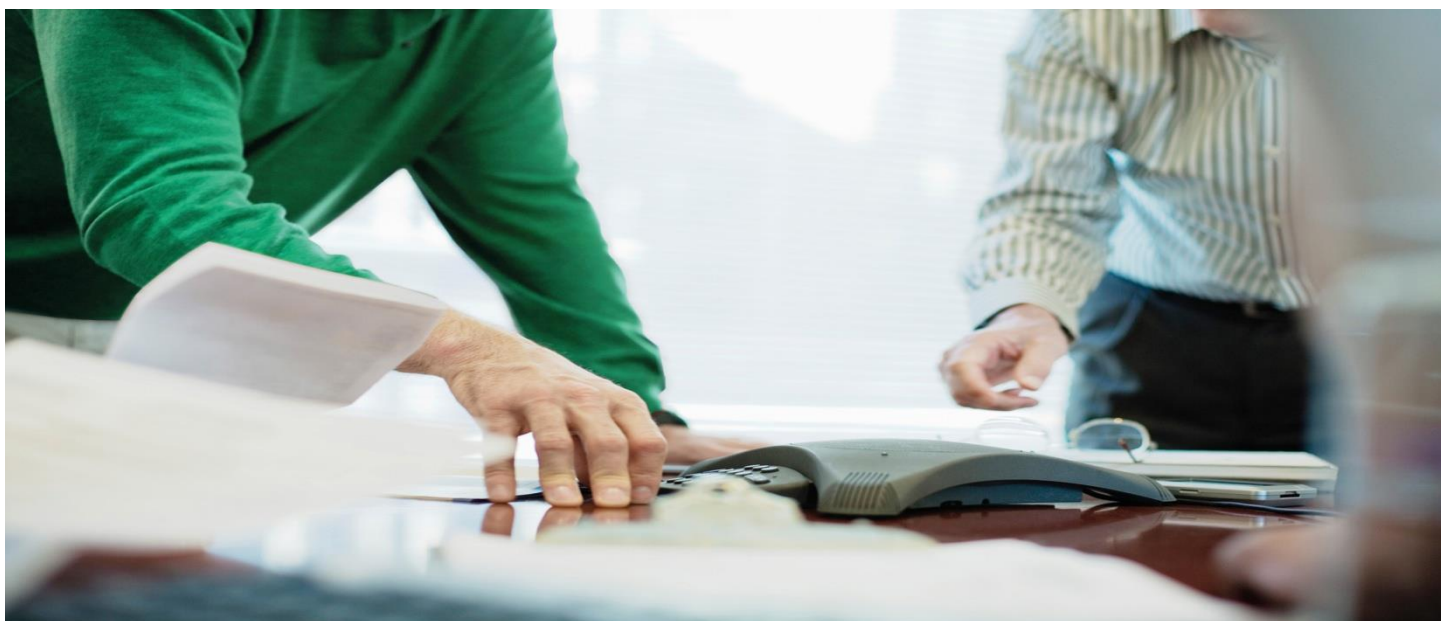


## Amendments to Slovak legislation and other topics

Welcome to our February issue of Tax & Legal News. In this issue we have prepared information for you on the following topics:

- **Amendment to the Act on Consumer Credit,**
- **Act on Insurance,**
- **Taxable income from sources abroad.**

We wish you pleasant reading.



### Amendment to the Act on Consumer Credit

The Slovak Parliament approved a proposed amendment to the Act on Consumer Credit on 3 February 2015. The aim of the amendment is to increase overall transparency and surveillance of the consumer credit ("CC") market. The major changes brought by this amendment are a change of conditions for obtaining a license for the CC provision ("license"), an obligation on current license holders to apply for a new license, an obligation of creditors to store information on CC in the electronic register of information on CC ("register") as well as an obligation on creditors to consult the register in order to assess the consumer's ability to repay the CC.

The result of the introduction of the new rules for obtaining a license is the replacement of the current register of creditors by a new list of creditors and "other creditors" who obtain a license in accordance with this amendment. The creditor is entitled to provide the CC only under a license granted by the National Bank of Slovakia ("NBS") without limitation or license to the limited extent (if the total amount of the CC provided during the 12-month period does not exceed 10 000 EUR). The term "other creditor" refers to a legal person who offers or provides credit or a loan which is not CC on the one hand, however such services are still provided to a consumer. Such a credit or loan may be provided only under the license granted by the NBS. In order to obtain a license, the creditor / "other creditor"

is required to demonstrate the fulfilment of a relatively wide range of the conditions. This obligation, however does not apply to banks, foreign banks and branches of foreign banks which are entitled to provide the CC under a bank license. The license is not transferable and does not pass over to a legal successor. If the creditor provides the CC without the license granted by the NBS, the contract on CC will be ineffective. The lists of creditors and "other creditors" will be published on the NBS web site. The termination or withdrawal of the license will be published in the Bulletin of the NBS and also on its web site. The withdrawal of the license will be also entered in the Commercial Register.

Along with other obligations, the creditor will be obliged to keep evidence of contracts and other contractual documents relating to the CC, and furthermore to keep relevant evidence in order to prove the origin of funds and also to maintain separate books of accounts for the provision of CC.

The amendment also introduces the obligation for creditors to store information from CC in the register as well as to use information from registers in order to assess the consumer's ability to repay the CC. Creditors are required to provide information on CC to at least one register. Registers shall be created by a creditor and managed by an operator (a person distinct from the creditor). A register which meets the statutory requirements will be upon the notification published in the list of registers maintained by the NBS on its website. However information contained in the registers will not be publically available and it will be accessible only to the NBS, selected authorities and creditors included in the list of creditors.

The amendment should take effect as of 1 April 2015 excluding selected provisions concerning the register which should take effect as of 30 September 2015.

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## Act on Insurance

The National Council of the Slovak Republic passed a new Act on Insurance ("Act") on 3 February 2015, which implements the Directive of the European Parliament and of the Council 2009/138/ES of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance ("Solvency II Directive").

By implementing the Directive Solvency II the National Council of the Slovak Republic aims to introduce a new economic solvency regime for insurance and reinsurance companies (also branches of foreign insurance or reinsurance companies), which is based on a rigorous quantification of the individual risks which insurance and reinsurance companies are exposed to. The goal of

the implementation according to the explanatory memorandum is i.a. to ensure a better allocation of capital resources in these subjects and also to provide better opportunities for the assessment of the solvency of these entities by competent public authorities.

### (A) The Act

In order to fulfil the main purposes of Solvency II Directive, a three-pillar system of regulation is introduced:

Pillar I: Quantitative requirements for the operation of the insurance and reinsurance companies.

This area covers i.a. rules for the valuation of assets and liabilities, the rules related to the establishment of technical provisions, investments and capital requirements for the operation of insurance and reinsurance undertaking:

- the Solvency Capital Requirement (SCR) – a level of capital that allows the entity to absorb unexpected losses and continue with their activities without jeopardizing its policyholders,
- the Minimum Solvency Capital Requirement (MCR) – level of capital below which the amount of financial resources of the entity should not fall (otherwise policyholders and other beneficiaries would be at risk).

In regards to the comparison of the above requirements, the value MCR should be 25% - 45% of the SCR, the absolute floor of the Minimum Solvency Capital Requirement shall be stipulated by the National Bank of Slovakia through its directive published in the Collection of Laws.

The Act also governs the procedure if the particular insurance or reinsurance company no longer fulfils the stated capital requirements (e.g. the suspension of dividend payments, suspension of the award of insurance or reinsurance contracts).

Pillar II: Qualitative requirements and supervision of insurance and reinsurance companies' activities

The Act specifies conditions for the system of governance of insurance and reinsurance companies for the purpose of their more efficient regulation, the system of governance comprises in particular the risk

management function, compliance function (its own risk and solvency assessment), internal audit function and actuarial function. However, the Act in this regard does not specify the exact procedure for insurance and reinsurance companies, as how to implement the above mentioned functions within its organizational structure.

Pillar III: Market discipline, disclosure and reporting

The Act introduces a new obligation, within which the supervised entities shall submit information and reports for supervision purposes. The Act requires that insurance and reinsurance companies, i.a. shall disclose at least once per annum a report on their solvency and financial conditions.

### (B) Changes in related legislation

In respect of the complex amendment of the insurance field, the Act also indirectly amends related legislation:

- Act No. 40/1964 Coll. Civil Code: the obligations of the insurer to provide clients with pre-contractual information were amended;
- Act No. 381/2001 Coll. on mandatory contractual insurance for damage caused by the operation of motor vehicle: for the purpose of just determination of insurance premiums the Act introduces the obligation of the insurer to take into account the course of damage occurrence when determining the amount of insurance premium either in the form of insurance reduction (if no damage occurred during the insurance period) or insurance surcharge (if insurance payment was provided).

The Act shall be effective as of January 1st 2016 except for certain provisions being effective as of 1 April 2015.

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## Taxable income from sources abroad

The Financial Directorate of the Slovak Republic issued the document "Questions and answers on the filing of the income tax returns of taxpayers (the Slovak tax residents),

who received also the taxable income from sources abroad”.

Inter alia, this document deals with the meaning of “taxable” income with respect to the extension of the deadline for filing the income tax return for six whole calendar months. According to the Financial Directorate of the Slovak Republic the possibility for the extension of the deadline for filing the income tax return is not contingent on the taxability of income received from the sources abroad in the country of source according to the tax legislation of the country of source and/or respective double taxation treaty, but is contingent on its taxability according to the Slovak Income Tax Act.

This document can be found on the following link:

[https://www.financnasprava.sk/\\_img/pfsedit/Dokumenty\\_PFS/Infoservis/Aktualne\\_informacie/dp/2015/2015\\_01\\_27\\_Otazky\\_a\\_odpovede\\_k\\_DzP\\_medzin\\_zdanovanie.pdf](https://www.financnasprava.sk/_img/pfsedit/Dokumenty_PFS/Infoservis/Aktualne_informacie/dp/2015/2015_01_27_Otazky_a_odpovede_k_DzP_medzin_zdanovanie.pdf)

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#### In one sentence

- The Financial Directorate of the Slovak Republic issued the Guideline on the submission of the supplementary real estate tax return under the Act No. 582/2004 Coll. on municipal taxes and local

fees on communal waste and minor construction waste as amended effective to 30 November 2012.

[https://www.financnasprava.sk/\\_img/pfsedit/Dokumenty\\_PFS/Profesion\\_alna\\_zona/Dane/Metodicke\\_pokyny/Miestne\\_dane/2015/2015\\_02\\_03\\_MP\\_k\\_podavaniu\\_DDP\\_ak\\_uplynul\\_a\\_lehota\\_na\\_jeho\\_podanie.pdf](https://www.financnasprava.sk/_img/pfsedit/Dokumenty_PFS/Profesion_alna_zona/Dane/Metodicke_pokyny/Miestne_dane/2015/2015_02_03_MP_k_podavaniu_DDP_ak_uplynul_a_lehota_na_jeho_podanie.pdf)

- The Financial Directorate issued information on the issuance of confirmation on taxable income from dependent activities for the tax period of 2014.  
[https://www.financnasprava.sk/\\_img/pfsedit/Dokumenty\\_PFS/Infoservis/Aktualne\\_informacie/dp/2015/2015\\_02\\_03\\_Informacia\\_vydavanie\\_potvrdeni\\_o\\_prijmoch\\_zo\\_ZC.pdf](https://www.financnasprava.sk/_img/pfsedit/Dokumenty_PFS/Infoservis/Aktualne_informacie/dp/2015/2015_02_03_Informacia_vydavanie_potvrdeni_o_prijmoch_zo_ZC.pdf)
- The Statistics Office of the Slovak Republic has presented for public consulting the draft law on the register of legal persons, entrepreneurs and public authorities.  
<https://lt.justice.gov.sk/Material/MaterialHome.aspx?instEID=-1&matEID=7958&langEID=1>
- On January 20, 2015, the Slovak Financial Directorate published the press release, based on which the entities will be erased from the list of “unreliable” VAT payers (“Black list”) after 6 months instead of a year, if the reasons to be published in the respective list ceased to exist; the shortened six-month period is effective as of 1 January 2015. The press release

can be found on the following link:  
[https://www.financnasprava.sk/\\_img/pfsedit/Dokumenty\\_PFS/Pre\\_media/Tlacove\\_spravy/Rok\\_2015/2015.01.20\\_TS\\_Cierna\\_listina\\_zmeny.pdf](https://www.financnasprava.sk/_img/pfsedit/Dokumenty_PFS/Pre_media/Tlacove_spravy/Rok_2015/2015.01.20_TS_Cierna_listina_zmeny.pdf)

- The Slovak Financial Directorate released information concerning the adjustment of the tax base by contractual penalties, late payment interests, late payment fees, lump sum reimbursements associated with the collection of receivables until 31 December 2014 and after 1 January 2015, in which it inter alia provides for how these should be included in the tax base, if they were booked into the costs or revenues by 31 December 2014. The Information can be found on the following link:

[https://www.financnasprava.sk/\\_img/pfsedit/Dokumenty\\_PFS/Infoservis/Aktualne\\_informacie/dp/2015/2015\\_01\\_28\\_zmluvne\\_pokuty\\_od\\_1\\_1\\_2\\_015.pdf](https://www.financnasprava.sk/_img/pfsedit/Dokumenty_PFS/Infoservis/Aktualne_informacie/dp/2015/2015_01_28_zmluvne_pokuty_od_1_1_2_015.pdf)

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