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Next month, BMB Partners will celebrate its 25th anniversary. We are proud to have been your guides in the world of finance and tax for 25 years and would like to thank you for your trust. Despite the anniversary celebrations, we have noticed that the efficiency of VAT collection in Slovakia is once again on the rise and is the best for the last 10 years. The overall tax shortfall for the previous pandemic year is insignificant, so one can understand the government's decision to restrict the use of some forms of first aid, including the abolition of the 3B scheme. However, other forms of first aid remain applicable, as our colleague Eva Kusá (TOP 4) reports in more detail. Although tax collection efficiency is increasing, the absolute VAT gap remains high. In addition, the Ministry of Finance has also started to monitor the income tax gap, which is similarly significant, so it can be expected that tax audits in this area will also be tightened, as reported by Judita Kuchtová in TOP 1. We are all the more pleased that the government has approved at least the first part of the Smart Tax reform, which we reported on in previous Newsfilters, and has submitted it to the Parliament. The assessment of taxpayers will be done transparently, thereby supporting the business environment (TOP 3 by Petra Packová). The international taxation column in the Newsfilter is traditionally prepared by Kristína Reguliová, who successfully completed her studies in international tax law at the Vienna University of Economics and Business this summer and will be the second person in our office to be awarded the LL.M title. The BMB team wishes you effective reading on relaxing autumn days.

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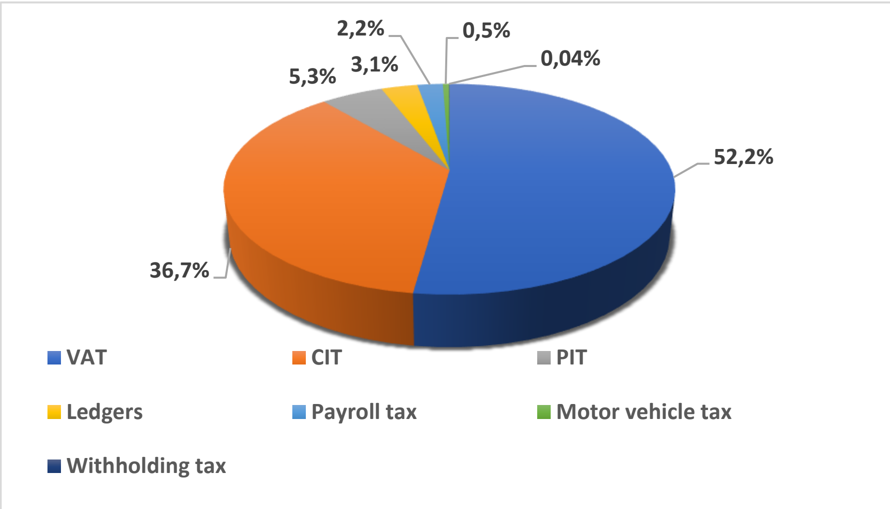
TOP 1: INTERESTING FACTS FROM TAX AUDIT STATISTICS

In 2020, tax auditors of the financial administration carried out 10,522 tax audits. Out of the total number of tax audits carried out, the highest share of audits focused on the value added tax, which was 5,488, representing 52.2%. 3,862 tax audits focused on the corporate income tax, 558 on the personal income tax, 228 on the payroll tax, 56 on the motor vehicle tax, 326 on accounting ledgers and 4 on the withholding tax.

Graph: Tax inspections in 2020:



Source: Prepared by BMB Partners based on the data in the Annual Report on the Activities of the Financial Administration for 2020

The total findings from the tax audits carried out amounted to € 708 million. The highest share in the total audit findings for 2020 is attributable to the value added tax (54.7%), followed by the corporate income tax (41.9%).

Out of the tax audits carried out in the field of the value added tax (5,488), 1,895 were aimed at verifying the eligibility for excessive VAT deduction or part of it within the refund deadline, resulting in withholding over € 26 million in excessive VAT deductions and in tax assessments of over € 14.5 million.

In 2020, tax auditors also carried out transfer pricing audits and audits focused on the application of double taxation treaties as part of their audit activities. A total of 19 of them were carried out with findings amounting to approximately € 9 million.

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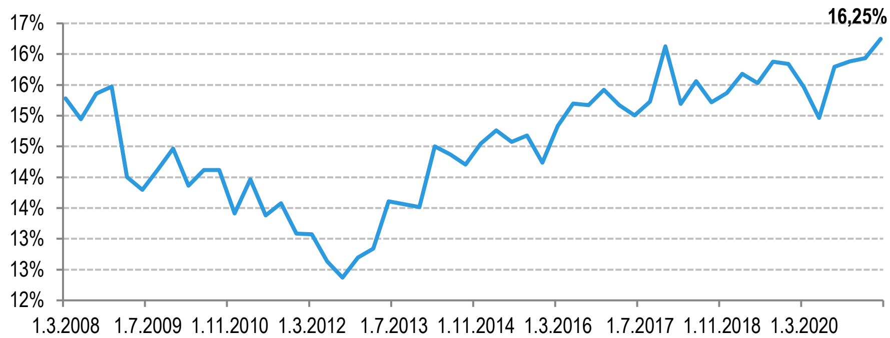
In addition to tax audits, the tax authorities carried out 7,161 local hearings. On the basis of the local hearings carried out, fines totalling € 97 thousand were imposed. The local hearings were mainly aimed at checking the use of e-cash registers, at verifying the data from the requests, the fulfilment of the conditions for VAT registration and the eligibility for excessive VAT deduction.

Further interesting facts and statistics can be found in the Annual Report on the Activities of the Financial Administration for 2020, published on the website of the financial administration.

For illustrative purposes, we also present the evolution of the effective VAT rate from 2008 to the present:



Source: Financial Policy Institute

TOP 2: PUBLISHING BANK ACCOUNTS OF VAT-REGISTERED ENTITIES ON THE WEBSITE OF FINANCIAL ADMINISTRATION

The amendment to the Tax Procedure Code of 2021, amending also the VAT Act, introduces a new reporting obligation for VAT-registered entities. The most significant reason for the introduction of this obligation is allegedly the fact that more than 10 thousand VAT-registered entities have not provided the tax administrator with any bank account details.

Taxpayers obliged to report their bank account numbers:
A) VAT-registered entities as of 15/11/2021, by 30/11/2021 at the latest.
B) Newly VAT-registered entities from the date on which they are registered for VAT or from the date on which the bank account was opened.

Bank accounts to be reported:
A) Any domestic or foreign own (checking/deposit) account used by the VAT-registered entity for business purposes.
B) In the case of holding companies and other group structures, a bank account which has a different owner may also be reported. However, the actual owner of the bank account shall be jointly and severally liable for the unpaid tax by the supplier.

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How the reporting obligation will be fulfilled - procedure:
A) A separate form will be published on the portal of the Financial Directorate.
B) The form should be pre-filled with the data already available to the tax administrator from domestic banks. The payer only needs to indicate the selected bank account numbers used for business purposes.
(C) The obligation to fill in specific account numbers will thus apply only to bank accounts with foreign banks.

If the entity provides incorrect, false or incomplete information in the form, the tax authority will impose a fine of up to € 10 thousand. In determining the amount of the fine, the tax office shall take into account the seriousness and duration of the unlawful situation.

The new reporting obligation will also affect the liability of customers for unpaid tax. A new presumption is being introduced which constitutes a sufficient reason that the customer knew or should/could have known that the supplier would not pay the tax, namely if the customer or a third party pays the VAT to a bank account other than the supplier's bank account which was published in the list of bank accounts of the Financial Directorate on the date of payment. For these purposes, the date of payment shall be deemed to be the date on which the payment instruction is given. Therefore, customers are advised to make a screen shot of the supplier's bank account details on the portal of the Financial Directorate, together with the date and time, so that they can provide evidence of this if necessary.

Further, the amendment to the VAT Act introduces the possibility of a split payment, i.e. the VAT is paid for the supplier by the customer who, at the time the tax liability originated, knew or on the basis of sufficient reasons should/could have known that the tax will not be paid by the supplier to the tax administrator. If the supplier does pay the tax, that overpayment becomes an overpayment of the supplier and the customer will not be able to request a transfer.

The amendment has passed its first reading in the legislative process and is expected to be approved by mid-November 2021 at the latest.

TOP 3: BENEFITS OF A PUBLIC TAX RELIABILITY INDEX

Within the first part of the Smart Tax reform, which we have informed you about in previous issues of the Newsfilter, the government has approved an amendment to the Tax Procedure Code and has forwarded it to the Parliament on 11/08/2021. Accordingly, the tax administration will assess taxpayers transparently, which will improve the business environment. The long-secret Tax Reliability Index will be published on the website and businesses will receive not only information but also an explanation why they are included in a particular category. It will also be possible to appeal against this classification.

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The Ministry of Finance has already prepared a draft decree on the specific criteria of the Tax Reliability Index, on the basis of which the financial administration will identify taxpayers which will be subsequently provided with tax benefits. Such criteria include, as before, the fulfilment of obligations in relation to the financial administration (filing tax returns and reports within deadlines, paying taxes and advance payments on time).

Depending on the classification within a particular category, highly reliable entities will have new benefits, while maluses will be introduced for unreliable entities. As for the most important new benefits, the fees for binding rulings as well as APA (advance pricing agreement) procedures will be reduced to half the standard amount. Specifically, this means that a highly reliable entity will pay € 5 thousand instead of € 10 thousand for a unilateral APA request. In the case of a bilateral APA, the fee will be € 15 thousand instead of € 30 thousand.

Within the struggle to improve the business environment, including the limitation of the abuse of dummy directors, the Tax Procedure Code also introduces the possibility to exclude, by decision, specific individuals from statutory bodies. Until now, only the courts have had such power.

A large part of the new provisions is planned to take effect from 01/07/2022, however, notifications of classification within the Tax Reliability Index under the new regime for 2021 should be sent by the tax administration by 28/02/2022.

The Parliament is expected to decide on the final form of the law in the coming weeks. We will keep you informed in our New Year's Newsfilter.

TOP 4: FIRST AID CONTRIBUTIONS SINCE 01/09/2021

The Ministry of Labour, Social Affairs and Family has declared that COVID first aid contributions for jobs are also available for employers to claim since 01/09/2021 until the end of 2021, when the already approved permanent "Kurzarbeit" scheme is put into practice. In practice, this will mean that the contributions will be paid out of the original First Aid scheme. At the same time, however, the Ministry declared that the most frequently used measure 3B (depending on the turnover drop) will not be renewed for now.

If the epidemiological situation in Slovakia worsens, the approval of the payment of contributions from more favourable schemes (First Aid+ or First Aid++) is not excluded.

Considering the positive epidemiological situation in Slovakia, it is not possible to claim contributions from any First Aid scheme for the month of August 2021.

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First-Aid-Contributions since September 2021:

First Aid since 01/09/2021	
Measure	First Aid
Measure 1	80 % of gross wages, max. € 880/1100
Measure 2	€ 180 – 540, depending on turnover drop
Measure 3A	80 % of gross wages, max. € 880
Measure 3B	N/A
Measure 4A/4B	€ 210

Source: Prepared by BMB Partners based on the First Aid Notice on the website //www.pomahameludom.sk/

TOP 5: LUNCH SUBSIDY AND INCREASED TAX BONUS SINCE 01/07/2021

The amendment to the Income Tax Act of 2020 has introduced an increased tax bonus for children aged 6 to 15 since 01/07/2021. In the period 01/07/2021 – 31/12/2021, the monthly amount of the increased tax bonus for children aged 6 to 15 is 1.7 times the basic tax bonus rate (€39.47). From 01/01/2022, the increased tax bonus for children aged 6 to 15 will be adjusted to 1.85 times the basic tax bonus rate.

At the time of the approval of this legislative amendment (at the end of 2020), the introduction of the increased tax bonus for children aged 6 to 15 was justified by the fact that the lunch subsidy for children aged 6 to 15, the so-called "free lunches", will be abolished. The increased amount of the tax bonus was calculated to compensate parents of children aged 6 to 15 for the abolition of the lunch subsidy.

As of 01/08/2021, the Act No. 544/2010 Coll. on subsidies under the jurisdiction of the Ministry of Labour, Social Affairs and Family generally abolished the lunch subsidy for children aged 6 to 15 years. However, the subsidy was retained for children whose parents are not entitled to the increased tax bonus. The reason for this change was to ensure that parents who do not qualify for the tax bonus (who do not work or whose taxable income under Section 5 and Section 6(1) and (2) of the Income Tax Act is below 6 times the minimum wage) remain eligible for the lunch subsidy.

Please note that the Central Labour Office has also published a notice advising parents of children aged between 6 and 15 who are entitled to the increased tax bonus to prioritise the increased tax bonus over the subsidy, as, if a child receives a lunch subsidy under section 4(3)(c) of the Act on subsidies, **they will not be entitled to any tax bonus at all**.

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Amount of the tax bonus for children in 2021:

Tax bonus/month		
Child	**until 30/06/2021**	**01/07/2021-31/12/2021**
under 6 years	€ 46.44	€ 46.44
6 – 15 years	€ 23.22	€ 39.47
over 15 years	€ 23.22	€ 23.22

TOP 6: TWO-PILLAR SOLUTION TO ADDRESS THE TAX CHALLENGES ARISING FROM DIGITALIZATION

After years of negotiations, the overwhelming majority of OECD Inclusive members and all of the G20 members - 134 countries and jurisdictions – reached and endorsed a political agreement based on two pillars in July. This agreement will bring stability and predictability in the global corporate tax framework, and its success shows that multilateral cooperation is more effective than a multiplication of national measures.

The global solution will be based on two pillars:

- Pillar 2 will set a minimum effective corporate tax rate of at least 15% on a jurisdictional basis. It will apply to MNEs with a consolidated EUR 750 million revenue.
- Pillar 1 will define the reallocation of a part of the profits of the biggest global multinationals towards market jurisdictions. A portion of profits (20-30%) above a 10% profit margin of the world’s biggest and most profitable companies will be pooled at global level and then distributed to market jurisdictions where an MNE’s users and customers are located.

There are still several tax jurisdictions that have not joined the agreement yet – which includes a couple of EU Member States. The European Commission will spare no effort, so that a final agreement with all EU Member States on board can be reached in the course of the autumn. A final implementation plan is expected in October. This means that countries will need to adopt legislative changes by 2023.

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TOP 7: EXCHANGE OF INFORMATION ON CRYPTO-ASSETS AT THE DAWN OF DAC8

Recently, Bitcoin and other cryptocurrencies and crypto-assets have grown rapidly. Due to the heterogeneity in the rules that the EU Member States apply and the pseudo-anonymity of crypto-assets, there might be the risk of under-reporting or not reporting of taxable income, leading to revenue losses. Consequently, the EU Commission has decided to take action and has launched a public consultation to strengthen rules on administrative cooperation and expand the exchange of information in the area of e-money and crypto-assets. This public consultation is part of the process that will lead to the proposal for a new update (i.e., the Eighth) of the Directive on Administrative Cooperation (DAC), expected by the end of 2021.

The DAC update aims to expand its scope to crypto-assets and e-money, and it is included among the actions to be undertaken under the new tax package of the EU Commission adopted on 15 July 2020. The outcome of this public consultation is expected to help the Commission verify whether there is a need for an EU legislative measure aimed at targeting tax revenue losses due to the underreporting of income generated by crypto-assets and e-money.

The data obtained by the EU Commission through the public consultation will not only be fundamental in the design of the new DAC8 proposal but will also be used to assess the correct application of the VAT legislation.

TOP 8: SPEECH BY TAXUD DIRECTOR-GENERAL

On 22 September 2021, the TAXUD (Directorate General Taxation and Customs Union) Director-General Gerassimos Thomas has given a speech at the Annual Tax Conference of Finland Chamber of Commerce, focusing on the tax agenda of the EU in the years to come. In addition to the Two-pillar concept (see TOP 6) and BEFIT (see our Newsfilter 20212Q), he highlighted the importance of information exchange and international cooperation within EU. Below we summarize the most important information and plans presented.

Tax revenue lost due to cross-border VAT fraud amounts to EUR 50 billion/year in the EU. International tax evasion by individuals results in a tax revenue loss of EUR 46 billion/year for EU Member States. Moreover, it is estimated that EUR 30-70 billion is lost each year in corporate tax avoidance in the EU.

This needs to be fixed. By the end of the year, action will be taken to clamp down on the misuse of shell entities for tax purposes. Those entities with no or only minimal substance and economic activity continue to be of extensive use in some EU Member States and are often linked to aggressive tax planning, tax evasion or money laundering.

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The Commission proposal will create new tax transparency requirements and encompass actions such as denying tax benefits linked to the existence or use of shell entities.

Next to adapting legislation, also the way tax administrations work is being changed. Administrative cooperation and the automatic exchange of information have been at the heart of the EU's tax transparency agenda in the past years.

In the area of direct taxation, the revision of the directive on administrative cooperation, DAC7 has been adopted this year, to extend its scope to income derived from the growing platform economy. In addition, DAC8 is being prepared, to also cover crypto assets and e-money.

In the area of VAT, this concerns the exchange of payment data to fight VAT fraud – the Central-electronic system of Payment information will start to apply in 2024 at the latest.

Also the cooperation in the Eurofisc network will be strengthened in the coming years. More data and tools will be provided to Eurofisc in order to improve its functioning and to provide more signals/alerts to OLAF and Europol.

The exchange of information is a crucial and necessary element of tax transparency and tax fairness. Already its existence will have a deterring effect and thereby reduce tax evasion and avoidance practices. Protecting the financial interests of the EU and its Member States is more than ever a priority.

TOP 9: MAKING TAX DISPUTE RESOLUTION MORE EFFECTIVE

In May 2021, OECD published Stage 2 of MAP Peer Review reports for eight countries, including Slovakia.

Under Action 14 of BEPS Action Plan, countries have committed to implement a minimum standard to strengthen the effectiveness and efficiency of the mutual agreement procedure (MAP). MAP is included in Article 25 of the OECD Model Tax Convention and commits countries to endeavour to resolve disputes related to the interpretation and application of tax treaties.

In order to be fully compliant with an effective dispute resolution mechanism, Slovakia has signed and ratified the Multilateral Instrument. Through this instrument, a number of its tax treaties have been or will be modified. According to the peer review, Slovakia meets the Action 14 Minimum Standard concerning the prevention of disputes (it has a bilateral APA programme in place).

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It also meets the requirements regarding the availability and access to MAP and all the other requirements in relation to the resolution of MAP cases as well as the Action 14 Minimum Standard as regards the implementation of MAP agreements. As for the recommendations for improvement, Slovakia was recommended to take actions to ensure a timely resolution of MAP cases, so as to resolve them in a timely, efficient and effective manner.

TOP 10: OECD UPDATES TRANSFER PRICING COUNTRY PROFILES

In August 2021, the OECD published updated transfer pricing country profiles, reflecting the current transfer pricing legislation and practices of 20 jurisdictions, including Slovakia. These updated profiles also contain new information on countries' legislation and practices regarding the transfer pricing treatment of financial transactions and the application of the Authorised OECD Approach (AOA) to attribute profits to permanent establishments. The updated country profile of the Slovak Republic can be accessed here.

Updates of the transfer pricing profiles of further countries will be conducted in batches until the end of 2021 and throughout the first half of 2022.

USEFUL LINKS

Article from DenníkN – Economic Newsfilter (SK)
Annual Report on the Activities of Financial Administration for 2020 (SK)
Two-pillar solution to address the tax challenges arising from digitalization (EN)
New tax package of the EC of 15 July 2021 (EN)
Article Taxing the digital economy, International Tax Review (EN)
Speech by TAXUD Director-General (EN)
MAP Peer Review – Slovakia (EN)
Updated transfer pricing country profile – Slovakia (EN)
Defensive tax measures towards tax havens – by TAXAND (EN)
High-level group to lead reflection of future of EU Customs Union (EN)

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