Tax Agenda Slovakia

April 2023

Building a better working world

No.	Fact	Action
1	**Expected changes to the Slovak list of non-cooperative jurisdictions** British Virgin Islands, Costa Rica, Marshall Islands, and Russia were added to the EU list of non-cooperative jurisdictions for tax purposes, which will result in their exclusion from the approved list kept by the Slovak Ministry of Finance. Once they are excluded from the approved list, transactions with these jurisdictions will be subject to 35% WHT in Slovakia and potentially reportable under DAC6.	Assess whether the changes apply to the business activity performed. If so, assess the potential tax impact of dealing with excluded countries. Monitor further changes to the approved list.
2	**Transformation of commercial companies and cooperatives** A draft law on the transformation of companies (transposing EU Directive 2019/2121) was published recently. This law will introduce new forms of transformation of companies missing from the Slovak legislation, such as spin-offs. The law is expected to become effective as of 1 December 2023.	Assess how changes to the rules for the transformation of companies may potentially impact planned business transformations.
3	**Public country-by-country reporting** Entities that are part of the group with a consolidated turnover over EUR750m will be required to prepare a new report with specific information on Group income tax obligations, description of activities and financial information of entities within the Group, etc. This report will be filed together with financial statements and will be publicly available. The first report will be prepared for accounting periods beginning after 22 June 2024.	Assess whether the company meets the requirements for public country-by-country reporting. If so, prepare for gathering new data that is to be disclosed in the report.

Apr May Jun Jul

Use text boxes above the timeline to plan your actions for coming months

Compliance *Risk management* *Cash-flow and ETR impact*

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4	**Changes to the transfer pricing rules** Effective from 1 January 2023, the amendment of the Income Tax Act brought changes to the transfer pricing regulations, most importantly by introducing a median of the benchmark as a mandatory value for adjustment in case of a tax audit. See more.	Assess the impact of changes to the transfer pricing rules.	● ● ●	☐
5	**Changes to the limitations on deductibility of interest expenses** The amendment also introduces new limitations on the deductibility of interest expenses that are applicable also for debt received from non-related parties. The new rules will affect entities with net interest costs above EUR 3m. Previous limitations for related-party debt will remain in force. The changes will be effective as of 1 January 2024. See more.	Assess the impact of changes to deductibility of interest expenses.	● ● ●	☐
6	**Taxation of non-resident's income from bonds** From 1 January 2023, the amendment also introduced the withholding taxes of non-resident taxpayers' income from bonds issued by domestic issuers, except for income from government bonds and treasury bills. See more.	Assess the impact of changes to the taxation of bonds issued by Slovak taxpayers.	● ● ●	☐
7	**Expansion of the special levy in regulated industries** An amendment of the Act on the special levy is in progress. If the current wording is approved, the amendment will increase the levy rate and expand the scope of regulated entities to those that carry out activities based on a permit issued by the National Bank of Slovakia, such as securities traders, etc.	Assess whether the changes apply to the business activity performed. If so, prepare for the impact of the increased levy.	● ● ●	☐
8	**Windfall tax** The approved Act introduced the solidarity contribution (i.e., windfall tax) for subjects that generate at least 75% of their turnover from economic activities in the oil, natural gas, coal, and refinery sector. The Act came into force as of 31 December 2022. The solidarity contribution rate is 55% of the tax base for corporate income tax purposes.	Assess whether the changes apply to the business activity performed. If so, prepare for the impact of the new tax.	● ● ●	☐
9	**New levy in the energy sector** The Slovak Parliament passed an amendment to the Energy Act, which introduced new levy rates on the excess income of electricity producers, increasing these taxpayers' taxes. The rate is 90% from excess income, which is defined as a difference between market income and a ceiling for the market income defined by law.	Assess whether the changes apply to the business activity performed.	● ● ●	☐
10	**Proposal for an EU Council Directive laying down rules to prevent the misuse of shell entities for tax purposes** Legal entities without minimal substance and economic activity would not be eligible for benefits from double tax treaties, "parent-subsidiary" Directive, "interest-royalty" Directive, etc. The transposition should be effective from 1 January 2024.	Assess the minimum substance requirements.	● ● ●	☐

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11	**Agreement on EU Directive on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union** On 12 December EU Member States achieved unanimous agreement on the Minimum Tax Directive. The adoption of this Directive will mean the profit of large groups with a combined annual turnover of at least EUR750m per annum will be taxed at a minimum rate of 15%.	Assess the impact of the EU Minimum Tax Directive.
12	**Guidance on the application of Double Tax Treaties** The Ministry of Finance released the first draft of the upcoming guidance on the application of Double Tax Treaties. It will incorporate the obligation to prove the recipient's tax residence and beneficial ownership of the income as a condition for application of reduced withholding tax.	Taxpayers should prepare evidence on tax residence and beneficial ownership of payments such as licenses and interest paid to entities outside of Slovakia. The proof should be available at the latest by the date of payment.
13	**Super-depreciation of CAPEX** Taxpayers can apply an additional deduction (15% to 55%) of tax depreciation costs related to newly acquired assets for Industry 4.0. The deduction is dependent on the value of the new investment compared to investments in previous three tax periods. The minimum investment amount is EUR1m. See more.	If there are planned investments in assets during following years, taxpayers should evaluate whether they meet conditions for the super-deduction and if so, make appropriate steps to claim this deduction.
14	**Transfer pricing audits** Tax audit activity is increasing after the extraordinary measures related to the COVID-19 pandemic have been lifted. Tax authorities are focusing on companies that incurred losses, or their profit decreased by a significant margin to examine whether they continued to uphold their transfer pricing (TP) policies.	Ensure that the company has TP documentation available that can substantiate losses or decreases in profit. A special benchmarking study for 2021 should be prepared.
15	**Reduced fee for a binding opinion** The fee for the binding opinion from tax authorities was reduced to EUR1,000 (from EUR30,000). Significant reduction may open up possibility for further assurance when planning significant transactions. See more.	If contemplating significant transactions, taxpayers should consider asking the tax authorities for a binding opinion.
16	**Real time invoicing** A public version of the bill on real-time invoice reporting (B2B and B2C) which should be effective from 1 January 2024 is not yet available. The Ministry of Finance has declared that it would like to give to the taxpayers at least 12 months for preparation, which, given the state of the legislative process and planned transposition of the upcoming Directive "VAT in digital age", may mean postponing the effectiveness of the law until 2025. Real time invoicing will impose the obligation on Slovak businesses to send invoice data to the Slovak Financial Administration, before the invoice can be issued. This obligation was extended to all businesses and not only for VAT payers. See more.	Reporting should be through the state-certified communication component, likely to be part of the taxpayer's ERP system. Taxpayers should reserve their IT providers' capacities to implement a solution compatible with their ERP which can be in operation by January 2025 (actual timing of legislation to be monitored).
17	**Cash-flow improvement** Cash flow improvement possibilities exist: request decreased tax advances, request WHT from interest or licenses paid to related parties based on amended rules for the tax exemption.	Identify any outstanding receivables from the tax authorities or additional deductions.

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18	**Disclosure reporting** Based on DAC6, disclosing information on a reportable cross-border arrangement (MDR) to the tax authorities has become an obligation in Slovakia. Information on reportable arrangements executed as of 1 January 2021 must be disclosed within 30 days of the arrangement being ready for implementation or the first step in the implementation being made. See more.	Identify MDR obligations in Slovakia. Report if required.
19	**Criminal liability** There are strong indications that only simple payment of outstanding taxes will no longer extinguish criminal liability of statutory representatives who have committed criminal tax offences.	Put adequate tax procedures in place and collect evidence confirming that statutory representatives are making every reasonable effort to facilitate that the company is paying the correct amount of tax.

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