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Tax and Legal News | October 2024

Taxes

Parliament approved consolidation package

National Council approved amendments to legislation only 16 days of presentation of a plan for the consolidation of public finances by the representatives of Government of the Slovak Republic.

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Compared to the original proposal, about which we informed you here, there were several changes adopted. The approved amendments to the laws will thus bring the following measures in the tax area:

1. Taxation of high-income groups

- introduction of a special levy for refineries;
- increase in the special levy for mobile operators;
- increase in the corporate income tax rate from current 21 % to 24 % for taxpayers whose taxable income exceeds EUR 5 mil – this measure will apply for the first time for tax returns filed for the tax period beginning on 1 January 2025 at the earliest;
- increase of maximal assessment bases for social contributions of employees from current 7-times to 11-times of the average monthly wage as of 1 January 2025;

2. VAT

- increase in standard VAT rate from 20 % to 23 %;
- change in reduced VAT rates from original 5 and 10 % to 5 and 19 %;
- changes in goods and services to which reduced VAT rates will apply;
- these changes will apply as of 1 January 2025;

3. Amount and calculation of tax bonus

- changes in the amount of tax bonus for a dependent child, which will also decrease with increasing income and after reaching a monthly income of EUR 3,632, the right to a tax bonus will be zero;
- decrease of maximum amount of tax bonus from EUR 140 to EUR 100;
- these changes will apply as of January 2025;

4. Taxation of small businesses and self-employed individuals

- reduction of corporate income tax rate from 15 % to 10 % for those taxpayers whose taxable income does not exceed EUR 100,000, while the reduced rate will be applied for the first time for tax returns filed for the tax period beginning on 1 January 2025 at the earliest;
- increase of threshold of taxable income for application of 15 % personal income tax rate to EUR 100,000 – this measure will apply for the first time for tax returns filed for the tax period beginning on 1 January 2025 at the earliest;
- reduction of withholding tax on dividends from current 10 % to 7 %, whereby the reduced rate will be applied for the first time to dividends paid out of profits reported for the tax period beginning on 1 January 2025 at the earliest;

5. Assignation of tax

- introduction of the option to assign, in addition to 2 % of tax to the non-profit sector, also an additional 2 + 2 % of tax to parents as compensation for the currently paid parental pension;
- assignation of tax to parents will be possible for the first time for the tax period of 2025;

6. Tax on financial transactions

- introduction of a tax on transactions carried out by taxpayers - individuals – entrepreneurs, legal entities or Slovak branches of foreign entities - from 1 April 2025;
- this tax will in general apply i. a. to financial transactions leading to debit of sums of funds from the taxpayer's bank account, and the use of a payment card to carry out a financial transaction;
- tax rate will be 0.4 %, a maximum of EUR 40 per transaction, except for cash withdrawals in a bank or from an ATM, which will be subject to a tax rate of 0.8 %, and the use of payment cards, which will be subject to an annual tax of EUR 2;
- the payers of the tax will be banks providing transfers of funds and, in specific cases, the taxpayers themselves, on a monthly basis (with the exception of the first quarter);
- this tax will not apply i. a. to tax and social security contributions payments, payments between the taxpayer's own accounts in the same bank, payments at the post office;
- Social Insurance Agency and the public sector (e. g. municipalities) will not pay this tax;
- an obligation to keep a business account will be introduced.

We will keep you informed about the next steps in the legislative process.

Taxes

Parliament approved the implementation of a new tax: Sweetened non-alcoholic beverages will be more expensive

The President signed Act on sweetened non-alcoholic beverages tax which will be effective from 1 January 2025. Depending on the type of sweetened non-alcoholic beverage, the tax rates are determined in the range from EUR 0.15/liter to EUR 8.60/kilogram.

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The new Act on sweetened non-alcoholic beverages tax (hereinafter "the Act") **with effect from 1 January 2025** which introduced the Ministry of Finance of the Slovak Republic as part of the government's consolidation package, was approved by the Parliament on 11 September 2024.

The aim of this Act is to introduce a tax on sweetened non-alcoholic beverages to which **non-alcoholic beverages sweetened with sugar or any other sweeteners will be subject.**

The subject of the tax is the sweetened non-alcoholic beverage that is supplied for the first time in Slovakia. This generally includes:

- packaged sweetened non-alcoholic waters (such as flavored mineral waters or lemonades),
- fruit and vegetable juices,
- energy drinks,
- non-alcoholic beer,
- syrups and concentrates with added sugar, a
- any other packaged sweetened non-alcoholic beverages containing coffee, tea or their substitute.

Tax Exemptions

The Act includes also **exemptions that are exempt from taxation,** such as sweetened non-alcoholic beverages that are initial or follow-on infant formula, sweetened non-alcoholic beverages that are a total meal replacement for weight control, or packaged concentrates that are a medicinal drug or nutritional supplement.

Who is the taxpayer?

Pursuant to the Act, the taxpayer of sweetened non-alcoholic beverages as of 1 January 2025 is **a manufacturer of a sweetened non-alcoholic beverages** or **a supplier of sweetened non-alcoholic beverages.** The Act defines the manufacturer of a sweetened non-alcoholic beverage as a taxable person who produces a sweetened non-alcoholic beverage in Slovakia and performs the first supply of this sweetened non-alcoholic beverage in Slovakia, whereas the supplier of a sweetened non-alcoholic beverage is a taxable person other than the manufacturer of the sweetened non-alcoholic beverage who performs the first supply of this sweetened non-alcoholic beverage in Slovakia, if he acquired this sweetened non-alcoholic beverage from abroad.

Within the framework of transitional provisions, the Act aims to grasp **situations that prevent the companies from stockpiling of sweetened non-alcoholic beverages** by a special provision establishing tax liability date in the case of stockpiling before the law comes into effect.

If you would be interested in more information about the obligation to pay tax on sweetened non-alcoholic beverages, please contact us and we will be happy to assist you.

Case law

Dispute over new rules on price cut disclosures reaches the Court of Justice of the European Union

EU Court of Justice released a decision dealing with a supermarket chain, that inflated the prices of grocery items before offering price reductions and displayed fake discounts.

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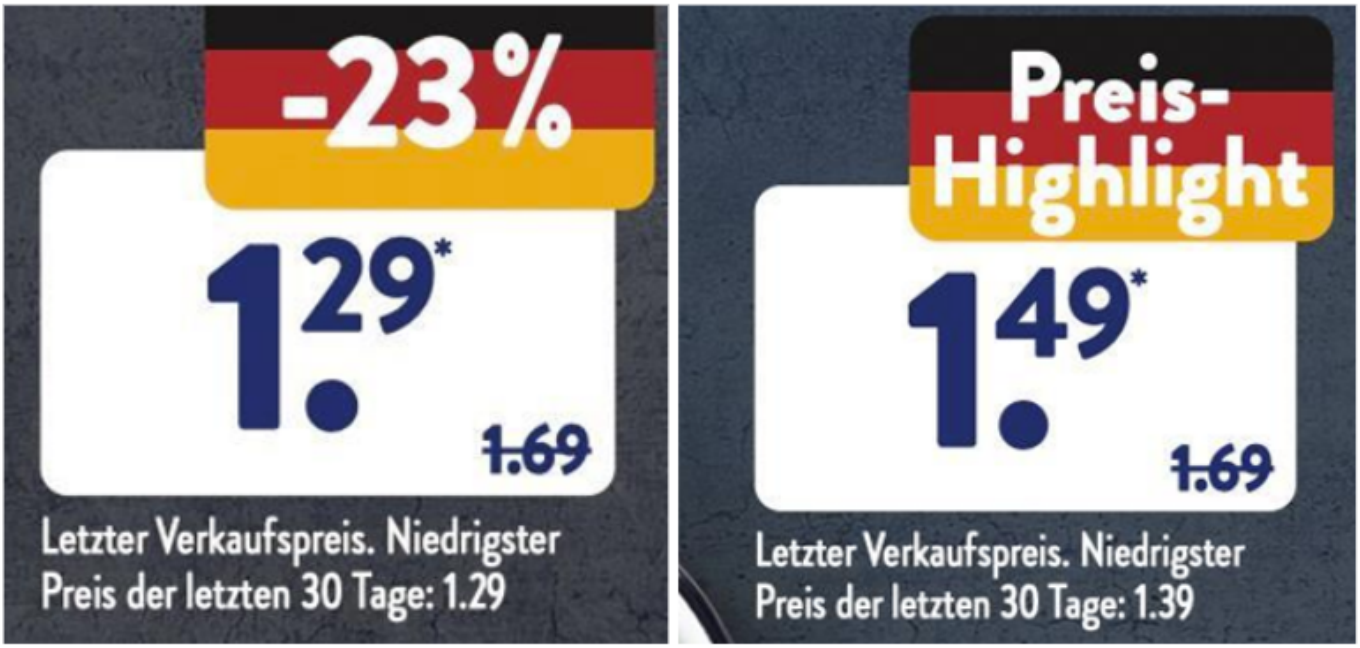
Earlier this year, we informed you about the new rules regarding the display of discounts on goods, aimed at protecting consumers from price manipulation (more information here). These rules stem from the transposition of Directive (EU) 2019/2161 of the European Parliament and of the Council of 27 November 2019 (the so-called Omnibus Directive), which has been transposed into Slovak law primarily through Act No. 108/2024 Coll. on Consumer Protection, effective **as of 1 July 2024**.

Under the new rules, **traders are required to indicate the prior price of goods in any price reduction notice, where the prior price is defined as the lowest price applied by the trader during a period of time not shorter than 30 days prior to the application of the price reduction.** A number of questions and possible interpretations of the statutory disclosure of discounts have arisen in relation to this rule.

The recent judgment of the Court of Justice of the European Union ("CJEU") in Case C-330/23 Aldi Süd has provided additional clarification on the issue. The case involved Aldi, a supermarket chain, which advertised reduced prices and percentage discounts on bananas and pineapples in its advertising brochures. The price of bananas was advertised as EUR 1.29/kg and that of pineapples as EUR 1.49/piece. The advertisement stated that the prior prices were EUR 1.69/kg, giving consumers the impression of a bargain. However, at the bottom of the advertisement, notes indicated that the lowest prices in the last 30 days were EUR 1.29/kg for bananas and EUR 1.39/piece for pineapples.

The price details of the offered goods were displayed in the advertisement as follows:



Although the first label shows a 23% discount on the goods, the actual discount (percentage price reduction), compared to the prior price (the lowest price of the goods in the last 30 days), is 0%.

In the second label, the goods are marked with the slogan "price highlight," which falsely informs consumers of a bargain, while in reality, the goods are sold at a price approximately 7.2% higher than the lowest price in the last 30 days.

The trader calculated the discount (price) in the advertisement based on a price other than the lowest price in the last 30 days, thereby misleading consumers. While the lowest price in the last 30 days was indicated on the label, the discount was not calculated from that price. According to the CJEU, this constitutes a violation of consumer protection against price manipulation.

In its decision, the CJEU confirmed that **any price reduction announced by a trader, whether in the form of a percentage reduction** or an advertising claim emphasizing the advantageous nature of the price, **must be based on the lowest price applied by the trader during a period of time not shorter than 30 days prior to the application of the price reduction.** This prevents traders from misleading consumers by raising prices prior to announcing a discount, thereby falsely creating the impression of a genuine reduction.

The CJEU ruling is relevant for all EU Member States, including Slovakia. Traders (including Slovak traders) must familiarize themselves with these rules and ensure that product discounts are advertised accordingly.

For violating the new price reduction rules, a fine of up to 1% of the trader's turnover for the previous accounting period, with a maximum of EUR 100,000 may be imposed. In the case of repeated violations, a fine of up to 2% of the trader's turnover for the previous accounting period, with a maximum of EUR 200,000 may be imposed.

Given that the new rules on price reductions have only been in force for a short time, it is expected that uniform interpretation will develop primarily through the decisions of oversight authorities and courts.

Did you know which fuel costs are tax deductible for plug-in hybrids?

Fuel rules for the use of plug-in hybrid vehicles have been specific problems for a long time. Taxpayers are interested in which fuel costs are tax deductible when consuming two different types of fuel.

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In the case of plug-in hybrid vehicles, two types of fuel are consumed – electricity and petrol. However, did you know it is not possible to claim the fuel consumption for each type of fuel separately.

When using a plug-in hybrid, both electric energy and the petrol engine are used. This results in two types of costs – **the cost of charging the vehicle and the cost of purchasing petrol.**

Expenses for consumed fuel can be applied to tax deductible expenses in the following three ways:

- on the basis of **fuel purchase documents**, which are recalculated according to the consumption stated in the registration certificate or in the technical license increased by 20%. The taxpayer **keeps driving book** and **documents any excessive consumption of the vehicle.**
- on the basis of fuel purchase documents up to the maximum amount reported from the vehicle traffic tracking system (**GPS**).
- in the form of **flat-rate expense up to 80%** of the total purchase of fuel for the relevant tax period.

At the same time, the Income Tax Act **does not define a special arrangement for calculating fuel consumption for electric cars**. The choice of the method of application of expenses applies to the vehicle, not to the type of fuel. If a plug-in hybrid vehicle has two types of fuel, **it is not possible** to combine the way fuel expenses are applied.

Thus, the taxpayer can use the driving book and fuel purchase documents or flat-rate expenses when applying tax deductible expenses for fuel for a plug-in hybrid. If the vehicle tracking satellite system (GPS) allows you to monitor the consumption of only one fuel - petrol, it can only serve as a basis for the overall calculation of driving records.

World news

Germany proposes changes in administrative principles on transfer pricing for intra – group financing

The German Ministry of Finance has published a draft of revised administrative transfer pricing principles on intra-group financing. It clarifies for taxpayers the fundamental changes in the legislation and modifies certain provisions to partially align them with the OECD methodology.

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As we informed you in our previous article, the German Growth Opportunities Act introduced significant changes to the transfer pricing rules for intra-group financing from 1 January 2024. The different perspective on compliance with the arm's length principle in transactions has brought many unresolved questions for multinationals on the application of the new legislation. The German Ministry of Finance therefore published a proposal on 14 August 2024 to modify the administrative transfer pricing principles.

The draft contains practical clarifications for taxpayers, including e.g. the following points:

- The deductibility of interest costs depends on whether and to what extent a relevant financing relationship exists. Debt capacity analysis (substantiation of the debt sustainability) and description of the economic necessity and corporate purpose of the borrowing must be performed, while it is expected that there is a reasonable prospect of a return that covers the financing costs. Debt-financed profit distributions (dividend payments) are permissible and the corresponding interest costs in general qualify as tax deductible. In the case of acquisition financing, the inclusion of a capital buffer and the short-term investment in an intra-group cash pool is considered in general as arm’s length.
- **The credit rating of the group remains decisive for the determination of the interest rate,** unless the borrower’s rating is better.
- The transfer pricing method for the determination of the arm’s length interest rate is in generally **the Comparable Uncontrolled Price Method**. Low-functional and low-risk financing companies are only entitled to a risk-free return. If additional functions or risks are borne, there is a further transaction between the financing company and the company exercising the control. Only financing activities carried out abroad are regularly to be regarded as low-functional and low-risk, for domestic transactions a function and risk analysis is needed.
- These principles should not apply to loan arrangements entered into before 1 January 2024, unless the loan arrangements were significantly amended after 31 December 2023. However, the application of the rules for low-functional and low-risk financing companies is not grandfathered.

We will monitor the further development of the legislative process. Should you be interested in more details, please contact us.

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