

Amendments to the CIT and PIT legislation as of 1 January 2020

In brief

The amendments to the Corporate Income Tax Act are mostly based on EU tax legislation. In addition, new set of business-oriented rules are introduced to regulate the tax treatment of repair, improvement and construction of technical infrastructure owned by the State / municipality.

Corporate Taxation

Exit taxation

A new exit taxation regime will apply in Bulgaria as of 1 January 2020. The amendments to the CIT legislation introduce Directive 2016/1164/EU (Anti-Tax Avoidance Directive or the so called "ATAD").

Scope - what is covered as a taxable exit

The transfer of assets or activities outside of Bulgaria (but within the same enterprise), may be subject to Bulgarian corporate income tax in the following scenarios:

- from a Bulgarian head office to a permanent establishment (PE) abroad,
- from a Bulgarian PE to a Head office / another PE abroad,
- transfer of assets / business in case of redomiciliation (change of the tax jurisdiction) of a Bulgarian company in certain cases,

where Bulgaria ends up losing taxing rights on any subsequent disposals of the assets / business.

How much tax and when

Exit tax is levied on the excess of the market value of the assets / business over their tax value at the time of the transfer. In essence, subject to tax will be yet unrealized capital gains related to the transfer. If the result is a capital loss, it will be tax-deductible.

Special rules are introduced for certain temporary transfers for up to 12 months.

Exit tax liabilities may be deferred over a 5-year period in certain cases.

Transfer of services

The existing rules on transfer of services between a PE and a Head office in Bulgaria and abroad, are slightly amended.

Hybrid mismatch rules

As of 1 January 2020, hybrid mismatch rules are introduced based on Directive 2017/952/EU or the so called "ATAD II".

The new rules aim to counter tax avoidance based on different characterization of tax items between two or more jurisdictions.

The regime is applicable:

- between related parties,
- between a Head office and a PE / between two PEs,
- in very limited cases between non-related parties.

Hybrid mismatches include situations, where:

- the same costs are tax deductible in two or more jurisdictions (the so called "Double deduction"), or
- tax deductible expenses / payments / losses in Bulgaria do not lead to taxable revenue in the hands of the recipient abroad (the so called "Deduction without inclusion"). For example, where two jurisdictions treat the same financial instrument differently - as interest-bearing debt in Bulgaria, and as non-taxable dividend-paying equity abroad.

New tax rules on repair, improvement and construction of state or municipality-owned technical infrastructure

Business-related costs for repair, improvement or construction of technical infrastructure (at no agreed consideration), which is public state or municipality property, will be tax-deductible.

The changes address a matter which has been subject to controversial tax treatment for years. Companies which have incurred such non-deductible costs since 1 January 2015, will be able to book a separate tax depreciable asset and start depreciating it as of 1 January 2020.

Thin capitalisation rules – slight amendment on related party guarantees / collaterals

The existing tax thin capitalisation rules are slightly amended as of 1 January 2020 for cases where both the borrower under a bank loan or financial lease, and its related party provide a guarantee or collateral.

Interest costs will not be regulated if the own guarantee / collateral provided by the borrower, is sufficient to cover the whole bank loan / lease.

Mandatory transfer pricing documentation – clarified provision

The thresholds for companies subject to mandatory transfer pricing documentation obligations, are clarified with a slight amendment in the Tax and Social Security Procedures Code.

Bulgarian entities, as well as foreign entities acting through permanent establishments in Bulgaria, which participate in cross border related party transactions will be required to prepare transfer pricing documentation, if as at 31 December of the preceding year they meet at least two of the following three thresholds:

- the balance sheet value of their assets exceeds BGN 38 million,
- their net sales exceed BGN 76 million, or
- the average number of employees exceeds 250.

Personal Income Taxation

Introduction of a new statement under Art. 73(6) of the Personal Income Tax Act (PITA)

Employers will be obliged to report with this statement the annual employment income of their employees and the withheld taxes and social security contributions during the year. The data reported by the employers will be then used by the tax authorities to upload it in draft electronically accessible tax return forms of individuals.

A new deadline for filing of the statements under Art. 73 of PITA

The deadline for filing of the statements under Art. 73(1) and under Art. 73(6) of the PITA will be 28 February of the year following the reporting year (compared to 15 March before).

There is a possibility to make corrections in the filed statements under Art. 72 of the PITA by 30 September of the year during which the statement was filed.

Adjustments can be made more than once by that date.

Mandatory electronic reporting

The following tax reporting forms will be filed only electronically:

- The annual personal income return under art. 50 of the PITA and the special tax return under Art. 55 of the PITA, filed by self-insured persons;
- The statement under art. 73(1) of the PITA, filed by companies for non-employment income paid to individuals during the year, even for less than 5 individuals.
- The statement under Art. 73a of the PITA for employment income paid to tax-residents of another EU member state.

Reducing the administrative burden

Employers are already not obliged to issue mandatory annual income statements to employees, but only upon employees' request.

No obligation for individuals to enclose to their annual tax return:

- income statements;
- a copy of a valid TELK / NELK decision;
- documents for paid contributions for retirement insurance (under art. 9a of the Social Security Code).

Extension of the deadline for early filing of the annual tax return

The deadline for electronic filing of the annual personal income tax return and payment with 5% discount on the outstanding taxes will be extended to 31 March of next year (31 January so far).

Social Security

The minimum base for social security insurance purposes for self-employed individuals for 2020 will be BGN 610 (compared to BGN 560 in 2019).

Let's talk!

For a deeper discussion of how these issues might affect your business, please contact:

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