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The American research laboratory OpenAI developed the Chat GPT language model and made it publicly available at the end of 2022. This was also an important topic at our [TAXAND Global Conference](#) in Mumbai ([Pierre Marchand](#), [Louis Brulé Naudet](#), [Holger Maier](#)). Chat GPT is an artificial intelligence model that supports more than 80 languages, including Slovak. There is currently a free version available, but also a paid version. Experts wonder whether it is possible for artificial intelligence to replace some professions. Various positions in administration, finance, even lawyers and tax advisors are mentioned as being at risk. Thus, we decided to ask the free language model some simple tax-related questions and see how it handles them.

Question 1: "What is the current standard VAT rate in Slovakia?"

Answer: "The standard VAT rate in Slovakia is 20% ..."

Artificial intelligence handled the question without any problems, so we continue with a little trick.

Question 2: "What is the real estate transfer tax rate in Slovakia?" We know that the real estate transfer tax was abolished in Slovakia almost 20 years ago.

Answer: "... the real estate transfer tax rate in Slovakia is 0.5%. This tax is applicable when transferring ownership of real estate property in Slovakia."

In this case, the answer is not correct. Let's try a more general question:

"What are the latest changes to the Income Tax Act that came into force on 01/01/2023?"

Answer: "... my knowledge is based on information available up until September 2021, and I do not have access to real-time updates or specific knowledge about changes to the Income Tax Act in Slovakia that may have come into force on January 1, 2023."

It seems that artificial intelligence won't provide us with the most up-to-date information (yet), and that's where we come in. In our latest edition of BMB Newsfilter, we report on interesting news from the world of Slovak and international tax law.

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## TOP 1: NEW APPROACH TO LEASEBACK

The session of the Methodological and Legislative Commission to ensure a uniform methodological interpretation in the field of value added tax, which took place on 11 January 2023, discussed, among other topics, also the transaction of leaseback (financial leaseback and technical leaseback), in particular whether the transaction involves the transfer of the right to dispose of the goods as the owner, and therefore a taxable supply. The situation was analysed in the context of the new judgment of the European Court of Justice No. C-201/18 Mydibel SA of 27 March 2019, taking into account previous case law.

The conclusion of the Commission be summarized as follows:

1. In a leaseback, there is no transfer of the right to dispose of the subject of financing as owner from the future lessee to the future lessor. The subject of the financing remains at the disposal of the future lessee, although there is a transfer of title.
2. Transfer back to the future lessee is foreseen upon termination of the leaseback agreement.
3. The purpose of the transaction is to obtain additional financing by the future lessee.

Therefore, the leaseback transaction is considered to be a financial service exempt from VAT under Section 39 of the VAT Act.

At the same time, the Ministry of Finance stressed that it is necessary to examine the agreed contractual terms and conditions and to assess the VAT treatment in the light of them for each individual contract separately.

It is important to note that the conclusions set out in the minutes from the session of the Commission will apply to leaseback contracts concluded after 31/12/2023. As for contracts concluded before 31/12/2023, the approach will be accepted that financial leasing consists of two transactions, namely the supply of goods (the subject of financing) and the provision of a service or the supply of goods (depending on the terms of the contract). The complete minutes from the session of the Commission are available [here](#).

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## TOP 2: TAX RELIABILITY INDEX PUBLISHED

Last year, we informed you in [BMB Newsletter 2022Q3](#) that the original deadline (30 September 2022) for publishing the Tax Reliability Index assigned to taxpayers was being extended. In April 2023, the index was finally published and is accessible on the portal of the Financial Administration in the [Informačné zoznamy](#) (Information Lists) section. Taxpayers are thus provided with information on the category to which the tax administration has assigned them or their business partners. In the currently published list, the majority of taxpayers are categorised as "reliable", specifically 414,483 taxpayers. The rating "highly reliable" has been assigned to 119,699 taxpayers and "less reliable" to 59,078 taxpayers. Newly established taxpayers or, for example, taxpayers in liquidation fall into the "not rated" category.

Taxpayers were informed of the assigned tax reliability index by means of a notification sent by the tax administration until 31 January 2023. If the taxpayer has not received the notification in this period, it means that its rating has not changed and it remains in the category to which it has been assigned until then. The next notifications on the tax reliability index will reflect the state as at 30 June 2023 and will be sent by 31 July 2023. Again, the notifications will only be sent to those taxpayers whose rating changes.

Taxpayers have the option to file an objection to the rating assigned to them in the notification. The rating of taxpayers will be published in the list of taxpayers on the portal of the financial administration no sooner than after the deadline for filing an objection to the notification on the tax reliability index lapses or after the decision becomes final that the objection has been dismissed.

## TOP 3: CHANGES TO THE COURT MAP AND IMPACT ON TAX PROCEEDINGS

As of 1 June 2023, a major reorganisation of the courts took place, the so-called [new court map](#). The reform of the court map brings, among other things, a change in the specialisations of district courts. Tax disputes under Act No. 11/2019 Coll. on the rules for resolving disputes relating to taxation will be taken over by the Municipal Court Bratislava III and the Regional Court Bratislava. The new administrative courts (Administrative Court in Bratislava, Banská Bystrica and Košice) are competent for ordinary tax disputes. The Supreme Administrative Court of the Slovak Republic remains the court of cassation. With the change of court jurisdiction, there is also a transfer of files and a modification of the file mark of the proceedings.

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## TOP 4: NEW RULES FOR CROSS-BORDER TELEWORK AND INCREASE IN SUBSISTENCE ALLOWANCES

Teleworking, which was crucial during the pandemic, has become the standard and often desirable form for work after the pandemic. One of the important areas affected by teleworking is social security (including health insurance) and the correct determination of the applicable legislation. For employees working from a home office in a state other than the employer's residence, the rules in place during the pandemic still apply until 30 June 2023. Several EU countries have concluded bilateral treaties which modify the standard rules for the determination of the applicable legislation and increase the previously applicable 25% rule. Slovakia has concluded such an agreement with Austria.

At EU level, a [Framework Agreement](#) has been drawn up as an interim solution to the assessment of applicable legislation in the case of social security, regulating the rules for teleworking. This agreement enters into force on 1 July 2023 and modifies the existing rules. In the case of teleworking, it is still possible to be subject to the rules of the employer's state if the teleworking does not exceed 50%. The Framework Agreement can only be applied by the countries that have signed it, it will not be automatically applied to all EU and EEA countries. As of 20 June 2023, the following [countries](#) have signed the agreement: Germany, Switzerland, Liechtenstein, the Czech Republic, Austria, the Netherlands, Slovakia, Belgium, Luxembourg, Norway and Finland. The agreement is concluded for 5 years with the possibility of extension.

**Since 1 June 2023, the amount of subsistence allowance for domestic business trips has increased to €7.30, respectively €10.90 and €16.40, depending on the duration of the trip, according to the Measure No. 171/2023 of the Ministry of Labour and Social Affairs. The above increase in the subsistence allowance has an impact on the amount of the employer's contribution to employees' meals.**

## TOP 5: NEWS RELATED TO FOREIGN INVESTMENTS

First of all, we would like to inform you that in the area of regional investment aid provided by the Slovak Ministry of Economy, there has been a **temporary preference for existing investors in the expansion of industrial production and the thereto related investments in new machinery and equipment, so far only for 2023**. All industrial projects have equal chances to be approved, since **for 2023, all are considered to be priority areas**, thus reflecting the negative effects of the energy crisis. As for the 2023 applications, the investment in fixed assets must reach a minimum of EUR 3 million, the investment plan shall be implemented over a period of 3 years and production shall increase by 5% after the completion of the investment plan (once full production is reached). Please note that only the costs incurred **after the application for investment aid has been submitted** can be included in the investment. Transitional conditions related to the energy crisis can be found in the publication [Regional investment aid](#) (page 13).

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In December 2022, the **Foreign Investment Screening Act** was approved, and came into force on 1 March 2023. The Act applies only to foreign investments made after it entered into force. The new Act is based on the Regulation (EU) 2019/452 of the European Parliament and of the Council establishing a framework for the screening of foreign direct investments. Slovakia has gone beyond the scope of the Regulation and has also taken into account indirect investments.

The approval of the law is linked to the Security Strategy of the Slovak Republic and its aim is the effective screening of foreign investments for security and public order reasons and the control of risk capital, also within the EU. In drafting the law, the Slovak Republic drew inspiration from Germany, France, Finland, Austria, the USA and Australia.

The range of foreign investments focuses on acquisitions, mergers, certain forms of "asset" investments, greenfield investments and "joint venture" investments from third countries (natural and legal persons, trusts, other arrangements of assets) and may in certain circumstances also involve an EU or Slovak investor. Specific treatment should be given to critical foreign investments to be specified by the Slovak Government, e.g. investments in defence, digital services, media, critical infrastructure elements (by economic sector) and others that have been assessed as posing a higher security risk.

Foreign investment screening is carried out on the basis of an investor's application (obligation to file an application only for critical foreign investments) or ex officio. The Ministry of Economy is responsible for screening and the subsequent control and may impose mitigation measures on the foreign investor or reverse the foreign investment. The decision is to be approved by the government. Once the investment has been approved, the foreign investor must register with the Register of Public Sector Partners.

For violation of the foreign investor's obligations, a fine shall be imposed in an amount not exceeding the value of the foreign investment or a percentage (the amount of the percentage depends on the type of violation) of the sum of the total net turnover reached by the foreign investor, by the person controlled by the foreign investor, by the person who controlled the foreign investor for the previous completed accounting period - whichever is higher. The fine may also be imposed repeatedly and on the targeted person.

## TOP 6: SLOVAKIA PREPARES FOR 15% MINIMUM TAX UNDER EU DIRECTIVE

As we have informed you in detail in [BMB Newsfilter 2023Q1](#), starting from 2024 a qualified domestic minimum top-up tax (QDMTT) will be introduced in Slovakia, which will ensure the assessment of a minimum 15% tax in favour of the Slovak state budget.

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In the current issue we bring some additional information on the concept. The draft law prepared by the Slovak Ministry of Finance should proceed to the inter-ministerial comment procedure in August or September 2023. The current draft is not yet available to the public. The qualified domestic top-up tax will be governed by the rules of the Directive and will be subject to the approval by the European Commission.

Not all the rules or benefits provided for by the Directive need necessarily be introduced. Of interest to the business community is the question of whether the Ministry of Finance will incorporate substance-based carve-outs into the domestic top-up tax, which could be applied for a transitional period of up to 10 years. This would help entities to claim local benefits, e.g. the R&D deduction or the super deduction for Industry 4.0.

The good news is that deferred tax will also be taken into account when calculating the 15% minimum tax, so the local specifics of the Slovak law (a number of temporary differences) should not affect it negatively.

## TOP 7: TIMELINE OF E-INVOICING IN THE EU

EU Member States monitor the activities of the European Commission and its announced ViDA reform proposal (we informed you about ViDA in BMB Newsletter 2022Q4). In order to comply with the obligations imposed by ViDA and to fight the VAT gap in the budget, the [Member States make preparations to introduce mandatory e-invoicing and e-reporting](#), mainly on a step-by-step basis, with the whole process to be finalized and in place by 2028.

As we informed you in our BMB Newsletter 2022Q4, the long-awaited launch of online transmission of electronic invoices in Slovakia, which was originally planned to be mandatory as of 01/01/2023, has been postponed indefinitely. Since 01/04/2023, mandatory e-invoicing has been in place for B2G transactions.

The legislative developments regarding mandatory electronic invoicing in neighbouring countries and closest business partners of Slovakia are summarized below:

Austria: electronic invoices mandatory for B2G segment since 2014, no specific date proposed for B2B segment yet

**Poland: electronic invoices already mandatory for all transactions since 01/01/2023**

**Germany: proposed introduction of mandatory electronic invoices: 01/01/2025**

Czech Republic: no specific legislation regarding mandatory electronic invoices prepared to date

Hungary: currently, electronic invoices are mandatory neither for B2G nor for B2B segment

Belgium: planned introduction of mandatory electronic invoices from 01/01/2024 in several phases, depending on the size of taxpayers

France: planned introduction of mandatory electronic invoices from 01/07/2024 in several phases, depending on the size of taxpayers

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**Romania:** since July 2022, mandatory electronic invoicing applies to all B2G transactions and some B2B transactions with high-fiscal-risk products

## TOP 8: ESG – INCREASING THE VALUE OF COMPANIES AND IMPACT ON TAXES

The ESG (Environmental, Social and Governance) agenda brings a number of benefits to companies and also has an impact on tax aspects. This approach focuses on environmental, social and governance criteria and its implementation can have positive impacts on companies' financial performance and their contribution to sustainable development.

One of the main benefits of the ESG agenda is that it enables companies to build sustainable value. Taking environmental factors into account, such as reducing greenhouse gas emissions and managing energy resources efficiently, can lead to lower costs and increased efficiency. Companies that engage in social initiatives, such as improving working conditions, promoting diversity and inclusion and a commitment to transparency, can win loyal employees, customers and investors. Governance factors such as transparent management, ethical risk management and compliance with legal standards can improve investor and public confidence in the company.

The impact of ESG agenda on taxes lies in various aspects. In some cases, companies that implement an ESG agenda may be eligible for tax incentives or reliefs. For example, governments may provide tax relief to companies that invest in renewable energy, convert their fleet to electric vehicles or undertake projects with a positive environmental impact.

These incentives motivate companies to adopt sustainable approaches and contribute to the green transition. Last but not least, when companies apply the ESG agenda in their corporate governance, it has a positive impact on their long-term sustainability, the risk of tax issues and non-compliance. Transparent and ethical corporate governance, including compliance with the law, can minimise the risk of tax disputes and irregularities, reducing the possibility of fines and negative reputational impact.

## TOP 9: NEW OBLIGATIONS FOR OWNERS OF REAL ESTATE IN GERMANY

In Germany, a new obligation has been introduced for foreign investors who own real estate in Germany. They have to comply with extended UBO (ultimate beneficial owners) requirements in German Transparency Register until 30 June 2023. The change in legislation follows from the Sanctions Enforcement Act II, which was introduced at the end of 2022. The obligation applies to both direct and indirect investors, both new and existing. In particular, the amendment to the Act will affect existing owners who acquired real estate in Germany before 1 January 2020 through direct shareholdings and before 1 August 2021 through indirect shareholdings, who have not had reporting obligations to date.

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As the German Ministry of Finance states on its website, this legislation was introduced with the aim of structurally improving the sanctions enforcement and fighting against money laundering in Germany. Fines of up to €150,000 (for a first violation) or more (for a repeated violation) can be imposed for the failure to meet the UBO reporting obligations.

The [comparison](#) between the existing legislation and the new obligations has been very well summarised by our German colleagues (from Flick Gocke Schaumburg ([Matthias Full](#), [Franz-Joseph Reisner](#))) from the international Taxand group.

## TOP 10: NEW EU RULES ON CRYPTO-ASSET INFORMATION EXCHANGE FOR TAX PURPOSES

On 16 May 2023, the EU Finance Ministers reached [agreement on new transparency rules](#) for all service providers facilitating transactions in crypto-assets for customers resident in the EU (DAC8). The new rules will amend the Directive on administrative cooperation in the area of taxation (Council Directive 2011/16/EU). The new text slightly amends the DAC8 Directive proposal adopted by the European Commission on 8 December 2022.

Currently, tax authorities lack the necessary information to monitor proceeds obtained by using crypto-assets. This severely limits their ability to ensure that taxes are effectively paid. The DAC8 Directive will improve Member States' ability to detect and counter tax fraud, tax evasion and tax avoidance, by requiring all crypto-asset providers based in the EU – irrespective of their size – to report transactions of clients residing in the EU. Moreover, the updated DAC8 Directive has been extended in scope to include reporting obligations of financial institutions regarding e-money and central bank digital currencies and the automatic exchange of information on advance cross-border rulings used by natural persons.

Crypto-assets are defined very broadly, referring to any digital representation of a value or a right which may be transferred and stored electronically, using distributed ledger technology or similar technology. This includes crypto-assets that have been issued in a decentralized manner, as well as stablecoins, including e-money tokens and certain non-fungible tokens.

On 8 June 2023, OECD published the updated [International Standards for Automatic Exchange of Information in Tax Matters](#), which also include the Crypto-Asset Reporting Framework.

The new reporting requirements on crypto-assets, e-money and central bank digital currencies are planned to enter into force on 1 January 2026.



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[Methodological and Legislative Commission - Minutes](#) (SK)

[Taxpayers with attributed Tax Reliability Index](#) (SK)

[New court map at a glance](#) (SK)

[Framework agreement in the field of social security](#) (EN)

[Regional investment aid](#) (SK)

[Timeline of electronic invoicing in the EUR](#) (EN)

[New obligations for real estate owners in Germany](#) (EN)

[New EU rules on crypto-asset information exchange](#) (EN)

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