

Newsletter

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In our new Newsletter we would like to inform you about changes in Czech laws. We will mention changes that were planned as well as approved, like the new EU Regulation explaining certain VAT issues, a change in taxation of hard surfaces by a real estate tax, or a new Double Taxation Treaty between the Czech Republic and China.

Furthermore we bring selected new interpretations of the laws in force, for example how to apply VAT on bonuses and discounts, VAT regulation in insolvency proceedings, and an interpretation of accounting regulations in relationship with foreign exchange receivables and investment expenditures.

At the end we would like to inform you about changes that are now in various preparatory or approval stages and about the development of which we would like to keep you posted.

1. VAT / EU Regulation

On 1 July 2011 the EU implementation rules on the common VAT system Directive entered into force that should ensure a unified application of VAT rules in the EU region. The Regulation has a direct effect and must be respected although it is not implemented in Czech laws.

One of the most significant points of the Regulation is its specification of a company's seat, individual's residence, and better definition of an establishment (place of business) for the VAT purposes when it comes to identifying a place for performing services. For the VAT purpose an establishment means any establishment or organisational unit that is sufficiently stable and independent and has a suitable structure from the human and technical point of view. The application of the Regulation may lead to changes in the application of VAT, or to a new VAT registration obligation if the provision of services is related to the establishment in a way.

2. Real estate tax / Hard surfaces

Earlier we informed you about the prepared changes in taxation of hard surfaces used for business purposes by a real estate tax. This change has already passed through the legislative process and the amended law will enter into force on 1 January 2012, when the hard surfaces will be taxed explicitly like plots of land.

A hard surface is newly defined as a plot of land entered in the Real Estate Register, with the type of land being other land or built land and yard whose surface has been solidified without a vertical supporting construction. Hard surfaces newly include a special group of plots of land and according to the type of business activity for which they are used they are taxed either by CZK 1 per one square metre in agricultural primary production, forest or water management, or by CZK 5 per one square metre in industry, construction, transportation, energy, other agricultural production and other business activities.

Considering that hard surfaces have recently been taxed as plots of land (other land or built land) by CZK 0.20 per one square metre, this may result in a significant tax burden for owners of such land.

3. International taxation / New treaty with China

On 4 May 2011 a new Double Taxation Treaty entered into force between the Czech Republic and People's Republic of China to prevent tax evasions in relationship to income taxes.

The Treaty provisions will start being applied in practice from 1 January 2012. At the same time on this day the original 1987 Treaty provisions will lose effect as they no longer reflected the political and economic situation in both countries. The new Treaty has been prepared according to the model OECD and UN agreements and in principle it respects the features of modern agreements entered into over the last years.

4. VAT / Bonuses and discounts

The General Financial Directorate issued information about the application of VAT on bonuses and discounts (provided for example due to exceeded turnovers, or cash payments, or payments within a shortened period). The Directorate thus responded to the unclear situation which occurred in this area after the 1 April 2011 VAT amendment entered into force.

Before this amendment, the issue of VAT on bonuses and discounts was rather clear and established. If a bonus was recognised as a price condition in a business relationship, the supplier could, when providing a bonus or discount, issue an endorsement. If however a bonus or discount was set as a payment condition, it represented a financial performance that was not subject to VAT.

After 1 April 2011 this was changed in laws and the interpretations of the Finance Ministry and the General Financial Directorate were not unified.

The currently valid interpretation according to the information above is such that it is always decisive whether bonuses and discounts are provided in direct relationship to the previous taxable performances. If yes, the payer, as opposed to the laws before April 2011, was always required to issue a corrective tax document (not an endorsement) in which the payer indicated the correct tax base and tax amount.

5. VAT / Insolvency proceedings

At the end of July 2011 the General Financial Directorate issued information about the procedure in tax corrections for receivables from debtors in insolvency proceedings under § 44 of the VAT Act as amended with effect as of 1 April 2011.

According to this information, a correction under § 44 means an independent taxable performance based on new facts. The tax base can also be corrected in relationship to receivables that arose before 1 April 2011, and not only in relationship to performances provided to the debtor after this date, as was the case under the previous interpretation.

This information is thus in conflict with the judgement that the Ostrava Regional Court issued in June 2011, according to which the debtor's creditors may only use the correction for performances provided to the debtor in the period beginning on 1 April 2011.

6. Accounting / Foreign currency receivables and obligations, and conditional investment expenditures

We would like to draw your attention to the existence of the National Accounting Council, an independent professional institution active in the field of accountancy, which issues interpretations on various ambiguous accounting procedures. Although the Council's views are not binding from a legal point of view, the aim of them being issued is to provide a unified and practical application of accounting regulations, which can be meaningful for the society.

In our Newsletter we would like to alert you in particular to two interpretations, one concerns the write-offs of foreign obligations and receivables, and the other the procedure in relationship with conditional investment expenditures. You will find more information at the Council's website www.nur.cz in the Czech language.

7. Anticipated developments

We would also like to draw your attention to the changes in laws that are currently in discussion.

These changes include for example the introduction of progressive income taxation of individuals, an increased VAT, an amendment to the Employment Act, the renewed inclusion of executive directors among persons eligible to health insurance, a proposal to introduce tax recognition of remuneration costs of statutory bodies' and other bodies' members in legal entities that are currently not being recognised, systemic changes in the Tax and Customs Administration (some offices were cancelled while other new controlling institutions have been created), and furthermore a large set of changes in practically all tax laws related to the introduction of a joint payment place from 2013.

We will keep you posted about all the above changes.

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