Information for clients No. 6

Czech Republic
November 2013

We are back with information about the current state of tax amendments related to the recodification of private law. Both civil and commercial law were recently subject to new codification. In this respect, extensive tax changes are planned.

Recodification: tax-related legal provisions passed by the Senate

The Senate has passed the tax-related legal provisions proposed by the Government. It did so for the first time in its history after rejecting recodification amendments to tax laws in the ordinary legislative procedure. If the legal provisions are passed by the new Chamber of Deputies after the October elections, the tax laws will be adapted to the new private-law provisions which are due to be in place from 1 January 2014.

Compared with the original recodification amendments to tax laws, in the above legal provisions the Government modified the sector of taxation of investment funds and provisions relating to publicly beneficial taxpayers, abolished the extensive exemption from the income tax for dividends and it also abolished extraordinary depreciation.

Inheritance tax, gift tax

The inheritance tax and gift tax should be abolished and integrated in the Income Tax Act.

Income from inheritance should be exempted from tax for both natural persons and legal entities.

For natural persons, the acceptance of a gift should be subject to income tax at 15% except where such income is exempted. For natural persons, gifts among related persons should be exempted in the direct line and in the collateral line (parent, child, husband, wife, sibling, aunt, uncle, nephew, niece, husband's or wife's child, child's husband or wife, husband's or wife's parents, parent's husband or wife). Furthermore, natural persons should be exempted from tax in relation to gifts from a person with whom the recipient of the gift has shared a common household for at least one year.

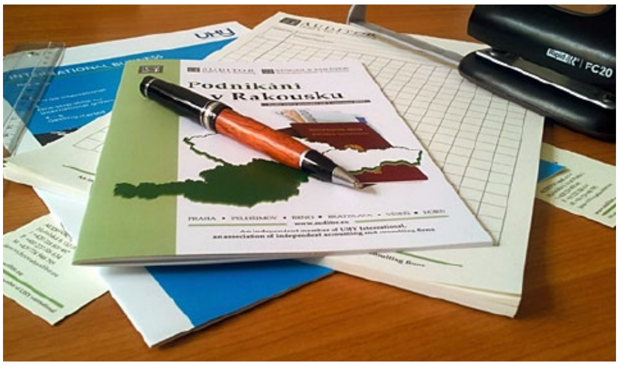
Gifts among legal entities should be subject to income tax in the amount of 19%. Exemptions are planned for publicly beneficial taxpayers and trust funds where the acceptance of a gift would be exempted from tax under specific circumstances.

Real estate transfer tax

The real estate transfer tax will be replaced by the real estate acquisition tax.

The tax rate should remain at 4%. The tax base will consist of the acquisition price minus expenses.

As to date, for the sale of real estate on the basis of purchase contracts and barter contracts, the ac-



quisition tax is to be paid by the seller. The buyer should act only as the guarantor. The parties should have the possibility of agreeing in the contract that the acquisition tax shall be paid by the buyer. In all other cases involving the acquisition of real estate (e. g. in case of property investment), the tax shall be paid by the acquirer.

Furthermore, administrative demands on taxpayers should be alleviated; for example, the submission of an expert report to the tax administrator should be required only in some cases.

We point out that real estate serving as a contribution to the registered capital of a business company will no longer be exempted. On the other hand, tax exemption will be preserved in relation to the acquisition of real estate within transformations. The acquisition of real estate after the termination of financial leasing will newly be exempted from tax. The first acquisition of a new family house or a unit in a new apartment building for consideration will also be exempted, namely for the period of five years from approval for use (in Czech *kolaudace*).

Income tax

Investment funds should be subject to a 5% corporate income tax. For the payment of shares in profits, the investment fund shall apply a 15% withholding tax to its investors. Legal entities are eligible for exemption from the withholding tax under the EU Directive on the common system of taxation applicable in the case of parent companies and subsidiaries.

The broader exemption applicable to the payment of shares in profits, as originally proposed in the recodification amendments rejected by the Senate, will not be introduced. The payment of shares in profits continues to be subject to a withholding tax of 15%; legal entities are eligible for exemption under the above Directive.

Natural persons should be exempted from tax in relation to revenues from the sale of securities provided that the time between acquisition and sale of the securities exceeds three years. The existing six-month period for exemption applies to securities acquired prior to the amendment. Revenues from the sale of an interest in a business company will continue to be exempted for sales effected after expiry of five years from acquisition.

Natural persons should also be exempted in relation to revenues from the sale of securities where the amount concerned does not exceed CZK 100,000 in the tax period.

The limit for exemption of natural persons in relation to revenues from incidental activities should be increased from CZK 20,000 to CZK 30,000 in a tax period.

The limit for deductibility of gifts is increased from 10% to 15% of the tax base in relation to natural persons. Legal entities are newly allowed to deduct gifts of up to 10% of the tax base.

Tax deductible adjustments to receivables may newly be made without the need for enforcement of the receivable in court. A tax deductible adjustment can be made for 50% of the amount of the outstanding receivable which is overdue for 18 months and 100% for a receivable which is overdue for 36 months. Debtors who are related entities will no longer be allowed to make adjustments to receivables in insolvency proceedings. Receivables incurred by the effective date of the law will be subject to the existing regulation.

In the field of transfer pricing, the tax base will be adjusted even if the agreed price is zero. Adjustment will not be possible for lending and borrowing and gratuitous loan which are charge-free by operation of law, as well as for credits where the creditor is a non-resident taxpayer, a partner of the creditor's company or a natural person.

For financial leasing, it is newly necessary to agree on the purchase or right of purchase of the leased assets to take place after expiry of the agreed term.

Deduction in support of professional education is introduced, where the price of acquired fixed asset and expenses incurred on a student's professional education can be deducted from the tax base. A motivational contribution in an increased amount of CZK 5,000 per month (CZK 10,000 per month for a student of a higher-education institution) represents a tax deductible expense.

Value added tax

Exemption in the sale of a plot of land is abolished. A plot of land will newly follow the destiny of the related structure, i.e. it is mandatorily subject to value added tax for a period of five years from approval for use (in Czech *kolaudace*). The sale of the plot of land is subsequently exempted unless the seller opts to sell the plot of land including tax. This will apply to sales effected after the effective date of the law.

The scope of guarantee for VAT applicable to payments into an undisclosed account is to be alleviated. The customer will be required to provide the guarantee only where the amount of taxable supply equals or exceeds CZK 700,000. This provision should be effective from the first day of the calendar month following promulgation of the law. ■

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