Some amended provisions of the Slovak income tax act

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Abstract

The income taxes belong to the most important direct taxes and form consistent and significant part of the state budget income. The Act no. 595/2003 Coll. on Income Tax as amended (hereinafter “Income Tax Act”) includes provisions related to taxation of individuals and corporate entities. By the Act no. 253/2015 from 22 September 2015 (hereinafter “Amendment”) the Slovak Income Tax Act has been amended and changed. From the Amendment the most important changes are selected, focusing on those, which may have an impact on the taxpayers who will file the income tax return after 31 December 2015, i.e. the provisions which will have an impact on the taxation period ending on 31 October 2015 and later. Further, the Amendment introduces other changes that are effective as of 1 January 2016. The results, based on the selection and the analyses, shows that the amended provisions of the Income Tax Act have significant impact on taxation of both, i.e. individuals and corporate entities and includes many changes, specifications and adjustments.

Keywords: corporate entity, income tax, individual, taxpayer

JEL Classification: D31, D39, H20, H25

1. Introduction

“In this world nothing can be said to be certain, except death and taxes“, said Benjamin Franklin in 1789. A rather sardonic proverb, but still very true. It draws on the actual inevitability of death to highlight the difficulty in avoiding the burden of taxes. It means that we cannot divert the inevitability of paying taxes, nor may we take their amount for granted, as we may might have observed in the latest changes of tax legislation (Nováková, 2013).

The tax is defined as obligatory payment to the state budget and the obligation of payment of taxes is determined by the law (Harumová & Kubátová, 2006).

Creation and development of a favourable business environment in regions is unthinkable without an appropriate tax system. Creating a tax system, each country has to consider not only the increased revenue collection from taxpayers, but it also has to be able to develop the business environment and to promote the people’s prosperity by reducing differences in the regional development (Puzule, 2015).

The income taxes are the most important taxes in the last taxation periods which are considered as not irrelevant, in different countries, as it is a significant part of the state budget income (Vančurová & Láchová, 2014). The comparative yield of income tax has been decreased in the last periods, which was caused not only by political motivated changes of its structure, but also implications of financial crisis.

Slovakia within European Union belongs to countries with the lowest tax burden, which reached the value 28.8% of GDP in 2011, together with Romania, Bulgaria, Latvia and Lithuania in the European Union (Váryová, Košovská & Ferenczi Vaňová, 2013).
Changes of provisions of Income Tax Act have impact on the tax base of the entrepreneurs by means of tax not deductible expenses (Ferenczi Vaňová, Krajčírová, Váryová & Košovská, 2015).

Taxes belongs to indirect economic tolls of business (Schultzová, A. et al., 2011). Tax burden expresses the extension in which the tax system, respectively the tax, based on the applied economic and tax policies drawn financial sources from the tax subject revenues.

Following the analysis provided by Macho and Kotlan (2015) they confirm the hypothesis, showing that if productive spending is financed by indirect taxes, the effect on economic growth is positive, while if the spending is financed by direct taxes, the effect on growth is negative.

2. Data and Methods

The present article is focused primarily on the analysis of the current tax legislation on income taxes and new amendment of Income Tax Act effective as of 1 January 2016. We would like to bring an overview of the most important changes in the field of the income tax. Standard methods of a scientific work such as selection, analysis and synthesis are applied in the article. The basic theoretical view on the issues focused mainly on the legal norms related to income taxes, i.e. the Act no. 595/2003 Coll. on Income Tax as amended (hereinafter “Income Tax Act”) and the amendment no. 253/2015 Coll. to the Income Tax Act were taken into consideration. Given the subject of the analysis, the explanatory memorandum to the no. 253/2015 Coll. to the Income Tax Act is also used.

The amendment no. 253/2015 Coll. to the Income Tax Act from 22 September 2015 has been published in the Collection of the Laws of the Slovak Republic on 19 October 2015. The Amendment includes many changes and adjustments related to taxation of individuals and corporate entities. In particular, some changes relates to taxation of individuals aimed in an increase of capital investment and trading with securities in a financial market. Some specifications are connected with the amendment and change of other laws and regulations of the Slovak Republic, i.e. Act no. 431/2002 Coll. on Accounting as amended. Some provisions of the Amendment are defined more precisely and implement the regulations of the European Union, i.e. in payment of profit share (dividends). Further, some amendments should make the fight against the tax evasion more effective and the financial discipline of the taxpayers should be also improved.

The most important changes are selected, focusing on (i) those, which may have an impact on the taxpayers which file the income tax return after 31 December 2015 and (ii) other changes which Amendment introduces from 1 January 2016.

3. Results and Discussion

3.1 New provisions of the amendment applicable to the income tax returns filed by taxpayers after 31 December 2015

New provisions of the Amendment are applicable to the income tax returns filed after 31 December 2015. This means that those provisions also apply to the 2015 taxation period. From the Amendment the most important provisions relates to the tax deductibility of expenses for taxpayers. The Amendment provides more proper definition of the general tax deductibility of expenses by way that it is necessary, that such expenses are incurred to generate, assure and maintain taxable income. In general, in accordance with the Income Tax Act effective until 31 December 2015, tax-deductible items are those that the taxpayer
incurs to generate, ensure and maintain his income recorded in the accounting books/or in the accounting evidence of the taxpayer. Following the Amendment, the word “taxable” is added to this general definition. This means, that according to the Amendment, the tax deductible expenses are considered as expenses that are incurred to generate, assure and maintain taxable income of the taxpayer. Further, the Amendment specifies and changes the tax deductibility of certain expenses and some of them are summarized below in this paper.

Expenses on advisory and legal services
The Amendment to the Income Tax Act explains the term “expenses spent on advisory and legal services”, which are only tax deductible by the taxpayer upon payment starting from the year 2015. The Amendment in more detail specify that only expenses spent on advisory and legal services defined in the Statistical Classification of Products under the code 69.2 (accounting services, bookkeeping, audit and tax advisory services) and under the code 69.1 (advisory services, representation in various proceedings as well as notarial services) are to be treated as tax deductible expenses. This means that only expenses on advisory and legal services defined under the code CPA 69.1 and 69.2. are to be treated as tax deductible after their payment only.

Expenses for obtaining of norms and certificates
In general, according to the current Income Tax Act, expenses spent for obtaining of norms and certificates not exceeding acquisition value of EUR 2,400 are to be included in the tax base provided that will be paid equally during the period of their validity, however not more than during 36 months. The Amendment specifies that expenses spent on standards and certificates with the acquisition price lower than EUR 2,400 shall not be deferred, however, they will be included to tax base at once.

Accessories to receivable
Creation of bad debts provision against to accessories to receivable is to be treated as tax deductible provided that the accessories have been included to the taxable income of the taxpayer and from the due date of receivable, to which accessories relate, the period of more than 1 080 days elapses.

The write off of accessories are to be considered as tax deductible expense provided that the creation of bad debt provision against to these accessories would be considered as tax deductible expense (accessories were included into taxpayer’s taxable income and from the due date of receivable, to which accessories relate, the period of more than 1 080 days elapses).

In case of cession of receivable including their accessories, the tax deductible is to be the amount of accessories included into the taxable income of the taxpayer up to the amount of income incurred from the assignment.

Provisions related to taxpayers in restructuring or bankruptcy proceeding
A taxpayer, in case of which the court accepted the restructuring plan, decreases the tax base in the tax period, in which the plan was accepted, by the amount of liabilities by which the tax base was increased in previous tax periods in compliance with the Income Tax Act. This procedure is to be applied also in case of taxpayer in the bankruptcy proceeding. The taxpayer decreases the tax base in the tax period which ends as at day preceding the day of effectiveness of declaration for bankruptcy proceeding.

Tax depreciation charges of some assets sold
In the case of the asset sold during a tax period, at which the tax deductibility of the residual value is limited (i.e. cars), according to the Amendment, the taxpayer is to be able to apply the tax depreciation charges in the amount of corresponding to the number of the whole months, during which the assets were booked or recorded by the taxpayer.

*Input value of financial assets*

In respect of input value of financial assets the new provision is to be implemented into the Income Tax Act based on the Amendment. This change also relates to provisions, which deal with claiming of tax deductible costs in case of the sale of shares, and other securities. It is specified that in case of sale of such assets as tax deductible expense will be considered:

i. acquisition value (if financial asset was acquired by purchase),
ii. price stated by expert opinion (if financial asset was acquired free of charge),
iii. acknowledged value of in-kind contribution,
iv. fair value (if financial asset was acquired in terms of business combinations applying fair values),
v. original value (e.g. financial asset acquired by in-kind contribution with application of original values),
vi. value of paid monetary contribution.

*The use of share of taxes*

According to the Amendment the usage of a share of taxes paid by legal entity represents a decrease from 1.5% to 1.0%. If a taxpayer, which is a legal entity, has not provided financial gift at least in the amount of 0.5% of the tax paid in the tax period or does not provide such financial gifts by the deadline for filing of income tax return, will be entitled to assign the share of the paid tax to beneficiaries specified by him up to 1.0% of the paid tax. This provision must be applied for assignment of percentage of tax paid after 31 December 2015.

3.2 Other changes which the amendment introduces from 1 January 2016

Following our analysis, the Amendment introduces provisions that mostly relate to taxation of individuals and might support and increase the capital market investment. Capital income of individual is to be taxed within the separate tax base individually by unified rate in the amount of 19% regardless whether this income will flow from outside the Slovak Republic or from the sources in the Slovak Republic. Further, the Amendment introduces the personal income tax exemption representing the social allowances provided from the social fund in case of death of close relatives, reducing of results of natural disasters etc. paid in by one employer in the total amount not exceeding EUR 2,000. Personal income from the sale of the securities accepted for trading on the regulated market is to be further exempt from the personal income tax in case if the period between their acquisition and sale exceeds one year provided that these securities were included in the business assets of taxpayer. Personal income from the sale of securities, sale of options and derivatives is to be exempt from personal income tax provided that this income is generated within the long-term investment according to the special regulation including income which is paid after 15 years from the beginning of saving. This tax benefit should be applicable to the income which is related to the transfer of securities obtained in the course of the saving period.

Further, according to the Amendment, the personal income received in accordance with the Copyright Act will be subject to the withholding tax at rate of 19% regardless of the fact whether this income represents income from articles to the newspapers and magazines or income from lecture activities or artistic performance. However, if the taxpayer (e.g. artist) concludes the agreement with the payer of tax (user) that
the withholding tax will not be applied, the taxpayer (e.g. artist) will transfer the tax itself. In case of the income from the issue, propagation and extension of literary works and other works and in case of industrial licences the withholding tax will not be applied. Within the dividends taxation the amended Council Directive 2011/96/EU (hereinafter “Parent-Subsidiary Directive”) is to be implemented into the Income Tax Act with the aim to make more effective the fight against to tax evasion. The Amendment introduces a new condition when the profit share (dividend) shall not be subject to tax (at corporate entity) only up to the amount as is not tax deductible at the taxpayer paying the profit share. This means that if the profit share (dividends) will be considered as tax deductible expense of taxpayer paying this profit share, this corresponding amount will be in the Slovak Republic included into the tax base of taxpayer receiving profit share, i.e. such income will be taxable.

4. Conclusion

The amendment no. 253/2015 Coll. to Act No. 595/2003 Coll. on Income Tax as amended has been published in the Collection of the Laws of the Slovak Republic on 19 October 2015. The Amendment includes many changes, specifications and adjustments related to taxation of individuals and corporate entities. The most important changes are selected, focusing on (i) those, which may have an impact on the taxpayers which file the income tax return after 31 December 2015 and (ii) other changes which Amendment introduces from 1 January 2016. In our view, provisions that were overviewed in this paper clearly specified and determined the tax deductibility of some selected expenses, therefore, we are of the opinion, those will be generally accepted in practice. Further, some changes have major impact on financial investment and will mostly affect taxation of individuals.

References


[2] Dôvodová správa k zákonu č. 253/2015 Z.z., ktorým sa mení a dopĺňa zákon č. 595/2003 Z.z. o dani z príjmov v znení neskorších predpisov, a ktorým sa menia a doplňujú niektoré zákony. (Explanatory Report to the Act no. 253/2015 Coll. which amend and add the Act no. 595/2003 Coll. on Income Tax as amended which change and add the other laws.)


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