



## Tax&Legal Highlights

### Slovakia

#### [The Ministry of Finance's Opinion on "Digital Permanent Establishment"](#)

**The Ministry of Finance of the Slovak Republic (hereinafter the "Ministry of Finance") published its opinion on the definition of a permanent establishment on a digital platform.**

The opinion addresses the provisions on the origination of a permanent establishment valid from 1 January 2018 where recurrent intermediation of transport and accommodation services, including via a digital platform, is also considered as a permanent establishment and performance of an activity at a permanent location. Pursuant to this regulation, a taxpayer with a limited tax liability may have a permanent establishment in Slovakia, regardless of whether the Slovak Republic has concluded a double taxation avoidance treaty with the taxpayer's home country. The legislation is a response to new forms of business carried out in the Slovak Republic via digital platforms without the operator's physical presence (a taxpayer with a limited tax liability) in Slovakia.

Digital platform operators who have a permanent establishment in the Slovak Republic are required to register as a taxpayer in accordance with Article 49a (5) of the Income Tax Act (ITA) and Article 67 (1) of the Tax Administration Act (The Tax Code). If a taxpayer does not have a permanent establishment under the ITA, but receives income pursuant to Article 16 (1) (e) (10) of the ITA, ie receives remuneration for the provided intermediary services, providers of transport and accommodation services have a secondary obligation, ie to deduct the tax at source pursuant to Article 43 of the ITA from the payments for the intermediation paid, transferred or credited to the taxpayer with a limited tax liability in the amount in which this remuneration is tax-deductible pursuant to Article 19 of the ITA. The obligation to withhold tax lasts until the registration of a permanent establishment. The collection of withholding tax applies to any income under Article 16 (1) (c) or Article 16 (1) (e) (10).

For a joint payment for several types of service, the taxpayer must allocate the payment by service as appropriate in accordance with the available underlying documents (eg for discount portals).

If such transport and accommodation services were intermediated before 1 January 2018, the amended legislation valid from 1 January 2018 will not apply to them, regardless of whether they are paid in 2018.

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### Amendment to the Labour Code, amending Act No. 595/2003 Coll. on Income Tax, Act No. 461/2003 Coll. on Social Insurance and Act No. 580/2004 Coll. on Health Insurance

The National Council of the Slovak Republic adopted an amendment to the Labour Code, amending the Income Tax Act, the Social Insurance Act and the Health Insurance Act. The main changes include the determination of income considered as a wage, the remuneration of employees for work on public holidays and weekends, and the taxation method for such employee income.

The National Council of the SR adopted an amendment to the Labour Code, which introduces several changes to employee wage entitlements:

- Wage benefit for work on Saturdays – according to the amended Labour Code, in addition to the standard wage, employees are entitled to a wage benefit of at least 50% of the minimum hourly wage for work on

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Saturdays. If the nature of the work requires work on Saturdays, a lower wage benefit may be agreed (at least 45% of the minimum hourly wage).

- Wage benefit for work on Sundays – in addition to the standard wage, employees are entitled to a wage benefit of at least 100% of the minimum hourly wage for work on Sundays. If the nature of the work or the employer's operating conditions require work on Sundays, a lower wage benefit for work on Sundays may be agreed (at least 90% of the minimum hourly wage).
- Wage benefit for night work – the wage benefit for night work was increased from 20% to 40% of the minimum hourly wage. Employees performing high-risk work are entitled to a wage benefit for night work of at least 50% of the minimum hourly wage. If the nature of the work or the employer's operating conditions require work at night and an employee does not perform high-risk work, a lower wage benefit may be agreed (at least 35% of the minimum hourly wage).
- The definition of "wage" in the Labour Code has been extended: wage includes any financial performance that an employer provides to an employee for work during the summer holiday period or during the Christmas holidays.

The amendment to the Labour Code resulted in amendments to certain provisions of the Income Tax Act, the Social Insurance Act and the Health Insurance Act.

### **Income Tax Act**

With respect to income from dependent activities, income exempt from income tax includes financial performance that an employer provides to an employee for work during the summer holiday period. The maximum amount of exempt income is EUR 500 in aggregate from all employers. If the paid financial performance is at least equal to the employee's average monthly salary and the employee's employment (state employment) relationship with the employer as at 30 April of the relevant calendar year has lasted for at least 24 continuous months, the tax base (partial tax base) will include only income exceeding the exempt amount. This provision will first apply to the amount of financial performance under separate regulations paid in June 2019.

A financial performance that an employer may provide to an employee for work during the Christmas holidays is also tax exempt. The maximum amount of exempt income is EUR 500 in aggregate from all employers. If the paid financial performance subject to the exemption is at least equal to the employee's average monthly salary and the employee's employment (state employment) relationship with the employer as at 31 October of the relevant calendar year has lasted for at least 48 continuous months and the financial performance for work during the summer holiday period was paid to the employee for the relevant taxation period, the tax base (partial tax base) will only include income exceeding the exempt amount. This provision will first apply to the amount of financial performance for work during the Christmas holidays paid to an employee in December 2018, provided that in June 2018 the employee received a financial performance for work during the summer holiday period that was at least equal to the employee's average monthly salary.

### **Social Insurance Act**

An employee's assessment base includes the financial performance provided to the employee for work during the summer holiday period, which was provided to the employee during the 2019 and 2020 calendar years, and the financial performance for work during the Christmas holidays provided to the employee during the 2018 calendar year.

### **Health Insurance Act**

If an employee received a financial performance for work during the summer holiday period or the Christmas holidays from multiple employers in an amount exceeding EUR 500, in the annual reconciliation of insurance premiums the employee's assessment base for each employer who participated in this financial performance will increase on a pro-rata basis depending on the amount of the financial performance.

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