



# Daňovky

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# Launch of the support mechanism called Kurzarbeit has been postponed to 1 March 2022

The start of the government bill on support in the time of shortened work, the so-called Kurzarbeit is postponed to 1 March 2022. Initially, this aid was to take effect in January 2022.



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As part of the shortened legislative procedure, the amendment to the Shortened Work Act was approved on 3 December 2021. In the submission report, the Ministry of Labor claims that the effectiveness of the law on support during shortened work should be postponed two months later in order to "*maintain the continuity of the assistance provided, as well as to prevent serious economic damage*". Therefore, in January, First Aid benefits will continue to be paid instead. Initially, the First Aid benefits were to be paid according to the current state of the COVID map.

However, during the declaration of a state of emergency, the COVID map is no longer in force, and the payment of the benefits depending on the COVID map does not apply. At present, the payment of First Aid + benefits are available for entrepreneurs, except for Measure 3B. The rules for applying for Measure 3B benefits were introduced on 12 December 2021 and are considered discriminatory by some employers. According to the new rules, the only establishments entitled to receive benefits are those who were closed due to the tightening of anti-pandemic measures at the end of November, have a decrease in sales of more than 40 percent and employ less than 50 employees.

# What implications will the public Country-by-Country Reporting have for large multinational groups?

The directive introducing so-called public Country-by-Country Reporting has been published in the Official Journal of the EU and will enter into force on 21 December 2021.



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On 1 December 2021, **the public Country-by-Country Reporting (pCbCR) directive** was published in the Official Journal of the European Union (EU). The publication of the directive follows the formal adoption of the proposal by the Council of the EU on 28 September 2021 and its approval by the European Parliament on 11 November 2021.

The EU Member States must implement the directive by 22 June 2023. Subsequently, the rules must be locally effective for periods starting on 22 June 2024 at the latest. The publication deadline is within 12 months from the date of the balance sheet of the financial year in question. For a group which tax period is a calendar year, the first reporting year will be 2025 and the report will be due by the end of 2026. The report should be made available for a minimum of five consecutive years.

The information will be mandatory for disclosure by groups with ultimate parent established in the EU which consolidated revenue exceeded for each of the last two consecutive financial years a total of EUR 750 000 000. If the ultimate parent is based outside the EU, but operates in the EU through a subsidiary or branch (provided that the size conditions of EU presence are met), the obligation to publish the data shall pass on the subsidiary / branch.

The report shall contain information on the entire group of companies. The information must be provided for each EU Member State in which the group operates and also for each jurisdiction that the EU considers as non-cooperative or is grey listed by EU for at least two consecutive year. Data relating to other countries may be aggregated.

The groups will publish the data in the EU Member State business register and also on the websites. The reporting covers the following key areas:

- **Business activity**
- **Number of employees**
- **Total net turnover**
- **Profit or loss before income tax**
- **Income tax accrued during the relevant financial year**
- **Income tax paid during the relevant financial year**
- **The amount of accumulated earnings at the end of the year**

Mandatory disclosure of CbCR information will affect EU-based multinationals and also non-EU based multinationals operating in the EU. The increased transparency that pCbCR brings could be an impulse for companies to review global structures and transaction flows, especially in terms of possible negative impacts on their reputation.

# The Czech Supreme Court decided on invoicing of marketing services

The Supreme Administrative Court of the Czech Republic („SAC“) has published a judgment in the case of the pharmaceutical company which concerned the invoicing of marketing services. The SAC complied with the taxpayer's cassation complaint and cancelled the judgment of the Municipal Court in Prague.



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The Tax Authorities within the tax audit concluded that marketing services provided by the distribution company to the Swiss pharmaceutical company within the group represent an inseparable part of the main supply (the drugs distribution). Following that, the consideration received for these services should be included in the tax base from the sale of pharmaceuticals in the Czech Republic. You can read more information about the case [in our Article](#).

According to the SAC, the two questions are subject of the dispute:

1. who is the recipient of marketing services and
2. whether the distribution of the drugs and marketing services provided by distribution company represent the single supply from the VAT perspective.

## **Recipient of marketing services**

Based on the SAC the Tax Authorities exchanged the term "recipient of the service", i. e. the person who ordered the service and benefits from it, and the term "recipient of marketing information", i. e. the one whom the content of the marketing service is meant to affect. In addition, the Tax Authorities did not take into consideration the specifics of strictly regulated pharmaceuticals market, nor the fact that the distributor has very limited possibilities to shift marketing costs to the end customer.

The SAC conclusion is that in accordance with the relevant agreement and the characteristics of the pharmaceutical market the recipient of the marketing service is the Swiss pharmaceutical company.

## **Composite supply**

According to the SAC in order to address the second question it is important to consider how the possibility to split the taxable supply is perceived by so-called typical customer, while emphasizing that distribution of drugs and marketing services are rendered to different recipients (drugs are supplied to the customers and services are supplied to the Swiss pharmaceutical company). The so-called typical customer cannot perceive these supplies as a single supply, as he may not know about the distributor's marketing activities (and payments for them) at all.

With respect to the tax base for supply of drugs the SAC stated that it is apparent that the payments for marketing services cannot be included in the tax base, as the tax base would then exceed the amount of consideration received from the customer.

Distribution of drugs and marketing services represent single supplies and not the one composite supply and the tax base for supply of drugs can only include the consideration for this supply.

# Proposal for measures called "Kilečko 2"

The Ministry of Economy submitted a bill on measures called "Kilečko 2" and "Kilečko 3". The purpose of the proposed legislative changes is to reduce the excessive regulatory burden on business and thus increase the competitiveness of the business environment in Slovakia compared to the surrounding countries. A set of new measures called "Kilečko 2" has a proposed effective date of 1 May 2022.



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Some of the measures from "Kilečko 2" have been moved to a later legislative process – the so-called "Kilečko 3" with an expected date of adoption sometime during the year 2022. The changes affect almost all sectors of the economy. The bill follows the so-called "Business kilečko", i.e. Act no. 198/2020 Coll. which amends certain laws in connection with the improvement of the business environment affected by measures to prevent the spread of the disease COVID-19 (effective from 21 July 2020).

## Individual measures

In the following section we bring you an overview of the most interesting measures from "Kilečko 2":

### Changes in bookkeeping

The obligation of accounting units that meet the size criteria set out in Section 17a par. 2 of Act no. 431/2002 Coll. on Accounting as amended (the **"Accounting Act"**) to keep accounts and prepare financial statements in accordance with International Financial Reporting Standards ("IFRS") should be changed to a possibility. However, an entity will be classified as a public interest entity under the Accounting Act if it meets the size criteria regardless of the accounting standards used.

### Acceleration of the process of eliminating defects in the Commercial Register

By amending the Act no. 530/2003 Coll. on the Commercial Register and on the Amendment of Certain Acts it is intended to ensure a quick correction of an incorrectly executed registration. If the data were not entered in accordance with the application for registration, the Registry Court, in cooperation with the Ministry of Justice of the Slovak Republic, shall correct such registration within five working days at the proposer's complaint to the chairman of the Registry Court.

### Changes in the conclusion of contracts by leasing companies

Leasing companies should also be allowed to conclude contracts securing the obligations of the parties (the **"security contracts"**) through electronic devices. In 2019, the electronic conclusion of this type of contract was made possible for banks, branches of foreign banks, postal companies, companies providing electronic communications networks or electronic communications services. It is therefore proposed to give this option to leasing companies as well if they conclude security contracts with an entrepreneur. This exemption should not apply to consumer contracts due to the need for increased consumer protection as a weaker party of the contract.

### A change in the creation of tax policy in the municipality

"Kilečko 2" also brings a change in the creation of tax policy in the municipality. So far, the basic statutory tax rate (0.25%) has been multiplied for different types of land. For arable land and permanent grassland, the legal maximum was five times the basic statutory rate, for forest land ten times the basic statutory rate, and for land with gardens, built-up areas and courtyards, other areas and building plots, the rate could be determined arbitrarily, if the difference between the lowest and the highest rate was maximum of five times among the listed types of land. Through the implementation of the measures from "Kilečko 2", the principle of determining the margin between the lowest and highest rate of land tax set by the

municipality for all groups of land is to be unified. According to the proposal, the highest rate of land tax can be a maximum of five times the lowest tax rate for all types of land.

### **OSH and single-person companies**

Single-member limited liability companies should have the same obligations in the field of occupational health protection as self-employed persons, regardless of whether there is an employment relationship in the given single-member limited liability company, i.e., regardless of whether the shareholder or executive manager is also an employee.

### **Changes in energy law**

It is also proposed to delete the obligation for persons who have been issued a permit to conduct business in the energy sector according to Section 6 par. 2 of Act no. 251/2012 Coll. on Energy and on Amendments to Certain Acts, as amended (the **"Energy Act"**), to submit a proposal for entry of the permitted activity in the Commercial Register within 30 days from the date of entry into force of the decision. According to the explanatory memorandum to the bill, the reason for the deletion is the redundancy of this obligation. The obligation does not have its origin in the energy sector and at the same time the office does not have the power to check the correctness of entries in the Commercial Register.

The proposed amendment to the Energy Act also allows the electricity supplier to set off the electricity customer's overpayment with the electricity supplier's receivable under the contract concluded pursuant to Section 26 of the Energy Act (electricity supply contract, distribution system connection contract, combined electricity supply contract etc.). At the same time, the parties can agree on another way of settling mutual claims.

Other measures that are part of "Kilečko 2" include, for example, the abolition of the registration of complaints under the Energy Act or the reduction of administrative burdens regarding the mandatory publication of price proposals by regulated entities, or allowing free provisions of the original Slovak technical standards or information on original technical standardization. The condition of employing at least 10 permanent employees required for the issuance of an authorization to distribute alcoholic beverages in consumer packaging is also abolished and the possibility of selling smokeless tobacco products (electronic devices, tobacco refills, accessories, etc.) via the Internet is introduced. The authorization of the Trade Licensing Office to cancel the trade in the event of its non-performance for a longer period will also be extended from 2 to 4 years from its establishment, and the conditions of education and practice for the operation of a detective service will be liberalized.

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