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The summer is in full swing and the days are getting hotter, even in the government and parliament. It is so hot that the bold tax revolution announced in the winter has almost melted away, and apart from the family support chapter, there does not seem to be much left of it.

Despite the summer months, the tax administration has not slowed down and has been sending to taxpayers information on the tax reliability index based on new criteria. The original noble idea of assessing taxpayers transparently has been applied controversially and the rules for the attribution of the tax reliability index do not seem to be balanced, as their punitive nature is disproportionate, retroactive and too distant from the business reality. The disproportionate classification of the index is also indicated by the statistics, which show that more than 2/3 of the entities from the top category have dropped lower (see TOP 1 for details). The new proposed obligation to issue a Report on income tax information (TOP 2) may be a novelty for large entities. Employers who are struggling with benefits, either related to home office or not, may find helpful the guidance we focus on in TOP 3 and 4. For an update on e-invoicing introduction, see TOP 5.

News from the world of international taxation is, as always, presented in TOP 6 – TOP 10 of our summer Newsletter. We were not surprised to learn that the introduction of a minimum effective tax rate of 15% for multinationals has been postponed, nor that ESG reporting is gaining in importance.

The BMB team wishes you a relaxing summer and holidays not affected by COVID or war!

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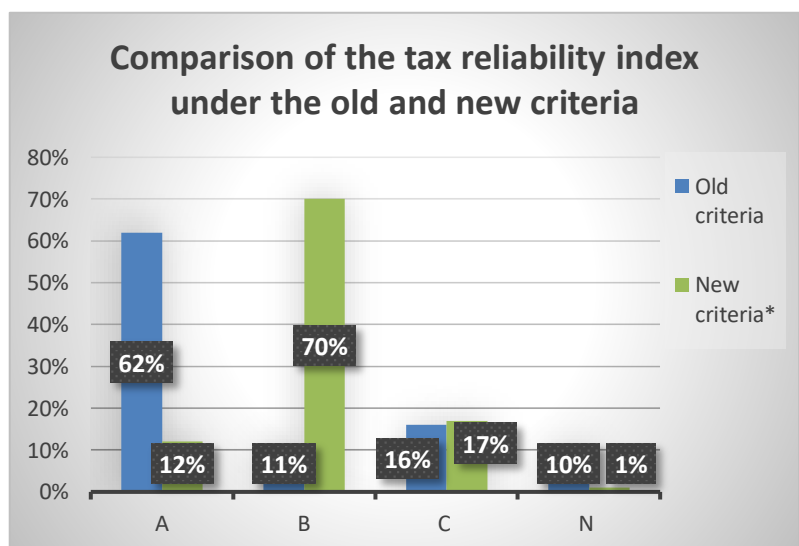
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**TOP 1: TAX RELIABILITY INDEX IN PRACTICE**

In recent months, the tax administration has been sending out a new tax reliability index attributed to taxpayers. The original noble idea of assessing taxpayers transparently has been applied controversially and the rules for the attribution of the tax reliability index do not seem to be balanced, as their punitive nature is disproportionate, retroactive and too far removed from the business reality. The [criteria](#) are purely formalistic, regardless of the size of the company and the complexity of its activities.

According to the information available to us, the largest taxpayers were not involved at all in the preparation of the criteria and the project was launched without a testing phase. As a result, the larger the taxpayer, the more likely it is to be assessed as unreliable. As the list of taxpayers with their ratings is to be made public by 30/09/2022, taxpayers rated as "unreliable" will be exposed to the reputational risk that this rating may bring. Several companies are already considering legal action.

The disproportionate attribution of the index is also indicated by the statistics below, which show that more than 2/3 of the entities in the highest category have dropped lower.



- A Reliable taxpayers, now "highly reliable"
- B Less reliable taxpayers, now "reliable"
- C Unreliable taxpayers
- N Not rated

\* - based on preliminary information of the Financial Directorate of May 2022

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## TOP 2: DRAFT AMENDMENT TO THE ACCOUNTING ACT AND NEW REPORT ON INCOME TAX INFORMATION

The expected date for the submission of the draft amendment to the Accounting Act to the government is August 2022. The biggest novelty of the proposal is the introduction of the obligation to prepare a Report on income tax information (Sections 21 to 21 (f)). This obligation is part of the broad international ATAD initiative (specifically [Directive \(EU\) 2021/2101](#)).

The draft amendment to the Accounting Act contains precise definitions of an ultimate parent undertaking, standalone undertaking, related undertakings, foreign undertaking, foreign ultimate parent undertaking, foreign group, foreign branch office, consolidated revenues as well as the definition of revenue of a foreign standalone undertaking.

According to the draft amendment, the duty to prepare the Report on income tax information will apply to the following entities:

- **ultimate parent undertaking**, if its consolidated revenue reported in the consolidated financial statements prepared under special regulations exceeded **EUR 750 million** in two immediately preceding accounting periods,
- **standalone undertaking**, if, in two immediately preceding accounting periods, its
- revenue reported in the individual financial statements prepared under special regulations exceeded EUR 750 million, or
- net turnover reported in its individual financial statements (if it does not prepare individual financial statements under special regulations) exceeded EUR 750 million.

The obligation to prepare a Report on income tax information shall cease to apply if, in each of the two accounting periods immediately following the accounting period for which the obligation to prepare a Report on income tax information originated, the consolidated revenue of the ultimate parent undertaking and the revenue or net turnover of the standalone undertaking did not exceed EUR 750 million.

The duty to prepare the Report on income tax information does not apply to an ultimate parent undertaking and to a standalone undertaking, if

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- these undertakings, including their related undertakings and branch offices located abroad, are tax residents of the Slovak Republic only, or
- they publish an annual report under special regulation, which includes information on all their activities or on all activities of all their related undertakings included into the consolidated financial statements of the ultimate parent undertaking.

According to the draft amendment to the Accounting Act, also a **large subsidiary** and a **branch office of a foreign entity** are obliged, under certain circumstances, to prepare a Report on income tax information.

The essentials of the Report on income tax information are to be laid down by the Finance Ministry through a regulation. The regulation will be promulgated by the Finance Ministry by notice of its issue in the Collection of Laws of the Slovak Republic.

An accounting entity subject to the obligation to deposit the Report on income tax information shall **deposit it in the register no later than one year after the end of the accounting period** for which the Report on income tax information is prepared.

Pursuant to section 19(4) of the draft Amendment to the Accounting Act, an auditor should state in the auditor's report whether the company is subject to the obligation to deposit the Report on income tax information as well as whether the company has deposited the Report on income tax information in line with section 23(a)(11).

## TOP 3: HOME OFFICE REIMBURSEMENTS

In May 2022, the Financial Directorate (FRSR) issued a [methodological guidance](#) regarding the taxability of an employee's income arising in connection with the provision of financial reimbursement for home office (HO) work. When reimbursing expenses for HO work, employers should take into account whether employees perform HO work on a regular basis (teleworking contained in their employment contracts) or whether employers provide the option of HO work only in the form of a benefit (irregular form of HO).

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For clarity, we provide a breakdown table describing the particular situations which may occur (professional opinion is recommended in each individual case).

HO type	Teleworking		HO as a benefit	
	Own	Company	Own	Company
Own/company equipment				
Duty/option of increased costs reimbursement	Duty	Option	Option	Option
Automatic labour-law entitlement of employees	Yes, always (Labour Code)	No	Only if stated in employment or collective agreement	No
Evidence required/ Option of lump-sum reimbursements	Evidence and option of lump-sum	Evidence only	Evidence and option of lump-sum	Evidence only
Taxable employee income	No, if evidence submitted or lump-sum	No, if evidence submitted	No, if evidence submitted or lump-sum	No, if evidence submitted
Automatic tax expense of the employer	Yes (evidence or lump-sum)	Yes (evidence)	Yes (evidence or lump-sum)	Yes (evidence)
Tax expense without the need of evidence, but taxable for employees	yes	yes	yes	yes

**TOP 4: NEW EXEMPTION OF EMPLOYEE INCOME-IN-KIND UP TO EUR 500**

Pursuant to section 5(7)(o) of the Income Tax Act (ITA) in the wording effective since 01/01/2022, in-kind income received by an employee from all employers up to a total of **EUR 500** for the tax period is tax exempt. **In May 2022, the Financial Directorate (FRSR) issued guidance on how to apply this provision.**

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If an employer provides an employee with in-kind income, the exemption from tax of which is specifically regulated by one of the provisions of the ITA, then this in-kind income is exempt from tax according to this specific provision and **it is not possible** to apply the exemption from tax according to section 5(7)(o) of the ITA (e.g. accommodation, transport or meal contributions).

In its [guidance](#), the financial administration states several examples of the application of the new tax exemption (e.g. in-kind income in form of an attributed parking space, use of a company vehicle for both business and private purposes – normally 1% of the acquisition price of a vehicle is taxed monthly, accident or life insurance of employees).

A precondition for the exemption of the income is that the expenses (costs) incurred for an in-kind income must first be classified to be a tax expense (either automatically or as an employee benefit within the meaning of section 19(1) of the ITA). This means that the FRSR has instructed employers that in the case of a "not automatic tax expense", the expense must first be treated as an employee benefit (i.e. it must be stated in the collective agreement, internal policy or employment contract) in order to be subsequently excluded from tax expenses. Afterwards, the exemption can be claimed. Please note that the mention of certain employee benefits in collective agreements or employment contracts may result in an automatic entitlement of employees to such benefits on a regular basis.

The guidance also states the possibility of applying the exemption of the employee's in-kind income if it is paid from the social fund in the year of the social fund creation (in the year when the social fund creation is charged to the company's expenses and constitutes a tax expense). Please note the need to prepare a detailed record of the funds from which the social fund has been created (compulsory social fund contribution or another additional social fund contribution).

In each case, it is necessary to assess each situation individually, considering also labour law and the existence of labour-law entitlements of employees.

## TOP 5: UPDATE ON THE PLANNED E-INVOICE INTRODUCTION

At an online event in May 2022, the Finance Ministry (MFSR) presented a technical solution for the new electronic invoicing information system called [e-invoice](#).

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In addition, a [website](#) for public testing phase of this system has been made accessible. During the testing period, both professional public and businesses will have the opportunity to test how the online application works.

According to the latest statement of the President of the FRSR, the system is planned to be launched for the B2G segment from 01/01/2023 and for the **B2B and B2C segments from 01/01/2025**.

Suppliers that issue a large number of invoices will have the possibility to apply a special signature code allocation scheme. This will involve the approval of a request of a supplier by the financial administration, which will authorise the supplier to allocate the signature code using its own invoicing software.

Currently, accounting software providers are dealing with compatibility issues of integrating the e-invoice system into their functionalities.

## TOP 6: INTERNATIONAL TAX DEAL PUSHED BACK A YEAR

The implementation of the internationally agreed minimum effective tax rate of 15% for multinational companies has been delayed considerably. The OECD foresees its implementation with a one-year delay from 2024 (instead of 2023).

One of the reasons behind the delay was initially Poland's reluctant position. The European Commission has prepared a directive to transpose Pillar 2 of the OECD global agreement at European level. However, Poland vetoed the vote on the draft directive on 5 April 2022. As a result, the proposal has been withdrawn from the Ecofin agenda.

Just a few days ago, a definitive veto was announced by [Hungary](#).

## TOP 7: CORPORATE SUSTAINABILITY REPORTING DIRECTIVE

The Corporate Sustainability Reporting Directive (CSRD) is new EU [legislation](#) that requires all large companies to publish regular reports on their activities with environmental and social impact. In other words, this is reporting of non-financial data. Companies with more than 250 employees or listed companies will now have to translate their environmental, social and governance policy into standardised, justified and certified information documents.

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New changes with the aim to increase corporate accountability are being introduced:

- an extension of the scope to all large companies and companies listed on a regulated market (except listed micro-companies)
- a certification requirement for sustainability reporting
- more detailed and standardised requirements on the information to be published by companies
- improved accessibility of information, by requiring its publication in a dedicated section of company management reports.

The Directive will be implemented by companies at different points in time, the earliest being 2025 for the period 2024. The draft Directive also includes requirements for the disclosure of ESG (Environmental, Social, and Governance) information. On the basis of ESG reporting, businesses will be able to apply for investments in sustainability, ecology and digitalisation that have been earmarked under NextGenerationEU (for 2021-2027).

## TOP 8: REGULATING TAX ADVISORS TO ENSURE A FAIR AND USER-FRIENDLY TAX SYSTEM

In April 2022, the FISC Subcommittee of the European Parliament held a public hearing on "How to reinforce the regulation of intermediaries to create an intermediary sector that ensures a fair and user-friendly tax system?".

The hearing follows up to a first hearing on the Pandora Papers in November 2021. On this occasion, the European Commission has publicly announced that it will make a legislative proposal to regulate tax advisory within the EU.

## TOP 9: SINGLE EU VAT REGISTRATION (E-COMMERCE)

The One Stop Shop (OSS) for VAT was introduced in July 2021 and has greatly simplified VAT compliance for businesses. The simplified system can only be used for sales of goods or services to final consumers (B2C). It does not apply to those traders who have warehouses in different EU countries. This means that, despite the changes introduced by the VAT OSS package, these businesses still have to register for VAT in each Member State in which they store goods.



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The proposal for a directive entitled "VAT in the Digital Age" will include three options for extending the one stop shop. It will mainly focus on the introduction of a single EU-wide VAT registration for all stock movements across the EU. The new system should reduce costs for companies and also decrease the administrative burden.

## TOP 10: ROLLOVER OF REVERSE CHARGE TO FIGHT FRAUD

In June 2022, the EU finance ministers adopted a [directive](#) extending the period of use of the optional reverse-charge mechanism until the end of 2026 in order to combat tax evasion. During the extended period, the EU should finalise the final VAT system.

## USEFUL LINKS

[Regulation on tax reliability index criteria](#) (SK)

[Directive \(EU\) 2021/2101](#) (EN)

[Methodological guidance on home office reimbursements](#) (SK)

[Guidance on the application of exemption of employee in-kind income](#) (SK)

[Technical solution of the e-invoice system](#) (SK)

[Website for testing phase of the e-invoice system](#) (EN)

[Hungary vetoes tax deal](#) (EN)

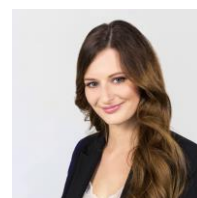
[Corporate Sustainability Reporting Directive](#) (EN)

[Directive on the extension of the reverse charge mechanism](#) (EN)

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