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Bratislava, 21 August 2018

**Memo: Insurance Premium Tax – new IPT Act valid from 1 January 2019**

Referring to our previous email communication please find below our memo on New Act on Insurance Premium Tax valid from 1 January 2019.

**1 Legal background**

From 1 January 2017 the Insurance Premium Tax<sup>1</sup> has been introduced in Slovakia in the Act no. 339/2016 Coll. amending the Act no. 39/2015 Coll. on insurance and on change of some acts as amended (“Act on insurance”).

In July 2018 the National Council of the Slovak Republic approved Act no. 213/2018 Coll. on Insurance Premium Tax and on change and addition of some acts (further “IPT Act”). The new IPT Act shall come in force on 1 January 2019. As of the same date currently valid provisions related to Insurance Premium Tax regulated in Act would be cancelled.

**2 Which entities are obliged to pay tax to the Tax Office?**

The person obliged to pay tax to the Tax Office (taxpayer) is insurer (i):

- a) Domestic (Slovak) insurance company,
- b) Insurance company from other Member State of the European Union or a Member State of the European free trade agreement, which signed the Agreement on the European Economic Area (further “**insurance company from other Member State**”),
- c) Slovak branch of foreign insurance company,
- d) Foreign insurance company,
- e) The Slovak Insurers' Bureau („Slovenská kancelária poisťovateľov”),
- f) The Export-Import Bank of the Slovak Republic.

Except of above, taxpayer is also (ii):

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<sup>1</sup> Please note that the respective legislation does not use the term „tax“ but the „contribution“. Based on 339/2016 Amendment the contribution underlines the principles of the Act no. 563/2009 Coll. on Tax Administration as amended (hereinafter “**Tax Administration Act**”), therefore it might be considered indirectly as a type of tax. For simplification reasons, we use the term “Insurance Premium Tax”, although such term is not directly used in the wording of the respective legislation.

- a) In case policyholder who paid insurance fee to foreign insurance company not having Slovak Branch rebooks insurance fee to legal entity and the insurance relates to insurance risk in Slovakia, taxpayer is such legal entity,
- b) Provided that the policyholder does not rebook whole insurance fee to legal entity, policyholder becomes taxpayer in the range of such not rebooked insurance fee.

In case of associated insurance (iii):

- a) In case insurance contract is closed between policyholder and several domestic insurance companies, insurance companies from other Member State or Slovak branches of foreign insurance companies (further “**co-insurer**”), taxpayer is such co-insurer, which is based on agreement closed between co-insurers defined for payment of the whole tax. Provided that such person is not agreed, taxpayer is each co-insurer in the range of its proportion on insurance fee, which results from insurance contract.

### 3 Which type of insurance is subject to Insurance Premium Tax?

Non-life insurance from activities performed in Slovakia defined in **Annex 1** of IPT Act, provided that the insurance risk is placed in Slovakia.

Insurance risk is placed in Slovakia if:

- Insured real estates and their parts, their accessories and other items placed in them (except of goods in commercial transport) are located in Slovakia,
- The insurance relates to any transport vehicle, which is or should be recorded in respective registry kept in Slovakia,
- Policyholder closed in Slovakia insurance contract with the term of insurance not longer than four months which covers travelling or vacation insurance risks regardless of insurance segments listed in Annex 1 of IPT Act,
- Other cases not stated above when the policyholder has usual stay in Slovakia,
- Other cases not stated above when policyholder or other entity is legal entity to which the insurance fee was rebooked, and registered seat or business unit, to which the insurance contract relates to, is located in Slovakia.

### 4 How is the point day and tax base determined?

Taxpayer according to point **2 (i)** is obliged to decide for one of below stated methods of determining the tax date and keep the rule for at least 8 consecutive calendar quarters. Taxpayer marks the chosen method in tax return. **Tax point day** and **tax base** is defined in respective methods as follows:

#### Article 5 (1) (a) of IPT Act:

- **Tax point day** is the day of receipt of insurance fee payment and thus in the part/proportion of received payment. Day of receipt of insurance fee is defined as the day of booking of payment of insurance fee receivable.
- **Tax base** represents the amount of received insurance fee decreased by tax. Provided that the insurance fee is paid in instalments, tax base represents the amount of received instalment of insurance fee decreased by tax.

#### Article 5 (1) (b) of IPT Act:

- **Tax point day** is the day of booking of insurance fee receivable.
- **Tax base** represents the amount of booked insurance fee receivable decreased by tax.

#### Article 5 (1) (c) of IPT Act:

- **Tax point day** is insurance fee due date.
- **Tax base** represents the amount of due insurance fee decreased by tax.

Provided that the taxpayer applies method a) and later decides for the change to method b) or c) after the date of change of the method, the tax day of received insurance fee payment is determined based on method a) provided that the insurance fee was booked or due until the day of the change of method, but the payment was not received until such day.

Provided that the taxpayer applies method b) or c) and later decides for the change to method a) after the date of change of the method, the tax day of booked insurance fee receivable or insurance fee due is determined based on method b) or c) provided that the insurance fee or its part was received by the taxpayer until the day of the change of method.

**Tax point day** and **tax base** is arises to the taxpayer according to point **2 (ii) (b)** as follows:

**Article 5 (3) of IPT Act:**

- **Tax point day** arises as of the day of insurance fee payment. Provided that only part of insurance fee is paid, the tax liability arises from the proportionally part of paid insurance fee. Day of insurance fee payment or its part is considered to be the day when the payment would be debited from the bank account of the tax payer or the day when the liability of the taxpayer was cancelled other way.
- **Tax base** represents the amount of paid insurance fee.

**Tax point day** and **tax base** is arises to the taxpayer according to point **2 (ii) (a)** as follows:

**Article 5 (4) of IPT Act:**

- **Tax point day** arises 30<sup>th</sup> day following the calendar month in which he was rebooked with the insurance fee. Provided that only part of insurance fee is paid, the tax liability arises from the proportional paid part of insurance fee.
- **Tax base** represents the amount of rebooked insurance fee.

## **5 Tax evidence**

Taxpayer is obliged to keep evidence for respective tax periods with the content necessary for correct calculation of the tax. The evidence shall represent at least:

- a) Name, surname and address of usual stay OR business name, registered seat or address of the business unit of the policy holder.
- b) Business name and registered seat address or address of the branch of the insurer
- c) Insurance contract number
- d) Insurance fee
- e) Tax base
- f) Tax amount
- g) Tax rate
- h) Information on placement of insurance risk in Slovakia

For the purpose of the preparation of the tax return we would recommend also inserting information on type of insurance (in line with the categories stated in Annex 1 of the IPT Act).

## **6 What is the tax rate?**

- 8 % on premium defined in Annex 1 except of the point 10 letter a),
- 0 % on premium defined in Annex 1 point 10 letter a) - liability insurance for damage caused by the operation of a motor vehicle.

## **7 “Registration” with the Tax Office**

Provided that the taxpayer is obliged to file tax return, but was not assigned with the general tax number (DIČ = “Daňové identifikačné číslo”), he is obliged within 5 days following the respective taxation period ask for registration for tax. Within 10 days Tax Office issues general tax certificate and assigns the taxpayer with the general tax number (DIČ) together with the individual bank account number of the Tax Office.

Insurer, who had obligation to pay Insurance Premium Tax based on Act on insurance becomes as of 01.01.2019 taxpayer registered for tax. Provided that such insurer does not have the general tax number (DIČ), Tax Office is obliged to issue to such insurer tax registration certificate and notify the insurer with the general tax number (DIČ) until 28.02.2019 at the latest.

## **8 What are the taxation periods, statutory deadlines for filing and for payment?**

Taxation period is calendar year quarter. Statutory deadlines for filing and payment of the tax are:

- 30 April for the period of 1Q
- 31 July for the period of 2Q
- 31 October for the period of 3Q
- 31 January for the period of 4Q

In case the deadline falls on Saturday, Sunday or Bank holiday, the statutory deadline represents the first working day following such day.

Taxpayer is obliged to file tax return via electronic portal of the Tax Office.

Taxpayer is not obliged to file tax return provided that:

- Tax liability did not arise,
- Obligation to correct tax base did not arise.

Provided that the domestic insurance company or the insurance company from other Member State has in Slovakia or in other Member State one or more branches, he is obliged to include in its tax return also data on Slovak tax liability, which relate to such branches.

## **9 Correction of the tax base and the tax**

Taxpayer based on point 2 (i) and 2 (ii) (b) corrects tax base and tax in case after the end of taxation period, in which the tax liability arises, insurance fee and its part increases, decreases or the insurance is terminated.

Taxpayer based on point 2 (ii) (a) corrects tax base and tax in case after the end of taxation period, in which the tax liability arises, amount of rebooked insurance fee increases or decreases.

Correction of the tax base and tax is stated in the tax return for the taxation period during which one of the above stated happened.

## 10 Rounding, different currency

Provided that the Insurance Premium Tax is paid in other currency than in EUR, for the purpose of the determination of the tax base the insurance fee should be translated to EUR with the European Central Bank / National Bank of Slovakia exchange rate valid as of:

- Last day of the taxation period or the following day (provided that the exchange rate was not published for the last day of the taxation period),
- Day regulated for translation of the currencies in Act on Accounting (exchange rate of European Central Bank / National Bank of Slovakia proceeding the day when the transaction occurred).

Taxpayer may decide to apply one of the methods above and keep them for the whole calendar year.

In case of correction of the tax base and the tax, the exchange rate used for the original transaction which is being corrected shall be used.

Calculated Insurance Premium Tax is rounded mathematically up to EUR 0,005 down and from EUR 0,005 up.

## 11 Penalties, sanction interest

Breach of the notification and payment obligations underlines Tax Administration Act, which currently states penalties and sanctions which could apply to Insurance Premium Tax as follows:

- in case of late payment sanction interest for late payment shall be applied (currently 15% p.a.),
- in case of late filing a penalty shall be imposed (up to EUR 32.000),
- in case of finding of the Tax Office that the declared tax was lower than it should be correctly declared a penalty (currently 10% p.a.) from the difference shall be imposed,
- in case of correction done by the taxpayer a penalty (currently 7% p.a.) shall be imposed.

Extinction of the right to levy tax shall be 5+1 year (last day of the 5<sup>th</sup> year following the year in which the tax was due).

## 12 Archiving

The documentation (tax evidence) should be archived for the period of extinction of the right to levy tax (please see above).

Provided that the Tax Office asks for the submission of the evidence, taxpayer is obliged to do so via electronic means.

### 13 Transition period - Act on insurance or new IPT Act?

Insurance Premium Tax based on new **IPT Act** is applied provided that the insurance period (defined as period to which the insurance payment or its part relates to) starts after 31.12.2018 and:

- Insurance payment or its part is received by the taxpayer at the earliest after 31.12.2018, provided that the taxpayer decided for the method determining tax liability based on **Article 5 (1) (a) of IPT Act**,
- Insurance fee is prescribed after 31.12.2018 and the payment of insurance fee or its part is received after 31.12.2018, provided that the taxpayer decided for the method determining tax liability based on **Article 5 (1) (b) of IPT Act**,
- Insurance fee is due after 31.12.2018 and the payment of the insurance fee or its part is received after 31.12.2018, provided that the taxpayer decided for the method determining tax liability based on **Article 5 (1) (c) of IPT Act**,
- Payment of insurance fee or its part is paid by the taxpayer according to point 2 (ii) (b) at the earliest after 31.12.2018 (applies **Article 5 (3) of IPT Act**),
- Rebooked insurance fee is rebooked to the taxpayer according to point 2 (ii) (a) at the earliest after 31.12.2018 (applies **Article 5 (4) of IPT Act**).

With regards to 12/2018 period, domestic (Slovak) insurance company, insurance company from other Member State, Slovak Branch of foreign insurance company are obliged to follow provisions of the **Act on insurance** related to Insurance Premium Tax valid until 31.12.2018.

This includes the obligation to transfer Insurance Premium Tax for 12/2018 until 31.01.2019 to separate income bank account of the Tax Office for special taxpayers. Further, payment of the Insurance Premium Tax related to insurance contracts, which insurance period started before 01.01.2019 and from which they were obliged to pay Insurance Premium Tax based on Act on insurance valid until 31.12.2018 shall be transferred until beginning of the next insurance period.

This according to our understanding means, that the taxpayers would be obliged to split their insurance contracts and related Insurance Premium Tax in two groups (underlying Act on insurance until 31.12.2018 and underlying new IPT Act) and report and pay Insurance Premium Tax separately.

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Please note that our memo was prepared based on currently valid legislation and its common interpretations, which could be subject to change in future. In case any actions related to legislation analysed in memo would be performed later, we would strongly recommend review validity the presented conclusions.

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In case of any questions would you please contact us.

Kind regards

## **Annex no. 1 of Insurance Premium Tax Act (213/2018 Coll.)**

### **Classes of insurance**

#### **1. Accident insurance (including occupational accidents and occupational disease)**

- a) fixed cash benefits,
- b) with benefits considered compensation,
- c) with combined benefits,
- d) for passengers,
- e) individual health insurance.

#### **2. Sickness insurance**

- a) fixed cash benefits,
- b) with benefits considered compensation,
- c) with combined benefits,
- d) individual health insurance.

#### **3. Damage insurance for land vehicles other than rolling stock**

- a) motorised vehicles,
- b) non-motorised vehicles.

#### **4. Damage insurance for rolling stock.**

#### **5. Damage insurance for aircraft.**

#### **6. Damage insurance for floating vessels**

- a) river and canal vessels,
- b) lake vessels,
- c) maritime vessels.

#### **7. Insurance of goods transport during transport, including luggage and other property, irrespective of vehicle.**

#### **8. Damage insurance for property other than specified in Points 3 to 7, caused by**

- a) fire,
- b) explosion,
- c) wind storm,
- d) natural disasters other than a wind storm,
- e) nuclear energy,
- f) landslide and soil demolition.

#### **9. Insurance for other damages to property other than that specified in Points 3 to 7 caused by hail or frost, or other causes, including theft, if such causes are not included in Point 8.**

#### **10. Liability insurance**

- a) motor third party liability,
- b) carrier.

#### **11. Liability insurance for aircraft operations, including carrier liability.**

#### **12. Liability insurance for river, canal, lake or maritime vessels, including carrier liability.**

#### **13. General liability insurance other than specified in Points 10 to 12.**

#### **14. Credit insurance**

- a) general default,
- b) export credit,
- c) instalment loan,
- d) mortgage,
- e) agricultural credit.

**15. Warranty insurance**

- a) direct warranties,
- b) indirect warranties.

**16. Insurance for various financial losses from**

- a) professional activities,
- b) inadequate income,
- c) bad weather,
- d) lost profits,
- e) permanent general costs,
- f) unexpected business costs,
- g) loss of market value,
- h) loss of a regular source of income,
- i) other indirect business financial losses,
- j) other losses, other than business financial losses,
- k) other financial losses.

**17. Legal expenses insurance.**

**18. Assistance services.**