

# Do the changes to the tax law improve Slovakia's investment climate?



**Bart Waterloos**

At the end of 2009 another update of the Slovak tax law was approved, with most of the new provisions coming into effect on the first of January 2010. In this article we will not try to present a purely technical overview of the changes, but we wish to highlight the most striking points that might be interesting from the investor's point of view.

But let us first start with some changes that you will now need when preparing the 2009 Corporate Income Tax Return.

## **1. Tax return in eurocents**

With the introduction of the Euro as of the first of January 2009, the tax return

now has to be submitted on two eurocents precisely! And the Slovak Government has been very generous: you can round it down to the nearest eurocent.

## **2. Prolonged period to submit a tax statement**

In an effort to ease the impact of the economic crisis, the Slovak government has further simplified the procedure for extending the deadline for the submission of a tax statement. Whereas in the past you had to send a request to the tax office and it was at the discretion of the local tax officer whether the extension was granted or not, now it is possible to determine yourselves the deadline for the filing of the tax return. A letter should be addressed to the tax office, at the latest on the day when the tax statement is normally due. Such an extension cannot be more than 3 months (or 6 months for tax payers with foreign income). Legal entities can already use this by sending a letter to the tax office for their 2009 income tax return (physical persons will have to wait another year). Therefore, a bit of tax planning will be necessary. If the advances you've paid during the year are higher than your tax obligation and hence you are claiming money back from the tax office, you might not want to extend the deadline.

*By sending a simple letter to the tax office, you can extend the deadline for the filing and thus payment of your taxes.*

## **3. Fuel costs easier to claim**

Also, as part of a move to ease the administrative burden, fuel costs became easier to claim. The detailed travel book is still a good option, but instead you can also claim a maximum of 80% of fuel costs without any supporting documentation. The fuel costs will then be calculated from the difference between the kilometres driven at the end and the beginning of the year. As sometimes the tax laws tend to be written rather strictly, there are interpretations by which you cannot apply this principle if you purchase a car during the year. And now that we are talking about the purchase of cars: from 2010 onwards, the VAT on any personal car can be 100% claimed back.

## **4. Higher limits for activation of assets**

As of 1st of March 2009 the limit that determines the acquisition value of tangible and intangible fixed assets has been increased to 1,700 € and 2,400 € respectively. This means that any asset under this limit can be recorded directly into expenses and need not be activated and depreciated over the economic lifetime of the asset. Even though this is a one-off effect (the depreciation charges for the future years will be lower), companies might reconsider their assets that fall below this limit and may opt to fully depreciate the residual book value. In this connection, we would also like to

## Slovakia's investment

VGD 

point out that the tax depreciation period for certain fixed assets has been shortened as well.

Furthermore, the tax law now allows for a so-called 'component' depreciation, meaning that certain fixed assets can be allocated to smaller units that are then depreciated more quickly (this is especially interesting for investors in real estate).

#### 5. Costs can be claimed in following years.

Until now the Slovak tax office took a very strict stance on the allocation of costs and revenues to the proper accounting period. If for instance one forgot to make a provision for a certain cost in one period, it was not permissible to treat this expense as tax deductible in the next period. Instead an additional tax return for the previous period had to be filed. Luckily the Slovak government understood that in fact the only thing the company had done was paying too much tax in that previous period and that there was thus no reason for any extra administrative burden. Therefore, from now on such costs can be included in the tax return of the period when they were accounted for. Note that under Slovak accounting rules this often means that the correction is to be recorded directly against the results from previous periods.

#### 6. Thin capitalisation rule abolished

Over the last few years there have been attempts to reintroduce a thin capitalisation

rule that would limit the tax deductible for interest paid on loans obtained from related parties. Following several changes in the law (increasing the limits, ...) and postponing of the deadline (originally it was to take effect as from 2009 but then it was postponed to 2010), the recent changes have deleted from the law all provisions relating to the thin capitalisation. As a result, Slovakia is one of the very few countries in the region without any thin capitalisation rule. This might open perspectives for some tax planning and organisation of your international financial activities.

Does this make Slovakia an ideal place for holdings? Partially yes,, because also dividends received are normally exempt from taxation. However, capital gains on financial investments or holdings realised remain taxable, and such losses can in many cases be used only with great limitations.

*Interest costs on loans from related parties are not limited and will remain fully tax deductible.*

#### 7. Increased documentation around transfer pricing rules

Although this is a very specific topic that falls largely beyond the scope of this article, we would like to remind you that since the beginning of 2009 the law has introduced the obligation to keep specific transfer pricing documentation. A Guideline on this documentation was published at the beginning of 2009 by the Ministry of Finance (in line with OECD requirements). For most companies it will be sufficient to keep simplified transfer pricing documentation. But it should

not be forgotten that the tax office now has the right to demand submitting the required transfer pricing documentation to them within 60 days of their request. Moreover, more detailed information on transactions between related parties is now an integral part of the tax return.

#### CHANGES THAT WILL TAKE EFFECT FROM 2010 ONWARDS:

##### 0. Tax rate remains unchanged

We start with a non-change: the tax rate for both legal entities and physical persons remains at 19%.

##### 1. Tax losses from foreign branches deductible

Taxable persons that are taxed in Slovakia with their world-wide income and have a branch or permanent establishment abroad are now entitled to deduct the losses from abroad from their local Slovak tax obligation, and that without having to take into account whether the branch can use this loss or not.

##### 2. Tax losses can be used for 7 years

Until now tax losses could be used for a period of 5 years. The new amendment to the law has extended this deadline to 7 years, for tax losses shown as from 2010 on. But in this case it also means that the period during which the tax office can perform controls has been extended from the current 5 to 7 years. >>

# Slovakia's investment climate?

### 3. Goodwill in company combinations tax deductible

The entire system of company combinations (i.e. mergers, take-overs and split-ups) has undergone several changes (Not only from the tax point of view, but also from accounting side, where finally some practical problems have been dealt with). Basically there are now two options whereby the successor has the possibility to choose either to continue with the book values, or to take over the real value of the assets. A major change is also that goodwill (or badwill) can be included in the tax base under certain circumstances. Overall this is a very technical matter with a lot of different possible outcomes. Please contact us if you find yourself in such a situation.

### 4. Commercial items no longer need logo

Following synchronisation with the VAT law, commercial items for a maximum value of 16.60 € will no longer need an indication of the name or logo in order for them to be a tax deductible cost.

### 5. Allocation to charity under pressure

For a few years now the Ministry of Finance has tried to abolish or limit the possibility to allocate part of the tax to be paid to charity. Following an introduction of a minimum amount, the new law will gradually be decreasing the percentage of the tax that can be allocated. From the current 2% this will be decreased to 0,5%. During the transition period legal entities will also be required to donate

a gift of a certain amount, otherwise the percentage of the tax that can be transferred to charity will be reduced by another 0,5%. As from 2019 the lowest limit of 0,5% will be applicable, but then no additional gift is required any longer. Luckily the rules for the 2009 tax return still remain the same, i.e. you can donate the full 2% without any additional gifts required.

In this respect we would like to remind you that the Dutch Chamber has created a special fund for this. Last year we collected a record amount of 19 500 € from this that was used for charity.

*Last chance to donate 2% of your taxes to charity without having to donate a gift as well!*

### 6. Branches not always a taxable permanent establishment.

With the risk of becoming too technical, we would like to touch briefly the topic of branches (organizačná zložka). The Slovak tax office has refined its interpretation of the conditions that lead up to the creation of a taxable permanent establishment of branches in Slovakia. Whereas in the past the mere fact of having an address and seat in Slovakia was often deemed to create a permanent establishment, now more conditions relating to the real business activity of the branch are being checked. This has resulted in the fact that many energy companies that were dealing on the Slovak electricity market from neighbouring countries via a Slovak

branch are no longer considered to be a taxable permanent establishment. Hence they no longer pay taxes in Slovakia, which, with the low rates in e.g. the Czech Republic (15%), can be interesting.

### 7. Taxation of employee stock options

Even though this is not directly related to the investor, employee stock options are often used as a HR-tool to attract high-level persons, and therefore we have included this important change in this overview.

In the past, the taxable point for employee stock options occurred on the vesting date, regardless of the fact whether the option was actually exercised or not. This could lead to situations whereby theoretical gains were taxed, but that in the end these gains were never realised. With the new change, the tax point for the taxation of these employee stock options has been delayed to the actual date of exercise. However, this is valid only for employee stock options that were granted as from 2010 onwards.

*Note: the information in this article has been simplified for reasons of general understanding. It was not intended to give a full overview of all changes in the law, nor does it address the specific circumstances of any particular taxable person. No-one should act on the basis of the information provided here alone, but should seek proper professional advice.*



# LESS start with the right TAXES knowledge of taxation

“Dare to invest in a knowledge partner,  
so that you can enjoy your passion for business”

Bart Waterloos, partner VGD



Gain more insight, take better decisions, less taxes and more profit. It all starts with a healthy financial management and the right knowledge of structures and taxation. At VGD we want to support entrepreneurs in their ambition to develop their company, to structure it and to let it grow. More than just the offering of services, we act as a sounding board for entrepreneurs small or large. By investing in professional services you increase the chances of success for your business and you will at all times be able to enjoy your passion for business. Make time for a meeting face to face and experience how we can create also for you space to run a successful business.

For a VGD office in your area, consult [www.vgd.eu](http://www.vgd.eu).

tax > audit > accountancy > payroll > tax > audit > accountancy > payroll > tax > audit

Slovakia > Czech republic > Belgium > Germany > Poland > Luxemburg > Hungary > Bulgaria

VGD  Bratislava

knowledge partners of private companies