

## Tax Legislation Changes for 2016



In the end of 2015 the Bulgarian Parliament adopted amendments to the Corporate Income Tax Act (“CITA”), the Personal Income Tax Act (“PITA”), the Value Added Tax Act (“VATA”), the Local Taxes and Fees Act (“LTFA”), the Excise Duty and Tax Warehouses Act (“EDTWA”), the Tax and Social Security Procedure Code (“TSSPC”) and the Social Security Code (“SSC”), which came into force on 1 January 2016.

## Corporate taxation

### Measures against double non-taxation of dividends

Dividends received by tax payers will not be exempt from corporate income tax, when the distributed amounts are tax deductible expense and/or decrease the taxable result of the distributing entity. This will be regardless of their accounting treatment at the level of the distributing entity. The rules on the treatment of dividends when the related investment is accounted for under the equity method are similarly amended.

The change reflects the measures taken by the EU for limiting the use of so called hybrid instruments (e.g., where the distributing party views the amount as tax deductible interest payment and the recipient – as tax exempt dividends, leading to double non-taxation).

### Tax incentives in the form of regional development state aid

The rules for reduction of corporate income tax in the form of regional development aid are changed. An order by the InvestBulgaria Agency approving the compatibility of the initial investment with the requirements will be required before benefiting from the aid. There are amendments concerning the sectors to which the aid can apply, as well as regarding the requirements to be met.

Reduction of the corporate income tax for 2015 can be claimed if an application form is submitted to the InvestBulgaria Agency by 29 February 2016 and approval is received by 31 March 2016. No reduction can be claimed for corporate income tax advance installments for 2015.

### New definition of jurisdictions with a preferential tax regime

The scope of the definition now excludes EU Member States and countries which exchange information on the grounds of Directive 2011/16/EU. The criteria for countries or territories to qualify as jurisdictions with a preferential tax regime are updated. A list of the countries/territories will be made by the Minister of Finance and will be published in the State Gazette.

### Other changes

A corporate income tax return will have to be submitted as at the date of beginning liquidation proceedings (i.e., the inscription of the liquidation in the Commercial Register).

Until the change liquidating companies had to only pay the corporate income tax due as at that date. The deadline for submission of the return is within 30 days as of the inscription of the liquidation in the Commercial Register.

Gains or losses from trading Bulgarian treasury bonds on a regulated market will not be included the annual taxable result (i.e., gains will be exempt from corporate income tax and losses will not be tax deductible).

## Taxation and social security charges of individuals

### Cash income from other sources regulated by the PITA will be subject to 10% advance tax when paid by companies or self-employed individuals

The tax will be calculated and deducted by the income payer at the moment of payment and will be remitted to the state budget by the end of the month following the quarter of the income acquisition.

The companies and self-employed individuals - payers of other sources of income, will be obliged to deduct and remit advance tax for the fourth quarter only if the individual, acquiring the income, declares this. In this case, the withheld advance tax for the fourth quarter will be remitted to the budget by 31 January of the following year.

### Tax deductibility of the mandatory health insurance contributions, when the taxable income is included in the annual insurable income adjustment

An opportunity is provided to reduce the annual taxable income with the mandatory health insurance contributions, due by the individual pursuant to Article 40 Para. 5 of the Health Insurance Act. This is only possible when the taxable income is included in the annual insurable income adjustment.

### The funds under the program “Erasmus +” will be non-taxable

The funds received under the European Union “Erasmus +” program in the area of education, training, youth and sport will become non-taxable.

### Increasing the scope of income types subject to withholding tax

The income received from additional voluntary insurance, health insurance and life insurance, corresponding to the contributions/premiums made by the employer in the name of the employee as social expenses up to BGN 60 per month will be subject to withholding tax.

### Transactions with government securities executed on regulated markets will become non-taxable

The number of the tax-exempted transactions is increased by adding transactions with government securities on a regulated market.

### Embassies in Bulgaria will have the option to voluntary become tax liable persons under PITA

With respect to their functions in Bulgaria, the foreign embassies may choose to calculate, deduct and remit tax on the employment income of their employees – Bulgarian tax residents. The choice should be confirmed with a notification by 31 December of the preceding year.

## Value added tax

### Amendments regarding the free of charge personal use of goods and services

The rules for determining the taxable base in the case of self-assessment of VAT for free of charge personal use are amended from 1 January 2016. This applies for personal use by the owner, the employees or third persons of goods or services when VAT credit was claimed for the purchase. The taxable base should include expenses for wear and tear of goods, which are or would have been fixed assets under the CITA, if the goods were used for the economic activities of the taxable person.

The amount of these expenses should be calculated for each month on a pro rata basis. The calculation should be made based on the straight-line method over a 5-year period starting from the month in which the VAT credit was claimed (20-year period in the case of immovable property or the period of the limited property right, if it is shorter than 5 or 20 years depending on the type of property). In case of simultaneous free of charge private use and business use of goods and services, the taxable base should include a proportional part depending on the degree of personal use.

The taxable event for the self-assessment of VAT will be deemed to occur on the last day of each month during which there was free of charge personal use.

No VAT will have to be self-assessed in the case of free of charge personal use as a last resort or force majeure.

The amendments indicate increased attention by the National Revenue Agency ("NRA") towards private use of goods and services.

### Reduced sanctions for late charging of VAT

The reduced sanctions are in the amount of:

- 5% of the VAT, if the tax was charged within 6 months from the end of the month in which it had to be charged;
- 10% of the VAT, if the tax was charged within between 7 and 18 months from the end of the month in which it had to be charged.

### Other changes

The VAT reverse charge mechanism in the case of trade in industrial crops (barley, wheat, corn, rice, etc.) when the purchaser is VAT registered will continue to apply until 31 December 2018.

Changes in the Regulation for Application of the VATA are expected to amend the method for rounding of the quotient for partial VAT credit. It will be calculated to the second decimal place and will always be rounded up to the higher value (e.g., 0.132 and 0.138 will both mean 14% deduction).

### Increase of the minimum monthly salary

The minimum monthly salary will be BGN 420 as of 1 January 2016.

### The maximum monthly insurable income remains BGN 2,600

There will be an increase in the thresholds of the minimum insurable income for basic economic activities and professions.

### Change and introduction of repeated selection of insurance for individuals, born after 31 December 1959

Individuals may repeatedly choose to have their supplementary statutory pension insurance in a universal pension fund or to have only statutory insurance in the state pension fund. Changes could be made no later than five years before reaching pension age.

Only the change from statutory insurance in a professional pension fund to the state pension fund remains a one-off opportunity.

### Removing the possibility of recognizing insurable length of service upon retirement, in case of insurance on different grounds

The opportunity of recognizing the insurable length of service at a ratio of 4 to 5 years, in case the individual has been insured on different grounds is abolished.

### Increase of the pension age in 2016

The pension age in 2016 will increase, respectively:

- Women: 60 years and 10 months;
- Men: 63 years and 10 months; or
- Women and men: 65 years and 10 months for social pension.

The insurable length of service for 2016 is also increased, becoming 35 years and 2 months for women and 38 years and 2 months for men.

### Introducing a pension with a reduced size for reaching insurable length of service

Individuals who have reached the required insurable length of service could retire 12 months before reaching pension age at their own discretion.

## Local taxes and fees

### Waste collection fee calculation

The prohibition for calculating the waste collection fee based on the tax value, gross book value or market price of the real estate has been postponed with one year.

The prohibition will come in force on 1 January 2017. The Council of Ministers has to devise a new methodology for calculation in cooperation with the National Association of Municipalities by 31 March 2016. The new methodology has to be submitted as draft legislation to the Parliament and should come into force from 1 January 2017.

### Other changes

Real estate tax for immovable property acquired during the current year will be due by the general payment deadlines (up to 30 June and 31 October). If the acquisition was made after deadlines, the tax has to be paid within 2 months as of the acquisition date.

Buildings with an energy efficiency certificate will not be exempted from real estate tax, if the measures for energy efficiency were financed with public funds.

## Excise duties

### Changes in excise duty rates

From 1 January 2016 the specific excise duty for cigarettes will be decreased to BGN 70 per 1000 cigarettes. However, the proportional excise duty will be raised to 38% of the sales price of cigarettes. In the next two years the proportional excise duty will continue to grow – it will be 40% from 1 January 2017 and 42% from 1 January 2018.

The excise duty rates on some energy products for heating will increase as well:

- diesel: BGN 646 per 1000 liters;
- heavy fuel oil: BGN 400 per 1000 kg;
- kerosene: BGN 646 per 1000 liters.

### Other changes

Excise duty will be due for the heat energy produced in the case of combined production of heat and electricity. The taxable base will be equal to 30% of the quantity of the energy products used for the combined production.

The Director of the Customs Agency and the Minister of Finance will be able to issue mandatory guidelines for the application of the excise legislation.

The depositor will have to notify the NRA not later than 3 days before the sale of goods deposited in a tax warehouse, when the goods are not released for consumption with the sale.

## Tax procedures

### Joint liability of individuals for liabilities of legal entities

From 1 January 2016 procurators, trade representatives and trade commissionaires (within the meaning of the Commerce Act) of a legal entity, who did not act in good faith and caused damages to the budget, may be held jointly liable for the resulting non-payment of public liabilities.

### Automatic exchange of information with the tax authorities of other countries

A new section in the TSSPC will regulate the automatic exchange of information for tax purposes with respect to:

- The FATCA agreement between Bulgaria and the USA;
- The multilateral CRS agreement (currently signed by 78 countries); and
- Directive 2014/107/EC.

The financial institutions in Bulgaria (banks, life insurers, investment intermediaries, collective investment schemes and other) will report to the NRA information about the financial accounts of tax residents of the respective other state. The NRA in turn will automatically exchange the collected information with that other state.

The financial institutions will report to the NRA the collected information once a year electronically till 30 June of the following year.

The first year for which information will be exchanged under the FATCA agreement is 2014. In the other cases, the first year will be 2016 or a following year.

### Deadline for conclusion of tax inspections

When not provided otherwise in the legislation, the deadline for conclusion of tax inspections should not exceed 6 months from the date of the first procedural action. If this deadline is insufficient, it can be extended by up to 6 more months.

### Other changes

The NRA will no longer be obliged to send invitations for voluntary payment of public liabilities within 7 days.

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