



Dear clients and business partners,

Most of the tax changes included in the tax package became effective from 1 April 2019. We informed you about the approval process already. You can find a summary of basic facts in the current issue of Tax News. It is evident already that some of the new provisions will raise

questions regarding their practical use, and they will be a topic for debate by experts. This concerns, for example, implementation of the ATAD rules or new adjustments to using vouchers and their VAT treatment. The tax authority is expected to comment on some of the questions in the future.

One of the changes is also a new reporting duty regarding the income of foreign persons where a Czech tax payer applies an exemption from withholding tax or the withholding tax is not applied because of a respective double taxation treaty. With respect to the fact that the deadline for the reporting duty can be connected to the moment the respective obligation is recorded in accounting (i.e. not the payment itself), we recommend checking first whether this obligation is relevant to you.

KempHoogstad Team

## Contents

[Tax package becomes effective on 1 April 2019](#)

[Notification of income sent abroad and exempt from withholding tax](#)

[KempHoogstad in the 2019 edition of Legal 500](#)



## Tax package becomes effective on 1 April 2019

After a long approval process, an amendment to the tax laws was published in the collection of laws, effective from 1 April 2019. We have informed you about the amendments already, so now we just wanted to briefly mention the substantial changes. We will comment on the impact of the changes in our upcoming news.

### Personal income tax

- Increase of maximum amounts of expense allowances for self-employed persons (effective from the 2019 tax period);
- Connection between the amount of claimed withdrawal tax from income from dependent activity of a small scope and the amount decisive for participation in health insurance; up to now, the amount was CZK 2,500 (this will be applied in May 2019 for the first time).

### Corporate income tax

- Implementation of the ATAD rules – reducing the tax deductibility of interest, taxation of a foreign controlled company, taxation while moving assets abroad, and treatment of “hybrid discrepancies”;
- Notification duty to announce the intention to claim deductions from research and development before starting a project;
- Notification duty regarding payments/accounting records of income abroad which is exempt from withholding tax by law or double taxation treaties.

### Value added tax

- Implementation of the EU directive regarding VAT on vouchers (detailed information on the GFD interpretation is expected);
- Rules treating delivery and correction of tax documents;
- Cancelling the possibility to rounding VAT up to whole crowns and a change to calculating VAT using the total sum as a base;
- Extension of the possibility to adjust the VAT amount regarding bad debts;
- Obligation to additionally adjust VAT deductions claimed on substantial repairs made to real estate when the real estate is subsequently delivered;
- Change to taxation of supplies for electronic services to the final customer – a non-taxable person (within the EU such services are newly taxed in the country of the supplier if the turnover of such services does not exceed EUR 10,000 in a calendar year);
- Changes to applying VAT to some supplies provided by persons not residing in the Czech Republic and without business premises in the Czech Republic ;
- VAT cannot be applied to renting residential real estate (effective from 2021);
- Extension of the definition of financial leasing to contracts with the option to buy.



## Tax Code

- A legislative change to the concept of abuse of law means that the tax administrator will not take into consideration such legal acts and other facts whose main reason is acquiring a tax advantage which is contradictory to the sense and purpose of the tax legislation measure

# Notification of income sent abroad and exempt from withholding tax

If a Czech entity is subject to the duty to withhold tax from income paid to/accounted to a foreign entity, then the Czech entity is obliged to report such income and the withheld tax.

## What income is subject to the new notification obligation?

Since April 2019, the notification obligation applies to incomes of foreign persons who are not obliged to withhold tax because their income is tax exempt according to the Income Tax Act or a respective double taxation treaty which does not allow taxation of such income in the Czech Republic.

In reality, the notification obligation affects income from dividends, profit sharing, interest on loans and credits, and licensing fees (including income from renting real estate) paid to foreign entities. If such an entity is located outside the EU, the notification obligation can also take into account the difference between an agreed price and a market price which can be considered, under certain circumstances, profit sharing for income tax purposes.

Withholding tax applies also to other kinds of income of foreign entities, such as income from liberal professions or incomes of members of statutory bodies. However, in such cases, the withholding tax already applies and so the notification obligation is not a new thing.

## What is the deadline for the notification?

The notification should be submitted by the end of the month following the calendar month in which the withholding tax duty would arise if the exemption or double taxation treaty is not applied. The moment decisive for the start of the period can depend on the kind of the income and it will depend on:

- The moment the profit sharing is paid, but at the latest by the end of the third month following the moment the decision about profit distribution is made; or
- The moment other kinds of income are paid, transferred, or credited to the foreign entity, but at the latest from the moment the respective liability is recorded in the accounting of the Czech entity according to the accounting rules.

## How will the notification be submitted?

The notification will be submitted via a standard form which is used for the notification of income that is subject to withholding tax. The rule for submitting is, similarly to submitting tax returns, that entities with a data box or having



a representative with a data box which was set up by law or those who are subject to a mandatory audit must submit the notification electronically in the form of a data message described by the financial administration (i.e. in principle, in xml format).

### **When does the notification not have to be submitted?**

If the total amount of the respective income of a given kind received by a foreign entity does not exceed CZK 100,000 in a calendar year, the notification obligation does not apply. The entity that pays the income can in certain cases apply for exemption from the obligation at the tax authority.

### **What should you be careful about?**

We recommend checking on the income paid to foreign entities whether or not they are subject to the above-described notification obligation. If yes, it is important to correctly determine the moment the period for the notification starts. An important thing could be when the respective liability (i.e. income) is recorded in the accounting, because the income does not need to be paid but the notification should still be submitted. A common example may be interest from loans or credits that are not paid continuously.

## **KempHoogstad in the 2019 edition of Legal 500**

Also this year, we are listed in the prestigious catalogue of law and tax firms Legal 500. We quote the description of our firm below.

Tax boutique firm KempHoogstad '*brings the skill set and practicalities of an international firm at a more reasonable pricing level*'. The team is also praised for its '*excellent attention to detail, highlighting potential issues that others might have missed*' and its '*strong dedication to clients' needs and requirements*'. It handles a mix of tax transactional and compliance matters including exercise tax, customs and VAT. Bohdana Pražská is singled out for his '*legal and tax knowledge as well as commercial awareness*', and Filip Dostál is '*an excellent tax adviser*', who '*always stands out for his direct, focused and well-substantiated advice*'.

Thank you for your support and we are looking forward to our cooperation.



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