

Jurisdiction's name:	Slovak Republic
Information on residency for tax purposes	
Section I – Criteria for Individuals to be considered a tax resident	
<p>Pursuant to the § 2 d) point 1 of the Income Tax Act No. 595/2003 Coll. as later amended (later only "Income Tax Act") a taxpayer with unlimited tax liability (tax resident) is an individual with a permanent address in the Slovak Republic, or a dwelling place (home) in the Slovak Republic or a person that habitually stays in the territory Slovak Republic. Dwelling place (home) in the Slovak Republic is the possibility of accommodation, which is not only occasional, taking into account all related facts and circumstances, including the personal and economic ties of the natural person to the territory of the Slovak Republic, it is obvious that the natural person should stay permanently in this place. A person habitually stays in the territory of the Slovak Republic, if they spend here at least 183 days in the calendar year, continually or within several periods. Every spent day of the stay (also commenced day of the stay) is included into this period. Pursuant to the § 2 e) point 2 of the Income Tax Act an individual is not considered to be a taxpayer with unlimited tax liability (tax resident) if they habitually stay in the territory of the Slovak Republic only for the purposes of studies or medical treatment.</p> <p>Financial Directorate of the Slovak Republic published a guidance on determination of the extent of the tax liability in the Slovak Republic (tax residence status). Taxpayers can find this guidance on the official website of the Slovak financial administration (in Slovak language only): <i>Guidance n. 2/MZ/2020/MU on interpretation and assessment of criteria for determining tax residency status for purposes of ITA and double tax conventions (2/MZ/2020/MU – METODICKÉ USMERNENIE K INTERPRETÁCII A POSUDZOVANIU KRITÉRIÍ PRE URČENIE DAŇOVEJ REZIDENCIE DAŇOVNÍKA NA ÚČELY ZÁKONA O DANI Z PRÍJMOV A PRÍSLUŠNEJ ZMLUVY O ZAMEDZENÍ DVOJITÉHO ZDANENIA).</i></p> <p>Link to the Guidance is: 2020.10.08_2_MZ_2020_MU_rezident.pdf (financnasprava.sk).</p>	
Section II – Criteria for Entities to be considered a tax resident	
<p>Pursuant to the § 2 d) point 2 of the Income Tax Act a taxpayer with unlimited tax liability (tax resident) is a legal person with a seat or a place of effective management in the territory Slovak Republic. The seat is according to the Commercial Code the address that is as the seat or place of business registered in the Commercial Register or in the Trade Register or in other recordings determined by particular law. The place of effective management is a place where essential management and commercial decisions of statutory and supervisory bodies of a legal person are made or taken, even if this address is not registered in the Commercial Register.</p> <p>Financial Directorate of the Slovak Republic published a guidance on determination of the extent of the tax liability in the Slovak Republic (tax residence status). Taxpayers can find this guidance on the official website of the Slovak financial administration (in Slovak language only): <i>Guidance n. 2/MZ/2020/MU on interpretation and assessment of criteria for determining tax residency status for purposes of ITA and double tax conventions (2/MZ/2020/MU – METODICKÉ USMERNENIE K INTERPRETÁCII A POSUDZOVANIU KRITÉRIÍ PRE URČENIE DAŇOVEJ REZIDENCIE DAŇOVNÍKA NA ÚČELY ZÁKONA O DANI Z PRÍJMOV A PRÍSLUŠNEJ ZMLUVY O ZAMEDZENÍ DVOJITÉHO ZDANENIA).</i></p> <p>Link to the Guidance is: 2020.10.08_2_MZ_2020_MU_rezident.pdf (financnasprava.sk).</p>	

Section III – Entity types that are as a rule not considered tax residents

Pursuant to the Income Tax Act there are following types of entities that are considered to be fiscally transparent or partially transparent:

a) **verejná obchodná spoločnosť** (general commercial company) is established in accordance with Section 76 of the Commercial Code No. 513/1991 Coll. as later amended.

A general commercial partnership is a company in which at least two persons (partners) operate under a common business name and guarantee the company's liabilities jointly and severally with all their assets.

Pursuant to Section 14 (4) of the Income Tax Act the tax base of the taxpayer which is a general commercial partnership shall be determined for the company as a whole in accordance with Sections 17 to 29. The tax base shall be divided among the partners applying the same ratio, which applies to the distribution of profits according to the memorandum of association. If the memorandum of association fails to specify the terms of distribution of profits, the tax base shall be divided among the partners on an equal basis. Tax loss shall be divided in the same manner as the tax base calculated as set out in Sections 17 to 29.

Since a general commercial company is a personal company taxed at the level of the partners who have created it (natural or legal persons), i.e. is a fiscally transparent company, it cannot benefit from the double tax convention and cannot be considered a tax resident under this convention.

b) **komanditná spoločnosť** (a limited partnership) established in accordance with Section 93 of the Commercial Code No. 513/1991 Coll. as later amended.

A limited partnership is a company in which one or more partners are liable for the company's obligations up to the amount of their outstanding contribution entered in the commercial register (limited partners) and one or more partners with all their assets (general partners).

Pursuant to Section 14 (5) of the Income Tax Act the tax base of the taxpayer which is a limited partnership shall be determined for the company as a whole in accordance with Sections 17 to 29. The tax base calculated in this manner shall be decreased by the share apportioned to general partners, which shall be determined in the same ratio as applicable to the profit before tax division between the limited partners and general partners. The remaining tax base constitutes the tax base of the limited partnership. Tax loss shall be divided in the same manner as the tax base calculated as set out in Sections 17 to 29.

Pursuant to Article 4 (1) of the double tax convention, for the purposes of this convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. Therefore, a limited partnership is considered to be a tax resident within the meaning of the convention only in relation to the share of the limited partners.

Section IV – Contact point for further information

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