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TAX FRESH



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Dear business partners,

In the first issue of this year's newsletter, we would like to introduce you to the latest tax changes that await you at the beginning of the year. Should you have any questions, don't hesitate to contact our office, we would be glad to assist you.

Best regards



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ABOLITION OF SUPER-GROSS WAGE



On 31 December 2020, an Act No. 609/2020 Coll. was promulgated in the Collection of laws, which amends some laws in the field of taxes and some other laws, or a so-called Tax Package 2021. The law is effective as of 1 January 2021.

Part of the Tax Package is the abolition of super-gross wage, which was discussed in the legislative process in the Chamber of Deputies as early as in 2018 as an internal Document No. 254, which was later attached to the 2021 Tax Package.

We have already briefly informed you about the earlier development of the draft law in the last issue of Proxy Tax Fresh No. 3/2020. (All previous editions of our Tax Fresh can be found on our website under the following link <https://www.proxy.cz/en/tax-fresh>).

As of 2021, the gross wage constitutes the base of the work-related income tax. The tax rate on income not exceeding 4 times the average gross wage remains at 15%.

The solidarity tax increase, which until now amounted to 7% on incomes exceeding 4 times the average wage, is replaced by a tax rate of 23 %. In practice, this means that the rate of 23% will be newly taxed from an income exceeding 4 times the average wage, which for 2021 is CZK 141,764 per month.

As we noted in our last issue of Tax Fresh, the real tax rate for employees with incomes that do not exceed 4 times the average salary, by the end of 2020 was 20.1%. After the abolition of super-gross wages, its actual reduction occurs to 15 %.

INCREASE OF THE TAX RELIEF FOR INDIVIDUAL TAXPAYERS



Another legislative change contained in the 2021 Tax Package effective as of 1 January 2021 is also an increase in the tax relief for individual taxpayers.

In 2021, the tax relief for individual taxpayers increases by CZK 3,000, i.e., from the original CZK 24,840 to CZK 27,840. From 2022, the relief for individual taxpayers will be increased by another CZK 3,000, i.e., to CZK 30,840.

In the course of the legislative process, the proposal to increase the tax relief was modified several times. One of the original proposals was to increase the taxpayer's relief in line with the average gross salary published by the Czech Statistical Office the year before last year. However, this proposal was modified by the Czech Senate.

As a matter of interest, we would like to inform you that this relief has not been increased since 2008.

CHANGES IN THE AREA OF TAX DEPRECIATION OF FIXED ASSETS



The obligation to depreciate intangible assets under the special tax regime of monthly depreciation is abolished. It is now possible to apply accounting depreciation of intangible fixed assets as a tax-deductible expense, in the same way as it is now set for low-value fixed assets. According to the transitional provision, this procedure can already be applied to assets acquired as of 1 January 2020.

In addition, the threshold for tax depreciation of tangible fixed assets and their technical improvement was increased from CZK 40,000 to CZK 80,000 for assets acquired from 1 January 2020 and for the technical improvement completed by the same date. Accordingly, for fixed tangible assets acquired in 2020, according to the transitional provision, one can be guided either by the original or by this new modification of the law.

The possibility of applying extraordinary depreciation of tangible assets is also reintroduced with the assets of the 1st and the 2nd depreciation group, which were acquired in the period from 1 January 2020 to 31 December 2021. With the exception that extraordinary depreciation can be used only with the first owner of the asset. The asset of the 1st depreciation group can be written off in this way for 12 months and for the 2nd depreciation group for 24 months, where depreciation of 60% of the acquisition price is applied for the first 12 months of depreciation and the rest for the next 12 months.

This wide-ranging fixed asset tax depreciation adjustment is also part of the 2021 Tax Package with general effect as of 2021.

FLAT-RATE MEAL ALLOWANCE AS OF 2021



As part of the 2021 Tax Package, the so-called "Flat-rate meal allowance plan" was approved, among other things. With effect from 1 January 2021 the employer can provide a food allowance to the employee and that can be done directly in a monetary form. According to the intention of the legislator, employees who do not reach it today can also use the allowance for meals.

From the point of view of the employer, the benefit of the use of the flat-rate meal allowance plan is mainly in the decrease in administration and in the abolition of the costs of fees and commissions incurred by the meal allowance voucher intermediaries.

On the part of the employee, this allowance for meals provided in a monetary form is exempt from income tax and insurance contributions up to the legal limit, i.e., 70% of the value of meals on business trips as stated by the decree of the Ministry of Labour and Social Affairs.

The flat-rate meal allowance plan only complements the possibilities of tax-advantaged meals. The tax deductibility of the employee's meal allowance in the form of luncheon vouchers or provision of factory meals is maintained in full.

FLAT-RATE INCOME TAX FOR NATURAL PERSONS



As of 1 January 2021, a flat-rate income tax for natural persons is introduced. These new rules for the application of the flat-rate income tax for self-employed persons were promulgated in the Collection of laws under the number 540/2020 Coll. on 18 December 2020.

We have already briefly informed you about the earlier development of the draft law in the last issue of Proxy Tax Fresh No. 3/2020. (All previous editions of our Tax Fresh can be found on our website under the following link <https://www.proxy.cz/en/tax-fresh>).

Entry into the flat-rate regime for 2021 is subject to its notification made using the relevant form of the Ministry of Finance no later than 11 January 2021. It is then possible to leave the flat-rate regime voluntarily from 1 January of the following year. At the start of the entrepreneurial activity during 2021, the scheme may be entered if the notification is made no later than on the day of the start of the entrepreneurial activity.

The conditions for the application of the flat-rate regime are newly regulated in Section 2a of the Act on Income Taxes. For instance, a taxpayer cannot be a VAT payer and his/her income from independent activities for the previous tax period cannot exceed CZK 1,000,000. In addition, the flat-rate regime does not apply to a taxpayer in insolvency or a partner of the unlimited company or a general partner in a limited partnership.

A self-employed person in a flat-rate scheme pays up to the 20th day of the calendar month, a lump-sum advance payment, which includes an advance payment of income tax and for social security premiums and health insurance. The monthly advance for 2021 is set up to CZK 5,469 per month.

The flat-rate tax regime can bring considerable administrative simplification for small businesses, since only one monthly advance is paid and there is no obligation to submit tax returns and annual social and health insurance overviews. However, as we mentioned in the previous issue of Proxy Tax Fresh, the use of the flat-rate tax model will be beneficial only for some entrepreneurs.

EET DEFERRAL EXTENDED UNTIL END OF 2022



In the Collection of laws, an amendment was announced, which extends the postponement of electronic records of sales until 31 December 2022. The legislative change took effect as of 3 November 2020. A further extension of the deferral of the EET was mainly caused by the current epidemiological situation and the impact of the spread of COVID-19.

The deferral of the obligation to keep electronic records of sales applies to all entities, regardless of which of the stages of EET they fall into. The suspension of the EET applies to both the ordinary and the simplified or special record of sales regime.

The EET system remains fully operational even in the period when entrepreneurs do not have the obligation of an electronic record of sales as a result of this amendment. It is therefore still possible to keep records of sales during this period, though on a voluntary basis.

Until the end of 2022, remains the obligation to protect the authentication data, the certificate and the block of receipts that have already been received for the purpose of fulfilling the obligation under the special regime. Payers whose certificate will expire in the meantime may postpone its exchange until the 2nd half of 2022. At the same time, an application for the assignment of authentication data or an application for the authorization to the electronic records of sales in a special regime can be postponed until the aforementioned period.

BRIEF INFORMATION ON SOME OTHER CHANGES EFFECTIVE AS OF 2021



As of 2021 the municipalities have the right to set a local coefficient not only exclusively for the whole municipality, as has been the case so far, but also to establish a local coefficient for part of the municipality (with respect to real estate tax). For example, the municipality will determine the local coefficient only for some delimited plots of land. The local coefficient shall be re-established to one decimal place. In addition, as of 2021, for the purposes of land tax, the type of land registered in the land register is decisive, regardless of whether it corresponds to the actual state.

As of January 1, 2021, the maximum limit of the tax bonus that a taxpayer of personal income tax may incur in connection with the application of a tax bonus to a dependent child is abolished. Until now, this tax bonus could be applied up to a maximum limit of CZK 60,300 per year.

ABOLITION OF REAL ESTATE TRANSFER TAX



On 25 September 2020, a law was promulgated in the Collection of laws to abolish the real estate transfer tax. The tax is retroactively abolished in the Czech Republic for deposits of transfers of immovable property registered in the land register since 1 December 2019.

Taxpayers who incur a refundable overpayment in connection with the abolition of the tax will be refunded in accordance with the tax code on the basis of an application for refund of the overpayment.

We have already briefly informed you about the earlier development of the draft law in the last issue of Proxy Tax Fresh No. 3/2020. (All previous editions of our Tax Fresh can be found on our website under the following link <https://www.proxy.cz/en/tax-fresh>).

The law also includes changes in the field of income tax effective as of 1 January 2021.

With effect as of 2021, the time test for the tax exemption of income from the sale of real estate not intended for own housing is extended from the initial 5 years to 10 years. For self-housing, the two-year time test remains.

In addition, the limit for deducting interest on a mortgage loan to secure housing needs will be reduced from the original CZK 300,000 to CZK 150,000. The above will apply only to new mortgages, concluded from 1 January 2021. In the case of older mortgage loans, the limit of CZK 300,000 is maintained.

TAX LOSS CARRY BACK



As early as of 1 July 2020, an amendment to the Income Taxes Act has been in effect. This amendment enables to carry back tax losses as a deductible item up to two years preceding the tax period in which the tax loss has been assessed. This can be done in a form of a supplementary tax return.

In the tax periods of 2018 and 2019, the application of tax loss carry back is limited. A maximum amount of CZK 30 million may be used as a deductible item and that as a total for both periods.

The limitation period for determining the tax will be extended only for the periods in which the tax loss was actually claimed. However, the taxpayer will now be able to waive the right to claim a tax loss in the periods following the occurrence of the loss. If they do so, the limitation period shall not be extended.

The amendment also contains a transitional provision, which appears to be an attempt to alleviate the crisis caused by the COVID-19 pandemic on a one-off basis. The taxpayer can estimate the expected tax loss for the first tax period, which ends as of 30 June 2020 and then apply it retroactively in the immediately preceding tax period up to a maximum limit of CZK 30 million. If, after filing a tax return, it is determined that the tax loss actually assessed is less than the deductible item applied for at the estimated amount, it will be necessary to file a supplementary tax return and pay the tax, including the related interest on late payment. Subsequently, it would be possible to apply for the remission of interest on the basis of evidence of the facts on which it was based when calculating the estimate of the tax loss, so as to be able to defend this estimate.

LIMITATION IN TAXATION OF RENT OF IMMOVABLE PROPERTY INTENDED FOR PERMANENT HOUSING



With effect as of 2021, there is a significant change in the current provision of Section 56a (3) of the Czech VAT Act, which consists in limiting the choice of taxation of the rental of commercial premises and in the complete exclusion of the possibility of taxation of the rental of residential premises intended for permanent housing. The rental of immovable property intended for permanent housing will always be VAT exempt transaction without the right to tax deduction even if the customer is a VAT payer.

Residential premises for permanent housing for the purposes of this provision means the construction of a house in accordance with the land register, apartments, units not including non-residential premises other than a garage, cellar or storeroom, buildings where at least 60% of the floor area is made up of residential premises, land and rights of construction which include residential premises intended for housing.

VAT payers who, when purchasing residential premises intended for housing before 2021, claimed the right to deduct input VAT, will have to make a correction of the deduction in accordance with Section 78 of the Czech VAT Act. The VAT deduction will be subject to a correction of one tenth of the deduction initially applied for each remaining year until the 10-year period is completed.

Please note that it is always crucial for VAT purposes to distinguish between the rental of residential premises and the provision of accommodation services, as the accommodation services are not covered by the exemption.

THE AMENDMENT TO THE BUSINESS CORPORATIONS ACT



As of 1 January 2021, the most extensive amendment to Czech Business Corporations Act came into force. Below is a brief description of some of the selected changes.

There will be a unification of the conditions for the distribution of profits and other own resources. The now simpler conditions for the distribution of other own resources will be tightened to the level of the conditions for the distribution of profit. The decision on the distribution of profits can be made on the basis of the financial statements until the end of the financial year following the period when these financial statements were prepared. The advance for the profit share can be paid only on the basis of the interim financial statements, and if it is subsequently found that the advances paid exceed the profit share, the shareholder must return the advance within 3 months from the date of approval of the financial statements.

The provision of liability for members of elected bodies in the event of insolvency is replaced by an institution called Action for the replenishment of liabilities, when, on the proposal of the insolvency administrator, the insolvency court may decide on the obligation of a member of the elected body to provide financial compensation to the assets up to the amount of the difference between the total debts and the value of the company's assets. This will increase the protection of creditors and, at the same time, the responsibility of members of statutory bodies for the bankruptcy of the company.

The shareholder of the PLC (s.r.o.) will be able to have the associated right to appoint a managing director or a member of the supervisory board. Also, the joint-stock company will be able to issue shares in which the right to appoint members of elected bodies will be enshrined. The amendment also allows the participation of a shareholder and 3 persons appointed by him at the shareholder's meeting, which may include, for example, the participation of a lawyer or other adviser to the shareholder.

It will not be necessary to make a monetary contribution to the registered capital to a special account with the bank, if the amount of all deposits in the aggregate does not exceed CZK 20 thousand. The sole founder will be able to make such a deposit, for example, with a notary public.

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