

PETERKA & PARTNERS

The CEE Law Firm

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Countries covered

Czech Republic | Slovakia | Poland | Hungary | Romania | Bulgaria | Serbia | Belarus | Ukraine | Russia |

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Tax Rates unchanged in 2014

As we informed you in the last issue of CEE News, in connection with an amendment to tax legislation which is being drafted as a result of the re-codification of private law, the Finance Ministry proposed that certain provisions of Act No. 458/2011 Sb., on the Single Collection Point, take effect from 1 January 2014. On 27 February 2012 the government gave a different opinion, as a result of which the new Civil Code should take effect on 1 April 2014 but the Single Collection Point Act should take effect on 1 January 2015.

Information from the General Financial Headquarters on the Institution of the Guarantee for VAT

Information was issued on 6 March 2013 concerning the guarantee of the recipient of taxable supplies for VAT which is not paid by the supplier under ss108a and 109 of Act No. 235/2004 Sb., on Value Added Tax (VATA). This measure was introduced in VATA in 2011 and further extended in 2012. Other guarantees have arisen in 2013. Currently, recipients of taxable supplies guarantee VAT payments by their suppliers if the payment is made, in full or in part, by bank transfer to an account other than the supplier's account as notified by the tax administrator. From 2013 the recipient also guarantees the VAT payment based on supplies from a so-called unreliable payer and the purchase of fuel from an unregistered distributor. The guarantee is also extended by the so-called authorised recipient under s108a VATA.

New Internet Service – Register of VAT Payers

On 1 April 2013 the Financial Administration will launch a new web application which will allow simultaneous searches on up to 100 companies. The results of each search of a given tax ID will include information of the company's reliability, a list of the currently recorded bank accounts, and the number of the financial authority. It may also include a note that the company is not listed in the register.

List of Tax Payers whose VAT Registration may be cancelled

Under s81(4)b), point two, of Act N^o. 246/2012 Sb., by which Act No. 222/2004 Sb., on Value Added Tax (VAT), was amended, the financial authority may cancel a VAT payer's registration if the VAT payer repeatedly fails to file VAT returns in a calendar year, or repeatedly fails to pay VAT, or is repeatedly unavailable at their registered seat or place of business, or repeatedly breaches their duties during a tax inspection.

In connection with this new provision, in February the Slovak Financial Headquarters published a list of taxpayers who fell within the above criteria. Under s69(14) b) VATA, if a taxpayer is included in the list, their clients guarantee the VAT payment.

Instructions from the Slovak Financial Headquarters on VAT

At the beginning of 2013 the Financial Headquarters issued 2 instructions concerning value added tax on real estate. The first instruction applies to services rendered in relation to real estate and defines the services related to real estate under s16(1) VAT. The second instruction applies to the tax deduction upon the acquisition of real estate under s49a VAT and the deduction adjustment upon a change in the extent of the use of real estate under s54a.

Another instruction, which took effect on 1 January 2013, specifies and describes in detail the new invoicing rules under Council Regulation 2010/45/EC. Explanatory notes on individual provisions of this regulation are attached to the instruction.

More Elements of Court Proceedings to be digitised

Under proposals put forward by the Ministry of Justice new elements of electronic court proceedings are to be introduced. The land and mortgage register will be modified so that excerpts downloaded electronically have the same official status as those obtained from the courts. Proceedings for obtaining bank enforcement titles will be conducted electronically. These new measures should increase access to public information and simplify proceedings.

Subcontractors in Public Tenders will be better protected

New legislation on public tenders is expected which should give greater protection to subcontractors. The legislation will allow for more secure money payments and decrease the risk of litigation between a contractor and subcontractors. The procurer will have the possibility to implement more precise rules on subcontracting, which should lead to greater reliability and transparency.

Special Economic Zones may be extended to Poorer Regions

The Ministry of Economy is working on extending the special economic zones to poorer regions, especially in Eastern Poland. The measures should attract new investment in underdeveloped areas in Poland and benefit both business and local communities.

New Legislation on Energy and Renewable Energy Sources closer

The Ministry of Economy has announced that the much anticipated Energy Three-pack legislation (Energy Act, Gas Act and the Act on Renewable Energy Sources) is to be finalised by the government before being submitted for debate and voting in Parliament. The three acts should enter force at the beginning of 2014.

Controversial Changes to the Hungarian constitution

On 11 March 2013 the Hungarian Parliament adopted some important but controversial changes to the country's constitution. Despite strong criticism by several foreign institutions, including Amnesty International, and Hungarian citizens' protests, changes were passed by a vote of two thirds.

The criticism centres on the limits to democracy and the strengthening of state authority that the amendments bring about. As reported in the previous issue of PETERKA & PARTNERS newsletter the new constitution only recently took effect (on 1 January 2012), but since then has been the subject of ongoing debate.

The main changes are:

- Limits on the powers of the Constitutional Court
- Reduction in the retirement age for judges (earlier assessed by the Constitutional Court as unconstitutional, see issue 09/2012)
- Restriction of political campaigns in commercial media, violating media freedom
- Limits on some civil liberties, including discrimination of students who received state grants for studying (grants must be repaid if the students do not work for a certain period in Hungary)
- Homeless can be fined or imprisoned for sleeping on the streets or in other public premises
- Family is defined in the traditional way to favour relationships between men and women

Increased Penalties for Tax Evasion

On March 19, Act no. 50/2013 was published, amending Act no. 241/2005 on the prevention of tax evasion. The new Act extends the period of imprisonment for the crime of tax evasion. In this regard, penalties for several offences imposed by Act no. 241/2005 have been amended as follows: the unjustified refusal to provide the Tax Authorities with the requested documentation within 15 days, which was previously punishable by a fine or imprisonment from 6 months to 3 years, is now punishable by imprisonment from 1 to 6 years; the offence of not replacing lost or destroyed accounts within the legal deadline is now punishable by imprisonment from 6 months to 5 years. It is worth noting that in the latter case imprisonment has replaced fines for crimes committed through negligence.

Emergency Ordinance concerning Postal Services

On March 15 the Romanian Government issued Emergency Ordinance no. 13/2013, transposing Directive 2008/6/EU, and creating the prerequisites for liberalisation of the internal postal market. The provisions of the Emergency Ordinance are aimed at establishing conditions for the provision of postal services and ensuring access to universal services; regulating postal services' funding mechanisms under conditions that guarantee a continuous service; establishing transparent tariff principles, and imposing minimum quality requirements for all services.

Amendment of the Bulgarian Commercial Code's provisions regarding the Deadlines for Paying Pecuniary Obligations under Commercial Contracts

- The parties may agree the deadline for payment of a pecuniary obligation, which should not exceed 60 days. The Commercial Code entitles the parties to extend this deadline, but only if the nature of the goods or services requires, or there are other important reasons and the extension does not affect a creditor's interest or good faith. If the debtor is a public entity under the Public Procurement Act the deadlines are 30 days and 60 days in case of extension respectively.
- If the parties do not agree on the deadline for payment of a pecuniary obligation then the obligation becomes due within 14 days of the receipt of an invoice or other payment request. If the date of receipt of the invoice or payment request cannot be determined or if their receipt precedes the receipt of goods or services, the 14-day deadline commences on the day following the day of receipt of the goods or services.

If the invoice or payment request precedes the receipt of goods or services and the contract or the law provide for the goods or services to first be examined or approved, the deadline for payment of a pecuniary obligation in both point i and point ii commences running after the examination or approval.

The deadline for examining or approving goods or services is 14 days after their receipt. The parties may extend the deadline but only if the nature of the goods or services requires or there are other important reasons.

The above provisions do not apply to bills of exchange, insolvency proceedings and claims for damages, including insurance damages claims.

Reforms in the Energy Sector in Serbia

Four important new governmental decrees were recently adopted by the Serbian government reforming significantly the energy sector of the country. These decrees aim at accelerating investments (including foreign investments) in the field of renewable energy technologies. Thus, a new feed-in tariff was introduced and incentives were decreed for electricity producers.

The main new decree lists exhaustively the types of legal entities and entrepreneurs who may be qualified as electricity producers (for instance: hydropower plants with the installed power up to 30 MW; wind power plants; solar power plants). At the same time, the decree specifies the maximum power for wind and solar power plants having the status of electricity producer: 300 MW (until the end of 2015) and 500 MW (until the end of 2020) for wind power plants and 10 MW for solar power plants.

Legal entities qualified as electricity producers are entitled to significant incentives: a general incentive period during which the recognised electricity producers are entitled to sell their produced electricity to the public/municipal suppliers was set at 12 years and feed-in tariffs at which they will sell produced electricity to the public/municipal suppliers were determined (feed-in tariffs are set for a period of 3 years until December 31st 2015, except for feed-in tariffs for solar power plants, which are set for a period of 1 year). Finally, incentive fees (paid by final users) were set at 0,044 RSD/kWh for 2013.

National Bank Reduction in Refinancing Rate for Loans to Commercial Banks

National Bank Decision N° 146 of 11 March 2013 incorporates a reduced refinancing rate of 28.5 percent per annum. The new refinancing rate applies from 13 March 2013 and replaces the previous 30 percent rate. The amendment reflects credit and deposit bank rates.

Expansion of State Banks' Supervisory Powers

From 7 June 2013 Presidential Edict N° 107 of 4 March 2013 takes effect. The edict extends the powers of certain state banks in financing construction activity. Under the edict Belarusbank, Belagroprombank and the Bank of Development of the Republic of Belarus will be entitled to inspect construction works and expenses. Inspections can cover soft (privileged) financing projects granted by the named banks in cases provided by law.

If construction works and expenses have been overvalued the banks are entitled to keep the overvalued difference and use it to satisfy credits.

Nanotech Industry Development

Council of Ministers Decision N° 113 of 18 February 2013 approved the concept of the formation and development of the nanotech industry in Belarus and an action plan for its practical implementation.

Double Taxation Treaty with Singapore

A draft double taxation treaty with Singapore was approved by Presidential Edict N° 110 of 4 March 2013.

Lease Regulations

Council of Ministers Decision N° 172 of 13 March 2013 approved base lease rates of BYR 86,000 (€8). The base lease rate is used to stipulate lease prices for state-owned real estate, with the application of a multiplying rate.

New Procedure for State Registration (re-registration) of Foreign Investments

Resolution of the Cabinet of Ministers of Ukraine N^o. 139 of 6 March 2013 regulates the application procedure, the documents required, and states that the deadline for registration should not exceed 7 days from the moment all required documents are submitted. State registration of foreign investments in Ukraine remains optional.

License Terms for Economic Activities in the Import of Pharmaceutical Products

The license terms adopted by Order of the Ministry of Health of Ukraine N^o. 143 of 20 February 2013 concern all importers of pharmaceuticals for resale or for further use in pharmaceutical production, and set the requirements for applicants, the conditions for licenses to be reissued, and contain special provisions on importing pharmaceutical products. The deadline for a decision from the licensing authority should not exceed 10 working days from the moment the importer submits all required documents.

New Procedure for Inspecting Goods and Commercial Vehicles

Order of the Ministry of Finance of Ukraine N^o. 1316 of 12 December 2012 that came into force on 15 March 2013 regulates the procedure for customs inspections of goods and vehicles for companies dealing in imports and exports, and customs clearance, in particular the procedures to be followed by customs officials during inspections.

Financial Benefits for Recruiting Employers

Resolution of the Cabinet of Ministers of Ukraine N^o. 153 of 13 March 2013 approves the possibility of a 50% reimbursement for expenses declared by employers which are connected to mandatory payments of social security contributions. The Resolution also lists the requirements which employees must meet to benefit from this measure.

Further Steps in Prohibiting the Selling and Smoking of Tobacco

A new Federal Act On the Protection of Citizens' Health From Surrounding Tobacco Smoke and the Consequences of Tobacco Consumption, No. 15-FZ was signed by the President on February 23, 2013. The Act significantly amends the regulation of tobacco retail sales, and imposes a full prohibition on tobacco advertising and new limitations on smoking in public places. The Act also extends the list of places where selling tobacco will be no longer allowed, including railway stations, bus stations, the underground, airports and hotels. Public advertisements of tobacco will be prohibited but customers will still be able to buy tobacco in plain packaging. Maximum and minimum prices for tobacco are also envisaged.

Branches of Foreign Banks Outlawed in Russia

Federal Act No. 29-FZ dated March 14, 2013 prohibits foreign banks from opening branches in Russia. The policy underlying the prohibition is that branches of foreign banks in Russia are not subject to Russian banking regulations and so have an unreasonably competitive advantage over Russian banks. Nevertheless, no branches of foreign banks existed in Russia before the prohibition. Foreign banks usually operate in Russia through wholly owned local subsidiaries. The Act takes effect on March 26, 2013.

Employment Law Compliance

A new Order of the Ministry of Labour, No. 354n, dated October 30, 2012, regulates government supervision of compliance with employment law by private companies. The Order applies to both companies and individuals who employ others. The Order defines the procedure and terms of administrative actions which the Ministry of Labour is entitled to take. The Order clarifies both the government's powers when supervising private employers and employer's rights and obligations.

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