



## Tax&Legal Highlights

### Slovakia

#### **Information on the Issuance of a Tax Residence Certificate to Taxable Persons with Unlimited Tax Liability in the Slovak Republic**

**The Financial Directorate of the Slovak Republic published information on the issuance of tax residence certificates to taxable persons with unlimited tax liability.**

The Financial Administration of the Slovak Republic issues a "Tax Residence Certificate" to taxable persons with unlimited tax liability if the applicable international double taxation avoidance treaty is applied. The place of a taxable person's tax residence is assessed in accordance with the Income Tax Act and in accordance with the provisions of the relevant double taxation avoidance treaty.

The Financial Administration of the Slovak Republic may issue a tax residence certificate also in relation to the countries with which the Slovak Republic has not concluded an international double taxation avoidance treaty. In this case, the place of a taxable person's tax residence is assessed solely in accordance with the Income Tax Act.

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Before issuing the tax residence certificate or certifying tax residence on a foreign form, the tax authority thoroughly examines the facts in accordance with the Income Tax Act and the relevant double taxation avoidance treaty.

To speed up and simplify the administrative process when determining the scope of a natural person's tax obligations in the Slovak Republic, the tax authority submits to this natural person the "Definition of the Scope of Natural Person's Tax Obligations in the Slovak Republic Form" for completion and requests the natural person to document the information provided in the form. The form must be completed completely and correctly as the information determines the tax authority's assessment of tax residence.

A natural person as a taxable person may submit a completed and signed "Definition of the Scope of a Natural Person's Tax Obligations in the Slovak Republic Form" as an annex to a request. If the completed form is not attached to the form, the tax authority will request the taxable person to complete it and document the facts.

The Financial Administration of the Slovak Republic uses two document templates to certify tax residence: "Tax Residence Certificate for Treaty States" and "Tax Residence Certificate for Non-Treaty States". Both templates are available in three languages (Slovak, English, German) and the tax authority completes them in Slovak.

If the tax authority's tax obligation assessment process shows that the taxable person does not meet the criteria for determining a place of tax residence in the Slovak Republic under the Income Tax Act and the relevant international double tax avoidance treaty, if applicable, or if the taxable person is unable to document the declared facts, the tax authority will notify the taxable person in writing that a tax residence certificate will not be issued or that a foreign tax residence form will not be confirmed. The tax authority is not authorised to confirm that a taxable person is not a tax resident of the Slovak Republic.

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## The Government's Amendment to Act No. 222/2004 Coll. on Value Added Tax, as Amended

The Ministry of Finance of the Slovak Republic submitted a draft amendment to the VAT Act effective from 1 January 2019. The draft amendment to the VAT Act will be discussed by the relevant committee of the National Council of the Slovak Republic.

The most important proposed changes are presented below:

- **Cancellation of the tax guarantee concept** – decisions on the deposit of a tax guarantee issued up to 31 December 2018, where a 12-month period since the date of the guarantee deposit has not expired, will be cancelled, and the guarantee or its part, which was not used to pay tax arrears, must be returned by the tax authority by 28 February 2019.
- **Change in the definition of turnover for VAT purposes/coefficient for the proportional deduction of tax** – it is proposed to replace the terms "revenues" and "income" with the term "value of supplied goods and services" as a result of which the fair value of supplied goods and services will be included in the turnover, ie the consideration at the time of their supply. The said change will also affect the provision on the calculation of the coefficient for the proportional deduction of tax. Following changes effective on 1 January 2019, the method of calculating the turnover and the coefficient for the proportional deduction of tax for 2018 will be regulated under transitional provisions.
- **Supply of goods/services when using vouchers** – the definition of a voucher and rules for the application of VAT when using such a voucher are to be added to the Act. According to the new rules, vouchers will be classified as "single-purpose vouchers" or "multi-purpose vouchers" depending on whether the amount of tax payable and the place of supply of goods/services to which the voucher applies, is known at the time of the voucher issue. The new rules for the tax treatment of vouchers for VAT purposes will apply to vouchers issued after 31 December 2018.
- **Modification of rules for providing telecommunication services, radio and television broadcasting services and electronic services to a person other than a taxable person** – the new rules will mainly apply to occasional providers of the said services and they will be able to decide whether the place of supply of these services is the Member State of establishment of the service recipient or the Member State of their establishment, provided they comply with statutory requirements.
- **Changes to the supply and lease of real estate** - the relevant provision of Article 38 of the VAT Act is to be amended significantly. The first major change is new conditions for applying a tax exemption upon the supply of a building or its part, according to which for the first 5 years the taxation will apply not only to new buildings, but also to older buildings for which a change in purpose has been permitted, and to reconstructed buildings, provided that in both cases the costs of the construction work amount to at least 40% of the value of the

building before the start of construction work. Another change is the limitation of the right to choose taxation upon the supply of a residential building or its part that qualifies for tax exemption. The same limitation will apply to the right to choose when leasing residential real estate, ie the lessor will be required to apply a tax exemption regardless of the status of the recipient.

- **Adjustment of deducted tax for investment property** – a new provision is to be introduced, imposing a payer’s obligation to adjust deducted tax for investment property with a cost over EUR 3 319.39 if the extent of its use for business and other-than-business purposes has changed.
- **Modification of the domestic reverse-charge for selected agricultural crops and metal goods** – it is proposed to abolish the transfer of the tax liability to the recipient in situations where the supplier issues a simplified invoice (eg a receipt from an electronic cash register) upon the supply of the above goods.

**The draft amendment to the VAT Act also specifies in more detail certain provisions of the VAT Act, including the following:**

- **Registration obligation upon the sale of a business or part of a business** – the reference to the Commercial Code is deleted as the supply of a business or its part is a term defined by the European Union and should not therefore be governed exclusively by Slovak legislation.
- **Free supply of goods** – the payer is required to pay VAT on a free supply of goods if the payer applied a VAT deduction upon the purchase of the goods or part thereof, but the tax base will only include the costs related to the part of the goods which increased in value after the purchase and to which VAT deduction was applied

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