



Client Information

Czech Republic
April 2019

Tax Law Changes in Spring 2019

The approval process of the tax law amendment that we informed you about in our December issue was finalised in March. Most changes took effect on April 1, 2019, but there were important exceptions. Given the scope of the amendment, we are only selecting the most important topics.

VAT Act Amendment

- *Leasing*

Leasing contracts from which the possibility of a subsequent transfer of ownership arises, even if indirectly, are treated as supplies of goods. Many lease contracts contain a „purchase price option“, or the ownership transfer after the lease expiry shows itself to be economically advantageous or customary. Then the tax liability must be settled as of the date on which the leased item was conveyed for the first use. This change will be effective on January 1, 2020.

- *Vouchers*

New rules for dealing with vouchers have been incorporated in the law together with implementation of the EU 2016/1065 Council Directive. A distinction is made between single-purpose and multi-purpose vouchers. Single-purpose vouchers are those with a known subject of performance and performance provider, but also tax rate and place of performance, at the time of issue. All other vouchers are multi-purpose.

The issue of a single-purpose voucher is considered a supply of goods or services for VAT purposes. The subsequent application of a single-purpose voucher is no longer subject to VAT. Other vouchers will only be taxed when applied. The EU Directive came into force on January 1, 2019, therefore the new rules for the use of vouchers can be taken into account retrospectively on vouchers issued after January 1, 2019.

- *Real Estate*

The amendment specifies that the lease also means the establishment, duration and termination of **the easement** to immovable property. It is therefore necessary to evaluate correctly when the taxable transaction occurs and whether it is not an exempt transaction.

With the effect from 2021, it will no longer be possible to tax the **rental of residential premises, houses and flats**. If VAT was deducted on the acquisition of such premises, the deduction will have to be adjusted in 2021.



In the case of immovable property for which, according to the building regulations, **no occupancy permit is required**, the law newly defines the moment from which the five-year period is calculated, after which the building is exempt from tax. In these cases, this period shall be calculated from the moment of beginning the use of the building.

An adjustment of the **VAT deduction** after a change of the original conditions (e.g. an exempt purchase) must be made not only for technical improvements but newly also for **major repairs** exceeding CZK 200,000.

In the case of **re-charging of services** associated with a lease, the date of taxable transaction is newly the date on which the actual amount of these costs was learned. The day of the measuring device reading continues to be decisive for energy supplies.

• *Cross-Border Transactions*

The Czech VAT will newly have to be paid on **supplies of goods with installation or assembly** by foreign suppliers who are registered in the Czech Republic for VAT, even if they do not have a permanent establishment in the Czech Republic. The reverse charge system has been previously applied to the recipient of the supply in these cases.

Beware of situations where a VAT payer purchases **goods from another EU member state under the Czech VAT number** and the goods are transported not to the Czech Republic but to another member state. The customer in the Czech Republic has to newly prove that he/she has taxed the transaction in the country of transport termination. Otherwise he/she must tax the acquisition of goods in the Czech Republic without the possibility of claiming input VAT.

• *Tax Base Correction*

The correction of the tax base is now considered to be performed on the day when the reason for

the correction came to existence. The possibility of correcting the tax base is extended for the entire duration of the contract in the case of new leasing contracts.

The possibility of correcting the tax base for **bad debts** is significantly expanding (e.g. unsuccessful or suspended execution of a court decision). The debtor has now an obligation to reduce the input VAT applied by the same amount.

• *Delivery of Invoices and Credit Notes*

The taxpayer is obliged to make reasonable efforts to deliver documents to their recipients. A positive message for credit note issuers is that a credit note may be included in the report of the month in which it was sent to the customer, provided that reasonable efforts have been made to deliver it. Until now, a credit note could only be processed on the basis of a receipt of its delivery.

• *No Changes for Executive Officers*

Executive officers and their relation to the value added tax was a highly discussed issue. Ultimately, nothing changed for company executives. Activities subject to the employment income tax are not considered a separately performed economic activity and are not subject to VAT.





Income Tax Act Amendment

• *Measures Against Tax Avoidance*

EU 2016/1164 Anti-Tax Avoidance Directive („ATAD“) has been incorporated in the Czech law, which generated the following rules:

Limitation of Eligibility of Excessive Borrowing Costs

The tax deductibility limit for borrowing costs has been set at the higher of CZK 80 million or 30% of EBITDA (Earnings Before Interest, Taxes, Depreciation and Amortisation). This rule also applies to financing between related parties. In addition, the current low capitalisation rule, which applies only to related parties, continues to apply.

Exit Tax (property relocation abroad without an ownership change)

This includes, for example, the transfer of assets of a Czech company to its permanent establishment abroad or in connection with changing its tax residence. The tax base is then the difference between the market value of the relevant asset and its net book (residual) value.

Taxation of a Controlled Foreign Corporation (CFC rule)

A Czech company that controls a foreign company (with a direct or indirect share exceeding 50%) shall include the income of this foreign controlled corporation in its tax base if

- the foreign controlled corporation does not exercise any substantial economic activity
- and its foreign tax is less than half the tax that would have to be paid under the Czech rules.

• *Reporting of Withholding tax Exempted Income*

The amendment introduced the obligation to report income that is subject to withholding tax and paid abroad, even if exempt from the withholding tax or not subject to taxation in the Czech Republic under the relevant double taxation treaty. This provision is effective as of April 1, 2019 and relates to payments of dividends, interests and royalties among others, if their amount exceeds CZK 100,000 for a particular case in a particular month.





- **Research & Development reporting Duty**

A new reporting obligation arises for taxpayers who plan to apply a deduction to support R&D. The reporting date determines the moment from which expenditures can be included in the deduction. Submission of the report is thus the first step towards the tax administrator for implementation of a specific project.

In case of any questions please do not hesitate to contact us.

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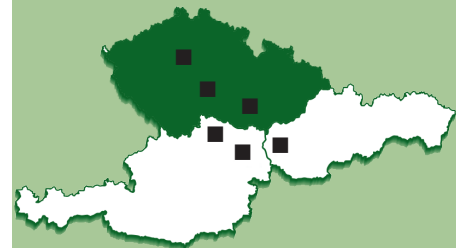
- **Lump Sum Expense for Entrepreneurs**

This amendment introduces changes in the upper limits for flat rate expenditures for individuals. The limits are CZK 1.6 million for agriculture production, CZK 1.2 million for trades, CZK 0.6 million for rents and 0.8 million for other self-employment activities.

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