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**mandat**  
TAX & AUDIT SERVICES

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**MANDAT news**

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**Amendment to the Income Tax Act in 2018**



## AMENDMENT TO THE INCOME TAX ACT IN 2018

We would like to draw your attention to an amendment to the Income Tax Act, which is under preparation and which should deal with, among other things, the so-called exit taxation (part 1 – tax objective).

**Amendment to the Income Tax Act in 2018**

The amendment introduces new provisions on acquisitions, mergers or divestitures of companies.

The purpose of the exit tax is to ensure that, if a taxpayer transfers its assets or changes its tax residence to a place outside the Slovak Republic, the economic value of all capital profits generated in our territory is subject to a tax in the territory of the Slovak Republic, although such profits have not been yet realized at the time of exit. The exit tax will be calculated using a special tax base and the tax rate of 21%. The subject of the taxation will be the assets transferred out of the territory of the Slovak Republic when it is not actually sold, i.e. where there is no change of the legal owner of such assets, but where by virtue of the transfer the Slovak Republic loses the right to tax such assets. Assets mean all assets under Act No. 431/2002 Coll., on Accounting, as amended, which are reported in the financial statements in the balance sheet. Assets also include intangible assets in the context of transfer pricing under the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administration. The date of transfer of assets and liabilities is considered to be the date of the transfer of assets, functions and risks or the date when the physical transfer of assets to a place outside the Slovak Republic occurs. The exit tax shall be calculated as the difference between the fair (market) value of the transferred assets and their tax value, i.e. the fiction of sale of such assets applies. This is the situation when:

- **Assets are transferred from the headquarters located in the Slovak Republic to a permanent establishment abroad, even when applying the offsetting method;**
- **Assets of a permanent establishment located in the territory of the Slovak Republic are transferred to the headquarters or to another permanent establishment in another state.**

The taxpayer shall include in the special tax base the difference between the fair value of the assets and the tax costs that would be applied if the sale of the assets had actually occurred.

In the offsetting method, the SR still has the right to tax the assets being transferred to a permanent establishment, but by applying the offsetting method, the assets are not effectively taxed in the territory of the Slovak Republic in view of the value generated in our territory.

The exit tax shall also apply when

- **The tax residence of a taxpayer is changed from the territory of the Slovak Republic to a place outside the territory of the SR; or**



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- **The taxpayer uses the permanent establishment to transfer its activities carried out in the territory of the Slovak Republic or any part thereof to another state.**

However, when transferring a tax residence or when transferring activities carried out by a permanent establishment in the territory of the Slovak Republic to another state, a transfer of liabilities takes place as well, and therefore the fiction of sale applies, while the taxpayer, when calculating the exit tax, proceeds, mutatis mutandis, as in the case of the sale of business or any part thereof pursuant to Section 17a. If a taxpayer uses double-entry bookkeeping system and reports its profit/loss according to IFRS, the taxation shall proceed as follows: fair value of the transferred assets and liabilities shall be included in the taxable income (the sale price is a part of the income when a business is sold) as well as the value of all liabilities (liabilities shall be reported as income when a business is sold). Sum of all assets is then deducted from this amount (when selling a business, assets are recognized as costs). The amount quantified in this manner (profit or loss) is subsequently adjusted for items listed in Section 17a(3) and (4). In the case of a taxpayer who calculates the tax base pursuant to Section 17(1)(a) and (d), the taxation shall proceed, mutatis mutandis, in accordance with Sections 17a(1) and (2).

The total amount of exit tax under the new provisions may not **be negative**, i.e. the exit tax cannot result in a tax loss.

Exit tax shall be calculated as the special tax base in the submitted tax return. This form of taxation is necessary due to specificities of paying of tax corresponding to the exit tax.



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## NOT TO BE MISSED

**Important dates**

Overview of important dates in the October 2017 can be found on our website: <http://www.mandat.sk>

## ABOUT US

The companies **MANDAT CONSULTING, k.s.** and **MANDAT AUDIT, s.r.o.** were founded in 2004 as tax advisory and auditing companies. Since their establishment, they have been providing small, medium-sized and companies active in Slovakia with services in the field of tax consultancy, audit and accounting. Long-lasting cooperation with foreign advisory companies hand in hand with the competence of Slovakian tax advisors and auditors enables us rendering our service to the clients originated from abroad.

In present time, 41 well trained members of our staff are at the disposal to our clients.

Information provided in this material are only of a cursory nature. **MANDAT CONSULTING, k.s.** assumes no liability for any decision taken on the basis of this issue.

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