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Tax&Legal Highlights

September 2017

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Bosnia and Herzegovina

Rulebook on the Assignment of ID Number, Registration and Identification and Records of Taxpayers Within the Territory of FBiH

The Federal Ministry of Finance adopted a new Rulebook on the Assignment of Identification Number, Registration and Identification and Records of Taxpayers Within the Territory of the Federation of Bosnia and Herzegovina ("Rulebook") that was published in the Official Gazette of FBiH, no. 69/17 on 13 September 2017.

The Rulebook entered into force on 14 September 2017 and shall commence to apply as of 1 October 2017. As of the day of commencement of application of the Rulebook, the act, which has previously regulated the concerned matter – the Rulebook on the Assignment of Identification Number and Tax Registration of Taxpayers on the FBiH Territory ("Official Gazette of FBiH", no. 39/02, 1/03, 11/04, 2/10, 83/10, 66/11 and 104/14), will cease to apply.

Some of the new issues introduced by the Rulebook are follows:

- New official forms, including the Application for Assignment of ID Number for Business Units (form PI-505)
- Procedure on the ID number assignment is described in detail, separately for each type of entity which is obliged to obtain the tax ID number
- Tax Authority is obliged to initiate the procedure on tax registration ex officio in case the taxpayer does not submit appropriate application
- Documentation which shall be submitted to the Tax Authority is exhaustively listed, separately for each case of registration (including the case of tax registration of foreign legal entity's branch office)
- Tax Authority is obliged to issue the Certificate on Tax Registration within 5 days upon receipt of requested documentation
- In case when the company changes its registered headquarter from Republika Srpska or Brčko Distrikt BiH to FBiH – the company's tax ID shall remain the same
- Tax identification procedure, i.e. the procedure on tax ID number assignment to a taxpayer, only for purposes of reporting and payment of public revenues, is introduced
- The Tax Authority is obliged to create a record on bank accounts of non-resident legal entities and individuals, whilst banks are obliged to notify the Tax Authority on (de)activation of non-resident bank accounts

Positive trend of tax collection in RS: in eight months 1,5 billion BAM

The Tax Administration of Republic of Srpska in the first eight months of this year collected 1,543 billion BAM on the Public Revenue Account of RS; which is 8% or 112,7 million more than in the same

period last year, and therefore the positive trend of tax collection has continued.

The Tax Administration of RS published that in these eight months the direct taxes have been collected in the amount of 323,2 million BAM, which is 9% or 25,3 million BAM more than in the same period last year.

The highest increase in direct tax collection was recorded in personal income tax, which has been collected in the amount of 154,6 million BAM, or 9% more than last year.

The collection increase of 7,9 million BAM has been recorded in corporate income tax, while in the tax on use, holding and carrying goods 421.489 BAM more were collected.

An increase in real estate tax collection has also been recorded, which in eight months of this year was in the amount of 16 million BAM, which is almost four million BAM or 33% more than in the same period last year.

When it comes to the contributions, from January to August 2017, 951,5 million BAM have been collected, which is an increase of 8% or 70,4 million BAM.

The contributions for the pension insurance fund have been collected in the amount of 521,9 million BAM, or 6% more, while the contributions for the health insurance fund are collected in the amount of 360,2 million BAM or 11% more than in the same period last year.

An increase has been recorded also in the income based on contributions for the Child Protection Fund, which is higher for 6% and for the employment fund for persons with disabilities for 15%.

With regards to other public revenues a collection of 262 million BAM has been collected, which is 9% or 21,4 million BAM more than in the same period last year.

The greatest growth has been recorded in the revenue from taxes and fees which were collected in the amount of 174,1 million BAM, which is 18% or 26,9 million more than last year.

A significant growth in the public revenue segment has been also achieved from the games of chance fees, which have been collected in the amount of 16,5 million BAM, or 14% more, and from the penalty fees, which have been collected in the amount of 13,6 million BAM, or 18% more than last year.

A smaller collection has been recorded in concession fees, which in the first eight months of this year have been collected in the amount of 23 million BAM, which is 9,3 million less than in the same period last year.

“By entering into force of the Law on Amendments to the Law on fees for the use of natural resources for the production of electricity in March last year, the fees for the use of natural resources for the production of electricity and payment method have been reduced, i.e. restored to the level before the flood, which has influenced a lower income collection from concession fees in this period”, it is written in the statement.

When it comes to the backlog obligations on indirect taxes and contributions to the Solidarity Fund, in eight months of this year 6.557.470 BAM have been

collected, which is less for 4,4 million BAM than last year.

The Administration clarifies that the reason for this is the entry into force of the Law on Termination of the Law on Special Contribution to Solidarity, which is in force from January 1, 2017.

In the first eight months of this year on the territory of RS 807 taxpayers - legal entities and 2.213 taxpayers - entrepreneurs have been registered, while 219 taxpayers - legal entities and 755 taxpayers - entrepreneurs have signed out.

In August record revenues from indirect taxes in BiH, 680 million BAM collected

The Indirect Taxation Authority of Bosnia and Herzegovina collected 680 million BAM in August, which is 66 million more compared to the same period last year.

This is the largest amount of collected revenues from indirect taxes in one month ever since the establishment of the Indirect Taxation Authority.

In the first eight months of this year the Indirect Taxation Authority collected 4,589 billion BAM, which is 7,53% or 321 million BAM more than in the same period last year.

After refunds were made to taxpayers, which were in the amount of 850 million BAM in the first eight months in 2017, net collected revenue that were distributed to users, the state, entities and Brčko District, was in the amount of 3,739 billion, which is an increase of 183 million BAM compared to the funds which were distributed to the users from the Unique Account in the same period of 2016.

The amount of 499 million BAM was allocated for financing state institutions. The Federation of BiH received 2,80 billion BAM, Republic of Srpska 1,57 billion BAM and Brčko District 115 million BAM.

The growth of income from indirect taxes covered the increase of the external debt in 2017, so by the end of the year it is expected that the entities shall also receive more money from indirect taxes than last year directly on their accounts.

Based on a special toll for the construction of highways (0,10 BAM) in the period from January 1 until August 31, the Federation of BiH received an additional amount of 70 million BAM, Republic of Srpska 46 million BAM and Brčko District 2,3 million BAM. The difference represents a reservation on a separate toll account in the amount of 0.10 BA

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Croatia

Reporting to the Croatian Tax Authorities on the membership of a multinational group subject to country-by-country reporting requirements

Croatian entities and branches that are part of multinational groups to which the Croatian country-by-country (CbC) legislation applies (that is, those with consolidated group revenue of EUR 750 million or more) will need to file a CbC notification and a CbC report with the Croatian Tax Authorities for reporting periods starting on or after January 1, 2016.

CbC reporting is one of the cornerstones of the three-tier approach to transfer pricing reporting and is prescribed by the OECD BEPS Action Plan. The CbC report is filed by the ultimate parent of those multinational groups (“MNG”) that have total consolidated revenues of EUR 750 million or more in the last financial year. The CbC report is filed for the reporting periods starting on or after January 1, 2016.

The Croatian Tax Authorities have published a notification to taxpayers that are members of MNGs subject to CbC reporting to notify the Tax Authorities’ Head Office about their membership.

The Croatian MNG members are to provide the notice to the Tax Authorities as follows:

1. Each Croatian tax-resident MNG member should notify the Tax Authorities on whether the ultimate parent, the substitute parent, or a constituting member of the MNG is the CbC reporting filing entity on behalf of the MNG it belongs to.
2. Each Croatian tax-resident MNG member that is not the ultimate parent, the substitute parent, or the constituting member defined in line with sections 102, 103 and 104 of the Automatic Tax Data Exchange Regulations is to notify the Tax Authorities on the name and country of tax residence of the entity that will file the CbC report on behalf of the MNG it belongs to.

The notices from points 1 and 2 above are delivered by post to the Ministry of Finance, Tax Authorities, Head Office, Normative Activities and International Cooperation Department, Boškovićeve 5, 10000 Zagreb.

Key deadlines

- The deadline for notifying the Tax Authorities is at latest four months after the end of the corporate tax assessment period (e.g. by April 30, 2017 if the tax assessment period ended on December 31, 2016).
- The ultimate parent, the substitute parent, or the constituting member are required to deliver the first CbC report for the tax year starting on January 1, 2016 or later within 12 months from the last day of the reporting period.

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Estonia

Changes of interest taxation

As of 01.01.2018, clause which exempts interest paid on deposits from income tax, to a natural person, is annulled. From year 2018, the deposit with a credit institution is treated as a financial asset, from which the taxpayer can postpone the tax liability for the income received. Therefore, pursuant to subsection 40 (2) of the Income Tax Act, a taxpayer (in this case a credit institution) as a general rule is liable to withhold income tax on the income, however the credit institution is not liable to withhold income tax on interest, if the taxpayer has informed that interest has been received for the money in investment account (subject to different rules).

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Kosovo

Issue of Administrative Instruction (GRK) No. 09/ 2017 On Municipal Energy Offices

The Administrative Instruction on Municipal Energy Offices provides guidance on the duties and responsibilities of energy offices at the municipal level in Kosovo.

This Administrative Instruction was approved by the Government of the Republic of Kosovo with the Decision No. 03/154, dated 30.08.2017, and has entered into force seven (7) days after its signature by the Prime Minister and the publishing in the Official Gazette of the Republic of Kosovo.

The Administrative Instruction (AI) sets forth duties and responsibilities of municipal energy offices in addressing issues of planning, implementation and monitoring of energy policies in local level. The AI applies to all municipalities of the Republic of Kosovo implementing local level energy policies.

Some of the duties and responsibilities of the municipal energy offices include, but are not limited to:

- Establish a database and maintain an information system for regular collection of data energy consumption on periodic basis, energy expenditure and other relevant data;
- Develop energy sector planning activities based on the Energy Strategy in order to support the sustainable economic and social development of municipalities;
- To identify potential sources of funding for the implementation of energy efficiency measures and renewable energy resources developed in municipal plans etc.

Among others, the AI provides for the obligation of the Municipal Energy Offices to identify training needs and develop training programs in cooperation with the Ministry for the officials on the planning, implementation, monitoring and reporting municipal strategy plans on a periodic basis and as needed. The Ministry in cooperation with the Ministry of Local Government Administration and municipalities shall coordinate various capacity building projects of human resources in the implementation of relevant programs.

Central Bank Regulation on Branches and Subsidiaries of Insurers

Regulation of the Central Bank of Kosovo (CBK) stipulates rules on the opening and closure in and outside of Kosovo of branches and other subsidiaries of insurers.

The Board of the Central Bank of the Republic of Kosovo (CBK) in the meeting held on 31 August 2017 approved the Regulation on the opening and closure in and outside of Kosovo of branches and other subsidiaries of insurers. The Regulation entered into force fifteen (15) days from the day of its approval.

The Regulation applies to all insurers and branches of foreign insurers licensed by the CBK to operate in the Republic of Kosovo, with the exception

of Article 5, which does not apply to branches of foreign insurers. Article 5 of the Regulation sets forth rules for the opening of branches/subsidiaries of insurers outside of the Republic of Kosovo.

According to the Regulation, the insurer that wants to establish or relocate a branch of office, including the relocation of the central office, shall submit a written request to the Central Bank of Kosovo for prior approval. Such a request shall be accompanied by a number of supporting documents that are enlisted in Article 3 of the Regulation. The same applies to insurers who want to close its branch/office in Kosovo, and a written request for approval shall be submitted to the Central Bank of Kosovo at least thirty (30) days in advance, and such a notification on the closure shall be published for the clients of the insurer.

Central Bank Regulation on the Licensing of Insurer Intermediaries in Kosovo

Regulation of the Central Bank of Kosovo (CBK) sets out criteria and procedures for the licensing of insurance intermediaries and re-insurance intermediaries in Kosovo.

This Regulation was approved by the Board of the Central Bank of Kosovo in its meeting held on 31 August 2017, and has entered into force fifteen (15) days from the day of its approval.

The purpose of this Regulation is to set forth criteria and procedures as well as time limits for the licensing of insurance and re-insurance intermediaries. It applies to all natural persons and legal entities who request a license from CBK to engage in intermediary activities in insurance and re-insurance.

According to the Regulation the intermediary activity in insurance can be carried out by insurance agents, agent companies, insurance brokers and broker companies. Banks and travel agencies can also engage in intermediary activities provided that they are licensed by the Central Bank of Kosovo according to this Regulation. Travel agencies cannot be licensed for broker activity. The intermediary activities by the Bank shall be carried out in accordance with Article 10 of the Regulation, whereas Article 11 lays down requirements for the travel agencies acting as intermediaries in insurance.

The Law on Business Organizations shall apply with regard to the governing bodies of the intermediary companies. Main shareholders, directors (if applicable) and senior managers of intermediary companies in insurance shall be approved by the CBK. The Regulation provides for the qualification requirements for directors and senior managers.

Regulation of the Central Bank of Kosovo (CBK) on the Licensing of Insurers and Branches

This regulation provides guidance on meeting the minimum conditions, criteria and procedures set out for licensing insurers and branches with the minimum capital guarantee fund set at 2,200.000.00 Euro.

The Board of the Central Bank of the Republic of Kosovo (CBK) in its meeting held on 31 August 2017 approved the Regulation on the licensing of insurers and branches. The Regulation entered into force fifteen (15) days from its approval.

The Regulation provides for conditions, criteria, procedures and timelines for the application and granting of the license for insurers/re-insurers or for the branch of the foreign insurer/re-insurer. The Regulation applies to all subjects who apply for licensing as insurers/re-insurers and branches of foreign insurers/re-insurers to carry out insurance activities in Kosovo.

The applicant for the license of the insurer or branch of the foreign insurer shall have a charter capital as guarantee fund in the amount not less than 2 million and two hundred thousand Euro (2,200,000.00 Euro). In cases when one or more risks are involved in classes 10 to 15 as determined in Article 7 of the Law on Insurance, the charter capital shall not be less than three million and two hundred thousand Euro (3,200,000.00 Euro).

In addition to this charter capital, the insurer/re-insurer shall maintain an additional fund for initial expenses in order to cover expenses related to establishment, functioning and administration, and which shall not be less than twenty percent (20%) of the charter capital.

Regulation of the Central Bank of Kosovo (CBK) on the Issuance of Registration and Licensing Certificates

This regulation sets out that licensing or registration certificates shall be issued for an unspecified period and lists the information that shall be contained therein.

The Board of the Central Bank of the Republic of Kosovo (CBK) in its meeting held on 31 August 2017 approved the Regulation on the issuance of registration and licensing certificates, and it entered into force fifteen (15) days after its approval.

The purpose of this Regulation is to set-forth the form and the content of the licensing or registration certificates as well as to provide for rules on procedures for issuance and/or replacement of licensing or registration certificates for financial institutions.

The Regulation provides that the licensing or registration certificate shall be issued for an unspecified period of time, shall be non-transferable and shall contain the following information:

- Name and the logo of the Central Bank of Kosovo;
- Identification number and day of issuance;
- Name of the licensed or registered financial institution and the business registration number in KBRA;
- Type of the licensed or registered financial institution;
- Clause for annexes to the certificate according to Article 2, par. 2 of the Regulation;
- Place of business, if applicable,
- Stamp of CBK and the signature of the authorized person to sign on behalf of CBK.

Regulation of the Central Bank of Kosovo (CBK) on Electronic Payment Instruments

This regulation provides a much-needed definition of electronic payment, electronic payment instrument and online payment instrument that was lacking previously in relevant regulations.

The Board of the Central Bank of the Republic of Kosovo (CBK) in its meeting held on 31 August 2017 approved the Regulation on Electronic Payment Instruments, which shall enter into force sixty (60) days from the day of its approval.

The Regulation on the Effective Norm of Interest and Disclosure Requirements shall also apply to the Electronic Payment Instruments in addition to this Regulation.

The Regulation aims at providing for conditions, criteria and procedures for issuance and use of electronic payment instruments as well as means of reporting of information during the use of these electronic payment instruments. The Regulation applies to banks and authorized institutions by the Central Bank of Kosovo who provide electronic payment instrument services. It does not however apply to paper-based payment instruments, electronic payment orders initiated by banks for execution of mutual payments in the Payment System.

Furthermore, the Regulation provides for the definition of the electronic payment, electronic payment instrument (EPI), and online payment instrument.

In addition, the Regulation classifies the electronic payment instruments into electronic payment instruments from distance, which enables the holder to have access to financial funds in his/her bank account through the use of electronic and technical means such as bank cards, instant payments 1) other electronic banking services i.e. mobile banking, e-banking etc.; 2) electronic payment instruments.

The Regulation does not limit its application only to the abovementioned types of electronic payment instruments but it rather extends its application to any other further technology development.

Financial institutions may issue EPI and provide electronic payment instrument services only after being issued a license by CBK. The Licensing and Standardization Department of the Central Bank of Kosovo shall be notified in writing at least one month beforehand prior to commencing electronic payment services.

One very important novelty that this Regulation brings is the issue of electronic money. The issuance of electronic money according to the Regulation does not consist in the activity of taking or receiving deposits upon condition that the electronic money is issued immediately after the receipt of funds. As replacement of money, electronic money is used as an instrument for execution of payments for limited amounts and not as an instrument for savings.

This definition was absent in the applicable legislation thus making it impossible for non-bank financial institutions to issue electronic money, because it was considered as an activity of taking deposits, which is strictly reserved only for the banks.

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Poland

New minimum wage rate

The government has announced a new minimum wage rate which will take effect on 1 January 2018.

The government announced yesterday that the minimum wage in 2018 will be PLN **2,100**. This figure will apply to employees whose employment contracts set out a lower wage. Paying out a lower wage will be a breach of the employees' rights.

The increase in the minimum wage shall affect other employment-related benefits. The statutory limit of group layoff severance pay shall grow to PLN 31,500, and the night work allowance shall increase as well.

The minimum hourly rate paid for contracts of mandate and contracts of service shall increase to **PLN 13.40**.

The amendments come into force on **1 January 2018**. The current pay rates amount to PLN 2,000 and PLN 13, respectively.

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CETA takes effect. Businesses can use CETA and its benefits applicable to competition and commercial relations

The European Union (EU) and Canada agreed the effective date for temporary application of the Comprehensive Economic and Trade Agreement (CETA) they have concluded. As of 21 September 2017 businesses can use CETA and its benefits applicable to competition and commercial relations. The possibility to import many EU and Canadian goods at reduced tariffs is among the key benefits. Please note that certain regulations shall become effective only when CETA has been approved by all Member States.

What shall this mean for you?

Pursuant to CETA, about 98% import tariffs between EU and Canada shall be eliminated. Another 1% shall be eliminated within subsequent seven years.

EU goods imported to Canada will enjoy preferential tariff treatment under CETA. The same principle will apply to Canadian goods imported to the EU provided the preferred origin is properly documented.

In order for your business to enjoy the preferential tariff treatment as provided for by CETA, we suggest taking the following steps:

- check whether the goods traded by your company qualify for the preferential tariffs under CETA;

- determine whether these goods are of preferred origin (from the EU if imported to Canada or from Canada if imported to the EU) and whether they fulfil all origin-related requirements;
- determine the form of confirming the preferred origin and the related formalities.

The above steps shall allow businesses proactive seeking for opportunities to apply CETA on the temporary application basis; therefore your company should commence the procedure as soon as possible. Getting prepared beforehand shall allow you full use of opportunities provided by CETA beginning from day one.

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Shall Poland become a Super-Special Economic Zone? New business support principles presented by the government.

After over twenty years of operation, special economic zones (SEZ) are going to be reformed by Polish government. Mateusz Morawiecki, Deputy Prime Minister, Minister of Development and Finance, accompanied by Grażyna Ciużyńska, Director, Investment Policy Department in the Ministry of Development, presented the proposal of the new support measures at Economic Forum in Krynica.

Poland: Investment Zone

In the proposed bill, Poland is presented as an investee offering tax incentives on its entire territory, without the need to extend special economic zones. By doing so, the government wants to eliminate the long and onerous procedures of SEZ border modification, thus activating the investment potential of the entire country, which, in politicians' opinion, is of special importance in case of large investments.

Tax exemptions: both quantity and quality will matter

Like in the current SEZ, the tax exemption system shall be available for new investments that meet the definition presented in EC Regulation 651/2014, which includes the construction of new plants. In case of projects involving extension of existing facilities, investors will have to prove that its purpose is to increase the existing production capacity or to fulfil restrictive criteria in the case of diversification or modification of the manufacturing process.

Additionally, the project will have to meet certain quantity and quality criteria (i.e. reach a certain investment value level and comply with the Responsible Development Strategy, RDS) . According to the Ministry, investments that translate into increased economic growth of the country and a given region, among others through know-how transfer and providing good employment conditions, shall be preferred. No requirement to locate **such projects within the existing SEZ will be an additional advantage.**

An investment project can win the maximum score of 10 for its quality, including RDS assumption in the following aspects:

1. Structural development measured based on employment of specialized staff or the offering of highly-paid jobs; investment compliance with the current policy regarding national development and export of products or services;
2. Scientific development measured based on cooperation with research and academic institutions, R&D activities and operation of sectoral clusters;
3. Sustainable development measured based on investment location (e.g. in places with high unemployment rate); additional score for supporting SME and small/medium sized rural communities and towns;
4. Human resources development measured with additional employee benefits offered, e.g. employee care, educational programs.

The quality criteria shall be considered met if an initiative has won 60% of the total score, i.e. 6 of 10. The quality related requirements shall decrease along with a growth of public aid available in Poland: **50%** for areas with 35% public aid intensity and **40%** for areas with 50% public aid intensity.

The quantity criterion will depend on the unemployment rate in the county where a given investment is located and on the business size. Large businesses, investing in counties whose unemployment rate is lower than the national average, must invest at least PLN 100 million to receive the support. The minimum investment value for large businesses, when located in counties whose average unemployment rate exceeds 250% of the national average will be PLN 10 million. As pointed out by Director Ciużyńska, criteria regarding SME shall be reduced to 98%, i.e. minimum investment level in SME shall be PLN 2 million in counties whose average unemployment rate is below the national average and PLN 200,000 in counties whose unemployment rate exceeds 250% of the national average. The current minimum investment value in SEZ has been EUR 100,000. Thus, it will grow five times in counties with low unemployment rates.

How long will the allowance be available?

The new model will not indicate a single effective date for tax allowances. The tax allowance period shall be set for each investment individually and shall last ten years, being extended to 12 years for investments located in places with public aid intensity of 35% and to 15 years for those located in places with public aid intensity of 50%. The period shall be extended by five more years for investments located within the current special economic zones.

What will happen to SEZ and their investors?

For permits and decisions issued pursuant to the Act on Special Economic Zones of 20 October 1994, the provisions of the Act shall remain binding until the end of 2026. Beginning from the effective date of the Act on New Investment Support Principles (the discussed bill), only the new support

forms shall be available for new investors, in parallel to the existing SEZ, and it shall supersede them over time.

When will the new regulations be presented to the public?

On 14 September 2017, Deputy Minister of Development Jadwiga Emilewicz presented information regarding execution of the Act on Special Economic Zones as at 31 December 2016 before the Parliament. She informed that the governmental bill regulating SEZ should be sent for consultation to other ministries on 27 September 2017.

Are there any surprises awaiting investors in new "special economic zones"?

During the parliamentary discussion, Jadwiga Emilewicz admitted that when working on the bill, the Ministry of Development had analyzed models adopted in other countries and considered "combination of the Czech and Slovak model" the most appropriate. Czech investors are exempted from CIT for ten years. The allowance is available for greenfield and brownfield investments, in case of the former the entire income from the new investment being exempted. In case of the latter, the exemption includes income from the new investment calculated as the difference between post-investment income and pre-investment income (a three-year average). Therefore, the new model can be expected to introduce a limited scope of tax allowance for brownfield investments, which is not applied in the existing SEZ. If such a limitation is implemented, we can expect something similar to the situation seen in the first half of 2014, when many investors rushed to get new permits allowing a bigger tax allowance.

When analyzing the new criteria presented by the Ministry, we also wonder whether BPO investments, so far frequently using the support offered in SEZ, providing a large number of high-value jobs with relatively small outlays, shall be able to fulfil the requirements of the new support system.

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Transportation package: extending the range of goods subject to the monitoring obligation

On 22 September 2017 the Ordinance on goods whose freight is subject to the monitoring obligation issued by the Minister of Development and Finance (henceforth: the "Ordinance") shall take effect.

Its provisions extend the range of goods subject to this obligation pursuant to the Act on the road transport monitoring system of 9 March 2017 (Journal of Laws item 708, henceforth: the "freight package") among others to

vegetable oils and animal fats classified in selected CN and Polish Classification of Goods and Services (PKWiU) categories.

Extending the range of goods subject to the monitoring obligation

The Ordinance extends the range of goods that must be monitored in gross amounts exceeding 500 kg or 500 l among others to:

- soybean oil;
- peanut oil;
- coconut oil;
- palm oil;
- sunflower seed oil;
- olive oil;
- rapeseed, agrimonia and mustard oil

both raw and refined, as well as to vegetable and animal oils and fats, their fractions that have undergone hydrogenation and esterification without further processing and maize oil.

The detailed list of goods subject to the new obligations results from Polish Classification of Goods and Services (PKWiU) and Combined Nomenclature (CN) codes. These goods are included in the following PKWiU sub-categories: 10.41.21 to 10.41.29, 10.41.51 to 10.41.60 and 10.62.14, and are assigned CN codes from 1507 to 1516 and 1517. Further, solid and liquid margarines have been explicitly exempted from the monitoring obligation.

Exceptions

Goods are not subject to the monitoring obligation in the following cases: (i) when transported by postal operators in postal packages; (ii) if subject to customs procedures including transit, storage, temporary customs clearance, processing, export or re-export; (iii) freight of vegetable oils to be used as heating or engine fuel under the excise suspension procedure; (iv) transported in unit packages up to 26 kg/26 l.

Status of other planned amendments

Apart from the above ordinance, the Ministry of Finance has been working on other amendments to provisions on monitoring transport of goods. Works regarding extension of the monitoring obligation to rail transport and on GPS trackers are pending; the bill regarding the latter was submitted to the European Commission for notification on 8 August.

Follow-up

As the effective date of the Ordinance is nearing, we suggest checking goods traded by your business (especially if you operate in the food industry) for applicability of the new regulations. If they affect your business, necessary preparatory measures should be commenced, including training your personnel on submission of SENT notifications, developing internal notification submission and confirmation procedures, and possibly amending concluded contracts to determine liability for possible losses arising from your counterparty's failure to submit a SENT notification or from submitting it in an incorrect manner.

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Publication of the implementing regulation concerning specific information disclosed in transfer pricing documentation

New provisions on documenting intercompany transactions (new provisions of the Corporate Income Tax Act and Personal Income Tax Act) became effective on 1 January 2017.

In accordance with the new provisions of the acts, taxpayers in Poland shall accept a three-tiered approach to the documentation of intercompany transactions, consisting of a Local File, Master File and Country-By-Country Reporting. Besides, tax documentation must include benchmark studies showing the market prices / terms of settlement in intercompany transactions.

However, the scope and need to prepare a tier of documentation are dependent on the volume of revenues / costs generated by a taxpayer. Therefore, this obligation shall not apply to small units with revenues / costs of less than EUR 2 million. On the other hand, the obligation imposed upon other taxpayers shall increase in line with their revenues / costs.

The documents are available under the following links:

Regulation ([link](#))

Final version of the regulation

On 18 September 2017, the long-anticipated final version of the implementing regulation on CIT information (and PIT information) to be disclosed in tax documentation was published in the Journal of Laws.

This Regulation will become effective after 14 days of its publication.

Scope of the regulation

The regulation in question is a delegation that lays down specific elements making up tax documentation in accordance with Article 9a.2b and Article 9b.2d of the CIT Act.

The regulation imposes broader information obligations upon a taxpayer, connected with intercompany transactions, including justification for prices in intercompany settlements.

The aforesaid implementing regulation provides for the elements of:

- a Local File,
- a Master File,
- a benchmark study.

I. The Local File

As regards the Local File, the regulation specifies in particular:

- A. Cash flow details – the documentation is to disclose information on the amount of transaction / other event resulting from invoices issued / received (or amounts resulting from agreements) and amounts of payments received and made;
- B. Identification particulars of related parties (the documentation should present names, contact details, tax identification numbers and the type of relationship);

- C. Description of the course of transaction / other event (the documentation is to present a detailed functional analysis and indicate the functional profile of the entity).

II. The benchmark study

As regards the benchmark study, the regulation specifies information that shall be included in the study, i.e.:

Explanatory statement to the regulation

- A. Indication of the tested party / parties to the transaction (and the reason for selecting the tested party);
- B. Selection of assumptions for the study (and justification for such assumptions), including: (i) qualities of tested goods, services or other benefits, (ii) course of the transaction / other event, (iii) terms of comparable transactions / other events, (iv) selection of a comparable geographical area and (v) the business strategy applied;
- C. Justification for a one-year / multiple-year data study;
- D. Indication of financial data / indices used in the benchmark study;
- E. Information on adjustments made to eliminate differences between the tested transaction / event and comparative data (and justification for such adjustments);
- F. Determination of the market price / range;
- G. Reasons for failure to provide information under items B-F (where it is not necessary to use such information in the study).

III. The Master File

As regards the Master File, the regulation specifies in particular:

- A. Information on the organizational structure of the group (the documentation should specify, among others, the name, registered office and description of relations);
- B. The pricing policy (the group documentation should present the pricing policy for services, intangibles and R&D deliverables, financing of intercompany operations);
- C. The business and activities of the group, including information on (i) business factors that affect profits, (ii) major added value chains and functional profiles of related parties in such a chain, (iii) services provided under such added value chains, (iv) geographic markets which generate at least 10% of profits in individual added value chains, (v) business restructurings, mergers, acquisitions and disinvestments made during a year;
- D. Description of significant intangible assets of the group, including: (i) the strategy of developing, enhancing, maintaining, protecting and exploiting intangible assets, (ii) major R&D centers in the group (based on number of FTEs), (iii) entities that manage R&D operations, (iv) the list of group's intangible assets that affect intercompany transaction pricing and the holders of title to such assets, (v) intercompany R&D contracts / agreements and license agreements, (vi) information on a change in holders of titles to / managers of group's intangible assets;
- E. The group's financial standing, including a list of borrowings (equivalent to over 5% of group's borrowings).

Definitions

An additional element introduced to the final version of the regulation is a glossary that defines six key terms. i.e.:

- (1) party to a transaction or other event,
- (2) functional analysis,

- (3) value added chain,
- (4) significant value added chain,
- (5) functional profile,
- (6) qualities of goods, services or other benefits.

Changes to the draft regulation

The text of the regulation was changed mainly as a result of comments received in the course of public consultations on the draft regulation. Most of those changes clarified selected issues and to some extent limited an administrative burden imposed upon a taxpayer (e.g. provisions that required to compare changes in the course of transactions against the previous year were withdrawn).

Commentary

The implementing regulation on information included in tax documentation presents an extensive list of detailed elements of the documentation.

The regulation provides that the elements of tax documentation will have to present detailed information on the business of a taxpayer and the group it is a member of. In order to satisfy the requirements imposed upon by the legislation, the elements of a benchmarking analysis to justify the prices applied will also require a significant labor input.

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Romania

Tax Procedure Code: The impact of the most recent amendments for the taxpayers

Multiple amendments to the Tax Procedure Code have been recently approved by Government Ordinance no. 30/2017. The new amendments with significant impact refer to:

- **Third party's joint liability with the debtor**
- **Liability of the person with liberal activities**
- **Interaction between tax authorities and taxpayers during administrative procedures**
- **Tax inspections**
- **Tax incentives, respectively the possibility of rescheduling tax liabilities**
- **Enforcement procedures and legal remedies to suspend this procedure**
- **The precautionary measures**
- **The procedure for solving the tax appeal**
- **Collaboration between the tax authorities within the EU**

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- Collaboration between the tax authorities within the EU

Third party's joint liability with the debtor

Main changes:

According to the new provisions, the joint liability concerns:

- Entity that issued the letter of bank guarantee/insurance policy in the event that it failed to transfer the amounts covered by the bank letter of guarantee/insurance policy to the state budget at the request of the tax authorities (subject to the fulfillment of the provisions regulating the suspension mechanism by the bank letter of guarantee);
- Person (either natural or legal) that, with bad faith generated the accrual of liabilities of the insolvent debtor (for which such a procedure was started).

Note:

We anticipate that the banks will become more cautious and quite reluctant in providing such guarantees given the exposure. Also this might generate an increase of the related costs.

With respect to the insolvency matters, the new provisions are aimed to ease the engagement of joint liability of the shareholders (natural/legal

person) and directors of the insolvent debtor. As such, it is expected a slight growth of the decisions issued by the tax authorities in this respect.

Read the full news [here](#)

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New national regulations on customs and excise duties

A series of amendments to customs legislation and excise duties have been published recently. Implementation of the authorization procedure for deferring the payment of import duties and the completion of the Nomenclature of excise goods codes, are the most important.

New regulations in customs legislation

Starting 2 October 2017, new legislative orders will come into force, regarding:

- The procedure for authorization to defer the payment of customs duties on import due in respect of two or more customs operations;
- The authorization procedure for the use of the comprehensive guarantee due in connection with two or more customs operations, declarations or regimes, except for the Union / common transit procedure;

In addition, amendments have been made to the application of customs regulations in free zones. The main change is the introduction of the responsibilities of the holder of the decision approving the operative records, regarding its activity in the free zone area.

New regulations in excise legislation

ANAF Order no. 2331/2017 brings an amendment in the Configuration of the Excise Duty Code and the Nomenclature of Excise Product Codes by adding a new code, T500, for products subject to non-harmonized excise duties, namely:

- Heated tobacco products which, by heating, emit an inhalable aerosol without the combustion of the tobacco mixture, with the tariff classification CN 2403 99 90, and
- Nicotine containing a liquid intended for inhalation using an electronic "electronic cigarette" device, with the tariff classification CN 3824 90 96.

This amendment is intended to complete the amendment to the Fiscal Code according to which products subject to non-harmonized excise duties provided under art. 439 par. (2) lit. a) of the Fiscal Code, manufactured in tax warehouses in Romania, shall be subject to the same regime provided for products subject to harmonized excise duties.

What to do?

We recommend that you review the impact of the legislation changes on your activity.

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Serbia

New Ministry of Finance Rulings – Value Added Tax

The right to deduct input VAT based on food expenses for individuals engaged based on agreement on work performed outside the employment relationship

When a VAT payer – a company engaged in production of cinematographic works, audio – visual products and television programs, purchases food (catering) for the needs of individuals engaged based on temporary service agreement or another agreement on work performed outside the employment relationship, it is not entitled to deduct VAT computed and stated in the invoice of previous supply participant as input tax.

(Ministry of Finance Ruling no. 011-00-00509/2017-04 as of July 13, 2017)

New Ministry of Finance Rulings – Value Added Tax

The place of supply of services involving transloading of certain goods from a wagon to a truck

When a VAT payer provides services of transloading certain goods from a wagon to a truck, from one truck to another, etc. to a foreign entity with the seat / permanent establishment located outside of Serbia, the place of this supply is considered to be abroad.

(Ministry of Finance ruling, no. 413-00-102/2017-04 as of July 4, 2017)

New Ministry of Finance Rulings – Value Added Tax

Determining the VAT debtor for the supply related to delivery with installation of computer equipment and software – systemic and applicative

Supply related to delivery with installation of computer equipment and software – systemic and applicative, as part of works on a plant construction, is not considered to be the supply in the field of construction.

(Ministry of Finance ruling, no. 011-00-432/2017-04 as of July 18, 2017)

New Ministry of Finance Rulings – Value Added Tax

The right of a taxpayer to reduce computed corporate income tax based on income realized from another country

A taxpayer is not entitled to reduce computed tax as stipulated by the provision of Article 53a of the Law on Corporate Income Tax based on income realized from another country for a service provided to a non-resident legal entity.

(Ministry of Finance ruling, no. 430-00-260/2017-04 as of July, 4, 2017)

New Ministry of Finance Rulings – Value Added Tax

The obligation to compute and pay withholding tax on income that a non-resident legal entity realized from a resident legal entity

When a non-resident (parent company) assigns to a resident (member of the group) the right of direct sale of goods (from resident's assortment) in a particular geographic area, whilst such assignment of rights involves exploitation of one of the forms of industrial property rights (eg. transfer of acquired knowledge and experience in the sale of these products which are not available to the public, transfer of the list of buyers), the fee realized by the non-resident has a character of a royalty, taxable with withholding tax unless double tax treaty stipulates otherwise.

(Ministry of Finance ruling, no. 430-00-237/2017-04 as of August 2, 2017)

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Slovakia

Information on Taxation of Income of Foreign Artists in the Slovak Republic

The Financial Directorate of the Slovak Republic published information for the public about the rights and obligations of taxable persons related to taxation of income of artists and performers who are taxable persons with limited tax liability highlighting the most frequent problems when meeting tax obligations.

When assessing the taxability of income earned by foreign artists in the Slovak Republic, provisions under Article 16 (1) (d) of the Income Tax Act and the Section "Artists and Athletes" of the relevant double taxation avoidance treaty must be complied with, if such exist. A taxable person means a private individual (not a corporate entity), who is a non-resident of the SR. To determine the taxability of a private individual's income and correct taxation, it is necessary to assess residency to apply the relevant double taxation avoidance treaty and the private individual's permanent residence. The term "taxable person" includes a person who is a foreign artist whose artistic activities performed in person in the SR generate income taxable in the SR. Intermediaries are not taxable persons. Neither the Income Tax Act, nor the relevant double taxation avoidance treaties define the term "Artist". For the purposes of the Income Tax Act and the relevant double taxation avoidance treaties, an Artist is considered to be a person performing activities with an element of entertainment.

Artist's earnings comprise monetary or non-monetary income from an artistic activity performed or appreciated in the Slovak Republic and earnings include the artist's income for personal performance in the Slovak Republic and closely-related income (royalties, income from advertising, interview, sponsorships, direct broadcasts of art events, travel allowances). If a foreign artist's income is generated by activities performed in several states, such income must be allocated among these states using an appropriate allocation key and according to contractual terms and the portion of income attributable to the performance of the activity in the Slovak Republic must be assessed. The legal relationship of the foreign artist, their dependence on the other party, or their obligation to pay a tax on such income in the state of residence are not considered relevant for the taxation of income in the Slovak Republic. Furthermore, it is irrelevant whether the artist's income is paid directly or via an intermediary.

Unless stipulated otherwise by law, a foreign artist's income in the SR is subject to withholding tax collected via a taxpayer. A double taxation avoidance treaty does not modify the tax rate amount for artists' income and, thus, the income tax rate stipulated by the Income Tax Act, ie 19% or 35%, is applicable to the taxation of foreign artists' income, if the relevant income is paid, sent or credited to a taxable person of a non-contracting state.

For correct tax withholding by a payer under the above provision, foreign artists must document their permanent residence in a contracting or non-contracting state by an identification document (ID card, passport). If for the purposes of the provision of the Act, foreign artists fail to document their permanent residence to the payer by the deadline for income payment, the payer must apply the tax rate applicable for a taxpayer of a non-contracting state, ie 35%.

To determine the party liable for tax payment, it is not relevant whether income is paid in favour of an artist directly or via another party. Registration and reporting obligations are applied to a payer. The payer is obliged to pay the withheld tax to the tax administrator and submit a notification of tax withholding and tax payment. The artist's tax obligation is met by tax withholding by the payer, unless it has been decided that the withholding tax is considered as a tax prepayment to be deducted in the tax return.

In particular, with effect from 1 January 2016, income of artists generating income from artistic performance will not be subject to withholding tax if such is agreed in writing between the foreign artist and the payer in advance.

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Purchase of a business and taxation of assumed, outstanding payables

A statement on the taxation of outstanding payables acquired through the purchase of a business was published on the official site of the Financial Directorate of the Slovak Republic.

In accordance with Article 17 (27) of the ITA, a taxable person payer determining the tax base pursuant to Article 17 (1) b) and c) of the ITA is obliged to increase the tax base by 20%, 50% or 100% of the face value of the payable or its outstanding portion, attributable to an expense (cost) which is a tax expense under Article 19 of the ITA, dependent on the number of days (360, 720, or 1080 days) that have passed since the maturity period of the outstanding payable. The maturity period of the payable is a period agreed at the inception of the payable, which cannot be prolonged for tax base adjustment. Article 17 (32) of the ITA stipulates a method for tax base adjustment (decrease) in the event of a liability settlement after the period in which the tax base was increased by 100% of the face value of the payable or its outstanding portion, and in the event of the payable being time-barred or terminated.

Under Article 17a (4) (c) of the ITA, a taxable person selling a business, who determines their tax base pursuant to Article 17 (1) (b) or (c) of the ITA must decrease the tax base in the taxation period in which the contract for the sale of a business becomes effective by an amount of liabilities attributable to an expense (cost), by which the tax base was increased pursuant to Article 17 (27) of the ITA.

The ITA does not establish a special procedure for an increase of the tax base for the purchase of a business if the statutory time limit for the maturity period of the liability acquired by the purchase of a business by the taxable person via the purchase of a business expired, thus, the Financial Administration of the SR concluded that a taxable person buying a business must comply with Article 17 (27) of the ITA and increase the tax base in the

taxation period in which the statutory time limit of the maturity period of the liability acquired by the purchase of a business expired.

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