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New duties to data registration into the Commercial Register

Individuals and legal entities must extend the range of data provided in the Commercial Register of the Slovak Republic. This is the result of the Amendment to the Act on Commercial Register summary of which we have prepared.



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Pursuant to amendment to Act No. 530/2003 Coll. on the Commercial Register effective from 1 October 2020, the companies must provide for registration of additional information in the Commercial Register of the Slovak Republic (**Commercial Register**) with regards to its:

- a) statutory body/ member of statutory body,
- b) holder of procuration,
- c) shareholder,
- d) sole stockholder,
- e) member of supervisory board,
- f) head of branch of enterprise,
- g) head of enterprise of foreign legal entity,
- h) liquidator,
- k) administrator for the execution of compulsory administration.

With respect to **the individuals**, their **birth numbers** or for foreign citizens other **identification information** must be registered with the Commercial Register. **Business registration number of the legal entities** (if assigned) must be also registered with the Commercial Register.

This identification information will not be publicly available.

The statutory representatives must fulfil the obligation to register identification information with the Commercial Register not later than **on 30 September 2022**, otherwise they may face a penalty **up to EUR 3,310**.

In addition, until the identification information is registered with the Company Register, no other registered data can be changed.

The proposal for the entry of identification information into the Commercial Register can be submitted **only electronically**. At present, the proposal is subject to a court fee of EUR 33, but this fee should be abolished.

We will be pleased to help you with the entering of identification information into the Commercial Register. If you are interested in our services, please contact us.

Three major changes brought by draft amendment to the Slovak VAT Act

The Slovak Ministry of Finance introduced a draft amendment to the Slovak VAT Act bringing three major changes.



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The amendment to the Act which is proposed **to be effective from 1 January 2022** (except for i. a. the announcement of bank accounts of existing VAT payers which is proposed to be effective from 15 November 2021) proposes:

- Introduction of the obligation of the VAT payers to announce to the Financial Directorate each own (as well as foreign) bank account to be used for the economic activity,
 - This bank account will be used by the Tax Authorities for refund of the excessive deduction,
 - List of these bank accounts will be published on the website of the Financial Directorate,
- The joint liability to VAT by the customer will be extended and will also apply should the consideration for the supply (or its part) be paid to another bank account than the bank account of the supplier that was on the payment date published in the list of bank accounts,
- Introduction of the possibility for the customer to pay the VAT stated in the invoice for the supply of the goods and services within Slovakia to the individual bank account number of the supplier kept by the Tax Authorities; and thus, to avoid the joint VAT liability.

We will keep you informed on the next steps within the legislative process.

The public Country-by-Country Reporting is being discussed at the EU level

Country-by-Country Reporting (CbCR) is part of the 15-point Action Plan BEPS, which aims to find a solution against aggressive tax planning and ensure that tax is paid where profits and value are actually generated. CbCR was introduced into the Slovak legislation through an amendment to Act no. 442/2012 Coll. on International Assistance and Cooperation in Tax Administration effective from 1 March 2017.



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The CbCR contributes to the overall picture of the group's activities and includes, among the other, information about the amount of tax paid, the value of assets, revenues, profit or loss before tax, the number of employees in each country. However, this data is currently available only to the tax administration and is not yet being published.

Already in April 2016, the European Commission proposed to amend Directive 2013/34/EU of the European Parliament and of the Council. The proposal went beyond the BEPS standards and required large multinational enterprises (MNE) to publish several financial data on their websites, including income tax paid per country. The proposal has remained in deadlock since then, mainly due to disagreements on its legal basis. The significant shift forward to the introduction of **public Country-by-Country Reporting** (pCbCR) did not take place until 25 February 2021, during a political debate between Member States of the European Union organized by the Competitiveness Council configuration (COMPET).

Despite the negative attitude of some Member States, the COMPET approved the pCbCR legislative proposal, which would require MNEs with global revenues above a certain level to disclose key financial information, including the amount of income tax paid per country.



Based on the COMPET voting system, the qualified majority is obtained when at least 15 (55%) Member States representing at least 65% of the European Union's population agree to the proposal. It is the voting system that provokes negative reactions from the Member States, as the tax issues in general fall within the remit of ECOFIN and unanimity is required for approval. At present, eight Member States do not agree with the proposal and two countries (Slovakia and Lithuania) have not commented on the proposal.

The proposal will move forward to the negotiation phase between the European Parliament and the European Council, while the expected aim of reaching an agreement on the directive is before the end of the Portuguese Presidency (30 June 2021). If the directive is approved, Member States will have two years to incorporate it into local law.

Although the future of the pCbCR is still uncertain, broad support from Member States during the COMPET meeting should be seen as a significant step forward. Public transparency in the field of taxation is also an important part of the corporate social responsibility of MNEs, that should be adequately prepared for the possible pCbCR introduction.

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Digital tax within the EU

Taxation of the digital economy is listed as one of the priorities of the European Commission. The target is to secure just and efficient taxation of incomes of all companies operating in the EU, whereas the European Commission already stated in 2014, the contemporary international rules for taxation will have to be reshaped in order to cover new business models.



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In 2015 the European Parliament asked the European Commission to submit a legislative proposal on a definition of the digital permanent establishment that would cover digital companies with the significant digital presence in the source country, along with a definition of the minimum economic substance, based on which it would be determined whether foreign companies generate incomes from digital activities in the source country, particularly in relation to the development in the field of the OECD.

The European Commission recognized that in relation to the taxation of services provided digitally two main problems arise:

- **Nexus** - to determine the state which is entitled to tax the services provided digitally provided the business activity is conducted exclusively online and;
- **Generation of income** - assignment of profits to online activities thereto, the incomes are generated thru non-tangible assets, data, and knowledge.

In order to avoid profit shifting of digital activities out of the countries, where incomes were generated that according to the European commission besides the rules against tax regulations avoidance, alternative transfer pricing approaches will be necessary. On the EU level, the European Commission even mentions the possibility to modify the proposal on the Common Consolidated Corporate Tax Base to the digital issue.

On 21 March 2018, the European Commission introduced a series of measures, which should have brought the just taxation of the digital economy in the EU. The package of measures contained a proposal on the temporary solution in a form of 3 % tax on digital services levied on revenues from certain digital activities and a long-term solution in a form of the digital permanent establishment.



In 2020, within the recovery plan of the EU after the pandemics, several new financial resources of the EU were mentioned including a possible all-European digital tax. Within the adopted EU budget, the European Commission in December 2020 was requested for a legislative proposal on the digital tax as an own financial resource of the EU. The European Commission committed itself to publish the respective legislative proposal in the first half of 2021. The European Commission confirmed that it will consider the agreement on the digital tax on the OECD level, whereas its legislative proposal would be based on one of the three possible alternatives:

- additional corporate income tax for all companies that conduct certain digital activities within the EU,
- tax on profits derived from certain digital activities within the EU,
- tax on digital transactions between companies (B2B) carried out within the EU.

It is expected that the European Commission publishes its legislative proposal on the digital tax by the end of June 2021.

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However, it is unclear what position towards its proposal take individual member EU states and EU trade partners, for instance the US. The European Commission estimates that the digital tax KPMG affects 120 to 150 companies of which about 100 are clients of KPMG International Limited, a private English company limited by guarantee. All rights reserved.

50 % is seated in the US and a third in the EU. It is well possible that the US would hinder the digital tax by reciprocal trade restrictions.

The European Commission considers the planned commencement of the digital tax no later than 1 January 2023. Several countries did not wait for the proposal of the European Commission and have already introduced the digital tax in some of its form based on the published package of measures proposed by the European Commission in 2018, for instance Austria, Spain, France, Portugal, or Italy. Slovakia extended the definition of the permanent establishment since 2019 to recurring intermediation of transport services and accommodation via online platforms, which can be considered as a first step in striving for the taxation of the digital economy in Slovakia.

The Slovak President signed the Act on support during the regime of abbreviated work

The Parliament approved the Act on support during the regime of abbreviated work, so called Kurzarbeit on May 4th 2021.



Daňové a právne oddelenie

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The Parliament approved the Act on support during the regime of abbreviated work, so called Kurzarbeit on May 4th 2021. The Act has to be published in the Collection of Law.

More information can be found in our Article <https://www.danovky.sk/en/kurzarbeit-has-passed-the-first-reading>.

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