

## ACT

of 12 October 2016

**amending and supplementing Act No. 442/2012 Coll. on International Assistance and Cooperation in Tax Administration, as amended by Act No. 359/2015 Coll., and amending and supplementing Act No. 359/2015 Coll. on Automatic Exchange of Financial Account Information in the Field of Taxation and on Amendments and Supplements to Certain Acts**

The National Council of the Slovak Republic has adopted the following Act:

**Section I**

Act No. 442/2012 Coll. on International Assistance and Cooperation in Tax Administration, as amended by Act No. 359/2015 Coll. shall be amended and supplemented as follows:

1. In Article 2, letter (h) shall read as follows:  
“h) automatic exchange of information means the systematic communication of predefined information, without prior request, at pre-established regular intervals;”.
2. In Article 2, there shall be inserted letters (k) through (m) which shall read as follows:  
“k) advance ruling means
  1. an advance ruling issued according to a special regulation<sup>4a)</sup> and relating to a cross-border transaction;
  2. a decision on the approval of the use of a specific method of setting the tax base of a permanent establishment issued according to a special regulation;<sup>4b)</sup> or
  3. a decision on the approval of advance pricing arrangements issued according to a special regulation;<sup>4c)</sup>l) an entity means a legal person, a legal arrangement of assets or a legal arrangement of persons without legal personality or any other legal arrangement owning assets or managing assets which, including income derived therefrom, are subject to any of the taxes covered by this Act;  
m) cross-border transaction means
  1. a transaction where
    - 1a. at least one of the parties to the transaction is not resident for tax purposes in the Slovak Republic;
    - 1b. any of the parties to the transaction is simultaneously resident for tax purposes in several jurisdictions; or
    - 1c. one of the parties to the transaction carries on business in another jurisdiction through a permanent establishment and the transaction forms part or the whole of the business of the permanent establishment;
  2. an act made by an entity in respect of business activities in another jurisdiction which that entity carries out through a permanent establishment;
  3. a transaction that has a cross-border impact;
  4. the cross-border making of investments, the cross-border provision of goods, services, finance, or the cross-border use of tangible or intangible assets which does not have to directly involve the entity receiving the advance ruling; or

5. a transaction between related parties<sup>4d</sup>) that are not all residents for tax purposes in the territory of one jurisdiction or a transaction that has a cross-border impact in the case of decisions pursuant to the second and third points of letter (k).”.

Footnotes to references 4a through 4d shall read as follows:

“Articles 53a through 53c of Act No. 563/2009 Coll., as amended by Act No. 435/2013 Coll.

<sup>4b</sup>) Article 17(7) of Act No. 595/2003 Coll. on Income Tax, as amended.

<sup>4c</sup>) Article 18(4) of Act No. 595/2003 Coll., as amended.

<sup>4d</sup>) Article 2(n) of Act No. 595/2003 Coll., as amended. “.

3. In Article 7(1), the words “a natural person, legal person or other entity owning assets or managing assets which, including income derived therefrom, are subject to any of the taxes covered by this Act (hereinafter referred to as “person”)” shall be replaced by the words “a natural person or an entity”.
4. Article 7(4) shall be deleted.

The existing paragraph 5 shall be marked as paragraph 4.

5. Article 8, including its heading, shall read as follows:

**“Article 8  
Automatic Exchange of Advance Rulings**

(1) No later than within three months after the end of the calendar half-year during which advance rulings were issued, amended or renewed, the competent authority of the Slovak Republic shall communicate information thereon to the competent authorities of Member States and to the European Commission, excluding the advance rulings pursuant to the second and third points of Article 2(k) agreed on the basis of international agreements with jurisdictions that are not Member States (hereinafter referred to as “the non-member State”), unless otherwise provided for in paragraphs 3 and 4 and in Article 9(5).

(2) The information pursuant to paragraph 1 shall include, in particular:

- a) the identification data of the entity and the group of entities to which it belongs, at least in the scope of name or business name, identification number and registered office;
- b) a general summary of the content of the advance ruling, including a description of the relevant business activities or transactions, which does not lead to the violation of commercial secrecy, industrial property or other intellectual property rights, or professional secrecy or to the disclosure of a commercial process, or of information whose disclosure would be contrary to public policy;
- c) the date of issuance, amendment or renewal of the advance ruling;
- d) the start date of the period of validity of the advance ruling referred to the second or third points of Article 2(k);
- e) the end date of the period of validity of the advance ruling referred to in the second or third points of Article 2(k);
- f) the type of advance ruling;
- g) the amount of the transaction to which the advance ruling relates if such amount is referred to in the advance ruling;

- h) the description of the set of material conditions for the application of a particular method<sup>12a)</sup> in the case of the advance ruling pursuant to the second or third points of Article 2(k);
  - i) the identification of a particular method<sup>12a)</sup> in the case of the advance ruling pursuant to the second or third points of Article 2(k);
  - j) the identification of the Member States concerned likely to be concerned by the advance ruling;
  - k) the identification of entities in Member States likely to be affected by the advance ruling, indicating to which Member States the affected persons are linked;
  - l) the communication whether the information is provided from the advance ruling or from a request pursuant to a special regulation.<sup>4c)</sup>
- (3) The information under letters (a), (b), (h) and (k) of paragraph 2 shall not be communicated to the European Commission.
- (4) If the international agreement under which the advance ruling pursuant to the second or third points of Article 2(k) was agreed with a non-member State, does not allow disclosure of information to third parties, the competent authority of the Slovak Republic shall communicate the information pursuant to paragraph 2 resulting from a request according to a special regulation<sup>4c)</sup> to the competent authorities of Member States and the information pursuant to paragraph 2(c) through (g), (i), (j) and (l) resulting from a request according to a special regulation<sup>4c)</sup> to the European Commission.
- (5) If the competent authority of the Member State identified the Slovak Republic pursuant to paragraph 2(j) as the Member State concerned, the competent authority of the Slovak Republic shall confirm, by electronic means, the receipt of the information to the competent authority of a Member State which provided the information no later than within seven days after the receipt.
- (6) The competent authority of the Slovak Republic shall communicate to the competent authority of a Member State, on the basis of the latter's request, additional information relating to the advance ruling, including the full text of the advance ruling. The competent authority of the Slovak Republic may request additional information, including the full text of the advance ruling, from the competent authority of a Member State.”.

Footnote to reference 12a shall read as follows:

“<sup>12a)</sup> Article 18(1) through (3) of Act No. 595/2003 Coll., as amended.”.

- 6. In Article 9(1)(b), the words “a person was exempt” shall be replaced by the words “a natural person or an entity were exempt” and the word “to it” shall be replaced by the words “to them”.
- 7. Paragraph 5 shall be added in Article 9 which shall read as follows:  
“(5) The competent authority of the Slovak Republic shall provide the competent authority of a Member State, without the latter's request, the advance ruling pursuant to the second and third points of Article 2(k) agreed with a non-member State if the international agreement, under which the advance ruling was agreed, allows disclosure of the advance ruling to third parties and the competent authority of a non-member State has given its consent to the disclosure of information.”.
- 8. In Articles 11, 12, 13, Article 17(1) and Article 19, the word “person” in all grammatical forms shall be replaced by the words “natural person or entity” in the relevant grammatical form.

9. In Article 17(3), the words “pursuant to Articles 7, 9, 10 and 13” shall be replaced by the words “pursuant to Articles 7 through 10, Article 13 and Article 20(3)”.
10. In Article 17(4), the words “a person that is believed to possess” shall be replaced by the words “a natural person or an entity that are believed to possess” and the words “about such person” shall be replaced by the words “about such natural person or an entity”.
11. In Article 17(5), after the word “CCN” there shall be inserted the words “and the central directory on administrative cooperation in the field of taxation”.
12. Paragraph 3 of Article 20 shall read as follows:  
“(3) The competent authority of the Slovak Republic shall annually communicate to the European Commission a yearly assessment of the effectiveness and the results achieved of the automatic exchange of information pursuant to Articles 7 and 8.”.
13. After Article 24, there shall be inserted Article 24a which, including its heading, shall read as follows:

**“Article 24a  
Interim Provisions to Amendments Effective from 1 January 2017**

- (1) Before 31 December 2017, the competent authority of the Slovak Republic shall communicate to the competent authority of a Member State the information pursuant to Article 8(2) in the wording effective from 1 January 2017 and to the European Commission the information pursuant to Article 8(2)(c) through (g), (i), (j) and (l) in the wording effective from 1 January 2017 on advance rulings issued, amended or renewed in the period
    - a) from 1 January 2012 until 31. December 2013, unless they were cancelled or lost their effect as at 1 January 2014;
    - b) from 1 January 2014 until 31 December 2016.
  - (2) Before 31 December 2017, the competent authority of the Slovak Republic shall provide the European Commission with statistics on the volume of automatic exchanges under Articles 7 and 8 in the wording effective from 1 January 2017 and information on the administrative and other relevant costs, benefits and changes relating to exchanges that have taken place, if they are available to the competent authority of the Slovak Republic.
  - (3) The procedure pursuant to Article 8(5) in the wording effective from 1 January 2017 shall be applied no later than until the establishment of the central directory on administrative cooperation in the field of taxation.”.
14. In Annex, there shall be inserted point five which shall read as follows:  
“5. Council Directive (EU) 2015/2376 of 8 December 2015 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation (OJ EU L 332, 18.12.2015).”.

## **Section II**

Act No. 359/2015 Coll. on Automatic Exchange of Financial Account Information in the Field of Taxation and on Amendments and Supplements to Certain Acts shall be amended and supplemented as follows:

1. In Article 6(2)(a), the initial sentence shall read as follows:  
“Reportable person means a person from another Member State or a person from a Contracting State, including a person under the conditions pursuant to a generally binding legal regulation issued according to Article 7(2) other than”.
2. In Article 8(2), in letter (a) there shall be inserted point five which shall read as follows:  
“5. other data stipulated by a generally binding legal regulation issued according to Article 7(2);”.
3. After Article 9, there shall be inserted Article 9a which, including its heading, shall read as follows:

### **“Article 9a**

#### **Yearly Assessment of the Automatic Exchange of Information between Member States**

The competent authority of the Slovak Republic shall annually communicate to the European Commission a yearly assessment of the effectiveness and the results achieved from the automatic exchange of information.”.

4. In Article 22, paragraph 7 shall read as follows:  
“(7) The Reporting Financial Institution may ensure the fulfilment of due diligence procedures and reporting procedures by means of service providers acting on its behalf. The Reporting Financial Institution shall be responsible for the fulfilment of the due diligence and reporting procedures.”.

Footnote to reference 15 shall be deleted.

5. After Article 24, there shall be inserted Article 24a which, including its heading, shall read as follows:

### **“Article 24a**

#### **Interim Provisions to Amendments Effective from 1 January 2017**

Before 31 December 2017, the competent authority of the Slovak Republic shall provide the European Commission with statistics on the automatic exchanges between Member States and information on the administrative and other relevant costs, benefits and changes relating to exchanges that have taken place, if they are available to the competent authority of the Slovak Republic.”.

6. The text of the Annex shall be marked as point 1 and shall be supplemented with point 2 which shall read as follows:  
“2. Council Directive (EU) 2015/2376 of 8 December 2015 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation (OJ EU L 332, 18. 12. 2015).”.

### **Section III**

This Act shall enter into force on 1 January 2017.