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First and foremost, our BMB team wishes you and your financial health the best in the stormy sea of changing global parameters, local paragraphs and tax storms in the New Year 2025. For the 28th year, we will be your beacon, transporting you to a safe harbour where even the most complex tax, economic or legal topics become simpler.

To start with, we offer, especially to those who did not manage to come to our Advent seminar in December, **an overview of the most important changes in corporate taxes from 1 January 2025** in a nutshell**, separately for FTT, CIT and VAT** (TOP 1 to TOP 3), **in three languages.**

Unlike the tax storm, we believe you will be pleased to learn that the professional quality of the Slovak administrative courts has improved. Late last year, we also rejoiced at our client's victory in an important dispute with the tax administration at the Administrative Court Bratislava over the correct transfer pricing set-up, great reward for several years of joint efforts in cooperation with lawyers. Our reasoning in this area is also supported by another decision of the Administrative Court Košice. In TOP 4 and TOP 5 you will find a useful summary of related news from administrative courts.

The endless carousel of changes and rulings in the field of international taxation is once again summarised in TOP 6 to 10. We are pleased that our founding partner Renata Bláhová is fully back to her lecturing and publishing activities, which she restarted in December at the conference *Recent and Pending Cases at the CJEU on Direct Taxation* at the Vienna University of Economy and Business; we will report in more detail in the next edition of our Newsfilter.

BMB team wishes you safe and smooth sailing in rough seas in 2025!

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TOP 1: Amendment to the Act on Financial Transactions Tax

In the last edition of BMB Newsfilter, we provided detailed information about the adoption of the Financial Transaction Tax (FTT) Act, which was approved by the Parliament on 3 October 2024 as part of the consolidation package and came into effect on 1 January 2025. The new law was passed in an expedited procedure without a proper legislative process, and experts as well as business associations have pointed out numerous deficiencies. Our company has prepared an analysis on the incompatibility of the new law with EU law in relation to multinational entities, based on which foreign chambers of commerce have submitted a complaint to the European Commission.

Subsequently, the law was amended on 28 November 2024. The amendment addressed several discrepancies, clarified and narrowed the scope of entities subject to the new tax as well as the range of transactions that will be taxable. From the perspective of **multinational enterprises**, the most significant change was that, following our red flag about the inconsistency with EU law, the legislator aligned the rules for calculating the tax on domestic and foreign payments by allowing, under certain conditions, the EUR 40 cap per transaction to apply to cross-border transfers as well.

The effective date of the amended law remains 1 January 2025, with **the first tax period being April 2025**, giving businesses time to prepare thoroughly. Below, you will find a summary of the types of transactions subject to the new tax, which primarily include:

- **debit bank transfers: tax rate of 0.4%, with a maximum of EUR 40 per transaction*,**
- cash withdrawals at a bank or ATM: **tax rate of 0.8%**,
- payments made by payment cards: tax of EUR 2 per year.

The new tax will not apply to payments of taxes, social/health insurance contributions, customs duties, and similar transactions. For accounts in Slovakia, the tax will be calculated and remitted to the state by banks, while for accounts abroad, businesses will need to handle the calculation and payment themselves.

The most effective way to optimize the FTT is to aggregate multiple payments to each major supplier into a single payment to take advantage of the EUR 40 cap per transaction (EUR 10,000).

***For companies with foreign bank accounts (clearing centres, cash pooling, etc.**), the administration associated with the new FTT will be more complex. However, the risk of incurring multiple costs compared to transactions in Slovak accounts should no longer exist. We are pleased that, following our notification, the EUR 40 cap per transaction was extended to cross-border transfers. The key condition, however, is that the "taxpayer must be able to demonstrably identify the reallocated costs by individual transactions."
Our FTT team will be happy to assist you in setting up optimal processes.

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TOP 2: Changes to VAT

Since 1 January 2025, Slovakia has had 3 VAT rates: 23%, 19% and 5%. Other important legislative changes in this area were adopted during 2024, too. To ensure timely preparation, we provide below a basic overview of the most significant changes that take effect from 1 January 2025 (or later, if specified in brackets):

A) Amendment to the VAT Act No. 102/2024:

- Change in the VAT registration rules (declaratory effect of the decision of the tax administrator, **mandatory turnover threshold** changed to **EUR 50,000/EUR 62,500**)
- Special scheme for small businesses Newsfilter Q2/2024
- Introduction of the **reverse charge option upon import of goods** for entities with Authorized Economic Operator status (*1 July 2025/1 January 2026*)
- Introduction of the option to declare the VAT deduction upon I/C acquisition of goods with a document other than invoice
- **Stricter and higher fines for late VAT registration**
- **Leasing contracts – change of the VAT treatment of contracts concluded after 1 January 2025** (finance lease is a supply of goods, if the use of the option is the only "reasonable choice", VAT is handled as a whole at the beginning")

B) Amendment to the VAT Act No. 278/2024 (Consolidation Package 2):

- Increase in the **standard VAT rate from 20% to 23%**
- Complete abolition of the reduced rate of 10% and **introduction of a reduced rate of 5% applicable to basic foods,** medication and medical aids, food in restaurants, fitness centres entry, books, magazines, etc.
- **Introduction of a new rate of 19%** applicable to other foods, electricity, alcohol-free drinks in restaurants, etc.

C) Amendment to the VAT Act No. 354/2024:

- Change of tax treatment of the supply of goods without consideration (tax base for VAT deduction will be based on the current market value and not on tax residual value)
- Abolition of the option to claim lump-sum VAT deduction for fuel, obligation to provide proof of actual consumption
- **Extension and significant changes to the concept of correction and adjustment of VAT deduction for acquired assets** (e.g. mandatory correction of the deducted VAT prior to the first use if a change of the planned purpose of use occurs, e.g. to exempt supplies, annual re-calculation of deducted VAT adjustment),
- Introduction of the term "**first use" of acquired assets** for the purposes of deduction adjustment,
- **Changed definition of acquired assets** – inclusion of intangible assets, change of value of tangible assets to EUR 1,700 and exclusion of inventories.

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TOP 3: Changes to CIT and top-up tax

Since 1 January 2025, Slovakia has introduced an EU unique system of progressive corporate income tax with 3 tax rates 10%, 21% and 24%.

Further important changes in the field of the corporate income tax (B to E) as well as top-up tax (F) are applicable, too:

- Year-over-year changes to corporate income tax rates

Company type	2004 Flat tax	2024	**2025**
Micro taxpayer*	19%	15%	**10%**
Revenues up to EUR 5 million	19%	21%	**21%**
Revenues over EUR 5 million	19%	21%	**24%**

max. taxable income/taxable revenues - **2024: EUR 60 thousand, 2025: EUR 100 thousand*

- **Reduction of withholding tax on dividends** paid out to individuals – tax residents of Slovakia – **from 10% to 7%.** The system of other withholding taxes remains complex, with rates of 19% and 35% still applicable, depending on the nature of the payment and the recipient, unless reduced by a double tax treaty (see also TOP 4).

- Extension of the possibility to apply super deduction of costs for investments – **Industry 4.0 until 2027**

- **Electromobility support** – simplifying the recording of expenses for home charging and reducing the taxable income-in-kind of employees from 1% to 0.5% of the vehicle's acquisition price

- **Increase in maximum social insurance thresholds** for high-income employees from 9 times to 11 times of the assessment base

- **Top-up Tax Act** (Pillar Two) - option to use a temporary safe harbour for up to 3 years (until 2026) in the form of utilizing data from qualified CbCR reports, subject to meeting the conditions

- **Minimum tax overview** (for 2024):

Taxable revenues	Minimum tax
up to EUR 50,000	EUR 340
up to EUR 250,000	EUR 960
up to EUR 500,000	EUR 1,920
over EUR 500,000	EUR 3,840

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TOP 4: Constitutional Court on tax treaty abuse

Former shareholders of Slovenský plynárenský priemysel (SPP) established a Dutch shell company (SGH) in the distant past to avoid paying taxes on dividends for the year 2003. This led to a legal dispute with the Slovak financial administration, which was ultimately closed at the end of last year with a loss for the shareholders, including a ruling by the Constitutional Court. This verdict is likely to influence other cases of tax law abuse, including the use of shell companies in countries with favourable double tax treaties (DTT) based on the OECD model.

The financial administration argued that SGH had only a formal address in the Netherlands, from which no actual management functions could have been performed at SPP. It considered SGH to be a "shell" company, assessed the case as an abuse of law, and denied the shareholders the protection provided under the DTT.

SPP has sued the tax authority, which initiated a long dispute that was pulled back and forth between the Regional Court and the Supreme Court until the administrative judiciary reform in 2021. Thanks to this reform, the Supreme Administrative Court of the Slovak Republic was established, which, after years of back-and-forth, confirmed the correctness of the tax authority's procedure in August 2023, primarily based on the doctrine of abuse of rights in international taxation. SPP then decided to file a complaint with the Constitutional Court.

The Constitutional Court issued its decision in November 2024, confirming that the Supreme Administrative Court had responded to the tax authorities' objections in a standard and constitutionally acceptable manner, emphasizing that it considered the key legal conclusion to be constitutionally correct. According to this conclusion, the terms "resident of the other state" and "place of management" under the DTT (with the Netherlands) should be interpreted as the location from which the actual management functions are carried out, with all real economic consequences. Narrowing the meaning of these terms to just the formal seat contradicts the purpose of the treaty, which is evident from its title: "not only to prevent double taxation but also to avoid non-taxation."

The Constitutional Court has explained in general that the doctrine of tax law abuse serves to eliminate legal effects of actions that seemingly comply with positive law but, in their consequences, negate its meaning and purpose. According to the court, the law was abused by completely undermining its purpose, as the DTT is not only intended to prevent double taxation but also to prevent the complete avoidance of taxes. If the transfer of a company’s headquarters to a third country had no economic or other pragmatic purpose other than to set the tax liability to zero, the Constitutional Court may consider it an abuse of the DTT.

Even though the assessment of tax law abuse will depend on specific circumstances in particular cases, the SPP case is a landmark case for international tax law purposes in Slovakia.

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TOP 5: Landmark transfer pricing disputes

It is certainly good news that the Slovak administrative courts, after their reform in 2021, which brought specialization, not only accelerated proceedings, but also improved the professional quality and reasoning of decisions. The shift forward can also be seen in the reasoning of the Supreme Administrative Court from August 2023 in the case in TOP 4, the final decision in this case was against the taxpayer.

Last year, the professional quality of the courts was also confirmed in two important disputes over the correct transfer pricing set-up (Košice and Bratislava).

From the point of view of procedural law and interpretation, it is not surprising but nevertheless important that our administrative courts clearly confirm the **relevance of the OECD Transfer Pricing Guidelines**. Although the Guidelines cannot be regarded as binding in a legal sense, it is an important guide for the analysis of the true economic substance of the transactions under examination for the purposes of interpreting the provisions of the Income Tax Act as well as of double tax treaties (DTT).

In terms of economic substance, the following important issues have also been addressed in the above disputes with the financial administration:

- **inclusion of loss-making entities** when determining the relevant profitability margin of comparable entities,
- **use of the median** as the most statistically objective indicator within the observed profit margin,
- **aggregation of more transactions** into one large transaction, called “contract manufacturing”.

Although some of the issues above have not been closed completely, the reasoning of both courts was comprehensible and will be very helpful in future practice.

At the end of last year, our team was most pleased with our client's victory (the second of the disputes at the Administrative Court Bratislava), which rewarded several years of our efforts and cooperation with lawyers. The financial administration did not even pursue an appeal to the Supreme Administrative Court in our case.

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TOP 6: FASTER Directive on relief of withholding taxes

On 10 December 2024, the EU Council adopted new rules setting out safer and faster procedures to avoid double taxation, which will encourage cross-border investment and help fight tax evasion.

The FASTER Directive aims to make **EU withholding tax collection procedures** safer and more efficient for cross-border investors, local tax authorities and financial intermediaries such as banks or investment platforms.

The Directive will introduce a **common digital EU Tax Residency Certificate** (eTRC) that investors will be able to use when paying their taxes to benefit from fast-track procedures to obtain exemption from withholding tax.

Member States will have to transpose the Directive into national law by 31 December 2028 and national rules will have to apply from 1 January 2030.

TOP 7: ViDA proposal finally approved at ECOFIN

On 5 November 2024, EU Finance Ministers reached a political agreement and approved the ViDA (VAT in the digital age) proposal with a revised timetable for the implementation of the individual steps:

- **July 2028: Single VAT registration**
- January 2030: Platform economy (option in July 2028)
- **July 2030: Digital reporting and e-invoicing (harmonisation January 2035)**

As there are substantial differences between the European Commission's original proposal and the text approved by the ECOFIN Council, the proposal has been returned to the EU Parliament for re-approval of the compromises.

TOP 8: Update on non-cooperating jurisdictions

On 8 October 2024, the Council updated the list of non-cooperative jurisdictions for tax purposes. Two jurisdictions were removed from the list: **Antigua and Barbuda**, and no new countries were added.

There are currently **11 countries** on the list that are not cooperating with the EU or have not fully complied with their obligations: American Samoa, Anguilla, Fiji, Guam, Palau, Panama, Russia, Samoa, Trinidad and Tobago, US Virgin Islands and Vanuatu.

The next update of the list is expected in February 2025.

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TOP 9: Denmark on PE creation due to working from home

The Danish tax administration has recently issued an interesting decision regarding the creation of a permanent establishment and the change of the place of management of a Swedish company as a result of the cross-border home office of its CEO.

Since the beginning of 2024, a Danish CEO of a Swedish company worked 40% of his working hours from his home in Denmark and 60% of his working hours from the company's headquarters located in Sweden. This ratio was also stated in his employment contract. The tax authorities addressed two questions: whether the Swedish company's place of management was moved to Denmark as a result of the CEO working from his home in Denmark and whether the Swedish company has created a permanent establishment in Denmark.

The tax administrator confirmed that the place of management of the Swedish company was not relocated to Denmark as the CEO worked most of his working time in Sweden.

However, the tax administration stated that, as a result of the activities of the CEO carried out for the company from the beginning of 2024, a permanent establishment of the Swedish company in Denmark was created as a result of the CEO working from his home in Denmark. As the work from home was not just done randomly and sporadically, but was planned in advance to account for 40 % of the working time, the consequence was the establishment of a permanent establishment of the Swedish company in Denmark.

TOP 10: ECJ ruling on (non)exemption of I/C supplies

In 2024, the European Court of Justice dealt with the case of the Czech trading company B2 Energy and the question of whether it is possible to apply VAT exemption to intra-community supplies (I/C) where it cannot be proven that the recipient is a taxable person.

The tax office carried out a tax inspection of the company and concluded that the company had not demonstrated that the conditions for claiming VAT exemption on the supply of goods to another Member State were met. The inspectors did not dispute that the goods had actually been supplied, but argued that the company had not proved that it had transferred the right to dispose of the goods as owner to the persons named as recipients of the goods in the documents submitted, nor that the goods had been supplied to a person registered for tax in another Member State.

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According to the judgment of the ECJ, a supplier established in a Member State who has supplied goods to another Member State is to be denied exemption from value added tax where that supplier has failed to prove that the goods were supplied to a recipient who has status of a taxable person in that other Member State and, in the light of the facts and the evidence provided by the supplier, the information necessary to verify that that recipient had that status is lacking.

USEFUL LINKS

VAT in the digital age (EN)
Council Directive on Faster and Safer Relief of Excess Withholding Taxes (EN)
List of non-cooperative jurisdictions for tax purposes (EN)
Article of our partner Renáta Bláhová on FTT in Slovak Spectator (EN)
TAXparency – List of the largest taxpayers – article in Slovak Spectator (EN)

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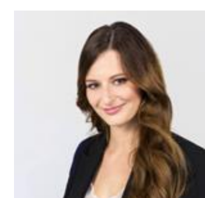
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