Slovakia’s approved Amendment to Act no. 595/2003 Coll. on Income Tax (ITA) and approved Amendment to Act no. 222/2004 Coll. on Value Added Tax (VATA), bring significant changes to the tax laws, effective 1 January 2018, which may affect pharmaceutical companies. The most relevant of these changes are:

**Full tax exemption for meals provided during professional training**

The amendment fully exempts from withholding tax in-kind benefits in the form of meals provided to healthcare providers, their employees or healthcare workers (HCP) during accredited educational training or professional training, where such event is exclusively for educational purposes. However, benefits in the form of accommodation and transport will remain subject to the pharmaceutical withholding tax rate of 19%.

The tax exemption should already apply to meals provided at professional events held in 2017. Accordingly, the value of these meals, which was due to be reported in the in-kind benefits notification submitted in 2018 for benefits provided in 2017, will no longer be required in said notification.

**Change of deadline for filing an in-kind benefits notification form**

For in-kind benefits, the amendment extends the deadline for reporting obligations and changes the statutory period in which the tax from the received in-kind benefit should be paid. Specifically, the deadline by which the holder should
submit a notification of the provided in-kind benefits, is shifted from the original 15th day after the end of the calendar year to the end of the calendar month following the end of the calendar year, i.e., the holder is required to notify the tax authority of the provided in-kind benefits by the end of January of the following year.

However, the HCP is not required to file a notification of the received in-kind benefits by the end of the calendar month following the end of the calendar year. Instead they will have to meet their obligation within three calendar months following the end of the calendar year, i.e., the HCP is required to file a notification of the received in-kind benefits by the end of March. The same deadline applies to the HCP’s payment of tax from these benefits to the relevant tax authority.

Change of agent permanent establishment (PE) definition
The amendment extends the local definition of an agent PE, so that it covers taxpayers whose agent in the territory of the Slovak Republic has decisive influence in finalizing a contract, which is subsequently concluded by the foreign taxpayer without any substantial change.

Taking into account the common operational set-up of pharmaceutical companies, where the sale of products is carried out from abroad, while the local branch engages essentially in marketing activities, pharmaceutical companies should examine the relations between these entities with respect to the legislative change. In particular, they should examine more closely the manner and extent to which the local entity is involved in supporting sales of the pharmaceuticals. That is, whether the activities carried out by the marketing entity in Slovakia fulfill these new, less demanding conditions, triggering the establishment of a PE under local legislation.

Special VAT scheme applicable to accommodation and travel services
The approved amendment to the VATA extends the range of entities required to apply the special VAT scheme to include those:

a. Procuring goods and services for the purpose of a journey/travel from other taxable persons (accommodation and travel services).

b. Acting in their own name towards customers, whether they are taxable or non-taxable persons. According to the VATA provisions in effect until the end of 2017, this obligation applied only if the services were supplied to customers who were non-taxable or not acquiring the services for their business use.

It is important to note that this special scheme does not apply only to travel agencies and travel agents in the traditional sense, but to all VAT payers who procure travel services, such as accommodations and transport, in their own name. These services may also be procured as part of a bundle of services linked to the organization of an event, e.g., educational or marketing, where the costs are charged back to other companies in the group or to participants of the event. The special VAT scheme should be applied if there is a margin on these chargebacks, as well as in situations with a zero margin.

The obligation to apply a special VAT scheme not only brings an additional administrative burden to VAT payers related to the tracking and keeping of separate VAT records, but also a change in the method of determining the VAT base. However, the most significant change will be that VAT payers will not be able to deduct input VAT from the acquired goods and services linked to the accommodation and travel services. At the same time, since the issued invoices for the accommodation and travel services will not show any VAT, the recipient of these services will also not be able to deduct it. The supply of accommodation and travel services will, therefore, become more expensive as prices will increase by the amount of non-deductible VAT.

This is a fundamental change in the VAT treatment of this type of transaction under the Slovak VATA and many aspects of the practical application are currently not entirely clear. If it appears that the extension of the special VAT scheme to business to business transactions may also affect one’s business, taxpayers should address the impacts and planning alternatives with their local tax advisor.
For additional information with respect to this Alert, please contact the following:

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