



Tax&Legal Highlights

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

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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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