



Exit taxation

Provisions in the draft bill for amendment of the Corporate Income Tax Act ("CITA") aim to transpose the rules for exit taxation, described in Art. 5 of Council Directive 2016/1164 of the European Union ("ATAD").

The proposed provisions will extend the scope of taxable transfers of assets between different parts of the same entity.

Types of taxable transactions. Calculation of the result from the transfer

In its current version, the CITA provides for taxation only on transfers between a Bulgarian permanent establishment and another part of the same enterprise located outside the country. The draft bill adds three more types of scenarios that could lead to exit taxation:

- Transfer of assets from a head office in Bulgaria to a permanent establishment outside the country;
- Transfer of assets in cases in which an entity changes its tax residence – does not apply to assets that continue to be effectively connected to a permanent establishment in Bulgaria;
- Transfer of a business carried out from a permanent establishment in Bulgaria to another country.

New cases in which corporate income tax will be due for outbound transfers of assets

Taxation could arise in any of the four scenarios described above only if Bulgaria loses its right to tax the result of the subsequent disposal of the transferred asset. The proposed provisions are not intended to tax the transfer of assets between two or more companies belonging to a multinational group.

The result of each transfer will be calculated by subtracting the tax value of the transferred asset from its market value. The tax value of tax depreciable assets will be their acquisition cost less accumulated tax depreciation as at the time of transfer. The tax value of all other types of transferred assets will in essence be equal to their acquisition cost without taking into account the effects of subsequent revaluations and/or impairments.

When the result of the above calculation is positive this amount will be added to the accounting result for the purposes of determining the taxable result. In case the calculation results in a negative value, this amount will also be taken into consideration leading to a decrease in the taxable result.

Deferral of tax payable as a result of transfers of assets/businesses. Temporary transfers of assets/businesses

The draft bill provides an option for the deferral of the additional corporate tax liabilities incurred in connection with exit taxation. Taxpayers could choose to pay the latter amount in five equal annual instalments (the first of which is payable for the year of transfer). The deferral will be possible if certain conditions are met, one of which is that the recipient of the assets should be a permanent establishment or headquarters in an EU or EEA Member State.

Temporary transfers of assets for periods of up to 12 months that meet specific criteria will not be subject to exit taxation.

The draft bill also introduces methods to determine the tax values of assets transferred or returned to a Bulgarian headquarters or permanent establishment.

The proposed regulations described on this page will not apply to transfers of services.

Our view is that this part of the draft bill leaves room for different interpretations of its provisions (e.g. regarding the permissible methods for determining market value, as well as with respect to the application of the exit tax rules in scenarios where a Bulgarian headquarters is involved). We expect these ambiguities to be resolved in subsequent redactions or in the final version of the bill.

The rules will only apply when transfers involve permanent establishments



Proposed rules in cases of assets returned to Bulgaria

Important practical questions remain unaddressed

Transfers of services. Withholding tax for services between different parts of the same entity

The draft bill also envisages amendments to the existing regulations for taxation of services rendered between parts of the same entity when only one of the parties is subject to taxation in Bulgaria. The only actual change will concern services intended for resale to a third party, either altered or unaltered, the revenues for which will have to be at arm's length. Such regulations existed in the current version of the CIT Act only for revenues from services that are part of the ordinary business of the service provider or in cases where the latter usually renders similar services to other parts of the same entity.

Amendments to the provisions of the CIT Act aimed at clarifying the withholding taxation rules in cases where a Bulgarian permanent establishment receives services subject to withholding tax from other parts of the enterprise from abroad are also proposed. The amended clauses state that withholding tax will be due only for services that are part of the ordinary business/customary activity of the service provider or are intended for subsequent resale, either altered or unaltered, to third parties.

Services between different parts of the enterprise

Withholding tax on services rendered between parts of the same entity

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