



Dear clients,
 Spring has arrived, and the tax season is under way. We hope you will appreciate this May edition of our newsletter with selected tax news. We bring more information about the extended possibility to claim deductions regarding donations to Ukraine. We also

elaborate on the new advantageous terms for tax appreciation of low-energy vehicles. The news regarding VAT includes an increased limit of CZK 2 million for mandatory registration for VAT. There are important changes to road tax rules as well. The requirement to pay a deposit for 2022 regarding road tax has been largely waived and also there is a new bill before Parliament that suggests that road tax for passenger cars and buses will be completely abolished. The government has also unveiled a new proposal for a reduction in the excise tax on fuel as a reaction to the current increases in fuel prices. Lastly, we would like to inform you of an interesting judgement that was published lately. It concerns the creation of VAT in a situation where a subsidiary provides its parent company with services.

Please do not hesitate to contact us should you have any questions. We look forward to our further cooperation.

Bohdana Pražská and the KempHoogstad Team

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Income tax - donations provided to Ukraine

With respect to the conflict in Ukraine, an amendment to the Income Tax Act has been approved that introduces new possibilities in respect of tax relief regarding donations provided by tax payers to Ukraine.

Now the tax base can be reduced by the amount of donations provided directly to governmental bodies of Ukraine (e.g. via the Ukrainian embassy) or its territorial autonomous units, and also to legal entities and natural persons residing in Ukraine, provided that the receiver meets the current conditions under which the donated amount can be deducted; these are defined by the Income Tax Act as, broadly speaking, donations made for humanitarian, charitable and similar purposes, and also donations provided for the purpose of supporting the defence activities of Ukraine (for example providing military material).

The changes also apply to those natural persons and legal entities who provided their donations in 2022 even before the amendment became effective. Also natural persons who are Ukrainian tax residents and at least 90 per cent of whose taxable income stems from the Czech Republic can deduct the amount of their donations from their Czech tax base.

Moreover, the amendment prolongs the increased 30 per cent limit on the maximum amounts of donations that can be deducted from the tax base. The limits will also apply to natural persons for the 2022 taxable period and to legal entities for the taxable period between 1 March 2022 and 28 February 2023. The increased limits apply to all donations.

Regarding non-monetary supplies provided free of charge in 2022 to help Ukraine, natural persons (who use the method of recording the actual costs) and legal entities can decide whether they wish to use such non-monetary supplies to claim a deduction from the tax base or as a taxable expense. In such a case the condition of an entitled receiver should not be used; rather, it should be sufficient to cite the simple fulfilment of the purpose of the provided supplies. In a case when the full amount of non-monetary supplies in question will not be used fully during the tax period in which they were provided, the rest of the value can be used as a tax loss without limitations regarding the amount of the tax base. If the tax payer decides to use the non-monetary donation as an expense, he cannot also use it as a donation that can be deducted from the tax base.

The amendment also introduces the possibility to exempt from tax an employee's income that was received from the employer in 2022 in the form of accommodation provided by the employer to the employee and their families, if it is the case that they formerly resided in Ukraine but had to leave the country because of the military conflict. Income received by the employee from the employer in the form of a monetary donation intended as help in difficult situation caused by the conflict can be income tax exempt in the same way as gratuitous non-monetary supplies received as the result of a humanitarian or charitable initiative. Newly introduced are tax exempt donations that a tax payer receives by way of assistance with Ukraine's defence efforts.



Income tax – tax advantages for low-emission vehicles

The above-mentioned new government bill amending the Income Tax Act proposes support for owners of low-emission vehicles. The bill suggests reducing the amount of taxable income, which increases the tax base of employees who use company cars for private trips. The increase in the tax base regarding low-emission vehicles will be reduced to 0.5 per cent of the purchase price of the vehicle (compared to the current 1 per cent). "Low-emission vehicles" are those road vehicles in categories M1, M2 or N1 whose CO₂ emission limits fall below 50 grams per kilometre and below 80 per cent of the emission limits in respect of air-polluting substances when in operation, as defined by the respective EU directive. The new wording of this bill should be applied for the taxable period of 2022, irrespective of the date when the vehicle in question was acquired. Taxation respect of those months when the low-emission vehicle was also used for private trips but when the amended bill has not yet taken effect will be reflected in the annual settlement of deposits.

The bill also shortens the period regarding the tax depreciation of equipment that is used solely for charging electric-powered vehicles or hybrid vehicles (i.e. charging stations and wall boxes) from ten to five years on the basis of transferring such equipment from the third to the second depreciation group. Tax payers who acquired their charging stations before the bill becomes effective, have the chance to transfer their equipment to the second depreciation group in the 2022 tax period or to directly record it in the second group if they start the depreciation during 2022.

Road tax – general waiver of the 2022 deposits and termination of road tax for cars and buses

In the light of the dramatic increase in fuel prices this year, the Ministry of Finance has issued a general waiver to all entities regarding 2022 road tax deposits.

Currently, the amendment terminates road tax concerning, for example, passenger cars and buses and introduces tax advantages for low-emission vehicles.

Tax duty for lorries is decreased in certain cases, depending on the number of axles and total carrying capacity (for example, for vehicles with two axles and with capacity over 12 tonnes) of the vehicle in question. Vans and middle sized lorries with a capacity of less than 12 tonnes and their trailers will not be subject to road tax. Tax duty in respect of heavy duty lorries will be significantly decreased. The taxation of tractors and trailers will be changed. The proposed changes will be effective from 2022.



Excise tax – temporary decrease of excise tax on fuel

On the basis of an amendment to the Income Tax Act effective from 1 June until 30 September 2022, the excise tax on diesel and unleaded petrol will be reduced by CZK 1.50 per litre as a means of mitigating the current rise in fuel prices. Excise tax would fall from the current CZK 12.84 to 11.34 per litre (petrol) and from CZK 9.95 to 8.45 per litre (diesel).

Because excise tax is included in the calculations of VAT on fuel, the regulation could decrease fuel prices by up to CZK 1.80 per litre. The Ministry of Finance plans to monitor fuel prices with the help of those fuel distributors who are excise tax payers. The Ministry wants to make sure that the reduced excise tax will really affect the final prices for customers.

The decrease in excise tax will concern only petrol and diesel that will be released into free tax circulation between 1 June and 30 September 2022. It will not apply to mineral oils that will be produced during that period but will not be released into free tax circulation. The amendment will be effective from 1 June 2022.

VAT – increasing the turnover limit to CZK 2 million for mandatory registration

The Ministry of Finance has submitted its amendment to the VAT Act to the comment procedure. The bill should increase the yearly turnover for mandatory registration for VAT to CZK 2 million (EUR 85,000) and it should become effective from 1 January 2023. The current limit of CZK 1 million has been in effect, without any changes, since 2004. Brussels will allow member states to increase the limit from 2025. But the Czech Republic has applied for permission to increase at an earlier date the limit to CZK 2 million for mandatory registration for VAT and the EU has agreed to it and approved the Czech application. The amendment also enables a company to terminate its registration for VAT if its annual turnover does not reach CZK 2 million.

Case law – creation of a permanent establishment in the case of subsidiaries

We have an interesting judgement regarding VAT for you. The Court of Justice of the EU was dealing with the question of whether the permanent establishment of a parent company can be created for VAT purposes in another EU member state (where the subsidiary resides) if the subsidiary provides the parent company with marketing and other services (e.g. regulatory, advertorial and representative services), and those services are invoiced monthly.

The European Court of Justice confirmed that the existence of a subsidiary in another EU member state does not automatically mean the creation of an establishment for the VAT purposes. It also dealt with the question of whether the relevant technical and human resources must belong solely to the parent company, so that a permanent



establishment in another member state is created. The Court confirmed former findings that it is not necessary for the taxable person to have own resources, but that it is enough if the taxable person can use the resources as its own. It is also necessary that the resources be not used only occasionally.

The European Court of Justice also emphasised that the same human and technical resources cannot be used at the same time for the provision and receipt of the same services by the subsidiary for its own economic activities.

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