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Tax&Legal Highlights

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Albania

Second tranche of 2019 fiscal package amendments enacted

On 21 and 28 December 2018, amendments to legislation included in the second part of the fiscal package for 2019 were published in Albania's official gazette. This article summarizes the key amendments relating to income tax, tax procedures and VAT. Other changes impact excise duties and other national and local taxes. The changes are effective as from 1 January 2019 (unless otherwise stated).

Income tax

The main objectives of the changes to the income tax law are to extend the taxable base by broadening the definition of Albanian-source income, while relieving the tax burden on certain categories of income.

Definition of Albanian-source income

The following sources of income are considered as Albanian-source income and as a result, are taxable in Albania at 15%:

- Income from services rendered by nonresidents to an Albanian resident, regardless of where the services are provided or payment is made. Previously, only income from services rendered by nonresidents in Albania was considered Albanian-source income.
- Income derived from rights for the exploitation of mineral resources, hydrocarbon resources and other rights for the exploitation of natural terrestrial and marine resources (including in Albanian territorial waters) and information pertaining to those rights. The rights and related information are treated for tax purposes as if they were immovable property in Albania. As a result, income from their alienation (e.g. a transfer of ownership) also is considered Albanian-source income.
- Income earned by nonresidents from the transfer of ownership of shares and other participations, if throughout one year prior to the transfer of ownership, more than 50% of the value of the shares is derived directly or indirectly from immovable property, rights or related information as mentioned above.

Tax rate on distributions

The withholding tax rate on dividends and other profit distributions to nonresidents and resident individuals is reduced from 15% to 8%. The reduced rate applies to distributions by Albanian resident companies of retained earnings of 2018 and previous years, including reserves and capitalized profits, provided the tax on dividends derived from retained earnings of 2017 and earlier years is paid by 30 September 2019; and the tax on 2018 profits is paid by 20 August 2019.

Personal income tax on employment income

The upper limit of employment income taxable at 13% is increased from ALL 130,000 per month to ALL 150,000 per month. The following rates and thresholds apply:

Taxable monthly employment income (ALL)	Personal income tax on employment income
0 - 30,000	0%
30,001 - 150,000	13% of the excess over ALL 30,000
Over 150,000	ALL 15,600 + 23% of the excess over ALL 150,000

Declaration and payment of profit tax by nonresidents

Nonresident persons with Albanian-source income not otherwise taxed in Albania are subject to profit tax on such income. A declaration of taxable income must be filed and the tax due paid by 31 March of the year following the tax year in which the income arose. The provisions requiring prepayments of profit tax by installments and for foreign tax credits do not apply.

The Minister of Finance is expected to issue further clarification of which nonresidents are subject to this obligation, and to specify the form of the declaration, together with the method of calculation and payment of the tax due.

Tax procedures

The key change to the law on tax procedures is the introduction of a general anti-avoidance rule. Other measures are intended to extend the range of alternative methods of tax assessment and reduce administrative and business costs.

General anti-avoidance rule

The tax authorities may disregard actions and transactions that are fictitious, having regard to all the facts and circumstances and that are proved as being undertaken for the purpose of obtaining a tax advantage in contravention of the principles of the tax legislation. Such actions/transactions may:

- Distort the principles of the tax legislation;
- Not be based on the market value principle;
- Lack substantial economic effect;
- Have a legal form that does not reflect economic substance; and/or
- Contain elements intended to avoid or reduce tax.

The burden of proof lies primarily with the tax authorities, who have the right to re-characterize the action/transaction and calculate the tax liability based on alternative tax assessment methods. The Minister of Finance is expected to issue further details of how the alternative methods may be applied.

Registration of entrepreneurs

An entrepreneur (i.e. an individual engaged in a commercial activity) as defined in the law on entrepreneurs and commercial companies now may have a single tax identification number (NIPT/NUIS). When an entrepreneur registers a new business activity with the National Business Center (NBC), the NBC will issue a new certificate with the same NIPT/NUIS but with a different serial number (to identify separately the new activity). Previously, there were no specific restrictions on the number of NIPT/NUIS that the same individual could obtain.

Where an entrepreneur operates with more than one NIPT/NUIS and submits separate tax declarations for each, this is considered an indication of tax

avoidance and the tax authorities may apply alternative tax assessment methods.

Transfer to the passive tax registry

Taxpayers that notify the NBC that they have suspended their commercial activities are transferred to the passive tax registry only after paying all outstanding tax liabilities. The General Tax Directorate publishes on its official website an updated daily list of taxpayers in the passive tax registry, with whom all business transactions are prohibited. If an active taxpayer enters into a sale/purchase transaction with a passive taxpayer, both are subject to financial sanctions; previously, sanctions applied only to the passive taxpayer.

Tax deregistration

The procedures for taxpayers to deregister from the tax authorities' registry have been revised depending on the type of taxpayer and where the deregistration request needs to be presented (i.e. to the NBC, a court or the tax authorities). Deadlines apply for the tax authorities to verify the taxpayer's tax position, conduct a tax audit and raise any objections to the deregistration. A requirement for deregistration is that all tax liabilities have been settled, including those arising on a liquidation.

Assessment and payment of tax and penalties

Tax payments, other than payments for social and health insurance contributions, first are used to settle earlier liabilities of the same type of tax where the earlier amounts payable are not under appeal or subject to court proceedings and are not covered by any agreed installment payments. Any excess remaining after the earlier liabilities have been settled is used to settle current liabilities of the relevant tax.

The tax authorities only will issue an assessment where the tax assessed exceeds ALL 1,000 (previously, the minimum amount was ALL 100).

Where, as a result of a tax audit, a reduction of a credit balance declared by the taxpayer is assessed, a penalty of 20% of the difference between the balance declared and the amount reassessed by the tax authorities is introduced.

Failure to issue a tax invoice results in a penalty of 100% of the tax unpaid, in addition to the tax liability and related interest. If the taxpayer accepts the assessment, the penalty is reduced to 70%.

Taxation of deemed profit of a legal entity subject to a change of ownership and penalties for failure to notify such changes

A number of amendments are made to the tax treatment on a change in ownership and penalties for failure to notify the appropriate authorities of the change. Further clarification of the provisions is required from the Minister of Finance.

If, during a tax period, the direct or indirect ownership of the capital or voting rights of a legal entity changes by more than 20%, the legal entity is treated as if it had sold and immediately required the relevant proportion of its assets at market value and is subject to profit tax on the profit from the deemed sale. The provisions apply only if, in the previous three years, the legal entity subject to the change of ownership has an average turnover of at least ALL 500 million.

Where a capital gain realized on the direct or indirect sale of the capital or voting rights of a legal person in Albania is considered Albanian-source

income and the legal entity subject to the change of ownership calculates and pays the tax on the profit from the deemed sale of assets, the capital gain is not subject to profit tax in Albania.

The entity subject to the change in ownership must provide details to the tax authorities within 45 days. Failure to do so results in a penalty of 15% of the market value of the proportional share of its assets.

The legal entity also must notify the tax authorities within 45 days of a direct or indirect change in ownership of its capital or voting rights of more than 10% but less than 20% if, throughout the year prior to the change, more than 50% of the value of its shares/voting rights was directly or indirectly attributable to properties, rights and information deemed to be immovable property in Albania. A penalty of 5% of the market value of the shares applies for failure to notify, unless it is proved that the legal entity was not aware of the change of ownership.

VAT

The main objectives of the changes in the VAT legislation are to support domestic production (mainly in the agricultural and inward processing sectors), amend the treatment of advertising and introduce incentives for environmentally friendly initiatives:

- The VAT treatment of advertising service depends on the type of the supplying media. Advertising in written media remains exempt from VAT; advertising supplied via audiovisual media (e.g. television) is taxable at the reduced rate of 6% (previously the standard rate of 20% applied); and advertising via electronic media is taxable at the standard rate (previously exempt).
- Supplies of books are taxable at 6% (previously exempt).
- The supply of electric mini buses with the capacity for at least nine passengers for public transport, is taxed at 6% until 31 December 2021 and 10% thereafter.
- The VAT exemption for imports of certain types of agricultural machinery is extended to supplies within Albania. Certain agricultural inputs also are exempt from VAT. Lists of the exempt items are expected to be provided by the Council of Ministers. The rate of compensation for agricultural producers that apply the farmers' compensation regime is reduced to 6% from 20%.
- Veterinary services (other than for domestic pets) are exempt from VAT.
- The supply of goods processing services by subcontractors of economic operators in the inward processing industry are treated as exports and zero-rated for VAT purposes.

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Czech Republic

Free Trade Between the EU and Japan

The Economic Partnership Agreement (EPA) concluded between the EU and Japan on 17 July 2018 will enter into force on 1 February 2019, which is surprisingly ahead of the planned date.

Based on the agreement, it will be possible to import to the EU the majority of products originated in Japan (almost 96% of the customs tariff sub-items) without any customs duties already from 1 February 2019. Similarly, it will be possible to import as many as 86% of the kinds of products originated in the EU to Japan without any customs duties. It is expected that the agreement will bring to the EU importers savings on customs costs namely in the area of import of chemical or electric products as well as cars and their parts.

The EPA is a comprehensive trade agreement. In addition to the free trading of goods, the agreement also focuses on the harmonisation of standards such as certification for personal vehicles and agricultural products, liberalisation and simplification of mutual trading with services, and enhancing investment opportunities between the EU and Japan by enabling mutual access to public contracts, protection of intellectual property rights, or the issue of medium sized enterprises.

The free trading of goods will be based on the preferential origin of goods, as is the case with other similar agreements. In this area, the agreement with Japan has numerous specifics related to both the evidencing of the preferential origin of goods and the wording of the rules of origin as such. Given those specific features we recommend that you pay appropriate attention to the given issue to ensure you can exploit the benefits arising from the agreement properly and in a timely manner. Incorrect application of the preferential origin may result in difficulties for EU exporters and subsequently, their Japanese customers. Analogically, an incorrect application of rules on the side of your Japanese supplier may have an adverse impact on your company importing the given goods to the EU.

Should you have any doubts in this respect, we recommend that you also focus on the tariff classification of goods as the assessment of the preferential origin of goods is mainly derived therefrom.

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Ministers have Approved a Proposed Act in the Event of a No-deal Brexit

The proposed act that relates to UK nationals living in the Czech Republic has been approved by the government and sent to the parliament. The government will require that the deputies approve the act in a fast-track procedure during a single reading.

The proposed act introduces a transitional period until the end of 2020, during which the UK nationals would, in the event of a “hard Brexit” – ie, if the United Kingdom left the European Union with no deal in late March 2019 – retain their rights in the Czech Republic as EU nationals in respect of permanent residence permits, entering into marriage, applying for citizenship, supplementary pension insurance, work permits and recognising qualifications. The proposed act stipulates that UK nationals wishing to lawfully reside in the Czech Republic during the transitional period should apply with the Czech Ministry of the Interior (the Asylum and Migration Policy Department) for a certificate validating their temporary residence in the Czech Republic no later than on 29 March 2019.

The United Kingdom will leave the European Union on 29 March, following a deal with the EU, for which Prime Minister Theresa May has yet to find sufficient support. British Members of Parliament are set to vote about the Brexit deal on 15 January.

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Computerisation of contact with officials

The Department of Asylum and Migration Policy continues to work on improving the efficiency of electronic communication.

The Ministry of the Interior has already introduced an electronic system for requesting appointments at the Department of Asylum and Migration Policy and it currently strives for its expansion to include other tasks, such as monitoring the status of the application online and – within a few years – the electronic submission of applications, for which the Ministry of the Interior intends to obtain a grant from the European Union. It will not be possible to use appointments arranged electronically for representing a foreign national based on a power of attorney, i.e. the foreign national will have to attend in person. The number of officials responding to requests on the telephone information line and by email has unfortunately been reduced.

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Amendment to the Act on the Residence of Foreign Nationals

The amendment to the Act on the Residence of Foreign Nationals has been under discussion since June 2018. We have previously informed you about the amendment to the Act on the Residence of Foreign Nationals submitted by the government and the essential changes proposed by the amendment.

The draft bill includes the transposition of the EU directive which simplifies the residence of foreign students and research workers on the territory of the individual member states and additionally regulates – among other things – the setting of quotas for economic migrants and obligatory adaptation-integration courses for certain foreign nationals in the Czech Republic. Now we bring you the latest news concerning the development of the legislative process and a summary of other changes proposed in the Chamber of Deputies.

In early December 2018, the last debate regarding the draft bill took place in the Lower Chamber, and at present we are waiting for the opinion of the relevant departments that focus on the matters of residence of foreign nationals, which is related to the delay of the entry into force. The following changes to the Act have been proposed as part of the legislative process:

- It has been proposed to strike out the institute of the so-called extraordinary work visa due to the foreign national's inability to settle in the Czech Republic and obtain certain rights here, inability to bring family to the Czech Republic (albeit temporarily), work uncertainty and due to the lack of guarantee from employers that they will be able to continue employing the trained and vetted foreign worker for more than one years.
- A fee has been proposed for the obligatory participation in the adaptation-integration course. The course should become obligatory from 2021; the Ministry of the Interior will be able to grant exemptions from the obligatory participation in the course for reasons meriting special consideration.
- The yearly number of visa applications for residence over 90 days for the purpose of business and for the employee card should be spread out evenly in each calendar month based on a Government Decree, in the category of government-approved programmes and in the category of other applications. If the maximum number of applications at the respective embassy is reached, the applications submitted beyond the limit set for the relevant category will be unacceptable, even if the maximum number of applications in another category has not been attained. The applicant will therefore be able to apply for a different kind of residence permit. The quotas will not concern the institute of the intra-company employee transfer card and the blue card, but the current functional projects

of economic migration within the responsibility of the Ministry of Industry and Trade will be included.

- It has also been proposed to cancel the fee for processing requests for appointment for submitting an application for long-term visa and long-term residence in person at embassies, and to cap the fees for submitting an application both at embassies and in the Czech Republic.
- In addition, there is criticism for the proposal stipulating that required documents are to be submitted only in paper form, since this circumvents the case law of the Supreme Administrative Court (cf. e.g. ruling no. 1 Azs 339/2017–52) and encumbers the proceedings at embassies with requirements that go completely against the development of modern technologies and the e-government strategy.
- Another proposal requires the applicant for an employee card collecting the residence card to prove that they are already employed by a specific employer. The objective of this proposal is to prevent situations where the foreign national arrives in the Czech Republic and then fails to start working for the employer at the job position for which the employee card should be issued. It often happens in practice that the employer is unaware that the foreign national has arrived in the Czech Republic and the employer therefore cannot comply with the legal obligation of reporting the foreign national to the Labour Office. The foreign national subsequently uses the obtained employee card to transfer to another employer, or misuses it for other purposes (e.g. illegal work).
- The holder of an employee card should now be required to report a change of employer, work placement or employment at another job position with the same or different employer to the Ministry within 30 days before the change occurs, and no sooner than six months after the entry into force of the decision to issue an employment card. The Ministry shall inform the foreign national and the future employer within 30 days of the receipt of the announcement whether the conditions required for the change of employer, work placement or employment at another job position with the same or different employer have been met and whether the foreign national may be employed at this job position.
- The proposal also strikes out the item concerning the reported address location in the residence card. The foreign national would continue to be required to report changes in address, but the current address would be entered in information systems and travel documents. This would save administrative work related to the changes of biometric cards (including the fee).
- The obligation to keep copies of documents proving the existence of employment relation at the workplace in the Czech Republic would also concern a foreign employer that has assigned its employee to perform work in the Czech Republic, and the documents that fulfil this obligation have to be translated into Czech. The information and record-keeping obligation and the obligation to keep copies of documents proving the existence of employment relation at the workplace would thus be transferred to the foreign employer.

- The labour market test before the submission of an application for an employee card or a blue card should be shortened to 10 days.

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The tax package approved by the Chamber of Deputies

The Chamber of Deputies has approved the tax package as part of third reading today.

The tax package has been approved in a wording reflecting several amending motions. Some of the approved changes in income taxation include:

- Change in research and development tax relief;
- Increase in the expense charge-off flat rate for sole traders (OSVČ);
- The possibility of reflecting IFRS impacts already in the 2019 taxation period (financial institutions); and
- Change in the withholding tax limit to an amount relevant for health insurance payments.

As part of the tax package, a technical amendment to the VAT Act, including a series of amending motions, has been approved. If no additional changes are made to the wording of the amendment in the follow-up legislation process, the key changes in the VAT Act are expected to affect the following areas:

- Guidance on taxing vouchers (single-purpose and multi-purpose vouchers);
- New provisions on the date of taxable supply (ancillary supplies to leases, long-term supplies);
- Rules for delivering tax documents;
- Finance lease definition (effective from 2020);
- Lease of real estate and taxation option restriction (effective from 2021);
- Guidance on VAT deduction in respect of real estate repairs;
- VAT deduction claim upon registration;
- Determination of the place of supply on electronically-provided services; and
- Decrease in the VAT rate upon heat delivery.

The tax package is to be subsequently voted on in the Senate and signed off by President. The general effectiveness of these changes (with the exceptions noted above) will occur on the first day of the month following the month in

which the amendment is published in the Collection of Laws (unless specifically stipulated otherwise).

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ECOFIN Discusses Digital Services Tax

One of the agenda topics discussed by the ECOFIN Council during its meeting of 3 December 2018 was the proposal on the taxation of digital services.

Earlier this year, on 21 March 2018, the concept for the taxation of digital services was presented by the European Commission. The concept was based around two directives, that is, 1) a directive stipulating taxable presence in the form of a digital permanent establishment, and 2) the collection of indirect digital services tax (DST) at 3% of the income arising from certain types of digital services.

The origination of a digital permanent establishment in the territory of a particular state could occur if the number of users of a specific digital technology exceeds 100,000 thousand, if the technology generates profits of over EUR 7,000 thousand, and at the same time, the number of contracts for the provision of the given technology concluded with businesses exceeds 3,000. The areas in which DST may be applied include income arising from the sale of online advertising space, income from the sale of data attained in the course of digital activity, and income arising from the mediation of digital activities that enable interaction with other users and that facilitate their trading. The collection of the provisional tax ought to include solely companies with global annual taxable income exceeding EUR 750 million, of which the portion taxable in the EU amounts to EUR 50 million. The aim of these limits is to ensure that the provisional tax does not affect newly established and fast growing companies.

ECOFIN's discussion reflects the proposal presented by Germany and France, according to which indirect DST would be solely a temporary solution effective up to the point at which international consent is achieved (principally at the level of OECD, G7 and G20 countries). Pursuant to Germany's and France's proposal, the directive introducing DST should be approved no later than in March 2019 so that it can become effective from January 2021, unless a multinational solution is identified by then. In the event that a mutual cross-country solution is found prior to 1 January 2021, the implementation of the directive introducing DST will be discontinued and the directive will become null and void starting 2025.

The Czech Republic has been supporting the full scope international solution at the OECD level. Nevertheless, it has also expressed its willingness to

continue the negotiations of the motion raised by Germany and France, if DST gets introduced solely for a limited period of time. Conversely, Ireland is one of the countries opposing the proposal of introducing DST. On the other hand, the submitted proposals on taxing income from digital services provoke a number of speculations as to how the one or the other system would work simultaneously with the currently-valid double taxation treaties and the rules stipulated by national legislations of individual states.

Moreover, the EU is not the only territory where the proposal to introduce an indirect tax on income arising from certain types of digital services has been considered. Similar proposals have been presented, for instance, by Mexico and the United Kingdom (which is soon going to cease being an EU member state). The next ECOFIN meeting is scheduled to take place on 22 January 2019.

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Hungary

Positive changes in training grant regulations

Amendment to NGM Decree no. 3/2015. (II. 13.) containing among others the detailed rules of training grants available through the Training Fund of the Hungarian Employment Fund entered into force on December 23, 2018.

According to the amendment:

- The training grant increased from the HUF amount equal to EUR 3 thousand to EUR 4 thousand per participant, with the proviso that the total grant amount may not exceed the HUF amount equal to EUR 2 million per beneficiary and training project.
- The maximum possible duration of the training period—i.e. the period between the start of the first and the end of the last funded training—also increased from 18 to 24 months, which is to be calculated separately for each training participant.
- Project closing day in terms of the training grant has been defined as the last day of the last funded training.
- Accounts of training held abroad are to be settled as follows: The beneficiary company is required to sign a training agreement with the employee participating in the training and the supporting documentation is to be supplied by the beneficiary company similar to what happens in the case of internal training.
- The procedure has been simplified in the sense that a ministerial extension of the deadline for starting and closing the funded project and accounting for the grant received will only be required in the case of an extension exceeding six months; the sponsor's (National Office of Vocational Education and Training) approval will suffice for extensions of three to six months.
- The training programmes will become more flexible in the sense that the proportion of individual costs to total expenditure may differ, at the end of the training period, based on the aggregate data of the costs statements, to a maximum extent of 25% instead of 20% from the proportion specified in the grant application.

The training grant funded through the National Employment Fund is a non-refundable grant available for the financing of external and internal training programmes at companies where at least 50 new workplaces are created. The amount of the grant may be up to 50% of eligible costs (personnel related costs of instructors, new and other participant employees, administrative expenditure, travel costs), i.e. an HUF amount equal to EUR 4 thousand per participant. The beneficiary company will have an obligation to continue employing 70% of the training participants for at least 18 months after the end of the training.

Two important news from Deloitte's Manufacturing team

1. Deductibility of packaging material costs from local business tax base in question

Local business tax revisions have become frequent again according to Deloitte information. Apart from the inspection of subcontractors' performance (agency services) and permanent establishments, local authorities have increasingly been focusing on the revision of the accounting treatment of packaging material and other printing products. Competent local authorities found in several cases during inspection that particular companies

treated and recognised in their books certain packaging material and printing products purchased erroneously under material cost or cost of goods sold instead of services purchased. As a result of such findings, local authorities did not allow the deduction of such costs from the local business tax base of these companies and, additionally, they penalised the erroneous tax treatment with a 50% fine and default penalty. There are already a few court judgements, as well, that confirmed the local authorities' position. At the same time, not all types of packaging material or printing products qualify as services purchased. It must be determined in each case to what extent the buyer can assert its demands during the manufacturing of the packaging material or printing products. Although inspections involve several sectors, it is mainly the manufacturing industry where fines are indeed considerable. This is why we recommend that manufacturers should by all means revise the extent of their control over the manufacturing of packaging material and printing products and, accordingly, their local business tax assessments. If the company's tax treatment of such items is found doubtful by court judgment, it is recommended to request the Finance Ministry's ruling in order to moderate risks affecting past activity. In the event of an unfavourable ruling, we recommend changing the tax treatment of these items. Neither in this case, however, is all lost. Our experts can offer you various options here.

The tax and procedural law experts of our manufacturing team are ready to help clients in the assessment of risks and opportunities or the preparation of a ruling request if necessary. Please do not hesitate to contact us either in cases where such an inspection or review procedure is already in progress.

2. EU–Japan trade agreement effective from January 2019

The EU–Japan Economic Partnership Agreement ("Agreement") creates a free trade area with a population of 635 million accounting for nearly one third of the total global GDP. The Agreement is the first bilateral economic partnership agreement that has ever been signed between the EU and Japan.

It removes the vast majority of customs duties on exports of EU-based companies to Japan, as well as a number of long existing regulatory barriers, for instance those concerning passenger cars. In addition, the Agreement opens up the Japanese market with its 127 million consumers to major EU agricultural product exports and will further improve exports opportunities for a number of other sectors. Farmers who—with respect to their exports to Japan above a particular threshold in value—wish to certify place of origin of their exported products to their Japanese partners, will, following entry into force of the Agreement, need to apply to the competent customs authority for registration as a registered exporter (REX).

Main elements of the Agreement:

- As to EU agricultural exports, the agreement:
- abolishes Japanese customs duty on a number of cheese types (currently 29.8%) and export wines (currently 15% on average);
- makes it possible for the EU to significantly increase beef exports to Japan, to export processed pork duty-free and fresh pork nearly duty-free;
- provides protection for over 200 high-quality European agricultural products in Japan and for certain Japanese products in the EU through geographical indications.

The agreement opens up the services market, as well, particularly the financial services, e-commerce, telecommunications and transportations sectors, and:

- guarantees access of EU-based enterprises to public contracts of 48 major Japanese cities and to national-level public contracts in the economically significant railway sector;
- treats issues that are sensitive for the EU through the introduction of transitional periods preceding the abolition of customs duties, e.g. in the car manufacturing sector.

Tax savings opportunities in the pharma sector

In our experience, due to uncertainties in interpretation companies often miss opportunities that would have led to considerable savings, potentially in several tax types. Please note the opportunities below that are open to pharmaceutical companies and do not hesitate to contact us for further details.

Employers' social tax reduction

If part of a company's employees or hired workforce fulfils roles where no skills are required, significant social tax relief is available after selecting the appropriate FEOR (standard industrial qualification) code of the activity. The amount of the relief is equal to 50% of the social tax payable by the employer on the gross wage but maximum the minimum wage (HUF 100 thousand in previous years). In many cases, companies registered particular groups of their employees under the wrong FEOR activity code and, as a result, lost the opportunity to claim the tax relief. Even in such a case, however, there is opportunity to claim it subsequently.

If your company is employing workforce in roles that may qualify as ones requiring no skills concerning which the company is currently not receiving the above tax relief or you have been wondering whether an existing role and the related duties may be qualified as unskilled work, please do not hesitate to contact us, we are ready to help. Upon request, we determine whether the conditions for claiming the tax relief apply in the present and it is also reasonable to look into the possibility of claiming it retroactively.

R&D related tax benefits

In our experience, companies in the healthcare sector could register certain activities that in themselves are not considered R&D as ones that may, however, be qualified as such since these activities or activity phases may constitute integral and indispensable parts of particular complex R&D processes. Such activities include for instance the so called monitoring activity related to the clinical trial phase of pharmaceutical research conducted by pharma companies.

Direct costs related to R&D projects may be deducted from the taxable income of pharma companies with respect to the corporate and local business tax, the innovation contribution, and the medicine tax with further available opportunities (e.g. development tax incentive and social tax reduction, together the so-called "triple" benefit).

Before claiming such benefits, it is recommended to request the competent authority, the Hungarian Intellectual Property Office, to prepare a qualification. Our experts have significant experience in authority procedures

dealing with the qualification of R&D activities. Building on that knowledge we are ready to share our relevant experience with our clients and provide assistance in connection with actual qualifying procedures.

Local business tax opportunities

Local authorities have been questioning, with respect to healthcare companies, too, the deductibility of agency services and subcontractors' performance from the local business tax and innovation contribution base. This wave of inspections can be traced back to several judgements of the Curia of Hungary that made the deductibility of subcontractors' performance subject to strict formal requirements concerning invoices and subledger accounts and strict content requirements concerning contracts. Deloitte's team specialised in tax law disputes and litigations focused particular attention to the monitoring of the practice of local authorities and the Curia in the matter. In addition, based on consultations with the Ministry of Finance, we offer our clients useful insights not only in the field of risk reduction, but also in cases where the value of services purchased but not deductible either from the local business tax or the innovation contribution base is significant. In this case, we help consider opportunities in line with the position of the Curia and the Ministry of Finance (conversion of certain services purchased, e.g. transportation related to exports sales or contract manufacturing into subcontractors' performance or their recognition as material costs in particular cases) and set up the conditions for the deductibility of the services concerned.

If it is necessary due to the nature of the service in question, we are ready help you prepare a ruling request so that the position can be confirmed by the Finance Ministry.

VAT related opportunities

The Court of Justice of the European Union has, BY ANALOGY / BASED ON PRECEDENCE, provided for the opportunity of refunding VAT paid by companies, with respect among others to the medicine tax payment obligation arising in the sector. The refund request is to be filed with the tax authority under a special review procedure that does not incur the risk of finding tax shortage. Deloitte is ready to help you with the starting and comprehensive administration of the refund procedure.

In our experience, the labour authority generally targets businesses that employ workers in work schedules different from the general work schedule, i.e. shift work, continuous work schedule, bank of hours roster, or multiple employer plan where the employee has multiple employment contracts with several employers. Besides inspections started by the labour authority we have seen a number of cases where procedures were opened for the purpose of inspecting cases based pm reports filed by employees or employee organisations. Such reports are typically filed due to disputes between employees and employers concerning the payroll calculation and payment of paid absence allowances and/or wage compensations

Where to expect labour inspection this year?

Similar to 2017 and 2018, the labour authority this year will continue focusing particular attention on the improvement of the labour inspection efficiency and, therefore, will concentrate in the first place on the inspection of businesses with large staff number, specifically the employment conditions of protected employees (underage or pregnant employees, employees who

have recently given birth, mother's milk donors, breastfeeding mothers, ageing employees, employees living with reduced working ability, mobility impairment or other physical disability), as well as compliance with the rules applying to resting time and annual paid leave provided to employees.

While inspections in previous years focused on the employment conditions in agricultural, construction and commercial activities, as well as those of hired workforce, in 2019 the labour authority will target pastry and bakery businesses in the first place and at least 10% of the inspected employers will be security and bodyguard businesses. This, however, does not mean that previous focus areas will be ignored; about 80% of businesses that had unreported employees previously can expect follow-up inspections.

Apart from businesses listed above, labour inspections will also target employers whose activities involve dangerous working equipment, material or technology, noise, hand and arm vibration, hazardous material/chemicals, exposure to carcinogenic or mutagenic agents, or the presence of biological infectious agents, which typically operate in the construction, agriculture, manufacturing and healthcare sectors. During the inspection of such employers the labour authority will focus on compliance with occupational and health safety requirements.

Minimum wage increase: good for students, bigger company gifts, increasing tax-exempt benefits

In addition to the higher pay, the increased amount of the minimum wage has a number of other advantages. For instance, it allows for more expensive gifts at year-end parties and better seats on stadium stands for sport fans. Deloitte Hungary collected potential benefits for employees and employers.

Similar to previous years' practice, the agreement on the minimum wage for 2019 was signed at the end of December last year. According to the agreement, the minimum wage increases to HUF 149 thousand per month, which raises monthly income for the employees concerned and, accordingly, related employers' tax costs.

The amount of the minimum wage is significant from a number of aspects. The raise has numerous indirect or direct, and often favourable tax consequences that both employers and employees should be aware of.

Bigger company gifts

Similar to previous years, gifts received at company events will qualify as certain defined benefits and, therefore, provided that their value remains below 25% of the minimum wage, will be taxable at rates more favourable than the wage. At a Christmas party, for instance, companies can now reward employees for their work performance with gifts costing as much as HUF 37 thousand at a more favourable tax rate. Gifts of small value (up to 10% of the minimum wage) allowed once a year will also qualify as certain defined benefits from 2019. As a result, employees can now receive gifts at preferential rates in a total value of as much as fifty thousand forints.

Benefits for students

The part equal to the monthly minimum wage of the amount of the allowance paid to full-time students during the time of their internship or in the case of

dual training during the time of the theoretical and practical training will continue to be exempt from the personal income tax. As a result, the allowance will be higher from 2019.

Better or more stadium stand or theatre seats

Tickets/season tickets to sports or cultural events will continue to be tax exempt in 2019. The minimum wage raise affects these benefits in the sense that both benefits are tax exempt up to the value of the minimum wage individually, so employees can buy more tickets or tickets for better seats.

Cap on social tax

Parallel to the fusion of the health and social contribution taxes, the legislator introduced a ceiling on the amount of the social tax. Consequently, certain income (e.g. owners' withdrawals from business, dividend and capital gain) will be tax exempt if the individual's income from other sources (such as wage, sole proprietor's income) have reached twenty-four times the amount of the minimum wage in the tax year. The former cap on health tax payments was not linked to the minimum wage.

Changes to the rules of employers' social tax benefits

Starting this year, the tax benefit after employees fulfilling unskilled jobs will be equal to half of the tax on the gross wage but the minimum wage at the most. In previous years, the maximum of the benefit was determined based on the taxable income after HUF 100 thousand monthly instead of the minimum wage. Calculating with a tax rate of 19,5% and the amount of the minimum wage, the benefit will be nearly fifteen thousand forints monthly in 2019, which will be particularly helpful for employers that employ unskilled workforce in large numbers.

In the case of new entrants to the labour force, in 2019 employers will be able to claim social tax benefit in the amount equal to the full tax on gross wage (or minimum wage at the most) in the first two years of employment, and 50% thereof in the third year.

In the case of mothers of at least three (re)entering the labour market, employers from this year on will be able to claim social tax benefit in the amount equal to the full tax on gross wage (or minimum wage at the most) in the first three years of employment, and 50% thereof in the fourth and fifth years. In previous years, the maximum of the benefit was determined here too based on the taxable income after HUF 100 thousand monthly instead of the minimum wage.

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Kosovo

The Ministry of Finance has approved the Administrative Instruction on the matter for national risk assessment on money laundering and terrorist financing.

The Ministry of Finance has approved this Administrative Instruction with the intention of regulating the procedures for national risk assessment. By obliging public institutions and “Reporting Entities” as categorized by the Law on Prevention of Money Laundering and Fighting Terrorism Financing, the Ministry has taken steps to insure full compliance with the Law on the Prevention of Money Laundering and Combating Terrorist Financing.

The Ministry of Finance will decide the initiation of the risk assessment process, as well as the criteria upon which the risks will be evaluated. The national risk assessment will be undertaken at least every 3 years. Nevertheless, the Ministry has the right to undertake such assessments more often if it considers it necessary.

The process of Risk Assessment will consist of the determination phase, identification phase, analysis phase and evaluation phase. This risk assessment process will be documented by the Financial Intelligence Unit of the Republic of Kosovo (hereinafter FIU-K), and will be presented in the report which will include:

- i. Identification of the institutions involved in the process;
- ii. Methodology used for the risk assessment;
- iii. Identification of the risks; horizontal, money laundering and terrorist financing;
- iv. Analysis of the horizontal risks;
- v. Analysis of the risks on money laundering;
- vi. Analysis of the risks on terrorist financing;
- vii. Evaluation of the risks;
- viii. Action Plan concerning treatment measures for prioritized risks; and
- ix. Recommendations on dissemination and publicity of the risk assessment and Action Plan.

The FIU-K Board will review the report of the Risk Assessment and if approved it will deliver the corresponding report to the Ministry of Finance, which in turn will propose the report for approval to the Government of Kosova.

After the risks are prioritized the Ministry of Finance will recommend the Government a number of strategies and other treatment measures.

The Ministry of Trade and Industry approved an Administrative Instruction that obliges retailers to place the flag of the origin of the product on the label of the product.

The Ministry of Trade and Industry has decided to obligate all of the retailers within the Republic of Kosova to identify the origin of a product by placing the flag of origin on products.

According to the Administrative Instruction, the flag of origin country has to be placed in the left side of the selling price of the product, with the size of

the flag being proportional to the size of the price of the product. The said flag has to be clearly visible to customers.

The Administrative Instruction also sets out the rules on the matter of dimensions and colors of the flag. The shape of the flag has to be rectangular with the size being 3 centimeters in width and 2 centimeters in height. The flag has to include symbols and colors of the respective countries of origin.

Tax Treaty between the Republic of Kosovo and the Republic of Austria enters into force

The tax treaty has entered into force on 28 December 2018 and is applicable as from 1 January 2019.

The tax treaty is of considerable importance given the relatively strong economic ties between the countries and the presence of a significant diaspora of Kosovo in Austria.

Significant provisions of the tax treaty and deviations from the OECD model include amongst others:

- The tax levied on dividends paid out by a company to a resident of the other contracting state shall not exceed 15%.
- If the beneficial owner of the dividends is a company (other than a partnership) which holds directly at least 25% of the capital of the company paying the dividends, such dividends shall be taxable only in the contracting state of which the beneficial owner of the dividends is a resident
- Remuneration of students or business apprentices derived from an employment exercised in the other contracting state for a period or periods not exceeding 183 days in the fiscal year concerned are not to be taxed in that other contracting state

In terms of elimination of double taxation, the credit method will be observed in both Kosovo and Austria.

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Lithuania

The draft law amending and supplementing the Lithuanian Labour Code was registered

On 22 January, the draft law amending and supplementing the Lithuanian Labour Code was registered. The main aim of the aforementioned draft law is to impose the obligation to the employers to indicate the salary in the job advertisement.

The above-mentioned draft law aims to enhance the social responsibility and strengthen employees' negotiating power.

On 1 January the Law on Protection of Whistle-blowers entered into force

On 1 January the Law on Protection of Whistle-blowers entered into force with the aim to strengthen the whistle-blowers protection in Lithuania.

The law will apply to both public and private sectors and aims at creating conditions for individuals to provide information confidentially about the suspected infringement and to avoid negative consequences related to whistleblowing. Lithuania has undertaken to adopt the afore-mentioned law with the aim of becoming the member state of the Organization for Economic Cooperation and Development (OECD).

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Poland

Important changes in PIT since 2019

At the end of 2018, the President signed a number of acts introducing changes to the Act on personal income tax. We present the most important changes broken down by topic groups.

The vast majority of new regulations entered into force on January 1, 2019 (in some cases the date of entry into force was postponed to January 1, 2020).

Due to the difficulties of interpretation of some provisions, the Ministry of Finance plans to conduct consultations and possibly issue relevant explanations.

I. Obligations of the PIT payer

1. The new regulations provide for a one-month reduction (from the end of February to the end of January) of the deadline for preparing and submitting annual tax information (e.g. PIT-8C, PIT-11) to the tax offices. At the same time, the deadline for providing information to taxpayers remains unchanged (i.e. until the end of February of the year following the fiscal year). This information is to be submitted to offices only by means of electronic communication.

Additionally, by way of an Ordinance, the scope of income disclosed in PIT-11 and PIT-8C is subject to change.

2. A change in the calculation of tax advances will be no less important for payers. As the amendment stipulates, in the month in which the income of the taxpayer since the beginning of the fiscal year exceeded the amount constituting the upper limit of the first range of the tax scale (PLN 85,528), the tax advance should be calculated using two tax rates: 18% on a part of income below the threshold of PLN 85,528 and 32% of the excess income above this amount.

This change is essential, because until now the tax rate of 32% was applied from the month following the month in which the taxpayer's income exceeded the tax threshold, which could often result in a tax underpayment in the annual tax return. The legislator gives payers time to prepare payroll systems, because the entry into force of this change has been postponed until 2020.

II. Settlement of the PIT taxpayer

1. A new service has been introduced to provide taxpayers with tax returns by tax administration authorities.

- Tax returns are to be available on the tax portal of the Ministry of Finance (<https://www.podatki.gov.pl/pit/twoj-e-pit/>) from February 15 of the year following the fiscal year, based on information provided by payers and information on tax advances paid directly by taxpayers. In the first year, the service is to apply to persons who settle their taxes on the PIT-37 form (both self-settling as well as people who submit their tax returns together with their spouse or to single parents) or PIT-38.

- A taxpayer can accept the tax return without modification or after introducing modifications (correct or supplement the data, which is not available to the National Tax Administration, hereinafter NTA). An accepted return is considered submitted on the day of acceptance. As to taxpayers who did not accept the return on time, and who did not obtain any income other than those included in the return provided by NTA, there is a presumption of automatic acceptance of the return on the last day of the deadline. Taxpayers may also reject the return prepared by NTA before the deadline. Taxpayers in this situation, as well as taxpayers who do not accept such return on time can still submit a return using the traditional method, by 30 April at the latest.

2. Another **practical expedient involves the option to file joint annual tax returns** for married couples and for single parents.

- Before, married couples or single parents with a kid could file a motion for joint tax returns within the deadline applicable to the filing of the annual returns (i.e. usually by 30 April of the year following the fiscal year they pertained to).
- Under the amended regulations, the time restriction is eliminated. Therefore, **joint settlement will be possible also in the form of filing tax returns or an adjustment to tax returns after 30 April.**

3. Another practical expedient regards heirs that dispose of inherited property **in the form of private sales (i.e. not performed in the course of business activities).**

- For such individuals, the five-year period after which the disposal does not result in a tax obligation shall be counted as of the end of the calendar year in which a real property was acquired (constructed) by the testator.
- Additionally, even if the disposal of an inherited real property is subject to tax, the related tax deductible expenses include documented costs of acquisition or construction, incurred by the testator, as well as succession charges to the extent corresponding to the value of the inherited property.

4. A similar favourable effect will be exercised by the **extending from two to three years the deadline by which taxpayers may use the revenue from real property sale for own residential purposes** in order to avoid tax on real property sale.

5. **Taxation of revenue from virtual currency sales has been precisely regulated. Such revenue is classified as monetary capital gains.**

- Sales of virtual currencies mean exchanging them for legal currencies, goods, services or property titles other than virtual currency, or paying with virtual currencies for other obligations.
- Tax deductible expenses from virtual currency sales:
 - shall include documented expenses incurred directly for the purchase or sale of virtual currencies;

- may be deducted in the financial year in which they are incurred, and their surplus over revenue from the sales of virtual currencies generated in the financial year shall increase the deductible expenses related to sales of virtual currencies incurred in the subsequent fiscal year.
- In general, revenue from sales of virtual currencies (the surplus of revenue over expenses) is taxable with the 19% rate and reported in annual tax returns, but cannot be combined with other types of capital income or with revenue taxed in accordance with the applicable tax rate, or those generated from business operations.

III. Exit tax

Exit tax has been introduced on income from unrealized gains. The tax is charged when:

- 1) **Assets are transferred abroad**, and as a result, Poland loses, in whole or in part, the title to tax on income generated from the sale of such assets, and the transferred assets do not change the owner. This case mostly relates to business operations.
- 2) **Tax residence status of a Polish tax resident changes** (i.e. a person obtains the status of a non-resident in Poland), and as a result, Poland loses, in whole or in part, the title to taxation of income from sales of an asset owned by that taxpayer.

For assets not related to business operations, exit tax may be charged only if:

- The taxpayer has the residence address in Poland for **at least the total of five years during a ten-year period** preceding the tax residence change date;
- It applies to “personal assets”:
 - total rights and obligations in an entity without legal personality;
 - shares in a company;
 - stock and other securities;
 - derivative financial instruments;
 - capital fund certificates.

Exit tax is applicable if the total market value of transferred assets **exceeds PLN 4 million**. In the case of marital property, the market value limit applies to jointly to both spouses.

In general, the tax base for income from unrealized gains is defined as the **surplus of the market value** of an asset determined as at the transfer date or as at the date preceding the tax residence change date **over its taxable amount**.

- Market value of personal assets is measured by reference to market prices used in the sales of assets or rights of the same kind and quality,

specifically, taking into account their condition, wear and tear as well as the time and place of the disposal for a consideration.

- Taxable amount of an asset is the amount that a taxpayer would determine as tax deductible when selling the asset (formerly not classified as tax deductible amount in any form).

Exit tax rates:

- 19% of tax base, when determining the taxable amount of an asset;
- 3% of tax base, when not determining the taxable amount of an asset.

In principle, taxpayers are obliged to file separate tax returns with regard to exit tax. The filing and tax payment deadline falls on the seventh day of the month following the one in which the total value of transferred assets exceeded PLN 4 million.

The act provides for exemptions from exit tax and an option to pay the tax in instalments.

IV. Solidarity tax

On 1 January 2019 **solidarity tax** came into effect. It will amount to 4% of the calculation base, being the **surplus over the total annual income of up to PLN 1 million**, taxable:

- according to the applicable tax rate (including income taxable in countries that have not signed double-taxation avoidance treaties with Poland, or if signed, the treaty provides for the tax credit method to avoid double taxation);
- as originating from capital gains, with the 19% rate (among others, from sales of securities, derivatives, stock);
- generated from business operations and taxed on a straight-line basis;
- generated by a foreign operation or a foreign controlled entity;

reduced by:

- amounts of certain statutory social insurance premiums deducted during the fiscal year in Poland or in an EU or EEA member state, or in Switzerland;
- dividend received from a foreign controlled entity or income from sale of shares in such an entity, to the extent included in the tax base.

The solidarity tax shall be reported using a separate tax returns form for the calendar year, to be filed by 30 April of the subsequent year.

V. Changes in lump-sum income tax

Additionally, certain material changes shall be introduced in the lump-sum income tax.

- The deadline to file annual tax returns using the PIT-28 form (i.e. regarding the income charged with the lump-sum tax) has been

extended: the form must be filed in the period from 15 February to the end of February in the year following the fiscal year it pertains to (previously the deadline fell on the end of January).

- The new principles apply to revenue generated after 1 January 2019, i.e. to PIT-28 forms filed by the end of February 2020.
- Unlike under prior legal regime, making a decision to select the lump-sum taxation of income generated from lease, sublease, rent, subrent and similar arrangements does not require filing an appropriate statement. Instead, a taxpayer shall simply make the first lump-sum tax payment regarding the related income in a fiscal year or file appropriate annual tax returns (if the first income taxed on a lump-sum basis is generated in December).

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Social consultation regarding JPK_VAT (SAF-T for VAT) completed

At the end of December, the Ministry of Finance published technical requirements regarding the new JPK_VAT scheme, aka JPK_VDEK statement.

Authorities will request new data types

New data types to be reported by taxpayers in the VDEK statement, in particular regarding **Termin płatności**, **Kod Typu Dokumentów** and **Kod Grupy Towarowej**, raise doubts.

JPK_VDEK: Term and form of payment

These are new boxes in the section *SprzedażWiersz* in JPK_VDEK form.

The box regarding the form of payment is marked as obligatory (with a select list of values), unlike the payment term box. For tax authorities, the payment term is important with regard to the tax point only in exceptional cases (e.g. when no invoice was issued within a specified deadline or when it was issued after such a deadline) and only in relation to a limited list of goods and services. As a result, in vast majority of cases, the payment term is irrelevant for tax point determination.

Therefore, introducing the new box with the payment term seems to be of little use for the Ministry of Finance, at the same time making taxpayers work harder to obtain additional information.

JPK_VDEK – Kod Grupy Towarowej (Goods Class Code)

Kod grupy towarowej in the *SprzedażWiersz* section is another important box included in the new tax scheme. Filling it is obligatory and may include just one of 19 proposed classes of goods. Unfortunately, the Ministry of Finance did not provide “*Inne*” (Other) class that could come handy when goods or services traded by a taxpayer do not fit into any of the proposed classes. Since the proposed list does not include all tradable goods and services, the solution may result in a need for taxpayers to choose “just any” code to be able to file the SAF-T form.

JPK_VDEK: other changes

A new section has been introduced with the heading *Deklaracja* (statement). In the proposed form, it is in no way related to the other sections, and no summing-up formulas are built in in relation to VAT data supplied in former sections (sale and purchase). In the current version, a taxpayer may type any figures in the section regarding the statement, even if they do not comply with the total of items included in the other sections.

JPK_VDEK: what to be expected by taxpayers

The new JPK_VDEK scheme is far from perfect, but should be improved in the course of ongoing social consultation. The question to ask is, will the Ministry of Finance manage to publish the final version of the scheme in the first half of the year? Initial plans assumed that the new version of SAF-T should come into effect in **July 2019**. The schedule is becoming tight, bearing in mind **high sanctions** projected **for each error in the submitted JPK_VDEK file**.

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Can passenger cars fuelled with electricity, hydrogen and plug-in hybrids be exempted from the excise duty?

Pursuant to communications published by the Ministry of Finance and Ministry of Energy on their websites, on 18 December 2018 the European Commission provided the Polish side with its opinion, according to which the provisions of the Act on Electromobility and Alternative Fuels of 11 January 2018 (the “Electromobility Act”) introducing excise exemption for electric, hydrogen-fuelled and hybrid plug-in cars are not classified as public aid.

What is it all about?

The Electromobility Act allows excise exemption for passenger cars fuelled with electricity, hydrogen and, until 1 January 2021, plug-in hybrids (the “Exemption”).

However, the Exemption can be applied only if the European Commission classifies it as acceptable public aid, and then issues a favourable decision, or when the EC states it does not constitute public aid.

Based on communications published on the website of the Ministry of Finance and Ministry of Energy, the European Commission has decided that the Exemption included in the Electromobility Act does not constitute public aid and presented in to the Polish side in the form of an official letter on 18 December 2018. Further, a communication published on the website of the Ministry of Finance indicates that the Exemption may be applied as early as to events with the tax point on 19 December 2018.

Nevertheless, certain doubts may arise in relation to the interpretation of the Electromobility Act, which makes the application of the Exemption dependent on the EC consent and on the manner of informing public opinion about the Commission’s decision.

What does this mean?

The presentation of the EC decision provided to the Polish side may affect the date as of which the Exemption may be applied in practice, since pursuant to the provisions of the Electromobility Act, the Exemption may be applied *“as of the date of publishing a favourable decision of the European Commission regarding the compliance of the public aid provided for with the common market, or its statement that the provisions do not classify as public aid”*. The European Commission has not published any formal statement regarding the issue. Further, the official letter informing the Polish side about the decision has not been formally published yet.

So, may the Exemption be applied as of the date of EC’s statement that it is not classified as public aid, or should we wait until the information is officially published by competent public administration bodies? Although the communication issued by the Editor’s Office of the Excise Department in the Ministry of Finance indicates that the Exemption may be applied if the tax point occurred after the date of EC’s decision, i.e. as of 19 December 2018, the communication alone is not a binding regulation.

What next?

Bearing in mind the doubts regarding the applicability of the Exemption, the interested entities should thoroughly analyse the current status of appropriate regulations.

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Mass inspection of Standard Audit Files for Tax. Analytical tools used by tax authorities to inspect SAF-T

Based on a report prepared by the Supreme Audit Office (NIK), SAF-T submitted by businesses in the period from January to September 2018 provided the Ministry with information regarding over 4 billion invoices. Following an automated analysis of the files, the Ministry picked up 194,000 suspicious invoices that will be subject to further explanation. These invoices were issued by 73,000 entities and total PLN 378 million. Since the SAF-T effective date, National Tax Administration Bodies have analysed 10 billion invoices issued by businesses operating in Poland.

Analytical tools used by tax authorities to inspect SAF-T

Please note that tax authorities carry out independent verification of a growing number of SAF-T, mostly as a result of extensive training provided to tax office employees with regard to the use of data included in SAF-T for the purposes of inspection and direct access to applications provided by the Ministry of Finance that enable viewing SAF-T in the central IT system.

Still, **Analizator JPK** remains the most popular tool used by tax authorities to check these files. Analizator JPK is a system allowing automated data analysis and generating reports on non-compliance between SAF-T and tax returns filed by taxpayers and their counterparties. When using Analizator JPK, reports are generated automatically and sent via e-mail to tax office for additional verification. At the same time, taxpayers are informed (via e-mail or SMS) about the fact and requested to adjust VAT returns or the SAF-T. Analizator JPK allows fast identification of entities that issue VAT invoices without registration, thus disallowing understatement of tax liability or overstatement of refund based on such invoices. At the same time, a taxpayer is allowed to adjust appropriate VAT settlements. Since the obligation to submit JPK_VAT (SAF-T) applies to all entities, Analizator JPK practically disallows the use of invoices that document fictitious transactions for trade or tax fraud purposes.

WRO-System is a tool enabling in-depth analysis of SAF-T. It allows direct access to SAF-T submitted by taxpayers. The role of the application has been growing. Over time, it may become the key IT tool efficiently supporting tax inspection and indicating entities that should undergo such procedure. The scale of the system use can be illustrated by the First Tax Office in Poznań, where 60 persons were trained in the system operation at the end of 2017, provided the user status and granted direct access to the central SAF-T database. Countrywide, the WRO-System is used by some 23,000 employees of the finance administration.

Further, tax authorities can access a similar application called **Lunetka**. It allows search, view and download of a source JPK_VAT file. In mid-2018 the application was used by over 2,800 clerks, who downloaded over 265,000 files.

Obviously, tax authorities use other available forms of inspection for in-depth analyses purpose. For example, selected counterparties undergo joint check performed in cooperation with the Czech Tax Administration. Such checks often disclose fraudulent transactions.

What can be checked using SAF-T

Tax authorities use SAF-T to check the correctness of tax returns (for example, to verify whether VAT returns comply with SAF-T in terms of amounts per item). Further, SAF-T is the key tool used for VAT refund purposes, as it allows verification of counterparty's tax identification number (NIP) and thus of its status as a VAT payer. Checking other data, such as counterparty's name and address, clerks are able to determine whether a tax inspection performed indicated a fraud in excess of PLN 100,000 and whether the provided address indicates an actual business or a virtual office. Other information provided by these files and used for counterparty analysis purposes includes non-existent, unreliable or suspicious entities, "vanishing taxpayers" and those suspected of fraud in intra-Community transactions or deleted from VAT register. Further, the correctness of cost invoices deducted is checked and whether anything is double-counted.

Bearing in mind the current SAF-T verification capabilities, no wonder that as a result of inspections carried out by tax authorities, taxpayers filed over 2 million adjustments to SAF-T in 2018. In the same period, the Ministry of Finance sent some 400,000 communications to taxpayers with regard to discrepancies and adjustment opportunities via e-mail, SMS or traditional letters. IT tools used at present facilitate key analyses or checks. Their results underlie decision-making regarding follow-up to verify the rightfulness of VAT refund. In such cases, a refund refusal is based on a decision supported by the outcome of tax proceedings performed.

Extended forms of SAF-T verification

Official announcements published by the Supreme Audit Office indicate that the Ministry of Finance has not built any centralized tool allowing controllers access to SAF-T per request (JPK_FA, JPK_MAG, JPK_KR, JPK_WB). Nevertheless, in August 2018 the Ministry commissioned the construction of a SAF-T gate for non-VAT schemes and of a system allowing the controllers access to these SAF-T per request. At present, the gate supports only JPK_VAT files, thus making tax inspectors use files provided by taxpayers on digital carriers, such as CD or pendrive, when inspecting other tax structures. Introducing gates for the other structures would obviously accelerate the development of analytical tools that allow generation of cross-structural verification reports.

Despite the absence of a central verification tool, the first cross-structural inspections of SAF-T have already been performed (for example, when analysing JPK_FA structure, inspectors were able to detect gaps in the JPK_MAG structure). Most probably, structural inspection per request is based on audit tools provided by external suppliers. They allow relatively fast (compared to the traditional source material verification method) assessment of the correctness of settlement, check of invoice numbers for recurrence and comparing sales to purchases. Further, such software allows

preparing statistics based on any criteria and selecting documents for cross-inspection on a random basis. Despite its obvious usefulness, the software is merely a tool supporting the work of clerks. Knowledge, experience and skills of the controllers are the key factors that matter for in-depth analysis quality.

At present, tax authorities can cross-check such files as JPK_VAT, JPK_FA and JPK_MAG obtained from one business. For the Ministry of Finance, cross-reference between the information provided by a taxpayer and that supplied by its counterparty will be of crucial importance. Possible tests include cross-checks of data within individual SAF-T structures, including the comparison of invoice receipt dates recorded under the VAT structure with the invoice recognition dates recorded under the VAT purchase/sales structure.

The Ministry of Finance announced the introduction of SAF-T Repository, whose role would involve automated assessment of the risk concerning a taxpayer and its counterparties, identification of taxpayer's debts for enforcement or security purposes.

SAF-T: advantages for taxpayers

Importantly, a growing business trend involves using data collected under SAF-T structures for corporate analysis purposes. Even now, when using commercial tools, taxpayers are able to evaluate the correctness of tax settlements prior to sending their SAF-T files and tax returns. Certainly, mass verification of the counterparty status using tax identification number (NIP) is the key service of the sort, as it allows input VAT deduction if a counterparty is not registered as a VAT payer. Further, such verification limits the risk that a tax office may question taxpayer's settlements since, when verifying counterparty's NIP, taxpayers comply with due care requirements set by tax authorities. All these activities are aimed at verification of the data correctness prior to the check performed by tax authorities.

SAF-T is not limited to VAT, though. The other structures may also provide taxpayers with valuable insight. The comparing of information included in JPK_FA or JPK_MAG allows precise verification of the correctness of JPK_VAT thanks to the use of data that cannot be found in JPK_VAT. For example, we may check the correctness of recognizing of "reverse charge" invoices or adjusting invoice recognition dates.

Comparing information derived from SAF-T provides information regarding business condition. The data allow assessment of taxpayer's financial standing, scale of business operations, identification of key counterparties and the nature of transactions concluded with them, as well as identification of transactions of special interest for tax authorities. Well-prepared JPK_FA, JPK_MAG, JPK_WB and JPK_VAT files should tell a consistent goods flow story beginning from the purchase document and payment, PZ (receipt of goods) document, MM/RW (inventory movement and internal release) all the way through WZ (release of goods) and sales invoice. Appropriate business events that give rise to the tax point should be reflected in JPK_VAT file.

Taxpayers can use the above information to analyse the standing of their business and to build its image. In future, parties may exchange SAF-T files prior to concluding a material contract in order to confirm their reliability. If appropriately presented, such data may be useful for business managers, in particular when making important business decisions. Although enterprises

have a number of tools in place to refer to in the decision-making process, given the large number of IT systems, SAF-T may turn out to be the one containing consistent and reliable information referring to all these systems. Thus, its value for a business is much more than just ensuring correct tax settlement.

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50% tax deductible expenses and copyright transfer

The recent draft ruling clarifies a number of doubts and gives rise to new ones, regarding employment contracts that include copyright transfer clauses.

On 3 January 2019, on its website, the Ministry of Finance published a draft ruling regarding the application of 50% rate of tax deductible expenses to the portion of salary obtained under an employment contract in relation to copyright ownership.

What is the purpose of the ruling?

Such rulings are issued by the Minister of Finance pursuant to Article 14a.1 of the Tax Ordinance

in order to ensure unified application of its regulations. The discussed draft states that its purpose is to describe terms that allow an employer (income tax payer) to apply the 50% rate of tax deductible expenses to revenue classified as author's fee, i.e. the portion payable to individuals working under employment contracts as a fee for the transferring copyright to their products to their employers.

Employer's expectations

The ruling regarding the discussed issue had been long awaited by employers, in particular those from the IT sector, where calculating the 50% deductible expenses on a portion of programmer's salary has been a well-grounded market practice.

The last two years have been relatively stormy for employers using such solutions. In this period, significant legislation changes were introduced (as of 1 January 2018, the PIT Act restricted the application of 50% deductible expenses to works produced as a result of activities listed in the Act).

Further, regardless of the legal amendments, tax authorities substantially modified their approach to such payroll structures, which resulted in issuing a number of inconsistent but adverse rulings.

The general ruling was to clarify doubts and allow safe, unified application of the 50% deductible expenses to a portion of payroll for employers whose business operations qualify as a type of creative works listed in the PIT Act, such as development of computer software.

Draft ruling: doubts regarding copyright and acceptable employment contract provisions

The draft ruling published by the Ministry of Finance responds to a number of practical issues raised by employers, but does not clarify all doubts regarding copyright. Guidelines regarding the wording of employment contract provisions, as included in the draft ruling, seem not to include all the provisions of the Act on Copyright and Related Rights.

Pursuant to Article 22.9.3 of the PIT Act, disposal of the copyright to works for a fee, as addressed by separate regulations, is one of the conditions allowing the application of 50% deductible expenses. For works created by employees, the separate regulations referred to above include Articles 12, 13 and 74.3 of the Act on Copyright and Related Rights (henceforth: Copyright Law). The draft ruling points out that the disposal, performed in accordance with the Copyright Law, is the prerequisite to apply the 50% deductible costs. The regulation referred to above, though, does not include additional requirements regarding the type of copyright disposal. Therefore, basically any case of transferring copyright from an employee to an employer, performed in line with the Copyright Law, should satisfy the condition of "disposal".

When read thoroughly, though, the draft ruling may lead to a conclusion that the specific guidance regarding the transfer of copyright by employees is presented in a simplified manner. Thus, doubts may arise regarding restriction of the copyright disposal options in employment contracts vs. those allowed by the Copyright Law. Please note that the purpose of the ruling is to assist employers as a practical expedient, also with regard to the wording of employment contracts desirable from the 50% deductible costs perspective. Any restrictions introduced thereto should therefore be justified by both fiscal and copyright regulations.

The Copyright Law provides, though, a number of options regarding the manner of transferring to employers the copyright to works created by employees:

- The transfer may be performed directly based on Article 12 of the Copyright Law.
 - Application of the regulation results in transferring to an employer the economic rights to works created in the course of service to the extent resulting from the purpose of an employment contract and the common intention of the parties.
 - Principally, therefore, the transfer takes place once the employer accepts the works. Therefore, the acceptance, direct or implied, of the works is required (according to the provision, an employer is

assumed to have analysed the works and performed any, be it minimum, activity).

- In this case, introduction of provisions regarding the transfer itself to an employment contract is not required, since the transfer takes place directly under Article 12 of the Copyright Law (other issues, such as the fee for the transfer, must be regulated in an employment contract to allow the application of 50% deductible expenses).
- There is an option to introduced partially or totally different contractual arrangements.
 - Being a dispositive norm, Article 12 of the Copyright Law leaves the parties to an employment contract substantial freedom of deciding on the manner of copyright transfer to an employer.
 - Copyright experts agree that such a contract may include any element arising from Article 12 of the Copyright Law, i.e. regarding the statutory transfer of the title.
 - The parties may, therefore, extend or reduce the scope of transferred rights, or as commonly practised, change the moment and manner of the transfer. In particular, employers often resign from accepting the works, obtaining the title to them upon their origination, record, provision, etc. Such solutions are safer as they reduce the risk of gaps in the obtained rights, allow easier and clearer definition of the title obtaining date, etc.
- Acquiring economic rights to works created by employees in the form of computer software is a separate issue. It is governed by Article 74.3 of the Copyright Law, pursuant to which the employer does not acquire rights to such software from the employee, but obtains them by definition (i.e. from the origination, it is the owner of any copyright to the software developed by the employee under a contract of service). Also in this case, the copyright provides substantial freedom to modify the contract.
 - By means of employment contract provisions, therefore, an employee and an employer can otherwise regulate copyright transfer principles regarding software (article 74.3 of the Copyright Act is of dispositive nature).
 - For example, the parties may agree that the principle of “automated” obtaining the title by the employer does not apply, and introduce acquisition of the title by the employee and its subsequent transfer to the employer, or choose yet another solution, such as a license.
 - Applying the copyright transfer mechanism to the software developed by an employee, an employer may change the scope of titles transferred by the employee (in particular, restrict it), or otherwise determine the transfer date (e.g. making it dependent on the acceptance of the works by the employer, recording them in employer’s systems, etc.).

The draft ruling seems to ignore all these options. The Minister of Finance, determining the conditions underlying the adoption of 50% deductible costs, introduced the absolute requirement regarding acceptance of the works by an employer (including computer software in cases when the parties resign from the implied acquisition of copyright by the employer and replace it with acquiring it from the employee under the employment contract).

Although the draft ruling authors obviously did not intend to restrict options available for employers under the Copyright Law, nevertheless, under the existing guidance, employers may have justified doubts whether resigning from copyright transfer upon acceptance of works, e.g. in favour of acquiring them upon origination of the works (as allowed by the Copyright Law) means in fact elimination of the application of 50% deductible costs. The elimination would be unjustified since the case would still include a disposal of copyrights by an employee, so the requirement itself, as presented in fiscal regulations, would be deemed fulfilled.

We can argue that as long as the required "disposal" of copyright takes place, employers may feel safe; nevertheless, many employers, and possibly tax authorities, will interpret the ruling literally.

The topic seems of special importance for IT sector employers, who by definition acquire all copyrights to software developed by employees upon their origination (determination) without the need to modify employment contract provisions. If they want to apply the 50% deductible expenses rate, they have to agree to change the principle to copyright transfer by employees. When doing this, are they forced to restrict the transfer to the titles regarding the works accepted (at least in an implied form)? Can they otherwise determine the title acquisition date in order to minimize the risk of a gap in the acquired rights, at the same time enjoying the 50% tax deductible expenses? The answer is yes, from the Copyright Law perspective, as it poses no restriction in this respect. Modification of the provisions of Article 74.3 of the Copyright Law does not mean automatic transition to general terms with a potentially restricted scope of rights, which are acquired only upon the acceptance of works. Since the Copyright Law allows a variety of options, the restrictions introduced in the form of a general ruling regarding the 50% tax deductible expenses seem unjustified, especially that fiscal law does not provide for such restrictions.

Is a change to the approach possible?

As indicated above, the document published by the Minister of Finance is a draft of a general interpretation. Social consultations were completed on 18 January. Therefore, there is a chance (and hope) that the Minister shall consider comments raised by the consulted parties and replace the obligatory acceptance of works with the required disposal of copyright as required by the PIT Act.

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Amendments to labour law in 2019

The beginning of 2019 saw a number of amendments to the labour law. Some existing solutions shall undergo material changes. New ones shall be introduced, including Employee Capital Plans. Below please find a list of the key amendments.

1. Employee Capital Plans

On 1 January 2019, the formerly announced reform of the pension system came into effect. From now on, employers shall be obliged to establish Employee Capital Plans (ECP). In the first place, effective as of 1 July 2019, the obligation shall apply to the largest corporations employing at least 250 people (not only on employment contracts). In subsequent years, the obligation shall be extended to smaller entities.

Only firms that have already introduced employee pension plans (EPP) shall be exempted from the obligation (it is too late to adopt the solution for those undergoing the obligation as of 1 July). In other cases, it is up to employees to resign from the participation in ECP. Those who take the opportunity shall be re-assigned to ECP every four years.

In the second half of 2019, employers who are obliged to introduce ECP this year must conclude ECP maintenance agreements with a selected financial institution, as well as ECP maintenance agreements regarding all their employees/contractors, pay the first premiums and process first resignations, if any. The costs of ECP premiums are divided between employers and employees. An employer shall pay 1.5% of the base salary (this is how much employment costs per employee shall grow). An employee shall pay 2% of the base salary (this is how much the net salary paid to employees shall be reduced). Beginning from 2019, the payroll costs shall increase as a result of both additional charges and increased pressure exerted by employees. Administration of ECP involves additional responsibilities (watching deadlines, enrolling new hires, recording resignations). Any offence perpetrated in the course of implementing and administering the Plan is subject to a fine of up to 1.5% of the total payroll or up to PLN 1 million, depending on the offence type. Therefore, employers should take time to get prepared for new responsibilities, for example introducing appropriate procedures.

2. Trade unions for individuals working on civil law contracts

Effective from 2019, the right to set up trade unions and become their members will also be conferred on those performing work under civil law contracts, including the self-employed (sole traders who do not hire any staff themselves). Such trade union members shall obtain rights related to activism, such as the right to a leave for the office term in the local trade

union organization or for the purpose to perform a task delegated by trade unions, as well as the right to be protected from contract termination. In practice, this may reduce employment flexibility of individuals working on contracts of mandate (even of short-term nature). A refusal of continued employment with regard to such persons might be considered discrimination against trade union membership.

Additionally, those working under civil law contracts will be granted the right to initiate and enter into collective disputes with the employer on such grounds as compensation or terms of work. They will also be allowed to vote on a strike referendum and ultimately take part in strikes themselves. Effective from 2019, information regarding the size of trade unions shall be submitted in a six-month cycle, as opposite to the existing quarterly regime.

Failure to provide such information shall deprive the unions of their rights. A procedure has also been introduced whereby the number of trade union members may be verified by the court. If, therefore, an employer is not certain whether the numbers quoted by trade unions are reliable, this option may be exercised.

Changes have also been introduced to the criteria that have to be fulfilled by a trade union to be considered representative. The list of breaches of the Trade Union Act subject to penalties has changed. Breaches committed by employers include: (i) a failure to enter into negotiations with the trade union over planned changes to the terms of employment due to the transfer of the organization (or its part) to a new employer; or (ii) a failure to deduct membership fees despite the trade union's request and the staff member's consent. On the other hand, trade union activists may be subject to a fine for: (i) using the trade union's income for non-statutory purposes or its distribution among the members; or (ii) overstating the number of trade union members.

3. Employee documentation

Effective from 2019, employers may maintain employee documentation in an electronic form. The post-employment archiving period has been reduced from 50 to 10 years. The new regulations are applicable to employees hired on 1 January 2019 or later. The reduced archiving period applies to individuals hired between 1 January 1999 and 31 December 2018 provided specific additional obligations are fulfilled.

The method of maintaining personnel files shall change as well. First of all, the files are to be divided into four sets (a separate set for issues related to employee's housekeeping responsibility).

In order to comply with the new regulations, adoption of additional procedures to be followed in respect of employee records, addressing such issues as digitization, access to documentation, back-up copy creation, storage, safeguards or control of their effectiveness may be necessary.

4. Salary payment forms

As of 1 January 2019 transfer to employee's bank account becomes the implied form of salary payment. In the past, such a solution was possible upon written consent of an employee, since the cash payment was considered the implied payment form. Individuals who have received cash

should be immediately informed about the obligation to provide a bank account number or to file a request to continue the cash payment.

5. New minimum pay

In 2019, the minimum pay is PLN 2,250, i.e. by PLN 150 higher than in 2018. By default the amount shall apply to individuals whose employment contracts provide for a lower amount. Paying a lower amount shall constitute a breach of employee's rights.

The increase of the minimum pay shall affect the amounts of other employee benefits. The statutory limit of termination benefits under the Act on Collective Layoff shall increase to PLN 33,750. The night shift benefit will grow accordingly.

The minimum hourly rate payable under contracts of mandate and under service provision contracts shall grow to PLN 14.70.

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Romania

Legislative measures with major impact approved by GEO at the end of last year

The Government has approved the Emergency Ordinance no 114/2018 which introduces a series of legislative changes with impact on the financial services, electricity, gambling, telecommunications, amongst others.

The published emergency Ordinance brings a few minor changes as compared to the draft published on December 18 and summarized in [our newsletter sent on 21 December 2018](#):

- A tax on the assets of financial institutions – the rate is progressive, and is determined according to ROBOR;
- Set-up of a minimum contribution for granting and extending the licenses for telecommunications providers;
- A new tax for gambling organizers;
- Freezing of the gas selling price by 2022 to 68lei/MWh;
- New rules for setting tariffs and contributions owed by electricity operators;
- Increasing the financial contribution of electricity operators;
- Indexation of local taxes and fees;
- Tax incentives for employees in the construction sector;
- Substantial changes to pension pillar II.

Read the entire alert [at this link](#).

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EU-Japan Free Trade Agreement will enter into force on the 1st of February, 2019

Signed on 17th of July at Tokyo, the FTA will reduce or remove most part of the customs duties applicable for the trade of goods originating from the two territories. Registration in the REX system is necessary in order to be able to issue the proof of origin.

When entering into force, the Agreement will remove most of the customs taxes applicable to the trade of goods originating from EU member states and Japan.

Among the goods that will have customs taxes reduced or gradually removed, we mention:

- wines (a 15% customs tax is currently applicable);
- dairy products (a 30% customs tax is currently applicable);
- motor vehicles (a 10-16% customs tax is currently applicable);
- fruits;
- cosmetics/textile products.

In order to be able to take advantage of preferential treatment (either reduced or no customs duties at import) the goods must have been wholly obtained or sufficiently processed (in EU or Japan).

The proof of origin, which must be used according to the Agreement, is the "origin statement" that can be issued on the invoice or on any other commercial document. Thus, for being able to issue such a statement of origin, the importers/ exporters have to be registered in the Registered Exporter system (REX).

What does this mean for you?

If you purchase goods originating from Japan it is possible that, starting with the 1st of February, 2019, you can benefit from reduced or even no customs taxes. We recommend that you require from the suppliers the proof of origin and to ensure that they are registered in REX system.

If you export goods originating from EU towards Japan, we recommend that you register in the REX system as soon as possible in order to be able to issue the origin declaration.

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The amendments to the Tax Code and the Fiscal Procedure Code

A series of amendments, completions are introduced by Law no. 30/2019 published at January 17, 2019:

- Additional conditions for granting sponsorships for corporate tax payers;
- Amendments of the thresholds regarding interest deductibility and other equivalent costs;
- The regulation of income obtained from virtual currency transfers and the tax base calculation method for this type of income;
- The redistribution of the amount representing up to 3.5% from the income tax due on certain types of income to nonprofit entities, cult units and private scholarships;
- Amendments on the moment when it is allowed the adjustment of the VAT taxable amount in case of the bankruptcy of the beneficiary;
- Amendments on the application of the 5% VAT rate for the supply of residential housing as part of social policy;
- Amendments to the Fiscal Procedure Code, establishing the legal framework applicable to the criteria according to which the taxpayers are classified as fiscal risk categories.

The full text of the alert can be found [at this link](#).

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The EU alarm signal on computation of goods origin

Almost 40% of EU exporters face difficulties in performing computation of goods origin and 70% have difficulties in obtaining the supplier declaration, shows a study performed by the European Commission in 2018 on origin rules application at exporter level.

The answers received from EU exporters from different fields of activity, upon an EU Commission survey, shows several factors that may influence the use of tariff preferences regulated by the free trade agreements concluded between the EU and its partners.

- 37% of the respondents found rules of origin a burdensome (based on various criteria) requirement when exporting under EU FTAs.
- 44% replied that they would need more explanation on product specific rules and provided several suggestions how to improve the available information (e.g. practical examples, glossary, information in mother tongue and easier access to legal texts).
- 70 % declared that they have mainly difficulties to obtain supplier declarations and face problems with procedural requirements before exporting
- 47% of the respondents are aware of the possibility to request Binding tariff information, 19% know about Binding Origin Information but do not use it, 22% are not aware but would be interested to use it.

Given the unwanted implications of an erroneous origin computation (rejection of the origin proof by importing country), we recommend you to ensure that your origin computation is accurate. Also, we recommend in using the means of securing the origin computation provided by the EU legislation (obtaining of Binding Origin Information from customs authorities).

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Serbia

Social Security Agreement between Serbia and Switzerland

Social Security Agreement as well as Administrative agreement on implementation of the Social Security Agreement concluded in 2010 between Serbia and Switzerland, has entered into force on 1st of January 2019. Convention on social security from 1962 and additional Convention from 1984, which was regulating relations regarding social insurance, ceases to be applicable from the date of entry into force of the Agreement.

Agreement relates to the following laws of Republic of Serbia:

- on pension and disability insurance
- insurance in in the event of an injury at work or professional illness
- health insurance and health protection

Agreement relates to the following laws of Swiss Confederation:

- age and family insurance
- disability insurance
- insurance in the event of an injury at work, out of work, and professional illness
- health and social insurance (the Article 3, Part III Paragraph 1, Part VI, V)

Novelties:

Application period of the legislation of one contractual state

For the employees assigned from one contractual state to work in the other contractual state, the period of validity of the first contractual state social security legislation wherein employer is headquartered, over an employee that is assigned, is extended to 24 months, instead of previous period of 12 months. If the assignment is being extended and will take longer than 24 months there is the possibility of extension based on the agreement of the competent authorities of two countries.

Scope

The Agreement covers the same types of insurance that had been covered by former Convention, with exception of child allowance which is excluded from the Agreement.

Collection of insurance periods

Citizens of Switzerland are encompassed by this Agreement, with respect to the collection of insurance period when it comes to exercising the right to pension.

Application of the Agreement

This Agreement will be applicable to the insurance cases that originated prior to its entering into force.

2019 Social security bases

2019 maximum monthly social security contribution base

In accordance with the statistical data published in the "Official Gazette of the Republic of Serbia", No. 104/18 from December 28th, 2018, the new maximum monthly social security contribution base has been published.

The maximal monthly SSC base, which is applicable as of January 1st, 2019, is RSD 341,725 and shall be applicable until the end of December 2019.

2019 minimal monthly social security contribution base

In accordance with the statistical data published in the "Official Gazette of the Republic of Serbia", No. 104/18 from December 28th, 2018, the new minimal monthly social security contribution base has been published.

The minimal monthly SSC base, which is applicable as of as of January 1st, 2019, is RSD 23,921. The minimal monthly SSC base shall be applicable until the end of December 2019.

2018 maximum annual social security contribution base

The maximal annual SSC base for the year 2018 was RSD 3,951,060.

The Central Register of the Beneficial Owners

The Central Register of the Beneficial Owners has been established within the Serbian Business Registers Agency as of December 31, 2018, as a unique, centralized, public and electronic data base about beneficial owners of subjects registered, established until December 31, 2018, in accordance with the Law on the Central Register of the Beneficial Owners and the Rulebook on the content of the Central Register of the Beneficial Owners.

Therefore, authorized persons within legal persons and other subjects registered should register the data about the beneficial owners, not later than January 31, 2019.

With the aim of conducting this legal requirement, the Ministry of Economy has prepared the Guidelines for the registration of the beneficial owner of the subject registered in the Central Register (available only in Serbian).

Changes to the Serbian DTT Network

1. As of 1 January 2019 Double Tax Treaties with Indonesia and San Marino apply (with which San Marino has been removed from the list of preferential tax jurisdictions);
2. As of 1 January 2019 Double Tax Treaty with Malaysia does not apply.

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Slovakia

Act on Rules for Resolution of Tax Disputes

The National Council of the SR passed the definite wording of the government act regulating double taxation and resolution of disputes between the SR and other states concerning the avoidance of double taxation.

The National Council of the SR passed the definite wording of the government act regulating double taxation and the resolution of disputes between the SR and other states concerning the avoidance of double taxation. The act transposes EU Directive 2017/1852 on tax dispute resolution mechanisms in the European Union. The act also regulates the resolution of any disputes with countries with which the SR has entered into double taxation treaties, as concerns their interpretation and application.

Information on Extension of the Scope of Employment Income Exempt from Tax to Include Income Paid during Summer Holidays (13th Salary) and Christmas (14th salary) in 2018

The Financial Directorate issued information on extending the scope of employment income exempt from tax to include income paid during summer holidays and Christmas in 2018.

Effective from 1 May 2018, the scope of income exempt from tax was extended to include income paid as a 13th and 14th salary under special regulations, specifically the Labour Code, the Act on Remuneration of Certain Employees Performing Work in the Public Interest and the Act on the Civil Service.

Exemption of the 13th salary

Under the Income Tax Act personal income tax is not applied to a financial settlement for work or performance of professional duties paid during summer holidays under special regulations (13th salary), paid in June of the respective calendar year of up to EUR 500 in total from all employers. An exemption will apply if the amount of the 13th salary subject to such an exemption equals at least the employee's average monthly salary (functional salary) and the employment of the employee (civil service) with the employer as at 30 April of the respective calendar year has lasted continuously for at least 24 months. The tax base (partial tax base) will only include the amount of income by which the payment of the 13th salary exceeds the amount exempt from tax by law. This exemption will first apply to a 13th salary paid in June 2019.

Exemption of the 14th salary

Under the Income Tax Act, tax is not applied to the amount of financial settlement for work or performance of professional duties paid for Christmas under special regulations (14th salary) and paid in December of the respective calendar year of up to EUR 500 in total from all employers if the amount of the 14th salary to which such an exemption applies at least equals the employee's average monthly salary and the employment of the employee (civil service) with the employer as at 31 October of the respective calendar year has lasted continuously for at least 48 months, and in the respective tax

period the employee was paid a financial settlement subject to such an exemption. The tax base (partial tax base) will only include the amount of income by which the payment of the 14th salary exceeds the amount exempt from tax by law. This exemption will first apply to the 14th salary paid in December 2018, provided that the employee was also paid a 13th salary in June 2018 at least equalling the employee's average monthly salary.

If the employment of the employee with the employer consisted of a number of successive employments, or it was combined with agreements with the employer, the condition of continuous employment is met.

The employee meets the condition of having worked 24 months if the employee started work by 1 May 2017. If the employment began later, or during a calendar month, the reference period only includes the days of the duration of this relationship, not the whole month.

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