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**CE Tax&Legal Highlights**

February 2019

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# Hungary

## Positive changes in R&D tax incentive rules

**A significant part of Hungarian based businesses with negative or non-significant pre-tax profit (e.g. subsidiaries operating on a cost-plus basis) seem to miss out on the fact that the cost of research and development activities pursued by them or in cooperation with other organisations may have various tax advantages. The costs directly related to R&D activities may be deducted from the taxable income for corporate income tax, local business tax and innovation contribution purposes with tax benefit also available for the social contribution tax amount.**

Act LII of 2018 on Social Contribution Tax entered into force on 1 January, 2019 and introduced positive changes in the rules of the social contribution tax, including tax benefit available in the case of research and development activities. Several restrictive eligibility criteria whose interpretation and fulfilment used to cause difficulties on many occasions in claiming the tax benefit (e.g. 40% of all revenue must have come from R&D activities, placement of 3-5 interns, maintenance of R&D personnel headcount) has been removed.

According to the new rules, 50% of the social contribution tax on the payroll costs of R&D staff (as the direct cost of research and development carried out as part of one's own activities) may be deducted as tax benefit from the amount payable as social contribution tax. In the interest of reducing tax risks, it is of key importance to identify R&D activities performed as part of a company's own activities. Several procedures of the Hungarian Intellectual Property Office are available to identify R&D activities (e.g. project qualification, project group qualification, request for expertise) that can be used as final and non-appealable or quasi final and non-appealable instruments by NAV to determine whether a given activity can be qualified as research and development.

The tax benefit can be claimed in a simpler procedure than previously, on a monthly basis, although several typical issues may arise in connection with the procedure, for instance the question how to proceed in the case of employees who participate in research and development only for a part of their worktime.

For more information concerning the tax benefit or other R&D qualifications/state grants please turn to our experts at the following contact details.

## Losing money on non-reclaim of foreign VAT

**As regards VAT paid abroad, NAV has recently questioned on several instances, i.e. in a number of its resolutions, the recognition of non-reclaimed VAT paid to foreign tax authorities as VAT expense. This all means that in this case the VAT paid abroad, in addition to eventually burdening the business, may not be recognised as expenditure for corporate tax purposes.**

In Hungary, a refund of the VAT paid in another EU member state or a third country must be requested using NAV's 'ELEKAFA' form that taxpayers are to submit until 30 September every year. The deadline is preclusive, i.e. no claims are accepted after its expiry.

In our experience, businesses often do not bother with reclaiming foreign VAT because of its cost implications and related administrative burden. This is why Deloitte developed a unique technology solution that offers a fast and cost-efficient way to reclaim VAT paid abroad.

Accordingly, businesses may want to review whether their operation involves any costs incurred abroad where VAT is paid. Such costs typically include for instance expenses related to foreign assignments and conferences, or fuel costs.

Deloitte has wide experience in foreign VAT reclaim procedures for a clientele spanning various industries and offers a complex, technologically assisted solution to clients that covers the entire VAT reclaim procedure from the review of incoming invoices through the preparation of refund requests to consultation with local tax authorities, so relieving businesses of related administrative burden.

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# Kosovo

## New Law on the Protection of Personal data has been published.

**The new Law on Protection of Personal Data is another step towards approximating the legislation of Kosova with the regulations of the European Union.**

The provisions of the new Law are obligatory to all public and private bodies that process personal data, including diplomatic and consular offices as well as any other official representative offices of the Republic of Kosovo that are operating abroad.

As opposed to the old law on Protection of Personal data, the new Law specifically states the conditions of consent or the manner in which data controllers need to acquire consent. Thus, if the processing is based on consent then the data controller (i.e. employer) needs to be able to demonstrate that the said consent has been given;

The Law provides that if the consent is given in a written form then the data controller will have to present it in a manner in which it is clearly distinguishable from other matters, easily accessible and intelligible.

If the data subject wants to withdraw the given consent, the said data subject needs to do so, in the same manner that it gave the consent. The withdrawal of the consent does not affect the legality of the data processing prior to the withdrawal.

In the event that the consent of a data subject is in question, there shall be an assessment if the performance of the contract is conditional on the consent given by the data subject and whether the data processed is necessary for the performance of the contract.

Another notable addition of the new Law on Protection of Personal Data is the addition of certification for Data Controllers.

Not only data controllers but also processors, legal entities and enterprises that process data under the scope of this law need to obtain such certification in order to perform work related to personal data.

This certification will be issued by the Information and Privacy Agency (hereinafter Agency), when the data controllers, processors, legal entities and enterprises need to meet these minimum conditions:

i. When they prove that they possess adequate knowledge in the field of personal data protection;

ii. That they can meet, where required the necessary international safety standards;

iii. When these legal entities/enterprises, employ controllers, processors and other personnel who have obtained such certification;

iv. Need to prove that the exercise of their functions pertaining the protection of data does not result in a conflict of interest.

The certificate is valid for three years and it can be reviewed provided that the same conditions are met.

In the event that a legal person or enterprise possesses a certificate issued by the relevant European Institution/Body, that certificate shall be recognized as a valid certificate under the laws of the Republic of Kosova.

This law will enter into force 12th of March 2019.

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# Poland

## Withholding Tax (WHT). New rules of criminal liability

**Certain significant amendments concerning withholding tax take effect as from 2019. It is worthwhile to have a closer look at them, considering that parallel changes have been introduced into the penal fiscal code too.**

### New types of offences - furnishing untrue information in withholding tax declarations (WHT)

New Article 56d has been added to the Penal Fiscal Code which provides for criminal fiscal liability for furnishing untrue information (concealing the truth) in selected declarations related to the new Withholding Tax (WHT) rules. Article 56d imposes stringent sanctions, its purpose being to additionally secure the reliability of the statements submitted and, by implication, the correctness of applying preferential tax principles.

The new provision imposes criminal liability for furnishing untrue information in the statements submitted in order to benefit from the preferential **withholding tax** regime at the moment of the payment (the *relief at source* mechanism), i.e.:

- untrue information in the statement of the remitter concerning holding documents and checks of the eligibility for applying a reduced rate, exemption or non-collection of the tax, and
- untrue information in the statement of the remitter or the taxpayer as to the truthfulness of the facts presented in the application for the tax authorities' opinion on the applicability of the **withholding tax** exemption.

Fiscal penal sanctions will also be imposed for furnishing false information (concealing the truth) in the taxpayer's (or potentially also remitter's) statement as to the truthfulness of the facts presented in the tax refund application, where the remitter has collected the tax without applying a reduced rate or the exemption.

### Sanctions and withholding tax

Article 56d of the penal fiscal code prescribes the same penalties as in the case of commission of the most serious fiscal offences (avoidance of taxation - Article 54 of the Penal Fiscal Code, tax fraud - Article 56 of the Penal Fiscal Code, extortion of tax - Article 76 of the Penal Fiscal Code), i.e. a fine and imprisonment of up to 5 years.

We cannot rule out that in practice, the above regulations will be applied concurrently with other penal norms, in particular those concerning fraudulent tax refunds (Article 76 of the Penal Fiscal Code), non-collection of tax by the remitter (Article 78 of the Penal Fiscal Code), the provisions of the Penal Code with respect to frauds committed to the detriment of the State Treasury (Article 286 of the Penal Code), or making false statements (Article 233 § 6 of the Penal Code).

## Withholding tax and responsibility of management board members

In line with the new **withholding tax** regime, statements submitted to confirm holding documents and completion of the relevant checks for the purpose of preferential withholding tax treatment should be signed by the head of the unit (members of the management board). At the same time, the possibility of filing such a statement by a proxy has been expressly excluded.

The above implies that, as a rule, the criminal fiscal accountability for false data in the aforesaid statements **burdens the company's management board members**. However, it should be kept in mind that the criminal liability is based on the principle of wilful misconduct, which means that in order for a person to be held criminally liable, it is necessary to prove not only that the statement is defective, but also that the person wanted to commit a prohibited act (make a false statement) or, by providing for such a possibility, agreed to it.

It should be observed that in practical terms, filing such statements requires familiarity with the tax law regulations, including international tax law, the practice of applying the law, as well as making specific factual findings and legal assessments. From the viewpoint of criminal liability it is crucial to determine whether in such conditions a given member of the management board was aware of or agreed to the fact that the statement signed by him or her contained untruth.

The above is analogous to situations known from the case law, where tax returns are drawn up by persons within the organization who specialize in tax settlements, and then, in accordance with the rules of company representation, they are signed by a member of the management board. In such circumstances the courts tend to assume that the mere fact of signing the return does not prejudge the criminal liability of the board member. Taking into account that the newly introduced tax regulations are fairly complex, companies should contemplate the possibility of introducing *compliance* procedures and internally regulate the way in which the withholding tax process is organised so to limit the risk of criminal liability in the event of the truthfulness of their statements being questioned. **In particular, such procedures should ensure that appropriate tasks are assigned to competent persons and define the rules of supervision over the performance of these tasks, so as to avoid - as far as possible – sanctions for commission of prohibited acts.**

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## New withholding tax (WHT) rules. Clarifications provided by the Ministry of Finance – what to pay attention to regarding withholding tax (WHT) before 01 July 2019

**During the consultations held on 04 February 2019, the Ministry of Finance (further called: MOF) started clarifying the doubts raised so far regarding new provisions on the so-called withholding tax (WHT). The general conclusion is that various circles voice a great number of concerns, and MOF does not yet have a consensus view on many issues. Nonetheless, MOF declared that it would publish draft clarifications at the beginning of March, to be followed by further consultations in writing the final version of which would be announced in April.**

### New withholding tax regulations

The coming into force of new withholding tax rules (i.e. regulations introducing the new principle of withholding and potential subsequent refund of WHT on payments above the annual limit of PLN 2 million made to a given foreign entity) was to be postponed until 30 June 2019, and in some cases even until 31 December 2019.

**However, during Monday's consultations, the representatives of MOF stressed that the postponement concerns only the entry into force of the technical obligation to collect and pay the tax (or submit the relevant declaration), whereas the new extended formal requirements to use the withholding tax exemption or reduced WHT rates already apply to payments made after 01 January 2019.**

### Due diligence and WHT

First of all, MOF confirmed that the aforesaid **postponement of certain new WHT regulations does not release taxpayers from the duty to exercise "due diligence**" when verifying the grounds for applying exemptions or reduced rates to payments made after 01 January 2019. In other words, from the very beginning of the year taxpayers are under an obligation to demonstrate and document that they exercised "due diligence" before withholding tax on payments made to a foreign entity.

Moreover, MOF also pointed out that the requirement to identify the beneficial owner of the sums due (according to the new extended definition) already applies and it may, in addition to interest or royalty payments, in certain situations also concern payments of dividends or remuneration for intangible services. In practice, this may prove to be a significant problem in the case of payments to holding companies, intra-group financing entities, cost sharing payments or even payments to shared service centres situated outside Poland.

**In view of these guidelines, entities making payments abroad should review such payments as soon as possible (without waiting until 1 July) from the perspective of the impact of the new withholding tax regulations on their tax position. It is also recommended that such entities adapt their procedures to the new documentation obligations, in particular those concerning the obligation to proceed with "due diligence", prior to making the payments.**

Another important piece of information is that companies with the so-called shifted tax year should not expect to delay the application of the new withholding tax regulations until their next tax year, as opposed to what was suggested in the draft regulations.

Taxpayers that consider submitting a request for an opinion on the legitimacy of applying the **withholding tax exemption** in order to secure their tax policy should not wait too long either. The relevant procedure will last about 6 months, and in practice, if the tax authorities are deluged with such requests, it may take even longer. What is more, entities that plan to make significant payments abroad (e.g. dividends) in the second half of the year should also consider applying for an opinion of this kind right away.

The new **WHT** regulations have been publicly discussed for several weeks now. Unfortunately, even after the first clarifications of MOF, doubts are still growing. That is why we will do our best to keep you posted about the most important developments in the area (including those resulting from consultations with the Ministry of Finance) right until 01 July 2019.

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## GDPR: video surveillance under scrutiny

**President of the Personal Data Protection Office announces inspections at employers.**

On 24 January 2019 the President of the Personal Data Protection Office published the "Annual plan of sectoral inspections for 2019". The inspections to be carried out by the Personal Data Protection Office this year (PDPO) will concern, among others, the processing of employees' personal data by means of video surveillance.

### Video surveillance at workplaces

The processing of employees' personal data through the use of video surveillance in the workplace is regulated in detail in Article $22^2$ of the Labour Code. The Labour Code allows the use of video surveillance by the employer only when it is necessary to ensure the safety of employees, protection of

property, production control or to maintain secrecy of the information the disclosure of which could expose the employer to damage. In consequence, video surveillance cannot be used for other purposes than those listed in the Labour Code, e.g. assessment of employees' performance on that basis is disallowed. This is one of the basic requirements imposed as regards video surveillance, and the employer should make sure that the recordings from the cameras installed within the workplace are used only for the purposes specified in the Act (for example, they cannot be used as a justification for the decision to promote an employee, to grant or not to grant a bonus). Employers should also remember that their use of video surveillance must be necessary for the purposes mentioned above.

As a result, video monitoring can only be used when accomplishing each of the set purposes in a different, less intrusive way would be ineffective or impossible. This rule also applies to the scope of the collected data (e.g. the resolution of recordings, number of cameras, etc.), which should not go beyond what is necessary.

**Information about video surveillance**

The employer is obliged to notify its employees about introducing video surveillance. For that purpose, the employer should make available at the monitored location full information about the surveillance applied, including all elements required under Article 13 of the GDPR. Prior to launching video surveillance, the employer should mark the rooms and the monitored premises in a visible and clear manner by means of appropriate marks or sound announcements. Please keep in mind that in principle, video surveillance should not cover sanitary facilities, changing rooms, canteens, smoking rooms and the premises made available to the company's trade union organisation. Furthermore, the employer is obliged to notify employees about the implementation of video surveillance in a manner adopted at the employer and no later than 2 weeks before it becomes operational. Each time a new employee is hired, the employer is obliged to provide him/her with information in writing about the purposes, scope and manner of using video surveillance. What is more, the purpose, scope and the manner of applying surveillance should be determined in the collective labour agreement, work regulations or in an official announcement.

As a consequence of the above, employers need to make sure that their documentation relating to video surveillance is complete, has been adopted in a correct manner, and that all individuals who can be captured in the video surveillance records have received sufficient information in that respect.

**Period of storing video recordings**

The period of storing video recordings is set by the Labour Code and it cannot exceed 3 months from the day of making the recording. Upon the expiry of that period, the recordings of image obtained as a result of video surveillance should be destroyed, the only exception being when the image recordings constitute evidence in proceedings conducted under law. In such a situation the three-month period is extended until the time of final and valid completion of the proceedings.

**Data-protection impact assessment**

Where the processing of personal data by means of video surveillance may cause a high risk of infringement of the rights or freedoms of natural persons, it is necessary to carry out a data protection impact assessment (DPIA). This will be the case, inter alia, when publicly accessible locations are monitored systematically and on a large scale. However, according to the list of

processing operations requiring an impact assessment which has been drawn up by the President of the Personal Data Protection Office, DIPA is not required concerning video monitoring systems in which the image is recorded and used only for the analysis of incidents of law infringement. Nonetheless, the above exclusion may sometimes be questioned, because both the list published by the President of the Personal Data Protection Office and the guidelines of the European Data Protection Board indicate that a prior data protection impact assessment should be carried out in the case of systematic monitoring of employee behaviour.

On the other hand, it is certain that an impact assessment will be required if the video surveillance applied by the employer permits automatic image analysis allowing for unambiguous identification of the persons being monitored. The use of the special technical methods that make it possible to identify the recorded persons causes that the image being processed falls within the scope of the definition of biometric data which is a specific category of personal data and which triggers the requirement to fulfil additional processing-related obligations.

**Administrative penalties**
There are severe administrative penalties for non-compliance with the regulations. If personal data processing irregularities are detected in the course of an inspection, the President of the Personal Data Protection Office may impose a fine of up to EUR 20,000,000, and in the case of companies - up to 4% of the total annual worldwide turnover of the previous financial year.

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## GDPR: first inspections to be launched

### The President of the Personal Data Protection Office to commence inspections at telemarketing companies.

The President of the Personal Data Protection Office has published the "Annual plan of sectoral inspections for 2019", and telemarketing companies are among the private sector entities that may expect inspections this year

**Telemarketing and GDPR**
Telemarketing is commonly understood as a method of direct marketing in which a salesperson solicits prospective customers to buy products or

services over the phone. In particular, such activities will include the presentation of offers and various commercial information via telephone or a text message. As announced by the President of the Personal Data Protection Office, this year inspectors are going to check whether telemarketing is carried out in accordance with the General Data Protection Regulation (further referred to as "GDPR"). Considering the above, what should the entrepreneurs that use telemarketing tools now focus on?

**With or without consent**

Before commencing personal data processing, the telemarketing entity should establish the basis on which such data will be processed. As far as telemarketing is concerned, first of all, it must be determined whether obtaining prior consent of data subjects is required for the needs of the intended processing of personal data. The answer to that question will depend on a number of circumstances specific to each case, but in view of how crucial such consent is for the correctness of data processing, analysis of the company's activities in that respect should start from clarifying this very issue. It needs to be highlighted that contacts over the phone for marketing purposes are subject not only to GDPR, but also to other industry regulations, in particular the Telecommunication Law and (in some cases) the Act on the provision of electronic services.

Each of the laws above separately puts telemarketers under an obligation to obtain prior consent for the contact over the phone for the purpose of direct marketing. The question of combining such consent with the consent to the processing of personal data remains debatable and requires caution and thoughtful action on the part of the data controller.

**Disclosure duty**

The way in which the entrepreneur acting in the capacity of personal data controller notifies data subjects about the processing of their personal data is of key importance for the evaluation of the activities of the entrepreneur. The regulations oblige entrepreneurs to furnish data subjects with various information on the actions taken and the rights of data subjects in that respect. What is more, such information needs to be communicated in a concise form, in clear and simple language. The relevant information clauses should be provided to the data subject at the moment of data collection, e.g. attached to contact forms, marketing approvals or read out at the beginning of the telephone conversation, and in case personal data has been derived from other sources, e.g. from data brokers - at the latest during the first communication with the data subject, but no later than within the time limits specified in GDPR. In reality, developing an appropriate method to communicate information on data processing may prove rather difficult for telemarketers.

GDPR notification should be prepared and presented in a way that meets the requirements of the GDPR regime as to the content, the moment of making the notification and its clarity. On the other hand, entrepreneurs will be desperate for the potential customer not to lose interest in the conversation as a result of receiving too detailed information about personal data processing. Hence, fulfilling the GDPR requirements and simultaneously protecting the interests of the entrepreneur is often a difficult task.

Taking into account the prospect of potential inspections, entrepreneurs should make sure that the information they provide to data subjects is complete, clear and communicated in line with GDPR.

**Exercise of the rights vested in data subjects**
Companies conducting telemarketing activities must not forget that GDPR grants a number of rights to data subjects in connection with the processing of their data, such as: the right of access the data, to rectify it, erase it ("the right to be forgotten"), to limit data processing, the right to data portability and the right to withdraw the consent granted for processing. Data controllers are obliged to respect the above rights of the data subjects.

If the data is processed for the purposes of direct marketing, GDPR entitles each data subject to object at any time to the processing of their data, which means that telemarketing entities should implement appropriate solutions allowing data subjects to object to data processing and ensure that such data is removed, inter alia, from telemarketing entities' information and communication systems. It often happens that such an objection is raised during a telephone conversation with a *call centre* employee, which is why good cooperation between the data controller and the entity processing the data on the data controller's behalf is necessary.

Bearing the above in mind, entrepreneurs conducting telemarketing activities should make sure that their procedures in respect of the rights of data subjects allow full and timely exercise of such rights.

**Administrative penalties**
There are severe administrative penalties for non-compliance with the regulations. If personal data processing irregularities are detected in the course of an inspection, the President of the Personal Data Protection Office may impose a fine of up to EUR 20,000,000, and in the case of companies - up to 4% of the total annual worldwide turnover of the previous financial year.

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# Romania

## Changes brought to the tax risk assessment criteria, in the case of VAT registration

**The decision approving the VAT registration will be issued by the tax authority, under certain conditions, on the same day the VAT registration request is submitted, according to the Order published in the Official Gazette on January 31st, 2019.**

Full text regarding above text [no more than 3000 characters with spaces]

The VAT registration procedure according to art. 316 para. 1 letter c) of Law no. 227/2015 on Tax Code – i.e. when the taxable person has an annual turnover not exceeding the exemption threshold, but opts for the normal taxation regime – has been changed as follows:

- The possibility of filling-in and submitting electronically the Affidavit on the VAT registration (hereinafter "the Affidavit"), together with the same Affidavit handwritten-signed by the company's administrators/ associates is introduced;
- The Affidavit contains information through which the tax risk assessment is performed (i.e. headquarter, deeds of associates and administrators, information on the bank account, accounting services etc.);
- The Form 010 (i.e. the amendment tax statement) will be submitted to the competent tax authority together with the submission proof of the Affidavit;
- If the Affidavit submitted electronically is validated without errors, the taxable person will not be allocated to the high-risk tax category. Otherwise, the standard procedure for tax risk assessment (currently in force and unmodified through the Order) will be applicable;
- The tax authority will issue the Decision approving the VAT registration request on the same day the request is submitted (i.e. submission date of Form 010);
- The assessment department proceeds to verify the information included in the Affidavit within 15 days from the submission date of the VAT registration request.

Thus, through this Order, the VAT registration procedure is simplified for the taxable persons that opt for the normal taxation regime. The tax authority will issue the Decision approving the VAT registration request on the same day the request is submitted.

The new amendments are applicable starting with February 1st, 2019.

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## Decision to set quota for work authorizations that can be issued to foreigners during 2019

**On Thursday, January 31st 2019, the Decision setting the quota for work authorizations that can be issued to foreigners for the year 2019 has been published.**

The quota for work authorizations that can be issued during 2019 to foreign citizens has been set at 20,000 workers.

Work authorizations are compulsory for foreigners who wish to perform work activities in Romania and who are third country nationals (citizens of Switzerland or of countries that are not EU/EEA Member States), as per the provisions of Ordinance 25/2014 regarding the employment and assignment of foreign individuals on the Romanian territory.

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# Slovakia

## Members of Parliament's Amendment to the Income Tax Act

**The National Council of the Slovak Republic approved an amendment to Act No. 595/2003 Coll. on Income Tax, which amends one of the existing conditions by reducing the minimum amount of the 13th salary to be entitled to an income tax exemption.**

The National Council of the Slovak Republic approved an amendment to Act No. 595/2003 Coll. on Income Tax, which amends one of the existing conditions by reducing the minimum amount of the 13th salary to be entitled to an exemption of this income from personal income tax up to EUR 500 in aggregate from all employers.

According to valid law regarding the 13th and 14th salary pursuant to Act No. 595/2003 Coll. on Income Tax, as amended, a number of conditions must be met by the employee and employer for exemption of this income from personal income tax up to EUR 500 per year in aggregate from all employers cumulatively. One of these conditions is that the minimum amount of such remuneration is to be the average monthly earnings/salary of an employee.

However, for the 13th salary, the amendment to the Act reduces the required amount of remuneration paid by the employer for entitlement to exemption from tax and insurance contributions from the current amount "in a minimum amount of the average monthly earnings/salary of an employee" to the fixed amount of EUR 500.

This change will allow the employer (if other conditions are met) to pay an employee a 13th salary in the amount of EUR 500 exempt from taxes and insurance contributions, which is the same for all employees of the employer, irrespective of the amount of the average monthly salary of an employee.

This provision's wording effective from 1 March 2019 will first apply to the amount of remuneration paid in June 2019.

## Guideline on the Exemptions of Income from Advertising for Charitable Purposes from Income Tax and Related Tax Base Adjustments

**The Financial Directorate of the Slovak Republic (hereinafter "FDSR") issued a guideline to ensure a consistent procedure for exempting income from advertising for charitable purposes earned by selected types of taxpayers not established or not incorporated for business activities with effect from 1 January 2018.**

The FDSR issued a guideline to ensure a consistent procedure for exempting income from advertising for charitable purposes earned by selected types of taxpayers not established or not incorporated for business activities with effect from 1 January 2018.

Pursuant to the new Article 13 (1) (g) added to the ITA, income from advertising for charitable purposes is tax exempt if it is earned by taxable persons specified in Article 12 (3) (a) of the Income Tax Act, up to a maximum of EUR 20 000 for the relevant taxation period.

The taxable person may only use the income for the purposes defined in Article 50 (5):

- Protection and promotion of health; prevention, medical treatment, re-socialisation of drug addicts in the field of healthcare and social services;
- Development and promotion of sports;
- Provision of social aid;
- Preservation of cultural heritage;
- Support for education;
- Protection of human rights;
- Protection and development of the environment;
- Science and research; and
- Organising and mediating volunteer activities.

This use is possible up to the end of the year following the year in which the taxable person received the income. If the taxable person does not use tax-exempt advertising income for a purpose defined in Article 50 (5) before the end of this period, this income or unused portion thereof must be included in the tax base at the latest in the taxation period in which this period expires.

A taxable person under Article 12 (3) (a) of the Income Tax Act keeping books in the double-entry bookkeeping system does not include income (revenues) from advertising in the tax base in the taxation period in which the revenues were recognised, but rather in the taxation period in which the income (revenues) from advertising was received (eg credited to a bank account). The person ordering advertising includes costs (expenses) of advertising ordered from a taxable person pursuant to Article 12 (3) (a) of the Income Tax Act in accordance with Article 17 (19) (i) of the Income Tax Act, according to which costs (expenses) of advertising provided to such a taxable person are only included in the tax base after payment.

The full wording of the guideline can be found here:
**https://www.financnasprava.sk//_img/pfsedit/Dokumenty_PFS/Zverejnovanie_dok/Dane/Metodicke_usmernenia/Priame_dane/2019/2019.01.10_osl_prij_reklam.pdf**

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# Slovenia

## Proposed PIT Act amendments

**The Ministry of Finance has prepared a proposal for tax changes, which aim to relieve the tax burden on labour, and consequently support economic growth with higher consumption. On the other hand, loss of income in the state budget would be partially covered by higher taxation of income from capital and more efficient tax collection. Changes related to holiday allowance are planned to be enforced this year, the rest of proposed changes should be enforced in 2020.**

The main objective of the tax reform is higher net income for Slovenian employees and internationally more competitive labor market, due to planned reduction of tax wedge.

This should be achieved through changes in personal income taxation, which should include increase of income limits for all taxable income brackets, reduction of tax rates in certain tax brackets and increase of general tax allowance and additional general tax allowance.

In accordance with the proposed changes holiday allowance up to the amount of average gross salary in Slovenia should be completely exempted from social security contributions (instead of 70 percent up until now). This change should enter into force already within year 2019.

Performance bonus is currently exempt from personal income tax up to the amount of average gross salary in Slovenia. The exemption should firstly increase to 150 percent of average gross salary in 2020, further to 175 percent in 2021, and finally to 200 percent in 2022.

The cedular taxation of certain income (capital gains, interest and dividends, and income from letting property) would be preserved but with increase in taxable rate from the current 25 percent to 30 percent.

Changes are also proposed regarding the taxation of capital gains according to the the period of ownership - for the first 10 years of the ownership 30 percent tax rate is proposed and after 10 years of the ownership tax rate would be reduced to 15 percent.

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