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Did You Know?

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Conversions of companies and cooperatives have new rules

We bring you an overview of several changes resulting from the new Act on Company Conversions. The new legislation also introduces significant changes in the tax area.

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On 1 August 2023, the first part of Act No. 309/2023 Coll. on conversions of companies and cooperatives and on amendments to certain acts ("Act") entered into force. We informed you about the planned changes in this Act in our January edition.

New framework for conversions and changes of legal form

The first part of the Act introduces **the institute of the insolvency register** into the insolvency legislation.

With the effect from 1 March 2024, the Act introduces a comprehensive regulation of company conversions, when the legal regulation of company and cooperative conversions ("conversions") will be definitely excluded from the Commercial Code.

The aim of the new Act is to create a unified, coherent and clear legal regulation of the process of conversions and changes of legal form.

From 1 March 2024, the Act will regulate in particularly:

- **national conversions** (mergers, amalgamations and divisions)
- **cross-border conversions** (cross-border mergers, amalgamations and cross-border divisions)
- **changes of legal form** (change of legal form and cross-border change of legal form); and
- **other relationships related to conversions and changes of legal form**.

The adoption of the Act introduces a completely new terminology of terms related to the conversions and introduces new institutes, such as:

1. **spin-off;**
2. **cross-border division**; and
3. **cross-border change of legal form**.

A conversion project will now replace the merger agreement. Just like the merger agreement, the conversion project will be subject to the approval of the bodies of the company concerned. The approval of the conversion project may also be revoked before the application for registration of the conversion in the commercial register is submitted.

Note that under the transitional provisions of the Act, the current legislation will apply if a draft merger agreement or a draft division project was adopted **before 1 March 2024** and the application for registration of the merger, division of the company was submitted to the Commercial Register **by 30 June 2024**. The same applies in the case of a change in the legal form of the company.

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The Act also defines the situations when national and cross-border conversions are not allowed.

In general, a conversion is only possible if the companies involved in the conversion have the same legal form or between a limited liability company and a joint stock company.

Companies involved in a cross-border conversion must have the same or similar legal form. In principle, cross-border conversions are only possible between capital companies, i.e. joint stock companies and limited liability companies and their similar forms abroad.

Tax-related amendments

The Act also amends the Income Tax Act, which adds a provision regarding spin-off with effect from 1 March 2024. Effective from 1 January 2024, **an exemption from income tax from the sale of shares is introduced after three years from its acquisition** (if acquired after 31 December 2023) as well as other provisions related to **financial investments by individuals.**

With effect from 1 March 2024, the VAT Act will be amended accordingly to reflect the possibility of company conversion by spin-off.

The Financial Administration has issued a material in this respect, more information can be found here (available only in Slovak language).

If you are interested in this topic or consider realization of Conversion or change of legal form do not hesitate to contact us.

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Digital euro: the base for stability of money in the digital age?

The digital euro is not intended to replace the traditional physical form of money, but it has to be available alongside cash. It is only intended to serve as a complementary and optional payment method, anywhere in the eurozone, at any time and without any additional charges.

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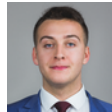

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On 28 June 2023, the European Commission presented **the Proposal for a Regulation of the European Parliament and of the Council on the establishment of the digital euro** ("Digital Euro Regulation Proposal"), and also **the Proposal for a Regulation of the Proposal for a Regulation of the European Parliament and of the Council on the provision of digital euro services by payment services providers incorporated in Member States whose currency is not the euro and amending Regulation (EU) 2021/1230 of the European Parliament and the Council** ("Digital Euro Services Regulation Proposal"). These are only draft EU regulations, and at this point we cannot yet determine when the digital euro will be established. The European Central Bank expects it to be no earlier than 2025.

People are increasingly using private digital means of payment and increasing the volume of payments made online, which in the view of the European Commission threatens the desired balance between the money of the European Central Bank ("ECB") and private digital means of payment. What should bring the change is **the introduction of the digital euro – retail digital currency technologically adapted to the digital age**, which, like traditional cash, would be a legal tender (an official form of money) issued by the ECB to which the general public will have access.

Digital euro

The digital euro is not intended to replace the traditional physical form of money, but it has to be available alongside cash. It is only intended to serve as a complementary and optional payment method, anywhere in the eurozone, at any time and without any additional charges. The ECB will be authorised to issue the digital euro, and eventually the national central banks of the EU Member States whose currency is the euro, if authorised by the ECB.

The fact that the digital euro is not intended to replace traditional cash as we know it is further evidenced by the Proposal for a Regulation of the European Parliament and of the Council on the legal tender of euro banknotes and coins, which is intended to strengthen the status of euro banknotes and coins, countering fears of cash becoming less available or being replaced by the digital euro.

Digital Euro Regulation Proposal

In order to adapt the euro to technological change and to ensure its use as a single currency, this regulation establishes the digital euro and lays down rules concerning in particular its legal tender status, distribution, use and basic technical characteristics. The Digital Euro Regulation Proposal regulates the status of the digital euro as a form of single currency with legal tender status and the method of distribution. Further it also lays down the competences of the competent authorities and the restrictions on its use in order to preserve the stability of the financial markets.

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Obligation to accept digital euro payments

Given the legal tender status of the digital euro, the Digital Euro Regulation Proposal provides for the obligation to accept it at its full nominal value. Recipients of payments will not be able to:

- unilaterally exclude the acceptance of the digital euro in their commercial (contractual) terms and conditions, nor
- use commercial practices which exclude or restrict use of the digital euro.

It will only be possible to exclude the acceptance of the digital euro on the basis of an individual agreement between the parties. Acceptance of digital euro payments will not be mandatory in selected cases, as for example:

- if the recipient of payment is a business employing less than ten persons or whose annual turnover or annual balance sheet total does not exceed EUR 2 million, or is a non-profit-making legal entity, unless it accepts comparable digital means of payment;
- if the payment is refused in good faith, on legitimate and temporary grounds in accordance with the principle of proportionality and for reasons beyond the control of the recipient of payment; or
- if the recipient of payment is a natural person acting exclusively in a personal or domestic activity.

Obligation not to charge fees for digital euro payments

The Digital Euro Regulation Proposal prohibits the recipients of payments in the digital euro from adding any charges only because of the reason, that a payment is made in the digital euro.

The Digital Euro Regulation Proposal prohibits the recipients of payments in the digital euro from charging digital euro users any fees for basic digital euro payment services, transaction fees or other hidden charges.

Further information about the digital euro

The ECB recognises that the process of introduction of the digital euro into practice will not be easy. It will be crucial for its acceptance by the public that the use of the digital euro is truly simple, low-cost, fast, secure and that it contributes to enhancing consumer protection. In practical terms, payment with the digital euro would be possible, for example, by card, phone or smart watch. The ECB plans to set up free support and access to digital euro services for anyone who might find it difficult to use the digital euro.

Digital Euro Services Regulation Proposal

The Digital Euro Services Regulation Proposal will be addressed to payment service providers registered in the EU Member States whose currency is not the euro.

The objective of this regulation is to ensure that the provision of digital euro services by payment service providers registered in a Member State in the eurozone whose currency is not the euro ("Providers") is subject to appropriate supervision by the competent authorities of that EU Member State.

The Digital Euro Services Regulation Proposal regulates mainly specific obligations for Providers and also regulates the supervision of their activities and compliance with the obligations set out.

We will continue to monitor the development of the digital euro legislation and will keep you informed of new developments in relation to the digital euro in due course.

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World news

Latest updates to the EU list of non-cooperative jurisdictions

The European Finance Ministers agreed to add three new jurisdictions to the list as well as to remove three jurisdictions from the list.

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On 17 October 2023, the European Council published the updated EU list of non-cooperative jurisdictions for tax purposes, known as the EU blacklist.

Recent updates

- one jurisdiction **Antigua and Barbuda** was placed on the blacklist;
- two jurisdictions **Belize** and **Seychelles** were moved from the grey list to the blacklist;
- **British Virgin Islands** and **Costa Rica** were moved from the blacklist to the grey list;
- **The Marshall Islands** (previously blacklisted) as well as **Jordan, Montserrat, Qatar** and **Thailand** (previously greylisted) were completely removed.

Following this latest revision, the blacklist now includes 16 jurisdictions: **American Samoa, Anguilla, Antigua and Barbuda, the Bahamas, Belize, Fiji, Guam, Palau, Panama, Russian Federation, Samoa, Seychelles, Trinidad and Tobago, Turks and Caicos Islands, U.S. Virgin Islands** and **Vanuatu.**

Currently, 14 jurisdictions are greylisted: **Albania, Armenia, Aruba, Botswana, British Virgin Islands, Costa Rica, Curacao, Dominica, Eswatini, Hong Kong, Israel, Malaysia, Türkiye** and **Vietnam.**

The EU will continue to monitor the tax compliance progress and implement measures against tax evasion in these jurisdictions. The next revision is scheduled for February 2024.

KPMG EU Tax Centre have prepared a summary in Euro Tax Flash, which provides further context.

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Did you know about the term „non-cooperative state"?

The Slovak Income Tax Act contains the term "taxpayer from the non-cooperative state". This phrase is commonly used in practice. Do you know what states are considered as non-cooperative?

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This term, defined in Article 2 of the Slovak Income Tax Act, is applicable for individuals as well as entities. For this purpose, **the Ministry of Finance of the Slovak Republic publishes list of states which are considered as cooperative** together with the reasoning. In a simplified way, the list contains states which concluded international treaties with Slovakia (double tax treaty or tax information exchange agreements). On the other hand, it excludes:

- states with no corporate income tax or 0% corporate income tax rate; or
- states published in the "black list" issued by the EU.

If the state **is not included in this list, it is considered as non-cooperative**. If the recipient of income is taxpayer from the non-cooperative state, e.g. higher withholding tax rate is applied. It is similar if the beneficial owner of income is not proved. We have focused on this topic in our previous article.

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