

PETERKA PARTNERS

THE CEE LAW FIRM

NEWSLETTER 01/2020

Czech Republic Slovakia Ukraine Bulgaria
Russia Poland Romania Belarus Hungary

NEWS

FROM PETERKA & PARTNERS



CHANGES IN MANAGEMENT AT BELARUSIAN OFFICE

It is with great pleasure that we are able to announce another promotion at PETERKA & PARTNERS. Mr Victor Rakovskij and Ms Natalia Gievaya are taking on the roles of Partners and Members of the Local Management Board of Belarus.



Victor Rakovskij has been practicing law for 8 years, and before he joined PETERKA & PARTNERS Belarus last year, he worked as Deputy General Director in a Holding Management Company in Minsk. In his practice, Victor focuses on state procurements, corporate governance, intellectual property and investment law.



Natalia Gievaya has been practicing law for nearly 18 years, and before she joined PETERKA & PARTNERS Russia two years ago, she worked as a Senior Associate at a Moscow office of a leading Czech law firm. In her practice, Natalia focuses on a variety of corporate matters, including mergers and acquisitions, corporate governance, financial transactions and commercial law.

So, a warm congratulations to Victor and Natalia on their promotions and we wish them many successful years in their new positions!

At the same time, we would like to announce that after many successful years, Natalia Anoshka, Partner and Director who led our Belarus office, has decided to focus exclusively on preparation for her bar exams. We would like to thank Natalia for her service to the firm and we wish her the best of luck in her personal and professional life.

PETERKA & PARTNERS BECOMES MEMBER OF DFK INTERNATIONAL

We are pleased to inform you that PETERKA & PARTNERS has become a member of the **DFK International network**, one of the leading associations of independent accounting, tax and business advisory firms. The network is composed of more than 220 members in more than 90 countries worldwide.

PETERKA & PARTNERS has been working with the DFK network for several years now but we are delighted to join the association formally and are looking forward to our future cooperation.

For further information, you can read the article in this [link](#).



UPCOMING PETERKA & PARTNERS SEMINARS

In the year 2020, PETERKA & PARTNERS is continuing with its organization of seminars at its offices on legal topics covering various jurisdictions.

You may look forward to seminars on currently hot topics in tax and labour law as well as in other areas of the law.

Please check our website and LinkedIn profile so as not to miss the latest updates.

LEGAL

NEWS



CZECH REPUBLIC

Electronic sick note

With effect as of 1 January 2020, doctors are required to use electronic sick notes when confirming an employee's temporary incapacity to work. In practice, the employer shall automatically receive the relevant documents from the electronic system.

Increase in minimum wage

With effect as of 1 January 2020, the minimum wage was increased to CZK 14,600 (approx. 578 EUR). The lowest guaranteed wages are further graded according to the complexity, responsibility and effort of the performed work, into eight groups, out of which the highest guarantees a minimum wage of CZK 29,200 (approx. 1156 EUR).

Rights of labour unions towards employers

A newly-constituted labour union shall have rights towards the employer as of the day of the notification on its establishment to the employer. According to recent case law, such notification shall also include proof of the notified data. Without this data, the notification shall be deemed invalid.

Exemption from real estate acquisition tax for flat (apartment)

With effect from 1 November 2019, flat (apartment) units in newly-built detached houses are now exempt from real estate acquisition tax.

New Real Estate Brokerage Act

The new Real Estate Brokerage Act, which becomes effective in February 2020, changes the existing requirement of a free trade licence for Real Estate Brokerage services into a professional trade (linked to the requirements for professional qualifications). The aim is to improve the functioning of the real estate market and protect the clients of real estate brokers.

SLOVAKIA

New Minimum wage for 2020

As of 1 January 2020, the minimum monthly wage will be EUR 580 and the hourly minimum wage will be EUR 3.333.

Pharma sector news

The amendment to the Act on Medicines and Medical Devices effective from 1 January 2020, introduces a large number of changes for, inter alia, pharmacies, distributors, MAHs and manufacturers. Novelty regarding pricing and the reimbursement of medicines from public health insurance will apply from July 2020.

Amendment to Commercial Code

Effective 1 October 2020, an amendment will extensively change the Commercial Code. The amendment stipulates new conditions for persons wishing to incorporate a limited liability company (LLC), to purchase or acquire a share in an LLC, and to be appointed as an executive director of an LLC. The amendment provides details on the liquidation process and on submission of claims for receivables.

New 5-Week Holiday Entitlement for Employees

An amendment to the Labour Code, which entered into force on 1 January 2020, introduces a holiday entitlement for an employee permanently taking care of a child in the amount of at least 5 weeks. Such statutory holiday entitlement was previously applicable only to employees, who reached the age of 33 by the end of the respective calendar year.

UKRAINE

Additional measures to protect ownership title in effect

On 2 November 2019, the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Regarding Protection of Ownership Title" came into force. The Law envisages special preventive measures against unlawful appropriation of property, passing of title to which is subject to state registration (such as participatory interests, and immovable property).

New Insolvency Code

On 21 October 2019, the new Code of Ukraine on Insolvency Procedures became effective. The Code on the one hand establishes mechanisms for due protection of debtor's rights and on the other hand aims at debt repayment to creditors. The document also introduces insolvency procedures for individuals, which is new for Ukraine.

New anti-money laundering (AML) Law adopted

In December 2019 a new Law against legalization of income obtained by illegal means was adopted. In particular, the Law widens the range of persons required to carry out AML checks of their clients toughens the liability of the said persons, and establishes additional requirements as to the disclosure of ultimate beneficial owners.

Further relaxation of currency control restrictions

The National Bank of Ukraine took further steps towards introducing the free movement of capital in Ukraine. In particular, by its Resolution No. 149 of 12/12/2019, the National Bank of Ukraine increased the allowed limit for investment abroad by individuals from EUR 50,000 per annum up to EUR 100,000 per annum.

BULGARIA

New Trade Marks and Geographical Indications Act (TMGIA)

A new TMGIA was adopted to approximate national law to EU law. Among others, the graphical representation requirement has been dropped, and shorter registration terms have been introduced as have been extended opportunities for infringement claims. Also, national GIs for spirits and aromatized wine products have been terminated.

Stricter rules for liability of state and municipalities

Due to changes to the Liability of State and Municipalities Act, compensation can be sought for damages arising out of illegal and abolished acts, contradictory to the previously existing principles established by means of a

Supreme Administrative Court decision. Procedural rules for EU law infringement related claims are established as well.

Supreme Court of Cassation navigates employer's obligations

A Supreme Court decision mitigates a few existing contradictions by ruling that in cases of termination of employment, the completed labour book shall be returned to the employee in person on the day the employment is terminated, or in some cases – with a proper invitation to the employee. As of that day, in case of non-compliance, the employer shall pay compensation to the employee.

RUSSIA

Rules on securities emission to be changed

Physical documents, that certify the owners' rights regarding securities emission in a documentary form, have become outdated. From 1 January 2020 on, such rights are confirmed by records on personal accounts in the register maintained by the Registrar or in a depository's accounts – in the case of rights accounting in a depository.

Strengthening protection of real estate tenants and buyers

Since 1 January 2020, a tenant or a buyer who, when contracting real estate, relied only on the data contained in the Russian Public Register of Real Estate (EGRN), will be considered acting in good faith. This presumption exists until it is proved that he/she knew or should have known that the landlord could not dispose of the property.

Residence permit in Russia becomes indefinite

From 1 November 2019, residence permits will be issued for an indefinite term. This innovation applies to all categories of foreign citizens, with the exception of highly-qualified professionals. Those foreigners who already have a residence permit in Russia are able to renew it for an indefinite period.

New fine for violation of Law on Personal Data

On 4 December 2019, amendments to the Administrative Offences Code of the Russian Federation came into force. If a company stores, abroad, the personal data of Russian citizens, it will be fined up to EUR 90,000.

POLAND

BDO – waste management database

On 1 January 2020, the Ministry of Climate launched an electronic database on products and packages and waste management, known as the BDO. The BDO is intended for collecting and managing information regarding waste management and to allow for the electronic performance of registration, recording and reporting obligations by entities obliged to be entered in the BDO.

Payment Backlogs

New comprehensive legislation combating payment backlogs in commercial transactions entered into force on 1 January 2020. Most notably, the new law has introduced a fixed 60-day payment term in “asymmetric” transactions between large and small enterprises. Large enterprises, whose annual turnover exceeds EUR 50 million, will be obliged to file annual reports on their receivables and liabilities to the Ministry of Finance.

Simple Limited Company

On 1 March 2020, a new legal form for commercial entities will be introduced, i.e., a Simple Limited Company (Prosta Spółka Akcyjna). The Simple Limited Company is planned to be similar to a Limited Company (Spółka Akcyjna), in terms of its organization and functioning but with several simplifications. These include i.a. a non-obligatory Supervisory Board, share capital at the minimum level of PLN 1 (approximately EUR 0.24), and a simplified liquidation procedure.

ROMANIA

Simplified procedures of authorization for construction works

According to Order 3454/2019, amending the enforcement methodology for Law no.50/1991 on the Authorization of Construction Works, as of 9 January 2020, the authorization procedure for construction has been simplified as regards approvals confirming the meeting of essential requirements in construction.

New regulation regarding payment institutions

According to Regulation no. 4/2019 regarding Payment Institutions and Specialized Providers of Information Regarding Accounts, starting on 19 December 2019, payment institutions may render services only after obtaining a functional permit issued by the National Bank of Romania.

New regulation regarding institutions issuing electronic currency

According to Regulation no. 5/2019 regarding Institutions Issuing Electronic Currency, starting on 19 December 2019, certain institutions may render services only after obtaining a functional permit issued by the National Bank of Romania.

BELARUS

Modelling (fashion) business activity

On 21 November 2019, Presidential Decree No. 423 implemented activities such as modelling as (fashion) business activities, provided the definition “modelling agreement” and defined the essential terms of such agreement.

Data bank of enforcement proceedings

Presidential Decree No. 418 dated 19 November 2019 stipulates the establishment of a data bank, containing enforcement proceedings and information about the debtor and creditor, the content of requirements in writs of execution, the amount of debt, and the result and date of execution. Such information can be obtained by legal entities and individuals.

New international agreement

On 16 October 2019, the Republic of Belarus ratified the Agreement on International Road Transport Traffic Between the Government of the Republic of Belarus and the Government of the United Kingdom of Great Britain and Northern Ireland.

New agreement on legal assistance

On 11 November 2019, the Republic of Belarus ratified the Agreement on Mutual Legal Assistance in Civil and Economic Cases Between the Republic of Belarus and the Republic of Zimbabwe.

HUNGARY

Accessing online company information remains free

The Hungarian government planned to restrict free online access to company information, but at the last minute plans were changed and access to company information in the company register shall remain free and unrestricted, which is good news for transparency.

Changes to the Labour Code

From 1 January 2020, anti-competition agreements require a written form. Another change is that employers are obliged to change the employment contract to a four-hour part-time contract at the request of the employee for the period until their children reach the age of four (in certain cases the age of six).

Important changes in construction industry

Only the definitions of “additional work” and “extra work” stipulated in the Civil Code shall be used in the future in construction contracts, which hopefully will reduce the number of disputes regarding extra and additional works.



TAX NEWS

CZECH REPUBLIC

Excise tax rates increased

Legislation in relation to increasing public finances became effective on 1 January 2020. An increase in consumption tax rates affected alcohol and tobacco products. Changes in taxation of reserves of insurance companies were also introduced, and gambling tax rates were increased in some cases.

Amendment to Tax Procedure Code

An amendment to the Tax Procedure Code is being debated in Parliament and might come into effect in mid-2020. The main changes include prepayments of excessive VAT deductions, lower default interest rates, abolition of the current “grace” period of five working days for filing tax returns and payments, and extending the deadline for refunding VAT from 30 to 45 days (which might have cash-flow implications).

Quick Fixes – significant VAT changes in intra-community transactions from 2020

The Czech Parliament failed to implement Quick Fixes in time. Therefore, the respective EU VAT legislation harmonizing call-off stock rules, EU cross-border chain transactions, rules for documenting cross-border movements of goods and a mandatory check of VAT ID No. come into force automatically from 1 January 2020, subject to conditions.

SLOVAKIA

Audit Thresholds

An Amendment to the Act on Accounting, effective as of 1 January 2020, introduces higher thresholds for audits of ordinary and extraordinary individual financial statements by auditors. The thresholds should newly apply also to public limited companies (verejná obchodná spoločnosť) and limited partnerships (komanditná spoločnosť).

Changes to Income Tax Act

The Income Tax Act was amended by several amendments. As of 1 January 2020, the tax rate for legal entities and the self-employed is decreased from 21 percent to 15 percent, if particular conditions are met.

From the year 2021, the concept of “micro taxpayer” will be introduced, with diverse conditions, e.g., for writing off tangible property.

Tax Procedure Code Amendments

Numerous changes, effective as of 1 January 2020, have been introduced to the Code. If a taxable entity makes a submission, but not by the prescribed electronic means, the Financial Administration should call for correction; if the correction is not made, such submission may be considered as not having been submitted. If the entity submits a new power of attorney, it replaces, in the given scope, previous powers of attorney.

UKRAINE

Double taxation treaty with UK amended

On 30 October 2010, the Parliament of Ukraine ratified the Protocol to the Double Taxation Treaty between the United Kingdom and Ukraine. Among others, the amendments introduce increased rates of withholding tax on interest and royalties (zero rates are now replaced with a 5% rate), as well as broaden provisions on tax information exchange and prevention of abuse of treaty benefits.

Double taxation treaty with Cyprus amended

On 30 October 2010, the Parliament of Ukraine ratified the Protocol to the Double Taxation Treaty between Cyprus and Ukraine. In particular, the Protocol increases the withholding tax rate applicable to interest from 2% to 5%. The Protocol also introduces special rules for taxing capital gains derived from alienation of shares in companies whose assets are more than 50% composed of immovable property.

Amended CPT return

The Ministry of Finance of Ukraine amended the form for CPT return by its Order of 14.11.2019 No. 481. Amendments brought the old form in line with effective provisions of the Tax Code of Ukraine. Also, a new annex regarding tax incentives was introduced.

Amended VAT return

The Ministry of Finance of Ukraine by its Order of 20.11.2019 No. 488 amended the form of VAT return. Amendments were made in particular due to abolishment of a separate tax incentives report as of 01.01.2020. A new VAT return form shall be used starting from the reporting period (month) of January 2020.

BULGARIA

New rules on automatic exchange of tax information in relation to reportable cross-border arrangements

The latest amendments to the Tax and Social Insurance Procedure Code introduce new reporting obligations for several groups of persons (among others, taxable persons and consultants) in respect to cross-border arrangements. The information is to be reported to the National Revenue Agency. The European revenue authorities will exchange information in respect to such arrangements related to corporate tax, personal income tax, withholding tax, and local taxes. VAT, customs duties and excise duties, social security payments, etc., are not affected by the new rules.

Amendments to Corporate Income Tax Act regarding exit taxation

Amendments to the income tax act are aimed at guaranteeing taxation on various transfers of activities and/or business (e.g., transfer of assets/business from a Bulgarian entity to a permanent establishment of the said entity), which leads to no taxation in Bulgaria on the result of subsequent disposal with the relevant asset/business. Transfers of assets, including cash, between a parent company and its subsidiaries fall outside the scope of the exit taxation rules.

No VAT registration threshold for foreign taxpayers

According to the latest amendments to the VAT Act, foreign taxable persons established within the territory of a Member State who carry out intra-Community acquisitions of goods on the territory of Bulgaria are required to register for VAT purposes in Bulgaria no later than seven days prior to the date on which the tax for their first supply in Bulgaria is due. Unlike the standard VAT registration of intra-Community acquirers, no threshold regarding the total value of the acquisitions is required.

RUSSIA

Expansion of application of special tax regime for self-employed persons

A pilot tax regime, for self-employed persons, is currently effective, and will be, until 31 December 2028, in four regions of Russia. From 1 January 2020 it will be effective in twenty-three regions. Tax on professional income (4% - 6%) may be paid instead of personal income tax, VAT and social insurance contributions.

Tax incentives for registration of civil aircraft in Russian National Register of Civil Aircraft

As of 1 January 2020, the import of civil aircraft as well as aircraft engines and spare parts is exempt from import VAT. 0% VAT is provided for sale of civil aircraft registered in the National Register of Civil Aircraft and the relevant construction works; sale of aircraft engines and spare parts, transfer of civil aircraft under lease agreements.

0% profit tax rate for healthcare providers and educational organizations

As of 1 January 2020, healthcare providers and educational organizations are entitled to apply a 0% profit tax rate for an unlimited period of time, while currently, application of the relevant tax benefit is limited by 1 January 2020.

POLAND

Retail Sales Tax deferred to 1 July 2020

The Polish Parliament decided to postpone the entry into force of a retail sales tax. Two tax rates are provided for: 0.8 per cent on a surplus of income over PLN 17 million to PLN 170 million per month and 1.4 per cent on a surplus of income from sales over PLN 170 million per month. The tax does not apply to sales via the Internet.

Changes in intra-Community supply of goods (implementation of Quick Fixes)

In January 2020, a package of new VAT regulations for intra-Community transactions (EU Quick Fixes) came into force in Poland. Basically, the changes concern material and formal conditions which have to be met to apply a 0-per-cent VAT rate for intra-Community supplies of goods, chain-supply rules and replacement of a consignment warehouse by a new call-off stock procedure.

Collection of domestic withholding tax suspended

The exemption from the new requirements to apply domestic withholding tax rates on payments in excess of PLN two million (approximately EUR 469,200) is extended to 30 June 2020. Under the requirements, reduced rates or exemptions, may only be applied directly if certain conditions are met. Otherwise, eligible taxpayers must apply for a tax refund.

ROMANIA

New level of minimum gross salary

According to Government Decision no. 935/2019, starting on 1 January 2020, the minimum gross monthly salary is RON 2,230 RON (approximately EUR 466), and for employees with a higher-education diploma it is RON 2,350 (approximately EUR 491).

Amendments to social security contribution of employees

According to Law no. 263/2019 amending Law no. 227/2015 regarding the Fiscal Code, as of 1 January 2020, the provisions regarding the existence of a minimum level of the social security contribution owed by employees have been repealed.

New excise duty levels for gasoline and diesel

According to Law no. 263/2019, amending Law no. 227/2015 regarding the Fiscal Code, starting on 1 January 2020, there are new levels of excise duty for gasoline and diesel.

BELARUS

Corporate income tax and Forex

Presidential Decree No. 503 establishes that the income tax rate for the taxation of profits made by the National Forex Center from transactions with non-deliverable OTC (over-the-counter) financial instruments is 25%.

Income Tax and Travel Expenses

Some travel expenses are no longer subject to income tax: taxis, car rental abroad at the place of business, per diems and accommodation.

HUNGARY

Longer record-keeping period

A new rule entered into force which prescribes that records in relation to the determination of tax liability on income or wealth covered by double taxation conventions need to be kept for 10 years.

Changes in invoicing

As of 1 July 2020, the obligation to provide online invoice information to the Tax Authority shall apply to any invoice issued to a domestic taxable person. It will also be mandatory to include the buyer's tax number on the invoice. The 15-day time limit available for issuing an invoice changes to 8 days.

Changes concerning personal income tax

As of 1 January 2020, mothers of four or more children are eligible for a 100% tax credit, which will affect employers' administrative burdens concerning payrolls.

Changes to corporate group taxation

The requirement of having the same currency between/among group members has been erased, which means that a corporate taxation group could be created even if one of the taxpayers keeps its books in a different currency.

Exit tax entering into force

On 1 January 2020, an "exit tax" was introduced in accordance with EU rules. Under the new regulation the transfer of several assets or activities from Hungary to another country shall be taxable. It will be possible to opt for up to a 5-year instalment payment.

CONTACT

PETERKA & PARTNERS is an independent full-service law firm with a special commitment to the region of Central and Eastern Europe. The only truly Central Eastern European law firm that has built its own strong regional presence in key markets, PETERKA & PARTNERS offers a pan-regional legal and tax competency and dynamic alternative to the top law firms, both international and purely local, on these markets.

Operating nine fully-owned offices across the region, in the Czech Republic, Slovakia, Poland, Hungary, Romania, Bulgaria, Belarus, Ukraine and Russia, PETERKA & PARTNERS is organized and acts as “one firm” and leverages its unique integrated infrastructure, legal excellence, industry insight and deep local expertise to deliver complex legal solutions with exceptional commercial value to its clients.

For further information on any of the issues discussed in this edition of the Newsletter, or if you should have any other enquiries, please contact us through the contacts listed below or visit our website at www.peterkapartners.com.

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