Tax News May 2023

Dear clients,

Spring is upon us, and it brings a number of new tax developments. The first round of tax returns is behind us; the second is still ahead. We bring you information on tax news so that you won't be taken by surprise.

There is a new reporting obligation to the social security administration, effective from 1 April. We summarise new conditions for filing personal income tax returns, we deliver news regarding insurance payments of persons engaged in teleworking, and the financial administration has informed about the situation regarding accommodation and the windfall tax. There will be an amendment to the regulation of incentives, and new adjustments to the global minimum tax.

We hope you enjoy spring, and we are at your disposal for any questions that you may have. We look forward to further cooperation.

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New reporting obligation to the social security administration from 1 April 2023

There is a new reporting obligation to the social security administration, effective from 1 April 2023. Employers are obliged to report every employee who is a foreigner using the temporary protection status under a special legal regulation in an employment relationship, with work activities based on a contract for work or an agreement on working activity (regardless of whether they are payers of sickness insurance or not). The new development is the fact that previously uninsured persons will now have to be registered. New employees should be registered within eight calendar days of the date on which they start their employment, which is the common registration period.

New conditions for submitting tax returns

The threshold decisive for the obligation to file a tax return has changed for the year 2023 from the original amount of CZK 15,000 to CZK 50,000. Also, the threshold decisive for the obligation to file a tax return in respect of income deriving from dependent activities (under sections 7-10) has changed from the original CZK 6,000 to CZK 20,000.

Insurance of employees engaged in "teleworking"

The Czech Republic has concluded framework agreements with Germany and Austria regarding persons working remotely in the other country by means of "teleworking". Both agreements are effective from 1 March 2023 and they reflect the current trends in working from home from abroad. The agreements increase the limit of the scope of work in which the employee working from home from abroad stays within the insurance system of the employer's country. Under the new framework agreements, the limit for keeping an employee in the Czech insurance system will be increased to 40 per cent in comparison to the original 25 per cent of the total time spent working in the other country through the medium of information technology.

The employee must apply for an exemption. The application should be filed at the respective authority of the member state to whose legal rules the employee wishes to be subject; in the case of the Czech Republic, this is a respective Social Security Authority. The exemption can be requested for up to two years, and can be requested again after that period has elapsed. At the same time, a framework agreement is being negotiated with all member states of the EU. This should allow working from home up to a maximum limit of 49.9 per cent. It is expected that the agreement will be effective from 1 July 2023.

Obligations of accommodation providers

The General Financial Directorate has issued updated information on the tax assessment of obligations of accommodation providers. The information reflects legislative changes to VAT, personal income taxes and real estate taxes that are effective from January 2023.

The tax administration commented on the difference between accommodation services and the rental of real estate from the VAT point of view. Further, for the purposes of personal income taxes it is important to determine whether the providing of accommodation fulfils the conditions to be characterised as the conduct of business or not. If it does, then the income derived therefrom is subject to tax as income from independent activity, and the provider can use the expenses actually incurred or lump-sum expenses, depending on whether they have the necessary respective trade licence. The lessor can even enter the lump-sum regime and subject the income to a lump-sum tax. If a legal entity provides accommodation services, then the income derived from such services should be recorded in their corporate income tax return. If real estate is used for providing accommodation services, the said real estate shall be subject to the respective real estate tax rate determined for the conducting of business (namely, CZK 10 per square metre of built-up or floor area).

Windfall tax

The financial administration has published answers to questions regarding the windfall tax that is to be applied between the years 2023 and 2025. The incurring of liability for the tax shall be assessed individually for each tax period. The basic condition is the reaching of a decisive annual income of at least CZK 50 million in a tax period that falls at least partially within the period of the application of the windfall tax. Regarding the determination of a groups of taxpayers that will be deemed liable to the windfall tax, the total of decisive income shall be calculated as the sum of the individual income realised by each member of a group – including cases when the parent company is abroad. Such income includes the income of a Czech company and the income of a foreign company that is taxed in the Czech Republic.

The windfall tax is not subject to special registration. Windfall tax returns are subject to the same deadlines as income tax returns – including cases when the taxpayer in question has zero tax liability. The windfall tax is not a tax-deductible expense and there is no tax relief that a taxpayer could use for the purposes of corporate income tax. It is an advance tax, and the same rules that govern income tax deposits are used regarding the last known tax liability.

Planned amendment to the Incentive Act

The amendment should abolish the obligation to submit to the government each request for granting an investment incentive Assessing the incentives will be done in most cases by the Ministry of Industry and Trade, with the help of other ministries. Obligatory government approval will continue to apply in respect of strategic investments only; such projects can receive material support for the acquisition of long-term assets. The new rules should affect only those applications that are submitted after the amendment becomes effective.

Other changes include the extension of the condition of higher added value for all regions of the Czech Republic with the exception of those where the unemployment rate is 7.5 per cent or more; moreover, the range of strategic products has been extended.

Global minimum tax

Global minimum tax will be applied from the tax period starting on 1 January 2024 and it will concern all companies within a group whose consolidated revenues have exceeded EUR 750 million (CZK 18 billion) in at least two of four of the immediately preceding tax periods.

Global minimum tax at the rate of 15 per cent should be implemented at the OECD and EU level. The EU member states are obliged to adopt legislation during 2023 implementing this rate, but in some cases its implementation can be postponed. The Czech bill has not been published yet.

The global minimum tax will be applied if the effective tax rate does not reach 15 per cent; whereby the effective tax is determined as a ratio of (i) taxes (current and deferred), which the group records withing the given jurisdiction, and (ii) the pre-tax profit determined according to the international accounting standards. The effective tax can significantly differ from the statutory tax rate – for example owing to the application of various forms of tax relief.

The rules for calculating the effective tax and deferred tax will be the same for all jurisdictions. Deferred tax will normally be collected from the subsidiaries by the country of the parent company; however, the country of the subsidiary can decide that it will collect the tax. In such cases, the compensatory tax paid by the subsidiary will be set off against the tax obligation of the parent company. It is expected that the Czech Republic will decide either to collect the compensatory tax that would arise in respect of Czech subsidiaries or to impose on such subsidiaries the obligation to prove that no compensatory tax has arisen. If it does not, the compensatory tax will become the revenue of the state budget of the parent company's country – even if it relates to economic activities of a subsidiary that has its seat in the Czech Republic. In any event, this new regulation requires that companies seeking to avoid this measure meet a number of obligations related to proving that an obligation to pay compensatory tax has not arisen.

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