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ACT

of 26 July 2012

on Special Levy on Enterprising in Regulated Areas and on Amendments and Supplements to Certain Laws

The National Council of the Slovak Republic promulgates this law:

Art. I

§ 1 Subject of regulation

This Act governs:

- a) the obligation to pay a special levy on enterprising in regulated areas (hereinafter referred to as 'levy') by a regulated person;
- b) amount and form of levy payment;
- c) administration of levy performed by the levy administrator, which is a Tax Office relevant for administration of income tax of the regulated person pursuant to a special regulation¹⁾ (hereinafter referred to as the 'levy administrator').

§ 2

For the purposes of this Act, a 'levy period' shall be understood as each calendar month of the accounting period²⁾ in which the regulated person holds an authorization to perform its activity pursuant to the Article 3 paragraph (1) letter a).

§3 Regulated person

(1) Regulated person shall be a person or an organizational unit of a foreign person, which a) holds an authorization to perform its activity in area of

1. power engineering on the basis of a permission issued by the Regulatory Office for Network Industries pursuant to a special regulation;³⁾
2. insurance and reinsurance on the basis of a permission issued by the National Bank of Slovakia pursuant to a special regulation;⁴⁾
3. public health insurance on the basis of a permission issued by the Healthcare Surveillance Authority pursuant to a special regulation;⁵⁾
4. electronic communication on the basis of a general permission or an individual right to use numbers or frequencies assigned by the Telecommunications Regulatory Authority for Electronic Communications and Postal Services pursuant to a special regulation;⁶⁾

5. pharmacy on the basis of a permission issued by the Ministry of Health of the Slovak Republic or a Self-Governing Region pursuant to a special regulation;⁷⁾
 6. postal services on the basis of a general permission or a postal license issued by the Telecommunications Regulatory Authority for Electronic Communications and Postal Services pursuant to a special regulation;⁸⁾
 7. rail transport on the basis of a license issued by the Transport Authority pursuant to a special regulation;⁹⁾
 8. public water systems and public sewage systems,¹⁰⁾ on the basis of a trade authorization;
 9. air transport on the basis of a license issued by the Ministry of Transport, Construction and Regional Development of the Slovak Republic pursuant to a special regulation;¹¹⁾
 10. healthcare provision on the basis of permission issued pursuant to a special regulation¹²⁾; or
 11. stated in paragraphs 1 – 10 on the basis of a permission issued in other member state of the European Union and a country which is a signatory state of the Agreement on the European Economic Area; and
- b) expects to perform the activity in the area pursuant to the letter a) for the entire levy period.

(2) Regulated person shall deliver to the levy administrator, until the end of the levy period in which its obligation to pay the levy will commence pursuant to the Article 4 paragraph (1), written notification in which it shall specify

- a) the area pursuant to the paragraph 1 letter a) in which it has obtained an authorization to perform its activity;
- b) date of commencement of the authorization to perform its activity pursuant to the paragraph 1 letter a);
- c) estimation of expected profit or loss pursuant to the Article 4 paragraph (3) and the expected coefficient to calculate the levy base pursuant to Article 5 paragraph (5);
- d) the amount of levy it is obliged to pay.

Levy payment

§4 Levy payment obligation

(1) Any regulated person, except for the regulated person pursuant to the Article 13 paragraph (1) and (3), shall be obliged to pay the levy, starting from the levy period following after the calendar month since which it is authorized to perform activity pursuant to the Article 3 paragraph (1) letter a), providing that its profit or loss or the difference between incomes and expenditures, if it uses the single-entry bookkeeping system for accounting (hereinafter referred to as the 'profit or loss'), for the accounting period in which it obtained the authorization to perform its activity pursuant to the Article 3 paragraph (1) letter a) shall reach at least the sum of the profit or loss pursuant to the paragraph 2; this shall also apply if it performed the activity pursuant to the Article 3 paragraph (1) letter a) only during a part of that accounting period. Similarly, regulated person whose estimated profit or loss pursuant to the paragraph 3 shall reach at least the sum of the profit or loss pursuant to the paragraph 2 shall also be obliged to pay the levy.

(2) The obligation to pay the levy shall arise with the profit or loss of € 3,000,000.

(3) In order to find out if the regulated person is obliged to pay the levy pursuant to the paragraph 2, the regulated person shall estimate the expected profit or loss; it shall inform the levy administrator of this estimation in a notification pursuant to the Article 3 paragraph (2). The provision of the first sentence shall not apply to the regulated person pursuant to the Article 13 paragraph (1).

(4) After a dissolution of a regulated person, the obligation to pay the levy shall be transferred to its legal successors

who are regulated persons pursuant to the Article 3 paragraph (1) in the ratio in which the net business equity has been transferred to them.

(5) The obligation to pay the levy for a person or an organizational unit of a foreign person shall expire by fulfilling its obligation to pay the levy for all levy periods pursuant to this Act during which it was a regulated person.

(6) The last levy period for a regulated person which ceased to be a regulated person is the levy period immediately preceding the calendar month in which it shall cease to hold the authorization to perform its activities pursuant to the Article 3 paragraph (1) letter a).

(7) If a regulated person has no obligation to pay the levy pursuant to the paragraph 1, Article 13 paragraph (1) or (4), its obligation to pay the levy shall arise from the first levy period of the accounting period in which its profit or loss has reached at least the sum of the profit or loss pursuant to the paragraph 2, however, not earlier than in the levy period of September 2012.

(8) Regulated person shall not pay the levy if the sum of levy for the relevant levy period does not reach an amount exceeding EUR 1,000.

§5 Levy base

(1) The levy base shall be understood as the profit or loss reported for the accounting period in which the regulated person holds the authorization to perform its activity in the area pursuant to the Article 3 paragraph (1) letter a) multiplied by the coefficient pursuant to paragraph (5); this levy base shall apply to levy calculation for the purpose of settlement of levies pursuant to Article 9 to those levy periods which fall into the accounting period in which the profit or loss was reported.

(2) For the purposes of payment of the levy, for levy calculation purposes the levy base shall be the profit or loss stated in the notification pursuant to the Article 3 paragraph (2), the Article 8 paragraph (3), Article 13 paragraph (2) or (5) multiplied by the coefficient pursuant to paragraph (5).

(3) For the purposes of the paragraph 1 and 2 and Article 4, the pre-taxation profit or loss shall be used, reported pursuant to accounting procedures regulated by a special regulation.¹³⁾

(4) If the regulated person does not report profit or loss pursuant to the paragraph 3, for the purposes of paragraph 1 and 2 and the Article 4 the pre-taxation profit or loss shall be used, reported pursuant to international accounting standards 14), adjusted pursuant to the special regulation¹⁵⁾.

(5) The coefficient for the purposes of levy base calculation shall be calculated as a ratio of revenues or income, if the regulated person uses the single-entry bookkeeping system, gained from the activity in the area pursuant to Article 3 paragraph (1) letter a) to the total revenues or income, if the regulated person uses the single-entry bookkeeping system, pursuant to the special regulation¹³⁾ falling in the accounting period for which the profit or loss used to calculate the levy base for the purposes of paragraphs (1) and (2) was reported. The coefficient is rounded downwards to two decimal points.

§6 Levy rate

The levy rate for a regulated person shall be 0.00726.

§7 Levy calculation

The levy shall be calculated as a product of the levy rate and the levy base.

§8 Levy assessment

(1) On the basis of a written notification pursuant to the Article 3 paragraph (2), Article 13 paragraph (2), (5), pursuant to the paragraph 3 or on the basis of a decision pursuant to the paragraph (4), the regulated person shall pay the levy for each levy period until the end of the levy period in which it is obliged to pay the levy.

(2) The levy shall be considered as assessed by submitting a written notification pursuant to the Article 3 paragraph (2), Article 13 paragraph (2), (5) pursuant to the paragraph 3, or by delivering a decision, pursuant to the paragraph 4, to the regulated person or its legal successor.

(3) If the levy base amount has been changed, until the end of the calendar month following the month when the regulated person was obliged to file its tax return¹⁶⁾, or if the change does not result in obligation to file the tax return, until the end of calendar month following the month when it has noticed the change of levy base amount, the regulated person shall deliver a written notification to the levy administrator in which it shall specify

- a) the profit or loss adjusted pursuant to the Article 5 reported for the accounting period immediately preceding the accounting period in which the levy base amount has been changed or in case of additional change of the profit or loss, the new profit or loss pursuant to the Article 5 paragraph (1) or pursuant to the Article 13 paragraph (1),
- b) coefficient for the purposes of levy base calculation pursuant to the Article 5 paragraph (5),
- c) the amount of levy it is obliged to pay.

(4) If the amount of levy stated in the written announcement pursuant to the Article 3 paragraph (2), Article 13 paragraph (2), (5) or pursuant to the paragraph 3 is not calculated pursuant to this Act, the levy administrator shall issue a decision determining the amount of levy. The regulated person shall pay the levy on the basis of the decision pursuant to the first sentence, starting from the levy period following the calendar month when it received the decision.

(5) The decision on determining a levy pursuant to the paragraph 4 and the decision on the settlement of levies pursuant to the Article 9 shall become effective when delivered to the regulated person.

(6) The regulated person may file an objection against the decision on determining a levy pursuant to the paragraph 4 or on the settlement of levies pursuant to the Article 9, not later than 8 days from the decision delivery, either in writing or orally in the levy administrator's minutes. The objection may only be filed against the levy base, the amount of the levy or amount of the settlement of levies. Filing an objection shall have no suspensory effect. The levy administrator may make a decision on the objection within 15 days, if fully acquitting it, otherwise it shall forward the objection to the Financial Directorate of the Slovak Republic (hereinafter referred to as the 'Financial Directorate') for decision, while shall immediately inform the regulated person thereof.

(7) The Financial Directorate shall decide on the objection within 15 days from the day when the objection, forwarded pursuant to the paragraph 6, was delivered. The Financial Directorate shall change the relevant decision in justified cases, otherwise it shall reject the objection.

(8) The decision on the objection shall become effective when delivered to the regulated person. No legal remedies shall be acceptable against the decision on objection; this shall not apply to the decision on the objection in which the levy administrator fully acquitted to the objection.

§9 Settlement of levies

(1) The levies paid pursuant to the Article 8 or the levies which were supposed to be paid for levy periods belonging to the relevant accounting period in which the regulated person is obliged to

draw up the financial statements and submit it together with the tax return¹⁷⁾ shall be the subject of settlement carried out by the levy administrator. Within the period for submission of financial statement pursuant to the first sentence, the regulated person shall be obligated to submit to the levy administrator a written notification for the purposes of settlement of levies which shall state

- a) profit or loss,
- b) coefficient for the purposes of levy base calculation pursuant to the Article 5 paragraph (5),
- c) levy base pursuant to Article 5 paragraph (1);
- d) the sum of levies paid for the levy periods belonging in the relevant accounting period.

(2) The levy administrator shall calculate from the levy base pursuant to the Article 5, levies for all levy periods belonging to the relevant accounting period pursuant to the paragraph 1, and shall compare them with levies pursuant to the paragraph 1, taking into consideration the provision of Article 4 paragraph (8).

(3) A positive difference of the total of levies paid pursuant to the paragraph 1 and the total of levies calculated by the levy administrator pursuant to the paragraph 2 shall represent an overpayment of settlement of levies.

(4) A negative difference of the total of levies paid pursuant to the paragraph 1 and the total of levies calculated by the levy administrator pursuant to the paragraph 2 shall represent arrears of settlement of levies.

(5) On the result of the settlement of levies the levy administrator shall issue a decision on the settlement of levies, until the end of the calendar month following the month in which the levy administrator received the financial statement and the notification pursuant to the paragraph 1, in which it shall state the amount of the overpayment of settlement of levies or the amount of arrears of the settlement of levies

(6) If, after the decision on settlement of levies was issued pursuant to the paragraph (5), the amount of the levy base is changed pursuant to the Article 8 paragraph (3) regarding the accounting period in relation to which the settlement of levies was carried out pursuant to paragraph (5) the levy administrator shall make a new settlement of levies for levy periods belonging to the same accounting period. By issuing a new decision on the settlement of levies, the original decision on the settlement of levies shall be repealed.

(7) Regulated person shall pay the arrears resulting from the settlement of levies within 15 days after the delivery day of the decision on the settlement of levies

§ 10 Levy payment form

(1) Any levy or arrears resulting from the settlement of levies shall be paid in Euros on the account stated on the web page of the Financial Directorate.

(2) Any outstanding levy or arrears resulting from the settlement of levies after dissolution of a regulated person shall be settled by its legal successors jointly and severally. Legal successors shall pay the outstanding levy or arrears of the settlement of levies of the regulated person until the end of the calendar month following the calendar month when the regulated person ceased to exist.

(3) If the regulated person or its legal successor has failed to pay a levy or arrears of the settlement of levies in the time limit as stipulated by this Act, or in the amount as determined in the notification of the regulated person pursuant to this Act, or in the decision of the levy administrator pursuant to this Act, the levy administrator shall impose an interest on late payment on the regulated person or its legal successor, while according procedure pursuant to a special regulation¹⁸⁾ shall be taken, similarly to imposing an interest on late payment of outstanding tax amount.

(4) The amount of a payment exceeding the payable levy shall represent an overpayment of levy. Provisions of a special regulation¹⁹⁾ shall apply to the overpayment of levy and to the overpayment of the settlement of levies pursuant to the Article 9 (3) accordingly, similarly to a tax overpaid.

Joint, provisional and final provisions**§ 12**

(1) Provisions of a special regulation¹⁾ shall be applied accordingly to this Act, unless stated otherwise by this Act.

(2) The outstanding levy and the outstanding arrears of the settlement of levies after their due date shall represent arrears of levies. Provisions of a special regulation on tax enforcement proceedings²⁰⁾ shall be applied accordingly to recovery of any arrears of levies.

(3) Any settled levies shall represent state financial assets kept at a separate extra-budgetary account. Revenue of state financial assets pursuant to the previous sentence shall become a part of these state financial assets.

(4) State financial assets pursuant to the paragraph 3 are purposefully determined to support development programmes of the Government of the Slovak Republic.

(5) Any levy, overpayment of the settlement of levies and arrears of the settlement of levies shall be included in the income tax base pursuant to a special regulation.²¹⁾

(6) Levy payment shall not be a reason to increase the regulated price pursuant to a special regulation²²⁾, and any settled levy shall not be considered as lawful costs which may be included in the regulated price.

(7) The notification pursuant to the Article 3 paragraph (2), Article 8 paragraph (3), and Article 9 paragraph (1) shall be submitted on the form based on the template designed by the Financial Directorate and published on the Financial Directorate's web site. In addition to the data pursuant to the Article 3 paragraph (2), Article 8 paragraph (3), and Article 9 paragraph (1), this form contains particularly the identification data of the regulated person, and where such person is

- a) a natural person, the name and surname, the date of birth, the address of permanent residence or the place of business if it is different from the place of permanent residence, the identification number of organisation if assigned, and identification number for tax if assigned,
- b) a legal entity, the business name, the registered office, identification number of organisation and identification number for tax if assigned.

§ 13

(1) Any person or the organizational unit of a foreign person which is entitled, as of 1 September 2012, to perform the activity stated in the Article 3 paragraph (1) letter a) and whose ratio of income from its activities in the area pursuant to the Article 3 paragraph (1) letter a) for the accounting period prior to the effectiveness of this Act reached at least 50% of total income of this accounting period, shall be considered a regulated person pursuant to this Act. Such regulated person shall be obliged to pay a levy, starting from the levy period of September 2012, if its profit or loss for the accounting period prior to the effectiveness of this Act reached at least the sum of the levy base pursuant to the Article 4 paragraph (2). The accounting period pursuant to the preceding sentences shall mean the accounting period immediately preceding the effectiveness of this Act for which arise the obligation to draw up due financial statements and to submit it together with the tax return¹⁷⁾ in the period which had elapsed before this Act was effective.

(2) Regulated person with an obligation to pay a levy pursuant to the paragraph 1 shall deliver a written notification to the levy administrator, until the end of levy period being September 2012, in which it shall specify

- a) the area pursuant to the Article 3 paragraph (1) letter a) in which it holds the authorization to perform its activity;
- b) date of commencement of the authorization to perform its activity pursuant to the Article 3 paragraph 1 letter a);
- c) sum of profit or loss for the accounting period pursuant to the paragraph (1);
- d) the amount of levy it is obliged to pay.

(3) As regulated person pursuant to this Act shall also be considered a person or an organizational unit of a foreign person, which

- a) as of 1 September 2012 holds the authorization to perform the activity stated in the Article 3 paragraph (1) letter a);
- b) did not report its profit or loss prior to the effective date of this Act; and
- c) expects that income from its activity in the area pursuant to the Article 3 paragraph (1) letter a) for the accounting period which has started immediately before the effective date of this Act, shall reach at least 50% of total income of this accounting period.

(4) Any regulated person pursuant to the paragraph 3 shall be obliged to pay a levy starting from the levy period, which is September 2012, if its estimation pursuant to the paragraph 5 letter c) for the accounting period which has started immediately before effectiveness of this Act, reached at least the sum of the levy base pursuant to the Article 4 paragraph (2).

(5) Regulated person with an obligation to pay a levy pursuant to the paragraph 4 shall deliver a written notification to the levy administrator, until the end of levy period being September 2012, in which it shall specify

- a) the area pursuant to the Article 3 paragraph (1) letter a) in which it holds the authorization to perform its activity;
- b) date of commencement of the authorization to perform its activity pursuant to the Article 3 paragraph 1 letter a);
- c) estimated sum of expected profit or loss;
- d) the amount of levy it is obliged to pay.

§ 14 Provisional provisions to amendments effective from 31 December 2016

(1) The obligation to pay the levy pursuant to the Article 4 in wording effective from 31 December 2016 shall apply to the regulated person starting from the first levy period belonging to the accounting period which starts after 31 December 2016.

(2) The levy base pursuant to the Article 5 in wording effective from 31 December 2016 shall be applied for the first time to the levy period belonging to the accounting period which starts after 31 December 2016.

(3) The levy rate pursuant to the Article 6 in wording effective from 31 December 2016 shall be applied for the first time to the levy period belonging to the accounting period which starts after 31 December 2016.

(4) The levy rate pursuant to the Article 6 in wording effective from 31 December 2016 shall be decreased effective from 1 January 2019 to 0.00545. The levy rate decreased pursuant to the first sentence shall be applied for the first time to the levy period belonging to the accounting period which starts after 31 December 2018.

(5) The levy rate pursuant to the Article 6 in wording effective from 31 December 2016 shall be decreased effective from 01 January 2021 to 0.00363. The levy rate decreased pursuant to the first sentence shall be applied for the first time to the levy period belonging to the accounting period which starts after 31 December 2020.

(6) The levy calculation pursuant to the Article 7 in wording effective from 31 December 2016 shall be applied for the first time to the levy period belonging to the accounting period which starts after 31 December 2016.

(7) The settlement of levies pursuant to the Article 9 in wording effective from 31 December 2016 shall be carried out for the first time to the levy periods belonging to the accounting period which starts after 31 December 2016.

Article II

Act No. 479/2009 Coll. on Governmental Bodies Collecting Taxes and Duties and amending and supplementing certain acts as amended by Act No. 331/2011 Coll., Act No. 384/2011 Coll.

and Act No. 69/2012 Coll. shall be amended and supplemented as follows:

1. A new letter l) shall be inserted behind letter k) in the Article 5 paragraph (3) as follows:

"l) carries out administration of special levy on enterprising in regulated areas pursuant to special regulation^{16a)}".

The footnote 16a shall read as follows:

"16a) Act No. 235/2012 Coll. on Special Levy on Enterprising in Regulated Areas and on Amendments and Supplements to Certain Laws."

The existing letter l) shall be re-numbered to letter m).

2. Paragraph 6 of the Article 6 shall read as follows:

"(6) Tax authority performs levy administration for selected taxable entities pursuant to special regulations.^{20a)}".

The footnote 20a shall read as follows:

"20a) Act No. 384/2011 Coll. on Special Levy of Selected Financial Institutions and on Amendments and Supplements to Certain Laws. Act No. 235/2012 Coll."

Article III

Act No. 563/2009 Coll. on Tax Administration (Tax Procedure Code) and on amendments and supplements to certain laws as amended by Act No. 331/2011 Coll., Act No. 332/2011 Coll., Act No. 384/2011 Coll., Act No. 546/2011 Coll., Act No. 69/2012 Coll. and Act No. 91/2012 Z. z. shall be amended as follows:

1. The Article 1 shall be supplemented by a paragraph 4 which shall read as follows:

"(4) If stipulated by a special regulation^{1c)}, provisions of this Act shall be accordingly applied to a special levy on enterprising in regulated areas.^{1d)}".

The footnotes to references 1c and 1d shall read as follows:

"1c) the Article 10 (3) and (4) and the Article 12 (1) and (2) of the Act No. 235/2012 Coll. on Special Levy on Enterprising in Regulated Areas and on amendments and supplement to certain laws.

1d) The Act No. 235/2012 Coll."

2. In the Article 155 (14) the words "e) may for an administrative offence pursuant to the Article 154 paragraph (1) letter j)" shall be replaced by the words "d) and pursuant to paragraph (1) letter e) for an administrative offence pursuant to the Article 154 (1) letter j) may".

Article IV

This Act shall come into effect on 1 September 2012.

Ivan Gašparovič signed by hand

Pavol Paška signed by hand

Robert Fico signed by hand

- 1) Act No. 563/2009 Coll. on Tax Administration (Tax Procedure Code) and on amendments and supplements to certain laws.
- 2) Article 3 of Act No. 431/2002 Coll. on Accounting as amended by Act No. 198/2007 Coll.
- 3) Act No. 656/2004 Coll. on Energy Sector and on amendments and supplements to certain laws. Act No. 657/2004 Coll. on Heat-Power Engineering, as amended.
- 4) Act No. 8/2008 Coll. on Insurance and on Amendments and Supplements to certain laws, as amended.
- 5) Act No. 581/2004 Coll. on Health Insurance Companies, Healthcare Supervision and on amendments and supplements to certain laws, as amended.
- 6) Act No. 351/2011 Coll. on Electronic Communications, as amended.
- 7) Article 7(1)(a) and (b) of Act No. 362/2011 Coll., on Drugs and Medical Aids and on amendments and supplements to certain laws.
- 8) Article 15 of Act No. 324/2011 Coll. on Postal Services and on amendments and supplements to certain laws as amended by Act No. 402/2013 Coll.
- 9) Article 37 of Act No. 514/2009 Coll. on the Transport on Railroads.
- 10) Act No. 442/2002 Coll. on Public Water Supplies and Public Sewage Systems and on amendments and supplements to Act No. 276/2001 Coll. on Regulation in Network Industries, as amended.
- 11) Act No. 143/1998 Coll. on Civil Aviation (Civil Aviation Act) and on Amendments and Supplements to certain laws, as amended.
- 12) Article 11(1)(a) of Act No. 578/2004 Coll. on Healthcare Providers, Health Workers and Professional Organisations in the Health Service, and amending and supplementing certain laws, as amended.
- 13) Act No. 431/2002 Coll. as amended.
- 14) Article 17a of Act No. 431/2002 Coll. as amended by Act No. 547/2011 Coll.
- 15) Article 17(1)(c) of Act No. 595/2003 Coll. on Value Added Tax.
- 16) Article 49(2) and (3) of Act No. 595/2003 Coll., as amended.
- 17) Article 49(11) of Act No. 595/2003 Coll., as amended by Act No. 548/2011 Coll.
- 18) Article 156 of Act No. 563/2009 Coll., as amended.
- 19) Article 79 of Act No. 563/2009 Coll. as amended by Act No. 331/2011 Coll.
- 20) Articles 88 through 153 of Act No. 563/2009 Coll., as amended by Act No. 331/2011 Coll.
- 21) Article 17(1)(b) and (c) of Act No. 595/2003 Coll., as amended.
- 22) E.g. the Act No. 276/2001 Coll. on Regulation in Network Industries, as amended, Act No. 351/2011 Coll.

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