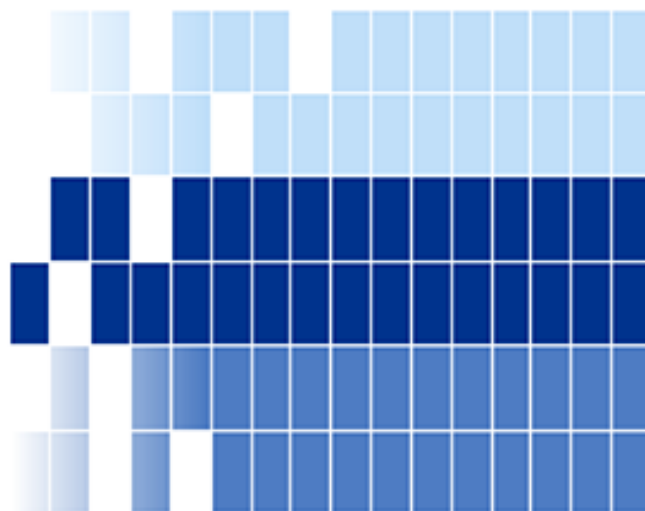




Tax News

KPMG in Bulgaria



## Tax and Social Insurance Procedure Code

December 2020

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In this publication of Tax News for 2020 we summarize the most important amendments introduced by the Act amending and supplementing the Tax and Social Insurance Procedure Code published in the Bulgarian State Gazette No. 105 of December 11, 2020 and by the Act amending and supplementing the Value Added Tax Act published in the Bulgarian State Gazette No. 104 of December 8, 2020. The changes enter into force on January 1, 2021.

According to the reasons for the Bill, the changes aim to improve the regulatory framework of various proceedings in the TSIPC.

### **Repealing of the interest liabilities for late provision of proof for the grounds for applying a DTT and their replacement with penalties**

The provision for interest due in cases where an applicant for relief under a DTT proves the grounds to use the relief after the expiration of the term for payment of the withholding tax at source is repealed. The reasons for the repealing are that the rule contradicted the Treaty on the Functioning of the EU.

Payers of income from a Bulgarian source who have not paid the withholding taxes due and have not proven the grounds under the relevant DTT relieving them from the tax would be subject to a penalty for ungrounded using treaty benefits. The penalties are at the amount of 5 percent of the withholding tax, but not more than BGN 15,000. In case of a repeated violation, the penalty is at the amount of 10 percent of the tax, but not more than BGN 30,000.



### **Overpaid amounts as per a tax return – a new possibility is introduced these amounts to be reflected in the tax account for repayment of other tax liabilities of the taxpayer**

A new provision is introduced concerning overpaid amounts under a tax return filed by taxable persons who have stated that they wish the overpaid amounts to be reflected in their tax accounts and used for payment of other tax liabilities. By reflecting the entire overpaid amount, the taxpayer's claim of this amount is considered fully satisfied. If the taxpayer does not reflect the whole amount within 30 days from the date on which the tax return is submitted, a tax check or a tax audit may be initiated to verify the grounds of the taxpayer's claim for refund.



### **E-documents; proof and delivery of notifications electronically**

The delivery of notifications via electronic means may be made not only by a revenue officer but also by another employee of the NRA. Along with the use of qualified electronic signature, delivery by electronic seal or through an information system for secure electronic service provided for in the Electronic Government Act may be used.

Taxpayers and revenue authorities may present as evidence data submitted electronically, certified with a qualified electronic signature.



### **During tax inspections, the special rules for proving facts and circumstances outside the country and market prices will be applied**

The current provision of Article 116 TSIPC providing special rules for tax audits to identify facts and circumstances outside the country, as well as market prices in transactions between related parties, will be applied to tax checks aimed at establishing facts and circumstances. Taxpayers will have the burden of proof for such evidence.



### **Changes related to the limitation periods**

Tax debts claimed by the NRA in the debtor's insolvency proceedings are not to be settled upon the expiration of the general 10-year limitation period.



### **Annulment of a tax audit act by the court**

In cases where the administrative court annuls the appealed tax audit act due to lack of legal competence (the issuing authority did not have the proper authorities), the court shall send the file to the respective competent administrative body with obligatory instructions regarding the interpretation and the application of the law. The reasons for the amendment are to oblige the Court to give binding instructions for the subsequent tax audit on the same matter.



### **Rules for control over goods with high fiscal risk**

*Preliminary declaration.* Recipients of goods with high fiscal risk in intra-Community acquisitions, the suppliers of such goods in intra-Community supplies, as well as in cases of triangular operations, may file preliminary declarations for the data of the transportations of these goods within 14 days via a new electronic service provided by the NRA /new Article 127i/. The data will be declared through an electronic service of the NRA, which will provide a unique number for each separate transportation of goods with a validity period of 14 days from the date of the declaration. The procedure for preliminary declaration of the data, for corrections or cancellation will be outlined in an ordinance.

*Releases cash or bank guarantees provided as a security to the tax office.* Security imposed by the fiscal control authorities (30% of the value of the inspected goods, respectively 10% in the case of liquid fuels for which security has been provided under the VATA) will be released not by fiscal

control authorities, but by the competent tax authorities as per the tax registration of the taxpayer.



### **Expanding the competence of some bodies of the NRA for operating in the whole country**

The Executive Director of the NRA is given the right to designate by an order bodies of the NRA, whose competence will not be limited within the respective territorial directorate, and will empower them to conduct tax audits and tax checks throughout the country (such powers are currently available to the fiscal control authorities). In these cases, however, the rules for administrative appeals will remain the same - the acts of such officers will be appealed to the higher body of the NRA based upon place of registration of the taxpayer.



### **Appointment of a temporary or special representative of legal entities against which proceedings have been instituted under the TSIPC**

In order not to impede the actions of the tax authorities, at the request of the NRA the court may appoint a temporary or special representative of a legal entity which has no legal representative for more than three months. When proceedings have been initiated against a legal entity without a legal representative, the proceedings will be suspended until the registration of a such a representative or until the appointment of a representative by the court.



### **A1 Social Security Certificate**

The revenue authority may withdraw an already issued A1 social security certificate. The consequence of such a withdrawal will be that the Bulgarian social security legislation will not be applicable to the person concerned. The person will be entitled to appeal at administrative and court level the withdrawal of the certificate.



### **Securing and collecting public debt**

*Seizures of payment accounts that are not bank accounts.* NRA may impose seizures and enforcement orders on funds available not only in bank accounts, but also in payment accounts with payment service providers other than a bank.

*Settlement order in cases of public enforcement.* The rule for settlement of the oldest obligation with a payment received from the debtor is extended to debts collected by the public enforcement agents. As per the rule, payments received are used to repay the principal amounts first while the interest is repaid after the principal amount is settled in full.



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## Expansion of the powers of the NRA and the grounds for seeking invalidity of actions and transactions performed by tax debtors

The NRA and the municipalities have the right to challenge as invalid transactions concluded after the date when the public debt which remained unpaid was declared. Until now, actions may have been challenged as invalid if these were dated after the establishment of the public liabilities or after serving the tax audit order for their establishment. With the amendment, outstanding obligations under tax returns will also serve as grounds for seeking invalidity of transactions in court even if no tax audit assessment is issued for this obligation.



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## Increased penalties for non-cooperation and new penalties for non-compliance with the obligation for keeping information

The sanctions for non-cooperation with a revenue authority or public enforcement agent, or for their obstruction, are doubled. The minimum amount of the fine becomes BGN 500 / so far BGN 250 /, while the maximum amount becomes BGN 1,000 / so far BGN 500 /. Sanctions for repeated violations are from BGN 1,000 to 2,000 (until now from BGN 500 to BGN 1,000).

Penalties are introduced for non-compliance with the terms under Article 38 of the TSIPC for storage of accounting and commercial information and documents relevant to taxation and compulsory social security contributions. Individuals will be fined from BGN 100 to BGN 500, and while legal entities – with a sanction from BGN 1,000 to 5,000. In case of repeated violation, the penalty is a fine in the amount of BGN 150 to BGN 700 for individuals or a sanction in the amount of BGN 1,500 to BGN 7,000 for legal entities.

For non-compliance with deadlines for storage in electronic form of data created by the information systems, products or archives of taxpayers, a fine in the amount of BGN 200 to BGN 700 for individuals is envisaged, and for legal entities the sanction is in the amount of BGN 3,000 to BGN 8,000. For repeated violations, the penalties are in the amount of BGN 300 to BGN 1,000 for individuals and in the amount of BGN 4,000 to BGN 11,000 for legal entities.



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