227 to EUR 0.239.

This measure is proposed to take effect from 1 April 2023. We will inform you about its adoption in the next edition of our Newsletter.

11. Opportunity to obtain a grant for a process audit

We would like to inform you about the possibility to improve internal processes in your company by using a subsidy of up to EUR 9,600 for conducting a corporate audit.

Slovak Business Agency, through the National Business Centre project, has launched a new service for established companies – PROCESS AUDIT. The aim of the assistance is to develop and improve processes in small and medium-sized enterprises (SMEs), highlight their opportunities, and provide early warning of any potential risks. The output includes solutions and suggestions for improvement.

Possible audit areas: production processes, marketing, IT, business relations, and others. No co-financing is required on your part.

The audit will be carried out by a consulting company selected through a transparent selection process and in an area of your choice. Once the necessary steps have been completed, the cost of the finalised audit will be reimbursed to the consulting company. The voucher cannot be used for financial or accounting audits.

The process audit voucher can be used by companies that have been operating for more than 3 years, have fewer than 250 employees and an annual turnover not exceeding EUR 50 million (and/or an annual balance sheet total not exceeding EUR 43 million).

For more details on how to process and assess your application, please visit the NPC website, or we will be happy to provide you with personal advice.

Therefore, please do not hesitate to consult us about the possibility of using this subsidy programme according to your needs.



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Best regards,

Your TPA team

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