



Information for clients No. 4

Czech Republic
September 2016

Approved or planned items for 2017

Here is an overview of changes in tax legislation, both already in force and particularly proposals ready for approval that would come into force in 2017. What links most of these changes is a strengthening of measures against tax evasion.

Already approved amended statutory measures concerning tax on the acquisition of real estate

In July 2016 an **amended Act on the Tax on the Acquisition of Real Estate** was approved.

The main change is the removal of the option of choosing who should pay the tax, the **taxpayer** becoming solely the **acquirer**. Thus the institution of a guarantor for unpaid tax is cancelled.

Further changes that took place:

- **simplification** of determination of the tax base in the case of **exchanges**;
- the **exemption** for the first charged acquisition of **new buildings** and units will newly apply only to **completed or used** constructions and units, and not to buildings and units under construction;
- sections concerning for example the extension of the **use of guidance values**, the exemption of **transformations** of all legal entities from tax with the exception of the transfer of assets to a partner, or clarification of the **acquisition value** in the case of acquiring ownership rights to immovable assets that are part of a **business establishment**.

The **tax rate** of **4%** remains **unchanged**.

The **tax base** will continue to be the highest out of the given values:

- the **purchase price** (when determining the tax base it is possible to deduct the costs of preparation of the expert report from the tax base) or
- the **comparative tax value** (this will no longer be determined as 75 % of the guidance value or the established price, but as 100 % of these values).



The **new rules** will **apply from 1 November 2016**; that is to deposits received on the land registry after that date.

Until 1 November 2016 the taxpayer remains either:

- the seller (the purchaser in that case is the guarantor) **or**
- the purchaser, provided that is agreed in the purchase contract – in that case the seller is not the guarantor.



Obligation to prove origin of property

An amended Income Tax Act still in the approval process will bring an **obligation to show the source and origins of income**. This concerns another instrument in the fight against tax evasion, which should help tax administrators uncover unreported income.

Who does this new obligation **concern**? Theoretically every **taxpayer** who the **Tax Office calls upon** to show the source and origins of their income. Also anyone can be called upon who according to a preliminary assessment has attained an **increase in assets or consumption** exceeding their declared income by more than **7 million crowns**. As proof it will be necessary to show that the expenses were covered from income that was tax exempt or from income already taxed in previous tax years. In practical terms it is thus a good idea to **keep long-term and thorough records of all income**.

In the absence of proof the tax administrator can set **tax in accordance with a so-called aid**, e.g. according to available information, economic indicators, comparison with similar taxpayers and the like. The tax administrator has the right to set the tax according to these aids if he has the **preliminary impression** that tax assessed in this way **will exceed two million crowns**. The tax administrator has the right to demand that the taxpayer submits a **statement**

of assets. Should the taxpayer refuse to submit a statement of assets or should they submit false or grossly inaccurate information, this will constitute a crime for which there is the threat of **imprisonment** for up to **three years**.

For the case of additional tax the law also sets a special penalty in the form of a **fine** of **50%** of the additional tax or **100%** of the additional tax for the case where the taxpayer refuses to cooperate, making difficult or preventing the setting of the tax.



This provision is **expected to come into effect from January 2017**, provided that after more than a year from the presentation of the government's draft legislation the legislative process is completed in time.

Posting of staff

The government has prepared an amended Act on Employment and an amended Act on Labour Inspection, which alongside the Labour Code regulate the conditions of the **employment of foreigners in the Czech Republic**.

The reason for the amendment of these two laws is to implement the directive of the European Parliament and of the Council on the Implementation of the Directive on the Posting of Workers in the





Framework of the Provision of Services. Even though the deadline for its implementation was set as 18 June 2016, it **has not yet submitted** the relevant **proposal** for discussion to parliament. In neighbouring Slovakia however implementation has already taken place with effect from June 2016 and there the new rules already apply. You can find further information about the Slovak amendments in the client information from our office in Bratislava, [here](#).

The new Act on Employment brings **new obligations** for legal or natural entities as **economic employers**. We should recall that an economic employer is an entity at which the posted employee performs work on the basis of a contract with their formal employer established in another member state.

The economic employer is obliged to keep records containing information on the employee and their employment. This information in particular contains basic identification data, the address in their country of permanent residence, their postal address, the number of their travel document, the type, place and period of work, whether they are a man or women and the dates they commenced and ended employment.

The amended Act on Labour Inspection introduced the institution of the **liability of the economic employer of posted employees for the obligations of the formal employer**, arising in connection with the commission of certain administrative offences. For example should the posting employer fail to pay a foreigner at least the minimum wage, or the lowest guaranteed wage, the economic employer is liable to pay any fines arising.

Amended Act on International Cooperation

The government presented an amended **Act on International Cooperation**, proposed to come into **force** on **1 January 2017**. This cooperation concerns the automatic exchange of information between the financial administrations of individual EU member states.

The subject of the exchanges of information will be tax opinions with cross-border elements, preli-

minary tax decisions and preliminary assessments of transfer pricing.

According to Czech tax law this concerns **binding opinions** issued by tax authorities **in accordance with the Act on Income Tax** and mandatory assessment of the way in which **prices** are set agreed **between related entities**. Binding opinions are issued on the basis of concrete requests from taxpayers.

The **extent** of information provided within the automatic exchange of information is **exhaustively defined by law**. This includes identification data for the person concerned, a **summary of the opinion**, a business description, a description of transactions in general terms so as not to violate trade secrets, or confidentiality imposed by law, or to threaten public order, and the value of the transaction. In the case of a preliminary assessment of **transfer pricing** information on a **set of criteria** used to determine the agreed prices between the related entities and on the **determination of the method** used to establish the agreed prices will be provided. Within the automatic exchange only summaries of tax opinions will be provided, and not their full text. However a member state may request the full text.

Opinions from the field of **value added tax** or opinions related solely to **natural persons** are not to the subject of an exchange of information. According to the explanatory memorandum the central liaison office that will provide foreign partners with the sending, receiving and processing of information, should be the General Financial Directorate. Information should also be provided to the European Commission and the Ministry of Finance, but only to the extent that is exhaustively defined by law. **Information will be provided regularly twice a year**. According to the explanatory memorandum, it is expected that the Czech Republic will receive of the order of thousands of opinions.

Other upcoming changes

The government has prepared for discussion in parliament another package of amendments to tax laws, which are also expected to come into **force** from



January 2017. However meeting this deadline depends on their timely discussion and approval in the legislative process.

Changes in the **Act on Income Tax** include for example increased benefits for the second and further children, simplification of the taxation of minor income up to 2 500 CZK per month through withholding tax without the obligation to file a tax return, **the possibility of paying tax with a payment card**, and taxation of the **transfer free of charge** of real estate in the Czech Republic **between two non-residents**. It further regulates the right to a refund of withholding tax in the case of payments and refunds of advances on shares of profits in favour of a new partner, and the **depreciation** of tangible assets will be made possible for their **economic users**.

Changes will also affect the **Act on Value Added Tax**. Conditions

for registration will be adjusted in special cases, the **definition of business assets will be extended** to include the category of assets acquired through **financial leasing** and alongside the existing category of unreliable payer a new **category of unreliable entity** will be established. This label may be applied to an entity that has not yet become a VAT payer, or that has ceased to be a VAT payer when identified as an unreliable payer. It extends the liability of the customer to cover the case where payment was made in a virtual currency (bitcoin).

Conclusion

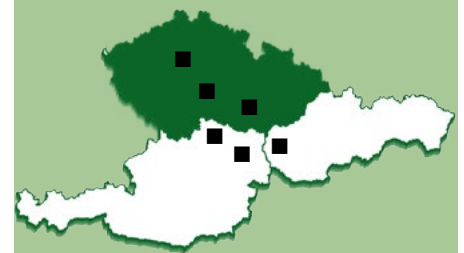
Traditionally there remains the issue of when and in what form the government proposals will make it through the legislative process.

We will of course keep you informed of developments. ■

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Mag. Georg Stöger
International Tax issues

Marie Haasová
Accounting

Iva Tolde
Payroll agenda

Office Prague
Haštalská 6, Prague 1
T: +420 224 800 411
praha@auditor.eu

Office Pelhřimov
Masarykovo nám. 30, Pelhřimov
T: +420 565 502 502
pelhrimov@auditor.eu

Office Brno
Dominikánské nám. 4/5, Brno
T: +420 542 422 601
brno@auditor.eu

Ing. Marta Prachařová, LL.M.
Head of the Tax Department
T: +420 224 800 458
marta.pracharova@auditor.eu



Ing. Martin Pražan
Tax Advisor
T: +420 542 422 601
martin.prazan@auditor.eu

