



## NEWSLETTER 3/2018

**11 countries. 11 tax systems.**

**The year 2018 brings extensive changes in the areas of taxes, duties and social contributions in all CEE and SEE countries. This special newsletter covers essential changes effective as of 2018.**

**TPA offers an overview of the most important tax innovations in the following CEE and SEE countries in which we operate:**

<b>1. Albania</b> .....	<b>1</b>
<b>2. Austria</b> .....	<b>2</b>
<b>3. Bulgaria</b> .....	<b>3</b>
<b>4. Croatia</b> .....	<b>4</b>
<b>5. Czech Republic</b> .....	<b>5</b>
<b>6. Hungary</b> .....	<b>5</b>
<b>7. Poland</b> .....	<b>6</b>
<b>8. Romania</b> .....	<b>7</b>
<b>9. Serbia</b> .....	<b>8</b>
<b>10. Slovakia</b> .....	<b>9</b>
<b>11. Slovenia</b> .....	<b>10</b>

### **1. Albania**

#### **1.1. Tax incentives for the tourism industry**

The Albanian Parliament has approved new changes in the Law on Tourism whereby new tax incentives have been created for selected categories of investors. In order to obtain the special status, investors in four-star and five-star hotels have to fulfill certain conditions as stipulated specifically in the Law on Tourism. In order to qualify as a four-star and five-star hotel holder of a special status, the investment value has to be at least EUR 8 million and EUR 15 million respectively.

Starting from 1st January 2018, all services offered by the above mentioned four-star and five-star hotels, that have a special status as well as being holders of a trade registered mark or brand of hotel as defined in the Law on Tourism, are subject to a reduced VAT rate of 6 %. Currently, any company offering services in tourism, regardless of the hotel category, is only allowed to grant the reduced rate of 6 % for accommodation services.

In addition, four-star and five-star hotels are exempt from corporate income tax (CIT) for a period of 10 years provided they have met the criteria for obtaining the special status no later than December 2024. A decision of the Council of Ministers will determine the terms, conditions and procedures for implementing this provision.

Four-star and five-star hotels holding the special status are exempt from real estate and infrastructure tax.

## NEWSLETTER 3/2018

### 1.2. Tax incentives for IT companies

Starting from 1st January 2018, the CIT rate for entities operating in the Information Technology (IT) sector and dealing with software development is reduced from 15 % to 5 %. This incentive is expected to attract new and/or international software development companies to register in Albania. In addition, reduced customs duty rates will apply on the import of equipment and devices used in the course of IT business activity. Activities to be considered as related to the software development will be determined separately in a decision by the Council of Ministers.

## 2. Austria

**At the beginning of 2018 only a few changes came into force in Austria, mostly due to the termination of the old coalition in the middle of 2017.**

### 2.1. Government programme

The government programme included several fiscal measures. Among others, there is to be a structural tax reform which is to particularly include the following aspects:

- Unification of the financial statements according to commercial and tax law
- Simplification of the determination of the taxable income for partnerships
- Taxation irrespective of legal form
- Reduction of income categories
- Reduction of exceptions and special provisions
- Reform of extraordinary expenses as well as special expenses
- Reformation of the tax scale – especially in order to decrease the tax burden of little and lower incomes (the abolition of the sly progressive taxation is being examined as well)

In order to decrease the tax burden of companies and its labour factor, the following measures should be put in place:

- Reduction of CIT on non-distributed profits for SMBs
- Reduction of VAT on accommodation from 13 % to 10 %
- Reactivation of the regulations concerning repayment of contribution
- Decrease of non-wage labour cost
- Simplification of business transfers

Furthermore it is intended to simplify and modernize payroll accounting. The actual changes remain to be seen.

### 2.2. Register of economic owners

Disclosure of data concerning the (direct or indirect) economic owners of certain legal entities (especially particular companies, foundations and trusts). Reports have to be made by June 1st, 2018. Besides certain occupational groups, public authorities can access the register.

In case of a violation of the reporting obligations, penalties up to EUR 200,000 can be imposed.

### 2.3. Social insurance assignment law

The purpose of this law, which came into force on July 1st, 2017, is to reduce uncertainties concerning the classification of self-employment or employment. This is being accomplished by the application of three procedures (insurance classification upon application, wage related audits with involvement from SVA/SVB, pre-assessment).



## NEWSLETTER 3/2018

### 2.4. Property term

As of January 1st, 2017 there is an extended property term regarding VAT. Now in particular equipment on/in a property can be part of the property.

### 2.5. Research premium

The research premium has been increased from 12 % to 14 %.

## 3. Bulgaria

### 3.1. Amendments to the Tax Insurance Procedure Code (TIPC) – Country-by-Country Report

In particular those amendments of the TIPC which were made public in August 2017 create new rules regarding the automatic exchange of information between countries in which the multinational companies (MNE) are active. This information includes data for the classification of incomes, profits, assets and the taxes paid in each country. Basically the Country-by-Country Report is to be submitted in the state of that company which prepares the consolidated financial statements of the group. This report is subsequently to be exchanged with those countries in which the group has its affiliate companies. The reporting obligation affects those companies whose turnover in the fiscal year exceeds EUR 50 million or EUR 750 million respectively, if the parent company is not located in Bulgaria.

The company located in Bulgaria has to notify the NRA of its status as ultimate parent company, substitute of the ultimate parent company and/or group company, as well as to provide information about the entity that is submitting the Country-by-Country Report, including the tax jurisdiction in which that entity is located. The notification to the tax authorities has to be made no later than the last day of the MNE's fiscal year. The notification for 2016 has, however, to be filed no later than 31.12.2017

### 3.2. New deadline for compulsory VAT registration

The deadline for compulsory VAT registration on the basis of taxable turnover of BGN 50,000 or higher has been reduced from 14 to 7 days. This time frame begins at the end of the tax period in which the threshold was exceeded. If this threshold value has already been reached after less than 2 months, then the VAT registration is necessary within 7 days of reaching the threshold value. If no registration takes place within the specified time frame, the tax payer is nevertheless liable for the VAT on the turnover that exceeds this threshold value. This applies also for supplies subject to reverse charge in Bulgaria.

Consortiums are obliged to register for VAT within 7 days of legally establishing the partnership, providing that at least one of the partners is registered for VAT.

### 3.3. New simplified procedure for initial VAT registration

The amended VAT Act provides the tax payers with the possibility of registering for VAT voluntarily upon initial registration in the Trade Register. The option will be available for online registrations. Additionally the online system will be improved so that the necessary documents for the registration can be attached online. The option shall be available as of 01.01.2019.

### 3.4. Corporate Income Tax Act

As of 01.01.2018 the only option for filing corporate tax returns will be electronically (i.e. online). In addition, tax payers who do not practise any business activity during the fiscal year are released from the obligation to file an annual tax return.

## NEWSLETTER 3/2018

### 3.5. Minimum salary and maximum social insurance base

As of 01.01.2018 the minimum monthly salary will be BGN 510 (EUR 261). The maximum social insurance base remains unchanged at BGN 2,600 (EUR 1,329) monthly.

## 4. Croatia

### 4.1. Value Added Tax

- It is possible to deduct 50 % of input VAT when purchasing and leasing passenger vehicles and other means of passenger transport for amounts exceeding HRK 400.000 per vehicle (including all related costs).
- Threshold for VAT registration is increased to HRK 300,000 (ca. EUR 40,000).
- For taxpayers who import machinery and equipment listed in Addendum to VAT Act with a value exceeding HRK 1million, the reverse charge mechanism would apply.

### 4.2. Personal Income Tax

- Accommodation and food that employers provide for employees with fixed term seasonal employment agreements, and who perform their work in a location which is not their place of residence or habitual abode is no longer considered as income. In order to apply this exemption, costs of accommodation and food must be invoiced to the employer and cannot be paid in cash.
- Water and other non-alcoholic drinks provided by an employer to its employees during working hours free of charge are not considered a taxable benefit in kind.
- Changes to the taxpayers' Tax Card (PK) can be made electronically.
- The annual limit for non-taxable benefits in kind amount (gifts, services/goods provided without remuneration etc.) to employees is increased from HRK 400 to HRK 600.
- The RPO form for taxpayers who receive income from abroad can also be filed by the employer and not only by the taxpayer.

### 4.3. Corporate Income Tax

- Non-deductible vehicle costs have been increased from 30 % to 50 %, so the tax base will be increased to 50 % of the vehicle costs.

### 4.4. DTT Kosovo

- The Double Tax Treaty (DTT) between Croatia and Kosovo came into force on 4th December 2017 and became effective on 1st January 2018.
- The applicable tax rates according to the DTT are as follows:
  - Dividend:
    - 5 % if the beneficial owner holds at least 25 % of the shares
    - 10 % in all other cases
  - Interest: 5 %
- Eligible tax residents of Croatia and Kosovo will be able to enjoy preferential DTT rates as of 1st January 2018.



## NEWSLETTER 3/2018

### 5. Czech Republic

#### 5.1. VAT

As of 1st July 2017 an amendment to the VAT Act, which has had various effects, has been in force. This amendment ends the special rules given in the VAT Act for partnerships (not legal persons). These partnerships are very common above all in the construction business where construction companies conclude such partnerships in order to be able to take part in tenders for building projects. With effect from 1st July 2017 all special rules regarding VAT registration, the application of VAT on supplies for customers, as well as members of the partnerships, have been abolished. Now the standard VAT regulations in the VAT Act apply. The amendments to the VAT Act also brought changes to the input tax deduction. In the case of a supply (sale) of fixed assets, the input tax deduction (if the conditions for this are met) now has to be adjusted in the period when the supply (sale) occurred instead of at the end of the year.

A new approach in the case of unproved losses, damages or thefts of assets and/or stock has been introduced. The amendment puts the Czech VAT Act in line with the EU Directive and specifies that in these cases the original input tax deduction has to be corrected. This provision might lead to some application difficulties for tax payers, which is why the choice of methods should be made carefully.

#### 5.2. Legal information for business establishments

As of 1st January 2018 taxpayers have a new possibility to apply for legal information regarding the applicable method for determining the tax base of business premises or subsidiaries of a foreign company in the Czech Republic. This information corresponds to the official standpoint of the tax authorities on the method for determining the tax base. For these individual enquiries there is an administrative fee in the amount of CZK 10,000 (EUR 377).

#### 5.3. 3. Personal Income Tax – Business or Rental/Leasing Revenue

The maximum threshold for the application of the flat-rate base was reduced from CZK 2 million to CZK 1 million as of January 1st 2018. Depending on the type of income, a flat-rate amount of 30 / 40 / 60 / 80 % can be applied as operating expenditure, up to a maximum however of CZK 1 million (EUR 37,679).

### 6. Hungary

#### 6.1. Corporate income tax – Disclosed shareholdings

According to the provisions of the Act on corporate income tax effective up to 2017, if the taxpayer acquires a shareholding of at least 10 % in a Hungarian or a foreign corporation and discloses the acquisition within 75 days to the Hungarian tax authority, the gains on the disposal of the disclosed shareholding, after a holding period of at least 1 year, are exempt from the 9 % corporate income tax. According to the amended rules effective from 2018, the 10 % threshold for shareholding rate is no longer a basic prerequisite: the disclosure to the tax authorities, and as a consequence the tax exemption on the gains from the disposal after the holding period of 1 year, can be used for all acquisitions independent of the shareholding rate.

#### 6.2. Transfer pricing documentation

The Hungarian Ministry of Economics has issued a new decree on the rules for transfer pricing documentation. The new provisions have to be implemented for documentation prepared for the tax years from 2018. Until 2017 the transfer pricing documentation, which had to be prepared by the Hungarian tax payer, had to contain a Local File with information on the agreements made between the tax payer and the associated company. Optionally the transfer price documentation could also include a Master File containing basic information on the whole group of companies. As a result of the change in the law, not only the Local File but also the Master File are now obligatory components of the transfer pricing documentation.

## NEWSLETTER 3/2018

### 6.3. Value added tax – invoice data reporting

From 01.07.2018 those entrepreneurs who issue invoices with Hungarian VAT in the amount of at least HUF 100,000 (ca. EUR 320), are obliged to immediately report the data electronically to the Hungarian tax authorities, if the invoices are issued electronically by an accounting programme. Data relating to subsequent invoice modifications or cancellations is to be reported in the same way. The IT standards that have to be taken into consideration regarding form and minimum content are also regulated in a decree from the Hungarian Ministry of Economics.

From 01.07.2018 those entrepreneurs who do not use a software programme to issue invoices are also obliged to report invoice data (VAT amount over HUF 100,000 (ca. EUR 320) to the tax authorities. Information regarding the client's tax number, the VAT amount to be paid, and the assessment basis, the invoice number and the date have to be reported with the help of a pre-printed form as part of the due VAT advance return. According to Hungarian law, invoices can only be issued in one of the two ways mentioned above. In this way the Hungarian tax authorities receive precise data on business transactions made, with a VAT amount exceeding 100,000 HUF (ca. 320 EUR).

## 7. Poland

### 7.1. Corporate Income Tax

The beginning of 2018 has seen a major amendment of the tax CIT law. One of the biggest changes has been the introduction of new source of revenues in the form of capital gains; income derived from this source is now separated from the remaining income and, hence, two types of CIT income sources exist in Poland – capital gains and income from business activity as well as special branches of agriculture. Income from these two sources is calculated independently; loss set-offs and carry-forwards are possible only within each of the two income sources. Note that this does not apply to banks and other financial institutions.

Furthermore, the CIT law amendments are aimed at implementing the EU Anti-Tax Avoidance Directive (ATAD), namely in the area of:

- Thin capitalization which is regulated in a new and revolutionary way – the limitations now apply to financing received from both related and unrelated parties, including banks or other financial institutions. The surplus of debt financing costs exceeding 30 % of EBITDA set according to criteria from the tax law may not be recognized as tax-deductible costs, though it may be settled within the next five years, taking into consideration all of the limitations. However, the thin cap limit does not apply to the surplus not exceeding PLN 3 million and to financial enterprises.
- Controlled Foreign Corporations (CFC) – first of all, establishing whether a foreign entity holds a status of a CFC is now dependent on (i) the actual amount of tax collected in the country of CFC taxation which is to be compared to the hypothetical taxation in Poland; (ii) whether a Polish taxpayer holds, on its own or with its related entities, at least 50 % shares in a foreign entity; (iii) at least 33 % of the entity's income is derived from passive sources (the law includes a list of these). Furthermore, the criterion of whether a CFC runs a real business activity, and is therefore not taxed as a CFC, is altered and set as a comparison of real business activity's revenues to all revenues of a foreign entity.

Yet another significant change is the introduction of the upper limit of recognizing the costs of immaterial services as tax-deductible costs. Such costs, incurred directly or indirectly, for the benefit of related parties or entities situated in jurisdictions with harmful tax competition may not be recognized for tax purposes in the amount exceeding 5 % of EBITDA. The limitation does not apply to costs not exceeding PLN 3 million. The catalogue of services affected includes, inter alia, advisory, marketing, management, control and similar services as well as payments for the use of fictitious and legal assets.

## NEWSLETTER 3/2018

Last but not least, the following changes in the CIT law are worth mentioning:

- R&D concession – from 2018 onwards, it has been further liberalised to include 100 % of all qualified costs, or even 150 % for R&D Centres. The catalogue of qualified costs now includes, inter alia, civil law contracts. Taxpayers operating in Special Economic Zones may make use of the R&D concession, but need to observe limitations.
- Mezzanine capital – interest derived on the subordinate debt is no longer tax-deductible.
- Debt-push-down – now interest on debt financing related to the acquisition of shares in a merged company cannot be deducted from the acquiring company's income.
- One-time amortization of fixed assets as well as fictitious and legal assets – the upper limit has been raised to PLN 10 thousand.

### 7.2. Personal Income Tax

Most of the above amendments refer to the Personal Income Tax, too, e.g.

- Changes in CFC regulations.
- R&D concession.
- One-time amortization.

### 7.3. Minimum Income Tax

A brand-new minimum income tax, either minimum CIT or PIT respectively, has been launched. It applies to owners of commercial real estates located in Poland the value of which exceeds PLN 10 million and regards revenues derived from such commercial real estate. Its monthly rate amounts to 0.035 % of the tax base which is the initial value of the commercial building.

## 8. Romania

**Amendments to the tax legislation. Certain amendments to the tax legislation enter into force in 2018:**

### 8.1. Corporate income tax

- Deductibility of financing costs: financing costs (e.g. interest, interest capitalised in the value of assets, notional interest under derivative financial instruments, financing commissions, foreign exchange gains etc.) may be deducted up to a limit of Euro 200 thousand, while excess amounts may be deducted up to the limit of 10 % of the borrower's gross profit adjusted for certain items (minus non-taxable income, add back financing costs and tax depreciation). If the calculation basis for the 10 % deductibility limit is negative or zero, the financing costs are non-deductible in the current period but may be carried forward over an indefinite period.

These restrictions do not apply to taxpayers that are not part of a group and have no affiliates or permanent establishments.

As of the date of this brochure, taxpayers are waiting for the introduction of more favourable limitations.

### 8.2. VAT

- VAT registration threshold: the European Union Council approved the increase of the VAT exemption threshold from EUR 65,000 to EUR 88,500 (equivalent in local currency: from RON 220 thousand to RON 300 thousand). This new threshold is to be applied for the period up to 31st December 2020, after it will be approved by law.



## NEWSLETTER 3/2018

- Split VAT mechanism: as from 2018, the following VAT registered entities are required to open and use at least one bank account dedicated to the collection and payment of VAT:
  - Entities which, at the end of 2017, recorded overdue VAT liabilities higher than: (i) EUR 3,000 for large taxpayers, (ii) EUR 2,000 for medium size taxpayers and (iii) EUR 1,000 for small taxpayers, that were not paid until 31st January 2018;
  - As of 1st January 2018, record VAT liabilities overdue by more than 60 days (above thresholds apply);
  - Are under insolvency procedures.

Other VAT taxable persons may opt to apply the VAT split mechanism (they may benefit from 5 % reduction of the corporate income tax / micro-enterprise income tax due for the related period). VAT payments to suppliers enrolled in Split VAT should be made to their VAT dedicated account.

### 8.3. Tax on income derived by microenterprises

- The income threshold beneath which a legal person is required to apply the micro-enterprises tax regime has been increased from EUR 500,000 to EUR 1,000,000 for all companies, irrespective of their type of business (exception: companies under liquidation). As at the date of this brochure, taxpayers await the enactment of the possibility to opt for profit tax (under certain conditions).

### 8.4. Social contributions and personal income tax

- As of 1st January 2018, pension insurance contribution (25 %) and health insurance contribution (10 %) will be deducted from the gross salary. The employer will no longer bear social insurance costs, except for a 2.25 % work insurance contribution applied on the gross salary.
- Freelancers will generally be liable to pay contributions (pension fund – 25 % and health insurance – 10 %) on the monthly gross minimum salary (around Euro 415 in 2018). Investment income is to be subject to 10 % health insurance contribution on the monthly minimum gross salary.
- Personal income tax rate drops from 16 % to 10 % (exception: dividend income which remains subject to 5 % tax rate).

## 9. Serbia

### 9.1. Value Added Tax (VAT) Law amendments applicable as of 1st January 2018

- The supply of goods and services carried out within the implementation of the public & private partnerships contracts with elements of concessions between the grantor of concession and concessionaire is not subject to VAT under specified conditions;

### 9.2. Value Added Tax (VAT) Law amendments applicable as of 1st April 2018

- The new special taxation regime will be introduced for the supplies of investment gold;

### 9.3. Value Added Tax Law (VAT) amendments applicable as of 1st July 2018

- All taxpayers will be obliged to submit detailed breakdown of the VAT together with the VAT return;



## NEWSLETTER 3/2018

### 9.4. Corporate Income Tax Law (CIT) amendments applicable as of 1st January 2018

- Intangible assets are no longer classified into the second depreciation group and depreciated using the declining balance method but depreciated using the straight-line method, whereby the depreciation rate would be determined based on useful life or based on the duration of the contract on the right to use a certain intangible asset;
- It is mandatory that bank expenses regarding writing-off receivables related to loans granted to natural and legal persons, which are considered as non-performing loans in accordance with the National Bank of Serbia's regulations, be tax deductible;
- For the purpose of calculating capital gain/loss, the purchase price of other assets (not only assets subject to depreciation such as real estate) is adjusted to the fair value provided that the change in fair value is stated as income in the period in which this change occurred

### 9.5. Corporate Income Tax Law (CIT) amendments applicable as of 1st April 2018

- Only market research services, accounting and audit services and other legal and business consulting services paid to non-resident entities are subject to withholding tax, regardless of where such services are rendered or used;

### 9.6. Personal Income Tax Law (CIT) amendments applicable as of 1st January 2018

- Current tax relief period that refers to employment of new individuals is extended to December 31st, 2019.

### 9.7. Personal Income Tax Law (CIT) amendments applicable as of 1st October 2018

- The new type of tax relief is introduced for youth development when starting their own business through tax exemption (as well as mandatory social security exemption) for income during the first year of establishing business (in the period of 12 months from the date of establishment i.e. registration);

## 10. Slovakia

### 10.1. ATAD implemented through amendment to Income Tax Act – Exit tax and hybrid mismatches

The ATAD (known as the Anti-Tax Avoidance Directive or "ATAD") seeks to ensure that tax is paid where profits and value are generated.

The objective of the "exit tax" regulation is to ensure that where a taxpayer moves assets or its tax residence outside of the country, the Slovak Republic taxes the economic value of any capital gain created within the country, even if that gain has not yet been realised at the time of the exit. Exit tax will be calculated using a special tax base and a 21 % tax rate will be applied.

The aim of the rule "hybrid mismatches" is to prevent situations that occur or may occur between related parties. This rule seeks to prevent situations in which the same expense is considered as tax-deductible under both Slovak law and that of another Member State (i.e. double deduction of the same expense), as well as situations in which an expense is tax-deductible within the territory of the Slovak Republic without being included in the tax base of the other Member State.

### 10.2. Changes to the application of original prices for tax purposes in business combinations

The change to the Income Tax Act with effect from 1st January 2018 will also have significant effects on business combinations and, as such, strictly requires that, with the exception of so-called cross-border business combinations, all non-monetary contributions and mergers and divisions for tax purposes shall be performed in real values only.

## NEWSLETTER 3/2018

### 10.3. R&D support in the form of Patent Box and Super cost deduction

The Patent Box represents a special tax regime under which it will be possible to be exempt from income tax up to 50 % of any revenues derived in the form of licence fees relating to the provision of intangible assets during the period of tax depreciation of the intangible assets. In addition, a part of any revenues derived from the sale of products manufactured based on an invention protected by patent or a technical solution protected by utility model will also be exempt from income tax.

Super cost deduction allows additional deduction of research and development costs from the tax base in the amount of up to 100 % of the research and development expenditure (costs) entered in the accounts. In addition, 100 % of the increase of the research and development expenditure (costs) between the years (subject to special calculation) can be also deducted from the tax base.

### 10.4. Tax exemption of the disposal gains on the transfer of shares

Gains from sale of shares are exempted from tax in case at least 10 % of shares are held for more than 24 months after date of acquisition. In case of shares acquired before 01.01.2018 the period of 24 months starts on 01.01.2018.

## 11. Slovenia

Hardly any amendments were made to the Slovenian Tax Law as of 01.01.2018 due probably to the upcoming election of a new Parliament. The amendments mainly refer to accompanying measures to the law on cross-border services, IFRS 9, and to undesired effects of tax advantages related to lump sum deduction in the past.

Due to the cross-border service provision law (Zakon o čezmejnem izvajanju storitev) the "export" of employees of companies, which have little or no business activity in Slovenia, will be prevented. As of January 1st, 2018 every service, which is performed abroad, will be regarded as a secondment.

### 11.1. Income tax

#### ■ Secondments

As a consequence of the cross-border service provision law, many business trips would have been re-qualified as a secondment. In the past, short-term activities up to 3 months at the premises of a foreign client/customer generally qualified as business trips. Without accompanying measures in income tax law, accommodation costs, for example, paid by the employer, would have been seen as benefits in kind, and covering additional expenditures at the place of activity (daily allowances) would be regarded as taxable income. To cope with the consequences of the re-qualification, many changes in favour of the employees were introduced:

- Health insurance coverage for foreign activities is not subject to a benefit in kind.
- In case of a secondment, daily allowances in the amount of EUR 6.12 are exempt from tax.
- In the case of an uninterrupted secondment of up to 30 days and in the case of truck drivers for long-distance transport of up to 90 days, daily allowances are still exempt from tax. In the case that the limits of 30 resp. 90 days are exceeded, daily allowances increased up to 80 % are still exempt from tax.
- Transportation costs between one's residence and one's place of employment are tax exempt during the uninterrupted secondment as well.
- In the case of an uninterrupted secondment of up to 90 days, providing accommodation is not subject to a benefit in kind.
- In the case of an uninterrupted secondment exceeding 30 days, 20 % of the salary (capped at EUR 1,000 and subject to several other requirements) is exempt from tax.

## NEWSLETTER 3/2018

### ■ Performance bonus

As of January 1st, 2018 a performance bonus is exempt from tax up to an amount of 100 % of the average Slovenian gross salary (at the moment: EUR 1,621.46). Those bonuses are only subject to social insurance.

### ■ Lump sum expenses deduction

Corporate income could relatively easily be taxed at a very favourable tax rate, if preconditions are met. To avoid abuse, turnover thresholds, as well as an absolute cap of the lump sum deduction, have been implemented, to avoid a specific splitting of family income.

## 11.2. Corporate income tax

The Corporate Income Tax Act in conjunction with IFRS 9 determines that the non-tax deductible assessment of financial tools due to their realization or other cases of disposal has to be part of the tax base.

The tax rate remains at 19 %.

## 11.3. Minimum salary

As of January 1st 2018 the minimum salary amounts to EUR 842.79.

## NEWSLETTER 3/2018



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