



TAX ALERT

CHANGES IN THE VALUE ADDED TAX ACT EFFECTIVE FROM 1.1.2019

Dear readers,

The National Council of the Slovak Republic (hereinafter "NCSR") approved on 23.10.2018 the Amendment to the Slovak Value Added Tax Act No. 222/2004 Coll. (hereinafter "VAT Act") by which a reduced VAT rate of 10% for accommodation services effective from 1.1.2019 was introduced. There are also some other changes already approved by the Slovak Government on 26.09.2018. After their final approval by the NCSR the Amendment to VAT Act should become effective from 1.1.2019.

The Amendment to the VAT Act is focused on areas which were needed to be harmonized in the VAT area with directives of the European Parliament and European Council, such as the rules for VAT treatment of vouchers or provision of services and distance sale. The Amendment introduced also new rules in the area of taxation of sale and rental of immovable property with the aim to prevent the abuse of VAT deduction.

Below we summarize the most significant changes which are introduced by the Amendment to the VAT Act from 1.1.2019.

Should you have any questions with respect to the changes or should you require our assistance to assess the impact of the changes on your company, do not hesitate to contact us.

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 **M A Z A R S**

1. Reduction of VAT rate on accommodation services

Approved Amendment to the VAT Act reduced the VAT rate on all accommodation services from 20 % to 10 %. Reduced VAT rate applies to accommodation services belonging under code 55 of the statistical classification of products by activity (CPA):

- 55.1 - hotel and similar accommodation services,
- 55.2 - holiday and other short stay accommodation services,
- 55.3 - camping ground, recreational vehicle park and trailer park services,
- 55.9 - other accommodation services.

2. Supply of goods and service when using vouchers

Amendment to the VAT Act specifies a voucher as an instrument connected with the right for its holder to obtain goods or services which should be supplied based on using a voucher. The issuer of a voucher will be obliged to indicate on a voucher itself or related documentation the respective goods or services or at least the identity of their possible suppliers along with the terms and conditions of its use.

Proposed Amendment to the VAT Act distinguishes vouchers into single-purpose and multi-purpose vouchers depending on whether it is possible to assign a voucher to actual supply of goods/services. This separation will serve for the determination of the date on which tax liability arises – whether tax liability arises at the time of issue (handover) of a voucher or upon the actual supply of goods or provision of services in exchange for a voucher. New rules concerning vouchers specify also procedure by subsequent transfers of vouchers.

The above-mentioned changes will be applicable to vouchers issued after 31.12.2018.

3. Financial leasing

Following the judgment of the Court of Justice of the European Union (CJEU) which confirmed the concept of financial leasing as supply of goods, it is proposed to exclude from the VAT Act the provision related to the application of VAT rules for cross-border leasing.

The provision enabled the recipients who acquired goods in the Slovak Republic taxation of leased goods with agreed right to purchase the subject of the leasing as supply of services or supply of goods depending on VAT treatment of financial leasing applied in the country of the supplier. The above mentioned will affect the leasing supplies which were until now considered from VAT point of view as supply of services.

4. Supply and rental of immovable property

The Amendment to the VAT Act modifies the conditions of taxation of supply of building and rental of immovable property as well as definition of the first approval of immovable property.

According to the current wording of the VAT Act the supply of building or parts thereof including supply of building land is exempt from VAT if supply occurs after 5 years from the first approval of the building. The VAT Act enabled until now the possibility for a VAT payer to tax the supply of such immovable property. Following the Amendment to the VAT Act the option to charge VAT on supply of immovable property determined for housing will be no longer available and a VAT payer will be obliged to apply VAT exemption on such supply.

Should immovable property determined for housing be sold after 5 years, but prior elapsing the period of 20 years during which there is an obligation to adjust deducted VAT, a VAT payer will be obliged to adjust the deducted VAT from acquisition of immovable property.

The rules for taxation of rental of immovable property will be also changed. If immovable property determined for housing will be rented out, VAT exemption on such rental will be applied regardless of the status of the tenant. This change will be applicable to rental contracts concluded after 1.1.2019.

The subject to taxation will not only be the supply of new immovable property within 5 years from the first approval or the first use of the property, but based on the Amendment to the VAT Act also the supply of the older immovable property where the purpose of its use was changed or supply of immovable property after reconstruction, provided that the construction costs represent at least 40% of the value of the property before the construction works started. This value will be determined as the value of immovable property on the free market at the time prior the reconstruction, taking into consideration its location as well as time aspect. VAT exemption of such immovable property will be applicable after 5 years from the first approval of the building related to the change of purpose of its use or to the reconstruction of property.

5. Electronic cash register and domestic reverse-charge

With effect from 1.1.2018 the Amendment to the VAT Act cancelled the minimum tax base of EUR 5,000 for the transfer of VAT liability to the consumer in case of supply of agricultural products, metal products and metal semi-products. This means that any local supplies of respective goods between two Slovak VAT payers are subject to the application of domestic reverse-charge regardless of the value of supply. In practice, this provision caused difficulties in case of sale of the above goods via electronic cash register when the supplier issued simplified invoices which did not contain the obligatory requirements of tax document such as the identification of the customer or reference to „transfer of VAT liability“ which is a substantial requirement for application of transfer of VAT liability. The Amendment to the VAT Act with effect from 1.1.2019 proposes to abolish transfer of the VAT liability to the recipient in situations where

the supplier issues an electronic cash register receipt upon the supply of the above-mentioned goods.

6. Adjustment of VAT deducted in case of investment property

The Amendment proposes also the changes in rules for adjustment of VAT deducted in case of investment property if the extent of its use for business and non-business purposes has changed. VAT payer will be obliged to adjust the already deducted VAT within 5 years from the acquisition of the property or putting such property into use provided the property was acquired by financial leasing.

The Amendment applies only to the movable property which meets the definition of investment property in line with the VAT Act. VAT payer will adjust the already deducted VAT in the last tax period of a calendar year during which the extent of use of moveable tangible property has been changed.

7. Change in the place of supply of digital services

In order to decrease the administrative obstacles for occasional providers of selected digital services to customers having their residence abroad, the Amendment modifies the place of supply of such services to the place where the supplier is established. This change will affect such providers who will supply digital services with the turnover threshold not exceeding EUR 10,000 (excluding VAT) during a calendar year nor will this threshold be exceeded during the previous calendar year.

8. VAT guarantee

This change will be favourable for tax subjects who will apply for VAT registration, either voluntary or obligatory, in the Slovak Republic. The Amendment to the VAT Act proposes to abolish the concept of VAT guarantee. The Tax Authorities will return guarantee deposit or its part until 28.2.2019 if paid by tax subjects prior the day when the Amendment will come into force provided, that VAT guarantee was not used to pay tax arrears.

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