



Lex Mundi European Union: Accession States Tax Guide

SLOVAK REPUBLIC Cechova & Partners

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A. General information

The tax system in the Slovak Republic is compliant with the tax systems in other EU Member States. It comprises of the corporate and personal income tax, standard value added tax (VAT), special taxes imposed on certain assets (such as real estates, vehicle-road tax) as well as a system of excise taxes levied on specific goods such as alcohol or tobacco products.

In 2007, the main short-term goal of Slovakia in the area of fiscal and monetary policy is to reduce the public finance deficit below the level of 3% of GDP. The fiscal policy aims at ensuring long-term sustainability, macroeconomic stability, support of economic growth and efficiency of the spending of public resources. Slovakia's goal for 2007 is to satisfy the Maastricht convergence criteria and adopt the common currency Euro in 2009. There have been slight changes in the tax system since January 2007, e.g. a reduced 10% VAT rate for drugs and selected health care goods (a uniform 19% rate applied before) and a digressive deductible item when calculating the personal income tax have been introduced. The basic deductible item according to the predefined formula decreases for taxpayers with higher income, which increases the progressivism of their taxation compared to the previous situation. Increasing the excise duty on tobacco products in accordance with the EU legislation is another change planned at the beginning of 2008 and 2009. In result of the implementation of Directive 2003/30/EC on the promotion of the use of bio-fuels, alternative sources of fuels (bio-fuels) will be granted a tax benefit.

The tax reform will bring along long-term benefits consisting in the increased production of the economy.



B. Corporate income taxation

1. Which are the taxable entities?

Legal entities having their registered seat, residence or place of management of business in Slovakia are subject to income tax. Foreign entities may become subject to taxation for the performance of their business activities in Slovakia provided that they have established permanent business or employed employees in Slovakia for at least 183 days during the period of 12 consecutive calendar months.

Taxation under a special regime was cancelled by the tax reform which took place in Slovakia in 2004.

2. How is the taxable income determined?

Income coming from sources situated in the territory of the Slovak Republic and from sources situated abroad represents the subject of the income tax. The subject of taxation with taxpayers established for the purposes of doing business is the income from business activities; with taxpayers that have not been established for the purpose of doing business (such as associations of legal persons, professional associations, political parties, churches recognized by the state, civic associations and religious communities, municipalities, state funds, colleges and universities, selected public entities, non-investment funds, foundations, non-profit organizations providing generally beneficial services, etc.) the income by which they generate profit or may generate profit.

Certain deductible items may be deducted from the tax base of a business. The law specifies the types of expenses that are considered as tax deductible expenses which may influence the tax base and also specifies the amount up to which the expenses can be acknowledged as tax deductible.

Tax deductible items are e.g. costs of the taxpayer's activities, costs of the operation of an environment protection facility, costs of working and social conditions of employees, boarding, business trips, costs amounting to the acquisition price of shares and other securities, costs of the sale of a business share and drafts, costs of advertising, consumed fuel, expenses covered by subsidies and contributions provided from the state budget.

Tax expenses also include

- a) depreciation of tangible and intangible assets and net book value of tangible and intangible assets,
- b) initial price at the sale of tangible assets
- c) creation of reserves and provisions
- d) damage not caused by the taxpayer
- e) insurance premium and contributions
- f) contributions to supplementary pension insurance,
- g) membership fees
- h) interest on loans for procurement of non-current tangible assets and rent.

For example, acquisition of a share in a company (except for shares in a joint-stock company subject to a different regime) is not a tax deductible expense in the year of its acquisition but only in the year of its sale (only up to the amount of the income received from such a sale). Any “bad” (unrecoverable) debts may be written off only under the conditions stipulated by the law, especially in the case of insolvency proceedings of the debtor; debts with the value below SKK 1,000 (approx. EUR 27) may be written off if the costs of their recovery exceed the value of the debt. Marketing expenses spent for the purpose of presentation of business activities of an entrepreneur are also tax deductible.

For the purposes of depreciation, the Slovak Income Tax Act divides assets into 4 categories. The period of depreciation ranges from 4 to 20 years (for example real estates are subject to 20-year depreciation). Two methods are available for spreading tax depreciation: straight-line method and accelerated method. The choice of method must be made on asset-by-asset basis and, once made, cannot be changed.

3. What are the applicable tax rates?

In 2004, Slovakia considerably simplified its tax system and introduced a flat 19% rate for both the income tax of individuals and income tax of legal entities, irrespective of the amount of their income.

4. Are capital gains taxed separately?

Dividends as capital gains of a shareholder in a Slovak company are exempted from taxation. The profit acquired by a legal entity and taxed with a corporate income tax is no more subject to taxation at the moment of profit distribution to the shareholders or members/partners of the entity. Other capital gains are also subject to the 19% tax rate.

5. May losses be carried back or forward and to what extent?

A tax loss (defined as the difference by which the tax expenses exceed taxable income) may be deducted from the tax base, however in five consecutive taxation periods at the most. A tax loss may also be deducted irregularly, that means also one-off, depending on the amount of the reported tax base.

6. Are there any withholding taxes and at which rates?

Withholding taxes apply to the income coming from the sources situated in the Slovak Republic, (for example interest, profits or other revenues generated from deposits on savings-books, from cash on current accounts, revenues from mutual fund certificates, deposit certificates, pecuniary winnings in lotteries and other similar games and pecuniary winnings from advertising contests, pecuniary winnings from public contests, benefits from supplementary pension insurance, benefits from endowment insurance, author’s income from contributions to newspapers, magazines, radio or television, revenues from bonds and treasury bills etc.). A 19% uniform tax rate is applied, which replaced six different tax rates applied until 2004.

7. Are there any preferential group taxation rules in force?

The Slovak Republic acceded to the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises 90/436/EEC dated 20 August

1990 (Official bulletin of the EC L 225, 20/08/1990); otherwise there are currently no preferential group taxation rules in force in the Slovak Republic.

8. Which are the anti-avoidance rules currently in force?

Slovak tax legislation stipulates transfer pricing rules according to which any company in Slovakia engaged in foreign intra-group transactions must be able to support prices agreed between related parties in order to meet the condition of arms-length price. In general the transfer pricing rules are largely based on OECD principles. There is a different approach to transactions between Slovak and foreign related parties and Slovak related parties. The Slovak Income Tax Act stipulates various methods derived from price comparison and profit comparison; based on the principle of independent relation, these methods, combination thereof or also other methods not explicitly stipulated by this Act may be used to detect the difference between the prices agreed between related parties and the arm's length price.

There are no thin capitalization rules currently in force that would limit interest tax deduction to the extent that a company's debt/equity ratio exceeds a certain level. Such thin capitalization rules have already been abolished. They were limiting the deductibility of interest on loans from associated entities where the sum of such loans exceeded the company's equity by more than 4:1.

9. Which are the main administrative requirements to comply with the local tax authorities?

Tax returns are to be submitted to the local tax office. The tax office for selected taxpayers, seated in Bratislava, is the relevant tax office for all companies situated in the region of Bratislava with annual turnover over 1,000 million Slovak koruna and all banks, insurance companies and branches of foreign banks and insurance companies regardless of the annual turnover.

A tax payer is obliged to lodge a tax return in the period of three months after the end of the taxation period and pay the tax liability in the same period.

Taxpayers have the following obligations:

Obligation to register; an entity that obtains a license or authorisation for doing business in the Slovak Republic or starts performing any other income-generating activity in the territory of the Slovak Republic is obliged to register at the tax office with local jurisdiction within 30 days; if the entity is an employer who pays taxes on dependent activities and starts to pay out income from dependent activities, the registration at the tax office with local jurisdiction must be carried out not later than within 15 days. A person with the seat or residence abroad being a tax entity that has no permanent operations or immovable assets in the territory of the Slovak Republic is obliged to register on the date it commenced the activities subject to taxation, at the latest.

A taxpayer has a notification duty when commencing an activity subject to taxation and when establishing operations in the territory of the Slovak Republic (obligation to notify the tax office within 30 days from the commencement, or before ceasing the performance of the activity); in the case of a change of important data and other facts, the taxpayer is obliged to notify such changes within 15 days from their occurrence.

A taxpayer is obliged to pay tax advances, on a quarterly or monthly basis, in dependence on the amount of the last known tax liability (a taxpayer whose last known tax liability exceeded SKK 20,000 (SKK 50,000 with legal persons) and was below SKK 500,000, pays quarterly tax

advances. If the taxpayer's tax for the preceding taxation period exceeded SKK 500,000, the taxpayer is obliged to pay monthly tax advances).

10. With which countries have double taxation conventions already been concluded?

For the list of the countries having DTC concluded with the Slovak Republic, please, see the Annex 2.

11. Are there any special laws providing tax incentives to certain taxable entities?

The Slovak Republic has harmonized the rules on providing state aid with the European Community (EC) legislation after its accession to the European Union. For this reason, the Slovak Republic may provide state aid only in accordance with the rules laid down at the level of the European Union.

State aid may be provided on an individual basis or within a scheme of state aid. Generally, state aid is subject to the approval by the European Commission pursuant to Articles 87 and 88 of the EC Treaty. The Slovak government also provides a specific type of individual state aid in accordance with the rules laid down by the Act on Investment Incentives. Investment incentives are provided for new investments and workplaces created in connection with such investments. There is no legal title to the provision of state aid or to the provisions of investment incentives to the investors and it is solely upon the discretion of the relevant authorities if they do so.

It is possible to provide tax exemptions (in a form of a tax credit) for the purposes of investment incentives with the consent of the government of the Slovak Republic, however the possibility exists only until 31 December 2007.

C. Individuals

1. Which are the taxable persons?

Natural persons having their residence in Slovakia or staying in Slovakia for at least 183 days during the period of 12 consecutive calendar months is subject to the income tax.

2. How is the taxable income specified?

The types of income taxed by personal income tax are as follows:

- income from dependent activity (for instance income from labour and similar legal relations, service relationship, income of a proxy holder, salary and fringe benefits of constitutional officers, public defender of rights, member of Parliament, prosecutor, remuneration for the performance of a function in state bodies and public bodies of the Slovak Republic, etc.);
- income from business activities and other independent gainful activities;
- income derived from capital (for example interest and other proceeds from securities, from deposits on savings books, from provided loans and advances, proceeds from bills of exchange, income from mutual funds certificates and from endowment insurance etc., but not income from dividends, which are exempted from taxation);
- other income (such as income from occasional activities and occasional rental of movable items, from transfer of real estate ownership, from the sale of movable items, income from the transfer of options and securities, income from the transfer of a share in a

business company, income from inherited industrial and other intellectual property rights, pensions, winnings in lotteries and other similar games and winnings from advertising contests).

The following types of income are not subject to tax:

- income from the acquisition of securities, or income from the inherited, restituted or donated immovable or movable property or the property right other than the income generated by the above and other than gifts, profit share (dividend) paid from the company's profit, credits and loans.

The following types of income are exempt from tax:

- income from the sale of flat or house, if the flat or house had been the seller's permanent residence for at least two years preceding the year of sale,
- income from the sale of other real estates after the lapse of five years from the date of their acquisition,
- income from the sale of an inherited real estate, if at least five years have elapsed from the date of its acquisition,
- income from the sale of a movable property (other than securities),
- income from the sale of bankruptcy assets,
- income received within the fulfillment of child support, public health insurance benefits, social insurance benefits and benefits from the mandatory foreign insurance of the same type, social benefits to those in need, insurance benefits other than benefits from endowment insurance or supplementary pension savings, damage compensations received, scholarships, wins in lotteries and other similar games, prizes received or wins not exceeding SKK 5,000, tax benefit on a dependant child living with the taxpayer in one household,
- income from the sale of a mutual fund certificate other than income from the sale of a mutual fund certificate to a person residing or domiciled abroad,
- income from the treasury bonds of the Slovak Republic issued and registered abroad, funds from grants, etc.

Certain deductible items may be deducted from the tax base of individuals thus lowering their tax liabilities (e.g. their tax base is reduced by personal allowances of approximately EUR 2,400/person per year; spouse allowances of approximately EUR 2,400 per year, monthly tax bonuses for children, etc.).

Contributions to supplementary pension savings, funds for special purpose savings and life insurance premium are non-taxable items.

3. What are the applicable tax rates?

The tax rate is 19% of the tax base reduced by the tax loss and non-taxable items.

4. Are capital gains taxed separately?

The capital gains are not taxed separately. The flat tax 19% applies also for the capital gains of natural entities.

5. May losses be carried forward or back?

The tax loss may be deducted from the tax base over no more than five consecutive taxation periods. The tax loss may also be deducted non-proportionally, i.e. at once, depending on the reported tax base.

D. Capital

In outline, which are the main taxes on capital, if any?

Real Estate Tax

Each owner of a real estate located in Slovakia is obliged to pay real estate tax, in case of land at a basic rate of 0.25% of the value of land determined in the expert's appraisal, in case of buildings at a basic rate of SKK 1 per 1 sqm of a built-up area and in case of apartments at a basic rate of SKK 1 per 1 sqm of a floor area. The tax is payable annually to municipal authorities and its actual rate may be subject to changes upon the decision of the municipal authorities.

Only the transfers of real estate for consideration performed before 1 January 2005 were subject to real estate transfer tax; no real estate transfer tax is payable for transfers performed after that date. Inheritance tax and gift tax were cancelled as at 1 January 2004.

E. Indirect taxes

In outline, which are the main indirect taxes, if any?

Value Added Tax

The VAT registration duty is imposed on the persons performing business activities and

- (i) having their seat, place of business or establishment in Slovakia, and
- (ii) having a turnover exceeding SKK 1,500,000 (approx. EUR 40,000) during previous twelve consecutive calendar months.

The same applies to the persons having their seat, place of business or establishment in Slovakia and performing their business activities jointly on the basis of an association or similar agreement.

Supplies subject to VAT may be divided into four categories:

- (a) supply of goods for consideration performed in Slovakia by VAT liable entities,
- (b) provision of services for consideration performed in Slovakia by VAT liable entities,
- (c) acquisition of goods for consideration performed in Slovakia from other EU Member States, and
- (d) import of goods to Slovakia (from outside the EU territory).

Certain types of supplies are exempt from VAT, including postal services, financial services or insurance services. All taxable supplies are subject to a flat 19% VAT.

Excise Taxes

In Slovakia, there is the standard system of excise taxes imposed on certain types of goods such as mineral oils, spirits, liqueurs, beer, wine and tobacco products. The excise tax is due by the producers and importers of such goods usually in monthly one-off payment depending on the volume of goods.

F. Other duties**In outline, are there any other taxes, if any?**Road Tax

Vehicles used for business purposes are subject to progressive road tax depending on a type of vehicle. The tax rates range from SKK 1,600 to 6,160 for personal motor vehicles, and from SKK 1,800 to 75,400 for utility vehicles and buses per each year when the vehicle has been used for business purposes.

Local taxes

Local taxes may be levied by a municipality. They include real estate tax, dog tax, tax on using public area, accommodation tax, tax on vending machines, tax on gambling machines (only machines not providing financial wins), tax on entering the old city in a motor vehicle and tax on nuclear facilities.

G. Enforcement – Litigation procedure**1. In outline, which is the existing measures in order to ensure compliance with the tax legislation?**

According to the Slovak Act on Tax and Fee Administration, the tax office is authorized to carry out a tax audit. The purpose of the tax audit is to verify the amount of the tax base and other facts decisive for determining the tax liability. The tax office is entitled to repeat the tax audit.

Banks and other financial institutions, insurance companies, the post, municipalities, public authorities and also certain legal and natural persons are obliged to interoperate with the tax office and provide information needed to determine the tax liability of other entities.

The tax office is authorized to make tax inspections in order to check the amount of the tax base or other facts decisive for determining the tax liability. The tax office is also entitled to register a tax payer which failed to do so. It is authorized to impose fines and penalties (penalty interest) for violation of the tax law (such as the failure to register, provide a notification or fulfil other obligation, incorrect determination of the tax liability in the tax return, failure to submit the tax return by the deadline stipulated by the law, failure to pay the tax and to comply with other financial or non-financial obligations stipulated by the law). The tax office imposes sanctions depending on the gravity, duration and consequences of the breach of law.

If a taxable entity repeatedly violates a non-pecuniary obligation for which it had already been imposed a penalty, the tax office is entitled to suspend the performance of activities subject to taxation by the taxable entity for 30 days.

To secure the tax, in particular when there are doubts as to whether or not the tax could become unenforceable when due, the tax office is, under the law, authorised to decide upon the establishment of a tax mortgage to an object of the mortgage owned by the tax debtor, as well as upon the issuance of a tax security order commanding the taxpayer to remit the not-yet-due amount of the tax to the account of the tax office within 3 days.

The tax office is also authorised to enforce tax debts in the tax execution proceedings by applying different execution measures, e. g. by salary deductions, by garnishment, by selling movable and immovable assets, securities etc.

The failure to pay the tax is recognised by the Slovak Criminal Code as a crime. For committing this crime, the court may impose the imprisonment up to the 12 years.

2. What is on average the duration of a litigation procedure for the final resolution of tax disputes?

The tax office is obliged to decide without delay in simple cases, within 30 days from the day of commencement of the proceedings in other cases.

The taxable entity may challenge the first-instance tax office decision by filing an appeal within 15 days from the delivery of the decision. The taxable entity may also object or complain in the tax proceedings when having doubts about the accuracy of the tax liability stated by the tax office or other facts in the tax proceedings.

The appeal tax office is obliged to decide within 30 days, in especially complicated cases within 60 days. If it is necessary to prolong this deadline, the appeal tax office is obliged to request the approval from the superior authority.

There are also extraordinary remedies available. The taxable entity may demand new proceedings or review of the lawfulness of the tax office's decision or the tax proceedings themselves if the law or rights and interests of the taxable entity protected under the law were violated, if the tax decision was made based on a committed crime or false evidence, etc.

The tax decision may be reviewed by a court. The proceedings in tax disputes may take one year or several years depending on the complexity of the matter.

APPENDIX**INCOME TAX RATES**

Corporations	Partnerships	Individuals	Other entities
19%	19%	19%	19%

LIST of DTC AGREEMENTS

Country	Interest withholding tax rate	Royalties withholding tax rate	Dividends withholding tax rate
Australia	10%	-	15%
Austria	10%	-	-
Belgium	10%	-	5%, 15%
Belarus	10%	-	10%, 15%
Brazil	-		15%
Bulgaria	10%	-	10%
Canada	10%	-	5%, 15%
Czech Republic.	-	-	5%, 15%
China	10%	-	-
Croatia	-	-	5%, 10%
Cyprus	10%	-	-
Denmark	-	-	15%
Estonia	10%	-	10%
Egypt*			
Finland	-	-	5%, 15%
France	10%	-	-
Germany	-	-	5%, 15%
Great Britain	-	-	5%, 15%
Greece	19%	-	-
Hungary	-	-	5%, 15%
India	-	-	15%, 25%

Country	Interest withholding tax rate	Royalties withholding tax rate	Dividends withholding tax rate
Indonesia	10%	-	10%
Ireland	-	-	10%
Iceland	-	-	5%, 10%
Italy	-	-	15%
Israel	2%, 5%, 10%	-	5%, 10%
Japan	-	-	10%, 15%
Korea	10%	-	5%, 10%
Latvia	10%	-	10%
Lithuania	10%	-	10%
Luxembourg	-	-	5%, 15%
Malta	-	-	5%
Macedonia, Bosnia - Herzegovina	10%	-	5%, 10%
Moldova	10%	-	5%, 15%
Mexico*			
Mongolia	0%	-	-
Netherlands	-	-	0%, 10%
Nigeria	-	-	12,5%, 15%
Norway	-	-	5%, 15%
Poland	-	-	5%, 10%
Portugal	10%	-	15%
Republic of South Africa	-	-	5%, 10%
Romania	10%	-	-
Russian Federation	10%	-	-
Serbia & Montenegro	10%	-	5%, 15%
Singapore	-	-	5%, 10%
Slovenia	10%	-	5%, 15%
Spain	-	-	5%, 15%

Country	Interest withholding tax rate	Royalties withholding tax rate	Dividends withholding tax rate
Sri Lanka	-	-	15%
Sweden	-	-	0%, 10%
Switzerland	-	-	5%, 15%
Tunisia	-	-	10%, 15%
Turkey	10%	-	5%, 10%
Turkmenistan	10%	-	10%
Ukraine	10%	-	-
Uzbekistan	10%	-	10%
USA	-	-	5%, 15%

* The DTC agreements with Egypt and Mexico have not come into effect yet.