New tax on non-life insurance premium introduced in Slovakia from 1 January 2019
INTRODUCTION

As of 1 January 2019, the new law on Insurance Premium Tax, which may concern also your company, will become effective. We would like to provide you with the most important information about this new law.

According to the current law effective until 31 December 2018, the insurance companies have duty to pay the 8% levy on received insurance premium from the mandatory contractual liability insurance for liability arising from the use of land motor vehicles and the 8% levy on received insurance premium from the other insurance classes of non-life insurance, which was introduced from 1 January 2017. The experiences shown that this non-life insurance premium levy is a systemless measure and it causes various problems to the insurance companies in practice. Further, it causes the unequal treatment because this levy concerns only the agreements concluded after 1 January 2017. As a reaction to these issues, by approving of the Act No. 213/2018 Coll., a new indirect tax – Insurance Premium Tax is introduced in the Slovak legislation, effective from 1 January 2019. The subject to this tax is insurance in classes of non-life insurance, if insurance risk is located in the Slovak Republic. In fact, this tax will apply on all insurance agreements, regardless the date of the concluding of the agreement, if the insurance period starts to lapse after 31 December 2018. By approving of this Act on Insurance Premium Tax, the current levy on received insurance premium is going to be abolished. However, the levy on received insurance premium from the mandatory contractual liability insurance for liability arising from the use of land motor vehicles will remain still effective.

Insurance premium tax is used by the majority of the EU member states for the reason that insurance services are VAT exempted, based on the Council Directive 2006/112/EC on the common system of value added tax. In recent years, we can see the tendency to establish the insurance premium tax mainly in the region of Middle and Eastern Europe. So far, this tax is not harmonized and the member states have sovereignty to set their own conditions for this tax, e.g. tax rate.

Generally, the person liable to pay the Insurance Premium Tax shall be the insurance company, however, this obligation may concern also to policyholder (any person who concluded the agreement with the insurer), if this person pays the premium to a third-country insurance undertaking, which does not have a branch in the territory of the Slovak republic or to a legal person to which the costs of such insurance are recharged.

In the case of any question regarding this new tax, we would be pleased to provide you with our assistance.
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WHAT INSURANCE IS SUBJECT TO INSURANCE PREMIUM TAX IN THE SLOVAK REPUBLIC?

The subject to tax is an insurance, which meets the following two requirements simultaneously:

I. Insurance is covered by non-life insurance classes listed by the law. This list is broad and covers settled non-life insurance classes. An overview of the listed classes you can find in the annex no. 1 of this material. Reinsurance is not subject to the tax.

II. Insurance risk is located in the domestic territory. The situations, when the risk is considered to be located in the domestic territory, are mentioned in the table below.

| Real estates insured, their parts, appurtenances and things situated therein, except for goods in commercial transit | If real estates are located in the Slovak Republic. |
|———|———|
| Insurance covering any mean of transport | If mean of transport is or is going to be registered in the respective registry maintained in the Slovak Republic. |
| Insurance of risks connected with travelling or holiday | If a policyholder signed in the Slovak Republic a policy with an insurance period of four months or less. |
| Other cases of insurance | If a policyholder has his/her habitual residence in the Slovak Republic (i.e., place where physical person lives in the long-term and has his/her personal ties and professional ties). If a policyholder or a person to whom insurance costs are recharged, is a legal person and the seat or establishment, to which the policy relates, is located in the Slovak Republic. The term „recharged insurance costs“ shall mean a premium or a part thereof paid to a third-country insurance undertaking, which does not have a branch in the territory of the Slovak Republic, which is required from a legal person or allocated to a legal person by the policyholder or a person other than the policyholder. |

According to mentioned requirements, the Insurance Premium Tax will concern for example also the situation, when a parent company signs a policy with third-country insurance company and this policy covers insurance risks, which concerns property substance and personal substance of its subsidiary company in the Slovak Republic, as well. In the case that the part of insurance costs are paid by that subsidiary company or allocated to that subsidiary company, these costs will represent the insurance premium tax base.
WHO IS LIABLE TO PAY INSURANCE PREMIUM TAX IN THE SLOVAK REPUBLIC?

The general rule is that the liability to pay Insurance Premium Tax has:

- **Insurer**
  - Insurance undertaking with its seat in Slovakia,
  - Insurance undertaking from another Member State (pursuant to Act on Insurance) (EU Member State or a Member State of the EEA, i.e. Norway, Liechtenstein, Iceland),
  - Branch of a third-country insurance undertaking,
  - Slovak Insurers’ Bureau
  - The Export-Import Bank of the Slovak Republic

Two following situations are an exception to the general rule and in these situations, the tax liability is shifted to another person, which is:

- **A policyholder** – in the case that the policyholder has paid premium to a third-country insurance undertaking, which does not have a branch in the Slovak Republic; if the policyholder recharges premium to another legal person (e.g., subsidiary company), shall be the payer in the amount of premium that is not recharged to such person.

- **A legal person to which insurance costs are recharged**
  
  *Note: „Recharged insurance costs” shall mean a premium or a part thereof paid to a third-country insurance undertaking, which does not have a branch in the territory of the Slovak Republic, which is required from a legal person or allocated to a legal person by the policyholder or a person other than the policyholder.*
IN WHAT AMOUNT THE TAX SHALL BE PAID?

Tax rate

The tax rate is 8% but this rate does not apply to insurance premium from the mandatory contractual liability insurance for liability arising from the use of land motor vehicles, since in the latter case the extra levy pursuant to Act on insurance shall still be paid.

Therefore, with respect to insurance premium from the mandatory contractual liability insurance for liability arising from the use of land motor vehicles, the 0% insurance premium tax rate applies.

Tax base

The tax base depends on who is the person obliged to pay Insurance Premium Tax.

In standard cases, when a person obliged to pay Insurance Premium Tax is the insurer, tax base shall be the amount of the premium received less tax.

In cases, when tax liability is shifted to a policyholder or person to which insurance costs are recharged, tax base shall be the amount of premium.
WHEN DOES THE TAX LIABILITY OCCUR AND WHAT ARE THE REPORTING OBLIGATIONS?

For the purposes of determining the moment of occurrence of tax liability, it is important who is the person obliged to pay the tax.

In addition, in cases where such person is the insurer, the act offers several options how to determine this moment and it is on the insurer to decide for one of them. The selected option is then required to apply for at least eight consecutive calendar quarters.

Below is a brief overview of when the tax liability occurrences:

<table>
<thead>
<tr>
<th>Person obliged to pay the tax</th>
<th>Occurrence of tax liability</th>
</tr>
</thead>
</table>
| Insurer                       | Possibility of choice from the following three options:  
|                               | a) **On the date of receiving the payment of the premium**, i.e. in the amount of the payment received (note: The date of receipt of payment of the premium is the date on which the payment of premium receivable is recorded. The tax applies if the payment of the premium or a part thereof is received after 31 December 2018.),  
|                               | b) **On the date of recording written premium receivable** (note: The tax applies if premium is written after 31 December 2018 and the payment of the premium or a part thereof is received after 31 December 2018.) or  
|                               | c) **On the date of maturity of the premium**. (note: The tax applies if premium is due after 31 December 2018 and the payment of the premium or a part thereof is received after 31 December 2018.) |
| A policyholder who has paid a premium to a third-country insurance undertaking which does not have a branch in the domestic territory (if the policyholder did not recharge a premium to other legal person) | **On the date of settlement of the premium;** if the payer settles portion of the premium, the tax liability occurs in the scope of paid portion of the premium. (note: The date of payment of the premium or a part thereof is the date on which the payment was debited from the payer's account or the day when the payer's liability otherwise ceased. The tax applies if the payment of the premium or a part thereof is paid after 31 December 2018.) |
| A legal person to which insurance costs are recharged | **On the 30th day following the end of the calendar month in which the insurance costs were recharged to the payer.** (note: The tax applies if recharged insurance costs are recharged after 31 December 2018.) |
Taxation period is **calendar quarter**. A person obliged to pay the tax (a payer) is obliged to report the tax liability in the tax return for the relevant tax period.

A payer is obliged to file a tax return using electronic means in the manner under a separate regulation **by the end of the calendar month following the end of the taxation period in which the tax liability to pay due tax occurred**. At the same time, the tax is payable.

**The very first deadlines for filing tax return are:**

<table>
<thead>
<tr>
<th>Taxation period</th>
<th>Deadline</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Q 2019</td>
<td>30.04.2019</td>
</tr>
<tr>
<td>II. Q 2019</td>
<td>31.07.2019</td>
</tr>
<tr>
<td>III. Q 2019</td>
<td>31.10.2019</td>
</tr>
<tr>
<td>IV. Q 2019</td>
<td>31.01.2020</td>
</tr>
</tbody>
</table>

A payer is obliged to **maintain records** broken-down by individual taxation periods in the scope necessary for an accurate calculation of tax.

The records include in particular information about the insurer, information about the policyholder, **insurance policy number**, amount of premium, tax base, amount of tax, tax rate and **information on location of insurance risk in the domestic territory**.

A payer is obliged, when so requested by a tax administrator, to deliver records by electronic means in the manner under a separate regulation.
IS IT NECESSARY TO FULFILL REGISTRATION OBLIGATION IN ADVANCE?

The tax administrator of the insurance premium tax is the tax office by local jurisdiction.

The payer who, in the time of occurrence of tax liability does not have a tax identification number in the Slovak Republic assigned is obliged to apply for registration for tax. The request for tax registration shall be submitted within five days of the end of the taxable period for which it is required to file the tax return. The deadline for the tax administrator to attend to the request for tax registration is ten days.

Entities that until the end of 2018 paid a special insurance levy do not have the registration obligation and they will be registered payers ex lege.

WHAT PENALTIES CAN BE ASSESSED IN THE CASE OF NON-COMPLIANCE WITH INSURANCE PREMIUM TAX OBLIGATIONS?

The administration of insurance premium tax is covered by the Tax Code. The penalties pursuant to the Tax Code shall apply to insurance tax, too.

Disclaimer

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## ATTACHMENT

### INSURANCE CLASSES OF NON-LIFE INSURANCE, to which Insurance Premium Tax applies

<table>
<thead>
<tr>
<th>Number</th>
<th>Class Description</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Accident insurance (including insurance for industrial injury and occupational disease)</td>
<td>a) With fixed pecuniary benefits, b) With benefits in the nature of indemnity, c) With combinations of the two, d) Injury to passengers, e) Individual health insurance.</td>
</tr>
<tr>
<td>2.</td>
<td>Sickness insurance</td>
<td>a) With fixed pecuniary benefits, b) With benefits in the nature of indemnity, c) With combinations of the two, d) Individual health insurance.</td>
</tr>
<tr>
<td>3.</td>
<td>Land vehicle insurance (other than railway rolling stock insurance) – for any damage to or loss of</td>
<td>a) Land motor vehicles, b) Land vehicles other than motor vehicles.</td>
</tr>
<tr>
<td>4.</td>
<td>Railway rolling stock insurance</td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>Aircraft insurance – for any damage to or loss of aircraft.</td>
<td>a) River and canal vessels, b) Lake vessels, c) Sea vessels.</td>
</tr>
<tr>
<td>6.</td>
<td>Ship insurance – for any damage to or loss of</td>
<td></td>
</tr>
<tr>
<td>7.</td>
<td>Goods in transit insurance – for any damage to or loss of goods in transit, including merchandise, baggage and all other goods, irrespective of the form of transport.</td>
<td>a) Fire, b) Explosion, c) Storm, d) Nature forces other than storm, e) Nuclear energy, f) Landslide or land subsidence.</td>
</tr>
<tr>
<td>8.</td>
<td>Insurance for any damage to or loss of property (other than property included in classes 3, 4, 5, 6, and 7) due to</td>
<td>a) Liability arising from the use of land motor vehicles (note: tax rate is 0 %), b) Carrier’s liability.</td>
</tr>
<tr>
<td>9.</td>
<td>Insurance for any damage to or loss of property (other than property included in classes 3, 4, 5, 6 and 7) due to hail or frost, or any event such as theft, other than that included in class 8.</td>
<td></td>
</tr>
<tr>
<td>10.</td>
<td>Liability insurance for</td>
<td></td>
</tr>
<tr>
<td>11.</td>
<td>Aircraft liability insurance – for any liability arising from the use of aircraft (including carrier’s liability).</td>
<td></td>
</tr>
</tbody>
</table>
12. Insurance for liability for ships – for any liability arising from the use of ships, vessels or boats on the sea, lakes, rivers or canals (including carrier’s liability).

13. General liability insurance – for any liability other than those referred to classes 10, 11, and 12.

14. Credit insurance
   a) General insolvency
   b) Export credit,
   c) Instalment credit,
   d) Mortgage credit,
   e) Agricultural credit.

15. Insurance of surety
   a) Direct surety,
   b) Indirect surety.

16. Insurance for miscellaneous financial loss due to
   a) Employment,
   b) Insufficient of income,
   c) Bad weather,
   d) Loss of benefits,
   e) Continuing general expenses,
   f) Unforeseen trading expenses,
   g) Loss of market value,
   h) Loss of rent or revenue,
   i) Other indirect trading loss,
   j) Other non-trading financial loss,
   k) Other forms of financial loss.

17. Legal expenses insurance.

18. Assistance insurance.
Contact us!

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