



Tax&Legal Highlights

Bulgaria

Tax legislation changes for 2019

On 27 November 2018 amendments to the Corporate Income Tax Act, the Personal Income Tax Act ("PITA"), the Value Added Tax Act ("VATA"), the Excise Duty and Tax Warehouses Act, and the Local Taxes and Fees Act were published in the State Gazette. Most of the amendments will enter into force on 1 January 2019.

The most important changes are described briefly below:

Corporate taxation

New interest limitation rule will apply alongside the existing thin capitalization rule

The Bulgarian Parliament implemented the requirements of the European Union Anti-Tax Avoidance Directive 2016/1164 ("ATAD") with respect to the interest limitation rule.

The new rule will apply if the net borrowing costs exceed EUR 3 million for the year. Net borrowing costs will be restricted if they exceed 30% of a tax-based EBITDA.

Tax&Legal Highlights

The new rule introduces a broader definition for borrowing costs. For example, unlike the existing thin capitalization rule, it will regulate interest expenses on bank loans and finance leases, which are not guaranteed by a related party.

The existing thin capitalization rule will remain in place and the two rules will be applied alongside.

The 5-year term for carry-forward of interest expenses restricted under the thin capitalization rules is repealed. Thus, any restricted interest expenses under the thin capitalization rule and borrowing costs under the new interest limitation rule will be carried forward indefinitely.

Both rules will not apply for credit institutions.

Special rules for controlled foreign companies

With the implementation of ATAD, special rules for Controlled Foreign Companies ("CFC") were adopted.

The CFC rule aims to re-attribute the income of a low-taxed foreign controlled subsidiary/ permanent establishment to its Bulgarian parent company/ principal. If a Bulgarian taxpayer has a CFC, it should include a proportionate part of the CFC's taxable profits into its Bulgarian taxable profits.

In order to be a CFC, the respective foreign company/ permanent establishment should meet certain requirements (e.g., shareholding, low or no taxation abroad, no substantive economic activity).

The Bulgarian taxpayer should maintain a special register for CFC purposes and present it to the tax authorities upon request. The register must contain certain information about the respective CFC, e.g., non-distributed profit, shareholding/participation, etc. Failure to keep such register or in case of misreporting, a penalty may be imposed.

Tax treatment of operating lease in the accounts of the lessee

Income and expenses related to operating lease contracts recorded in the accounts of the lessee under the new IFRS 16 Leases (effective as of 01 January 2019) will not be recognized for tax purposes. In addition, the assets under the operating lease as per the new IFRS 16 should not be recognized as tax depreciable asset in the tax depreciation plan of the lessee.

Instead, the taxpayer should calculate the respective income and expenses under the National Accounting Standard 17 Leases and recognize them for tax purposes.

Any income and expenses arising as a result of a changed accounting policy due to the first time adoption of the new IFRS 16 will also not be recognized for tax purposes.

Other changes

A taxable person who has not performed any business activity during the current year will be required to submit a corporate income tax return in order to report any obligations for corporate income tax or tax on expenses, or to report voluntary other relevant information (such as incurred losses, etc.).

There is a simplification in the declaration and payment deadlines for the last tax period for corporate income tax, withholding tax, tax on expenses and alternative tax purposes, in the cases of liquidation/ insolvency of a company and termination of permanent establishment. The abovementioned taxes should be reported and paid within 30 days after the date of the de-registration.

No longer corporate income tax return and payment will be due upon registering termination of a company in the Commercial Register.

New requirements for the operators of exempt food vouchers and for the requisites of such vouchers were adopted.

Personal taxation

Less requirements for utilizing tax reliefs

The requirement for providing a written declaration from one of the spouses for non-utilization of certain tax reliefs when the other spouse would benefit from it drops out. The change is valid for the fiscal 2018 and concerns the tax reliefs for young families, for children and disabled children.

Changes in the regime of taxation of winnings/awards as of 1 January 2019

Winnings and awards from games and competitions, which are not provided by an employer or an assigner would be subject to withholding tax. The taxable threshold of this type of income increases from BGN 30 to BGN 100.

New reporting requirement for the income payers regarding 2019

For fiscal 2019, the income payers would be obliged to disclose information for employment income paid, statutory insurance and personal income tax paid to the Bulgarian tax authorities. The new regime requires electronic filing of standardized declarations under the PITA until 28 February of the following year. There is a possibility for corrections of the disclosed information by 30 September of the following year.

In respect of the above there would be no legal requirement for issuing annual income certificates by the Bulgarian employers. Still, the annual certificates could be requested by the employees and the employers would have 14 days for providing.

The above changes are aimed at reducing of administrative burden for individuals.

Changes related to the filing of annual tax returns for 2018 and 2019

The period for filing individuals' annual tax returns would be from 10 January until 30 April of the following year. This change is applicable as of the fiscal 2018.

As of the fiscal 2019, the possibility for utilizing a 5% discount of the outstanding tax under the annual personal tax return (capped at BGN 500) would be possible through electronic filing and payment of the tax until 31 March of the following year. The old regime for utilizing a 5% discount (capped at BGN 500) until 31 January would be applicable for the 2018 tax returns.

Concerning tax returns for fiscal year 2019 and onwards there would be no requirement for the individuals to enclose an annual income certificate for the year issued by a Bulgarian employer.

Self-employed individuals would be obliged to file their annual tax returns for income received in 2019 only electronically.

Value added tax

New rules on the VAT treatment of vouchers

Depending on their characteristics, instruments that fall into the scope of the new definition for vouchers may qualify as a single-purpose voucher (SPV) and a multi-purpose voucher (MPV). The transfer of a SPV will be considered as a supply of the goods or services it relates to. The transfer of a MPV will fall outside the scope of VAT.

Certain types of vouchers (e.g., tickets for cinema and museums, food vouchers) are specifically excluded from the scope of the new rules.

The new rules are applicable to vouchers issued after 31 December 2018.

Reverse-charge upon importation of certain goods

As of 1 July 2019, the VAT upon importation of certain types of goods (e.g., aluminum and zinc) whose value exceeds BGN 50,000 will be subject to reverse-charge and the importer may opt not to effectively pay VAT to the customs authorities at the time of importation.

The goods for which this amendment is applicable are listed in a new Enclosure 3 to article 167a of the VAT Act. To apply this regime, the importer must meet certain conditions such as being VAT registered for at least 6 months prior to the import and having no unpaid liabilities towards the revenue authorities.

Place of supply of telecommunication, broadcasting and electronically supplied services - new threshold

Telecommunication, broadcasting and electronically supplied services provided to non-taxable persons will be taxable in the Member State of establishment of the supplier if the threshold of EUR 10,000 has not been exceeded for a calendar year. Supplies exceeding this threshold will be taxed in the Member State of the recipient.

Abolished requirement for a minimum amount of collateral for traders of liquid fuels

The requirement for the provision of a minimum amount of BGN 50,000 collateral due by companies trading with liquid fuels has been abolished.

Other changes

Companies in the process of liquidation will be allowed to remain VAT registered until their deregistration with the Registry Agency.

The applicability of the rules for local reverse-charge of VAT on supplies of certain agricultural products, scrap and waste related services has been extended to 30 June 2022.

The period in which companies registered for VAT purposes on voluntary basis are required to remain registered is reduced from 24 to 12 months.

Excise duties

Joint liability for excise duty liabilities

Joint liability for the payment of excise duty liabilities is introduced in relation to the use of energy products for fueling of aircrafts and sea going vessels. The joint liability would apply to:

Tax&Legal Highlights

- a person that has consumed the excise products for purposes other than the purposes for which exemption of excise duty was granted;
- an authorized warehousekeeper who has released the energy products but knew or should have known that the conditions for excise duty exemption would not be satisfied;
- a person to whom the excise duty for the energy products was reimbursed but knew or should have known that the conditions for excise duty exemption would not be satisfied.

Energy products exempt from excise duty

The scope of the energy products exempt from excise duty is expanded as follows:

- liquefied petroleum fuels with CN codes 2711 12 11 to 2711 19 00 (propane, butane, ethylene and petroleum) packed up to 5 kilograms.
- energy products that have been used by a person, who has received an end-user certificate.

The exemption would not apply to energy products that have been produced in a tax warehouse and will be used for the production of other energy products and for purposes other than motor fuel and heating fuel.

Other changes

E-shops will be allowed to advertise alcoholic beverages offered on their websites.

Buyers of alcoholic beverages that qualify as collector's items would be required to notify the authorities whenever excise labels are required.

Local taxes and fees

Postponed application of the new ways to calculate garbage fees

The application of the new ways to calculate garbage fees on the basis of wasted garbage instead of the current basis (tax value or gross book value of the real estate) has been postponed for 2022.

New ecological component added in the calculation of vehicle tax

A new ecological component will be applied alongside the property component in calculating the annual vehicle tax. Each municipality should define the ecological coefficients for 2019 until 31 January 2019.

Change in calculation of the tax for cargo vehicles weighing up to 3.5 tones

The tax for cargo vehicles weighing up to 3.5 tones will be calculated the same way as for passenger-cars.

Other changes

Other changes were also adopted, such as administrative simplifications regarding transactions with motor vehicles, amendments to tax relief for main home, higher tax rates for homes located in resorts, etc.

Tax procedure

New provisions regarding appealing of tax assessment acts

Tax&Legal Highlights

In addition to the above amendments, effective as from 1 January 2019, the Administrative Procedure Code introduces several changes in the tax appeal procedure related to final instance appeals and territorial competence of the administrative courts.

Companies appealing tax assessment acts before the Supreme administrative court are required to pay:

- a proportional state fee equal to 0.8% of the material interest of the case, but no more than BGN 1,700.
- a fixed state fee equal to BGN 4,500, if the material interest of the case exceeds BGN 10,000,000.

Tax assessment acts, which assess tax liabilities for less than BGN 4,000, will no longer be eligible for appeal before the Supreme administrative court in Bulgaria.

The administrative court competent to review appeals on tax assessment acts will be the court where the permanent address / headquarters of the appellant at the time of the first procedural action was.

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