

Slovensko

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1. What changes are foreseen in the Law on income tax from 1.1.2016?

- On 29.5.2015 a proposed amendment on income tax act with effect from 1.1.2016 was presented to the Slovak parliament. It seeks to promote investment in the capital market and of course makes effort to prevent tax evasion and encourage the improvement of payment discipline of taxpayers. Among the most important proposed changes are the following:
- Income from sales of securities is to be tax exempt after fulfilling the time test on the condition that the securities were not included in business assets. At the same time, there should be cancellation of health insurance levy from profits from the transfer of securities traded on the exchange.
- The proposed amendment to the income tax act implements the modified EU Council Directive on the taxation of parent companies and subsidiaries primarily in the fight against tax evasion. The provision is mainly focused on hybrid financial instruments that are deemed in the issuing state to be a credit financial instrument and in Slovakia as a dividend.
 - If a taxpayer paying a share of profit includes the entire amount of the paid profit share or a part thereof in its tax expenses, the corresponding amount for the recipient of the profit share remains part of the tax base.
 - A further provision is to affect transactions intended to abuse the law, if one of the main purposes is obtaining a tax benefit on share transfer. The provision affects legal acts related to the transfer of ownership of shares if these legal acts do not reflect economic reality.
- There is proposed clarification of the current wording in calculating the period when a “service-permanent establishment” arises so that into this time is counted only the presence of a provider in Slovakia.
- For consulting and legal services, which are considered for tax expenses only after payment, there is a strict limitation by the code of classification of products.

- Considering the cancellation of the option of valuation of assets by replacement cost in accounting law for the purposes of income tax for the input price of assets acquired by donation or inheritance and financial assets acquired free of charge will be a price determined by an expert.
- The amendment to the income tax adds new provisions, which specify in more detail what will be considered for a tax expense in selling shares, other securities and stakes in **businesses**.

For reasons of legal certainty for employers **detail is given on tax expenses in respect of travel expenses**, provided by the employer to their employees beyond the law on travel expenses.

2. Proposed changes to the Tax Code, with effect from 01.01.2016

On 29.5.2015 a proposed amendment to the tax code with effect from 1.1.2016 was presented to the Slovak parliament with the aim of motivating tax subjects primarily to their proper and timely fulfilment of their tax obligations, primarily:

- It proposes **modifications of sanctions considering the timescale**, so that in case of subsequent tax assessment a higher penalty is imposed. For example, a fine when submitting an additional tax return, which will increase the tax liability taking into account the time elapsed between the initial deadline for submitting the tax return and the time when an additional tax return was submitted. It will apply in a similar way to increased tax by decision of the tax administrator issued in assessment proceedings. At the same time it is proposed that the sanctions are to be imposed up to a maximum of the assessed tax.
- It is also proposed to enable tax subjects to **submit an additional tax return after the beginning of a tax inspection** within 15 days, the submission of which will have the consequence of **imposing a lower penalty** (of double the ECB interest rate but at least 7%) than in the case of assessment of tax by the tax administrator on the basis of the results of a tax audit (here the penalty is triple the ECB interest rate but at least 10%).
- It is proposed to add to the tax code the “**absorption principle**”. This means that in imposing penalties, in the event of the overlapping of several administrative offences by the same person in one tax authority and a single law, it is proposed to impose a flat-rate fine under the provisions covering the offence punishable most strictly (i.e. the offence with the highest upper limit of penalty rate). The lowest amount of the penalty then is represented by the highest lower limit of penalty.

3. Proposed changes in VAT with effect from 01.01.2016

On 29.5.2015 a proposed amendment on VAT Act with effect from 1.1.2016 was presented to the Slovak parliament with the aim of improving conditions for the application of VAT for small and medium-sized enterprises and to facilitate compliance with fiscal obligations, in particular by introducing a special tax scheme on receipt of payment for the supply of goods or services.

Special arrangements for applying the tax on receipt of payment

For a select group of taxpayers who do not achieve an annual turnover of EUR 75 000 and who choose **to apply the special tax scheme on receipt of payment for the goods or services** and are not bankrupt or being wound up, tax liability arises for the goods and services at the moment of receipt of payment from the customer. On the other hand, the right to deduct the VAT from purchases of goods and services arises at the moment when the relevant consideration is paid to their suppliers.

This change, however, fundamentally affects the customers of those taxpayers who will apply this special scheme. These suppliers - VAT payer also arises the right of VAT deduction only at the time of payment of suppliers' invoices.

The tax liability and VAT deduction are always applied in the amount corresponding to payments made.

The act defines specific conditions that must be fulfilled in order to benefit from this special regime and at the same time concludes by listing facts on the basis of which taxpayers will be obliged to end the application of the special scheme.

The amendment to the VAT act apart from introducing the special scheme also brings further changes:

- For the reason of supporting new businesspeople (start-ups), it is propose to abolish the obligation to lodge a deposit for tax in the case when the taxable person in time of submitting an application for voluntary registration performs only preparatory work for business;
- An application for voluntary registration for tax will not be refused for the reason that the applicant for VAT registration did not lodge a deposit for tax within the set period and of the required amount;
- Criteria are added to the VAT act on the basis of which the tax payer determines the ratio of goods and services used for business purposes and for purposes other than business;
- The conditions for earlier repayment of excess deductions are moderated. A limit is introduced up to which the condition of arrears of taxes with a faster repayment is not taken into account. The proposed limit is EUR 1 000 and the period for which arrears are considered, will be reduced from 12 to 6 months;
- It is proposed to extend the “domestic reverse charges”, i.e. the domestic taxable person will be obliged to pay the tax in Slovakia if the supplier of goods is a foreign person (with the exception of distance sales);
- It is proposed to use a reduced rate of VAT of 13% for selected types of grocery products and also for the production and supply of hot water, gas, electricity and fuel apart from fuel for motor vehicles for households.

4. Termination of tax arrears from unpaid penalties related to paid VAT

In connection with the necessity of addressing the problems arising from business restructuring in Slovakia from 7 May 2015 there is in effect Slovak Government Regulation No. 90/2015 on the

termination of tax arrears recorded as of 30.9.2016, which consist of unpaid penalties relating to paid VAT imposed on debtors of receivables found in (court-ordered) restructuring proceedings against the creditor's debtor. However, arrears terminate on the condition that VAT is paid by 31 March 2016 at the latest.

5. Amendment on the Act on Accounting

On 6 May an amendment to the Act on Accounting was passed, which comes into force in three stages:

- from 1 July 2015,
- from 1 January 2016,
- from 1 January 2017.

The intention of the amendment to the Act on Accounting is the implementation of Directive 2013/34/EU on annual financial statements.

The most significant provisions effective from 1 July 2015

An accounting entity that does not meet the conditions for classification into size groups is classified as a small entity. The entity does not change its classification in a size group upon entry into liquidation or after the firm is declared insolvent.

An entity cannot make accounting entries off the books, post accounting entries of an accounting transaction which she did not occur, conceal or not account for a fact that is subject to accounting. Violation of this provision is considered as administrative offence and liable to a fine.

The financial statements are considered to be prepared on the day when they are physically or electronically signed by the statutory body of the entity. The date of the financial statements is determined by the entity itself in its internal rules.

The most significant provisions effective from 1 January 2016

The definition of participating interest has been amended. Participating interest is at least twenty percent of the share capital in another entity which the entity owns with the intent to be linked permanently.

In practice and other legal regulations there is used the term "consolidated group". For this reason, the law specifies a consolidated group as a group of entities which includes the parent unit and all its subsidiary entities.

The accounting entity must submit the approved financial statements or a notice of the date of approval of the financial statements in the registry no later than one year from the end of the accounting period for which the particular financial statements are prepared.

Large entities which are commercial companies and public interest entities active in extractive industry or in the felling of natural forests will be required to prepare and publish an annual report on payments to public authorities.

There is an increase in the size condition from which the parent entity is required to prepare consolidated financial statements.

For initial valuation of the asset, the option of replacement cost is removed. Instead, one of the forms proposed in the directive is to allow fair value. The fair value can be determined based on an expert's opinion, market value, or may be the result of a valuation model. The valuation model and its various forms are specifically addressed in the amendment.

It is also added that securities and business stakes assigned for sale may initially, and also on the date on which the financial statements are prepared, be valued at fair value.

An accounting entity which for the initial valuation of securities and business stakes does not use fair value may not be using fair value as at the date of preparation of the financial statements.

The text of § 27 of the Act on Accounting, which governs the valuation of individual assets has been re-specified due to the provisions of valuation using fair value so that it can be obtained and is always available.

Changes effective from 1.1.2017

Relate to the disclosure obligations of non-financial information for accounting entities defined in the law.

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Best regards,
Your TPA Horwath team

Contact:

TPA Horwath Slovakia
Pribinova 25/4195
811 09 Bratislava
Letná 27
040 01 Košice

Tel.: +421 (02) 57 351 111

www.tpa-horwath.sk
www.tpa-horwath.com

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