

CHANGES TO THE TAX PROCEDURE CODE
(IN FORCE AS OF 1 JANUARY 2013)

Changes to the Tax Procedure Code were published in State Gazettes # 82/26.10.2012 и # 94/30.11.2012, the most of essential of which come into force on 01.01.2013.

Some of the most important changes to Tax Procedure Code have been briefly summarized below.

1. Changes to the sequence of payment of public liabilities

The sequence of payment of public liabilities, where a taxable person has several liabilities, which cannot be paid simultaneously, has been changed. In such case, liabilities having earlier due date shall be paid first. If a person has several liabilities with the same due date, they shall be paid pro-rata. Up until now, the persons had the right to choose which of the liabilities to pay.

The changes are made in relation to the introduction of the so called “unified payment order”, which shall allow the tax liable persons to pay all they public liabilities by means of one unified payment order only.

The changed sequence of payment of public liabilities triggers the following important consequences:

- As the new sequence shall also be applied in respect of unduly paid amounts as at 31.12.2012, the taxable persons have been given the option to avoid the payment of old liabilities through these amounts by way of claiming them as unduly paid in accordance with article 129 of the Tax Procedure Code. Such a claim, however, should be filed by 01.01.2013.
- The changes to the Corporate Income Tax coming into force on 01.01.2013 have abolished the text in article 94, which allowed overpaid corporate income tax to be offset against next advance or annual corporate income tax installments. This change would also affect the corporate income tax overpaid in 2012 - i.e. such a tax could be claimed for refund but could not be offset from advance installments in 2013.

Apart from the above and in relation to priority payment of tax liabilities with earlier maturity it is possible that the overpaid corporate income tax be used for automatic payment of all kinds of unpaid public liabilities (with the exception of local taxes and fees which are not established by the National Revenue Agency).

- Another adverse consequence from the new sequence of tax liabilities payment could be the risk the payment to be referred to a time barred tax public liability. In this relation the Tax Procedure Code clarifies that the new sequence of payment shall be applied to tax liabilities whose due date elapsed before 01.01.2008 (and which are time barred on 01.01.2013) after 01.01.2014. According to information from the

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public domain during 2013 the taxable persons shall have the opportunity to file time barred related objections under a procedure to be developed.

The new sequence of payment of tax liabilities shall not be applicable in respect of:

- Tax liabilities under a tax assessment act which is not in force yet, unless until the initiation of the execution proceedings the taxable person files an application that he settles the liabilities under this act.
- Social security installments for additional mandatory pension insurance – in the case of several liabilities, the taxable person may state which one is settled. Otherwise the general payment procedure shall be applied.
- Liabilities for health insurance contributions of self-insured persons (men of the profession; sole traders; shareholders; registered agricultural producers and tobacco producers), of persons who are not health insured on other grounds and pay health insurance contributions on their own account, as well as of Bulgarian citizens residing abroad for more than 183 days in a given calendar year and pay health insurance contributions in order to recover health insurance rights. In these instances the persons may state which health insurance liabilities are settled by filing an application form.

In relation to the new sequence of payment of tax liabilities, the taxable persons are given Internet access via the revenue agency web site to their tax and social security account through personal identification codes or through electronic signature. Thus the taxable persons shall be able to follow by themselves their public liabilities and the due dates.

2. Changes to the procedure for issuance of tax assessment acts

Starting from 2013 the tax assessment acts shall be issued by the body assigning the tax audit and the tax audit supervisor. Thus, for the first time, a body that has not directly participated in the tax audit shall be involved in the issuance of the tax assessment act. Besides, if both bodies cannot reach an agreement on the issuance of the tax assessment act, it shall be issued by a third party determined by the regional tax director.

The new procedure for issuance of tax assessment acts shall be applied in tax assessment procedures starting after 01.01.2013.

The Directorate responsible for the tax assessment appeals (i.e. Appeals and Management of Execution Directorate) shall be restructured in a Directorate under the name Appeals and Tax-Social Security Practices.

3. Changes to the procedure on staying of tax audits

Effective from 26.10.2012 new rules are in force as regard staying of tax audits. According to the new rules the taxable persons shall have the possibility to appeal orders staying tax audits or denying the staying of tax audits or failures of the authorities to allow the staying of tax audits upon requests which failures are equalized to tacit denials. Before the changes the orders for staying of tax audits were not subject to appeal, now such order may be appealed before the competent administrative court whose order shall be final.

All persons involved in stayed tax audits have also been given the right to appeal the orders by 30 January 2013.

Besides, a maximum staying term of 8 months has been introduced in relation to exchange of information procedures with other countries. The maximum term shall be applied for stayed tax audits as well but the term shall start running as of 01.01.2013.

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4. Interest on unpaid advance installments

The period for which interest is due on unpaid advance installment has been changed. The interest shall start running from the date, on which the advance installment has become due and shall be owed until the date of payment of the respective advance installment but no later than 31-st December of the year for which the advance installment is due.

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