

## INFORMATION FOR CLIENTS<sup>1</sup>

**June 2012**

Dear Client,

Hereby we would like to draw to your attention an interesting decision of the Supreme Administrative Court regarding the fiscal treatment of unrealized exchange rate differences.

In contrast to German and Austrian legislation unrealized exchange rate gains are being regarded as tax effective in the Czech Republic.

This led to the taxation of unrealized exchange rate gains though this income was fictive only.

For the first time the Supreme Administrative Court has been concerned with this issue. In a decision dated 19 April 2012, no. 5 Afs 45/2011 – 94, the 5th senate of the Supreme Administrative Court ruled that unrealized exchange rate differences, profits as well as losses, shall not be taken into account for tax purposes.

This judgment leads to uncertainty among tax experts and to discussions concerning its future application in practice.

After a meeting of the coordinating committee of the Chamber of Tax Advisors with the General Financial Directorship, the legal opinion of the ministry of finance was made public on 6 June 2012, in which was stated that tax offices will not change their treatment of unrealized exchange rate differences. The reason for not amending its opinion was the fact that decision of the Supreme Administrative Court was concerning an individual case and therefore does not reflect the established jurisprudence of the Supreme Administrative Court.

This means in practice that every new case will have to go through the entire legal process, shall the result of the above stated decision become effective for this new case.

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<sup>1</sup> The material presented regarding changes in legislation is of an information character only and does not in any case substitute for professional consultation. When resolving concrete cases, do not hesitate to contact our offices.



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We would like to use this occasion to point out that the current interpretation of the Tax Offices for example in regard to Euro - obligations arising with a strengthening exchange rate for the Czech Crown, was unfavorable; however, with a weakening exchange rate the corresponding tax base can be reduced. In any case the consequences arising with the application of the ruling or application of the current practice must be thoroughly examined.

We will inform you immediately shall any new developments regarding this tax issue occur.

Yours truly,

Your AUDITOR team