KempHoogstad Tax News

September 2014

Contents:

KempHoogstad
Tax Advice & Solutions

A Na Příkopě 31, 110 00 Prague 1, Czech Republic T + 420 221 719 000 F + 420 221 719 001 E prague@kemphoogstad.com W www.kemphoogstad.cz

KempHoogstad, s.r.o. IČ 27568385 DIČ CZ27568385, registered in the Commercial Register in Prague, Section C, File # 114473

This issue of our newsletter brings information on tax changes included in the bills currently debated in Parliament. If they pass in the proposed wording, the following changes will be effective as of 1 January 2015. We also comment on some other tax and legislation news.

1. Changes in value added tax

An extensive amendment of the Value Added Tax Act shall take effect on 1 January 2015, and will change the following areas:

Introducing control reports in 2016

The amendment of the Value Added Tax Act (the VAT Act) effective as of 1 January 2015 introduces the mandatory submission of electronic control reports beginning 1 January 2016. The introduction of the control reports is one of the measures aimed at restricting tax fraud. The reports filled out by the tax payer will contain information on all received and issued tax receipts where the counterparty is another VAT payer.

The report shall contain the following information:

- Tax identification number of the payer who received the supply (or who realized the supply);
- Registration number of the tax receipt;
- The scope and object of the supply;
- The date of the realized tax supply or the date of receipt of the payment;
- The tax base;
- The tax rate; and
- The amount of the tax (in CZK).

Special regime of one administrative place for radio and television broadcasting services, telecommunication services and electronic services (so called Mini One Stop Shop)

As of 1 January 2015, there will be change in determining the place of supply for providing telecommunication, broadcasting and electronic services to a person not liable for tax and residing in the EU. The above-mentioned services will be newly taxed in the place of the receiver of the service. To prevent the registration of a provider of such services to VAT in all individual EU countries, companies are allowed to register voluntarily in a special regime of one administrative place, so-called Mini One Stop Shop. In reality this means that the provider of the services will register in one EU country, where he will submit VAT returns and pay the VAT from all the services no matter where the recipient of the services resides. The registration will be done via a tax portal of a Member State, where the company will register from 1 October 2014 effective as of 1 January 2015.

Introducing another reduced tax rate

The amendment of the VAT Act effective as of 1 January 2015 will introduce another reduced VAT rate in the amount of 10%, and it revokes the provision that should have unified the VAT rates at 17.5%. The base rate of 21% and the reduced rate of 15% are kept. The other reduced VAT rate of 10% applies to medications, books and baby nutrition.

Change in the definition of building land and calculation of the floor space of social flats

The amendment of the VAT Act gives a new definition of building land as land where a construction firmly connected to the land can be built in accordance with a building permit, or as a land which is an object of building works (or building works are or will be created in its vicinity) for the purpose of producing a construction. Land which is or has been the subject of administrative acts done for the purpose of producing a construction is regarded as building land.

From 2015, the methodology for calculating the floor space of social flats for VAT purposes will change. So far the calculation was made by adding together the floor spaces of individual rooms; the amendment will also add the space occupied by the inner walls. One of the impacts of this will be the fact that transfer of a flat which is subject to reduced VAT rate according to current wording of the VAT Act can be subject of the standard VAT rate in the next year.

Royalties

From 1 January 2015, the approach to income from royalties taxed at the source will change. Such contributions will be subject to value added tax.

Widening the scope of the reverse charge regime

Currently, there is a draft of the Government Directive on the execution of VAT Act which widens the scope of the reverse charge regime for the delivery of goods or the provision of services (effective as of 1 January 2015).

The new reverse charge regime will contain:

- Greenhouse gas emission allowance;
- Mobile phones recorded under code 8517 of the Customs Tariff nomenclature (if the total amount of the supply in the tax receipt is higher than CZK 10,000);

- Integrated circuits, such as microprocessors and central processing units recorded under code 8471, 9504 of the Customs Tariff nomenclature (if the total amount of the supply in the tax receipt is higher than CZK 10,000);
- Game consoles, tablets and laptops, cereals recorded under code 1514 of the Customs Tariff nomenclature (if the total amount of the supply in the tax receipt is higher than CZK 10,000); and
- Technical crops and raw or semi-finished metals, including precious metals recorded under codes 7227, 7314, 7216, 7308, 7411, 7419, 7507, 7508 of the Customs Tariff nomenclature (if the total amount of the supply in the tax receipt is higher than CZK 10,000).

The non-reliable taxable person

Since 2013, the Value Added Tax Act includes provision Sec. 106(a), which determines conditions for applying the concept of the non-reliable taxable person. The General Financial Directorate (the **GFD**) issued in August 2014 Annex no. 2 to the Information of the GFD regarding applying of Sec. 106(a) including related Information which extends significantly the scope of entrepreneurs who could become non-reliable taxable persons.

Newly, the non-reliable taxable person can become someone who:

- Does not provide sufficient cooperation with tax administrators, i. e. does not react to official notices or does not submit required data or documents;
- Does not submit a return or report twice within 12 months;
- States false or incomplete information, especially the address of the seat / real place of administration or does not report the change of such places; or
- His unpaid due VAT is more than CZK 500,000 for longer than 3 months (to date it was CZK 10 million).

2. Changes in income tax in 2015

The amendment of the Income Tax Act shall change the following areas:

Introducing new reporting obligations of transactions with related persons

The Czech tax administration announces its intention to introduce a new reporting obligation for legal entities effective from the 2014 tax period. The tax payer will have to submit the corporate income tax return together with a separate attachment showing transactions with related persons.

The attachment to the return will be submitted by a legal entity which fulfils at least one of the following criteria required for the mandatory audit, i.e.:

- The amount of the total assets exceeds CZK 40 million; or
- The net turnover exceeds CZK 80 million; or

- The average calculated number of employees exceeds 50;

While the legal entity:

- Realized a transaction with a related person which has its seat abroad; or
- Showed a loss in the tax return and at the same time realized a transaction with a related person; or
- Is a holder of a promise of tax incentives and claims tax relief and at the same time realized a transaction with a related person.

Investment funds

The amendment of the Income Tax Act newly restricts the possibility to use the 5% tax rate for taxation of income from investment funds to selected investment funds, so-called basic investment funds. The funds that will not fulfil the legal conditions for obtaining the status of a basic investment fund will be taxed at the 19% tax rate. The paid profit shares from participation will be tax exempt regarding individuals and legal entities.

Tax provisions to receivables

The new Civil Code shortened the statute of limitations on receivables from four to three years. An amendment to the Reserves Act reacts to this change by reducing the amount of time that must elapse (from 36 to 30 months) from the due date of receivables before a 100% provision can be created.

3. Other changes

In addition to the proposed amendments to the tax laws, the following new measures may also impact your business:

Concurrent functions

The Czech Ministry of Justice issued an opinion on the possibility of holding concurrent functions as of 1 January 2014. The opinion states that according to current law the concurrence of the function of a member of a statutory body with an employment agreement for the same activity is not permitted.

Companies are required to modify the provisions of agreements regarding the performance of a function and remuneration to bring them in line with the new Civil Code within six months of the date it came into effect. Failure to satisfy this requirement could result in statutory body members not being compensated for their function.

Tax relief for pensioners

On 10 July 2014 the Constitutional Court revoked the provision of the Income Tax Act that took away the tax deduction for tax payers receiving a retirement pension as of 1 January. Hence, all working retirees can claim a tax deduction on their 2014 tax returns regardless of whether they were receiving a retirement pension as of 1 January 2014. However, the revoked provision will not be applied retroactively to the 2013 tax year, i.e. it will not be possible to file an additional return with this deduction for 2013.

Proposed new directive for a uniform approach in applying certain provisions of the Income Tax Act

The General Financial Directorate has prepared a proposed new directive for a uniform approach in applying certain provisions of the Income Tax Act for the tax period beginning in 2014. This directive is to replace current Directive D-6. The proposal is currently undergoing a comment procedure at the Czech Chamber of Tax Advisors. We will inform you of future developments.

Minimum wage

Recent negotiations between government, business and labour representatives produced an agreement on increasing the minimum wage from CZK 8,500 to CZK 9,000. The proposed increase was sent to the government for further discussions. In addition to being a guarantee of minimum earnings, the minimum wage is also used for many other calculations, including the calculation of the minimum health care insurance contribution for individuals without taxable income.

Restrictions on payments in cash

Among other things, a government bill that would change certain laws concerning the financial market proposes an amendment to the Act on Payment Restrictions that would reduce the limit for mandatory cash-free payments from CZK 350,000 to CZK 270,000. The Budget Committee recently issued a resolution to deputies recommending that the House of Deputies approve the government bill without changes.

The government bill was submitted for the purpose of bringing Czech legislation in line with the regulation of the European Parliament and of the Council establishing the requirements for payments in euros.

Tax Office bank accounts

Fourteen Tax Offices and one Specialised Tax Office have recently been authorised to perform financial administration. In connection with the cancellation of 199 Tax Offices, their bank accounts were also closed, and as of 1 January 2013 accounts were opened for the new Tax Offices at the Czech National Bank. For a period of two years, the Czech National Bank will automatically transfer payments incorrectly paid to the closed bank accounts.

FATCA – sharing information on the recipients of bank payments

The acceptance of the Act on the Exchange of Account Information with Other States for the Purpose of Tax Administration has been proposed so that the new law can take effect on 1 January 2015. The bill implements the FATCA Agreement (Foreign Account Tax Compliance Act) between the Czech Republic and the United States concerning improvements in the observance of tax regulations in the area of the exchange of information. The drafting of this bill also took into account the global standards of the OECD and EU regarding the automatic exchange of information.

The aim of the law is to strengthen international cooperation, support the observance of tax regulations and the fulfilment of tax obligations. As such, the proposed law should help curb tax evasion achieved by hiding income in foreign accounts.

The law is directed at specified financial institutions that will have new auditing, securing and reporting obligations. By 30 June of the calendar year following the calendar year in which the reporting obligation is fulfilled, the relevant financial institution will be required to send notification to the Specialised Tax Office by means of a data report. The Specialised Tax Office will then pass the information on to the General Financial Directorate, which will subsequently send the information to the relevant country. The General Financial Directorate will also receive the same type of information from foreign countries.

Bohdana Pražská
T: +420 221 719 000
bohdana.prazska@kemphoogstad.com

Filip Dostál
T: +420 221 719 000
filip.dostal@kemphoogstad.com