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NEWSLETTER SLOVAKIA

SETTING FOUNDATIONS

Issue:
June 2022

Latest News on law, tax and business in Slovakia

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Introduction of electronic notification of incapacity for work

On 24 March 2022 the National Council of the Slovak Republic adopted the amendment to the Act No. 461/2003 Coll. on Social Insurance. One of the several changes presented by the latest amendment is the introduction of the so-called electronic incapacity for work (EIW), which is a significant change that will also affect employers.

Currently, the occurrence of temporary incapacity for work must be confirmed by the attending doctor on a form which the employee then delivers to the employer and the employer to the Social Insurance Institution. However, from 1 June 2022, the electronic IW will be gradually introduced – a certificate of incapacity for work, which is confirmed in the electronic system by a doctor and the employer subsequently learns about the employee's incapacity for work through a notification from the Social Insurance Institution. The process of transmission of this information will be ensured through the electronic system of the National Centre for Health Information. The introduction of an electronic record of temporary incapacity for work is aimed at simplifying administration and removing the obligation for the employee to physically deliver the certificate to the employer. The patient will nevertheless be able to ask the doctor to issue a certificate of temporary incapacity for work in paper form.

The first year after the introduction of electronic incapacity for work will be a transitional period during which a dual system will be in place, as both paper and electronic notification of incapacity for work will be in force at the same time. General practitioners will therefore be able to issue both electronic and paper incapacity for work certificates until 31 May 2023.

In addition, general practitioners, gynaecologists and, from 2024, specialists will gradually switch to electronic incapacity for work.

Under the current legislation of the Health Care Act, temporary incapacity for work can be certified by a general practitioner (who is an adult general practitioner or a paediatrician), a doctor specialising in gynaecology and obstetrics or a clinician.

If temporary incapacity for work arises as a result of a diagnosis made by a specialist doctor (other than a gynaecologist), the incapacity for work can only be confirmed by a general practitioner only. This places an extra burden on the employee, as he/she must also request a certificate from the general practitioner after the specialist has confirmed the incapacity for work. Under the new regulation, all specialists will also be able to certify incapacity for work electronically from 1 January 2024.

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Central Register of Accounts

On 1 May 2022, Act No. 123/2022 Coll. on the Central Register of Accounts and on Amendments and Additions to Certain Acts (hereinafter referred to as the "**Act on the Central Register of Accounts**") entered into force.

Based on the said Act, a central register of accounts is being established. This register is a public administration information system which is maintained for the purpose of facilitating access by authorised authorities (e.g. law enforcement authorities or courts for the purpose of criminal proceedings) to data on accounts and safe deposit boxes maintained or leased in the territory of the Slovak Republic.

The establishment of a Central Register of Accounts is intended to provide a fast, secure and yet simple way of obtaining information on the owners or disposers of accounts/safe deposit

boxes as well as on their beneficial owners. The use of data from the Central Register of Accounts should be a prerequisite for the subsequent seizure of assets and proceeds of crime as well as for the effective prevention, detection and investigation of certain types of crime (e.g. the crime of money laundering, the crime of tax and insurance evasion, etc.).

The Central Register of Accounts will be operated by the Ministry of Finance of the Slovak Republic. The data entered into this register will be as follows: identification data of the financial institution that maintains the account or leases the safe deposit box, date of account opening/commencement of lease of the safe deposit box, account number and IBAN (if assigned), unambiguous designation of the safe deposit box, identification data of the client, identification data of the beneficial owner of the client, date of creation and termination of the client's authorisation to dispose of the funds in the account, date of cancellation of the account/termination of the lease of the safe deposit box.

Financial institutions (e.g. banks, payment institutions, securities dealers) will be obliged to send the above data to the Central Register of Accounts and will also be responsible for the accuracy and completeness of the data they have provided to the Central Register.

Data from the Central Register of Accounts will be provided, as mentioned above, to authorised persons. These are, for example, law enforcement authorities, courts for the purpose of criminal proceedings, the Financial Directorate of the Slovak Republic, the Criminal Office of the Financial Administration or the Ministry of Finance of the Slovak Republic itself in connection with the application of international sanctions).

A natural person has the right to information about and access to personal data held about him or her in the Central Register of Accounts under the GDPR, except for information about to which authorised body and when the data held about him or her in the Central Register was provided (namely 5 years after it was provided to the authorised body). A legal entity has the right to inspect the information held on it in the Central Register of Accounts once a year, free of charge, to the same extent as a natural person.

The National Bank of Slovakia will supervise the fulfilment of the obligations of financial institutions and the Central Securities Depository to provide data to the Central Register of Accounts. A financial institution may be fined between 10.000 € and 1.000.000 € for failure to comply with its obligations under the Act on the Central Register of Accounts, depending on the nature of the administrative offence.

According to the Act on the Central Register of Accounts, the Ministry of Finance of the Slovak Republic will put the Central Register of Accounts into operation on 1 January 2023. Currently, the Ministry of Finance of the SR is obliged to issue a generally binding legal regulation by 1 July 2022 to establish the details of sending data to the Central Register of Accounts. Subsequently, within 6 months from the date of entry into force of the above-mentioned implementing regulation, financial institutions, the National Bank of Slovakia and the Central Securities Depository will be obliged to send to the Central Register of Accounts correct and complete data on accounts/ safe deposit boxes existing on the date of sending the data as well as data that have been created, changed or ceased to exist since 1 January 2018, if they register them in their systems.

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→ Tax

Tax deductibility of credit interest (thin capitalisation rules) – prepared amendment

Interest expense arising from credits and loans accepted from dependent persons is limited by the thin capitalisation rules at the present time. The assessment base for the calculation of tax deductible interest expense is the profit/loss increased by book depreciation and interest expense (EBITDA). Tax deductible expenditures are those interest expenses from related persons that do not exceed 25 percent from the amount of the stated assessment base.

Significant changes should take place in the stated sphere. The Ministry of Finance of the Slovak Republic has published a preliminary information regarding the prepared amendment of the Act on Income Tax that should change the thin capitalisation rules due to the implementation of the Council Directive (EU) 2016/1164 (so-called ATAD 1 Directive) till the year 2024 at the latest.

→ Proposed changes

The proposed legal regulations aim to extend the application of thin capitalisation rules on all interest expense, i.e. also on interest from credits granted by independent persons. Furthermore, net interest expense – i.e. interest expense exceeding the interest income should be taken into account when assessing the amount of tax deductible interest (net principle). The assessment base for the limitation of the amount of net interest expense should be also changed. This assessment base shall be the tax base increased by tax depreciation and net tax expense on accepted credits and loans (so-called "tax" EBITDA). Even though the preliminary information does not state the limit of tax deductibility of interest, this should amount to 30 percent from the tax EBITDA in terms of the directive.

As the preliminary information regarding the proposed changes does not include the final wording of the prepared amendment, the final legal regulation can differ from the draft currently presented due to raised objections and due to the ongoing legislation process. With respect to the stated, the following possible changes of the thin capitalisation rules remain open:

- Application of the de minimis rule – the directive allows an optional exception whereupon the deduction of expense related to accepted credits and loans up to the amount of 3.000.000 EUR would not be limited.
- Application of an exception for taxpayers being part of a consolidation group for accounting purposes, on basis of which such taxpayers would test the tax deductibility of expense on basis of the criteria of the equity to assets ratio or the group EBITDA test.
- The Directive allows an optional exception whereupon the limitation of tax deductibility of interest for standalone entities, i.e. for taxpayers not being part of a consolidation group for financial accounting purposes and without an associated enterprise or permanent establishment would be cancelled.
- Possibility to carry forward tax non-deductible interest expense to future tax assessment periods, or the possibility of a claiming of carry back of interest expense in preceding periods.
- The possibility of an exclusion of financial undertakings from the application of thin capitalisation rules.

We will keep you informed about the approval of the amendment of the Act on Income Tax regarding the thin capitalisation rules. With respect to possible tax consequences resulting from the stated changes, we recommend that you give attention to the stated topic and possibly consider its impact on the effective taxation of your company.

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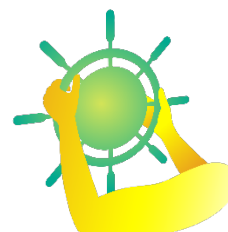

→ Business

Change of the board allowance amount as of 1 May 2022

The rates of board allowance during business trips in the Slovak Republic have been adjusted as of 1 May 2022. The rates have been adjusted on basis of the Regulation No. 116/2022 Coll. on Board Allowance Amounts, issued by the Ministry of Labour, Social Affairs and Family.

The following board allowance rates are valid in the Slovak Republic as of 1 May 2022:

- in case of business trips lasting 5 hours to 12 hours, the rate of 6.00 € shall be valid,
- in case of business trips lasting more than 12 hours to 18 hours, the rate of 9.00 € shall be valid,
- in case of business trips lasting more than 18 hours, the rate of 13.70 € shall be valid.

In connection with the stated changes, the meal voucher minimum amount has been adjusted as well. The meal voucher minimum amount has been increased to 4.50 €.

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