

## I. Legislative changes in the withholding tax area

The Amendment to the Income Tax Act which has been already published in the Collection of Laws introduces several changes in the withholding tax area. Below we summarize the most important of them.



### Changes in definitions

- The term 'holder' shall explicitly include also a distributor of medical devices and a distributor of dietetic food. This is in line with the current interpretation of the Slovak tax authorities.

The definition of a holder is relevant to the determination of income, received by a health care provider, employee of a health care provider and a health professional, which is subject to withholding tax (WHT). A holder for tax purposes includes *inter alia* a holder of a distribution licence. A third person which intermediates provision of an income from (other) holders is also considered to be a holder;

- The legal term 'health care provider' (HCP) has been introduced for tax purposes and includes also an employee of a health care provider and a health professional;



### Income (not) subject to withholding tax

- Gifts received by an HCP (being an individual or a legal entity) from a holder are explicitly regulated as income which is subject to tax;
- WHT shall not be withheld from monetary and non-monetary income received from a holder, if the recipient is an HCP and a holder at the same time (i.e. is in a double position), while the income is received in its capacity of a holder. For the year 2015 this topic is regulated in a [public guidance of the Slovak Finance Directorate](#);
- Income received by Slovak tax non-residents shall also be subject to WHT in certain circumstances. When assessing the appropriate tax treatment, the respective double tax treaty should also be taken into consideration;
- Meal provided by a holder to an HCP during an event aimed solely for educational purposes will not be taxed up to the amount of statutory allowances stipulated by the Act on Travel Allowances.



### Notifications and payment of the tax

- The obligation of holders to notify HCPs of the value of non-monetary income on a quarterly basis is replaced by the obligation to notify HCPs of the above by the 15th day after the end of the calendar year in which the income was provided. The change relates to income provided to HCPs after 31 December 2015;
- If the non-monetary income was provided to an HCP by an intermediary (a third person), the notification obligation in relation to HCP shall be fulfilled by this third person unless it is a foreign person. The holder may agree differently with the third person. Such an agreement must be concluded in writing. We will gladly assist you with preparation of such agreements if interested;
- An HCP is obliged to remit WHT from non-monetary income on an annual basis by the end of the month following the calendar year in which he received the income.



## Educational events for health professionals and WHT as of 1 January 2016

	Continuous education		Other educational events	
Meal	✘	✔	✘	✔
Accommodation		✔		✔
Transport		✔		✔
Registration fee / Costs of organization of an event	✘			✔

## II. Latest developments in the interpretation of WHT rules

The interpretation of rules in the area of withholding tax is undergoing a dynamic development and its continuous monitoring is crucial for achieving compliance with these rules. Our clients can be sure that nothing important escapes their attention.

### Drug samples and drugs for compassionate use

- The Slovak Financial Directorate SR (**FD SR**) still considers drug samples provided by holders to HCPs as a non-monetary income which is subject to WHT;
- Samples of drugs which have been launched onto the market shall generally be assigned a value for income tax purposes. The value shall be based on the price which is usual at the time and place of provision of the income, taking into consideration type and quality of the income;
- A drug (substance) provided to an HCP in the course of a clinic trial performed in accordance with the Slovak Act on Drugs and Medical Devices shall not be considered as a drug sample. Such drug (substance) received by an HCP from a holder is not deemed to be subject to WHT according to a public guidance issued by FD SR;
- Compassionate use of drugs shall also not be considered as a non-monetary income and thus, is not subject to WHT.

### Discounts from the price of goods

- The FD SR has prepared a draft public guidance on discounts from the price of goods provided to HCPs (e.g. pharmacies or hospitals) by holders. Price discounts generally represent one of the few types of income provided to HCPs by holders which is not subject to WHT. It is apparent that FD SR aims to regulate them;
- According to the draft guidance, discounts shall not be subject to WHT unless they represent by their nature a selective advantage to certain customers or a selective advantage to certain types of goods. Discounts shall be provided to customers based on internal guidelines of a holder;
- We will gladly assist you with tax assessment of discounts in the light of the newest interpretation of the FD SR and with preparation of your internal guidelines.

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