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tax audit advisory

EU to combat tax evasion

During the last several years, which were marked by fiscal consolidation efforts, the prevention of tax fraud and tax evasion has become a hot topic across the wider European Union (EU) including Slovakia.

Tax fraud and tax evasion limit the ability of Member States to collect revenue and to implement their economic policies. According to the EU's official website, the EU loses around EUR 1 trillion in revenues annually due to tax evasion and tax avoidance. In recognizing the acute nature of this issue, the European Commission (EC) presented an Action Plan to strengthen the fight against tax fraud and tax evasion, containing specific short-term, mid-term and long-term measures aimed at enhancing tax collection.

Action Plan of the European Commission

In its Action Plan to support the fight against tax evasion and tax fraud adopted last December, the European Commission introduced numerous measures which should help Member States protect their tax revenue.

The measures to be adopted no later than 2013 include:

- A revision of the Parent Subsidiary Directive (2011/96/EU) with the aim to strengthen the fight against double non-taxation in the field of hybrid loan structures.
- A review of anti-abuse provisions in EU legislation, in particular in the Directives on Interest and Royalties, Mergers and Parent-Subsidiary, with a view to prevent aggressive tax planning.
- Development of a European taxpayer's code to enhance cooperation, trust and confidence between tax administrations and taxpayers.
- Promotion of the use of simultaneous controls and of the presence of foreign officials for audits.

As for mid-term measures to be implemented in 2014, focus should be paid mainly on:

- Use of an EU Tax Identification Number (TIN) – The Commission has officially launched a new application ”TIN on EUROPA portal“ which contains sample official identification documents with a national TIN. In the future, measures should be adopted to make it possible to check the validity of national TINs and to create EU TINs.
- Guidelines for tracing money flows to improve the access to information on money flows by tax administrations, e.g., via credit cards and EU/offshore bank accounts.
- Extension of EUROFISC to direct taxation - EUROFISC foresees a rapid exchange of information on cases of VAT fraud. This system should also be extended to cover the area of direct taxation.
- Development of an EU Standard Audit File for Tax.

In the long term (after 2014), measures should be implemented to develop mutual direct access to national databases in the realm of direct taxation (analogously to the VIES portal in the VAT area).

Recommendations of the European Commission

Together with the Action Plan, the European Commission adopted two recommendations addressed to the Member States:

- Recommendations regarding measures intended to encourage third countries to apply minimum standards of good governance in tax matters. Using common criteria, the Member States are encouraged to identify tax havens and place them on national blacklists.
- Recommendations on aggressive tax planning – the Member States are encouraged to reinforce their Double Tax Conventions to prevent them from resulting in no taxation at all. They should also adopt a common General Anti-Abuse Rule.

Slovakia to Join the Fight Against Tax Evasion

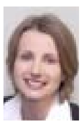
Slovakia has started focusing closely on developing effective measures to prevent unwanted tax evasion. In view of this fact, as well as in response to the EC recommendations, Slovakia is considering the adoption of further legislative and non-legislative measures. Some measures, not exclusively in the field of tax law but also in the fields of business and criminal law, were adopted already in the course of 2012.

These measures include mainly:

- Introduction of the duty to pay a financial deposit (from EUR 1,000 to EUR 500,000) when registering for the value added tax (VAT) in specified cases;
- Stricter conditions with respect to the liability for unpaid VAT from a previous level;
- Stricter conditions for claiming VAT exemptions of cross-border supplies;
- Stricter conditions for establishing a new limited liability company and for transferring a majority share in a limited liability company;
- Stricter classification of tax offences;
- Introduction of compulsory cashless payments for business transactions exceeding a specified limit (EUR 5,000).

In reaction to the recommendations of the European Commission, further legislative measures are expected to be adopted in the period to come with the aim of preventing artificial legal arrangements and to avoid double non-taxation. The measures being considered include the introduction of taxpayers' rating, the reintroduction of thin capitalization rules, the introduction of the duty to report payments to high-risk jurisdictions, and last but not least, the introduction of compulsory registration of licence and loan agreements.

Representatives of the Slovak Ministry of Finance and of Slovak Financial Directorate plan the adoption of non-legislative measures, too. Among other fields, focus is being put on strengthening the personnel capacity at the level of both the Ministry of Finance and Financial Directorate, in particular those sections responsible for international taxation and transfer pricing, as well as on the creation of specialized audit teams for these areas.



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