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**Recent Developments in International Taxation
Bulgaria**

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Introduction

Among the significant developments in the field of international taxation in Bulgaria during the past year was the continuing transposition of the base erosion and profit shifting (BEPS) measures provided in Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (the 'Anti-Tax Avoidance Directive' or ATAD) and Council Directive (EU) 2017/952 of 29 May 2017 amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries ('ATAD 2'). Bulgaria's transfer pricing rules were brought in line with the recommendations of the Organisation for Economic Co-operation and Development (OECD) under the BEPS Action Plan by way of the introduction of mandatory transfer pricing documentation for certain related-party transactions. The administrative cooperation in the field of direct taxation was enhanced through the implementation of Council Directive (EU) 2018/822 of 25 May 2018 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangement ('DAC 6').

Anti-tax avoidance rules

Following the implementation of ATAD's interest limitation rule and controlled foreign company rules at the beginning of 2019, as of 1 January 2020, new provisions of the Bulgarian Corporate Income Tax Act (CITA) became effective that transpose ATAD and ATAD 2's rules dealing with exit taxation and hybrid mismatches.

Exit tax

Under the new Bulgarian exit tax rules, certain intra-company transfers of assets and business activities may trigger corporate income taxation in Bulgaria, if, as a result of the transfer, Bulgaria would partially or completely lose the right to tax future disposals of the transferred assets/activities. According to the new provisions of CITA, the following outbound transfers are envisaged as a taxable 'exit':

- transfer of assets/business activities from the Bulgarian head office of the taxpayer to its permanent establishment outside the country;
- transfer of assets/business activities from the Bulgarian permanent establishment of the taxpayer to its head office abroad;
- transfer of assets/business activities that is the result of a change of the taxpayer's tax residence from Bulgaria to another jurisdiction, except for assets that remain effectively connected with a permanent establishment in Bulgaria; and
- transfer of business activities carried out through a Bulgarian permanent establishment to another jurisdiction.

Exit taxation is triggered where no change of legal or economic title over the transferred assets/business activities occurs, as the transfer takes place between parts of the taxpayer's enterprise that are located in different jurisdictions. Intra-group transactions between separate legal entities providing for the transfer of assets or business activities are out of scope of the new exit tax regime.

Hybrid mismatches

The new rules are designed to prevent the use of hybrid arrangements that, due to differences in the tax treatment of an entity or an instrument under the laws of two or more jurisdictions, result in double non-taxation in one of the following forms:

- deduction without inclusion, that is, there is a deduction of a certain payment from the taxable result in the jurisdiction of the income payer without a corresponding inclusion in the tax result in the jurisdiction of the income recipient; or
- double deduction, that is, deduction of one and the same payment, expense or loss in both jurisdictions involved.

Hybrid mismatches are recognised for Bulgarian tax purposes only where they arise between associated enterprises; between a taxpayer and an associated enterprise; between a head office and permanent establishment; between two or more permanent establishments of the same entity; or under a structured arrangement.

Mandatory transfer pricing documentation

As of 1 January 2020, new provisions in the Bulgarian Tax and Social Security Procedure Code (TSSPC) entered into force that introduce mandatory transfer pricing documentation requirements for related-party transactions with a value exceeding certain annual thresholds envisaged by law.

Bulgarian businesses must prepare and keep local transfer pricing files for all related-party transactions subject to disclosure undertaken during the respective calendar year. Entities that are part of a multinational group must also be able to provide, upon request by the tax authorities, a transfer pricing master file prepared at group level by the end parent company or another member of the group.

Cross-border exchange of tax information

As of 1 July 2020, new rules in the Bulgarian TSSPC transposing DAC 6 became effective that impose the mandatory disclosure of certain potentially tax aggressive cross-border arrangements to the Bulgarian National Revenue Agency. The definition of a reportable cross-border arrangement envisaged by the Bulgarian legislation is aligned with the hallmarks under DAC 6. The reporting obligation lies primarily with intermediaries involved in a cross-border arrangement (eg, tax advisers, lawyers and accountants), whereas intermediaries bound to professional secrecy by law are entitled to a waiver from the reporting obligation. Where right to a waiver is exercised by an intermediary, reporting must be performed by another intermediary or the taxpayer.

Bulgaria has not yet announced whether it will exercise the option under Council Directive (EU) 2020/876 of 24 June 2020 to extend reporting deadlines under DAC 6 due to Covid-19.

Tax treaties

At the beginning of 2020, the Bulgarian Parliament ratified a new double tax treaty between Bulgaria and the Islamic Republic of Pakistan, which will be effective as of 1 January 2021.