



Daňovky

**Tax and Legal
news**

**Taxes
Legal
In brief**

**Tax and Legal News |
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Slovak Government approves several tax legislation amendments

The Government of the Slovak Republic has recently approved several amendments of tax related legislation. Despite the fact that in most cases the legislative process will be completed in the autumn, we bring you a brief overview of the approved changes.



Marianna Dávidová

mdavidova@kpmg.sk
+421 907 745 029

Amendment to the Act on the Use of Electronic Cash Registers: Slovak government has approved an amendment to the Act on the Use of Electronic Cash Register, which postpones the sanctioning of entrepreneurs, which will not have on-line cash registers put into operation under the stipulated conditions.

The amendment approved by the Government was discussed in fast-tracked legislative procedure at the [June meeting of the National Council of the Slovak Republic](#).

Amendment to the Income Tax Act: Relatively extensive amendment to the Income Tax Act introduces measures designed to simplify the calculation of the tax base for small and medium-sized enterprises, to clarify and harmonize provisions where this need arises from application practice and also introduces rules to prevent the use of so-called hybrid mismatches.

Provisions to simplify the calculation of the tax base for small and medium-sized enterprises include, for example, a change in the tax loss carry forward rules. It is proposed that tax losses will not have to be carried forward evenly and carried forward period will be prolonged from the current 4 to 5 years. Moreover, newly defined micro taxpayers, will not have the amount of tax loss available for carry forward during the respective tax period limited, compared to other taxpayers.

The amendment to the Income Tax Act also simplifies the conditions under which cash basis expenses can be included in the tax base. The simplification lies in the fact that the payment condition will no longer relate to expenditure, which is part of the acquisition costs or part of own costs e.g. in case of stock. It is also proposed to cancel additional restrictions on tax deductibility of cash basis expenses and only the payment condition should be tested.

It is also proposed to increase the threshold for the payment of income tax prepayments from the current € 2,500 to € 5,000.

The amendment to the Act was discussed at the June meeting of the National Council of the Slovak Republic at the first reading.

Amendment to the Act on International Assistance and Cooperation in Tax Administration, by which the Slovak Republic implements the DAC 6 EU Council Directive. The amendment in question introduces automatic exchange of information on cross-border measures considered to be aggressive tax planning practices. In order to ensure automatic exchange of information, a so-called liable persons (intermediary or taxpayer) will be obliged to notify the measures in question. The amendment to the Act was discussed at the June meeting of the National Council of the Slovak Republic at its first reading and its effectiveness is proposed for 1 July 2020.

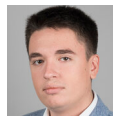
We will keep you informed on further developments in the legislative process.

Tightening of conditions of recording the employees' working time

The Court of Justice of the European Union has delivered a landmark judgment in Case C-55/18 *Federación de Servicios de Comisiones Obreras v Deutsche Bank* (the "Judgement") in relation to recording of employees' daily working time. On its basis, Member States must impose an obligation on employers to set up a system that allows them to measure the length of the daily working time of their employees, including overtime.



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



Ladislav Šimko
kpmg@kpmg.sk
+421 259 984 111

Working time under the Slovak legislation

In the Slovak legislation, the regulation of working time and related terms is contained in the Act no. 311/2001 Coll. The Labor Code (the "**Labor Code**") which also transposes the European Parliament and Council Directive no. 2003/88/EC of 4 November 2003 concerning certain aspects of the organization of working time (the "**Directive**"). The Labor Code defines working time as the period in which an employee is available to the employer, performs work and duties in accordance with the employment agreement. The Labor Code considers a rest period as any time that is not working time.

With some exceptions, the employer is obliged to schedule the working time so that the employee has a minimum rest period of 12 consecutive hours within 24 hours between the end of the first and the beginning of the second shift. The employee's average weekly working time, including overtime, may not exceed 48 hours.

Recording of working time and sanctions

The obligation of employers to record working time, overtime, night work or on-call work arises directly from the Labor Code. In order to fulfill the obligation to record working time, the specific method of recording of the employer should be adequately transparent at least to the extent, that it provides information on when, to what extent or whether the employee worked the agreed working time at all. In this respect, we would like to add that the employer's obligation to record working time is not the same as the obligation to register work attendance.

If the employer does not comply with the above-mentioned obligation to record working time, the employer commits a violation of the law, for which the labor inspectorate may impose a fine. According to Slovak legislation, exceeding the time worked over the working time recorded in the employer's records by more than 10% is considered as a serious violation of labor law regulations. The fine may amount to up to 200,000 euros, and the fine may be imposed up to 3 years from the date on which the employer has breached its obligations.

Judgement of the Court of Justice

In the main proceedings, the Spanish trade union (the "**CCOO**") brought a collective action before the Central Court of Spain against Deutsche Bank.

According to the facts of the case, Deutsche Bank did not introduce any system for recording the hours worked by its employees, which would enable it to control the fulfillment of the agreed working time and calculate any overtime worked. Deutsche Bank used only the (*absences calendar*) application, which allows only to record entries such as one day's absence from work (e.g. holidays or leave of absence). However, the application in question did not measure the length of working

time worked by each employee or the overtime worked.

The aim of CCOO was to obtain a judgement regarding the existence of an obligation of Deutsche Bank to set up a system, which, records the agreed and the actual number of hours worked daily and would also comply with the obligation to provide the trade union representatives with information relating to monthly overtime.

In that regard, Deutsche Bank took the view that Spanish law does not provide for such a generally applicable obligation.

The Central Court of Spain decided to stay the proceedings and to refer questions to the Court of Justice for a preliminary ruling on, whether the legislation of a Member State is compatible with the EU law if it does not impose an obligation on employers to set up a system to measure the length of daily working time of each employee.

Following the assessment of factual circumstances, the Court of Justice has reached these conclusions in relation to individual rights of employees:

- **The right to a minimum rest period** - If there is no system to measure daily working time, there is no guarantee that employees are fully guaranteed the observance of the right to limit the maximum amount of working time, as well as minimum rest periods, conferred to them by the Directive, since such observance is within the employer's sole discretion.
- **Proving a violation of employees' rights** - A system to measure the length of daily working time worked by employees provides a particularly effective means of free access to objective and credible data relating to actually worked working time and therefore, by its nature, may facilitate the proving of violations of fundamental rights of employees, as well enable to monitor the effective observance of these rights by the courts and the authorities.
- **Member States obligation to ensure the necessary safeguard of employees' rights** - Member States must impose an obligation on employers set up an objective, reliable and accessible system enabling the duration of time worked each day by each employee to be measured.

Further development of legislation

In the current wording, the Labor Code does not specify the way in which employers should keep records of working time. In the future, therefore, in the light of the conclusions of the Court's ruling, the rules on working time registration provided for in the Labor Code can be expected to undergo more extensive changes.

ECOFIN had a public session about the progress made on Financial Transaction Tax

The Economic and Financial Affairs Council of the EU (ECOFIN) received an update, from the ten Member States, including Slovakia, participating in the so-called enhanced cooperation procedure on the latest developments regarding the financial transaction tax.



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kpmg@kpmg.sk
+421 259 984 111

A tax on the financial sector has been under discussion at European level for many years. Since the proposal did not secure a majority at EU level, further discussions continued in the framework of enhanced cooperation with 10 EU Member States. Currently, all participating countries agreed again on a Financial Transaction Tax based on the French model and on the possibility to distribute the revenues generated by way of a compensation mechanism among those states wishing to introduce the tax. Once a legal text is agreed upon by the ten participating countries, it will be submitted to ECOFIN for discussion in an inclusive manner.

EU updated Blacklist of uncooperative jurisdictions for tax purposes

EU Finance ministers approved during their meeting on 17 May 2019 amendment to the EU blacklist of uncooperative jurisdictions for tax purposes.



Tax and Legal Department

kpmg@kpmg.sk
+421 259 984 111

EU Finance ministers approved during their meeting on 17 May 2019 amendment to the EU blacklist of uncooperative jurisdictions for tax purposes. Three Caribbean countries, the British and the Dutch overseas territories, Aruba, Barbados and Bermuda were removed from the list. Twelve jurisdictions still remain on the blacklist.

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www.kpmg.sk

Tel.: +421 2 5998 4111

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