

# LEGISLATION CHANGES IN THE TAX AND ACCOUNTING AREA FROM THE ENTREPRENEURSHIP PERSPECTIVE IN SLOVAKIA

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## Abstract

An economic entity has to comply to the applicable legislation when conducting business operations. There are several laws and regulations related to enterprising and they are the object of our research. This scientific study has been focused on the area of taxes and accounting that form basis for conducting economic activities in addition to the Commercial Code and Natural Persons Act. Its main objective is to analyse, on the basis of results of own research, the opinions of 265 natural persons doing business in Slovakia and to highlight the fact, that frequent changes of laws and regulations do not always represent the asset for the practice. This scientific article summarizes and synthetizes the impact of changes of laws and regulations applicable in the area of taxes and accountancy on performing business activities in Slovakia.

**Key words:** tax, legal act, tax changes, entrepreneurship, Slovakia

**JEL Code:** H20, H29

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## Introduction

Business environment represents the complex and cross-cutting problematics. Entrepreneurship has not only the economic, but also legal dimension since the legal regulation should ensure fair and transparent conditions for business. Doing business in Slovakia is also accompanied by the transposition of EU directives into the national legal system in order to establish conditions for proper functioning of the European Union internal market. The Slovak Republic quite often introduces the obligation to transpose the EU directives into national law as the reason for changing the legislation. However, in the revision of gold-plating in 2019, it was found out that the Slovak legislation exceeded the requirements stemming from the European law in many cases, counting up to 120 cases, while in 30 cases it represented unfounded and unnecessarily burdensome transposition that necessitates amendment or abolishment (Ministry of Economy of the Slovak Republic, 2020). Frequent amendments to applicable laws cause unstable business environment. According to the article 2 of the Law no. 400/2015 on Drafting Legislation and

on the Collection of Acts of the Slovak Republic *the aim of drafting legislation is to prepare with the involvement of public such legal norm that will become the functional part of balanced, transparent and stable legal system of the Slovak Republic*. Amendments of legislation are thus not perceived positively by all stakeholders in the market, because monitoring the frequent amendments to the legislation is time consuming. Also according to Howard Potet: „businessmen and those considering the business activity in our conditions should study and acquire necessary economic and legal minimum knowledge in order to avoid unnecessary mistakes that can represent at least problems in contacts with state authorities if not even bankruptcy“ (Porter, 1996). In our scientific study we have focused on the examination of impacts of amendments of legal regulations in the area of taxes and accountancy on entrepreneurs. On a sample of 265 respondents we have used a direct questionnaire method to find out how they perceive changes in national legislation in the field of taxes and accounting.

## **1 Introduction to the status quo of business doing in Slovakia**

Slovak business environment meets European standards related to conducting business. Authors Synek & Kislingerová (2010) claim that the basic motif of the business is the effort to enhance the invested capital by achieving profit as a surplus over expenses (Synek & Kislingerová, 2010). According to Mankiw enterprises form production part of the economy and as such they are placed on the opposite side of households that form consumer part of the economy (Mankiw, 2000). Synek is of the opinion that the fundamental purpose of enterprise is to achieve profit, while at the same time they also have their significant aim to serve consumer (Synek & Kislingerová, 2010). In Slovakia usually the following basic definition included in the Commercial Code and in the Law on Self Employed Trade Persons is applied: „*doing business is a continuous activity carried out independently, in its own name and at its own risk in order to make a profit.*“

In this connection we are of the opinion that performing any economic activity has to be compliant to the applicable legislation. Within the framework of accession process of the Slovak Republic to the European Union all discriminatory provisions were removed and all necessary conditions for doing business forming the part of an internal market and economic area were created in the scope of the negotiating chapters “Company Law”. In addition, legal provisions regulating establishment and functioning the European company and European cooperative society were adopted. A large number of transnational companies operate in Slovakia, which is the evidence of favourable business environment. Another evidence is the

inflow of foreign investors. Direct foreign investments are crucial source of economic growth as well as of growth of innovation performance (Nováčková, 2014). Moreover, authors (Nováčková et al., 2018), emphasize the necessity to secure business environment via a high quality legislation, since e.g. bilateral investment treaties are international and legal instruments of the legal assurance that is inevitable in the long-run for the investors' goals and to make correct investment decisions. Especially nowadays, in the era of COVID 19 – crisis, it is essential and highly expected from the national or regional governments and authorities to act promptly and accept the legislation with entrepreneur – friendly and business protective features that are beneficial to investors enabling to ease the financial hardship of the business entities facing even the bankruptcy under the worst scenario (Nováčková & Saxunová, 2014; 2020). Investors may prefer different investment instruments to hedge downside risks in different economic situations and market states (Debojyoti et al., 2016).

According to preliminary data of the Statistical Office of the Slovak Republic the number of active business entities in the year 2019 achieved 596,042 and after the previous decline in the year 2018 (-1.3 %) it represents the increase by 6.3 %. In the year 2019 the increase of number of businesses was recorded in all Slovak regions, the biggest increase 8 % was recorded in Prešov region. In the year 2019 there were 595,371 small and medium enterprises (Ministry of Economy of the Slovak Republic, 2020).

## **2 Examples of changes in the tax legislation**

We have chosen as an example the Law no. 595/2003 Coll. on Income Tax that has been amended numerous times. For example, in the year 2004 it was 8 times amended and in the year 2019 even 16 times. This confirms our statement that constant changes of applicable legislation have impact on business entities. Addressees of legal norms do not always perceive these changes positively, which also due to the fact that some of them were not necessary within the laws. In this context we can point out the Law on Tax License related to legal persons which was adopted 2014 and subsequently abolished as of 1st January 2018. The abolishment of tax license is perceived positively by many entrepreneurs, because the obligation to pay minimum tax, so called tax license in Slovakia in the amount of 960 euros in case of not exceeding the annual turnover 500,000 euros, and in the amount of 2,880 euros, if the annual turnover is higher, was abolished. On the contrary, business entities welcomed the adoption of the Law no. 315/2019 Coll. amending the Law no. 595/2003 Coll. on Income Tax as amended. Within the meaning of this Law the entrepreneurs with annual turnover lower than 100,000 euros have

to pay *lower income tax from 21 % to 15 %*. The lowered tax rate is applicable both *to businesses as well as to natural persons (sole proprietors)* having taxable incomes under article 6 paragraph 1 and 2 of the Law on Income Tax.

Another supporting step for entrepreneurs was also the adoption of the Law no. 301/2019 Coll. amending the Law no. 595/2003 Coll. on Income Tax as amended. This Law introduces so called super tax deduction for research and development in the amount of 200 %. The aim of this super tax deduction is to significantly support businesses or sole proprietors, respectively, so that they would invest more into research and development within their activities (Financial Administration of the Slovak Republic, 2020). In other words, the entrepreneur has to pay lower taxes if s/he proves investments into science and research.

### **3 Questionnaire survey**

As a part of the research we have conducted a questionnaire survey, where we used a questionnaire to find out how business entities perceive certain legal norms the field of taxes and accounting. This survey was conducted through Google form during January and February 2020. Respondents were selected randomly from the FinStat database. The invitation to fill in the questionnaire to randomly selected respondents was sent in the form of an email message. In total we obtained 265 valid responses from the addressed business entities. The research sample includes companies of different sizes according to the number of employees, from different areas of a business activity, of distinctive legal forms of ownership that are doing business across all regions of the Slovak Republic.

### **4 Characteristics of examined sample of business entities**

All size categories of companies are included in the survey, i.e. micro-businesses, small and medium businesses called SMEs, as well as large companies. Large business entities are placed in the survey, as well, so that in the event of a different perception of individual tax and accounting changes, we compare their perception by small and medium-sized enterprises. The structure of participating respondents with regard to size category of businesses is: 90 respondents from micro-businesses (34 %), 122 respondents from small businesses (46 %), 36 respondents from medium-size businesses (13.60 %) and 17 respondents from large businesses (6.40 %). Respondents from small businesses took part in the survey with a significant predominance (46 %) as well as respondents from micro-businesses (34 %), representing in total 212 respondents (80 %).

The structure of sample according to the branch of business activity of respondents was following. Less than one third (29.06 %) of business entities conduct their main business activity in the wholesale, retail, transport and storage, accommodation and food service sectors. There are 18.87 % businesses operating in manufacturing industries and in construction there are 15.47 % businesses. These are followed by businesses operating in services connected to science, technology, administration and support (12.83 %). The lowest number of business entities from the sector of art, entertainment and tourism and hospitality took part in the survey (0.38 %). The representation in other areas varies from 1.51 % to 7.17 %.

The wholesale, retail, transport and storage, accommodation and catering services represent the largest group of the micro-enterprises in the sample located in the region of Bratislava (10 %) and in Košice region (5.60 %). The micro-enterprises in the area of science, technology, administration and support are concentrated in Bratislava region (5.60 %). The small enterprises are dominant in the wholesale, retail, transport and storage, accommodation and catering services in the region of Bratislava, as well as Žilina (6.60 %), and so are they in the region of Prešov and Trenčín (4.10 %). They have higher level of participation in the area of construction in Bratislava region (4.10 %). As far as medium-sized enterprises are concerned, manufacturing entities, mining and quarrying and other industries prevail in the regions of Banská Bystrica, Prešov and Trenčín (equally spread over these regions representing 8.30 % of the medium-sized enterprises. The same proportion of 8.30 % these enterprises are represented in the area of public administration, defence, education, health and social assistance in the region of Žilina. The medium-sized enterprises have higher representation also in agriculture, forestry and fishing in the Nitra region, in industrial production, mining and quarrying and other industries in the region of Košice, in construction in the region of Banská Bystrica, and as well as in the wholesale, retail, transport and storage, accommodation and catering services in the region of Košice with the same share of representation (5.60 %). Large enterprises from our sample are dominantly representatives in the sector of financial and insurance services in the region of Bratislava (23.50 %). We can state that the most frequent sectors in the sample are the wholesale and retail, construction and manufacturing companies.

## **5 Survey results**

In this part of the study we will gradually present achieved results as regards questions related to concrete changes in the legislation and attitudes of respondents to these changes.

### **5.1 The obligation to file control sheet to the value added tax**

The Law on Value Added Tax No. 222/2004 Coll. has been amended numerous times. The significant amendment was adopted in the year 2014, when the obligation to file the control sheet was introduced. The duty to file control sheet (article 78a of the Law on VAT) applies to all VAT payers, it means entities registered with respect to the VAT within the meaning of articles 4, 4a, 5 or article 6 of the Law on VAT (it does not relate to entities registered with respect of the VAT according to article 7 or article § 7a of the Law on VAT). In general, this represents a measure with the aim to prevent tax evasions and tax frauds with respect to VAT. This introduced duty to file control sheet with respect to the VAT has been perceived positively by 64.90 % respondents. The positive perception is also reflected in the fact that not only State, but also many business entities are seeking to prevent unfair practices in business.

### **5.2 Abolishment of flat income tax with respect of legal and natural persons**

The flat tax for all taxpayers was introduced in the past within the territory of the Slovak Republic. The flat tax rate was 19 % and there were 9 tax periods when it was applied (2004 – 2012). We asked the respondents in our sample whether they would be in favour of the reintroduction of a flat tax for all taxpayers. There were up to 41.51 % respondents in favour of flat tax for all business entities. They were mostly business entities from the wholesale, retail, transport and storage, accommodation, and catering services with their seat in Bratislava region (7.21 %) and in Žilina region (6.43 %). The respondents preferring flat tax have predominantly (20.38 %) and technical (15.51 %) education. Almost half (49.12 %) company owners are in favour of flat tax. Flat tax is mostly preferred by small enterprises (20.75 %). Large enterprises did not expressed themselves decisively, 41.21 % of them prefer introduction of flat tax and the same number is not in favour of introduction of flat tax.

### **5.3 Recreation allowance for employees**

Recreation allowance is known also under the title recreation voucher, which is provided by the employers to their employees, up to the amount of 275 euros for the calendar year. In other words, as of 1st January 2019 the recreation allowances provided under article 152a of the

Labour Code rank among the tax expenditures of the employer under article 19 paragraph 2 letter c) point 5 of the Law on Income Tax. The survey results suggest the negative (51.32 %) or rather negative (24.15 %) attitude of respondents from various groups of enterprises towards introduction of this allowance. The introduction of this allowance may seem like a populist step of the government, when employees receive a non-pecuniary „reward“ in the form of relaxing stay in the facility located within the territory of the Slovak Republic. In fact, the enterprises to which this burden has been shifted by the State will loose. From the total number of respondents the recreation allowance is perceived positively mostly by small enterprises (26.42 %). On the other hand, the recreation allowance is not perceived as burdensome by large enterprises (0.75 %). Recreation allowance represents the smallest burden for enterprises with their seat in the region of Prešov, in proportion 1:28 enterprises. Almost half of the respondents (47.79 %), who consider the allowance as negative, is represented by the enterprises conducting their business more than 20 years.

#### **5.4 Abolishment of tax license**

Tax license, i.e. the institute of minimum value of income tax of legal person was introduced in the year 2014. Taxpayers paid the tax license for the last time when filing a tax return in 2018 for the tax period of 2017. The results of questionnaire survey showed the satisfaction of the respondents with the abolishment of tax license, namely two thirds from them were satisfied with the abolishment (66.79 %). The positive perception of the tax license abolishment is understandable. At the time of its introduction, business entities had to pay the so-called „minimum tax“ in case the tax liability calculated in the tax return for the given tax period is zero or lower than the specified amount of the tax license. Following the revocation of the tax license, it relieved mainly taxpayers who reported tax loss or their tax liability was significantly lower than the amount of the tax license. Referring to the various groups of enterprises mostly the small enterprises (30.19 %) and micro-enterprises (22.64 %) were in favour of revocation of tax license.

#### **5.5 Extension of the number of depreciation groups in the depreciation of tangible assets**

In Slovakia Act on Income tax constitutes the length of the depreciation period for various long-term assets that affect the amount of tax deductible items. As of 1st January 2015, the Act on Income Tax introduced significant changes regarding the depreciation of assets. In addition to the extension of the number of tax depreciation groups (Law on Income Tax, 2015) also the

possibility to use double declined method of depreciation for the tax purposes was limited. We have asked the respondents, whether the extension of the number of tax depreciation groups associated to the tangible assets has negative impact on their entity. The extension of depreciation groups is perceived as positive (34.72 %) or mostly positive (24.53 %). In the year 2015 some property items were shifted to new depreciation groups or to a new period of depreciation that could result into the quicker depreciation period of some property. Since January 2020, the new depreciation group 0 has been introduced, to which electromobiles belong. In the past the electromobiles were depreciated as personal vehicles, which means in the depreciation group 1 with the period of depreciation of 4 years (Pukalovič, 2020). This means now they get into tax expenses twice as fast. The depreciation can be considered as positive also from the point of view of the possibility of interrupting the depreciation period. With accounting depreciation, no space is created to interrupt depreciation, but only in Slovak Accounting Act, under the IFRS or US GAAP it must be interrupted also for financial accounting when the asset is not in a use. The interruption of this period can thus be regarded as legal instrument of tax optimisation.

## **5.6 Current income tax rate for legal persons**

According to article 15 letter b) of the Law on Income Tax the income tax rate for legal persons in the amount of 21 % is applied in the year 2019, the taxable base is reduced by the tax loss. The income tax is also analysed by other authors (Stanovský & Fabinyjová, 2018). Our aim was to find out, how entrepreneurs perceive this tax level. The respondents from various groups of enterprises manifested clear discontent (53.96 %) or rather discontent (32.45 %) with present level of tax income rate for legal persons that is currently 21 %. There are mostly enterprise owners that do not agree with this level of tax rate (38.91 %). Clear discontent or rather discontent was also indicated by small enterprises doing business in Slovakia for more than 20 years (23 %). They have biggest experience further to longer period of doing business and thus they can compare situations with various income tax rates in the past. It is therefore probable that they can decisively assess the intensity of influence of income tax rate on business activities.

## **5.7 Acceptable income tax rate for legal persons (14 % – 18 %)**

Further to the dissatisfaction with the present income tax rate for legal persons we have asked the respondents, what would be their preferable level of the tax rate. We were posing questions on various variations of tax rate in certain intervals. The most frequent answer of the



respondents was the tax rate in interval (14 % – 18 %). Up to two thirds of respondents (64.53 %) agreed with this tax rate. One can observe that the respondents opted for “golden middle way” with regard to the offered possibilities for answers. The income tax rate in this interval is not too high and not too low with regard to the incomes of entrepreneurs.

### **5.8 Deduction of costs paid for the research and development**

As of 1st January 2020, the amount of the deduction of research and development costs has changed. The underlying reason for this deduction is to ensure the deduction of costs given for the research and development project from the taxable base that is lowered by the tax loss (Financial Administration, 2020). This measure of deduction ensures the multiple deduction of these costs representing the tax support for the enterprise. Despite of this the entrepreneurs still do not use the deduction in sufficient manner. As it follows from the survey up to 82.64 % of enterprises do not apply for deduction at all. They may be prevented from doing so by keeping separate records of costs, which have to demonstrate entitlement to deduct. Another barrier could be the choice of a suitable and defensible method of calculating individual costs, as well as the total applied deduction for research and development. Another complication can also represent the correct determination of such costs. Further reason for not applying this deduction may also be that the entities are not acquainted with this possibility. Many of entrepreneurs are of the view that this deduction only relates to the entities doing business in the field of science and research. Such a statement is clearly untrue. The enterprises which would like to apply the tax deduction within their business activity, should reinforce their capability to innovate. They can introduce a new innovative product manufacturing process or to streamline already establish services to make them more effective. They can also change their existing computer software, that is, to develop new enterprise software. Some enterprises can modernize their production line. Such ability is crucial, because it influences their effectiveness, development, and growth. The deduction has been applied on the Slovak market for several years and, despite its insufficient application, it can be used in some form for most enterprises: from manufacturing companies through companies operating in the field of information technologies to companies in the field of services (banks, insurance companies, wholesalers, etc.). With the aim to increase competitiveness and to fulfil consumer needs the enterprises must be creative and to come up with new ideas. Despite not using this tax deduction enterprises perceive its introduction positively (28.68 %) or rather positively (26.04 %).

### **5.9 Exemption of part of income from the provision of intangible assets within development activities („patent box“)**

The amendment of the Law on Income Tax no. 344/2017 Coll. has introduced as of 1st January 2018 a new tax regime, so called patent box, with is aimed at exemption of part of income tax of legal persons and permanent establishments of taxpayers with limited tax duties. This income tax exemption allows to provide tax advantages with respect of part of the income from the provision of intangible assets (patents, licenses, copyrights and publishing rights, goodwill, software, etc.), which are the result of the taxpayer's own development activities (Fabinyjová & Stanovský, 2018). Unfortunately, we have found out from the replies of the respondents, that the notion „patent box“ is not known to them, or they do not know about this special tax regime, respectively (72.83 %). This means, that they do not use it, in concrete terms more than three fourths quarters (89.81 %) from our sample, in particular the respondents from small enterprises (41.51 %) and micro-enterprises (32.08 %). Regardless from the attitude of the respondents, the special tax regime positive effect on business entities due to the exemption of part of the statutory income. This exemption is closely connected with the tax deduction which is specified above.

### **5.10 Excessive bureaucracy**

Business entities are in general burdened with bureaucracy, only the degree of burden changes, according to which trends, or tendencies, respectively, in the area of tax and accounting affect them. The biggest burden relates to non-flexible dealing with administrative matters according to respondents from small enterprises (40.38 %). Significant bureaucratic burden is felt also by respondents from micro-enterprises (30.19 %). Such non-flexible handling with even simple matters, as well as increased administrative burden, can lead to lower effectiveness as regards procedures in the enterprise, as well as their length. Excessive bureaucracy is not a novelty in many countries. Gradually, as time passes, some documents and applications in their print form are being eliminated and transferred into electronic form. Assuming that today's age of technological progress and digitalization is progressing, the transmission of documents in electronic form is not sufficient and proportionate to the developments we already have at our disposal.

### **5.11 Services of tax/financial advisor**

According to the survey the services of advisors are used by more than one third of business entities (41.13 %), from this number mostly by small enterprises (16.98 %). Further to

difficulties related to taking into account numerous modifications or legislative changes in the area of taxes and accountancy applicable when doing business, it is more than desirable to search for the services of an advisor who is the expert in a given area. Some business entities, unfortunately, cannot afford the services of advisor due to insufficient financial sources. In such case, the business entities strive for self-study and constant monitoring and keeping up to date in the context of new legislation and its implementation, however, sometimes this is not enough for effective business management.

### **5.12 Extended period of archiving accounting documents**

The period of archiving accounting documents has been extended from 5 years in 2018 to 10 years. The extended period of archiving relates to accounting documents, accounting books and their lists, lists of numeric characters or other symbols and abbreviations, deduction plans, inventories, inventory entries and accounting schedules. This extension follows from article 35 paragraph 3 of the Law on Accountancy no. 431/2002 Coll. that entered into force from 1st January 2018. The extension of period for archiving has clearly negative impact on all business entities. The respondents mostly consider the extension of period of archiving as negative because of insufficient space for storing documents (69.43 %) and also it causes excessive administrative burden to them (65.66 %). Extended period of archiving accounting documents causes increased financial costs (30.19 %). In case of failure to comply with the extended period for archiving the enterprises risk to be imposed the financial sanction. This problem is perceived negatively by 24.91 % enterprises. Electronic storage is less burdensome for businesses (7.55 %), within the framework of which the businesses are obliged to transfer the hardcopy documents into their electronic form. In the sample of respondents there were also entities that do not perceive the extension of period of archiving documents negatively. They even identify themselves with this measure. It is important for enterprises to keep the period of archiving as well as the proper record of necessary documents. In case of repeated finding of incorrect bookkeeping, failure to prepare financial statements or making accounting entries outside accounting books or accounting cases, respectively, which did not arise within the company, or in the case of concealment and failure to account facts that have to be accounted, the competent Tax Office can file a motion to revoke the business license of the company in violation of applicable legal regulations.

## Conclusion

Further to the results of our survey, we have come to the conclusion that changes in legislation in the field of taxes and accounting are perceived positively by the entities to whom they are addressed, however, there are also opinions of entrepreneurs that the tax burden could be lower. All respondents are of the view that they are subject to administrative burdens as part of their business activities, nonetheless this does not mean that they would clearly express their discontent. In this context it should be noted that the services of tax advisors are used only by one third of respondents.

To conclude, we can state that the area of tax and accountancy examined by us is quite often changed and not all adopted amendments of laws and regulations are applied in practice in accordance with the expectations of national authorities, which are in charge of preparing these amendments.

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