

KempHoogstad Tax News

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KempHoogstad

Tax Advice & Solutions

1. Electronic submission obligation

From 1 January 2015, the obligation to submit tax returns and other documents in electronic form has been extended as a result of the amendment to the Tax Code.

Who does the electronic submission obligation involve?

The tax entities that are obliged to make electronic submissions stipulated by law are those who:

- ||| Have access to their data box or are legally obliged to have final accounts verified by an auditor; or
- ||| Have a representative who has access to his/her data box or is legally obliged to have final accounts verified by an auditor.

There can be some uncertainties in the practical application of the obligation – if and in what cases are the tax entities obliged to file the submissions electronically. For example, in a situation where a tax entity (or its representative) who is an individual and has access to several kinds of data boxes or when a representative represents a tax entity only in a limited scope. Some of the issues have been discussed already with the Financial Administration on the grounds of the specialised working group with the Chamber of Tax Advisors of the Czech Republic.

What is electronic submission?

Electronic submission means submission made as a data message that has the form and structure defined by the tax administrator; the data message must be sent:

- ||| Via the data box of the tax entity or its representative; or
- ||| Via the application Electronic Submissions (EPO) available on the web pages of the Financial Administration. The sender must enclose his/her electronic signature in the data message or he/she uses in the EPO application the same identification that he/she uses for the data box.

Which submissions are applicable?

The electronic submission obligation refers specifically to form submissions. These include:

- ||| Registration application, announcement of a change in the registered data, or termination of registration; and
- ||| Regular or supplementary tax returns, reports, and accounting statements.

All relevant mandatory attachments are a part of the electronic submission. The obligation means that the electronic form and defined format is required, for example, for accounting statements of the tax entity that is obliged to submit the statements together with the tax return.

The Financial Administration has announced that the electronic submission obligation does not apply to submissions whose format and structure have not been published yet. This means the submissions that are not available on the web pages of the Financial Administration (e.g. real estate acquisition tax returns or constituent real estate tax returns).

What happens if the electronic form of submission is not kept?

The Financial Administration has published a list of submissions that are considered acceptable if they are made in other form than electronic even though the electronic form is mandatory and not complying with it is the only error. Such submissions will be considered acceptable and the tax administrator will not request that the tax entity correct the submission. A fine of up to CZK 2,000 may be imposed for not complying with the electronic submission obligation.

If the submission in question is not on the mentioned list, not complying with the electronic form will be considered as an error and the tax administrator would request that the tax entity correct the submission. In such a case, a fine up to CZK 2,000 will not be imposed. If the submission is not corrected by a specified period, it will be considered ineffective (it will be considered as not submitted at all).

The Financial Administration also published information that, with respect to principles of adequacy, cooperation and responsiveness, it will accept during the temporary period of 2015 also submissions that will be in the form of a data message with the required form and structure but the data message will not be sent in the required way. It is assumed that such submission will be confirmed or repeated in writing or a verbal recording or by proper electronic submission within the legal period, i.e. five days from the day it was delivered to the tax administrator.

We would like to inform you that certain tax returns in the EPO application display, in the part called Complete copy for printing ("Úplný opis k tisku"), information regarding the tax payment details. It is now possible to acquire a QR code that contains payment information for the automatic placing of payments.

2. Changes to income taxes and VAT

In our newsletter from the end of last year, we informed you about substantial changes to income taxes and value added tax effective from 2015 that follow from amendments to the respective acts. Considering the changes, the Financial Administration has published on their web pages detailed information on applying the respective provisions. We present and briefly comment on some of them.

VAT: Information on the application of transferred tax liability for certain supplies

With respect to the amendment to the VAT Act, from 1 April 2015, transferred tax liability ("TTL") will apply to certain supplies such as corn or technical crops (the effectiveness of TTL for sugar beet has been postponed until 1 September 2015), metals, mobile phones, integrated circuits, notebooks, tablets, video consoles. TTL will apply if the total amount of the tax base is higher than CZK 100,000. With respect to this, the Financial Administration published extensive information that specifies the commodities where TTL applies and explains some issues regarding practical use:

- III solving unclear cases and the possibility of applying TTL based on an agreement between the provider and the purchaser (when fulfilling certain conditions) in cases where it is not

clear whether TTL is applicable to supply; advance payment issues related to supplies of goods subject to TTL;

- III stipulation of the CZK 100,000 limitation for application of TTL and issues related to possible changes of the supply value, subsequent adjustments in the tax base, or provision of quantity discounts and price reductions.

VAT: Registered entry notice "real registered office"

The VAT Act defines the registered office of the taxable person as the place of its management, which means the place where the major decisions regarding management of the taxable person are made or the place where managers meet. Regarding this, the registry application now contains the place of the actual registered office of the tax entity if the place differs from the formal registered office. The payer who was registered as at 31 December 2014 and its formal and real offices are different is obliged to inform the tax administrator via the form Change in the Registry Data.

Not doing so can be penalised (up to CZK 500,000) or the tax administrator can rule that the tax payer is unreliable, in accordance with Section 106(a) of the VAT Act.

VAT: Information on applying the rates from 1 January 2015

From 1 January 2015, a new reduced VAT rate of 10% has been introduced which applies to listed commodities such as medicines, books, baby food, products for gluten-free diets, and phenylketonuria. The aim of the published information by the Financial Administration is to give a complete overview of changes in the field and unify the approach to define the goods where the second reduced VAT applies.

VAT: Notice of evidence of the electronic provision of services and broadcasting

A taxpayer registered as one administration point (Mini One Stop Shop) for the purpose of providing services of radio or television broadcasting or the electronic provision of services to non-taxable persons residing in the EU who file taxes on services in this special regime is also obliged to report the services in the regular VAT returns submitted in this country.

VAT: Information on unreliable payers

In relation to expanding the application of the unreliable VAT payer status since 1 October 2014 (see KempHoogstad Tax News 9/2014), the Financial Administration of the Czech Republic recommends that tax payers continuously check on the list of unreliable VAT payers. The Financial Administration web pages offer other detailed information and a presentation on strengthening the conditions for applying the unreliable payer status.

VAT: Information on guarantees for unpaid VAT and bank accounts

The amendment to the act on the limitation of cash payments has reduced from 1 January 2015 the limit for cash payments from CZK 350,000 to CZK 270,000. Subsequently, the limit for applying the status of guarantees for the receiver of the taxable supply for unpaid VAT has been reduced to CZK 540,000. The condition is that the payment for taxable supply is paid to the unpublished payer's account – the supplier of the taxable supply.

Income tax: Information on tax relief for placing a child (so-called preschool bonus)

For the tax period 2014, individuals can use in their income tax calculations (in tax returns submitted by themselves or done by employers via the annual settlement of deposit payments) tax relief for placing a child in a preschool institution. The amount is equal to the expenses paid by the taxpayer to the institution in the given tax period, but the amount is limited to minimum wage, which was CZK 8,500 in 2014. The published information describes the conditions for applying the tax relief.

Income tax: Tax credit for children in 2015

From 2015, the amount of the tax credit and the rules for applying it according to the number of children in a household changes in the following way:

- || CZK 13,404 per year for one child;
- || CZK 15,804 per year for the second child; and
- || CZK 17,004 per year for the third and each additional child.

The published information explains in detail the manner of applying the tax credit and some other related issues, such as the conditions for applying tax credit with employers, birth of the second child in a family, or change in the number of children during a tax period, tax credit concerning unmarried couples, and tax credit for a child in rotating parental care.

Income tax: Publishing of directive D-22 on application of the Income Tax Act

The Financial Administration published a new directive D-22 on unified procedure in applying of some provisions of the Income Tax Act that replaces the previous directive D-6 and will be effective for the 2014 tax period. The changes to the directive reflect the changes to the Income Tax Act covering the period from publishing the previous directive D-6 and relate to the re-codification of civil law.

Other important changes related to amendments

We informed you about most of the changes in our last newsletter. We now provide a brief overview:

Value added tax:

- || Change to calculation of the floor area of social housing.
- || Royalties taxed with withholding tax are now subject to VAT.
- || The inspection report will be mandatory under the VAT Act effective from 2016.
- || Changes regarding transfer and lease of immovable assets have been postponed until 2016 (for example a new definition of building land, the obligation of transferred tax liability if the transfer of real estate that could have been tax exempt has been taxed).

Income tax:

- || Limitations on expense allowances for self-employed persons.

- ||| Limitations on the tax advantages of private life insurance.
- ||| Limitations on the tax deductibility of non-taxable expenses with existing related profit.
- ||| Limitations on using the 5% tax rate by investment funds.
- ||| Extension of the tax deductibility of expenses on or contributions to running an institution for the care of preschool children.
- ||| Specification of the definition of financial leasing.
- ||| Changes to the regulation of gratuitous supply.
- ||| Reporting duty for individuals in the case of exempt income over CZK 5 million. A fine may be imposed for non-performance of the obligation.

3. Amendment to the Accounting Act

The Accounting Act is currently being debated in Parliament. It should be effective from 1 January 2016, and its main goal is transposition of the new EU directive on final accounts. The amendment also contains some other changes relating to finalising the re-codification of civil law and technical legislative changes.

The amendment will specify more precisely the categories of accounting units and classification of the consolidation groups. The accounting units will be categorised as micro-businesses, small, medium, and large businesses. Determination of a respective category will depend on reaching or exceeding given values of at least two of three of the specified criteria – value of assets, net turnover and average number of employees as at the date of the balance sheet. Each of the accounting categories or consolidation groups will have different accounting obligations regarding the extent and manner of creating the final accounts or other statements.

The changes will also affect:

- ||| definition of the term “public interest”;
- ||| valuation of own production stock;
- ||| reserves;
- ||| definition and use of real value;
- ||| limitation of payments of dividends in the case of recording results of own research and development in the balance sheet;
- ||| introduction of the “Report on Payments to Governments” (will concern the mining industry, the power industry, telecommunications, etc.);
- ||| introduction of single-entry bookkeeping (will concern namely very small non-profit organisations).

4. Bill on electronic record-keeping of cash sales

The Ministry of Finance continues to deal with the problem of the “grey economy”. The proposed electronic record-keeping of cash sales should ensure more effective tax collecting without increasing the tax burden. Moreover, the ministry would like to have an overview of current real sales. The system should be simple, and it should use existing technologies.

The inspiration for electronic record-keeping of cash sales has come from Croatia. In this country, the records of sales are immediately sent to the tax administration via an internet connection. No registration is needed (not even for software), and record-keeping can be done using regular equipment. Croatia has inspired the minister of finance to propose a decrease in VAT for restaurant providers from 21% to 15%. According to his statement, some restaurants in Croatia have experienced increases in turnover of 800% to 900% after implementing the on-line record-keeping of sales and with reduced VAT.

The act on the electronic record-keeping of cash sales is now in the comments procedure, and it should be presented to the government in early April.

It is expected that, from 1 January 2016, records of cash sales will be sent in electronic form by business entities that provide accommodation and catering services and receive payments in cash. From 1 April 2016, the records will be sent in electronic form by business entities from the retail and whole sale areas, and from 1 July 2016, all business entities that receive payments in cash must record sales (except for designated exemptions).

The bill triggers a number of queries and doubts because many obligations should be governed by specific decrees of the Ministry that have not been completed yet and they are only roughly formulated.

The subject of the record-keeping will be sales received in cash, with credit cards, by vouchers, checks or promissory notes made by individuals carrying out business or legal entities, and transactions between business entities as well. The exceptions will be as few as possible, for example, sales via vending machines. Some sales should be excluded from record-keeping, or they should be recorded in a simplified regime for the purposes of efficiency or continuous progress of the sales records. In order to involve the public, the establishment of a special receipt lottery is also considered.

The sales procedure should be as follows:

1. The business entity sends a data message about the transaction in a defined format to the tax administration.
2. The tax administration sends confirmation with a unique code of receipt.
3. The business entity prints the receipt (including the unique code that serves as an unambiguous identification of the receipt).
4. The customer is obliged to take the receipt.

5. The customer can verify the record of the specific sale via a web application of the tax administration (a SMS gateway is also considered).

In the event of a connection failure, it will be necessary to renew the connection and send the receipt within 48 hours. The customer will receive a receipt without the unique code but can verify it using the protective code of the receipt.

Exemptions will be permitted by the tax administrators for areas with no mobile signal or for specific cases.



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