

Deloitte News

July – August 2017, Deloitte in Slovakia

Direct Taxes:

- **Taxation of Overdue Payables Following the Application of Low Capitalisation Rules**

If the interest paid on a loan from a related legal entity exceeds 25% of EBIDTA and, therefore, is not a tax-deductible expense, the taxable person does not apply the procedure under Article 17 (27) of the ITA (overdue payables) to this portion of unpaid loan interest. The tax base adjustment under this provision only applies to the portion of unpaid loan interest that was included in the tax base.

- **Draft Amendment to Act No. 595/2003 Coll. on Income Tax, as Amended**

A draft amendment to the ITA is undergoing interdepartmental circulation of comments. The draft amendment proposes, inter alia, the following changes:

- A tax exemption of 50% of a consideration for the granting of a right to use or for the use (Article 13a) of a patent or a utility model, design, computer program (software);
- A tax exemption of 50% of the sale of products (Article 13b) whose production involved a partial or full use of a patent, utility model or design; extended definition of a permanent establishment (Article 16 (2));
- Introduction of exit taxation (Article 17f);
- Payment of exit tax in instalments (Article 17g);
- Prevention of tax base erosion (Article 17h);
- Extended definition of other assets for depreciation purposes (Article 22 (6)); and
- Higher potential deduction of R&D expenses (Article 30 (1)).

- **Conditions for Refund of an Overpayment to the Inheritor**

The Financial Directorate of the Slovak Republic published information that defines the conditions for the refund of an overpayment to the inheritor when a taxable person dies.

Indirect Taxes:

- **Methodological Instruction on the Determination of the Place of Supply of Goods Supplied by Mail Order with Respect to Value Added Tax**

The Financial Directorate of the Slovak Republic issued a methodological instruction on mail order with respect to Act No. 222/2004 Coll. on VAT, as amended (hereinafter the "VAT Act").

- **Methodological Instruction on the Determination of the Place of Supply of Goods Pursuant to Article 13 of the VAT Act**

The Financial Directorate of the Slovak Republic issued a methodological instruction on the determination of the place of supply of goods for VAT purposes.

- **Reporting a Tax Base Correction with Respect to the Supply of Goods that Are Tax Exempt under Article 43 (1) of the VAT Act (Intra-Community Supply) in the VAT Return**

The Financial Directorate of the Slovak Republic published on its website information on the correct reporting of corrections in the VAT return where the correction involves the supply of goods to another EU Member State.

- **VAT Refund to Travellers Who Export Goods**

The Financial Directorate of the Slovak Republic issued information on VAT refunds to travellers – natural persons with permanent or temporary residence outside the EU exporting goods from the EU in their personal luggage.

- **Preparation of an Invoice for Goods Sold by Mail Order and Its Reporting in the VAT Transactions Statement**

In conjunction with the methodological instruction on mail orders for VAT purposes, the Financial Directorate of the Slovak Republic published information on the obligation to prepare an invoice for mail order sales and to report it correctly in the VAT transactions statement.

- **EU Court of Justice – VAT**

C 288/16 L.Č. IK vs. Valsts ienemumu dienests – VAT Exemption – Supply of Services Directly Connected with the Exportation or the Importation of Goods

Exemption from VAT pursuant to Article 146 (1) (e) of Council Directive 2006/112/EC of 28 November 2006 on the common system of VAT does not apply to a supply of services, such as that at issue in the main proceedings, relating to a transaction consisting in the transport of goods to a third country, where those services are not provided directly to the consignor or the consignee of those goods.

C 36/16 Minister Finansów vs. Posnania Investment SA – Supply of Goods for Consideration – Transfer to the State or to a Local Authority of Immovable Property in Order to Settle a Tax Debt

The transfer of ownership of immovable property for the benefit of the State Treasury or a local authority of an EU Member State, occurring due to payment of a taxable person's tax arrears, does not constitute a supply of goods for consideration subject to VAT.

C 254/16 Glencore Agriculture Hungary Kft. vs. Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatóság – Tax Audit to Refund Overpaid VAT – Fine Imposed on the Taxable Person in the Course of the Tax Audit – Payment of Default Interest

EU law must be interpreted as precluding national legislation, under which, where a tax audit procedure is initiated by a tax authority and where a taxable person is fined for failure to cooperate, the date of the refund of overpaid VAT may be delayed until the formal report on that audit is delivered to the taxable person and the payment of default interest may be refused, even where the duration of the tax audit procedure is excessive and cannot be attributed entirely to the conduct of the taxable person.

C 26/16 Santogal M-Comércio e Reparação de Automóveis Lda vs. Autoridade Tributária e Aduaneira – Conditions for the Exemption for an Intra-Community Supply of a New Means of Transport – Good Faith and Obligation of Diligence on the Part of the Vendor

Article 138 (2) (a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of VAT:

- Precludes national provisions from making the VAT exemption of an intra-Community supply of a new means of transport subject to the requirement that the purchaser of that means of transport must be established or domiciled in the Member State of destination of that means of transport;
- Must be interpreted as meaning that the VAT exemption of a supply of a new means of transport cannot be refused in the Member State of supply on the sole ground that that means of transport has been registered only temporarily in the Member State of destination;
- Precludes the vendor from being required to pay VAT when it is not established that the temporary registration regime has ended and VAT has or will be paid in the Member State of destination; and
- Precludes the vendor from being required to pay VAT in the event of tax evasion by the purchaser, unless it has been established, in the light of objective evidence, that that vendor knew or ought to have known that the transaction was part of a fraud and he did not take all reasonable steps within his power to avoid his participation in that fraud.

Legal:

- **Amendment to the Real Estate Register Act**

The amendment is intended to speed up the property registration process, build a central cadastral information system and remove duplicate ownership.

- **Amendment to the Commercial Code**

The amendment proposes a number of changes, especially for companies.

- **Draft Personal Data Protection Act**

The new Act seeks to harmonise Slovak legislation on personal data protection with the General Data Protection Regulation and the Police Directive.

Others:

- **Draft Amendment to Act No. 563/2009 Coll. on Tax Administration (Tax Procedure Code)**

The Ministry of Finance of the Slovak Republic submitted a draft amendment to the Tax Procedure Code, which proposes a number of changes, for interdepartmental circulation of comments. For example, the amendment amends the tax secrecy obligation and introduces the tax reliability index and other new measures to combat tax evasion.

- **New OECD Guidelines on Transfer Pricing for Multinational Enterprises and Tax Administrations**

The OECD issued new TP guidelines, which are updated with respect to the BEPS project reports.

- **OECD Issued Additional Guidance on Country-By-Country Reports**

On 18 July, the OECD issued additional guidance on CbC reports.

- **Updated Global Overview of Transfer Pricing Information**

An updated overview of transfer pricing information can be found on Deloitte's website: [here](#)

- **Judgment of the Court of Justice (Tenth Chamber) of 22 June 2017 – C-20/16 Bechtel – Insurance Contributions**

The request for a preliminary ruling concerns Article 45 TFEU. The request was made in proceedings concerning the inclusion of pension and health insurance contributions.

- **Judgment of the Court of Justice (Third Chamber) of 13 July 2017 – C-89/16 Szoja – Determination of a Social Security Scheme for a Person Employed in One Member State and Self-Employed in Another Member State**

The request for a preliminary ruling concerns taking into consideration the negligibility of dependent activities when determining the social security scheme for persons employed and self-employed in two different Member States.

- **Proposal to Modify the OECD Commentary on the OECD Model Double Taxation Avoidance Convention**

The OECD issued a proposal to modify the commentary on the Model Double Taxation Avoidance Convention. The proposal, inter alia, clarifies the commentary on Article 4 of the Model Double Taxation Avoidance Convention.

- **Treaty between the Slovak Republic and Montenegro on Social Security**

The Ministry of Foreign and European Affairs of the Slovak Republic issued a notice of the signing of a Social Security Treaty between the Slovak Republic and Montenegro.

- **Information of the Social Insurance Agency on:**

- Notice on social security contributions for traders since 1 July; and
- Notice on the posting of employees to work in the EU.

The Social Security Agency published on its website information on the amount of social contributions for traders from 1 July 2017 and the information for employers on the posting of employees to work in the EU.

- **Measure of the Ministry of Labour, Social Affairs and Family of the Slovak Republic on the Change in the Conditions for Pension Payments and Measure Laying Down a Template Offer Letter**

The Ministry of Labour, Social Affairs and Family of the Slovak Republic issued:

- A measure amending, with effect from 1 February 2018, the conditions to be met for the payment of old-age pensions and early retirement pensions from old-age pension savings by programmed selection, ie temporary old-age and temporary early retirement pension.
- A measure laying down new template offer letters in relation to a change in the conditions to be met for the payment of old-age pensions and early retirement pensions in the form of programmed selection, ie temporary old-age and temporary early retirement pensions.

- **Measure of the Ministry of Labour, Social Affairs and Family of the Slovak Republic on the Change in the Subsistence Minimum Amounts**

The Ministry of Labour, Social Affairs and Family of the Slovak Republic issued a measure changing the subsistence minimum amounts with effect from 1 July 2017.

- **taxCube™**

taxCube™ is a dedicated software developed by Deloitte to substantially increase the efficiency of the preparation of regular and additional VAT returns, VAT transactions statements and EC sales lists. taxCube™ simplifies and automates the preparation of VAT reports, reduces costs the risk of errors, and shortens the time needed for the preparation of VAT reports from days to hours.

taxCube™ performs a wide range of checks on imported data. taxCube™ is compatible with the IT environment and accounting procedures and methods that you use (use of exchange rates and credit notes, setup of tax codes, etc). Deloitte professionals will tailor the software to your needs.

More informations at www.taxcube.sk.

- **Deloitte VAT Analytics**

Deloitte has developed a tool enabling an aggregated review of the entire set of documents that are reflected in the VAT return, EC Sales List and VAT Transactions Statement. An input for VAT Analytics is a data file from an accounting system containing detailed information about accounting documents.

A Deloitte team of VAT specialists has prepared more than 70 tests which after uploading a data file check whether VAT rules have been applied correctly and identify specific accounting documents that could be incorrect. For more informations, please contact **Ján Skorka** at jskorka@deloittece.com.

- **Events of Deloitte in Slovakia - September, October 2017** (<http://kalendar.deloitte.sk/>)

- **Deloitte Excel Academy 2017 – Bratislava**
27 September 2017
Bratislava, Einsteinova 23
[Find out more](#) | [Register](#)
- **Deloitte VAT Academy 2017 – 4 Modules – Žilina**
28, 29 September and 5, 6 October 2017
Žilina
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- **Deloitte IFRS Academy 2017 – Košice**
29 September 2017
Košice
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- **Deloitte VAT Academy 2017 - 4 Modules – Košice**
19, 20, 26 and 27 October 2017
Košice
[Find out more](#) | [Register](#)
- **Deloitte IFRS Academy 2017 – Bratislava**
24 October 2017
Bratislava, Einsteinova 23
[Register](#)

- **Deloitte Legal Dbriefs**

We invite you to explore our Deloitte Legal Dbriefs – live webcasts on current legal topics. You can explore past and upcoming Dbriefs at this link:

<http://www.deloitte.com/dbriefs/deloittelegal>

- **Dbriefs**

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www.ukdbriefs.com

Deloitte Europe

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Global Dbriefs

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Please contact your usual Deloitte contact person or any of the contact persons listed here if you would like our help.



Partner

Larry Human
lhuman@deloitteCE.com



Partner

Martin Rybár
mrybar@deloitteCE.com



Partner

Lúbica Dumitrescu
ldumitrescu@deloitteCE.com



Slovak accounting and IFRS

Ľudmila Buzgová
lbuzgova@deloitteCE.com



Taxation of Individuals

Mariana Ježíková
mjezikova@deloitteCE.com



Taxation of Companies

Jana Farkašová
jafarkasova@deloitteCE.com



VAT and Customs

Ján Skorka
jsorka@deloitteCE.com



Korean Desk

Jin Suk Choi
jinsuchoi@deloittece.com



Transfer Pricing

Martin Sabol
msabol@deloitteCE.com



Deloitte Legal

Miroslava Terem Greštiaková
mgrestiakova@deloitteCE.com

Deloitte Tax s.r.o.
Digital Park II
Einsteinova 23
851 01 Bratislava
Slovak Republic
Tel.: +421 2 582 49 111
Fax: +421 2 582 49 222
www.deloitte.sk

Deloitte Legal s.r.o.
Digital Park II
Einsteinova 23
851 01 Bratislava
Slovak Republic
Tel.: +421 2 582 49 111
Fax: +421 2 582 49 222

Our Offices

Bratislava

Digital Park II
Einsteinova 23
851 01 Bratislava
Tel.: +421 2 582 49 111
Fax: +421 2 582 49 222

Žilina

Komenského 8854/19
010 01 Žilina
Tel.: +421 905 365 282
Fax: +421 910 828 333

Košice

Štúrova 28
040 01 Košice
Tel.: +421 55 728 1811
Fax: +421 55 728 1827

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