

## COVID-19 Pandemic – New on tax matters

Updated as of 1 November 2020

On 4 April 2020, Act No. 67/2020 Coll. on certain extraordinary financial measures related to the spread of the dangerous infectious human disease Covid-19 (the "**Act**") was published in the Collection of Laws of the Slovak Republic. The Act came into effect on 4 April 2020, the day of its promulgation and brought several changes to rights and obligations stemming from laws regulating taxes and accounting. From the date of entry into force, the Act has been the subject to several amendments.

We understand this to be the first legal act of several, and it addresses the most essential procedural issues.

Below, we provide you with a summary of the most important changes:

### A. Timeframe for the Measures (the Pandemic Period)

The pandemic period begins on 12 March 2020 and will terminate on the last day of the month in which the Government of the Slovak Republic rescinds the state of crisis in connection with Covid-19 (the "**Pandemic Period**"). Measures under the Act are in effect from this time until the expiration of the latest period stipulated under the Act. However, the Government is entitled to extend the enforcement of these measures by a regulation. However, in several specific cases the Act also explicitly states when the Pandemic Period is considered as ended.

With regard to the abovementioned and for the sake of clarity, where relevant, we indicate the specific end date of the Pandemic Period for individual measures. Where is no such indication given, the general rule of duration of the Pandemic Period (and thus the Pandemic Period still lasts) applies.

### B. General Procedural Changes

- **Submissions** (The Pandemic Period for this measure has ended by law on 30 September 2020) – During the Pandemic Period, it is possible to submit various documents electronically without an authorized electronic signature (e.g. by regular email) without the need to also submit a hard copy. This does not apply to documents falling under "mandatory form submissions" (e.g. tax returns, control statements), or to persons required by law to communicate with the tax administrator electronically (i.e. via an electronic data box).
- **Missing Deadlines** (The Pandemic Period for this measure has ended by law on 30 September 2020) – Missing a deadline during the Pandemic Period will be forgiven provided that the taxpayer performs the corresponding act no later than by the end of the month following the end of the Pandemic Period. This does not apply to (i) the

submission of tax returns, control statement and recapitulative statement and (ii) tax payments and payment of tax advances where specific rules apply (see below). The Act does not clearly address missing deadlines where forgiveness is technically impossible.

- **Delivery** (The Pandemic Period for this measure ends by law on 31 December 2020 – During the Pandemic Period a stricter regime is in effect for the so-called "fiction of delivery". Documents sent as certified mail (personal delivery) are deemed delivered upon expiration of the (postal) collection period, even if the addressee is not aware of the delivery.
- **Tax Audits** (The Pandemic Period for this measure has ended on 30 September 2020 by law) – Tax audit deadlines may be suspended until the end of Pandemic Period at the request of the taxpayer. However, if the tax subject doesn't request the interruption of the tax audit according to above mentioned way, missing the deadline pursuant to this Act shall not be forgiven. The law does not exclude the waiver of missed deadlines under Act no. 563/2009 Coll. on Tax Administration (the "**Tax Code**") Tax audits which were interrupted directly by the Act shall continue with effect from 25 April 2020. If the taxpayer submits a request for the suspension of such tax audit, the tax audit shall be suspended again.

Tax audits suspended at the request of the taxpayer or pursuant to Section 61 of the Tax Code shall remain suspended.

- **Publications in Lists** (The Pandemic Period for this measure ends by law on 31 December 2020) – During the Pandemic Period the Financial Directorate of the Slovak Republic will not update its published List of Tax Debtors, List of VAT Payers Where There are Reasons for Deregistration, or its List of Deregistered VAT Payers.
- **Interruption of Proceedings** (The Pandemic Period for this measure has ended by law on 30 September 2020) – Pending tax proceedings may be suspended at the taxpayer's request until the end of Pandemic Period and they are also suspended directly by the Act, if they were commenced during the Pandemic Period. However, if the Taxpayer doesn't request the interruption of the tax proceeding in the above manner, missing the deadline pursuant to this Act shall not be forgiven. The law does not exclude the waiver of a missed deadline under the Tax Code.

Tax proceedings, which were interrupted directly by the Act, shall continue with effect from 25 April 2020. If the taxpayer submits a request to suspend such tax proceedings, the tax proceedings shall be suspended again.

Tax proceedings suspended at the request of the tax subject or pursuant to Section 61 of the Tax Code shall remain suspended.

- **Suspension of the Right to Assess Tax, Time-barring and Termination of Right to Claim Tax Arrears** (The Pandemic Period for this measure has ended by law on 30 September 2020) – During the Pandemic Period the deadlines have been suspended on the expiration of the right to assess tax, the right to claim time-barred tax arrears, and right to claim tax arrears.
- **Tax Arrears** – (The Pandemic Period for this measure has ended by law on 30 September 2020) - Taxes (including late payment interest, other interest and penalties) that become due and remain unpaid during the Pandemic Period will not be considered tax arrears provided that the taxpayer settles them by the end of the month following the end of the Pandemic Period. The possibility of applying the provisions of the Tax Code on liability for breach of obligations shall remain unaffected.

- **Tax Overpayment** (The Pandemic Period for this measure has ended by law on 30 September 2020) – The tax overpayment on income tax applied on the basis of the filed tax return during the Pandemic Period shall be returned by the tax administrator within 40 days from the end of the month in which the taxpayer filed the tax return.

The possibility of applying the provisions of the Tax Code on the use of tax overpayment shall remain unaffected.

- **Tax Enforcement** (The Pandemic Period for this measure has ended by law on 30 September 2020) – Tax Enforcement is suspended during the Pandemic Period.
- **Breach of Certain Obligations During the Pandemic Period** (The Pandemic Period for this measure has ended by law on 30 September 2020) – If a taxpayer misses the deadline for submission of an additional tax return that expired during the Pandemic Period, there will be no sanctions, provided that the additional tax return is submitted by the end of the month following the end of the Pandemic Period.

Income tax payments due but unpaid during the Pandemic Period will not suffer sanctions provided that the taxpayer pays it by the end of the month following the end of the Pandemic Period.

If the taxpayer files an additional tax return, penalties will still apply from the deadline for submission of the ordinary tax return up to the beginning of the Pandemic Period.

A sanction in the amount of 100% of the stated difference will also be applied for stating a higher tax overpayment than should have been correctly stated in the income tax return. The taxpayer is obliged to return the difference. However, this fine will not be imposed if the taxpayer reduces the tax overpayment in the tax return before its refund.

## C. Income Tax Changes

- **Deadline for Submitting the Income Tax Return** (The Pandemic Period for this measure has ended by law on 30 September 2020) – If the last day of the (standard) deadline for submitting the income tax return expires during the Pandemic Period, the Act extends this deadline to the end of the month following the end of the Pandemic Period. The taxpayer is also obliged to pay the tax within the same deadline.

The deadline can be extended by up to three months (six if the taxpayer has income from foreign sources) by notifying the tax administrator before the deadline. This does not apply for taxpayers in bankruptcy or liquidation – they must deliver a request to the tax administrator to extend the deadline and cannot merely notify them that they will file late. Unlike the standard rules regarding such notifications or requests, under this temporary legislation no special form is necessary– the taxpayer can merely send it in a simplified way (e.g. by email, see above).

In any case, if the extended deadline on the basis of a notification or decision of the tax administrator expires during the Pandemic Period, the general extended deadline under the Act applies.

- **Assignment by Employees of the So-called “2 Percent”** (The Pandemic Period for this measure has ended by law on 30 September 2020) – Where the employer has already prepared the annual reconciliation for employee income tax purposes, the deadline for the Statement of Assignment of income tax of the employee has been extended until the end of the second month following the end of the Pandemic Period.

- **Report on Processing of Tax** (The Pandemic Period for this measure has ended by law on 30 September 2020) – If employee tax settlement reports and reports on the total income from dependent activity paid out to individual employees are due during the Pandemic Period, the employer has until the end of the second month following the end of the Pandemic Period to file. In addition the income tax must also be paid by this time.
- **Annual Reconciliation** (The Pandemic Period for this measure has ended by law on 30 September 2020) – If the deadline to prepare annual reconciliation and calculation of income tax expires during the Pandemic Period, the taxpayer has until the end of the calendar month following the end of the Pandemic Period to do so.
- **Income tax advances – The Act** (The Pandemic Period for this measure has ended by law on 30 September 2020) – The Act allows a taxpayer not to pay tax advances on personal income tax or corporate income tax. The measure applies to tax advances due during a Pandemic Period for the period immediately following the period in which the taxpayer shows a reduction in his sales by at least 40% in comparison to the same period of the previous calendar year. This method of payment of income tax advances will apply for the first time to income tax advances due in May 2020.

This procedure may also be applied by a taxpayer who has the payment of tax advances determined otherwise by a decision of the tax administrator.

Non-payment of tax advances according to the Act claim the taxpayer by submitting a declaration that he meets these conditions to the relevant tax administrator in period no later than 15 days before the expiry of the due date of the income tax advance.

According to the income tax return filed between 1 January 2020 and the end of the Pandemic Period, the taxpayer may request a refund or set-off of those tax advances which have been paid in higher amounts.

The taxpayer shall not pay the difference arising from lower income tax advances paid due from the beginning of the tax period to the end of the calendar month following the expiration of the deadline for filing income tax returns in the tax period for which the tax advances are paid and which is (i) the calendar year beginning on 1 January 2020, (ii) in case of a change in the tax period from one calendar year to the financial year, the tax period beginning on 1 January 2020, (iii) the financial year in which the last date of the deadline for filing the income taxes return shall expire during the Pandemic Period or of which at least one month shall expire during period from 1 January 2020 to 31 December 2020.

- **Payment of advances according to the Regulation of the Government of the Slovak Republic No. 104/2020 Coll.** – In accordance with this Regulation, a taxpayer who is unable to claim the institute of non-payment of income tax advances in accordance with the above-mentioned Act may pay income tax advances within the period for filing a tax return under favourable conditions if: (i) the taxpayer filed an income tax return from 1 January 2020 until the end of the Pandemic Period, (ii) the last day of the deadline for filing this tax return expires during the Pandemic Period, (iii) the amount of the income tax advance calculated according to the filed tax return in 2019 is lower than the amount of the income tax advance calculated on the basis of the last known tax liability.
- **Deduction of tax loss** (The Pandemic Period for this adjustment ends by law on 31 December 2020) – If the last day of the deadline for filing an income tax return for the tax period expires in the period from 1 January 2020 to 31 December 2020, unapplied tax losses for tax periods ended in the years 2015 to 2018 may be deducted from the

income tax base by a taxpayer who is a legal entity, or from the income tax base (partial income tax base) in the total amount of EUR 1,000,000 income by a taxpayer who is a natural person,

If the deadline for filing an income tax return expires in 2020 for several tax periods, the stated deduction of the tax loss may be claimed by the taxpayer only in one tax period.

In this case, the tax loss is deducted gradually from the earliest reported tax loss to the tax loss reported last.

**D. Motor Vehicle Tax Changes** (The Pandemic Period for this measure has ended by law on 30 September 2020)

If the deadline for submitting the motor vehicle tax return and date of maturity of the motor vehicle tax did not expire before the beginning of Pandemic Period or began to lapse during the Pandemic Period, it will be deemed to have been met if the tax return is submitted and the tax is paid by the end of the month following the end of the Pandemic Period.

The taxpayer is not obliged to pay advances for motor vehicle tax due during the Pandemic Period starting in April 2020. A taxpayer who does not pay these advances is obliged to offset the motor vehicle tax within the deadline for filing the motor vehicle tax return.

**E. Accounting Changes** (The Pandemic Period for this measure has ended by law on 30 September 2020)

- During the Pandemic Period deadlines under accounting laws are deemed to have been met if the accounting unit fulfils the respective obligations by the earlier of (i) the end of the third calendar month following the end of Pandemic Period or (ii) the deadline for submitting the income tax return (see above).

If the accounting unit could not have objectively fulfilled its obligations under the Act on Accounting because of personal or technical reasons due to negative effects of the pandemic during the Pandemic Period, it is not deemed a breach of obligations if the accounting unit fulfils these obligations by the end of the third calendar month following the end of the Pandemic Period.

- Any deadlines for the imposition of a fine under the Act on Accounting that began running before the Pandemic Period and had not expired by the beginning of the Pandemic Period are extended by the Pandemic Period.

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We are continuing to monitor the situation, and it cannot be excluded that the above conclusions will be subject to changes, depending on the legislative development. We will be happy to assist you to resolve new issues and to create favourable conditions for your business under the current situation.

If you have any questions, please contact your usual partner in PRK Partners or contact directly the partner of PRK Partners' Bratislava branch, Miriam Galandová (email: [miriam.galandova@prkpartners.com](mailto:miriam.galandova@prkpartners.com), tel.: +421 911 492 222).

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