



# Daňovky

**Tax and Legal  
news**

**Taxes  
Legal  
In brief**

**Tax and Legal News |  
February 2019**

# Ministry of Finance issued a new Guidelines on the content of the transfer pricing documentation

Significant changes were made in respect of criteria for determining type of documentation taxpayer has to keep, as well as the content of each type of documentation. New Guidelines are effective for the tax periods beginning after December 31, 2017.



**Martin Zima**  
mzima@kpmg.sk  
+421 915 758 944



**Petra Bohovičová**  
kpmg@kpmg.sk  
+421 2 5998 4111

New **Guidelines of the Ministry of Finance of the Slovak Republic no. MF/019153/2018-724** on content of the transfer pricing documentation (hereinafter “MF SR Guidelines 2018”) were issued in December 2018 replacing the Guidelines no. MF/014283/2016-724 (hereinafter “MF SR Guidelines 2016”).

The content of the full-scope documentation as defined in the MF SR Guidelines 2018 is broadly harmonized with the content of the documentation recommended by the **OECD under the BEPS 13 project**.

MF SR Guidelines 2018 are effective for the tax periods beginning after **December 31, 2017**. The Tax Authorities may request the documentation for 2018 tax period only after April 1, 2019. However, when submitting the documentation **before June 30, 2019**, i.e. within the transitional period, the taxpayer may decide whether to follow the MF SR Guidelines 2016 or the MF SR Guidelines 2018. After June 30, 2019, the taxpayer must submit the documentation in line with the MF SR Guidelines 2018.

MF SR Guidelines 2018 similarly as the MF SR Guidelines 2016 recognize three types of the documentations in terms of extent –simplified, basic and full-scope. Compared to the MF SR Guidelines 2016, significant changes were made in respect of criteria for determining type of documentation taxpayer has to keep, as well as the content of each type of documentation. For example, the simplified documentation is now a prescribed form and is included as an appendix to the MF SR Guidelines 2018. The Master File of the full-scope documentation went through the most significant changes and is now much more complex. Based on the type of information requested, preparation of Master File by Slovak subsidiaries of multinationals will be very challenging without intensive support from the headquarters. Due to above reasons we recommend to designate sufficient time for its preparation.

The table below shows couple examples (among many others) of change of the taxpayer’s obligation to keep the documentation.

Type of taxpayer	Transaction type	Significance / Transaction volume (EUR)	MF SR Guidelines	
			2016	2018
Taxpayer who reports its accounting results in the individual financial statements according to International Financial Reporting Standards (IFRS)	cross-border	non-significant and at the same time with volume from 1,000,000 (to 10,000,000)	full-scope	basic

Taxpayer with a turnover between EUR 8,000,000 and EUR 170,000,000	cross-border	from 10,000,000	basic	full-scope
	domestic	non-significant	simplified	none
Taxpayer with a turnover between EUR 750,000 and EUR 2,000,000	cross-border	non-significant	simplified	none

Taking into account significant changes implemented through the MF SR Guidelines 2018 and the fact that every single taxpayer carrying out transactions with its related parties is affected, we recommend a careful examination of the *MF SR Guidelines 2018*'s impacts in each individual case and preparation of the documentation following new rules as soon as possible. Please note that the deadline for the submission of the documentation has not changed, i.e. 15 days after the Tax Authorities' request, extension is not possible.

In case of any questions, do not hesitate to contact our transfer pricing experts [Martin Zima](#) and [Petra Bohovičová](#).

# New statutory regulation opens new opportunity for registration of atypical trademarks

Among the most significant changes introduced by an amendment of the Trademark Act effective as of 14 January 2019, is the revocation of the conditions for expression of the trademark in graphic form. The trademark can be expressed in any appropriate form, not only in the graphic form. The new regulation also introduces the principle of so called real use of the trademark.



**Marian Dzuroška**  
mdzuroska@kpmg.sk  
+421 915 758 936



**Milina Schifferdeckerová**  
mschifferdeckerova@kpmg.sk  
+421 907 745 045

On 14 January 2019, the Act No. 291/2018 Coll., amending Act No. 506/2009 Coll. on Trademarks, as amended and amending certain laws (hereinafter the “**Amendment**”) came into the force.

One of the most significant changes to the Trademarks Act is the **removal of the condition of the graphic expression of the trademark** and therefore the trademark may be expressed in any appropriate form (not only graphically). The new legislation thus opens new possibilities for registering of atypical trademarks. For example, according to the amended implementing regulation to the Trademarks Act, so called a **multimedia trademark** has been introduced, consisting of the combination of image and sound.

The Amendment introduced the **principle of** so called **real use of the trademark**. This means that:

- **if the owner of the trademark claims for a ban on using the trade mark by a third person** by a judicial claim filed after five years since the registration of his trademark, the owner must prove its **real use during the preceding five years** or the reasons for its non-use by a third person,
- **if an application of a new applicant was filed after five years** since the registration of the older trademark, the Industrial Property Office of the Slovak Republic (hereinafter the “**Office**”) shall register the trade mark in favor of the new applicant, if the owner does not prove its real use for preceding five years or the reasons for its non-use by a third person,
- on the basis of a third person's motion, **the Office shall deregister the trademark if the trademark has not been used for a period of five years.**

The Amendment of the Trademark Act brought about a change in the area of the **absolute and relative barriers for the registration**. According to the Amendment, the Office shall no longer examine the conformity of the trade mark with the older trade mark of another applicant or owner for identical goods and services.

**The absolute barrier for the registration** of a trademark is its inconsistency with the legal regulations or obligations of the Slovak Republic or of the European Union resulting from international treaties concerning, in particular the protection of designations of origin and geographical indications, traditional terms for wine and guaranteed traditional specialties and which in their essential elements reproduce the older name of the variety plants.

The Amendment extended the relative **barriers for the registration**. The Office shall not register the mark as a trademark also in the case, when the person who is aggrieved on his rights has filled an objection with an **application which has not been filed in good faith**.

# Obligation to apply for the registration of ultimate beneficial owner in the Commercial Register

Since 1 November 2018, every company already registered with the Commercial Register before 31 October 2018, shall apply for the registration of its ultimate beneficial owner in the Commercial Register until 31 December 2019 under the threat of the penalty up to 3,310.00 EUR. This obligation does not apply for the entities registered with the Register of Public Sector Partners. New company shall not be registered into the Commercial Register without identification of the ultimate beneficial owner. Information about the ultimate beneficial owner is registered in non-public part of commercial register.



## **Daňové a právne oddelenie**

kpmg@kpmg.sk  
+421 2 5998 4111

# Parliament approves change of the conditions for exemption of the 13th salary

On January 30, 2019 Slovak Parliament approved Act on Protection of Whistle Blowers of Criminal Activities. This act contains also amendment to the Income Tax Act, amending the conditions for exemption of the 13th salary. In order to apply for exemption of the 13th salary in the amount of 500 euro, the 13th salary does not have to be paid at least in the amount of average monthly salary as it was under the current wording, but at least in the amount of 500 euro solely. Other conditions, as well as conditions for exemptions of the 14th salary, remain unchanged.



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# Overview of amendments to accounting legislation in 2018

Several accounting regulations were amended during the course of 2018. Some of these changes entered into force on 1 October 2018, others on 1 January 2019, and some of them will enter into force on 1 February 2019.



**Andrea Šikulová**

asikulova@kpmg.sk

+421 907 745 010

**The following accounting legislation entered into force on 1 October 2018:**

- Act No. 431/2002 Coll. on Accounting as amended (hereafter referred to as the "Act on Accounting") was amended by Act No. 213/2018 Coll. of 20 June 2018 on Insurance Tax;
- Decree of the Finance Ministry of the Slovak Republic No. 23054/2002-92 of 16 December 2002 laying down details of the accounting procedures and the framework for the chart of accounts for entrepreneurs maintaining accounts under the system of double entry bookkeeping as amended (hereafter referred to as the "Accounting Procedures for Entrepreneurs") was amended by Decree No. MF/015328/2018-74 of 19 September 2018.

**The following accounting legislation entered into force on 1 January 2019:**

- the Accounting Procedures for Entrepreneurs was amended by Decree No. MF/017028/2018-74 of 21 November 2018 (some of these changes entered into force on 1 January 2019 and others will enter into force on 1 February 2019).

**The following accounting legislation will enter into force on 1 February 2019:**

- as stated above, certain changes to the Accounting Procedures for Entrepreneurs.

You can find all changes in detail [here](#).

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[www.kpmg.sk](http://www.kpmg.sk)

Tel.: +421 2 59984 111

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