



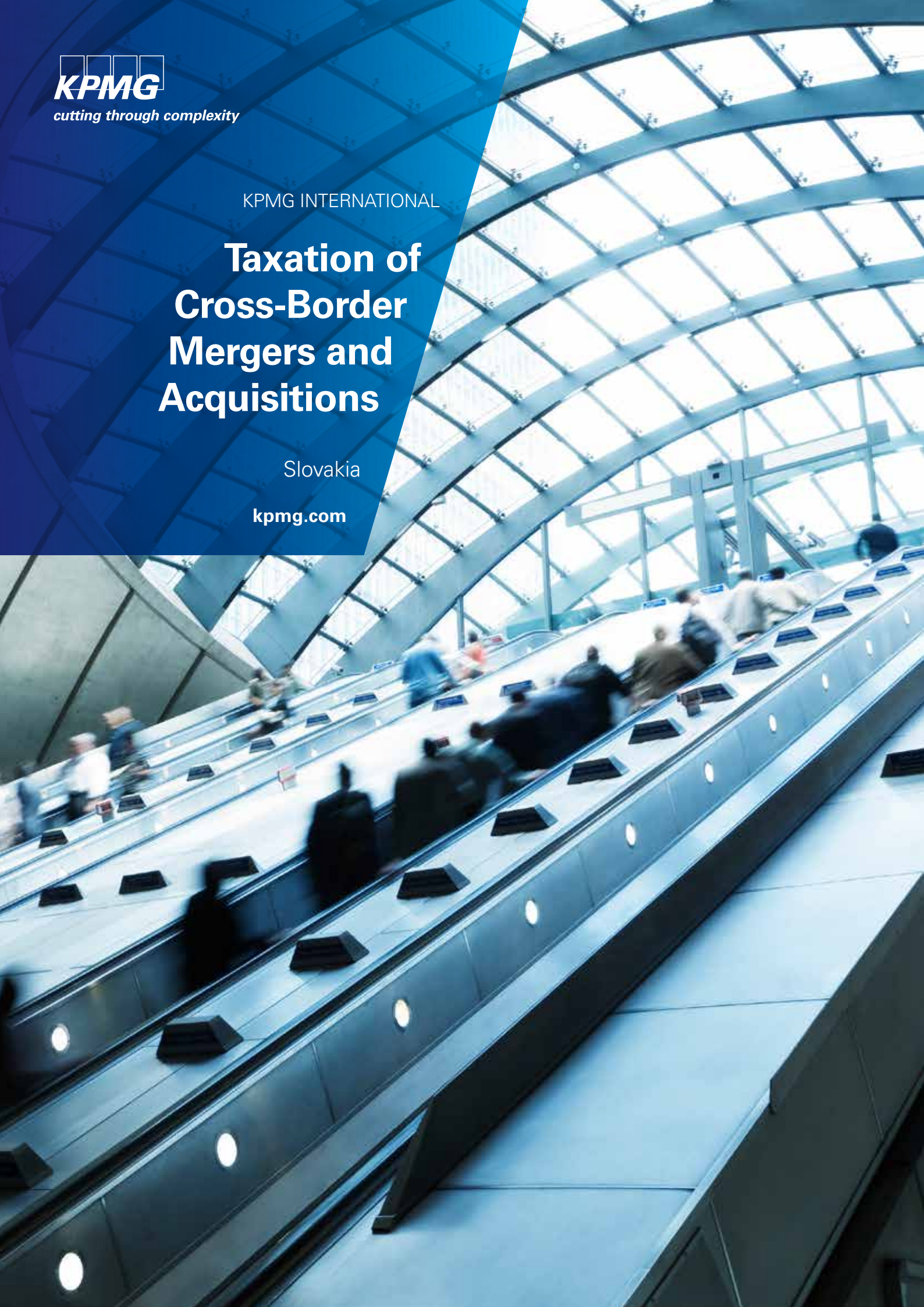
cutting through complexity

KPMG INTERNATIONAL

Taxation of Cross-Border Mergers and Acquisitions

Slovakia

kpmg.com



Slovakia

Introduction

This overview of the Slovak business environment, structures for mergers and acquisitions (M&A) and related tax issues covers the statutory framework for acquisitions in Slovakia. It does not consider specific contractual arrangements that may affect these acquisitions. This discussion reflects the state of the Slovak legislation as of 1 January 2014 and proposed changes, where applicable.

Recent developments

The Slovak tax and business environment for combinations has changed fundamentally since 2007. One of the most significant changes was the adoption of the Euro (EUR) on 1 January 2009 as the Slovak national currency. This brought several advantages, particularly the elimination of foreign exchange rate differences in transactions between Slovak and other European Union (EU) entities. The sharp reduction in worldwide M&A activity in 2009 as a result of the global financial crisis led, among other things, to a decline of foreign investment in Slovakia. Another fundamental change was an Income Tax Act amendment that introduced two tax regimes for business combinations as of 1 January 2010.

Changes in Slovak tax legislation that directly affect M&A include:

- the decision not to re-introduce thin capitalization rules
- fundamental changes in the tax treatment of assets, receivables, liabilities, etc. in business combinations
- a new obligation to maintain transfer pricing documentation.

Asset purchase or share purchase

There is a significant difference between the tax treatment of asset deals and share deals. The key tax aspects of both types of transaction are summarized in this chapter.

Purchase of assets

Assets can be purchased as individual assets, as a business or as part of a business. In principle, in a pure asset deal, the buyer does not assume the liabilities of the company from which the assets are acquired.

On the sale of a business or part of a business, the seller is obliged to transfer to the buyer all assets, rights and other property related to the operation of the business, and the buyer is required to assume all obligations related to the operation of the business and to pay the purchase price. Thus, the business or a part of a business is transferred as a going concern, but public law obligations (such as tax payable) are not transferred with the business or part of a business.

The transfer of the business from the seller to the buyer also includes employment relations and obligations and industrial property rights.

The Slovak Commercial Code applies the same principles to a sale of part of a business as to the sale of a whole business, but such a part of a business must be categorized as an independent operational unit before the sale. Consequently, the part of the business should maintain its own books and have records of assets and liabilities relating to that part of the business.

Purchase price

The purchase price of assets generally is considered as the acquisition value for tax depreciation purposes. Generally, the acquired assets may be depreciated for tax purposes (up to the acquisition price), except for certain items listed in the tax law, such as land. For the seller, a tax loss on certain assets sold is not considered as a tax-deductible item (e.g. loss on the sale of land).

When acquiring a business or part of a business, it is essential for the sale-purchase agreement to stipulate the acquisition price for each individual asset. This helps avoid problems in determining the acquisition price for the respective assets acquired with the business.

Goodwill

Goodwill, positive or negative, does not arise in the purchase of individual assets but may arise in the purchase of a business or part of a business. As of 1 January 2010, the assets acquired on the sale or purchase of a business or part of a business should be valued for tax purposes at their fair values according to accounting regulations. Depreciation of goodwill or release of negative goodwill should be included in the tax base, as a cost or income respectively, over a maximum of seven tax periods starting with the period in which the goodwill arose (i.e. in the year of the purchase of business) at 1/7 of the value each year. This treatment is subject to specific conditions, such as a business continuity test.

Depreciation

The tax depreciation does not have to be the same as the accounting depreciation of assets, except for the depreciation of intangible and low-value assets, which follows the accounting rules.

Tax attributes

Assets are depreciated in four tax depreciation groups over a period of 4, 6, 12 or 20 years. To a limited extent, it is possible to split an asset into its component parts and to depreciate them separately. Tax depreciation of tangible assets may be interrupted for any period.

Value added tax

Value added tax (VAT) is levied at the rate of 20 percent on most goods and services (a reduced 10 percent rate is levied on certain medical products, pharmaceuticals and books). A taxpayer who has acquired individual assets can usually claim back the VAT paid on their acquisition if the assets are used to produce taxable supplies (subject to exceptions specified by the law).

A legal entity or individual who has acquired a business or part of a business from a Slovak VAT-registered entity becomes a Slovak VAT-registered taxpayer automatically from the date on which the business or its part is acquired. The successor company of a VAT-registered company that is wound up without liquidation also becomes a VAT-registered taxpayer automatically from the date on which it becomes the legal successor. A taxable person selling a building, its part or building land in an amount exceeding EUR49,790 becomes a VAT-registered taxpayer unless the sale is exempt from VAT in line with the Slovak VAT Act. These taxpayers are required to notify the tax authorities of the event that made them VAT-registered taxpayers within 10 days.

Transfer taxes

Under Slovak tax legislation, a purchase of assets is not subject to a stamp duty. Foreign investors are only obliged to pay administrative fees related to the purchase.

Purchase of shares

Generally, under Slovak income tax legislation, capital gains on a sale of shares in a Slovak company are considered to be liable to Slovak corporate or individual income tax.

For individuals, an income tax rate of 19 percent applies to their tax base not exceeding EUR35,022.31 (for 2014); a rate of 25 percent applies to the portion of the tax base in excess of EUR 35,022.31. For companies, a corporate income tax rate of 22 percent applies as of 1 January 2014.

Where a Slovak company sells shares, it is always liable to tax in Slovakia on the transaction. There is no participation exemption in Slovakia. Generally, a loss from the sale of shares is not deductible.

As of 1 January 2014, income from the sale of shares in a Slovak company generated by a Slovak tax non-resident is treated as Slovakia source income under Slovak rules unless the seller is an EU tax resident. However, where the buyer of the shares is a Slovak tax resident or Slovak permanent establishment of a non-resident, income from the sale of shares is taxable in Slovakia even in the case of EU residents. Exemption from tax on capital gains may be available under a tax treaty.

Tax indemnities and warranties

In a share acquisition, the purchaser takes over the target company together with all related liabilities, including contingent liabilities. In this case, the purchaser may require more extensive indemnities and warranties than in the case of an asset acquisition. From a tax perspective, it is advisable to seek tax warranties and indemnities covering a period of at least 6 years after the end of the year in which the share-purchase agreement (SPA) was signed and at least 8 years if the target company carried forward a tax loss.

Tax losses

As of 1 January 2014, tax losses can be carried forward in equal parts over 4 years. Transitional provisions to the Income Tax Act stipulate that any tax losses reported from 2010 to 2013 and not utilized before 1 January 2014 can only be carried forward in four equal portions based on the new rules. There are no restrictions in the tax loss carry forward rules relating to a change of shareholders of a company or a change of its business. Generally, a legal successor may carry forward tax losses declared by a company that was dissolved without liquidation, provided the purpose of the restructuring was not solely tax avoidance.

Tax license (minimum tax)

As of 2014, a concept of a 'tax license' was introduced for Slovak corporate taxpayers. The tax license represents a de facto minimum tax of EUR 480, EUR 960 or EUR 2,880, depending on whether the taxpayer is VAT-registered and whether its turnover exceeds EUR500,000. The minimum tax is payable even if the tax calculated on the actual profit using the 22 percent tax rate is lower. The difference between the minimum tax and the tax calculated on the profit may be carried forward and offset against the tax obligation in three subsequent tax years.

Pre-sale dividend

A pre-sale dividend can only be paid if conditions stipulated by the Commercial Code are met. Dividends paid out of profits derived from 1 January 2004 are not subject to any tax in Slovakia, so it may be beneficial to pay a non-taxable pre-sale dividend to reduce the capital gain on the sale of shares, which is generally taxable.

Dividends distributed to individuals from profits generated for the periods from 1 January 2011 to 31 December 2012 are subject to Slovak health insurance contributions of 10 percent of the distributed dividends and 14 percent of dividends distributed for 2013 and later periods. This contribution only applies if the recipient is resident in Slovakia for health insurance purposes.

Transfer taxes

Under Slovak tax law, a purchase of shares is not subject to a stamp duty, apart from minor administrative fees payable to the commercial register or Securities Register when the change of the shareholders is registered.

Tax clearances

Income tax returns generally must be filed within 3 months of the end of the taxable period. As of 1 January 2010, an automatic extension of this deadline is available to corporate taxpayers provided they notify the tax authorities that they intend to extend their deadline for the submission of the income tax return by up to 3 months or, if they have taxable foreign-source income, by up to 6 months. The automatic extension is not available to companies in liquidation or bankruptcy whose filing deadlines may only be extended with the approval of the tax authorities.

Choice of acquisition vehicle

In the Slovak Republic, several potential acquisition vehicles are available to foreign investors. Each vehicle has a different tax impact on the foreign investor.

Local holding company

Slovakia has no participation exemption rules for capital gains. Even though Slovakia does not tax dividends, it is not advisable to introduce a Slovak holding company to the group structure. In principle, capital gains from the sale of shares in the companies held by a Slovak holding company are subject to tax in Slovakia, and there is no mechanism to avoid this tax.

Foreign parent company

A foreign parent company can be set up in a jurisdiction, preferably within the EU and/or a country with a beneficial tax treaty with Slovakia, which provides for the participation exemption for dividends and capital gains.

Non-resident intermediate holding company

It is also possible to use a non-resident intermediate holding company that holds the shares in the Slovak company. However, where relief will be sought under the EU Interest and Royalties Directive or a tax treaty, the principle of beneficial owner of interests and royalties must be taken into account when deciding what transactions should flow through the intermediate holding company.

Local branch

A foreign company may register a branch (*organizacna zlozka*) in the Slovak Republic, which may carry out business activities on behalf of the foreign company in the Slovak Republic from the day of the branch's registration with the Slovak commercial register. The manager of the branch office is entitled to act on behalf of the branch office in all legal matters related to the branch's business activity. A branch generally qualifies as a PE in Slovakia, with certain exceptions.

Joint venture

Joint ventures are common in Slovakia. They are registered normally as limited liability companies. In certain cases, a European Economic Interest Grouping (EEIG) can be considered.

Choice of acquisition funding

A foreign investor must decide how the company established in Slovakia should be capitalized. The company could be funded by:

- equity financing or an increase of registered capital or other capital funds
- debt financing through a loan granted directly by a shareholder or by a related or unrelated third party
- a combination of equity and debt financing.

Hybrids are not frequently used in Slovakia, and their tax treatment is uncertain.

Debt

Thin capitalization rules were abolished by an amendment to the Income Tax Act approved in October 2009. As a result, thin capitalization rules that otherwise would have applied from 1 January 2010 are not in effect. However, transfer pricing rules continue to apply to debt financing.

Deductibility of interest

Interest on loans used to acquire assets is generally tax-deductible unless it is capitalized, in which case it increases the depreciation value of the assets. In principle, interest on loans used to acquire shares is not deductible where it is deemed not to have been incurred to generate, assure or maintain taxable income. However, debt pushdown schemes may result in tax-deductible interest costs, if properly structured. Where the interest is not set at arm's length terms, the tax authorities may challenge its deductibility.

Withholding tax on debt and methods to reduce or eliminate it

Interest income is subject to 19 percent tax in Slovakia. Interest paid by a Slovak company or Slovak PE to a foreign recipient is subject to 19 percent withholding tax (WHT), unless the EU Interest and Royalties Directive applies or a tax treaty reduces the WHT rate. Slovakia has a wide network of tax treaties, including treaties with most European countries, under which WHT on interest is reduced to 0 percent.

As of 1 March 2014, a 35 percent WHT applies to 'non-treaty country taxpayers'. Treaty countries include countries with which Slovakia has either concluded a tax treaty and countries that are signatories to other agreements covering exchange of information to which Slovakia is also a party.

Checklist for debt funding

- Check whether the EU Interest and Royalties Directive may apply to the interest payments.
- Where the EU Interest and Royalties Directive cannot apply to avoid or reduce WHT on interest, determine the country from which it is most beneficial to provide the loan in light of the availability and the provisions of tax treaties.
- Consider where the loan agreement should be signed to avoid unnecessary stamp duties. The agreement can be signed in Slovakia, for example, where there are no stamp duties on loans.
- Determine an arm's length interest rate.
- Prepare transfer pricing documentation that also covers the loan transaction.
- Consider whether the loan will be repaid, capitalized into equity or waived. Waiver of a loan is generally taxable income for the borrower, but structures can be designed to eliminate the taxation.

Equity

Legal aspects

Under the Commercial Code, registered capital represents the financial expression of the total sum of financial contributions and of contributions in kind of all members of the company. The Commercial Code also defines the contribution of the member/shareholder as the sum of their financial means and other financially expressible contributions. The member/shareholder is obliged to contribute their respective pledged contribution to the company and is entitled to participate in the economic results of the company.

Limited liability companies and joint stock companies have an obligation to create registered capital. This should amount to at least EUR5,000 for a limited liability company and at least EUR25,000 for a joint stock company. Partnerships may have registered capital, but they are not required to.

The registered capital can be increased by monetary contributions (cash contributions), non-monetary contributions (contributions in kind) or both, from shareholders or other persons.

Contributions to and increases in registered capital must be approved by a general meeting of the company and registered with the commercial register. Cash contributions to a limited liability company must be paid-up within 5 years and to a joint stock company within one year.

Non-monetary contributions must be paid-up before the registration of the increase in the registered capital with the commercial register. A contribution in kind normally requires an expert valuation.

In joint stock companies, the increase of the registered capital by subscription of new shares is effective as of the day of its registration with the commercial register. In limited liability companies, the increase of the registered capital is effective as of the day of the resolution on the increase at the general meeting, unless the resolution provides otherwise.

Tax aspects

Corporate income tax

An increase in the registered capital via a cash contribution generally is not considered income, so it is not subject to corporate income tax.

The recipient of an in-kind contribution of business has the option to apply one of two regimes for the valuation of the acquired assets for tax purposes:

- Use the fair values resulting from the revaluation of assets and liabilities pursuant to the accounting regulations, and pay tax on any step-up in value (regime 1).
- Use the original prices determined at the contributor; that is, take over the tax values determined by the contributor. In this case, the step-up in accounting value is not taxed (regime 2).

In the case of a contribution in kind of individual assets, the recipient should be able to value the acquired assets for tax purposes at their contribution value while any potential step-up in the tax value is taxed (regime 1). Alternatively, the recipient should be able to take over the original tax values of assets to the contributor without paying tax on the potential step-up (regime 2).

A number of tax base adjustments are needed for the contributor and the recipient of the in-kind contribution of a business or a part of a business, depending on the selected tax regime, such as the treatment of reserves and provisions and the computation of tax depreciation charges. Under certain conditions, the taxation of the potential step-up in the tax value of the assets may be spread over a period of up to 7 years.

Contribution in kind

A contribution in kind under the current legislation is treated in the same way as a sale of assets or a sale of business, as appropriate.

Contributions can be made to other capital funds. It is not necessary to register the increase of other capital funds with the commercial register, but a general meeting of the company must approve the increase.

A contribution of this kind can be a relatively quick way to increase capital, but legal uncertainties can arise in a number of areas, including the procedure for repaying such funds to shareholders.

Hybrids

Hybrids are not frequently used in Slovakia, and their tax treatment is uncertain.

Discounted securities

Discounted securities are not used in Slovakia.

Deferred settlement

In certain circumstances, especially where agreed between related parties, deferred settlement may be reclassified as a loan on which interest is due.

Other considerations

Concerns of the seller

If grants were received by the seller of assets for the original acquisition of those assets, the grants may have to be refunded to the relevant institution and the sale of assets may not be possible.

It may not be possible, under the Commercial Code, for the seller in a share deal to pay a pre-deal dividend. In this case, the seller may require a higher price for the shares.

A sale of a substantial portion of assets may trigger taxation of any revaluation differences arising on a previous merger, demerger, sale or contribution of a business.

Company law and accounting

The Slovak Commercial Code (Act No. 513/1991 Coll., as amended) is the main legislation governing business activities in the Slovak Republic. The Commercial Code recognizes seven basic legal forms for carrying out business activities:

- joint stock companies
 - limited liability companies
 - general commercial partnerships
 - limited partnerships
 - cooperatives
 - branch offices of foreign companies
 - individuals (self-employed).
- A company is not allowed to acquire its own shares but may redeem them under certain conditions.
 - A company must create a legal reserve fund at the time of its incorporation of at least 10 percent of its registered capital and must replenish it annually by an amount prescribed by the articles of association, which may not be lower than 10 percent of the net profits reported in the annual financial statements, until it has attained the limit prescribed in the articles of association, which shall not be lower than 20 percent of the registered capital.
 - A company must establish a supervisory board and a board of directors. Members are appointed for terms not exceeding 5 years. Members of the board of directors cannot be members of the supervisory board. If the company has more than 50 full-time employees, the employees have the right to elect one-third of the supervisory board members.
 - Under certain conditions, the annual financial statements must be audited by an authorized auditor and published.
 - If a joint stock company issues registered shares, a list of shareholders must be registered with the Central Securities Depository of the Slovak Republic.

Legal entities established under EU law have a similar legal status to companies and partnerships in the Slovak Republic.

The most common types of company in the Slovak Republic are the joint stock company and the limited liability company.

Joint stock company

- The joint stock company (*akciová spoločnosť* – a.s.) exists independently of its shareholders, who are not liable for the debts and obligations of the company.
- A company may be a private or a public joint stock company, depending on the method of subscription for its shares.
- Share capital may not be less than EUR25,000 and is divided into a fixed number of shares of a fixed nominal value. The shares may be in the form of registered shares or bearer shares.
- Preferential shares stipulating the right of a shareholder for preferential payment of dividends may be issued, but the aggregate of their nominal value cannot exceed 50 percent of the nominal value of the share capital.

Limited liability company

- A limited liability company (*spoločnosť s ručením obmedzeným* – s.r.o.) is the most common legal form for a company in Slovakia.
- A company exists independently of its shareholders, who are liable for obligations of the company only up to the amount of their unpaid contributions to the registered capital of the company (limited liability).
- A list of shareholders is publicly available in the commercial register.
- A company must have a registered capital of at least EUR5,000.
- Each shareholder holds their ownership interest (share), which is determined as a ratio between their contribution to the company's share capital and the company's aggregate registered capital, unless the articles of association stipulate otherwise.

- The number of shareholders may not exceed 50. Each shareholder must contribute at least EUR750 to the registered capital and at least 30 percent of each contribution must be paid-up before the company files its registration with the commercial register. The aggregate value of the paid-up contributions may not be less than EUR2,500. If one shareholder established the company, the shareholder must contribute the entire registered capital before registration.
- In case of a transfer of the majority share in a company, the consent of the relevant Tax Office must be obtained.
- A company creates a legal reserve fund at the time and for the amount specified in the articles of association. Unless the reserve fund is established on incorporation, the company must establish it using net profits reported in the annual financial statements for the year in which the first profit is booked. The reserve fund shall achieve no less than 5 percent of the net profit but no more than 10 percent of the registered capital.
- The supervisory board is only created where its creation is stated in the articles of association.
- The general meeting appoints one or more executives (managing directors), who constitute a statutory body of the company.
- A company with a sole shareholder may not be the only founder or only shareholder of another limited liability company. A natural person may be the only shareholder in three limited liability companies at most.

General partnership

- A general partnership (*verejna obchodna spolocnost – v.o.s.*) is a legal entity formed by two or more partners who are jointly and severally liable for the partnership's obligations with all their property.
- The business name of a general partnership must include the designation '*ver. obch. spol.*' or '*v.o.s.*', unless it includes the surname of at least one of its partners, in which case '*a spol.*' is sufficient.
- Each partner is entitled to act on behalf of the partnership unless agreed otherwise.
- A natural person or legal entity may be a partner with unlimited liability in only one partnership.

Limited partnership

- A limited partnership (*komanditna spolocnost – k.s.*) is similar to a general partnership apart from the condition that all but one partner may have limited liability for the obligations of the entity.
- There are two types of partners in this kind of partnership:
 - limited partners, who are liable for the obligations of the entity up to the amount of unpaid contributions to the registered capital of the entity recorded with the commercial register
 - general partners, who have unlimited liability for the limited partnership's obligations.
- If the business name includes the name of a limited partner, that partner shall bear unlimited liability for the partnership's obligations.
- Only a general partner is entitled to manage the partnership.

Cooperative

- A cooperative (*druzstvo*) must have at least five members (except in the case of two legal entities, where two or more members are allowed). A cooperative may carry out not only business activities but also other activities for the economic or social benefit of its members.
- The members are not liable for the debts and obligations of the cooperative.
- A cooperative must have registered capital of at least EUR1,250, half of which must be paid-up at the time of registration with the commercial register.
- An indivisible fund of at least 10 percent of the registered capital must be created at the time of the cooperative's incorporation and replenished annually to up to one-half of the registered capital of the cooperative.

Branch office of a foreign company

- A foreign company may register a branch office (*organizacna zlozka*) in the Slovak Republic.

- The branch office of a foreign company may carry out business activity on behalf of the foreign company in the territory of the Slovak Republic as of the day of the branch's registration with the Slovak commercial register.
- The head of the branch office, appointed by the foreign company, is entitled to act on behalf of the branch in all legal matters related to the business activity of the branch.

Self-employed individual

Foreign individuals are entitled to carry out their business activities in the Slovak Republic on registration with the Slovak commercial register. However, individuals residing in EU or Organisation for Economic Cooperation and Development (OECD) countries are entitled to carry out their business activities in the Slovak Republic even without such registration.

European Economic Interest Grouping

Under the Council Regulation (EEC) Nr. 2137/1985 of 25 July 1985 on the European Economic Interest Grouping, a EEIG can be created in certain circumstances.

Societas Europaea

Under the Council Regulation (EC) Nr. 2157/2001 of 8 October 2001 on the statute of a European company, a European public limited liability Company (SE) can be created in certain circumstances.

European Cooperative Society

Under Council Regulation (EC) Nr. 1435/2003 of 22 July 2003 on the statute for a European Cooperative Society, a European Cooperative Society (ECS) can be created in certain circumstances.

Group relief/consolidation

Corporate income tax-grouping is not available in Slovakia, but VAT-grouping became available from 1 January 2010.

Transfer pricing

Slovakia's transfer pricing rules broadly comply with OECD transfer pricing guidelines for multinational enterprises and tax administrations.

Under Slovak tax law, where the agreed price in a transaction differs from the fair market price and will reduce the taxable base, and the difference cannot be satisfactorily explained, a fair market price may be substituted for tax purposes. This is always the case where the same legal persons or individuals directly or indirectly participate in the management, control or capital of the parties involved in the transaction.

Related parties are defined as economically or personally connected natural persons or legal entities. Economic connection is defined as a direct or indirect participation of more than 25 percent in the share capital or voting rights. Personal connection is defined as a participation in the management or control of the other person.

Moreover, where two or more entities enter into a business relationship for the purpose of reducing a taxable base or increasing a tax loss, these entities are deemed to be related parties.

Under the local tax legislation, the tax authorities are allowed to make transfer pricing adjustments where prices charged between related parties differ from arm's length prices in comparable business transactions, such that the price reduces the Slovak entity's tax base (or increases its tax loss).

As noted earlier in this chapter, strictly speaking, transfer pricing rules do not currently apply between Slovak entities. However, the tax authorities believe they have other mechanisms to challenge non-arm's length transactions between Slovak taxpayers.

Formal transfer pricing documentation requirements were introduced as of 1 January 2009.

As of 2014, taxpayers are obliged to submit local transfer pricing documentation to the tax authority upon its request (i.e. not only in the course of the tax audit) within 15 days of receiving the request.

Dual residency

Dual tax residency is not possible under Slovak tax legislation. Taxpayers are regarded as either Slovak or foreign tax residents.

Foreign investments of a local target company

Any dividends received as distributions of profits derived from 1 January 2004 are not subject to tax in Slovakia. Interest income and royalty income are included in the taxable base of the Slovak company and taxed at the rate of 22 percent as of 1 January 2014.

Comparison of asset and share purchases

Advantages of asset purchases

- No assets other than those specifically identified by the purchaser are transferred.
- No employment or contractual relationships need to be taken over from the seller unless so desired by purchaser or unless employees are associated with specific assets.
- Purchaser could offer employment to employees it needs under its own salary and working conditions.
- Purchase price may be depreciated for tax purposes.
- Historical tax liabilities of seller are not inherited.

Disadvantages of asset purchases

- Possible need to renegotiate supply, employment and technology agreements.
- Consideration paid between related parties for selected assets must be arm's length (subject to the comments on transfer pricing between Slovak entities).
- Transaction must not be entered into with intent to prejudice seller's creditors because there is a risk that the seller's liabilities to the prejudiced creditors will de facto follow the assets, and the prejudiced creditors have the right to contest the transaction where there is such an intention.

Advantages of share purchases

- Lower capital outlay (purchase net assets only).
- May benefit from tax losses of target company (subject to limitations).
- May gain benefit of existing supply or technology contracts.
- Purchaser may benefit from all permits, licenses and authorizations, unless stipulated otherwise.

Disadvantages of share purchases

- Purchaser automatically acquires liabilities of target company (including tax liabilities).
- Liable for any claims or previous liabilities of target company.
- No deduction for purchase price.

Slovakia – Withholding tax rates

This table sets out reduced WHT rates that may be available for various types of payments to non-residents under Slovakia's tax treaties. This table is based on information available up to 1 December 2013.

Source: International Bureau of Fiscal Documentation, 2014

	Dividends		Interest ¹ (%)	Royalties (%)
	Individuals, companies (%)	Qualifying companies ² (%)		
Domestic rates				
Companies:	0	0	0/19	0/19
Individuals:	0	N/A	19	19
Treaty rates				
Treaty with:				
Australia	15	15	10	10
Austria	10	10	0	0/5 ³
Belarus	15	10	10	5/10 ⁴
Belgium	15	5	0/10 ⁵	5
Bosnia and Herzegovina ⁶	15	5	0	10
Brazil	15	15	-/10/15 ⁷	15/25 ⁸
Bulgaria	10	10	10	10
Canada	15	5 ⁹	0/10 ¹⁰	10 ¹¹
China (People's Rep.)	10	10	10	10
Croatia	10	5	10	10
Cyprus	10	10	10	0/5
Czech Republic	15	5	0	0/10
Denmark	15	15	0	0/5
Estonia	10	10	10	10
Finland	15	5	0	0/1/5/10 ¹²
France	10	10	0	0/5 ¹³
Georgia	0	0	5	5
Germany	15	5	0	5
Greece	- ¹⁴	-	10	0/10
Hungary	15	5	0	10
Iceland	10	5	0	10

	Dividends		Interest ¹ (%)	Royalties (%)
	Individuals, companies (%)	Qualifying companies ² (%)		
India	25	15	15	30
Indonesia	10	10	10	10/15
Ireland	0/10	0	0	0/10
Israel	10	5	2/5/10 ¹⁵	5
Italy	15	15	0	0/5
Japan	15	10 ¹⁶	10	0/10
Kazakhstan	15	10 ¹⁷	10	10
Korea (Rep.)	10	5	10	0/10
Latvia	10	10	10	10
Libya	0	0	10	5
Lithuania	10	10	10	10
Luxembourg	15	5	0	0/10
Macedonia (FYR)	5	5	10	10
Malta	5	5	0	5
Mexico	0	0	10	10
Moldova	15	5	10	10
Mongolia ¹⁸	0/-	0	0/-	0
Montenegro ¹⁹	15	5	10	10
Netherlands	10	0	0	5
Nigeria	15	12.5	15	15
Norway	15	5	0	0/5
Poland	10	5 ²⁰	10	5
Portugal	15	10 ²¹	10	10
Romania	10	10	10	10/15 ²²
Russia	10	10	0	10
Serbia	15	5	10	10
Singapore	10	5	0	10
Slovenia	15	5	10	10
South Africa	15	5	0	10
Spain	15	5	0	0/5
Sri Lanka	15	15	0/10	0/10
Sweden	10	0	0	0/5
Switzerland	15	0 ²³	5	0/10 ²⁴
Syria	5	5	10	12

	Dividends		Interest ¹ (%)	Royalties (%)
	Individuals, companies (%)	Qualifying companies ² (%)		
Taiwan	10	10	10	5/10 ²⁵
Tunisia	15	10	12	5/15
Turkey	10	5	10	10
Turkmenistan	10	10	10	10
Ukraine	10	10	10	10
United Kingdom	15	5	0	0/10
United States	15	5	0	0/10
Uzbekistan	10	10	10	10
Vietnam	10	5 ²⁶	10	5/10/15 ²⁷

Notes:

- Many treaties provide for an exemption for certain types of interest, e.g. interest paid to the state, local authorities, the central bank, export credit institutions or in relation to sales on credit. Such exemptions are not considered in this column.
- Unless otherwise indicated, the reduced treaty rates given in this column apply if the holding is at least 25 percent of the capital or of the voting rights, as the case may be.
- The higher rate applies to industrial royalties.
- The lower rate applies to copyright royalties, including films, etc.
- The lower rate applies, inter alia, to interest on bank loans and deposits.
- The treaty concluded between the former Czechoslovakia and the former Yugoslavia.
- The domestic rate applies to interest paid by public bodies (under the treaty such interest is taxable only in the source state and there is no reduction). The 10 percent rate applies in respect of loans granted by banks for at least 10 years, subject to conditions.
- The higher rate applies to trademarks.
- A holding of at least 10 percent is required.
- The zero rate applies, inter alia, to interest paid by the government or public bodies.
- The lower rate applies to copyright royalties, excluding films, etc.
- Copyright royalties are exempt, the 1 percent rate applies to royalties paid for the financial lease of equipment; the 5 percent rate applies to royalties paid for the use of computer software and operational leases of equipment; the 10 percent rate applies to industrial royalties in general.
- The zero rate applies to royalties paid for use or right of use any copyright of literary, artistic or scientific work.
- The domestic rate applies; there is no reduction under the treaty.
- The 2 percent rate applies to interest from government bonds; the 5 percent rate applies if the recipient is a financial institution.
- The lower rate applies if the recipient company owns at least 25 percent of the voting shares of the company paying the dividends during the period of 6 months immediately preceding the payment of the dividends.
- A holding of at least 30 percent is required.
- The Council for Mutual Economic Assistance (CMEA) treaties. The domestic rate applies to individuals; there is no reduction under the treaty.
- The treaty concluded between the Slovak Republic and the former Federal Republic of Yugoslavia.
- A holding of at least 20 percent is required.
- The lower rate applies if the recipient company owns directly at least 25 percent of the capital of the company paying the dividends for an uninterrupted period of 2 years prior to the payment of the dividends.
- The lower rate applies to industrial royalties.
- This rate applies if the dividends are paid to (i) the other contracting state, pension funds and federal reserve banks; or (ii) a company which holds at least 10 percent of the capital in the company paying the dividends.
- The 10 percent rate applies to patents, trademarks, designs or models, plans, secret formulas or processes and industrial, commercial and scientific know-how (under conditions, however, these royalties may only be taxed in the residence state).
- The lower rate applies to royalties paid for the use of, or the right to use, industrial, commercial or scientific equipment.
- A holding of at least 70 percent is required.
- The 5 percent rate applies to patents, designs or models, plans, secret formulas or processes, to industrial and scientific know-how and to equipment leasing. The 10 percent rate applies to trademarks and commercial know-how.

KPMG in Slovakia

Branislav Durajka

KPMG Slovensko Advisory, k.s.
Dvorakovo nabrezie 10
Bratislava
81102
Slovakia

T: +421-(2)-59984303

F: +421-(2)-59984333

E: bdurajka@kpmg.sk

Zuzana Blazejova

KPMG Slovensko Advisory, k.s.
Dvorakovo nabrezie 10
Bratislava
81102
Slovakia

T: +421 2 599 84 331

F: +421 2 599 84 333

E: zblazejova@kpmg.sk

kpmg.com

kpmg.com/socialmedia



kpmg.com/app



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.

© 2014 KPMG International Cooperative (“KPMG International”), a Swiss entity. Member firms of the KPMG network of independent firms are affiliated with KPMG International. KPMG International provides no client services. No member firm has any authority to obligate or bind KPMG International or any other member firm vis-à-vis third parties, nor does KPMG International have any such authority to obligate or bind any member firm. All rights reserved.

The KPMG name, logo and “cutting through complexity” are registered trademarks or trademarks of KPMG International.

Designed by Evalueserve.

Publication name: Slovakia –Taxation of Cross-Border Mergers and Acquisitions

Publication number: 131036

Publication date: May 2014