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Albania

New Law "On accounting and financial statements"

In the Official Gazette no. 79, dated 30 May 2018 was published the Law no. 25/2018 "On accounting and financial statements" ("New Law"), which will replace the Law no. 9228, dated 29.04.2004 "On accounting and financial statements" ("Current Law"), with effect as of 01 January 2019. The New Law is partly harmonized with the European Union legislation on financial statements and other reports of economic entities.

Below are summarized the main amendments brought by this New Law as compared to the Current Law.

New Concepts

The New Law includes definitions of certain concepts that are missing in the Current Law, such as 'financial "holding" entities', 'group of economic entities', 'participating interest', 'consolidated financial statements', 'functional currency and presentation currency', 'responsible person for preparation of financial statements', etc. Furthermore, the New Law coordinates better the terms and provisions with the Law no. 10091, dated 05.03.20019 "On statutory audit, organization of the professions of statutory auditor and certified accountant ", as amended.

Classification of economic entities

The New Law determines the classification of economic entities according to three criteria: total assets, total revenues from economic activity and the average number of employees during the reporting period. Entities are classified under one category if they fulfill at least two of three respective criteria, as presented in the table below:

Type of entity	Criteria 1	Criteria 2	Criteria 3
	Total assets	Revenues from economic activity	Average number of employees
Micro-economic entities	≤ ALL 15 million	≤ ALL 30 million	≤10
Small entities	≤ ALL 150 million	≤ ALL 300 million	≤50
Medium-sized entities	≤ ALL 750 million	≤ ALL 1,500 million	≤250
Large entities	> ALL 750 million	> ALL 1,500 million	>250

An entity classified under one category is reclassified into another category only if it exceeds or falls below the limits of at least two criteria for two consecutive reporting periods.

Similarly, the New Law also establishes the classification of groups of economic entities (for the purpose of preparation of consolidated financial

statements and other reports at group level) when their values after consolidation meet at least two from three of the respective criteria:

	Criteria 1	Criteria 2	Criteria 3
Type of groups of entities	**Total assets**	**Revenues from economic activities**	**Average number of employees**
Small groups	≤ ALL 150 million	≤ ALL 300 million	≤50
Medium-sized groups	≤ ALL 750 million	≤ ALL 1,500 million	≤250
Large groups	> ALL 750 million	> ALL 1,500 million	>250

The limits for two criteria, specifically for total assets and total revenues from economic activity, will increase every three years until 2028 with the purpose of full harmonization of these criteria with the ones provided in the respective European Union legislation.

Applicable standards
International Accounting Standards and International Financial Reporting Standards (IAS/IFRS) will be applicable only to public interest entities, as well as to regulators of public interest economic entities that perform their activity in crediting and insurance industry, with certain exemptions. All other entities will apply National Accounting Standards (NAS), but will have the possibility to apply IAS/IFRS voluntarily.

'Public interest entities', will be considered all companies listed in stock exchange markets; bank and non-bank financial institutions; insurance and reinsurance companies; investment and voluntary pension funds; as well as other companies that are relevant to the public interest due to the nature of their business, their size or the number of their employees, determined by a Council of Ministers decision.

Reporting period
The regular reporting period duration is 12 months, starting from 1st of January until 31st of December. The New Law provides that the duration of the reporting period may be shorter or longer than 12 months in cases of initiation or termination of the economic activity but may not, however, be shorter than 3 months or longer than 15 months.

Consolidated financial statements

Economic groups, with the exception of small groups, prepare consolidated financial statements. Exceptionally, small groups are subject to this obligation only if one of the group's entities is an entity of public interest.

Financial statements components
Components of financial statements vary depending on the classification of the respective economic entities:

Type of entity	Statement of Financial Position	Statement of Profit or Loss	Statement of Other Comprehensive Income	Statement of Cash Flows	Statement of Changes in Equity	Explanatory Notes
Micro-economic entities (not 'holding')	Yes, simplified	Yes, simplified	No	No	No	Yes, simplified
Small entities	Yes	Yes	No	No	No	Yes
Medium-sized entities	Yes	Yes	Yes	Yes	Yes	Yes
Large entities	Yes	Yes	Yes	Yes	Yes	Yes
Small, medium and large public interest entites	Yes	Yes	Yes	Yes	Yes	Yes
Not for profit organizations	Yes	Yes, in the form of Statement of Activities	No	Yes	No	Yes

Obligatory information of explanatory notes
Medium-sized, large and public interest entities should present a number of obligatory information as part of explanatory notes to the financial statements, such as: average number of employees for each category, amount of salaries for governing and executive bodies, information about economic entities where it has participating interests or owns shares, information over group entities that prepare consolidated financial statements, agreed fees with auditors for the purposes of statutory audit as well as other services such as general advisory, tax advisory, etc.

Specific reports and statements
The below additional reports are obligatory for some economic entities:

Type of entity	Performance progress report	Management report*	Non-financial report*	Report on payments made to governmental institutions
Micro-economic entities	No	No	No	No
Small entities	No	No	No	No
Medium-sized entities	Yes	No	No	No

Large entities	Yes	No	No	Yes, if it operates in the extractive industry or industrial forest exploitation
Small, medium and large public interest entities	Yes	Yes	Yes, for large entities with >500 employees	Yes, if it operates in extractive industry or industrial forest exploitation
Not for profit organizations	No, if total assets or revenues <ALL 30 million	No	No	No

*This report is included in the performance progress report

Signing of financial statements
Besides the legal representative of the entity, the financial statements must be signed also by the person responsible for their preparation. This is the employed person, physical person licensed as certified accountant or statutory auditor, as well as legal persons organized as audit companies or accounting companies that provide accounting services, which in accordance with the employment contract or service agreement concluded with the economic entity holds responsibility for the preparation of the financial statements.

Submission and publication obligation
Within 7 months from the reporting date, all economic entities will submit for publication to the National Business Center or any another responsible authority where they might be registered: (a) annual statutory financial statements, (b) performance progress report, (c) audit report, when these documents are compulsory.

Medium-sized and large economic entities, as well as public interest entities, will have the obligation to publish these documents in their websites.

Non-for profit organizations are obliged to publish annual statutory financial statements and performance progress reports in their official websites, only if total assets or total revenues exceeds ALL 30 million.

Special regulation related to profit distribution

The New Law provides the limitation of the amounts of profit that can be distributed to shareholders in cases where the economic entity has not fully amortized capitalized development costs, or when it has recognized income from participating interest which are not fully collected.

Retention of accounting documents
The rule for retention of accounting documents remains for 10 years in a row after closing of the reporting period to which they belong. However, contrary to the Current Law, which does not provide any limitation in this regard, the New Law stipulates that accounting documents should be retained at the headquarters where the economic activity of the entity is conducted.

National Accounting Council (NAC)
In comparison with the provisions of the Current Law, the New Law provides

some amendments in the number of members of the National Accounting Council (7 members proposed against 9 members currently), the composition (entities/institutions that have the right to propose members), their appointment (by the Minister of Finance instead of by the Council of Ministers as it is currently provided), and the obligation of the National Accounting Council to report its annual performance within the first quarter of the following year.

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Bosnia and Herzegovina

On the 146th regular session held on 07.06.2018 the Government of the Federation of BiH established the Proposal of the Law on Contributions.

The Government of the Federation of BiH Sarajevo, after a 90-day public hearing, conducted on the basis of the conclusions of both Houses of the FBiH Parliament, established the Proposal of the Law on Contributions. The proposed provisions will result in simplification of the calculation and payment of contributions, strengthening of supervisory function and financial discipline. The proposed solutions have also been harmonized with the provisions of the Labor Act and the Pension and Disability Insurance Act.

The new law covers contributions for all compulsory insurance. It is very important that this area is regulated with one law in order to avoid large degree of inequality in terms of rates, bases and obligations of contribution. As the FBiH Tax Administration has established the Unified Register of Insured persons, better quality supervision will be ensured. The total contribution rate decreases from the current 41.5 percent to 33.5 percent. At the same time, the basis for calculating contributions was extended, except for salaries and meal and regress fees. On income from the basis of temporary and occasional jobs, occasional self-employment, supplementary work and other activities will be calculated pension contribution for pension insurance at the rate of 18.5 percent if it is secured on a different basis. If the recipient of the receipt is not secured on a different basis, the taxpayer is obliged to pay at the rate of 18.5 percent of the pension and disability insurance contribution and the 13.5 percent health insurance contribution, with the pension contributions paid for pension insurance being included in the retirement pension basis in accordance with the Pension Insurance Act.

By adopting this law, a legal basis will be created for more efficient recording, collection and control of all contributions for compulsory insurance, for reconciliation of the coverage of payments subject to contribution payments, and for harmonization of the total rate throughout the territory of BiH.

On the 146th regular session held on 07.06.2018 the Government of the Federation of BiH established the Proposal of the Law on Income Tax.

The law provides progressive taxation of two rates, namely 10 and 20 percent, on a predetermined basis of income. A taxpayer on income tax is a natural person who realizes income. Thus, a taxpayer is an individual (and not a legal person) who receives a salary, fee, or authoring fee, owns income-generating craft etc. The taxpayer is considered a resident and a non-resident. A resident is a person residing in the Federation. A non-resident is a person who does not have a permanent or temporary residence in BiH, but realizes income in the FBiH. Income tax will not be paid if an individual receives funds from state, entity and cantonal budgets, as well as out-of-budget funds, regardless of the amount he received.

Income is defined as the difference between income and expenses incurred during the tax period determined by the cash principle, ie only after received payments or payments made. Income taxed comes from six sources of income: from self-reliant and independent labor, property and property rights, from capital investment, from prizes to games of chance and other income.

Income from employment is defined as the difference between all forms of income and expenditures (social security contributions and personal deduction of 700 BAM per month) incurred during the tax period. The income tax thus obtained is subject to tax rates of 10 and 20 percent. The introduction of personal deduction will be reflected as a zero income tax rate of up to 700 BAM. In this way employees with income up to 700 BAM are exempt from paying income tax. The threshold of 700 BAM was set on the basis of data reported by the Federal Ministry of Finance and Tax Administration of FBiH, and by which, out of the total number of employees in the territory of FBiH, there are about 55 percent of employees in the category of receiving up to 8,400 BAM annually (700 BAM per month).

Income from self-employment is defined as the difference between business income and expenditures related to doing business and rates of 10 and 20 percent are also applied to it. This category of income includes so-called freelancers who, due to the development of information technology, are intensively developing in the territory of FBiH.

Income from prizes and games of chance includes the taxation of winnings of more than 100 KM, and the tax is paid at each payout at 10 and 20 percent rates.

The tax base includes other income of the FBiH resident, such as income of athletes and sports experts, income from occasional free professions and others that are not clearly covered by the total world income. The basis for the taxation of income from casual free activities is the amount of income reduced by 30 percent on behalf of the cost.

The law also includes tax incentives to improve the development of voluntary pension funds, so that the annual income tax amount is reduced by 10 percent of the annual personal allowance, or 840 KM per year.

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Czech Republic

Tax Changes in the Taxation of Investment Funds

In the March issue of dReport, we informed you about the planned change in the taxation of basic investment funds. The Senate proposed narrowing down the definition of the basic investment fund, excluding the funds the shares of which were listed for trading on a European regulated market but that failed to meet other conditions stipulated by law. The funds would be subject to the corporate income tax of 19% rather than being taxed at the current 5% rate.

The reason for the change was the Senate's effort to remove from the definition of the basic investment funds the funds that are only registered on a regulated market without actually performing investment activities. Pursuant to the amendment, the benefits of lower taxation should only be drawn by the funds that are active in making investments on financial markets.

During the legislative process, the Chamber of Deputies made an amendment to the draft stipulating that the basic investment funds include the funds listed for trading on a European regulated market with no corporate income taxpayer having any investment of 10% or more in the registered capital of the relevant investment fund; in order to meet the condition, investments of related parties that are corporate income taxpayers are considered to be investments of a single taxpayer; the condition is considered to be met even if the permitted investment in the registered capital is exceeded over a period shorter than a half of the taxation period or a period for which a tax return is filed or a period shorter than six months if the taxation period is longer than 12 months and if the fund is not involved in a trade under the conditions stipulated by the Trade Licensing Act.

The above-specified restriction will thus relate to the funds that are only considered to be basic investment funds under the Income Taxes Act due to the fact that they are listed for trading on a European regulated market and at the same time, they are owned within a group or by a limited number of owners, whereby the share of each owner is 10% or more.

The amendment will apply to tax obligations arising after the effective date of the Act, ie from 1 January 2019 as expected. We will keep you informed about any changes.

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Making Insurance Contributions on Behalf of "Outsourced" Employees

It is not necessary to have a legal relationship to make insurance contributions.

The Regional Court in Hradec Králové has addressed the issue of making social security and health insurance contributions from performances provided to employees of a different company. As the Income Taxes Act and contribution-related legislation treat these types of supplies differently, it is worth remembering the individual differences so that you do not make a mistake in remunerating "outsourced" employees.

According to the Income Taxes Act, an "employer" with the obligation to make personal income tax prepayments is (to put it simply) anyone who provides supplies related to the performance of dependent activities to anyone; however, according to contribution-related legislation, the statutory payment of insurance contributions on behalf of an employee was previously based on the legal relation between the entity that pays the income and the person who performs the activities.

Since January 2014 in respect of social security contributions and since 2009 in respect of health insurance contributions, it has been sufficient for an individual to perform activities for you that give rise to income from dependent activities regardless of whether you have entered into a legal relationship with the person or not: you become an employer for the purposes of social security and health insurance contributions and you are obliged to make relevant insurance contributions and increase the base for calculating the tax prepayment on dependent activities to include the social security and health insurance contributions made by the employer.

To illustrate, imagine the situation where a car repair shop employee sells car care products, among others, as part of their employment relation with the car repair shop. The producer of the car care products rewards selected employees for good results with a watch worth CZK 3,000. According to the Regional Court's ruling, the producer of the car care products becomes an "employer" of these employees for the purposes of income tax prepayments on dependent activities and must be ready to deal with the extensive red tape related to tax payments.

It may not be clear whether the "outsourced employee" performs activities for you or whether it merely fulfils the instructions of its legal employer; however, in providing supplies to "outsourced employees", we recommend that you check whether you are subject to these potential other obligations.

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Intercompany Services as a Tax Deductible Expense

Management services or marketing support are the most common types of intercompany services. However, although it is economically justified, the provision of these services presents certain tax challenges that need to be taken into account. Namely given the fact that tax authorities focus more and more of their attention on the issue of intercompany transactions.

The majority of discussions held to this day on the tax consequences have primarily related to the transfer pricing setup. As a result, the intercompany pricing setup in line with the arm's length principle has become the norm and it has become customary for many groups to adhere to it.

Therefore, the major issue is the allocation ratio among individual entities and proving the actual provision of the services and whether they serve the purpose of attaining, securing and retaining taxable income generated by the company. These days, only a small portion of companies have a robust and perfect "defence file" in place that would serve as detailed evidence of what services were specifically provided (eg preparation of budgets, acquisition-related advisory etc), in what scope (number of days, hours, when specifically etc), by whom (a specific employee the company providing the service) and with what deliverables (meeting minutes, e-mails, comments etc).

The precedent as to the scope in which the services received should be documented was set by a ruling of the Regional Court in České Budějovice (No. 10 Af 5/2016). In the ruling, the Regional Court sided with the tax administrator, confirming an additional tax assessment in excess of CZK 14 million including fines for failing to substantiate services from a related party.

However, the dispute has two levels. On the one hand, the tax audit contested the tax deductibility of the costs of advisory services received from the parent company. On the other hand, it contested the tax deductibility of legal services provided by a third party through the parent company, which subsequently rebilled the costs to the taxable entity.

As part of its defence, the taxable entity submitted a large amount of evidence which was intended to substantiate the provision of services by the parent company. For example, the evidence included presentations from training sessions, action plans, e-mail discussions and other records of communication with the parent company's representatives. Furthermore, the company submitted a series of invoices in respect of which the taxable entity also submitted, following the tax authority's call, the calculation of remuneration including a summary of the monthly payroll costs of the parent company's employees participating in the provision of the service.

However, the tax administrator ruled that the evidence contained *but a general description of the services, with none of the evidence submitted by the taxable entity showing the specific number of hours worked or the actual fee for the services provided and with individual appendices only referring to the specific invoice received without quantifying what proportion of the total amount invoiced is represented by the specific service.* Furthermore, the tax administrator argues that it is primarily impossible to allocate a specific expense (the fee for the service) to a specific service provided and, as a result, to deduct the expense for tax purposes. In respect of the calculation of remuneration to the parent company's employees, submitted additionally as appendices to the invoices, the court agreed with the tax administrator's

conclusion in that *the calculations submitted were prepared by the tax entity retrospectively, for which reason they are not credible and eligible evidence of the facts presented in them.* The court also made similar comments on the retrospective conclusion of contracts, recalling the conclusion of Ruling of the Supreme Administrative Court Ref. No. Afs 8/2014-174, according to which it is insufficient to retrospectively assert that the entity's past actions were in line with a contract concluded later without substantiating the specific expenses relating to the specific provision of services.

As for the rebilling of costs for legal services, the court agreed with the tax administrator's opinion in that *the taxable entity failed to prove that it had ordered the legal services, what individual meetings specifically addressed, in what manner work was assigned and what deliverables were produced for it.* Although the entity provided, during the audit, for example a memorandum prepared by the external provider of the legal services which showed that certain services were explicitly related to the activities of the given entity, the tax administrator stated that the entity failed to bear the burden of proof in substantiating what specific contribution was made by the deliverable to the entity's activities and what benefits it had. The ruling specifically refers to a legal service relating to a change to the entity's repayment schedule in respect of the bank which did not result in any changes to the schedule. The tax administrator argues that if the service were to be acknowledged as a tax-deductible expense, the repayment schedule would actually have to have been changed.

In its ruling, the regional court notes that it is only up to the taxable entity what evidence it submits to substantiate its assertions; however, at the same time, it points out that if, on the one hand, the cost incurred is not specified, and, on the other hand, it is not associated with a precisely specified provision of a service, the expense cannot be assessed to be tax deductible.

So far, this has only been stipulated by a regional court ruling. As the dispute has been advanced to the Supreme Administrative Court, there are still several months before we will know the ruling. However, other rulings on the provision of intercompany services have already been issued, containing similar arguments as the ones described above.

If the trend is upheld by the Supreme Administrative Court, it is high time for businesses to carefully prepare for this new era. It seems that contracts, invoices, samples of e-mail communication or unsigned meeting minutes will not be sufficient in substantiating services from related parties and it will be necessary to have many more documents at your disposal.

If you would like to learn more about the topic, come and join us for our presentation on 20 June 2018 from 11 a.m. to 1 p.m. as part of the debate "Management Fees – The Current Perspective and Judicature" hosted by the Construction Forum in cooperation with Deloitte.

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The Amendment to the Investment Incentives Act in Preparation

In a relatively short time after the major amendment (from 2015), another draft of the Investment Incentives Act has been prepared. It originated in response to the current economic situation, taking into account the requirement to amend the structure of projects so far funded by the government by way of investment incentives.

The purpose of the amendment is to increase the low number of projects which have attracted support in the area of technology and shared services centres. In respect of manufacturing projects, the goal is to focus on supporting production with greater added value. With regard to projects not fulfilling the greater added value criterion, solely those located in the territories of governmentally-supported regions are likely to obtain support; moreover, the beneficial treatment already applies to these projects under the current investment incentive regime. The amendment also seeks to respond to the unavailability of investment incentives for small and medium-sized enterprises, which was subject to criticism in the past. As such, the amendment significantly minimises the required amount of investments in order to be eligible for the support. The legal obligation introduced by the previous amendment of having to create job positions under manufacturing investment projects is planned to be eliminated. This step appears to be logical, under the condition that projects generating greater added value will lower their requirements on the number of employees, and, on the other hand, will require greater professional qualifications and skills of employees.

A significant change introduced by the amendment involves distributing the criteria and obligations related to investment incentives among the Act itself and a governmental regulation. As such, the governmental regulation is supposed to determine in particular the minimum value of the required investment, the required number of newly-created job positions, and a particular method of providing evidence on the added value that is to be generated. The authors of the draft amendment have decided to make this change in an effort to maintain flexibility in amending the Act and the need to be responsive to the given economic developments. However, there is a question as to whether potentially frequent changes made by way of the governmental regulations will be sufficiently transparent for investors.

Finding the criteria based on which greater added value of manufacturing projects could be defined was a complicated task for the authors of the draft. Finally, the criterion was determined so that for 80% of employees of the investor aspiring to obtain the investment incentive, the salary has to be minimally equal to the average salary for the given region. In addition to this general criterion, the investors in question need to have (at least 2% of) employees engaged in research and development, or cooperate with a college/university or a research institute in terms of research and development. An alternative to performing research activities is employing minimally 10% of employees with a college/university degree. Currently, this parameter is inaccessible for most manufacturers.

The Amendment to the Investment Incentives Act is anticipated to come into effect in spring 2019. At the moment no changes in the criteria applicable to investment incentives recipients defined by the Act on Income Taxes are foreseen.

The amendment is currently subject to interdepartmental comments by individual ministries. A number of the comments are material, such as that

all investment incentives shall be approved by the Czech government (so far, this only has applied to strategic investments). Judging by other comments on the defined criteria for monitoring greater added value, a follow-up debate and additional changes in the amendment draft can be expected. We will keep you informed on the developments in the preparation of the Investment Incentives Act.

As mentioned above, the amendment to the Investment Incentives Act is likely to become effective in spring 2019. We will keep you briefed on the actual state of the amendment.

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Hungary

The government would appoint NAIH as the supervisory authority according to the GDPR

The government would appoint the National Authority for Data Protection and Freedom of Information (NAIH) as the supervisory authority according to the GDPR and would set a warning for violating data protection regulations for the first time

On 29 May 2018, the government introduced the bill on appointing a supervisory authority defined in Act CXII of 2011 on Information Self-determination and Freedom of Information (hereinafter: "Information Act").

According to the Bill, the Information Act appoint the National Authority for Data Protection and Freedom of Information ("NAIH") as expected, to carry out the supervisory tasks defined in the GDPR. The bill would stipulate that, when issuing an administrative fine defined in the GDPR, the NAIH "should exercise its powers in view of the principle of proportionality, especially by primarily taking the step of warning the data controller or data processor when remedying the breach in the case of violating the regulations defined in the data protection law or the binding legislation of the European Union for the first time, in line with Article 58 of the General Data Protection Regulation."

Therefore, in line with preliminary communication, the NAIH would primarily warn data controllers and data processors not conforming to the data protection regulations. Even though it does not follow from the text of the bill that the aim of the above provision is the foundation of the application of the solidarity procedure exclusively for SMEs; this is clear from the reasoning of the proposal, and recent comments from the NAIH and the government also support this. In practice, this would mean that in the case of SMEs violating the GDPR for the first time, the NAIH would only issue a warning and would apply other sanctions lighter than a fine (e.g. abolition of data control activities not in line with certain regulations, instruction to comply with data protection law, etc.). The proposal and the related communications suggest that in the case of large companies, the NAIH will not necessarily follow this practice, and will probably exercise its right to impose a fine. Please note that the proposal should not be interpreted as exempting SMEs from compliance with the GDPR: in cases of a severe violation, imposing a fine against them cannot be precluded. With this in mind, it is advisable for SMEs to take the necessary steps to comply with the GDPR.

Real-time transfer of domestic invoice data

The amendment of the invoicing decree was announced in the 1 June 2018 issue of the Official Journal of Hungary, which makes real time transferring data of domestic invoices to the tax authority compulsory from 1 July 2018. There are less than four weeks left for the finalisation of the necessary developments, in which Deloitte supports its clients, too.

According to the announced decree amendment, the effective date of the online invoice data transfer obligation is not postponed, so from 1 July 2018, it is obligatory for taxpayers to transfer data to the tax authority. The technical notification procedure related to the decree, carried out by the European Commission has been successful. According to the decree

announced, the subject of the data transfer continues to be invoices of at least HUF 100, including VAT, issued to domestic taxpayers.

Considering the above, it is necessary to finalise the related IT developments in the few weeks left until the effective date, in which Deloitte supports its clients, too. Deloitte has developed a solution which ensures compliance with the statutory obligations and provides support services for the implementation and updating of the software. You will find more information with respect to VATOnline, the software that helps you meet the obligation on our website.

How much must neighbours tolerate and how far can developers go?

The recent upturn in the construction industry makes the question relevant: where is the border between disturbing neighbours necessarily and unnecessarily, and can an architecturally justified solution be unnecessarily disturbing at the same time? In our experience, neighbours taking action against developers' disturbing behaviour first complain about noise and dust pollution, typically followed by a property protection case at a notary's office, claims at the construction administration, then lawsuits in court. In this newsletter, practical experience of property protection disputes related to construction investments are summarised, including the Curia's latest analysis of the topic.

Neighbours often complain about disturbing sounds, noises and other effects, or potential emission of pollutants during the construction projects. After the initial polite discussions, neighbours tend to take the issue to court quite soon, often with several neighbours uniting in a case against the developer. Typically, they file a property protection claim with the notary, and try to hinder the construction at the construction administration, but the case usually ends up in court.

According to the governing law, during the use of the property, developers must refrain from all behaviour that would unnecessarily disturb others, especially the neighbours, or that would threaten the exercising of their rights. Of course, this does not mean that noise and dust related to the construction are always considered mere disturbance. Disturbance is inherent to construction. When making the decision about what qualifies as unnecessary disturbance, courts take into consideration the balance of interest between the parties and their reasonable interests. The expression "unnecessary disturbance" refers to an objective concept, and even though it cannot be defined exactly, no behaviour can be considered illegal based on the subjective feeling of a neighbour. Consequently, courts must examine the extent of the conflicting interests, as well as the rights on the two sides, and in the end, they must make a decision that favours the balance of interests. This measuring of interests is currently done on a case-by-case basis, as it is difficult to establish a uniform benchmark measuring what is necessary and what isn't, considering all circumstances of the individual cases. We are of the opinion that in these property protection cases, the courts should establish uniform guidelines.

The Curia of Hungary has created a legal practice analysis team consisting of 14 judges and 5 theoretical and practical experts, for the purpose of reviewing the judicial practice. The summary report of the legal practice analysis team of the Curia (available HERE) suggests that most property protection cases are based on violation of neighbour's rights; still, the criteria to rule in the individual cases if unnecessary disturbance occurred as the

basis for property protection is still not developed. We are of the opinion that these criteria would be especially useful for developers, as they could see in advance, which behaviour would be considered unnecessary disturbance. This is in line with the need that the criteria must be based on an objective benchmark.

The Curia's analysis also mentions that it is irrelevant for property protection and neighbour's right disputes whether the developer or the contractor complies with construction management regulations. First, the decision about unnecessary disturbance must not depend on construction management regulations; therefore the Curia considers incorrect the judiciary practice of defining the tasks of forensic experts assigned to property protection cases with reference to administrative norms, prescribing the inspection of compliance with administrative norms. Second, the legal practice analysis team of the Curia emphasises that potential noncompliance with construction management regulations is irrelevant in property protection disputes, as duly performed construction may cause trespass, therefore the necessary or unnecessary nature of the disturbance is not justified by the criteria of compliance with construction management regulations.

The analysis of the Curia mentions that while courts currently responsible for property protection cases are quite flexible about accepting claims from neighbours, the new civil law effective since the beginning of this year will not provide for such flexibility. According to the new regulations on civil procedures, the party filing the lawsuit must exactly specify in court the right they want to enforce, and the court will only judge in this regard. Therefore, the currently general practice will not be sustainable where, even though the claimant defines the right to be enforced incorrectly or incompletely, the courts define the legal matter in line with the intention of the claimant, even if it is under a different title from what the claimant said. According to the new civil procedure regulations, the court may only rule in the legal matter proposed, it may not exceed it, even if that would promote the enforcement of the claimant's right.

In conclusion, in the judiciary practice of legal disputes initiated by neighbours, uniformity is expected; courts will examine the necessary or unnecessary nature of disturbances more in detail, in line with the Curia's guidelines; and the civil procedure regulations effective since the beginning of this year will regulate right enforcement of neighbours in court more strictly. Our position is that these changes are expressly favourable for developers, as lawsuits filed by neighbours will become faster, providing neighbours with smaller powers. In addition, we expect that the uniform criteria will make the behaviour expected from developers more predictable and the consequences of unlawful conduct more foreseeable.

Summary of the new tax bill

On 19 June 2018, the government presented the bill on the modification of certain tax laws and related other laws.

Personal income tax

Cafeteria modules

The bill would change the taxation of ***fringe benefits*** ("cafeteria").

From 1 January 2019, employee benefit with reduced taxation could only be provided in the three "pockets" of the SZÉP card. (Regulations about trade

union recreation services and in-kind benefits provided by the trade union would not be changed.)

The option of giving a maximum of 100 thousand HUF in **cash** with **reduced** tax would be terminated.

The tax base adjustment item of 1.18 would not have to be applied for tax base assessment in the case of **non-wage benefit**.

Products, services or insurance taken out by the payer for a private individual provided by the employer based on an internal regulation (available to all employees) or provided equally and in the same way to all employees could not be taxed **as certain defined benefits** from 2019. According to the bill, the reduced taxation of benefits provided so far as certain benefits (e.g. employer's payment into voluntary mutual insurance fund, local pass, schooling assistance, etc.) would be terminated.

A limited group of benefits provided to employees or as a payer would still be available as certain defined benefits, such as: payments for a specific service to a voluntary insurance fund, private use of company phones, meals or other services on official or business trips, representation and company gifts or other benefits related to business/entertainment events and provided to several people, gifts of small value (once a year).

Based on this bill, **tax-exemption of many benefits would be cancelled** from 2019, such as:

- housing allowance provided by employers,
- housing allowance to promote mobility,
- employer's support given for employee student loan repayment,
- risk insurance premiums (until 30% of the minimum wage),
- tickets or season tickets for cultural and sports events.

Tax exemption of crèche and kindergarten services provided for free or at a reduced rate would not change. In order to reduce administration obligations for employers, this benefit is tax-exempt even if the employer compensates the price of the service/care against an invoice issued for the employee's name.

Letting of real estate

The bill allows for services received by the lessor and charged to the lessee (e.g. public utility fees) not to be considered as the lessor's income, thus reducing administrative burden for lessors. According to another favourable modification, the payer is not required to deduce a tax advance from their income if the lessor declares that they would like to have the rental fee of a property rented in another town or city for a period longer than 90 days considered when assessing their income.

Insurance

The bill amends or supplements several parts of the insurance regulations.

Draft returns of private entrepreneurs

The bill would extend the possibility to fulfil the tax filing liability by amending and correcting the draft tax return prepared by the tax authority.

Social security contribution, social security contribution tax and healthcare contribution

Social contribution and social contribution tax

The employment (in accordance with the Labour Code) of pensioners who are in retirement in their own right would become exempt from insurance liability, and therefore would not qualify as insured and would not be eligible for social security services based on this legal status and no contribution and social contribution tax liability would arise.

The amount of **health service contribution** would increase to HUF 7,500/month, HUF 250/day (in 2018 its monthly amount is HUF 7,320, HUF 244/day).

In the case of special agreements regarding retirement/service time, the **contribution to be paid** would be 24% of the income serving as the social security contribution base (34% in 2018).

The aim of a separate bill is to consolidate the current **social contribution tax and the health care contribution (eho)** in one tax type from 1 January 2019. In addition, this bill would also introduce new labour market incentives.

The **scope of individuals who are exempt** would be extended compared to previous regulations, as, according to the bill, the exemption also applies to individuals insured in countries participating in bilateral agreements.

The bill contains a flat rate **social contribution tax**, i.e. income types previously subject to a 14% tax (e.g. capital income, non-wage benefit) would become subject to 19.5%. (The rate of the social tax is expected to be decreased to 17.5% as of 1 January 2019.)

Currently, the ceiling of **health care contribution** payment liability on capital income is HUF 450 thousand annually, which includes, among others, the sum of the health insurance contribution paid by a private individual. According to the bill, the tax paid on capital income until its base together with the consolidated tax base reaches 24 times the amount of the monthly minimum wage.

The **scope of incentives** would also be modified (some of them would be consolidated, some abolished), and they would be available up until the amount of the minimum wage instead of the previous 100 thousand HUF income ceiling.

Simplified entrepreneurial tax

The option to choose the simplified entrepreneurial tax ("egyszerűsített vállalkozói adó", eva) is available until 20 December 2018 (as the first step of the phasing out of eva); after that, choosing to be an eva subject is not possible. (Those opting for taxability based on eva before 20 December 2018 may still continue it until their taxability is terminated by their own choice or by any other reason defined by law.)

Individuals' solidarity surtax

The regulation on the 75 percent surtax on certain revenues of private individuals is expected to be superseded from 1 January 2019.

Corporate income tax

Specifications relating to reported shares

From 1 January 2019, the limitation which stipulates that recently acquired further shares may not be reported to the existing ones if the taxpayer did not opt for reporting the original shares, would be removed from the concept of reported shares. However, the increase of the share value (without new acquisition) would only be considered reported shares if the original share was reported by the taxpayer.

Further shares newly acquired after 31 December 2017 would be reportable within 75 days after the law enters into force. The bill also proposes that in case of changes in the form of incorporation, merger, or demerger, previously reported shares would not have to be reported again because of such transactions. Reporting is also unnecessary when the previous owner acquires a share in the company affected by the change of form, merger or demerger.

However, the option of handling investment notes issued by unlimited term investment funds as reported shares would be terminated.

The bill offers clarification in several places in order to ensure conformity with the directive on cross-border mergers, and the tax neutrality relating to reported shares. Therefore, it would clarify that in case of the preferential transformations and exchanges of shares, the tax deferral applied by the owner should not result in future tax liability if the previous share was considered reported shares.

Modifications affecting taxpayers preparing IFRS financial statements

The IFRS 9 that has been in force since 1 January 2018 provides the option for taxpayers preparing their financial statements according to the IFRS to indicate the change of the fair value of certain investments in the comprehensive income. However, in the case of such a choice, it may happen that the gain or loss acquired during the holding period does not appear in the income statement at the time of derecognition, and thus it does not appear in the tax base, either. The bill plans to correct this difference by appropriate tax base adjustment that would not apply to the reported shares. The tax payer may decide to apply the tax base modifications already for their tax liability of the tax year beginning in 2018.

During the transfer to IFRS, in the case of certain assets, the historical cost assessed based on the IFRS and the book value are different from the values under the Accounting Act. If the taxpayer chooses to apply the accounting depreciation in the tax base for the given asset, it may happen that the book value of the asset is already zero, while it still has a net tax value, which cannot be applied in the tax base due to the lack of accounting depreciation. Therefore, the bill would provide an option for taxpayers to apply the net tax value of such assets as depreciation in the tax base in the three years following the book value dropping to zero.

The bill is planning a new provision regarding the depreciation of assets registered as components according to the IFRS. From 2019, depreciation by

the tax legislation must be defined by components if the historical cost, the depreciation method and the useful life of the components are defined separately according to the IFRS, and the individual components can be assigned to the depreciation rates defined by the tax legislation.

The bill would supersede the obligation of taxpayers adopting the IFRS for the first time to provide information about the expected sum of the transition difference at the same time as submitting the top-up liability for the tax year before the transition.

Other modifications

Based on the bill, the concept of **energy efficiency construction project** would include renovation as well. As opposed to the uniform 30% so far, the rate of tax relief regarding the costs of construction or renovation would vary by region according to the aid intensities specified in the general block exemption Regulation.

The limit of the tax base decrease related to the **development reserve** would increase from the current HUF 500 million to 10 billion.

The maximum HUF 20 million tax base decrease for **start-up enterprises** would be considered in the future by tax year and by start-up.

The tax base decrease for **R&D activities** would be dividable between the service provider and the client, based on an agreement. However, such an eligibility for tax base decrease could not be transferred to associated parties.

According to the bill, costs and expenditures related to the operation of not only **crèches** but also **kindergartens provided by the employer** would be listed among the itemised costs and expenditures incurred in the interest of business operations. A kindergarten provided by the employer is an institution which, considering the average annual number of children, provides care services for the employees' children in at least 80%.

Innovation contribution
The bill would restore the original provisions of the 2014 law, thus extending the group of subjects of innovation contribution. Only micro- and small businesses complying with the complex criteria of the SME Act are eligible for individual tax exemption instead of entities only complying with the requirements (indicators) defined by certain sections of the SME Act.

Localbusiness tax
Tax exemptions and tax benefits

The bill would supersede tax base exemption related to the increase of the headcount. However, it would provide the possibility for municipalities to issue decrees to give tax exemptions or tax benefits on the costs or part of the costs recognised for the entrepreneur's investments according to the Accounting Act. The tax exemption or tax benefit recognised for the given tax year but not applied in the tax year could be carried over to the following tax years. The bill also provides that the regulations of such tax base exemption or tax benefit cannot be modified to the detriment of taxpayers by the municipalities for three years.

Municipalities may not provide such benefits on the building tax on the entrepreneur's property or part of property used for business purposes other

than the tax exemptions and tax benefits defined in the law. As the material scope of building tax has been extended with the advertising display from 1 January 2018, the bill would also extend the prohibition for the sake of unity.

Modifications relating to IFRS

The bill would modify several parts of the tax base assessment regulations affecting taxpayers reporting under IFRS. Some of the modifications would not mean a change in content, but only refer to the modifications due to the IFRS 16 standard replacing the IAS 17. Several other of them, however, would aim at solving interpretation issues and inconsistencies of the current legislation.

The bill would consolidate the double tax base decrease (an item decreasing the turnover and increasing the cost of goods sold) with the book value of the asset held under a finance lease at companies providing financial lease to credit institutions and financial entrepreneurs, which contradicts the legislator's intention in the current regulation. From 1 January 2019, the taxpayer may not increase the cost of goods sold with the book value of the assets held under a finance lease, if the latter had been used to decrease the revenue during the assessment of the tax base.

The currently effective provisions of the local tax legislation stipulate that credit institutions and financial enterprises are obliged to increase their revenue with the invoiced amount not recognised in the given tax year or the following tax years in accordance with the IFRS as revenue or revenue-increasing item. However, their might be some amounts which, even though the taxpayer only invoices them later, are already considered as revenue-increasing items in previous tax years (i.e. not as revenue, e.g. in the case of lease purchases, the value of the receivable at the start of the lease period in the tax year of the lease purchase, which is only invoiced later, during the term). In such cases, double taxation occurs, so, from 1 January 2019, the bill would amend the regulation and abolish the limitation that stipulates that only revenue-increasing items applied in the given tax year or later can be considered. This way, it would be unnecessary to increase the revenue with the invoiced amount in the case of previously considered tax base increase.

Other modifications

The bill would include assets managed under a **fiduciary trusteeship** agreement in the legal concept "entrepreneur". This modification is only a simplification of the codification, as the assets managed is already subject to local business tax under the current legislation.

The bill would clarify the top-up payment liability and its deadline for **companies with a business year other than the calendar year**.

The material and personal scope of the legal institution of **data supply to the tax authority** (effective as of 1 January 2018) would be further extended. In the future, the Hungarian tax authority would not only forward data received from the Registry Court about companies listed in the registry, but about private entrepreneurs and organisations registered by courts. Furthermore, it would not only provide data received at the registration, foundation or beginning of activities, but also data changed during the taxpayer's operations and sent to the Hungarian tax authority.

Accounting Act

Accounting for grants

In the case of grants provided by the EU and Hungary, post-financing is typical in both cases. This means that companies often make loss in one year and become profitable in the next one. In order to enforce the principle of matching, the bill provides the opportunity for companies to recognise the expected, not yet recognised amount of subsidies received for the compensation of costs as accrued income against other income.

Recognition of assignment of receivables

The bill clarifies the recognition of the assignment of original (own) receivables, which is determined by the qualification in the balance sheet. The profit from the assignment of receivables among investments should be reported as income from investments, exchange gain, or expenditure, exchange loss (depending on the whether negative or positive). In contrast, business transactions related to the disposal of original receivables recorded within assets. The management of business transactions related to purchased receivables recorded within current assets remains the same, and has to be shown within other income and expenditures of financial transactions.

Goodwill in case of a merger

In case of merger (fusion, consolidation), major loss of capital might occur at the derecognition of shares and participations to each other, especially if the acquirer has considered significant goodwill in the purchase price – and thus in its historical cost – of its share in the merging company. In such cases, the bill would make it possible for the acquirer to report goodwill in the amount above the market value proportional to the retired profit share of the assets and liabilities taken over during the merger, which would have several conditions.

The new rules would be applied to acquisitions and mergers started after the amendment enters into force.

Other modifications

The bill would clarify that the currency of the financial statements and the **currency** of bookkeeping must be the same as the currency defined in the deed of foundation.

The bill clarifies that companies preparing **IFRS financial statements** have to define the capital disposable for dividend payment in line with the accounting regulations. It refines the concept of profit reserve and valuation reserve in the case of companies preparing IFRS financial statements, so that it clearly includes the part accumulated before the transition, as well as the values carried over from other capital elements based on the IFRS. It modifies the definition of after-tax profit, so that it includes items recognised against the profit by the accounting act, but also against the own capital by the IFRS, especially in the case of subsidies and funds given or received without the obligation of repayment. The bill introduces compulsory elements for IFRS financial statements (e.g. auditor, persons authorised to represent the company, members with majority control), and in the future companies with IFRS financial statements would also be required to prepare a business report.

In case of **contribution in kind**, the difference between the the carrying value of the asset and the value as defined in the deed of foundation shall be recognised as other income or other expenses at the owner not only for contributed tangible assets but also valuable rights.

In case of **conversion of currencies**, the application is not compulsory for five years as before but only for three.

The bill would clarify that the proposal for the **use of the after-tax profit** is identical in content with the approval for proposal for dividend payments.

Value added tax
Specifications relating to invoice data supply

Pursuant to rules previously adopted, the value limit of invoice level data supply will be lowered from HUF 1 million to HUF 100,000 as of 1 July 2018. The bill would clarify in which tax return the recipient must first meet the data supply obligation in relation to invoices with output VAT of at least HUF 100,000, and simplifies the obligations of annual filers. Also, with a view to decreasing the administrative burden of taxpayers, with regard to the decrease of the value limit to HUF 100,000, the bill would cancel the consolidated data supply obligation of the recipient party deducting the tax.

Extension of the scope of reverse taxation

The bill would extend the rules on the reverse taxation of certain grain and steel products to 30 June 2022. Also – with regard to the provisions of the implementing decision of the Council no. 2018/486 – the bill would phase of the application of reverse taxation on the loan staffing services subject to derogation. Accordingly, loan staffing, assignment and workforce hiring would not be subject to reverse taxation as of 1 January 2021, except if such service is related to the transfer of real property under Section 10 d) of the VAT Act, or building-assembly and other repair work under Section 142 (1) b) of the VAT Act.

Treatment of vouchers in the VAT scheme

With the aim of legal harmonisation, the bill would adopt the EU regulations effective as of 1 January 2019 pertaining to the VAT treatment of vouchers. The bill defines the concept of a voucher, a single purpose and a multiple purpose voucher in the VAT system. Please note that the concept of the voucher fails to include instruments offering only discounts in product and service purchases but do not grant by themselves purchase of the product or service.

Adopting the directive on the VAT rules of e-commerce

The bill – in harmony with the EU requirements – would adopt the provisions of Council Directive (EU) 2017/2455 on the VAT rules of e-commerce entering into force as of 1 January 2019. Accordingly, taxpayers not settled in the Community territory may also register for the one-stop shop system if the taxpayer – for any other reason – already has a tax number in any of the Community member states. The bill would also regulate cases where the taxpayer is seated in only one EU member state and provides distance services from that location to non-taxable persons seated in other member states. Furthermore, the bill provides that in case of transactions where the taxpayer settles the tax liability through the one-stop shop system, the

related source documents of the transactions are subject to the rules of the member state where the taxpayer was registered for the one-stop shop system (registering member state). Also, the bill would define the exchange rate to be applied for converting the value limit of EUR 10,000 in the case when the taxpayer provides distance services to non-taxable persons in other member states.

Tax rate for milk

The tax rate for milk would be unified at 5% as of 1 January 2019 for ESL and UHT milk too in addition to fresh milk.

Serial sale of real property

The bill would clarify the deadline for reporting to the tax authority in case of entities that become taxable due to a series of real property sale transactions (reporting is required by 31 January 2019 for sales in the calendar year 2018 and within 30 days following sales after 31 December 2018).

VAT deduction right of new taxable persons

Private entrepreneurs newly engaged in business activities and non-resident taxpayers registered for VAT are entitled to tax deduction with respect to purchases linked to their taxable activities in a verifiable way based on the invoice issued to their names even if the purchase took place before registering at the tax authority. The bill would clearly state that in such cases the deduction right would be applicable in the tax assessment period of the date of registration.

Services directly linked to exported products subject to certain customs procedures

The bill would stipulate that once criterion for the tax exemption of services directly linked to exported products subject to certain customs procedures (e.g. forwarding, auxiliary service linked to the forwarding of goods) is that the service should be directly provided to the person who effects the product export or the taxable activity subject to the specific customs procedure.

Recording status in case of classification codes

The bill would modify the status report from 31 July and 30 September 2002 to 1 January 2018 of products and services defined under the Commercial Customs Tariff and classification system for products and activities (new classification: TESZOR). This rule would enter into force as of 1 July 2019. The bill also proposes modifications needed for the change of the status recording of the SZJ numbers and their conversion to TESZOR numbers.

Reciprocity with Serbia and Turkey

The bill would add Serbia and Turkey to the list of so called third countries (outside the European Union) where Hungary provides the option of tax refund – with regard to reciprocity. In case of Turkey the rule would enter into force from the day following the publication of the resolution of the minster responsible for taxation in the Official Journal of Hungary. In case of Serbia, reciprocity would become effective from 1 January 2019 according to the bill.

Exercising the right of choice

The bill would allow taxpayers to request the modification of their previous choices or the lack thereof through a rectification request submitted to the national tax and customs authority before the start of the subsequent tax audits of the tax returns and within the term of limitation (e.g. choice to sell real estate), provided that the modification does not affect the amount of the tax base assessed and filed, the amount of tax payable and the input VAT. Also, the bill would allow taxpayers to convert to the cash accounting scheme during the year if the individual tax exemption is no longer an option with the eligibility limit exceeded.

Special taxes concerning the financial sector
According to the bill, as of 1 January 2019 the special tax on credit institutions would be abolished. It is important that taxpayers subject to the special tax on financial institutions applying IFRS may assess this tax liability on an IFRS basis. Also, the specific tax base assessment rules for lease activities would be abolished.

Financial transaction tax
As of 1 January 2019 all retail transfer transactions up to HUF 20,000 would be exempt from the financial transaction tax. Also, the upper limit of HUF 6,000 by transaction would be introduced for payment transactions effected to accounts held at the treasury.

Accident tax – insurance tax
With a view to simplifying the tax scheme and cut the number of tax types, the accident tax charged on the mandatory motor vehicle third-party liability insurance would be cancelled by merging it in the insurance tax (insurance tax is currently charged on Casco contracts and property and accident insurance policies).

The bill stipulates that the tax rate is 15% of the written premium for motor third party liability insurance, while in the case of passenger cars and motorcycles it is 20% of the tax base. It is an important rule that the written premium from motor third party liability insurance should not be considered for assessing the bracketed tax base.

Act on the competitiveness of district heating
According to the bill, in addition to energy efficiency construction projects, tax benefits would also be available for renovation projects aimed at energy efficiency.

Excise tax
The bill seeks to clarify minor ambiguities that have surfaced in practice (e.g. treatment of revised invoice in case of continuous supply, authorisation of commercial purchases, termination of compulsory authority presence at inventory count for certain licenced activities).

Customs regulations
With regard to the Customs Act, the bill proposes minor changes. The concept of administrative penalty would be cancelled and replaced by provisions pertaining to default customs administrative penalties. Also, the transfer of customs representation is refined.

Vehicle registration tax

The bill proposes the decrease of the registration tax for small and medium category motorcycles, in line with the decrease effected for passenger cars in 2012. Also, the registration tax for electric and hybrid motorcycles would be decreased to zero, in line with the 0 tax for electric passenger cars.

Public health product tax
Modified tax rates

The bill proposes the uniform 20% increase of tax rates, and the increase from 7 HUF/l to 15 HUF/l in case of beverages.

Abolishing the tax benefit of health protection programmes

According to the effective regulation if the taxpayer launches a health protection programme (a programme facilitating healthy living, meals, sports), then they may deduct the related costs from the public health product tax (up to 10% of the tax). The bill intends to cancel this tax benefit. The benefit would, however remain available in a way that taxpayers could offer maximum 10% of their tax as contribution to the health preservation programmes organised by the administrative body responsible for healthcare.

Tax on alcoholic beverages

Also considering the infringement procedure of the European Commission, the bill would modify the provisions of the Public Health Product Tax on "alcoholic beverages", pursuant to which alcoholic products under the excise tax act would qualify as alcoholic beverages for legal purposes.

Amendments relating to the rules of taxation
EKAER reporting

For the purpose of meeting the reporting obligation related to the road transportation of goods, in the application of tax laws, the classification system effective on 1 January 2018 shall be observed in the case of the Commercial Customs Tariff (Vtsz.) effective on 1 January 2018 and the classification system for products and activities (TESZOR) of the Central Statistical Office. Subsequent (interim) changes of the classification system will not modify the tax liability.

Return of the default interest

Back to the regulations effective before 1 January 2018, the bill reintroduces a default interest payable by the tax authority in cases where the tax authority's ruling went against the law and the taxpayer becomes entitled to reimbursement. In this case the tax authority is liable to pay an interest equivalent to the amount of the late payment penalty on the amount to be reimbursed, except if the faulty tax assessment was for a reason attributable to the taxpayer or the provide of the data.

Increased late payment penalty

As of 1 January 2019, the late payment penalty would increase from the current double central bank interest (0.90% – 1.80%) to a rate increased by five percentage points (5.90%), further increasing potential sanctions in case of adverse findings of a tax audit. The late payment penalty imposed on the tax difference to the debit of the entity that qualifies as a high risk taxpayer at the time of assessing such penalty is the 1/365 part of the 150% of the

late penalty calculated under the general rules for each calendar day. The self-revision surcharge is unchanged, equal to the central bank rate. In case of repeated self-revision, the self-revision surcharge is one and a half times the amount thus calculated.

Clarification for taxpayers with different business years

The CIT filing deadline is duly applicable to taxpayers with different business years provided that – as stipulated by the bill – the taxpayer pays the corporate income tax (the difference between the tax advance paid and the CIT difference assessed for the tax year) by the last day of the fifth month following the tax year, or reclaims it from this date.

Increased number of "one-stop shop" system users

Taxpayers not settled in the Community territory may also register for the one-stop shop system if the taxpayer – for any other reason – already has a tax number in any of the Community member states. Upon registration the taxpayer is only required to declare that it has not settled in the territory of the EU.

Reporting a foreign bank account

It has been specified that companies subject to a company court registration have to report to NAV all the valid bank accounts at foreign financial institutions, i.e. payment accounts, the name of the foreign financial institution managing the account, as well as the days of opening and closing the bank accounts.

Changes pertaining to the tax authority's execution proceedings
The bill supplements the system of terms of limitation by adding that in the future any execution event will interrupt the term of limitation (4 years) for certain actions. The rule – that the vehicle of a debtor who uses the car for his business activities may not be retired from traffic for a period specified by law, only its registration may be seized – will not only be applicable in tax collection procedures.

Introducing a special tax on aid groups which support migration
The bill would introduce a new special tax to facilitate the contribution of aid groups which support migration to the central budget. The tax liability covers the financial support of any activity aiding migration in Hungary (irrespective of the nationality of the aid group) and the financial support of an organisation aiding migration, registered in Hungary (irrespective of where this organisation is engaged in activities).

With respect to the tax liability, the bill defines the concept of activities that support migration. Such activities include media campaigns and seminars facilitating migration, participation in such campaigns, network construction and operation, activities promoting migration if these are performed to facilitate migration (the permanent move of people from the country of residence to a different country). The concept of migration does not include the movement of individuals with the right of free movement and residence.

The tax base is the amount of the financial support (e.g. amount transferred, movables provided), and the tax rate is 25%. The taxable person is primarily the organisation providing the support, which is obliged to make a statement to the recipient of the aid by the 15th day of the month following the month

of support (by the statutory tax filing deadline) on the fact that the tax liability has been paid. If the organisation providing the support fails to make this statement, then the recipient of the support (the aid group which supports migration, seated in Hungary) becomes the taxable person. Political parties and party foundations are not subject to the tax, nor organisations whose exemption is granted by an international treaty or reciprocity.

The provider of the support and the recipient of the support are required to assess, file and also pay the special tax by the 15th day of the month following the support and the 15th day of the second month following the support, respectively. NAV is the responsible authority with respect to the special tax.

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Kosovo

The Republic of Kosovo and the Republic of Austria have signed an Agreement for the Elimination of Double Taxation and Prevention of Fiscal Evasion

The entry into force and applicability of the Double Tax Agreement is subject to ratification by each countries' legislative authority.

The Agreement for the Elimination of Double Taxation and Fiscal Evasion has been signed in light of considerable international economic activity between the Republic of Kosovo and the Republic of Austria. The Agreement is also of importance given that Kosovo has a notable diaspora in Austria

As of yet no details of the treaty have been made available and thus no information on any deviations from the OECD Model Conventions can be reported.

The applicability and entry into force of the Agreement is subject to ratification of it by the countries' respective legislative authorities. The governments of the respective countries will inform each other of the ratification process upon which the treaty shall become applicable.

The Tax Administration of Kosovo extends new electronic services for taxpayers

The new electronic services provide "Reimbursement Management" and have been integrated in the existing Electronic System – EDI

The Tax Administration of Kosovo (TAK) has extended the new electronic services providing "Reimbursement Management" from 01 June and is available to all taxpayers who make a request for reimbursement in respect of value added tax (VAT), personal income tax (PIT) and corporate income tax (CIT).

Through this service, taxpayers can monitor the progress of reimbursement requests. More specifically through this system taxpayers, can be informed regarding the following:

- Date of the request for reimbursement;
- Claimed amount;
- Type of tax;
- Status of request (Pending/ Completed/ Rejected);
- Categorization of taxpayer under TAK Internal Regulation;
- Completion date, and;
- Approved amount.

The Government has published a series of Draft Laws on taxation in the Republic of Kosovo

Among the proposed amendments, the key measures include the introduction of dividend taxation and the reduction in the carry forward of tax losses to four (4) years.

The Government of Kosovo has published and circulated the following Draft Laws:

- Draft Law on Tax Administration and Procedures;
- Draft Law on Personal Income Tax;
- Draft Law on Corporate Income Tax;
- Draft Law on Value Added Tax;
- Draft law on amending and supplementing the Customs and Excise Code;
- Draft Law on the Kosovo Taxation and Customs Agency.

Currently the Government has circulated the aforementioned Draft Laws to parties of interest for consultation.

Among the key amendments proposed include:

- the introduction of taxation of dividends at the rate of 10%;
- the reduction in the carry forward of tax losses to four (4) years from six (6) years;
- reduction in the threshold for taxation based on real income from EUR 50,000 to EUR 30,000;

The proposed changes will be discussed in more detail in subsequent editions as they are further contemplated by Kosovo's Parliament.

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Poland

Transport Package. Finished work on amendments

On May 30, 2018, the bill amending the act on the system of monitoring the road and railway transport of goods and some other acts was published in the Journal of Laws (Journal of Laws 2018 item 1039). The new regulations come into force on 14 July 2018.

Expanding the requirements onto railroad transport
The amendments introduce a modification of the bill's title to "act on the system of monitoring the road and railway transport of goods", and also introduce changes in the wording of many other regulations. Not only road transport, but also railway transport of goods specified in the bill will be covered by special requirements. This change has also invoked modifications in existing bills in order to adapt them to new areas of use.

Removing the Classification of Goods and Services and changes in classification for CN codes
Another important change introduced by the amendment is retreating from grouping goods in accordance with the polish Classification of Goods and Services („PKWiU"). This is an answer to demands raised by businesses to eliminate interpretational doubts in regards to two different classifications: the Classification of Goods and Services and the Combined Nomenclature ("CN"). A consequence of not using PKWiU is introducing necessary changes in other regulations as well.

In regards to classification for CN codes, significant changes have been introduced in the scope of codes 2905 and 3824, as well as 2707 and 3814, which we informed about in an information dated 12 January 2018. The changes were meant to be an answer to demands of many industries, and due to their form, may still be a source of many interpretational doubts.

Group declarations
The amendment signed by the President provides the possibility to send one declaration to the register in case of different goods. The new form of the declaration will allow for sending one declaration to the register in the case of different goods (various four-digit CN items) to one recipient and to one place of delivery in one means of transport. It will therefore be able to declare goods from various CN codes, provided that the quantity of each exceeds 500 kilograms or 500 liters. This means that it will cover goods with different CN codes, which will be a significant advantage for taxpayers.

Regardless, the declarations will not be exempt from limitations. The regulations of the new bill state that the cases where one declaration may cover several goods with different CN codes will be specified in the Ordinance of the Minister of Finance.

Medical Products
The amendment provides for extension of the catalog of types of goods that are to be subject to the goods monitoring system, for medicinal products, special foods and medical goods. In regards to them, regulations imposing a new requirement to declare some movements into the goods monitoring system will be introduced. An argument to introduce such a requirement is the necessity to limit export of pharmaceuticals outside of Poland ("reverse import"). A list of such products and goods shall be announced by the Minister

competent for health matters at least every 2 months, by means of an announcement.

What's next?
The amendments were published on 30 May 2018. Considering the 14-day vacatio legis period, they are in force since 14 June 2018.

However, it should be noted that the Act simplifies matters by waiving the requirement to use the Polish Classification of Goods and Services ("PKWiU"), but also imposes many new requirements. Therefore, we recommend considering the implementation of appropriate procedures or mechanisms for managing the company's risk. Training for employees or amendment of contracts with contractors may be necessary first of all for railway carriers. At the same time, it is very important that companies from the pharmaceutical sector introduce appropriate mechanisms.

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Thorough changes to the Public Procurement Law. Selected propositions of changes presented during the first consultation meeting

On 11 June 2018, the first consultation meeting was held between representatives of the Ministry of Development and Entrepreneurship, Office of Public Procurement, and other interested parties to discuss the framework of the new Act on Public Procurement (hereinafter: „Framework"). From the outcome of the meeting, we can expect that, despite talks of far reaching changes to the Act on Public Procurement, there will be significant changes to some laws, but no new act altogether.

Interested parties will be invited to submit comments, and further consultations regarding the Framework will take place. At a later stage, we can expect a potential draft of the proposed changes, which will be subject to further consultations.

Below, we present a short description of selected changes presented during the first consultation meeting on 11 June 2018. They are divided into two groups: (i) general remarks on the public procurement system and (ii) remarks on methods of legal protection.

Part I – General Changes

1) Adding the „effectiveness" principle and „cooperation of the ordering party and the contractor". The framework adds these principles in order to take greater consideration of the proportionality principle. This is also supposed to encourage ordering parties to form agreement terms in a way to preserve the balance principle of both parties to the agreement. As indicated by the Minister of Development and Entrepreneurship: *„The framework proposes that the obligation of cooperation between the ordering party and contractor should be directly stated in the law so that the order can be correctly executed. Implementing the abovementioned changes shall obligate the parties to cooperate, leading to practical advantages at the realization stage."*

2) **Competitive dialogue**; The goal of the framework is broadening the ordering parties and contractors interest in other forms of awarding procurement contracts, in particular in the form of a competitive dialogue (so far almost 90% of procurements were granted in an open procedure, and the rest in a single source procedure). Regardless of this, according to the Framework the negotiations are meant to serve "improving offers" rather than influencing SIWZ.

3) **Effectiveness of granting public procurement contracts**; introducing the requirement to perform analysis in cases of procurements exceeding 20 million euros for works contracts and 10 million euros for supplies and services. The analysis will cover market research and the possible methods of executing the procurement, both from the procedure aspect as well as the economic and technical side.

4) **Placing notices in one place**; Consolidation notices in one place and ensuring that the addresses directly correspond to the entire documentation concerning the procurement.

5) **Grounds for exclusion**; The Framework sets a radical limitation of obligatory grounds for exclusion of proceedings. The grounds concerning legally valid criminal sentencing of a member of a company body, or matters related to tax arrears of the contractor will remain.

6) **Abnormally low price**; The Framework will not implement changes in this scope.

7) **Professionalization of public procurement**; The Chairman of the Public Procurement Office will be able to create agreement templates;

8) **Increasing the number of entities interested in obtaining procurements**; The Framework will extend the balance principle to include matters concerning the execution of a public procurement, introducing the necessity of shaping standard agreements in accordance with the balance principle. Thanks to this, while shaping the contractual provisions that impose

obligations onto the future contractor, the ordering party will have to consider the possibility of fulfillment and their connection to the correct execution of the procurement.

In addition, a catalogue of clauses forbidding unproportioned contractual provisions will be introduced.

9) **Reserving subliminal orders for SMEs**; The Framework limits a certain number of procurements (30% of subliminal procurements) for SME contractors;

10) **Feedback for participants**; The Framework will introduce a new solution: the ordering party will be obliged to hold a meeting where the ordering party will justify his choice (such a meeting will be held at the request of entities that did not receive the order),

11) **certification system**; According to the Framework, a certification system of contractor potential will be introduced, done by a public certifying institution that will grant appropriate certificates. As indicated by the Ministry: *„The contractor will be able to present the same document in many procurement proceedings and replace a number of documents, indeed confirming that the contractor has appropriate potential and is not excluded from the proceedings";*

12) **Nullification of the agreement**; The Framework adds a new ground for nullification of the agreement: failure to apply Public Procurement laws by the contractor if he was obliged to apply them.

PART II – METHODS OF LEGAL PROTECTION

There will be significant changes to legal protection and proceedings before the National Chamber of Appeals:

Cases will be reviewed by a panel of **3 arbitrators** of the National Chamber of Appeals; „smaller" cases will be directed to 1- person panels;

1. To harmonize the NCA rulings, the General Assembly of NCA members will pass resolutions binding to other NCA members;

2. Passing appeals in full scope will also be possible for **orders under the EU threshold**;

3. A law enabling **appealing contractual provisions** to avoid filing appeals based on violation of the balance principle will be implemented;

4. According to the Framework displaying new evidence will be **limited by a trial preclusion**. At the same time, the Framework does not extend deadlines to file an appeal or to accede the appelation proceedings;

5. Hearings will be **recorded** with an **electronic protocol** (transcript);

6. A possibility of **revoking a ban on entering into an agreement in cases where appeals have formal defects** (for example are unpaid for);

7. One **court will be set to recognize complaints concerning NCA rulings**;

8. **A 14 day term for raising a complaint on an NCA ruling;**

9. The **fee for the complaint will be lowered** and will amount to three times the amount for an appeal**;**

10. Compensation for an agreement concluded with violation of public procurement laws- the contractor will be able to demand a lump sum compensation, amounting to 1% of the offer- but no more than 100 thousand PLN and additionally demand compensation on general terms.

During the discussion, matters related to effective methods of protecting trade secrets in public procurement procedures were raised. In this regard, it is postulated to implement solutions to broaden the scope of declassified information, however no specifics were mentioned.

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The government introduced a proposition of minimal wage and minimal hourly rate in 2019

According to the proposition of the Council of Ministers, the minimal monthly wage in 2019 will amount to 2.220 PLN, whereas the minimal hourly rate for contracts of mandate and service contracts will amount to 14,50 PLN.

The government's proposal will now be presented to the Committee of Social Dialogue and the final amounts will be known on 15 September at the latest.

The new minimal wages will be in force from 1 January 2019. The minimal wage will be applicable by law to employees whose employment contracts have lower wages and paying a salary lower than the minimal wage will violate worker's rights.

Raising the minimal wage will also influence the amount of other benefits related to the employment relationship. The statutory limit of severance pay based on the Group Redundancy Act will be raised to 33.300 PLN. The allowance for night will also be raised.

The minimal wage and minimal hourly rate are respectively **2.100 PLN** and **13,70 PLN**.

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Controversial changes in posting workers passed by the European Parliament. Stricter regulations may limit the number of postings from Poland to EU countries.

On 29 May 2018, the European Parliament passed controversial changes in Directive 96/71/EC from 16 December 1996 concerning posting workers in the provision of services. Although Member States will have 2 years to implement the new regulations, the new rules mean more strict regulations that may influence the number of postings from Poland to European Union Member States.

Poland as a leader of postings

Statistics of the European Union clearly show that Poland is an undeniable leader in the number of posted workers from Poland's territory to other EU countries. A high number of postings is a result of relatively low costs of workforce and current EU regulations, which impose the requirement to apply labor laws (including remuneration) in destination countries only within a limited scope.

The legal framework of worker postings will soon be subject to vast changes, which can also influence the activity of polish companies abroad and the number of posted workers based on a provision of services.

Below, we present selected information on the changes passed by the European Parliament.

What will change?

The changes to Directive 96/71/EC include:

- The requirement to use remuneration regulations applicable in the country of posting, the Member States may also decide to use collective or sectoral collective agreements; the abovementioned also means that employers must also consider the requirement to pay supplements and other remuneration components (currently, only the requirement to pay the minimal wage of the country of posting is applicable);

- Limiting the time of posting to 12 months with the possibility of a one-time extension for a 6 month period (the current regulations of the Directive do not set any time limits), after the indicated posting period, all the employment laws of the country of posting will apply to the worker;

- The requirement to cover travel costs as well as room and board of the posted worker by the employer. These costs cannot be deducted from the workers salary. At the same time, the employers will be required to ensure that the lodging standards of posted workers are decent and in accordance with national laws

- The requirement that the temporary employment agency guarantees posted workers the same conditions that are applied to temporary workers employed in the country of posting.

The transport sector without changes
Passed by the European Parliament, changes in Directive 96/71/EC will not apply to the transport sector as of now. This will happen from the moment detailed regulations for this sector enter into force, defined in the "Mobility Package".

How will the changes influence entrepreneurs providing services abroad?
The changes to Directive 96/71/EC will definitely influence the competitiveness of polish companies on foreign markets.

On one hand, by imposing the requirement to apply all remuneration laws of the country of posting to posted workers, potentially also regulations resulting from regional or sectoral collective agreements, will raise the costs of hiring posted workers, for example due to paying additional allowance to salaries (currently, posting employers are not obligated to pay them) or the necessity to engage local advisors to calculate the amount of benefits due.

On the other hand, imposing a time limit of postings may cause polish companies to provide services abroad less willingly.

Although a 2 year term to transpose the Directive into the law systems of Member States has been set, polish entrepreneurs providing services abroad should already start preparing for the new, revolutionary regulations.

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Romania

European Commission issues detailed technical proposal for definitive VAT system

On 25 May 2018, the European Commission released a proposal containing detailed technical amendments to the EU VAT Directive that supplement the recently proposed overhaul of the system to reinforce fraud-resilience.

Under the proposal, intra-EU cross border supplies of goods between businesses would no longer be VAT exempt. Applying VAT on cross border trade should significantly reduce VAT fraud in the EU, especially missing trader intra-Community (MTIC) fraud. At the same time, the changes would also reduce the number of administrative steps needed when businesses sell to companies in other Member States, and would eliminate specific reporting obligations under the current transitional VAT regime for trade in goods. The Commission aims for these rules to enter into force on 1 July 2022.

Full text can be found at this link.

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Approval of the Multilateral Competent Authority Agreement on automatic Exchange of country-by-country reports

The Ministry of Finance or its authorized representative as Competent Authority will automatically exchange on an annual basis country-by-country reports ("CbC reports") received from each reporting entity, resident for tax purposes in Romania, with the other Competent Authorities of the jurisdictions with which the agreement is in force and where, based on the information in the CbC Report, one or more constituent entities of the MNE Group are either resident for tax purposes or are subject to the tax rules corresponding to their permanent activity.

The Romanian Competent Authority will be able to automatically exchange CbC reports with other jurisdictions as well, in addition to those of the European Union, once these exchange relationships will be activated.

On June 20, the Government of Romania approved the Multilateral Competent Authority Agreement on automatic Exchange of country-by-country reports signed on 19 December 2017 in Bucharest, published in the Official Monitor of Romania no. 507 / 20.06.2018.

Each Competent Authority will automatically exchange on an annual basis country-by-country reports, received from each reporting entity resident for tax purposes under its jurisdiction with the other competent authorities of the jurisdictions with which the agreement is in force and where, based on the information in the CbC Report, one or more constituent entities of the MNE Group are either resident for tax purposes or are subject to the tax rules corresponding to their permanent activity.

Exceptions to the above are the Competent Authorities of the jurisdictions that have specified that they will be considered as non-reciprocal jurisdictions, specifically jurisdictions that will complete CbC reports but who will not receive the completed CbC reports.

Time and maner of Exchange of Information

A CbC report will be exchanged only if both Competent Authorities have the agreement in place and their jurisdictions have legislation in force that requires the completion of the CbC reports.

The CbC Report for the fiscal year of the MNE Group starting on or after the date indicated by the Competent Authority in the notification (i.e. the first CbC report) will be automatically exchanged as soon as possible but not later than 18 months after the last day of that fiscal year.

In all other cases, the CbC Report should be exchanged as soon as possible but no later than 15 months after the last day of the fiscal year of the MNE Group which the CbC Report refers to.

The Competent Authorities will automatically exchange CbC reports through a common scheme in Extensible Markup Language (XML).

Confidentiality and Data Safeguards

All exchanged information is subject to the confidentiality rules and protection measures specified in the Convention on Mutual Administrative Assistance in Tax Matters.

The information contained in the CbC report will be used to assess the risks associated with transfer pricing, base erosion and profit shifting. The information will not be used as a substitute for a detailed transfer pricing analysis of transactions' prices and individual pricing based on a full functional analysis and a full comparability analysis.

The CbC report may be the basis for further investigations into the MNE Group's transfer pricing arrangements or other tax issues during a tax audit, and as a result, appropriate adjustments can be made to the taxable income of a constituent entity.

Consultations

In case an additional investigation based on the data provided by the CbC Report leads to undesirable economic outcomes, the competent authorities in the jurisdictions where the affected constituent entities have their tax residence will consult each other in order to resolve the case.

Effective date

The agreement will enter into force between two competent authorities on the latter of the following dates: (i) the date on which the second authority provides the Coordinating Body Secretariat a notification including the

jurisdiction of the other authority; and (ii) the date on which the Convention entered into force and is in effect for both Jurisdictions.

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Slovakia

Amendment to the Act on Employment Services

The amendment facilitates the employment of third-country nationals for selected employers.

Given the continuously decreasing rate of registered unemployment and the resulting shortage of skilled workers, the Amendment to Act No. 5/2004 Coll. on Employment Services facilitates the employment of third-country nationals for selected employers. To qualify as a selected employer, an employer must operate in a district with an unemployment rate below 5%, and be seeking employees for professions included on the list of professions with a shortage of workers, to be prepared by the Central Office of Labour, Social Affairs and Family by 30 June 2018.

If an employer located in a defined district seeks to employ a third-country national in a position included in the above list of professions, such an employer need not report the vacant position to the Office of Labour as of the effective date of the amendment and the Office of Labour will disregard the job market situation.
The simplified procedure will only be applicable if less than 30% of the employer's total number of employees are third-country nationals as at the application date.

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Treaty Between the Slovak Republic and the Federal Democratic Republic of Ethiopia on Double Taxation Avoidance and Prevention of Tax Evasion with Respect to Income Taxes

The Slovak Republic and the Federal Democratic Republic of Ethiopia signed a Treaty on Double Taxation Avoidance and Prevention of Tax Evasion with Respect to Income Taxes.

The Treaty on Double Taxation Avoidance and Prevention of Tax Evasion with Respect to Income Taxes Between the Slovak Republic and the Federal Democratic Republic of Ethiopia became valid on 26 February 2018.

Treaty Between the Slovak Republic and the Islamic Republic of Iran on Double Taxation Avoidance and Prevention of Tax Evasion with Respect to Income Taxes

The Slovak Republic and the Islamic Republic of Iran signed a Treaty on Double Taxation Avoidance and Prevention of Tax Evasion with Respect to Income Taxes.

The Treaty on Double Taxation Avoidance with Respect to Income Taxes and Prevention of Tax Evasion between the Slovak Republic and the Islamic Republic of Iran became valid on 1 May 2018.

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Regulation of the Ministry of Labour, Social Affairs and Family of the Slovak Republic on Meal Allowance

The Ministry of Labour, Social Affairs and Family of the Slovak Republic has published a regulation amending the meal allowance.

The submitted Draft Regulation of the Ministry of Labour, Social Affairs and Family of the Slovak Republic on Meal Allowance becomes valid with effect from 1 June 2018.

The meal allowances for individual periods of time are as follows:
- EUR 4.80 for a period of 5 to 12 hours;
- EUR 7.10 for a period of 12 to 18 hours; and
- EUR 10.90 for a period exceeding 18 hours;

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