



Tax and Legal News

Changes in Slovak tax legislation and other topics

In the newest issue of our Tax and Legal News we outline information on the following topics:

- VAT rules on vouchers harmonized in the EU
- Act on Register of Partners of the Public Sector
- Act on Trust Services and European Union Regulation on Electronic Identification and Trust Services for Electronic Transactions in the Internal Market (eIDAS)

We wish you pleasant reading.

—

KPMG in Slovakia
November 2016

VAT rules on vouchers harmonized in the EU

On 27 June 2016, the Council of the European Union adopted a directive amending Directive 2006/112/EC as regards the treatment of vouchers.

Along with a definition of “voucher” for VAT purposes, the Directive differentiates between the individual types of vouchers (single-purpose voucher – „SPV“, multi-purpose vouchers – “MPV”); it sets out their distinguishing features and introduces VAT rules applying to vouchers.

The aim of the Directive is to ensure certain and uniform VAT treatment, to avoid inconsistencies, distortion of competition, double or non-taxation and to reduce the risk of tax avoidance for transactions associated with vouchers.

Definitions

Definitions according to the adopted wording of the Directive are narrower in scope compared to the Commission's 2012 proposal. Based on the adopted wording of the Directive,

1. **„Voucher”** means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services and where the goods or services to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument;
2. **“Single-purpose voucher”** means a voucher where the place of supply of the goods or services to which the voucher relates, and the VAT due on those goods or services, are known at the time of issue of the voucher;
3. **“Multi-purpose voucher”** means a voucher, other than a single-purpose voucher.

Vouchers are distinguished from payment instruments, to which the provisions of the Directive are not intended to apply. These rules are focused on vouchers which can be used for redemption against goods or services. Instruments entitling the holder to a discount upon purchase of goods or services but carrying no right to receive such goods or services are not targeted by the Directive.

The provisions regarding vouchers should not trigger any change in the VAT treatment of transport tickets,

admission tickets to cinemas and museums, postage stamps or similar.

VAT treatment

SPV: Where the VAT treatment attributable to the underlying supply of goods or services (such as place of supply of goods or services, applicable VAT rate) can be determined with certainty already upon issue of a voucher, VAT should be charged on each transfer. The actual handing over of the goods or the actual provision of the services in return for a single-purpose voucher should not be regarded as an independent transaction.

MPV: The distinguishing feature of multi-purpose vouchers is that the information necessary to determine the VAT treatment becomes available only upon redemption against goods or services. VAT should be charged upon the actual handing over of the goods or the actual provision of the services in return for a multi-purpose voucher accepted as consideration or part consideration by the supplier. Any prior transfer of multi-purpose vouchers should not be subject to VAT.

The Directive also sets rules to determine the taxable value of transactions associated with vouchers and comprises VAT rules regarding the distribution of vouchers.

The adopted provisions do not target the situations where a multi-purpose voucher is not redeemed by the final consumer during its validity period, and the consideration received for such voucher is kept by the seller.

Transposition of the Directive into national law and entry into force

The Directive is required to be transposed into national legislation by 31 December 2018 at the latest. The respective provisions must be applied from 1 January 2019.

The provisions regarding the VAT treatment of vouchers should apply only to vouchers issued after 31 December 2018 and are without prejudice to the validity of the legislation and interpretation previously adopted by the respective EU member states.

www.kpmg.com/sk/sk/stranky/default.aspx

A: Elvira Ungerová

T: +421 2 5998 4313

M: eungerova@kpmg.sk

Act on Register of Partners of the Public Sector

As of 1 February 2017, the new Act on Register of Partners of the Public Sector (the "Act") will cancel the recent Register of the Beneficial Owners and replace it by the Register of Partners of the Public Sector (the "Register").

What does inscription in the Register mean?

Individuals and legal entities which are subject to the registration duty may only conclude a contract with a public procurer or a procurer or be an acquirer of the privatized assets, state property, or the property of a Higher Territorial Unit (Vyšší územný celok in Slovak) after the registration with the Register.

The public procurer and procurer may not (apart from several specific exceptions) conclude a contract, concession agreement or a framework agreement with the contractor who has an obligation to be inscribed in the Register but has not been registered there. The same applies also to its subcontractors.

Who must be inscribed in the Register?

Each partner of the public sector (the "Partner") must be registered with the Register. Partner is an individual or a legal entity, who e.g.:

- accepts the financial means from the public funds, e.g. national budget, EU funds, municipal budgets;
- acquires the assets or the rights regarding to the assets of the public property;
- concludes the contract, general agreement or a concession agreement under the Act on Public Procurement;
- supplies goods or services to the persons above, or acquires property from these persons and is aware or should be aware that all performances provided or the property acquired relate to the contract on basis of which the Partner acquires financial means or the property from public sources.

In certain circumstances set out by the Act (e.g. due to size criteria, or legal form) the registration with the Register should not be required.

The Authorized Person

The Partner should perform all the actions regarding to the Register through the authorized person, which

may be: a) an attorney-at-law, b) a notary public, c) bank, d) foreign bank branch, e) an auditor, f) tax advisor (the "Authorized Person").

The Authorized Person is responsible for the identification of a beneficial owner. The beneficial owner is determined by the Act No. 297/2008 Coll. on Anti-Money Laundering and protection from the Terrorism Financing as amended.

Sanctions

In the event of a breach of the obligations under this Act, the state authorities may impose a penalty up to EUR 1,000,000 to the Partner and a penalty up to EUR 100,000 to the Authorized Person. A decision on the penalty is at the same time considered a decision on disqualification of the statutory body member pursuant to Section 13a of the Slovak Commercial Code.

This Act (apart from several specific exceptions) becomes effective as of 1 February 2017. Partners are obliged to fulfill their obligations with regard to the Register (e.g. verification of the beneficial owner identification) not later than 31 July 2017.

www.kpmg.com/sk/sk/stranky/default.aspx

A: Marian Dzuroška

T: +421 2 5998 4329

M: mdzuroska@kpmg.sk

Act on Trust Services and European Union Regulation on Electronic Identification and Trust Services for Electronic Transactions in the Internal Market (eIDAS)

As of 18 October 2016, Act No. 215/2002 Coll. on Electronic Signature have ceased to have effect and was replaced by the new Act No. 272/2016 Coll. on Trust Services which is *de facto* an executing act to the regulation of the European Union on Electronic Identification and Trust Services for Electronic Transactions in the Internal Market (eIDAS).

As the most important change in the practical usage of the electronic signature and electronic seal is the extension of encryption levels so that currently used electronic signature / seal and secure electronic signature / seal was amended by the new "level" of security – the qualified secure electronic signature and qualified secure seal, that are determined for the official cross-border use within the EU.

and qualified secure seal, that are determined for the official cross-border use within the EU.

The up to date used secure electronic signatures / seals remain valid without any change and may be still used in the contact with the public authorities in Slovakia, since their legal effects are equal to an authentic "written" signature.

As for the qualified electronic signature, the new regulation brings the actual unification of the technical requirements for electronic signatures across the EU, which differ from state to state.

www.kpmg.com/sk/sk/stranky/default.aspx

A: Marian Dzuroška
T: +421 2 5998 4329
M: mdzuroska@kpmg.sk

In one sentence

The Amendment to the Act on Social insurance was approved by the Slovak Parliament. According to the respective Amendment the monthly cap for social security contributions would be increased to 7 times the average salary (approx. EUR 6,181) as of 1 January 2017.

The Slovak Parliament approved and President signed the Amendment to the Slovak VAT Act. You can find more information in our [October's issue of Tax and Legal News](#).

The Amendment to the Tax Code was also approved by the Parliament and signed by the Slovak President. Further details of the Amendment are included our [October's issue of Tax and Legal News](#).

Contacts

Tomáš Círan, Partner
T: +421 2 5998 4306
M: tciran@kpmg.sk

Branislav Ďurajka, Partner
T: +421 2 5998 4303
M: bdurajka@kpmg.sk

Zuzana Blažejová, Director
T: +421 2 5998 4331
M: zblazejova@kpmg.sk

Róbert Kolár, Director
T: +421 2 5998 4314
M: rkolar@kpmg.sk

KPMG Slovensko Advisory, k.s.
Dvořákovo nábrežie 10
811 02 Bratislava

T: +421 2 5998 4111
M: kpmg@kpmg.sk

kpmg.sk

The information contained 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.