



NEWSLETTER 3/2023

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

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1. Non-monetary benefits in the Income Tax Act exempt at the time of acquisition

The National Council of the Slovak Republic has approved the draft act on transformations of commercial companies and cooperatives and on amendments and supplements to certain acts (hereinafter referred to as the “Act”), in connection with which other acts, such as the Income Tax Act, the Value Added Tax Act and the Accounting Act, are also amended.

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We informed you in more detail about the draft Act as well as other changes within the abovementioned acts in previous issues of our newsletter. While the changes to the Value Added Tax Act and the Accounting Act have remained in the original proposed wording, the final approved version of the Act has expanded the Income Tax Act with the following additions:

- Exemption of a non-monetary benefit from tax for an employee/supplier (individual) acquired in the form of a share or business share in the employer’s/customer’s company; however, this exemption applies only under the following conditions:
 - the employer/customer did not pay out profit shares, and if profit shares are paid out, the exemption of the non-monetary benefit will cease to apply from the following tax period (i.e. the non-monetary benefit is additionally taxed in this period);
 - the shares in question have not been and are not admitted to trading on a regulated market by the end of the tax period in which this non-monetary benefit was acquired by the employee/supplier;
- shares and business shares acquired in this way are taxed as other income in the event of a sale, with only the amount paid by the employee being an expense (i.e. if these were acquired free of charge, no expense can be claimed);



- Further, exemption of income from the transfer of a share in a limited liability company after three years from the date of its acquisition has been introduced, unless it was acquired as a tax-exempt non-monetary benefit from the employer/customer and unless it was a business asset of the taxpayer at the same time.

The abovementioned changes concerning income tax exemptions for taxpayers (individuals) take effect on 1 January 2024, and the approved wording raises a number of questions already at the outset. The other changes regarding the Income Tax Act, the Value Added Tax Act and the Accounting Act, which we informed you about in the previous newsletter, take effect on 1 March 2024.

2. Amendment to the Income Tax Act

In the previous edition of our newsletter, we informed you about the proposal to abolish the CFC rules applicable to individuals. This change was approved and became effective on 1 August 2023.

On 28 June 2023, the National Council of the Slovak Republic approved another amendment to the Income Tax Act (Act No. 315/2023 Coll.), which reduces the tax and levy burden on certain types of capital income. The aim of the approved amendment is to facilitate investing and saving for ordinary citizens, including in the context of long-term investment savings or as a voluntary form of saving for retirement. The amendment to the Income Tax Act takes effect from 1 January 2024. The main changes include:

- Taxation of income from the sale of virtual currency after one year (the so-called “time test”) from its acquisition at a rate of 7%. In cases where the time test is not passed, such income will be taxed as before, at the progressive tax rate of 19% or 25%.
- The obligation to pay health insurance levies on the sale of virtual currency is abolished if the virtual currency has not been included in business assets. The above applies to any income from the sale of virtual currency, regardless of the time test.
- Exchange of a virtual currency for another virtual currency is no longer considered a sale of virtual currency and is therefore not taxed.
- Exemption of income from the exchange of virtual currency for property or for the provision of a service, where the aggregate of the income less expenses does not exceed EUR 2,400 per year.
- Tax exemption for income from unit certificates obtained by their payout (redemption/return) after 3 years from their issue date.
- Tax exemption for income from the sale of securities that are not admitted to trading on a regulated market or on a similar foreign regulated market, after 3 years from their acquisition.

A number of parliamentary proposals for amendments to the Income Tax Act have also been proposed in the Parliament and are currently in the process of being approved. The most significant ones include:

- Tax exemption for income from the sale of a real estate property if the seller has resided in the property for at least two years prior to the sale or in cases where the seller has resided in the property for less than two years and uses the money from the sale of the property exclusively for the purchase of a property intended for their own residence within one year of receipt of the payment for the property.



- Application of the current amount of the child tax bonus for 2023 and 2024.
- An increase of the maximum amount of expenses that a taxpayer can apply in the case of applying so-called flat-rate expenses from the previous amount of EUR 20,000 to EUR 25,000, and a proposal to introduce a mechanism to increase these maximum expenses annually by the rate of inflation.

The Ministry of Finance of the Slovak Republic has published preliminary information according to which it plans to introduce a simplification of the rules of the super-deduction for research and development expenses and the reintroduction of the possibility of tax-neutral business combinations in Slovakia.

3. Draft amendment to the VAT Act

The Ministry of Finance of the Slovak Republic has submitted a draft amendment to the Value Added Tax Act (hereinafter referred to as the "Amendment"), the main objective of which is the transposition of Council Directive (EU) 2020/285 and Regulation (EU) 904/2010, and thus primarily to reduce the administrative burden for small enterprises. The Amendment has undergone an inter-ministerial comment procedure and the evaluation of the comments is currently underway. Individual provisions of the Amendment are to become effective on 31 March 2024, some selected provisions on 1 July 2024 and 1 January 2025.

In this edition of the newsletter, we will present the most important changes to be introduced by the Amendment.

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- **Special arrangements for small enterprises** – the possibility to use tax exemption in another EU member state (without the obligation to register) than in the member state in which they are established, is being introduced for small enterprises. Both domestic and foreign small enterprises will be able to supply goods and services exempt from tax in other member states (without the obligation of VAT registration) if their turnover in the current and previous calendar year does not exceed EUR 50,000 domestically (in Slovakia) and EUR 100,000 abroad (within the EU). In order to benefit from this exemption, small enterprises will be assigned an individual identification number with "EX" suffix.
- **Registration obligation of local taxable persons** – It is proposed to round up the value of turnover for the purposes of compulsory VAT registration from currently EUR 49,790 to EUR 50,000. It is also proposed to change the period for which turnover is calculated to a calendar year (currently turnover is calculated for no more than 12 preceding consecutive calendar months). The taxable person will newly be obliged to submit an application for registration within 5 days, and will become the payer from the date on which the fact on the basis of which that person becomes a taxable person occurs, and not on the basis of a decision issued by the tax office.
- **Registration obligation of foreign taxable persons** – similarly, it is proposed that a foreign person will become the VAT payer on the date of the taxable transaction which gives rise to the obligation to register, and not on the date specified in the VAT registration decision.

- **Delayed VAT registration** – it will no longer be possible to report all transactions carried out by the taxable person prior to VAT registration in one so-called extraordinary VAT return, but it will be necessary to file in chronological order tax returns and control statements for each tax period separately, starting from the first tax period for which no tax return has been filed due to failure to comply with this registration obligation. Compared to the current situation, the taxpayer will be penalised for late submission of the tax return and control statement for each tax period.
- **Reverse-charge mechanism when importing goods** – if certain legal conditions are met, it will be possible to apply reverse-charge when importing goods. The tax on import of goods would not be levied by the customs office, but on the contrary, the tax would be calculated and entered in the tax return by the payer, which would also claim the right to deduct this tax. This procedure will be possible for payers that are registered and established in Slovakia and have the status of an approved economic entity under the customs regulations.
- **Deduction of VAT even without an invoice** – it is proposed that a taxpayer, which has acquired goods from another EU member state, may claim the right to deduct tax even if it does not have an invoice from the supplier by the deadline for filing the relevant tax return. The payer will also be able to use any other relevant document from the commercial correspondence with the supplier, proving the actual acquisition and the amount of the tax liability, to apply the deduction.
- **Supply of goods subject to a lease** – the tax treatment of the transfer of goods under a lease agreement, which did not make it clear that the acquisition of ownership takes place at the latest upon payment of the last instalment, is to be changed. According to the new wording of the Act, the handover of goods based on a lease (or other similar) agreement with an agreed option to purchase the goods by the lessee will also be considered as a supply of goods.
- **Change of place of supply for selected services** – the place of supply of certain services (for example cultural, artistic, sporting, educational or entertainment services), including ancillary services which are broadcast or made virtually available to a non-taxable person, will be where the customer has its registered office or where the customer is residing or habitually residing.
- **Overdue liabilities** – the Amendment specifies that the payer is obliged to correct the tax deducted on unpaid liabilities only in the tax period in which the 101st day after the due date occurs.
- **Theft of goods** – the concept of “theft” is clarified, and it is proposed to extend the taxpayer’s obligation to pay tax in the amount of the deducted tax also on the illegal theft or illegal appropriation of goods.
- **Simplified invoice** – for documents issued by the e-cash register client or a fuel dispenser, the document will be treated as a simplified invoice if the price of the goods or services, including tax, does not exceed EUR 400.



4. Draft act on a compensatory tax to ensure a minimum level of taxation of multinational enterprise groups and large-scale domestic groups

The Ministry of Finance of the Slovak Republic has submitted a draft act on a compensatory tax to ensure a minimum level of taxation of multinational enterprise groups and large-scale domestic groups (hereinafter referred to as the “Act”).

The Act has been drafted with the intention to ensure minimum taxation of income of entities located in the Slovak Republic that are members of a multinational enterprise group or a large-scale domestic group, and thus to implement Council Directive (EU) 2022/2523 of 15 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union.

The expected positive impact of the introduction of a global minimum level of taxation is to reduce tax competition between countries in the field of low effective corporate income taxation and to ensure that enterprises that are part of large multinational groups pay their fair share of tax regardless of where they operate.

If the effective taxation of the consolidated group entities' income in the Slovak Republic is below the minimum tax rate of 15%, the taxpayer will pay a compensatory tax equal to the difference between this minimum tax rate and the effective tax rate. The effective tax rate is calculated as the ratio of the taxes included (in addition to income tax payable, this should include, for example, deferred tax, withholding tax or special levy in regulated industries) and the profit/loss in the given jurisdiction after adjusting for specific items listed in the Act.

The draft Act applies only to entities of a group of enterprises with annual revenues of at least EUR 750 million, achieved in at least two accounting periods of the last four accounting periods preceding the accounting period under review. Excluded from the scope of application are entities acting in the public interest and not carrying out business activities, such as government entities, international organisations, non-profit organisations, pension or investment funds.

The taxpayer will be obliged to file a tax return for the compensatory tax no later than 13 months after the end of the relevant tax period, and the compensatory tax is due within the same period. In the transitional period, i.e. the first accounting period in which the group is in the scope of application, the period shall be extended by three calendar months.

The Act is proposed to enter into effect on 31 December 2023. We will keep you informed of further developments on this draft Act in future editions of our Newsletter.

5. Another change in the meal allowance from 1 June 2023

Last year, we already informed you several times about changes to the meal allowance, the last change being from 1 January 2023. As you have already noticed, the changes are not over and, with effect from **1 June 2023**, the meal allowance variables have changed again as follows:

- ✓ **EUR 7.30** (from EUR 6.80) for the time zone of 5 hours to 12 hours,
- ✓ **EUR 10.90** (from EUR 10.10) for the time zone of over 12 hours and up to 18 hours,
- ✓ **EUR 16.40** (from EUR 15.30) for the time zone of over 18 hours.

The stipulated 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 will also increase to **EUR 4.02** (previously EUR 3.74), while the lowest possible value of the meal voucher will increase to **EUR 5.48** (previously EUR 5.10).

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

The abovementioned meal allowance prices are regulated by a measure which is published in the Collection of Laws.

6. Use of road motor vehicles for business trips

The Ministry of Labour, Social Affairs and Family of the Slovak Republic has published a measure increasing again the amount of basic compensation for the use of road motor vehicles during business trips for each 1 km of driving to **EUR 0.252** (from EUR 0.239).

This measure is effective from 1 July 2023.



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Best regards,

Your TPA team.

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