Amendments to Slovak legislation and other topics

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

- New Guidelines of the Ministry of Finance of the Slovak republic no. MF/011491/2015-724 on the content of Transfer Pricing Documentation,
- Registry of addresses,
- European Parliament adopts proposals for EU company ownership registers to combat tax evasion and terrorist financing,
- Changes to Investment Aid Act.

We wish you pleasant reading.

New Guidelines of the Ministry of Finance of the Slovak republic no. MF/011491/2015-724 on the content of Transfer Pricing Documentation

From January 1st 2015, domestic related parties are subject to the transfer pricing rules and are obliged to maintain transfer pricing documentation (hereinafter "documentation").

The Ministry of Finance of the Slovak republic (MFSR) approved new Guidelines no. MF/011491/2015-724 on the content of Transfer Pricing Documentation (hereinafter „Guidelines") and published them in the Financial Bulletin no. 5 – May, which with the effect from January 1st, 2015 replaced the Guidelines of the MFSR no. MF/8120/214-721. The aim of the recent changes was to relieve the administrative burden of those domestic related parties which are not identified as "high-risk".

According to the Guidelines, domestic entities that are not applying for an Advance Pricing Agreement (APA), are not deducting a tax loss exceeding a certain amount and do not apply any tax relief, must prepare documentation in simplified form for the transactions with domestic related parties.

The obligation to maintain full scope documentation has been extended to those taxpayers (including domestic taxpayers), who deducted a tax loss exceeding the amount of EUR 300 thousand during a single period, taxpayers who during two consecutive periods deducted a tax loss exceeding EUR 400 thousands in total and taxpayers who applied tax relief during the respective period.

According to the Guidelines, taxpayers maintaining simplified documentation are obliged to prepare documentation for all controlled transactions, not just for significant transactions.

The definition of the materiality of particular transactions, which is generally defined in accounting law, is now also limited in terms of value so that if a particular transaction or group of transactions assessed together exceed the amount of EUR 1 million, then they are considered as material for the documentation purposes, notwithstanding the general definition.

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Registry of addresses

For the purpose of development of e-Government, the National Council of the Slovak Republic adopted an Act on the registry of addresses (in Slovak: zákon o registri adries) and on amending and supplementing certain acts (hereinafter the "Act") on May 14th 2015. According to the explanatory memorandum to the Act, the main

purpose of the Act is to create a legislative framework for the establishment of a register of addresses (hereinafter "Register") as an information system of the public administration. The Register registers addresses and address points of residential and non-residential buildings. The data in the Register should serve the needs of public administration.
The Register is accessible to the public through the website of the Ministry of Internal Affairs of the Slovak Republic, with the accessible data in an informative form.
The Act, among other things, amends the Act. 224/2006 Coll. on identity cards and on amending and supplementing certain acts. One of significant practical changes is the possibility to apply in electronic form for a new ID card at the end of its period of validity or due to a change of residence.
The takeover of ID cards have also been simplified. A citizen, after proving his identity can take over the ID card of a close person in his or her place. This eliminates the obligation of preparing a power of attorney with a notary verified signature.
Other persons can still takeover the ID card after they prove their identity and present a power of attorney with notary verified signature.
The Act comes into force on July 1st 2015.

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European Parliament adopts proposals for EU company ownership registers to combat tax evasion and terrorist financing

The European Parliament has adopted proposals requiring EU Member State to maintain public registers of the ultimate ownership of EU companies and similar entities. This move forms part of the EU's anti-money laundering directive, and should be seen in the context of the increased call from the public and media for increased tax transparency.
Under the new provisions, legal entities incorporated within the EU will be required to hold and transfer information concerning their beneficial owners and the interests they hold to a central register in that Member State. The concept of "beneficial ownership" is extensively defined; while generally based on a 25% + ownership criterion, Member States may adopt lower percentages. Special provisions apply for trusts and similar entities.
The information on beneficial ownership will be primarily accessible by competent authorities, financial intelligence units, and 'obliged entities' such as banks, insurance companies, lawyers, trust service providers etc. Persons or organizations who demonstrate a "legitimate interest" (left undefined by the proposal) may also have access to limited information. The availability of information on trusts is more restricted – only competent authorities and obliged entities may have access to such information.
Member States have two years from the adoption of the Directive to implement is main provisions in to their domestic legislation.

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Changes to Investment Aid Act

With effect from 1 April 2015 the current Investment Aid Act has been amended again. The changes which have been introduced are aimed to attract more investors to Slovakia. Slovakia have seen a sharp decline in foreign direct investment in the last few years.
The changes may attract new foreign direct investments, especially in the event that companies decide to expend their production facility in Slovakia.
The current rule that companies should invest at least EUR 3 million/EUR 5 million or EUR 10 million will not change. The statutory investment amount is depending on the unemployment rate of the region in which an investment project will be carried.
However some of the other rules have been amended in favor of investors. First of all the rule that investment projects could not start before the issuance of a provisional approval, which was issued following the filing of a request for investment aid has been abolished. In many cases there were unnecessary long delays in respect to the issuance of such provisional approval. Under the amendment, investors can start with the investment project following the filing of the request for investment aid with the Ministry of Economy.
Another positive change is the cancellation of the condition that employment should increase with 10% in case of expansion of the production capacity. Under the new rules an investment project should create at least 40 jobs. This change is advantageous for investors which employ many people (>400 employees).
Under the old regime investors were required to create all jobs as reported into their request for investment aid. Under the new regime this requirement is reduced to 90%. In practice this change will be embraced by potential investors as they now have some flexibility. Note this change does not have any impact on the minimum number of new jobs to be created. An investment project must create at least 40 new jobs
R&D and technology centers could qualify for investment aid in case their investment project will create 30 jobs instead of the 40 jobs required under the regime before 1 April 2015. Besides that requirement at least 70% of the staff must be university educated and the investment amount must be equal to at least EUR 500,000.

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In one sentence

- The extended deadline for filing the personal income tax return and corporate income tax return is approaching. Individuals and legal entities with the tax period identical to the calendar year 2014, which based on the announcement on the extended deadline for filing the income tax return by a whole 3 calendar months, filed with the respective Slovak Tax Authorities within the statutory filing deadline, are obliged to file the respective income tax return by 30 June 2015.

- On 15 May 2015, the OECD released a new discussion draft on Action 7 (Prevent the Artificial Avoidance of Permanent Establishment Status) of the OECD´s base erosion and profit shifting (BEPS) action plan including the preliminary results of the work carried on with respect to issues related to the artificial avoidance of PE status and proposals for changes to be made to the definition of PE as referred to in the OECD Model (2010).
  The draft can be found under following link:
  http://www.oecd.org/tax/treaties/revised-discussion-draft-beps-action-7-pe-status.pdf

- On 20 May 2015 inter alia the following draft amendments were sent to government consultative bodies of the Slovak republic:
  - draft amendment to the Act No. 595/2003 Coll. on Income Tax;
  - draft amendment to the Act No. 563/2009 Coll. on Tax

Administration (Tax Procedure Code);

- draft amendment to Act No. 222/2004 Coll. on Value Added Tax

- The Slovak Financial Directorate released the following guidelines and information:
  - Guidelines on the utilization of tax loss according to § 30 of the Income tax act by a taxpayer who is an individual https://www.financnasprava.sk/_img/pfsedit/Dokumenty_PFS/Profesionalna_zona/Dane/Metodicke_pokyny/Priame_dane/2015.04.28_MP_dan_strata_FO.pdf
  - Announcement to the reporting of tax-exempt supplies in the value added tax return https://www.financnasprava.sk/_img/pfsedit/Dokumenty_PFS/Profesionalna_zona/Dane/Metodicke_usmernenia/Nepriame_dane/2015/2015.05.11_DP_k_DPH.pdf
  - Information on the amendment of the Act on the use of electronic cash register regulating the procedures of using the virtual cash register by the entrepreneurs providing taxi services, if the vehicle has firmly built-in functional taximeter https://www.financnasprava.sk/_img/pfsedit/Dokumenty_PFS/Profesionalna_zona/Dane/Novinky_z_legislativy/2015/ERP/2015.04.27_ERP.pdf

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