

Draft amendments to the tax and accounting legislation for 2019/2020

October 2018

In brief

Draft amendments of the tax legislation submitted to Parliament by the Ministry of Finance, based on EU Directives and case law of European Court of Justice (ECJ). The key changes are commented below.

Corporate Income Taxation

Introduction of a new interest costs limitation regime

As of 1 January 2019, in addition to the existing thin capitalization regime, new interest limitation rules will be introduced in the Corporate Income Tax Act, transposing the Anti-Tax Avoidance Directive (ATAD).

Under the new regime, net borrowing costs will be deductible for tax purposes in the year when incurred up to 30% of the company's tax-adjusted Earnings before interest, taxes, depreciation and amortization (EBITDA).

If the net borrowing costs for the year are up to EUR 3 million, no restrictions apply under this regime (but the thin capitalization rules may still apply).

Any resulting non-deductible borrowing costs can be carried forward and deducted in future years

without a time limitation based on a formula under the new regime.

A broader definition of borrowing costs will be introduced, that will also change the tax treatment of capitalised interest under the existing thin capitalization regime.

Credit institutions are out of the scope of the new regime.

Existing thin capitalization regime

The existing thin capitalization regime continues to apply with certain amendments.

Non-deductible interest expenses from a given year under the thin capitalization regime can be carried forward without a time limitation (as opposed to the existing 5-year term).

Under a transitional rule, existing restricted interest costs as at 31 December 2018, can be carried forward and deducted under the new deduction formulas.

Introduction of controlled foreign company (CFC) rules

A CFC regime will be introduced for the first time in Bulgaria.

Undistributed profits of low-taxed foreign subsidiaries (and permanent establishments) will be included in the tax base of the Bulgarian controlling entity, subject to 10% Bulgarian corporate income tax.

Profits of CFCs with substantive economic activity will not be taxed in Bulgaria.

A foreign entity or a permanent establishment (PE) will be treated as a CFC if:

- the specific criteria for controlling interest are met (generally defined as more than 50% of voting rights, capital or entitlement to profits), and
- the CIT actually paid abroad by the foreign entity / PE is less than 50% from the CIT due

under the Bulgarian CIT Act.

A tax credit for foreign tax paid by the CFC abroad is available.

Certain measures apply to avoid double taxation (in case of subsequent distribution of dividend by the CFC and disposal of the CFC).

A special register should be maintained by the Bulgarian controlling entity, with relevant information on existing CFC.

Value Added Tax

Relief for the smaller suppliers of telecommunication services, radio and television broadcasting services and electronically supplied services

Pursuant to the existing rules, the Bulgarian suppliers of such services to non-taxable persons in EU are obliged to charge VAT under the rates of the EU member state of the recipient by:

- registering for VAT in that country, or
- applying the Mini One-Stop-Shop (MOSS) in Bulgaria.

The Bill introduces a threshold (turnover) of EUR 10 000 per calendar year for such services below which the supplier shall charge VAT under the Bulgarian rules.

The supplier can opt to apply the existing rules and charge VAT in the country of the recipient even before his sales reach EUR 10 000 per calendar year.

New VAT treatment of vouchers

The Bill introduces definitions for single-purpose and multi-purpose vouchers. These two types of vouchers will have a different VAT treatment.

The 'single-purpose voucher' is defined as a voucher for which:

- the place of supply of the goods or services to which the voucher relates, and
- the VAT due on those goods or services

are known at the time of issue of the voucher.

Any other vouchers are considered as 'multi-purpose' vouchers.

The sale of single-purpose vouchers by a taxable person is regarded as a supply of the goods or services to which the single-purpose voucher relates.

On the other hand, the sale of the multi-purpose vouchers by a taxable person will not be considered a supply of the goods or the services. The actual provision of goods or services to the person who had provided the multi-purpose voucher as a means of payment will be considered a supply of the provided goods/services.

The rules for application of zero rate VAT on supplies related to means of international transport (ships, aircraft, trains) are clarified

Currently, when applying the exemption the law requires that the recipient of the supplies itself is an operator engaged mainly in international transportation.

In accordance with Decision C-33/16 of the CJEU, the Bill envisages that goods and services supplied, which are aimed to meet the immediate needs of:

- sailing vessels used in international waters or for inshore fishing activities;
- aircrafts operated by an aviation operator engaged chiefly in international flights;
- movable railway wagons used for an international transport

should be subject to zero rate VAT.

Thus, the use of the vessel/aircraft/train will be decisive and not the capacity of the recipient.

Changes in the rules for deregistration

Companies that have registered voluntarily for VAT purposes would be allowed to be deregistered after 12 months from the beginning of the calendar year following the year of the voluntary registration. Under the current regime, this period is 24 months from the start of that year.

In accordance with Decision C-552/16 of the CJEU, the Bill envisages that companies that have entered into a liquidation procedure, have the right to remain registered for VAT until the date of their deletion from the Commercial Register (currently such companies are obliged to deregister upon entering into the liquidations procedure).

New option for self-charge of VAT on import of certain goods (instead of payment of import VAT to the customs authorities)

The option may be applied by certain companies for importation of certain chemical and metal products amounting to more than BGN 50 000. These are non-excisable goods, which are not intended for final consumption and are exhaustively described in appendix 3 to the VAT Act.

Pursuant to the new rules the importer could avoid payment of import VAT, on condition that it will be self charged by the importer in the VAT return for the perspective period.

This regime is envisaged to be applied from 01.06.2019 onwards.

Extension for the reverse charge mechanism for supply of crops

The Bill envisages extension for the application until 30 June 2022 of the VAT reverse charge mechanism introduced by 1 January 2014 in the supply of grain and industrial crops.

Excise Duties

The definition of the “tobacco for smoking” to be broadened in conformity with CJEU case-law

The amendment aims to overcome the current contradictory interpretations of the term and to introduce the case law of the CJEU in the national legislation.

In line with Decision C-638/2015 of CJEU, the Bill broadens the definition of the term “tobacco for smoking”, including leaves of tobacco, which have undergone primary drying and are capable of being smoked after simple processing.

The general idea, which can be derived by the Decision of CJEU is that the ‘tobacco products’ that are capable of being used for smoking, should be defined as excisable goods.

Opportunity for annulment/deactivation of wrongfully filed request, lists and reports for excise strikers

The requests, lists and/or reports for excise strikers which were wrongfully filed within the customs authorities, can now be annulled/deactivated.

According to the new procedure, the entitled persons may annul/deactivate such requests, lists and/or reports by filing an application to the head of the competent customs office.

Local Taxes and Duties

Conceptual change in the local vehicle tax for ecological reasons

The new concept envisages the vehicle tax for passenger cars to be determined by a formula that includes three different components:

- the power of the engine of the vehicle;
- the production year of the vehicle; and
- the environmental category of the vehicle.

The tax base will be determined by the power of the engines of the vehicles, which will be:

- i. increased with a coefficient higher for the newer cars; and
- ii. increased for a second time with a respective coefficient for cars with eco category EURO 1, EURO 2 and EURO 3, or decreased with a respective coefficient for cars with eco category EURO 4, EURO 5, EURO 6 and EEV.

The above rules will also apply for cargo vehicles under category N1 with capacity up to 3.5 tonnes, which are currently taxed based on their tonnage capacity. Thus, the amendments will increase the local vehicle tax significantly for these vehicles.

The vehicle tax for buses and trucks with capacity for more than 3.5. tonnes will remain the same, but will be decreased:

- with 20%, if the respective vehicle has eco category of EURO 4; or

- with 50% for the vehicles with EURO 5, EURO 6 and EEV.

Accountancy Act

No need of stamps in the financial statements

The Bill envisages repeal of the obligation the financial statements of the companies to be stamped with the seal of the respective company, since the national legislation does not require the companies to have a seal.

Publication of the balance sheets of the small enterprises in the commercial register

The Bill also envisages that small enterprises shall publish in the Commercial Register at least their balance sheets / statements of financial position and the notes to the financial statement.

Personal Income Taxation

A special declaration from other parent/spouse is no longer required for tax reliefs

Currently, only one parent/spouse may benefit from the tax reliefs for children/ young families as for this purpose the other parent/spouse has to sign a special declaration stating that he/she will not benefit from these reliefs. According to the planned amendments to the PITA, as of 1 January 2019 the submission of such special declaration would no longer be required in order to benefit from the respective tax relief. The changes above will also apply for tax reliefs utilized for 2018.

New rules for income from monetary and non-monetary prizes/awards

Currently, the income from monetary awards and non-monetary prizes (above BGN 30), which are not provided by an employer or assignor, are treated as taxable income from other sources and subject to a 10% personal income tax. It is proposed that as of 1 January 2019, such income will be subject to a 10% final one-off tax (withheld at source by the award provider) instead of 10% personal income tax. Thus, the compliance regime would be less burdensome for the individuals who will have no filing obligations as well as for the companies – award providers who will not be obliged to issue income statements for the income from monetary/non-monetary prizes.

Companies – providers of such awards will have to report them in the tax return under Art. 55 of the PITA & Art. 201 of the CITA, filed on a quarterly basis and remit to the tax office the tax due.

Nevertheless, Bulgarian tax residents who have acquired foreign source income from monetary and/or non-monetary prizes will have to report and tax such income on an annual basis only with the annual tax return.

Meanwhile, it is proposed that the non-taxable threshold for awards in kind to be increased from BGN 30 to BGN 100.

Changes in the deadline for early electronic submission of the annual personal income tax return

Up to now, a 5% discount on the outstanding tax reported in the annual personal income tax return is applied to individuals, who have submitted their tax returns electronically and have paid the tax due by 31 January of the year following the reporting year. According to the proposed amendments, from 1 January 2019, the deadline for electronic submission of the annual personal income tax return and payment with 5% discount of the tax due will be extended to 31 March of the year following the reporting year.

New deadline for submission of declaration under Art. 73(1) of the PITA

As of 1 January 2019, the deadline for submission of the declaration under Art. 73(1) of the PITA for the non-employment income paid during the year by enterprises and self-insured persons within the meaning of the Social Security Code – payers of income, will be shortened from 15 March to 28 February of the year following the reporting year. However, the deadline for the submission of the declaration for 2018 will remain 15 March 2019.

Later starting date for submission of the annual personal income tax returns

The annual personal income tax return will be available for filing from 10 January up to 30 April as opposed to the previous start of the filing period 1 January.

Mandatory electronic reporting (as of 1 Jan 2020)

There are proposals, whereby the following tax returns and declarations will be filled only electronically:

- The annual personal income return and special tax return under Art. 55 of the PITA, filed by the self-insured persons;
- The declaration under art. 73(1) of the PITA, prepared by companies and self-insured persons for non-employment related income paid during the year, even for less than 5 individuals.
- The declaration under Art. 73a of the PITA for employment income paid at the expense of employers to NON-Bulgarian tax residents/ tax-residents of another EU country-member.

These amendments are expected to apply as of 1 January 2020.

Administrative simplifications (as of 1 January 2020)

There is a proposal for abolishment of the obligation for issuing income statements. Employers will not be obliged to issue income statements under art. 45 of the PITA by 31 January of the following year. Such income statement will be issued only upon request by the individual. Alternatively, the payers of income should provide to the tax office the information stated in the income statements under art.45 on an annual basis.

Let's talk!

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

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