



# Daňovky

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**Legal  
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In brief**

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# Civil Code amendment introduces a special regime in the enforcement of rights arising from consumer contracts

In essence, the draft amendment consists mainly of introduction of a special regime to the enforcement and guarantees of rights arising from consumer contracts. According to the Constitutional Court, the previous legal regime showed asymmetry on the detriment of suppliers, and was therefore deemed inconsistent with several constitutional principles, such as the right to judicial protection and the principle of legal certitude.



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The government has adopted a draft amendment to the Act No. 40/1964 Coll. Civil Code, in which a new provision regarding the limitation of claims arising from consumer contracts shall amend the Civil Code. The mentioned changes represent a reaction on the findings of the Constitutional Court No. PL. ÚS 11/2016-60, which declared the Article 5b of the Act on Consumer Protection as incompatible with the Constitution of the Slovak Republic. These changes shall substantially modify the institute of limitation in the Slovak legal system.

Systematically, the new Article 54b shall be added to the framework of consumer contracts within the Civil Code.

According to the draft Act, following the lapse of the limitation period, a right arising from a consumer contract shall not be enforceable nor can be validly secured. Unlike the annulled provision of the Act on Consumer Protection, the proposed Article shall be applicable to both sides of the consumer-supplier relation.

The above-mentioned shall not affect the performance of a security, in the event that the right arising from a consumer contract was secured prior to lapse of the limitation period. Under the scope of the present Article, a security shall mean all forms of securities provided for in Article 544 and subs. of the Civil Code.

Lapsed right may be validly amended, or replaced by a new right or its enforceability may be restored or debt acknowledged only under the condition that the debtor is aware of the limitation.

The Government's proposal contains interim provisions, in which the described legal regime shall not be applicable to judicial, executorial and arbitration proceedings in the enforcement of a right arising from a consumer contract, initiated prior to the entry into force of the Act.

The Act shall become effective immediately following its publication. Whereas the draft Act was already debated in the first reading during the September parliamentary session, therefore, we expect it to become effective at the end of the year.

# On-line connection of cash registers to financial administration's systems should become mandatory

Slovak government approved proposal of the “e-kasa” project with aim to eliminate fraud in cash receipt reporting based on introducing a mechanism for the online connection of cash registers to the financial administration's central database. The draft amendment is still subject to the approval process in the Slovak parliament. However, businesses concerned should already focus on making the required technical adjustments.



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On 26 September 2018, the Slovak government approved with comments the draft amendment to the Act No. 289/2008 Coll. on the use of electronic cash registers and on amendments to Slovak National Council Act No. 511/1992 Coll. on the administration of taxes and fees and on changes in the system of territorial financial authorities, as amended, and amending certain other acts – new wording.

Up to now, businesses could opt for connecting to the systems of the financial administration on a voluntary basis via so called virtual cash register. Based on the draft amendment, connection to the financial administration should become mandatory. The aim is to eliminate fraud in cash receipt reporting based on introducing a mechanism for the online connection of cash registers to the financial administration's central database.

## *„E-kasa” system*

It is proposed that businesses be required to use an “e-kasa client” cash register to be connected to the systems of the financial administration – so called “e-kasa system”. The e-kasa client cash register means:

1. an online cash register (a set of cash register software, secured data store and hardware tools securing communication with the e-kasa system) and
2. a virtual cash register (service provided by the financial administration accessed through end user devices).

## *Deadlines for launching the new system*

It is proposed that businesses selling goods or services who currently use electronic cash registers can start using the on-line cash register as of 1 April 2019 at the earliest and will become obliged to use such cash register starting with 1 July 2019 at the latest.

Based on the original proposal, hotels, restaurants, cafés and service stations were expected to start using the on-line cash register not later than on 1 April 2019. The Slovak government has in the end accepted the same deadline, which is 1 July 2019, for all the sectors concerned.

Businesses who wish to transfer to the virtual cash register can do so as of 1 January 2019. Those already using the virtual cash registers will be allowed to continue to use them further.

## *Technical requirements*

On-line cash-register will have to comprise a cash-register software and a secured data store meeting the technical requirements defined by law and certified by the financial directorate. The financial administration has published information in its website on the planned practicalities of the system, including the description of the integration interface.

The draft amendment is still subject to the approval process in the Slovak parliament. However, businesses concerned should already focus on making the required technical adjustments.

# Accounting and taxation of virtual currencies has a legal basis

The Act on Insurance Tax has been published in the Collection of Laws under no. 213/2018. This act implements, among other things, the anticipated rules for accounting and taxation of virtual currencies through an indirect amendment of the accounting and tax legislation.



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The published Act on Insurance Tax is dealing with virtual currencies in two separate articles amending the Act on Accounting and the Income Tax Act. New provisions of the Act on Accounting will apply to valuation of assets and liabilities for preparation of financial statements for the accounting period which ends on 1 October 2018 (for the first time). New provisions of the Income Tax Act will apply to tax returns filed after 30 September 2018.

Compared to the draft version that was available in [April](#), the act did not bring any changes. As we mentioned already in April, sale of the virtual currency includes, besides a regular sale, exchange for assets, exchange for another virtual currency or exchange for a service. Income from sale of virtual currencies shall be included in the tax base in the period when such a “sale” takes place, i.e. including an exchange of a currency for another virtual currency (despite the fact that market value of the later mentioned currency may decrease in future).

In case of exchange of a virtual currency for an asset, for another currency or for a service, the exchanged virtual currency is valued by using a fair value at the date of exchange. The fair value is the market value from a selected public market with virtual currencies. In case of acquisition by purchase, the input price is the acquisition price. If the virtual currency was acquired by exchanging for another virtual currency, the input price is its fair value. Total amount of input values of virtual currencies could be reflected only up to the total amount of revenues derived from their sale.

Income from sale of virtual currencies of an individual is regarded as other personal income under Section 8 of the Income Tax Act, which is also subject to health insurance.

# Selected changes introduced by Cadastral Act Amendment

Cadastral Act Amendment comes into force on 1 October 2018. The amendment relates to, among other things, the requirements of the application to the Cadastre and changes in cadastral proceedings, cadastral data, statutory period and correction of errors in cadastral operate.



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From the beginning of October, Act no. 212/2018 Coll. (hereinafter as "Amendment"), amending Act No. 162/1995 Coll. on Cadastre of Real Estate and on Registration of Ownership and Other Real Estate Rights (hereinafter as "**Cadastral Act**") comes into force. Selected changes of the Cadastral Act are related to:

## *1. Requirements of application to the Cadastre and changes in cadastral proceedings*

Amendment brings new statutory requirements of the application to the Cadastre on registration the ownership of real estate.

Besides current requirements (identification of parties, identification of legal action and identification of competent public authority) it is necessary inter alia to identify the transferred real estate and identifying the size of a co-ownership share, even though these information are directly stipulated in the annexes of the application.

The specification of application annexes is also questionable because the previous clear specification of annexes was replaced by the term "documents with relevancy to the cadastral proceedings".

In case of transfer of real estate when one of the parties is legal person, it is necessary to enclose affidavit proving that conditions under Article 59a of Commercial Code are met (the obligation of define value of transferred real estate by expert and publishing this in Collection of deeds) or affidavit that this requirements do not apply to this legal person.

A positive aspect of the Amendment is that there is no need to attach a geometric plan to the application, the number of its official verification is sufficient.

According to the new legislation, the obvious mistakes in counting or writing of the contracts may no longer be resolved by a clause signed by the parties directly at the district office, but by a separate addendum to the contract.

## *2. Cadastral data*

According to Amendment, the Cadastre information system will record the prices of all real estates. However, only selected entities will have access to this information (e.g. owner, expert and relevant government authorities).

The Amendment introduces a new institute called "List of the real estates", enabling to create an inventory of all real estate owned by one person in the territory of the Slovak Republic. The right to obtain such property listings in relation to one person shall also have selected entities (e.g. bankruptcy trustee, notary).

The Amendment introduces a new definition of buildings to be recorded in the Cadastre. Under the new legal regulation, only the buildings that are bounded by the perimeter walls and the roof structure are recorded in the Cadastre.

## *3. Statutory Period*

According to the Amendment, the statutory period for deletion of the pledge from the Cadastre shall be shortened significantly from 60 days to 5 business days from the date of the initiation of proceedings.

If the application for registration of the record is submitted by the electronic mean, the period for the registration shall be shortened from the 60 days to 30 days from the day of delivery the application for registration of the record to the electronic mailbox of the Geodesy, Cartography and Cadastre Authority of the Slovak Republic (GCCA SR).

In order to ensure the compliance with the statutory deadlines for making decisions, the Amendment introduces a new competence of the GCCA SR chairman to decide for a specified time and in the determined proceedings about their assignment for the decision to another district office.

#### *4. Correction of errors in cadastral operate*

The Amendment introduces significant changes in the procedure for correcting errors in the cadastral operate. Not only the definition of procedure itself being changed, but also the possibilities of applying this procedure to different situations. In the framework of the procedure for correction of errors, the district office is authorized to harmonize cadastre data if, for example, it is in contradiction with the decision to authorize the deposit, the public document or any other document on the basis of which registration was made, the erroneously displayed land borders, the multiple ownership and others.

Some procedures for correcting an error are not governed by the Administration Code (e.g, the procedure for correcting the errors concerning the area and the erroneous plot of the register "E"). In this case, the district office shall not issue a decision but will only issue a protocol. In the case of proceedings under the Administrative Procedure Code, the District Office shall issue an administrative decision.

# Slovak government approves tax legislation amendments

On 26 September 2018, the Slovak government approved several amendments of tax related legislation.



## **Daňové a právne oddelenie**

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On 26 September 2018, the Slovak government approved the following tax related legislation:

- Act on mechanism for tax dispute resolution
- Act on financial administration
- Amendment of the VAT Act
- Amendment of the Act on excise duty on mineral oil which amends also the Act on excise duty on alcoholic beverages

We will keep you informed about the next steps of the legislative process.



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