

# KempHoogstad Tax News

June 2016



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**KempHoogstad**  
Tax Advice & Solutions

# 1. Approved tax changes

## **Electronic record-keeping of cash sales**

The Act on Electronic Record-keeping of Cash Sales has been published in April in the Collection together with the respective accompanying act. From 1 December 2016, providers of accommodation and catering services will have to start keeping electronic records of cash sales. From March 2017, wholesale and retail providers will follow. Together with the Act, a tax relief on personal income tax has been approved up to CZK 5,000 (when fulfilling the condition of a certain minimal amount of the intermediate tax base from independent activity as defined in Sec. 7 of the Income Tax Act) for a tax payer who will record cash sales for the first time during the given period, pursuant to the mentioned Act, and further, the reduced 15 per cent VAT rate will apply to catering services (with the exception of alcoholic drinks and tobacco products) from 1 December 2016.

The Financial Administration set up web pages containing all information on electronic record-keeping (more information [here](#), in Czech only).

## **Electronic submission related to VAT**

Since May, the amended provision of Section 101(a) of the VAT Act is in effect, which adjusts the electronic submissions related to VAT. According to the provision, electronic submissions that do not have the required format and structure will be considered ineffective, and the tax payer could be sanctioned. Up to now, such submissions have been considered erroneous, and the sender had been requested to correct the mistakes. More information can be found in the respective Notice from the General Financial Directorate (more information [here](#), in Czech only).

## **Increase in tax benefits for children**

The increase in tax benefits in 2016 has been approved. For the second child, the annual amount of tax benefits increases to CZK 17,004. For the third and all other children, the amount is always CZK 20,604. The increased amounts can be applied to salaries for the first time for May 2016. For the purposes of annual taxation, the increased amounts will apply from January 2016. The difference will be settled for employees in their annual tax settlement.

## **International cooperation in tax administration**

An act that introduces the automatic exchange of information on financial accounts is effective from April. Based on the act, financial institutions will be obliged to collect information about their clients, residents in the contracting countries (52 countries in total). The information will be sent regularly to the Czech Financial Administration. The act also includes mandatory cooperation of the client who has to inform about his/her tax residency (or residency of his/her controller) when the account is opened. Current clients will be contacted by the financial institution and asked to add the requested data. The financial institution will inform their client (or his/her controller) about the possible subsequent transmission of information abroad.

## **Ancillary social security agreement between the Czech Republic and USA**

The ancillary agreement to the valid Social Security Agreement between the Czech Republic and USA came into effect on 1 May 2016. The ancillary agreement extends its substantive scope to public health insurance. Up to now, for example, American workers expatriated to the Czech Republic had to pay insurance contributions even when they had been under the American system. The coverage of health care costs in the Czech Republic will be provided by commercial travel insurance taken out for the stay in the Czech Republic.

## **2. Amendments under way**

The Chamber of Deputies approved the amendment to the Real Estate Acquisition Tax Act and the VAT Act; we have informed you briefly about the amendments in previous newsletters. The amendments are being deliberated in the Senate at this time. The effective date for both amendments will be postponed due to slow progress in Parliament.

### **Amendment to the Real Estate Acquisition Tax Act**

The original effective day for the amendment should be postponed from 1 April 2016 to the beginning of the third calendar month after publishing the act. We have selected some interesting changes included in the amendment:

- || The tax payer should always be the purchaser
- || Considering the infrastructure network, only the part of the construction that is a building should be the subject of tax (e.g. a transformer station)
- || New wording for the exemption of new buildings – the exemption will apply to “finished or used construction”; the exemption will not apply to unfinished construction
- || The extension of a construction right will be subject to tax
- || Conversions of legal entities should not be subject to tax, except for the transfer of assets to a partner
- || A moderate extension to the application of guide value for plots of land and certain changes for stipulating the tax base regarding an exchange

### **Amendment to the VAT Act**

The amendment to the VAT Act that has been proposed with respect to a new Customs Code (see our March KempHoogstad Tax News) includes – among others – also changes to the mitigation of penalties related to the inspection report. The originally proposed effectiveness (1 May 2016) has been postponed to the day of publishing the act. We can expect this in the autumn of this year.

## 3. Prepared tax changes

### **Amendments to 2017 tax laws**

A proposal for an overall amendment to some tax laws has been reviewed, and it should become effective from 2017. We briefly describe some of the most interesting changes below:

#### ***Income tax***

- || the possibility of depreciating technical improvements made by a tenant or other users of the property
- || the periods for tax depreciation of intangible assets determined by law will be minimum periods
- || changes to the computation of terms for the exemption of transfers of securities and shares in companies, e.g. regarding the holding period for testators
- || the impossibility of applying tax exemptions from income received from the sale of securities up to CZK 100,000 regarding securities included in commercial property
- || taxation of income from dependent activity of a minor extent by way of a withholding tax
- || another additional increase in tax benefits for supported children
- || changes to the taxation of assets in joint ownership and to family funds

#### ***Value added tax***

- || termination of the specific adjustment for applying VAT by companies (formerly associations)
- || introduction of the category "unreliable entity"
- || adjustment of taxable supply regarding recurring supplies
- || adjustment of group registration if a member changes via a spin off
- || commercial property should also be property used on the basis of financial leasing
- || a guarantee by the receiver of a supply in the case of payments made by a virtual currency

#### ***Tax Code***

- || adjustments of interest from a tax deduction
- || extension of the notification duty of the tax administrators towards other governmental bodies
- || extension of the possibility to pay taxes, customs, and fees by credit card or other payment methods

## **International activities against tax evasion**

The Czech Republic, as an OECD member state, supports the BEPS project ("Base Erosion and Profit Shifting") which contains recommendations in the legal field, double taxation treaties, tax administration procedures, and economic analyses that should eliminate or significantly reduce the chances of multinational companies optimising their tax duties, or prevent them from dodging taxes or tax evasion. Within EU Member States, the provisions should be incorporated into a relevant European directive against tax avoidance, the ATAD (Anti-Tax Avoidance Directive). A draft of the directive is now being deliberated.

The way the recommendations and provisions would be incorporated into Czech law is now a subject of discussion and preparation at the Ministry of Finance and debate among experts.

The provision under consideration should consider, for example, the regulation of interest deductibility, the prevention of misuse of tax treaties or avoiding the status of permanent establishment, eliminating inconsistencies in tax systems using hybrid schemes when the subject or instrument is assessed differently in each country, mandatory reporting of tax optimisation schemes, etc.

## **4. Closed coordination committees**

We list below some of the most interesting conclusions made by the coordination committees this year.

### **Aspects of the taxation of gratuitous incomes**

After a long time, a contribution on issues regarding the taxation of gratuitous incomes, which has been a part of the Income Tax Act since 2014, has been concluded. The conclusions of the coordination committee indicate that providing a loan by a partner of a company is not considered as gratuitous income of the company that is subject to taxation. Such an opinion is based on an argument applied before which says that, when providing an interest-free loan by a partner for the purpose of improving the financial situation of the company, the consideration can be namely the expected increase in the value of the share, or the possibility to acquire a larger amount of profit. Similarly, gratuitous income is not a partner's guarantee for a company in which the partner is a member. Further, it has been confirmed that if the gratuitous income which increased the tax base is used for generating taxable income, then the tax payer can, in principle, decrease the tax base by the same amount. This means that the tax consequences will be neutral. Even in such a case, the gratuitous income must be assessed in accordance with the act on assessment of assets if the Income Tax Act does not state otherwise.

### **Some issues on reporting exempt incomes**

Effective from 1 January 2015, a new duty for individuals has been introduced: the duty to report to the Financial Authority exempt incomes exceeding CZK 5 million. A coordination committee has dealt with some issues that could occur in real life with respect to the new duty. For example, when assessing the CZK 5 million limit for an income that is paid in instalments, if the income is not

divided for that purpose, each of the instalments will be assessed regarding the amount. In the case of income from inheritance, the date decisive for reporting the income is the date of the final and conclusive closing of the probate proceedings. According to the General Financial Directorate, the CZK 5 million limit assesses the whole value of the inherited assets not reduced by any potential debt. Assessment of the income for the purposes of the reporting duty does not have to be made by an expert's assessment. Nevertheless, if the assessment is erroneous and subsequently no report is sent, the tax payer can be penalised.

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