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# TAX FRESH



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Dear business partners,

Undoubtedly, the most important tax area that has undergone major changes starting from January 2024 as part of the so-called tax consolidation package is the area of employee benefits. In the next issue of our Newsletter, we will therefore focus on this issue. We shall be pleased to continue to provide you with further expert support in the field of taxation, accounting and auditing.

Best regards



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## NEW INTERPRETATION OF EMPLOYEE BENEFITS AFTER THE CONSOLIDATION PACKAGE



Employee benefits are a key part of reward strategies that not only increase employee satisfaction but can also provide tax benefits for both parties - employer and employee. However, in properly classifying and taxing these benefits, it is important to understand the relevant legal standards that govern their provision and financial valuation.

In this issue of Tax Fresh, we would like to pay more attention to this area because the Tax Administration has recently tried to clarify some of the burning issues that have arisen after the amendment to the ITA through discussions with the Chamber of Tax Advisors.

### General on taxable employee benefits

For all types of benefits, the employer should clearly specify whether the benefit is a non-monetary benefit provided to all employees or whether it applies only to selected persons. It is therefore necessary to keep accurate records. Only employees who actually use the benefit should have it counted towards the limit (CZK 21,983.50 for 2024) for tax exemption under Section 6(9)(d) of the ITA.

If the employee explicitly confirms that they are not interested in the benefit and will not use it, they may not be taxed. However, it is important that the employer is able to document the refusal of the benefit by the individual employee and thus carry its burden of proof.

### Monitoring of the benefit limit in Section 6(9)(d) of the ITA

The Tax Administration representatives have confirmed that the above tax-free limit must be monitored monthly, not annually.

Specifically, these are most often benefits provided to employees by foreign entities through so-called benefit cards. Probably the most typical example from practice are benefits such as provision of health services, provision of recreation or trips, contribution to cultural and sporting events, contribution to printed books, etc. Exceeding the statutory limit for the value of benefits provided has consequences not only for the employee's taxation of the benefits, but also for the employer's tax deductibility of these costs.

The Czech Tax Authority also recognizes that an employer may choose the order of inclusion of benefits provided within a month when calculating the tax-free limit. Thus, when multiple benefits are combined within a single month, the employer can choose which particular benefit will be taxed if the statutory limit is exceeded in that month.

### Determining the value of benefits

Several methods can be used for valuation of non-cash benefits, which have been specified in the Methodological Information on taxation of benefits and other benefits provided by employers to employees from 1 January 2024. Among others, the comparable independent price method and the cost-plus surcharge method (so-called cost plus 3 % - 7 %) according to the General Financial Directorate Guideline D-10 have been specified. The Czech Tax Authority has no binding preference for the use of one method or the other.

In addition to these methods, the fair market price can of course be used.

## Selected types of benefits

In its current interpretations of the 2024 amendment, the Tax Administration has taken a position, for example, on the following interesting benefits:

- **Educational courses**

Training courses related to the employer's business are fully exempt from tax. Whereas non-work-related courses constitute taxable income and must be properly valued and counted towards the personal income tax-free limit.

- **Free psychological helpline**

The free psychological helpline provided by the employer is considered taxable income to the employee, even though it is provided anonymously and therefore it is not possible to trace who uses the benefit. In this case, it is the ability to use the benefit that is considered income.

- **Donations to employees**

Gifts from an employer are generally taxable income to the employee. However, if small gifts are given during company events, such as Christmas parties, company days, etc., they may be exempt from tax (if the gift is of insignificant value and adds to the character of the event).

- **Parking and employee transport**

Employer-provided parking is considered taxable income, the value of which depends on the normal cost of parking in the area. If the employer provides parking within its premises that cannot be reached easily without the car (i.e. the value of the parking is very low), it is still taxable income.

Employees' travel to work is still considered private travel. Taxation also applies to cases where the employer provides transport to employees via private bus or other.

- **Staff meals and business lunches**

The consolidation package has consolidated the three possible catering schemes (meal allowance, meal voucher, own canteen) into one tax regime. A meal allowance (or the provision of a non-monetary benefit for consumption in the workplace) is always a tax-deductible expense for employers. For employees, a meal allowance (in cash or in-kind) is exempt up to 70% of the upper limit of the meal allowance for a business trip lasting between 5 and 12 hours - for 2024 this amount is CZK 116.20.

An interesting interpretation was given by the Tax Administration on the issue of the business lunch - a type of "coaching" lunch. Such a business lunch (or breakfast, dinner) between two employees is not considered a business lunch in the sense of creating working conditions and is therefore taxable. A lunch attended by a third party, such as a client, is considered a business lunch and not taxable.

- **Corporate nurseries**

As for company nurseries, a change is expected to clarify the determination of the value of this benefit. Specifically, this is an amendment to the amendment to the Investment Companies Act, which is now pending in the Senate and is currently set to take effect on 1 July 2024. It is planned that the value of the benefit will be either the usual price for placing a child in a "state" nursery or the limit under the Preschool Education Ordinance.

### Limits on depreciation of M1 passenger cars

Finally, we would like to inform you about the interpretation of the classification of passenger cars of category M1 for the limitation of depreciation up to the amount of CZK 2,000,000.

There is no limitation on the entry price for employees who also use the employer's company car for private purposes, and we would therefore like to clarify that in this case there is no limitation on the entry price of the car for the purposes of taxation of this type of benefit. Beyond the area of benefits, the representatives of the Tax Administration also presented their opinion on the question of whether a car is considered as stock or property. The answer depends on the accounting intent and actual use of the vehicle. In the view of the Tax Administration, a vehicle can still be considered inventory if it is intended to be sold outright, even if it is registered and used for demonstration drives (e.g. in a car showroom). Conversely, if the vehicle is regularly used for business purposes or for the private use of employees, it should be classified as property.

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