Deloitte.

CE Tax&Legal Highlights

October 2019

ALBANIA
BOSNIA-HERZEGOVINA
CZECH REPUBLIC
CROATIA
BULGARIA
HUNGARY

CENTRAL EUROPE

LITHUANIA
SLOVENIA
POLAND
SLOVAKIA
ROMANIA
KOSOVO
SERBIA
LATVIA
ESTONIA

Tax&Legal Highlights

October 2019

Table of contents

Czech Republic

Motivational Programmes: What to Bear in Mind

We have been recently encountering an increasing number of situations where as part of the sale of products and services companies provide their business partners not just with various discounts and turnover bonuses but also with all kinds of incentives targeting primarily the business partners' employees, who are essential in the sale of products. Let us focus our article on these "motivational programmes" from the tax perspective.

The backwater of established practice has been recently stirred up in particular by the ruling of the Supreme Administrative Court ("SAC") ref. no. 1 Afs 162/2018 Coll. The case handled by the SAC dealt with whether Československá obchodní banka, which provided the employees of Česká pošta with motivational contributions based on sales criteria, should increase the income paid out to Česká pošta's employees to so-called "super-gross salary" for the purposes of calculating the tax base. The conclusion of the Supreme Administrative Court was favourable for the bank, since the SAC concluded that it had not been demonstrated that Česká pošta's employees performed the activities directly for the bank, rather, the contents of the file indicated that the remuneration was for the performance of activities directly for Česká pošta.

However, we know from experience that not all motivational programmes are set up in a similar way as the case described above. We often come across situations where employees of business partners directly perform activities for the provider of the motivational programmes, while the business partner (their employer) often remains unaware. In such cases, the referenced conclusion of the Supreme Administrative Court about not increasing the tax base with the super-gross salary would probably not apply. At first glance, the payment of the 15% tax on dependent activities from the super-gross salary should not be a major problem for the organisers of the motivational programmes. However, what would be significantly more painful for them would be the fact that in addition to the obligation to pay tax on dependent activities from the income of the business partner's employee, the motivational programme organiser would also become an "employer" in terms of the definition of insurance regulations, with the obligation to pay social security and health insurance contributions from the remuneration paid to the business partner's employees. On the one hand, the provider includes the motivational bonuses in its tax-deductible expenses; on the other hand, the contributions related to the fiction of dependent activities would represent a more substantial burden for the motivational bonus provider in terms of costs.

Detailed assessment of tax implications pays off

Another thing that follows from the aforementioned ruling of the Supreme Administrative Court is that there was no indication of doubt that if the activities were performed for Československá obchodní banka, this company would be a payer of tax on dependent activities with the obligation to make personal income tax prepayments for the employees of Česká pošta. Therefore, if you organise any motivational plans and reward the employees of your business partner as part of these plans, we recommend conducting their detailed revision and careful assessment of the possible tax impact. We see a possible solution either in the adjustment of the conditions of the plan so that the obligation to pay contributions from salaries would be shifted to the business partner, or in the scope of the performance provided to the employees of the business partner and the transfer of this performance to performance exempt from tax.

Contacts Details

Daniela Hušáková
Senior Manager
Mobile: +420 774 535 621
Email: dhusakova@deloittece.com

Robert Bezecný
Senior Manager
Mobile: +420 737 133 588
Email: rbezecny@deloitteCE.com

Hungary

Clarification of facts related to PIT and Social Security

Social security is a crucial issue affecting Hungarians working abroad and non-resident private individuals working in Hungary. Please find below essential information related to this topic.

Facts and misconceptions surrounding social security

Establishing residence for tax purposes is a complex task, as described in previous issues. This is also true in the case of establishing. Residence for social security purposes. The tax position of employees tends to be carefully examined in the case of working abroad, while the social security aspect is often neglected. Establishing the social security position of employees is quite different to the establishment of tax residence. As such, it should be examined separately.

Who qualifies as a resident individual for social security purposes?

Under the Hungarian regulations, a Hungarian citizen (or a foreign individual with a Hungarian residence), with a residence (registered address) in Hungary, and an EEA citizen staying more than 3 months in Hungary, with a registered address qualify as residents for social security purposes.

In case several countries are involved, similarly to the assessment of tax liabilities, there are international treaties to clarify the social security position. These are, however, independent from the tax treaties. Therefore, it is incorrect to assume that if Hungary has signed a tax treaty with a country, they also have a social security treaty in place.

Additionally social security treaties are not standardized, and even if there is one in effect between two countries, it does not necessarily cover all the typical regulatory issues. The social security treaty signed by Hungary and the USA is a good example. It provides for the added insurance periods for the old age pension, but fails to provide for eligibility for health care services.

Easier within the EU

The case is a bit simpler if the employee is re-locating within the European Union, as the applicable laws are harmonized. In addition, the territorial scope of the relevant EU regulation(s) covers Lichtenstein, Iceland, Switzerland and Norway. The regulations stipulate that an individual may only be insured in one country at a given time. Detailed rules help us define which country's social security covers the individual when moving within the EU – if certain criteria are met. In the case of – for instance – a foreign assignment, the effective EU regulation provides a 24-month exemption from paying social security contribution in the host country, retaining the employee in their home country's social security system. This exemption may then be extended further under special circumstances.

In the case of movement within the EU, an important question arises. What will happen to the social security position of Hungarian employees working (previously or currently) in the UK after Brexit.

The A1 certificate may also be withdrawn

Within the EU, the A1 certificate is meant to prove that the employee is insured in another country, and therefore is exempt from paying the contribution in the host country. It is, however, a common misconception to suppose that an A1 certificate issued by a member state cannot be overruled. The host country's authority may set forth that the A1 certificate was not appropriately requested, not in line with the individual's true position. In this case the competent authority of the host country may indicate this problem to the issuing authority, which may in return withdraw the certificate.

Payroll tasks

"In our experience Hungarian employers often believe that all they have to do is request the A1 certificate (or a similar certificate based on bilateral social security treaties) with respect to their employees on a foreign work assignment. This incorrectly renders the Hungarian contribution base and contribution amount unchanged. They tend to forget that under the Hungarian rules, if the individual remains subject to the Hungarian social security system but performs work abroad, the calculation of the contribution base and the contributions may differ from the general ways, and it is not identical to the PIT base either" – sets forth dr. Gábor Baranyi director at Deloitte, responsible for personal income tax and contributions.

In addition to increasing the administrative burden on the employer, it is also problematic for the private individual. If the contribution base is not adjusted as needed, and the employee uses services based on the higher amount than would be deducted under the general rules, the service may later qualify as unjustly used lacking legal ground.

The employee's social security position is worth clarifying

In the case of an employment relationship, an exception arises, when a Hungarian private individual lives and works in Hungary based on a work contract signed with a foreign employer. In this case it is incorrect to assume that the Hungarian private individual would be subject to the social security system of the country of the employer's residence. In this scenario (lacking the required documentation) social security contributions and social taxes shall be paid in Hungary based on the employee's wages. Also, in this case an extra administrative liability may be incurred by the foreign employer and/or the private individual. To avoid disputes, the employee's social security position should be clarified before signing the work contract.

"Private individuals tend to forget that if they earn income from employment or investment abroad as taxpayers subject to the Hungarian social security system, they may incur social contribution tax liabilities (health care contribution before 2019)" – said Zoltán Kövesdy, manager at Deloitte's tax service line.

"In light of the above, we would like to emphasize the need to consider social security positions carefully when working or investing abroad; it is essential that this amount be correctly assessed." – he added.

Contacts Details

dr. Gábor Baranyi
Director
Mobile: +36 20 3920281
Email: gbaranyi@deloitteCE.com

Zoltán Kövesdy
Manager
Mobile: +36 20 264 6886
Email: zkovesdy@deloitteCE.com

The deadline of group corporate taxation is approaching

Even though group corporate taxation is a relatively new institution, it is evident from the data that company groups are interested in it due to the available lower tax and documentation liability. For whom is it worth creating a tax group?

"Group corporate taxation was introduced as a new legal institution as of 1 January 2019. Despite the limits of the available preparation time, over 200 company groups have already taken advantage of this opportunity in 2019, according to the data of the tax authority" said István Veszprémi, tax partner at Deloitte.

Who can benefit?

Group corporate taxation may be especially beneficial for company groups including entities with positive and negative tax bases., By aggregating the tax bases, a lower tax liability can be achieved, subject to certain limitations. Another advantage is the option of group-level usage of certain tax benefits, as well as the exemption from preparing the often time-consuming transfer pricing documentation in the case of intra-group transactions.

"Despite the benefits of group taxation, several company groups did not seize this opportunity, which is partially due to the fact that many have waited for the initial legal interpretation uncertainties to be clarified. Answers have been provided to most technical questions; however, some other questions affecting a smaller circle of taxpayers remain with respect to e.g. entity restructuring, which need to be assessed before making this choice" emphasized Endre Ádám, senior manager at Deloitte's Tax service line.

Less severe liability rules

With respect to value added tax, group taxation has long been an available option; however, the related liability rules, i.e. not only the members of the VAT group, but the companies outside the group are subject to collective liability regarding the group's VAT obligation, have deterred many company groups from creating a VAT group. In contrast, less severe liability rules are applicable in the case of group corporate taxation: only members of the group are subject to collective liability regarding the group's corporate tax obligation. Therefore, especially those companies can benefit from group corporate taxation, which already have a VAT group.

"As such it is not surprising that according to the data of the tax authority, numerous company groups have chosen group taxation in terms of value added tax, but have not yet seized the opportunity for group taxation with regard to corporate taxation" added István Veszprémi.

Contacts Details

István Veszprémi
Partner
Mobile: +36 20 910 9436
Email: iveszpremi@deloitteCE.com

Endre Ádám
Manager
Mobile: +36 20 229 0956
Email: eadam@deloitteCE.com

Significant changes to EKD grants

On 1 September 2019, HIPA Nzrt. took over HIPA's former responsibilities of encouraging investment. Apart from the technical changes involved, the entire grant regime changes favorably with the purpose of encouraging investors to improve production efficiency and increase the number of quality workplaces. The changes entered into force on 1 October 2019.

New eligible activity: asset-based investment

As a result of the change, grants are now available for asset-based investments without the requirement of job creation if both the sales revenue and total wages are increased. One of the conditions requires that the volume of the investment must reach EUR 5 million in catching-up regions (in Nógrád, Borsod-Abaúj-Zemplén, Szabolcs-Szatmár-Bereg, Békés and Baranya counties) and EUR 10 million in other counties while maintaining a base headcount. Start-ups must increase their sales revenue by EUR 3 million and total wages by EUR 300 thousand while other enterprises must improve their sales revenue and/or total wages by at least 30% until completion and maintain that percentage in the maintenance period. It is essential that the investment be recoverable by the central budget, so that the supporting organisation still values the job creation undertakings positively.

New eligible activities

The new eligible activities replaced the former asset based (job creation) and technology intensive ones. In short, grants have become available for the following purposes since 1 October:

- Asset based investment (for increasing the sales revenue and/or total wages and salaries);
- Research & development projects (for creating 25 new R&D jobs);
- Establishing or extending a regional shared service centre (for creating 50 new jobs).

Further important changes

- Introduction of the concept of start-ups: Start-ups are enterprises where the total net sales do not reach EUR 3 million, and the base total wages do not reach EUR 300 thousand in the last closed business year before the investment, or which do not have a closed business year.

- Introduction of the concept of total wages: Due to the new legal title, the concept of total wages has been introduced, meaning the amount of personnel type expenditures less social taxes.
- Baranya County as a catching-up region: The minimal investment amount decreased to EUR 5 million in the case of Baranya County.
- Content and review of the business plan: According to the modification, HIPA expects a more detailed business plan developed based on new criteria (e.g. sensitivity analysis of the indicators of the financial plan, presentation of market entry process, marketing plan, sales plan, presentation of available letters of intent from and contracts with suppliers, customers, contractors, and partners), to be filed before the end of recording. HIPA is authorised to review the business plan with the involvement of an expert, and make it a condition of grant offers.
- Value of real estate as eligible cost: The value difference between the purchase price of the property and the market value established by real estate valuation is excluded from eligible costs, in order to avoid potential excessive pricing of properties.

Contacts Details

Csaba Márkus
Partner
Mobile: +36 20 9475043
Email: csmarkus@deloitteCE.com

Poland

MDR-3 form: tax scheme reporting by users. Doubts regarding the fulfilment of regulations regarding MDR-3

All users are faced with the biggest challenge related to tax schemes: the official declaration of participating in tax schemes using the MDR-3 template (under criminal liability and obligatory even if no tax benefits are obtained). The challenge has both business and technical aspects (business: what and when should be reported, how to calculate the benefits; technical: the computer file must be signed by all management board members of the user).

How, therefore, should we interpret and apply the related regulations?

Most taxpayers have grown used to the new tax regulations mandating **identification and reporting of tax schemes**, often referred to as **MDR**, introduced in the beginning of 2019. Poland is the only EU country that has implemented and applied provisions of the related Directive. Interpretation and application of the related Polish regulations, though, gives rise to doubts and uncertainties.
The last deadline to report tax schemes introduced in 2018 (the so-called retrospective reporting deadline) passed on 1 October 2019. Promoters were obligated to fulfil their MDR obligations regarding tax schemes by 1 July 2019. Regardless of the above, introduction of reporting obligations applicable to supporting entities is planned.
Most tax schemes are related to CIT. For most CIT and PIT taxpayers, the fiscal year is identical with the calendar year. Thus, the annual settlement of income tax for 2019 (in principle to be effected by the end of March or April 2020) shall disclose the true importance of the issue, i.e. of deciding whether an arrangement qualifies as a tax scheme or not. At the same time, the risk of over-reporting ("just for case") of alleged tax schemes will become clear.

MDR-3
The Tax Ordinance makes users (mostly but not exclusively taxpayers) file the MDR-3 form along with appropriate tax returns, to provide information on:

- tax benefits achieved during a given period of settlement, applicable to a tax scheme; or
- the performance of any activity included in a tax scheme (even if no tax benefits are obtained).

MDR-3 forms are filed on-line only, in the form of a computer file whose format is clearly defined by the Minister of Finance (and can be changed at Minister's discretion). MDR-3 must be provided with an electronic signature (i.e. qualified/advanced e-signature or ePuap trusted profile) of the entire management board of the user.

In principle, **MDR-3 requires the provision of just three key data**:

1. tax scheme number (abbreviated as NSP);
2. response (yes or no) to the question whether the user has performed any activities under a tax scheme in a given period; and
3. the tax benefit amount.

The following problems shall arise in relation to the above data:

Ad 1.
The process of issuing NSP has been substantially delayed (as at 24 September 2019 NSP were issued for just 11 percent of schemes reported using MDR-1 forms). Therefore, when filling out MDR-3, instead of providing a thirteen-digit scheme number, one has to provide a broad scheme description, the same as when using MDR-1 for basic reporting purposes.

Ad 2.
The "yes" answer to the question regarding the performance of any activity included in a scheme results in an obligation to file MDR-3. The obligation shall occur also when no tax benefits have been obtained from a given scheme. This is a frequent occurrence for Polish tax schemes bearing specific characteristics (and little or no relation to "tax optimisation"). If during a reporting period a user did not perform any activity included in a tax scheme, the reporting obligation shall not occur if no tax benefits were derived from the scheme during that period.

Ad 3.
It is hard to list tax benefits derived from a given scheme (during the reporting period); first, the reporting entity has to determine the data to be compared. Is the tax benefit amount measured as the difference between the actual behaviour and the most tax-disadvantageous scenario (i.e. involving the highest tax)?

MDR-3: Questions without answers

Additional doubts may arise with regard to the correct filling out of MDR-3:

- The filing deadline is unclear: "within the deadline of filing tax returns regarding the same reporting period". Different taxes are reported on different forms with different filing dates (e.g. for CIT payers: IFT-2R, CIT-10Z); in certain cases no forms are filed at all (e.g. there is no TCLT-3 form if an arrangement is exempted from or not included in TCLT);
- For Polish branches of foreign businesses, should MDR-3 be signed by the entire (foreign) management board of the parent, if the form is prepared only in Polish?
- Can users who disagree with tax scheme information provided by the promoter or intermediary must file MDR-3 by default, or can it refrain from it upon its discrete decision that no tax scheme has occurred?

Cases subject to criminal liability

The filing of the statement of using a tax scheme in a give reporting period (MDR-3) is subject to criminal liability for misinformation, classified as ordinary crime under the Penal Code; therefore, the active repentance concept as provided for in the Penal and Fiscal Code does not apply. Thus, filing MDR-3 form that includes misinformation (e.g. regarding the amount of tax benefits - both if understated and overstated) exposes members of user's management board to criminal liability.

The other side of over-reporting

Many users, promoters and intermediaries have reported activities they had assessed as potential tax schemes. The purpose of such reporting was to avoid the risk of being charged of not reporting an actual tax scheme.
In light of interpretation doubts regarding MDR, such an approach can be justified. The threat of fines (including their maximum amounts) is an additional rationale.
The reported actual or alleged tax schemes will affect the filing of MDR-3 form. Since a given behaviour has been reported as a tax scheme, should it automatically trigger the obligation to report the scheme using MDR-3? Many taxpayers will ask the question in Q1 2020.

Solutions

Despite unclear regulations and the presented doubts and questions, taxpayers (users) can fulfil the MDR-related obligations with minimum risk. Tax authorities may issue additional guidance. In my opinion, clarification of the above doubts is possible using comprehensive guidelines regarding tax scheme reporting (MDR), to include the objective of their implementation and the EU law, compliance with the Constitution and the statutory protection of taxpayer's rights. Therefore, the filing of MDR-3 is possible, although may prove difficult.

Contact details

Paweł Skorłutowski
Senior Manager in Tax Advisory Department
tel.: +48 734 166 431
e-mail: pskorlutowski@deloittece.com

Amendments to the mandatory disclosure requirements

In August 2019, the Minister of Finance announced draft regulations amending certain principles regarding MDR .

The proposed amendments do not meet the requests of entities obligated to report tax schemes, nor do they clarify doubts arising from the MDR application. The key objective of the amendments focuses on supplementing the implementation of the MDR Directive and delegation of duties related to the application thereof to the National Revenue Administration.

The key change arising from the proposed regulations, i.e. the obligation of retrospective reporting for intermediaries, was presented in our publication "Changes to tax scheme reporting (MDR)". This article is focusing on the other issues arising from the proposed amendments.

Additional verification of cross-border arrangements

The change results from the planned extension of the list of territories or countries that prefer harmful tax competition. Poland has decided to extend the list of tax havens as presented in the CIT and PIT Acts by countries included in the EU list of non-cooperative jurisdictions for tax purposes (following the conclusions adopted by the Council of the European

Union on 5 December 2017). The list, updated in June 2019, includes eleven countries, among others United Arab Emirates, Oman and Trinidad and Tobago, not included in the Polish list.

The lawmakers want to obligate the promoters, users and intermediaries to review the arrangements focusing on this indication and report the cross-border arrangements whose initial implementation activities were performed between 26 June 2018 and 31 December 2019, considering the list of tax havens valid as at 1 January 2019. The review and reporting should be completed by 30 March 2020 for promoters and by 31 May 2020 by users. By 30 June 2020 intermediaries not provided with appropriate tax scheme numbers (NSP) should notify users or promoters that in their opinion the underlying arrangements qualify as reportable tax schemes.

Heads of tax and customs offices to carry out MDR inspections
The proposed regulations shall delegate the control of the obligation to have and apply internal tax scheme reporting procedures to tax office heads. Additionally, the Minister of Finance will be able to delegate the performance of MDR-related obligations vested with the Head of NRA to other NRA bodies. The lawmakers assume that the proposed changes shall improve the efficiency of fulfilling tax scheme reporting obligations. In light of the several-month delay in assigning NSP to tax schemes, the proposed changes seem reasonable.

Additionally, the proposal includes the option to appeal to the Minister of Finance against a fine imposed for the failure to adopt and use internal MDR procedures, available for the obligated entities.

Signing MDR-3

Under the proposed amendments, Article 86j.4 of the Tax Ordinance, which defines the manner of signing MDR-3, the sentence: "The evidence of signing [...] shall be provided through electronic communication means to the Head of National Revenue Administration by one of the signing individuals" shall be deleted. The many problems regarding MDR-3 form to be filled out by users reporting tax benefits derived from tax schemes have been discussed in our publication entitled "MDR-3: tax scheme reporting by users". In my opinion, the proposed amendment does not contribute to the solution of any problem, adding a question instead: should the confirmation be provided via mail, or is the obligation to file it eliminated?

New acronym: NZSPT

Under the proposed amendments, the Head of NRA, along with the NSP number, shall assign cross-border tax schemes with an additional "cross-border tax scheme reporting number" (abbreviated as NZSPT) to be used when exchanging information with other EU member states and, to a limited extent, with the European Commission. Additionally, entities already assigned with the NSP number that report cross-border tax schemes may expect that their existing NSP shall be extended with the additional NZSPT number.

Poland shall exchange information on cross-border tax schemes

Apart from regulations addressed to promoters, users and intermediaries, the lawmakers plan to supply the act on international exchange of fiscal information with a legal basis allowing automated exchange of information regarding cross-border tax schemes. The change shall complete the transposition of the MDR Directive and indicate the scope, manner and deadlines of providing cross-border tax scheme information by the Head of NRA. Ultimately, the information shall be automatically provided within one month of the end of the quarter during which tax authorities obtained information from an obligated entity, and the first transfer of such information should take place on 31 October 2020 (with regard to information received by 30 September 2020).

Tax scheme reporting under MDR: the current stage of legislation

The draft Act amending the CIT Act, the Act on International Exchange of Fiscal Information and Certain Other Acts (UC 161)

The planned effective date of the amendments to the mandatory disclosure requirements: 1 January 2020, except for provisions on the delegation of duties, which shall come into effect as of the date following the date of their publication.

Contact details:

Alina Buwaj
Senior Consultant in Tax Advisory Department
tel.: +48 882 785 422
e-mail: abuwaj@deloitteCE.com

Secondary legislation to the Fuel Package 2.0

Following the effective date of the Act of 4 July 2019 amending the VAT Act and certain other acts (Journal of Laws of 2019, item 1520, henceforth: "Fuel Package 2.0"), a series of obligations shall be imposed on entities using lubricating preparations and oil in their business operations. Entities may prepare for some of them even now, since the Government Legislation Centre has published all draft regulations regarding the Fuel Package 2.0 on its website.

What is this all about?

New AKC-R form

New tax returns form for Lubricating Preparations
Since an effective excise duty rate has been applied to the Lubricating Preparations, the template AKC-4 form and the appendix thereto AKC-4/K shall change. Beginning from November 2019, tax returns must be submitted in a new version, to be determined by *Ordinance of the Minister of Finance amending the Ordinance on template tax returns for the excise duty and representations on advance payment of the excise duty (number 1007 in the list of legislative work).* If the tax returns are submitted on a wrong form, tax authorities may impose fines as provided for in the Penal Fiscal Code.

Obligation to report intra-Community acquisition of Lubricating Preparations for operators of tax depots

The Fuel Package 2.0 introduces changes regarding intra-Community acquisition of Lubricating Preparations in the process of suspending excise duty payable by tax depots. Beginning from 1 November 2019, the following conditions will, among others, underlie the suspension of the excise duty charged on intra-Community acquisition of Lubricating preparations: (i) reporting the planned intra-Community acquisition (henceforth: "Reporting") and (ii) providing excise security. The reporting must precede the entry of the acquired product in the territory of Poland. The template form to be used to report it shall be indicated in an appropriate ordinance, the draft of which has been already published on the website of the Government Legislation Centre (number 1004 on the list of legislative work).

Our experience indicates that most tax offices allow the filing of Reports using the PUESC portal. The interested parties are advised to contact the competent tax office to make sure this form is sufficient.
Please note that once an exemption from the obligation to provide excise security is granted, the validity of submitting reports on the planned acquisition via the portal should be certain. Entities that have provided general security that requires balancing may find it necessary to file such reports also in the form of printouts.

Follow-up
November will commence in a few days. Little time is left to adjust to the new regulations. The interested businesses should begin from checking whether any Lubricating Preparations are used in their business operations. If so, the scope of the new reporting obligations must be determined, depending on transactions and activities performed in relation to Lubricating Preparations. Further, the excise regime applicable to a given case must be analysed. In certain cases, it may prove necessary to confirm the classification of a product in the form of Binding Excise Ruling, e.g. in order to determine whether it qualifies as lubricant paste.

Special focus should be placed on cross-border acquisitions of Lubricating Preparations since foreign manufacturers and distributors may be unaware of changes in Polish regulations (the excise duty regarding such products is not subject to EU harmonisation).

In such cases, Polish entities that perform intra-Community acquisition shall become excise payers, obligated to settle the duty, report the acquisition, provide the security, etc. Importantly, we need to remember that so-called small packs are not exempted from the new regulations.

Contact details:

Anna Wibig
Senior Manager in Tax Advisory Department
tel.: +48 609 038 427
e-mail: awibig@deloitteCE.com

Mateusz Jopek
Manager in Tax Advisory Department
tel.: +48 668 825 804
e-mail: mjopek@deloitteCE.com

New VAT matrix coming into force soon. Changes and challenges for various industries

On 1 November 2019 the Act amending the VAT Act and certain other acts (Journal of Laws, item 1751) shall come into effect, bringing a new VAT matrix. From that date on, motioning for Binding Rate Information (BRI) shall be possible.

Most of the new VAT matrix shall apply to supplies of goods and services performed as of 1 April 2020, but VAT rates on goods used in the printing and publishing industry (including e-publications) shall change **as of 1 November 2019**. Since the changes shall come into effect soon, it seems reasonable to have a closer look at certain aspects of the new VAT matrix.

Publishing and printing industry

In the publishing and printing industry (including e-publications), VAT rates will change very soon, **on 1 November**. After the effective date of the amendments, a **5 percent rate** shall apply among others to books, brochures and similar publications, local and regional magazines, musical notation, atlases and small-scale maps, while other newspapers and magazines shall be taxed with an **8 percent** rate. Leaflets and other printed materials will be charged with a **23 percent** VAT rate. Taxpayers operating in the industry may find it difficult to decide whether a product should be classified as a book, brochure, leaflet, other printed materials or still other categories of products indicated on the list of groups. A thorough analysis of section 49 of the Combined Nomenclature (CN) in conjunction with item 19 of Appendix 10 may be of key importance in this respect. Books or other materials sold in bundles with other products, such as toys or assembly models, may be a major issue in this context.

Fertilizers and medical products

For the industries dealing with fertilizers and medical products, the key date shall occur on **1 April 2020.** Since then, fertilizers shall be charged with an **8 percent** VAT rate as included in Appendix 3 to the VAT Act, whose items refer to specific Polish Nomenclature groups (e.g. item 59: ex 20.15.3 Mineral Nitric Fertilizers except for Calcium Cyanamid).

Following the amendments, **fertilizers** shall be classified through a descriptive definition (i.e. without referring to any nomenclature groups). The 8 percent **VAT rate shall apply to "fertilizers and pesticides, usually intended for crop production, as well as food for pets and farm animals". Therefore, the extent of being "usually intended for crop production" needs examination. The ability to have the 8 percent VAT rate confirmed through Binding Rate Information** is also doubtful (we address the issue below).

A similar principle shall be applicable to the **medical industry**. So far, its products have been charged with the 8 percent VAT rate, if qualified to specific Polish Nomenclature (PKWiU) groups or met specific descriptive definitions (as per Appendix 3 to the VAT Act). As of 1 April 2020, these products shall be charged with the **8 percent** rate regardless of the Polish

Nomenclature code, if they meet one of the following definitions:

- Medical products as defined in the Act on Medical Products of 20 May 2010 (Journal of Laws of 2019, items 175, 447 and 534) permitted for trading in the territory of Poland;
- Medical products permitted for trading in Poland under the Pharmaceutical Law of 6 September 2001 (Journal of Laws of 2019, items 499, 399, 959, 1495, 1542, 1556 and 1590), as well as products that obtained a permit issued by the Council of the European Union or by the European Commission;
- Bactericides, fungicides and virucides used solely in healthcare, or for which a temporary permit has been issued or entry made in the register of biocides as defined in the Act on Biocides of 9 October 2015 (Journal of Laws of 2018, item 2231).

Food industry

Most changes (and, therefore, potential problems) will occur in the food industry in relation to the new VAT matrix (effective as of 1 April 2020). In principle, classification of simple food products should not pose problems (often all we need to do is to make sure the analysed product is listed in an appropriate Combined Nomenclature group). In general:

- In principle **unprocessed animal and plant products** shall be charged with the 5 percent rate (with certain exemptions, such as seafood);
- **Carbohydrates** – 8 percent;
- **Confectionery** – 23 percent;
- **Cocoa and products that include cocoa** – 23 percent;
- **Cereal products and sweet bakeries** – 5 percent;
- **Products made of vegetables, fruits, nuts or other plant parts** – 5 percent;
- **Sauces and sauce preparations** – 8 percent;
- **Soups and broth** – 5 percent;
- **Ice-cream** – 5 percent;
- **Vegetable or animal fats, cheese analogue** – 5 percent;
- **Baby formulas** – 5 percent;
- **Drinks with at least 20 percent share of pure fruit or vegetable juice** – 5 percent;
- **N.e.c. food products** – 8 percent.

Rate specification may be particularly difficult for untypical, highly processed or composed products.

New VAT matrix: a catering problem

The new VAT matrix poses a challenge for catering businesses not only because the former problems regarding rates have given rise to long-term disputes, an inquiry of the Supreme Administrative Court, addressed to the Court of Justice of the European Union, as well as the current disputable position presented by the Ministry of Finance (details below).

In accordance with the current Article 41.12f, the **8 percent** VAT rate applies to goods and services classified under Polish Nomenclature as catering (PKWiU 56) except for:

1. beverages other than listed in Appendix 3 or 10 to the Act, or in secondary legislation thereto, including their preparation and serving (i.e. charged with 23 percent VAT, such as carbonated drinks, coffee,

mineral water, shall be excluded from catering services charged with 8 percent VAT);
2. goods not processed by the taxpayer, other than listed in Appendix 3 or 10 to the Act or in secondary legislation thereto (this regulation gives rise to doubts, although it can probably be assumed that goods not processed by the taxpayer, sold "along" with catering services shall be charged with the 23 percent VAT rate, if this rate had applied to them before, i.e. shall not be reclassified the way the catering service is);
3. meals that include goods indicated as excluded from the groups listed in items 2 and 11 of Appendix 10 to the Act (i.e. the 23 percent rate shall be charged to meals including seafood, even if they are a part of a catering service).

An example of practical application of these regulations: a catering service including a meal that consists of octopus sushi, vege sushi, Coca-cola, pure fruit juice and a chocolate bar containing 100 percent of cocoa.

Based on the most probable interpretation of these regulations, a bill for the meal shall include the following rates:
1. Octopus sushi – 23 percent
2. Vege sushi – 8 percent
3. Coca-cola - 23 percent
4. Pure fruit juice - 8 percent
5. Chocolate bar - 23 percent

although most of these products, if sold separately, would be charged with other VAT rates.

Is BRI always allowed?

The new VAT matrix generates additional problems, theoretical, but bearing certain practical consequences. The first regards the scope of application of the Binding Rate Interpretation as the basis to confirm the correctness of the rate applied to specific goods or services, i.e. deciding when filing a motion for an individual ruling is necessary after 1 November 2019. Please note that **according to the new rate matrix, not all goods shall be defined by reference to an appropriate CN group.** Certain items in the new matrix refer to fully descriptive definitions (i.e. with no reference to CN; they include fertilizers, pesticides, medical products, drugs, dietary food); some include a partial reference to CN, partially relying on descriptions (e.g. non-alcoholic beverages). Still other refer to CN, but under the new matrix, substantial parts of the determined groups are excluded from a given rate (e.g. item 2 of Appendix 3, ex 17 - carbohydrates and confectionery - excluding goods classified as CN1704 Confectionery (white chocolate included), containing no cocoa).

At the same time, BRI should include classification of goods by section, item, sub-item or CN code, necessary to determine the applicable VAT rate, as well as the rate itself. Thus, it seems that BRI should be issued also in response to inquiries regarding items that partly rely on description, and partly refer to CN. Most probably, the issue will be clarified when applied in practice.

Deciding on composed performance (and other not straightforward cases): classification rules or CJEU?

Another interesting problem results from the position adopted by the Minister of Finance. In the general ruling regarding sales in the catering industry (Interpretation by the Minister of Finance of 24 June 2016, PT1.050.3.2016.156) the Minister of Finance stated that the taxation of these product was not affected by the fact whether, based on a CJEU decision, their domestic sales are treated as the provision of services or supply of goods. The ruling is based on the statistical classification adopted to determine the application scope of a reduced VAT rate.

Thus, when deciding which VAT rate should be adopted (where the lawmakers refer to external classification, such as Polish Nomenclature or CN), we should not refer to definitions or rules developed for VAT purposes, or decisions issued by Court of Justice of the European Union**, but only to rules set by external classification should be taken into account.**

This may result in additional difficulties in interpreting the application scope of VAT rates, e.g. to composed performances (such as sales of sets), the catering services referred to above and other cases. Sometimes, the three regimes (i.e. rules developed for VAT purposes, classification rules arising from Polish Nomenclature or from CN) may collide.
Therefore, bodies issuing individual rulings and Binding Rate Information may face a series of complex issues after 1 November 2019. Other material factors will include activities performed by taxpayers (included the wording of their motions) and the emerging practices.

Contact details

Paweł Mikuła
Director in Tax Advisory Department
tel.: +48 516 091 870
e-mail: pmikula@deloittece.com

Marcin Mastalski
Senior Manager in Tax Advisory Department
tel.: +48 603 910 193
e-mail: mmastalski@deloittece.com

Serbia

Amendments to the Law on Value Added Tax

National Assembly of the Republic of Serbia has adopted the Law on Amendments to the Law on Value Added Tax, during its session held on October 7, 2019

The key amendments refer to:

- regulation of tax treatment of vouchers;
- clarification of the conditions for VAT registration of foreign entities;
- new provisions on the place of supply of food and drinks for consumption on ship, aircraft or train;
- clarification of the provisions on the tax point for services directly related to the services of transfer, assignment, and use of copyright and related rights;
- prescribing a VAT zero rate for supplies and imports of goods performed within the framework of the implementation of infrastructure projects;
- new provisions on determination of pro rata deduction;
- more detailed provisions on the possibility of correcting incorrectly computed VAT.

Vouchers

First of all, within these amendments introduce a differentiation between single-purpose vouchers and multi-purpose vouchers. Accordingly, **a single-purpose voucher** is considered to be the voucher where the place of supply of the goods or services to which the voucher relates, and the VAT due on those goods or services in line with the Law, **are known at the time of issue of the voucher**;

Regarding this, **each transfer of a single-purpose voucher made by a taxable person acting in his own name shall be regarded as a supply of the goods or services to which the voucher relates**. The actual handing over of the goods or the actual provision of the services in return for a single-purpose voucher accepted as consideration or part consideration by the supplier **shall not be regarded as an independent transaction**.

Additionally, where a transfer of a single-purpose voucher is made by a **taxable person acting in the name of another taxable person**, that transfer shall be regarded as a supply of the goods or services to which the voucher relates **made by the other taxable person in whose name the taxable person is acting**. However, where the supplier of goods or services is not the taxable person who, acting in his own name, issued the single-purpose voucher, **that supplier shall however be deemed to have made the supply of the goods or services related to that voucher to that taxable person**.

On the other hand, a **multi-purpose value voucher** is a value voucher other than a single-purpose voucher. It may be in hard copy or electronic format, and it does constitute an instrument that entitles the holder to the right to use a price coupon discount, which does not include the right to purchase goods or services, transport tickets, admission tickets, postage stamps, or similar items.

In this regard, **the actual handing over of the goods or the actual provision of the services in return for a multi-purpose voucher accepted as consideration or part consideration by the supplier shall be subject to VAT in line with Law, whereas each preceding transfer of that multi-purpose voucher shall not be subject to VAT.** Besides, where a transfer of a multi-purpose voucher is made by a taxable person other than the taxable person performing the actual handing over of goods or the actual provision of the services in line with the provisions proposed, **any supply of services that can be identified, such as distribution or promotion services, shall be subject to VAT in line with the Law**.

The above-mentioned amendment will be particularly significant to VAT payers who perform the transfer of vouchers considering the fact that precise rules for their transfer from a VAT perspective have been introduced.

VAT registration of foreign entities

The proposed amendments provide a more precise definition of supply performed by a foreign person in the Republic of Serbia, subject to an obligation to register for VAT, i.e. that this obligation exists for **VAT taxable supplies** and **for zero-rated supplies** exclusively.

The above-mentioned amendment will be particularly significant to foreign taxpayers who perform the supply of goods and services in the Republic of Serbia considering the fact that more precise definition of the registration obligation has been introduced.

Place of supply and tax point

<u>Place of supply of goods</u>

The proposed amendments provide that for **supplies of goods performed on ships, aircraft or trains during passenger transportation**, the place of supply would be the **point of departure**, which is in these cases considered to be the first scheduled moment of embarkation of passengers. In the case of transportation in both directions, the return transport would be considered as a separate transport.

<u>Place of supply of services</u>

The proposed amendments provide that for the **supply of services of providing food and beverage for consumption on ships, aircraft or trains, the place of supply would be the point of ship, aircraft or train departure, which is in these cases considered to be the first scheduled time of embarkation of passengers**. In the case of transportation in both directions, the return transport would be considered as a separate transport. The proposed amendments also provide that in case that permanent and temporary residence of the service provider i.e. recipient are not in the same place, the place of supply of the service should be the place of temporary residence.

In order to eliminate possible double taxation, i.e. double non-taxation, the proposed amendments will regulate the matter of determination of the place of supply of telecommunication, radio, and television broadcasting services and services provided electronically to non-VAT payers in a more detailed way *via* the criteria and assumptions regulated by a by-law.

Due to the introduction of the new provisions, the amendments will be particularly significant to VAT payers who perform the above-mentioned supply of goods i.e. services on ships, aircraft or trains, and to VAT payers who provide telecommunication and similar services to individuals.

<u>Tax point</u>

The proposed amendments provide that one of the tax points would be the day of issuance for invoices for the supply of services directly related to the services of transfer, assignment and use of copyright and related rights, patent, licenses, trademarks, and other intellectual property rights, **regardless of the supplier of those services**. The same possibility is proposed for the supply of technical support services when using the software, hardware and other equipment for a specified period.

The aforementioned amendment will be particularly significant to suppliers of technical support services and recipients of these services when using the software, hardware, etc. considering the fact that tax liability for those services will occur on the day of invoicing.

Zero-rated supply and import of goods

The proposed amendments provide for zero-rated taxation of the **supply of goods and services, and to eliminate the obligation of paying VAT on the import of goods as well, which is performed within the framework of the implementation of highway construction projects** of a public interest importance established by a special law. In addition, VAT shall not be paid on the import of goods based on repair within the warranty period, and the harmonization of the Law with the provision of the Customs Law.

Additionally, the proposed amendments provide for a **reduction of the total value of goods for which a foreign passenger could be entitled to the right to a VAT refund from EUR 100 in RSD equivalent at the middle exchange rate of the National Bank of Serbia to RSD 6,000 including VAT**. In addition, the proposed amendments also regulate the obligation of sellers to issue documentation on the basis of which passengers can obtain a VAT refund on the request of these passengers, and the extension of the deadline for submission of evidence that the passenger has dispatched goods abroad to 12 months from the date of dispatch of goods in question.

The aforementioned amendments will be significant to VAT payers who perform supply of goods and services within the framework of infrastructure projects, to VAT payers who perform a supply of goods to foreign passengers who are dispatching goods abroad in personal luggage, due to increase in supply volume, and to those foreign passengers as well.

Pro rata deduction

The proposed amendments provide that the following **should not be taken into account when determining pro rata deduction: the occasional real estate supplies, the occasional supplies of services in the field of monetary and capital transactions, and investments in facilities intended for the purpose of performing the activity for which the fee is charged**. In this regard, occasional real estate supplies and occasional supplies of services shall be considered two real estate supplies at the most i.e. two supplies of the aforementioned services at the most in one calendar year.

The aforementioned amendments will be particularly significant to VAT payers who perform the business activity which involves VAT taxable supplies along with the VAT exempted supplies to a much lesser extent, since, *inter alia*, they will not have an obligation to divide the input tax if the determined percentage of the proportional tax deduction is at least 98%.

Correcting incorrectly computed VAT and determination of the tax debtor

The proposed amendments further regulate the procedure for correcting incorrectly stated amount of VAT **in a more detailed way, which involves issuing a new invoice with a corrected amount of VAT, i.e. an invoice without stated VAT, along with the note that that invoice replaces the previously issued invoice** and a document issued by recipient of the invoice as a proof that the VAT stated in the preceding invoice has not been used as an input tax.

The aforementioned amendment is particularly significant to VAT payers that issue or receive erroneous invoices, considering the fact that this amendment regulates the procedure for invoice cancellation more precisely, and at the same time clarifies persons who are not entitled to right to correct the amount of VAT stated in the invoice, which are non-VAT payers exclusively. The preceding provision involved also persons who did not perform a supply.

New Law on Accounting

New Law on Accounting, "Off. Gazette RS", no. 73/2019 was passed at the session of the National Assembly of the Republic of Serbia on October 10th 2019, effective January 1st 2020

It is stipulated that the by-laws necessary for the implementation of this Law will be adopted within six months from the effective date of this Law and will be applicable from the financial statements that will be prepared on December 31st 2021. In addition to that, it is stipulated that legal entities or entrepreneurs are obligated to adjust their businesses to the provisions of this Law within three years from the day this Law enters into force at the latest.

Provisions of the new Law related to the ability of parent legal entities to be exempted from the preparation, submission and disclosure of the consolidated annual financial statement, the obligation of the Ministry of Finance to report to the European Commission on changes in types of companies and to the report on payments to authorities will be applicable from the day of accession of the Republic of Serbia to the European Union.

Key amendments refer to:

- publishing translations of International Financial Reporting Standards;
- organization of accounting and accounting documents;
- bookkeeping and chart of accounts;
- financial statements and annual business report, non-financial reporting and payments to authorities;
- submission of financial statements;
- financial statements register.

Publishing translations of International Financial Reporting Standards

Provisions of the new Law stipulate that the ministry in charge of finances shall determine and permanently publish translations of International Financial Reporting Standards (hereinafter: "IFRS") or IFRS for the Ministry of finance (hereinafter: "MF"), with a clear indication during which period a specific published version of translated IFRS and IFRS for MF is applicable.

Micro legal entities and other legal entities, regardless of their size, may choose to apply IFRS or IFRS for MF, in which case they are required to apply them continuously for at least five years from the beginning of application.

Organization of accounting and accounting documents

Within this amendment, a clear division between the persons who prepare the accounting documents and the persons who carry out the review of the correctness of those documents before posting was made.

In this regard, an obligation of preparing and submitting the invoices as accounting documents in an electronic form exclusively is being introduced to legal entities or entrepreneurs. On this occasion, we note that this provision will be effective July 1st 2021.

Namely, the aim of the proposed solution is to simplify the procedure of issuing invoices (no stamp or signature is required) and to shorten the time needed to perform such tasks. In addition to that, the obligation of controlling the credibility of accounting documents is being introduced.

Bookkeeping and chart of accounts

Within the provisions of the Law related to the term and content of business books, the way of keeping business books is regulated as well.

Namely, the period for which business books are kept is prescribed (the business year is the same as the calendar year, except when business books are kept for a business year that is different from the calendar one in accordance with this Law). Additionally, it is defined that a business year may be shorter than twelve consecutive calendar months, in case of establishment of a legal entity or entrepreneur, legal form change, liquidation, bankruptcy and in other cases in accordance with the Law.

In addition to that, bookkeeping and preparation of financial statements is being simplified by introducing a single Chart of Accounts and financial statement forms (as well as the Statistical Report) for all categories of legal entities that are subject to the application of the Law.

Furthermore, for persons that do bookkeeping by being employed by a legal entity or an entrepreneur (i.e. the bookkeeping is not entrusted to a legal person or an entrepreneur), there is no mandatory professional title in the field of accounting or auditing.

On the other hand, a legal entity or an entrepreneur can entrust bookkeeping and preparation of financial statements by a contract to a legal entity or an entrepreneur that is registered in the Register of Accountants. An exception to this obligation exists when, within a group of legal entities, the subsidiary entity keeps the books of related parties within the group, which simplifies the bookkeeping of related legal entities and reduces the costs in this respect.

Financial statements and annual business report, non-financial reporting and payments to authorities

In addition to the complete set of financial statements that are submitted to the Business Registers Agency (hereinafter: "the Agency") by large legal entities, medium legal entities, legal entities that are required to prepare consolidated annual financial statements (parent legal entities) and public companies, preparing of corporate governance reports, non-financial reporting and the preparation of reports on payments to authorities is prescribed as well, in order to comply with the Directive 2013/34/EU. Entities that are subject to such reporting will submit said reports within the annual or consolidated business report.

Submission of financial statements

The provisions of the new Law prescribe one deadline for submission of regular annual financial statements (which includes the Statistical Report as well) for public disclosure - by March 31st of the current year for the previous year.

In other words, the obligation to submit two sets of reports (reports for statistical and other purposes and a regular annual financial report) is cancelled. This will allow the economy enough time to submit a single set of reports, given that there is no obligation to provide data for statistical and other purposes by the end of February.

Legal entities that prepare consolidated annual financial statements (parent legal entities) are required to submit reports to the Agency for public disclosure by April 30th of the following year at the latest.

As an exception, the deadline for auditors of the financial statements to submit the audit report and supporting documents is June 30th of the current year for the previous year or July 31st for the auditors of the consolidated financial statements.

On the other hand, legal entities with a business year different from the calendar year are obligated to submit the regular annual financial statements for the reporting year to the Agency, for statistical purposes and for public disclosure, no later than three months from the date of the balance sheet.

It is envisaged that legal entities and entrepreneurs who have corrected their financial statements submitted to the Agency by March 31st, based on the performed audit of the financial statements, will submit those corrected reports to the Agency by June 30th, along with the audit report and the decision on their adoption or by July 31st, in case of consolidated financial statements.

Additionally, the provisions of the new Law do not prescribe neither the obligation of submission of a statement that the profit has not been distributed (loss covered), nor submission of a decision on the distribution of profit or a decision on covering the loss, which further reduces the obligations of legal entities and entrepreneurs regarding the preparation of such documentation.

Adopted Law on amendments to the Law on Corporate Income Tax

We hereby wish to inform you that draft Law on changes and amendments to the Law on Corporate Income Tax (the Law) is currently in procedure of adoption in National Assembly of the Republic of Serbia, and it is proposed to enter into force starting from corporate income tax calculation for 2020, or for tax periods commencing in 2020

Full text regarding above text [no more than 3000 characters with spaces]
Country by country reporting – compliance with requirements of OECD BEPS Action plan 13

One of the most important novelties proposed by the amendments to the Law is the introduction into the Serbian tax legislation of country-by-country report.

Namely, (only) those resident taxpayers who are considered to be the ultimate parent entities of international groups of related legal entities will be obliged to submit to the relevant tax authority the annual report on controlled transactions of the international group of related legal entities (i.e. country-by-country report), which will contain data (overview of tax jurisdictions in which group members are located, the sum of income per jurisdiction, number of employees, etc.) for the business year for which that entity is obliged to prepare its financial statements. The obligation to prepare the CbC report will come into force from 2020 and the annual reports will be submitted within 12 months of the end of the period for which such report is prepared.

A bylaw is expected to be adopted that will provide additional information on the type of data which the report should contain, as well as the information regarding the format of the CbC report (which is expected to be aligned with the format prepared at the OECD level).

The purpose of the CbC reports is to be exchanged automatically with other tax jurisdictions. Considering that Serbia has not concluded any agreement on automatic exchange of CbC reports, such an exchange is not possible at the moment. However, such agreements are expected to be concluded in the coming period, allowing full implementation of the recommendations of the BEPS Action Plan 13 and alignment with OECD requirements.

An overview of the basic definitions related to country-by-country reporting is found below:

1. An international group of related legal entities is a group of entities that are related by ownership or control in terms of IAS or IFRS, and whose total consolidated revenue, reported in the consolidated financial statements for the period preceding the reporting period, is at least EUR 750 million in RSD equivalent at the middle exchange rate of the National Bank of Serbia at the date of adoption of the consolidated financial statements, and

    1.1. one or more group members are required to prepare, present, submit and disclose consolidated financial statements in accordance with IAS or IFRS, or would be obliged to do so if they were a legal entities whose shares are traded on a regulated market in the Republic or outside the Republic, and
    1.2. in which at least one legal entity is a resident of another tax jurisdiction as compared to other members of the international group, or at least one legal entity is a resident of one tax jurisdiction and is subject to taxation in another tax jurisdiction on

the basis of conducting business through a permanent establishment.

2. A resident taxpayer shall be considered to be the ultimate parent entity of an international group if:

   2.1. directly or indirectly has ownership or control over one or more legal entities, members of an international group, that creates an obligation to prepare, present, submit and disclose consolidated financial statements in accordance with the requirements of IAS or IFRS, or, which would have such an obligation when it would be a legal entity whose shares are traded on a regulated market in the Republic or outside the Republic, and,
   2.2. there is no other legal entity within the international group which directly or indirectly owns or controls that entity, and which has the obligation referred to in the preceding paragraph.

Harmonization with the Law on Conversion of Housing Loans indexed in Swiss francs (CHF)

The amendments are as follows:

1. The decrease of receivables toward housing loan beneficiaries is tax deductible at the bank's level in the amount determined in accordance with the Law on Conversion of Housing Loans.
2. Taxpayer – a bank is entitled to a tax credit in the amount of 2% of the remaining debt determined in accordance with Article 4, paragraph 2 of the Law on Conversion of Housing Loans indexed in Swiss francs (i.e, the debt whose conversion was made). The taxpayer uses the tax credit for two consecutive tax periods, in the amount of 50% of the tax credit calculated, while the unused tax credit amount can be carried forward, but not longer than ten years.

Introduction of tax incentives for investment funds

The amendments are as follows:

1. Revenue of resident taxpayer, established in accordance with the regulations governing investment funds, realized on disposals of assets covered by the capital gains provisions of the Law, shall not be included in the tax base.
2. Taxpayer, established in accordance with the regulations governing investment funds, does not determine capital gain or loss, in accordance with the Law.

Other amendments:

Other amendments include:

1. The right to use tax credit related to withholding tax on service fee paid in other country for services performed in that other country.
2. The manner of applying the tax incentive referred in Article 50a of the Law, for fixed assets – taxpayer use tax incentive starting from the tax period in which accounting profit was made, not taxable profit.
3. The provisions regarding tax consolidation are specified, thus it is clearly stated that legal entities that cease to meet the requirements for tax consolidation before the expiry of the five-year period, or have opted to cease applying tax consolidation, need to include in the tax return, which is filed for the tax period in which

the conditions for tax consolidation cease to exist, the amount of the incentive used.

Contacts Details

Pavle Kutlesi
Manager
Tel: + 381 (11) 3812 173
Mobile: + 381 (65) 244 3120
Email: pkutlesic@deloitteCE.com

Slobodanka Kolundzija
Manager
Tel: + 381 (11) 3812 171
Mobile: + 381 (65) 222 89 65
Email: skolundzija@deloitteCE.com

Slovakia

New exemptions for income from employment

The amendment to the Income Tax Act amends tax exemptions for the following types of income from employment:

- Employee's in-kind income in the form of training;
- Employer's contribution from the social fund to an employee's mandatory medical examination;
- Increase in the amount of an exempt in-kind accommodation benefit;
- Employer's contribution to a sport activity of an employee's child.

Contact Details

Michaela Kováčiková
Manager, Tax&Legal
Email: mkovacikova@deloittece.com

The President of the Slovak Republic has signed an amendment to the act transposing the DAC6 Directive

The President of the Slovak Republic has signed the amendment to the Act on International Assistance and Cooperation in Tax Administration, which establishes an obligation regarding direct taxes to report cross-border arrangements whose motive could be to obtain a tax advantage. From 1 July 2020, it will be mandatory to report all transactions where the first step was taken after 25 June 2018. A fine of up to EUR 30 000 may be imposed for failure to meet the obligation, and fines may be imposed repeatedly.

Contact Details

Martin Chlebec
Senior Manager, Tax&Legal
Email: mchlebec@deloittece.com