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THE MOST SIGNIFICANT LEGISLATIVE CHANGES TO DIRECT TAXES FOR 2018

In this issue of Mailing BMB Partners we would like to provide you with an overview of the most important legislative changes with a focus on direct taxes and social/health security contributions either adopted in 2018 or still in the approval process with planned effectiveness from 2019 and later. Even though there was no Amendment to the Income Tax Act this year, a lot of changes were made in the income tax area as a result of amendments to other laws.

TAXATION OF VIRTUAL CURRENCIES

In respect of virtual currencies taxation, the Act on Accounting and the Income Tax Act were amended, specifically regarding valuation and taxation. The income from the sale of virtual currencies is taxable. The income neither from mining nor from the duty to revalue to fair value is part of the tax base. The income from the sale of virtual currencies includes also the income generated upon the exchange of a virtual currency for assets, for another virtual currency or for the provision of services, as well as for the transfer of a virtual currency in return for payment. In the case of individuals, the income from the sale of virtual currencies falls under other income (section 8 ITA). Neither individuals nor legal entities may claim losses for tax purposes. Expenses may be claimed only up to the amount of the income from sale.

RECREATION VOUCHER FOR EMPLOYEES

Another novelty is the contribution to the recreation of employees, called "recreation voucher", effective from 01/01/2019. Employers with more than 49 employees will be obliged to provide the recreation contribution upon the request of the employee (after working for the company for at least 24 months). If the employer employs less than 50 employees, the contribution is voluntary. The employer will be obliged to provide the employee with a recreation contribution of 55% of recreation expenses, however, max. EUR 275/calendar year. The recreation contribution will be provided in form of a recreation voucher, which should be based on the same principle as meal vouchers; or by reimbursing the actual costs of the employee. Under the Labour Code, the recreation contribution falls under income which is not subject to the wage tax and is tax deductible for corporate income tax purposes. When the recreation contribution is provided, it is not possible to claim the tax-free allowance for spa care. If the contribution provided goes beyond the Labour Code conditions, social fund may be debited.

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13TH AND 14TH SALARY AND CHANGES IN REMUNERATION FOR WORK ON PUBLIC HOLIDAYS, WEEKENDS AND AT NIGHT

During 2018, provisions were adopted on the voluntary 13th and 14th salary, i.e. holiday bonus (due in June) and Christmas bonus (due in December). These bonuses should be, up to the amount of EUR 500, gradually exempt from health and social insurance contributions as well as from the wage tax (complete exemption up to EUR 500 from social/health insurance contributions and tax should be applicable no sooner than in 2021).

In order to claim the exemption, the preconditions set by law have to be met: employee has worked at least 24 months (13th salary) or 48 months (14th salary) for the company; 13th and 14th salary must reach at least the amount of the average monthly earnings and the 13th salary is a precondition for the possibility to claim the exemption for the 14th salary.

The above amendment to the Labour Code has also specified legislative conditions for the remuneration for work on public holidays, weekends and at night. From 01/05/2019, the amounts of extra pay should change as a result of the lapse of the transitory period stipulating the amounts until 30/04/2019.

DOUBLE AMOUNT OF THE TAX BONUS

The amount of the tax bonus has been doubled for each dependent child under the age of 6 who lives in one household with the taxpayer. In particular, the tax bonus will increase by EUR 22.17 per month for each above defined child from April 2019.

ANNUAL SETTLEMENT OF SOCIAL INSURANCE

Important changes were made to the social insurance, too. Annual settlement (AS) of social insurance is being introduced, to be performed by the Social Insurance Agency based on the model of health insurance providers. The first AS should be performed for 2022. Social insurance advance payments and AS cover the sickness insurance, old-age insurance, invalidity insurance, unemployment insurance and contributions to the reserve fund. Accident and guarantee insurance will be treated as until now, i.e. they will not be part of the AS.

The Social Insurance Agency will perform the AS for insured persons – employees, for employers (based on the results of the AS of employees) and for compulsory insured self-employed persons. The maximum monthly assessment base should be abolished, and a maximum annual assessment base should be introduced, not applicable to the accident insurance. Should the insurance last shorter than a year, a proportional maximum assessment base will be applicable.

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NEW WAGE TAX EXEMPTION

Where income in kind is provided to an employee in form of accommodation, this income up to the amount of EUR 60/month may be, subject to meeting specific conditions, exempt from the wage tax on the part of the employee and, at the same time, tax deductible on the part of the employer. It should be possible to apply this change already for the year 2018 in the annual settlement of advance payments or through filing a personal income tax return. However, for the purposes of the social insurance, this amount remains part of the assessment base of the employee, with the aim to prevent retroactive reparation.

TAX BASE ADJUSTMENTS IF FINANCIAL STATEMENTS ARE PREPARED UNDER IFRS (IFRS 9, IFRS 15, IFRS 16)

The proposed change refers to tax base adjustments in the case of the change of the accounting method in companies keeping their books under the International Financial Reporting Standards and calculating the tax base under section 17 (1c), i.e. applying the transfer bridge.

Further, in realisation of financial assets, part of the tax base will be also the adjustment of the tax base in connection with the change of the accounting method, which was not realised in the tax period of the first application of IFRS 9. Subsequently, in realisation of the financial assets, tax deductible expenses will be based on this re-valuated input price of the financial assets (except for the financial assets the sale of which is exempt under section 13c ITA).

Since 01/01/2018, the International Standard IFRS 15 – Revenue from Contracts with Customers – has been applicable. The Standard regulates mainly reporting of sales revenues in time, what could have an impact on 2018 tax base. We recommend analysing existing contracts, so that the sales revenues for 2018 are reported in the correct period.

From 01/01/2019, also IFRS 16 – Leases – becomes applicable, replacing IAS 17. The Standard changes the reporting of operating lease by the lessee significantly. Instead of expenses for operating lease services, companies will now report the depreciation of the right to use and financial expense. This change will have an impact on financial indicators such as operating profit or EBITDA. The balance sheet will report assets (right to use) and, on the passive side, leasing liability. Where real estate or production technology is subject to operating lease, the balance sheet will contain new significant items. Therefore, we recommend a detailed analysis of lease contracts.

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DUAL EDUCATION

In the course of the year, changes were made to dual education, too. Tax deductible expenses will now include also working and social expenses of the employer for practical training including the expenses beyond the prescribed limits provided to the school. Further, the upper threshold of 100 % for remuneration for productive work has been abolished with the aim to motivate students better to take part in practical training with a particular employer.

Another novelty is the acceptance of expenses for the purchase of non-current assets as tax deductible, irrespective of whether a contract in dual education system or a contract on the provision of practical training has been concluded. Of course, the assets will be claimed in form of depreciation charges.

INSURANCE TAX

The new law on insurance tax was published in the Collection of Laws already in the Summer. The insurance tax is being introduced in specific cases of non-life insurance, if the insurance risk lies in Slovakia, and amounts to 8% of the insurance premium. This tax is primarily due by the insurance institution.

The policy holder may be also obliged to pay it, if he has paid the insurance premium to a foreign insurance company without a branch in Slovakia; or a legal entity, to which the insurance premium is allocated, e.g. if the premium has been paid by the parent company, which concluded the insurance policy for the legal entity abroad and allocated the costs subsequently. Except for filing the tax return, the taxpayer is obliged to keep records. From the income tax perspective, this is a tax-deductible expense subject to the payment condition.

SPECIAL DUTY FOR RETAIL CHAINS

The adopted controversial special duty for retail chains in the food industry could be understood as a new tax.

The tax rate amounts to 2.5%, the base for the calculation of the duty is the net turnover, the reporting period three months and the minimum duty EUR 5,000.

Considering the discriminatory character of this duty (it focuses on large international retail chains) and the already existing ECJ case law we expect that the duty will be challenged in court and consequently abolished.

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If you are interested in more detailed information on any of the topics or if you plan to introduce the above novelties into practice, feel free to contact us.

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