



Proposed amendments to the Income Tax Act Selected topics

August 2017

Proposed change to the Income Tax Act New Articles 13a and 13b	Current version	Deloitte view	Legislative status
<p>Income amounting to 50% of the remuneration for providing the right to utilize a patent, a design or a computer software, resulting from an inventive activity of a taxpayer in the territory of the Slovak Republic, is made tax-exempt.</p> <p>Furthermore, incomes, resulting from the sale of goods, in production of which a patent, a utility model or a design, resulting from an inventive activity of a taxpayer in the territory of the Slovak Republic, was partially or entirely utilized, are exempt from the tax, provided that these incomes were collected from individuals who were allowed by the taxpayer to use said patent, a utility model or a design, or made by the taxpayer. The aforesaid exemption is subject to various conditions e.g. capitalization of the costs for development of the patent, the design or the software.</p>	<p>The mentioned income is not considered as tax-exempt based on the current Income Tax Act (hereinafter "ITA").</p>	<p>Some of the conditions imposed by the new provisions will make it difficult for the software companies to utilize the benefit of the new provision in general. The software development costs are typically not capitalized i.e. the benefit of the new provision cannot be utilized due to not fulfilling the condition of capitalization of the costs.</p>	<p>During the interdepartmental comments-raising process in July, substantial comments were submitted mainly around the fact that software companies are not going to be able to utilize the benefit of the new provision in practice.</p>

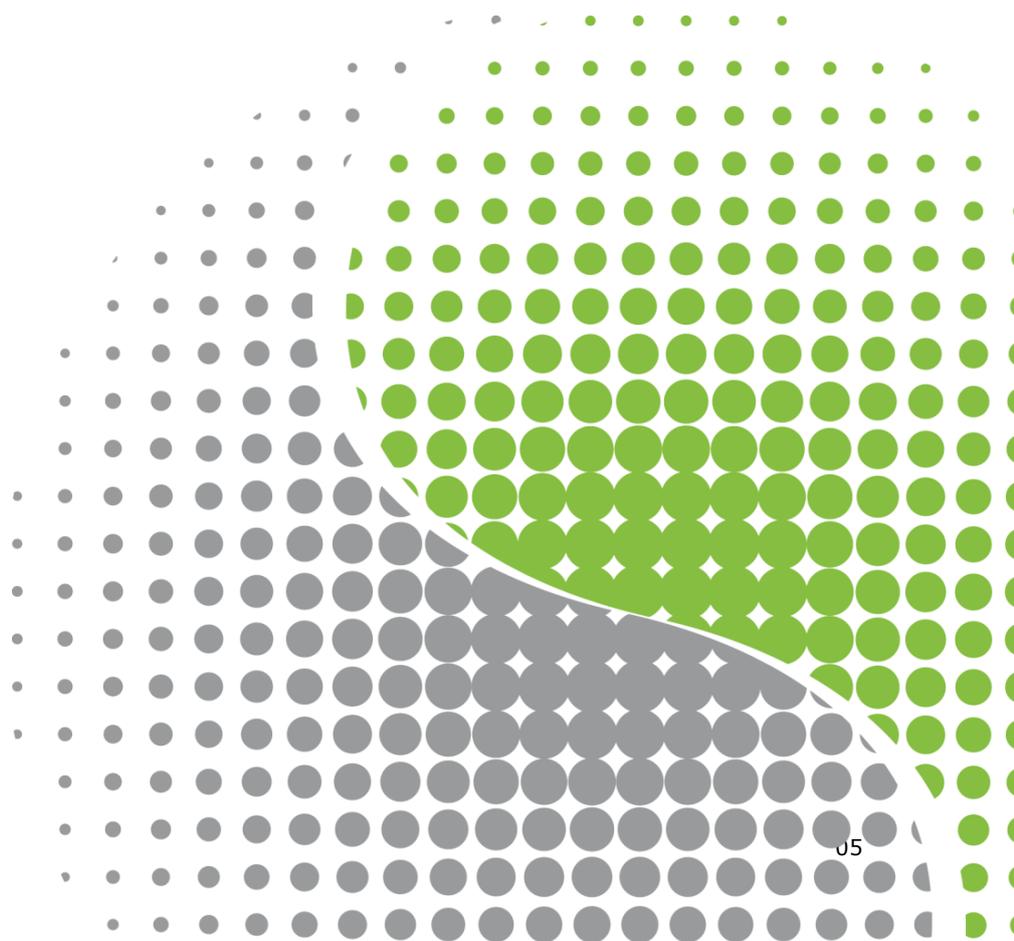
Proposed change to the Income Tax Act Article 16 Section 2	Current version	Deloitte view	Legislative status
<p>The definition of performing activities within a permanent establishment is being extended. Also the performance of activities through a digital platform in the territory of the Slovak Republic will be considered as an activity performed within a permanent establishment. Examples of the activities coming from this extended definition could be a repeated mediation of transportation or accommodation services, even via a digital platform.</p>	<p>The current definition does not reflect the actual business models of some business activities that are provided without the physical presence of an entrepreneur in the territory of the Slovak Republic.</p>	<p>The drafted provision acts discriminatory for certain business activities of foreign persons that utilize only specific technological innovations, which are defined in the draft as a digital platform. Provided the draft is passed, it could cause the decrease of the innovation by the foreign investors.</p>	<p>During the interdepartmental comments-raising process in July, various comments were submitted mainly requesting more precise definitions to avoid misinterpretation.</p>



Proposed change to the Income Tax Act New Articles 17f, 17g and 17h	Current version	Deloitte view	Legislative status
<p>The proposed provision introduces so-called “exit tax”. In case a taxpayer attempts to move his tax residence or transfer his assets outside the territory of the Slovak Republic, the taxpayer has to impose the tax on all capital gains generated in the Slovak Republic, even if the gains were not yet realized at the time when the assets move (i.e. a fiction of sale applies). The tax rate applied on this tax base is 21%. The amount taxed is determined as the difference between the fair value and the tax value, however this difference must not be negative. In case the assets are transferred into a member state of the EU, or a contractual state of the EEA agreement, the tax can be paid in installments over the period of 5 years.</p>	<p>Since these are newly drafted provisions and a new concept for the Slovak Republic as such, there is no comparable current version.</p>	<p>The drafted provision is not precise enough and could bring some practical interpretation issues, especially within the international context.</p>	<p>During the interdepartmental comments-raising process in July, various comments were submitted mainly requesting more precise definitions to avoid misinterpretation.</p>



Proposed change to the Income Tax Act Article 30c Section 1	Current version	Deloitte view	Legislative status
<p>100% R&D expenses can be deducted from the taxpayer's tax base decreased by the applicable tax loss. Furthermore, additional deduction is possible provided certain criteria are met (this involves calculating the R&D expenses for the preceding two years and comparing them).</p>	<p>Currently, the aforementioned base for deduction is at 25%. Similarly, only 25% of the said difference between the expenses tied to R&D over the current and previous taxation periods, can be deducted.</p>	<p>The new provision could motivate the taxpayers to invest more resources into R&D.</p>	<p>During the interdepartmental comments-raising process in July, various comments were submitted mainly around the fact that with the new calculation of the R&D expenses (going two years back and averaging those years), no additional expenses might in the end be deducted.</p>



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