TAX FRESH

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Dear business friends,

In this Tax Fresh issue we would like to cover approved amendments to tax legislation effective since the beginning of 2015. With respect to the large extent of the amendments, in this issue we will discuss topics relating to the personal income tax and some amendments to tax administration regulations, namely the electronic filing duty applicable to a large group of taxpayers. Some amended personal income tax provisions may apply already to the 2014 tax period, which is why we cover these issues separately. Changes in the corporate income tax and in the VAT will be treated in our next issue.

Our team will always be happy to help you if you have any questions.

With kind regards,

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PERSONAL INCOME TAX

Key changes applicable already to 2014

Discount for placing one's child to a pre-school facility for 2014

Taxpayers may claim a new annual discount, amounting to the documented costs incurred by taxpayers for the placement of a child into a pre-school facility, already for the 2014 tax period. The maximum limit for the discount per dependent child living in the taxpayer´s household is the minimum wage even if the expenses truly incurred for the placement of the child in the pre-school facility were higher. For 2014, the discount can amount to a maximum of CZK 8,500, for 2015 it will be CZK 9,200. The number of children for which taxpayers may claim the discount is not limited. Employees may claim the discount as part of their annual settlement of advance payments or in their individual tax returns.

Basic tax credit for 2013 and 2014 claimed by working pensioners

Based on findings of the Constitutional Court, old-age pensioners who generated non-exempt income subject to income tax, may claim basic tax credit per taxpayer amounting to CZK 24,840 per year, applicable to all taxpayers. They will be allowed to do so not only for 2014 but also retroactively for 2013.

Solidarity tax surcharge

Solely for the purpose of calculating solidarity tax surcharge, taxpayers may compensate a tax loss incurred from self-employment with incomes generated from employment. If the tax loss from self-employment reduces the income from employment to such an extent that the taxpayer fails to reach the solidarity tax surcharge threshold, the solidarity tax surcharge will not apply. Another change is the cancelled obligation of employees to file an income tax return in case they paid solidarity tax surcharge prepayment during the tax period but the total annual limit of CZK 1,245,216 has not been reached.

Managing Directors – tax non-residents – subject to tax

Incomes generated by managing directors in companies with limited liability who are tax non-residents in the Czech Republic are subject to withholding tax already for the 2014 tax period. Even though tax non-residents may not, in this case, claim standard tax discount from taxable persons, the advantage is that the solidarity tax surcharge will not be applied to incomes subject to withholding tax. However, since this withholding taxation method was not clear from the Income Tax Act provisions in 2014, the tax authority will not suspend cases where prepayment income tax was applied to incomes generated by authorised representatives in 2014, based on finding of the Coordination Committee.

In this respect we would like to point out that if withholding tax has been deducted from the income of the managing directors who are EU or EEA tax residents, they may still file personal income tax returns in the Czech Republic and claim standard tax discounts. In that case, however, if the total amount of incomes exceeds CZK 1,245,216 per year, the solidarity tax surcharge will apply. Other discounts may be claimed depending on the amount of declared incomes generated from sources in the Czech Republic, which must make up at least 90% of the total amount of global incomes; this fact must be substantiated to the tax authority by submitting a confirmation issued by a foreign tax authority.

Other changes with an impact on the 2015 taxable period

Tax discount per dependent child

The tax discount per dependent child has increased. The tax discount relating to the first child remains the same, CZK 13,404, while the tax discount relating to the second child increases to CZK 15,804 and to the third and each subsequent child to CZK 17,004 per year.

The tax discount per dependent child may also be claimed by tax non-residents that are EU or EEA tax residents provided that 90% of their incomes come from sources in the Czech Republic and substantiate it with a confirmation on their global incomes issued by the tax authority of their country of residence.

Non-monetary benefits of employees remain exempt

Non-monetary benefits provided to employees and their family members by their employers from cultural and social needs funds, social funds, profit (income) after tax or as tax non-deductible expenses remain exempt and may be provided for health, educational or recreational facilities or children pre-school facilities or as contributions to cultural or sport events. The only maximum limit of exemption remains to be applied only to non-monetary benefit with regard to holiday stays or trips and amounts to CZK 20,000 per taxable period.

Private life insurance – stricter rules

Tax benefits relating to private life insurance apply only to those taxpayers who substantiate that their insurance policy allows them to make withdrawals only after they have reached 60 years of age and that, at the same time, their policy will still run for at least 60 months.

In case of early withdrawals, contributions paid by the employer that were exempt from tax in the past 10 years, will be considered taxpayers' incomes in line with Section 6 of the Income Tax Act (this provision also applies to contracts signed prior to 2015, but only with regards to contributions paid by the employer after 1 January 2015). At the same time, taxpayers will have to pay income tax in relation to the amounts by which they reduced their tax base as far as 10 years back. The taxpayers will declare these incomes in their tax returns.

Working old-age pensioners claiming standard tax discount for 2015 based on the amendment to the Income Tax Act and old age-pension exemption limits

For the 2015 taxable period, the basic tax discount for old-age pensioners is back in the Income Tax Act; they may claim it if they have generated other than exempt incomes.

At the same time, they are obliged to test the amount of their incomes from employment, business activities and leases. In case these incomes exceed CZK 840,000, pensioners will not be eligible to claim old-age pension exemption of CZK 331,200 per year.

Interest-free loans for consumption or for use and gratuitous

Non-monetary benefits arising from interest-free loans for consumption or for use and gratuitous loans terminable at will have become subject to income tax once again. Generally, individuals in the position of borrowers that have financial gains arising from interest-free loans for consumption or other loans will be exempt if the loans have been provided by qualified close persons. Income from non´-monetary benefits arising from interest-free loans for consumption and other loans provided by other persons will be exempt only up to the amount of CZK 100,000 per taxable period provided by one person.

This, however, does not apply to employees; they are subject to stricter tax regime. Employees' non-monetary benefits arising from an interest-free loan for consumption provided by their employer are exempt only to the amount of CZK 300,000 of unpaid balances of these loans (principals) provided by one employer. In case of higher loan values, employee's income is the non-monetary benefit of an arm's length interest from the amount exceeding this limit.

Income from author´s rights

Incomes generated by authors for their contributions provided to newspapers, magazines, radio or television broadcasts form a separate withholding tax base again, provided that the sum of incomes received from one taxable person does not exceed CZK 10,000 per calendar month. This taxation will be a final without any possibility to include it in a tax return and to offset it against the total tax liability.

Lump-sum deduction limits applied by self-employed persons

Starting from 2015, there is a maximum limit for lump-sum deductions of expenses applicable not only to selected professions but to all self-employed persons. The lump-sum deductions can only be claimed for incomes of up to CZK 2,000,000 regarding all types of incomes; therefore as an example the 60% lump sum expense may not exceed CZK 1,200,000 even though the businessman under the Trade Licencing Act generated incomes of over CZK 2,000,000.

Solidarity tax surcharge limit and tax rate

The personal income tax rate remained at 15% for the 2015 taxable period and the super-gross salary is still the tax base for incomes from employment. The 7% solidarity tax surcharge threshold, however, increased to CZK 1,277,328 per year, i.e. CZK 106,444 per month.

Exempt income reporting duty

A brand new duty was introduced for individuals to report any exempt income exceeding CZK 5,000,000 by the deadline for filing income tax returns. The tax authority should publish at its website a list of all registers and records it has access to because in this limited number of cases, individuals do not have the reporting duty. There are severe sanctions for not meeting the duty, ranging from 0.1% to 15% from the amount of unreported exempt income depending on whether the taxpayer eventually fulfils the reporting duty spontaneously or upon request by the tax authority or not at all.

TAX PROCEDURE RULES

Electronic filing for individuals and legal entities

All persons who are holders of data boxes or are subject to statutory audits are obliged to file applications for registration, notifications of changes in the registration data, statutory and additional tax statements in a stipulated form and structure only electronically. If a document is not filed electronically but in paper form and is otherwise flawless, it is considered flawless and filed for the right purpose but the penalty of CZK 2,000 for each document filed will nevertheless be imposed due to the taxpayer's obstruction of the enforcement of official duties. If the tax authority decides that the taxpayer greatly complicated the administration of taxes by not fulfilling his/her e-filing duty, an additional fine of up to CZK 50,000 may be imposed. Electronic communication with the tax authority must contain recognised electronic signature, must be sent via a data box or with an authenticated identity of the person submitting the document in a manner which can be used to log into the taxpayer's data box.

Sanctions for late registration

A fine has been introduced for not meeting a non-monetary obligation amounting up to CZK 500,000, for the failure to meet registration, notification or reporting duty stipulated in the tax laws or by the tax authority, or for the failure to meet record-keeping or other recording duty stipulated in the tax laws or by the tax authority.

Penalty remissions

The last change, this time a positive one, we would like to cover in this Tax Fresh issue, is the possibility of the tax authority to remit, upon request by the taxpayer, up to 75% of penalties and default interest and interest on the deferred amount. One of the substantial prerequisites under which the tax authority may approve the taxpayers' requests is the payment of the tax in relation to which the penalty or the interest was imposed.

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