



TAX FRESH

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Dear business friends,

In this Tax Fresh issue, we undertake to inform you of further adopted amendments to the tax acts that took effect in 2015, this time in the area of corporate income tax and value added tax. We are also bringing further updates on the new instructions and notices issued by the Czech tax administration. These include particularly the amended instruction on the Income Tax Act published under no. D-22 and further instructions particularly relating to the VAT Act. At present, many of our clients are certainly concerned by the new annex to item 12 of section I of the corporate income tax return concerning transactions between related persons. Our office holds a seminar on the related subject of transfer pricing on 25 May 2015. Minimum wages in Germany represents another hot news with which you may get acquainted at the end of this Tax Fresh issue.

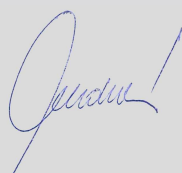
Should you have any questions, we are always glad to assist you along with our colleagues.

Kind regards,

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Tax partner

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Tax partner


Audit & Tax Services



CORPORATE INCOME TAX

The most important amendments to the Income Tax Act (ITA) which concern the corporate income tax

A deduction to support the acquisition of assets for professional education and expenses made on students

Although these deductions were already introduced to the Income Tax Act by an amendment effective as of 1 January 2014, they took significance at present. This is due to the fact that the deductions to support the acquisition of assets for professional education and the expenses made per trainee or student (Section 34h – 34ch ITA) can be applied for the first time in corporate (or personal) income tax returns for the tax period of 2014.

The deductions stated herein may significantly decrease the tax liability of those taxpayers that got involved in professional education of trainees and students. We will be glad to assist you with the analysis of the possibilities for applying these deductions and their calculation.

Exemption of income from the release of the reserve fund

The new Civic Code removed the duty to establish a reserve fund. The companies that have previously mandatorily established it may decide to release it. However, this must be related to a corresponding amendment to company's memorandum of association, or its by-laws. The ITA amendment responds to this in Section 19(1) (zf). If a reserve fund (or a similar fund) of a subsidiary is being released as an income to be paid out to the parent company, where company profit or another profit-based fund had been the source for its formation, this income is exempt on the part of the parent company. This provision has been applicable already for the period of 2014 where the definition of a subsidiary and a parent company pursuant to Section 19 of the ITA was met.

Related to this, it is of importance to mention the definition of a parent company and a subsidiary pursuant to Section 19(3) of the ITA, which defines the parent company as a company which is a tax resident of the Czech Republic having any of the forms stated in EU regulations or the form of a co-operative, or as a company which is a tax resident of another EU Member State. The definition of a subsidiary is similarly extended to companies that are tax residents of the Czech Republic, or of the EU, and have any of the forms stated in EU regulations or the form of a co-operative. In both cases, the condition of a continuous tenure by the parent company of a minimum of 10% share in the registered capital of the subsidiary for the minimum period of 12 months remains in place.

The shortening of the due period relating to taxation of unpaid liabilities of a taxpayer

Beginning from 2015, the period following which the taxpayer is obliged to pay tax on any unpaid liabilities is shortened by 6 months. It has been newly introduced that, where 30 months have passed from the maturity of an unpaid liability which the taxpayer (debtor) recognised as a tax deductible expense, the taxpayer is obliged to increase the tax base by this amount. The due period of 36 months was therefore in effect for the last time in 2014.

This amendment is linked to the provisions of Section 8a of the Act on Reserves according to which tax-deductible adjustments to liabilities which were due after 1.1.2014 may be established after 30 months (36 months prior to the amendment) of their due payment date.



Amendments in the area of gratuitous income

Gratuitous incomes generated by legal entities are generally included in the tax base. As of 2015, it has been newly introduced that also an income of financial gain of a borrower in the case of an interest-free or other loan is subject to tax. However, where this financial gain from a one person does not exceed CZK 100 000, it is exempt from tax. Where exemption is not applicable, this income, which has not been included in revenues, is still included in the tax base, but the taxpayer may at the same time decrease their tax base by the same amount. This, however, applies only under the condition that such gratuitous income has been used for the achieving, securing and maintaining of revenues.

We would like to draw your attention to the fact that the tax administrator requires information on gratuitous income also in the new annex on transactions with related persons, which is to be submitted mandatorily by qualified taxpayers for the first time for 2014 along with the tax declaration (see the information below). With regard to the absence of a definition of gratuitous income in the ITA, filling out this part of the annex may cause difficulties. Our experts are available, of course, should you have any queries.

A separate annex to item 12 of Section I of the income tax returns of legal entities – related persons

Qualified entities are liable for the first time for the period of 2014 to submit an separate annex along with their corporate income tax returns, in which the data on transactions with related persons defined in Section 23 (7) of the ITA are to be filled out separately for each such person.

The taxpayers which meet at least one of the below stated criteria are deemed the qualified persons:

- a) Total value of assets more than CZK 40 million, where assets represent the total amount established from the balance sheet in pricing unadjusted by entries pursuant to Section 26(3) of the Act on Accounting, or
- b) The annual sum of the net turnover exceeding CZK 80 million calculated pursuant to Section 20(1)(a), point 2 of the Act on Accounting stated in line 1 of Table K of the tax returns, or
- c) The average adjusted number of employees of over 50, the number according to the component instructions on line 2 of Table K of the tax returns,



and further provided that:

- They realise a transaction with a related person with registered seat abroad. The annex shall be filled out only in relation to these foreign related persons, or
- They declared a tax loss on line no. 200 and concurrently realised a transaction with a related person, be it a foreign and/or domestic one. The annex is filled out in relation to all related persons, or
- They are recipients of an investment incentive in the form of a tax credit in line with Act No. 72/2000 Coll. on investment incentives, as amended, and they have concurrently realised a transaction with a related person, be it a foreign and/or domestic one.

Questions and answers on submitting this annex were published by the financial authority on 7 April 2015 on their website. Our office holds a seminar on the subject of transactions between related persons and the so-called transfer pricing for our clients on 25 May 2015, in which the circle of lecturers from our company will also be complemented by a representative of the state administration.

With regard to this, you will certainly appreciate the information that our company has obtained an Amadeus SW licence, which is used by the tax administrators to check arm's length prices.

A new instruction of the General Financial Directorate No. D-22 on the Income Tax Act

The General Financial Directorate issued a new instruction on the unified application of the Income Tax Act which replaced the instruction no. D-6.

This instruction is applicable already for the 2014 tax period.

A General Financial Directorate instruction No. D 21 on Remitting Tax Penalties and Other Charges

An instruction regarding individual remission of tax penalties and other charges, which is enabled effective as of 1 January 2015, was published on the financial administration website.

The instruction aims to ensure that applications for a remission of tax penalties and other late interest according to the Tax Procedure Rules are processed in unified and objective manner.

VALUE ADDED TAX

A second reduced tax rate

One of the most important changes in the domain of value added tax ("VAT") is the introduction of a second reduced VAT rate at 10%, which is applied to selected goods, particularly to the infant formula and follow-on formula, to selected mill products, selected medicines and printed books where advertising does not exceed 50%.



The permanent and temporary reverse charge mechanism

An extension of the range of goods and services for which the reverse charge mechanism is applied between two VAT payers pursuant to Section 92a and the following of the VAT Act represents another substantial novelty. The reverse charge mechanism is divided into the categories of a permanent and temporary application.

A permanent application of the reverse charge mechanism continues to be used with gold and with delivery of goods stated in annex no. 5 of the VAT Act, i.e. particularly with waste materials which are traded as secondary raw materials, including their supply for processing. The reverse charge mechanism further continues to be applied to construction or assembly works which correspond to the numerical classification code of CZ-CPA production 41 - 43.

A temporary application of the reverse charge mechanism is introduced newly as of 1 January 2015, actually of 1 April 2015. This mechanism is applicable for items which are enlisted in the annex to the VAT Act No. 6, where the government of the Czech Republic establishes so by a regulation, i.e. Government regulation No. 361/2014 Coll. of 22 December 2014.

The transfer of emission allowances was moved into this category, where the reverse charge mechanism is applied as of 1 January 2015. For other items, where the overall amount of the tax base of a taxable supply exceeds CZK 100 000, the reverse charge mechanism is applied as of 1 April 2015. This particularly concerns grains and industrial crops, metals including precious metals, mobile phones, integrated circuits, portable equipment for processing of information and video games consoles. The application of a reverse charge mechanism has been postponed to 1 September 2015 for sugar beet.

As of 1 January 2016, a reverse charge mechanism shall also be applied to a supply of an immovable to another payer if the payer supplying the immovable decides to submit the supply to the VAT, despite the fact that this supply has already been exempt.

The special mode of a single administration point – the so-called Mini One Stop Shop (MOSS)

MOSS is an entirely new pan-European mode of a single administration point connected to the transfer of the place of taxable supply for electronically supplied services, telecommunication services and services of radio and television broadcasting supplied to persons not liable to tax, which is defined in Section 110a and the following of the VAT Act. According to the new rules for establishing the place of a taxable supply of these services, the duty to declare the VAT in the state of the recipient of such a service arises for its supplier, a taxpayer in one Member State. The VAT has to be declared according to local regulations (including the local VAT rate).

This is why, in order to simplify matters, the taxpayer may voluntarily register a so-called Mini One Stop Shop (MOSS) in a single EU Member State. Taxpayers registered in this manner shall not be obliged to register in every state where they provide a service to a person not liable to tax, but shall only fulfil their tax liability in a single state. The tax administration of this Member State, where the payer is registered within the MOSS mode, shall perform the transfer of the collected VAT into the concerned states. The Financial Authority of the South Moravian Region has been selected as the single tax administrator for the MOSS mode in the Czech Republic.

New instructions and notices on VAT and other matters

The financial authority has published the following instructions, notices and information relating to VAT on their website www.financnisprava.cz. We would like to alert you the most important ones.

The General Financial Directorate instruction D-18 on guarantee concerns not only VAT, but also the guarantees stipulated in the other tax acts (e.g. in the tax on acquisition of immovables). From the viewpoint of VAT, this concerns a guarantee under Sections 108a, 109 and 109a of the VAT Act, i.e. (i) a guarantee of an entitled recipient who is liable to declare and pay excise tax in connection with the receipt of selected products from another Member State, in the case of a supply of these goods to a third person by a person that acquired these goods from another Member State, (ii) a guarantee of a recipient of a taxable supply and (iii) a guarantee during special securing of tax.

The minimum wage in Germany

Finally, we would like to inform you about the introduction of a minimum wage in Germany, at the gross rate of EUR 8.5 per hour. Czech employers seconding employees to Germany even temporarily are obliged to pay to these employees wages amounting at least to this minimum hourly amount, unless they receive higher wages. Along with the minimum wages pay, Germany has introduced a reporting and registration duty, the breach of which is subject to significant sanctions.

Furthermore, the following information has been published on the website of the financial authority:

- Information of the General Financial Directorate on the reverse charge mechanism on selected taxable supplies in 2015 and 2016
- A notice of the General Financial Directorate on the declaration of taxable supplies listed in Section 10i of the VAT Act in the tax returns
- The reverse charge mechanism – changes of codes of the subject of taxable supplies in the statement from the register pursuant Section 92a of the VAT Act as of 1 January 2015 and of 1 April 2015
- Unreliable VAT payers
- Guarantee for unpaid VAT and bank accounts.

You can learn about these duties in detail at a seminar entitled “Seconding employees to Germany and other EU Member States with a focus on the German Minimum Wage Act” which is organized by the company 1. VOX a.s. on 16 June 2015 and is to be lectured also by our colleague Magdaléna Vyškovská.





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