

## News regarding the fifth round of tax reform

Brexit implications on VAT and UK nationals in Croatia  
Impact of COVID-19 on transfer prices



### Introduction

As we have announced in our last EY alert, we present you with the news regarding the amendments to the legislative acts which proposals of the amendments we have presented to you in our last EY Tax Alert issued on 30 October 2020.

In relation to the respective Tax Alert and the proposals of the amendments to the Personal Income Tax Act, the Corporate Income Tax Act, the Value Added tax Act, and the Act on Fiscalization in Cash Transactions presented in it, the enacted amendments contain certain differences.

The amendments of all the above-mentioned acts have been enacted by the Croatian parliament and published in the Official Gazette.

Hereafter, we present you with a summarized overview of the most important differences in relation to our EY Tax Alert of 30 October 2020.

In addition, we present you with the most important news regarding Brexit and the impact of the COVID-19 pandemic on transfer pricing.



### Personal Income Tax Act

The most important difference between the proposal and the final legislative act is the extension of the scope of the income on which the personal income tax is not payable to **income generated by natural persons who have obtained the digital nomad status** in accordance with the provisions of the Foreigners Act which enter into force on 1 January 2021. You can read more about the digital nomad status and the conditions of obtaining this status in our last EY Alert of 14 December 2020.



### Value Added Tax Act

With respect to the valued added tax, the enacted amendments to the legislative act provide for the option of postponed VAT accounting for imports (the same treatment as intra-Community acquisitions), if the taxpayer:

- ▶ is a registered VAT payer,
- ▶ has a right to deduct input VAT in full and
- ▶ requests this method of accounting by appropriately filling the customs declaration used for the release of the goods into free circulation.

The postponed VAT accounting will be applied to all imports of goods from 1 January 2021.

The fundamental difference in comparison to the proposal of the amendments to the Value Added Tax Act is simplifying the process of exercising the right to apply the postponed VAT accounting for imports.

Furthermore, if in the procedure of acceptance of the customs declaration the guarantee for customs debt is provided for a customs debt that has or could be incurred, the guarantee covers the amount of import VAT that has or could be incurred.

With the entry into force of the above-mentioned postponed VAT accounting system on 1 January 2021, the Bylaws regarding payment of the value added tax upon import of machines and equipment by a VAT return consequently ceases to be in force.



## Brexit effect on VAT

Until 31 December 2020, the transitional period established by the Withdrawal Agreement has been in force, i.e., until the respective date the rules and procedures regarding taxation and customs have not changed.

From 1 January 2021, rules and procedures regarding taxation that are **applied towards third countries** will be applied in the relations between the European Union ("EU") and the United Kingdom ("UK"), and the result of this future status of the UK are the following rules which eliminate certain uncertainties:

- ▶ from 1 January 2021, **VAT rules regarding the import, respectively the export** will be applied to supplies of goods between the EU Member States and the UK. Taxpayers will be obligated to pay VAT upon the import of goods from the UK to the EU, and a customs procedure will be mandatory when exporting the goods from the EU to the UK.
- ▶ if the transport of goods from the EU starts before 31 December 2020, and **the goods arrive in the UK after 31 December 2020**, it is considered that the supplier made an intra-Community supply. If the transport of goods from the UK begins before 31 December 2020, and **the goods arrive in the EU after 31 December 2020**, it is considered that the recipient performed an intra-Community acquisition.
- ▶ VAT refund claims related to the VAT paid **in the period up to 31 December 2020** by a taxpayer established in the EU are submitted via the electronic system of the Tax Authorities **by 31 March 2021 at the latest**. The conditions for the refund of the respective VAT remain the same as before Brexit.
- ▶ VAT refund claims related to the VAT paid **in the period from 1 January 2021** by a taxpayer established in the EU will be able to be realized in accordance with the VAT refund procedure for third countries. The Republic of Croatia and the UK have confirmed reciprocity in the area of VAT refund **and the UK has confirmed that it will continue to refund VAT to the Croatian taxpayers after the expiry of the transnational period**.
- ▶ finally, please note that the **EU VAT rules regarding goods** will continue to apply to Northern Ireland **after 31 December 2020**. Transactions regarding goods that will be performed between Northern Ireland and the other EU Member States will still be considered as intra-Community transactions. However, all VAT exceptions related to Northern Ireland are applied exclusively to the supplies of goods. With respect to the supplies of services, Northern Ireland will be considered as a third country, as well as the other parts of the UK.





## The impact of the COVID-19 on transfer pricing

On 18 December, the Organization for Economic Cooperation and Development (OECD) has issued the **Guidance on the transfer pricing implications of the COVID-19 pandemic** (hereafter "Guidance"), which represents the consensus view of the 137 members of the Inclusive Framework on BEPS regarding the application of the arm's length principle and the OECD Transfer Pricing Guidelines to issues that may arise or be worsened in the context of the COVID-19 pandemic. The Guidance is helpful both for taxpayers in reporting for the financial periods affected by the pandemic and for tax administrations in evaluating the implementation of taxpayers' transfer pricing policies. The Guidance provides clarifying comment on, and illustrations of, the practical application of the arm's length principle in four priority issues that are the result of the COVID-19 pandemic:

- ▶ **comparability analysis,**
- ▶ **losses and the allocation of COVID-19 specific costs,**
- ▶ **government assistance programs and**
- ▶ **advance pricing agreements.**



## The Brexit impact on UK nationals and residing in Croatia

The Croatian Parliament has enacted the Act on the amendments to the Act on European Economic Area nationals and their family members which provisions enter into force on 1 January 2021, apart from the provisions regarding administrative sanctions that enter into force on 1 July 2021.

UK nationals who have exercised their right to reside in Croatia in accordance with Union law before 31 December 2020 and continue to reside in Croatia following that date, retain the right to regulate their temporary or permanent stay according to the respective Act. The instructive deadline to submit the application for a temporary or permanent stay is **6 months from 1 January 2021, i.e., from the entry into Croatia of the UK national**, depending on certain circumstances. The respective UK nationals will have the right to regulate their temporary or permanent stay even after the expiry of the deadline valid for them, however, in that case, they could be fined.

EY | Assurance | Tax | Strategy and Transactions | Consulting

### About EY

EY is a global leader in assurance, tax, strategy and transaction, and consulting services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation are available via [ey.com/privacy](https://ey.com/privacy). For more information about our organization, please visit [ey.com](https://ey.com).

© 2020 Ernst & Young Advisory LLC  
All Rights Reserved.

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, or other professional advice. Please refer to your advisors for specific advice.

Ernst & Young Advisory LLC  
Radnička cesta 50, 10 000 Zagreb, Croatia  
Tel: + 385 1 5800 800 Fax: +385 1 5800 888  
[ey.com/hr\\_hr](https://ey.com/hr_hr)