



Daňovky

**Tax and Legal
news**

**Taxes
World news
In brief**

**Tax and Legal News |
September 2017 (2nd
edition)**

Parliament approved Amendment to the Tax Code for the second reading

The Amendment of the Act No. 563/2009 Coll. on Tax Administration (the Tax Code) was approved by the Slovak Parliament for the second reading. The next steps of the legislative process are planned for October 2017.



Marianna Dávidová

mdavidova@kpmg.sk
+421 907 745 029

The proposed Amendment significantly modifies the **tax secrecy**. The information whether there is/was a tax audit or tax execution proceeding will not be considered as a tax secrecy.

In accordance with the respective Amendment the exemptions from the tax secrecy will not be explicitly stated in the Tax Code, though the respective authorities will have to prove their entitlement for tax secrecy disclosure which would depend on their responsibilities resulting from Tax Code, other legislation or international treaty.

The individual requests to disclose a tax secrecy will be considered formally with the requestors being responsible for fulfilling of the tax secrecy.

In line with the proposed amendment disclosure of the information on breach of obligation stipulated by the Tax Code or other legislation by the President of the Financial Administration (or authorized person) will not be considered as a breach of tax secrecy, provided there is a valid decision in this respect. Information about the tax secret disclosure will be registered in the taxpayer file.

Amendment of the Tax Code introduces also **the obligation of electronic communication** with the Tax Authorities as of 1 January 2018 for all legal entities and as of 1 July 2018 for individuals registered for income tax.

The amendment of the Tax Code, based on Action plan of fight against tax evasion for the period 2017 – 2018, proposes also introduction of a **summary protocol from several tax audits that are performed simultaneously at several taxpayers** where the breach of the tax law was identified especially in a case where the respective taxpayers are part of a fraud chain. A summary protocol will not replace the obligation of the tax authorities to issue a protocol from the individual tax audits.

The proposed wording introduces also **indexation of taxpayers** including the special tax regimes for reliable taxpayers.

In order to improve business environment it is proposed to extend the deadline for filing of an appeal from the current 15 days to 30 days and decrease a fee for a binding ruling.

Income Tax Act Amendment contains several changes

The proposals concern the tax bonus for paid mortgages interest, tax measures to support spa facilities in Slovakia, patent boxes introduction to support industrial R&D and many others.



Branislav Ďurajka
bdurajka@kpmg.sk
+421 917 843 534



Marianna Dávidová
mdavidova@kpmg.sk
+421 907 745 029



Zuzana Kolečavová
zkolecavova@kpmg.sk
+421 915 758 810

A draft amendment to Act No. 595/2003 Coll. on Income Tax as amended (hereinafter “the SITA”), prepared by The Ministry of Finance of the Slovak Republic, should enter into force as of 1 January 2018 upon approval of the Parliament and signature of the President. The draft amendment is rather extensive and introduces several new provisions also in connection with the implementation of the EU Council Directive of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (ATAD Directive). Please find below an overview of the main proposed changes:

- When buying residential property, young people aged from 18 to 35 will be entitled to apply for a **tax bonus for paid mortgages interest** of 50% of the interest paid in the respective tax period, however up to €400 per year. The tax bonus is calculated from the amount of the mortgage up to €50,000 per property. The tax bonus will be applicable to a taxpayer whose average monthly income for the previous year did not exceed the amount of 1.3 times the average monthly salary of an employee published by the Statistical Office of the Slovak Republic. The tax bonus can be claimed during five consecutive years starting from a month when the mortgage interest began.
- A **new tax allowance on expenses paid in spa facilities** is introduced in order to support development of the Slovak spa industry. Tax allowance in the amount of up to €50 will be applicable for provably paid expenses on food, accommodation and spa treatments which are not reimbursed from the compulsory health insurance. A taxpayer will also be entitled to claim the allowance for his/her spouse or dependent child.
- So called **Patent boxes** are introduced as a new provision with the intent to support industrial R&D. Income for the use or the right **to use of granted and registered patents, utility models and software** created by the taxpayer (not purchased) will be partially exempted from a tax. The exemption will also be applicable to income generated by sale of products manufactured using a registered patent or a technical design protected by a utility model.
- If a taxpayer decides to **transfer assets or business activities abroad**, an obligation to tax the economic value of all capital gains generated in Slovakia will arise (**so called Exit tax**) despite the fact that the profit has not been realised at the time of exit. The exit tax will be reported within a special/partial tax base and taxed at a rate of 21%. Assets transferred outside the territory of Slovakia will be subject to tax even if no sale/change of the legal ownership arises, as long as the Slovak Republic loses its right to tax this income due to transfer of the property. It will be possible to pay the exit tax also in instalments within the period of 5 years provided that the assets are transferred to a country which enables effective collection of receivables, e.g. when the assets, tax residence or business activity are transferred, for example, to an EU Member State. Otherwise the exit tax is payable within the deadline for filing of the tax return.
- The Government introduces rules for controlled foreign companies (CFC) which should be effective as of 1 January 2019. A controlled foreign company is a company which is registered and conducts business in a different jurisdiction

than the residency of the controlling owner. A non-resident company will be treated as a CFC if it is controlled by a Slovak resident himself or jointly with his related parties by direct or indirect share participation in the share capital or voting rights at least 50% or at least 50% profit share, and the corporate income tax of CFC paid abroad is lower than 50% of the Slovak tax. In such a case the corporate income tax base of CFC should be included into the corporate income tax base of its Slovak controlling company, taxed in accordance with the Slovak tax legislation and the respective part of the foreign tax paid can be credited against the final tax liability.

- It is proposed that within **business combinations** of domestic companies it will be possible to perform contributions in-kind, mergers, amalgamations or demergers of companies in principle only **at fair values** for tax purposes. The proposed Amendment to the SITA enables to apply tax regime of historic values only for certain cross-border transactions upon specific conditions.

We will keep you updated on further development of this legislation.

Draft contents of the update to the OECD Model Tax Convention released

Significant parts of the update were already approved and released as part of the BEPS Package. The update will be submitted for the approval of the Committee on Fiscal Affairs and of the OECD Council later in 2017.



Martin Šiška

msiska@kpmg.sk
+421 918 912 042

The OECD Committee on Fiscal Affairs has released the draft contents of the 2017 update to the OECD Model Tax Convention. Significant parts of the update were already approved and released as part of the BEPS Package. The update will be submitted for the approval of the Committee on Fiscal Affairs and of the OECD Council later in 2017. This draft therefore does not necessarily reflect the final views of the OECD and its member countries.

Public comments were already received with respect to certain parts of the 2017 update that have not been part of the BEPS Package. These changes are as follows:

- Changes to paragraph 13 of the Commentary on Article 4. These changes are intended to clarify the meaning of “permanent home available to” in the tie-breaker rule in Article 4(2) a). The draft adds to the Commentary clarifying language that explains a home is no longer available to the individual if rented to an unrelated party so that the individual is not in possession of the home and cannot stay there.
- Changes to paragraphs 17 and 19 of, and the addition of new paragraph 19.1 to, the Commentary on Article 4. These changes are intended to clarify the meaning of “habitual abode” in the tie-breaker rule in Article 4(2) b) and c). The draft update clarifies that the determination period must cover a sufficient length of time to ascertain the frequency, duration, and regularity of stays that are part of the settled routine of an individual’s life.
- The addition of new paragraph 1.1 to the Commentary on Article 5. That paragraph indicates that registration for the purposes of a value added tax or goods and services tax is, by itself, irrelevant for the purposes of the application and interpretation of the permanent establishment definition.
- Deletion of the parenthetical reference “(other than a partnership)” from Article 10(2) a), which is intended to ensure that the reduced rate of source taxation on dividends is applicable in the case where new Article 1(2) would have the effect that a dividend paid to a transparent entity would be considered to be income of a resident of a Contracting State because it is taxed either in the hands of the entity or in the hands of the members of that entity.

Finally, we would like to note that the changes and amendments which had been already approved as a part of the BEPS Package will be included in the draft contents of the 2017 update. This is mainly the following: neutralizing the effects of hybrid mismatch arrangements, preventing the granting of treaty benefits in inappropriate circumstances, artificial avoidance of permanent establishment status and mutual agreement or arbitration.

In Brief

On 20 September the Government approved the Amendment to the Slovak VAT Act.



Tax and Legal Department

kpmg@kpmg.sk
+421 259 984 111

The main changes compared to the original draft amendment, details of which are included in our May's issue of Tax&Legal News, are as follows:

- the option for the Tax Authorities to refund prior to opening a tax audit part of the excessive deduction where they based on the data reported in the VAT Ledger Statement have no doubts as regards the amount to be refunded, will not be introduced,
- VAT payer who decides to opt for taxation of supply of an immovable property will be obliged to announce this decision to the customer in writing, within the deadline for issuance of the respective invoice.

We will keep you updated about the next steps in the legislative process.

[LinkedIn](#) | [YouTube](#) | [Facebook](#) | [Instagram](#)

www.kpmg.sk

Tel.: +421 2 5998 4111

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2026 KPMG Slovensko Advisory, k.s., a Slovak limited partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.