Tax and Legal News

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Private foundations: New options for managing a private assets

The new instrument for managing assets should enable to establish so-called private foundations, through which it will be possible to financially support the family and close relatives as well as other private purposes. The draft amendment is currently undergoing the inter-governmental review process.

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On 14 February 2023, the Ministry of Justice of the Slovak Republic submitted to the inter-ministerial procedure for comments a draft law amending the Act No. 34/2002 Coll. on Foundations and on Amendments to the Civil Code, as amended (the "Amendment").

The Amendment should introduce the concept of a **foundation for the support of a private purpose into our legal system**.

The Amendment responds to the requirements of the application practice and, following the model of the so-called **"trusts" or trust funds** (which are used, for example, in the Czech Republic), enables the founders, by establishing the form of a private foundation, to effectively manage their assets and distribute resources to the family members as well as to other persons important to the founders.

A private purpose foundation can be set up to achieve a self-defined purpose by the founder. However, the Amendment sets certain restrictions on what can be considered a private purpose. According to the Amendment, a **private purpose** can be understood as, in particular, securing own needs of the founder, family members, close relatives and confidants, covering the costs of raising, educating, treating, outfitting or supporting such persons, putting the private foundation's property to use, as well as supporting other interests of the founder serving a publicly beneficial purpose. The private purpose must not be contrary to good morals (i.e. the purpose of the private foundation should not encourage or promote anti-social behaviour or circumvention of other laws, such as inheritance law).

The foundation will be a legal entity and will constitute a special purpose vehicle for the pooling of assets.

We will inform you about the development of this legislative process as well as possible application problems in a series of further articles.

The Social Insurance Agency will apply a general pardon to debtors

In the period from 1 February 2023 to 31 August 2023, the Social Insurance Agency will forgive debtors the late payment penalty under certain conditions.

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From February 2023, the Social Insurance Agency will not granted penalties to debtors or will forgive the obligation to pay debts against the Social Insurance Agency for the period before 1 July 2022. This form of **enforcement amnesty** means that debtors get the longest period of the time yet to settle their debts, **up to 7 months**.

The condition for debtors is the payment of the entire amount of insurance premiums owed by 31 August 2023. Debtors as insurance premium **payers must submit to the Social Insurance Agency all missing monthly statements of insurance premiums and contributions** for the relevant period until 30 June 2022.

Further information about general pardon can be found on the website of the Social Insurance Agency.

How should the financial contribution for accommodating Ukrainian refugees be treated?

With the approaching tax filing deadline, taxpayers' practical questions increase every year. One of them is the question regarding taxation of financial contribution for providing accommodation to Ukrainian citizens. Does this financial contribution constitute taxable income?

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Due to the extraordinary situation in Ukraine, many foreigners found themselves in Slovakia during 2022 and accepted the status of temporary refuge in Slovakia. Many Slovaks provided these refugees with accommodation in their properties. As a result, the Slovak Government introduced a **financial contribution for providing accommodation to Ukrainian citizens** to compensate for the costs incurred by the accommodation provider.

With only a few weeks left to the filing deadline for the 2022 income tax returns, many taxpayers wonder whether these contributions are subject to taxation.

The Financial Directorate of the Slovak Republic has published methodological guidelines on taxation of the accommodation contributions. An important consideration for taxation is who provides the contribution:

- the municipality according to the Act No. 480/2002 Coll. on Asylum or
- the Ministry of Transport according to the Act No. 91/2010 Coll. on support of travel and tourism

The municipalities provides financial contribution for accommodation to individuals who own property (dedicated for living) in the municipality. The contribution is paid by the municipality based on accommodation agreement with the refugee and the number of nights spent in accommodation.

The Ministry of Transport provides financial contribution to persons who provide accommodation in an accommodation facility in accordance with the Act on Trade Licensing. To be able to apply for the contribution, an agreement on provision of the financial contribution for accommodation concluded with the Ministry of Transport is necessary.

Tax exemption of contributions from the state budget

According to Article 9 (2j) of the Income Tax Act, support and contributions provided from the state budget, municipal budget, higher territorial units as well as state funds, including non-monetary payments, are exempt from tax. However, this does not apply to payments received in connection with the performance of activities that generate income according to Article 5 and 6 of the Income Tax Act.

Both the contribution according to the Act on Asylum and the contribution under the Act on support of travel and tourism are provided from the state budget. In both cases, the right to tax exemption arises in the first step. However, it is necessary to further consider whether these contributions originate from the performance of activities from which the taxpayers generate income according to Article 5 (from dependent activity) and Article 6 (from trade, rental and others) of the Income Tax Act.

Financial contribution for accommodating refugees according to the Act on Asylum

Whether the financial contribution for accommodating according to the Act on Asylum is taxable for the particular taxpayer depends on whether the contribution provided to him / her is connected with the performance of an activity from which the taxpayer has income from business, from renting out, or from other self-employed activities.

The contribution will be subject to income tax, especially in situations if the living area where the individuals accommodate the refugees is commonly provided for accommodation or rented out. Property included in business assets may be another indication of taxability.

On the other hand, if the accommodation in the property is provided by an individual who has income only from employment (non-entrepreneur), the contribution provided by the municipality is not subject to taxation.

Financial contribution for accommodating refugees according to the Act on support of travel and tourism

An individual who is granted the financial contribution for accommodating according to the Act on support of travel and tourism provides the accommodation and related services in an accommodation facility according to the Act on Trade Licensing.

This means that the financial contribution is always provided in connection with the performance of the activity from which the taxpayer generates income according to Article 6 of the Income Tax Act. According to Article 9 (2j) of the Income Tax Act, this contribution **is not income exempt from income tax of an individual.**

Claiming expenses

If the contribution is subject to taxation, the taxpayers are entitled to claim expenses incurred in connection with the provision of accommodation without limitations (in accordance with the Income Tax Act). These may include for example operating expenses for services or energy expenses.

The taxpayer includes the financial contributions and related expenses into the tax base, depending on how the taxpayer keeps the accounting records / tax evidence.

If you are interested in this topic and need more information, do not hesitate to contact us.

In brief

Do not forget to file the income tax returns

The filing deadline for income tax returns for 2022 and paying the respective tax is 31 March 2023.

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Taxpayers may extend the statutory deadline up to three calendar months by filing of the respective announcement with the Tax Authorities and up to six calendar months if the taxpayer declares the foreign sourced income.

World news

The latest additions on EU blacklist

Following latest February update, four countries were added to the European Union's blacklist.

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On 14 February 2023, the EU Finance Ministers added four jurisdictions on **blacklist of non-cooperative jurisdictions for tax purposes**:

- British Virgin Islands – found not to be sufficiently in compliance with the OECD standard on exchange of information,
- Costa Rica – for its foreign source income exemption regime,
- Marshall Islands – facilitate offshore structures and arrangements aimed to attracting profits without real economic substance,
- Russia – because of its violations of the good tax governance criteria set out in the EU Code of Conduct as well as the dialogue on tax matters following the conflict in Ukraine.

In addition, the EU added Albania, Aruba and Curaçao to its **grey list** and removed Barbados, Jamaica, North Macedonia and Uruguay for fulfilling their previous commitments.

Following this latest revision, the EU blacklist includes the sixteen jurisdictions: **American Samoa, Anguilla, The Bahamas, British Virgin Islands, Costa Rica, Fiji, Guam, Marshall Islands, Palau, Panama, Russian Federation, Samoa, Trinidad and Tobago, Turks and Caicos Islands, US Virgin Islands** and **Vanuatu.**

The EU's grey list now includes the following eighteen jurisdictions: **Albania, Armenia, Aruba, Belize, Botswana, Curaçao, Dominica, Eswatini, Hong Kong (SAR), Israel, Jordan, Malaysia, Monserrat, Qatar, Seychelles, Thailand, Turkey** and **Vietnam.**

The EU asks all listed countries to work towards compliance with international standards in taxation with the next update scheduled for October 2023.

In brief

One sentence summary | March 2023

Last month's tax and legal news in brief.

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- The Financial Administration in cooperation with the State Treasury offer taxpayers the ability to pay their taxes and administrative fees online using a credit card. More information can be found at this link.
- The amendment to the Income Tax Act extends deductible expenses for employers to include expenses incurred for the operation of their own nurseries and kindergartens.
- Find out how to manage the immigration process and what to consider when preparing your documentation from our Immigration and Global Mobility experts. More useful tips and an overview of the most common situations that complicate the successful processing of applications at the Foreign Police can be found here.
- The Financial Administration has prepared a specialised section with useful information on tax obligations for Ukrainians. It will also gradually publish information materials in the Ukrainian language.
- The discussion on the increase of the special levy on business in regulated sectors and its extension to banks has been postponed to the current March meeting of the Parliament.
- The European Central Bank has raised key interest rates for the fourth time in recent months. From 22 March 2023, the interest rate on the main refinancing operations and the interest rates on the marginal lending facility and the deposit facility will be increased to 3.50%, 3.75% and 3.00% respectively.
- Find out what is the procedure for liquidating a company and what tax obligations arise from the closing a business. We have prepared an overview of the most frequently asked questions, which you can read here.

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