

NEWSFLASH

The beginning of 2017 brings a number of interesting changes in the area of taxes and levies. In this issue of our Newsflash we are summarizing selected changes for you.

I. Amendment to VAT Act

1. New form of VAT ledger

According to the new rules, taxpayers will report in the VAT ledger also supplied construction works, in respect of which the transfer of tax liability to the customer will apply.

They will have to specify these supplies in part A.2 of the VAT ledger. As before, the supplies will not be declared in the supplier's VAT return form.

The amendment will require a modification of software for the processing of VAT records of taxpayers.

The new form of the VAT ledger will be used for the first time for the VAT period of January 2017 or the first quarter 2017, depending on the taxpayer's VAT period (monthly or quarterly).

2. Transfer of tax liability in construction sector

For many entities, the introduction of the transfer of tax liability in the context of construction works in 2016 led to an increased administrative burden. The Slovak Financial Directorate has instructed customers for construction works to verify a tax regime of received supplies regardless of tax treatment applied by the supplier.

As of 1 January 2017, this administrative burden has been partially reduced as a result of introduction of a legal presumption of correctness of data regarding a tax regime of supplies of goods and services in the construction sector that are specified in an invoice issued by the supplier.

If the issued invoice contains words "transfer of tax liability" (in Slovak: "prenesenie daňovej povinnosti"), the taxpayer who receives the supplies will have an obligation based on the law to pay the tax. Tax treatment applied by the supplier will thus be decisive for him.

3. Interest from excessive VAT deduction

From the beginning of the year 2017, the Slovak tax legislation requires the Slovak tax authorities to provide

financial compensation (interest) to taxpayers for the retention of an excessive VAT deduction during a tax audit.

The entitlement of the taxpayer to interest arises if the excessive VAT deduction is not returned to the taxpayer within six months of the last day of a statutory time limit for the return of the excessive VAT deduction. If a tax audit is opened, statutory time limit for the refund of excessive VAT deduction is 10 days from the end of the tax audit. Standard time limits for returning the excessive VAT deduction vary under normal circumstances (when no tax audit is opened) between 30 days and 120 days from the date of filing the VAT return, depending on the taxpayer's VAT period.

The interest rate will derive from the basic interest rate of the European Central Bank, whereby its minimum will be 1.5% p.a. It will not be required to apply for the interest as it will be acknowledged directly by the tax authority.

The entitlement to interest directly based on the law will also arise in cases when the tax audit has started before 1 January 2017 and it has not been completed by 1 January 2017.

4. Deduction of input VAT by foreign persons

The VAT law after amendments makes it clear that non-established taxable persons registered for VAT in the Slovak Republic will have a right to claim in their Slovak VAT returns input VAT pertaining to transactions where they are obliged to account for output VAT under reverse charge procedure. This includes for example acquisition of goods in Slovakia from another EU Member State or purchase of goods or services from another VAT payer where reverse-charge procedure applies. In these cases foreign persons should not proceed via a non-resident VAT refund claim.

The amendment explicitly concerns deduction of self-assessed VAT (rather than deduction of VAT shown in the invoices issued by the suppliers). The method foreseen by the amended VAT law broadly corresponds to what the taxpayers have already applied in practice so far based on the interpretation of VAT law. In this context, the latest amendment decreases legal uncertainty as regards the way of recovery of self-assessed input VAT.



5. Reverse-charge in case of importation of goods

In general, the importation of goods from third countries to the Slovak Republic is subject to VAT to be paid by the importer to the customs office. The importer can claim recovery of import VAT only once it is paid and in general only through a tax return (or through a non-resident VAT refund claim in case of foreign persons). The import VAT is thus refunded with a delay.

The existing regime for the deduction of VAT paid upon the importation should have been replaced with the effect from 1 January 2017 by a reverse-charge mechanism with potential zero impact on importer's cash flow, as the importer would, at the same time, assert the right to deduct the import VAT in a tax return.

Due to the public debt developments in the Slovak Republic, the introduction of this regime has been delayed.

Reference to the legislation in the website of the National Council of the Slovak Republic:
<http://www.nrsr.sk/web/Default.aspx?sid=zakony/zakon&MasterID=6020>

II. Amendment to Income Tax Act

An amendment to the Income Tax Act became effective on 1 January 2017. We informed you about the draft amendment in more detail in [our Newsflash No. 10/2016](#).

Key changes include:

- Decreasing corporate income tax rate from 22% to 21%.
- Introducing taxation of shares on profits (dividends) paid out to individuals by a rate of 7% and introduction of taxation of dividends paid out to legal entities from non-contracting countries by a rate of 35%.
- Increasing a maximum limit for claiming lump sum expenses for self-employed individuals from 40% to 60% of income (in absolute terms the limit has been increased from EUR 5,040 to the maximum amount of EUR 20,000).
- Abolishing the tax licence (minimum tax) with effect from 1 January 2018.
- Changes in the area of transfer pricing. These changes include, in particular, the introduction of a definition of the term "controlled transaction", the modification of the mechanism for corresponding adjustments to the tax base in respect of domestic related parties, as well as the

clarification of the process of approving a transfer pricing method by the tax authority.

- The new system of penalties for taxpayers that have breached transfer pricing rules, which includes doubling of the sanctions.

Reference to the legislation in the website of the National Council of the Slovak Republic:
<http://www.nrsr.sk/web/Default.aspx?sid=zakony/zakon&MasterID=6079>

III. Changes in health insurance and social insurance

Health insurance

An amendment to the Health Insurance Act abolishes the maximum assessment basis for health insurance premiums (health insurance contributions) for all types of income subject to health insurance except dividends.

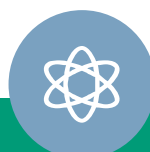
In order to ensure continuity with the previous state, the rate of 10% (or 5% for persons with disabilities) and the so far applied maximum assessment base (ceiling), i.e. 60 times the average monthly wage, will continue to apply to dividends that arose in the accounting periods from 1 January 2011 to 31 December 2012.

The abolition of the maximum assessment basis will neither apply to dividends that arose in the accounting periods from 1 January 2013 to 31 December 2016 and that will be paid out anytime in the future, as the so far applied ceiling, i.e. 60 times the average monthly wage, will continue to apply to these dividends. These dividends (paid out of profits generated between 2013 and 2016) will continue to be subject to health insurance contributions at a rate of 14%.

Reference to the legislation in the website of the National Council of the Slovak Republic:
<http://www.nrsr.sk/web/Default.aspx?sid=zakony/zakon&MasterID=6064>

Social insurance

An amendment to the Social Insurance Act increases several types of maximum assessment bases. For example, a maximum assessment basis for employees and employers increases as of 1 January 2017, from five to seven times the average monthly wage. From 1 January 2017, a maximum assessment basis of EUR 6,181 applies to employees and employers.



Reference to the legislation in the website of the National Council of the Slovak Republic:
<http://www.nrsr.sk/web/Default.aspx?sid=zakony/zakon&MasterID=5988>

IV. Special levy from business activities in regulated industries

On the basis of an amendment to the Act on the Special Levy from Business Activities in Regulated Industries, the special levy in regulated industries will be doubled, while it should gradually decrease to the initial rate applicable in 2006. The double rate should be decreased in two stages from 2019 and from 2021, respectively. According to the previous wording of the act, the regulated entities were obliged to pay the special levy for the last time for 2016, while after the amendment the levy will continue to apply without further time limitation.

According to the new rules, entities will pay the special levy exclusively out of revenues derived from regulated activities. A condition, according to which the levy obligation related only to entities with at least 50% of total revenues from regulated activities, has been abolished. The obligation to pay the special levy will apply to regulated entities with profits of at least EUR 3 million.

Reference to the legislation in the website of the National Council of the Slovak Republic:
<http://www.nrsr.sk/web/Default.aspx?sid=zakony/zakon&MasterID=6078>

V. Levy of part of premiums for non-life insurance

An amendment to the Insurance Act has extended a levy obligation of insurers in the amount of 8% of received insurance premiums to all non-life insurance sectors. The amendment became effective on 1 January 2017. So far the levy obligation has applied only to motor vehicle third party liability insurance (i.e. insurance of liability for damage caused by the use of motor vehicles).

According to new rules, due to possible retroactivity, the levy will be paid only for contracts concluded after 31 December 2016. Moreover, in order to reduce the administrative burden, the frequency of payment of the levy and of submission of data has been reduced from four times to two times per year. The levy will be administered by the Tax Office for Selected Taxpayers.

Reference to the legislation in the website of the National Council of the Slovak Republic:
<http://www.nrsr.sk/web/Default.aspx?sid=zakony/zakon&MasterID=6071>

VI. Changes in Tax Procedure Code

With the effect from 1 January 2017, an amendment to the Tax Procedure Code introduces a new way of assessing a tax in summary assessment proceedings as well as other changes, some of which we discuss below.

Changes in proceedings to eliminate tax return deficiencies

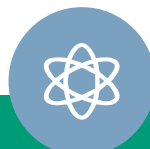
The amendment to the Tax Procedure Code introduces stricter rules for sending a request by a tax administrator to eliminate deficiencies in a tax return. As of 1 January 2017, in the case of failure to eliminate deficiencies, consequences for a taxpayer will depend on the question whether the deficiency in the submitted tax return or its annex (hereinafter referred to as "filling") affects or does not affect a tax amount or amount that the taxpayer had to report or which he claimed (hereinafter referred to as "tax amount").

Formal deficiencies of the filling that do not affect the tax amount will be eliminated by the tax authority on its own motion, provided the taxpayer does not eliminate them on the basis of a request and the tax authority has the necessary information for the purpose of their elimination. This might include, for example, clerical errors, logical errors, incorrectly stated Tax Identification Number, tax period or an untitled filling.

In the case of failure to eliminate deficiencies in the filling that affect the tax amount, the tax administrator either starts a tax audit or assesses a tax or tax difference in relation to the assessed tax, or determines a sum or difference in a sum that the taxpayer had to report or which he claimed (hereinafter referred to as "tax") in summary assessment proceedings.

It will be possible to sign a tax return that has not yet been signed later without a risk of a sanction. If the submitted tax return has not yet been signed, the tax administration will request the person concerned to appear before it and sign the tax return later without the imposition of a fine. In the case of failure to comply with the request, it will be presumed that the tax return has not been submitted.

If the taxpayer submits the return on a form not prescribed for the tax period concerned, the tax administrator will request the taxpayer to eliminate this deficiency. If the taxpayer does not submit the tax return on a form prescribed for the tax period concerned within a deadline specified in the request, it will be presumed that the tax return submitted on the incorrect form has not been submitted and the tax will not be assessed by it.



If the taxpayer complies with the request and submits the tax return on the valid form or adds his signature within the deadline specified in the request, it will be presumed that this tax return has been submitted on the earlier day without deficiencies.

Assessment order – assessing tax without tax audit

If, following a request, a taxpayer does not eliminate deficiencies of a tax return affecting an amount of tax and the tax administrator has not started a tax audit, the tax administrator will issue a decision, the so-called assessment order, on the basis of facts and evidence gathered by it during summary assessment proceedings. A remedy against the assessment order (for example an appeal) is not permissible. The assessment order may be reviewed by a court.

It will be possible to file a protest against the assessment order within 15 days of its receipt. The tax administrator will reject the protest if it has been filed belatedly, by an unauthorized person or without material justification. The assessment order will become final and valid on the day on which a decision on the rejection of the protest becomes final and valid or by the expiry of a deadline for filing the protest, provided that the protest has not been filed. After the day of issuance of the assessment order, it will not be possible to submit an additional tax return. If the tax authority has not rejected the protest, it will annul the assessment order and start a tax audit. The tax authority may carry out the tax audit of the same tax also for a tax period for which it assessed the tax by the assessment order, however only upon a motion of the financial directorate or the ministry of finance.

Simplifying conditions in case of deferral of payment of tax and settlement of tax in instalments

As of 1 January 2017, **it is not necessary to establish a lien** or to secure an obligation in any other way **if an amount of a tax or tax arrears does not exceed EUR 3,000.**

It is also possible from 1 January 2017 to **file an application to permit the deferral of payment of the tax or its settlement in instalments irrespective of when in the past such permission was issued.** Until the end of 2016 it was possible to file the application after one year from the day, which was determined as a day when the tax had to be paid in the last decision permitting the deferral of payment of the tax or permitting the settlement of the tax in instalments.

Changes concerning imposition of preliminary measures

As part of tax administration, preliminary measures are used especially to secure a tax not yet due or a tax which has not yet been assessed and there is a risk that it will not be paid or it will be unrecoverable or the tax enforcement will give rise to disproportionate difficulties when the tax has been assessed or becomes due.

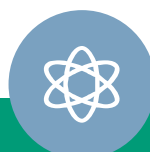
In some cases, an issued preliminary measure will be an enforcement title. According to the amendment, if there is a risk that a monetary amount determined by the preliminary measure will not be deposited on the tax administrator's account, the decision to impose the preliminary measure will be enforceable on the day of its issuance. The enforceable decision is the enforcement title and the tax administrator will start to recover the monetary amount as part of tax enforcement proceedings.

As of 1 January 2017, if the monetary amount determined by the preliminary measure is not deposited by the taxpayer on the tax administrator's account, **the tax enforcement shall be carried out only by attachment of the claim (garnishment of account receivable) from an account held in a bank.** In the case of tax enforcement by attachment of the claim from an account held in a bank, it will be sufficient if, on the basis of the tax debtor's order and without tax administrator's consent, the bank transfers funds from the blocked account in the amount of the recovered tax arrears or its part to the tax administrator's account.

A special procedure shall apply in the case of a preliminary measure relating to real property and a motor vehicle. **A decision imposing a preliminary measure relating to a motor vehicle shall be delivered to both the taxpayer and the police** in order to prevent the sale of this motor vehicle. The fact that the decision imposing the preliminary measure has become final and valid will be subsequently notified to the land registry as well as to the police.

Legal acts taken contrary to a preliminary measure will be deemed invalid. So far this has only applied to decisions imposing a preliminary measure relating to real property.

Money deposited on the basis of a preliminary measure that will not be used for the secured tax will be used to settle taxpayer's tax arrears or other unpaid sums before it is returned. Under so far applied rules money that has not been used for the secured tax shall be returned to the taxpayer in full.



Other changes concerning tax administration

A new obligation, according to which taxpayers and all other persons participating in tax administration have to present an identity document upon a request of a tax administrator's employee, is being introduced.

This obligation will apply in any proceedings or act during the tax administration. So far this obligation has been regulated by the law only in respect of some proceedings, for example local investigation.

After **summoning a taxpayer** or another person whose personal participation is necessary during the **tax administration, the tax administration will not have to repeatedly summon** the person concerned if he fails to appear, but **it can immediately request the competent police department or competent customs office to bring the person before it.**

The amendment **makes the procedure for objecting bias of tax administrators' employees stricter** in order to prevent unjustified or repeated objections on the same grounds that have already been resolved. The amendment introduces a deadline by which it is possible to make the objection of bias against tax administrator's employees. It will be possible to object bias **within 15 days of a day on which the taxpayer has become aware of this fact at the latest.** The amendment has specified objection's content which will have to include certain essential elements. It will not be possible to make the objection if it refers to the same ground as the objection that has already been resolved. The previous wording of the Tax Procedure Code prohibits making the objection of bias against the president of the financial administration while pursuant to the new wording it will not be possible against a director of a tax office or a director of a customs office either.

The amendment defines **a day of issuance of a decision.** Lack of its definition has resulted in inconsistencies when demonstrating such a day. A day of issuance of a decision will be deemed **a day on which an act leading to its delivery has been taken**, i.e. a day on which it has been sent by post or by electronic means. In the case of decisions not being delivered, this day will be a day on which the decision has been signed by an authorized person.

Electronic communication between the financial administration and banks is being introduced. The tax authority will thus be able to send documents to a bank

electronically, which will significantly simplify and streamline the blocking of a specified sum on an account of the tax debtor. Electronic delivery will be equivalent to the personal delivery and will be a preferred delivery method.

Reference to the legislation in the website of the National Council of the Slovak Republic:

<http://www.nrsr.sk/web/Default.aspx?sid=zakony/zakon&MasterID=6021>

VII. Published by finance administration

Finance administration published in its website amended tax laws under section **Guide to 2017 Taxes** (in Slovak only **Sprievodca daňami 2017**).

Reference:

<https://www.financnasprava.sk/sk/financna-sprava/legislativa/sprievodca-danami-a-uctovnictv/sprievodca-danami/2017>

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