TAX FRESH

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Dear business friends,

Please receive our information on planned amendments to tax laws and regulations that should come into force on 1 January 2015. Most of them are directly related to recent amendments in the field of private law, i.e. the new Civil Code, and the Act on Business Corporations. The proposed amendments are designed to rectify the flaws and imperfections revealed during the use of the above specified laws.

The proposed amendments also reflect provisions of the Czech government's Coalition Agreement, namely higher tax deductions and credits, new reduced VAT rate on certain commodities and increased effort to fight tax fraud.

Should you have any further questions, we shall be happy to assist you at any time.

Yours faithfully

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Personal Income Tax

The income tax rate for 2015 shall remain at **15%**, calculated from the super gross salary, but increased by a 7% solidarity tax for salaries exceeding ca CZK104,000. Progressive taxation is likely to be re-introduced from 2016.

Below are the main content changes:

- **Child tax credit** for second and further child shall be increased by CZK100 a month (i.e. CZK1,200 a year).

- Should the income tax payer be entitled to receive for a specific transaction any **tax-free income** exceeding the amount of CZK5,000,000, such income must be announced to the relevant tax administrator by the tax return due date. Should the tax payer fail to fulfil this duty, s/he might be fined up to 15% of the amount of the respective income.

- Working **old age pensioners** shall be allowed to claim the basic personal tax credit. At the same time, the new system will re-introduce the rule that the received old age pension is taxed for people whose total income from employment, business activities and/or property rental exceeds CZK840,000 per year.

- In the case of activities for which business expenses can be deducted using the **fixed percentage** at the rate of 60%, the absolute deducted amount may not exceed CZK1,200,000 (i.e. the 60% deduction can be used only for income not exceeding CZK2 million).

- **Entrepreneurs and real property lessors** who use the fixed percentage tax deduction for their expenses, will still not be allowed to claim personal tax credit.

- A cap of CZK10,000 per calendar year will be introduced on **non-monetary benefits** provided by the employer to the employee or his/her family member from the Cultural and Social Needs Fund, Social Fund, profit/income (after taxation) or within non-deductible expenses. This shall include the use of healthcare, educational or holiday facilities, holiday and travel services, the use of a company library or sports facilities or a contribution on cultural or sports events.

- **The duty to submit a solidarity tax return** occurs only if solidarity tax is applied to the total annual tax, not just an individual monthly prepayment.

- The due date for the **annual income tax prepayment settlement** will move from March 15 to March 31. The due dates for returning overpayments as specified in the annual settlement and for submission of the regular tax statement shall be moved accordingly.

- **Payroll sheet** must include the data from the annual settlement of the tax prepayment and tax credit.

- When procuring a "**right to build**", which is not included in the building assessment, personal income tax payers who do not keep accounts will claim expenses on such procurement gradually for the agreed period of existence of such right to build. This way expenses of individuals keeping tax records are accrued similarly to the way expenses are accrued in the case of finance lease.

NB

- Decisions about dividend payout for 2013 must comply with the new Act on Business Corporations (hereinafter ABC).
- Companies are bound to amend their memorandum of association to comply with the new ABC by 30 June 2014. A similar obligation applies to contracts on office performance and remuneration.
- Tax payers should reclassify their fixed assets to comply with the new CZ-CPA production classification.

Corporate Income Tax

The corporate income tax rate shall remain at 19% even after 1 January 2015. The following changes of the income tax law are expected:

- The tax return form should include a **special appendix** to fill in information about transactions with related parties.

- The current Section 24 (2)(**zc)** of the Income Taxes Act stipulates that non-deductible expenses may be reclassified as deductible up to the amount of the proceeds directly related to such expenses. This stipulation should now apply only to "re-invoicing", i.e. the expenses will be deductible up to the amount which should be remunerated. This stipulation, however, cannot be used for non-deductible expenses in special tax mode (e.g. adjustments, depreciations, receivables).

- **Taxation of investment funds** shall be amended to ensure the reduced corporate income tax rate of 5% can only be used by a selected subgroup of investment funds.

- The period after which 100% **statutory adjustments** can be created for non-lapsed receivables shall be shortened from 36 to 30 months (with respect to the shortening of the lapse period to three years as stipulated in the new Civil Code).

- Changes related to the **write-offs of trust funds**, beneficiaries, foundations and institutes form a separate group of amendments which concern confirmation of the lawmaker's intent to enable such subjects to use write-offs.

- The definition of **finance lease** shall be extended to cover the economic essence of the term. The new decisive attributes include the conditions that the purchase price of the leased object at the moment of title transfer must be substantially lower than its usual price at that moment, and that the lessee shall bear the responsibility for the object (including maintenance and service) and the risks related to it (damage, decrease in market value).

Value Added Tax

The main amendments to the VAT Act to become valid on 1 January 2015 include:

- Introduction of a new **reduced 10% tax rate**, along with the current reduced 15% rate. The reduced rate shall apply to selected products (irreplaceable infant nutrition, medicines and books). Standard tax rate 21% remains unchanged.
- Payers shall be required to develop and submit a **review statement** along with their VAT return.
- The **VAT liability transfer regime** will newly be applied to supplies of mobile phones, devices with integrated circuits, game consoles, tablets and laptops, supplies of grains and industrial crops, including oil seeds and sugar beet, supplies of raw or semi-processed metal, including precious metal.
- The VAT liability transfer regime can now be introduced for selected areas using the so called **Immediate Response Mechanism**, i.e. by the cabinet's decree, for a period not exceeding nine months, provided the European Commission confirms that there are no objections to using the regime on the supplies of selected products or services with respect to the fight against tax evasion.

Other changes included in the proposed bill are designed to harmonise the current stipulations of the VAT Act or to reword its text with reference to the valid directives.

Tax Code

The proposed changes to the Tax Procedure Rules can be divided into several areas. One of them concerns measures designed to **curb tax evasion** (e.g. limiting misuse of so called virtual headquarters of taxpayers, enhancing methods for detection of VAT chain frauds, modification of the period for tax assessment to ensure the period does not overlap with the period of prosecution).

Another area relates to **E - of tax administration**. In view of the ongoing expansion of areas for which the law stipulates only electronic submission of forms, a specific process is proposed to be used in cases of failure to use electronic submission. The tax administrator will no longer demand correction of the submission method and would accept the forms received, provided they contain no other faults. In the case of forms for which electronic submission is specifically required by the Finance Ministry, failure to observe this obligation might lead to sanctions for failure to meet non-monetary obligation.

Another important area concerns changes in the **sanction system**, namely the new fine for failure to meet non-monetary obligation which could reach up to CZK500,000. A fine close to the maximum amount should not be imposed for failures of minor importance or to tax payers for whom such penalty could represent enormous burden.

Real Property Tax

Another amendment concerns the Act on Real Property Tax. From 1 January 2015, the Act should see certain terminological corrections which should not substantially change the tax liabilities and obligations of taxpayers. A positive innovation is the special stipulation on the **penalty for delayed tax return**, which says that in cases of delayed return for a lower tax, the payer will no longer face penalty for delayed tax return.

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